

**3:26-cv-00116-RSH-DDL** Rashid v. Noem et al

Robert S. Huie, presiding

David D. Leshner, referral

**Date filed:** 01/08/2026

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## History

Doc. No.	Dates	Description
<u>1</u>	<i>Filed:</i> 01/08/2026 <i>Entered:</i> 01/09/2026	 Petition for Writ of Habeas Corpus
<u>2</u>	<i>Filed &amp; Entered:</i> 01/09/2026	 Order Setting Briefing Schedule - Habeas Corpus
<u>3</u>	<i>Filed &amp; Entered:</i> 01/17/2026	 Notice of Appearance



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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **AZIZ MORADI RASHID,**

13 **Petitioner,**

14 **v.**

15 **KRISTI NOEM, Secretary of the**  
16 **Department of Homeland Security,**  
17 **PAMELA JO BONDI, Attorney General,**  
18 **TODD M. LYONS, Acting Director,**  
19 **Immigration and Customs Enforcement,**  
20 **JESUS ROCHA, Acting Field Office**  
21 **Director, San Diego Field Office,**  
22 **CHRISTOPHER LAROSE, Warden at**  
23 **Otay Mesa Detention Center,**

24 **Respondents.**

Case No.: '26CV0116 RSH DDL

**Petition for Writ**  
**of**  
**Habeas Corpus**

**[Civil Immigration Habeas Petition**  
**Under 28 U.S.C. § 2241]**

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27 <sup>1</sup> Federal Defenders of San Diego, Inc., is filing with provisional appointment  
28 under Chief Judge Order No. 134. Mr. Moradi's financial eligibility for  
representation is included in a sworn statement attached to this petition.

1 **I. Introduction**

2 Mr. Moradi was ordered removed to Iran in 2008. It is very hard for the  
3 government to deport people to Iran. And it hard to deport Mr. Moradi,  
4 specifically. The United States was not able to deport Mr. Moradi after releasing  
5 him on an order of supervision over the next decade and a half. In 2024,  
6 Mr. Moradi left the United States for Iran on his own accord, before realizing his  
7 mistake. He arrived back at the U.S. border on May 31, 2025. He has been  
8 detained pending removal ever since.

9 Despite Mr. Moradi’s efforts to push ICE to either grant him relief from  
10 removal or remove him, in the last seven months, ICE has provided him no  
11 information indicating that he will be removed to Iran in the reasonably  
12 foreseeable future. It did not even bother to reinstate his 2008 removal order until  
13 four months into his detention, after he went on a hunger strike. And last month, a  
14 representative of the Iranian government informed Mr. Moradi directly that he  
15 lacked sufficient identification to receive a travel document to be deported to Iran.

16 Mr. Moradi has been continuously detained for so long that his detention is  
17 no longer “presumptively reasonable.” *Zadvydas v. Davis*, 533 U.S. 678 (2001).  
18 And he has “good reason to believe there is no significant likelihood of removal  
19 in the reasonably foreseeable future.” *Id.* Because the government cannot rebut  
20 this showing, this Court should grant this petition under 28 U.S.C. § 2241 and  
21 order Mr. Moradi released on supervision until the government is able to  
22 coordinate his removal. *Id.*

23 Numerous courts have ordered Iranians released under *Zadvydas* for the  
24 same reasons in the recent months. *See, e.g., Bunnell v. Noem*, No. 25-cv-2259-  
25 GMN-EJY, 2025 WL 3707588 (D. Nev. Dec. 22, 2025); *Asfetani v. Current or*  
26 *Acting Field Office*, No. 25-cv-1562-SCR, 2025 WL 3677321 (E.D. Cal. Dec. 18,  
27 2025); *Ghadesi v. Wamsley*, No. 25-cv-1984-RSM-BAT, 2025 WL 3699705  
28 (W.D. Wash. Dec. 1, 2025), *report and recommendation adopted in Ghadesi v.*

1 *Wamsley*, 2025 WL 3697208 (Dec. 19, 2025) (each granting habeas petitions or  
2 preliminary injunctions ordering release in light of *Zadvydas* violations as to  
3 detained Iranian nationals ordered removed to Iran).

4 **II. Statement of Facts**

5 **A. Mr. Moradi is ordered removed and released on supervision,**  
6 **leaves the U.S. and returns, and is detained pending removal**  
7 **since May.**

8 Aziz Moradi Rashid was ordered removed from the United States in 2008.  
9 Declaration of Aziz Moradi Rashid ¶ 2 (Exhibit A). An immigration judge also  
10 granted him protection from removal to Iran under the Convention Against  
11 Torture (“CAT”), but the Department of Homeland Security appealed. *Id.* ¶ 2. The  
12 Bureau of Immigration Appeals sustained the appeal in September 2009,  
13 reversing Mr. Rashid’s grant of relief under CAT. *Id.* ¶ 2. However, because the  
14 government could not remove Mr. Moradi to Iran, it released him on an order of  
15 supervision in January 2010. *Id.* ¶ 3.

16 Mr. Moradi remained on an order of supervision for the next fourteen years.  
17 *Id.* ¶¶ 3–4. During that time, the government could not remove him to Iran. *Id.*

18 In August 2024, Mr. Moradi decided to return to Iran. *Id.* ¶ 4. He quickly  
19 came to regret that decision. He was monitored by the Iranian government the  
20 entire time he had returned. *Id.* ¶¶ 4–5.

21 Mr. Moradi returned to the U.S. at the end of May 2025. *Id.* ¶ 5. He has  
22 remained detained at the Otay Mesa Detention Center. For the first month he was  
23 in immigration custody, ICE officers told him he was being held under his 2008  
24 removal order, and that he would be deported to Iran. *Id.* ¶ 6. For the next two  
25 months, however, ICE officers apparently misunderstood the procedural history  
26 of his case. They informed Mr. Moradi that he “would be deported to a third  
27 country” because he had “received CAT.” *Id.* ¶ 7. Mr. Moradi explained that he  
28 did not. *Id.* At the end of August, ICE officers confirmed that he did not have  
CAT protection. *Id.* ¶ 8.

1 In the middle of September, Mr. Moradi went on hunger strike to “protest[]  
2 the fact that ICE did not have any plans for [him] and was not making any efforts  
3 to release [him], deport [him], or process [his] case.” *Id.* ¶ 9; *see* Exhibit B  
4 (medical record reporting “why on a hunger strike[:] ‘I have the right to have a  
5 due process from ICE, but I have not receive it’”). He explained at the time, he  
6 told a nurse he was on a hunger strike because “I’ve been here for 4 months and  
7 no one from Ice has seen me—they say I’m not entitled to an interview.” Exhibit  
8 B. At the end of his strike, an ICE officer told him “he would process [his]  
9 deportation and schedule a reasonable fear interview.” Exhibit A ¶ 10.

10 In early October, ICE reinstated Mr. Moradi’s 2008 removal order “from its  
11 original date.” Exhibit C (reinstatement order); *see* 8 U.S.C. § 1231(a)(5) (“If the  
12 Attorney General finds that an alien has reentered the United States illegally after  
13 having been removed or having departed voluntarily, under an order of removal,  
14 the prior order of removal is reinstated from its original date . . . and the alien  
15 shall be removed under the prior order at any time after the reentry”). Mr. Moradi  
16 requested a reasonable fear interview, which resulted in a negative determination,  
17 and which an immigration judge affirmed on October 24, 2025. Exhibit A ¶ 11.<sup>2</sup>

18 Mr. Moradi has “not heard anything from ICE officers since [he] had [his]  
19 reasonable fear interview about when or if [he] will be deported to Iran.” Exhibit  
20 A ¶ 13. Even so, both before and after that interview, Mr. Moradi has done his  
21 best to “cooperate[.]” *Id.* ¶ 12. In December, ICE coordinated a call between  
22 Mr. Moradi and “a representative of the Iranian government.” *Id.* Mr. Moradi  
23 explains,

24 The Iranian representative told me that he needs two forms of  
25 identification to issue a travel document, and I explained I only have  
26 one, my birth certificate. The representative said he could not issue a  
27 document without more forms of identification.

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28 <sup>2</sup> *See also*

1 Exhibit A ¶ 12.

2 **B. It is extremely challenging to deport people to Iran.**

3 The United States has not had normalized relations with Iran since the  
4 Islamic Revolution of 1979. *See generally* Council on Foreign Relations, *1953–*  
5 *2025: U.S. Relations With Iran*.<sup>3</sup> It currently lacks diplomatic and consular  
6 relations. U.S. Department of State, Bureau of Consular Affairs, *Iran Travel*  
7 *Advisory*, March 31, 2025.<sup>4</sup>

8 As President Trump found last year when banning the entry of Iranian  
9 nationals into the United States, Iran “has historically failed to accept back its  
10 removable nationals.” Presidential Proclamation, *Restricting the Entry of Foreign*  
11 *Nationals to Protect the United States from Foreign Terrorists and Other*  
12 *National Security and Public Safety Threats*, June 4, 2025<sup>5</sup>; accord Presidential  
13 Proclamation, *Restricting and Limiting the Entry of Foreign Nationals to Protect*  
14 *the Security of the United States*, Dec. 16, 2025.<sup>6</sup>

15 Iran has long been among the top fifteen most uncooperative countries the  
16 United States faces when seeking to repatriate immigrants it has ordered deported,  
17 alongside other countries like Cuba. *See* Exhibit D at 30 (Office of Inspector  
18 General, Department of Homeland Security, *ICE Faces Barriers in Timely*

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22 <sup>3</sup> Available at <https://www.cfr.org/timeline/us-relations-iran-1953-2025>.

23 <sup>4</sup> Available at  
24 <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/iran-travel-advisory.html>

25 <sup>5</sup> Available at [https://www.whitehouse.gov/presidential-](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/)  
26 [actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/)  
[states-from-foreign-terrorists-and-other-national-security-and-public-safety-](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/)  
[threats/](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/).

27 <sup>6</sup> Available at [https://www.whitehouse.gov/presidential-](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/)  
28 [actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/)  
[the-security-of-the-united-states/](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/).

1 *Repatriation of Detained Aliens*, March 11, 2019); Exhibit E at 3, 7  
2 (Memorandum from ICE ERO, November 2024).

3 **III. This Court has jurisdiction.**

4 This Court has jurisdiction to consider Mr. Moradi’s claim of unlawful  
5 detention and unlawful third-country removal under 28 U.S.C. § 2241.

6 The government’s recent argument otherwise, that 8 U.S.C. § 1252(g) strips  
7 this Court of jurisdiction, “has been repeatedly ‘rejected as implausible’ by the  
8 Supreme Court.” *Soryadvongsa v. Noem*, No. 25-cv-2663-AGS, 2025 WL  
9 316821, \*1 (S.D. Cal. Nov. 8, 2025) (quoting *Department of Homeland Sec. v.*  
10 *Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020)). The government’s argument  
11 “would eliminate judicial review of immigration [detainees’] claims of unlawful  
12 detention . . . inconsistent with *Jennings v. Rodriguez* and the history of judicial  
13 review of the detention of noncitizens under 28 U.S.C. § 2241.” *Phan v. Noem*,  
14 No. 25-cv-2422-RBM, 2025 WL 2898977, \*3 (S.D. Cal. Oct. 10, 2025).

15 **IV. Legal background: detention pending removal is not presumptively**  
16 **reasonable after six months, and is only allowable if removal is**  
17 **significantly likely in the reasonably foreseeable future.**

18 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered  
19 a problem affecting people like Mr. Moradi: Federal law requires ICE to detain an  
20 immigrant during the “removal period,” which typically spans the first 90 days  
21 after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-  
22 day removal period expires, detention becomes discretionary—ICE may detain  
23 the immigrant while continuing to try to remove them. *Id.* § 1231(a)(6).

24 Ordinarily, this scheme would not lead to excessive detention, as removal  
25 happens within days or weeks. But some detainees cannot be removed quickly.  
26 Perhaps their removal “simply require[s] more time for processing,” or they are  
27 “ordered removed to countries with whom the United States does not have a  
28 repatriation agreement,” or their countries “refuse to take them,” or they are  
“effectively ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma v.*

1 *Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances,  
2 detained immigrants can find themselves trapped in detention for months, years,  
3 decades, or even the rest of their lives.

4 If federal law were understood to allow for “indefinite, perhaps permanent,  
5 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at  
6 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by  
7 interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

8 *Zadvydas* held that detention is “presumptively reasonable” for six months.  
9 *Id.* at 701. This presumption is, in some circumstances, “rebuttable.” *Zavvar v.*  
10 *Scott*, No. 25-2104-TDC, 2025 WL 2592543, \*5–\*6 (D. Md. Sept. 8, 2025).

