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Cyrus D. Mehta
Editor-in-Chief

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Warrants in Name Only

Why ICE's Self-Issued Authorizations Fail the Fourth Amendment

E Josef Voth*

Abstract: This article argues that Immigration and Customs Enforcement's (ICE's) use of administrative warrants to enter homes and arrest noncitizens violates the Fourth Amendment because those warrants are issued by executive officials rather than neutral judicial officers. Using recent home raids and ICE's 2025 internal policy shift as a starting point, the article shows how the agency moved from treating administrative warrants as internal paperwork to treating them as authority for forced residential entry. It then examines the statutory basis ICE invokes, the Supreme Court's warrant jurisprudence, and lower court decisions addressing whether executive-issued warrants can substitute for judicial warrants in the home. The article contends they cannot. Because the Fourth Amendment's warrant requirement exists to interpose a neutral magistrate between law enforcement and the home, ICE's self-issued authorizations fail that constitutional test. The article concludes that administrative warrants should not authorize home entry and should be abolished or tightly limited for that purpose.

Introduction

In the predawn hours of January 11, 2026, a team of Immigration and Customs Enforcement (ICE) agents in Minnesota rammed through the front door of a family's home with guns drawn.[1] Inside was Garrison Gibson, a longtime U.S. resident from Liberia, who had refused the agents' entry moments earlier when they failed to produce a warrant signed by a judge.[2] Undeterred, the ICE agents returned in force, deployed pepper spray on concerned neighbors, battered down the door, and swarmed inside as if launching a military raid.[3] Only after Gibson was handcuffed did the agents flash a piece of paper: an administrative warrant signed not by any judge, but by an ICE supervisor.[4] The aftermath was swift. A federal judge ordered Gibson's immediate release, bluntly concluding that "agents had forcibly entered [his] home without his consent and without a judicial warrant" in violation of the Fourth Amendment.[5] The incident, shocking as it was, stemmed from an internal ICE directive that allowed agents to treat their own in-house warrants as judicial warrants for home raids.[6] It also exemplifies a growing problem: ICE's use of administrative warrants to bypass the normal judicial process in immigration enforcement.

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Administrative warrants are documents issued internally by an administrative body rather than by neutral judges.[7] They lack the judicial oversight and independent probable cause determination that the Fourth Amendment traditionally requires for search or arrest warrants in homes.[8] Nevertheless, ICE has increasingly relied on these administrative warrants to conduct home arrests of immigrants, even using forceful entries that would never be allowed under a judge's warrant.[9] Immigrant communities have long been advised of their right not to open the door to ICE absent a judge-signed warrant, a principle rooted in Supreme Court rulings protecting the sanctity of the home.[10] Now, that protection is being eroded. The result is a dangerous circumvention of judicial authority that instills fear, undermines constitutional rights, and, as this article argues, is entirely unnecessary to achieve legitimate law enforcement goals.

ICE's use of administrative warrants should be abolished. These warrants are not reviewed or issued by any court and violate the Fourth Amendment's core requirement that warrants be approved by a neutral judicial officer.[11] They bypass an essential check in our system, harming the integrity of the judicial process and fostering mistrust in the law. Moreover, administrative warrants are practically unnecessary: ICE managed for decades to enforce immigration laws without storming homes on its own say-so, and it could readily use alternative methods to achieve its aims. The routine reliance on administrative warrants is thus both constitutionally illegitimate and counterproductive.

The next section explains what administrative warrants are, their legal roots, and how ICE has used them, especially the shift from treating them as limited paperwork to treating them as authority for entry into homes. The next section surveys the governing law: the statutes ICE relies on and the major Fourth Amendment cases addressing whether executive-issued warrants can replace judicial warrants, particularly for homes. Then the article argues for abolishing or tightly limiting administrative warrants for home enforcement, because they undermine the Fourth Amendment's neutral check requirement and are unnecessary given available alternatives.

The Rise of Administrative Warrants in Immigration Enforcement

What Are ICE "Administrative Warrants"?

In the immigration context, an administrative warrant is a written authorization for arrest issued within the executive branch, authorized by ICE officers rather than a judge.[12] Under the Immigration and Nationality Act (INA), Congress empowered immigration officers to arrest and detain noncitizens pending removal proceedings "upon issuance of an administrative warrant."[13] The most common administrative warrants used by ICE are Form

I-200, Warrant for Arrest of Alien, and Form I-205, Warrant of Removal/Deportation.[14] These documents are typically signed by a supervisory ICE official, such as a Field Office Director or their delegate, upon a showing that there is "probable cause to believe" the person is an alien removable from the United States.[15] Crucially, no independent court review is required: ICE's warrants "do not require a detached and neutral magistrate" at any point.[16] In effect, ICE acts as prosecutor, affiant, and issuer of its own warrants, a sharp departure from the usual Fourth Amendment process.

To be clear, an ICE administrative warrant is not the same as a judicial warrant used in criminal law.[17] A judicial warrant (for arrest or search) is issued by a judge or magistrate upon a finding of probable cause by someone outside the police chain of command, thereby interposing a neutral arbiter between the officer and the citizen.[18] By contrast, an ICE warrant is generated within the agency.[19] It authorizes ICE agents to arrest a particular individual for civil immigration violations, but it is "purely administrative" in nature.[20] According to ICE's own training materials, an administrative warrant does not confer the same authority as a court warrant.[21] For example, ICE's Fugitive Operations Handbook explicitly instructs officers that "[n]either a Warrant for Arrest of Alien (I-200) nor a Warrant of Removal (I-205) authorizes officers to enter the target's residence or anywhere else where the target has a reasonable expectation of privacy."[22] In other words, an ICE warrant may be sufficient to arrest someone in a public place or in a location where officers otherwise have lawful access, but by itself it "does not authorize nonconsensual entry into a private residence."[23] This limitation reflects a long-standing understanding that only a warrant issued by a neutral judge can justify crossing the threshold of a home without consent.[24]

Statutory Origins and Historical Practice

Congress first provided for administrative arrest warrants in the mid-twentieth century as part of federal immigration law.[25] The current authority is found in 8 U.S.C. § 1226, which states that "upon issuance of an administrative warrant," an immigration officer may arrest and detain an alien pending a decision on removal.[26] Additional authority in 8 U.S.C. § 1357 empowers officers to make warrantless arrests in certain exigent circumstances, for example, if the officer has "reason to believe" the person is here unlawfully and is likely to escape before a warrant can be obtained.[27] These provisions, first enacted as part of the Immigration and Nationality Act of 1952, cemented the executive branch's role in initiating immigration arrests without prior judicial involvement.[28] For example, when the Supreme Court encountered an early challenge to an immigration arrest in *Abel v. United States* (1960), it noted that "[s]tatutes authorizing administrative arrest to achieve detention pending deportation proceedings have the sanction of time."[29] In *Abel*, federal agents

had arrested a Soviet spy on an immigration warrant and discovered evidence in his hotel room. Although the defendant belatedly questioned the validity of using an administrative warrant, the Court declined to consider the issue, emphasizing that the practice was long-standing and had not been challenged at trial.[30] Thus, from a historical perspective, administrative warrants in immigration have been used for decades and were largely assumed to be lawful tools for civil enforcement, especially when it came to making the arrest.

For much of this history, however, there was an important unwritten rule: ICE (and its predecessor, the Immigration and Naturalization Service (INS)) generally did not use administrative warrants to force entry into homes.[31] The practical approach was to arrest targets in public or other settings, or to obtain consent to enter, rather than to conduct a home raid with no judicial warrant.[32] Internal policies reflected this. As noted, ICE's own manuals have long instructed agents that, without a judge's warrant, they must obtain voluntary consent to enter a residence.[33] In training, agents were taught that a civil immigration warrant does not allow them to barge into a private dwelling.[34] Instead, they could perform "knock and talk" operations, knocking on the door and speaking with the occupants, but if denied entry, their only lawful recourse was to leave or stake out the premises, absent some emergency.[35] The sanctity of the home has been a bedrock principle, so ICE typically aimed to encounter the person outside the home.[36] In many cases, ICE would wait until the individual left for work, or use ruses to persuade them to step outside, precisely because agents understood they could not lawfully cross the threshold without permission or a real warrant.[37]

This cautious approach was not merely out of respect for constitutional norms but also a recognition that evidence obtained through unlawful entries could be suppressed or civil liability could arise. Moreover, ICE did not need to raid homes in most situations. If a noncitizen had a final order of removal, they would often be notified to report for removal (via a "bag and baggage" letter) on a certain date, or ICE could pick them up at routine check-ins or traffic stops.[38] In short, administrative warrants were historically used as a paper authority to arrest, but not as a license to conduct SWAT-style home invasions.

