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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
Eugene Division

M-J-M-A-; VICTOR CRUZ GAMEZ,
Plaintiffs,

v.

JULIO HERNANDEZ, Seattle Field Office
Director, Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"); DAVID VENTURELLA,
Acting Director of Immigration Customs
Enforcement ("ICE"); U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT;
MARKWAYNE MULLIN, Secretary of the
Department of Homeland Security ("DHS");
U.S. DEPARTMENT OF HOMELAND
SECURITY; and TODD BLANCHE, Attorney
General of the United States, Defendants.

Case No. 6:25-cv-02011-MTK

**PLAINTIFFS' MOTION TO
ENFORCE PRELIMINARY
INJUNCTION**

ORAL ARGUMENT REQUESTED

**EXPEDITED HEARING
REQUESTED**

LR 7-1 CERTIFICATION

Counsel for Plaintiffs certifies that after conferring on September 1, 2026, Defendants' counsel represented that Defendants oppose this motion.

MOTION

Plaintiffs, on behalf of themselves and all similarly situated individuals, respectfully request that this Court issue an order to enforce Defendants' full compliance with the Court's February 4, 2026 preliminary injunction because the Defendants routinely, openly and brazenly violate the injunction. This motion is based on the following Memorandum of Law, the accompanying declarations and exhibits, and any other circumstances or documents the Court may properly consider.

Plaintiffs request an expedited hearing because of the harm caused by the Defendants in violating the injunction.

MEMORANDUM OF LAW IN SUPPORT OF MOTION

INTRODUCTION

Starting in approximately September 2025, Defendants unleashed masked agents throughout Oregon under the guise of "Operation Black Rose" (or any of the differently named at-large operations) to arrest hundreds and hundreds of community members without warrants, detain them, and swiftly move them out of the District of Oregon. On February 4, 2026, the Court declared this policy and practice of making warrantless arrests to be illegal, provisionally certified the Unassessed Escape Risk class for purposes of the injunction, ECF 80, and then later, in a separate order and opinion, certified the Warrantless Arrest class and the Unassessed Escape Risk subclass, ECF 103.

But the Defendants have not halted their illegal warrantless arrest policy and practice with respect to the Unassessed Escape Risk subclass protected by the preliminary injunction. In fact, the Defendants have doubled down on their illegal policy or practice by issuing instructions to their agents that blatantly violate the Court’s injunction with respect to the subclass. Defendants are routinely violating the injunction in at least five ways. First, Defendants are assessing flight risk *after* making a warrantless arrest. Second, [REDACTED]. Third, [REDACTED]. Fourth, Defendants are failing to report all warrantless arrests within the District. Fifth, [REDACTED].

Defendants are disappearing class members from the District in violation of the injunction, which is causing class members, their families and the communities in which they live irreparable harm. The Court should grant this motion and issue an order enforcing its preliminary injunction against Defendants.

BACKGROUND

I. Defendants’ Arrest First, Justify Later Policy or Practice

Defendants have routinely abused their warrantless arrest authority and have even settled litigation strikingly similar to the present case. ECF 88 at 27 (citing *Castanon-Nava v. Dept’s of Homeland Sec.*, 806 F. Supp. 3d. 823, 837-38 (N.D. Ill. 2025)). Following a push from the Trump administration to increase the number of deportations and effectuate “reverse migration,” Defendants are conducting “widespread sweeps targeting ‘collaterals.’” ECF 88 at 27. And with these collateral sweeps also comes the Arrest First, Justify Later policy that Defendants have widely admitted having applied. ECF 61 at 12. Defendants have engaged in this policy and practice

across the United States, and courts in other states have similarly found “that defendants have implemented such a policy and practice”. ECF 61 at 12-13 (citing *Escobar Molina v. U.S. Dep’t Homeland Security*, 2025 WL 3465518 (D.D.C. Dec. 2, 2025)). Defendants themselves have also confirmed this policy and practice numerous times in public statements they have issued over the past year. *See id.* (collecting a series of statements from DHS high ranking officials).

