



Know Your Rights

Massachusetts Immigrant and Refugee Advocacy Coalition

About MIRA:



Programs:

- Advocacy and organizing
- Citizenship application assistance
- Civic engagement

Our vision is a Commonwealth – and a nation – where *all* can thrive, no matter where they came from or how they got here, and *all* can fully participate in their community's social, economic, and civic life.





Quick Overview of Immigration Enforcement

The Immigration System: Department of Homeland Security



Immigration & Customs Enforcement

Immigration
Police /
Enforcement,
Detention &
Deportation,
representing the
DHS in
immigration
proceedings

Customs & Border Protection

Enforcement at
the border and
within 100 miles
of the border,
checkpoints, and
ports of entries

U.S. Citizenship & Immigration Services

Adjudicates
petitions for
immigration
benefits (asylum,
green cards,
citizenship, special
visas)

How People May Come into Contact with Immigration Enforcement



U.S. Citizenship
and Immigration
Services

- Contact with the criminal system
- Applying for a benefit at USCIS, while having a removal order or criminal charge
- Green card holders returning from travel
- Raids & targeted enforcement
- Other limited circumstances



Reasons for Deportation



Lack of lawful status

Criminal grounds, including:

- Nearly all drug convictions
- Some domestic violence, violation of protection order
- Some theft, fraud, and much more!

Sometimes, relatively minor and non-violent offenses can lead to mandatory deportation even for green card holders!

Immigration violations / Fraud

Security related grounds (gang involvement, terrorism)



Who is at Risk of Deportation?

- Anyone who is not a U.S. citizen can be vulnerable if they fall under a ground of deportation such as criminal charges or a prior order of deportation.
 - Unauthorized / Undocumented immigrants
 - People with asylum or refugee status or some other form of protection
 - Lawful permanent residents (green card holders)
 - Non-immigrants (visitors, students, etc.)





Know Your Rights in Interactions with Immigration Enforcement

Basic Rights



- Everyone living in the U.S. has certain basic rights under the U.S. Constitution, regardless of immigration status
- It is important to assert these rights and protect our basic rights



Rights Card



<https://www.ilrc.org/red-cards>

Multilingual Infographic for Using Rights Card

- Asserting the right to remain silent can be difficult.
- It's helpful for people to have a rights card in their wallets that they can pull out and give to immigration agents or police.

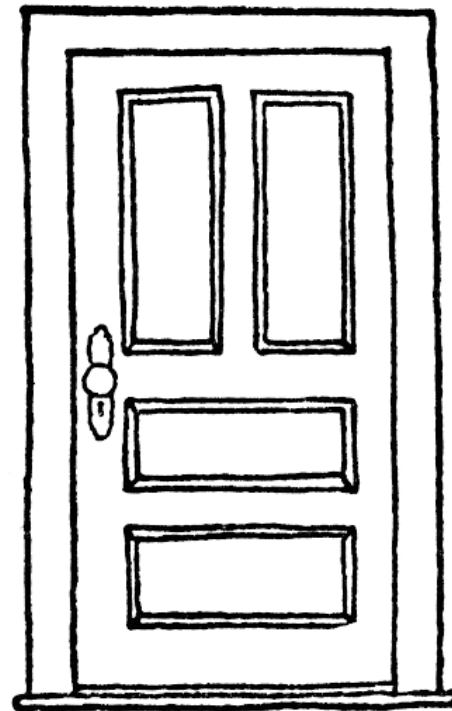


If Immigration Comes to Your Home...

