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## INTRODUCTION

Plaintiffs ask this Court to clarify the scope of and enforce its December 12, 2025 Order to ensure that Defendants' compliance is meaningful and that class members receive the relief to which they are entitled. Plaintiffs' requests are straightforward: clarification that minor infractions and random encounters with immigration officers, standing alone, are not materially changed circumstances that justify re-detention of age-outs; clarification that Defendants must corroborate allegations of changed circumstances with actual documentation that ICE relied upon in re-detaining age-outs; and clarification that ICE must promptly release class members it re-detains in violation of this Court's orders and the statute. *See* Mot. to Clarify & Enforce, ECF 442 at 15-24.<sup>1</sup> Plaintiffs also ask the Court to enforce its prior order and order the release of specific class members—many of whom have now been wrongfully detained for *months*—and for whom Defendants, even in opposing Plaintiffs' motion, have failed to establish materially changed circumstances. *See id.* at 24-25; Defs. Resp. in Opp. to Pls. Mot. to Clarify & Enforce, ECF 446. Clarification and enforcement are needed given the documented instances of ICE improperly re-detaining class members and later attempting to justify that re-detention based on alleged non-material circumstances, without any substantiating documentation, and ICE's repeated delays in releasing improperly re-detained class members.

While Defendants oppose these requests, they make no effort to defend the detention of any of the individual class members Plaintiffs have identified. ECF 446 at 8-13. This Court has already found the re-detention of class members without materially changed circumstances to be unlawful and ordered the release of impacted class members. December 12, 2025 Order, ECF 435. Nothing precludes this Court from granting Plaintiffs' motion in full.

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<sup>1</sup> Plaintiffs cite the ECF-generated page numbers of documents referred to by their ECF docket number.

## ARGUMENT

### **I. The Court Should Clarify that De Minimis Infractions and Random Encounters with Immigration Officers Do Not Constitute Materially Changed Circumstances.**

Defendants do not provide any substantive objection to the specific limitations suggested by Plaintiffs to clarify the definition of a materially changed circumstance. Nor do they suggest an alternative workable standard for what constitutes such circumstances. Instead, they devote just one paragraph to opposing Plaintiffs' request that this Court provide limited guidelines for when circumstances are sufficiently material and sufficiently related to danger and flight risk to justify re-detention of age-outs. ECF 446 at 8-9. But neither of Defendants' arguments have merit.

Defendants first suggest that this Court need not clarify what constitutes materially changed circumstances because Plaintiffs have not specifically alleged that the term is "vague or ambiguous." ECF 446 at 8. However, Defendants' own limitless application of the standard in this case makes clear that clarification is necessary. Given that Defendants are necessarily interpreting this term each time they choose to detain a former age-out, clarifying whether it includes certain specific, yet recurring, circumstances will help ensure that the Court's order is properly construed. *See U.S. v. Philip Morris USA Inc.*, 793 F. Supp. 2d 164, 168-69 (D.D.C. 2011) (collecting cases where parties filed successful motions to clarify the scope of a court's order "by applying it in a concrete context or particular factual situation"); *see also All. of Artists & Recording Cos., Inc. v. Gen. Motors Co.*, 306 F. Supp. 3d 413, 418-19 (D.D.C. 2016) (clarification might be "especially prudent if the parties must implement the ruling at issue in subsequent stages of the litigation").

Second, Defendants assert that determining whether materially changed circumstances exist is an individualized assessment, not a "rigid analysis." ECF 446 at 9. As evidenced by

Plaintiffs' proposed clarification, Plaintiffs do not disagree. *See* ECF 442 at 15-17 (asking for clarification that “[t]raffic stops that do not result in criminal charges; minor traffic violations or other similar infractions; untargeted encounters with immigration officers, including at immigration checkpoints; failure to update address with ICE; and similar circumstances” do *not* meet the standard, but not proposing a “rigid” definition of what *does*). However, what does not follow from that uncontroversial statement is Defendants' apparent position that *anything* and *everything* can constitute a material change in circumstances, such that there can be no way to narrow what that standard encompasses. That is patently incorrect. *See, e.g., Ledesma Gonzalez v. Bostock*, 808 F. Supp. 3d 1189, 1199-1201 (W.D. Wash. 2025) (holding that “a denial of asylum, standing alone, cannot constitute a material change justifying revocation” of prior release); *Lira Caceres v. Shanahan*, 2026 WL 233215, at \*10 (E.D.N.Y. Jan. 28, 2026) (finding loss of unaccompanied child status did not constitute a change in circumstances to justify detention).

