

Be Empowered & “Know Your Rights”

2020

Last updated: September 15, 2020



Goals For Today

1. Understanding the current situation on the ground
2. Understanding a person's rights when encountered by immigration officers
3. Understanding what people can do to prepare themselves and their family
4. Understanding some immigration law basics
5. Understanding where a person can go for help



Increased Immigration Enforcement

- Since 2017, there has been a trend of placing greater obstacles to seeking protection in the United States through Executive Order and policy changes.
- Examples of this include (among others):
 - Increase border patrol by 5,000 officers
 - Increase ICE by 10,000 officers
 - Remain in Mexico Policy
 - Safe Third Country Agreements
- Litigation continues to impact the implementation of each new Executive Order and change in policy.

Any person who is in the country undocumented runs the risk of
being detained and deported

COVID-19

- In Massachusetts, tests and treatments for COVID-19 will be covered, regardless of insurance or immigration status. See more information here: <https://www.mass.gov/info-details/masshealth-coronavirus-disease-2019-covid-19-applicants-and-members>
- If you feel sick, please call your doctor, clinic, or dial 211 for guidance.
- Public Charge: USCIS has stated that testing and treatment for COVID-19 will not negatively affect an individual in future public charge considerations. More information available here: <https://www.uscis.gov/greencard/public-charge>
- PAIR has compiled a multilingual resource guide with important information on food pantries, healthcare, public benefits, and unemployment. The guide is available here:
https://drive.google.com/file/d/1Gf5Wh6XgHmCE6_kGzOdKDyz1n1kS8Zwm/view
- Many immigration appointments/Immigration Courts have adjusted their hours or procedures. Please check the government websites for updates.

Unemployment Insurance & Economic Impact Payments

- Immigration status impacts one's ability to obtain unemployment insurance and federal economic impact payments.
- Only people with social security numbers (as opposed to ITINs) may receive unemployment insurance benefits and the economic impact payment.
 - BUT people with social security numbers whose spouses or dependents have ITINs are disqualified from federal economic impact payment.
- To apply for unemployment insurance in MA:
<https://uionline.detma.org/Claimant/Core/Login.ASPX>
- If you have a social security number and are unsure whether you will qualify for the economic impact payment:
<https://www.irs.gov/coronavirus/economic-impact-payments>

Public Charge Rule

Despite many federal court challenges, the expanded public charge rule went into effect on February 24, 2020.

- Applies principally to people who seek a green card or admission to the U.S.
 - Public charge rule does apply to: most family and employment-based petitions (i.e., people who must file an affidavit of support)
 - Public charge rule does not apply to: people who already have green cards and are applying for citizenship or renewing their green cards; applicants for, or those seeking green card based on humanitarian immigration statuses (asylum, refugee, VAWA, U Visa, T Visa, SIJS, etc.); other immigrations statuses are also exempt
- Immigration considers the use of benefits as well as other factors to determine whether people are likely to become public charges
- New rule expands “public charge” to include more benefits
 - SNAP; Federal Public Housing & Sec. 8; Medicaid (except emergency services, children under 21, pregnant and new mothers); Some types of cash assistance (like SSI, TANF, General Assistance)

Public Charge Rule

- Considers benefits used after implementation
 - Does not apply retroactively
- Applies to use of benefits by the immigrant-applicant
 - Does not apply to benefits received for U.S. citizen children
 - Does not apply to benefits received by other family members
- Considers some types of benefits
 - Does not consider: WIC, CHIP, school lunches, food bank, shelters, Head Start, health care that covers only emergency services (including certain MassHealth programs), unemployment, Economic Impact Payment (Stimulus)
- **Important:** most immigrants without green cards are not eligible for many of the benefits that would be “counted against” them
- Good Resources:
 - <https://protectingimmigrantfamilies.org>
 - <https://www.nilc.org/issues/economic-support/pubcharge/>

Deferred Action for Childhood Arrivals (DACA)

- DREAM Act alternative through Executive Order after Congressional failure
- DACA has helped hundreds of thousands of immigrants
- For certain youth present in the U.S. before age 16:
 - Continuously resided in the U.S. 06/15/2007 to present
 - In school or obtained H.S. degree or equivalent or honorably discharged veteran
 - Meets other requirements
- The Trump administration tried to end the program. On June 18, 2020, the Supreme Court ruled that the way the program was ended was unlawful. BUT recently the administration issued a new memo to limit DACA.

Memo about DACA

If you think you are eligible for an initial or renewal DACA application, please consult with an immigration attorney.

