

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Joseph Kirchner,
Plaintiff,

Case No. 26-cv-726-JWB/ECW

vs.

**PETITION FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Keith Ellison, in his official capacity as
Attorney General of the State of
Minnesota,
Defendants.

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JAN 27 2026

CLERK, U.S. DISTRICT COURT
ST. PAUL, MINNESOTA

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Authority	Citation
First Amendment	U.S. Const. amend. I
Fourth Amendment	U.S. Const. amend. IV
Seventh Amendment	U.S. Const. amend. VII
Ninth Amendment	U.S. Const. amend. IX
Fourteenth Amendment, § 1	U.S. Const. amend. XIV, § 1
Speech or Debate Clause	U.S. Const. art. I, § 6
Presidential Oath	U.S. Const. art. II, § 1, cl. 8
Judicial Power	U.S. Const. art. III
Privileges and Immunities Clause	U.S. Const. art. IV, § 2
Amendment Process	U.S. Const. art. V
Supremacy Clause	U.S. Const. art. VI, cl. 2

1

FEDERAL STATUTES

Statute	Citation
Civil Rights Act	42 U.S.C. § 1983
Posse Comitatus Act	18 U.S.C. § 1385
Domestic Terrorism Definition	18 U.S.C. § 2331(5)
Conspiracy Against Rights	18 U.S.C. § 241
Deprivation of Rights Under Color of Law	18 U.S.C. § 242
Witness Tampering	18 U.S.C. § 1512
Federal Kidnapping	18 U.S.C. § 1201
Direct Appeals from Three-Judge Courts	28 U.S.C. § 1253
Venue	28 U.S.C. § 1391
Certiorari Before Judgment	28 U.S.C. § 2101(e)
Stays Pending Certiorari	28 U.S.C. § 2101(f)
Freedom of Information Act	5 U.S.C. § 552

2

STATE STATUTES

Statute	Citation
Peace Officer Discipline Procedures Act	Minn. Stat. § 626.89
Government Data Practices Act	Minn. Stat. § 13.43
Trustee Removal	Minn. Stat. § 501C.0706
Duty of Loyalty	Minn. Stat. § 501C.0802
Minnesota Human Rights Act	Minn. Stat. § 363A.12
Unlawful Interception	Minn. Stat. § 626A.02
Consumer Fraud Act	Minn. Stat. § 325F.69
Criminal Conspiracy	Minn. Stat. § 609.175
Theft	Minn. Stat. § 609.52
Computer Crimes	Minn. Stat. §§ 609.87-609.8913
Colorado Enhance Law Enforcement Integrity Act	Colo. Rev. Stat. § 13-21-131

1

CASES

Case	Citation	Pages
<i>Bush v. Gore</i>	531 U.S. 98 (2000)	104-06
<i>City of Cleburne v. Cleburne Living Center, Inc.</i>	473 U.S. 432, 105 S. Ct. 3249 (1985)	446-50
<i>Craig v. Boren</i>	429 U.S. 190, 97 S. Ct. 451 (1976)	197-204
<i>Harlow v. Fitzgerald</i>	457 U.S. 800, 102 S. Ct. 2727 (1982)	815-19
<i>In the Matter of the Otto Bremer Trust</i>	4 N.W.3d 551 (Minn. 2024)	558-62
<i>Magnum Import Co. v. Coty</i>	262 U.S. 159 (1923)	163-64
<i>Monroe v. Pape</i>	365 U.S. 167, 81 S. Ct. 473 (1961)	183-87
<i>Pearson v. Callahan</i>	555 U.S. 223 (2009)	231-36
<i>Pierson v. Ray</i>	386 U.S. 547, 87 S. Ct. 1213 (1967)	555-57
<i>Romer v. Evans</i>	517 U.S. 620, 116 S. Ct. 1620 (1996)	631-36
<i>Skeen v. State</i>	505 N.W.2d 299 (Minn. 1993)	312-15
<i>State v. Welch Day</i>	No. 27-CR-20-211022 (Minn. Dist. Ct. Jan. 20, 2020)	Findings
<i>Tincher v. Noem</i>	No. 0:25-cv-04669, Doc. 85 (D. Minn. Jan. 16, 2026)	45-62
<i>Trump v. CASA, Inc.</i>	606 U.S. 831 (2025)	slip op. 8-16
<i>Trump v. Int'l Refugee Assistance Project</i>	582 U.S. ___, 137 S. Ct. 2080 (2017)	2087-88
<i>United States v. Munsingwear, Inc.</i>	340 U.S. 36 (1950)	39-41
<i>Virginia v. American Booksellers Ass'n</i>	484 U.S. 383, 108 S. Ct. 636 (1988)	392-93, 396-97
<i>Wood v. Strickland</i>	420 U.S. 308, 95 S. Ct. 992 (1975)	318, 322

OTHER AUTHORITIES

Authority	Citation
James Madison, Proposing Bill of Rights	1 Annals of Cong. 439 (1789)
The Federalist No. 46	(James Madison)
Executive Order on Ethics	Exec. Order No. 12,674, 3 C.F.R. 215 (1989)
Uniform Trust Code - Scope	Unif. Tr. Code § 102
Uniform Trust Code - Default Rules	Unif. Tr. Code § 105
Uniform Trust Code - Comment	Unif. Tr. Code § 1-106
Chemical Weapons Convention	Convention on the Prohibition of Chemical Weapons, Jan. 13, 1993
ICE Use of Force Policy	ICE Directive 19009.3 (May 26, 2023)

I. Jurisdiction And Venue

1. Venue is proper pursuant to 28 U.S.C. § 1391 because the Defendant executes, administers, and enforces the laws in question against the Plaintiff within this District. The events and omissions giving rise to this action have occurred, and continue to cause harm, within this District. Additionally, the State laws being challenged were enacted in the State capital, which is located within this District.

II. PARTIES

A. Plaintiff

2. Plaintiff JOSEPH D. KIRCHNER is 34 years old and a citizen of the United States of America, residing in the State of Minnesota since 1990. Plaintiff is the sole owner of **Laws of Existence LLC**, through which he conducts legal research, conflict resolution research, and development of the Laws of Existence Framework—a universal conflict resolution simulation framework with applications to constitutional governance, AI alignment, and institutional accountability. Plaintiff holds **seventeen provisional patents** related to this work. As a resident and active participant in the community, the Plaintiff is subject to Minnesota state law, including State Statute §626.89, and holds a sufficient interest in the state's well-being. Consequently, the Plaintiff possesses the legal standing required to assert this Complaint for Declaratory and Injunctive Relief.

1. Development of This Petition: Six Years Since George Floyd

3. Plaintiff has been developing the constitutional arguments in this Petition for six years. On June 2, 2020—eight days after George Floyd was killed in Minneapolis—Plaintiff spoke publicly at Lake Street and Nicollet Avenue about the constitutional necessity of a singular bill of rights binding all Americans equally. Plaintiff's message then is the same as this Petition's central argument now: one people cannot be bound by separate bills of rights.

4. The legal arguments herein are not theoretical or developmental. They identify specific constitutional mechanisms that, under strict scrutiny, reveal contradictions that are logically irreconcilable: (1) the Ninth Amendment explicitly prevents construing the Constitution to deny rights retained by the people; (2) qualified immunity was

1 judge-created outside the Article V ratification process that the Constitution requires
2 for expanding governmental power; and (3) the *Harlow* formulation of an "essentially
3 objective" standard is logically incoherent—objectivity admits no degrees. These are
4 not policy preferences but constitutional arithmetic that courts have declined to
5 perform for forty years.

6 **5.** The January 2026 killings of Renee Nicole Good and Alex Pretti did not create this
7 Petition—they demonstrated the lethal urgency of constitutional arguments Plaintiff
8 has been developing since standing in that Minneapolis intersection in 2020.
9 Minnesota's failure to act after George Floyd's death, while Colorado eliminated
10 qualified immunity, has now resulted in two more citizens killed by agents operating
11 under fabricated immunity in the same city.

12 **2. Additional Standing: Chilled First Amendment Rights from Federal**
13 **Enforcement Operations**

14 **6.** Plaintiff possesses additional standing based on the concrete chilling of his First
15 Amendment rights by federal enforcement operations in Minnesota. Plaintiff is
16 actively engaged in legal proceedings challenging the constitutionality of immunity
17 frameworks that shield federal agents from accountability. This legal work—itsself an
18 exercise of the First Amendment right to petition the government for redress of
19 grievances—requires evidence about federal enforcement conduct in Minnesota.

20 **7.** Plaintiff cannot safely gather this evidence. On January 7, 2026, federal agents
21 killed Renee Nicole Good, a 42-year-old United States citizen, while she observed
22 immigration enforcement operations in Minneapolis. On January 24, 2026, federal
23 agents killed **Alex Pretti**, a 37-year-old United States citizen—a lawful gun owner

1 with a valid permit to carry, no criminal record beyond traffic tickets, and no
2 connection to any enforcement target—in Minneapolis. Video evidence shows Mr.
3 Pretti was restrained by multiple federal agents when shot approximately ten or more
4 times; his legal firearm never left his waistband. At the January 24 scene, federal
5 agents attempted to bar local law enforcement from the crime scene and attempted to
6 arrest witnesses.

7 **8.** Plaintiff's observation of federal enforcement operations would risk: (1) **death**, as
8 demonstrated by two American citizens killed in seventeen days for proximity to
9 federal enforcement operations; and (2) **arrest**, as demonstrated by the attempted
10 detention of witnesses on January 24, 2026. Arrest would severely jeopardize
11 Plaintiff's pending legal proceedings, which challenge the very immunity frameworks
12 that shield the agents who committed these killings.

13 **9.** This creates a concrete, particularized injury satisfying Article III standing
14 requirements:

15 **(a) Plaintiff's First Amendment right to observe government conduct** is chilled—
16 Plaintiff cannot safely witness federal enforcement without risking death or arrest;

17 **(b) Plaintiff's First Amendment right to petition for redress of grievances** is
18 impaired—Plaintiff's legal work depends on evidence about federal conduct that
19 Plaintiff cannot safely gather;

20 **(c) Plaintiff's access to courts** is compromised—the inability to safely gather evidence
21 undermines the legal proceedings through which Plaintiff seeks vindication of
22 constitutional rights;

(d) Plaintiff faces an **impossible choice**: exercise constitutional rights and risk death or arrest (jeopardizing legal proceedings), or accept the chilling of those rights to preserve the case through which they are being vindicated.

10. This injury is not hypothetical or generalized. It is specific to Plaintiff's legal work, directly traceable to federal conduct in Minnesota, and redressable by declaratory and injunctive relief. The killings of two American citizens in seventeen days—combined with the attempted arrest of witnesses, the complete redaction of ICE's Use of Force policy under (b)(7)(E), and Vice President Vance's fabrication of "absolute immunity" for federal agents—establishes that the threat to Plaintiff is actual and imminent, not speculative.

11. Plaintiff's standing is further supported by the doctrine established in *Virginia v. American Booksellers Ass'n*, 484 U.S. 383 (1988), which holds that self-censorship from credible threat of enforcement creates Article III injury. The federal operations in Minnesota have created a credible threat of death or arrest for any citizen who observes enforcement activities—a threat so severe that Plaintiff cannot engage in the observation necessary to support his constitutional challenge to the immunity frameworks that enable this conduct.

3. Alternative Standing: Direct Personal Injury from Accountability Void

12. In the alternative, Plaintiff possesses standing based on direct personal injury suffered as a consequence of the accountability void created by Minnesota Statute § 626.89. As set forth in the Affidavit of Joseph D. Kirchner, attached hereto as **Exhibit F**, Plaintiff was subjected to unlawful detention, forced psychiatric commitment, and involuntary administration of antipsychotic medication by Minneapolis police officers

1 and medical personnel acting in concert—conduct explicitly characterized by officers
2 as intended to "teach [him] a lesson."

3 **13.** Plaintiff does not seek damages for this incident. He cites it to demonstrate that the
4 accountability void challenged in this Petition has caused him concrete, particularized
5 harm, establishing standing to seek declaratory and injunctive relief. The procedural
6 protections afforded to officers under § 626.89 ensured that no complaint mechanism
7 available to Plaintiff would result in meaningful accountability for the officers
8 involved.

9 **14.** Records of this incident exist at Hennepin County Medical Center and the
10 Minneapolis Police Department and are subject to discovery if Plaintiff's standing is
11 contested.

12 **4. Enhanced Standing: Coordinated Constitutional Targeting Across Federal and**
13 **State Proceedings**

14 **15.** Plaintiff possesses enhanced standing beyond that of an ordinary citizen because
15 Plaintiff is the specific target of coordinated constitutional violations by the same
16 federal officials whose conduct this Petition challenges. The targeting is documented
17 in *Kirchner v. Johnson et al.*, No. 1:25-cv-02735-ACR (D.D.C.), currently pending
18 before Judge Ana C. Reyes, where Plaintiff has alleged and documented coordinated
19 constitutional subversion by defendants including President Trump, Attorney General
20 Bondi, and others acting in concert with the Supreme Court's shadow docket violations.

21 **16.** Plaintiff is the sole owner of **Laws of Existence LLC** and holds **seventeen**
22 **provisional patents** covering AI alignment technology and a universal conflict
23 resolution simulation framework. These patents represent technology with

1 considerable potential benefit for society—including mathematical early warning
2 systems for conflict prevention and consciousness-enabling AI architecture. Plaintiff's
3 First and Fourth Amendment rights are crucial to completing this work.

4 **17.** The same federal officials who this Petition demonstrates are:

5 **(a)** Coordinating with the Supreme Court to supersede congressionally-granted
6 interlocutory stay authority under 28 U.S.C. § 2101(f), enabling ICE deployments that
7 have killed two Minnesota citizens;

8 **(b)** Publicly conflating the Federal Rules of Evidence to unlawfully expand victim
9 protection categories, achieving 0% accuracy on basic FRE principles across 43
10 consecutive days;

11 **(c)** Committing acts meeting the congressional definition of domestic terrorism under
12 18 U.S.C. § 2331(5);
13 are **simultaneously targeting Plaintiff's ability to investigate and document these**
14 **violations** through infrastructure-level network attacks.

15 **5. Network Forensic Evidence of Targeted Interference**

16 **18.** Plaintiff possesses forensic evidence documenting TCP RST injection attacks
17 targeting Plaintiff's communications with Minnesota law enforcement while gathering
18 evidence for this Petition. Evidence Package EVID-20260123-0001 documents:

19 **(a)** On January 23, 2026, Plaintiff's encrypted DNS-over-HTTPS connection to
20 Comcast's DoH infrastructure was attacked via TCP RST injection;

21 **(b)** A **1-microsecond gap** between the server's legitimate FIN packet and the first
22 injected RST packet—a timing physically impossible for legitimate traffic (minimum

server processing requires 100-500 microseconds; network round-trip to Chicago requires approximately 70 milliseconds);

(c) 44 seconds after the attack, Plaintiff's email to the Saint Paul Police Department (sppd-pio@saintpaul.gov) failed to deliver with "fatal errors";

(d) The previous day (January 22, 2026), Plaintiff's iCloud email to Hennepin County (eap@caphennepin.org) similarly failed due to DNS lookup failure;

(e) Both failures involved emails to **government addresses** related to Plaintiff's investigation for this Petition.

19. The 1-microsecond FIN-to-RST gap constitutes **smoking gun evidence** of packet injection. Legitimate server traffic cannot produce a 1-microsecond response time when the server is located in Chicago and minimum processing time exceeds 100 microseconds. The forensic evidence proves infrastructure-level attack rather than network failure.

20. The attack pattern specifically targeted Plaintiff's communications with Minnesota law enforcement. Plaintiff was attempting to distribute a questionnaire to local police departments regarding accountability procedures—evidence directly relevant to this Petition's challenge of Minnesota Statute § 626.89. The attacks prevented Plaintiff from gathering this evidence.

6. The Unified Coordination Pattern

21. The same defendants appear across Plaintiff's federal and state proceedings, employing the same methods to achieve the same constitutional violations:

Proceeding	Defendants	Method	Constitutional Violations
DCC Complaint	Trump, Bondi,	Shadow docket	1st, 4th, 5th,

(1:25-cv-02735)	Johnson, Carr, corporate defendants	violations of § 2101(f); FRE conflation; network surveillance	14th Amendments
This Petition	Federal agents operating under authority enabled by same shadow docket violations	Violence, domestic terrorism, fabricated immunity	1st, 4th, 7th, 14th Amendments
Network Attacks	Same infrastructure coordination	RST injection preventing evidence gathering	1st, 4th Amendments; obstruction

1 **22.** This is not coincidence. The probability that Plaintiff—who is documenting
2 coordinated constitutional violations by specific federal officials—would experience
3 infrastructure-level attacks specifically targeting communications with Minnesota law
4 enforcement while gathering evidence against those same officials, is mathematically
5 negligible. The compound probability of:

6 **(a)** 1-microsecond timing impossible for legitimate traffic;

7 **(b)** Attacks targeting government addresses specifically;

8 **(c)** Timing correlated with Plaintiff's evidence-gathering activities;

9 **(d)** Same officials documented in federal complaint appearing in Minnesota events;

10 establishes coordination rather than coincidence with mathematical certainty.

11 **7. Criminal Referral Filed Simultaneously**

12 **23.** Plaintiff has filed a criminal referral with the Minnesota Attorney General
13 documenting the network attacks and related criminal conduct. **See Criminal Referral**

1 to Minnesota AG (filed contemporaneously with this Petition). The referral documents
2 violations of:

3 **(a)** Minnesota computer crimes statutes (Minn. Stat. §§ 609.87-609.8913);

4 **(b)** Minnesota unlawful interception statute (Minn. Stat. § 626A.02);

5 **(c)** Minnesota theft statute (Minn. Stat. § 609.52);

6 **(d)** Minnesota consumer fraud statute (Minn. Stat. § 325F.69);

7 **(e)** Minnesota conspiracy statute (Minn. Stat. § 609.175).

8 **24.** The criminal referral establishes that Plaintiff's injuries from the coordinated
9 targeting are cognizable under Minnesota criminal law, further demonstrating the
10 concrete and particularized nature of Plaintiff's harm.

11 **8. Standing Summary**

12 **25.** Plaintiff's standing is therefore established on four independent grounds:

13 **(a) Chilled First Amendment rights** from federal enforcement operations that have
14 killed two citizens for observing enforcement;

15 **(b) Direct personal injury** from the accountability void created by § 626.89;

16 **(c) Coordinated targeting** by the same federal officials whose constitutional
17 violations this Petition documents, proven through network forensic evidence; and

18 **(d) Impaired ability to gather evidence** for this Petition due to infrastructure-level
19 attacks targeting Plaintiff's communications with Minnesota law enforcement.