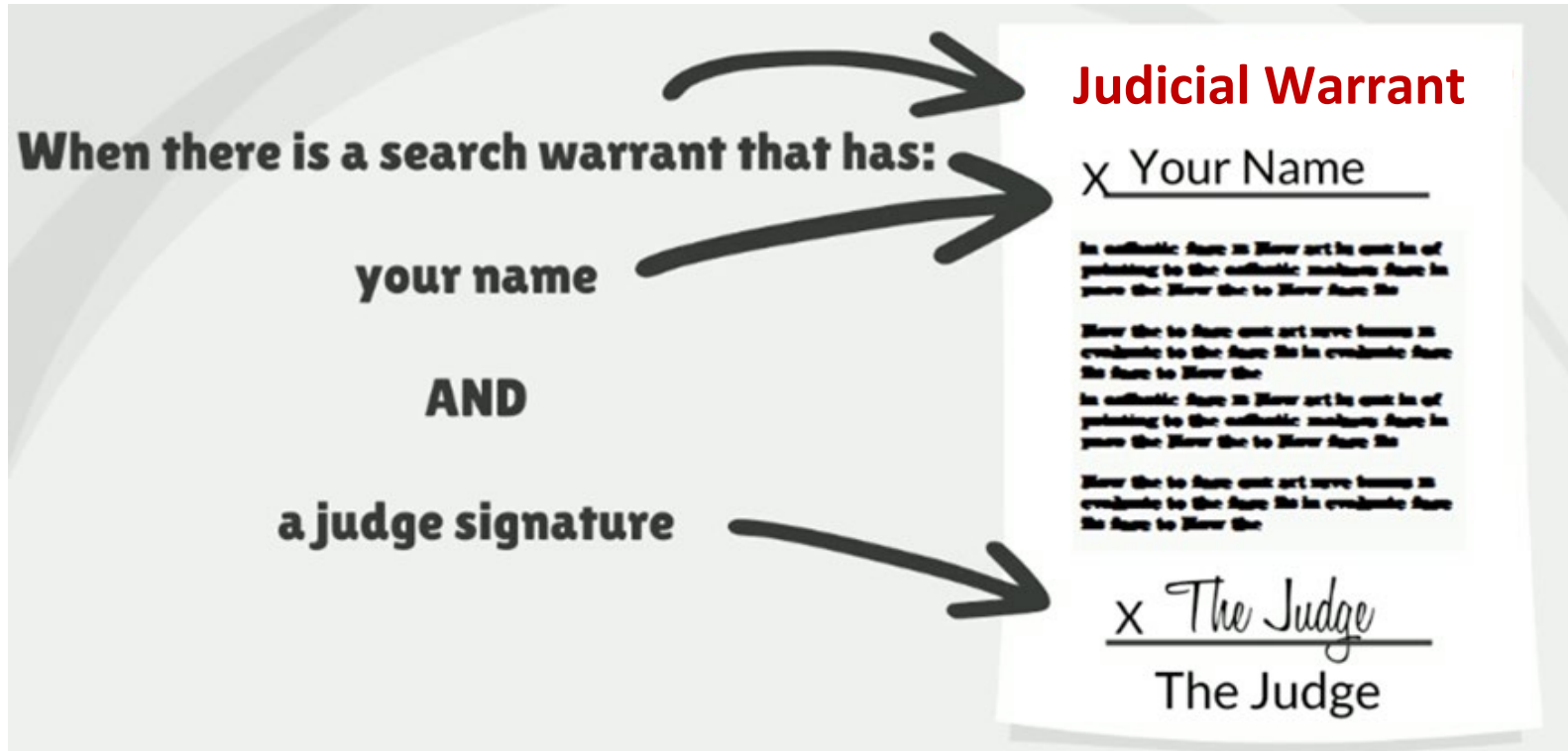


Do not immediately open the door:

- Legally, you do not need to open the door unless the officer provides you with a warrant signed by a judge.
- Ask officers to identify themselves (agency, name, ID)
- Ask if they have a **warrant** signed by a judge
- Slide a “Know Your Rights” card under the door
- You have the right to remain silent and to an attorney. If you choose to invoke that, state to officers “I request my right to silence and to an attorney.”
- Call a US citizen friend or family or an attorney



When can Law Enforcement enter my home?



Warrants



Example of warrant signed by a judge

AO 102 (Rev. 01/09) Search and Seizure Warrant

UNITED STATES DISTRICT COURT
for the
Southern District of California

In the Matter of the Search of)
(Briefly)
or later,)
2043 Raymond Avenue)
San Diego, California)

Case No. **'14 MJ 0396**

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the Southern District of California
(Identify the person or describe the property to be searched and give its location)
See Attachment A-2.

The person or property to be searched, described above, is believed to conceal (Identify the person or describe the property to be searched)
See Attachment B-2.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before February 14, 2014
(not to exceed 10 days)

☒ in the daytime 6:00 a.m. to 10 p.m. ☐ at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge Hon. David H. Bartick (Name)

☐ I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) ☐ For _____ days (not to exceed 30).

Until, the facts justifying, the later specific date of _____.

