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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Jacinta Gonzalez Goodman,)	Case No. _____
)	
<i>Plaintiff,</i>)	Complaint
)	
v.)	Jury Trial Demanded
)	
Joseph M. Arpaio,)	
in his official capacity as Sheriff of)	
Maricopa County, Arizona; and)	
Maricopa County, Arizona)	
)	
<i>Defendants.</i>)	
)	
)	

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COMPLAINT

Plaintiff Jacinta Gonzalez Goodman (“Plaintiff” or “Ms. Gonzalez”), by and through her undersigned counsel, hereby complains as follows against Defendants Sheriff Joseph M. Arpaio, and Maricopa County, Arizona.

STATEMENT OF THE CASE

1. Plaintiff brings this action under 42 U.S.C. § 1983 and the Arizona Tort Claims Act, ARIZ. REV. STAT. § 12-820, *et seq.*, complaining of her false arrest and detention by Defendants pursuant to their policy, custom and practice of subjecting individuals to arrest and detention without probable cause, notice or

1 opportunity to be heard, in violation of the Fourth and Fourteenth Amendments to
2 the United States Constitution, federal immigration law, and Arizona state tort law.

3 2. Plaintiff Jacinta Gonzalez Goodman (“Ms. Gonzalez”) is a natural born
4 United States citizen, who was born in Mexico to Mexican citizen father and a
5 United States Citizen mother.

6 3. Nevertheless, on March 19, 2016, officers of the Maricopa County
7 Sheriff’s Office unlawfully arrested Ms. Gonzalez and detained her overnight in
8 solitary confinement without probable cause and based solely on an immigration
9 detainer request from Immigration and Customs Enforcement (“ICE”).

10 4. ICE utilizes immigration detainer requests to seek the arrest and
11 detention of individuals for possible civil immigration violations.

12 5. As was well-known to the Defendants, ICE’s detainer requests are not
13 supported by probable cause; not supported by a warrant or any other probable
14 cause determination by a detached, neutral judicial officer; and are not in
15 accordance with the limited warrantless arrest authority for alleged civil
16 immigration violations.

17 6. Compliance with ICE’s immigration detainers is voluntary. Local law
18 enforcement agencies are not required to comply with ICE immigration detainers.

19 7. Maricopa County Sheriff’s officers arrested and detained Ms.
20 Gonzalez pursuant to a longstanding policy, custom, and practice of Defendants

1 Sheriff Arpaio and Maricopa County to unlawfully arrest and detain individuals
2 based solely on these facially invalid and voluntary ICE detainers.

3 8. Pursuant to the policies, practices and customs of Defendants Sheriff
4 Arpaio and Maricopa County, Ms. Gonzalez was not served with a copy of the ICE
5 immigration detainer or otherwise afforded an opportunity to be heard as to why
6 her arrest was unlawful.

7 9. By causing the arrest and detention of Ms. Gonzalez pursuant to the
8 above-stated custom, policy and practice, Defendants acted with deliberate
9 indifference to and in violation of her rights under the Fourth and Fourteenth
10 Amendments to the United States Constitution, as well federal immigration law.
11 Defendants, likewise, subjected her to false arrest and imprisonment in violation of
12 Arizona law.

13 **JURISDICTION, NOTICE AND VENUE**

14 10. This Court has subject matter jurisdiction over Ms. Gonzalez's claims
15 under the Fourth and Fourteenth Amendments to the United States Constitution, 28
16 U.S.C. § 1331 (federal question) and § 1343 (civil rights). This Court has
17 supplemental jurisdiction over Ms. Gonzalez's state tort claims under 28 U.S.C. §
18 1367(a) (supplemental jurisdiction).

19 11. Ms. Gonzalez filed her Notice of Claim, in accordance ARIZ. REV.
20 STAT. §12-821.01(A), which was received on August 25, 2016. The statutory sixty

1 days for Defendant's response expired on October 24, 2016. ARIZ. REV. STAT. §12-
2 821.01(E).

