



February 9, 2026

Lake County State's Attorney Eric F. Rinehart
18 N. County Street,
Waukegan, IL 60085
statesattorney@lakecountyil.gov

Dear State's Attorney Rinehart,

We applaud your statement on January 25, 2026, which correctly asserts that federal officers do not have absolute immunity under the Supremacy Clause and promises to proceed under Illinois law if “there was loss of life due to federal operations.”¹ We also respectfully urge your offices, consistent with applicable law, to open investigations into the illegal activities of federal agents in Lake County that have already occurred. In furtherance of this goal, we also urge you (1) to establish an online portal or other mechanism by which victims and witnesses may report crimes committed by federal agents; (2) to release guidance to Lake County law enforcement regarding their duties and obligations related to the investigation of incidents involving federal agents; and (3) to subpoena information from a federal official or agency where necessary and appropriate for pursuing your investigations.

In incidents across the County, federal agents have committed criminal acts for which they have no immunity under the Constitution or federal law. As part of an orchestrated retaliation campaign against Illinois residents for their perceived political affiliation, federal agents have detained 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.

Background

As you know, on September 8, 2025, DHS announced “Operation Midway Blitz,” purportedly to target undocumented noncitizens in the Chicago area

¹ Public Statement, Lake County State's Attorney's Office, (Jan. 25, 2026), <https://lcsao.org/DocumentCenter/View/372/Statement-Minneapolis?bidId=> (accessed Jan. 29, 2026).

affiliated with “Tren de Aragua,” a Venezuelan gang,² despite there being no evidence of any real connection between local violence in Chicago and that gang.³

Instead, President Trump’s speeches reveal the true reason federal agents are invading Illinois: to brutalize, terrorize, and intimidate his perceived political enemies and continue his illegal authoritarian takeover of America’s cities. On September 6, 2025, two days before the official announcement of Midway Blitz, he wrote on Truth Social, “Chicago about to find out why it’s called the Department of WAR,” along with a picture of himself as Lieutenant Colonel William Kilgore from *Apocalypse Now*.⁴ On September 16, 2025, he described the deployment of the national guard as “against Pritzker.”⁵ Similarly, on September 30, 2025, President Trump told a meeting of generals and senior military officials that the United States was “under invasion from within,” that it was “[n]o different from a foreign enemy, but more difficult in many ways because they don’t wear uniforms,” and that cities should be used as military “training grounds.”⁶ Since early September, at least hundreds of agents descended on Cook County, resulting in over 1,000 arrests.⁷ Their actions only confirmed that their purpose in Illinois and the greater Chicago area is to repress and punish dissent, not to enforce federal law.

Lake County was not spared from these raids. At least seventy-six individuals were detained in Lake County last fall, including Dariano Fajardo and Alderman Juan Martinez.⁸

² Department of Homeland Security, ICE Launches Operation Midway Blitz in Honor of Katie Abraham to Target Criminal Illegal Aliens Terrorizing Americans in Sanctuary Illinois, (Sep. 8, 2025), <https://www.dhs.gov/news/2025/09/08/ice-launches-operation-midway-blitz-honor-katie-abraham-target-criminal-illegal> (accessed Feb. 2, 2026).

³ Tom Schuba, Frank Main, & Elvia Malagón, *As Trump wages war on Tren de Aragua, little evidence links Venezuelan gang to violence in Chicago*, Chicago Sun-Times (Mar. 28, 2025), <https://chicago.suntimes.com/the-watchdogs/2025/03/28/tren-de-aragua-venezuela-gang-trump-tom-homan-terrorism-violence-crime-chicago-colombia-honduras-ecuador-nicolas-maduro-salvador> (accessed Feb. 5, 2026).

⁴ Donald Trump (@realDonaldTrump), Truth Social (Sep. 6, 2025, 11:38 A.M.), <https://truthsocial.com/@realDonaldTrump/posts/115158096026629509>.

⁵ James Neveau & Alex Dvorak, *Trump signals he will send National Guard to Chicago ‘against Pritzker’*, NBC Chicago (Sep. 16, 2025) <https://www.nbcchicago.com/news/local/chicago-politics/trump-signals-he-will-send-national-guard-to-chicago-against-pritzker-after-memphis/3824883/> (accessed Feb. 2, 2026).

⁶ Bernd Debusmann Jr. & James FitzGerald, *US cities should be military training grounds, Trump tells generals*, BBC (Sep. 30, 2025), <https://www.bbc.com/news/articles/cvgq044n72po> (accessed Feb. 2, 2026).

