

STATE OF INDIANA) IN THE MONROE CIRCUIT COURT
) SS:
COUNTY OF MONROE) CAUSE NO. 53C06-2407-PL-001733

STATE OF INDIANA ex rel. TODD ROKITA,)
ATTORNEY GENERAL OF INDIANA,)
)
 Plaintiff/Counter-Defendant,)
)
 v.)
)
RUBEN MARTÉ, in his official capacity as)
MONROE COUNTY SHERIFF and)
MONROE COUNTY SHERIFF'S OFFICE,)
)
 Defendants/Counter-Claimants.)

**PLAINTIFF'S SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT
OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
INTRODUCTION	1
SUPPLEMENTAL STATEMENT OF UNDISPUTED FACTS 3	
I. Senate Enrolled Act 76.	4
II. Defendants’ Non-Compliance with ICE Detainer Requests.....	5
III. Relevant Supplemental Procedural History.	6
ARGUMENT	7
I. Defendants’ ICE Detainer Request Non-Compliance Policy Violates Section 4.	7
A. Longstanding history shows that arrests for civil-immigration offenses do not violate the Fourth Amendment.	8
B. The Fifth Circuit has rejected Defendants’ Fourth Amendment arguments.....	10
C. Defendants’ Remaining Arguments Lack Merit.	12
II. Defendants’ Policy Violates Section 4 Even Under Defendants’ Misguided View of the U.S. and State Constitutions.	14
CONCLUSION.....	17

TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page(s)</u>
<i>Abel v. United States</i> , 362 U.S. 217 (1960)	9, 10, 12
<i>Aguilar v. U.S. Immigr. & Customs Enf't Chi. Field Off.</i> , 346 F. Supp. 3d 1174 (N.D. Ill. 2018).....	9
<i>Buquer v. City of Indianapolis</i> , No. 11-cv-708, 2013 WL 1332158 (S.D. Ind. Mar. 28, 2013)	11
<i>Carlson v. Landon</i> , 342 U.S. 524 (1952)	14
<i>City of El Cenizo v. Texas</i> , 890 F.3d 164 (5th Cir. 2018)	9, 10, 11, 12, 13
<i>City of Gary v. Nicholson</i> , 181 N.E.3d 390 (Ind. Ct. App. 2021)	11
<i>City of Gary v. Nicholson</i> , 190 N.E.3d 349 (Ind. 2022)	11
<i>Gonzalez v. U.S. Immigr. & Customs Enf't</i> , 975 F.3d 788 (9th Cir. 2020)	10
<i>In re Search of Office of Tylman</i> , 245 F.3d 978 (7th Cir. 2001)	10
<i>Lopez-Aguilar v. Marion Cnty. Sheriff's Dep't</i> , 296 F. Supp. 3d 959 (S.D. Ind. 2017).....	11
<i>Lopez-Aguilar v. Marion Cnty. Sheriff's Dep't</i> , 924 F.3d 375 (7th Cir. 2019)	11, 12
<i>Marté v. Rokita</i> , No. 1:26-cv-00701-JPH-MJD (S.D. Ind. June 18, 2026)	6
<i>McGrath v. State</i> , 95 N.E.3d 522 (Ind. 2018)	13
<i>Saucedo-Carrillo v. United States</i> , 635 F. App'x 197 (6th Cir. 2015).....	12
<i>Sherman v. U.S. Parole Comm'n</i> , 502 F.3d 869 (9th Cir. 2007)	12
<i>Shotts v. State</i> , 925 N.E.2d 719 (Ind. 2010)	16, 17
<i>Tangwall v. Stuckey</i> , 135 F.3d 510 (7th Cir. 1998)	15

