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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

PEDRO VASQUEZ PERDOMO, *et al.*,

Plaintiffs,

v.

MARKWAYNE MULLIN, in his official capacity as Secretary of Homeland Security, *et al.*,

Defendants.

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

DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION RE: WARRANTLESS ARRESTS [ECF 529]

Hearing Date: August 13, 2026
Hearing Time: 10:00 a.m.
Location: First Street Courthouse
350 West First Street
Los Angeles, CA 90012
Courtroom 8B
8th Floor

Hon. Maame Ewusi-Mensah Frimpong
United States District Judge

Referred to Hon. Sheri Pym
United States Magistrate Judge

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INTRODUCTION

This Court should deny Plaintiffs' motion for preliminary injunction. Despite calls to the contrary, Plaintiffs and "[t]he Judiciary [do] not set immigration policy or decide enforcement priorities." *Noem v. Vasquez Perdomo*, 146 S. Ct. 1, 5-6 (2025) (Kavanaugh, J. concurring). That is, once again, what Plaintiffs want this court to do in issuing a sweeping injunction over a district with over two million illegal aliens. *Id.* at *1. There is no basis for such an injunction. Defendants properly conduct warrantless arrests pursuant to statute and regulations. Plaintiffs, however, argue without support that Defendants have an unwritten unlawful policy of conducting warrantless arrests without properly assessing whether an alien is "likely to escape" before an administrative warrant can be obtained contrary to a written policy requiring exactly that. At bottom, Plaintiffs want to halt immigration enforcement in Los Angeles. But they lack standing and any lawful basis to demand this extraordinary PI as an improper attempt to control the Executive's authority to enforce our immigration laws. *See Trump v. CASA*, Inc., 606 U.S. 831, 858 (2025) ("[T]he Judiciary does not have unbridled authority to enforce" the Executive's "duty to follow the law.").

The motion should be denied because Plaintiffs lack Article III standing because they cannot demonstrate past isolated warrantless arrests are likely to recur, that they will lack an assessment of likelihood of escape, and that they will be subjected to any unlawful conduct. Next, Plaintiffs' claim fails on the merits, as they cannot demonstrate that Defendants have an unwritten policy that is contrary to statute and regulations relating to warrantless arrests and likelihood of escape. The remaining equitable factors also disfavor an injunction. Finally, the requested injunction is overbroad and improper in scope.

BACKGROUND

I. Procedural History

On June 6, 2025, Defendants began Operation At Large Los Angeles ("OAL"), in which CBP agents were deployed into the region to support ICE with the enforcement of immigration laws. *See* Exh. A, Parra Dec. ¶ 4; Exh. B, Larrios Dec. ¶ 7.

On June 20, 2025, three aliens arrested in Los Angeles filed a habeas petition seeking release from immigration detention. ECF 45-2 ¶ 6; 128-7 ¶ 7. On July 2, 2025, Plaintiffs filed their FAC transforming

those simple claims into a sweeping request for a district wide injunction enjoining Defendants alleged "ongoing pattern and practice of flouting the Constitution and federal law in connection with ongoing immigration raids in the Los Angeles area." ECF 16 ¶ 1.

On July 11, 2025, the Court granted Plaintiffs' TRO, enjoining all investigative stops based on four enumerated factors alone or in combination: race, language, location, or occupation. ECF 87, 101. Defendants appealed and sought stays in this Court and in the Ninth Circuit; both motions were denied. ECF 89, 94, 108, 109. On September 8, 2025, the Supreme Court stayed this Court's Fourth Amendment TRO pending appeal. *Perdomo*, 146 S. Ct. 1. Justice Kavanaugh issued a comprehensive concurring opinion, finding that Plaintiffs likely lacked Article III standing under *Los Angeles v. Lyons*, 461 U.S. 95 (1983) and the stops complied with the Fourth Amendment. *Id.* at *2.

On October 27, 2025, this Court dissolved the TRO. ECF 234. The Court ordered limited, expedited discovery in anticipation of a new PI MOTION. ECF 223. On February 16, 2026, Defendants' OAL Los Angeles officially demobilized. Exhs. A-B. On June 8, 2026, Plaintiffs filed this PI motion based on Defendants purported warrantless arrests without establishing any likelihood of escape.[1] ECF 529 ("Mot.") 1. Concurrently, on June 9, 2026, Plaintiffs filed their Class Certification Motion, seeking a proposed warrantless arrest class. ECF 531.

II. Federal Law Enforcement Procedures

To facilitate enforcement of our nation's immigration laws, Congress vested the Executive Branch with broad authority to inspect, investigate, arrest, detain, and remove unlawful aliens. *See, e.g.*, 8 U.S.C. §§ 1225, 1226(a), 1231(a), 1357(a). The authority to issue and execute immigration warrants has been delegated to only certain immigration officers. *See* 8 U.S.C. § 1226(a); 8 C.F.R. § 287.5(e). Officers are allowed to make warrantless arrests, "if [the officer] has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest the alien it likely to escape before that authorized official arrives." 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2)(i). The "reason to believe" language has been equated with the

[1] Plaintiffs have informed Defendants that they intend to file another motion for preliminary injunction based on stops, though the scope is unclear. *See* ECF 485 ¶¶ 240-48, 252-54.

constitutional requirement of probable cause. *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980). Establishing probable cause "is not a high bar." *Kaley v. United States*, 571 U. S. 320, 338 (2014). "It requires only a probability or substantial chance of criminal activity, not an actual showing of such activity." *District of Columbia v. Wesby*, 583 U.S. 48, 57 (2018) (internal quotations omitted).