⁷ Associated Press, *ICE would need more money to expand use of bodycams in Chicago crackdown, official says*, NBC (Oct. 21, 2025), <https://www.nbcnews.com/news/us-news/ice-need-money-expand-use-bodycams-chicago-crackdown-official-says-rcna238860> (accessed Feb. 2, 2026).

⁸ Steve Sadin, *Lake County immigrants relieved, but wary as arrests subside: ‘They’re still afraid’*, Chicago Tribune (Dec. 8, 2025), <https://www.chicagotribune.com/2025/12/08/lake-county-immigration-enforcement/> (accessed Jan. 27, 2026); Christine Flores & Alonzo Small, *Federal immigration raids leave Waukegan families in distress and uncertainty*, WGN9 (Nov. 12, 2025),

On October 6, 2025, Fajardo was pulled over and seized from her car for allegedly “impeding” federal agents.⁹ She was released from custody due to the intervention of Waukegan Mayor Sam Cuningham.¹⁰ Fajardo suspects she was pulled over due to the Mexican flag on her car.¹¹ That is not an unfounded fear; Gregory Bovino, who directed Midway Blitz, candidly admitted his agents use race to determine who to stop.¹²

On November 7, 2025, Alderman Martinez was detained in his car by several federal agents who pointed guns at him after he honked his horn during a traffic jam.¹³ Martinez filed a police department in November, but it is not clear if there is an ongoing investigation.¹⁴

As discussed above, nearly one hundred people were detained in Lake County.¹⁵ The details about their arrest and detention are unknown, those who are still detained are unlikely to be able to report assaults, thefts, or other crimes themselves, and witnesses may be fearful of doing so. For this reason, and because ICE was targeting individuals who may be undocumented or who may be related to undocumented residents, these reported incidents of unlawful violence against Lake County residents may likely represent only a sliver of the criminal acts being committed against Lake County residents by federal agents.

<https://wgntv.com/news/operation-midway-blitz/federal-immigration-raids-leave-waukegan-families-in-distress-and-uncertainty/> (accessed Jan. 27, 2026).

⁹ Sara Machi, *Waukegan mayor intervenes as U.S. citizen detained by Border Patrol agents near city hall*, CBS (Oct. 7, 2026), <https://www.cbsnews.com/chicago/news/waukegan-mayor-intervenes-woman-detained-by-border-patrol-agents/> (accessed Jan. 27, 2026).

¹⁰ *Id.*

¹¹ *Id.* Although federal agents threatened to press charges, no dockets bearing her name appear in the Northern District of Illinois.

¹² Chip Mitchell et al., *Feds march into Downtown Chicago; top border agent says people are arrested based partly on 'how they look,'* Chicago Sun-Times (Sep. 28, 2025), <https://chicago.suntimes.com/immigration/2025/09/28/ice-agents-spotted-downtown-on-michigan-avenue-along-chicago-river> (accessed Jan. 28, 2026).

¹³ Steve Sadin, *Waukegan alderman says federal agents pulled guns on him: 'There were four barrels pointed at me'*, Chicago Tribune (Nov. 7, 2025), <https://www.chicagotribune.com/2025/11/07/waukegan-alderman-federal-gun/> (accessed Jan. 27, 2026).

¹⁴ Sam Borcia, *'I am deeply shaken': Waukegan alderman says federal immigration agents pointed guns at him after approaching his car*, Lake & McHenry County Scanner (Nov. 8, 2025), <https://www.lakemchenryscanner.com/2025/11/08/i-am-deeply-shaken-waukegan-alderman-says-federal-immigration-agents-pointed-guns-at-him-after-approaching-his-car/> (accessed Jan. 27, 2026).

¹⁵ Steve Sadin, *Lake County immigrants relieved, but wary as arrests subside: 'They're still afraid'*, Chicago Tribune (Dec. 8, 2025), <https://www.chicagotribune.com/2025/12/08/lake-county-immigration-enforcement/> (accessed Jan. 27, 2026); Christine Flores & Alonzo Small, *Federal immigration raids leave Waukegan families in distress and uncertainty*, WGN9 (Nov. 12, 2025), <https://wgntv.com/news/operation-midway-blitz/federal-immigration-raids-leave-waukegan-families-in-distress-and-uncertainty/> (accessed Jan. 27, 2026).

Investigations

We recognize that the federal government has adopted a policy of noncooperation with local and state authorities in investigating incidents involving its federal officers.¹⁶ Therefore, we urge you to take steps to ensure that neither the administration's targeting of on vulnerable communities nor its attempts to cover up the abuses of its agents disrupt the enforcement of the rule of law in your district.

