UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

C.F.C.,[1] individually and on behalf of those similarly situated; S.C.C., individually and on behalf of those similarly situated; WECOUNT!, INC., a Florida not for profit corporation; FLORIDA IMMIGRANT COALITION, INC., a Florida not for profit corporation, Plaintiffs, vs. MIAMI-DADE COUNTY, FLORIDA; and the MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT, Defendants.	Civil Action No. 1:18cv22956 Class Complaint **JURY TRIAL DEMANDED**

CLASS ACTION COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, AND MONEY DAMAGES

Plaintiffs C.F.C. and S.C.C., individually and as representatives of a class of similarly situated persons, WeCount!, Inc. ("WeCount!") and Florida Immigrant Coalition, Inc. ("FLIC"), on behalf of their members and their organizations as a whole, through undersigned counsel, sue Defendants Miami-Dade County, Florida, and the Miami-Dade Corrections and Rehabilitation Department, and state the following:

INTRODUCTION

1. This case challenges the legality of Miami-Dade County's policy and practice of arresting people based on a detainer request issued by U.S. Immigration Customs and Enforcement ("ICE"). Under this policy and practice, Defendants jail people for 48 hours or more, even though

[1] Plaintiffs have filed a Motion for Leave to Proceed Using Their Initials contemporaneously with this Class Action Complaint.

all criminal charges against these persons have been dismissed, or they have been acquitted, ordered released, or have served their sentences. This policy and practice violates the Fourth and Fourteenth Amendments of the U.S. Constitution as well as Florida law.

2. Defendants began unlawfully arresting people for ICE in response to President Donald Trump's January 25, 2017 Executive Order 13768. The Mayor of Miami-Dade County interpreted the Executive Order as threatening to withhold federal funds from states, counties, and cities that failed to comply with the Administration's immigration agenda. Notwithstanding explicit county policy prohibiting county officials from honoring ICE detainers, the Mayor of Miami-Dade County instructed the Miami-Dade Department of Corrections to comply with all ICE detainer requests in a memorandum issued on January 26, 2017.

3. On February 17, 2017, the Miami-Dade County Commission held a special meeting to address the issue and adopted a resolution ratifying the directive. Concerned community members packed the chambers and raised concerns about the legality of the policy as well as the devastating harm it would cause to immigrant families.

4. A series of court decisions and statements from the Trump Administration clarified that the January 25, 2017 Executive Order would not result in the wholesale withholding of federal funds to localities that declined to arrest people on ICE detainer requests.

5. In spite of the fact that the County's federal funding was not at risk, Defendants have continued to arrest people at the request of ICE.

6. Miami-Dade County and the Miami-Dade Department of Corrections do not have independent authority to arrest individuals without a judicial warrant or probable cause that an individual has committed a crime. Because ICE detainer requests are neither judicial warrants nor

supported by probable cause that an individual has committed a crime, honoring ICE detainer requests violates an individual's Fourth and Fourteenth Amendment rights, as well as Florida law.

7. These ICE-requested detentions are new arrests. When a state or local law enforcement officer arrests an individual, he or she must have (1) the authority to do so under state and federal law, and (2) the arrest must comport with the Fourth and Fourteenth Amendments to the United States Constitution. To comply with the Fourth and Fourteenth Amendments, a seizure must be pursuant to a warrant based on probable cause, issued by a neutral magistrate or, otherwise, must fall under an exception to the warrant requirement. ICE detainer requests are not warrants supported by probable cause, are not issued by neutral magistrates, and do not fall under any exception.

8. The Defendants' actions have resulted in harm to the Plaintiffs and to the communities that Defendants are supposed to protect. Miami-Dade County's compliance with ICE detainers—rather than preserving its due allocation of federal dollars—has actually cost Miami-Dade millions of dollars in uncompensated costs for detaining people past the time they otherwise would have been released. Compliance with ICE detainers has also endangered public safety by eroding the trust between the community and law enforcement.

9. Individuals arrested on allegations of a wide range of charges, even while presumed innocent, are subject to Defendants' policy and practice. Among the charges are various offenses related to driving without a license or driving with a suspended license. Undocumented immigrants in Florida are unable to obtain or renew previously issued driver's licenses, yet poor transportation infrastructure in South Florida virtually requires one to drive in order to carry out basic life sustaining tasks.

10. As a result of Defendants' actions, parents have been, and continue to be, ripped apart from their children, and immigrant residents of Miami-Dade County, including those with DACA and Temporary Protected Status, live in fear of interactions with local law enforcement.

11. Plaintiffs seek to stop the Defendants' unlawful, unnecessary, and harmful actions, and seek pecuniary damages.

JURISDICTION AND VENUE

12. The Court has jurisdiction under 28 U.S.C. §§ 1331, 1343, 1367, and 2201–02. The Court has further remedial authority under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq. The Court has equitable power to enjoin enforcement of state or local law that conflicts with federal law. *See Ex Parte Young*, 209 U.S. 123, 155–56 (1908).

13. Venue is proper in the Southern District of Florida, because Plaintiffs reside in this judicial district and a substantial part of the events or omissions giving rise to this action occurred or will occur in this District and this division of the District. 28 U.S.C. § 1391(b)(2).

PARTIES

14. Plaintiff S.C.C. has been a resident of unincorporated Miami-Dade County, Florida for over a decade. S.C.C. was arrested on June 6, 2018 and on July 20, 2018, $2 bail was paid on behalf of S.C.C. Rather than release S.C.C., Defendants unlawfully re-arrested him pursuant to the ICE detainer. He remains in MDCR custody as of the filing of this action.

15. Plaintiff C.F.C. is a resident of Miami-Dade County. She is a member of WeCount! and a local business owner. C.F.C. was arrested on May 12, 2018 and posted bond that same day. Instead of releasing her, Defendants unlawfully re-arrested her pursuant to an ICE detainer. After this unlawful re-arrest by Defendants, C.F.C. was detained by ICE. As a result, C.F.C. missed the birth of her grandchild and remains in immigration detention.

16. Plaintiff WeCount! is a community-based, non-profit organization with a membership comprised of Florida residents. The mission of WeCount! is to build the power of the immigrant community of Homestead through education, support, and collective action.

17. Plaintiff Florida Immigrant Coalition (FLIC) is a non-profit statewide coalition of more than 65 member organizations and over 100 allies. Their mission is to grow the connection, capacity, and consciousness of immigrant families, organizations and communities.

18. Defendant Miami-Dade County is a political subdivision of the State of Florida that can be sued in its own name. Miami-Dade County is responsible for the acts of Miami-Dade Corrections and Rehabilitation Department ("MDCR"), an administrative department of Miami-Dade County. Defendants Miami-Dade County and MDCR are sued in their official capacities and are "persons" liable for monetary damages pursuant to 42 U.S.C. § 1983. *See Monell v. Dep't of Social Servs. of City of New York*, 436 U.S. 658, 690 (1978).

FACTUAL ALLEGATIONS

A. Federal and State Immigration Authority Under the INA

19. The power to regulate immigration lies exclusively with the federal government. Federal immigration policy is codified in the Immigration and Nationality Act ("INA").

20. The INA strictly limits when a state or local official can arrest and detain individuals for civil immigration purposes. Section 287(g) of the INA allows local law enforcement officers to perform immigration enforcement functions pursuant to a written agreement and only after the officers meet stringent criteria including, but not limited to, adequate training on federal immigration enforcement. *See* 8 U.S.C. § 1357(g)(2)–(6). To the extent a local law enforcement officer cooperates with federal authorities, it must do so under the direct supervision of the Department of Homeland Security ("DHS"). *See* 8 U.S.C. § 1357(g)(3).

21. The INA does not require local jurisdictions to ask about an arrestee's immigration status, enforce federal immigration law, or otherwise require local law enforcement agencies ("LLEA") to enter into joint agreements under 8 US.C. § 1357(g). Nor does the INA require LLEAs to collect, maintain, or report information regarding the immigration status of individuals or arrestees.

B. Use of Immigration Detainers in Policy and Practice

22. When an LLEA arrests a person and books him or her in a local jail, his or her fingerprints and booking information are matched with ICE's and other databases in real time. ICE detainers are issued in reliance on these database matches.

23. These databases are unreliable and can lead to false positives. A recent National Public Radio study showed that, from 2007 to 2015, 693 American citizens were improperly held in local jails on federal detainers. *See* Eyder Peralta, *You Say You're an American, but What if You Had to Prove It or Be Deported?*, NPR.org, *available at* https://www.npr.org/sections/thetwo-way/2016/12/22/504031635/you-say-you-re-an-american-but-what-if-you-had-to-prove-it-or-be-deported#foot1.

24. Defendants' own records of individuals in their custody on ICE detainers list several individuals as citizens of the United States.

25. An immigration "detainer" is merely a ***request*** that the DHS issues to an LLEA to re-arrest an individual in the LLEA's custody after that individual is otherwise entitled to release.

26. Defendants are not required to comply with ICE detainers.

27. The form used by immigration authorities to lodge an ICE detainer is called a "Department of Homeland Security (DHS) Request for Voluntary Transfer." *See* Form I-247A; *see also ICE Policy Number 10074.2: Issuance of Immigration Detainers by ICE Immigration Officers* (March 24, 2017), *available at* https://www.ice.gov/–sites/–default/–

files/documents/Document/2017/10074-2.pdf (hereinafter "ICE Policy 10074.2"). The form allows the ICE agent to request that the LLEA hold the individual for a period up to 48 hours—excluding Saturdays, Sundays, and holidays—"beyond the time when the subject would have otherwise been released from [LLEA] custody." 8 C.F.R. § 287.7(d).

28. Unlike a warrant for criminal arrest, the Form I-247A is not supported by any probable cause determination by a detached and neutral judicial officer. Nor is it supported by a sworn, particularized showing of probable cause that the subject is a noncitizen and removable under federal immigration law.

29. Instead, an ICE detainer is a fill-in-the-blank form issued by a rank-and-file immigration enforcement officer with check-boxes listing generic potential sources of information, which indicates that the individual is removable from the United States.

30. According to ICE's policy, any request for a detainer must be supported by "probable cause" deriving from one of the following four sources: (1) a final order of removal, (2) pendency of ongoing removal proceedings, (3) biometric confirmation of the alien's identity and a records match in federal databases that indicate either by themselves or in addition to other information that the alien lacks lawful immigration status or is removable, or (4) statements made voluntarily by the alien to ICE immigration officers that indicate the same. *See* ICE Policy 10074.2, § 5.1.

31. Section 287(d) of the INA, which codified the limited use of detainers in 1985, is the only section that refers to "detainers." It provides that, in the event of a controlled substances arrest, the arresting agency may request immigration officials to issue a detainer. This provision—the sole reference to "detainers" in the INA—does not give LLEAs the power to arrest.

