

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BRIAN J. DRISCOLL, JR., et al.,
Plaintiffs,

v.

KASHYAP P. PATEL, et al.,
Defendants.

No. 1:25-CV-03109-JMC

**BRIEF OF *AMICI CURIAE* UNIVERSITY PROFESSORS AND SCHOLARS IN
OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

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INTEREST OF AMICI CURIAE¹

Amici curiae are university professors and scholars with decades of experience studying and writing about the rule of law in the United States and other countries, and with substantial expertise in studying democracies that slide into authoritarianism and the rise of autocratic governments. They submit this brief to describe how rising autocratic leaders interfere with the independence of law enforcement agencies to consolidate power, weaken political opposition, stifle dissent, and exact retribution on the perceived enemies of those in power. *Amici's* expertise is relevant here, as it illuminates how the improper, politically-motivated terminations of senior, nonpolitical FBI leaders pose a threat to the rule of law in the United States and why it is essential for courts to carefully review these claims.

They are Michael Albertus, Javier Corrales, Larry Diamond, David M. Driesen, Francis Fukuyama, Tom Ginsburg, Gábor Halmai, Gretchen Helmke, Aziz Z. Huq, Dr. Rachel Kleinfeld, Sonia Mittal, Maria Popova, Stephen Richer, Dalibor Rohac, Susan Stokes, and Lucan Way. Biographies of each *amicus* are appended at the end of this brief.

INTRODUCTION

We are university professors and scholars who have studied nations around the world experiencing autocratic consolidation and democratic backsliding—or the weakening of an existing democracy's democratic norms, processes, and institutions. Through our research, we recognize that one common way leaders with autocratic tendencies increase their authority is by asserting control over government institutions that have previously been insulated from political influence, including law enforcement agencies. Once they have assumed control over these formerly independent state institutions, they capitalize on that authority by prosecuting political

¹ No party's counsel authored this brief in whole or in part; and no person other than *amici* or their counsel made a monetary contribution to this brief's preparation or submission.

opponents and individuals who attempt to hold the regime accountable for unlawful behavior, and excusing, if not encouraging, the stifling of dissent through violence or other corrupt means. Although the methods these leaders use to capture institutions, including law enforcement agencies, differ, they often involve purging career civil servants and replacing them with party loyalists, changing existing laws or reinterpreting them to serve their needs, degrading or eliminating investigatory independence, and then investigating adversaries.

Based on the allegations in the Complaint, Plaintiffs' terminations mirror many of the features of terminations and politicized capture of law enforcement agencies in the countries we study: Each Plaintiff was fired as part of a retribution campaign by President Trump; the firings occurred without sufficient procedural protections and process; and an expansive view of executive authority under Article II was used to justify the firings, in an apparent attempt to situate the unjustified terminations within the confines of the law.

It is essential to view Plaintiffs' terminations in the larger context of how politicized purges are used in autocracies and backsliding democracies and the risks that such terminations pose. As we have seen in the countries we study, politicized firings of law enforcement officers can lead to the broader capture of law enforcement agencies, which in turn provides the autocratizing government with the tools needed to punish political adversaries and stifle dissent, undermining the rule of law and damaging democratic governance. The capture of law enforcement agencies can also lead to human rights violations and corruption, as law enforcement officials become beholden only to the autocratic leader, who can use the might of these institutions to forcibly break up protests; investigate, arrest, and prosecute dissidents and political opponents; and shield the leader's own administration from investigation and prosecution to further consolidate power. Yet because the firings of career staff tend to occur

without significant public attention and are supported by claims of legal authority, they may appear to be legitimate exercises of state power.

While we recognize that the executive branch has some latitude to fire law enforcement officers such as Plaintiffs, it is vital to recognize the dangers politicized firings of law enforcement pose to the fabric of democracy. Judicial review of these claims is key to maintaining the rule of law and democratic norms. Here, the allegations in the Complaint indicate that Plaintiffs were targeted for removal based on the perception that they were disloyal to the personal interests of President Trump. Other such firings have already occurred and more are likely. The Court should not ignore this broader context and the dangerous precedent these firings set and should deny Defendants' motion to dismiss so that the record may be developed and a factfinder has the opportunity to closely review the evidence supporting Plaintiffs' claims.

