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8 **UNITED STATES DISTRICT COURT**
9 **WESTERN DISTRICT OF WASHINGTON**
10 **AT SEATTLE**

11 CASE NO. 2:17-CV-00218-RSM-JPD

12 Daniel Ramirez Medina,

13 Petitioner,

14 v.

15 U.S. DEPARTMENT OF HOMELAND
16 SECURITY; JOHN KELLY, Secretary of
17 Homeland Security; NATHALIE ASHER,
18 Director of the Seattle Field Office of U.S.
Immigration and Customs Enforcement; and
LOWELL CLARK, Warden of the Northwest
Detention Center,

19 Respondents.
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**EMERGENCY MOTION FOR
CONDITIONAL RELEASE PENDING
FINAL DETERMINATION**

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Emergency Motion for Conditional Release Pending Final
Determination

Case No. 2:17-cv-00218-RSM-JPD

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INTRODUCTION

On February 10, 2017, Immigration and Customs Enforcement (“ICE”) unconstitutionally arrested and detained Petitioner Daniel Ramirez Medina (“Mr. Ramirez”) absent reasonable suspicion or probable cause and contrary to clear evidence that he was lawfully present in the United States. Mr. Ramirez remains in government custody at the Northwest Detention Center in Tacoma. And just today, Mr. Ramirez’s counsel was told that Mr. Ramirez was to be transferred to the “Level 3” section of that facility, placing him in a category that is usually limited to violent offenders, drug traffickers, or individuals suspected to be a significant threat to national security.¹ Such a transfer would result in a direct and immediate threat to Mr. Ramirez’s physical safety, and would be entirely without justification, as Mr. Ramirez has no criminal history and the Department of Homeland Security (“DHS”) has repeatedly determined that he poses no threat to public safety or national security. Mr. Ramirez’s counsel was later told that this transfer was not being made. But the cruel and arbitrary threat to put Mr. Ramirez in such danger only serves to underscore the severity of the deprivation of liberty and due process that he is suffering every day in detention.

On the Monday after his arrest, February 13, 2017, Mr. Ramirez filed a Petition for Writ of Habeas Corpus. *See* Dkt. #1. His claims fall squarely within the traditional scope of habeas petitions challenging executive detention. They are based solely upon ICE’s unconstitutional investigation, arrest, and detainment. They do not challenge commencement of removal proceedings. Mr. Ramirez filed an Amended Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief on February 21, 2017. *See* Dkt. #41.

This Court has the authority to order Mr. Ramirez’s conditional release pending the resolution of his Petition for Habeas Corpus. Every Circuit that has considered the question directly has held

¹ Counsel for Respondents has asserted that Mr. Ramirez was transferred to a different location in the facility but that his classification remains the same. Regardless, Mr. Ramirez should not be subject to such extreme uncertainty, vulnerability, and risk, which is entirely the result of Respondents unconstitutional deprivation of his fundamental rights. Moreover, the new unit to which Mr. Ramirez has been transferred contains gang members who have just been transferred from prison, further jeopardizing Mr. Ramirez’s safety.

that federal courts have such authority.² A district court in this Circuit specifically granted bail pending habeas review in the immigration context. *See Tam v. INS*, 14 F. Supp. 2d 1184, 1186 (E.D. Cal. 1998) (“grant[ing detained alien’s] conditional release pending resolution of his petition for habeas corpus”). And the Ninth Circuit has three times assumed without deciding that district courts possess the authority to grant bail pending resolution of habeas petitions. *United States v. McCandless*, 841 F.3d 819, 822 (9th Cir. 2016); *In re Roe*, 257 F.3d 1077, 1080 (9th Cir. 2001); *Land v. Deeds*, 878 F.2d 318 (9th Cir. 1989) (per curiam).

Given the substantial constitutional violations implicated by his continued detention and the exceptional circumstances surrounding this case, Mr. Ramirez respectfully requests this Court to order his immediate conditional release pending the resolution of his habeas petition.

SUMMARY OF FACTS

A. Deferred Action for Childhood Arrivals

On June 15, 2012, the Secretary of Homeland Security (“the Secretary”) issued a memorandum concerning “[i]ndividuals who came to the United States as children,” laying out an immigration program now known as “Deferred Action for Childhood Arrivals” (“DACA”). Dkt. #41-6, at 1 (Memorandum from Janet Napolitano, Sec’y of Homeland Sec., Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012)) (“Napolitano Memo”). Under DACA, individuals brought to the United States before the age of 16 and who meet certain criteria, including a determination that they do not “pose[] a threat to national security or public safety,” may be approved for “deferred action” from immigration enforcement for a period of two years, subject to renewal. *Id.* These “Dreamers”—as America has come to call DACA recipients—are “authorized by DHS” to live in this country during this two-year period, and “are considered by DHS to be lawfully present during the period deferred action is in effect.” Dkt. #41-3

² *See, e.g., Mapp v. Reno*, 241 F.3d 221, 226 (2nd Cir. 2001); *Dotson v. Clark*, 900 F.2d 77, 79 (6th Cir. 1990); *Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986); *Cherek v. United States*, 767 F.2d 335, 337 (7th Cir. 1985); *Pfaff v. Wells*, 648 F.2d 689, 693 (10th Cir. 1981); *Woodcock v. Donnelly*, 470 F.2d 93, 94 (1st Cir. 1972); *Baker v. Sard*, 420 F.2d 1342, 1343 (D.C. Cir. 1969) (per curiam); *Boyer v. City of Orlando*, 402 F.2d 966, 968 (5th Cir. 1968); *Johnston v. Marsh*, 227 F.2d 528, 531 (3d Cir. 1955) (“One of the inherent powers of the judiciary with regard to proceedings before it has been the admission of a prisoner to bail where, in the exercise of his discretion, the judge deems it advisable.”).

(Frequently Asked Questions, U.S. Citizenship & Immigration Servs.: Consideration of Deferred Action for Childhood Arrivals Process (“DACA FAQs”) at Q.1). Dreamers who “can demonstrate ‘an economic necessity for employment’” are eligible for work authorization. *Id.* at Q.4.

Mr. Ramirez has lawfully lived and worked in the United States since March 2014, when he was first approved for deferred action and granted an employment authorization card under the DACA program. Decl. of Daniel Ramirez Medina (“Ramirez Decl.”) ¶ 6, Dkt. #35-1. Mr. Ramirez successfully renewed his DACA status in May 2016. *See id.* ¶ 9; Form I-213 (“Form I-213”) at 3, Dkt. #32-3. Each time Mr. Ramirez applied for DACA, he provided highly sensitive personal information, including biological and biometric data, and paid a substantial fee. Ramirez Decl. ¶¶ 3-5, 9; DACA FAQs at Q.7, Q.22, Q.23. On each occasion, DHS subjected Mr. Ramirez to a rigorous background check, examining, among other things, his biometric and biographic information “against a variety of databases maintained by DHS and other federal government agencies,” *id.* at Q.23, and reviewing his application for any indication that his “presence in the United States threatens public safety or national security,” *id.* at Q.65. “[G]ang membership” is explicitly considered an indicator that an individual poses such a threat. *Id.* Accordingly, “[a]ll DACA requests presenting information that the requestor is or may be a member of a criminal street gang are referred to the Background Check Unit (BCU).” Dkt. #41-7 (Letter from USCIS Director León Rodríguez to Senate Judiciary Committee Chairman Charles E. Grassley (Apr. 17, 2015)) (“USCIS Letter”). If this thorough background check reveals gang membership, the DACA application is denied absent a determination by United States Citizenship and Immigration Services (“USCIS”) that the totality of the circumstances warrant a special exception. *Id.* at 2; DACA FAQs at Q.26. On two occasions, then, DHS expressly determined that Mr. Ramirez was neither “a danger to national security” nor “a risk to public safety.” DACA FAQs at Q.69.

Mr. Ramirez has complied with all the requirements of the DACA program—he has no criminal record and has worked hard to support his three-year-old U.S. citizen son. As such, DHS “authorized” Mr. Ramirez to be present in the United States until at least May 4, 2018. *Id.* at Q.1.

B. The Unconstitutional Arrest and Detention of Mr. Ramirez

On Friday, February 10, 2017, at approximately 9:00 a.m., a team of multiple ICE agents arrested Mr. Ramirez's father near Tacoma, Washington, outside the apartment shared by Mr. Ramirez's father, Mr. Ramirez's brother, and Mr. Ramirez. Ramirez Decl. ¶ 14; Decl. of Josue L. ("Josue Decl.") ¶ 8, Dkt. #35-2; Form I-213 at 2-3. The ICE agents subsequently entered the apartment and interrogated and arrested Mr. Ramirez. Form I-213 at 3; Ramirez Decl. ¶¶ 14-15. Neither Mr. Ramirez nor his brother is aware of any consent granted to permit the ICE agents to enter the residence. Josue Decl. ¶ 8.

The agents did not have an arrest warrant for Mr. Ramirez, nor did they have reasonable suspicion, let alone probable cause, to believe that he had committed a crime. Rather, the agents had arrived at Mr. Ramirez's residence to arrest a different person, his father, and had completed that arrest outside the apartment before entering the apartment and encountering Mr. Ramirez. Form I-213 at 2-3. Mr. Ramirez repeatedly and truthfully told the ICE agents that he had a legal work permit. Ramirez Decl. ¶ 15. Despite the fact that this was instant proof that Mr. Ramirez was lawfully present in the United States, the ICE agents refused to release him. *Id.* Mr. Ramirez's father also repeatedly informed the ICE agents that Mr. Ramirez had a legal work permit, and questioned why he was being detained. Josue Decl. ¶ 11. By all accounts, ICE agents did not ask any questions at the apartment regarding whether Mr. Ramirez was a gang member or had ever engaged in gang activity, nor did they ask Mr. Ramirez about his tattoo. Ramirez Decl. ¶ 16; Josue Decl. ¶ 9. Even by Respondents' own account, which Mr. Ramirez disputes in other respects, his arrest was based solely on the fact that he was born in Mexico, had entered the country illegally, and had once been arrested—for speeding. *See* Form I-213 at 3, 4.³

At the ICE processing center in Tukwila, Washington, agents first took Mr. Ramirez's wallet, which contained his work permit. Ramirez Decl. ¶ 17. This permit included a "C-33" designation, which clearly identified Mr. Ramirez as a DACA recipient with work authorization pursuant to DACA. *Id.*; Form I-213 at 4. ICE also fingerprinted Mr. Ramirez and used this information to access

³ According to DHS, these facts are insufficient to justify the arrest or detention of a DACA beneficiary. Napolitano Memo at 1; DACA FAQs at Q.28, Q.51, Q.60-67.