32. Prior to that codification, the common practice was for LLEAs to use detainers only to *notify* federal authorities of an anticipated release. The detainer forms at the time specifically stated that they were "for notification purposes only" and simply alerted federal officials that if they wanted to take an individual into custody to pursue deportation, they had to immediately do so. The historically-codified use of detainers was nothing like the current practice of ICE officials requesting that LLEAs physically retain custody of an individual past the time that they would otherwise be entitled to release.

C. Administrative Warrants

33. In March 2017, ICE announced a policy directive with a new version of the detainer form and instructions for using it. The directive requires that ICE attach an "administrative warrant" with its detainers that is signed by an ICE officer that affirms probable cause of an individual's removability.

34. This new procedure was an empty advancement. Administrative warrants, like the detainers themselves, are issued and approved by *immigration enforcement officials*. As a result, they suffer from the same infirmities as detainers; namely, the administrative warrants are not reviewed by a neutral magistrate to determine if they are based on probable cause. Furthermore, administrative warrants are directed to immigration officers empowered to make arrests for civil immigration offenses, not local law enforcement such as Defendant MDCR. The administrative warrants do not provide evidence of suspicion that the individual at issue has committed a new criminal offense for which he or she could be lawfully detained in custody.

D. Miami-Dade County's Immigrant Past, Present, and Future

35. Miami-Dade is an international hub that owes its economic and cultural vibrancy to the on-going infusion of immigrants. Various waves of refugees and immigrants throughout the twentieth and twenty-first centuries have laid the foundation for a city unlike any other in the

United States. Today, South Florida thrives as it does—in agriculture, architecture, entrepreneurship, arts, music, cuisine, tourism, and more—because of its immigrant population.

36. Indeed, Miami's immigrants drive economic growth and revitalization in the area. According to a report by Florida International University's Research Institute on Social and Economic Policy, undocumented immigrants contribute $437 million in local and state taxes to South Florida's economy. *See* Ali R. Bustamante, *Considering Tax Contributions from Undocumented Immigrants in Florida,* FIU Center for Labor Research & Studies (Feb. 2017), *available at* https://risep.fiu.edu/press-room/2017/risep-2017-undocumented-immigrant-tax-contributions/risep-2017-undocumented-immigrant-tax-contributions.pdf. The same study also found that immigration enhances productivity, economic output, and innovation. *Id.*

E. Miami-Dade County's 2013 Resolution and Non-Compliance with Detainer Requests

37. In recognition of the importance of the immigrant community to Miami-Dade County, the impact of detainers on children and families, the need for trust between communities and law enforcement, and the extraordinary cost to taxpayers to honor ICE detainer requests, Miami-Dade commissioners voted in 2013 to limit its response to ICE detainer requests. The effect of the resolution was to stop entirely the practice of arresting people upon request by ICE. *See* Miami-Dade Cty. Bd. of Comm'rs, Resolution 1008-13 (Dec. 3, 2013), *available at* http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2013/132196.pdf.

38. Plaintiffs WeCount! and FLIC invested significant resources and staff time advocating for this change in 2013.

39. The Resolution became effective on December 13, 2013. *Id.* at 6; *see also* Miami-Dade Home Rule Charter § 2.02(D) (providing the Mayor a ten-day veto period over "any legislative . . . decision of the Commission").

40. Defendant MDCR—the department responsible for the County's jails—stopped holding individuals pursuant to ICE detainer requests in January 2014.

41. The Board of County Commissioners ratified its position again in 2016 when it unanimously resolved to oppose statewide legislation that would require ICE detainers to be honored. *See* Miami-Dade Cty. Bd. of Comm'rs, Resolution 77-16 (Jan. 20, 2016), *available at* http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2015/153028min.pdf. The resolution recognized that since the County Commission adopted the County's detainer policy in 2013, "the taxpayers of Miami-Dade County have saved hundreds of thousands of dollars in costs that are unreimbursed by the federal government associated with honoring ICE detainer requests." *Id.* at 4.

42. The Board's 2013 resolution also recognized that federal courts across the United States "have found that local law enforcement agencies that detain individuals on the sole authority of a detainer request violate the Fourth Amendment of the U.S. Constitution, exposing such agencies to legal liability unless there has been an independent finding of probable cause to justify detention." *Id*. The Board noted that "a judge is not required to review or approve an immigration detainer," and that a detainer "may be issued by a single Immigration[] and Customs Enforcement officer when there are no immigration proceedings pending." *Id*. at 6. This process, the Board recognized, "does not meet the U.S. Constitution's minimum standard for authorizing detention after an inmate is scheduled to be released." *Id*. The Board thus opposed "legislation that would preempt policies set by th[e] Board related to immigration detainer requests." *Id*. at 8.

43. For more than three years, MDCR dutifully followed the 2013 detainer policy enacted by the Board of County Commissioners.

F. Mayor Gimenez's 2017 Directive

44. Despite the positive impact of the County's prior policy, Miami-Dade has now changed its tune. In 2017, it began arresting people at the behest of ICE, separating them from their families, and inflicting hardship on valuable members of the Miami-Dade community. On January 26, 2017, while other localities around the country filed suit in the wake of Executive Order 13768, Miami-Dade Mayor Carlos A. Gimenez issued a directive aimed at reversing Miami-Dade's 2013 policy and instructed the Miami-Dade Department of Corrections and Rehabilitation to "honor all immigration detainer requests." *See* Memorandum from Miami-Dade Mayor Carlos Giménez to Daniel Junior, Interim Director of Corrections and Rehabilitation, January 26, 2017, attached as Exhibit B.

45. The Mayor's directive was not preceded by any public notice or opportunity for debate. Nor did it make any mention of the Board of County Commissioners' prior resolution to limit MDCR's authority to re-arrest people pursuant to ICE detainers.

46. At a special meeting on February 17, 2017, the Miami-Dade Board of County Commissioners amended its 2013 resolution and ratified the Mayor's directive. The amended resolution directed the Mayor "to ensure that, related to immigration detainer requests, Miami-Dade County . . . is cooperating with the federal government to the extent permissible by law." Miami-Dade Cty. Bd. of Comm'rs, Resolution 163-17 (Feb. 17, 2017), attached as Exhibit C.

47. Since January 26, 2017, MDCR has maintained a practice of re-arresting individuals pursuant to the Board's resolution after the time they would otherwise be released on the sole basis that the person is the subject of an ICE detainer request.

48. In the first year of implementation alone, MDCR officials processed and re-arrested at least 882 individuals with ICE detainers. At the end of that first year, an additional 219 individuals remained in local custody awaiting their 48-hour hold period. *See* Miami-Dade County

Jail Population Statistics, ICE (Hold for Immigration) Report, Detainers Received Between 01/27/2017 to 2/02/2018.

49. The County's detainer policy has resulted in exorbitant detention costs, borne by County taxpayers. Compliance with all ICE detainer requests may cost the Defendants—and thereby the citizens of Miami-Dade County—as much as $13 million per year, enough to fully fund vital public programs. *See The Cost of Complicity* (February 2018), attached as Exhibit D. at 7, 10.

50. Not only is the County's detainer policy costly, but courts have found that Executive Order 13768—the impetus for adopting a new detainer policy—is unlawful. A California federal court has issued a permanent nationwide injunction against enforcement of Executive Order 13768, prohibiting the Department of Justice from withholding federal funds from jurisdictions it designates as "sanctuary." *Cnty. of Santa Clara v. Trump*, 275 F. Supp. 3d 1196, 1202, 1212–13 (N.D. Cal. 2017). And just recently, in April 2018, a three-judge appellate panel in Chicago similarly upheld a nationwide injunction against making federal grant funding contingent on cooperation with immigration enforcement. *City of Chicago v. Sessions*, 888 F.3d 272 (7th Cir. 2018). Thus, the Defendants' actions were not only unnecessary and costly, but also illegal.

51. Further, as of January 5, 2018, the Miami Herald reported that the Trump Administration's promises of "more money for crime fighting" that was supposed to come to Miami-Dade County as a reward for honoring ICE detainers has not materialized. *See* Douglas Hanks, *A year after obeying Trump on immigration, Miami-Dade still waiting for a windfall* (Jan. 5, 2018), *available at http*://www.miamiherald.com/news/local/community/miami-dade/article193110964.html. By contrast, the City of Chicago, like most others with sizable immigrant histories and populations, has refused to honor the ICE detainers. The City of Chicago

is suing the Trump administration over the very threat to withhold federal funds for "sanctuary cities" that spurred Miami-Dade County to change its detainer policy. Nevertheless, Chicago has received the same $3 million police grant from the Department of Justice that Miami-Dade did. *See id*.

G. Miami-Dade's Current Detainer Practice and its Widespread Negative Impact

52. Once Miami-Dade correctional officials are alerted of a detainer request issued by ICE, the detained person's jail card is marked with the phrase "immigration hold" or "immigration detainer."

53. MDCR officers announce in open court when people in their custody are subject to ICE detainers.

54. According to Jail Population Statistics produced by the Miami-Dade Corrections and Rehabilitation Department, 882 people in 2017 and 219 in 2018 (as of 02/02/2018) were re-arrested pursuant to an ICE detainer. That is nearly 1,000 individuals re-arrested pursuant to unlawful ICE detainers in a single year. Further, of the 882 people that were held previously, records indicate that 382 were ultimately released to the public, while 500 were released directly to ICE.

55. From the moment that an individual's jail card is marked to indicate an ICE detainer, MDCR treats the detained person as if he or she is not eligible for release.

56. The practice of treating everyone with an ICE detainer as ineligible for release has immediate and dire effects. People with ICE detainers are often denied the right to pay the standard bond amount. Inmates subject to an ICE detainer become ineligible for house arrest or a diversion program. When detained persons or their family and friends ask about a detained person's eligibility for bond or try to post bond, MDCR officers regularly announce that the detained person

will not be released because of the detainer. As a result of the ICE detainers, some bond companies will not post bond.

57. The practice of honoring ICE detainers has also created a pervasive environment of fear amongst immigrants, their families, and their communities. The immediate effect of this fear is fewer reports of crime to law enforcement and, relatedly, a decline in overall community safety. Other large cities around the country with a similar immigrant population to Miami, including Los Angeles, Houston, and Denver, have reported significant drop-offs in reports by Latinos and Hispanics of sexual assaults and rapes out of fear that reporting and prosecuting such assaults will result in their own deportations.

H. Unlawful Arrest and Detention of S.C.C.

58. S.C.C. is a member of the Miami-Dade County community who is being unlawfully detained in MDCR custody pursuant to an ICE detainer.

59. S.C.C. is a resident of unincorporated Miami-Dade County, Florida.

60. S.C.C. is the owner and operator of a landscaping company that has served South Florida for over fifteen years. S.C.C. employed a dozen people before being forced to shut his business down as a result of his arrest and detention pursuant to an ICE detainer.

61. S.C.C. previously obtained a commercial driving license and a standard driver's license.

62. S.C.C. kept his license on him for identification purposes and maintained insurance on his vehicle.

63. S.C.C. needs to use his vehicle to run his business and accomplish basic life sustaining tasks.

64. On June 6, 2018, Miami-Dade police stopped and arrested S.C.C. for driving with a suspended license and for driving without a valid license. The officers took S.C.C. to Metro West Detention Center.

