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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

Pedro VASQUEZ PERDOMO; Carlos Alexander OSORTO; and Isaac VILLEGAS MOLINA; Jorge HERNANDEZ VIRAMONTES; Jason Brian GAVIDIA; LOS ANGELES WORKER CENTER NETWORK; UNITED FARM WORKERS; COALITION FOR HUMANE IMMIGRANT RIGHTS; IMMIGRANT DEFENDERS LAW CENTER,

Plaintiffs,

v.

Kristi NOEM, in her official capacity as Secretary, Department of Homeland Security; Todd M. LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; Rodney S. SCOTT, in his official capacity as Commissioner, U.S. Customs and Border Patrol; Michael W. BANKS, in his

Case No.: 2:25-cv-05605-MEMF-SP

PLAINTIFFS' OPPOSITION TO MOTION TO DISMISS

Date: January 15, 2026
Time: 9:00 a.m.
Place: Courtroom 8B

Hon. Maame Ewusi-Mensah Frimpong

official capacity as Chief of U.S. Border Patrol; Kash PATEL, in his official capacity as Director, Federal Bureau of Investigation; Pam BONDI, in her official capacity as U.S. Attorney General; Ernesto SANTACRUZ JR., in his official capacity as Acting Field Office Director for Los Angeles, U.S. Immigration and Customs Enforcement; Eddy WANG, Special Agent in Charge for Los Angeles, Homeland Security Investigations, U.S. Immigration and Customs Enforcement; Gregory K. BOVINO, in his official capacity as Chief Patrol Agent for El Centro Sector of the U.S. Border Patrol; Jeffrey D. STALNAKER, in his official capacity as Acting Chief Patrol Agent, San Diego Sector of the U.S. Border Patrol; Akil DAVIS, in his official capacity as Assistant Director in Charge, Los Angeles Office, Federal Bureau of Investigation; Bilal A. ESSAYLI, in his official capacity as U.S. Attorney for the Central District of California,

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I. INTRODUCTION

Throughout this District, citizens and noncitizens alike live in fear of being seized by armed, masked federal agents based on nothing more than the way they look and what they are presumed to do for work. These fears arise from Defendants' ongoing, widespread, and unlawful immigration raids. Defendants are systematically carrying out detentive stops and warrantless arrests without sufficient cause in clear violation of Plaintiffs' constitutional rights. These harms are compounded by Defendants' practice of detaining individuals swept up in Defendants' illegal enforcement operations in inhumane conditions and depriving them of access to counsel.

Even as Defendants continue to violate Plaintiffs' constitutional and statutory rights, they now move to dismiss Plaintiffs' claims, contending that Plaintiffs lack standing to seek prospective relief on their Fourth Amendment claim; that Plaintiffs' Fifth Amendment claims are moot and jurisdictionally barred; and that Plaintiffs fail to plausibly allege viable claims under the Fourth and Fifth Amendments and the Administrative Procedure Act. Defendants lose on all grounds.

Defendants' jurisdictional challenges are easily resolved by Supreme Court and Circuit precedent: Plaintiffs have standing to seek injunctive relief because Defendants' officially sanctioned practice raises a substantial risk of harming Plaintiffs. *See Vasquez Perdomo v. Noem*, 148 F.4th 656, 674 (9th Cir. 2025). Further, relying on established precedent, this Court already rejected Defendants' argument that mootness bars Plaintiffs' Fifth Amendment claim. ECF 87.

On the merits, Plaintiffs support their legal assertions with numerous factual allegations demonstrating Defendants' ongoing policies of conducting seizures without reasonable suspicion, *see* FAC ¶¶ 33-71, and of systemically subjecting Plaintiffs to inhumane conditions and denying them access to counsel, *see id.* ¶¶ 71-92. The Court should deny the motion.

II. BACKGROUND

A. Plaintiffs' Fourth Amendment Claim

Five individuals and three organizations (the "Stop/Arrest Plaintiffs") challenge the government's officially sanctioned practice of unlawfully detaining and arresting individuals based only on broad demographic profiles under the guise of law enforcement in the Central

District. The Stop/Arrest Plaintiffs assert four causes of action (Counts I-IV) on behalf of themselves and three classes of individuals who are subject to several of Defendants' unlawful practices, including: suspicionless stops; warrantless arrests without evaluations of flight risk; and the failure to identify authority and the reason for arrest.

1. Defendants' Ongoing, Lawless Raids

Since early June, unidentified "[m]asked federal agents" often dressed in "military-style clothing" have been indiscriminately flooding streets, worksites, and neighborhoods, detaining and interrogating individuals based on nothing more than broad demographic characteristics. ECF 16 (First Amended Complaint ("FAC")) ¶¶ 1-3. These raids occur nearly daily at day labor pick up sites, car washes, and other locations throughout the District. FAC ¶¶ 38, 39; ECF 45 Exs. 1-21.

When Plaintiffs filed the operative complaint, federal agents had arrested more than 1,500 individuals within the District and conducted unconstitutional detentive stops of many more. FAC ¶¶ 7, 200; *see also id.* ¶ 66 (officers "just grab[] people" and "don't ask questions."). Since then, hundreds more have been unlawfully stopped and detained. *E.g.*, ECF 140 Exs. 7-16; ECF 163 ECF 1-14.

These unlawful operations are officially sanctioned by top officials. Leadership has instructed ICE agents to "push the envelope" such that "if it involves handcuffs on wrists, it's probably worth pursuing," FAC ¶ 100, and to continue these operations even at the expense of individuals' constitutional rights, *id.* ¶¶ 195-96, 198; *see also id.* ¶ 197 (Kristi Noem: "we're going to stay here and build our operation"); *see also* ECF 220 ("Defendants have made clear . . . that they will continue" their lawless immigration raids).