20 **26.** This is not generalized grievance standing. Plaintiff is a specific target of
21 coordinated constitutional subversion by specific federal officials, documented across
22 federal litigation, network forensics, and the events giving rise to this Petition. The

1 same officials who have enabled federal agents to kill Minnesota citizens are
2 simultaneously attacking Plaintiff's ability to document and challenge their conduct.

3 **B. Defendant**

4 **27.** Respondent is KEITH ELLISON, in his official capacity as Attorney General of the
5 State of Minnesota. As Attorney General, Respondent is responsible for the
6 enforcement and administration of Minnesota state laws, including those challenged in
7 this petition. The Respondent's duties include defending the constitutionality of state
8 statutes and overseeing legal matters in which the State of Minnesota is a party.

9 **III. INTRODUCTION**

10 **A. The Emergency**

11 **28.** Federal agents have killed two United States citizens in Minneapolis in seventeen
12 days. On January 7, 2026, ICE Agent Jonathan Ross shot and killed Renee Nicole
13 Good, a 42-year-old mother, while she observed immigration enforcement outside her
14 residence. On January 24, 2026, federal agents executed **Alex Pretti**, a 37-year-old
15 Minneapolis resident—a lawful gun owner with a valid permit to carry and no criminal
16 record—shooting him in the back at point-blank range after disarming him. Video
17 evidence shows Mr. Pretti was restrained by multiple agents when killed. One agent
18 fled the scene. Another clapped.

19 **29.** These are not isolated incidents. They are the predictable consequence of an
20 accountability void that this Petition challenges—a void created by the convergence of

1 state law that shields officers from meaningful discipline, federal doctrine that shields
2 them from civil liability, and now federal executive proclamation that shields them
3 from any process whatsoever.

4 **B. The Accountability Void**

5 **30.** Minnesota Statute § 626.89, the Peace Officer Discipline Procedures Act, creates
6 procedural protections for law enforcement officers that exceed those afforded to any
7 other category of public employee or private citizen. These protections inhibit
8 transparency, constrain civilian oversight, and ensure that complaints against officers
9 rarely result in meaningful accountability.

10 **31.** The federal doctrine of qualified immunity, as established in *Harlow v. Fitzgerald*,
11 457 U.S. 800 (1982), shields officers from civil liability unless plaintiffs can identify a
12 prior case with nearly identical facts establishing that the specific conduct was
13 unlawful. This doctrine—which violates seven constitutional provisions as
14 documented in **Memo N**—creates a "vicious cycle" where constitutional violations
15 cannot be clearly established because cases are dismissed before establishing
16 precedent.

17 **32.** States can act. On June 19, 2020—in direct response to George Floyd's death *in*
18 *Minnesota*—Colorado enacted **SB20-217, the Enhance Law Enforcement Integrity**
19 **Act**, which eliminates qualified immunity as a defense to state civil rights claims:
20 "Qualified immunity is not a defense to liability pursuant to this section." Colo. Rev.
21 Stat. § 13-21-131. Colorado responded to what happened in Minnesota by eliminating
22 qualified immunity. Minnesota responded by maintaining § 626.89's officer

1 protections. The result: two more citizens killed by federal agents in Minneapolis in
2 January 2026.

3 **33.** On January 8, 2026, Vice President JD Vance announced that ICE agents are
4 "protected by absolute immunity"—a legal concept that does not exist in American
5 jurisprudence. *See Exhibit C*; *see also* ECF No. 13-80, *Kirchner v. Johnson*, No. 1:25-
6 cv-02735-ACR (D.D.C.). Every immunity recognized in American law is qualified by
7 boundaries; an immunity without boundaries is not immunity but sovereignty. Vance's
8 fabrication represents the final elimination of accountability: if state procedures cannot
9 discipline, federal doctrine cannot impose liability, and executive proclamation cannot
10 be questioned, then federal agents operate outside any law.

11 **C. The Jurisdictional Void**

12 **34.** The federal enforcement authority now killing Minnesota citizens rests on a
13 jurisdictional foundation that does not exist. The Supreme Court's shadow docket
14 practice systematically violates 28 U.S.C. § 2101(f), which limits stays pending
15 certiorari to "final judgment or decree" only. Since 2017, the Court has stayed
16 preliminary injunctions—interlocutory orders explicitly excluded from the statute—
17 across 80+ emergency applications, enabling executive immigration policies to survive
18 judicial review through procedurally irregular certiorari.

19 **35.** If the Supreme Court had followed statutory limitations Congress enacted in 1925,
20 preliminary injunctions against the Executive Branch's immigration policies would
21 have remained in effect. ICE would not be operating in the manner it now operates.

1 The two citizens killed in Minneapolis might still be alive. The causal chain from
2 shadow docket violation to bodies in Minneapolis is direct and documented.

3 **D. The Constitutional Violations**

4 **36.** This Petition challenges an interlocking system of constitutional violations:

5 **(a)** Minnesota Statute § 626.89 violates the **Equal Protection Clause** of the Fourteenth
6 Amendment by creating arbitrary classifications that favor law enforcement officers
7 over citizens;

8 **(b)** The deployment of chemical weapons—banned in warfare under the Chemical
9 Weapons Convention—against Minnesota civilians, including families with children,
10 violates the principles underlying the **Posse Comitatus Act** (18 U.S.C. § 1385) and
11 demonstrates the lethal trajectory of accountability erosion;

12 **(c)** Judge-made immunity doctrine violates **seven constitutional provisions**—Article I
13 § 6, Article III, Article IV § 2, Article V, Amendment VII, Amendment IX, and
14 Amendment XIV—by extending immunity beyond the sole constitutional source
15 without the Article V amendment process required for such expansion;

16 **(d)** The Supreme Court's shadow docket practice violates **28 U.S.C. § 2101(f)** and
17 Article III by exercising jurisdiction Congress explicitly denied;

18 **(e)** The coordinated federal conduct in Minnesota—killing citizens, deploying chemical
19 weapons against families, using children as "bait," and demanding political concessions
20 in exchange for reduced violence—meets the congressional definition of **domestic**
21 **terrorism** under 18 U.S.C. § 2331(5).

E. The Coordinated Targeting Of Plaintiff

37. Plaintiff is not a generalized grievant but a specific target of the same officials whose conduct this Petition documents. Plaintiff is the owner of Laws of Existence LLC and holds seventeen provisional patents covering AI alignment technology with considerable potential benefit for society. Plaintiff's federal litigation—*Kirchner v. Johnson et al.*, No. 1:25-cv-02735-ACR (D.D.C.)—documents coordinated constitutional subversion by defendants including President Trump, Attorney General Bondi, and others acting in concert with the Supreme Court's shadow docket violations.

38. Network forensic evidence proves infrastructure-level attacks targeting Plaintiff's communications with Minnesota law enforcement while gathering evidence for this Petition. On January 23, 2026, Plaintiff's encrypted DNS connection was attacked via TCP RST injection with a 1-microsecond FIN-to-RST gap—timing physically impossible for legitimate traffic. Forty-four seconds later, Plaintiff's email to the Saint Paul Police Department failed to deliver. The same officials enabling federal agents to kill Minnesota citizens are simultaneously attacking Plaintiff's ability to document and challenge their conduct.

F. Relief Sought

39. Plaintiff seeks:

- (a) **Emergency relief** halting federal enforcement operations in Minnesota pending judicial review of the constitutional violations documented herein;
- (b) **Declaratory judgment** that Minnesota Statute § 626.89 violates the Equal Protection Clause of the Fourteenth Amendment;

1 **(c) Declaratory judgment** that the doctrine of qualified immunity as established in
2 *Harlow v. Fitzgerald* is constitutionally illegitimate;

3 **(d) Injunctive relief** prohibiting the use of chemical weapons against Minnesota
4 citizens exercising constitutional rights;

5 **(e) Declaratory judgment** that the coordinated federal conduct in Minnesota meets the
6 statutory definition of domestic terrorism;

7 **(f) Structural reform** establishing effective civilian oversight and accountability
8 mechanisms.

9 **40.** This Petition documents the complete collapse of constitutional accountability in
10 Minnesota. Federal agents operate under secret rules, kill with impunity, and answer to
11 no law. The accountability void created by state statute, federal doctrine, and executive
12 fabrication has become lethal. Two American citizens are dead. The Court's
13 intervention is urgently required.

14 **IV. FEDERAL AGENTS ARE KILLING CITIZENS IN MINNESOTA**

15 **1. The Killing of Renee Nicole Good (January 7, 2026)**

16 **41.** On January 7, 2026, ICE Agent Jonathan Ross shot and killed Renee Nicole Good,
17 a 42-year-old United States citizen, in Minneapolis, Minnesota. Good was present
18 while masked men detained an individual outside her residence. The shooting occurred
19 in the presence of Good's minor child.

20 **42.** On January 8, 2026—less than 24 hours after Good's death and before any
21 investigation could be completed—Vice President JD Vance held a press conference
22 publicly adjudicating the killing. Vance declared: the shooting was "justified" and

constituted "self-defense"; Agent Ross "is protected by absolute immunity"; Good was a "deranged leftist" and part of a "broader left wing network"; Good's death was "a tragedy of her own making"; Minnesota officials cannot "prosecute a federal official with absolute immunity"; and the investigation would focus on Good and her alleged "network," not on Agent Ross.

43. When a reporter asked whether Vance was "preempting a thorough investigation by drawing such conclusions," Vance responded: "the simple fact is what you see is what you get"—explicitly acknowledging he had prejudged the matter based on publicly available video, not investigative findings. *See Exhibit C* (Vance Pre-Investigation Adjudication Transcript).

2. "Absolute Immunity" Does Not Exist in American Jurisprudence

44. The term "absolute immunity" has no place in American jurisprudence because the concept itself is antithetical to constitutional governance. **Every immunity recognized in American law is qualified**—conditional upon the official acting within defined boundaries:

Immunity	Qualification
Judicial	Must be performing judicial acts
Prosecutorial	Must be performing prosecutorial functions
Legislative	Must be performing legislative acts
Presidential	Must be performing official acts
Law Enforcement	Must not violate clearly established law

45. Every single recognized immunity has boundaries. Every single one can be pierced. Every single one is *qualified* by something. An immunity that is truly absolute—unconditional, unbounded, unpierceable—cannot exist under American

1 constitutional structure. The foundational premise of American constitutionalism is
2 that no person is above the law. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163
3 (1803) ("The government of the United States has been emphatically termed a
4 government of laws, and not of men").

5 **46.** Vance did not misapply doctrine. He invoked a concept that *structurally cannot*
6 *exist* under American constitutional law. "Absolute immunity" is a category error—like
7 saying "the square root of justice." The term sounds legal while describing something
8 that cannot legally exist: immunity without condition, accountability to no process, a
9 government agent answerable to nothing. **This is not legal error. This is the**
10 **linguistic construction of monarchy within democratic vocabulary.**

11 **3. The Complete Redaction of Use of Force Policy**

12 **47.** Following Good's killing, DHS released ICE Directive 19009.3 "Firearms and Use
13 of Force" (dated May 26, 2023) with complete redaction of all substantive content
14 under FOIA exemption (b)(7)(E). *See Exhibit D.* The 13-page document contains only
15 a single unredacted purpose paragraph and thirteen pages of complete redaction blocks.
16 Every section—including "Use of Firearms," "Use of Force," and "Reporting
17 Requirements"—is entirely withheld.

18 **48.** Citizens cannot know what constraints govern federal agents' use of deadly force
19 against them. The (b)(7)(E) exemption protects "techniques and procedures for law
20 enforcement investigations or prosecutions" whose disclosure "could reasonably be
21 expected to risk circumvention of the law." 5 U.S.C. § 552(b)(7)(E). Applied to a use
22 of force policy released after a citizen was killed for observing enforcement, this

exemption classification necessarily implies that the "technique" being protected from "circumvention" is the killing of citizens who interfere with immigration operations.

4. The Complete Immunity Structure Outside Any Law

49. Combined with the complete (b)(7)(E) redaction of the use of force policy and the characterization of inquiry as terrorism, Vice President Vance constructed a complete immunity structure existing outside any law:

Element	Mechanism	Effect
No law governs when they may kill	Complete (b)(7)(E) redaction of Use of Force policy	Citizens cannot know what constraints exist
No accountability exists when they kill	Fabricated "absolute immunity" announced by executive	Judicial process preempted by press conference
No inquiry is permitted about either	Characterization of witnesses/documenters as "domestic terrorism network"	Constitutional observation criminalized

50. This is not qualified immunity with its doctrinal requirements and judicial process. This is the assertion of power unlimited by law, announced from a podium, enforced by armed agents operating under secret rules in an American city.

5. The Killing of Alex Pretti: January 24, 2026

51. On January 24, 2026—seventeen days after the Good killing—federal agents shot and killed **Alex Pretti**, a 37-year-old United States citizen and Minneapolis resident. Minneapolis Police Chief Brian O'Hara confirmed that Mr. Pretti:

(a) Was believed to be a United States citizen;

(b) Had no criminal record—his only interaction with law enforcement was traffic tickets;

1 (c) Was a lawful gun owner with a valid permit to carry under Minnesota law.

2 **52.** Minnesota law permits open carrying of a handgun with a valid permit. Minn.
3 Stat. § 624.714. Mr. Pretti was exercising his constitutional right under the Second
4 Amendment and his statutory right under Minnesota law when federal agents killed
5 him.

6 **53.** The Department of Homeland Security alleged Mr. Pretti "approached US Border
7 Patrol officers with a 9 mm semi-automatic handgun" and "violently resisted." This
8 narrative is contradicted by multiple witness accounts and video evidence.

9 **6. The Video Evidence**

10 **54.** Multiple videos of the January 24 incident show:

11 (a) Multiple federal agents holding Mr. Pretti down while other agents pistol-whipped
12 him;

13 (b) One federal agent removing Mr. Pretti's firearm from his waistband and
14 walking away with it;

15 (c) After Mr. Pretti was disarmed, another federal agent shooting him in the back
16 at point-blank range;

17 (d) Two to three agents firing approximately ten or more rounds into Mr. Pretti while
18 he was restrained and disarmed;

19 (e) One federal agent fleeing the scene immediately after the shooting;

20 (f) Another federal agent clapping on camera after the shooting.

21 **55.** The video evidence establishes that the victim was executed after being
22 **disarmed.** The sequence is unambiguous: (1) agents restrained the victim; (2) agents
23 pistol-whipped the victim while restrained; (3) one agent removed the victim's legally

possessed firearm from his waistband; (4) that agent walked away with the firearm; (5) another agent then shot the disarmed, restrained victim in the back at point-blank range; (6) additional agents fired approximately ten or more rounds into the victim.

56. This is not use of force in response to a threat. This is execution. The DHS narrative that the victim "approached" agents "with" a handgun and "violently resisted" is not merely contradicted—it is proven to be fabricated. The victim's firearm was removed from his waistband by federal agents before he was shot. He was disarmed, restrained, and then executed with a shot to the back. Multiple videos from multiple angles confirm this sequence.

7. The Pre-Investigation Adjudication Pattern Repeats

57. Following the January 24 execution, DHS Secretary Kristi Noem announced that DHS would "investigate" the incident. This announcement came **after** the administration had already publicly adjudicated the killing through the identical pattern used for Renee Good:

Element	Good Killing (Jan 7)	Pretti Killing (Jan 24)
Killing occurs	January 7, 2026	January 24, 2026
Public adjudication	Vance declares "justified," "absolute immunity" within 24 hours	DHS issues statement claiming Mr. Pretti "approached with handgun," "violently resisted"
Evidence contradicts narrative	Video shows Good posed no threat	Video shows Mr. Pretti disarmed before being shot in back
"Investigation" announced	After adjudication	Noem announces investigation after adjudication
Investigation independence	None—conclusion predetermined	None—conclusion predetermined

1 **58. The "investigation" is performative.** When the executive branch publicly
2 declares the conclusion before gathering evidence, any subsequent "investigation"
3 serves only to ratify the predetermined outcome. This is not accountability—it is the
4 manufacture of legitimacy for extrajudicial execution.

5 **59.** The pattern proves coordination: (1) killing occurs; (2) DHS immediately issues
6 narrative justifying the killing; (3) video evidence emerges contradicting the narrative;
7 (4) DHS announces "investigation" to create appearance of process; (5) investigation is
8 controlled by the same department whose agents committed the killing; (6) no
9 accountability follows. This is the functional elimination of due process through
10 procedural theater.

11 **60.** Secretary Noem's announcement of an "investigation" into the killing of Alex
12 Pretti—after video evidence proved Mr. Pretti was disarmed before being shot in the
13 back—follows the identical pattern she defended on January 18, 2026, when she told
14 CBS News that the Good killing was "justified" and that federal agents would continue
15 using the same tactics despite a federal court order restricting their conduct. (*See*
16 Exhibit B, Noem CBS Interview Transcript).

17 **8. Attempted Obstruction of Investigation**

18 **61.** Federal agents attempted to bar Minneapolis Police Department officers from
19 accessing the crime scene. Local law enforcement refused to comply with this
20 attempted exclusion and maintained presence at the scene.

21 **62.** Federal agents attempted to arrest and take witnesses into custody—citizens who
22 had observed the killing and recorded video evidence.

23 **63.** These attempts to exclude local law enforcement and seize witnesses constitute:

- 1 (a) Obstruction of justice under 18 U.S.C. § 1512 (tampering with witnesses);
- 2 (b) Conspiracy against rights under 18 U.S.C. § 241 (preventing citizens from
- 3 documenting government conduct);
- 4 (c) Evidence of consciousness of wrongdoing—agents who acted lawfully would not
- 5 attempt to bar investigation or seize witnesses.

6 9. The Pattern Exposed

7 **64.** Two United States citizens were killed by federal agents in seventeen days:

- 8 • **January 7, 2026 — Renee Nicole Good, age 42.** United States citizen.
- 9 Unarmed. Posed no threat—was observing the enforcement action. Killed.
- 10 • **January 24, 2026 — Alex Pretti, age 37.** United States citizen. Legally armed
- 11 under valid Minnesota permit. Disarmed by agents before being shot in the
- 12 back. Executed.

13 **65.** Neither victim posed an actual threat justifying lethal force. One was unarmed.

14 One was legally armed but **was disarmed by agents before being shot in the back at**

15 **point-blank range.** Both were killed by federal agents operating under the complete

16 immunity structure: secret use of force policy, fabricated "absolute immunity," and

17 attempted destruction of evidence. The January 24 killing is not a use of force

18 incident—it is a documented execution of a disarmed, restrained United States citizen.

