

# STOP ILLEGAL ICE DETAINERS

Enforcing the *Gonzalez v ICE* Settlement

April 17, 2025

NATIONAL  
IMMIGRANT  
JUSTICE CENTER

ACLU

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

Southern California



**IMMIGRANT LEGAL RESOURCE CENTER**

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# Presenters



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# During the Webinar

- To enable captions, click the 'show captions' button in the lower right-hand corner of the screen.
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For webinar links or registration questions,  
contact our training team at [seminars@ilrc.org](mailto:seminars@ilrc.org)

# Questions During the Webinar

- You can enter substantive legal questions in the **Q&A**, and instructors will answer them if time permits.
- Say hello to us in the **chat box**.

# Agenda

**12:00pm – 12:05pm**

**12:05pm – 12:10pm**

**12:10pm – 12:20pm**

**12:20pm – 12:30pm**

**12:30pm – 12:40pm**

**12:40am – 12:50pm**

**12:50pm – 1:00pm**

**Introduction**

**Background on how ICE issues detainers**

**Key aspects of the Gonzalez v. ICE case**

**Essential Terms of the Settlement**

**Examples of Possible Violations**

**ICE detainers in criminal defense context**

**Conclusion; Q&A**

Stop Illegal ICE Detainers: Enforcing the Gonzalez v. ICE Settlement

April 17, 2025 – 12:00 pm – 1:00 pm Pacific Time

MCLE: 1.0 CA & TX

The Immigrant Legal Resource Center is a State Bar of California approved MCLE provider.  
The Immigrant Legal Resource Center is a State Bar of California Department of Legal  
Specialization approved provider.

# Background on ICE detainers

**Detainers = requests from ICE to hold an individual currently in a jail or prison past their release date so ICE can take custody of the person.**

- **No charges or conviction are necessary.**
- **A detainer is triggered when a judge orders release, charges are dismissed, a sentence is complete, or an individual posts bond.**



# How does ICE learn about an individual prior to issuing a detainer?

- **Secure Communities + further database searches**
  - ICE is alerted to every person's arrest nationwide at the time local police submit a fingerprint check.
  - The ICE detainer investigation starts when ICE receives the fingerprints are initially checked against DHS databases.
- ICE centralized office the PERC (Pacific Enforcement Response Center) OR ICE field offices can issue detainers

# Problems with ICE detainers

- Compound harms of discriminatory policing and criminal legal system → deportation pipeline
- Prolong the time people are incarcerated without probable cause
- Detainers are a request, not a mandate, but many state/local oblige → local jurisdictions liability



# About *Gonzalez v. ICE*

- 2013 class action lawsuit challenging ICE's unlawful practices for issuing Box 3 and Box 4 detainers and asking law enforcement to detain an individual for 48 hours without probable cause
- ICE was issuing detainers based on faulty and unreliable databases – practice resulted in people with legal status being subjected to the detainers and placed in immigration custody
- The detainers violated the Fourth Amendment and federal law because they:
  - Were issued without probable cause or prompt judicial review of probable cause; and
  - Exceeded ICE's authority for when ICE can make warrantless arrests.



# 2020 Ninth Circuit Opinion

In September 2020, the U.S. Court of Appeals for the Ninth Circuit issued an opinion in *Gonzalez v. ICE*, 975 F.3d 788 (9th Cir. 2020), holding:

- ICE's practice of issuing and relying on detainers to hold someone in local custody without prompt neutral review of probable cause violates the Fourth Amendment.

The Court remanded the unreliable database claim back to the district court for further fact-finding.

FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

GERARDO GONZALEZ; SIMON  
CHINIVIZYAN,  
*Plaintiffs-Appellees/  
Cross-Appellants,*  
  
v.  
  
UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT; DAVID  
MARIN; DAVID C. PALMATIER;  
THOMAS WINKOWSKI,  
*Defendants-Appellants/  
Cross-Appellees.\**

Nos. 20-55175  
20-55252  
  
D.C. Nos.  
2:12-cv-09012-  
AB-FFM  
2:13-cv-04416-  
AB-FFM  
  
OPINION

Appeal from the United States District Court  
for the Central District of California  
André Birotte, Jr., District Judge, Presiding

Argued and Submitted July 13, 2020  
Pasadena, California

\* The United States Department of Homeland Security (DHS) identified itself as a party to these cross appeals. Although DHS objected to a subpoena in the district court, it was not, however, a defendant in the underlying case. Although Defendant United States Immigration and Customs Enforcement (ICE) is a component of DHS, DHS did not move to intervene in the district court nor in these cross appeals, and thus it is not technically a party. Accordingly, we amend the case caption to remove DHS as a Defendant-Appellant/Cross-Appellee.