- On July 28, 2020, the administration issued a memo limiting DACA:
 - USCIS said they will reject initial DACA applications but will accept renewals
 - USCIS said they will shorten the DACA renewal period from 2 years to 1 year
- See additional resources here:
<https://www.ilrc.org/daca>



Temporary Protected Status (TPS)

TPS is a program that allows people from a certain country living in the U.S. to remain and work here while their home countries recover from the aftermath of war, natural disasters, or other humanitarian crises. TPS does not provide a path to a green card but does allow a person to work legally.

- **435,000** people from ten countries (El Salvador*, Haiti*, Honduras*, Nepal*, Nicaragua*, Somalia, Sudan*, South Sudan, Syria, and Yemen) are currently in the program.
- In Massachusetts there are **12,326** residents with TPS

The Trump Administration terminated TPS for many of these countries*, but there have been several challenges to the termination of TPS in Federal Court.

Stay Informed

Any impacted individuals or families should speak with an experienced immigration attorney.

Resources:

- <https://cliniclegal.org/daca>
- <https://cliniclegal.org/resources/challenges-tps-terminations>
- <https://www.aclum.org/en/cases/aclu-massachusetts-v-boston-police-department>
- <https://www.ilrc.org/community-resources>
- <https://miracoalition.org/our-work/temporary-protected-status/>

What to Do if A Person Meets an Immigration Officer



Everyone Has Rights

No matter who is president, everyone living in the U.S. has basic rights under the U.S. Constitution

These rights include:

- The right to remain silent. This means that a person has the right not to answer any questions
- The right to see an arrest warrant
- The right to speak to a lawyer
- The right to make a phone call



KNOW YOUR RIGHTS!

If you are stopped by immigration or the police:

- ✓ Hand this card to the officer, and remain silent.
- ✓ The card explains that you are exercising your right to refuse to answer any questions until you have talked with a lawyer.

To: Immigration or Other Officer

Right now I am choosing to exercise my legal rights.

- I will remain **silent**, and I refuse to answer your questions.
- If I am detained, I have the right to contact an attorney **immediately**.
- I refuse to sign anything without advice from an attorney.

Thank you.

Everyone Has Rights



People who have immigration status (green card, TPS, asylum applicant), may wish to show identification to prove they are here legally.

People who do not have status, may wish to remain silent and not present identity documents



People should not lie or show false documents. It is better to say, "I would like to remain silent."

If ICE Comes to a Person's Home

A person has the right to:

- Not open the door unless ICE has a warrant signed by a Judge
- Slide a “Know Your Rights” card under the door or show it at a window
- Call a U.S. citizen friend or family member to let them know what is happening
- Call an experienced immigration attorney



Judicial Warrant - Signed by a Judge

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF IOWA

In the Matter of the Search of
(Name, address or brief description of person, property or premises to be searched)
Agriprocessors, Incorporated and/or Nevel Properties,
Corporation with complete description of premises to be
searched incorporated in Attachment 1

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

Case Number: 08-MJ-110

RECEIVED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS, IA
2008 MAY 12 AM 9:00
Hearings on 10

I, Senior Special Agent David Hoagland being duly sworn to depose and to believe
I am a(n) Senior Special Agent and have reason to believe
Official Title
that on the person of or on the property or premises known as (name, description and/or location)
Agriprocessors, Incorporated and/or Nevel Properties, Corporation with complete description of premises to be searched
incorporated in Attachment 1

in the Northern District of Iowa
there is now concealed a certain person or property, namely (describe the person or property to be seized)
See Attachment 2

which is (state one or more bases for search and seizure set forth under Rule 41(c) of the Federal Rules of Criminal Procedure)
contraband; property that constitutes evidence of the commission of a criminal offense; and property designed or intended
for use or which is or has been used as the means of committing a criminal offense.

concerning a violation of Title 8 & 18 & 42 United States code, Section(s) 1324,1326 &1546,1015,1028A&408
The facts to support a finding of probable cause are as follows:
See attached Affidavit

Continued on the attached sheet and made a part hereof:

Yes No
DH - 2008
Signature of Affiant

Sworn to before me and subscribed in my presence,
May 9, 2008
Date

at Cedar Rapids IA
City State
JMM
Signature of Judge

Jon Stuart Scoles Magistrate
Name of Judge Title of Judge

Arrest Warrant - Not Signed by a Judge

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

File No. _____

Date: 02/24/2017

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

Hypothetical: Ana's Story

Ana is an undocumented woman from El Salvador. A few minutes after she came home from work, she heard a knock on her door. She peeked through the peek hole and asked “Who is there?” A man and a woman answered saying that they were officers. She asked what they wanted and they said they were looking for a woman named Maria Martinez. She said that she did not know Maria. Then they asked her for her name and told her to open the door because they needed to see her identification to make sure that she wasn’t Maria Martinez.