The Court should clarify that certain events or facts, standing alone, are not material changes related to danger or flight risk, to justify re-detention. Courts routinely elaborate on the contours of legal standards by reference to specific fact patterns. *See, e.g., Chavarria Mejia v. Crawford*, 2026 WL 819603, at \*5 & n.6 (E.D. Va. Mar. 25, 2026) (holding that as a general matter unlawful status and history of unauthorized employment are not legitimate indicia of flight risk sufficient to deny bond); *Luciano-Jimenez v. Doll*, 547 F. Supp. 3d 462, 465-66 (M.D. Pa. 2021) (holding that “criminal activity occurring over four years ago” cannot alone establish current dangerousness). The Court should do the same here. Some concrete limitations on what can constitute a materially changed circumstance—which is all that Plaintiffs suggest, *see* ECF

442 at 15-17—will benefit the parties and the Court in narrowing the scope of current and future disputes about ICE’s compliance with the Court’s orders in this case.<sup>2</sup>

Most notably, Defendants make no effort whatsoever to defend any of the specific circumstances that Plaintiffs have identified as insufficient. *See generally* ECF 446; ECF 446-1. Yet in a number of cases of re-detained age-outs, Defendants allege nothing more than traffic stops that do not appear to result in criminal charges, minor traffic violations, random encounters with immigration officers, including at immigration checkpoints, and failure to update one’s address with ICE—allegations that are neither sufficiently significant nor relevant. *See* ECF 442 at 9-10, 17; *see also* Exs. A-D, ECF 444 (filed under seal). This Court should therefore clarify the “scope of [its] ruling,” *All. of Artists & Recording Cos.*, 306 F. Supp. 3d at 418, and make clear that Defendants’ expansive interpretation of materially changed circumstances is incorrect and violates its prior orders. *See* Order, ECF 435 at 2; *Ramirez v. U.S. ICE*, 812 F. Supp. 3d 86, 106-09 (D.D.C. 2025).

## **II. The Court Should Clarify that the Information Defendants Provide Class Counsel Must Include the Documents on Which Defendants Rely to Justify Re-Detention.**

Plaintiffs ask the Court to clarify that the “information” that Defendants must provide to class counsel regarding re-detained age-outs requires more than the summary blurbs included in the monthly spreadsheets they have produced thus far. ECF 442 at 18-23. In response,

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<sup>2</sup> Moreover, clarifying that some minor violations and random encounters with immigration authorities are insufficient to justify re-detaining class members actually benefits Defendants, who complain at length about the burdens of compliance with this Court’s orders and settlement agreements in other matters, *see* ECF 446 at 10, 11; Decl. of Byoung Park, ECF 446-1 ¶¶ 3-4, 11, as it avoids unnecessary expenditure of agency resources not only on establishing changed circumstances, but also by saving ICE the significant costs of needlessly detaining class members who pose no danger or flight risk. *See Velasco Lopez v. Decker*, 978 F.3d 842, 854 & n.11 (2d Cir. 2020) (acknowledging government’s interest in “minimizing the enormous impact of incarceration in cases where it serves no purpose” and noting that immigration detention “costs taxpayers approximately \$134 per person, per day, according to ICE’s estimates”).

Defendants make much of the list of documents Plaintiffs have identified. They argue that providing such records is a “sizeable burden” and that these documents “may not” be relevant to changed circumstances or, in some instances, ICE might not have one of the listed documents. ECF 446 at 9-11. But Defendants ignore the fact that all Plaintiffs seek are the “supporting documents ICE *relies on* to justify the re-detention” of age-outs. ECF 442 at 6 (emphasis added); *id.* at 18, 22 (listing multiple types of records “relied upon to establish materially changed circumstances”).

