

# Guidance Memorandum for Foundations for Interacting with Immigration Officials on their Property

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## Background

The purpose of this memo is to provide guidance to foundations for interacting with immigration agents on their property. Although there was momentary guidance from the Department of Homeland Security (DHS) that proposed a pause of immigration enforcement actions, [recent communication](#) from the DHS leadership to Immigration and Customs Enforcement (“ICE”) is that “agents must continue conducting immigration raids at agricultural businesses, hotels and restaurants.”<sup>1</sup> Moreover, ICE is currently arresting approximately 1,200 deportable foreign nationals per day, with a goal of arresting 3,000 deportable foreign nationals per day.<sup>2</sup>

There are three main reasons why ICE may seek to enter a foundation property:

1. To look for, or take into custody, a particular individual;
2. To conduct an Enforcement Action into allegations of human trafficking, sex trafficking, or drug trafficking. During these “raids,” large numbers of Special Agents may descend upon a location, without notice. ICE will obtain indictments, arrests, or search warrants.
3. To conduct collateral operations when ICE has determined they have a reasonable suspicion to pursue an individual they believe is unlawfully present in the United States.

## Guidance for Foundations for Interacting with Immigration Agents on their Property

The following issues are discussed in this memorandum:

- Developing an action plan designating specific and designated officials who are empowered to speak to DHS agents in the event of an enforcement action;
- Guidance on how these designated officials should distinguish between enforcement actions taken in public and private spaces;

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<sup>1</sup> See <https://www.washingtonpost.com/immigration/2025/06/16/trump-farms-hotels-immigration-raids/>

<sup>2</sup> <https://www.cbsnews.com/news/ice-record-59000-immigrant-detainees-half-no-criminal-record/>

- Guidance on the differences between judicial warrants, subpoenas, and their administrative immigration counterparts; and
- Guidance on what designated officials should do in response to receiving an immigration warrant or immigration subpoena.

## **1. Developing an action plan designating specific individuals who are empowered to speak to DHS agents in the event of an enforcement action**

Foundations should identify which staff members are most likely to first encounter DHS and ICE agents if they arrive onsite. If possible, they should identify a designated staff person who will lead any early interactions with DHS and ICE agents.

Developing an action plan, including who needs to be contacted both immediately at the affected location and/or elsewhere in the organization, for staff who first speak with the DHS agent will minimize confusion in the moment. Any foundation staff who may encounter DHS/ICE agents should know who the designated staff person is and have access to the action plan.

Although no procedure will work in every circumstance, typically ICE agents will agree to speak to the designated staff person who is authorized to speak to them.

### **During every interaction with ICE you will want to:**

- Keep detailed notes, i.e. maintain records of the inspection, including the inspector's name, date, time, documents provided, and any conversations that were had; or
- Record all interactions with immigration agents (either by audio recording or video recording) so that there is no dispute as to what has occurred.
- Even if ICE is violating the law, do not physically resist or confront any law enforcement agents. The only remedy for any unlawful action by ICE on-site will be after the fact. You may bring charges against ICE in the appropriate forum with any documented unlawful acts.

## **2. Guidance on how these designated officials should distinguish between enforcement actions taken in public and private spaces**

- The designated foundation staff person should be instructed that upon the arrival of DHS or ICE agents to immediately contact legal counsel (internal or outside counsel). The designated staff's role may end there or could continue to the next step depending upon the foundation's action plan or protocol.
- Foundation staff should not allow agents to go beyond the waiting area/front desk/lobby. Rather make them comfortable while waiting to connect the Special Agent in Charge (Special Agent) to the organization's legal counsel either on-site or off-site.

The designated staff person and other foundation staff on-site should do their best to limit questions and answers—noting they are not authorized to give consent to enter the premises or respond to questions. DHS/ICE agents are trained professionals so being overly talkative is not recommended. In some cases, the agents may seem threatening, aggressive, or difficult, however there is no need to panic. In other cases, a pair of agents could begin a game of “good

cop/bad cop.” The designated staff person should keep calm and continue to contact legal counsel and other foundation staff as outlined in the organization’s action plan or protocol.