# The *Gonzalez* Settlement Agreement

Approved in December 2024 for five years, the Settlement Agreement:

- Covers Box 3 or Box 4 ICE detainers
  - These are detainers based on database checks (Box 3) or statements made by the person (Box 4)
  - The Agreement does not apply to detainers issued based on final orders of removal or ongoing removal proceedings (Box 1 or Box 2 Detainers)
- Revises DHS Form I-247A (“Immigration Detainer – Notice of Action”)
  - Replaces “alien” with “individual”
  - Adds clearer service language that renders the detainer invalid if detainer is not served on the individuals
  - These detainer form changes apply nationwide to all detainers, not just class members
- Includes reporting requirements every 6 months, beginning in September 2025

# Sample Immigration Detainer (Form I-247A)

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)



# The *Gonzalez* Settlement Agreement: Neutral Review Process

- Establishes a neutral review process for any Box 3 or Box 4 ICE detainers to meet Fourth Amendment requirement of probable cause
  - ICE cannot issue Box 3 or Box 4 detainers against settlement class members without presenting the detainer to a neutral reviewer.
  - During neutral review process, a neutral reviewer will determine whether there is a valid basis for probable cause

**NOTE: ICE has not set up neutral review process and cannot issue Box 3 or Box 4 detainers against settlement class members. ICE can only issue “Requests for Notification of Release” using Form I-247G**

# Sample Request for Notification of Release (Form I-247G)

DEPARTMENT OF HOMELAND SECURITY  
U.S. Immigration and Customs Enforcement

**REQUEST FOR ADVANCE NOTIFICATION OF RELEASE**

Subject ID: [REDACTED]	File No: [REDACTED]
Event #: [REDACTED]	Date: September 10, 2023

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) SANTA BARBARA COUNTY JAIL 4436 CALLE REAL SANTA BARBARA, CA 93110	FROM: (Department of Homeland Security Office Address) ERO - Westminster, CA Sub Office ICE ERO PERC LAGUNA NIGUEL 24000 AVILA RD RM# 1552 LAGUNA NIGUEL, CA 92677
---	---

Name of Subject: [REDACTED]

Date of Birth: [REDACTED] Suspected Citizenship: MEXICO Sex: M

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.  
SID #: CA26725396

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 805-437-1105. 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.



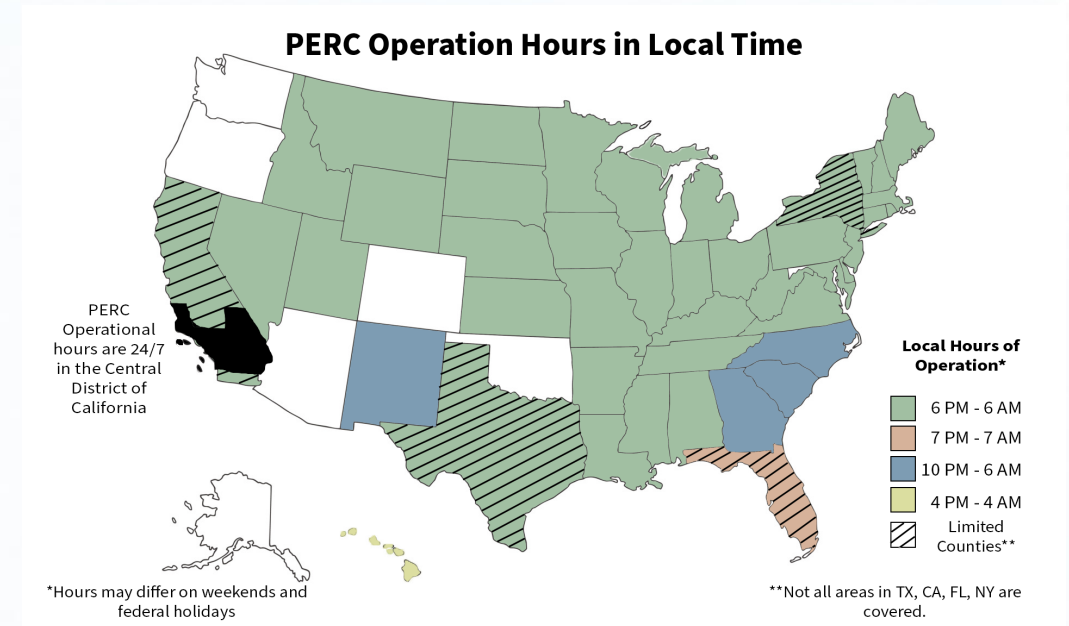
# Potential Remedies for Violations

If a neutral review process has not occurred within 48 hours of ICE issuing a Box 3 or 4 detainer, the person could seek:

- Release from ICE detention (if not mandatory detention)
- If they are subject to mandatory detention, then not release, but DHS must notify individual, their counsel, immigration court, and class counsel of the *Gonzalez* violation

# The Gonzalez Settlement Agreement – When and Where it Applies

- Settlement class:
  - Anyone issued a Box 3 or 4 ICE detainer where the detainer is issued from the Central District of California or under the detainer functions of the Pacific Enforcement Response Center (“PERC”)
- Locations covered
  - Because the PERC issues detainers to 40 states + portions of CA, FL, NY, and TX + D.C. + and some U.S. territories, the Settlement Agreement protects anyone in those regions who receives a Box 3 or 4 ICE detainer issued by the PERC or issued from any other ICE officer during the 12-hours/day the PERC is responsible for detainers to those states and territories.
- Settlement class does not include people with a final order of removal or in ongoing removal proceedings who are issued Box 1 or 2 detainers



