

AILA CHAPTERS

WORKPLACE RAIDS ACTION PLAN

A guide to chapter responses during and after
large-scale ICE enforcement activities

For more information, contact reports@aila.org

OVERVIEW

These materials have been designed by AILA National. They are primarily designed as a resource in the case of ICE workplace enforcement actions. ICE conducts other large-scale actions, including targeting persons with final orders of removal (so-called “absconder” or fugitive ops) or those with certain criminal convictions, which may similarly impact your community. These materials could be adapted to use in these other actions to the extent that chapters choose to assist persons impacted by them.

The level of involvement and the comprehensiveness with which you utilize this plan will depend upon a number of factors, including the size and level of organization of your chapter, the amount of preparatory work the chapter has engaged in, the size of the raid, and the remoteness of the detention facilities and immigration courts involved. Many of the suggestions herein should be undertaken pro-actively, setting the stage for a coordinated and intelligent response to an actual raid, when time is of the essence.

Raids-related work calls for activity on several fronts. While AILA members’ most valuable asset is their legal expertise, they do not work in a vacuum. To be truly effective and successful, you will need to be more engaged with community and other support entities to a greater extent than in typical removal-related work. Common themes in large-scale workplace raids include: swift action by ICE, large numbers of persons apprehended and detained, intimidating nature of the raid itself and the panic this injects into impacted families and communities. This plan addresses many of these issues.

Historically, many people apprehended in workplace raids entered without inspection (“EWI”) and have been working without authorization, and many may be unlikely to have any avenue to avoid removal from the US. Regardless of those individuals’ eligibility for relief, they deserve respect, humane treatment, answers to their questions, due process, and an opportunity to make arrangements for their minor children and other family members that they may leave behind in the U.S.

Bear in mind, however, that many of the persons apprehended in these enforcement activities will have a meritorious claim for relief, such as asylum, T or U visas, VAWA, or cancellation of removal. A goal of chapters that respond to workplace raids should be to identify these persons, explain the legal process, including detention and bond procedures, as well as provide referrals or other arrangements for *pro bono* legal representation for the indigent, if desired. Additionally, short of more substantive relief, those who can qualify for voluntary departure may benefit from avoiding an order of removal, thus preserving the opportunity to return lawfully to the U.S. without the ten-year bar that normally accompanies removal. However, one needs to be mindful of the probability that they will be subject to the 3 or 10-year bars or the permanent bar under section 212(a)(9).

These materials do not relate to preventing ICE workplace enforcement actions. Rather, this packet is designed to aid chapters in preparing for possible raids in their area and in acting once a raid has occurred.

This Workplace Raids Action Plan should be reviewed in conjunction with related materials and tools that AILA National has created and assembled. These include:

- ✓ On InfoNet, you will find links to a variety of resources. To get there independently, click on Media/Advocacy Toolkit on the homepage, and then on “Workplace Enforcement Response”.
- ✓ An AILA Chapter ICE Workplace Raid Preparation Plan, which should be reviewed and acted upon now, in advance of any raid possibly occurring in your community;
- ✓ This Workplace Raids Action Plan, which should also be reviewed now, and then consulted closely when a raid occurs.
- ✓ A list of raids resources, with links to documents created by AILA National and by other organizations, in addition to court pleadings and other useful raids-related information. We have gathered them in one place for easy accessibility. As you come across other materials that you feel should be posted, please notify AILA National.
- ✓ On the [Message Center](#), under “Removal, Inadmissibility & Relief/Raids & Workplace Enforcement Actions,” you will find raids-related communications between members. Feel free to start new threads on relevant issues.

Raids-related materials will be updated periodically as new situations and challenges arise, so it will be important for you to consult InfoNet regularly for the most recent versions.

WITHIN THE FIRST 6 HOURS

Assembling Information About the Raid

On occasion, members and local advocates have received advance indication of a raid. For instance, prior to an ICE enforcement action in June 2007 on a Del Monte plant in Portland, Oregon that resulted in 200 apprehensions, ICE transferred a large number of detainees in the nearest large detention center to a remote location and increased the number of enforcement officers, who openly referred to an imminent large-scale operation. Extrapolating from this advance “warning” allowed the Oregon chapter to conduct planning and coordination in advance of the raid.

