
Workplace Raids: Workers' Rights

 legalaidatwork.org/factsheet/workplace-raids-workers-rights

What is ICE?

Immigration and Customs Enforcement (ICE) is a federal government agency that enforces immigration laws in the United States. As part of this enforcement, it can initiate deportation proceedings. ICE uses a number of tactics to identify, investigate, and arrest people for possible deportation, including workplace raids.[:]

What is a workplace raid?

A “workplace raid” is when ICE agents come to a workplace to question workers and detain those it believes are in the U.S. unlawfully. Workplace raids can be used to target specific workers as part of an ongoing investigation, or to question all workers who are present. These raids cause fear and panic for employees, particularly those workers who are undocumented.

It's important to remember that everyone has rights during a workplace raid —regardless of their immigration status.

How does ICE get into a workplace?

ICE agents use a number of strategies to enter a workplace. Sometimes they show up unannounced; other times they ask the employer beforehand. Sometimes ICE may come with a warrant signed by a judge; other times they may force their way in. ICE will also sometimes lie to try to get into a workplace—agents will pretend that they are local police officers, or say that they are looking for a specific person and then question all workers.

After Jan. 1, 2018, California law will prohibit anyone from giving agents voluntary consent to enter nonpublic areas of a workplace without a judicial search warrant. And, starting on July 1, 2018, state law will require employers to notify employees about upcoming federal document inspections, and it will prohibit any document reverification that is not required by federal law.

What is a workplace audit, and how is it different from a raid?

ICE may also conduct a workplace “audit” by requiring an employer to prove that all of its employees are authorized to work in the United States. In this audit, the employer must provide ICE with each employee’s Form I-9 (which is supposed to be filled out by every employee at the beginning of employment).

Unlike when it conducts a raid, ICE does not always physically come to a workplace to conduct an audit. Sometimes, however, ICE will come to the workplace to investigate as part of an audit. ICE is supposed to provide the employer a form called a “Notice of Inspection” before conducting an audit, but it sometimes shows up at workplaces unannounced.

How have workplace raids changed under the Trump Administration?

Workplace raids were common under the Bush administration and in the early years of the Obama presidency, but they became less common in recent years. The Trump administration has said that it will increase workplace enforcement. ICE already has been conducting raids and making arrests at people’s homes and places of work, and even at courthouses.

The Obama administration claimed that it focused on deporting people with serious criminal convictions, which meant that many undocumented people were not considered “priorities” for deportation. The Trump administration changed these priorities, and now any undocumented person could be considered “deportable.”

What are my rights during a workplace raid?

You have the right to say that you want to speak to an attorney.

The government does not provide attorneys to people in immigration proceedings, but you have the right to hire a private attorney or nonprofit lawyer.

You have the right to remain silent.

You do not have to answer questions that ICE asks you, and anything you do say can be used against you. In particular, you should not answer questions about your country of birth, how you came to the United States, or your immigration status.

You have the right against unlawful searches by ICE agents and other government officials.

ICE agents need a legitimate reason and sometimes a warrant to search you, your personal belongings, your car, and sometimes private work areas (such as employee lockers).

You have the right to refuse to sign any documents ICE asks you to sign.
ICE might ask you or try to force you to sign documents. You have the right to refuse to sign documents and you should *not* sign any documents until after you have had the opportunity to review these documents with a lawyer who can help you understand the document and the consequences of signing it.

Under most circumstances, you have the right to argue your case before an immigration judge.

Note: You may not have the right to appear before a judge if you have certain criminal convictions or a prior removal order.

What should I do during a workplace raid?

- Say that you wish to remain silent
- Say that you'd like to speak to an attorney
- Hand the ICE agent this card:
-

(Get pre-printed cards here.)

Report the raid to a community hotline.

- In San Francisco, call SFILEN at 415.200.1548
- In Alameda County, call ACILEP at 510.241.4011.
- Or call the national United We Dream hotline at 844-363-1423.



What should I NOT do during a workplace raid?

- **Do not** answer any questions
- **Do not** sign anything before consulting with an attorney
- **Do not** lie (remain silent; if you choose to answer questions (not advised), do so truthfully)
- **Do not** give the ICE agent(s) false documents
- **Do not** flee or run

[:]

How can I prepare for a workplace raid?

1. Consult with an immigration attorney to assess your options. Check these websites to find immigration attorneys near you:
 - [Immigration Advocates Network](#)
 - ALLA's [Immigration Lawyer Search](#)
2. Know what to bring to work and what to leave behind:
3. Carry a Know Your Rights card with you to show to immigration officials.
4. **DO NOT** carry any false documents or foreign identity documents (such as a Mexican Consular Identification Card or "*Matrícula*").
5. Carry the name and telephone number of an immigration attorney or organization that you can contact in case you are arrested by immigration officers. (Memorize the number if you are able.)

Note: If you are already represented by an attorney, you should carry multiple signed copies of the G-28 form ("Notice of Entry of Appearance as Attorney").

6. *Know your rights! Become familiar with community groups and organizations, such as nonprofits and unions, that support undocumented workers or offer Know Your Rights trainings.*

For Bay Area organizations, see:

- <http://acudirca.org/>
- <http://centrolegal.org/acilep/>
- <http://sfilen.org/>

How can I help prepare my family and friends in case I am arrested?

If you have children, create a childcare plan:

- Have a discussion with your family about who would care for your children in your absence.
- Make a plan with the person who would care for your children. Make sure that they have all necessary information, including emergency contact information and information about your child's medical needs.
- Consider whether you'd like to prepare a form or document that authorizes another adult to care for your children. For examples of different options, see Immigrant Legal Resource Center's "[Family Preparedness Plan](#)"
- Make sure that your children's schools have an updated list of people authorized to pick up your children, including the person who would care for your children in your absence.

Create a plan for communicating with your loved ones:

- Make a plan for who you or your family members would contact in the event of a raid or if you were detained.

