

ICE asserts they have probable cause of removability, but many state laws require local law enforcement to have probable cause of a crime to arrest or detain someone, not of a civil immigration violation. Thus the detainer may not authorize detention in many states.

A detainer issued from the Pacific Enforcement Response Center (PERC), or any ICE office in the Central District of California, as well as [any other ICE office during PERC coverage](#), may not be based on the 3rd and 4th boxes below involving “biometric confirmation” or “statements made.”

There is no review of probable cause by a judge or neutral magistrate as required by the 4th Amendment, either before issuing a detainer or after ICE takes custody.

ICE issues detainers based on:

1. Final order of removal
2. Pending removal proceedings.
3. Fingerprint checks matched against records in DHS databases. (Secure Communities)
4. Admissions of the person directly to immigration officials.

The form must be served on the immigrant for it to take effect. Proof of service needs to be returned to ICE.

Detainers request both notice of release and extra 48 hours detention.

The detainer should not affect bail or other custody decisions.

Foreign birth plus a lack of other information in DHS databases is not sufficient for probable cause.

**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) _____
Name of Individual: _____	
Date of Birth: _____ Citizenship: _____ Sex: _____	
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).	
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><input checked="" type="checkbox"/> 1. A final order of removal against the individual;</p> <p><input checked="" type="checkbox"/> 2. The pendency of ongoing removal proceedings against the individual;</p> <p><input checked="" type="checkbox"/> 3. 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</p> <p><input checked="" type="checkbox"/> 4. 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.</p> </div> <div style="width: 5%; text-align: center; font-size: 3em;">}</div> <div style="width: 45%;"></div> </div>	
2. DHS TRANSFERRED THE INDIVIDUAL TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION (complete box 1 or 2).	
<input type="checkbox"/> Upon completion of the proceeding or investigation for which the individual was transferred to your custody, DHS intends to resume custody of the individual to complete processing and/or make an admissibility determination.	
IT IS THEREFORE REQUESTED THAT YOU: <ul style="list-style-type: none"> Serve the individual a copy of this form, and complete and return to ICE the service information at the bottom of this form. If the detainer is not served, the detainer is not valid and may not be relied upon to maintain custody of the individual. Notify DHS as early as practicable (at least 48 hours, if possible) before the individual is released from your custody. Please notify DHS by calling <input type="checkbox"/> U.S. Immigration and Customs Enforcement (ICE) or <input type="checkbox"/> U.S. Customs and Border Protection (CBP) at _____. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-6020. Maintain custody of the individual for a period NOT TO EXCEED 48 HOURS beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The individual must be served with a copy of this form for the detainer to take effect. This detainer arises from DHS authorities and should not impact decisions about the individual's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters Relay this detainer to any other law enforcement agency to which you transfer custody of the individual. 	
In the event of the individual's death, hospitalization or transfer to another institution, _____ Cancel the detainer related to this individual previously submitted to you on _____ (date).	
_____ (Signature of Immigration Officer)	_____ (Signature of Immigration Officer) (Sign in ink)

continued...



There is no clear process for the immigrant to contest the information or allegations on a detainer, but this phone number is available, including for calls from detention facilities.

may be the victim of a crime or you want the individual to remain in the United States for a law enforcement law enforcement Support Center at (802) 872-6020. You may also call this number if you have any other about this matter.

THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE INDIVIDUAL WHO IS THE SUBJECT OF

Please provide the information below, sign, and return to DHS by mailing, emailing or faxing a copy to _____.

Local Booking/Inmate #: _____ Estimated release date/time: _____

Date of latest criminal charge/conviction: _____ Last offense charged/conviction: _____

This form was served upon the individual on _____, in the following manner:

☐ in person ☐ by inmate mail delivery ☐ other (please specify): _____

(Name and title of Officer)

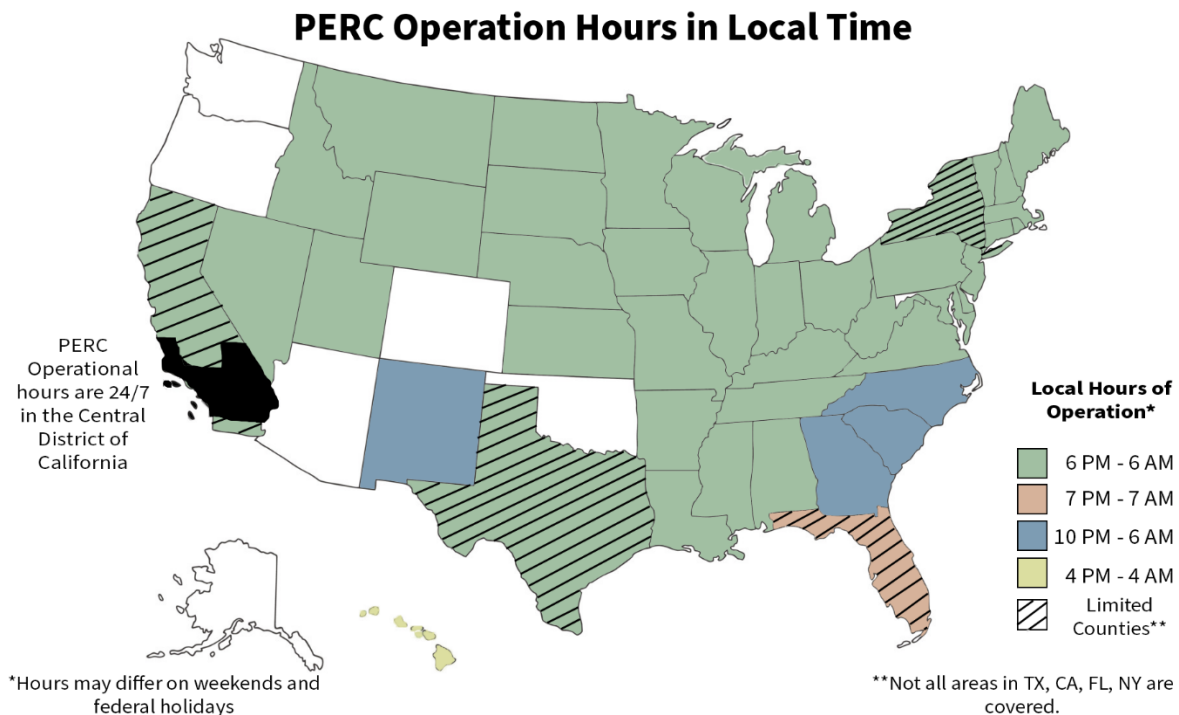
(Signature of Officer) (Sign in ink)

The detainer form provides dedicated space for the local agency to serve the detainer on the individual and to verify service. Without service, the detainer is not valid.

Individuals subject to invalid detainers should contest any prolonged detention, but also be wary of what actions ICE may take to arrest the person anyway.

If you see a detainer that violates the requirements described here, please alert class counsel at litigation@immigrantjustice.org or GonzalezSettlement@aclusocal.org. For more information on the case, see: https://immigrantjustice.org/court_cases/gonzalez-v-ice

Exhibit B: Map and Location Coverage List (adjusted for time zones)



Location Coverage from Settlement Agreement (adjusted to local time zone)

<u>Geographic Location of Subject</u>	<u>Time Period Weekdays</u>	<u>Time Period Weekends and Federal Holidays</u>
Alabama	6pm to 6am	6pm to 6am
Arkansas	6pm to 6am	6pm to 6am
American Samoa	3pm to 3am	3pm to 3am
California – Central District of California	24 hours/day	24 hours/day
California – Counties in ICE Enforcement and Removal Operations	6pm to 6am	6pm to 6am

(ERO) San Francisco Area of Responsibility (AOR) ¹		
Connecticut	6pm to 6am	6pm to 6am
Delaware	6pm to 6am	6pm to 6am
Florida: Limited Counties in the ICE ERO New Orleans AOR ²	7pm to 7am	7pm to 7am
Georgia	10pm to 6am	10pm to 6am
Guam	12pm to 12am	12pm to 12am
Hawaii	4pm to 4am	4pm to 4am
Idaho	6pm to 6am (some areas PST, 5 pm to 5am)	6pm to 6am (some areas PST, 5pm to 5am)
Illinois	6pm to 6am	6pm to 6am
Indiana	7pm to 7am	7pm to 7am
Iowa	6pm to 6am	6pm to 6am
Kansas	6pm to 6am	6pm to 6am
Kentucky	6pm to 6am (some EST, 7pm to 7am)	6pm to 6am (some EST, 7pm to 7am)
Louisiana	6pm to 6am	6pm to 6am
Maine	6pm to 6am	6pm to 6am
Maryland	6pm to 6am	6pm to 6am

¹ Alameda County; Alpine County; Amador County; Butte County; Calaveras County; Colusa County; Contra Costa County; Del Norte County; El Dorado County; Fresno County; Glenn County; Humboldt County; Inyo County; Kern County; Kings County; Lake County; Lassen County; Madera County; Marin County; Mariposa County; Mendocino County; Merced County; Modoc County; Mono County; Monterey County; Napa County; Nevada County; Placer County; Plumas County; Sacramento County; San Benito County; The City and County of San Francisco; San Joaquin County; San Mateo County; Santa Clara County; Santa Cruz County; Shasta County; Sierra County; Siskiyou County; Solano County; Sonoma County; Stanislaus County; Sutter County; Tehama County; Trinity County; Tulare County; Tuolumne County; Yolo County; and Yuba County.

² Escambia County and Santa Rosa County.

Massachusetts	6pm to 6am	6pm to 6am
Michigan	6pm to 6am (some areas CST, 5pm to 5am)	6pm to 6am (Some CST, 5pm to 5am)
Minnesota	6pm to 6am	6pm to 6am
Mississippi	6pm to 6am	6pm to 6am
Missouri	6pm to 6am	6pm to 6am
Montana	6pm to 6am	6pm to 6am
Nebraska	6pm to 6am (some MST, 5pm to 5am)	6pm to 6am (some MST, 5pm to 5am)
Nevada	6pm to 6am	6pm to 6am
New Hampshire	6pm to 6am	6pm to 6am
New Jersey	6pm to 6am	6pm to 6am
New Mexico	10pm to 6am	10pm to 6pm on weekends and 24 hours on federal holidays
New York – Except the Five Boroughs of New York City	6pm to 6am	6pm to 6am
North Carolina	10pm to 6am	10pm to 6am
North Dakota	6pm to 6am (some MST, 5pm to 5am)	6pm to 6am (some MST, 5pm to 5am)
Northern Mariana Islands	12pm to 12am	12pm to 12am
Ohio	6pm to 6am	6pm to 6am
Pennsylvania	6pm to 6am	6pm to 6am on weekends and 24 hours on federal holidays
Rhode Island	6pm to 6am	6pm to 6am
South Carolina	10pm to 6am	10pm to 6am

South Dakota	6pm to 6am (some MST, 5pm to 5am)	6pm to 6am (some MST, 5pm to 5am)
Tennessee	6pm to 6am (some EST, 7pm to 7am)	6pm to 6am (some EST, 7pm to 7am)
Texas: Limited Counties in the ICE ERO El Paso AOR ³	10pm to 6am	10pm to 6am on weekends and 24 hours on federal holidays
Texas: Limited Counties in the ICE ERO Harlingen AOR ⁴	6pm to 6am	6pm to 6am
Texas: Limited Counties in the ICE ERO Houston AOR ⁵	6pm to 6am	6pm to 6am
Utah	6pm to 6am	6pm to 6am
Vermont	6pm to 6am	6pm to 6am
Virginia	6pm to 6am	6pm to 6am
Washington, D.C.	6pm to 6am	6pm to 6am
West Virginia	6pm to 6am	6pm to 6am
Wisconsin	6pm to 6am	6pm to 6am
Wyoming	6pm to 6am	6pm to 6am

³ Andrews County; Brewster County; Crane County; Culberson County; Ector County; El Paso County; Hudspeth County; Jeff Davis County; Loving County; Martin County; Midland County; Pecos County; Presidio County; Reeves County; Terrell County; Upton County; Ward County; and Winkler County.

