



## **Rules and Administration - Subcommittee on the Federal Impact on Minnesotans and Economic Stability Committee Testimony 1.29.2026**

**Good morning Chair Port and members of the Committee, my name is John Boehler and I'm the Policy Counsel for the American Civil Liberties Union of Minnesota. I have with me today Teresa Nelson. Legal Director for the ACLU-MN. Thank you for the opportunity to speak with you all today.**

### **Background & Overview**

What we have witnessed in the last two months and what we are continuing to witness, is one of the largest deprivations of constitutional protections in the history of our state. Largest here includes the number of constitutional protections violated and the sheer volume of violations by federal officers.

By way of background on how we arrived here in these circumstances, in December 2025, the Department of Homeland Security announced the beginning of "Operation Metro Surge" which included the deployment of 3,000 agents including 2,000 from Immigrations & Customs Enforcement (ICE) and 1,000 from Customs & Border Protection (CBP)<sup>1</sup>ICE Director Todd Lyons called the "largest immigration operation ever"<sup>2</sup>. This was – lest we forget – ostensibly a supplemental fraud <sup>2,3</sup>

These actions have resulted in the deaths of multiple Minnesotans including the shooting deaths of Renee Good and Alex Pretti and the custodial death of Victor Manuel Diaz<sup>4</sup>. These actions have caused untold damage to our residents through direct physical assault, liberal deployment of chemical irritants like tear gas and pepper spray, and countless restraints and arrests. It has caused untold trauma through

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<sup>1</sup> <https://www.pbs.org/newshour/politics/2000-federal-agents-sent-to-minneapolis-area-to-carry-out-largest-immigration-operation-ever-ice-says>

<sup>3</sup> <https://www.whitehouse.gov/articles/2026/01/heres-what-the-trump-administration-is-doing-to-crush-minnesotas-fraud-epidemic/>

<sup>4</sup> <https://sahanjournal.com/immigration/nicaraguan-family-minnesota-ice-custody-death-texas-detainee/>

unlawful arrests and detentions, family separation, and families forced into hiding regardless of citizenship status and solely based on their race or ethnicity.

I want to stress the adjectives I used in those previous statements – untold, countless, etc. – one of the hardest aspects of our work now is to accurately quantify the breadth of the harm. We do not know how many Minnesota residents have been deported, detained, arrested, injured or violated. We do not know how many Minnesotans are currently in detention, where they are being held, and whether they have legal status that would prohibit their ongoing detention. This is a direct result of the disinformation and complete lack of transparency by the federal government.

According to DHS last week, they say they have arrested 10,000 immigrants with criminal records<sup>5</sup>. We have no reason to believe that number is accurate as no comprehensive list of names, records, immigration status, or present detention status has been provided.

By way of example in this information discrepancy, DHS claims that there are 1,360 individuals with ICE detainers in Minnesota custody. According to a survey of the Department of Corrections records, there are 207 individuals in state custody and another 97 in county custody resulting in a difference of nearly 1,000 individuals<sup>6</sup>.

We do have some numbers available. Since the opening of our reporting portals 6 weeks ago, the ACLU-MN has received over 500 reports of constitutional violations by federal agents. This is obviously only a small sliver of actual incidents because it does not include those where individuals do not know about our reporting form, where they are afraid of retaliation for making contact, or – due to the nature of their detention – there was no one to file a report.

In an a rather remarkable Order yesterday, Judge Schiltz, Chief Judge of the U.S. District Court of Minnesota, said that ICE has violated 94 court orders across 74 cases *just this month and just here in Minnesota*.<sup>7</sup>

### **Litigation Update**

The ACLU-MN has two cases in federal court stemming from the government's actions these past two months. *Tincher v. Noem* is a case involving violations of the First Amendment rights of individuals to document and protest ICE activity, and their Fourth Amendment rights to be free from unreasonable seizures and excessive force. On

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<sup>5</sup> <https://www.dhs.gov/news/2026/01/19/ice-continues-remove-worst-worst-minneapolis-streets-dhs-law-enforcement-marks-3000>

<sup>6</sup> [https://mn.gov/doc/assets/ICE%20Presser%20Fact%20Sheet%20Jan%2022%202026\\_tcm1089-720763.pdf](https://mn.gov/doc/assets/ICE%20Presser%20Fact%20Sheet%20Jan%2022%202026_tcm1089-720763.pdf)

<sup>7</sup> <https://www.documentcloud.org/documents/26513988-trorder012826/>

January 26, Judge Menendez of the U.S. District Court of Minnesota entered a preliminary injunction holding that the plaintiffs were likely to succeed on the merits of their claims. That injunction has been stayed by the Eighth Circuit pending appeal.

In *Hussen v. Noem*, we are seeking a preliminary injunction prohibiting federal agents from their unconstitutional practices of making unlawful warrantless arrests and of stopping, questioning, and detaining Minnesotans on the basis of race and ethnicity. That case, filed two weeks ago, is set for a hearing on February 9th on the plaintiffs' motion for a preliminary injunction.