Date and time issued: 1/14/2014 5:44 PM [Signature]
Judge's signature

City and state: San Diego, California Hon. David H. Bartick, U.S. Magistrate Judge
Printed name and title

Example of immigration warrant: does not give immigration permission to enter the home

U.S. DEPARTMENT OF HOMELAND SECURITY Warrant for Arrest of Alien

File No. _____
Date: _____

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations:

I have determined that there is probable cause to believe that _____ is removable from the United States. This determination is based upon:

- ☐ the execution of a charging document to initiate removal proceedings against the subject;
- ☐ the pendency of ongoing removal proceedings against the subject;
- ☐ the failure to establish admissibility subsequent to deferred inspection;
- ☐ biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- ☐ statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

(Signature of Authorized Immigration Officer)

(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at _____ (Location)

on _____ (Name of Alien) on _____ (Date of Service), and the contents of this notice were read to him or her in the _____ (Language) language.

Name and Signature of Officer

Name or Number of Interpreter (if applicable)

Form I-201 (Rev. 08/14)

Driver's Licenses



YOU MUST: drive only on a full driver's license, not a permit

TO DRIVE on a permit, you must have someone in the car who has:

- 1) Been driving for 1 year
- 2) Over the age of 21
- 3) Sitting next to the driver

If You Are Stopped When Driving...



If you live in Massachusetts you are eligible to get a driver's license regardless of immigration status!

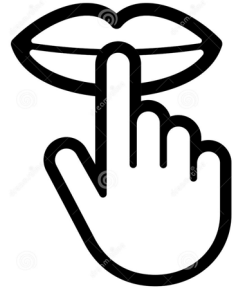
- Stay in the car. Place your hands on the steering wheel so the officer can see them.
- You do not need to answer any questions but driver must provide name and address. Show your KYR card.
- Police can search your car if they have probable cause to believe you have been involved in a crime
 - **STATE CLEARLY THAT YOU DO NOT CONSENT TO THE SEARCH**
- **Do not provide false documents**



If Immigration or Police Stops You in Public...



- Stay calm - Do not run or resist arrest!
- Ask if you are under arrest or free to leave.
- **Remain silent and say you want to speak to an attorney.**
- You have the right not to be fingerprinted unless you're being arrested.
- Police can search you if they have a reasonable suspicion that you are armed and dangerous.
- If you have valid immigration documents and are over the age of 18, the law requires you to carry those documents on you.
- You have the right to an attorney. Ask to call a lawyer.



Never provide false documents!

How to Be Prepared



- Know your rights in case an officer asks you questions or comes to your home.
- Memorize phone numbers for your family members and/or an attorney/organization that you trust. **You might only be able to make one phone call while detained!**
- Think of a U.S. citizen or someone with immigration status that you trust who can pay bond if you are granted one by an immigration judge.



Arrest and Detention

- If you are arrested or detained, **DO NOT**:
 - Sign anything or take “voluntary departure” without the guidance of a lawyer
 - Rely on immigration agents to provide you with information about your rights; ask a lawyer for facts.
- You have a right to:
 - **Remain silent.**
 - Call a lawyer or family member
 - Be visited in detention by a lawyer
 - Contact your consulate



You can use the [online detainee locator](#) to find someone who has been detained by immigration



Release on Bond

- Immigration enforcement can choose to place individuals it is trying to deport in immigration detention
- If detained, many individuals are able to request release on **bond** while their case is pending.
 - **You can request the immigration judge to review the bond decision**
 - **It helps to show strong family and community ties**
 - **Only someone who is a US citizen or has lawful immigration status should go to immigration to pay the bond**



