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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

PEDRO VASQUEZ PERDOMO; *et al.*,

Plaintiffs,

v.

KRISTI NOEM, in her official capacity as Secretary of Homeland Security; *et al.*,

Defendants.

No. 2:25-cv-05605-MEMF

DEFENDANTS' OPPOSITION TO *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION (Dkt. 38)

[Supporting declarations filed concurrently]

Hon. Maame Ewusi-Mensah Frimpong
United States District Judge

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I. INTRODUCTION

Plaintiffs seek the extraordinary remedy of a temporary restraining order and preliminary injunction that would hinder the ability of federal law enforcement officers to protect federal employees and detainees in federal custody from violence and property damage that the Ninth Circuit panel unanimously held, just weeks ago, likely justified federalizing the California National Guard. *Newsom v. Trump*, No. 25-3727, slip op., at 28-30 (9th Cir. June 19, 2025). Plaintiffs base their request for emergency injunctive relief on alleged violations of the Fifth Amendment in the context of the access to counsel by immigration detainees at the B-18 room of the federal building in Los Angeles, California. Their request for TRO relief is defective and fails for several reasons.

First, Plaintiffs fail to justify their request for the extraordinary remedy of *ex parte* relief. In support of their *ex parte* application, Plaintiffs cite riots that occurred a month ago at the federal building, where temporary detention facility B-18 is located, that necessitated the temporary closure of that facility for the safety of visitors and federal employees thereby briefly impacting attorney access to the facility. But Plaintiffs knew about those issues one month ago, and instead of filing for emergency relief at that time, took weeks to prepare their extensive papers with minimal notice. Plaintiffs' prejudicial tactics, and the effects they have on the proper administration of justice, counsel that their *ex parte* application should be denied for abuse of procedure.

Second, Plaintiffs lack standing to seek emergency relief. It is well-established that a plaintiff lacks standing to obtain prospective injunctive relief for alleged future injuries based on allegations of prior harm. *See City of Los Angeles v. Lyons,* 461 U.S. 95 (1983). Plaintiffs seek an emergency injunction based on alleged *past* limitations on counsel's access to the B-18 holding facility in Los Angeles. Any such alleged limitations were the product of temporary extraordinary conditions related to the surrounding riots in early June, which no longer exist at B-18. Just as Judge Wilson recently held in a case stemming from the same month-old unrest in Los Angeles at issue here and involving Plaintiff's counsel, the ACLU, "Plaintiffs present no evidence of recurring misconduct during the intervening period through the filing of their TRO on [July 2]." *Los Angeles Press Club et al. v. Kristi Noem et al.*, 2:25-cv-05563-SVW-MAA (June 20, 2025) (Dkt. 19) at 4. On this basis alone, Plaintiffs lack standing. Furthermore, Plaintiffs lack third-party standing because they cannot demonstrate injury in fact; they lack

next friend standing because they have no connection or relationship to unidentified detainees at B-18 who have not retained the organizations' services; and they lack associational standing because they have failed to show concrete harm to members.

Third, Plaintiffs have not established a likelihood of success on the merits because they have not shown that any Fifth Amendment rights were violated relative to the access of counsel. Even if they could show there was a rights violation here—they cannot—Plaintiffs do not establish that alleged restrictions on their communication with current and prospective clients were unreasonable under the circumstances.

Fourth, the balance of the equities and the public interest counsel against granting Plaintiffs' request because the Government has a legitimate and significant interest in ensuring that immigration laws are enforced, and in preserving the safety of detainees and federal employees during extraordinarily dangerous and temporary public unrest.

Plaintiffs' *Ex Parte* Application for Temporary Restraining Order (Dkt. 38 ("TRO")) is thus procedurally and substantively defective and should be denied.

II. FACTUAL BACKGROUND

A. ICE's B-18 Facility and its Access To Counsel

B-18 is a holding facility used by the Office of Enforcement and Removal Operation ("ERO"), location at 300 N. Los Angeles Street, Los Angeles, CA 90012 ("Federal Building"). Decl. of Lilia A. Uyeda ¶ 4 ("Uyeda Decl."). B-18 is primarily used for the short-term confinement of individuals who have recently been detained, or are being transferred to or from a court, detention facility, other holding facility, or other agency. *Id.*

Each hold room in B-18 is equipped with a telephone, available to detained individuals 24 hours per day. *Id.* at ¶ 4. The telephones provide free access to consular offices. *Id.* ¶ 5. The telephones are capable of making collect calls to all other numbers. *Id.* There is no option for a pre-paid account or any other arrangement. *Id.* There is no time limit on telephone calls. *Id.* Each detainee is provided with an opportunity to make a phone call as they are processed into the holding facility. *Id.* at ¶ 5. Each detainee is given the opportunity to gather any telephone numbers they may have stored in their cell phones or other property before their property is secured in a locker. *Id.* at ¶ 6. It is not uncommon for a detainee to inadvertently delay their own processing and complicate attempts for visitation by providing a false

identity at the time of their arrest in the field. *Id.* at ¶ 7. This can cause issues both with ICE's ability to accurately identify where individuals are being held, and frustrate attempts for attorney visitation. *Id.*

B-18 has a public visitation area as well as two private rooms for attorney visits. *Id.* at ¶ 8. Attorney visits are permitted from 8am to 4pm seven days per week. *Id.* So long as an attorney arrives before 4 p.m. deadline, the facility accommodates the attorney visit and extends visitation hours as needed. *Id.* at ¶ 9.

On June 6, 2025, riots erupted in downtown Los Angeles and specifically at the entrance to B-18. *Id.* at ¶ 10. The crowd impeded ICE operations, including the transport of detainees in or out of B-18 sally port and required other sub-offices in the area to re-route arrested individuals to other locations. *Id.* Staff feared that B-18 could be breached by the protestors if the public visitation door was opened. *Id.* Due to the volatile situation, B-18 closed early on the afternoon of June 6, 2025. *Id.* As the protests continued, the entire Federal Building was closed, and all detainees were removed to Santa Ana on June 7, 2025. *Id.* at ¶ 11. The situation was so severe that the California National Guard were deployed to restore the peace. *See infra* at 7. The detainees remained in Santa Ana through June 12. Uyeda Decl. ¶ 11. Detainees were moved back to B-18 overnight on or around June 13, 2025 but had to be moved back to Santa Ana on June 14, 2025 through June 16 2025 for safety and security reasons. *Id.* All detainees were moved back to B-18 by June 17, 2025. *Id.* Due to concerns about the physical safety of federal officers, detainees, and visitors, the Federal Building restricted operational hours to 6am through 2pm from June 17, 2025 through June 23, 2025. *Id.* However, "during the time of the protests, the detainees, whether in B-18 or Santa Ana, had access to telephones to contact family or attorneys regardless of any restrictions on in-person visitation, as the telephones in the holding areas are available twenty-four hours per day." *Id.* Operations normalized as of June 24, 2025. *Id.* Attorney visitation hours at B-18 as of June 24, 2025 have resumed as normal. *Id.* at ¶ 12.

