

PREPARING FOR AND RESPONDING TO INCREASED IMMIGRATION ENFORCEMENT

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SEIU 521

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Presentation Overview

- New era of increased immigration enforcement
- Swift Raids UFCW Video
- Know Your Rights for Workers During Raids
- Union Preparation and Response Raids

New Immigration Enforcement Era

- EOs and DHS Memos
 - “new” priorities for enforcement
 - Impact is on all non-citizens
- Unions must be ready to respond and represent their members

RAIDS OVERVIEW

- What to expect
 - ICE arrives (with a warrant for private places) and questions or arrests individuals.
 - ICE detains individuals.
 - Detainees are typically held in custody and interviewed. If deemed removable, they are issued Notices to Appear and moved to detention centers.
 - Detainees may be transferred to a long-term detention center pending their removal proceedings.
 - Deportation.

WORKERS' RIGHTS DURING A RAID

EVERYONE in the United States—
regardless of immigration status—
has certain basic rights under the
United States Constitution

The right to remain silent

- Immigrant workers and families have the right to:
 - Choose not to speak at all.
 - Refuse to answer questions until they have had a chance to consult with an attorney.
 - Decline to share information about birthplace or manner and circumstance of entry into the United States.
 - Carry a “know your rights” card and provide it to immigration officers if they are stopped.

KYR Cards

KNOW YOUR RIGHTS!

If you are stopped by immigration or the police:

- ✓ Hand this card to the officer, and remain silent.
- ✓ The card explains that you are exercising your right to refuse to answer any questions until you have talked with a lawyer.

To: Immigration or Other Officer

Right now I am choosing to exercise my legal rights.

- I will remain **silent**, and I refuse to answer your questions.
- If I am detained, I have the right to contact an attorney **immediately**.
- I refuse to sign anything without advice from an attorney.

Thank you.

Usted tiene derechos constitucionales.

- NO ABRA LA PUERTA SI UN AGENTE DEL SERVICIO DE INMIGRACION ESTA TOCANDO A LA PUERTA.
- NO CONTESTE NINGUNA PREGUNTA DEL AGENTE DEL SERVICIO DE INMIGRACION SI EL TRATA DE HABLAR CON USTED. Usted tiene derecho a mantenerse callado. No tiene que dar su nombre al agente. Si está en el trabajo, pregunte al agente si está libre para salir y si el agente dice que sí, váyase. Usted tiene derecho de hablar con un abogado.
- ENTREGUE ESTA TARJETA AL AGENTE. NO ABRA LA PUERTA

I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5th Amendment rights under the United States Constitution.

I do not give you permission to enter my home based on my 4th Amendment rights under the United States Constitution unless you have a warrant to enter, signed by a judge or magistrate with my name on it that you slide under the door. I do not give you permission to search any of my belongings based on my 4th Amendment rights.



I choose to exercise my constitutional rights.

These cards are available to citizens and noncitizens alike.

Why remain silent?

- 4th Amendment right to be free from unreasonable searches and seizures
- Without a warrant, ICE can only:
 - Stop and detain a person if they have reasonable suspicion.
 - Arrest a worker if they have probable cause that they are undocumented.

Why remain silent?

- In too many cases, during raids workers will admit or provide information that suggests or shows that they are undocumented.
- ICE will use this information as a legal basis to:
 - Stop and question the worker;
 - Arrest the worker;
 - Prove that the worker is removable.

Workers' rights during a home raid

- ICE can enter a workers' home with their consent.
- Workers should exercise right to see warrant before any law enforcement officer enters their home.
 - Judicial search warrant vs. administrative arrest warrant.

Workers' rights during a home raid

- If ICE knocks at their door, do NOT open door or let them in unless they slip a judicial warrant under the door or show through the window.
 - Ask: "Show me your warrant."
 - Valid judicial warrant to enter specifies name and address AND is signed by a federal judge.
 - If the warrant is valid, the person sought in the warrant should step outside the door and close it behind them.

