

KNOW YOUR RIGHTS



Business Preparedness:

Immigration Enforcement and Business & Worker Protections

Presented by: ACLUF-SDIC Staff

ACLU San Diego and
FOUNDATION Imperial Counties

LAND ACKNOWLEDGEMENT

We are gathered today in unceded territory that carries the footsteps of countless Kumeyaay people, stewards of this land for more than 10,000 years.

The Kumeyaay people were forcibly dispossessed of their ancestral land by colonialism, broken promises, violence, and cultural and actual genocide.

Despite historic and ongoing displacement, “San Diego” is Indigenous land and always will be. This acknowledgement is how we show gratitude and respect for the land and its First Peoples and give humble recognition of the true history.

For more info: native-land.ca

For opportunities to support local Indigenous Justice work, check out the [Strong Hearted Native Women's Coalition](https://strongheartednativewomen.org) at: strongheartednativewomen.org

LEGAL DISCLAIMER

This information is not intended to be legal advice.

Every person and business' situation is different. You should have a private conversation with an attorney if you need advice.

If you would like to contact the ACLU or one of our affiliates, contact information will be provided towards the end of this presentation .



- Defends rights and freedoms enshrined in the U.S. Constitution.
- Fights both government and non-government abuse, and defends individual freedoms including speech and religion, the right to due process, the right to privacy and much more.
- Advocates for these rights even when the cause is unpopular, and sometimes when nobody else will.

AGENDA

- Immigration Agencies & Actions that Impact Businesses
 - I-9 Forms, Notices of Inspection & Audits
- What to do if Immigration is at Your Business
- Preparing in Advance
- Staying Informed, Ready & Supportive
- Key Points
- Q&A



TYPES OF IMMIGRATION AGENCIES & ACTIONS THAT IMPACT BUSINESSES



RECOGNIZING EACH AGENCY: Department of Homeland Security (DHS)



Immigration and Customs
Enforcement (ICE)



Customs and Border Protection (CBP)



Homeland Security Investigations
(HSI)



Enforcement and Removal
Operations (ERO)



Border Patrol

REASONS FOR IMMIGRATION VISITS

1. **Form I-9 Audits** – To inspect whether you're complying with federal hiring rules.
2. **Raids** – Sudden, unannounced workplace inspections.
3. **Targeted Enforcement** – They may come looking for a specific person but end up detaining others. These are often called “collateral arrests.”

Understanding Form I-9 – Rights & Responsibilities

As an employer you must:

- Complete an I-9 for a new hire within three days of that person's hiring date.
- Inspect the documents. The documents must “reasonably appear to be genuine and relate to the person presenting them.”
- Not request extra documents than what the form requires.

Rights & Responsibilities, continued

Employers must:

- Keep I-9 records depends on how long the person worked for you:
 - If worked less than two years = keep for three years from their first day of work.
 - If worked more than two years = keep for one year from their last day of work.
- Remember that an I-9 is only required for employees, not independent contractors.

Responding to an I-9 Audit Notice of Inspection

If you are notified of an audit:

- You have **three business days** to respond. (Do not submit early. It is recommended that you do not waive your right to three days).
- Contact a lawyer immediately.
- Notify your employees and their union **in writing within 72 hours in California**.
- Provide documents to immigration **offsite**, directly to immigration officials.

What rights do employees have?

As an employee:

- ➔ You have the right to not discuss your immigration status with your employer.
- ➔ If you are unsure why your employer has asked you to prove you have work authorization, you can ask why they are requesting that information.
 - Employers may not ask for employment authorization verification merely to intimidate, retaliate or discriminate.
- ➔ If no notice about an inspection or audit has been posted, an employee may ask their employer to post one.
 - You may also request a copy of the Notice of Inspection from the employer.

What happens if immigration finds discrepancies in documents provided?

Employers should:

- Be provided 10 days to fix the issue—ask for more time if needed.
- In California, **within 72 hours** after receiving audit results the employer must **notify the employee in writing** if they have been identified by immigration officials as not having or possibly not having work authorization.

What happens if immigration finds discrepancies in documents provided? (contd.)

Employees' rights:

- ➔ Can decide to provide additional documentation to show they are authorized to work.
- ➔ An employer may not specify which documents must be presented to correct the form.
- ➔ In any meeting with an employer and/or an immigration official, all employees have the right to remain silent and not sign any documents without consulting an attorney.
 - In California, employees also have the right to have an attorney or third-party present during any meeting scheduled with the employer. *Cal. Lab. Code § 90.2(b)(1)(A)-(D)*.

IMMIGRATION COMES TO YOUR BUSINESS



What if immigration agents come to my business?

If you've received a Notice of Inspection:

- Contact the business owner or designated person and attorney **immediately**.
- You may want to provide documents to immigration offsite.
- Follow the preparedness steps in the next slides.