ARGUMENT

I. POLITICIZED CAPTURE OF LAW ENFORCEMENT AGENCIES IS CHARACTERISTIC OF COUNTRIES EXHIBITING DEMOCRATIC BACKSLIDING.

One key indicator of democratic backsliding is a regime's reliance on "autocratic legalism,"—the use or abuse of the law, or the trappings of law, to attack governmental institutions and diminish their independence so as to consolidate power and remove checks on the executive.² As a governing leader gains power over previously independent institutions such

² Javier Corrales, *Autocratic Legalism in Venezuela*, 26 J. of Democracy 37, 38 (Apr. 2015); Kim Lane Scheppele, *Autocratic Legalism*, 85 U. Chi. L. Rev. 545, 547-49 (2018). Scholars generally characterize autocracies as systems of government where a ruler or small ruling group has captured state institutions, manipulated democratic procedures, and eroded checks and balances so that outcomes are predetermined. A façade of democracy may remain, but rulers are not accountable to the people. *See, e.g.*, Maria Popova, *Putin-Style "Rule of Law" & the Prospects for Change*, 146 Daedalus 64 (2017); Steven Levitsky & Lucan A. Way, *The Rise of Competitive Authoritarianism*, 13 J. of Democracy 51 (April 2002). That a leader governs as an autocrat says nothing about that leader's particular political ideology. Likewise, autocrats that rely on autocratic legalism to consolidate power are not limited to any one particular political ideology,

as the judiciary, prosecutors, and law enforcement, he is able to direct the force of law at his opponents, detaining, charging, and sometimes convicting them to remove political threats, silence or intimidate dissenting voices, and exact retribution.³ In this way, by controlling law enforcement agencies, the leader can weaken opposition parties, thereby facilitating his and his successors' entrenchment in office. The way in which a government seizes control over law enforcement varies based on the structure and traditions of a country's justice system, but the loss of these agencies' independence and the leader's ensuing abuse of them invariably damages the rule of law.

Below, we discuss examples from three countries that experienced democratic backsliding over the last two and a half decades and are now considered electoral autocracies.⁴ In Hungary, Venezuela, and Turkey, a successful attack on law enforcement agency independence enabled a leader to further consolidate power, weaken political opposition, and degrade democratic choice. Recognizing the path these backsliding countries took can contextualize the significance of the improper terminations of Plaintiffs, including the need for a close and careful examination of their legal claims by a strong and independent judiciary.

A. Hungary

Hungary was a functioning democracy fifteen years ago and is now considered an electoral autocracy.⁵ In 2010, Viktor Orbán became Prime Minister and immediately began

and indeed, "[t]heir ideology is often flexible," or they may deny having one at all. Scheppele, *supra* note 2, at 574 & n. 102.

³ See Scheppele, *supra* note 2, at 550; Javier Corrales, *Autocracy Rising: How Venezuela Transitioned to Authoritarianism* 2, 14-15 (Rowman & Littlefield Publishing 2022).

⁴ Fabio Angiolillo et al., V-Dem Institute, *Democracy Report 2025: 25 Years of Autocratization – Democracy Trumped?* 14 (Staffan Lindberg ed. 2025), https://www.v-dem.net/documents/61/v-dem-dr_2025_lowweres_v2.pdf. In an "electoral autocracy," there are multiparty elections for the executive, but "insufficient levels of fundamental requisites such as freedom of expression and association, and free and fair elections." *Id.* at 13.