# Which ICE detainers are subject to Gonzalez v. ICE?

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;

Box 3

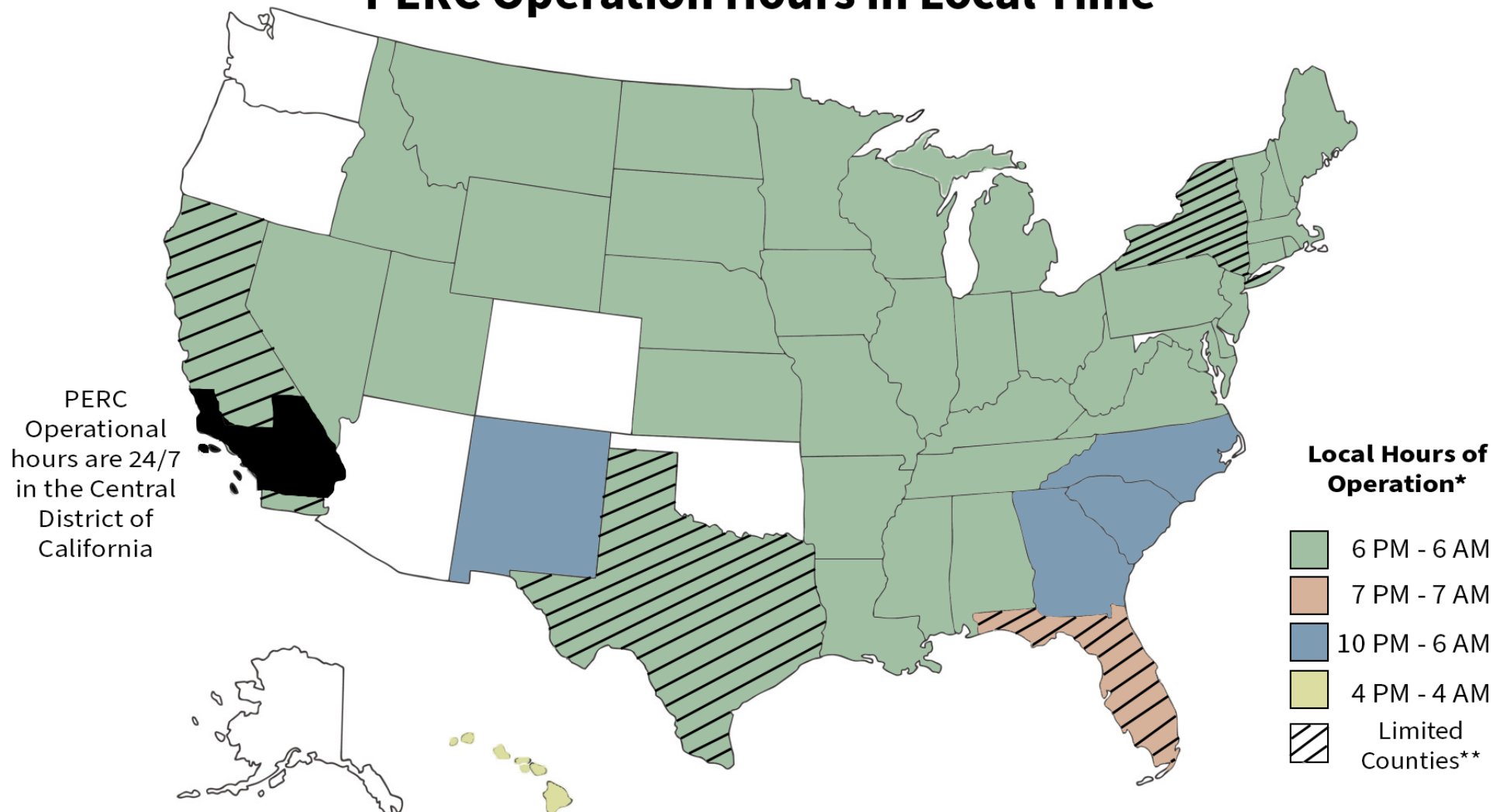
☐ Biometric confirmation of the individual's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the individual either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or

Box 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.

**EVERY** ICE Detainer that has Box 3 or Box 4 checked that is issued from the PERC or any other ICE office in the Los Angeles area is a violation of the Gonzalez Settlement. If you see a detainer from a “Laguna Niguel, CA” or “Santa Ana, CA” address in the “FROM:” field and Box 3 or Box 4, as shown above, checked or with an “x” please contact: [litigation@immigrantjustice.org](mailto:litigation@immigrantjustice.org) or [GonzalezSettlement@aclusocal.org](mailto:GonzalezSettlement@aclusocal.org).

# PERC Operation Hours in Local Time



\*Hours may differ on weekends and federal holidays

\*\*Not all areas in TX, CA, FL, NY are covered.

