

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CHICAGO HEADLINE CLUB, BLOCK) Case No. 25 C 12173
CLUB CHICAGO, CHICAGO NEWSPAPER)
GUILD LOCAL 34071, NABET-CWA)
LOCAL 54041, ILLINOIS PRESS)
ASSOCIATION, RAVEN GEARY,)
CHARLES THRUSH, STEPHEN HELD,)
DAVID BLACK, WILLIAM PAULSON,)
AUTUMN REIDY-HAMER, and LEIGH)
KUNKEL,)

Plaintiffs,)

v.)

KRISTI NOEM, Secretary, U.S.)
Department of Homeland Security)
(DHS); TODD LYONS, Acting)
Director, U.S. Immigration and)
Customs Enforcement (ICE);)
MARCOS CHARLES, Acting Executive)
Associate Director, Enforcement)
and Removal Operations, ICE;)
RUSSELL HOTT, Chicago Field)
Office Director, ICE; RODNEY S.)
SCOTT, Commissioner, U.S.)
Customs and Border Protection)
(CBP); GREGORY BOVINO, Chief)
Border Patrol Agent, CBP; DANIEL)
DRISCOLL, Director of the Bureau)
of Alcohol, Tobacco, Firearms)
and Explosives (ATF); WILLIAM K.)
MARSHALL III, Director of the)
Federal Bureau of Prisons (BOP);)
PAMELA BONDI, Attorney General)
of the United States; U.S.)
DEPARTMENT OF HOMELAND SECURITY;)
U.S. DEPARTMENT OF JUSTICE;)
UNIDENTIFIED FEDERAL OFFICER)
DEFENDANTS; UNIDENTIFIED FEDERAL)
AGENCY DEFENDANTS; and DONALD J.)
TRUMP, President of the)
United States,)

Defendants.)

Chicago, Illinois
November 6, 2025
10:12 a.m.

TRANSCRIPT OF PROCEEDINGS - IN-COURT HEARING
BEFORE THE HONORABLE SARA L. ELLIS

APPEARANCES:

For the Plaintiffs: LOEVY & LOEVY
BY: MR. JONATHAN I. LOEVY
MR. STEVEN E. ART
MS. HEATHER LEWIS DONNELL
MS. THERESA KLEINHAUS
MR. SCOTT R. RAUSCHER
MR. DAVID B. OWENS
311 N. Aberdeen Street, Third Floor
Chicago, Illinois 60607

LOEVY & LOEVY
BY: MS. ELIZABETH C. WANG
2060 Broadway, Suite 460
Boulder, Colorado 80302

MANDEL LEGAL AID CLINIC
BY: MR. CRAIG B. FUTTERMAN
6020 South University Avenue
Chicago, Illinois 60637

NORTHWESTERN PRITZKER SCHOOL OF LAW -
COMMUNITY JUSTICE AND CIVIL RIGHTS CLINIC
BY: MR. WALLACE B. HILKE
375 E. Chicago Avenue, 8th Floor
Chicago, Illinois 60611

FIRST DEFENSE LEGAL AID
BY: MR. DANIEL MASSOGLIA
601 S. California Avenue
Chicago, Illinois 60612

ROGER BALDWIN FOUNDATION OF ACLU, INC.
BY: MS. REBECCA K. GLENBERG
150 N. Michigan Avenue, Suite 600
Chicago, Illinois 60601

For the Defendants: U.S. DEPARTMENT OF JUSTICE
BY: MR. ANDREW I. WARDEN
MR. JEREMY S. NEWMAN
1100 L Street NW
Washington, DC 20005

1 Court Reporter: KELLY M. FITZGERALD, RPR, RMR, CRR
2 Official Court Reporter
3 United States District Court
4 219 S. Dearborn Street, Room 1412
5 Chicago, Illinois 60604
6 312-818-6626
7 kmftranscripts@gmail.com

8 * * * * *

9 PROCEEDINGS REPORTED BY STENOTYPE
10 TRANSCRIPT PRODUCED USING COMPUTER-AIDED TRANSCRIPTION
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (Proceedings heard in open court:)

2 THE CLERK: We are here on Case 25 CV 12173, Chicago
3 Headline Club, et al. v. Noem, et al.

4 Counsel, please state your names for the record.

5 Everyone else, please be seated and come to order.

6 MR. ART: Good morning, Your Honor. Steve Art for the
7 plaintiffs.

8 MR. BOWMAN: Locke Bowman for plaintiff.

9 MS. WANG: Elizabeth Wang for the plaintiffs.

10 MR. LOEVY: Jon Loevy for the plaintiffs.

11 MR. HILKE: Wally Hilke for the plaintiffs.

12 MS. KLEINHAUS: Theresa Kleinhaus for the plaintiffs.

13 MR. OWENS: David Owens.

14 MR. FUTTERMAN: Craig Futterman, also for plaintiffs.

15 MR. RAUSCHER: Scott Rauscher for plaintiffs.

16 MR. MASSOGLIA: Daniel Massoglia for plaintiffs.

17 MS. GLENBERG: Rebecca Glenberg for plaintiffs.

18 MR. WARDEN: Good morning, Your Honor. Andrew Warden
19 for the defendants.

20 MR. NEWMAN: Jeremy Newman for the defendants.

21 THE COURT: All right. Good morning.

22 MR. ART: Judge, do we need to do anything before we
23 get started to make sure that the exhibits listed on
24 plaintiffs' list, which is Docket 222 and defendants' list,
25 that is Docket 209, are moved into the record? Or does the

1 Court consider all of those exhibits on the list to be already
2 into the record?

3 THE COURT: I -- I consider them to be already in the
4 record.

5 MR. ART: Thank you, Judge.

6 THE COURT: Mm-hmm.

7 All right. So we'll get started.

8 You ready, Kelly?

9 COURT REPORTER: Yes, Judge.

10 THE COURT: Okay.

11 So Chicago is home to many artists and poets and
12 writers. One of them is Carl Sandburg who wrote a poem:

13 Chicago

14 Hog Butcher for the World,

15 Tool Maker, Stacker of Wheat,

16 Player with Railroads and the Nation's Freight

17 Handler;

18 Stormy, husky, brawling,

19 City of the Big Shoulders:

20 They tell me you are wicked and I believe them, for I
21 have seen your painted women under the gas lamps luring the
22 farm boys.

23 And they tell me you are crooked and I answered: Yes,
24 it is true I have seen the gunman kill and go free to kill
25 again.

1 And they tell me you are brutal and my reply is: On
2 the faces of women and children I have seen the marks of wanton
3 hunger.

4 And having answered so I turn once more to those who
5 sneer at this my city, and I give them back the sneer and say
6 to them:

7 Come and show me another city with lifted head singing
8 so proud to be alive and coarse and strong and cunning.

9 Flinging magnetic curses amid the toil of piling job
10 on job, here is a tall bold slugger set vivid against the
11 little soft cities;

12 Fierce as a dog with tongue lapping for action,
13 cunning as a savage, pitted against the wilderness,

14 Bareheaded,

15 Shoveling,

16 Wrecking,

17 Planning,

18 Building, breaking, rebuilding,

19 Under the smoke, dust all over his mouth, laughing
20 with white teeth,

21 Under the terrible burden of destiny laughing as a
22 young man laughs,

23 Laughing even as an ignorant fighter laughs who has
24 never lost a battle,

25 Bragging and laughing that under his wrist is the

1 pulse, and under his ribs the heart of the people,

2 Laughing!

3 Laughing the stormy, husky, brawling laughter of
4 Youth, half-naked, sweating, proud to be Hog Butcher,
5 Tool Maker, Stacker of Wheat, Player with Railroads and Freight
6 Handler to the Nation.

7 This is the Chicagoland I see, from Aurora to Cicero,
8 and Chicago to Evanston, to Waukegan. This is a vibrant place,
9 brimming with vitality and hope, striving to move forward from
10 its complicated history of segregation, police brutality, and
11 gun violence; expressing the joy of community and block
12 parties, street festivals, and Sunday jazz shows on the lawn of
13 Senn High School;

14 Neighbors from every community showing up for each
15 other, by stocking food banks, restaurants offering free meals
16 to those facing cuts in food benefits. Everyday people
17 standing watch to protect the most vulnerable among us; from
18 standing guard at intersections to help trick-or-treaters cross
19 the street or standing on the sidewalk, to document law
20 enforcement activities and protests against immigration
21 enforcement activities they believe to be unjust; or simply
22 praying the Rosary, to provide comfort to those detained at the
23 Broadview detention facility who are facing fear and
24 uncertainty.

25 The government would have people believe instead that

1 the Chicagoland area is in a vice hold of violence, ransacked
2 by rioters and attacked by agitators. That simply is untrue.
3 And the government's own evidence in this case belies that
4 assertion.

5 After reviewing all of the evidence submitted and
6 listening to the testimony, I find the defendants' evidence
7 simply not credible. I watched the defendants' videos that
8 they asked us to watch. This, and hours and hours and hours of
9 body cam video and video from helicopters, was the best they
10 could provide.

11 I'll note two examples.

12 On September 19th, there was a video of agents opening
13 the gate at Broadview. The protesters were standing far away.
14 Agents immediately began lobbing flash bang -- I'm sorry --
15 flash-bang grenades and tear gas with no warning whatsoever.

