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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' REPLY IN SUPPORT OF MOTION TO ENFORCE PRELIMINARY INJUNCTION

ORAL ARGUMENT REQUESTED

HEARING September 18, 2026

INTRODUCTION

From February 5, 2026 through July 31, 2026, Defendants arrested approximately 570 individuals within the District of Oregon. ECF 134 at 2; Declaration of Amber Qureshi. Defendants assert that they have provided class counsel a complete documentation of all warrantless arrests executed in that same period in the District of Oregon. ECF 144 at 9. [redacted]

But there is more. [redacted]

And it gets worse. Every single report produced by Defendants reveals that the arresting agents did not make the flight risk finding until after the arrest was complete. ECF 133, Exs. A-H. In their documentation, there is no segregated narrative describing the pre-arrest flight risk determination versus the post-arrest flight risk determination. *Id*. The injunction specifically provides that information acquired pre- and post- arrest is to be segregated. ECF 80 at 3. Defendants' own I-213s confirm they are violating the Court's injunction.

Defendants respond that nothing is amiss. ECF 144 at 9. And, even if they are violating the Court's order, there is nothing the Court can do about it. *Id*. at 11-13. Specifically, Defendants assert that the Court must apply a clear and convincing standard to adjudge their compliance with the preliminary injunction and under that standard, Plaintiffs have not met their burden to prove that there has been any violation of the injunction at all. *Id.* at 5. Second, they argue that the Lyons memo is consistent with the terms of the preliminary injunction. *Id*. at 7. Third, they argue that the remedies Plaintiffs seek are beyond the power of the district court to grant because Plaintiffs are seeking a broad modification of the injunction. *Id.* at 11-13.

The Court should grant the motion to enforce because the Defendants' arguments are wrong. Plaintiffs are seeking an order to enforce the plain terms of the injunction, which the Defendants have casually and intentionally violated. The Court has jurisdiction to enforce or clarify (or modify) the injunction notwithstanding the pending interlocutory appeal. The Defendants assert the wrong burden of proof, but it does not matter because the Plaintiffs have easily satisfied the standard given that the evidence shows [redacted]. Finally, even if some aspects of the injunction require clarification, clarification is required only because the Defendants have uniformly disregarded the rule of law and failed to obey this Court's injunction.

ARGUMENT

I. The Court has jurisdiction to enforce the injunction.

This Court has jurisdiction to enforce the terms of the injunction and to clarify the injunction to ensure compliance. The pending appeal does not divest the Court of its inherent authority in this regard. *A&M Records, Inc. v. Napster, Inc.*, 284 F.3d 1091, 1099 (9th Cir. 2002)

("While a preliminary injunction is pending on appeal, . . . a district court [may] continue supervising compliance with the injunction.") (citing Fed. R. Civ. P. 62(c)).

A. The preponderance of the evidence standard applies to non-coercive motions to enforce.

The Defendants' position that clear and convincing evidence is the standard is meritless. On a motion to enforce, the Plaintiffs have the burden to demonstrate by a preponderance of the evidence that Defendants are violating the court's injunction. *E.M.D. Sales, Inc. v. Carrera*, 604 U.S. 45, 47 (2025) ("The usual standard of proof in civil litigation is preponderance of the evidence.") The Supreme Court has stated that a more demanding standard, such as clear and convincing evidence, applies in three main circumstances: (1) where a statute requires a heightened standard of proof; (2) where the Constitution mandates a heightened standard of proof; and (3) in rare circumstances involving coercive Government action. *Id*. at 50-51. Here, Plaintiffs seek to enforce the plain terms of the injunction, and if absolutely necessary, to clarify the terms of the injunction for its enforcement. None of the factors that alter the standard of proof in civil litigation apply. Notably, at this stage of the litigation—despite Defendants' intransigence —the Plaintiffs are not seeking sanctions or a finding a civil contempt.

The case Defendants cite for the proposition that the clear and convincing evidentiary standard applies is inapplicable here because the Plaintiffs are not seeking sanctions (yet) or asking the Court to enter an order of civil contempt. ECF 144 at 3. The case to which Defendants cite, *Kia Am., Inc. v. Rally Auto Grp., Inc.*, is inapposite because the Ninth Circuit case from which *Kia* adopted the evidentiary standard, *F.T.C. v. Affordable Media*, involved a civil contempt hearing and not a motion to enforce. *See* 179 F.3d 1228, 1239 (9th Cir. 1999).