- What are Ana’s rights?
- Are the officers allowed to enter into Ana’s home?

Hypothetical: Ana's Story

- Since Ana is undocumented, she may choose not to open the door since under the new executive orders, anyone without papers is considered to be a priority for detention
- Ana has the right to remain silent
- Ana has the right to show her Right to Remain Silent red card under the door or through a window
- Ana has the right to ask to see a warrant under the door and to check if the warrant is signed by judge

Role Play: ICE in the Home

This is one of the activities that you can use with community members that you work with. Invite someone from the audience to act as if they are at home when ICE arrives and to practice exerting their rights.

- ICE: [knocks] Open the door – we need to speak to you!
- Person: Do you have a warrant?
- ICE: We just need to ask you a few questions. Please open the door, it's important that we talk to you.
- Person: If you do not have a warrant, I am not opening the door
- ICE: Look, we just need to ask you some questions. What is your name please?
- Person: I will not open the door without a signed warrant from a judge. [Slides red card under door]

VIDEO: https://youtu.be/pW4uixi4b_E

If Stopped While Driving & ICE Comes

A person has the right to remain silent. Remaining silent does not mean that people will not be arrested, but they will not give ICE information that could be used against them.

- People have the right to ask if they are under arrest or free to leave.
- It is important to stay calm and not run or resist arrest. People should keep their hands where the officer can see them.
- If free to leave, people should say that they are leaving.
- People can refuse to be fingerprinted (unless they under arrest).



Nearby States

- CBP can set up check points on roads and highways within 100 miles of the U.S. border
- This means that a person may be stopped by Immigration in New York, Vermont, Maine and **New Hampshire**
- If people do not have immigration status, they may want to avoid traveling to these states



If ICE Comes to a Person's Work

People have the right to:

- Not answer
- Stand silently in the middle of the room
- Not give the officials any information about themselves



A person has the right to not line up because a person has the right to remain silent.

A person has the right not to communicate information in any way.

Hypothetical: Miguel's Story

Miguel is undocumented. One day, he is stopped by an ICE officer while waiting for the bus. The officer asks him for his name and to see identification. The officer is wearing an electronic fingerprint machine and asks Miguel for his fingerprints.

What are Miguel's rights?

- Right to remain silent
- Right to refuse fingerprints
- Right to ask if he is under arrest. If the officer answers no, he has the right to say that he is going to walk away

Family Preparedness

Be Prepared – Just in Case

- Memorize important phone numbers of friends, family and an attorney
- If a person does not have status, consider where to keep foreign identification documents (passport, license, national ID card, etc.)
 - A person's passport is enough evidence for ICE to prove identity and alienage -- who that person is and where he/she is from
- Keep important documents such as children's birth certificate(s), medical records, paystubs, and utility bills in a safe place at home
- Keep and obtain documents of physical presence in the US

Be Prepared – Just in Case

- Make sure all information and emergency contacts are up to date at children's school(s), including who can and cannot pick up children
- A person may want to register the birth of U.S. born children with own Consulate.
- A person may also want to consider getting U.S. passports if children were born here or a passport from their country of birth.

Be Prepared: Family Preparations

There are different temporary custody forms which you may want to consider filling out now in case you are detained.

- **Caregiver Affidavit Authorization**
 - Gives the person you choose the right to make decisions about your child's health and education for up to two years
- **Temporary Agent Authorization**
 - Gives the person you choose many of the powers that a parent has for up to 60 days

You may also want to meet with a lawyer to designate and document someone you trust with Power of Attorney to make financial, legal or childcare decisions in your absence

For more information visit: www.masslegalhelp.org/immigration

Overview of the Immigration System



Being Undocumented in the U.S.

