

No. 26-1027

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

REFUGIO RAMIREZ OVANDO, et al.

Plaintiffs-Appellees,

v.

MARKWAYNE MULLIN, in his official capacity, et al.

Defendants-Appellants.

Appeal from the United States District Court for the District of
Colorado

Case No. 1:25-cv-03183-RBJ
The Honorable R. Brooke Jackson

**BRIEF OF AMICUS CURIAE PUBLIC JUSTICE IN SUPPORT
OF PLAINTIFFS-APPELLEES**

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INTERESTS OF AMICUS CURIAE¹

Public Justice is a national public interest advocacy organization that specializes in precedent-setting, socially significant civil litigation, with a focus on fighting to preserve access to justice for victims of corporate and governmental misconduct. The organization maintains an Access to Justice Project, which seeks to remove procedural barriers that unduly restrict the ability of workers, consumers, and other civil litigants from seeking redress in the civil court system. To that end, Public Justice has litigated dozens of cases in federal and state courts fighting for proper interpretations of Article III standing rules.

¹ No party's counsel authored this brief in whole or in part, nor did a party, its counsel, or any other person contribute money to fund preparing or submitting this brief. *See* Fed. R. App. P. 29(a)(4)(E). The parties consent to the filing of this brief.

INTRODUCTION

The purpose of standing doctrine is to ensure the federal courts judge the legal rights of litigants in actual controversies instead of giving advisory opinions beyond their constitutional power. To that end, Article III requires plaintiffs to answer a basic question: “What’s it to you?” A. Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 Suffolk U. L. Rev. 881, 882 (1983).

Plaintiffs have a good answer to that question. ICE’s practice of conducting warrantless arrests without making a required individualized flight-risk determination has wreaked havoc on their lives. Each Plaintiff was unlawfully arrested and detained without a warrant pursuant to ICE’s unlawful practice. After their release, they lived in constant fear of future unlawful arrest. Knowing that ICE’s practice was to target and arrest anyone suspected of being in the country unlawfully, Plaintiffs—and the class of Coloradans they represent—retreated from public life to minimize exposure to ICE. And some Plaintiffs remained subjected to ankle monitoring, bond obligations, and strict reporting requirements following their arrests.

The district court’s injunction provided Plaintiffs and the class the relief they needed. It redressed both Plaintiffs’ particular injuries stemming from their arrests *and* the ongoing and future injuries caused by the continued warrantless arrest practice. If ICE had its way, no one would have standing to seek prospective relief against its policy—even when they have a concrete stake in the matter. The district court was right to reject ICE’s distortion of standing doctrine, and this Court should affirm.

ARGUMENT

I. Plaintiffs have Article III standing

The district court was correct in holding that Plaintiffs have standing. At the preliminary injunction stage, a plaintiff need only demonstrate a substantial likelihood of standing. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992) (“[E]ach element [of standing] must be supported ... with the manner and degree of evidence required at the successive stages of the litigation.”). To do so, a plaintiff must show “(i) that she has suffered or likely will suffer an injury in fact, (ii) that the injury likely was caused or will be caused by the defendant, and (iii) that the injury likely would be redressed by the requested judicial relief.” *Food*

& Drug Admin. v. All. for Hippocratic Med., 602 U.S. 367, 380 (2024).

This Court reviews the district court’s standing determination *de novo*, and the factual findings underlying that determination for clear error. *Fish v. Schwab*, 957 F.3d 1105, 1118 (10th Cir. 2020).