11 After six months, courts use a burden-shifting framework. The petitioner  
12 must make a prima facie case for relief: He must prove that there is “good reason  
13 to believe that there is no significant likelihood of removal in the reasonably  
14 foreseeable future.” *Zadvydas*, 533 U.S. at 689. If he does so, the burden shifts to  
15 “the Government [to] respond with evidence sufficient to rebut that showing.” *Id.*  
16 Ultimately, then, the burden of proof rests with the government: The government  
17 must prove that there is a “significant likelihood of removal in the reasonably  
18 foreseeable future,” or the immigrant must be released. *Id.*

19 To underline, good faith is beside the point. “[U]nder *Zadvydas*, the  
20 reasonableness of Petitioner's detention does not turn on the degree of the  
21 government's good faith efforts. Indeed, the *Zadvydas* court explicitly rejected  
22 such a standard. Rather, the reasonableness of Petitioner's detention turns on  
23 whether and to what extent the government's efforts are likely to bear fruit.”  
24 *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at \*5 (W.D.N.Y.  
25 Jan. 2, 2019). “[T]he Government is required to demonstrate the likelihood of not  
26 only the *existence* of untapped possibilities, but also of a probability of success in  
27 such possibilities.” *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010).

28

1 Using this framework, Mr. Moradi can make all the threshold showings  
2 needed to shift the burden to the government.

3 **A. The six-month period of presumptively reasonable detention**  
4 **expired in late November 2025.**

5 Mr. Moradi has been detained subject to his 2008 removal order since late  
6 May 2025. Exhibit A ¶¶ 2, 5; *see also* Exhibit C (reinstating the 2008 removal  
7 order); 8 U.S.C. § 1231(a)(5) (reinstated removal orders are reinstated “from  
8 [their] original date”). As a result, under *Zadvydas*, his detention was no longer  
9 presumptively reasonable six months later, in late November 2025.

10 **B. There is good reason to believe that there is no significant**  
11 **likelihood of Mr. Moradi’s removal in the reasonably foreseeable**  
12 **future.**

13 Because six months have passed, this Court must evaluate Mr. Moradi’s  
14 *Zadvydas* claim using the burden-shifting framework. At the first stage of the  
15 framework, there must be “good reason to believe that there is no significant  
16 likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at  
17 701. This standard can be broken down into three parts.

18 “**Good reason to believe.**” The “good reason to believe” standard is a  
19 relatively forgiving one. “A petitioner need not establish that there exists no  
20 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL  
21 10714999, at \*3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to  
22 believe’ . . . place a burden upon the detainee to demonstrate no reasonably  
23 foreseeable, significant likelihood of removal or show that his detention is  
24 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,  
25 2020 WL 3972319, at \*3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401  
26 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:  
27 Petitioners need only give a “good reason”—not prove anything to a certainty.

28 “**No significant likelihood of removal.**” This component focuses on  
whether Mr. Moradi will likely be removed: Continued detention is permissible

1 only if it is “significant[ly] like[ly]” that ICE will be able to remove him.  
2 *Zadvydas*, 533 U.S. at 701. This inquiry targets “not only the *existence* of  
3 untapped possibilities, but also [the] probability of *success* in such possibilities.”  
4 *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis  
5 added). In other words, even if “there remains *some* possibility of removal,” a  
6 petitioner can still meet its burden if there is good reason to believe that  
7 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-  
8 8019, 2002 WL 31520362, at \*4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

9 “**In the reasonably foreseeable future.**” This component of the test  
10 focuses on when Mr. Moradi will likely be removed: Continued detention is  
11 permissible only if removal is likely to happen “in the reasonably foreseeable  
12 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s  
13 removal efforts. If the Court has “no idea of when it might reasonably expect  
14 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal  
15 is likely to occur—or even that it might occur—in the reasonably foreseeable  
16 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at \*3  
17 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL  
18 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d  
19 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Moradi  
20 “would *eventually* receive” a travel document, he can still meet his burden by  
21 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,  
22 2016 WL 6679830, at \*2 (E.D. Mich. Nov. 14, 2016).

23 Mr. Moradi readily satisfies the above standards for three reasons.

24 First, despite Mr. Moradi’s significant efforts to move his case forward, he  
25 has no timeframe or indication that he will be removed from Iran. He has not  
26 “heard anything from ICE officers . . . about when or if [he] will be deported to  
27 Iran” since October. Exhibit A ¶ 13. He does not have a travel document. In fact,  
28 all he knows is what a representative of the Iranian government told him last

1 month: That the government would not issue a travel document to him unless he  
2 had more than one form of Iranian identification. Exhibit A ¶ 12. Mr. Moradi only  
3 has one: his birth certificate. *Id.* Mr. Moradi’s current impasse provides good  
4 reason to shift the burden to the government to prove there is a significant  
5 likelihood of Mr. Moradi’s removal in the reasonably foreseeable future.

6 Second, the government has had over fifteen years to work with Iran to get  
7 travel documents for Mr. Moradi, specifically—from late 2008 to mid-2024, and  
8 from mid-2025 to present. It has been unable to do so all that time. Exhibit A  
9 ¶¶ 3–13. This, too, shows there is a good reason to believe Mr. Moradi will not be  
10 deported.

11 Third, the current and historical experiences of Iranian nationals in the  
12 United States generally confirm that Mr. Moradi will not be removed in the  
13 reasonably foreseeable future. President Trump concluded last year that Iran “has  
14 historically failed to accept back its removable nationals.” Presidential  
15 Proclamation, June 4, 2025, *supra* page 4 n.5. In late 2024, ICE identified over  
16 2,600 Iranian citizens with final orders of removal who it could not remove to  
17 Iran. Exhibit E at 3. It explained that the reason so many are not deportable is in  
18 part because Iran is one of fifteen countries ICE “considers . . . to be  
19 uncooperative” with repatriation of its citizens. *Id.* at 7.

20 Mr. Moradi is thus similarly situated to the Iranian national ordered  
21 released last month in *Ghasedi*, 2025 WL 3699705 at \*3–\*5. There, as here, “the  
22 government has failed to remove him for” years, “states no timeframe for  
23 removal, and has not yet obtained a travel document for him from Iran or another  
24 country.” *Id.* at \*3. There, as here, in light of Iran’s status as “one of 15  
25 ‘uncooperative’ countries that does not facilitate deportations of its citizens,” the  
26 habeas petitioner had met his burden under *Zadvydas*. *Id.* Similarly, in *Bunnell v.*  
27 *Noem*, 2025 WL 3707588 at \*3–\*4, an Iranian who was continuously detained for  
28 more than six months met his burden because he “identifie[d] a date and cull

1 during which Petitioner was informed by the Iranian consulate that Iran will not  
2 accept him” due to insufficient identification.

3 So too here: The burden shifts to the government. Unless the government  
4 can prove a “significant likelihood of removal in the reasonably foreseeable  
5 future,” Mr. Moradi must be released. *Zadvydas*, 533 U.S. at 701.

6 **V. This Court must hold an evidentiary hearing on any disputed facts.**

7 Resolution of a prolonged-detention habeas petition may require an  
8 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).  
9 Mr. Moradi hereby requests such a hearing on any material, disputed facts.

10 **VI. Prayer for relief**

11 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 12 1. Order and enjoin Respondents to immediately release Petitioner from  
13 custody;
- 14 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.  
15 § 1231(a)(6) unless and until Respondents obtain a travel document  
16 for his removal; and
- 17 3. Order all other relief that the Court deems just and proper.

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Respectfully submitted,

Dated: January 8, 2026

*s/ Jessie Agatstein*  
\_\_\_\_\_  
Jessie Agatstein  
Federal Defenders of San Diego, Inc.  
Attorneys for Mr. Moradi  
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# **Exhibit A**

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9 Attorneys for Aziz Moradi Rashid<sup>1</sup>

10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 AZIZ MORADI RASHID,

13 Petitioner,

14 v.

15 KRISTI NOEM, Secretary of the  
16 Department of Homeland Security,  
17 PAMELA JO BONDI, Attorney General,  
18 TODD M. LYONS, Acting Director,  
19 Immigration and Customs Enforcement,  
20 JESUS ROCHA, Acting Field Office  
21 Director, San Diego Field Office,  
22 CHRISTOPHER LAROSE, Warden at  
23 Otay Mesa Detention Center,

24 Respondents.

Civil Case No.:

**Declaration of Aziz Morado Rashid  
in support of petition for writ of  
habeas corpus**

**[Civil Immigration Habeas Petition  
Under 28 U.S.C. § 2241]**

25  
26  
27 <sup>1</sup> Federal Defenders of San Diego, Inc., is filing with provisional appointment  
28 under Chief Judge Order No. 134. Mr. Moradi's financial eligibility for  
representation is included in this sworn statement.

1 I, Aziz Rashid, declare the following is true and correct under penalty of  
2 perjury:

- 3 1. My name is Aziz Moradi Rashid. I have about \$600 in savings. I do  
4 not own any assets like a home or a car. I have been detained since  
5 May 31, 2025. I cannot afford an attorney.
- 6 2. My A-number is [REDACTED] I came to the United States from Iran  
7 in 2008 and was ordered removed. I was initially granted CAT  
8 protection by my immigration judge, but the government appealed to  
9 the BIA, and the BIA sustained the government's appeal in  
10 September 2009.
- 11 3. Because the United States could not coordinate my removal to Iran, I  
12 was released on an order of supervision in January 2010.
- 13 4. I left the United States and returned to Iran in August 2024.
- 14 5. In about April 2025, I fled Iran. [REDACTED]  
15 [REDACTED] I arrived at the U.S. border at  
16 the end of May 2025.
- 17 6. Early on, in June 2025, ICE officers told me I was going to be  
18 deported back to Iran.
- 19 7. But then, around July, ICE officers told me I had instead received  
20 CAT and would be deported to a third country. I tried to explain that  
21 I did not have CAT, because the BIA sustained the government's  
22 appeal back in 2009. The ICE officers did not believe me and said  
23 they would send me to a third country.
- 24 8. At the end of August, ICE officers told me I did not have CAT, like I  
25 had told them. They did not explain why I was still being detained or  
26 what they were going to do with my case.
- 27 9. In the middle of September, I went on a hunger strike for twelve days  
28 here at Otay Mesa. I was protesting the fact that ICE did not have

1 any plans for me and was not making any efforts to release me,  
2 deport me, or process my case.

3 10.Eventually, one of the ICE officers said he would process my  
4 deportation and schedule a reasonable fear interview for me. I ended  
5 my hunger strike.

6 11.I had an interview about my fears in Iran on October 17, 2025, but  
7 received a negative determination because I had not yet been tortured  
8 in Iran. I appealed the negative interview to an immigration judge,  
9 who affirmed on October 24, 2025.

10 12.I have cooperated with ICE regarding my deportation to Iran. I talked  
11 to a representative of the Iranian government earlier this month when  
12 ICE coordinated the call. The Iranian representative told me that he  
13 needs two forms of identification to issue a travel document, and I  
14 explained I only have one, my birth certificate. The representative  
15 said he could not issue a document without more forms of  
16 identification.

17 13. I have not heard anything from ICE officers since I had my  
18 reasonable fear interview about when or if I will be deported to Iran.  
19 They have not given me any more news.

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I declare under penalty of perjury that the foregoing is true and correct,  
executed on this date, 12/30/2025, in San Diego, California.

