



# KNOW YOUR RIGHTS IMMIGRATION

**LIVING IN A BORDER COMMUNITY**

*This information is not intended to be legal advice. Every person's situation is different. You should speak to an immigration attorney or with a U.S. Department of Justice accredited representative.*

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## What is the ACLU?

- Defends rights enshrined in the U.S. Constitution.
- Fights both government and non-government abuse, and defends individual freedoms including speech and religion, a woman's right to choose, the right to due process, citizens' rights to privacy and much more.
- The ACLU stands up for these rights even when the cause is unpopular, and sometimes when nobody else will.

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## The ACLU's Work

- Education, Litigation and Advocacy
- 1.75 million members, nearly 300 staff attorneys, thousands of volunteer attorneys, and offices throughout the nation.
- The ACLU also remains a defender of segments of the population who have traditionally been denied their rights with much of our work today focused on equality for people of color, women, gay and transgender people, people who are incarcerated, immigrants, and people with disabilities.

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**EVERY  
HUMAN  
HAS  
RIGHTS**

## CIVIL RIGHTS & IMMIGRATION

**Certain rights** guaranteed in the U.S. Constitution **apply to undocumented people too**, including:

- the RIGHT to be treated fairly in court
- the RIGHT to free speech
- the RIGHT to religious freedom
- the RIGHT TO REMAIN SILENT
- the RIGHT TO LEGAL COUNSEL in criminal cases

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## CIVIL RIGHTS & IMMIGRATION

Exercising your rights is **NOT** grounds for deportation.

- However, if you are undocumented, you **CAN** be arrested as a “collateral arrest” and be deported.\*
- Exercising your rights may buy you time to determine your best legal options.
  - It does not mean you won't be detained.

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## LAW ENFORCEMENT SAN DIEGO COUNTY



- Immigrations and Customs Enforcement (ICE)
  - Homeland Security Investigations (HSI)
  - Enforcement and Removal Operations (ERO)
- Customs and Border Protection (CBP)
  - Border Patrol (USBP)
- Local Police Departments
- Sheriff's Department



## What's the difference?



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# Foundational Know-Your- Rights

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San Diego and  
Imperial Counties



## THE BORDER

CBP argues that it has special authority within a “reasonable distance” from any **external** boundary of the United States—up to 100 miles away from any actual border crossing!



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## What does this mean for your rights?

This means in the “100 mile zone,” CBP can:

- stop you;
- ask you questions;
- search your belongings, and
- even detain you...

...with very little explanation or justification.



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## YOUR RIGHTS

Regardless of a person's immigration status, law enforcement officers may **NOT** perform searches nor detain people based on:

- **Race or ethnicity**
- **Religion**
- **Political beliefs**
- **National origin**
- **Sexual orientation**
- **Gender, gender expression**

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## YOUR RIGHTS

Regardless of immigration status:

- You have the right to remain silent, which means you are **NOT required to answer any questions or sign any documents until you are able to speak with an attorney.**
- Officers **may not** use excessive, unreasonable, or unnecessary force against you.

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## YOUR RIGHTS

- While Department of Homeland Security (DHS) has **NO** authority to arrest **U.S. citizens** for civil immigration violations, **they can arrest you until they confirm your citizenship.**
- If you are being arrested by DHS for a civil immigration violation, the government **WON'T** provide you with an attorney, citizen or non-citizen, alike.

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## AT HOME

- **ICE agents or immigration officers, and ALL law enforcement agencies are required to have a Judicial Search Warrant**
- **Be aware that ICE or immigration officers can detain other people. These are called “collateral” arrests. **These are individuals who are not the target of ICE visits.****

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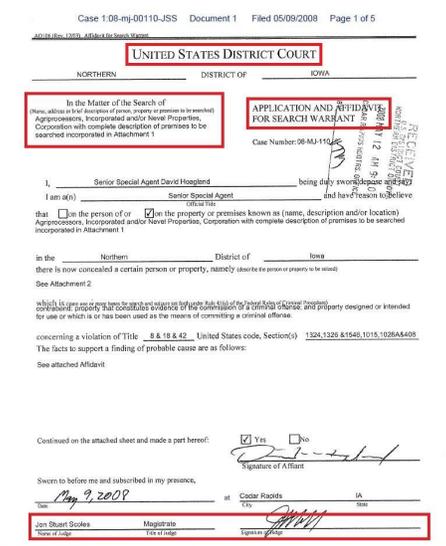