Barring such advance notice, once you receive initial information about a raid, you should strive to get a more complete picture, even as details continue to emerge. Since these raids are sources of panic in immigrant communities, many rumors and inaccurate/incomplete information circulate quickly. The initial information to try to verify includes:

- ✓ confirming whether the raid(s) occurred;
- ✓ whether the raid was centered on a workplace(s) and which locations;
- ✓ approximate number of persons apprehended;
- ✓ identities of persons apprehended;
- ✓ location of the initial detention (frequently a local facility is used for temporary holding and processing);
- ✓ whether ICE is screening persons for humanitarian releases (single parents/caregivers, people with health issues, etc.);
- ✓ whether ICE has created an 800# for family members to learn if their relatives have been apprehended and where they are detained; and
- ✓ what arrangements are being made for minor children and other involvement by state social services agencies.

Getting the names of those apprehended may not be as easy as it sounds. For instance, simply learning the identities of those detained has proved vexing for advocates in other workplace raids. ICE generally will not release a list. In the New Bedford, Massachusetts raid in March, 2007, the state department of social services was able to pressure ICE for a list but was not allowed to distribute it. In addition, people often work under aliases that may be different from names that ICE has for them, which in turn may be different from the names by which they are known to family and friends.

Also, because of the lack of a central meeting place or phone number initially, family members who will know the identity of their relatives often have difficulty at first providing information on their loved ones. An additional complication occurs when the affected family members also may be undocumented. And, of course, some people will not have family members to vouch for

them. Approaching impacted employers has also proved futile, either because they cite confidentiality, because employee lists often contain aliases for many rather than real names, and/or because employers are sometimes arrested on criminal violations. In Massachusetts, the involvement of the offices of the governor and Senator Kennedy were effective.

Effecting humanitarian release is another challenging issue. In some workplace raids, ICE agents have attempted to identify sole caregivers of children, for possible release pending hearings. Julie Myers, head of ICE, has told advocates that they will make these efforts whenever a raid is expected to net at least 100 persons or a large (unspecified) number of women. However, many parents are not truthful to the agents due to understandable fear that ICE will separate them from the children or target other family members. These parents may – or may not - be more forthcoming with attorneys and legal advocates at the detention centers, depending upon the level of trust they feel with the screener. Attorneys should continue to advocate for more and more liberal humanitarian release policies.

Note that advocates claim in many raids that ICE officials have either withheld information or provided misinformation about such issues as the numbers apprehended and whether detainee transfers out of the area are planned. So, while you should attempt to reach your local ICE contacts, take what they tell you with a grain of salt--many operations are planned and directed from ICE HQ in Washington, D.C., and thus your local field office may not be making the decisions.

The list below contains sources of crucial early information about raids and/or sources of pressure on ICE.

- ✓ Local immigration NGOs;
- ✓ Groups that work with immigrant communities, such as local community-based organizations (CBOs), churches, unions, community-based media (radio and newspaper);
- ✓ Mainstream and ethnic media;
- ✓ Local elected officials and county/state social service agencies; and
- ✓ Consular officials.

Chapter Internal Coordination

It is important that AILA National be contacted early in the process in order to maximize coordination between the chapter and National and also to maximize National's opportunities to assist in the chapter's efforts. Assuming you confirm that a workplace raid has occurred or is occurring, you should:

- ✓ notify the chapter through the chapter listserv or other means;
- ✓ activate the raids coordinator, if your chapter has one, and raids volunteers from your Raids Rapid Response team list and get a sense of their availability in the coming days;
- ✓ set up an internal communications network, including designating individuals as points of contact for outside media inquiries as well as internal chapter responses;

- ✓ make sure that AILA National is included in this network so that it can monitor developments, find ways to assist, etc. Email reports@aila.org and/or utilize the Raids [Message Center](#) on InfoNet (at Removal, Inadmissibility & Relief /Raids & Workplace Enforcement Actions); and

