

Anatomy of an Immigration Raid

- What happens and why?
- Agents serve search warrant for employer premises supported by affidavit of ICE agent.
 - Warrant should describe the premises to be searched
 - Warrant will describe the types of evidence to be searched for and seized
 - Document description can be and usually is quite expansive. For example:
 - Payroll records
 - Financial records
 - Electronic records – computers
 - I-9 Forms and supporting documentation

Anatomy of an Immigration Raid

- What happens during a raid
 - Agents will secure the premises to ensure that undocumented employees cannot leave
 - Agents will present company with search warrant
 - Agents may ask that employees be placed in one area in order to question them
 - Agents will search through drawers and file cabinets seizing documents and computer-related documents and equipment looking for evidence
 - If the legal status of the employee cannot be shown, the ICE agents can arrest employees and take them to detention centers

Anatomy of an Immigration Raid

- Confirm that this is not an I-9 Audit. If it is an I-9 Audit, the company is entitled to three days' notice
- What the company should do during the raid
 - Contact your attorney
 - Examine the search warrant – send it to your attorney
 - Is it being served in a timely fashion? Correct company name?
 - What is the permissible area to be searched and items to be seized?

Anatomy of an Immigration Raid

- Have one company representative assigned as the main liaison with the agents – usually there will be one Agent in Charge at the site
- Do not interfere with the agents, but try to assign a person(s) to keep track of them and take notes
- Company representatives have no obligation to answer the questions of the agents and can politely decline to answer questions and refer them to the company's attorney
- Company representatives should NOT instruct the employees to not to speak with the agents

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- If asked, company representatives can advise the employees that they have the right to talk to the agents or not talk to the agents
- Do not aid the employees in leaving the premises or providing false information/documentation
- Do not interfere with the search.
- If a filing cabinet is locked, unlock it; agents can and will open it by force
- Obtain an inventory of the items seized and a list of the names of the employees arrested/detained, if any

Anatomy of an Immigration Raid

- The detained employees: Ethical considerations
 - Representation issues - who is the client?
 - Bail issues, if bail is available
 - Contacting families
 - ICE may seek cooperation of arrested employee against company for favorable treatment
 - May be a conflict of interest for company attorney to act as attorney for employees

Follow Up

- Important to meet with employees post-raid to discuss next steps and potential government follow-up (they may come back based on information received from detained employees)
- Based on the information sought, try to determine raid trigger
- Review your Immigration Policy, or draft one if you lack one
- This should include regular I-9 audits

Questions?

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