U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

February 27, 2026

Honorable Nusrat J. Choudhury
United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Covelli-Chaparro v. Bondi, et. al.*, No. 26-CV-118 (Choudhury, J.)

Dear Judge Choudhury:

This Office represents Respondents in this action in which Juan S. Covelli-Chaparro ("Petitioner") challenged his detention by Immigration and Customs Enforcement ("ICE) and sought a writ of habeas corpus. During oral argument on January 15, 2026, the Court granted the petition and ordered Petitioner released from the courtroom. The Court then issued a written order dismissing the matter Docket Entry ("DE") 13 and judgment was entered. DE 15.

On January 19, 2026, Your Honor issued an Order to Show Cause (the "OTSC") directing the government to provide the following information:

> (1) what policy and/or guidelines they are operating under when bringing people in Immigration and Customs Enforcement ("ICE") custody to the Alfonse D'Amato Courthouse in the Eastern District of New York ("EDNY"); (2) whether ICE has been trained on procedures and guidelines for appearing in federal court in the EDNY; (3) what legal authority, policies, and/or procedures permit ICE to maintain civil habeas petitioners in handcuffs or other restraints when in the courtroom of a U.S. District Judge in the Alfonse D'Amato Courthouse; and (4) what legal authority, policies, and/or procedures permit ICE to use USMS facilities to produce individuals in ICE custody for federal court proceedings, including hearings on petitions for writ of habeas corpus under 28 U.S.C. §2241.

At the outset, in addition to the fact that this case is closed and judgement has been entered, Respondents note that the Petitioner did not challenge the use of handcuffs in this case, either for purposes of transport to the Courthouse or appearance in Court. The Respondents therefore respectfully submit that there should be no further proceedings in this case. As Justice Ruth B. Ginsburg wrote in *United States v. Sineneng-Smith*, 590 U.S. 371 (2020) "[i]n our adversarial system of adjudication…we rely on the parties to frame the issues for decision and assign to courts

the role of neutral arbiter of matters the parties present" and, "as a general rule, our system is designed around the premise that parties represented by competent counsel know what is best for them, and are responsible for advancing the facts and argument entitling them to relief." *Sineneng-Smith*, 590 U.S. at 375-76 (citations omitted); *see also id.* at 376 ("[C]ourts normally decide only questions presented by the parties.")(citations omitted); *In re TransCare Corp.*, 81 F.4th 37, 58 (2d Cir. 2023) ("In our adversarial system of adjudication, we follow the principle of party presentation, and courts are assigned the role of neutral arbiter of matters the parties present. Accordingly, courts do not, or should not, sally forth each day looking for wrongs to right. They wait for cases to come to them, and when cases arise, courts normally decide only questions presented by the parties.")(internal quotation marks omitted)(citing *Sineneng-Smith*, 590 U.S. at 376); *Clark v. Sweeney*, 607 U.S. 7, 9 (2025)("To put it plainly, courts call balls and strikes; they don't get a turn at bat.")(internal quotation marks omitted).

Further, as the case has been closed, and Petitioner never took issue with the use of restraints, there is no longer a case or controversy to extend Article III jurisdiction. *See United States v. Sanchez-Gomez*, 584 U.S. 381, 385–86 (2018) ("To invoke federal jurisdiction, a plaintiff must show a personal stake in the outcome of the action. This requirement ensures that the Federal Judiciary confines itself to its constitutionally limited role of adjudicating actual and concrete disputes, the resolutions of which have direct consequences on the parties involved…a case that becomes moot at any point during the proceedings is no longer a Case or Controversy for purposes of Article III, and is outside the jurisdiction of the federal courts.")(internal citations and quotations).

However, notwithstanding, and without waiving these objections, the government provides the following information in response to the OTSC.

I. Custody Authority

In response to the Court's first question, "what policy and/or guidelines they are operating under when bringing people in Immigration and Customs Enforcement ("ICE") custody to the Alfonse D'Amato Courthouse in the Eastern District of New York ("EDNY")," the Respondents refer to the Immigration and Nationality Act ("INA").