External Coordination

The following steps in coordinating outside of the Chapter should be pursued:

- ✓ Contact local immigration NGOs and local law school immigration clinics to help coordinate their assistance (you may want to explore their anticipated level of involvement, need for training, and ability to recruit interpreters even before any raids occur).
- ✓ Confirm logistics of potential detention center visits (including gaining attorney/paralegal/interpreter access).
- ✓ Contact local groups who serve immigrant communities – churches, labor unions, community newspapers and radio stations, other community organizations. It is important to establish from the start a cooperative working relationship. These are some of the issues to discuss with these groups at a very early stage:
 - Information sharing and collection: Details that they have or can get about the raid(s) and identities of those apprehended can be useful in both the short term (uniting families or dispelling rumors) as well as long term (determining bases for any federal court challenges).
 - Assistance in establishing very quickly (within 12-24 hours) a gathering place for the next few days for impacted families and those released to gather in order to provide and receive information. This could also be a place for attorneys to conduct intake on persons apprehended but released or even family members with concerns who were not detained. This location should be provided by an organization that the community trusts.
 - Assistance in organizing a press conference to occur within the first 24 hours.
 - Assistance in setting up a toll-free phone number and website for the gathering and dissemination of information. The availability of both of these should be disseminated widely. The 800# should be staffed by a knowledgeable Spanish speaker (24/7 if possible) for the first several days. (Your chapter might explore the feasibility of providing both the phone number and website, perhaps through a law firm). Note that the 800# provided by ICE generally will only confirm that an individual with a particular name (often an alias) has been detained, but will not provide information as to location, bond or even if the person already has been removed.
 - Locating interpreters for attorney intakes.
 - Assistance in planning a community meeting for affected families to impart legal information, answer questions, and share knowledge of details of the raid(s). This could take place at the gathering place mentioned above.

- ✓ Contact others who can assist and/or apply pressure to ICE. This would include consulates (including possibly gaining access to detention centers), elected leaders, and mainstream media.

WITHIN THE FIRST 24 HOURS

Continue to pursue all of the above, plus:

Arrange for Detention Center Visits

Time could well be of the essence here. Frequently, persons are held locally for only about 24 hours or so before being transferred to a distant location.

Why Is It Important to Visit Detainees Early?

- ✓ To impart legal information to detainees and answer their questions (note that many will be frightened and confused about their rights, their detention, and the consequences for their families);
- ✓ To answer questions and advise about signing or declining to sign any documents (such as stipulated orders of removal or requests for voluntary return, also known as administrative voluntary departure) presented by ICE to unrepresented aliens;
- ✓ To identify any of those who are who may be lawfully present nonimmigrant aliens, LPRs, U.S. citizens, as well as those properly in removal proceedings with potential claims for relief;
- ✓ To identify candidates for humanitarian relief, such as sole-caregivers who did not self-identify to ICE during the raid, and persons with medical conditions, mental health issues, or other humanitarian factors; and
- ✓ To obtain information relating to possible legal (federal court) challenges.

Where Are People Being Detained?

The first step is to find out where detainees are being held initially. It might be in your local facility. In other raids, however, ICE has utilized other facilities not normally used for immigration detainees. In the Swift raids, for instance, ICE used a de-commissioned military facility in Iowa, and shipped detainees from three states there for processing, before transferring them to Georgia. The “local” facility in your area may not be near the location of the raid or nearest major city. Utilize your ICE contact or call the ICE field office director (FOD) or a supervisory deportation officer to try to get this information. Family members may have received collect calls from detainees who might know the location of the facility. AILA National can also utilize its contacts at ICE HQ; request this from us. Also, lists of detention facilities are provided on InfoNet, under Media/Advocacy Tools.

Bear in mind also that women and men likely will be in different facilities. Further complicating matters is that Salvadoran nationals may be held separately, particularly if and when non-Salvadorans are transferred out of the local area. This is the result of a federal court injunction

from the 1990s and still in effect. In addition, unaccompanied children are sometimes apprehended at worksites or in collateral actions. ICE is legally required to transfer custody of these children to the Office of Refugee Resettlement (ORR) of the Department of Health and Human Services. ORR will usually remove them to another region. Advocacy should be attempted to prevent this. This is discussed in more detail below.