65. At his arraignment, S.C.C. was not placed in a diversion program due to Defendants' policy and practice of acceding to ICE's detainer requests. A copy of S.C.C.'s immigration detainer form, redacted to protect S.C.C.'s privacy, has been attached as Exhibit A.

66. S.C.C. was not eligible for pretrial release due to Defendants' policy and practice of acceding to ICE's detainer requests.

67. As a result of Defendants' policy and practice of acceding to ICE's detainer requests, S.C.C. remained in Miami-Dade custody for over a month awaiting trial.

68. On July 16, 2018, S.C.C. was scheduled for trial. After the state attorney requested a continuance in his case, the judge reduced S.C.C.'s bail to $1 per charge for a total bail of $2.

69. On July 20, 2018, the $2 bail was paid on behalf of S.C.C.

70. S.C.C.'s criminal custody came to an end upon payment of the $2 bail.

71. Defendants, however, did not release S.C.C. when his criminal custody came to an end.

72. Instead, Defendants re-arrested S.C.C.

73. Defendants are now holding S.C.C. solely on the basis of the detainer request issued by ICE.

I. Unlawful Arrest and Detention of C.F.C. Pursuant to 2017 Directive

74. C.F.C. is a member of the Miami-Dade County community who is currently in ICE custody after being unlawfully detained pursuant to an ICE detainer.

75. C.F.C. is a resident of Miami-Dade County.

76. C.F.C. is the president of a local business she co-founded with her partner in 2014. C.F.C. and her partner harvest crops, including vegetables, for bodegas in and around Homestead.

77. C.F.C. came to Miami-Dade County to escape a previous, abusive marriage and to seek safety for herself and her son, who was 15 years old at the time.

78. C.F.C. currently has eight children. Three of her children, ages eleven, seven, and five, are U.S. citizens. C.F.C. also adopted a son, age seventeen. C.F.C.'s remaining four children are ages thirty, twenty-six, and nineteen. Two of these children were granted asylum in the United States. One of C.F.C.'s sons was tragically murdered after being deported from the United States.

79. On the day before Mother's Day, May, 12, 2018, C.F.C. was shopping at BJ's in Homestead with her pregnant daughter and her youngest son, who is five years old.

80. As C.F.C. was leaving BJ's, she was involved in a minor accident in the parking lot.

81. The individuals in the other car jumped out of the vehicle and became aggressive, yelling at C.F.C., telling her to "go back to Mexico!" Ultimately, the police were called.

82. The Homestead Police Department arrived and spoke with C.F.C. and the other driver. The Homestead Police then arrested C.F.C. for driving without a license. Homestead police then took C.F.C. into Defendants' custody.

83. C.F.C.'s family posted bond the same day she was arrested.

84. C.F.C. was told by an agent of the Defendants that she would be released at 4 p.m. that same day, May, 12, 2018.

85. Defendants did not release C.F.C. Instead, Defendants re-arrested C.F.C. on the ICE detainer.

86. On or about May 14, 2018, C.F.C. was taken into immigration custody at the Broward Transitional Center, where she currently remains.

87. As a result of her re-arrest, C.F.C. missed the birth of her grandchild.

J. Debilitating Impact on WeCount! and Its Members

88. Because of the Defendants' unlawful decision to honor federal ICE detainer requests in response to the Trump Administration's threats, members of WeCount!, including C.F.C., in Miami-Dade County have been unlawfully detained or now fear being detained by the Defendants.

89. In response to the Defendants' unlawful conduct detailed herein, WeCount! has been forced to divert its scarce resources to address and counteract this unlawful conduct, at the expense of WeCount!'s regularly-conducted programs and activities.

90. WeCount! has expended staff time and resources counseling members, locating members who have been unlawfully detained under the Defendants' policy, searching for attorneys to represent members, and consoling affected family and community members. WeCount! has also diverted resources to inform and educate the public about the Defendants' ongoing unlawful conduct.

91. As a result of the Defendants' policy change, WeCount! has had more members of the organization and the local community come to them with immigration issues, and it has had to spend more time assisting and supporting these individuals.

92. WeCount! also had to expend resources to confer with other community leaders and coalition partners to combat the Defendants' unlawful policy and practices.

93. The day after Mayor Gimenez's directive, WeCount! coordinated a demonstration at County Hall, held several community meetings, and encouraged several other organizations to

share their stories at the Board of County Commissioners meeting. As a direct result of that work, WeCount! had to divert resources from regularly-conducted programs and activities.

94. Responding to the new policy has prevented WeCount! from being fully available as it otherwise would be to educate the community on other pressing issues, provide support for victims of workplace abuses, and grow its local radio programming.

95. Defendants' unlawful policy and practices are in direct conflict with WeCount!'s mission of supporting the immigrant community of Homestead. Defendants' unlawful policy and practices have caused WeCount! to divert resources and have impaired WeCount!'s ability to fully engage in other programs and activities that advance its mission.

96. Accordingly, WeCount! sues on its own behalf as well as on behalf of its members who were, and continue to be, affected by the Defendants' unlawful behavior and who have standing to sue on their own. The interests that WeCount! seeks to protect are germane to its purpose. Neither the claims asserted nor the relief requested by WeCount! require the participation of individual members in the lawsuit.

K. Debilitating Impact on Florida Immigrant Coalition and Its Members

97. Because of the Defendants' unlawful decision to honor federal ICE detainer requests, constituents and individuals who are members of FLIC's member organizations have been unlawfully detained or now fear being detained by the Defendants.

98. In response to the Defendants' unlawful conduct detailed herein, FLIC has been forced to divert its scarce resources to address and counteract this unlawful conduct, at the expense of FLIC's regularly-conducted programs and activities.

99. FLIC has expended resources analyzing the Defendants' policy, counseling its members, meeting and consulting with law enforcement leaders, and searching for attorneys to represent individuals held on detainers who are members of FLIC organizations.

100. FLIC also had to expend resources to confer with other community leaders and coalition partners to combat the Defendants' unlawful policies and practices.

101. The day after Mayor Gimenez's directive, FLIC assisted in a demonstration at County Hall, held several community meetings, and coordinated with several other organizations to share stories at the Board of County Commissioners meeting.

102. Because of the Defendants' unlawful policy and practices, FLIC has been forced to divert resources from efforts to assist individuals with citizenship applications, as well as policy initiatives to address the lack of driver's licenses available to undocumented immigrants.

103. Responding to the Defendants' policy has also prevented FLIC from being fully available to educate the community on other pressing issues.

104. Defendants' unlawful policy and practices are in direct conflict with FLIC's mission of supporting immigrant families, organizations, and communities. Defendants' unlawful policy and practices have caused FLIC to divert its resources and have impaired FLIC's ability to fully engage in other programs and activities that advance its mission.

105. Accordingly, FLIC sues on its own behalf as well as on behalf of its members who were, and continue to be, affected by the Defendants' unlawful behavior and who have standing to sue on their own. The interests that FLIC seeks to protect are germane to its purpose. Neither the claims asserted nor the relief requested by FLIC require the participation of individual members in the lawsuit.

CLASS ALLEGATIONS FOR EQUITABLE RELIEF

106. Plaintiffs seek class-wide injunctive and declaratory relief pursuant to Federal Rules of Civil Procedure 23(a) and (b)(2) on behalf of a class.

1. The ICE Detainer Equitable Relief Class

107. Equitable Relief Class One (hereafter, and in the course of this litigation, also referred to as the "ICE Detainer Equitable Relief Class") is defined as all persons who, since January 26, 2017, (1) are or will be detained in the custody of MDCR, (2) have an ICE detainer placed on them by ICE while in MDCR custody that was not supported by a judicial warrant, (3) are entitled to be released from MDCR custody under applicable federal, state, or local law, and (4) due to MDCR's detainer policy and practice are not released but instead re-arrested and held in MDCR custody after being eligible for release from MDCR custody.

a. Numerosity

108. The class meets the numerosity requirement of Rule 23(a)(1). In the first year of implementation, approximately 1,000 individuals were or are confined in the Miami-Dade County Jail under an ICE detainer. Therefore, on average almost 20 people every week are re-arrested and detained by MDCR after they would otherwise be entitled to release, solely due to Defendants' ICE detainer policy and practice. The last available count from County data (current through the first few days of February 2018) shows more than 200 individuals in MDCR custody awaiting an unlawful re-arrest pursuant to an ICE detainer. Given this rate, the number of class members is likely higher by the time of this filing. The membership of the class continuously changes, rendering joinder of all members impracticable. The inclusion of future individuals in the class also makes joinder of all members impracticable.

b. Commonality

109. The class meets the commonality requirement of Rule 23(a)(2). Questions of law and fact presented by the named plaintiff are common to other members of the class. The common contentions that unite the claims of the class include the following:

- The practice of re-arresting and holding class members in the Miami-Dade County jails after they are otherwise entitled to release on the basis of an ICE detainer violates the Fourth and Fourteenth Amendments of the United States Constitution;
- The practice of re-arresting and holding class members in the Miami-Dade County jails after they are otherwise entitled to release on the basis of an ICE detainer violates state common law protections against false imprisonment;
- The practice of re-arresting and holding class members in the Miami-Dade County jails after they are otherwise entitled to release on the basis of an ICE detainer violates Article I, Section 9 (the due process clause) of the Florida Constitution.
- The practice of re-arresting and holding class members in the Miami-Dade County jails after they are otherwise entitled to release on the basis of an ICE detainer constitutes an unreasonable seizure under Article I, Section 12 of the Florida Constitution.

c. Typicality

110. The claims of S.C.C. are typical of those of the class as a whole because he is currently being held under an ICE detainer that is not supported by a judicial warrant and he is eligible for release, but he is being detained by Defendants for at least 48 hours as a result of an ICE detainer.

d. Adequacy of Representation

111. S.C.C. is an adequate class representative and thus meets the requirements of Rule 23(a)(4). He is presently in MDCR custody and was entitled to release after bail was posted on July 20, 2018, but is still being detained on account of Defendants' policy and practice regarding ICE detainers. He has no conflict of interest with other class members. He will also fairly and adequately protect the interests of the class, and understands his responsibilities as a class representative.

112. If by the time this Complaint is reviewed, S.C.C. is no longer in MDCR custody, he may still represent the class because his harm is "capable of reputation yet evading review." *See generally Tucker v. Phyfer*, 819 F.2d 1030, 1034 n.4 (11th Cir. 1987) (noting a named plaintiff can represent a class even if him claims become moot as long as his harm is "capable of repetition, yet evading review") (citing *Sosna v. Iowa*, 419 U.S. 393, 557–58 (1975)); *see also McKinnon v. Talladega County*, 745 F.2d 1360, 1364 (11th Cir. 1984) (finding that a plaintiff can represent a class for injunctive relief and damages even if his injunctive relief claims are moot because his claims for damages are not, thus giving him the "requisite adverseness" to represent the class for both types of relief). There is no indication that Miami-Dade County will stop this unlawful process of honoring ICE detainer requests; therefore S.C.C., and the members of the class he represents, may and will continue to be subject to this harm in the future.