In Oregon, during the fall of last year, Defendants initiated “Operation Black Rose,” also referred to as “Operation Fortifying the Border,” among other names, which resulted in an exponential increase in arrests and detentions throughout the state. ECF 88 at 5-6. To achieve the operation’s objective, Defendants engaged in a policy and practice of conducting warrantless arrests without consideration of the factors delineated under 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii). *Id.* at 37-39. For more than four months, from approximately late September 2025 to early February 2026, Defendants casted a wide dragnet over the state of Oregon, targeting areas they characterized as “target rich.” ECF 88 at 2. In those “target rich” areas, Defendants’ agents would stop, arrest and detain Oregonians, and then swiftly transport them out of the District of Oregon to the Northwest ICE Processing Center (“NWIPC”), before rapidly deporting them. *See id.*

In fact, Defendants have repeatedly admitted or have been found to make warrantless arrests without the required probable cause findings and continue to do so. ECF 61 at 14 (citing seven cases where courts of this District found Defendants to have performed unlawful warrantless arrests). Further, this Court recognized that Defendants’ “practice of aggressively targeting people on racial lines and conducting unlawful warrantless arrests gives rise to a sufficient likelihood of harm.” *Id.* at 32. This trend ended abruptly due to this Court’s intervention on February 4, 2026.

II. The Preliminary Injunction

The Court's February 4, 2026 order ("PI") enjoined Defendants and their officers from enforcing their policy or practice of making warrantless civil immigration arrests in the District of Oregon without a pre-arrest individualized determination by the arresting 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)(ii). ECF 80 at 2-3; ECF 88 at 48-49. The Court clarified that "[p]robable cause determinations must be based on facts particularized to that person and known *prior to* the arrest," and, standing alone, neither ethnicity and race nor a "person's proximity to others suspected of unlawful activity" create probable cause. ECF 80 at 45. The Court ordered that Defendants promptly transmit the Order to Defendants' officers, employees, agents, and contractors who have responsibilities related to the subject matter of this injunction. ECF 80 at 3; ECF 88 at 49. The PI also requires that "Defendants report every 30 days until this litigation is concluded (or if requested by Plaintiffs' counsel concerning specific individual warrantless arrests, no later than seven days after the request)" any warrantless arrests performed by their agents. *Id.*

The Court also ordered that "[a]ny Defendant or their officer who conducts a warrantless civil immigration arrest in the District of Oregon shall, as soon as practicable, document the facts and circumstances surrounding the warrantless civil immigration arrest in narrative form." *Id.* The Court specified that that documentation "shall include specific, particularized facts that supported the officer's pre-arrest probable cause to believe that the person is likely to escape before a warrant can be obtained, including the following facts that are consistent with 8 U.S.C. § 1357(a)(2);" "that the [non-citizen] was arrested without a warrant"; "the location of the arrest and whether this location was a place of business, residence, vehicle, or a public area"; "the [non-citizen]'s ties to the community, if known at the time of arrest, including family, home, or employment"; and "the

specific, particularized facts supporting the conclusion that the alien was likely to escape before a warrant could be obtained.” ECF 80 at 3. The documentation “shall include the date and time of the arrest, and the date and time the officer completed the documentation.” *Id.* Further, “[i]n describing the individualized assessment of escape risk in the documentation ordered above, specific details as to the person being arrested must be provided such that the use of boilerplate language may be deemed indicative of noncompliance.” *Id.*

On April 6, 2026, Defendants appealed the Preliminary Injunction Order to the Ninth Circuit. *See* ECF 93. After requesting two extensions, Defendants filed their opening brief on July 6, 2026. *Cruz Gamez, et al. v. Lyons, et al.*, No. 26-2090, Dkt. 5, 13, 29 (9th Cir., 2026). Defendants also appealed the Class Certification order and requested consolidation with the preliminary injunction appeal; briefing on both appeals is currently stayed pending the resolution of a motion to dismiss the appeal of the class certification order. *Id.* at Dkt. 38, 46; *Cruz Gamez, et al. v. Lyons, et al.*, No. 26-4343, Dkt. 1, 9 (9th Cir., 2026).

A. Defendants’ Compliance Reporting

Defendants served reporting on Plaintiffs on [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. *See* Declaration of Nelly Garcia Orjuela (“Counsel

Decl.”), Exs. A-F.

On April 20, 2026, May 18, 2026, July 10, 2026 and August 21, 2026, Plaintiffs requested documentation regarding specific civil immigration arrests that Plaintiffs believed were warrantless.¹ In response, Defendants [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See Counsel Decl.

Exs. G, H.

B. Defendants' Actions Since the Injunction

After the injunction, the Defendants did not change course to obey the order (or, the law of warrantless arrests, including the Fourth Amendment, in general), but instead, ordered up *more* arrests and *more* deportations based on those arrests. But this time the implementation of their unlawful policy or practice of Arrest First, Justify Later was supposed to stay out of the press. See Counsel Declaration, Ex. I.

