



**Testimony of**

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**at the Cato Institute**

**Before**

**The Committee on Oversight and Government Reform**

**Task Force on Defending Constitutional Rights and Exposing Institutional Abuses**

**June 9, 2026**

**RE: “Amnesty and Chaos: Abuse of U.S. Immigration Policy”**

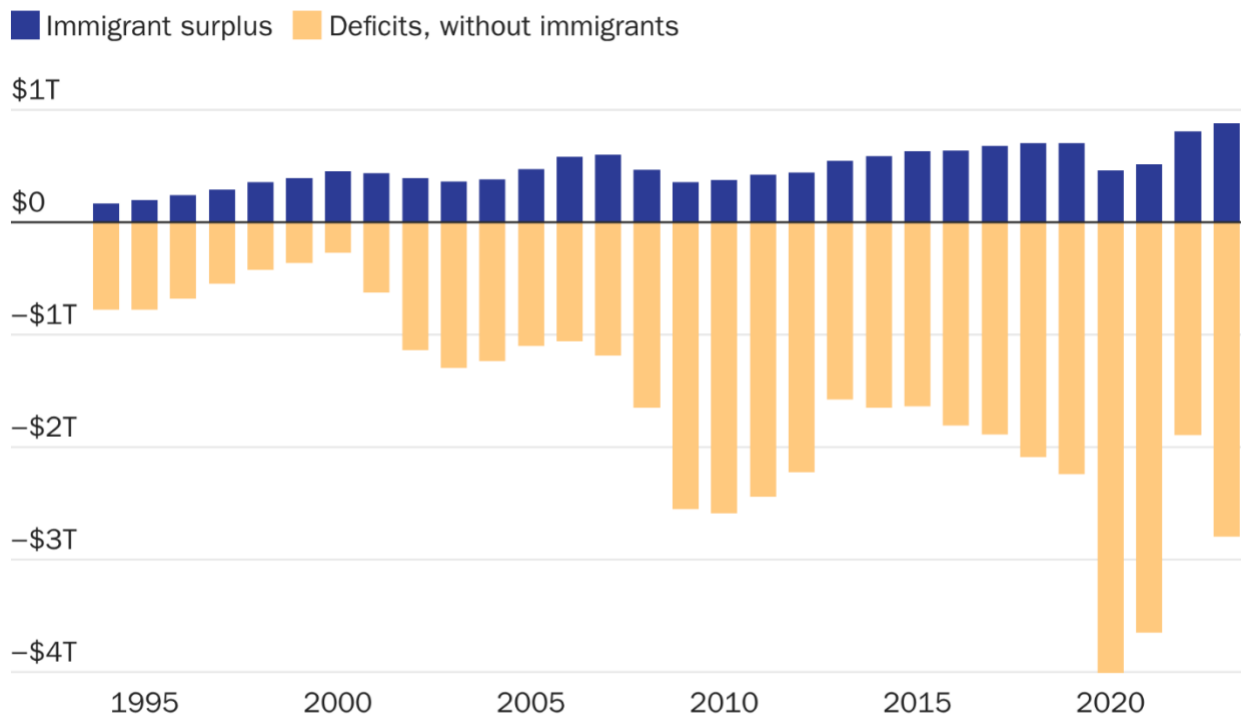
Chairman Gill, Ranking Member Simon, and distinguished members, thank you for the opportunity to testify before this task force on Constitutional Rights and Exposing Institutional Abuses.

For half a century, Cato Institute research has shown that people—whatever their ancestry, background, or birthplace—can thrive in a society where the government is limited by a Constitution and where rights are secure.<sup>1</sup>

Immigrants come for freedom—freedom to work for us and with us, to improve our lives, and they will play critical roles in America’s economic vitality in the future.<sup>2</sup> Immigrants work at higher rates and are nearly twice as likely to start businesses.<sup>3</sup> Cato’s research has shown that immigrants have reduced federal, state, and local government budget deficits by a combined \$14.5 trillion, including \$1.7 trillion from illegal immigrants, over the last 30 years.<sup>4</sup>

### Immigrants’ fiscal surplus has grown even as deficits have exploded

Net fiscal impact, immigrants and US population without immigrants, 2024 dollars, 1994–2023



Source: Calculations are based primarily on the Annual Social and Economic Supplements of the US Census Bureau’s Current Population Survey for March 1994–2023. See Appendix for full details.

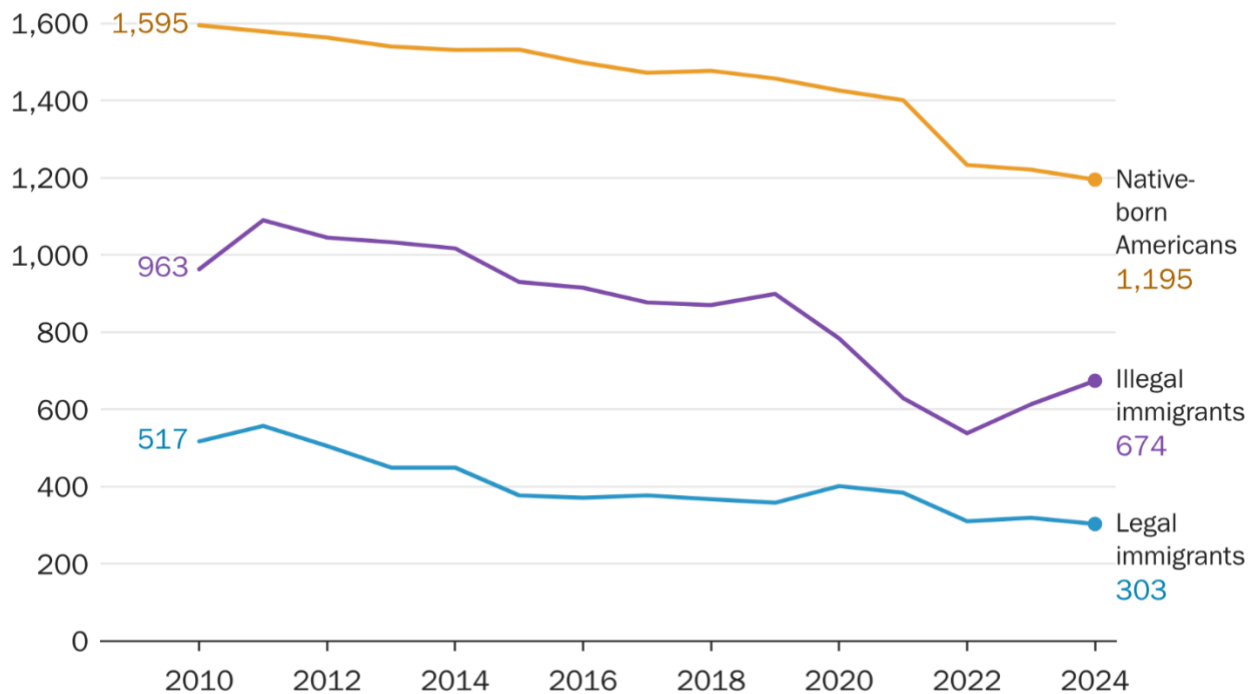
Note: Includes interest savings from reduced debt in prior years.