There are numerous other cases brought by other attorneys primarily seeking Writs of Habeas Corpus to compel the release of wrongfully held Minnesotans. As we'll discuss later, the courts have been inundated with these cases due to rampant wrongful detention and violations of court orders.

### **Constitutional Violations**

When we think of constitutional protections, we generally think of the Bill of Rights – the first ten amendments to the Constitution. We have violations of or threats to violate six of those amendments in less than two months. Threatening to violate constitutional rights is in itself a violation of those rights because of the chilling effect it has on people's ability to utilize their rights.

This federal government has continued nearly 250 years of tradition by not violating the Third Amendment – prohibiting quartering soldiers in homes. And – given the nature of the operation – they have not violated the Seventh Amendment providing for jury trial in civil suits. With those meager compliments to federal behavior out of the way, let's proceed to the constitutional protections the federal government has violated.

### **First Amendment**

The First Amendment explicitly protects several freedoms including free speech, freedom of religion, freedom of the press, and freedom of assembly. Courts have also long read into the First Amendment a right to freedom of association.

### **Freedom of Speech**

The First Amendment right to freedom of speech includes the right to peacefully document law enforcement officers engaged in their official duties. As the court in *Tincher* noted, that is true of every Circuit Court to have considered the question. And yet, when our client Susan Tincher was observing ICE conduct and asking if agents were with ICE in Minneapolis she was pulled to the ground, handcuffed, removed to the Whipple Federal Building where agents removed her clothes and cut off her wedding ring. She was released after five hours in custody.

Our client, Abdikadir Noor, observed ICE detaining two Latino men and another woman attempting to inform the men of their right not to answer questions. The woman was thrown to the ground and held there in the snow for nearly 30 minutes while agents broke the window of the vehicle and dragged the two Latino men out of the car. Then the agents turned their focus to Mr. Noor who was grabbed, forced to the ground, handcuffed and driven to Whipple. Mr. Noor was subjected to racist commentary from the officers, shackled, and eventually released without charges or documentation.

This case alone contains over a dozen other instances, with sworn statements, of Minnesotans exercising their First Amendment Rights who were subjected to federal harassment, violence, and detention.

### **Freedom of the Press**

Federal agents have violated the rights of the press. Earlier this week, ICE agents threatened to break the window and detain two Italian journalists who were recording ICE activity. Last week, the DOJ sought an arrest warrant for journalist Don Lemon for covering a protest which was denied by the federal Magistrate Judge. The DOJ asked District Judge Schiltz to review the denial – something that Judge Schiltz said that neither he, nor his colleagues, had collectively ever heard of<sup>8</sup>. Not only that, when the DOJ did not like the time frame in which Judge Schiltz informed them he would make the decision, they appealed over his head to the Eighth Circuit. The petition was denied.

### **Freedom of Association**

Earlier this week, FBI Director Kash Patel threatened an investigation in text groups that Minnesotans are using to notify neighbors of ICE activities, to coordinate rent and food relief, and alert their school and daycare workers of federal raids.

### **Second Amendment**

After the killing of Alex Pretti, FBI Director Patel said that Americans “cannot bring a firearm ... to any sort of protest you want.” Similarly, President Trump said “you can’t have guns. You can’t walk in with guns” in response to the incident. All Americans, including gun owners, have First Amendment rights. While gun ownership is a separate constitutional right, and gun use itself is considered conduct outside First Amendment protection, regulated instead by state and local law, gun owners do have equally strong core First Amendment rights to speech and protest. The government cannot treat lawfully armed speakers more harshly simply because of their views or the fact that they are lawfully carrying firearms.

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<sup>8</sup><https://storage.courtlistener.com/recap/gov.uscourts.ca8.113669/gov.uscourts.ca8.113669.00805439054.0.pdf>

## **Fourth Amendment**

The Fourth Amendment bars the government from unreasonable search and seizure of an individual or their private property. In our litigation, *Hussen v. Noem*, we identified numerous stops made by federal agents solely on racial and ethnic appearance of those detained. Our clients like Mr. Hussen who was physically restrained and dragged into a squad car, and declarants, Mr. Sackie who needed hospitalization, and A.A. who was handcuffed and forced into a squad car. Rarely, if ever, do federal agents meet the requirements necessary for these stops – probable cause to believe the person is removable and that they are a flight risk. Rarely even do the agents know who they have stopped but rather they are making the stop on the basis of race or ethnicity and then proceeding from there.

Last week, law enforcement officers from around the Metro held a press conference saying they have received endless complaints about federal agents racial profiling these residents including federal agents racially profiling off-duty Minnesota law enforcement officers. One officer from Brooklyn Park was assaulted when she attempted to record the encounter.

## **Fifth Amendment**

The Fifth Amendment requires due process before the government deprives someone of life, liberty, or property. The due process clause protects individuals from government action where it is motivated by animus based on race, ethnicity, national origin, or religion. The right to Equal Protection, explicitly set forth as applying to the states in the Fourteenth Amendment, is applied to the federal government through the Due Process Clause of the Fifth Amendment.

These constitutional protections are designed to protect against the exact sort of stops outlined in *Hussen v. Noem*.