<i>Thomas v. City of Peoria</i> , 580 F.3d 633 (7th Cir. 2009)	12
<i>U.S. Dep't of Lab. v. Triplett</i> , 494 U.S. 715 (1990)	10
<i>United States v. Bowdach</i> , 561 F.2d 1160 (5th Cir. 1977)	16
<i>United States v. Ford</i> , No. 3:18-CR-084, 2019 WL 2645743 (N.D. Ind. June 27, 2019)	10
<i>United States v. Hensley</i> , 469 U.S. 221 (1985)	13
<i>United States v. Phillips</i> , 834 F.3d 1176 (11th Cir. 2016)	12
<i>United States v. Quintana</i> , 623 F.3d 1237 (8th Cir. 2010)	12
<i>United States v. Tejada</i> , 255 F.3d 1 (1st Cir. 2001)	14
<i>Virginia v. Moore</i> , 553 U.S. 164 (2008)	9, 10
<u>Statutes, Codes and Rules</u>	
8 U.S.C.	
§ 1101(b)(4)	6
§ 1229a	6
§ 1357(g)(10)(B)	10
8 C.F.R.	
§ 287.7(a)	10
Ind. Code	
§ 5-2-18.2-4	1, 2, 3, 4, 8
§ 5-2-18.2-5(b)	4
§ 5-2-18.2-5(b)(3)	1
§ 5-2-18.2-9	1, 4
§ 5-2-18.2-9(a)(3)	7
§ 35-33-1-1(a)(13)	10
Ind. Trial Rule 56(C)	4

INTRODUCTION

Many of the particulars of this case have changed since the parties completed summary judgment briefings in February. In March, the General Assembly amended Indiana Code Chapter 18.2—the statute on which the Attorney General’s claims are based—to clarify the statute’s scope and provide the Attorney General with additional enforcement tools. In response, Defendants changed some of their immigration policies, modifying and eliminating provisions of Standard Operating Procedure MCSO-012 (“MCSO-012”) that the Attorney General since the outset of this lawsuit has maintained were unlawful. Subsequently the parties negotiated and the Court approved a consent decree that resolves many of the Attorney General’s claims based on the changes Defendants have made to their policies and Defendants’ agreement to certain compliance monitoring measures, consistent with Indiana Code § 5-2-18.2-5(b)(3), which authorizes the Attorney General to seek relief “necessary to ensure future compliance” with Chapter 18.2.

What has not changed is Defendants’ unlawful policy of refusing to honor detainer requests issued by U.S. Immigration and Customs Enforcement (“ICE”). That policy violates both Indiana Code § 5-2-18.2-9 (“Section 9”) and Indiana Code § 5-2-18.2-4 (“Section 4”). The Court has preliminarily enjoined enforcement of Section 9 in Monroe County, and that issue is now on appeal. The manner in which the Sheriff’s policy violates Section 4 presents a distinct question and is ripe for resolution on summary judgment.

MCSO-012 categorically prohibits Defendants and Defendants' officers from honoring ICE detainers unless a detainer is accompanied "by a criminal judicial warrant." Contrary to Defendants' mistaken position, honoring ICE detainer requests even absent a criminal judicial warrant is fully permitted under federal and state law and does not violate the Fourth Amendment to the Federal Constitution or Article I, Section 11 of the Indiana Constitution. Thus, Defendants' policy violates Section 4, which prohibits local government entities and officials like Defendants from "in any way limit[ing] or restrict[ing] the enforcement of federal immigration laws . . . to less than the full extent permitted by federal law." Ind. Code § 5-2-18.2-4.

Moreover, even assuming some of Defendants' misguided positions on the Fourth Amendment were correct (they are not), Defendants' policy would still violate Section 4.

Critically, Section 4's prohibition operates in a way fundamentally different from the detainer compliance mandate contained in Section 9. Whereas Section 9 requires Defendants to honor all lawful detainers they receive from ICE, Section 4 prohibits Defendants from in any way limiting Defendants' officers' ability to comply with detainers in any and all circumstances where compliance is permissible under federal law. Consequently, even were the Court to conclude that the Fourth Amendment prohibits compliance with detainers in certain cases (it does not), Defendants' policy would still be unlawful under Section 4 if the Court reaches the conclusion, which is amply supported in the law, that there are at least *some*

circumstances where compliance with a detainer is permissible when a detainer is not accompanied by a criminal judicial warrant. Indeed, Defendants themselves have complied with at least one detainer in the past year that was not accompanied by a criminal judicial warrant. Yet MCSO-012 prohibits detainer compliance in all such cases in violation of Section 4.