Immigrants and noncitizens reduce the likelihood of victimization of Americans by reducing violent crime rates and committing far fewer crimes than US-born Americans.<sup>5</sup> Immigrants—including illegal immigrants—are half as likely to have committed a serious crime for which they are serving time in the United States.<sup>6</sup>

## Immigrants, regardless of legal status, are less likely to be incarcerated

Subgroup incarceration rate per 100,000 residents, ages 18–54



Source: American Community Survey, 2024; Michelangelo Landgrave and Alex Nowrasteh, "Illegal Immigrant Incarceration Rates, 2010–2024," Cato Institute, 2026 (forthcoming).



Although immigrants and Americans thrive when constitutional rights are protected, abusive immigration policy is threatening the Constitution. Courts have found this administration has likely violated at least the First, Fourth, Fifth, Tenth, and Fourteenth Amendments, and the writ of habeas corpus.

### DHS's Unconstitutional Conduct

DHS agents invade homes without judicial warrants. They arrest and detain legal immigrants, United States citizens, and others without evidence of a violation of law. They detain Americans largely based on their perceived race, ethnicity, or other demographic characteristics. They detain and deport legal immigrants for their speech, and they assault and shoot Americans who protest or record all the abuses.

DHS agents shot US citizen Alex Pretti, an ICU nurse peacefully protesting, ten times.<sup>7</sup> After the shooting, officials immediately labeled him a terrorist for merely lawfully possessing a firearm while protesting—a repudiation of the Second Amendment and of Supreme Court precedent holding that the government cannot presume a threat from a holstered firearm alone.<sup>8</sup>

Agents have arrested dozens—possibly hundreds—of people, falsely accusing them of assaults, only for charges to fall apart under scrutiny. In Chicago alone, arrests tied to Operation Midway Blitz resulted in just two convictions, compared with 24 dismissals or acquittals.<sup>9</sup> Of the 163

assault cases, 38 percent ended in dismissals or acquittals as of December 2025 versus 23 percent guilty pleas, with the rest pending.<sup>10</sup> A *Wall Street Journal* review focused solely on the 83 cases that DHS had chosen to post on social media found that most cases had not even resulted in charges at all, pointing to a much more serious problem than charges alone indicate.<sup>11</sup> The cases that have moved forward have repeatedly revealed false statements and lies by agents.<sup>12</sup>

Willful deprivations of constitutional or legal rights under color of law are crimes under Sections 241 and 242 of Title 18 of the United States Code. And yet, although our hearing title invokes amnesty as a problem, the amnesty happening now is not for immigrants, but for agents who violate the Constitution.

## **Constitutional Violations in Detail**

### ***First Amendment***

Courts have found DHS has violated the First Amendment on numerous occasions in different contexts.

- In *Suri v. Trump*, the Fourth Circuit found that DHS retaliated against a Georgetown post-doctoral scholar and teacher by arresting him for his online speech.<sup>13</sup>
- In *Ozturk v. Trump*, the court found that DHS arrested a college student for writing an op-ed, which was “at the very least, a substantial claim of a First Amendment violation” sufficient to justify release from custody.<sup>14</sup>
- In *Khalil v. Trump*, the court found the government was chilling speech by arresting a legal permanent resident for his political statements, and the government had not even contested that finding.<sup>15</sup> The Third Circuit reversed on jurisdictional grounds alone while acknowledging that doing so might permit “an injury that cannot be remedied.”<sup>16</sup>
- In *AAUP v. Rubio*, the court found that DHS conspired to “chill the rights to freedom of speech” by arresting noncitizens for their political statements, and the government did not even seek a stay of the decision vacating those policies as its appeal was pending.<sup>17</sup>
- In *Mahdawi v. Trump*, the court found that continued detention “would have a chilling effect on protected speech” because he was detained for his political statements, and the Second Circuit refused to reconsider his release because of “Mahdawi’s substantial First Amendment claims.”<sup>18</sup>
- In *LA Press Club v. Noem*, the Ninth Circuit found that DHS regularly assaults people for peacefully protesting and observing its activities.<sup>19</sup>
- In *Chicago Headline Club v. Noem*, the court found “many examples” of restricting peaceful protesters, and DHS admitted it would treat pro-ICE protesters more favorably—classic viewpoint discrimination.<sup>20</sup> In vacating the injunction as overbroad, the Seventh Circuit nonetheless characterized the district court’s factual findings as “robust.”<sup>21</sup>

- In *Tincher v. Noem*, the court found an ongoing, persistent pattern of conduct chilling First Amendment rights, including stops of drivers without probable cause for the sole reason that they were following and recording federal agents.<sup>22</sup> The Eighth Circuit reversed the overbroad injunction, but did not repudiate the findings that there was a pattern of stopping drivers without probable cause.

Even where DHS agents have been caught lying about their justifications for arrests, there is no civil recourse. *Egbert v. Boule* (2022) explicitly held there is never any private right of action for First Amendment retaliation claims against federal officers because it would “unduly inhibit officials in the discharge of their duties” to be concerned about violating our rights.<sup>23</sup> The Sixth Circuit applied the same rule even where ICE arrested a DACA recipient apparently in retaliation for her helping detainees obtain bond.<sup>24</sup>

DHS has detained or arrested numerous individuals for filming and recording them. DHS Secretary Kristi Noem has said that it is “violence” to be “doxing” and “videotaping them where they’re at when they’re out on operations.”<sup>25</sup> But the Constitution protects every American’s right to protest, record, film, and report on government activity.<sup>26</sup> In fact, not only do DHS agents want to operate anonymously—with masks, no names, and often without even uniforms—they insist on threatening, detaining, and arresting people who observe, record, or protest their activities.