# Likely violations

- **Scenario 1:** ICE continues to issue Box 3 & 4 detainers from the PERC and other ICE offices in the C.D. California (i.e., Los Angeles area) against individuals without subjecting those detainers to a mandated neutral review process.
- **Scenario 2:** ICE issues Box 3 or Box 4 detainers from a *different* office or location to the states and localities during the times covered by the PERC without complying with the settlement agreement.
- **Scenario 3:** ICE begins the detainer investigation at the PERC but then a local ICE office follows up with a locally-issued detainer the following morning or day.

**REPORT VIOLATIONS TO: [litigation@immigrantjustice.org](mailto:litigation@immigrantjustice.org) or [GonzalezSettlement@aclusocal.org](mailto:GonzalezSettlement@aclusocal.org).**



# Example 1: **ILLEGAL** PERC+Box 3

DEPARTMENT OF HOMELAND SECURITY IMMIGRATION DETAINER - NOTICE OF ACTION			
Subject ID: [REDACTED] Event #: [REDACTED]		BK #2 [REDACTED]	File No: [REDACTED] Date: September 4, 2024
TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) JOHN J BENOIT DET CTR 82675 CA-111 INDIO, CA 922010000		FROM: (Department of Homeland Security Office Address) ERO - Pacific Enforcement Response Center 3 Hutton Centre Drive 3rd floor Santa Ana, CA 92707	
Name of Alien: [REDACTED]			
Date of Birth: [REDACTED]		Citizenship: [REDACTED]	Sex: M
1. DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE ALIEN. THIS DETERMINATION IS BASED ON (complete box 1 or 2). <span style="float: right;">STD #: CA42449524</span>			
<div><input type="checkbox"/> A final order of removal against the alien;</div> <div><input type="checkbox"/> The pendency of ongoing removal proceedings against the alien;</div> <div><input checked="" type="checkbox"/> Biometric confirmation of the alien's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or</div> <div><input type="checkbox"/> Statements made by the alien to an immigration officer and/or other reliable evidence that affirmatively indicate the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.</div>			



# Example 2: **ILLEGAL** CDCal+Box 4

## DEPARTMENT OF HOMELAND SECURITY IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: [REDACTED]

Event #: [REDACTED]

File No: [REDACTED]

Date: June 15, 2023

Image from U.S. District Court, C.D. California

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)  
SANTA BARBARA COUNTY JAIL  
4436 CALLE REAL  
SANTA BARBARA, CA 93110

FROM: (Department of Homeland Security Office Address)  
ERO - Ventura, CA Sub Office  
ICE  
ERO - VENTURA, CA SUB OFFICE  
321 Cortez Circle  
CAMARILLO, CA 93012

Name of Alien: [REDACTED]

Date of Birth: [REDACTED]

Citizenship: [REDACTED]

MEXICO

Sex: [REDACTED]

M

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

SID #: CA39317132

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

CENTRAL  
DISTRICT  
of California

Western Division  
Eastern Division  
Southern Division



# Example 3: **ILLEGAL** PERC Coverage

Harris County P

4/11/2025 1:51:02 AM CDT

PAGE 3/006 Fax Server

## DEPARTMENT OF HOMELAND SECURITY IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: [REDACTED]

Event #: [REDACTED]

File No:

Date: April 11, 2025

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) **HARRIS COUNTY JAIL**  
**1301 FRANKLIN,**  
**HOUSTON, TX**  
**US 77002**

FROM: (Department of Homeland Security Office Address)  
**ERO - Montgomery County, TX Sub Office**  
**U.S. IMMIGRATION & CUSTOMS ENFORCEMENT**  
**DRO - Montgomery County, TX Sub Office**  
**MONTGOMERY COUNTY, TX**

Name of Individual: [REDACTED]

Date of Birth: [REDACTED] Citizenship: [REDACTED] Sex: [REDACTED]

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).

Inmate #: [REDACTED]

- ☐ 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.

# Example 4: LEGAL PERC+Box 1

DEPARTMENT OF HOMELAND SECURITY  
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: [REDACTED] Event #: [REDACTED]	File No: [REDACTED] Date: February 20, 2024
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TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) <b>SAN MATEO CO JAIL</b> 300 BRADFORD STREET REDWOOD CITY, CA 94063	FROM: (Department of Homeland Security Office Address) <b>ERO - Pacific Enforcement Response Center</b> 24000 Avila Road Suite 1552 Laguna Niguel, CA 92677
--	---

Name of Alien: [REDACTED]

Date of Birth: [REDACTED] Citizenship: MEXICO Sex: M

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

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



# Example 5: LEGAL I-247G

DEPARTMENT OF HOMELAND SECURITY  
U.S. Immigration and Customs Enforcement

**REQUEST FOR ADVANCE NOTIFICATION OF RELEASE**

Subject ID: [REDACTED]	File No: [REDACTED]
Event #: [REDACTED]	Date: September 10, 2023

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) SANTA BARBARA COUNTY JAIL 4436 CALLE REAL SANTA BARBARA, CA 93110	FROM: (Department of Homeland Security Office Address) ERO - Westminster, CA Sub Office ICE ERO PERC LAGUNA NIGUEL 24000 AVILA RD RM# 1552 LAGUNA NIGUEL, CA 92677
---	---

Name of Subject: [REDACTED]

Date of Birth: [REDACTED] Suspected Citizenship: MEXICO Sex: M

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.

