



ORI Know Your Rights - updated

Q&A on Immigration

Overview of 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)



Interactions with Immigration Enforcement



Overview of ICE Authority

ICE is subject to different, but similar, rules as other Law Enforcement

ICE is a federal law enforcement agency



ICE's authority is generally limited to immigration related enforcement, unless acting in concert with federal or state law enforcement, or investigating crimes through ICE criminal investigative units

- When carrying out its enforcement activities, ICE officers must follow different, but similar rules as other law enforcement agencies.
- ICE officers must adhere to constitutional restrictions, as well as restrictions set by statutes, regulations and policies.
- Individuals engaging with ICE have rights including: (i) the right to remain silent; and (ii) the right to an attorney – though ICE is not required to provide one.

Basic Rules Surrounding ICE Authority



ICE can demand identification:

- Immigrants often must carry identification on them, including copies of a green card and/or proof of registration.
- Depending on the facts and circumstances, ICE officers, when they have probable cause to believe a person is here unlawfully, can ask for identification.

ICE can interrogate:

- ICE officers may interrogate a noncitizen or person believed to be a noncitizen as to their “right to be, or to remain in the United States” without a warrant. (*NOTE: individuals have a right to remain silent and to a lawyer even if undocumented*).
- ICE cannot approach any individual based on race or nationality alone. However, ICE can approach a person based on factors unknown to the interrogated person.



Rules Surrounding ICE warrants

Rules differ depending on location of arrest
ICE has warrant requirements and warrant exceptions



ICE Warrant Requirements – Basic Rules

1

ICE need only have reasonable suspicion to stop a car where they believe the driver or the passenger is a person present unlawfully

2

ICE must have a judicial warrant to enter a home

3

ICE must have an administrative warrant to arrest someone on the streets if they do not have evidence to believe the person is a flight risk

Judicial Warrants v. ICE Administrative Warrants



EXAMPLE OF WARRANT SIGNED BY A JUDGE

AD-93 (Rev. 01/05) Search and Seizure Warrant

UNITED STATES DISTRICT COURT
for the
Southern District of California

In the Matter of the Search of }
(Briefly } and }
or also }) Case No. 14 MJ 0396
2943 Raymond Avenue }
San Diego, California }

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 4, 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) (Not to exceed 30 days from receipt of this warrant).

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

Date and time issued: 1/31/2014 5:41 PM Judge's signature: [Signature]
City and state: San Diego, California Hon. David H. Bartick, U.S. Magistrate Judge
Printed name and title

EXAMPLE OF ICE ADMINISTRATIVE WARRANT: DOES NOT GIVE IMMIGRATION PERMISSION TO ENTER 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-520 (Rev. 09/04)



State Judicial Warrants

State Judicial Warrants can be “arrest” or “search”

- ***Issued by State Courts:***
 - **Boston Municipal Court**
 - **District Court**
 - (ex: Waltham, Wareham)
 - **Superior Court**
 - (ex: Middlesex, Suffolk)
 - **NOTE** Subpoena & Summons are very different!

APPLICATION FOR SEARCH WARRANT G.L. c. 276, §§ 1-7	TRIAL COURT OF MASSACHUSETTS	
NAME OF APPLICANT [REDACTED]	SUPERIOR ESSEX	COURT DEPT. DIVISION
POSITION OF APPLICANT Trooper, Massachusetts State Police	SEARCH WARRANT DOCKET NUMBER	

I, the undersigned APPLICANT, being duly sworn, depose and say that:

- I have the following information based upon the attached affidavit(s), consisting of a total of 77 pages, which is (are) incorporated herein by reference.
- Based upon this information, there is PROBABLE CAUSE to believe that the property described below:
 - ☐ has been stolen, embezzled, or obtained by false pretenses.
 - ☒ is intended for use or has been used as the means of committing a crime.
 - ☐ has been concealed to prevent a crime from being discovered.
 - ☒ is unlawfully possessed or concealed for an unlawful purpose.
 - ☒ is evidence of a crime or is evidence of criminal activity.
 - ☐ other (specify):
- I am seeking the issuance of a warrant to search for the following property (describe the property to be searched for as particularly as possible):
See Addendum A, which is incorporated herein by reference.
- Based upon this information, there is also probable cause to believe that the property may be found (check as many as apply):
 - ☒ at (identify the exact location or description of the place(s) to be searched):



