



KPB Immigration Law Firm

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**Article: Know Your Rights as an Immigrant
Part 1: What to do if confronted by ICE**

By: **Christopher A. Kerosky, Esq.**

There has been a lot of media attention to raids recently implemented by the Trump Administration. Immigration and Customs Enforcement (“ICE”) has increased its efforts to find and deport immigrants and no longer gives any breaks to those who have a clean record or pending applications for a green card. Because the consequences of such encounters are so high, it is extremely important to know your rights in these situations. This article will give a few ideas of your rights when you are confronted by DHS. Part 2 of this article will cover what to do in specific situations if DHS confronts you, such as at work or on the street. Part 3 will discuss what to do if DHS arrests you.

At your house

ICE can enter your home in three situations: (1) if they have a warrant; or (2) if you give them permission; or (3) they think there is presently a crime being committed in your home. If ICE comes to your house and knocks on your door, you do not have to open the door or let them in. Typically, to legally enter your home, ICE must have a search warrant or arrest warrant with your name and address on it. A warrant is an order signed by a judge to search a place and/or arrest a person.

If ICE comes to your home, you should ask to see a warrant. ICE must show you the warrant. If the officials do not have a warrant, you do not have to let them in or speak to them at all. However, if you give them permission to come in, then they can legally enter your home and search it.

The right to remain silent

Whether ICE comes to your house and knocks on your door, enters your workplace, or even questions you in jail, you have the right to remain silent. In other words, you do not have to provide your citizenship information to Immigration Service officials. You can just indicate that you do not want to speak to them.

An immigration official may not request evidence of your immigration status in your home or another private place without a warrant. Even if they have a warrant, you must only provide proof of your immigration status if you are in legal status. After showing evidence of your status, you still have the right to remain silent.

The right to speak to an attorney

Once you have shown evidence of your legal status, if you have it, you do not have to talk to officers further – it is up to you. In most cases, you may be better off remaining silent and talking to a lawyer first, depending on your situation. Immigration law is very complicated. You may have a problem without realizing it. A lawyer can protect your rights, advise you and help you avoid giving answers that might hurt you. If the Immigration Service asks anything about your political and religious beliefs, groups you belong to or contribute to, things you have said, where you have traveled or other questions that do not seem right, you do not have to answer them.

These are fundamental rights that apply to everyone inside the United States. Remember that you cannot be arrested for asserting your rights!

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About the author:

Christopher A. Kerosky of the law firm of KEROSKY PURVES & BOGUE LLP has practiced law since 1984 and has been recognized as one of the top immigration lawyers in Northern California for the last seven years by San Francisco Magazine "Super Lawyers" edition (2006-2012). He graduated from University of California, Berkeley Law School and was a former counsel for the U.S. Department of Justice in Washington D.C.

WARNING: The foregoing is an article discussing legal issues. It is not intended to be a substitute for legal advice. We recommend that you get competent legal advice specific to your case. If you would like such advice from our office, call (415) 777-4445 (San Francisco); (916) 349-2900 (Sacramento), (707) 224-2722 (Napa); (707) 433-2060 (Santa Rosa) or (707) 376-1010 (Ukiah)