B. The Court can enforce the plain terms of the injunction or clarify the terms when necessary.

Defendants cannot dispute that this Court has the power to enforce the plain terms of the injunction or, where necessary, clarify the scope. Rather, Defendants argue that Plaintiffs request broad modification of the preliminary injunction. ECF 144 at 11-13. This characterization misconstrues Plaintiffs' motion and is baseless.

Plaintiffs' request that this Court prohibit Defendants' reliance on the Lyons memo is a request to apply the plain terms of the relief provided by the injunction, not a modification. Even though the plain terms of the injunction prohibit it, Defendants rely on the Lyons memo to justify their continued implementation of their unlawful arrest first, justify later policy in Oregon. ECF 144 at 6-11. However, as laid out in Plaintiffs' Motion to Enforce, ECF 132, and explained more fully below, the Lyons memo is wholly inconsistent with this Court's preliminary injunction. The Court has jurisdiction to enforce the injunction by examining whether the Lyons memo in fact complies with the preliminary injunction and, if the Court concludes that it does not, instructing that Defendants' reliance on the Lyons memo constitutes a violation of the injunction. *See, e.g.*, *Escobar Molina v. U.S. Dep't of Homeland Sec.*, 832 F. Supp.3d 22, 50 (D.D.C. 2026) (finding "the Lyons Memo's flawed definition of escape risk. . . and failure to instruct officers to consider communities ties" violated the court's preliminary injunction); *Sequen v. Albarran*, 814 F. Supp. 3d 1068, 1072 (N.D. Cal. 2025) (explaining that the court clarified, and did not modify, a preliminary injunction when it instructed that the preliminary injunction applied to an entire ICE building and not one specific floor because the court "neither substantively modified . . . nor granted new relief"). By requesting that the Court prohibit Defendants from relying on the Lyons memo, Plaintiffs do not move to modify the conduct prohibited by the preliminary injunction. Instead, Plaintiffs request this Court enforce the preliminary injunction and instruct Defendants that implementing the Lyon's memo's flawed legal standard is a violation.

Plaintiffs' request that this Court enforce the plain terms of the injunction by instructing Defendants that they have a continuing obligation to transmit the terms of the preliminary injunction order is not a request for modification. Defendants' reading of the injunction is incorrect. By its plain terms, the preliminary injunction orders the Defendants to *promptly* transmit the Order to a set of relevant individuals responsible for enforcing immigration law in the District of Oregon. ECF 88 at 49. Nowhere does the order say that it should *only* be transmitted *once* at the time of its entry in February 2026. ECF 88 at 49. That reading is not only atextual but also nonsensical: the Defendants cannot comply with the preliminary injunction if their officers, employees, and contractors do not know or understand what the injunction says. If the agents working in Oregon do not know about the injunction, then they will not abide by it— but abide by it, they must. *See Inst. of Cetacean Rsch. v. Sea Shepard Conserv. Soc'y*, 774 F.3d 935, 949 (9th Cir. 2014) ("In deciding whether an injunction has been violated it is proper to observe the objects for which the relief was granted and to find a breach of the decree in a violation of the spirit of the injunction, even though its strict letter may not have been disregarded.") (quoting *John B. Stetson Co. v. Stephen L. Stetson Co.*, 128 F.2d 981, 983 (2d Cir. 1942)).

Plaintiffs' request for the Court to order Defendants to reproduce all previous compliance reporting without redactions and to continue to produce all ongoing compliance reporting in the same manner is a request to enforce the plain terms of the injunction, not a modification. The injunction's plain terms require reporting of specific compliance information. ECF 88 at 49. Nowhere does the order provide that the Defendants may redact information from the compliance reporting, [redacted].

Plaintiffs' request that the Court order Defendants to produce compliance reporting that includes all the documentation that may contain the civil immigration arrest narrative is a request

to enforce the plain terms of the injunction, not a modification. The Court clearly ordered Defendants to "report, every thirty days" on warrantless civil immigration arrests in the District, including "document[ation] [of] the facts and circumstances surrounding the warrantless civil immigration arrest in narrative form." ECF 88 at 49. The Defendants have sought to limit their reporting to only providing the DHS Form I-213. ECF 144 at 10. But that is not what the injunction says. ECF 88 at 49. The injunction states plainly that the Defendants are to segregate and record specific information and provide the documentation of the narrative for the pre- and post-arrest determinations. *Id.* The motion to enforce does not seek to expand that relief because compliance would not require Defendants to record anything more than what the injunction already provides. ECF 132 at 17-18. Plaintiffs are seeking the "documentation" in which all of the narrative resides. As explained in more detail below, the "documentation" could include a range of things such as the I-200s, the documents served on the arrested individual, and Body Worn Camera footage. *See infra*. Plaintiffs are not asking that the Defendants create new records; only that they provide reporting on compliance using records already in existence (or state under oath that such records do not exist).[1]