B. Allegations of Plaintiffs' *Ex Parte* TRO Application Regarding Access to Counsel at the B-18 Facility

Plaintiffs' TRO application broadly alleges that immigration detainees are being kept in B-18 and

that ICE is depriving them of legal access. TRO at 1.[1] The organizational Plaintiffs bringing this TRO allege that they made repeated efforts throughout the month of June to gain access to B-18 and have largely been denied entry to B-18 and those inside are not permitted to make phone calls or contact potential attorneys. *Id.* at 5-6. Despite alleging ongoing inability to meet with anyone in B-18, the TRO largely points to issues that arose on just five dates: June 6, 7, 8, 16, and 19, 2025.

June 6, 2025: Plaintiffs allege that they sought entry into B-18 "to advise detainees of their rights" but were "not permitted to meet with anyone." TRO at 5. Despite alleging that Plaintiffs' employees were "not permitted to meet" clients or potential clients, the supporting declarations reflect a different story. *Id.* One employee was never denied entry by an ICE agent, but was instead told by a different attorney that B-18 was full. *Id.* Plaintiffs ultimately had to leave before meeting with their clients because ICE closed visitation in light of an ongoing "unlawful gathering" and protest at the building. Dkt. 38.9 ¶¶ 14-15. Another attorney was allowed into B-18, where he found attorneys and family members waiting to speak with individuals. Dkt. 38.11 ¶ 10. While this attorney was unable to meet with his client before the protests forced B-18 to close for the night, guards repeatedly tried to help him locate the client. *Id.* ¶¶ 11-12. Another attorney employed by Plaintiff accessed B-18 but failed to locate her client. *Id.* ¶ 13.

June 7, 2025: Plaintiffs allege that their employees returned the morning of Saturday June 7 and "were met with frightening force and denied access." TRO at 5. When they approached B-18, they found a note taped to the door, stating "ATTY./FAMILY // VISIT // TEMPORARY CANCELLED TODAY // THANK YOU." Dkt. 38.9 ¶ 17. While outside B-18 (adjacent to the building's secure loading dock), Plaintiffs' employees observed unknown detainees—none of whom Plaintiffs allege were their clients—being loaded into vans and tried to shout legal advice at them. TRO at 5. The unknown van drivers honked their horns and an unknown individual deployed a chemical irritant. *Id.*

June 8, 2025: ImmDef employees attempted to access B-18 but saw a sign on the door stating that visits were cancelled that day. TRO at 5. The supporting declaration reflects that they rang the intercom to try and gain entry and after 20 seconds of waiting, they felt a chemical irritant burning their

[1] Despite Plaintiffs' TRO application referencing alleged unsuitable conditions inside B-18, the application solely seeks relief in connection with Plaintiffs'—two legal aid groups that regularly represent immigration detainees—ability to contact clients and potential clients whom Plaintiffs believe were being held inside B-18. Accordingly, Defendants will focus on the alleged facts concerning legal access to Plaintiffs' clients.

noses and throats and left because they felt unsafe. Dkt. 38.11 ¶¶ 23-24.[2]

June 16, 2025: ImmDef employees arrived around 3:00 p.m., about an hour before B-18 was scheduled to close and were denied access. TRO at 5-6. The supporting declaration does not allege that they were denied access to any clients, but were instead only seeking to speak to "family members of individuals who had called ImmDef's Rapid Response hotline" who may or may not have even been there. Dkt. 38.11 ¶ 28.

***June 19, 2025*:** An ImmDef employee was unable to meet with a client who was ill and needed to attend a chemotherapy appointment the next day. TRO at 6. Despite the TRO alleging that "the officers would not allow the attorney to meet with the ill detainee," *id.*, the supporting declaration reflects that ICE officers worked with the attorney to locate the client and she was able to meet with him for about 45 minutes. Dkt. 38.11 ¶¶ 41-44, 46. The client was released from custody the following day. *Id.* ¶ 50.

Telephone calls: Despite Plaintiffs' allegation that phone calls at B-18 are "very limited," (TRO at 6), Plaintiffs' declarations indicate this is not so. One detainee was able to contact a family member via telephone on the same day she was detained. Dkt. 38.4 ¶ 8. After his arrest, another detainee contacted his wife on at least two occasions. Dkt. 38.7 ¶¶ 10, 12. Another declarant states that an online system is required for placing telephone calls at B-18. But this is inaccurate. *See* Uyeda Decl. ¶ 5 ("The telephones provide free access to consular offices. The telephones are capable of making collect calls to all other numbers.").

As the supporting declarations for the TRO reflect, federal agents at B-18 are managing a large influx of family and attorneys attempting to speak with clients or solicit potential clients—often in the context of dangerously close riots. *See* Dkt. 38.9 ¶¶ 14-15 (B-18 was "at capacity"; visiting hours closed because of unlawful gathering nearby); Dkt. 38.11 ¶¶ 10, 25 (large number of family and attorneys inside B-18; visiting hours temporarily cancelled at same time as large protest). Despite these challenges, agents repeatedly tried to help Plaintiffs locate their clients. Dkt. 38.9 ¶¶ 11-12, 41-44, 46.

[2] This occurred about the same time that law enforcement was attempting to clear a large protest from an adjacent building. See *Maps and Timeline of the L.A. Immigration Protests and the Federal Response*, N.Y. Times, https://www.nytimes.com/interactive/2025/06/08/us/la-immigration-protests-photos-map.html (last updated June 12, 2025) ("At around 1 p.m. Pacific, California National Guard, Department of Homeland Security and Immigration and Customs Enforcement officers formed a line and attempted to clear protesters away from the Metropolitan Detention Center. Officers deployed tear gas, pepper balls and other crowd-control munitions.").