- If the Special Agent is aggressive, inform him/her that the foundation has protocols in place to make sure government inquiries are addressed and request that you be allowed to follow them. On the other hand, if the agent is very chatty, keep in mind s/he is not a friend and there is no need to engage in conversation. Keep any responses short and direct until a manager and/or legal counsel arrives.
- The designated staff person should ensure legal counsel, as designated in your foundation’s action plan or protocol, is aware of the situation prior to walking out to meet the DHS/ ICE agents. Mobile phone numbers and specific contact information should be readily accessible.
  - Legal counsel or the manager should then greet and escort the agents to a predetermined room/location, which should be as private as possible. The location should be close to an exit of the building where their departure, possibly with an employee, will not cause disruption.
  - Specifically, legal counsel could also then take the following steps:
    - Confirm and/or identify the government agency that dispatched the agent.
    - Ask the agents for identification and note each person’s name, title, agency, and obtain contact information as well a business card.
    - Ask the agents about the purpose of the visit and request the subpoena and/or warrant, under which they are acting. The agents **MUST** present a warrant in order to gain access to the items or individuals they are seeking.
    - Inquire about the nature of the inquiry and ascertain to the extent it is possible if an individual employee is being investigated or if the agents are investigating the foundation.
    - Communicate to the Special Agents that the foundation will cooperate with the request but that they have/will contact legal counsel to assist them in complying.
    - Determine if the Special Agent is presenting official documents by reading them or scanning them to legal counsel. If time is short, the designated staff person can take a photo on their phone and send it via text message or email.

### **3. Guidance on the differences between judicial warrants, subpoenas, and their administrative immigration counterparts**

If the investigator presents any official documents, foundation staff must be ready to carefully determine if the document is a Judicial Subpoena (which must be honored) or an Administrative Subpoena (which may be challenged). Generally, Form I-9 audit requests are administrative, and elements of the request may be subject to challenge.

- A warrant is a legal document authorizing law enforcement to take specific actions, such as conducting a search, making an arrest, or seizing property. There are two primary types of warrants related to immigration enforcement:

- **Judicial Warrants** – Issued by a court and signed by a judge and the date should be recent otherwise it is considered a stale/old warrant that no longer valid.
  - Judicial warrants allow immediate arrest, search, or seizure. Judicial warrants require probable cause and protect individual rights, as they are reviewed by a neutral judge.
  - Judicial warrants must be complied with, as there are potential serious criminal consequences for failure to comply.
- **Administrative Warrants** – Issued by immigration authorities such as ICE or U.S. Customs and Border Protection (CBP), but not by a court. Tell ICE or CBP to return when they have a valid judicial warrant signed by a judge.
  - Administrative warrants permit civil immigration arrest only (not search).
  - Administrative warrants do *not* authorize forced entry into private spaces without consent. If only an administrative warrant is presented, you may refuse entry.
- Subpoenas are legal documents requiring individuals or entities to provide testimony or evidence. Like warrants, they can be judicial or administrative.
  - **Judicial Subpoenas** – Compels testimony in court, deposition, or the production of evidence.
    - Judicial subpoenas must be complied with; serious consequences (such as contempt of court) for failure to comply.
  - **Administrative Subpoenas** – Requests information, documents, or testimony.
    - No immediate requirement to comply, even if signed by an immigration judge. Penalties for non-compliance may occur only if the agency seeks and obtains a court order for enforcement. Recipients may challenge the subpoena's validity in court.

## Key Differences Amongst Documents Summarized

Document Type	Issued By	Authorizes	Compliance Required?
Judicial Warrant	Federal or state court judge	Immediate arrest, search, or seizure	Yes, always if valid
Administrative Warrant	ICE, CBP, or USCIS	Civil immigration arrest only (NOT search)	Depends (can refuse entry without consent)
Judicial Subpoena	Federal or state court	Compels testimony or records	Yes, always if valid

Immigration  
Subpoena

ICE, CBP, or USCIS

Requests  
information,  
documents,  
testimony

No, unless a court orders  
enforcement  
or

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#### **4. Guidance on what designated officials should do in response to receiving an immigration warrant or immigration subpoena.**

Be mindful to protect foundation employee and/or tenant confidentiality where possible. Tenant privacy should be safeguarded during interactions with law enforcement. Property managers should follow these steps when responding to a request for information or access:

- Request a Copy of the Warrant - Always obtain a physical and/or digital copy before taking any action.
- Verify the Warrant's Scope - Determine whether it is a criminal or administrative warrant and whether it grants law enforcement the right to enter the property.
- Minimize the Disclosure of Information - Only provide what is legally required.

**Avoid Immediate Compliance - Taking a moment to review the request and consult legal counsel can prevent unnecessary disclosures.**

An arrest warrant will not authorize its holders to simply wander otherwise private premises. The warrant must describe with specificity the location to be entered, and those specifics will limit where an ICE agent can go. Even if the warrant authorizes the arrest of an individual, it must explicitly authorize entry into specific private premises including individual offices, the production floor etc., for such entry to occur.

- Employees should be reminded not to waive any rights nor provide consent to any activity beyond that described in the warrant.
- Remember ICE agents must have a valid search warrant or the foundation's consent to enter non-public areas of the workplace even if the foundation itself is under investigation.
- Contact the lawyers: Before answering any of the ICE agent's questions, the designated staff person should first speak with legal counsel. Legal counsel may want to come to the location, if possible, or speak by telephone with the ICE agent.