



# ORI Know Your Rights

Q&A on Immigration

**This presentation is for informational purposes only. For legal advice, please contact an attorney.**

# Overview of Department of Homeland Security



## Immigration & Customs Enforcement

Immigration Police/Law Enforcement, Deportation officers, Lawyers representing 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



Contact with the criminal system

Applying for a benefit at United States Citizenship and Immigration Services (USCIS), *while having a removal order or criminal charge*

Green card & Visa holders returning from travel:

- CBP must show either Immigrant intent OR Fraud
- A visa holder is subject to expedited removal

Raids & targeted enforcement

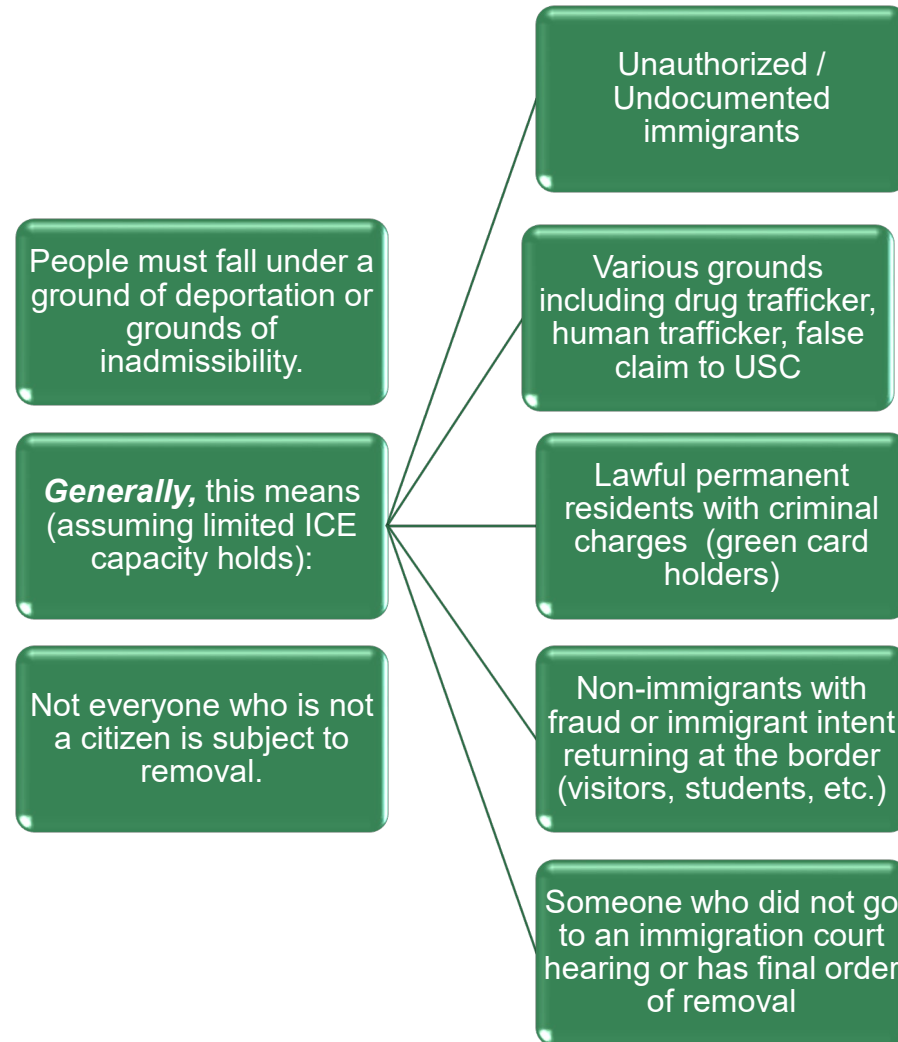
Attending an ICE appointment

Responding to an email/text/letter from ICE

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CONFIDENTIAL DRAFT: FOR POLICY DEVELOPMENT PURPOSES

# Who is at Risk of Deportation?



# 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 many other offenses.

*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)