Moreover, on January 26, 2026, ICE issued guidance reinforcing the law. *See* Exh. C, Civil Immigration Arrest Authority: Administrative Arrest Warrants and Warrantless Arrests ("Lyons Memo"). Though § 1357 does not define "likely to escape," the memo distinguishes that phrase from a post-arrest determination of flight risk, explaining that "likely to escape" in the context of a warrantless arrest means the alien "is unlikely to be located at the scene of the encounter or another clearly identifiable location once an administrative warrant is obtained," rather than the individual absconding from removal proceedings. *Id.* at 3. The Lyons Memo similarly instructs that an alien's likelihood of escape depends on the totality of the circumstances and provides several non-exhaustive but relevant factors to consider. *Id.* at 3-4.

III. Organizational Plaintiffs' Allegations

Organizational Plaintiffs, who claim to represent over 61,000 individuals in the Los Angeles area, allege that Defendants have an "ongoing, illegal policy of conducting warrantless arrests without establishing any likelihood of escape." Mot. 1, 15-16. Plaintiffs claim that Defendants rely on "collateral" encounters to arrest "Latino individuals without a warrant or a legally-compliant pre-arrest analysis of their likelihood of escape." *Id.* at 3. Plaintiffs further allege that Defendants are arresting individuals without any inquiry into "community ties or escape risk." *Id.* at 7. Plaintiffs characterize the Lyons Memo as "redefin[ing] the agency's statutory obligation to conduct a 'likelihood of escape' analysis, essentially nullifying the requirement." *Id.* at 9. Plaintiffs argue that their members, including both documented and undocumented aliens, face a risk of possible arrest or rearrest, and that many members have strong community ties and altered their lives to avoid warrantless arrest. *Id.* at 9-10.

STANDARD OF REVIEW

Injunctive relief "is an extraordinary and drastic remedy," *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012), that is "never awarded as of right," *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir.

2015). Thus, this relief "should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Lopez*, 680 F.3d at 1072. To prove their entitlement to such relief, Plaintiffs must establish that: (1) they are likely to succeed on the merits, (2) likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in their favor, and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc*., 555 U.S. 7, 20 (2008).

ARGUMENT

I. Plaintiffs Lack Standing to Enjoin Lawful Warrantless Arrests

At the outset, this case has been ongoing for over a year, and Plaintiffs' claim still suffers from the same failure recounted by the Supreme Court. Plaintiffs seek a PI that orders Defendants to follow the law in making future warrantless immigration arrests, dictates how such arrests are documented, requires officers to ignore lawful agency guidance, and obligates Defendants to prove their compliance. *See* Prop. PI ECF 529-86 at 15-17. Organizational Plaintiffs, however, lack standing to seek relief on behalf of their members because they cannot demonstrate that past isolated warrantless arrests are likely to recur and that they will be unlawful. *See Perdomo*, 146 S. Ct. at *2.

To establish Article III standing, Plaintiffs must demonstrate that (1) they have suffered a concrete and particularized injury in fact, (2) traceable to Defendants' conduct, (3) and that the injury can be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). To seek prospective relief, Plaintiffs must show a real and immediate risk of future injury to them and cannot rely merely on past conduct or generalized allegations. *See Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 412 (2013); *Lyons*, 461 U.S. at 105-06. Notably, Plaintiffs' motion only relies on three of its organizations to demonstrate standing on behalf of its members, rather than any individual plaintiff. *See* Mot. 11-13. For an association to have standing, it must show that (1) its members would otherwise have standing to sue in their own right; (2) the interests it seeks to protect are germane to its purpose; and (3) neither the claim asserted nor the relief requested requires the individual members' participation. *Hunt v. Wash. St. Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977).

Organizational Plaintiffs rely on isolated past instances of alleged misconduct and have no evidence to show threats of real and immediate future harm. *See Clapper*, 568 U.S. at 412; *Lyons*, 461

U.S. at 105-06. Courts have long rejected the *past must be prologue* theory of standing for an injunction against future conduct based on fears and speculation that unlawful government conduct will happen in the future because it happened in the past. When a party seeks prospective equitable relief, their grievances must contain "allegations of future injury [that are] particular and concrete." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 109 (1998). Indeed, in *Lyons* the Supreme Court found no standing for prospective relief against a policy of using chokeholds because, while the plaintiff was choked once, he had not shown that "he was likely to suffer future injury from the use of the chokeholds by police officers." 461 U.S. at 102-03, 105.

