

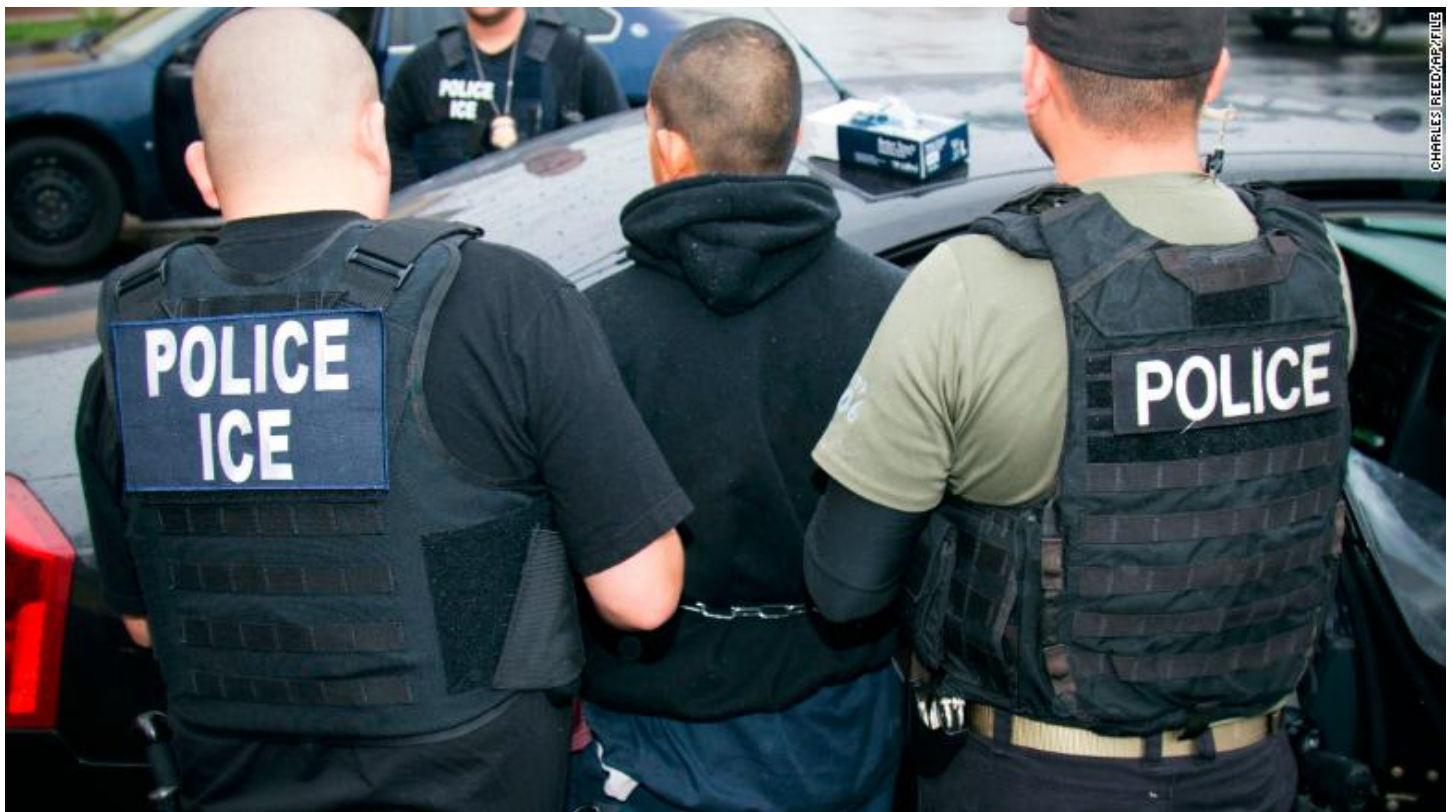
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ICE supervisors sometimes skip required review of detention warrants, emails show

By **Bob Ortega**, CNN Investigates

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(CNN) — Brent Oxley, an Immigration and Customs Enforcement deportation officer in Little Rock, Arkansas, was happy in his work, which he says "gave me the feeling that I was helping protect my country." A big part of his job: Look through rosters from local jails for people who might be deportable, ask for them to be held for ICE to pick up, then go get them.

But last May, ICE fired Oxley, for a variety of charges that included forging his supervisor's signature on arrest warrants for undocumented immigrants. Federal immigration law requires each warrant to be signed by an authorized supervisor. By signing them himself, an ICE administrator wrote to Oxley, he had exposed ICE to the possibility of "numerous unlawful detention lawsuits" over illegal arrests, had they not reissued the warrants.