These are not just ACLU-MN cases. In fact, these cases are so prevalent that Judge Schiltz, Chief Judge of the U.S. District Court of Minnesota, issued an order earlier this week noting that the federal government had ignored his order to give a detainee a bond hearing or release him within 7 days. Judge Schiltz noted that this order was “one of dozens of court orders with which respondents have failed to comply in recent weeks” and that the practical consequences of that failure to provide due process means that detainees often spend significant time in detention, or they are flown to Texas, or they are released in Texas and told to find their own way back to Minnesota. As mentioned earlier, given yesterday’s order we know that means there have been at least 96 court orders violated across 74 cases which the Court says “is certainly understated”.

A sample of other findings from U.S. District Court judges in Minnesota:

- An individual with refugee status received a fake phone call informing him he had a package at his door, he opened the door and was thrown to the ground detained, and arrested without a warrant. No notice has been provided that U.S. government is moving to terminate his refugee<sup>9</sup>.
- A refugee from Myanmar who is a nursing mother was separated from her infant child and transferred out-of-state. An abhorrent action that the Court called “particularly craven” and had caused immediate harm to the mother and child<sup>10</sup>.
- Requiring the release of a man that had been hospitalized with severe head injuries due to the violence of his arrest. Despite being incapacitated, ICE was requiring him to be handcuffed to his bed *and* supervised by ICE agents at all times<sup>11</sup>.
- ICE detained a pregnant mother, her husband, and two sons despite active asylum petitions and no criminal convictions<sup>12</sup>.
- ICE transferred Ms. Gutierrez Montalvan out of state despite a court order directing them not to do so.<sup>13</sup>
- ICE detained a Ukrainian refugee who fled the Russian war who has no criminal convictions and who the government has not sought to remove. The government lured him out of his office by asking him to voluntarily meet with immigration officials and detained him when he complied.<sup>14</sup>

One District Court judge noted that “there has been an undeniable move by the [federal] government in the past month to defy court orders or at least stretch the legal process to the breaking point in an attempt to deny noncitizens their due process rights.”<sup>15</sup>

### **Sixth Amendment**

The Sixth Amendment protects the right to counsel. The federal government has been routinely denying<sup>16</sup> by federal agents that they “don’t do attorney visitation” – not

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<sup>9</sup> <https://storage.courtlistener.com/recap/gov.uscourts.mnd.230529/gov.uscourts.mnd.230529.10.0.pdf>

<sup>10</sup> <https://storage.courtlistener.com/recap/gov.uscourts.mnd.230245/gov.uscourts.mnd.230245.19.0.pdf>

<sup>11</sup> <https://storage.courtlistener.com/recap/gov.uscourts.mnd.230487/gov.uscourts.mnd.230487.9.0.pdf>

<sup>12</sup> <https://storage.courtlistener.com/recap/gov.uscourts.mnd.230681/gov.uscourts.mnd.230681.18.0.pdf>

<sup>13</sup> [https://www.courtlistener.com/docket/72182451/gutierrez-montalvan-v-bondi/?order\\_by=desc](https://www.courtlistener.com/docket/72182451/gutierrez-montalvan-v-bondi/?order_by=desc)

<sup>14</sup> <https://storage.courtlistener.com/recap/gov.uscourts.mnd.230577/gov.uscourts.mnd.230577.8.0.pdf>

<sup>15</sup> <https://storage.courtlistener.com/recap/gov.uscourts.mnd.229968/gov.uscourts.mnd.229968.11.0.pdf>

<sup>16</sup> <https://abcnews.go.com/US/lawyers-allege-dept-homeland-security-denying-legal-counsel/story?id=129335914>

immediately of course but rather they made him wait four hours<sup>[08]</sup>. These attorneys noted that – for the last decade – when immigrant clients have been held at Whipple they have been allowed attorney visitation. Attorneys say they have received a variety of explanations for why they cannot see their clients, including claims that they did not have appointments, that their clients did not ask for them by name, and that the Whipple building cannot accommodate attorney-client visits. Another attorney reported that ICE told him “if we let you see your clients, we would have to let all the attorneys see their clients, and imagine the chaos.”

The Advocates for Human Rights just yesterday filed a lawsuit regarding the refusal of federal agents to allow detainees access to counsel.<sup>17</sup> Their lawsuit says that many detainees are only allowed their first phone call after they have been transferred from Whipple – almost always to an out-of-state facility. Even when detainees are allowed access to counsel they are not provided with privacy and federal agents are able to, and do, listen to their phone calls. The lawsuit alleges that federal agents have pressured clients to sign forms agreeing to “self-deport” without attorney consultation and that they have subjected the attorneys themselves to physical confrontations and exposure to tear gas.

### **Tenth Amendment**

The State of Minnesota and the cities of Minneapolis and Saint Paul have sued the federal government in *Minnesota v. Noem* alleging violations of state and local sovereignty as protected by the Tenth Amendment.

I believe I have already taken up a significant portion of this committee’s time however and will leave it there.

Thank you for your time today and we are available for questions.

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<sup>17</sup> <https://www.theadvocatesforhumanrights.org/res/byid/14735>