Against this backdrop, Organizational Plaintiffs' attempts to enjoin speculative unlawful immigration-related arrests is a redux of what failed at every turn in *Lyons* and *Clapper*. *See Perdomo*, 146 S. Ct. at *2. Plaintiffs claim that some of their 61,000 members were subjected to warrantless arrests in the past, fear future arrests, that DHS has an unlawful policy of making warrantless without probable cause determinations, and thus their members are likely to face unlawful arrests again. Like *Lyons*, Plaintiffs must demonstrate that it is likely: (i) they "would have another encounter with" DHS agents; (ii) they would be subject to a warrantless arrest; and (iii) the warrantless arrest would be without probable cause (iv) because of the alleged unwritten policy. *See* 461 U.S. at 105-06. Plaintiffs fail to meet their burden at every step.

First, Plaintiffs say an unlawful arrest is likely based on Defendants alleged unwritten policy of arresting their members "without a warrant and without the requisite escape risk analysis." Mot. 11. Even in *Lyons* it was presumed that there was a policy of using illegal chokeholds, yet that was insufficient. 461 U.S. at 106. Plaintiffs here, however, have *not* presented evidence of an unlawful policy or practice relating to warrantless arrests. Indeed, the *written* policy provides for exactly the opposite—that each warrantless arrest must involve such an assessment. Lyons Memo 3-4. Without a concrete finding of a policy or settled practice, Plaintiffs cannot show the "real and immediate" threat of future injury required.

To support their claim, Plaintiffs highlight generalized statements by Department officials encouraging collateral arrests. Mot. 2-3, 5. However, nothing in these statements demonstrate that Defendants are encouraging or informing officers to forego any likelihood of escape analysis when

conducting a warrantless arrest. Plaintiffs also attempt to use their statistical calculations to point to an unlawful policy. Yet, the evidence shows that 72 of the 113 arrest narratives Plaintiffs gathered provided some discussion of "flight risk." Mot. 6; *see* ECF 529-1 ¶ 20. The Lyons Memo also makes clear that warrantless arrests require probable cause of an immigration violation and analysis into whether the alien is likely to escape before a warrant, which tracks the statutory and regulatory language. *See* Lyons Memo 3-4. The memo also informs officers that they "shall document in the narrative section of the Form I-213, Record of Deportable/Inadmissible Alien, all factors considered in determining that the alien was likely to escape before a warrant could be obtained" which encourages best practice and is not required by the statue or regulations. *Id.*; *see, e.g.*, 8 U.S.C. § 1357(a); 8 C.F.R. § 287.8(c)(2)(ii). That all makes it less likely there will be an unlawful arrest.

Second, even if Plaintiffs are right that there is an unlawful policy, Plaintiffs' allegations of past conduct do not suffice to show a sufficient likelihood of future conduct. *See Perdomo*, 146 S. Ct. at *2. Plaintiffs' motion contains isolated anecdotes by a few aliens, out of Plaintiffs over 61,000 members, who claim they were arrested without a warrant and without the agency conducting the likelihood of escape analysis. *See* Mot. 9-10, 12-13. These isolated anecdotes and lack of rearrests of *any* member without a warrant and escape analysis do not plausibly suggest imminent future warrantless arrests. And isolated *past* incidents cannot speak to the likelihood of *prospective* harm. *Lujan*, 504 U.S. at 560. At bottom, Plaintiffs represent 61,000 members (only some percentage of which are Latino) out of 20 million people in this district, and 2 million of which are illegals. *See Perdomo*, 146 S. Ct. at *1. The chance any of them will encounter DHS, be arrested without a warrant, and without an escape analysis even once is infinitesimal.

Third, Plaintiffs assert that "individuals who have already been arrested are at risk of re-arrest, including Plaintiff Villegas Molina, who was re-arrested and detained in April 2026." Mot. 12. This claim shows Plaintiffs' futile attempt to demonstrate standing and manufacture unlawful conduct where none exists. Again, Plaintiffs have 61,000 members yet only have a handful of alleged unlawful warrantless arrests. And out of those, they only have one rearrest over a year after this case and OAL began. For the one rearrest they point, Molina was initially arrested after a consensual stop where he confirmed he was

here illegally. ECF 45-3 ¶ 6, ECF 529-13. He was rearrested but pursuant to a *warrant* after determining that he violated the conditions of his Alternatives to Detention release program. Exh. D, Molina I-200; Exh. E, Molina I-213. The fact that Molina was arrested pursuant to a warrant makes it less likely he will be subjected to an unlawful warrantless arrest. If anything, the fact that a warrant-based arrest is Plaintiffs' only example of rearrest demonstrates utter lack of standing. Ultimately, Plaintiffs' generalized claims of future harm are unsupported by the record evidence, and Plaintiffs have not demonstrated the prospective injury necessary for standing. *See Clapper*, 568 U.S. at 401.

Fourth, to the extent Plaintiffs claim that their members face ongoing harm as they are afraid to go outside and risk being arrested by Defendants without a warrant and the escape analysis, Mot. 12-13, courts have repeatedly held that a chilling effect based on a fear of future injury—as is alleged here—is too speculative to confer standing for injunctive relief. *Clapper*, 568 U.S. at 416 (holding plaintiffs "cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm"). Therefore, Organizational Plaintiffs fail to show standing, much less a serious probability of reoccurrence.

