

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]	[REDACTED]	File No:
Event #: [REDACTED]	[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 - Westminster, 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 Rutton 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.

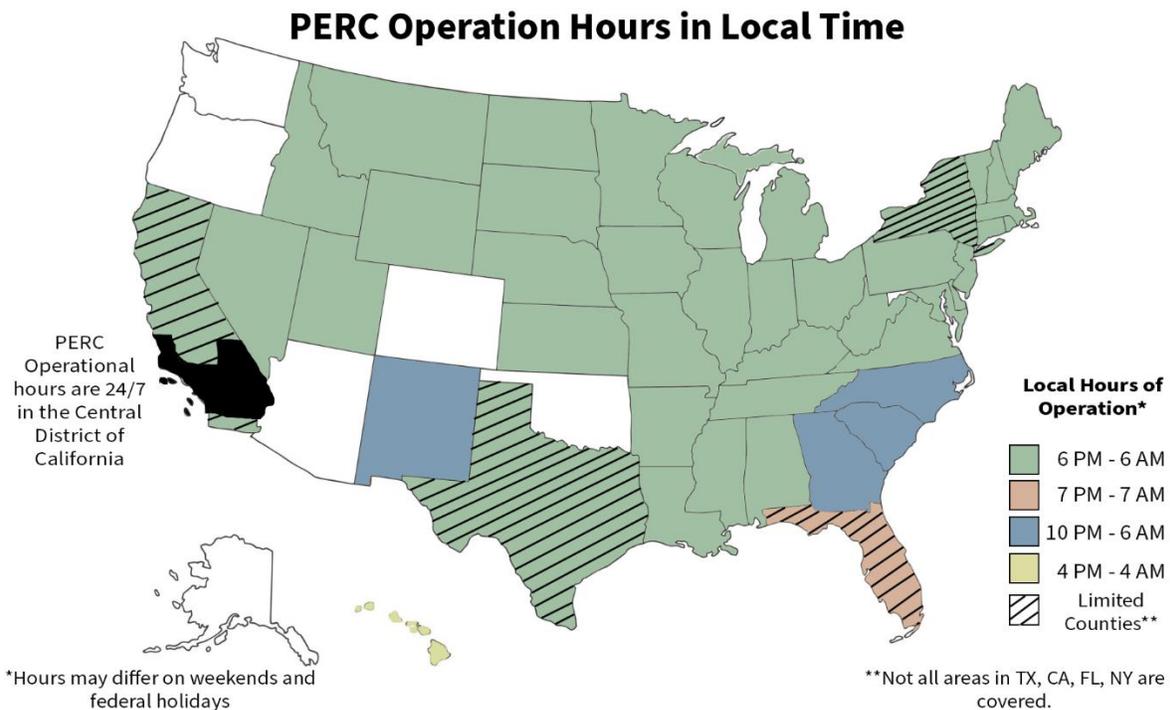
If you see a detainer with this address in the "FROM:" field and Box 3 or Box 4, as shown above, checked or with an "x" please contact class counsel at: litigation@immigrantjustice.org or GonzalezSettlement@aclusocal.org.

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](#)