1 his records, which confirmed that Mr. Ramirez had no criminal history, had been twice granted
 2 DACA, was currently a DACA beneficiary, and had an Employment Authorization Document valid
 3 through May 4, 2018. Ramirez Decl. ¶ 17; Form I-213 at 3-4.

4 Even assuming that the arresting agents had not understood at the residence that Mr. Ramirez
 5 was lawfully present in the United States, once the work permit was produced, there could be no
 6 question whatsoever about this fact. But instead of releasing Mr. Ramirez, the ICE agents told him:
 7 “it did not matter,” because he “was not from the United States.” Ramirez Decl. ¶ 17. In fact,
 8 Respondent’s Form I-213 cites Mr. Ramirez’s DACA application and approval as evidence of his
 9 “illegal” status: After noting that Mr. Ramirez’s “alienage had already been established,” the Form I-
 10 213 states “[i]n addition, upon running checks at the office, Officer Hicks discovered that subject had
 11 applied for [DACA] on 2/29/2016, as a Mexican citizen who had made an unlawful entry into the
 12 United States.” Form I-213 at 3 (emphasis added).

13 At this point, ICE agents began to aggressively and coercively interrogate Mr. Ramirez,
 14 pressuring him to admit to gang membership. Ramirez Decl. ¶ 19. According to both Mr. Ramirez’s
 15 and the agents’ accounts, this occurred only after Mr. Ramirez’s lawful presence and DACA status
 16 had been established, and there was no basis for further detention or interrogation. Nor did ICE
 17 agents have any legitimate basis to suspect that Mr. Ramirez was a member of a gang or had any
 18 involvement in gang activity. Nonetheless, the agents aggressively asked him repeatedly—at least
 19 five times—whether he was in a gang. *Id.* ¶¶ 19, 22. Each time he denied any gang affiliation. *Id.* ICE
 20 agents next pressed him as to whether he had ever known anyone who was a gang member. *Id.* ¶ 22.
 21 Mr. Ramirez told the agents that, although that he knew students who had attended middle school and
 22 high school with him who were in gangs, he was not gang-affiliated and never had been. *Id.*

23 ICE agents also aggressively interrogated Mr. Ramirez about his tattoo, which is visible on
 24 his forearm and is the only tattoo on his body. *Id.* ¶¶ 23-25. He obtained the tattoo when he was 18
 25 years old—before he first applied for DACA status. *Id.* ¶ 23. The tattoo consists of the words “La Paz
 26 – BCS” and a nautical star. *Id.* ¶¶ 23-24. “La Paz,” which translates to “the peace” in Spanish, is Mr.
 27 Ramirez’s birthplace, and “BCS” stands for Baja California Sur, the region in which La Paz is
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1 located. *Id.* ¶ 24. Mr. Ramirez decided to include the city of his birth because he had seen others do
 2 the same, and ultimately selected the nautical star (rather than a whale’s tail, which he also
 3 considered) because he liked the way it looked. *Id.* Nautical stars are popular symbols on tattoos.
 4 Decl. of Martin Flores (“Flores Decl.”) ¶ 14, Dkt. #35-7. Mr. Ramirez repeatedly told the ICE agents
 5 that the tattoo is not a gang tattoo, but the agents kept trying to coerce him to state otherwise.
 6 Ramirez Decl. ¶ 25. No evidence has ever been produced by DHS to refute Mr. Ramirez’s denials.

7 Mr. Ramirez was then transferred to Northwest Detention Center. Though lacking any
 8 evidence of gang membership, ICE agents asked Mr. Ramirez if there were any gangs with which he
 9 would like to avoid being placed for his safety. Ramirez Decl. ¶ 26. Mr. Ramirez stated that he had
 10 no gang affiliation and would not have problems being placed with anyone. *Id.* Mr. Ramirez stated
 11 that if he had to be placed with any group, he would prefer to be with other “paisas.” *Id.* Mr. Ramirez
 12 understands the colloquial use of “paisas” to mean Mexicans, and was trying to say that if placed
 13 with any group, he preferred being placed with other Mexicans. *Id.*; see Flores Decl. ¶ 9 (“The term
 14 ‘paisa’ is commonly used to refer to people who are recent immigrants and non-gang members.”).
 15 Mr. Ramirez, who has no criminal history and has never previously been in custody, has no
 16 connection or affiliation whatsoever to a “paizas” gang in Washington or elsewhere. Ramirez Decl.
 17 ¶¶ 19-20, 26. At the time, Mr. Ramirez had been in Washington seeking work for just over a month.
 18 *Id.* ¶ 10.

19 Mr. Ramirez was initially told he had to wear an orange uniform because he had been
 20 classified as a “gang member.” *Id.* ¶ 27. He again explained that he was not a gang member and
 21 asked to be reclassified. The agents provided Mr. Ramirez with a “Classification Appeal” form, on
 22 which he clearly wrote: “I came in and the officer said I have gang affiliation with gangs so I wear
 23 orange uniform. I do not have a criminal history and I’m not affiliated with any gangs.” *Id.*

24 On February 22, 2016, counsel for Mr. Ramirez was informed that he was to be transferred to
 25 the “Level 3” section of the Northwest Detention Center, placing him in a category that is usually
 26 limited to violent offenders, drug traffickers, or individuals suspected to be a significant threat to
 27 national security. Such a transfer would result in a direct and immediate threat to Mr. Ramirez’s
 28

1 physical safety, and would be entirely without justification, as Mr. Ramirez has no criminal history
 2 and DHS has repeatedly determined that he poses no threat to public safety or national security.

3 Mr. Ramirez has been detained in the Northwest Detention Facility for more than 11 days.

4 **C. Respondents' Unsubstantiated and Shifting Account of Events and Effort to**
 5 **Vilify Mr. Ramirez**

6 In response to Mr. Ramirez's arrest and detention, and despite his DACA status, Respondents
 7 have conducted a well-publicized campaign to stigmatize and disparage him by branding him a gang
 8 member. But despite access to numerous federal and state criminal and gang databases, Respondents
 9 have never produced any evidence to support their claim that Mr. Ramirez is a gang member. By way
 10 of a few examples:

- 11 • On February 14, 2017, ICE spokesperson Rose Richeson stated that "ICE officers took
 12 Mr. Ramirez into custody *based on* his admitted gang affiliation and risk to public safety."
 13 Decl. of Jesse Gabriel ("Gabriel Decl."), Exs. A, B, Dkt. #35-11 (emphasis added). This
 14 directly contradicts Respondents' Brief, as well as the Form I-213, attached thereto as
 15 Exhibit C, both of which note that ICE agents did not discuss Mr. Ramirez's purported
 16 gang affiliation until after he was transported to the ICE holding facility in Tukwila.
 17 Resp't Br. at 2, Dkt. #32; Form I-213 at 3.
- 18 • On February 15, 2017, ICE officials were pressed by the news media for additional
 19 evidence demonstrating that Mr. Ramirez was a gang member. In response, ICE officials
 20 informed the media that they had "additional evidence including photos and social media
 21 content that illustrate his gang affiliation." Gabriel Decl., Ex. C. But Respondents' Brief
 22 makes no mention of any such evidence.
- 23 • On February 15, 2017, an unnamed ICE official informed members of the national news
 24 media that there was corroborating evidence to support their allegations of gang
 25 membership. Gabriel Decl., Ex. D. But Respondents have not provided any such
 26 corroborating evidence to support these unfounded allegations.

- On February 15, 2017, DHS issued a statement describing Mr. Ramirez as “a gang member.” Gabriel Decl., Ex. E. Respondents’ Brief, however, backed away from that conclusion, and instead asserts only that Mr. Ramirez purportedly “hangs out with” gang members. Resp’t Br. at 2.

The tattoo on Mr. Ramirez’s forearm has never been shown to be associated with any gang, yet Respondents have repeatedly characterized it as a “gang tattoo.” Resp’t Br. at 2; Form I-213 at 3. They offered no expert testimony in support of their claim. Martin Flores, an expert on interpreting gang tattoos, signs, symbols and codes, has consulted on over 700 cases in the past ten years. Flores Decl. ¶¶ 1, 2, 7. Upon reviewing a picture of Mr. Ramirez’s tattoo he concluded: “In my extensive experience with gang-related symbols and tattoos, I would not identify this tattoo as gang-related. I have never seen a gang member with a similar tattoo nor would I attribute this tattoo to have any gang-related meaning.” *Id.* ¶ 11. Counsel for Mr. Ramirez have requested that Respondents provide any corroborating evidence on these issues but have received none. *See* Declaration of Ethan Dettmer (“Dettmer Decl.”) ¶ 8, Dkt. #35-9.