The district court found that ICE has a policy, pattern, or practice of making warrantless arrests without an individualized assessment of flight risk (the “Policy”). App. Vol. 4 at 817–831, 857. In particular, to meet the Trump Administration’s “daily quota of 3,000 immigration arrests,” ICE conducted “large-scale, militarized raids of . . . locations known to host large Latino populations” and made warrantless arrests in large volume. App. Vol. 4 at 825–27. Plaintiffs were detained because of that practice, and they suffered significant and ongoing injuries as a result: ankle monitoring, bond obligations, and strict reporting requirements. App. Vol. 4 at 834. But those are not their only injuries. ICE’s Policy continued to cause Plaintiffs and members of the class ongoing injuries because exposure to the policy disrupted the ordinary activities of their daily lives: fearing arrest, they avoided leaving their homes and activities they used to routinely engage in. *E.g.*, App. Vol. 4 at 820-23. And it is likely to cause future injuries because, with the policy

still in place, Plaintiffs and members of the class are at risk of being arrested again. The district court’s injunction redresses those injuries for Plaintiffs and members of the class.

A. Plaintiffs have injuries-in-fact

When seeking prospective relief, a plaintiff has an injury-in-fact when they are “suffering a continuing injury” or are “under a real and immediate threat of being injured in the future.” *Tandy v. City of Wichita*, 380 F.3d 1277, 1283 (10th Cir. 2004). A plaintiff may show *either* a continuing injury or an immediate future injury; they need not show both—and a court “need not address” alternative theories of injury once one type of injury-in-fact is established. *Sierra Club v. E.P.A.*, 755 F.3d 968, 976 n.2 (D.C. Cir. 2014). Here, ICE’s Policy is causing Plaintiffs and members of the class to suffer both continuing injuries and the threat of future injury—each of which on its own is sufficient to support Article III standing.

1. Plaintiffs’ exposure to ICE’s Policy while going about daily life is an ongoing injury

First, Plaintiffs’ and class members’ daily exposure to ICE’s Policy is itself an ongoing harm. *Melendres v. Arpaio*, 695 F.3d 990, 998 (9th Cir. 2012) (affirming district court holding that “[e]xposure to [a

government] policy while going about one’s daily life . . . constitutes ‘ongoing harm’”); *accord M-J-M-A- v. Hermosillo*, 822 F. Supp. 3d 1147, 1175 (D. Or. 2026) (“Plaintiffs’ daily exposure to Defendants’ immigration enforcement practices employing warrantless arrests without conducting a pre-arrest assessment of someone’s likelihood of escape causes significant ongoing harm.”).

In *Melendres v. Arpaio*, Latino plaintiffs challenged the county sheriff’s policy or practice of “stopping Latino drivers and passengers pretextually and without individualized suspicion or cause . . . under the auspices of enforcing federal immigration laws.” 695 F.3d at 994. The Ninth Circuit affirmed the district court’s holding that the plaintiffs had standing, which was based in part on its conclusion that the “exposure” to the policy “while going about one’s daily life”—driving or sitting as passengers in a car—“constitute[d] ‘ongoing harm.’” *Id.* at 998; *see also Ortega-Melendres v. Arpaio*, 836 F. Supp. 2d 959, 979 (D. Ariz. 2011) (district court opinion holding that, if sheriff’s office “detains people . . . without reasonable suspicion that they have violated essential elements of a criminal law[,] . . . exposure to that policy is . . . itself an ongoing harm” in addition to being evidence of likely future injury). Likewise, *M-*

J-M-A- v. Hermosillo held that the plaintiffs’ “daily exposure” to the same ICE Policy challenged here “cause[d] significant ongoing harm.” 822 F. Supp. 3d at 1175. For example, one plaintiff testified that his family was “afraid to open their front door for weeks,” his grandchild was “afraid to go to school,” and he had to “seek mental health treatment to cope with the stress ICE caused.” *Id.*

So too here. Immigrants in Colorado are exposed to ICE’s Policy in every aspect of daily life. Each Plaintiff “lives, works, travels, and socializes in communities where ICE agents have been active, and where ICE has made repeat visits and unlawful warrantless arrests.” App. Vol. 1 at 58–59. Plaintiffs and members of the class have been arrested or are at risk of being arrested while driving, working, visiting friends, or simply walking out of their homes. App. Vol. 4 at 817–23, 827–30. And the district court determined that under ICE’s Policy, anyone—not just those with a warrant for their arrest or who present a flight risk—can be arrested at any time. App. Vol. 4 at 817–831.

