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Dear Governor Walz, Attorney General Ellison, County Attorney Choi, County Attorney Moriarty, County Attorney Keena, County Attorney Walters, Mayor Carter, Mayor Frey, Chief of Police Henry, and Chief of Police O'Hara,

We respectfully urge your offices, consistent with applicable law, to open investigations into federal agents' activities in Minnesota. In incidents across the state, federal agents have repeatedly committed criminal acts for which they have no immunity under the Constitution or federal law. As part of an orchestrated retaliation campaign against Minnesotans—and especially against Minnesotans of Somali and Latino descent—federal agents have kidnapped and assaulted residents who had no criminal records, and whom the federal agents had no reason to believe were undocumented. Publicly available information indicates that these operations are part of a criminal conspiracy directed and condoned by President Donald Trump and senior officials in the Trump administration with full knowledge of their unlawful nature, and warrant prompt investigation by your offices.

We applaud the position that Minnesota officials have taken to defend Somalis and to deplore Trump's racist attack on Minnesota's Somali community, and ask you now to take the next, necessary steps to protect this community and all Minnesota residents from unlawful violence or other criminal acts, even when carried out by federal agents.

Background

On December 2, 2025, Trump delivered a racist diatribe against Somali Americans, saying that “we’re going to go the wrong way if we keep taking in garbage into our country,” and that Somalia “stinks” and is “hell.”¹ Vice President Vance thumped on the table in encouragement. The following day, Trump continued to berate Somali Americans, claiming “[t]hey’ve destroyed our country” and that Representative Ilhan Omar “shouldn’t be allowed to be a congresswoman” and “should be thrown the hell out of our country.”² Simultaneously, the Trump administration began “Operation Metro Surge” in St. Paul, targeting Somali residents based on their race.³

Federal agents have descended on the Twin Cities, racially profiling people of Latino and Somali descent and requiring they provide proof of citizenship or risk arrest.⁴ Although the precise number of people detained is not known—because federal agents and officials are being opaque about their operations⁵,—in only a week several illegal actions have already been documented, both in the Twin Cities and throughout Minnesota. They include:

- Illegally entering Augsburg University without a warrant and pointing guns at bystanders while making an arrest.⁶
- Arresting a U.S. citizen for not having a passport on her, tying her up with zip ties, mocking her hijab, touching her inappropriately, and detaining her for

¹ Zolan Kanno-Youngs & Shawn McCreesh, *Trump Calls Somalis ‘Garbage’ He Doesn’t Want in the Country*, N.Y. Times (Dec. 2, 2025), <https://www.nytimes.com/2025/12/02/us/politics/trump-somalia.html> (last accessed Dec. 9, 2025).

² Dareh Gregorian, *Trump disparages Somali immigrants for the second straight day, saying they’ve ‘destroyed our country’*, NBC (Dec. 3, 2025), <https://www.nbcnews.com/politics/donald-trump/trump-disparages-somali-immigrants-second-straight-day-ilhan-omar-rcna247271> (last accessed Dec. 15, 2025).

³ Hamed Aleaziz et al, *New ICE Operation Is Said to Target Somali Migrants in Twin Cities*, N.Y. Times (Dec. 2, 2025), <https://www.nytimes.com/2025/12/02/us/politics/ice-somali-migrants-minneapolis-st-paul.html> (last accessed Dec. 9, 2025).

⁴ Tesfaye Negussie & Sabina Ghebremedhin, *Somalis in Minnesota say ICE agents already targeting their community*, ABC (Dec. 8, 2025), <https://abcnews.go.com/US/somalis-minnesota-ice-agents-targeting-community/story?id=128080449> (last accessed Dec. 9, 2025); Nina Moini & Ngoc Bui, *Immigration Lawyer: No ‘rhyme or reason’ to who ICE agents are arresting in Minnesota*, MPR News (Dec. 9, 2025), <https://www.mprnews.org/episode/2025/12/09/immigration-lawyer-no-rhyme-or-reason-to-who-ice-agents-are-arresting-in-minnesota> (Dec. 9, 2025).

