



ICE Raid Guidance for Homeless Service Providers: *What to do Before, During, and After a Raid*

Prepared by the National Homelessness Law Center and Crowell & Moring LLP

The Trump administration will increase the use of raids and other enforcement actions conducted by U.S. Immigration and Customs Enforcement (“ICE”). This document outlines what homeless shelters and other public service providers can do from a practical level to best protect clients and staff before, during, and after a raid.

The administration has promised to make the arrest and deportation of undocumented individuals a top priority. Statements from the President, such as promising that “[on] day one, [he] will launch the largest deportation program in American history,” reasonably have public service organizations concerned about how they can be best prepared for the next four years and what those changes will mean for their immigrant clientele.

What is the purpose of this guide?

This guide is intended to help homeless shelter organizations be prepared to address and respond to immigration enforcement in a way that advances client privacy, safety, and opportunity. Below is a 4-part step-by-step guide on dealing with ICE enforcement efforts:

- *What facility management should do before an enforcement action (Page 2)*
- *What to do during an enforcement action (Page 9)*
- *What to do with an enforcement information request (Page 11)*
- *What to do after an enforcement action (Page 11)*

Exhibits:

1. *Judicial Warrant vs. ICE Administrative Document (Project South) (Page 14)*
2. *“Know Your Rights” Poster (Page 18)*
3. *What to do During an ICE Action One-Pager (Page 19)*
4. *ICE \ POLICE Enforcement Action Report (Page 20)*

Who is this guide for?

All levels of staff at organizations that provide services to homeless clients should be well-versed in those policies and practices. This includes but is not limited to front desk staff, security, case managers, and support staff.

If the facility does not have counsel, they can reach out to the National Homelessness Law Center, 202-638-2535 or info@homelesslaw.org or National Immigration Law Center, (213) 639-3900 or info@nilc.org, for a possible referral.

Please reach out to Eric Tars, etars@homelesslaw.org, with any questions or feedback.

WHAT FACILITY MANAGEMENT SHOULD DO **BEFORE AN ENFORCEMENT ACTION**

DESIGNATE SPACE AS PUBLIC AND NON-PUBLIC ACCORDINGLY

In general, areas open to the public (for example, a reception area) are open to immigration agents, and agents may enter these spaces without a warrant. ICE agents must have a valid judicial search or arrest warrant to lawfully access private or non-public areas (for example, private offices or areas in a shelter where people sleep).

Because of this distinction, facilities should plainly identify any non-public spaces as such by placing signs reading “Private” or “Non-Public Area” on doors or hallways leading to non-public areas. Consider designating all or most of the facility “Private” or “Non-Public Area” if members of the public are not allowed to walk in. Facilities should also post signs outside of facilities to alert outsiders of the hours of visitation hours and entry requirements. Consider requiring any visitors to the facility to register with a designated member of the facility staff before they can enter or remain on the grounds.

For low/no barrier homeless shelters where the doors and space are open and accessible, facilities can still identify as “Non-Public” all spaces that are open to those seeking shelter, but not open to the general public. For example, private offices and areas in a shelter where people sleep are private, non-public areas.

In making any of the above changes, staff should clearly explain to clients why they are posting such signage to make clear it is intended as safety-creating, and not to create a carceral environment for the clients or their visitors. If access to a building is only via key/keycard or if the door is locked and you must be buzzed in, they are almost certain satisfying the requirements of private areas. While these facts would support designation as a non-public space, consideration should be still be given to having signage saying “Non-Public Area” to deter ICE agents from disregarding staff instructions.

UNDERSTAND THE TYPES OF WARRANTS AND OTHER DOCUMENTS

Immigration agents’ ability to lawfully access persons and private spaces often depends on the kind of documentation they have. Different types of documentation grants officers differing levels of access to persons and private spaces. Therefore, facility staff must know how to review documentation provided by ICE. At a minimum, staff should know how to identify and verify a properly executed judicial warrant and understand the permissions that the judicial warrant entails.

Types of Warrants:

- A **Judicial Warrant** can be either a search warrant or an arrest warrant. A federal judicial warrant requires prompt compliance. A judicial warrant must be:
 - 1) signed by a judicial officer (a judge or magistrate); and
 - 2) describe the place to be searched, and the persons or things to be seized and
 - 3) have the correct date and have been issued within the past 14 days.

If the warrant is missing one or more of these requirements, it is invalid. So, for example, if the warrant does not have the facility's correct address, the officers cannot conduct a search or make an arrest in the facility. And all warrants must be signed by a judge or magistrate, not an officer or ICE agent, or they are not valid.