16 On October 4th in Brighton Park, an agent pushed a
17 protester to the ground, then released tear gas and
18 PepperBalls. After instigating the chaos, some of the
19 protesters threw a drink and some bottles of water. The agents
20 let the protester up and then tackled him again to the ground
21 and knelt on his head or his neck.

22 There is nothing that plaintiffs set forth in their
23 declarations or testimony that defendants rebutted, even with
24 the body cam footage. Minor consistencies will add up.

25 For example, we've got the testimony of Defendant

1 Bovino. In one of the videos, Defendant Bovino obviously
2 attacks and tackles the declarant, Mr. Blackburn, to the
3 ground. But Bovino, despite watching this video, says that he
4 never used force against Mr. Blackburn, and later denied seeing
5 a projectile hit Reverend Black after watching that video.

6 More tellingly, Defendant Bovino admitted that he
7 lied. He admitted that he lied about whether a rock hit him
8 before he deployed tear gas in Little Village.

9 Videos of what happened in Little Village, even from
10 the agents' body-worn cameras and helicopter footage, do not
11 match up with agents' descriptions of the chaos that was going
12 on.

13 The number of protesters was about equal, if not less
14 than, the number of agents gathered at the time that Defendant
15 Bovino threw the tear gas canisters.

16 In fact, when he threw the second one, the crowd was
17 running back. And there was an apparent flash-bang grenade
18 that agents tried to claim were fireworks that the crowd threw.
19 That's simply not true.

20 In Albany Park, agents wrote in their reports and the
21 Department of Homeland Security publicized that a bicyclist
22 threw a bike at agents. In watching the video, it shows that
23 after agents deployed tear gas, the agents took a protester's
24 bike and threw it to the side.

25 Mr. Hott represents in his declaration that someone

1 ripped a beard off an agent's face. He also represented that
2 at the Broadview facility a downspout was broken by protesters.
3 However, when questioned about it in his deposition, he
4 acknowledged that he didn't even know if it was a person who
5 caused that damage, much less a protester.

6 Mr. Hewson testified that in Broadview there were
7 people with shields with nails in them that were dangerous.
8 But, again, in looking at this video, at least some of these
9 shields, if not all, were pieces of cardboard. And the body
10 cam video did not show any aggression that warranted agents
11 going out to attack them.

12 He testified that on body cam -- that on the body cam
13 when he said something, it was "get them." In listening to
14 that body cam audio and watching it over again, clearly what he
15 said was "hit them."

16 Overall, this calls into question everything that
17 defendants say they are doing in their characterization of what
18 is happening either at the Broadview facility or out in the
19 streets of the Chicagoland area during law enforcement
20 activities.

21 I want to turn to some specific incidents.

22 The Broadview facility has had numerous protests.
23 Father Curran testified that he's been to the Broadview
24 facility for over 19 years every Friday to offer prayers and
25 the Rosary. They gather on a public pathway on the sidewalk

1 and in the parkway. He said in September, Broadview had become
2 an utterly militarized zone. Father Curran realized that it
3 was no longer a safe space for high school and college students
4 to come. And the protesters themselves had to move their
5 location. He saw agents launching projectiles at people who
6 were unarmed and not violent in any way. And he himself was
7 tear-gassed.

8 Emily Steelhammer, who's the executive director of the
9 Chicago Newspaper Guild, described indiscriminate uses of
10 force.

11 A photographer standing off to the side with another
12 group of journalists and photographers recognized some agents
13 whom she had taken pictures of earlier in the week. She was
14 shot in her rib cage with a PepperBall and then shot again in
15 her back when she turned.

16 On September 26th, journalists from the Chicago
17 Tribune and Chicago Sun-Times were filming an arrest late at
18 night with few protesters around and clear press badges
19 visible, and they had their cameras out. They were both hit at
20 close range multiple times with PepperBalls. There were no
21 reports of disobeying law enforcement commands when they were
22 hit.

23 Juan Muñoz, who's an Oak Park trustee, attended a
24 protest on October 3rd. He heard Mr. Bovino say that he'd give
25 one warning to protesters to move back; if they did not, they'd

1 be arrested.

2 Mr. Bovino then turned to the agents and said, "Arrest
3 them." Mr. Bovino pushed Mr. Muñoz down and then was --
4 Mr. Muñoz was detained for eight hours. He was used as a prop
5 for the Department of Homeland Security videos and then
6 released at a gas station a mile and a half away. Mr. Muñoz
7 has not been back to the Broadview facility, and he's now
8 concerned for his own safety and that of his family.

9 I do acknowledge that after the state and county and
10 the city of Broadview have set up a Unified Command that the
11 level of violence and the issues at the Broadview facility with
12 respect to federal agents has decreased. But because it has
13 decreased does not mean that it doesn't still have the
14 likelihood to exist.

15 Leslie Cortez testified that on October 1st she was
16 documenting federal immigration agents conducting enforcement
17 activities at a Home Depot in Cicero. When she returned to her
18 car, federal agents pulled up around her and one drew his
19 weapon at her, aiming it right at her so that she could see
20 inside the barrel, causing her heart to accelerate and make her
21 freeze. She gathered her courage. She told the agents that
22 she knew what her rights were; and, ultimately, the agent put
23 down his weapon and left.

24 On October the 3rd in Logan Square, near an elementary
25 school, a crowd gathered when they noticed federal immigration

1 vehicles, and they began protesting. A motorcycle stopped in
2 front of one vehicle, and that, simply that, prompted the
3 agents to deploy a tear gas canister.

4 On October 4th in Brighton Park, Border Patrol agents
5 claim they were boxed in by about ten vehicles, two of which
6 rammed one of their vehicles. An agent shot at one of the
7 individuals who allegedly rammed the vehicles, and a group
8 gathered at the scene after hearing what happened.

9 A number of declarants stated that they nonviolently
10 gathered, protested, chanted, and filmed agents, and that
11 without any warning or dispersal orders, agents deployed tear
12 gas indiscriminately into the crowd and threw flash-bang
13 grenades.

14 Rudy Villa stated that he and others formed a barrier
15 between protesters and agents chanting "don't take the bait"
16 and encouraging the protesters to remain peaceful.

17 Alderwoman Julia Ramirez arrived and observed a very
18 calm scene with people chanting. She noticed that the
19 protesters were well organized, with many chanting "don't take
20 the bait," and she did not observe anyone around her exhibiting
21 violence toward the agents. She testified that as everyone
22 stood around, PepperBalls were fired without warning and an
23 armored vehicle came through with an agent pointing his gun at
24 the protesters. She ran away from tear gas while eight and a
25 half months pregnant.

1 Now, admittedly, some in the crowd threw water
2 bottles. But this did not warrant the indiscriminate shooting
3 of PepperBalls and deployment of tear gas at the crowd without
4 warning.

5 On October 10th, in Edgewater, Jo-Elle Munchak stopped
6 on the drive home when she noticed immigration enforcement
7 activities happening. She videotaped and yelled out, "It's
8 almost like they're storm troopers or something" and "Smile
9 nice, boys, for the Hague."

10 She was about two and a half car lengths from the
11 agents and had enough room for the agents' vehicle to pull
12 away. After the agents left, she continued home, turning onto
13 the street on which she lives.

14 One of the agents' cars stopped in the middle of the
15 block and the other one pulled up behind her and blocked her
16 in. Agents surrounded her car with an agent aiming a gun at
17 her head and other agents banging on her windows, trying to
18 open the doors, and demanding that she get out of the car.

19 On October 12th, in Albany Park, Border Patrol agents
20 were arresting someone when a crowd of neighbors came outside
21 to observe and protest. And I will say that some of the agents
22 described the protesters to be professional agitators based on
23 their style of dress, possession and use of alert whistles, and
24 using bicycles to follow and alert the community of the agents'
25 presence.

1 Describing rapid response networks, neighborhood moms
2 as professional agitators shows just how out of touch these
3 agents are and how incredible their views are.

4 The agents' cars hit a woman standing in front of the
5 car. Mr. Harvick recounted that he learned that protesters had
6 linked arms to block agents' exit, which Border Patrol
7 considers active resistance, and then had disobeyed multiple
8 orders to move out of agents' way to let them leave.

9 According to Mr. Parra, based on previous experience,
10 the agents became concerned that the longer they remained on
11 the scene, the more dangerous the environment would become,
12 anticipating that social media would broadcast their location
13 and allow for the threatening crowd to continue to grow.

14 Agents rolled a tear gas canister toward the
15 protesters. Agents claimed they gave warnings, but the
16 protesters said they didn't hear any warnings or dispersal
17 orders. And body camera video reflects the agent with a tear
18 gas canister telling another agent that "If they don't want to
19 clear, we're going to pass, or it could be "We're going to
20 gas." But nothing was said to the crowd.

21 The Department of Homeland Security claimed that a
22 woman threw her bicycle at agents, but the video actually shows
23 an agent throwing it out of the way.

24 On October 14th in East Chicago, a Border Patrol car
25 gave chase to a suspect vehicle in a neighborhood with tight

1 streets, ultimately disabling the suspect vehicle by using a
2 PIT maneuver. Neighbors came out to see what happened,
3 protesting and yelling at the agents to go home.

