



COMMUNITY EXPLAINER

WARRANTLESS ICE ARRESTS IN D.C.

BACKGROUND

Since the summer, immigration arrests in D.C. have skyrocketed. In the majority of these cases, ICE or other federal agents arrest people without a warrant and without even asking them any questions. On September 25, 2025, several organizations sued the federal government, arguing that these warrantless arrests were illegal. On December 2, 2025, a federal court ordered federal agents to stop carrying out their unlawful policy of making illegal warrantless arrests in D.C.

WHAT MAKES A WARRANTLESS ARREST ILLEGAL?

The law says that normally, ICE and other federal agents must have an administrative warrant in order to arrest someone for immigration violations. An administrative warrant names the person ICE wants to arrest and describes why ICE believes that that person has violated immigration law. ICE *can* make an arrest without an administrative warrant, but in order to do so must have probable cause *both* that the person has a) broken immigration law and b) is a flight risk, meaning that they are likely to flee before the agent can get a warrant. “Probable cause” means that the agent can point to specific facts, or evidence, about the person that gives them reason to believe that something is true. A warrantless arrest is illegal when ICE does not have probable cause for either requirement.

WHAT DID THE COURT RULE?

The court’s order applies to anyone arrested by ICE (or other law enforcement agents enforcing immigration laws) in D.C. since August 11, 2025, if they were or are arrested without a warrant and without the officer first identifying facts about that person that gave them probable cause for flight risk. The court ruled that the government had a policy of making warrantless immigration arrests without probable cause. **The court ordered ICE and other federal agents to stop carrying out this unlawful policy of making warrantless immigration arrests without first considering whether someone is a flight risk.**

ICE has to write down what they believe makes someone a flight risk whenever they arrest someone without a warrant. The court did not say exactly what would make someone a flight risk or not, but it requires ICE and other federal agents to include in what they write down facts they know at the time of arrest related to the person’s ties to the community. Ties to the community could include having

family in the area, having a job, living in the area for a long time, and being part of a church or other community group.

This order **does not stop ICE and other federal agents from making immigration arrests at all** - it requires them to either get an administrative warrant first, or if conducting a warrantless arrest, first consider whether someone is a flight risk.

WHAT HAPPENS NEXT?

The court's order is a preliminary injunction, meaning that it is a temporary order while the full case is still being decided. Courts issue preliminary injunctions when they believe that one side is likely to win and that side will be seriously harmed if the court does not intervene before the case ends, which can take years. The government can appeal this order, first to the U.S. Court of Appeals for D.C. and, if they lose, then to the U.S. Supreme Court. Either of those courts could undo this court order. **We will update you if the order changes.**

WHAT SHOULD I DO IF ICE ILLEGALLY ARRESTS ME OR SOMEONE I KNOW?

If ICE arrested you or someone you know in Washington D.C. without a warrant and without asking you any questions related to your community ties (or any questions at all), please contact 202-838-7376 or dc-immigration-arrests@nipnlg.org to reach class counsel, which includes: Amica Center, ACLU DC, ACLU, CASA, National Immigration Project, Washington Lawyers' Committee for Civil Rights and Urban Affairs, and Covington & Burling, LLP.