In short, MCSO-012's detainer provision is unlawful in all its applications because it is fully permissible under the Fourth Amendment and Indiana Constitution to make an arrest based on probable cause of removability, meaning that Defendants' requirement that such arrests occur only where a detainer request is accompanied by a criminal judicial warrant plainly "limit[s] or restrict[s] the enforcement of federal immigration laws. . . to less than the full extent permitted by federal law" in violation of Section 4. Ind. Code § 5-2-18.2-4. Further, even assuming compliance with detainer requests could conceivably give rise to constitutional violations in certain cases, it is clear that Defendants' policy sweeps far more broadly than necessary to address even those imagined constitutional issues and forbids detainer compliance even in cases where Defendants themselves have recently honored detainers that were not accompanied by criminal judicial warrants.

For the reasons the Attorney General has explained in his previous summary judgment briefs, and for the supplemental reasons provided below, the Attorney General respectfully requests that the Court grant the Attorney General's motion for summary judgment on his Section 4 claim concerning Defendants' ICE detainer request noncompliance policy and deny Defendants' motion for summary judgment.

SUPPLEMENTAL STATEMENT OF UNDISPUTED FACTS

Pursuant to Indiana Trial Rule 56(C), the Attorney General designates the following additional pleadings, admissions, declarations, exhibits and other undisputed facts upon which he relies for purposes of his motion for summary judgment:

I. Senate Enrolled Act 76.

On March 5, 2026, the Governor signed SEA 76, which amended the provisions of Indiana state law on which the Attorney General's complaint is based, including as relevant here, Section 4. Section 4 now provides:

A governmental body or a postsecondary educational institution may not in any way limit or restrict the enforcement of federal immigration laws, regardless of whether the enforcement related activity is carried out by a federal, state, or local law enforcement agency, to less than the full extent permitted by federal law as long as the enforcement actions do not violate federal or state law.

Ind. Code § 5-2-18.2-4.

SEA 76 also added a new Section 9 to Chapter 18.2, which, among other things, requires a governmental body that has custody of an individual who is the subject of an immigration detainer request to “comply with all requests made in the immigration detainer request.” *Id.* § 5-2-18.2-9.

Further, SEA 76 created new remedies, in addition to the injunctive relief already available under Chapter 18.2, for violations of Chapter 18.2, including allowing the Attorney General to seek civil penalties of \$10,000 for each and every knowing or intentional violation of chapter 18.2 and “such other relief as is necessary to ensure future compliance.” Ind. Code § 5-2-18.2-5(b).

II. Defendants' Non-Compliance with ICE Detainer Requests.

Defendants issued the most recent revised MCSO-012 policy on July 1, 2026. Ex. B to Consent Decree. As relevant here, the current version of MCSO-012 maintains Defendants' policy of categorical non-compliance with ICE detainer requests except where the requests are "accompanied by a criminal judicial warrant." Moreover, not only does MCSO-012—both as originally implemented and as revised in July—violate state law on its face by prohibiting Defendants' officers from voluntarily complying with ICE detainer requests, but the evidence also confirms that this policy is enforced and that Defendants and their officers do not honor ICE detainer requests.

Since May 1, 2024, ICE has issued approximately 29 detainer requests accompanied by administrative warrants to the Monroe County Sheriff's Office, none of which Defendants honored. Ex. 2 to Pl.'s Resp. in Opp'n to Def.'s Mot. for TRO ¶ 13 (Decl. of John Raven). At least seven of the individuals subject to these detainer requests went on to reoffend. *Id.* For example, on July 15, 2024, an individual was arrested in Bloomington, Indiana, for sexually assaulting a female victim. *Id.* ¶ 12. He was charged with rape, sexual battery, and criminal confinement. *Id.* On July 17, 2024, ICE issued an immigration detainer to the Monroe County Sheriff's Office for the individual, but the Sheriff's Office declined to honor it, resulting in the individual's release. *Id.* On July 2, 2025, the same individual committed a second sexual assault against a female victim in Bloomington, Indiana. *Id.* He was arrested and charged with rape, criminal confinement, and battery resulting in bodily injury.

