



Legal Authority of Administrative Immigration Warrants

What are ICE warrants, what do they authorize, and who can enforce them?

I. What is an ICE warrant?

An ICE warrant is a document issued by a federal immigration officer that names a particular non-citizen and directs immigration enforcement agents to arrest that individual.¹ There are two kinds of ICE warrants: removal warrants (Form I-205) and arrest warrants (Form I-200).² DHS may only issue a removal warrant once the person is subject to a final order of removal (aka deportation).³ DHS officers can issue an arrest warrant at the same time as, or after, they issue a Notice to Appear, which is the charging document for removal proceedings.⁴

II. Who can Issue or Execute an ICE Warrant?

By statute, power to issue ICE warrants is delegated to DHS.⁵ The implementing regulations list which agents have authority to issue or execute a warrant, and what training is required for them before receiving that authority.⁶ Many levels of supervisory agents in DHS have authority to issue a warrant, but some of the most junior or entry-level agents do not; they must have a supervisor sign a warrant.⁷ However, all federal immigration officers are authorized to execute ICE warrants by making an arrest of the person named in the warrant.⁸ In contrast, other law enforcement officers, such as local police, have no authority to seize someone based on an ICE warrant. For more details about local law enforcement authority regarding ICE warrants, see section IV below.

III. What powers does an ICE warrant confer?

A. Immigration Arrest

An ICE warrant directs federal immigration officers to make a civil immigration arrest of the person named in the warrant.⁹ Upon arrest, the immigration officer must identify themselves as an immigration agent authorized to make the arrest and state the reason for the arrest,¹⁰ and then take the person into ICE custody.¹¹

¹ We will refer to these warrants as “ICE warrants” but they may be issued by various federal immigration agents.

² Note that Form I-203 or I-203a is not a warrant. It is an administrative order to detain or release a person who is in ICE custody, as described in the ICE Detention Standards relating to custody and bond determinations.

³ 8 C.F.R. § 241.2(a)(1).

⁴ 8 C.F.R. § 236.1 (“At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest.”); 8 U.S.C. § 1226(a).

⁵ 8 U.S.C. § 1226. The powers of the Attorney General were delegated to DHS in 6 U.S.C. § 557.

⁶ 8 C.F.R. § 287.5(e).

⁷ *Id.*

⁸ *Id.*

⁹ 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1

¹⁰ 8 C.F.R. § 287.8(c)(2).

¹¹ Depending on the case, that person may subsequently be released, or be detained during further proceedings.

By statute, federal immigration agents also have power to make arrests *without* a warrant, if they have probable cause that the person is in violation of immigration laws and is likely to escape before a warrant can be obtained.¹² The possession of an ICE warrant, therefore, allows an immigration officer to make an arrest where they do not have immediate knowledge of the facts underlying probable cause or likelihood of escape.

B. Entry Not Authorized

An ICE warrant directs an arrest of a person, but it does not authorize entry to a private space without consent of the occupant or exigent circumstances. This is because the Fourth Amendment protects us against unreasonable search and seizure by requiring officers to have a judicial warrant to enter a home or other private space.¹³ An ICE warrant is not a valid warrant for purposes of the Fourth Amendment; it is really just a piece of paper with the word “warrant” at the top.¹⁴

The Fourth Amendment requires that a warrant may be issued based upon probable cause, as reviewed by a neutral judge or magistrate.¹⁵ Without this intervening review by judge, there is no check of an officer’s basis for the arrest.¹⁶ An ICE warrant, however, is issued by immigration officers and at no point is it reviewed by any neutral party.¹⁷ The Supreme Court has held that the Fourth Amendment requires a warrant be reviewed by a neutral officer who is independent of the investigating and prosecuting agency.¹⁸

¹² 8 U.S.C. 1357(a).