- A **Search Warrant** is a type of judicial warrant that when properly executed, allows police to enter the address listed on the warrant, but officers can only search the areas and for the items listed in the warrant.
 - The warrant must state specifically the place to be searched and the items to be seized.
 - Staff should tell the officers that they are only allowed to search the areas identified in the warrant and point out those areas.
 - If officers search areas that are not identified in the warrant, Staff should tell the officers that they are searching in an area that is outside of the warrant and are out of bounds.
 - If the officers ask to search areas not identified in the warrant, Staff should say **“No. You are not authorized to search [requested area] and it is our policy not to allow searches without warrants.”**
- An **Arrest Warrant** allows police to detain a person for a particular crime. If a warrant is properly executed, staff should only provide agents with access to areas specified in the warrant.
 - Staff should say **“I’m sorry but this is private property, and we do not consent to your searching our facility,”** if officers request to access parts of the facility not identified in the warrant.
- An **ICE Administrative “Warrant”** is signed by an immigration officer, not a judicial officer (judge or magistrate). ICE administrative warrants are far more limited than judicial warrants.
 - An ICE administrative warrant allows ICE officers to arrest non-citizens suspected of committing immigration violations.
 - It does not give ICE officers the right to enter or search the non-public areas of a service providers' facility unless the facility consents to the search.

See **Exhibit 1** for an example of a properly executed judicial warrant and an ICE administrative “warrant.” In the case of an ICE administrative warrant, the document does

not require facility staff to provide any information, such as whether the person sought is or was at the facility.

Additional Important Documents and Definitions

- A **Notice to Appear** is a document that instructs an individual to appear before an immigration judge. This is the first step in starting removal proceedings against them. Notices to appear are not directed at public service organizations. This means that staff are under no obligation to deliver the notice to the person named in the document. Staff should not, for example, ask the person named in the Notice to step forward or come to the front desk. Once staff properly recognize the document as a notice to appear, the designated supervisor should inform the officer, on behalf of the facility, that they do not want to answer any questions and ask the officers to leave their contact information. The Supervisor should say, for example, **“Thank you, but we are not going to answer any questions, but please leave your contact information.”**
- A **Subpoena** is a written request for information that gives the recipient a certain amount of time to respond. Immediately after a staff member receives a subpoena, staff should maintain the subpoena and make a copy of it, note the date the subpoena was served, note how it was served and by whom, and report this information to the designated supervisor or administrator. Facilities should consult counsel as soon as a subpoena is received and before responding to subpoenas as they may not have to comply with some or all the subpoena requests. Facilities must respond to a subpoena within the time allocated on the subpoena. Failure to respond can result in adverse legal action.

TRAIN STAFF ON THE 6 BASIC COMPONENTS OF RESPONDING TO ENFORCEMENT ACTIONS

For staff to respond appropriately, they must be trained on their core responsibilities during an enforcement action. There is a more detailed list of “What to Do During an Enforcement Action” below, but for training purposes, these steps have been reduced to the following seven basic principles:

- 1) RESPECT--** Law enforcement officers, including ICE agents, should always be treated with respect. Never attempt to physically touch or interfere with an Officer’s movement.
- 2) NOTIFY A SUPERVISOR IMMEDIATELY--** In the event of any law enforcement action immediately notify the facility’s supervisor.
- 3) REQUEST TO SEE A WARRANT--** Law enforcement officers generally may not enter private areas of the facility without a warrant signed by a judge or an invitation by a facility supervisor, staff, or administrator. Exceptions for police officers may include circumstances such as in the event of an emergency. Police can search without a warrant if they believe that evidence may be destroyed, or someone may be in danger if they wait to get a warrant. For example, if police are in “hot pursuit” of a criminal, they can enter a private residence without a warrant. ICE agents, however, are not police, and the hot pursuit exception only applies to them if they are pursuing “an individual

who poses a public safety threat” or a person who the agent “personally observed border -crossing.” Moreover, ICE agents sometimes wear uniforms that say “Police,” even though they are not police officers. As staff gathers the officer’s name and badge number, they should also ask if they are Police or ICE agents. Make copies of all documents that the officer provides.

4) NO WARRANT = NO ACCESS AND NO INFORMATION-- Do not answer questions, provide information, or allow access to non-public areas of the facility without a warrant signed by a judge. All law enforcement officers should be immediately informed of the facility’s policy:

Law enforcement officers do not have consent or permission to enter the non-public areas of the facility or to access our records or information without a valid warrant signed by a judge.

