IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

MOISES JAVIER AGUILAR PERALTA, et al., Plaintiffs, v. DEPARTMENT OF HOMELAND SECURITY, et al., Defendants.	No.:2:26-cv-337 District Judge Morrison Magistrate Judge Vascura

PLAINTIFFS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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PROPOSED FINDINGS OF FACT

I. Defendants Have a Policy and Practice of Arresting Individuals Without Warrants or Probable Cause in Violation of the INA, DHS Regulations, and the *Accardi* Doctrine

A. CBP/Border Patrol Policy

1. Steven Vorholt is a Watch Commander at the Sandusky Bay Station of the U.S. Border Patrol, which oversees Border Patrol activities throughout Ohio. Tr. 131:10–132:3, 132:10–12, 133:14–17; Deposition of Steven Vorholt ("Vorholt Dep."), ECF No. 75 at 12:4–13:3, 21:11–18; Trial Ex. P-26, Vorholt Decl., ¶ 3.The Border Patrol is a unit of Customs and Border Protection (CBP) that enforces immigration laws. Trial Ex. P-26, Vorholt Decl., ¶ 1.

2. Cmdr. Vorholt is a second-line supervisor who oversees and evaluates the field operations of Border Patrol agents and their supervisors, including their arrest procedures. Tr. 132:1–133:17, 135:20–24. Cmdr. Vorholt also has long experience participating in and supervising joint operations between Border Patrol and Immigration and Customs Enforcement (ICE), as the Department of Homeland Security (DHS) agencies frequently work in tandem and share immigration enforcement resources in Ohio. Tr. 158:19–25.

3. Vorholt testified that the Border Patrol does not conduct an individualized determination of whether a person who is unlawfully present poses a risk of escape before a warrant can be obtained. Tr. 156:16–157:5, 158:2–4. Instead, Border Patrol agents are expected to assume that every person who is unlawfully present automatically poses such a risk, as once they encounter Border Patrol agents, they are not likely to stay in the exact spot they are found. Tr. 149:21–150:20, 150:23–151:4, 152:5–154:5; Vorholt Dep., ECF No. 75 at 40:2–12.

4. Accordingly, once the Border Patrol confirms a person's unlawful presence in the field, that person will be arrested based on the assumption that they are "automatically an escape risk" from the agency's perspective. Tr. 156:16–157:5. The agency considers the fact that the

person is illegally present to also meet the statutory requirement that the person is likely to escape. Tr. 156:16–157:5, 157:8–158:4, 159:1–10; Vorholt Dep., ECF No. 75 at 39:20–40:1.

5. Border Patrol agents are expected to arrest every person they find who is in the United States unlawfully, with no exceptions. They have no discretion to refrain from arresting such individuals and would be punished if they did so. Tr. 148:1–18.

6. Border Patrol relies on individuals' unlawful presence and their awareness of investigations into their immigration status as a basis to conclude they pose an escape risk, consistent with its practice of arresting every single person its agents encounter who they believe is amenable to removal. Tr. 187:10–188:12; Vorholt Dep., ECF No. 75 at 40:2–12.

7. Cmdr. Vorholt cannot recall a single instance in which he was satisfied that a person was unlawfully present and did not arrest that person. Tr. 148:19–24; Vorholt Dep., ECF No. 75 at 40:15–21.

8. Cmdr. Vorholt states that there is no conflict between Border Patrol's automatic assumption of escape risk and ICE's procedures. The agencies work in tandem and transfer custody of each other's detainees in the field on a regular basis, and Vorholt is aware of no instance in which ICE suggested or required an additional assessment of escape risk when Border Patrol sought to make a warrantless arrest. Tr. 158:21–159:10.

i. CBP/Border Patrol Makes Warrantless Arrests

9. The Border Patrol has made hundreds of immigration arrests in Ohio during the time frame at issue, and almost all of them have been warrantless. Tr. 136:13–137:5; Vorholt Dep., ECF No. 75 at 115:2–17.

10. Even when the Border Patrol arrests someone it is specifically targeting, agents do not usually obtain a warrant until after the arrest occurs. Tr. 137:6–15; Vorholt Dep., ECF No. 75 at 23:8–14.

11. Border Patrol issues I-200 administrative warrants for individuals even though these individuals have already been subjected to a warrantless arrest. Tr. 137:16–138:3; Vorholt Dep., ECF No. 75 at 64:17–65:2. The fact that a warrant is issued for an individual on the day of their arrest does not indicate that it was issued prior to their arrest or that they were arrested based on the execution of that warrant. Tr. 143:5–14.

12. Cmdr. Vorholt admits that it is not consistent with his decades of training in DHS policy and the law of arrests for the Defendants to claim that a person has been arrested pursuant to a warrant if that warrant does not exist until after the arrestee has been handcuffed and placed in the back of an agency vehicle, or until after the arrestee has been transported to a Border Patrol station. Tr. 143:5–14.

ii. CBP/ Border Patrol's View of "Arrest"

13. Under DHS policy and Cmdr. Vorholt's legal training, when immigration agents encounter someone in the field, once they have determined the person is not lawfully present in the United States, the encounter becomes an arrest if the agents then take any step to make it clear to the person they are not free to leave. Tr. 147:17–25.

14. Per Border Patrol policy, if an agent grabs someone and puts them in handcuffs, they are under arrest, even if they are not told they are under arrest. Vorholt Dep., ECF No. 75 at 33:10–15.

15. The Border Patrol policy, when an agent takes a person into custody, is to tell them they are under arrest, place them in handcuffs, and transport them to the station. Tr. 146:13–147:13.

16. Releasing a person from Border Patrol custody after a determination that they are unlawfully present in the U.S. requires executive-level approval and does not occur until after the person has already been arrested. Tr. 148:25–149:20; Vorholt Dep., ECF No. 75 at 43:4–44:13.

B. CBP Effectuated Warrantless Arrests of Plaintiffs F.M. and Jose de Leon Zapata Without Probable Cause of their Likelihood of Escape

i. F.M.

17. F.M. is a native of Kenya who fled persecution and violence in his home country and arrived in the U.S. in 2023 on a J-1 visa.; Trial Ex. P-13, F.M. Decl., ¶¶1–3; Trial Ex. P-2 at 000004. F.M. filed for asylum before his J-1 status expired and received a valid Employment Authorization Document (EAD or work permit). Trial Ex. P-13, F.M. Decl., ¶¶ 6, 8; Trial Ex. P-2 at 000002.

a) *F.M.'s Warrantless Arrest*

18. On the morning of April 22, 2025, F.M. stopped and parked at the Walmart Supercenter in Norwalk, Ohio. Trial Ex. P-13, F.M. Decl., ¶ 12; Trial Ex. P-2 at 000002. Upon exiting his vehicle, he was approached by four Border Patrol agents in civilian clothes. Trial Ex. P-13, F.M. Decl., ¶ 13; Trial Ex. P-2 at 000002. The agents confirmed F.M.'s name, then immediately told him he was under arrest. Trial Ex. P-13, F.M. Decl., ¶ 14; Trial Ex. P-2 at 000002. F.M. was handcuffed and placed in the back of an unmarked car with his legs shackled together before being transported to the Sandusky Bay Border Patrol Station in Port Clinton, Ohio. Trial Ex. P-13, F.M. Decl., ¶¶ 19, 23; Trial Ex. P-2 at 000002.

19. F.M. tried to explain to the agents that he has a valid work permit, driver's license, and an ongoing immigration case, but the agents continued with the arrest and told F.M. they "were just doing their job." Trial Ex. P-13, F.M. Decl., ¶ 14; Trial Ex. P-2 at 000002. Defendants concede that F.M. did not resist arrest or pose any safety risk. Tr. 293:19–23, 334:9–21; Trial Ex. P-13, F.M. Decl., ¶¶ 14, 18; *see* Trial Ex. P-2 at 000002.

20. Cmdr. Vorholt admits that F.M. was not arrested pursuant to a warrant. Tr. 138:4–16, 142:17–143:2; Vorholt Dep., ECF No. 75 at 64:17–19. F.M.'s Form I-213 does not indicate

existence of a warrant. Trial Ex. P-2 at 000002–3. Mr. Vorholt was not present at the Norwalk Walmart where F.M. was arrested, but signed the arrest warrant himself in Port Clinton, after F.M. had been in custody for several hours. Tr. 138:20–139:6; Vorholt Dep., ECF No. 75 at 88:8–9.

b) *No Escape Risk Assessment was Made*

21. Cmdr. Vorholt also did not dispute that the arresting agents failed to ask any questions to assess F.M.'s escape risk. Tr. 189:23–190:7; Trial Ex. P-13, F.M. Decl., ¶ 28; Trial Ex. P-2 at 000002.

22. Cmdr. Vorholt admits that whatever information may be contained in F.M.'s Form I-213 that could go towards F.M.'s escape risk—e.g., employment or ties to the community—is usually gathered after the arrest is made, and he is "not aware" of the agents in the field having that information when they arrested F.M. Tr. 163:3–17; see also Trial Ex. P-2 at 000002–3 (lacking any mention of an escape risk analysis). He cannot dispute F.M.'s recollection that arresting agents never asked him any such questions.

23. During this action, the Defendants initially submitted a declaration signed by Cmdr. Vorholt that purported to describe an escape risk analysis for F.M. Trial Ex. P-26, Vorholt Decl., ¶ 6; Trial Ex. P-78, Revised Vorholt Decl., ¶ 6. But Cmdr. Vorholt admitted that he did not have personal knowledge of any such analysis, as he was not present at the arrests nor did he supervise the agents who were. Tr. 159:13–160:12. Later, Cmdr. Vorholt admitted at the hearing that this claim was false and removed this information from his declaration. Tr. 173:11–174:10; 176:16–177:16; compare Trial Ex. P-26, Vorholt Decl., ¶ 6 with Trial Ex. P-78, Revised Vorholt Decl., ¶ 6 and Trial Ex. P-79, Redline of Vorholt Decl., ¶ 6.

24. If the agents had asked F.M. about his community ties, they would have learned that he was not a flight risk. F.M. has worked hard since his arrival in the U.S. and pays taxes. Trial Ex. P-13, F.M. Decl., ¶¶ 3–4, 10–11; Trial Ex. P-2 at 000003. F.M. values participating in his

church community and has friends here. Trial Ex. P-13, F.M. Decl., ¶ 37; Trial Ex. P-2 at 000002–3. F.M. has no criminal history. Trial Ex. P-13, F.M. Decl., ¶ 9; Trial Ex. P-2 at 000002.

25. After spending five weeks in detention, F.M. was finally released on bond after an Immigration Judge found him not to be a flight risk. Trial Ex. P-13, F.M. Decl., ¶¶ 29, 32, 35; Trial Ex. P-2 at 000006.

ii. Jose Armando de Leon Zapata

26. Jose Armando de Leon Zapata is a native of Mexico who arrived in the U.S. in May of 2022 on an H-2A visa. Tr. 38:22–39:8; Trial Ex. P-14, Zapata Decl., ¶¶ 1–2. Mr. Zapata's H-2A visa expired after one year, but his U.S. citizen wife filed an I-130 Petition for Alien Relative on his behalf, and it is pending with USCIS. Tr. 66:24–67:10. Mr. Zapata's criminal history is limited to a misdemeanor charged in March of 2024 for driving without a license. Trial Ex. P-14, Zapata Decl., ¶ 14; Trial Ex. P-5 at 000009.

a) *Mr. Zapata's Warrantless Arrest*

27. On September 30, 2025, Toledo Police officers stopped the Lyft Mr. Zapata was taking to work. Tr. 46:11–12; Trial Ex. P-14, Zapata Decl., ¶¶ 15–16. The officers made Mr. Zapata exit the vehicle, searched him and took his property, including his phone, wallet, and headphones, and handcuffed him. Tr. 46:24–47:12; Trial Ex. P-14, Zapata Decl., ¶ 16. Toledo Police then held Mr. Zapata until ICE arrived on the scene. Tr. 47:17–19, 48:1–2, 48:6–9; Trial Ex. P-14, Zapata Decl., ¶¶ 16–17.

28. After a few minutes, an ICE agent arrived on the scene, changed Mr. Zapata's handcuffs, and held him until Border Patrol arrived. Tr. 48:1–49:6; Trial Ex. P-14, Zapata Decl., ¶ 19.

29. Border Patrol agents arrived, grabbed Mr. Zapata by the shoulder, and asked him to walk with them. Tr. 50:7–12; Trial Ex. P-14, Zapata Decl., ¶ 20. Agents walked Mr. Zapata to their

vehicle, told him he was under arrest, changed his handcuffs once again, took his property from the other officers on the scene, and placed him inside their vehicle. Tr. 49:5–50:12, 51:6–12, 51:18–20; Trial Ex. P-14, Zapata Decl., ¶¶ 20, 23–24.

30. Mr. Zapata did not feel free to leave and thought he was under arrest from the first moment agents handcuffed him. Tr. 47:20–21, 52:1–10. Mr. Zapata was never shown a warrant for his arrest. Tr. 48:24–49:1, 51:1–5; Trial Ex. P-14, Zapata Decl., ¶¶ 19, 21. His Form I-213 does not indicate any warrant was issued or presented, and Cmdr. Vorholt admits no warrant was issued for Mr. Zapata at all. Tr. 138:4–24; *see* Trial Ex. P-5.

b) *No Escape Risk Assessment was Made*

31. Cmdr. Vorholt does not dispute Mr. Zapata's testimony that the agents who arrested him did not ask any questions relating to escape risk prior to arresting him. Tr. 54:2–8; 54:25–55:11, 190:8–191:3, 193:16–194:3; Trial Ex. P-14, Zapata Decl., ¶¶ 19, 21. In fact, Mr. Zapata asserts that none of the officers, including the ICE officers and the Border Patrol agents, asked him about his family, dependents, job, financial obligations, or other matters related to his community ties. Mr. Zapata was never even asked his name until he was at the station located nearly an hour away from the scene of his arrest. Tr. 51:13–14, 56:2–6. Mr. Zapata's I-213 does not indicate existence of an escape risk analysis. Trial Ex. P-5 at 000008–10.

32. During this action, Defendants initially submitted a declaration signed by Cmdr. Vorholt that purported to describe an escape risk analysis for Plaintiff Zapata. Trial Ex. P-26, Vorholt Decl. It references facts that were later recanted, such as allegations that he entered without inspection, or were affirmatively denied, such as allegations of drug residue on his phone. Trial Ex. P-78, Revised Vorholt Decl.; Trial Ex. P-5 at 000009. Later, at the hearing, Cmdr. Vorholt stated that he did not have personal knowledge of any such analysis, as he was not present at the arrests and did not supervise the agents who did. Tr. 159:13–160:12.

33. Defendants do not dispute that Mr. Zapata did not resist arrest or attempt to flee at any point from the time he was stopped to the point he was transferred to Seneca County Jail. Tr. at 47:20–25, 51:1–5, 54:16–20, 334:9–21; Trial Ex. P-14, Zapata Decl., ¶ 22.