CLASS ALLEGATIONS FOR DAMAGES

113. Plaintiffs also bring damages claims based on federal and supplemental state law claims, including under 42 U.S.C. § 1983, seeking class-wide relief pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) on behalf of the Damages Class alleged below.

1. The ICE Detainer Damages Class

114. Damages Class One (hereafter and in the course of this litigation also referred to as the "ICE Detainer Damages Class") is defined as persons who, since January 26, 2017, and continuing until the practice has ceased or until entry of judgment, whichever is sooner, have been or will be (1) detained in the custody of the MDCR, (2) have an ICE detainer placed on them by ICE while in MDCR custody that was not supported by a judicial warrant, (3) entitled to be released from MDCR custody under applicable federal or state law, and (4) due to Defendants' policy and practice on ICE detainers are not released but are instead held in MDCR custody after they were eligible for release from MDCR custody.

2. The Damages Classes Meet the Requirements of Federal Rule of Civil Procedure 23(a)

115. Damages Classes One meets the requirements of Rule 23 as follows.

a. Numerosity

116. Damages Classes One meets the numerosity requirement of Rule 23(a)(1). There are approximately 1,000 inmates confined in Miami-Dade County jails each year who are being or will be detained by MDCR after they would otherwise be entitled to release on the sole basis of an ICE detainer. Miami-Dade County records entitled "ICE – Released Defendants" list over 800 individuals who have been subject to ICE detainers and re-arrested between January 26, 2017, and February 2, 2018. Their records further show that the County billed the federal government for ICE detainers of at least 369 individuals re-arrested on ICE detainers between January 31 and December 31, 2017.

b. Commonality

117. The classes meet the commonality requirement of Rule 23(a)(2). Questions of law and fact presented by the named plaintiffs are common to other members of the class. The common contentions that unite the claims of the class include the following:

- The policy and practice of holding class members in the Miami-Dade County jails after they are otherwise entitled to release on the basis of an ICE detainer violates the Fourth and Fourteenth Amendments to the United States Constitution.
- The policy and practice of holding class members in the Miami-Dade County jails after they are otherwise entitled to release on the basis of an ICE detainer violates the due process clause of the Fourteenth Amendment of the United States Constitution.
- The policy and practice of holding class members in the Miami-Dade County jails after they are otherwise entitled to release on the basis of an ICE detainer violates state common law protections against false imprisonment;
- The practice of holding class members in the Miami-Dade County jails for 48 hours or more after they are otherwise entitled to release on the basis of an ICE detainer violates Article I, Section 9 (the due process clause) of the Florida Constitution.
- The practice of holding class members in the Miami-Dade County jails for 48 hours or more after they are otherwise entitled to release on the basis of an ICE detainer constitutes an unreasonable seizure under Article I, Section 12 of the Florida Constitution.

c. Typicality

118. Plaintiff C.F.C. meets the typicality requirement of Rule 23(a)(3) since, as alleged below, the claims of the Plaintiff C.F.C. are typical of those of the class.

119. Plaintiff C.F.C. posted bond but was held beyond the expiration of any state law basis to detain her.

d. Adequacy of Representation

120. Plaintiff C.F.C. is an adequate class representative and thus meets the requirements of Rule 23(a)(4). She will adequately protect the interests of the class as they benefit from a finding of liability as all other members do. Plaintiff C.F.C. also has no conflict of interest with other class members, she will fairly and adequately protect the interests of the class, and she understands her responsibilities as a class representative.

121. Plaintiffs incorporate paragraphs 1 to 112 above, regarding the parallel ICE Detainer Equitable Relief Class. Except for the fact that the Damages Class Representative is out of custody, the allegations contained in the aforementioned paragraphs apply as well to the Damages Class Representatives. Damages Class One meets the requirements of Federal Rule of Civil Procedure 23(a)—numerosity, commonality, typicality, and adequacy of representation—for the reasons illustrated above.

3. The Damages Class Also Meets the Requirements of Federal Rule of Civil Procedure 23(b)(3).

122. Damages Class One meets the requirements of Federal Rule of Civil Procedure 23(b)(3).

a. Predominance of Common Questions

123. The questions of law or fact common to class members predominate over any questions affecting only individual members because the predominant issue for all class members

is whether there exists or existed a policy or practice of refusing to release class members otherwise entitled to release on the basis of an ICE detainer.

124. The predominance of those issues for each damages class is sufficient to certify the class under Rule 23(b)(3) pursuant to the provisions of Federal Rule of Civil Procedure 23(c)(4), which authorizes the certification of a class "with respect to particular issues," even if there are other issues to be tried individually.

b. Superiority

125. A class action is superior to other available methods for fairly and efficiently adjudicating the controversy. Most of the class members were detained unlawfully for sufficiently few days that an individual lawsuit for such damages is not economically viable, given the complexity of the issues and the fact that attorneys are unlikely to take on such cases individually. The great majority of class members accordingly do not have an individual interest in controlling the prosecution of the case.

126. General damages inherent to the U.S. constitutional or Florida law violations can be proven on a class-wide basis. Individual (special) damages, to the extent a class member chooses to pursue them, would be proven on an individual basis under procedures to be set by the Court.

127. Because the class is confined to those individuals for whom there should be computerized or other jail records that will show, *inter alia*, the date of arrest, an ICE detainer was placed on a person, the date of the ICE detainer, the date the person was entitled to release absent the ICE detainer, and the date of release or transfer to ICE, identifying the universe of likely class members will be readily accomplished based on jail (and possibly Florida court, if needed) records.

128. Thus, the proposed class is manageable, and without class treatment the overwhelming majority of class members would not have a viable individual claim.

CAUSES OF ACTION

COUNT I
Fourth Amendment Violation (42 U.S.C. § 1983)
Damages and Declaratory Judgment

129. Plaintiff incorporates paragraphs 1 to 128 as if fully stated herein.

130. Defendants illegally detained Plaintiffs and those individuals similarly situated by re-arresting them after the legal grounds for custody expired, solely because Defendants received an ICE detainer requesting their continued detention.

131. Defendants illegally detained Plaintiffs and those individuals similarly situated pursuant to official action by Miami-Dade County beginning on January 26, 2017, which requires MDCR to "honor all immigration detainer requests." Since then, MDCR has engaged in a policy and practice of detaining all individuals subject to an ICE detainer beyond the time they would otherwise be entitled to release. Defendants' illegal acts of re-arresting and holding Plaintiffs was therefore made under color of state law.

132. Defendants have unlawfully detained Plaintiff S.C.C. by currently holding him past the point where he was entitled to lawful release.

133. Defendants have unlawfully detained members of WeCount!, including but not limited to, Plaintiff C.F.C., pursuant to this policy and practice. On information and belief, Defendants have unlawfully detained constituents of FLIC pursuant to this policy.

134. Because of Defendants' actions, Plaintiffs and those individuals similarly situated suffered violations of the Fourth Amendment to the U.S. Constitution, which prohibits "unreasonable searches and seizures" and provides that "no Warrants shall issue, but upon

probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." Pursuant to the incorporation doctrine, the due process clause of the Fourteenth Amendment makes the Fourth Amendment applicable to local governments. *See*, *e.g.*, *Mapp v. Ohio*, 367 U.S. 643 (1961) (freedom from unreasonable search and seizure); *Aguilar v. Texas*, 378 U.S. 108 (1964) (warrant requirement).

135. Continued detention by non-federal officials of an individual based on an ICE detainer, after the grounds supporting the initial arrest have disappeared, is a new arrest for constitutional purposes. *Morales v. Chadbourne,* 793 F.3d 208, 217 (1st Cir. 2015); *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1005 (N.D. Ill. 2016); *Miranda-Olivares v. Clackamas Cnty.*, No. 3:12–cv–02317–ST, 2014 WL 1414305, at *10 (D. Or. Apr. 11, 2014) (Where a "continued detention exceed[s] the scope of the Jail's lawful authority over the released detainee," the detention "constitute[s] a new arrest, and must be analyzed under the Fourth Amendment.").

136. "[A] fair and reliable determination of probable cause" must be provided "as a condition for any significant pretrial restraint of liberty." *Baker v. McCollan*, 443 U.S. 137, 142 (1979). However, Defendant MDCR does not detain individuals pursuant to a written cooperative agreement with the federal government. Its officials are not deputized as federal immigration officials and they have not received adequate training in immigration law to independently assess the basis for detaining arresting individuals pursuant to immigration law. The requests on which they rely are not warrants issued by detached and neutral magistrates.

137. As a proximate and reasonably foreseeable result of Defendants' actions, Plaintiffs and those similarly situated suffered injuries including financial loss, pain and suffering, humiliation, and emotional harm.

COUNT II
Violation of Fourteenth Amendment (42 U.S.C. § 1983)
Damages and Declaratory Relief

138. Plaintiffs incorporate paragraphs 1 to 137 as if fully stated herein.

139. Defendants falsely imprisoned Plaintiffs S.C.C. and C.F.C., and those individuals similarly situated, by violating the due process clause of the Fourteenth Amendment to the U.S. Constitution and committing the common law tort of false imprisonment. *See Campbell v. Johnson,* 586 F.3d 835, 840 (11th Cir. 2009).

140. Defendants also held Plaintiffs after they were no longer in lawful custody on state criminal charges.

141. The Fourteenth Amendment Due Process Clause includes the "right to be free from continued detention after it was or should have been known that the detainee was entitled to release." *Id*. at 840 (citing *Cannon v. Macon County*, 1 F.3d 1558, 1563 (11th Cir.1993), *modified on other grounds*, 15 F.3d 1022 (1994)). Defendants intended to confine Plaintiffs and detained them with deliberate indifference to their false imprisonment. Defendants were aware of a risk of serious harm and disregarded that risk by actions beyond mere negligence. Plaintiffs were aware of their confinement. C.F.C. posted bail and rather than being released was re-arrested. S.C.C. was held in jail for an additional month due to Defendants' policy and practice regarding ICE detainers. As alleged in Count III and incorporated herein, Defendants were not empowered under Florida law and lacked any other authority to detain Plaintiffs or individuals similarly situated based on a civil immigration violation.

142. The Defendants are required to release the Plaintiffs and those similarly situated when they post bail for their state law violations. By denying the Plaintiffs and those similarly

situated the opportunity to post bail when an ICE detainer is lodged against them, the Defendants detain them after the Defendants knew those individuals were entitled to release.

143. Defendants have unlawfully detained members of WeCount!, including but not limited to, Plaintiff C.F.C., pursuant to this policy. On information and belief, Defendants have unlawfully detained constituents of FLIC pursuant to this policy.

