



Statement of Aaron Reichlin-Melnick, Senior Fellow, American Immigration Council
Submitted to the House Committee on Oversight and Senate Permanent Committee on
Investigations

“Our Values at Stake: DHS Overreach and Violations of U.S. Citizen Rights”
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Ranking Members Blumenthal, Garcia, and distinguished members of the Committees. My name is Aaron Reichlin-Melnick, and I am Senior Fellow at the American Immigration Council, a nonpartisan non-profit which has long studied immigration enforcement. We envision a nation where immigrants are embraced, American communities are enriched, and justice prevails for all.

There is no debate that our immigration system needs reform. The American people want a system that is marked by order, not disorder. They want a system which provides opportunities for coming into compliance for people who are otherwise law-abiding, while ensuring consistent, fair, and proportionate penalties for people who are not. But unfortunately, the Trump administration is more interested in generating a *perception* of order through performative cruelty, than creating *actual* order through meaningful reforms.

With over 14 million undocumented immigrants in the United States, the vast majority of whom pose no threat and make invaluable contributions to their communities, ICE has for decades focused its limited resources on those individuals it deemed public safety threats or fugitives. In recent years, over 80 percent of ICE arrests involved officers traveling to a local, state, or federal jail and taking custody of a person already in the hands of law enforcement. By contrast, “at-large” immigration enforcement arrests, where individuals were arrested at their homes, worksites, or other public locations, were significantly rarer. As a result, most Americans have no experience with large-scale immigration enforcement in their communities. But that is changing.

Since taking office, the administration has supercharged the interior enforcement system, morphing it into a larger, more aggressive federal presence than ever. At its core, this shift rests on the implicit view that immigration enforcement should be the most important law enforcement priority of the federal government, leaving resources diverted *away* from drug smuggling, child exploitation, and even counterterrorism.

Following orders from the White House to hit unreasonably high arrest targets, “at-large” arrests in American communities have risen by nearly 600% since January, with the steepest increase among people who pose no public safety threat. From June through October, a shocking 62% of people arrested by ICE “at large” had no criminal record. This dramatic expansion has led to a rising number of citizens being caught up in the chaos. ProPublica found that through October, at least 40 U.S. citizens were erroneously arrested during immigration operations, and another 130 were arrested for claims of interfering with ICE.

The expansion of arrests in American communities has come through three major shifts in policy: 1) the widespread use of “collateral arrests” and “roving patrols,” where agents arrest people who were not targeted by or known to DHS, 2) the expansion of worksite raids; and, 3) new “re-arrest” policies targeting people appearing for court hearings and ICE check-ins. It is these first two major changes which has resulted in a rising number of U.S. citizens and permanent residents being wrongfully arrested and detained.

Immigration officers are empowered to stop and question any person suspected of being a noncitizen. But, of course, immigration status is not visible to the naked eye. So how can officers determine whether a person is a possible noncitizen? The obvious answer is profiling. As Border Patrol Chief Gregory Bovino, to a tall, white reporter in Chicago, officers use “the particular characteristics of an individual, how they look. How do they look compared to, say, you.”

In an increasingly diverse nation, these tactics are error-prone. And over the last year, DHS officers have repeatedly questioned, detained, and arrested U.S. citizens, at times for hours or even days.

As immigration enforcement expands, incidents such as these will continue. There will also be more arrests of citizens who confront immigration officers in protest of these indiscriminate tactics. When communities feel unsafe, the natural reaction is to direct blame towards the most visible cause — increased immigration enforcement and the people carrying it out. In the end, everyone including U.S. citizens, non-citizens, and law enforcement officers are less safe.

It is time for Congress to fix the outdated laws that opened the door to this overreach, and to codify the norms which this administration has broken. Congress should limit the use of facemasks, require officers to wear clear identification and ensure that immigration officers cannot question based on race. Congress should also support safer public communities through broader reforms which incorporate proportionate, targeted, and more humane consequences for violations of immigration law. Without these changes, enforcement will continue to escalate and even more citizens will be swept up by an administration that has expressed neither contrition nor concern for the issue.