

The background of the slide is a blue-tinted image of the Statue of Liberty, showing the crown and the face of the statue.

Know Your Rights in Encounters with Federal Law Enforcement

Fourth Amendment Rights For Nonprofits

ACLU

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

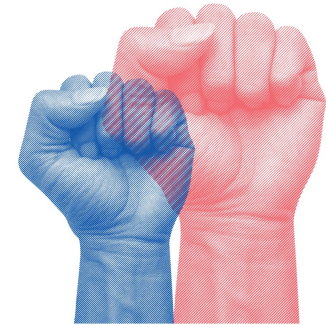
San Diego and
Imperial Counties



Agenda

1. Overview of major federal law enforcement agencies
2. Overview of Fourth Amendment
3. Warrants
4. Enforcement in public
5. Interrogation and subpoenas
6. Do's and don'ts

KNOW YOUR RIGHTS
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Overview of major federal law enforcement agencies



Immigration Enforcement

(Department of Homeland Security)

ICE: Immigration and Customs Enforcement





Immigration Enforcement (Department of Homeland Security)

**CBP: Customs and Border
Protection**





Immigration Enforcement (Department of Homeland Security)

Border Patrol

A sub-agency within CBP.





Immigration Enforcement

(Department of Homeland Security)

ICE, CBP, and Border Patrol operate in San Diego and Imperial Counties.

- ICE operates anywhere within the United States.
- CBP operates at and near ports of entry, including international airports, seaports and land border crossings.
- Border Patrol operates within 100 miles of any land border or coast and between ports of entry.



Federal Criminal Law Enforcement (Department of Justice)

FBI: Federal Bureau of Investigation

Housed with DOJ; principal federal law enforcement agency, domestic intelligence and security; operates across the country.





Federal immigration and criminal law enforcement agents must follow the Constitution

- **The border region is not a Constitution-free zone.**
- Statutes or regulations cannot create power greater than the Constitution allows.
- “It is clear, of course, that no Act of Congress can authorize a violation of the Constitution.” *Almeida-Sanchez v. United States*, 413 U.S. 266, 272 (1973).



Overview of Fourth Amendment



Fourth Amendment Rights

The Fourth Amendment of the Constitution prohibits government officials from making “unreasonable searches and seizures” of “persons, houses, papers and effects.”

Search:

1. Physical trespass on “ persons, houses, papers and effects,” or
2. Invasion or reasonable expectation of privacy.

Seizure:

1. Physical restraint, or
2. Show of authority under which reasonable person is not free to leave.



Fourth Amendment Rights

Rules for Businesses (including nonprofits)

Officers do not need a warrant or any reason to enter areas open to the public. Entry into area open to public is not a “search.”

Officers need a warrant:

- To enter nonpublic areas during working hours; and
- To enter when businesses are closed.



Fourth Amendment Rights

Rules for Businesses (including nonprofits)

Exceptions to warrant requirements...

1. Consent by owner, manager, or employee with apparent authority.
2. Exigent circumstances, emergency, hot pursuit.
3. “Closely regulated” industries for example, liquor, firearms, vehicle dismantling, daycare.
NOT ordinary businesses, organizations, or clinics.



Warrants



Warrants

Arrest or Search

An arrest warrant is used to take an individual into custody.

1. Arrest warrant authorizes entry of named individual's residence to make arrest if reason believe individual is present.
2. Arrest warrant does not by itself authorize entry of third party's home or business to make arrest.



Warrants

Arrest or Search

An search warrant is to search specified premises for:

1. Contraband;
2. Instrumentality of offense;
3. Evidence of offense, including documents;
4. Health & safety inspection;
5. Individual named in arrest warrant; and/or
6. Individuals reasonably believed to be in the U.S. unlawfully.



Warrants

Arrest or Search

In general, arrest or search warrants:

1. Must be based on probably cause; and
2. Signed by neutral and detached magistrate.
 - a. A warrant lacking a judge's signature **cannot authorize entry** into a home or third party's business.



Enforcement in public



Enforcement in Public

- **Law enforcement does not need a warrant or reason to operate in a public place.**
- Police may arrest someone in public without a warrant if they have probable cause to believe individual committed a crime.





Enforcement in Public

- **Immigration agents may arrest an individual in public without a warrant if they have probable cause to believe individual is in U.S. unlawfully.**
- Federal law does not prohibit immigration enforcement in sensitive locations.



Enforcement in Public

- DHS has “policies concerning enforcement actions at or focused on sensitive locations” such as schools, hospitals, clinics and places of worship
- According to DHS, “the sensitive locations guidance remains in effect for both ICE and CBP.”
- **The policies have exceptions and are not binding law.**



Enforcement in Public

State or local governments may decline to participate in federal enforcement but may not restrict operations of federal government.



