

LAWYERS' COMMITTEE FOR CIVIL RIGHTS
OF THE SAN FRANCISCO BAY AREA

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Marianela LEON ESPINOZA; Mayra
MENDEZ; Lorgia BOLAINÉZ DÍAZ;
Yury VASQUEZ PEREZ;
Ammy VARGAS BAQUEDANO; Mariela
RAMOS,

Petitioners-Plaintiffs,

v.

Polly KAISER, Acting Field Office Director of
the San Francisco Immigration and Customs
Enforcement Office;
Todd LYONS, Acting Director of United States
Immigration and Customs Enforcement;
Kristi NOEM, Secretary of the United States
Department of Homeland Security;
Pamela BONDI, Attorney General of the United
States, acting in their official capacities;
Minga WOFFORD, Mesa Verde ICE Processing
Center Facility Administrator

Respondents-Defendants.

Case No.

**MOTION TEMPORARY
RESTRAINING ORDER; POINTS
AND AUTHORITIES IN SUPPORT
OF MOTION FOR TEMPORARY
RESTRAINING ORDER AND
MOTION FOR PRELIMINARY
INJUNCTION**

**MOTION FOR TRO; POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR TRO
AND MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65(b) and Local Rule 231 of this Court, Petitioner-Plaintiffs ("Petitioners") hereby move this Court for a temporary restraining order. Petitioners' re-detention violates the Due Process Clause of the Fifth Amendment. Petitioners respectfully request that this Court (1) order Petitioners' immediate release from Respondents' custody pending these proceedings, without requiring bond or electronic monitoring and (2) order that Respondents must provide Petitioners with 10 days' notice and a pre-deprivation bond hearing before an immigration judge prior to any future re-arrest, where Respondents shall bear the burden of proof, by clear and convincing evidence, that they are a danger or a flight risk. To preserve this Court's jurisdiction and practically ensure prompt compliance with court orders, Petitioners further seek an immediate order (3) enjoining Respondents from transferring Petitioners out of this District or deporting them during this suit's pendency.

This Motion is based upon the accompanying Memorandum of Points and Authorities, the Petition/Complaint, and any other evidence or argument as may be presented at or before the time this Motion is heard by the Court. Petitioners filed this Action and this motion less than two days after retaining undersigned *pro bono* counsel. They have been detained unlawfully for weeks, and they struggled to find legal representation. Petitioners have upcoming hearings on the detained immigration court docket and are at risk of being ushered through expedited removal proceedings without being afforded due process as to their unlawful re-detention, and they are at risk of being transferred out of district or out of state at any time. Petitioners thus request that the Court set a hearing as soon as possible. Consistent with L.R. 231(a), and as further detailed in the Declaration of Victoria Petty, Petitioners' counsel contacted the United States Attorney's Office for the Eastern District of California to provide notice of Petitioners' need to seek a temporary restraining order of the nature described above.

Date: August 29, 2025

Respectfully Submitted,

/s/ Victoria Petty
Attorney for Petitioners-Plaintiffs

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1 In the interest of expedition and considering the ongoing irreparable harm, Petitioner-
 2 Plaintiffs hereby incorporate and respectfully refer the Court to their Verified Petition-Complaint
 3 for a full statement of the facts giving rise to this motion.