Through the INA, Congress enacted a multi-layered statutory scheme for the civil detention of aliens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. Critically, "[d]etention during removal proceedings is a constitutionally valid aspect of the deportation process." *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)). Thus, the INA authorizes and provides for the detention of individuals and, therefore, their restraint.

II. ICE Training Policies and Procedures

In response to the Court's second question, "whether ICE has been trained on procedures and guidelines for appearing in federal court in the EDNY," this Office has been informed that ICE does not have policies or procedures that specifically address the presentment of detainees by ICE officers in Federal Court.

III. ICE's Use of Restraints Policy

In response to the Court's third question, "what legal authority, policies, and/or procedures permit ICE to maintain civil habeas petitioners in handcuffs or other restraints when in the courtroom," Respondents refer the Court to the operative ICE policy concerning the use of restraints, attached hereto. The policy, entitled "U.S. Immigration and Customs Enforcement and Removal Operations, Use of Restraints," was issued in November 2012[1] and this Office has been informed that this policy remains in effect as of today. In relevant part, the policy requires that, "[i]f possible avoid exposing restrained persons to unnecessary view" (Section 2.4); "[u]pon arrival at the processing site or non-ICE detention facility, ICE personnel shall follow all local policies and procedures regarding use of restraints in place at that location (Section 5.9)"; and "[e]xcept in exigent circumstances, or as provided in sections 5.3 and 5.4, ERO officers will utilize full restraints when transporting detainees." Section 5.10.

Based upon the concern expressed by Your Honor regarding the use of handcuffs during immigration habeas proceedings, and consistent with ICE policy, ICE will abide by any standing order issued by Your Honor on this point, unless exception is warranted by particular circumstances.

IV. United States Marshals Service ("USMS") Requirements

In response the Court's fourth question, "what legal authority, policies, and/or procedures permit ICE to use USMS facilities to produce individuals in ICE custody for federal court proceedings, including hearings on petitions for writ of habeas corpus under 28 U.S.C. §2241," to the extent that ICE uses USMS facilities during the movement of a detainee at the courthouse, ICE does so in accordance with USMS authority and requirements.

Pursuant to 28 U.S.C. § 566 (a), "[i]t is the primary role and mission of the [USMS] to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals, the Court of International Trade, and the United States Tax Court, as provided by law."

As discussed in *United States v. Zuber*, 118 F.3d 101, 104 (2d Cir. 1997), "[t]he Marshals Service is, of course, charged with the movement of persons in custody in and around the courthouse, and responsible also for court security. *See* 28 U.S.C. § 566(a) ("It is the primary role and mission of the [USMS] to provide for the security . . . of the United States [Courts]."). Not surprisingly, in most such cases, a district judge will defer to the professional judgment of the [USMS] regarding the precautions that seem appropriate or necessary in the circumstances."

[1] Agency counsel informed this Office that the 2012 restraint policy is available in the public domain.

Respondents thank the Court for consideration of this submission.

Respectfully submitted,

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U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS

Use of Restraints

Policy Number: ERO 11155.1
Issue Date: 11/19/2012
Effective Date: 11/19/2012
Review/Expiration Date 11/19/2016
Superseded: Memorandum on Use of Restraints, Victor X. Cerda, Acting Director (July 20, 2004)
Federal Enterprise Architecture Number: 306-112-002b

1. **Purpose/Background.** This Directive establishes guidelines for officers who arrest and detain persons pursuant to the authorities of U.S. Immigration and Customs Enforcement (ICE) Office of Enforcement and Removal Operations (ERO).

1.1. This Directive applies to all ICE ERO officers with arrest authority as authorized in the INA as amended and implemented in Title 8, Code of Federal Regulations.

1.2. This Directive applies from the time the arrestee is encountered until processed into an ICE approved detention facility or turned over to another law enforcement agency, and to subsequent detainee transfers or transports by ERO officers.