5) DO NOT PHYSICALLY INTERFERE WITH ENFORCEMENT—Facility staff should not interfere with law enforcement officers, even if they are exceeding their authority. However, requesting to see a warrant, asking for identification, informing officers of facility policies, and denying access to non-public, private spaces is not interfering with law enforcement. **Do not fear refusing to give officers consent to search the facility or asking to see a judicial warrant. Verbally refusing to allow a search without a warrant or asking to see a warrant is *not* illegal harboring or an obstruction of justice.** Do not lie to immigration officers. Staff can instead decline to answer officer’s questions or remain silent.

For example, staff can say the following:

- “Officer; please give me your name, badge number and provide me with any warrant you have with you today. And are you with the police or ICE?”
- “I’m sorry, but this is private property, and we do not consent to your searching our facility without a warrant signed by a judge.”
- “I’m sorry but you are not authorized by a warrant to search [requested area] and it is our policy not to allow searches without proper warrants.”
- “Since you do not have a warrant, it is our policy that you are not allowed to enter non-public areas of the facility.”
- Please do not search [areas not listed in the warrant] because they are not identified in the warrant.”

6) CONTACT LEGAL COUNSEL AND DOCUMENT EVERYTHING-- All enforcement actions by law enforcement must be documented immediately. Request and record names and badge numbers of each officer. Use the **ICE/Police Enforcement Action Report** attached as **Exhibit 3**. Facility supervisors should contact legal counsel as soon as possible.

UNDERSTAND HOW TO HANDLE COLLECTING AND RETAINING CLIENT INFORMATION AND RESPONDING TO REQUESTS FOR INFORMATION

This section provides strategies for how facilities can collect and retain client information to protect their clients from immigration enforcement. It also advises facilities on how to respond to immigration enforcement requests for client information. Facilities should seek additional guidance regarding client data collection, retention, and disclosure if:

- a. they provide healthcare services or services to victims of domestic violence, sexual assault, hate crimes, human trafficking, and other crimes;
- b. they are co-located with substance abuse treatment facilities; or,
- c. they are covered under HIPAA.

Facilities should also seek guidance on the laws of the state they are operating in. Many state laws provide individuals in the state with greater control over the distribution of their personal information.

DATA MINIMIZATION IS A BEST PRACTICE. *Facilities should collect only the personal information necessary to provide services and avoid collecting unnecessary information.* Unless required by law, regulation, or funding requirements, facilities should not collect or retain any data regarding immigration status.

Collection of information regarding immigration status is not generally necessary to provide essential services. If law enforcement understands that data regarding immigration status is not collected or maintained, there is less of a basis to request such data from the facility.

NOTIFY CLIENTS OF THE FACILITY'S PRIVACY POLICY. *Facilities should ensure clients are familiar with the facility's privacy policy upon admittance.* The privacy policy should detail what type of records the facility maintains and when the facility will delete clients' personal information. Clients should be notified of when the facility may disclose personal information about them to outside entities, including who will receive the information, the purpose for disclosure, and how long that outside party may retain that information. Facilities should avoid seeking immigration status information, such as a visa or Social Security numbers from clients or their family members unless required for a client to access services.

THE HOMELESS MANAGEMENT INFORMATION SYSTEM ("HMIS"). The U.S. Department of Housing and Urban Development ("HUD") and its federal partners require some shelters to collect certain data to "better inform homeless policy and decision making at the federal, state, and local levels." All projects participating in HMIS, regardless of funding source, must collect the following information from everyone they serve: (1) Name, (2) Social Security number (or that the client refused to provide one), (3) Date of birth, (4) Race and Ethnicity, (5) Gender, and (6) Veteran Status.

- Be sure to inform all clients that they do not have to provide their Social Security number if they do not want to or do not have one.
- Please consult with local counsel to determine whether your facility is subject to HMIS requirements.

- Facilities should maintain sensitive client information, like Social Security numbers and immigration status, securely and for only as long as is legally required regardless of whether the information is disclosed by a client or collected by the facility.

DESIGNATE A CONTACT PERSON TO RESPOND TO DATA REQUESTS. *An organization should designate an administrator or supervisor to inform when a request is made to anyone at the facility.* The person should be the only one who has the authority and is responsible to act on behalf of the organization in immigration enforcement matters. No one other than a supervisor designated to handle information requests should disclose any clients', or their family members', information related to immigration status. Staff should inform immigration authorities that they are not authorized to answer questions without first consulting with a designated supervisor or administrator. For example, staff can state, "I am not authorized to release any client information. Please leave your contact information and I will provide it to my supervisor."