⁴ Aransas County; Jim Wells County; Kleberg County; Nueces County; and San Patricio County.

⁵ Angelina County; Austin County; Bee County; Brazoria County; Brazos County; Burleson County; Calhoun County; Chambers County; Colorado County; Dewitt County; Fayette County; Fort Bend County; Galveston County; Goliad County; Grimes County; Hardin County; Harris County; Houston County; Jackson County; Jasper County; Jefferson County; Lavaca County; Lee County; Leon County; Liberty County; Live Oak County; Madison County; Matagorda County; Milam County; Montgomery County; Nacogdoches County; Newton County; Orange County; Polk County; Refugio County; Robertson County; Sabine County; San Augustine County; San Jacinto County; Shelby County; Trinity County; Tyler County; Victoria County; Walker County; Waller County; Washington County; and Wharton County.

Exhibit C: New Form I-247G, Request for Advance Notification of Release Sample

DEPARTMENT OF HOMELAND SECURITY (DHS) REQUEST FOR ADVANCE NOTIFICATION OF RELEASE

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)

Name of Subject: _____

Date of Birth: _____ Suspected Citizenship: _____ Sex: _____

**DHS SUSPECTS THAT THE SUBJECT IS A REMOVABLE ALIEN AND SEEKS AN OPPORTUNITY TO DETERMINE WHETHER
THERE IS PROBABLE CAUSE TO BELIEVE THAT THE SUBJECT IS A REMOVABLE ALIEN.**

IT IS THEREFORE REQUESTED THAT YOU:

- **Notify DHS** as early as practicable (at least 48 hours, if possible) before the subject is released from your custody to allow DHS an opportunity to determine whether there is probable cause to conclude that he or she is a removable alien. Please notify DHS by calling ☐ U.S. Immigration and Customs Enforcement (ICE) or ☐ U.S. Customs and Border Protection (CBP) at _____. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-6020.
 - This request for notification **does not** request or authorize that you detain the subject beyond the time he or she is currently scheduled for release from your custody.
 - This request should not impact decisions about the subject's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters.
 - Relay this request to any other law enforcement agency to which you transfer custody of the subject.
 - Notify this office in the event of the subject's death, hospitalization or transfer to another institution.
- ☐ If checked: Please cancel the detainer related to this alien previously submitted to you on _____ (date).

(Name and title of Immigration Officer)

(Signature of Immigration Officer)

Notice: If the subject may be the victim of a crime or you want the subject to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-6020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to DHS by mailing, emailing, or faxing a copy to _____.

Local Booking/Inmate #: _____ Est. release date/time: _____ Date of latest criminal charge/conviction: _____

Latest offense charged/convicted: _____

(Name and title of Officer)

(Signature of Officer)

Exhibit D: New Form I-247A, Immigration Detainer Sample

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)

Name of Individual: _____
Date of Birth: _____ Citizenship: _____ Sex: _____

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.

2. DHS TRANSFERRED THE INDIVIDUAL TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION (complete box 1 or 2).

☐ Upon completion of the proceeding or investigation for which the individual was transferred to your custody, DHS intends to resume custody of the individual to complete processing and/or make an admissibility determination.

IT IS THEREFORE REQUESTED THAT YOU:

- **Serve the individual** a copy of this form, and complete and return to ICE the service information at the bottom of this form. If the detainer is not served, the detainer is not valid and may not be relied upon to maintain custody of the individual.
 - **Notify DHS** as early as practicable (at least 48 hours, if possible) before the individual is released from your custody. Please notify DHS by calling ☐ U.S. Immigration and Customs Enforcement (ICE) or ☐ U.S. Customs and Border Protection (CBP) at _____. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-6020.
 - **Maintain custody** of the individual for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The individual **must be served with a copy of this form** for the detainer to take effect. This detainer arises from DHS authorities and should not impact decisions about the individual's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters
 - Relay this detainer to any other law enforcement agency to which you transfer custody of the individual.
 - Notify this office in the event of the individual's death, hospitalization or transfer to another institution.
- ☐ If checked: please cancel the detainer related to this individual previously submitted to you on _____ (date).

(Name and title of Immigration Officer)

(Signature of Immigration Officer) (Sign in ink)

Notice: If the individual may be the victim of a crime or you want the individual to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-6020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE INDIVIDUAL WHO IS THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to DHS by mailing, emailing or faxing a copy to _____

Local Booking/Inmate #: _____ Estimated release date/time: _____

Date of latest criminal charge/conviction: _____ Last offense charged/conviction: _____

This form was served upon the individual on _____, in the following manner:

☐ in person ☐ by inmate mail delivery ☐ other (please specify): _____

(Name and title of Officer)

(Signature of Officer) (Sign in ink)

NOTICE TO THE DETAINEE

The Department of Homeland Security (DHS) has placed an immigration detainer on you. An immigration detainer is a notice to a law enforcement agency that DHS intends to assume custody of you (after you otherwise would be released from custody) because there is probable cause that you are subject to removal from the United States under federal immigration law. DHS has requested that the law enforcement agency that is currently detaining you maintain custody of you for a period not to exceed 48 hours beyond the time when you would have been released based on your criminal charges or convictions. **If DHS does not take you into custody during this additional 48 hour period, you should contact your custodian** (the agency that is holding you now) to inquire about your release. **If you believe you are a United States citizen or the victim of a crime, please advise DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903 / (802) 872-1310.**

NOTIFICACIÓN A LA PERSONA DETENIDA

El Departamento de Seguridad Nacional (DHS) le ha puesto una retención de inmigración. Una retención de inmigración es un aviso a una agencia de la ley que DHS tiene la intención de asumir la custodia de usted (después de lo contrario, usted sería puesto en libertad de la custodia) porque hay causa probable que usted está sujeto a que lo expulsen de los Estados Unidos bajo la ley de inmigración federal. DHS ha solicitado que la agencia de la ley que le tiene detenido actualmente mantenga custodia de usted por un periodo de tiempo que no exceda de 48 horas más del tiempo original que habría sido puesto en libertad en base a los cargos judiciales o a sus antecedentes penales. **Si DHS no le pone en custodia durante este periodo adicional de 48 horas, usted debe de contactarse con su custodio** (la agencia que le tiene detenido en este momento) para preguntar acerca de su liberación. **Si usted cree que es un ciudadano de los Estados Unidos o la víctima de un crimen, por favor avise al DHS llamando gratuitamente al Centro de Apoyo a la Aplicación de la Ley ICE al (855) 448-6903 / (802) 872-1310.**

AVIS AU DETENU OU À LA DÉTENUE

Le Département de la Sécurité Intérieure (DHS) a placé un dépositaire d'immigration sur vous. Un dépositaire d'immigration est un avis à une agence de force de l'ordre que le DHS a l'intention de vous prendre en garde à vue (après ~~cela~~ vous pourrez par ailleurs être remis en liberté) parce qu'il y a une cause probable que vous soyez sujet à expulsion des États-Unis en vertu de la loi fédérale sur l'immigration. Le DHS a demandé que l'agence de force de l'ordre qui vous détient actuellement puisse vous maintenir en garde pendant une période ne devant pas dépasser 48 heures au-delà du temps après lequel vous auriez été libéré en se basant sur vos accusations criminelles ou condamnations. **Si le DHS ne vous prenne pas en garde à vue au cours de cette période supplémentaire de 48 heures, vous devez contacter votre gardien (ne)** (l'agence qui vous détient maintenant) pour vous renseigner sur votre libération. **Si vous croyez que vous êtes un citoyen ou une citoyenne des États-Unis ou une victime d'un crime, s'il vous plaît aviser le DHS en appelant gratuitement le centre d'assistance de force de l'ordre de l'ICE au (855) 448-6903 / (802) 872-1310.**

NOTIFICAÇÃO AO DETENTO

O Departamento de Segurança Nacional (DHS) expediu um mandado de detenção migratória contra você. Um mandado de detenção migratória é uma notificação feita à uma agência de segurança pública que o DHS tem a intenção de assumir a sua custódia (após a qual você, caso contrário, seria liberado da custódia) porque existe causa provável que você está sujeito a ser removido dos Estados Unidos de acordo com a lei federal de imigração. O DHS solicitou à agência de segurança pública onde você está atualmente detido para manter a sua guarda por um período de no máximo 48 horas além do tempo que você teria sido liberado com base nas suas acusações ou condenações criminais. **Se o DHS não leva-lo sob custódia durante este período adicional de 48 horas, você deve entrar em contato com quem tiver a sua custódia** (a agência onde você está atualmente detido) para perguntar a respeito da sua liberação. **Se você acredita ser um cidadão dos Estados Unidos ou a vítima de um crime, por favor informe ao DHS através de uma ligação gratuita ao Centro de Suporte de Segurança Pública do Serviço de Imigração e Alfândega (ICE) pelo telefone (855) 448-6903 / (802) 872-1310.**

THÔNG BÁO CHO NGƯỜI BỊ GIAM

Bộ Nội An (DHS) đã ra lệnh giam giữ di trú đối với quý vị. Giam giữ di trú là một thông báo cho cơ quan công lực rằng Bộ Nội An sẽ đảm đương việc lưu giữ quý vị (sau khi quý vị được thả ra) bởi có lý do khả tín quý vị là đối tượng bị trục xuất khỏi Hoa Kỳ theo luật di trú liên bang. Sau khi quý vị đã thi hành đầy đủ thời gian của bản án dựa trên các tội phạm hay các kết án, thay vì được thả tự do, Bộ Nội An đã yêu cầu cơ quan công lực giữ quý vị lại thêm không quá 48 tiếng đồng hồ nữa. Nếu Bộ Nội An không đến bắt quý vị sau 48 tiếng đồng hồ phụ trội đó, quý vị cần liên lạc với cơ quan hiện đang giam giữ quý vị để tham khảo về việc trả tự do cho quý vị. Nếu quý vị là công dân Hoa Kỳ hay tin rằng mình là nạn nhân của một tội ác, xin vui lòng báo cho Bộ Nội An bằng cách gọi số điện thoại miễn phí 1(855) 448-6903 / (802) 872-1310 cho Trung Tâm Hỗ Trợ Cơ Quan Công Lực Di Trú.