4 The use of force reports from Border Patrol note that
5 people yelled things like "ICE go home" and called agents
6 "racists" or "Nazis."

7 Admittedly, again, while the protest remained
8 relatively calm, there were some bad eggs, including those who
9 threw eggs and threw back a smoke canister at agents. But the
10 agents were able to find those who threw the objects and they
11 actually took them into custody.

12 Plaintiffs' declarants did not identify hearing any
13 warnings or dispersal orders before the agents deployed tear
14 gas. And while the agents recorded having -- having given
15 repeated warnings to disperse and indicated that they would
16 deploy chemical munitions if they did not, one agent recorded
17 that he deployed a smoke canister to disperse the crowd without
18 giving notification, although he did claim it was because of
19 exigent circumstances. Another agent indicated it was not
20 tactically feasible to issue warnings prior to the deployment
21 of chemical munitions.

22 One resident, Manuel Garcia, was shot with rubber
23 bullets as he shepherded his girlfriend and 4-year-old daughter
24 home. And he also helped a woman who had her baby and was
25 trapped in the tear gas.

1 Agents pushed, shoved, tackled protesters, pointed
2 guns at them, threw tear gas, and deployed smoke canisters.
3 Everyone that agents detained were released by the FBI, and
4 none of them are currently charged with assault.

5 In Little Village, the agents were there on
6 October 22nd and 23rd.

7 On October 22nd, Mr. Bovino and other agents were
8 confronted by protesters in a parking lot. Some of the
9 protesters were recording what happened. Agents claim that a
10 woman threatened to kill Mr. Bovino. And Mr. Bovino asked the
11 woman, "Did you make a threat?" She denied it. Then agents
12 grabbed her, pulled her to the ground, and placed a knee on her
13 back.

14 Later in Cicero near the Home Depot, an agent sitting
15 in a car deployed OC spray to an individual who had been
16 shouting obscenities in a threatening manner and aggressively
17 kicking the side of the vehicle. The agent did not give
18 explicit warnings before deploying the OC spray in a targeted
19 fashion because CBP personnel had to act quickly to stop the
20 individual from damaging government property.

21 On October 23rd, Mr. Bovino threw two tear gas
22 canisters over the heads of agents in front of him toward a
23 crowd of protesters without providing verbal warnings. And I
24 will say this happened after I entered the TR0 that required at
25 least two.

1 Mr. Bovino and the Department of Homeland Security
2 claimed that he had been hit by a rock in the head before
3 throwing the tear gas, but video evidence disproves this. And
4 he ultimately admitted he was not hit until after he threw the
5 tear gas.

6 An agent, without warning, lifted a gun and shot a
7 protester from 5 feet away with a PepperBall that hit his neck.

8 John Bodett did not hear any warnings before tear gas
9 or the projectile was fired, even though he was 25 to 30 feet
10 away. But he did hear someone say "get them" to the agents
11 before the tear gas was fired.

12 There were no hand gestures or other direction of what
13 officers wanted people to do. He acknowledged seeing one
14 firework go off straight in the air, something that happens
15 every day. And he also noted that the Latin Kings' colors are
16 black and gold, not maroon.

17 In Lakeview, on October 24th, Border Patrol agents
18 drove down a one-way residential street and attempted to arrest
19 some construction workers. A crowd began to gather, screaming
20 things at agents like "go home; cowards don't show their
21 faces."

22 Declarations reflect that observers did not see anyone
23 touch a vehicle or make physical threats or act violently
24 towards the agents, although agents reported that someone tried
25 to deflate the tire of one of their vehicles.

1 Agents did order the crowd to stay back and at least
2 made some comments instructing them that if they did not stay
3 back, they would be gassed. And then stated things like, "You
4 want gas? You want gas?" When an agent deployed gas, he
5 stated, "Have fun!" And then two additional tear gas canisters
6 were deployed.

7 On October 25th, in Old Irving Park, families were
8 getting ready for a neighborhood Halloween parade when agents
9 arrived on Kildare and arrested a man. Neighbors gathered and
10 began yelling at the agents. George Withek came out in a duck
11 costume and was standing behind a car when, without warning,
12 officers tackled him to the ground, leaving him with a
13 traumatic brain injury.

14 As a federal vehicle slowly drove down the street, a
15 woman stood in front of the vehicle with her bike positioned in
16 front of her. The car accelerated and ran into her, causing
17 her to fall to the ground. An agent then rolled a tear gas
18 canister toward people behind the car, and agents surrounded
19 another car that had pulled up around that time, pulling that
20 man out of the car and tackling him to the ground.

21 Neighbors did not hear any audible warnings or orders
22 before agents deployed tear gas, although agents reported that
23 they gave orders to disperse. Ultimately, the Halloween parade
24 was cancelled and activities stayed on school grounds.

25 On October 25th, in Aurora, two individuals were

1 observing for immigration agents around Aurora when one of them
2 approached an unmarked car in a school parking lot. An agent
3 in the back seat rolled down the window and motioned for the
4 individual to move away. That person did. But the agent
5 nonetheless pepper-sprayed him and tackled him to the ground.

6 The other resident documented what happened, and for
7 his efforts, he was pepper-sprayed and pushed to the ground.

8 Several days later, on October 29th, Elizabeth Pineda
9 heard whistles and pulled into a grocery store parking lot,
10 unintentionally blocking a federal agent's car. An agent
11 raised his weapon and fired PepperBall projectiles at her
12 windshield.

13 On October 30th, in Gurnee, agents chased two
14 individuals into a high school parking lot. As people,
15 including a pastor, began recording, an agent threatened to
16 pepper spray the pastor, which then deterred him from
17 recording.

18 And finally, in Evanston, on October 31st, concerned
19 citizens followed federal agents in their vehicles. Near
20 Lincolnwood Elementary School, agents shoved a man who was
21 speaking to agents without warning.

22 About an hour later near Chute Middle School, a car
23 rear-ended a federal vehicle after that vehicle stopped
24 quickly. Agents detained three people, including a male
25 bystander, whom they shoved to the ground, put a knee on his

1 back, bashed his head into the street, and punched him in the
2 head at least two times.

3 Despite a statement from the Department of Homeland
4 Security and Mr. Bovino indicating that this individual grabbed
5 the agent's genitals, videos don't bear this out, nor would
6 such force have been appropriate even if this had occurred.

7 Agents also deployed pepper spray at the crowd, and
8 one agent pointed his gun at protesters on two separate
9 occasions.

10 Given the government -- given all the evidence that
11 has been presented so far in this case, those are the factual
12 findings that I am making that support this preliminary
13 injunction.

14 To obtain a preliminary injunction, plaintiffs need to
15 satisfy three threshold requirements:

16 First, that they have some likelihood of success on
17 the merits; second, that there's an inadequate remedy at law;
18 and finally, that they will suffer irreparable harm if the
19 relief is not granted.

20 If plaintiffs satisfy these three factors, then I
21 conduct a balancing test, weighing the harm the denial of the
22 preliminary injunction would cause the plaintiff against the
23 harm to the defendant if I were to grant it. This balancing
24 process involves a sliding scale approach: The more likely the
25 plaintiff is to win on the merits, the less the balance of

1 harms needs to weigh in his favor, and vice versa.

2 I'm also to consider the public interest, which
3 includes taking into account any effects on nonparties.

4 So, first, standing. To establish standing to seek
5 injunctive relief, plaintiffs must allege an actual or imminent
6 threat of suffering a concrete and particularized injury in
7 fact, which plaintiffs can fairly trace to the defendants'
8 conduct and that a favorable judicial decision will likely
9 prevent or redress. A plaintiff must face a real and immediate
10 threat of future injury.

11 Here, defendants argue that plaintiffs have not
12 established that their injuries are likely to recur so as to
13 warrant injunctive relief, but I disagree. The individual
14 plaintiffs' risk of future injury is not speculative. Given
15 the ongoing and sustained pattern of conduct that plaintiffs
16 have documented over the last month and even after I entered
17 the TRO, this conduct shows no sign of stopping.

18 Plaintiffs also indicate that they intend to continue
19 their reporting, ministering, and protesting. And while things
20 at Broadview have calmed down after the establishment by state
21 and local officials of the Unified Command and designated
22 protest zone, protests have continued there. And there's no
23 guarantee that state and local police will continue to patrol
24 there, in which case control over the facility's security would
25 revert back to federal agents who have consistently shown a

1 disregard for protesters, journalists, and religious
2 practitioners' First Amendment rights, suggesting that such an
3 officially sanctioned course of retaliation would continue.

4 Unlike in *Lyons*, where the plaintiff could avoid being
5 choked by conducting his activities within the law, thus
6 avoiding exposure to violence, plaintiffs here cannot avoid
7 injury, as they are being threatened and harmed for exercising
8 their constitutional First Amendment rights and acting firmly
9 within the bounds of the law.

10 Therefore, I find that plaintiffs have standing to
11 pursue their claims.

12 Further, for their First Amendment claims, plaintiffs
13 also have standing based on the chilling effect of defendants'
14 conduct, given that some plaintiffs have expressed that
15 defendants' actions have caused them to limit their activities.