Thus, Plaintiffs are not asking ICE to create any new records. Nor are they asking ICE to produce irrelevant documents—if ICE does not rely on a criminal encounter or a violation of an Order of Supervision, it need not produce criminal records or document the violations. Rather, Plaintiffs are only asking that ICE produce relevant records<sup>3</sup> that they already possess and relied upon to make their determination. As Defendants acknowledge, they already provide such “supporting materials” for the many teenagers who turn 18 while in ORR custody. ECF 446 at 6. It is therefore disingenuous to suggest that the paltry information Defendants now provide is what “Plaintiffs requested,” ECF 446 at 9,—or what the Court ordered—when Defendants provide far more information regarding every age-out. Plaintiffs litigated their motion to enforce within that context, and the Court has not yet had an opportunity to “consider[] or decide[]” the sufficiency of the minimal information Defendants opted to provide at this stage of the litigation.

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<sup>3</sup> Defendants maintain that Form I-213s “may not” contain relevant information, but they acknowledge that these forms are used to document the circumstances (with varying levels of detail) of each DHS encounter. ECF 446 at 10; ECF 446-1 ¶ 8. And ICE has cited the mere fact of a DHS encounter, with nothing more, to justify re-detention. *See* Ex. B, ECF 444 (filed under seal) at 1 (citing Border Patrol encounters to justify continued detention). Moreover, any details regarding ICE’s re-arrest of an age-out—however minimal—are plainly relevant to whether that re-arrest complied with the Court’s order.

ECF 446 at 9 (quoting *Sai v. Transp. Sec. Admin.*, 2015 WL 13889866, at \*3 (D.D.C. Aug. 19, 2015)).

In suggesting that there “may” be no documentation that corroborates ICE’s statements about alleged changed circumstances, ECF 446 at 10-11, Defendants in essence ask this Court to (a) believe that ICE makes decisions about whether to re-detain the statutorily-protected young people at issue here based on information for which there is no paper trail whatsoever, and (b) trust that despite the lack of any such verifiable records, ICE is operating in good faith and complying with the statute. But Defendants entirely ignore the many recent cases where courts have found that ICE made false statements or misrepresentations about noncitizens, often to justify their arrest, detention, or removal. *See* ECF 442 at 19-20; *see also L.G.M.L. v. Noem*, 800 F. Supp. 3d 100, 109–10 (D.D.C. 2025) (holding the government’s explanation for attempting to remove children in the middle of the night “crumbled like a house of cards” once the evidence was reviewed); *Zheng v. Rokosky*, 2026 WL 800203, at \*7 (D.N.J. Mar. 23, 2026) (finding, contrary to the government’s representations, “absolutely no evidence in the record that Petitioner had ever been required to report in court and failed to do so”); *Montero-Martinez v. Mattos*, 2026 WL 674497, at \*1 (D. Nev. Mar. 9, 2026) (finding “demonstrably false” ICE’s assertion that noncitizen has been arrested for driving under the influence). In fact, Plaintiffs have offered evidence in this case that ICE’s representations are unreliable. *Compare* Ex. D, ECF 444 (filed under seal) (asserting that A.M.C. violated the conditions of his release) *with* ECF 442-1 ¶ 21 (describing A.M.C.’s efforts to comply with the conditions of his release); Ex. H (declaration from A.M.C. regarding his compliance with his conditions of release and ICE’s pretextual statements about his malfunctioning ankle monitor); *see also* Decl. of Emma Winger, ECF 442-1 ¶¶ 38-40 (detailing ICE’s misrepresentations to a different district court about this

court's review of class members' custody determinations). Defendants have not provided any reason for Plaintiffs or this Court to accept ICE's brief, conclusory and vague "descriptions" of alleged changed circumstances as sufficient justification for the re-detention of age-outs.