4 In sum, this case presents facts like recent cases in which courts have provided swift interim
 5 relief: ICE detained Petitioners outside of their immigration court hearings or during routine ICE
 6 check-ins, not because they present a danger or flight risk (they do not, and Respondents know
 7 this because they released them from immigration custody on that basis), but rather pursuant to a
 8 new, unlawful policy targeting people for arrest at immigration court or ICE check-ins for the
 9 purposes of applying a purported authority to impose mandatory detention and/or re-routing them
 10 through expedited removal procedures. *See, e.g., Castellon v. Kaiser*, No. 1:25-CV-00968 JLT
 11 EPG, 2025 WL 2373425 (E.D. Cal. Aug. 14, 2025) (granting preliminary injunction); *Singh v.*
 12 *Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July 11, 2025) (same); *Clavijo v. Kaiser*, 2025 WL
 13 2419263, *25 (N.D. Cal. Aug. 21, 2025) (same); *Paz Hernandez v. Kaiser*, No. 1:25-cv-00986
 14 (same) (E.D. Cal. Aug. 21, 2025); *Prieto Salazar v. Kaiser*, 1:25-CV-01017 (E.D. Cal. Aug. 26,
 15 2025) (same); *Ruiz Otero v. Kaiser*, No. 25-cv-06536, 2025 WL 2453969 (N.D. Cal. Aug. 3, 2025)
 16 (granting *ex parte* TRO); *Garro Pinchi v. Noem*, 2025 WL 1853763, *4 (N.D. Cal. July 4, 2025)
 17 (same), *converted to preliminary injunction at* __ F. Supp. 3d __, 2025 WL 2084921 (N.D. Cal.
 18 July 24, 2025); *Jaraba Oliveros v. Kaiser*, No. 25-cv-07117, 2025 WL 2430495 (N.D. Cal. Aug.
 19 22, 2025) (same); *Salcedo Aceros v. Kaiser*, No. 1:25-cv-06924 (N.D. Cal. Aug. 16, 2025)
 20 (same); *Jimenez Garcia v. Kaiser*, No. 25-cv-06916 (N.D. Cal. Aug. 17, 2025) (same); *Hernandez*
 21 *Nieves v. Kaiser*, No. 25-cv-06921 (N.D. Cal. Aug. 17, 2025) (same); *Pineda Campos v. Kaiser*,
 22 No. 25-cv-06920 (N.D. Cal. Aug. 15, 2025) (same); *Valera Chuquillanqui v. Kaiser*, No. 3:25-cv-
 23 06320 (N.D. Cal. July 29, 2025) (same); *Pablo Sequen v. Kaiser*, No. 5:25-cv-06487 (N.D. Cal.
 24 Aug. 1, 2025) (same). Respondents have been on notice that this conduct violates due process, yet
 25 they have not changed course, necessitating Petitioners to bring this motion.

26 This re-detention violates Petitioners' due process rights and causes them irreparable,
 27 ongoing harm. The unconstitutional deprivation of "physical liberty" "unquestionably constitutes

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irreparable injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). In addition to Petitioners’ medical and psychological health being at risk, Petitioners’ detention prevents them from seeking immigration counsel, obstructs their ability to prepare their asylum cases, jeopardizes their employment, and separates them from their families and communities.

Petitioners thus respectfully request that this Court issue a temporary restraining order (1) prohibiting the government from transferring or removing Petitioners pending these proceedings; and (2) releasing Petitioners from custody and enjoining the government from re-arresting them absent the opportunity to contest that arrest at a hearing before a neutral decision maker.

ARGUMENT

To warrant a TRO, Petitioners need only show that (1) they are “likely to succeed on the merits,” (2) they are “likely to suffer irreparable harm in the absence of preliminary relief,” (3) “the balance of equities tips in [their] favor,” and that (4) “an injunction is in the public interest.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)); see *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analysis for issuing a temporary restraining order and a preliminary injunction is substantially the same). Even if Petitioners were to only raise “serious questions” as to the merits of their claims, the Court can still grant relief because the balance of hardships tips “sharply” in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135. As this Court has found in similar circumstances, all factors here weigh decisively in Petitioners’ favor. See, e.g., *Garcia*, 2025 WL 1927596, at *2-5 (granting preliminary injunction requiring ICE to release individual who had been previously freed from immigration custody).

I. PETITIONERS ARE LIKELY TO SUCCEED ON THE MERITS.

A. Petitioners' detention violates substantive due process.

The Due Process Clause applies to "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective," *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690.

To comply with substantive due process, Respondents' deprivation of an individual's liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is "civil, not criminal," and "nonpunitive in purpose and effect," must be justified by either (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) ("[T]he government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions."). When these rationales are absent, immigration detention serves no legitimate government purpose and violates substantive due process. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (detention must have a "reasonable relation" to the government's interests in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may "succeed on his Fifth Amendment claim if he demonstrates *either* that the government acted with a punitive purpose *or* that it lacks any legitimate reason to detain him").