34. At the station, Border Patrol agents searched his phone for an hour and a half to two hours after obtaining his password from him. Tr. 57:18–58:1; Trial Ex. P-14, Zapata Decl., ¶ 28. The Border Patrol agents finally asked if Mr. Zapata was married, but did not ask further questions about dependents, financial obligations, or otherwise. Tr. 58:25–59:13; Trial Ex. P-14, Zapata Decl., ¶ 27. Border Patrol agents kept him at this station for hours before transporting him to Seneca County Jail, where they took pictures and fingerprints. Tr. 59:16–60; Trial Ex. P-14, Zapata Decl., ¶ 32. Mr. Zapata was detained at Seneca for twenty-one days until he had the opportunity to seek bond, and was released upon its granting on October 21, 2025. Tr. 60:4–61:11; Trial Ex. P-14, Zapata Decl., ¶ 32.

35. If the agents had asked, they would have learned that Mr. Zapata was not an escape risk. He is the primary provider for his wife, who is a U.S. citizen and relies on him not only for financial support, but also for emotional support. Tr. 64:25–65:7; Trial Ex. P-14, Zapata Decl., ¶¶ 27, 30. His wife experienced significant abuse from her parents and Mr. Zapata is the only person she has for the emotional support she needs. Tr. 65:2–14; Trial Ex. P-14, Zapata Decl., ¶ 30.

36. Mr. Zapata works seven days and over seventy hours per week. Tr. 41:23–42:6. He only misses work due to court or emergencies. Tr. 42:7–19. Mr. Zapata is responsible for the bills including utilities in his household and provides financial support for his family in Mexico. Tr. 42:20–43:1, 43:12–21.

C. ICE Policy

37. Assistant Field Office Director ("AFOD") Luke Affholter is the acting assistant field office director for the Columbus, Ohio, ICE office. Tr. 269:15–16. AFOD Affholter is the

supervisor for ICE's enforcement and removal operations. Deposition of Luke Affholter ("Affholter Dep.") ECF No. 76 at 76:3–6.

i. ICE Does Not Make Individual Determinations of Escape Risk

38. Like the Border Patrol, ICE leadership has stated to all ICE field office directors that every single person ICE agents encounter who are amenable to removal must be arrested, with no exceptions. Trial Ex. P-73.

39. ICE's approach in this regard is part of a nationwide effort to pressure field offices to "turn the creative knob up to 11 and push the envelope" to increase arrest numbers and satisfy demands from these leaders' own supervisors. *Id*. This, in turn, is consistent with the present administration's quotas (or "goals") of constantly increasing arrests on a nationwide basis. Tr. 332:12–21.

40. Also like the Border Patrol, ICE leadership has informed all ICE officers that the determination of escape risk can rely on factors, such as a person's non-compliance with immigration laws, that would automatically arise whenever ICE officers encounter a person in the field who is unlawfully present. Tr. 328:24–329:3; Trial Ex. P-28 ("Lyons Memo"), at pp. 3–4; (explaining ICE's policy that if an ICE officer determines there's probable cause to believe that someone is in violation of immigration laws, that person "can always be arrested").

41. ICE leadership has informed ICE officers they can rely on other factors to establish escape risk and justify a warrantless arrest that would also be true of virtually anyone its officers encounter, such as their access to a vehicle they could use to leave the scene. *Id*. at p. 3.

42. ICE admits that the assessment of escape risk is supposed to take into account whether the individual will be found at the scene of encounter or another identifiable location. The purpose is to determine whether it is reasonable to leave the scene to obtain a warrant, and how

likely it is that the officer can encounter that individual again to arrest them or serve the warrant. Tr. 200:2–10, 331:14–18, 535:3–10, 548:11–549:3. Affholter Dep. ECF No. 76 at 130:7–12.

43. ICE admits that in theory, "another identifiable location" may be the scene of the encounter, or a reliable location, or a long-term address in the area, such as an apartment or home they lived in for years. Tr. 535:3–13, 548:11–549:3; Affholter Dep. ECF No. 76 at 105:1–9, 130:7–12.

44. The I-213 is the record of the deportable or inadmissible alien and is used to capture all biographical and basic case information as well as include the narrative portion that the processing officer writes for what happened in that case. Tr. 279:1–13. Immigration officers are required to document all relevant facts and circumstances of an encounter in this form. Tr. 285:8–11.

45. If ICE personnel perform an assessment of escape risk before making a warrantless arrest, they are required by policy to "clearly, succinctly, and contemporaneously" document in the narrative section of Form I-213 all factors that led to a determination that the subject was likely to escape before a warrant could be obtained, and specifically document in the narrative section of Form I-213 all factors considered in determining the alien was likely to escape before a warrant could be obtained. Tr. 286:9–11, 286:14–24, 287:12–14, 289:5–23, 503:4–15; Affholter Dep. ECF No. 76 at 46:19–21.

ii. ICE Extends Investigative Stops to Issue Warrants of Arrest

46. An I-200 is an administrative warrant of arrest. Tr. 324:25–325:1. It is issued by an Enforcement and Removal Operations (ERO) supervisory detention and deportation officer, or the Homeland Security Investigations (HSI) equivalent or above, and is not valid until it is signed. Tr. 292:2–12, 377:19–22. If a warrant is issued, it should be mentioned in the Form I-213. Affholter Dep. ECF No.76 at 46:19–21.

47. Warrants can be issued in the field, from a field office, or later in the process of an immigrant's detention. Tr. 305:9–17. There is no definitive way to determine what time a warrant was issued, or whether it was issued prior to an arrest. Tr. 291:16–18, 536:16–20.

48. ICE policy recognizes that an investigative stop, or *Terry* stop, is a temporary seizure where the officer has reasonable suspicion based on articulable facts that warrant him to believe that an individual may be in the U.S. illegally or in violation of some immigration law, and the officer needs to develop more facts to determine whether there is probable cause. Tr. 426:16–24; Affholter Dep. ECF No. 76 at 86:3–9.

49. ICE admits that *Terry* stops must be brief, not exceed their initial scope, and not last longer than the amount of time necessary to carry out their purpose. Tr. 322:9–11, 541:3–10, 554:24–555:2; Affholter Dep. ECF No. 76 at 87:20–24. If no probable cause is determined within a reasonable amount of time, the individual must be released. Tr. 374:24–375:8. ICE also admits that stops are not legally permitted to be prolonged for the purpose of obtaining an arrest warrant. Tr. 305:20–22.

50. However, if an ICE supervisor is present in the field and determines probable cause factors for arrest, ICE policy and practice allows them to then issue a warrant of arrest, in which case ICE treats it as a warranted arrest. Tr. 290:24–291:2.

51. The process of issuing a warrant is not instantaneous. At minimum, a warrant must be completed and signed by a supervisor, extending the stop by the amount of time it takes to do so. Tr. 295:25–296:4 (it "can be a relatively short period in time or a little while"). If the supervisor preparing a warrant is not physically present for the initial encounter, they must also gather and review the factors supporting the arresting officer's belief that the arrestee is unlawfully present, then prepare and electronically convey the warrant. This adds an additional period to the stop. Tr.

446:7–14. That period could last even longer if multiple people are being arrested during the same encounter. Tr. 387:6–388:9.

52. ICE admits that a *Terry* stop must take only a reasonable period of time, and that it must end when its purpose has been accomplished. But ICE policy is to include in this "reasonable period of time" whatever amount of time it takes, after determining that a person is likely unlawfully present in the United States, to prepare and issue a warrant. Tr. 540:8–541:10.

53. ICE also admits that it treats an arrest as "warranted" even if no warrant exists for the arrestee until much later, including after they have been transported to a remote staging area, an ICE processing station, or even to another state, so long as the warrant exists by the time the person is "permanently seized," *i.e.* placed into a long-term detention center. Tr. 297:20–24; 333:15–17, 541:11–25.

54. In all such cases, because ICE considers the arrests to be "warranted," its policy is not to "bother with the analysis of likelihood of escape." Tr. 297:20–24.

55. But, since none of the warrants are time-stamped, it is not possible to determine from the face of the warrant how long after an officer's conclusion that the arrestee is present unlawfully a particular warrant has been issued, including whether a warrant was issued before a person was handcuffed, or even whether it was issued at the same location as their *Terry* stop. Tr. 291:16–18.

56. Like Border Patrol, ICE routinely issues warrants for every person who has been arrested, even if a person has already been subjected to a warrantless arrest. That is, for both Border Patrol and ICE, the fact that a warrant is issued for an individual on the day of their arrest does not indicate that it was issued prior to their arrest or that they were arrested based on that warrant. Tr. 526:11–23.

57. ICE claims that handcuffing a person during an investigative stop is not supposed to be the norm, and admits this should be done only where the detainee is suspected to pose a safety concern or an immediate threat of flight from the scene. Tr. 438:15–21. However, every Plaintiff and non-party Declarant who testified stated they were handcuffed immediately upon encountering ICE officers even though none of them attempted to flee, none of them was armed or reasonably suspected to be armed, and there is no mention in any of their I-213 forms that such factors were present. *Infra* ¶¶ 70, 72, 85, 88, 104, 110, 120, 140, 143, 153, 165; Tr. 293:19–23, 334:9–21; Trial Exs. P-2–12.

58. Although ICE AFOD Affholter testified at length regarding the practices he claims ICE agents use in the field, he admitted he has no firsthand knowledge of these actions in any particular case. Tr. 546:3–547:5. He cannot dispute the first-hand testimony of the Plaintiffs and non-party Declarants whose experiences have been presented.

59. AFOD Affholter also admitted that only a tiny percentage of the I-213 forms produced in this case contain any reference to the conducting of an escape risk analysis, and did not dispute that only a single form makes any reference to a person being arrested pursuant to an I-200 warrant. Tr. 300:8–20; 543:11–545:6; *see generally* Trial Exs. P-2 through P-12, P-60 and P-75 (all CBP- and ICE-produced Forms I-213, containing only two purported escape risk analyses, within Trial Ex. P-75 at 000701, 000707, and one reference to an arrest pursuant to an I-200 warrant in P-7 at 000029).

60. Accordingly, the evidence presented by the Plaintiffs and other putative class members regarding the actual practices followed during ICE arrests in Ohio is undisputed.

61. ICE admits it is highly unlikely that a person will escape when they are either handcuffed in the back of a vehicle or in an ICE office. Tr. 326:3–9.

D. ICE Effectuated Warrantless Arrests of Plaintiffs S.T., Mr. Peralta, and Non-party Declarants Without Probable Cause of their Likelihood of Escape

i. Moises Javier Aguilar Peralta

62. Moises Javier Aguilar Peralta, a citizen of Honduras, entered the U.S. in 2023. Tr. 9:8; Trial Ex. P-15, Peralta Decl., ¶¶ 4, 6; Trial Ex. P-10 at 000013.

63. Mr. Peralta fled to the U.S. after the gang MS-13 kidnapped him, tried to recruit him, and threatened to kill him. Tr. 8:8–22; Trial Ex. P-15, Peralta Decl., ¶ 5. He refused conscription by MS-13 because of his religious beliefs as an Evangelical Christian. Tr. 8:19–9:2.

64. Soon after initially entering the U.S., Mr. Peralta was detained for seven days at the U.S.-Mexico border and returned to Honduras under the Title 42 program. Tr. 9:11–12, 9:13–15, 34:24–35:6; Trial Ex. P-10 at 00013.

65. After being sent back to Honduras, Mr. Peralta traveled again to the U.S. because he feared he would be killed if he stayed in Honduras. Tr. 9:18–20.

66. Mr. Peralta applied for asylum about eight months after entering the U.S. Tr. 9:21–10:6; Trial Ex. P-15, Peralta Decl., ¶ 7; Trial Ex. D-10 at 000593. He then applied for and received an EAD to permit him to work in the U.S., and a Social Security card. Tr. 11:17–18, 11:25–12:1. With his work permit, he was able to get a driver's license from the State of Ohio. Tr. 13:15–16, 28:25–29:9.

67. Mr. Peralta has no criminal record and, before his immigration arrest, had never been arrested. Trial Ex. P-15, Peralta Decl., ¶ ¶ 117–119; Trial Ex. P-10 at 000013 ("AGUILAR PERALTA has no known criminal history").

a) *Mr. Peralta's Warrantless Arrest*

68. On the morning of December 18, 2025, Mr. Peralta and his coworker were driving to the Home Depot on Cleveland Avenue in Columbus to pick up an item he needed for work. Tr. 13:1–4, 14:8–10, 14:11–16; Trial Ex. P-15, Peralta Decl., ¶¶ 17–18, 22.

69. As they exited the Home Depot and walked back to their vehicle, Mr. Peralta began to unlock his vehicle when he heard an officer state in Spanish, "Police! This is a routine check!" Tr. 16:9–10, 16:21–22; Trial Ex. P-15, Peralta Decl., ¶ 26.

70. The officer that had stated that they were "police," then grabbed Mr. Peralta's hand and took Mr. Peralta's keys, so that Mr. Peralta was unable to open his vehicle. Tr. 17:4–5; Trial Ex. P-15, Peralta Decl., ¶ 58. The officer also took Mr. Peralta's driver's license. Tr. 19:23–24, 35:9–23 (noting that to this day, ICE has never returned Mr. Peralta's license). The officer kept his hand locked on Mr. Peralta's hand and did not let go until minutes later when he put handcuffs on Mr. Peralta. Tr. 17:22–23, 19:11; Trial Ex. P-15, Peralta Decl., ¶ 58.

71. The handcuffs were really tight and hurt Mr. Peralta. Trial Ex. P-15, Peralta Decl., ¶ 59. Mr. Peralta told the officer this, but the officer ignored him. Trial Ex. P-15, Peralta Decl., ¶ 60. After putting handcuffs on Mr. Peralta, the officer pushed Mr. Peralta against the officer's vehicle and patted him down. Trial Ex. P-15, Peralta Decl., ¶ 61.

72. Mr. Peralta did not resist arrest, attempt to flee, or do anything to cause danger to the officers. Trial Ex. P-15, Peralta Decl., ¶ 52. Defendants concede that Mr. Peralta had not offered any resistance or posed any safety risk. Tr. 293:19–23, 334:9–21.

73. It was not until he was in the vehicle that the officer who had arrested Mr. Peralta confirmed that he worked for ICE. Tr. 21:4–7.

74. Mr. Peralta told the officers that he had a pending asylum application and a valid driver's license. One of the officers told Mr. Peralta that his pending asylum case "wasn't valid." Tr. 18:18–19, 19:02–04.

