

“Defending the Homeland”: Where Does it End? History’s Demonstration of How Far ICE Can Go

By: Sophia Artley

In the land of the cold and snow, Immigration and Customs Enforcement (ICE) has become a key point of contention. The Trump administration has ramped up ICE presence and raids on the Minnesota community¹, and so far the Winter of 26 has been characterized by the federal law enforcement’s actions.

There is a sense of irony in the first moment sparking national attention took place during what was rare for Minnesota in January: bright blue skies with temperatures above freezing. In the early morning of Jan 7, an ICE officer shot and killed a woman – a bystander, a legal observer, a protestor, depending on who you speak to – but also a mother, a wife, and a concerned member of her community who lived blocks from where she would die in her car.² Local elementary schools went into lockdown, and just hours later, ICE showed up at dismissal time at Roosevelt High School.³ As students left the building, cars showed up, chaos ensued, and staff and students were tear-gassed and pepper-sprayed.⁴ The school went into lockdown.

Starkly, this day was both preceded and followed by several instances of aggressive actions by ICE toward Minnesota residents; the entry into other sensitive places, including hospitals and courthouses, and the detaining of United States citizens by an agency supposedly in place to police non-citizens. We observed a 5-year-old be detained and used as bait by ICE and soon after, a second observer, Alex Pretti, was killed on the streets of Minneapolis.⁵

¹ Rebecca Santana & Michael Balsamo, *2,000 federal agents sent to Minneapolis area to carry out ‘largest immigration operation ever,’ ICE says*, PBS NEWS (Jan. 6, 2026), <https://www.pbs.org/newshour/politics/2000-federal-agents-sent-to-minneapolis-area-to-carry-out-largest-immigration-operation-ever-ice-says>.

² Paul Walsh & Jeff Day, *‘She was an amazing human being’: Mother identifies woman shot, killed by ICE agent*, STAR TRIBUNE (Jan. 7, 2026), <https://www.startribune.com/she-was-an-amazing-human-being-mother-identifies-woman-shot-killed-by-ice-agent/601559922>.

³ *Id.*; Mara Klecker et al., *Walz tells ICE to ‘stay away’ from Minnesota schools after incident at Roosevelt High School*, STAR TRIBUNE (Jan. 8, 2026), <https://www.startribune.com/minneapolis-schools-close-citing-safety-concerns-after-federal-agents-clash-with-protesters-at-roosevelt-high-school/601560152>.

⁴ Mara Klecker et al., *Walz tells ICE to ‘stay away’ from Minnesota schools after incident at Roosevelt High School*, STAR TRIBUNE (Jan. 8, 2026), <https://www.startribune.com/minneapolis-schools-close-citing-safety-concerns-after-federal-agents-clash-with-protesters-at-roosevelt-high-school/601560152>.

⁵ Klecker et al., *supra* note 6; Daniela Silva, *Mother recounts terror at seeing her 5-year-old son be taken by ICE agents*, NBC NEWS (Jan. 30, 2026), <https://www.nbcnews.com/news/us-news/mother-5-year-old-taken-ice-immigration-agents-use-son-bait-rcna256729>; Gabby Vinick et al., *A minute-by-minute timeline of the fatal*

As a community, we are grieving. We are observing our families, our neighbors, our friends, being violently removed from their places of work or home.⁶ We have watched our children be attacked while still wearing their backpacks as they leave school.⁷ Our streets have become unsafe, and our safe spaces –schools, libraries, churches, even hospitals – are no longer that. And so, the question I have heard from many is simple: when and where does it end?

The world of immigration law and enforcement is in many ways a wild west, where agencies act first and implement policy later. Based off of complex statutory language, what is and is not allowed is generally vague and not clear.⁸ This is a characteristic of immigration law in general, something that we see now but also when looking back through a history of United States immigration law and policy. Repeatedly, we see the federal government capitalize on the gray areas in immigration law, pushing the boundaries of legality until their actions become normal practice.

Take voluntary departure, for example. Immigration agencies' early implementation of programs focused on returning undocumented immigrants to Mexico, without formal policy, in the 1920s eventually formalized into a statutorily sanctioned legal mechanism in the 1940s.⁹

The same is demonstrated in CBP “voluntary return” programs. Also known as “catch and release”, this program was a semi-formalized practice that involved physically escorting individuals back to the border before more processing could take place.¹⁰ This program was part of CBP handbook policy, but unlike voluntary departure, never officially sanctioned in any statutory code and without accurate documentation of number of removals.¹¹

Both voluntary departure and voluntary return demonstrate immigration agencies willingness to operate on their own, acting first with policy (if any) coming later. Even today, we see the similar evolution happening with self-deportation, something not codified into law but

shootings of Alex Pretti involving federal agents, (Jan. 26, 2026) <https://abcnews.go.com/Politics/minute-minute-timeline-fatal-shooting-alex-pretti-federal/story?id=129547199>.