2. **Policy.**

2.1. Upon arrest officers shall apply appropriate restraint devices which may include, but are not limited to, handcuffs, flexible restraints, or full restraints, in accordance with the procedures outlined in this directive.

2.2. Except in exigent circumstances, officers shall only use ICE authorized restraints on arrestees in a manner that is safe, secure, and professional and in a manner consistent with appropriate ICE-approved or provided training. Restraints will not be used to impose punishment on any individual arrested by ICE personnel.

2.3. Regardless of the level of restraints used, no arrestee will be transported without the assigned officer conducting his/her full search of the arrestees person for contraband, except when circumstances pose a safety hazard or danger to the officer, arrestee or the public. In the latter case, a full search will be conducted as soon as practicable. A pat down search shall be the minimum search conducted.

2.4. When transporting a restrained arrestee, officers shall take reasonable and prudent precautions to avoid causing unnecessary or physical discomfort. If possible, avoid exposing restrained persons to unnecessary public view. Once applied, the restraints must not restrict blood circulation or breathing.

Officers may not leave any handcuffed or otherwise restrained person unattended, except in exigent circumstances. Whenever foreseeable, supervisors should plan for additional officers and/or make alternate arrangements to prevent leaving restrained persons unattended. Officers may not secure any person to a fixed object that could endanger the person's life or cause injury.

Transport Hood and Protective Masks (spit guards/shields) are considered safety related equipment (not restraints) when properly used and applied.

Officers will not transport anyone without considering the person's risk to ICE staff, the public, himself/herself, and the likelihood of escape.

3. **Definitions.** The following definitions apply for purposes of this directive only:

3.1. **Adult.** Any person believed to be 18 years of age or older.

3.2. **Alien.** Any person who is not a United States citizen or national.

3.3. **Arrestee.** Any person, regardless of citizenship or nationality, who has been arrested, restrained, transported, or detained by ERO officers

3.4. **Child**. Any person believed to be under the age of 14 years of age.

3.5. **Contraband**. Any item that is prohibited by ICE or by law.

3.6. **Detainee.** Any alien booked into an ICE approved detention facility.

3.7. **Escape Risk.** Any person who the officer believes may attempt to flee from ICE custody after arrest or in any form of detention, if s/he is not otherwise prevented.

3.8. **Escort.** An officer's transport or movement of any person who has been arrested and/or detained under the authorities of ICE ERO.

3.9. **Exigent Circumstances.** A situation requiring unusual or immediate action or aid and that may require ERO officers to circumvent usual procedures (e.g. to prevent imminent danger to life or safety of an officer, the alien or other detainee, or the public or serious damage to property, or to forestall the imminent escape of a person in custody, or destruction of evidence).

3.10. **Full Restraints**. Full Restraints means: ICE-approved handcuffs, waist/belly chain, and leg irons.

3.11. **Full Search.** A search, by an ERO officer, of an arrestee's body, clothing and/or other items (e.g., purse or wallet in the arrestee's possession) that is conducted

to locate and retrieve weapons, contraband, and/or means of escape or evidence of a crime.

3.12. **Means of Escape.** Any tool, device, or contrivance designed or used for defeating a restraint (i.e., handcuff key, shim, etc.).

3.13. **Officer.** Any officer or agent employed by ICE ERO as defined by 8 C.F.R. 287.5.

3.14. **Restraining Device.** Any physically attached or applied device having the purpose of preventing, restricting, limiting, or controlling the movements of the person on whom it is applied. Safety equipment is not considered to be a restraining device.

3.15. **Transport.** Use of a vehicle to move any person arrested or detained.

3.16. **Weapon.** Any object, item, or device that may be used to cause physical injury, incapacitate, or diminish a person's capability, either temporarily or permanently.

4. **Responsibilities.**

4.1. **Managers and Supervisors** are responsible for:

a) Disseminating and enforcing the Use of Restraints Directive;
b) Verifying officers receive appropriate training before they carry out their duties;
c) Providing officers with the appropriate type and number of restraining devices, including all necessary keys and tools; and
d) Conveying all known information concerning escape risks, criminal background or involvement, and violence or medical indications to officers or managers.