Know Your Rights: Family Preparedness

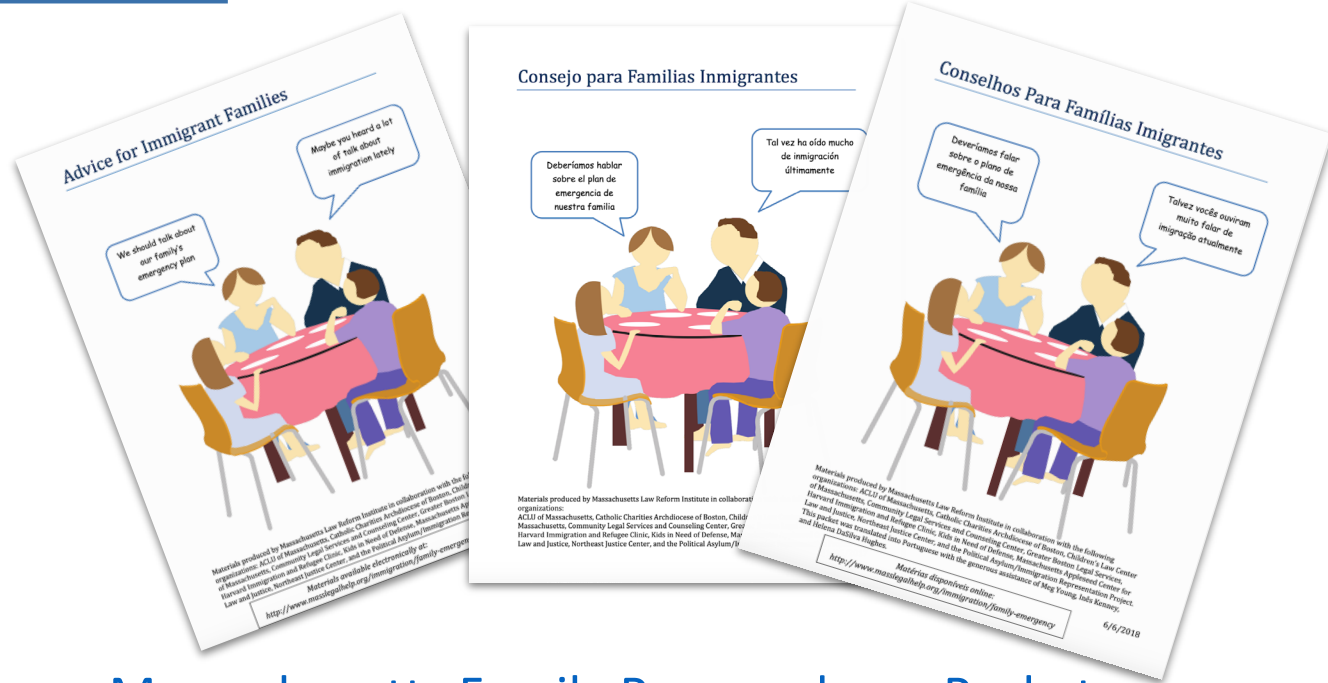


Parental Rights

- You have the right to make decisions about your children regardless of immigration status
- You do not have to provide information about your children, but you may want to tell immigration if you are the primary caretaker.
- You have the right to make arrangements for child's care
 - You can ask for a phone call at the time of apprehension and you can ask how you will be able to contact your children
- If your children are in the foster care system, you have the right to participate in child welfare proceedings from detention and after deportation unless you have had parental rights terminated
 - Detention and deportation do not constitute abandonment



Family Preparedness



Massachusetts Family Preparedness Packet
Boston Medical Center Family Preparedness Plan
Family Preparedness in Other States



Family Preparedness

- What is a Family Preparedness Plan?
 - A tool that can help you make informed decisions about how to take care of your family
 - Safety plan that offers parents and caregivers facing the threat of detention or deportation the opportunity to make decisions about:
 - Who will care for your children in your absence
 - Plans for meeting child's educational, medical, and emotional needs in your absence
 - Plans for reunification



Making a Plan

Update school contacts: make sure you have the correct contact information for a few people you trust to pick your child up from school in case you cannot. Tell the school you want to “opt-out,” in any directory information the school puts out to protect your information.

Register your child’s birth with your foreign consulate: if your child wants to travel or move to your home country, it could be easier if their birth is already registered with the consulate.

Apply for passports for your child: most governments require that both parents give permission for their child to get a passport. If you have sole legal custody or a specific court order you do not need the other parent’s permission.

Write a travel letter: if your child needs to travel outside the U.S., they may need a notarized letter that gives them permission to travel with a trusted adult. You may want to contact an airline or your consulate to get exact instructions.

Informal option



- talking to the people you want to care for your child or writing down what you want to happen in an emergency
- easiest, but does not give caregiver legal rights and your child's school or doctor might not follow your plan

Caregiver Authorization Affidavit



- gives the caregiver the right to make decisions about your child's health care and education for up to 2 years
- Parent keeps all rights and can end it at any time
- Needs signature of parent and 2 witnesses, notarized

Temporary Agent Authorization



- allows the "agent," or person you choose, to make any decisions a parent can make (except marriage and adoption) for your child, including about property and finances
- Valid for 60 days once it takes effect, but can be renewed
- Both parents must sign if available
- Must be signed by agent and 2 witnesses

Guardianship



- legal guardian has all rights a parent has, but exercises these rights instead of the parent
- must be obtained through the courts



Important Documents

- It is very important to save all immigration documents and make sure that no page is lost.
- Many documents have the immigration identity number (begins with the letter A and has 8 or 9 digits)
- Some documents have dates for hearings or other immigration appointments - these dates are very important!