First, we urge you to ensure that Lake County residents have a safe way to report violations of state criminal law by federal agents. Although we applaud Governor Pritzker's lead in creating the Illinois Accountability Commission,¹⁷ that commission apparently takes the position that no action can be taken while Trump is president.¹⁸ As your statement recognizes, there is no legal requirement that such a waiting period is necessary, nor would such an approach meaningfully protect the residents of Lake County. The Attorneys General of California,¹⁹ Colorado,²⁰ New York,²¹ Maine,²² Minnesota,²³ and Oregon²⁴ have all created portals or emails for constituents to submit illegal actions by federal agents. New Jersey's governor has announced that a similar portal is forthcoming.²⁵ We encourage you to take the lead in Illinois.

¹⁶ 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. 29, 2026).

¹⁷ Illinois Accountability Commission, <https://ilac.illinois.gov/>.

¹⁸ Michelle Gallardo, *Illinois Accountability Commission holds 1st meeting on claims of abuse in 'Operation Midway Blitz'*, ABC (Dec. 18, 2025), <https://abc7chicago.com/post/chicago-operation-midway-blitz-news-illinois-accountability-commission-discusses-impact-federal-agents-using-chemical/18298598/> (accessed Jan. 28, 2026).

¹⁹ *Report Misconduct by Federal Agents to the California Attorney General*, California Department of Justice, <https://oag.ca.gov/ReportMisconduct>, (accessed Feb. 5, 2026).

²⁰ *Misconduct by Federal Agents*, Colorado Attorney General, <https://complaints.coag.gov/s/?varCFT=7> (accessed Feb. 5, 2026).

²¹ 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> (accessed Feb. 2, 2026).

²² Press Release, *Attorney General's Office Establishes Dedicated Email Address to Report Federal Government Action in Maine*, Maine Attorney General's Office (Jan. 26, 2026), <https://www.maine.gov/ag/news/article.shtml?id=13341312> (accessed Jan. 29, 2026).

²³ *Hennepin County (MN) Attorney's Office Evidence Submission Portal*, Hennepin County Attorney's Office, <https://hennepinprosecutor.evidence.com/axon/community-request/public/communityevidencerequest1-7-26> (accessed Feb. 5, 2026).

²⁴ *Report Concerns Related to Federal Actions*, Oregon Department of Justice, <https://www.doj.state.or.us/oregon-department-of-justice/federal-oversight/report-concerns-related-to-federal-actions/> (accessed Feb. 2, 2026).

²⁵ Kaitlyn McCormick, *Prominent NJ officials sound off on recent ICE clashes around America*, Courier Post (Feb. 5, 2026), <https://www.courierpostonline.com/story/news/politics/2026/02/05/nj-gov->

Second, we encourage you to release guidance to Lake County law enforcement in line with that recently released by Minnesota’s Ramsey County Attorney John Choi.²⁶ This will ensure that local law enforcement understand their duties in protecting residents going forward and limit the ability of the federal government to cover up crimes of federal agents.

Finally, if you have a basis to request or subpoena information from a federal official or agency—and, based on the reports above, we believe you do—we urge you to do so. Although such requests cannot always be enforced in state court, federal court provides an alternate avenue. Minnesota officials successfully moved for a TRO forcing federal agencies to preserve evidence of Alex Pretti’s murder.²⁷

Basis for Criminal Investigation

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

By detaining residents by force with no lawful authority and threatening residents these agents may have committed several crimes under Illinois law, including assault, 720 ILCS 5/12-1, aggravated assault, 720 ILCS 5/12-2, battery, 720 ILCS 5/12-3, aggravated battery, 720 ILCS 5/12-3.05, mob action, 720 ILCS 5/25-1, and/or disorderly conduct, 720 ILCS 5/26-1.

Further, it is a crime under Illinois to conspire “to inflict harm on any other person” or to threaten “physical harm on any other person” if done “with the intent to interfere with the free exercise of any right or privilege secured by the Constitution of the United States, the Constitution of the State of Illinois, the laws of the United States, or the laws of the State of Illinois.” 720 ILCS 5/8-2.1(a). These include the Freedom of Speech guaranteed by both the federal and state constitutions. U.S. Const. amend. I; Ill. Const. art. IV, §§ 4, 5. As discussed above, these military-style assaults on working class communities of color are acts of political retribution against Trump’s perceived political enemies, not legitimate law enforcement actions, and as such these actions may be a violation of Illinois law protecting its residents’ civil rights. And insofar as this act was one of political retaliation—to prevent individuals from opposing the Trump administration in the future—it may constitute intimidation under Illinois law. 720 ILCS 5/12-6.