⁵ Sarah Thamer, *Minnesota immigrant-rights groups report surge in ICE alerts as federal arrests climb*, MPR News (Dec. 8, 2025), <https://www.mprnews.org/story/2025/12/08/minnesota-immigrant-rights-groups-report-surge-in-ice-alerts-as-federal-arrests-climb> (last accessed Dec. 9, 2025).

⁶ Nina Moini & Ngoc Bui, *Augsburg University president: ICE ‘illegally’ detained student, didn’t show warrant*, MPR News (Dec. 9, 2025), <https://www.mprnews.org/story/2025/12/08/augsburg-university-president-ice-illegally-detained-student-didnt-show-warrant> (last accessed Dec. 9, 2025).

twenty-four hours until her husband was able to locate her and provide her passport.⁷

- Detaining a U.S. citizen, asking him why he was speaking a foreign language and demanding to see his identification while accompanied by a right-wing influencer.⁸
- Arresting a U.S. citizen, putting him in a chokehold, driving him to immigration court, and refusing to look at his identification.⁹
- In Olmsted County, arresting a man with legal status off the street.¹⁰
- In Dakota County, entering a home without a warrant and guns drawn, briefly detaining a family of U.S. citizens, and abducting two undocumented parents of a seven-year-old child.¹¹
- In Dakota County, pushing a U.S. citizen who refused to allow them entry into her building onto the ground and threatening to arrest her.¹²

The incidents above represent a sample of publicly reported operations. Particularly given that the targets of these operations are vulnerable members of Minnesota communities who may not be able to seek or feel comfortable seeking assistance from law enforcement or government officials, the incidents listed above likely represent only a sliver of the criminal acts being committed against Minnesota residents by federal agents.

⁷ Mike Manzoni, *U.S. citizen arrested during immigration crackdown, family says*, FOX9 (Dec. 5, 2025), <https://www.fox9.com/news/u-s-citizen-arrested-during-immigration-crackdown-family-says> (last accessed Dec. 9, 2025).

⁸ Nicolas Scibelli, *As ICE agents flood the Twin Cities, immigrants and citizens alike are caught in the crossfire*, The Minnesota Daily (Dec. 13, 2025), <https://mndaily.com/city/as-ice-agents-flood-the-twin-cities-immigrants-and-citizens-alike-are-caught-in-the-crossfire/12/13/2025/> (last accessed Dec. 15, 2025).

⁹ Katelyn Vue, *U.S. citizen offered to show I.D. but was arrested by immigration officers in Cedar-Riverside*, Sahan Journal (Dec. 9, 2025), <https://sahanjournal.com/immigration/ice-arrest-cedar-riverside-minneapolis-somali-man/> (last accessed Dec. 15, 2025).

¹⁰ Molly Castle Work, *Community sounds alarm after apparent ICE arrest in Rochester*, MPR News (Dec. 9, 2025), <https://www.mprnews.org/story/2025/12/08/rochester-apparent-ice-arrest-sounds-alarm-somali-community> (last accessed Dec. 9, 2025).

¹¹ Heidi Wigdahl, *Ring camera captures Burnsville ICE raid that leaves 7-year-old without parents, according to family*, KARE (Dec. 8, 2025), <https://www.kare11.com/article/news/local/ring-camera-captures-burnsville-ice-raid-that-leaves-7-year-old-without-parents-according-to-family-mn/89-1a69f800-3a3a-480d-9d9c-e09715d2ed04> (last accessed Dec. 9, 2025).

¹² Richard Reeve, *'I feel completely violated.' Burnsville woman says she had frightening encounter outside her building*, KSTP (Dec. 9, 2025), <https://kstp.com/kstp-news/top-news/i-feel-completely-violated-burnsville-woman-says-she-had-frightening-encounter-outside-her-building/> (last accessed Dec. 9, 2025).

