



COMMUNITY EXPLAINER

THE LEAKED INTERNAL ICE MEMO ON HOME ARRESTS

On January 21, 2026, an internal ICE memo was leaked through a [whistleblower report](#) that says that ICE officers can enter the homes of people who have final orders of removal without their consent and using only an administrative warrant.¹ The memo dates from May 2025, but it appears that the agency has not tried to implement it until now.

IS IT LEGAL?

The memo cites no legal basis for this policy, **and there is none**. For many decades, courts have been clear: administrative warrants do not permit the government to enter a home or other private spaces.² The home receives special protections under the Fourth Amendment. Only a judicial warrant, signed by a judge, can authorize entry into a home. This is because there must be some judicial check on executive power. ICE is part of the executive branch, and it cannot provide this check on itself. It cannot give itself permission to enter people's homes, just like police officers cannot write their own warrants. An ICE memo does not change the Constitution or override court decisions. **All the memo does is tell us what ICE is trying to get away with.**

Even though it is not legal, we expect ICE agents to follow this memo and enter homes without a judicial warrant or consent. We also know that ICE agents are armed and willing to use violence and deadly force in order to make arrests. This has included flash pots, smoke bombs, and kicking in doors. How you respond in the moment that ICE tries to use an administrative warrant to enter your home is up to you, and we recognize that you may be forced to choose between asserting your rights and preserving your and your family's safety.

1 Under the memo's own terms, this policy does not apply where it would conflict with the court's order in *Kidd v. Mayorkas* 734 F. Supp. 3d 967 (C.D. Cal. 2024). In that case, the court ruled that ICE must have a judicial warrant to enter a home and the immediate area surrounding a home, which is called "curtilage." While the memo states that the court's order applies in the Central District of California, the court's order actually applies to the Los Angeles Field Office of ICE Enforcement and Removal Operations, which covers Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, and San Luis Obispo counties.

2 Rare exceptions to this rule exist but those are not the basis of this memo or policy. For a brief overview of Fourth Amendment rights with respect to ICE, see [here](#).

It is very likely that people will sue ICE over this policy, but as of the date that we are posting this, no lawsuit has yet been filed. However, even once the policy gets challenged, it is possible that a court decision may not apply to the entire country, or that ICE may decide to ignore the court decision even if it says it does apply nationwide. It also is possible that different courts in different parts of the country will decide this issue differently. It may take some significant time before there is a court decision that effectively stops ICE from using this memo.

WHAT CAN I DO?

If ICE says that they have an administrative warrant and you consent to their entry, it may be difficult to challenge their entry later. But if you refuse entry, they may use force, which could include breaking your door or window and entering with their weapons drawn. It is also possible that they may bring charges for resisting arrest or for obstruction, depending on the circumstances. If you are afraid of the ICE agents' violence, you may try saying "I do not believe you have legal authority to enter and I do not consent. However, I am opening the door because I am afraid you will harm me if I do not." Also, even if you consent to entry, remember that you still have the right to remain silent when ICE questions you; to refuse to sign documents; to refuse a search; and that you can ask to speak with a lawyer.

If it feels safe to do so, recording the interaction can be helpful. If possible, use a phone or app that saves video to a cloud-based account so the footage is not lost if your phone is taken. It may serve as useful evidence in a legal proceeding, and it may help raise awareness and increase public pressure on ICE to stop this practice.

We recognize that there is no good answer here, and we stand with you during this frightening and awful time. We will keep updating our materials as legal developments surrounding this ICE memo emerge.