III. STANDARD OF REVIEW

The standard for issuing a TRO and a preliminary injunction are substantially identical. *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A TRO is "an extraordinary and drastic remedy ... that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). For a TRO to issue, the movant must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in its favor, and (4) the TRO is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). "In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." *Id.* at 24 (cleaned up). "Likelihood of success on the merits is the most important factor," and if the movant fails to meet this "threshold inquiry," the court "need not consider the other factors." *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018). Where, as here, a movant seeks a mandatory injunction that would alter the status quo and impose affirmative requirements on law enforcement officers as they carry out their duties, the burden is even higher standard. *See Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (mandatory injunctions are "particularly disfavored" and the "district court should deny such relief unless the facts and law clearly favor the moving party.") (cleaned up).

IV. ARGUMENT

A. Plaintiffs Have Failed to Establish That They are Entitled to Seek *Ex Parte* TRO Relief under the *Mission Power* Standard, As Opposed to Proceeding by Noticed Motion for a Preliminary Injunction.

Ex parte applications are rarely justified. *See Mission Power Engineering Co. v. Continental Cas. Co.*, 883 F. Supp. 488, 490 (C.D. Cal. 1995). To justify the extraordinary remedy of *ex parte* relief, the movant must demonstrate it "is without fault in creating the crisis that requires *ex parte* relief, or that the crisis occurred as a result of excusable neglect." *See id.* at 492. Here, the sole two organizational Plaintiffs who brought this TRO do not satisfy the *Mission Power* standard for proceeding by an *ex parte* application, as opposed to by a noticed motion. Indeed, their application makes no mention of this threshold legal standard. *See* TRO at 15 ("Legal Standard"). Their own strategic litigation delays and

choices have created an extremely shortened schedule. It is not excusable neglect.

Large protests and riots occurred around the Federal Building from June 6 to 9, 2025.[3] Uyeda Decl. ¶¶ 10-12. The facility's surrounding conditions were indeed extraordinarily severe, which is why the U.S. National Guard and U.S. Marines were called in to defend the facility and area.[4] If attorneys had increased restrictions on their access to detainees at the B-18 facility of the Federal Building because of the protests, this was only to provide for the safety of detainees and federal employees. Uyeda Decl. ¶ 10. Many federal employees were forced to flee the area and work at home over the week, and their associated services suffered significant disruptions. But Plaintiffs did not promptly seek exigent *ex parte* relief at or near that time—as they could have done if they were genuinely facing irreparable harm requiring an *ex parte* application.[5]

Plaintiffs have been aware of the riots that impaired access to the facility for more than a month. Indeed, they assert that "since early June 2025" detainees at B-18 have not been "permitted … access to prospective or retained legal counsel required under the Fifth Amendment." TRO at 9. Yet, organizational Plaintiffs did not seek *ex parte* relief in early June. Instead, Plaintiffs and their counsel tarried, taking extensive time to draft and (without any advance notice) filed a lengthy First Amended Complaint on July 2, 2025 (Dkt. 16 ("FAC")), followed by the Plaintiffs' filing of two *ex parte* TRO applications on July 2 and 3, 2025. Dkt. 38, 45.

Mission Power warned of how *ex partes* "pose a threat to the administration of justice," calling out situations where "the moving party's papers reflect days, even weeks, of investigation and preparation; the opposing party has perhaps a day or two ... The goal often appears to be to surprise opposing counsel or at least to force him or her to drop all other work to respond on short notice." *Mission*

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[3] *LAPD declares unlawful assembly on ICE raid protest in downtown LA,* NBC LA News (last updated June 7, 2025 at 10:03 am) https://www.nbclosangeles.com/news/local/ice-raids-prompts-protest-in-front-of-downtown-la-federal-building/3717661/.

[4] *See* Declaration of Ernesto Santacruz, JR., *Newsom, et al. v. Trump et al.*, 25-3727 (June 16, 2025) Dkt. 25.1 ¶¶ 3-5, 7-14 ("Prior to the National Guard's deployment, rioters and protestors assaulted federal, state, and local law enforcement officers with rocks, fireworks, and other objects. They also damaged federal property by spray painting death threats to federal law enforcement officers."

[5] Contrast Plaintiffs' initial counsel in this lawsuit, whose clients were detained on June 18, 2025, and who immediately raised the issue with the government, giving notice (rather than laboring in secrecy for weeks). By June 20, 2025, Plaintiffs' counsel filed a habeas petition (Dkt. 1) and then a concise *ex parte* application for a TRO preventing transfer from the District (Dkt. 4). The result was a timely and exigent resolution.

Power, 883 F. Supp. at 490. That is precisely what happened here.[6]

The highly anomalous procedural status of this case further supports denying TRO relief. The new organizational Plaintiffs and their numerous new counsels did not bring a new lawsuit. Plaintiffs' counsel instead selected a preferred very specific small habeas petition—which was already largely mooted, per the parties' discussion at the teleconference before the Magistrate Judge (Dkts. 13, 14, 15), by its three Petitioners' pursuit of bond hearings—as their preferred Court to suddenly bring a huge new putative class action via the First Amended Complaint, along with filing two TRO applications that seek class-wide relief without even requesting (much less obtaining) class certification. Plaintiffs' case-selection tactic naturally touched off additional efforts by many other groups to introduce and interject new arguments, and new parties, into the TRO context, as the Court has seen. The rapidly mutating procedural status of this case thus diverges even further from proper *ex parte* TRO procedure, and it also diverges markedly from the preliminary injunction procedure used in *United Farm Workers*.

The Court's Order granted Defendants additional time to respond. Dkt. 43. But that briefing schedule does not resolve Plaintiffs' underlying failure to satisfy the demanding *Mission Power* standard for justifying their pursuit of relief by an *ex parte* TRO application. While Plaintiffs claim to have suffered because of the detainees' insufficient access to counsel from early June, Plaintiffs unjustifiably delayed their *ex parte* filing until July 2, 2025. Plaintiffs' delayed from June 6th to 9th when the riot conditions existed to Plaintiffs' filing of the TRO on July 2, 2025. Not only is that delay inconsistent with the *Mission Power* standard, it also undercuts the evidence that Plaintiffs attempt to rely upon which is now significantly out of date and no longer reflects realities on the ground.