REQUIRE A VALID SUBPOENA BEFORE RESPONDING TO ANY REQUEST FOR INFORMATION. In general, *ICE cannot access a facility's records unless they have a validly executed subpoena (or potentially a search warrant).* The facility should not turn over information absent a validly executed subpoena or search warrant that specifically identifies the information.

Facilities that receive subpoenas, especially subpoenas requesting a client's personal information like their names, addresses, phone numbers, Social Security numbers, should immediately consult counsel to determine if the subpoena must be complied with, can be blocked, or can be blocked in part. However, the facility must respond to subpoenas in a timely manner. Failure to do so may result in a contempt of court finding. **If the facility does not have counsel, they can reach out to the National Homelessness Law Center, 202-638-2535 or info@homelesslaw.org or National Immigration Law Center, (213) 639-3900 or info@nilc.org, for a possible referral.**

When responding to a subpoena, facilities are only required to turn over the specific documents requested, and only if those documents are not privileged or protected by federal statutes like HIPAA.

If the facility receives a subpoena in person at the facility, the designated administrator or supervisor should inform the officer that they do not want to answer any questions and ask them to leave their contact information.

NOTIFY CLIENTS OF REQUESTS WHEN POSSIBLE. If a client's immigration data has been requested, notify the client whenever possible. Staff should also document, but not respond to, any verbal or written requests for information by immigration authorities that are not supported by a subpoena or warrant.

INFORM CLIENTS ON THEIR RIGHTS. Display the "**Know Your Rights**" Poster (Exhibit 2) in a place where clients can see it. Translate the poster into languages of clients as you do other important notices. These posters tell clients what to do when they encounter ICE, whether in public or in their homes. The most important advice to give clients is to remain calm and assert their rights during any interaction with ICE.

DO NOT DESTROY DATA. Facility generally cannot simply delete a client's personal information from their records. Doing so could violate privacy laws and potentially hinder the individual's access to necessary services. Most jurisdictions have laws protecting personal information, including that collected by homeless shelters, meaning they must handle data responsibly and not arbitrarily delete it. Because privacy laws vary from state to state, if a facility currently has unnecessary data or information reflecting client immigrant status that they want to delete, they should consult counsel for assistance in data and information minimization efforts.

WHAT TO DO DURING AN ENFORCEMENT ACTION

If any agents or employees from ICE or other law enforcement agencies attempt to enter the facility's buildings or facilities, staff should follow this protocol:

1) Staff should document the name/contact information of the ICE agents seeking access to the facility. This can be done by asking for a business card, or name and badge number.

- **Say: “Officer; please give me your name, badge number and provide me with any warrant you have with you today. And are you with the Police or ICE?”**

2) Facility staff should inform ICE agents that they do NOT have consent to enter the non-public areas of the facility without a valid judicial warrant. For example, staff can say any of the following:

- **“I’m sorry, but this is private property, and we do not consent to your searching our facility without a warrant signed by a judge.”**
- **“I’m sorry but you are not authorized by a warrant to search [requested area] and it is our policy not to allow searches without proper warrants.”**
- **“Since you do not have a warrant, it is our policy that you are not allowed to enter non-public areas of the facility.”**
- **“Please do not search [areas not listed in the warrant] because they are not identified in the warrant.**

3) If ICE agents claim to have a warrant to enter the facility/building, reception staff should ask for a copy of the warrant, ask agents to wait at a specified location, and immediately contact a supervisor for assistance. However, if the agents have a warrant signed by a judge or magistrate, they do not have to wait to enter the area identified in the warrant. They **do** have to show that they have a warrant.

4) Do not answer questions posed by the officer and direct them to speak to the designated administrator or supervisor. Ask agents to wait at a specified location until a designated administrator or supervisor can assist.

5) If the ICE agents have a warrant, a supervisor should review the judicial warrant to ensure that:

- it is signed by a judge or magistrate;
- it describes the facility’s building as the place to be searched, or names the person to be arrested;
- it has the correct date and was issued within the past 14 days; and
- the search does not exceed the scope of the warrant.

Administrative warrants (warrants signed by an immigration officer instead of a judicial officer) do not require facilities to provide ICE access to non-public areas of the facility.

6) Where ICE agents have a valid judicial search warrant, staff should provide access only to the areas specified in the warrant.

7) If ICE agents do not have a judicial warrant, staff should ask the agents to not enter any nonpublic areas until the staff contacts counsel, and staff may ask the agents to leave the premises. For example, staff could say, **“Since you do not have a warrant, it is our policy that you are not allowed to enter non-public areas of the facility.”**

Beware: ICE agents sometimes wear uniforms that say “Police,” even though they are not police officers. Staff may ask whether those seeking entry are police or ICE agents. But the Police also need a warrant to enter non-public areas, unless it is a police emergency (someone is in danger, someone has called 911 seeking assistance, or the Police are in hot pursuit of a criminal). Staff should also be aware that ICE agents may say things to gain entry without a warrant.