As a result of this constant exposure to the Policy and their fear of unlawful arrest, Plaintiffs and class members have retreated from public life. They are “cancelling in-person meetings” and “avoid[ing] applying

for government services that require submitting personal data.” App. Vol. 1 at 60. Members of one Plaintiff’s Bible study group are “afraid to congregate in each other’s homes and have reduced the frequency of their meetings.” App. Vol. 1 at 45. Another Plaintiff, whose driver’s license was confiscated by ICE, is too afraid to go to the DMV to get a new one. App. Vol. 5 at 1015. Class members with young children are “terrified of being swept up in a raid and separated from their children.” App. Vol. 1 at 60. School districts have seen staggering drops in attendance because parents are afraid to send their kids to school. Ryan Spencer, et al., *‘There’s a human cost’: Colorado mountain towns see student absences, community tension in wake of growing ICE operations*, Post Independent (Sept. 26, 2025), <https://www.postindependent.com/news/ice-operations-colorado-mountain-towns-cause-community-tension/> [https://perma.cc/X8EE-H67Z]. “[P]laces of work, construction sites, restaurants, and hotels” don’t have enough employees to stay open. *Id.* In “every aspect of life,” Coloradan Latinos have “attenuated their normal behavior and avoided critical locations” to avoid ICE. Seth Klamann, *Affordability tops concerns for Colorado Latinos, but criticism mounts for immigration crackdown*, The Denver Post (Nov. 17, 2025, 6:00 AM),

<https://www.denverpost.com/2025/11/17/colorado-latinos-poll-immigration-crackdown-trump-affordability/> [https://perma.cc/9R7W-3EWB]. Voces Unidas de las Montañas, a nonprofit organization, stated they have received over “100 phone calls or messages via their social media platforms or to their direct hotline from people who are on heightened alert because of their concern over increased immigration presence within Colorado.” App. Vol. 1 at 60. The disruption to Plaintiffs’ and class members’ daily activities due to their incessant exposure to ICE’s unlawful Policy is an injury-in-fact for Article III standing. *See Melendres v. Arpaio*, 695 F.3d at 998.

On top of that, the district court also correctly found that, even though Plaintiffs are no longer detained, they are still “suffering [] direct and current’ injuries” as a result of their unlawful arrests and detention. App. Vol. 4 at 834 (quoting *County of Riverside v. McGluaghlin*, 500 U.S. 44, 50 (1991)). For example, they owe bond payments, wear ankle monitors, and must adhere to strict reporting requirements. App. Vol. 4 at 834. So, their “liberty interests are still impacted due to the initial warrantless arrest.” *Id.* That too is a “continuing injury” for Article III standing. *Tandy*, 380 F.3d at 1283.

In sum, Plaintiffs are suffering multiple ongoing injuries that are sufficient on their own to support Article III standing. That alone distinguishes this case from *City of Los Angeles v. Lyons*, in which only a future injury—not an ongoing injury—was alleged. 461 U.S. 95, 105 (1983) (noting that plaintiff’s standing “depended on whether he was likely to suffer future injury”). As this Court has explained, a plaintiff need not meet the requirements of *Lyons* when there is a “cognizable, continuing injury” due to continued exposure to an unlawful policy or practice. *Riggs v. City of Albuquerque*, 916 F.2d 582, 586 (10th Cir. 1990) (finding standing because, “[i]n contrast to the speculative future harm alleged in *Lyons* and *O’Shea*, plaintiffs in this case allege that defendants continue to conduct illegal surveillance of plaintiffs’ activities.”). Here, therefore, Plaintiffs’ constant exposure to ICE’s Policy and the infringement on their liberty interests are sufficient injuries to establish standing to seek injunctive relief.