- **Undocumented:** term used to describe someone who is in the U.S. without legal permission, including someone who:
 - Entered without permission
 - Entered with permission but overstayed term of visa
 - Might be in the process of seeking legal status
- **Among other things, being undocumented means:**
 - No social security number
 - No work authorization
 - No MA driver's license or state ID
 - No travel outside of the US
 - Risk of arrest and detention by ICE

Overview of the Immigration Process

- Either:
 - Applying to a government agency for status
 - OR defending against deportation in Immigration Court after interaction with ICE or CBP (i.e. at border entry)
- There is no right to free counsel in Immigration Court
- Arrest by immigration could result in detention

Information for the Legal Process

- **Getting your court date:**

- People who have had contact with immigration receive notices about court dates by mail
- Keep address up to date to ensure receipt of court date
- Call **1-800-898-7180** to find out court date and location

- **Go to the Immigration Court if you have a court date:**

- If a person doesn't go to a scheduled court hearing, the Judge will order deportation without the person there
- People can ask for more time to find a lawyer if they don't have one at the first hearing
- People can ask for the list of legal services providers
- An old deportation order is always connected to someone, even if it was more than 20 years ago

Information for the Legal Process

- **Seeing an Immigration Judge**
 - Generally a person has the right to see a Judge to fight his/her deportation
 - **BUT** a person who has been ordered deported by a Judge or through expedited removal, will not automatically see a Judge again
 - If people are afraid to return to their home countries, they should always express that fear
- **If someone has an ankle bracelet (GPS) and/or appointment in with ICE in Burlington, MA**
 - This is separate from going to court
 - They should consult with a lawyer

Possible Deportation Defenses

- Fear of return to the country of origin
- Youth under age 18 or 21 *not* living with both biological parents
- Victims of crimes in the U.S., including domestic violence, and families of victims
- Victims of trafficking (commercial sex or labor, by force/fraud/coercion) and their families
- Lawful permanent residence (green card)
- Immediate family with US citizenship or permanent residence

***A person should meet with an immigration attorney to discuss possible immigration relief**

Why Might Someone Be Detained?

- Being undocumented
- Having status but possibly deportable
- Having a prior removal order
- Exacerbating factors:
 - Intersection with police or court
- If a person is at risk, he/she can seek a free legal consult

What can a family do after an arrest?

- A person without immigration status cannot & should not visit a detainee
- Call PAIR, a lawyer, or consulate (if safe to do so)
 - Helpful information will include:
 - Full name
 - A#
 - Date of Birth
 - Immigration history & documents
 - Criminal history & documents, if any
 - ICE detainee locator: <https://locator.ice.gov/odls/#/index>

Post-Arrest: Bond

If arrested by ICE, a person may or may not be eligible to ask an immigration judge for a bond. It is important to consult with a lawyer about bond eligibility.

- Being granted a bond means that a judge will set an amount of money that a person has to pay in order to be released until he/she needs to report to court
- Things that make a bond case stronger are strong family ties and community ties
- It is important for a person to think of a trusted person with immigration status who can pay a bond
- Bond starts at \$1,500 but is typically \$4,000 - \$12,000

How We Can Support People and Families

When a Person Shares Immigration Information...

DO!

- Create a welcoming environment
- Thank person for sharing
- Assure confidentiality
- Offer information about organizations serving immigrants
- Offer to assist the person or family in calling an organization and/or the attorney

DON'T

- Don't ask for detailed information about personal history
- Don't make promises you can't keep – not every case will have a happy ending
- Don't give legal advice or help with immigration forms

Approaching Immigration Issues

- Gain trust & get to know people and families
- Listen to stories –
 - “My sister just arrived...”
 - “We have to miss school for court...”
- Helpful, welcoming statements:
 - “We have immigration legal resources if you would be interested in them.”
 - “If you have questions about immigration, I can connect you with some resources.”
- In the context of relevant conversations:
 - Financial aid
 - Work opportunities
 - Special needs



Avoiding Scams

- Being a notary or “notario público” is NOT the same thing as an attorney and does not authorize someone to provide you with legal advice
- Only an attorney or an Accredited Representative can give you legal advice
- If you have a criminal history, make sure your attorney has specialized knowledge/experience in the immigration consequences of crimes

What Else Could Be Harmful?

- Posting on Social Media
- Gang Involvement
- Rep'ing (referencing gangs or gang activity)
- Self-Presentation:
 - Tattoos
 - Wearing signs or colors



The “10 Year Law”

Have you heard of the “10 year law”?