D. Impact of Mr. Ramirez’s Arrest and Detention on Dreamers Throughout the United States

Predictably, Respondents’ disregard of Mr. Ramirez’s DACA status “instilled fear and confusion in the hundreds of thousands of DACA recipients who placed their trust in, and organized their lives around, the Government’s promise.” Proposed Amicus Curiae Brief from United We Dream (“UWD Brief”) at 3, Dkt. #38-1. Roberto Dondisch, Consul of Mexico, has similarly expressed concern that Mr. Ramirez’s “detention, which occurred during an operation aimed at a different person, has created unnecessary alarm and concern among the Mexican community in the U.S. Particularly, among those who, like Mr. Ramirez, are recipients of a DACA work permit and thus substantially contribute to the economy and the development of the communities they live in.” Letter from Mexican Consul Roberto Dondisch to the Honorable James P. Donohue (Feb. 16, 2017)

1 (“Consul Letter”) at 1, Dkt. #36-1. Yet only last week, President Trump assured the nation “[w]e’re
2 gonna deal with DACA with heart.”⁴ And yesterday, DHS stated that DACA would remain in place.⁵

3 **MR. RAMIREZ SHOULD BE RELEASED ON BAIL**

4 **A. This Court Has the Authority To Release Mr. Ramirez on Bail Pending the** 5 **Resolution of His Habeas Petition.**⁶

6 Consistent with every court that has addressed this issue, the Ninth Circuit has assumed on
7 three occasions that district courts have the power to conditionally release habeas petitioners pending
8 the resolution of their underlying claim. *See McCandless*, 841 F.3d at 822; *In re Roe*, 257 F.3d at
9 1080; *Land*, 878 F.2d 318; *see also Mapp*, 241 F.3d at 226; *Dotson*, 900 F.2d at 79; *Martin*, 801 F.2d
10 at 329; *Cherek*, 767 F.2d at 337; *Pfaff*, 648 F.2d at 693; *Woodcock*, 470 F.2d at 94; *Baker*, 420 F.2d
11 at 1343; *Boyer*, 402 F.2d at 968; *Johnston*, 227 F.2d at 531. At least one district court in this Circuit
12 has specifically invoked this authority in the immigration context, conditionally releasing a habeas
13 petitioner who was challenging his detention by the Immigration and Naturalization Service (the
14 predecessor to ICE) pending the final resolution of his habeas petition. *See Tam*, 14 F. Supp. 2d at
15 1186 (“grant[ing detained alien’s] conditional release pending resolution of his petition for habeas
16 corpus”); *see also Mapp*, 241 F.3d. at 223 (“[T]he Federal Courts have the same inherent authority to
17 admit habeas petitioners to bail in the immigration context as they do in criminal habeas cases.”);
18 *Elkimya v. Dep’t of Homeland Sec.*, 484 F.3d 151, 153 (2d Cir. 2007) (“The Real ID Act of 2005

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20 ⁴ Declaration of Katherine M. Marquart (“Marquart Decl.”), Ex. A, Full Transcript and Video:
21 Trump News Conference, N.Y. Times, February 17, 2017,
<https://www.nytimes.com/2017/02/16/us/politics/donald-trump-press-conference-transcript.html>.

22 ⁵ *Id.*, Ex. B, Memorandum from John Kelly, Sec’y of Homeland Sec., Enforcement of the
Immigration Laws to Serve the National Interest (Feb. 20, 2017).

23 ⁶ This motion seeks only the *conditional* release of Mr. Ramirez from the Northwest Detention
24 Center, pending resolution of his habeas petition. If the court were to order such release, it would
25 not terminate Mr. Ramirez’s custodial status for purposes of this Court’s ongoing habeas
26 jurisdiction. *See Jones v. Cunningham*, 371 U.S. 236, 239-40 (1963) (holding that a paroled
27 prisoner was still “in custody” for habeas purposes when the conditions of his parole “restrain[ed]
petitioner’s liberty to do those things which in this country free men are entitled to do”);
28 *Williamson v. Gregoire*, 151 F.3d 1180, 1182 (9th Cir. 1998) (same); *Xiaoyuan Ma v. Holder*,
860 F. Supp. 2d 1048, 1052 (N.D. Cal. 2012) (“Although petitioner is not, literally, a prisoner of
the INS, courts have long recognized that the writ is available to those who suffer such a
curtailment of liberty as to render them ‘in custody’ for the purposes of 28 U.S.C. § 2241(c).”).

1 further altered the landscape of immigration law, but did not qualify our inherent authority to admit to
2 bail petitioners in immigration cases.”).

3 The Ninth Circuit has three times stated the test a habeas petitioner must satisfy in order to be
4 released on bail pending resolution of the underlying petition. Specifically, a petitioner must
5 demonstrate either (1) a “high probability of success” on the merits of his habeas petition, or (2) that
6 his is an “extraordinary case[] involving special circumstances.” *McCandless*, 841 F.3d at 822; *Roe*,
7 257 F.3d at 1080; *Land*, 878 F.2d at 318; *see also Pfaff*, 648 F.3d at 693.⁷

8 **B. Mr. Ramirez Has Alleged Substantial Constitutional Claims that Have a High**
9 **Probability of Success on the Merits.**

10 Mr. Ramirez’s petition for habeas relief is premised exclusively on Respondents’ violations of
11 his rights under the U.S. Constitution. Mr. Ramirez has alleged that Respondents have violated his
12 right to Substantive Due Process under the Fifth Amendment, his right to Procedural Due Process
13 under the Fifth Amendment, his right to be free from unlawful seizure under the Fourth Amendment,
14 and his right to equal protection under the Fifth Amendment. Am. Pet. ¶¶ 50-82. These claims raise
15 serious constitutional questions of the nature that courts in this Circuit have held warrant release on
16 bail. For example, in *Tam v. INS*, a California district court held that an undocumented immigrant had
17 asserted “substantial constitutional claims” by claiming his continued detention violated his
18 substantive due process rights. The court concluded that the petitioner was “entitled to have his
19 detention reviewed for compliance with the Constitution.” *Tam*, 14 F. Supp. 2d at 1190.

20 Mr. Ramirez has a high probability of prevailing on the constitutional claims raised by his
21 amended habeas petition. Even by Respondents’ own shifting account of events, the government’s
22 arrest and detention of Mr. Ramirez was in violation of his Fourth and Fifth Amendment rights.

23 ***Fourth Amendment:*** ICE agents arbitrarily and capriciously arrested and detained Mr.
24 Ramirez without a warrant, reasonable suspicion, or probable cause. Like all individuals physically
25 present in the United States, Mr. Ramirez is entitled to Fourth Amendment protection from unlawful

26 ⁷ Other circuits have articulated a similar test, holding that the petitioner must demonstrate: (1) a
27 high probability of success, (2) substantial constitutional claims, and (3) extraordinary
28 circumstances. *See, e.g., Mapp*, 241 F.3d at 226. Regardless of the test applied, Mr. Ramirez
easily qualifies for release.

1 seizures. *See Orhorhaghe v. INS*, 38 F.3d 488, 497-501 (9th Cir. 1994); *Benitez-Mendez v. INS*, 760
2 F.2d 907, 909 (9th Cir. 1983).

3 The Fourth Amendment requires that all arrests entail a neutral judicial determination of
4 probable cause, either before the arrest (in the form of a warrant) or promptly afterward (in the form
5 of a prompt judicial probable cause determination). *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975).
6 Absent a bona fide emergency or other extraordinary circumstance, failure to receive a judicial
7 probable cause determination within 48 hours of detention (including weekends) violates the Fourth
8 Amendment as a matter of law. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

9 To support a warrantless arrest and detention for a civil immigration violation, the arresting
10 officer must be aware of sufficient facts to support a reasonable belief that the alien is in the United
11 States illegally. *Benitez-Mendez*, 760 F.2d at 909. Absent such facts, a warrantless arrest violates the
12 Fourth Amendment. *Orhorhaghe*, 38 F.3d at 497-501. Here, Respondents arrested and are detaining
13 Mr. Ramirez despite their knowledge that he was granted deferred action under DACA, and is
14 therefore authorized to live and work in the United States according to DHS's own promise to
15 Mr. Ramirez and other DACA holders like him.⁸ By arresting and detaining Mr. Ramirez under these
16 circumstances, Respondents are violating his Fourth Amendment rights. *See Benitez-Mendez*, 760
17 F.2d at 909 (no basis for detention where immigrant admitted foreign alienage but alleged he
18 possessed documents establishing his legal status).

19 Respondents also violated Mr. Ramirez's Fourth Amendment rights by failing to provide him
20 with a prompt judicial probable cause determination, which has resulted in his continued detention.

21 ***Substantive and Procedural Due Process:*** The federal government arrested and detained
22 Mr. Ramirez despite knowledge that, as a DACA recipient, Mr. Ramirez was authorized to live and
23 work in the United States. There is no question that the benefits provided under DACA are property
24 interests protected by the Constitution. *Perry v. Sindermann*, 408 U.S. 593, 601 (1972) ("A person's
25 interest in a benefit is a 'property' interest for due process purposes if there are such rules or mutually
26

27 ⁸ By their own admission, Respondents did not inquire into Mr. Ramirez's alleged gang-
28 affiliation—their only grounds for his ongoing incarceration—until after his arrest and initial
detention. Form I-213 at 3.

1 explicit understandings that support his claim of entitlement to the benefit and that he may invoke at a
 2 hearing.”) Moreover, the protections and work authorization that Mr. Ramirez has received under the
 3 DACA program have “become essential . . . in pursuit of [his] livelihood.” *Bell v. Burson*, 402 U.S.
 4 535, 539 (1971).

5 Termination of DACA and the corresponding work authorization “involves state action that
 6 adjudicates important rights,” *Goldberg v. Kelly*, 397 U.S. 254, 262 (1970), and “[t]his constitutional
 7 challenge cannot be answered by the argument that the benefits are a ‘privilege’ and not a right,” *Id.*;
 8 *see id.* at 268 (holding that termination of welfare benefits requires pre-deprivation notice and
 9 “opportunity to be heard” (citation omitted)). That is the case here: Mr. Ramirez had a reasonable
 10 expectation that the benefits conferred to him under DACA would be protected. And, in fact, he did
 11 rely on the government’s promises embodied in DACA’s strict framework. *Cf. Accardi v.*
 12 *Shaughnessy*, 247 U.S. 260, 266-67 (1954).