B. Plaintiffs Lack Standing to Obtain a Prospective Injunction.

The TRO also fails because Plaintiffs lack standing. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) ("The party invoking federal jurisdiction bears the burden of establishing standing and must do so the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and degree of evidence required at the successive stages of the litigation."

[6] This followed Plaintiffs' counsel, the ACLU, having pursued the same tactic in *Los Angeles Press Club* case, 2:25-cv-05563-SVW-MAA—where the ACLU filed an enormous *ex parte* TRO Application shortly after midnight on June 19, 2025 (Dkt. 6) and then refused to grant the government any extension to respond.

(cleaned up)). It is well-established that "before a federal court can consider the merits of a legal claim, the person seeking to invoke the jurisdiction of the court must establish the requisite standing to sue" under Article III of the Constitution. *Whitmore v. Arkansas*, 495 U.S. 149, 154 (1990). The standing doctrine "ensures that the plaintiff has a sufficient personal stake in the outcome of a dispute to render judicial resolution of it appropriate in a society that takes seriously both the idea of separation of powers and, more fundamentally, the system of democratic self-government that such separation serves." *Hamdi v. Rumsfeld*, 294 F.3d 598, 602-03 (4th Cir. 2002) (cleaned up). "In essence, the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues." *Warth v. Seldin*, 422 U.S. 490, 498 (1975).

To establish standing, Plaintiffs must show, as "the irreducible constitutional minimum": (1) they have suffered an "injury in fact – an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical[.]" *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992); *see FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 395-96 (2024). Where, as here, a party seeks prospective equitable relief, the complaint must contain "allegations of future injury [that are] particular and concrete." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 109 (1998). Past wrongs may serve as evidence of a "real and immediate threat of repeated injury," but they are insufficient on their own to support standing for prospective relief. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102-03 (1983). Along with past wrongs, the organization must allege either "continuing, present adverse effects" or a "sufficient likelihood that [it] will again be wronged in a similarly way." *Id.* (citing *O'Shea v. Littleton*, 414 U.S. 488, 495-96 (1974) (recognizing that past harm "[d]oes not in itself show a present case or controversy regarding injunctive relief, however, if unaccompanied by any continuing, present adverse effects").

Here, Plaintiffs do not meet the Article III requirement of standing. First and foremost, Plaintiffs have presented no evidence that any alleged misconduct will occur in the future. *See* TRO at 7-11. The riots and protests occurred beginning June 6, 2025, operations at B-18 normalized on June 24, 2025, and Plaintiffs have not alleged that they have been unable to access existing or potential clients at B-18 since then. *See* TRO at 7-11. Indeed, federal courts have repeatedly held that a chilling effect based on a plaintiff's fear of future injury is too speculative to confer standing for injunctive relief. *See Clapper*

v. Amnesty Int'l USA, 568 U.S. 398, 416 (2013) (plaintiffs "cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm that is not certainly impending"); *Munns v. Kerry*, 782 F.3d 402, 410 (9th Cir. 2015) (same).

Moreover, Plaintiffs' mere assertion that Defendants' alleged restrictions of the right to counsel impedes their ability to engage in their mission of representing immigrants and refugees (TRO at 11) is insufficient to establish standing.[7] Indeed, Plaintiffs do not identify any cognizable principle of Article III standing that would permit this Court to exercise jurisdiction over their claims. Their failure to establish a recognized basis for standing means they have not met their burden to demonstrate the existence of a justiciable case or controversy under Article III. This Court thus lacks jurisdiction to consider their claims. *See Allen v. Wright*, 468 U.S. 737, 751 (1984) ("Standing doctrine embraces several judicially self-imposed limits on the exercise of federal jurisdiction, such as the general prohibition on a litigant's raising another person's legal rights, the rule barring adjudication of generalized grievances more appropriately addressed in the representative branches, and the requirement that a plaintiff's complaint fall within the zone of interests protected by the law invoked."). As such, the Court should deny the application due to lack of standing.

1. Plaintiffs Cannot Establish Third-Party Standing Absent Actual or Future Injury to Themselves.

Plaintiffs lack third-party standing to bring claims on behalf of the unnamed detainees. The Supreme Court has permitted a "limited exception[]" to the general rule that "a litigant must assert his or her own legal rights," provided that "three important criteria are satisfied: [i] the litigant must have suffered an 'injury in fact,' thus giving him or her a 'sufficiently concrete interest' in the outcome of the issue in dispute; [ii] the litigant must have a close relation to the third party; and [iii] there must exist some hindrance to the third party's ability to protect his or her own interests." *Powers v. Ohio*, 499 U.S. 400, 410-11 (1991) (citations omitted) (quoting *Singleton v. Wulff*, 428 U.S. 106 (1976)). As a threshold matter, Plaintiffs cannot establish third-party standing because they have no relationship with any of the

[7] Plaintiffs cite *Havens* (TRO at 11), but the Supreme Court has noted that the precedential origin of organizational standing doctrine—*Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982)—"was an unusual case" that it "has been careful not to extend … beyond its context." *Alliance*, 602 U.S. at 396. This Court should heed these words of caution in applying binding precedent here.

unnamed detainees currently held at B-18. To satisfy the first element of Article III standing, plaintiffs must show they have personally experienced an actual or imminent injury. *Valley Forge Christian Coll. v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 472 (1982). Establishing standing becomes significantly more challenging when the organization is not the direct target of the government action at issue. *Lujan*, 504 U.S. at 562. An organization's ability to provide services has only been perceptibly impaired when the defendant's conduct causes an "inhibition of [the organization's] daily operations." *Food & Water Watch, Inc. v. Vilsack*, 808 F.3d 905, 919 (D.C. Cir. 2015) (citation omitted); *see Alliance*, 602 U.S. at 394 (an organization "cannot spend its way into standing simply by expending money to gather information and advocate against the defendant's action.").