144. It has been established that "[d]etaining individuals solely to verify their immigration status would raise constitutional concerns." *Arizona v. United States*, 567 U.S. 387, 413 (2012); *Arizona v. Johnson*, 555 U.S. 323, 333 (2009).

145. Absent extraordinary circumstances, detaining an individual for over 48 hours prior to a judicial determination of probable cause violates the Fourth Amendment. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

146. As a proximate and reasonably foreseeable result of Defendants' actions, Plaintiffs suffered injuries, including financial, pain and suffering, humiliation, and emotional harm.

COUNT III
Florida Unlawful Imprisonment
Damages and Declaratory Relief

147. Plaintiffs incorporate paragraphs 1 to 146 as if fully stated herein.

148. Defendants detained Plaintiffs S.C.C. and C.F.C., and those individuals similarly situated, without any authority, thereby unlawfully imprisoning them in violation of Florida law. Defendants lacked a judicial warrant to detain them and had no authority to make a warrantless arrest. *See* FLA. STAT. § 901.15 (2018).

149. Defendants unlawfully detained Plaintiffs and those individuals similarly situated against their will and without legal authority or "color of authority," which was unreasonable and

unwarranted under the circumstances. *See Mathis v. Coats*, 24 So.3d 1284, 1289 (Fla. 2d DCA 2010).

150. Defendants have unlawfully detained members of WeCount!, including but not limited to, Plaintiff C.F.C., pursuant to this policy. On information and belief, Defendants have unlawfully detained constituents of FLIC pursuant to this policy.

151. MDCR employees are not law enforcement officers authorized to arrest without a warrant. *See Pierre v. City of Miramar, Fla., Inc*., 537 Fed. Appx. 821, 824-25 (11th Cir. 2013) (holding that a county correctional officer is not a "law enforcement officer" for purposes of section 901.15(1)).

152. Plaintiffs' detention was made pursuant to the Miami-Dade Board of County Commissioners' decision on February 17, 2017, which required MDCR to "honor all immigration detainer requests."

153. Since the order, MDCR has detained individuals subject to an ICE detainer beyond the time they would otherwise be entitled to release.

154. As a proximate and reasonably foreseeable result of Defendants' actions, Plaintiffs suffered injuries, including financial, pain and suffering, humiliation, and emotional harm.

155. Pursuant to Fla. Stat. § 768.28(6), Plaintiff has provided the requisite administrative notice of his unlawful imprisonment claim.

COUNT IV
Violation of Art. I, Sec. 12 of the
Florida Constitution (Searches and Seizure)
Damages and Declaratory Relief

156. Plaintiffs incorporate paragraphs 1 to 155 as if fully stated herein.

157. Defendants detained Plaintiffs and those individuals similarly situated by continuing to hold them after the legal grounds for their custody expired, solely because Defendants received an ICE detainer requesting their continued detention.

158. Furthermore, when Plaintiffs and those similarly situated are entitled to lawful release on their state law claims, they have been and are being held unlawfully pursuant to an ICE detainer, which constitutes another new seizure for which the Defendants lack probable cause or a warrant.

159. Defendants have unlawfully detained members of WeCount!, including but not limited to, Plaintiff C.F.C., pursuant to these policies. On information and belief, Defendants have unlawfully detained constituents of FLIC pursuant to this policy.

160. As a consequence of Defendants' actions, in addition to Fourth Amendment violations, Plaintiffs and those individuals similarly situated suffered violations of Art I., Section 12 of the Florida Constitution, which secures "[t]he right of the people to be secure in their persons…against unreasonable searches and seizures[.]" This right is construed in conformity with the Fourth Amendment.

161. As a proximate and reasonably foreseeable result of Defendants' actions, Plaintiffs suffered injuries, including financial loss, pain and suffering, humiliation, and emotional harm.

COUNT V
Violation of Art. I, Sec. 9 of the
Florida Constitution (Due Process)
Damages and Declaratory Relief

162. Plaintiffs incorporate paragraphs 1 to 161 as if fully stated herein.

163. Defendants falsely imprisoned Plaintiffs and those individuals similarly situated by violating the due process clause of the Fourteenth Amendment to the U.S. Constitution and

committing the common law tort of false imprisonment, in addition to violating Article I, Section 9 of the Florida Constitution.

164. Defendants have unlawfully detained members of WeCount!, including but not limited to Plaintiff C.F.C., pursuant to its policy and practice of detaining people on ICE detainers. On information and belief, Defendants have unlawfully detained constituents of FLIC pursuant to this policy.

165. Article I, Section 9 guarantees that "[n]o person shall be deprived of life, liberty or property without due process of law …."

166. When Plaintiffs and individuals similarly situated were and are entitled to be released from MDCR custody under applicable state law, they are nonetheless held pursuant to Defendants' policy and practice of honoring ICE detainers. Thus, the Defendants destroy the liberty interest Plaintiffs have in their lawful release.

167. As a proximate and reasonably foreseeable result of Defendants' actions, Plaintiffs and those similarly situated suffered injuries, including financial loss, pain and suffering, humiliation, and emotional harm.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor and:

- Issue an injunction enjoining Miami-Dade County and the Miami-Dade Department of Corrections from detaining individuals pursuant to ICE detainer requests, without a judicial warrant, or without probable cause that the detainee has committed a crime;

- Declare the Miami-Dade County Board of Commissioners' Resolution 163-17 facially invalid;

- Certify this action as a class action pursuant to Rule 23 of the Federal Rule of Civil Procedure;
- Declare that Defendants' detention of Plaintiffs and members of the proposed classes pursuant to ICE's detainer violated their Fourth Amendment right and rights under the Florida Constitution to be free from unreasonable seizure, violated their substantive due process right under the Fourteenth Amendment and under the Florida Constitution to be free from false imprisonment, and constituted unlawful imprisonment under Florida law;
- Award Plaintiffs and other members of the appropriate class compensatory damages;
- Award Plaintiffs and other members of the proposed classes reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and
- Grant any other equitable relief this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs and the Class request a jury trial for any and all Counts for which a trial by jury is permitted by law.

Dated: July 20, 2018

Respectfully submitted,

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EXHIBIT A

DEPARTMENT OF HOMELAND SECURITY

IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: 361604799
Event #: BDC1806000583

File No:
Date: June 7, 2018

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency) TURNER GUIFORD KNIGHT (TG
700 NW 41ST ST.
MIAMI, FL 33166

FROM: (Department of Homeland Security Office Address)
ERO - Bradenton, FL Sub Office
U.S. IMMIGRATION & CUSTOMS ENFORCEMENT
ERO - KROME SPC - MIAMI, FLORIDA
18201 SW 12TH STREET
MIAMI, FL 33194

Name of Alien: [redacted]

Date of Birth: [redacted] Citizenship: MEXICO Sex: U

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.

2. DHS TRANSFERRED THE ALIEN TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION *(complete box 1 or 2).*

- ☐ Upon completion of the proceeding or investigation for which the alien was transferred to your custody, DHS intends to resume custody of the alien to complete processing and/or make an admissibility determination.

IT IS THEREFORE REQUESTED THAT YOU:

- **Notify DHS** as early as practicable (at least 48 hours, if possible) before the alien 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 305 207 5126. 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 alien 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 alien **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 alien'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 alien.
- Notify this office in the event of the alien's death, hospitalization or transfer to another institution.

☐ If checked: please cancel the detainer related to this alien previously submitted to you on _____ (date).

K 8801 HENRY - Deportation Officer
(Name and title of Immigration Officer)

(Signature of Immigration Officer) (Sign in ink)

Notice: If the alien may be the victim of a crime or you want the alien to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-6020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE ALIEN 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 alien 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)

NOTICE TO THE DETAINEE

The Department of Homeland Security (DHS) has placed an immigration detainer on you. An immigration detainer is a notice to a law enforcement agency that DHS intends to assume custody of you (after you otherwise would be released from custody) because there is probable cause that you are subject to removal from the United States under federal immigration law. DHS has requested that the law enforcement agency that is currently detaining you maintain custody of you for a period not to exceed 48 hours beyond the time when you would have been released based on your criminal charges or convictions. **If DHS does not take you into custody during this additional 48 hour period, you should contact your custodian** (the agency that is holding you now) to inquire about your release. **If you believe you are a United States citizen or the victim of a crime, please advise DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.**

NOTIFICACIÓN A LA PERSONA DETENIDA

El Departamento de Seguridad Nacional (DHS) le ha puesto una retención de inmigración. Una retención de inmigración es un aviso a una agencia de la ley que DHS tiene la intención de asumir la custodia de usted (después de lo contrario, usted sería puesto en libertad de la custodia) porque hay causa probable que usted está sujeto a que lo expulsen de los Estados Unidos bajo la ley de inmigración federal. DHS ha solicitado que la agencia de la ley que le tiene detenido actualmente mantenga custodia de usted por un periodo de tiempo que no exceda de 48 horas más del tiempo original que habría sido puesto en libertad en base a los cargos judiciales o a sus antecedentes penales. **Si DHS no le pone en custodia durante este periodo adicional de 48 horas, usted debe de contactarse con su custodio** (la agencia que le tiene detenido en este momento) para preguntar acerca de su liberación. **Si usted cree que es un ciudadano de los Estados Unidos o la víctima de un crimen, por favor avise al DHS llamando gratuitamente al Centro de Apoyo a la Aplicación de la Ley ICE al (855) 448-6903.**

AVIS AU DETENU OU À LA DÉTENUE

Le Département de la Sécurité Intérieure (DHS) a placé un dépositaire d'immigration sur vous. Un dépositaire d'immigration est un avis à une agence de force de l'ordre que le DHS a l'intention de vous prendre en garde à vue (après celà vous pourrez par ailleurs être remis en liberté) parce qu'il y a une cause probable que vous soyez sujet à expulsion des États-Unis en vertu de la loi fédérale sur l'immigration. Le DHS a demandé que l'agence de force de l'ordre qui vous détient actuellement puisse vous maintenir en garde pendant une période ne devant pas dépasser 48 heures au-delà du temps après lequel vous auriez été libéré en se basant sur vos accusations criminelles ou condamnations. **Si le DHS ne vous prenne pas en garde à vue au cours de cette période supplémentaire de 48 heures, vous devez contacter votre gardien (ne)** (l'agence qui vous détient maintenant) pour vous renseigner sur votre libération. **Si vous croyez que vous êtes un citoyen ou une citoyenne des États-Unis ou une victime d'un crime, s'il vous plaît aviser le DHS en appelant gratuitement le centre d'assistance de force de l'ordre de l'ICE au (855) 448-6903**