2. Plaintiffs face a substantial risk of future harm

Plaintiffs’ continuing injuries are sufficient to establish an injury-in-fact. But, without the district court’s injunction, Plaintiffs and class members face a likely future injury too: the “real and immediate threat”

of being arrested pursuant to ICE's Policy. *Tandy*, 380 F.3d at 1283. The factual findings below, which this Court reviews for clear error, *Fish*, 957 F.3d at 1118, demonstrate that there is a "substantial risk" that Plaintiffs and class members will suffer future injury for at least three reasons. *Shaw v. Smith*, 166 F.4th 61, 74–75 (10th Cir. 2026). First, the existence of a pattern or practice of unlawful warrantless arrests is sufficient on its own to create a substantial risk of future injury. Second, the fact that the warrantless arrests are targeted at communities of which Plaintiffs are a part increases the risk of a future arrest. Third, because the Policy targets Plaintiffs while they lawfully go about their daily activities, there is nothing they can do to lessen the risk of harm.

a. The very existence of ICE's Policy demonstrates that Plaintiffs and class members will likely be arrested in the future. As this Court explained in *Shaw v. Smith*, "under [*City of Los Angeles v. Lyons*, [courts] look to whether Plaintiffs establish a pattern and practice of unlawful conduct" to determine whether that conduct is likely to recur in the future. 166 F.4th at 77; *accord Melendres*, 695 F.3d at 998 (explaining that a plaintiff can show a future harm is likely by "demonstrat[ing] that the harm is part of a pattern of officially sanctioned behavior violative of

the plaintiffs’ federal rights”) (citation modified); *see also In re Navy Chaplaincy*, 697 F.3d 1171, 1176–77 (D.C. Cir. 2012) (“The prospect of future injury becomes significantly less speculative where, as here, plaintiffs have identified concrete and consistently-implemented policies claimed to produce such injury.”).

Shaw involved a challenge to Kansas Highway Patrol’s (“KHP”) unlawful practice of stopping out-of-state drivers—in an effort to search cars for marijuana—without reasonable suspicion or voluntary consent. *Shaw*, 166 F.4th at 67. Even though KHP did not have a “formal, written policy” to violate drivers’ Fourth Amendment rights, it had a de facto policy. *Id.* at 77. KHP instructed its troopers to “STOP A LOT OF CARS” and “train[ed] its troopers to consistently violate the Constitution.” *Id.* at 71. Consistent with that training, troopers “inordinately” stopped out-of-state drivers and “systematic[ally]” violated the Fourth Amendment during those stops. *Id.* at 76, 77 n.10. That “persistent pattern of police misconduct” was sufficient to show that the plaintiffs would be subject to future injury. *Id.* at 77 (quoting *Allee v. Medrano*, 416 U.S. 802, 815 (1974)).

The *Shaw* Court distinguished its facts from *Lyons*, where the

plaintiff did not have standing to pursue injunctive relief. *Id.* In *Lyons*, the plaintiff, who had been placed in a chokehold during an arrest, sought to enjoin the use of chokeholds without provocation during lawful arrests. *Lyons*, 461 U.S. at 105. But unlike in *Shaw*, the officers in *Lyons* were not “ordered or authorized . . . to act in such a manner.” *Shaw*, 166 F.4th at 77 (quoting *Lyons*, 461 U.S. at 106). Whereas in *Shaw* there was “systematic repetition” of the unlawful conduct, *id.* at 77 n.10, the plaintiff in *Lyons* made only a single allegation of the challenged conduct and the Court found “there was not ‘any evidence showing a pattern of police behavior’ that might indicate a policy of using chokeholds more frequently.” *Id.* (quoting *Lyons*, 461 U.S. at 110 n.9). Indeed, the police in *Lyons* had a policy *prohibiting* chokeholds in many circumstances: officers were instructed to use them “only when lesser degrees of force d[id] not suffice” and even then “only to gain control of a suspect who is violently resisting” arrest or “trying to escape.” *Lyons*, 461 U.S. at 110. So, the *Lyons* Court “did not believe that ‘the odds that Lyons would not only again be stopped for a traffic violation but would also be subjected to a chokehold without any provocation whatsoever were sufficient to make out a federal case for equitable relief.’” *Shaw*, 166 F.4th at 77

