



THE BASICS ON ICE WARRANTS AND ICE DETAINERS

Why ICE is Sending Immigration Warrants to Local Law Enforcement and What it Means

1. What is ICE's new policy on detainers and warrants?

In March 2017, Immigration and Customs Enforcement (ICE) issued a new policy regarding immigration detainers and administrative immigration warrants, or "ICE warrants."

This policy directs that all ICE detainers shall be accompanied by immigration warrants ("ICE warrants") signed by an authorized ICE officer. The new policy is available at <https://www.ice.gov/detainer-policy>.

2. What is an ICE warrant?

An "ICE warrant" is a form issued by certain immigration officers that names an allegedly deportable non-citizen and directs various federal immigration enforcement agents to arrest that individual. For an annotated ICE warrant, see: <https://www.ilrc.org/annotated-ice-administrative-warrants-2017>.

ICE warrants are issued for civil violations of immigration law, not criminal charges. They are also sometimes called "administrative warrants."

An "ICE warrant" is not a real warrant. It is not reviewed by a judge or any neutral party to determine if it is based on probable cause.

For more analysis of the legal authority of ICE warrants, see: <https://www.ilrc.org/legal-analysis-ice-warrants>.

3. What does an ICE warrant do?

An ICE warrant directs various federal immigration enforcement agents to arrest the person named in the warrant. Because it is not issued by a judge, an ICE warrant does not give the immigration enforcement officer the authority to demand entry to a home or private space in order to make the arrest.

ICE warrants do not generally provide a basis for a local or state law enforcement officer or agency (LEA) to arrest or detain anyone. Federal regulations allow a specific list of *federal* immigration agents to execute administrative immigration arrest warrants. See: <https://www.ilrc.org/annotated-ice-administrative-warrants-2017>.

4. How is an ICE warrant different from an ICE detainer?

An ICE warrant is directed only at authorized DHS officials, while an ICE detainer is a request directed to other law enforcement agencies. For an annotated ICE detainer, see: <https://www.ilrc.org/annotated-detainer-form-2017>.

Both an ICE detainer and an ICE warrant are issued based on alleged civil immigration violations and do not provide probable cause of a crime. Neither document meets Fourth Amendment requirements for arrest or provides authority for local law enforcement to arrest or detain someone. The combination of both documents together does not add any new requirements for local agencies. For more analysis of the legal authority of ICE warrants and detainers, see: <https://www.ilrc.org/legal-analysis-ice-warrants>.

5. Are the ICE warrants that come with detainers the same as those ICE brings on a home raid or other enforcement action?

Yes. Although administrative immigration warrants (another term for ICE warrants) do not provide enforcement authority beyond what ICE already possesses, they may sometimes issue an ICE warrant before making arrests at homes or in the street. Because these "warrants" are issued by ICE officers, not a judge, they do not give ICE authority to enter private spaces without consent.