Observers have recorded DHS agents threatening to “put hands on you and arrest you” if they “continue to follow us.”<sup>27</sup> Numerous citizens were physically accosted, arrested, and detained in the DHS facility for hours without any charge for following and recording them, including Ryan Ecklund, Brandon Sigüenza, and Susan Tincher.<sup>28</sup> In response to a lawsuit, a judge found “ongoing, sustained pattern of conduct” where drivers were stopped without probable cause of a crime for “following federal law enforcement agents at a safe distance to observe the agents’ activity.”<sup>29</sup> DHS is using facial recognition software to record, identify, and build a database of ICE observers not accused of any crimes.<sup>30</sup>

#### ***Fourth Amendment***

Courts have found that DHS has repeatedly violated the Fourth Amendment of the Constitution by detaining people without sufficient basis:

- In *Garrison G. v. Bondi*, the court found DHS violated the Fourth Amendment by entering a home without a judicial warrant.<sup>31</sup>
- In *U.H.A. v. Bondi*, the court found DHS violated the Fourth Amendment by arresting and detaining legal immigrant refugees without warrants, solely because DHS had not yet granted them the green cards to which they were entitled.<sup>32</sup>
- In *United States v. Juarez-Lopez*, the court found DHS unconstitutionally detained numerous employees of a New York manufacturing plant without any basis in law. We

only know about this violation because DHS tried to criminally charge one worker, and the judge suppressed the evidence.<sup>33</sup>

- In *United Farm Workers v. Noem*, the court found DHS detained numerous people without reasonable suspicion, profiling based on race or ethnicity, location, and occupation, and enjoined the conduct in California's Eastern District.<sup>34</sup> The court later found continued violations after DHS defied that injunction.<sup>35</sup>
- In *Vasquez Perdomo v. Noem*, the court found repeated violations of the Fourth Amendment.<sup>36</sup> Although the Supreme Court reversed the overbroad injunction, it did not rule that the constitutional violations did not occur.
- In *Urquilla-Ramos v. Trump*, the court found DHS violated the Fourth Amendment by detaining a man during a traffic stop where no laws had been violated, with agents wearing masks and declining to identify themselves.<sup>37</sup>
- In *Venegas v. Homan*, the court found that a Hispanic United States citizen who had been wrongfully detained on three separate occasions had proven it likely that he would face future unconstitutional detentions.<sup>38</sup>
- In *Hussen v. Noem*, the court found DHS "likely maintained unconstitutional policies," including by making stops without reasonable suspicion in at least 23 documented cases.<sup>39</sup> Despite this clear factual finding, no injunctive relief was available because of the nearly impossible burden of proving likelihood of future individual harm under *City of Los Angeles v. Lyons* (1983).

In part because no injunctive relief is possible in most cases and in part because individuals detained wrongfully cannot sue for damages based on constitutional violations under *Egbert v. Boule* (2022), the number of Fourth Amendment violations vastly exceeds this short list. It is exceedingly difficult for Americans to obtain a decision explicitly stating that their rights were violated.

For instance, we know Scott Thao's rights were violated when ICE agents entered his home without a warrant and refused to listen to his protests that he was a US citizen when they dragged him away in his underwear.<sup>40</sup> Six former general counsels for DHS under Republican and Democratic administrations have already denounced the policy as unconstitutional.<sup>41</sup> The Supreme Court has said that police may not enter homes without a warrant even to catch violent felons, let alone individuals accused of civil offenses like immigration infractions.<sup>42</sup> Nonetheless, there is no court case involving Scott's incident.

During his time as operation lead, Border Patrol commander-at-large Greg Bovino told me on X in response to a US citizen being detained that "one must carry immigration documents."<sup>43</sup> DHS Secretary Kristi Noem was asked why U.S. citizens are being asked to prove their citizenship, and she said, "We may be asking who they are and why they're there and having them validate their identity."<sup>44</sup> DHS agents are on camera repeatedly telling Minnesota residents to produce proof of citizenship because of their accents, including Ramon Menara and Ahmed Bin Hassan.<sup>45</sup>

Agents threaten the people whom they interrogate with arrest on the streets if they refuse their “papers-please” demands.<sup>46</sup> The picture below is of a boy in Minnesota being interrogated about his citizenship walking home from the store with a snack. DHS agents arrested him and took him away.<sup>47</sup>



Numerous US citizens, including Mubashir Khalif Hussen and Mahamed Eydarus, were detained or interrogated because they looked Somali or were speaking Somali.<sup>48</sup> Mubashir was taken to an ICE facility, even though he offered to show ID. When he was finally released, he was told to walk two and a half hours through the snow to his home.<sup>49</sup> In a lawsuit, dozens of US citizens and legal residents detail violations of their rights, interrogations, detentions, and arrests based on their appearance.<sup>50</sup> DHS agents routinely ignored documents and used force against them.<sup>51</sup> These behaviors are not surprising given the orders from the White House to use profiling to increase arrests in May of last year.<sup>52</sup> Even an off-duty Brooklyn Park Police officer was detained by ICE.<sup>53</sup>

### ***Fifth Amendment***

Courts have repeatedly found that DHS has violated the Fifth Amendment of the Constitution by failing to provide due process to individuals before arresting and punishing them:

- In *Trump v. J.G.G.*, the Supreme Court found that DHS violated the Fifth Amendment by removing more than 100 men to El Salvador without notice or opportunity to challenge the removal.<sup>54</sup>

- In *A.A.R.P. v. Trump*, the Supreme Court found that one-day notice in English was “surely” insufficient process for deportation.<sup>55</sup>
- In *Luna Gutierrez v. Noem*, the court found DHS likely violated the Fifth Amendment by moving detainees to Guantanamo for a punitive purpose—to punish them without due process.<sup>56</sup>
- In *Vasquez Perdomo v. Noem*, the court found repeated violations of the Fifth Amendment by refusing detainees access to counsel, and found continued violations even after a temporary restraining order—its orders were not reversed on appeal.<sup>57</sup>
- In *Immigration Center for Women and Children v. Mullin* (C.D. Cal., May 20, 2026), the court found that DHS de facto revoked torture and crime victims’ status without due process in violation of the Fifth Amendment.<sup>58</sup>
- In *D.N.N. v. Liggins*, the court found that DHS violated the Fifth Amendment by detaining people in punitive, filthy, and degrading conditions without due process.<sup>59</sup>
- In *U.H.A. v. Bondi*, the Court found DHS violated the Fifth Amendment by arresting and detaining legal immigrant refugees without warrants, solely because DHS had not granted them the green cards they were eligible for yet.<sup>60</sup>

There are dozens of additional individual cases finding that the administration has violated due process by detaining immigrants without bond hearings. In case after case, federal judges across the country have ordered the release of individuals detained without the process the Constitution requires.

