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## WHAT IF ICE COMES TO MY BUSINESS?

*Provided by the Nashville Area Hispanic Chamber of Commerce and Ozment Law*

Recent reports received at Ozment Law indicate that ICE is targeting Hispanic businesses in Middle Tennessee and Nashville for enforcement visits. We are getting calls from frightened owners and managers along the Nolensville Road corridor in Nashville reporting that ICE agents just left their businesses.

Acting ICE Director Tom Homan has ordered Homeland Security Investigations (HSI) units to increase worksite enforcement actions “by four to five times.”

What can you as a business owner do to prepare for these enforcement actions?

### STEP 1: UNDERSTAND THE REASON FOR ICE’S VISIT

ICE can come to your business for one of **three** reasons:

- (1) To do an **I-9 Audit** (see Step 2), OR
- (2) To **arrest or detain a specific individual** (See Step 3), OR
- (3) To conduct a **business-wide raid** (see Step 4).

It is important for you to **immediately** identify which one of these three reasons why an ICE agent has just walked in your door. What you should do depends on **why** ICE is on your property.

### STEP 2: PREPARE FOR I-9 AUDITS

If you do not know what an I-9 is, you’re already in trouble. An I-9 is a form the Department of Homeland Security requires that your business complete for each **employee** (not an independent contractor) at the time of hiring. You can download and print the latest version of the form at [https://www.uscis.gov/system/files\\_force/files/form/i-9-paper-version.pdf](https://www.uscis.gov/system/files_force/files/form/i-9-paper-version.pdf)

As you can see, the employee can present several forms of ID (listed on the form) to prove that he or she is authorized to work legally in the U.S. The employer must record information from each ID as specified on the form. **THE EMPLOYER IS NOT REQUIRED TO COPY THE ID, AND THE EMPLOYER SHOULD NOT KEEP A COPY OF THE ID WITH THE I-9.**

*This informational brochure may also be found at [ozmentlaw.com](http://ozmentlaw.com)*

As the Employer, you are required to keep an I-9 for 3 years after hiring, or 1 year after the employee leaves.

An “I-9 Audit” begins when an ICE agent visits your office unannounced. He will present a letter or “subpoena” to either the manager on duty or receptionist. You then have 3 days to prepare for the audit. **YOU SHOULD THEN CALL AN EXPERIENCED IMMIGRATION ATTORNEY IMMEDIATELY.** This is because the consequences of failing the audit can be serious and include:

- Civil fines amounting to thousands of dollars
- Criminal fines and penalties
- An order prohibiting you from hiring anyone without valid worker IDs (which could cripple your business, at least temporarily).

RIGHT NOW you should direct your manager and/or receptionist to accept the audit notice, enter the date and time received, and be polite but firmly REFUSE TO ANSWER ANY QUESTIONS. If asked a question, your employee should respond by saying, “You need to speak with my boss,” or “You need to speak with our attorney.”

### STEP 3: PREPARE FOR THE ARREST OR DETENTION OF AN EMPLOYEE

ICE agents can enter any “common area” (or public parts) of your business. This includes your parking lot and lobby/reception area. In the case of restaurants, ICE can also enter the dining area where tables and chairs are located; however, ICE agents do not have the authority to question either customers or employees when looking for a specific individual to interrogate or arrest, even in a public area without the business owner’s consent. If you observe a violation of this rule, you should take a picture with your phone, ask the agents not to ask any questions, and ask them nicely to leave. If possible, you should post a “PRIVATE” sign on any private section/area of your business. NO ONE (whether an ICE agent or a police officer) is permitted to enter a private area of your business without your permission or a valid **judicial** search or arrest warrant signed by a judge.

If any agent claims to have a warrant, ask to see it and then examine it closely. If it is a judicial warrant, it will say at the top either “**U.S. DISTRICT COURT**” or a state court (for example, “**CIRCUIT COURT OF \_\_\_\_\_ COUNTY**” or “**GENERAL SESSIONS COURT OF \_\_\_\_\_ COUNTY**”). You should look very carefully at the signature line on the warrant and make sure it is **SIGNED** by a JUDGE.