The Plaintiffs' request that the Defendants provide compliance reporting (to include the documentation above) when Plaintiffs make a good faith assertion that an arrest was warrantless

[1] After the Court entered its order granting the injunction, there was a discussion about the meaning of the term "documentation." Tr. of Feb. 4, 2026 at 201-211. Plaintiffs maintained that "documentation" included the places where the relevant narrative information was kept, including the I-213. *Id.* at 210. The Court indicated that the I-213 would, initially, be the default method for compliance reporting but stated that "if [the I-213s] becomes a problem…if there is some fundamental misunderstanding about the document that records likelihood of escape, then I'll ask that counsel confer and then come back to me so we modify the order appropriately." It is Plaintiffs' position that no modification is necessary because the Court was relying on Defendants' good faith to produce the relevant information in the I-213s, but here, there has been no showing of good faith. Therefore, the plain meaning of "documentation" should control and no modification is necessary.

is also a request to enforce the plain terms of the injunction; but, if necessary, the court may clarify the injunction's compliance requirements in this regard.

Therefore, the Court has jurisdiction to enforce the plain terms of the injunction and properly clarify, if necessary, how the Defendants will provide compliance reporting.

C. The Court can clarify (or modify) the injunction pending appeal to protect the status quo.

The Court has jurisdiction to clarify, and if necessary, modify, the junction pending appeal to protect the status quo. *In re Delta Smelt Consol. Cases*, No. 1:09-CV-00407 OWW, 2011 WL 2559021, at *4 (E.D. Cal. June 24, 2011). The purpose of the Court's preliminary injunction was to bring a swift halt to Defendants' policy and practice of warrantless arrests without the statutorily required pre-arrest individualized determination of escape risk. ECF 88 at 48-50. To effectuate this purpose, the Court ordered regular compliance reporting including narrative documentation, of the facts and circumstances surrounding warrantless arrests. *Id.* at 49.

The compliance reporting requirement has not achieved the purpose of the injunction. As laid out in Plaintiffs' Motion to Enforce, Defendants are routinely violating the preliminary injunction by failing to provide the compliance reporting that documents the facts and circumstances surrounding warrantless arrests, failing to report all warrantless arrests, and withholding documentation and information on which they are required to report, among other violations. ECF 132 at 9–16. Without these documents, it is impossible to ensure compliance with the preliminary injunction. Therefore, should any clarification be necessary to uphold the plain terms of the relief, the Court may clarify that additional documentation, including Body Worn Camera footage, Forms I-200, and all documents served on the arrested individual, is needed to ensure compliance. Without this, the injunction cannot serve its purpose of enjoining Defendants' warrantless arrest policy.

The Defendants rely on *Salazar v. Buono*, 559 U.S. 700 (2010), to suggest that Plaintiffs' request for body camera footage and additional documents is not necessary to achieve the injunction's purpose and instead grants new relief. But this case is not *Salazar.* In *Salazar*, the district court granted an injunction based on allegedly objectionable government conduct and then modified the injunction to enjoin conduct that was allegedly objectionable for an entirely different reason. *Id.* at 718–20. There, a statute had been enacted since the granting of the first injunction, which was a substantial change that the lower court did not consider. *Id.* By contrast, here, Plaintiffs' request for complete reporting aims to ensure achievement of the original purpose of the injunction and does not seek to remedy an independent harm. Thus, *Salazar* is not instructive.

