

REDACTED FOR CONGRESS

— ANONYMOUS WHISTLEBLOWER DISCLOSURE —

January 7, 2026

Via email

[REDACTED]

Re: Secretive DHS memo authorizes ICE to illegally enter homes without a judicial warrant in violation of the Fourth Amendment

[REDACTED]

1. Whistleblower Aid represents two anonymous United States Government Officials disclosing a secretive – and seemingly unconstitutional – policy directive. This policy directive authorizes Immigration and Customs Enforcement (“ICE”) Agents to enter homes and residences without consent, in order to conduct arrests and removals without a warrant issued by a federal judge.¹
2. Given that we are keeping the whistleblowers’ identities anonymous even from oversight investigators, our objective is to provide as much information as possible for investigators to locate and gather evidence in order to initiate a formal investigation, while balancing our client’s concerns and need for anonymity. Accordingly, if there are any questions following your review of this disclosure, please contact the undersigned so that the requested information can be timely provided, to the extent possible.

¹ Exhibit 1, Memorandum from Acting ICE Director Todd Lyons on Utilizing Form I-205, Warrant of Removal (May 12, 2025).

3. Although the undersigned have prepared this disclosure, our clients have reviewed its contents and the positions espoused herein should be considered as their own. Thus, where a factual statement is asserted and does not include a citation to a supporting document, the source is one of our anonymous clients.

The Gravamen of the Disclosure

4. The gravamen of the disclosure is as follows:
 - a. By memorandum dated May 12, 2025 (“the May 12 Memo”), Acting ICE Director Todd Lyons authorizes ICE agents to **forcibly enter into certain people’s homes without a judicial warrant**, consent, or an emergency.
 - b. Specifically, in the May 12 Memo, the Acting ICE Director authorized ICE Agents to rely on Form I-205 (which is not a judicial warrant) to enter the residence of an alien subject to a final order of deportation, without consent, including by “a necessary and reasonable amount of force.”²
 - c. While addressed to “All ICE Personnel,” in practice the May 12 Memo has *not* been formally distributed to all personnel. Instead, the May 12 Memo has been provided to select DHS officials who are then directed to verbally brief the new policy for action. Those supervisors then show the Memo to some employees, like our clients, and direct them to read the Memo and return it to the supervisor.
 - d. A Form I-205, which DHS has called an “Warrant of Removal/Deportation” is drafted and signed by an ICE official. Based upon the final administrative order of deportation typically issued by an immigration judge,³ the purpose of the Form I-205 is to authorize ICE Agents to detain and remove these individuals. These arrests have always been limited to public places because the Form I-205 has not been considered a warrant issued by a “neutral and detached magistrate.” *Only* a warrant issued by a “neutral and detached magistrate” (e.g., a *judicial*

² Exhibit 1, Memorandum from Acting ICE Director Todd Lyons on Utilizing Form I-205, Warrant of Removal (May 12, 2025).

³ 8 C.F.R § 1241.32; 8 C.F.R § 241.2.

warrant) would authorize ICE Agents to enter or search nonpublic areas such as an alien’s residence.

- e. It appears that the Acting ICE Director has authorized the very conduct that DHS in 2025 legal training materials (citing Supreme Court precedent) has called “the chief evil against which the wording of the Fourth Amendment is directed” -- “physical entry of the home” without consent or a proper warrant.⁴
- f. Based upon information and belief, newly hired ICE Agents – many of whom do not have a law enforcement background – are now being directed to rely solely on Form I-205 to enter a home without consent to conduct arrests. In fact, our client at DHS understands that instructors at the Federal Law Enforcement Training Center are directed to verbally train all new ICE Agents to follow this policy while disregarding written course material instructing the opposite. Potentially, scores of ICE Agents will be emboldened to unlawfully enter private residences, which include the private residences of U.S. citizens.

The Form I-205 Warrant of Removal/Deportation versus a Judicial Warrant

- 5. Earlier this year, the Congressional Research Service (“CRS”) reviewed and analyzed ICE’s legal authorities. Notably, CRS found that ICE warrants *do not* confer the same authority as judicial warrants⁵:

“[t]he Supreme Court has also long held that, absent certain exceptions, the Fourth Amendment prohibits the government’s nonconsensual entry into a person’s home without a judicial warrant. Unlike judicial warrants,

⁴ See note 27 *infra*.