75. The officers then drove Mr. Peralta to a local ICE office, where he stayed for three or four hours, and then was chained around his waist, by his hands to his waist, and by his feet to his waist, and transferred to an office in Detroit. Tr. 21:17–20, 21:23–24, 22:16–17; Trial Ex. P-15, Peralta Decl., ¶¶ 75, 87–88, 91. From there, Mr. Peralta was transported to North Lake Correctional Facility where he was detained for twenty-six days until being released on bond by an Immigration Judge. Tr. 22:25–23:7, 24:7–8, 24:23–25, 25:3–5; Trial Ex. P-15, Peralta Decl., ¶¶ 100, 109.

76. The officers never showed Mr. Peralta a warrant for his arrest. Tr. 18:13–15, 19:19–22; Trial Ex. P-15, Peralta Decl., ¶ 41. The Form I-213 Record of Deportable/Inadmissible Alien for Mr. Peralta's arrest does not indicate he was arrested pursuant to a warrant. Trial Ex. P-10 at 000011–14; Trial Ex. D-10 at 000591–594. Although AFOD Affholter was not present at Mr. Peralta's arrest, he agreed that there is no warrant mentioned in his Form I-213. Tr. 293:3–83, 59:10–14, 371:10–12.

77. There are two Form I-200 Warrants for Arrest of Alien that exist for Mr. Peralta. Both were signed by a Supervisory Deportation and Detention Officer based in Detroit and issued after Mr. Peralta's arrest. Tr. 373:25–374:7; Trial Ex. D-10 at 000595–98; Affholter Dep. ECF # at 156:1–4. These two warrants state that probable cause was determined based in part on "biometric confirmation of the subject's identity," Trial Ex. P-10 at 000039, 000056, which Mr. Peralta underwent when he was fingerprinted in Detroit. Tr. 22:22–24; Trial Ex. P-15, Peralta Decl., ¶¶ 97, 99.

b) *No Escape Risk Assessment was Made*

78. Officers asked no questions about Mr. Peralta's employment, family, whether he paid taxes or whether he had a fixed address where he lived at the time of his arrest, Tr. 28:8–21, and none of these are documented in his Form I-213, nor does his Form I-213 indicate an escape risk analysis. Trial Ex. P-10 at 000011–14. They asked none of these questions at the local ICE office where Mr. Peralta was next taken, either. Tr. 30:6–12. They still didn't ask Mr. Peralta any of these questions at the ICE office where he was processed in Detroit, Michigan. Tr. 30:13–23.

79. Had the officers inquired into Mr. Peralta's likelihood of escape, they would have learned that he lives about three minutes away from the place he was arrested with his sister and two nephews, whom he helps care for. Tr. 10:16, 10:25–11:1, 13:2, 14:17–18. He contributes about twelve-hundred dollars a month to help his sister pay rent and financially supports his son who lives back in Honduras. Tr. 10:23, 11:9–12, 1.

80. Mr. Peralta works in construction and home remodeling and works every day, sometimes twelve hours a day. Tr. 11:16, 12:4–6; Trial Ex. P-15, Peralta Decl., ¶16.

81. He has paid his taxes every year that he has lived in the U.S. Tr. 11:23–24; Trial Ex. P-15, Peralta Decl., ¶121.

ii. S.T.

82. S.T. is a citizen of Peru who entered the U.S. in 2014, on a valid ten-year visitor visa. Tr. 77:18–78:1, 78:7–8; Trial Ex. P-16, S.T. Decl., ¶¶ 1, 4–5. By December 2025, her period of authorized stay had lapsed, and she was without lawful immigration status. Tr. 92:25–93:5.

83. S.T. has never been charged with or convicted of any crime anywhere in the world, has never had any prior interaction with immigration enforcement, and has never sought to evade or flee from immigration enforcement. Tr. 81:16–25; Trial Ex. P-16, S.T. Decl., ¶ 16.

a) *S.T.'s Warrantless Arrest*

84. On December 18, 2025, ICE officers stopped S.T. in the parking lot of Easton Town Center in Columbus, Ohio, around 8:30 a.m., cutting off her car with unmarked trucks, and placed her under arrest. Tr. 82:1–3, 86:19–24; Trial Ex. P-16, S.T. Decl., ¶¶ 17–18, 95. Two officers wearing vests that said "ICE" and carrying weapons got out of the trucks and approached her car quickly. Tr. 83:18–20, 84:17–23, 85:7–9; Trial Ex. P-16, S.T. Decl., ¶ 19. She put the car in park. Trial Ex. P-16, S.T. Decl., ¶ 20. The officers banged on her car door so hard she felt they were going to break it, demanding that she open it. Tr. 85:15–16, 86:7–8; Trial Ex. P-16, S.T. Decl., ¶ 24.

85. As soon as S.T. opened the door, the officers grabbed her by the hands, took her phone, pulled her out of the car, and handcuffed her. Tr. 85:15–16, 85:21–24; Trial Ex. P-16, S.T. Decl., ¶ 26. Approximately five seconds passed between her opening the door and being handcuffed. Tr. 86:19–24. Approximately a minute passed between her being handcuffed and placed in the ICE vehicle. Tr. 86:11–88:13.

86. She was handcuffed and taken to a staging area behind a Target, where an officer photographed her face at close range with a cell phone and another pulled her name and ITIN from a tablet. Tr. 89:10–17, 90:7–14, 90:24–91:2; Trial Ex. P-16, S.T. Decl., ¶¶ 38–39, 46. She did not feel free to leave. Tr. 91:3–9. She was then transferred to a different truck and driven to an ICE office in Westerville. Tr. 91:18–22, 95:6–14, 105:9–11; Trial Ex. P-16, S.T. Decl., ¶ 50; . There, she was searched twice, held for two to three hours, questioned, and fingerprinted. Tr. 96:5–13, 96:23–97:12; Trial Ex. P-16, S.T. Decl., ¶¶ 52–53.

87. After processing, she was transported in restraints to a facility in Michigan and ultimately to a detention center in Detroit, where she remained until being released on a three-

thousand dollar bond approximately one month after her arrest. Tr. 97:25–98:7, 98:16–18, 103:5–11; Trial Ex. P-16, S.T. Decl., ¶¶ 63–66, 81, 94–96.

88. Defendants agree that at no point did S.T. try to run away or resist in any way, nor did she seek to evade or flee immigration enforcement. Tr. 81:20–22, 293:19–23, 334:9–21; Trial Ex. P-16, S.T. Decl., ¶ 31. Defendants concede that S.T. had not offered any resistance or posed any safety risk. Tr. 293:19–23, 334:9–21.

89. S.T. was never shown a warrant for her arrest. Tr. 88:16–19, 94:16–18, 97:20–22, 101:11–13, 108:22–109:2; Trial Ex. P-16, S.T. Decl., ¶ 36. AFOD Affholter was not present at S.T.'s arrest and had no knowledge as to the accuracy of the information contained in S.T.'s Form I-213. Tr. 293:3–8, 359:10–14, 546:6–15. S.T.'s Form I-213 does not indicate the existence of a warrant. Trial Ex. P-11 at 000017.

90. One of the warrants for S.T.'s arrest was handwritten dated December 18, 2025, which was likely issued in the field after she was handcuffed and her identity determined. *See* Trial Ex. P-11 at 000058. The handwritten warrant's certificate of service states that it was served in Columbus on December 18, 2025, and that its contents were read to her in Spanish. Trial Ex. P-11 at 000058. S.T. testified that no one spoke Spanish to her in the parking lot or in the vehicles, that the first interpretation she received came at the Westerville facility, and that no one ever showed her papers of any kind. Tr. 107:15–108:3, 108:22–109:2.

91. The two other warrants were dated and served on December 19, 2025, the day after S.T.'s arrest, in Detroit. Trial Ex. P-11 at 000041, 000059.

92. Each warrant indicates that it is based in part on biometric confirmation of the subject's identity. Trial Ex. P-11 at 000041, 000058–59. But S.T. was not fingerprinted until hours

after she had been handcuffed, held, and transported to the ICE facility in Westerville. Tr. 96:23–24, 97:10–12.

b) *No Escape Risk Assessment was Made*

93. Before handcuffing S.T., the officers asked her no questions, not about her family, her employment, how long she had resided in the United States, or even her name. Tr. 86:25–87:11. They asked her nothing during transport. Tr. 87:20–24. The only questions the officers directed at her were accusatory, asking when she entered the United States and whether she was "illegal." Trial Ex. P-16, S.T. Decl., ¶¶ 27, 44.

94. Nor does the Form I-213 prepared by ICE to document S.T.'s arrest mention any escape risk assessment. Trial Ex. P-11 at 000015–18. Although the Form I-213 claims the officers identified S.T. through a "brief investigative consensual immigration interview," Trial Ex. P-11 at 000016, S.T. was handcuffed within approximately five seconds of opening her car door, before any question was asked. Tr. 86:19–87:1.

95. Had the officers asked S.T. any questions, they would have learned that she has lived in Columbus, Ohio for twelve years, since arriving in the United States in 2014. Tr. 78:12–17; Trial Ex. P-16, S.T. Decl., ¶¶ 5–6.

96. She lives with her partner and her children. Tr. 78:22–23; Trial Ex. P-16, S.T. Decl., ¶ 6. Her youngest child is seven years old and a U.S. citizen. Tr. 79:8–15; Trial Ex. P-16, S.T. Decl., ¶ 7. She takes her children to ballet, soccer practice, and school activities. Tr. 80:21–24, 81:6–11; Trial Ex. P-16, S.T. Decl., ¶ 9.

97. S.T. is financially responsible for her household, paying rent and buying groceries, and also supports her mother and special-needs brother in Peru, sending home eight-hundred to one-thousand dollars monthly. Tr. 78:18–21, 80:6–12, 80:17–20; Trial Ex. P-16, S.T. Decl., ¶ 8.

98. She worked at the same restaurant in Easton Town Center for more than three years. Tr. 79:21–80:3; Trial Ex. P-16, S.T. Decl., ¶¶ 11–12. She has paid taxes since 2014. Tr. 80:14–16; Trial Ex. P-16, S.T. Decl., ¶ 10.

99. S.T. attends Catholic mass every Sunday, along with parent group gatherings. Tr. 81:12–15; Trial Ex. P-16, S.T. Decl., ¶ 13.

100. She has no criminal history and had never before encountered immigration enforcement. Tr. 81:16–25; Trial Ex. P-16, S.T. Decl., ¶ 16; Trial Ex. P-11 at 000017.

iii. Leosdanis Mulet Zalvidar

101. Leosdanis Mulet Zalvidar is a Cuban national who entered the United States on December 24, 2022. Tr. 248:24–249:2; Trial Ex. P-18, Mulet Decl., ¶¶ 1, 7; Trial Ex. P-8 at 000023. The Department of Homeland Security released Mr. Mulet into the United States pursuant to a grant of humanitarian parole. Tr. 250:18–23; Trial Ex. P-18, Mulet Decl., ¶ 16; Trial Ex. P-8 at 000023. Mr. Mulet subsequently applied for adjustment of status to lawful permanent residence under the Cuban Adjustment Act. Tr. 252:12–17; Trial Ex. P-18, Mulet Decl., ¶ 17. Mr. Mulet also timely applied for asylum. Tr. 252:22–24.

102. Mr. Mulet has never been convicted or charged with a crime. Trial Ex. P-18, Mulet Decl., ¶ 14; Trial Ex. P-8 at 000023 ("CRIMINAL HISTORY: N/A").

a) *Mr. Mulet's Warrantless Arrest*

103. On December 20, 2025, Mr. Mulet was in the passenger seat of the car driving home with his wife and their two young children when he noticed he was being followed by another vehicle. Tr. 255:13–17, 256:2–4; Trial Ex. P-18, Mulet Decl., ¶ 18; Trial Ex. P-8 at 000023. His vehicle pulled over, and nine or ten ICE Homeland Security Investigations (HSI) agents exited their vehicles and ordered Mr. Mulet to put his hands up. Tr. 257:10–11; Trial Ex. P-18, Mulet Decl., ¶¶ 21, 23.

104. An agent approached the passenger-side door and began pulling on it. Mr. Mulet opened the door and an ICE agent unhooked Mr. Mulet's seatbelt, grabbed his right arm, and pulled Mr. Mulet out of the vehicle. Tr. 258:10–13; 258:22; Trial Ex. P-18, Mulet Decl., ¶ 24. Without asking him his name or any other questions, the agents then pushed Mr. Mulet up against the car and handcuffed him. Tr. 259:5–7, 259:16–20; Trial Ex. P-18, Mulet Decl., ¶ 25. The officers told him he was under arrest. Tr. 259:10–11.

105. The ICE officers then asked Mr. Mulet why he thought he had lawful immigration status. He responded that he had applied for lawful permanent residence and for asylum. The officers told him to "take it up with the judge." Tr. 260:15–261:2; Trial Ex. P-18, Mulet Decl., ¶ 27.

106. On the day he was arrested, Mr. Mulet had a REAL ID driver's license in his cell phone case. Tr. 259:23–25; Trial Ex. P-18, Mulet Decl., ¶ 26. Mr. Mulet obtained this license by showing his work permit as proof of lawful presence in the United States. Tr. 260:7–12. ICE officers examined his REAL ID after he was arrested. Trial Ex. P-18, Mulet Decl., ¶ 29.

107. ICE officers then drove Mr. Mulet to another location. Tr. 261:17–20. At the second location, ICE officers place shackles on his ankles and around his waist. Tr. 261:23–262:1; Trial Ex. P-18, Mulet Decl., ¶ 33.

108. ICE officers then drove him to an ICE office where he was fingerprinted. Tr. 262:2–5; Trial Ex. P-18, Mulet Decl., ¶¶ 40, 44.

109. ICE officers later transported him to Butler County Jail. Tr. 263:19; Trial Ex. P-18, Mulet Decl., ¶ 46.

110. At no point during his arrest did Mr. Mulet try to flee the scene or resist arrest. Tr. 257:5–8. Defendants concede that Mr. Mulet had not offered any resistance or posed any safety risk. Tr. 293:19–23, 334:9–21.

111. Mr. Mulet was never shown a paper identified to him as a warrant during his December 20, 2025 arrest. Trial Ex. P-18, Mulet Decl., ¶ 35. Nor does his Form I-213 indicate existence of a warrant. Trial Ex. P-8. Defendants did produce a handwritten warrant dated December 20, 2025, but it has no timestamp. Trial Ex. P-8 at 000054. Mr. Mulet saw an ICE officer preparing a paper after the officers had already handcuffed him and placed him in the back of their vehicle, but it was in English and he does not know what it was. Tr. 261:4–15.

112. Defendants also produced a Form I-200 that is blank except for the date, December 24, 2022, and Mr. Mulet's name. Trial Ex. P-8 at 000045. The 2022 I-200 is unsigned. *Id*.

b) *No Escape Risk Assessment was Made*

113. ICE officers did not ask Mr. Mulet about his family, employment, other community ties, or immigration status until after he was handcuffed and placed in the back of their vehicle. Tr. 262:7–20, 263:4–9. The Form I-213 that details Mr. Mulet's encounter does not include any assessment of escape risk. Trial Ex. P-8. AFOD Affholter was not present at Mr. Mulet's encounter with the ICE officers and he has no knowledge as to the accuracy of the information contained in Mr. Mulet's I-213 form. Tr. 293:3–8, 329:10–11, 359:10–15, 546:6–15.