Be very careful examining the warrant. Most of the time, ICE agents present an “**administrative** warrant” to enter the private area of your business – not a judicial warrant. An administrative warrant is not signed by a judge; it is instead signed by a “District Director” or a “Senior Agent.” It says “**DEPARTMENT OF HOMELAND SECURITY**” at the top of the paper, and usually has “Form I-200” or “Form I-205” printed at the left side of the bottom margin. This “warrant” is only a piece of paper used to intimidate you and does not give anyone the right to enter the private area of your business without your permission. Don’t be fooled, and don’t give your permission.

If the ICE agent gives you an “administrative warrant” for the arrest of a specific employee’s name on it, **YOU DO NOT HAVE TO SAY IF THE EMPLOYEE IS AT THE BUSINESS, and YOU DO NOT HAVE TO TAKE ICE AGENTS TO THE EMPLOYEE (EVEN IF THE EMPLOYEE IS ON YOUR PREMISES).** Don’t lie – simply refuse to say anything or move anywhere to lead the agents through your company.

#### STEP 4: PREPARE FOR A BUSINESS-WIDE ICE RAID

Under the eight years of the Obama presidency, ICE came to understand that an undocumented person should not be arrested, detained, or put into Immigration Court unless that individual committed a serious crime or an act that threatens public safety (such as a DUI). Those constraints have now been thrown out the window, and the days of business-wide raids are back in the Trump era.

In January 2018, ICE agents descended upon 98 7-Eleven franchise stores in Washington, D.C. and 17 states; nine owners or managers were arrested. The Secretary of Homeland Security then announced that “more raids on businesses are coming.”

ICE has a “long arm” with 20,000 employees, spread across 400 offices in the United States and 46 foreign countries, and President Trump plans to hire 10,000 more ICE agents.

Sometimes, ICE agents will have local police to accompany them for the purpose of frightening you. Usually the local police just stand and observe; they know better than to interfere or participate in an ICE raid. It is illegal for local police to have any active part in an immigration enforcement action such as a business-wide raid unless the police department has a “287(g) contract” with the Department of Homeland Security or they are enforcing local laws. If a local police officer tries to enter the private part of your business without a judicial warrant (either an arrest warrant or a search warrant *signed by a judge*), he is violating your rights and you have the right to peaceably refuse him – even though he’s wearing a badge and a gun.

If ANYONE violates this “judicial warrant rule,” you should video record the action and stop them while you record the conversation with your phone. If the agents do not have a warrant signed by a judge (not an ICE supervisor), ORDER them off your property, and ORDER them to stop questioning your employees. THIS IS YOUR CONSTITUTIONAL RIGHT THROUGH THE FOURTH AMENDMENT AGAINST UNREASONABLE SEARCHES AND SEIZURES. PROTECT YOUR RIGHTS AND SUE IF THIS RIGHT IS VIOLATED!

A business-wide raid is an intimidating sight. The element of surprise and shock is an essential part of a raid operation. Such a raid usually involves a large number of ICE agents, who may wear black shirts with big, white letters which spelling POLICE, which they can legally do despite the fact that they are not local or state police. These agents descend on a target from all directions, go to every door of the business, loudly knock and announce “Police!” When any one door of a business is opened, however slightly, ICE agents have been reported to force the door wide open and crowd through the entryway, stopping and questioning every person they can see and seize.

To reduce the surprise element of an actual raid, it is a good idea to have a “practice session” to make sure every employee understands the “rules” in the event of a real raid. These should include:

1. One person (usually the owner or manager) should be designated to do all the talking.
2. All other persons should remain absolutely silent, other than stating the person’s name and date of birth.
3. Above all things, **no one should ever state where they were born.**
4. No one should give any consent for a search of any personal belongings (such as the contents of a pocket or a purse).
5. Stay calm and do not run.
6. Refuse to sign anything.
7. Ask to speak to an attorney. If you have an attorney, tell all agents requesting information to call your attorney immediately and to stop talking to you.