  
\_\_\_\_\_  
Declarant  
Aziz Moradi Rashid

# **Exhibit B**

**Inmate Condensed Chart Report**

<b>Name:</b> MORADI-RASHID, AZIZ	<b>DOB:</b> [REDACTED]
<b>MRN:</b> [REDACTED]	<b>Sex:</b> M
<b>Agency#:</b> [REDACTED] - ICE	

 **PROBLEMS**

<u>Patient Problems</u>	<u>Category</u>	<u>Status</u>	<u>ICD9 Code</u>	<u>ICD10 Code</u>
History of Voluntary starvation		Resolved		F50.00

# Exhibit C

U.S. Department of Homeland Security

Notice of Intent/Decision to Reinstate Prior Order

File No. [Redacted]

Event No: [Redacted]

Date: September 26, 2025

FIN: [Redacted]

AZIZ MORADI-RASHID

Name: \_\_\_\_\_

In accordance with section 241(a)(5) of the Immigration and Nationality Act (Act) and 8 CFR 241.8, you are hereby notified that the Secretary of Homeland Security intends to reinstate the order of Removal entered against you. This intent is based on the following determinations: (Deportation / exclusion / removal)

1. You are an alien subject to a prior order of deportation / exclusion / removal entered on October 16, 2008 at EL PASO, TEXAS (Date) (Location)

2. You have been identified as an alien who:

- was removed on \_\_\_\_\_ pursuant to an order of deportation / exclusion / removal. (Date)
 departed voluntarily on 8/8/2024 pursuant to an order of deportation / exclusion / removal on or after the date on which such order took effect (i.e., who self-deported). (Date)

3. You illegally reentered the United States on or about 05/31/2025 at or near TESCATE, CA (Date) (Location)

In accordance with Section 241(a)(5) of the Act, you are removable as an alien who has illegally reentered the United States after having been previously removed or departed voluntarily while under an order of exclusion, deportation or removal and are therefore subject to removal by reinstatement of the prior order. You may contest this determination by making a written or oral statement to an immigration officer. You do not have a right to a hearing before an immigration judge.

The facts that formed the basis of this determination, and the existence of a right to make a written or oral statement contesting this determination, were communicated to the alien in the \_\_\_\_\_ language.

DANIEL NEGRIN (Printed or typed name of official)

[Signature] (Signature of officer)

DEPORTATION OFFICER (Title of officer)

Acknowledgment and Response

I  do  do not wish to make a statement contesting this determination. 10/06/25 (Date)

[Signature] (Signature of Alien)

Decision, Order, and Officer's Certification

Having reviewed all available evidence, the administrative file and any statements made or submitted in rebuttal, I have determined that the above-named alien is subject to removal through reinstatement of the prior order in accordance with section 241(a)(5) of the Act.

10/06/2025 (Date) M. Ceja (Printed or typed name of official)

San Diego (Location)

[Signature] (Signature of authorized deciding official) SDPO (Title)

# Exhibit D

**OFFICE OF INSPECTOR GENERAL**

# **ICE Faces Barriers in Timely Repatriation of Detained Aliens**



Homeland  
Security

**March 11, 2019  
OIG-19-28**



# DHS OIG HIGHLIGHTS

## *ICE Faces Barriers in Timely Repatriation of Detained Aliens*

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March 11, 2019

### What We Found

### Why We Did This Review

The Department of Homeland Security U.S. Immigration and Customs Enforcement (ICE) repatriates thousands of aliens every year. In this review, we sought to identify barriers to the repatriation of detained aliens with final orders of removal.

### What We Recommend

We made five recommendations to improve ICE's removal operations staffing, flight reservation system, and metrics related to visa sanctions.

#### **For Further Information:**

Contact our Office of Public Affairs at (202) 981-6000, or email us at [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov)

Our case review of 3,053 aliens not removed within 90 days of receiving a final order of removal revealed that the most significant factors delaying or preventing repatriation are external and beyond ICE's control. Specifically, detainees' legal appeals tend to be lengthy; removals are dependent on foreign governments cooperating to arrange travel documents and flight schedules; detainees may fail to comply with repatriation efforts; and detainees' physical or mental health conditions can further delay removals.

Internally, ICE's challenges with staffing and technology also diminish the efficiency of the removal process. ICE struggles with inadequate staffing, heavy caseloads, and frequent officer rotations, causing the quality of case management for detainees with final orders of removal to suffer. In addition, ICE Air Operations manages complex logistical movements for commercial and charter flights through a cumbersome and inefficient manual process. Finally, even though ICE has developed a tool to track and report statistics for removal operations, the metrics are incomplete and do not track information needed for fact-based decisions on visa sanctions.

### ICE Response

ICE officials concurred with all five recommendations and proposed steps to address staffing, training, web-based case management and tracking, and decision-making processes.



**OFFICE OF INSPECTOR GENERAL**

Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

March 11, 2019

MEMORANDUM FOR: Ronald D. Vitiello  
Senior Official Performing the Duties of Director  
U.S. Immigration and Customs Enforcement

FROM: John V. Kelly   
Acting Inspector General

SUBJECT: *ICE Faces Barriers in Timely Repatriation of Detained Aliens*

Attached for your action is our final report, *ICE Faces Barriers in Timely Repatriation of Detained Aliens*. We incorporated the formal comments provided by your office.

The report contains five recommendations aimed at improving ICE's removal operations. Your office concurred with all five recommendations. Based on information provided in your response to the draft report, we consider all five recommendations open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions.

Please send your response or closure request to [OIGInspectionsFollowup@oig.dhs.gov](mailto:OIGInspectionsFollowup@oig.dhs.gov).

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Jennifer L. Costello, Deputy Inspector General, at (202) 981-6000, or Tatyana Martell, Chief Inspector, at (202) 981-6117.

Attachment



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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### Abbreviations

ERO	Enforcement and Removal Operations
eTD	electronic Travel Document
GAO	Government Accountability Office
ICE	U.S. Immigration and Customs Enforcement
OIG	Office of Inspector General
RCI Tool	Removal Cooperation Initiative Tool
U.S.C.	United States Code
USCIS	U.S. Citizenship and Immigration Services



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**Background**

Every year, U.S. Immigration and Customs Enforcement (ICE) repatriates thousands of aliens with final orders of removal. In fiscal year 2017, ICE removed 226,119 aliens who came from 189 countries.<sup>1</sup> ICE Enforcement and Removal Operations (ERO) must generally remove detained aliens (detainees) within 90 days of receiving a final order of removal from a Department of Justice Federal immigration judge or, in limited circumstances, an authorized Department of Homeland Security official, for violating immigration laws.<sup>2</sup> Two exceptions stop the 90-day “clock”: if a detainee appeals the final order<sup>3</sup> or if a detainee obstructs (fails to comply with) the removal process.<sup>4</sup> For aliens with final removal orders who remain in custody longer than 6 months, ICE must generally release them unless there is a significant likelihood that they will be removed within a reasonable time in the future.<sup>5</sup>

ICE typically repatriates detainees via commercial flights, charter flights,<sup>6</sup> or Special High Risk Charters,<sup>7</sup> with the exception of Mexican nationals who are repatriated across the land border. ICE ERO’s 24 field offices are responsible for detainee case management (i.e., the “detained docket”) and for providing flight escorts when needed. Within ICE, ICE Air Operations (ICE Air), coordinates repatriation flights. Detainees on a direct flight to their country of citizenship may leave unescorted on a commercial flight, while ICE deportation officers may escort detainees scheduled for removal on commercial flights that require transit through a third country, or detainees who present a security risk. ICE uses charter flights when there are numerous detainees scheduled for removal to the same geographic location, or there are medical or security requirements that cannot be managed on a commercial flight.

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<sup>1</sup> In FY 2015, ICE removed 235,413 aliens and in FY 2016, ICE removed 240,255 aliens.

<sup>2</sup> 8 United States Code (U.S.C.) § 1231(a)(1)(A)

<sup>3</sup> 8 U.S.C. § 1231(a)(1)(B)(ii)

<sup>4</sup> 8 U.S.C. § 1231(a)(1)(C)

<sup>5</sup> *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001); see also *Clark v. Martinez*, 543 U.S. 371, 378 (2005) (extending *Zadvydas* to inadmissible aliens). See DHS Office of Inspector General’s (OIG) prior report *ICE’s Compliance With Detention Limits for Aliens With a Final Order of Removal From the United States*, OIG-07-28, for information on the limited exceptions to this release requirement for public health and national security cases.

<sup>6</sup> ICE contracts with a private company to supply flights and flight crew used solely to repatriate aliens with final orders of removal. ICE determines which aliens will be placed on the charter flights, and ICE staff accompanies the detainees to their destination.

<sup>7</sup> Special High Risk Charters are charter flights to repatriate detainees who resist removal efforts or to return a group of detainees when their government issues multiple travel documents at once. ICE may add cooperative detainees to these flights if seats are available.



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Repatriation requires cooperation from other stakeholders as foreign governments must issue passports or other authorized travel documents, agree to transportation arrangements, and issue visas to ICE staff escorting aliens to their destination. If foreign governments do not cooperate with ICE, DHS may impose visa sanctions, which the State Department administers.<sup>8</sup> In 2017, DHS and the State Department signed a Memorandum of Understanding in which ICE was designated responsible for monitoring the ability and willingness of countries to cooperate with repatriation.<sup>9</sup> Within ICE, ERO is responsible for this oversight.

This report identifies barriers to repatriating detained aliens with final orders of removal. DHS' case management data systems have limited capability to track, report on, and analyze immigration outcomes and decisions.<sup>10</sup> Because DHS does not have reliable statistics on removal challenges, we took a snapshot of all aliens with final orders of removal in ICE detention on December 13, 2017, to better understand the delays and barriers. On that date, there were 13,217 detainees total, 3,053 (23 percent) of whom had not been removed within the 90-day timeframe. We focused our case review on these 3,053 cases and asked ICE to provide us with a case disposition as of March 24, 2018. We then assessed whether the delays and barriers we identified prolonged detention or prevented removal. Unless otherwise identified, the numbers used in this report are from our analysis and do not represent official ICE statistics. Appendix A provides more information on our scope and methodology.

### **Results of Review**

Our case review of 3,053 aliens not removed within the prescribed 90-day timeframe revealed that the most significant factors delaying or preventing repatriation are external and beyond ICE's control. Specifically, detainees' legal appeals tend to be lengthy; removals are dependent on foreign governments cooperating to arrange travel documents and flight schedules; detainees may fail to comply with repatriation efforts; and detainee physical and mental health conditions can further delay removals.

Internally, ICE's challenges with staffing and technology also diminish the efficiency of the removal process. ICE struggles with inadequate staffing, heavy caseloads, and frequent officer rotations, causing the quality of case

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<sup>8</sup> 8 U.S.C. § 1253(d). Visa sanctions deny visas to enter the United States for the citizens of uncooperative countries. For example, the United States might stop issuing tourist visas or visas to the families of diplomats.

<sup>9</sup> *Memorandum of Understanding Between the U.S. Department of Homeland Security and the U.S. Department of State Concerning the Removal of Aliens*, August 16, 2017, Section VI

<sup>10</sup> DHS OIG, *DHS Needs a More Unified Approach to Immigration Enforcement and Administration*, OIG-18-07, October 30, 2017



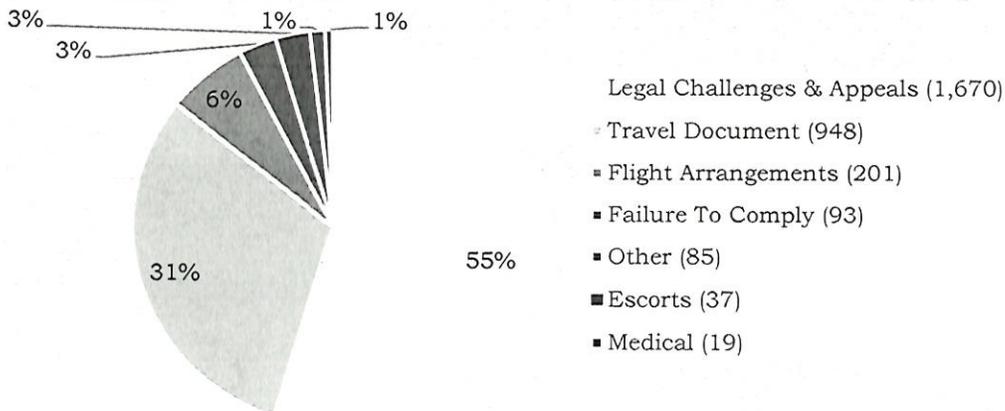
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management for detainees with final orders of removal to suffer. In addition, ICE Air manages complex logistical movements for commercial and charter flights through a cumbersome and inefficient manual process. Finally, even though ICE has developed a tool to track and report statistics for removal operations, the metrics are incomplete and do not provide information needed for fact-based decisions on visa sanctions.

**External Barriers Delay or Obstruct the Removal Process**

Based on our case review, the two predominant factors delaying repatriation are legal appeals and obtaining travel documents. Legal appeals are complex and the backlog in immigration courts directly impacts the timeliness of the appeals, while issuance of travel documents is hindered by some foreign governments’ unwillingness or lack of capacity to cooperate with the repatriation process. Foreign government cooperation is also necessary for coordinating repatriation flights and escort visas. Additional obstructions include instances when detainees fail to comply with removal proceedings or when their medical conditions negatively impact repatriation. Figure 1 illustrates the percentage of removals delayed by each factor.