16 It doesn't matter that someone continues to go protest
17 or continues to be courageous. That is irrelevant as to
18 whether there was a chilling effect. If someone has to think
19 twice or they are making changes to what they do because
20 they've been hit in the head with a PepperBall, they've been
21 tear-gassed, they've stared down the barrel of a gun, or
22 they've been slammed to the ground with their head bashed into
23 the street, claiming that they can't breathe because someone is
24 on their back, all of that would cause a reasonable person to
25 think twice about exercising their fundamental constitutional

1 rights. And that is a chilling effect.

2 For example, Leslie Cortez testified that the pointing
3 of the gun was a traumatizing experience because she'd never
4 had a weapon drawn at her. It made her really consider if this
5 is something that's safe to do, even though she wasn't doing
6 anything to obstruct agents. But it has made her more fearful
7 to document and witness.

8 Reverend Black testified that it took him days before
9 he went back to the Broadview facility; and even then, it was
10 difficult for him.

11 The news organizations have standing to sue on behalf
12 of their members and for their own injuries.

13 An organization has standing to sue on behalf of its
14 members when its members would otherwise have standing to sue
15 in their own right; the interests it seeks to protect are
16 germane to the organization's purpose; and neither the claim
17 asserted nor the relief requested requires the participation of
18 individual members in the lawsuit.

19 To have standing in their own right, organizations
20 must show that defendants' conduct impaired their ability to
21 conduct their business or services. The news organizations
22 meet these requirements with respect to both associational and
23 organizational standing.

24 So with standing established, I now turn to the
25 substantive requirements for the issuance of a preliminary

1 injunction.

2 The first factor is likelihood of success. To meet
3 this requirement, the plaintiff must demonstrate that its claim
4 has some likelihood of success on the merits. What amounts to
5 some depends on the facts of the case at hand because of the
6 Seventh Circuit's sliding scale approach, but it at least
7 requires a strong showing that normally includes a
8 demonstration of how the applicant proposes to prove the key
9 elements of its case. A mere possibility of success doesn't
10 meet this standard.

11 So I turn to each of the plaintiffs' claims.

12 First Amendment. The First Amendment bars the
13 government from prohibiting the free exercise of religion or
14 abridging the freedom of speech, or of the press; or the right
15 of the people to peaceably assemble. The right of peaceable
16 assembly is a right cognate to those of free speech and free
17 press and is equally fundamental.

18 Of all constitutional rights, the freedoms of speech
19 and of assembly are the most perishable, yet the most vital to
20 the preservation of American democracy.

21 The government has no power to restrict expression
22 because of its message, its ideas, its subject matter, or its
23 content. Protest participation is a pristine and classic form
24 of protected speech. Undeniably, group demonstrations are
25 quintessentially protected speech. Sidewalks, parks, streets,

1 and other public ways and the like are traditional public fora,
2 in which the government may impose reasonable time, place, and
3 manner restrictions on private speech but for which
4 content-based restrictions must satisfy strict scrutiny and
5 viewpoint-based restrictions are prohibited.

6 Defendants argue that plaintiffs have not been engaged
7 in First Amendment-protected activity because they've
8 intermingled themselves with rioters and obstructors and other
9 lawless actors, meaning that law enforcement may disperse
10 crowds before they become unmanageable or when a clear and
11 present danger of a riot, disorder, interference with traffic,
12 or other immediate threat to public safety, peace, or order
13 appears.

14 But as I've previously stated, I don't find
15 defendants' version of events credible.

16 Moreover, plaintiffs agree that individuals who have
17 committed isolated acts of vandalism, assault on, or
18 threatening officers, forcible obstruction, may be arrested and
19 prosecuted.

20 While government officials may stop or disperse public
21 demonstrations or protests where clear and present danger of
22 riot, disorder, interference with traffic upon the public
23 streets, or other immediate threat to the public safety, peace,
24 or order appears, an official's fear of serious injury cannot
25 alone justify suppression of free speech and assembly.

1 Instead, to justify suppression of free speech, there
2 must be reasonable ground to fear that serious evil will result
3 if free speech is practiced. The First and
4 Fourteenth Amendment do not permit a state to make criminal the
5 exercise of the right of assembly simply because its exercise
6 may be annoying to some people.

7 Plaintiffs have marshalled evidence that suggests that
8 they are likely to succeed in showing they engaged in protected
9 speech. At this stage, I don't find defendants' intermixed or
10 intermingled justification for restricting speech persuasive
11 because the unlawful activity by a few protesters does not
12 transform a peaceable assembly into an unlawful assembly.

13 With respect to newsgathering, the First Amendment
14 protects press plaintiffs' nonviolent newsgathering. The
15 record indicates that Plaintiffs Block Club Chicago,
16 Raven Geary, and Stephen Held all wear clear press
17 identification when reporting, do not engage in protests, and
18 do not talk with or to federal officers unless to ask them
19 journalistic questions.

20 I reject defendants' implication that plaintiffs are
21 suggesting that the members of the press should receive special
22 treatment. Instead, the Supreme Court has long recognized a
23 qualified right of access for the press and public to observe
24 government activities.

25 While plaintiffs argue a First Amendment

1 viewpoint-based discrimination claim, I'm not going to reach
2 that claim's merits at this time, because I find that
3 plaintiffs have a likelihood of success on the merits on their
4 content-based claim.

5 To determine whether a challenged regulation is
6 content-based, I first ask whether the regulation draws
7 distinctions on its face based on the message a speaker
8 conveys.

9 Facial distinctions include those which define
10 regulated speech by a particular subject matter or its function
11 or purpose. Laws that are facially content-neutral may still
12 be considered content-based restrictions on speech if they
13 cannot be justified without reference to the content of the
14 regulated speech or that were adopted by the government because
15 of disagreement with the message that the speech conveys. Any
16 law distinguishing one kind of speech from another by reference
17 to its meaning now requires a compelling justification.

18 I find that defendants have restricted the plaintiffs'
19 speech, assembly, and press based on their content. Plaintiffs
20 have been open and vocal about their dislike for defendants'
21 actions, and in return, defendants have publicly announced
22 their attention -- intention to target such protesters.

23 Plaintiffs' declarations and testimony at the
24 preliminary injunction hearing clearly establishes that
25 protesters have gathered at the Broadview facility and around

1 the Chicagoland area to nonviolently express their views
2 opposing Operation Midway Blitz.

3 Plaintiffs' declarations describe the specific
4 language that protesters have used to voice their views
5 opposing the government's immigration enforcement efforts and
6 tactics in Chicago.

7 At the preliminary injunction hearing, several of
8 plaintiffs' witnesses stated that they have participated in
9 demonstrations and protests opposing the government's
10 immigration enforcement efforts in Chicago. And press
11 personnel have worn clear press identification and have not
12 engaged in violent behavior, even while vigorously covering the
13 immigration officials' activities.

14 In response, Secretary Noem commented that "the more
15 people protest, the harder ICE is going to come after them."

16 President Trump encouraged federal officers to use
17 physical violence against protesters if they get too close.
18 And defendants have consistently expelled and targeted
19 plaintiffs with various uses of force who hold signs, chant,
20 shout, and otherwise assemble against Operation Midway Blitz.

21 Further, while permitting exclusive access to
22 journalists who portray them in a more favorable light,
23 defendants have tackled and arrested at least one member of the
24 media covering the Broadview facility. Tellingly, defendants
25 do not deny that they would treat pro-ICE demonstrators more

1 favorably. Accordingly, I find that defendants have placed
2 content-based restrictions on plaintiffs, and strict scrutiny
3 applies.

4 To survive strict scrutiny, defendants must prove that
5 the restriction furthers a compelling interest and is narrowly
6 tailored to achieve that interest. I don't dispute the
7 defendants have a compelling interest in the protection of
8 federal property and personnel and enforcement of federal laws.

9 Defendants argue that the use of lawful, less-lethal
10 crowd control devices is narrowly tailored to achieve these
11 goals, claiming these devices are the most effective method
12 that law enforcement has to push an entire crowd back from
13 destroying property and blocking traffic.

14 But I find it likely that plaintiffs will succeed in
15 showing that defendants' use of tear gas, pepper bullets, and
16 other less-lethal force is not sufficiently narrowly tailored.
17 Plaintiffs' police practices expert opined that there's no law
18 enforcement purpose to use less-lethal weapons or chemical
19 irritants other than in narrow circumstances addressing a riot
20 or imminent violent actions, and to minimize bodily injury to
21 specific targets.

22 He further concluded that federal agents significantly
23 deviated from standard and accepted practices for how officers
24 are trained to manage the First Amendment rights of
25 individuals, protesters, and journalists.

1 I've already found that defendants' allegations of
2 riots and violence, and therefore their justification for the
3 use of this force, lack credibility from my review of the
4 entire record.

5 Even if plaintiffs can only show that its actions have
6 regulated speech and assembly neutrally, defendants' arguments
7 still fail intermediate scrutiny. Under intermediate scrutiny,
8 courts consider whether there's a reasonably close fit between
9 the government's means and its ends. I find it likely that
10 plaintiffs will be able to show that while defendants'
11 interests are significant, defendants' actions are not narrowly
12 tailored to survive immediate scrutiny.