2. Individual and Organizational Plaintiffs' Seizures

Jorge Hernandez Viramontes: On June 18, for the third time in ten days, immigration agents raided the car wash where Hernandez Viramontes works. FAC ¶¶ 148-49; ECF 194-01. Without identifying themselves or presenting a warrant, agents aggressively questioned Viramontes about his citizenship. FAC ¶¶ 150-51. Despite confirming his citizenship and showing his ID, agents grabbed his arm and transported him away, detaining him for over 20

minutes. FAC ¶¶ 151-53; *see also* ECF 45-4; ECF 140-9. Viramontes fears being stopped again at work because of his Latino appearance. FAC ¶ 156; ECF 149-3 ¶ 4.

Jason Brian Gavidia: On June 12, immigration agents carrying "military-style rifle[s]" conducted a roving patrol at a tow yard where Gavidia was working on his car. FAC ¶¶ 157-58; ECF 45-9. A masked agent stopped Gavidia and interrogated him repeatedly about what hospital he was born in. FAC ¶¶ 161-62. Although Gavidia explained he is a U.S. citizen, the officer forcefully pushed Gavidia up against a metal fence, twisted his arm, confiscated his phone, and detained him for over 20 minutes. *Id.* ¶¶ 162-63. Gavidia fears he will be racially profiled by Defendants again. ECF 140-10 ¶ 2.

Pedro Vasquez Perdomo, Carlos Alexander Osorto, and Antonio Villegas Molina: On June 18, half a dozen armed, masked agents conducted warrantless arrests of Vasquez Perdomo, Osorto, and Villegas Molina while they were waiting at a bus stop. FAC ¶¶ 111-56. In what seemed like a kidnapping, agents jumped out of four unmarked vehicles, surrounded Plaintiffs, grabbed and handcuffed them, and forced them into unmarked vehicles. *Id.*; ECF 45 Exs. 1-3; ECF 128 Exs. 7-8; ECF 140 Exs. 7-8. These men now live in fear they will be arrested again based on their appearance and their construction jobs. *Id.*

Los Angeles Workers Center Network (LAWCN): LAWCN and its membership organization CLEAN Carwash Worker Center—which represents over 1,800 predominantly Latino carwash workers—suffer from the ongoing, illegal raids. FAC ¶ 167. When the complaint was filed, at least two dozen car washes had been raided in a matter of weeks, *id.* ¶ 172, and Defendants have raided dozens more since, ECF 163-2. CLEAN members, including legal U.S. residents, have been subjected to suspicionless stops and detentions while at work and are fearful to return. FAC ¶¶ 172-174. At least one CLEAN member was stopped *twice* in a matter of months. ECF 163-2.

United Farm Workers (UFW): Members of UFW, the largest farm worker union in the country, suffer harm from the ongoing raids. FAC ¶¶ 175-79. At least one UFW member—a U.S. citizen—has been subject to Defendants' unlawful stop and arrest practices. *Id.* ¶ 179; ECF 140-

13. Widespread fear persists among farm workers who fear detention simply for appearing nonwhite. FAC ¶ 181.

Coalition for Humane Immigrant Rights (CHIRLA): CHIRLA is the largest immigrant rights organization in California, with more than 50,000 members who include day laborers, carwash workers, and street vendors targeted by Defendants' unlawful policy. FAC ¶¶ 182-190. At least two CHIRLA members, including a legal permanent resident, have been subject to Defendants' unlawful stop and arrest practices. ECF 173-12. Members avoid public spaces and carry identification out of fear they will be targeted based on their appearance. FAC ¶ 189.

B. Plaintiffs' Fifth Amendment Claims

Since June, Defendants have been detaining individuals swept up in their illegal enforcement dragnet in the basement of 300 North Los Angeles Street, known as "B-18." FAC ¶ 74. B-18 is a temporary holding facility. *Id.* But Defendants have converted B-18 into a long-term detention facility, where conditions amount to punishment in violation of the Fifth Amendment. *Id.* ¶¶ 74-80, 243-44. Defendants hold individuals in small, windowless, and crowded rooms. *Id.* ¶ 76. The facility lacks beds, showers, or medical services, and individuals are deprived of food, water, medications, necessary medical care, and basic hygiene products. *Id.* ¶¶ 74, 79-80.

Defendants have systematically denied individuals held at B-18 access to counsel, also in violation of the Fifth Amendment. FAC ¶¶ 81-95; 235-36. B-18 has been subject to repeated closures, attorneys have been arbitrarily barred from entry, and detained individuals' access to unmonitored phones for legal calls is limited. *Id.* ¶¶ 82-89. Even when attorneys can meet with clients, they have experienced lengthy delays, and little to no confidential space. *Id.* ¶ 87. On one occasion, federal agents deployed a chemical agent against attorneys peacefully requesting access. *Id.* ¶ 83. When CHIRLA and ImmDef attorneys attempted to share know-your-rights information with individuals who had been loaded into unmarked vans, federal agents blasted their horns to prevent the individuals from hearing their rights. *Id.* ¶ 84.

CHIRLA and ImmDef have compiled voluminous evidence demonstrating that the conditions and access restrictions persist. *See* ECF 127 at 3-4; ECF 186 at 2 n.1 & 3 n.2

(collecting sources). Even after this Court granted a TRO, ECF 87 ("TRO Order"), visitation hours have been curtailed without the requisite notice, *e.g.*, ECF 186-1 ¶¶ 3-4, 8, attorneys have been denied confidential meeting spaces, *e.g.*, ECF 127-4 ¶ 7, and access to confidential legal telephones calls has not improved, *e.g.*, ECF 185-5 ¶¶ 5-6, 26.

