

FAQ San Diego Class-Action Complaint and Habeas Petition

CILP and CHRCL have filed a class-action lawsuit to seek protections for immigrants in ongoing immigration court proceedings who have been previously released from Department of Homeland Security (DHS) custody and are now facing re-detentions by Immigration and Customs Enforcement (ICE) during requested check-ins, a tactic that has increased in practice in San Diego.

What is the basis of the lawsuit?

Re-detentions of people at their ICE check-ins violate the Due Process Clause of the U.S. Constitution's Fifth Amendment, the Immigration and Nationality Act, and the Administrative Procedure Act because people were not afforded hearings prior to their re-detention to determine whether any changes in circumstances justify their loss of liberty and detention. This is particularly important because DHS previously determined these individuals did not pose a flight risk and pose a danger to the community, and none of them have had subsequent criminal contact or any other changed circumstances to justify their re-detention. Their abrupt re-detention is therefore not based on any new facts and is plainly unlawful.

What does the lawsuit seek?

The immediate release of the named petitioners, who are in ongoing immigration court proceedings and who DHS previously released but then abruptly re-detained without pre-detention hearings. We also seek an end to the unlawful policy of re-detaining individuals under these circumstances. The administration's drive to deport millions increasingly relies on lawless policies that deny basic due process to individuals, many of whom have lived in the U.S. for decades and are members of our communities.

Why are you filing a class-action Habeas and not just individual requests for release?

We filed this as a class-action because ICE is aggressively detaining individuals. We estimate that likely dozens of individuals with ongoing court proceedings have been subject to check-in arrests in San Diego in recent weeks. This unwritten ICE policy is broad, and people are being

detained without any individual assessment of their situation, let alone hearing to challenge such an assessment. These individuals are not subject to expedited removal, and they have all been previously released by DHS.

How is this lawsuit different from others filed in San Diego, Washington and elsewhere?

This federal lawsuit seeks the release of three named petitioners in ongoing immigration court proceedings who were previously released by DHS, re-detained at their check-in with ICE and are currently detained in federal custody. It also asks the court to certify a class of individuals who have similarly been re-detained in San Diego without an individualized determination of flight risk or danger, declare their detentions unlawful, and set aside ICE's re-detention practice. Other lawsuits, such as one filed in San Diego, are specifically related to preventing ICE from detaining asylum seekers and others when they show up for court, while this one challenges ICE's practice of re-detaining at ICE check-ins people who DHS has previously released from custody.

Both cases, shed light on a larger Trump administration strategy to carry out mass deportations without regard to rules or due process.

This lawsuit focuses on the release of individuals in ongoing immigration court proceedings who were previously detained and then determined to pose no flight risk or danger to the community. Their current detention violates due process because there is no new individual assessment that would support the abrupt decision to arrest them at the check in with ICE at 880 Front Street in San Diego, and they were not given a hearing to determine this prior to their re-detention. It violates federal laws for similar reasons.

Are these individuals detained outside the court or elsewhere?

The individuals who are part of the class are immigrants detained at ICE's offices on the second floor of 880 Front Street—the same building that houses the San Diego Immigration Court on the fourth floor. While ICE previously targeted individuals outside the immigration courtrooms on the fourth floor of 880 Front Street, it shifted its practices following public outcry and orders in other lawsuits. ICE is still targeting individuals who are complying with everything the government asks of them, but it is now doing so by summoning them to "check-in" appointments at which it detains them for no reason and away from the public eye.

Where are the individuals held after they are detained?

The individuals detained during their check-ins are initially detained at a basement facility in the federal building that is not equipped to hold individuals long-term and is not included in the online detainee locator. That means attorneys and families may not be able to track down their clients or loved ones, and detained individuals are often unable to make phone calls to their families or lawyers. Moreover, those detained in the basement are forced to endure inhumane conditions, including cold temperatures, constant fluorescent lighting, and lack of access to edible food, medical care, and private bathrooms. Many individuals detained in the basement are eventually transferred to Otay Mesa, a federal detention center in San Diego.

Why does this case matter?

The Trump administration's vow to carry out mass deportations has led to immigrants being subjected to racial profiling and other due process violations. This lawsuit follows a shift in federal enforcement that now targets immigrants who were previously determined to pose no safety or flight risk and have been compliant with their immigration court proceedings. These individuals are called in to a check-in appointment with ICE and then detained. The new tactics come after ICE faced growing public outcry and legal challenges to courthouse arrests. This lawsuit is a response to the progression in detention strategies. According to AP, "Since May 15, when courthouse sweeps began, migrants have filed more than 3,000 habeas corpus petitions — to determine if someone is lawfully held in custody — seeking release."

What makes these arrests different from the arrests happening outside the courthouse?

These are immigrants that have already been released from detention and deemed safe and are now being apprehended and detained through a nefarious practice dressed as a check in that is more accurately an appointment for re-apprehension. This practice underscores new tactics by immigration enforcement to arrest immigrants without regard to due process.

Who are the petitioners?

The class is comprised of individuals who were previously released by DHS, are in ongoing immigration court proceedings, received a notice to check in with ICE, and were then re-

detained without a hearing to determine whether they pose a danger or flight risk. The three named plaintiffs are detained at Otay Mesa.

What is notable about this occurring in San Diego?

According to media reports, “San Diego ranks 47th in terms of pending cases, it ranks fourth in terms of the number of detentions.” The gap in rank highlights a pattern of ramped up arrests and detentions that outpace other major cities. This is also happening at an unprecedented scale in San Diego. The [New York Times reported](#) that in a two-week period in October, it documented over 120 people arrested at check-ins on the second floor of the federal building in downtown San Diego.