Three of the seven reoffenders have subsequently been removed from the country by ICE. *Id.* ¶ 13.

Defendants have, however, honored at least one ICE detainer issued in the past year where the detainer was accompanied not by a criminal judicial warrant but rather by a final order of removal. *See* Ex. 1 to Pl.’s Resp. in Opp’n to Def.’s Mot. for TRO at 9. Notably, a final order of removal is not a criminal order and is not signed by an Article III judge, but rather by an executive branch officer known as an “immigration judge.” *See* 8 U.S.C. § 1229a; *id.* § 1101(b)(4).

III. Relevant Supplemental Procedural History.

This case has undergone several procedural developments since briefing on the parties’ cross-motions for summary judgment was submitted in early February 2026.

After SEA 76 was signed into law, Monroe County Sheriff Ruben Martí filed suit in the U.S. District Court for the Southern District of Indiana on April 8, 2026, alleging that Section 9 violates the Fourth Amendment and the Indiana Constitution, and seeking a preliminary injunction prohibiting enforcement of the law. On June 18, 2026, the federal district court denied Sheriff Martí’s motion for a preliminary injunction on jurisdictional grounds and indicated that this Court is an appropriate forum in which the parties may resolve their dispute concerning detainer compliance. Order Den. Prelim. Inj., *Martí v. Rokita*, No. 1:26-cv-00701-JPH-MJD (S.D. Ind. June 18, 2026). Subsequently, on June 23, 2026, this Court lifted the stay in this case it had entered on April 20, 2026, and modified on May 20, 2026.

That same day, Defendants filed a motion for a temporary restraining order or, in the alternative, a preliminary injunction barring the enforcement of Section 9. The Court granted the motion and entered a preliminary injunction enjoining the State of Indiana from enforcing Section 9(a)(3) as to Defendants in this case. The Attorney General appealed the preliminary injunction on July 1, 2026.

On July 6, 2026, the Attorney General filed a motion to stay the preliminary injunction pending appeal, which the Court denied on August 3, 2026, after briefing and a hearing on July 31, 2026. At the hearing on the motion, Defendants made an oral motion to hold this case in abeyance pending the resolution of the Attorney General's interlocutory appeal. Also at the July 31 hearing, the Court granted the parties leave to file supplemental briefs to address the changed legal and factual circumstances relevant to the motions for summary judgment.

On August 26, 2026, the parties entered into a consent decree that resolved all of the issues in this case except for whether Defendants' detainer non-compliance policy violates Section 4. Consent Decree. On August 27, 2026, the Court approved and entered that consent decree as a final judgment resolving all of the Attorney General's claims except for the Section 4 detainer claim. As a result, only the Attorney General's detainer compliance claim remains for the Court to resolve.

ARGUMENT

I. Defendants' ICE Detainer Request Non-Compliance Policy Violates Section 4.

The Attorney General has previously explained why Defendants' non-compliance policy violates Section 4 and, specifically, why ICE detainer requests do

not violate the Fourth Amendment or Article I, Section 11, meaning compliance is permissible and therefore protected by Section 4. *See* Pl.’s Op. MSJ Br. at 23–26; Pl.’s Opp’n MSJ Br. at 37–54; Pl.’s MSJ Reply at 15–16. Nothing has changed in this case or in Indiana law to alter those conclusions. Indeed, the changes to Section 4 made by SEA 76 only buttress the Attorney General’s arguments by clarifying that policies violate Section 4 if they “*in any way* limit or restrict the enforcement of federal immigration laws . . . to less than the full extent permitted by federal law,” regardless of whether the enforcement related activity “is carried out by a federal, state, or local law enforcement agency.” Ind. Code § 5-2-18.2-4 (emphasis added). Consequently, Defendants can no longer argue, as they did before, that Section 4 is concerned only with federal enforcement of immigration laws. *Contra* Defs.’ MSJ Op. Br. at 36–38 (Dec. 23, 2025). Defendants’ sole remaining argument to justify their unlawful policy is that detainer compliance violates the Fourth Amendment and Article I, Section 11. Because that position is incorrect, Defendants’ summary judgment motion should be denied and the Attorney General’s motion granted.