被拘留者通知書

國土安全部(Department of Homeland Security, 簡稱DHS)已經對你發出移民拘留令。移民拘留令為一給予執法機構的通知書，闡明DHS意欲獲取對你的羈押權(若非有此羈押權，你將會被釋放)；因為根據聯邦移民法例，並基於合理的原因，你將會被遞解離美國國境。DHS亦已要求現正拘留你的執法機構，在你因受到刑事檢控或定罪後，而在本應被釋放的程序下，繼續對你作出不超過四十八小時的監管。若你在這附加的四十八小時內，仍未及移交至DHS的監管下，你應當聯絡你的監管人(即現正監管你的機構)查詢有關你釋放的事宜。若你認為你是美國公民或為罪案受害者，請致電ICE執法部支援中心(Law Enforcement Support Center)知會DHS，免費電話號碼：(855)448-6903 / (802) 872-1310。

UNDERSTANDING THE *GONZALEZ V. ICE* DETAINER SETTLEMENT AGREEMENT AND HOW TO IDENTIFY VIOLATIONS

In December 2024, a federal court approved a [class action settlement in *Gonzalez v. ICE*, No. 13-cv-04416 \(C.D. Cal.\)](#) (“Settlement Agreement”), which will have nationwide impacts on Immigration and Customs Enforcement’s (“ICE”) detainer practices for five years. The Settlement Agreement prohibits ICE from issuing certain immigration “[detainers](#)” without establishing a process for neutral review of probable cause comparable to what is required by the Fourth Amendment. Currently, ICE offices under the Settlement Agreement can only issue a “Request for Advance Notification of Release,” which does not request or authorize law enforcement to hold someone in custody for immigration purposes. The *Gonzalez* Settlement Agreement took effect on March 4, 2025.¹

We ask for your assistance with ensuring compliance with the *Gonzalez* Settlement Agreement. Below we provide an explanation of how to monitor for potential violations. If you believe there has been a violation or have questions about the Agreement, please contact litigation@immigrantjustice.org or GonzalezSettlement@aclusocal.org.

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¹ The authors of this explainer, the National Immigrant Justice Center and the ACLU of Southern California, wish to thank Lena Graber and Miosotti Tenecora of the Immigrant Legal Resource Center for their review and feedback on this explainer. This explainer is intended for lawyers and is not a substitute for independent legal advice supplied by a lawyer familiar with a client’s case.

I. Key background to understand the Settlement Agreement

The *Gonzalez* Settlement Agreement addresses ICE’s use of “detainers,” which ICE routinely uses to take custody of individuals scheduled for release from state and local prisons and jails. This practice has raised significant Fourth Amendment concerns. The Settlement addresses some of those Fourth Amendment concerns for most ICE detainers.

An [ICE detainer](#) is a tool to request state or local law enforcement agencies to facilitate the transfer of a person in their custody directly to ICE when they would otherwise be released. Specifically, the detainer asks the jail (1) to notify ICE as to when the person will be released from criminal custody, and (2) to keep the person in custody for an additional period of up to 48 hours, to give ICE more time to arrive. ICE detainers facilitate an estimated 70% of ICE arrests that occur around the country.²

A) The *Gonzalez v. ICE* Settlement Agreement

In 2013, Plaintiffs filed a class action lawsuit challenging ICE’s policy of issuing detainers without probable cause or prompt neutral review of probable cause in violation of the Fourth Amendment. In September 2020, the Ninth Circuit agreed that ICE’s probable cause for issuing detainers must be subject to neutral review as required by the Fourth Amendment.³ However, such a process does not currently exist.

In December 2024, the court approved the parties’ Settlement Agreement, which requires ICE to establish a neutral review process and follow specific investigative and procedural requirements if ICE wants to issue a detainer against a Settlement Class Member, and the detainer is not based on a prior removal order or existing removal proceedings. [Exhibit A](#). The Settlement Agreement controls the Detainer Functions of ICE’s Pacific Enforcement Response Center (“PERC”), which is ICE’s central office for issuing all detainers to: 40 states; parts of California, Florida, New York, and Texas; the District of Columbia; and multiple U.S. territories—during twelve hours a day, usually from 6 p.m. to 6 a.m. local time. The full details of the Settlement Agreement’s coverage can be found in Appendix A to the *Gonzalez* Settlement Agreement, as well as the map and list (adjusted for time zones) included with this explainer. See [Exhibits A & B](#).

Under the Settlement Agreement, ICE is **NOT permitted** to issue a covered detainer from any ICE office in the Central District of California which encompasses the Los Angeles area (24 hours), the PERC (24 hours), or from any ICE office nationwide during PERC’s hours and locations of coverage without complying with the neutral review process required under the Settlement Agreement. This applies to the PERC, as well as any other ICE office that may issue a detainer to the locations covered by the PERC during the time detainer investigations are supposed to be initiated from the PERC. ICE is also not permitted to issue a detainer after the PERC’s hours of coverage for investigations that were initiated during PERC’s coverage period unless they fulfill the Settlement requirements.

² “Tracking Over 2 Million ICE Arrests: A First Look” Transactional Records Access Clearinghouse (September 2018) <https://tracreports.org/immigration/reports/529/>.

³ *Gonzalez v. ICE*, 975 F.3d 788, 823-26 (9th Cir. 2020).

As of the date of this explainer, ICE has not established the neutral review process and other procedures described in the Settlement Agreement, which means ICE is limited to the use of “Request for Advance Notification of Release” (shown in [Exhibit C](#)) during the hours and locations covered by the “Detainer Functions of the PERC.” As a result, Sections III – V of the Settlement Agreement are not currently relevant. We will update this explainer if ICE establishes the neutral review process and begins to issue detainers covered by the Settlement Agreement.

B) New “Request for Advance Notification of Release”

Because ICE has not established the neutral review process, individuals detained by state or local law enforcement in the locations shown on the attached map and listed in Appendix A of the Settlement Agreement should not be subject to an ICE detainer (unless the person has a prior removal order or existing removal proceedings) if they were arrested by the local police during the hours covered by the Settlement Agreement, i.e. usually 6 p.m. to 6 a.m. local time. During these hours in the covered locations, individuals can only be issued a Request for Advance Notification of Release, Form I-247G, which is attached as [Exhibit C](#) to this explainer and looks like this:

DEPARTMENT OF HOMELAND SECURITY (DHS) REQUEST FOR ADVANCE NOTIFICATION OF RELEASE	
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)

Importantly, these “Requests for Advance Notification of Release” **DO NOT** request or authorize the local police to hold the individual for any additional time after the local authority expires.

C) New detainer Form I-247A – service requirement updated (applying nationwide)

As part of the Settlement Agreement, ICE has updated its standard detainer, Form I-247A, which now includes prominently that law enforcement must serve the detainer on the individual if they are going to detain the person based on the detainer and clearly instructs law enforcement to document and report to ICE service of the detainer. The Detainer now states: **“If the detainer is not served, the detainer is not valid and may not be relied upon to maintain custody of the individual.”**

A copy of the New Form I-247A, is attached as [Exhibit D](#) to this explainer and looks like this at the top:

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)

Accordingly, when ICE is permitted to issue a Detainer, ICE must use the new Form I-247A. This obligation is nationwide and is not limited to the Settlement Class.

II. How to tell if an ICE detainer issued against your client is a potential violation of the *Gonzalez* Settlement Agreement.

Although the case has many complex legal issues, identifying violations of the Settlement Agreement is straightforward. You only need to assess: 1. What is the basis for the detainer, and 2. From where or when was it issued. Below we describe how to find this information on the detainer.

Under the *Gonzalez* Settlement Agreement, ICE cannot issue Box 3 or Box 4 detainers against any individual who is arrested in the states, counties, and territories listed in Appendix A of the Settlement Agreement (and as identified on this Explainer’s Map) during the hours identified, usually 6 p.m. to 6 a.m. local time.

A) Identify if the detainer is a “Box 3” or “Box 4” ICE Detainer.

The *Gonzalez* Settlement Agreement applies to “Box 3 ICE Detainers,” which are based on ICE searches of a variety of federal databases,⁴ as well as “Box 4 ICE Detainers”—i.e., detainers issued based on an individual’s statements to an immigration officer and/or other reliable evidence that affirmatively indicate lack of immigration status. The Settlement Agreement does not apply to detainers that are based on a final order of removal (Box 1) or ongoing removal proceedings (Box 2).

A Box 3 or Box 4 ICE Detainer will have a check or “x” in one or both of the boxes identified below on the screenshot from the detainer form:

⁴ See *Gonzalez v. Immigration and Customs Enforcement*, 416 F.Supp.3d 995, 1007 (C.D.Cal. 2019) (naming databases IDENT, CIS, CLAIMS 3, CLAIMS 4, ADIS, SEVIS, EOIR, EID, NCIC, and NLETs).

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).

- 1 A final order of removal against the individual;
- 2 The pendency of ongoing removal proceedings against the individual;
- 3 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
- 4 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.

ICE detainers issued under Box 3 and Box 4 are subject to the *Gonzalez* Settlement Agreement. However, to be a violation of the Settlement Agreement, it depends on if the detainer was issued from the Pacific Enforcement Response Center or other ICE office in the C.D. California (i.e., the Los Angeles area), or if it was issued during the PERC's hours of coverage for wherever the person is detained. See next section.

B) Identify whether the ICE Detainer was issued by the Pacific Enforcement Response Center ("PERC").

The California Pacific Enforcement Response Center ("PERC") is a centralized hub that issues the majority of ICE detainers in the United States. Detainers issued from the PERC should say so in the FROM box, as shown in these two examples below:

Example 1:

Subject ID: [REDACTED]	File No: [REDACTED]
Event #: [REDACTED]	Date: April 17, 2022
TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) HARRIS COUNTY JAIL 1301 FRANKLIN HOUSTON, TX 77002	FROM: (Department of Homeland Security Office Address) ERO - Westminister, CA Sub Office ICE ERO PERC LAGUNA NIGUEL 24000 AVILA RD RM# 1552 LAGUNA NIGUEL, CA 92677

Example 2:

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) FRESNO COUNTY JAIL 1225 M st. FRESNO, CA 93721	FROM: (Department of Homeland Security Office Address) ERO - Pacific Enforcement Response Center 3 Hutton Centre Drive 3rd floor Santa Ana, CA 92707
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EVERY ICE Detainer that has Box 3 or Box 4 checked that is issued from the PERC, which should have an address in "Laguna Niguel, CA" or "Santa Ana, CA," or any other ICE office in the C.D. California (i.e., the Los Angeles area) is a violation of the *Gonzalez* Settlement Agreement regardless of the time it was issued or where it was eventually received.