SID #: CA26725396

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 805-437-1105  
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.

# Example 6: **ILLEGAL** Workaround?

*Issued at 6:24 am (just after PERC hours)*

DEPARTMENT OF HOMELAND SECURITY  
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: [REDACTED] Event #: [REDACTED]	File No: [REDACTED] Date: June 3, 2024
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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 - Fresno, CA Sub Office ICE ERO FRESNO SUB OFFICE 733 L ST. FRESNO, CA 937212904
--	--

Name of Alien: [REDACTED]

Date of Birth: [REDACTED]      Citizenship: MEXICO      Sex: M

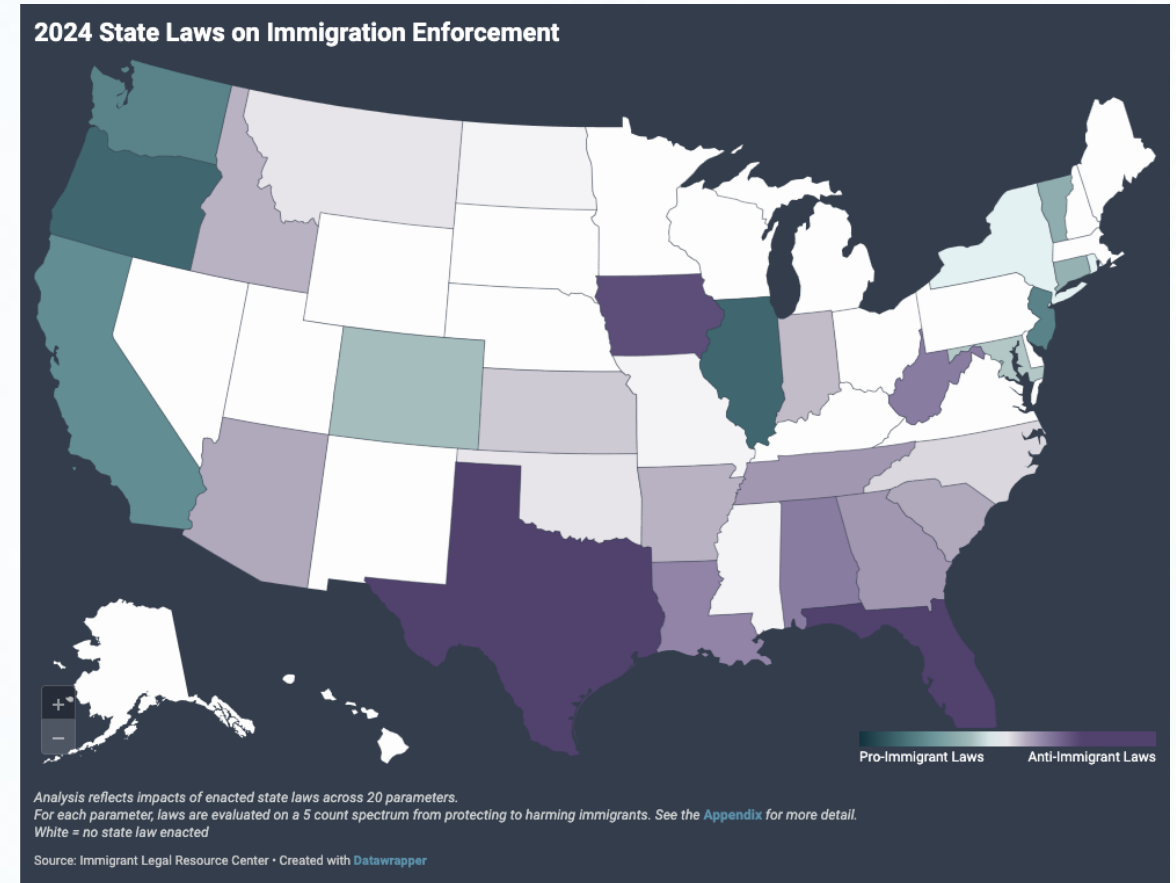
**1. DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE ALIEN. THIS DETERMINATION IS BASED ON (complete box 1 or 2).**

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

# What About State Laws On Detainers?

Gonzalez v. ICE is about ICE, and what's required of ICE. This is upstream of how the state responds.

- Step 1. Determine if the detainer is valid or illegal.
  - If illegal: detainer will not be a lawful basis for detention - even in a state that says compliance with detainers is mandatory.
  - State law cannot override the Constitution.
  - If legal: how does state law or local policy control the jail's response