NOTIFICAÇÃO AO DETENTO

O Departamento de Segurança Nacional (DHS) expediu um mandado de detenção migratória contra você. Um mandado de detenção migratória é uma notificação feita à uma agência de segurança pública que o DHS tem a intenção de assumir a sua custódia (após a qual você, caso contrário, seria liberado da custódia) porque existe causa provável que você está sujeito a ser removido dos Estados Unidos de acordo com a lei federal de imigração. ODHS solicitou à agência de segurança pública onde você está atualmente detido para manter a sua guarda por um período de no máximo 48 horas além do tempo que você teria sido liberado com base nas suas acusações ou condenações criminais. **Se o DHS não leva-lo sob custódia durante este período adicional de 48 horas, você deve entrar em contato com quem tiver a sua custódia** (a agência onde você está atualmente detido) para perguntar a respeito da sua liberação. **Se você acredita ser um cidadão dos Estados Unidos ou a vítima de um crime, por favor informe ao DHS através de uma ligação gratuita ao Centro de Suporte de Segurança Pública do Serviço de Imigração e Alfândega (ICE) pelo telefone (855) 448-6903.**

THÔNG BÁO CHO NGƯỜI BỊ GIAM

Bộ Nội An (DHS) đã ra lệnh giam giữ di trú đối với quý vị. Giam giữ di trú là một thông báo cho cơ quan công lực rằng Bộ Nội An sẽ đảm đương việc lưu giữ quý vị (sau khi quý vị được thả ra) bởi có lý do khả tín quý vị là đối tượng bị trục xuất khỏi Hoa Kỳ theo luật di trú liên bang. Sau khi quý vị đã thi hành đầy đủ thời gian của bản án dựa trên các tội phạm hay các kết án, thay vì được thả tự do, Bộ Nội An đã yêu cầu cơ quan công lực giữ quý vị lại thêm không quá 48 tiếng đồng hồ nữa. Nếu Bộ Nội An không đến bắt quý vị sau 48 tiếng đồng hồ phụ trội đó, quý vị cần liên lạc với cơ quan hiện đang giam giữ quý vị để tham khảo về việc trả tự do cho quý vị. Nếu quý vị là công dân Hoa Kỳ hay tin rằng mình là nạn nhân của một tội ác, xin vui lòng báo cho Bộ Nội An bằng cách gọi số điện thoại miễn phí 1(855) 448-6903 cho Trung Tâm Hỗ Trợ Cơ Quan Công Lực Di Trú.

被拘留者通知書

國土安全部(Department of Homeland Security，簡稱DHS)已經對你發出移民拘留令。移民拘留令為一給予執法機構的通知書，闡明DHS意欲獲取對你的羈押權(若非有此羈押權，你將會被釋放)；因為根據聯邦移民法例，並基於合理的原由，你將會被遞解離美國國境。DHS亦已要求現正拘留你的執法機構，在你因受到刑事檢控或定罪後，而在本應被釋放的程序下，繼續對你作出不超過四十八小時的監管。若你在這附加的四十八小時內，仍未及移交至**DHS**的監管下，你應當聯絡你的監管人(即現正監管你的機構)查詢有關你釋放的事宜。若你認為你是美國公民或為罪案受害者，請致電**ICE**執法部支援中心**(Law Enforcement Support Center)**知會**DHS**，免費電話號碼：**(855)448-6903**。

U.S. DEPARTMENT OF HOMELAND SECURITY **Warrant for Arrest of Alien**

File No. _____

Date: 06/07/2018

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that [redacted] is removable from the United States. This determination is based upon:

☐ the execution of a charging document to initiate removal proceedings against the subject;

☐ the pendency of ongoing removal proceedings against the subject;

☐ the failure to establish admissibility subsequent to deferred inspection;

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

☐ statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

_____
(Signature of Authorized Immigration Officer)

S 3345 FUENTES - SDDO
(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at _____ (Location)

on _____ (Name of Alien) on _____ (Date of Service), and the contents of this notice were read to him or her in the _____ (Language) language.

_____ Name and Signature of Officer

_____ Name or Number of Interpreter (if applicable)

Form I-200 (Rev. 09/16)

EXHIBIT B

Memorandum

MIAMI-DADE COUNTY

Date: January 26, 2017

To: Daniel Junior, Interim Director
Corrections and Rehabilitation Department

From: Carlos A. Gimenez
Mayor

Subject: Executive Order: Enhancing Public Safety in the Interior of the United States

---

Yesterday, January 25, 2017, President Donald J. Trump issued Executive Order: Enhancing Public Safety in the Interior of the United States.

In light of the provisions of the Executive Order, I direct you and your staff to honor all immigration detainer requests received from the Department of Homeland Security.

Miami-Dade County complies with federal law and intends to fully cooperate with the federal government. I will partner with the Board of County Commissioners to address any issues necessary to achieve this end.

c: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners
Honorable Harvey Ruvin, Clerk of the Court
Abigail Price-Williams, County Attorney
Geri Bonzon-Keenan, First Assistant County Attorney
Office of the Mayor Senior Staff
Christopher Agrippa, Clerk of the Board

EXHIBIT C

MEMORANDUM

Amended
Substitute
Special Item No. 1

TO: Honorable Chairman Esteban L. Bovo, Jr. and Members, Board of County Commissioners

DATE: February 17, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution related to immigration detainer requests; reaffirming that Miami-Dade County remains fully compliant with the United States Constitution and all applicable federal laws; amending Resolution No. R-1008-13 to ensure that Miami-Dade County is cooperating with United States Immigration and Customs Enforcement to the extent permissible by law and is not deemed ineligible for federal grants and funding pursuant to a recent Executive Order; rejecting label or designation as a "sanctuary jurisdiction"

Resolution No. R-163-17

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsor Chairman Esteban L. Bovo, Jr.

Abigail Price-Williams
County Attorney

APW/smm

MEMORANDUM

(Revised)

TO:	Honorable Chairman Esteban L. Bovo, Jr. and Members, Board of County Commissioners	**DATE:**	February 17, 2017
FROM:	Abigail Price-Williams County Attorney	**SUBJECT:**	Amended Substitute Special Item No. 1

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Statement of social equity required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Amended
Substitute
Special Item No. 1
2-17-17

RESOLUTION NO. R-163-17

RESOLUTION RELATED TO IMMIGRATION DETAINER REQUESTS; REAFFIRMING THAT MIAMI-DADE COUNTY REMAINS FULLY COMPLIANT WITH THE UNITED STATES CONSTITUTION AND ALL APPLICABLE FEDERAL LAWS; AMENDING RESOLUTION NO. R-1008-13 TO ENSURE THAT MIAMI-DADE COUNTY IS COOPERATING WITH UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT TO THE EXTENT PERMISSIBLE BY LAW AND IS NOT DEEMED INELIGIBLE FOR FEDERAL GRANTS AND FUNDING PURSUANT TO A RECENT EXECUTIVE ORDER; REJECTING LABEL OR DESIGNATION AS A "SANCTUARY JURISDICTION"

WHEREAS, the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE") issues immigration detainer requests to local criminal justice agencies, including the Miami-Dade County Corrections and Rehabilitation Department, to hold inmates for an additional period of time beyond when they would normally be released, usually 48 hours, not including weekends and holidays; and

WHEREAS, the federal government does not reimburse local criminal justice agencies for the cost of compliance with such ICE detainer requests, leaving local taxpayers to incur this cost; and

WHEREAS, on December 3, 2013, this Board adopted Resolution No. R-1008-13, which directed the Mayor or Mayor's designee to implement a policy whereby an ICE detainer request would be honored only if the federal government agreed to reimburse Miami-Dade County for the costs of detention and the inmate that is the subject of the request has a previous conviction for a forcible felony or has a pending charge of a non-bondable offense; and

WHEREAS, the intent of Resolution No. R-1008-13 was to save Miami-Dade County taxpayers the cost of detaining non-violent inmates beyond the point at which they would be released absent an ICE detainer request; and

WHEREAS, on January 25, 2017, President Donald J. Trump signed an Executive Order entitled Enhancing Public Safety in the Interior of the United States ("Executive Order"); and

WHEREAS, the Executive Order provides that jurisdictions that willfully refuse to comply with 8 U.S.C. § 1373 will be designated as "sanctuary jurisdictions" and will not be eligible to receive federal grants, except as deemed necessary for law enforcement purposes; and

WHEREAS, Miami-Dade County currently receives hundreds of millions of dollars in federal grants and funding, in a wide range of areas, including but not limited to funding for Miami-Dade County's Public Health Trust, transportation and road systems, Miami International Airport, Port of Miami, environmental protection, housing, education, economic development and Centers for Disease Control for combating Zika; and

WHEREAS, Miami-Dade County has plans to apply for federal funding in an amount exceeding $3 billion for transportation needs; and

WHEREAS, 8 U.S.C. § 1373 provides that a local governmental entity or official may not prohibit, or in any way restrict, any governmental entity or official from sending to, or receiving from, ICE information regarding the citizenship or immigration status, lawful or unlawful, of any individual; and

WHEREAS, Miami-Dade County fully complies with 8 U.S.C. § 1373; and

WHEREAS, in fact, the Miami-Dade County Corrections and Rehabilitation Department has for many years cooperated and shared information and continues to cooperate and share information with federal and state agencies at booking and release for individuals in custody in compliance with 8 U.S.C. § 1373; and

WHEREAS, the terms "sanctuary jurisdiction", "sanctuary city" and "sanctuary county" are not legally defined terms in federal or state law; and

WHEREAS, Miami-Dade County has never labeled itself or considered itself a "sanctuary jurisdiction", "sanctuary city", or "sanctuary county"; and

WHEREAS, Miami-Dade County will continue to comply with the United States Constitution; and

WHEREAS, Miami-Dade County will continue to require the federal government to show probable cause on all immigration detainer requests; and

WHEREAS, Miami-Dade County remains committed to promoting the trust between local police officers and the immigrant community of Miami-Dade County; and

WHEREAS, the fundamental rights of all humans should be protected,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Reaffirms its position that, with respect to immigration detainer requests, Miami-Dade County remains fully compliant with the United States Constitution and all applicable federal laws.

Section 2. Amends Resolution No. R-1008-13 to direct the Mayor or Mayor's designee to ensure that, related to immigration detainer requests, Miami-Dade County:

1. remains fully compliant with all applicable federal laws and the United States Constitution;
2. is cooperating with the federal government to the extent permissible by law;
3. rejects any label or designation as a "sanctuary jurisdiction" pursuant to the recent Executive Order;
4. protects the taxpayers of Miami-Dade County from any actions to render the County ineligible for current or future federal funding;
5. continues to require the federal government to show probable cause on all immigration detainer requests; and
6. will no longer require the federal government to reimburse Miami-Dade County for any and all costs relating to compliance with ICE detainer requests.

Section 3. Rejects any label or designation of Miami-Dade County as a "sanctuary jurisdiction", "sanctuary city", or "sanctuary county" when there is no black letter law or Webster's definition of such terms and when such label or designation will likely result in adverse consequences to the people of Miami-Dade County.