Lastly, it is a remarkable moment for ICE to assert that providing documents they already possess "would overburden ICE's already strained resources." ECF 446-1 ¶ 11. ICE is currently the highest-funded law enforcement agency in the country. Just last year, Congress gave the agency a \$85 billion dollar budget, which works out to nearly \$29 billion for each of the next four years.<sup>4</sup> At the beginning of 2026, the agency touted an "historic 120% manpower increase, thanks to [a] recruitment campaign that brought in 12,000 officers and agents."<sup>5</sup> Undoubtedly, Defendants have a "multitude of responsibilities." ECF 446 at 10. But this Court need not wade into the morass of how Defendants choose to allocate their abundant resources in order to find that fulsome compliance with this Court's orders is a crucial part of those responsibilities. An agency may not "shirk[] its duties by reason of mere difficulty or inconvenience," *Am. Hosp. Ass'n v. Price*, 867 F.3d 160, 168 (D.C. Cir. 2017)—or because it has opted to prioritize mass detention and deportations above all else.

In reality, Plaintiffs' ask is minimal. The Court should clarify that Defendants must provide the records they already have to justify the determination to re-detain class members, just as they already do for all age-outs when they turn 18 in ORR custody.

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<sup>4</sup> Bill Chappell, *How ICE grew to be the highest-funded U.S. law enforcement agency*, NPR (Jan. 21, 2026, 5:00 AM), <https://www.npr.org/2026/01/21/nx-s1-5674887/ice-budget-funding-congress-trump>.

<sup>5</sup> Press Release, DHS, *Manpower Increase, Thanks to Recruitment Campaign that Brought in 12,000 Officers and Agents* (Jan. 3, 2026), <https://www.dhs.gov/news/2026/01/03/ice-announces-historic-120-manpower-increase-thanks-recruitment-campaign-brought>.

### III. The Court Should Clarify that Its Prior Order and Injunction Require Prompt Release of Illegally Re-detained Class Members.

Defendants raise several objections to Plaintiffs' request that the Court clarify that Defendants must promptly comply with the Court's order to release wrongly detained class members, no later than 48 hours after their re-arrest. But Plaintiffs merely seek to ensure that Defendants do not prolong detentions even they view as violating this Court's orders—a request that the Court is well within its authority to grant.

First, Defendants' argument that such clarification would alter the Court's order which, they say, "is completely silent on timing of any release." ECF No. 446 at 11. But if anything, the Court's order suggests nothing less than that class members should be *immediately* released. *See Maness v. Meyers*, 419 U.S. 449, 458 (1975) (noting "the basic proposition that all orders and judgments of courts must be complied with promptly"). Moreover, contrary to Defendants' suggestion, *id.* at 13 n.4, the 48-hour limitation on unjustified detention is equally applicable in the civil immigration context. *See Gonzalez v. U.S. ICE*, 975 F.3d 788, 823–26 (9th Cir. 2020) ("Detaining persons for more than 48 hours pursuant to an immigration detainer implicates *Gerstein* [*v. Pugh*, 420 U.S. 103 (1975)]."). And while Defendants argue that release in 48 hours is not "operationally feasible," they ignore the most obvious option—ICE could elect not to re-arrest and detain former age-outs unless ICE, prior to re-arresting them, has concrete information establishing that they currently pose a danger or flight risk.<sup>6</sup> That would ensure compliance with

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<sup>6</sup> As Defendants note, Plaintiffs have flagged various questions and concerns with Defendants' proposal that they would "agree to release former age-outs within five calendar days after confirming class membership and making a release determination." ECF 446 at 8 n.2. On April 8, 2026, Plaintiffs' counsel emailed Defendants' counsel asking for clarification on when the five-day period begins, *i.e.*, when ICE makes the determination that would trigger release; why ICE needs five additional days to release class members once such determination is made; how this proposal, if it lacks a fixed time when the determination is made, ensures the prompt release

the Court’s December 2025 order, the statute, and have the obvious benefits of conserving federal government resources while minimizing unnecessary harm to countless youth.