Agents show up without notice:

- Ask what agency the agents are with.
- If without notice, it may be a raid. Follow the steps in the next slide.

PREPARE IN ADVANCE: REMEMBER THESE P.A.W.I.R. STEPS

1. **PLAN** ahead. Have a plan with a designated **PERSON** who may engage with agents.
 - Determine what agency the agents are with.
 - Train staff not to speak with agents and remind them of their rights.
2. **Contact an attorney** immediately.
3. **Ask for a WARRANT!**
4. **INSPECT** the warrant to determine its **validity**.
5. **RECORD** and **DOCUMENT**.

STEP 1: HAVE A POLICY & PLAN WITH A DESIGNATED PERSON

- Create a **written plan or policy** that staff can follow.
- Include electronic safeguards in your policy.
- Host trainings for your staff. Speak with your staff, especially front-line employees, about not talking to immigration agents or giving permission to enter.
- Remind staff of their rights and host Know Your Rights trainings.
- Practice saying “We have a policy of denying access without a valid warrant.”
- Include a different staff roles in your policy with a **designated person** who will be allowed to engage with immigration agents should they come to your business.

STEP 2: THE DESIGNATED PERSON SHOULD CONTACT THE BUSINESS OWNER AND YOUR ATTORNEY.

Step 3: Ask for a WARRANT

DETERMINE WHAT AGENCY THE OFFICERS ARE WITH AND ASK FOR A WARRANT

- **Warrants are needed** for government officials **to enter non-public areas:**
 - Private spaces where you have a “reasonable expectation of privacy.”
 - Includes your home, an office, areas marked “private” or “authorized personnel.”
 - An exception may provide agents access to these spaces such as consent is given or an exigent circumstance exists.
- **NO warrant is needed** in **public areas:**
 - Public areas are those which are generally open to the public.
 - May include dining area or a parking lot.

Be aware of the plain view rule.

Step 4: Inspect The Warrant

No judicial warrant = You can deny entry.

This includes an administrative warrant (a warrant created by an immigration agency).

Judicial warrant → Inspect it carefully.

- Assigned by a court.
- Is signed by judge.
- Specifies the person to be arrested and/or the place to be searched.
 - If the judicial warrant is only for an arrest not for a search, the person should step outside.
 - The correct names must be stated, the address must be definite, items must be indicated.

Valid Warrant

(signed by a judge)

Search Warrant

AO106 (Rev. 10-16-05)

UNITED STATES DISTRICT COURT

DISTRICT OF IOWA

IOWA

In the Matter of the Search of
(Name, address or brief description of person, property or premises to be searched)
Agriprocessors, Incorporated and/or Nevel Properties,
Corporation with complete description of premises to be
sought incorporated in Attachment 1

**APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT**

I am a(n) Senior Special Agent and have reason to believe
Official Title
that ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)
Agriprocessors, Incorporated and/or Nevel Properties, Corporation with complete description of premises to be searched
incorporated in Attachment 1

in the Northern District of Iowa
there is now concealed a certain person or property, namely (describe the person or property to be seized)
See Attachment 2

which is (state one or more bases for search and seizure set forth under Rule 41(c) of the Federal Rules of Criminal Procedure)
contraband; property that constitutes evidence of the commission of a criminal offense; and property designed or intended
for use or which is or has been used as the means of committing a criminal offense.

concerning a violation of Title 8 & 18 & 42 United States code, Section(s) 1324, 1326 & 1546, 1015, 1028A & 408
The facts to support a finding of probable cause are as follows:
See attached Affidavit

Date May 9, 2008 at Cedar Rapids IA
City State

Jon Stuart Scoles Magistrate
Name of Judge Title of Judge

[Signature]
Signature of Judge

Invalid Warrant

(signed by an ICE agent)

U.S. Department of Homeland Security

Warrant for Arrest of Alien

File No. 0508-0174C

To any officer delegated authority pursuant to Section 287 of the Immigration and Nationality Act:

From evidence submitted to me by [Signature]
(Name of officer)

an alien who entered [Signature] on March 1, 2003 in [Signature] country in violation of [Signature] laws and is
(Date) (Country) (Law) and is
therefore liable [Signature] by section 236 of [Signature] and
Nationality Act [Signature]

By virtue of the [Signature] in me by the [Signature] of the United
regulations issued [Signature] hereto, I command you to [Signature] body for
proceedings in [Signature] with the applicable provisions [Signature] regulations.

Certificate of Service
(Signature of officer serving warrant)
SENIOR SPECIAL AGENT
(Title of officer serving warrant)
Form I-200 (Rev. 08/01/07)

Step 5: Record & Document Everything

- **You have a right to record in public spaces.**
- **If immigration officials come to your business, document and record everything.** When recording or documenting interactions:
 - Let people around you know that you are recording.
 - Stay a safe distance from the agents.
 - Focus your camera on the agents, record their badges, faces, uniforms, vehicles nearby or any other identifiable information.
 - Ask why they are there.
 - Ask them what agency they are with.
 - Do not physically interfere.

