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Affiliations appear only for purposes of identification.

By email

November 25, 2025

The Honorable John Cornyn
United States Senate Committee on the Judiciary
Subcommittee on Border Security and Immigration
224 Dirksen Senate Office Building
Washington DC 20510

The Honorable Alex Padilla
United States Senate Committee on the Judiciary
Subcommittee on Border Security and Immigration
224 Dirksen Senate Office Building
Washington DC 20510

Re: Written Testimony Regarding Subcommittee on Border
Security and Immigration hearing: “ICE Under Fire: The
Radical Left’s Crusade Against Immigration Enforcement.”

Dear Chairman Cornyn and Ranking Member Padilla:

The Reporters Committee for Freedom of the Press respectfully submits this written testimony regarding the United States Senate Committee on the Judiciary’s Subcommittee on Border Security and Immigration’s hearing titled “ICE Under Fire: The Radical Left’s Crusade Against Immigration Enforcement,” held on November 19, 2025. We write to address several policy recommendations that would help prevent the arrest or injury of journalists covering immigration enforcement activity and attendant protests. Foremost among these is that the Department of Homeland Security immediately circulate comprehensive guidance to the field on best practices for navigating encounters with journalists.

The Reporters Committee is the nation’s largest non-profit providing free legal services for journalists and news organizations across the country. Reporters Committee attorneys frequently play a coordinating role between government agencies and the major national news organizations on issues of mutual importance. Recently, for example, the Reporters Committee facilitated dialogue between newsrooms and the Department of War in an effort to clarify credentialing policies for the Pentagon Reservation. At the state and local level, our staff also frequently trains both law enforcement and newsrooms on how to navigate encounters in the field. We have formally requested a meeting with DHS to discuss these issues and are eager to facilitate that coordination with the Department.

Our testimony is also in response to several incidents of journalists being arrested or injured while covering DHS operations.

For instance, on September 28, federal officers arrested a reporter, Steve Held, who was covering a protest outside an ICE detention facility in Broadview, Illinois, and, on the same day, Immigration and Customs Enforcement personnel reportedly shot at a reporter's vehicle with a pepper ball outside the same facility. *See Broadview Police Launch Investigation After CBS Reporter's Car Allegedly Was Fired at With Chemical Munition*, Fox32 Chicago (Sept. 28, 2025), <https://perma.cc/YAC7-TQWC>.

Then, on September 30, an ICE agent at 26 Federal Plaza in New York physically ejected a journalist from amNY out of an elevator. The incident led to the serious injury of a journalist from a Turkish outlet standing in the hallway, who had to be taken to the hospital. There is no indication that any of the journalists involved in the altercation were interfering with or obstructing ICE enforcement activity. Ana Ley and Wesley Parnell, *Journalist Injured in Chaotic Scene at New York Immigration Court*, N.Y. Times (Sept. 30, 2025), <https://perma.cc/GQM8-A3JC>; *Injured Journalist Hauled Off In Stretcher After Violent NYC Immigration Court Clash*, N.Y. Post (Oct. 1, 2025), <https://perma.cc/4CDC-Y9H7>.

While the incidents described above raise an array of different concerns, the Reporters Committee urges that clear and comprehensive guidance be implemented for every investigative and enforcement element under DHS's authority, detailing the First Amendment and other legal rights of journalists. That would include guidance on the First Amendment right to record or document federal law enforcement operations in public and the limits of statutes prohibiting physical interference or obstruction. *See* Statement of Interest of the United States, *Garcia v. Montgomery County*, No. 8:12-cv-03592-JFM (filed March 4, 2013) (arguing that discretionary charges like disorderly conduct or disturbing the peace should be viewed skeptically when based on recording police activity).

We also urge that DHS adopt a policy of "arrest avoidance" for journalists – a practice that the Justice Department has recognized as an important safeguard for First Amendment rights, *New DOJ Recommendations for Police, Press Bridge Protest Divide*, Reporters Comm. for Freedom of the Press (Oct. 4, 2024), <https://perma.cc/D7HR-4MST>, and one that California has codified by statute, *see* Cal. Penal Code § 409.7. By making supervisory officials in the field immediately available to review the detention of individuals who present evidence of their identity as a journalist, law enforcement agencies avoid unnecessary conflict between agency personnel and the press.

