



WHEN IMMIGRATION OFFICIALS ARRIVE AT YOUR WORKPLACE:

A Know Your Rights Toolkit for Public Sector Workers



As a public sector employee, you play a vital role serving our communities. Whether you work for a state, county, or local agency, in a court, school district, public hospital, library or government office, you may interact with the public and have access to databases with personal information on a daily basis. As a result, your worksite and the information you gather may be sought out by Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). The uncertainty about how the current presidential administration will be enforcing immigration laws has led to a lot of confusion and questions by workers like you. As a result, we have developed this toolkit to help you understand your basic rights and responsibilities when it comes to interacting with ICE at your worksite.

It is important to know that different workplace policies, as well as city and county ordinances, may apply to you depending on where you work. We encourage you to learn more about the sanctuary policies or immigration related ordinances that may apply to your workplace.

While this toolkit provides useful information, we strongly recommend that you immediately contact your supervisor for guidance if ICE or CBP comes to your workplace. Also notify your union representative following such an incident to ensure that your worker's rights under law and your collective bargaining agreement were upheld.

ENFORCEMENT OF IMMIGRATION LAWS

Whose job is it to enforce immigration laws?

The federal government is responsible for all immigration enforcement. Immigration touches on international affairs and diplomatic relations, which is why it must have a uniform policy across the country. States and local governments cannot enact their own laws regulating immigration, and have no responsibility or authority to enforce immigration laws.

What is the relationship between ICE and CBP and state and local agencies?

Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP) cannot give commands to state and local agencies or officers. However, many local agencies, especially law enforcement, voluntarily work with ICE and CBP, contract with them to detain immigrants, share information, or conduct joint investigations. The extent of this collaboration and information sharing varies significantly from place to place, so it will be different for each town, county, and state agencies.

Why Does ICE want us to help them do their job, when it's not our job to enforce immigration?

Although ICE has thousands of agents and an enormous budget, they would need many more agents to accomplish their goal of removing all deportable immigrants. It is also more convenient for them to arrest and deport people who have already been detained by local law enforcement or identified by some other agency. In addition, the current administration seeks to make the United States a hostile place for immigrants to live in by limiting immigrants' access to local government services.

WHEN ICE SHOWS UP AT YOUR WORKPLACE

What are the things that ICE will be demanding?

ICE could come to a worksite looking for a specific person or group of people, asking for records or data, requesting contact information, or just randomly sweeping the area or site.

Will they show any documentation? What will it look like?

ICE may obtain a federal warrant in order to conduct a worksite raid. ICE rarely obtains a warrant to arrest people in their homes or on the street, but sometimes they use administrative warrants. These ICE warrants have no relevant legal force and require no action by non-ICE agents, because they are not issued by a judge and are not valid warrants. For a worksite raid or enforcement action, ICE may be more likely to obtain a valid judicial warrant in advance, but they might not do so. If ICE requests records or other data from your workplace, you should ask if they have a valid judicial warrant, subpoena or court order requiring the sharing of that information. Sample warrants and subpoenas can be found below.

The sample on the right is an administrative warrant, which does not give ICE legal authority to enter a private area or obtain records. The other two samples are a warrant and a subpoena from the district court. These orders must be complied with, but you should contact a supervisor before responding, to determine who is responsible and what exactly is required.

From Department of Homeland Security

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.

Signed by _____
(Signature of Authorized Immigration Officer)

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 _____ (Name of Alien) on _____ (Date of Service), and the contents of this notice were read to him or her in the _____ (Language) language.

Name and Signature of Officer _____ Name or Number of Interpreter (if applicable) _____

Form I-509 (Rev. 08/10)

From a specific US District Court

AO 93 (Rev. 01/09) Search and Seizure Warrant

UNITED STATES DISTRICT COURT
for the Southern District of California

In the Matter of the Search of _____
(Briefly describe the property to be searched or identify the person by name and address)

Case No. **'14 MJ 0396**

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 _____ Southern District of _____ California
(Identify the person or describe the property to be searched and give its location);
See Attachment A-2.

The person or property to be searched, described above, is believed to conceal (Identify the person or describe the property to be seized);
See Attachment B-2.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before February 11, 2014 (not to exceed 10 days)
 in the daytime 6:00 a.m. to 10 p.m. at any time in the day or night as I find reasonable 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 Hon. David H. Bartick
(name)

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 whose or whose property, will be searched or seized (check the appropriate box) (For _____ day not to exceed 30).

Until the facts justifying, the later specific date of _____

Date and time issued: 1/29/2014 4:14 _____
Judge's signature

City and state: San Diego, California _____
Hon. David H. Bartick, U.S. Magistrate Judge
(Printed name and title)

Signed by a Federal Judge

AO 88 (Rev. 11/94) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT
Northern, DISTRICT OF California

Digital Millennium Copyright Act, section 512(h) subpoena to online service provider

SUBPOENA IN A CIVIL CASE

CV 06 - 80304 MISC. JW

To: Google, Inc., Google Video Support, DMCA Complaints
1600 Amphitheatre Parkway
Mountain View, CA 94043

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY _____ COURTROOM _____
DATE AND TIME _____

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at a deposition in the above case.

