



ENFORCEMENT AND REMOVAL OPERATIONS (ERO)

U.S. Immigration and Customs Enforcement

Declined Detainer Report

Fiscal Year 2018, Second Quarter



U.S. Immigration
and Customs
Enforcement

Overview

President Donald J. Trump's Executive Order No. 13768, [*Enhancing Public Safety in the Interior of the United States*](#), and the Department of Homeland Security's implementation memorandum, [*Enforcement of the Immigration Laws to Serve the National Interest*](#), direct U.S. Immigration and Customs Enforcement (ICE) to provide the public with information about declined detainers. In order to increase transparency surrounding the immigration enforcement process, ICE will produce the Declined Detainer Report on a quarterly basis, beginning in the second quarter of Fiscal Year (FY) 2018. The report will highlight cases where ICE issued a detainer, the detainer was declined, and the alien subsequently committed a crime¹ after being released from state or local custody. Because ICE is often not alerted by uncooperative jurisdictions when a detainer has been declined, and because ICE may only learn of the detainer having been declined after an alien is arrested for a subsequent offense, the cases contained in this report are examples of a broader public safety issue and are not exhaustive.

Cooperation between ICE and state and local law enforcement agencies is critical to the effort to identify and arrest removable aliens and defend the nation's security. Every day, ICE places detainers on individuals who the agency has probable cause to believe are aliens who are removable from the United States and are currently in federal, state, and local law enforcement agency custody.

In response to such a detainer, cooperative law enforcement agencies will notify ICE as early as practicable (at least 48 hours, if possible) before an alien is released from the law enforcement agency's custody. In addition, cooperating agencies will also maintain custody of the alien for a period not to exceed 48 hours beyond the time when he/she would otherwise have been released to allow ICE to assume custody. Upon taking custody, ICE is able to initiate removal proceedings and return the alien to his/her country of origin once a final order of removal has been issued by an immigration judge. Additionally, in cases where the alien has reentered the United States illegally after having been removed, ICE will reinstate the prior order of removal, and remove the alien.

While many jurisdictions across the country cooperate with ICE's detainers and work closely with the agency to ensure the safety of local communities, in some cases, state or local laws, ordinances, or policies restrict or prohibit cooperation between local law enforcement and ICE. Additionally, some jurisdictions willfully decline to honor ICE detainers and refuse to timely notify ICE of an alien's release, and may do so even when an alien has a criminal record. Unfortunately, a number of aliens who have been released under these circumstances have gone on to commit additional crimes, including violent felonies. ICE maintains that most of these crimes could have been prevented if ICE had been able to assume custody of these aliens and remove them from the country in accordance with federal immigration laws.

¹ ICE tracks and reports on criminal history using the National Crime Information Center (NCIC) Uniform Offense Codes. NCIC is the United States' central database for tracking crime-related information, is maintained by the Federal Bureau of Investigation (FBI), and is interlinked with federal, tribal, state, and local law enforcement entities. This interoperability allows ICE to report on an alien's criminal history, as well as encounters with immigration enforcement.

In addition to the risk that criminal aliens will reoffend and create additional victims, when jurisdictions fail to honor ICE detainers, ICE must conduct at-large operations within the community to locate these aliens. At-large enforcement actions can carry greater safety risks when compared to taking an alien into custody in the secure and controlled environment of a jail where, for example, individuals have been screened for weapons. Ultimately, a jurisdiction's decision to ignore ICE detainers increases the need for ICE's presence in communities and requires additional resources to locate and arrest removable aliens. This consumes significant investigative hours and strategic operational planning, which may or may not be successful.

The Declined Detainer Report highlights cases in which detainers have not been honored and aliens have subsequently been re-arrested or, to the best of ICE's knowledge, remain at large, demonstrating the critical public safety threat posed by non-cooperation.² Each report will focus on jurisdictions with policies that can result in the release of potentially dangerous aliens.

This iteration of the Declined Detainer Report focuses on the state of California, in which ICE recently completed three large-scale operations targeting criminal aliens at large in the community, many of whom had passed through the state's criminal justice system and were not transferred to ICE upon completion of that process.