114. Mr. Mulet has lived continuously in the United States since December 24, 2022, with his wife and two children. Tr. 249:2, 249:13–15; Trial Ex. P-18, Mulet Decl., ¶ 7; Trial Ex. P-8 at 000023. His daughter is a U.S. citizen. Tr. 251:8–10; Trial Ex. P-18, Mulet Decl., ¶ 8. All three of his family members were in the car during his arrest, and his children cried as their father was dragged out of their vehicle. Tr. 255:22, 258:24–259:7; Trial Ex. P-18, Mulet Decl., ¶¶ 18, 22;

115. At the time of his arrest, Mr. Mulet had stable employment painting cars at a body shop. Tr. 253:17–18; Trial Ex. P-18, Mulet Decl., ¶¶ 10–12. Mr. Mulet regularly attends church services with his family and is an active church member. Tr. 254:9–17; Trial Ex. P-18, Mulet Decl., ¶ 13.

116. Mr. Mulet's Form I-213 indicates that officers initiated surveillance of him at his residence, indicating they were aware he had a reliable address. Trial Ex. P-8 at 000023.

117. Mr. Mulet remains detained at Butler County Jail. Tr. 247:9–11; Trial Ex. P-18, Mulet Decl., ¶ 46.

iv. Miguel Ezequiel Ajanel Pelico

118. Miguel Ezequiel Ajanel Pelico is from Guatemala. Trial Ex. P-72. In 2015, at age 16, he entered the United States without admission, and since then has lived in Canton, Ohio. Tr. 339:19–340:7; Trial Ex. P-72.

a) *Mr. Pelico's Warrantless Arrest*

119. Mr. Pelico was arrested by ICE on February 25, 2025, Trial Ex. P-72, while he was driving to work. Tr. 344:7–9. He pulled over when an ICE vehicle flashed its lights at him, and three cars surrounded him. Tr. 348:2–10; Trial Ex. P-57, Pelico Decl., ¶¶ 10, 12.

120. An ICE officer immediately ran out of one of the cars, opened Mr. Pelico's door, took the keys out of the ignition, grabbed Mr. Pelico and pulled him out. Tr. 348:20–349:2. The officer ordered Mr. Pelico to raise his hands, and he did. Tr. 349:4–5; Trial Ex. P-57, ¶ 13. The officer patted Mr. Pelico down, and handcuffed his hands behind his back, squeezing his wrist very hard. Tr. 349:10–15. He still has a scar from the handcuffs. Trial Ex. P-57, Pelico Decl., ¶17.

121. Defendants concede that Mr. Pelico had not offered any resistance or posed any safety risk. Tr. 293:19–23, 334:9–21. Yet, the officers tried to push Mr. Pelico into their vehicle,

hurting his knee in the process. Tr. 350:5–10; Trial Ex. P-57, Pelico Decl., ¶14. Then they picked him up and got him into the vehicle. Tr. 350:12–13.

122. Mr. Pelico had been placed in the ICE vehicle within five minutes of being pulled over. Tr. 350:21–24. His handcuffs hurt a lot. Tr. 351:4–6.

123. About two to five minutes later, two ICE officers got into the car, and five minutes after that they drove him away. Tr. 351:7–13, 351:23–25.

124. The officers drove Mr. Pelico to the ICE offices in Cleveland, approximately an hour away. Tr. 354:24–355:6. There, he was fingerprinted. Tr. 355:7–8.

125. After processing, he was placed in detention at the Northeast Ohio Correctional Center, which is operated by Core Civic. Tr. 355:14–16. He remained in detention until June 4, 2026, when he was granted bond by an Immigration Judge. Tr. 339:10–12, 407:23–408:4.

126. Although AFOD Affholter was not present at Mr. Pelico's arrest, he admits that Mr. Pelico's Form I-213 does not mention any warrant issued, either prior to the encounter, or "in the field or by a supervisor," and that "it sounds like" this was a warrantless arrest. Tr. 293:3–8, 359:10–14, 375:18–376:14; Trial Ex. P-72, p. 4 ("WARRANTS . . . none.").

127. The Form I-213 that details Mr. Pelico's encounter instead refers to two *different* people who had been targeted. Tr. 404:22–405:7; Trial Ex. P-72, pp. 2–3. Prior to being picked up and driven away, Mr. Pelico had not been targeted or even identified. Tr. 352:1–19, 353:6–7; Trial Ex. P-57, Pelico Decl., ¶¶18–19 .

128. The warrant purportedly issued in connection with Mr. Pelico's arrest is not signed and indicates it is based on fingerprints. Tr. 407:2–10; Trial Ex. D-12. But Mr. Pelico was not fingerprinted until he had been held, handcuffed, and transported to the ICE facility an hour away.

Tr. 355:1–2, 355:7–8. The purported warrant bears no date, but on its face shows that it was issued at that ICE facility. Trial Ex. D-12.

b) *No Escape Risk Assessment was Made*

129. The ICE officers neither said nor asked anything of Mr. Pelico the whole time—except to tell him to put up his hands, and to ask him his name. Tr. 349:1–2, 352:1–7. They did not know his name when they stopped him, or even after they drove him away. Tr. 352:1–19; Trial Ex. P-57, Pelico Decl., ¶18–19.

130. Mr. Pelico finally told the officers his first name after they'd been driving him for ten or fifteen minutes. Tr. 353:6–7; Trial Ex. P-57, Pelico Decl., ¶18–19.

131. The only thing that the officers knew about Mr. Pelico is that he needed to pick his little daughter up after school, Tr. 354:8–17. He told them about her because he was worried about who was going to pick her up after school that day. Tr. 352:22–354:2; Trial Ex. P-57, Pelico Decl., ¶¶ 22–23.

132. Mr. Pelico did not pose a risk of escape, and in fact his Form I-213 lacks any mention of factors purporting to show any escape risk assessment was made. Tr. 404:12–14. Trial Ex. P-72.

133. Mr. Pelico has a seven-year-old daughter who is a U.S. citizen. Tr. 340:8–16. He is her sole caretaker; the child's mother does not live with them. Tr. 340:17–23. Trial Ex. P-57, Pelico Decl., ¶ 22. Mr. Pelico wakes her up, cooks her meals, feeds, bathes her, and does her hair. He picks her up from school, helps her with her homework and tucks her in at night. Tr. 341:2–13, 341:16–25.

134. Mr. Pelico is financially responsible for his daughter and also pays for his house and supports his mother in Guatemala. Tr. 342:6–14.

135. Mr. Pelico never misses church. He attends the same church every week, and sometimes twice a week. Tr. 342:15–21.

136. He has lived at the same home for six years, and on the same street for eleven years, ever since he arrived in the United States. Tr. 339:23–340:7

137. Mr. Pelico has worked for the same company for five years. Tr. 343:3–6.

138. Mr. Pelico has no criminal history. Tr. 344:4–6; Trial Ex. P-72.

v. Guadalupe Montoya Cedillo

139. Guadalupe Montoya Cedillo was born in Mexico. Tr. 563:6–7; Trial Ex. P-19, Cedillo Decl.,¶ 1. He first came to the United States in 1995 with a temporary worker visa. Tr. 584:18–23. His last entry to the United States was in 2005. Tr. 563:6–19. He has lived in Columbus for the past twenty years. Tr. 564:1–2; Trial Ex. P-19, Cedillo Decl.,¶ 7.

a) *Mr. Cedillo's Warrantless Arrest*

140. Mr. Cedillo was arrested by ICE on December 21, 2025, while he was working at a construction site. Tr. 565:20–25; 566:15–20; Trial Ex. P-19, Cedillo Decl., ¶ 13. An officer came up to the second floor where he was working and grabbed him by the arm, searched him, and handcuffed his hands behind him. Tr. 567:10–18, 569:16–570:2, 571:5–8.

141. The officer then took him downstairs to his truck. Tr. 569:16–18. By the truck, the officer switched the handcuffs from the back to the front and added a chain connecting the handcuffs on his hands to restraints on his feet. Tr. 570:8–11. Mr. Cedillo's arm still hurts from when the officer twisted his arm to place the handcuffs. Tr. 577:14–17; Trial Ex. P-19, Cedillo Decl., ¶ 24. This was subsequently described by ICE officers as a "consensual encounter" in Mr. Cedillo's Form I-213. Trial Ex. P-3 at 000026.

142. The officers tried to push Mr. Cedillo into a truck, but it was too high for him. Tr. 572:11–14. They finally helped him get in the truck after yelling at him when he could not climb in on his own. Tr. 572:11–18.

143. Defendants concede that Mr. Cedillo had not offered any resistance or posed any safety risk. Tr. 293:19–23, 334:9–21.

144. Mr. Cedillo was then driven to the ICE office in Westerville, where he was for about two hours, and then taken to the Butler County Jail. Tr. 575:11–14, 575:21–23, 576:6–8; Trial Ex. P-19 at 000026; Trial Ex. P-19, Cedillo Decl., ¶¶ 30–32.

145. AFOD Affholter was not present at Mr. Cedillo's encounter with ICE agents but admits that there was no warrant at the time of his arrest based on the narrative in his Form I-213. Tr. 293:3–8, 329:10–11, 359:10–14, 384:21–24; Trial Ex. P-3 ("WARRANTS . . . none."). Mr. Cedillo's Form I-213 indicates that officers had been conducting "targeted enforcement" of individuals unrelated to Mr. Cedillo. *See* Trial Ex. P-3 at 000026. The warrant purportedly issued in connection with Mr. Cedillo' arrest was handwritten after Mr. Montoya Cedillo had already been handcuffed. Tr. 570:4–6; Trial Ex. P-3 at 000047.

b) *No Escape Risk Assessment was Made*

146. During Mr. Cedillo's arrest, the officer did not ask him any questions except to verify he was Mexican. Tr. 569:21–24. He was not asked about his employment, his family history, or any communities ties. Tr. 575:13–18 (he was asked these questions once he arrived in Westerville); Trial Ex. P-19, Cedillo Decl., ¶¶ 25–27; Trial Ex. P-3.

147. Had the arresting officers asked Mr. Cedillo these questions, they would have learned he is not an escape risk. Mr. Cedillo has lived in Columbus, Ohio since 2005, where he has been working in construction. Tr. 564:1–2, 563:17–25, 566:5–6; Trial Ex. P-19, Cedillo Decl., ¶¶ 7, 8, 10.

148. He lives with his wife and three children, two of whom are U.S. Citizens. Tr. 564:24–565:6; Trial Ex. P-19, Cedillo Decl., ¶ 9. He also has a U.S. Citizen brother who lives in Ohio. Tr. 565:7–9. He is financially responsible for his family. Tr. 578:12–14; Trial Ex. P-19, Cedillo Decl., ¶ 10.

149. Mr. Cedillo has no criminal history. Trial Ex. P-19, Cedillo Decl., ¶ 12; Trial Ex. P-3 at 000027.

150. Mr. Cedillo was detained at the Butler County Jail until he was released on bond. Tr. 576:6–8, 578:15–19; Trial Ex. P-19, Cedillo Decl., ¶ 32.

vi. Jose Cesareo Valladares

151. Jose Cesareo Valladares is a Mexican national. Trial Ex. P-17, Valladares Decl., ¶ 1; Trial Ex. P-6 at 000019–20.

a) *Mr. Valladares' Warrantless Arrest*

152. On December 17, 2025, ICE officers were searching for a different individual when they encountered Mr. Valladares in a parking lot. Trial Ex. P-6 at 000020; Trial Ex. P-17, Valladares Decl., ¶13. Mr. Valladares had just returned home from the grocery store when several ICE officers in black tactical uniforms approached him. Trial Ex. P-6 at 000020; Trial Ex. P-17, Valladares Decl., ¶¶ 13-18. He presented them with his Mexican Consulate ID and acknowledged he lacked legal status in the U.S. Trial Ex. P-6 at 000020; Trial Ex. P-17, Valladares Decl., ¶ 19.

153. ICE officers promptly placed Mr. Valladares in handcuffs and transported him to the Westerville field office for biometrics and processing. Trial Ex. P-6 at 000020; Trial Ex. P-17, Valladares Decl. ¶ 29. Defendants concede Mr. Valladares had not offered any resistance or posed any safety risk. Tr. 293:19–23, 334:9–21; Trial Ex. P-6 at 000020.

154. Defendants assert that a warrant for Mr. Valladares's arrest was completed by hand at the scene of his arrest. Trial Ex. P-6 at 000049. But, the warrant lacks any time stamp as to when

it was made, and no one testified as to whether it preexisted Mr. Valladares's arrest. AFOD Affholter was not present at Mr. Valladares's encounter with immigration agents. Tr. 293:3–8, 359:10–14.

b) *No Escape Risk Assessment was Made*

155. At no point during his arrest or transport was Mr. Valladares asked about his family, work, community ties, length of time in the U.S., or criminal history. Trial Ex. P-17, Valladares Decl., ¶¶ 25–28.

156. The Form I-213 only contains cursory information about Mr. Valladares' family and does not include any other information that would assess his escape risk, and there was no indication of a warrant. Trial Ex. P-6 at 000019–20. There is no indication on the Form I-213 that he was asked any questions at all except for his identification and status in the U.S. Trial Ex. P-6 at 000019–20.

157. If the agents had asked, they would have learned that Mr. Valladares was not an escape risk. He has lived in Columbus, Ohio with his family for approximately 18 years. Trial Ex. P-17, Valladares Decl., ¶ 8. He is the primary breadwinner for his girlfriend and their eleven-year-old child, both of whom are U.S. citizens. Trial Ex. P-17, Valladares Decl., ¶¶ 9–11.

158. He has worked consistently since his arrival in the U.S. and has never been charged with or convicted of a crime. Trial Ex. P-6 at 000020; Trial Ex. P-17, Valladares Decl., ¶¶ 8, 12.

