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# COUNTY OF SAN DIEGO OFFICE OF LABOR STANDARDS & ENFORCEMENT

Employer Training: What to Do When ICE Comes to Your Business Rights, Actions, and Resources



www.sandiegocounty.gov/OLSE/





## BEFORE

# What can employers do ahead of time to prepare for ICE enforcement actions?

### Know Your Rights and Responsibilities

- Conduct a self-audit of employee file policies and procedures for privacy and security
- Familiarize yourself with relevant laws
- Educate your team

#### Make a Plan

- Designate staff and management roles
- Designate "private" areas with signage

#### • Prepare Resources

- Emergency contacts and payments permissions
- Links to community support options

#### • Practice the Plan

Staff training exercises



### Types of ICE Enforcement Actions



### I-9 Audits

Always starts with a Notice of Inspection (NOI)

Employers have a 3-day window to respond

### Workplace Raids

Can happen without any prior notice to the employer

May occur with just one officer from just one agency, or many officers from many agencies

## Legal Rights and Prohibitions

For Individuals and Employers



Protection against search and seizure

Amendment

Includes warrant requirements

### 5th Amendment

Right to not act as a witness against oneself (remain silent)

Right to "due process"

before depriving an individual of life, liberty, or property

CA Immigrant
Worker Protection
Act - AB 450

Prohibits "voluntary consent" to enter private areas of business

Requires notice of I-9 audits to employees within 72 hours of NOI

Includes penalties of \$2,000 - \$10,000 per violation

## Understanding

**Warrants and Subpoenas** 



## Subpoenas

U.S. Department of Homeland Security Form I-138

Review and comply as appropriate - focused on documents and information

## **Administrative Warrants**

ICE or DHS Form I-200 or I-205

Authorizes limited activities, such as speaking with key employees, reviewing certain documents, and visiting "public" spaces

# Judicial Warrants

Issued by a Court -Labeled "Federal Arrest" or "Search and Seizure" Warrant

May authorize physical search and seizure

## DURING



# What can employers do while ICE enforcement actions are happening?

- Ask for identification and make sure you understand the purpose of the visit
- Obtain a copy of the warrant or subpoena
- Document everything that happens
- Contact legal and other resources immediately
- Maintain confidentiality
- Comply with AB 450 Immigrant Worker
   Protection Act
- You may decide not to speak on behalf of employees

## AFTER

## What can employers do after ICE enforcement actions?

- Contact your lawyer
- Review documentation (warrant or subpoena) and follow up with any document or information demands
- Process immediate paychecks for employees removed from the worksite - pay emergency contacts if authorized
- Contact family members as appropriate
- Prevent discrimination and retaliation against all employees
- Provide resources to all affected parties food, shelter, legal, mental health, childcare, etc.
- Maintain confidentiality
- Review documentation of the enforcement action and refine action plans if necessary