REMIND STAFF AND CUSTOMERS OF THEIR RIGHTS

A business can help keep people safe by reminding everyone that you
“**Have a policy of not granting access without a judicial warrant.**”

Remind employees and customers that:

- Everyone has a **right to remain silent**. They should refuse to answer questions.
- They may ask “**Am I free to go?**”
- Ask to **speak with a lawyer**.
- They should **never sign anything** without speaking with a lawyer.

Remind employees not to consent to searches or speak with agents.

Everyone has rights, regardless of immigration status.

The Fourth Amendment protects us from unlawful stops or searches.

- Ask: “**Am I free to go?**” If they say yes, you may calmly leave.
- You have the right to remain silent. State: “**I am going to remain silent. I want to talk to an attorney.**”
 - You **DO NOT** have to answer questions about your immigration status, where you live or where you were born.
- Officers **MAY NOT** use excessive, unreasonable or unnecessary force against you.
- Never lie or provide false documents to immigration officials.
- Do not sign anything without consulting your attorney.

What to do if immigration officers ask to search **YOU***

- You can ask agents if they have a judicial warrant to search you.
- If officers ask to search without a judicial warrant, do not give consent. The officer should not search you unless there is evidence of a crime in plain view, or another exception applies.
- You have right to refuse a search. State: **“I do not consent to a search.”**
- If you refuse consent and the agent or officer does not have a warrant to search you, do not physically resist the search because you can be charged for assault.

***outside ports of entry**

AFTER AN IMMIGRATION ENCOUNTER:

Immediately after an encounter with immigration:

- Write down what happened: how many agents, how they behaved and whether they violated anyone's rights.
- Take down information of employees or customers that were detained or questioned, even if it did not result in an arrest.
- If employees are arrested, find out where they're being taken.
- Notify family members or emergency contacts of those arrested.
- Notify unions and contact your attorney if you have not yet done so.

**STAY INFORMED,
STAY READY &
SUPPORT YOUR
COMMUNITY**



STAY INFORMED & STAY READY

Connect with community networks that can offer legal and emergency help. Local raids response networks and immigration legal service providers are available in your area.

Keep a list of free or low-cost immigration lawyers available to your employees.

Fundraise if necessary. Keep in mind that workers who are no longer able to work may not have resources for legal counsel, transportation or even groceries.

Keep updated materials and emergency contacts available.

Your leadership can set the tone for safety, dignity and justice in the workplace.

SUPPORTING AFFECTED WORKERS

Consider:

- Paying owed wages and benefits immediately. Wage and hour laws apply even if a staff member has been arrested.
- Offer leave while workers apply for work authorization.
- Provide separation pay to workers who must leave or if they cannot return to work.
- Provide a reference to workers for future jobs or other opportunities.
- Encourage people to take time for self care.
- Provide time and space to debrief the impact of immigration enforcement.
- Setting up or contributing immigration legal funds to help with legal defense or bond.

Find out where the person is detained:

- **Call ICE**
 - 1-888-351-4024 (National)
 - 619-671-8700 (San Diego)
 - 760-618-7200 (Imperial)
- Use the **ICE Online Detainee Locator**:
<https://locator.ice.gov>
- **Unblock your phone lines to receive collect calls** in case the person tries to call you.

You should visit the detention facility ONLY if you have legal status.

IF YOU ARE AN IMPACTED INDIVIDUAL AND YOU ARE DETAINED BY IMMIGRATION:

Ask to **call to your family or a friend to:**

- Share arrest details and where you are being detained;
- Share your Alien Registration Number or “A” Number; and
- **Ask them to contact an attorney** and provide the attorney with this information.

If you believe you were wrongfully arrested or detained for an unreasonable period, contact your local ACLU or a civil rights attorney.

Memorize the phone number of a reliable relative or friend because you will not have access to your phone.

KEY POINTS TO REMEMBER



REMEMBER P.A.W.I.R.

- **Plan:** Have a **policy** and **plan** in place with a designated **person**.
- **Attorney:** Contact your attorney immediately.
- **Warrant:** identify the immigration agency and ask for a warrant.
- **Inspect** the warrant and determine its validity.
- **Record** and document everything. **Remind** everyone of their **rights**:
 - **Right** to **remain silent**.
 - **Right** to ask to speak with an attorney.

Thank You | QUESTIONS?

For more information, contact:
legal@aclu-sdic.org

Stay connected!
aclu-sdic.org
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ACLU San Diego and
FOUNDATION Imperial Counties