159. Mr. Valladares has no criminal record. Trial Ex. P-6 at 000020; Trial Ex. P-17, Valladares Decl., ¶ 12.

160. Mr. Valladares was incarcerated at the Butler County Jail. Trial Ex. P-6 at 000020; Trial Ex. P-17, Valladares Decl., ¶ 30. He is currently detained at the North Lake Correctional Facility in Michigan. Trial Ex. P-17, Valladares Decl., ¶ 33.

vii. Julio Cesar Chavez Velasquez

161. Julio Cesar Chavez Velasquez is a native of Nicaragua who arrived in the United States near Eagle Pass, Texas without inspection in early 2022. Trial Ex. P-7 at 000030; Trial Ex. P-20, Velasquez Decl., ¶¶ 1, 3. He was issued a Notice to Appear by U.S. Border Patrol and released on his own recognizance around the time of his arrival. Trial Ex. P-7 at 000030. On September 11, 2025, he was ordered removed by an Immigration Judge. Mr. Velasquez appealed the removal order on October 18, 2025. His appeal was pending at the time of Operation Buckeye. Trial Ex. P-7 at 000030.

a) *Mr. Velasquez's Warrantless Arrest*

162. Mr. Velasquez was approached by ICE officers on the afternoon of December 18, 2025, during a search for a different individual. Trial Ex. P-7 at 000029. He had just gone shopping with his wife and daughter for provisions for his daughter's birthday and was loading groceries into the car when he was blocked in by two unknown vehicles. Trial Ex. P-20, Velasquez Decl., ¶¶ 11–17.

163. ICE officers asked Mr. Velasquez for his papers and he presented them with his driver's license. Trial Ex. P-20, Velasquez Decl., ¶¶ 20–22. While the officers looked up his license, Mr. Velasquez called his lawyer from his car. Trial Ex. P-20, Velasquez Decl., ¶¶ 23–24. The officers then told Mr. Velasquez he had to come with them and if he did not get out of the car they would break the window. Trial Ex. P-20, Velasquez Decl., ¶¶ 26, 31.

164. Mr. Velasquez's wife asked the officers if they had a warrant for his arrest. Trial Ex. P-20, Velasquez Decl., ¶ 27. The officers did not have a warrant for Mr. Velasquez, and one of them became upset at her questioning. Trial Ex. P-20, Velasquez Decl., ¶¶ 27–30.

165. Five minutes after the encounter began, Mr. Velasquez exited his vehicle in response to the officers' threats and was handcuffed and placed in one of their vehicles. Trial Ex. P-7 at 000029; Trial Ex. P-20, Velasquez Decl., ¶¶ 32, 42–44.

166. Defendants concede that Mr. Velasquez had not offered any resistance or posed any safety risk. Tr. 293:19–23, 334:9–21. However, within minutes of encountering Mr. Velasquez, officers signed a warrant for his arrest and put him in their vehicle. Trial Ex. P-7 at 000029, 000052; Trial Ex. P-20, Velasquez Decl., ¶ 45. According to AFOD Affholter, who was not present at Mr. Velasquez's arrest, the handwritten warrant and the narrative in Mr. Velasquez's Form I-213 suggest the warrant was prepared in the field, not prior to Mr. Velasquez's arrest. Tr. 543:7–544:11.

167. The officer driving the vehicle sped away and ran two red lights before stopping at a gas station to loosen Mr. Velasquez's handcuffs. Trial Ex. P-20, Velasquez Decl., ¶¶ 47–50. Afterwards, he was taken to the ICE field office before being transported to Michigan. Trial Ex. P-7 at 000029; Trial Ex. P-20, Velasquez Decl., ¶¶ 51–53.

168. He was detained without bond while awaiting removal. Trial Ex. P-7 at 000030–31.

b) *No Escape Risk Assessment was Made*

169. Officers did not ask Mr. Velasquez about his employment, criminal history, ties to the community, or how long he had been in the U.S. Trial Ex. P-7 at 000029; Trial Ex. P-20, Velasquez Decl., ¶¶ 36–41.

170. The only questions officers asked Mr. Velasquez were if his daughter was born here, where he was born, and for his papers. Trial Ex. P-7 at 000029; Trial Ex. P-20, Velasquez Decl., ¶ 37.

171. If they had asked, they would have learned that Mr. Velasquez has lived in Columbus for the last four years. Trial Ex. P-7 at 000030; Trial Ex. P-20, Velasquez Decl., ¶ 4. At

the time of his arrest, he lived with his pregnant wife, young daughter, and his brother-in-law. Trial Ex. P-20, Velasquez Decl., ¶¶ 5–6.

172. Mr. Velasquez has no criminal history, files his taxes, has a valid driver's license, and had obtained a two-year work permit. Trial Ex. P-20, Velasquez Decl., ¶¶ 7–10. He was in the process of starting his own roofing and siding business, and already had some contracts lined up for when the weather became favorable. Trial Ex. P-20, Velasquez Decl., ¶ 8.

viii. M.A.R.

173. M.A.R. is a citizen of Honduras who entered the U.S. without inspection more than twenty years ago. Trial Ex. P-9 at 000034; Trial Ex. P-22, I.A. Decl., ¶¶ 6, 8. He previously encountered ICE officers at a traffic stop in 2015, when he was taken to a local office and then released without bond. Trial Ex. P-9 at 000034.

a) *M.A.R.'s Warrantless Arrest*

174. M.A.R. was detained at a traffic stop at I-71 and Cleveland Avenue in Columbus on the morning of February 7, 2026, when he was driving to work with a coworker. Trial Ex. P-9 at 000033; Trial Ex. P-22, I.A. Decl., ¶¶ 18–23.

175. The officers determined that M.A.R. was a citizen of Honduras illegally present in the U.S. and transported him to the ICE office in Westerville for processing Trial Ex. P-9 at 000033; Trial Ex. P-22, I.A. Decl., ¶ 29.

176. M.A.R.'s Form I-213 does not indicate the existence of a warrant. Trial Ex. P-9 at 000033–34. A Form I-200 warrant for M.A.R.'s arrest was prepared electronically in Westerville, Ohio on February 7, 2026, and it was based in part on biometrics. Trial Ex. P-9 at 000055.

177. AFOD Affholter was not present at M.A.R.'s encounter with the ICE agents. Tr. 293:3–8. Defendants concede, however, that M.A.R. had not offered any resistance or posed any safety risk. Tr. 293:19–23, 334:9–21.

b) *No Escape Risk Assessment was Made*

178. ICE officers did not ask M.A.R. any questions about his family or community ties. Trial Ex. P-22, I.A. Decl., ¶ 23. The Form I-213 for M.A.R. does not suggest any questions asked of him by ICE officers before he was transported to the Westerville field office. Trial Ex. P-9 at 000033. The processing officer who collected the information in the Form I-213 was not the same as the arresting officer. Trial Ex. P-9 at 000033.

179. If the officers had asked, they would have learned that M.A.R. has lived in the U.S. since 2006 and in Columbus, Ohio for the last twelve years. Trial Ex. P-22, I.A. Decl., ¶¶ 8–10.

180. M.A.R. has adult children in the U.S. Trial Ex. P-22, I.A. Decl., ¶ 2; Trial Ex. P-9 at 000033. He lives with his wife and adult child, I.A., in a trailer he owns and for which he pays lot rent. Trial Ex. P-22, I.A. Decl., ¶¶ 3, 9–11. He has consistently worked in construction to support his wife and his mother who lives in Honduras and relies on his income entirely. Trial Ex. P-22, I.A. Decl., ¶¶ 14–16.

181. M.A.R. has no criminal history. Trial Ex. P-22, I.A. Decl., ¶ 13; Trial Ex. P-9 at 000034.

ix. J.R.

182. J.R. is a native of Venezuela who arrived in Miami, Florida on a B1/B2 visa in 2016. Trial Ex. P-4 at 000037; Trial Ex. P-23, Y.R. Decl., ¶¶ 5, 8. His visa expired on December 20, 2025. Trial Ex. P-4 at 000037. In 2017, he and his family applied for asylum and his application is still pending. Trial Ex. P-23, Y.R. Decl., ¶ 9.

a) *J.R.'s Warrantless Arrest*

183. On March 13, 2026, after J.R. dropped off his eight-year-old son at the home of his adult daughter, he was approached in his vehicle by ICE officers. Trial Ex. P-4 at 000036; Trial Ex. P-23, Y.R. Decl., ¶¶ 13, 22–23.

184. ICE officers removed J.R. from his vehicle and asked him for identification. Trial Ex. P-4 at 000036; Trial Ex. P-23, Y.R. Decl., ¶¶ 24, 26.

185. After determining he was an immigrant without lawful status, ICE officers took J.R. into custody and took him to the Westerville field office for processing. Trial Ex. P-4 at 000036; Trial Ex. P-23, Y.R. Decl., ¶ 32.

186. J.R.'s Form I-213 does not indicate existence of a warrant. Trial Ex. P-4 at 000035–38. A Form I-200 warrant for J.R.'s arrest was prepared electronically in Westerville, Ohio on March 13, 2026, and was based in part on biometrics. Trial Ex. P-4 at 000046, 000051.

187. AFOD Affholter was not present at J.R.'s encounter with the ICE officers, but Defendants concede that J.R. had not offered any resistance or posed any safety risk. Tr. 293:3–8, 293:19–23, 334:9–21, 359:10–14.

b) *No Escape Risk Assessment was Made*

188. The Form I-213 does not record any questions asked of J.R. beyond a request for his driver's license. Trial Ex. P-4 at 000036. ICE officers did not ask him about his community ties. Trial Ex. P-23, Y.R. Decl., ¶ 27.

189. If they had asked, they would have learned that J.R. has been living with his family in the U.S. for the last decade. Trial Ex. P-23, Y.R. Decl., ¶¶ 8, 11; Trial Ex. P-4 at 000037. They filed a still-pending application for asylum in 2017. Trial Ex. P-23, Y.R. Decl., ¶ 9.

190. J.R. has an adult daughter in the U.S. and a U.S. citizen son. Trial Ex. P-23, Y.R. Decl., ¶ 13; Trial Ex. P-4 at 000037.

191. J.R. has a REAL-ID and has consistently held work authorization while in the U.S. Trial Ex. P-23, Y.R. Decl., ¶ 15; Trial Ex. P-4 at 000038. He works in construction, pays his taxes, and he and his wife own their own home. Trial Ex. P-23, Y.R. Decl., ¶¶ 16–18. He is the primary

financial provider for his family. Trial Ex. P-23, Y.R. Decl., ¶ 19. He takes his son to school and to soccer practice. Trial Ex. P-23, Y.R. Decl., ¶ 20,

192. J.R. has no criminal record other than a 2016 citation for "No Operators License." Trial Ex. P-4 at 000037.

E. Ohio Immigration Attorney Brian Hoffman Observes the Pattern and Practice of Warrantless Immigration Arrests Without Escape Risk Assessments

193. Brian Hoffman is the founder and sole attorney at the Ohio Center for Strategic Immigration Litigation and Outreach ("OCSILiO"). Tr. 392:19–21, 393:20–22; Trial Ex. P-25, Hoffman Decl., ¶ 1. OCSILiO specializes exclusively in the representation of ICE detainees. Tr. 394:4–11, 395:3–6; Trial Ex. P-25, Hoffman Decl., ¶ 2.

194. Mr. Hoffman represents non-party declarant Mr. Pelico in his immigration case. Tr. 403:25–404:3, 411:3–5.

195. Mr. Hoffman receives approximately six to eight calls a week, and in April 2026, OCSILiO got almost thirty calls. Tr. 395:20–23.

196. Mr. Hoffman reviews the Form I-213's for nearly every case before him and has observed that flight risk assessments are "not being performed" when federal agents make unwarranted arrests. Tr. 398:7–9, 398:19–399:3. "The I-213 has the narrative of the arrest as it took place." Tr. 416:16–23. In his experience, "those documents [Form I-213s] never contain notes or language indicating ICE or Border Patrol made a flight risk determination." Trial Ex. P-25, Hoffman Decl., ¶ 11. Mr. Hoffman "sees the I-213s even more than most immigration lawyers do." Tr. 416:22-23.

197. Mr. Hoffman has clients "who say they aren't even asked their names until they were in custody for over an hour." Tr. 399:6–8.

198. Mr. Hoffman testifies that for a detainee to be released from detention on bond requires a "more rigorous" showing than the determination of escape risk required to be made in the field by immigration officers, because that showing requires not only that the person can be found, but that they would actually "take steps to show up at future hearings." Tr. 402:19–403:4, 411:19–412:1.

II. Without a Preliminary Injunction in this Case, Plaintiffs are Reasonably in Fear of Being Arrested and Detained Again in Violation of the Law

A. Plaintiffs and Putative Class Members Fear Re-arrest

i. Plaintiff Peralta

199. Mr. Peralta fears being re-arrested by ICE. Tr. 25:12.

200. He has had trouble sleeping because he is so scared of what happened to him in December happening to him again. Tr. 27:4–5; Trial Ex. P-15, Peralta Decl. ¶ 131.

201. He fears traveling around Central Ohio, including going downtown to testify in this case. Tr. 27:9–14.

202. He particularly fears going to some of the regular places he has frequented for his life and job, in and around Cleveland Avenue. Tr. 34:15–21; Trial Ex. P-15, Peralta Decl. ¶ 123.

203. As a result, he has stopped going to the Home Depot on Cleveland Avenue as frequently as he used to. Tr. 26:2–12; Trial Ex. P-15, Peralta Decl. ¶ 128.

204. He has changed where he goes to get gas, to avoid the Cleveland Avenue corridor where he fears rearrest. Tr. 34:10–21.

205. Mr. Peralta fears rearrest despite having a court order that states he was properly released from immigration detention on bond. Tr. 25:1–8.

206. That is because, in his experience, ICE was able to arrest him even though he had a driver's license and a pending asylum claim. Tr. 27:21–24.

207. Mr. Peralta fears arrest because he knows other construction workers who he met on a worksite who were recently arrested by ICE. Tr. 26:13–24.

208. Nonetheless, Mr. Peralta continues to work, exposing himself to the risk of rearrest, because he needs to in order to support his family. Tr. 10:22–11:12, 25:22–23.

209. He continues to do errands like get gas and travel to and from his home for work, exposing himself to the risk of rearrest, as he lives in an area where lots of immigrants live and continue to be targeted by ICE. Tr. At 25:9–26:5; Trial Ex. P-15, Peralta Decl., ¶¶ 123–24.

210. The risk of rearrest continues to cause him to worry and at times he feels panic. He wonders whether this country is a safe place for him, knowing that if he returned to Honduras, he would likely be killed by the gangs he has fled. Trial Ex. P-15, Peralta Decl., ¶¶ 126, 134–36.

ii. Plaintiff S.T.

211. S.T. still fears being arrested every day even though she is out of custody. S.T. Decl., Trial Ex., S.T. Decl., ¶ 97. Her fear is not speculative: while detained, she saw many people held in the same place who had work permits or asylum. Tr. 104:23–105:5. She would like to be a normal person in the future without having to think every moment that she will be arrested again. Tr. 104:19–22.

212. Since her release, S.T.'s day-to-day life has changed. Tr. 103:15–104:1. She no longer goes to work or most other places. Tr. 103:20–21. She was once a very mobile person who took her children to school and their activities; now she depends on her oldest daughter or her children's father to move around. Tr. 103:20–104:1. She tries to stay home as much as possible because she is afraid of being arrested by ICE again. Trial Ex. P-16, S.T. Decl., ¶ 98. When she goes outside, she does not go far from the house. Tr. 104:10.