For example: “We are investigating a crime. Can you help us identify this person?” and “Is [name] here? We just need them to step into the hallway to talk to them.”

8) If the officers do not have a warrant, the designated supervisor should say, **“I do not want to answer any questions, please leave your contact information. Thank you.”**

9) Staff should inform supervisors about ICE presence in or around the building as soon as possible. Supervisors should immediately contact legal counsel.

10) Staff and supervisors **can advise clients that they have the right to: remain silent, decline to answer questions** from officers, and request to **call an attorney.**

11) Staff and supervisors cannot tell clients not to respond to questions from ICE. Instead, they can remind them that, **“they have a right to remain silent.”** Staff may not legally help clients escape or hide. Doing so could violate the law and subject staff members to criminal charges, including obstruction of justice or aiding and abetting a crime.

12) Staff may videotape or record any interactions with the agents, but they must announce that they are doing so. Staff should keep a reasonable distance from the officers and their actions to avoid interfering.

13) Staff and clients should know (or be informed) that if they are questioned by immigration agents, they can ask the agents if they are free to go. If the agent says yes, they are free to leave. If the agent says the person is not free to go, the staff/client should explain that they would like the opportunity to consult an attorney and otherwise remain silent.

14) If any arrests are made, ask for the names of individuals arrested and where they are going to be held. If no names are provided, create a list of who is missing. This will be essential and family members may be seeking this information.

15) Code Blue Shelters and warming centers, providing emergency shelter and supportive services during Code Blue activations should collaborate with local police to ensure individuals receive transportation or assistance to protect their health during harsh conditions. However, depending on the location, local police may share information with ICE. For that reason, staff engaged in such efforts should follow a Data Minimization policy by not sharing any information regarding immigration status.

WHAT TO DO WITH AN ENFORCEMENT INFORMATION REQUEST

If any ICE agent requests access to records or documents regarding the facility's clients or staff:

1. Staff—preferably a designated supervisor—should inform agents that facility policy is to not release information without the client's consent, unless disclosure is required by judicial warrant, subpoena, or otherwise required by law. Staff should say, **“I’m sorry but we can’t release this information to you without a warrant or subpoena.”**
2. If agents claim to have a judicial warrant or subpoena, staff should not release information without consulting a supervisor. Staff—preferably a designated supervisor—should request a copy of the warrant or subpoena and ask for the agents' contact information.
3. If such information is requested or if a subpoena is received, a supervisor should immediately contact counsel.

WHAT TO DO AFTER AN ENFORCEMENT ACTION

POST-RAID DOCUMENTATION

This section is also contained in ICE/POLICE Enforcement Form attached as Exhibit 3.

Document the officer's actions in as much detail as possible without interfering with the officer's movements. The following information should be documented:

1. What was the date of the action?
2. What time did the action begin and end?
3. How many agents were present?
4. What agency conducted the action (i.e., ICE, local police, or state police)?
5. What were the names and/or badge numbers of the agents?
6. How did the agents' uniforms identify them (i.e., ICE, police, etc.)?
7. Why did they say they were at the facility?
8. Did you or another staff member ask to see a judicial warrant?
9. Did the agents present a judicial warrant?
10. If not, did you or another staff member deny them consent to enter? What was said to the agents?
11. If you or another staff member denied the agents consent to enter, how did they react?
12. If the agents presented a warrant, was a supervisor alerted? Who?
13. Was the warrant an administrative warrant, signed by an immigration official?