[mikie-sherrill-stance-ice-donald-norcross-jeff-van-drew-comments-renee-good-alex-pretti/88477911007/](https://www.sahanjournal.com/public-safety/ramsey-county-attorney-john-choi-investigates-federal-officers/) (accessed Feb. 5, 2026).

²⁶ Mohamed Ibrahim, *Ramsey County prosecutor opens investigations into federal officers, calls for public reports*, Sahan Journal (Jan. 27, 2026), <https://sahanjournal.com/public-safety/ramsey-county-attorney-john-choi-investigates-federal-officers/> (accessed Jan. 29, 2026).

²⁷ Caroline Cummings, *Federal judge orders feds to preserve evidence in Border Patrol shooting of Alex Pretti*, CBS (Jan. 26, 2026), <https://www.cbsnews.com/minnesota/news/preserve-evidence-alex-pretti-shooting-minneapolis-federal-judge-ruling/> (accessed Jan. 29, 2026).

Similarly, Bovino’s admission that federal agents are using race to identify who to detain raises the possibility of hate crime charges in connection with “assault, battery, aggravated assault, intimidation, stalking, cyberstalking, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, [or] disorderly conduct.” 720 ILCS 5/12-7.1.

Finally, given the orchestrated nature of these operations, your offices should investigate the potential criminal liability of senior Trump officials and Trump himself.²⁸ 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.

Immunity Does Not Preclude Prosecution

As you know, 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. Indeed, the Police Chief of Broadview, Illinois has begun investigations of ICE officers outside a similar detention facility,²⁹ Colorado is investigating an ICE officer’s use of excessive force,³⁰ and 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.³¹ Minneapolis Police Chief Brian O’Hara directed his officers to intervene when federal agents use unlawful force against Minneapolis residents³² and took steps to preserve evidence after Alex Pretti’s murder.³³ The Minnesota Attorney General and the County Attorney for Hennepin County have opened a

²⁸ 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.

²⁹ 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/> (accessed Feb. 2, 2026).

³⁰ 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> (accessed Feb. 2, 2026).

³¹ 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> (accessed Feb. 2, 2026).

³² 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> (accessed Feb. 2, 2026).

³³ Jack Morphet & Kris Maher, *Police Who Once Backed ICE’s Mission Are Losing Faith in Its Tactics*, Wall Street Journal (Jan. 24, 2026), <https://www.wsj.com/us-news/police-who-once-backed-ices-mission-are-losing-faith-in-its-tactics-e123c348> (accessed Jan. 26, 2026).

joint investigation into the murders of Renee Nicole Good and Alex Pretti.³⁴ Attorney General Rob Bonta,³⁵ Former Speaker Nancy Pelosi and San Francisco District Attorney Brooke Jenkins have endorsed holding federal agents accountable under state criminal law.³⁶ Lake County should not wait until there is a fatal shooting to protect 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 “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

³⁴ 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. 29, 2026); Press Release, Hennepin County Attorney’s Office (Jan. 9, 2026), <https://www.hennepinattorney.org/news/news/2026/January/HCAO-Evidence-Submission-Portal> (accessed Feb. 2, 2026).

³⁵ *Law Enforcement Guidance Statement*, Rob Bonta, Attorney General (Jan. 27, 2026), <https://oag.ca.gov/system/files/media/2026-dle-07.pdf> (accessed Feb. 5, 2026).

³⁶ 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> (accessed Feb. 2, 2026).

(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). To be clear, most of the cases discussed in this letter did not involve the death of a civilian—there is no requirement federal officers cross that line before they lose immunity.

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 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 Illinois 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. *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”). 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-Sanchez 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-Sanchez*. Immunity does not attach in such cases. *Cf. Pales v. Paoli*, 5 F.2d 280, 280–82 (1st Cir. 1925) (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).

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, as discussed above, federal agents were dispatched to Illinois by their superiors to terrorize populations and commit 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 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 not³⁷—their belief was not objectively “reasonable under the existing circumstances.” *Clifton*, 549 F.2d at 278.

In both of the publicly reported cases, federal agents seem to have acted on the basis that the victims were “impeding” federal operations. But Fajardo **at most** was documenting public law enforcement activity, and it has been settled law in the Seventh Circuit for over a decade that videotaping law enforcement in public is protected by the First Amendment. *ACLU v. Alvarez*, 679 F.3d 583, 595–608 (7th Cir. 2012). Furthermore, it has been established since 1987 that verbal criticism of officers is protected by the First Amendment. *Houston. v. Hill*, 482 U.S. 451, 461–63 (1987). It is not even clear that Martinez knew the traffic jam he was in was caused by federal agents—but if he did know that, his action is still protected. No reasonable officer could believe that it is appropriate to point guns at Illinois residents for documenting public arrests or honking their car horn.