If you see a detainer with this address in the "FROM:" field and Box 3 or Box 4, as shown above, checked or with an "x" please contact class counsel at:

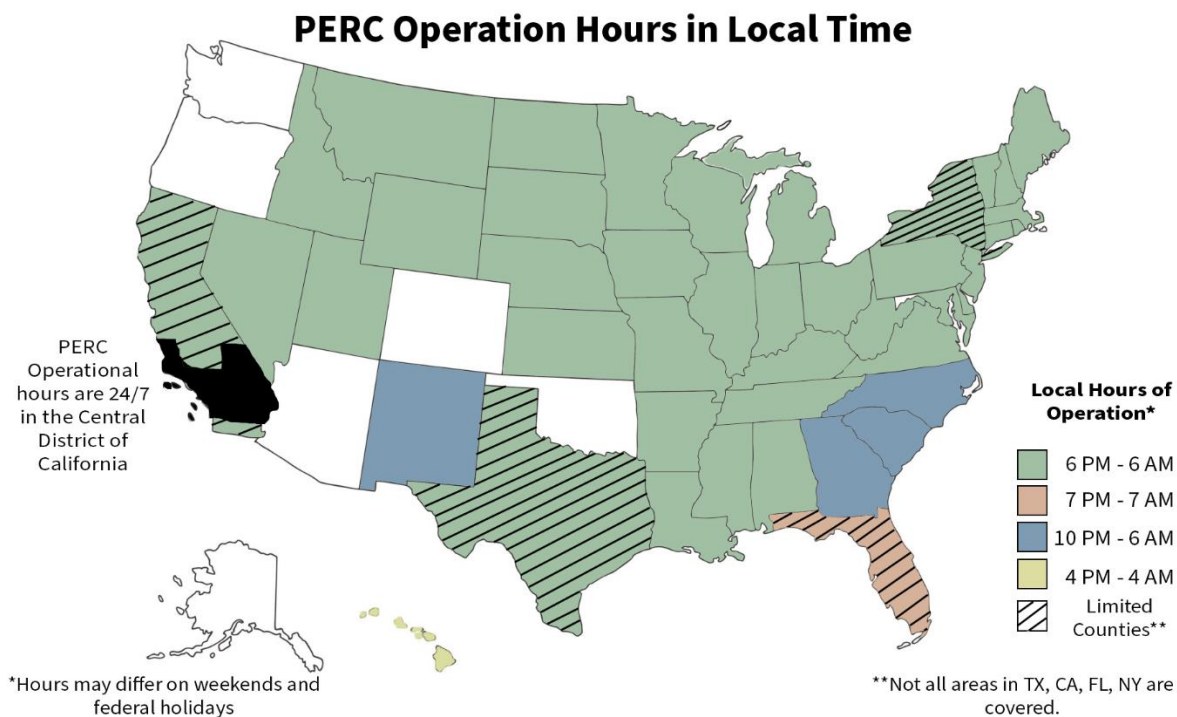
litigation@immigrantjustice.org or GonzalezSettlement@aclusocal.org.

C) Identify whether an ICE Detainer was issued during the hours and to a location subject to the PERC’s detainer responsibilities, in violation of the *Gonzalez Settlement Agreement*.

Because the *Gonzalez Settlement Agreement* covers the “Detainer Functions of the PERC” “regardless of where the [detainer investigation] or issuance of the . . . ICE Detainer takes place,” the Class covers all Box 3 or Box 4 ICE Detainers that are issued during the hours and to the locations the PERC is responsible for, irrespective of what office ICE actually issues the detainer from.

This means that in addition to all Box 3 or Box 4 ICE Detainers issued from the PERC office in Laguna Niguel or Santa Ana, CA (or any ICE office in the C.D. California), the *Gonzalez Settlement Agreement* prohibits ICE from issuing a Box 3 or Box 4 ICE Detainer from anywhere during the hours and to the 40 states, parts of Texas, Florida, California and New York, the District of Columbia, and U.S. territories listed in Appendix A of the Settlement Agreement. A listing of the locations, with the times of coverage adjusted to local times zones, is included as [Exhibit B](#) to this explainer.

Therefore, the Settlement Agreement applies to any Box 3 or 4 ICE detainer issued to the following states/counties/territories during the times listed:



To determine whether an individual’s detainer in this context violates the *Gonzalez Settlement Agreement*, what matters is what time of day the ICE detainer investigation and issuance occurred. ICE generally is alerted to begin a detainer investigation after receiving the fingerprint check conducted by local police soon after the person’s arrest. Accordingly, the time of a person’s arrest by local police in one of the locations and during the time period identified in the Map above and [Exhibit B](#) to this explainer is an indicator of a potential violation. Additionally, if

the detainer was issued by fax or email, the faxed detainer or a cover email should have a time stamp on it.

Remember under the *Gonzalez* Settlement Agreement and the new I-247A detainer form, every individual should be served a copy of the detainer. You should ask for a copy of the detainer and the cover email (if necessary) to further assess whether there has been a violation of the Settlement Agreement irrespective of the location from which ICE issued the detainer.

Finally, we believe that under the Settlement Agreement, ICE is not permitted to evade the Settlement's requirements by issuing a detainer during the following day after the PERC's detainer investigation and issuance responsibilities expire. Once an ICE detainer investigation is initiated at the PERC, the Settlement Agreement applies to that case irrespective of when an ICE detainer is issued.

III. Contacting *Gonzalez* counsel

While *Gonzalez* class counsel will receive periodic reporting from the Government, it is essential for public defenders, impacted community members, and the legal and advocacy community at large to help us monitor the implementation of the *Gonzalez* Settlement Agreement. Here are examples of violations to report:

- ✓ ICE issues a Box 3 or Box 4 Detainer from the PERC (or any ICE office in the C.D. of California, i.e., Los Angeles area). When emailing *Gonzalez* class counsel, please obtain and include a copy of the ICE detainer.
- ✓ ICE issues a Box 3 or Box 4 from any office against an individual detained in one of the states, counties, and territories subject to the *Gonzalez* Settlement Agreement—i.e., during PERC coverage. When emailing *Gonzalez* class counsel, please report the approximate time of day when the individual was arrested by local police (if known) and try to obtain and include a copy of the ICE detainer and any detainer cover email (if possible).
- ✓ Local law enforcement is not serving a copy of ICE detainers on the subject individuals. When emailing *Gonzalez* class counsel, please explain how this has been determined and attach any evidence to support the violation.

**** Please contact litigation@immigrantjustice.org or GonzalezSettlement@aclusocal.org to report violations of the *Gonzalez* Settlement Agreement. ****

Attached Exhibits

- [Exhibit A: Settlement Agreement \(including Appendices\)](#)
- [Exhibit B: Map and Location Coverage List \(adjusted for time zones\)](#)
- [Exhibit C: New Form I-247G, Request for Advance Notification of Release Sample](#)
- [Exhibit D: New Form I-247A, Immigration Detainer Sample](#)

EXHIBIT A

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5 **UNITED STATES DISTRICT COURT**
6 **CENTRAL DISTRICT OF CALIFORNIA**
7 **WESTERN DIVISION**

8
9 **GERARDO GONZALEZ; et al.,**

10 **Plaintiffs,**

11 **vs.**

12 **IMMIGRATION AND CUSTOMS**
13 **ENFORCEMENT; et al.,**

14 **Defendants.**
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Case No. CV 13-04416 AB (FFMx)

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE**

Honorable André Birotte, Jr.

1 **CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

2 Plaintiffs in *Gonzalez v. ICE*, Gerardo Gonzalez and Simon Chinivizyan,
3 on behalf of themselves and all members of the Settlement Class (collectively,
4 “Gonzalez Plaintiffs”) and Defendants U.S. Immigration and Customs
5 Enforcement (ICE), ICE Deputy Director and Senior Official Performing the
6 Duties of the Director Patrick J. Lechleitner, ICE Los Angeles Interim Field
7 Office Director Michael V. Bernacke, and ICE Law Enforcement Support Center
8 Director Christopher Graupe (collectively, “Defendants” and, with Plaintiffs, “the
9 Parties”), through their counsel, enter into this Class Action Settlement
10 Agreement and Release (“Agreement”) as of the date it is executed by all Parties
11 (the “Agreement Date”) and effective 90 days after approval of the Court
12 pursuant to Federal Rule of Civil Procedure 23(e), as set forth in Section IX
13 below.

14 **WHEREAS:**

15 On June 19, 2013, Plaintiffs commenced a civil action on behalf of
16 themselves and all others similarly situated challenging their ongoing and
17 imminent detention on immigration detainers, captioned *Gonzalez v. ICE*, United
18 States District Court for the Central District of California (“the District Court”),
19 Case No. 13-cv-4416, and sought class certification, appointment of class
20 counsel, and declaratory, injunctive, and habeas corpus relief.

21 On September 9, 2016, the District Court certified three Plaintiff classes
22 under Federal Rule of Civil Procedure 23(b)(2): (1) the **Judicial Determination**
23 **Class**, consisting of all current and future persons who are subject to an
24 immigration detainer issued by an ICE agent located in the Central District of
25 California, where the detainer is not based upon a final order of removal signed
26 by an immigration judge or the individual is not subject to ongoing removal
27 proceedings, and limited to those detained for more than 48 hours; (2) the
28 **Probable Cause Subclass**, consisting of all current and future persons who are

1 subject to an immigration detainer issued by an ICE agent located in the Central
2 District of California based solely on electronic database checks, where the
3 detainer is not based upon a final order of removal signed by an immigration
4 judge or the individual is not subject to ongoing removal proceedings; and (3) the
5 **Statutory Subclass**, consisting of all current and future persons who are subject
6 to an immigration detainer issued by an ICE agent located in the Central District
7 of California, where the detainer is not based upon a final order of removal
8 signed by an immigration judge or the individual is not subject to ongoing
9 removal proceedings, for whom ICE did not issue an administrative warrant of
10 arrest at the time it issued the immigration detainer.

11 On June 12, 2017, the District Court granted partial summary judgment for
12 Defendants on the Judicial Determination Class's claim that Defendants' failure
13 to provide a neutral probable cause determination within forty-eight hours of
14 arrest violates the Fourth Amendment ("Plaintiffs' *Gerstein* Claim").

15 On February 7, 2018, the District Court granted partial summary judgment
16 for Plaintiffs on two claims: (1) the Statutory Subclass's claim that Defendants'
17 policy of issuing detainers without either an administrative warrant or an
18 assessment of flight risk violates 8 U.S.C. § 1357(a)(2) and (2) the Probable
19 Cause Subclass's claim that Defendants' policy of issuing detainers based solely
20 on evidence of foreign birth and failure to find a match in federal immigration
21 databases violates the Fourth Amendment. The District Court denied Plaintiffs'
22 Motion for Summary Judgment as to the Probable Cause Subclass's claim that
23 detainers issued based solely on database checks violates the Fourth Amendment,
24 finding a factual dispute as to the reliability of ICE's use of its databases to
25 establish probable cause.

26 Between May 7 and May 16, 2019, the District Court conducted a seven-
27 day trial.

28 On February 5, 2020, the District Court entered a final judgment in favor

1 of Plaintiffs on four claims: (1) the Probable Cause Subclass’s claim that
2 Defendants violate the Fourth Amendment by issuing detainers for Probable
3 Cause Subclass members based solely on database checks that rely upon
4 information from sources that lack sufficient indicia of reliability for a probable
5 cause determination for removal (hereinafter, “Plaintiffs’ Database Claim”); (2)
6 the Probable Cause Subclass’s claim that evidence of foreign place of birth and
7 no match in a federal immigration database does not establish probable cause of
8 alienage and removability under the Fourth Amendment; (3) the Probable Cause
9 Subclass’s claim that Defendants violate the Fourth Amendment by issuing
10 detainers to state and local law enforcement agencies in states that do not
11 expressly authorize civil immigration arrests in state statute and (4) the Statutory
12 Subclass’s claim that Defendants violate 8 U.S.C. § 1357(a)(2) by issuing
13 detainers without either an administrative warrant or determining that a person
14 “is likely to escape before a warrant can be obtained for [their] arrest.” The
15 District Court also entered two injunctions. The first prohibited Defendants from
16 issuing detainers to Probable Cause Subclass members based on databases alone
17 (“the Database Injunction”). The second prohibited Defendants from issuing
18 detainers to the Probable Cause Subclass members in states that do not expressly
19 authorize civil immigration arrests (“the State Authority Injunction”).