# SERVICE of DETAINERS

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): \_\_\_\_\_

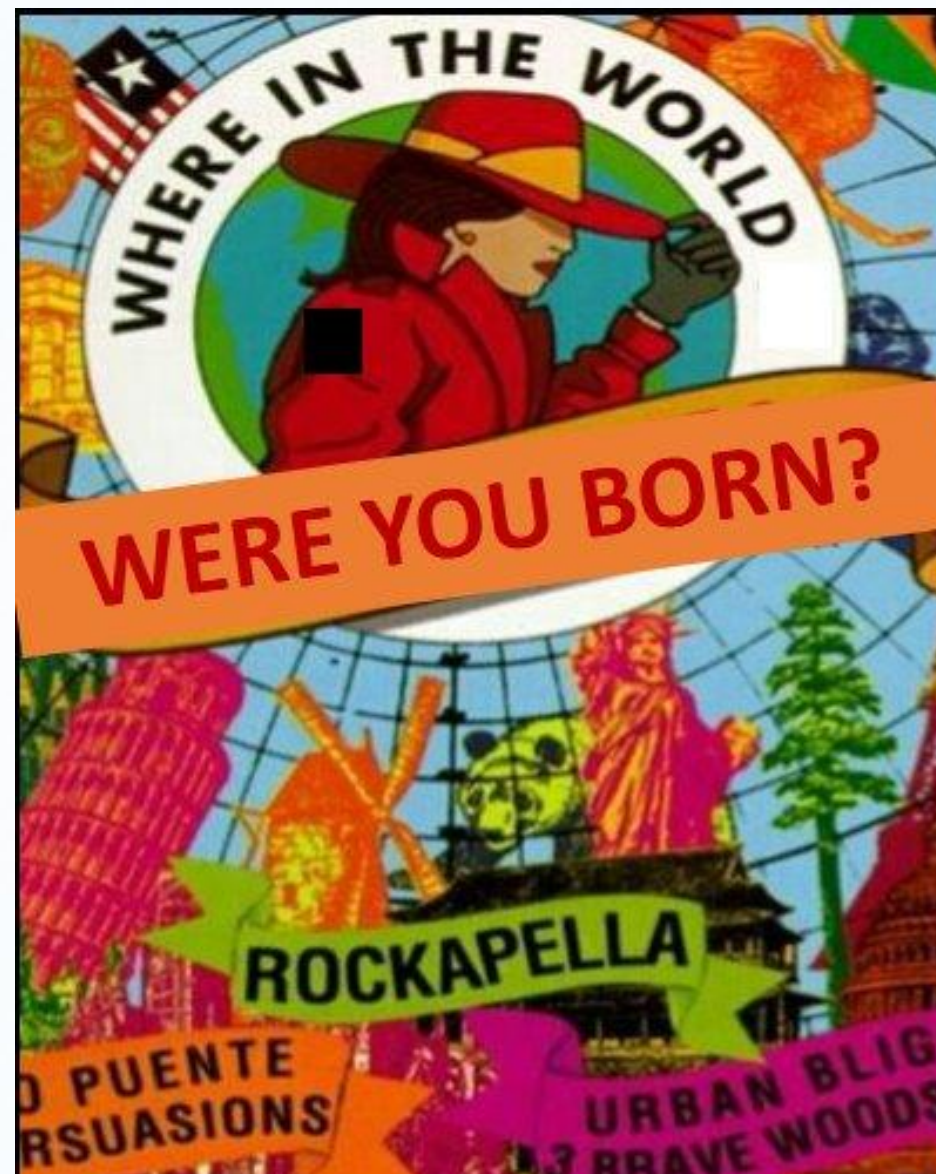
\_\_\_\_\_  
(Name and title of Officer)

\_\_\_\_\_  
(Signature of Officer) (Sign in ink)

# STEPS FOR DEFENSE ATTORNEYS



**Must ask  
EVERY  
client**





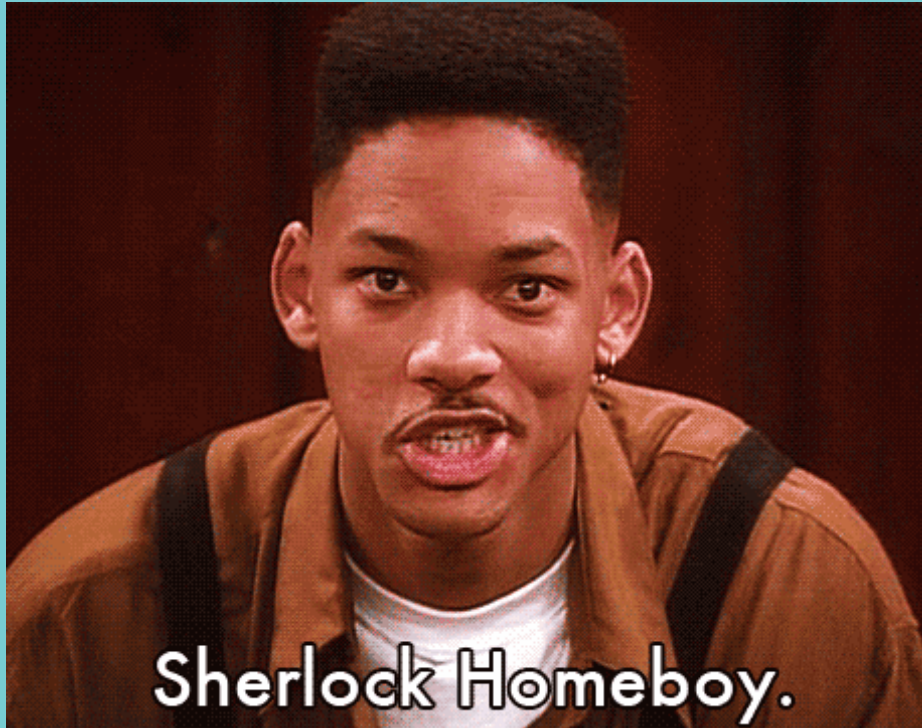
# Understand ICE Enforcement in YOUR locality