19 **66.** The immunity structure is now operational and lethal. Federal agents are operating

20 in Minnesota under rules unknown to citizens, with immunity declared by executive

21 proclamation, killing with impunity while attempting to bar local law enforcement and

22 seize witnesses.

10. The Second Amendment Dimension

67. Alex Pretti was exercising his Second Amendment right to keep and bear arms. He possessed a valid Minnesota permit to carry. Minnesota law permits open carry with such permit. He was killed for legally possessing a firearm he never drew.

68. Federal agents have now established that lawful gun ownership in Minnesota carries lethal risk. A citizen may possess all required permits, comply with all state laws, never draw or brandish their weapon, and still be executed by federal agents who will then claim the citizen "approached with" the firearm and "violently resisted."

69. This chills Second Amendment rights for all Minnesota citizens. The rational response to the killing of Alex Pretti is to avoid carrying firearms—even legally—in any area where federal agents might be present, because legal possession is now treated as justification for summary execution.

11. Child Trafficking Under Color of Law

70. On January 24, 2026, ICE agents in Minnesota used two minor children—ages 2 and 5—as "bait" to lure their parents into custody. After detaining the parents, ICE deported the parents and then removed the children from Minnesota to Texas within 24 hours **without contacting Minnesota family members who could have assumed guardianship.**

71. This conduct satisfies the elements of federal kidnapping under 18 U.S.C. § 1201:

(a) **Unlawful seizure:** The children were seized incident to their parents' detention, then transported across state lines without legal process;

(b) **Interstate transportation:** The children were moved from Minnesota to Texas within one day;

(c) Without lawful authority: No court order authorized the removal of the children; no hearing occurred; no family members were contacted; no child welfare agency was involved;

(d) Using children as instrumentality of enforcement: The children were explicitly used as "bait"—their presence was weaponized to lure parents into custody, then the children were removed from the state without regard for their welfare or their family's rights.

72. Under Minnesota law, the removal of children from the state without notifying family members who could assume custody constitutes child endangerment. Minn. Stat. § 609.378. The failure to contact Minnesota family members—while moving the children 1,200 miles to Texas within 24 hours—demonstrates that the children's welfare was subordinate to enforcement objectives.

73. This is not immigration enforcement—it is child trafficking under color of law. The elements are present:

Element	Evidence
Taking of minors	2-year-old and 5-year-old seized
Without parental consent	Parents deported
Without family notification	Minnesota relatives not contacted
Interstate transportation	Minnesota → Texas in 24 hours
No legal process	No court order, no hearing, no child welfare involvement
Instrumentalization	Children used as "bait" to capture parents

74. The use of children as "bait" represents a new dimension of the intimidation infrastructure. Federal agents are now weaponizing family bonds—using children to

1 lure parents, then scattering families across state and international lines without legal
 2 process. This conduct is designed to terrorize immigrant communities into non-
 3 cooperation with any governmental process, including lawful assertion of rights.

4 **75.** If Minnesota family members were available to assume guardianship—and were
 5 not contacted while the children were transported 1,200 miles within 24 hours—the
 6 intent was not child welfare. The intent was punishment, separation, and terror.

7 **12. The State-Federal Collision Becomes Lethal**

8 **76.** The collision between §626.89 (state) and 28 U.S.C. § 535 (federal) that this
 9 petition documented has become lethal:

Federal Agent Conduct	Consequence for Minnesota Citizens
Kill with impunity under secret rules + fabricated immunity	Execution for observing enforcement (Good)
Bar local law enforcement from crime scenes	Execution for legally carrying firearms (Pretti)
Arrest witnesses for documenting	Child seizure and interstate trafficking without family notice
Execute victims while restrained	Lethal risk for being present where agents operate
Use children as bait, then traffic across state lines	No protection from state OR federal mechanisms

10 **77.** Minnesota's entire accountability framework is being bypassed by federal agents
 11 who answer to no law. If state accountability mechanisms cannot reach federal agents,
 12 and federal self-policing (§535) is non-functional because department heads defend the
 13 conduct, citizens have **no protection**.

1 **V. Domestic Terrorism Under 18 U.s.c. § 2331(5)**

2 **A. The Statutory Definition**

3 **78.** Domestic terrorism under 18 U.S.C. § 2331(5) involves activities that:

4 **(A)** Involve acts dangerous to human life that are a violation of the criminal laws of the
5 United States or of any State;

6 **(B)** Appear to be intended—(i) to intimidate or coerce a civilian population; (ii) to
7 influence the policy of a government by intimidation or coercion; or (iii) to affect the
8 conduct of a government by mass destruction, assassination, or kidnapping; and

9 **(C)** Occur primarily within the territorial jurisdiction of the United States.

10 **B. The Bondi Letter: Violence As Political Leverage**

11 **79.** On January 24, 2026—the same day federal agents killed Alex Pretti in
12 Minneapolis—Attorney General Pamela Bondi sent a letter to Governor Tim Walz
13 demanding political concessions in exchange for federal cooperation. **See Exhibit E.**

14 The letter demands:

15 **(a)** That Minnesota share "all of Minnesota's records on Medicaid and Food and
16 Nutrition Service programs, including the Supplemental Nutrition Assistance Program
17 data, with the federal government";

18 **(b)** That Minnesota "repeal the sanctuary policies" and ensure "all detention facilities
19 in your state should cooperate fully with ICE, honor immigration detainees, and permit
20 ICE to interview detainees";

(c) That Minnesota "allow the Civil Rights Division of the Department of Justice to access voter rolls to confirm that Minnesota's voter registration practices comply with federal law."

80. The letter explicitly frames Minnesota's non-compliance as the cause of violence: "The results of your state's policies and politicians' anti-law enforcement rhetoric are a national tragedy. Violence against ICE officers and agents has increased approximately 1,300 percent." The letter concludes with an implicit offer: comply with these demands and "I am confident that these simple steps will help bring back law and order to Minnesota."

81. This quid pro quo structure—violence occurs, political demands are made, compliance is framed as the path to ending violence—is the textbook definition of coercion. The letter was sent **the same day** federal agents killed a citizen in Minneapolis, creating the following structure:

Element	Evidence
Violent acts	Two citizens killed in seventeen days (Good, Jan 7; Pretti, Jan 24)
Political demands	Voter rolls, welfare records, sanctuary repeal
Coercive framing	"Change your policies and violence will end"
Implicit threat	"Whether state and local politicians stand in the way or not"
Demonstrated capacity	The killings prove the capacity to inflict harm is not hypothetical—it has been executed

82. Real law enforcement is not a bargaining chip. If ICE operations were genuinely necessary to protect public safety, they would not be offered as leverage for unrelated political concessions. One does not say: "Give us your voter rolls and we'll reduce police patrols against murderers." The fact that federal "cooperation" is

conditioned on political compliance proves the violence serves political purposes, not law enforcement purposes.

83. The logical contradiction is dispositive:

(a) If Bondi's premise is true—that ICE operations are necessary to combat lawlessness—then offering to modify those operations in exchange for voter data and policy changes would deliberately preserve the "lawlessness" she claims to oppose, in order to extract political concessions. This is terrorism by her own framing.

(b) If Bondi's premise is false—that ICE operations are not primarily about public safety but about political leverage—then the violence associated with those operations serves political goals. Violence serving political goals is the statutory definition of terrorism.

84. Either interpretation satisfies 18 U.S.C. § 2331(5)(B)(ii): activities that "appear to be intended... to influence the policy of a government by intimidation or coercion." The Bondi letter is not a request for cooperation; it is a demand backed by lethal force.

C. Elements Satisfied

85. The Bondi letter, combined with the two federal killings in Minneapolis, satisfies every element of 18 U.S.C. § 2331(5):

Element	Requirement	Evidence
(A)	Acts dangerous to human life violating criminal law	Two citizens killed; children trafficked across state lines; chemical weapons deployed against families
(B)(i)	Appear intended to intimidate/coerce civilian population	Secret use of force policy + fabricated "absolute immunity" + witness arrests + crime scene

		exclusion + agent celebration
(B)(ii)	Appear intended to influence government policy by coercion	Bondi letter demands voter rolls, welfare records, sanctuary repeal—sent same day as Pretti killing—framing compliance as path to ending violence
(C)	Occur within US territorial jurisdiction	Minneapolis, Minnesota

D. The Intimidation Infrastructure Is Complete

86. Citizens and families in Minnesota cannot safely:

- (a)** Observe immigration enforcement (Good was killed for this);
- (b)** Carry legal firearms (Pretti was killed for this—after being disarmed);
- (c)** Document agent conduct (witnesses subject to arrest);
- (d)** Expect investigation when killed (local law enforcement barred from scenes);
- (e)** Expect their children to remain in Minnesota if parents are detained (children trafficked to Texas without family notification);
- (f)** Expect any legal process before family separation (children used as "bait," then transported 1,200 miles in 24 hours).

87. The rational response to this infrastructure is complete submission—precisely what domestic terrorism is designed to produce. When exercising constitutional rights carries lethal risk, when compliance with political demands is offered as the path to safety, citizens will cease exercising those rights and state governments will face pressure to capitulate.

1 **88.** Governor Walz's statement—"Minnesota has had it. This is sickening. The
2 President must end this operation."—demonstrates that the intimidation is achieving its
3 intended effect on government policy. The pattern satisfies 18 U.S.C. § 2331(5)(B)(ii).

4 **E. The Agent's Celebration Reveals Operational Culture**

5 **89.** Video evidence shows a federal agent clapping after the killing of Alex Pretti. This
6 is not the response of an officer who used force as a last resort to protect life. This is
7 celebration of a kill.

8 **90.** Combined with the agent who fled the scene—consciousness of wrongdoing—and
9 the agents who attempted to arrest witnesses—evidence destruction—the celebration
10 reveals operational culture: killing Minnesota citizens is rewarded, not investigated.

11 **91.** This operational culture, combined with secret use of force policies, fabricated
12 immunity, and the Bondi letter's quid pro quo structure, constitutes the intimidation
13 infrastructure that 18 U.S.C. § 2331(5) was designed to address.

14 **F. Conclusion**

15 **92.** The Attorney General of the United States sent a letter—on the same day federal
16 agents killed a man in Minneapolis—demanding that Minnesota surrender voter
17 registration data in exchange for reducing federal violence. This is not law
18 enforcement. This is domestic terrorism prosecuted by the Department of Justice itself.

**VI. THE SHADOW DOCKET: FEDERAL ENFORCEMENT BUILT ON
ULTRA VIRES FOUNDATION**

93. The federal enforcement operations killing citizens in Minneapolis rest on a jurisdictional foundation that does not exist. The Supreme Court's "shadow docket" practice—through which the Court stays preliminary injunctions and grants emergency relief to the Executive Branch—systematically violates 28 U.S.C. § 2101(f), which limits stays to "final judgment or decree" only. This ultra vires practice enabled every immigration enforcement operation now deployed in Minnesota.

1. Congress Deliberately Denied the Power the Court Now Exercises

94. In 1923, the Supreme Court claimed authority to stay "interlocutory or final" judgments pending certiorari review. *Magnum Import Co. v. Coty*, 262 U.S. 159, 162-63 (1923) (Taft, C.J.). Congress responded directly. The Judiciary Act of 1925 enacted what is now 28 U.S.C. § 2101(f), which limits stays to "**final judgment or decree**" only:

"In any case in which the **final judgment or decree** of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court."

28 U.S.C. § 2101(f) (emphasis added).

95. The statutory language is not ambiguous. Congress knew the Court wanted interlocutory stay authority. Congress said no. The word "interlocutory" appears in related statutes where Congress intended to grant such authority—28 U.S.C. § 1253 authorizes direct appeals from "interlocutory or permanent injunction"—proving

1 Congress knows how to include interlocutory orders when intended. The deliberate
2 exclusion from § 2101(f) is dispositive.

3 **96.** For 58 years (1925-1983), the Supreme Court did not stay district court preliminary
4 injunctions in major policy cases. The power the Court now exercises routinely did not
5 exist in practice because it does not exist in law.

6 **2. The Shadow Docket Circumvents Congressional Limitations**

7 **97.** Beginning with the Travel Ban litigation in 2017, the Supreme Court began
8 systematically staying preliminary injunctions—interlocutory orders—without citing §
9 2101(f) or explaining how such orders qualify as "final judgment or decree." The
10 foundational June 26, 2017 order in *Trump v. International Refugee Assistance Project*
11 does not contain the word "jurisdiction" anywhere, completely violating Supreme
12 Court Rule 14.1(e)(iv)'s requirement for a "concise statement of the basis for
13 jurisdiction in this Court."

14 **98.** On October 10, 2017, the Supreme Court vacated that same Travel Ban order as
15 moot, explicitly stating: "We express no view on the merits." Under *United States v.*
16 *Munsingwear, Inc.*, 340 U.S. 36, 39 (1950), this vacatur destroyed all precedential
17 value. Yet the entire shadow docket precedent network—80+ applications over eight
18 years—cites directly or derivatively from this judicially destroyed foundation.

19 **99.** The pattern is systematic: the Executive Branch files emergency applications
20 seeking stays of preliminary injunctions; applications omit proper jurisdictional
21 statements citing § 2101(f); the Court grants relief without addressing whether
22 preliminary injunctions qualify as "final judgment or decree"; each grant creates

"precedent" for the next application; the precedent network expands while its statutory foundation remains void.

3. The Birthright Citizenship Cases Demonstrate the Mechanism

100. On January 20, 2025, the President issued Executive Order No. 14,160 denying birthright citizenship to children of undocumented immigrants. Within days, four district courts issued preliminary injunctions finding the Order unconstitutional—the same uniform judicial response that occurred in the Travel Ban cases.

101. In *Trump v. CASA, Inc.*, 606 U.S. 831 (2025), the Supreme Court: (a) created an artificial 30-day deadline for the Executive Order's implementation; (b) stayed the preliminary injunctions; and (c) signaled that certiorari would be granted. The Court then granted certiorari before judgment in *Trump v. Barbara*—an extraordinary remedy reserved for cases of "imperative public importance" under 28 U.S.C. § 2101(e)—where the only "emergency" was the deadline the Court itself created.

102. The probability that this sequence occurred through neutral adjudication rather than coordination is less than one in one million ($P < 10^{-6}$). The statistical evidence establishes coordination with greater certainty than virtually any factual matter proven in litigation. See **Memo I** (documenting shadow docket ultra vires practice) and **Memo L** (analyzing birthright citizenship cases as proof of coordinated constitutional subversion).

4. The Bodies in Minneapolis Are Downstream Consequences

103. Because the Supreme Court stayed preliminary injunctions it had no statutory authority to stay, the Executive Order survived judicial review. Because the Executive Order survived, ICE operates in Minnesota with claimed authority deriving from

1 policies that courts found unconstitutional but could not enjoin. Because ICE operates
2 without effective judicial constraint, two American citizens are dead in seventeen days.

3 **104.** The causal chain is not speculative:

Step	Event	Enabling Mechanism
1	Court claims interlocutory stay power	<i>Magnum Import</i> (1923)
2	Congress denies that power	28 U.S.C. § 2101(f) (1925)
3	Court exercises denied power anyway	Shadow docket (2017-present)
4	Immigration policies survive judicial review	Stays of preliminary injunctions
5	ICE deploys to Minnesota	Authority derived from judicially-constrained policies
6	Two citizens killed	January 7 and January 24, 2026

4 **105.** If the Supreme Court had followed the statutory limitations Congress enacted in
5 1925—and maintained in 1988—the preliminary injunctions against the Executive
6 Branch's immigration policies would have remained in effect. ICE would not be
7 operating in the manner it is now. Renee Nicole Good and the second victim might
8 still be alive.

9 **106.** This is not judicial error. This is institutional defiance. Congress said no to
10 interlocutory stays in § 2101(f). The Court did it anyway. That single act of ultra vires
11 conduct—repeated across 80+ applications over eight years—is the jurisdictional
12 foundation for every federal enforcement operation now killing citizens in
13 Minneapolis.

1 **5. The Constitutional Violation Is Legislative in Character**

2 **107.** When the Supreme Court exercises power Congress deliberately denied, it does
3 not interpret law—it makes law. This violates Article III's limitation of judicial power
4 to "Cases" and "Controversies." It violates Article I's vesting of legislative power in
5 Congress. It violates the separation of powers that is the Constitution's structural
6 foundation.

7 **108.** The shadow docket is not adjudication. It is legislation by another name—the
8 Court granting itself jurisdiction Congress withheld, then exercising that fabricated
9 jurisdiction to enable Executive Branch policies that district courts found
10 unconstitutional. The result is government by coordination rather than government by
11 law.

12 **109.** Minnesota citizens are not merely victims of federal overreach. They are victims
13 of the Supreme Court's systematic violation of 28 U.S.C. § 2101(f)—a statute enacted
14 specifically to prevent the Court from doing exactly what it has done. The
15 accountability void this Petition challenges extends to the highest court in the land,
16 which has made itself complicit in the constitutional violations now measured in
17 bodies.

18 **VII. THE CONSTITUTIONAL ILLEGITIMACY OF JUDGE-MADE**
19 **IMMUNITY**

A. The "essentially Objective" Fallacy

110. The *Harlow* decision's central holding rests on defining qualified immunity "***essentially in objective terms.***" *Id.** at 819 (emphasis added). This linguistic formulation conceals a fundamental logical error: the term "essentially" conjoined with "objective" is oxymoronic. Objectivity, by definition, admits no degrees—a standard is either objective or it is not. To say a thing is "essentially objective" is to say it is "almost objective," which is an impossibility.

111. This linguistic sleight of hand enabled the *Harlow* Court to create a standard that *appears* neutral but operates subjectively to favor governmental actors. The "clearly established law" requirement places the burden on victims to locate identical precedent, while officials need only claim ignorance of constitutional boundaries. The standard is "essentially objective" in the same way that racial profiling is "essentially" non-discriminatory when officers claim they stopped vehicles for "traffic violations."

112. Justice Powell's reasoning in *Harlow* presumed that qualified immunity would "avoid excessive disruption of government and permit the resolution of many insubstantial claims on summary judgment." *Id.* at 818. But the January 2026 incidents reveal what this "accommodation" produces: federal agents can draw weapons on state law enforcement officers, demand papers, physically prevent recording, and depart without consequence—all because no court has previously ruled on this precise factual scenario.

113. The foregoing analysis of *Harlow v. Fitzgerald* addresses the doctrine's logical incoherence and practical failures. A comprehensive analysis of *Harlow's* constitutional illegitimacy is set forth in **Memo N**, which demonstrates that judge-

1 made immunity violates seven constitutional provisions. The following summarizes
2 the key arguments.