A. Longstanding history shows that arrests for civil-immigration offenses do not violate the Fourth Amendment.

Defendants argue their non-compliance policy does not violate Section 4 because detaining an individual for even a brief 48-hour period in response to an ICE detainer would supposedly violate the Fourth Amendment unless the detainer is accompanied by a criminal judicial warrant. *E.g.*, Defs.’ MSJ Br. at 47–51. But longstanding history confirms that officials may lawfully arrest individuals based on probable cause of a civil-immigration offense without a judicial warrant, and all ICE

detainers are accompanied by administrative warrants that contain such a probable cause determination. *See* Decl. of John Raven ¶ 8. That means that, in all its applications, MCSO-012's detainer provision violates Section 4 by barring immigration enforcement activity that is fully permitted under federal and state law.

"In determining whether a search or seizure is unreasonable, [courts] begin with history." *Virginia v. Moore*, 553 U.S. 164, 168 (2008). Here, history shows that law enforcement officers may detain aliens suspected of civil immigration violations without a judicial warrant. The Supreme Court has observed that there is "overwhelming historical legislative recognition of the propriety of administrative arrest[s] for deportable aliens" from "almost the beginning of the Nation." *Abel v. United States*, 362 U.S. 217, 233–34 (1960). "Statutes providing for deportation" since 1798 have "authorized the arrest of deportable aliens by order of an executive official." *Id.* at 233. Thus, as federal courts routinely recognize, "federal immigration officers may seize aliens based on an administrative warrant attesting to probable cause of removability." *City of El Cenizo v. Texas*, 890 F.3d 164, 187 (5th Cir. 2018) (emphasis omitted); *see Aguilar v. U.S. Immigr. & Customs Enf't Chi. Field Off.*, 346 F. Supp. 3d 1174, 1189 (N.D. Ill. 2018) (collecting cases).

Because the Fourth Amendment allows federal immigration officers to detain individuals without a judicial warrant, it is also clear that local officers can do the same without violating the Fourth Amendment. Whether a seizure is reasonable does not depend on whether the officer happens to wear a federal or local uniform. *See*

Gonzalez v. U.S. Immigr. & Customs Enf't, 975 F.3d 788, 816–17 (9th Cir. 2020) (“[T]he absence of state authorization for a state officer to enforce federal immigration law does not render the officer’s seizure of an individual for the suspected civil immigration offense of unlawful presence . . . a Fourth Amendment violation.” (emphasis omitted)); *United States v. Ford*, No. 3:18-CR-084, 2019 WL 2645743, at *5 n.4 (N.D. Ind. June 27, 2019) (“whether [an officer] is indeed a federal law enforcement officer or whether he is a local/state officer . . . does not impact the outcome” of the Fourth Amendment analysis). The “Fourth Amendment protections are not so variable.” *Moore*, 553 U.S. at 172 (internal quotation marks omitted).

Indeed, federal law expressly allows local officers to “cooperate with the Attorney General in the . . . detention . . . of aliens not lawfully present in the United States.” 8 U.S.C. § 1357(g)(10)(B); *see* 8 C.F.R. 287.7(a). Likewise, in addition to the provisions of Chapter 18.2 that require detainer compliance, Indiana law has long authorized arrests based on immigration detainers. *See* Ind. Code § 35-33-1-1(a)(13). These laws enjoy a “strong presumption of constitutionality.” *In re Search of Office of Tylman*, 245 F.3d 978, 981 (7th Cir. 2001); *see U.S. Dep’t of Lab. v. Triplett*, 494 U.S. 715, 721 (1990). Thus, just like federal officers, local officers may detain an individual based on an ICE detainer.