III. LEGAL STANDARD

Under Rule 12(b)(1), Defendants may mount either a facial or factual attack to subject-matter jurisdiction. In a facial attack, the Court may not consider evidence outside the pleadings and must "accept[] the truth of the plaintiff's allegations . . . drawing all reasonable inferences in the plaintiff's favor." *Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th Cir. 2014). In a factual attack, defendants "dispute[] the truth of the allegations that, by themselves, would otherwise invoke federal jurisdiction." *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). "In resolving a factual attack on jurisdiction, the district court may review evidence beyond the complaint." *Id*.

A Rule 12(b)(6) motion tests whether a complaint "contain[s] sufficient factual matter to state a facially plausible claim to relief." *Shroyer v. New Cingular Wireless Servs., Inc.*, 622 F.3d 1035, 1041 (9th Cir. 2010) (citing *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)). The Court must "presume the truth of [the non-movant's] allegations and . . . construe all of the allegations in [their] favor." *Davidson v. Kimberly-Clark Corp.*, 889 F.3d 956, 971 (9th Cir. 2018).

IV. ARGUMENT

A. The Court Has Subject Matter Jurisdiction

1. Plaintiffs Have Standing to Seek Prospective Equitable Relief

It is unclear whether Defendants mount a facial or factual challenge to Plaintiffs' standing. Regardless, Plaintiffs have both plausibly alleged the requisite injury in their complaint, *see Meland v. WEBER*, 2 F.4th 838, 843 (9th Cir. 2021), and support their jurisdictional allegations with "competent proof" beyond the pleadings, *see Leite*, 749 F.3d at 1121 (citation omitted).

(a) *Fourth Amendment Claim*

Defendants' challenge to the Stop/Arrest Plaintiffs' standing is narrow. They contest only Plaintiffs' ability to seek an injunction on their Fourth Amendment claim. They do not dispute Plaintiffs' standing to seek declaratory relief, nor their standing for Counts II to IV.

Defendants' illegal practice of stopping low-wage, Latino-appearing workers in the District without an individualized assessment of immigration status presents a "real controversy" with a "real impact" on Plaintiffs and the putative class. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 424 (2021) (citation and internal quotation marks omitted). The "risk of harm" to Plaintiffs from future stops is "sufficiently imminent and substantial" to obtain injunctive relief from enforcement of Defendants' unlawful policy and practice. *Id*. at 435; *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) (*certainty* of future harm not required as long as "there is a 'substantial risk' that the harm will occur" (quoting *Clapper v. Amnesty Int'l*, 568 U.S. 398, 414 n.5 (2013))). Defendants' conduct not only subjects Plaintiffs to unlawful stops, but also forces them to alter their daily lives under threat of being profiled and seized by federal agents. *Ker v. California*, 374 U.S. 23, 32 (1963).

(i) The Ninth Circuit Correctly Held Plaintiffs Have Standing

Applying well-established precedent holding that a plaintiff has standing for injunctive relief when "the harm is part of a 'pattern of officially sanctioned behavior, violative of the plaintiffs' federal rights,'" *Melendres v. Arpaio*, 695 F.3d 990, 998 (9th Cir. 2012) (quoting *LaDuke v. Nelson*, 762 F.2d 1318, 1323 (9th Cir. 1985) (citation modified)), the Ninth Circuit held that Defendants conducted "more than a dozen stops based on less than reasonable suspicion" pursuant to a pattern of officially-sanctioned behavior that makes Plaintiffs' Fourth Amendment injuries "likely to recur," *Vasquez Perdomo,* 148 F.4th at 674. Recognizing "sufficient evidence" of Defendants' illegal stops and "'a plethora' of public statements by high-level officials," the panel concluded that both the individual and organizational Plaintiffs can seek an injunction because there is a "'realistic[] threat' that each will be stopped without reasonable suspicion as part of Defendants' Operation at Large." *Id.* at 672, 674.

The Circuit's reasoning on standing remains undisturbed by the Supreme Court's unreasoned order staying the TRO. The Supreme Court's interim order provided no explanation and did not address standing at all. As this Court explained, because the nonprecedential order "did not set forth the basis for granting the stay," it "would be patently inappropriate for this Court to speculate as to the Supreme Court's reasoning and then attempt to apply it." ECF 220 at 6. Defendants' effort to paint Justice Kavanaugh's flawed statement that "Plaintiffs likely lack Article III standing" as binding is unsupported by law. Mot. at 7. "[A] concurrence by a single justice does not make precedent." *United States v. Hansen*, 40 F.4th 1049, 1057 (9th Cir. 2022) (Gould, J., concurring).

In any event, the unjoined concurrence was premised on the limited TRO record. The record now is substantially stronger and includes additional evidence showing that putative class members, including members of organizational Plaintiffs, have been subjected to *repeated* illegal stops. *See, e.g.*, ECF 195-03 (CLEAN member stopped twice by immigration agents at work). Defendants cannot rely on an interim, unreasoned order "presented in a different procedural posture and on a different record." *Nat'l TPS All. v. Noem*, 2025 WL 2661556, at *3 (9th Cir. Sept. 17, 2025).

(ii) Individual and Organizational Plaintiffs' Standing

Individual Plaintiffs: All five individual Plaintiffs have been unlawfully stopped by Defendants and face a realistic threat of repeated injury. FAC ¶ 11-164. Defendants concede that the individual Plaintiffs "allege[] a past Fourth Amendment injury,"[1] but argue that any future

[1] Although Defendants concede Plaintiff Gavidia suffered a Fourth Amendment injury, they argue that Plaintiffs lack standing because "none were stopped based solely on one enumerated factor." Mot. at 16. But Plaintiffs allege racial profiling caused multiple stops, and Defendants have provided no evidence to the contrary. *E.g.*, FAC ¶¶ 36-41. More fundamentally, Defendants confuse Plaintiffs' requests for preliminary relief (which enumerated four factors on which Defendants base their stops) with their general prayer for relief. *Id*. at 64, ¶ 10. The former is irrelevant to this Motion. Plaintiffs need not allege they will be stopped "based solely on one enumerated factor"; they need only plausibly allege a realistic threat they will be stopped without particularized, reasonable suspicion.

harm is speculative because Plaintiffs cannot show they will be stopped again "based solely on the four factors." Mot. at 8.

