

# Know Your Rights: If You Encounter ICE

India Association of Minnesota

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**Fredrikson**

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# Introductions



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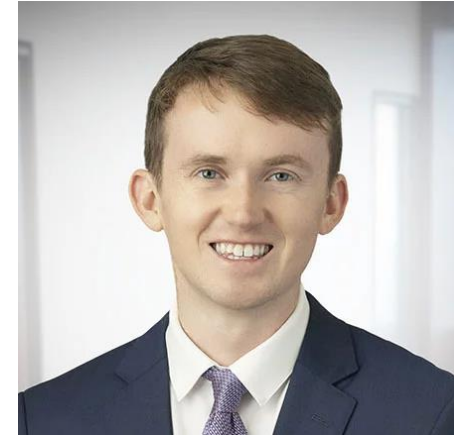


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# Agenda

1. Overview: Relevant Federal Immigration Agencies
2. What Are Your Rights?
3. Documentation Recommendations
4. Practical Guidance if Stopped by ICE
5. What if I'm Detained
6. Resources in Minnesota
7. Q&A

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# Overview: Immigration Enforcement and Relevant Agencies

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# Federal Immigration Agencies

- Department of Homeland Security
  - Immigration and Customs Enforcement (ICE)
    - Enforcement and Removal Operations (ERO)
    - Homeland Security Investigations (HSI)
  - Citizenship and Immigration Services (USCIS)
    - Fraud Detection and National Security Directorate (FDNS)
  - Customs and Border Protection (CBP)

# Federal Immigration Agencies



Image Courtesy: New York Times

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# What Are Your Rights?

# What Are Your Rights?

- 1<sup>st</sup> Amendment
  - Protects the rights of speech and assembly
- 4<sup>th</sup> Amendment
  - Protects against unreasonable stops, searches, or seizures without a valid legal basis.
  - Requires a judicial warrant to enter private property (areas where there's a reasonable expectation of privacy).
- 5<sup>th</sup> Amendment
  - Due process and equal treatment under the law



# What Are Your Rights?

- A Note on the 4<sup>th</sup> Amendment and Warrants

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, information that the subject either lacks immigration status or is removable under U.S. immigration law; and/or
- ☐ statements made voluntarily by the subject to an immigration officer that affirmatively indicate the subject is removable under U.S. immigration law.

**YOU ARE COMMANDED to arrest and take into custody 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 the notice were read to him or her in the \_\_\_\_\_ (Language) language.

\_\_\_\_\_  
Name and Signature of Officer

\_\_\_\_\_  
Name or Number of Interpreter (if applicable)

Form 5-208 (Rev. 09/14)

**ICE Administrative Arrest Warrant**

**Not signed by a judge**

AO 151 (Rev. 12/09) Search and Seizure Warrant

**This is a judicial search warrant. It DOES authorize agents to enter your home.**

UNITED STATES DISTRICT COURT - Issued by a COURT.

for the Eastern District of California

In the Matter of the Search of \_\_\_\_\_ (Briefly describe the property to be searched or identify the person by name and address)  
540 Oak Avenue  
Devon, California 95616

**Judicial Warrant**

**SEARCH AND SEIZURE WARRANT**

To: Any authorized law enforcement officer 2:11 - SW - 0161 EFB

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 \_\_\_\_\_ Eastern District of California.

(Identify the person or describe the property to be searched and give the location.)  
**SEE ATTACHMENT A ATTACHED HERETO AND INCORPORATED BY REFERENCE**

Read attachments to make sure they are regarding YOU and YOUR address, not someone else's.  
The person or property to be searched, described above, is believed to conceal **illegally** the person or describe the property to be seized.  
**SEE ATTACHMENT B ATTACHED HERETO AND INCORPORATED BY REFERENCE**

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 5-9-2011** (Date for warrant, not to exceed 14 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 \_\_\_\_\_ (Judge)

☐ 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: 4-25-2011 at 10:00 AM

City and state: SACRAMENTO, CALIFORNIA

EDMUND F. BRENNAN, U.S. MAGISTRATE JUDGE  
(Printed name and title)

**Signed by a judge**

Source: National Immigration Law Center <http://niclcenter.com/NIIE> (Phone: 714.675.1040) 1510-107-70

Image Courtesy: NIJC

# What Are Your Rights?

- US Citizens (USCs)
  - DHS officers (ICE & CBP) generally do NOT have jurisdiction over USCs
  - USCs are not required to carry proof of citizenship—including naturalized citizens
  - Officers can detain USCs in limited circumstances:
    - Belief the person is assaulting, resisting, opposing, impeding, intimidating, or interfering with a federal officer in the scope of their duties
    - Reasonable suspicion they are in violation of immigration laws (i.e. “Kavanaugh Stop”) based on a totality analysis considering factors such as “apparent ethnicity”, “high-crime area”, areas with a “high percentage of illegal immigrants”, gathered at a place where “individuals tend to...seek daily work...in certain kinds of jobs.”