B. The Fifth Circuit has rejected Defendants’ Fourth Amendment arguments.

In *City of El Cenizo*, the Fifth Circuit observed that Supreme Court precedent establishes that federal officers may arrest individuals based on probable cause of removability without judicial warrants. *City of El Cenizo*, 890 F.3d at 187 (citing *Abel*,

362 U.S. at 233–34). That means, the court concluded, that there is no constitutional problem with local officers honoring ICE detainer requests because those detainer requests and accompanying administrative warrants provide local officers with “probable cause” that the alien in their custody is “removab[le].” *Id.*

The Fifth Circuit also specifically rejected the premises underlying Defendants’ theory that officers cannot honor detainer requests consistent with the Fourth Amendment. For example, the court rejected the argument that no person can be detained “absent proof of criminality,” noting that “[c]ourts have upheld many statutes that allow seizures” without probable cause of a crime. *City of El Cenizo*, 890 F.3d at 188. The court likewise rejected the argument that it would violate the Fourth Amendment for Texas officers to honor detainers because there was some possibility that a detainer could be issued in error. *Id.* at 188–89.

To be sure, there are a handful of non-binding decisions that conflict with the Fifth Circuit’s reasoning. *See City of Gary v. Nicholson*, 181 N.E.3d 390 (Ind. Ct. App. 2021), *vacated*, 190 N.E.3d 349 (Ind. 2022); *Lopez-Aguilar v. Marion Cnty. Sheriff’s Dep’t*, 296 F. Supp. 3d 959 (S.D. Ind. 2017), *rev’d and remanded*, 924 F.3d 375 (7th Cir. 2019); *Buquer v. City of Indianapolis*, No. 11-cv-708, 2013 WL 1332158 (S.D. Ind. Mar. 28, 2013). But both federal court decisions predated the Fifth Circuit’s decision, and *Buquer* was issued years before ICE adopted a policy requiring that every detainer request be accompanied by an administrative warrant attesting to probable cause of removability. Appellate tribunals vacated the lower-court decisions in both *Lopez-Aguilar* and *Nicholson* on jurisdictional grounds. *See Nicholson*, 190 N.E.3d at

352; *Lopez-Aguilar*, 924 F.3d at 396–98. Further, the divided panel in *Nicholson* completely failed to discuss or analyze in any meaningful way the relevant Supreme Court precedents, such as *Abel*, discussed above and in the Attorney General’s previous summary judgment papers that plainly demonstrate that detention based on probable cause of removability is lawful under the Constitution.

C. Defendants’ Remaining Arguments Lack Merit.

None of the arguments Defendants have advanced for why the longstanding practice of detaining illegal aliens based on probable cause of removability contained in a detainer is unconstitutional is sound.

First, as explained above, Defendants’ argument that compliance with ICE detainer requests violates the Fourth Amendment because detainers are not accompanied by criminal judicial warrants fails under binding precedent. Defendants’ argument amounts to the assertion that all detentions by any officer for civil-immigration offenses are unconstitutional. But history and precedent foreclose that argument. *See Abel*, 362 U.S. at 233; *Sherman v. U.S. Parole Comm’n*, 502 F.3d 869, 876–80 (9th Cir. 2007); *City of El Cenizo*, 890 F.3d at 187; *United States v. Quintana*, 623 F.3d 1237, 1241 (8th Cir. 2010); *Saucedo-Carrillo v. United States*, 635 F. App’x 197, 202–03 (6th Cir. 2015). The “Fourth Amendment does not require warrants to be based on probable cause of a crime, as opposed to a civil offense.” *United States v. Phillips*, 834 F.3d 1176, 1181 (11th Cir. 2016); *see Thomas v. City of Peoria*, 580 F.3d 633, 638 (7th Cir. 2009) (“Even arrests for violations of purely civil laws are common enough, and usually unexceptionable,” such as “arrests for civil

violations of the immigration laws.”). Thus, Defendants are flatly wrong to suggest that local officers would violate the Fourth Amendment by honoring an ICE detainer just because there is no criminal warrant.