⁵ Note that “warrant” refers to a judicial warrant (i.e. a warrant issued by a federal district court judge or magistrate); see e.g. Federal Law Enforcement Training Centers, Office of Chief Counsel, Legal Training Handbook, 470 (2025), https://www.fletc.gov/sites/default/files/25_0106-LEG-LegalTrainingHandbook.pdf (“There are several ways to obtain a federal arrest warrant. A federal judge can issue an arrest warrant on a criminal complaint. The clerk of court can issue an arrest warrant following a grand jury’s return of an indictment or following the U.S. Attorney’s filing of an Information. Federal Rules of Criminal Procedure (Fed. R. Crim. P.) 4 and 9 govern the form and issuance of arrest warrants”); see also *id* at 321 (“ An arrest warrant is a command that a court issues to authorize law enforcement officers to arrest a particular person and bring them to an initial appearance without unnecessary delay. The arrest warrant identifies not only the person to be arrested but also the crime charged”).

warrants issued by ICE are purely administrative, as they are neither reviewed nor issued by a judge or magistrate, and therefore do not confer the same authority as judicially approved arrest warrants.”⁶

6. Under the Fourth Amendment and decades of legal precedent, law enforcement ordinarily requires a judicial warrant to enter a residence.⁷ Protecting the home from unreasonable searches and seizures – otherwise known as “warrantless searches” – is the thrust of the Fourth Amendment.⁸ A judicial warrant is issued by a neutral and detached magistrate.⁹ Neutral and detached magistrates must not be part of or paid by the entity seeking the warrant, such as a “government enforcement agent.”¹⁰
7. DHS Form I-205 is a warrant of removal/deportation that allows for the arrest (or seizure) and deportation of individuals found to have been issued a final order of removal.¹¹ Despite bearing the name warrant, Form I-205 is an administrative document signed by DHS officials, namely immigration officers, and so without the neutrality of a detached judge.¹²
8. Until the May 12 Memo, the Form I-205 has historically not been used to allow for the entry into a residence, absent consent, because it is not a judicial warrant (i.e. issued by a judge), no judge reviews the I-205. The immigration officer signing the Form is *not* a “neutral and detached magistrate” within the understanding of Fourth Amendment legal precedent, as rather than an independent neutral authority, immigration officers work for the agency obtaining and executing the Form.¹³ The position of the May 12th Memo would

⁶ Hillel Smith, Cong. Rsch. Serv., LSB10362, *Immigration Arrests in the Interior of the United States: A Primer* (June. 13, 2025), <https://www.congress.gov/crs-product/LSB10362>.

⁷ *Payton v. New York*, 445 U.S. 573, 585 (1980).

⁸ *Id.* at 584.

⁹ *Johnson vs. United States*, 333 U.S. 10, 14 (1948)(“Its protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime.”).

¹⁰ *Id.*; see also, *Connally vs. Georgia*, 429 U. S. 245, 250 (1977).

¹¹ U.S. Dep’t of Homeland Security Immigration and Customs Enforcement, Warrant of Removal/Deportation, https://www.ice.gov/sites/default/files/documents/Document/2017/I-205_SAMPLE.PDF.

¹² *Id.*

¹³ Margot Mendelson et al., *An Examination of ICE’s Fugitive Operations Program*, Migration Policy Institute (Feb.2009), https://www.migrationpolicy.org/sites/default/files/publications/NFOP_Feb09.pdf (“The warrants .. are issued by ICE staff and are civil in nature, not traditional search or arrest warrants.

neuter the warrant requirement of the Fourth Amendment, overturning decades of strong constitutional legal precedent.

The May 12, 2025, Memorandum

9. ICE leadership issued the May 12 Memorandum to implement “Executive Order 14159, *Protecting the American People Against Invasion*.”¹⁴ That Executive Order directs the Department of Homeland Security to “ensur[e] the successful enforcement of final orders of removal.”¹⁵

10. The Memorandum describes the process by which ICE Agents may rely on an I-205 to conduct an arrest in an alien’s place of residence. It states:

Although **the U.S. Department of Homeland Security (DHS) has not historically relied on administrative warrants alone to arrest aliens subject to final orders of removal in their place of residence**, the DHS Office of General Counsel has recently determined that the U.S. The Constitution, the immigration and Nationality Act, and the immigration regulations do not prohibit relying on administrative warrants for this purpose. **Accordingly, in light of this legal determination, ICE immigration officers may arrest and detain aliens subject to a final order of removal** issued by an immigration judge, the Board of Immigration Appeals (BIA), or a U.S. district court judge or magistrate judge **in their place of residence**. ... ICE immigration officers should consider all available enforcement mechanisms, including the use of the Form I-205 to arrest an alien in their place of residence, to achieve the requirements of E.O. 14159, in accordance with applicable law and policies.” (emphasis added).¹⁶¹⁷

In other words, a neutral and detached judge has not approved the warrant after reviewing sworn evidence or making a finding of probable cause to believe a law has been violated, as is required for criminal warrants”).

¹⁴ Exec. Order No. 14,159, 90 Fed. Reg. 8443, 8444 (Jan. 20, 2025).

¹⁵ *Id.*

¹⁶ Exhibit 1. Memorandum from Acting ICE Director Todd Lyons on Utilizing Form I-205, Warrant of Removal (May 12, 2025).

¹⁷ *Id.*

Before entering a residence pursuant to Form I-205, ICE officers and agents must “knock and announce.” In announcing, officers and agents must state their identity and purpose. Following announcement, officers and agents must allow those inside the residence a reasonable chance to act lawfully. **Should the alien refuse admittance, ICE officers and agents should use only a necessary and reasonable amount of force to enter the alien's residence**, following proper notification of the officer’s or agent’s authority and intent to enter. ICE officers and agents must not effectuate an arrest in a third-party residence without consent, exigency, or a judicial warrant to enter the third-party residence.”

