

Know Your Rights: Warrants

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What is a warrant?

A warrant is an official document from a court or government agency. It lets law enforcement do something, like search inside a private space for something or arrest someone.

There are three types of warrants you should know about:

A **judicial** warrant is issued by a court and signed by a judge (but **not** an immigration judge) or a magistrate. A magistrate is a court official who has some of the same powers as a judge (but not all of them). A judicial warrant lets law enforcement arrest somebody, take something, or search for something or someone. To get this kind of warrant, law enforcement has to show the judge that they have “probable cause” (or a reasonable belief) that a crime happened.

An **administrative or immigration** warrant is a document issued by a federal agency, like Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP). These warrants are signed by an immigration officer or another federal officer. An administrative warrant does not allow officers to enter private places like a house, but it can allow them to arrest someone in public or in private (if allowed to enter).

A **Blackie’s warrant** is a civil search warrant that a judge or magistrate signs. It is named after a court case called *Blackie’s House of Beef v. Castillo*. In that case, the court said immigration officers can use civil warrants from judges to search worksites.

A Blackie’s warrant is different from a criminal warrant because law enforcement does not have to show “probable cause” that a crime happened to get a Blackie’s warrant. Instead, they have to show “probable cause” (or a reasonable belief) that someone at a particular worksite is not in the United States legally. The warrant still has to be specific about the place that they want to search.

How do I know what kind of warrant a document is?

This chart will help you figure out what kind of warrant a document is:

	Judicial Warrant	Administrative Warrant	Blackie's Warrant
Who issued the document?	Court	Agency (such as DHS or ICE)	Court
Who signed the document?	Judge/magistrate	Officer	Judge/magistrate
Is there an address listed that they want to search?	Yes	No	Yes
Is the word "alien" in the title?	No	Yes ("Warrant for Alien Arrest")	No
Does the form start with the letter "I" (for example the Form I-200 or I-205)?	No	Yes (a form beginning with the letter "I" may indicate it's an immigration form)	No

When do immigration officers not need a warrant to arrest someone?

The law says immigration can only arrest someone without a warrant in **very few** situations. Before arresting someone without a warrant, federal law requires immigration to be able to prove that:

- ▶ The person is in the United States illegally, AND
- ▶ That person is likely to escape before officers can get a warrant.

Under the law, immigration can search vehicles without a warrant if they are near (usually within 100 miles) an international border. No matter where immigration stops someone, the rule above applies: immigration officers cannot arrest someone without a warrant unless they have probable cause that they are in the U.S. without permission and that they are likely to flee before a warrant can be written.

How does immigration use these warrants?

ICE usually are the immigration officers you see in the United States, but you might also see CBP inside the United States, even far from the border. You might not know who officers are because they do not always tell the public who they are, so we will just call them all “immigration.”

No Warrants

Immigration officers often arrest people even when they don’t have a warrant. Sometimes, people challenge those arrests in court.

In criminal court, the prosecutor usually can’t use evidence that was collected illegally. This rule is called the “exclusionary rule.” But in immigration court, this rule doesn’t usually apply. This means ICE can still try to deport someone even if their arrest was illegal and warrantless. There are a few exceptions when the officer’s actions were part of a bigger pattern of abuse.

Judicial Warrants

Immigration uses these warrants to go into homes or businesses when they think a crime has happened. The crime could even be something related to immigration, like entering the United States without permission, or coming back to the United States after being deported.

Judicial warrants let officers go into private areas, like parts of a home or business that aren’t open to the public. They can only search the places listed on the warrant, and only take the items listed on the warrant. Immigration almost never uses judicial warrants. If they don’t have one, they need permission (also called consent) to enter a home, business, or any other private place. Once you give permission, it is very difficult to limit what officers do inside a private space.

Administrative Warrants

Immigration usually uses these warrants to arrest a person in public. Sometimes officers try to use administrative warrants to get people to let them into their homes or businesses, but these warrants don't allow that. Without permission or a judicial warrant, officers cannot go inside a home or other private space.

If immigration officers only have an administrative warrant, you do not have to let them in to your private space. But if you know that a person whose name is on the warrant is inside and you deny that they are there, and you refuse to let the officers in, you could be charged with a crime called "concealment."

Blackie's Warrants

Immigration has tried to use these civil administrative inspection warrants to raid workplaces. Officers can't get these warrants without probable cause (or a reasonable belief), and they can't use these warrants as an excuse to search for something other than what is listed. Immigration says Blackie's warrants let them go in to look for immigration violations, but this is probably against the law. These warrants likely violate the 4th Amendment of the U.S. Constitution, and they can't be used to search for people or crimes.

What are your rights when immigration shows up with a warrant?

You always have the right to remain silent if immigration officers question or arrest you. Always ask to see their ID and ask what they want. Stay calm. Don't run, resist, or fight. Never lie or give fake papers.

Here are some tips on what to do if you see immigration in different places.