A Sharp Policy Shift: Using Administrative Warrants to Enter Homes

This long-standing equilibrium began to erode in recent years. In mid-2025, an ICE internal memorandum radically revised the agency's approach.[39] The memo, signed by ICE's acting director on May 12, 2025, asserted that ICE officers can lawfully enter private homes without a judge's warrant as long as they are armed with an administrative warrant for an alien who has a final removal order.[40] "Although [Department of Homeland Security (DHS)] has not historically relied on administrative warrants alone to arrest aliens . . . in

their place of residence," the memo declared, "the DHS Office of the General Counsel has recently determined that the U.S. Constitution, the [INA], and the immigration regulations do not prohibit relying on administrative warrants for this purpose."[41]

In plain terms, DHS lawyers gave ICE a green light to do what had previously been off-limits: break into homes using only ICE's own warrants. The memo directed agents that if they have a removal order for someone and that person will not open the door, they may use force to gain entry after knocking and announcing their authority.[42] This internal directive amounted to an about-face from ICE's published training, which, as noted, still stated the opposite, that an administrative warrant alone did not authorize home entry.[43] According to a whistleblower complaint later submitted to Congress, new ICE officers were being trained to follow the memo's aggressive guidance instead of the written manuals, creating internal confusion and concern.[44]

This internal policy shift soon became public. News of the memo broke in early 2026, triggering public outcry and legal challenges.[45] The Associated Press obtained the memo and reported that ICE was "asserting sweeping power to forcibly enter people's homes without a judge's warrant," marking "a sharp reversal of longstanding guidance meant to respect constitutional limits on government searches."[46] Advocates immediately warned that the move "collides with Fourth Amendment protections and upends years of advice given to immigrant communities."[47] Those years of advice, "don't open the door unless they show you a warrant signed by a judge," had been a cornerstone of know-your-rights education in immigrant communities, based on the understanding that ICE could not lawfully enter a home without such a warrant.[48] Now, ICE was undermining that principle, instilling fear that even a firmly shut door might not keep agents out.

The impact was immediate in places like Minnesota's Twin Cities, where ICE's stepped-up home raids led state officials to decry an "unconstitutional 'invasion'" by federal agents.[49] The Gibson raid described above was one of a "wave of high-profile arrests" in private homes that put ICE's new tactics under a spotlight.[50] In that case, the federal court's intervention reinforced the old rule, releasing Gibson and holding ICE's entry unlawful.[51] But the fact that agents attempted it, and continue to do so, shows how far ICE's operational mindset has shifted.

Administrative Warrants Under Statutes and Case Law

Statutory and Regulatory Framework

ICE's use of administrative warrants is rooted in federal statute, but those statutes never explicitly authorized breaking into homes without a court warrant. Statute 8 U.S.C. § 1226(a) allows the arrest and detention of an alien on

a "warrant issued by the Attorney General" (now by DHS) pending removal proceedings.[52] The statute does not specify how such warrants are executed, but DHS regulations delegate the authority to issue them to numerous immigration officers.[53] The legal standard for issuing an ICE warrant is that the officer must have probable cause to believe the person is removable, a standard akin to a criminal warrant on paper, but reached without any neutral judge's review.[54]

Separately, 8 U.S.C. § 1357 gives ICE officers certain warrantless arrest powers. Notably, § 1357(a)(2) permits warrantless arrest if the officer has "reason to believe" the alien is unlawfully in the United States and likely to escape before a warrant can be obtained.[55] Courts interpret "reason to believe" as equivalent to probable cause.[56] Probable cause "is a reasonable ground for belief of guilt."[57] It is a practical, nontechnical standard that asks whether, under the totality of the circumstances, the facts known to officers would warrant a person of reasonable caution to believe that a crime has been or is being committed.[58] "A police officer has probable cause to conduct a search when 'the facts available to [him] would warrant a [person] of reasonable caution in the belief' that contraband or evidence of a crime is present."[59] It requires more than mere suspicion but less than the evidence necessary to support a conviction and instead reflects the "factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act."[60] The inquiry focuses on probabilities rather than certainties and must be particularized to the person or place to be searched.[61] Thus, in urgent situations or public settings, ICE can act without an administrative warrant, just as police can arrest for a felony without a warrant when there is probable cause. However, neither of these statutes, § 1226 or § 1357, purports to exempt ICE from the ordinary requirement of a judicial warrant to enter a home.[62] Nothing in the INA expressly says an ICE warrant can substitute for a judge's warrant for purposes of home entry. In fact, even the DHS's own regulations and training long acknowledged that such entries implicate the Fourth Amendment and generally require either consent or a court-issued warrant.[63]

"Neutral and Detached" Magistrate and the Home

The constitutional backdrop for this issue is the Fourth Amendment, which protects "[t]he right of the people to be secure in their … houses … against unreasonable searches and seizures."[64] Perhaps the most deeply entrenched principle in Fourth Amendment jurisprudence is that the home is special.[65] The Supreme Court has repeatedly affirmed that, absent exigent circumstances or consent, the government cannot enter a person's home to search or arrest without first obtaining a warrant from a neutral magistrate.[66] The heightened protection afforded to the home reflects the Constitution's recognition that privacy interests are at their apex within one's dwelling.[67] As the Supreme Court explained in *Payton v. New York*, the "physical entry of the home is the chief

evil against which the wording of the Fourth Amendment is directed,"[68] and the amendment therefore draws "a firm line at the entrance to the house."[69] Absent a warrant or exigent circumstances, the government may not cross that threshold to conduct a search or arrest.[70] The Court explained that "[a]n arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within."[71] Importantly, the Court referred to a judicial arrest warrant: one that a judicial officer issues only after independently reviewing the facts.[72] This requirement ensures that a neutral magistrate—not the officer in the field—objectively assesses whether the government may enter the home.[73] *Payton*'s rule thus presupposes a warrant issued through the judicial process, not by the very agency seeking to make the arrest.

Relatedly, the Supreme Court's decisions in cases like *Coolidge v. New Hampshire* and *Shadwick v. City of Tampa* underscore that a valid warrant requires "the issuing magistrate [to] be neutral and detached" and "capable of determining whether probable cause exists."[74] In *Coolidge*, the Court invalidated a warrant signed by a state attorney general (essentially a prosecutor) because it blurred the separation between executive law enforcement and the neutral judicial check.[75] In *Shadwick*, the Court upheld warrants issued by municipal court clerks for city ordinance violations, but only because those clerks were deemed neutral officers of the court, not law enforcement officials.[76] The guiding principle from these cases is clear: police and prosecutors cannot issue their own warrants, as that concentration of power lacks the "independent assurance" of neutrality that the Fourth Amendment envisions.[77] The warrant requirement's "whole point," as Justice Potter Stewart wrote, is that "prosecutors and policemen simply cannot be asked to maintain the requisite neutrality with regard to their own investigations."[78]

Applying these principles to ICE's practices: if an ICE agent or supervisor signs a document purporting to authorize entry into a home, it raises the exact concern the Fourth Amendment's warrant clause is meant to address. The executive branch cannot be its own impartial judge of probable cause.[79] That is why, until now, the "standard view" among legal experts has been that an administrative immigration warrant "can't authorize home entry" because "the executive branch can't be in charge of deciding whether to give itself a warrant."[80] The expectation is that a judge must sign off before agents break into a home, ensuring a neutral party agrees that intruding on someone's privacy is justified and lawful.