Section I: FY 2018, Second Quarter – Detainers Issued and Declined between January 1, 2018 and March 31, 2018

- A 32-year-old citizen of Mexico was arrested on May 18, 2016 by the Santa Clara Police Department for *Driving Under the Influence* and booked into the Santa Clara County Jail. On May 19, 2016, ICE issued a detainer, but the detainer was not honored, and he was released. On December 31, 2017, he was arrested by the San Jose Police Department for *Possession of a Controlled Substance* and booked into the Santa Clara County Jail. On **January 2, 2018**, ICE issued a detainer, but the detainer was not honored, and he was released. On February 18, 2018, he was again arrested by the San Jose Police Department for *Possession of a Controlled Substance* and *Under the Influence of a Controlled Substance* and booked into the Santa Clara County Jail. On February 20, 2018, ICE issued a detainer, but it was not honored, and he was released. On April 29, 2018, he was again arrested by the San Jose Police Department for *Possession of a Controlled Substance*, *Possession of Controlled Substance Paraphernalia*, *Appropriating Lost Property*, and *False ID to a Peace Officer* and booked into the Santa Clara Jail. On April 30, 2018, ICE issued a detainer, but as of the writing of this report, believes the alien has been released and remains at large.
- A 30-year-old citizen of Mexico was arrested on January 7, 2018 by the Los Angeles Police Department for *Possession of a Controlled Substance*. On **January 7, 2018**, ICE issued a detainer, but the detainer was not honored and he was released. On February 26, 2018, he was again arrested by the Los Angeles Police Department for *Murder*, and booked into the

² In many cases, it is not possible for ICE to determine whether a detainer has been honored unless the alien is transferred to ICE custody or arrested again. While some jurisdictions do not actively inform ICE that they have declined a detainer and the alien in question is at large, ICE is often able to determine this has occurred based on the amount of time that has elapsed without notification and public records, for example. The information contained in this report is current as of February 15, 2019, and is accurate to the best of ICE's knowledge.

Los Angeles County Jail, where as of the writing of this report, he remains in custody. ICE has issued another detainer.

- A 21-year-old citizen of Mexico was arrested on January 12, 2018 by the Riverside County Sheriff's Office for *Felony in Possession of Firearm* and booked into the Robert Presley Detention Center. On **January 13, 2018**, ICE issued a detainer, but the detainer was not honored, and he was released. On April 7, 2018, he was again arrested by the Riverside County Sheriff's Office for *Carrying a Stolen Loaded Firearm* and booked into the Robert Presley Detention Center. On April 8, 2018, ICE issued a detainer and on May 3, 2018, ICE took custody of the subject from the Riverside County Sheriff's Office. On the same date, ICE physically removed him to Mexico.
- A 26-year-old citizen of Mexico was arrested on January 16, 2018 by the Oxnard Police Department for *Possessing a Firearm/Possession of Ammunition* and booked into the Ventura County Jail. On **January 17, 2018**, ICE issued a detainer, but the detainer was not honored, and she was released. On April 2, 2018, she was arrested by the Ventura County Sheriff's Office for *Burglary, Possession of a Controlled Substance, Trespass, Possession of Burglary Tools, Unlawful Possession of Paraphernalia, and Being Under the Influence of a Controlled Substance* and booked into the Ventura County Jail. On April 3, 2018, ICE issued a detainer, but it was not honored, and she was released. On October 17, 2018, she was again arrested by the Ventura County Sheriff's Office for *Burglary, Possession of Burglary Tools, Possession of a Controlled Substance, and Being Under the Influence of a Controlled Substance* and booked into the Ventura County Jail. On October 17, 2018, ICE issued a detainer, and on October 19, 2018, ICE took custody of the subject and removed her from the country.
- A 28-year-old citizen of Mexico was arrested by the San Luis Obispo County Sheriff's Office on December 8, 2017, in San Luis Obispo County for a *Probation Violation* and booked into the San Luis Obispo County Jail. On December 9, 2017, ICE issued a detainer, but the detainer was not honored, and he was released. On **January 16, 2018**, he was arrested for *Rape and Threatening Crime with Intent to Terrorize* and booked into the San Luis Obispo County Jail. On January 17, 2018, ICE issued a detainer, but the detainer was not honored, and he was again released. On January 23, 2018, he was arrested at large by ICE officers in Los Angeles, California, and was physically removed from the United States to Mexico on October 4, 2018.
- A 38-year-old citizen of Mexico was arrested on January 17, 2018, by the Los Angeles County Sheriff for *Battery on Spouse/Ex-spouse/Date/etc.* On **January 17, 2018**, ICE issued a detainer, but the detainer was not honored, and he was released. On April 14, 2018, he was again arrested by the Los Angeles County Sheriff for *Driving Under the Influence of Alcohol/Drugs* and booked into the Los Angeles County Jail. On April 14, 2018, ICE issued a detainer, but the detainer was not honored and, as of the writing of this report, believes the alien has been released and remains at large.
- A 41-year-old citizen of Honduras was arrested on January 31, 2018 by the San Francisco Police Department for *Burglary, Obstructing a Public Officer, and Appropriating Lost*