State Judicial Warrants, Continued

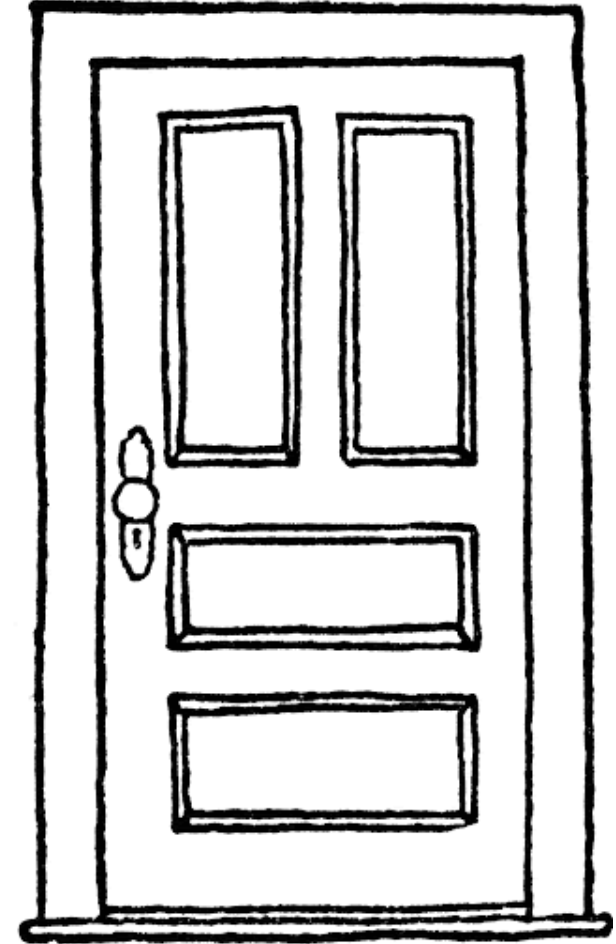
Must be signed by Judge, Clerk Magistrate or Assistant Clerk

PRINTED NAME OF APPLICANT [REDACTED]	SIGNED UNDER THE PENALTIES OF PERJURY X _____ Signature of Applicant
SWORN AND SUBSCRIBED TO BEFORE ME _____ Signature of Justice, Clerk-Magistrate or Assistant Clerk	 _____ Date

If Immigration Comes to Your Home



- **Stay calm, take a deep breath**
- Legally, you do not need to open the door unless the officer provides you with a warrant signed by a judge
- You may ask officers to identify themselves (agency, name, ID)
- You may ask if they have a **warrant** signed by a judge
- You may assert your right to remain silent and to an attorney, including if arrested by ICE. If you choose to invoke that right, state to officers "I request my right to silence and to an attorney"
- One way to assert these rights is to slide a "Know Your Rights" card under the door
- For help, call a US citizen friend, family member or an attorney



General Rules & Requirements of ICE



The rules differ based on where ICE is trying to arrest the person

ICE Car Stops With an Administrative Warrant:

- ICE officers are only required to have “reasonable suspicion” of an immigration violation to initiate a car stop

ICE Arrests With an Administrative Warrant (NOT IN A HOME):

- ICE must have probable cause to believe the person is here in violation of the laws of the United States.

■ ***Wearing a Mask:***

- No known prohibitions

■ ***Showing a Badge:***

- As soon as practicable and safe to do so during arrest.
- Interpreted often as at end of arrest



ICE arrests Outside a Home, Without a Warrant

ICE may make arrests outside the home, in certain circumstances, without a warrant.

NOTE: ICE sometimes has a warrant, even if they will not show it to a bystander.

- ***The Right to Arrest Without a Warrant (NOT IN A HOME):***
 - To arrest a person on the streets or in a car, without a warrant, ICE must have “reason to believe” the individual is
 - (i) in the US in violation of immigration laws and
 - (ii) “likely to escape before an arrest warrant can be obtained.”



Does ICE have to show an administrative warrant?