Many of the most troubling interactions between DHS employees and the press have unfolded in cases where agents were masked and wearing plainclothes, making it exceptionally challenging for journalists to comply with lawful police orders. The Justice Department has described officers wearing identifying information as "a near-universal requirement of sound policing practices." Letter from U.S. Dep't of Justice to Chief Thomas Jackson, City of Ferguson (Sept. 23, 2014), <https://perma.cc/D7HR-4MST>. Further, federal law requires that "[f]ederal law enforcement personnel" visibly display "the individual's name or other individual identifier" and "the name of the armed force, Federal entity, or other organization by which such individual is employed," whenever called upon "to respond to a civil disturbance." 10 U.S.C. § 723(a). A general

practice of masking makes it difficult for journalists to identify which individuals on a crowded scene are federal law enforcement officials.

We are also concerned with statements by senior officials suggesting that First Amendment protected newsgathering could be physically imperiling officers with DHS agencies. Earlier this year, for instance, while discussing what DHS has described as a major increase in attacks on federal officers, Secretary Kristi Noem referred to recording ICE personnel in the field as “violence.” Grace Bellinghausen, *Secretary Kristi Noem address surge in attacks on ICE agents in Tampa*, ABC News 33/40 (July 13, 2025), <https://perma.cc/33Z4-8G7F>. Secretary Noem has also publicly vowed to prosecute those who “dox” ICE agents, without identifying a limiting principle that would protect First Amendment-protected newsgathering and reporting. *Anarchists and Rioters in Portland Illegally Dox ICE Officers and Federal Enforcement*, Department of Homeland Security (July 11, 2025), <https://perma.cc/RH6Q-PMLL>.

This sentiment was recently repeated by DHS Assistant Secretary for Public Affairs Tricia McLaughlin, who stated that the Department views recording video and taking pictures of ICE agents with the intent to report publicly on their activity as “doxxing” and that those who “illegally harass” officials will be prosecuted. Walter Olson, *DHS Says Videotaping ICE Agents Is Illegal. Federal Courts Disagree*, Cato Institute (Oct. 9, 2025), <https://perma.cc/4ZKX-JDAQ>. Agency leadership also publicly discussed prosecuting CNN in connection with its coverage of an app that alerts users to ICE sightings, arguing that this reporting puts federal officers in danger. Giselle Ruhiyyih Ewing, *Trump administration threat[ens] CNN with prosecution*, Politico (July 1, 2025), <https://bit.ly/3XPjSsV>.

Further, while not an action by DHS, the Federal Communications Commission reportedly opened an investigation into San Francisco-based radio station, KCBS, for its coverage of ICE activity in the Bay Area. Aja Seldon, *KCBS Under Investigation for Alleged Broadcast of ICE Agent Locations in San Jose*, KTVU Fox 2 (Feb. 7, 2025), <https://perma.cc/Q3DQ-DWHU>. These statements and actions reflect a troubling conflation of documenting immigration enforcement – something that is essential for transparency and public accountability – with physically endangering federal agents.

As every high court to consider the issue has found, the right to record government officials engaged in their duties in a public place is clearly established under the First Amendment, subject to reasonable time, place, and manner restrictions. *See, e.g., Askins v. Dep’t of Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018); *Fields v. City of Philadelphia*, 862 F.3d 353, 356 (3d Cir. 2017); *Turner v. Lieutenant Driver*, 848 F.3d 678, 689 (5th Cir. 2017); *Am. C. L. Union of Ill. v. Alvarez*, 679 F.3d 583, 600 (7th Cir. 2012); *Glik v. Cunniffe*, 655 F.3d 78, 87 (1st Cir. 2011); *Smith v. City of Cumming*, 212 F.3d 1332 (11th Cir. 2000). The right applies to the public and journalists alike. *Glik*, 655 F.3d at 84.

Constitutional protections for newsgathering support not just the public’s access to information, but – through credible, independent documentation – the protection of

DHS agents themselves. Reportage can both hold officials accountable when necessary but also may support them by corroborating their account of an incident. *See, e.g., Fields v. City of Philadelphia*, 862 F.3d 353, 360 (3d Cir. 2017) (internal citation omitted) (“Important to police is that these recordings help them carry out their work. They, every bit as much as we, are concerned with gathering facts that support further investigation or confirm a dead-end. And of particular personal concern to police is that bystander recordings can ‘exonerate an officer charged with wrongdoing.’”). Accordingly, along with comprehensive guidance on how DHS officers interact with journalists in the field vis-à-vis detentions, arrests, and the use of force, the Reporters Committee also urges the Department to provide meaningful training on the scope of the public’s right to record.

Thank you for the opportunity to submit written testimony on this important topic. Please do not hesitate to contact the Reporters Committee’s Vice President of Policy Gabe Rottman with any questions at grottman@rcfp.org.

Sincerely

Reporters Committee
for Freedom of the Press