

RECOGNIZING & DISTINGUISHING BETWEEN COMMON IMMIGRATION ENFORCEMENT DOCUMENTS FOR SHELTERS



| DOCUMENT | SUBPOENAS | WARRANTS | NOTICE TO APPEAR |
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| DIFFERENT TYPES | <p>Two types:</p> <ul style="list-style-type: none"> (1) Administrative (2) Federal judicial | <p>Two types of each:</p> <ul style="list-style-type: none"> <u>ICE Administrative</u>: (1) Arrest; (2) Removal <u>Federal Court Warrants</u>: (1) Search and Seizure; (2) Arrest | <ul style="list-style-type: none"> This is a charging document |
| WHO/HOW ISSUED? | <p>Administrative:</p> <ul style="list-style-type: none"> Issued by an immigration enforcement officer <p>Federal Judicial:</p> <ul style="list-style-type: none"> Issued by a federal judge or magistrate | <p>ICE Administrative:</p> <ul style="list-style-type: none"> Both administrative arrest and removal warrants are issued by an immigration enforcement officer <p>Federal Court Warrants:</p> <ul style="list-style-type: none"> Both search and seizure warrants and arrest warrants are issued by a federal judge or magistrate | <ul style="list-style-type: none"> Can be issued by ICE, USCIS, or CBP |
| HOW TO IDENTIFY? | <p>Administrative:</p> <ul style="list-style-type: none"> Will be signed by an immigration enforcement officer Will state "DHS Form I-138" <p>Federal Judicial:</p> <ul style="list-style-type: none"> Will identify a federal court Will be signed by a judicial judge or magistrate | <p>ICE Administrative:</p> <ul style="list-style-type: none"> <u>Arrest</u>: Will state "DHS Form I-200" <u>Removal</u>: Will state "DHS Form I-205" Both arrest and removal administrative warrants will be signed by an immigration enforcement officer <p>Federal Court Warrants:</p> <ul style="list-style-type: none"> <u>Search & Seizure</u>: Will be signed by a federal district judge or magistrate; will contain a description of the area to be searched <u>Arrest</u>: Will be signed by a federal district judge or magistrate; will name a person for arrest; will state "Arrest Warrant" | <ul style="list-style-type: none"> A Notice to Appear will identify a person Notifies a person that they are expected to make an appearance on a certain date/time before an immigration judge A Notice to Appear will contain allegations about the person's immigration status |
| DOES IT AUTHORIZE SEARCH? | <p>Administrative:</p> <ul style="list-style-type: none"> Does NOT authorize search <p>Federal Judicial:</p> <ul style="list-style-type: none"> Does NOT authorize search | <p>ICE Administrative:</p> <ul style="list-style-type: none"> <u>Arrest</u>: Does NOT authorize search <u>Removal</u>: Does NOT authorize search <p>Federal Court Warrants:</p> <ul style="list-style-type: none"> <u>Search & Seizure</u>: YES, it authorizes a search to the extent authorized by the warrant <u>Arrest</u>: Does NOT authorize search | <ul style="list-style-type: none"> Does NOT authorize search |
| DOES IT AUTHORIZE ARREST? | <p>Administrative:</p> <ul style="list-style-type: none"> Does NOT authorize arrest <p>Federal Judicial:</p> <ul style="list-style-type: none"> Does NOT authorize arrest | <p>ICE Administrative:</p> <ul style="list-style-type: none"> <u>Arrest</u>: YES, only in public area <u>Removal</u>: YES, only in public area <p>Federal Court Warrants:</p> <ul style="list-style-type: none"> <u>Search & Seizure</u>: Does NOT authorize arrest <u>Arrest</u>: YES, it does authorize arrest and entry, even in a nonpublic area (e.g., a home) | <ul style="list-style-type: none"> Does NOT authorize arrest |
| DOES IT AUTHORIZE ENTRY INTO NONPUBLIC SPACES OF SHELTER? | <p>Administrative:</p> <ul style="list-style-type: none"> Does NOT authorize entry into nonpublic spaces of shelter <p>Federal Judicial:</p> <ul style="list-style-type: none"> Does NOT authorize entry into nonpublic spaces of shelter | <p>ICE Administrative:</p> <ul style="list-style-type: none"> <u>Arrest</u>: Does NOT authorize entry into a nonpublic space of shelter <u>Removal</u>: Does NOT authorize entry into a nonpublic space of shelter <p>Federal Court Warrants:</p> <ul style="list-style-type: none"> <u>Search & Seizure</u>: YES, it does authorize entry into a nonpublic space of shelter to the extent authorized by the warrant <u>Arrest</u>: YES, it does authorize entry into a nonpublic space of shelter to the extent authorized by the warrant | <ul style="list-style-type: none"> Does NOT authorize entry into nonpublic spaces of shelter |