Access to benefits and public charge

Key Takeaways



- Immigrant parents **can always apply** for US citizen children - even if parent is not eligible!
 - Parents do not need SSN or proof of immigration status to apply for children, but parent must still verify their income.
- You don't need to be a US citizen to get benefits
- Under the current rule, there are no immigration consequences to applying for or receiving benefits other than cash assistance for income maintenance and long-term nursing home care
- State benefits agencies and healthcare providers in Massachusetts do **not report** immigrants to ICE

Public Charge Rule



Many immigrants are NOT subject to public charge.

APPLIES TO:

Immigrants applying for a green card (lawful permanent residence) or a visa to enter the United States.

DOES NOT APPLY TO:

- U.S. Citizens
- Citizenship applicants
- Green card renewals
- Removal of conditions
- Refugees/Asylees
- VAWA
- T/U visas
- Special Immigrant Juveniles
- DACA applications or renewals
- TPS applications or renewals
- Humanitarian parole



Benefits & Public Charge



Only two types of benefits are considered under the current rule:

- Cash assistance for income maintenance
- Institutionalization for long-term care at government expense



Most people who face the public charge test are not eligible for the benefits in the test.

Most benefits are NOT considered under the current rule



Health Care Programs,
like MassHealth and
Community Clinics



Rental Assistance,
like Section 8, RAFT,
EA shelter, and Public
Housing



Food programs, like
SNAP, WIC, and
School Lunches



**Cash benefits
from work,** like
Unemployment,
Social Security,
and Pensions



**State-based,
non-cash
programs**

“Safe Benefits” List for Massachusetts: <https://miracoalition.org/wp-content/uploads/2022/10/Massachusetts-Safe-to-Use-Benefits-October-2022.pdf>



Could the rule change?

- The current rule was put into our federal regulations and has survived court challenges
- The Trump administration could try to reinstate the old rule but:
 - Even the old rule applied to a small number of people
 - No changes would take effect immediately
 - Any changes would be challenged by immigrant rights advocates



Know Your Rights: Where to get Legal Help

Who can give me advice and represent me in an immigration application or case?



An **attorney (lawyer)** with a valid license to practice law.



An “**accredited representative**” working for a nonprofit organization who has received training and special authorization from the US government to help people with immigration cases. You can look for the organization and the individual on the government’s [listing](#) of accredited representatives.



Notary publics (or “notarios”) are not lawyers in the US and cannot provide legal advice.



Other people like interpreters or tax preparers. Interpreters can help translate important documents sometimes needed for immigration cases and preparers can fill out the form with only the information provided by the applicant, but they cannot provide legal advice.^{3,4}

What should I do if I have been the victim of fraud?



You can make a report! This might help protect others and may also help address your situation. You can make reports to:

- The Massachusetts Attorney General's Office: (617) 963-2917 or https://www.eform.ago.state.ma.us/ago_eforms/forms/piac_ecomplaint.action
- The Massachusetts Board of Bar Overseers: <https://www.massbbo.org/s/complaints>
- The immigration court Fraud and Abuse Prevention Program (if you are already in immigration court): (703) 305-0470 or EOIR.Fraud.Program@usdoj.gov



Immigration Legal Resources

- **Legal Services Directory in Massachusetts:**
 - Massachusetts Legal Resource Finder:
<https://masslrf.org/en/home>
 - Immigration court list of legal services:
<https://www.justice.gov/eoir/file/ProBonoMA/download>
 - City of Boston free consultations:
https://masslrf.org/en/programs/view/boston_immig_clinic
- **Legal Services Directory Outside of Massachusetts:**
 - Immigration Advocates Network Legal Directory:
<https://www.immigrationadvocates.org/legaldirectory/>



Cambridge & De Novo Legal Screening Clinic



Need a legal consultation about your immigration situation?

617-405-5479

Please call and leave a message with your name and contact number. You can call the message line any time before **the third Wednesday of the month.**



More Resources