PLACE OF DEPOSITION _____ DATE AND TIME _____

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):
Documents sufficient to allow landmark Education to identify the infringer "Analogizer" who posted videos labeled "Introduction" and "Inside the landmark Forum" (1 through 4 of 4), as described in the letter of notification in Exh. A.

PLACE: Google, Levitt & Weiss, PC DATE AND TIME: October 20, 2006
One Embarcadero Center, 10th Floor 10:00 AM
San Francisco, CA 94111-3719

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES _____ DATE AND TIME _____

Any organization not a party to this suit that is responsible for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters or which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT): _____ DATE: 10-19-06
Sandy Morris

ISSUING OFFICER'S NAME ADDRESS AND TELEPHONE NUMBER:
USDC, 280 So. 1st St. Rm 312, San Jose, CA 95113 (408) 535 5347

(Use Rule 45, Federal Rules of Civil Procedure, parts C & D as needed)

If active in pending in district other than district of issuance, state district under case number.

AO 88

Labeled Subpoena

Commands that specific records be provided to the court.



How do I identify an ICE or CBP agent?

In a worksite raid, ICE may be in uniform or armed, and easily identifiable. Other times they may come dressed in plain clothes. If an unknown person comes to your workplace asking questions or requesting information or records or asking about employees, you should ask them to identify themselves and immediately contact your supervisor before providing any information.

WHEN ICE REQUESTS INFORMATION

What are the legal requirements your employers in state offices, cities, counties, public hospitals, universities, schools and child care facilities have to comply with when dealing with ICE or CBP?

Generally local and state agencies can't obstruct the federal government from enforcing laws or prevent it from entering public spaces, but there aren't any obligations under federal law to help ICE or CBP or do anything for them.

It's especially important to note that juvenile records are confidential under California law. Records and information from juvenile court proceedings may not be shared with ICE or any DHS officers unless there is a court order providing for disclosure of those specific records. This includes probation reports and other documents prepared for the court by law enforcement agencies.

If asked, what information am I legally required to provide to ICE or CBP?

In general, there is no legal requirement to provide any information to ICE or CBP regarding oneself or anyone else. Only if ICE presents a court order requiring specific records would those specific records have to be provided. If ICE makes a request and provides a court order, you should contact your supervisor before providing any information.

When ICE contacts me, do I have to immediately respond to them?

Generally you don't have to do anything for ICE. There's no legal requirement to respond to an inquiry or request from ICE unless it's an order from a court. As with any workplace issue you should contact your supervisor for direction on responding to the request and notify your union to ensure that your labor rights and union contract are upheld.

WHAT YOU ARE NOT LEGALLY REQUIRED TO DO?

Do I have a duty or legal requirement as a private citizen or a government employee to report every undocumented person that I encounter to ICE?

No. There is no requirement for private citizens to report undocumented immigrants. There are sometimes some requirements that apply to government officials, usually only law enforcement agents. In California, there is no requirement to report someone's immigration status or any other information to ICE or CBP (some states do have laws on reporting to ICE or asking immigration status). There is one exception to this, which only applies to law enforcement agencies: CA statute HS 11369 directs that if someone is arrested for one of a handful of specific drug offenses, the arresting agency must report the arrest to ICE if there is reason to believe the person is not a citizen. This statute does not require anyone who is not an employee of the arresting agency to take any action at all. Moreover, it does not direct any CA employee or law enforcement officer to investigate or determine immigration status or citizenship, only to report to ICE if they actually have information about it. Having an accent or being born in another country does not mean that a person is not a U.S. citizen.

Am I responsible for asking clients or other individuals about their immigration status?

Not unless it is required for a specific service that you provide. Many localities and agencies have local laws or policies prohibiting their employees from asking immigration status, unless it is required by federal law in order to provide city services, such as federal programs that require proof of citizenship or certain immigration status in order to be eligible. Some federally funded government services, such as Temporary Assistance for Needy Families (TANF), require proof of citizenship or particular immigration status for eligibility, but unless this is a specific requirement, there is no need to ask about immigration status. Regardless, there is no obligation to report that information to ICE, and in fact it may be confidential information under state or federal laws. If you are collecting immigration status or citizenship information in the course of work, ask your supervisors for guidance about the confidentiality of this information.

In California, even if you are provided specific information or documents about a person's immigration status, there is no obligation to provide any of that information to ICE. Even if ICE asks about it [absent a judicial warrant or subpoena], you can just say no.

Is it legal to use information that is obtained at work to help deport people outside of work?