Here, at bottom, Plaintiffs lack standing to pursue claims based on injuries they are unlikely to experience in the future. *See Sharp v. Capitol City Brewing Co., LLC*, 680 F. Supp. 2d 51, 57 (D.D.C. 2010) (requiring plaintiffs to show actual or imminent injury and barring claims based on injuries suffered by others); *cf. Clapper*, 568 U.S. at 402 (holding that plaintiffs "cannot manufacture standing by choosing to make expenditures based on hypothetical future harm that is not certainly impending"). In fact, Plaintiffs seeking injunctive relief must show that they are in "real and immediate" danger of sustaining direct injury or that future harm is certainly impending, not merely speculative or hypothetical. *Rizzo v. Goode*, 423 U.S. 362, 372 (1976). First, the temporary restrictions on attorney and family access at B-18 were directly tied to the government's response to security threats, not to any ongoing policy. Uyeda Dec. ¶¶ 10-12. Once order was restored, access was reinstated. *Id.* ¶¶ 11-12. Plaintiffs cannot claim that these emergency measures create an *ongoing risk of future injury*, since there is no evidence that such restrictions will recur absent similar extraordinary circumstances. Second, Plaintiffs' inability to show that they will again face the same access limitations, notwithstanding the exigent circumstances limiting access due to the volatile situation (Uyeda Dec. ¶ 10), underscores the lack of any "certainly impending" future injury. *See Clapper v. Amnesty Intern. USA*, 568 U.S. 398, 410 (2013). Their generalized grievance about past conditions is not the concrete threat of future harm required for Article III standing. Finally, because B-18 is designed for short-term detention, Plaintiffs cannot plausibly allege a real and imminent risk of future harm at that facility since they might be released or transferred (Uyeda Dec. ¶ 4). Their claims of possible future injury are inherently speculative and do not satisfy the requirement that a

plaintiff must be "imminently threatened with a concrete and particularized 'injury in fact.'" *Lexmark Intern., Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 125 (2014). The Supreme Court has made clear that past injury alone, which is absent here, is insufficient to support standing for prospective relief; there must be a substantial risk of future harm. *Lyons*, 461 U.S. at 110. Plaintiffs have not met that burden. Without a real and immediate risk of future injury, Plaintiffs' claims for injunctive relief must be dismissed for lack of standing.

Plaintiffs also do not have standing for another reason: they identify no statute or regulations that confers on them "legally cognizable interests" to pursue their mission in representing unidentified individuals currently held at B-18. *See Spokeo, Inc. v. Robins*, 578 U.S. 330, 341 (2016) ("Article III standing requires a concrete injury even in the context of a statutory violation. For that reason, Robins could not, for example, allege a bare procedural violation, divorced from any concrete harm, and satisfy the injury-in-fact requirement of Article III."). That Plaintiffs may have to expend effort to communicate with individuals at B-18 that they wish to represent, or that they will be deprived of "prospective clients," TRO at 10, are insufficient to establish Article III standings. *Am. Immig. Lawyers Ass'n v. Reno*, 18 F. Supp. 2d 38, 49 (D.D.C. 1998), *aff'd*, 199 F.3d 1352 (D.C. Cir. 2000) ("With respect to the organizational plaintiffs' argument that they will be deprived of clients, the government argues and the Court agrees, that there is no way to know whether aliens who are denied the opportunity to consult with counsel would have chosen to consult with the plaintiffs had they had the opportunity to do so."). Plaintiffs' argument appears to be based on their desire to have access to the individuals held at B-18 in order to offer legal advice and find new clients. TRO at 9-10. In essence, they suggest that increased efforts to gain access to B-18 establishes a significant relationship beyond mere legal representation. *Id.* The Supreme Court, however, has established that lawyers do not have the necessary close relationship with *potential* clients to claim third-party standing. *See Kowalski v. Tesmer*, 543 U.S. 125, 130-31 (2004). Here, Plaintiffs similarly have no relationship with any of the unnamed detainees held at B-18, whom they identify as potential clients; thus, they cannot show the third-party standing.[8] At bottom, organizational Plaintiffs

[8] While Plaintiffs allege that the detainees are prevented in their ability to protect their own rights, TRO at 5, 10, the Court does not need to reach this prong because they failed to demonstrate that they suffered injury in fact and that they have a close relationship with the third party. *See Powers*, 499 U.S. at 410-11.

do not have standing, and this Court lacks jurisdiction.

2. Plaintiffs Failed to Establish that They Have Standing in This Action as the B-18 Detainees' Putative "Next Friend."

Plaintiffs lack standing to assert claims on behalf of individuals whom they do not directly represent.[9] The standing doctrine requires that a party demonstrates a concrete and particularized injury to itself, and organizations may not circumvent this requirement by seeking to vindicate the rights of unrepresented third parties. Next friend standing has most often been invoked "on behalf of detained prisoners who are unable, usually because of mental incompetence or inaccessibility, to seek relief themselves." *Whitmore*, 495 U.S. at 162. To prevent third parties seeking to advance their own interests and agendas from litigating another's claims in the guise of a next friend, the Supreme Court thus articulated "at least two firmly rooted prerequisites." *Id.* at 163-64. First, a putative "next friend," like the legal services organizations here, "must provide an adequate explanation—such as inaccessibility, mental incompetence, or other disability—why the real party in interest cannot appear on his own behalf to prosecute the action." *Id.* 163. "Second, the 'next friend' must be truly dedicated to the best interests of the person on whose behalf he seeks to litigate, and it has been further suggested that a 'next friend' must have some significant relationship with the real party in interest." *Id.* at 163-64.

Here, organizational Plaintiffs seek legal access, habeas corpus relief, and vindication of constitutional rights, on behalf of an unspecified number of unidentified individuals currently held at B-18.[10] *See* TRO at 1; FAC ¶¶ 215-47. Yet they fail to meet their burden because they cannot show that they are truly dedicated to the B-18 detainees' best interests, as they have no relationship with the

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[9] It is well-established that individual plaintiffs—Vasquez Perdomo, Osotro, Villegas Molina, Hernandes Viramontes, and Gavidia—cannot assert standing to vindicate the rights of others, including those whom organizational Plaintiffs seek to represent. The Supreme Court has made clear that a "plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties." *Warth v. Seldin*, 422 U.S. 490, 499 (1975). Accordingly, these individuals lack standing to pursue claims on behalf of others whose rights could be at issue in this case.