4.2. **Officers** are responsible for:

a) Complying with the Use of Restraint Directive;
b) Verifying that approved restraints, keys, and tools are functioning properly and available for duties, as assigned;
c) Reporting any non-functioning equipment to their supervisor; and
d) Conveying all known information concerning escape risks, criminal background or involvement, and violence or medical indications to officers or managers.

5.0. **Procedures.**

5.1. **Handcuffing.** When arrestees are encountered at locations deemed unsecure by arresting officers, officers should handcuff (double-locked) all arrestees with

their hands behind their back and palms facing outward. Age, size, or gender is not a valid reason for failing to handcuff an arrestee.

5.2. **Full Restraints.** When arrestees are encountered at a secure location (e.g. jail, prison, or similar location), officers will utilize full restraints.

5.3. **Exceptions.** Officers may restrain an arrestee with his/her hands in front or use other appropriate and approved restraining device(s) when an arrestee:

a) is in an obvious state of pregnancy,
b) has a physical disability, or
c) has injuries that could be aggravated by standard handcuffing procedures.

5.4. **Encountering a Child.** Any child deemed not to pose a threat of harm or escape by an officer will not be restrained.

5.5. **Large or Inflexible Persons.** Any individual who is larger or lacking flexibility may require the use of several sets of handcuffs linked together, flex-cuffs, or other specifically designed flexible restraints, if necessary.

5.6. **Additional Restraints.** Additional approved restraint devices may be used to secure an individual who violently resists and poses a threat to themselves, the officer, other detainees, or the public.

5.7. **Transition from Handcuffs to Full Restraints.** Arrestees handcuffed at the time of arrest should be transitioned to full restraints as soon as practicable once officers have identified a safe and secure location for the transition and sufficient officers are present, unless it is anticipated that the final destination (detention facility, ICE office, or other LEA facility) will be reached in less than one hour.

5.8. **Additional Responsibilities.** When ICE personnel have reason to believe that an alien in their custody is a known escape risk or will be located in an unsecure area for an extended period of time, such as a hospital (for example, doctors may request restraints be removed for treatment), supervisors must plan for additional officers, appropriate restraints, and/or make alternate arrangements.

5.9. **Non-ICE Processing Site or Detention Facility Procedures.** Upon arrival at the processing site or non-ICE detention facility, ICE personnel shall follow all local policies and procedures regarding use of restraints in place at that location.

5.10. **Use of Restraints during Transportation of Detainees by ERO Officers.** Except in exigent circumstances, or as provided for in sections 5.3 and 5.4, ERO officers will utilize full restraints when transporting detainees.

5.11. **Use of Restraints on Commercial Aircraft.** Airlines are under no obligation to transport detainees and may reject the officer and his/her detainee for a variety

of reasons. Corporate airline policy on the types and the use of restraints varies between airlines and airports. The aircraft's captain has the ultimate authority to determine the use of restraining devices on any flight. If the captain's decision is unacceptable, the officer shall deplane and make other arrangements. This procedure fully complies with current FAA and TSA regulations.

6. Authorities/References.

6.1. Title 8, United States Code, Section 1357 (INA 287)

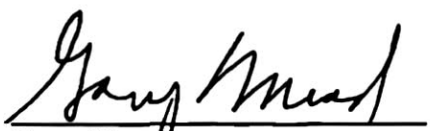
6.2. Title 8, Code of Federal Regulations, Part 287 (8 CFR 287)

6.3. ICE Directive 19006.1 Escapes from Custody (August 16, 2012)

6.4. M-69 The Law of Arrest, Search and Seizure for Immigration Officers (January 1993)

6.5. National Firearms and Tactical Training Unit Authorized Restraint Devices (January 11, 2012)

7. No Private Right. These guidelines and priorities are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.



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