

OVERVIEW OF BUSINESS ENCOUNTERS WITH IMMIGRATION AGENTS



THE IMMIGRATION SYSTEM

THE DEPARTMENT OF HOMELAND SECURITY

THE DEPARTMENT OF JUSTICE

Departments of the U.S. Citizenship and Immigration Services (“USCIS”):

Immigration and Customs Enforcement- enforcement agency

Customs and Border Patrol

Departments of the Department of Justice

Executive Office for Immigration Review (“EOIR”)

Immigration Judges- hear cases. Administrative agency that can allow credible hearsay into evidence

Board of Immigration Appeals (“BIA”)

IMPORTANT INFORMATION EMPLOYER REQUIREMENTS

Please be aware that this presentation contains general advice but is not specific legal advice.

Specific legal advice should be obtained only through a licensed attorney who handles business immigration issues

Employers must have a completed I-9 form for all new employees.

The I-9 forms must be kept on file for three (3) years after hiring the worker or one(1) year after the last day of work of that employee.

It is important to keep your I-9 forms in a separate location from all other employment and business records.

MORE EMPLOYER REQUIREMENTS

It is not advisable to label employees as independent contractors unless they are truly independent contractors and are not regularly at your business and do not take consistent instructions from you.

Example: A plumber who the business hires for a specific jobs.

I-9 forms must only be completed once unless the employee has work authorization from USCIS and it is about to expire. The forms are available at [USCIS.Gov](https://uscis.gov).

PREPARING FOR AN IMMIGRATION ENCOUNTER



Retain an immigration lawyer now and obtain an assessment of your business.



Prepare your staff and your records.



Your staff should be told NOT to talk to agents or allow entry into non-public spaces, such as kitchens or work areas.



They should be instructed to indicate that the agents must talk to the business owner or manager.



It is urgent that no one lock the front door or allow agents into private areas.




You can also suggest that if they or their family members have concerns that they seek legal advice from an experienced immigration attorney- NOT a Notary or Paralegal.

PREPARING FOR AN IMMIGRATION AGENT ENCOUNTER


Anyone, including immigration agents, can enter a public area.



The tricky part – is what constitutes a “Public Area!” That is what YOUR individual immigration attorney can tell you.



Lobbies? Eating areas? Parking garages or parking lots? Retail areas?



People in public areas still have the right to say nothing.

MORE PREPARATION

Examples of private areas- bathrooms, restaurant kitchens, especially if not visible from the dining areas, dressing rooms.

Consider marking them with signs that say “Private!”
Make sure your employees know that they do not have authority to allow Immigration agents to enter private areas.

Be aware that Immigration agents can only enter private areas if ALLOWED in or if they have a Judicial Warrant signed by a JUDGE- not an Immigration warrant.

If Immigration agents try to enter a private area, tell them they can only enter that area if they have a JUDICIAL WARRANT signed by a Judge.

Immigration or Administrative warrants are not Judicial warrants. They may state “Department of Homeland Security” but are not issued by a Judge.

SUGGESTIONS FOR CONDUCT DURING AN ENCOUNTER

EVERYONE HAS BASIC RIGHTS GUARANTEED BY THE UNITED STATES CONSTITUTION, REGARDLESS OF THEIR IMMIGRATION STATUS, INCLUDING:

- Stay calm. Document how many agents arrive and when, if they have judicial warrants, if they try to talk with people. Are they armed? Are there any police officers with them?
- Do not assist them in questioning or detaining anyone.
- Do not try to block them if they detain someone.
- Read the Judicial warrant, if they have one and document that it is followed.
- Make sure to communicate any contact or attempted contact with an Immigration agent to your local Chamber of Commerce.
- Contact **Illinois Coalition for Immigrant and Refugee Rights**. 855-435-7693



RIGHTS IN PRIVATE PLACES

Protecting Privacy and Property

Judicial Warrant Requirement

Entry into a private space, such as a restricted business area, requires a warrant signed by a judge. Always ask to see the judicial warrant before granting access.

Verify Before You Open

Inspect the warrant by requesting it be shown through a window or delivered through your mailbox or door slot. Never open your door or allow entry without confirming who is requesting access and verifying their purpose.

Educate the employees

Instruct all employees and trusted individuals not to open doors to anyone without confirming their identity and intent. Reinforce the importance of protecting private spaces by adhering to these precautions.

MORE RIGHTS IN PRIVATE PLACES

Know Your Rights: Verify a Judicial Warrant

What to Look for in a Judicial Warrant

A **judicial warrant** must be signed by a judge.

It must clearly specify the **address** and **places to be searched**.

The warrant must also describe any **items to be confiscated**.

Beware of Administrative Warrants

An **administrative warrant** is **not the same** as a judicial warrant.

Administrative warrants are signed by officials other than judges and do not carry the same legal authority for entry.

Key Verification Points

The judicial warrant should identify the **district court** that issued it.

Always ask to see the warrant before allowing anyone entry.

Write down badge numbers, and license plate numbers if anyone tries to force the door open.

I-9 AUDITS

USCIS has the right to audit your I-9 forms.

However, they must give you written notice three business days ahead of time.

They cannot just show up and demand to see your records.

If there are problems with an audit, it is critical that you do not try to handle the issue without an experienced immigration attorney.

THE CHICAGO WELCOMING ORDINANCE

2-173-005 Purpose and intent. The vitality of the City of Chicago (the "City"), one of the most ethnically, racially and religiously diverse cities in the world, where one-out-of-five of the City's residents is an immigrant, has been built on the strength of its immigrant communities. The City Council finds that the cooperation of all persons, both documented citizens and those without documentation status, is essential to achieve the City's goals of protecting life and property, preventing crime and resolving problems. The City Council further finds that assistance from a person, whether documented or not, who is a victim of, or a witness to, a crime is important to promoting the safety of all its residents. The cooperation of the City's immigrant communities is essential to prevent and solve crimes and maintain public order, safety and security in the entire City.



This statute prohibits the police from stopping, arresting, detaining, or making inquiries regarding the immigration status of anyone. The statute prohibits the police from cooperating with any immigration agency except under very specific situations.

ILLINOIS TRUST ACT



The **Illinois TRUST Act** protects immigrant communities by prohibiting local law enforcement from detaining individuals based solely on immigration detainers or administrative warrants. This measure prevents arbitrary detention for immigration purposes, fostering greater security and stability.

Recognizing that State law does not currently grant State or local law enforcement the authority to enforce federal civil immigration laws, it is the intent of the General Assembly that nothing in this Act shall be construed to authorize any law enforcement agency or law enforcement official to enforce federal civil immigration law.