

INDIGENOUS RIGHTS DURING ICE ENCOUNTERS

Preston Sanchez,
Attorney,
ACLU of New Mexico



Sophia Genovese,
Managing Attorney,
NM Immigrant Law
Center



OUR GOAL

1. To eliminate any fears about immigration policy enforcement on tribal members.
2. To empower you with information about your constitutional rights during ICE encounters.



RECENT NEWS HEADLINES

"Tribal Nations Urge Citizens to Carry ID as ICE Raids Increase."

"Navajo Nation leaders raise alarm over reports of Indigenous people being questioned and detained during immigration sweeps."

"Trump immigration raids snag U.S. citizens, including Native Americans, raising racial profiling fears."



WHY IT IS IMPORTANT TO KNOW YOUR RIGHTS.

- Executive Orders, Mass deportation, raids, immigration policies and profiling practices.
- Effect on New Mexico's tribal communities.



YOUR RIGHTS AS NATIVE AMERICAN CITIZENS OF THE UNITED STATES

Are Native Americans born in the United States legal citizens of the U.S.? **Yes.**

Can the U.S. deport Native American citizens? **No.**

Can the U.S. arrest Native American citizens for immigration violations? **No.**

Can U.S. immigration agents stop you? **Yes.**



IMMIGRATION ENFORCEMENT BY THE DEPARTMENT OF HOMELAND SECURITY (ICE AND CBP)

What is immigration enforcement, and what agencies are involved? **ICE and CBP, sometimes HSI.**

Why might they stop Native American citizens? **Routine checkpoints or during raids.**

What information are they seeking? **Citizenship/proof of lawful status.**

Where in New Mexico are they likely to be stationed? **I-25 and other CBP checkpoints within 100 miles of the border; ICE conducts operations throughout the state.**

How do I identify ICE from other law enforcement? **It varies. They usually wear "POLICE ICE" shirts. Sometimes, they're in plain clothing.**



YOUR RIGHTS UNDER THE 4TH AMENDMENT

4th – secures your right against *unreasonable searches and seizures* of your person, house, papers, and effects.

How do I assert my right?

"I don't consent to any searches."



YOUR RIGHTS UNDER THE 5TH AMENDMENT

5th – is your right to remain silent. In criminal matters, no person shall be compelled to incriminate him or herself.

How do I assert my right?

"I refuse to answer any of your questions."



TO WAIVE OR ASSERT YOUR RIGHTS?

- Consequences if you choose not to assert your 4th and 5th amendment rights:
 - Self-incrimination;
 - Invasion of privacy by ICE.
- Consequences if you choose to assert your rights.
 - Make ICE agents mad;
 - May take more time to get through.



TIPS FOR DEALING WITH ICE:

1. Be Calm, Cool, Collected:
"With all due respect," "good afternoon."
2. Remain Silent and Avoid Invasive Questions:
 - "I refuse to answer your questions." OR...
 - "I am a U.S. Citizen. I don't want to answer your questions."
3. Refuse consent to searches.
4. Terminate the Encounter as soon as possible:
 - "Am I being detained or am I free to go?"



YOUR RIGHTS AT HOME, AT WORK, AND IN PUBLIC SPACES

If ICE comes to your home...

- **DO NOT OPEN THE DOOR.** ICE will try and tell you they have a warrant. The paper they bring is not enforceable by law and not recognized under the Fourth Amendment (prohibiting unreasonable search and seizure). 99.9% of the time, ICE will not have a properly executed judicial warrant (which contains the signature of a judge, specifying the location and purpose of the search).

- If ICE enters your home (maybe because someone let them in, or the door was unlocked), you have the right to remain silent and ask to speak with an attorney. Note that in New Mexico, there is a requirement to identify yourself by name to law enforcement, but it is not required that you share your immigration status.

If ICE comes to your workplace...

- Have a plan already. Who will talk to ICE? Are staff ready to refuse ICE access to the workplace, and have them wait at the door for a supervisor?

- ICE is only permitted in the public spaces of a business (like a waiting room). A private business owner may ask ICE to leave if they don't have a warrant.

If ICE approaches you in a public space...

- You have the right to remain silent, and the right to ask if you are free to go or if you are being detained. If you are free to go/not being detained, walk away calmly and quickly.

HOW TO SUPPORT INDIGENOUS RELATIVES AND NEIGHBORS

Record ICE activity and notify advocacy groups to investigate the situation. Once verified, advocacy groups will share the information with the community.

- You have the right to record ICE operations so long as you do not impede the operation.
- ICE may try and confiscate your phone. It is recommended that you only have a passcode feature (and not facial ID recognition) to unlock your phone.
- Notify advocacy groups immediately if you suspect ICE activity.

Have a blanket policy of refusing to allow ICE in your workplace, regardless of whether there are any immigrants on staff. Train staff on protocols. Designate a main point of contact (like supervisor on duty) to interface with ICE.



THANK YOU! QUESTIONS?



Scan Here to Access the NM Immigrant
Community Defense Manual



Get in touch!
Preston Sanchez
Email: Psanchez@aclu-nm.org
Office: 505-247-1023

Get in touch!
Sophia Genovese
Email: sgenovese@nmilc.org
Office: 505-247-1023