(quoting *Lyons*, 461 U.S. at 108) (citation modified). In *Shaw*, because the officers *were* ordered or authorized to act in the manner challenged by the plaintiffs, the odds were “far greater” that the plaintiffs would suffer future injury, so they met their burden to establish an injury-in-fact. *Id.* at 77.

The present case is much more like *Shaw* than like *Lyons*. Indeed, here, the district court found even stronger evidence of a policy and practice than in *Shaw*. Here the court found that “numerous public statements by senior immigration officials” declaring that “ICE *will* arrest anybody it encounters who is unlawfully present” combined with “the manner of these raids, and the volume of resulting arrests” illustrated a “consistent pattern.” App. Vol. 4 at 824–27. The district court “considered the testimony (and supporting documents) of the four named plaintiffs, the hearsay accounts of four putative class members (J.P.P., J.C.C., O.M.R., and F.J.), and evidence from a veteran immigration attorney regarding 15 to 20 similar warrantless arrests seemingly made without any individualized assessment of flight risk.” App. Vol. 4 at 851. That “undisputed anecdotal experience,” combined with “the many media statements from top immigration officials, the

nature of ICE's ongoing enforcement operations, and the agency's own statistics regarding the criminal histories of those it has arrested," sufficed to establish that ICE has a pattern or practice of making warrantless arrests without the required individualized flight risk assessment. App. Vol. 4 at 852. ICE's "systematic repetition" enforcing its Policy "establishes a substantial risk of future harm to Plaintiffs, along with countless other" class members. *Shaw*, 166 F.4th at 77 n.10; *see also Escobar Molina v. U.S. Dep't of Homeland Sec.*, 811 F. Supp. 3d 1, 33 (D.D.C. 2025) (holding same ICE Policy established substantial risk of future injury).

b. Though the existence of a policy or practice is enough on its own to find a likelihood of future injury, the district court's findings about the specific targeting of the Latino community of which Plaintiffs are a part further supports a finding of future injury. *See, e.g., Shaw*, 166 F.4th at 77 (holding that out-of-state driver plaintiffs faced a substantial risk of being stopped given data showing disproportionate targeting of out-of-state drivers); *Melendres*, 695 F.3d at 998 (holding Latino plaintiffs had standing to challenge unlawful immigration practice that targeted Latinos suspected of unlawful presence in country); *Deshawn E. by*

Charlotte E. v. Safir, 156 F.3d 340, 344–45 (2d Cir. 1998) (finding standing for juvenile plaintiffs who sought injunction of policy targeting juveniles); *Church v. City of Huntsville*, 30 F.3d 1332, 1337–39 (11th Cir. 1994) (finding standing for homeless plaintiffs who sought injunction of policy targeting homeless individuals). In *Shaw*, for example, this Court found that the out-of-state driver plaintiffs faced a “substantial risk” of future injury in part because the policy at issue “disproportionate[ly] target[ed]” out-of-state drivers. 166 F.4th at 77. By contrast, the plaintiff in *Lyons* challenged an alleged policy that applied to the entire population of Los Angeles; he could not show that he was any more “realistically threatened” to be the target of a chokehold than anyone else. *Lyons*, 461 U.S. at 106.