# What Are Your Rights?

- Lawful Permanent Residents (i.e. Green Card Holders)
  - All LPRs over 18 years of age are required by law to carry their green card (Form I-551). 8 USC 1304(e).
  - Violators subject to \$100 fine and/or up to 30 days in jail
- People in Nonimmigrant Status (H-1B, TN, F-1, etc.)
  - Required to carry proof of status



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# Documentation Recommendations

# Documents for People in Nonimmigrant Status

- Individuals in lawful nonimmigrant status in US (such as H-1B, F-1, J-1, TPS or HP status) are required to carry proof of legal status at all times.
- The following documents should be carried:
  - ☐ **Valid/unexpired Passport** or a **REAL ID driver's license** (or paper copy);
  - ☐ **I-94 record** [Most recent record may be attached at bottom of most recent I-797 USCIS Approval Notice or from more recent reentry to US [here](#)];
  - ☐ **Copy of Current Status Documentation, which varies according to status as follows:**
    - F-1 Students – Form I-20 (signed)
    - J-1 Scholars and Exchange Program Visitors – Form DS-2019 (signed)
    - H-1B Professional Employees – Form I-797 Approval Notice
    - Other Statuses – You should contact your immigration attorney to determine what specific documentation is required to document your registration and lawful nonimmigrant status.



# Documents for Lawful Permanent Residents & US Citizens

- Lawful Permanent Residents should always carry a copy of their green card.
- US Citizens are not required to carry documentation of status, but they are advised to carry the following:
  - ☐ Driver's license, and
  - ☐ Copy of US passport biographical page OR Copy of naturalization certificate



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# Other Documentation Recommendations

- If you do not have valid immigration status but applied for status or have an open case (such as pending asylum application, open immigration court case, or an immigration appeal), carry any document showing you applied for status or are appealing a decision
- If you are undocumented, carry proof of physical presence in the U.S. at least 2 years:
  - Mortgage or rental contract
  - Church or school records with a mailing address
  - Utility bills or bank statements with a U.S. address

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# Document Safeguarding and Retention

- Advisable to retain copies of relevant documents on electronic devices (including cell phone)
- Copies should be saved locally on your device in an organized folder that is easy to access without internet
- Paper copies of relevant docs should also be kept on your person & in other secure places (car, backpack, wallet/purse)
- If original required documents are lost, stolen, or destroyed, replacements should be promptly requested & the receipt notice for replacement application should be carried



# Additional Personal Safeguards

- Emergency contacts should be updated with employer, daycare, schools, etc.
- Trusted contacts should be given copies of relevant documents
- Business card for immigration attorney (if appropriate) should be carried
- Know Your Rights card
- Delegation of Parental Authority should be considered in the event parents might be detained/separated from children
- Consider guardianship and/or Power of Attorney documents
- Communication Plan



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# **Practical Guidance and Best Practices if Stopped by ICE**

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# On the Street

- Stay calm and don't run, argue, resist, or fight the officer, even if you believe your rights are being violated or you are being treated unfairly. Keep your hands where police can see them.
- Always be truthful. Do not lie about your status or provide false documents.
- Ask if you are being detained or free to leave.
- Prove status if comfortable.
- Exercise your right to remain silent if needed.
- Do not sign anything without speaking to a lawyer.

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# At Your Home

- Do not open your door or consent to entry. Teach all household members (especially children) not to open the door or allow strangers inside your home.
- Ask to see a judicial warrant signed by a judge or magistrate. Have them slide it under the door for your examination.

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# Traffic Stop

- Ask if the agent is a local or state police officer. ICE and CBP do not have authority to conduct general traffic stops (for speeding, registration violations, etc.)
- Keep your hands visible and articulate to the officer your body movements.
- Do not step outside your vehicle or consent to entry into your vehicle.
- Ask if you are being detained or free to leave.

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# What if I'm Detained?

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# What if I'm Detained?

- You have the right to:
  - Remain silent
  - Call a lawyer (You must find your own immigration lawyer--the government does not appoint one for you. You may ask for a list of free or low-cost lawyers or legal services organizations.)
- Find out if you are eligible for bond, parole, or release on recognizance.
- Do not sign any documents—especially if they say “waiver”, “stipulated removal order”, or “voluntary departure agreement.”

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# Resources in Minnesota



# Resources

- Know Your Rights Red Card - <https://www.ilrc.org/redcards>
- Minnesota Immigration Legal Services Hub - <https://www.lawhelpmn.org/minnesotas-immigration-legal-services-hub-initiative>
  - Advocates for Human Rights, Immigrant Law Center of Minnesota, Mid-Minnesota Legal Aid, Southern Minnesota Regional Legal Services, and Volunteer Lawyers Network.
- Your Local Congressperson and Senator

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# Questions?



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