⁵ Angiolillo et al., *supra* note 4, at 13-14.

consolidating power, including by taking control of previously independent agencies such as the Prosecution Service, Constitutional Court, and the State Audit Office.⁶ Orbán's Fidesz party, which had taken over the legislature, altered labor laws so that civil servants could be fired without process or protections, leading to thousands of career government employees—most of whom opposed Orbán and his party—losing their jobs.⁷

Law enforcement officers were among the civil servants subjected to Orbán's purge.⁸ In addition to firing those who opposed him and his policies, Orbán also created new law enforcement agencies under his control.⁹ These agencies, such as the Counter Terrorism Center and the Sovereignty Protection Office, were given more expansive authority than before to investigate public officials, civilians, and businesses.¹⁰ This was to the great detriment of civil liberties and fundamental rights, which were further eroded after the government declared a state of emergency—one which it has been extending continuously.¹¹

Once law enforcement agencies came under Orbán's control and opposition within them was quelled, politicized investigations and targeting flourished. Law enforcement officials

⁶ Steven Levitsky & Daniel Ziblatt, *How Democracies Die* 78 (2018); Janos Kornai, *Hungary's U-Turn: Retreating from Democracy*, 26 J. of Democracy 35 (2015), https://www.kornai-janos.hu/media/konyvek_cikkek/KornaiJanosEletmuve_Cikkek_0774.pdf.

⁷ Kim Lane Scheppele, *Hungary and the End of Politics*, The Nation (May 6, 2014), <http://perma.cc/S9GZ-YJXG>.

⁸ Dr. Nadav Dagan & Adv. Sapir Paz, *The Takeover of Law Enforcement and Security Agencies as a Pivotal Factor in Democratic Decline, A Comparative Analysis*, The Israel Democracy Institute (Jan. 19, 2025), <https://en.idi.org.il/articles/57971> (“Law enforcement and security agencies have also been re-staffed with government loyalists, as part of a state policy to replace the ‘evil elite.’”).

⁹ See, e.g., Attila Agh, *Decline of Democracy in East-Central Europe: The Last Decade as the Lost Decade in Democratization*, 7 J. Comp. Pol. 4 (2014); Fernanda G. Nicola & Jasmine D. Cameron, *First Time as Tragedy, Second Time as Farce: The Chilling Effects of the Hungarian Law Protecting National Sovereignty*, VerfBlog (Sep. 5, 2024), <https://verfassungsblog.de/second-time-as-farce/>.

¹⁰ Dagan & Paz, *supra* note 8; Nicola & Cameron, *supra* note 9.

¹¹ *Hungary Extends State of Emergency Due to Migrant Crisis*, Star Tribune (Aug 30, 2017), <https://perma.cc/A57C-CD3H>.

largely ignored political scandals and corruption within Orbán’s party, and instead targeted opposition leaders and other individuals or entities, including NGOs, that spoke out against the administration.¹² Retribution was a common motivation for investigations and arrests. For example, when Orbán’s Fidesz party was defeated in 2006, the party organized a violent mobilization effort against the ruling administration. After Orbán (and Fidesz) gained power in 2010, the extremists who took part in that mobilization were rebranded as heroes and law enforcement who countered these extremists were instead punished.¹³

B. Venezuela

Venezuela also exemplifies this pattern. While President Hugo Chávez was in office from 1999 to 2013, he consolidated control over much of the Venezuelan government, including by inserting loyalists into law enforcement, leading to increased politicization of police and decreased professionalism.¹⁴ In 2002, for instance, facing protests and riots challenging his rule (and leading to his brief removal via coup), Chávez largely purged the country’s second most powerful police force, Caracas’s Metropolitan Police, of “independent, professional, and opposition elements.”¹⁵ The commanders of the police force were fired, forced to resign or demoted and, later, eight of the officers faced arrest and criminal prosecution.¹⁶ Eventually, in

¹² Kornai, *supra* note 6, at 35-36; Gábor Mészáros, *Misuse of Emergency Powers and its Effect on Civil Society—The Case of Hungary*, 6 Front. Polit. Sci. 1360637 (May 2, 2024), <https://www.frontiersin.org/journals/political-science/articles/10.3389/fpos.2024.1360637/full>; Dagan & Paz, *supra* note 8.

¹³ Agh, *supra* note 9.

¹⁴ Corrales, *supra* note 3, at 1-2; Angus Berwick & Sarah Kinoshian, *Elite Police Force Spreads Terror in the Barrios of Venezuela*, Reuters (Nov. 13, 2019), <https://www.reuters.com/investigates/special-report/venezuela-violence-police>.

¹⁵ Dagan & Paz, *supra* note 8.