# Wrap-up: What Can Employers Do?

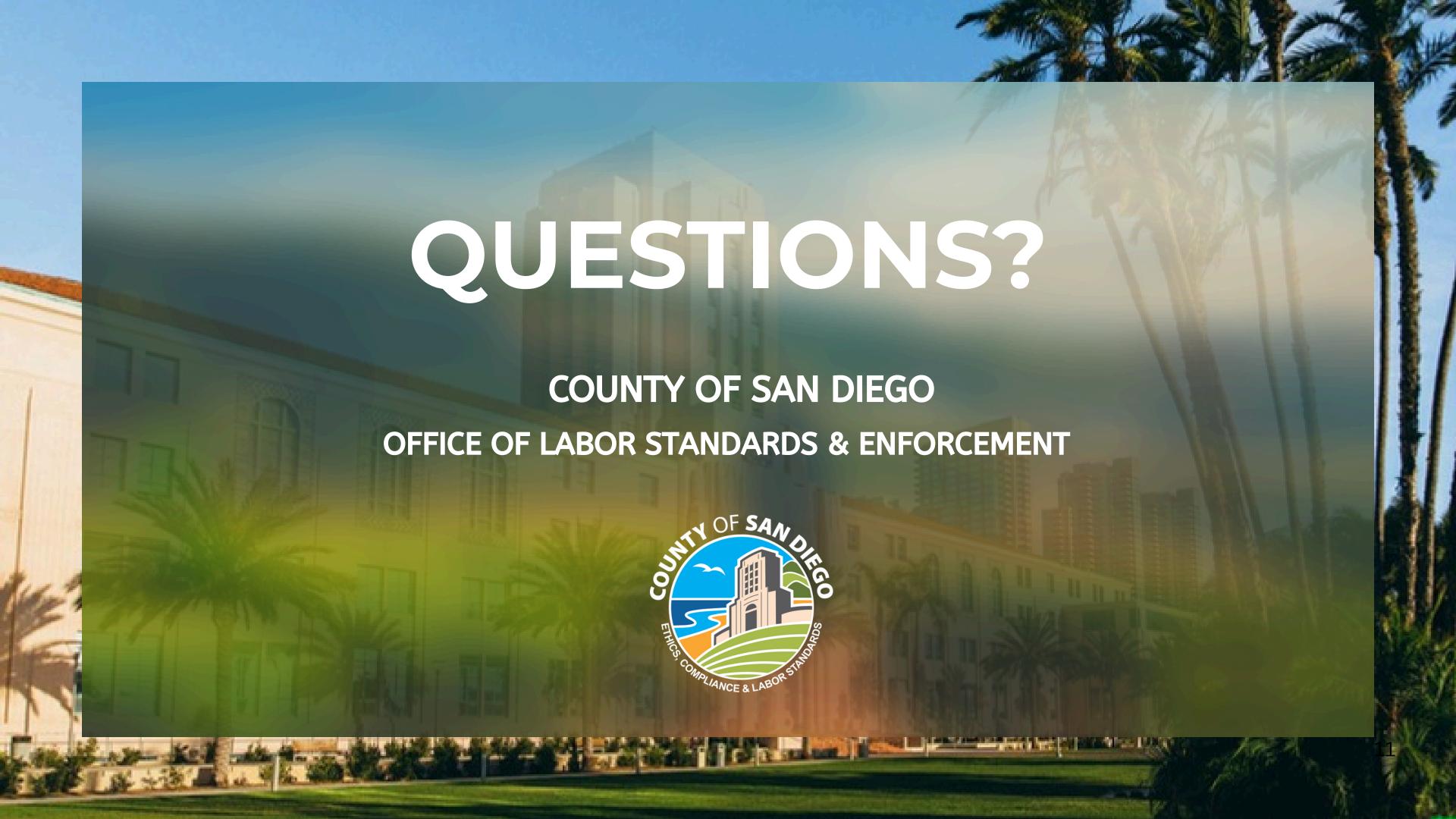


- Cooperate, but do not exceed legal obligations
- Do not allow ICE access to private areas without a judicial warrant
- Prepare, prepare, prepare
- Train front-line staff on protocol
- Maintain confidentiality of employee information