# AT HOME

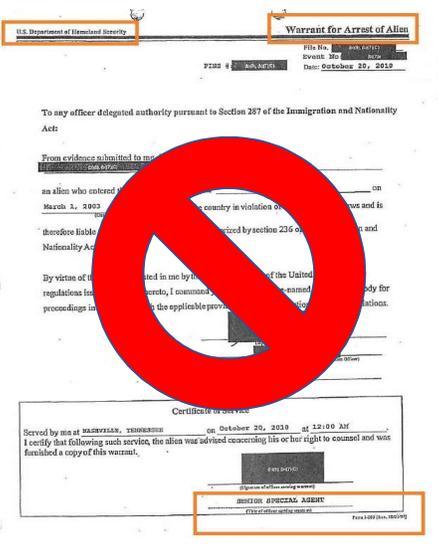
- **DO NOT** open the door. ICE agents & immigration officers may pretend to be local police.
- **ASK** for the agency they represent before you open the door.
- **ASK** the agent to slide the warrant under the door or show it through the window.
- **LOOK** to see if it has the correct name, address and signature of the judge the “yellow/red KYR card” under the door.
- **YOU ALWAYS HAVE THE RIGHT TO REMAIN SILENT.**

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## YES – Search Warrant (signed by a judge)



## NO – Arrest Warrant (signed by an ICE agent)



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# In Case of Immigration Arrest

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## IF YOU WITNESS AN ARREST OR RAID

**DO NOT** interfere.  
Comply with orders.

- You have the right to record in your own home.
- You have the right to record in public:
  - Street, school, public transportation, etc.



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## IF YOU WITNESS AN ARREST OR RAID

Law enforcement does not have the right to take away your cell phone, unless they have a warrant.

**IMPORTANT:** Undocumented individuals should avoid interacting or attempting to record or document ICE/CBP activities.



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## WHAT TO DO IF SOMEONE IS DETAINED

Find out where the person is detained:

- **Call ICE 619.671.8700 (local)**  
**1.888.351.4024 (national)**
- Use the ICE Online Detainee Locator:  
<https://locator.ice.gov>
- **Unblock your phone lines to receive collect calls** from jail in case the person tries to call you.

Visit detention facility (only if you have legal status).

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## WHAT CAN FAMILY AND FRIENDS DO?

- Call the San Diego Rapid Response Network (SDRRN) **non-emergency immigration assistance line:**  
1.858.637.3365
- Immediately contact an immigration attorney
- **Alert the San Diego Rapid Response Network**  
**1.619.536.0823** (24-hour hotline)  
**ONLY in case of emergency.\***

A large, blue-tinted background graphic of the Statue of Liberty, covering the entire bottom section of the page.

# Access to benefits and health services

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## ICE IN HEALTH & BUSINESS CENTERS

- ICE and CBP cannot search or enter **non-public areas** without a valid warrant signed by a judge **unless** they have the property owner's consent or there are emergency circumstances.
- According to ICE and CBP policy, agents should not conduct immigration enforcement actions in **“sensitive locations,”** including **health centers, schools, or places of worship** without **prior approval** (in writing for CBP) or in emergency situations.
- ICE and CBP **may enter** areas open to the **general public**.

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## IMPACT OF STATE LAW ON ICE IN HEALTH CENTERS

- The California Values Act (SB 54) (2018) requires the Attorney General to publish model policies limiting assistance with immigration enforcement at several public institutions, including health facilities.
- Also requires that all health facilities operated by the state of CA or a subdivision of the state adopt and implement the model policy (or the equivalent).
- Model policy available at: <https://oag.ca.gov>

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## WARRANTS AND RECORDS

ICE and CBP generally cannot search or seize records or documents without a valid search warrant signed by a judge, or the owner's consent, or exigent circumstances.

**Inspect** the search warrant to confirm that it is signed by a judge and that it identifies the places and items that ICE and CBP may search.

Many administrative **subpoenas** are not enforceable without a **court order** and should be reviewed by an attorney.