20 On February 14, 2020, Defendants filed a notice of appeal to the U.S.
21 Court of Appeals for the Ninth Circuit (“Ninth Circuit”). Defendants appealed the
22 District Court’s entry of the State Authority and Database Injunctions, as well as
23 the District Court’s Certification of the Probable Cause Subclass. Plaintiffs filed a
24 cross appeal, seeking review of the District Court’s June 12, 2017 order granting
25 partial summary judgment for Defendants on Plaintiffs’ *Gerstein* Claim.

26 On September 11, 2020, the Ninth Circuit issued an opinion affirming in
27 part, reversing and vacating in part, and remanding.

28 On October 29, 2021, following a status conference, the District Court

1 stayed further proceedings until January 31, 2022, ordering the Parties to focus
2 their efforts during that time on attempting to settle this matter. The District
3 Court has extended the stay multiple times over the ensuing nearly three years.

4 The Parties have conducted extensive discussions and arms-length
5 negotiations with a view toward settling all matters in dispute in *Gonzalez*.
6 Considering the expense and inconvenience of additional, potentially protracted
7 litigation, and in consideration of the representations, promises, and agreements
8 set forth herein, the Parties have agreed to the settlement of the *Gonzalez* Action.
9 Counsel for Plaintiffs have concluded that the terms and conditions of this
10 Agreement are fair, reasonable, and adequate.

11 NOW, THEREFORE, it is hereby STIPULATED AND AGREED, by and
12 among the Parties, through their respective attorneys, subject to the approval of
13 the Court pursuant to Federal Rule of Civil Procedure 23(e), in consideration of
14 the benefits flowing to the Parties from this Agreement, that this Agreement shall
15 constitute a full, fair, and complete settlement of the Action, upon and subject to
16 the following terms and conditions.

17
18 **I. DEFINITIONS**

19 Wherever used in this Agreement, the following terms have the meanings
20 set forth below:

21 A. “A-file” or “alien file” means the official U.S. Department of
22 Homeland Security (DHS) record of an individual’s immigration
23 history to include the following materials and formats: (a) the paper A-
24 file, (b) the electronic A-file, or (c) a combination of paper and
25 electronic records and supporting documentation.

26 B. “Agreement Date” means the date this Agreement is executed by all
27 Parties.

28 C. “Box 3 ICE Detainer” means an ICE Detainer issued based on

1 biometric confirmation of identity and records check of federal
2 electronic databases. On the current detainer form, Form I-247A,
3 Immigration Detainer – Notice of Action, it is the third checkbox in
4 section 1, which states that the basis for the determination of probable
5 cause is: “Biometric confirmation of the alien’s identity and a records
6 check of federal databases that affirmatively indicate, by themselves or
7 in addition to other reliable information, that the alien either lacks
8 immigration status or notwithstanding such status is removable under
9 U.S. immigration law.”

10 D. “Box 4 ICE Detainer” means an ICE Detainer issued based on:

11 “Statements made by the alien to an immigration officer and/or other
12 reliable evidence that affirmatively indicate the alien either lacks
13 immigration status or notwithstanding such status is removable under
14 U.S. immigration law.” On the current detainer form, Form I-247A,
15 Immigration Detainer – Notice of Action, it is the fourth checkbox in
16 section 1. As part of this Agreement, Defendants agree to interpret the
17 phrase “other reliable evidence” to encompass only an interview of the
18 Settlement Class member or review of the Settlement Class member’s
19 A-file.

20 E. “Cancel” or “Cancellation” of an ICE Detainer refers to the process by
21 which ICE sends an ICE Detainer to a law enforcement agency with the
22 “cancel the detainer” box checked and any other attendant procedures
23 ICE uses to cancel a detainer from its systems and communicate its
24 cancellation to the law enforcement agency to which the ICE Detainer
25 was issued.

26 F. “Defendants” means ICE, ICE Deputy Director and Senior Official
27 Performing the Duties of the Director Patrick J. Lechleitner, ICE Los
28 Angeles Interim Field Office Director Michael V. Bernacke, and ICE

1 Law Enforcement Support Center Director Christopher Graupe, and
2 their successors.

3 G. “Detainer Functions of the PERC” means the review of Immigration
4 Alien Responses (IARs), including any successor process to the IAR,
5 and issuance of Box 3 and Box 4 ICE Detainers for individuals detained
6 in a geographical location identified in Appendix A during the times
7 delineated in Appendix A, regardless of where the review of the IAR or
8 issuance of the Box 3 and Box 4 ICE Detainer takes place.

9 H. “Effective Date” means the date this Agreement shall become effective,
10 as set forth in Section IX below.

11 I. “Final Approval Order” means a Court order granting final approval of
12 this Agreement; holding this Agreement to be fair, reasonable,
13 adequate, and in the best interests of the class; finding that class
14 representatives and class counsel have adequately represented the class;
15 ordering that the Parties implement this Agreement in accordance with
16 its terms and provisions; entering final judgment; dismissing Plaintiffs’
17 claims with prejudice; and retaining jurisdiction over the interpretation,
18 implementation, and enforcement of this Agreement.

19 J. “ICE” means U.S. Immigration and Customs Enforcement, including
20 the Office of the Principal Legal Advisor (OPLA).

21 K. “ICE Detainer” means any ICE request that a federal, state, or local
22 law enforcement agency maintain custody over an individual beyond
23 the time the individual would otherwise be released from the agency’s
24 custody, including but not limited to the request contained in any
25 version of the Form I-247 and any successor form or request. The
26 current detainer form, Form I-247A, Immigration Detainer - Notice of
27 Action, and current ICE policy, expressly limit the request for
28 continued law enforcement custody to no more than 48 hours beyond

1 when the subject would otherwise have been released. The terms of
2 this settlement apply regardless of how the Detainer request is
3 communicated and what Detainer form is used. This definition does
4 not include Form I-247G, Request for Advance Notification of
5 Release, Form I-247N, Request for Voluntary Notification of Release
6 of Suspected Priority Alien, or any equivalent that does not request
7 detention.

8 L. “Noncitizen” shall have the same meaning as the term “alien” defined
9 in 8 U.S.C. § 1101(a)(3). The term does not include a noncitizen
10 national of the United States.

11 M. “Ongoing Removal Proceedings” means removal, exclusion, or
12 deportation proceedings initiated by the filing of a Notice to Appear or
13 Order to Show Cause with the Immigration Court prior to the issuance
14 of the ICE Detainer.

15 N. “Plaintiffs” means Gerardo Gonzalez and Simon Chinivizyan, on
16 behalf of themselves and all members of the Settlement Class.

17 O. “Plaintiffs’ Counsel” means the American Civil Liberties Union
18 (ACLU) of Southern California; the Seattle Clemency Project;
19 McLane, Bernarski & Litt; the National Day Laborer Organizing
20 Network (NDLON); and the National Immigrant Justice Center
21 (NIJC).

22 P. “Probable Cause Statement” means a written explanation of the facts
23 and circumstances within the officer’s knowledge and of which they
24 have reasonably trustworthy information that are sufficient in
25 themselves to warrant a person of reasonable caution in the belief that
26 an individual is a noncitizen and removable from the United States.

27 Q. “Settlement Class” shall mean the class defined in Section II.

28 R. “Settled Claims” means all claims for declaratory, injunctive and other

1 equitable relief against Defendants arising from the facts and
2 circumstances at the time of the allegations made by Plaintiffs in the
3 Third Amended Complaint, including all declaratory and injunctive
4 claims that could have been asserted arising out of the same facts and
5 circumstances alleged. This definition does not include any equitable
6 or other remedies that may be available to a Settlement Class member
7 in removal proceedings before the Executive Office for Immigration
8 Review.

9 S. "Settlement Termination Date" shall mean five years from the Effective
10 Date.
11

12 **II. SETTLEMENT CLASS**

13 **A. Class Definition**

14 The Parties agree to jointly move for certification of a Settlement Class
15 under Rule 23(b)(2) defined as follows: All current and future individuals who
16 are subject to a Box 3 or a Box 4 ICE Detainer, where the ICE Detainer is issued
17 from a location within the Central District of California or where the ICE
18 Detainer was issued under the Detainer Functions of the PERC regardless of
19 where the ICE Detainer was issued.¹ The Settlement Class does not include
20 individuals who are subject to an ICE Detainer issued based upon a final order of
21 removal, deportation, or exclusion or Ongoing Removal Proceedings.
22

23 ¹ Nothing in this Agreement limits the authority of Defendants to change the
24 locations or times covered by the PERC, or make any other operational changes
25 either permanently or on a temporary basis. However, should a function included
26 in the Detainer Functions of the PERC be transferred outside the jurisdiction of
27 the Central District of California, the requirements of this Agreement will
28 continue to apply to such function. Defendants shall notify Plaintiffs' counsel
within thirty (30) days regarding any change to the locations or times covered by
the PERC. The Parties shall promptly meet and confer in order to update the
Reporting requirements under Section VII to account for the changes.

B. Class Representatives and Class Counsel

1. The Parties agree that Plaintiffs Gerardo Gonzalez and Simon Chinivizyan shall serve as class representatives of the Settlement Class.

2. The Parties further agree that Plaintiffs' Counsel shall serve as counsel to the Settlement Class.

C. Consent Motion

To effectuate the agreement of the Parties regarding the certification of the Settlement Class, the Parties agree that Plaintiffs' Counsel will submit to the Court a motion on the consent of Defendants seeking certification of the Settlement Class concurrently with the Parties' joint application for approval of the Settlement.

**III. NEUTRAL REVIEW OF PROBABLE CAUSE DETERMINATIONS
UNDERLYING ICE DETAINERS**

A. If a Box 3 or Box 4 ICE Detainer is issued by an ICE officer against a Settlement Class member, the Box 3 or Box 4 ICE Detainer shall be presented to a Neutral Reviewer, as described herein, to conduct a neutral review of the underlying ICE probable cause determination. Defendants are under no obligation to create a neutral review process if they do not issue Box 3 or Box 4 ICE Detainers.

1. Neutral Reviewers shall be housed within DHS Headquarters (DHS HQ), and the decision-making of such Neutral Reviewers shall be independent of ICE.

2. Neutral Reviewers will be personnel at the GS-15, equivalent, or higher level with a strong preference for individuals with a juris doctor degree and at least five years of relevant legal experience, preferably as an immigration judge, appellate immigration judge, or administrative law judge.

3. DHS HQ shall set the policies and procedures governing the Neutral Reviewers and their review of probable cause determinations, consistent with this Settlement Agreement. DHS HQ will be solely responsible for, and ICE will play no role in, the hiring, firing, supervising, and day-to-day management of the Neutral Reviewers.
4. DHS HQ will require the Neutral Reviewers to undergo standardized training. (*See* Section V, below).

B. If a neutral review process is created, Defendants shall notify Plaintiffs' counsel and the Court within ten (10) business days of the establishment of that process and completion of the training contained in Section V.