**Figure 1: Delays and External Barriers to Removal<sup>11</sup>**



Source: OIG Analysis of Aliens Detained Longer than 90 Days Post Final Order of Removal, from ICE ENFORCE Alien Removal Module

<sup>11</sup> Most of the 85 cases in our file review marked “Other” were too complex and varied to categorize. Examples include aliens who:

- alternated between failure to comply, legal appeals, requests to withdraw legal appeals, and revised citizenship claims;
- were not in ICE’s physical custody because they were being prosecuted for, or were witnesses in the prosecution of, crimes; or
- were granted a form of relief from removal to their country of citizenship, but were still in ICE custody while ICE determined whether they could be removed to a third country.

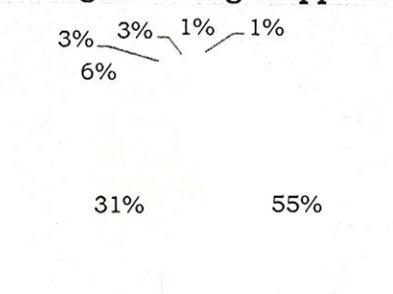


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**Legal Appeals Delay Removals**

An alien with a final order of removal may challenge the decision at any time before removal is achieved. While legal challenges are pending, ICE generally cannot repatriate an alien,<sup>12</sup> but may continue detention until the appeal or other challenge is resolved. Legal appeals ensure aliens receive due process rights during the removal process. As shown in figure 2, of the 3,053 aliens with final orders of removal detained more than 90 days, 1,670 (55 percent) had legal appeals pending.

**Figure 2: Legal Appeals**



Legal Appeals: (1,670 Cases)  
Source: OIG

Our case review and interviews with ICE officers indicate it can take months for a court to hear a detainee’s appeal. One reason for such delays is that, according to the Government Accountability Office (GAO), there is a “significant and growing case backlog” for immigration judge hearings for detainees.<sup>13</sup> GAO reported that immigration court staffing gaps, current caseload prioritization, the growing use of continuances, and increased appeals to higher courts contribute to the backlog. According to GAO, at the start of FY 2015, immigration courts had a backlog of about

437,000 cases pending and the median pending time for those cases was 404 days. As shown in appendix C, of the 490 detainees in our case review whose appeals were denied, 231 (47 percent) were detained longer than 6 months before they were repatriated. In addition, of the 96 detainees granted a form of relief from repatriation, 43 (45 percent) were detained longer than 6 months before they received a decision.

<sup>12</sup> The basis for a detainee’s legal appeal or other challenge, and in what legal jurisdiction the detainee files the appeal, determines whether ICE is required to allow the detainee to remain in detention until the appeal is decided (stay removal). For example, if the detainee was ordered removed *in absentia* (8 Code of Federal Regulations (C.F.R.) § 1003.23(b)(4)(ii)), or requests protection under the *Violence Against Women Act* (8 U.S.C. § 1229a(c)(7)(C)(iv)), ICE cannot remove the detainee until the claim is resolved. A motion to stay and a petition for review, in some Circuit Courts, stays removal. Even if a stay of removal is not required, ICE can, at its discretion, continue to detain the alien until the appeal is decided (8 U.S.C. § 1231(c)(2)).

<sup>13</sup> GAO, *Immigration Courts: Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges*, GAO-17-438, June 2017



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Examples from our electronic case file review of removals delayed due to legal appeals include:

- A Guatemalan national appealed an immigration judge's decision to deny temporary international protection. The appeal court remanded the case to the immigration judge to reconsider. The immigration judge rescheduled the hearing several times, then denied the claim. The detainee appealed this decision and the appeal was still pending at the time of our case review. This detainee has been in custody for more than 3 years.
- A Mexican national filed a petition with a Circuit Court for the review of a removal decision. After the petition was denied, ICE transferred the detainee to a new location, which was also in a new court jurisdiction, in preparation for a repatriation flight. While waiting to be repatriated, the detainee filed a request to reconsider the decision with the immigration court where he had originally been detained. When the request was denied, the detainee filed a new petition with the Circuit Court with jurisdiction over the area where he had been staged for removal. At the time of our review, the petition was still pending and this detainee had been in custody for more than 3 years.

Overall, delays due to legal appeals or challenges may lead to aliens with final orders of removal being held in detention for as long as 3 years, as evidenced in the previous examples. Although legal appeals are an exception to the 90-day clock, the prolonged detention imposes considerable costs on ICE. For example, in FY 2017, ICE paid facilities detaining aliens approximately \$100 per day, per detainee.<sup>14</sup> Therefore, detaining an alien for 3 years costs ICE about \$109,500.

**Foreign Governments' Inconsistent Cooperation on Repatriation Travel Delays and Prevents Removals**

Foreign governments' cooperation with the repatriation of their nationals is vital for achieving removals. Although repatriations to most countries happen without significant delays, more than 30 countries present challenges to obtain travel documents. In some instances, foreign governments do not conduct timely interviews with detainees or notify ICE when additional information is required to facilitate travel, delaying removals. Even though increased

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<sup>14</sup> According to GAO, ICE has difficulty estimating the actual cost of detention. ICE estimates a rate of \$132.59 per day per detainee, but GAO concludes this could be an underestimate. Our estimate uses \$100 per detainee because the most expensive beds — for families and detainees requiring hospitalization — are under-represented in our case review. See GAO, *Immigration Detention: Opportunities Exist to Improve Cost Estimates*, GAO-18-343, April 2018.



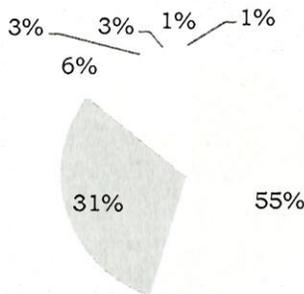
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diplomatic engagement has improved cooperation on removals, some foreign governments still fail to provide flight approvals or travel documents in time, causing removal cancellations or delays. In some cases, countries simply do not have the resources or infrastructure to assist ICE with required document requests. Despite these factors lying outside of ICE’s control, they do not stop the 90-day clock for removals.

Inability to Obtain Travel Documents from Foreign Governments Obstructs Repatriation

Although a combination of increased diplomatic engagement with uncooperative governments and a demonstrated willingness of the United States to impose visa sanctions has increased foreign governments’ cooperation, some countries remain unwilling to provide travel documents. This lack of cooperation, in essence, prohibits ICE removals to such countries. Other countries lack bureaucratic infrastructure and resources to make citizenship determinations quickly and issue travel documents for repatriation. In other cases, the citizenship of detainees cannot even be established.<sup>15</sup> These barriers to removals result in ICE releasing detainees, which in some cases can endanger public safety, as our previous work has shown.<sup>16</sup>

**Figure 3: Travel Documents**



As figure 3 indicates, 948 of the 3,053 detainees (31 percent) in our case review could not be removed because their travel document requests were still pending. With limited exceptions, if ICE is unable to obtain a travel document for a detainee within 6 months and there is no prospect of obtaining one in the near future, the

*Travel Documents: (948 Cases)*  
Source: OIG

<sup>15</sup> For example, some detainees, such as Palestinians, were born stateless, and others became stateless when countries such as the former Soviet Union, Yugoslavia, Ethiopia, and Sudan fragmented.

<sup>16</sup> A Haitian national, Jean Jacques, previously convicted of attempted murder and subject to a final order of removal, was released from ICE custody after repeated attempts to secure a travel document from Haiti and killed another individual. See DHS OIG, *Release of Jean Jacques from ICE Custody*, June 16, 2016.



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detainee must be released.<sup>17</sup> Our case review indicates that ICE eventually released 22 Chinese, 287 Cubans, 34 Eritreans, 21 Laotians, and 10 Vietnamese — detainees from countries considered uncooperative.

Foreign governments, with limited exceptions, require a passport or temporary travel permit to accept their nationals back into the country.<sup>18</sup> Hence, ICE needs to obtain such travel documents to repatriate aliens. El Salvador, Guatemala, Honduras, and the Dominican Republic, issue travel documents through an online ICE data system known as eTD (electronic Travel Document), and Mexico does not require travel documents for repatriations on the land border. In FY 2017, removals to these five countries accounted for 205,540 of ICE's 226,119 removals (91 percent). Other foreign government requirements for travel documents vary widely and the travel document issuance can be cumbersome. For example, some countries require:

- an in-person consular interview with the detainee, at the country's consulate in the United States;<sup>19</sup>
- identification documents, such as a national identity card or an expired passport; or
- additional checks of paper-based records, such as birth certificates or baptismal records, typically buried in immigration files or only available at the detainee's place of birth.

Because foreign governments do not issue travel documents without confirming the identity and citizenship of the alien, ICE works with the detainees to collect evidence of their citizenship to prepare a request for a travel document. Although we heard that generally detainees disclose who they are, ICE deportation officers described some cases when detainees provide numerous identities or are unsure of their country of origin. Establishing identities of such detainees complicates preparations for their repatriation. Examples from our electronic case file review of removals delayed due to travel document issues include:

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<sup>17</sup> *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (holding that an alien with a final removal order cannot be detained longer than 6 months unless there is a significant likelihood of removal in the reasonably foreseeable future); see also *Clark v. Martinez*, 543 U.S. 371, 378 (2005) (extending *Zadvydas* to inadmissible aliens). See DHS OIG's prior report *ICE's Compliance With Detention Limits for Aliens With a Final Order of Removal From the United States*, OIG-07-28, for information on the limited exceptions to this release requirement for public health and national security cases.

<sup>18</sup> ICE maintains country-specific guidelines on its intranet, which are based on the laws of these governments and any formal and informal agreements between the United States and the foreign government.

<sup>19</sup> Some consulates are hours away from detention facilities and require ICE to make long trips with detainees to facilitate those interviews.



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- An Eritrean who was a registered sex offender had immigrated as a child and did not have Eritrean identity documents or fluency in any language spoken in Eritrea which, in some cases, can serve as evidence of citizenship. Although the Eritrean government interviewed him, they were unable to verify citizenship and ICE released him from detention.
- A Cambodian was detained for 2 months in Alabama while waiting for a consular interview to determine citizenship. During that time, Cambodia was not conducting interviews anywhere in the United States. The consulate in California agreed to interview him and ICE flew him to California. Several months later, the Cambodian government still had not made a decision on whether to issue the detainee a travel document.

### Increased Diplomatic Engagement Improves Cooperation on Removals

International standards require governments to issue travel documents to their citizens within 30 days.<sup>20</sup> In 2015, the State Department and ICE increased diplomatic engagement to improve cooperation on repatriations. The State Department prioritized travel document issuance in bilateral relations while ICE has centralized the travel document request process at headquarters for the most challenging countries.<sup>21</sup> Between 2016 and 2018, the State Department and DHS also escalated the use of visa sanctions, imposing them on seven countries.<sup>22</sup>

Most DHS officials we interviewed agreed that the combination of increased diplomatic engagement and a demonstrated willingness to impose visa sanctions has increased cooperation from most countries.<sup>23</sup> Between 2015 and 2018, the number of both uncooperative and at risk of noncompliance countries — countries that do not issue travel documents or accept

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<sup>20</sup> *International Civil Aviation Organization Annex 9*, Chapters 5.26 through 5.29, set timeliness standards for governments to repatriate their nationals. However, not all countries have signed this Annex.

<sup>21</sup> ICE Removal and International Operations officers at headquarters manage consular relations and travel documents requests for Cambodia, Cameroon, Cuba, Dominica, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Haiti, Iraq, Ivory Coast, Kosovo, Liberia, Mali, Mauritania, Palestine, Sierra Leone, Somalia, and Vietnam.

<sup>22</sup> In 2016, DHS imposed sanctions on the Gambia (the sanctions were later lifted). In 2017, DHS imposed sanctions on Cambodia, Eritrea, Guinea, and Sierra Leone. In 2018, DHS imposed sanctions on Burma and Laos, and lifted sanctions on Guinea.

<sup>23</sup> Of the four countries sanctioned in FY 2017, Cambodia and Eritrea did not respond to sanctions to increase cooperation.



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repatriation flights — decreased considerably, as shown in table 1. Appendix D lists the countries that fall within these categories.