At Home

- ▶ You do not have to open the door. Even opening it a little can count as giving permission (consent) for officers to come in.
- ▶ Say loudly and clearly, "I do not consent to you entering my house."
- ▶ If they want to come in, ask to see a warrant. They can show it through a window or peephole, or slide it under the door. If it's not a judicial warrant, they can't enter without your permission.

- ▶ If they have a warrant that allows them to enter, use your right to remain silent.
- ▶ If they force their way in, don't fight or resist.

At a Traffic Stop or on the Street

- ▶ You may not know the officers are immigration at first, because they might not tell you until after they arrest you. Ask who they are and ask for identification.
- ▶ Don't roll down your window unless they tell you to. If you do, only roll it down a little, so they can't reach inside. Be aware they might break the window or force the door open.
- ▶ If they ask for ID, only show your driver's license or other U.S. government-issued ID. Don't show foreign papers.
- ▶ Immigration can't search your car or belongings without a judicial warrant or your consent. They can pat someone down over clothes for safety or if they're arresting someone.

At a Business (Employer)

- ▶ You do not have to agree to a search.
- ▶ Immigration can go into public areas like parking lots or lobbies without your permission, but they can't enter private areas. Even if they're inside, they can't detain, arrest, or question anyone without a warrant.
- ▶ Mark private areas clearly with signs like "Private," keep doors locked, and have a rule that visitors can't enter those areas without permission.
- ▶ If officers show a warrant, make sure it's a judicial warrant that lists what areas and things they can search. Anything not listed can't be searched or taken.
- ▶ If officers show an administrative warrant with an employee's name on it, you don't have to say if that person is there (unless you are asked) or take them to the employee.
- ▶ For more information on what to do if immigration comes to your workplace, see [here](#).

What do warrants look like?

Administrative Immigration Warrants

The circled parts show these are immigration warrants, not judicial warrants. The words “immigration officer,” “alien,” and “Department of Homeland Security” help determine this.

U.S. DEPARTMENT OF HOMELAND SECURITY Warrant for Arrest of Alien

File No. _____
Date: _____

To: Any **immigration officer** authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that _____ is removable from the United States. This determination is based upon:

- the execution of a charging document to initiate removal proceedings against the subject;
- the pendency of ongoing removal proceedings against the subject;
- the failure to establish admissibility subsequent to deferred inspection;
- biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

(Signature of Authorized Immigration Officer)
(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at _____ (Location) _____ on _____ (Name of Alien) _____ on _____ (Date of Service), and the contents of this notice were read to him or her in the _____ language.
(Language)

Name and Signature of Officer

Name or Number of Interpreter (if applicable)

**DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement**
WARRANT OF REMOVAL/DEPORTATION

File No: _____
Date: _____

To any **immigration officer** of the United States Department of Homeland Security:
(Full name of alien)

who entered the United States at _____ (Place of entry) on _____ (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- an immigration judge in exclusion, deportation, or removal proceedings
- a designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

I, the undersigned officer of the United States, do issue the power and authority vested in the Secretary of Homeland Security under the laws of the United States, hereby, in his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

(Signature of Immigration officer)
(Title of immigration officer)
(Date and office location)



Judicial Warrants

The highlighted portions show that these are judicial warrants. The cues are that: they include “search and seizure” or “arrest; a court issued the warrants; a non-immigration judge signed them; and they specify the person/property/area to be searched.

Warrant for a search only:

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

UNITED STATES DISTRICT COURT Issued by a COURT.

for the
Eastern District of California

In the Matter of the Search of)
(Briefly describe the property to be searched)
or (Identify the person by name and address))
Case No.)

540 Oak Avenue)
Davis, California 95616)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

2:11-SW-0161 EFB

An application by a federal law enforcement officer or an attorney for the Government requests the search of the following person or property located in the EASTERN District of CALIFORNIA
(Identify the person or describe the property to be searched and give its location).

SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE

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

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

Date for warrant, n

YOU ARE COMMANDED to execute this warrant on or before 5-9-2011 *(not to exceed 14 days)*

in the daytime 6:00 a.m. to 10 p.m. at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge

(initials)

I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) for _____ days *(not to exceed 30)*.
Or until, the facts justifying the later specific date of _____.

Date and time issued: 4-25-2011 *at 10:00 AM* 

Signed by a JUDGE.

City and state: SACRAMENTO CALIFORNIA

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

Warrant for an arrest:

AO 442 (Rev. 11/11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the



United States of America

v.

)
)
)
)
)
)
)

Case No.

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate or judge without unnecessary delay
(name of person to be arrested) _____, who is accused of an offense or violation based on the following document filed with the court:

- Indictment Superseding Indictment Information Superseding Information Complaint
 Probation Violation Petition Sentence Release Violation Petition Violation Notice Order of the Court

This offense is briefly described as follows:

SAMPLE

Date: _____

Issuing officer's signature

City and state: _____

Printed name and title