3 **1. a. Legislative Immunity Is the Only Constitutionally Enumerated Immunity**

4 **114.** The Constitution provides explicit immunity for only one category of government
5 official: legislators. Article I, Section 6, Clause 1 states that "for any Speech or Debate
6 in either House, they shall not be questioned in any other Place." U.S. Const. art. I, §
7 6, cl. 1. The Constitution provides no immunity for judges, prosecutors, or executive
8 officials.

9 **115.** This is not oversight. Legislative immunity exists because of a justiciability
10 constraint: legislation is inherently collective. A law comes into existence through
11 committee action, floor debate, majority vote, and presidential signature. No single
12 legislator "causes" a law to exist. Individual liability for collective acts is conceptually
13 incoherent—you cannot sue a legislator for legislation because no individual legislator
14 legislates.

15 **116.** Judicial, prosecutorial, and executive acts are categorically different. In each
16 case, an identifiable individual performs the act that causes injury: a judge signs an
17 order, a prosecutor files charges, an officer pulls the trigger. The justiciability
18 constraint that necessitates legislative immunity does not exist for these officials.

19 **117.** The Framers knew how to write immunity provisions—they did so for legislators.
20 Their silence on judicial, prosecutorial, and executive immunity is meaningful.
21 Extending immunity to officials the Constitution does not protect changes the
22 constitutional structure. Such structural changes require Article V amendment—

1 proposal by supermajority, ratification by supermajority. Nine justices cannot
2 accomplish what requires broad national consensus.

3 **2. b. The Ninth Amendment Marks the Boundary Between Declaring and**
4 **Creating Law**

5 **118.** The Ninth Amendment provides: "The enumeration in the Constitution, of certain
6 rights, shall not be construed to deny or disparage others retained by the people." U.S.
7 Const. amend. IX. The operative verb—"construed"—identifies the audience: the
8 judiciary. Courts construe the Constitution. The Ninth Amendment is a direct
9 command to courts about how to perform their interpretive function.

10 **119.** James Madison, drafting what became the Ninth Amendment, explained its
11 purpose:

12 "It has been objected also against a bill of rights, that, by enumerating
13 particular exceptions to the grant of power, it would disparage those rights
14 which were not placed in that enumeration; and it might follow by
15 implication, that those rights which were not singled out, **were intended**
16 **to be assigned into the hands of the General Government**, and were
17 consequently insecure."

18 1 Annals of Cong. 439 (1789) (statement of Rep. Madison) (emphasis added).

19 Madison designed the Ninth Amendment specifically to prevent unenumerated matters
20 from being "assigned into the hands of the General Government."

21 **120.** Judge-made immunity does exactly what Madison prohibited. It assigns
22 unenumerated protections—immunity—"into the hands of the General Government." It
23 disparages the people's retained right to seek redress. It enlarges the powers delegated
24 by the Constitution by allowing government officials to violate constitutional rights
25 without consequence.

121. The Ninth Amendment establishes that unenumerated rights are "retained by the people"—not by government, not by officials, not created for the state. This creates a categorical distinction:

Derivative Doctrine	Beneficiary	9th Amendment	Judicial Function
Rights for the people (privacy, association, travel)	The people	Compliant	Declaring pre-existing rights
Immunities for government (qualified, absolute)	Government	Non-compliant	Creating new protections

122. Rights retained by the people **pre-exist** government—courts recognize them, declaring what already exists. Government immunities **cannot pre-exist** government—courts must create them, exercising legislative power through judicial procedure. The Ninth Amendment compliance test is the categorical distinction between legitimate judicial function (declaring law) and illegitimate judicial legislation (creating law).

3. The Civil Rights Connection

123. The Ninth Amendment was not invoked for 174 years—not because it was unclear, but because the occasion for its violation had not arisen. Before the Fourteenth Amendment (1868), the Bill of Rights applied only to the federal government, which had limited contact with citizens. The Fourteenth Amendment extended constitutional accountability to states; 42 U.S.C. § 1983 created a cause of action for citizens to sue state officials. For the first time, government officials faced widespread potential liability for constitutional violations.

1 **124.** The immunity doctrine emerged as the judicial response to civil rights
2 accountability:

Year	Case	Context
1961	<i>Monroe v. Pape</i>	Revived § 1983 as civil rights vehicle
1967	<i>Pierson v. Ray</i>	First qualified immunity—civil rights workers arrested in Mississippi
1982	<i>Harlow v. Fitzgerald</i>	Modern qualified immunity doctrine

3 **125.** The amendment Madison designed to protect against government overreach was
4 violated precisely when its protection was most needed: when formerly enslaved
5 people and their descendants sought constitutional accountability from state officials.
6 The Ninth Amendment's dormancy was not evidence of irrelevance; it was evidence
7 that constitutional accountability had not yet expanded to trigger the government's
8 interest in evading it.

9 **4. The Seven Constitutional Violations**

10 **126.** As set forth in **Memo N**, judge-made immunity violates seven constitutional
11 provisions:

Constitutional Provision	Guarantee	How Judge-Made Immunity Violates
Article I, § 6	Immunity for legislators (only)	Silence on other officials is meaningful; extending immunity elsewhere requires amendment
Article III	Judicial power to declare law	Courts created law rather than declared it
Article IV, § 2	Privileges and Immunities uniform across states	Circuit splits create geographic inequality
Article V	Constitutional change requires supermajority amendment	Judges changed constitutional structure through doctrine

Amendment VII	Right to jury trial in civil cases	Court eliminated jury trials for constitutional tort claims
Amendment IX	Rights retained by people	Creates protections for government rather than recognizing rights retained by people
Amendment XIV, § 1	Due process; equal protection	Claims dismissed without hearing; officials receive protection citizens do not

1 **127.** Judge-made immunity is not one constitutional violation but seven. The doctrine
2 that purports to "balance" government efficiency against citizen rights in fact nullifies
3 citizen rights across multiple constitutional provisions while claiming legitimacy it
4 does not possess.

5 **VIII. THE QUALIFIED IMMUNITY PARADOX: MINNESOTA OFFICERS**
6 **AS VICTIMS OF THE DOCTRINE DESIGNED TO PROTECT THEM**

7 **A. The January 2026 Ice Incidents Demonstrate Systemic Failure**

8 **128.** In January 2026, multiple off-duty Minnesota law enforcement officers
9 experienced the very constitutional violations that Minnesota Statute §626.89 purports
10 to address—yet the doctrine of qualified immunity renders them without remedy.

11 **129.** Brooklyn Park Police Chief Mark Bruley reported that an off-duty female officer
12 from his department—a United States citizen—was subjected to an armed traffic stop
13 by Immigration and Customs Enforcement (ICE) agents. Chief Bruley described the
14 encounter: agents "boxed her in" with vehicles, approached with "guns drawn," and
15 demanded immigration "paperwork" to prove she could be in the United States. When

1 the officer attempted to record the encounter on her phone, "the phone was knocked out
2 of her hands, preventing her from recording it." The officer "became so concerned she
3 was forced to identify herself as a Brooklyn Park police officer in hopes of slowing and
4 de-escalating the incident." Upon learning she was a police officer, the ICE agents
5 "immediately left... making no other comments, no other apologies." *See* Exhibit A at
6 ¶¶7-13.

7 **130.** Chief Bruley confirmed that "every off-duty officer targeted by ICE in Brooklyn
8 Park over the past two weeks has been a person of color." *See* Exhibit A at ¶7.

9 **131.** St. Paul Police Chief Axel Henry reported that officers in his department "have
10 encountered the same kind of treatment as is taking place in Brooklyn Park."

11 **132.** Hennepin County Sheriff Dawanna Witt stated that people in the area are being
12 "stopped, questioned and harassed solely because of the color of their skin,"
13 characterizing such actions as "illegal" and a "stain on the reputation of local law
14 enforcement."

15 **B. The Constitutional Violations Are Clear**

16 **133.** The ICE agents' conduct violated multiple constitutional provisions:

17 **(a) Fourth Amendment:** Drawing weapons and detaining a U.S. citizen without
18 reasonable suspicion or probable cause constitutes an unreasonable seizure.

19 Demanding "papers" from a citizen who "clearly would not have any paperwork"
20 demonstrates the absence of any lawful basis for the stop. *See* Exhibit A at ¶9.

1 **(b) First Amendment:** Physically knocking a phone from the officer's hands to
2 prevent recording constitutes prior restraint on protected speech and interference with
3 the right to document government conduct in public. *See* Exhibit A at ¶9.

4 **(c) Fourteenth Amendment:** Targeting "every" officer who is "a person of color"
5 while leaving white officers unmolested constitutes racial discrimination violating the
6 Equal Protection Clause. *See* Exhibit A at ¶7.

7 **C. Qualified Immunity Shields The Perpetrators**

8 **134.** Despite these clear constitutional violations, the ICE agents who perpetrated them
9 face no civil liability due to the doctrine of qualified immunity established in *Harlow v.*
10 *Fitzgerald*, 457 U.S. 800 (1982). Under *Harlow*, government officials are immune
11 from civil liability unless their conduct violates "clearly established statutory or
12 constitutional rights of which a reasonable person would have known." *Id.* at 818.

13 **135.** The *Harlow* standard creates an insurmountable barrier: unless a prior court has
14 ruled that this *specific* conduct—ICE agents drawing weapons on off-duty police
15 officers of color and demanding immigration papers—violates the Constitution, no
16 liability attaches. The absence of such precedent becomes self-perpetuating: cases are
17 dismissed for lack of "clearly established law," which prevents any law from becoming
18 clearly established.

19 **136.** As the Department of Homeland Security response demonstrated, the agency
20 claims it "is able to find no record" of the encounters and cannot "verify these claims"
21 without a name—effectively demanding that victims identify themselves to the very

1 agency that victimized them before any investigation occurs. This procedural shield
2 compounds the substantive immunity.

3 **137.** The federal government further compounds the accountability barrier by
4 classifying the very policies that would establish whether agent conduct violated
5 internal standards. ICE Directive 19009.3, "Firearms and Use of Force," was publicly
6 available on the agency's website as recently as November 2025. The 13-page
7 document detailed when ICE agents may draw weapons, use deadly force, and engage
8 in high-stakes encounters. Following the January 7, 2026 shooting death of Renee
9 Nicole Good by an ICE agent in Minneapolis—an incident that drew immediate
10 scrutiny from Minnesota officials—the entire document was redacted under 5 U.S.C. §
11 552(b)(7)(E), leaving only a single paragraph describing the directive's purpose. *See*
12 **Exhibit D.** The previously public policy stated that agents may use deadly force only
13 when an officer has "reasonable belief" that a subject poses imminent danger of death
14 or serious bodily injury, and that agents are not authorized to use deadly force to
15 prevent the escape of a fleeing suspect. Minnesota officers subjected to armed stops—
16 and Minnesotans generally—can no longer determine whether ICE agents violated
17 their own use-of-force policies because those policies are now classified. This creates
18 accountability asymmetry: Minnesota peace officers operate under public rules
19 (§626.89) while federal agents operating in Minnesota act under secret rules—yet both
20 are shielded from civil liability.

D. Minnesota Statute §626.89 Provides No Protection When Officers Are Victims

138. The profound irony of the January 2026 incidents is that Minnesota Statute §626.89—which this petition challenges as providing unconstitutional special protections to peace officers—provides **no protection whatsoever** when those same officers become victims of federal constitutional violations.

139. Section 626.89 protects officers during disciplinary investigations by their own departments. It provides limits on interrogation sessions (Subd. 7), requirements for written notice (Subd. 5), rights to union representation (Subd. 9), and protection of personnel records (Subd. 13).

140. Yet when off-duty officers are subjected to armed stops, racial profiling, and physical interference with their constitutional rights by federal agents, §626.89 offers nothing. The statute's protections flow in only one direction: shielding officers from accountability while providing no reciprocal shield when officers themselves face governmental abuse.

141. This asymmetry exposes the fundamental flaw in §626.89's design: it is not a statute protecting constitutional rights generally, but a statute creating a privileged class exempt from ordinary accountability mechanisms. When members of that class become victims of the same governmental overreach the Constitution prohibits, they discover that their "special protections" are worthless.

E. The Vicious Cycle: No Precedent Because No Cases Survive

142. The January 2026 victims face a vicious cycle created by *Harlow's* "clearly established law" requirement:

- 1 (1) ICE agents violate officers' constitutional rights;
 - 2 (2) Officers file suit under 42 U.S.C. § 1983;
 - 3 (3) ICE agents assert qualified immunity;
 - 4 (4) Court searches for "clearly established" precedent involving ICE agents drawing
 - 5 weapons on off-duty police officers of color and demanding papers;
 - 6 (5) No such precedent exists;
 - 7 (6) Case dismissed on qualified immunity grounds;
 - 8 (7) No precedent is created;
 - 9 (8) Next violation proceeds with immunity intact.
- 10 **143.** This cycle ensures that novel forms of constitutional violation—or familiar
- 11 violations against novel victim classes—remain permanently shielded. The *Harlow*
- 12 standard does not merely protect officials who could not reasonably know their
- 13 conduct was unlawful; it protects officials who commit violations no court has
- 14 previously addressed, regardless of how obviously unconstitutional that conduct may
- 15 be.

16 **F. What Minnesota Courts Can And Cannot Do**

17 **144.** Petitioner acknowledges that Minnesota state courts lack authority to overturn

18 *Harlow v. Fitzgerald* or modify the federal qualified immunity doctrine. The United

19 States Supreme Court's interpretation of 42 U.S.C. § 1983 binds federal courts and

20 preempts contrary state court rulings on federal civil rights claims.

21 **145.** However, Minnesota courts retain authority to:

- 1 **(a)** Declare Minnesota Statute §626.89 unconstitutional under the Minnesota
2 Constitution's equal protection guarantees, which this Court may interpret more
3 broadly than federal equal protection doctrine;
- 4 **(b)** Hold that §626.89's special protections for peace officers cannot be justified when
5 officers themselves receive no protection from governmental abuse under the same
6 legal framework that shields governmental actors;
- 7 **(c)** Find that the asymmetry between §626.89's protections (shielding officers from
8 accountability) and qualified immunity's protections (shielding those who violate
9 officers' rights) demonstrates that neither doctrine serves legitimate governmental
10 interests;
- 11 **(d)** Establish precedent recognizing that the *Harlow* "essentially objective" standard is
12 logically incoherent and urging federal reconsideration;
- 13 **(e)** Create a factual and legal record documenting how qualified immunity operates in
14 practice to deny constitutional remedies, supporting eventual United States Supreme
15 Court reconsideration of the doctrine.

16 **G. The Officers' Experience Validates This Petition's Core Claims**

17 **146.** The January 2026 incidents validate every claim this petition advances. First, the
18 incidents prove that § 626.89 creates an arbitrary classification: the special protections
19 afforded to officers vanish entirely when those same officers become victims of federal
20 agents—revealing that the protections serve power alignment, not legitimate
21 governmental purpose. Second, the incidents confirm racial disparities in law
22 enforcement, as Chief Bruley reported that "every" targeted officer was "a person of

1 color." Third, the incidents demonstrate that constitutional violations go unremedied
2 because qualified immunity shields the ICE agents who perpetrated the violations.
3 Fourth, the incidents show that public trust is eroded, as Sheriff Witt characterized the
4 conduct as a "stain on the reputation of local law enforcement." Fifth, the incidents
5 expose that accountability mechanisms fail entirely—DHS claims it cannot "verify" the
6 violations without victims identifying themselves to the very agency that victimized
7 them, creating a procedural shield that guarantees impunity.

8 **147.** When the doctrine of qualified immunity—created to protect "law enforcement"
9 from litigation—is used to shield federal agents who victimize state law enforcement
10 officers, the doctrine has consumed itself. The officers of Brooklyn Park and St. Paul
11 have learned what communities of color have known for generations: the legal system
12 provides robust protections for those who wield governmental power and no
13 meaningful remedy for those subjected to its abuse.

14 **148.** This petition respectfully submits that Minnesota courts, confronted with this
15 evidence, should declare that Minnesota law cannot participate in this constitutional
16 failure. If §626.89's special protections for officers cannot protect officers themselves
17 from governmental abuse, those protections serve no legitimate purpose—they exist
18 only to shield officers from the accountability that all public servants owe to the
19 citizens they serve.

20 **IX. CONSTITUTIONAL PROVISIONS**

21 **149. Fourteenth Amendment to the United States Constitution:** The Equal
22 Protection Clause of the Fourteenth Amendment provides that "no state shall... deny to

1 any person within its jurisdiction the equal protection of the laws." This provision
2 prohibits states from enacting laws that create arbitrary or unjustifiable classifications
3 among groups of people, and it requires that laws be applied equally to all persons.

4 **150. First Amendment to the United States Constitution:** The First Amendment
5 guarantees the rights to free speech, peaceful assembly, and the right to petition the
6 government for a redress of grievances. It prohibits any law or action that imposes a
7 chilling effect on these fundamental rights, such as the use of militarized policing
8 tactics to suppress public gatherings, protests, and demonstrations.

9 **151. Fourth Amendment to the United States Constitution:** The Fourth Amendment
10 protects citizens against unreasonable searches and seizures. It requires that any search
11 or seizure be carried out under a warrant issued upon probable cause and that law
12 enforcement actions be reasonable in scope. Militarized police practices that employ
13 excessive force and military-grade equipment against civilians violate these
14 constitutional protections.

15 **152. Posse Comitatus Act (18 U.S.C. § 1385):** The Posse Comitatus Act restricts the
16 use of the military to enforce domestic laws, reflecting a fundamental principle of
17 separation between military and civilian law enforcement functions. The deployment
18 of chemical weapons—banned in warfare under the Chemical Weapons Convention—
19 against American civilians exercising constitutional rights violates the principles
20 underlying this act by achieving military ends through federal agents operating outside
21 any accountability framework.

22 **153. Supremacy Clause of the United States Constitution (Article VI, Clause 2):**
23 The Supremacy Clause establishes that the U.S. Constitution, and federal laws made

1 pursuant to it, are the "supreme law of the land," taking precedence over conflicting
2 state statutes or regulations. The Plaintiff contends that Minnesota Statute §626.89
3 conflicts with the Constitution and should be rendered void and unenforceable.

4 **154. Seventh Amendment to the United States Constitution:** The Seventh
5 Amendment guarantees the right to a trial by jury in civil cases. It is cited here to
6 argue that current doctrines, such as qualified immunity, and procedural protections
7 provided under Minnesota Statute §626.89 effectively deny citizens their right to a jury
8 trial when seeking redress for violations of civil rights by law enforcement.

