

IF IMMIGRATION COMES TO YOUR WORKPLACE---A Brief Summary

Revision 1 - 1/25/2018

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

ICE (Immigration and Customs Enforcement) agents are also known as Department of Homeland Security (DHS) agents. They may identify themselves as "Police" or their clothing may say "POLICE" or "POLICE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT" or "POLICE DHS" or other configurations with "Police." They may be in plain clothes or uniform, and they may not always identify themselves in order to solicit information.

PREPARE FOR ICE ACTIONS

- Be sure all employees know their rights, including the **right to remain silent** and the right to speak with a lawyer before signing any documents.
- Distribute yellow and red cards and post the North Bay Rapid Response hotline number, 707-800-4544. If ICE does visit your business in Sonoma and Napa Counties, you and/or employees should call the North Bay Rapid Response hotline.
- Clearly designate "Private" or "Employee Only" areas, areas that are not open to the public without permission.
- Know Your Rights: ICE agents can only legally enter non-public areas of a workplace if they (1) have your voluntary consent or (2) have a valid, signed, judicial search warrant. They may try to convince you that they have authority to enter. However, without (1) or (2), their entry would be illegal.
- Designate and train individuals to serve as Primary Contacts with ICE. This might be you or other designated persons. Primary contacts are responsible for asking to see a warrant and informing ICE that it does not have the owner's consent to enter non-public areas of the business. All employees should know who are the primary contacts.
- Train your front desk person to inform immigration officials that only the designated individuals are authorized to review a warrant or to consent to entry into private areas, and to decline to answer any questions.
- Train every employee to NOT TALK to ICE agents: If ICE agents have questions or requests, workers should say nothing, or they can say, "I can't give you permission to enter. You must talk to my employer (or designated primary contact)."

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- Train your employees not to separate themselves based on immigration status if ICE appears, since this is a method ICE may use to get workers to disclose their status and target certain individuals.
- Remind workers that if ICE does arrive, they should stay calm and not run to exits. ICE agents can claim that people who are running are violating immigration laws.

IF ICE ARRIVES

- Anyone—including ICE agents—can enter public areas (such as restaurant dining rooms, parking lots, lobbies or waiting areas) of your business without permission.
- Individuals who are questioned in public have the right to remain silent and should calmly ask if they are free to leave.
- ICE agents may enter a private area **ONLY IF** they have a **judicial warrant** that is **signed by a judge** and says **“U.S. District Court”** or a **State Court** at the top OR if they have your permission (through you or your designated individual).
- Business owners have the legal right to tell ICE agents who do not have a judicial warrant that they must leave their property.
- If ICE agents ask permission or attempt to enter a private area, the designated individual should state explicitly that he/she does not consent to entry without a warrant: *“This is a private area. You cannot enter without a **judicial warrant** signed by a judge. Do you have a judicial warrant?”*
- If the agents state that they have a warrant, the designated person should be ready to review the warrant and/or immediately share the warrant with their attorney to review its validity. The warrant must be signed by a judge and have the person’s name and correct dates for serving the warrant.
- ICE may try to use *an administrative warrant* or “arrest warrants” which are not legally enforceable and do not allow them to enter private areas without permission. An agent may show an employer an order of removal (deportation) and claim it is an arrest warrant, when these are actually two different types of orders. Neither an “ICE warrant” nor a removal order give ICE the right to enter or inspect the non-public areas of the workplace. These warrants are not from a court; they say “Department of Homeland Security” or are on Forms I-200 or I-205.

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- If you are unsure whether ICE is presenting you with an enforceable judicial warrant, immediately send/ fax/scan the warrant to your attorney.
- If ICE has a valid arrest warrant, ask the individual named in the warrant to walk outside or to a public waiting area. Employers do not have to allow ICE agents to enter private areas of a workplace where workers are present.
- If ICE claims they must enter non-public areas of your business because of an emergency or other circumstances with or without a warrant, 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.
- California's new state law, called the "Immigrant Worker Protection Act," limits your cooperation with ICE: If ICE shows you an administrative (not a legal judicial warrant) with an employee's name on it, do NOT give any information about the employee, including whether they are working or not, or take the agent to the employee.
- Do NOT help ICE agents sort people by their immigration status or country of origin.
- No worker, whether undocumented or not, has to answer questions or hand over any IDs or papers to ICE. Any information that workers give to ICE can be used against them later.

IMMEDIATELY AFTER AN ICE RAID

Write or record these things after ICE leaves:

- Number of ICE agents inside and outside
- How agents were dressed.
- How agents were armed.
- Did the agents make you or your workers believe you could not move or leave?
- Did the agents mistreat anyone? If yes, how?

If ICE arrests anyone, ask the ICE agents where they are being taken. This will help the worker's family and lawyer find the person.