- Tell your family members how to find you if you are arrested by ICE.
 - Family members can use the [ICE detainee locator](#) to find individuals in ICE custody
 - If you have an “A-number,” make sure your family members know it. The A-number is how ICE keeps track of you in its system.

Create a file of important documents and keep it in a safe place in your home, where your friends and family can access it if you are arrested:

- This file should include: identity documents, birth certificates, your A-number (alien registration number) and immigration documents if you have them, and emergency contact information.
- Here is [a list of other important documents to include](#), from Immigrant Legal Resource Center.

What are my rights as an undocumented worker?

In California, undocumented workers essentially have the same employment rights as all other workers.

It is illegal for an employer to discriminate against a worker based on her national origin, including her ancestry, her accent, or the language that she speaks. It is also illegal for an employer to retaliate against a worker for exercising her rights. In other words, if a worker reports or complains about discrimination, wage theft, safety issues, or other workplace violations, it is unlawful for her employer to take actions against her, including calling or threatening to call ICE. Employers who retaliate against their workers by threatening to call ICE could also be charged with criminal extortion.

When you start a new job, your employer will ask you to fill out a Form I-9, which the federal government uses to verify your identity and work authorization. When you fill out the Form I-9, your employer will also ask you to provide certain identity documents. Employers are prohibited from rejecting documents that appear valid, or insisting on additional documents beyond what is required by the Form I-9. An employer cannot require employees it thinks are “foreign” to produce certain documents, such as a green card. Employees are also allowed to choose which documents they provide from the Form I-9 Lists of Acceptable Documents.

Once you fill out the I-9 and provide the required identity documents, your employer is generally not allowed to ask you again about work authorization or immigration status. Employers can only ask to “re-verify” you (or ask you for proof of your work authorization) under certain specific circumstances: if ICE audits your employer, if your work authorization expires, or if the employer is re-verifying every worker’s documentation. In other words, an employer cannot ask only certain workers to re-verify, and cannot routinely ask workers about immigration status.

For more information, please see our fact sheets on the rights of undocumented workers and on document abuse and reverification:

Additional Resources

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- From the National Immigration Law Center, ["How to be prepared for an Immigration Raid"](#)
- From Immigrant Defense Project, ["ICE Raids Tool Kit"](#)
- From National Immigration Law Center, ["President Trump's Raids on Immigrant Communities"](#)
- From Immigrant Legal Resource Center, ["What Immigrant Families Should do Now"](#)
- From CASA Multicultural Center, ["Learn How to Protect You and Your Family During Immigration Raids"](#)
- From Alto Trump! ["Know Your Rights"](#)
- From the EEOC, ["Pre-Employment Inquiries and Citizenship"](#)
- From DFEH, ["California's Civil Rights Agency"](#)

Disclaimer

This Fact Sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, Legal Aid at Work cannot ensure the information in this Fact Sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

WORKPLACE RAIDS

Employer Rights and
Responsibilities



**LEGAL
AID AT
WORK**

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INTRODUCTION

EMPLOYER RIGHTS & RESPONSIBILITIES

The United States is home to millions of immigrants. In recent months, immigration enforcement efforts have increased and taken many different forms. This has made it advisable for employers to know how to prepare for and respond to an Immigration and Customs Enforcement ("ICE")¹ worksite raid.²

This document provides information to help employers identify issues they may want to consider before, during, and after an ICE raid.

1. In some situations, workplace raids may be conducted by U.S. Customs and Border Protection ("CBP"), another agency within the Department of Homeland Security. For simplicity, this fact sheet will use "ICE" to refer to raids by either ICE or CBP.

2. A worksite raid is different from an I-9 audit (briefly discussed on page 9). As used in this document, a "worksite raid" refers to when ICE officers appear at a workplace, usually unannounced, in order to investigate and potentially arrest individuals at the worksite. This could form part of a civil and/or criminal investigation related to federal immigration law. An "I-9 audit," as used in this document, refers to when ICE seeks to inspect an employer's I-9 forms.

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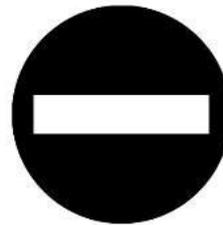
BEFORE AN ICE RAID

1. Designate Which Areas of Your Business Are Closed to the Public.

As an employer, you may designate which of your business's areas are not open to the public. ICE cannot lawfully enter these private areas without your consent or a judicial search warrant.

Areas open to the public are those you freely allow members of the public to enter. For example, in a restaurant, the public may enter the dining area; therefore, ICE may also enter it. Likewise, ICE can enter the open shopping areas of a mall. But without your consent or a valid judicial search warrant, ICE is generally not authorized to go into areas where the general public is not allowed – for example, a restaurant's kitchen, or a mall's employee break rooms.

Therefore, it is important to distinguish your business's public and non-public areas. Using "Employees Only" and "Staff Only" signs, physical barriers (doors, partitions, etc.), and other indicators, can be helpful. The more secure you keep these areas from entry by the general public, the better the argument that they are off limits to ICE.

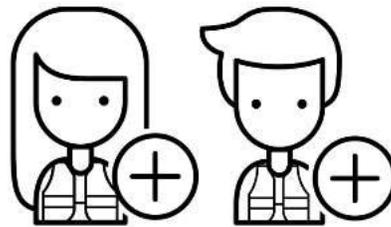


BEFORE AN ICE RAID

2. Designate Primary Points of Contact.

You may want to ask one or two volunteers who would be comfortable interacting with ICE agents to serve as primary points of contact. The primary points of contact would act as the liaison to ICE. S/he would be responsible for asking to see a warrant, and informing ICE that it does not have your consent to enter the non-public areas of your business. This person should also be trained to contact the local rapid response network, if applicable. See page 8.

As a safeguard, you may designate back-up points of contact in case the primary one is unavailable. If you decide to have primary points of contact, all employees should know who they are and how to contact them.