According to publicly reported data, released through the Deportation Data Project from FOIA litigation, Defendants made the following number of arrests in each month of 2026 for which data is available: 109 in January; 41 in February; 30 in March; 64 in April; 83 in May; 186 in June; and 174 in July. Declaration of Jordan Cummings In Support of Motion to Enforce ¶ 4 & Ex. 1. Data maintained by the Portland Immigrant Rights Coalition (“PIRC”), a nonprofit organization that operates a statewide hotline for immigration arrests and detentions in Oregon, is consistent with the ICE data and provides additional context for Defendants’ actions in the District since the injunction, including August 2026. In August, PIRC received reports of 92 arrests. See Declaration

¹ On March 6, 2026, Plaintiffs served a Defendants with a request for documentation for thirteen individual arrests which were performed between October 30, 2025, and January 28, 2026. Defendants declined to produce any documentation on March 11, 2026.

of Alyssa Walker Keller (“Walker Decl.”) at ¶¶ 8, 10; ECF 88 at 5. The context of the arrests indicate that a large number of reported arrests arise from ICE-initiated traffic stops that occur on the street or in a public parking lot. *Id.* at ¶ 9.

Individuals who have been arrested by ICE report that agents behave inconsistently with the demands of the preliminary injunction because arrests happened before a flight risk finding. For example, CJVM explains that ICE agents boxed his car into a parking space as he arrived to work in Medford, Oregon; the agents immediately broke his window and placed him in handcuffs. After running his information and face picture and discovering he had an active asylum application and was in full compliance with his release terms, the agents apologized and let him go. *See* Declaration of CJVM (“CJVM Decl.”) at ¶¶ 5-11. Similarly, HFMJ was arrested along with his coworker when parking at work. Agents surrounded his car, pulled him and his coworker out of the vehicle, handcuffed them, and seized their belongings. It was not until they were at the ICE office that an agent pulled their IDs and identified them for the first time. *See* Declaration of HFMJ (“HFMJ” Decl.”) at ¶¶ 4-6.

Likewise, JCCV was arrested after leaving the parking lot of a Walmart store at the beginning of his workday in Hood River, Oregon. Declaration of JCCV (“JCCV Decl.”) at ¶ 3. Defendants’ agents swarmed his car, arrested him, and took him to a separate location where, for the first time, they asked his name, took his wallet and his fingerprints, and then transported him to Portland. *Id.* at ¶¶ 4-7. Across the state, HDGH was arrested along with his friend near Ashland, Oregon, after they had stopped for fishing supplies at a Walmart store. Declaration of HDGH (“HDGH Decl.”) at ¶¶ 4-5. Just like in other incidents, Defendants’ agents boxed their car, opened the car door, pulled them out, patted them down, took their wallets, and handcuffed them before

even asking them any questions. *Id.* at ¶¶ 6-7. It was not until they were taken to the Medford ICE office that they were identified. *Id.* at 9.

ARGUMENT

Under this Court’s inherent power to enforce its orders and Federal Rule of Civil Procedure 62(d), the Court should order the enforcement of the injunction against Defendants in order to protect the members of the Unassessed Escape Risk subclass who are being harmed every day by the Defendants. Defendants have not complied as discussed below. Thus, Plaintiffs now move the Court to enforce its injunction.

I. LEGAL STANDARD

This Court has equitable authority to enforce its own orders. *U.S. v. Yacoubian*, 24 F.3d 1, 5 (9th Cir. 1994) (citing *Shillitani v. United States*, 384 U.S. 364, 370 (1966)). An exercise of this authority is warranted here, where a party has violated a “specific and definite order of the court.” *F.T.C. v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir. 1999) (quoting *Stone v. City & Cnty. Of San Francisco*, 968 F.2d 850, 856 n.9 (9th Cir. 1992)). *Cf. Inst. of Cetacean Rsch. v. Sea Shepherd Conservation Soc.*, 774 F.3d 935, 945 (9th Cir. 2014), *cert. denied*, 576 U.S. 1005 (2015) (moving party must demonstrate violation of “the court’s order by clear and convincing evidence” to warrant civil contempt) (internal quotation marks omitted).