AN I-9 AUDIT

- ICE does not need a warrant to review I-9's, but they are required to give you 3 working days to produce your I-9 Forms.
- Even if they have a valid warrant signed by a judge, a manager/owner can let ICE know that they must present a "Notice of Inspection" and return three days after that document is presented. (https://legalaidatwork.org/wp-content/uploads/2017/08/compressed_workplace-raids-employer-FINAL-00502084-1.pdf)

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- You should contact an immigration lawyer if ICE notifies you that there will be a Form I-9 audit.
- You have the right to speak to your lawyer before answering questions or signing ICE documents.
- Keep personnel files and I-9s separate. You do not have to allow ICE access to personnel files unless they have a valid warrant signed by a judge.

SOURCES

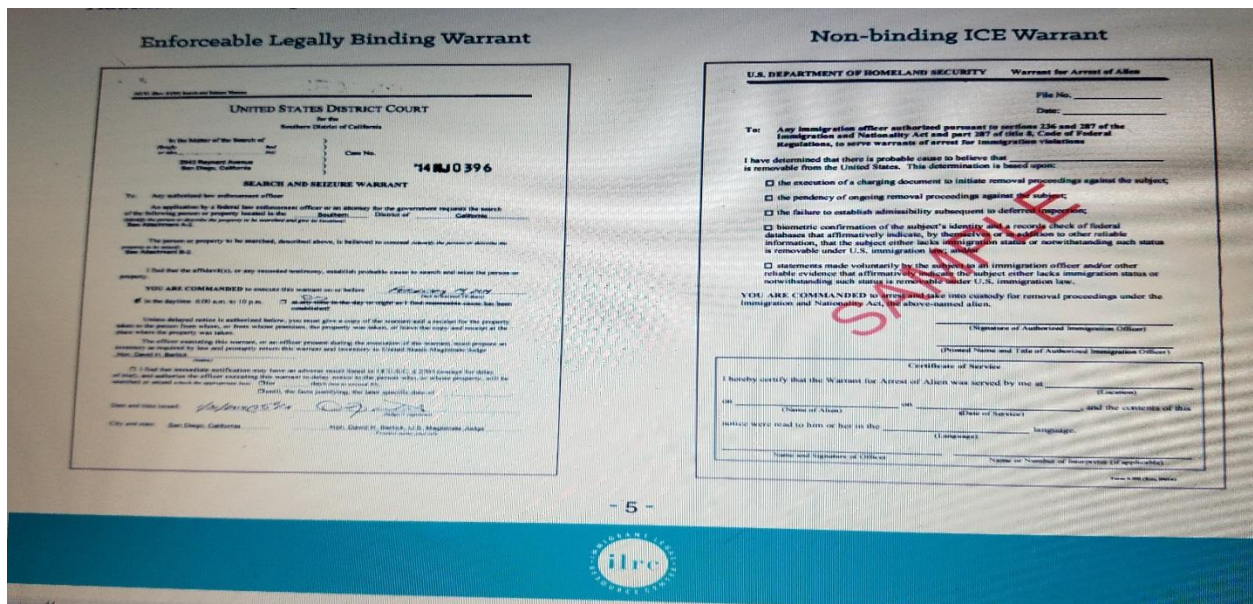
National Immigration Law Center, What to Do if Immigration Comes to Your Workplace:

<https://www.nilc.org/wp-content/uploads/2017/07/EmployerGuide-NELP-NILC-2017-07.pdf>

Immigrant Legal Resource Center (ilrc.org): “Know Your Rights, A Guide for California Employers.” August 2017.

Catholic Legal Immigration Network, Inc./CLINIC: <https://cliniclegal.org/resources/know-your-rights-workers>

ENFORCEABLE BINDING AND NON-BINDING WARRANTS



ORGANIZATIONS AND LAWYERS FOR IMMIGRATION ISSUES

Note: La Luz and SVAC cannot recommend an attorney. This list is provided as a service. It is up to the client to decide who to contact.

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- VIDAS (Vital Immigrant Defense Advocacy and Services), Santa Rosa, 707-523-1740
- Canal Alliance, San Rafael, 415-454-2640
- U.C. Davis Immigration Law Clinic, Davis, 530-752-6942
- Pangea Legal Services, San Francisco, 415-254-0475 (call or text)
- Social Justice Collaborative, Oakland, 510-992-3964
- Daniel Chavez, Petaluma, 707-775-4531
- Irma Cordova, Santa Rosa, 573-3000
- Richard Coshnear, Santa Rosa, 707-523-1740.
- Michelle Crawford, Santa Rosa, 707-523-7820
- Christopher Kerosky and his associate Liliana Galleli, Santa Rosa, 707-433-2060
- Maureen McSorley, Windsor, 707-838-8383
- Lamar Peckham, Santa Rosa, 707-527-8050
- IIBA (International Institute of the Bay Area), Sonoma, 707-939-8864



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