13 The due process violations here are even more insidious, as they involve the government
 14 essentially attempting a bait-and-switch with respect to Mr. Ramirez’s DACA benefits. The
 15 government affirmatively encouraged Mr. Ramirez to come forward and identify himself, to submit
 16 to rigorous screening, and to register as a Dreamer. Now, Respondents are trying to take back this
 17 country’s promise to Mr. Ramirez, without any notice or due process. As the Supreme Court has long
 18 recognized, the Due Process Clause forbids the government from punishing people for engaging in
 19 conduct that the government itself has encouraged. *See, e.g., Cox v. State of La.*, 379 U.S. 559, 571
 20 (1965) (holding that the government could not punish protestors for demonstrating in a location
 21 where the state officials had said the protest was allowed). For the government now “to say to
 22 [Mr. Ramirez], ‘The joke is on you. You shouldn’t have trusted us,’ is hardly worthy of our great
 23 government”” *Moda Health Plan, Inc. v. United States*, No. 16-649C, 2017 WL 527588, at *26
 24 (Fed. Cl. Feb. 9, 2017) (quoting *Brandt v. Hickel*, 427 F.2d 53, 57 (9th Cir. 1970)).

25 In establishing and continuously operating the DACA program under a well-defined
 26 framework and highly specific criteria, the federal government created a reasonable expectation that
 27
 28

1 DACA recipients will be able to live and work in the United States for a specific period without
2 being subject to arrest and detention based on their immigration status.

3 ***Equal Protection:*** Mr. Ramirez, like all persons in the United States, is protected by the Fifth
4 and Fourteenth Amendments of the Constitution and is guaranteed the rights of due process and equal
5 protection. *Plyler v. Doe*, 457 U.S. 202, 210 (1982) (“Aliens, even aliens whose presence in this
6 country is unlawful, have long been recognized as ‘persons’ guaranteed due process of law by the
7 Fifth and Fourteenth Amendments.”). As recently as the day of this filing (February 22, 2017), the
8 Supreme Court reiterated the principle that “[d]iscrimination on the basis of race, odious in all
9 aspects, is especially pernicious in the administration of justice.” *Buck v. Davis*, 2017 WL 685534, at
10 *16 (U.S. Feb. 22, 2017) (quoting *Rose v. Mitchell*, 443 U.S. 545, 555 (1979)). More specifically, the
11 Court held that racial stereotyping is repugnant to the justice system, stating that “[i]t would be
12 patently unconstitutional for a state to argue that a defendant is liable to be a future danger because of
13 his race” and that “[o]ur law punishes people for what they do, not who they are. Dispensing
14 punishment on the basis of an immutable characteristic flatly contravenes this guiding principle.” *Id.*
15 at *14; *see also Flores v. Pierce*, 617 F.2d 1386, 1389 (9th Cir. 1980) (using an analysis under
16 *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977) and
17 holding that where city officials “used stereotypic references to individuals” a trier of fact could infer
18 “an intent to disguise a racial animus.”).

19 Inferring that a person is a gang member based solely on that person’s race is a clear form of
20 race discrimination. *Williams v. Lindenwood Univ.*, 288 F.3d 349, 356-57 & n.7 (8th Cir. 2002)
21 (finding discriminatory intent in a race discrimination case where officials “interchangeably used race
22 to describe people who allegedly were criminals and whose presence supposedly put the safety of the
23 female students at risk” and noting that the “use of the term ‘black’ as a proxy for ‘gang member’ still
24 reflects a negative attitude about black people.”). And this discriminatory intent is only underscored
25 by Respondents’ insistence—contrary to all evidence—that it is a “gang tattoo.” As gang expert
26 Flores determined and Mr. Ramirez confirmed, that tattoo is not associated with any gangs. Flores
27 Decl. ¶ 11. But Respondents’ automatic assumption and continued insistence that Mr. Ramirez’s
28

tattoo is gang-related is striking evidence of the pernicious and unlawful racial stereotyping at work in the arrest. It is the same as saying that a man of Mexican heritage with a tattoo is by necessity a gang member.

Here, ICE agents had no factual basis for their assumption that Mr. Ramirez was a gang member. Instead, the ICE agents engaged in pernicious racial stereotyping, assuming that Mr. Ramirez was a gang member based only on an ordinary tattoo and on his Mexican heritage. And ICE agents ignored the many indicia that Mr. Ramirez is not a gang member, including his own statements and the rigorous background checks conducted by DHS on multiple occasions.

C. This Case Is Extraordinary and Involves Special Circumstances.

Although the Ninth Circuit has not specified the precise contours of an “extraordinary” case, the Supreme Court decision that informed the Circuit’s first articulation of the test for habeas bail is instructive. *See Land*, 878 F.2d at 318 (citing *Aronson v. May*, 85 S. Ct. 3, 5 (1964) (Douglas, J. in chambers) to support the proposition that “[b]ail pending a decision in a habeas case is reserved for extraordinary cases involving special circumstances or a high probability of success.”). *Aronson* is an in-chambers opinion authored by Justice Douglas denying a habeas petitioner’s appeal on application for bail pending the appeal of a habeas petition. In rejecting petitioner’s claim, Justice Douglas noted that where a petitioner has been “tried, convicted, and sentenced by a court of law,” there must be “some circumstance making [the] application exceptional and deserving of special treatment in the interests of justice.” 85 S. Ct. at 5. Here, where the petitioner has a clean criminal record and has twice been determined not to be a threat to national security or a risk to the public, the standard must surely be far lower. Nonetheless, Mr. Ramirez’s case also involves external exceptional circumstances of national and international import and his conditional release is consequently “in the interests of justice.” *Id.*

1. *Mr. Ramirez, a two-time DACA recipient, is neither a threat to public safety nor a flight risk.*

The government’s arbitrary and unlawful detention of Mr. Ramirez serves no purpose, as Mr. Ramirez is neither a threat to public safety nor a flight risk. Mr. Ramirez has twice been vetted for

and received DACA, and he has no criminal record. *See* Dkt. #32-3 at 2 (“Subject has no criminal history”); Am. Pet. ¶¶ 23, 30; Ramirez Decl. ¶¶ 3, 9, 17; Marquart Decl., Ex. C, Suppl. Decl. of Daniel Ramirez Medina (“Ramirez Suppl. Decl.”) ¶ 6. Mr. Ramirez is not a gang member. *See* Ramirez Decl. ¶ 19; Josue Decl. ¶ 4; Decl. of Luz L. (“Luz Decl.”) ¶¶ 9, 12, Dkt. #35-3; Decl. of Nancy L. (“Nancy Decl.”) ¶ 8, Dkt. #35-5; Marquart Decl., Ex. D, Decl. of Juan Lemus (“Lemus Decl.”) ¶ 4; Marquart Decl., Ex. E, Decl. of Francisco Hernandez (“Hernandez Decl.”) ¶ 7; Marquart Decl., Ex. F, Decl. of Maria Contreras (“Contreras Decl.”) ¶ 3, Marquart Decl., Ex. G, Decl. of Teresa Lemus (“Teresa Decl.”) ¶ 10. Nor does he have any gang affiliation or gang tattoos. Ramirez Decl. ¶ 19, 23-25; Luz Decl. ¶¶ 8, 9; Nancy Decl. ¶ 10; Lemus Decl. ¶ 5; Hernandez Decl. ¶ 8-9; Contreras Decl. ¶¶ 3-4; Teresa ¶ 9-10. The government’s characterizations of Mr. Ramirez to the contrary are slanderous vilifications.

Mr. Ramirez is “a dedicated father, son, and brother as well as a benefit to the community. He is not a threat to anyone.” Hernandez Decl. ¶ 9. He is known to be “kind, calm, generous, and very humble.” *Id.* ¶ 3. He is “very shy and quiet.” Nancy Decl. ¶ 3; *see* Josue Decl. ¶ 5 (“[H]e is generally a shy and quiet person.”); Teresa Decl. ¶ 5. “He is not a violent person.” Nancy Decl. ¶ 3; *see* Luz Decl. ¶ 12 (“He’s a kind person who would never do harm to someone else.”). In fact, “[m]ost people that know Daniel would describe him as timid and calm.” Luz Decl. ¶ 4. Mr. Ramirez is a “very family oriented” person who “spends most of his time hanging out at home and talking with family.” Hernandez Decl. ¶ 3; *see* Josue Decl. ¶ 5; Luz Decl. ¶ 9; Lemus Decl. ¶ 3; Contreras Decl. ¶ 8; Teresa Decl. ¶ 7 (“[Daniel] is a big homebody and prefers to be at home with his family.”). He is a religious person who has attended church and other religious services, who has pursued spiritual education, and for whom “[i]t is very important . . . to pass on his faith to his son.” Marquart Decl., Ex. H, Suppl. Decl. of Nancy L. (“Nancy Suppl. Decl.”) ¶ 4; *see id.* ¶¶ 3-7; Contreras Decl. ¶¶ 7, 10. He “is always willing to help others,” Marquart Decl., Ex. I, Suppl. Decl. of Luz L. (“Luz Suppl. Decl.”) ¶ 4, and is “a little kid at heart.” Hernandez Decl. ¶¶ 3, 4; *see* Luz Decl. ¶ 9 (“My son is the opposite of a bad person; he is very noble and has a big heart.”); Luz Suppl. Decl. ¶ 4; Teresa Decl. ¶ 8.

Mr. Ramirez is not a flight risk. The focal points of Mr. Ramirez’s life are his son—a United States citizen—and his family, both of which are firmly rooted in this country. Ramirez Decl. ¶¶ 8 (“[Daniel Jr.] is my world.”), 10 (“I left California and came to Washington . . . so that I can provide better for my son.”), 13, 29; Luz Decl. ¶¶ 10 (“Ever since Daniel Jr. was born, my son has lived for that child.”), 11; Josue Decl. ¶ 2, 13; Nancy Decl. ¶¶ 6, 7 (“Daniel’s motivation is his family . . .); Hernandez Decl. ¶ 4 (“Daniel’s life revolves around his son and his mother. Daniel is so loving towards his son. Every decision and every opportunity is about Daniel Jr.”). “[F]amily is the most important thing to him.” Contreras Decl. ¶ 8; *see* Teresa Decl. ¶¶ 3-4, 11.