Absent a non-speculative probability of injury to their members, which Plaintiffs have not provided, Organizational Plaintiffs lack standing. *Stavrianoudakis v. U.S. Fish & Wildlife Serv.*, 108 F.4th 1128, 1143-44 (9th Cir. 2024) (finding no associational standing for warrantless searches where chance of future injury was speculative). Nor can Organizational Plaintiffs argue their members face an imminent threat of injury based on pure statistical inference (as they implore the Court to do here) and uncorroborated anecdotes from members. Mot. 11-13. Indeed, the Supreme Court has rejected standing based on similar theories of "statistical probability that some of [the organization's thousands of] members are threatened with concrete injury" as it would "make a mockery of [the Court's] prior cases," and the Court instead requires specific, concrete allegations of harm to one or more of Organizational Plaintiffs' members. *Summers v. Earth Island Inst.*, 555 U.S. 488, 498 (2009).

Additionally, Plaintiffs argue that they have standing because the Ninth Circuit found they did, and other federal courts held similar organizations demonstrated standing to challenge Defendants' warrantless arrest policy. Mot. 11-12. However, Plaintiffs interestingly fail to engage with the Supreme

Court's order staying the Ninth Circuit's decision finding standing and upholding the Fourth Amendment TRO. *Perdomo*, 146 S. Ct. at *1. The stay could only be issued if Plaintiffs lacked a likelihood of success on either standing or the merits, which precludes issuance of a PI. *See Trump v. Boyle*, 145 S. Ct. 2653, 2654 (2025) ("Although our interim orders are not conclusive as to the merits, they inform how a court should exercise its equitable discretion in like cases."). Justice Kavanaugh explained that both individual and Organizational Plaintiffs likely lacked Article III standing in their challenge of investigative immigration stops in the Los Angeles area. *Id.* at 2. He emphasized that standing for forward-looking relief "does not exist merely because plaintiffs experienced past harm and fear its recurrence;" what matters is the "reality of the threat of repeated injury," not "subjective apprehensions." *Id.* (quoting *Lyons*, 461 U.S. at 107 n.8). Justice Kavanaugh rejected the argument that Organizational Plaintiffs make here, that past Government action means there is a likelihood of repetition in the future to demonstrate standing. *Id.* This is especially true where Plaintiffs cannot point to evidence that Defendants' have an unlawful policy or that their members will be injured in the future.

As for district courts, one recently denied a PI motion seeking to enjoin the policies under which immigration arrests were made in the Minneapolis area. *Hussen v. Noem*, 822 F. Supp. 3d 944 (D. Minn. 2026). The court found that while defendants likely had an illegal policy, there was "no good basis to believe that law enforcement will unlawfully stop [or arrest] *them* in the future" in an unlawful manner. *Id.* at 999-1000 (citing *Perdomo*, 146 S. Ct. at *3). Even the existence of such a policy thus does not nudge the likelihood of future exposure to its exercise high enough for standing purposes. *Id.* The remaining district court cases are non-binding, erroneous, and on appeal.

Plaintiffs also baldly assert that individual membership participation is not required for their PI. But arrests and probable cause are "necessarily fact-specific," as their own examples prove. *United States v. Reyes*, 963 F.3d 482, 488 (5th Cir. 2020). So the Court needs the members to evaluate whether they were injured in the first place or if there is any threat of future unlawful arrests. Absent standing, the injunction must be denied.

II. Plaintiffs' Cause of Action is Unclear

It is unclear what cause of action Plaintiffs move on, as their motion makes no attempt to identify a

final agency action for an APA claim. *See Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys*., 603 U.S. 799, 808 (2024) (judicial review under the APA "is only available for 'final agency action'") (quoting 5 U.S.C. § 704). They of course can point to no unwritten policy to not follow the law, especially when DHS has repeatedly issued written policies in line with the statute. *See* infra III. An *ultra vires* claim, on the other hand, cannot be brought if they do have an APA claim and they cannot satisfy the strict standard in any event. *See Nuclear Regul. Comm'n v. Texas*, 605 U.S. 665, 666 (2025).

III. Plaintiffs Cannot Show Defendants' Warrantless Arrests are Unlawful

Defendants' warrantless arrests are lawful. Plaintiffs' argument rests on their assertion that Defendants have an unlawful "policy of effecting warrantless arrests without an individualized determination of escape risk" in violation of 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii). Despite having litigated and sought discovery as to an alleged unlawful-warrantless-arrest policy for nearly a year, Plaintiffs have not once met their burden in establishing a policy or practice of warrantless arrests that exclude a likelihood of escape analysis. Instead, Plaintiffs make bold, categorical accusations that Defendants have an unwritten policy to forego individualized determinations of likelihood to escape based on cherry-picked statements and narratives. *See, e.g.*, Mot. 5 ("The Acting Associate Director of ICE told field offices that '[a]nyone who is found amenable to removal needs to be arrested.'") (quoting ECF 529-10)[2]. None of those statements bear on warrantless arrests much less conducting them without an escape analysis.