Furthermore, Minnesota protesters—who have responded to these racist attacks by exercising their First Amendment rights and protesting federal agents and officials—are at risk of violence and unlawful arrest by federal agents.¹³ In other states, federal agents and officials have attacked nonviolent protestors engaged in constitutionally protected speech and acts or who film them committing illegal acts.¹⁴ Notwithstanding the Trump administration’s internal guidance to federal officers to respond to peaceful and common protest activities as if they were acts of violence,¹⁵ appellate courts “have uniformly recognized” that “the First Amendment protects the right to record police in public performing their official duties.” *Reyes v. City of New York*, No. 23-CV-6369 (JGLC), 2024 WL 4354877, at *5 (S.D.N.Y. 2024) (collecting cases). Furthermore, “the First Amendment protects a significant amount of verbal criticism and challenge directed at police officers.” *Houston. v. Hill*, 482 U.S. 451, 461 (1987). “The freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state.” *Id.* at 462–63. Those protections remain, despite the Trump administration’s attempts to aggressively reinterpret federal criminal statutes designed to protect federal buildings from property damage.¹⁶

¹³ Nicolas Scibelli, *As ICE agents flood the Twin Cities, immigrants and citizens alike are caught in the crossfire*, The Minnesota Daily (Dec. 13, 2025), <https://mndaily.com/city/as-ice-agents-flood-the-twin-cities-immigrants-and-citizens-alike-are-caught-in-the-crossfire/12/13/2025/> (last accessed Dec. 15, 2025).

¹⁴ Ariel Salk & Tim Steele, *After ‘No Kings,’ protestors tear gassed at Portland ICE facility*, KOIN (Oct. 19, 2025), <https://www.koin.com/news/portland/ice-facility-protest-portland-no-kings-night-10182025/> (last accessed Oct. 31, 2025); Jonathan Bach, *Federal officer blasts chemical spray into vocal but nonviolent Portland protestor, video shows*, The Oregonian (Oct. 3, 2025) <https://www.oregonlive.com/crime/2025/10/federal-officer-blasts-chemical-spray-into-vocal-but-nonviolent-portland-protester-video-shows.html> (last accessed Oct. 31, 2025); Fedor Zarkhin, *Video shows federal agents striking, spraying nonviolent Portland protesters*, The Oregonian (Sep. 23, 2025), <https://www.oregonlive.com/crime/2025/09/video-shows-federal-agents-striking-spraying-nonviolent-portland-protesters.html> (last accessed Oct. 31, 2025); Ruben Vives, *They smashed into me: Activist says video shows ICE rammed his truck. Agents claim the opposite*, L.A. Times (Oct. 16, 2025), <https://www.latimes.com/california/story/2025-10-16/agents-accuse-activists-of-slammimg-into-their-vehicle> (last accessed Nov. 12, 2025).

¹⁵ Forbes Breaking News, *Kristi Noem Claims Videotaping ICE Agents Is ‘Violence’ Following Camarillo, California Farm Raids*, YouTube (July 14, 2025), <https://www.youtube.com/watch?v=uDFX4q6huH8>, at 0:26 min (last visited Dec. 9, 2025); see also Dell Cameron, *DHS Tells Police That Common Protest Activities Are ‘Violent Tactics’*, Wired (July 10, 2025), <https://www.wired.com/story/dhs-tells-police-that-common-protest-activities-are-violent-tactics/> (last accessed Oct. 14, 2025).

¹⁶ Maxine Bernstein, *Homeland Security fast-tracks expanded arrest powers off federal property*, The Oregonian (Nov. 6, 2025), https://www.oregonlive.com/crime/2025/11/homeland-security-fast-tracks-expanded-arrest-powers-for-federal-officers-off-of-federal-property.html?lctg=69050a3509e6e6636809738a&utm_source=Sailthru&utm_medium=email&utm_campaign=Newsletter_morning_briefing%202025-11-06&utm_term=Newsletter_morning_briefing (last accessed Nov. 7, 2025).