Property and booked into the San Francisco County Jail. ICE issued a detainer on **January 31, 2018**, but the detainer was not honored, and he was released. On April 4, 2018, he was again arrested by the San Francisco Police Department for *Transporting and Selling a Narcotic Controlled Substance* and booked into the San Francisco County Jail. On April 5, 2018, ICE issued a detainer, but, as of the writing of this report, believes the alien has been released and remains at-large.

- A 24-year-old citizen of El Salvador was arrested on December 13, 2017 by the Los Angeles Police Department for *Taking a Vehicle without the Owner's Consent*. On **February 5, 2018**, ICE issued a detainer, but the detainer was not honored, and he was released. On February 8, 2018, he was again arrested by the Los Angeles Police Department for *Possession of a Controlled Substance* and *Taking a Vehicle without the Owner's Consent* and booked into the Los Angeles County Jail. On April 24, 2018, ICE issued a detainer, but as of the writing of this report, believes the alien has been released and remains at large.
- A 26-year-old citizen of Mexico was arrested on February 13, 2018 by the Beverly Hills Police Department for *Burglary*, *Possession of Burglary Tools*, and *Criminal Conspiracy*, and transferred to the Los Angeles County Jail. On **February 13, 2018**, ICE issued a detainer, but the detainer was not honored, and he was released. On April 13, 2018, he was arrested by the Newton Police Department for Attempted Murder. On April 14, 2018, ICE issued a detainer, but believes the alien was released and remains at large.
- A 35-year-old citizen of Mexico, who was previously removed by ICE on March 3, 2009, was arrested on February 17, 2018 by the San Jose Police Department for *Larceny* and booked into the Santa Clara County Jail. On **February 20, 2018**, ICE issued a detainer, but the detainer was not honored, and he was released. On April 1, 2018, he was again arrested by the San Jose Police Department for *Accessory Before the Fact (Larceny)* and booked into the Santa Clara County Jail. On April 3, 2018, ICE issued a detainer, but the detainer was not honored, and he was again released. On April 6, 2018, he was again arrested by the San Jose Police Department for *Carrying a Concealed Dirk or Dagger* and booked into the Santa Clara County Jail. He was released before a detainer could be issued, and as of the writing of this report, ICE believes the alien has been released and remains at large.
- A 23-year-old citizen of Honduras was arrested on February 20, 2018 by the San Francisco Police Department for *Receiving Known Stolen Property*, *False Identification to Specific Peace Officers*, *Possession of Burglary Tools*, and *Vehicle Theft* and booked into the San Francisco County Jail. On **February 20, 2018**, ICE issued a detainer, but the detainer was not honored, and he was released. On April 18, 2018, he was again arrested by the San Francisco Police Department on an outstanding warrant for *Second Degree Burglary*, *Possession of Burglary Tools*, *Possession of Controlled Substance*, and *Vehicle Theft* and booked into the San Francisco County Jail. On April 18, 2018, ICE issued a detainer, but the detainer was not honored. On April 30, 2018, he was again arrested by the San Francisco Police Department for *Burglary*, *Possession of Unlawful Paraphernalia* and *Possession of Burglary Tools* and booked into the San Francisco County Jail. On May 1, 2018, ICE issued a detainer, but the detainer was not honored. On August 10, 2018, he was again arrested by the San Francisco Police Department for *Operating a Bike on a Roadway*, *Bike Headlight Violation* and *Taking a Vehicle without Owner's Consent* and booked into the San Francisco