The presumption of regularity indicates that the statement from ICE's Acting Associate Director itself presumes that in making the determination to initiate an arrest, the officer is adhering to all applicable laws and regulations which inform the determination that an individual is "amenable to removal." *See Kohli v. Gonzales*, 473 F.3d 1061, 1068 (9th Cir. 2007); *Mullin v. Doe*, 2026 WL 1825840, at *12 (U.S. June 25, 2026) (rejecting the argument that "[p]olitical discourse by prominent public figures" were sufficient to show that termination of TPS designation was based on the race). Further,

[2] The full quote is "*All collateral encounters need to be interviewed and* anyone that is found to be amenable to removal needs to be arrested." ECF 529-10 (emphasis added). Nothing about this statement suggests that relevant policies will not be followed in carrying out those interviews and arrests, and Plaintiffs conveniently omit the portion of the quote that undermines their faulty narrative.

ICE's Lyons Memo emphasizes the legal requirements and provides guidance on warrantless arrests. There is no basis, based on a few arrests, to infer an unwritten unlawful policy contrary to the written policy. *Cf. Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 355-56 (2011) ("In such a company [that forbids sex discrimination], demonstrating the invalidity of one manager's use of discretion will do nothing to demonstrate the invalidity of another's.").

Moreover, Plaintiffs' own calculations fail to demonstrate an unlawful policy. Plaintiffs acknowledge that out of the 113 aliens arrested from the documentation Defendants provided, only 41 arrest narratives contain no escape risk assessment, while 72 of the narratives provide some discussion of "flight risk." Mot. 6; *see* ECF 529-1 ¶ 20. Even an arrest narrative which does not include this analysis does not demonstrate that the arresting officer did not conduct an escape analysis. And even if some arrests lacked that determination, Plaintiffs cannot cobble together a few fact-specific arrests out of thousands to infer an unlawful policy. Plaintiffs have not shown that Defendants maintain an unlawful policy. Rather Defendants are conducting warrantless arrests pursuant to the text of the statute and regulation.

As detailed earlier, federal officers may conduct warrantless arrests if there is "reason to believe" that the alien is present in the U.S. in violation of any immigration law and is "likely to escape" before a warrant can be obtained. 8 U.S.C. § 1357(a); 8 C.F.R. § 287.8(c)(2)(ii); *see* Lyons Memo 1-2, n.6 (delineating ICE policy). The Ninth Circuit has consistently held that "reason to believe" language is the equivalent of probable cause. *See Tejeda-Mata*, 626 F.2d at 725. Probable cause ultimately depends on the totality of the circumstances. *Wesby*, 583 U.S. at 57. While Plaintiffs acknowledge that the standard is equivalent to probable cause, they fail to recognize that officers must assess the totality of the circumstances. Mot. 13-14. Instead, their motion seeks to define the factors they believe an officer *must* consider in finding that an alien is "likely to escape." *Id.* at 13-15. However, Plaintiffs' interpretation is baseless.

Both the statute and regulation do not specify factors immigration officers must use when determining if an alien is likely to escape before a warrant can be issued. *See* 8 U.S.C. § 1357(a); 8 C.F.R. § 287.8(c)(2). That makes sense "because probable cause deals with probabilities and depends

on the totality of the circumstances, it is a fluid concept that is not readily, or even usefully, reduced to a neat set of legal rules." *Wesby*, 583 U.S. at 57 (internal quotations omitted). Dictating a list of required or prohibited factors is contrary to the inquiry, as Justice Kavanaugh made clear in this case. *Perdomo*, 146 S. Ct. at *3. Officers are tasked to make immediate decisions to determine if a warrant can be obtained, or if a warrantless arrest is permissible, especially because an alien is free to leave at any point during a consensual encounter. Lyons Memo 2; *see also United States v. Murillo-Gonzalez*, 524 F. Supp. 3d 1139, 1151 (D.N.M. 2021) (deferring "to the officer's on-the-scene judgments" and upholding an arrest under § 1357(a)(2)). These determinations must be made before a warrantless arrest is effectuated. Immigration officers may develop reasoning in any number of ways and officers utilize the totality of the circumstances in determining whether an alien is likely to escape before a warrant can be issued. *See Contreras v. United States*, 672 F.2d 307, 308 (2d. Cir. 1982) ("Because of the difficulty of making an on-the-spot determination as to the likelihood of escape without any opportunity to verify information provided or to conduct a full-scale interview, an [immigration] officer's determination will not be upset if there is any reasonable basis for it."). Based on this backdrop, officers rely on the totality of circumstances in determining whether an alien should be subjected to a warrantless arrest.

