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ICE Actions: Preparation and Response

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Understanding the Threat

- Recent ICE actions in California agriculture
- ICE Workplace Activities
 - Calls and “Informal” Appearances
 - Worksite Raids
 - I-9 Audits
- Operational Disruptions
- Penalties
- Legal Actions against Employers



Key Legal Rights and Limits

- The right to remain silent and to counsel (Miranda v. Arizona, 384 U.S. 436 (1966))
- The right against self-incrimination and due process (U.S. Const, amendment V.)
- The right to be secure against “unreasonable searches and seizures” (U.S. Const, amendment IV.)
 - Must have Judicial Warrants “particularly describing the place to be searched and the persons or things to be seized.”
- No right to interfere with a law enforcement officers while performing official duties (18 U.S.C. § 111)
- California prohibits employer consent to non-public places without a judicial warrant (Ca Govt. Code § 7285.2)



ICE Raids - Paperwork is Key

- Judicial Warrants – Access allowed only as described
 - Signed by a Judge on a Court Paper (see appendix)
 - Must “particularly describe” the place to be searched and the persons or things to be seized
- Everything Else – No right to enter non-public places (CA employers cannot consent)
 - Administrative Warrants
 - Form I-200 – arrest
 - Form I-205 – removal/deportation
 - Detainers or Immigration Holds
 - Requests to local law enforcement to hold until
 - ICE arrives (48 hours)

ICE Raids: Preparation

- Appoint a Response Team: legal/HR POC, Field Supervisor Liaison
- Train team and crew supervisors on on-site response
- Mark non-public areas: “Restricted – No Public Access”
- Keep immigration-related documents offsite or in locked areas
- Inform employees of rights
 - Right to remain silent
 - Right to ask for an attorney (even if they don’t have one)
 - Right not to provide ID or documents before talking to any attorney
 - Anything they say or do can be used against them
 - Never run

ICE Raids: On-Site Response

- Stay calm
- Ask for credentials and paperwork
- **Immediately contact** corporate agent/legal and send them picture of all papers
- Be respectful, but firm about the right to confirm paperwork
- Don't consent to entry into non-public places until judicial warrant is confirmed
- Don't provide any information or documents, don't sign anything
 - Don't have to identify people or direct them (unless it would reduce chaos)
- Record details, especially where exceeding limits in warrant
- Remind employees of *Miranda* rights, if feasible
 - Do not instruct them either to talk or not to talk to ICE
 - Not to run – it may give ICE reason to arrest

ICE Raids: Permitted Activities

What can ICE do with a judicial warrant?

- They can take documents and people listed on the warrant
- They can enter areas listed on the warrant
- Do not interfere
- They cannot enter arrest or take document or arrest people not on the warrant
- They can arrest people who run or try to hide

What can ICE do if without a judicial warrant?

- Remain in public places only
- Generally, cannot take private property or documents, even if in a public space
- Make arrests in public places or anyone they see from a public place, with probable cause the individual has violated US immigration law
- Detain individuals and question them (only if they are willing)

The image displays two side-by-side forms: a 'COURT WARRANT' and an 'ICE WARRANT'. The 'COURT WARRANT' is from the 'UNITED STATES DISTRICT COURT' and is titled 'SEARCH AND SEIZURE WARRANT'. It includes fields for the court, the person or address, and the location. Annotations in blue boxes state: 'This warrant is only valid for the person or address listed', 'This warrant is issued by a court', 'This warrant is only valid for the location listed or in the attachments', and 'This warrant is only valid until the date listed'. The 'ICE WARRANT' is titled 'Warrant of Removal/Deportation' and is issued by the 'U.S. Department of Homeland Security'. It includes fields for the person, the location, and the date. Annotations in red boxes state: 'This warrant is issued by DHS or ICE, not a court', 'This warrant does NOT give ICE permission to enter your home', 'This warrant will be signed by an ICE officer, not a judge', and 'This is an ICE form'.

I-9 Audits: Preparation

- Conduct an internal I-9 Audit (or ask your labor contractors to do so)
 - Use attorneys so its privileged
 - Bring con-compliant I-9s into compliance
 - Common issues – missing forms, incomplete forms, no signatures
 - Purge Stale I-9s (any employees who left over a year ago)
 - Legal limits to re-verification of facially valid documents (CA Govt. Code § 7285.1)
 - Consider all-employee reminder to update if any changes in right to work status
 - Consider E-Verify

I-9 Audits: Response

- If ICE brings an I-9 Inspection Demand
 - Send to designated representative/legal
 - Deny immediate access to Forms
 - Three days to produce original I-9s
 - Post written notice to employees (and unions) (CA Labor Code § 90.2(a) (within 72 hours)
 - Native language
 - Contents: name of agency, date notice received, nature of inspection, if known, copy of Inspection demand
 - Must provide employees access to their Forms if requested
- Note: If a Judicial Warrant asks for a particular employee I-9 Form, contact legal.

I-9 Inspections and Cures

- Arrange through HR or legal
- Recommend lawyer on site during inspection
- Recommend against sending forms anywhere
- ICE must notify you if it finds that some employees are not authorized to work.
- You must notify the specific employees of all deficiencies detected, the time period for correction, date, time, location of correction meeting, their right to be present and have representation (CA Labor Code § 90.2(b)).
- Must give employees 10 days to provide valid work authorization.
- If they can't provide the documents to you, you must end their employment.
- Penalties: up to \$27, 018 per employee (knowingly employing)+ criminal prosecution

Employee Assistance



FREEDOM
FOR IMMIGRANTS

For employee assistance and resources, scan the QR Code. Once on the SUMMIT agenda webpage, scroll down to the “**ICE Compliance and Enforcement**” session. Look for the “**Resources**” section.



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