Regulations refer to ICE “serving” the administrative warrant on the immigrant, but do not directly order the service. 8 C.F.R. sec. 236.1(b).

Who can issue an administrative warrant? The list is long, but includes:

- Supervisory deportation officers;
- Supervisory detention and deportation officers
- Immigration Enforcement Agents; or
- Other duly authorized officers or employees of the Department of Homeland Security or the United States who are delegated the authority as provided in 8 CFR 2.1 to issue warrants of arrest, and who have successfully completed any required immigration law enforcement training.

Rights and Responsibilities of Bystanders



You may bear witness to a public arrest

Physically interfering or verbally berating ICE could have adverse consequences for both you and the immigrant

Rights and Assistance of Bystanders

- You can help by keeping calm and promoting calm
- Massachusetts law allows for videotaping, if using sound must be open and obvious
- You have the right to witness and document
- You can ask if the immigrant wants you to call someone
- You can offer to help remaining family members by preparing bond packet, offering support



Helpful Bystander Actions

Think: Who, What, Where, Why, When, How, Describe

■ Bystander first amendment rights:

■ Videotaping:

- Car license plates (Victim & Police)
- Vests of Officers (FBI? ATF? HSI?)
- Arrest & Placement in car
- Any audio
- Bystanders' impressions (after they leave)

■ Notetaking after the fact:

- Who was there
- How many people, How long
- Describe the officers
- Describe number of cars
- Any damage to cars/people

■ If you Choose To help the person arrested:

- Ask the person being arrested: Who can we call
- Ask if they have an Attorney, get name and #
- 'Ask if they have a spouse or child, can you call them, get name and #
- Ask them what the language is of the person you are calling and have a translator
- PERMISSIONS are important: do I have your permission to call your spouse, your lawyer, can the video be shared?
- REMIND people they have rights, read Red cards to the person.
- TIME is very important. Tell them you want to call someone fast



See Something, Say Something

Lawyers and media outlets need specific, verified information



WHAT ARE WE LOOKING FOR?

- Random stops, non-targeted enforcement
- Violence against immigrant
- Harm, mistreatment to children
- Harm, mistreatment to pregnant women
- Long term residents, green card holders, those w/out any criminal record
- Demeaning or outrageous behavior
- Violence against bystanders

REPORTS:

- ACLU: 617-482-3170
- Attorney General (ask for Civil Rights Division) (617) 963-2000.
- LUCE: 617-370-5023



Know Your Rights Cards

- Multilingual Infographic for Using Rights Card
- Asserting the right to remain silent can be difficult.
- It is helpful for people to have a rights card in their wallets that they can pull out and give to immigration agents or police.
- ***The Right to Remain Silent and an Attorney applies to ALL law enforcement encounters***
- <https://www.ilrc.org/red-cards>





Working With Lawyers

Immigration law is extremely complicated

Private Attorneys:

- Flat fees versus hourly
- Payment plans
- Refunds

Factors to consider:

- Public Discipline – check the BBO website
 - <https://www.massbbo.org/s/attorney-registration>
- Online ratings
- Word of Mouth
- Referral basis
- Experience
 - Do they do bond/removal defense?
 - Are they a member of AILA?
 - How often do they represent immigrants?
 - When is the last time they went to court?

■ Legal Services Lawyers

- Sometimes long waitlists
- Often more in-depth representation
- Free service

■ *Different models:*

- Direct representation
- Finding Pro-Bono assistance

■ *Intake*

- Does not mean they will take case

■ *Limited detained work*

Legal Representation Fund (LRF)

The Attorney General's office along with ORI's support, funded and created the "Legal Representation Fund" or LRF

Boston Immigration Justice Accompaniment Network (BIJAN) & the Beyond Bond and Legal Defense Fund (BBLDF) organizes the LRF.

Mission: to help fund free legal representation to detained immigrants who are eligible to request an immigration bond

Phone Numbers to Call:

- **Detained Hotline: (617)637-8195**
- **Family & Friends Hotline: (617)396-7143**



LRF Intake Process

Family Member /Detainee call

BIJAN will conduct a screening for basic eligibility questions

BIJAN provides family code & Referral to 3 lawyers



Habeas Background

- Habeas is filed in Federal Court
- Venue & Jurisdiction required
- Individuals concerned about status should (a) consult with an immigration lawyer now, and (b) if pursuing legal representation, have a signed G28 on file with a lawyer
- Mass Specific 48 hour hold rule
 - Should prevent removal “from jurisdiction” for 48 hours



Habeas Project:

immigrationhabeasproject@gmail.com



Please note – the Habeas Project is only for those with immigration counsel

Who?

