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Dear Attorney General Bonta and District Attorney Hochman,

We respectfully urge the Los Angeles County District Attorneys' Office to conduct your investigation of the killing¹ of Keith Porter Jr. as you would any unlawful killing. Furthermore, we urge the California Attorney General's Office to assist with the investigation to ensure no further federal interference occurs. Mr. Porter was killed by Brian Palacios, an off-duty ICE officer whose lawful authority is limited to enforcing federal civil immigration law and was off duty at the time of the incident. As such, Palacios cannot credibly raise a federal immunity defense, nor can the federal government credibly argue that a rigorous state investigation would implicate state and federal relations. Supremacy Clause immunity does not extend to a murder committed with no conceivable connection to federal interests. Any attempt by the federal government to contort the Supremacy Clause to shield Mr. Palacios from any appropriate ensuing prosecution would represent a dangerous expansion of the culture of impunity that Trump and senior officials have cultivated among federal agents over the last year.² California's prosecutors should make it clear to the city's residents that it will rigorously investigate and prosecute

¹ Under California law, self-defense is a defense to homicide; it does not disprove any of its elements. Cf. Cal. Penal Code §§ 195, 196, 197, 198, 198.5. Based on the statements of Palacios' attorney, it appears he does not dispute that he killed Keith Porter Jr., but insists that he was somehow acting in self-defense.

² Impunity, at least, for killing civilians. Displaying a pride flag is apparently grounds for dismissal. See generally *Maltinsky v. Patel*, 25-cv-04031, Complaint, ECF 1, (D.D.C. Nov. 19, 2025), <https://www.washingtonpost.com/documents/3349e9c3-d9c2-466a-810b-0cc3da273cb2.pdf>.

crimes committed in its jurisdiction, even where these crimes are committed by federal agents. Mr. Porter deserves no less³.

Background

On December 31, 2025, Keith Porter Jr. was shot by Brian Palacios at their apartment complex.⁴ Reports suggest that Porter may have been shooting a rifle in the air at the time, likely in celebration of the new year.⁵ Witnesses report that someone asked Porter to put down his rifle, then three shots were fired, striking and killing Porter; and that no one identified themselves as law enforcement before shooting Porter.⁶ Palacios' lawyer has maintains he acted in self-defense the night that Porter was killed.⁷

Rather than allow an unbiased investigation into Porter's murder, the United States Department of Homeland Security immediately issued a statement that Palacios "bravely responded to an active shooter situation at his apartment complex."⁸ This is contradicted by the witness statements above. Instead, it appears that Palacios, as a private citizen, took the law into his own hands and murdered his neighbor instead of calling law enforcement.

This is not the first nor the most recent example of Trump officials lying to protect federal agents who assault or murder civilians. Virtually any time a federal agent has assaulted or murdered a citizen, the Trump Administration immediately, with no investigation, has declared them completely innocent and demonized their victims.⁹ This is the approach the administration subsequently took in the murders

³ Free Speech For People, a national non-profit legal advocacy organization, has already sent California officials two letters, one detailing instances of citizens being unlawfully detained and one letter focusing on the unlawful actions of federal agents and officials against noncitizen residents of California. This letter is limited to addressing the murder of Keith Porter, Jr.

⁴ Andrea Flores, et al, *Man killed by off-duty ICE agent in Northridge identified by community; vigil Sunday*, L.A. Times (Jan. 3, 2026), <https://www.latimes.com/california/story/2026-01-03/man-identified-ice-agent-shooting-northridge> (accessed Jan. 27, 2026).

⁵ James Qually, et al, *'Active shooter' or ICE agent's victim? What happened in L.A. New Year's Eve killing?*, L.A. Times (Jan. 8, 2026), <https://www.latimes.com/california/story/2026-01-08/ice-agent-keith-porter-killing-investigation> (accessed Jan. 27, 2026).