How Do We Gain Access to the Detention Facilities?

If you learn where people are detained, it is important to contact a senior official at the facility early to learn of their access procedures for representatives (and for families). You can also ask this question of your local ICE staff but they may not have accurate information about this nor influence over the facilities' access hours and policies. Members should advocate for liberal, unrestricted access and policies, and keep notes on all unreasonable restrictions. Questions to ask are listed below.

- ✓ Address and directions;
- ✓ Times for attorney access;
- ✓ Limits on the number of attorneys—or detainees—allowed at a time;
- ✓ Attorney access requirements, such as bar cards or G-28s for people you will want to see. Note that, although some facilities will indicate that a signed G-28 or specific name is necessary, this is an unreasonable limitation on access to counsel. Contact AILA National immediately if access is restricted in this way;
- ✓ Access for support personnel, such as paralegals, law students, interpreters;
- ✓ Availability of a large space (e.g. the cafeteria or outside exercise area in decent weather) for Know-Your-Rights group presentations, as well as any facility limitations on such presentations; and
- ✓ Availability of small rooms or private areas for individual screening.

What Do We Do if We Cannot Gain Access to Detention Facilities?

In some raids, ICE did not allow attorney access, reportedly because of the agency's need to transfer detainees to remote locations quickly. On other occasions, visits were extremely limited in time, not enough to conduct adequate interviews. This is difficult and, again, be sure to document all policies in this regard. We know of three non-lawyer groups who have gained access to detainees well before local attorneys. You should seek these out in your area if you have trouble gaining access:

- ✓ Domestic violence groups. During the Iowa Swift raid in December, 2006, the Iowa Coalition against Domestic Violence gained access to female detainees in order to determine their potential eligibility such as for T and U visas. We believe ICE allowed access because of females' special legal rights for these visas (though, of course, males are also eligible for these visas). This had the effect of slowing down ICE's process to transfer them to Georgia facilities. These groups distributed cards for the local immigration NGO to the women they screened, who later passed them on to the males in

the facility. Many of them later called the NGO. The Iowa group has stressed that its prior, on-going relationship with local ICE was extremely valuable in its gaining access.

- ✓ Consular officials. Under the Vienna Convention, consular officials have the right of access to their nationals who are arrested or detained, at the request of the detainees. Consular interests include verifying that these persons truly are nationals, helping to notify family back home should the detainees be removed, and we believe also to explore possible violations by ICE of immigration laws and poor detention conditions. In the Portland, OR raid in June 2007, a group of three attorneys gained access to the detainees by going with the consular representatives, in order to conduct screenings for possible bond redetermination hearings. In some raid situations, Mexican consular officials in one office have coordinated with officials in a different office after detainees were transferred long distances. Be aware that many asylum-seekers will understandably be fearful of talking with, or being identified by, the consulate of their country of origin.
- ✓ Social workers. As discussed above, Massachusetts department of social services gained access in the New Bedford raid, we believe primarily to identify other sole care-givers and to provide other information. The level of trust by detainees varied, with some seeing the social workers as an extension of ICE.

What Do We Do Once We Gain Access to Detention Facilities?

The level of chapter involvement in the facility depends, as discussed, on limitations of space and time as well as time and access restrictions imposed by ICE or facility staff. It will also depend on how many members are able to volunteer (based in part on how far away the facility is from major cities) and how much involvement one can muster from others, such as immigration NGOs, law professors and students, paralegals, and interpreters. Ideally, you will:

- ✓ conduct group Know-Your-Rights (KYR) legal orientation sessions; note that your local NGO may routinely conduct KYR presentations; rely heavily on them to take the lead on these since these sessions call on both substantive and communications expertise.
- ✓ conduct individualized screenings, immediately after KYR presentations, with those persons who self-identify as being U.S. citizens or LPRs, those who might have some relief, and those having questions. Bear in mind that you may not have the personnel or time to conduct more than cursory intakes. In that event, you should confine your questions to the essential elements. Sample intake forms are on the [Resources](#) page.

