

April 9, 2025

Attorney General Andrea Joy Campbell  
Massachusetts Office of the Attorney General  
1 Ashburton Place, 20<sup>th</sup> Fl.  
Boston MA 02108

District Attorney Marian T. Ryan  
Middlesex District Attorney  
Middlesex District Attorney's Office  
15 Commonwealth Ave.  
Woburn MA 01801

Re: Request for Review into Abduction of Rümeyisa Öztürk

Dear Attorney General Campbell and District Attorney Ryan,

We strongly urge your offices to open a criminal investigation into the unlawful kidnapping of Rümeyisa Öztürk by federal immigration officers in Somerville, Massachusetts. Ms. Öztürk, a resident of Somerville and student at Tufts University, was physically restrained, arrested without basis, and detained by plainclothes federal immigration officers. She is now being held 1,300 miles from her home and her attorneys. The sole basis for her arrest and detention appears to be the fact that she exercised her First Amendment rights to author an op-ed in a student newspaper that expressed an opinion with which the current Trump administration disagrees. Her arrest and detention warrant prompt investigation by your offices.

**Background**

Ms. Öztürk is a Turkish citizen and former Fulbright scholar who has lived and studied in the United States for more than five years, always on a valid student visa. She holds a masters degree from Columbia University and is enrolled full-time in a Tufts University PhD student on an F-1 student visa. One year ago, in March 2024, Ms. Öztürk co-wrote an op-ed in the Tufts school newspaper that called upon the university to abide by undergraduate student Senate resolutions that sought to hold Israel accountable for international law violations by divesting from Israeli companies.

This exercise of her First Amendment rights appears to be the sole basis for senior officials in the Trump administration to target Ms. Öztürk for arrest, detention, and deportation. On March 25, 2025, an Immigration and Customs Enforcement (ICE) agent wearing a hood that masked his face grabbed Ms. Öztürk by her wrists. Other plainclothes agents then surrounded her, restrained her, handcuffed her, and forced her into an unmarked vehicle without showing her identification. Then, despite a court ruling that prohibited ICE from moving Ms. Öztürk outside of Massachusetts, she was taken to multiple states before being sent 1,300 miles away to a detention center in Louisiana. For nearly 24 hours, ICE obfuscated her location and refused to allow counsel to contact her. Ms. Öztürk’s attorneys were not given her location or allowed to contact her until March 26, by which time she was—in violation of a court order—detained in Louisiana.

On March 25, DHS stripped Ms. Öztürk of her visa without providing Ms. Öztürk notice. She was arrested without first being informed of this change in her visa status; only after her detention was she issued with a Notice to Appear that alleged that her visa had been revoked and she was subject to deportation. A DHS spokesperson claimed that her visa was revoked because she “engaged in activities in support of Hamas,” but has yet to allege any facts to support this allegation. And, in a news conference, Secretary of State Marco Rubio confirmed that she lost her visa because the administration believed she was “a social activist that tears up our university campus.” Neither Secretary Rubio nor any other official has asserted that Ms. Öztürk has done anything other than co-author an op-ed in a student newspaper critical of the Israeli government. And, this legitimate exercise of her First Amendment rights is not and cannot be a basis to kidnap Ms. Öztürk.

### **Basis for Criminal Investigation**

Kidnapping in the commonwealth of Massachusetts is unlawful. “Whoever, without lawful authority, forcibly or secretly confines or imprisons another person within this commonwealth against his will, or forcibly carries or sends such person out of this commonwealth, or forcibly seizes and confines or inveigles or kidnaps another person, with intent either to cause him to be secretly confined or imprisoned in this commonwealth against his will, or cause him to be sent out of this commonwealth against his will or in any way held to service against his will, shall be punished by imprisonment . . . .” M.G.L. ch. 275 § 26. The punishment is more severe for anyone who commits this offense “while armed with a firearm, rifle, shotgun, machine gun or assault weapon.” *Id.* Conspiracy to commit kidnapping is also illegal, subject to imprisonment, fines, or both. M.G.L. ch. 274, § 7; *see also Commonwealth v. Benson*, 389 Mass. 473 (1983) (“The elements of conspiracy are ‘a combination of two or more persons, by some concerted action, to accomplish some criminal or unlawful purpose . . . .’”)

