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How to Prepare for an ICE Raid on Your Workplace

By Danielle Corcione, Contributing Writer January 21, 2019 02:34 pm EST

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Immigration has been a hot topic of political debate, especially since the 2016 election. As a result of a presidential executive order, the number of U.S. Immigration and Customs Enforcement (ICE) arrests climbed to a three-year high in 2017, prompting some cities and states to declare themselves sanctuaries. Their hope is to protect undocumented immigrants from deportation or prosecution,

despite federal immigration law. While that issue is one for the courts, it's had a real-world impact on small business.

Since 2016, there has been a 650 percent surge in workplace arrests by ICE, according to [Newsweek](#). According to [BuzzFeed News](#), ICE made five times more workplace arrests in 2018 than in 2017. Additionally, the agency conducted more than 5,000 so-called I-9 audits last year.

"Employment audits are part of President Donald Trump's commitment to changing the face of immigration policy in this country," said Rob Wilson, employment trends expert and president of [Employco USA](#). "Businesses need to realize that this administration is taking immigration records very seriously, and if they fail to produce the proper paperwork when questioned, they could face fines or even criminal charges."

The last thing small businesses want to worry about is what to do if one of their employees is arrested. But it happens, and then employers find themselves balancing the rights of the worker with the impact on the workplace and other employees. Before ICE comes knocking on your door, you should be prepared, with a plan for how to react so that you are in compliance but also protecting the rights of those who work for you.

1. Obtain the appropriate documents.

The most important step to protect immigrant employees regards I-9 forms. I-9 forms must be properly created when a worker is first hired, because these forms show that a worker is authorized to work in the country, whether they're a citizen or not.

"Form I-9 is used to verify the identity and ability of people to work in the United States," Wilson said. "Staff should receive training to learn how to legally complete the form, inspect the person's documents (e.g., driver's license) and answer employee questions."

Take bookkeeping seriously, and make sure your workplace is on top of its I-9 records.

2. Maintain your records.

Once you're confident in your bookkeeping, it's time for an outside pair of eyes to inspect them. Employers should periodically coordinate Form I-9 self-audits to be conducted by a neutral and knowledgeable employee or third party.

"These audits will surface deficiencies with the actual Forms I-9 or the process itself," Wilson said. "If problems are discovered, the staff may need additional training."

In 2018, ICE initiated 1,360 such audits at workplaces across the country, so you need to be fully prepared for this event. In addition to reviewing current policies for compliance, the [Society for Human Resource Management \(SHRM\)](#) recommends comparing I-9 forms with payroll information, ensuring hard copies are maintained in a separate file from employees' personnel files, and correcting or replacing the forms if necessary.

3. Have an emergency response plan.

ICE generally arrives unannounced. Such visits can be disruptive to work and customers. Appoint specific staff and backups to that staff to be the point of contact with ICE agents when they arrive. They should escort those officers to a location where they can be comfortable without interfering with staff or customers.

If ICE arrives with an arrest warrant, immigration counsel should be contacted immediately. You should also notify corporate human resources and legal departments. Your employees still have the right to an attorney. Administrative warrants do not give ICE permission to enter a place where a person has an expectation of privacy, but that does not cover places of employment.

If the visit is to conduct an I-9 audit or investigation, be sure to ask for the subpoena. Generally, a business has three days to provide those forms and its related documentation.

Many communities have taken drastic steps to protect undocumented community members against ICE raids. [The Guardian](#) reports that immigrant rights

organization [Juntos](#) has created a "community resistance zone" to teach Philadelphia residents who don't want their neighbors (or themselves and their families) deported how to respond when ICE knocks. Business owners can use this training to prep their employees on what to do in case of inspections and raids.

"Everyone from the receptionist to the HR personnel to the CEO should be ready for possible scenarios where ICE presents a criminal search warrant, administrative arrest warrant or inspection notice," Wilson said. "In some circumstances, the company can deny ICE immediate access to their private property and Forms I-9."



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Danielle Corcione is a freelance writer. To learn more about their work, visit their [website](#). They also run a blog called [the Millennial Freelancer](#) and a newsletter [Rejected Pitches](#).