¹³ See *Steagald v. United States*, 451 U.S. 204, 212 (1981) (“The purpose of a warrant is to allow a neutral judicial officer to assess whether the police have probable cause to make an arrest or conduct a search.... this checkpoint between the Government and the citizen implicitly acknowledges that an “officer engaged in the often competitive enterprise of ferreting out crime” may lack sufficient objectivity to weigh correctly the strength of the evidence supporting the contemplated action against the individual’s interests in protecting his own liberty and the privacy of his home.”) citing *Johnson v. United States*, 333 U.S. 10, 14 (1948); *Coolidge v. New Hampshire*, 403 U.S. 443, 449-451 (1971); *McDonald v. United States*, 335 U.S. 451, 455 (1948) (“Absent some grave emergency, the Fourth Amendment has interposed a magistrate between the citizen and the police.”); *Payton v. New York*, 445 U.S. 573, 590 (1980) (“In terms that apply equally to seizures of property and to seizures of persons, the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant.”).

¹⁴ See *Coolidge*, 403 U.S. at 450 (finding a warrant issued by the law enforcement agency invalid for Fourth Amendment purposes: “To be sure, the determination was formalized here by a writing bearing the title ‘Search Warrant,’ ... but the State has not attempted to uphold the warrant on any such artificial basis.”).

¹⁵ See *Coolidge*, 403 U.S. at 481 (“searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment”); *Steagald*, 451 U.S. 212; *Johnson*, 333 U.S. 10.

¹⁶ *Johnson*, 333 U.S. at 10.

¹⁷ 8 CFR 287.5; 8 C.F.R. § 287.5(e). See also *Coolidge*, 403 U.S. 481 (finding a warrant issued by the attorney general was invalid specifically because the attorney general was in charge of prosecution and he could not be a neutral and detached magistrate); *Steagald*, 451 U.S. at 213 (“judicially untested determinations are not reliable enough to justify an entry into a person’s home to arrest him without a warrant”).

¹⁸ See *Johnson*, 333 U.S. at 14. (“When the right of privacy must reasonably yield to the right of search is, as a rule, to be decided by a judicial officer, not by a policeman or Government enforcement agent.”); *Coolidge*, 403 U.S. at 450 (“prosecutors and policemen simply cannot be asked to maintain the requisite neutrality with regard to their own investigations”). See also *Camara v. Municipal Court*, 387 U.S. 523 (1967) (holding that administrative entry may only be compelled through the judicial warrant procedure).

A valid warrant, reviewed by a judge who is not also the investigating and/or prosecuting officer, is required for law enforcement to enter a private space without the occupant's consent. Since an ICE warrant does not fulfill the basic requirements of the Fourth Amendment, it does not authorize such entry into a home or other private space.¹⁹

C. ICE Internal Directive on Home Raids

In May 2025, ICE Acting Director Lyons issued an internal memorandum to all ICE agents, claiming that their lawyers had determined that in fact, it is legal for ICE to force entry to people's homes to make arrests, based solely on an administrative removal warrant.²⁰

This memo failed to cite a single legal authority for its entirely novel assertion.²¹ Not only is this assertion contrary to ICE's own regulations,²² innumerable court cases have teased out what the Constitutional requirements of a warrant involve, and have agreed that the Fourth Amendment requires law enforcement officers to obtain a warrant from a neutral magistrate in order to enter a home to make a search or seizure.²³ Federal courts have repeatedly found that warrants issued by an enforcement agency to itself do not meet Fourth Amendment requirements, and therefore actions taken on the basis of such warrants should be evaluated as if there was no warrant at all.²⁴ A lawsuit challenging this memo has been filed in Massachusetts District Court.²⁵

IV. Authority of ICE Warrants for Local Law Enforcement Agencies

ICE warrants are not a basis for local law enforcement to stop or detain anyone. Absent a 287(g) agreement, nothing in federal law or regulations confers authority on local or state officers to execute an administrative immigration warrant. If state or local law enforcement hold an individual beyond the purpose of a stop or the closure of a criminal case, this

¹⁹ *Kidd v. Mayorkas*, 2:20-cv-03512 (C.D. Cal. May 15, 2024) (Finding that ICE regulations in 8 C.F.R. § 287.8(f)(2), which require a warrant to enter a home or the curtilage mean a warrant subject to Fourth Amendment requirements, including review by a judge).