[10] As a threshold issue, the evidence does not show that the three named Plaintiffs—who did not join in this application and who were detained at B-18 (Vasquez Perdomo (FAC ¶ 120), Osorto (FAC ¶ 133), and Villegas Molina (FAC ¶ 145))]—are not currently held at B-18, nor have they alleged any current barriers to access of counsel. *See* TRO at 7-14. As a result, their claims—and those of any other individuals no longer held at B-18—are moot. Because these individuals are no longer subject to the conditions challenged in the petition, there is no ongoing injury that this Court can remedy through the requested application. Thus, the relief sought cannot apply to the individual Plaintiffs or any similarly situated former detainees. *See Lewis v. Cont'l Bank Corp.*, 494 U.S. 472, 478 (1990) (to present a live case or controversy to avoid dismissal on mootness grounds, the plaintiff "must continue to have a 'personal stake in the outcome' of the lawsuit.").

unidentified individuals currently held at B-18, much less a "significant" one. No evidence shows any existing relationship between these two organizations and the unidentified detainees, nor is there any indication that the unidentified detainees have requested representation—either by legal counsel generally or by these specific legal services organizations. *See* TRO at 7-11. Without such a relationship or express consent, the organizations cannot claim to represent or vindicate the legal rights of these unidentified, non-party individuals. *See Al-Aulaqi v. Obama*, 727 F. Supp. 2d 1, 20 (D.D.C. 2010). ("While it may be fair to assume that the detainee wants to be released from detention, there may be reasons why detainees may not want to file habeas petitions as a vehicle for accomplishing this purpose.") (cleaned up). Indeed, "a purported 'next friend' may not simply speculate as to the best interests of the party on whose behalf he seeks to litigate." *Id.*

Indeed, Plaintiffs make no reference to any *specific individual interests* of the unnamed individuals currently held at B-18 that they seek to represent, although B-18 is open. *See* TRO at 7-11; Dkt. 38-2 to 38-12. Distinctly, it is well-established that habeas corpus relief is inherently tied to the detainee's *individual* circumstances, such as their conditions of detention, legal status, or specific allegations against them. *See Preiser v. Rodriguez*, 411 U.S. 475, 498-99 (1973) (individual circumstances of a detainee are "the heart of habeas corpus"). Plaintiffs simply have not demonstrated a concrete connection between their claimed representation and the unique needs or rights of those they purport to represent: They have never met with any of the current unnamed B-18 detainees, have never discussed their immigration cases with them, are unaware of their preferences regarding the pursuit of habeas (or other) relief, and, mostly importantly, have no established relationship with them—even though access has been restored. Consequently, they cannot qualify as proper "next friends" and lack standing to assert unnamed detainees' rights before the Court.

3. Plaintiffs Cannot Establish Associational Standing.

Finally, Plaintiffs fail to establish associational standing. An organization has standing to bring suit on behalf of its members when three requirements are met: (1) "its members would otherwise have standing to sue in their own right;" (2) "the interests it seeks to protect are germane to the organization's purpose"; (3) "neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977). Plaintiffs

here stumble at the first step: They have failed to allege, let alone show, that any of their individual members would independently have standing to bring a Fifth Amendment access to counsel claim. *See* FAC ¶¶ 72-98. Additionally, as discussed, Plaintiffs have failed to provide any evidence of concrete harm to itself, let alone to individual members. Plaintiffs' FAC and TRO have no claim that such a harm "has a close relationship to a harm traditionally recognized as providing a basis for a lawsuit in American courts." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 440 (2021). That inquiry is "[c]entral to assessing concreteness." *Id.* at 417. Plaintiffs must "identif[y] a close historical or common-law analogue for their asserted injury" to demonstrate their asserted injury is concrete. *Id.* at 424. Yet Plaintiffs have not shown how temporary accessibility limits to detainees at B-18 when riots were occurring fits within this framework. Indeed, normal operations at B-18 have resumed. *See* Uyeda Dec. ¶¶ 11-12. Accordingly, Plaintiffs' claims for injunctive relief must be dismissed for lack of standing.

C. Plaintiffs Are Not Likely To Succeed On The Merits of Their Claim.

First, for the foregoing reasons, Plaintiffs cannot establish a likelihood of success on the merits of their Fifth Amendment claim, as this Court lacks jurisdiction. Thus, the Court can deny the application on that basis. *See, e.g.*, *Munaf v. Geren*, 553 U.S. 674, 691 (2008) (noting that jurisdictional issues can make success on the merits "more *unlikely* due to potential impediments to even reaching the merits"); *Laker Airways Ltd. v. Sabena, Belgian World Airlines*, 731 F.2d 909, 921 (D.C. Cir. 1984) ("If there is no justification for the court's exercise of jurisdiction, the injunctive relief should necessarily fail.").

In any event, Plaintiffs have not shown that Defendants violated any Fifth Amendment Rights. The Fifth Amendment's Due Process Clause provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. The Due Process Clause requires that the Government follow adequate procedures before it can deprive a person of certain liberty or property interests, a protection referred to as "procedural due process." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). The Due Process Clause "provides heightened protection against government interference with certain fundamental rights and liberty interests." *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997). With respect to such "fundamental right[s]," the government "can act only by narrowly tailored means that serve a compelling state interest." *Department of State v. Muñoz*, 602 U.S. 899, 909-10 (2024). To demonstrate a due process violation, a plaintiff must establish both the existence of a protected liberty

and the lack of proper procedures. *See Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 59-60 (1999).

First and foremost, Plaintiffs have not established that the process afforded to them at B-18 was insufficient. Notably, here, because Plaintiffs are organizations, they do not possess the same due process protections as individuals applying for relief or protection as a part of removal proceedings under the Immigration and Nationality Act. Indeed, due process protections vary "depending on status and circumstance[s]." *Zadvydas v. Davis*, 533 U.S. 678, 694 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 314 (2018) (noting that due process claims "call for such protections as the situation demands" (cleaned up)). In the detention context, Plaintiffs must show that "the challenged condition, practice, or policy constitutes punishment." *Block v. Rutherford*, 468 U.S. 576, 583-84 (1984). This standard demands either a "subjective intent to punish" or "that a restriction is unreasonable or excessive relative to the Government's proffered justification." *Americans for Immigrant Just. v. Dep't of Homeland Sec.*, No. CV 22-3118, 2023 WL 1438376, at *11 (D.D.C. Feb. 1, 2023). In particular, the Ninth Circuit has upheld mandatory injunctions designed to remedy government practices only when the "cumulative effect" of such practices "was to prevent aliens from contacting counsel and receiving any legal advice." *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565 (9th Cir. 1990). Government practices that effectively deny access to counsel include the detention of aliens far from where potential or existing counsel was located, limited attorney visitation hours, a dearth of potential counsel at the new location, inadequate efforts to secure privacy during counsel visits, inadequate notice of counsel arrival, and the processing of aliens at locations where telephones were not available to them. *Id.* at 565-67.