Petitioners here, who have no criminal record and who are diligently pursuing their immigration cases, are neither a danger nor a flight risk. Therefore, their re-detention is not justified by a legitimate purpose. Indeed, Respondents chose to release Petitioners from custody

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1 soon after their entries between 2022 to 2024, indicating that Respondents determined that they
 2 were neither dangerous nor a flight risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D.
 3 Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("Release
 4 reflects a determination by the government that the noncitizen is not a danger to the community or
 5 a flight risk."). Nothing of significance has transpired since to disturb that finding.

6 *First*, because Petitioners had no criminal history at the time of their initial release from
 7 CBP custody, with no intervening criminal history or arrests since their release, there is no credible
 8 argument that they are a danger to the community.

9 *Second*, as to flight risk, the question is whether custody is reasonably necessary to secure
 10 a person's appearance at immigration court hearings and related check-ins. *See Hernandez*, 872
 11 F.3d at 990-91. There is no basis to argue that Petitioners, who were arrested by Respondents either
 12 *while appearing in immigration court* for a master calendar hearing *or at routine ICE check-ins*,
 13 are a flight risk. Moreover, Petitioners have viable paths toward immigration relief, further
 14 mitigating any risk of flight. *See Padilla v. U.S. Immigr. and Customs Enf't*, 704 F. Supp. 3d 1163,
 15 1173 (W.D. Wash. 2023) (finding no legitimate flight risk where plaintiffs have bona fide asylum
 16 claims and desire to remain in United States). Petitioners have filed applications for asylum or are
 17 in the process of preparing to file such applications. They have every intention of continuing with
 18 their cases and attending court. Respondents have no evidence to suggest otherwise.

19 In sum, Petitioners' actions since Respondents first released them confirm that they are
 20 neither a danger nor flight risk. Indeed, their ongoing compliance compels the conclusion that they
 21 are even *less* of a danger or flight risk than when they were originally released. Accordingly,
 22 Petitioners' ongoing detention is unconstitutional, and due process principles require their release.

23 **B. Petitioners' detention without the opportunity to contest their detention before**
 24 **a neutral decision-maker violates procedural due process.**

25 Noncitizens living in the United States like Petitioner have a protected liberty interest in
 26 their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. The Supreme Court
 27 "usually has held that the Constitution requires some kind of a hearing *before* the State deprives a

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1 person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so even in
 2 cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C.
 3 Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that re-detention after pre-
 4 parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S.
 5 778, 782 (1973) (holding the same, in probation context).

6 Accordingly, the Supreme Court has repeatedly held that individuals released from custody
 7 on bond, parole, or other forms of conditional release have a protected interest in their ongoing
 8 liberty, because “[t]he parolee has relied on at least an implicit promise that parole will be revoked
 9 only if he fails to live up to the parole conditions.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).
 10 “By whatever name, the[ir] liberty is valuable and must be seen within the protection of the [Due
 11 Process Clause].” *Id.* This liberty interest also applies to noncitizens, including those who have
 12 been conditionally released from immigration custody. *See Ortega v. Bonnar*, 415 F. Supp. 3d
 13 963, 970 (N.D. Cal. 2019); *Garcia*, 2025 WL 1927596, at *4 (agreeing with petitioner that release
 14 on immigration bond “create[d] a powerful interest for Petitioner in his continued liberty.”).
 15 Petitioners thus have a protected liberty interest in their freedom from physical custody.

16 Once a petitioner has established a protected liberty interest, as Petitioners have done here,
 17 courts in this circuit apply the *Mathews* test to determine what procedural protections are due. *See*
 18 *Johnson v. Ryan*, 55 F.4th 1167, 1179-80 (9th Cir. 2022) (citing *Mathews v. Eldridge*, 424 U.S.
 19 319, 335 (1976)). Under that test, the court weighs: (1) the private interest affected; (2) the risk of
 20 erroneous deprivation and probable value of procedural safeguards; and (3) the government’s
 21 interest. *Id.* In this case, the factors weigh heavily in favor of releasing Petitioners and prohibiting
 22 their re-detention without a custody hearing at which the government bears the burden of proof.