Minnesota's residents are subject to these deprivations because of Trump's racist attacks on its Somali population and because they are represented by individuals that Trump sees as political foes. This is not a lawful use of power and Minnesota has a duty to protect its residents from federal overreach.

Basis for Criminal Investigation

The conduct of President Trump, senior Trump officials, and federal agents in these raids demands criminal investigation under Minnesota law.

For unlawfully assaulting and detaining residents, including United States citizens, federal officers and agents may be guilty of assault in the second degree, Minn. Stat. § 609.222, assault in the fifth degree, Minn. Stat. § 609.224, kidnapping, Minn. Stat. § 609.25, and/or unlawful use of dangerous weapons, Minn. Stat. § 609.66. Insofar as federal officials and agents mistreat detainees—and there is a troubling pattern of mistreatment in immigration facilities¹⁷—they may be guilty of mistreatment of persons confined. Minn. Stat. § 609.23. Insofar as the assaults were motivated by “the victim’s . . . perceived race, color, ethnicity, [or] religion,” they may be guilty of assault in the fourth degree, Minn. Stat. § 609.2231, subd. 4, or felony assault motivated by bias, Minn. Stat. § 609.2233. Insofar as they harassed someone for wearing a hijab, they may be guilty of interfering with religious observance. Minn. Stat. § 609.28.

Insofar as federal agents and officials unlawfully and without consent entered private property, they may be guilty of burglary, Minn. Stat. § 609.582, and/or trespass, Minn. Stat. § 609.2231, subd. 1(b). Insofar as federal agents and officers threatened and recklessly pointed firearms at bystanders—especially in public—they may be guilty of unlawful assembly, Minn. Stat. § 609.705, rioting, Minn. Stat. § 609.71, coercion, Minn. Stat. § 609.27, attempting to coerce, Minn. Stat. § 609.275, threats of violence, Minn. Stat. § 609.713, and/or public nuisance, Minn. Stat. § 609.74.

¹⁷ Tracey Tully et al, *Inside the Tumult That Led 4 Men to Escape from a Migrant Facility*, N.Y. Times (June 14, 2025), <https://www.nytimes.com/2025/06/14/nyregion/newark-ice-detainees-escape.html> (last accessed Dec. 5, 2025); Edward Desiak, *Catholics witness ‘man-made’ disaster for migrants at ICE detention center in Newark*, America Magazine (Oct. 24, 2025), <https://www.americamagazine.org/politics-society/dispatches/2025/10/24/faith-witness-newark-ice-facility/> (last accessed Dec. 5, 2025); Steve Janoski, *Inside New Jersey’s troubled immigration detention center: ‘It’s designed to break people’*, The Jersey Vindicator (Sep. 25, 2025), <https://jerseyvindicator.org/2025/09/25/inside-new-jerseys-troubled-immigration-detention-center-its-designed-to-break-people/> (last accessed Dec. 5, 2025); Keith Wilson, *Portland Mayor: ICE Facility Is a Disaster Waiting To Happen*, Newsweek (Oct. 18, 2025), <https://www.newsweek.com/portland-mayor-ice-facility-disaster-opinion-10892062> (last accessed Oct. 30, 2025).

Given the orchestrated nature of the raids, your offices should investigate the potential criminal liability of senior Trump officials and Trump himself for conspiracy. Minn. Stat. § 609.175.¹⁸ The brutality and illegality of these operations is a feature, not a bug; they are designed to crush dissent and spread fear among President Trump's perceived political enemies and marginalized communities.

Furthermore, Minnesota officials should be prepared to investigate and prosecute hate crimes committed by private individuals. Somalis in Minnesota are not only vulnerable to crimes committed by federal agents, but also to attacks by individuals emboldened by Trump's racist, dehumanizing, and targeted rhetoric. As Minnesota Attorney General Keith Ellison has recognized, this type of speech is "often a precursor to hate crimes."¹⁹ Historically, there is a clear correlation between this type of dehumanizing political rhetoric and violence against the targeted group.²⁰ Governor Tim Walz, Attorney General Ellison, and other Minnesota officials have taken important steps to denounce Trump's rhetoric and support the state's vibrant immigrant communities. But if Trump's rhetoric promotes or leads to violence against these communities, Minnesota's law enforcement offices must be prepared to investigate, prosecute, and bring hate crimes charges, pursuant to Minn. Stat. § 609.2233, regardless of whether the perpetrator is a private individual or a federal officer.

