

Best Practices for Kentucky Nonprofits: **Preparing for and Responding to ICE Enforcement Actions**

****DISCLAIMER: This document does not constitute legal advice. All policies and procedures should be approved by your organization's officers and legal counsel.****

As a nonprofit organization in Kentucky, it's essential to understand your rights and responsibilities during potential Immigration and Customs Enforcement (ICE) actions. The following provides a structured guide to help you prepare to preserve client privacy, promote due process, and respond to interactions with the government:

Before an ICE Enforcement Action:

- 1. Develop an Emergency Response Plan:**
 - Create a comprehensive plan detailing actions to take during an ICE encounter including relevant confidentiality laws (HIPAA, FERPA, etc) that apply to your organization. Ensure all staff are trained on this plan.
- 2. Designate a Liaison:**
 - Appoint a staff member to handle interactions with ICE agents and to communicate with legal counsel.
 - Establish policies with legal counsel to guide interactions with law enforcement, including how to identify law enforcement and evaluate validity of subpoenas and warrants.
- 3. Establish Communication Protocols:**
 - Set up secure communication channels to inform clients and staff about potential ICE activities.
- 4. Reevaluate Data Collection Practices**
 - Nonprofits should avoid collecting or retaining immigration status information unless legally required. This practice minimizes unnecessary data collection and reduces the risk of sharing sensitive information with authorities. By not maintaining such data, organizations can better protect client privacy and uphold trust within the community.
- 5. Designate Public and Private Areas**
 - ICE may enter public areas without a warrant, but they need a signed judicial warrant to access private spaces. Consider clearly marking areas intended for restricted access (like offices, sleeping areas, storage spaces, etc) with signage indicating "Private Area".

During an ICE Enforcement Action:

- 1. Verify Identity and Access:**
 - Request and review the ICE agents' identification and any warrants they present. Remember, agents may not enter nonpublic areas without a judicial warrant.
 - Do not allow ICE agents into nonpublic areas without proper authorization. Escort them to public areas if necessary.
- 2. Exercise the Right to Remain Silent:**
 - Individuals have the right to remain silent and are not obligated to discuss their immigration status with ICE agents.
 - **DO NOT** instruct clients not to speak with ICE. Nonprofits may remind clients of the right to remain silent, but they must not advise individuals to refuse to answer

questions, as this could be construed as obstruction of justice or aiding and abetting a crime.

3. Document the Encounter:

- Record details of the interaction, including names, badge numbers, and any actions taken. If possible, video record the incident, announcing that you are recording.

4. Contact Legal Counsel:

- Immediately inform your organization's legal counsel and provide them with all relevant information.

5. Inform Affected Individuals:

- Notify clients and staff who may be impacted by the ICE action, ensuring they understand their rights and available resources.

QUICK TIPS DURING YOUR INTERACTIONS WITH ICE:

1. Notify Supervisors and Legal Counsel:

- Immediately inform the supervisor about ICE's presence.
- Consult legal counsel for guidance.
- **Say:** "I am not authorized to answer any questions. Please wait until my supervisor arrives."

2. Document Agent Information and Request Warrant. Record if Possible.

- **Say:** *"Please provide your name, badge number, and any warrant you have today. Which law enforcement agency are you with?"*
- Write down badge numbers and agents' names.
- **Say:** "I'm sorry, but we do not consent to searching the facility without a warrant signed by a judge."

3. If they Provide a Warrant, Check:

- Is it an administrative warrant or a judicial warrant? This determines where they can search.
- Is the information correct?
- Is it signed by a judge within the last 14 days?

4. Verify the Judicial Warrant:

- **Check:**
 - Is it signed by a judge?
 - Does it describe the facility/building or name a person to be arrested?
 - Is it dated within the last 14 days?
 - Does it exceed the warrant's scope? (e.g., does it cover non-public areas?)

5. Limit Access with Judicial Warrant:

- **Say:** "You may access only the areas specified in the warrant."

6. No Warrant, No Access:

- **Say:** "Without a warrant, I cannot answer any questions. You cannot enter non-public areas of the facility."

7. Client Rights:

- **Say:** “You have the right to remain silent, to not answer questions, and contact an attorney.”
- DO NOT INSTRUCT THEM TO REFUSE INTERACTIONS WITH ICE.

8. Request Names in Case of Arrests:

- **Say:** “Please provide the names of those you have arrested and where they will be held.”

Frequently Asked Questions

What do I ask ICE to see if they come to my office?