Defendants concede that Federal Rule of Civil Procedure 62(d), and caselaw construing it, permit a trial court to "make orders appropriate to preserve the status quo", and thus to clarify, or modify, the terms of a preliminary injunction. ECF 144 at 13, *citing McClatchy Newspapers v. Cent. Valley Typographical Union No. 46*, 686 F.2d 731, 734 (9th Cir. 1982).[2] And they must. Voluminous caselaw recognizes this authority in the context of a motion to enforce. Indeed, no court has been persuaded "that, absent a stay, a district court is without jurisdiction to enforce its orders pending appeal." *In re Grand Jury Subpoena No. 7409*, 2018 WL 8334866, at *2 (D.D.C. Oct. 5, 2018), *aff'd sub nom. In re Grand Jury Subpoena*, 749 F. App'x 1 (D.C. Cir. 2018); *see also id.* (collecting cases); *Sergeeva v. Tripleton Int'l Ltd.*, 834 F.3d 1194, 1201–02 (11th Cir. 2016) ("Absent entry of a stay on appeal . . . the District Court retained jurisdiction to enforce its orders."); *Williamson v. Recovery Ltd. P'ship*, 731 F.3d 608, 626 (6th Cir. 2013) (district court "retains jurisdiction to enforce its judgment" following a notice of appeal).

[2] Defendants and the cases they cite reference Fed. R. Civ. P. 62(c), however "Rule 62 was reorganized in 2018, and the pertinent subsection is now 62(d)." *Thakur v. Trump*, 795 F. Supp. 3d 1168, 1179 (N.D. Cal. 2025).

In an effort to skirt Rule 62, Defendants point to *Coinbase Inc. v. Bielski*, 599 U.S. 736 (2023). ECF 144 at 12-13. But *Coinbase* is inapposite. *Coinbase* answered the question of whether a district court must stay its proceedings during the pendency of an interlocutory appeal under the Federal Arbitration Act, 9 U.S.C. §16(a). It did not answer the question of whether a court retained authority to clarify, or modify, the terms of a preliminary injunction to ensure compliance. And other caselaw clarifies that it does. *See, e.g.*, *Sequen*, 814 F. Supp. at 1072 n. 2 ("[T]he Court notes that it retains jurisdiction to clarify and enforce the preliminary injunction and to modify it pending appeal as needed to preserve the status quo"); *see also Nat. Res. Def. Council, Inc. v. Sw. Marine Inc.* 242 F.3d 1163, 1166-69 (9th Cir. 2001) (during the pendency of an appeal of a preliminary injunction, District Court had authority to expand the scope of water testing the injunction required an accused polluter to perform). Therefore, this Court has jurisdiction to order the relief sought pursuant to the Court's inherent authority to enforce its orders and Federal Rule of Civil Procedure 62.

II. The Court should order remedies tailored to protecting the status quo and the terms of the injunction.

Plaintiffs seek tailored remedies for each of the violations of the injunction. The remedies are specific to the different categories of violations. Specifically, Plaintiffs request this Court: (1) prohibit reliance on the Lyons memo; (2) clarify Defendant's continuing obligation to transmit the preliminary injunction; (3) require Defendants to produce Body Worn Camera footage in their compliance reporting, (4) require Defendants to include I-200s and documents served on arrested individual in compliance reporting; and (5) require Defendants' compliance reporting without redaction.

A. Prohibiting reliance on the Lyons memo.

The Court should enforce the terms of the injunction to prohibit the Defendants from relying on the Lyons memo because it is inconsistent with the already-ordered relief. The preliminary injunction requires that agents apply a set of factors in making the pre-arrest determination of flight risk. ECF 88 at 44-45. The preliminary injunction drew from a large body of case law and agency policy addressing the "likelihood to escape" prong of 8 U.S.C. § 1357(a)(2) to narrowly interpret the standard. *Id.* The standard requires an analysis of 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, factors taken from long-standing agency policy and recently articulated and re-articulated in a series of Broadcast Messages.

Defendants argue that the injunction did not, when issued, prohibit reliance on the Lyons memo. ECF 144 at 8-9. But this is wrong. The Lyons memo was issued on January 28, 2026, less than one week before the preliminary injunction hearing in this case; Defendants introduced it in this case in an attempt to moot the case. ECF 88 at 43. Defendants argued that the memo merely "serves as a reminder" of existing authority. *Id.* The Court disagreed and explained that it "has no confidence that [Defendants] will cease the unlawful practices, even, if not especially, when they insist with a straight face they are complying with the law." *Id.* at 44. The Court had no occasion to decide whether the standard articulated in the Lyons memo violated the law.