This case, even more so than *Shaw*, is distinguishable from *Lyons*. As Latinos in Colorado, Plaintiffs belong to a “significantly smaller, more discrete and identifiable community than the population of Los Angeles of which Lyons was a member.” *M-J-M-A-*, 822 F. Supp. 3d at 1174 (involving challenge to same ICE Policy as here); *see also Escobar Molina*, 811 F. Supp. 3d at 33 (similar). Indeed, the fact that Plaintiffs were already arrested pursuant to the Policy demonstrates that they are

within the population of people targeted for arrest. They remain at particular risk of future arrest because ICE's practice includes indiscriminately raiding "high-density locations like apartment complexes and nightclubs where many Latine people live[] or gather[]." App. Vol. 1 at 57.

c. Plaintiffs are exposed to ICE's policy while going about the unavoidable, lawful activities of daily life, so they cannot avoid future injury by changing their behavior. *See Honig v. Doe*, 484 U.S. 305, 320 (1988) (distinguishing *Lyons* and finding that future injury was likely because plaintiff could not "conform his conduct" to avoid harm). In *Shaw*, "no matter how carefully" plaintiffs tried to follow traffic laws, there was a substantial risk that they would be pulled over at some point again because "traffic infractions are incredibly common and may be caused by any number of mere mistakes." 166 F.4th at 76. And the plaintiffs could have been "riding as a passenger in a car in the future, meaning they would have no control over whether traffic laws [were] violated." *Id.* By contrast, as this Court noted, the plaintiff in *Lyons* would have needed to allege that he would not only have another encounter with the police, but that he would likely be placed in a

chokehold again without provocation. *Id.* at 77 (distinguishing *Lyons*, 461 U.S. at 108). And since Lyons had not shown pattern or practice of unprovoked chokeholds, Lyons could simply avoid a future chokehold by not “illegally resist[ing] arrest.” *See Lyons*, 461 U.S. at 106.

Here, even more clearly than in *Shaw*, Plaintiffs cannot avoid the circumstances in which they may be stopped by ICE: driving, going to work, visiting friends, and simply existing in public spaces. App. Vol. 4 at 817–23, 827–30; *see Escobar Molina*, 811 F. Supp. 3d at 34. In effect, “Plaintiffs are in danger the moment they open their front doors.” *M-J-M-A*, 822 F. Supp. 3d at 1174. And they cannot “conform [their] conduct” to avoid harm. *Honig*, 484 U.S. at 320. Because ICE’s Policy is to arrest people without a warrant or any individual assessment of unlawful status or flight risk, even if they follow the law to a tee, they are still at risk of being caught in ICE’s warrantless dragnet.

In sum, Plaintiffs have both ongoing and future injuries, and Article III’s injury-in-fact requirement is satisfied twice over.

B. Plaintiffs’ injuries are caused by ICE’s Policy

Plaintiffs’ ongoing injuries and future injuries are fairly traceable to ICE’s warrantless arrest Policy. To show that an injury is “fairly

traceable” to the challenged conduct, a plaintiff must allege “a substantial likelihood that the defendant’s conduct caused plaintiff’s injury in fact.” *Nova Health Sys. v. Gandy*, 416 F.3d 1149, 1156 (10th Cir. 2005) (citing *Utah v. Evans*, 536 U.S. 452, 464 (2002)). To do so, a plaintiff must establish that their injury was “not the result of the independent action of some third party not before the court.” *Id.* (quoting *Lujan*, 504 U.S. at 560). This showing, however, “does not require a plaintiff to establish that the defendant was the proximate cause of its injury.” *Santa Fe All. for Pub. Health & Safety v. City of Santa Fe, New Mexico*, 993 F.3d 802, 814 (10th Cir. 2021). Nor does it require a showing that a “defendant’s actions are the very last step in the chain of causation.” *Id.* (quoting *Bennett v. Spear*, 520 U.S. 154, 169 (1997)).

Plaintiffs have shown that ICE’s Policy “has directly resulted in [P]laintiffs’ arrests without administrative warrants and without consideration of escape risk” and is therefore the cause of their ongoing and future injuries. *Escobar*, 811 F. Supp. 3d. at 36–37 (addressing same ICE Policy as this case). As to their ongoing injuries, it is undisputed that Plaintiffs were arrested without a warrant and without a determination of flight risk. *See App. Vol. 4 at 817–23* (detailing findings of fact).