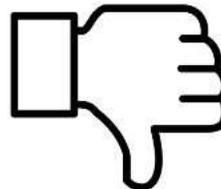


3. Train Your Employees: Do Not Consent.

You may train every employee, regardless of their position, that they ARE NOT authorized to consent to an ICE search, and that they should communicate this to ICE agents. This is especially important for supervisors and managers because ICE may ask them to consent on your behalf.

Special attention may be paid to training employees who may be more likely than others to encounter ICE agents first (e.g., receptionists, cashiers, head servers, hosts, front desk staff, security guards).

You may also train your employees to immediately report any contact with ICE at your business to you or to someone designated as a primary point of contact.



BEFORE AN ICE RAID

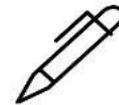
4. Train Your Employees: Document ICE's Actions.

You may create company policies or procedures to document ICE's actions in your workplace, and train your employees on these procedures. If ICE engages in illegal behavior while on your premises, having documentation could assist you or others in challenging any unlawful search, arrest, or other actions that may have taken place.

For instance, if you have a policy restricting the use of photography and/or video at your business, you may create an exception that applies in the case of an ICE raid.

Then, you may train your employees on ways of documenting ICE activity (i.e., video/audio recording, written or electronic notes). You and your employees may document important information such as:

- a. Names of the agents
- b. Number of agents
- c. Whether the agents carried weapons and/or used them
- d. Whether agents blocked exits and/or restricted employees' movements or activities
- e. Agents' badge numbers
- f. License plates, if any
- g. Questions asked and any statements made by ICE
- h. Any property taken / searched
- i. Persons questioned
- j. Names of other witnesses (anyone who observed the raid)
- k. Any persons detained
- l. Any details of agents using intimidation or force



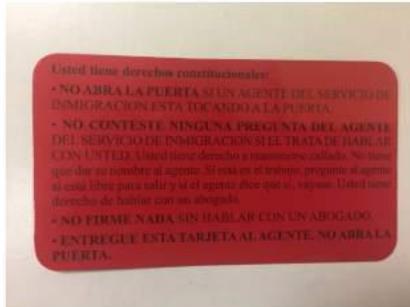
For an example of a form to document home raids that may be adapted for use in the workplace, please see Appendix A.

BEFORE AN ICE RAID

5. Inform Your Employees: Remain Silent and Ask for an Attorney.

You and your employees have a constitutional right to refuse to speak with ICE agents.³

Therefore, prior to a raid, you may inform your employees that they can refuse to speak with ICE agents. If an employee answers questions, her answers could provide an ICE agent with a reason to detain her, or could be used against someone else.



Employees may also be informed that running away from ICE might, in itself, lead to being detained.

You may tell your employees that, in addition to refusing to answer an ICE agent's questions, they should say they want to speak to an attorney. You may encourage your employees to memorize their attorney's contact information. You may also provide your employees with "red cards," which list a person's rights when interacting with law enforcement.⁴ You, or an employee, can give this card to an ICE agent if the agent tries to question you or the employee.

You may also want to post examples of warrants and/or leave red cards by the entry points to your business (front door, back door, etc.).

3. It is critical to convey this information to employees in advance of any raid. Providing this advice--as important as it is--while a raid is underway may be interpreted by ICE as an attempt to obstruct the raid.

4. See prior footnote. It is critical to provide red cards to employees in advance of any raid. Providing this advice--as important as it is--while a raid is underway may be interpreted by ICE as an attempt to obstruct the raid.

BEFORE AN ICE RAID

6. Inform Your Employees: Do Not Sign Any Documents.

Prior to an ICE raid, you may also inform your employees they are not required to sign any documents that ICE asks them to sign without first speaking to an attorney. If an employee signs a document before being fully informed, there could be grave consequences, such as expediting a deportation or giving up a right to an attorney or a hearing.



7. Keep Personnel Files and I-9s Separate.

You may also consider keeping your employees' personnel files (which typically contain private information) separate from their I-9 forms. If ICE reviews your I-9 files (lawfully or otherwise) and they are stored with personnel files, it is more likely that ICE will attempt to review the personnel files as well.



DURING AN ICE RAID

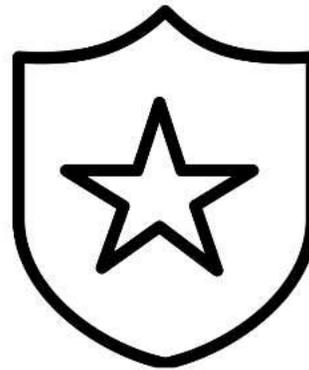
1. Try To Identify ICE Agents Promptly.

ICE agents are also known as Department of Homeland Security (DHS) agents.

Misleadingly, ICE agents might also identify themselves as “police” officers. Likewise, their vests and/or clothing might say “POLICE ICE” or “POLICE” or “POLICE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT” or “DEPARTMENT OF HOMELAND SECURITY POLICE.”

ICE agents might not always identify themselves – they may engage in deception to solicit information.

ICE agents may be dressed either in plain clothes or in uniform.



DURING AN ICE RAID

2. Contact a Raids Response Network.

Various raid rapid response networks have been established to respond to ICE enforcement actions across the country. These rapid response networks differ, but many involve hotlines to report ICE activity, volunteers who can be dispatched to document and monitor ICE agents during raids, and attorneys who can be dispatched during or after the raid to assist those affected. For a list of rapid response networks, see Appendix C. Note that there may be a rapid response network in your area that is not included in this list.



DURING AN ICE RAID

3. Determine the Scope of the Visit. Ask for a Signed, Judicial Search Warrant.

You have a right to refuse to allow ICE to enter the non-public areas of your business. ICE agents can legally do so **ONLY IF** they (1) obtain your voluntary consent or (2) have a signed, judicial search warrant. ICE may try to convince you—either politely or through threats—that an ICE administrative warrant, an arrest warrant, or no warrant at all is sufficient. However, their entry without (1) or (2) would be illegal.