Immunity Does Not Preclude Prosecution

The immunity available to federal officials under the Supremacy Clause of the U.S. Constitution is not available in all circumstances and does not preclude criminal investigation in the circumstances discussed above.²¹ Indeed, the Police

¹⁸ While the 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, using military-style force against civilians to stifle political dissent is not an official act.

¹⁹ *'This Is Often a Precursor to Hate Crimes': AG Ellison Slams Trump's Racist Attacks on Somalis in MN*, The Weekend, MN Now (Dec. 6, 2025), <https://www.youtube.com/watch?v=QbJnTayHeWY>.

²⁰ For example, Haitian residents of Springfield, Ohio—including children in schools—were subject to bomb threats after Trump and Vance spread false claims about Haitian immigrants in Springfield. Colleen Long, *Vance Continues Fueling False Rumors About Migrants In Ohio as Community Receives Threats*, PBS News (Sept. 15, 2024), <https://www.pbs.org/newshour/politics/vance-continues-fueling-false-rumors-about-migrants-in-ohio-as-community-receives-threats>; Obed Manuel, *Bomb Threats Followed Trump's False Claims about Springfield. Some Haitians May Leave*, Ohio Public Broadcasting (Sept. 19, 2024), <https://www.opb.org/article/2024/09/19/bomb-threats-followed-trump-s-false-claims-about-springfield-some-haitians-may-leave/>; see generally Dangerous Speech: A Practical Guide, Dangerous Speech Project (April 19, 2021), <https://www.dangerousspeech.org/libraries/guide> (last accessed Dec. 15, 2025) (discussing the type of speech that can lead to increased risk of violence against communities targeted by that speech).

²¹ We applaud Portland's recent resolution to ensure the PPB does not become a deputized, federal law enforcement force, and especially its provisions instructing the PPB to log and track federal agents' immigration actions. Resolution 37719,

<https://www.portland.gov/council/documents/resolution/adopted/37719>. However, we urge you to use your powers to investigate federal officers and agents and protect your citizens.

Chief of Broadview, Illinois has begun investigations of ICE officers outside a similar detention facility,²² Colorado is investigating an ICE officer's use of excessive force,²³ and the New York State Attorney General has created a portal to track and potentially investigate federal agents who violate state law.²⁴ Oregon Attorney General Dan Rayfield, along with three county district attorneys, sent a letter to US Attorney General Pam Bondi informing her that they were investigating federal agents for possible criminal charges.²⁵ Former House Speaker Nancy Pelosi and the San Francisco District Attorney have endorsed criminal investigations of federal agents as well.²⁶ We applaud Police Chief Brian O'Hara for directing his officers to intervene when federal agents use unlawful force against Minneapolis residents.²⁷ All of Minnesota's officials must be equally prepared to investigate and, where appropriate, prosecute federal officials that are violating the state's criminal laws and harming its residents.

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)). It does not, however, "gran[t] a license to federal officials to flout state laws with impunity." *Whitehead v. Senkowski*, 943 F.2d 230, 234 (2d Cir. 1991); *see also Idaho v. Horiuchi*, 253 F.3d 359, 362 (9th Cir.), *vacated as moot*, 266 F.3d 979 (9th Cir. 2001) ("When federal officers violate the Constitution, either through malice or excessive zeal, they can be held accountable for violating the state's criminal laws.").

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

²² Dave Savini & Samah Assad, *Broadview police chief accuses ICE agents of making false 911 calls*, CBS News (Oct. 2, 2025), <https://www.cbsnews.com/chicago/news/broadview-police-chief-thomas-mills-ice-agents-false-911-calls/> (last accessed Oct. 9, 2025).