11. While the Memorandum does carve out the Central District of California¹⁸ from the new policy and states that agents may not rely on Form I-205 to make an arrest in a third-party residence,¹⁹ – these exceptions do not save the May 12 Memo from its unconstitutional mandate.
12. Upon information and belief, and consistent with the May 12 Memo, instructors for new ICE recruits are directed to teach that Form I-205 allows ICE agents to arrest aliens in their home - *without consent to enter the residence and without judicial warrant*. Our clients understand that this instruction contradicts DHS’s own written materials currently used to train ICE cadets. According to Basic Immigration Enforcement Training Program materials used to train ICE cadets for Enforcement and Removal Operations (“ERO”), “...**a warrant of removal/deportation does NOT alone authorize a 4th amendment search of any kind.**”²⁰

¹⁸ In a footnote, the memo instructs agents not to enter the curtilage for an arrest without a judicial warrant in the Central District of California due to a recent court case. *Kidd v. Mayorkas*, 734 F. Supp. 3d 967, (C.D. Cal. 2024).

¹⁹ Exhibit 1 at 2.

²⁰ Exhibit 2, U.S. Dep’t of Homeland Security Immigration and Customs Enforcement, ERO Training Hand book, BIETP 4th Amendment - Warrants and Warrant Exceptions Study Guide (Jul. 26, 2021), at 7.

Consciousness of Guilt: An Opaque and Secret Memorandum with Threats of Reprisal

13. Despite the May 12 Memo being addressed to “All ICE Personnel,” in practice the memorandum has only been distributed to select DHS and ICE officials. Furthermore, our clients have been told that the May 12 Memo must be treated with unusually strict access control for a document without any confidentiality markings.
14. To wit: one of our clients was allowed to view the memorandum only in the presence of their supervisor. They were handed the Memorandum, allowed a few minutes to review it without the ability to take notes, and were directed to hand it back. They were also informed that another employee had been reassigned for contradicting a supervisor about a different ICE policy. Our client understood their supervisor shared this piece of information as a warning that expressing disagreement with the new arrest policy could result in adverse career consequences.
15. Together, our clients are aware of multiple DHS employees who faced retaliation for expressing their concerns and/or disagreement with the May 12 Memo's policy change, likely constituting prohibited personnel practices. One client is aware of a seasoned government instructor, tasked with teaching this new doctrine, who chose to resign rather than be forced to teach what they understood to be unlawful.
16. Based upon information and belief, ICE began formalizing this policy change as early as March 2025. The internal disagreement about the policy and the furtive manner of its roll out are indicators that agency leadership is aware that this new policy runs afoul of settled legal precedent and Constitutional principles.
17. Furthermore, one of our clients understands that ICE agents operating in the Fifth Circuit – including Texas – have started to rely on Form I-205 to arrest aliens in their residences without a proper judicial warrant.²¹ Our client understands that these targeted arrest operations were carried out in court

²¹ Our clients can speak more to this, but will refrain from doing so here to help maintain their anonymity.

districts that are sympathetic to the Administration’s campaign to deport illegal immigrants should a targeted person litigate their unlawful arrest.²²

Instruction and Implementation of the May 12 Memo Doctrine

18. In the May 12 Memo, the Acting ICE Director states that DHS has “not historically relied on administrative warrants alone to arrest aliens subject to final orders of removal in their place of residence.”²³ But the Acting ICE Director fails to mention that the reason DHS has never done this before is because courts have consistently held that entering a home without a warrant from a neutral and detached magistrate violates the Fourth Amendment.²⁴ DHS’s own written training materials, including materials used in 2025, make this clear.

Here are some examples of DHS written materials and official statements conveying the *proper* interpretation of the law:

a. ICE Fugitive Operations Handbook (2023):

“Neither a Warrant for Arrest of Alien (I-200) nor a **Warrant of Removal (I-205) authorizes officers to enter the target's residence or anywhere else where the target has a reasonable expectation of privacy.** A government intrusion into an area where a person has a reasonable expectation of privacy for the purpose of gathering information will trigger Fourth Amendment protections, including a physical intrusion into a constitutionally protected area **Therefore, without a criminal warrant, officers must obtain voluntary consent before entering a residence or area where there is a reasonable expectation of privacy.**”²⁵

²² A decision to target specific groups for arrest without a proper judicial warrant may give rise to an action for a conspiracy against rights under 18 U.S.C. § 241.

²³ Exhibit 1 at 1.

²⁴ As noted in this disclosure, there has not been any new Supreme Court or other court ruling that has radically changed the scope of this constitutional protection so as to justify such a significant change in DHS policy.

²⁵ See *Kidd v. Mayorkas*, 734 F. Supp. 3d 967, 975 (C.D. Cal. 2024)(referencing ICE Fugitive Operations Handbook, “in a section titled ‘Consent’).