14. If it was an administrative warrant, did you or another staff member tell the agents that your organization has a policy of denying access to non-public areas in the absence of a judicial warrant? What did you say?
15. How did the agents react if you or another staff member denied them consent to enter based on an administrative warrant?
16. Did the agents present a judicial warrant, signed by a judge?
17. If so, please describe the warrant:
 - a. What was the date of the warrant?
 - b. What items or persons were the subjects of the search?
 - c. What areas did the warrant identify to be searched?
 - d. Which judge signed the warrant?
18. Did you allow the agents entry based on a judicial warrant?
19. If so, did you or another staff member accompany agents on their search? Which staff members?
20. Describe where the agent searched.
21. Did the agents stay within the areas they were authorized to search by the warrant? If not, what other areas did they enter? Did they look in closed closets, cabinets, or drawers? Did they ask permission first?
22. Did the agents keep anyone from moving around freely? Who?
23. Did the agents arrest anyone? Who?
24. Did the agents seize any items? What?
25. Did the agents take pictures of documents? If so, what documents? How did the agents get the documents?
26. Did the agents take fingerprints? If so, whose?
27. Who witnessed the action?
28. Were children present? If so, whose children? How many?
29. Did the agents yell at or threaten anyone? Who? Why? Which agents (if known)?
30. Did the agents have guns drawn or were they touching their weapons?
31. Did the officers detain anyone or make any arrests? If so:
 - a. What were the names and ages of the persons detained or arrested?
 - b. Were the arrested individuals identified by name in a judicially signed arrest warrant?
 - c. Where are the arrested persons being held?
 - d. Did the arrested individual(s) have other family members at the facility?
 - e. Did the arrested individual(s) have children at the facility?

Complete a report that includes the information above and the officer's statements and actions and submit it, along with any video or other recordings, to counsel and the National Homelessness Law Center at info@homelesslaw.org.

POST-RAID MESSAGING GUIDANCE & TALKING POINTS

While the safety of clients and staff is of paramount importance, once immediate threats have passed, service providers should try to share stories with the media to prevent harm from coming to others. Here are some tips on telling those stories, courtesy of the Housing Narrative Lab:

Considerations as you speak publicly about the potential impacts of these raids:

- Lean into the impact of the raids on your neighborhood and community.
- Call out some elected officials for supporting the raids and scapegoating immigrants living on the brink. Be clear this is an effort to distract us because they haven't focused on real solutions.
- Focus on how awful the raids are to people **AND** provide alternative - better - solutions. Show *how* our communities are better off when we focus on solutions, such as housing, healthcare and job opportunities.
- Go on the offense by not repeating the opposition's words, even adding the word "not". For example, do not say, "Raids are not the solution." Instead reframe the issue to what you want, ie, "The solution is ..."

Suggested talking points and messaging:

- Federal agents raided our shelter / center/ soup kitchen and seized people just like you and me. People who are trying to do what's best for their families, stay off the streets, feed their families and provide them with the basic necessities we all need to thrive. This raid was an abuse of power.
- Today we saw what happens when elected officials abuse their power and tell the police to target people who don't have a safe place to live. This raid not only left members of our community more vulnerable, it left our neighborhoods less safe from police. (*Or insert the impacts on your community.*)
- These elected officials are scapegoating people who can't stand up to them in order to manipulate and distract us from the fact that they have not done their jobs and focused on real solutions to the challenges facing people living on the brink.
- We should be the ones deciding what kind of communities we live in. Together, we can choose to be communities that provide people the support they need when they need it and ignore cynical elected officials blaming newcomers for political points.
- Attacking new immigrants for trying to stay safe and get a warm meal is short-sighted. Immigrants make our communities stronger; they grow our economy and give back – when they have the chance to succeed here.
- Our shelters/centers/soup kitchens are doing the job of government and elected officials who should be using their power to help people get and keep a roof over their heads, instead of raiding soup kitchens and shelters.
- In a country as rich and powerful as ours, we have the resources to help our neighbors - whether they've lost homes to fires and floods or are new arrivals fleeing violence or war.
- Everyone – longtime residents and newcomers alike – needs a place to call home. We can use our resources to help people keep a roof over their heads, instead of targeting people who need soup kitchens and shelters to survive.
- And for recent arrivals seeking asylum, we can expand legal services or speed up work authorization so people can get on a path to stability and well being.

Exhibits

1. Judicial Warrant vs. ICE Administrative Document (Project South)
2. “Know Your Rights” Poster
3. ICE/POLICE Enforcement Action Report
4. What to do during an ICE/police enforcement action one-pager



Institute for the Elimination of Poverty & Genocide

Exhibit 1

Judicial Warrant vs. ICE Administrative Document

If Law Enforcement, including Immigration and Customs Enforcement (ICE), knock on your door, do NOT open the door. First, **ask them to slide a judicial warrant under the door**. Make sure that the address and information on the judicial warrant is correct and that the warrant is being presented within the specified time period.

A judicial warrant is an official court order signed by a judge or magistrate that authorizes a search of private property, seizure, or arrest based on probable cause that a crime is being committed or has been committed.

- A **judicial warrant** will:
 - Specify the specific address to be searched
 - Specify the time period in which the search must take place
 - Particularly describe the place or person, or both, to be searched and things to be seized
 - Be issued by a court and signed by a Judge or magistrate

Below is an example of a judicial warrant.

