



PROTECTIONS AGAINST IMMIGRATION ENFORCEMENT FROM COURT ORDERS

Know Your Rights and Fight Back!

MAY 2025

This resource gives a summary of important court battles that have been won in recent years and can be used today to protect people against immigration enforcement.

INTRODUCTION

Immigration and Customs Enforcement (ICE) has entered a new era of interior immigration enforcement. Given the Trump administration's vow to carry out mass deportations, ICE has already expanded its enforcement actions and gotten increasingly aggressive about its tactics. But advocates should be aware that there are legal protections against these abuses of power. These protections from unfair and unlawful actions come from court battles that have been litigated and won. Knowledge is power and knowing these cases will be a powerful tool to have if ICE oversteps and violates immigrant's rights.

ICE ENFORCEMENT TACTICS

ICE has substantial power to identify, arrest, detain, and deport immigrants around the country. ICE regularly uses tactics that are aggressive, coercive, and manipulative - and are also often illegal. There are various laws, regulations, and legal settlements that constrain how ICE is allowed to conduct its operations. Throughout the years, advocates and community members have fought back against ICE's tactics in federal court. For more information on ICE's enforcement tactics, please refer to our explainer titled [A Closer Look at DHS Interior Enforcement Practices](#).

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REQUIREMENTS ON ICE AGENTS IN ENFORCEMENT ACTIONS

VEHICLE STOPS

ICE CANNOT:

- ⇒ Stop a vehicle for traffic violations and tell the driver that the purpose of the stop is related to any traffic or vehicle laws.
- ⇒ Stop a vehicle other than if they have specific reasonable suspicion that someone in the car is undocumented or has committed a violation of US immigration law.

DETAINERS

ICE CANNOT:

- ⇒ Issue detainers from the Pacific Enforcement Response Center (PERC) based only on database checks.
- ⇒ Refer fingerprints sent to the PERC to a field office to issue a database detainer that the PERC itself would be prohibited from issuing.
- ⇒ Issue detainers without probable cause that the person is currently subject to deportation.

ARRESTS

ICE CANNOT:

- ⇒ Arrest people without a warrant (judicial or an ICE administrative) unless they have 1) probable cause that a person is in the US in violation of immigration laws and 2) the person is likely to escape before they can get a warrant.

ICE MUST:

- ⇒ At the time of making an arrest without a warrant (judicial or an ICE administrative warrant), consider the totality of the circumstances in whether someone is likely to escape before a warrant can be obtained. Mere presence in the US in violation of immigration law is not sufficient.
- ⇒ ICE must consider a person's community ties in determining flight risk to make a warrantless arrest.
- ⇒ At the time of making an arrest or as soon as practicable, identify themselves as immigration officers, explain to the person that they are being arrested, and the basis for the arrest.

HOME RAIDS

ICE CANNOT:

- ⇒ Enter the protected area surrounding a home (known as "curtilage") for the purpose of making an arrest without a judicial warrant.
- ⇒ Enter a home without a judicial warrant, consent, or other exception (such as an emergency).
- ⇒ Seek consent to enter or search a private home without asking in the language understood by the resident whenever feasible.
- ⇒ *IN LOS ANGELES AREA:*

- ⇒ Conduct warrantless "knock and talks," which are casual-appearing visits to a home, hoping someone will answer the door and consent to officers coming in, with the actual intent of entering to make arrests.

ICE MUST:

- ⇒ Have available Spanish-speaking officers when seeking consent to enter or search a private home of a Spanish-speaking resident.

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DETAILS ON THE COURT CASES AND HOW TO REPORT VIOLATIONS

CASTAÑON-NAVA V. DEPARTMENT OF HOMELAND SECURITY

What was this case about? This court case involved more than one hundred immigrants in Chicago that were unlawfully stopped and arrested by ICE while they were driving their vehicles, at home, or walking down the sidewalk. These individuals did not break any laws but were racially profiled and targeted by ICE.

What rights did ICE violate? ICE violated immigration laws and the Fourth Amendment of the U.S. constitution. ICE may not arrest an individual without a warrant unless there is probable cause to believe the person would be unfindable later, preventing a warrant-based arrest. Additionally, ICE cannot make a vehicle stop unless it has a reasonable suspicion that the person inside the vehicle does not have lawful immigration status. In this court case, ICE conducted an immigration sweep in Chicago that violated this constitutional right.

