



## City of Long Beach

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### Office of the City Attorney

## Memorandum

**DATE:** April 8, 2026

**To:** Mayor and Members of the City Council

**FROM:** Dawn A. McIntosh, City Attorney

**SUBJECT:** Legal Alert – Ninth Circuit Upholds Preliminary Injunction Against Use of Excessive Force by ICE During Protests in Los Angeles County

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As you recall, in the summer of 2025, ICE was actively detaining and arresting people in the Los Angeles County area. Many protests erupted throughout the County, including in Long Beach. ICE officers responded aggressively, deploying weapons against protesters, legal observers and members of the press. Some of these people suffered injuries, including gunshot wounds. Following the events in Los Angeles County, several people were killed by ICE in Minnesota and elsewhere while protesting or observing protests.

Several individual journalists, legal observers and press organizations sued the Department of Homeland Security for violating their First Amendment right to be free from retaliation from engaging in protected activities and right of public access to protests. The District Court granted a preliminary injunction to safeguard the First Amendment rights of the protesters, press and legal observers. On April 1, 2026, the Ninth Circuit affirmed the issuance of the preliminary injunction, finding that the presence of some violent actors did not give the federal government carte blanche to fire weapons into peaceful crowds. The court remanded the matter to the lower court to revise the preliminary injunction regarding certain details improperly included in the original ruling.

A summary of the Ninth Circuit ruling is attached. Please feel free to share this information and to contact me if you have any questions.

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Attachment (Daily Appellate Report. April 2, 2026. Constitutional Law: Preliminary Injunction Prohibiting Department of Homeland Security's indiscriminate violence against ICE protestors and press was proper, albeit overbroad in some respects. *Daily Appellate Report Summary*.)

cc: Tom Modica, City Manager  
April Walker, Assistant City Manager  
Wally Hebeish, Chief of Police  
Kevin Lee, Public Affairs Officer

## Constitutional Law

■ Preliminary injunction prohibiting Department of Homeland Security's indiscriminate violence against ICE protestors and press was proper, albeit overbroad in some respects.

Los Angeles Press Club v. Noem, || 9th U.S. Circuit Court of Appeals, No. 25-5975, Oral Argument Jan. 5, 2026, Filed Apr. 1, 2026

During the summer of 2025, protests erupted across Los Angeles in response to ICE immigration raids. Department of Homeland Security (DHS) officers from the Federal Protective Services, ICE, and U.S. Customs and Border Protection responded by deploying weapons against protesters, legal observers, and members of the press, sometimes indiscriminately. Some individuals suffered injuries despite peaceful protest and compliance with orders, while others were shot, without warning, despite posing no threat to officers or any other person. Several individual journalists, legal observers, protesters, and two press organizations sued DHS for violating their First Amendment right to be free from retaliation for engaging in protected activities and right of public access to protests. The district court issued a preliminary injunction to safeguard the First Amendment rights of the protesters, the press, and the legal observers to engage in peaceful protests and report on them. The government appealed the order, arguing that it was practically unworkable and that plaintiffs were unlikely to prevail on the merits.

Affirmed in part. To obtain a preliminary injunction, plaintiffs must establish, *inter alia*, that they are likely to succeed on the merits. Further, plaintiffs claiming First Amendment retaliation must show that: they engaged in constitutionally protected activity; defendants' actions would chill a person of ordinary firmness from engaging in the protected activity; and that the protected activity was a substantial or motivating factor in defendant's conduct. Here, the Ninth Circuit determined that these criteria were met: Plaintiffs established that defendants targeted protesters, journalists, and legal observers with indiscriminate force. Moreover, the presence of some violent actors did not give defendants *carte blanche* to fire weapons into peaceful crowds. While the Ninth Circuit deemed the injunction proper, it also found it overbroad in some respects. For instance, it exempted plaintiffs, non-party journalists, and non-party legal observers from lawful, non-retaliatory dispersal orders, which the Ninth Circuit found to be broader than necessary to remedy the specific harm alleged. It affirmed the order's issuance but vacated and remanded to address the scope.

*Opinion by Ronald M. Gould*  
The full text of this case appears in the *Daily Appellate Report* on page 2509.

— Christie Bahna