### ***Tenth Amendment and Spending Clause***

During his first term, four of five circuit courts blocked efforts to condition grants on immigration enforcement participation.<sup>61</sup> Yet on his first day in office, the president signed an executive order mandating those same unconstitutional conditions.

- In *San Francisco v. Trump*, the court found that DHS violated the Tenth Amendment by conditioning local grants on immigration enforcement collaboration.<sup>62</sup>
- In *Illinois v. FEMA*, the court found DHS imposed illegal conditions on grants and then, after losing, inserted those same conditions back into award letters in “a ham-handed attempt to bully the states.”<sup>63</sup>
- In *United States v. Illinois*, the government’s own suit to force state cooperation was dismissed on Tenth Amendment grounds, with the court holding that “refusing to help is not the same as impeding.”<sup>64</sup>
- In *California v. DOT*, the court found the Transportation Department inserted an immigration enforcement requirement into transportation grants in violation of the Constitution. The government subsequently abandoned its appeal, cementing the ruling nationwide.<sup>65</sup>

DOJ separately issued a memo threatening to criminally punish city and state officials who refused to cooperate with DHS—an assertion of commandeering authority the Constitution flatly prohibits.<sup>66</sup>

### ***Fourteenth Amendment***

The administration has violated the Fourteenth Amendment by attempting to strip United States-born Americans of citizenship at birth if their parents lack permanent legal residence.

- In *Doe v. New Jersey*, the First Circuit found that birthright citizenship Executive Order 14160 violated the Constitution.<sup>67</sup>
- In *Washington v. Trump*, the Ninth Circuit found the same, holding the order invalid because “it contradicts the plain language of the Fourteenth Amendment’s grant of citizenship to ‘all persons born in the United States and subject to the jurisdiction thereof.’”<sup>68</sup>
- At oral argument in *Barbara v. Trump*, multiple conservative Supreme Court justices questioned how DHS could possibly justify the order after a century of uniform practice to the contrary.<sup>69</sup>

Nonetheless, DHS has already prepared implementation memos, positioning itself to strip citizenship from children within days of any favorable ruling.

### ***Habeas Corpus and Violations of Court Orders***

“ICE has likely violated more court orders in January 2026 than some federal agencies have violated in their entire existence,” Chief Judge Patrick Schiltz wrote.<sup>70</sup> He found that ICE had violated nearly 100 court orders to release people detained without bond in Minnesota alone in just one month.<sup>71</sup> In a second review, he found 113 violations.<sup>72</sup>

Courts have documented systematic, willful, and in some cases gleeful noncompliance with judicial orders across the entire range of DHS enforcement.<sup>73</sup>

- DHS transferred Venezuelans to a Salvadoran mega-prison hours after a restraining order prohibiting the transfer, and the Secretary of State publicly retweeted a foreign leader’s mockery of the court’s order.<sup>74</sup>
- The government repeatedly defied orders to facilitate the return of wrongfully deported Kilmar Abrego Garcia, with the court finding “Defendants have done nothing at all,” and the Fourth Circuit holding the government’s defiance “would reduce the rule of law to lawlessness.”<sup>75</sup>
- The government raced to deport six class members to South Sudan in breach of a court order requiring notice and opportunity to contest removal.<sup>76</sup>
- The government defied an order to facilitate the return of a wrongfully deported unaccompanied child, with the court finding “zero effort to comply.”<sup>77</sup>

- The government refused to comply with a settlement order to reinstate legal services for immigrant families.<sup>78</sup>
- DHS re-inserted enjoined immigration conditions into federal grant letters immediately after losing on the merits, which the court called “a ham-handed attempt to bully the states.”<sup>79</sup>
- CBP’s chief border agent admitted lying multiple times about events used to justify tear-gassing protesters and continued violating a TRO.<sup>80</sup>
- DHS violated a consent decree prohibiting warrantless arrests in 46 agreed-upon cases, with the majority of victims already removed from the country.<sup>81</sup>
- DHS continued blocking attorney access to detainees in repeated violation of a TRO, with the court ordering compliance “for the rest of this lawsuit.”<sup>82</sup>

The pattern is not negligence. It is policy.

### **The Six Sources of DHS Amnesty**

First, among other things, DHS gutted internal review mechanisms.

- DHS reduced the staff of the DHS Office for Civil Rights and Civil Liberties by at least 80 percent and the DHS Detention Ombudsman office by 96 percent.<sup>83</sup>
- Over 500 open civil rights investigations were abandoned, including more than 200 medical referral complaints and at least 25 open investigations of sexual abuse in DHS custody.<sup>84</sup>

Second, DHS often fails to seriously investigate agent misconduct, such as the shootings of United States citizens Alex Pretti, Renee Good, and Marimar Martinez. DOJ and DHS failed to open a use of force investigation into Renee Good.<sup>85</sup> Marimar Martinez was herself investigated and charged before video evidence came to light exposing the lies of the DHS agents.<sup>86</sup>

Third, DHS refuses to disclose evidence, witnesses, or testimony to state investigators.<sup>87</sup> Masks shield the identities of the perpetrators, and DHS has even arrested witnesses in some cases.<sup>88</sup>

Fourth, courts have found DHS ignores court orders to stop its unconstitutional acts and disclose evidence of those acts, and just last week, the current DHS Secretary refused to repudiate that behavior under oath.<sup>89</sup>

Fifth, DHS often promulgates these policies in secret, thwarting court review.