23 First, the private interest affected in this case is profound. When considering this factor,
 24 courts look to “the degree of potential deprivation.” *Nozzi v. Hous. Auth. of City of Los Angeles*,
 25 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). The degree of deprivation
 26 here is high. Petitioners, who have lived law-abiding lives, face prolonged detention, denying them
 27 the “free[dom] to be with family and friends and to form the . . . enduring attachments of normal

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1 life.” *Morrissey*, 408 U.S. at 482. Cutting Petitioners off from the “core values of unqualified
 2 liberty”—including their ability to be with family, and enjoy the peace and safety they could not
 3 find in their respective countries of origin—creates a “grievous loss.” *Id.* Moreover, because
 4 Petitioner face *civil detention*, their liberty interest “is arguably greater than the interest of the
 5 parolees in *Morrissey*.” See *Ortega*, 415 F. Supp. 3d at 970. It therefore “stands to reason that
 6 [each Petitioner] is entitled to protections at least as great as those afforded to a[n] . . . individual
 7 . . . accused but not convicted of a crime.” *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).

8 Second, “the risk of an erroneous deprivation [of liberty] is high” where, as here, “[the
 9 petitioner] has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, No.
 10 1:25-cv-00107, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No.
 11 19-cv-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020)); see also *Diep v. Wofford*,
 12 No. 1:24-cv-01238, 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). Respondents grabbed
 13 Petitioners by surprise as they left their immigration court hearings or during ICE check-ins,
 14 detaining them with no notice and no opportunity to contest their re-detention before a neutral
 15 arbiter. In such circumstances, when Respondents have provided *no* procedural safeguards, “the
 16 probable value of additional procedural safeguards, *i.e.*, a bond hearing, is high.” *A.E.*, 2025 WL
 17 1424382, at *5. This is especially true here, where there is no change in Petitioners’ circumstances
 18 suggesting that they now pose a flight risk or danger to the community. Their re-detention instead
 19 appears to be motivated by Respondents’ arrest and removal quotas. Neither constitutes a lawful
 20 justification to re-detain a person who does not pose a flight risk or danger to the community.

21 Because the private interest in freedom from immigration detention is substantial, due
 22 process also requires that in cases like this one, the government bears the burden of proving “by
 23 clear and convincing evidence that the [noncitizen] is a flight risk or danger to the
 24 community.” *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); see *Martinez v. Clark*, 124
 25 F.4th 775, 785-86 (9th Cir. 2024) (holding that government properly bore burden by clear and
 26 convincing evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-

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DMC, 2025 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025) (ordering pre-deprivation bond hearing in which government bears burden by clear and convincing evidence).

Third, the government's interest in detaining Petitioners without first providing notice and submitting to a custody hearing is negligible. Immigration courts routinely conduct custody hearings, which impose a "minimal" cost to the government. *See Doe*, 2025 WL 691664, at *6; *A.E.*, 2025 WL 1424382, at *5. Petitioners have a record of compliance, and there is no reason to believe that will change between the date of their release and their custody hearings. Indeed, courts regularly hold that the government's interest in re-detention without a custody hearing is low when the petitioner "has long complied with his reporting requirements." *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3-*4 (N.D. Cal. June 14, 2025) (granting TRO prohibiting re-detention of noncitizen without a pre-deprivation bond hearing); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *3-*4 (N.D. Cal. Mar. 1, 2021) (same); *Ortega*, 415 F. Supp. 3d at 970 (granting habeas petition ordering the same); *see also Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *4-*5 (S.D.N.Y. June 18, 2025) (granting habeas petition and immediately releasing petitioner who had been detained without process, who had "voluntarily attended his scheduled immigration court proceedings" and "established ties" through his work and volunteering with the church).