13 The next claim is the First Amendment retaliation.

14 To prevail on a First Amendment retaliation claim,
15 plaintiffs must ultimately show that they engaged in activity
16 protected by the First Amendment; that they suffered a
17 deprivation that would likely deter First Amendment activity in
18 the future; and that the First Amendment activity was at least
19 a motivating factor in defendants' decision to take retaliatory
20 action.

21 Despite defendants' attempts to paint all protesters
22 as violent or disobedient, I find that plaintiffs have provided
23 evidence that they engaged in First Amendment-protected
24 activity.

25 Numerous declarants and witnesses at the preliminary

1 injunction hearing stated that they were shot with less-lethal
2 munitions, gassed, pepper sprayed, threatened with arrests for
3 recording and observing, tackled, and had guns pointed at them.
4 As these declarants and witnesses have stated, such actions
5 would likely deter a person of ordinary firmness from
6 continuing to engage in protected activity.

7 Finally, proof of motive can be established through
8 either direct or circumstantial evidence, including suspicious
9 timing, ambiguous oral or written statements, or behavior
10 towards or comments directed at other people in the protected
11 group.

12 Plaintiffs have provided such evidence here, including
13 public statements made by defendants regarding protesters,
14 including Secretary Noem admonishing agents at Broadview to go
15 hard against people for "the way they're talking, speaking, who
16 they're affiliated with, who they're funded with, and what
17 they're talking about as far as consequences for what we're
18 doing by protecting this country."

19 Plaintiffs have provided declarations and evidence
20 that federal agents have used excessive force against
21 peacefully protesting -- those peacefully protesting the
22 federal agents' presence and operations in the Chicagoland
23 area, as I reviewed.

24 The free exercise and the RFRA -- so R-F-R-A --
25 statute, prohibit the federal government from imposing

1 substantial burdens on religious exercise, absent a compelling
2 interest pursued through the least restrictive means. In
3 passing RFRA, Congress sought to create a broad statutory right
4 that provides greater protections for religious exercise than
5 is available under the First Amendment.

6 Under RFRA's burden shifting-framework, once a RFRA
7 claimant makes a *prima facie* case that the application of a law
8 or regulation substantially burdens one's religious practice,
9 the burden shifts to the government to justify the burden under
10 strict scrutiny.

11 Earlier this year, the Seventh Circuit, analyzing a
12 line of relevant Supreme Court cases, identified three ways a
13 plaintiff can prove a government policy or act substantially
14 burdens their religious practice: If the government policy or
15 act compelled them to perform acts undeniably at odds with
16 fundamental tenets of their religious beliefs, put substantial
17 pressure on them to modify their behavior and violate their
18 beliefs, or bears direct, primary, and fundamental
19 responsibility for -- for rendering a religious exercise
20 effectively impracticable.

21 In assessing whether a burden is substantial, we focus
22 primarily on the intensity of the coercion applied by the
23 government and not the centrality of the religious practice in
24 question.

25 Plaintiffs have shown that they're likely to succeed

1 in establishing that defendants' actions put substantial
2 pressure on religious practitioners to modify their behavior
3 and violate their beliefs under highly coercive threats of
4 violence.

5 Plaintiffs contend that defendants have engaged in a
6 policy, pattern, and practice of targeting people visibly
7 engaged in prayer and other religious exercise with
8 PepperBalls, tear gas, and other physical violence without
9 provocation.

10 Plaintiffs have submitted declarations from
11 Reverend Black, Reverend Holcombe, and others describing
12 defendants' targeted actions against religious practitioners,
13 including shooting PepperBalls and other projectiles at
14 Reverend Black and Reverend Holcombe while they were praying.

15 Further, plaintiffs argue that defendants' actions
16 force the religious practitioners to choose between their
17 health and safety on the one hand and authentically practicing
18 their faith on the other.

19 For example, Father Curran stated that he's restricted
20 whom he invites to join prayer vigils at Broadview and stopped
21 using the vigils as an opportunity to provide religious
22 education to Catholic students because of the high risk of
23 violence. This alleged coercion is enough to show that
24 plaintiffs are likely to establish that the government has
25 substantially burdened religious practice.

1 Now turning to the Fourth Amendment claim.

2 Although plaintiffs make a claim based on arrests
3 without probable cause, I don't find it necessary to reach at
4 this time to decide whether they have a likelihood of success
5 on the merits to decide the preliminary injunction motion.

6 Plaintiffs also make a claim based on excessive force.
7 Excessive force is a form of unreasonable seizure in violation
8 of the Fourth Amendment. These types of claims are evaluated
9 based on whether the officer's actions were objectively
10 reasonable under the circumstances. Reasonableness must be
11 judged from the perspective of a reasonable officer on the
12 scene and not on hindsight.

13 The proper application of the standard requires
14 careful attention to the facts and circumstances of each
15 particular case, including the severity of the crime at issue,
16 whether the subject poses an immediate threat to the safety of
17 others, and whether he's actively resisting arrest or
18 attempting to evade arrest by flight.

19 Defendants argue that the proper standard is the
20 14th Amendment shocks the conscience standard for substantive
21 due process and not the Fourth Amendment because no seizure is
22 effectuated because the defendants are seeking to disperse
23 dangerous crowds, not restrain them. But I disagree.

24 A seizure occurs under the Fourth Amendment when an
25 officer, by means of physical force or show of authority has --

1 has in some way restrained the liberty of a citizen. Here,
2 plaintiffs have submitted declarations and testimony indicating
3 that the use of less-lethal force, as well as physical contact,
4 has restrained their liberty, instead of being merely used as a
5 measure to disperse a crowd.

6 Officers may not, according to the Seventh Circuit,
7 without provocation, start beating, pepper spraying, kicking,
8 or otherwise mistreating people standing around a restaurant
9 parking lot, even in the middle of the night.

10 The Seventh Circuit has also noted that the use of
11 pepper spray could be considered excessive force if used
12 without justification, noting that assaulting citizens who are
13 safely detained without any provocation violates clearly
14 established constitutional principles.

15 And the Ninth Circuit noted that use of projectile --
16 that use of a projectile filled with pepper spray amounted to a
17 seizure and was unreasonable where the plaintiff posed no
18 visible threat and did not demonstrate an unwillingness to
19 comply with officers' orders.

20 I see little reason for the use of force that the
21 federal agents are currently using. Pointing guns, pulling out
22 pepper spray, throwing tear gas, shooting PepperBalls, and
23 using other less-lethal munitions do not appear to be
24 appropriate uses of force in light of the totality of the
25 circumstances. This is particularly a cause for concern where

1 plaintiffs' evidence suggests that federal agents are using
2 this force indiscriminately instead of in a targeted manner.
3 And even if this fell under a 14th Amendment analysis, I would
4 find the use of force shocks the conscience.

5 While the defendants argue that the use of less-lethal
6 force here was a de-escalation technique to reduce the risk of
7 harm to officers and the public, plaintiffs have marshalled
8 ample evidence that agents instead intended to cause protesters
9 harm.

10 The next factor I need to consider is irreparable harm
11 and inadequate remedy at law.

12 Having found that plaintiffs have shown a likelihood
13 of success on their claims, I next consider whether they've
14 demonstrated irreparable harm and whether they have an
15 inadequate remedy at law as to each of their claims.

16 The loss of First Amendment freedoms, even for minimal
17 periods of time, unquestionably constitutes an irreparable
18 injury. Accordingly, under Seventh Circuit law, irreparable
19 harm is presumed in First Amendment cases. And although the
20 claim is statutory, RFRA protects First Amendment exercise --
21 I'm sorry -- RFRA protects First Amendment free-exercise
22 rights, so courts apply First Amendment irreparable harm
23 analysis to RFRA claims.

24 Moreover, quantifying a First Amendment injury is
25 difficult and damages are therefore not an adequate remedy.

1 Because I conclude that defendants' conduct likely violates the
2 First Amendment and RFRA, plaintiffs have established that they
3 will suffer irreparable harm and that they have an inadequate
4 remedy at law if I deny the motion for preliminary injunction.

5 A Fourth Amendment violation stemming from an illegal
6 search or seizure does not presumptively cause irreparable harm
7 or suggest an inadequate remedy at law because it's a
8 constitutional tort analogous to a personal injury claim where
9 money damages will be awarded.

10 An inadequate remedy at law does not mean wholly
11 ineffectual, however. Although the remedy must be seriously
12 deficient as compared to the harm suffered, here, plaintiffs
13 have shown irreparable harm because of the ongoing nature of
14 the alleged violation of their Fourth Amendment rights, with
15 money damages insufficient to compensate them for the
16 repetitive constitutional violations.

17 And I acknowledge that some limited legal remedies
18 exist under the federal torts -- Federal Tort Claims Act, and
19 *Bivens* case law, for at least some Fourth Amendment violations.
20 But given the limited nature of these legal remedies, I do not
21 find that their existence precludes injunctive relief.

22 The next factor is -- the next two factors are the
23 balance of harms and the public interest.

24 I weigh the harms the denial of the preliminary
25 injunction would cause the plaintiffs against the harm to the

1 defendants if I were to grant it. This balancing process
2 involves a sliding scale approach: The more likely the
3 plaintiff is to win on the merits, the less the balance of
4 harms needs to weigh in their favor, and vice versa. When the
5 government is a party, the balance of equities and the public
6 interest factors merge.