Massachusetts law also prohibits and establishes criminal liability for violations of constitutional rights. Pursuant to M.G.L. ch. 265 § 37, “[n]o person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the commonwealth or by the constitution or laws of the United States.” These rights include the First Amendment of the U.S. Constitution and Article XVI of the Constitution of the Commonwealth, and may well encompass the unlawful arrest and detention of a student for exercising her right to free speech.

The undisputed facts provide a basis for undertaking an inquiry into whether President Donald Trump,<sup>1</sup> senior Trump officials – including Secretary Rubio and Secretary of Homeland Security Kristi Noem -- and ICE agents conspired to kidnap Rümeyşa Öztürk. They unlawfully stripped her of her visa, forcibly restrained and arrested her, and secretly smuggled her out of Massachusetts, purposefully and in defiance of a court order, to a detention facility in Louisiana where she has been denied access to her attorneys and where her attorneys cannot verify the conditions of her confinement or whether she is receiving adequate medical care.

The immunity available to federal officials under the Supremacy Clause of the U.S. Constitution is not available in all circumstances. The Supremacy Clause “is designed to ensure that states do not ‘retard, impede, burden, or in any manner control’ the execution of federal law.” *New York v. Tanella*, 374 F.3d 141, 147 (2d Cir. 2004) (quoting *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 436 (1819)). The Supreme Court set out the appropriate standard for assessing the availability of Supremacy Clause immunity in *Cunningham v. Neagle*: a state may not exercise criminal jurisdiction over a federal agent provided that “he was authorized to do so by the law of the United States,” and that “in doing that act, he did no more than what was necessary and proper for him to do.” 135 U.S. 1, 75 (1890); *see also New York v. Tanella*, 374 F.3d 141, 147 (2d Cir. 2004); *Kentucky v. Long*, 837 F.2d 727, 744 (6th Cir. 1988) (“Under *Neagle*, a state court has no jurisdiction if (1) the federal agent was performing an act which he was authorized to do by the law of the United States and (2) in performing that authorized act, the federal agent did no more than what was necessary and proper for him to do.”). To satisfy the second prong, “two conditions must be satisfied: (1) the actor must subjectively believe that his action is justified; and (2) that belief must be objectively reasonable.” *Tanella* (citing *Whitehead*, 834 F.2d at 234); *see also Long*, 837 F.2d at 745 (“On the subjective side, the agent must have an honest belief that his action was justified. On the objective side, his belief must be reasonable.”).

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<sup>1</sup> While the US Supreme Court in *Trump v. United States*, 603 U.S. 593 (2024), held that presidents are entitled to at least presumptive immunity for official acts, conspiring to commit kidnapping cannot be defined as an official act.

Immunity therefore is not an all-encompassing protection for federal officers who are acting outside the law and beyond the scope of what is subjectively and objectively necessary and proper. When they do, they may be criminally liable in state court for violating state laws. *See, e.g., Battle v. State*, 252 Md.App. 280 (2021) (a plainclothes officer of the Department of Homeland Security could not invoke the Supremacy Clause to evade prosecution for assault in Maryland when he acted outside the scope of his duties and beyond what was necessary and proper).

Any criminal inquiry into this matter must necessarily consider whether the conditions of immunity have been met here. However, facts already publicly known and acknowledged suggest that these conditions have not been met. Multiple senior officials violated or circumvented U.S. law in order to orchestrate the unlawful kidnapping of Ms. Öztürk, and then engaged in behaviors that cannot be subjectively or objectively understood to be necessary or proper:

- U.S. officials unlawfully revoked Ms. Öztürk’s visa in order to deport her because she expressed a view with which U.S. officials disagree, in violation of U.S. laws that expressly limits the circumstances under which a student may be stripped of their visa and subject to deportation. Federal officials are alleging that she is subject to deportation pursuant to 8 U.S.C. § 1227(a)(4)(C)(i), a provision that requires the Secretary of State to have “reasonable ground to believe [she] would have potentially serious adverse foreign policy consequences for the United States.” Secretary Rubio has no such reasonable ground, and he and other senior Trump officials, including Department of Homeland Security (DHS) and ICE officials, were aware of this when they revoked Ms. Öztürk’s visa. There is, furthermore, a clear exception to this law: no person’s visa may be revoked or subject to deportation because of her “past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States, unless the Secretary of State personally determines that the alien’s admission would compromise a compelling United States foreign policy interest.” *See* 8 U.S.C. § 1227(a)(4)(C)(ii) (citing 8 U.S.C. § 1182(a)(3)(C)(iii)). This is precisely why she is being deported, rendering the decision to strip Ms. Öztürk of her visa and render her deportable unlawful and both objectively and subjectively unreasonable.
- Within hours of revoking Ms. Öztürk’s visa, masked plainclothes ICE officials, presumably acting under orders from more senior officials, grabbed Ms. Öztürk off the street, forced her into an unmarked vehicle, and immediately removed her from the Commonwealth in order to obfuscate her location and evade court proceedings, which is neither a necessary nor proper response to Ms. Öztürk’s changed status—which, as discussed *supra*, was done unlawfully in order to orchestrate her arrest and detention. Despite a court order to keep Ms. Öztürk in the Commonwealth, ICE officials

transported her to Louisiana without informing her attorneys or the court for nearly 24-hours. All this was done without notifying Ms. Öztürk of her changed status, without providing Ms. Öztürk with a hearing or an opportunity to voluntarily leave the country, and without any allegation or evidence that she posed a threat.

Senior officials in the Trump administration, in coordination with ICE agents, took deliberate steps to unlawfully arrest and detain Ms. Öztürk. Even if individual ICE agents believed they were authorized by the law of the United States, their superiors knew or should have known that they were not authorized by the law when they handed down orders to the ICE agents who kidnapped Ms. Öztürk. Moreover, the kidnapping and detention was not objectively reasonable, and there is strong reason to believe that neither the ICE agents nor the senior officials who orchestrated Ms. Öztürk's kidnapping and ongoing unlawful detention honestly believed that their actions were justified under the law.

The court's rationale in *Battle v. State*, 252 Md.App. 280 (2021), is applicable here. There, the appeals court of Maryland upheld the conviction of a plainclothes DHS agent who assaulted a man outside a gas station and rejected his claim of Supremacy Clause immunity. The court noted that Battle "did not commit a mere error in judgment or misapprehend the scope of his legal duty." *Id.* at 310. He merely "lost his composure . . . and . . . drew his weapon in order to win an argument." *Id.* And though the scale of the alleged offense against Ms. Öztürk is larger and implicates many more federal officials, the case is analogous. Senior Trump officials brought down the weight of the government on a graduate student, subjecting her to a terrifying and violent detention and unlawful imprisonment because they, too "lost [their] composure." *Id.* They do not like her speech. But the law is clear: this cannot be the basis for revoking a person's visa, for subjecting her to deportation, or for unlawfully detaining her 1,300 miles from her home.

These potential violations of Massachusetts state criminal laws warrant investigation and, if appropriate, prosecution. The fact that the conspiracy may have involved the President of the United States and senior officials in his administration provides no shield to appropriate investigation and prosecution for criminal acts that do not satisfy the *Neagle* test. And as the state of New York demonstrated in its prosecution of Donald Trump for falsifying business records to cover up his hush money payments to an adult film star during his 2016 campaign, see *New York v. Trump*, Verdict Sheet, Indictment No. 71543-23 (Sup. Ct. N.Y. Part 59, May 29, 2024), available at <https://www.nycourts.gov/LegacyPDFS/press/PDFs/Trump-Verdict-Sheet.pdf>, states have the authority and responsibility to protect their residents and their laws, regardless of the defendants' wealth, power, or prestige.

## **Conclusion**

Ms. Öztürk, a resident of one of your communities, was violently kidnapped off the street by masked ICE agents. She is one of thousands of students in Massachusetts living here on valid visas, all of whom are now living in fear. An immediate and thorough criminal investigation is needed to determine whether charges should be brought against those responsible for Ms. Öztürk's kidnapping. We ask your office to promptly undertake this review.

Sincerely,

Courtney Hostetler, Legal Director  
John Bonifaz, President  
Ben Clements, Chairman and Senior Legal Advisor  
FREE SPEECH FOR PEOPLE  
28 S. Main St, Suite 200  
Sharon, Massachusetts 02067  
(617) 244-0234 (office)  
[chostetler@freespeechforpeople.org](mailto:chostetler@freespeechforpeople.org)