



Arrest Warrants and Ramey warrants refer to entry into a home

The entry into a home requires careful consideration of the rules for entry

The courts refer to the home as one's castle and absent exigent circumstances a warrant is always necessary for the arrest

Arrest Warrants – Ramey Warrants and Reminders

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It is important that police officers follow the procedural rules for making an in home arrest pursuant to a valid arrest warrant. An arrest warrant sometimes referred to as a Ramey warrant, is necessary for an in home arrest absent exigent circumstances or consent. A Ramey warrant is a reference to the case of People v. Ramey (1976) 16 Cal.3d 263, 545 P.2d 1333, 127 Cal.Rptr. 629. In Ramey, police had probable cause to arrest Ramey for certain crimes and entered his home to effect the arrest without a warrant. While in the home other evidence of criminal activity was seized. The California Supreme Court held that entry into a suspect's home absent exigent circumstances or consent without an arrest warrant was a violation of the Fourth Amendment to the United States Constitution and a violation of Article I, Section 13 of the California Constitution. In addition, objects seized during an unconstitutional warrantless entry to a home cannot be used as evidence against the individual whose residential privacy was violated. People v. Trudell (1985) 173 Cal.App.3d 1221, 1229 219 Cal.Rptr. 679.

The standard for entry into the home is that of a reasonable believe which is the same standard of reasonableness for probable cause. U.S. v. Gorman 314 F.3d 1105 (9th Cir. 2002). Entry into a home requires arrest warrant and probable cause to believe that the individual named in the warrant is in the home. If that standard doesn't exist, then you cannot make entry. If this standard does exist and you need to use force for entry to make the arrest, then this conduct is authorized so long as the force is reasonable.

Obtaining an arrest warrant is similar to the way you obtain a search warrant. You need articulate facts to support probable cause for the arrest including the elements of the crime and why this person is believed to be the one who committed it. Once the Ramey warrant is obtained it is entered into CLETS.

The language the court used in Ramey is important to remind ourselves of why the in home arrest warrant rule is necessary. The sanctity of a private home is not only guaranteed by the Constitutions of the United States and of our own state, but it is traditional in our Anglo-Saxon heritage. "A man's home is his castle," is and should be, more than an empty phrase. An intrusion by the state into the privacy of the home for any purpose is one of the most awesome incursions of police power into the life of the individual. Unrestricted authority in this area is anathema to the system of checks envisaged by the Constitution.

To enter for the arrest – you need a reasonable belief that the person named in the warrant is the person actually in the home

The standard for a reasonable belief is the same as probable cause

Careful if the person to be arrested does not reside at the residence – you may need a warrant to search in addition to the arrest warrant

Lastly, and more importantly, the court stated: “The frightening experience of certain foreign nations with the unexpected invasion of private homes by uniformed authority to seize individuals therein, often in the dead of night, is too fresh in memory to permit this portentous power to be left to the uninhibited discretion of the police alone.” So, entry into a home without a warrant or consent is something to be protected and is not the rule, but the exception.

Ramey recognized that the arrest of a person within his home requires an arrest warrant. The case now defines the act, Ramey warrant means residential arrest warrant. Oftentimes warrants are placed in the DOJ system and later acted upon. The longer an arrest warrant is inactive, the more an officer needs to do in making a determination that at the time the decision is made to execute the warrant that probable cause exists that the person is in the home and is the person named in the warrant.

While there is no time deadline for the execution of the warrant the longer the delay can cause problems with the subject’s location since the information becomes stale over time. If the warrant is old, then the officer must verify whether the address is still good. How do you know the address is still good? An investigation must be done to ascertain whether the information is still trustworthy, particularized facts must be provided to support the entry into the home and if the events turn out wrong, then one needs to provide additional facts to justify presence in the home.

If the suspect in the arrest warrant is a guest of the third party, (non-resident) absent exigent circumstances or consent from the resident, the police must obtain a search warrant for the third party’s dwelling to avoid violating the third party’s Fourth Amendment rights. United States v. Litteral 910 F.2d. 547, 533 (9th Cir. 1990). However, if the suspect is a co-resident of the third party, both the arrest of the subject of the arrest warrant and use of evidence found against the third party is allowed if the officer has a reasonable belief that the suspect named in the arrest warrant resides in the third party’s home and that the person is actually present at the time of entry into the home. Payton v. United States 445 U.S. 573 (1980); also see: United States v. Risse 83 F.3d. 212, 216 (8th Cir. 1996). This “reasonable believe” is synonymous with probable cause.

Exigent circumstances still apply for entry into a home without an arrest warrant. The hot pursuit of a dangerous fleeing felon is still an authorized exception to the warrant requirement, as opposed to the hot pursuit of a person guilty of no more than a misdemeanor or infraction. Entry is allowed without a warrant for the protection of the residents or for officer safety. This is something that you have to be able to argue some specific facts, not just some generalized statements of how there was a danger. Consent is still the most common way to gain admittance into a residence. However, consent can only be given by a resident to the home and not by a guest. Keep in mind that consent usually ends up as a contested issue (they say no consent-officer says otherwise) so a tape recorder can be most helpful to you.

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New Definition of Deadly Force:

The Ninth Circuit has redefined deadly force. In the past, deadly force was defined as “force which is reasonably likely to cause death.” The new definition is “force which creates a substantial risk of causing death or serious bodily injury.” The change may seem immaterial but it does affect police work. Deadly force is allowed in limited circumstances. The new definition expands the phrase broadly in referring to serious bodily injury. This new definition is now the law of the Ninth Circuit. See: Smith v. City of Hemet filed January 10, 2005.

Smith also holds that claims of excessive force under 42 U.S.C. section 1983 are not barred even if the suspect pleads guilty to a violation of Penal Code section 148(a)(1).

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