7 The government argues that the public has an interest
8 in ensuring public safety and order and preventing attacks on
9 federal property and personnel. While they do have such an
10 interest, the public also as an interest in its citizens'
11 bodily integrity, the right to peaceful protest, the right to
12 assemble, the right to a peaceful free exercise of religion.

13 Moreover, the public has a strong interest in having a
14 government that conducts itself fairly and according to its own
15 stated regulations and policies.

16 With respect to the First Amendment and RFRA, once a
17 moving party establishes a likelihood of success on the merits
18 in First Amendment cases, the balance of harms normally favors
19 granting preliminary injunctive relief because injunctives --
20 injunctions protecting First Amendment freedoms are always in
21 the public interest.

22 And just as with irreparable harm, the same analysis
23 applies to plaintiffs' RFRA claim. Because defendants' conduct
24 likely violates the First Amendment, the balance of equities on
25 these two claims weighs in favor of a preliminary injunction.

1 It is difficult to conceive how an injunction
2 requiring the government to comply with the Constitution could
3 possibly be harmful. The balance of equities favors the
4 plaintiffs, because without a preliminary injunction, they will
5 be subject to defendants' ongoing violations of their Fourth
6 Amendment right to be free from excessive force. And the
7 public interest is served when courts uphold constitutional
8 rights.

9 The government does argue that the Fourth Amendment
10 decisions are too fact-sensitive for injunctive relief. And
11 while I acknowledge that there are fact-specific situations
12 where the government, as here, is indiscriminately using force
13 untethered to any specific threat that they are perceiving and
14 failing to conduct any individualized assessment on the
15 appropriate use of force -- force that is tethered to the facts
16 facing the agents on the ground, an injunction requiring the
17 government to make these individualized assessments that they
18 are required to undertake under the Constitution is not a harm
19 to the government.

20 To put it another way, requiring the government to
21 comply with its obligations under the Constitution, and in
22 particular the Fourth Amendment, is simply not a harm.

23 So finally turning to the scope of relief.

24 Defendants argue that plaintiffs -- that I should deny
25 plaintiffs' motion because I lack jurisdiction to enjoin the

1 Department of Homeland Security's immigration enforcement
2 operations. Specifically, defendants point to
3 Section 1252(f)(1) of the Immigration and Nationality Act,
4 which provides that regardless of the nature of the action or
5 the claim or of the identity of the party or parties bringing
6 the action, no court, other than the Supreme Court, shall have
7 jurisdiction or authority to enjoin or restrain the operations
8 of Sections 1221 through Sections 1232, as amended by the
9 Illegal Immigration Reform and Immigrant Responsibility Act of
10 1996, other than with respect to the application of such
11 provisions to an individual alien against whom proceedings
12 under such part have been initiated.

13 The Supreme Court has explained that this provision
14 generally prohibits lower courts from entering injunctions that
15 order federal officials to take or refrain from taking actions
16 to enforce, implement, or otherwise carry out the specified
17 statutory provisions. However, this provision does not
18 categorically insulate immigration enforcement from judicial
19 class-wide injunctions.

20 To trigger Section 1252(f)(1)'s bar, a class-wide
21 injunction must directly enjoin or restrain the operation of a
22 specified statutory provision. A class-wide injunction which
23 only collaterally impacts the operation of the specified
24 statutory provision will not implicate Section 1252(f)(1).

25 Here, plaintiffs seek to enjoin defendants from

1 violating class members' First and Fourth Amendment rights and
2 require defendants to have visible identification affixed to
3 their uniforms and conspicuously displayed. The only
4 connection between this relief and Section 1252(f)(1)'s
5 specified statutory provisions is that the class members allege
6 that their First and Fourth Amendment rights are being violated
7 while they're observing, recording, and/or protesting the
8 Department of Homeland Security's immigration enforcement
9 operations.

10 Thus, to the extent that the requested injunctive
11 relief would have any impact on the operation of the specified
12 statutory provisions, I find that such an effect would be
13 entirely collateral in nature and therefore is not barred by
14 Section 1252(f)(1).

15 Defendants additionally argue that plaintiffs are
16 improperly requesting a universal injunction seeking relief on
17 behalf of nonparties. In June of 2025, the Supreme Court
18 clarified that federal courts cannot issue universal
19 injunctions; in other words, injunctions that prohibit
20 enforcement of a law or policy against anyone.

21 Pursuant to *CASA*, then, the Court must ensure that it
22 does not issue an injunction broader than necessary to provide
23 complete relief to each plaintiff with standing to sue. But
24 this does not mean that the Court's injunction cannot
25 incidentally benefit a nonparty.

1 Here, in awarding complete relief to plaintiffs, the
2 injunction will necessarily incidentally benefit other
3 protesters, journalists, and religious figures present at
4 protests.

5 Plaintiffs contend that defendants have
6 indiscriminately used force against them, even though they have
7 not engaged in any violent or noncompliant actions. Given the
8 scale of the protests, defendants likely cannot determine who
9 among the protesters is a plaintiff in this case.

10 Moreover, plaintiffs could not be assured that the
11 injunction has any force if defendants could engage in the
12 crowd control tactics addressed in the injunction with respect
13 to other protesters, journalists, or religious figures present
14 near them, given the fact that these crowd control tactics are
15 designed to have an impact beyond just one individual.

16 For this reason, the injunction does not violate
17 CASA's prohibition on universal injunctions, because the
18 effects on nonparties are incidental to the need to provide
19 complete relief to the named plaintiffs.

20 Only plaintiffs can enforce the preliminary
21 injunction's terms.

22 And the relief that the Court is ordering, enjoining
23 all chilling of First Amendment rights, is in line with other
24 well-accepted jurisdictional and remedial principles with
25 respect to First Amendment claims.

1 First Amendment challenges, if successful, justify an
2 expansive remedy, suspending all enforcement of the challenged
3 practice, to protect an uninhibited marketplace of ideas, and
4 reduce the social costs caused by the withholding of protected
5 speech.

6 Finally, defendants raise a concern about the Court
7 micromanaging law enforcement and the internal operations of
8 law enforcement with a preliminary injunction. Defendants
9 emphasize that the Court cannot intrude into personnel
10 management decisions of the Executive Branch. But I'm doing no
11 such thing with this injunction. I'm not telling defendants
12 how to staff its operations. I'm not telling defendants whom
13 to hire.

14 And more importantly, both Mr. Hewson and Mr. Bovino
15 stated that they were already following the terms of the
16 temporary restraining order. They stated that, in fact, it
17 wasn't a change from how they were operating previously.
18 Therefore, any implementation of a preliminary injunction is
19 not going to change how ICE or CBP operates. It is not
20 micromanaging. It is simply in accordance with how they say
21 they are conducting their activities.

22 Rule 65(c) provides that a court may issue a
23 preliminary injunction or a temporary restraining order only if
24 the movant gives security in an amount that the Court considers
25 proper to pay the costs and damages sustained by any party

1 found to have been wrongfully enjoined or restrained.

2 However, the case law has somewhat weakened the force
3 of the no or- -- "no order shall issue" language in Rule 65(c).

4 Under appropriate circumstances, a court may excuse
5 bond, notwithstanding the literal language of Rule 65(c), and
6 district courts retain the discretion to determine if a bond
7 must be posted despite that mandatory language.

8 Seventh Circuit case law identifies two scenarios in
9 which a district court may forgo requiring a bond. First, a
10 court may not require a bond if the enjoined party does not
11 demonstrate it will incur any damages from the injunction;
12 second, a court may forgo a bond when a bond that would give
13 the opposing party absolute security against incurring any loss
14 from the injunction would exceed the applicant's ability to
15 pay, and the district court balances, often implicitly, the
16 relative cost to the opponent of a smaller bond against the
17 cost to the applicant of having to do without a preliminary
18 injunction that he may need desperately.

19 Both scenarios support waiving the bond requirement
20 here.

21 First, I do not find that the training costs that
22 defendants identified to be significant, particularly because a
23 preliminary injunction essentially directs agents and officers
24 to follow the training they've already received on crowd
25 control, as well as what the Constitution demands of them.

1 More importantly, when a court implicitly balances the
2 cost of injunctive relief against the harm to speech if an
3 injunction is denied, free speech prevails.

4 That is the case here, and therefore I will not
5 require plaintiffs to post a bond.

6 As to whether I would stay this order pending appeal,
7 in deciding whether to issue a stay pending appeal, I consider
8 whether the stay applicant has made a strong showing that
9 they're likely to succeed on the merits, whether the applicant
10 will be irreparably injured absent a stay, whether issuance of
11 the stay will substantially injure the other parties interested
12 in the proceeding, and where the public interest lies.

13 The party requesting a stay bears the burden of
14 showing that the circumstances justify an exercise of that
15 discretion.

16 I don't find it appropriate to stay a preliminary
17 injunction pending appeal. Defendants have not made a strong
18 showing that they're likely to succeed on the merits of their
19 claim, and I fail to see any irreparable injury to defendants
20 if I allow the preliminary injunction to go forward.

