



January 28, 2025

What To Do In The Event of an Immigration Raid or I-9 Audit (Or Any Other Time Law Enforcement Agents Show Up To Your Business)

As the new Trump administration takes shape, a cornerstone of its stated immigration policy is the promise of “mass deportations,” as well as suspended entry of migrants (including those seeking asylum), as well as strengthening the power of the Immigration and Customs Enforcement (ICE) section of the Department of Homeland Security (DHS) to arrest and detain undocumented individuals. DHS has begun to combine forces with state and local authorities in order to carry out these policies. Recent immigration enforcement actions suggest that there may be more to come.

Clients should be prepared, have a plan, and know their rights in the event that law enforcement—from any agency, either federal, state, or local—show up at a place of business. This Client Alert offers some best practices during such an event.

This Alert cannot, however, cover all potential scenarios, especially as the immigration policies continue to evolve. As part of your plan, please be prepared to reach out to Buchalter. Our white-collar, immigration, employment, and real estate attorneys have extensive experience with government agencies in all manner of investigations and enforcement actions.

What Agencies Could Show Up At A Workplace?

Federal agents that could show up at a workplace range from the FBI to the IRS, to DHS. With respect to immigration issues, the following agencies under the DHS are the most likely to show up:

- **Homeland Security Investigations (HSI)** collects and inspects employers’ I-9 Employment Eligibility Verification forms and other paperwork for compliance.
- **Immigration & Customs Enforcement (ICE)** enforces immigration law and can initiate deportation proceedings. ICE agents are not police but they can carry guns or small clubs and may have gear that reads “Police.”
- **U.S. Citizenship & Immigration Services (USCIS)** audits employment-related immigration sponsorship.
- **State and Local Law Enforcement and Authorities:** Sometimes federal agencies, especially if they have a search warrant in hand, are assisted by other state and local agencies like the Sheriff, Police Departments, Franchise Tax Board, etc.).



What Steps Should Building Management Take If Law Enforcement Agents Show Up? What If They Show Up After Hours? What Can A Building Security Officer Do?

Law enforcement tend to appear in large groups, wearing uniforms, occasionally armed, early in the morning or late in the evening, and unannounced. These situations can be stressful, and the following may be very helpful.

- **Stay Composed and Professional.** Treat law enforcement in a calm manner. Do not be confrontational with agents in any way.
- **Building Security or Management Should Call a Pre-Designated “Point Person.”**
- **Building Security or Management Staff Should be Prepared to Tell Law Enforcement:** “I cannot give you permission to enter private property. Let me contact my employer/supervisor [or the representative of the business you intend to search]. Do you have a warrant for me to show them?”
- **Review Warrant (If Any):** If law enforcement present a valid judicial warrant (signed by a federal or state judge), the security officer will have no choice but to allow law enforcement to search the premises described in the warrant. Law enforcement should present an “attachment” to the warrant, which specifically describes what and where they are authorized to search.
- **Notify any Impacted Businesses:** Building security officers should not and cannot provide “permission” for agents to access any non-public areas (i.e., private offices, common rooms for employees, interior spaces) without a warrant, or to interview or speak with any particular employees of either the building or a business therein. But they can and should immediately notify all affected persons and businesses, including outside vendors whose employees are working in the building (e.g. janitorial staff). Law enforcement can enter public spaces like the public areas of a shopping center or the public lobby of a building.
- **Document and Record Details:** If possible, note the names of law enforcement personnel, their badge numbers, and the time of the raid. Attempt to record from a distance. If law enforcement instructs a person to stop recording, the person may repeat while recording, “I believe I have the right to record. Are you instructing me to stop recording?”
- **Follow Law Enforcement Orders:** If law enforcement directs, instructs, or otherwise orders a person to do something, then it can be later challenged in court. A direct order from law enforcement should be complied with. But beware of providing law enforcement with consent. This often happens through polite questions from law enforcement—i.e., “May we please enter the business?”, “Can you please show me ID?”, “Can you please unlock this door?” Each of those questions are not direct orders, but merely an attempt to have an individual consent to waive their Constitutional right against unreasonable searches and seizures, or searches/seizure without a warrant.
- **Do not, under any circumstances, obstruct or interfere with the search,** even if you think it is improper, illegal, or exceeding the warrant. Just record or make notes.
 - To the extent possible, ensure law enforcement stay within the warrant’s scope, and do not let law enforcement personnel wander unaccompanied in the building. If counsel is present, notify counsel if any law enforcement that are present seem to be exceeding the scope. If not, raise this concern calmly with the officer or agent in charge of the search and document the exchange in your notes.
 - No one is obligated to consent to the search or provide any passwords to any computers or electronic devices, or other items.
 - Inventory receipt: If any items or records are seized, law enforcement must give the person or company a receipt to inventory what they are taking.



- **Please note that the following are NOT valid judicial warrants for the purposes of entering and searching a private space:**
 - **Administrative warrants:** Issued by Department of Homeland Security, often titled “**Form I-200**, Warrant for Arrest of Aliens”, or “**Form I-205**, Warrant of Removal/Deportation”. **Neither Form permits law enforcement to enter or search private areas of the workplace without consent.**
 - **Notices of Inspection** are requests to review I-9 forms, usually within three business days. **They also do not permit searches of private areas and do not permit agents to immediately access any non-private area of your business.**

Develop plans, protocols and decisions now. Make key decisions and protocols, with answers to the following questions:

- **Who is the company’s “point person”?**
- **Who is the company’s legal counsel?**
- **Have staff been trained (building reception and security) on how to respond and on understanding their rights with respect to law enforcement entering the premises?**
- **Who are contact people for outside vendors with employees providing services in the building?**

Who Can Be Arrested During a Search or Raid?

Law enforcement can arrest people in public areas (or private areas that they enter with a valid warrant), but the arrest, like all arrests, requires either an **arrest warrant or probable cause to believe** the person committed a crime or does not have legal status in the United States. For this reason, it is important that neither the employer nor the employees do anything that is illegal or that creates probable cause to believe a crime is being committed—such as fleeing at the sight of law enforcement, interfering with the execution of the search warrant, or destroying or altering evidence.

For further information, please contact the following Buchalter Immigration Task Force attorneys:



Kripa Upadhyay

Of Counsel
(206) 319-7007
kupadhyay@buchalter.com



Joshua Robbins*

Shareholder
(949) 224-6284
jrobbins@buchalter.com



Sherry Haus*

Shareholder
(916) 945-5468
shaus@buchalter.com



Daniel Silva*

Shareholder
(619) 219-6339
dsilva@buchalter.com



Andrea Bartoloni**

Shareholder
(503) 226-8622
abartoloni@buchalter.com



Joshua Mizrahi (Labor)

Shareholder
(213) 891-5258
jmizrahi@buchalter.com



Elizabeth Stallard

Shareholder
(916) 945-5231
estallard@buchalter.com



Manuel Fishman (Real Estate)

Shareholder
(415) 227-3504
mfishman@buchalter.com

****Former Assistant U.S. Attorney***

***** Honorary Consul of Italy, Oregon***