Another thing to be prepared for is the real possibility that detainees, understandably, will be as or more interested in asking questions pertaining to the well-being of their families. This includes wanting to know how they can make arrangements for the care of their U.S. citizen children in the event of their removal from the U.S. and whether and how they should bring their children with them. Though you are an attorney, there to conduct a legal rights intake, you must be prepared to address some of these issues. [Forms and information](#) on this can be found on the Resources page. At the very least, take down relevant information and questions and pass this information on to community organizations who can assist.

What Issues Beyond Relief from Removal Should We Explore?

Given available time, chapters should ask questions designed to elicit information relating to possible legal challenges to government action during and after raids. Exploration of these areas does not assume that ICE or other government officials have taken part in such actions. But questions regarding these topics constitute appropriately zealous legal work.

Possible legal actions include:

- ✓ Suppression motions for information wrongfully obtained;
- ✓ *Habeas* actions;
- ✓ Other injunctive relief;
- ✓ *Bivens* actions, brought against federal officials in their private capacity for violations of constitutional rights;
- ✓ Federal Tort Claims Act actions against the U.S. for torts committed by federal officials; and
- ✓ Section 1983 actions against state employees (usually not federal also) for violations of federal rights.

Gather this information by:

- ✓ Conducting individual case screening of detainees in the detention centers and with those released/bonded out;
- ✓ Being observant in the detention facilities (such as detention conditions and actions of detention center staff);
- ✓ Having discussions with family members and other community members; and
- ✓ Having discussions with media and others who have observed and gathered information.

Areas of inquiry are manifold but include:

- ✓ detainee transfers and notice (or lack of notice to G-28 attorney and/or family);
- ✓ conditions during the raid and during transfers, such as what the detainee was asked and in what language, length of time handcuffed or shackled, length of time before food or water provided, access to toilet facilities, denial of sleep, demeaning or degrading comments or treatment;
- ✓ restrictions or refusals on attorney/paralegal/law student/interpreter access in detention; get a specific reason for refusal;
- ✓ phone problems in detention centers, including lack of or restricted access, non-working phones, wrong or non-existent phone numbers for local consulates, UNHCR, and local NGOs;

- ✓ other concerns about detention conditions, e.g., denials or obstacles in obtaining medical care and obstacles to visitation by family members. Note that there is an ABA [summary of ICE detention standards](#) on the Detention Watch Network website;
- ✓ use of stipulated orders and administrative voluntary departure orders, and level of ICE coercion involved;
- ✓ attempts to obtain information from ICE (local or national) and success in doing so;
- ✓ Involvement of local and state law enforcement
- ✓ ICE coordination and communication with other state agencies (Social Services, etc.);
- ✓ treatment during arrest and during transport to facilities;
- ✓ indications of racial profiling regarding the raid(s);
- ✓ ICE actions relating to humanitarian release and advocates' efforts to obtain humanitarian release and results; and
- ✓ potential 4th Amendment and due process violations.

What Else Should We Keep in Mind While Meeting with Detainees?

All the cardinal rules of conducting immigration intake, such as identifying yourself—and the limits of your representation—and stressing confidentiality, should be followed. Some other considerations, unique to this situation, include:

- ✓ If you are under time constraints, make that clear at the outset, by saying how much or little time you have and why.
- ✓ Be direct and realistic with detainees about their chances of avoiding removal (to the extent that you have enough information to assess this), eligibility for bond, and, where appropriate, the advisability of seeking voluntary departure.
- ✓ Ask about the detainee's children and other U.S.-based family members. They may need assistance in ensuring adequate care-giving and you can pass this information on to the appropriate group. Also, they may have been too fearful to self-identify as parents to ICE agents. This might also enable them to gain humanitarian release, pending a hearing. Merely asking about their children or other family members can help to foster trust so that your meeting elicits more complete and accurate information on a full range of topics.
- ✓ Have a questionnaire to hand out to detainees beyond the immediate issues of bond and relief from removal for them to fill out in writing later if you are pressed for time in the facility.

What Should We Bring with Us to the Detention Facilities?