If ICE agents come to your business, you may instruct your employees to promptly contact you or, if you're unavailable, the primary points of contact. You or the primary points of contact would attempt to determine ICE's purpose: e.g., whether it's an I-9 audit or a worksite raid.

Worksite Raid: If ICE's purpose is to conduct a worksite raid, you may state that you do not consent to a search and promptly request a signed, judicial search warrant. If they do not have one, you may deny them entry by not providing your consent to enter. If there is a warrant, see below.

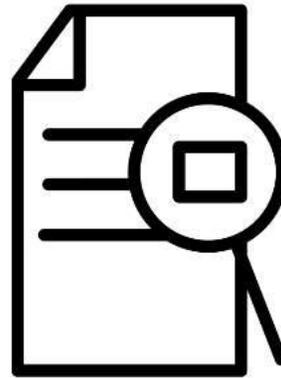
I-9 Audit: If ICE's purpose is to conduct an I-9 audit, ICE is required to give you at least three business days to produce employee I-9s. ICE agents can show up at your business unannounced and request to see employee I-9s; without three days' notice, however, they cannot immediately inspect them unless you consent or they have a signed, judicial search warrant. In such a case, you may assert your right to proper notice and deny ICE access to employee I-9s until the three-day period has lapsed. During these three days, you may want to contact an attorney.

DURING AN ICE RAID

4. If There Is a Warrant, Examine It.

ICE often does not have the type of warrant that would authorize them to enter the private areas of your business without your consent. If they claim to have a warrant that authorizes them to enter, ask to examine it.

Determine what type of warrant it is: administrative immigration, judicial arrest, or judicial search warrant. See below #5.



5. Determine the Type of Warrant.

There are three types of warrants an ICE agent may present: (a) an administrative immigration warrant; (b) a judicial arrest warrant; or (c) a judicial search warrant. For examples of each, see Appendix B.

BEFORE

DURING

AFTER

DURING AN ICE RAID

Administrative Immigration Warrant



These warrants do not allow ICE to enter non-public areas of your business.

These warrants purport to authorize an ICE agent to arrest persons suspected of violating immigration laws. They are signed by an immigration officer, not a judge. They are sometimes designated in one of the margins as ICE Form I-205 (warrant of removal/deportation) or I-200 (warrant for arrest of alien). Even if an employee is named in the warrant, an administrative immigrant warrant generally does not give ICE the authority to enter the private areas of your business without your consent.

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
WARRANT OF REMOVAL/DEPORTATION

To any immigration officer of the United States Department of Homeland Security:

Who has: _____
State: _____

Who resides in the United States at: _____
City and State: _____

Is subject to removal/deportation from the United States, based upon a final order by:

- an immigration judge or executive, administrative, or consular proceeding
- a court of law
- the State of _____
- the United States District or Regional Court Judge

Who is here in the following capacity of the immigration law enforcement officer:

(1) The undersigned officer of the United States Department of Homeland Security, in the name and authority vested in the Secretary of Homeland Security under the laws of the United States, hereby certifies that the person named in this warrant is a person who is removable from the United States for the reasons stated in this warrant and is subject to removal/deportation from the United States.

Signature of immigration officer: _____
City and State: _____

ICE Form I-200/205 Page 1 of 2

Judicial Arrest Warrant



These warrants do not allow ICE to enter non-public areas of your business.

Judicial arrest warrants authorize law enforcement to arrest the person named in the warrant based on probable cause that s/he has broken a law. They are signed by a judge. They generally do not authorize ICE to search your business' non-public areas in order to arrest an employee, even if that person is named in the warrant.

UNITED STATES DISTRICT COURT

For the _____
District of _____

vs. _____

ARREST WARRANT

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge within reasonable time or emergency to answer _____
who is named in this warrant as having committed the following offense(s):

Felony Misdemeanor Misdemeanor Misdemeanor Misdemeanor Misdemeanor

This offense is fully described as follows: _____

Signature of Judge: _____
City and State: _____

Judicial Search Warrant



These warrants do allow ICE to enter non-public areas of your business.

A judicial search warrant is signed by a judge and authorizes law enforcement to search the specific, identified premises and seize identified items.

Ensure that it has not expired. Warrants may be ineffective if they specify a date or dates for the raid that has already passed.

Ensure that it correctly identifies the places to be searched, including your business's address or items to be seized.

UNITED STATES DISTRICT COURT

For the _____
District of _____

SEARCH AND SEIZURE WARRANT

To: _____
an applicant for a judicial search warrant or an attorney for the government against the name of the defendant named in the warrant.

I find that the affiant(s), or any reasonable officer, establish probable cause to search and seize the person or property described above, and that such search will not infringe upon the person's privacy to an extent that is not justified.

YOU ARE COMMANDED to execute this warrant at or before _____
in the District of _____ at or before _____

Check all that apply to this warrant, or leave the box empty if the person named in the warrant is not a person named in the warrant.

The officer executing this warrant, or any other person during the execution of this warrant, must prepare an inventory supported by law enforcement from the warrant and inventory.

This warrant is issued to _____ and the person was arrested on _____
at the address of _____

Signature of Judge: _____
City and State: _____

NOTE: These warrants are rarely used by ICE.

Exceptions to Warrant Requirement: There are a few exceptions to the warrant requirement that ICE might use to try to enter your business without a warrant or your consent. One exception is "exigent circumstances." This exception only applies when there is an event requiring immediate action, for example, to prevent death, apprehend a fleeing suspect, or stop the destruction of evidence. ICE may not, itself, create an exigent circumstance to justify entering non-public areas without consent or a warrant. If ICE claims this (i.e., that there is an emergency and they must immediately enter a non-public area to arrest one of your employees) or any other exception to the warrant requirement applies, you may still refuse consent. If ICE enters anyway, you should continue to verbally refuse consent and document ICE's actions, but do not obstruct their entry.