Defendants say that Plaintiffs “have not established that ICE arrested them without probable cause based on some alleged policy, much less that the alleged policy caused their bond and monitoring conditions.” AOB at 31. That is wrong. The district court made the factual finding—which this Court reviews for clear error, *Fish*, 957 F.3d at 1118—that ICE’s “predominant enforcement strategies in Colorado . . . led to the arrests” of Plaintiffs. App. Vol. 4 at 826. Some of Plaintiffs’ ongoing injuries flow directly from those arrests: “[A]s a result of their unlawful arrests and detention,” Plaintiffs are suffering from bond debts, ankle monitors, and strict reporting requirements. App. Vol. 4 at 834. And the ongoing disruptions to Plaintiffs’ and class members’ daily activities are also caused by the exposure to ICE’s Policy: they are forced to avoid going out in public or engaging in routine activities because of a reasonable fear they will be detained again pursuant to the Policy. *See supra* at I.A.1. Because the arrests are indiscriminate, they cannot avoid exposure to a warrantless arrest unless they somehow avoid coming into contact with ICE.

Plaintiffs’ and class members’ future injury—being arrested without a warrant or individualized determination of flight risk—is also

traceable to ICE's Policy. The district court held that Plaintiffs are "immediately in danger of sustaining some direct injury as a result of the challenged official conduct." App. Vol. 4 at 831 (quoting *Lyons*, 461 U.S. at 101–02). It is ICE's Policy of making sweeping arrests of Latino Coloradans that places Plaintiffs—and class members—at substantial risk of arrest in the future. *See supra* at I.A.2.

Defendants argue that Plaintiffs' future injury isn't fairly traceable to the warrantless arrest Policy because "ICE has since secured warrants . . . [s]o any future arrest would be caused by those warrants." AOB at 31. But causation is not so formalistic: "[T]he causation element of standing does not require the challenged action to be the sole or even immediate cause of the injury." *Sierra Club v. United States Dep't of the Interior*, 899 F.3d 260, 284 (4th Cir. 2018). So, even if ICE has obtained valid warrants for some Plaintiffs, that doesn't eliminate their risk of being randomly arrested because of the Policy. By design, the indiscriminate Policy does not distinguish between those with warrants and those without. ICE may not even know who has a warrant and who doesn't when it makes sweeping arrests of anyone it suspects is unlawfully present—just like ICE doesn't know who poses a flight risk

and who does not.

If Defendant's argument were correct, the plaintiffs in *Shaw* wouldn't have had standing. There, the out-of-state drivers were in many cases being pulled over for illegal traffic infractions, for which they could have been lawfully pulled over. *See Shaw*, 166 F.4th at 76. But the court still found that they had standing because the policy of targeting out-of-state drivers led to them being disproportionately targeted for enforcement of those infractions, and thus they were more likely to be pulled over than they otherwise would have been. *Id.* So too here: Even if the existence of a warrant would make arresting Plaintiffs technically lawful, that doesn't change the fact that Plaintiffs are more likely to be arrested because of ICE's Policy, and therefore face substantial risk of re-arrest because of the Policy.

In any case, one Plaintiff does not have a warrant for his arrest. *See App. Vol. 4 at 832.* Nor do countless members of the class who, too, face a substantial risk of arrest pursuant to the Policy. Defendants' argument is therefore inapplicable as to those individuals. In short, the risk of Plaintiffs' being re-arrested is caused at least in part by ICE's Policy of indiscriminately arresting people without warrants, even if they could

have been arrested in absence of the Policy.