- ✓ ___ This Raids Action Plan;
- ✓ ___ Bar cards, business cards, and/or attorney registration for all attorneys attempting to enter;

- ✓ ___ Photo IDs for everyone attempting to enter;
- ✓ ___ List of detainees and A numbers, if available;
- ✓ ___ Know Your Rights materials/outline;
- ✓ ___ Intake screening forms;
- ✓ ___ Income screening forms if referrals are to be based on need (obtain from local immigration NGO);
- ✓ ___ List of local “Free Legal Services” providers and pro bono referral list (EOIR version or other version adapted to suit the current situation)
- ✓ ___ G-28 blank forms (for obtaining signatures, if necessary);
- ✓ ___ Waiver (to facilitate transfer of confidential information and documents to other attorneys);
- ✓ ___ Business cards, to hand out;
- ✓ ___ Multiple copies of Know Your Rights in Detention or other handout materials;
- ✓ ___ Cell phone (if allowed—note that many facilities will not allow cellular technology inside) and relevant ICE, NGO, and AILA chapter and national phone numbers; and
- ✓ ___ Materials regarding detention conditions and ICE detention standards.

Other Advocacy and Coordination

- ✓ Contact affected labor union(s). In some other raid situations, the union local has collaborated with experienced immigration attorneys to meet with and inform those apprehended. You might try to contact the relevant union(s) in your area that represents those apprehended to learn of their plans in this regard. Assuming they worked with qualified and diligent lawyers, this would enable your chapter to play more of a support role.
- ✓ Maintain contact with local ICE and keep an open flow of information. The purpose is to continue to push for: humanitarian and otherwise liberal release, no transfers to remote locations, no stipulated orders, and assistance in gaining access to the detention facilities, if necessary. It is important to push ICE for the early creation of an 800# that allows families to determine the detention and location of loved ones. ICE has done this in some raids, but not in others. It also may be fruitful to push for an agreement from local ICE that it will not present stipulated orders of removal prior to detainees’ access to counsel. Such an agreement was reached in the Portland Del Monte raid after a meeting with local ICE very soon after the raid. In other cases, such as the Swift raids, many stipulated removal orders were vacated and detainees placed in full removal proceedings where AILA members raised concerns about duress or otherwise challenged the fairness of the orders.
- ✓ Contact your local immigration court. Inform the court of your intention to screen those apprehended in the raid and potential willingness to represent some of those in court, at master calendar hearings, bond hearings, and perhaps merits hearings. Also inform the court of any challenges you may be facing in getting full and prompt access to the

detainees and ask that judges not sign stipulated orders of removal. If large numbers of individuals are involved, you may also want to coordinate scheduling of bond hearings with the court administrator.

AFTER THE FIRST 24 HOURS

A major factor in the nature and amount of work for chapters to provide in a sustained effort beyond the first day or so depends, in large part, on the locations both of where detainees are held and/or later transferred and the court assigned to conduct the hearings. Ideally, detainees would be released in large numbers or remain detained in facilities near urban areas, where AILA members and other advocates tend to be located. However, recent trends show that ICE is more likely to adopt an across-the-board no bond policy, and otherwise vigorously challenge bond determinations on identity issues, if the detention and court are in a remote area. This makes logistics quite difficult and naturally impairs the ability of members and legal and community advocates to meet with detainees and make court appearances.

Frequently, persons are held locally for only about 24 hours and then transferred out of state altogether. Midwest detainees from the Swift raid were transferred to Georgia and Texas. Massachusetts detainees from the New Bedford raid were transferred to Texas. A court in that area will handle the hearings for these individuals (though the initial court typically retains jurisdiction over those who were never detained and those released prior to detainee transfer). In this event, coordination with an AILA Chapter and advocates in that location will be crucial. However, the remoteness of many detention centers tends to make this coordination difficult, at best.

Ultimately, each chapter will need to decide for itself, based on the need, the level of *pro bono* representation that it can provide. The goal should be for every person with a meritorious claim for relief, including voluntary departure, to have representation. Chapters will need to coordinate closely with local immigration NGOs in this regard.