²⁰ Memorandum from Todd M. Lyons, Utilizing Form I-205, Warrant of removal, May 12, 2025, <https://www.documentcloud.org/documents/26499371-dhs-ice-memo-1-21-26/>.

²¹ *Id.* In an Op-Ed later published in the Wall Street Journal, DHS General Counsel argued that a Supreme Court case from 1960 recognized the use of administrative warrants for deportation. He did not address the agency's own applicable regulations in 8 CFR § 287.8(f), nor the many more relevant and more recent Supreme Court opinions, such as *Coolidge v. New Hampshire*, *Payton v. New York*, and *Steagald v. New Hampshire* that held plainly that a judicial warrant is required to enter or search a private space. See <https://www.wsj.com/opinion/how-the-deep-state-thwarted-ice-administrative-warrants-1a847297?msocid=1c7a20af356066672520365a34eb6795>

²² 8 CFR § 287.8 requires ICE to have a warrant to enter a home or the curtilage around a home, and in the Ninth Circuit, this regulation has been .

²³ See above footnotes 12-18.

²⁴ *Coolidge*, 403 U.S. 443 (finding a warrant issued by the Attorney General to be invalid because he was not a neutral magistrate); *Johnson v. United States*, 333 U.S. 10 (“The point of the Fourth Amendment, which often is not grasped by zealous officers, is ... [i]ts protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime.”); *El-Badrawi v. Dep't of Homeland Security*, 579 F. Supp. 2d 249, 275 (D. Conn. 2008) (“That is why, as a matter of federal constitutional law, search warrants issued exclusively by executive officials involved in an investigation are ignored for Fourth Amendment purposes.”)

²⁵ *Greater Boston Latino Network and Brazilian Worker Center, Inc. v. Noem*, No. 1:26-cv-10472 (D. Mass. Jan. 30, 2026).

constitutes a new seizure that must meet Fourth Amendment requirements.²⁶ Because state and local law enforcement do not have legal authority to arrest people purely for civil immigration violations, such as those alleged on an ICE warrant, they have no authority to prolong a stop on the basis of an ICE warrant.²⁷ ICE warrants do not meet the legal requirements for local law enforcement agencies to search or seize anyone.

A. No Authority for LEAs to Execute ICE Warrant or Make Civil Immigration Arrests

An ICE warrant does not confer any arrest authority to a local law enforcement officer. Only specified federal immigration officers can issue and execute ICE warrants.²⁸ The face of the ICE warrant form itself is plainly directed at federal agents who are “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.”²⁹ These regulations do not include any local law enforcement agents. Rather, the list of officers empowered to execute such warrants is specifically enumerated and limited to federal immigration officials.³⁰ The Supreme Court noted in *Arizona v. United States* that only trained immigration agents execute such warrants.³¹ Furthermore, at the time of arrest on an ICE warrant, the regulations direct “the designated immigration officer” to “identify himself or herself as an immigration officer who is authorized to make the arrest” and state the reason for the arrest.³² Local law enforcement agents have no way of doing this because they are not immigration officials.

Moreover, ICE warrants are issued for civil violations of immigration law, not criminal charges. Local law enforcement agencies do not have authority to arrest or detain someone for civil immigration violations.³³ State laws define the authority of local officers to arrest; some states clearly do not provide authority for any civil immigration seizure,³⁴ while some other

²⁶ *Rodriguez v. United States*, 575 U.S. 348 (2015); *Illinois v. Caballes*, 543 U.S. 405, 407 (2005); *Melendres v. Arpaio*, 695 F.3d 990, 1000 (9th Cir. 2012); *Morales v. Chadbourne*, 793 F.3d 208, 217 (1st Cir. 2015); *Santos v. Frederick County Bd. Of Com’rs*, 725 F.3d 451, 464-65 (4th Cir. 2011); *Davila v. N. Reg’l Joint Police Bd et al*, No. 2:2013cv00070 - Document 273 (W.D. Pa. 2019); *Miranda-Olivares v. Clackamas Co.*, No. 3:12-cv-02317-ST (D. Or. April 11, 2014).