3 12. Venue is proper in this judicial district pursuant to 28 U.S.C. §§
4 1391(b)(1), (b)(2), because all Defendant resides in the district and a substantial
5 part of the events giving rise to Ms. Gonzalez's claims occurred in this judicial
6 district.

7 **THE PARTIES**

8 13. Plaintiff Jacinta Gonzalez Goodman resides in Phoenix, Arizona
9 (Maricopa County). Ms. Gonzalez has been a U.S. citizen since birth and at all
10 times pertinent hereto has had a valid, unexpired U.S. passport.

11 14. Defendant Joseph M. Arpaio is the Sheriff of Maricopa County,
12 Arizona. Defendant Arpaio is the head of the Maricopa County Sheriff's Office
13 ("MCSO") and is responsible for formulating, approving, implementing, and/or
14 enforcing the Maricopa County policy, custom, and practice of arresting and
15 detaining individuals based on voluntary immigration detainers. Defendant Arpaio
16 is sued in his official capacity.

17 15. Defendant Maricopa County is a political subdivision of the State of
18 Arizona that can be sued in its own name. Defendant Maricopa County includes,
19 oversees, and is responsible for the Maricopa County Sheriff's Office and its
20 county jail system.

1 **FACTUAL AND LEGAL ALLEGATIONS**

2 **Defendants' History of Unconstitutional Policies and Practices of Arresting**
3 **Individuals for Alleged Civil Immigration Violations**

4 16. Defendants have a long history of aggressively – and illegally -
5 collaborating with ICE to arrest individuals for alleged civil immigration
6 violations. In February 2007, the MCSO entered into a memorandum of
7 agreement with ICE, under 8 U.S.C. § 1357(g), INA § 287(g) (a.k.a. “287(g)
8 agreement”), that permitted MCSO officers to conduct prescribed civil
9 immigration enforcement, including issuing and executing immigration detainers.
10 *See Ex A.*

11 17. Pursuant to the 287(g) agreement, MCSO conducted its civil
12 immigration enforcement under direct ICE supervision. *See Id.*

13 18. In June 2008, the United States Department of Justice (DOJ) opened an
14 expansive civil rights investigation into whether MCSO had a pattern and practice
15 of racial-profiling Latinos and otherwise violating the constitutional rights of
16 Latinos in its enforcement practices. Ex. B.

17 19. On December 15, 2011, DOJ issued a scathing report that found
18 rampant, systemic racial-profiling and constitutional violations committed by the
19 MCSO against Latinos in the county. *Id.*

20 20. That same day, the Secretary for the Department of Homeland Security
21 (DHS) was forced to terminate ICE’s 287(g) agreement with MCSO. *See Ex. C.*

1 21. Despite the DOJ civil rights findings, and pursuant to the policy,
2 practice and custom of the Defendants, MCSO and ICE have continued to
3 aggressively collaborate in civil immigration arrests through immigration
4 detainers. *See, e.g.*, Transactional Record Access Clearinghouse (TRAC), “ICE
5 Detainers Issued for Facilities by Level of Most Serious Conviction,” (Feb. 11,
6 2014), *available at* <http://trac.syr.edu/immigration/reports/343/include/table3.html>
7 (last visited Nov. 3, 2016) (ICE FOIA data showing in FY2012 & most of FY2013
8 that more than 11,000 detainers issued to MCSO jails, more than 85% of which
9 against individuals with no criminal convictions or very minor offenses).

10 **Immigration Detainers Fail to Conform with Basic Constitutional Protections**
11 **and Violate the Limited Warrantless Arrest Authority**
12 **For Civil Immigration Violations**

13 22. An immigration detainer is a boilerplate, checkbox form issued by any
14 rank and file immigration officer for a civil immigration purpose. Ex. D; *see* 8
15 C.F.R. § 287.7(b) (authorizing all “deportation officers” and “immigration
16 enforcement agents,” among others, to issue detainers); 8 C.F.R. § 287.7(a)
17 (describing the purpose of an immigration detainer).

