

EXHIBIT 2

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INSTRUCTION

I. Explanation and Demonstration

A. EPO 1: Describe the legal requirements to execute an administrative warrant.

1. Administrative arrest warrant (Form I-200) (included in Attachments)

a. The basics

- 1) Issued with some, but not all, Notices to Appear (NTAs).
- 2) Directs ERO Officers to take named subjects into custody pursuant to INA § 236(a).

b. Executing an administrative arrest warrant

- 1) An administrative arrest warrant does NOT alone authorize a 4th Amendment search of any kind.
- 2) Access to the subject of an administrative arrest warrant will occur either in an "open field" or in a REP-protected area because of a warrant or probable cause exception (most commonly consent).
- 3) Example: ERO Officers armed with an administrative arrest warrant for Mr. Smith arrive at his residence. They approach Mr. Smith's front door via a walkway and knock. A man they believe to be Mr. Smith answers the door, and the ERO Officers ask if they can enter to ask him a few questions; Mr. Smith consents. While inside, the officers confirm Mr. Smith's identity and arrest him pursuant to the administrative arrest warrant.

2. Warrant of removal/deportation (I-205) (included in Attachments)

a. The basics

- 1) Issued with every order of removal. Obviously, for persons already in custody, during their removal proceedings, this warrant does not require additional action on the part of the ERO Officer.
- 2) Directs ERO Officers to take named subjects into custody AND remove them pursuant to INA § 241(a).
- 3) Like arrests pursuant to administrative arrest warrants, these arrests often occur under circumstances in which the

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initial encounter was consensual, but they do not have to occur in this way. They can also take place in conjunction with vehicle stops.

b. Executing warrant of removal/deportation

- 1) A warrant of removal/deportation does NOT alone authorize a 4th Amendment search of any kind.
- 2) Like administrative arrest warrants, these warrants are most often, but not always, used to arrest someone under circumstances in which the initial encounter was consensual.
- 3) Example: Mr. Jones has been ordered removed, and as a result, there is a warrant of removal/deportation for him. He is one of the targets you have been tasked with bringing in. Armed with your warrant of removal, you can arrest him anywhere you can lawfully be, making sure you are also in compliance with policy. Based on your surveillance, you determine the best manner to arrest him is by using a vehicle stop (you have the required driver training and the required approval). Shortly after Mr. Jones drives away from his home, you turn on your emergency lights and he pulls over. You approach his vehicle, and after confirming his identity, you arrest him.

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B. EPO 2: Describe the legal requirements regarding a federal search and/or seizure warrant per Rule 41.

"... [No] warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." 4th Amendment, U.S. Constitution

1. General rule for Rule 41 search warrants

- a. To comply with the 4th Amendment, ERO Officers must have a warrant, supported by Probable Cause, that authorizes the search and/or seizure, and the warrant must be executed in a reasonable manner. There is a strong preference for warrants under the Constitution. Whenever possible, you should get a warrant before you search or seize.
- b. As a cautionary note, each federal circuit may approach the issuance and execution of warrants slightly different, so when you report to your duty station and are called upon to "get" a warrant, make sure to check with fellow ERO Officers and local Assistant United States Attorneys (AUSAs) regarding the local requirements.