**Table 1: Countries’ Cooperation with Travel Document Issuance**

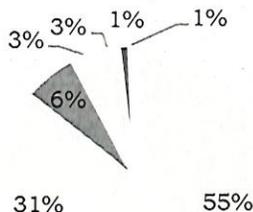
Time Period	Uncooperative Countries	At Risk of Noncompliance Countries
July 2015	23	62
September 2016	20	55
September 2017	9	36
May 2018	9	24

Source: ICE

ICE Relies on Diplomatic and Logistical Coordination for Removal Flights

With the exception of 10 western hemisphere countries that accept routine charter flights,<sup>24</sup> obtaining foreign government permission for repatriation flights can delay removals. Foreign governments may require negotiations before accepting charter flights or can limit the number of repatriations allowed per month. Some foreign governments do not allow transit through their countries, requiring ICE Air to take a more complex route. In other instances, a foreign government authorizes a charter flight, but does not issue travel documents to the detainees or visas to the ICE Air flight crew in time to board

**Figure 4: Flights and Escorts**



*Flights and Escorts: 201 Cases (Flight) and 37 Cases (Escorts)*  
Source: OIG

the flight. As shown in figure 4, our case review indicated that 201 of the 3,053 detainees (6 percent) had a travel document and were waiting for a repatriation flight, and the removals of 37 (1 percent) were delayed because a flight escort needed to be arranged for a commercial repatriation flight.

ICE typically repatriates detainees via charter flights, Special High Risk Charters, or commercial flights, with the exception of most Mexican nationals, who are repatriated across the land border. Although ICE does not publish official statistics on the number of repatriations

<sup>24</sup> ICE Air Operations conducts routine repatriation flights to Colombia, Ecuador, El Salvador, Dominican Republic, Guatemala, Haiti, Honduras, Jamaica, Mexico, and Nicaragua. ICE Air shares its flight manifests with the repatriation country and does not have difficulty securing landing permission for each flight.



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by air, our analysis of ICE Air data indicated that more than 80,000 detainees were repatriated on ICE Air's routine charter flights in FY 2017. In addition, based on our analysis of ICE Air reports, detainee removals included:

- 1,443 by Special High Risk Charter flights;
- 6,155 by commercial flights without an ICE escort; and
- 2,133 by commercial flights with an ICE escort.

With the exception of the 10 western hemisphere countries that have agreed to accept routine charter flights, ICE staff need to seek approval from foreign governments for repatriation flights. Specifically, for commercial flights they may need to obtain approval of flight itineraries, and for charter flights they must coordinate the flight paths. When no direct commercial flights are available, ICE works with foreign governments for permission to escort a detainee through a transit country.

Although ICE tries to arrange charter flights within a month of identifying the need, some Special High Risk Charters require months to negotiate. In addition, if transit or repatriation countries limit the number of detainees who can be placed on flights, lower priority detainees may be held in detention longer.

Foreign governments must also issue travel visas for ICE deportation officers performing flight escort missions. When a travel visa is required, ICE has a limited period in which to obtain one but foreign governments do not always issue visas in a timely manner, resulting in delayed removals on occasion.

Examples from our electronic case file review of removals delayed due to flight coordination challenges include:

- An ICE field office secured a travel document for an Iraqi who was hospitalized and required a medical escort for removal. Because the flight needed to transit through Turkey, from which it may take several weeks to obtain clearance, ICE Air scheduled the flight for 6 weeks later, adding to the expense of extended hospitalization.
- An ICE field office reported that it needed to reschedule flights repeatedly through Morocco to Sub-Saharan Africa because Morocco limits the number of transit flights, and higher priority removals were scheduled first, leaving other aliens eligible for repatriation in detention.

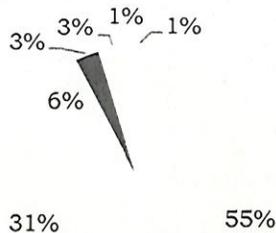


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**Detainees’ Failure to Comply with ICE Repatriation Efforts Delays Removal**

Detainees can delay removal by failing to comply with the removal process.<sup>25</sup> For example, detainees may conceal country of citizenship, refuse to request a travel document, or resist boarding a repatriation flight. Such cases typically require additional time and effort because ICE deportation officers need to obtain evidence of the detainee’s citizenship without his or her cooperation by researching the alien’s statement at apprehension, documents in the immigration file, border crossing history, and conducting interviews with relatives. ICE can also request that the Department of Justice consider criminal prosecution.<sup>26</sup>

**Figure 5: Failure to Comply**



*Failure to Comply: (93 Cases)*  
Source: OIG

As shown in figure 5, in our case review, only 93 of the 3,053 detainees (3 percent) failed to comply with repatriation efforts for 90 days or longer. Detainees cannot obtain release from detention solely by failing to cooperate with the removal process. By law, failure to comply stops the 90-day removal clock, and ICE can detain indefinitely, though at considerable expense.<sup>27</sup> Examples from our electronic case file review include:

- In 2013, ICE obtained a travel document and scheduled a flight for a detainee ordered removed to Pakistan, but the detainee refused to board the flight. When Pakistan interviewed the detainee for another travel document, the detainee claimed he was Somali. The detainee told a third party he planned to renounce both Pakistani and Somali citizenship and then request release. The detainee renounced his Pakistani citizenship and did not provide ICE sufficient information to request a travel document from Somalia. In 2017, Pakistan refused to issue a travel document, saying the detainee had renounced his citizenship and was Somali. In 2018, the detainee agreed to rescind his revocation of citizenship, and the

<sup>25</sup> 8 U.S.C. § 1231(a)(1)(C)

<sup>26</sup> 8 U.S.C. § 1253(a). Federal prosecutors from a United States Attorney’s Office may charge an alien criminally if the alien fails to assist with, or prevents, removal.

<sup>27</sup> 8 U.S.C. § 1231(a)(1)(C)



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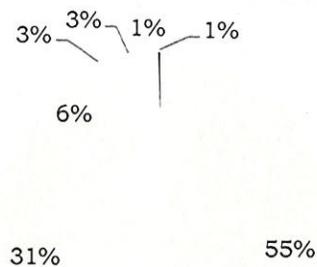
request was pending with the Pakistani government. This alien has been in custody for more than 4 years.

- In 2014, an Indian national requested asylum after being immediately detained upon arrival in the United States. The asylum claim was denied in early 2015, and the detainee was scheduled for removal, but he refused to sign a travel document request. In case comments, ICE wrote that the detainee said he “didn’t mind to remain in custody a long time as he does not want to go back to India.” In 2018, ICE received a travel document from India without the detainee’s cooperation. The next charter flight to India was full, so the detainee was scheduled for a commercial flight a month later, but the removal was further delayed. This alien has been in custody for more than 3 years.

**Serious Medical Conditions May Delay the Repatriation Process**

Detainees’ medical and mental health conditions can complicate each stage of the removal process including legal appeals, issuance of travel documents, and arranging repatriation transport. For example, detainees with serious physical illnesses might require continuances on their legal appeals. In addition, some foreign governments will not issue travel documents for detainees with medical conditions until they can verify that the detainee has access to suitable care, for example dialysis. ICE must also complete treatments for any infectious diseases, such as tuberculosis, and stabilize any medical conditions, such as cardiac rehabilitation, before arranging transportation. It may also be difficult for deportation officers to determine the line between failing to cooperate with the removal process and being unable to do so.

**Figure 6: Medical**



Medical: (19 Cases)  
Source: OIG

As shown in figure 6, medical conditions represented only 19 of the 3,053 detainees (less than 1 percent) in our case review. However, our case review methodology may under-represent the number of detainees with medical conditions, as ICE or the immigration courts could decide well before 90 days that continued detention is not optimal. For example, detainees with serious mental health issues may require legal representation, and DHS or an immigration judge may



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determine that continued detention is not in the detainee's best interest and release the detainee on bond.<sup>28</sup>

Removing detainees with medical and mental health conditions may be delayed because of special requirements. For example, some foreign governments will not issue travel documents for detainees with mental health conditions until they can verify that the detainee has family and a place to stay. ICE may need to arrange for a Special High Risk Charter, or for medical staff to accompany ICE Deportation Officers escorting the detainee on a commercial flight. If ICE cannot obtain a travel document, or the detainee cannot assist with the removal process, the detainee may be released. Examples from our electronic case file review include:

- A Mexican national was referred to U.S. Citizenship and Immigration Services (USCIS) for an interview to determine whether the detainee required international protection. USCIS reported that the detainee was unresponsive to interview questions. A medical screening suggested there was an unspecified psychosis. USCIS determined the protection claim had merit and referred the case to an immigration judge. After several continuances, the immigration judge released the detainee on bond.
- A Cuban national diagnosed with mental health issues repeatedly attacked detention facility staff and other detainees. He was placed in segregation on several occasions, and local staff recommended he be transferred to a facility that could handle his mental health issues. Before a transfer could be effected, ICE released him into the community because Cuba did not provide ICE with a travel document for removal.

**Internal Challenges with ICE Staffing, Technology, and Accuracy of Metrics Limit Efficiency of Removals**

Although many of the barriers to removal are external, internal ICE challenges with staffing and technology also diminish the efficiency of the removal process. ICE's detained docket has high staff turnover, making it difficult to maintain the expertise needed to manage complex final order cases effectively and accomplish removals. Limited staffing affects the quality of removal paperwork ICE submits, causing potential delays in removals. In addition, ICE

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<sup>28</sup> An April 2013 ruling in *Franco v. Holder*, 10-cv-2211 (C.D. Cal. Apr. 23, 2013) established the right to representation for detainees with serious mental disorders that render them unable to represent themselves. The ruling, which applies in California, Arizona, and Washington State, also requires a custody redetermination hearing for aliens with a serious mental disorder who have been detained longer than 180 days.



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Air manages repatriation flights with a cumbersome, labor-intensive manual process, which can result in detainees who are eligible for repatriation missing flights. Finally, ICE metrics for determining country cooperation lack an objective methodology, potentially resulting in visa sanctions on otherwise cooperative countries.

Insufficient ICE ERO Staffing for Detained Docket Causes Delays in Removals

During our interviews with field office staff, we heard that ICE does not adequately staff the detained docket and has difficulty recruiting and retaining officers to perform this function. Some field offices' workloads are so large that the staff cannot obtain detainees' identity information or produce quality travel document applications timely, which can delay or prevent removals.<sup>29</sup>

The ICE mission of monitoring the status of detainees with final orders of removal and managing their repatriation efficiently is very challenging. Yet, ICE ERO could not provide any staffing plans recommending optimal workloads for the deportation officers working detained dockets; hence, the staffing resources 24 ICE field offices devote to detained dockets vary considerably. We interviewed officials from 12 ICE field offices and most said ICE needs more staff dedicated to these tasks.

Many of the ICE ERO staff we interviewed said it is difficult for a field deportation officer to manage a caseload of more than 75 detainees effectively, especially when the cases include countries with complex travel document requirements. However, of the 12 field offices we engaged during our review, 5 have deportation officers with heavy caseloads, managing 100 or more cases each.

For example, we encountered 2 field offices where deportation officers have more than 120 complex cases<sup>30</sup> each. One officer we interviewed maintained about 500 cases when he had to step in for another officer while also working his own caseload. An ICE headquarters employee we spoke with, who conducted a quality assurance review in the field, described finding an egregious timeliness issue where it was taking a deportation officer more than 90 days to prepare a travel document request that should be done within the first 7 days. The headquarters employee then noticed that the officer had a caseload of 230 detainees, which he opined was unmanageable.

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<sup>29</sup> Because ICE's data system is not designed to track causes for delays, we were unable to analyze the extent to which poor quality of documentation delays repatriation.

<sup>30</sup> Complex cases refer to managing removals of detainees who are from countries other than those western hemisphere countries which do not require travel documents.



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ICE headquarters and field office staff reported that heavy workloads held by some field deportation officers lead to the inconsistent quality of administrative paperwork they prepare, resulting in errors that delay removals. Our review confirmed that in some instances:

- Travel document requests were missing required paperwork, such as evidence of a final order of removal or criminal convictions.
- Detainees' photos were of such poor quality that they could not be used and basic biometric information, such as fingerprints or hair and eye color, were not included.
- Detainees have missed repatriation flights because their medical paperwork was missing or incomplete and their medications were not provided.
- Consulates have rejected some travel document requests as incomplete or inaccurate because initially deportation officers did not thoroughly check the detainees' immigration files for missing information or talk to relatives to obtain it.

ICE ERO has experimented with how it assigns work, attempting to alleviate staffing issues and improve removal operations, but there are no easy fixes. ICE ERO field offices that allowed officers to rotate from the detained docket after 6 months or 1 year observed that such short-term rotations do not give the officers sufficient time to become proficient in detained docket case management. On the other hand, field offices that keep staff on the detained docket long-term or indefinitely reported difficulty recruiting and retaining staff, and maintaining morale. ICE ERO field offices' supervisors and officers we interviewed reported that working the detained docket is considered more challenging and less satisfying than performing arrests or tracking fugitive aliens.