Mr. Ramirez’s son relies on his father: “Daniel buys his son diapers, food, clothes, baby formula, toys, and makes sure his son has a safe crib to sleep in.” Josue Decl. ¶ 13. Mr. Ramirez’s son depends on him not only for financial support but also for emotional wellbeing. *See* Nancy Decl. ¶ 6 (“As soon as he gets home from work [Daniel] takes Daniel Jr. to the park or watches TV with him.”); Luz Suppl. Decl. ¶¶ 5-12 (“My nephew misses [Daniel] a lot right now.”); Nancy Decl. ¶ 6; *see* Hernandez Decl. ¶ 10 (“His son asks for him every day.”); Contreras Decl. ¶ 11. Recently, when Daniel Jr. saw Daniel on the news on the television he “started screaming ‘Papa! Papa, es mi papa!’ (‘Dad! Dad, that’s my dad!’).” Luz Decl. ¶ 10; *see* Nancy Decl. ¶ 6; Hernandez Decl. ¶ 10. Mr. Ramirez would not leave his son or his family, much less the only country he has known since he was a child, and upon which he rests his hopes for an education and better life. *See* Ramirez Decl. ¶ 11, 29; Nancy Decl. ¶ 8 (“[Daniel] would never be involved in anything that would put his child at risk”); Nancy Suppl. Decl. ¶ 10 (“[Daniel] would keep his immigration appointments because he wants to be able to stay in this country with his family. He has no reason to leave.”). In the words of Daniel’s brother, “Daniel’s son needs him. Our mom needs him. Our siblings need him. Daniel should not be in detention.” Josue Decl. ¶ 13; *see* Luz Suppl. Decl. ¶¶ 3, 14-15, 16 (“Daniel’s release would be an economic relief for our family.”); Contreras Decl. ¶ 11 (“As a family, we miss Daniel a lot and it hurts us to know he is locked up. His son misses him and his mother is suffering because of his absence.”).

1 There is no reason for Mr. Ramirez to continue to be detained pending resolution of the merits
 2 of his petition. DHS's ugly characterizations about him are a stain on his reputation and integrity. He
 3 means to fight against them so that he might defend his good name, and make certain that his ordeal
 4 is not repeated for the thousands of Dreamers who have publicly pronounced their support for him.
 5 Ramirez Suppl. Decl. ¶¶ 3, 5, 7. In Mr. Ramirez's own words, "I want to stay in this country and
 6 provide a life for my son and family." Ramirez Decl. ¶ 29; *see* Ramirez Suppl. Decl. ¶¶ 3, 4.

7 At the same time, the false branding of Mr. Ramirez as a gang member and his placement in a
 8 unit reserved exclusively for gang members makes his continuing presence within the facility a
 9 matter of high risk to his personal safety and well-being. That vilification cannot be undone, and
 10 even standing alone, in the circumstances here, constitutes exceptional circumstances for his
 11 immediate release from custody.

12 **2. *Mr. Ramirez's continued detention has created panic and confusion among***
 13 ***hundreds of thousands of DACA recipients throughout the United States.***

14 Mr. Ramirez's case is an unprecedented attack on DACA, a federal program upon which
 15 hundreds of thousands of young people rely to live and work without fear of deportation in the only
 16 country they know as home. The integrity of the program has been called into question by
 17 Respondents' treatment of Mr. Ramirez, and the highly public campaign against him. Mr. Ramirez's
 18 arbitrary and capricious arrest and continued detention have set off panic and confusion amongst
 19 Dreamers and their loved ones, so much so that Roberto Dondisch, Consul of Mexico, wrote to this
 20 Court to express his concern over the "sense of vulnerability" that Mr. Ramirez's arrest and detention
 21 has caused, noting that "[t]he fear of being arrested and deported has a direct impact on their personal
 22 and professional development, and also affects their emotional well-being." Consul Letter at 1-2.
 23 As United We Dream explained in its amicus brief to this Court:

24 [DACA] did more than guarantee its enrollees a form of lawful status. . . . DACA allowed
 25 its recipients to access a host of other benefits that would otherwise have remained
 26 unavailable to them. These benefits include work authorizations, the ability to obtain a
 27 Social Security number and, depending on the state, access to driver's licenses and in-
 28 state tuition at public universities. DACA enabled recipients to open bank accounts, apply
 for credit cards, buy homes and cars, and conduct other aspects of daily life that are often
 impossible for undocumented immigrants. Put differently, DACA granted its recipients
 not just a form of liberty, but also access to property.

UWD Brief at 2. Since DACA's inception, over 860,000 young people have been approved for deferred action.⁹ Dreamers have relied upon DACA "to enroll in colleges and universities, complete their education, start businesses that help improve our economy, and give back to our communities as teachers, medical professionals, engineers, and entrepreneurs—all on the books."¹⁰ In the words of the Department of Homeland Security, "[w]e continue to benefit as a country from the contributions of those young people who have come forward and want nothing more than to contribute to our country and our shared future."¹¹ *Id.*

Mr. Ramirez's ongoing detention without due process and in violation of his rights to be free from unlawful seizure and to equal protection under the law has created a state of uncertainty about Dreamers' status and their rights, causing significant harm to communities throughout the United

⁹ Marquart Decl., Ex. J (U.S. Citizenship and Immigration Services, Number of I-821D Consideration of Deferred Action for Childhood Arrivals, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_performancedata_fy2016_qtr4.pdf).

¹⁰ Marquart Decl., Ex. K (Letter from Secretary of Homeland Security Jeh Charles Johnson to Representative Judy Chu (Dec. 30, 2016)).

¹¹ An estimated 95% of Dreamers are currently employed or enrolled in school. Many have pursued advanced degrees in higher education. Almost 40% have already obtained or are currently pursuing a bachelor's degree, and 70% of those currently enrolled in school are pursuing a bachelor's degree or higher. These types of educational opportunities were not always available to this population. Over 60% of Dreamers reported pursuing educational opportunities they previously could not, while 37% plan to pursue more education but have not yet. Dreamers are also employed in a diverse array of industries, including educational and health services, the non-profit sector, wholesale and retail trade, professional and business services, leisure and hospitality, manufacturing, financial activities, and construction. Impressively, 5.5% started their own business, which is higher than American public as a whole—3.1%—and the entire immigration population in the U.S.—3.6%. (Marquart Decl., Ex. L, (Tom K. Wong, et al., New Study of DACA Beneficiaries Shows Positive Economic and Educational Outcomes, Oct. 18, 2016, <https://www.americanprogress.org/issues/immigration/news/2016/10/18/146290/new-study-of-daca-beneficiaries-shows-positive-economic-and-educational-outcomes/>.) Dreamers' improved finances have led to increased state tax revenue and economic growth: 54% bought their first car (generating sales tax), 12% bought a home (generating property taxes), 90% obtained a driver's license or state identification card for the first time (generating state fees), 47% opened a bank account, 57% obtained their first credit card, and 66% obtained health insurance. (Marquart Decl., Ex. M, (Results of Tom K. Wong, United We Dream, National Immigration Law Center, and Center for American Progress National Survey, Center for American Progress (2016), https://cdn.americanprogressaction.org/content/uploads/2016/10/21111136/2016-daca_survey_draft_updated-FINAL2.pdf.) The Cato Institute has estimated that DACA will add \$280 billion of economic growth to the US economy over the next decade. (Marquart Decl., Ex. N, Cato Institute, The Economic And Fiscal Impact of Repealing DACA, Jan. 18, 2017, <https://www.cato.org/blog/economic-fiscal-impact-repealing-daca>).

States and undermining the very legitimacy of the DACA program. Leaving Mr. Ramirez in detention signals that arresting and detaining a Dreamer without probable cause or reasonable suspicion is permissible, potentially putting all DACA holders at risk.

CONCLUSION

Mr. Ramirez respectfully requests that this Court order his immediate release on bail pending the resolution of his habeas petition.

DATED: February 22, 2017

Seattle, Washington

Respectfully submitted,

/s/ Theodore J. Boutrous, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2017, I electronically filed documents located at Docket No. 45 with the Clerk of the Court using CM/ECF. I also certify that the documents located at Docket No. 45 should automatically be served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Theodore J. Boutrous, Jr.

The Hon. James P. Donohue
Chief Magistrate Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASE NO. 2:17-CV-00218-RSM-JPD

Daniel Ramirez Medina,
Petitioner,
v.
U.S. DEPARTMENT OF HOMELAND
SECURITY; JOHN KELLY, Secretary of
Homeland Security; NATHALIE ASHER,
Director of the Seattle Field Office of U.S.
Immigration and Customs Enforcement,
Respondents.