### Wrap-up: Employee Rights and Protections

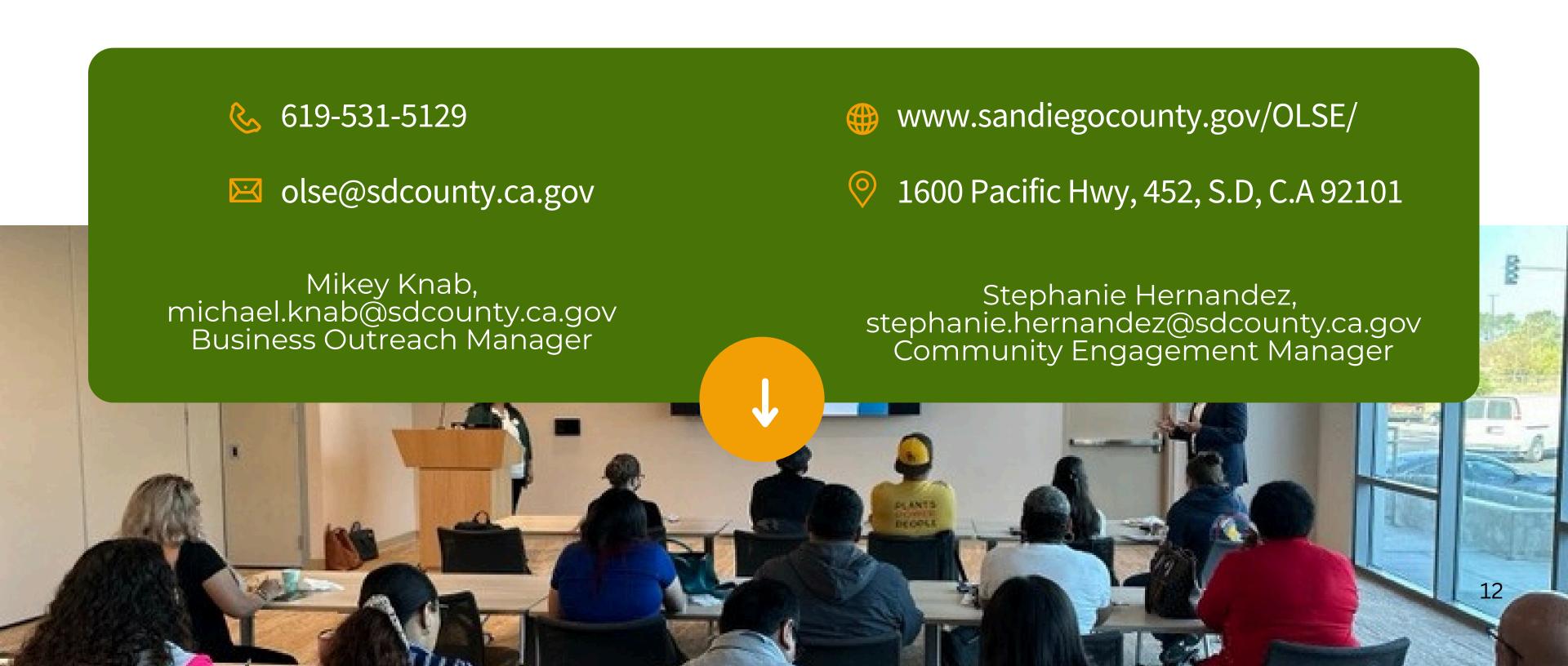
- Know your Constitutional rights including the right to remain silent (5<sup>th</sup> Amendment)
- No obligation to disclose immigration status, Country of origin, or entry into the United States
- Anti-retaliation protections under California and federal law





## Get Connected With Us

### **Contact Information**



# Subpoena

1. To (Name, Address, City, State, Zip Code)	DEPARTMENT OF HOMELAND SECURITY
	IMMIGRATION ENFORCEMENT SUBPOENA to Appear and/or Produce Records 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4
Subpoena Number	
2. In Reference To	
(Title of Proceeding)	(File Number, if Applicable)
By the service of this subpoena upon you, YOU AR	E HEREBY SUMMONED AND REQUIRED TO:
Enforcement (ICE), or U.S. Citizenshi	nd Border Protection (CBP), U.S. Immigration and Customs ip and Immigration Services (USCIS) Official named in Block 3 to testify and give information relating to the matter indicated in
(B) PRODUCE the records (books, paper USCIS Official named in Block 3 at the	e place, date, and time specified.
마을 하는 경험 전에 가는 사람들이 모르면 이 투자를 하는 것이 없을까? 어떻게 되는 것들이 없는 사람들이 되었다. 그런 그는 사람들이 가지 않는 것이 없는 것이 없는 것이 없는 것이다.	ecords is required in connection with an investigation or ion laws. Failure to comply with this subpoena may subject out, as provided by 8 U.S.C. § 1225(d)(4)(B).
2 /A) CDD ICE or HIGGIS Official before whom you are	o mouled to oppose

#### **Check for validity**:

- Addressed to a named individual
- Includes file and subpoena number and date issued
- Lists exact records or testimony requested
- Place, date, and time for production or appearance
- Signed by an ICE officer with subpoena authority

#### **Understand Your Rights and Limits**:

- Not self-enforcing ICE must go to federal court to compel compliance
- You may request more time if the deadline is unreasonable
- Consider how much you are legally required to share - narrow compliance may help protect your company and your employees



# Administrative Warrant

U.S. DEPARTMENT OF HOMELAND SECURITY Warrant for Arrest of Alien

			File	No.	
			Date	4	
To:	Immigration and Nat	cer authorized pursua ionality Act and part i warrants of arrest for	287 of title 8, Cod	e of Federal	
	e determined that there is novable from the United				
(	the execution of a cha	rging document to initia	ate removal procee	dings against the subject;	
	the pendency of ongoi	ing removal proceeding	s against the subje	et;	
Į	the failure to establish	admissibility subseque	nt to deferred insp	action;	
YOU	databases that affirmative information, that the subject of the su	ject either lacks immigration law, and/o immigration law, and/o intarily by the subject to irmatively indicate the tus is removable under to arrest and take into c act, the above-named al	IC Ar Ar Signature of Authorize	E Administra rest Warran  d Immigration Officer)	
		Certificate of S	ervice	Not signed by a jud	dge
hereby o	ertify that the Warrant fo	or Arrest of Alien was s	erved by me at	(Location)	
1		on		, and the contents of th	
	(Name of Alien)	(Dut	e of Service)		
otice we	re read to him or her in t	(Language	langu	ige.	
	Name and Signature of Off	ficer	Name or Number of	f Interpreter (if applicable)	
				Form 8-200 (Rev. 09/16)	