²⁷ *Arizona v. United States*, 567 U.S. 387, 407 (2012) (“If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent.”); see also *Santos*, 725 F.3d at 464-65; *Melendres*, 695 F.3d at 1000.

²⁸ 8 U.S.C. § 1357; 8 C.F.R. § 287.5(e); 8 U.S.C. § 236.1(b)(1).

²⁹ See ILRC, Annotated Immigration Warrants 2026, at <https://www.ilrc.org/resources/annotated-ice-administrative-warrants>.

³⁰ 8 C.F.R. § 236.1(b)(1). See also *Arizona*, 567 U.S. at 408.

³¹ *Arizona*, 567 U.S. at 408.

³² 8 C.F.R. § 287.8(c)(2)(iii).

³³ *Arizona v. United States*, 567 U.S. at 408-409; *Melendres*, 695 F.3d at 1000 (“detention beyond the duration of the initial traffic stop must be supported independently by reasonable suspicion of criminality”); *Santos*, 725 F.3d at 464-65 (holding that local officers’ lack of authority for immigration arrests extends to brief investigatory detentions). See also *Gonzales v. City of Peoria*, 722 F.2d 468 (9th Cir. 1983) (local or state law enforcement officers can only make arrests for criminal violations of federal immigration law, not civil violations, as are charged in an ICE warrant).

³⁴ See *Lunn v. Commonwealth*, 477 Mass. 517, 526 (2017) (state and local officers have no authority under Massachusetts law to make civil immigration arrests based on ICE detainers); *People ex rel. Wells v. DeMarco*, 88 N.Y.S.3d 518, 529 (N.Y. App. Div. 2018) (finding that New York statutes do not authorize state and local law enforcement to effectuate warrantless arrests for civil immigration law violations); *Cisneros v. Elder*, No. 18CV30549 (D. Colo., El Paso Cty. Dec. 6, 2018) (finding that Colorado law did not give local officers the authority to continue detaining people based on ICE detainers); *Esparza v Nobles County*, No. 53-CV-18-751, 2018 WL

states compel compliance with ICE detainers.³⁵ Although ICE agents may arrest individuals on the basis of administrative warrants,³⁶ it does not follow that local law enforcement agents may do so.³⁷ The Supreme Court held in *Arizona v. United States* that police are preempted from making civil immigration arrests.³⁸ The existence of an ICE warrant, executable only by federal immigration agents, does not provide any arrest or detention authority to local officers.

B. 287(g) Exception

Under 8 U.S.C. § 1357(g), DHS may enter an agreement with another agency and delegate specified immigration enforcement powers to the individual officers designated under that agreement. Pursuant to a 287(g) agreement, officers with delegated immigration authority may execute a warrant, in such circumstances as are laid out in the Memorandum of Agreement.³⁹ However, these agreements do not authorize a designated 287(g) officer to issue an ICE warrant.⁴⁰ Outside of 287(g) agreements, ICE warrants do not provide a legal basis for local or state law enforcement to arrest or detain an individual.

C. Prolonging a Stop is a Fourth Amendment Seizure

The Fourth Amendment prohibits police from prolonging the detention, even briefly, of an individual after the legal authority for the stop or detention has expired.⁴¹ In *Rodriguez v. United States*, the Supreme Court emphasized that this includes even very brief detention – a seven-minute hold at the end of a traffic stop without reasonable suspicion of a crime violated the Fourth Amendment.⁴²

Prolonging a stop, or otherwise delaying a release from custody, is a seizure that must meet the requirements of the Fourth Amendment.⁴³ An ICE warrant, which is not reviewed by a judge and not executable by local agents, does not authorize such a detention by local custodians. Detaining someone on the basis of an ICE warrant amounts to a seizure that is based only upon evidence of possible civil immigration violations. The Fourth Circuit specifically

6263254, at *10 (Minn. Dist.Ct. Oct. 19, 2018) (finding that there does not exist within Minnesota Statutes the power for Minnesota peace officers to arrest a person for a federal civil offense at the request of ICE officers); *People ex rel Swenson v. Ponte*, 2014 N.Y. Slip Op. 24304 [46 Misc 3d 273].