- *Alien Enemies Act*: When DHS prepared to send immigrants to El Salvador under the Alien Enemies Act, it made its preparations in secret, and it had President Trump sign the order in private.<sup>90</sup>
- *Home entry policy*: When DHS reinterpreted its policy and the Constitution to permit the entries into homes without judicial warrants, DHS hid the policy not just from the public but from most DHS employees.<sup>91</sup>

- *Demographic profiling policy*: When DHS reinterpreted its policies and the Constitution to permit detentions of individuals to verify their citizenship based on demographics, it did so in a closed-door meeting with the White House, which initially produced no written guidance to even challenge.<sup>92</sup>
- *Policy intimidating ICE observers*: As I’ve documented, and the district court found in *Tincher v. Noem*, DHS has a policy of threatening to arrest ICE and CBP observers.<sup>93</sup>
- *Policy permitting the arrest of lawful refugees*: In December 2025, DHS reinterpreted the law in secret to permit the arrest and indefinite detention of refugees who entered legally from abroad if DHS had not processed their green card within one year of entry—even though refugees cannot apply for a refugee until one year after entry.<sup>94</sup>

Sixth, and perhaps most importantly, the administration tells DHS agents they have “absolute immunity” and will never be prosecuted or held accountable. The president’s pardons for his allies further embolden agents. These pardons include a pardon for a conviction for contempt of court for immigration-enforcement related racial profiling by Sheriff Joseph Arpaio in Arizona.<sup>95</sup> The president has granted “amnesty” through pardons to a wide swath of supporters who have committed serious crimes, including violence.

### **The Inadequacy of Current Procedures for Accountability**

First, injunctions are very difficult to obtain. Americans believe that if a policy is illegal, you can ask a court to stop it. In reality, a past rights violation is insufficient. You must show that you are likely to be targeted again, and that blocking the policy is the only way to protect you. Unless the government openly admits its targeting criteria, that is an extraordinarily high bar.<sup>96</sup> For instance, in Minnesota, a judge found that unconstitutional stops likely had occurred but still did not grant an injunction because they could not prove it would repeat.<sup>97</sup>

Moreover, since the Supreme Court limited universal injunctions in *Trump v. CASA, Inc.* (2025), it has become vastly more difficult to quickly stop illegal policies. Even if a policy is stopped in a specific place or for a specific person, DHS is often free to continue that identical policy elsewhere against others. The same “Operation At Large” tactics that the Eastern District of California enjoined were simultaneously deployed in Chicago, Minneapolis, and dozens of other cities without any injunctive constraint.

Second, damages suits for constitutional violations are generally unavailable. Since federal law (42 U.S. Code § 1983) only authorizes suits against state agents, not federal ones, there is effectively no way to sue for damages for DHS’s constitutional violations in federal court at all—no matter how criminal or egregious, even if they shoot you ten times for no reason like they did to Alex Pretti. The Supreme Court held in *Egbert v. Boule* (2022) that there is never any private right of action for First Amendment retaliation by federal agents generally and no private right of action for Fourth Amendment violations by Border Patrol specifically.<sup>98</sup> It implied the same would be true for ICE.

- Here are the facts in *Egbert*: A Border Patrol agent entered a bed-and-breakfast owner's property without a warrant to investigate a guest, shoved the owner to the ground when he tried to intervene, and then retaliated against him for filing a complaint by reporting him to the IRS and triggering multiple investigations.

Appeals courts that have considered the issue have also found *Egbert* does apply to ICE as well.<sup>99</sup> Here are the facts that appeals courts have said victims have no remedy for:

- *Tun-Cos*: Nine Latino men in Northern Virginia alleged that ICE agents invaded their homes without warrants and stopped and detained them without suspicion solely because they were Latino.
- *Enriquez-Perdomo*: A DACA recipient who was on a first-name basis with the ICE agents at her local office, and who regularly posted bond for detainees there, was arrested without a warrant despite her known protected status and shuttled across six locations in three states for eight days.
- *Byrd*: A DHS agent allegedly used his federal credentials to have police detain a civilian for four hours after threatening to "put a bullet through his f—king skull" in a personal dispute over his son's girlfriend, and the Fifth Circuit held the victim had no remedy in federal court.
- *Sheikh*: HSI agents allegedly fabricated evidence in a search warrant affidavit, submitted misleading reports to prosecutors omitting exculpatory observations they had made themselves, and provided perjurious certifications to USCIS to secure witnesses' immigration status — resulting in a California rancher being criminally prosecuted for human trafficking for five years before the case was dismissed.

When there is no prospect for agents to be held accountable, that is amnesty.<sup>100</sup>

### **The Real Amnesty and the Path Forward**

It is not amnesty when immigrants follow procedures set up by Congress for them to get vetted and get on the right side of the law. Indeed, doing so reduces chaos and restores the rule of law. Instead of targeting peaceful legal immigrants, Congress should end the real amnesty—immunity for DHS agents—by allowing Americans to vindicate their rights in court. Specifically, Congress should:

- Order the administration to prioritize serious criminal threats for removal;
- Prohibit wearing masks and require federal agents to identify themselves;
- Ban racial profiling and require federal agents to obtain warrants for specific individuals based on probable cause of a violation of law prior to making arrests;
- Reinforce current law that prohibits interrogating United States citizens about their immigration status;
- Require Border Patrol to patrol within a 10-mile radius of land borders;

- Create a private right of action for violations of constitutional rights by federal agents;
- Explicitly prohibit qualified immunity defenses for constitutional violations;
- Prohibit threats or arrests in retaliation for First Amendment-protected activity;
- Explicitly permit states and localities to investigate crimes committed by federal agents;
- Allow states to sue the federal government for violations of their residents' rights; and
- Permit nationwide injunctive relief by courts for policies that violate federal law.

## Citations

<sup>1</sup> Much of this statement repeats testimony from prior hearings.

<sup>2</sup> David J. Bier, "[Unlocking America's Potential: How Immigration Fuels Economic Growth and Our Competitive Advantage](#)," Committee on Budget, U.S. Senate, September 13, 2023.

<sup>3</sup> David J. Bier, "[Unlocking America's Potential: How Immigration Fuels Economic Growth and Our Competitive Advantage](#)," Committee on Budget, U.S. Senate, September 13, 2023.

<sup>4</sup> Bier, David J., Michael Howard, and Julián Salazar. "[Immigrants' Recent Effects on Government Budgets: 1994–2023](#)," White Paper, Cato Institute, Washington, DC, February 3, 2026.

<sup>5</sup> Bier, David J., and Julián Salazar. "[Immigrants Cut Victimization Rates, Boost Crime Reporting](#)," Policy Analysis no. 1003, Cato Institute, Washington, DC, August 26, 2025.