**DECLARATION OF KATHERINE
MARQUART IN SUPPORT OF
PETITIONER’S EMERGENCY
MOTION FOR CONDITIONAL
RELEASE PENDING FINAL
DETERMINATION**

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1 I, Katherine M. Marquart, declare as follows:

- 2 1. I am an attorney admitted to practice law *pro hac vice* before this Court. I am an associate at
3 the law firm of Gibson, Dunn & Crutcher, and I am one of the attorneys responsible for the
4 representation of Daniel Ramirez Medina ("Mr. Ramirez") in the above-captioned action. I
5 submit this declaration in support of Mr. Ramirez's Emergency Motion for Conditional
6 Release Pending Final Determination. The following facts are within my personal knowledge
7 and, if called and sworn as a witness, I would testify competently to these facts.
- 8 2. Attached hereto as Exhibit A is a true and correct copy of the full transcript of President
9 Trump's news conference, on February 17, 2017. A link to the video recording can be found
10 here: [https://www.nytimes.com/2017/02/16/us/politics/donald-trump-press-conference-](https://www.nytimes.com/2017/02/16/us/politics/donald-trump-press-conference-transcript.html)
11 [transcript.html](https://www.nytimes.com/2017/02/16/us/politics/donald-trump-press-conference-transcript.html).
- 12 3. Attached hereto as Exhibit B is a true and correct copy of the Memorandum from John Kelly,
13 Secretary of Homeland Security, entitled "Enforcement of the Immigration Laws to Serve the
14 National Interest," dated February 20, 2017,
- 15 4. Attached hereto as Exhibit C is a true and correct copy of the Supplemental Declaration of
16 Daniel Ramirez Medina, dated February 22, 2017.
- 17 5. Attached hereto as Exhibit D is a true and correct copy of the Declaration of Juan Lemus,
18 dated February 21, 2017.
- 19 6. Attached hereto as Exhibit E is a true and correct copy of the Declaration of Francisco
20 Hernandez, dated February 21, 2017.
- 21 7. Attached hereto as Exhibit F1 is a true and correct copy of the Declaration of Maria
22 Contreras, dated February 22, 2017, in English. Attached hereto as Exhibit F2 is a true and
23 correct copy of the Declaracion de Maria Contreras, dated February 22, 2017, in Spanish.
24 Attached hereto as Exhibit F3 is a true and correct copy of the Declaration of Viridiana Sarahi
25 Chabolla Mendoza, dated February 22, 2017, regarding the translation of the Declaration of
26 Maria Contreras.
- 27 8. Attached hereto as Exhibit G1 is a true and correct copy of the Declaration of Teresa Lemus,
28 dated February 22, 2017, in English. Attached hereto as Exhibit G2 is a true and correct copy

of the Declaracion de Teresa Lemus, dated February 22, 2017, in Spanish. Attached hereto as Exhibit G3 is a true and correct copy of the Declaration of Viridiana Sarahi Chabolla Mendoza, dated February 22, 2017, regarding the translation of the Declaration of Teresa Lemus.

9. Attached hereto as Exhibit H is a true and correct copy of the Supplemental Declaration of Nancy L., dated February 22, 2017.
10. Attached hereto as Exhibit I1 is a true and correct copy of the Supplemental Declaration of Luz L., dated February 22, 2017, in English. Attached hereto as Exhibit I2 is a true and correct copy of the Declaracion Suplementaria de Luz L., dated February 22, 2017, in Spanish. Attached hereto as Exhibit I3 is a true and correct copy of the Declaration of Aida Patricia Palma Carpio, dated February 22, 2017, regarding the translation of the Supplemental Declaration of Luz L.
11. Attached as Exhibit J is a true and correct copy of the U.S. Citizenship and Immigration Services spreadsheet entitled "Number of I-821D, Consideration of Deferred Action for Childhood Arrivals by Fiscal Year, Quarter, Intake, Biometrics and Case Status[;] 2012-2016 (September 30)."
12. Attached as Exhibit K is a true and correct copy of the letter from Secretary of Homeland Security, Jeh Charles Johnson, to Representative Judy Chu, dated December 30, 2016.
13. Attached as Exhibit L is a true and correct copy of the report from the Center for American Progress entitled "New Study of DACA Beneficiaries Shows Positive Economic and Educational Outcomes," dated October 18, 2016.
14. Attached as Exhibit M is a true and correct copy of the "Results of Tom K. Wong, United We Dream, National Immigration Law Center, and Center for American Progress National Survey."
15. Attached as Exhibit N is a true and correct copy of the Cato Institute report entitled "The Economic and Fiscal Impact of Repealing DACA," dated January 18, 2017.

1 I declare under penalty of perjury under the laws of the United States and the State of Washington
2 that the foregoing is true and correct, and that I executed this Declaration on February 22, 2017 in
3 New York, New York.

4
5 /s/ Katherine M. Marquart
6 Katherine M. Marquart
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EXHIBIT B

Secretary
U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

February 20, 2017

MEMORANDUM FOR:

Kevin McAleenan
Acting Commissioner
U.S. Customs and Border Protection

Thomas D. Homan
Acting Director
U.S. Immigration and Customs Enforcement

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Acting Undersecretary for Management

FROM:

John Kelly
Secretary

A handwritten signature in black ink, appearing to read "John Kelly", written over the printed name and title.

SUBJECT:

**Enforcement of the Immigration Laws to Serve the National
Interest**

This memorandum implements the Executive Order entitled "Enhancing Public Safety in the Interior of the United States," issued by the President on January 25, 2017. It constitutes guidance for all Department personnel regarding the enforcement of the immigration laws of the United States, and is applicable to the activities of U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS). As such, it should inform enforcement and removal activities, detention decisions, administrative litigation, budget requests and execution, and strategic planning.

With the exception of the June 15, 2012, memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,” and the November 20, 2014 memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents,”¹ all existing conflicting directives, memoranda, or field guidance regarding the enforcement of our immigration laws and priorities for removal are hereby immediately rescinded—to the extent of the conflict—including, but not limited to, the November 20, 2014, memoranda entitled “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants,” and “Secure Communities.”

A. The Department’s Enforcement Priorities

Congress has defined the Department’s role and responsibilities regarding the enforcement of the immigration laws of the United States. Effective immediately, and consistent with Article II, Section 3 of the United States Constitution and Section 3331 of Title 5, United States Code, Department personnel shall faithfully execute the immigration laws of the United States against all removable aliens.

Except as specifically noted above, the Department no longer will exempt classes or categories of removable aliens from potential enforcement. In faithfully executing the immigration laws, Department personnel should take enforcement actions in accordance with applicable law. In order to achieve this goal, as noted below, I have directed ICE to hire 10,000 officers and agents expeditiously, subject to available resources, and to take enforcement actions consistent with available resources. However, in order to maximize the benefit to public safety, to stem unlawful migration and to prevent fraud and misrepresentation, Department personnel should prioritize for removal those aliens described by Congress in Sections 212(a)(2), (a)(3), and (a)(6)(C), 235(b) and (c), and 237(a)(2) and (4) of the Immigration and Nationality Act (INA).

Additionally, regardless of the basis of removability, Department personnel should prioritize removable aliens who: (1) have been convicted of any criminal offense; (2) have been charged with any criminal offense that has not been resolved; (3) have committed acts which constitute a chargeable criminal offense; (4) have engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency; (5) have abused any program related to receipt of public benefits; (6) are subject to a final order of removal but have not complied with their legal obligation to depart the United States; or (7) in the judgment of an immigration officer, otherwise pose a risk to public safety or national security. The Director of ICE, the Commissioner of CBP, and the Director of USCIS may, as they determine is appropriate, issue further guidance to allocate appropriate resources to prioritize enforcement activities within these categories—for example, by prioritizing enforcement activities against removable aliens who are convicted felons or who are involved in gang activity or drug trafficking.

¹ The November 20, 2014, memorandum will be addressed in future guidance.

B. Strengthening Programs to Facilitate the Efficient and Faithful Execution of the Immigration Laws of the United States

Facilitating the efficient and faithful execution of the immigration laws of the United States—and prioritizing the Department’s resources—requires the use of all available systems and enforcement tools by Department personnel.

Through passage of the immigration laws, Congress established a comprehensive statutory regime to remove aliens expeditiously from the United States in accordance with all applicable due process of law. I determine that the faithful execution of our immigration laws is best achieved by using all these statutory authorities to the greatest extent practicable. Accordingly, Department personnel shall make full use of these authorities.

Criminal aliens have demonstrated their disregard for the rule of law and pose a threat to persons residing in the United States. As such, criminal aliens are a priority for removal. The Priority Enforcement Program failed to achieve its stated objectives, added an unnecessary layer of uncertainty for the Department’s personnel, and hampered the Department’s enforcement of the immigration laws in the interior of the United States. Effective immediately, the Priority Enforcement Program is terminated and the Secure Communities Program shall be restored. To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Department shall eliminate the existing Forms I-247D, I-247N, and I-247X, and replace them with a new form to more effectively communicate with recipient law enforcement agencies. However, until such forms are updated they may be used as an interim measure to ensure that detainers may still be issued, as appropriate.

ICE’s Criminal Alien Program is an effective tool to facilitate the removal of criminal aliens from the United States, while also protecting our communities and conserving the Department’s detention resources. Accordingly, ICE should devote available resources to expanding the use of the Criminal Alien Program in any willing jurisdiction in the United States. To the maximum extent possible, in coordination with the Executive Office for Immigration Review (EOIR), removal proceedings shall be initiated against aliens incarcerated in federal, state, and local correctional facilities under the Institutional Hearing and Removal Program pursuant to section 238(a) of the INA, and administrative removal processes, such as those under section 238(b) of the INA, shall be used in all eligible cases.

The INA § 287(g) Program has been a highly successful force multiplier that allows a qualified state or local law enforcement officer to be designated as an “immigration officer” for purposes of enforcing federal immigration law. Such officers have the authority to perform all law enforcement functions specified in section 287(a) of the INA, including the authority to investigate, identify, apprehend, arrest, detain, and conduct searches authorized under the INA, under the direction and supervision of the Department.

There are currently 32 law enforcement agencies in 16 states participating in the 287(g)

Program. In previous years, there were significantly more law enforcement agencies participating in the 287(g) Program. To the greatest extent practicable, the Director of ICE and Commissioner of CBP shall expand the 287(g) Program to include all qualified law enforcement agencies that request to participate and meet all program requirements. In furtherance of this direction and the guidance memorandum, "Implementing the President's Border Security and Immigration Enforcement Improvements Policies" (Feb. 20, 2017), the Commissioner of CBP is authorized, in addition to the Director of ICE, to accept State services and take other actions as appropriate to carry out immigration enforcement pursuant to section 287(g) of the INA.

C. Exercise of Prosecutorial Discretion

Unless otherwise directed, Department personnel may initiate enforcement actions against removable aliens encountered during the performance of their official duties and should act consistently with the President's enforcement priorities identified in his Executive Order and any further guidance issued pursuant to this memorandum. Department personnel have full authority to arrest or apprehend an alien whom an immigration officer has probable cause to believe is in violation of the immigration laws. They also have full authority to initiate removal proceedings against any alien who is subject to removal under any provision of the INA, and to refer appropriate cases for criminal prosecution. The Department shall prioritize aliens described in the Department's Enforcement Priorities (Section A) for arrest and removal. This is not intended to remove the individual, case-by-case decisions of immigration officers.