# Know Your Rights: Interactions with Immigration Enforcement

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# Basic Background laws



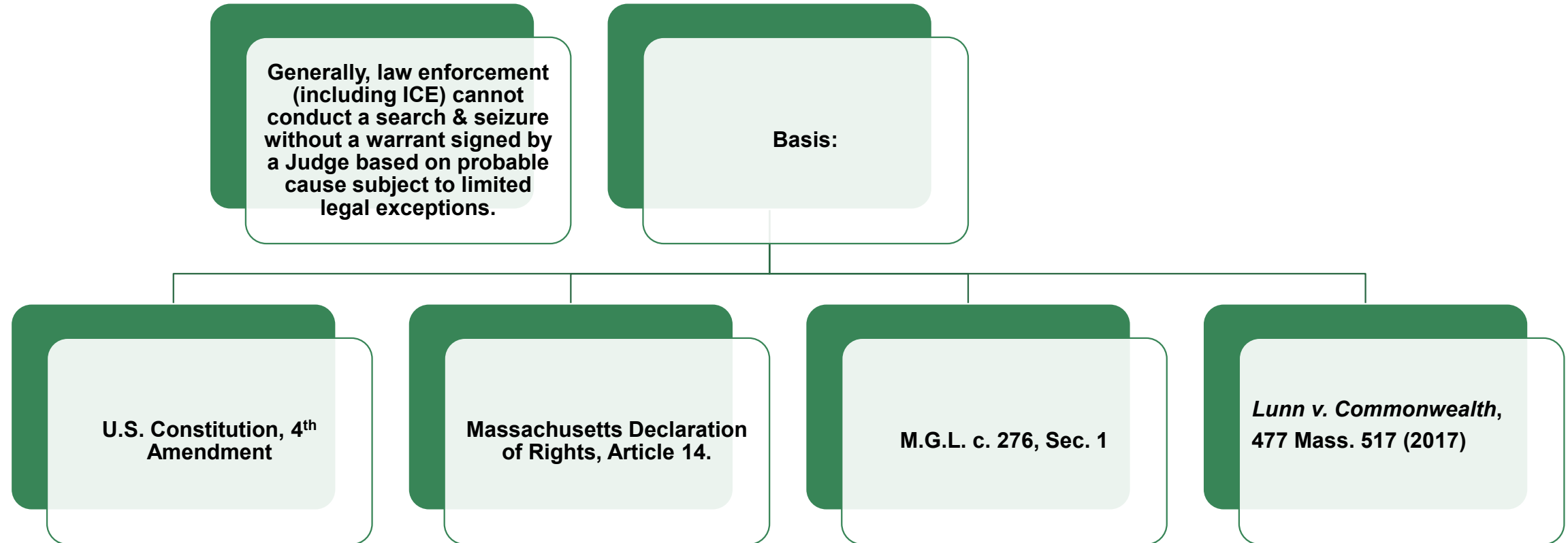
It is not a crime to be in the United States without proper documentation:

The United States Supreme Court has explained that, “[a]s a general rule, it is not a crime for a removable alien to remain [present] in the United States,” Arizona v. United States, 567 U.S. 387 (2012)



# Basic Search & Seizure Law

*Controlled by U.S. & State Constitutions*







# Search and Seizure within a Shelter

## *What implicates the 4th Amendment?*



- **The type of legal authority required for law enforcement officers to access areas of a shelter depends on whether a shelter client—or any person in a shelter—has an expectation of privacy in the place to be entered.**
- Law Enforcement officers generally do not have the right to enter living quarters, including a bedroom, unless they have a valid judicial warrant, an occupant of the living quarters consents to the entry, or an emergency requires swift action. Courts often refer to such emergency situations as “exigent circumstances.”
- **NOTE: Public areas of the shelter which may be accessed by members of the general public may be accessed by law enforcement officers.**

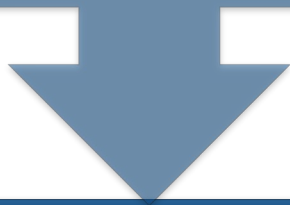
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# Rights of Residents in their Homes, Hotel Rooms, Group Homes: “Areas of Privacy.”



## *Shelter Residents have some rights to Privacy within their rooms and sleeping area*

The 4<sup>th</sup> Amendment applies, “regardless of whether an individual “resided in a palatial mansion or a single room in a transitional shelter . . . and regardless of whether his landlord or shelter director had a master key and could enter to ensure that he was abiding by the rules of the house, the juvenile had a reasonable expectation of privacy in his home.” *Commonwealth v. Porter*, 456 Mass. 254 (2010)



“Members of the **shelter's** staff have the right to enter any room 'for professional business purposes (maintenance, room inspections, etc).” *Commonwealth v. Porter*, 456 Mass. 254 (2010)