What was the case's outcome? ICE and the plaintiffs (those individuals who were affected by ICE's coercive and unlawful discriminative tactic and sued ICE) settled the case with an agreement where ICE must comply with certain terms to rectify their unlawful and discriminatory tactics.¹ Including the restrictions on vehicle stops listed above, in order to make a warrantless arrest, ICE must document its reasons for believing that a person would escape before a warrant can be obtained. Relevant factors for this determination may include: the ICE Officer's ability to determine the individual's identity, knowledge of that individual's prior escapes or evasions of immigration authorities, attempted flight from an ICE Officer, ties to the community (such as a family, home, or employment) or lack thereof, or any other circumstances that can weigh in favor or against the likelihood of escape before a warrant can be obtained. Mere presence in the US in violation of immigration law is not sufficient.

When are the protections of this case effective? While the settlement agreement that ICE has to abide by was in effect from May 13, 2022 to May 13, 2025, the requirements of ICE having probable cause to arrest a person without a warrant and having reasonable suspicion to stop a vehicle is the law and will continue past May 13, 2025. Persons who have been affected by a violation of the settlement are encouraged to report violations past May

¹ *Castanon-Nava et al. v. Dep't of Homeland Security et al.*, 435 F. Supp. 3d 880 (N.D. Ill. 2020).

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13, 2025 to class counsel. See below on how to report a violation.

How can this case help immigrant communities? This important case required ICE to issue a nationwide policy regarding warrantless arrests and vehicle stops. The nationwide policy as explained above requires that for a warrantless arrest or vehicle stop, ICE cannot pretend to be making a traffic stop, and must document any facts about the arrest or vehicle stop. If ICE violates the settlement rules, they must consider the release of the person.²

The court case also gives certain benefits to immigrants that were arrested in the community from Illinois, Indiana, Wisconsin, Missouri, Kentucky, and Kansas. Immigrants that have been arrested or are arrested in the future in these states without a warrant or were unlawfully stopped while driving simply for “looking undocumented” will be released from ICE custody and do not have to pay a bond or be put on any condition of release like an ankle monitor. If they have paid any bond, the bond will be refunded. However, be mindful, there are certain exceptions.³

How can an individual report ICE if they are violating the settlement agreement? An individual can report any violations of either the nationwide policy or any violations pertaining to the benefits for certain states to the National Immigrant Justice Center, which is the organization that legally represented the plaintiffs. For more information about this case and how to report a violation, please refer to their page: <https://immigrantjustice.org/NavaSettlement>, which has information both in English and Spanish and a webinar explaining the case and the requirements.

AGUILAR V. ICE

What was this case about? In 2006, ICE initiated a program titled “Operation Return to Sender.” Under this program, ICE conducted raids either late at night or pre-dawn hours of

² If ICE makes a warrantless arrest and violates the nationwide policy of documentation and analysis of likely to escape, and the arrests happens in Illinois, Indiana, Wisconsin, Missouri, Kentucky, or Kansas, the arrested person may be entitled to release or have their bond returned to them, among other remedies. However, exceptions apply for people who are subject to mandatory detention, a judicial warrant, or ICE determined the person poses a danger to the community. In other parts of the country, a person may also be eligible to make certain arguments for their release.

³ *Settlement Agreement* at 8 (For certain class members the remedies will not apply, such as class members subject to mandatory detention, whom ICE has received a request supported by a judicial warrant or a detainer from another law enforcement agency requesting release to that law enforcement agency, or whom ICE has determined are a danger to the community. However, ICE does need to provide a written explanation and supporting documentation to class counsel as to why an exception applies to the class member. Note the Laken Riley Act (LRA) was signed into law on January 29, 2025 and expands mandatory detention. For more information on how this changes mandatory detention, see the National Immigration Project’s advisory: *The Laken Riley Act’s Mandatory Detention Provisions* <https://nipnl.org/work/resources/practice-advisory-laken-riley-acts-mandatory-detention-provisions>).

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the homes of Latinx men, women, and children. ICE conducted these raids by pounding at the door or breaking down the doors and windows and stating they were police, terrifying the residents inside. ICE did not give these residents any opportunity to consent to the entry of their homes. ICE would conduct these raids under the guise of targeting a fugitive, but ICE regularly conducted these home raids when the fugitive was not present or there was no reason for them to believe they were present.

What rights did ICE violate? ICE violated the Fourth and Fifth Amendment of the U.S. Constitution by not having a judicial warrant to enter a person's home and targeting residents of Latinx origin.

