



Know Your Rights with I.C.E. & Border Patrol

For Employers, Motorists, and Farmers



If ICE, Border Patrol, or any other Law Enforcement wants to search your House, barns, or other buildings:

They must have a judicial warrant or your consent before: (1) entering your land, (2) detaining you, or (3) searching your buildings or belongings **EXCEPT Within 25 miles of Canada** government agents may enter your private **LANDS but not residences or workplaces that aren't open to the public**

You can ask if they have a warrant before opening the door. If they do have a warrant, you can ask them to slip it under the door.

- ❖ **A valid warrant must contain ALL of the following:**
 - The warrant must specifically describe the area to be searched or a specific person to be detained, and can not give broad or general permission to search your entire property.
 - The warrant must be signed and dated *by a judge* and not an ICE employee.
- ❖ **If agents present an arrest warrant**, they may only perform a cursory visual search of the premises to see if the person named in the arrest warrant is present.
- ❖ **If agents present a search warrant**, it should specify in detail the location and items to be looked for.
- ❖ **If the agents ask you for an item**, request to see if it is listed in the warrant.

WHAT TO SAY AND DO TO DEFEND YOUR PROPERTY FROM UNWARRANTED SEARCH

The best strategy is to stop unwarranted law enforcement activity before it starts.

It can be difficult to secure the freedom of a migrant worker, even if the law or their rights have been violated.

- **Post “No Trespassing” or “Employees Only” signs** on the workplaces to define them as not open to the public.
- **If an agent asks or attempts to search:** SAY *“I want to see a warrant.”* and SAY *“I do not consent to this search.”* Even if a warrant seems legitimate still refuse consent to a search out loud, which may protect you or others if the warrant is found to be invalid later.
- **If an agent asks questions** SAY *“I am exercising my right to remain silent until I speak with an attorney”*
- **Do not sign any documents** presented by an agent. “I am not signing documents until I speak to an attorney”
- For US Citizens it is generally safe to answer any questions that can be found on your driver's license (like your name, age, address, etc.)
- **Share this information with your tenants and employees**, - they have the power to grant or refuse consent in your absence if an ICE agent wants to look around, and may benefit from training in these issues.
- **Ask for the agent's card** and tell them you'll get in touch after you've gotten legal advice

IF THESE LEGAL TACTICS DON'T WORK

- ❖ Try to **video record law enforcement activities**, and/or write down their identities, the time of day, and all specific information that you can immediately afterwards. Recorded evidence may help in court.
- ❖ **Never lie or hand over false documents.**

PASSENGERS & DRIVERS

If an Agent Questions a Passenger in a Vehicle:

- We suggest that the driver of the vehicle be the only person that speaks with the government agent, and present relevant driver's license, insurance, and registration information upon request.
- **Reasonable Suspicion: Within 100 miles of Canada (or Mexico) while you're driving** - government agents may search for undocumented migrants but the agent MUST be able to tell you *why* they think you have an undocumented person in your car, **based on facts** ("*reasonable suspicion*") and not just because someone is Hispanic, has darker skin, etc.
- **Refusing to Answer:** If the agent can explain their "*reasonable suspicion*" they may ask about citizenship and immigration status but **REFUSING TO ANSWER DOES NOT CREATE REASONABLE SUSPICION**
- **Normal traffic violations:** Government agents can stop your vehicle for *any* minor traffic violation (e.g., your taillight is out). Once they've stopped your car, they may peer in the windows. ***You and your workers and passengers have the right to remain silent if the government agents ask questions about anyone's immigration status***

What to say if asked questions beyond the scope of a traffic stop:

- "***I am going to remain silent until I speak to an attorney.***"
- "***My passenger has the right to remain silent until he speaks to an attorney.***" Passengers can also be trained on how to assert their rights. "***I am going to remain silent until I speak to an attorney.***"
- If the agent asks to search the vehicle, the driver should state, "***I do not consent to this search.***"
- **Ask for their card** and tell them you'll get in touch after you've gotten **legal advice**

If an Agent Wants to See Paperwork / I-9 FORMS

- ***Without a warrant:*** Agents must give you at least three days' notice to perform an "I-9 Audit." ***You may refuse to let an agent do an "I-9 Audit" if they have not given you at least 3 days notice***
- ***With a warrant:*** if the warrant **does not SPECIFICALLY REFERENCE I-9 forms** you do not need to produce them and may refuse to allow agents to search for them.
- Keep I-9 forms for the longer period of either **3 years** after *hiring* an employee or **1 year** after *firing* them
- You do not have to keep a copy of an employee's identification documents.
- If an agent asks your employees to show their visas or permanent resident cards or asks them about their immigration status, **your employees may remain silent and may decline to answer or produce documents**

Resources

If you or your employees have additional questions, here are some resources for information:

- ❖ Rights of employers and land owners facing immigration enforcement:
<https://www.nilc.org/wp-content/uploads/2017/07/EmployerGuide-NELP-NILC-2017-07.pdf>
- ❖ Rights of workers in facing immigration enforcement
[https://www.nilc.org/get-involved/community-education-resources/know-your-rights/imm enfrcmt homework rts 2008-05-2/](https://www.nilc.org/get-involved/community-education-resources/know-your-rights/imm%20enfrcmt%20homework%20rts%202008-05-2/)
- ❖ Legal issues specific to border areas:
https://www.acluaz.org/sites/default/files/field_documents/aclu_border_rights.pdf
- ❖ Protecting farmers' rights:
<http://www.aglaw.us/schroeder-ag-law-blog/2017/5/3/what-to-do-when-immigration-officers-visit-the-farm>
- ❖ Know Your Rights Guide in other languages: <https://www.nlg.org/know-your-rights/>

DISCLAIMER: None of the information in this document should not be thought of as *legal advice*, but it has been reviewed by immigration attorneys. For legal advice pertaining to your needs please consult with an attorney.