213. S.T. is still very afraid to leave her house, but she must take her daughter to the bus stop and go get groceries for her family. Trial Ex. P-16, S.T. Decl., ¶ 105. When she goes to the

grocery store, she always has her oldest daughter pick her up and accompany her, because she is afraid that if she went alone and were taken again, nobody would know ICE had taken her. Trial Ex. P-16, S.T. Decl., ¶ 105.

214. She lost her job because of her month-long detention; when she was released and asked for her job back, she was told the position had already been filled because they could not wait for her to get out of detention. Trial Ex. P-16, S.T. Decl., ¶¶ 99–101. With no work permit, no license, and no source of income, she can no longer send money to her mother or her special-needs brother in Peru, and the loss of her job has put financial strain on her household, making rent and groceries difficult. Tr. 104:12–16; Trial Ex. P-16, S.T. Decl., ¶ 102.

215. S.T. does not feel safe in her neighborhood. Tr. 105:6–7. The ICE office is only minutes from where she lives, and ICE keeps taking people from the area. Tr. 105:9–11; Trial Ex. P-16, S.T. Decl., ¶ 103.

216. Even at home she does not feel safe, because she lives in a neighborhood with many immigrants and many people have been detained there. Trial Ex. P-16, S.T. Decl., ¶ 98. Every week she receives text messages from friends and neighbors about ICE arresting people in her neighborhood, including, just the week before she signed her declaration, more arrests at the Home Depot down the street from her house. Trial Ex. P-16, S.T. Decl., ¶ 104. People in her neighborhood have posted online about cars left on the side of the road after ICE arrests the drivers, and the situation has not gotten any better. Trial Ex. P-16, S.T. Decl., ¶ 106.

217. The harm extends to her children. When S.T. suggests going outside for a walk, her daughter goes quiet or refuses, saying the police are there and will take her mother away again; both her daughter and her son get very nervous. Tr. 104:4–9. S.T. hopes nobody else has to go through what she went through. Trial Ex. P-16, S.T. Decl., ¶ 107.

iii. Plaintiff Zapata

218. Since his September 30, 2025 arrest, Mr. Zapata feels significant fear that has since affected his sleep and daily routines. Tr. 62:23–63:2, 63:10–13; Trial Ex. P-14, Zapata Decl., ¶¶ 36–38. He and his wife have ceased activities such as dining out and taking walks due to his deep fear. Tr. 41:19–22, 65:15–22; Trial Ex. P-14, Zapata Decl., ¶¶ 35–38. Mr. Zapata knows people who have been arrested by immigration enforcement in the past year and is afraid that he will be arrested again. Tr. 65:15–22, 66:9–11.

219. Mr. Zapata is now paying five-hundred to seven-hundred dollars per month to cover the loans he required to pay the thirteen-thousand dollar bond for his release from detention. Tr. 61:5–22. He struggles to pay his bills as a result and knows that he would not be able to pay for bond again if he is re-arrested. Tr. 61:23–62:8. His arrest has caused significant fear and nervousness for him and his wife, such that they are afraid to leave the house. Tr. 62:18–63:13. Although Mr. Zapata must continue working, he is constantly looking around to make sure he is safe. Trial Ex. P-14, Zapata Decl., ¶ 36.

iv. Plaintiff F.M.

220. Plaintiff F.M. now lives in daily fear of being arrested again. Trial Ex. P-13, F.M. Decl., ¶ 37. Before his arrest he was a cheerful, happy person who always tried to be himself. Trial Ex. P-13, F.M. Decl., ¶¶ 36, 41. Now, everything has changed. Trial Ex. P-13, F.M. Decl., ¶ 36.

221. Instead of being cheerful and outgoing, F.M. is now reclusive and constantly looking over his shoulder. Trial Ex. P-13, F.M. Decl., ¶¶ 36, 38, 40. He no longer participates in church services, and instead streams them online. Trial Ex. P-13, F.M. Decl., ¶ 37. He misses the community and engagement of attending church in-person. Trial Ex. P-13, F.M. Decl., ¶ 37.

222. He still must work to support himself, but his work as a delivery driver is significantly impacted. Trial Ex. P-13, F.M. Decl., ¶ 38. He is discerning about which routes he

accepts, so he can remain in familiar areas where he can avoid exposure to the rearrest he fears. Trial Ex. P-13, F.M. Decl., ¶ 38. He is afraid to venture out in public and avoids new places. Trial Ex. P-13, F.M. Decl., ¶¶ 37–38, 40.

B. Data and Witness Testimony Bear Out the Reasonableness of Plaintiffs' Fear of Being Rearrested and Re-detained

i. Arrests are continuing apace

223. ICE data demonstrates that arrests in Ohio have generally increased from April 22, 2025 until March 10, 2026. Tr. 113:25–114:2; Trial Exs. P-77, P-80.

224. There has been a continuous increase in the number of ICE ERO officers based in the State of Ohio from April of 2025 to the present. Tr. 271:9–12; Affholter Dep. ECF No. 76 at 24:19–20. The guidance has been to increase enforcement. Tr. 274:12–15, 276:17–19

225. Attorney Brian Hoffman of OCSILiO currently receives about six to eight intake calls a week from people newly in ICE detention. Tr. 395:20–396:7. He has seen a steady increase in these calls, with 2026 the busiest year so far. Tr. 396:9–12. He has noticed a "huge increase" in the volume of people arrested and detained over the past year. Tr. 400:18–23.

ii. Defendants Continue to Act Pursuant to an Unlawful Policy

226. Pursuant to Plaintiffs' discovery requests, Defendants were required to produce a random selection of nineteen Form I-213s and the related I-200 forms from the period December 1, 2025 through May 31, 2026. Disc. Order, ECF No. 52, PAGEID 738; Tr. 195:12–21; Trial Ex. P-60, P-75.

227. Nineteen Form I-213s were produced, documenting a total of twenty-four arrests (as some Form I-213s documented multiple arrests within one encounter) with no pre-arrest warrants. Trial. Ex. P-75 at 000688 (officers took into custody two people), 000707 (officers took into custody two people); 000735 (officers took into custody four people). Of this random

selection, only two documented the likelihood of escape, and both were generated in April 2026, notably after Plaintiffs' lawsuit was filed. Compl., ECF No. 1 (filed on March 18, 2026); Tr. 301:17–302:7; Trial. Ex. P-75, 000700–702, 000706–707.

228. The Border Patrol's statistical sample, apart from those for transfer of custody arrests that are unrelated to this matter, consisted of three I-213 forms describing a total of thirteen additional arrests with no pre-arrest warrants and no indication of any analysis of escape risk other than the implied presumption that anyone unlawfully present automatically poses a risk of escape. Tr. 195:12–209:4; Trial Ex. P-61.

iii. People are Rearrested Even After Posting Bond

229. When a person is arrested and detained and later released on bond, they are not immune to being rearrested. Tr. 408:19–24.

230. About half of Attorney Brian Hoffman's current clients who are in detention had been previously released and arrested again with no accusation that they had violated the terms of their release. Tr. 408:21–24.

231. The officers did not know Mr. Pelico's name when they stopped him, or even after they drove him away. Tr. 352:1–19; Trial Ex P-57, Pelico Decl., ¶¶ 18–19. Mr. Pelico only told officers his first name after they'd been driving him for ten or fifteen minutes. Tr. 353:6–7; Trial Ex. P-57, ¶18–19. If the officers did not even know his name, they could not know his bond status, and thus there would be no protection for Mr. Pelico or any other Plaintiff or member of the proposed class to protect them from rearrest.

232. Border Patrol Cmdr. Vorholt admits that immigration agents in the field are very unlikely to know whether the person is out on bond, and his agents in Ohio do not routinely check with ICE about bond status before making an arrest. Tr. 211:11–23. Accordingly, by the time anyone realizes an arrestee was out on bond, it is "very likely" that "they have already been

handcuffed, transported to a Border Patrol station, and handed over to ICE" for detention. Tr. 211:11–14; Vorholt Dep. ECF No. 75 124:13–125:2.

233. At least one Border Patrol arrest produced in its statistical sample describes the arrest at the scene of a person who was subsequently determined to have been released with bond terms, consistent with Cmdr. Vorholt's admission that immigration agents do not generally find that out until returning to the station. Tr. 234:8–235:8; Trial Ex. P-60 at 000566.

234. Similarly, ICE AFOD Affholter admits that the documentation of a person's prior encounters with immigration officials, even including prior I-200 warrants, are poorly and haphazardly organized, not reliably kept in an electronic file, and not accessible even to field office leadership, much less individual field agents, further suggesting that is unlikely for ICE agents to be aware of, much less consider and act upon, a person's bond status at the scene of an encounter. *E.g.,* Tr. 381:8–16, 391:2–17, 480:19–481:5.

235. Multiple Plaintiffs and non-party Declarants testified that they were arrested, handcuffed, and transported to an immigration office or Border Patrol station before even being asked their name. *See* Tr. 86:25–87:11 (before handcuffing S.T., the officers asked her no questions, not about her family, her employment, how long she had resided in the United States, or even her name); Tr. 51:13–14, 56:2–6 (Mr. Zapata was never even asked his name until he was at the station located nearly an hour away from the scene of his arrest); Tr. 259:5–11 (Without asking him his name or any other questions, the agents then pushed Mr. Mulet up against the car and handcuffed him); 352:1–19; Trial Ex. P-57, ¶¶ 18–19 (officers did not know Mr. Pelico's name when they stopped him, or even after they drove him away).

236. Even if someone is wrongly arrested and explains their immigration status to the officers, the officers do not listen and do not care, they just arrest and say "tell it to the judge". Tr.

260:15–261:2, 264:24–265:3 (when Mr. Mulet told officers that he had applied for lawful permanent residence and asylum, they told him to "take it up with the judge," and he had his first hearing before a judge fifty days after being locked up).

237. The evidence thus demonstrates that immigration officers uniformly arrest first and ask questions later, making it highly likely that individuals who are out on bond or who have pending removal proceedings will be re-arrested in the future.

CONCLUSIONS OF LAW

I. Background

1. This action was commenced on March 18, 2026, pursuant to 28 U.S.C. § 1331 (federal question) and 5 U.S.C. § 702 (Administrative Procedure Act right of review). Declaratory and injunctive relief are sought pursuant to 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), and the inherent equitable powers of this Court. Venue is proper under 28 U.S.C. § 1391(e)(1) and 5 U.S.C. § 703 because Defendants are officers or employees of the United States and a substantial part of the events or omissions giving rise to the claims occurred in this District.

2. Plaintiffs are immigrants who were arrested by one or more Defendants without a warrant prior to arrest or a meaningful escape risk assessment. Plaintiffs seek provisionally to represent a class of individuals who were, or will be, arrested in the same way.

3. The Immigration and Naturalization Act (INA), 8 U.S.C. § 1357(a)(2), imposes two conditions on a warrantless arrest: the officer must have "reason to believe" both that (1) the individual "is in the United States in violation of any [immigration] law or regulation," and (2) the individual "is likely to escape before a warrant can be obtained for his arrest."

4. "Reason to believe" means "constitutionally required probable cause[,]" *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 887 (S.D. Ohio 2016), which "must be

particularized with respect to the person to be searched or seized," *United States v. Pruitt,* 458 F.3d 477, 490 (6th Cir. 2006) (quoting *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)).

5. When statutory language "has a plain and unambiguous meaning[,]" courts need not look further than "the language itself." *United States ex rel. Felten v. William Beaumont Hosp.*, 993 F.3d 428, 431 (6th Cir. 2021); *accord Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997)) (looking no further "if the statutory language is unambiguous and the statutory scheme is coherent and consistent") (internal citations omitted).

6. For decades, regulations promulgated by one or more Defendants have understood the INA two-pronged statutory language to mean what it says. 8 C.F.R. § 287.8(c)(2) (emphasis added) provides that "[a]n arrest shall be made only when the designated immigration officer has reason to believe that the person to be arrested has committed an offense against the United States or is an alien illegally in the United States" ***and*** that "[a] warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained."

7. In sum, Congress authorized law enforcement officers to make civil immigration arrests in either one of only two ways: They may either first obtain a warrant and go arrest the named individual, or, if they lack a warrant, they may effectuate a warrantless arrest—as long as the statutory criteria are met. *Arizona v. United States*, 567 U.S. 387, 408 (2012). Along with all the courts that have addressed the issue, this district has construed the language accordingly. *Pacheco-Alvarez*, 227 F. Supp. 3d at 887.

8. Being present in the United States without legal justification is not a crime; it is a civil violation. *See Macareno v. Thomas*, 378 F. Supp. 3d 933, 942 (W.D. WA. 2019) (citing *Melendres v. Arpaio*, 695 F.3d 990 (9th Cir. 2012) (mere unauthorized presence in the U.S.

is not a crime); *Gonzales v. City of Peoria*, 722 F.2d 468, 476–77 (9th Cir. 1982) (illegal presence is "only a civil violation"). The predominant governmental interests are to ensure that individuals appear for their removal proceedings and to prevent danger to the community. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Herrera v. Noem*, __ F. Supp. 3d __, 2026 WL 800721, at *15 (D. Ariz. 2026). The requirement of conducting an escape risk assessment is therefore not trivial—it ensures that individuals who have community ties, family presence in the U.S., including U.S. citizen children, employment, and a lack of criminal history, will likely appear for their removal proceedings and need not be held in detention while their case is pending.

II. Defendants' Policy Is to Conduct Warrantless Arrests Without Making Escape Risk Assessments

9. At the outset of this litigation, Defendants claimed to be in compliance with the INA's escape risk assessment requirement. They asserted that "the evidence shows that agents made individualized escape risk determinations prior to making warrantless arrests," MTD, ECF No. 30 at PAGEID 492; PI Opp., ECF No. 28 at PAGEID 386, and maintained that "[n]umerous contextual factors may signal that escape is likely before a warrant can be obtained." MTD, ECF No. 30 at PAGEID 491; PI Opp., ECF No. 28 at PAGEID 385.

10. They have now admitted they are not. Instead, each using a different rationalization, both Defendant CBP, which conducts immigration enforcement through the U.S. Border Patrol, and Defendant ICE routinely conduct civil immigration arrests without the required assessment of the arrestees' risk of escape.

11. The Border Patrol has openly admitted its agents make no escape risk assessment during the course of their arrests. It now claims no such assessment is necessary, as it asserts that removability alone is sufficient to justify a warrantless arrest in every case. PFOF ¶¶ 3, 8.

12. Similarly, ICE has now admitted its agents make virtually no prearrest escape risk assessments. PFOF ¶¶ 40. But unlike the Border Patrol, which acknowledges the lack of a warrant for virtually every arrest it makes, ICE now contends that no escape risk assessment is necessary because, in its view, an arrest that took place without a warrant can be cured by belatedly issuing a warrant. Relatedly, it seeks to redefine *when* such an arrest has occurred, so that the arrest *was* pursuant to a warrant.