Here, Plaintiffs do not allege facts in their First Amended Complaint that establish restrictions on their communication with current and prospective clients were punitive or excessive. Indeed, the evidence shows that any restrictions on Plaintiffs' access to B-18 detainees were limited only from June 6 through June 23, when riotous crowds descended upon the facility. Uyeda Decl. ¶ 11. And even under such conditions, detainees had 24-hour access to telephones whether they were at B-18 or the Santa Anna facility. *Id.* Nothing shows that the "cumulative effect" of the government's practices during this volatile period "was to prevent aliens from contacting counsel and receiving any legal advice." *Orantes-Hernandez*, 919 F.2d at 565. Although Plaintiffs allege their access to B-18 was prevented between June 6 and 8, and limited on June 16 and 19, they concede that they gained access to B-18 when it reopened

on June 9, 2025. TRO at 8-10. Indeed, before June 6, "CHIRLA attorneys and representatives [had] been to B-18 regularly in the past and spoken to ICE without issue." Dkt. 38-9 ¶ 13. To be sure, barring the period when the Federal Building was completely closed to visitors *during the riots and protests* from June 6 to 8, Plaintiffs' own evidence reflects that they were able to gain access to B-18 at various times during the month of June. *See, e.g.*, Dkt. 38-3 (Attorney Barba was admitted to B-18 on June 4); Dkt. 38-5 (Attorney Duran admitted to B-18 on June 6 but was told that the facility would be closing because of protests); Dkt. 38-9 (Attorney Salas reports that Accredited Representative Stringer was not admitted on June 6 because it was "at capacity" and later closed because of protests); Dkt. 38-10 (Attorney Thompson-Lleras unable to enter on June 7 but was retained by family members of B-18 detainee); Dkt. 38-11 (Attorney Toczylowski reports that about 7 ImmDef attorneys as well as attorneys from other organizations were admitted on June 6, but required to leave because of protests; an ImmDef attorney was able to meet detained client on June 19 and secured his release that day; and another attorney was admitted on June 19, and secured release of detained client on June 20; on June 27, an officer at B-18 accommodated another ImmDef attorney who failed to bring her bar card to prove she is an attorney and enabled her to meet with her client despite the lack of identification); and Dkt. 38-12 (family friend of B-18 detainee able to meet him and have him sign a Form G-28 to retain counsel).

Regarding telephone communication, each holding room I B-18 is equipped with a telephone that is available to detainees 24 hours a day, and call times are not limited (*see* Uyeda Dec. ¶ 5), though interruptions may occur due to resource limitations or security issues. *See Block*, 468 U.S. at 586 (recognizing "internal security of detention facilities is a legitimate governmental interest"). Plaintiffs' declarations also undercut their contention that detainees were held "incommunicado." TRO at 11-12; *see* Dkt. 38-3 (Attorney Barba recounts that existing client C.K. contacted her through his daughter). Consequently, Plaintiffs' conclusory statements are insufficient to show any violation. *Cf. Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) ("[A] complaint [does not] suffice if it tenders naked assertion[s] devoid of 'further factual enhancement.") (internal citation omitted).

In short, from June 6 to June 23, Defendants have asserted legitimate governmental interests that justify the minimal and temporary restrictions on access to Plaintiffs' current and prospective clients. None of those limitations were aimed at preventing detainees from contacting counsel and receiving any

legal advice; instead, they were responsive to the volatile situation at hand. *See Orantes-Hernandez*, 919 F.2d at 565; *cf. Ramirez-Osorio v. INS*, 745 F.2d at 944 (recognizing that aliens in removal proceedings are not entitled to the same bundle of constitutional rights afforded defendants in criminal proceedings). On June 6, "protests erupted in downtown Los Angeles and specifically at the entrance to B-18," and "[t]he crowd impeded ICE operations, including the transport of detainees in or out of B-18 sally port and required other sub-offices in the area to re-route arrested individuals to other locations." Uyeda Dec. ¶ 10. "Staff feared that B-18 could be breached by the protestors if the public visitation door was opened." *Id.* Accordingly, "[d]ue to the volatile situation, B-18 closed early on the afternoon of June 6, 2025." Uyeda Dec. ¶ 10. The restrictions on in-person visits during these extraordinary times are thus not excessive and are rationally related to a non-punitive purpose. The government has a reasonable interest in securing detention and military facilities. *See Hatim v. Obama*, 760 F.3d 54, 59 (D.C. Cir. 2014) ("Prison security … is beyond cavil a legitimate governmental interest"); *see also Florence v. Bd. of Chosen Freeholders of Cnty. of Burlington*, 566 U.S. 318, 328 (2012) ("The task of determining whether a policy is reasonably related to legitimate security interests is peculiarly within the province and professional expertise of corrections officials.").

Plaintiffs' due process claim fails for two other independent reasons: they do not identify a liberty interest, nor establish error or prejudice. First, a threshold requirement for establishing a due process violation is identifying a liberty interest. *Erickson v. U.S. ex re. Dept. of Health and Human Services*, 67 F.3d 859, 861 (9th Cir. 1995) (citing *Board of Regents v. Roth*, 408 U.S. 564, 569 (1972), and *Schroeder v. McDonald*, 55 F.3d 454, 462 (9th Cir.1995)). The due process clause protects only "those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition." *Muñoz*, 602 U.S. at 910 (quoting *Glucksberg*, 521 U.S. at 720-21). Thus, this Court's "substantive due process analysis must begin with a careful description of the asserted right." *See Reno v. Flores*, 507 U.S. 292, 302 (1993) (noting that liberty interests are narrowly defined); *Glucksberg*, 521 U.S. at 720. While there is no dispute that detainees at B-18 have the right to retain counsel, organizational Plaintiffs fail to identify a qualifying liberty interest as to *their* access to clients and prospective clients that has been unfulfilled or otherwise infringed upon to trigger due process protections under the Fifth Amendment. *See generally* FAC & TRO. Plaintiffs merely assume, without support, that

they have a liberty interest in contacting existing and prospective clients. But they have not articulated a right "deeply rooted" in the history and tradition of the nation.