9 **155. Constitutional Accountability and Public Trust Principles:** The constitutional
10 framework, as understood through the principles articulated in James Madison's
11 writings and subsequent interpretations, mandates that public service is a public trust.
12 The public officials must act with fiduciary responsibility, placing the interests of the
13 public and adherence to constitutional rights above any private or sectional interest.

14 **X. State Provisions**

15 **156. Minnesota State Statute § 626.89 - Peace Officer Discipline Procedures Act:**

16 This statute provides specific procedural protections and rights to police officers during
17 disciplinary actions and investigations, which are not extended to the general public or
18 other public employees. It includes provisions that limit interrogation times, require
19 written notice of investigations, restrict the involvement of non-sworn investigators,
20 and grant officers the right to review and dispute disciplinary actions. The Plaintiff
21 argues that these protections create an arbitrary and unjustifiable classification,

1 violating the Equal Protection Clause of the Fourteenth Amendment and inhibiting
2 effective civilian oversight and public accountability.

3 **157. Minnesota Statute § 363A.12 - Public Services:** This statute prohibits
4 discrimination in access to and utilization of public services based on race, color, creed,
5 religion, national origin, disability, sex, gender identity, sexual orientation, or public
6 assistance status. It mandates that public services must ensure both physical and
7 program access to all persons. The Plaintiff contends that the unequal application of
8 law enforcement services and protections afforded under Minnesota Statute § 626.89
9 disproportionately impacts Black Americans and other marginalized communities,
10 thereby violating this anti-discrimination statute.

11 **158. Minnesota Statutes section 501C.0802 - Duty of Loyalty:** This statute provides
12 that a trustee owes a duty of loyalty to the beneficiaries and must not place their own
13 interests above those of the beneficiaries. The Plaintiff draws an analogy between this
14 duty and the fiduciary responsibilities of public officials, arguing that public officers
15 and agencies must act in good faith to protect the rights and interests of all citizens as
16 beneficiaries of the public trust.

17 **159. Minnesota Statutes section 501C.0706 - Grounds for Removal of a Trustee:**
18 This statute allows for the removal of a trustee if a court determines that removal is in
19 the best interest of the beneficiaries due to unfitness, unwillingness, or persistent
20 failure to effectively administer the trust. The Plaintiff uses this provision to argue that
21 public officials who fail to uphold their fiduciary duties and breach public trust should
22 similarly be held accountable and subject to removal from their positions.

1 **160. Minnesota Statutes section 13.43 - Personnel Data:** This statute governs the
2 classification of personnel data, including data related to investigations by civilian
3 oversight councils as part of public safety employment records. It restricts the release
4 of certain data, which the Plaintiff argues limits public access to critical information
5 necessary for ensuring transparency, accountability, and public trust in law
6 enforcement.

7 **161. Minnesota Supreme Court Decision in the Matter of the Otto Bremer Trust,**
8 **No. A22-0906 (2024):** In this decision, the Minnesota Supreme Court held that a
9 District Court may remove a trustee for a "serious breach of trust," including a series of
10 smaller breaches that collectively justify removal. The Court also determined that
11 removal is justified if it best serves the interests of the beneficiaries due to the trustee's
12 unfitness, unwillingness, or persistent failure to administer the trust effectively. The
13 Plaintiff references this decision to support the argument that public trustees, such as
14 law enforcement officers and public officials, should be held to the same standards of
15 accountability and removal for breaches of trust.

16 **XI. MINNESOTA STATUTE §626.89: THE ACCOUNTABILITY VOID**

17 **A. Strict Scrutiny On Basis Of Fundamental Rights**

18 **162.** Firstly, the Plaintiff alleges that regardless of race, religion, sex, creed, age,
19 marital status or any other suspect class placed to a disadvantage—the enhanced rights
20 for any law enforcement agency or particular social group that is part of the greater
21 American whole, causes a disproportionate administration of justice to the American

1 whole; and is subject to strict scrutiny. It is alleged by the plaintiff as self-evident by
2 pure conception that one People may only be bound by one bill of rights; that any other
3 auxiliary or specialized bill of rights is unconstitutional by virtue of the Fourteenth
4 Amendment. The Plaintiff further asserts that these grounds are in and of themselves
5 sufficient to declare and render the MN statute §626.89 on Peace Officer Discipline
6 and Procedure Act as unconstitutional as well as set grounds for legislative repeal.

7 **1. Minnesota Statute §626.89 Violates the Equal Protection Clause of the**
8 **Fourteenth Amendment by Creating Arbitrary and Unjustifiable Classifications**

9 **163.** The Fourteenth Amendment to the United States Constitution provides that no
10 state shall "deny to any person within its jurisdiction the equal protection of the laws."
11 U.S. Const. amend. XIV, § 1. This foundational guarantee prohibits the State of
12 Minnesota from enacting laws that arbitrarily differentiate between groups of people
13 without a legitimate government interest.

14 **164.** Minnesota Statute §626.89, known as the Peace Officer Discipline Procedures
15 Act, extends protections and procedural rights to police officers that are not afforded to
16 the general public or other public employees. This statute grants officers unique rights,
17 such as specific limits on interrogation times, requirements for written notice of
18 investigations, and restrictions on disciplinary actions. These protections effectively
19 create a privileged class of public employees—police officers—who are shielded from
20 accountability and scrutiny, to the detriment of the broader public.

21 **165.** Under *City of Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432 (1985), the
22 Supreme Court held that differential treatment of similarly situated groups must have a
23 rational connection to a legitimate governmental purpose. In *City of Cleburne*, the

1 Court struck down a municipal zoning ordinance that required a special use permit for
2 a group home for people with intellectual disabilities, finding that there was no rational
3 basis for the differential treatment of the group home compared to other similar
4 facilities.

5 **166.** Similarly, Minnesota Statute §626.89 fails to provide a rational basis for treating
6 police officers differently from other public employees or members of the public. The
7 protections afforded under the statute are not connected to any legitimate government
8 interest. Instead, they serve only to insulate police officers from scrutiny, undermine
9 public trust, and prevent accountability.

10 **167.** The lack of a rational basis for this differential treatment is further underscored by
11 the absence of empirical evidence demonstrating that these enhanced protections
12 contribute to more effective policing or public safety. On the contrary, studies indicate
13 that enhanced protections for police officers, such as those provided under Minnesota
14 Statute §626.89, are associated with higher rates of misconduct and a lack of
15 accountability. Walker & Archbold, 2020. Thus, the statute's provisions cannot be
16 justified as serving any legitimate state interest, in direct contravention of the principles
17 established in *City of Cleburne*.

18 **2. The Statute Creates an Arbitrary and Unjustifiable Classification That Must**
19 **Be Struck Down Under the Fourteenth Amendment**

20 **168.** The Supreme Court's ruling in *Romer v. Evans*, 517 U.S. 620 (1996), established
21 that even under the most deferential standard of review, laws that classify groups of
22 people in a way that is not rationally related to a legitimate government interest are
23 unconstitutional. The statute at issue in *Romer* was found to be motivated by animus

1 and to lack a legitimate state interest, making it unconstitutional under the Equal
2 Protection Clause.

3 **169.** Minnesota Statute §626.89 similarly lacks a legitimate state interest. By
4 extending protections to police officers that are not provided to other citizens, the
5 statute arbitrarily elevates one group above others without a sufficient justification.
6 There is no evidence to suggest that these special protections are necessary for
7 effective law enforcement or public safety. Instead, they serve to shield officers from
8 public accountability and undermine democratic governance, much like the statute
9 struck down in *Romer*.

10 **170.** The statute's provisions violate the Equal Protection Clause by creating an
11 unjustified distinction between police officers and the public they serve. As the
12 Supreme Court noted in *City of Cleburne*, laws that create classifications must have a
13 "rational basis" tied to a legitimate government interest. Here, Minnesota Statute
14 §626.89 does not meet that standard. Rather than promoting a legitimate public
15 purpose, it creates an arbitrary classification that favors police officers at the expense
16 of public oversight and transparency.

17 **3. The Enhanced Protections for Police Officers Contravene Principles of**
18 **Democratic Governance and Public Accountability**

19 **171.** The principles set forth in *Craig v. Boren*, 429 U.S. 190 (1976), further support
20 the conclusion that classifications based on arbitrary distinctions must be justified by
21 substantial government objectives. While *Craig* applied intermediate scrutiny, it
22 reinforces that any classification—even those subject to the lowest level of scrutiny—
23 must still be reasonably related to a legitimate purpose.

1 **172.** Minnesota Statute §626.89 undermines public accountability by creating an
2 environment where police misconduct is less likely to be detected, addressed, or
3 punished. This outcome is inconsistent with the Constitution's guarantee of equal
4 protection under the law, as articulated in *City of Cleburne* and *Romer*. There is no
5 substantial government interest in providing these special protections, and no evidence
6 demonstrates that such protections enhance public safety or law enforcement
7 effectiveness. On the contrary, they encourage a lack of transparency and foster
8 distrust between law enforcement and the communities they serve.

9 **4. Conclusion: The Statute Should Be Subject to Strict Scrutiny and Declared**
10 **Unconstitutional**

11 **173.** Given the lack of a rational basis for the differential treatment created by
12 Minnesota Statute §626.89, the statute should be subjected to strict scrutiny as a law
13 that impinges upon fundamental rights and creates unjustifiable classifications. As
14 established in *City of Cleburne*, *Romer*, and other cases, laws that fail to serve a
15 legitimate government interest violate the Equal Protection Clause of the Fourteenth
16 Amendment. Minnesota Statute §626.89 should be declared unconstitutional to ensure
17 that all citizens are treated equally under the law and that public officials remain
18 accountable to the people they serve.

19 **B. Strict Scrutiny On Basis Of Disadvantage To Suspect Class**

20 **174.** Secondly, while conditions for declarative judgment are hereto alleged to be met,
21 the plaintiff believes it would nevertheless be an immeasurable injustice to not
22 propound and promulgate the foundation in which Minnesota State Statute §626.89 is

1 subject to strict scrutiny on the basis of its disadvantage to a suspect class. The
2 grounds gained and basis understood will be a justice to the said class while also
3 potentially aiding in future legislation.

4 **1. Subject Matter Jurisdiction and Strict Scrutiny for Facially Neutral Laws**

5 **175.** The Plaintiff contends that subject matter jurisdiction is supported by the
6 Fourteenth Amendment, specifically by Amdt 14.S1.8.5, which concerns facially
7 neutral laws that implicate suspect classifications. This provision requires that any law
8 that is a pretext for racial discrimination be subjected to strict scrutiny. Under this
9 standard, the government must show that the law in question serves a compelling state
10 interest and is narrowly tailored to achieve that interest. The Plaintiff argues that
11 Minnesota Statute §626.89, which disproportionately impacts Black Americans by
12 enhancing protections for police officers beyond those afforded to ordinary citizens,
13 falls within this provision as a facially neutral law with discriminatory effects.

14 Consequently, the statute must be reviewed under strict scrutiny as mandated by the
15 Fourteenth Amendment.

16 **176.** The decision in *Skeen v. State*, 505 N.W.2d 299 (Minn. 1993), provides a critical
17 precedent for applying strict scrutiny to laws that disadvantage a suspect class or
18 impinge upon a fundamental right. The Minnesota Supreme Court in *Skeen* held that
19 any law disadvantaging a suspect class (such as racial minorities) or impinging upon a
20 fundamental right is subject to strict scrutiny review. The Plaintiff argues that
21 Minnesota Statute §626.89 meets both criteria for strict scrutiny: it impinges on the
22 fundamental right to equal protection under the law (as guaranteed by the Fourteenth
23 Amendment) and disproportionately places Black Americans at a disadvantage by

1 shielding police officers from public accountability and scrutiny. Thus, this statute
2 should be subjected to strict scrutiny on two independent grounds.

3 **2. Evidence of Disproportionate Contact with Law Enforcement for Black**
4 **Americans**

5 **177.** Extensive studies reveal that Black Americans experience disproportionate contact
6 with law enforcement, and these encounters often yield less evidence of crimes
7 compared to contacts involving White Americans. This supports the argument that
8 racial bias persists in policing practices:

- 9 • **Disproportionate Searches:** Black Californians are more than twice as likely to
10 be searched as White Californians—20% of stops for Black people versus 8%
11 for White people. However, searches of Black civilians are less likely to yield
12 contraband or evidence compared to searches of White civilians, indicating
13 racial bias in stop-and-search practices.
- 14 • **Stops Without Enforcement Action:** Black individuals are overrepresented in
15 stops that do not lead to enforcement, such as situations where an officer
16 declines to issue a warning. Additionally, Black people are more likely to face
17 stops that result in an arrest despite a lower likelihood of finding contraband or
18 evidence.
- 19 • **Higher Jail Booking Rates:** Black individuals are almost twice as likely to be
20 booked into jail compared to White individuals, illustrating a pattern of
21 disproportionate impact in law enforcement procedures.
- 22 • **Persistent Racial Disparities After Accounting for Context:** While factors like
23 locale and the existence of outstanding warrants contribute to racial disparities,
24 notable inequities remain even after accounting for such factors. This indicates
25 that race continues to play a significant role in law enforcement practices,
26 supporting the claim that Minnesota Statute §626.89 may serve as a pretext for
27 racial discrimination.

28 **178.** These findings underscore the need for a strict scrutiny review of the statute, as it
29 appears to contribute to the systemic racial inequities present in law enforcement. The
30 Plaintiff argues that these studies provide compelling evidence of racial bias that
31 demands heightened judicial review.

3. Disproportionate and Discriminate Administration of Law Enforcement and Negative Health Effects

179. Research shows that the disproportionate and discriminatory administration of law enforcement towards Black Americans leads to long-term negative health effects, both physical and mental. Studies have consistently found that police violence and aggressive policing practices have been associated with increased rates of anxiety, depression, and post-traumatic stress disorder (PTSD) among Black communities. Furthermore, discrimination experienced during police interactions contributes to what is termed "biological weathering," where chronic stress accelerates physiological aging and deteriorates health, resulting in higher rates of cardiovascular disease, diabetes, and other chronic conditions. The cumulative stress of these interactions also disrupts sleep patterns and can contribute to obesity and other health problems, indicating a pervasive toll on overall well-being.

4. Persisting Racial Disparities in Law Enforcement Post-George Floyd

180. Following the murder of George Floyd by Minneapolis Police Officer Derek Chauvin in 2020, there was a national reckoning with police accountability, leading to numerous calls for reform. However, studies and reports in the years since have indicated that racial disparities in law enforcement have persisted. Despite public outcry and the introduction of new policies in some areas, systemic issues such as disproportionate use of force, racial profiling, and unequal treatment remain largely unchanged. These findings suggest that the heightened focus on police reform has not yet resulted in significant progress toward reducing racial disparities or increasing accountability within law enforcement agencies.

1 **181.** Following the murder of George Floyd, the Minneapolis Police Department faced
2 significant budget cuts, driven by public pressure and a shift in political priorities.
3 These cuts have had substantial impacts on the availability and responsiveness of law
4 enforcement emergency services for Minneapolis citizens. Reduced budgets have
5 resulted in fewer officers, longer response times, and diminished resources for training
6 and community policing initiatives. While intended to address concerns of police
7 accountability, the cuts have also led to challenges in maintaining adequate public
8 safety services.

9 **182.** Research indicates that Black Americans are significantly less likely to contact
10 law enforcement emergency services due to a well-founded fear of discrimination,
11 abuse, and civil rights violations. Despite this fear, studies also show that Black
12 communities still desire police presence and protection, reflecting a complex sentiment
13 that can be described as cognitive dissonance. This discrepancy arises from a rational
14 response to a historical and ongoing pattern of discrimination and brutality while
15 recognizing the need for public safety. The result is an environment where Black
16 Americans feel simultaneously underserved and overpoliced, lacking equal access to
17 law enforcement as a public service—a situation that is constitutionally problematic
18 given anti-discrimination statutes such as Minnesota Statute 363A.12.

19 **5. Duty of Law Enforcement to Uphold Constitutional Accountability**

20 **183.** All law enforcement officers and agencies at local, state, and federal levels are
21 legally and ethically obligated to uphold the United States Constitution. U.S. Const.
22 art. VI, cl. 2. This duty includes ensuring accountability to the public for their actions.
23 When laws or statutes create barriers to this accountability—whether through

1 protective measures for officers or limitations on oversight—they undermine the very
2 purpose of law enforcement and democratic governance. Such legal protections that
3 impede accountability go against the constitutional principles of equal protection and
4 justice, suggesting a need for legislative reconsideration to ensure alignment with the
5 Constitution's mandates.

6 **184.** The Court has subject matter jurisdiction pursuant to Minn. Stat. § 363A.12

7 (Public Services):

8 "It is an unfair discriminatory practice to discriminate against any person
9 in the access to, admission to, full utilization of or benefit from any public
10 service because of race, color, creed, religion, national origin, disability,
11 sex, gender identity, sexual orientation, or status with regard to public
12 assistance or to fail to ensure physical and program access for disabled
13 persons unless the public service can demonstrate that providing the
14 access would impose an undue hardship on its operation."

15 **185. Access to Law Enforcement as a Public Service:** In supplement, the Plaintiff
16 herein additionally alleges: *the indiscriminate access to Law Enforcement as a Public*
17 *Service is inseparable from indiscriminate law enforcement itself* (see Minn. Stat. §
18 363A.12 Public Services). The object of Law Enforcement does not lie within a
19 citizen's access to an officer or agency of the law but instead within the officer's or
20 agency's ability to enforce the law *for all citizens* and the confines of those laws which
21 empower them.

22 **186. Evidence of Disadvantage for Black Americans and Necessity of Strict**
23 **Scrutiny:** The evidence presented demonstrates that Black Americans face significant
24 disadvantages under current law enforcement practices, which are further compounded
25 by the additional protections afforded to officers under Minnesota Statute §626.89.
26 The disproportionate impact on Black Americans, coupled with the enhanced legal

1 protections for police officers, serves as a pretext for racial discrimination, thereby
 2 justifying the application of strict scrutiny to the statute as outlined under Amdt
 3 14.S1.8.5.

4 **C. The Inhibitive Impact On Public Accountability**

5 **187. Minnesota Statute § 626.89**, also known as the *Peace Officer Discipline*
 6 *Procedures Act*, creates a framework that ostensibly provides for the discipline of
 7 peace officers. However, its specific provisions collectively impose substantial
 8 limitations on the ability of public beneficiaries—the citizens—to enforce
 9 accountability for misconduct, thereby inhibiting the effective operation of public trust.