<sup>6</sup> Alex Nowrasteh and Michelangelo Landgrave, "[Illegal Immigrant Incarceration Rates, 2010–2024: The Demographics of American Imprisonment Immigrants have a low incarceration rate](#)," March 25, 2026, Briefing Paper No. 198.

<sup>7</sup> <https://abcnews.com/Politics/minute-minute-timeline-fatal-shooting-alex-pretti-federal/story?id=129547199>

<sup>8</sup> "[The NRA, Trump, and a Clash over Gun-Carrying Rights](#)," *Time*, 2026.

<sup>9</sup> "[Federal Prosecutions Chicago: Status of Trump's Immigration Blitz](#)," *Chicago Sun-Times*, 2026 <https://archive.is/CHT2w#selection-3129.222-3129.226>

<sup>11</sup> Smith, Brenna T., Hannah Critchfield, Brian Whitton, Belle Cushing, and Emma Scott. "Americans Are Now a Target in Trump's Immigration Crackdown." *Wall Street Journal*, March 7, 2026. [https://www.wsj.com/us-news/immigration-protests-noem-minneapolis-0b8bd496?st=4G6dhh&reflink=article\\_copyURL\\_share](https://www.wsj.com/us-news/immigration-protests-noem-minneapolis-0b8bd496?st=4G6dhh&reflink=article_copyURL_share)

<sup>12</sup> <https://www.theguardian.com/us-news/2025/jul/28/doj-la-protesters-false-claims>

<sup>13</sup> [\*Suri v. Trump\*, No. 25-1560, 4th Cir.](#)

<sup>14</sup> [\*Ozturk v. Trump\*, D. Vt.](#)

<sup>15</sup> [\*Khalil v. Trump\*, D.N.J.](#)

<sup>16</sup> [\*3d Cir.\*](#)

<sup>17</sup> [\*AAUP v. Rubio\*, D. Mass.](#)

<sup>18</sup> [\*Mahdawi v. Trump\*, D. Vt.](#)

<sup>19</sup> [\*LA Press Club v. Noem\*, 9th Cir., affirming preliminary injunction](#)

<sup>20</sup> [\*Chicago Headline Club v. Noem\*, 1:25-cv-12173 \(N.D. Ill.\)](#)

<sup>21</sup> [\*7th Cir.\*](#)

<sup>22</sup> [\*Tincher v. Noem\*, D. Minn.](#)

<sup>23</sup> [\*Egbert v. Boule\*, 596 U.S. 482 \(2022\)](#)

<sup>24</sup> [\*Enriquez-Perdomo v. Newman\*, 6th Cir.](#)

<sup>25</sup> "[Secretary Kristi Noem Addresses Surge in Attacks on ICE Agents in Tampa](#)," KFOX-TV, July 13, 2025.

<sup>26</sup> David J. Bier, "[DHS Policy of Threatening and Arresting ICE Observers Violates Their Rights](#)," Cato Institute, 2025.

<sup>27</sup> David J. Bier (@David\_J\_Bier), post on X (formerly Twitter), 2025.

<sup>28</sup> "[ICE Agents Detained Eight Hours After Confrontation with Observers](#)," Yahoo News, 2025.

"[ICE Detains Woodbury Man for Filming Federal Agents](#)," FOX 9 Minnesota, 2025.

"[Federal Agents Arrest Citizen Observer Watching ICE in North Minneapolis](#)," MPR News, December 9, 2025.

<sup>29</sup> [\*Tincher v. Noem\*, Order, U.S. District Court for the District of Minnesota, filed 2025.](#)

