



## Meeting the Moment Insights

### *A Government Untethered: Immigration Enforcement and the Assault on the Constitution*

Due process and the rule of law are under assault in the United States, and that assault now reaches far beyond immigration policy.

What the federal government continues to describe as “**immigration enforcement**” increasingly **bears little resemblance to the civil administrative enforcement contemplated by immigration laws**. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) operate as heavily armed domestic policing forces, exercising **sweeping discretion with diminishing judicial oversight and no regard for constitutional limits**.

#### **Deadly Consequences of Lawless Enforcement**

Recent events in Minnesota illustrate the **deadly consequences of an enforcement regime untethered from Constitutional and statutory constraints**. As the world watched in horror, videos documented **masked ICE agents murdering two peaceful civilian observers** during ICE-related operations in Minneapolis. Their killings did not arise in isolation—they arose in the context of a militarized immigration operation **conducted with an apparent disregard for the laws which govern the use of force by law enforcement**. The result is the **normalization of deadly force as an administrative response to peaceful protest**.

#### **Routine Violations of the Fourth Amendment**

**Masked federal agents have entered homes without warrants**, disregarded homeowners’ refusals to consent, and **detained individuals without probable cause or reasonable suspicion**. **These actions dispense with the Fourth Amendment entirely**. Individuals—including U.S. citizens and lawful permanent residents—have been arrested, detained, or transferred **without notice of charges and without any meaningful opportunity to appear before a judge**. People ordered by courts not to be removed have nevertheless been deported, with the government later acknowledging “administrative error” after the harm became irreversible. These are not isolated mistakes. They are **predictable outcomes of a system that prioritizes speed, volume, and spectacle over legality**.

#### **Detention as a Tool of Coercion**

Conditions in ICE detention facilities magnify the damage. Many detainees are **held in dangerous and dehumanizing environments** where the government exerts extraordinary pressure to waive hearings and abandon legal claims, even where the law provides relief. In 2025 alone, **33 people died in ICE custody**. Just three days into 2026, **a Cuban man was murdered at an ICE facility in Texas**. **Detention has become a coercive policy tool rather than a neutral administrative measure**, designed to extract compliance rather than ensure lawful adjudication. Despite repeated claims that enforcement targets “killers, rapists, and drug dealers,” **immigrants with no criminal record constitute the largest share of those detained**. Among those with criminal convictions, many offenses are minor, including traffic violations.



Critically, **being undocumented is not a crime; it is a civil infraction.** Treating all removable immigrants as criminals distorts the law and fuels public fear. What is being tested is not simply immigration policy, but **whether constitutional protections will constrain executive power now and in the future.**

### **Protest and Dissent are Being Treated as National Security Threats**

The danger has intensified as **lawful protests and other forms of dissent are increasingly framed as national security threats.** In September 2025, the White House issued [National Security Presidential Memorandum 7](#) (NSPM-7), directing federal law enforcement to counter what it labels “domestic terrorism” and “organized political violence.” The memorandum’s broad language has been criticized for potentially encompassing protest activity and resistance to federal enforcement actions, effectively **reframing political opposition and civil unrest as counterterrorism.**

### **Surveillance and Intimidation**

This reframing is not rhetorical. It provides **policy justification for expanded surveillance, intelligence-driven investigations, aggressive federal deployments, and diminished judicial oversight—normalizing the use of extraordinary powers against civilians.** Such unwarranted and unconstitutional actions are already occurring around the country. For example, a [video](#) showing an ICE agent recording license plates of persons observing an ICE enforcement action in Maine, also includes an admission by the agent: “[w]e have a nice little database, and now you are considered a domestic terrorist.”

### **Threats to Invoke the Insurrection Act**

That trajectory became explicit on January 15, when **President Trump threatened to invoke the Insurrection Act in response to protests** in Minneapolis following an ICE operation that resulted in **the killing of Renee Nicole Good, whom Vice President Vance labeled as a domestic terrorist immediately after she was shot.** President Trump warned that if state and local officials did not suppress the protests, he would deploy federal force to restore order. **The threat alone signals a profound shift: the potential use of military power against civilians exercising their Constitutional right to protest federal action.**

## **THE LEGAL FRAMEWORK: WHAT THE LAW REQUIRES**

### **Due Process Applies to All “Persons”**

The Constitution does not permit this erosion of rights. **The Fifth and Fourteenth Amendments guarantee due process to all “persons” in the United States, not just citizens.** As the Supreme Court has long held, **due process requires fair treatment regardless of immigration status. It demands notice of allegations, an opportunity to be heard, and adjudication by a neutral decision-maker.** These are not technicalities; they are the mechanisms that prevent arbitrary government power.

### **Foundations of Due Process**



**The Founding Fathers enshrined due process as a check on abuse of authority.** In 1954, Justice Felix Frankfurter wrote that **the Due Process Clause embodies moral principles so deeply rooted in the nation's traditions that they are fundamental to a civilized society.** That principle now collides with an enforcement regime that treats constitutional restraints as obstacles rather than binding commands.

### **Immigrant and Citizen Rights are Linked**

Due process protects immigrants from arbitrary detention and deportation. It also protects citizens from warrantless searches, coercive interrogations, and unaccountable force. **History shows that once a government normalizes lawlessness against one group, those practices rarely remain confined to that group for long.**

### **The Limits of Executive Power**

**The Insurrection Act underscores what is at stake.** Enacted in the early republic, it **authorizes the president to deploy the U.S. military or federalized National Guard within the United States to suppress insurrection or enforce federal law under extraordinary circumstances.** It operates as a statutory exception to the Posse Comitatus Act, which otherwise bars the military from routine domestic policing. Historically, it has been invoked sparingly and with caution. **Threatening its use in response to protest activity marks a dramatic escalation of executive power and is an attack on the Constitution.**

### **These Violations are not Accidental**

The current crisis is not accidental. It reflects deliberate institutional choices. The administration has moved to hire thousands of new ICE and CPB agents while **lowering hiring standards and reducing training.** **Incendiary social media advertisements** recruiting ICE agents frame immigration enforcement as a culture battle, including **“Want to deport illegals with your absolute boys?”** and **“Serve your country! Defend your culture! No undergraduate degree required!”**

Arrest quotas reward volume, encouraging officers to detain first and justify later. In yet another terse **Supreme Court Shadow Docket ruling,** Justice Kavanaugh issued a concurrence that essentially gave a green light to stops based on appearance, accent, or occupation—so-called **“Kavanaugh stops”**—**resulting in aggressive questioning and arrests of American citizens, including Native Americans, and disproportionately affecting people of color.** Together, these policies create a system that prizes enforcement metrics over constitutional compliance.

### **Why This Matters to Everyone**

**Due process is the line between law and authoritarianism. It guarantees the right to stand before an impartial judge, to challenge the government's claims, and to be judged on evidence rather than fear. For asylum seekers and others with lawful claims, it can mean the difference between safety and grave harm. For citizens, its erosion signals a future in which executive power operates without meaningful restraint. Once the government normalizes lawlessness against the most vulnerable, no one remains beyond its reach.**

*This overview was prepared by LDAD Meeting the Moment Volunteers Scott D. Pollock, Scott. D. Pollock and Associates, and Susan Rubel.*