13. Neither agency's routine disregard of the escape risk requirement is consistent with the governing statute. Instead, the agencies' admitted practices are consistent with their leaders' express advocacy of arresting every person they encounter who they deem unlawfully present in the United States, without exception. *See supra* Proposed Finding of Facts ("PFOF") ¶¶ 6, 38. The evidence at the hearing demonstrates that this approach is part of a nationwide effort to "turn the creative knob up to 11 and push the envelope" in order to meet the present administration's continuously increasing quotas (or "goals") for daily immigration arrests. PFOF ¶ 39.

A. CBP'S Policy Is to Arrest Without a Warrant and Without Any Escape Risk Assessment

14. CBP's policy is that, once unlawful presence is confirmed, an individual may be arrested without a warrant based on the assumption that the individual is "automatically an escape risk[.]" PFOF ¶¶ 3–4.

15. Such a merging of the two prongs under § 1357(a)(2) "render[s] the limitations on warrantless arrest created by . . . § 1357(a)(2) meaningless." *Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1007 (N.D. Ill. 2016).

16. The blanket assumption made by CBP, that every person is likely to escape, does not rest on facts particular to that person and thus fails to constitute the individualized determination required under the law. *United States v. Pruitt*, 458 F.3d 477, 490 (6th Cir. 2006)

(internal citations omitted) (explaining "'reason to believe' . . . must be particularized with respect to the person to be searched or seized"); *Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp. 3d 1, 30 (D.D.C. 2025) (internal citations omitted) ("Whether a person is likely to escape before an administrative warrant can be obtained requires an individualized determination based on knowledge of facts particularized with respect to that person.").

17. CBP's practice is consistent with its policy; none of the Form I-213s produced in this litigation indicate the arrests made by CBP were pursuant to a warrant or that any escape risk assessment was conducted prior to effectuating the warrantless arrest. PFOF ¶¶ 20–22, 30, 31, 226, 228.

B. ICE'S Policy Is to Arrest First and Issue a Warrant Later

18. ICE's recently claimed policy is to conduct what it characterizes as an investigatory *Terry* stop, named after *Terry v. Ohio*, 392 U.S. 1, 30–31 (1968), to determine whether someone is in the United States illegally or in violation of some immigration law and then, after discovering that person's undocumented status, to issue a warrant for arrest from either the field or the ICE office. PFOF ¶¶ 37, 47–9, 53–4.

19. ICE's policy presumes a warrant becomes valid when it is signed and thereupon renders the arrest warranted, obviating any need to conduct a likelihood of escape analysis. PFOF ¶¶ 46, 51, 53–4.

20. Plaintiffs do not bring a challenge to the validity of any I-200 administrative warrants issued in this case. Such a challenge would be statutorily barred. 8 U.S.C. § 1252(f)(1) (prohibiting district court injunction to restrain government activities covered by § 1226, such as the issuance of warrants). Instead, Plaintiffs have shown that such warrants were routinely issued only *after* they and similarly situated individuals had already been arrested without a warrant or escape risk determination in violation of § 1357(a)(2).

21. There is reason to question the credibility of ICE's claims at the hearing that its officers obtain warrants almost immediately during most of its arrests.

22. ICE warrants are not timestamped, PFOF ¶¶ 47, 55, and the evidence presented at the hearing demonstrated that the warrants at issue, where any could be shown to exist at all, were issued only after an initial, unlawful arrest had occurred—in some cases long afterward, following an arrestee being transported to a distant location and subjected to formal biometric screening. ICE's I-213 forms, which include the narrative of an officer's civil immigration arrest and would be expected to reference a warrant if one provided the basis for an arrest, PFOF ¶ 46, further demonstrate, through the absence of any such references, that all or nearly all of these arrests were warrantless and conducted without a legitimate assessment of escape risk. PFOF ¶¶ 20–22, 30–31, 59, 76, 78, 89, 93–94, 111, 113, 126, 129, 132, 145, 146, 156, 176, 178, 186, 188 (officers never assessed escape risk, nor do any Form I-213s indicate warrant or escape risk); *see also* PFOF ¶ 166 (narrative portion of Form I-213 for Declarant Velasquez states, in contrast to every other such form produced here, that his arrest was made pursuant to an I-200 warrant, but ICE admits it was likely issued only after agents encountered him).

C. ICE Attempts to Redefine When an Arrest Occurs

23. Even if ICE's claim about the speed of its warrant issuance process is taken at face value, ICE disregards the legitimate purpose and scope of both a *Terry* stop and an arrest, and thus results in warrantless arrests without an escape risk assessment.

24. ICE attempts to rationalize its Policy by adopting a definition of "arrest" that differs from the plain meaning of the INA. ICE claims that an arrest officially occurs only when a seizure becomes "permanent," *i.e.*, when the person is finally booked into a long-term detention facility. PFOF ¶¶ 49, 53. There is no legal or other bona fide basis for this redefinition. Under the plain

meaning of "arrest," Plaintiffs, non-party Declarants, and undocumented witnesses had been arrested long before they were booked into an ICE office or detention facility.

25. Congress knew when enacting the INA what an arrest was: unless justified by security concerns, an investigative detention that lasts beyond a brief time or exceeds its investigative purpose evolves into an arrest. That evolution is measured by such factors as "'the transportation of the detainee to another location, significant restraints on the detainee's freedom of movement involving physical confinement or other coercion preventing the detainee from leaving police custody, and the use of weapons or bodily force.'" *United States v. Lopez-Arias*, 344 F.3d 623, 627 (6th Cir. 2003) (quoting *United States v. Richardson*, 949 F.2d 851, 857 (6th Cir. 1991)).

26. The testimony at the hearing established that none of the Plaintiffs or non-party Declarants posed a danger, nor did Defendants claim any such safety risk. *See* PFOF ¶¶ 72, 88, 110, 121, 143, 153, 166, 177, 187. This testimony also showed that witnesses were arrested, as a matter of law, when armed officers stopped and handcuffed them, placed them in the backseats of vehicles, transported them from the scene of the stop, and/or took them to detention facilities for further questioning and processing. *See Lopez-Arias*, 344 F.3d at 628; see *infra* ¶ 30.

27. At that point, the *Terry* stop had evolved into an arrest. "When the nature of a seizure exceeds the bounds of a permissible investigative stop, the detention may become an arrest that must be supported by probable cause." *Dorsey v. Barber*, 517 F.3d 389, 398 (6th Cir. 2008).

28. An arrest occurs when "a reasonable person in the [individual's] position [would] have felt that he was under arrest or was otherwise deprived of his freedom of action in any significant way." *Sutton v. Metro. Gov't of Nashville & Davidson Cnty.*, 700 F.3d 865, 874 (6th Cir. 2012) (quoting *United States v. Richardson*, 949 F.2d 851, 857 (6th Cir. 1991)). The *Lopez-Arias*

circumstances leave no doubt that Defendants' treatment of the undocumented immigrants who testified at the preliminary injunction hearing far surpassed a *Terry* stop. *See Sutton*, 700 F.3d at 875 (6th Cir. 2012) (listing other factors such as grabbing an arm or confiscating a phone); *United States. v. Hopewell*, 2010 WL 1257578, at *6 (S.D. Ohio 2010) ("Specifically, the Court found that the officers exceeded the scope of their initial *Terry* Stop at the point when they handcuffed Hopewell, placed him in a police cruiser, and transported him from the scene of the traffic stop to the Sheriff's Station for further questioning."); *United States v. Lopez-Medina*, 461 F.3d 724, 740 (6th Cir. 2006) (highlighting removals to police stations or vehicles as particular situations that can transform a *Terry*-stop into a full-fledged arrest.) Beyond those circumstances, "if the officers use unreasonable force[,]" the investigatory stop becomes an arrest. *Hussen v. Noem*, 822 F. Supp. 3d 944, 989 (D. Minn. 2026) (quoting *Irvin v. Richardson*, 20 F.4th 1199, 1206 (8th Cir. 2021)); *accord Brown v. Lewis*, 779 F.3d 401, 414 (6th Cir. 2015).

29. On the testimony before the Court and the narratives by officers who described arrests, none of the Plaintiffs, non-party declarants, or witnesses resisted arrest in a way that justified the use of force against them, which included officers: immediately stopping, grabbing, and pulling them by force, PFOF ¶¶ 70, 104, 120,140; forcibly handcuffing them despite the lack of a safety concern, PFOF ¶¶ 85, 104, 120, 153, 165; applying even more restrictive arm and leg shackles, PFOF ¶¶ 75, 107, 141; immediately placing or shoving them into ICE vehicles, PFOF ¶¶ 85, 122, 140–42, 153, 165; and/or; removal to ICE offices, PFOF ¶¶ 75, 86, 108, 124, 144, 153, 167, 175, 185.

30. Neither these signposts denoting an arrest, nor the chronology as to how they unfolded, were disputed by Defendants.

D. ICE Exceeds the Permissible Scope of a *Terry* Stop

31. Even aside from the Plaintiffs' and Declarants' individual experiences, the evidence establishes that ICE agents are routinely exceeding the investigative scope of a *Terry* stop before issuing any purported warrants. "[A] law enforcement officer may briefly stop and detain an individual for investigative purposes." *United States v. Bailey*, 302 F.3d 652, 658 (6th Cir. 2002) (citation omitted).

32. In the civil immigration context, the investigative purposes of a *Terry* stop involve investigating one's identity and immigration status. See *Noem v. Vasquez Perdomo*, __ U.S. __ 146 S. Ct. 1, 1 (2025) (Kavanaugh J., concurring); 8 U.S.C. § 1357(a)(1) (authorizing immigration officials "to interrogate" without a warrant "any alien or person believed to be an alien as to his right to be or to remain in the United States"). Such a brief stop must not "exceed its initial scope or last longer than the amount of time necessary to carry out its purpose[.]" See *United States v. Williams*, 2024 WL 4543426, at *2 (6th Cir. 2024) (citing *United States v. Campbell*, 549 F.3d 364, 372 (6th Cir. 2008)); see also *Houston v. Clark Cnty. Sheriff Deputy John Does 1–5*, 174 F.3d 809, 819 (6th Cir. 1999) ("[T]he Fourth Amendment required the officers to limit the scope and duration of the stop to checking out the suspicious circumstances that led to the original stop.").

33. ICE claims in this case the authority to expand and extend *Terry* stops, beyond any claimed *investigative* purpose, to include an additional, different purpose: the preparation and issuance of a warrant, and the time that takes. In other words, ICE admits that in nearly every instance, its agents first complete the investigative purpose of a *Terry* stop by identifying an individual and establishing their unlawful presence in the United States, and then, without even attempting to explore any factors that would shed light on escape risk, they continue detaining the individual while a warrant is obtained, exceeding the purpose and scope of an investigative stop.

34. This claimed right to extend *Terry* stops in an attempt to circumvent the second prong of § 1357(a)(2), is, instead, an admission that ICE is merging the prongs of that provision. *See Moreno v. Napolitano*, 213 F. Supp. 3d 999, 1007 (N.D. Ill. 2016) (merging the two prongs of § 1357(a)(2) would "render the limitations on warrantless arrest . . . meaningless").

35. ICE's admitted practice is fundamentally inconsistent with the bounds of a *Terry* stop. A *Terry* detainee for whom an officer has not established probable cause must be free to go. And in the civil immigration context, such probable cause is not established in a warrantless encounter absent both evidence of the detainee's unlawful presence *and* an assessment that they pose a risk of escape. Thus, once an officer identifies an individual and determines probable cause that they have violated an immigration law, no new function is justified other than to proceed to the second prong of probable cause—the escape risk analysis.

36. If ICE were permitted to first establish a person's unlawful presence, then, without any assessment of escape risk, hold them for the minutes or hours it takes to obtain a warrant, the second prong of § 1357(a)(2) would be utterly meaningless. This is because there would be no period "before a warrant is obtained" during which the person could escape. ICE proposes that this period between the discovery of a person's unlawful presence and the issuance of a warrant can take place entirely within its custody, during which the detainee could remain handcuffed in the back of an ICE vehicle or at a processing station. *See* PFOF ¶ 51.

37. Creating arrest warrants only after a warrantless arrest has been made without a meaningful escape assessment is "highly probative of ICE's failure to make individualized determinations of one's escape risk prior to arresting them," *M-J-M-A- v. Hermosillo*, 822 F. Supp. 3d 1147, 1179 (D. Or. 2026); *Hussen v. Noem*, 822 F. Supp. 3d 944, 997–98 (D. Minn. 2026).

III. Plaintiffs Have Standing to Bring This Lawsuit

38. To establish standing, Plaintiffs must demonstrate (1) that they have suffered or will suffer an injury in fact; (2) that the injury was likely caused or will be caused by Defendants; and (3) that the injury will likely be redressed by the requested judicial relief. *See FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 380 (2024). Plaintiffs must show more than past harm and fear of recurrence, but rather the "reality of the threat of repeated injury." *Los Angeles v. Lyons*, 461 U.S. 95, 107 n. 8 (1983).

39. Plaintiffs have all been subject to unlawful warrantless arrests at the hands of Defendants, as discussed above.

40. As discussed in more detail below, Plaintiffs have also shown that they face the reality of the repetition of this conduct in the future.

41. Defendants emphasize that none of the Plaintiffs, non-party Declarants, or witnesses have been rearrested. The Court in *Lyons* held that a plaintiff would lack standing for injunctive relief "absent a sufficient likelihood [that the plaintiffs] will again be wronged in a similar way." 461 U.S. at 111. In *Lyons*, the plaintiff could not demonstrate the requisite personal stake because an injury from a chokehold was unlikely to recur. What was missing from the evidence was not a second chokehold of Mr. Lyons, but proof that the "City ordered or authorized police officers to act in such [a] manner." *Id.* at 106.

42. Here, in contrast, Plaintiffs are all "among the group of individuals that defendants target[,]" *i.e.*, they are and continue to be removable from the United States. *See Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp 3d. 1, 15 (D.D.C. 2025). Because Defendants have "ordered or authorized" immigration officers of both CBP and ICE to arrest based on removability alone, without an individualized assessment of escape risk, for *Lyons* purposes, Plaintiffs are more

than merely likely to be stopped and unlawfully arrested by Defendants in the absence of an injunction.

43. Defendants continue to make civil immigration arrests throughout Ohio and the rate of arrests remains high with more aggressive enforcement promised, as demonstrated by statistical trends, continuously increasing recruitment of immigration agents, the expansion of detention capacity, the testimony of immigration attorneys who handle similar cases, and public statements from administration officials projecting continued ratcheting up of immigration arrests.