Note that an NTA need not have been filed with a particular court for you to request a bond hearing. ICE custody is the threshold requirement to request a hearing on bond, and requests should be initiated as soon as detainees are identified. Note that EOIR has taken the position that blanket or “John Doe” motions will be rejected; however these issues are being raised in both litigation and liaison.

If Detainees Are NOT Transferred to Remote Locations

Detention, Release, and Bond

As discussed above, ICE has been more diligent in identifying and releasing under orders of supervision sole care-givers and others on humanitarian grounds. However, efforts should be made at detention center visits to try to identify others who did not self-identify to ICE officials.

In detention center visits, it will be vital to screen detainees for possible bond reduction. ICE typically sets bond at “no bond” or a high amount with the expectation that a request will be made to an immigration judge to lower it.

Sometimes, bond hearings are held quickly, and at other times, not until a couple of weeks after the raid. Often, the court will try to telescope bond re-determination hearings into a short space of time. In the Colorado raid, the court conducted 55 bond hearings in two days. Bond hearings were on a special bond docket, similar to a detained master calendar hearing docket. The attorneys involved worked together with ICE, the chief counsel’s office, and the court. They were able to work out voluntary departure without safeguards and bonds in the \$1,500-\$5,000 range from the earlier higher amounts. “Own recognizance” releases also were obtained for humanitarian cases that were not previously identified.

In the aftermath of the Portland raid, attorneys who gained access to the facility for general and bond screening were careful not to “solicit” but, rather, to offer pro bono representation for the bond hearings if desired. They entered G-28s for everyone who requested bond help, filed motions for bond hearings, and interviewed detainees around the clock. One issue that chapters and individual members will need to consider, of course, is whether to G-28s for large numbers of bond hearings in courts that do not allow limited representation.

Chapters should assemble bond information specific to your ICE district and state - such as the street address to go to and whether bail bonds or only appearance bonds are allowed - and make that available in written form (in English and Spanish) to detainees and family members. Typically, only postal money orders or certified funds are accepted. Note that, generally, obligors must be U.S. citizens or permanent residents, as IBIS checks are run on obligors. Many localities require proof of issuance of a valid social security number (such as the actual card) from an obligor. Those released on an order of supervision are often required to wear an electronic monitoring device (EMD), such as an ankle bracelet, and possibly be subject to regular home visits or reporting in to a local office. Detainees and family members should be informed of this possibility.

After the New Bedford raids, a wealthy entrepreneur in the Boston area volunteered to post bond money, on a matching basis with family members, for all those eligible for bond. He also funded a one-year staff position at the PAIR Project, a Boston immigration NGO. Obviously, if AILA knows of any individuals (or firms) willing to demonstrate such generosity and kindness, this should be pursued.

Be aware that a detainee is entitled to an initial bond review immediately upon detention, regardless of the filing of the NTA. If the bond matter is complex, taking the time to develop a complete record may outweigh concerns of speed. If an initial bond determination already has been made, a written motion, showing changed circumstances or new information, must be granted to request redetermination before the immigration judge.

Removal Charges and Master Calendar Hearings

Attorneys should meet early with ICE District Counsel to urge prosecutorial discretion for large numbers of those apprehended. This argument urges that ICE not charge persons who have outstanding equities, such as contributions to the community and lack of any criminal records. It is not known whether such efforts have been successful in the raids context.

Stipulated orders of removal that were signed prior to detainees' access to counsel should be challenged, if appropriate (for example, if the order appears to have been signed under duress, or was inappropriately executed because the person clearly has eligibility for relief). Bear in mind, however, that some detainees prefer to sign these orders in order to effect prompt removal and minimize time in detention rather than go through a prolonged court process. Attorneys should honor these informed decisions, but take care to advise these individuals that they might obtain the same result—a quick exit—by requesting voluntary return, without the stigma of a removal order.