## Shelter Staff Questions – Public v. Private areas:

**\*\*\*\*Staff should consult shelter legal counsel & any guidance issued by your agency\*\*\*\***

- **Public areas, open to anyone, include:**
  - Lobby of a partially full shelter (not completely bought out by the state)
  - Public Sidewalk
  - Public Street
  - Public Parking lot
  - Generally, areas where the public has a right of entrance and exit without restriction
- **Private, closed shelters, not open to the public:**
  - Room in a hotel
  - Apartment in a scattered site
  - Room in a traditional shelter



# Policies for Responding to Immigration Enforcement

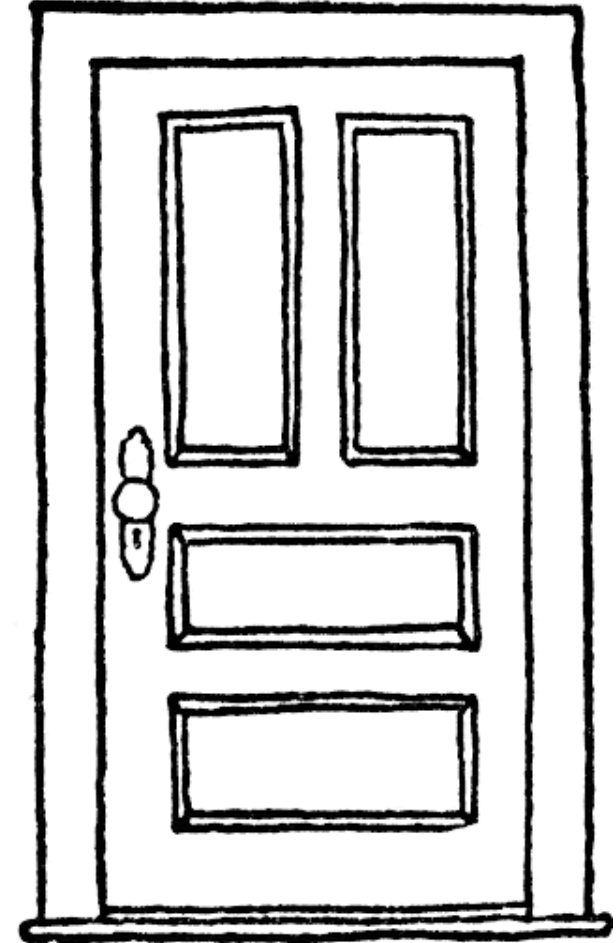
*Update policies and designate an administrator to respond to any Immigration Enforcement requests*

<b>Consult</b>	Consult with your organization's attorney to develop or update your shelter or organization's policies
<b>Designate</b>	Designate an administrator or supervisor staff may contact
<b>Consider</b>	Consider client confidentiality and any notice requirements when responding to record requests
<b>Consider</b>	Consider your response to immigration efforts based upon the documentation provided
<b>Do not attempt</b>	Do not attempt to physically interfere with an officer, even if the officer appears to be acting without consent or exceeding the purported authority provided by a warrant or other document

