Warrants

- ICE administrative warrants only direct ICE agents what to do – no one else.
  - Ex) Local law enforcement or Customs and Border Patrol (CBP) not permitted to execute ICE warrants.

Not all warrants are the same

- In a public space, ICE may arrest someone using a civil administrative warrant; i.e. not signed by a judge, usually signed by a Supervisory Detention and Deportation Officer at ICE
- In private space, ICE must have a judicial warrant i.e. signed by a judge or magistrate
- Note that the reasonable expectation of privacy dissolves if law enforcement are given permission to enter (i.e. you open the door and let them in)

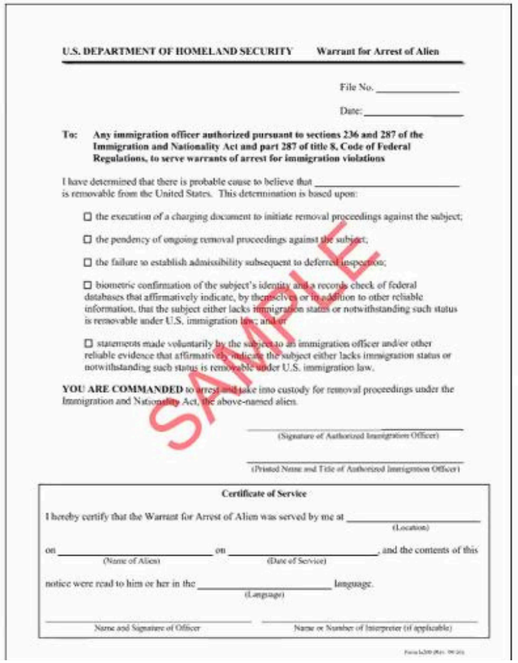
What does this mean?

- We still have basic constitutional protections in these spaces
  - Fourth Amendment protects all individuals from unreasonable searches and seizures
  - Fifth Amendment ensures right to remain silent when confronted by law enforcement
- ICE still needs a warrant to enter areas that are considered private (where people have a “reasonable expectation of privacy”

How can churches prepare?

- Develop written response policy and preparedness plan in advance
- Understand distinctions between public and private areas – perhaps designate an area as a private area in this situation
- Designate an authorized person to interact with ICE and review warrants and possible subpoenas (i.e. offices, library). **Clearly delineate that they are private (i.e. "members only")**
- Document all interactions with law enforcement
- Train non-authorized staff and volunteers on how to respond to ICE requests
- Connect with immigration response networks in your area

Sample CIVIL ADMINISTRATIVE warrants (**not** enforceable in private spaces)



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 or 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

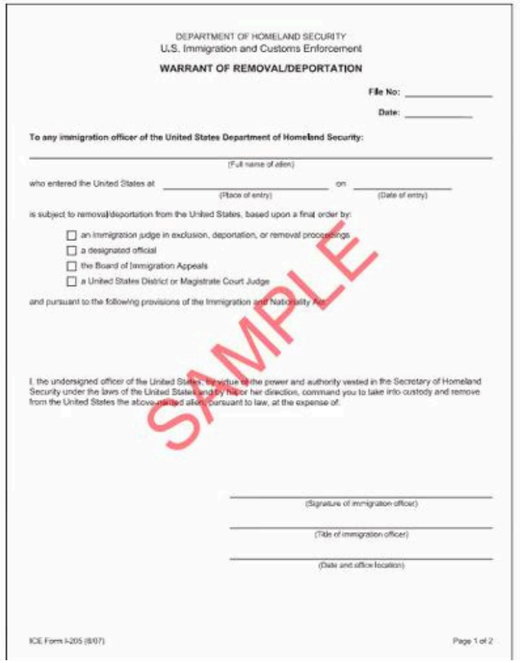
I hereby certify that the Warrant for Arrest of Alien was served by me at _____ (Location)

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)

SAMPLE



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, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by 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)

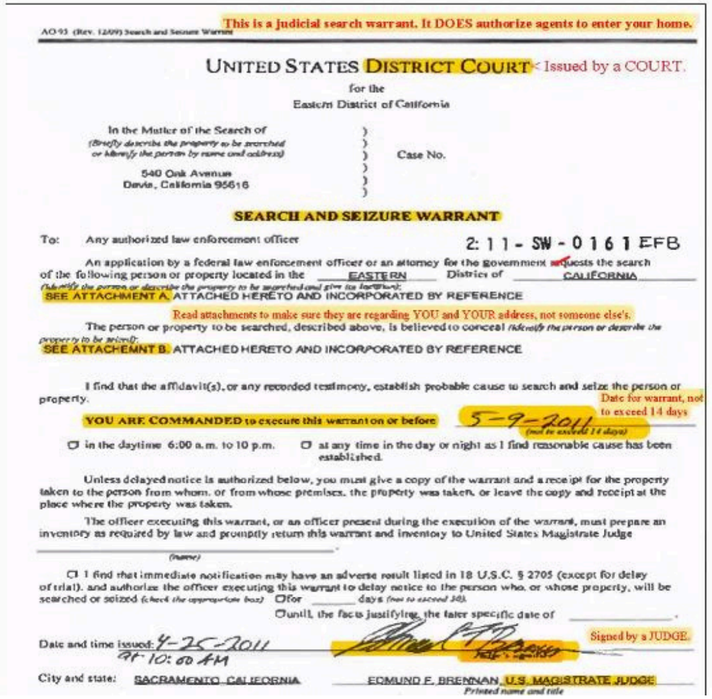
_____
(Title of immigration officer)

_____
(Date and office location)

ICE Form I-205 (8/07) Page 1 of 2

SAMPLE

Sample JUDICIAL warrant (enforceable in private spaces)



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

AO 93 (Rev. 12/09) Search and Seizure Warrant

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)

540 Oak Avenue
Davis, California 95616

Case No.

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, not to exceed 14 days

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

(name)

☐ 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).

☐ until, the facts justifying, the later specific date of ____.

Date and time issued: 4-25-2011 at 10:60 AM

Signed by a JUDGE.

City and state: SACRAMENTO, CALIFORNIA

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