What was the case's outcome? ICE settled with the harmed individuals.⁴ In the settlement, ICE was required to issue a national policy⁵ and training memorandum to all ICE field officers and agents. The national policy stated ICE could not seek consent to enter or search a home without asking in the resident's language whenever feasible. The policy also made it clear that when a resident is Spanish-speaking, Spanish-speaking officers must be available to seek consent to enter a home. Additionally, the policy made clear that ICE could not enter the surrounding areas of a home (known as "curtilage") without consent or a judicial warrant. Finally, ICE also in its policy was required to state that a protective sweep could not be conducted without a reasonable suspicion of danger.

How can this case help immigrant communities? The settlement agreement holds ICE accountable to their actions and reiterates that ICE cannot circumvent the U.S. Constitution to perform unlawful home raids. Advocates should use this policy to fight back against unlawful home raids. For more information about this case, please see the Center for Constitutional Rights' page: <https://ccrjustice.org/home/what-we-do/our-cases/aguilar-et-al-v-immigration-and-customs-enforcement-ice-et-al>.

GONZALEZ V. ICE

What was this case about? This case is mostly about ICE detainers and the databases ICE relies on to identify immigrants in order to issue detainers. ICE primarily relies on the

⁴ *Aguilar v. Immigr. & Customs Enf't Div. of U.S. Dep't of Homeland Sec.*, No. 07 CIV. 8224 KBF (S.D.N.Y. Apr. 4, 2013).

⁵ The national policy was issued to all ICE officers and agents on April 10, 2013, per the settlement agreement. A copy of the national policy was obtained through a Freedom of Information Act (FOIA) request that can be found at: <https://www.documentcloud.org/documents/3288763-ICE-Training-and-Policy-Statement/>.

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criminal justice system to identify, arrest, detain, and deport immigrants. One of the main tools ICE has to target immigrants for deportation is a “detainer.” A detainer is a request from ICE (sometimes by border patrol as well) to a jail or prison to notify ICE when an individual is released from criminal custody and keep the person in custody for an additional 48 hours to give ICE time to pick them up and arrest them. ICE can only issue a detainer if they have probable cause that an individual is legally subject to deportation.

What rights did ICE violate? ICE violated the Fourth Amendment to the U.S. Constitution by relying on unreliable databases that did not establish probable cause for issuing detainers and by failing to provide a prompt, neutral review of probable cause.

What was the case’s outcome? ICE settled the case, meaning they agreed to certain terms. ICE agreed to modify their detainers and existing procedures that affect all immigrants nationwide. **Most significantly, the Pacific Enforcement Response Center (PERC), as well as ICE offices within the Central District of California⁶, are prohibited from issuing detainers based on Box 3 or 4 unless ICE sets up a neutral review process.⁷ This includes all box 3 or Box 4 detainers issued from anywhere to 40+ states during the 12-hours per day (usually 6 p.m. to 6 a.m.) that the PERC should have conducted all detainer investigations and issuance.**

If ICE in the Central District of California wants to issue a detainer solely based on biometrics and DHS database checks (Box 3 or 4), then ICE has to go through a process that involves a neutral reviewer to make sure the detainer was based on probable cause. This process does not currently exist, but it could be established in the future. For more details about the *Gonzalez v. ICE* settlement and how to identify and report violations, see: <https://immigrantjustice.org/for-attorneys/legal-resources/file/explainer-understanding-gonzalez-v-ice-detainer-settlement>.

Until when is this case’s protections effective? The settlement agreement is effective for five years starting from March 4, 2025 to March 4, 2030.

How can this case help immigrant communities? This case has reduced the number of detainers issued by ICE from the PERC facility, which issues detainers to many jurisdictions

⁶ The Central District of CA covers the following counties: Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Orange, River-side and San Bernardino and the ICE Pacific Enforcement Response Center (PERC) in Laguna Niguel.

⁷ The settlement agreement has a list of geographical locations where an individual was detained based on a detainer issued by the PERC. See Appendix A of the settlement agreement, available at: https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2025-01/Gonzalez-Detainers-Class-Settlement-Agreement-Appendices_Nov2024.pdf.

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around the country. It has also highlighted the unreliability of ICE databases and the unfairness of their procedures. Under the settlement, ICE is required to modify the detainer form to clarify several issues, including updating the service language on the detainer to make it clear that detainers must be served on an individual in order to be valid, and providing a toll free number to contact ICE if a detainer is erroneous.

Which detainers are at stake in this case? The Gonzalez case is about when ICE issues a detainer based on biometric and database checks (box three) and statements made by the person to ICE or other evidence that indicate the person can be legally deported (box four). See snapshots below. (This case does not include protections for person's who were subject to a detainer based on a final order of removal (box one) or a person in removal proceedings (box two).)