County Jail. On August 11, 2018, ICE issued a detainer, but the detainer was not honored. On September 14, 2018, he was again arrested by the San Francisco Police Department for *Trespassing, Possession of Unlawful Paraphernalia, Local Ordinance Violation* and *Taking a Vehicle without Owner's Consent* and booked into the San Francisco County Jail. On September 14, ICE issued a detainer, but the detainer was not honored. On September 28, 2018, he was again arrested by the San Francisco Police Department for *Possession of a Stolen Vehicle, Taking a Vehicle without Owner's Consent* (three counts), *Evade a Peace Officer, Vehicle Theft* and *Driving without a License* and booked into the San Francisco County Jail. On September 28, 2018, ICE issued a detainer, but the detainer was not honored. On November 16, 2018, he was again arrested by the San Francisco Police Department for *Taking a Vehicle without Owner's Consent* (two counts) and *Burglary in the Second Degree* and booked into the San Francisco County Jail. On November 16, 2018, ICE issued a detainer, but the detainer was not honored. On December 10, 2018, he was again arrested by the San Francisco Police Department for *Taking a Vehicle without Consent* (two counts) and *Burglary in the Second Degree* and booked into the San Francisco County Jail. On December 10, 2018, ICE issued a detainer, but the detainer was not honored. On January 3, 2019, he was again arrested by the San Francisco Police Department for *Possession of Burglary Tools* and *Tampering with a Vehicle* and booked into the San Francisco County Jail. On January 3, 2019, ICE issued a detainer, but the detainer was not honored. On January 21, 2019, he was again arrested by the San Francisco Police Department for *Burglary in the First Degree, Possession of Burglary Tools* (two counts), *Taking a Vehicle without Consent* (two counts), *Burglary in the Second Degree* and booked into the San Francisco County Jail. On January 21, 2019, ICE issued another detainer, but as of the writing of this report, believes the alien has been released and remains at large.

- A 32-year-old citizen of Mexico, who was previously removed by ICE on June 3, 2009, was arrested on December 28, 2017, by the Monterey County Sheriff's Office for *Shoplifting*, and booked into the Monterey County Jail. On December 29, 2017, ICE issued a detainer, but the detainer was not honored, and he was released. On **February 25, 2018**, he was again arrested for *Burglary* and *Possession of Unlawful Paraphernalia* and booked into the Monterey County Jail. On February 26, 2018, ICE issued a detainer, but it was not honored, and he was released. On November 26, 2018, he was again arrested for *Inflict Corporal Injury on Spouse, Violation of Probation*, and *Shoplifting*, and booked into the Monterey County Jail. On November 27, 2018, ICE issued a detainer, but as of the writing of this report, believes the alien has been released and remains at large.
- A 26-year-old citizen of Mexico was arrested on March 1, 2018, by the San Jose Police Department (SJPd) for *Vehicle Theft* and booked into the Santa Clara County Jail. On **March 1, 2018**, ICE issued a detainer, but the detainer was not honored, and on March 2, 2018, he was released. On April 6, 2018, he was again arrested by the SJPd for *Possession of a Controlled Substance* and *Possession of Burglary Tools* and booked into the Santa Clara County Jail. On April 7, 2018, ICE issued a detainer, but the detainer was not honored, and he was released. On April 30, 2018, he was again arrested by the SJPd for *Vehicle Theft, Possession of Controlled Substance Paraphernalia*, and *Possession of Burglary Tools* and booked into the Santa Clara County Jail. On May 1, 2018, ICE issued a detainer, but the detainer was not honored, and he was released. On January 11, 2019, he was again arrested by the SJPd for *Possession of a Controlled Substance without a*

Prescription. On January 16, 2019, ICE issued a detainer, but the detainer was not honored and, as of the writing of this report, believes the alien has been released and remains at large.