Workers' rights during a home raid

- Always verify that ICE is at the door and that their warrant is valid.
 - ICE officers sometimes will lie to try to get into your house.
 - Sometimes ICE wear uniforms that say "Police"
 - Ask: "What agency are you with"?
- If they enter without a warrant, get names and badge numbers.

Sample warrants

GD109 (Rev. 12/01) Affiliated by Search Warrant

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF 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 Naval Properties,
 Corporation with complete description of premises to be
 searched incorporated in Attachment 1

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

Case Number: 08-MJ-110

RECEIVED
 U.S. DISTRICT COURT
 NORTHERN DISTRICT OF IOWA
 304 MAY 12 AM 9:40
 225 EAST RIVERSIDE DRIVE
 IOWA CITY, IOWA 52242

I, Senior Special Agent David Hoagland being duly sworn, depose and say that I am a(n) Senior Special Agent and have reason to believe

that on the person of or on the property or premises known as (name, description and/or location) Agriprocessors, Incorporated and/or Naval 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, in case one or more here to search and seize as set forth in Part 4(a) 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&406
 The facts to support a finding of probable cause are as follows:

See attached Affidavit

Continued on the attached sheet and made a part hereof:

Yes No

[Signature]
 Signature of Affiant

Sworn to before me and subscribed in my presence,

at May 9, 2008

at Cedar Rapids IA
 City State

[Signature]
 Signature of Judge

U.S. Department of Justice
 Immigration and Naturalization Service

Warrant of Removal/Deportation

File No: _____

Date: _____

To any officer of the United States Immigration and Naturalization Service:

[Signature]

who entered the United States at [Address] on [Date]

is subject to removal/deportation from the United States, based upon a final order by:

- an Immigration Judge in exclusion, deportation, or removal proceedings
- a district director or a district director's designated official,
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:
 Section 241(a)(5) of the Immigration and Nationality Act (Act), as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of the apprehension. "Salaries and Expenses Immigration and Naturalization Service 2002," including the expense of an affidavit if necessary.

[Signature]
[Signature]
 (Date of Issuance)

Workers' rights during a home raid

- If officer has a warrant, observe whether the agents search areas not listed on the warrant.
- Write down names and contact information of witnesses.
- Get a receipt for any property taken.

Immigration Enforcement in Schools

- Pursuant to a 2011 ICE memo, Immigration enforcement actions cannot take place in:
 - Schools
 - Licensed daycares
 - School bus stops
 - Colleges and Universities
 - Educational programs
 - Medical treatment facilities
 - Places of Worship
 - Sites during public demonstrations
- Unless ICE has prior approval, or there is a national security matter, or imminent risk of death violence or harm, or there is an enforcement action in progress.

Immigration Enforcement in Schools

- What if ICE officers arrive at these locations?
 - Refuse to answer questions
 - Inform them that they must have a warrant
 - Provide them with the 2011 memorandum outlining sensitive locations:
<https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>
 - Alert your action team

Immigration Enforcement in Schools

- Under the Family Educational Rights and Privacy Act (FERPA), schools are prohibited, without parental consent, from providing information about students to federal immigration agents if the information would potentially expose a student's immigration status.

WORKERS' RIGHTS ON THE STREET OR IN A PUBLIC PLACE

- If ICE stops a person in a public place, they should stay calm and do not run.
- ICE can arrest person with an administrative warrant.
- If no warrant, ICE can only stop person if they have reasonable suspicion.

WORKERS' RIGHTS ON THE STREET OR IN A PUBLIC PLACE

- If no warrant, can only arrest worker if they have probable cause that they are undocumented.
- If stopped and questioned, worker should tell ICE agent that they wish to remain silent and/or speak with a lawyer.
 - State: "I wish to remain silent."
 - Refer to a KYR card/script with attorney contact information.
 - Ask: "Am I free to go?"
 - If not free to go, should only state name, if asked.