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## NONCITIZENS AND BENEFITS

### PRUCOL

Individuals “permanently residing in the US under color of law” (PRUCOL) are people who are residing in the United States with knowledge and permission of immigration authorities and whose removal immigration authorities do not plan to enforce.

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## NONCITIZENS AND BENEFITS

Definition includes non-exhaustive list of examples, including immigrants who:

### PRUCOL

- have been paroled into the US for certain reasons;
- have been granted withholding of removal a stay of removal, or an order supervision;
- have an approved family petition *and* are eligible for voluntary departure,
- have resided in the US since before 01/01/1972.



## NONCITIZENS AND BENEFITS

Major Benefit Programs Available to Immigrants in California | May 2017 | PAGE 3 of 6

PROGRAM	"QUALIFIED" IMMIGRANTS <sup>1</sup> WHO ENTERED THE U.S. BEFORE AUG. 22, 1996	"QUALIFIED" IMMIGRANTS WHO ENTERED THE U.S. ON OR AFTER AUG. 22, 1996	"NOT QUALIFIED" IMMIGRANTS <sup>2</sup>
California Food Assistance Program (CFAP)	Eligible only if: • Do not meet immigrant eligibility criteria for SNAP (above).	Eligible if: • Do not meet immigrant eligibility criteria for SNAP (above). <sup>†</sup>	Eligible only if: • Lawful temporary resident, or • Victim of trafficking, applicant for U visa, or U visa holder. <sup>‡</sup>
Child Nutrition Programs: • Women, Infants and Children (WIC) • School Lunch & Breakfast • Summer Food	Eligible	Eligible	Eligible
CalWORKs	Eligible	Eligible <sup>†</sup>	Eligible only if: • Victim of trafficking, applicant for U visa or U visa holder, <sup>‡</sup> or • Granted indefinite stay of deportation/removal, indefinite voluntary departure, or • Permanently residing in the U.S. under color of law (PRUCOL).
Covered California	Eligible if over-income for "free" Medi-Cal	Eligible if over-income for "free" Medi-Cal	Eligible if over-income for "free" Medi-Cal, and: • Lawfully present in the U.S. <sup>‡</sup>
Full-Scope Medi-Cal (Nonpregnant adults) <i>For low-income residents.</i>	Eligible	Eligible	Eligible only if: • Permanently residing in the U.S. under color of law (PRUCOL), or • Victim of trafficking, applicant for U visa or U visa holder, <sup>‡</sup> or • American Indian born in Canada or other Native American tribal member born outside U.S., or • Lawfully residing children or pregnant women.
Full-Scope Medi-Cal (Children under 19 years old)	Eligible	Eligible	Eligible
Emergency Medi-Cal <i>Includes labor/delivery.</i>	Eligible	Eligible	Eligible

Courtesy of the National Immigration Law Center  
www.nilc.org





## “PUBLIC CHARGE”

### NONCITIZENS AND BENEFITS

- Term immigration agencies use to refer to someone who it believes is dependent on the government for subsistence
- Ground of “inadmissibility” that can bar someone from entering the US or from obtaining lawful permanent residence
- Officials are supposed to use a “totality of the circumstances” approach to determine if someone is a “public charge”
- **Important:** income, dependence on receipt of cash aid (state and federal), institutionalization at long-term facility at government expense

