



U.S. Immigration and
Customs Enforcement

ICE
ACADEMY

Execution of Criminal Warrants

What would you do?

Having been issued a SW, you enter the premises and gather all the occupants.

Would you detain the occupants while conducting the search? *Michigan v. Summers*, 1981

Would you use handcuffs in order to detain the occupants? *Muehler v. Mena*, 2005

Would you search each of these people for weapons? *Ybarra v. Illinois*, 1979



The facts drive the train

What was the SW issued for? Is it high risk?

Detain SUSPECTS and RESIDENTS while executing a SW to prevent flight, minimize risk of harm (high risk contraband), or facilitate opening locked doors/containers. Michigan v. Summers, 1981

Use REASONABLE force to detain occupants.
Muehler v. Mena, 2005

A criminal SW doesn't justify a frisk; You need a reason to suspect that the person is armed and dangerous (Terry Frisk). Ybarra v. Illinois, 1979



What is in it for me?

You are probably already obtaining and executing criminal warrants.....

So why not have a complete understanding of the proper Federal procedures as well as ICE policy?

You will increase your chances of going home safely every night while minimizing your risk of getting sued.

If legal action is taken against you, you will want ICE/DOJ to back you up.



Goal of the Lesson

Condition: Given a situation in which the issuance of a criminal AW and/or SW is expected or has already been obtained,

Behavior: the ERO officer will conduct a pre-operation briefing, confirm assignments, contact any agency with jurisdiction over the target address, and lead the team members in the proper execution of the operational plan,

Criterion: in accordance with the FRCrmp and ICE Policy.



How We Achieve the Goal

EPO #1 Follow basic warrant pre-execution procedures.

EPO #2 Designate the responsibilities of warrant team personnel assignments and properly execute the criminal warrant(s).

EPO #3 Follow basic warrant post-execution procedures.



Administrative v. Criminal

This is not new!

Pre-op plan

Notifications

FOT assignments

Post-op briefing

Just take away the need for consent

Now add an evidence kit



Review of FRCrmP

RULE 4

- 4(c)(3)(A) –upon arrest, show the warrant. If not in possession, inform of the warrant’s existence and the offense charged, and show if requested.
- 4(c)(4)(A) –when defendant is brought before the judge (Initial Appearance), also return the warrant.

FYI: Immigration Law Handbook



Review of FRCrmP

RULE 41

- 41(a)(2)(B) - “Daytime” (6 to 10)
- 41(c) –search for 1) evidence; 2) contraband, fruits of crime, or other items illegally possessed; 3) property designed or intended for use, or used in committing a crime; or 4) a person.
- 41(e)(2) –identify: person or property to be searched; person or property to be seized; and, USMJ for the return. Execute no longer than 14 days after issuance during daytime hours (exception) and return to that designated USMJ.



Review of ICE Forms

- DHS Form 6051S: Custody Receipt for Seized Property and Evidence (EVIDENCE – Day 8)
- DHS Form 6051D: Detention Notice and Custody Receipt for Detained Property (Non-evidence/\$\$/Guns/Drugs)
- ICEEOPPLAN: ICE Enforcement Operational Plan (ICEEOPPLAN – Day 9)



What We Will Do

- Go through your Evidence Kits
- Review example ICEEEOPLAN
- Discuss pre-execution brief
- Discuss personnel assignments
- Discuss post-execution brief
- Review example executed SW and other example documents
- Pre-practice: TD 9
- Practice pre-execution brief - Phase 12
- Practice warrant execution - Phases 13-14
- Final Test of Activity on Day 14 and 15



EVIDENCE KIT

Even on an administrative operation

DHS 6051S, D and A 4607 4605 G-56	ICE Statements Miranda I-213 **See next slide	USMS 312 **Check with your local office
Health/Safety Gloves*, Mask, Sanitizer, Bug Spray, etc	Evidence boxes, bags, tags (DHS-366), label, tape	Camera Batteries Film/Memory Card
Notebook Pens, Pencils, Sharpies	Sketch Pad/ Photo Log/ Room Identification Forms	MISC Ruler Tape Stapler



REQUIREMENT – Prompt Presentment

- “without unnecessary delay” - Rule 5(a)
- Booking, Notifications and Transport
 - Fingerprints
 - Photograph
 - AUSA, USMS, Pretrial Services
- Confessions – Corley v. United States
 - Voluntary (Miranda)
 - 6-hour time limit
- Any delays beyond must be reasonable or necessary e.g. means of transport or distance to USMJ

**For this reason, FOTs will complete booking process and attempt statement ON SCENE



Pre-Operation Briefing ICEEOPLAN

- Basic case information
- Operational Objectives
- Summary of Investigation
- Additional Safety Information
- Personnel Assignments

Don't attend - Don't participate

ALWAYS REVIEW USE OF FORCE



LEGEND

Personnel Assignments

TL Case Agent / Team Leader	ET Entry Team	BR Breacher
ST Search Team	EV Evidence Custodian	AT Arrest Team
PH Photographer	SK Sketch Officer	RO Radio Officer
PT Prisoner Transport	CT Cover Team	P Perimeter



TL / Case Agent

- Pre-execution
 - Investigate
 - Coordinate
 - ICEEOPLAN and briefing

- Notify locals / Sector / H.S.I.