WORKERS' RIGHTS DURING A WORKPLACE RAID

- ICE must have a judicial warrant or the employer's permission to enter the workplace.
- ICE can enter a public place without a warrant.
- Workers should take same actions as if raid occurred at home or if stopped by ICE on the street.

Worker Do's during a raid

- Workers who want to avoid ICE questioning should stay clear of the location where the raid is occurring or where detained individuals are being held.
- If about to be detained, inform ICE if primary caregiver for minor children.
- If ICE violates their rights, workers should calmly state that they do not consent or agree to what is being done, and try to document the agent's name and badge number (or have others do so).

WORKERS' RIGHTS IF THEY ARE ARRESTED OR DETAINED BY ICE

- If transported to a detention facility and interviewed, continue to exercise the right remain silent and/or request to speak with a lawyer.
 - Refuse to say anything about immigration status, birthplace, or manner or circumstances of entry into U.S.
- Not to sign any documents before speaking with a lawyer.
- Use the phone provided by ICE to call emergency contacts—family members, attorney, Union representative, etc.
- Ask for bond and get a copy of the Notice to Appear (NTA).

PREPARING FOR WORKSITE RAIDS

- Conduct Know Your Rights trainings and distribute KYR materials to staff and members.
- Work with other Unions, immigrants' rights, groups, and community organizations.
 - Raids Rapid Response Network
- Develop and implement policies on responding to raids.
 - Internal rapid response plan
 - Workplace solidarity tactics

Bargain With Employers Regarding Worksite Enforcement

- Immediate notification to the Union upon notice from the government of an I-9 audit, inspection, or raid;
- Access rights to the worksite during an immigration worksite enforcement operation;
- Agreement not to let government agents enter employer's property without a proper judicial warrant.
- For the right to photograph and videotape on the employer's property.

Preparing for worksite raids

- Obtain contact information and establish relationships with:
 - Consulates;
 - Local detention centers and jails;
 - Local ICE Special Agent in Charge principal field office;
 - EOIR Chief Counsel;
 - Office of the Federal Public Defender;
- Create a communications plan to respond to the raid.
- Create plan of action to locate arrested workers and maintain point of contact list for all workers and members.

Preparing for worksite raids

- Develop a list of immigration and criminal defense lawyers to represent detained workers.
- Collect donations and establish legal fund to help arrested workers and families obtain representation.

RESPONDING TO WORKSITE RAIDS

- Contact point person within Union.
- Contact Union counsel.
- Contact employer.
- Contact Raids Rapid Response Network:
 - Need to establish contact with detained workers as quickly as possible to prevent long-term detention or removal.

Responding to worksite raids

- Head to the worksite to observe and document the raid.
 - Detail anything that appears wrong or out of the ordinary.
- Track which workers have been arrested and/or detained.
 - By name, address, telephone number, and whether the individual has retained an attorney.

Responding to worksite raids

- Contact the workers' families.
- Call the local ICE Field Office.
- Call local detention facilities, including local jails and prisons.
- Contact the consulate.

Responding to worksite raids

- Determine if the workers' families need assistance.
- Hold an education meeting after the raid.
- Provide referrals for lawyers.
- Continuing working with Raids Network and/or other allies/organizations.

IMPORTANCE OF COLLECTING EVIDENCE WHILE OBSERVING RAID

- Potential legal violations
 - Denial of access to counsel
 - ICE harassment, threats, and excessive force
 - Unlawful entry, unlawful searches and seizures
 - Unlawful detention
 - Racial profiling
 - Other common claims
- Potential relief
 - e.g. Temporary Restraining Orders, injunctions; suppression of evidence.

Importance of collecting evidence

- Document egregious examples and systemic violations for filing legal claims or impact litigation
- What kind of evidence to look out for during/after a raid
 - Note anything that appears wrong or out of the ordinary.
 - Record the details of the scene; any statements made.
 - Note the number of ICE agents and badge numbers, car plates, etc.