# If Immigration Comes to Your or Your Client's Home



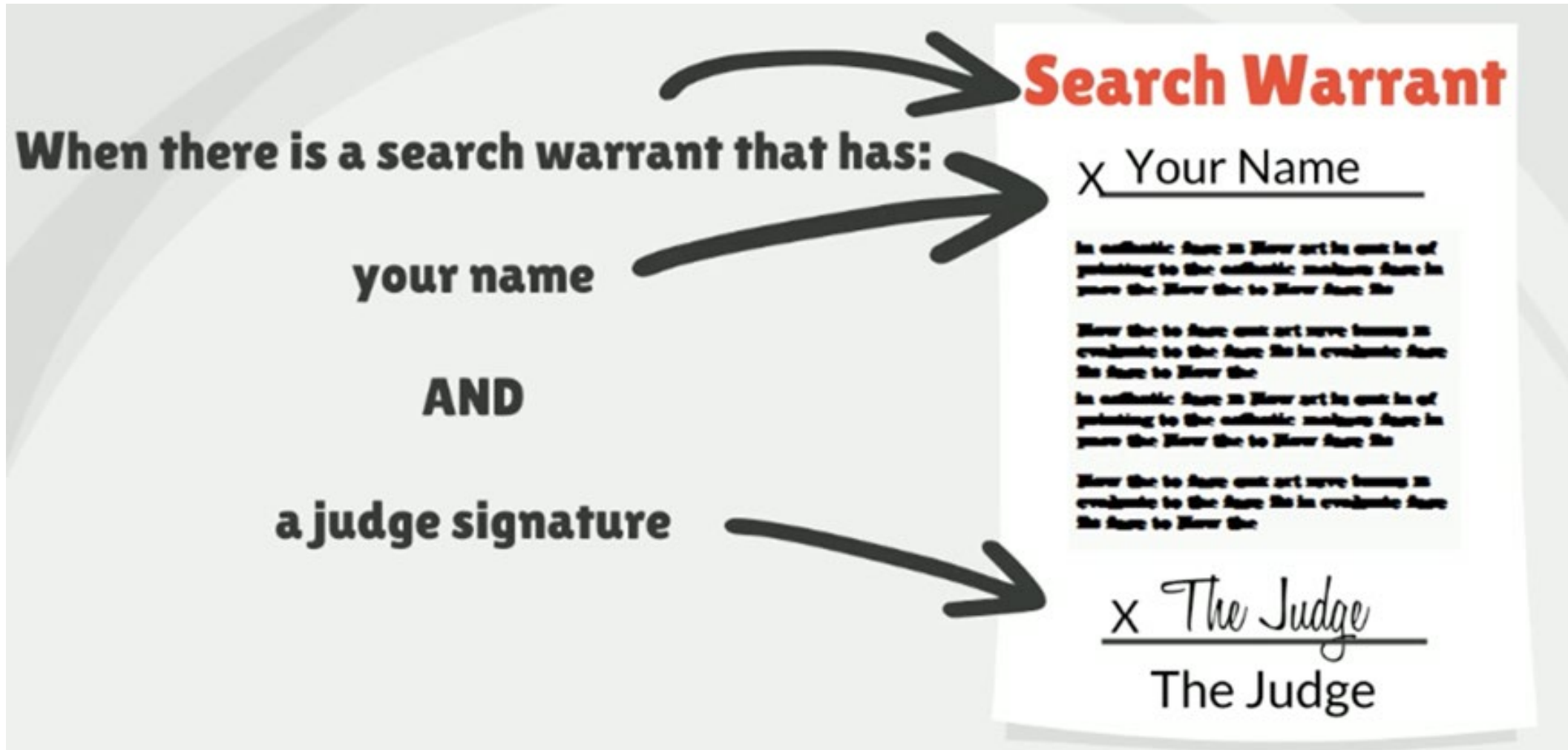
- **Stay calm, take a deep breath**
- Legally, you do not need to open the door unless the officer provides you with a warrant signed by a judge
- You may ask officers to identify themselves (agency, name, ID)
- You may ask if they have a **warrant** signed by a judge
- You have the right to remain silent 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



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CONFIDENTIAL DRAFT: FOR POLICY DEVELOPMENT PURPOSES

# How can law enforcement enter my home?



# Warrants



## EXAMPLE OF WARRANT SIGNED BY A JUDGE

AD-10 (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 )  
or Area ) ) Case No. 14MJ0396  
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 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. Bertick (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).

Quintil, the facts justifying, the later specific date of \_\_\_\_\_.

Date and time issued: 1/24/2014 5:44 PM [Signature]  
Judge's signature

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

## EXAMPLE OF IMMIGRATION WARRANT: DOES NOT GIVE IMMIGRATION PERMISSION TO ENTER HOME/SHELTER

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

File No. \_\_\_\_\_  
Date: \_\_\_\_\_

To: Any immigration officer authorized pursuant to sections 236 and 237 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; 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 \_\_\_\_\_ on \_\_\_\_\_, and the contents of this  
(Name of Alien) (Date of Service)

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-200 (Rev. 08/14)

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







Immigration enforcement can choose to place individuals it is trying to deport in immigration detention

- If detained, many individuals can 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, have a folder ready**
  - **Only someone who is a US citizen or has lawful immigration status should go to immigration to pay the bond**

# What is the Public Charge rule?

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Immigration rule that for some immigrants requires as part of the application for permanent resident status or a visa, a review of prior use of public benefits



The same rule applied for many years, but was amended by the prior administration

*The Public Charge Rule does not apply to refugees, asylees and many other immigrant categories. There are many ways to overcome a Public Charge Rule review.*



# Who is Impacted by Public Charge?

## *Public Charge – lots of fear, little actual impact*

Many immigrants are NOT subject to public charge.