Partnership between AILA Lawyers, Non-profits,
Federal Criminal Defense Lawyers and Civil Litigators



How?

Recruitment to MACDL attorneys
New Training for 100 new lawyers 9/15
Increase capacity to Mass residents held outside state

Emergency Habeas
Filing screening:

Lawful Permanent Resident at Airport
Arrests in Immigration Courthouse
Student Visa revocation in violation of constitutional rights
An individual subject to expedited removal
An individual who has humanitarian factors negating against transfer
Unconstitutional Detention
NOTE: ALL need to all be represented by an immigration attorney



Other Questions:

Locating Family members can take 36-48 hours

■ How do I locate my family member?

- Go to Google
- Type "ICE online detainee locator:
- You will see this website: <https://locator.ice.gov/odls/#/search>

- Put in family members name, country of origin and A number

- NOTE: Maine is different
- NOTE: Wrong spelling, etc can delay



Protecting your assets: Homes, Bank Accounts and Businesses

A Limited Power of Attorney gives someone power to act on your behalf

1. What is a Limited Power of Attorney?

- It gives a trusted person that you choose the power to access your bank accounts, sell your home, rent your home, engage other employees and generally manage your affairs if you are deported.

2. Can I have a Limited Power of Attorney drafted overseas?

- You can use delivery services such as DHL to send the original document back to the agent
- You can use a notary overseas to have it notarized, however you also need an apostle and it is very complicated

3. What if I want to revoke the POA?

- That can be written into the language of the document

4. What about my bank accounts?

- You can allow a co-signer to access your bank accounts
- Alternatively, allow the agent of the POA.

At risk? Make A Safety Plan

Consider giving to relevant people:


- “Sharing” your location
- Name & cell of your lawyer, close family members and G28
- Permission to Represent

Airport Pickup (if you must travel)

- Have LPR or US citizen pick you up @ airport
- Text when you land, make sure lawyer is on call
- Have copies of your G28 and make sure family does

Basics of Family Preparedness

- **Consider:**
 - Obtaining a Caregiver Affidavit
 - Deciding who can care for your children if you are unable to
 - Ensuring school pickup lists are updated
 - Obtaining passports for all children (especially US or your home country)
 - Writing down instructions if your child has any medical conditions and/or takes any medications
 - Keeping a file of important documents
- **ICE detainee locator:**
 - <https://locator.ice.gov/odls/homePage.do>.



Family at Risk? Make a family plan

- Massachusetts Planning for those with uncertain immigration status:
 - <https://www.mass.gov/emergency-planning-guide-for-families>
- Boston Medical Center Family Plan:
 - https://www.bmc.org/sites/default/files/Patient_Care/Specialty_Care/IRHP/family_preparedness_plan.pdf

Resources

Many family planning documents can be done without an attorney

- [Resources for Immigrants in Massachusetts | Mass.gov](#) – Ag’s office website about family planning and non-discrimination, including worker’s rights
- ORI’s toolkit: [Community Resource Toolkit | Mass.gov](#) – Spanish, Haitian Creole, Portuguese family planning forms.





Immigration Legal Resources

It may take time to find a provider, please use trusted providers and check references.

Legal Services Directory in Massachusetts:

- Massachusetts Legal Resource Finder:
 - <https://masslrf.org/en/home>
- List of Immigration Groups:
 - <https://www.mass.gov/info-details/immigration-legal-support#free-immigration-legal-clinics>
- City of Boston free consultations:
 - <https://www.boston.gov/departments/immigrant-advancement/free-immigration-consultations>.
- MIRA immigration helpline:
 - <https://miracoalition.org/news/immigration-helpline/>

Legal Services Directory Outside of Massachusetts:

- Immigration Advocates Network Legal Directory:
<https://www.immigrationadvocates.org/legaldirectory/>