

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
DEL RIO DIVISION**

**In Re: The recent Refusal of the** §  
**Department of Homeland Security to** §  
**acknowledge Immigration and Customs** §  
**Enforcement Detainers.** §

**GENERAL ORDER**

To effectively enforce federal law, Immigration and Customs Enforcement's ("ICE") standard operating procedure has been to issue detainers to hold certain federal prisoners upon their release from custody at the completion of any sentence imposed due to criminal charges. ICE has the legal authority and responsibility to assess the immigration status and admissibility of those individuals. Not only does this practice serve ICE's law enforcement mission, but it also is a necessity because the determination of an individual's admissibility into the United States of America is not within the Court's jurisdiction, or within the ambit of authority of the United States Marshal's Service or the detention facilities. As already noted, that authority belongs solely to the Department of Homeland Security and its component agencies.

The Court has recently become aware that ICE is refusing to acknowledge its own detainers and is essentially delegating the authority to the U.S. Marshals Service and/or the local authorities housing the individuals, thereby refusing to execute the duties imposed upon it. The refusal places the burden on agencies without any legal authority to determine the admissibility of, and then parole persons into the United States.

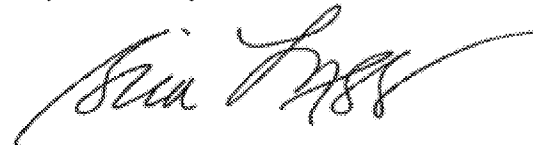
The Court has been advised that a memo from the Acting Secretary of the Department of Homeland Security has prompted the refusal of ICE to acknowledge its own detainers. If the agency no longer finds it necessary to issue detainers that is their prerogative, but the Court will

not abide the issuance of a request to detain an individual only for it to then be ignored by the same agency that issued it or illegally delegating its legal responsibility onto other agencies not within the Department of Homeland Security. Moreover, the memo at issue states that it should not be taken as prohibiting the apprehension or detention of individuals unlawfully in the United States, even if they are not identified as priorities.<sup>1</sup> Hence, if there is a detainer on a federal prisoner released from the Western District of Texas, Del Rio Division, ICE shall take immediate possession and custody of the individual upon completion of a sentence to determine whether to parole the individual into the United States or take other legal action.

For jurisdictional purposes, the Court **ORDERS** that every defendant released from the custody of the United States Marshals Service or any detention facility contracting to house federal inmates in the Western District of Texas, Del Rio Division, with a detainer must be released into the custody of, and received by, ICE Enforcement and Removal Operations.

**IT IS SO ORDERED.**

SIGNED and ENTERED on this 28th day of January, 2021.



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ALIA MOSES  
United States District Judge

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<sup>1</sup> U.S. Department of Homeland Security, *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities*. Memorandum of Jan. 20, 2021, pg. 3.