- A 25-year-old citizen of Mexico was arrested on March 11, 2018 by the Ventura County Sheriff's Office for *Driving Under the Influence of Alcohol* and booked into the Ventura County Jail. On **March 11, 2018**, ICE issued a detainer, but the detainer was not honored, and he was released. On April 2, 2018, he was again arrested by the Ventura County Sheriff's Office for *Driving Under the Influence of Alcohol* and booked into the Ventura County Jail. On April 3, 2018, ICE issued a detainer, but the detainer was not honored, and he was released. On September 1, 2018, he was arrested for *Driving Under the Influence of Alcohol* and was booked into the Ventura County Jail. On September 1, 2018, ICE issued a detainer, but as of the writing of this report, believes the alien has been released and is at large.
- A 23-year-old citizen of Mexico was arrested on March 29, 2018 by the Santa Cruz County Sheriff's Office for *Inflicting Corporal Injury on a Spouse* and booked into the Santa Cruz County Jail. On **March 29, 2018**, ICE issued a detainer, but the detainer was not honored, and he was released. On April 11, 2018, he was again arrested for *Inflicting Corporal Injury on a Spouse* and booked into the Santa Cruz County Jail. On April 11, 2018, ICE issued a detainer, but the detainer was not honored, and he was released. On January 16, 2019, he was arrested for *Driving Under the Influence of Alcohol* and *Assault with a Deadly Weapon* and booked into the Santa Cruz County Jail. On January 16, 2019, ICE issued a detainer, but as of the writing of this report, believes the alien has been released and remains at large.
- A 26-year-old citizen of Mexico was arrested on November 9, 2016 by the San Jose Police Department (SJPd) for *Receiving Known Stolen Property* and *Carrying a Concealed Dirk or Dagger* and booked into the Santa Clara County Jail. On November 10, 2016, ICE issued a detainer, but the detainer was not honored, and he was released. On January 25, 2017, he was again arrested by the SJPd for *Trespassing* and *Obstructing a Police Officer* and booked into the Santa Clara County Jail. On January 26, 2017, ICE issued a detainer, but on March 26, 2017, he was again released without providing ICE the opportunity to assume custody. On April 16, 2017, he was arrested by the SJPd for *Possession of Burglary Tools* and booked into the Santa Clara County Jail. On April 18, 2017, ICE issued a detainer, but on August 28, 2017, it was not honored, and he was released. On March 1, 2018, he was again arrested by the SJPd for *Vehicle Theft* and booked into the Santa Clara County Jail. On **March 1, 2018**, ICE issued another detainer, but on March 2, 2018, he was released. On April 6, 2018, he was again arrested by the SJPd for *Possession of a Controlled Substance* and *Possession of Burglary Tools* and booked into the Santa Clara County Jail. On April 7, 2018, ICE issued a detainer, but the detainer was not honored, and he was released. On April 30, 2018, he was again arrested by the SJPd for *Vehicle Theft*, *Possession of Controlled Substance Paraphernalia*, and *Possession of Burglary Tools*, and booked into the Santa Clara County Jail. On May 1, 2018, ICE issued a detainer, but it was not honored, and he was released. On January 11, 2019, he was again arrested by the SJPd for *Possession of a Controlled Substance without a Prescription* and booked into the Santa Clara County Jail. On January 16, 2019, ICE issued another detainer, but as of the writing of this report, believes the alien has been released and remains at large.

Section II: Frequently Asked Questions

What is a detainer?

ICE issues detainers to federal, state, and local law enforcement agencies to provide notice of its intent to assume custody of a removable alien detained in federal, state, or local custody. A detainer requests that the law enforcement agency notify ICE as early as practicable—at least 48 hours, if possible—before a removable alien is released from criminal custody and maintain custody of the alien for a period not to exceed 48 hours beyond the time when he/she would otherwise have been released from custody, to allow ICE to assume custody for removal purposes. ICE places detainers on individuals whom it has probable cause to believe are removable aliens in federal, state, and local law enforcement agency custody.