⁶ *Id.*

⁷ James Qually, *ICE agent who killed L.A. man accused of child abuse, racism in court filings*, L.A. Times (Jan. 16, 2026), <https://www.latimes.com/california/story/2026-01-16/ice-agent-los-angeles-shooting-court-records> (accessed Jan. 27, 2026).

⁸ James Qually, *ICE agent who killed L.A. man accused of child abuse, racism in court filings*, L.A. Times (Jan. 16, 2026), <https://www.latimes.com/california/story/2026-01-16/ice-agent-los-angeles-shooting-court-records> (accessed Jan. 27, 2026).

⁹ David Nakamura & Olivia George, *Trump Aides Declared 16 DHS Shootings Since July Justified Before Probes Completed*, Wash. Post (Jan. 27, 2026), <https://www.washingtonpost.com/immigration/2026/01/27/ice-border-patrol-shootings-immigration-trump/> (accessed Jan. 28, 2026); see also James Hill, *Woman shot by CBP in Chicago wants evidence disclosed to public*, ABC (Jan. 26, 2026), <https://abcnews.go.com/US/woman-shot-cbp-chicago-evidence-disclosed-public/story?id=129581617> (accessed Jan. 28, 2026); Frank Main, et al, *Pritzker*

of Renee Good and Alex Pretti,¹⁰ despite video evidence contradicting the federal account.¹¹ Nonetheless, the Trump administration moved to block states from conducting investigations of the officers who murdered Pretti and Good.¹²

We are glad to see that an investigation is ongoing.¹³ Given these alarming and unlawful efforts by the Trump administration to shield their agents from liability for their crimes, it is imperative that the LAPD and the L.A. District Attorney's office retain control over the investigation into and any appropriate prosecutions arising from the fatal shooting of Mr. Porter. We urge the Attorney General's Office to assist with the investigation to ensure this independence.

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. Furthermore, because Mr. Palacios has no federal immunity defense, any ensuing prosecution should remain in state court. *See People of State of Cal. v. Mesa*, 813 F.2d 960, 967 (9th Cir. 1987), *aff'd sub nom. Mesa v. California*, 489 U.S. 121 (1989) ("Because of the states' compelling interest in the administration of their criminal justice systems . . .

slams feds' silence on fatal ICE shooting in Franklin Park, Chicago Sun Times (Sep. 15, 2025), <https://chicago.suntimes.com/the-watchdogs/2025/09/15/pritzker-governor-immigration-franklin-park-ice-agent-fatal> (accessed Jan. 28, 2026). In one notable exception, the Trump Administration admitted a New York-based ICE officer acted inappropriately and relieved him of duty, but quietly allowed him to rejoin the agency just days later. Camilo Montoya-Galvez, *ICE officer seen on video pushing woman to ground has returned to duty*, CBS (Sep. 2025), <https://www.cbsnews.com/news/ice-officer-pushed-woman-video-returns-to-duty/> (accessed Jan. 28, 2026).

¹⁰ Talya Minsberg, et al, *Alex Pretti's Friends and Family Denounce 'Sickening Lies' About His Life*, N.Y. Times (Jan. 25, 2026), <https://www.nytimes.com/2026/01/25/us/alex-pretti-minneapolis-shooting.html> (accessed Jan. 28, 2026); Amanda Musa, *Mother of 3 who loved to sing and write poetry shot and killed by ICE in Minneapolis*, CNN (Jan. 9, 2026), <https://www.cnn.com/2026/01/08/us/renee-nicole-good-minneapolis-ice-shooting-hnk> (accessed Jan. 28, 2026).

¹¹ Robert Mackey, et al, *Second federal killing in Minneapolis: how the shooting of Alex Pretti unfolded – video analysis*, The Guardian (Jan. 26, 2026), <https://www.theguardian.com/us-news/video/2026/jan/26/second-federal-killing-in-minneapolis-how-the-shooting-of-alex-pretti-unfolded-video-report> (accessed Jan. 28, 2026); Ramon Antonio Vargas, *Renee Nicole Good said 'I'm not mad at you' before ICE agent shot her, video shows*, The Guardian (Jan. 9, 2026), <https://www.theguardian.com/us-news/2026/jan/09/ice-agent-minneapolis-bodycam-footage> (accessed Jan. 28, 2026).

