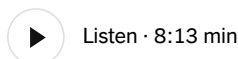


GUEST ESSAY

ICE Is Out of Control. Here's What to Do About It.

July 16, 2026

**By Radley Balko**

Mr. Balko is the author of “Rise of the Warrior Cop: The Militarization of America’s Police Forces” and the criminal justice newsletter The Watch.

In the span of a week, federal immigration enforcement agents took the lives of Joan Sebastian Guerrero, a 25-year-old Colombian man shot in Maine, and Lorenzo Salgado Araujo, a 52-year-old Mexican man gunned down in Houston. The Trump administration’s response to these shootings has so far mirrored its response to the deaths of Alex Pretti and Renee Good in Minneapolis and Silverio Villegas-Gonzalez in Chicago, and a dizzying parade of shootings, beatings and abuse by immigration officers: defiance, deflection and utter indifference to the humanity of the victims.

We’re still learning the details of Mr. Guerrero’s death, but after Mr. Salgado Araujo’s, the Department of Homeland Security put out statements that seemed to be contradicted by both video and eye witnesses. This is part of a pattern we’ve seen before.

The Department of Homeland Security and its Immigration and Customs Enforcement agency have continued to deploy tactics long known to be dangerous and reckless, even after those tactics produced tragic results. Federal agents have aggressively pursued people in their cars, sometimes by boxing them in, ramming them or forcing them off the road. They’ve put themselves in front of moving vehicles. They’ve masked themselves and made traffic stops in unmarked vehicles. And they’ve fired their weapons into moving cars.

After Mr. Guerrero’s death, the department announced that it had paused the use of most traffic stops as a means of immigration enforcement — only to have President Trump, a day later, insist on reversing that decision.

The dehumanizing, often explicitly racist language this administration has used with respect to immigrants is an unacceptable breach of a free and democratic society. The dangerous policing tactics the White House has encouraged and defended, essentially telling officers that they’re above the law, and continuing to provoke unnecessary harm and death, are morally repugnant. Congress must put a stop to it all.

The tragedies we’ve seen were foreseeable, and inevitable. The Trump administration has made

clear that its goal isn't just to deport dangerous people, but to terrorize immigrant communities. In 20 years covering policing, I've never seen a government agency thumb its nose at the very concept of justice, rights and the rule of law the way D.H.S. and ICE have over the last 18 months.

Sign up for the Opinion Today newsletter Get expert analysis of the news and a guide to the big ideas shaping the world every weekday morning. [Get it sent to your inbox.](#)

In many cases, the administration has shown scant interest in investigating the possibility of wrongdoing by immigration officers — it has shown even less interest in prosecuting them. It has resisted sharing evidence with local police departments and prosecutors attempting to conduct their own investigations. Meanwhile, the administration appears eager to investigate the people who protest these tactics — or the victims themselves.

The largest share of undocumented immigrants detained by this administration have no criminal record, much less a history of violence. Still, administration officials have told the American people and immigration officers again and again that the people they're apprehending are dangerous criminals.

Mr. Trump, Vice President JD Vance and other members of the administration have propagated vicious lies about immigrants, portraying them as unworthy of basic decency, dignity or fundamental rights.

At the same time, administration leaders have told immigration officers that they have “immunity” from accountability. As the Homeland Security Department has gone on a hiring binge, it has also lowered its standards, recruiting people through nativist, often racist messaging, and curtailed training.

So what can be done? There is one viable path to greater accountability — if politicians have the stomach for it. The Supreme Court has essentially left it to Congress to determine the degree to which federal officials can be liable for constitutional violations. If the Democrats retake the House and the Senate in November, that will set the stage for individuals to sue ICE, Border Patrol and other agencies for constitutional violations and wrongful deaths. There has already been discussion about that. But the Democrats could also take it a step further and create a path to sue policymakers like Stephen Miller, one of the president's top advisers; Tom Homan, his border czar; and Markwayne Mullin, the homeland security secretary.

That effort would require a political will we rarely see these days. There's been a general reluctance among courts and Congress to make policymakers liable in civil suits. There's good reason for that: We want political appointees and advisers to feel free to give advice without fear of legal liability. Eighty years ago, Congress created a (very limited) way for people wronged by federal officials to seek compensation — a law called the Federal Tort Claims Act — which explicitly exempted policymakers.

But Congress retains the power to make a different choice now.

Though, while in office, Mr. Trump would surely try to veto efforts to hold policymakers accountable, the mere act of passing such laws would put both the current leadership and federal law enforcement officers on notice that the rights, safety and lives of the people they serve — including immigrants, documented or otherwise — still matter. It would make clear to them that their actions over the next two-plus years of the Trump administration could bring consequences down the road, and that they serve the public and the Constitution, not one man or one administration.

There are other factors Congress would need to consider. The Constitution prohibits criminal ex post facto laws, which retroactively criminalize actions or behavior. The Supreme Court has ruled that the prohibition does not apply to civil law, but there would be understandable concerns about the fairness and propriety of retroactive civil culpability. There would also be debate about how far back such laws should go. I believe those concerns are dwarfed by the urgency of this moment, but even a law that imposes accountability only going forward would be better than nothing at all.

Most state and local police officers are indemnified from having to pay damages after a jury award or settlement involving police misconduct. But here, too, Congress could use its own judgment. Letting taxpayers foot the bill for the abuse inflicted by this administration doesn't do much to deter future bad behavior. So Congress could, for example, pass a law that holds individual officials financially accountable until they're no longer able to pay, then use public funds to ensure that victims are made whole.

In the meantime, there are two ways to hold government officials legally accountable for constitutional violations — criminal and civil.

In Minneapolis, the Hennepin County attorney, Mary Moriarty, is pursuing state criminal charges against federal officers in two cases, and prosecutors in other cities and states are considering similar moves. Ms. Moriarty's efforts are brave and admirable, but it's far from clear if they'll be successful.

The Trump administration will surely try to get such cases removed to federal court, and the charged officers will most likely have the full backing and support of Mr. Trump's Department of Justice. What's more, Mr. Trump has reportedly promised a blanket pardon for his entire administration before he leaves office, which would preclude a subsequent administration from pursuing criminal charges in federal court.

That leaves us with civil liability. The Supreme Court has made it difficult to pursue civil damages against federal officers for constitutional violations.

A handful of states — including Maine — have ways to sue federal officers for violations of citizens' rights under the state and federal constitutions. It remains to be seen if these suits would hold up when the Trump administration inevitably asks federal judges to strike them down. That's why it's so important that Congress step up to pass new laws to make this kind of legal accountability possible.

The Trump administration clearly believes that when it comes to immigration enforcement, it acts with complete impunity. Whether or not that's true will be up to us and the people we elect to Congress this fall.

Source photographs by Brandon Bell and Spencer Platt via Getty Images.

Radley Balko is the author of “Rise of the Warrior Cop: The Militarization of America’s Police Forces” and the criminal justice newsletter The Watch.

The Times is committed to publishing a diversity of letters to the editor. We’d like to hear what you think about this or any of our articles. Here are some tips. And here’s our email: letters@nytimes.com.

Follow the New York Times Opinion section on Facebook, Instagram, TikTok, Bluesky, WhatsApp and Threads.

A version of this article appears in print on , Section A, Page 22 of the New York edition with the headline: ICE Is Out of Control