Public sector employees may obtain private information in the course of their work, and CA privacy laws, as well as federal confidentiality laws (such as laws about school records and medical records) may prevent or limit any sharing of this information. In addition, employee contracts may require confidentiality of work-related information. The penalties for violations of these rules will depend on the specific law and information at issue.

If I don't cooperate with ICE, am I breaking the law?

It is legal for CA employees not to cooperate with ICE. However, it is a violation of the law to obstruct, lie to or threaten a law enforcement officer, or fail to comply with a judicial warrant or subpoena.

What constitutes the crime of harboring undocumented immigrants? Does not cooperating with ICE constitute harboring?

Harboring immigrants is a federal criminal offense. To be convicted of harboring, the federal prosecutor must show that: 1) a person was an alien; 2) the alien was not lawfully in the United States; 3) the defendant knew or was in reckless disregard of the fact that the person was not lawfully in the United States; and 4) the defendant concealed, harbored, or shielded the person from detection. All of these must be proven for the defendant to be convicted.

Can I be arrested and put in jail if I don't do what ICE asks?

No. Declining to help ICE is not a basis for them to arrest you. However, if you interfere with ICE's enforcement actions, such as blocking them from arresting someone, you could be charged with obstructing justice or related offenses. Also, if you threaten or physically harm an ICE agent (or any law enforcement officer) you could be prosecuted for assault on an officer or similar offenses. You should not try to interfere with, threaten, or otherwise provoke conflict with ICE or CBP or any federal law enforcement officers.

WHEN ICE IS WAITING OUTSIDE YOUR WORKSITE

What do you do if ICE doesn't make any requests to you or your department, but just waits outside your worksite trying to detain immigrants as they go into or leave your jobsite?

You can ask ICE to leave, just like you would ask any other person. If they are in a lobby or other areas of a worksite and are disruptive to business, you may demand that they leave unless they have a valid judicial

warrant to carry out activities. However, if it is a public space that you do not control, like the street, ICE agents can be there like anyone else. You can ask agents to leave even in the street, but there is really no way to require it any more than for any other person who is in a public space.

If their presence even outside a worksite is disruptive or intimidating, you can always begin filming them and write down their names and badges.

Are there instances when under city and county policies and laws you are supposed to cooperate with ICE?

There are some state and local laws that require reporting to ICE – these are usually directed at law enforcement agencies. For example, SB 1070 in Arizona requires that officers who stop a person must also inquire about their immigration status and report to ICE. Although most of that statute was struck down by the Supreme Court, this provision remains in effect.

In California, it is more common for local ordinances to restrict the use of city/county resources to help with immigration enforcement. Even in cities and counties with policies limiting cooperation with ICE in most circumstances, there may be instances when those policies direct city employees to assist ICE.

To determine local requirements, you can ask your supervisor or you can contact the city or county attorney's offices directly.

WHEN YOUR DEPARTMENT HAS A FORMAL RELATIONSHIP WITH ICE

My employer has a 287g agreement. What does that mean?

A 287g is a formal agreement between the federal government and local law enforcement agencies that give local law enforcement agencies the authority to enforce immigration laws. As part of this process local law enforcement officials are deputized as ICE agents and enforce federal immigration law.

Do we still have to voluntarily help ICE if we aren't as individuals part of the 287g program?

Not unless it is otherwise required by local or state law or policy.

I work at the jail and half of the jail space is run by ICE on a contract. Do I need to share information I get with ICE agents who work at the jail?

Many ICE detention contracts require the disclosure of all records associated with the persons in ICE custody. That is, any records the jail has on people who are in the ICE section of the jail must be available to ICE. These detention contracts have lots of standard language, but are not all the same, so obligations about information sharing may differ from facility to facility, depending on the contract. Absent the contract or a local or state law or policy requiring giving specific information to ICE, there is no such general obligation.

YOUR RIGHTS AS A WORKER WHEN YOUR EMPLOYER ASKS YOU TO COOPERATE WITH ICE OR CBP

Can you be disciplined for refusing to cooperate with ICE when it's not legally obligated and not part of your normal duties?

No, you cannot be disciplined for refusing to cooperate with ICE. However, depending on the situation, you could be disciplined for not following your supervisor's instruction or your employee contract, so educate yourself about your duties, rights and responsibilities in the workplace. If you have questions, contact your union representative.

Could there be any legal consequences (lawsuits) against me if I cooperate with ICE or CBE?

Yes. If you participate in immigration enforcement action that is discriminatory, causes unlawful detention, or otherwise violates a person's rights, you or your employer could be liable for damages.

WHEN YOUR IMMIGRANT CLIENTS ARE SCARED

My immigrant clients are scared. What should I tell them?

Tell them to make sure they know their rights. Encourage them to visit the iAmerica or the Immigration Legal Resource Center websites or any other reputable source of legal information.

IAmerica

www.iamerica.org

Immigration Legal Resource Center

www.ilrc.org

To submit questions regarding any of the material presented in this tool kit, please go to:

www.AskSEIU.org