Case Law on Administrative Warrants in Home Arrests

Federal appellate precedent squarely addressing home entry based solely on ICE administrative warrants appears limited, leaving the issue legally contested.[81] On one side, ICE has pointed to language in certain cases that seems

to tolerate administrative warrants in immigration arrests.[82] For example, in *INS v. Lopez-Mendoza*, the Supreme Court noted that immigration officers have broad arrest authority and assumed the legality of an arrest made on an administrative warrant.[83] More directly, the Ninth Circuit in *Gonzalez v. ICE*, a 2020 class-action decision, remarked that "consistent with the Fourth Amendment, immigration authorities may arrest individuals for civil immigration removal purposes pursuant to an administrative arrest warrant issued by an executive official, rather than by a judge."[84]

ICE has seized on such statements to claim that courts have given a "broad judicial recognition" to the propriety of administrative warrants.[85] But critically, none of these cases approved the use of an administrative warrant to enter a home without consent. The Ninth Circuit's comment in *Gonzalez* was made in the context of detainers and custody transfers where an alien already in jail was held on an ICE warrant, not a forcible entry into a private residence.[86] And even in *Lopez-Mendoza*, the Court expressly did not decide any Fourth Amendment challenge to the initial arrest because the respondent had not contested it.[87]

On the other side of the ledger, a growing number of federal courts have explicitly held that ICE cannot use an administrative warrant as a free pass to enter homes. The Minnesota case of *Gibson v. Bondi* is one example: U.S. District Judge Jeffrey Bryan granted habeas relief to Gibson, ruling that ICE's warrantless, nonconsensual entry into his home violated the Fourth Amendment.[88] Judge Bryan emphasized that the agents had neither consent nor a judge's warrant, and thus *Payton*'s rule was violated.[89] Similarly, in *Kidd v. Mayorkas*, a federal court in California confronted ICE's "knock and talk" tactics wherein ICE officers go to homes, sometimes employing ruses, and arrest people without ever obtaining consent or a judicial warrant.[90] In *Kidd*, Judge Otis Wright II granted summary judgment to a class of plaintiffs, declaring that ICE's practices were unconstitutional and issuing an injunction against such warrantless home arrests.[91] His opinion flatly stated that "an [ICE] administrative warrant is insufficient to enter the target's residence" without consent or exigent circumstances because it lacks the independent judicial authorization the Fourth Amendment demands.[92] The court cited ICE's own handbook to reinforce that point: neither an I-200 nor an I-205 warrant on its own gives the legal authority to cross the threshold of a private home.[93]

Another notable case is *United States v. Vasquez-Algarin*.[94] Although not an immigration case, it dealt with law enforcement executing an arrest warrant at a home where the target was believed to be.[95] The Third Circuit stressed that for officers to enter a home on an arrest warrant (even a judicial one), they must have at least a "reason to believe" (akin to probable cause) the suspect lives there and is present; and if it is a third party's home, a separate search warrant or exigency would be needed.[96] The significance here is that the Third Circuit's reasoning assumes the arrest warrant is a valid, judge-issued warrant, underscoring how much care is taken with judicial warrants when entry into a

home is at stake.[97] By implication, an executive branch warrant, lacking that imprimatur of neutrality, would provide even less justification for a home intrusion. The Third Circuit in *Vasquez-Algarin* explained the importance of Fourth Amendment protections of the home, observing that they are "a rampart" of liberty that should not be breached on anything less than probable cause reviewed by a judicial officer.[98]

While no federal appellate court has yet issued a published opinion squarely permitting ICE to forcibly enter a home on an administrative warrant alone, one recent case shows the issue is percolating: *United States v. Malagerio*.[99] In *Malagerio*, ICE agents went to the defendant's RV home with an administrative removal warrant.[100] They knocked and ordered him to come outside; he complied and was then arrested.[101] Notably, the agents themselves did not physically enter the home before the arrest.[102] The defendant argued this was an illegal constructive entry.[103] The district judge, citing *Abel*, opined that "Supreme Court precedent indicates that officers may enter an arrestee's home to execute an arrest pursuant to an administrative warrant."[104] The court could not find any precedent "stating that administrative warrants do not grant officers authority to conduct an arrest in the home," and read *Abel* as having "condoned an arrest in a home pursuant to an administrative warrant."[105]

However, this analysis was arguably dicta because the court ultimately found that the good faith exception applied.[106] Crucially, the officers in *Malagerio* never actually crossed the threshold of the home before the defendant exited.[107] On appeal, the Fifth Circuit affirmed without resolving the home-entry question, explicitly saying, "we need not decide whether an administrative warrant may be used to arrest an alien in his home. We leave that important question for another day."[108] Thus, *Malagerio* highlights a tension: one reading of *Abel* might imply that administrative warrants are valid for home arrests, but modern jurisprudence and the cautious approach of appellate courts suggest otherwise.[109] The Fifth Circuit's refusal to endorse the district court's view, and its calling the question "important" and unresolved, speaks volumes.[110]

Supporting Legal Opinions

Legal scholars overwhelmingly side with the view that ICE's home entries on administrative warrants are unconstitutional.[111] Orin Kerr, a prominent Fourth Amendment scholar, noted that ICE's new position "conflicts with long-standing constitutional limits," because "the executive branch can't be in charge of deciding whether to give itself a warrant."[112] Kerr pointed out that whatever ambiguity *Abel* left in 1960 has since been answered by later Supreme Court cases, namely *Coolidge*, *Shadwick*, and *Payton*, which cement the requirement of a neutral magistrate for warrants.[113] To resurrect the idea of executive-issued warrants now, without accounting for those intervening decisions, "seems pretty problematic."[114] Another argument that ICE's lawyers

floated was that people with final removal orders are akin to "fugitives from justice" who can be arrested at will, and that perhaps the Fourth Amendment's full protections don't extend to them.[115] DHS's General Counsel even suggested that "illegal aliens aren't entitled to the same Fourth Amendment protections as U.S. citizens," implying that an administrative warrant might be enough for noncitizens with removal orders.[116] This drew sharp rebuttals.[117] The Fourth Amendment has consistently been found to protect "all people in the country," regardless of citizenship status, a principle affirmed by courts considering immigration searches.[118]

Moreover, having a final removal order does not make someone a fugitive if the government has not demanded their immediate custody. Many individuals with such orders live at liberty until a scheduled removal date, no more "on the run" than a bailed defendant awaiting trial.[119] In short, the consensus outside of ICE's own legal team is that administrative warrants cannot lawfully substitute for the traditional judicial warrant when it comes to invading the privacy of the home. The Constitution's text and decades of precedent establish that a "neutral and detached" judicial officer must approve and issue any warrant to search or enter a home, and an ICE officer is not neutral or detached from the agency's enforcement mission.[120]

Abolishing Administrative Warrants in Immigration Enforcement

Violating the Fourth Amendment and Judicial Independence:

The foremost reason to abolish ICE's use of administrative warrants for home raids is that it flies in the face of the Fourth Amendment.[121] The requirement of a warrant issued by a neutral magistrate is not a mere formality; it is a fundamental safeguard of liberty.[122] By allowing an executive agency to issue its own warrants, we eliminate the independent judicial check that the Founders considered essential to prevent abuses of power.[123] When ICE decides on its own that it has "probable cause" and authorizes itself to enter a home, there is a clear conflict of interest. This self-policing approach is precisely what the Warrant Clause guards against.[124] The Supreme Court's insistence on "neutral and detached" magistrates was born from the historical experience of colonial officers issuing general warrants and writs of assistance on their own authority, a practice that the Fourth Amendment repudiated.[125] Allowing ICE officers to revive a form of self-issued warrant undermines this constitutional protection. Indeed, even if one argues that ICE officers do exercise judgment in finding probable cause of removability, the point of an external warrant is to have an independent party verify that judgment.[126] No matter how professional ICE's agents are, they are part of the executive enforcement apparatus; they cannot replicate the neutrality of a judicial officer.[127] As one court put it succinctly,

administrative warrants "lack the independent assurance guaranteed by the Fourth Amendment" and therefore cannot immunize an unlawful entry.[128] The Constitution requires that before government agents invade the sanctity of a home, a separate branch of government (the judiciary) review and sanction that intrusion.[129] ICE's current practice erases that separation of powers, concentrating too much authority in the executive branch.[130]