Defendants are wrong. Plaintiffs plausibly allege that the named Plaintiffs face a real and imminent risk of being unlawfully stopped again simply because they match the demographic profile Defendants continue to target. FAC ¶¶ 96-156; *Vasquez Perdomo*, 148 F.4th at 674-76; *see also* ECF 45-1 (Vasquez Perdomo Decl.) ¶ 1; ECF 45-2 (Osorto Decl.) ¶ 13; ECF 45-3 (Villegas Molina Decl.) ¶¶ 10-11; ECF 45-4 (Hernandez Viramontes Decl.) ¶ 15; ECF 45-9 (Gavidia Decl.) ¶¶ 12-13. Unlike the plaintiffs in *Clapper*, who did not suffer past injury and had no actual knowledge of the government's practice, 568 U.S. at 411, Plaintiffs have suffered past injury and remain subject to imminent harm based on Defendants' widespread practices.

The harm is imminent because Defendants continue to raid the same locations and even detain the same people repeatedly. For example, Defendants raided the Whittier car wash where Plaintiff Hernandez Viramontes works three times. FAC ¶ 148; ECF 45-4 ¶ 5. They detained a CLEAN member twice in two raids. ECF 163-6. Agents stopped J.M.E. twice in just 10 days. *Vasquez Perdomo*, 148 F.4th at 674. Defendants' repeated targeting of these individuals and locations demonstrates the imminence of Plaintiffs' harms. *See, e.g.*, ECF 128-2 ¶¶ 1, 5-10 (U.S. citizen detained in raid near tow yard near where Plaintiff Gavidia was stopped).[2]

Defendants do not meaningfully dispute any of this evidence or claim that Stop/Arrest Plaintiffs' claims are moot. To the contrary, Defendants have declared their intent to continue these operations, FAC ¶¶ 195-98; *see also* ECF 220 ("Defendants have made clear . . . that they will continue" their lawless raids), never once providing *evidence* that Plaintiffs are unlikely to be

[2] Defendants cite *Hodgers-Durgin v. De La Vina*, 199 F.3d 1037, 1042 (9th Cir. 1999) for the proposition that injuries to unnamed individuals are irrelevant to a named plaintiff's standing. There, the plaintiffs were each stopped only once in *10 years* by Border Patrol and sought to rely on likely future harm to unnamed class members. *Id*. at 1044-45. Here, by contrast, Defendants' repeated raids over the course of mere months targeting the putative class and locations they frequent demonstrate a high likelihood that *Plaintiffs themselves* will be stopped again. *See Armstrong v. Davis*, 275 F.3d 849, 861 (9th Cir. 2001), *abrogated on other grounds by Johnson v. California*, 543 U.S. 499 (2005) ("When a named plaintiff asserts injuries that have been inflicted upon a class of plaintiffs, [a court] may consider those injuries . . . to determine whether a credible threat that the named plaintiff's injury will recur has been established.").

stopped again. Defendants instead rely only on declarations that actually "corroborate key allegations regarding the commencement of Operation At Large." *Vasquez Perdomo*, 148 F.4th at 674.[3]

Organizational Plaintiffs: LAWCN, UFW, and CHIRLA have standing to seek prospective relief for the same reasons.[4] They collectively have thousands of members throughout the District in low-wage industries targeted repeatedly by Defendants' illegal raids. FAC ¶¶ 165-198; s*ee, e.g.*, *id.* ¶ 180 (UFW member seized because of Latino appearance and work as a day laborer); ECF 45-10 ¶¶ 6-11 (member of CLEAN "grabbed" by agent, handcuffed, and asked for "papers" while two light-skinned co-workers were left alone); FAC ¶ 173, ECF 45-13 ¶¶ 15, 17; ECF 163-12 (CHIRLA member with status "boxed in" and interrogated about her immigration status; another detained by agents who "did not seem to know who she was").

The scale of organizational plaintiffs' memberships in the Central District only "increases the threat of future harm to [the association plaintiffs'] members." *Vasquez Perdomo*, 148 F.4th at 676 (alternation adopted) (citation omitted). It therefore remains "highly likely that at least one member of each association will be subject to Defendants' challenged practices" in the future, as Defendants continue to target the locations where Plaintiffs' members work, and to unlawfully stop individuals similarly situated to Plaintiffs' members. *Id*.

(iii) The Facts Here Are Wholly Unlike Those in *Lyons*

Defendants focus myopically on *City of Los Angeles v. Lyons*, 461 U.S. 95 (1983). *Lyons* is not only distinguishable but also confirms Plaintiffs' standing. There, police officers placed Lyons in an illegal chokehold after initiating a traffic stop. *Id.* at 98. The Supreme Court rejected Lyons' request for an injunction to prevent future illegal chokeholds, holding that it was not

[3] Defendants' request for this Court to take judicial notice of ICE Directive 11032.2 which purportedly "detail[s] the reasonable suspicion standard," Mot. at 7 n.1, is misguided. The Directive lays out a policy for the identification and monitoring of pregnant detainees.

[4] Defendants reprise their misguided argument that organizational plaintiffs seek to "vicariously assert" Fourth Amendment rights. Mot. at 9. Not so. Binding precedent rejects the argument that organizational plaintiffs have no standing in the Fourth Amendment context. *See Stavrianoudakis v. U.S. Fish & Wildlife Serv.*, 108 F.4th 1128, 1143 (9th Cir. 2024).

sufficiently likely that Lyons would again be stopped for committing a traffic violation and that the officer would then illegally choke him into unconsciousness. *Id*. at 105. For three reasons, Plaintiffs possess much more than Lyons' mere "subjective apprehensions" of future illegal conduct; rather, they daily face "the reality of the threat of repeated injury." *Id.* at 107 n.8.