ICE Officers Performing Arrests Need Training on Removal Process

Missed opportunities by ICE apprehending officers to locate and secure identity documents — such as passports or birth certificates — during initial arrest may delay the removal process. ICE deportation officers tasked with removals explained that ICE arresting officers do not consistently ask questions, such as alien's place of birth or country of origin, or collect the documents, such as passport or identification cards, vital to the removal process. We were told that ICE officers tasked with arresting aliens may not have a deep understanding of



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immigration laws or they may lack experience with removal operations and do not always “keep removal in mind.”

As shown in appendix E, deportation officers who work the detained docket are trained to consult as many sources as possible to obtain evidence of a detainee’s identity and citizenship. Therefore, ICE must communicate to apprehending officers the importance of obtaining documentary and testimonial evidence from aliens during arrests as doing so improves the likelihood and efficiency of removal.

ICE Air Needs to Enhance Technology for Efficient Repatriation

ICE Air currently manages the complex scheduling of repatriation flights using manual processes. Without a web-based reservation system, organizing flights and determining which aliens can be repatriated is a cumbersome, labor-intensive process occasionally resulting in missed flights for detainees who are eligible for repatriation.

In FY 2017, ICE Air coordinated the removal of 8,288 aliens via commercial flights and the removal or transfer of 181,317 aliens via charter flights. Despite this volume and the complexities of arranging flights, as previously discussed, ICE Air uses a Microsoft Access database to create flight manifests, and Microsoft Outlook and Excel to track and manage flights.

ICE Air manually adds and removes detainees from flights based on the highest priorities for repatriation, legal appeals which stay removal, medical emergencies, and other logistical considerations. ICE Air emails changes to the flight manifests to all field offices, sometimes sending two or more email updates per day, per flight. The 24 field offices must then manually review each revised manifest to identify which of their detainees can be repatriated on the next scheduled flight. The field offices have to drive or fly their detainees to domestic staging sites where ICE Air collects and prepares them for the international flights. Therefore, one international flight may involve multiple domestic stops that need to be coordinated as well. In some instances, field offices have been notified that their detainee was scheduled for repatriation only to find out on a new manifest that the detainee is no longer on the charter passenger list, resulting in a missed flight for such detainees. In addition, ICE Air officials reported that although Special High Risk Charters can take weeks or months to arrange, they are often not full, even when field offices have aliens who have valid travel documents and are eligible for removal, causing detainees to remain in custody until further flights can be coordinated.



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ICE acknowledges that the lack of a technological infrastructure is a problem, but only has plans for a limited upgrade — moving the Access database to a secured cloud environment. A web-based flight reservation system could reduce the time ICE Air and ICE field offices spend manually creating and tracking flight manifests, and could allow field officers to focus more on the administrative paperwork for the detained docket.

ICE Needs to Improve Its Metrics and Methodology Related to Visa Sanctions

ICE has metrics to track the timeliness of travel document issuance; however, they do not account for delays in the removal process that are outside of foreign governments' control. Although not completely reliable, ICE uses these imprecise metrics to inform significant diplomatic decisions, such as recommending visa sanctions.

In the 2017 Memorandum of Understanding, DHS and the State Department agreed on six measures of cooperation tied to travel document issuance, acceptance of repatriation flights, and timeliness of responses to requests for travel documents and flights.<sup>31</sup> However, ICE's data system lacks the capacity to track compliance with these measures. Specifically, ICE's metrics do not account for travel document applications returned to ICE by consulates because they are inaccurate or incomplete, nor do they capture logistical flight delays. Also, the metrics do not identify the date of a travel document request or the date a travel document was issued or denied.

In an effort to establish an objective measure of countries' cooperation, ICE introduced the Removal Cooperation Initiative (RCI) Tool. The RCI Tool identifies countries as cooperative, at risk of noncompliance, or uncooperative based on:

- how long it takes on average to remove aliens;
- how many aliens must be released because they cannot be removed;
- the country's willingness to conduct interviews; and
- the country's willingness to accept charter flights.

Nonetheless, current metrics do not provide an accurate assessment of a country's cooperation status, failing to account for significant steps in the removal process outside the control of foreign governments and ICE. For example, the timeliness metric used to identify how long it takes to remove aliens does not exclude the time for legal appeals or failure to comply with

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<sup>31</sup> *Memorandum of Understanding Between the U.S. Department of Homeland Security and the U.S. Department of State Concerning the Removal of Aliens*, August 16, 2017, Section IV



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removal, which, as described earlier, can cause significant delays. ICE manually removes such outliers as delays for legal appeals, resulting in potentially incorrect assessments of country cooperation. Despite these limitations, ICE currently uses the statistics from the RCI Tool to assess countries' cooperation to make decisions on visa sanctions.

In addition to using imprecise statistics in its assessments, ICE's conclusions for determining which countries to sanction and when to lift sanctions are not clear. We did not find a methodology explaining what circumstances prompt ICE to disregard or "override" the RCI Tool score for some countries, in essence modifying their status on cooperation. For example, we heard that some countries may have been scored as at risk of noncompliance in the RCI Tool, yet were sanctioned without first being categorized as uncooperative. Conversely, countries categorized as cooperative have not had sanctions lifted.<sup>32</sup> Finally, ICE does not share its rationale for imposing and lifting sanctions with the DHS Office of Policy and the State Department, although both agencies are involved in diplomatic engagements.

There are valid reasons to use sanctions selectively as the United States has complex geopolitical relations with some countries. In addition, some countries lack the institutional capacity to issue travel documents quickly or consistently and sanctions might not have the desired effect of improved cooperation. However, a methodology for determining which countries are sanctioned and what conditions must be met to lift sanctions, as well as better information sharing with ICE's partners, could help both DHS and the State Department engage foreign governments more effectively.

### ICE Needs to Improve the eTD Module for Monitoring Country Cooperation

The ICE data system known as ENFORCE Alien Removal Module contains the eTD module,<sup>33</sup> which can be used to monitor the time it takes for countries to issue travel documents. ICE has improved the eTD module's ability to generate real-time reports from field offices on the status of travel document requests from any country as well as numbers of travel documents issued and the issuance rates by country and consulate. However, ICE does not generate official statistics from the eTD module.

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<sup>32</sup> In 2017, Guinea and Sierra Leone were sanctioned even though they were just categorized as at risk of noncompliance. These countries are now listed as cooperative, but continue to be under sanctions. Meanwhile countries that are consistently categorized as uncooperative, including Vietnam, Cuba, China, and Iran, have not been sanctioned.

<sup>33</sup> ENFORCE is not an acronym. The eTD module refers to the electronic travel document module.



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In 2008, eTD was upgraded specifically to process and track the status of all travel document requests from all countries, with the exception of Canada and Mexico. ICE internal guidance from 2008 requires that all new travel document requests for aliens must be put through the eTD system. For all countries, with the exception of Mexico, ICE officers should enter the dates of travel document issuance into eTD; only a few countries can currently approve travel documents through eTD. Travel document issuance is a key element in determining countries' cooperation, but ICE is not using eTD to monitor whether countries routinely issue travel documents within the 30-day requirement. The information in the eTD module could enable ICE to more accurately distinguish delays caused by foreign governments' lack of cooperation from the delays outside other countries' control.

### Recommendations

We recommend the Executive Associate Director for Immigration and Customs Enforcement, Enforcement and Removal Operations:

**Recommendation 1:** Develop a staffing model that assigns sufficient deportation officers to the detained docket to actively manage post-order custody cases.

**Recommendation 2:** Develop training for all Enforcement and Removal Operations staff assigned to alien apprehensions, highlighting the importance of obtaining identity documents and complete and accurate information at apprehension, and how such documents and information affect the removal process.

We recommend the Immigration and Customs Enforcement Director:

**Recommendation 3:** Develop a web-based flight management and tracking system to support the domestic air transfer and international removal air travel operational demands of Enforcement and Removal Operations.

**Recommendation 4:** Develop written documentation of recommendations and justifications for imposing, retaining, and lifting visa sanctions.

**Recommendation 5:** Implement the use of an electronic system comparable to, or more accurate than, eTD as a source for official statistics, to improve the measures of cooperation with travel document requests.



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**OIG Analysis of Management Comments**

We have included a copy of ICE's Management Response in its entirety in appendix B. We also received technical comments from ICE and incorporated them in the report where appropriate. We consider all of the recommendations to be resolved and open. A summary of ICE's responses and our analysis follows. ICE concurred with all five recommendations.

**ICE Response to Recommendation 1:** ICE concurred with the recommendation. ICE officials stated that ICE would review the workload of its deportation officers, and determine an ideal staffing level to manage post-order custody cases. ICE officials noted that the staffing model would need to evolve with operational trends, and that even the best staffing model may not achieve the goals outlined in this report. ICE anticipates completing these actions by October 30, 2019.

**OIG Analysis:** We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that ICE has developed a staffing model for managing its post-order custody cases. We recognize that the staffing model will continue to evolve with operational trends, and that factors external to the staffing model, such as budget and position vacancies, may affect staffing.

**ICE Response to Recommendation 2:** ICE concurred with the recommendation. ICE officials stated that ICE conducts an annual training at every field office. Although the training is open to all officers, typically only detained-docket officers attend. ICE officials said they would ensure that all future trainings are attended by all officers, with an increased emphasis on attendance of those responsible for conducting alien apprehensions and non-detained case management. ICE anticipates completing these actions by April 30, 2019.

**OIG Analysis:** We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that ICE has instructed officers who do not work on detained cases that they should attend the annual training.

**ICE Response to Recommendation 3:** ICE concurred with the recommendation. ICE officials stated that ICE plans to develop a transportation management system that will be integrated into ICE's case and removal management systems. ICE officials noted that the focus of the system would be on travel management, but that the system would also support financial



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management and enable ICE to quantify its workload. ICE officials stated that the first milestone would be to submit a funding request in the February 2019 budget development cycle. ICE anticipates completing these actions by December 31, 2020.

**OIG Analysis:** We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that ICE has received a final decision on its request to fund the transportation management system.

**ICE Response to Recommendation 4:** ICE concurred with the recommendation. ICE officials stated that ICE has the authority to impose visa sanctions for any incident of lack of cooperation. ICE noted that it conducts monthly meetings with the Department of States and the Department of Homeland Security Office of Strategy, Policy, and Plans regarding cooperation. ICE officials also stated that statistics are one of many factors considered in the visa sanction process. ICE stated that going forward, following each monthly meeting, it would send meeting notes — documenting the next steps to take for each country — to the Department of State and the Office of Strategy, Policy, and Plans. ICE anticipated completing these actions by February 28, 2019.

**OIG Analysis:** We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that ICE has submitted to the Department of State and the Office of Strategy, Policy, and Plans meeting notes documenting the next steps to take for each country for four consecutive months.

**ICE Response to Recommendation 5:** ICE concurred with the recommendation. ICE officials stated that ICE will prioritize the development and deployment of an electronic system as a source for official statistics regarding travel document decisions. The initial requirements process is scheduled to be completed by June 30, 2019, and the initial rollout by June 30, 2020. ICE anticipates completing these actions by October 31, 2020.

**OIG Analysis:** We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation that ICE has begun publishing official statistics regarding travel document decisions from its electronic system.



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## **Appendix A**

### **Objective, Scope, and Methodology**

The Department of Homeland Security Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

Our objective for this review was to identify barriers to repatriation of detained aliens with final orders of removal. To achieve our objective, we reviewed ICE's policies, procedures, and guidance for removing detained aliens with final orders of removal. We also reviewed available information from ICE's data systems, including data used in the RCI Tool, and data used for ICE's official statistics on removals. We assessed ICE's quality assurance and oversight programs, including memorandums reporting results of field site visits, ICE Air feedback on common errors seen in travel packets, and ICE's training and guidance materials.

Using ICE data, we selected one staging facility and three field offices to visit and observe the work performed on flight operations and the detained docket, based on a range of factors including facility type and complexity of removals. We also conducted in person or telephonic interviews with personnel from ICE Air Operations, ICE Headquarters Removal and International Operations, supervisory deportation officers and deportation officers at numerous field offices throughout the United States. We also interviewed officials from Department of State, DHS Office of Policy, ICE Law Enforcement Systems and Analysis Unit, ICE Office of the Principal Legal Advisor, and ICE Office of Chief Information Officer.