As discussed above, the general rule is that law enforcement may not enter a person's home without a warrant or narrowly defined exigent circumstances.[131] Accordingly, immigration advocates, legal aid organizations, and local governments have long advised individuals not to open their doors to immigration agents unless the agents present a warrant signed by a judge.[132] Recently, however, federal immigration officers have asserted sweeping authority to forcibly enter homes without judicial authorization.[133] In an internal memorandum circulated to ICE officers currently in training, the agency instructed officers that they may enter a residence based solely on an administrative warrant to arrest an individual with a final order of removal. The memo states:

> Although the U.S. Department of Homeland Security (DHS) has not historically relied on administrative warrants alone to arrest aliens subject to final orders of removal in their place of residence, the DHS Office of the General Counsel has recently determined that the U.S. Constitution, the Immigration and Nationality Act, and the immigration regulations do not prohibit relying on administrative warrants for this purpose.[134]

This position represents a significant departure from long-standing Fourth Amendment protections governing entry into the home. At the center of this conflict is the government's reliance on administrative immigration warrants rather than warrants issued by neutral Article III judges. Immigration judges are part of the Department of Justice's executive branch, not Article III courts; their removal orders simply determine deportability, not the legality of a home search.[135] Even if an I-205 warrant is "signed by the immigration official based on an immigration judge's removal order, that removal order is an order from the President's executive branch."[136] It is not the same as a judge's warrant based on the Fourth Amendment. Two wrongs don't make a right: an internal removal order plus an internal arrest warrant do not equal the constitutional equivalent of a neutral, judicially issued warrant.[137] The Fourth Amendment question remains: Has a neutral magistrate approved the entry into the home? If the answer is no, a search or arrest in the home is per se unreasonable unless there are exigent circumstances or consent.[138] By using administrative warrants, ICE agents sidestep this question and hope that, after the fact, courts will tolerate it. But as seen, courts are increasingly unwilling to do so.[139] In sum, administrative warrants for home entry violate the letter and spirit of the Fourth Amendment, and maintaining the integrity of the Constitution's warrant requirement demands that they be abandoned.

Harm to the Judicial Process and Rule of Law

Beyond the clear constitutional violation, the routine use of administrative warrants erodes the role of the judiciary and harms our broader system of checks and balances. The warrant requirement is one of the primary mechanisms by which courts oversee and restrain executive action in law enforcement.[140] When ICE bypasses that mechanism, it effectively cuts judges out of the equation. This not only leads to more constitutional violations—as in *Gibson*—but it also deprives the judiciary of its critical oversight function before violations occur. The result is that issues end up being litigated after the fact, in suppression hearings or habeas petitions, rather than being prevented by prior judicial review. This reactive posture is less efficient and strains the courts. In *Gibson*, for instance, a federal judge had to issue a writ of habeas corpus to free a man who was unlawfully arrested, an extreme remedy that could have been avoided had ICE simply sought a proper warrant in the first place.[141] In *Kidd v. Mayorkas*, it took a civil class action and years of litigation for a court to declare what should have been obvious: ICE's home arrest practices were unlawful.[142] By initially sidelining the judiciary, ICE invites more lawsuits, more motions to suppress evidence, and more remedies after rights have been violated, which in turn burden the courts and undermine public confidence in the rule of law.

Another aspect of harm to the judicial process is the message it sends that the executive branch need not respect judicial authority unless compelled. ICE's internal 2025 memo was effectively an attempt to unilaterally reinterpret the Constitution and statutory law in its favor, without a court's blessing.[143] This not only violates the separation of powers but it also sets a troubling precedent for other agencies. If ICE can declare its own warrants sufficient to ignore the Fourth Amendment's warrant clause, what stops other law enforcement agencies from claiming some internal "order" is good enough? The slippery slope here could lead to erosion of civil liberties well beyond immigration. The judiciary's role as the guardian of the Constitution is diminished when agencies act as though judicial warrants are optional technicalities. It fosters a culture of executive overreach, where constitutional requirements are seen as loopholes to be navigated rather than commands to be obeyed.

Moreover, ICE's practices risk entangling other law enforcement and the courts in unlawful conduct. For instance, if ICE asks local police to assist with a raid or to hold someone under an ICE warrant, those officers could face liability because an ICE warrant does not carry judicial authority.[144] Many localities have recognized this and refuse to honor ICE detainers[145] precisely to avoid violating the Fourth Amendment.[146] The proliferation of administrative warrants thus creates conflict and confusion in law enforcement cooperation, harming the coherence of judicially supervised law enforcement. It even places immigration officers in legally and morally precarious situations. Line agents are torn between following questionable headquarters directives or adhering

to the training that tells them not to enter homes without consent or a judge's warrant.[147] In the long run, maintaining a system in which a judge's signature is the gold standard for home searches protects not only the public but also law enforcement officers from entering unconstitutional territory.

Instilling Fear and Undermining Community Trust

The human impact of ICE's use of administrative warrants must not be overlooked. One major consequence of bypassing judicial warrants is the climate of fear it creates in immigrant communities.[148] When people know that ICE agents might break down doors in the early morning without a court warrant, it sows terror and uncertainty even among those with legal status or those who would not ordinarily be priorities for immigration enforcement. Communities hear stories of agents in tactical gear smashing into a family's home at dawn, and the line between lawful enforcement and lawless intrusion blurs in the public mind.[149] Immigrants, including those who might have legitimate claims to remain in the United States, may avoid any contact with law enforcement or courts, fearing that no door is truly safe from ICE.[150] Local governments have complained that aggressive ICE home raids damage community policing efforts and make immigrants afraid to send children to school or answer the door for community services or neighbors, lest it actually be ICE in disguise.[151]

The previous status quo, where ICE generally knocked and only entered with permission, at least provided a sense of agency and due process to individuals: one could insist "show me a judge's warrant" and reasonably expect ICE to back off.[152] That sense of security in one's home is a fundamental aspect of liberty.[153] The new approach undercuts it completely. Advocates who spent years educating immigrants about their Fourth Amendment rights now find that advice seemingly "undercut" by ICE's stance.[154] This discrepancy between what people thought the law was—and what it should be—versus what ICE claims it can sanction leads to confusion, panic, and a perception that constitutional rights are not reliable if you are an immigrant.[155] Such perceptions erode trust not just in ICE but in the legal system as a whole. When a population comes to believe that officials can disregard the Constitution at will, respect for law diminishes. This is precisely the opposite of what effective law enforcement needs. Trust and cooperation are built when enforcement is viewed as fair and law-abiding; heavy-handed tactics based on dubious legal authority destroy that trust.

Operations like the one involving Garrison Gibson make ICE appear as an occupying force rather than a law enforcement agency accountable to law and courts.[156] In Minnesota, state officials labeled the ICE actions an "unconstitutional . . . invasion" that "roiled" entire neighborhoods.[157] To the extent the judicial process is meant to provide a check on governmental overreach and to

reassure the public that enforcement is bounded by law, ICE's administrative warrants sabotage that purpose. People cannot take comfort in the fact that a judge ensured their rights were considered. Instead, it looks like ICE can do as it pleases until it is dragged into court later. Over time, this breeds cynicism, fear, and ultimately, damaging outcomes for a society built on the rule of law.

Unnecessary and Easily Replaced Tools

ICE's use of administrative warrants is simply not needed to accomplish its mission. Even if one were to ignore the constitutional infirmities, from a practical standpoint, administrative warrants for home entries are an unnecessary shortcut. ICE has multiple alternative tools at its disposal that can achieve the same enforcement goals without harming constitutional values.