²³ Jack Healy, *An Altercation With ICE Prompts a Police Chief to Push Back*, N.Y. Times (Nov. 3, 2025), <https://www.nytimes.com/2025/11/03/us/politics/durango-colorado-ice-protester.html> (last accessed Nov. 7, 2025).

²⁴ Press Release, *Attorney General James Launches Portal to Collect Photos and Videos of ICE Activity in New York*, New York State Attorney General's Office (Oct. 22, 2025), <https://ag.ny.gov/press-release/2025/attorney-general-james-launches-portal-collect-photos-and-videos-ice-activity> (last accessed Nov. 4, 2025).

²⁵ Yesenia Amaro, *Can Oregon prosecute federal agents? State officials say they'll try*, The Oregonian (Dec. 1, 2025), <https://www.oregonlive.com/politics/2025/11/can-oregon-prosecute-federal-agents-state-officials-say-theyll-try.html> (last accessed Dec. 10, 2025).

²⁶ Heather Knight & Kellen Browning, *Pelosi Says Police May Arrest Federal Agents Who Violate California Law*, N.Y. Times (Oct. 22, 2025), <https://www.nytimes.com/2025/10/22/us/politics/nancy-pelosi-ice-agent-arrest.html?smid=nytcore-ios-share&referringSource=articleShare> (last accessed Nov. 14, 2025).

²⁷ Alex Tablet, *Minneapolis police chief warns officers: Stop unlawful force by ICE or lose your job*, MS Now (Dec. 5, 2025), <https://www.ms.now/news/minneapolis-police-chief-unlawful-force-ice-jobs> (last accessed Dec. 17, 2025).

authorized to [act] 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 Tanella*, 374 F.3d at 147; *Clifton v. Cox*, 549 F.2d 722, 726, 728 (9th Cir. 1977) (holding that immunity will attach if the act was done in the agent’s “Scope of Authority” and was “necessary and proper”). To satisfy the second prong, two conditions must be satisfied: (1) “the subjective belief of the officer” that his action was reasonable and (2) an “objective finding that his conduct may be said to be reasonable under the existing circumstances.” *Id.* at 728. If there are genuine disputes of fact as to the officer’s reasonableness, the criminal proceedings may continue to trial to resolve those disputes. *U.S. ex rel. Drury v. Lewis*, 200 U.S. 1, 7–8 (1906).

Supremacy Clause immunity therefore does not protect federal officers who act outside the law or beyond what is subjectively and objectively necessary and proper. When they do either, they may be held criminally liable in state court for violating state laws. Indeed, the Eighth Circuit has already held that immunity does not attach in remarkably similar circumstances. During prohibition, federal agents, with only knowledge that “there was a car of whisky coming in,” shot at a car that passed them by, killing an occupant. *Castle v. Lewis*, 254 F. 917, 922–23 (8th Cir. 1918). There was a dispute as to whether the agents had reason to know that specific car was transporting alcohol and whether the agents had adequately communicated the car to stop. *Id.* at 923–26. The Eighth Circuit held that if they did not have a reasonable belief that the car was transporting alcohol and if they did not act reasonably in shooting at the car, they would receive no immunity. *Id.* at 921–22; *see also Morgan v. People of State of California*, 743 F.2d 728, 733–34 (9th Cir. 1984) (federal agents who may have been intoxicated on the job and may have instigated an altercation with civilians were not immune to state prosecution); *Pales v. Paoli*, 5 F.2d 280, 280–82 (1st Cir. 1925) (conduct of federal agent who attempted to stop a car without reasonable suspicion the inhabitants were committing a crime and fired on it for driving on rather than stopping was “wholly illegal and unauthorized” and therefore agent was not immune from prosecution)..