- ICE issues I-247s in many jurisdictions that do NOT cooperate so

**I-247  $\neq$  Arrest**

- ICE does not arrest every person for whom they issue an I-247





## How do you determine how LEA & ICE work together in your jurisdiction?

- Talk to someone on this webinar
- Contact your local / state (crim-) immigration nonprofits
- Talk to your sheriff / law enforcement
- Get help from Board of Supervisors / City Council / local politicians
- Use Public Records Act requests

# How to obtain I-247s





# Ways to obtain I-247s

- **Automatic** (e.g., agreement between county counsel, public defender, and/or sheriff)
- **By request to LEA** (email, Public Records Act)
- **By subpoena** (from criminal judge)
- **From client**

# Ways to obtain I-247s

- **Automatic** (e.g., agreement between county counsel, public defender, and/or sheriff)
- **By request to LEA** (email, Public Records Act)
- **By subpoena** (from criminal judge)
- **From client**

# Service required for detainer to take effect

## 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.

**NOTIFY ACLU/NIJC KNOW IF CLIENTS ARE NOT  
PROVIDED COPIES (IN ADVANCE)**





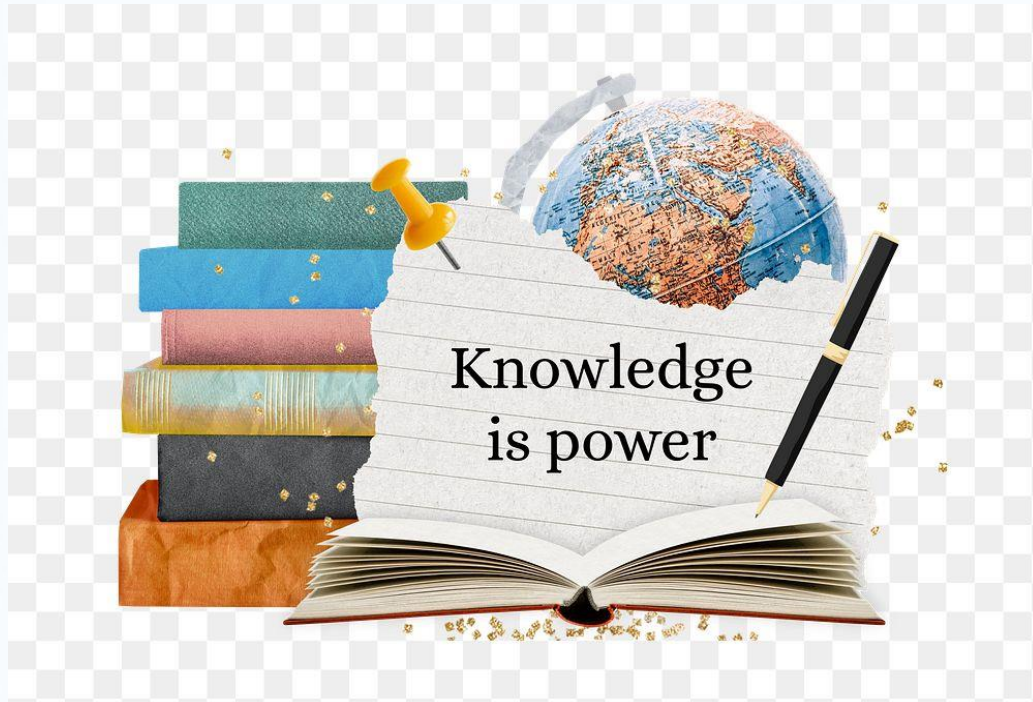
*Attention !*



*Attention !*

# Importance of Getting I-247 Requests

# Using I-247 Information



- A# can locate client (in the future)
  - <https://locator.ice.gov/odls/#/search>
  - Or immigration court case status:  
<https://acis.eoir.justice.gov/en/>
- Allegations (e.g. prior removal order) can help give more accurate immigration advice

# Challenging Detainers (where possible)

- US citizens
- Violations of local, state law / Constitution
- Violations of Gonzalez agreement (and therefore 4<sup>th</sup> Am)



# Challenge I-247G - 4th Am Violation

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)

SANTA BARBARA COUNTY JAIL  
4436 CALLE REAL  
SANTA BARBARA, CA 93110

FROM: (Department of Homeland Security Office Address)

ERO - Westminster, CA Sub Office  
ICE

ERO PERC LAGUNA NIGUEL  
24000 AVILA RD RM# 1552  
LAGUNA NIGUEL, CA 92677

Name of Subject:



Date of Birth: 08/15/1980

Suspected Citizenship: MEXICO

Sex: M

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.