- Issued by ICE or DHS officers, **not judges**, for immigration enforcement under civil law
- Form I-200 (Warrant for Arrest of Alien) and Form I-205 (Warrant of Removal/Deportation)
- Authorizes arrest in public spaces but does not allow entry into private areas without consent
- Unlike court-issued warrants, these warrants cannot compel searches or forced entry
- These have narrower legal scope than criminal/judicial warrants



## Judicial Warrant

In the Master of the Search of  (Briefly describe the property to be structed or behingly the person by some and address)  540 Oak Avenue Devia, California 95616  SEARCH AND SEIZURE W.  To: Any authorized law enforcement officer  An application by a federal law enforcement officer or an altorne of the following person or property located in the EASTERN  (Address) the person or describe the property to be marched and give the focustant:  SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED B.  Read attachments to make ourse they are regarding YOT The person or property to be searched, described above, is believe property to be searched, described above, is believe property to be searched. SEE ATTACHEMENT B. ATTACHED HERETO AND INCORPORATED B.  I find that the affidavit(s), or any recorded testimony, establish property.	2: 1 1 - SW - 0 1 6 1 EFB  for the government requests the search District of CALIFORNIA  Y REFERENCE  and YOUR address, not someone else's, ed to concept fidentify the parson or describe the  Y REFERENCE
To: Any authorized law enforcement officer  An application by a federal law enforcement officer or an altomo of the following person or property located in the EASTERN (Abelify the person or describe the property to be more lead and give the forestent: SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED B  Read attachments to make sure they are regarding YOI The person or property to be searched, described above, is believed by the property to be wirely.  SEE ATTACHEMENT B. ATTACHED HERETO AND INCORPORATED B  I find that the affidavit(s), or any recorded testimony, establish po	2: 1 1 - SW - 0 1 6 1 EFB  for the government requests the search District of CALIFORNIA  Y REFERENCE  and YOUR address, not someone else's, ed to concept fidentify the parson or describe the  Y REFERENCE
An application by a federal law enforcement officer or an attorner of the following person or property located in the	For the government requests the search District of CALIFORNIA  Y REFERENCE  I and YOUR address, not someone else's, ed to conceal fidentify the parson or describe the  Y REFERENCE
An application by a federal law enforcement officer or an attorner of the following person or property located in the	For the government requests the search District of CALIFORNIA  Y REFERENCE  I and YOUR address, not someone else's, ed to conceal fidentify the parson or describe the  Y REFERENCE
The person or property to be searched, described above, is believed property to be switch?  SEE ATTACHEMIT B. ATTACHED HERETO AND INCORPORATED B  I find that the affidavit(s), or any recorded testimony, establish po	od to concest ridentify the primon or describe the
J-0)	obable cause to search and seize the person of Date for warrant, not
YOU ARE COMMANDED to execute this warrant on or before	5-9-2011 to exceed 14 days
() in the daytime 6:00 a.m. to 10 p.m. () at any time in the day established.	or night as I find reasonable cause has been
Unless delayed notice is authorized below, you must give a copy taken to the person from whom, or from whose premises, the property was taken.	
The officer executing this warrant, or an officer present during the inventory as required by law and promptly return this warrant and inventory	
(numr)	
☐ I find that immediate notification may have an adverse result lists of trial), and authorize the officer executing this warrant to detay notice to searched or seized (check the appropriate box) ☐ for	the person who, or whose property, will be
Ountil, the facts justifying th	
Date and time issued: 4-25-2011	Signed by a judge

- Criminal arrest warrant: authorizes arrest of a person for alleged federal crimes, such as illegal reentry or harboring/transporting undocumented immigrants; allows arrest anywhere, including entry into a "private" area without consent
- Criminal search warrant:

  authorizes ICE to search specified
  premises for evidence of
  immigration-related crimes such as
  fraudulent documents, trafficking
  evidence, etc. This warrant must list
  probable cause, specific items to
  be seized, and specific locations



15