IV. PROCEDURES FOR DETAINER ISSUANCE

ICE shall not issue a Box 3 or a Box 4 ICE Detainer against a Settlement Class member unless and until ICE complies with the following procedures:

A. ICE Probable Cause Determinations

1. An ICE officer shall check the following databases, including any successor database systems, whether individually or through an automated means of consolidated review, to the extent that the databases remain operational and accessible to ICE Enforcement and Removal Operations (ERO) for immigration enforcement purposes:
 - i. National Crime Information Center (NCIC)
 - ii. National Law Enforcement Telecommunications System (NLETS)
 - iii. DHS/USCIS Central Index System (CIS)
 - iv. DHS/USCIS Computer Linked Application Information Management System (CLAIMS)

- v. DHS/ICE Enforce Integrated Database (EID)
- vi. DHS Automated Biometric Identification System (IDENT)
- vii. DHS/CBP Arrival and Departure Information System (ADIS)
- viii. DHS/ICE Student and Exchange Visitor Information System (SEVIS)
- ix. DHS/USCIS Global
- x. DOJ Executive Office for Immigration Review (EOIR) systems
- xi. U.S. Department of State's Consular Consolidated Database (CCD), and
- xii. When there are indicators that a person may have been born in California before 1996, the California Birth Index (<https://www.californiabirthindex.org/>).

2. An ICE officer shall not be permitted to issue a Box 3 ICE Detainer against a Settlement Class member who falls within one of the categories described in Subsection IV.D. below. For Settlement Class members who fall within one of those categories, ICE shall conduct an interview of the Settlement Class member or review the Settlement Class member's A-file before proceeding to subsection IV.A.3. immediately below.
3. When issuing a Box 3 or Box 4 ICE Detainer, the ICE officer will create a Probable Cause Statement. This Probable Cause Statement will include reference to all sources that were relied upon to formulate the probable cause assessment. This will include reference to whether database(s) were checked, and if so, the name(s) of the database(s) and the results of the database checks. The officer need not summarize the contents of each system checked.

1 4. The ICE officer shall submit the Probable Cause Statement together
2 with the results of all databases the officer checked (regardless of
3 whether they yielded a positive or negative result or whether they
4 were relied upon by ICE) to the Neutral Reviewer. This combined
5 information, along with a copy of the ICE Detainer, will be known
6 as the “detainer package.”

7 **B. Neutral Review**

- 8 1. As soon as practical, but no more than 48 hours (including
9 weekends and holidays) of issuance of an ICE Detainer against a
10 Settlement Class member, except in the case of an individual
11 detained in state or federal prison with three months or more
12 remaining on their sentence at the time of the interoperability hit,
13 currently known as an Interoperability Alien Query (IAQ), in which
14 case not more than 14 calendar days of detainer issuance, ICE shall
15 obtain review and concurrence with ICE’s probable cause
16 determination from a Neutral Reviewer.
- 17 2. The Neutral Reviewer will assess the detainer package to determine
18 if the ICE officer has established probable cause that the person is a
19 noncitizen and removable under the immigration laws.
- 20 3. The Neutral Reviewer’s decision will be limited to concurrence or
21 nonconcurrence with ICE’s probable cause determination.
- 22 4. ICE will store detainer packages submitted for review and the
23 results of the neutral review until the Settlement Termination Date.

24
25 **C. Neutral Review Nonconcurrence or Expiration of 48 Hours**

26 Should neutral review not be completed within the time period referenced
27 in Section IV.B.1. or should the neutral review result in nonconcurrence, absent
28

extraordinary circumstances,² the following procedures apply:

1. ICE's case management system shall automatically update to reflect that the ICE Detainer cannot be acted upon, and the ICE Detainer must be cancelled.
2. Within three hours, ICE shall notify the relevant law enforcement agency (LEA), through the typical channel of communication regarding ICE Detainers between ICE and that LEA (typically email or fax), that the LEA may not rely on the ICE Detainer. The notification will contain the language in Appendix B.
3. ICE will cancel the ICE Detainer as expeditiously as practicable, generally within 48 business hours, except for circumstances in which staffing or operational exigencies require additional time to complete the cancellation, in which case cancellation will take no longer than 10 calendar days. Only in extraordinary circumstances (defined in footnote 2), may a cancellation take longer than 10 calendar days. ICE will only take longer than 48 business hours to cancel detainers in limited circumstances and in most cases will cancel the detainer expeditiously within 48 business hours.
4. Prior to assuming physical custody of a Settlement Class member, an ICE officer shall review ICE's case management system to confirm that a Nonconcurrence or Expiration of the time period in Section IV.B.1 has not been issued. If the case management system reflects a Nonconcurrence or Expiration of the time period in Section IV.B.1, the officer will confirm that ICE cancelled the ICE

² Extraordinary circumstances shall generally be understood to be IT-related delays or malfunctions, including with regard to non-ICE databases, or any event that would necessitate an office closure, such as weather-related emergencies (e.g., hurricanes, significant winter storms, tornados), other natural disasters, civil unrest, acts of terrorism, or a public health emergency such as a pandemic.

1 Detainer and, if not, will cancel the ICE Detainer.

- 2 5. If a Neutral Reviewer issues a nonconcurrence determination, ICE
3 shall not issue a new ICE Detainer against the individual absent new
4 evidence. The new ICE Detainer would be subject to the same
5 procedures for detainer issuance set forth in this section.
6

7 *Remedies Where a Settlement Class Member is Taken into ICE Custody Prior to*
8 *the Nonconcurrence or Expiration of the Time Period in Section IV.B.1*

- 9 6. If a Settlement Class member is taken into ICE physical custody
10 within the time period in Section IV.B.1 but before neutral review
11 has occurred, the neutral review shall still occur. For this subset of
12 Settlement Class members, the following remedies apply depending
13 on whether the time period in Section IV.B.1 expires or the Neutral
14 Reviewer issues a nonconcurrence:

15 **a. Neutral Review Does Not Occur within the Time Period in**
16 **Section IV.B.1:**

- 17 i. Class Members detained pursuant to section 236(a) of the
18 Immigration and Nationality Act (INA), 8 U.S.C. §
19 1226(a): These class members shall be released from ICE
20 custody.
21 ii. Class Members detained pursuant to section 236(c) of the
22 INA, 8 U.S.C. § 1226(c): These class members will not be
23 released from ICE custody, but DHS will promptly notify
24 the class member, their legal representative (if any), and
25 the immigration judge presiding over the removal
26 proceedings that there was no neutral review timely
27 completed, as required by the *Gonzalez v. ICE* settlement
28 agreement.

b. Neutral Review Results in a Nonconcurrency:

- i. Class Members detained pursuant to section 236(a) of the INA, 8 U.S.C. § 1226(a): These class members shall be released from ICE custody.
- ii. Class Members detained pursuant to section 236(c) of the INA, 8 U.S.C. § 1226(c): These class members will be released from ICE custody, unless new evidence beyond that submitted to the Neutral Reviewer is obtained supporting removability. Where ICE uses additional evidence gathered after arrest to overcome a nonconcurrency, ICE must document in the class member's Form I-213, Record of Inadmissible/Deportable Alien: 1) the additional evidence; and 2) how that evidence was obtained. ICE must provide a copy of the Form I-213 (subject to redactions for Personally Identifying Information (PII) and Law Enforcement Sensitive information) to the class member and their legal representative (if any).

7. Notwithstanding Section IV.C., ICE may request that the Secretary of Homeland Security or the Secretary's designee review a Neutral Reviewer's nonconcurrency determination for a Settlement Class member's Box 3 or Box 4 Detainer. In response to an ICE request for review, the Secretary or the Secretary's designee may overrule the determination of the Neutral Reviewer, concur with the determination, or take no action. Elevation of a nonconcurrency determination to the Secretary for review should be exceptionally rare. If the Secretary or the Secretary's designee concurs with the Neutral Reviewer's nonconcurrency determination, or takes no

1 action within two business days of ICE's request, the decision of the
2 Neutral Reviewer shall stand and the procedures in Section IV.C
3 shall apply. The Secretary's review shall be limited to the question
4 of whether probable cause of noncitizenship and removability has
5 been established based on the detainer package, the conclusions of
6 the Neutral Reviewer, and any other available evidence, including
7 any evidence that was not available to the Neutral Reviewer. In the
8 event the Secretary or the Secretary's designee overrules a
9 determination to cancel a Settlement Class member's Box 3 or Box
10 4 Detainer, Defendants shall notify Plaintiffs' counsel which
11 Settlement Class member's neutral review determination was
12 overruled in the next scheduled reporting period.

13 **D. ICE Detainers That Require an Interview or A-file Review**

14 ICE officers shall not be permitted to issue a Box 3 ICE Detainer against
15 any Settlement Class member who falls within any of the following categories:

- 16 1. ICE has physical access to the jail or prison where the individual is
17 in custody within 30 miles of the nearest ERO office, or the facility
18 is willing to facilitate a video or telephonic interview with the
19 individual;
- 20 2. There is no biometric fingerprint match with the DHS IDENT
21 database (or any successor electronic repository for fingerprint
22 records);
- 23 3. The sole evidence of a person's current immigration status is based
24 on the class of admission ("COA") field in the CIS database, unless
25 no other immigration database shows a change of the individual's
26 immigration status from the status reflected in the COA.
- 27 4. The individual is in state or federal prison and has more than six
28 months remaining on their sentence from the time of the

1 interoperability hit, currently known as the IAQ, that brings an
2 individual to ICE's attention;

3 5. The individual is in state or federal prison and has between three and
4 six months remaining on their sentence at time of the
5 interoperability hit, currently known as the IAQ, that brings an
6 individual to ICE's attention; provided the A-File is in the physical
7 possession of ICE ERO or an interview of the individual is permitted
8 by the facility;

9 6. DHS databases include conflicting information regarding whether
10 the individual was born in the United States or is otherwise a U.S.
11 citizen;

12 7. Checks of databases referenced in Section IV.A.1 above indicate
13 prior U.S. military service;

14 8. Database checks show the individual became a lawful permanent
15 resident as a minor and the ICE officer cannot affirmatively confirm
16 through database checks the identity of both parents and that neither
17 parent naturalized prior to the individual's eighteenth birthday.

18 19 **V. TRAINING**

20 **1. Neutral Review Training**

21 Before a Neutral Reviewer conducts a neutral review of an ICE probable
22 cause determination for any Box 3 or Box 4 Detainer ICE issues against a
23 Settlement Class member, the Neutral Reviewer will receive training developed
24 by DHS HQ. Training and related materials will include, at a minimum, the
25 following topics:

- 26 1. Familiarity with the ICE Detainer form and the difference
27 between Box 3 and Box 4 ICE Detainers;
- 28 2. U.S. citizenship law;

3. The various forms of immigration status;
4. Grounds of removability from the United States;
5. Class of admission (COA) and field codes utilized in the
databases listed in Section IV.A. above;
6. The content and any known objective gaps or limitations of the
databases listed in Section IV.A. and relied upon to issue ICE
Detainers;
7. The Neutral Review of Probable Cause Determinations and
Procedures for Detainer Issuance provisions of this Settlement
Agreement, including training on what must be included in a
detainer package and the circumstances under this Settlement
Agreement when a Probable Cause Statement must be supported
by an interview or A-File review.
8. The requirements for establishing Probable Cause.

2. ICE Officer Training

Prior to issuing Box 3 or Box 4 ICE Detainers against Settlement Class members, ICE officers shall be trained, with periodic refresher training, at a minimum, on the following:

1. The provisions of Section IV of this Settlement Agreement.
2. The content and known objective gaps and limitations of the
databases listed in Section IV.A. and relied upon to issue ICE
Detainers.