First, unlike in *Lyons*, Plaintiffs are realistically threatened by Defendants acting pursuant to an officially authorized law enforcement practice. *Compare id*. at 106 (Lyons failed to show "realistic[] threat[]" from officers acting pursuant to "order[] or authoriz[ation]"), *with* FAC ¶¶ 96-102. Defendants' officially sanctioned practice of *repeatedly* targeting locations that Plaintiffs and their members frequent and seizing individuals with identical demographic profiles ensures that Plaintiffs face a substantial risk of future injury. *See supra* part IV.A.1.a; *Vasquez Perdomo*, 148 F.4th at 675; *Armstrong*, 275 F.3d at 861 (if "defendants have repeatedly engaged in the injurious acts in the past" and those acts are authorized by officials, "there is a sufficient possibility" that the defendants "will engage in them in the near future."). *Lyons* does not condone Defendants' perverse theory that the broader the illegal dragnet, the less likely it is that any individual has standing to prove they will be stopped.

Second, unlike Lyons, "plaintiffs here cannot escape future injury by avoiding unlawful activity." *Vasquez Perdomo*, 148 F.4th at 675; *see Dep't of Com. v. New York*, 588 U.S. 752, 768 (2019) (characterizing *Lyons* as concerning "speculation about future unlawful conduct"). Plaintiffs and organizational Plaintiffs' members—many of whom have legal status—must return to where agents previously stopped them simply to go to work or otherwise move about freely. FAC ¶¶ 38-42, 111-64. Mere presence at these locations Defendants continue to target, FAC ¶¶ 38, 39, 42, is lawful activity that Plaintiffs should not be forced to avoid simply because of their demographic profile.

Third, the harm here is far less attenuated than in *Lyons* because Plaintiffs seek to enjoin the unlawful stops themselves, not any subsequent government conduct resulting from the stops (i.e., a chokehold). *Vasquez Perdomo*, 148 F.4th at 675. Lyons faced a realistic threat of future harm only if he committed another traffic violation, was stopped for the violation or had another encounter with the police, *and* "illegally resist[ed] arrest or detention" such that he would be

placed in a chokehold. *Hodgers-Durgin*, 199 F.3d at 1041 (noting the string of contingencies necessary to produce injury in *Lyons*); *see also Clapper*, 568 U.S. at 410. Here, by contrast, any person in this District who fits the profile targeted by federal agents cannot go about their daily life—cannot wait at a bus stop, shop at a hardware store, get their car washed—without fear of being unlawfully seized. Indeed, as the government's own statements make clear, *that is the point*. FAC ¶ 197 ("We're going to send a whole boatload of agents. . . . We're going to swamp the city."); *cf. Friends of the Earth, Inc. v. Laidlaw Env't Servs.*, 528 U.S. 167, 184 (2000).

(iv) Defendants' Practice Causes Ongoing Irreparable Injury

In addition, Plaintiffs experience ongoing, cognizable harm *now* because of Defendants' practice. Plaintiffs' inability to go about their daily lives free from the risk of being profiled and seized by federal agents is a harm that the Fourth Amendment was intended to prevent. *See Ker*, 374 U.S. at 32 ("Implicit in the Fourth Amendment's protection from unreasonable searches and seizures is its recognition of individual freedom. That safeguard has been declared to be 'as of the very essence of constitutional liberty.'" (citation omitted)). Even members of organizational Plaintiffs not yet stopped who fit Defendants' targeted profile are suffering the separate, present harm of having to alter their daily conduct in objectively reasonable anticipation of being unlawfully stopped under Defendants' illegal practice. ECF 128-9 ¶¶ 19, 22-26, 34, 38 (UFW); ECF 38-9 ¶¶ 25-30 (CHIRLA); ECF 45-13 ¶ 18 (CLEAN); *see Clapper*, 568 U.S. at 414 n.5 (recognizing that the Court has "found standing based on a 'substantial risk' that . . . harm will occur, which may prompt plaintiffs *to reasonably incur costs to mitigate or avoid that harm*" (emphasis added) (quoting *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 153 (2010))); *cf. Susan B. Anthony List*, 573 U.S. at 158 (recognizing "substantial risk" standard as grounds for standing (citation omitted)); *TransUnion*, 594 U.S. at 437.

* * *

Ultimately, the relevant question in assessing standing is not whether Defendants have stopped Plaintiffs or their members more than once. Rather, it is whether Defendants' illegal practice is causing Plaintiffs ongoing injury or a real and immediate threat of injury— including based on an objectively reasonable fear that they will be stopped in the future—thereby providing

them a stake in the controversy that others who simply disagree with the practice do not have. *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 379 (2024) ("As Justice Scalia memorably said, Article III requires a plaintiff to first answer a basic question: 'What's it to you?'") (Kavanaugh, J.). Based on Plaintiffs' allegations and the current record, Plaintiffs clearly have a stake in this controversy.

(b) *Fifth Amendment Claims*

The Court's determination that CHIRLA and ImmDef have standing to pursue their access-to-counsel claim remains the law of the case. *See* TRO Order 18-21; *Gonzalez v. Arizona*, 677 F.3d 383, 389 n.4 (9th Cir. 2012) (en banc). If the Court were to reconsider the issue, CHIRLA and ImmDef have standing. *See Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982). By restricting legal access, Defendants have directly impaired CHIRLA and ImmDef's core, founding mission of representing immigrants and refugees. *See* ECF 127 at 11-13; ECF 186 at 8-9; see, e.g., ECF 38-9 at ¶ 33; ECF 38-11 at ¶¶ 55-56. While Defendants assert that CHIRLA and ImmDef fail to show a threat of future injury, Mot. at 9, both allege that access restrictions remain, *e.g.*, FAC ¶ 89, and both have presented substantial evidence demonstrating that restrictions continue, *see* TRO Order 21 (finding "sufficient likelihood that [they] will again be wronged in a similar way"); *supra* part IV.A.1.b. The Court's determination that CHIRLA has associational standing also serves as law of the case and was correct. *See* TRO Order 21-22; ECF 127 at 13 n.18.