Plaintiffs assert that the "likely to escape" requirement means that the officer needs to determine if the alien would likely "evade immigration officers" in the future and not just the immediate scene and thus the Lyons Memo renders the analysis "superfluous." Mot. 14, 16. That has no textual basis. The statute states: "likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2). Plaintiffs would alter the statute to read "likely to flee the community," Mot. 14, but there is simply no support for rewriting the statute in this way. Escape from federal officers is the relevant form of escape. Additionally, the statute has a temporary and spatial aspect: a warrant must be obtainable *before* aliens escape from some *place*. Plaintiffs' view is that the time is indeterminate and the place should be construed capaciously. Mot. 14. The statute offers more clues, as the warrantless arrest can be in the officers "presence or view" and then the alien "shall be taken" before another officer. 8 U.S.C. § 1357(a)(2). So the relevant time for the analysis is when the officer encounters them. The Lyons Memo reinforces that officers should be looking to the "totality of the circumstances known to the immigration

officer at the time of the encounter" and provides possible factors while explicitly noting officers are not limited to them. Lyons Memo 3-4. When a suspected illegal alien refuses to answer questions or flees the scene where officers are conducting immigration enforcement, the suspect's potential lack of subjective intent to flee officers is irrelevant—officers can only consider the totality of the circumstance known to them at the time. Plaintiffs seem to disagree with this black letter law too, arguing that officers must "consider traditional flight risk factors 'including whether the officer can determine the individual's identity, previous escape attempts, and community ties such as family, a home, or a job.'" Mot. 14 (citing *M-J-M-A- v. Hermosillo*, 822 F. Supp. 3d 1147, 1158 (D. Or. 2026)). Notably missing from Plaintiffs reliance on *M-J-M-A-* is the court's language that officers must look to "the *totality of the circumstances* known to the officer before making the arrest[.]" 822 F. Supp. 3d at 1158 (emphasis added). The court there did not define escape risk the way Plaintiffs want or dictate mandatory factors. Another factor Plaintiffs urge this Court to find mandatory despite missing from the statute is an alien's ties to the community. Mot. 15-16. Defendants agree that these can be relevant, as the Lyons Memo says, but it is not required. "[N]o single fact . . . is dispositive." *United States v. 5,644,540.00 in U.S. Currency*, 799 F.2d 1357, 1363 (9th Cir. 1986); Lyons Memo 4. Officers generally need not affirmatively seek out facts that might negate probable cause before acting. *Cf. Kansas v. Glover*, 589 U.S. 376, 378 (2020) (absent negating evidence, reasonable inferences can allow for stop). If an alien is actively hiding or attempting to evade custody, an immigration officer may conclude a likelihood of escape exists without any assessment of community ties. *See Contreras*, 672 F.2d at 309. And Plaintiffs have no evidence that officers are not inquiring into such ties.

Ultimately, when an officer is evaluating the totality of the circumstances, there are various considerations to determine if an alien is likely to escape before a warrant can be obtained. For instance, officers can assess whether "an alien's removability is clear and undisputed," *Vazquez-Medrano v. Sessions*, 726 F. App'x 92, 93 (2d Cir. 2018), when the alien admitted that he "had been picked up before," *Aguirre v. INS*, 553 F.2d 501, 502 (5th Cir. 1977), or appeared "extremely nervous" and seemed to be "looking for an opportunity to run," *United States v. Meza-Campos*, 500 F.2d 33, 34 (9th Cir. 1974), or admitted that he had previously been removed, *United States v. Puebla-Zamora*, 996 F.3d 535, 538

(8th Cir. 2021), or attempted to evade custody, *Contreras*, 672 F.2d at 309, or was stopped in a moving car, *United States v. Cantu*, 519 F.2d 494, 497 (7th Cir. 1975), or presented conflicting or forged documents when questioned about his status, *United States v. Quintana*, 623 F.3d 1237, 1241 (8th Cir. 2010), *United States v. Reyes-Oropesa*, 596 F.2d 399,400 (9th Cir. 1979).

Further, Plaintiffs attempt to restrict how officers determine probable cause is like their restrictive arguments on what factors officers cannot use to find reasonable suspicion, which Justice Kavanaugh rejected in granting the Defendants' stay. *See Perdomo*, 146 S. Ct. at *3 ("Under this Court's precedents, not to mention common sense, those circumstances taken together can constitute at least reasonable suspicion of illegal presence in the United States."). Based on the numerous factors that an officer may consider, Plaintiffs cannot show that Defendants are violating the law because they are not assessing these factors in the way Plaintiffs prefer.

While Plaintiffs claim Defendants are improperly documenting likelihood of escape analysis in government documents recording alien apprehensions, they point to no authority which dictates *how* Defendants document this analysis. *See, e.g.*, Mot. 5 (citing Defendants' training of best practices), 15. Even when arrest narratives document an officer's risk-of-escape analysis, Plaintiffs disregard such analysis en masse as "boilerplate" language that cannot be trusted. *Id.* However, their assumption of misconduct improperly undermines the presumption of regularity for these documented arrests. *See Kohli*, 473 F.3d at 1068. To the extent Plaintiffs use the warrantless arrests of named Plaintiffs Perdomo and Osorto to show that the agency failed to conduct any likelihood of escape analysis, Mot. 3-5, their motion seemingly fails to acknowledge that both Plaintiffs admitted in their depositions to *fleeing* from immigration officers. *See* Exh. F, Perdomo Dep. 128:7-11 ("Did you run away from these officers? Yes, when I saw them, I run onto the street"); Exh. G, Osorto Dep. 55: 8-22 (stating that he ran away "before the [officers] said anything" or "before anybody touched [him.]"). As flight from immigration officers or looking for an opportunity to flee is a factor in the totality of circumstances officers can use to determine whether an alien is likely to escape, Plaintiffs cannot demonstrate that Defendants violated the law as to the warrantless arrests of these aliens. *See Meza-Campos*, 500 F.2d at 34 (holding that arresting officer had reason to believe that arrestee was likely to escape after looking for an opportunity to run). Ultimately,

Plaintiffs' challenges boil down to disagreements with how Defendants are conducting warrantless arrests pursuant to the statute and regulations, and their claims far from prove that Defendants are violating the law.