## ICE IS ADMITTING THERE IS NO PROBABLE CAUSE FOR DETENTION/ARREST



# Advocacy:

## Release from custody not to be affected

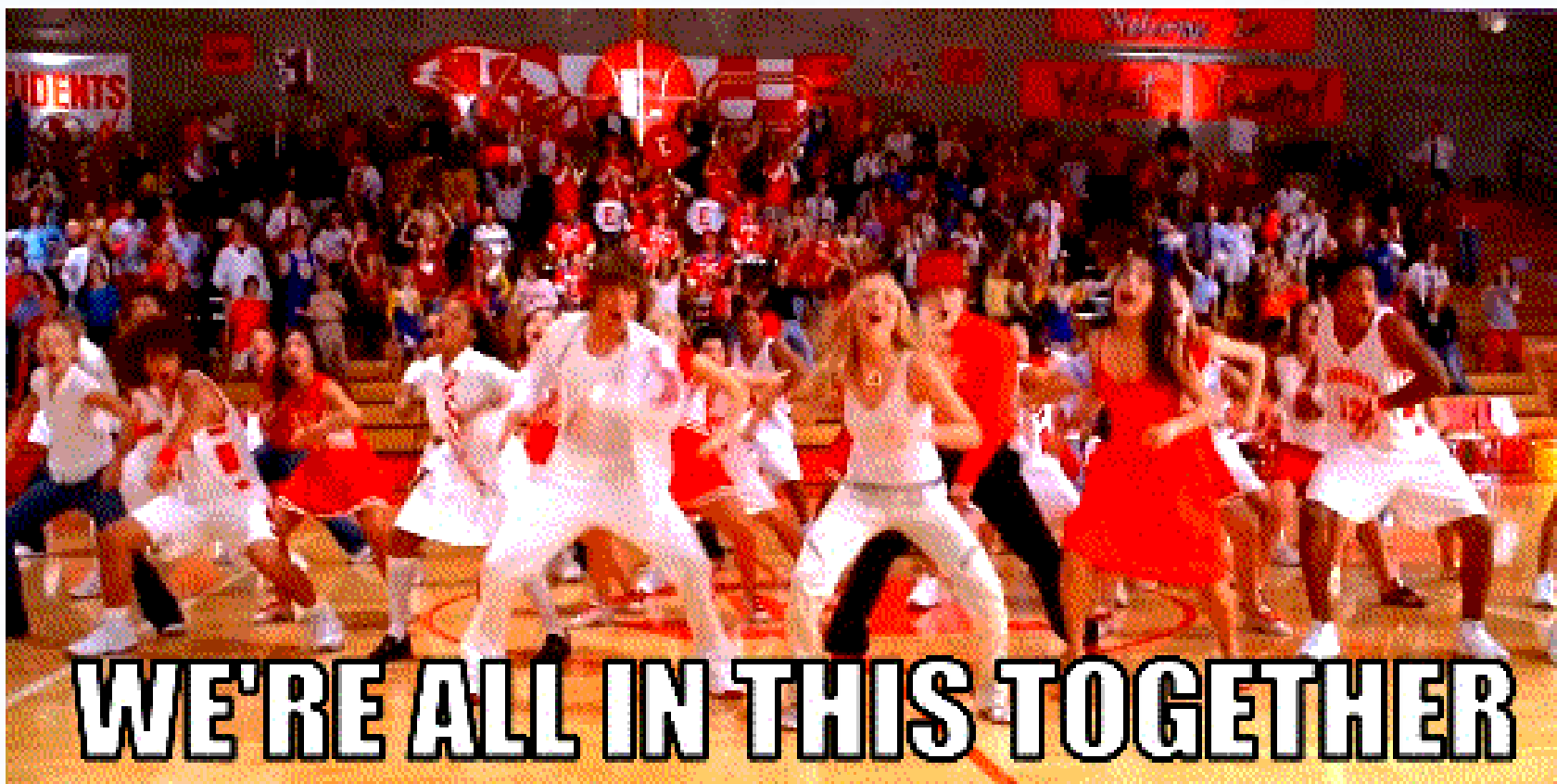
- **Maintain custody** of the individual for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The individual **must be served with a copy of this form** for the detainer to take effect. This detainer arises 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**



# Where detainees cannot be challenged, **STRATEGIZE**



- Discuss bail options, risk of not finishing criminal case, warrants, failure to appear charges
- Compare options: treatment, probation, terminal dispositions
- Habeas if person detained beyond state law



# QUESTIONS

## Further Advocacy Steps:

- Report to NIJC/ACLU violations
  - o [Litigation@immigrantjustice.org](mailto:Litigation@immigrantjustice.org)
  - o [GonzalezSettlement@aclusocal.org](mailto:GonzalezSettlement@aclusocal.org)
- Template letters to sheriffs
- Bring other suits for lack of probable cause/Gerstein

## Materials:

- Practice Advisory
- Settlement agreement and appendix themselves
- Map of PERC service
- Annotated Detainer
- I-247G Sample



# **Thank you for attending!**

**Please complete our survey**

**Make sure you received all materials**

**MCLE forms will be emailed to qualifying attendees within one day of the webinar.**

**For questions about certificates, please email [mcle@ilrc.org](mailto:mcle@ilrc.org).**