ICE can use judicial warrants when home arrests are truly necessary. Nothing prevents ICE from working with the U.S. Attorney's Office to obtain a traditional arrest warrant from a federal magistrate judge in appropriate cases.[158] If a target presents such a danger or flight risk that a surprise home raid is deemed essential, that person might well be violating criminal laws.[159] In that case, ICE could present evidence to a magistrate and get a warrant, just as other federal agents do when they need to enter a home to arrest a suspect.[160] While it is true that removal proceedings are civil, federal judges can and do issue civil warrants in other contexts.[161] At the very least, ICE could seek a court order if it believes a particular case justifies a home intrusion.[162] The existence of an administrative removal order does not preclude getting a judicial warrant. If anything, it should make it easier to show probable cause that the person has no legal right to remain. The fact that ICE has not historically sought judicial warrants for civil arrests is not proof that they cannot: it is proof that they have not found it necessary. In many cases they are correct, because there are other tools they can use without resorting to shortcuts like an administrative warrant.

Additionally, many individuals with final removal orders self-surrender or are scheduled for removal without incident.[163] ICE often issues "bag-and-baggage" letters instructing an individual to report for removal on a certain date.[164] Thousands comply with these orders or at least remain reachable; they are not fugitives hiding in barricaded houses. For those who fail to report, ICE can locate and arrest them using surveillance and cooperation with local law enforcement in public.[165] The administrative warrant remains a formal authorization to detain a person upon encounter, but there is rarely a need to conduct a dynamic entry into a home. From a practical safety perspective, entering a home by force is far riskier for officers and occupants than picking someone up on the street.[166] ICE's Fugitive Operations teams historically did risk-benefit analyses before any operation.[167] If a target was known to be

armed or dangerous, ICE might coordinate with other agencies or opt for a safer arrest location.[168] There is no evidence that requiring a judicial warrant for home entry would impede the majority of removals. It might mean ICE cannot do the occasional surprise pre-dawn raid on a sleeping family, but those raids, as shown, come at enormous constitutional and social cost, and ICE has other means to achieve its aims.

In fact, ICE's new policy arguably wastes resources by encouraging confrontational raids. The Gibson case demonstrates how things can go wrong: multiple agents, tactical gear, use of force, followed by legal fallout and a public relations debacle.[169] All this to arrest a person who had been checking in regularly with ICE and could have been taken into custody at an ICE office, which ICE did at Gibson's next check-in.[170] The administrative warrant added nothing except giving ICE a false sense of authority to conduct a dramatic raid.[171] If administrative warrants for home entry were off the table, ICE would still execute removal orders, just with less bravado and intrusion. They could easily replace these tactics with either obtaining judicial warrants for high-priority targets or continuing the proven practice of arrests outside the home. The law already provides for exigent circumstances when necessary.[172] In non-exigent cases, there is simply no compelling need for ICE to unilaterally skip the judge and kick down doors at will.

In sum, abolishing administrative warrants as a basis for home entry would not hamstring ICE. It would restore the agency to a constitutionally sound enforcement model that it has followed for most of its existence. If ICE identifies a scenario where home arrest is crucial, it has avenues to involve the judiciary or otherwise lawfully obtain entry. The notion that without administrative warrants dangerous individuals will remain at large is largely a fear tactic unsupported by data or history.[173] To the contrary, adhering to the Fourth Amendment will likely encourage ICE to use its resources more wisely by having them focus on apprehending subjects in ways that do not violate rights and that hold up in court. This benefits the integrity of the justice system: cases will not be lost, removals will not be delayed due to constitutional challenges, and community relations with law enforcement may improve when egregious raids are curtailed.

Choosing the Right Side of an Unsettled Question

The courts are only now directly confronting ICE's theory of administrative warrant entry, and the issue is not definitively settled by the Supreme Court. There is, in effect, a dialogue between some lower federal court decisions and ICE's internal legal stance.[174] On one hand, a district court in Texas read *Abel* as implicitly condoning home arrests on administrative warrants, and ICE's Office of General Counsel apparently agrees with that expansive reading.[175]

On the other hand, district courts in California and Minnesota have squarely rejected that idea and held that such entries violate the Fourth Amendment.[176] If and when appellate courts or the Supreme Court take up this split in viewpoints, it is crucial that they adopt the position that preserves constitutional safeguards. Namely, that administrative warrants cannot substitute for judicial warrants for home entries. The contrary position, leaning on half-century-old dicta from *Abel*, is not only factually distinguishable: *Abel* did not actually decide the issue, but it is doctrinally obsolete after decades of Fourth Amendment refinement.[177] Relying on Justice Felix Frankfurter's 1960 opinion in *Abel* while ignoring later cases like *Coolidge*, *Shadwick*, and *Payton* would be a serious analytical error.[178] The better-reasoned decisions recognize that those later cases demand a neutral magistrate's involvement, and that nothing about immigration enforcement exempts ICE from this requirement.[179]

Choosing the side of the Fourth Amendment is not only constitutionally right, but it also upholds the legitimacy of our legal system. If courts were to approve executive self-warrants, it would mark a dramatic rollback of civil liberties. It would, in effect, carve out a Fourth Amendment exception for immigration that could easily expand to other areas. There is no principled way to say "immigration officers can enter homes without judicial warrants" without opening the door, literally and figuratively, to other agencies claiming similar power. The Constitution does not include an asterisk saying "except for immigration." Courts should reaffirm that basic fact. The district judges who have confronted this have done so, and their analysis provides a strong foundation for higher courts.

For instance, Judge Wright in *Kidd* carefully catalogued the neutral magistrate requirement and noted that the Supreme Court has never said an administrative warrant counts as a "warrant" under the Fourth Amendment.[180] He highlighted that ICE's own regulations assume a judge's warrant is needed for entry.[181] These points will likely resonate with appellate judges reviewing the issue. Ultimately, the Constitution's text—"no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing"—does not distinguish between types of warrants, but the courts have imbued it with the requirement of judicial approval.[182] An ICE warrant, lacking that, is a warrant in name only, not in constitutional substance.

Therefore, from a legal perspective, abolishing or disallowing administrative warrants in the context of home entries is simply aligning enforcement practice with constitutional command. It removes a dubious quasi-warrant and replaces it with either an actual warrant or a lawful alternative method of arrest. The judiciary should not shrink from making this clear. In fact, doing so would resolve the current ambiguity. No more memo-driven experiments or regional exceptions.[183] A firm court ruling would compel ICE to apply the same constitutional standard nationwide: get a judicial warrant or stay out of the house.

Conclusion

ICE's use of administrative warrants to conduct home raids is a deeply troubling development that violates constitutional principles and undermines our judicial process. Administrative warrants originated as a bureaucratic convenience for immigration arrests, not as a license to bypass the Fourth Amendment's protections.[184] Historically, ICE and INS respected the line drawn at the home's doorway, recognizing that only a judge's warrant or a resident's consent could justify entry.[185] The recent policy shift allowing ICE agents to treat their own signed paperwork as equivalent to a judicial warrant is both unprecedented and unconstitutional.[186] It disregards decades of Supreme Court jurisprudence, insisting on neutral, detached review before the government breaches the privacy of the home.[187] It also creates real harm: terrifying families in predawn raids, eroding public trust, and burdening courts with avoidable conflicts over illegal searches.[188]

The solution is straightforward: restore the warrant requirement to its full strength. ICE should be compelled, by court rulings or legislation, to obtain a judge's warrant for any involuntary entry into a home. Administrative warrants can continue to serve as internal documents for ICE's paperwork, but they must not be treated as authority to violate the castle doctrine embodied in the Fourth Amendment. The judiciary's role as guardian of the Constitution must be respected in immigration enforcement just as in any other realm.

In closing, the tale of the Minnesota raid that opened this article should serve as a cautionary lesson. A man's door was broken down, and his family was terrorized because ICE believed a piece of paper signed by its own agent was all the law it needed.[189] A federal judge had to remind the agency that this was false, that in our system of government, no agency gets to be the judge of its own authority in a vacuum.[190] That reminder echoes the intent of the Fourth Amendment framers.[191] To preserve the constitutional balance and the integrity of our judicial process, administrative warrants in their current form should not be used to authorize home searches or arrests. A warrant to enter someone's home should come from one place only: an independent judge, convinced of probable cause and willing to stake the judiciary's imprimatur on the intrusion. Anything less renders the Fourth Amendment's promise a dead letter. By abolishing the misuse of administrative warrants, we ensure that promise endures, for citizens and noncitizens alike, and that the rule of law remains firmly grounded on the bedrock of judicial oversight.