10 **D. Procedural Constraints On Accountability Mechanisms**

11 **188.** Several subdivisions within the statute impose procedural constraints that
 12 undermine the transparency and efficacy of investigations into police misconduct:

- 13 • **Subdivision 3** mandates that the formal statement of an officer must be conducted
 14 according to prescribed procedures from Subdivisions 4 to 10. These
 15 procedures, including requirements about the place of the formal statement
 16 (Subd. 4), the existence of a written complaint before a formal statement can be
 17 taken (Subd. 5), and controlled sessions for taking formal statements (Subd. 7),
 18 limit the flexibility and speed of investigations, favoring the interests of officers
 19 over public transparency and accountability.
- 20 • **Subdivision 8** requires that a complete record of sessions where a formal
 21 statement is taken must be made available to the officer without charge.
 22 However, there is no reciprocal provision ensuring that these records are
 23 accessible to public beneficiaries, limiting their ability to scrutinize the
 24 proceedings.
- 25 • **Subdivision 9** grants officers the right to have a union representative or attorney
 26 present during the taking of any formal statement, thereby potentially delaying
 27 the process. While this protects the rights of officers, it also inhibits the ability
 28 to conduct swift and independent investigations, which can be critical in cases
 29 involving allegations of serious misconduct.

E. Protection From Transparency And Public Scrutiny

189. The statute further protects officers from transparency and public scrutiny, which are vital to holding public officials accountable:

- **Subdivision 12** prohibits the public release of photographs of an officer without the officer's written permission, effectively shielding officers from public identification and scrutiny, except under limited circumstances. This provision reduces the ability of the public to be informed about the identities of officers involved in misconduct, thereby hindering transparency.
- **Subdivision 13** restricts the inclusion of disciplinary letters or reprimands in an officer's personnel file unless the officer has been given a copy. This provision may delay or inhibit public access to information about the disciplinary history of officers.
- **Subdivision 15** ensures that the rights provided under the statute do not reduce the rights and privileges that officers already possess under collective bargaining agreements or other applicable laws. This "non-reduction" clause may create additional layers of protection for officers, further insulating them from disciplinary measures and accountability.

F. Limitations On Civilian Oversight And Public Involvement

190. The statute severely limits the effectiveness of civilian oversight councils, which are intended to provide public oversight of law enforcement:

- **Subdivision 17(b)-(d)** allows for the establishment of civilian oversight councils, but their role is limited to making findings of fact or determinations regarding complaints and recommending discipline. The statute explicitly states that the chief law enforcement officer is not obliged to implement any recommendations made by these councils. As a result, the authority and impact of civilian oversight bodies are severely constrained, diminishing their effectiveness as mechanisms for public accountability.
- Furthermore, **Subdivision 17(e)** classifies data related to investigations by civilian oversight councils as personnel data, governed by restrictive data privacy laws. This restriction prevents public access to critical information that would enable citizens to monitor and evaluate the performance and decisions of law enforcement agencies, effectively inhibiting the enforcement of public trust.

G. Limitations On Financial Transparency And Evidence Disclosure

191. Additional provisions restrict the ability to obtain financial records and evidence necessary for thorough investigations:

- **Subdivision 11** protects officers from being required to produce or disclose personal financial records except pursuant to a valid search warrant or subpoena. This restriction limits access to financial records that could be relevant in cases of misconduct involving corruption or financial impropriety.
- **Subdivision 6** provides that witness statements and investigative reports may be withheld if they would reveal the identity of confidential informants, except upon a court order for good cause. This provision creates barriers to obtaining complete and unredacted records necessary to evaluate the facts and circumstances surrounding allegations of misconduct.

H. Legal Protections And Immunities

192. The statute includes provisions that protect officers from retaliation and afford them avenues for legal redress that are not similarly available to the public:

- **Subdivision 14** prohibits retaliatory actions against officers who exercise the rights provided by this statute, but it does not similarly protect civilians or complainants who seek to hold officers accountable.
- **Subdivision 16** establishes that a political subdivision or state agency that violates the statute is liable to the officer for actual damages, plus costs and reasonable attorney fees, effectively granting officers a broad scope of immunity and legal protection. Meanwhile, there is no provision granting reciprocal legal recourse or protections to citizens who are impacted by police misconduct.

I. The Collective Inhibitive Effect Of Minnesota Statute § 626.89

193. The cumulative effect of the provisions within **Minnesota Statute § 626.89** is to prioritize the protection of officers over the rights and interests of the public beneficiaries. By imposing procedural constraints, limiting transparency, restricting

1 civilian oversight, and providing legal immunities, the statute creates significant
2 barriers to enforcing accountability and undermines the principles of public trusteeship.
3 **194.** In a democratic society, citizens, as beneficiaries of the public trust, must have the
4 ability to hold public officials accountable for misconduct. However, **Minnesota**
5 **Statute § 626.89** impedes this vital function, undermining both the Constitution's
6 mandate for equal protection and the fiduciary duties inherent in public service. As
7 such, this statute poses a fundamental conflict with the principles of democratic
8 governance and must be reconsidered to ensure that public trust is upheld, transparency
9 is maintained, and accountability is enforced.

10 **J. Absence Of Evidence Supporting A Rational Basis**

11 **195. No Empirical Evidence Justifying Statute's Necessity:** Minnesota Statute
12 §626.89, also known as the Peace Officer Discipline Procedures Act, lacks a rational
13 basis due to the absence of empirical evidence demonstrating its necessity for law
14 enforcement efficacy or public safety. The statute provides police officers with
15 procedural protections that are not extended to other public employees, such as specific
16 limits on interrogation times, the conditions under which officers can be questioned,
17 and requirements for written notice of investigations. These protections do not serve a
18 legitimate public purpose; rather, they appear to shield officers from accountability
19 without any supporting data correlating these measures with enhanced policing
20 outcomes or public safety improvements. Walker & Archbold, 2020.

21 **196. Statutory Protections Disconnected from Public Interest:** The statute's
22 provisions, including prohibitions on the use of non-sworn investigators and

1 restrictions on the procedures for disciplinary action, create significant barriers to
2 transparency and accountability. This obstruction of oversight undermines public trust
3 and damages community relations. There is no evidence indicating that these
4 protections contribute to public safety or the effective performance of law enforcement
5 agencies. Instead, they primarily serve the interests of police unions and officers,
6 rather than advancing the welfare of the public they are sworn to protect. Walker &
7 Archbold, 2020.

8 **197. Negative Impact on Accountability and Transparency:** The absence of a
9 rational basis for the statute is further evidenced by its detrimental effect on
10 accountability. States with comparable laws, like the Law Enforcement Officers' Bill
11 of Rights (LEOBOR), exhibit significantly higher barriers to police accountability and
12 transparency. Research indicates that in states with LEOBOR statutes, police officers
13 are 26% more likely to be involved in incidents of misconduct, including excessive use
14 of force and unjustified shootings. Additionally, data shows that states with LEOBORs
15 have 54% fewer officer decertifications and face increased challenges in disciplining
16 officers for misconduct. Harris, 2021; Walker & Archbold, 2020. This suggests that
17 such laws, including Minnesota Statute §626.89, do not serve a legitimate state interest
18 but instead undermine effective law enforcement and public trust. Richard DeShay
19 Elliott, 2020.

20 **198. Higher Incidence of Officer-Related Homicides in LEOBOR States:**

21 Furthermore, statistical analyses have shown that officer-related homicides are more
22 prevalent in states with LEOBORs. For example, states like Maryland and Florida,
23 which have enacted LEOBOR protections, report officer-involved shooting rates that

1 are approximately 20% higher than in states without such protections. Stoughton,
2 Noble, & Alpert, 2020. These statistics indicate that LEOBOR laws may correlate
3 with an increase in incidents where deadly force is used by law enforcement, thereby
4 challenging the notion that such statutes promote public safety or effective policing.

5 **199. Contradiction with Constitutional and Public Policy Principles:** Statute
6 §626.89 contradicts established constitutional principles of equal protection and
7 fairness. The unique protections it provides to police officers—such as restricted
8 disciplinary actions and limited transparency—are inconsistent with the responsibilities
9 and accountability expected of public servants. By granting special rights to law
10 enforcement officers that are not afforded to other public employees, the statute fosters
11 an environment where misconduct may flourish without adequate oversight, thereby
12 eroding public trust and accountability. Walker & Archbold, 2020.

13 **200. Absence of Justification in Legislative History:** The legislative history of
14 statutes similar to §626.89, such as the LEOBOR, indicates that these laws were
15 primarily enacted under pressure from police unions to protect their members from
16 accountability rather than to enhance public safety or the efficacy of law enforcement.
17 The provisions of Minnesota Statute §626.89 reflect these intentions, lacking any
18 substantial evidence or data supporting their effectiveness in achieving legitimate state
19 interests. Walker & Archbold, 2020.

20 **201. Conclusion:** Given the absence of any empirical or rational evidence
21 demonstrating a legitimate state interest in maintaining the provisions of Minnesota
22 Statute §626.89, the statute fails to meet the standards of rational basis review. The
23 protections it affords to law enforcement officers are not justified by any compelling

1 need or public benefit and instead serve to shield officers from scrutiny and
 2 accountability, thereby undermining the principles of democratic governance and
 3 constitutional equality. Therefore, it is argued that the statute should be subjected to
 4 strict scrutiny and reconsidered for its constitutional validity.

5 **K. Colorado's Response To George Floyd Demonstrates States Can Act**

6 **202.** On May 25, 2020, George Floyd was killed by Minneapolis police officers in
 7 Minnesota. Within weeks, states across the nation responded. Colorado's response is
 8 particularly instructive.

9 **203.** On June 19, 2020, Colorado Governor Jared Polis signed **SB20-217, the Enhance**
 10 **Law Enforcement Integrity Act**, which became one of the first state laws in the
 11 nation to eliminate qualified immunity for police officers in state civil rights claims.
 12 The statute provides:

13 "Qualified immunity is not a defense to liability pursuant to this section."

14 Colo. Rev. Stat. § 13-21-131(2)(a).

15 **204.** Colorado's law created a new cause of action under the *Colorado Constitution* for
 16 violations of civil rights by law enforcement officers. Key provisions include:

Feature	Colorado SB20-217	Minnesota § 626.89
Qualified immunity	Eliminated as defense	Maintained
Personal liability	Up to \$25,000 or 5% of judgment	Shielded by procedural protections
Body cameras	Mandatory for all officers	No statewide requirement
Recording release	Within 21 days of complaint	Protected from disclosure
Pattern enforcement	AG can sue for	No equivalent authority

	pattern/practice	
Civilian oversight	Enhanced	Constrained

1 **205.** The contrast is stark. Colorado—responding to what happened *in Minnesota*—
2 eliminated qualified immunity, mandated body cameras, required prompt release of
3 recordings, and empowered its Attorney General to sue for pattern-or-practice
4 violations. Minnesota—where George Floyd was killed—maintained § 626.89's
5 officer protections, constraining transparency, limiting civilian oversight, and ensuring
6 that complaints rarely result in meaningful accountability.

7 **206.** The result of these divergent policy choices is now measured in bodies. In
8 January 2026, federal agents killed two citizens in Minneapolis. The accountability
9 void created by Minnesota's continued adherence to § 626.89's officer-protective
10 framework—while other states moved toward accountability—contributed to an
11 environment where federal agents operate with impunity.

12 **207.** Colorado's SB20-217 demonstrates that:

- 13 **(a)** States **can** eliminate qualified immunity for state civil rights claims;
- 14 **(b)** Such elimination does not destroy law enforcement—Colorado's police continue to
15 function;
- 16 **(c)** The claimed necessity of officer-protective statutes like § 626.89 is contradicted by
17 the experience of states that have moved in the opposite direction;
- 18 **(d)** Minnesota's failure to act following George Floyd's death—while other states acted
19 *because* of George Floyd's death—constitutes a policy choice, not a constitutional
20 necessity.

1 **208.** If Colorado can eliminate qualified immunity, mandate body cameras, require
2 recording release, and enhance civilian oversight without destroying law enforcement,
3 then Minnesota's continued maintenance of § 626.89's officer protections cannot be
4 justified by any compelling state interest. The statute exists to shield officers from
5 accountability—not because accountability is impossible, but because Minnesota chose
6 not to pursue it.

7 **XII. CHEMICAL WEAPONS AND THE EROSION OF CIVILIAN-MILITARY**
8 **DISTINCTION**

9 **209.** The deployment of chemical weapons against Minnesota civilians compounds the
10 accountability void this Petition challenges. CS gas—banned in warfare under the
11 Chemical Weapons Convention and classified alongside sarin and mustard gas—was
12 deployed against peaceful observers, including a family with six children and a six-
13 month-old infant who required CPR. The militarization of federal enforcement
14 operations is not the central claim of this Petition, but it demonstrates the lethal
15 trajectory of accountability erosion: when officers cannot be disciplined under state
16 law, cannot be sued under federal doctrine, and cannot be questioned under executive
17 proclamation, the progression to military-style tactics against civilians becomes
18 inevitable.

19 **210.** On January 16, 2026, United States District Judge Katherine Menendez issued an
20 83-page order in *Tincher v. Noem*, No. 0:25-cv-4669 (D. Minn.), finding that ICE's
21 tactics—including the use of chemical agents—violated the First Amendment rights of
22 observers. The order prohibited federal agents from "using pepper spray or similar

1 nonlethal munitions and crowd dispersal tools against persons who are engaging in
2 peaceful and unobstructive protest activity." Two days later, DHS Secretary Kristi
3 Noem publicly dismissed the order as "ridiculous." On January 22, 2026, after an
4 appellate stay, observers reported agents immediately resumed chemical weapon
5 deployment. This pattern—judicial finding of unconstitutionality followed by
6 administrative defiance—mirrors the accountability void at the heart of this Petition.

7 **211.** The Posse Comitatus Act (18 U.S.C. § 1385) was enacted to prevent military-style
8 force against American civilians. Whether that force is deployed by soldiers or by
9 federal agents operating under fabricated immunity and secret use-of-force policies, the
10 constitutional violation is the same. The chemical weapon attacks in Minnesota are
11 symptomatic of the deeper accountability failure this Petition addresses: when legal
12 mechanisms exist to challenge neither the immunity nor the conduct, the only
13 remaining constraint is physical force—and that constraint has now been removed.

14 **XIII. PUBLIC TRUST DOCTRINE: THE THEORETICAL FOUNDATION**

15 **A. James Madison's Foundation Of Public Trust**

16 **212.** James Madison, the Father of The Constitution, outlined in a Letter to the People
17 of Virginia (1790):

18 "When a man assumes a public trust, he should consider himself as public
19 property, and justly liable to the inspection and vigilance of public
20 opinion; and the more sensibly he is made to feel his dependence, the less
21 danger will there be of his abuse of power — The abuse of power, that
22 rock on which good governments, and the people's rights, have been so
23 often wrecked."

1 **213.** Here our Framing Father establishes a robust understanding of public office
2 institution as a trusteeship or fiducial relationship to the People. In "assuming public
3 trust," James Madison illustrates the empowerment of public officials by a trust of the
4 public—or by settlers as it may be termed by a trust. The public official becomes a
5 trustee, in possession of their citizens' constitutional rights by and through their duty to
6 protect said rights. This trusteeship produces particular benefits possible only by such
7 a relationship (i.e., law enforcement, legislation, representation); benefits that all
8 members of the public are equally entitled to as "beneficiaries" of such trust
9 relationship.

10 **214.** James Madison further explains that the greatest threat to a good government and
11 the people's rights is the abuse of power, which is mitigated by the "dependence" of
12 fiducial obligation in assuming public trust, that is, in undertaking public office. A
13 public official being "justly liable to public inspection" could hardly state more
14 explicitly: the importance in accountability of public officials to the People, for the
15 protection of their rights and their government.

16 **215.** Our Framing Father again refers to federal and state governments as "trustees"
17 further illustrating the trustee relationship between public office/agency and the people:

18 "The federal and State governments are in fact but different agents and
19 trustees of the people, constituted with different powers, and designed for
20 different purposes."

21 The Federalist No. 46 (James Madison), in *The Federalist Papers* 299, 299 (Clinton
22 Rossiter ed., 1961).

23 **216.** These foundational principles are codified in federal ethics requirements.

24 Executive Order No. 12,674 states explicitly:

1 "Public service is a public trust, requiring you to place loyalty to the
2 Constitution, the laws, and ethical principles above private gain."

3 Exec. Order No. 12,674, 3 C.F.R. 215 (1989).

4 **217.** Minnesota law articulates the core duty that defines all fiduciary relationships:

5 **MN 501C.0802 DUTY OF LOYALTY.** (a) A trustee owes a duty of
6 loyalty to the beneficiaries. A trustee shall not place the trustee's own
7 interests above those of the beneficiaries.

8 Minn. Stat. § 501C.0802 (2024). While government officials are not trustees in the
9 technical sense of the Uniform Trust Code, the fiduciary principle Madison articulated
10 is identical: those entrusted with power over others must exercise that power for the
11 benefit of those they serve, not for their own protection or advantage.

12 **218.** The Minnesota Supreme Court recently clarified the standards for trustee
13 accountability in *In the Matter of the Otto Bremer Trust*, No. A22-0906 (Minn. Feb. 7,
14 2024). The Court held:

15 "A District Court may remove a trustee for 'serious breach of trust,' which
16 may involve a series of smaller breaches, none of which alone would
17 justify removal, but which do justify removal when considered together."

18 *Id.* at 1-2.

19 **219.** The Court further held that removal is justified under Minnesota Statutes section
20 501C.0706(b)(3) if:

21 "The court determines that removal of the trustee best serves the interests
22 of the beneficiaries because of unfitness, unwillingness, or persistent
23 failure of the trustee to administer the trust effectively."

24 *Id.*

B. The Accountability Asymmetry

220. The *Otto Bremer Trust* standards illuminate the accountability void this Petition challenges. Under Minnesota trust law, a private trustee who commits a series of smaller breaches—none individually justifying removal—may be removed when the breaches are "considered together." A trustee may be removed for "persistent failure to administer the trust effectively" without any showing of malicious intent. Negligent failure to perform fiduciary duties is sufficient.

221. Public officials entrusted with constitutional rights—interests far more fundamental than property—face no comparable accountability. Under Minnesota Statute § 626.89, procedural protections constrain investigation and discipline. Under *Harlow v. Fitzgerald*, even officials who *knowingly* violate constitutional rights receive immunity if no prior case with identical facts exists. The subjective malice prong that would have held knowing violators accountable was eliminated entirely.

222. This produces a perverse hierarchy:

Fiduciary	Entrusted With	Accountability Standard
Private trustee	Property, finances	Negligence sufficient; cumulative breaches considered; removal for "persistent failure"
Public official	Constitutional rights, life, liberty	Knowing violation insufficient without matching precedent; procedural shields against discipline

223. The Constitution does not authorize this inversion. Those entrusted with the most fundamental interests citizens possess—their constitutional rights, their liberty, their lives—should be held to *higher* accountability standards than those entrusted with property, not lower.