In similar cases, courts have ruled that re-detaining noncitizens without a pre-deprivation hearing in which the government bears the burden of proof violates due process, and have granted the emergency relief Petitioners seek here. *See Garro Pinchi*, 2025 WL 2084921, at *7 (prohibiting re-detention absent a hearing); *Singh*, 2025 WL 1918679, at *8-10 (granting PI under similar circumstances); *Doe*, 2025 WL 691664, at *8 (granting TRO over one month after petitioner's initial detention); *see also, e.g., Diaz*, 2025 WL 1676854, at *3-*4; *Garcia v. Bondi*, No. 3:25-CV-05070, 2025 WL 1676855, at *3 (N.D. Cal. June 14, 2025); *Jorge M. F.*, 2021 WL 783561, at *4; *Romero v. Kaiser*, No. 22-CV-02508-TSH, 2022 WL 1443250, at *4 (N.D. Cal. May 6, 2022); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

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1 In short, Respondents violated Petitioners' due process rights when they detained them
 2 without notice and without a custody hearing before a neutral arbiter. Here, only an order releasing
 3 Petitioners and enjoining re-detention—unless Respondents provide them with custody hearings
 4 where the government bears the burden of proof—would return the parties to the “last uncontested
 5 status which preceded the pending controversy.” *Doe v. Noem*, __ F. Supp. 3d __, 2025 WL
 6 1141279, at *9 (W.D. Wash. Apr. 17, 2025) (quoting *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d
 7 1199, 1210 (9th Cir. 2000)); *see also Valdez*, 2025 WL 1707737, at *4-*5 (ordering petitioner's
 8 immediate release as remedy for procedural due process violation).

9 * * * * *

10 For the foregoing reasons, Petitioner-Plaintiffs are likely to succeed on the merits of their
 11 claims. But even if the Court disagrees, Petitioner-Plaintiffs present at least “serious question[s]
 12 going to the merits,” alongside a “balance of hardships” tipping decidedly in their favor. *All. for*
 13 *the Wild Rockies*, 632 F.3d at 1135. Indeed, the constitutional concerns delineated above are of the
 14 weightiest order and beyond colorable. This Court should therefore enter the requested TRO.

15 **II. PETITIONERS WILL SUFFER IRREPARABLE INJURY ABSENT A TRO.**

16 Without a temporary restraining order, Petitioners will suffer irreparable injury. Indeed,
 17 they face such injury every day that they remain in detention, in violation of their Fifth Amendment
 18 rights. “It is well established that the deprivation of constitutional rights ‘unquestionably
 19 constitutes irreparable injury.’” *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695
 20 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged deprivation of a constitutional right is involved,
 21 most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v.*
 22 *Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005). And the unlawful deprivation of physical liberty
 23 is the quintessential irreparable harm. *See Hernandez*, 872 F.3d at 994 (holding that plaintiffs were
 24 irreparably harmed “by virtue of the fact that they [we]re likely to be unconstitutionally detained
 25 for an indeterminate period of time”); *see also, e.g., Rosales-Mireles v. United States*, 585 U.S.
 26 129, 139 (2018) (recognizing that “[a]ny amount of actual jail time is significant, and has
 27 exceptionally severe consequences for the incarcerated individual”) (cleaned up).

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1 In addition to constitutional injury, Petitioners will suffer other irreparable harms from
 2 continued detention. Marianela Leon Espinoza is facing a high-risk pregnancy alone, without
 3 proper medical care, and in conditions that make eating and sleeping almost impossible for her.
 4 Mayra Mendez was being seen by medical professionals on a regular basis to examine and monitor
 5 her physical health and treat serious injuries following a recent car accident, all of which has gone
 6 untreated during detention. Lorgia Maria Bolainez Diaz has bipolar disorder, which is exacerbated
 7 by the stress and isolation of detention. Respondents have separated Petitioners from their families
 8 and communities, who would ordinarily provide them with support in a difficult time. The abrupt
 9 arrest, detention in prison-like conditions, and total isolation from their support networks have
 10 caused Petitioners mental health to deteriorate. While detained, Petitioners will also continue to
 11 miss work, cutting off their ability to earn income to pay for basic needs such as prescription
 12 medications, food, and rent.