21 Defendants have been operating under the rules of the
22 temporary restraining order for the last 28 days. Instead,
23 staying the injunction pending appeal would substantially
24 injure the plaintiffs and the public who deserve to have their
25 fundamental constitutional rights respected.

1 There are people that have made comments about these
2 rights at issue here, and I just simply want to end with their
3 words. You may recognize some of them.

4 A Constitution of Government once changed from
5 Freedom, can never be restored. Liberty once lost is lost
6 forever. When the People once surrender their share of the
7 Legislature, and their Right of defending the Limitations upon
8 the Government, and of resisting every Encroachment upon them,
9 they can never regain it. That's what John Adams said to his
10 wife, Abigail, in 1775.

11 For if Men are to be precluded from offering their
12 sentiments on a matter, which may involve the most serious and
13 alarming consequences, that can invite the consideration of
14 Mankind; reason is of no use to us - the freedom of speech may
15 be taken away - and, dumb and silent we may be led, like sheep,
16 to the Slaughter. That was George Washington in 1783 in the
17 Newburgh address.

18 Freedom of speech is a principal pillar of a free
19 government. When this support is taken away, the Constitution
20 of a free society is dissolved and tyranny is erected on its
21 ruins. Republics and limited monarchies divide -- derive their
22 strength and vigor from a popular examination into the actions
23 of the magistrates. Benjamin Franklin wrote that in the
24 Pennsylvania Gazette.

25 Of that freedom of thought and speech, one may say

1 that it is the matrix, the indispens- -- indispensable
2 condition, of nearly every other form of freedom. That was
3 from Justice Cardozo in 1969. Oh, sorry, actually, 1937.

4 In 1799, Thomas Jefferson wrote: I am for freedom of
5 the press, and against all violations of the Constitution to
6 silence by force and not by reason the complaints or
7 criticisms, the just or unjust, of our citizens against the
8 conduct of their agents.

9 He also noted that: The only security of all is in a
10 free press.

11 And finally he said: Our liberty depends on the
12 freedom of the press, and that cannot be limited without being
13 lost.

14 And finally, James Monroe, when he was addressing the
15 Virginia General Assembly in 1785 said: We hold it for a
16 fundamental and an inane -- sorry -- inalienable truth, that
17 Religion and the manner of discharging it, can be directed only
18 by reason and conviction, not by force and violence. The
19 Religion then of every man must be left to the conviction and
20 conscience of every man; and it is the right of every man to
21 exercise it as these may dictate.

22 So I will now read into the record the preliminary
23 injunction order that I will also enter in writing.

24 It's hereby ordered that defendants, their officers,
25 agents, assigns, and all persons acting in concert with them

1 (hereafter referred to as "federal agents"), are enjoined in
2 this judicial district from:

3 Interactions with journalists: Dispersing, arresting,
4 threatening to arrest, threatening or using physical force
5 against any person whom they know or reasonably should know is
6 a journalist, unless federal agents have probable cause to
7 believe that the individual has committed a crime unrelated to
8 failing to obey a dispersal order lawfully issued to
9 nonjournalists. Federal agents may order a journalist to
10 change location to avoid disrupting law enforcement, as long as
11 the journalist has an objectively reasonable amount of time to
12 comply and an objectively reasonable opportunity to report and
13 observe;

14 Dispersal of others: Issuing a crowd dispersal order,
15 meaning a lawful command given by an authorized federal agent
16 for all persons to leave the designated area, that requires any
17 class member to leave a public place that they lawfully have a
18 right to be, unless dispersal is justified by exigent
19 circumstances such that immediate action is objectively
20 necessary in order to preserve life or prevent catastrophic
21 outcomes as defined by the Department of Homeland Security use
22 of force policy, updated February 6, 2023, Section XII.E;

23 Using riot control weapons, including kinetic impact
24 projectiles, compressed air launchers, oleoresin capsicum
25 spray, CS gas, CN gas, or other chemical irritants, 40 mm

1 munition launchers, less-lethal shotguns, less-lethal specialty
2 impact chemical munitions, controlled noise and light
3 distraction devices, electronic control weapons, on any class
4 member, unless such force is objectively necessary to stop the
5 person from causing an immediate threat of physical harm to
6 another person;

7 Using riot control weapons, including those that I
8 just described, at identified targets if it is reasonably
9 foreseeable that doing so could result in injury to any class
10 member, unless such force is objectively necessary to stop the
11 person from causing an immediate threat of physical harm to
12 another person;

13 Deploying CS or CN gas canisters, OC spray, or other
14 chemical irritants into a group of people or in residential or
15 commercial areas in a manner that poses a reasonably
16 foreseeable risk of injuring any class member who is not
17 causing an immediate threat of physical harm to another person;

18 Deploying CS or CN gas canisters, controlled noise and
19 light distraction devices, or less-lethal specialty impact and
20 chemical munitions so as to strike any class member, unless
21 such force is objectively necessary to stop an immediate threat
22 of the person causing serious bodily injury or death to another
23 person;

24 Deploying CS or CN gas canisters, controlled noise and
25 light distraction devices, or less-lethal specialty impact and

1 chemical munitions above the head of any class member, unless
2 such force is objectively necessary to stop an immediate threat
3 of the person causing serious bodily injury or death to another
4 person;

5 Firing compressed air launchers, or munition
6 launchers, or KIPs so as to strike the head, neck, groin,
7 spine, or female breast of any class member, unless such force
8 is objectively necessary to stop an immediate threat of the
9 person causing serious bodily injury or death to another
10 person;

11 Striking any class member with a vehicle, unless such
12 force is objectively necessary to stop an immediate threat of
13 the person causing serious bodily injury or death to another
14 person;

15 Using hands-on physical force such as pulling or
16 shoving to the ground, tackling, or body slamming any class
17 member who is not causing an immediate threat of physical harm
18 to others, unless objectively necessary and proportional to
19 effectuate an apprehension and arrest;

20 Using choke holds, carotid restraints, neck
21 restraints, or any other restraint technique that applies
22 prolonged pressure to the neck that may restrict blood flow or
23 air passage against any class member, unless such force is
24 objectively necessary to stop an immediate threat of the person
25 causing serious bodily injury or death to another person;

1 Using any riot control weapon, including those listed
2 in the order, against any class member, without first giving at
3 least two separate warnings at a sound level where the targeted
4 individuals can reasonably hear it, unless justified by exigent
5 circumstances when immediate action is necessary in order to
6 preserve life or prevent catastrophic outcomes, as defined by
7 the Department of Homeland Security use of force policy,
8 updated February 6, 2023, Section XII.E. Such warnings shall
9 explain that federal agents may employ riot control weapons or
10 force, give the targeted individuals reasonable time to avoid
11 the use of force, and provide a reasonable opportunity to
12 comply;

13 Seizing or arresting any class member who is not
14 resisting a lawful and authorized crowd dispersal order, as
15 defined earlier, unless there is specific probable cause to
16 believe that the person has committed a crime for which a
17 custodial arrest is warranted and for which federal -- the
18 federal agent has lawful authority to make the arrest;

19 And, finally, defendants shall not be liable for
20 violating this injunction if any class member is incidentally
21 exposed to riot control devices after such device was deployed
22 in a manner that complies with the injunction;

23 To facilitate defendants' identification of
24 journalists protected under this order, the following are
25 examples of indicia of being a journalist: visual

1 identification as a member of the press, such as by displaying
2 a professional press badge, pass, or credentials; wearing
3 distinctive clothing or patches that identify the wearer as a
4 member of the press; or carrying professional gear such as
5 professional photographic or videography equipment. Other
6 indicia of being a journalist under this order include that the
7 person is standing off to the side of a protest, not engaging
8 in chanting, sign holding, or shouting slogans, and is instead
9 documenting protest activities, although these are not
10 requirements. These indicia are illustrative, and a person
11 need not exhibit every indicium to be considered a journalist
12 under the order. Defendants shall not be liable for incidental
13 violations of the order if defendants establish that the
14 affected individual lacked any of the illustrative indicia of a
15 journalist described in the provision.

16 It's further ordered that all federal agents,
17 excepting those who do not wear a uniform or other
18 distinguishing clothing or equipment in the regular performance
19 of their official duties or are engaged in undercover
20 operations in the regular performance of their official duties,
21 must have visible identification of a unique, personally
22 assigned, and recognizable alphanumeric identifier sequence
23 affixed to their uniforms and conspicuously displayed in two
24 separate places. The same unique and personally assigned
25 identifier sequence must remain conspicuously displayed in two

1 separate places despite changes to a federal agent's uniform or
2 tactical gear.

3 It's further ordered that all federal agents,
4 excepting those who do not wear a uniform or other
5 distinguishing clothing or equipment in the regular performance
6 of their official duties or are engaged in undercover
7 operations in the regular performance of their official duties,
8 that are, have been, or will be equipped and trained with
9 body-worn cameras shall activate them when engaged in
10 enforcement activity unless expressly exempted by CBP, ICE, or
11 DHS policy.

12 The definitions of "body-worn cameras" shall be
13 defined in DHS Policy Statement 045-07 Section VII and CBP
14 Directive 4320-020B Section 6.2:

15 Audio, video, or digital recording equipment combined
16 into a single unit and typically worn on clothing or otherwise
17 secured to a person; for example, affixed to the outside of the
18 carrier or tactical vest facing forward.