Defendants do not specifically address the conditions-of-confinement claim, but CHIRLA and ImmDef have standing here, too. *See Havens*, 455 U.S. at 379. B-18's conditions create a coercive environment that impedes CHIRLA and ImmDef's ability to provide legal services to noncitizens. *E.g.*, FAC ¶¶ 94, 190, 194, 244. By subjecting detainees to inhumane conditions, Defendants pressure detainees to relinquish legal rights without first consulting with counsel, preventing CHIRLA and ImmDef from providing timely legal advice to existing and prospective clients, harming their mission. *See, e.g.*, *id*. CHIRLA also has standing to challenge the conditions of confinement on behalf of its members who reasonably fear unlawful arrest and detention at B-18. *See id.* ¶ 189; *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343

(1977); *see also* TRO Order 21-22 (finding associational standing to challenge access restrictions given members' "reasonable fear of imminent detention without access to counsel").

2. Plaintiffs' Fifth Amendment Claims Are Not Moot

Defendants recycle arguments that the Court rejected during the TRO proceedings to argue that CHIRLA and ImmDef's access-to-counsel claim is moot, but provide no reason to revisit these issues.

Defendants argue that B-18 operations normalized in June. Mot. at 11. But that is incorrect, as the record demonstrated during the TRO proceedings. *See* TRO Order 25 n.16; ECF 186 at 2 n.1 (collecting sources). Since then, CHIRLA and ImmDef's evidence has only grown stronger, showing that Defendants have continued to interfere with the right to counsel, including by closing the facility and interfering with confidential attorney visits, even after the TRO. *See* ECF 186 at 3 n.2 (collecting sources). Defendants did not seriously dispute this evidence during the preliminary injunction proceedings, and the instant motion rests on the same record.

Defendants continue to insist that access restrictions will not recur absent "riots." Mot. at 10. But Defendants' unchanged evidentiary record does not support that. The Uyeda and Gudino declarations cited by Defendants gesture at security concerns with vague statements attempting to explain away closures. *See id*. at 11. Such statements were insufficient during the TRO proceedings. TRO Order 26. And they still fail to correspond to the kinds of security concerns that might bear on detention policy, *see* ECF 186 at 4 (collecting cases), much less explain the various restrictions imposed from limiting phone access, *e.g.*, ECF 185-8 ¶ 11, to pressuring individuals to sign removal paperwork, *e.g.,* ECF 127-3 ¶¶ 12-14.

As CHIRLA and ImmDef have acknowledged, the TRO has generated some improvements at B-18. But those improvements do not moot their claim. Under the voluntary-cessation doctrine, subsequent events must make "absolutely clear [that] the allegedly wrongful behavior could not reasonably be expected to recur." *See Laidlaw*, 528 U.S. at 189-90 (citation and internal quotation marks omitted). Defendants' failure to fully comply with the TRO—including by failing to provide notice of closures, *see* ECF 186-1 ¶¶ 3-4, 8—is hardly voluntary conduct that could satisfy this "stringent" standard. *Laidlaw*, 528 U.S. at 189.

Finally, even if the access claim were moot, it would satisfy the exception for "wrongs capable of repetition yet evading review." *Ctr. for Biological Diversity v. Lohn*, 511 F.3d 960, 964 (9th Cir. 2007) (citation omitted). Defendants' actions are capable of repetition, as Defendants have repeatedly imposed access restrictions at B-18. *Supra* part II.B. And CHIRLA and ImmDef will also be harmed by future restrictions, just as they have been harmed in the past. *See* ECF 127 at 11-12 (collecting sources).[5]

3. Section 1252 Does Not Bar Jurisdiction

Defendants argue that 8 U.S.C. § 1252(a)(5) and (b)(9) channel CHIRLA and ImmDef's access-to-counsel claim to the petition-for-review process. Mot. at 12. Neither provision applies here.

Section 1252(a)(5) addresses "judicial review of an order of removal." It does not concern claims "that are 'independent of challenges to removal orders.'" *Martinez v. Napolitano*, 704 F.3d 620, 622 (9th Cir. 2012) (citation omitted). Likewise, § 1252(b)(9) limits judicial review of claims "arising from any action taken or proceeding brought to remove an alien from the United States." The Supreme Court has twice held that § 1252(b)(9) "does not present a jurisdictional bar where those bringing suit are not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be determined." *Dep't of Homeland Sec. v. Regents of Univ. of Cal.*, 591 U.S. 1, 19 (2020) (citation modified); *see Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018) (plurality opinion).

Here, CHIRLA and ImmDef are not challenging removal proceedings. Instead, they challenge government actions that have systematically interfered with their ability to provide legal services to prospective and existing clients. Those harms accrue independently of, and long

[5] Defendants do not argue that the conditions-of-confinement claim is moot. Nonetheless, the evidence shows that conditions at B-18 have not improved and continue to violate individuals' rights. *E.g.*, ECF 127-3 ¶¶ 15-27; ECF 186-6 ¶ 14; ECF 186-5 ¶¶ 6, 25, 29-30; ECF 186-8 ¶¶ 12-17. Accordingly, the Court has jurisdiction over this claim, too.

before, any order of removal that might be issued against an individual, and thus § 1252(b)(9) does not bar jurisdiction.[6]

J.E.F.M. v. Lynch does not support a different conclusion. There, the Ninth Circuit held that a claim by indigent minors in removal proceedings that they had a right to appointed counsel was barred because it was "part and parcel of the removal proceeding itself." 837 F.3d 1026, 1029-31, 1033 (9th Cir. 2016). *J.E.F.M.* does not apply here: CHIRLA and ImmDef are not facing (and could not face) removal proceedings, and "the statute excludes from the [petition-for-review] process any claim that does not arise from removal proceedings." *Id.* at 1032. Moreover, the Supreme Court has since clarified that § 1252(b)(9) is "targeted" and inapplicable where plaintiffs "are not challenging any removal proceedings." *Regents*, 591 U.S. at 19; *see Gonzalez*, 975 F.3d at 810 (recognizing Supreme Court's intervening precedent). Defendants do not acknowledge the more recent Supreme Court or Circuit decisions, which foreclose their argument here.

