

DHS Memo Outlines Plan to Use Administrative Warrants for ICE Home Arrests

Insights for Employers Alert | 2 min read

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A May 2025 Department of Homeland Security (DHS) memorandum recently became public, indicating that DHS intends to rely on its own administrative warrants—known as a Form I-205—to arrest individuals without legal immigration status within their own homes. It is not yet clear whether DHS has actually used these administrative warrants to enter homes or businesses and make arrests, although anecdotal reports suggest agents may have done so.

On January 7, 2026, the nonprofit organization Whistleblower Aid filed a formal disclosure with Congress on behalf of two anonymous government officials, and several active lawsuits have been filed by states and advocacy groups targeting the tactics authorized by this memo.

Under the Fourth Amendment of the US Constitution, law enforcement officers generally may **not** enter a residence to arrest someone without first obtaining a valid arrest warrant issued by a judge.

A judicial arrest warrant must be signed and dated by a federal or state judge or magistrate judge and must identify the individual to be arrested and the offense. Because judicial arrest warrants are issued by a neutral judge who is independent of the prosecutorial process, they serve as an important safeguard of individual rights.

When Can ICE Enter a Home or Residence?

According to DHS's May 12, 2025, memorandum, DHS's Immigration and Customs Enforcement (ICE) officers and agents may arrest an individual without lawful immigration status within their home or residence based solely on an I-205 administrative warrant.

An I-205 is a warrant of removal or deportation signed by an immigration officer. It is called an administrative warrant because it is issued by DHS, which is an agency of the executive branch of the US government.

An immigration officer is not necessarily a neutral party like a judge because the immigration officer is part of the same executive branch that authorized the underlying final order of removal. It appears from the memorandum that this policy applies nationwide except in the Central District of California under a 2024 court ruling.

Implications for Businesses

DHS's memorandum does not address arrests at businesses, but this situation is almost certain to present itself. The memorandum makes it clear that officers may enter the illegal alien's own residence with a valid I-205 warrant.

It is possible that ICE's officers and agents may extend this reasoning to justify an arrest with a valid I-205 warrant at a business owned or operated by the illegal alien. By contrast, the memorandum states that an administrative arrest warrant does not permit officers or agents to enter a third party's residence without consent, an emergency, or a judicial warrant.

ICE officers and agents, therefore, would likely not have authority under the DHS memorandum to enter a large retail store where a person is shopping to arrest them based on an administrative warrant.

Exigent Circumstances

The memorandum also outlines "exigent circumstances" that constitute exceptions to DHS's new general rule that a valid I-205 permits officers and agents to arrest an illegal alien in their home.

Those exceptions include hot pursuit, risk of evidence destruction, potential violence, attempts to flee, and situations where waiting for a warrant would create a substantial risk of harm to people or to law enforcement efforts. Under any of those exceptions, ICE might well decide it has legal justification to follow an illegal alien into a business to arrest them, even without a valid I-205 warrant.

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For questions and help on this matter, please [contact Hinshaw's immigration and government teams](#).

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