If a criminal investigation finds even one of the following—that federal officials lacked legal authority, did not believe their actions were authorized, or could not have reasonably believed so—then state prosecution may proceed. Here, there is strong evidence that at least one—if not all three—of those conclusions is met in many of the circumstances described above. President Trump and senior officials violated U.S. law to orchestrate these raids, engaged in conduct they likely did not believe was lawful and that no reasonable official could believe was lawful.

- 1. U.S. officials likely lacked legal authority for their actions during the raids.**

As discussed above, President Trump and senior officials have repeatedly made it clear, in public forums, that the military-style deployment of federal agents

in Minnesota is an act of political retribution and stifling dissent. There is simply no lawful authority that empowers the executive to punish his political adversaries with assault and detainments—let alone a disfavored *race of people*. *NRA v. Vullo*, 602 U.S. 175, 188 (2024) (the government may not “use the power of the State to punish or suppress disfavored expression”); *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954) (“the constitution of the United States . . . forbids . . . discrimination by the general government, or by the states, against any citizen because of his race.”) (citation omitted). Federal agents are not President Trump’s private army that he can wield in defiance of state law with impunity.

Furthermore, while federal agents are empowered to detain people suspected of illegally residing in the United States, *see, e.g.*, 8 U.S.C. § 1226, noncitizens have constitutional rights, *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001), including the right to not be detained without a warrant or probable cause, *Almeida-Sánchez v. United States*, 413 U.S. 266, 273–75 (1973). For the same reason, federal agents have no authority to preemptively detain individuals and then require proof of citizenship as the price of freedom. *Cf. id.* at 275 (“Among deprivations of rights, none is so effective in cowering a population, crushing the spirit of the individual and putting terror into every heart. Uncontrolled search and seizure is one of the first and most effective weapons in the arsenal of every arbitrary government.”) (quoting *Brinegar v. United States*, 338 U.S. 160, 180 (1949) (Jackson, J., dissenting)). Many of the immigration actions described above appear to involve warrantless searches, without probable cause, in defiance of *Almeida-Sánchez*. Immunity does not attach in such cases. *Cf. Pales*, 5 F.2d at 280–82 (where federal prohibition agent was tasked with searching every car coming into town for liquor, only “facts . . . that would have warranted a reasonably prudent man in believing [the suspect] was transporting liquor” justified a search such that immunity would attach to any criminal act conducted in the course of that search).

In some of the incidents described above, the unlawfulness is planned. These are not cases where a federal agent is within the scope of their duties, and the dispute is whether their conduct was reasonable. *See, e.g.*, *Wyoming v. Livingston*, 443 F.3d 1211, 1226–28 (10th Cir. 2006) (federal agents were specifically authorized to track wolf populations). Instead, federal agents are being tasked by their superiors with committing crimes unrelated to any official authority. In such cases, federal immunity does not attach. *See, e.g.*, *Drury*, 200 U.S. at 8 (holding that if a suspect had surrendered, fatally shooting him on a superiors’ orders “could not reasonably be claimed [to have been done] in the performance of a duty imposed by the Federal law.”); *Pales*, 5 F.2d at 280–82 (finding that an agent who acted as ordered in searching every car rather than those he had a reasonable basis to think were violating the law did not have immunity for crimes committed in the course of unjustified searches).

2. U.S. officials likely knew, or should have known, their actions were not necessary or proper.

The actions of federal agents described above were not necessary or proper. Even if they subjectively believed that the actions were authorized—which they likely did not²⁸—their belief was not objectively “reasonable under the existing circumstances.” *Clifton*, 549 F.2d at 278.

No reasonable officer could think they have authority to conduct warrantless detainments of individuals without probable cause. *Almeida-Sanchez*, has been good law for over a half-century. Nor, consistent with *Castle*, could an officer operating in the Eighth Circuit believe that his unreasonable use of force was immunized.

The administration has failed to produce any reliable evidence it purportedly has to justify their apparently unlawful actions. Furthermore, ICE officers have testified under oath that they have used “Chat GPT” and other AI tools to create their use-of-force narratives,²⁹ that they have signed warrants after the arrest, and that they have been directed to include boiler plate text in every arrest report regardless of whether it is factual.³⁰ Under these circumstances, your offices cannot simply accept the federal government’s narrative as true.