18 23. A detainer is a request that the law enforcement agency (LEA) arrest
19 and detain the individual for up to an additional 48 hours beyond when the LEA’s

1 legal detention authority expires, in order to allow ICE to assume custody if it
2 determines to do so. *See Ex. D.*¹

3 24. A detainer is not supported by warrant or any other probable cause
4 determination, by a detached and neutral judicial officer or otherwise. *See Ex. D.*

5 25. ICE detainers are not supported by sworn, particularized showings of
6 probable cause that the subject is a noncitizen and removable. *See id.*

7 26. The detainer form, instead, contains boxes to check and select from a
8 wide-ranging list of generic potential sources of information that may or may not
9 form the basis of a finding of probable cause to make an arrest, including:

- 10
- the pendency of ongoing removal proceedings against the subject;
 - biometric confirmation of the subject's identity and a records check
11 of federal databases that affirmatively indicate, by themselves or in
12 addition to other reliable information, that the subject either lacks
13 immigration status or notwithstanding such status is removable
14 under U.S. immigration law; and/or
 - statements made voluntarily by the subject to an immigration officer
15 and/or other reliable evidence that affirmatively indicate the subject
16
17

¹ Immigration detainers have been consistently held to be voluntary requests to state and local law enforcement agencies. *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2014) (holding detainers voluntary and stating “Since at least 1994, and perhaps as early as 1988, ICE (and its precursor INS) have consistently construed detainers as requests rather than mandatory orders.”); Letter from Daniel Ragsdale, Acting Director of ICE, to U.S. House of Representatives (Feb. 25, 2014) (Ex. E). U.S. district courts have followed suit. *Morales v. Chadbourne*, 996 F. Supp. 2d 19, 40 (D.R.I. 2014), *aff’d* 793 F.3d 208 (1st Cir. 2015); *Miranda-Olivares v. Clackamas County*, 2014 WL 1414305, at *4-8 (D. Or. Apr. 11, 2014); *see also Buquer v. City of Indianapolis*, 797 F. Supp. 2d 905 (S.D. Ind. 2011); *cf. Jimenez Moreno v. Napolitano*, 2014 WL 4814776, at *4-5 (N.D. Ill. Sept. 29, 2014) (dismissing Tenth Amendment claim in detainer class action in light of *Galarza*).

1 either lacks immigration status or notwithstanding such status is
2 removable under U.S. immigration law.

3 *See id.*

4 27. The ICE detainer states on its face that the request to detain “takes
5 effect only if you serve a copy of this form on the subject.” *Id.*

6 28. An ICE detainer is not supported by a determination that there is
7 reason to believe that the subject individual is “likely to escape before a warrant
8 can be obtained,” as is required to make a warrantless civil immigration arrest. 8
9 U.S.C. § 1357(a)(2); *Arizona v. United States*, -- U.S. --, 132 S. Ct. 2492, 2505-07
10 (2012) (finding Arizona statute permitting unlimited warrantless civil immigration
11 arrest authority preempted because it exceeded the limited authority granted to ICE
12 under 8 U.S.C. §1357(a)(2)); *Jimenez Moreno v. Napolitano*, 2016 WL 5720465
13 (N.D. Ill. Sept. 30, 2016) (declaring all warrantless immigration detainers in the six
14 state ICE Chicago Area of Responsibility null and void because the detainers
15 violate the limits of 8 U.S.C. § 1357(a)(2)).

16 **Defendants’ Policy and Practice of Arresting Individuals Based Solely on**
17 **Immigration Detainers Remains Unabated.**

18 29. Despite being facially invalid as a matter of constitutional and statutory
19 law, Sheriff Arpaio and Maricopa County have a policy, custom, and practice of
20 honoring ICE’s immigration detainer requests without requiring any probable
21 cause determinations and without providing the subjects any notice or opportunity
22 to respond prior to arrest and detention.