¹⁶ *Id.*; Christopher Birkbeck, *Venezuela: The Shifting Organizational Framework for the Police*, 10 Police Practice & Research 295 (2009), https://www.researchgate.net/publication/41043690_Venezuela_The_Shifting_Organizational_Framework_for_the_Police.

2008, a presidential decree transferred complete control over the Metropolitan Police to Chávez's government.¹⁷

After Chávez's death, his successor President Nicolás Maduro faced increased political opposition and mass protests. Maduro leveraged the state institutions Chávez had already captured, including law enforcement forces such as the Corps for Scientific, Penal and Criminal Investigation (CICPC), to stabilize his precarious position.¹⁸ But the CICPC was not entirely loyal to Maduro's regime and included long-serving officers who opposed him.¹⁹ In the face of this opposition, as well as the country's economic collapse, Maduro doubled down on his quest to ensure total loyalty, creating the Special Action Forces (Fuerzas de Acciones Especiales, FAES) and tasking police administrators to recruit officers loyal to his ruling Socialist party.²⁰ When Maduro announced the creation of FAES, he accused his opponents of turning the country into a "war zone," and claimed that the new special police force would combat "terrorist groups encouraged by the criminal right wing."²¹ FAES then pursued CICPC officers who had demonstrated disloyalty, bringing retribution.²² Afterwards, CICPC became mostly a forensics unit, functioning primarily to serve FAES.²³ Since its creation in 2017, Maduro has used FAES

¹⁷ *Id.*

¹⁸ Corrales, *supra* note 3, at 7, 119; Stiven Tremaria, *Policing and Autocratisation in Bolivarian Venezuela*, 41 *Bulletin of Latin American Research* 159, 165 (2022); Berwick & Kinosian, *supra* note 14; United States, Department of State, Bureau of Democracy, Human Rights, and Labor, *2017 Country Reports on Human Rights Practices: Venezuela* (2017), <http://state.gov/reports/2017-country-reports-on-human-rights-practices/venezuela> (noting that in 2017, the CIPC "reportedly committed 30 percent of extrajudicial killings, with others committed by regional and municipal police").

¹⁹ Berwick & Kinosian, *supra* note 14.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*; *Venezuela Helicopter Pilot Oscar Pérez Killed in Raid*, BBC (Jan. 16, 2018), <https://www.bbc.com/news/world-latin-america-42695537>.

²³ Berwick & Kinosian, *supra* note 14.

as a tool for social control, particularly in Venezuela’s poorer neighborhoods, where opposition efforts have been stifled by the group’s aggressive tactics.²⁴

C. Turkey

Turkey provides another example of an autocratic leader’s purge of career officers from law enforcement agencies and assertion of political control. Recep Tayyip Erdoğan became Turkey’s Prime Minister in 2003.²⁵ While Erdoğan initially implemented some democratic reforms,²⁶ by 2013, he became increasingly autocratic,²⁷ and after amending the constitution to grant more power to the presidency, became President in 2014.²⁸ In 2016, rebel soldiers attempted a coup, nearly capturing Erdoğan.²⁹ Following the failed coup attempt, Erdoğan assumed even greater authority over the military, law enforcement, judiciary, and other government institutions,³⁰ purging close to 100,000 public servants, “including more than 25,000 from the military, 13,000 from the police, and 4,000 from the judiciary.”³¹ Many of these former officials were then prosecuted, mainly for alleged membership in a terrorist organization—and replaced with less experienced loyalists.³² Erdoğan’s government also modified the civil service system, making “[m]erit-based, competitive appointments for senior managerial positions” with

²⁴ *Id.*

²⁵ Paul Kirby, *Erdogan: Turkey’s All-powerful Leader of 20 years*, BBC News (Mar. 24, 2023), <https://www.bbc.com/news/world-europe-13746679>.

²⁶ Ozan O. Varol, *Stealth Authoritarianism*, 100 Iowa L. Rev. 1673, 1715 (2015).

²⁷ Kirby, *supra* note 25.

²⁸ David M. Driesen, *The Specter of Dictatorship: Judicial Enabling of Presidential Power* 30 (2021).