[redacted] Defendants agree that the Lyons memo articulates a different standard than the preliminary injunction. ECF 144 at 6 (arguing that "flight risk" and "likelihood of escape" are distinct standards). The Lyons memo "waters down the flight risk or 'likelihood of escape' analysis reflected in the Broadcast Statements." *Ramirez Ovando v. Mullin*, 1:25-cv-03183-RBJ,

2026 WL 2641058, *15 (D. Col. May 12, 2026). The Lyons memo redefines the likelihood to escape standard into a "nullity." *Id.*

Here, the Lyons memo conflicts with the preliminary injunction standard in at least two irreconcilable respects. First, the memo indicates that an agent may find the "likelihood of escape" standard is satisfied based solely on a subject's ability and means to promptly depart the scene of the encounter." *Id*. at 16 (citing Lyons memo at 4-5). This is inconsistent with the preliminary injunction because a subject's availability and means to promptly depart the scene of the encounter may not "overwhelm and supplant" the probable cause analysis that the court ordered Defendants to perform and document "such that it establishes a likelihood of escape in every instance." *See id*.; *Escobar Molina v. U.S. Dep't of Homeland Sec*., 832 F. Supp. 3d 22, 42-43 (D.D.C. 2026) (finding that the Lyons memo was inconsistent with the district court's determination that a noncitizen's presence in a vehicle was insufficient to find escape risk). Second, the Lyons memo entirely omits community ties as a factor that agents should consider in evaluating the likelihood of escape. "This omission seems to flow directly from the memo's redefinition of 'likelihood of escape' to concern only whether the noncitizen will remain at the scene of the encounter until a warrant can be obtained." *Ramirez Ovando* at *16.

Accordingly, the Court has the authority and should instruct the Defendants that reliance on the Lyons memo violates the injunction.

B. Clarifying the continuing obligation to transmit the preliminary injunction.

The Court should clarify that the Defendants have a continuing obligation "to transmit [the Preliminary Injunction] to Defendants' officers, employees, officers, and contractors who have responsibilities related to the subject matter of this injunction" because it is required by the injunction and will aid in remedying the ongoing violations of the injunction. ECF 80 at 3.

Defendants object that this clarification would "impose new obligations on Defendants[.]" ECF 144 at 12. But that is incorrect. The Defendants are required to comply with the preliminary injunction. The injunction ordered transmission of the order to notify the agents in the field in the District of Oregon as to the proper standard for warrantless arrests and how to document them. It is nearly impossible to read the preliminary injunction as not requiring all agents operating in Oregon to be aware of its contents. Defendants have not made their agents aware of the proper standard to apply to comply with the preliminary injunction. Accordingly, it is appropriate to enforce the plain terms of the injunction in this regard.

C. Requiring Body Worn Camera footage in compliance reporting.

The Court should order the Defendants to include Body Worn Camera (BWC) footage of warrantless arrests in their monthly compliance reporting because it is part of the documentation required in compliance reporting and its inclusion will remedy at least three of the Defendants' persistent violations of the injunction. The Court should order the Defendants to produce the same when Plaintiffs make a good faith request that an arrest was without a warrant.

The inclusion of BWC footage in the compliance reporting aids in resolving three persistent compliance problems: (1) the Defendants persistent failure to make a pre-arrest flight risk determination; (2) the Defendants' persistent failure to separately document their pre-arrest and post-arrest flight risk assessments; and (3) whether the so-called "field warrant" arrests are in fact arrests made without a warrant with the warrant obtained thereafter.

Defendants argue that requiring BWC footage "could be especially burdensome on Defendants" and "would punish Defendants for conducting arrests with warrants instead of arrests without warrants" and that it would give Plaintiffs "unchecked policing powers over immigration enforcement in Oregon." ECF 144 at 10-11. None of these statements are true.

There is no discernable burden on the Defendants if the Court requires inclusion of BWC footage in the compliance reporting. The Defendants publicly report that all or nearly all agents engaged in operations are equipped with BWC. *See* Ximena Bustillo, *ICE says it has enough body cameras now, after series of deadly shootings*, NPR (Sept. 1, 2026), https://www.npr.org/2026/09/01/g-s1-141408/ice-body-cameras-immigration (last visited Sept. 15, 2026). The agency has a detailed policy describing how to use, store, and archive BWC footage. *See* ICE Directive 19010.3 Body Worn Camera (Feb. 19, 2025), https://www.aila.org/library/ice-issues-guidance-on-use-of-body-worn-cameras (last visited Sept. 15, 2026). The policy acknowledges that the footage is for the purpose of "promot[ing] public trust; enhance[ing] service to the community by accurately documenting events, actions, conditions, and statements made by encountered individuals; and increas[ing] officer and public safety, accountability, and transparency." *Id.* at 1. The footage is routinely used in court proceedings. *Id.* at 16 n.26. In fact, BWC footage has been used in this very proceeding. *E.g.,* ECF 88 at 9-10. Likewise, if there is no BWC footage of a warrantless arrest (or an arrest for which Plaintiffs make a good faith request), Defendants can simply state so under oath.