To better understand what challenges removal operations of detained aliens face, we took a snapshot of all aliens with final orders of removal in ICE detention on December 13, 2017. We chose to review those cases where detainees were held longer than 90 days for a total of 3,053 records. The ICE deportation officer case comments were reviewed for the 3,053 records to identify possible barriers that prohibited timely removal. We shared the alien numbers of detainees from the snapshot with the ICE Law Enforcement Systems and Analysis Unit to obtain the case disposition of those cases as of March 24, 2018. The information in this report on case dispositions is based on the information provided by ICE.

We conducted this review between March 2018 and July 2018 pursuant to the authority of the *Inspector General Act of 1978*, as amended, and according to



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the *Quality Standards for Inspections* issued by the Council of the Inspectors General on Integrity and Efficiency. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our objectives.



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**Appendix B**  
**Management Comments to the Draft Report**

*Office of the Chief Financial Officer*

U.S. Department of Homeland Security  
500 12th Street, SW  
Washington, D.C. 20536



**U.S. Immigration  
and Customs  
Enforcement**

February 1, 2019

MEMORANDUM FOR: John V. Kelly  
Senior Official Performing the Duties of the  
Inspector General

FROM:   
Stephen A. Roncone  
Chief Financial Officer and  
Senior Component Accountable Official

SUBJECT: Management Response to OIG Draft Report: "ICE Faces  
Barriers in Timely Repatriation of Detained Aliens"  
(Project No. 18-062-ISP-ICE)

Thank you for the opportunity to review and comment on this draft report. U.S. Immigration and Customs Enforcement (ICE) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

ICE notes OIG's recognition that the most significant factors delaying or preventing repatriation are external and beyond ICE's control. Delays impose costs on the American taxpayer and can result in the release of detainees, endangering public safety.

ICE is committed to further reducing barriers to repatriation. As the draft report states, foreign government cooperation has increased, thanks in part to increased diplomatic engagement. ICE will continue to build on our excellent working relationships with foreign governments to reduce time to removal. We will also continue efforts to hold uncooperative countries accountable. Internally, ICE will continue to enhance its processes, including addressing each of the OIG recommendations.

The draft report contained five recommendations with which ICE concurs. Attached find our detailed response to each recommendation. Technical comments were previously provided under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment

[www.ice.gov](http://www.ice.gov)



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**Attachment: Management Response to Recommendations  
Contained in 18-062-ISP-ICE**

OIG recommended the Executive Associate Director for Immigration and Customs Enforcement, Enforcement and Removal Operations (ERO):

**Recommendation 1:** Develop a staffing model that assigns sufficient deportation officers to the detained docket to actively manage post-order custody cases.

**Response:** Concur. ICE ERO will review the workload of its deportation officers, and determine an ideal staffing level to manage post-order custody cases. ERO's staffing model must evolve with operational trends, including the expansion of long-term post-order custody cases. However, given existing resource constraints, even the best staffing model may not achieve the goals outlined in OIG's report. Estimated Completion Date (ECD): October 30, 2019.

**Recommendation 2:** Develop training for all Enforcement and Removal Operations staff assigned to alien apprehensions, highlighting the importance of obtaining identity documents and complete and accurate information at apprehension, and how such documents and information affect the removal process.

**Response:** Concur. The ICE ERO Removal Management Division, ICE Air Operations and the Office of the Principal Legal Advisor conduct annual post order custody review and travel document acquisition training at every field office. This training, while open to all officers in each office, has typically only been attended by detained docket officers. The Removal Management Division will work with ERO Field Operations to ensure all future trainings are attended by all officers, with an increased emphasis on the attendance of those who are responsible for conducting at-large alien apprehensions and non-detained case management. ECD: April 30, 2019.

OIG recommended the Immigration and Customs Enforcement Director:

**Recommendation 3:** Develop a web-based flight management and tracking system to support the domestic air transfer and international removal air travel operational demands of Enforcement and Removal Operations.

**Response:** Concur. ICE Air plans to begin the development of a transportation management Graphic User Interface (GUI) – integrated with current and future ICE Case and Removal Management Systems (i.e., EARM, EAGLE, EID) – to support the domestic air transfer and international removal air travel operational demands of ICE ERO, for both commercial air and air charter operations. The focus will be on the initial travel request or reservation, but the system would also include the ability to quantify



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workload (Charter and Commercial), assess budgetary requirements, process the reconciliation of invoices and centrally billed accounts, resource management, respond to both internal/external data requests and provide a common operating picture with real time charter and commercial asset tracking. The initial milestone in the development of the transportation management tool is to submit a funding request in the next budget development cycle, which begins in February 2019. ECD: December 31, 2020.

**Recommendation 4:** Develop written documentation of recommendations and justifications for imposing, retaining, and lifting visa sanctions.

**Response:** Concur. There is not a one size fits all formula regarding visa sanctions. The Immigration and Nationality Act (INA) establishes when visa sanctions may be invoked, and a 2017 Memorandum of Understanding (MOU) between DHS and the Department of State further addresses the methodology. Section 243(d) of the INA states that if a country fails to take back *an alien* then the Secretary can inform the Secretary of State that visa issuance should be terminated. ICE ERO considers the totality of each country's cooperation level prior to deciding whether sanctions should be enacted or should cease. ICE conducts monthly meetings with the Department of State and DHS Office of Strategy, Policy, and Plans regarding recalcitrant countries. ICE statistics are not intended to serve as the single factor to determine visa sanctions for uncooperative countries, but as one of multiple factors considered by the stakeholders in the interagency process. ICE and Department of State will continue to use statistics as one of multiple contributing factors in the process, and follow the methodology in the INA and MOU. Following the monthly meetings, ERO will send meeting notes documenting the next steps to take for each country. ECD: February 28, 2019.

**Recommendation 5:** Implement the use of an electronic system comparable to, or more accurate than, eTD as a source for official statistics, to improve the measures of cooperation with travel document requests.

**Response:** Concur. ICE ERO will prioritize the development and deployment of an electronic system as a source for official statistics regarding travel document decisions. Current milestones include:

- Requirements Complete – June 30, 2019
- Initial Rollout Complete – June 30, 2020

ECD: October 31, 2020.



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## Appendix C

### Results of Electronic File Case Review

We took a snapshot of all aliens with final orders of removal in ICE detention on December 13, 2017. We asked ICE to provide us a case disposition for each of the cases where the alien was held longer than 90 days as of March 24, 2018. Table 2 reflects our identification of delays or barriers to removal, and ICE’s information on the status of each case.

**Table 2: Snapshot Case Dispositions**

Post Order Detention	Barrier to Removal	Case Disposition as of March 24, 2018				
		Removed	Detained	Released	Other	Total
91-180 Days	Legal Appeals	259	387	132	34	812
181+ Days	Legal Appeals	231	468	131	28	858
<b>Total</b>	<b>Legal Appeals</b>	<b>490</b>	<b>855</b>	<b>263</b>	<b>62</b>	<b>1,670</b>
91-180 Days	Travel Document	126	151	260	10	547
181+ Days	Travel Document	100	126	157	18	401
<b>Total</b>	<b>Travel Document</b>	<b>226</b>	<b>277</b>	<b>417</b>	<b>28</b>	<b>948</b>
91-180 Days	Flight	82	37	0	2	121
181+ Days	Flight	55	23	0	2	80
<b>Total</b>	<b>Flight</b>	<b>137</b>	<b>60</b>	<b>0</b>	<b>4</b>	<b>201</b>
91-180 Days	Failure to Comply	14	14	0	1	29
181+ Days	Failure to Comply	15	46	2	1	64
<b>Total</b>	<b>Failure to Comply</b>	<b>29</b>	<b>60</b>	<b>2</b>	<b>2</b>	<b>93</b>
91-180 Days	Other	20	12	7	16	55
181+ Days	Other	8	11	2	9	30
<b>Total</b>	<b>Other</b>	<b>28</b>	<b>23</b>	<b>9</b>	<b>25</b>	<b>85</b>
91-180 Days	Escort	21	0	0	2	23
181+ Days	Escort	13	1	0	0	14
<b>Total</b>	<b>Escort</b>	<b>34</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>37</b>
91-180 Days	Medical	3	3	2	0	8
181+ Days	Medical	4	5	2	0	11
<b>Total</b>	<b>Medical</b>	<b>7</b>	<b>8</b>	<b>4</b>	<b>0</b>	<b>19</b>
<b>91+ Days</b>	<b>Total</b>	<b>951</b>	<b>1,284</b>	<b>695</b>	<b>123</b>	<b>3,053</b>

Source: OIG Analysis of Aliens Detained Longer than 90 Days Post Final Order of Removal, from ICE ENFORCE Alien Removal Module, ICE Law Enforcement Systems and Analysis case disposition information as of March 24, 2018



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**Appendix D**  
**Countries' Cooperation with Repatriation**

Country	July 2015	September 2016	September 2017	May 2018
Afghanistan	Uncooperative	Uncooperative	Other	Other
Albania	ARON	Other	Other	Other
Algeria	Uncooperative	Uncooperative	Other	ARON
Angola	Other	ARON	Other	Other
Antigua Barbuda	ARON	ARON	Other	Other
Armenia	ARON	Other	Other	ARON
Azerbaijan	Other	ARON	Other	Other
Bahamas	Other	ARON	Other	Other
Bangladesh	ARON	ARON	Other	Other
Barbados	ARON	Other	ARON	Other
Belarus	ARON	ARON	Other	Other
Bermuda	ARON	Other	ARON	Other
Bhutan	Other	Other	Other	ARON
Bolivia	ARON	Other	Other	Other
Bosnia And Herzegovina	ARON	ARON	Other	Other
Brazil	ARON	ARON	ARON	ARON
British Virgin Islands	Other	ARON	Other	Other
Bulgaria	Other	ARON	Other	Other
Burkina Faso	Other	Uncooperative	ARON	ARON
Burma	ARON	Uncooperative	Uncooperative	Uncooperative
Burundi	Uncooperative	ARON	ARON	ARON
Cambodia	ARON	Uncooperative	Uncooperative	Uncooperative
Cameroon	ARON	Other	Other	Other
Cape Verde	Uncooperative	Other	Other	Other
Chad	ARON	ARON	Other	Other
China	Uncooperative	Uncooperative	Uncooperative	Uncooperative
Comoros	ARON	Other	Other	Other
Cuba	Uncooperative	Uncooperative	Uncooperative	Uncooperative
Czech Republic	ARON	Other	Other	Other
Democratic Republic Of The Congo	ARON	Other	Other	Other
Dominica	ARON	ARON	ARON	ARON
Egypt	Other	ARON	ARON	ARON
Eritrea	Uncooperative	Uncooperative	Uncooperative	Uncooperative
Estonia	Other	ARON	Other	Other
Ethiopia	Other	ARON	ARON	ARON
Fiji	ARON	Other	Other	Other
Gambia	Uncooperative	Uncooperative	Other	Other
Georgia	ARON	Other	Other	Other
Ghana	Uncooperative	ARON	ARON	ARON
Greece	ARON	Other	Other	Other
Grenada	Other	ARON	Other	Other
Guinea	Uncooperative	Uncooperative	ARON	Other



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Guinea Bissau	ARON	Other	Other	Other
Haiti	ARON	Other	Other	Other
Hong Kong	ARON	Other	Uncooperative	Uncooperative
India	Uncooperative	Other	Other	Other
Indonesia	ARON	Other	Other	Other
Iran	Uncooperative	Uncooperative	Uncooperative	Uncooperative
Iraq	Uncooperative	Uncooperative	ARON	ARON
Israel	Other	Other	ARON	ARON
Ivory Coast	Uncooperative	ARON	ARON	ARON
Jordan	ARON	ARON	Other	Other
Kazakhstan	ARON	Other	Other	Other
Kenya	ARON	ARON	ARON	ARON
Kosovo	ARON	Other	Other	Other
Kyrgyzstan	ARON	Other	Other	Other
Laos	Other	Uncooperative	Uncooperative	Uncooperative
Lebanon	ARON	ARON	Other	ARON
Lesotho	Other	ARON	Other	Other
Liberia	Uncooperative	ARON	Other	Other
Libya	Uncooperative	ARON	ARON	Other
Lithuania	ARON	ARON	Other	Other
Macedonia	Other	ARON	Other	Other
Mali	Uncooperative	Uncooperative	ARON	Other
Martinique	ARON	Other	Other	Other
Mauritania	Uncooperative	ARON	ARON	Other
Moldova	ARON	Other	Other	Other
Mongolia	ARON	Other	Other	Other
Montserrat	Other	ARON	ARON	Other
Morocco	Uncooperative	Uncooperative	ARON	Other
Namibia	Other	Other	ARON	ARON
Nepal	ARON	ARON	Other	Other
Niger	Other	ARON	ARON	Other
Nigeria	Other	Other	ARON	ARON
Norway	Other	ARON	Other	Other
Pakistan	ARON	ARON	ARON	ARON
Panama	Other	ARON	Other	Other
Papua New Guinea	ARON	Other	Other	Other
Paraguay	ARON	ARON	Other	Other
Qatar	Other	ARON	Other	Other
Republic Of Congo	ARON	ARON	ARON	Other
Romania	Other	ARON	Other	Other
Russia	ARON	Other	Other	Other
Rwanda	Other	ARON	Other	Other
Samoa	ARON	ARON	ARON	Other
Senegal	ARON	Uncooperative	ARON	ARON
Serbia	ARON	Other	Other	Other
Sierra Leone	Uncooperative	Uncooperative	ARON	Other
Slovakia	Other	ARON	Other	Other
Slovenia	ARON	Other	Other	Other
Somalia	Uncooperative	Uncooperative	Other	Other
South Sudan	Uncooperative	Uncooperative	ARON	Other
Sri Lanka	ARON	Other	Other	Other