The available evidence does not support a claim of immunity, but even if there is a dispute of fact over immunity, immunity does not and should not prevent state criminal investigations. *Drury*, 200 U.S. at 7–8; *Whitehead*, 943 F.2d at 235–36 (fact disputes precluded federal immunity); *Morgan*, 743 F.2d at 733–34 (same); *Birsch v. Tumbleson*, 31 F.2d 811, 815–16 (4th Cir. 1929) (in similar situation, factual disputes meant refusal to discharge writ of habeas corpus brought by federal officer was not an abuse of discretion); *Castle*, 254 F. at 925–26 (same). Criminal investigations and indictments may pressure the federal government to release evidence that federal agents are, in fact, complying with the Constitution. But in the absence of evidence to support the lawfulness of the Administration’s actions, criminal prosecutions should proceed.

State governments have a critically important role in this nation’s system of laws that must prevent, not enable, the rise of a lawless regime. While we

²⁸ Indeed, Trump’s racist remarks make it abundantly clear the purpose of this raid is to attack people of a certain national descent and the people who stand with them.

²⁹ Claudia Lauer, *Judge’s note on immigration agents using AI raises accuracy and privacy concerns*, PBS (Nov. 26, 2025), <https://www.pbs.org/newshour/nation/judges-note-on-immigration-agents-using-ai-raises-accuracy-and-privacy-concerns> (last accessed Dec. 9, 2025).

³⁰ Maxine Bernstein, *ICE officers reveal arrest quotas, facial recognition use in Oregon dragnet*, The Oregonian (Dec. 5, 2025), https://www.oregonlive.com/crime/2025/12/ice-officers-reveal-arrest-quotas-facial-recognition-use-in-oregon-dragnet.html?utm_campaign=theoregonian_sf&utm_medium=social&utm_source=facebook (last accessed Dec. 9, 2025).

appreciate Governor Walz's recent letter,³¹ Minnesota cannot wait for the federal government to police itself. And Minnesota need not and should not wait for its residents to institute civil actions or for the criminal and removal proceedings to reveal the scope of the Trump Administration's abuses, particularly given the lengths to which the Trump Administration has gone to evade oversight and hide the identities and criminal behavior of individual agents.³² Minnesota has the power and duty to enforce its criminal laws, even against federal actors and even against powerful defendants. 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), states have the authority and responsibility to protect their residents and enforce their laws, regardless of defendants' wealth, power, or prestige.

³¹ Letter from Governor Tim Walz to Secretary of Department of Homeland Security Kristi Noem (Dec. 10, 2025), https://content.govdelivery.com/attachments/MNGOV/2025/12/10/file_attachments/3490044/12.10.2025_DHSLetter_U.S.CitizensArrests.pdf (last accessed Dec. 15, 2025).

³² J. David McSwane & Hannah Allam, *Unfettered and Unaccountable: How Trump is Building a Violent, Shadowy Federal Police Force*, ProPublica (Oct. 18, 2025), <https://www.propublica.org/article/trump-dhs-ice-secret-police-civil-rights-unaccountable> (last accessed Dec. 8, 2025); The Associated Press, *Trump Administration Sues California Over Law Banning Masked Federal Agents*, NBC News (Nov. 18, 2025), <https://www.nbcnews.com/news/us-news/trump-administration-sues-california-law-banning-masked-federal-agents-rcna244679> (last accessed Dec. 8, 2025).

Conclusion

We urge your offices to immediately begin a thorough investigation to determine whether charges should be brought against those responsible for the unlawful conduct cited in this letter. Furthermore, we remain seriously concerned that federal officers will continue to violate your state's criminal laws in their raids and assaults on immigrant communities, protesters, and other residents in your city and state. We encourage you to respond to, investigate, and, as appropriate, prosecute any crimes committed by federal agents and officials, consistent with the power of your office.

Sincerely,

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