Second, the Supreme Court’s decision in *Trump v. J.G.G.* does not preclude the Court from ordering ICE to release improperly re-detained age-outs within 48 hours. *See* ECF 446 at 11-13. In *J.G.G.*, plaintiffs challenged their detention and removal under the Alien Enemies Act (AEA), and the Court held that such AEA challenges “must be brought in habeas.” 604 U.S. 670, 672 (2025). The Court’s reasoning hinged largely on the fact that the AEA precludes judicial review. *Id.* Because the statute precludes judicial review, a non-citizen cannot challenge their AEA detention and removal under the Administrative Procedure Act (APA), leaving habeas as the only remedy. *Id.*; *see also Ludecke v. Watkins*, 335 U.S. 160, 163–64 (1948).

The same is not true of 8 U.S.C. § 1232(c)(2)(B)—it is not a statute that precludes judicial review. *See Ramirez v. U.S. ICE*, 338 F. Supp. 3d 1, 37 (D.D.C. 2018) (“[T]he language of the statutory provision features no terms either expressly or impliedly precluding judicial review.”). Accordingly, the Court has held that Plaintiffs’ claims were properly pled under the APA. *Id.* at 36–42. At *no time* during this litigation have Defendants argued that a § 1232(c)(2)(B) action can only be brought via a habeas corpus petition—not when they moved to dismiss Plaintiffs’ APA claims in 2018, nor in response to Plaintiffs’ Motion to Enforce in December 2025. *See* Defs.’ Mot. to Dismiss, ECF 32 at 29–39 (moving to dismiss Plaintiffs’ APA claims on several grounds, but not because habeas was the proper remedy); Defs.’ Resp. to Mot. to Enforce, ECF 427. Accordingly, it has been the law of the case that the APA provides a cause of action, and the Court has equitable authority under the APA to order release, within 48 hours

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of class members; and what distinguishes the class membership and release determination analyses. Plaintiffs’ counsel are awaiting a response as of the time of filing.

or otherwise, to remedy violations of § 1232(c)(2)(B). *See* ECF 435 at 2. The *J.G.G.* decision, which rests on the AEA's distinct statutory scheme, does not alter this authority.

Tellingly, the Department of Justice made the exact opposite argument in a recent habeas corpus case filed on behalf of a re-detained age-out who sought release from custody. *See Singh v. Noem*, 2026 WL 696835, at \*3–4 (W.D. Wash. Mar. 12, 2026). Rather than acknowledging that habeas is a proper remedy in the district where the age-out was detained, as they argue here, *see* ECF 446 at 12, the government urged the court to decline to hear the age-out's habeas case, arguing that his challenge was instead exclusively “governed by the class-wide remedial framework already ordered and supervised by the District Court for the District of Columbia” in the *Garcia Ramirez* litigation. Fed. Resps. Return Mem., *Singh v. Noem*, Ex. F, 442-3 at 8-10. There was no mention of *J.G.G.*, *see id.*, which shows that the government is picking and choosing jurisdictional arguments by convenience so that ICE can re-detain age-outs without justification and without judicial oversight.

#### **IV. The Court Should Order the Immediate Release of Previously Identified Class Members.**

Defendants provide no additional justification or individualized response at all to the specific class members whose release Plaintiffs seek, many of whom have now been improperly detained for months. Instead, they proffer an untimely argument about the procedural requirements of habeas law. *See* ECF 446 at 13. And, as described *supra* Part III, Defendants have taken a contradictory position in opposing at least one individual habeas petition brought by a class member. *See also* Winger Decl., ECF 442-1 ¶¶ 38-40. Regardless, this Court has already ruled that ordering the release of unlawfully re-detained class members is appropriate to ensure Defendants' compliance with 8 U.S.C. § 1232(c)(2)(B) and the permanent injunction. ECF 435 at 2; *Ramirez*, 812 F. Supp. 3d at 109-11. As such, this Court should grant Plaintiffs' motion to

enforce and order the immediate release of the specified class members. ECF 442 at 25;  
Proposed Order, ECF 442-5 at 2.

### CONCLUSION

For all the foregoing reasons, the Court should grant Plaintiffs' Motion to Clarify and Enforce the Court's Order Granting the Plaintiffs' Motion to Enforce the Final Judgment and Permanent Injunction.

Dated: April 17, 2026

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