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- <sup>30</sup> [Sheera Frenkel and Aaron Krolik, “How ICE Already Knows Who Minneapolis Protesters Are,” \*New York Times\*, January 30, 2026, updated January 31, 2026,](#)  
[Ken Klippenstein, “ICE Making List of Anyone Who Films Them,” \*Ken Klippenstein \(Substack\)\*, January 23, 2026.](#)
- <sup>31</sup> [Garrison G. v. Bondi, No. 0:26-cv-00172 \(D. Minn. Jan. 17, 2026\)](#)
- <sup>32</sup> [U.H.A. v. Bondi, No. 0:26-cv-00417 \(D. Minn.\)](#)
- <sup>33</sup> [United States v. Juarez-Lopez, N.D.N.Y. \(Dec. 18, 2025\)](#)
- <sup>34</sup> [United Farm Workers v. Noem, E.D. Cal. \(Apr. 29, 2025\)](#)
- <sup>35</sup> [UFW v. Noem, enforcement order \(Mar. 11, 2026\)](#)
- <sup>36</sup> [Vasquez Perdomo v. Noem, 2:25-cv-05605 \(C.D. Cal.\)](#)
- <sup>37</sup> [Urquilla-Ramos v. Trump, S.D. W. Va. \(Feb. 19, 2026\)](#)
- <sup>38</sup> [Venegas v. Homan, No. 25-00397 \(S.D. Ala. May 19, 2026\)](#)
- <sup>39</sup> [Hussen v. Noem, D. Minn.](#)
- <sup>40</sup> Jack Brock, “[A U.S. Citizen Says ICE Forced Open the Door to His Minnesota Home and Removed Him in His Underwear After a Warrantless Search](#),” *PBS NewsHour*, January 20, 2026.
- <sup>41</sup> Stevan Bunnell, Gus Coldebella, Ivan Fong, Kara Lynum, Jonathan Meyer, and John Mitnick, “[We Were Top Homeland Security Lawyers. You Can’t Wish Away the Fourth Amendment](#),” *New York Times*, February 2, 2026.,
- <sup>42</sup> [Payton v. New York](#), 445 U.S. 573 (1980).
- <sup>43</sup> Bovino, Gregory K. (@CMDROpAtLargeCA), “[One must carry immigration documents as per the INA. A Real ID is not an immigration document.](#)” *X*, December 12, 2025
- <sup>44</sup> Peter Aitken and Dan Gooding, “[Kristi Noem Says People Should Be Prepared to Prove U.S. Citizenship](#),” *Newsweek*, January 15, 2026 (updated January 15, 2026)
- <sup>45</sup> CNN, “[Border Patrol Agents Detain U.S. Citizen After Mistaking Accent, Video Shows](#),” CNN, January 17, 2026,
- Fatima Khan, “[‘They Could See My Color’: Minneapolis Uber Driver Speaks Out on Why Border Patrol Accosted Him](#),” *The Intercept*, January 11, 2026
- <sup>46</sup> Fox9, “[Woman calmly resists ICE demand for ID, birth country](#),” January 2025.
- <sup>47</sup> Mostafa Bassim, Instagram, January 2025, [https://www.instagram.com/p/DTdHJqjKS40/?hl=en&img\\_index=1](https://www.instagram.com/p/DTdHJqjKS40/?hl=en&img_index=1)
- <sup>48</sup> Alicia Victoria Lozano, “[Lawsuit accuses federal agents of racial profiling in Minneapolis immigration operations](#),” *NBC News*, January 15, 2026
- <sup>49</sup> Vue, Katelyn. “[U.S. Citizen Offered to Show I.D. but Was Arrested by Immigration Officers in Cedar-Riverside](#).” *Sahan Journal*, December 9, 2025.
- <sup>50</sup> Ryan Goodman, Sophia Khoroushi, Angela Avonce and Justin Hendrix, “[Minnesota ICE Enforcement: Tracking Alleged Constitutional Violations in Court](#),” *Just Security*, February 5, 2026
- <sup>51</sup> Ryan Goodman, Sophia Khoroushi, Angela Avonce and Justin Hendrix, “[Minnesota ICE Enforcement: Tracking Alleged Constitutional Violations in Court](#),” *Just Security*, February 5, 2026
- <sup>52</sup> David J. Bier, “[One in Five ICE Arrests Are Latinos on the Streets with No Criminal Past or Removal Order](#),” *Cato at Liberty (Cato Institute blog)*, August 5, 2025
- <sup>53</sup> Lydia Morrell, “[Twin Cities Law Enforcement Raises Concerns About ICE Agents Racially Profiling Citizens](#).” *KARE 11*, January 20, 2026, updated January 20, 2026.
- <sup>54</sup> [Trump v. J.G.G., 604 U.S. \(2025\)](#)
- <sup>55</sup> [A.A.R.P. v. Trump, 604 U.S. \(2025\)](#)
- <sup>56</sup> [Luna Gutierrez v. Noem, D.D.C.](#)
- <sup>57</sup> [Vasquez Perdomo v. Noem, 2:25-cv-05605 \(C.D. Cal.\)](#)
- <sup>58</sup> [Immigration Center for Women and Children v. Mullin, C.D. Cal. \(May 20, 2026\)](#)
- <sup>59</sup> [D.N.N. v. Liggins, D. Md.](#)
- <sup>60</sup> No. 0:26-cv-00417 (D. Minn.),  
[https://storage.courtlistener.com/recap/gov.uscourts.mnd.230526/gov.uscourts.mnd.230526.133.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.mnd.230526/gov.uscourts.mnd.230526.133.0_1.pdf)
- <sup>61</sup> [City of Providence v. DOJ, No. 19-1802 \(1st Cir. 2020\)](#) [City of Philadelphia v. AG, No. 18-2648 \(3d Cir. 2018\)](#) [City of Chicago v. Barr, No. 19-3290 \(7th Cir. 2020\)](#) [City of Los Angeles v. Barr, No. 18-56292 \(9th Cir. 2019\)](#) [New York v. DOJ, No. 19-267 \(2d Cir. 2020\)](#)

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- <sup>62</sup> [San Francisco v. Trump, No. 25-cv-01350 \(N.D. Cal.\)](#)
- <sup>63</sup> [Illinois v. FEMA, 1:25-cv-00206 \(D.R.I.\), enforcement order](#)
- <sup>64</sup> [United States v. Illinois, No. 25 CV 1285 \(N.D. Ill. July 25, 2025\)](#)
- <sup>65</sup> [California v. DOT, 1:25-cv-00208 \(D.R.I.\)](#)
- <sup>66</sup> <https://www.aila.org/library/doj-issues-memo-on-interim-policy-changes-regarding-charging-sentencing-and-immigration-enforcement>
- <sup>67</sup> [Doe v. New Jersey, 131 F.4th 27 \(1st Cir. Oct. 3, 2025\)](#)
- <sup>68</sup> [Washington v. Trump, No. 25-807 \(9th Cir. July 23, 2025\)](#)
- <sup>69</sup> [https://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/2025/25-365\\_16gn.pdf](https://www.supremecourt.gov/oral_arguments/argument_transcripts/2025/25-365_16gn.pdf)
- <sup>70</sup> ["Judge rips into ICE but backs off demand for agency head to appear in court," Politico, Jan. 28, 2026](#)
- <sup>71</sup> [Alan Feuer, "Judge in Minnesota Says ICE Has Violated Nearly 100 Court Orders," N.Y. Times, Jan. 28, 2026; Kyle Cheney, "10,000 Rulings," Politico, May 13, 2026](#)
- <sup>72</sup> <https://apnews.com/article/minnesota-immigration-crackdown-chief-judge-prosecutor-15aeb88128432ad899e1f0c9ae039464>
- <sup>73</sup> <https://www.cato.org/blog/admin-misleads-ignores-courts-most-often-immigration-cases>
- <sup>74</sup> [J.G.G. v. Trump, D.D.C. \(Apr. 16, 2025\) — probable cause for criminal contempt found](#)
- <sup>75</sup> [Abrego Garcia v. Noem, 8:25-cv-00951 \(D. Md., Apr. 11, 15, 22, May 13, 2025\) 4th Cir. Apr. 17, 2025](#)
- <sup>76</sup> [D.V.D. v. DHS, 1:25-cv-10676 \(D. Mass. May 26, 2025\)](#)
- <sup>77</sup> [J.O.P. v. DHS, 8:19-cv-01944 \(D. Md. May 28, 2025\) DHS](#)
- <sup>78</sup> [Ms. L. v. ICE, 3:18-cv-00428 \(S.D. Cal. July 24, 2025\)](#)
- <sup>79</sup> [Illinois v. FEMA, 1:25-cv-00206 \(D.R.I. Oct. 14, 2025\)](#)
- <sup>80</sup> [Chicago Headline Club v. Noem, 1:25-cv-12173 \(N.D. Ill. Nov. 20, 2025\)](#)
- <sup>81</sup> [Castanon Nava v. DHS, 1:18-cv-03757 \(N.D. Ill. Nov. 13, 2025\)](#)
- <sup>82</sup> [Vasquez Perdomo v. Noem, 2:25-cv-05605 \(C.D. Cal. Nov. 13, 2025\)](#)
- <sup>83</sup> Isacson, Adam, Juan Cuéllar Torres, and Sr. Tracey Horan. "Denouncing Into the Void: The Dismantling of Internal Oversight and Accountability at DHS." Washington Office on Latin America and Kino Border Initiative, March 19, 2026. <https://www.wola.org/analysis/denouncing-into-the-void-the-dismantling-of-internal-oversight-and-accountability-at-dhs/>
- <sup>84</sup> Allen, Scott A., and Pamela McPherson. "Protected Whistleblower Disclosure to Congress of Dr. Scott A. Allen and Dr. Pamela McPherson." Government Accountability Project, May 15, 2025. <https://whistleblower.org/wp-content/uploads/2025/05/05-15-2025-GovAcctProj-Whistleblower-Disclosures-to-Congress-re-CRCL.pdf>
- <sup>85</sup> Ernesto Londoño, "Prosecutors Began Investigating Renee Good's Killing. Then Washington Told Them to Stop." *The New York Times*, February 7, 2026,
- <sup>86</sup> <https://www.nbcnews.com/news/us-news/marimar-martinez-border-patrol-exum-body-cam-texts-released-rcna258549>
- <sup>87</sup> <https://www.jurist.org/news/2026/03/minnesota-sues-doj-and-dhs-over-refusal-to-provide-shootings-evidence/>
- <sup>88</sup> <https://www.cbsnews.com/minnesota/news/minneapolis-alex-pretti-shooting-witness-arrested/>
- <sup>89</sup> <https://www.politico.com/live-updates/2026/06/02/congress/mullin-refuses-to-commit-to-following-court-orders-for-dhs-00946961>
- <sup>90</sup> J.G.G. v. Trump, April 16, 2025  
[https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.81.0\\_5.pdf](https://storage.courtlistener.com/recap/gov.uscourts.dcd.278436/gov.uscourts.dcd.278436.81.0_5.pdf)
- <sup>91</sup> "ANONYMOUS WHISTLEBLOWER DISCLOSURE," Whistleblower Aid, January 7, 2026.
- <sup>92</sup> <https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877>
- <sup>93</sup> "The Government Unconstitutionally Labels ICE Observers as Domestic Terrorists," By David J. Bier, Cato Institute, December 15, 2025 [cato.org/blog/dhs-policy-threatening-arresting-ice-observers-violates-their-rights](https://www.cato.org/blog/dhs-policy-threatening-arresting-ice-observers-violates-their-rights)
- <sup>94</sup> [U.H.A. v. Bondi, No. 0:26-cv-00417 \(D. Minn.\)](#)
- <sup>95</sup> <https://trumpwhitehouse.archives.gov/briefings-statements/president-trump-pardons-sheriff-joe-arpaio/>
- <sup>96</sup> [Venegas v. Homan, No. 25-00397 \(S.D. Ala. May 19, 2026\)](#)
- <sup>97</sup> [Hussen v. Noem, D. Minn.](#)
- <sup>98</sup> [Egbert v. Boule, 596 U.S. 482 \(2022\)](#)