30. At the time of Ms. Gonzalez’s arrest, the Director of Public Information for the Maricopa County Sheriff’s Office admitted that the Defendants do not require probable cause before arrest and detention pursuant to an ICE detainer, stating: “When a local agency wants to place a hold on somebody they have to show us a probable cause statement to show us why they want us to hold them. ICE does not, When they put a hold on somebody, we don't know why.” Ex. F, at 6.

Ms. Gonzalez’s United States Citizenship

31. Because Ms. Gonzalez is a U.S. citizen, there is no legal authority to arrest or detain her for a civil immigration violation, no legal authority that would make her removable from this country, and no jurisdiction to place her in immigration removal proceedings.

Defendants’ Unlawful Immigration Arrest and Detention in Solitary Confinement of Ms. Gonzalez Based Solely on an Immigration Detainer

32. On March 19, 2016, Ms. Gonzalez participated in an act of civil disobedience at a protest of a political rally held by the presidential campaign of Donald J. Trump. Ms. Gonzalez and two non-Hispanic protesters temporarily blocked a highway that provided access to the event and were arrested.

33. All three individuals were taken to the MCSO’s 4th Avenue Jail for routine processing.

1 34. As part of MCSO's processing, Ms. Gonzalez reported that she was
2 born in Mexico and presented a valid, unexpired State of Louisiana driver's
3 license. The State of Louisiana requires proof of citizenship or lawful immigration
4 status before issuing a driver's license.²

5 35. After MCSO completed its initial booking of all three protesters, Ms.
6 Gonzalez was singled out for follow-up questioning by the ICE officer stationed in
7 the jail. The other two non-Hispanic protesters were not questioned by ICE.

8 36. ICE has admitted that the standard policy is that: "all foreign-born
9 individuals who are booked into the Maricopa County Jail are interviewed by ICE
10 personnel to determine alienage and removability and whether they would be an
11 enforcement priority for the agency." Ex. G, at 1.

12 37. The standard policy at the Maricopa County Jail, as described by ICE,
13 violates the December 2014 Department of Justice's "Guidance for Federal Law
14 Enforcement Agencies Regarding The Use of Race, Ethnicity, Gender, National
15 Origin, Religion, Sexual Orientation, or Gender Identity." *See* Ex. H, at 8

² *See* Louisiana Dep't Public Safety Office of Motor Vehicles, Issuance of Driver's License, "Identification Requirements," *available at* <http://web01.dps.louisiana.gov/omv1.nsf/58c968bd569b099986256cdc000806eb/037c1c72e5cbc226862564ae006ccdd2?OpenDocument> (last visited Nov. 3, 2016).

1 (providing example guidance that law enforcement needs more than country of
2 birth to initiate immigration investigation).³

3 38. Ms. Gonzalez provided the ICE officer with her full name, date of
4 birth, and other biographical information.

5 39. Ms. Gonzalez then exercised her constitutional right to decline to
6 answer questions regarding her citizenship until she had an opportunity to speak
7 with an attorney.

8 40. When Ms. Gonzalez declined to answer questions about her
9 citizenship, the ICE officer called her a “pain-in-the-ass-illegal.” The officer,
10 without informing Ms. Gonzalez, then issued an ICE detainer requesting that
11 MCSO detain her for up to an additional 48 hours after its authority expired. Ex. J.

12 41. The ICE detainer request was not supported by a warrant or any other
13 probable cause determination by a detached and neutral judicial officer. *Id.*

14 42. ICE’s detainer request did not provide MCSO with a particularized
15 showing of probable cause to arrest Ms. Gonzalez. Instead, the detainer stated –
16 falsely – that the reasons for its issuance were “the pendency of ongoing removal
17 proceedings” against Ms. Gonzalez and that “statements made voluntarily by the
18 subject to an immigration officer and/or other reliable evidence that affirmatively

³ There are over 17 million United States citizens of foreign birth living in the United States. (44% of the U.S. foreign-born population). Ex. I, at 2.