1 **224.** The *Otto Bremer Trust* decision demonstrates that Minnesota courts possess the
2 capacity and willingness to enforce fiduciary accountability when beneficiaries'
3 interests are at stake. The question this Petition presents is whether Minnesota will
4 extend that same accountability to public officials whose beneficiaries are the citizens
5 of Minnesota—or whether constitutional rights will continue to receive less protection
6 than financial assets.

7 **C. The Chauvin Example: Cumulative Breaches Ignored**

8 **225.** The *Otto Bremer Trust* standard—removal justified when smaller breaches are
9 "considered together"—finds direct application in the circumstances preceding George
10 Floyd's death. Officer Derek Chauvin accumulated between 17 and 22 complaints for
11 alleged civil rights violations prior to May 25, 2020. Approximately one year before
12 killing George Floyd, Officer Chauvin allegedly choked a woman with his knee during
13 a DUI traffic stop in substantially the same manner. *See State v. Welch Day*, No. 27-
14 CR-20-21102 (Minn. Dist. Ct. [Hennepin] Jan. 20, 2020).

15 **226.** Under *Otto Bremer Trust*, a private trustee with this record—a series of
16 complaints alleging the same pattern of conduct, culminating in an incident nearly
17 identical to the eventual catastrophic breach—would face removal proceedings. The
18 cumulative breaches, "considered together," would justify intervention before the final,
19 fatal breach occurred.

20 **227.** Under Minnesota Statute § 626.89 and the qualified immunity framework, no such
21 intervention occurred. The procedural protections afforded to Officer Chauvin ensured
22 that complaints did not result in meaningful accountability. The pattern of conduct that

1 *Otto Bremer Trust* would have treated as cumulative evidence of unfitness was instead
2 treated as a series of isolated incidents, each insufficient on its own, none "considered
3 together" as the trust law standard requires.

4 **228.** The DUI charge against Patty Day was dismissed on May 24, 2021—one day
5 before the one-year anniversary of George Floyd's death—due to concerns about
6 evidence and Officer Chauvin's conduct. The Minneapolis Police Department has not
7 publicly released body camera footage of the incident. Plaintiff respectfully requests
8 that this Court order disclosure of all records related to complaints against Officer
9 Chauvin, including body camera footage for *State v. Welch Day*, to enable
10 determination of whether internal accountability mechanisms functioned as the public
11 trust requires.

12 **229.** The comparison is dispositive. Minnesota law holds that a private trustee may be
13 removed for "persistent failure to administer the trust effectively." Minnesota law,
14 through § 626.89, ensured that a public official with a documented pattern of
15 constitutional violations remained on duty until he killed a man on camera in broad
16 daylight. The Rule of Law currently demands more accountability from those who
17 manage money than from those who wield the power of life and death.

18 **230.** This Petition asks the Court to recognize that the fiduciary principles Minnesota
19 applies to private trustees must apply with at least equal force to public officials. If
20 cumulative breaches justify removal of a financial trustee, cumulative constitutional
21 violations must trigger accountability for public trustees. If "persistent failure to
22 administer the trust effectively" warrants intervention in private trust administration,
23 persistent failure to respect constitutional rights must warrant intervention in public

1 service. The beneficiaries of public trust—the citizens of Minnesota—deserve no less
2 protection than the beneficiaries of private trusts.

3 **D. Settlor, Trust Property, Trustee, Beneficiaries, And Trust Document**

4 **231.** While terminology may differ from public trust law to private trust law, largely
5 due to their historical origins, the significance and meaning of each are equivalent
6 regarding their principles of institution:

7 **232. Settlor (Trustor, Grantor, or Donor):** The Universal Trust Code (UTC)

8 establishes that a settlor must have a clear intention to create a trust, a purpose that is
9 lawful, not contrary to public policy, and achievable. See Unif. Tr. Code § 105(b)(3)
10 (Unif. L. Comm'n amended 2010). In the context of public trust, the settlor is "We
11 the People," as articulated in the Preamble to the U.S. Constitution. The people, as the
12 ultimate authority, have created a government to protect their interests, establishing a
13 fiduciary relationship where public officials are entrusted to serve the public good.

14 **233. Trust Property (Trust Corpus or Trust Res):** Under the UTC, trust property
15 comprises assets transferred into the trust by the settlor to be used for the trust's
16 purpose. See Unif. Tr. Code § 105(a) (Unif. L. Comm'n amended 2010). In a
17 constitutional context, this includes the fundamental rights, liberties, and public
18 resources entrusted to government officials, who must manage these assets in line with
19 the Constitution's purpose to "establish Justice, insure domestic Tranquility, provide for
20 the common defence, promote the general Welfare, and secure the Blessings of
21 Liberty." U.S. Const. pmbl.

1 **234. Trustee:** The trustee is charged with managing the trust property in the best
2 interests of the beneficiaries and is bound by duties of loyalty, prudence, impartiality,
3 and avoidance of conflicts of interest. See Unif. Tr. Code § 105(b)(2) (Unif. L.
4 Comm'n amended 2010). This duty is also reflected in Minnesota law, which specifies
5 that a trustee "shall not place the trustee's own interests above those of the
6 beneficiaries." Minn. Stat. § 501C.0802(a) (2024). Public officials, such as police
7 officers, legislators, and judges, serve as trustees of the public trust and are legally and
8 ethically obligated to uphold the Constitution and laws, reflecting a duty **equivalent** to
9 trustees in a private trust. This equivalence is further emphasized in *Executive Order*
10 *No. 12,674*, which states, "Public service is a public trust, requiring you to place loyalty
11 to the Constitution, the laws, and ethical principles above private gain." Exec. Order
12 No. 12,674, 3 C.F.R. 215 (1989).

13 **235. Beneficiaries:** Under the UTC, beneficiaries are those entitled to benefit from the
14 trust, and they must have enforceable rights to ensure the trustee's actions align with
15 the trust's terms and purposes. See Unif. Tr. Code § 105(b)(2) (Unif. L. Comm'n
16 amended 2010). The UTC expressly mandates that beneficiaries must be able to
17 enforce the terms of the trust and seek recourse in the event of a breach, ensuring
18 accountability and compliance.

19 **236. Constitutional Equivalent:** In the public domain, the beneficiaries are the
20 citizens who are entitled to the protection and benefits of the trust (the government).
21 Just as private trust law requires beneficiaries to have enforceable rights, the
22 Constitution provides multiple avenues for enforcement. For example, the First
23 Amendment guarantees the right "to petition the Government for a redress of

1 grievances," U.S. Const. amend. I, providing a means for citizens to hold public
2 officials accountable. However, the restrictions imposed by Minn. Stat. § 626.89,
3 Subd. 17 on civilian oversight councils impair this right by limiting effective oversight
4 and transparency.

5 **237.** Minnesota Statute § 626.89, Subd. 17, significantly inhibits public beneficiaries
6 (citizens) from enforcing the terms of public trust by restricting the authority and
7 effectiveness of civilian oversight councils. The statute allows civilian oversight
8 councils to investigate allegations of peace officer misconduct and recommend
9 discipline, yet it also grants the chief law enforcement officer ultimate authority to
10 accept or reject these recommendations. Minn. Stat. § 626.89, Subd. 17(d) (2024).

11 This provision effectively allows law enforcement officials to disregard oversight
12 recommendations without substantive accountability, thereby weakening the
13 enforcement mechanism that public beneficiaries rely on to ensure that trustees (public
14 officials) adhere to their fiduciary obligations.

15 **238.** Moreover, data related to investigations by civilian oversight councils are
16 classified as personnel data under Minnesota law, which limits public access to such
17 information. See Minn. Stat. § 626.89, Subd. 17(e) (2024); Minn. Stat. § 13.43, Subd.
18 1 (2024). This lack of transparency further inhibits public beneficiaries from holding
19 trustees accountable, as it obscures the findings and actions of the oversight councils.

20 **239. Trust Document (Trust Deed or Trust Instrument):** The trust document
21 outlines the trust's terms, purposes, and conditions. See Unif. Tr. Code § 105(a)
22 (Unif. L. Comm'n amended 2010). In the public context, the Constitution serves as
23 the "trust document," detailing the framework for governance, the powers and duties of

1 public officials, and the rights of the beneficiaries (citizens). Article II, Section 1,
2 Clause 8 of the U.S. Constitution mandates the Presidential Oath of Office, reflecting
3 the commitment of public officials to serve the public interest faithfully and uphold the
4 Constitution. U.S. Const. art. II, § 1, cl. 8. This oath symbolizes a fiduciary duty
5 **equivalent** to a trustee's commitment to act in good faith for the beneficiaries' benefit,
6 as reinforced by Exec. Order No. 12,674, 3 C.F.R. 215 (1989).

7 **E. The Necessity Of Enforcement And Accountability In Public Trusts**

8 **240. Enforcement Rights Under the Universal Trust Code:** The UTC underscores
9 that for a trust to function properly, its beneficiaries must have enforceable rights.
10 Uniform Trust Code § 105(b) emphasizes that the terms of a trust cannot override the
11 duty of a trustee to act in good faith and in accordance with the interests of the
12 beneficiaries. See Unif. Tr. Code § 105(b) (Unif. L. Comm'n amended 2010). This
13 requirement inherently includes the beneficiaries' ability to enforce the terms of the
14 trust and seek accountability for any breach.

15 **241. Affirmation Clause and Public Officials' Oaths:** Every public official, upon
16 assuming office, takes an oath to uphold the Constitution and serve the public
17 faithfully. See U.S. Const. art. II, § 1, cl. 8 (similar provisions apply at the state level).
18 This oath, often made with affirmation before God or in the presence of the people,
19 implies a solemn commitment to act as a trustee for the public good. By affirming
20 their oath, public officials consent to the highest standards of accountability and
21 transparency, subject to retribution and consequences for any breach of trust, as
22 mandated by Exec. Order No. 12,674, 3 C.F.R. 215 (1989).

1 **242. The Right of Citizens to Enforce Accountability:** The affirmation clause in a
2 public official's oath of office reinforces the principle that public officials are
3 answerable to the people they serve. If a public official breaches their fiduciary duty,
4 citizens, as beneficiaries of the public trust, are constitutionally empowered to demand
5 accountability. This right to enforce accountability is mirrored in provisions such as
6 the Due Process Clause, which requires that government actions affecting life, liberty,
7 or property be conducted lawfully and justly, and the Equal Protection Clause, which
8 mandates that no state shall deny any person equal protection under the law. U.S.
9 Const. amend. XIV. However, Minn. Stat. § 626.89, Subd. 17 undermines this
10 principle by allowing law enforcement officials to disregard civilian oversight
11 recommendations, thereby weakening the ability of the public to enforce the trust.

12 **243. The Need for Accountability in the Context of Fraternization and Police**

13 **Misconduct:** In *State v. Welch Day*, No. 27-CR-20-21102 (Minn. Dist. Ct.
14 [Hennepin] Jan. 20, 2020), Officer Derek Chauvin's violation of protocol during the
15 arrest of Patricia Day, as witnessed by his partner, Officer Jensen, illustrates a breach
16 of fiduciary duty to the public trust. Despite clear evidence of misconduct, neither
17 Officer Jensen nor other public officials, including prosecutors and judges who
18 reviewed body camera footage, took action to hold Chauvin accountable. This inaction
19 reflects a broader issue where fraternization and close professional relationships among
20 police officers and public officials prevent the enforcement of accountability
21 mechanisms.

22 **244.** The lack of accountability demonstrated by the police officers was mirrored by the
23 failure of other public officials to uphold their duties. As the primary entities

1 responsible for prosecuting criminal cases and ensuring that justice is served,
2 prosecutors and district attorneys are duty-bound to act upon any evidence of
3 misconduct they encounter. In this case, the decision not to report or address the
4 misconduct—despite having reviewed the body camera footage—demonstrates a
5 concerning level of complicity.

6 **245.** Had Chauvin been held accountable for his earlier misconduct or had
7 investigation been launched for any of his 22 prior complaints, as required by the
8 principles of public trusteeship established in *Otto Bremer Trust*, No. A22-0906, it is
9 conceivable that the subsequent tragic death of George Floyd might have been
10 prevented. The failure to enforce the terms of public trust, by both internal and
11 external actors, highlights the urgent need for systemic reforms to ensure that public
12 officials, like trustees in private trusts, are held accountable for breaches of duty.

13 **246. Ensuring the Right to Enforce Accountability in Public Trusts:** Just as
14 beneficiaries in private trust law have the right to enforce the terms of the trust,
15 citizens, as beneficiaries of the public trust, must be able to hold public officials
16 accountable. This right is foundational to democratic governance and is underscored
17 by the Constitution, principles of fiduciary duty, Exec. Order No. 12,674, Minn. Stat.
18 § 501C.0802, and the need for transparent, effective oversight of law enforcement
19 actions. The failure of public officials to act on evident misconduct, as in the case(s) of
20 Derek Chauvin, demonstrates a critical breakdown in the enforcement of public trust
21 and the necessity for reforms that align with both constitutional mandates and the
22 fundamental principles of trust law.

XIV. CIVILIAN OVERSIGHT AS CONSTITUTIONAL REMEDY

A. The Need For Effective Civilian Oversight

247. Civilian oversight committees play a crucial role in ensuring transparency, accountability, and public trust in law enforcement agencies. To be effective, these committees must have sufficient authority to investigate complaints, determine findings of misconduct, and enforce appropriate disciplinary actions against officers who violate laws, standards, or policies. However, the current limitations imposed by **Minnesota Statute § 626.89** severely restrict the power and effectiveness of such committees, impeding their ability to hold officers accountable.

B. Civilian Oversight As A Functional Equivalent To A Jury

248. A civilian oversight committee with sufficient authority can function similarly to a jury in a judicial context. Like a jury, which is entrusted with evaluating evidence and determining guilt or innocence while maintaining confidentiality and fairness, a properly empowered civilian oversight committee can balance the need for accountability with privacy and investigative concerns. Here are several ways in which a civilian oversight committee can achieve this balance:

249. Preserving Privacy Through Confidential Deliberations: Civilian oversight committees can be authorized to conduct confidential deliberations, much like a jury deliberates in private to protect the integrity of the judicial process and the privacy of all parties involved. By keeping sensitive information, such as officer identities, personal data, or details of ongoing investigations confidential, oversight committees

1 can mitigate concerns about public exposure and protect the rights of officers while
2 still conducting thorough and impartial investigations.

3 **250. Ensuring Due Process and Fairness:** Just as a jury operates within the confines
4 of established rules of evidence and procedure, a civilian oversight committee can be
5 granted similar authority to ensure that investigations and disciplinary actions adhere to
6 due process. The committee can follow structured procedures for collecting and
7 evaluating evidence, interviewing witnesses, and determining findings of misconduct.
8 This formalized process can safeguard the rights of officers to fair treatment while
9 maintaining a clear focus on accountability.

10 **251. Protecting Investigative Integrity:** Civilian oversight committees, like juries,
11 can be empowered to work within the bounds of existing legal frameworks to protect
12 the integrity of ongoing investigations. For example, the committee could be granted
13 the authority to review sensitive evidence in a secure setting, ensuring that information
14 critical to the investigation is not publicly disclosed until it is appropriate to do so.
15 Such measures would help to balance transparency with the need to protect the details
16 of active investigations.

17 **252. Promoting Public Confidence Through Independent Review:** A properly
18 empowered civilian oversight committee can enhance public confidence in law
19 enforcement agencies by providing an independent review mechanism that is insulated
20 from potential biases or conflicts of interest. Unlike internal police investigations,
21 civilian oversight bodies consist of independent members of the community who can
22 objectively assess the actions of officers and ensure that appropriate accountability

1 measures are enforced. This independence mirrors the role of a jury, which serves as
2 an impartial body representative of the community.

3 **253. Offering a Structured Approach to Accountability:** Civilian oversight
4 committees can adopt a structured approach to handling complaints and investigations,
5 similar to how a jury is instructed and guided by the rules of law. For instance, they
6 can utilize clear guidelines and standards, such as those promulgated by the Peace
7 Officer Standards and Training Board, to determine whether misconduct has occurred
8 and what discipline is warranted. This approach ensures that all parties are treated
9 consistently and fairly while maintaining a focus on upholding public trust.

10 **C. Mitigating Privacy And Investigative Concerns**

11 **254.** To address specific privacy and investigative concerns, a civilian oversight
12 committee could employ several safeguards:

- 13 • **Controlled Access to Sensitive Data:** Similar to how juries receive only the
14 information necessary to reach a verdict, civilian oversight committees could be
15 granted access to sensitive data under strict conditions. They can review
16 documents and evidence in a secure environment, maintaining confidentiality
17 where necessary while ensuring that all relevant information is considered.
- 18 • **Use of Subpoena Power with Caution:** Civilian oversight committees, like
19 juries, can be vested with the power to subpoena documents and testimony.
20 However, the use of such power can be regulated to prevent unnecessary
21 intrusion into private matters or the disruption of ongoing investigations. The
22 oversight committee could, for example, be required to demonstrate a
23 compelling interest before exercising subpoena authority.
- 24 • **Balancing Public Transparency and Officer Privacy:** Just as jury proceedings
25 are conducted in a manner that balances public interest with the need to protect
26 the privacy of jurors and witnesses, civilian oversight committees can also
27 balance these concerns by releasing redacted reports or summaries that maintain
28 transparency without compromising sensitive personal information or
29 investigative details.

D. Enhancing The Effectiveness Of Civilian Oversight Committees

255. To maximize the effectiveness of civilian oversight committees while respecting privacy and investigative needs, the following measures could be implemented:

- **Grant Full Authority to Enforce Discipline:** Unlike the current limitations imposed by **Minnesota Statute § 626.89, Subd. 17(d)**, which allows chief law enforcement officers to disregard recommendations, a civilian oversight committee should have the authority to enforce disciplinary measures. This would ensure that findings of misconduct result in meaningful consequences, reinforcing public trust in the oversight process.
- **Ensure Full Access to Information:** Oversight committees should have access to all relevant evidence, including body camera footage, internal reports, and witness statements, similar to the access a jury would have in a trial setting. Confidentiality measures can be implemented to protect sensitive data while ensuring the committee has the necessary information to make informed decisions.
- **Mandate Transparency in Reporting:** Committees should be required to issue public reports summarizing their findings, recommendations, and any actions taken. These reports should be clear, comprehensive, and accessible to the public, much like a jury's verdict is made public. This would promote accountability while respecting the privacy rights of individuals involved.