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St. Kitts Nevis	ARON	Other	Other	Other
St. Lucia	ARON	ARON	Other	Other
Sudan	Other	ARON	ARON	ARON
Suriname	Other	ARON	Other	Other
Sweden	ARON	Other	Other	Other
Syria	ARON	Other	Other	Other
Tajikistan	ARON	ARON	Other	Other
Tanzania	ARON	ARON	ARON	Other
Thailand	ARON	ARON	ARON	ARON
Togo	ARON	ARON	ARON	ARON
Tonga	ARON	ARON	Other	Other
Tunisia	ARON	ARON	ARON	Other
Turkey	ARON	Other	Other	Other
Turkmenistan	Other	ARON	Other	Other
Uganda	Other	ARON	ARON	ARON
Ukraine	ARON	Other	Other	Other
United Kingdom	Other	ARON	Other	Other
Uzbekistan	ARON	Other	Other	Other
Venezuela	Other	ARON	ARON	ARON
Vietnam	ARON	Uncooperative	Uncooperative	
Yemen	ARON	Other	Other	Other
Zambia	Other	ARON	Other	Other
Zimbabwe	Uncooperative	Other	ARON	Other

Legend: ■ Uncooperative ■ ARON (At Risk of Noncompliance) ■ Other

Source: ICE



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## **Appendix E**

### **Travel Document Requests**

Prior to submitting the travel document request to the embassy or consular office, ICE staff interviews the alien to complete the Form I-217, Information for Travel Document or Passport. The Form I-217 is the source document for information necessary to complete the travel document request. It needs to be thoroughly completed to avoid delays in the issuance of the travel document. Complete travel document requests include but are not limited to:

- I-217 – Information for Travel Document or Passport
- Any available identity documents
- Charging Document
- Final Order of Removal
- I-205 – Warrant of Removal
- I-294 – Warning to Alien Ordered Removed or Deported
- I-296 – Notice to Alien Ordered Removed / Departure Verification
- Photograph(s)

Prior to submitting the travel packet, deportation officers must review the country-specific Removal Guidelines posted on the ICE website (Removal and International Operations Guidelines) to ascertain requirements for travel document requests. Following are examples of different requirements countries might have for travel documents:

- Travel itinerary
- Return of expired passport
- Number of photographs
- Processing fee
- Required consular interview
- Evidence the alien has been ordered removed
- Foreign government travel document application
- Miscellaneous document requirements
- Special requirements

Once the travel document request packet is submitted to the embassy or consular office, ICE has to follow up with the embassy or consular office every few weeks until the travel document has been issued or the case closed.



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**Appendix F**  
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# **Exhibit E**



**U.S. Immigration and Customs Enforcement (ICE)  
 Enforcement and Removal Operations (ERO)  
 November 2024**

**Question:** How many individuals on the non-detained docket have final orders of removal? Please provide the data broken down by nationality and categories of reasons that make it difficult to remove to specific countries (e.g., withholdings and convention against torture protections)?

**Response:** As of November 24, 2024, there are 1,445,549 noncitizens on ICE’s non-detained docket with final orders of removal. Please see the following chart for a breakdown by country of citizenship:

**Noncitizens on the ICE Non-Detained Docket with Final Orders of Removal  
 by Country of Citizenship**

Citizenship Country	Totals
Afghanistan	1,708
Albania	1,874
Algeria	306
Angola	662
Antigua-Barbuda	110
Argentina	1,148
Armenia	2,808
Aruba	2
Australia	261
Austria	60
Azerbaijan	709
Bahamas	426
Bahrain	17
Bangladesh	4,837
Barbados	151
Belarus	323
Belgium	46
Belize	899
Benin	102
Bermuda	10
Bhutan	122
Bolivia	1,366
Bosnia-Herzegovina	166
Botswana	12

Brazil	38,677
British Virgin Islands	5
Brunei	4
Bulgaria	727
Burkina Faso	303
Burma	679
Burundi	462
Cambodia	1,747
Cameroon	1,736
Canada	1,290
Cape Verde	314
Cayman Islands	2
Central African Republic	82
Chad	169
Chile	1,137
China, Peoples Republic of	37,908
Colombia	27,388
Comoros	3
Congo	795
Costa Rica	2,116
Croatia	126
Cuba	42,084
Cyprus	14
Czech Republic	100
Czechoslovakia	254
Democratic Republic of the Congo	1,068
Denmark	45
Djibouti	29
Dominica	104
Dominican Republic	12,699
Ecuador	31,252
Egypt	1,461
El Salvador	203,822
Equatorial Guinea	20
Eritrea	973
Estonia	94
Eswatini	6
Ethiopia	1,713
Fiji	353

Finland	22
France	402
French Guiana	6
French Polynesia	2
Gabon	60
Gambia	1,035
Georgia	833
Germany	571
Ghana	3,228
Greece	211
Grenada	149
Guadeloupe	12
Guatemala	253,413
Guinea	1,897
Guinea-Bissau	48
Guyana	1,236
Haiti	32,363
Honduras	261,651
Hong Kong	122
Hungary	294
Iceland	5
India	17,940
Indonesia	4,276
Iran	2,618
Iraq	1,299
Ireland	171
Israel	1,148
Italy	355
Ivory Coast	1,224
Jamaica	5,120
Japan	281
Jordan	1,660
Kazakhstan	369
Kenya	1,282
Kiribati	3
Korea	1,229
Kosovo	118
Kuwait	146
Kyrgyzstan	319

Laos	4,850
Latvia	125
Lebanon	1,055
Lesotho	11
Liberia	1,563
Libya	89
Liechtenstein	1
Lithuania	259
Macau	2
Madagascar	5
Malawi	56
Malaysia	435
Mali	929
Malta	8
Marshall Islands	39
Mauritania	3,822
Mauritius	15
Mexico	252,044
Micronesia, Federated States of	72
Moldova	279
Monaco	1
Mongolia	461
Montenegro	68
Montserrat	8
Morocco	495
Mozambique	14
Namibia	19
Nepal	1,365
Netherlands	184
Netherlands Antilles	6
New Zealand	166
Nicaragua	45,995
Niger	642
Nigeria	3,690
North Korea	3
North Macedonia	341
Norway	39
Oman	6
Pakistan	7,760

Palau	8
Panama	662
Papua New Guinea	5
Paraguay	197
Peru	13,769
Philippines	3,772
Poland	2,303
Portugal	360
Qatar	10
Romania	4,445
Russia	3,518
Rwanda	338
Samoa	57
San Marino	2
Sao Tome and Principe	1
Saudi Arabia	337
Senegal	1,689
Serbia	50
Serbia and Montenegro	64
Seychelles	4
Sierra Leone	1,563
Singapore	111
Slovakia	131
Slovenia	16
Solomon Islands	3
Somalia	4,090
South Africa	379
South Korea	837
South Sudan	136
Spain	364
Sri Lanka	3,065
St. Kitts-Nevis	68
St. Lucia	202
St. Pierre and Miquelon	1
St. Vincent-Grenadines	127
Sudan	1,012
Suriname	137
Sweden	120
Switzerland	60

Syria	741
Taiwan	392
Tajikistan	149
Tanzania	301
Thailand	619
Togo	427
Tonga	151
Trinidad and Tobago	1,197
Tunisia	160
Türkiye	3,103
Turkmenistan	40
Turks and Caicos Islands	25
Tuvalu	1
Uganda	393
Ukraine	1,862
United Arab Emirates	21
United Kingdom	1,157
Unknown	1,451
Uruguay	365
USSR	337
Uzbekistan	975
Vanuatu	1
Venezuela	22,749
Vietnam	8,675
Yemen	558
Yugoslavia	845
Zambia	174
Zimbabwe	545
<b>Total</b>	<b>1,445,549</b>

ICE is unable to provide a list of case-specific reasons why the agency is unable to remove certain noncitizens on the non-detained docket with final orders. There are several reasons why ICE is unable to effectuate removals. Under Title 8 of the U.S. Code, ICE may remove noncitizens from the United States who are subject to final orders of removal issued by an immigration judge or other lawful orders, including those processed under expedited removal who either have not claimed a fear of return or received a negative credible fear determination affirmed by an immigration judge. However, this does not guarantee every person seeking to remain in the United States will be able to do so. There are several reasons ICE may not be able to effectuate the removal of a noncitizen with a final order of removal.

Noncitizens may pursue a form of relief or protection from removal, which may include asylum,<sup>1</sup> withholding of removal,<sup>2</sup> or protection under the Convention Against Torture.<sup>3</sup> If a noncitizen is granted any form of relief from removal, ICE is unable to effectuate the removal.

Additionally, ICE works to remove undocumented noncitizens from the United States once they are subject to final orders of removal in a timely manner. The U.S. Government believes every country is obligated to accept the return of its citizens and nationals who are ineligible to remain in the United States. Lack of cooperation from the foreign government delays and, in many cases, inhibits the removal process. The U.S. Government requests foreign governments take appropriate steps to confirm the citizenship of noncitizens suspected to be their nationals, which include conducting interviews, issuing travel documents in a timely manner, and accepting the physical return of their nationals by scheduled commercial or charter flights consistent with ICE and/or foreign government removal guidelines. Lack of cooperation from countries in accepting the return of their nationals may lead to ICE classifying those countries as uncooperative or at-risk of non-compliance.<sup>4</sup> Currently, ICE considers 15 countries to be uncooperative: Bhutan, Burma, Cuba, Democratic Republic of the Congo, Eritrea, Ethiopia, Hong Kong, India, Iran, Laos, Pakistan, People's Republic of China, Russia, Somalia, and Venezuela. ICE considers 11 countries to be at risk of non-compliance: Bosnia-Herzegovina, Burkina Faso, Cambodia, Gabon, Gambia, Iraq, Jamaica, Nicaragua, South Sudan, St. Lucia, and Vietnam.

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<sup>1</sup> Asylum status is a form of protection available to people who meet the definition of refugee and are already in the United States or are seeking admission at a port of entry.

<sup>2</sup> Withholding of removal is a form of relief from deportation that allows noncitizens to remain in the United States if they would face persecution in their home country. It's an alternative to asylum, which is another way to avoid deportation. To be granted withholding of removal, applicants must meet a higher standard of proof than for asylum. To be eligible, applicants must demonstrate that they are more likely than not to face persecution if returned to their home country and show that the persecution would be due to their race, religion, nationality, political opinion, or membership of a particular social group. If a noncitizen is granted withholding of removal, the applicant can remain and work lawfully in the United States for an indefinite period.

<sup>3</sup> Withholding of removal under the Convention Against Torture (CAT) is a mandatory form of protection that prevents the deportation of noncitizens to countries where they would likely face torture. To be eligible, applicants must demonstrate that they are more likely than not to be tortured if returned to their home country.

<sup>4</sup> Factors that could lead to a country being classified as uncooperative include hindering ICE's removal efforts by refusing to conduct consular interviews when necessary; refusing to accept charter removal missions; having an unacceptable ratio of releases when compared to removals and/or unacceptable average time from executable final order of removal to removal; and/or denying or delaying issuance of travel documents, such as passports. At Risk of Non-Compliance countries accept removals, but they fail to meet one or more cooperative country criteria, which may include delaying the issuance of travel documents; refusing to accept certain categories of their nationals; or not accepting accepted chartered removal flights.