13 **III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH** 14 **STRONGLY IN PETITIONERS' FAVOR.**

15 When the government is the party opposing the request for emergency relief, the balance
 16 of the equities and the public interest merge. *Env't Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991
 17 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance of
 18 equities overwhelmingly favors Petitioners, who face irreparable injury in the form of ongoing
 19 constitutional harm and additional suffering if the TRO is not granted. *See Hernandez*, 872 F.3d
 20 at 996 ("Faced with ... preventable human suffering, ... the balance of hardships tips decidedly in
 21 plaintiffs' favor.") (internal citation omitted). On Respondent's end, detaining Petitioners
 22 unlawfully imposes a fiscal cost that will be eliminated by releasing them. As recently as 2019,
 23 the Department of Justice reported an average cost of detaining noncitizens, in 2019, of \$88.19 per
 24 prisoner per day ... So, retaining and housing detainees imposes substantial costs as well." *Black*
 25 *v. Decker*, 103 F.4th 133, 154 (2d Cir. 2024). Further, the government "cannot reasonably assert
 26 that it is harmed in any legally cognizable sense by being enjoined from constitutional violations."
 27 *Zepeda v. U.S. Immigr. & Nat. Serv.*, 753 F.2d 719, 727 (9th Cir. 1983).

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1 The public interest likewise weighs strongly in Petitioners' favor. As another California
 2 district court recently concluded, "[t]he public has a strong interest in upholding procedural
 3 protections against unlawful detention, and the Ninth Circuit has recognized that the costs to the
 4 public of immigration detention are staggering." *Diaz*, 2025 WL 1676854, at *3 (citing *Jorge M.*
 5 *F.*, 2021 WL 783561, at *3). More fundamentally, "[i]t is always in the public interest to prevent
 6 the violation of a party's constitutional rights." *Index Newspapers LLC v. U.S. Marshals Serv.*, 977
 7 F.3d 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr. & Customs Enf't*, 953 F.3d 1134, 1147-48
 8 (9th Cir. 2020) (internal quotation marks omitted)).

9 IV. SECURITY

10 No security is necessary here. Courts "may dispense with the filing of a bond when," as
 11 here, "there is no realistic likelihood of harm to the defendant from enjoining his or her conduct."
 12 *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003). It is also proper to waive the bond
 13 requirement in cases raising constitutional claims, because "to require a bond would have a
 14 negative impact on plaintiff's constitutional rights, as well as the constitutional rights of other
 15 members of the public." *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D.
 16 Cal. 1996). And Petitioners' high likelihood of success on the merits supports the Court's waiving
 17 of bond in this case. *See, e.g., People of State of Cal. ex rel. Van De Kamp v. Tahoe Reg'l Plan.*
 18 *Agency*, 766 F.2d 1319, 1326 (9th Cir.), *amended*, 775 F.2d 998 (9th Cir. 1985).

19 CONCLUSION

20 For the foregoing reasons, Petitioners respectfully request the Court grant a TRO to restore
 21 the *status quo ante* that (1) immediately releases Petitioners from Respondents' custody without
 22 any intrusive electronic monitoring and enjoins Respondents from re-detaining them absent further
 23 order of this Court; and (2) enjoins Respondents from re-detaining them unless they provide 10
 24 days' notice and demonstrate at a pre-deprivation bond hearing, by clear and convincing evidence,
 25 that Petitioners are a flight risk or danger to the community such that their physical custody is
 26 required; and (3) prohibits the government from transferring Petitioners out of this District and/or
 27 removing them from the country until these habeas proceedings have concluded.

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2 Date: August 29, 2025

Respectfully Submitted,

3 /s/ Victoria Petty

4 LAWYERS' COMMITTEE FOR CIVIL
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AND MOTION FOR PRELIMINARY INJUNCTION