BEFORE

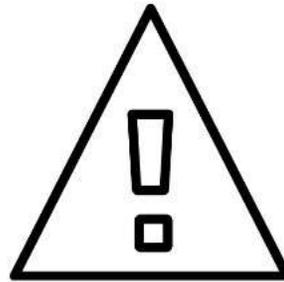
DURING

AFTER

DURING AN ICE RAID

6. If ICE Does Not Have a Judicial SEARCH WARRANT, Do Not Consent.

If ICE agents do not have a valid judicial search warrant, you have a right to deny them entry into non-public areas of your business. ICE agents might insist, including through intimidation, that they do not need a warrant, or that an "administrative warrant" is all they need. As noted before, this is not the case, and the search would be illegal. If ICE agents enter anyway, you should continue to verbally refuse consent and document their actions, but do not obstruct their entry.



7. Communication with Employees During a Raid:

Once a raid is underway, if employees ask you whether they are required to speak to an ICE agent, you may let them know they have the right to speak or not to speak to the agent. If they ask you whether to sign a document that ICE gives them, you can let them know they can refuse to sign the document or they can sign the document. Important: Please note that this is different from how you may want to communicate this information to your employees before a raid occurs. See page 5, #5 above.

DURING AN ICE RAID

8. Ensure ICE Activity is Documented.

Regardless of whether ICE has a valid judicial search warrant, you should consider documenting ICE's actions. You and your employees may accompany ICE agents throughout their search. While you should NOT interfere with or obstruct ICE's search, you may document everything that happens and the individuals and/or objects seized. If you choose to permit your employees to engage in recording in the event of an ICE worksite raid, ensure they know so they can decide whether they want to do so. You may also want to discuss the possibility of having your primary points of contact wear distinctive clothing or accessories (i.e., fluorescent vests, bands, etc.). This may reduce employee confusion. See page 3, #2 above.



AFTER AN ICE RAID

1. Contact a Raids Response Network.

Various raid response networks have been established in distinct geographic regions to respond to and document ICE activity. You may reach out to a raid response network during or after the ICE raid to report the activity and to assist in mobilizing community and legal support for detained workers. See Appendix C.



2. Obtain Contact Information of the Detention Facility.

You may request information from ICE agents regarding the name, location, and phone number of the ICE detention facility or facilities where your employees are being held. However, depending on the ICE agent, this information might or might not be provided. As an alternative, you may familiarize yourself with surrounding detention facilities, as detained individuals are often transported and held at nearby locations, including city and county jails.



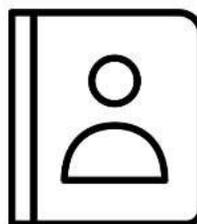
You may also attempt to use ICE's online detainee locator system to locate detained employees:

<https://locator.ice.gov/odls/home>
Page.do.

AFTER AN ICE RAID

3. Notify the Emergency Contacts of Those Detained.

If any of your employees have been detained by ICE, once ICE has left you may want to notify their emergency contacts. If the employee did not provide an emergency contact, you may determine whether other employees have this information and can either provide that information or inform the contact themselves. You may also consider connecting the emergency contact with the detained employee's consulate.



4. Determine Whether You Want To Assist Your Detained Employees in Obtaining Legal Representation.

If any of your employees have been detained, you may consider whether you want to help them obtain legal representation. Without legal representation, it will be much more difficult for your employees to successfully defend themselves.

For organizations that provide immigration legal services, you can visit:

<https://www.immigrationadvocates.org/nonprofit/legaldirectory/>.

For private immigration lawyers, you can visit:

<http://www.aialawyer.org/>.

You may also consider writing letters of support for detained employees.



BEFORE

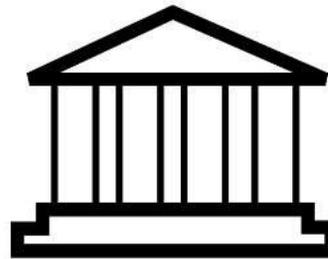
DURING

AFTER

AFTER AN ICE RAID

5. Determine Whether To Post Your Detained Employee's Bond, if Available, While S/he Awaits Further Action.

After ICE has detained a person, it will typically set a bond to ensure someone's presence at a future proceeding. Immigration or deportation proceedings can take years to conclude. By posting bond for your employee, you can help ensure they do not have to spend that time incarcerated.



Remember: Follow Applicable Employment Laws

You must, for instance, pay your employees for work they have already performed-- even if they have been detained.

You may also not discriminate against individuals, based on their race, religion, national origin, including language, or a variety of other protected bases, in anticipation of a raid or after a raid.

These and other workplace rights apply to all workers, regardless of immigration status.

For more information, visit Legal Aid at Work's website:
www.legalaidatwork.org

There you can find fact sheets on workers' rights. For example:
<https://legalaidatwork.org/factsheet/undocumented-workers-employment-rights/>

LEGAL AID AT WORK

Our organization engages in litigation, direct services, policy work and community education to defend and expand the civil and labor rights of low-wage workers, community members, and students.