Notes

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1. Rebecca Santana, *Immigration Officers Assert Sweeping Power to Enter Homes Without a Judge's Warrant, Memo Says*, AP News (Jan. 21, 2026), https://apnews.com/article/ice-arrests-warrants-minneapolis-trump-00d0ab0338e82341fd91b160758aeb2d.

2. *Id.*

3. *Id.*

4. *Id.*

5. *See* Garrison G. v. Bondi, No. 0:26-cv-00172, Order at 8-9 (D. Minn. Jan. 15, 2026).

6. Memorandum from Todd Lyons, Acting Dir., U.S. Immigr. & Customs Enf't, to All ICE Pers., Utilizing Form I-205, Warrant of Removal 1 (May 12, 2025), https://www.documentcloud.org/documents/26499371-dhs-ice-memo-1-21-26/#document/p1 [hereinafter Lyons Memorandum].

7. Zoe Sottile, *What Immigration Lawyers Want You to Know About ICE and Criminal Warrants*, CNN (Sept. 14, 2025), https://www.cnn.com/2025/09/14/us/criminal-civil-ice-warrant-explained.

8. Orin Kerr, *Can ICE Enter a Home to Make an Arrest with Only an Administrative Warrant?*, Lawfare (Jan. 22, 2026), https://www.lawfaremedia.org/article/can-ice-enter-a-home-to-make-an-arrest-with-only-an-administrative-warrant.

9. *See* Santana, *supra* note 1; *How Many People Does ICE Arrest?*, USAFacts (2026), https://usafacts.org/answers/how-many-people-does-ice-arrest/country/united-states/.

10. *See* Wash. Immigr. Solidarity Network, Your Rights with ICE (2023), https://www.waimmigranthealth.org/wp-content/uploads/action_center/KYR-Know-Your-Rights-With-ICE-English.pdf.

11. *See* Garrison G. v. Bondi, No. 0:26-cv-00172, Order at 8-9 (D. Minn. Jan. 15, 2026).

12. Sottile, *supra* note 7.

13. Hillel R. Smith, Cong. Rsch. Serv., LSB10362, Immigration Arrests in the Interior of the United States: A Primer (2025).

14. *See* City of Seattle, Off. of Immigr. & Refugee Affairs, *Immigration Enforcement Visits or "Raids": How They Work* ("Administrative warrant . . . will be Form I-200 or Form I-205"), https://www.seattle.gov/documents/Departments/OIRA/DWS_Handout_Final_English.pdf; *see also* Immigration & Customs Enf't, *Immigration Enforcement Frequently Asked Questions*, https://www.ice.gov/immigration-enforcement-frequently-asked-questions (explaining Form I-200 and Form I-205 functions).

15. Smith, *supra* note 13.

16. *Id.*

17. *See* Abel v. United States, 362 U.S. 217, 218 (1960).

18. Kerr, *supra* note 8.

19. Sottile, *supra* note 7.

20. Smith, *supra* note 13.

21. *See* U.S. Immigr. & Customs Enf't, Enforcement & Removal Operations, Fugitive Operations Handbook 16 (Feb. 23, 2010) [hereinafter Handbook].

22. *Id.* at 16.

23. *Id.*

24. Smith, *supra* note 13.

25. *See* Immigration and Nationality Act of 1952, Pub. L. No. 82-414, §§ 236, 287, 66 Stat. 163, 200, 233 (1952)

26. *See* 8 U.S.C. § 1226(a); *see also* Smith, *supra* note 13 at 1.

27. *See* 8 U.S.C. § 1357; *see also* Smith, *supra* note 13 at 1.

28. *See* Immigration and Nationality Act of 1952, Pub. L. No. 82-414, §§ 236, 287, 66 Stat. 163, 200, 233 (1952) (authorizing arrest "on a warrant issued by the Attorney General" and granting immigration officers powers of arrest "without warrant"); codified as amended at 8 U.S.C. §§ 1226(a), 1357(a)(2) (2024).

29. Abel, 362 U.S. 217, 229 (1960).

30. *See* Abel, 362 U.S. at 219-25, 229, 231-33.

31. *See* Letter from Sen. Richard Blumenthal to Sec'y Kristi Noem & Acting ICE Dir. Todd Lyons 2 (Jan. 21, 2026) (quoting Memo's admission that DHS "has not historically relied on administrative warrants alone" for home arrests), https://www.hsgac.senate.gov/wp-content/uploads/2026-01-21-Letter-from-Blumenthal-to-DHS-ICE.pdf.

32. *See* Handbook, *supra* note 21 at 16.

33. *Id.*

34. *See* Kidd v. Mayorkas, 734 F. Supp. 3d 967, 980 (C.D. Cal. 2024); Smith, *supra* note 13.

35. *Id.*

36. Payton v. New York, 445 U.S. 573, 585 (1980).

37. *See* Kidd, 734 F. Supp. 3d at 972-73, 980.

38. Steve Vladeck, *"Administrative Warrants" and the Percival Op-Ed*, One First (Jan. 26, 2026), https://www.stevevladeck.com/p/206-administrative-warrants-and-the.

39. *Compare* Kidd, 734 F. Supp. 3d at 975 (referencing ICE Fugitive Operations Handbook (2023)) *with* Lyons Memorandum, *supra* note 6, at 1 (stating DHS "has not historically relied" on administrative warrants alone for in-residence arrests, but the Office of General Counsel (OGC) "has recently determined" the Constitution, the INA, and regulations do not prohibit relying on administrative warrants for that purpose).

40. *See* Lyons Memorandum, *supra* note 6, at 1-2.

41. *Id.* at 1.

42. *Id.* at 2.

43. *See* Handbook, *supra* note 21 at 16.

44. *See* Letter from Sen. Richard Blumenthal to Sec'y Kristi Noem & Acting ICE Dir. Todd Lyons, *supra* note 31, at 2 (reporting officers "are apparently being trained" on memo contents while access is tightly restricted).

45. *See* Jack Brook, *Immigration Officers Assert Sweeping Power to Enter Homes Without a Judge's Warrant, Memo Says*, AP News (Jan. 21, 2026) (reporting disclosure and publication of the memo); *see also* Nate Raymond, *Lawsuit Challenges ICE Ability to Enter Homes Without Warrants from U.S. Judges*, Reuters (Jan. 30, 2026) (reporting Boston federal lawsuit challenging the policy); State of Minn. v. U.S. Dep't of Homeland Sec., No. 0:26-cv-00190, Complaint, at 1 (D. Minn. Jan. 12, 2026) (alleging "federal invasion of the Twin Cities").

46. Santana, *supra* note 1.

47. *See* ConstitutionNet, *In the United States, Government Claims Authority to Enter Houses Without Judicial Warrant* (Jan. 27, 2026), https://constitutionnet.org/news/united-states-government-claims-authority-enter-houses-without-judicial-warrant-violation.

48. *See* ACLU of Minn., *When ICE Is at the Door of Your Workplace: Know Your Rights* (poster), https://www.aclu-mn.org/app/uploads/2019/08/kyr_poster_mn.pdf; *see also* Wash. Immigr. Solidarity Network, *supra* note 10.

49. *See* State of Minn., No. 0:26-cv-00190, Complaint, at 1 ("federal invasion of the Twin Cities").

50. Santana, *supra* note 1.

51. *See* Garrison G. v. Bondi, No. 0:26-cv-00172, Order at 8-9 (D. Minn. Jan. 15, 2026) (ordering immediate release).

52. *See* 8 U.S.C. § 1226(a).

53. *See* 8 C.F.R. § 287.5; Kerr, *supra* note 8 (noting "fifty-two immigration officer categories" authorized to issue administrative arrest warrants).

54. *See* N.S. v. Dixon, 141 F.4th 279, 283 (D.C. Cir. 2025).

55. *See* 8 U.S.C. § 1357(a)(2) (2022).

56. *See* United States v. Brinkley, 980 F.3d 377, 386 (4th Cir. 2020) (*quoting* United States v. Vasquez-Algarin, 821 F.3d 467, 480 (3d Cir. 2016)).