The exercise of prosecutorial discretion with regard to any alien who is subject to arrest, criminal prosecution, or removal in accordance with law shall be made on a case-by-case basis in consultation with the head of the field office component, where appropriate, of CBP, ICE, or USCIS that initiated or will initiate the enforcement action, regardless of which entity actually files any applicable charging documents: CBP Chief Patrol Agent, CBP Director of Field Operations, ICE Field Office Director, ICE Special Agent-in-Charge, or the USCIS Field Office Director, Asylum Office Director or Service Center Director.

Except as specifically provided in this memorandum, prosecutorial discretion shall not be exercised in a manner that exempts or excludes a specified class or category of aliens from enforcement of the immigration laws. The General Counsel shall issue guidance consistent with these principles to all attorneys involved in immigration proceedings.

D. Establishing the Victims of Immigration Crime Engagement (VOICE) Office

Criminal aliens routinely victimize Americans and other legal residents. Often, these victims are not provided adequate information about the offender, the offender's immigration status, or any enforcement action taken by ICE against the offender. Efforts by ICE to engage these victims have been hampered by prior Department of Homeland Security (DHS) policy extending certain Privacy Act protections to persons other than U.S. citizens and lawful permanent residents, leaving victims feeling marginalized and without a voice. Accordingly, I am establishing the Victims of Immigration Crime Engagement (VOICE) Office within the Office of

the Director of ICE, which will create a programmatic liaison between ICE and the known victims of crimes committed by removable aliens. The liaison will facilitate engagement with the victims and their families to ensure, to the extent permitted by law, that they are provided information about the offender, including the offender's immigration status and custody status, and that their questions and concerns regarding immigration enforcement efforts are addressed.

To that end, I direct the Director of ICE to immediately reallocate any and all resources that are currently used to advocate on behalf of illegal aliens (except as necessary to comply with a judicial order) to the new VOICE Office, and to immediately terminate the provision of such outreach or advocacy services to illegal aliens.

Nothing herein may be construed to authorize disclosures that are prohibited by law or may relate to information that is Classified, Sensitive but Unclassified (SBU), Law Enforcement Sensitive (LES), For Official Use Only (FOUO), or similarly designated information that may relate to national security, law enforcement, or intelligence programs or operations, or disclosures that are reasonably likely to cause harm to any person.

E. Hiring Additional ICE Officers and Agents

To enforce the immigration laws effectively in the interior of the United States in accordance with the President's directives, additional ICE agents and officers are necessary. The Director of ICE shall—while ensuring consistency in training and standards—take all appropriate action to expeditiously hire 10,000 agents and officers, as well as additional operational and mission support and legal staff necessary to hire and support their activities. Human Capital leadership in CBP and ICE, in coordination with the Under Secretary for Management and the Chief Human Capital Officer, shall develop hiring plans that balance growth and interagency attrition by integrating workforce shaping and career paths for incumbents and new hires.

F. Establishment of Programs to Collect Authorized Civil Fines and Penalties

As soon as practicable, the Director of ICE, the Commissioner of CBP, and the Director of USCIS shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties which the Department is authorized under the law to assess and collect from aliens and from those who facilitate their unlawful presence in the United States.

G. Aligning the Department's Privacy Policies With the Law

The Department will no longer afford Privacy Act rights and protections to persons who are neither U.S. citizens nor lawful permanent residents. The DHS Privacy Office will rescind the DHS *Privacy Policy Guidance memorandum*, dated January 7, 2009, which implemented the DHS "mixed systems" policy of administratively treating all personal information contained in DHS record systems as being subject to the Privacy Act regardless of the subject's immigration status. The DHS Privacy Office, with the assistance of the Office of the General Counsel, will

develop new guidance specifying the appropriate treatment of personal information DHS maintains in its record systems.

H. Collecting and Reporting Data on Alien Apprehensions and Releases

The collection of data regarding aliens apprehended by ICE and the disposition of their cases will assist in the development of agency performance metrics and provide transparency in the immigration enforcement mission. Accordingly, to the extent permitted by law, the Director of ICE shall develop a standardized method of reporting statistical data regarding aliens apprehended by ICE and, at the earliest practicable time, provide monthly reports of such data to the public without charge.

The reporting method shall include uniform terminology and shall utilize a format that is easily understandable by the public and a medium that can be readily accessed. At a minimum, in addition to statistical information currently being publicly reported regarding apprehended aliens, the following categories of information must be included: country of citizenship, convicted criminals and the nature of their offenses, gang members, prior immigration violators, custody status of aliens and, if released, the reason for release and location of their release, aliens ordered removed, and aliens physically removed or returned.

The ICE Director shall also develop and provide a weekly report to the public, utilizing a medium that can be readily accessed without charge, of non-Federal jurisdictions that release aliens from their custody, notwithstanding that such aliens are subject to a detainer or similar request for custody issued by ICE to that jurisdiction. In addition to other relevant information, to the extent that such information is readily available, the report shall reflect the name of the jurisdiction, the citizenship and immigration status of the alien, the arrest, charge, or conviction for which each alien was in the custody of that jurisdiction, the date on which the ICE detainer or similar request for custody was served on the jurisdiction by ICE, the date of the alien's release from the custody of that jurisdiction and the reason for the release, an explanation concerning why the detainer or similar request for custody was not honored, and all arrests, charges, or convictions occurring after the alien's release from the custody of that jurisdiction.

I. No Private Right of Action

This document provides only internal DHS policy guidance, which may be modified, rescinded, or superseded at any time without notice. This guidance is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigation prerogatives of DHS.

In implementing these policies, I direct DHS Components to consult with legal counsel to ensure compliance with all applicable laws, including the Administrative Procedure Act.

EXHIBIT C

SUPPLEMENTAL DECLARATION OF DANIEL RAMIREZ MEDINA

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3 1. I, Daniel Ramirez Medina, make this declaration based on my own
4 personal knowledge, and if called as a witness, I could and would testify to the following
5 matters:

6 2. My name is Daniel Ramirez Medina. I was born near La Paz, Baja
7 California Sur, Mexico, on March 9, 1993. When I was about 10 years old, my parents
8 brought me to the United States so that my family could have a better life. I have never
9 left the United States since then. I grew up in California living with my mom and my
10 brother and sister. Now, I am a father of a three-year-old United States citizen son, and
11 until my current detention, I had Deferred Action for Childhood Arrivals ("DACA")
12 and employment authorization.

13 3. The last almost two weeks have been very difficult for me. I have been
14 separated from my family and have seen my name linked with "gangs" all over the
15 news. I grew up in a small town in California where everyone knew each other. I got
16 along well with the people in my community. However, I have now been plastered all
17 over the media as a gang member. This reflects badly not only on me but also on my
18 mom, brother, sister, and my son. I have worked really hard to be a good dad and role
19 model for my son, but the government has publicly labeled me as a gang member. I
20 want and need to continue to fight my case so that I can clear my name and show that I
21 have never been involved in gangs. Not just for me, but for my son.

22 4. My brother is my best friend and he has stuck by my side during this very
23 difficult time. I know he is also counting on me to clear our family's name. His support
24 throughout all of this has been one of the only things that has kept me sane while I have
25 been locked up and away from my family. I also owe it to him to make sure that I clear
26 our family's name.

27 5. I also realize that my case has gotten a lot of attention around the world. I
28 know that many other Dreamers have publicly shown their support for my release. I

1 take this very seriously and know that this case is not just important to me, but it is
2 important to all the DACA community. I cannot and will not let my community down.

3 6. This detention has been very difficult on me, as well as my family. I have
4 never arrested let alone in any sort of jail. I have always worked really hard to stay away
5 from trouble. But despite never getting into any trouble, I now find myself in a detention
6 facility at a medium-high unit with gang members and convicted felons. Never in a
7 million years did I think I will end up like this.


8 7. Since I've been in detention, I have not seen my son. I am not able to work
9 to provide for him while detained. I want to stay in this country and provide a life for
10 my son and family. I, too, want a better future. I know I have done nothing wrong and
11 am willing to do whatever it takes to show the world that I am an honest and
12 hardworking person and not some gangbanger.

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16 I declare under penalty of perjury under the laws of the United States of America
17 that the foregoing is true and correct. Executed on February 22, 2017, in Tacoma,
18 Washington.