Section 4. Remains committed to the position that all fundamental human rights should be protected.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman and the Co-Sponsor is Chairman Esteban L. Bovo, Jr. It was offered by Commissioner **Sally A. Heyman** who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Esteban L. Bovo, Jr., Chairman		aye	
Audrey M. Edmonson, Vice Chairwoman		aye	
Bruno A. Barreiro	aye	Daniella Levine Cava	nay
Jose "Pepe" Diaz	aye	Sally A. Heyman	aye
Barbara J. Jordan	absent	Joe A. Martinez	aye
Jean Monestime	nay	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	aye
Xavier L. Suarez	nay		

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of February, 2017. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Anita Viciana Zapata

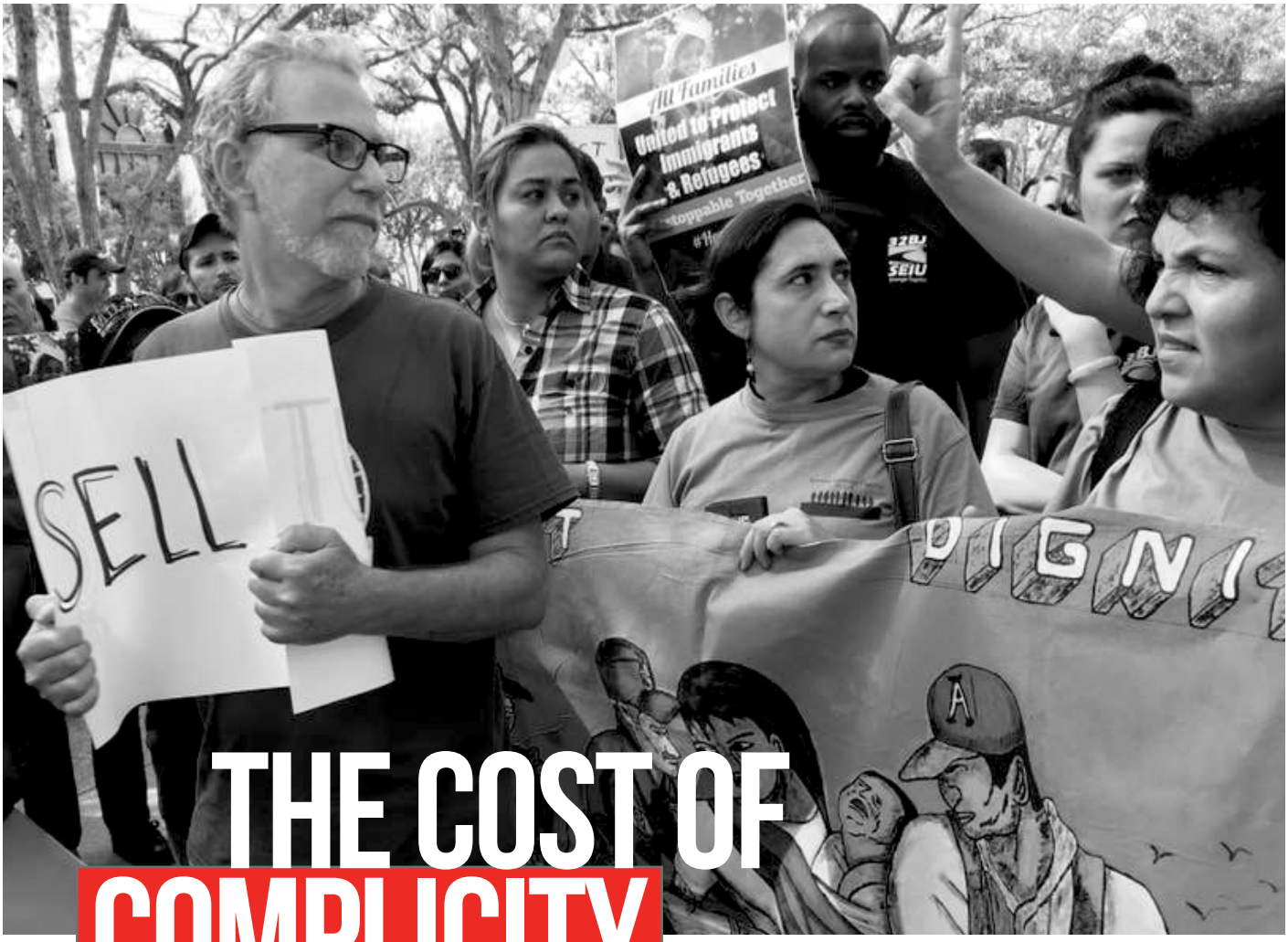
EXHIBIT D

THE COST OF COMPLICITY

A FISCAL IMPACT ANALYSIS OF
IMMIGRATION DETAINERS IN
MIAMI-DADE COUNTY, FLORIDA

COMMUNITY JUSTICE PROJECT
FLORIDA IMMIGRANT COALITION
WECOUNT!

FEBRUARY 2018



THE COST OF COMPLICITY

DAYS AFTER DONALD TRUMP WAS SWORN INTO OFFICE, MIAMI-DADE COUNTY BECAME THE FIRST TO CAPITULATE TO HIS ANTI-IMMIGRANT AGENDA. BY AGREEING TO HONOR IMMIGRATION DETAINERS, MIAMI-DADE TURNED THEIR LOCAL JAILS INTO THE FIRST STOP IN A DEPORTATION PIPELINE. AS A RESULT, FAMILIES ARE BEING TORN APART AND LOCAL TAX-PAYERS ARE FOOTING THE BILL.

DEFINING DETAINERS

Immigration Detainers, sometimes called ICE Holds, are requests from the federal government to a local law enforcement agency to hold someone that U.S. Immigration and Customs Enforcement (ICE) suspects of violating civil immigration law. The hold lasts 48 hours after an individual would otherwise be released from local custody, such as when they post bail or their case is dismissed, and does not include weekends or holidays, which can increase the time in local custody even further. The local jurisdiction bears the direct cost of holding these individuals in local custody for 48 hours and the indirect costs, which, as described below, can end up costing millions of dollars per year.

Immigration detainers are not judicial warrants and do not provide probable cause for arrest by local officials. As ICE itself has affirmed,[1] they are simply requests, and complying with them is not mandatory. Most immigration violations are civil, not criminal, charges and Miami-Dade officials are not empowered to enforce immigration law--that power belongs exclusively to federal agents.

In 2013 the Miami-Dade Board of County Commissioners, as a result of community pressure, voted to end the County's practice of honoring immigration detainers unless the associated costs were covered by federal dollars and the individual was charged with certain serious offenses.[2] The County continued to participate in the Criminal Alien Program,[3] which allows immigration officials to take custody of individuals incarcerated after conviction.

MIAMI-DADE'S REVERSAL

On Jan. 25, 2017, newly sworn in President Donald Trump issued a sweeping Executive Order[4] that threatened to cut federal funding from "sanctuary jurisdictions." Miami-Dade did not fall under the Executive Order's own narrow definition of sanctuary jurisdictions "that willfully refuse to comply with 8 U.S.C. 1373," a federal statute covering communications with federal authorities regarding immigration status. Honoring immigration detainers is not a requirement of this law and Miami-Dade was not in violation of the provision. In a separate section, the Executive Order announced that a list of jurisdictions who did not comply with detainer reports would be published weekly.

Less than a day later, Mayor Carlos Gimenez made Miami-Dade the first, and to our knowledge only, major county or city to voluntarily capitulate to Trump's anti-immigrant agenda. Gimenez issued a directive[5] to the Miami-Dade Department of Corrections to begin honoring all immigration detainers received from the U.S. Department of Homeland Security. On February 17, 2017, the Miami-Dade Board of County Commissioners passed a resolution[6] affirming the Gimenez-Trump policy and rolling back the 2013 policy, despite hundreds of residents testifying to the fear this would generate in immigrant communities and the harm it would do to police-community relations.[7]

SCOPE OF IMPACT

In the first eleven months since the Gimenez-Trump policy was implemented, 966 immigration detainer requests were issued to Miami-Dade officials.[8] This results in significant economic losses for the County: an individual with an immigration detainer will spend an estimated 2.68 times as long in custody than those without one.[9] In Miami-Dade, that means an individual with a detainer will spend an average of 90 days in custody, compared to a 33 day average for those without a detainer.[10] As of December 28, 2017, 201 individuals with an immigration detainer were in County custody, more than double the number held six months prior. Miami-Dade's cost to jail an individual is roughly $230 per day.[11]

ICE's decision to pick up a detainee does not appear to correlate with the severity of the local criminal charge or purported public safety assessment. One detainee was turned over to ICE after the county court sentenced him to one day of probation. Rather than serving that probation, he was put into the deportation pipeline. Others have been turned over for simply not being able to obtain a driver's license. Unlike twelve other states, undocumented immigrants are barred from obtaining or renewing a driver's license in the state of Florida. Miami-Dade County recently approved civil citations for minor offenses, such as littering, loitering, possession of less than 20 grams of marijuana, and trespassing.[12] Yet, individuals are being turned over to ICE for these same charges. Regardless of the severity of the local criminal charge, it must be stressed that individuals in pre-trial detention have not been convicted - the charges for which they are being held have yet to be proven.

98% of individuals with detainers released to ICE by Miami-Dade had never had a previous offense.[13] Sixteen individuals with resolved detainers had no criminal charges listed in Miami-Dade records, and were simply designated as "Hold for Agency."[14] Three from that group were turned over to ICE. Overall, ICE officials have only picked up approximately 56% of the 765 individuals with a resolved immigration detainer.[15] Those ultimately released back into the community were still likely to endure significantly increased time in local custody as a result of the detainer.

"IT IS A POLICY CHANGE THAT AFFECTS THE ENTIRE COMMUNITY. ... MANY OF THE PARENTS WHO DRIVE THEIR CHILDREN TO SCHOOL ARE AFRAID...IT IS VERY DIFFICULT FOR ME, AS A MOTHER."

UNDOCUMENTED MOTHER

FISCAL IMPACT

Rather than focusing simply on the cost of detention during the 48 hour hold, the analysis must be expanded to account for the true cost of prolonged stays in local custody. By multiplying the estimated additional time in local custody by the number of detainers issued and average daily cost of incarceration in Miami-Dade, we are able to assess the fiscal impact on the County. The result: Miami-Dade taxpayers have footed the bill for approximately $12.5 million dollars in additional jailing costs between Jan. 27 and Dec. 28, 2017. Extrapolated over a year, assisting ICE could end up costing the county over $13.6 million annually.