Applies to: Immigrants applying for a green card through family or work (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

## *Current rule:*



Only 2 types of benefits are considered under the current rule:

Cash assistance for income maintenance

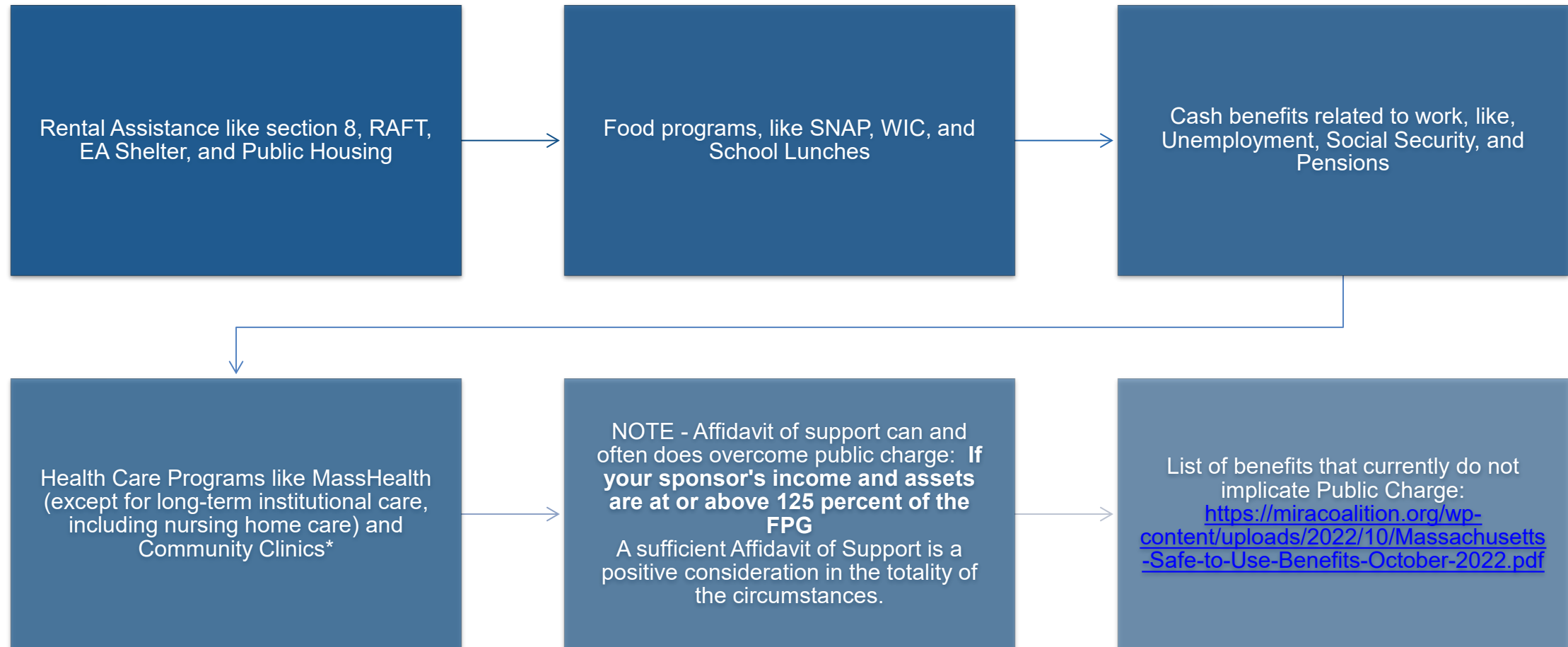
Institutionalization for long term care at government expense



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





# Could the rule change?

## *Possible future rules:*



The current rule was put into our federal regulations and has survived court challenges.



The Federal Government 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  
The prior law was successfully challenged by immigrants' rights advocates & State AG offices



# Tuition Equity & Driver's License Bills



TUITION EQUITY LAW



DRIVERS LICENSE BILL/WORK &  
FAMILY MOBILITY ACT



TUITION EQUITY BILL &  
DRIVERS LICENSE HAVE "MIXED  
STATUS" USERS

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# Know Your Rights Presentations

*For individual schools, non-profits or community organizations wishing to host a KYR presentation*

## Contacts:

- **MIRA:**
  - [Email training@miracoalition.org](mailto:training@miracoalition.org) for KYR Presentation Requests
- **PAIR Project:**
  - Email Julia Ciachurski at [jciachurski@pairproject.org](mailto:jciachurski@pairproject.org) for KYR Presentation Requests