44. According to testimony, documents, and reliable media quotations from Defendants' officials, of which the Court may take judicial notice for purposes of a preliminary injunction, Defendants are operating throughout the United States on a quota system to detain undocumented aliens. "Courts generally agree that, 'when the threatened acts that will cause injury are authorized or part of a policy, it is significantly more likely that the injury will occur again,' and it is consequently more likely that plaintiffs have standing to pursue equitable relief." *Hinton v. District of Columbia.*, 567 F. Supp. 3d 30, 49 (D.D.C. 2021) (quoting *Does I Through III v. District of Columbia*, 216 F.R.D. 5, 11 (D.D.C. 2003)). "[E]xposure to [the allegedly unlawful] policy is both itself an ongoing harm and evidence that there is 'sufficient likelihood' that Plaintiffs' rights will be violated again." *Ortega-Melendres v. Arpaio*, 836 F. Supp. 2d 959, 979 (D. Ariz. 2011), *aff'd sub nom. Melendres v. Arpaio*, 695 F.3d 990 (9th Cir. 2012).

45. In contrast to *Lyons*, the existence of Defendants' policy on warrantless arrests without a meaningful escape risk assessment and thus their policy in violation of the INA establishes standing here. *See*, *e.g.*, *303 Creative LLC v. Elenis*, 600 U.S. 570, 583 (2023) ("credible threat" of future enforcement based on State's "'history of past enforcement against nearly identical conduct'"); *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 164 (2014) ("[P]ast

enforcement against the same conduct is good evidence that the threat of enforcement is not 'chimerical'" (quoting *Steffel v. Thompson*, 415 U.S. 452, 459 (1974))).

46. As in *Escobar Molina*, "plaintiffs have shown a substantial likelihood that they are among the group of individuals that defendants target[.]" 811 F. Supp 3d. at 33. That is, they are and continue to be removable from the United States. *Id*. at 33; *see* PFOF ¶¶ 17, 26, 66.

47. Being a target significantly increases each Plaintiff's exposure to imminent harm. *See, e.g.*, *Church v. City of Huntsville*, 30 F.3d 1332, 1337–39 (11th Cir. 1994) (plaintiffs who were homeless were "far more likely to have future encounters with the police" under city's alleged policy of harassing or removing homeless individuals); *Williams v. City of Chicago*, No. 22-cv-3773, 2023 WL 6388891, at *4–5 (N.D. Ill. Sept. 29, 2023) (plaintiffs alleged "sufficient risk of future harm" from police encounters where the city had an alleged policy of targeting plaintiffs' neighborhoods for stop-and-frisks due to the "high rates of ShotSpotter activations").

48. Plaintiffs are especially likely to be harmed if they continue to go about their daily lives, routines that put them in harm's way the first time. A reasonable fear of a repeat arrest arises "when, for reasons beyond the plaintiff's control, he or she is unable to avoid repeating the conduct that led to the original injury at the hands of the defendant." *Church*, 30 F.3d at 1338. In *Smith v. City of Chicago*, the court found standing to challenge suspicionless stops and/or frisks because the plaintiffs were stopped or frisked while engaging in "innocent, lawful conduct" such as "walking home from the grocery store, standing in front of their own homes or the homes of friends, or taking digital photographs." 143 F. Supp. 3d 741, 752 (N.D. Ill. 2015). Plaintiffs testified to similar fear, PFOF ¶¶ 199–222, and, unless Defendants are enjoined, are likely to face the denial of statutory rights.

49. Plaintiffs also testified to making changes to their routines specifically to avoid such denials, which, when warranted by their reasonable fear of recurrence, also satisfies the *Lyons* standard. *See* PFOF ¶¶ 202–04, 212–13, 218, 221–22.

50. Based on the evidence summarized above, the arguments regarding standing contained in Plaintiffs' briefing in support of their motion for preliminary injunction are well taken and supported by extensive case law. *See, e.g.,* PI Mot., ECF No. 12 at PAGEID 145–151; PI Reply, ECF No. 46 at PAGEID 659–63 (summarizing, inter alia, the standing analysis of *Clapper v. Amnesty Int'l USA*, 568 U.S. 398 (2013), and *Escobar Molina*, *supra*, and distinguishing *Hussen v. Noem*, *supra*).

A. Plaintiffs Face the Prospect of Unlawful Rearrest

51. Defendants also contend that Plaintiffs cannot reasonably fear a warrantless rearrest because, following their warrantless arrests, an I-200 warrant was issued for each of them.

52. Defendants' argument is two-pronged. First, they contend that aliens released on bond will not generally be rearrested so long as they are following their bond conditions. Second, they claim that because a Form I-200 warrant is routinely issued following every ICE and Border Patrol arrest, and such warrants do not expire, any subsequent arrest would be, by definition, a warranted arrest—even if the arresting agents are unaware of the existence of either the bond or the prior warrant. Neither of these contentions is correct in light of the statutory framework and the evidentiary record here.

53. The evidence at the hearing demonstrated that the ostensible protection of a release on bond or parole has no relevance to a released individual's fear of rearrest or to the practical reality of their rearrest. This is because Defendants' officers do not generally consider a person's bond status when making an arrest in the field under circumstances such as those by which Plaintiffs and Declarants were arrested. *See* PFOF ¶ 232 (immigration officers are very unlikely to

know whether the person is out on bond); *see also* PFOF ¶¶ 229–30 (when a person is arrested and detained and later released on bond, they are not immune to being rearrested).

54. Instead, by the time Defendants learn a person's detailed immigration history, including any pending conditions of the person's release on bond or parole, or in some situations even their name, they admit the person is likely to have already been handcuffed, taken into custody, and transported involuntarily to a station or other second location (*i.e.*, arrested). PFOF ¶¶ 31, 232.

55. Critical documents such as the I-200 warrant for any individual are not accessible even to ICE field office leadership, much less to the ICE field officers who are out making collateral arrests. *See* PFOF ¶ 234. An immigration officer cannot arrest a person pursuant to a warrant if the officer is unaware of the warrant's existence.

56. If a person released on bond or parole does become subject to an impromptu arrest, contrary to Defendants' claims, it would not be a warranted arrest, even though an I-200 warrant may at some point have been issued for that person.

57. I-200 warrants do not expire through the passage of time, but that does not mean they are perpetually available as the basis for any subsequent arrest, irrespective of all other factors. As one example, a subsequent warrant supersedes and replaces an earlier one. The release of a person on bond provides another such instance.

58. I-200 warrants are issued pursuant to 8 U.S.C. § 1226. That statute contemplates that a person arrested and subject to removal proceedings may be released on bond. The same statute, at subsection (b), permits a rearrest pursuant to a warrant—but only after the bond is revoked. 8 U.S.C. § 1226(b) ("The Attorney General at any time may revoke a bond or parole

authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.").

59. Under the plain language of § 1226(b), an arrest conducted without having revoked an individual's bond cannot be an arrest pursuant to an existing I-200 warrant. It must instead be an arrest without a warrant, and is thus governed, like Plaintiffs' original arrests, by § 1357(a)(2), and cannot occur lawfully without an individualized assessment of escape risk.

60. If previously issued I-200 forms were independently executable without revocation, the revocation step in § 1226(b) would do no work at all. Courts do not read statutes that way. *Lopez-Campos v. Raycraft*, 175 F.4th 713, 723 (6th Cir. 2026) (surplusage canon applies with particular force "when an interpretation would render superfluous another part of the same statutory scheme" (quoting *Marx v. Gen. Revenue Corp.,* 568 U.S. 371, 386 (2013))); *Ebu v. U.S. Citizenship & Immigration Servs.*, 134 F.4th 895, 899 (6th Cir. 2025).

61. For any Plaintiff or Declarant who was released on bond, the I-200s that were created after their arrest and that are now in their A-files are therefore dormant and carry no present arrest authority.

62. Plaintiffs reasonably fear rearrest despite their release on bond. And the form of rearrest of which they have reasonable fear is not a warranted arrest following a bond revocation, which they do not and cannot challenge here. Instead, it is a warrantless rearrest by agents who unwittingly or knowingly disregard the existence of their bonds.

B. Plaintiffs Satisfy the Requirements of Fed. R. Civ. P. 23(a)

63. Plaintiffs have satisfied the requirements of Fed. R. Civ. P. 23(a). Defendants assert that there is no commonality among the class members because their personal circumstances are varied. What the members have in common, however, is that no escape risk assessment was performed when Defendants' officers made a warrantless arrest. Compl., ECF No. 1 at PAGEID

31, ¶ 103. Commonality does not require every class member to have the same factual background. Instead, there must be at least one central, overriding question of fact or law that applies to everyone.

64. The class members have different personal circumstances but all share the same injury: Defendants have arrested or will arrest them without a warrant and without performing a meaningful escape risk assessment. *See In re Whirlpool Corp., Front-Loading Washer Products Liability Litigation*, 722 F.3d 838, 857–58 (6th Cir. 2013).

65. The remainder of the standards under Rule 23(a)—numerosity, typicality, fair and adequate representation—are sufficiently reflected in the testimony and litigation to date for provisional certification. The more stringent standards of Rule 23(b)(3) are not implicated because Plaintiffs seek only declaratory and injunctive relief, rather than damages.

C. <u>This Court Has Jurisdiction Over Defendants' Unlawful Arrest Practices</u>

66. Defendants raise jurisdictional objections to Plaintiffs' claims. They assert that Section 1252(g) of the INA strips courts of jurisdiction to decide cases concerning the government's commencement of proceedings, adjudication of cases, or execution of removal orders. *Reno v. Am-Arab Anti-Discrimination Comm*., 525 U.S. 471, 482 (1999).

67. Nonetheless, federal courts retain jurisdiction over statutory violations during an arrest separate from the removal proceeding itself. *See, e.g., J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032–33 (9th Cir. 2016) (explaining that "claims that are collateral to, or independent of, the removal process" are separate from those that "arise from" the removal proceeding itself). Federal courts regularly hear lawsuits challenging systematic unlawful or warrantless immigration arrest practices. *See, e.g., Nava v. Dep't of Homeland Sec*., 435 F. Supp. 3d 880, 891 (N.D. Ill. 2020) (finding "allegation[s] that ICE detained [plaintiffs] in violation of the INA" is not a challenge "to congressionally-authorized action taken for the purpose of removal"); *Escobar Molina v. U.S.*

Dep't of Homeland Sec., 811 F. Supp. 3d 1, 39 (D.D.C. 2025) (finding the jurisdiction provision of the INA did not apply when "three of the plaintiffs were not even in removal proceedings at the time they were arrested").

68. In cases, such as this one, where Plaintiffs challenge the violation of the INA on a purely legal basis, "courts have jurisdiction to review such decisions as 'premised on a lack of legal authority.'" See *Lopez v. Noem*, No. 2:26-cv-00047, 2026 WL 280564, at * 2 (D. Nev. Feb. 3, 2026).

D. Defendants' Policies Are Final Agency Actions, and Thus Are Reviewable

69. Defendants also argue that the challenged policy is unreviewable because it is not a "formal" policy, or what they alternatively term an "actual" policy. MTD Reply, ECF No. 68 at PAGEID 909–10. But Defendants' own witnesses testified that it is their agencies' policy to conduct warrantless arrests without a likelihood of escape analysis. This policy constitutes final and reviewable agency action.

70. Notably, this would still have been true even if the Defendants' testimony had only confirmed prior representations that their agents are implementing the requirements of the Lyons Memo. That memo pays lip service to controlling law, but it then proceeds to collapse the two-prong analysis of unlawful presence and escape risk using circular reasoning, such that one prong of the analysis—lack of legal immigration status—can always or nearly always satisfy the second prong.

71. But the analysis becomes even clearer in light of the admissions discussed above that Border Patrol and ICE agents in Ohio are rarely, if ever, conducting escape risk assessments of any kind due to their reliance on their automatic assumptions of escape risk, their efforts to portray warrantless, often forcible arrests as mere *Terry* stops, and their attempts to use post hoc warrants to justify already completed arrests.

72. A final agency action is one that "marks the consummation of the agency's decisionmaking process" and under which "rights or obligations have been determined, or from which legal consequences will flow." *Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys*., 603 U.S. 799, 808 (2024).

73. Formality is specifically not a requirement, and no magic words must be invoked. *See, e.g., Barrick Goldstrike Mines Inc. v. Browner*, 215 F.3d 45, 48 (D.C. Cir. 2000). Rather, "[w]hat constitutes a final agency action should be interpreted pragmatically" and the "crux of the inquiry is whether the action is official and presently in effect." *Escobar Molina*, 811 F. Supp. 3d 1, 43 (D.D.C. 2025) (cleaned up). Unwritten policies are subject to judicial review, as are policies where the "details … are still unclear." *Id.* (citing *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 184 (D.D.C. 2015); *Venetian Casino Resort, L.L.C. v. E.E.O.C*., 530 F.3d 925, 929–30 (D.C. Cir. 2008)).

74. Multiple federal courts have found that this policy of Defendants "originates from the top," represents the consummation of "a decisionmaking process that resulted in the implementation of a new policy," and is "not tentative or interlocutory[.]" PI Reply, ECF No. 46 at PAGEID 667 (collecting cases).

E. <u>Plaintiffs Do Not Seek Merely an "Obey the Law" Injunction</u>

75. Defendants also oppose a preliminary injunction by characterizing Plaintiffs' application as one for an "Obey the Law" injunction, which would merely order Defendants to follow the law. See *Perez v. Ohio Bell Tel. Co*., 655 F. App'x 404, 410–13 (6th Cir. 2016). But here, Plaintiffs seek a declaration from this Court that Defendants' policy violates the INA, DHS regulations, and the *Accardi* doctrine, and entry of an injunction enjoining Defendants from acting pursuant to this unlawful policy and requiring them to document all factors that led to an immigration officer's assessment that the person arrested posed a likelihood of escape. An

injunction enjoining Defendants from acting pursuant to an unlawful policy is not an "obey the law" injunction.

F. Without an Injunction Plaintiffs Face Irreparable Harm

76. Plaintiffs have not sought damages for their treatment by Defendants. They seek injunctive relief, and they have standing to do so in light of the imminent threat they face of arrest pursuant to the unlawful policies and practices described above.

77. A potent injunction is appropriate because Plaintiffs' harms cannot be compensated by an award of monetary relief. *See Ramirez Ocando v. Noem*, 810 F. Supp. 3d 1209, 1238 (D. Colo. 2025) (describing irreparable harm from the deprivation of opportunities as a result of one's unlawful detention); *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1189 (10th Cir. 2003) (recognizing that the inability to "resume [one's] activities or restore the status quo ante in the event they prevail" are not fully compensable by monetary relief); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1037 (N.D. Cal. 2025) (acknowledging the "irreparable harms imposed on anyone subject to immigration detention") (citations omitted).

78. An injunction serves the public interest in the government's observance of the statutory framework covering immigration arrests, *see Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992), and the government "cannot suffer harm from an injunction that merely ends an unlawful practice[.]" *Escobar Molina*, 811 F. Supp. 3d 1, 52 (D.D.C. 2025) (citations omitted).

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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2026, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system.

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