How do I know if a detainer is in violation of this settlement?

1. Is the detainer issued from the Pacific Enforcement Response Center (PERC) or ICE office in the Los Angeles Area?
 - a. Even if not, was the detainer clearly issued during the time that the PERC covers your jurisdiction? This is generally nights and weekends: [see this table for PERC coverage](#).
2. Is the detainer based on biometric checks and database searches or statements made to an officer (Boxes 3 and 4 on the detainer form below)?

The top right of the detainer form shows what ICE office issued the detainer. "Laguna Niguel" is the location of the PERC that issues detainers across the country on nights and weekends.

DEPARTMENT OF HOMELAND SECURITY IMMIGRATION DETAINER - NOTICE OF ACTION	
Subject ID: Event #:	File No: Date:
TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)	FROM: (Department of Homeland Security Office Address)

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The basis for issuing the detainer is located below the name of the person they are placing the detainer on. See sample below.

1. DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE INDIVIDUAL. THIS DETERMINATION IS BASED ON (complete box 1 or 2).

- ☐ A final order of removal against the individual;
- ☐ The pendency of ongoing removal proceedings against the individual;
- ☐ Biometric confirmation of the individual's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the individual either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- ☐ Statements made by the individual to an immigration officer and/or other reliable evidence that affirmatively indicate the individual either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

How can an individual report ICE if they are violating the settlement agreement? If you see a detainer that meets the criteria described above, please alert class counsel at mfleming@immigrantjustice.org. For more information on the case, please refer to the National Immigrant Justice Center's (the organization that represented the plaintiff) webpage, https://immigrantjustice.org/court_cases/gonzalez-v-ice, which includes the settlement agreement.

COURT CASES THAT OFFER PROTECTIONS IN CERTAIN STATES

CALIFORNIA

KIDD V. MAYORKAS

What areas of California does this case cover? The protections that come from this case apply to immigrants and others living with them in the following counties: Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara and San Luis Obispo.

What is this case about? ICE used deceptive tactics like misrepresenting themselves as police officers or probation/parole (known as a "ruse" tactic) to trick immigrants into granting them entry into their homes or to coming outside. Similarly, ICE entered protected areas around a home (known as the "curtilage") to informally knock on doors for a "knock and talk" but for the actual purpose of tricking people to let them in to carry out an arrest without a judicial warrant.

What rights did ICE violate? ICE violated the Fourth Amendment of the U.S. Constitution, because misleading people about officers' identity or the purpose of their visit invalidated any consent that ICE obtained to enter. ICE is not allowed to enter the curtilage of a home

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to reach the door for a “knock and talk” if the intent is to arrest people without a judicial warrant.

What was the case’s outcome? The federal judge in this case agreed that ICE’s “knock and talk” tactic for arrest violates the Fourth Amendment and that ICE can no longer maintain this policy and practice in the affected counties.⁸ The parties have also reached agreement about the “ruse” claims in the case, including requirements about how ICE presents themselves and what they say when coming to people’s homes in an immigration enforcement action.⁹

How can this case help immigrant communities? If ICE attempts to carry out an arrest of an immigrant at their home in the above-mentioned counties without a judicial warrant, they must avoid entering the curtilage of the home to conduct a “knock and talk”. Additionally, if the proposed settlement is approved by the court, for a period of three (3) years, ICE will not be allowed to use deceptive tactics like misrepresenting themselves as police officers or probation/parole officers to trick individuals into allowing them entry to their home or coming outside. If ICE uses these tactics, an individual can seek to enforce the settlement. For more information about this case, please refer to the organization’s webpage that represented the plaintiffs, the American Civil Liberties Union (ACLU) Southern California, <https://www.aclusocal.org/en/cases/kidd-v-mayorkas> and to **report any violations** on Knock and Talks please see the following form: <https://forms.gle/mcJqtwJnraQEgH27>.

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⁸ *Kidd v. Mayorkas*, 734 F. Supp. 3d 967 (C.D. Cal. 2024).

⁹ Some of the provisions of the settlement include: (1) a requirement for vest patches to prominently display the word “ICE,” (2) an expectation that officers who verbally announce themselves as “police” will explain they are from “ICE” or “immigration,” and (3) a prohibition on certain ruses, such as officers stating that they are conducting a criminal investigation, looking for a fictitious person, looking into an issue with a person’s car outside, or pretending to be checking on someone on probation/parole.

Are you a California Community College (CCC) or a California State University (CSU) student? If so, you qualify for FREE immigration legal services!			Discover more community explainers, toolkits, & alerts about immigration law.	
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