The Miami-Dade County Fiscal Year 2017 Budget Reports, which run through July 2017, show rising corrections costs as this policy came into effect. The first quarter of the fiscal year, before the implementation of the Gimenez-Trump policy, showed underspending in Corrections and Rehabilitation.[16] By contrast, the fourth quarter report shows $10,378,000 in year to date spending above the approved figures on the same line item.[17]

THE GIMENEZ-TRUMP POLICY COSTS TOP $13,621,000 A YEAR

After the implementation of the Gimenez-Trump policy, the average daily population of individuals in custody in Miami- Dade County increased for the first time in eight years[18] despite steadily decreasing arrest rates. By honoring immigration detainers, the County not only added up to 48 hours per detainee, but dramatically increased the time they spend in custody, for multiple reasons.[19] Under Florida law, most criminal defendants have a right to pretrial release under reasonable conditions, either on their own recognizance or with bail.[20] Criminal defense lawyers and observers report that local courts now deny otherwise routine alternatives to incarceration for minor charges, including access to diversion programs and Pretrial Services, a "local county agency that releases persons, free of charge before their trial.", to individuals with a detainer.[21]

"SINCE MR. GIMENEZ'S NEW POLICY, ...THERE IS FEAR AMONG US. MANY HAVE LEFT [MIAMI] ...BECAUSE THEY ARE AFRAID OF THE POLICE AND IMMIGRATION [ENFORCEMENT]."

UNDOCUMENTED FATHER

Family members attempting to post bail for loved ones have reported being turned away or strongly discouraged by corrections staff when an immigration hold is in place, and for good reason. Once in ICE custody, their loved one can be transferred anywhere in the country. Private bond agencies will generally not accept cases for individuals with immigration detainers in County custody, unless they are able to post the entire amount, rather than a standard ten percent bond. This puts the option out of reach for most working families. Even those who are able to post bail, secure a plea deal, or other resolution to the local charge have a strong incentive to remain in County custody rather than risk being turned over to ICE.

These pressures increase the time in local custody regardless of whether ICE ultimately decides to pick up the detainee or release them back into the community. During the first year of the Gimenez-Trump policy the average length of stay increased from 32.2 days a month before the policy was enacted[22] to 34.5 days a year later.[23] This figure continues to rise as of the publication of this report.[24]

Such a trend undermines bipartisan efforts at the local, state, and federal levels to end costly, ineffective, and racially disproportionate mass incarceration practices. In contrast to the jurisdictions across the country moving to end cash bail, and our own state legislature's proposals to prevent jail time, fines and fees for minor charges such as driving without a license, the Gimenez-Trump policy instead increases the burden on taxpayers and immigrant families.

These figures do not capture the litigation and liability costs to the County for holding individuals in violation of their constitutional rights. Lawsuits[25] have already been filed challenging the constitutionality of the practice in Miami-Dade. Individual cases in other jurisdictions have shown these claims can end up costing the County anywhere from $35,000 to $145,000 before adding in attorney's fees and costs.[26] This liability falls solely on the shoulders of the County, as the Federal Government "is not liable and will not indemnify localities for any liability incurred while housing these detainees," according to an analysis by the Catholic Legal Immigration Network.[27]

THE RESOURCES NEEDED ANNUALLY TO IMPLEMENT THE GIMENEZ-TRUMP POLICY COULD INSTEAD:

FULLY FUND THE AFFORDABLE HOUSING TRUST;[28]

RESTORE MOST OF THE BUS ROUTES CUT IN THE LAST BUDGET, MANY OF WHICH SERVE LOW INCOME COMMUNITIES;[29]

INVEST IN DESPERATELY NEEDED CLIMATE RESILIENCE AND DISASTER PREPAREDNESS;

FUND CLOSE TO A MILE AND A HALF OF THE UNDERLINE PARK;[30]

FUND OVER HALF OF THE PETS' TRUST;[31]

OR

CREATE ROBUST PUBLICLY FUNDED IMMIGRATION DEFENSE FUNDS LIKE THOSE IN NEW YORK CITY[32] AND LOS ANGELES.[33]

ARE FEDERAL FUNDS REALLY AT RISK?

Gimenez justified the reversal by citing the "$350 million in federal funding that we receive every year" and the "hundreds of millions, if not billions, of dollars for our transit system"[34] that the County would be seeking from the federal government, without fully acknowledging the legal restrictions on federal government funding decisions.

However, the administration quickly dashed any hopes of new transit funding for Miami-Dade[35], and serious legal questions about the administration's ability to withhold funds persist. The Executive Order is too ambiguous as to which funds are at risk, unlawfully conditions federal funds that do not have a nexus with the purpose of the federal program, and is unconstitutionally coercive. Moreover, a jurisdiction must be in violation of an applicable federal law (8 U.S.C. 1373, in this case) to be at risk and must have notice of its violation to give it time to change its practice before its funding is impacted. Refusing to honor detainer requests is not a violation of federal law. Even for those jurisdictions in violation of 8 U.S.C. 1373, the U.S. Attorney General walked back Trump's threat to withhold federal funding after a federal judge in San Francisco issued a temporary injunction[36] on the enforcement of Trump's Executive Order, ruling that the scope of the funding impacted by the Executive Order was ambiguous and too broad.

In an attempt to remedy the constitutional issues, Attorney General Jeff Sessions issued a memo[37] in which he clarified and narrowed the federal grants the administration was attempting to condition on compliance with their immigration agenda. The memo reaffirmed that "'sanctuary jurisdiction' referred only to jurisdictions that 'willfully refuse to comply with 8 U.S.C. 1373.'" Further, it clarified that the only federal funding that could be impacted by this Executive Order are "federal grants administered by the Department of Justice (DOJ) or the Department of Homeland Security." The DOJ echoed this position in court filings of a lawsuit challenging the constitutionality of Miami-Dade's detention of a Haitian immigrant[38] and later attempted to add specific criteria to the DOJ's Byrne Justice Administration Grant program. Miami-Dade County has received approximately $500,000 a year in past grant cycles from this program, a far cry from the hundreds of millions cited by Gimenez. Even with the guidance narrowing the federal funding potentially under threat, two federal judges ultimately blocked enforcement of the Executive Order, ruling it an unconstitutional attempt to usurp Spending Powers reserved for Congress and a violation of the Tenth Amendment.[39] In November 2017, the court in San Francisco permanently enjoined enforcement of the Executive Order.[40]

Miami-Dade's reversal of its detainer policy has not yielded any funding advantages, even in comparison to jurisdictions that loudly and proactively defended their sanctuary policies. In the most recent round of federal police funding, Miami-Dade received the same amount of funding awarded to Chicago, a city that vehemently defended its right to refuse detainer requests.[41] In the end, the County's actions seem only to have secured Gimenez the admiration of Jeff Sessions,[42] the unenviable endorsement of the Trump Twitter feed,[43] and a $13.6 million bill for local taxpayers to foot.

COMMUNITY IMPACT

Miami-Dade County and neighboring areas are home to an estimated 151,000 immigrants who are immediately at risk of being funneled through local law enforcement to deportation proceedings under the Gimenez-Trump policy.[44] These include victims of human trafficking, domestic violence, wage theft, and other crimes who depend on trusting relationships with social service and public safety officials to escape abuse.

The Trump administration's decision to end the Temporary Protected Status (TPS) program for longtime Haitian immigrants puts an additional 24,000 TPS holders, currently living and working legally in South Florida, and their estimated 10,600 US-born children at risk in in 2019.[45] TPS holders from El Salvador and Nicaragua face the same risk, as they are pushed out of status over the next year and a half, while Hondurans await a decision in 2018. 11,400 South Florida DACA recipients[46] and an estimated 72,000 DACA-eligible but unenrolled youth statewide[47] will be at risk as their statuses begin to expire in March 2018.

Black immigrants are at increased risk under this policy, as over-policing and mass incarceration policies continue to target communities of color. A national study found that while only 7% of non U.S. citizens are Black, they represent over 20% of those facing deportation on criminal grounds.[48] The statistics are even more glaring locally where Black people make up over 22% of individuals in Miami-Dade custody with a detainer.[49] This disparity is particularly concerning given Trump's abhorrent comments about Haitians, a community that is integral to South Florida.

Even U.S. citizens are not safe from the Gimenez-Trump policy, as the questionable accuracy of the information ICE relies on to issue detainers has continued to create problems. A U.S. citizen was wrongfully held on a detainer in Miami-Dade this year,[50] a trend that has been seen across the country. A study found that almost 700 U.S. citizens have been wrongfully held in local custody because of immigration detainers in recent years.[51]

The indirect impact of this policy and the climate created by the Trump administration has been felt beyond the County coffers. Providers have noted a "chilling effect on Hispanic participation in health care programs,"[52] increased stress and mental health issues in immigrant patients, fearfulness around filing for court protection in domestic abuse cases[53] and a general fear of local law enforcement since the policy took hold. Lawyers also report that witnesses are failing to appear for depositions and court hearings out of fear, impairing the administration of justice and due process.

METHODOLOGY

This report draws heavily from the work of Edward Ramos of Kurzban, Kurzban, Weinger, Tetzeli & Pratt, P.A. who published a similar analysis in 2013. We update the findings of that analysis with information from the 2017 calendar year under the Gimenez-Trump policy.

We update the cost of detention to roughly $230 per day to reflect the Miami-Dade Inmate Cost Per Day based on reporting from the Miami Herald.[54] In the eleven months following the Gimenez-Trump policy, from Jan. 27 to Dec. 28, 2017, there were 966 detainer requests in Miami-Dade County.[55] In the same period, 50,847 arrests were reported county wide.[56] We cite an average length of stay of 34.5 days from a Jan. 20, 2018 report reflecting data for the previous 180 days.[57] We continue to rely on the "detainer multiplier" of 2.68 used in 2013 derived from a study of comparing length of jail stays for those with immigration detainers and those without in multiple jurisdictions as outlined in Ramos' report.[58]

966 DETAINERS REPRESENT 1.9% OF THE 50,847 MIAMI-DADE BOOKINGS BETWEEN JAN. 27 - DEC. 28, 2017

X IS THE AVERAGE TIME IN LOCAL CUSTODY WITH A DETAINER
Y IS THE AVERAGE TIME IN LOCAL CUSTODY WITHOUT A DETAINER

.019 (X) + .981 (Y) = 34.5 AVERAGE LENGTH OF STAY IN MIAMI-DADE
X / Y = 2.68 DETAINER MULTIPLIER

X = 89.6 DAYS IN CUSTODY WITH A DETAINER
Y = 33.4 DAYS IN CUSTODY WITHOUT A DETAINER

89.6 - 33.4 = 56.2 ADDITIONAL DAYS IN CUSTODY WITH A DETAINER

56.2 ADDITIONAL DAYS * $230 DAILY COST * 966 DETAINERS = $12,486,516 OVER ELEVEN MONTHS
$12,486,516 / 11 MONTHS = $1,135,137.82 MONTHLY COST
$1,135,138 * 12 MONTHS = $13,621,653.80 ANNUAL COST

ENDNOTES

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Chairman Esteban Bovo, Vice Chairwoman Audrey Edmonson and Commissioners Bruno Barreiro, Jose "Pepe" Diaz, Sally Heyman, Joe Martinez, Dennis Moss, Rebeca Sosa, and Javier Souto voted to endorse. Commissioners Daniella Levine Cava, Jean Monestime, and Xavier Suarez stood with the community in opposition to the measure. Commissioner Barbara Jordan was not present.

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ABOUT THE AUTHORS

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