DISCLAIMER:

This Fact Sheet is intended to provide accurate, general information regarding legal rights in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, Legal Aid at Work cannot ensure the information in this Fact Sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

Appendix A

ADDITIONAL RESOURCES

If you or your employees would like more information on ICE raids, see:

-National Employment Law Center and National Immigration Law Center, "WHAT TO DO IF IMMIGRATION COMES TO YOUR WORKPLACE" Guide
<http://www.nelp.org/publication/what-to-do-if-immigration-comes-to-your-workplace/>

Immigrant Defense Project, Sample Raid Documentation Template
<https://www.immigrantdefenseproject.org/wp-content/uploads/2016/03/home-raid-poster-ENG-2017.pdf>

If you or your employees would like more information on immigration-related topics, see:

-Legal Aid at Work (www.legalaidatwork.org)
Know your rights materials, sample letters and helpline on immigrant workers' rights – <https://legalaidatwork.org/our-programs/immigrant-and-ethnic-minority-workers/>

-National Immigration Law Center (www.nilc.org)
Know your rights materials on ICE raids – <https://www.nilc.org/protectyourself/>
Know your rights materials on I-9 audits – <https://www.nilc.org/wp-content/uploads/2015/11/I-9-audits-primer-2009-07-23.pdf>

-National Employment Law Project (www.nelp.org)
Know your rights materials on Social Security No Match Letters - https://www.nilc.org/wp-content/uploads/2015/12/top_ten_tips_11-07-07.pdf

-Immigrant Legal Resource Center (www.ilrc.org)
Community Legal Resources – <https://www.ilrc.org/community-resources>
Family Preparedness Plan – <https://www.ilrc.org/family-preparedness-plan>
Know your rights materials on DACA – https://www.ilrc.org/sites/default/files/resources/daca_community_info_sheet_march_1_2017_clean.pdf
The Basics on ICE Warrants and ICE Detainers – https://www.ilrc.org/sites/default/files/resources/ice_warrants_summary.pdf

-National Day Laborer Organizing Network (<http://altotrump.com>)
Know your rights materials -- <http://altotrump.com/resources/know-your-rights/>

-Catholic Legal Immigration Network, Inc. (www.cliniclegal.org)
Know your rights materials (In-depth factsheet on interacting with law enforcement, including ICE) – <https://cliniclegal.org/sites/default/files/resources/presidential-transition/Know-Your-Rights-Law-Enforcement.pdf>

If you or your employees would like to find an immigration attorney, you can visit:

-Immi (www.immi.org)

-Immigration Advocates Network (www.immigrationadvocates.org)

-American Immigration Lawyers Association (www.aiala.org)

Appendix B

READING A WARRANT

If ICE agents do not have a valid judicial search warrant, you have the right to refuse them entry. For a warrant to be valid, it must meet the following:



ADMINISTRATIVE IMMIGRATION WARRANTS

These types of warrants (sometimes referred to as warrants of removal or deportation, or warrants for arrest of alien) are NOT search warrants!

These warrants do not give ICE the authority to enter the non-public areas of your business. You may deny ICE access to these areas of your business.

DEPARTMENT OF HOMELAND SECURITY
U. S. Immigration and Customs Enforcement
WARRANT OF REMOVAL/DEPORTATION

File No: _____
Date: _____

To any immigration officer of the United States Department of Homeland Security:

_____ (Full name of alien)

who entered the United States at _____ on _____
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- an immigration judge in exclusion, deportation, or removal proceedings
- a designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above named alien, pursuant to law, at the expense of:

(Signature of immigration officer)

(Title of immigration officer)

(Date and office location)



ADMINISTRATIVE IMMIGRATION WARRANTS (continued)

U.S. DEPARTMENT OF HOMELAND SECURITY Warrant for Arrest of Alien

File No. _____

Date: _____

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that _____ is removable from the United States. This determination is based upon:

- the execution of a charging document to initiate removal proceedings against the subject;
- the pendency of ongoing removal proceedings against the subject;
- the failure to establish admissibility subsequent to deferred inspection;
- biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

(Signature of Authorized Immigration Officer)

(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at _____
(Location)

on _____ on _____, and the contents of this
(Name of Alien) (Date of Service)

notice were read to him or her in the _____ language.
(Language)

Name and Signature of Officer

Name or Number of Interpreter (if applicable)



JUDICIAL ARREST WARRANTS

A valid arrest warrant must:

- Be signed by a judge.
- Correctly state the name of the person to be arrested.

If the warrant appears valid, ICE can arrest the named person if s/he is found in the public areas of your business. In general, however, it does not allow ICE to enter the private areas of your business in order to carry out the arrest.

AO 442 (Rev. 11/11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the

United States of America

v.

)

)

Case No.

)

)

)

)

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) _____,

who is accused of an offense or violation based on the following document filed with the court:

- Indictment Superseding Indictment Information Superseding Information Complaint
 Probation Violation Petition Supervised Release Violation Petition Violation Notice Order of the Court

This offense is briefly described as follows:

Date: _____

Issuing officer's signature

City and state: _____

Printed name and title

Return

This warrant was received on *(date)* _____, and the person was arrested on *(date)* _____
at *(city and state)* _____.

Date: _____

Arresting officer's signature

Printed name and title



JUDICIAL SEARCH WARRANTS

To be valid, ICE's search warrant must:

- Be signed by a judge.
- Correctly identify the place to be searched, including your business's address and items to be seized, if any.
- Contain an issuance and expiration date.

You may examine the warrant to determine whether everything is filled out properly. You may also want to double check to ensure it has not expired.

If the warrant is valid, it authorizes ICE to enter the non-public areas of your business.

If the warrant does not appear to be valid, you may refuse ICE entry to your business. If ICE agents enter anyway, you should continue to verbally refuse consent and document their actions, but do not obstruct their entry.

AO 93 (Rev. 11/13) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the

In the Matter of the Search of _____)
(Briefly describe the property to be searched)
or identify the person by name and address)) Case No. _____)
)
)
)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ District of _____
(identify the person or describe the property to be searched and give its location):

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal *(identify the person or describe the property to be seized):*

YOU ARE COMMANDED to execute this warrant on or before _____ *(not to exceed 14 days)*

- in the daytime 6:00 a.m. to 10:00 p.m. at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to _____
(United States Magistrate Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized *(check the appropriate box)*

- for _____ days *(not to exceed 30)* until, the facts justifying, the later specific date of _____.