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| <p>DOES IT REQUIRE SHELTER COOPERATION?</p> | <p>Administrative:</p> <ul style="list-style-type: none"> Does NOT require IMMEDIATE shelter cooperation Shelter may challenge subpoena at federal court <p>Federal Judicial:</p> <ul style="list-style-type: none"> Does NOT require IMMEDIATE shelter cooperation Shelter may challenge subpoena at federal court | <p>ICE Administrative:</p> <ul style="list-style-type: none"> <u>Arrest</u>: Does NOT require shelter cooperation [consent or assistance] <u>Removal</u>: Does NOT require shelter cooperation [consent or assistance] <p>Federal Court Warrants:</p> <ul style="list-style-type: none"> <u>Search & Seizure</u>: YES, prompt compliance is usually required, but shelter staff should consult with a supervisor or legal counsel prior to responding <u>Arrest</u>: YES, prompt compliance is usually required, but shelter staff should consult with a supervisor or legal counsel prior to responding | <ul style="list-style-type: none"> Does NOT require shelter cooperation, unless the shelter agent is the person named in the Notice to Appear |
| <p>CAN IT REQUIRE PRODUCTION OF DOCUMENTS OR OTHER EVIDENCE?</p> | <p>Administrative:</p> <ul style="list-style-type: none"> YES, it can require production of documents or other evidence and will contain a list of all documents or evidence to be produced. <p>Federal Judicial:</p> <ul style="list-style-type: none"> YES, it can require production of documents or other evidence and will contain a list of all documents or evidence to be produced. | <p>ICE Administrative:</p> <ul style="list-style-type: none"> <u>Arrest</u>: NO, it cannot require production of documents or other evidence <u>Removal</u>: NO, it cannot require production of documents or other evidence <p>Federal Court Warrants:</p> <ul style="list-style-type: none"> <u>Search & Seizure</u>: NO, it cannot require production of documents or other evidence, but may authorize search and seizure of specified property (including a person, documents, or other evidence) <u>Arrest</u>: NO, it cannot require production of documents | <ul style="list-style-type: none"> NO, a Notice to Appear cannot require the production of documents |
| <p>CAN IT REQUIRE AN INSPECTION OF PROPERTY OR PREMISES?</p> | <p>Administrative:</p> <ul style="list-style-type: none"> NO, it cannot require an inspection of premises, but CAN require an inspection of records (books, papers, or other documents) <p>Federal Judicial:</p> <ul style="list-style-type: none"> YES, it can require an inspection of property and premises. | <p>ICE Administrative:</p> <ul style="list-style-type: none"> <u>Arrest</u>: NO, it cannot require an inspection of property or premises <u>Removal</u>: NO, it cannot require an inspection of property or premises <p>Federal Court Warrants:</p> <ul style="list-style-type: none"> <u>Search & Seizure</u>: YES, it can require an inspection of property or premises <u>Arrest</u>: NO, it cannot require an inspection of property or premises, but can authorize entry onto premises, even in nonpublic spaces for the purpose of an arrest | <ul style="list-style-type: none"> NO, a Notice to Appear cannot require an inspection of the property or premises |
| <p>CAN IT REQUIRE AN APPEARANCE OF SHELTER STAFF?</p> | <p>Administrative:</p> <ul style="list-style-type: none"> YES, it can require an appearance before either CBP, ICE, or USCIS <p>Federal Judicial:</p> <ul style="list-style-type: none"> YES, it can require an appearance at a designated location specified in the subpoena | <p>ICE Administrative:</p> <ul style="list-style-type: none"> <u>Arrest</u>: NO, it cannot require an appearance of shelter staff <u>Removal</u>: NO, it cannot require an appearance of shelter staff <p>Federal Court Warrants:</p> <ul style="list-style-type: none"> <u>Search & Seizure</u>: NO, it cannot require an appearance of shelter staff <u>Arrest</u>: NO, it cannot require an appearance of shelter staff | <ul style="list-style-type: none"> NO, it cannot require an appearance of shelter staff unless the shelter staff is the person named in the Notice to Appear |

How do I get more assistance? Contact Michelle Kim at mkim@fvaplaw.org or (510) 858-7358.

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