This is a judicial search warrant. It DOES authorize agents to enter your home.

UNITED STATES DISTRICT COURT - Issued by a COURT.

For the Eastern District of California

In the Matter of the Search of (Briefly describe the property to be searched or identify the person by name and address)

540 Oak Avenue Davis, California 95616

Case No.

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

2:11-SW-0161 EFB

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the EASTERN District of CALIFORNIA

SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized)

SEE ATTACHMENT B, ATTACHED HERETO AND INCORPORATED BY REFERENCE

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before 5-9-2011 (not to exceed 14 days)

in the daytime 6:00 a.m. to 10 p.m. or at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge

(name)

I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) for days (not to exceed 30).

Until, the facts justifying, the later specific date of

Date and time issued: 4-25-2011 9:10:00 AM

Signed by a JUDGE.

City and state: SACRAMENTO CALIFORNIA

EDMUND F. BRENNAN, U.S. MAGISTRATE JUDGE

Printed name and title

Source 1 National Immigration Law Center https://twitter.com/NILC/status/1149755946081538049?s=20

Exhibit 1 (continued)

Judicial Warrant vs. ICE Administrative Document

If Law Enforcement, including ICE, present to you any document other than a judicial warrant that is signed by a judge, you do not have to open the door. This would include instances where Law Enforcement or ICE present an ICE administrative document they call “an ICE warrant.”

An **ICE administrative warrant** is a document, issued by a federal agency such as the Department of Homeland Security (DHS) or Immigration and Customs Enforcement (ICE), purporting to document their authority to arrest a person suspected of violating immigration laws. These administrative documents are not signed by a neutral magistrate or judge but rather an immigration officer like an ICE agent or immigration judge.

An ICE administrative warrant is NOT a judicial warrant. ICE administrative warrants do not give ICE officials authority to enter a place where there is a reasonable expectation of privacy, without consent.

If this happens—state clearly that you do not consent to them entering but do not physically resist. If ICE officials have already entered, then ask them to leave and state that you do not consent to a search.

Below is an example of an ICE administrative warrant which DOES NOT authorize agents to enter your home.

Warrant of Removal/Deportation

File No: _____

Date: _____

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

(Full name of alien)

who entered the United States at _____ On _____
(Place of entry) (Date of entry)

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 appropriation. "Salaries and Expenses Immigration and Naturalization Service 2002," including the expense of an attendant if necessary.

(Signature of INS official)

(Title of INS official)

(Date and office location)

Exhibit 2

Know Your Rights

Immigration and Customs Enforcement (ICE) is one of the federal government agencies responsible for deporting people. If you encounter them, you have the following rights:

- 1. RIGHT TO REMAIN SILENT**-- Under the Fifth Amendment of the U.S. Constitution, you have the right to remain silent and do not have to answer any questions about immigration status or country of origin.
- 2. RIGHT TO CONSULT WITH AN ATTORNEY**-- You can also request to speak with legal representation before providing any information, but the government is not required to provide one for you. You can ask for a list of free or low-cost alternatives.
- 3. RIGHT TO AN INTERPRETER**--You have the right to have an interpreter present before providing any information.

THESE RIGHTS WILL ONLY BENEFIT YOU IF YOU USE THEM!

WHAT TO DO IF YOU ARE APPROACHED BY AN ICE OFFICER

If you are approached by an ICE Officer:

- 1. STAY CALM.**
- 2. Do not run or resist.**
- 3. If you talk, speak loud enough so any witnesses nearby can hear you.**
- 4. Before you say your name or anything else, ask, “AM I FREE TO GO?”**
If they say YES: Say, “**I DON’T WANT TO ANSWER YOUR QUESTIONS**” or “**I’D RATHER NOT SPEAK WITH YOU RIGHT NOW.**” Walk away.
If they say NO: Use your right to remain silent! Say, “**I WANT TO USE MY RIGHT NOT TO ANSWER QUESTIONS**” and;
Then say, “**I WANT TO SPEAK TO A LAWYER.**”
- 5. If ICE starts to search inside your pockets or belongings, say, “I DO NOT CONSENT TO A SEARCH.”**
- 6. DON’T LIE OR SHOW FALSE DOCUMENTS.**
- 7. DON’T ANSWER QUESTIONS ABOUT YOUR IMMIGRATION STATUS OR WHERE YOU WERE BORN.** They will use any information you provide against you. Do not voluntarily hand over any foreign documents such as a passport, consular IDs, or expired visas. Do Not sign any documents or allow ICE agents to coerce you into signing documents agreeing to deportation.