Date and time issued: _____
Judge's signature

City and state: _____
Printed name and title

Appendix C

RAPID RESPONSE NETWORKS

NATIONAL

United We Dream - 844.363.1423

National Korean American Service & Education Consortium - 844.500.3222

REGIONAL

Alabama

Montgomery - Southern Poverty Law Center - 800.591.3656

Arizona

Phoenix - United Farm Workers Foundation - 877.881.8281

California

San Francisco - San Francisco Immigrant Legal & Education Network (SFILN) - 415.200.1548

Alameda County - Alameda County Immigration Legal & Education Partnership (ACILEP) - 510.241.4011

Los Angeles - Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) - 888.624.4752

Central Valley (Monterey, Fresno, Tulare, and Kern Counties) - United Farm Workers Foundation - 877.881.8281

Georgia

Atlanta - Asian Americans Advancing Justice - 404.890.5655

Atlanta - Georgia Latino Alliance for Human Rights - 770.454.5232

Illinois

Chicago - Illinois Coalition for Immigrant & Refugee Rights - 855.435.7693

Maryland

Maryland - CASA de Maryland - 301.431.4185

New York

New York - Immigrant Defense Project - 212.725.6422

Long Island - Long Island Dream Act Coalition - 516.387.2043

Pennsylvania

Pennsylvania - CASA - 301.431.4185

Philadelphia - New Sanctuary Movement of Philadelphia - 267.333.9530 (Spanish), 267.345.5248 (Indonesian)

Texas

Austin - Linea de Defensa Comunitaria - 512.270.1515

Washington

San Juan County - San Juan County Immigrant Protection Group - 360.376.7101, 206.365.2225

Virginia

Northern Virginia - CASA - 301.431.4185



WHAT TO DO IF IMMIGRATION COMES TO YOUR WORKPLACE



WHAT TO DO IF IMMIGRATION COMES TO YOUR WORKPLACE



President Trump's attack on immigrants affects immigrant workers **and** employers. This guide explains:

- the most common immigration actions affecting employers,
- recommendations for how employers can prepare,
- employers' rights and responsibilities, and
- what employers can do after an Immigration and Customs Enforcement (ICE) action.

Important! This guide is general information. **It is *not* legal advice.** It is not tailored to your situation. Talk to an immigration lawyer for advice in your case.

WHAT EMPLOYERS CAN DO IF IMMIGRATION COMES TO A WORKPLACE

Immigration agents may come to your workplace for a **Form I-9 audit**; a **raid**; or to **detain specific people**.

What is a Form I-9 Audit?

- A Form I-9 audit is when ICE comes to your business to check if you followed the rules for Form I-9.
- Form I-9 confirms a worker's identity and authorization to work in the U.S.

Employer I-9 Requirements

- Form I-9 is required for all new employees.
- You must keep I-9 forms on file for 3 years after hiring or 1 year after the worker's last day of work, whichever is later.
- Do not ask a worker to fill out Form I-9 more than once unless their work permit is about to expire or you have another valid, legal reason.
- Note: You do not have to keep copies of a worker's ID or work authorization documents.

If the Audit Does Not Go Well . . .

- If ICE decides you did not follow the Form I-9 rules, you may face:
 - An order to stop hiring people without valid work permits.
 - Civil and criminal fines and penalties.
- Learn more about Form I-9 in the Handbook for Employers at <https://www.uscis.gov/sites/default/files/files/form/m-274.pdf>.

What Is an ICE Raid?

- ICE agents go to a worksite without warning as part of an investigation into an employer.
- ICE agents are not police officers. But their uniforms may say "Police" or "Federal Agent." They may carry guns. Sometimes local police officers go with ICE agents on ICE raids.

What if ICE Wants to Detain a Specific Worker?

- ICE agents may come to your business to try to find a particular person (or people). While they are there, they may try to question, detain, and even arrest other people.

HOW EMPLOYERS CAN PREPARE FOR ICE ACTIONS

1. Make a Written Response Plan Ahead of Time

- Talk to other businesses or business associations. Ask what they are doing to prepare.
- Make a plan that works for you.
- Practice – just like a fire drill. You will be more prepared if you know what to say and do.
- Connect with immigration response networks in your area. They provide support with family, legal, financial, and media concerns if immigration agents come to your business.

2. Train Your Staff to NOT TALK to ICE Agents

- Train all workers to NOT allow ICE agents to enter your workplace.
- A worker can say, *"I can't give you permission to enter. You must speak with my employer."*
- Train all workers to NOT interact with ICE agents. If ICE agents have questions or requests, workers should say nothing, or say, *"You are not allowed to enter. Talk to my employer."*

3. Know Your Rights!

Employers have rights when ICE goes to a business. ICE agents do not always have a right to enter your business, stop or arrest your workers, or take documents.

Work with a community or legal group to arrange a "Know Your Rights" training for you and your staff and pay your staff for the time they spend in training.





WHAT EMPLOYERS SHOULD DO WHEN ICE ARRIVES

For Public Areas

- Anyone – including ICE agents – can enter *public* areas of your business without permission.
- Public areas include a dining area in a restaurant; parking lot; lobby or waiting area.
- Being in a public area does NOT give ICE the authority to **stop, question, or arrest** just anyone.
- No one can enter a *private* area of your business without your permission or a **judicial warrant**.

TIP: To show that some areas are private, mark them with a “Private” sign, keep the doors closed or locked, and have a policy that visitors and the public cannot enter those areas without permission.

For Private Areas

- Immigration agents can enter a private area **ONLY IF** they have a *judicial warrant*.
- A judicial warrant must be **signed by a judge** and say “**U.S. District Court**” or a **State Court** at the top.
- Without a judicial warrant, ICE agents need **YOUR** permission to enter private areas of your business.
- If ICE agents try to enter a private area, you should say: “*This is a private area. You cannot enter without a **judicial warrant** signed by a judge. Do you have a judicial warrant?*”
- If ICE agents tell you that they have a judicial warrant, ask for a copy and read it.
- Sometimes, ICE agents try to use an *administrative warrant* to enter. But an administrative warrant does NOT allow agents to enter private areas without your permission. **Administrative warrants** are *not* from a court. They say “Department of Homeland Security” and are on Forms I-200 or I-205.