Importance of collecting evidence

- How to collect evidence
 - First responder notes
 - Witness statements or declarations
 - Video-recording

UNION STAFF DO'S AND DON'TS

- Staff should comply with Do's and Don'ts
 - ICE may use undercover agents or informants during and after worksite enforcement operations.
- Union Staff and Stewards should be careful in how they respond to members and workers.

Union Staff & Stewards Do's

- **DO inform members of right:**
 - **To remain silent.** Do not discuss immigration status with co-workers, company, or anyone else.
 - **To get legal advice** from a lawyer or legal service provider, but **BEWARE** of fraud (i.e. notarios).
 - **If arrested, to remain silent** and not answer questions.
 - **If arrested, to ask for and speak to a lawyer.**

Union Staff & Stewards Do's

- **DO inform members of right:**
 - **If arrested, to not sign any documents** without first speaking to a lawyer.
 - **If arrested, to carry a know your rights card** and present it to the ICE agent or law enforcement officer.
 - **To prepare a family safety plan** in the event that you are arrested so that your children and personal matters can be taken care of.

Union Staff & Stewards Do's

- **DO inform members of right:**
 - **If ICE or police come to home, workplace, or other private place, the right to not open the door and to ask for a warrant.**
 - **During a worksite raid, be present** as an observer and document what is taking place.

Union Staff and Stewards Don'ts

- **DO NOT** attempt to provide legal advice.
- **DO NOT** tell or encourage workers to take any action that may be considered unlawful.
- **DO NOT discuss members' immigration status** with other members, with the Employer or with anyone else. It is not the Union's obligation or role to verify employment authorization status or immigration status.

Union Staff and Stewards Don'ts

- **DO NOT** tell workers to use, carry, or purchase false documents.
- **DO NOT** contact members during a worksite raid to inform them of a raid in progress at their worksite.
- **During a raid, DO NOT** tell members not to answer ICE agents' questions.
- **DO NOT** grant access to any ICE agent to a building with first contacting the owner and requesting a warrant from ICE.

Resources

- CHIRLA Know Your Rights Video
 - https://youtu.be/5_Z_Z5tSsUs (English)
 - <https://youtu.be/fsPvsczF6QU> (Spanish)
- CASA Maryland, DWN, NIP Know Your Rights Materials
 - <https://nationalimmigrationproject.org/PDFs/community/know-your-rights-eng-casa-maryland.pdf> (English)
 - <https://nationalimmigrationproject.org/PDFs/community/know-your-rights-espanol.pdf> (Spanish)

Resources

- ILRC Family Plan
 - https://www.ilrc.org/sites/default/files/resources/kyr_two_pager.pdf
- ILRC School Resources
 - https://www.ilrc.org/sites/default/files/resources/schools_post-election-v4.pdf
- ILRC Post-Election DACA Materials
 - https://www.ilrc.org/sites/default/files/resources/post-election_talking_points.pdf (English)
 - https://www.ilrc.org/sites/default/files/resources/ilrc_spanish_post-election_talking_points.pdf (Spanish)

Resources

- NLG National Immigration Project Raids Resource Kits
 - <https://nationalimmigrationproject.org/PDFs/community/com-resource-kit-eng.pdf> (English)
 - <https://nationalimmigrationproject.org/PDFs/community/community-resource-kit-span.pdf> (Spanish)
 - <https://nationalimmigrationproject.org/PDFs/community/pre-raid-safety-plan.pdf>

- Detention Watch Network: Raids to Deportation Chart
 - <http://www.immigrantsolidarity.org/Documents/DWN/44.%20Raids%20to%20Deportation%20Map.pdf>
- National Immigration Law Center Know Your Rights
 - <https://www.nilc.org/get-involved/community-education-resources/know-your-rights/raids/>

QUESTIONS???