VI. MODIFICATIONS TO ICE DETAINER FORM AND EXISTING PROCEDURES

By the Effective Date, Defendants shall:

1. Amend the ICE Detainer forms to replace all uses of the word “alien” with

1 “individual.”

- 2 2. Amend the ICE Detainer forms to include a non-toll-free telephone number
3 to the existing ICE Law Enforcement Support Center (LESC) hotline, so
4 that individuals who are incarcerated can contact an ICE officer or
5 contractor if they believe a detainer was placed on them in error.
6 3. Amend the service language on the ICE Detainer forms as set forth in
7 Appendix C.
8 4. Post the Frequently Asked Questions, attached as Appendix D, on its
9 public facing website.
10 5. Ensure the following provisions, currently reflected in ICE Policy Number
11 10074.2, *Issuance of Immigration Detainers by ICE Immigration Officers*,
12 remain in force and are applied to all ICE Detainers issued against
13 Settlement Class members:

- 14 a. ICE immigration officers must establish probable cause to believe
15 that the subject is a noncitizen who is removable from the United
16 States before issuing an ICE Detainer.
17 b. The term “probable cause” is defined as the facts and circumstances
18 within the officer’s knowledge and of which they have reasonably
19 trustworthy information that are sufficient in themselves to warrant a
20 person of reasonable caution in the belief that an individual is a
21 removable noncitizen.
22 c. As a matter of policy, ICE may not establish probable cause to
23 believe that the subject is a noncitizen who is removable from the
24 United States solely based on evidence of foreign birth and the
25 absence of records in available databases.

26
27 **VII. REPORTING**

- 28 1. Six months after the Effective Date and continuing thereafter every

1 six months until the Settlement Termination Date, Defendants shall report to
2 Plaintiffs' Counsel every six months the following statistical information about
3 all Box 3 and Box 4 ICE Detainers issued against Settlement Class members in a
4 searchable and sortable excel spreadsheet format:

- 5 1. Unique Subject Identifier
- 6 2. Subject's Country of Birth
- 7 3. Subject's Country of Citizenship
- 8 4. Date and Time of the Immigration Alien Query (IAQ) that triggered the
9 detainer investigation
- 10 5. Name of Detention Facility where the biometric background check was
11 initiated that resulted in the IAQ
- 12 6. State of the Detention Facility where biometric background check was
13 initiated that resulted in the IAQ
- 14 7. Name of ICE Office issuing Detainer
- 15 8. Date and Time Detainer issued
- 16 9. Record of whether the Detainer was a Box 3, Box 4, or Both
- 17 10. Date and Time Detainer Package submitted for Neutral Review
- 18 11. Unique Neutral Reviewer Identifier
- 19 12. Date and Time of Neutral Review Determination (with notation when
20 review is not completed within the time period in Section IV.B.1)
- 21 13. Neutral Review Probable Cause Result: Concurrence/ Nonconcurrence
22 / Expiration of the time period in Section IV.B.1
- 23 14. Date and Time Case Management Systems updated to reflect Neutral
24 Review Result: Concurrence, Nonconcurrence, or Expiration of the time
25 period in Section IV.B.1
- 26 15. Whether the Secretary Overruled a Nonconcurrence Determination
27 (Y/N)
- 28 16. Date and Time Detainer Cancellation communicated to LEA (where

1 applicable)

2 17 Date and Time Canceled Detainer issued (where applicable)

3 18. Date, Time, and Location Individual Booked into ICE custody (where
4 applicable)

5 19. For Individuals Booked into ICE custody prior to expiration of 48-hour
6 review period – Identify whether individual was subject to detention under
7 section 236(a) of the INA, 8 U.S.C. § 1226(a), or section 236(c) of the
8 INA, 8 U.S.C. § 1226(c).

9 20. If Column 19 applies: For individuals subject to detention under
10 section 236(a) of the INA, 8 U.S.C. § 1226(a) - Date and Time Individual
11 Released from ICE custody when neutral review results in Nonconcurrence
12 or Expiration of 48-hours

13 21. If Column 19 applies: For individuals subject to detention under
14 section 236(c) of the INA, 8 U.S.C. § 1226(c) [Expiration of 48-hours] -
15 Date and Time Written Notification of Noncompliance with Gonzalez
16 Settlement was provided to the Subject

17 22. If Column 19 applies: For individuals subject to detention under
18 section 236(c) of the INA, 8 U.S.C. § 1226(c) [Expiration of 48-hours] -
19 Date and Time Written Notification of Noncompliance with Gonzalez
20 Settlement was provided to the Immigration Court

21 23. If Column 19 applies: For individuals subject to detention under
22 section 236(c) of the INA, 8 U.S.C. § 1226(c) [Nonconcurrence] - Date
23 and Time Form I-213 was provided to the Subject

24
25 2. Six months after the Effective Date and continuing thereafter every
26 six months until the Settlement Termination Date, Defendants shall report to
27 Plaintiffs' Counsel statistical information from the previous six months
28 regarding all Immigration Alien Responses (IARs) from the ACRIME

Completed Queue that were assigned or routed to the PERC with an Originating Agency Identifier (ORI) from a law enforcement agency (LEA) located outside the Central District of California. Defendants shall produce the following data fields regarding those IARs in a searchable and sortable excel spreadsheet format:

1. Received Time
2. Query Type
3. AOR
4. Unique Identifier for Alien Number
5. IAR Status
6. PERC Case Status
7. Field Case Status
8. Immigration Status

For every entry where the “Field Case Status” indicates “Detainer,” Defendants shall produce a copy of the ICE Detainer that was issued [or a record of the ICE Office that issued the ICE Detainer and the date and time it was issued].

VIII. TERMS OF ORDER FOR FINAL JUDGMENT

- A. Within ten (10) business days after the Agreement Date, or by a different deadline agreed to between the Parties, the Parties shall jointly apply to the Court for approval of this Agreement, certification of the Settlement Class and request that the Court retain jurisdiction over this action to enforce the terms of this Agreement.
- B. Should the Court enter an order preliminarily or finally approving the settlement that contains substantive provisions different from this Agreement, the Parties shall meet and confer in good faith regarding the differences and shall either accept the Court’s orders as written or use their best efforts to undertake whatever efforts are necessary to obtain Court

1 orders satisfactory to both Parties. The parties agree that alterations to
2 filing deadlines or hearing dates shall not be considered modifications of
3 substantive provisions.

4
5 **IX. EFFECTIVE DATE OF SETTLEMENT**

- 6 A. The Effective Date shall be 90 days after the date the Court enters its Final
7 Approval Order of this Agreement.
- 8 B. Except as otherwise provided herein, if the Agreement is terminated or
9 modified in any material respect or fails to become effective for any
10 reason, then none of the Agreement's terms shall be effective or
11 enforceable; the Parties to this Agreement shall be deemed to have reverted
12 to their respective status in the Action as of the date and time immediately
13 prior to the Agreement Date; and except as otherwise expressly provided,
14 the Parties shall proceed in all respects as if this Agreement and any related
15 orders had not been entered. If the Agreement is terminated or modified in
16 any material respect, the Parties shall be deemed not to have waived, not to
17 have modified, or not to be estopped from asserting any additional
18 defenses or arguments available to them.

19
20 **X. TERMINATION OF OBLIGATIONS**

21 The obligations of this Agreement shall terminate five years from the
22 Effective Date.

23
24 **XI. RELEASE OF CLAIMS**

25 As of the Effective Date, Plaintiffs, on behalf of themselves, their heirs,
26 executors, administrators, representatives, attorneys, successors, assigns, agents,
27 and Settlement Class members fully, finally, and forever release, relinquish, and
28 discharge the Defendants of and from any and all of the Settled Claims. The

Parties agree and acknowledge that this Release shall not apply to claims that arise or accrue after the Effective Date of this Agreement.

XII. NO ADMISSION OF WRONGDOING

This Agreement, whether or not executed, and any proceedings taken pursuant to it:

1. Shall not be construed to waive, reduce, or otherwise diminish the authority of the Defendants to enforce the laws of the United States against Settlement Class members, consistent with the Constitution and laws of the United States, and applicable regulations;
2. Shall not be offered or received against the Defendants as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any of the Defendants of the truth of any fact alleged by the Plaintiffs or the validity of any claim that had been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action, or of any liability, negligence, fault, or wrongdoing of the Defendants; or any admission by the Defendants of any violations of, or failure to comply with, the Constitution, laws or regulations; and
3. Shall not be offered or received against the Defendants as evidence of a presumption, concession, or admission of any liability, negligence, fault, or wrongdoing, nor shall it create any substantive rights or causes of action against any of the Parties to this Agreement, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Agreement; provided, however, that if this Agreement is approved by the Court, Defendants may refer to

1 it and rely upon it to effectuate the liability protection granted them
2 hereunder.

3
4 **XIII. DISPUTE RESOLUTION**

5 In the event of any disputes regarding implementation of the Settlement
6 Agreement as set forth herein, they shall be resolved exclusively by this Court in
7 the United States District Court for the Central District of California. The District
8 Court shall have the power to award such relief and issue such judgments as the
9 Court deems proper.

10
11 **XIV. MISCELLANEOUS PROVISIONS**

- 12 A. Attorneys' Fees and Costs. The Parties agree that ICE shall pay Plaintiffs
13 the amount of \$ 675,000 in attorneys' fees and costs.
- 14 B. Entire Agreement. This Agreement contains the entire agreement between
15 the Parties and constitutes the complete, final, and exclusive embodiment
16 of their agreement with respect to the Action. This Agreement is executed
17 without reliance on any promise, representation, or warranty by any Party
18 or any Party's representative other than those expressly set forth in this
19 Agreement.
- 20 C. Modifications and Amendments. No amendment, change, or modification
21 to this Agreement shall be valid unless in writing signed by the Parties or
22 their counsel.
- 23 D. Governing Law. This Agreement is governed by federal law and must be
24 interpreted under federal law and without regard to conflict of laws
25 principles.
- 26 E. Further Assurances. The Parties shall execute and deliver any additional
27 papers, documents, and other assurances, and must do any other acts
28 reasonably necessary, to perform their obligations under this Agreement

1 and to carry out this Agreement's expressed intent.

2
3 For and on behalf of Plaintiffs and the Class:

4
5 EXECUTED this 22nd day of November, 2024.

6 

7 MAYRA JOACHIN

8 *mjoachin@aclusocal.org*

9 ACLU FOUNDATION OF SOUTHERN CALIFORNIA

10 1313 W 8th Street, Suite 200

Los Angeles, CA 90017

Phone: (213) 977-5291

11 

12 MARK FLEMING

Director Of Litigation

13 NATIONAL IMMIGRANT JUSTICE CENTER

Chicago, IL

14 Phone: (312) 660-1628

15
16 Counsel for Plaintiffs

17
18 For and on behalf of Defendants:

19 EXECUTED this 22nd day of November, 2024.

20 

21 ELISSA P. FUDIM

22 *Trial Attorney*

23 Office of Immigration Litigation

U.S. Department of Justice, Civil Division

24 P.O. Box 868, Ben Franklin Station

Washington, DC 20044

25 Tel: (202) 598-6073

26 Email: *Elissa.P.Fudim@usdoj.gov*

27
28 Counsel for Defendants

APPENDIX A

Appendix A

For purposes of Section I.G. of the Agreement, regardless of any operational changes during the pendency of the Agreement, the “Detainer Functions of the PERC” includes the review of Immigration Alien Responses (IARs), including any successor process to the IAR, and issuance of Box 3 and Box 4 ICE Detainers, during the times set forth below for individuals detained in the geographical locations set forth below, regardless of where the review of the IAR or issuance of the Box 3 and Box 4 ICE Detainer takes place.