Second, Plaintiffs fail to establish the error or prejudice due to the alleged error to sustain a due process claim. To prevail on a due process challenge, a plaintiff must show constitutional "error and substantial prejudice." *Grigoryan v. Barr*, 959 F.3d 1233, 1240 (9th Cir. 2020) (*quoting Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000)). Plaintiffs fail to demonstrate prejudice where they fail to offer any reason that the outcome might have been different had the government not committed the alleged error. *See Lata*, 204 F.3d at 1246 ("[W]e will not simply presume prejudice."). That is, they have not alleged any harm arising from being unable to speak with clients during the limited window when access was affected. Nor did they allege a different outcome regarding prospective clients; indeed, it appears that they were able to retain prospective clients regardless of the temporary limited access. *See* Dkt. 38-10 (Attorney Thompson-Lleras was retained by family members of B-18 detainee). Defendants have provided Plaintiffs with constitutionally appropriate access to their clients and prospective clients. Plaintiffs' constitutional arguments must fail.

D. Plaintiffs Have Not Demonstrated Irreparable Harm.

"[P]laintiffs may not obtain a preliminary injunction unless they can show that irreparable harm is likely to result in the absence of the injunction." *All. For The Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). "The purpose of an injunction is to prevent future violations" and, therefore, requires the movant establish a "cognizable danger of recurrent violation" and not just "the mere possibility" of future harm. *U.S. v. W. T. Grant Co.*, 345 U.S. 629, 633 (1953). To establish a likelihood of irreparable harm, Plaintiff "must do more than merely allege imminent harm sufficient to establish standing; [they] must *demonstrate* immediate threatened injury." *Boardman v. Pacific Seafood Group*, 822 F.3d 1011, 1022 (9th Cir. 2016) (emphasis in original). Where "there is no showing of any real or immediate threat that the plaintiff will be wronged again," there is no irreparable injury supporting equitable relief. *Lyons*, 461 U.S. at 111; *see Olagues v. Russoniello*, 770 F.2d 791, 797 (9th Cir. 1985).

Plaintiffs' have presented no evidence that alleged misconduct will occur in the future. *See* TRO at 11-12. Operations at B-18 normalized on June 24, 2025, and Plaintiffs have not alleged that they have been unable to access existing or potential clients at B-18 since then. Likelihood of irreparable injury is

prospective, not retrospective; a plaintiff must show that he "is likely to suffer irreparable harm in the absence of preliminary relief." *Winter*, 555 U.S. at 20. But Plaintiffs' future injuries are not only speculative and, therefore, insufficient to demonstrate the likelihood of irreparable injury, they are premised on misstatements and outdated facts that no longer reflect realities on the ground. *See Park Vill. Apartment Tenants Ass'n v. Mortimer Howard Tr.*, 636 F.3d 1150, 1160 (9th Cir. 2011) ("An injunction will not issue if the person or entity seeking injunctive relief shows a mere possibility of some remote future injury[.]") (cleaned up).

E. The Equities Weigh Against Granting the TRO Application.

When the government is the defendant, the final two factors—the public interest and the balance of equities—merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). These equitable factors cut against the remedy proposed by Plaintiffs. The government has a legitimate and significant interest in ensuring that immigration laws are enforced, and any limitation would severely infringe on the President's Article II authority. *See U.S. v. Texas*, 599 U.S. 670, 679 (2023) (Article II "enforcement discretion" applies in the immigration context, where the Court has stressed that the Executive's enforcement discretion implicates normal domestic law enforcement priorities and foreign-policy objectives); *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1047 (1984) (discussing that "a person whose unregistered presence in this country, without more, constitutes a crime," and while "[t]he constable's blunder may allow the criminal to go free, [] we have never suggested that it allows the criminal to continue in the commission of an ongoing crime"). Plaintiffs' TRO is plainly based on past events when riots and protests required the government to act expeditiously and appropriately to protect the citizenry. *See* Uyeda Dec. ¶¶ 10-12. Indeed, the public interest should favor the government taking prompt, responsive action to preserve the safety of detainees and federal employees alike in light of the extraordinary circumstances it faced. *See* Uyeda Dec. ¶¶ 10-12. Granting a TRO here would provide little incentive for the government to take prompt, responsive actions in the future. Accordingly, both the public interest and the balance of the equities weigh in favor of denying the application.

F. Any Injunction Should Require Bond and Be Properly Limited to Named Plaintiffs.

If the Court grants Plaintiffs' requested TRO it should order security. Under Federal Rule of Civil Procedure 65(c), the Court may issue a preliminary injunction "only if the movant gives security" for

"costs and damages sustained" by Defendants if they are later found to "have been wrongfully enjoined." Fed. R. Civ. P. 65(c). If the Court issues a TRO here, it should require Plaintiffs to post an appropriate bond commensurate with the scope of any injunction. *See DSE, Inc. v. United States*, 169 F.3d 21, 33 (D.C. Cir. 1999).

On June 27, 2025, the Supreme Court held that district courts do not have equitable powers to issue a "universal injunction," barring the defendant from enforcing "a law or policy against *anyone*." *Trump v. CASA, Inc.*, 2025 WL 1773631, *4 (U.S. June 27, 2025) (emphasis in original). The Court reasoned that "'[c]omplete relief' is not synonymous with 'universal relief.' It is a narrower concept: The equitable tradition has long embraced the rule that courts generally 'may administer complete relief *between the parties*.'" *Id.* at *11 (emphasis in original) ("The individual and associational respondents are therefore wrong to characterize the universal injunction as simply an application of the complete-relief principle."). The Court in *Casa* overturned the lower court's universal injunction as to "all other similarly situated individuals" but left undisturbed the relief granted to named parties. *Id.* If this Court grants injunctive relief to Plaintiffs', that relief should apply *only* as to Plaintiffs ImmDef and CHIRLA who have applied for such relief, not for all "current and prospective attorneys, legal representatives, and legal assistants" (*Pls.' Proposed Order*, Dkt. 38-1 at 2) whether or not they are parties to this action.

Finally, Defendants respectfully request that if this Court does enter injunctive relief, that relief be stayed for a period of seven days to allow the Solicitor General to determine whether to appeal and seek a stay pending appeal.

V. CONCLUSION

For these reasons, the Court should deny the *ex parte* TRO application.

Dated: July 8, 2025

Respectfully submitted,

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L.R. 11-6.2 Certificate of Compliance

The undersigned counsel of record certifies that this filing is less than twenty-five (25) pages, which complies with L.R. 11-6.1 and this Court's standing order.

Dated: July 8, 2025

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