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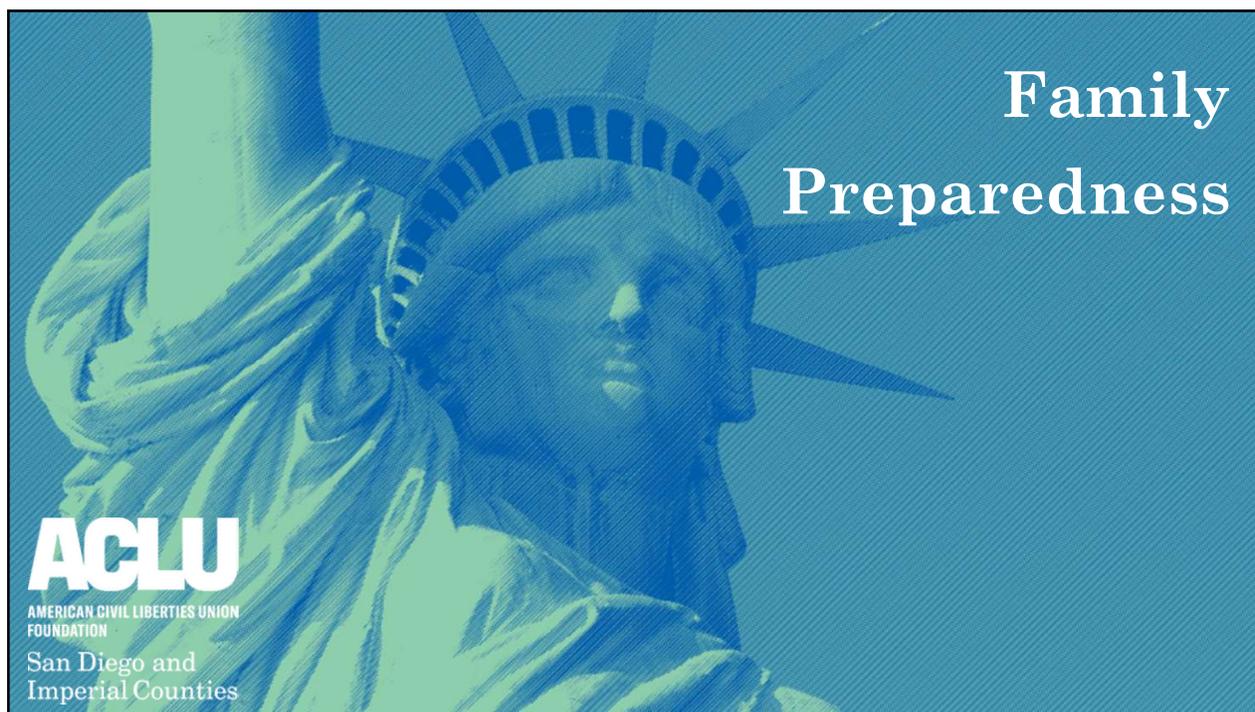
## “PUBLIC CHARGE”

### NONCITIZENS AND BENEFITS

October 2018 proposed rule change includes:

- Adding more programs that could be considered when determining whether someone is a “public charge,” including: health care, food, housing programs: Medicaid, medical, SNAP food stamps, Section 8 vouchers
- *(Not proposed: disaster relief, emergency medical assistance, entirely state-run non-cash aid programs. WIC should be okay.)*
- Establishing income levels that could be used in “public charge” test
- Expanding use of “public charge” test to other benefits
- Public comment is closed; more process ahead

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## **FAMILY PREPAREDNESS**

**A prepared family has a much better chance of staying together!**

**Determine:**

- Child care, school arrangements, and long-term plans
- Caregivers (Authorization Forms)

[For a detailed plan:](https://www.ilrc.org/family-preparedness-plan)

<https://www.ilrc.org/family-preparedness-plan>



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## FAMILY PREPAREDNESS

### Plan:

- **SAVE MONEY!** For attorney, rent, and living expenses.
- Create an emergency contact list (wallet sized for all family members).
- **Memorize a reliable family member's phone number!**
- Compile medical instructions/important documents.



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## FAMILY PREPAREDNESS

### Prepare (necessary forms to ensure continuity):

- School
- Medical/Health Care
- Finances: speak with your bank/obtain correct forms to designate a financial representative.



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## KYR Supplemental Resources

### VIDEOS

- <https://www.youtube.com/watch?v=DSIX4GBP5es>
- <https://www.youtube.com/watch?v=20Z9fRrAXgo>
- [https://www.youtube.com/watch?v=IX\\_XOnesuvI](https://www.youtube.com/watch?v=IX_XOnesuvI)

### PUBLICATIONS

- <https://www.aclu.org/know-your-rights>
- <https://www.aclu.org/issues/immigrants-rights> (*the latest*)
- <http://undocumented.ucdavis.edu/2018/3/8/Center%20DACA%20Post-NDCal%20Inj%20FAQ.pdf>
- <https://www.nilc.org/wp-content/uploads/2018/01/DACA-USCIS-Announcement-FAQ-2018.pdf>

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Thank you.

Questions?

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For updates, news and resources, visit our website: [www.aclusandiego.org](http://www.aclusandiego.org) or our Facebook page: [www.facebook.com/sdaclu/](http://www.facebook.com/sdaclu/).