Interrogation and subpoenas



Authority to Interrogate

- With or without a warrant or reason, law enforcement officers may ask any questions they wish about immigration status or other matters.
- **Individuals may refuse to answer.**



Subpoena For Documents

- Subpoena is a demand to produce documents at a date and time specified, unlike warrant for search when served.
- To enforce subpoena, an agency must go to court.
- **Recipient may object and need not produce documents until ordered by court.**



Do's and Don'ts For Responding to Federal Law Enforcement...



DO...

1. Remain calm – breathe.
2. **Contact a lawyer ASAP.**
3. Ask officer(s) for **name, identification and agency.**



DO...

- 4. Ask for a copy of any warrant.**
- 5. If possible, verify:**
 - a. If warrant is signed by judge or immigration officer;**
 - b. If warrant is an arrest warrant or search warrant.**



DO...

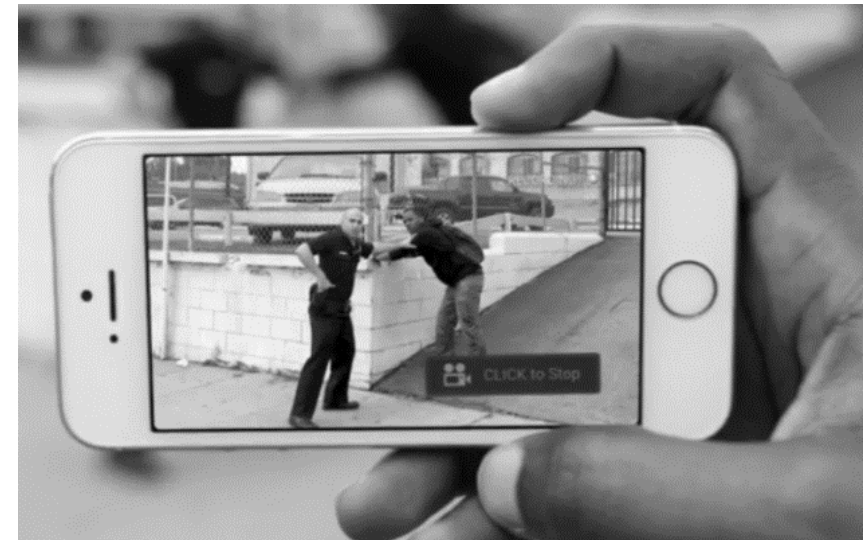
- 6. State clearly you do not consent to search or entry of any non-public area.**
- 7. State clearly you decline to answer questions you don't want to answer**



DO...

6. Document everything immediately and thoroughly.

Video, if you can.





DON'T...

- 1. Grant consent to search or enter any non-public area.**
- 2. Physically attempt to restrain or obstruct officers.**
- 3. Lie to officers.**



DON'T...

- 4. Conceal or destroy evidence.
- 5. Conceal individuals.
- 6. Interfere with any detention or arrest.**



Visit Our Website For Downloadable **KNOW YOUR RIGHTS**

Si agentes del ICE llegan a tu puerta:

- No abras la puerta, pero mantén la calma. Tú tienes derechos.
- Pregunta para qué están ahí, (y solicita un intérprete si necesitas uno).
- Si ellos piden entrar a tu casa, pregúntales si tienen una orden firmada por un juez* y si la tienen, diles que te la muestren (por la ventana o que la pasen por debajo de la puerta).
- Si ellos **NO** tienen una orden firmada por un juez*, puedes negarte a dejarlos entrar. Pídeles que dejen cualquier información en tu puerta.
- Si entran a la fuerza, no te resistas. Dile a todos los que estén en la casa que permanezcan en silencio.
- Si eres arrestado, permanece en silencio y no firmes nada hasta que hables con un abogado.

*Una orden administrativa del ICE (forma I-200, I-205) no les da autorización para entrar a tu casa sin consentimiento.

ACLU CONOCE TUS DERECHOS

SERVICIO DE INMIGRACIÓN
Y CONTROL DE ADUANAS

If ICE Agents Show Up At Your Door:

- Don't open the door, but be calm. You have rights.
- Ask what they are there for, (and ask for an interpreter if you need one).
- If they ask to enter, ask if they have a warrant signed by a judge* and if so, ask to see it (through a window or slipped under the door).
- If they do **NOT** have a warrant signed by a judge*, you may refuse to let them in. Ask them to leave any information at your door.
- If they force their way in, don't resist. Tell everyone in the residence to remain silent.
- If you are arrested, remain silent and do not sign anything until you speak to a lawyer.

*An ICE administrative warrant (form I-200, I-205) does not allow them to enter your home without your consent.

ACLU KNOW YOUR RIGHTS

IMMIGRATION AND CUSTOMS
ENFORCEMENT

The background of the slide is a blue-tinted, halftone-style image of the Statue of Liberty. The statue's head and crown are prominent in the center-left, with its torch arm extending upwards. The background has a fine, grid-like texture.

Thank you!

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