E. The Jury-like Function Of A Civilian Oversight Committee

256. By granting civilian oversight committees sufficient authority and structuring their procedures to align with the principles that govern juries, it is possible to create a robust mechanism for holding law enforcement officers accountable while mitigating privacy and investigative concerns. Empowering these committees to function with the independence, confidentiality, and due process protections similar to a jury would enhance public trust, ensure fair treatment of officers, and uphold the principles of democratic governance.

XV. CONCLUSION

257. The Plaintiff, Joseph Kirchner, respectfully requests that this Court recognize the fundamental constitutional violations inherent in Minnesota State Statute §626.89, the Peace Officer Discipline Procedures Act, and the judge-created doctrine of qualified immunity. These legal frameworks unduly privilege law enforcement officers above other citizens, undermining the principles of equality, transparency, and accountability enshrined in the Constitution. By fostering a climate of unaccountability, these doctrines contravene the Equal Protection Clause of the Fourteenth Amendment and chill the exercise of First and Fourth Amendment rights.

258. The Plaintiff urges the Court to apply strict scrutiny in examining the constitutionality of these statutes, given their impact on fundamental rights and their disparate impact on marginalized communities, particularly Black Americans. Furthermore, the Court must acknowledge that the statutes fail to serve any legitimate state interest, as demonstrated by the lack of empirical evidence or rational basis supporting their continued enforcement.

259. In seeking a declaratory judgment and injunctive relief, the Plaintiff asks the Court to declare Minnesota Statute §626.89 unconstitutional under the Fourteenth Amendment and to recognize that the judge-created doctrine of qualified immunity violates seven constitutional provisions. This would serve to protect the constitutional rights of all citizens, promote public trust in law enforcement, and realign the governance of police conduct with democratic principles.

260. The urgency of this petition cannot be overstated. Two United States citizens have been killed by federal agents in Minneapolis in seventeen days. Neither posed an

1 actual threat justifying lethal force. One was unarmed. One was a lawful gun owner
2 who was **disarmed by agents before being shot in the back at point-blank range**—
3 video evidence shows one agent removing the victim's firearm from his waistband and
4 walking away, then another agent executing the disarmed, restrained victim. Both
5 were killed by agents operating under secret use of force policies, with fabricated
6 "absolute immunity" declared by executive proclamation, while local law enforcement
7 was barred from crime scenes and witnesses were subject to arrest.

8 **261.** This is no longer a matter of constitutional principle alone—though the principles
9 remain vital. It is a matter of life and death for Minnesota citizens. The immunity
10 structure this petition challenges—§626.89 at the state level, qualified immunity and §
11 535 at the federal level—has become lethal. Federal agents are operating in Minnesota
12 under rules unknown to citizens, with immunity declared by press conference, killing
13 with impunity while celebrating their kills and attempting to destroy evidence.

14 **262.** The relief Plaintiff seeks is urgent and necessary. If state accountability
15 mechanisms cannot reach federal agents, and federal self-policing mechanisms are
16 non-functional because department heads defend the conduct, then Minnesota citizens
17 exist in a constitutional void—subject to execution for observing enforcement, for
18 carrying legal firearms, for being present where agents operate.

19 **263.** Finally, the Plaintiff prays that this Court's decision will serve as a landmark step
20 towards achieving a more equitable society, where every citizen is equally protected
21 under one unified Constitution, and where law enforcement officers are held to the
22 highest standards of public trust and accountability. Two citizens are dead. More will
23 follow unless this Court acts.

A. A Call To Minnesota Leadership

264. Plaintiff brings this petition not as an adversary of Minnesota, but as a believer in it. Minnesota has long been a national leader in civil rights, in community safety, and in the proposition that government serves the people rather than the reverse. From the farmer-labor movement to the civil rights era to the present day, Minnesotans have understood that accountability and safety are not opposing values—they are the same value. Officers who serve with integrity are strengthened, not threatened, by accountability frameworks that identify and remove those who do not.

265. Plaintiff believes in Minnesota's capacity to lead. When George Floyd was killed on a Minneapolis street in 2020, the world watched Minnesota. Colorado responded by eliminating qualified immunity for state claims. New Mexico followed. Other states considered similar reforms. Minnesota—where it happened—did not act. The accountability void that existed before May 25, 2020 remains substantially unchanged, and now two more citizens are dead.

266. This petition asks Minnesota to lead again—not by following federal doctrine that this Court cannot overrule, but by exercising the sovereignty that federalism reserves to the states. A declaratory judgment that Minnesota Statute § 626.89 is unconstitutional will not repeal *Harlow v. Fitzgerald*. It will not bind the Supreme Court. But it will do something more immediate and more important: it will enhance the rights of every person within Minnesota's jurisdiction. It will establish that in Minnesota, constitutional violations have consequences. It will demonstrate that accountability is achievable—because Colorado proved it, and Minnesota can prove it again.

1 letter invites police chiefs and department heads to review the constitutional arguments
2 presented herein and, should they find merit, to indicate support for constitutional
3 accountability reform. Plaintiff undertakes this outreach to demonstrate that
4 constitutional compliance and effective policing are aligned goals—and to invite
5 Minnesota law enforcement to lead rather than resist the restoration of one bill of rights
6 for one people. Minneapolis Police Chief Brian O'Hara has publicly stated that
7 Minnesota completed 2025 with zero officer-involved shootings—proof that
8 Minnesota officers already possess the professionalism and restraint that qualified
9 immunity assumes they lack. The question is not whether Minnesota law enforcement
10 *can* operate under constitutional accountability; they already have. The question is
11 whether Minnesota will formalize what its officers have already demonstrated.

12 **XVI. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff JOSEPH KIRCHNER respectfully prays that this Court:

14 **A. Emergency Relief**

15 **272. Temporary Restraining Order:** Immediately order federal agents operating in
16 Minnesota to cease use of lethal force except when facing actual imminent threat of
17 death or serious bodily injury, with "actual imminent threat" defined to exclude lawful
18 firearm possession and observation of enforcement activities;

19 **273. Access Order:** Order that Minnesota law enforcement be permitted immediate
20 and unrestricted access to any scene where federal agents use force against Minnesota
21 residents;

1 **274. Witness Protection Order:** Order federal agents to cease all attempts to arrest,
2 detain, or seize witnesses to federal agent use of force, and to preserve all video, audio,
3 and documentary evidence related to the January 7 and January 24, 2026 killings;

4 **275. Disclosure Order:** Order immediate disclosure of ICE Directive 19009.3
5 "Firearms and Use of Force" in unredacted form, as the (b)(7)(E) exemption cannot
6 constitutionally shield use of force policies when federal agents have killed two
7 citizens in seventeen days and citizens have a right to know what rules govern when
8 federal agents may kill them;

9 **276. Declaratory Judgment:** Declare that no federal law enforcement officer
10 possesses "absolute immunity" for use of deadly force against citizens, and that any
11 immunity determination requires judicial proceeding—not executive pronouncement;

12 **277. Declaratory Judgment:** Declare that the coordinated pattern of federal conduct in
13 Minnesota—including the killings of Renee Nicole Good and Alex Pretti, the
14 fabrication of "absolute immunity," the concealment of use of force policies, and the
15 attempted obstruction of investigation—constitutes activities appearing intended to
16 intimidate a civilian population within the meaning of 18 U.S.C. § 2331(5);

17 **278. Preliminary Injunction:** Issue preliminary injunction preventing federal
18 prosecution of citizens or organizations for "obstruction" of immigration enforcement
19 based on witnessing, documenting, or non-violent intervention in enforcement
20 operations;

21 **279. Criminal Referral:** Refer the January 7 and January 24, 2026 killings, the
22 attempted witness arrests, and the attempted crime scene exclusions to appropriate
23 authorities for investigation of violations of 18 U.S.C. § 241 (conspiracy against

rights), 18 U.S.C. § 242 (deprivation of rights under color of law), 18 U.S.C. § 1512 (witness tampering), and 18 U.S.C. § 2331(5) (domestic terrorism);

280. Child Return Order: Order immediate return of the 2-year-old and 5-year-old children transported from Minnesota to Texas on January 24, 2026 without notification to Minnesota family members, and order that custody be transferred to Minnesota family members pending judicial determination of the children's status and the legality of their parents' deportation;

281. Child Trafficking Referral: Refer the seizure and interstate transportation of the 2-year-old and 5-year-old children to appropriate authorities for investigation of violations of 18 U.S.C. § 1201 (federal kidnapping), 18 U.S.C. § 1591 (child trafficking), and Minn. Stat. § 609.378 (child endangerment);

282. Family Notification Order: Order that ICE immediately notify Minnesota family members of the children's location and status, and provide those family members opportunity to assume guardianship through proper legal process before any further transportation or deportation of the children;

283. Expedited Hearing: Set expedited hearing on this petition given that two citizens have been killed in seventeen days, two children have been trafficked across state lines, and the constitutional violations are measured in bodies and broken families, not abstractions;

B. Declaratory Judgments

WHEREFORE, Plaintiff JOSEPH KIRCHNER respectfully prays that this Court:

1 **284. Declaratory Judgment:** Declare that Minnesota State Statute §626.89, the Peace
2 Officer Discipline Procedures Act, is unconstitutional under the Equal Protection
3 Clause of the Fourteenth Amendment to the United States Constitution;

4 **285. Declaratory Judgment:** Declare that the deployment of chemical weapons—
5 banned in warfare under the Chemical Weapons Convention—against Minnesota
6 civilians exercising constitutional rights violates the First and Fourth Amendments and
7 the principles underlying the Posse Comitatus Act (18 U.S.C. § 1385);

8 **286. Declaratory Judgment:** Declare that the Supreme Court's practice of staying
9 preliminary injunctions—interlocutory orders explicitly excluded from 28 U.S.C. §
10 2101(f), which limits stays pending certiorari to "final judgment or decree" only—
11 exceeds its statutory jurisdiction, violates Article III, and has directly enabled the
12 federal enforcement operations that killed Renee Nicole Good and Alex Pretti in
13 Minnesota—see **Memo I** for comprehensive analysis of 80+ emergency applications
14 demonstrating this pattern;

15 **287. Declaratory Judgment:** Declare that the doctrine of qualified immunity, as
16 established in *Harlow v. Fitzgerald*, 457 U.S. 800 (1982), is constitutionally
17 illegitimate because: (a) it rests upon logically incoherent premises—specifically, that a
18 standard cannot be "essentially objective" when objectivity admits no degrees; (b) it
19 extends immunity beyond the sole constitutional source (Art. I, § 6, Speech or Debate
20 Clause) without the Article V amendment process required for such expansion; (c) it
21 violates Article III by creating law rather than declaring it; (d) it violates Article IV, § 2
22 by denying citizens equal privileges and immunities across jurisdictions; (e) it violates
23 the Seventh Amendment right to jury trial in civil cases; (f) it violates the Ninth

1 Amendment by construing the Constitution to deny rights retained by the people; and
2 (g) it violates the Fourteenth Amendment's guarantees of due process and equal
3 protection—see **Memo N** for comprehensive analysis—and urge federal courts to
4 reconsider its application;

5 **288. Permanent Injunction:** Permanently enjoin the Defendant, KEITH ELLISON, in
6 his official capacity as Attorney General of Minnesota, from enforcing Minnesota
7 Statute §626.89;

8 **289. Permanent Injunction:** Permanently enjoin federal agents from deploying
9 chemical weapons against Minnesota civilians engaged in peaceful observation or
10 protest of law enforcement operations;

11 **290. Order for Disclosure:** Order the public release of all case information related to
12 civil complaints against Officer Derek Chauvin, including body camera footage for
13 *State v. Welch Day*, No. 27-CR-20-21102 (Minn. Dist. Ct. [Hennepin] Jan. 20, 2020);

14 **291. Comprehensive Reform:** Order comprehensive reforms to civilian oversight
15 mechanisms to ensure transparency, accountability, and the effective enforcement of
16 public trust in law enforcement;

17 **292. Declaration of Constitutional Minimum Standards:** Declare that the Equal
18 Protection Clause of the Fourteenth Amendment requires that Minnesota's law
19 enforcement accountability framework satisfy the following constitutional minimum
20 standards:

21 (a) Citizens must have a **meaningful remedy** for violations of constitutional rights by
22 law enforcement officers—immunity doctrines that categorically bar recovery
23 regardless of the egregiousness of the violation fail this standard;

1 **(b) Transparency mechanisms** must exist to enable citizens to assess law
2 enforcement conduct—blanket protections from disclosure that prevent public access
3 to misconduct records fail this standard;

4 **(c) Civilian oversight** must be empowered to conduct meaningful investigation and
5 impose meaningful discipline—statutory constraints that render oversight committees
6 advisory or toothless fail this standard;

7 **(d) Officers who witness violations** must face consequences for failing to intervene—
8 frameworks that impose no duty to prevent fellow officers from violating rights fail
9 this standard;

10 **293. Finding of Achievability:** Find that Colorado's SB20-217, the Enhance Law
11 Enforcement Integrity Act (Colo. Rev. Stat. § 13-21-131), demonstrates that these
12 constitutional minimum standards are achievable without destroying law enforcement.
13 Colorado eliminated qualified immunity for state claims, mandated body cameras,
14 required prompt release of misconduct recordings, empowered its Attorney General to
15 sue for pattern-or-practice violations, and imposed a duty to intervene—and Colorado
16 law enforcement continues to function. Minnesota's claim that § 626.89's officer-
17 protective provisions are necessary is contradicted by the experience of states that have
18 moved in the opposite direction.

19 **294. Legislative Response Period:** Upon declaration that Minnesota Statute § 626.89
20 is unconstitutional, grant the Minnesota Legislature a reasonable period—not to exceed
21 180 days—to enact replacement legislation that satisfies the constitutional minimum
22 standards declared by this Court. The form of such legislation is within legislative
23 discretion; the constitutional floor is not.

1 **295. Retained Jurisdiction:** Retain jurisdiction over this matter to review any
2 replacement legislation for compliance with the constitutional minimum standards
3 declared herein, and to consider further relief if the Legislature fails to act within the
4 period granted or enacts legislation that fails to satisfy constitutional requirements.

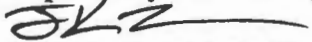
5 **C. General Relief**

6 **296. Costs and Fees:** Award Plaintiff the costs of this action and reasonable attorney's
7 fees to the extent permitted by law;

8 **297. Disclaimer of Personal Damages:** Plaintiff does not seek monetary damages for
9 his own benefit through this Petition. However, should the Court determine that
10 damages are appropriate as an incident to the equitable relief sought, Plaintiff
11 respectfully requests that any such damages be placed in trust and distributed to the
12 estates or families of Renee Nicole Good (killed January 7, 2026) and Alex Pretti
13 (killed January 24, 2026), whose deaths exemplify the lethal consequences of the
14 accountability void this Petition challenges.

15 **298. Further Relief:** Grant such other and further relief as the Court deems just and
16 proper.

17
18 Respectfully submitted,

19 

20 **JOSEPH KIRCHNER**

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26 Dated: JANUARY 27, 2026

ATTACHMENTS

EXHIBITS

- **EXHIBIT A:** Minnesota Police Chiefs Declaring ICE Constitutional Violations Upon Off-Duty Officers (Transcript of January 20, 2026 Press Conference, Brooklyn Park Police Chief Mark Bruley)
- **EXHIBIT B:** Noem CBS Interview: DHS Secretary Defends Chemical Agent Use Despite Federal Court Order (Face the Nation, January 18, 2026)
- **EXHIBIT C:** Vance Pre-Investigation Adjudication Transcript: Vice President Declares "Absolute Immunity" and Prejudges Good Killing Within 24 Hours (January 8, 2026) — *See also* ECF No. 13-80, *Kirchner v. Johnson*, No. 1:25-cv-02735-ACR (D.D.C.)
- **EXHIBIT D:** ICE Directive 19009.3, "Firearms and Use of Force" (May 26, 2023) — Redacted in entirety under 5 U.S.C. § 552(b)(7)(E) following January 7, 2026 Minneapolis shooting — *See also* ECF No. 13-85, *Kirchner v. Johnson*, No. 1:25-cv-02735-ACR (D.D.C.)
- **EXHIBIT E:** Letter from Attorney General Pamela Bondi to Governor Tim Walz (January 24, 2026) — Demanding voter rolls, welfare records, and sanctuary policy repeal on same day federal agents killed Alex Pretti
- **EXHIBIT F:** Affidavit of Joseph D. Kirchner (Alternative Standing Based on Direct Personal Injury)
- **EXHIBIT G:** Network Forensic Evidence Package EVID-20260123-0001: DoH RST Injection Attack Causing Email Delivery Failure to Minnesota Law Enforcement (January 23, 2026) — *For corroborating prior attack evidence, see* ECF Nos. 13-52, 13-55, 13-60, *Kirchner v. Johnson*, No. 1:25-cv-02735-ACR (D.D.C.)
- **EXHIBIT G-1:** Package Summary: Executive summary of attack evidence and key findings
- **EXHIBIT G-2:** TCP RST Attack Analysis: 6 injected RST packets in 65ms window targeting DoH connection
- **EXHIBIT G-3:** DNS Analysis: DNS infrastructure mapping showing Comcast DoH servers
- **EXHIBIT G-4:** DoH Connection Attack: Detailed timeline of encrypted DNS connection termination
- **EXHIBIT G-5:** Anomaly Timestamp Reference: 1-microsecond FIN-to-RST gap proving packet injection
- **EXHIBIT H:** Criminal Referral to Minnesota Attorney General (filed contemporaneously)
- **EXHIBIT I:** Open Letter to Metro Area Minnesota Police Departments — Distributed to department heads statewide seeking law enforcement consensus on constitutional accountability reform (January 2026)

MEMORANDA OF LAW

- **MEMO I:** SCOTUS Ultra Vires Practice — Documenting Shadow Docket Violations of 28 U.S.C. § 2101(f) Across 80+ Emergency Applications (2017-2025)
- **MEMO L:** The Birthright Citizenship Cases as Proof of Coordinated Constitutional Subversion Through "Primary Purpose" Fallacy
- **MEMO N:** The Logical and Constitutional Failures of *Harlow v. Fitzgerald* (144 paragraphs documenting seven constitutional provisions violated by judge-made immunity)

APPENDICES

- **N-21:** SCOTUS Emergency Docket Analysis (Supporting Memo I) — *See also* ECF No. 13-81, *Kirchner v. Johnson*, No. 1:25-cv-02735-ACR (D.D.C.)
- **N-22:** SCOTUS Shadow Docket Jurisdiction Fraud Schematic (Supporting Memo I) — *See also* ECF No. 13-82, *Kirchner v. Johnson*, No. 1:25-cv-02735-ACR (D.D.C.)