Second, Defendants argue their officers cannot detain someone for a civil-immigration offense because the officers do not have the ability to determine independently whether a person is removable. *E.g.*, Defs.’ MSJ Br. at 55 n.24. But again, “well settled” Fourth Amendment principles allow an officer to rely on another officer’s determinations in making arrests. *McGrath v. State*, 95 N.E.3d 522, 529 (Ind. 2018). Under the collective knowledge doctrine, when federal officials request local assistance with immigration enforcement, local officers may rely on a federal officer’s probable cause determination even though the local officers may be “unaware of the specific facts that established probable cause.” *United States v. Hensley*, 469 U.S. 221, 231 (1985). As the Fifth Circuit has recognized, a local officer’s “[c]ompliance with an ICE detainer . . . constitutes a paradigmatic instance of the collective-knowledge doctrine.” *City of El Cenizo*, 890 F.3d at 187. Local officers therefore can and frequently do rely on an ICE detainer’s probable cause determination that someone is a removable alien, for “the detainer request itself provides the required communication between the arresting officer and an officer who has knowledge of all the necessary facts.” *Id.* at 187–88 (citation omitted).

Third, Defendants have argued that ICE detainer requests violate the Fourth Amendment because there is no probable cause hearing before or after ICE issues a detainer. *E.g.*, Defs.’ MSJ Br. at 50 n.21. Where “detention [i]s civil in nature,”

however, the “requirement that a magistrate evaluate [the] detention within 48 hours of [the] arrest is . . . inapplicable.” *United States v. Tejada*, 255 F.3d 1, 3 (1st Cir. 2001); *see also Carlson v. Landon*, 342 U.S. 524, 537 (1952) (“Deportation is not a criminal proceeding and has never been held to be punishment.”). Moreover, even if the same criminal requirements applied, Defendants would not violate them by honoring a detainer request. Detainers ask local officers to hold the subject only for *up to* 48 hours—a period shorter than the time frame that triggers the hearing requirement in criminal cases. If ICE does not take custody within 48 hours, the subject is free to go. Thus, even accepting Defendants’ premise, there is no constitutional problem.

In sum, local officers’ compliance with ICE detainer requests is consistent with the Fourth Amendment, and Defendants’ arguments to the contrary are unpersuasive. Before the local officer even receives a detainer request, ICE has determined there is probable cause that the detainer’s subject is removable. That probable cause determination is included in the detainer request. So local officers may temporarily detain aliens for up to 48 hours based on the detainer request and accompanying administrative warrant that describes the basis for removal.

II. Defendants’ Policy Violates Section 4 Even Under Defendants’ Misguided View of the U.S. and State Constitutions.

The Attorney General’s Section 4 claim is straightforward: federal and state law allow Defendants to comply voluntarily with ICE detainer requests, and therefore Defendants’ categorical policy prohibiting compliance except when detainers are accompanied by criminal judicial warrants violates Section 4 by limiting the

enforcement of federal immigration law to less than the fullest extent permitted by law. Section 4 thus operates *by preserving* local law-enforcement officers’ discretion to honor ICE detainers from interference by local policies—like MCSO-012—that limit that discretion and bar compliance with detainer requests across the board. Section 9, by contrast, mandates compliance with lawfully issued ICE detainer requests in all cases. Consequently, even assuming that Defendants may be correct (they are not) that compliance with ICE detainers in *certain* circumstances where no criminal judicial warrant accompanies the detainer would be unlawful, and that compliance with Section 9 in all cases is not possible, that does not save their policy under Section 4. Because Defendants’ policy prohibits detainer compliance in *all* circumstances absent an accompanying criminal judicial warrant, and because even under Defendants’ mistaken view of the law detainer compliance in some of those circumstances would be permissible, the policy plainly violates Section 4 in at least some circumstances.

For instance, Defendants argue that ICE detainers and the administrative warrant that accompany them do not contain enough detail about the factual bases for ICE’s probable cause determinations. Even leaving aside the fact that Seventh Circuit precedent concerning the collective knowledge doctrine squarely forecloses Defendants’ argument, *see Tangwall v. Stuckey*, 135 F.3d 510, 517 (7th Cir. 1998) (allowing arrest even if an officer is unaware of the facts establishing probable cause “so long as the knowledge of the officer directing the arrest, or the collective knowledge of the agency he works for, is sufficient to constitute probable cause”), the

argument still would not save Defendants' policy, which categorically bars compliance with ICE detainers regardless of the level of factual detail they contain, from violating Section 4.

