

SEARCH WARRANTS | SUBPOENAS | INTERVIEWS

Guidelines For Employees Dealing With Law Enforcement Agencies

SEARCH WARRANTS

Do not obstruct or interfere with the search and never attempt to stop the agents from entering the office.

1. Verify the Agent's Identity and Get a Copy of the Search Warrant

You have the right to examine the agent's credentials and agents are required to produce a copy of the search warrant.

- Ask to see the agent's credentials, record their names and respective agencies, and obtain a copy of the search warrant.

2. Call In-House Counsel or Designated Outside Attorneys Immediately

If government agents appear at the office with a search warrant:

- Immediately contact the company's in-house counsel or designated outside attorneys.
- Ask the agents to wait for legal counsel to arrive before conducting the search. If they refuse to do so, then do not prevent or interfere with their search.

3. Do Not Consent to a Search of the Premises

- Do not make any statement that indicates your consent to or approval of the search being executed.
- Do not sign any form seeking consent to search the office.
- If the agents ask for your consent to search, inform the agents that you are not authorized to consent to the search and ask them to direct this issue to legal counsel.

4. Monitor the Search of Your Work Area

- The agents are authorized to search only the areas specified in the warrant and to seize only the items listed in the warrant.
- Make notes of anything taken by agents and any comments they make during the search.
- If you believe an agent is exceeding the scope of the search warrant, memorialize this in writing and provide it to legal counsel.

5. Request Copies of Essential Documents

If documents necessary to the continued operation of the business are seized by agents, notify the agents and legal counsel so that a request for copies can be made prior to the removal of such documents from the office.

6. Obtain an Inventory of Items Seized From the Office

At the end of the search, the agents are required to provide an inventory of the items seized. Request a copy of this inventory from the agents before they depart the premises.

7. A Search Warrant Does Not Authorize Interviews of Employees

If an agent asks any employee during the search to identify the location of certain documents or materials, you may identify those locations. Please note:

- A search warrant does not authorize an agent to interview any employee about their work or the business.
- Employees have the absolute right to refuse to be interviewed by the agents and the right to confer with an attorney. It is the employee's right to decide.

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GOVERNMENT SUBPOENAS

1. Immediately Notify Legal Counsel

Upon receipt of a subpoena from a government agency, whether it is a law enforcement or regulatory authority, immediately notify the company's in-house counsel or designated outside legal counsel of the subpoena and provide the subpoena for their review.

2. Do Not Engage/Speak to the Individual Serving the Subpoena

Upon receipt of the subpoena, do not engage the individual serving the subpoena in any discussions about the nature of the subpoena or any other matter relating to the company's business.

3. Issue a Litigation Hold Notice ASAP

- Make sure to issue a litigation hold notice to all employees with access to potentially responsive documents.
- Do not destroy, delete or modify documents in the company's possession or create documents because of the subpoena. Destruction of responsive materials or the creation of backdated or forged documents could subject individuals or the entity to obstruction of justice and related charges.
- Make sure that the company's IT department is on notice and involved in the document preservation efforts.

GOVERNMENT INTERVIEWS

1. Interviews are Strictly Voluntary

- The decision whether to be interviewed by a federal agent is yours alone, and you have the absolute right to refuse to speak to any law enforcement officer or agent.
- Do not instruct any other employee either to answer or refuse to answer questions from any law enforcement agent or officer.

2. You Have the Right to Confer With an Attorney

- You have the absolute right to confer with an attorney before being interviewed by any law enforcement agent or officer.
- You have the right to postpone an interview in order to meet with a lawyer.
- The right to legal counsel applies to everyone, even if you are being interviewed as a witness or for general information.

3. A Lawyer Can Help and Will be Available

It is recommended that you talk to a lawyer before making a decision about speaking to any law enforcement agent or officer.

- A lawyer can help ensure that you understand your rights, that proper procedures are followed by the agents and that you are treated fairly.
- If you decide to be interviewed, a lawyer can ensure the interview takes place at a convenient time and location.

- If you wish to engage a lawyer upon a request for an interview, contact the company's legal counsel immediately as the company may be willing to pay for legal counsel for any employees under applicable law.

4. Conduct of Government Agents

It is possible that government agents or other representatives may try to discourage employees from exercising their rights or even threaten them for doing so. Such conduct is completely improper.

5. Always Answer Truthfully

- If you elect to be interviewed, with or without the assistance of a lawyer, any answers you provide must be truthful and complete.
- Do not guess or speculate on matters that you do not have specific personal knowledge of the facts.

6. Notify Your Supervisor or Company Counsel of Any Requested Interview

Always notify your direct supervisor or company legal counsel of any interview requests that you receive.



*Stradley Ronon Partner **Michael Engle** focuses his practice on white-collar criminal defense, internal investigations and corporate compliance. He represents clients in state and federal criminal cases, complex white-collar defense matters, internal or parallel investigations, as well as select civil litigation matters typically involving the defense of qui tam/False Claims*

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