



Know Your Rights with ICE & 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” and/or “Employees Only” signs** on the workplaces on your property to clearly define them as not open to the public.
- **If an agent ask or attempt to search:** *“I want to see a warrant.”* and also say *“I do not consent to this search.”* Even if a warrant seems legitimate it is best to 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** *“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.**

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/
- ❖ 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.