57. Carroll v. United States, 267 U.S. 132, 161 (1925).

58. *See* Florida v. Harris, 568 U.S. 237, 243-44 (2013); *see also* Brinegar v. United States, 338 U.S. 160, 175-76 (1949) ("Probable cause exists where 'the facts and circumstances within their [the officers'] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed.") (*quoting* Carroll, 267 U.S. at 162).

59. Harris, 568 U.S. at 244 (internal quotation marks added).

60. Brinegar v. United States, 338 U.S. 160, 175-76 (1949).

61. *See* Texas v. Brown, 460 U.S. 730, 742 (1983); Ybarra v. Illinois, 444 U.S. 85, 91 (1979).

62. *See* 8 U.S.C. § 1226(a) (2022); 8 U.S.C. § 1357(a)(2) (2022).

63. *See* Handbook, *supra* note 21 at 16.

64. *See* U.S. Const. amend. IV.

65. *See* Kyllo v. United States, 533 U.S. 27, 31 (2001).

66. Smith, *supra* note 13.

67. *See* Payton v. New York, 445 U.S. 573, 589 (1980) ("To be arrested in the home involves not only the invasion attendant to all arrests but also an invasion of the sanctity of the home. This is simply too substantial an invasion to allow without a warrant, at least in the absence of exigent circumstances, even when it is accomplished under statutory authority and when probable cause is clearly present.")

68. *Id.* at 585-86.

69. *Id.* at 590.

70. *See id.* at 590.

71. Payton, 445 U.S. at 574.

72. *Id.*

73. *Id.*

74. Shadwick v. Tampa, 407 U.S. 345 (1972); Kerr, *supra* note 8.

75. *See* Coolidge v. New Hampshire, 403 U.S. 443, 449-53 (1971).

76. Shadwick, 407 U.S. 345.

77. Kerr, *supra* note 8.

78. *Id.*

79. *See* Johnson v. United States, 333 U.S. 10, 13-14 (1948) ("Its 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.")

80. Kerr, *supra* note 8.

81. *See* Kerr, *supra* note 8.

82. *See* Letter from Sen. Richard Blumenthal to Sec'y Kristi Noem & Acting ICE Dir. Todd Lyons, *supra* note 31.

83. Kerr, *supra* note 8.

84. *Id.*

85. Vladeck, *supra* note 37.

86. *See* Gonzalez v. U.S. Immigr. & Customs Enf't, No. 20-55175, slip op. at 3-4 (9th Cir. Sept. 11, 2020).

87. *See* INS v. Lopez-Mendoza, 468 U.S. 1032, 1039-40 (1984).

88. *See* Garrison G. v. Bondi, No. 0:26-cv-00172 (D. Minn. Jan. 15, 2026).

89. *See id.*; *see also* Payton v. New York, 445 U.S. 573 (1980).

90. *See* Kidd v. Mayorkas, 734 F. Supp. 3d 967, 972, 977 (C.D. Cal. 2024).

91. *Id.* at 972-73, 987.

92. *Id.* at 975.

93. *Id.*

94. United States v. Vasquez-Algarin, 821 F.3d 467, 469 (3d Cir. 2016).

95. *Id.* at 469-70.

96. *Id.* at 469, 472.

97. *Id.* at 478-80

98. *Id.* at 478-80.

99. United States v. Malagerio, 49 F.4th 911, 916 (5th Cir. 2022).

100. United States v. Malagerio, No. 5:20-CR-154, 2021 U.S. Dist. LEXIS 136224, at *5-*6 (N.D. Tex. Feb. 22, 2021).

101. Malagerio, 49 F.4th at 914.

102. Malagerio, 2021 U.S. Dist. LEXIS 136224, at *17, *21-*22.

103. *Cf.* Malagerio, 49 F.4th at 913-14, 916; Malagerio, 2021 U.S. Dist. LEXIS 136224, at *12-*13.

104. Malagerio, 2021 U.S. Dist. LEXIS 136224, at *14; Abel, 362 U.S. 217, 234, 237, 239-40 (1960).

105. Malagerio, 2021 U.S. Dist. LEXIS 136224, at *21; Abel, 362 U.S. at 234, 237, 239-40.

106. *See* Malagerio, 49 F.4th at 913.

107. Malagerio, 49 F.4th at 914.

108. *Id.* at 916.

109. *See* Malagerio, 2021 U.S. Dist. LEXIS 136224, at *21; Malagerio, 49 F.4th at 916; Abel, 362 U.S. at 234, 237, 239-40.

110. *See* Malagerio, 49 F.4th at 916.

111. *See, e.g.*, Lindsay Nash, *Deportation Arrest Warrants*, 73 Stan. L. Rev. 57, 84-90 (2021); *cf.* Meg Penrose, *Administrative Arrest Warrants: Armed Encounters Outside the Judicial Process*, 33 Cornell J. L. & Pub. Pol'y 389 (2024) (discussing limits on administrative warrant authority in Fourth Amendment doctrine); *see also* Hannah James, *DHS Warrantless Home Entry Memo's Fourth Amendment Problems*, Just Sec. (Feb. 3, 2026), https://www.justsecurity.org/130497/dhs-warrantless-home-entry-fourth-amendment/.

112. Kerr, *supra* note 8.

113. *See* Coolidge v. New Hampshire, 403 U.S. 443, 449-53 (1971); Shadwick v. Tampa, 407 U.S. 345 (1972); Payton v. New York, 445 U.S. 573 (1980).

114. *See* Coolidge, 403 U.S. at 449-53; Shadwick, 407 U.S. at 345; Payton, 445 U.S. at 573.

115. Vladeck, *supra* note 38.

116. Vladeck, *supra* note 38, *cf.* U.S. Const. amend. IV.

117. *See, e.g.*, James, *supra* note 111; *cf. DHS's Is Wrong on "Administrative Warrants,"* Wall St. J. (Jan. 27, 2026), https://www.wsj.com/opinion/dhss-is-wrong-on-administrative-warrants-422c716b?gaa_at=eafs&gaa_n=AWEtsqeuxTWOh8wWf1P0XhOvtMuSOlZoJLefS2A_3lljfUxcGz8jn0Pnkj_HfEVl-y4%3D&gaa_ts=69c40be0&gaa_sig=B-VQ4FNJPt2w4LKhZJAoyW15B4yNd3fMwNLt516oA6ZxmVrPuHPxfajqsPYfiwpFzx3sOjWMGvkEFAJI2nowEA%3D%3D; Vladeck, *supra* note 38.

118. U.S. Const. amend. IV; Santana, *supra* note 1; Smith, *supra* note 13.

119. Vladeck, *supra* note 38.

120. Kerr, *supra* note 8.

121. *Compare* U.S. Const. amend. IV *with* Lyons Memorandum *supra* note 6.

122. *See* Coolidge v. New Hampshire, 403 U.S. 443, 449-53 (1971).

123. Kerr, *supra* note 8.

124. *See* Coolidge, 403 U.S. at 449-53.

125. *See* Johnson v. United States, 333 U.S. 10, 13-14 (1948).

126. *Id.*

127. Kerr, *supra* note 8.

128. *Id.*

129. U.S. Const. amend. IV; *see also* Payton v. New York, 445 U.S. 573, 585-90 (1980).

130. *See* Lyons Memorandum, *supra* note 6, at 1 (basing the change on an "Office of General Counsel" legal determination).

131. *See, e.g.*, Payton, 445 U.S. 573.

132. Santana, *supra* note 1.

133. *Id.*

134. *Id.*

135. *See* 8 C.F.R. § 1003.10(a) (2024); *cf.* U.S. Const. art. III, § 1.

136. Kerr, *supra* note 8.

137. Kerr, *supra* note 8.

138. *See* Payton v. New York, 445 U.S. 573, 590 (1980).

139. Smith, *supra* note 13.

140. *Id.*

141. Garrison G. v. Bondi, No. 0:26-cv-00172 (D. Minn. Jan. 15, 2026).

142. Kidd v. Mayorkas, 734 F. Supp. 3d 967, 976, 988 (C.D. Cal. 2024).

143. *See* Lyons Memorandum, *supra* note 6, at 1 (OGC "recently determined" the Constitution, INA, regulations do not prohibit reliance on administrative warrants for in-residence arrests).