1 indicate the subject either lacks immigration status or notwithstanding such status
2 is removable under U.S. immigration law.” *Id.*

3 43. In fact, no removal proceedings were or have ever been pending
4 against Ms. Gonzalez, and she made no statements indicating that she lacked
5 immigration status. On information and belief, there was also no evidence, reliable
6 or otherwise, that affirmatively indicated that she lacked immigration status or was
7 removable from the country.

8 44. Upon information and belief, ICE issued the detainer against Ms.
9 Gonzalez based solely on the fact that she was born in Mexico.

10 45. ICE did not provide MCSO with any information regarding why Ms.
11 Gonzalez’s represented an immigration enforcement priority, information which is
12 required to justify her arrest as a matter of ICE policy. *Id.*; Ex. K (ICE explaining
13 to law enforcement that on the detainer form “ICE must identify the enforcement
14 priority under which the individual falls.”). ICE could not have provided any such
15 information, as none existed.

16 46. In the evening of March 19, 2016, Ms. Gonzalez was brought before
17 an Arizona state court judge for an initial hearing on a Class 3 misdemeanor
18 charge—obstructing a highway. The judge ordered Ms. Gonzalez’s immediate
19 release on her own recognizance. Ex. L.

1 54. The Fourth Amendment to the U.S. Constitution prohibits
2 “unreasonable searches and seizures” and provides that “no Warrants shall issue,
3 but upon probable cause, supported by Oath or affirmation, and particularly
4 describing the place to be searched, and the persons or things to be seized.”

5 55. The Fourteenth Amendment to the U.S. Constitution provides: “[N]or
6 shall any state deprive any person of ... liberty ... without due process of law; nor
7 deny to any person within its jurisdiction the equal protection of the laws.”

8 56. Pursuant to the incorporation doctrine, the due process clause of the
9 Fourteenth Amendment makes the Fourth Amendment applicable to state and local
10 governments. *See e.g. Mapp v. Ohio*, 367 U.S. 643 (1961) (freedom from
11 unreasonable search and seizure); *Aguilar v. Texas* 378 US 108 (1964)
12 (requirements for a warrant).

13 57. The Immigration and Nationality Act (INA) provides for warrantless
14 arrests for civil immigration violations only if there is reason to believe that an
15 individual is “likely to escape before a warrant can be obtained.” 8 U.S.C. §
16 1357(a)(2), INA § 287(a)(2).

17 58. Defendants caused the arrest and detention of Ms. Gonzalez based
18 solely on a facially invalid ICE detainer and after a state judge ordered her release
19 on her own recognizance.

1 59. Defendants caused the arrest and detention of Ms. Gonzalez based
2 solely on a facially invalid ICE detainer despite knowing that she possessed a valid
3 Louisiana driver's license, for which proof of citizenship or lawful immigration
4 status is required, and despite not having probable cause to believe that she had
5 violated any immigration law.

6 60. The ICE detainer for Ms. Gonzalez's arrest and detention was invalid
7 for at least the following reasons:

- 8 a. It did not include, and was not accompanied by, a warrant, or
9 otherwise contain a determination of probable cause by a detached
10 and neutral judicial officer finding Ms. Gonzalez was a noncitizen and
11 in violation of the immigration laws subjecting her to arrest, detention,
12 or removal;
- 13 b. It did not include, and was not accompanied by, any sworn declaration
14 or recitation of specific facts providing probable cause to believe that
15 Ms. Gonzalez was a noncitizen and in violation of the immigration
16 laws and subject to arrest, detention, or removal; and
- 17 c. It did not include, and was not accompanied by, a determination that
18 Ms. Gonzalez was likely to escape before a warrant could be obtained
19 in order to be a permissible exercise of the limited warrantless civil
20 immigration arrest authority under 8 U.S.C. § 1357(a)(2).