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21 Daniel Ramirez

22 Daniel Ramirez Medina
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EXHIBIT J

 U.S. Citizenship and Immigration Services										
Number of I-821D Consideration of Deferred Action for Childhood Arrivals by Fiscal Year, Quarter, Intake, Biometrics and Case Status 2012-2016 (September 30)										
Period	Requests by Intake, Biometrics and Case Status									
	Intake ¹			Biometrics ²		Case Review ³				Pending ⁴
	Requests Accepted ⁵	Requests Rejected ⁶	Total Requests Received ⁷	Average Accepted/Den ⁸	Biometrics Scheduled ⁹	Requests Under Review ¹⁰	Approved ¹¹	Denied ¹²	Case Review ¹³	
Fiscal Year - Total¹⁴										
2012	152,431	5,395	157,826	3,629	124,055	38,023	1,685	-	150,746	
2013	427,615	16,351	443,966	1,696	445,013	77,521	470,523	11,025	96,813	
2014	238,899	24,888	263,787	951	209,670	101,563	158,399	21,089	156,224	
2014 Initial	122,424	19,122	141,551	487	N/A	N/A	136,163	21,086	61,088	
2014 Renewal	116,475	5,761	122,236	464	N/A	N/A	22,236	0	94,236	
2015	448,834	35,491	484,325	1,781	525,499	47,998	510,622	21,469	72,967	
2015 Initial	85,294	7,485	92,779	338	N/A	N/A	90,843	19,175	37,264	
2015 Renewal	363,540	28,006	391,546	1,442	N/A	N/A	419,779	2,294	35,703	
2016	260,700	12,317	273,017	1,034	68,140	-	199,076	14,657	119,934	
2016 Initial	73,426	1,202	74,628	291	N/A	N/A	52,940	11,527	46,229	
2016 Renewal	187,272	11,115	198,387	743	N/A	N/A	146,136	3,134	73,705	
Total Cumulative	1,528,479	94,442	1,622,921	1,457	1,372,377	-	1,340,305	68,240	119,934	
Total Cumulative Initial	861,192	49,560	910,752	820	N/A	N/A	752,154	62,809	46,229	
Total Cumulative Renewal	667,287	44,882	712,169	636	N/A	N/A	588,151	5,431	73,705	
Fiscal Year 2016 by Quarter¹⁵										
Q1, October - December	47,384	2,860	50,244	764	53,039	-	55,862	4,126	60,363	
Q1, October - December Initial	17,650	933	18,583	284	N/A	N/A	13,501	3,221	36,192	
Q1, October - December Renewal	29,734	1,927	31,661	479	N/A	N/A	42,361	805	22,171	
Q2, January - March	50,287	2,825	53,112	811	15,623	-	39,487	3,304	67,859	
Q2, January - March Initial	19,122	254	19,376	308	N/A	N/A	13,520	2,542	41,252	
Q2, January - March Renewal	31,165	2,571	33,736	502	N/A	N/A	25,967	762	26,607	
Q3, April - June	86,148	3,364	89,512	1,346	N/A	-	28,809	3,729	121,469	
Q3, April - June Initial	20,800	0	20,800	325	N/A	N/A	13,303	3,005	45,744	
Q3, April - June Renewal	65,348	3,357	68,705	1,021	N/A	N/A	15,506	724	75,725	
Q4, July - September	76,881	3,268	80,149	1,201	N/A	-	74,918	3,498	119,934	
Q4, July - September Initial	15,856	0	15,856	247	N/A	N/A	12,616	2,755	46,229	
Q4, July - September Renewal	61,025	3,260	64,285	953	N/A	N/A	62,302	743	73,705	

0 - Data withheld to protect requestors' privacy.

- Represents zero.

¹Refers to a request for USCIS to consider deferred removal action for an individual based on guidelines described in the Secretary of Homeland Security's memorandum issued June 15, 2012.

Each request is considered on a case-by-case basis.

See <http://www.uscis.gov/childhoodarrivals>.

²The number of new requests accepted at a Lockbox during the reporting period.

³The number of requests rejected at a Lockbox during the reporting period.

⁴The number of requests that were received at a Lockbox during the reporting period.

⁵The number of requests accepted per day at a Lockbox as of the end of the reporting period. Also note the average accepted per day for initial plus renewal will not equal the total average.

⁶Refers to capture of requestors' biometrics.

⁷The number of appointments scheduled to capture requestors' biometrics during the reporting period.

⁸Refers to consideration of deferring action on a case-by-case basis during the reporting period.

⁹The number of new requests received and entered into a case tracking system during the reporting period.

¹⁰The number of requests approved during the reporting period.

¹¹The number of requests that were denied, terminated, or withdrawn during the reporting period.

¹²The number of requests awaiting a decision as of the end of the reporting period.

¹³Data on biometrics scheduled is not available past 01/31/2016. Totals reflect up to 1/31/2016.

NOTE: 1. Some requests approved or denied may have been received in previous reporting periods.

2. The report reflects the most up-to-date estimate available at the time the report is generated.

Source: Department of Homeland Security, U.S. Citizenship and Immigration Services, Biometrics Capture Systems, CIS Consolidated Operational Repository (CISCOR), September 30 2016

Top Countries of Origin	Accepted to Date ¹			Approved to Date ²			Residence	Accepted to Date ¹			Approved to Date ²			Residence	Accepted to Date ¹			Approved to Date ²		
	Initials	Renewals	Total	Initials	Renewals	Total		Initials	Renewals	Total	Initials	Renewals	Total		Initials	Renewals	Total	Initials	Renewals	Total
Mexico	668,644	515,630	1,184,274	588,859	456,108	1,044,967	California	237,942	178,870	416,812	216,000	163,425	379,485	Arkansas	5,531	3,953	9,484	4,998	3,730	8,728
El Salvador	32,612	25,434	58,046	27,095	22,114	49,209	Texas	138,439	98,636	237,075	120,642	90,815	211,477	Connecticut	5,433	4,623	10,056	4,587	3,937	8,524
Guatemala	23,357	16,399	39,756	19,841	14,228	34,069	Illinois	44,860	33,282	78,142	41,256	30,687	71,943	Ohio	5,061	4,055	9,116	4,153	3,372	7,525
Honduras	21,449	15,593	37,042	17,519	13,794	31,313	New York	47,170	40,216	87,386	38,430	32,713	71,143	Alabama	4,724	3,240	7,964	4,180	3,014	7,194
Peru	9,579	8,734	18,313	8,848	7,512	16,360	Florida	37,943	31,214	69,157	30,364	25,971	56,335	Missouri	3,767	2,913	6,680	3,402	2,572	5,974
South Korea	7,693	9,289	16,982	7,069	7,735	14,804	Arizona	30,184	21,529	51,713	27,211	19,980	47,191	Nebraska	3,688	2,592	6,280	3,275	2,271	5,646
Brazil	6,254	6,566	12,820	7,144	5,690	12,834	North Carolina	29,251	20,787	50,042	26,936	19,746	46,682	Nhaho	3,329	2,465	5,794	3,047	2,283	5,330
Ecuador	7,480	6,048	13,528	6,505	5,215	11,720	Georgia	28,091	19,543	47,634	23,405	18,002	41,407	Kentucky	3,384	2,430	5,814	2,978	2,216	5,194
Colombia	7,104	6,139	13,243	6,475	5,338	11,813	New Jersey	26,631	19,997	46,628	20,721	17,120	37,841	Iowa	3,051	2,403	5,454	2,681	2,166	4,847
Philippines	4,961	4,669	9,630	4,138	4,033	8,171	Washington	19,180	14,115	33,295	17,213	12,749	29,982	Louisiana	2,323	1,745	4,068	1,910	1,508	3,419
Argentina	5,065	3,993	9,058	4,567	3,531	8,098	Colorado	18,830	13,124	31,954	16,502	12,190	29,092	Delaware	1,561	1,200	2,761	1,379	1,087	2,466
India	3,689	3,355	7,044	3,121	2,891	6,012	Nevada	13,910	10,528	24,438	12,662	9,740	22,402	Mississippi	1,659	1,122	2,781	1,416	1,029	2,445
Jamaica	4,282	2,769	7,051	3,365	2,451	5,816	Virginia	13,468	10,774	24,242	11,530	9,303	20,833	Rhode Island	1,370	1,288	2,657	1,113	1,037	2,149
Venezuela	3,386	2,720	6,106	3,030	2,414	5,444	Oregon	11,896	8,848	20,744	11,022	8,246	19,288	District of Columbia	878	792	1,670	684	610	1,294
Dominican Republic	3,624	2,334	5,958	3,010	2,052	5,062	Maryland	11,108	8,762	19,870	9,231	7,609	16,840	Hawaii	663	1,133	1,796	385	700	1,085
Unknown	2,338	2,299	4,637	1,649	2,202	3,851	Indiana	10,581	7,354	17,935	9,672	6,943	16,615	Wyoming	689	464	1,153	607	434	1,041
Uruguay	2,470	1,891	4,361	2,221	1,637	3,858	Utah	10,402	6,967	17,369	9,562	6,980	16,442	New Hampshire	415	415	830	327	325	652
Tobago	2,440	1,688	4,128	2,096	1,673	3,769	Tennessee	9,179	6,280	15,459	8,119	5,790	13,909	Puerto Rico	448	616	1,064	190	302	492
Costa Rica	2,216	1,880	4,096	1,991	1,631	3,622	Massachusetts	9,031	8,075	17,106	7,258	6,463	13,721	South Dakota	287	243	530	224	190	414
Bolivia	2,168	1,875	4,043	2,027	1,633	3,660	Wisconsin	8,010	5,698	13,708	7,402	5,343	12,745	Alaska	169	260	429	90	177	267
Poland	1,899	1,556	3,455	1,721	1,364	3,085	Missouri	8,291	26,085	34,376	862	11,685	12,547	Not Reported	194	564	758	27	195	222
Chile	1,837	1,600	3,437	1,693	1,402	3,095	Oklahoma	7,377	5,258	12,635	6,717	4,920	11,637	West Virginia	135	132	267	105	97	202
Pakistan	1,893	1,540	3,433	1,650	1,378	3,028	Kent	7,197	5,132	12,329	6,684	4,817	11,501	North Dakota	113	177	290	70	124	194
Nicaragua	1,799	1,310	3,109	1,499	1,146	2,645	Michigan	7,070	5,908	12,978	5,982	4,997	10,979	Maine	113	205	318	50	115	165
Guyana	1,438	1,164	2,602	1,237	1,028	2,265	New Mexico	7,298	4,676	11,974	6,649	4,312	10,961	Guam	70	195	265	29	113	142
							South Carolina	7,061	4,970	12,031	6,779	4,674	10,953	Virgin Islands	146	117	263	65	72	137
							Minnesota	6,743	5,163	11,906	5,990	4,608	10,598	Montana	82	104	186	96	78	174
							Pennsylvania	6,701	5,999	12,700	5,331	4,794	10,125	Vermont	52	91	143	15	54	69

0 - Data withheld to protect requestors' privacy.

- Represents zero.

¹The number of requests that were accepted to date of the reporting period.

²The number of requests that were approved to date of the reporting period.

³All fields with less than 10 or a blank in the state field are included in the field "not reported."

NOTE: 1) Some requests approved or denied may have been received in previous reporting periods.

2) The report reflects the most up-to-date estimate available at the time the report is generated.

Source: Department of Homeland Security, U.S. Citizenship and Immigration Services, Biometrics Capture Systems, CIS Consolidated Operational Repository (CISCOR), September 2016