<u>Geographic Location of Subject</u>	<u>Time Period¹ Weekdays</u>	<u>Time Period² Weekends and Federal Holidays</u>
Alabama	4pm to 4am	4pm to 4am
Arkansas	4pm to 4am	4pm to 4am
American Samoa	6pm to 6am	6pm to 6am
California – Central District of California	24 hours/day	24 hours/day
California – Counties in ICE Enforcement and Removal Operations (ERO) San Francisco Area of Responsibility (AOR) ³	6pm to 6am	6pm to 6am
Connecticut	3pm to 3am	3pm to 3am
Delaware	3pm to 3am	3pm to 3am

¹ All times included herein are Pacific Time.

² All times included herein are Pacific Time.

³ Alameda County; Alpine County; Amador County; Butte County; Calaveras County; Colusa County; Contra Costa County; Del Norte County; El Dorado County; Fresno County; Glenn County; Humboldt County; Inyo County; Kern County; Kings County; Lake County; Lassen County; Madera County; Marin County; Mariposa County; Mendocino County; Merced County; Modoc County; Mono County; Monterey County; Napa County; Nevada County; Placer County; Plumas County; Sacramento County; San Benito County; The City and County of San Francisco; San Joaquin County; San Mateo County; Santa Clara County; Santa Cruz County; Shasta County; Sierra County; Siskiyou County; Solano County; Sonoma County; Stanislaus County; Sutter County; Tehama County; Trinity County; Tulare County; Tuolumne County; Yolo County; and Yuba County.

<u>Geographic Location of Subject</u>	<u>Time Period Weekdays</u>	<u>Time Period Weekends and Federal Holidays</u>
Florida: Limited Counties in the ICE ERO New Orleans AOR ⁴	4pm to 4am	4pm to 4am
Georgia	7pm to 3am	7pm to 3am
Guam	6pm to 6am	6pm to 6am
Hawaii	6pm to 6am	6pm to 6am
Idaho	5pm to 5am	5pm to 5am
Illinois	4pm to 4am	4pm to 4am
Indiana	4pm to 4am	4pm to 4am
Iowa	4pm to 4am	4pm to 4am
Kansas	4pm to 4am	4pm to 4am
Kentucky	4pm to 4am	4pm to 4am
Louisiana	4pm to 4am	4pm to 4am
Maine	3pm to 3am	3pm to 3am
Maryland	3pm to 3am	3pm to 3am
Massachusetts	3pm to 3am	3pm to 3am
Michigan	3pm to 3am	3pm to 3am
Minnesota	4pm to 4am	4pm to 4am
Mississippi	4pm to 4am	4pm to 4am
Missouri	4pm to 4am	4pm to 4am

⁴ Escambia County and Santa Rosa County

<u>Geographic Location of Subject</u>	<u>Time Period Weekdays</u>	<u>Time Period Weekends and Federal Holidays</u>
Montana	5pm to 5am	5pm to 5am
Nebraska	4pm to 4am	4pm to 4am
Nevada	6pm to 6am	6pm to 6am
New Hampshire	3pm to 3am	3pm to 3am
New Jersey	3pm to 3am	3pm to 3am
New Mexico	9pm to 5am	9pm to 5pm on weekends and 24 hours on federal holidays
New York – Except the Five Boroughs of New York City	3pm to 3am	3pm to 3am
North Carolina	7pm to 3am	7pm to 3am
North Dakota	4pm to 4am	4pm to 4am
Northern Mariana Islands	6pm to 6am	6pm to 6am
Ohio	3pm to 3am	3pm to 3am
Pennsylvania	3pm to 3am	3pm to 3am on weekends and 24 hours on federal holidays
Rhode Island	3pm to 3am	3pm to 3am
South Carolina	7pm to 3am	7pm to 3am
South Dakota	4pm to 4am	4pm to 4am
Tennessee	4pm to 4am	4pm to 4am

<u>Geographic Location of Subject</u>	<u>Time Period Weekdays</u>	<u>Time Period Weekends and Federal Holidays</u>
Texas: Limited Counties in the ICE ERO El Paso AOR ⁵	9pm to 5am	9pm to 5am on weekends and 24 hours on federal holidays
Texas: Limited Counties in the ICE ERO Harlingen AOR ⁶	4pm to 4am	4 pm to 4am
Texas: Limited Counties in the ICE ERO Houston AOR ⁷	4pm to 4am	4pm to 4am
Utah	5pm to 5am	5pm to 5am
Vermont	3pm to 3am	3pm to 3am
Virginia	3pm to 3am	3pm to 3am
Washington, D.C.	3pm to 3am	3pm to 3am
West Virginia	3pm to 3am	3pm to 3am
Wisconsin	4pm to 4am	4pm to 4am
Wyoming	5pm to 5am	5pm to 5am

⁵ Andrews County; Brewster County; Crane County; Culberson County; Ector County; El Paso County; Hudspeth County; Jeff Davis County; Loving County; Martin County; Midland County; Pecos County; Presidio County; Reeves County; Terrell County; Upton County; Ward County; and Winkler County.

⁶ Aransas County; Jim Wells County; Kleberg County; Nueces County; and San Patricio County.

⁷ Angelina County; Austin County; Bee County; Brazoria County; Brazos County; Burleson County; Calhoun County; Chambers County; Colorado County; Dewitt County; Fayette County; Fort Bend County; Galveston County; Goliad County; Grimes County; Hardin County; Harris County; Houston County; Jackson County; Jasper County; Jefferson County; Lavaca County; Lee County; Leon County; Liberty County; Live Oak County; Madison County; Matagorda County; Milam County; Montgomery County; Nacogdoches County; Newton County; Orange County; Polk County; Refugio County; Robertson County; Sabine County; San Augustine County; San Jacinto County; Shelby County; Trinity County; Tyler County; Victoria County; Walker County; Waller County; Washington County; and Wharton County.

APPENDIX B

Subject: PLEASE DISREGARD IMMIGRATION DETAINER for **[Subject's Name]**

This is an urgent ICE notification regarding an immigration detainer issued to your law enforcement agency for **[Subject's Name]**, **[DOB: XXX]**. The immigration detainer has not been authorized.

You may not rely on the detainer to maintain custody of the individual.

Please disregard the detainer.

APPENDIX C

IT IS THEREFORE REQUESTED THAT YOU:

Serve the individual a copy of this form, and complete and return to ICE the service information at the bottom of this form. If the detainer is not served, the detainer is not valid and may not be relied upon to maintain custody of the individual.

Notify DHS as early as practicable (at least 48 hours, if possible) before the individual is released from your custody. Please notify DHS by calling U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) at _____. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-6020.

Maintain custody of the individual for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. This detainer arises from DHS authorities and should not impact decisions about the individual's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters.

Relay this detainer to any other law enforcement agency to which you transfer custody of the individual.

Notify this office in the event of the individual's death, hospitalization or transfer to another institution.

APPENDIX D

FREQUENTLY ASKED QUESTIONS

Q: What is an immigration detainer?

A: An immigration detainer ([Form I-247A, Immigration Detainer – Notice of Action](#)) is a notice that DHS issues to federal, state, and local law enforcement agencies (LEAs) to inform the LEA that ICE intends to assume custody of an individual in the LEA's custody. An immigration detainer issued by ICE serves three key functions: 1) to notify an LEA that ICE intends to assume custody of a noncitizen in the LEA's custody once the noncitizen is no longer subject to the LEA's detention; 2) to request information from an LEA about a noncitizen's impending release so ICE may assume custody in a safe environment before the noncitizen is released from the LEA's custody; and 3) to request that the LEA maintain custody of the noncitizen for a period not to exceed 48 hours beyond when he or she would otherwise have been released to provide ICE time to assume custody. The immigration detainer is only a request and does not impose any obligations on the LEA.

Q: What are ICE's legal authorities to issue a detainer?

A: ICE's authority to issue a detainer flows from federal regulations at 8 C.F.R. § 287.7, which arises from the Secretary's power under section 103(a)(3) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1103(a)(3), to issue "regulations . . . and perform other such acts he deems necessary for carrying out his authority" under the INA, and from ICE's general authority to detain noncitizens who are subject to removal or removal proceedings. *See, e.g.*, INA §§ 235, 236, 241, 8 U.S.C. §§ 1225, 1226, 1231.

Q: Who within ICE issues detainers?

A: Only ICE immigration officers and designated state and local officers authorized to perform certain immigration officer functions pursuant to section 287(g) of the INA, 8 U.S.C. § 1357(g) (“designated 287(g) officers”) may issue immigration detainers. Designated 287(g) officers must first obtain ICE approval before issuing detainers.

Q: What is the standard required to issue a detainer?

A: ICE policy requires a finding of probable cause to believe the subject is a removable noncitizen before a detainer may be issued. Except where the probable cause is based upon a final removal order or the pendency of ongoing removal proceedings against the subject, all probable cause determinations supporting a detainer issued by officers located in the Central District of California, including the Pacific Enforcement Response Center (PERC), are reviewed by a neutral reviewer within 48 hours of issuance, except in the case of an individual detained in state or federal prison with three months or more remaining on their sentence at the time of the interoperability hit, currently known as an IAQ, in which case the review takes place within not more than 14 calendar days of detainer issuance.

Q: Is the detainer required to be served upon the subject?

A: Yes, a detainer only takes effect upon service of a copy of the detainer on the subject of the detainer. The request of ICE that the law enforcement agency maintain custody of the individual is contingent on service of the detainer. If the law enforcement agency does not serve the detainer on the individual, it may not rely upon the detainer to maintain custody of the individual.

Q: What impact does an ICE detainer have on decisions regarding bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, etc.?

A: ICE only intends its detainers to serve the key functions noted above. The detainer should not impact decisions about an individual's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters. By issuing a detainer, ICE does not intend to impact or influence a state or local LEA's decision-making process.

Q: What happens if ICE does not assume custody of the individual after 48 hours?

A: If ICE does not assume custody after 48 hours, the LEA is required to release the individual. The LEA may not lawfully hold an individual beyond the 48-hour period.

Q: What if the subject of the detainer believes that he or she has been held beyond the 48 hours, or has a complaint?

A: If ICE does not take the subject of a detainer into custody during the 48-hour period, they should contact the LEA or entity that is holding them to inquire about their release from custody.

If the individual has a complaint regarding the detainer or violations of civil rights or civil liberties connected to DHS activities, the individual should contact the ICE Joint Intake Center at 1-877-2INTAKE (877-246-8253).

Q: What if the subject of the detainer believes the detainer was issued in error?

A: If the subject of a detainer believes that a detainer was issued in error or contrary to ICE policy, the individual should advise ICE by calling the ICE Law Enforcement Support Center at (855) 448-6903 (toll free) or at [non-toll free number to be acquired].