19 For the purposes of this order, definition of
20 "enforcement activity" shall be as defined in ICE Directive
21 19010.3 Section (3.6)(8), and CBP Directive 4320-020B
22 Section 6.4. Such activities include, but are not limited to:

23 Protecting federal government facilities;
24 Responding to public disturbances;
25 Interacting with members of the public while

1 conducting Title 8 enforcement activities in the field; and

2 When responding to emergencies.

3 Enforcement activities where body-worn cameras are not
4 required to be worn or activated for the purposes of this order
5 are:

6 Where agents are conducting undercover activity or
7 confidential informants will or may be present;

8 Information-gathering surveillance activities where
9 and when an enforcement activity is not planned;

10 Onboard commercial flights;

11 Controlled deliveries; and

12 Custodial interviews conducted inside jails, prisons,
13 detention centers, or DHS owned or leased facilities.

14 This provision requiring body-worn cameras shall not
15 apply to federal agents operating at any port of entry into the
16 United States, including, but not limited to, Chicago O'Hare
17 International Airport and Chicago Midway International Airport.

18 Federal agents shall not be liable for violating this
19 provision for failure to record due to equipment failure beyond
20 the control of federal agents, or in the event that cloud
21 storage for storing recordings made by body-worn cameras should
22 become unavailable, through no fault of federal agents, either
23 due to the lapse in appropriations, or license or contract
24 expiration.

25 It's further ordered that defendants widely

1 disseminate the notice of this order. Specifically, defendants
2 are ordered to provide copies of this order, in either
3 electronic or paper form, no later than 10:00 p.m. Central Time
4 on November 6, 2025, to all others described below:

5 All law enforcement personnel, officers, and agents of
6 the federal agents currently or subsequently deployed in the
7 Northern District of Illinois, including, but not limited to,
8 all personnel operating within this district who are part of
9 Operation Midway Blitz or any equivalent operation by a
10 different name; and

11 All employees, officers, and agents of federal agents
12 with supervisory or management authority over any law
13 enforcement officers or agents currently or subsequently
14 deployed in the Northern District of Illinois, up the chain of
15 command to and including the Secretary of Homeland Security and
16 other named defendants.

17 It's further ordered that defendant shall issue
18 guidance to officers and agents to implement this order.
19 Defendants shall file with the Court such guidance and any
20 directives, policies, or regulations implementing the guidance
21 within five business days of issuance of the order, with a
22 continuing obligation to immediately file with the Court any
23 subsequent changes or revisions to that guidance or
24 implementing directives, policies, or regulations through the
25 period of the order.

1 It is further ordered that in the event plaintiffs
2 seek relief for an alleged violation of this order, plaintiffs
3 should make a good faith attempt to meet and confer with
4 defendants for at least 24 hours before filing a request for
5 relief and defendants must respond to the motion for relief as
6 ordered by the Court.

7 It's further ordered that in the interest of justice,
8 I order plaintiffs to provide zero dollars in security. And I
9 rule that any other requirements under Rule 65(c) of the
10 Federal Rules of Civil Procedure are satisfied.

11 The parties shall meet and confer and provide a joint
12 status report within seven days setting forth proposals for
13 ensuring that federal agents present in the Northern District
14 of Illinois while this action is pending remain informed of the
15 limitations imposed by this order.

16 I am ordering this preliminary injunction at 11:48,
17 Central Time, on the 6th day of November, and it shall remain
18 in effect pending further proceedings before this Court.

19 All right. The last is the class certification
20 motion.

21 I am going to grant the plaintiffs' motion for class
22 certification. I do find that I have broad discretion in
23 determining whether to certify a proposed class. The parties
24 seeking certification bears the burden of demonstrating that a
25 certification is proper by a preponderance of the evidence.

1 And I will issue a written order later today.

2 However, I do find that plaintiffs have met by a
3 preponderance of the evidence the requirements under Rule 23
4 for numerosity, commonality, typicality, and adequacy of
5 representation.

6 I also find under Rule 23(b)(2) that a class should be
7 certified and find defendants' argument unavailing that I
8 should deny plaintiffs' motion because 8, United States Code,
9 Section 1252(f)(1) bars the requested class-wide relief.

10 So the class that I will be certifying -- that I am
11 certifying and will explain further in writing later today is
12 all persons who are or will in the future nonviolently
13 demonstrate, protest, observe, document, or record at
14 Department of Homeland Security Immigration Enforcement and
15 Removal Operations in the Northern District of Illinois.

16 I am certifying a religious exercise subclass, which
17 consists of all persons who are or will in the future engage in
18 religious expression in the form of prayer, procession, song,
19 preaching, or proselytizing at Department of Homeland Security
20 Immigration Enforcement and Removal Operations in the Northern
21 District of Illinois.

22 And I am also certifying a press subclass defined as
23 all persons who are or will in the future engage in
24 newsgathering or reporting at Department of Homeland Security
25 Immigration Enforcement and Removal Operations in the Northern

1 District of Illinois.

2 All right. There was just a couple of things we need
3 to just tie up.

4 One is directed to the government, which is I had
5 previously ordered Defendant Bovino to have a body camera and
6 use it by last Friday.

7 Do you know whether that's been done?

8 MR. WARDEN: It's my understanding I believe, yes,
9 that's correct. We can file a certification on the docket if
10 that would be helpful.

11 THE COURT: Okay. That would be. Thank you.

12 All right. Then we should set another status date to
13 just take up about the proposals for ensuring that everybody
14 knows of the preliminary injunction order and its terms.

15 So how about next Thursday afternoon?

16 MR. ART: Good for the plaintiffs, Your Honor.

17 THE COURT: Mr. Warden?

18 MR. WARDEN: Thursday afternoon, yes.

19 THE COURT: Okay.

20 MR. WARDEN: Excuse me. The purpose of that
21 conference is just to --

22 THE COURT: Ensure that everybody knows --

23 MR. WARDEN: Okay.

24 THE COURT: -- that the -- it's been disseminated.

25 So why don't we say 3:00 next Thursday.

1 MR. ART: Very good, Judge.

2 THE COURT: Does that work for you, Mr. Warden?

3 MR. WARDEN: I believe so. Would it be possible for
4 government counsel to appear virtually at that since we're in
5 Washington, D.C. --

6 THE COURT: Sure.

7 MR. WARDEN: -- if that's going to be a brief status?

8 THE COURT: Yep. That's fine.

9 MR. WARDEN: Thank you.

10 THE COURT: All right. I think that kind of takes up
11 all of my stuff.

12 I know we had talked yesterday about going through and
13 figuring out how to determine what needs to stay under seal and
14 what doesn't. I think, if it's okay with the parties, that,
15 Mr. Warden, you can kind of take a look at everything that has
16 been submitted under seal. And then when we come back next
17 Thursday, you can let me know beyond then how much longer you
18 think you would need to do any sort of review.

19 MR. WARDEN: Yes, that sounds appropriate.

20 THE COURT: Does that work, Mr. Art?

21 MR. ART: It works for the plaintiffs.

22 I believe counsel for the intervenors is --

23 MS. DACY: Excuse me, Your Honor. Julia Dacy for the
24 media intervenors.

25 So that should work for us if we can attend that

1 status as well, and then we'll address the government's needs
2 for any more time.

3 THE COURT: Okay. That sounds great.

4 All right. And then the only last thing were these
5 violations hanging out that I -- if plaintiffs want to move
6 forward on those, you know, you can file something, and then
7 we'd set a briefing schedule at the next status.

8 Does that make sense?

9 MR. ART: Yes. We intend to file something. We will
10 hopefully do that before the next status, and then we can brief
11 it then.

12 THE COURT: Okay. All right.

13 Anything else left outstanding?

14 MR. ART: On -- on behalf of us and our clients and
15 all of the counsel, thank you so much for the Court's time and
16 to the Court's staff for the tremendous expenditure of time in
17 the past few weeks. We appreciate it. We appreciate you
18 protecting this community. And we appreciate you upholding the
19 constitutional rights of our clients.

20 Thank you, Judge.

21 MR. WARDEN: We appreciate the Court's time. Thank
22 you very much, Your Honor.

23 THE COURT: All right. And since you did bring that
24 up, Mr. Art, I just want to publicly acknowledge the five
25 people on my staff, who have been absolutely outstanding over

1 the last month. This case has taxed us unbelievably and never
2 once did I hear a peep of a complaint, any even saying that
3 they were tired. And we were here late last night and back
4 again early this morning. I think we all felt like we were
5 back in big firm life. And not to mention that they aren't
6 being paid. And they are truly public servants. I am so proud
7 to work with them and call them my colleagues.

8 So just wanted to say that on the record.

9 All right. We'll see everybody --

10 MR. ART: Thank you.

11 THE COURT: -- next week.

12 THE COURT: Thanks.

13 (Concluded at 11:58 a.m.)

14
15
16 * * * * *

17 I certify that the foregoing is a correct transcript
18 from the record of proceedings in the above-entitled matter.

19 /s/ KELLY M. FITZGERALD

November 6, 2025

20 KELLY M. FITZGERALD, RPR, RMR, CRR
21 Official Court Reporter
22
23
24
25