Oxley challenged his termination, convinced he had not been alone in skipping the warrant-review process, which could be inconvenient when supervisors weren't in the office and the 48-hour time limit to release people was nearing its end. And he turned up evidence he was right.

Internal emails and other ICE documents he obtained through a Freedom of Information Act request, since reviewed by CNN, show that other officers across the five-state region where Oxley worked had improperly signed warrants on behalf of their supervisors -- especially on evenings or weekends. Some supervisors even gave their

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Brent Oxley, who was fired from ICE in part for improperly signing detention warrants, at his graduation from the ICE Academy in Georgia, in January 2010.

or when officers were given blank, pre-signed warrants -- it's unclear how closely or even whether a supervisor would have reviewed an individual case.

Legally, the signature on a warrant attests that an authorized supervisor reviewed it and determined that there was probable cause to believe the person named was deportable. The Immigration and Naturalization Act doesn't offer the option of letting unauthorized officers sign for supervisors.

Two other ICE employees told CNN that they're aware of similar incidents of supervisors elsewhere in the country providing pre-signed blank warrants or telling officers to sign for them without full review, and that the practice is ongoing.

Lawyers and advocates interviewed by CNN expressed surprise about the improperly signed warrants, which could be used to challenge individual deportation orders at immigration hearings.

"If there's evidence of that, that's a big deal," said Jeremy McKinney, a member of the executive committee of the American Immigration Lawyers Association, whose members represent clients in deportations and immigration matters. "That's the root of an illegal arrest."

More broadly, improperly signed warrants could become a point of contention in several ongoing lawsuits over ICE's practice of asking law enforcement to hold undocumented immigrants in detention up to 48 hours longer than they otherwise would. With each such request, called a detainer, ICE sends along a warrant.

"This is very relevant to those cases," said Lena Graber, staff attorney at the Immigrant Legal Resource Center, in San Francisco. "When we think about what a warrant is, it's based on preapproval from a neutral party determining that there are facts supporting an arrest. When there isn't even an administrative review, that's pretty egregious."

A new front in the battle over detainers

ICE's practice of asking law enforcement to hold immigrants -- some being released from jail or prison, some picked up by sheriffs or police without ever being charged with a crime -- has long been a source of concern for civil rights groups and city governments. Many jurisdictions have refused to comply with the requests, and immigrant-rights groups have sued the agency over the practice multiple times.

Two years ago, in an attempt to address those concerns and to conform with court rulings, ICE implemented a new rule that required that every detainer be accompanied by a warrant, and that authorized supervisors review and sign the warrants.



But the policy immediately came under fire from the ICE union. Supervisors weren't always around when warrants needed to be signed. According to National ICE Council President Chris Crane, who is also an ICE deportation officer, some supervisors handled that by telling officers to sign warrants themselves or by pre-signing blank warrants, which undermined the intent of requiring higher-level scrutiny. Officers were frustrated by other cases that hit the 48-hour

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"We believe that hundreds if not thousands of violations of this policy have taken place," Crane told CNN. He believes the infractions are still happening across the country, far beyond the five states -- Alabama, Arkansas, Louisiana, Mississippi and Tennessee -- covered by the New Orleans field office under which Oxley worked and from which he recovered internal documents.

One ICE deportation officer in the Northwestern United States, who asked not to be named because he wasn't authorized to speak for the agency, said his supervisors were not reviewing and signing individual warrants, called I-200s, as prescribed.

"I've had two supervisors since the memo came out. Both do it different ways, neither in the way that's outlined in the policy," the officer said. "My first supervisor would just sign the I-200s; he'd leave them blank and I would fill in the name later. My current supervisor tells us to sign his name for him." Most supervisors in that office do the same, he added.

"There's zero review," the officer said. "They trust me and everybody on my team. They don't review any of it. [The warrants] are only reviewed when [the detainees] are already in our custody and we place the files in front of them."



ICE spokesman Vincent Picard acknowledged that federal law requires a supervisor to review and sign each warrant. But despite examples to the contrary cited by CNN, he dismissed the notion that improper signing of the warrants is widespread.

Picard said that ICE leaders "are not aware of any widespread confusion or instances of improperly issued warrants." ICE deportation officers get training on the use of warrants during basic training, he said, and receive refreshers on the policy "as part of their professional development."