“A district court has discretion to clarify the scope of an injunction” in response to a motion to enforce. *Smagin v. Yegiazaryan*, 2020 WL 1652347, at *3 (C.D. Cal. Apr. 1, 2020); *see also City & Cnty. of S.F. v. Trump*, 2025 WL 1358492, at *3 (N.D. Cal. May 9, 2025) (clarifying injunction). A district court likewise has discretion to modify a previously issued injunction if it is necessary to “achieve the purposes” of the injunction, *United States v. United Shoe Mach. Corp.*, 391 U.S. 244, 249, 251 (1968), or if there has been an intervening change in fact or law, *A&M Recs. Inc. v.*

Napster, Inc., 284 F.3d 1091, 1098 (9th Cir. 2002). The Court retains jurisdiction to enforce and modify its injunctions during the pendency of an interlocutory appeal. *Id.* at 1099; Fed. R. Civ. P. 62(c)(1).

II. DEFENDANTS ARE VIOLATING THE COURT’S PRELIMINARY INJUNCTION.

Defendants are routinely violating the injunction in at least five ways. First, Defendants are assessing flight risk *after* making a warrantless arrest. Second, [REDACTED]. Third, [REDACTED]. Fourth, Defendants are failing to report all warrantless arrests within the District. Fifth, Defendants are withholding documentation and information on which they are required to report.

A. Defendants are assessing flight-risk after making a warrantless arrest in violation of the injunction.

The terms of the injunction require that Defendants assess flight-risk prior to making a warrantless arrest. ECF 88 at 45 (“Probable cause determinations must be based on facts particularized to that person and known *prior to* the arrest.”) (emphasis in original). Instead, Defendants’ own compliance reporting demonstrates [REDACTED].

For example, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Defendants are making arrests without knowing the individual's identity, let alone having made any flight risk finding. For example, after JCCV left a Walmart parking lot, five cars swarmed and stopped him; immediately after he complied with an order to get out of his car, Defendants' agents handcuffed and took him to another location, where the agents asked his name for the first time. JCCV Decl. at ¶¶ 3-6. JCCV believes the agents might have been looking for his brother, whose car matches the car described in paperwork that JCCV was later served. *Id.* at 10. CJVM details a similar arrest, where he was arrested in a public parking lot before work. CJVM Decl. at ¶ 6. Defendants' agents broke his car window almost immediately, pulled him out of the car, and handcuffed him. *Id.* at 7. After the agents took his wallet to check his name and took a picture of his face to "investigate" him, the agents saw he had a pending asylum case and decided to let him go. *Id.* at ¶¶ 10-11.

Similarly, ICE agents arrested HDGH and his friend in a public parking lot; HDGH noticed a vehicle was following them after they left a Walmart. HDGH Decl. at ¶¶ 4-5. HDGH was a passenger in the car; the agents asked him no questions before ordering him out of the car and immediately handcuffing him. *Id.* at 7. It was only after they restrained him that Defendants' agents took his wallet and phone, finding his identification cards. *Id.*

[REDACTED]

[REDACTED]

[REDACTED]

B. [REDACTED]

The terms of the injunction require that Defendants and their agents not enforce their policy and practice of making warrantless civil immigration arrests in the District of Oregon without a pre-arrest individualized determination of probable cause of flight risk. *See* ECF 80 at 2-4 (describing standard to be applied consistent with the statute).

[REDACTED]

The Lyons memo is a five-page instruction to all ICE personnel nationwide outlining the scope of the civil immigration arrest authority for arrests with and without administrative warrants. ECF 77-1. To make a warrantless arrest, the memo instructs officers that there must be “probable cause to believe that: (1) the subject is a removable [noncitizen]; and (2) the subject is ‘likely to escape’ before a warrant for his arrest can be obtained.” *Id.* at 3. (cleaned up). The memorandum

broke with agency practice and defined “likely to escape” as a determination by the immigration officer that the individual is unlikely to be located at the scene of the encounter or another clearly identifiable location once an administrative warrant is obtained. *Id.* The memo sets forth seven non-exhaustive factors to consider whether an individual is “likely to remain at the scene of the encounter.” The memo emphasized that “likelihood of escape” is an “on-the-spot determination” and is “narrowly focused on determining whether the person is likely to escape before the officer can practically obtain an administrative warrant, while in the field.” *Id.* at 5.