³⁷ Indeed, the public remarks from President Trump discussed above and officials like Noem and Bovino present compelling evidence that federal agents know their job is to enact political retribution, not legitimate law enforcement activities. For example, on October 3, 2025, Bovino and Noem gave a speech to federal agents announcing a plan to disrupt a peaceful protest, including that “hammer these guys,” announcing that “we’re going to roll them all the way out of here,” arrest them, and “make sure that these individuals aren’t allowed to conduct this kind of activity anymore,” at least in part because President Trump is “sick” of the protests. Benny Johnson (@BennyJohnson), X (Oct. 3, 2025, 2:05 p.m.), <https://x.com/bennyjohnson/status/1974174065985470970>. Shortly thereafter, Bovino led an attack on the protesters in the designated area created by state law enforcement, arresting many. Plaintiffs’ Emergency Motion for Temporary Restraining Order at 10, *Chicago Headline Club v. Noem*, 25-cv-12173 (N.D. Ill. 2025), https://protectdemocracy.org/wp-content/uploads/2025/10/CHC-v-Noem_TRO-Mtn.pdf (accessed Jan. 29, 2026).

Both of these incidents fit into a larger pattern of vehicle-related incidents by federal agents. As early as 2013, an internal report found that Border Patrol agents were routinely positioning themselves in front of vehicles to justify the use of lethal force.³⁸ That pattern has increased exponentially as Trump has mobilized the use of military-style agencies in America's cities. There are multiple cases of agents using excessive force, afterward claiming that a civilian's vehicle posed a threat to them, only for subsequent video evidence to debunk the agent's claims.³⁹ Most horrifically, this pattern played out in the murder of Renee Good, where public reporting indicates that "Mr. Ross put himself in a dangerous position near her vehicle in the first place."⁴⁰ The detainment of Fajardo or Martinez seem to have been part of a pattern of illegally using the presence of vehicles to threaten, detain, assault, and—in some cases—murder civilians.

The administration has failed to produce any evidence it purportedly has to justify their apparently unlawful actions. 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 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. Illinois 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

³⁸ Ryan Goodman, Initially-Secret Report: Customs & Border Patrol Agents Got in Way of Vehicles, Then Used Deadly Force, Substack: In The Know, (Jan. 11, 2026), <https://substack.com/home/post/p-184216813> (accessed Jan. 29, 2026).

³⁹ Molly DeVore, *ICE Agent Who Killed Man In Alleged Self-Defense Said Injuries Were 'Nothing Major,' Video Shows*, Block Club Chicago (Sep. 23, 2025), <https://blockclubchicago.org/2025/09/23/ice-agent-in-franklin-park-fatal-shooting-said-his-injuries-were-nothing-major-report-says/> (accessed Jan. 29, 2026); Renee Hickman & Brad Brooks, *Footage of deadly ICE shooting in Chicago suburb challenges official narrative*, Reuters (Sep. 25, 2025), <https://www.reuters.com/world/us/police-records-witness-accounts-complicate-dhs-narrative-fatal-chicago-area-ice-2025-09-24/> (accessed Jan. 29, 2026); Renee Hickman, *Bodycam footage conflicts with DHS account of Chicago woman's shooting by Border Patrol, lawyer says*, Reuters (Oct. 9, 2025), <https://www.reuters.com/world/us/bodycam-footage-conflicts-with-dhs-account-chicago-womans-shooting-by-border-2025-10-08/> (accessed Jan. 29, 2026); Andrew Schwartz, *Documents Allege a Federal Agent at Portland ICE Threatened to Shoot an Ambulance Driver*, Willamette Week (Oct. 12, 2025), <https://www.wweek.com/news/2025/10/12/documents-allege-a-federal-agent-at-portland-ice-threatened-to-shoot-an-ambulance-driver/> (accessed Jan. 29, 2026).

⁴⁰ N.Y. Times, *Video Analysis of ICE Shooting Sheds Light on Contested Moments*, (Jan. 17, 2026), <https://www.nytimes.com/2026/01/15/video/ice-shooting-renee-good-minneapolis-videos.html> (accessed Jan. 29, 2026) “

evade oversight and hide the identities and criminal behavior of individual agents.⁴¹ Illinois 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.

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,

Ben Horton, Counsel
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

⁴¹ 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> (accessed Feb. 2, 2026); 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> (accessed Feb. 2, 2026).