C. The injuries of Plaintiffs and the class will be redressed by injunctive relief

As the district court found, injunctive relief would “directly redress the harm plaintiffs have suffered.” App. Vol. 4 at 835. “If a defendant’s action causes an injury, enjoining the action or awarding damages for the action will typically redress that injury.” *All. for Hippocratic Med.*, 602 U.S. at 381. Because Plaintiffs’ injuries are likely traceable to ICE’s policy of making indiscriminate warrantless arrests, *supra* at I.B., enjoining the Policy likely alleviates their injuries. And the district court’s injunction does just that: it redresses Plaintiffs’ injuries by stopping the ongoing infringements on their liberty (ankle monitors, reporting requirements, bond payments), and by eliminating the substantial risk of future warrantless arrest, allowing them to go about their daily lives without fear of unconstitutional arrest.

* * * *

In sum, Plaintiffs have a stake in this action: they have demonstrated both ongoing and future injuries that are caused by ICE’s practice of making warrantless arrests without an individualized assessment that someone is a flight risk. As in *Shaw*, “it would make

little sense to deny standing to these plaintiffs” because the “purpose of standing doctrine is to ensure that [the] court is judging ‘the legal rights of litigants in actual controversies’ instead of giving advisory opinions beyond [its] constitutional power.” 166 F.4th at 78 (quoting *Baker v. Carr*, 369 U.S. 186, 204 (1962)). And like the plaintiffs in *Shaw*, Plaintiffs here “have proven they have a genuine and particularized interest and fear in how they will be treated” by ICE in the future. *See id.* Without the district court’s injunction enjoining ICE’s warrantless arrest Policy, Plaintiffs and the rest of the class face the real risk of being unlawfully arrested again, and their daily lives will be upended due to the fear of that risk.

II. The scope of the district court’s injunction is proper because it provides relief to Plaintiffs and the entire class

Once standing is established, this Court must “separately ask whether plaintiffs were actually entitled to the injunction issued by the district court.” *Shaw*, 166 F.4th at 78. An injunction should provide complete relief to the plaintiffs. *See Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025). When a class is certified, the scope of injunctive relief is dictated by “the extent of the violation established” against the entire class. *Lewis v. Casey*, 518 U.S. 343, 360 (1996) (citation omitted); *see also Bresgal v. Brock*, 843 F.2d 1163, 1170–71 (9th Cir. 1987) (holding an

injunction is “not necessarily made over-broad by extending benefit or protection to persons other than prevailing parties in the lawsuit . . . if such breadth is necessary to give prevailing parties the relief to which they are entitled.”).

Here, Plaintiffs and members of the class could only be made whole by enjoining the entire Policy. Defendants argue that the injunction is too broad because Plaintiffs’ injuries were “fully redressed” by the narrower relief of returning bonds, removing their ankle monitors, and terminating their reporting requirements and other conditions of relief. AOB at 31. But those harms are just one aspect of Plaintiffs’ injuries. Plaintiffs and members of the class need the district court’s injunction to cover their other injuries—ongoing exposure to ICE’s Policy and substantial risk of future arrest—too. *Supra* at I.A. The only way to alleviate those harms was to enjoin the Policy. Without the injunction, Plaintiffs would continue to be exposed to the Policy and at risk of arrest pursuant to it, regardless of whether there are warrants issued for them. *Supra* at 20–21. But even if this Court were to accept Defendants’ argument that the only injuries suffered by Plaintiffs are those stemming from their past arrests, the parts of the district court’s injunction that

are specific to those harms do not alleviate the harms that the Policy inflicts on the rest of the class. Every class member is at risk of being arrested under ICE's indiscriminate Policy. So, an injunction enjoining that Policy is proper to provide the entire class adequate relief. *See Lewis v. Casey*, 518 U.S. at 359–60.

CONCLUSION

For the foregoing reasons, this Court should affirm the district court's orders.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) because this brief contains 5,200 words, excluding those parts of the brief exempted by Federal Rule of Appellate Procedure 32(f). This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office 365 in 14-point Century Schoolbook font.

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