¹² Ernesto Londoño, *Once Again, Federal Officials Exclude Minnesota From Investigation of a Fatal Shooting*, N.Y. Times (Jan. 25, 2026), <https://www.nytimes.com/2026/01/25/us/federal-exclude-minnesota-shooting-investigations.html> (accessed Jan. 28, 2026).

¹³ Sam Levin, *Family of man killed by off-duty ICE agent in LA demands charges: 'The ache will never go away'*, The Guardian (Jan. 16, 2026), <https://www.theguardian.com/us-news/2026/jan/16/keith-porter-jr-ice-killing> (accessed Jan. 29, 2026).

[federal] workers may not remove state criminal prosecutions to federal court when they raise no colorable claim of federal immunity or other federal defense.”)

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 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. *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).

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. Palacios was acting without any federal authority and, according to the evidence available, no reasonable official could believe his actions were lawful.

1. Brian Palacios lacked any federal legal authority for his actions.

Under federal law, Palacios is empowered to enforce civil immigration law and certain federal criminal laws.¹⁴ There is no reasonable contention that Porter was violating federal laws, immigration or otherwise, let alone that Palacios was enforcing them.¹⁵

For instance, a federal officer based in Maryland raised a Supremacy Clause defense when he was convicted of assault, reckless endangerment, and use of a handgun in the commission of a crime of violence. *Battle v. State*, 252 Md. App. 280, 290, 258 A.3d 1009, 1015 (2021). He argued that he was enforcing federal law when, during a private dispute at a gas station, he allegedly identified himself as a law enforcement officer immediately before pulling a gun and assaulting the victim. *Id.* at 305–08, 1022–25. The Court of Special Appeals rejected this argument, noting that none of the actions the victim took violated any federal laws, at least in part because the victim had no reason to believe he was interacting with a federal officer. *Id.* The evidence available in this case suggests that—at most—Palacios identified himself as an officer immediately before killing Porter. That does not implicate the enforcement of any federal law. Importantly, the court in *Battle* also rejected the defendant’s argument that his dispute with the victim was “fulfill[ing] his obligation to the United States government,” noting that while federal officers might have capacious duties, they do not extend to these types of private disputes. *Id.* at 308–10; 1026–27. That is true even where the victim is engaging in criminal behavior or being a public nuisance. *Id.* at 292–93 (the defendant testified the victim repeatedly swore at him in a crowded gas station and made violent threats after he accidentally bumped into him). Because Palacios lacked any authority under federal law, he cannot credibly maintain a Supremacy Clause defense.

2. Brian Palacios knew, or should have known, his actions were not necessary or proper.

Palacios’s actions were not necessary or proper. Even if he subjectively believed that his actions was authorized, his belief was not objectively “reasonable under the existing circumstances.” *Clifton*, 549 F.2d at 278.

In the Ninth Circuit, it has been established since at least 2017 that possession of a gun and failing to comply with unclear commands is not grounds for use of deadly force. *Calonge v. City of San Jose*, 104 F.4th 39, 48–49 (9th Cir. 2024). Palacios was on notice when he took it upon himself to enforce California law that he could not use deadly force unless Porter actually posed a threat to him. The available evidence suggests that Porter did not fire or point his gun at Palacios.

¹⁴ 8 U.S.C. § 1357.

¹⁵ Whether Palacios was empowered to enforce *California law* is a matter of state law and cannot be the basis of Supremacy Clause immunity.

The administration has failed to produce any evidence it purportedly has to justify its narrative of Porter's murder. 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 v. Lewis*, 254 F. 917, 925–26 (8th Cir. 1918) (same).

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. 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.

Conclusion

We urge your offices to conduct a thorough investigation to determine if charges should be brought against Palacios. Furthermore, we remain seriously concerned that federal officers will continue to violate your state's criminal laws. 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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