There is not a law that says that simply because a person has been in the U.S. for 10 years he/she has a pathway to citizenship

Cancellation of removal is a complex form of relief

Do not become a victim of fraud

- Must be in deportation proceedings to apply AND
- Must prove that a U.S. citizen or green-card holding spouse/parent/child would suffer “exceptional and extremely unusual hardship” if you were deported - such as they have a serious disease and are dependent on you and only you for care

****See an experienced immigration attorney****

Access to Higher Education and Financial Aid Eligibility

- **Federal Financial Aid:** <https://studentaid.gov/understanding-aid/eligibility/requirements/non-us-citizens>
- **Mass Law Reform Institute:** <http://www.mlri.org/>
- **MA In-State Tuition Eligibility:**
<https://www.mass.edu/forstufam/admissions/residencypolicy.asp>
- **Boston Public Schools We Dream Together** site for more resources for students: <http://bit.ly/2x5iTd9>
- **Mayor's Office for Immigrant Advancement** has college scholarship guide regardless of immigration status:
https://www.boston.gov/sites/default/files/document-file-04-2018/v.3_scholarship_guide_2.28.18_0.pdf
- **MALDEF** scholarship guide:
<https://www.maldef.org/resources/scholarship-resources/>

Resource: Student Immigrant Movement



www.simforus.com



Student Immigrant Movement (SIM)
33 Harrison Ave 5th fl.
Boston, MA 02125
617.830.1813
collegeaccess@simforus.com
www.simforus.com

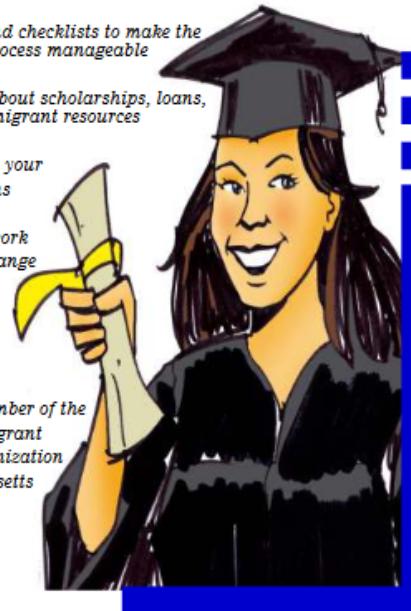
36 College Guide for Immigrant Students

STUDENT IMMIGRANT MOVEMENT'S
College Access Guide
for Immigrant Students

March 2012
Vol. 2
Suggested
Donation \$10

Inside You'll Find

- What you should know about the SATs, essay writing, and filling out the college application
- Worksheets and checklists to make the application process manageable
- Information about scholarships, loans, and other immigrant resources
- Answers to all your basic questions
- How we can work together to change our current broken immigration Laws
- Become a member of the largest immigrant student organization in Massachusetts



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Legal Resources During COVID-19



**2020 FREE
IMMIGRATION
CONSULTATIONS**
with volunteer attorneys

Boston City Hall (8th floor)
Room 806 | 12 p.m. – 2 p.m.
1 City Hall Square | Boston, MA 02201

First and third wednesday of every month

City of Cambridge/De Novo 2020 Immigration Legal Screening Clinics



DE NOVO
CENTER FOR JUSTICE AND HEALING

Immigration Consultation Clinics at Boston City Hall are now by telephone.

Call (617) 635-2980 or email
ImmigrantAdvancement@boston.gov for instructions

Virtual Immigration Legal Screening Clinics providing limited consultations.

Call the Virtual Clinic Hotline (617) 405-5479.

Legal Resources During COVID-19

*Because of COVID-19, most legal services are closed to the public.
Many are offering consultations by phone or video.*

PAIR Project: Helps with detained immigration cases and asylum. Call between 1pm – 3pm to make an appointment: 617-742-9296

Kids In Need of Defense (KIND): Represents kids under age 17.5. Call: 617-207-4138

RIAN Immigrant Center: Call: 617-542-7654 to schedule a call-back with an immigration attorney; if there is no answer, please leave a message.

Catholic Charities: Call 617-464-8100 and leave a message; a staff member will return the call to schedule a phone or video consultation.

Greater Boston Legal Services: General number – 617-371-1234. Immigration Unit – 617-603-1808; please leave a message for a call back.

MIRA Coalition: 617-350-5480

Project Citizenship: For assistance with citizenship. Call 617-694-5949

Committee for Public Counsel Services: For criminal matters. Call 617-482-6212

Legal Resources

- **Office of the Attorney General**
 - Civil Rights (617) 963-2917, to report the unauthorized practice of law/immigration fraud)
- **To report a hate crime: 1-800-994-3228**
 - Any Massachusetts resident who has witnessed or experienced bias-motivated threats, harassment or violence may call the Attorney General's Hotline or fill out a civil rights complaint form online
- **Massachusetts ACLU:** (617) 482-3170
 - For questions about your constitutional rights

thank you | gracias | merci | xie xie |
obrigado | shukran | asante

