

6 Tips for Preparing the Workplace for Immigration Enforcement Actions



1 Understand Foundational Legal Principles

- **Constitutional Protections:** 4th and 5th Amendments apply to all individuals in the U.S., regardless of citizenship status
- **Workplace Privacy:** Most workplaces are private property, but not all areas of the workplace are "non-public"
- **Consent:** CA employers are prohibited from giving consent to enter/search non-public areas of the workplace; employers outside CA may consider voluntarily adopting a policy of non-consent
- **Reminder for Healthcare Employers:** HIPAA and patient privacy protections still apply in interactions with law enforcement. Be careful about even confirming patient presence on premises



2 Consider Behavior & Conduct

- **Employee Conduct:** Stay calm, remain professional, avoid escalation, never get physical, beware of physical response
- **Law Enforcement Tactics:** Officers may use deception or provocation to gain consent - be wary of these tactics and do not consent



3 Understand Public v. Non-Public Distinction

- **Non-Public Space:** authorized personnel only; not open to the public (i.e., copy room that requires badge access)
- **Public Space:** open to the public (i.e., front lobby that anyone may access)
- **Be Careful:** a non-public space may be made public by actual usage



4 Understand the Type of Legal Authority

- **Judicial Warrants:** Arrest, search, and bench warrants issued by a Judge from a Court—each with specific limitations
- **Administrative Warrants:** Issued by the Department of Homeland Security; do not authorize entry or search of non-public areas
- **Subpoenas:** Allow inspection of documents or worksite, or require appearance at court
- **Government Inspections:** Agencies like OSHA, DOL, and FDA may inspect workplaces, often without advance notice



5 Prepare the Workplace/Worksite

- **Physical Setup:** Use signage, lock doors, and require badge access to define non-public areas
- **Language to Use:** Employees should be trained to repeat clear, non-consensual statements like: "We do not consent to a search or your entry into non-public areas of our workplace. You must speak with [Designated Person]."



6 Create an Incident Response Plan

- **Establish Clear Protocols, Including:**
 - Who is authorized to speak to law enforcement or evaluate a warrant
 - How to handle visitors and clients during an incident
 - Post-incident documentation and employee support
- **Initial Contact:** Notify Designated Person and do not voluntarily consent to search or entry
- **Designated Persons:** Assess legal documents (i.e., warrant)
- **Consult with Legal Counsel:** Request assistance developing an Incident Response Plan, drafting a policy, or training employees on your protocol