What is a declined detainer?

When law enforcement agencies fail to honor detainers and release aliens who have been arrested into the community, they have declined an ICE detainer. This undermines public safety and ICE's ability to carry out its mission. Federal law authorizes the Department of Homeland Security to issue detainers and provides ICE broad authority to detain removable aliens.

How is an individual placed under a detainer?

When an individual is booked into custody by a law enforcement agency, his or her biometric data is automatically routed through federal databases to the FBI, which shares this information with ICE. ICE lodges detainers with law enforcement agencies only when it has probable cause to believe the individual in question is a removable alien.

What is ICE's overall mission, and why does ICE want detainers honored?

ICE is committed to using its unique enforcement authorities to promote national security, uphold public safety, and preserve the integrity of our immigration system. The use of detainers is a lawful, efficient, and safe means to carry out ICE's mission. When jurisdictions fail to honor an ICE detainer, it risks both public and officer safety, and misuses limited resources.

In particular, declined detainers result in the following:

- When aliens who have been arrested for criminal activity are released into the community, they have the opportunity to reoffend.
- When aliens who otherwise would have been transferred in a controlled and secure manner directly from state or local custody into ICE custody for removal proceedings or removal purposes, are instead released back into the community, ICE officers must identify, locate, and arrest them at-large, increasing the risks to all involved.
- Declined detainers also create operational inefficiency, because after the alien has been released from state or local custody, attempting to take the alien into federal custody typically requires ICE to operate in multi-officer Fugitive Operations teams. This entails a greater expenditure of time, effort, funds, and manpower relative to what is necessary to take custody of an alien directly from state or local detention.

Why do some jurisdictions ignore detainers?

In some cases, state or local laws, ordinances, or policies restrict or prohibit cooperation with ICE. In other cases, jurisdictions willfully decline to honor ICE detainers and refuse to even provide timely notification to ICE of an alien's release from criminal custody. The results in all cases are the same: Aliens who have been arrested for criminal activity are released into the community where they may potentially reoffend and harm members of the public.

Why can't ICE obtain a judicial warrant to take custody of an alien?

There is no authority or legal mechanism for a judge or magistrate to issue a criminal warrant for an administrative immigration arrest. Sanctuary policies fail to recognize federal jurisdiction to enforce immigration law, as mandated by Congress.

Why should the public care if jurisdictions do not observe ICE detainers?

If jurisdictions do not honor ICE detainers, aliens who have previously been arrested for criminal activity are released into the community where they can commit additional crimes and are subject to at-large arrests. With this report, ICE is highlighting recent cases where detainers have been declined and aliens have reoffended or, to the best of ICE's knowledge, remain at large, demonstrating the critical public safety threat posed by non-cooperation.

Why is the public safer when jurisdictions honor ICE detainers?

When aliens who have been arrested for criminal activity are released from local or state custody, they have the opportunity to reoffend. There are also risks involved when arresting potentially dangerous criminal aliens at-large in the community. It takes careful planning and extensive resources to mitigate those risks and make a safe apprehension in a community setting. Risk is reduced for the community, law enforcement officials, and the removable alien if ICE is able to take custody of the alien in the controlled environment of another law enforcement agency, as opposed to arresting an alien at his/her reported residence, place of work, or other public area. Further, due in large part to limited resources, ICE is only able to locate and arrest a small percentage of criminal aliens released from state and local custody. As a result, most of these aliens will remain at large in the community.

Does ICE still work with jurisdictions that do not observe detainers on other law enforcement actions?

Yes. ICE is committed to maintaining and strengthening its relationships with state and local law enforcement. ICE continues to collaborate with its law enforcement partners to help ensure—to the greatest extent possible—that removable aliens who may pose a safety threat are not released into the community to reoffend.

Is this report inclusive of all declined detainers?

No. ICE is publishing recent cases where detainers have been declined and aliens have reoffended to demonstrate the significant threat to public safety posed by declined detainers. Each quarterly report will focus on significant public safety concerns in jurisdictions with policies resulting in the release of dangerous aliens.