- Execution
 - Record date/time executed
 - Ensures inventory of items seized is prepared
 - Provide copy to person or leave on scene
 - Miranda?
 - Secure scene

- Post-execution
 - Contacts (DOJ – Courts)
 - De-briefing



ET and BR

- Minimum of 8 (including locals or other fed agents/officers)
- BR
 - Forced entry MAY be necessary
 - Wait a reasonable amount of time
 - Photos
 - *Check AOR
- Action upon entry
 - Secure premises and any weapons in plain view
 - Gain control of occupants and bring to central location
 - Michigan v. Summers / Muehler v. Mena / US v. Monteith



18 USC 3109

The officer may break* open any...door or window of a house, or any part of a house, or anything therein, to execute a SW, if, after notice of authority and purpose, ...refused admittance or when necessary to liberate himself or a person aiding him in the execution of a warrant.

**Longstanding presumption is that the owner/offender will obey – give them a chance!

- Knock, Announce, Demand Entry (Wilson v Arkansas)
- 3 Exceptions (Richards v Wisconsin)
 - Futility – Person already knows so no point
 - Danger – Peril or danger of bodily harm, injury, death
 - Frustration to SW purpose – Flee or destroy



AT

- **ID EVERYONE**
 - Wants/Warrants (Sector or LESC)
 - Who will stay / Who will go
- **ARREST TARGET**
 - Rule 4(c)(3)(A)
 - SIA
- **BOOKING PROCESS** (Pennsylvania v. Muniz)
 - I-213 (Booking information)
 - USM 312
 - DNA Sample Collection (28 CFR Part 28 – 5/12 ERO policy)
- **Statement** (Corley v. United States)
 - 73-025 – Miranda
 - Sworn Statement



PT

- Minimum of two
- May complete the booking process
- I-247 (b)(7)(E)
- Follow ICEEOPPLAN regarding transportation location
- SECTOR



EV

- Pre-search walk-through
 - with the PH and SK
 - Safety check
 - Label search areas with “room identification” forms
- Collect evidence
 - 6051S / COC
 - packaging and controlling
 - transporting
 - storing



ST

- Complete top portion of room identification form
- Minimum of 2 per search area /
Overlapping detailed search
(Second 2-man ST can “re-search)
- Announce discovery
 - PH will photograph in place
 - EV will collect
- Complete bottom portion of Room ID form



P / CT

- Established prior to making entry
- Who is getting in?
- Who is getting out?
- Don't leave your post



PH

- Responsible for:
 - Photo log
 - Pre- and Post-photos
 - Photograph evidence
- Why take photos?
 - Document against defense
 - Recall
- Why keep a log?
 - Where, when, who found it
 - Tampering claims



SK

- Why make a sketch?
 - Court aid
 - Memory aid
 - Document position of evidence when located
- Multi-level premises
- Optional
 - Observe scene
 - Measure distances
 - Locate and draw objects and evidence
 - Indicate North, scale, and legend

Not listed on the ICEEOPPLAN



RO

- NET (Repeater) operations
 - Direct to SECTOR
 - Safety checks
 - Recommend one of the AT be RO

- TAC operations
 - No repeater or not using Sector
 - Recommend one of the AT run identity checks

Not listed on the ICEEOPPLAN



Post-operation briefing

TL/Case Agent

- Collect:
 - Equipment
 - ICEEOPPLAN
 - Copies of federal court forms
 - Officer notes
 - Sketches
 - Photo log and memory card

- Debrief

- Verify with EV items seized



Rule 41(f)

Executing and Returning the Warrant

- (1)(a) – Note exact date and time
- (1)(b) – Inventory
 - TL, EV and PH – two are the witnesses
 - May be witnessed by person from whom items are seized
- (1)(c) – Copy of SW and Receipt (6051)
 - Either give to person or leave at premises
- (1)(d) – Return
 - PROMPTLY to USMJ

*** US v. Monteith – 4th circuit



Summary

- Pre-briefs provide a thorough understanding of the case and the goals behind the operation.
- Post-briefs provide a way to communicate back to the Case Agent any important problems or issues.
- Knowing what your specific duties are, as well as those of the others, will help the whole team operate more efficiently and effectively.



TAKE AWAYS

- What are some basic pre-execution procedures?
- Name some of the personnel assignments and duties.
- What procedures are required by Rule 41(f)?
- What are some basic post-execution procedures?



ACCOMPLISH YOUR MISSION

- You are legally responsible for following the FRCrmP (4 and 41) and respecting the legal rights owed to a person.
- Decrease your chances of being the target of any civil or criminal action.
- Increase the chance of having a safe and successful case.



PRE-PRACTICE

TD-9

- EXECUTION lesson
- EVIDENCE lesson
 - Label Room
 - Call for EV and PH
 - Chain of Custody
 - SW Execution



PRACTICE

Phase 12-14

- EVIDENCE lesson
- ICEEOPPLAN lesson
- Draft your team's plan
- PRACTICE: Phases 12-14
 - Briefing
 - Execution
 - De-brief



WHAT WE WILL LOOK FOR:

- Pre-search walk-through (scene safe)
- Search areas labeled (room identification form)
- Sketch (acceptable for use in court proceedings)
- ST (2-man teams find all evidence)
- Rule 41(f)(1)(A-C) (date and time entered on warrant, inventory prepared and witnessed, and copy of warrant and receipt provided)
- PH (before, during, and after and Photo Log)
- Post-search walk-through and scene secured
- All AW documentation completed (Miranda, USM 312, etc)



Final Test of Activity

Day 14 and 15

- Will not be part of your current scenario
- We will give you pieces of a new case
- You will properly execute the SW according to Rule 41(f)

****Critical sections are automatic failures**



QUESTIONS?





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ICE ACADEMY

Field Operations Training Program Prosecutions