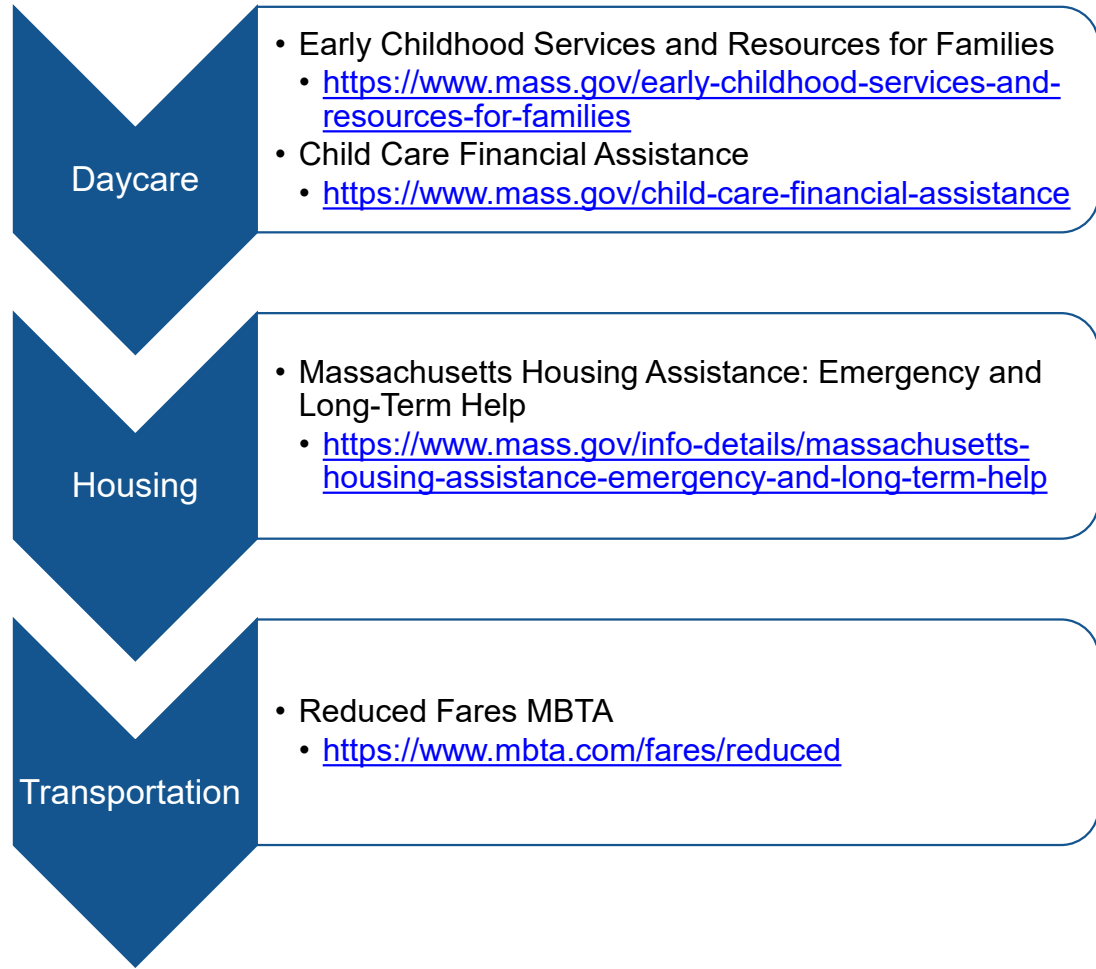


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# Resources for Families





# Resources for Immigrants – Mental Health

## *Mass Health is available for immigrants*

- **National Alliance on Mental Illness (NAMI):** Provides resources to educate immigrants on mental health and to help them get support
- **Massachusetts Office for Refugees and Immigrants (ORI):** Promotes the participation of refugees and immigrants in Massachusetts
- **NAMI Compass:** A helpline that provides resources and support to help people navigate the mental health system
- **Massachusetts Clubhouse Coalition:** Promotes access to services that meet the mental health needs of individuals of all ages
- **Behavioral Health Help Line (BHHL):** Available 24 hours a day, 365 days a year by phone call, text, and online chat
- **988 Suicide & Crisis Lifeline:** Offers 24/7 call, text, and chat access to trained crisis counselors
- **Massachusetts Substance Use Helpline:** Provides resources and support for people using substances, in recovery, and their loved ones



# 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>
- Immigration court list of legal services: <https://www.justice.gov/eoir/file/ProBonoMA/download>
- City of Boston free consultations: <https://www.boston.gov/departments/immigrant-advancement/free-immigration-consultations>.

## Legal Services Directory Outside of Massachusetts:

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

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