The Lyons memo’s definition of “escape risk” instructs agents to make warrantless arrests not permitted by the injunction. *See Escobar Molina v. U.S. Dep’t of Homeland Sec.*, 832 F. Supp. 3d 22, 50 (D.D.C. 2026) (holding that the Lyons memo’s flawed definition of escape risk and failure to instruct officers to consider community ties violated the preliminary injunction order issued there). The memo departs from the statutory text and its historical understanding by portraying arrests as a routine method of immigration enforcement. Nothing in the statute or case law supports an approach that treats physical mobility at the moment of contact as sufficient to meet the probable cause standard. *See, e.g., id.* at 43 (holding that the likelihood of being found elsewhere, such as a stable home or long-standing employment place, must also be considered).

Immigration authorities have long accepted the principle that a person’s long-term connection to the area in which they live often precludes probable cause for escape risk. The agency established “criteria for determining a likelihood of escape” that included, among other things, “lack of ties to the community such as family, home, or a job.” *Pearl Meadows Mushroom Farm, Inc. v. Nelson*, 723 F. Supp. 432, 449 (N.D. Cal. 1989). In *Pearl Meadows*, the individuals who were arrested without warrants did not fit the agency’s own escape risk criteria because they “were long-term employees, had roots in the community, and family with proper immigration

status[.]” and several of them “were involved in pending immigration proceedings and had attorney representation.” *Id.* There is no support for the Lyons memo’s illogical redefinition of escape risk to mean whether a person will remain at a particular location at a particular moment in time. Indeed, the Lyons memo omits community ties entirely from the factors officers are to consider.

[REDACTED]

The Lyons memo does not properly instruct immigration enforcement officers in this District to comply with the preliminary injunction.

C. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. Defendants are under-reporting warrantless arrests occurring within the District in violation of the injunction.

The terms of the injunction require that, every 30 days, Defendants report the facts and circumstances surrounding warrantless civil immigration arrests conducted by any Defendant or their agent in the District of Oregon. *See* ECF 80 at 3. If Plaintiffs' counsel requests documentation regarding specific individual warrantless arrests, Defendants must provide that documentation no later than seven days after the request. *Id.*

Defendants are under-reporting warrantless arrests in at least two ways. First, Defendants are making warrantless arrests in the District but are not proactively reporting them as required. Plaintiffs' counsel have received numerous reports of warrantless arrests during the pendency of the injunction from organizations, attorneys and the public at large. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Take the example of the arrest of JCCV. *See generally* JCCV Decl. Ex. H at 17-18. JCCV was in a Walmart parking lot in Hood River waiting to pick up delivery orders when he noticed he was being followed. JCCV Decl. at ¶ 3. After he drove away, Defendants' agents swarmed his car and stopped him, immediately handcuffing and shackling him once he got out of his car. *Id.* at ¶¶ 4-5. Defendants then drove him to a different location before questioned him, patting him down, searching him, and taking his fingerprints. *Id.* at ¶ 6. JCCV told the agents he had an active immigration case, but they did not care and continued to transport him to Portland, where they pressured him into signing a document that he did not understand. *Id.* at ¶¶ 6-8. It was not until JCCV arrived to the detention center in Tacoma, Washington, that he was provided with documentation regarding his arrest; he noticed that it contained incorrect information about the car he was driving, leading to believe he was not the intended target of the stop. *Id.* at ¶ 10-11.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

E.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

III. This Court should order Defendants to Comply with its Order

Plaintiffs' requested relief aims to ensure compliance with the Court's PI. The Court has equitable authority to secure compliance with its Order. *See Yacoubian*, 24 F. 3d at 5; ECF 80 at 2-3; ECF 88 at 48-49. As Defendants have been consistently defying the Court's order, Plaintiffs request the Court enforce its order against the Defendants by:

- 1) Prohibiting reliance on the Lyons memo because it violates the terms of the injunction;
- 2) Clarifying that Defendants have a continuing obligation to instruct on the terms of the Preliminary Injunction order to their officers, employees, and contracts who have responsibility related to its content;
- 3) Requiring Defendants to re-produce all previous compliance reporting without redaction and produce, for every reporting period, the corresponding Forms I-200, all documents served on the arrested individual, and body camera footage of the arrest (or affirmatively state under oath that no such additional documentation or body camera footage exists), and produce all on-going compliance reporting in the same manner;
- 4) Clarifying that Defendants must produce the same documentation described in (3) within seven days when Plaintiffs make an individual request for information under the terms of the injunction.

CONCLUSION

For the foregoing reasons, Plaintiffs request that the Court grant this motion to enforce.

Dated: September 4, 2026

/s/ Nelly Garcia Orjuela

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