During the Raid

- **Stay calm!** Ask your workers to stay calm, too. Do not run to the exits. This will make things worse because ICE agents can say that people who are running are likely violating immigration laws.
- When ICE shows you an administrative warrant with an employee's name on it:
 - You do **NOT** have to say if that employee is working on that day or not.
 - You do **NOT** have to take the ICE agents to the employee named on the warrant (even if he or she is at work at the time).
- Do NOT help ICE agents sort people by their immigration status or the country they are from.
- Watch the agents and see if they are complying with what's written in the warrant.
- If you or an employee is willing, you should video or record what the ICE agents do at your workplace. You may be able to prove the agents violated your rights or your workers' rights.

What if ICE Agents Try to Stop, Question, Detain, or Arrest a Worker?

- ICE agents may try to stop, question, or even arrest a worker without the proper authority.
- The best way for workers to protect their rights is to **stay silent and ask for an attorney.**
- Workers do not have to hand over any IDs or papers to ICE. All workers have this right.
- Any information that workers give to ICE can be used against them later.

Immediately After the Raid

- Write or record these things after ICE leaves:
 - How many ICE agents were present (inside and outside)?
 - How were the agents dressed? How were they armed?
 - Did the agents make you or your workers believe you could not move or leave?
 - Did the agents mistreat anyone? If yes, how?
- Notify the employees' union.
- If ICE arrests any of your workers, ask the ICE agents where they are being taken. This information will help the worker's family and lawyer find the person.

What to Do in an I-9 Audit

When ICE notifies you that there will be a Form I-9 audit, contact an immigration lawyer. Also notify your workers and their union representative about the audit.

- The law gives you **3 work days** to produce your I-9 Forms. Do not provide your documents early.
- You have the right to speak to your lawyer before answering questions or signing ICE documents.
- Allow your employees to have coworkers or union representatives present when discussing I-9 audits.
- After reviewing the I-9 forms, ICE may find some employees are not authorized to work. If that happens, ICE will give you 10 days to provide valid work authorization for these employees. If you can't provide the documents by that time, you will be told to end their employment.
- If this happens, you **must** notify the affected workers of the audit.
- Ask ICE for more time. This will give affected workers more time to talk to an immigration lawyer.
- If your workers belong to a union, you may need to provide copies of the audit documents to the union and work with the union as you respond to the audit.

What to Do After an ICE Raid or I-9 Audit

After an ICE raid or I-9 audit, one or more of your workers may face deportation or be unable to return to work. This could impact your business and the morale of your workers.

Here is what you can do to provide support to your staff and community.

OFFER LEAVE WHILE AFFECTED WORKERS APPLY FOR WORK AUTHORIZATION

- Give affected workers leave while they take care of getting their papers, or allow them to return to their same positions with full seniority and benefits once they provide their authorization papers.

PAY OWED WAGES & BENEFITS PROMPTLY

- Pay workers any owed wages and any accrued benefits as soon as possible when employment ends.
- Make sure you follow the requirements of federal and state labor laws.

PROVIDE SEPARATION PAY TO WORKERS WHO CANNOT RETURN TO WORK

- Workers who are not able to return to work will need money to support themselves and their families. They may need to pay for legal assistance.
- If you do not have a separation pay policy, consider giving extra funds to workers in this situation.

CONTRIBUTE TO AN IMMIGRATION LEGAL FUND

- An employee facing deportation will need a good lawyer, and may get the option to be free on **bond** until their hearing. That means they can stay with their families and communities during this time.
- They may need your help and their co-workers' help to raise money for the lawyer or bond.
- You can contribute to an immigration legal fund for this purpose. Or you can set one up.

PROVIDE A REFERENCE TO WORKERS FOR FUTURE JOBS

- Let your workers know you can provide a reference to their potential future employers.



STAY CONNECTED TO YOUR COMMUNITY'S IMMIGRATION RESPONSE EFFORTS

- Community organizations and lawyers often organize a response to a workplace raid or other immigration actions.
- A community's response may include fundraising for legal defense and help for an individual's family.
- Employers and workers can find support, guidance, and useful information by staying connected to community response efforts.

BEFORE AN IMMIGRATION ACTION

- Find a qualified immigration lawyer **now** – *before* anything happens.
- Make a written *Response Plan*. Practice your plan with your workers. Practice what to say, what to do.
- Provide a Know-Your-Rights training for all your staff.
- Train your staff:
 - *Do NOT run away if ICE agents show up. Running away could give ICE a legal reason to arrest workers.*
 - *Do NOT give ICE agents permission to enter your workplace.*
 - *Do NOT answer questions or give any information.*
- You and your workers have the right to stay silent and to ask to talk to a lawyer.
- Give your workers a list of lawyers or organizations that can provide high quality, free, or low-cost immigration legal advice for them and their families.
- Connect with an immigration response network in your area.

DURING AN IMMIGRATION ACTION

- If ICE agents enter a public area of your business, say: "I am the employer. You cannot go to other areas of the workplace without my permission."
- If ICE agents try to enter a private area, say: "This is a private area. You cannot enter without a judicial warrant signed by a judge. Do you have a judicial warrant?"
- Encourage your staff to video or take photos during an immigration action (if they are willing).
- If the agents have a judicial warrant signed by a judge, ask for a copy and read it. Make a copy if you can.
- Watch the agents carefully. Keep track of what they do. See if they are following what is written on the warrant. For example, the warrant may limit the areas the agents can search.
- If ICE agents try to question you or your workers, remind your workers they have a right to stay silent and to ask for a lawyer.
- When immigration agents leave, record or write down everything you saw. This will help you remember the details when you talk to a lawyer later.

For more information, contact Haeyoung Yoon at hyoon@nelp.org or Laura Huizar at lhuizar@nelp.org at the National Employment Law Project or Jessie Hahn at hahn@nilc.org at the National Immigration Law Center.



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