B. Plaintiffs State a Claim Upon Which Relief Can Be Granted

1. Plaintiffs State a Fourth Amendment Claim[7]

Plaintiffs plausibly allege, and the Ninth Circuit correctly concluded, that Defendants employ a pattern and practice of stopping individuals based on broad demographic profiles and without the requisite reasonable suspicion in violation of the Fourth Amendment.[8] *Vasquez*

[6] Although Defendants do not specifically argue that § 1252(a)(5) and (b)(9) preclude review of the conditions claim, that argument fails for the same reasons. *See Jennings*, 583 U.S. at 293.

[7] Defendants do not challenge the sufficiency of Counts II through IV brought by Stop/Arrest Plaintiffs. Nonetheless, Plaintiffs allege facts sufficient to support their claims under these counts. *See, e.g.,* FAC ¶¶ 63-71.

[8] Defendants admit that the stops here are seizures that require, at minimum, reasonable suspicion, Mot. at 4, but still attempt to paint the seizures of Plaintiffs Hernandez Viramontes and Gavidia as "consensual" and "self-initiated" encounters, *id*. at 2. But agents approached Hernandez Viramontes in military-style clothes and forcefully placed him in a vehicle where he was held for over 20 minutes, FAC ¶¶ 148-156, and agents repeatedly and aggressively interrogated Gavidia about what hospital he was born in and forcefully pushed him against a metal fence, *id.* ¶¶ 157-164. The "physical force" and "show[s] of authority" here demonstrate that the officers' actions were seizures requiring (and lacking) reasonable suspicion. *United States v. Washington*, 490 F.3d 765, 771 (9th Cir. 2007).

Perdomo, 148 F.4th at 680-85 (citing *United States v. Cortez*, 449 U.S. 411, 412, 417 (1981); *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000)). The Supreme Court has cautioned that a set of facts cannot constitute reasonable suspicion if it "describe[s] a very large category of presumably innocent" people. *Reid* v. *Georgia*, 448 U. S. 438, 441 (1980) (*per curiam*). Yet this is Defendants' systematic practice in the Central District.

Although Latinos make up nearly half the population in Los Angeles County, *see Montero-Camargo*, 208 F.3d at 1133, Defendants stop individuals based solely on broad demographic profiles such as race and occupation that apply to many working-class Latino individuals with legal status. *See, e.g.*, FAC ¶¶ 7, 36 ("shocking [ ] number of U.S. citizens" targeted in raids based only on "their skin color and occupation"), 3 (agents surrounding two Latino individuals while several Caucasian people nearby were neither questioned nor detained); 46 (witness of raid reporting that "if you look Hispanic in any way, they just took you."); 49 (U.S. citizen grabbed based only on "color of her skin"), 148-56 (detailing seizure of Hernandez Viramontes and his fear of being targeted again based on race and accent), 174 (CLEAN members fear being racially profiled at work). But where, as here, a "substantial number[] of people share a specific characteristic, that characteristic is of little or no probative value in such a particularized and context-specific analysis." *Montero-Camargo*, 208 F.3d at 1131.

Defendants' claim that Plaintiffs do not account for officers' need to consider the totality of the circumstances in a reasonable suspicion analysis, Mot. at 12-13, is misplaced. Defendants ignore that a seizure requires "particularized" suspicion of the person to be stopped and cannot be based only on a "demographic profile." *Kansas v. Glover*, 589 U.S. 376, 385 & n.1 (2020) (citation and internal quotation marks omitted). Particularly "in the context of the Central District of California, . . . apparent race or ethnicity, [language], particular location, and type of work, even when considered together []describe only a broad profile and 'do not demonstrate reasonable suspicion for any particular stop.'" *Vasquez Perdomo*, 148 F.4th at 683. Plaintiffs' detailed factual allegations account for this analysis and go well beyond what Rule 12(b)(6) requires. Justice Kavanaugh's concurrence fails to engage with this point.

Finally, Defendants' contention that the Supreme Court's TRO stay order recognized Defendants' actions "as a lawful exercise of statutory authority," Mot. at 13, is a brazen misstatement of law and fact. "At no point did the Supreme Court hold that the stay was granted because of a likelihood of success on the 'legal issues.' And it is inaccurate for the Defendants to assert" otherwise. ECF 223.

2. Plaintiffs State a Fifth Amendment Claim[9]

CHIRLA and ImmDef plausibly allege that Defendants are subjecting detainees to deplorable, punitive conditions of confinement, and systematically interfering with the ability of detainees to retain and communicate with counsel. *E.g.*, FAC ¶¶ 72-95, 234-36, 242-44. Defendants assert that CHIRLA and ImmDef fail to state a claim on both counts. Mot. at 13-17. But Defendants do little more than repackage arguments that this Court rejected when it found the access-to-counsel claim was likely to succeed on the merits during the TRO proceedings, *see* TRO Order 23-27—meeting a "*more* burdensome" standard than the Rule 12(b)(6) standard, *Tohono O'odham Nation v. U.S. Dep't of the Interior*, 138 F.4th 1189, 1202 (9th Cir. 2025) (emphasis added).