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<sup>99</sup> *Tun-Cos v. Perrotte*, 922 F.3d 514 (4th Cir. Apr. 26, 2019), cert. denied, 140 S. Ct. 2565 (2020)

<https://law.justia.com/cases/federal/appellate-courts/ca4/18-1451/18-1451-2019-04-26.html>

*Enriquez-Perdomo v. Newman*, No. 24-5714 (6th Cir. Aug. 20, 2025)

<https://www.opn.ca6.uscourts.gov/opinions.pdf/25a0229p-06.pdf>

*Byrd v. Lamb*, 990 F.3d 879 (5th Cir. 2021) <https://law.justia.com/cases/federal/appellate-courts/ca5/20-20217/20-20217-2021-03-09.html>

*Sheikh v. U.S. Department of Homeland Security*, No. 22-16983, 2024 WL 3292371 (9th Cir. July 5, 2024)

<https://cdn.ca9.uscourts.gov/datastore/opinions/2024/07/05/22-16983.pdf>

<sup>100</sup> The Federal Tort Claims Act (FTCA) does not permit lawsuits for damages for constitutional violations.

Moreover, navigating the FTCA introduces a maze of procedural hurdles and strict statutory limitations that often leave plaintiffs without adequate recourse.

1. A major frontline barrier is the mandatory administrative waiting period, which bars individuals from filing a lawsuit in federal court until the relevant agency has spent up to six months reviewing—and usually not processing—the initial claim.
2. When a suit does move forward, the FTCA strictly dictates that plaintiffs cannot sue individual federal officers at all; the United States itself is the sole permissible defendant, completely insulating wrongdoers from personal liability.
3. Furthermore, the Act cabins jurisdiction to state torts, requiring a plaintiff to fit federal misconduct into a recognized state-law cause of action. It does not permit suits for constitutional violations on their own.
4. This framework is compounded by a ban on punitive damages, with recovery limited strictly to compensatory damages. 28 U.S. Code § 2674.
5. These challenges are exacerbated by the complete absence of a statutory right to a trial in front of the very body the Framers tasked with adjudicating disputes between the people and their government—the citizen jury. The result is that rather than have a jury of your peers who embodies the very conscience of the community, you have a judge who very well may have previously served as a courtroom advocate for the very government that you now allege has violated your rights.
6. Finally, the statute is rife with exceptions that systematically dismantle viable claims. Under the intentional torts exception, the government completely retains its sovereign immunity against claims arising from deliberate misconduct, meaning everyday citizens are flatly barred from suing the United States for intentional torts—even when committed by federal officials acting in their official capacity. Congress attempted to close this gaping hole by enacting the law enforcement proviso to restore the government's liability for a strict subset of six intentional torts—assault, battery, false imprisonment, false arrest, abuse of process, and malicious prosecution—but only when perpetrated by an investigative or law enforcement officer empowered to make arrests or execute searches. Yet even when a plaintiff successfully navigates this narrow gateway, their claim must still survive the broad discretionary function exception. This overarching provision immunizes the government from liability whenever an official's action involves an element of judgment or choice grounded in policy. To the extent courts allow the discretionary function exception to override the law enforcement proviso, it effectively carves out a massive safe harbor for systemic government misconduct, leaving citizens with vanishingly few pathways to true accountability.