Similarly, Defendants' policy seems not to reflect even *Defendants' own view* of when it would be lawful to comply with a detainer—the policy prohibits compliance even in circumstances where Defendants have complied with a detainer in just the past 12 months. In particular, while MCSO-012 bars detainer compliance except where a detainer is accompanied by a criminal judicial warrant, Defendants honored a detainer that was accompanied not by such a warrant but rather by a civil final order of removal issued by an executive branch officer. *See* Ex. 1 to Pl.'s Resp. in Opp'n to Def.'s Mot. for TRO at 9.

Likewise, Defendants' policy bars compliance with detainer requests even where an officer may be aware or is notified that a criminal judicial warrant has been issued for an alien, but where the warrant does not *accompany* the detainer sent by ICE. In those circumstances, too, it is lawful for law enforcement to detain an individual beyond his scheduled release time. In particular, probable cause to make an arrest may exist where local law enforcement officers “have knowledge of the fact that the person being arrested is wanted by the federal authorities and that a federal arrest warrant has been issued.” *United States v. Bowdach*, 561 F.2d 1160, 1168 (5th Cir. 1977). Accordingly, law enforcement's knowledge of the existence of an arrest warrant may provide probable cause to arrest an individual, even if law enforcement does not possess a copy of the warrant. *See Shotts v. State*, 925 N.E.2d 719, 725–727

(Ind. 2010). For example, where an officer “verif[ies] the existence of [a] warrant” by “check[ing] with the NCIC” database, it is “reasonable for [the officer] to presume the warrant [is] valid and supported by probable cause.” *Id.* at 725.

Yet in such cases—where a detainer is issued and Defendants’ officers are aware that a warrant has also been issued for the arrest of the subject of the detainer, but where the warrant does not accompany the detainer—Defendants’ policy prohibits compliance with the detainer request. That is yet another example of how MCSO-012 violates Section 4 by restricting immigration enforcement activity to less than the full extent clearly allowed by federal and state law.

Accordingly, even if the Court were to determine that complying with *some* ICE detainer requests would violate the Fourth Amendment or Article I, Section 11—and for the reasons explained above and in prior briefing, the Court should not reach that conclusion—Defendants’ argument that their categorical policy is lawful still fails. Even under Defendants’ view of the law, compliance with *some* ICE detainer requests would be constitutional even absent a criminal judicial warrant accompanying the detainer. Yet their policy would still prohibit compliance with such requests and in that way violates Section 4.

CONCLUSION

The Attorney General respectfully requests that the Court grant the Attorney General’s motion for summary judgment and deny Defendants’ motion for summary judgment.

Respectfully submitted,

THEODORE E. ROKITA
Attorney General
Attorney No. 18857-49

Date: August 28, 2026

By: s/Blake E. Lanning
Blake E. Lanning
Assistant Chief Deputy
Attorney No. 35282-24

s/Aaron M. Ridlen
Aaron M. Ridlen
Deputy Attorney General
Attorney No. 31481-49

OFFICE OF ATTORNEY GENERAL TODD ROKITA
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204-2770
Telephone: (317) 232-2826
Facsimile: (317) 232-7979
E-mail: Aaron.Ridlen@atg.in.gov
E-mail: Blake.Lanning@atg.in.gov

CERTIFICATE OF SERVICE

I certify that on August 28, 2026, the foregoing document was served upon the following person(s) via IEFS, if Registered Users, or by depositing the foregoing document in the U.S. Mail, first class, postage prepaid, if exempt or non-registered user:

E. Jeff Cockerill
Justin D. Roddye
Molly Jane Turner-King
Monroe County Legal Department
Monroe County Courthouse
100 W. Kirkwood Avenue
Room 220
Bloomington, Indiana 47404
(812) 349-2525
jroddye@co.monroe.in.us

Alexandra Lichtenstein
Shelby Calambokidis
Institute for Constitutional Advocacy
and Protection
Georgetown University Law Center
600 New Jersey Ave NW
Washington, DC 20001
(202) 661-6515
alex.lichtenstein@georgetown.edu

Counsel for Defendants / Counter-Claimants

s/Aaron M. Ridlen
Aaron M. Ridlen
Deputy Attorney General
Attorney No. 31481-49