Other Legal Issues

ICE has referred some persons apprehended in raids to the Department of Justice for potential of criminal prosecution. Persons who are referred are put into the custody of the U.S. Marshall. Common charges include re-entry after a prior removal and identity theft. The Federal Public Defender in the district should be notified of any referrals in order to ensure prompt representation of these individuals. The chapter should make sure that both Federal and/or State Public Defenders have the resources to advise defendants as to the immigration consequences of any criminal charges or pleas. For example, in the wake of the Swift raids, many aliens charged with identity theft-related crimes were limited to certain plea bargains which rendered them aggravated felons, and barred them from many forms of relief.

On occasion, unaccompanied juveniles are apprehended along with adults at the worksite. Under federal law, ICE must transfer custody of them to the Office of Refugee Resettlement (ORR) of the Department of Health and Human Services. In the Portland raid, two or three unaccompanied juveniles, ages 16 and 17, were detained and potentially abusive treatment by ICE was alleged. For instance, one child was handcuffed all day until he was chained around the waist and feet for transport and also was asked to sign paperwork that he did not understand. All juveniles in that raid were transferred by ORR to a facility in Texas, but the local AILA chapter was able to get them returned to the Northwest.

One should be aware of potential labor law issues. Under former OI 287.3a, legacy INS was required to be cautious if enforcement actions might involve INS in a labor dispute, for instance, coordinating with DOL to ensure that no crucial witnesses were removed and taking into consideration whether information provided is intended to interfere with workers' rights. Del Monte, the focus of the Portland raid in June 2007, had lost a class action suit for workplace violations the previous year. Advocates looked into the implications. In addition to reviewing current law and policy in this area if labor issues may be present, attorneys should obtain a copy of ICE's warrant and supporting declarations. These should be available from the court clerk or through the website PACER.

Research and consideration of federal litigation, such as Bivens and FTCA actions, should continue on a parallel track to removal work. Despite the lack of success of these actions so far, where treatment during and after the raid was abusive and/or where conditions of confinement are inhumane, various federal actions should be contemplated. At a minimum, documenting such claims for media attention is well worth the effort.

Habeas actions, which would usually precede other litigation, present special challenges. Names (not aliases) and signatures are needed for any pleadings and this is often difficult when

detention access is restricted or real names are not known. In the New Bedford raid, the initial habeas was filed under the name of the Guatemalan consul. Once attorneys obtained names and signatures, these individuals were substituted.

Other Advocacy

The focus of much raid-related activity after the first few days understandably shifts to removal issues (detainee intakes, bond and master calendar hearings, and the like). However, it is important to continue to pursue the community and non-legal aspects of the effort as well. In some cities, groups have developed and released updated information on the raid in their community on a daily basis. This has been useful for families impacted directly by the raids as well as for the mainstream and community media. Be sure to contact the Communications Department at AILA National for assistance or advice in developing new material for the media and for other strategizing in this area.

In addition, relations with elected local and Congressional officials may remain vital if decisions remain to be made on the transfer or release of detainees, to counteract any mis-information by ICE or DHS, and if issues related to immigrant children arise. Statements issued by these individuals could be effective in favorable results.

If Detainees ARE Transferred to Remote Locations

Frequently, persons are held locally for only about 24 hours before transfer, sometimes before bond hearings. If detainees are transferred out of state, which occurs following many raids, a court in that area will handle the hearings for these individuals. In this event, coordination with an AILA Chapter and advocates in that location will be crucial. However, the remoteness of many detention centers tends to make this coordination difficult, at best.

Thus far, advocacy and litigation efforts to prevent ICE from transferring detainees, whether in the raids context or general removal context, have been mixed. Nevertheless, chapters should continue these efforts on both fronts since the transfer of detainees to such remote locations often have the effective impact of denial of legal representation.

Attorneys should create a spreadsheet with basic information on each detainee – name (and aliases), A#, phone, whether legal representation, whether outstanding orders of removal, criminal history or potential pending charges, etc. – so that this can be relayed to attorneys in the transferred location (with waivers having been signed by detainees during intake).

In the Portland raid, detainees were put in a detention center in Tacoma, near Seattle. Close coordination between the Oregon and Washington State chapters, and corresponding NGOs and other advocates, allowed for a seamless transfer of responsibility from Portland attorneys to Seattle-area attorneys.