- **Identification:** Request the names, badge numbers, and agency affiliations of the ICE agents present.
- **Warrants:** Ask to see the original or a copy of any warrants they possess. Ensure that any judicial warrants are signed by a judge and specify the areas to be searched.
- **Purpose of Visit:** Inquire about the reason for their visit and the specific individuals or records they are interested in. Do not volunteer information or records outside of their request.

Types of Warrants and What to Request:

- **Administrative Warrants:** Issued by ICE officials, these warrants authorize arrests but do not permit searches. They are not signed by a judge and do not grant the authority to enter nonpublic areas without consent.
- **Judicial Warrants:** Signed by a judge, these warrants authorize arrests and searches. They are more comprehensive and grant broader authority, including entry into nonpublic areas.

What is a public v. private area?

- **Public Areas:** ICE agents may enter public areas without a warrant. However, they cannot detain individuals or access private information in these areas without proper authorization.
- **Private Areas:** ICE agents require a judicial warrant to enter private areas, such as offices or meeting rooms. Without a valid judicial warrant, they do not have the authority to enter these spaces.

How can I designate public and private spaces?

- Public areas (e.g., reception areas) are accessible to ICE agents without a warrant. Private or non-public areas (e.g., offices, sleeping areas, storage rooms, etc) require a valid judicial search or arrest warrant signed by a judge for ICE access.
- Facilities should clearly mark non-public spaces with signs like “Private” or “Non-Public Area.” Consider labeling most of the facility as “Private” if it restricts public access. Post signs outside to inform visitors of entry requirements and hours. Visitors should register with staff before entering.
- If an organization is operating a low/no-barrier access facility, designate spaces like private offices and sleeping areas as “Non-Public.” If access is restricted by key/keycard or locked doors, these areas are likely private, but signage should still be posted to prevent ICE from disregarding staff instructions.
- Staff should explain signage to clients, clarifying that it's for safety, not to create a carceral environment.

How Can I Protect Client Privacy?

- **Data Minimization:** Collect only essential personal information necessary for service provision. Avoid gathering unnecessary details, especially regarding immigration status, unless legally required and only for the legally required time period.
- **Privacy Policy Notification:** Inform clients about the facility's privacy policy upon admission. Clearly outline the types of records maintained, retention periods, and circumstances under which personal information may be disclosed to external entities.

How Can I File A Complaint?

- **Work through your legal counsel:** If you file a complaint against a law enforcement agency, they will likely want to contact your legal counsel first.
- File complaints directly with the agency or report civil liberty violation with the ACLU:
[File a Complaint with ICE](#)
[File a Complaint with CBP](#)
[File a Complaint with the ACLU](#)

Sources:

National Homelessness Law Center. [“ICE Raid Guidance for Homeless Service Providers: What to do Before, During, and After a Raid”](#)

National Immigrant Law Center. [“Health Care Providers and Immigration Enforcement: Know Your Rights. Know Your Patients’ Rights”](#)

Additional Resources:

- [National Immigrant Law Center. Know Your Rights](#)
- [ACLU. Know Your Rights About Talking to People About Their Rights](#)
- **WATCH THIS VIDEO:** wehaverights.us
- **Printable Know Your Rights Cards:** <https://www.ilrc.org/red-cards-tarjetas-rojas>

JUDICIAL WARRANTS v. IMMIGRATION WARRANTS

AD-11 (Rev. 10/99) Search and Seizure Warrant

UNITED STATES DISTRICT 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)

██████████
Davis, California 95616

Case No. _____

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer **211-SN-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.
(Identify the person or describe the property to be searched and give its location).
SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE

The person or property to be searched, described above, is believed to conceal identifying 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. ☐ 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 whose or whose property will be searched or seized check the appropriate box ☐ After _____ 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

City and state: SACRAMENTO, CALIFORNIA

[Signature]
DOMING F. BRENNAN, U.S. MAGISTRATE JUDGE
(Printed name and title)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
WARRANT OF REMOVAL/DEPORTATION

File No: _____
Date: _____

To any immigration officer of the United States Department of Homeland Security:

_____ (Full name of alien)
who entered the United States at _____ on _____ (Place of entry) (Date of entry)
subject to removal/deportation from the United States based upon a final order by:

☐ an immigration judge in exclusion, deportation, or removal proceedings
☐ a 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:

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security 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:

(Signature of immigration officer)

(Title of immigration officer)

Is this the right address?

Is it still current?

Note: only the person, property, & areas specified may be searched

Is it actually signed by a judge?

IF THE ANSWER TO ALL OF THESE IS YES, THEN IT IS LIKELY A VALID JUDICIAL WARRANT

THESE ARE VISUAL CUES THAT THIS IS AN IMMIGRATION WARRANT



**NATIONAL
IMMIGRATION
LAW CENTER**