IV. The Remaining Preliminary Injunction Factors Favor the Government

A plaintiff seeking a preliminary injunction must establish "that irreparable injury is *likely* in the absence of an injunction." *Id.* at 22. Thus, a "[s]peculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction." *Boardman v. Pac. Seafood Grp.*, 822 F.3d 1011, 1022 (9th Cir. 2016). Plaintiffs fail to meet this high bar. Most obviously, Plaintiffs lack an injury sufficient for standing; by definition, then, no irreparable harm exists. There is similarly no evidence that any unlawful warrantless arrest creates an "immediate threat that the plaintiff[s] will be wronged again," foreclosing prospective equitable relief. *See Lyons*, 461 U.S. at 111. Harm based on "*past* examples" without evidence of "continuing, present adverse effects" is insufficient, which is all Plaintiffs could muster. *Center for Food Safety v. Vilsack*, 636 F.3d 1166, 1173 (9th Cir. 2011).

Moreover, a significant delay in moving for preliminary injunction undermines irreparable harm. *See Garcia v. Google, Inc.*, 786 F.3d 733, 746 (9th Cir. 2015) (5-month delay undermined irreparable harm). The delay here is astonishing and unexplained: the named Plaintiffs were arrested over a year ago and Plaintiffs moved for an injunction a year ago on similar facts and theories related to stops. Most of the facts here stem from the same arrests and OAL began in June 2025 and ended February 2026. Exhs. A-B. Officers have been engaging in warrantless arrests this entire time, and Plaintiffs knew as much. Indeed, as Plaintiffs point out, courts across the country heard injunctions in this issue over six months ago. *See, e.g.*, *Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp. 3d 1, 15-17 (D.D.C. 2025). So why could they not move along with those other cases? Nor do Plaintiffs point to anything new in discovery to justify amending their complaint and moving for an injunction after all this time. If anything, the Lyons Memo since then undermines their claim. And the fact that none of their members were subjected to additional warrantless arrests during that period also undermines any claim of irreparable harm.

The last two factors "merge" where the government is a party. *Drakes Bay Oyster Co. v. Jewell*,

747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). Here, the balance of the equities and public interest tips firmly in Defendants' favor. The Government has a significant and compelling interest in the steady enforcement of its immigration laws. *See, e.g.*, *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) (holding that the court "should give due weight to the serious consideration of the public interest" in enacted laws). The Los Angeles area remains a crucial priority for immigration enforcement where millions of aliens have broken the law and remain illegally.

To enforce immigration laws, Defendants must be allowed to effectuate arrests as permitted under the applicable statutory and regulatory scheme. The proposed PI would throw a central element of immigration enforcement, immigration arrests, into intolerable uncertainty. Granting this motion would risk unintended operational consequences and public-safety concerns. *See Perdomo*, 146 S. Ct. at *4 (quoting *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975)) (finding that balance of harms and equities tips in favor of the Government in immigration enforcement given the "myriad 'significant economic and social problems' caused by illegal immigration[.]"). Indeed, as shown by Plaintiffs' proposed order, such an injunction would inject the judiciary (and Plaintiffs' counsel) into micromanaging every operation and stop conducted in the Los Angeles area. *See* ECF 529-86 at 15-17. That is untenable.

Plaintiffs' motion fails to acknowledge the substantial governmental harm an injunction imposes by usurping authority over enforcement of our Nation's immigration laws, which the Constitution and federal statutes commit to the Executive Branch. *See Perdomo*, 146 S. Ct. at *4 ("'[A]ny time that the Government is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.'") (quoting *CASA*, 606 U.S. at 861). The public interest favors lawful, effective enforcement within constitutional limits. *Nken*, 556 U.S. at 435; *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018). Micromanaging the Executive Branch's lawful use of effectuating warrantless arrests in a region with millions of unlawful aliens weighs in favor of denying the motion. *See Perdomo*, 146 S. Ct. at *6. "The Judiciary does not set immigration policy or decide enforcement priorities" but merely "ensure[s], in justiciable cases, that the Executive Branch acts within the confines of the Constitution and federal statutes." *Id* at *5. As shown above, Defendants are acting within these

parameters. The proposed injunction also would inflict irreparable harm on Defendants by supplanting the political branches' judgments relating to how the Executive should conduct arrests and intruding on the separation of powers. *See CASA*, 606 U.S. at 857-58. In contrast, "[t]he interests of individuals who are illegally in the country in avoiding" arrest 'is ultimately an interest in evading the law[,]" which "is not an especially weighty legal interest." *Perdomo*, 146 S. Ct. at *5. Accordingly, on balance, the public interest far from favors granting Plaintiffs proposed injunctive relief.