144. *See, e.g.*, Galarza v. Szalczyk, 745 F.3d 634 (3d Cir. 2014) (settlement and policy change described by ACLU-PA); *Trump Tells Minnesota to Help More with U.S. Immigration Enforcement. What Does It Already Do?*, Reuters (Feb. 3, 2026), https://www.reuters.com/legal/government/trump-tells-minnesota-help-more-with-us-immigration-enforcement-what-does-it-2026-02-03/.

145. N.Y. Att'y Gen., Guidance Concerning U.S. Immigration & Customs Enforcement "Detainers" (explaining detainers are ICE requests often accompanied by "an administrative warrant issued by ICE"), https://ag.ny.gov/resources/organizations/non-profits/guidance-concerning-us-immigration-customs-enforcement.

146. *See* Reuters, *supra* note 144.

147. Kerr, *supra* note 8.

148. *See* City of Minneapolis, *State of Minnesota, Minneapolis & Saint Paul Sue to Halt ICE Surge into Minnesota* (Jan. 12, 2026) (describing "fear and terror" caused by aggressive federal tactics), https://www.minneapolismn.gov/news/2026/january/ag-lawsuit/.

149. CBS News, *1 Day After Judge Orders Release of Minneapolis Resident, ICE Rearrests Him at Immigration Check-In* (Jan. 16, 2026), https://www.cbsnews.com/minnesota/news/judge-orders-release-of-liberian-man-arrested-by-ice-in-minneapolis-home-invasion/ (describing a battering-ram home entry by armed agents).

150. *See* Kalea Hall, *Judge Orders Release of 5-Year-Old, Father Detained in Minnesota ICE Raid*, Reuters (Jan. 31, 2026), https://www.reuters.com/world/us/judge-orders-release-5-year-old-father-detained-minnesota-ice-raid-2026-01-31/ (noting father and child "entered … legally as asylum applicants" but were detained during a raid).

151. *See* City of Minneapolis, *supra* note 148.

152. *See* Handbook, *supra* note 21 at 16.

153. Kyllo v. United States, 533 U.S. 27, 31 (2001).

154. Santana, *supra* note 1.

155. *See* City of Minneapolis, *supra* note 148.

156. *Id.*

157. *Id.*

158. *See* Letter from Sen. Richard Blumenthal to Benjamin C. Huffman, Dir., Fed. L. Enf't Training Ctrs. 3 n.5 (Jan. 21, 2026) (quoting Fed. L. Enf't Training Ctrs., Off. of Chief Counsel, Legal Training Handbook (2025)).

159. *See* 8 U.S.C. § 1326(a) (2022).

160. *See* Letter from Sen. Richard Blumenthal to Benjamin C. Huffman, *supra* note 158.

161. *See* 18 U.S.C. § 3144 (2022).

162. *See* United States v. Maldonado-Salazar, 915 F.3d 1271, 1275-76 (10th Cir. 2019).

163. *See* U.S. Gov't Accountability Off., GAO-24-106233, Immigration Enforcement: Arrests, Removals, and Detentions Varied Over Time and ICE Should Strengthen Data Reporting 9 (2024); U.S. Dep't of Homeland Sec., Press Release, *DHS Removes More than Half a Million Illegal Aliens from U.S.* (Oct. 27, 2025), https://www.dhs.gov/news/2025/10/27/dhs-removes-more-half-million-illegal-aliens-us.

164. Vladeck, *supra* note 38.

165. *See* Alison Siskin, Cong. Rsch. Serv., R45804, Immigration: Alternatives to Detention (ATD) Programs (July 8, 2019) (reporting "87,384" ISAP III enrollees; FCMP showed "99%" compliance with ICE monitoring and court attendance; "about 4%" absconded); *cf.* Handbook, *supra* note 21, at 23-24 (Field Operations Worksheet template including "Law Enforcement Notification and Case Deconflicted" and "Investigative Leads," reflecting interagency coordination and locating practices).

166. *See* M.C. Jones, *High Risk Warrant Operation Tactics* (Bill Blackwood Law Enf't Mgmt. Inst. of Tex., 2020), https://shsu-ir.tdl.org/items/3e116d5d-395a-4093-913f-e04

cf14d2f3b (concluding dynamic-entry warrant tactics "undoubtedly increase[]" safety risks).

167. *See* Handbook, *supra* note 21 at 23-24.

168. *Id.*

169. *See* Santana, *supra* note 1.

170. *See* CBS News, *supra* note 149.

171. Handbook, *supra* note 21 (stating I-200/I-205 do not authorize nonconsensual home entry); Nate Raymond, *Lawsuit Challenges ICE Ability to Enter Homes Without Warrants from US Judges*, Reuters (Jan. 30, 2026), https://www.reuters.com/legal/government/lawsuit-challenges-ice-ability-enter-homes-without-warrants-us-judges-2026-01-30/.

172. If there's no time for a warrant and a risk of escape, ICE can arrest without a warrant, but even then, an exigency would likely satisfy an exception to the Fourth Amendment's warrant requirement. *See* U.S. Const. amend. IV; Payton v. New York, 445 U.S. 573, 590 (1980); 8 U.S.C. § 1357(a)(2).

173. *See* Charlie De Mar, *DHS Responds to Internal ICE Memo, Authorizing Agents to Enter Homes Without Judicial Warrants*, CBS News (Jan. 21, 2026), https://www.cbsnews.com/chicago/news/dhs-responds-to-internal-ice-memo/; *but see* Kerr, *supra* note 8; *see also* Lindsay Nash, *Inventing Deportation Arrests*, 121 Mich. L. Rev. 1301 (2023).

174. *Compare* Garrison G. v. Bondi, No. 0:26-cv-00172 (D. Minn. Jan. 15, 2026) *with* Lyons Memorandum, *supra* note 6, at 2 n.1.

175. Santana, *supra* note 1; Kerr, *supra* note 8.

176. Kidd v. Mayorkas, 734 F. Supp. 3d 967, 988 (C.D. Cal. 2024); Garrison G., No. 0:26-cv-00172, Dkt. 6, at 8; Smith, *supra* note 13.

177. *Cf.* Abel, 362 U.S. 217, 219-25, 229 (1960).

178. *See, e.g.*, Abel, 362 U.S. at 229; Coolidge v. New Hampshire, 403 U.S. 443 (1971); Shadwick v. Tampa, 407 U.S. 345 (1972); Payton v. New York, 445 U.S. 573 (1980).

179. Kerr, *supra* note 8.

180. *See* Kidd, 734 F. Supp. 3d at 978 (noting Abel declined to consider the Fourth Amendment "warrants" question; emphasizing neutral-and-detached issuance); *see also* Abel, 362 U.S. at 230.

181. *Id.* at 983, 988 (quoting 8 C.F.R. § 287.8(f)(2) (warrant-or-consent rule for non-public areas and curtilage).

182. U.S. Const. amend. IV; *see also* Johnson v. United States, 333 U.S. 10, 13-14 (1948).

183. Kerr, *supra* note 8.

184. *See* U.S. Dep't of Justice, Immigr. & Naturalization Serv., The Law of Arrest, Search, and Seizure for Immigration Officers 1 (1977) (describing statutory arrest authority pending deportability determination).

185. *See* Payton v. New York, 445 U.S. 573 (1980).

186. *See* Santana, *supra* note 1; Smith, *supra* note 13; Lyons Memorandum, *supra* note 6, at 1 (acknowledging DHS "has not historically relied" on administrative warrants alone for in-residence arrests, but adopting that approach); Fourth Amendment exceptions discussion).

187. Kerr, *supra* note 8.

188. Santana, *supra* note 1.

189. *Id.*

190. Garrison G. v. Bondi, No. 0:26-cv-00172 (D. Minn. Jan. 15, 2026).

191. The Federalist No. 78, at 467 (Alexander Hamilton) (Clinton Rossiter ed., 1961) ("No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.").