Exhibit 3

WHAT TO DO DURING AN ICE/POLICE ENFORCEMENT ACTION

If any agents or employees from Immigration and Customs Enforcement (ICE), or other law enforcement agencies, attempt to enter our building or facilities, staff should follow this protocol:

1. **Stay Calm and treat the officers with respect.**
2. Immediately notify a supervisor. Supervisors should contact legal counsel as soon as possible.
3. Document the name/contact information of the officers seeking access to the facility. This can be done by asking for a business card, or name and badge number.
 1. **“Officer; please give me your name, badge number and provide me with any warrant you have with you today. And are you with the Police or ICE?”**
4. Inform officers that they do NOT have consent to enter the non-public areas of the facility absent a valid judicial warrant. For example, staff can say any of the following:
 1. **“I’m sorry, but this is private property, and we do not consent to your searching our facility without a warrant signed by a judge.”**
5. If the officers claim to have a warrant to enter the facility/building, reception staff should ask for a copy of the warrant.
 1. **Check the warrant to make sure that it is signed by a judge or a magistrate.**
6. Do not answer questions posed by the officer. Instead, direct them to speak to the designated administrator or supervisor. Supervisors and Staff should not answer questions about whether a particular person (client or staff) is currently in the facility.
 1. **“I am not authorized to provide you with information regarding our clients.”**
7. Where officers have a valid judicial search warrant, staff should provide access only to the areas specified in the warrant.
8. Staff and supervisors cannot tell clients not to respond to questions from ICE. Instead, they can remind them that, **“you have a right to remain silent.”** Staff may not legally help clients escape or hide. Doing so could violate the law and subject staff members to criminal charges, including obstruction of justice or aiding and abetting a crime.
9. Staff and supervisors may videotape or record any interactions with the officers, but they must announce that they are doing so. Staff should remain a reasonable distance from the officers and their actions to avoid interfering.
10. If any arrests are made, ask for the names of individuals arrested and where they are going to be held. If no names are provided, create a list of who is missing.

Exhibit 4

ICE/POLICE ENFORCEMENT ACTION REPORT

This form is meant to be used by facility staff to document the actions taken by a law enforcement agency. Provide as much detail as possible without interfering with the enforcement agent's movements.

1. What was the date of the action?

2. What time did the action begin and end?

3. How many agents were present?

4. What agency conducted the action (i.e., ICE, local police, or state police)?

5. What were the names and/or badge numbers of the agents?

6. How did the agents' uniforms identify them (i.e., ICE, police, etc.)?

7. Why did they say they were at the facility?

8. Did you or another staff member ask to see a judicial warrant?

9. Did the agents present a judicial warrant?

10. If not, did you or another staff member deny them consent to enter? What was said to the agents?

11. If you or another staff member denied the agents consent to enter, how did they react?

12. If the agents presented a warrant, was a supervisor alerted? Who?

13. Was the warrant an administrative warrant, signed by an immigration official?

14. If it was an administrative warrant, did you or another staff member tell the agents that your organization has a policy of denying access to non-public areas in the absence of a judicial warrant? What did you say?

15. How did the agents react if you or another staff member denied them consent to enter based on an administrative warrant?

16. Did the agents present a judicial warrant, signed by a judge?

a) If so, please describe the warrant:

b) What was the date of the warrant?

c) What items or persons were the subjects of the search?

d) What areas did the warrant identify to be searched?

e) Which judge signed the warrant?

18. Did you allow the agents entry based on a judicial warrant?

19. If so, did you or another staff member accompany agents on their search? Which staff members?

20. Describe where the agent searched.

21. Did the agents stay within the areas they were authorized to search by the warrant? If not, what other areas did they enter? Did they look in closed closets, cabinets, or drawers? Did they ask permission first?

22. Did the agents keep anyone from moving around freely? Who?

23. Did the agents arrest anyone? Who?

24. Did the agents seize any items? What?

25. Did the agents take pictures of documents? If so, what documents? How did the agents get the documents?

26. Did the agents take fingerprints? If so, whose?

27. Who witnessed the action?

28. Were children present? If so, whose children? How many?

29. Did the agents yell at or threaten anyone? Who? Why? Which agents (if known)?

30. Did the agents have guns drawn or were they touching their weapons?

31. Did the officers detain anyone or make any arrests?

If so:

a) What were the names and ages of the persons detained or arrested?

b) Were the arrested individuals identified by name in a judicially signed arrest warrant?

c) Did the arrested individual(s) have other family members at the facility?

d) Did the arrested individual(s) have children at the facility?

Completed by:

Name: _____

Date: _____

Signature: _____