³⁵ See e.g. Texas Crim. P. Art. 2.251; Florida Stat § 908.102; Georgia Code § 42-1-11.5.

³⁶ *Arizona*, 567 U.S. at 408-409.

³⁷ See *id.* (noting that in all instances of administrative warrants, the law provides that they be executed by immigration officers with training in enforcement of immigration law); *Santos*, 725 F.3d at 465-66 (local arrest based on civil immigration warrant violated the Fourth Amendment).

³⁸ *Arizona*, 567 U.S. at 408-409.

³⁹ See Memoranda of Agreement for 287(g), available at <https://www.ice.gov/identify-and-arrest/287g>.

⁴⁰ *Id.*

⁴¹ *Rodriguez*, 575 U.S. at 354. See also *Illinois v. Caballes*, 543 U.S. 405 (2005).

⁴² *Id.*

⁴³ See e.g. *Rodriguez*, 575 U.S. at 354; *Santos*, 725 F.3d at 464; *Melendres*, 695 F.3d at 1000. See also *Davila v. N. Reg'l Joint Police Bd et al*, No. 2:2013cv00070 - Document 273 (W.D. Pa. 2019); *Miranda-Olivares v. Clackamas Co.*, No. 3:12-cv-02317-ST (D. Or. April 11, 2014); *Morales v. Chadbourne*, 235 F. Supp. 3d 388 (D.R.I. 2017); *Vohra v. United States*, 2010 U.S. Dist. LEXIS 34363 (C.D. Cal. Feb. 4, 2010); *Roy v. Cty. of Los Angeles*, No. CV1209012ABFFMX, 2018 WL 914773, at *23 (C.D. Cal. Feb. 7, 2018); *Ochoa v. Campbell*, 266 F. Supp. 3d 1237 (E.D. Wash. July 31, 2017); *El-Badrawi v. Dep't of Homeland Security*, 579 F. Supp. 2d 249, 275 (D. Conn. 2008); *Lunn v. Commonwealth*, 78 N.E.3d 1143 (2017); *Cisneros v. Elder*, No. 18CV30549 (D. Colo., El Paso Cty. Dec. 6, 2018); *People ex rel. Wells v. DeMarco*, 88 N.Y.S.3d 518 (N.Y. App. Div. 2018).

found such a seizure unconstitutional.⁴⁴ Additionally, for local law enforcement to detain an individual pursuant to an ICE warrant may constitute false imprisonment. The District of Connecticut found that seizure based on an immigration warrant, lacking review by a judge, constituted false arrest under Connecticut law.⁴⁵

D. ICE Warrants in the NCIC Database

The Federal Bureau of investigation manages a national law enforcement database called the National Crime Information Center (NCIC) that includes outstanding warrants from all states. ICE has entered civil immigration removal warrants into this database.⁴⁶ Although a routine traffic stop may include checking for outstanding warrants, as described above, administrative ICE warrants do not provide legal authority for local or state law enforcement to prolong a stop or arrest anyone.

V. Conclusion

Generally, ICE warrants are not valid warrants for purposes of entry to private spaces under the Fourth Amendment. They are enforceable only by federal immigration officers and do not confer any authority on local law enforcement to detain someone for civil immigration violations. An ICE warrant provides no probable cause of a crime, and generally offers no authorization for state and local law enforcement to make an arrest. Detention in local custody pursuant to an ICE warrant opens the local custodian to liability for unlawful imprisonment.

⁴⁴ *Id.*

⁴⁵ *El-Badrawi v. Dep't of Homeland Security*, 579 F. Supp. 2d 249, 275 (D. Conn. 2008) (“No neutral magistrate (or even a neutral executive official) ever examined the warrant's validity. Under Connecticut tort law (and federal constitutional law), the arrest must therefore be treated as warrantless.”).

⁴⁶ Reports in February 2025 stated that ICE had entered 700,000 removal warrants into NCIC.

<https://wsp.wa.gov/wp-content/uploads/2025/02/02-26-2025-Administrative-Immigration-Warrants-1.pdf>