

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IMMIGRANT ADVOCATES RESPONSE
COLLABORATIVE, et al.,

Plaintiffs,

vs.

UNITED STATES DEPARTMENT OF
JUSTICE, et al.,

Defendants.

Case No. 25-cv-2279

Hon. Trevor N. McFadden

**NOTICE OF SUPPLEMENTAL AUTHORITY IN FURTHER SUPPORT OF
PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

Plaintiffs respectfully write to notify the Court of a recent decision staying the challenged Courthouse Arrest Guidance in the San Francisco, California area pursuant to 5 U.S.C. § 705. *See Pablo Sequen v. Albarran*, --- F. Supp. 3d ---, 2025 WL 3724878 (N.D. Cal. Dec. 24, 2025) (attached). The decision bears on several issues raised in Defendants' pending Motion to Dismiss (Dkt. 34).

First, Defendants here have argued (Mot. 16-19) that the Individual Plaintiffs' challenges to the Courthouse Arrest Guidance sound in habeas, which Defendants contend forecloses any challenge under the Administrative Procedure Act. But *Pablo Sequen* rejected a similar argument that habeas offers an "adequate remedy" under 5 U.S.C. § 704, explaining that because "habeas petitioners may challenge only the fact or duration of confinement," they "could not use habeas to challenge the location of their arrests (i.e., at immigration courthouses), as the government has repeatedly argued." 2025 WL 3724878, at *9. That decision further emphasizes the differences between habeas petitions and administrative-law challenges to immigration-related policies, as

Plaintiffs have contended. *See* Dkt. 38 (Opp.), at 29-30.

Second, Defendants have cited (Mot. 13) 8 U.S.C. § 1226(e), though they have forfeited any reliance on it. *See* Opp. 22 n.7. Even if the Court were to forgive this forfeiture, *Pablo Sequen* explains that the statute is plainly inapplicable for the reasons given in Plaintiffs' opposition: Plaintiffs are challenging systemic policies, not discretionary decisions regarding an individual's detention. *See* 2025 WL 3724878, at *8.

Third, *Pablo Sequen* emphasizes that the Courthouse Arrest Guidance is likely arbitrary and capricious for reasons that largely track those articulated in Plaintiffs' Complaint (Dkt. 1). *See* 2025 WL 3724878, at *10-18. The Immigration and Customs Enforcement guidance ignores the chilling effect of arrests at immigration courthouses and offers reasoning that is inapplicable to arrests at immigration courthouses. *See id.* at *10-14. The Executive Office for Immigration Review guidance similarly fails to provide a reasoned explanation for its change in policy and to address adequately the concerns of the prior policy. *See id.* at *15-18. Plaintiffs are therefore likely to succeed on the merits of these claims. *Contra* Mot. 19 n.5.

The *Pablo Sequen* order thus underscores that the Motion to Dismiss should be denied.

Dated: January 6, 2026

Respectfully Submitted,

s/ Simon C. Brewer

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** Application for pro bono admission forthcoming.