First, Defendants argue that these claims fail because the organizations do not "identify a liberty interest" or "establish error or prejudice." Mot. at 13-14, 16. But the Court already rejected this argument. TRO Order 22 n.15. CHIRLA and ImmDef have standing to challenge the conditions and restrictions at B-18, *supra* part IV.A.1.b, and need not identify a liberty interest of their own to establish that Defendants have violated detainees' constitutional rights. *See, e.g.*, *Fed. Defs. of N.Y., Inc. v. Fed. Bureau of Prisons*, 954 F.3d 118, 126-27 (2d Cir. 2020) (public defender suffered injury from interference with right to counsel). Nor must CHIRLA and ImmDef allege prejudice where, as here, they seek to enjoin ongoing unconstitutional conduct. *See Torres v. U.S. Dep't of Homeland Sec.*, 411 F. Supp. 3d 1036, 1062 (C.D. Cal. 2019).

[9] Count VIII, which alleges that the detentions of Vasquez Perdomo, Osorto, and Molina violate due process, can be dismissed without prejudice because all three have now been released and are in active immigration proceedings where they can raise the claim. But these Plaintiffs' release has no bearing on the ripeness of CHIRLA and ImmDef's claims.

Second, Defendants argue that CHIRLA and ImmDef fail to allege "punitive or excessive restrictions as to their communication with current and prospective clients," and that Plaintiffs fail to "plausibly allege" that detainees have been "unable to communicate with counsel." Mot. at 15. Defendants again misconstrue the requirements for an access-to-counsel claim, which asks whether the "cumulative effect" of Defendants' restrictions deny detainees reasonable access to counsel. *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565 (9th Cir. 1990); *see* TRO Order 23-24. In *Orantes-Hernandez*, the Ninth Circuit found such a cumulative effect where there were limited attorney visitation hours, long delays in connecting detainees to counsel, inadequate systems to communicate with detainees, and inadequate efforts to ensure confidentiality. *See* 919 F.2d at 565; *see also Torres*, 411 F. Supp. 3d at 1060. Those are precisely the kinds of restrictions alleged here. *E.g.*, FAC ¶¶ 81-86 (limited visitation), 87-88 (long delays), 235 (inadequate confidentiality).[10]

Third, Defendants contest CHIRLA and ImmDef's factual allegations regarding access, asserting, contrary to the complaint, that restrictions on access "w[ere] limited in duration and tethered to operational security and safety concerns," and that detainees have had "24-hour access to telephones." Mot. at 15. Defendants' contentions are not accurate, but under Rule 12(b)(6), this Court must assume the truth of the complaint's contrary factual allegations anyway. *See Davidson*, 889 F.3d at 971. Accepted as true, the complaint's factual allegations provide that Defendants' systematic restrictions "have persisted." FAC ¶ 89.

Finally, Defendants again urge the Court to defer to the government's "interests in securing detention and military facilities." Mot. at 16. The government is not entitled to unquestioning deference to restrictions that violate constitutional rights. *See* TRO Order 26; *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 539 (2004). That is doubly true in the current posture. There is no evidence this Court can consider under Rule (12)(b)(6) to support Defendants' claims

[10] Unlike the access claim, the conditions claim asks whether the conditions "amount to punishment." *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). Defendants do not contest that, as alleged, the conditions at B-18 amount to punishment. Nor could they. *E.g.*, FAC ¶¶ 74 (no beds, showers, or medical facilities), 79 (deprivation of food), 80 (denial of medical care). Nor do Defendants contest the plausibility of these allegations.

of "riotous crowds" and "exigent circumstances." Mot. at 15, 16; *see Hernandez v. City of Phoenix*, 43 F.4th 966, 979 (9th Cir. 2022). And even if the Court could look for evidentiary support, it has already concluded based on the record that these security allegations do not warrant the deference that the government demands. *See* TRO Order 26.

3. Plaintiffs State Claims Under The APA

In addition to their constitutional claims, Plaintiffs plausibly allege multiple statutory and regulatory violations. *See* FAC ¶¶ 221-33, 237-241 (Counts II, III, IV, VI). Plaintiffs properly invoke the APA in seeking relief for these claims because Defendants' policies and practices represent "final agency action[s]" for which there is "no other adequate remedy," 5 U.S.C. § 704, and Defendants have acted "in excess of [their] statutory jurisdiction, authority, or limitations." *Id.* § 706(2)(C). Plaintiffs have properly alleged violations under the APA and, despite Defendants' preferences, are not required to plead these violations through separate APA counts. Mot. at 17-18.

Defendants' argument that Plaintiffs have "waived" these claims is nonsensical. Mot. at 17. Plaintiffs could not have "waived" an argument under the APA at this stage in the litigation. *Greenwood v. Federal Aviation Administration*, 28 F.3d 971 (9th Cir. 1994) does not support Defendants' point. There, the Ninth Circuit held that because the plaintiff "did not specifically and distinctly argue this matter in his opening brief" on appeal, the issue was waived. *Id*. at 978. *Greenwood* is irrelevant here, where Plaintiffs have filed a complaint, not an appellate brief, and Plaintiffs are before a district court. Plaintiffs plausibly set forth a legal and factual basis for relief under the APA. There are no further legal requirements for Plaintiffs to preserve their arguments under the APA at this stage.

V. CONCLUSION

For the foregoing reasons, this Court should deny Defendants' motion. To the extent this Court finds Plaintiffs' pleadings deficient, Plaintiffs request the Court grant leave to amend.

Dated: November 12, 2025

Respectfully submitted,

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ATTESTATION

Pursuant to Local Rule 5-4.3.4(a)(2)(i), the filer attests that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

Dated: November 12, 2025

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CERTIFICATE OF COMPLIANCE

The undersigned counsel of record for Plaintiffs certifies that this brief contains 6,990 words, which complies with the word limit of L.R. 11-6.1 and this Court's standing order.

Dated: November 12, 2025

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