1 d. It was never served on Ms. Gonzalez, and thus never took effect as a
2 request for detention.

3 61. Defendants policy, custom and practice of honoring immigration
4 detainers caused Ms. Gonzalez’s arrest and detention in violation of her rights
5 under the Fourth Amendment, her substantive due process rights under the
6 Fourteenth Amendment, and her right to be free from a warrantless, civil
7 immigration arrest under federal statute.

8 62. As a proximate and reasonably foreseeable result of the actions of
9 Defendants, Ms. Gonzalez suffered injuries, including pain and suffering,
10 humiliation, and emotional harm.

11 **COUNT II**

12 **Unconstitutional Violation of Procedural Due Process** 13 **(42 U.S.C. § 1983)**

14 63. The foregoing allegations are repeated and incorporated as if fully set
15 forth herein.

16 64. Defendants’ policy, custom and practice failed to follow the
17 applicable, governing laws, statutes, and regulations, and deprived Ms. Gonzalez
18 of her liberty without affording her the procedural due process guarantees of the
19 Fourteenth Amendment as follows:

1 a. Defendants caused Ms. Gonzalez to be detained, including in solitary
2 confinement, without affording her adequate notice or an opportunity
3 to respond to the immigration detainer request; and

4 b. Defendants caused Ms. Gonzalez to be detained without probable
5 cause to believe that she was a noncitizen or that she was otherwise in
6 violation of the immigration laws and subject to detention;

7 65. As a proximate and reasonably foreseeable result of the actions of
8 Defendants, Ms. Gonzalez suffered injuries, including pain and suffering,
9 humiliation, and emotional harm.

10 **COUNT III**

11 **False Arrest and False Imprisonment Under Arizona Law**
12

13 66. The foregoing allegations are repeated and incorporated as if fully set
14 forth herein.

15 67. Defendants intentionally caused Ms. Gonzalez to be arrested and
16 detained without having probable cause or legal justification to believe she was a
17 noncitizen, or that she was otherwise in violation of the immigration laws and
18 subject to arrest, detention, or removal.

19 68. Defendants intentionally caused Ms. Gonzalez to be arrested and
20 detained without legal authority for her warrantless arrest under federal or state
21 law.

1 69. Ms. Gonzalez was aware of her arrest and detention and did not
2 consent to it.

3 70. At all times during Ms. Gonzalez's arrest and detention, Defendants
4 were aware, or reasonably should have been aware, that they lacked the authority
5 to arrest and detain Ms. Gonzalez under the governing laws and policies and that
6 their conduct was unlawful.

7 71. As a proximate and reasonably foreseeable result of the actions of
8 Defendants, Ms. Gonzalez suffered injuries, including pain and suffering,
9 humiliation, and emotional harm.

10

11

JURY DEMAND

12

13 Pursuant to Federal Rule of Civil Procedure 38(b), Ms. Gonzalez demands a
14 trial by jury as to all issues so triable.

14

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff Ms. Gonzalez respectfully requests that the Court
3 enter judgment:

4 A. Awarding compensatory damages to Ms. Gonzalez against
5 Defendants for violating Ms. Gonzalez's rights under the U.S. Constitution by
6 arresting and detaining Ms. Gonzalez based solely on an immigration detainer, and
7 in excess of Defendants' warrantless arrest authority under federal and state law;

8 B. Awarding prejudgment interest to Ms. Gonzalez on any award of
9 damages to the extent permitted by law;

10 C. Awarding reasonable attorneys' fees and costs to Ms. Gonzalez
11 pursuant to 42 U.S.C. § 1988 and/or any other provisions of law applicable
12 common-law provisions; and

13 D. Granting such other relief as they Court may deem just and proper
14 under the circumstances.

Dated: December 14, 2016

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