V. The Requested Injunction is Overbroad and Improper in Scope

Distilled to its core, Plaintiffs seek an impermissibly vague "follow the law" injunction. Rule 65(d)(1) requires that any injunction be "specific in terms" and "describe in reasonable detail—and not by reference to the complaint or other document—the act or acts sought to be restrained." "[T]he specificity provisions of Rule 65(d) are no mere technical requirements. The Rule was designed to prevent uncertainty and confusion on the part of those faced with injunctive orders, and to avoid the possible founding of a contempt citation on a decree too vague to be understood." *Schmidt v. Lessard*, 414 U.S. 473, 476 (1974). This limitation prevents federal courts from arrogating themselves the power to generally superintend the Executive Branch's execution of the laws. *CASA*, 606 U.S. at 858.

Here, Plaintiffs seek an order enjoining Defendants from "making warrantless civil immigration arrests in this District without a pre-arrest individualized determination by the arresting agent or officer of probable cause that the person being arrested is likely to escape before a warrant can be obtained, as required by 8 U.S.C. 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)." ECF 529-86 at 15. This initial order is merely a restatement of the statutory requirements and regulations (not to mention the Lyons Memo). The proposed order goes on to hold what agents must consider when assessing the likelihood of a person's escape before a warrant can be obtained. *Id.* While the proposed order states that it is a totality of the circumstances consideration, Plaintiffs improperly seek to have this Court define *what* the agents must and must not assess, which goes beyond the statutory requirement. *Id.* (requiring an agent consider the alien's prior court attendance, compliance with authorities, ties to the community, and that presence in the U.S. in violation of the law is not by itself sufficient); *but see Wesby*, 583 U.S. at 57 (holding that probable cause is a fact-specific, totality-of-the-circumstances inquiry "that is not readily, or even

usefully, reduced to a neat set of legal rules."). While Plaintiffs and Defendants may have reasonable disagreements on what factors are sufficient to establish probable cause and escape risk, any such court intervention would go beyond the statue and regulations and force agents to conduct probable cause and escape risk analysis in the precise manner that Plaintiffs may prefer. Further, Plaintiffs' proposed order enjoins Defendants from following the Lyons Memo, which does nothing more than reiterate the legal and regulatory framework immigration agents should use when assessing the totality of circumstances in warrantless arrest escape risks. ECF 529-86 at 15.

Moreover, Plaintiffs seek unreasonable reporting requirements of Defendants' immigration enforcement and ask for documentation describing both warrantless arrests and situations where Defendants do not pursue an arrest without explaining the need or legal basis for requiring documentation of decisions *not* to arrest. *Id.* at 16. This request is in no way limited to only Plaintiffs' members, but instead seeks to micromanage the whole Los Angeles region's federal immigration enforcement. Plaintiffs' PI is an unqualified weapon for Plaintiffs to chill immigration agents' ability to effectively perform their duties. *Cf. Anderson v. Creighton*, 483 U.S. 635, 640 (1987). Plaintiffs would risk nothing by alleging each arrest violates the injunction, insulated by the vagueness of what constitutes probable cause, requiring a fact bound analysis under the threat of contempt. The injunction effectively sanctions keeping immigration enforcement agencies entangled in constant litigation, disrupting operations, deterring recruitment, and chilling the ardor of current agents. That may be Plaintiffs point, but it is an impermissible goal and feature of equitable relief. *Perdomo*, 146 S. Ct. at *4 ("[A]fter-the-fact judicial second-guessing and contempt proceedings will inevitably chill lawful immigration enforcement efforts.").

Finally, Plaintiffs requested relief is barred by 8 U.S.C. § 1252(f)(1), as their requested injunction would enjoin or restrain "the 'operation of'" detention and initiation-of-removal provisions covered by the bar. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 550 (2022); *see also N.S. v. Dixon*, 141 F.4th 279, 284, 288-89 (D.C. Cir. 2025) (holding that § 1252's bar required vacating a district court's injunction because the enjoined actions were governed by § 1357); ECF 577. To the extent Plaintiffs are seeking broad injunctive relief that is not tied to a properly defined class, that relief violates the Supreme Court's

decision in *CASA*. 606 U.S. at 849-50 ("universal injunctions circumvent Rule 23's procedural protections"). Ultimately, Plaintiffs' proposed injunction improperly extends beyond what is necessary, and this Court should not interfere with the Executive Branch's comprehensive immigration enforcement decisions.

CONCLUSION

Therefore, the Court should deny Plaintiffs' Motion.

Dated: July 6, 2026

Respectfully submitted,

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L.R. 11-6.2 CERTIFICATE OF COMPLIANCE

The undersigned counsel of record certifies that this filing is 6,972, which complies with L.R. 11-6.1 and this Court's Standing Order, Part VIII.C.

Dated: July 6, 2026

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