Defendants' implied assertion that Plaintiffs would abuse the compliance reporting requirements lacks any foundation. The injunction has been in place for seven months, in which Defendants' agents have made over 500 arrests in the District of Oregon; Plaintiffs, in good faith, have sought compliance reporting on April 20, 2026, May 18, 2026, July 10, 2026 and August 21, 2026 for only 39 individuals. [redacted] The course of conduct in this case clearly shows that Plaintiffs have thoughtfully and in good faith invoked the preliminary injunction's compliance reporting.

The rest of Defendants' argument is just a hyperbolic straw man. The purpose of the compliance reporting is to verify that Defendants are following the injunction in making warrantless arrests in the District of Oregon. ECF 88 at 49. No one disputes that the law allows Defendants to make warrantless arrests and, likewise, make arrests with a warrant. *See* 8 U.S.C. §§ 1226(a), 1357(a)(2). The law prefers that arrests are made with a warrant, which is why it the warrantless arrest authority at 8 U.S.C. § 1357(a)(2) is narrow. *See* sources cited *infra* note 3; *United States v. Cervantes*, 703 F.3d 1135, 1141 (9th Cir. 2012). Requiring BWC footage in compliance reporting when Plaintiffs make a good-faith request for a specific arrest that Defendants dispute was warrantless does not and could never "punish" the Defendants. The compliance reporting will simply show whether the Defendants complied with the injunction or not.

D. Requiring I-200s and documents served on arrested individual in compliance reporting.

The Court should order the Defendants to include I-200s and documents served on arrested individuals in monthly compliance reporting and in response to Plaintiffs' good-faith requests because the plain terms of the injunction require it and it will remedy at least two of the Defendants' persistent violations of the injunction: (1) the Defendants' persistent underreporting of warrantless arrests; and, (2) the Defendants' reliance on "field warrants" as a means to avoid compliance with the injunction.

A field-issued I-200 is not a "warrant" within the meaning of the Immigration and Nationality Act (INA). A field warrant is an I-200 issued while an agent is in the field. *Ramirez Ovando*, 2026 WL 2641058, at *8. "When an officer encounters a collateral in the field and determines they are unlawfully present, they will contact a supervisor or acting supervisor—who may be on scene, at the office, or elsewhere—and request a warrant" *Id.*; *Castañon Nava v. DHS*,

806 F.Supp. 3d 823, 848 (N.D. Ill. 2025) (describing field warrants). The statute and regulations provide that agents may issue a DHS Form I-200 *only* at the same time, or after, issuing a DHS Notice to Appear (NTA). 8 U.S.C. § 1226(a); 8 C.F.R. 236.1(b).[3] Without a contemporaneously-issued NTA, an I-200 issued in thea field is not a "warrant" for statutory purposes, rendering any such arrest warrantless.

[redacted].

Defendants' objection to including this type of information in the compliance reporting fails for the same reasons explained above.

E. Requiring compliance reporting without redaction.

The Court should order Defendants to produce compliance reporting without redactions because the Defendants have *never* proffered any reason for redaction, and the plain language of the injunction does not permit redaction.

CONCLUSION

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

[3] It is Plaintiffs' position that Defendants have no constitutionally adequate process by which an application for and the issuance of a warrant for arrest is undertaken. *See* Lindsay Nash, *Inventing Deportation Arrests*, 121 Mich. L. Rev. 1301, 1310-1317 (2023). The Defendants' position appears to be that the difference between a warrantless arrest and an arrest with a warrant is the mere existence of a DHS Form I-200. But that is incorrect. In the INA, Congress has carefully delineated its use of the word "warrant" to mean a warrant issued on a showing of probable cause through a constitutionally sufficient proceeding. *See* 8 U.S.C. § 1357(a) (describing warrantless arrest as distinct from an arrest by warrant). The policy at issue in this case, however, has unlawfully erased the statutory distinction between warrant and warrantless. The existence of the DHS Form I-200 is not the dispositive marker of an arrest by warrant.

Dated: September 15, 2026 /s/ *Stephen W Manning*

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