⁶ Santana, *supra* note 1

⁷ Klecker et al., *supra* note 6; Daniela Silva, *Mother recounts terror at seeing her 5-year-old son be taken by ICE agents*, NBC NEWS (Jan. 30, 2026), <https://www.nbcnews.com/news/us-news/mother-5-year-old-taken-ice-immigration-agents-use-son-bait-rcna256729>

⁸ 8 U.S.C. § 1101 et seq.

⁹ ADAM GOODMAN, *THE DEPORTATION MACHINE: AMERICA’S LONG HISTORY OF EXPELLING IMMIGRANTS* 30–31 (Princeton University Press, 2020); K-Sue Park, *Self-Deportation Nation*, 132 Harv. L. Rev. 1878, 1917 (2019); 8 U.S.C.A. § 1229c.

¹⁰ MARK R. ROSENBLUM ET. AL., *MIGRATION POL’Y. INST., THE DEPORTATION DILEMMA: RECONCILING TOUGH AND HUMANE ENFORCEMENT* 15 (Apr. 2014), <https://www.migrationpolicy.org/sites/default/files/publications/RemovalsOverview-WEBFINAL.pdf>; *Lawsuit Against DHS for Failure to Disclose Records on “Voluntary” Returns*, AMERICAN IMMIGRATION COUNCIL (June 22, 2012), <https://www.americanimmigrationcouncil.org/litigation/lawsuit-against-dhs-failure-disclose-records-voluntary-returns/>.

¹¹ *Id.*

touted as a legal option by the Trump Administration on par with codified avenues in immigration law.¹²

Unless lawmakers act, the bounds that ICE is presently pushing may very well become normalized. Can ICE enter hospitals or public schools? Technically, yes, although for the past decades, agency policy was to limit activity in “sensitive areas”.¹³ Can ICE enter a home to make an arrest without a judicial warrant? According to internal memos, yes they can.¹⁴ Can ICE stop and arrest United States citizens? Can an ICE agent shoot and kill a bystander? Can ICE obtain personal information from other agencies, such as the Social Security Administration, to assist in pursuing noncitizens? Unless someone – judge or legislator – stops them, yes, yes, and yes.¹⁵ The agency’s authorizing statutes are vague, and accordingly this “gray area” of law has been left up to the agency’s interpretation on most of these practices. Until now, everyone just operated on the norm that these things would not and should not happen.¹⁶

The movie *The Holdovers* provides an important reminder, “history is not simply the study of the past. It is the explanation of the present.” History demonstrates that agencies have the power to push and push until their ideas become normalized and pseudo-policy, especially within the realm of immigration. It also demonstrates that without intervention from the judicial and legislative branches, these agencies will practically do both what they want and what is most convenient. What we are seeing on the streets of Minneapolis is not *normal* or *understandable*. But it will be, unless action is taken now. Lawyers and lawmakers can redirect, respond, and challenge now or risk allowing these practices to become characteristic of expected federal government action in our future.

¹² Homeland Sec., CBP Home: Assistance to Voluntarily Self Deport (May 5, 2025); Proclamation No. 10935, 90 Fed Reg. 20357 (May 9, 2025); Lartey & Heffernan, *The Feds Are Offering Migrants Cash to Self-Deport. Lawyers Call These Incentives Misleading*, THE MARSHALL PROJECT (June 14, 2025), <https://www.themarshallproject.org/2025/06/14/ice-immigration-dhs-deportation-facts>.

¹³ Elizabeth Jacobs, *History of the ‘Sensitive Areas’ Policies and What Is in Place Now*, CTR. IMMIGR. STUD. (Mar. 7, 2025), <https://cis.org/Jacobs/History-Sensitive-Areas-Policies-and-What-Place-Now>.

¹⁴ Rebecca Santana, *Immigration officers assert sweeping power to enter homes without a judge’s warrant, memo says*, AP NEWS (Jan. 21, 2026) <https://apnews.com/article/ice-arrests-warrants-minneapolis-trump-00d0ab0338e82341fd91b160758aeb2d>; See also Orin Kerr, *Can ICE Enter a Home to Make an Arrest With Only an Administrative Warrant?*, LAWFARE (Jan. 22, 2026) <https://www.lawfaremedia.org/article/can-ice-enter-a-home-to-make-an-arrest-with-only-an-administrative-warrant> (providing an analysis of potential legal arguments made by ICE to back their theory).

¹⁵ Kimberly Kindy and Amanda Seitz, *Trump administration hands over Medicaid recipients’ personal data, including addresses, to ICE*, ABC NEWS (July 17, 2025) <https://abc7chicago.com/post/ice-gain-access-medicaid-recipients-personal-data-agreement-department-homeland-security-trump-admin/17165162/>; Sarah Betancourt, *Lawsuit aims to stop taxpayer information sharing with ICE*, GBH NEWS (Oct. 1, 2025) <https://www.wgbh.org/news/local/2025-10-01/lawsuit-aims-to-stop-taxpayer-information-sharing-with-ice>.

¹⁶ See Jacobs, *supra* note 19.