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"We have no evidence beyond the ICE union's defense of a terminated employee that indicates ICE Deportation Officers are violating the law or associated policy," Picard wrote in an emailed response to CNN. "If the union is aware of other employees who have violated the law by forging supervisory signatures on warrants, they should immediately be reported

to the ICE Office of Professional Responsibility."

Picard also said that to deal with the scarcity of supervisors on nights and weekends, "ICE Field Offices instituted a number of solutions, all of which have been deemed legally sufficient." He declined to share with CNN any written legal guidance for ICE agents on those solutions.

"Providing flexibility to officers in the field, such as getting verbal authorization from a supervisor to file a warrant, is legally sufficient in the same way that a magistrate can verbally approve a criminal warrant," he added.

Out of 14 immigration attorneys across the country contacted by CNN, none was previously aware of ICE supervisors asking officers to sign warrants for them or providing pre-signed blank warrants. All 14 said they believed such practices may make the warrants invalid.

'You can sign for me'

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on Monday morning. Obviously, that has led to verbal approvals to 'sign for me 200's,'" he wrote. He cited an email that day from one of his officers, saying, "FYI, I didn't get back a signed 200 all weekend due to the duty [supervisor] not able to send me one back. Verbal approvals via text."

An officer in Nashville, Tennessee, complained to a higher-up that one supervisor had asked him to sign a warrant for him, and that another supervisor was unreachable. "If an alien is let go in the meantime that will be on him. He should be required to answer calls in the middle of the night if case be, the same way that I am," he wrote.



After Oxley was terminated in May 2018, union Executive Vice President LeAnn Mezzacapo warned the head of the New Orleans field office that she was hearing of a "panic in the field with other officers (and supervisors) who have been doing the exact things he was fired for."

"I understand you are aware of the extent of the problems now, so maybe we can have a candid call about how to fix the problems," Mezzacapo wrote.

In fact, Oxley went further than colleagues who got supervisors' signoff permission via text or phone call. "Pretty much ... from the get-go, from when the policy came out," he told CNN, he put his supervisor's signature on warrants directly himself, rather than wait for his supervisor to sign them.

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"You look every day to see who's locked up in the jails -- it's racial profiling, really. You're looking for odd names: a Carlos Lopez, not a John Smith," Oxley said. "We were putting detainers on every illegal alien coming across the radar."

He said that when he started signing the warrants himself, "I just did that, figuring it was permissible." But he conceded that his supervisor was right in saying it wasn't. Oxley's termination letter cited five instances of him forging his supervisor's signature on warrants, but Oxley said those were not the only instances.

Still, he said, the emails he obtained showed him he was not the only one signing improperly on a supervisor's behalf. "I found out that people all throughout the field office had been doing it, and that on the record, the warrants were legally insufficient," he said.

In a ruling for a government board that upheld Oxley's termination, Administrative Judge Marie Malouf confirmed there were examples of supervisors giving officers pre-signed warrants, leaving the detainer decision in their hands. She wrote that Oxley's supervisor testified that he "provided an electronically signed I-200 to the DOs [deportation officers] under his supervision. He explained that he provided the electronically signed I-200 to use in the event he was not available to sign it," with the understanding that officers would contact him for approval before using them. Another officer, however, testified that she was given no guidance on checking with supervisors before using pre-signed I-200s.

All the same, Malouf upheld Oxley's termination -- in part because she said that, unlike other agents, he hadn't gotten permission from his supervisor before signing the warrants.

Oxley now works as a schoolteacher in South Carolina. He is pursuing an Equal Employment Opportunity Commission complaint, seeking reinstatement.

Crane, at the National ICE Council, said he is considering sending a complaint to Homeland Security's Office of

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senior staff attorney for the ACLU of Southern California, "this is going to be explored in discovery."

Do you have information to share about the use of ICE warrants? Email this reporter at Bob.Ortega@turner.com.

their detention. But Graber, at the Immigrant Legal Resource Center, said the internal emails may not provide enough information to dispute specific warrants from the past. "It looks pretty uphill to do anything, since the names are redacted," she said. "The likelihood that all the pieces fit together to find the person and file the motions for that to happen seems very low."

Still, immigration attorneys say a pattern of improperly or pre-signed warrants may become a front in the ongoing legal battles over ICE's calls for local law enforcement to hold immigrants for them -- and their efforts may expose whether the problem has, as Crane said, extended nationwide. "To the extent there are cases, and there are quite a number, that are challenging detainer practices," said Jennie Pasquarella,

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