²⁹ Kirby, *supra* note 25.

³⁰ Berk Esen & Sebnem Gumuscu, *How to Fight Turkey’s Authoritarian Turn*, 36 J. of Democracy 106, 106 (2025).

³¹ Ahmet T. Kuru, *Secularism, Islamism, and the Future of Turkey*, 36 J. of Democracy 92, 100 (2025).

³² Hum. Rts. Found., *The Collapse of the Rule of Law and Human Rights in Turkey: The Ineffectiveness of Domestic Remedies and the Failure of the ECtHR’s Response* 19 (Apr. 2019), <https://hrf.org/latest/the-collapse-of-the-rule-of-law-and-human-rights-in-turkey/>; *ECtHR Must Understand that Turkey’s Gülen Trials are Vindictive, Jurist Says*, Turkish Minute (Jan. 24, 2024), <https://turkishminute.com/2024/01/24/ecthr-must-understand-that-turkey-gulen-trial-are-vindictive-jurist-say/> (Turk.).

the civil service “the exception,” and providing public officials with few effective avenues to challenge dismissals.³³ In 2017, for example, Turkish authorities established the Inquiry Commission on the State of Emergency Measures, and tasked it with reviewing complaints about improper dismissals.³⁴ The Commission’s decision-making process lacks procedural guarantees and does not provide for hearings. As of May 2019, the Commission ruled that only 5,250 complainants should be reinstated out of the more than 70,000 complaints it reviewed.³⁵

Shortly after Erdoğan assumed power, his government changed the laws governing Turkish law enforcement, formally placing law enforcement officers under the command of prosecutors who were Erdoğan loyalists. The 2004/2005 Criminal Procedure Code, Article 164, defined multiple law enforcement agencies—including the National Police,³⁶ the Gendarmerie General Command, Coast Guard, and customs investigators—as “judicial police” and mandated that investigations by these agencies be conducted under the direction of prosecutors.³⁷ Following the 2016 attempted coup, Erdoğan’s government more firmly placed the Gendarmerie and Coast Guard under Erdoğan’s control.³⁸ At the same time, the government amended the

³³ Delegation of the European Union to Türkiye, *Key Findings of the 2019 Report on Turkey* (May 29, 2019), https://www.eeas.europa.eu/delegations/t%C3%BCrkiye/key-findings-2019-report-turkey_en?s=230&utm_source=chatgpt.com.

³⁴ *Id.*

³⁵ *Id.*

³⁶ The Turkish National Police are primarily responsible for law enforcement in urban areas, while the Gendarmerie General Command polices rural areas. United Nations Development Programme, *Strengthening the Civilian Oversight of Internal Security Forces Phase III*, <https://web.archive.org/web/20210624201051/https://www.tr.undp.org/content/turkey/en/home/projects/strengthening-the-civilian-oversight-of-internal-security-forces.html>.

³⁷ Turkish Code of Criminal Procedure (CMUK), Law No. 5271, 25673 Official Gazette, art. 164 (Dec. 17, 2004), http://bwcimplementation.org/sites/default/files/resource/TR_Criminal%20Procedure%20Code_EN.pdf.

³⁸ NATO Stability Policing Centre of Excellence, Republic of Türkiye, *Turkish Gendarmerie*, <https://www.nspcoe.org/about-us/sponsoring-nations/republic-of-turkey/turkish-gendarmerie/>; Sinem Adar & Nebahat Tanriverdi Yasar, Center for Applied Turkey Studies, German Institute for International and Security Affairs, *Rethinking Civil-Military Relations in Turkey: How Has the Security Landscape Changed under AKP Rule?* (Nov. 2023), https://www.swp-berlin.org/publications/products/comments/2023C55_CivilMilitaryTurkey.pdf; see also Yusuf

constitution to allow Erdoğan to appoint members of the Supreme Board of Judges and Prosecutors (“HSYK”),³⁹ placing the agencies comprising the judicial police under the command of prosecutors loyal to Erdoğan. With the law enforcement and prosecutors under Erdoğan’s control, he deployed the criminal justice system to neutralize his political rivals and the media. In 2021, for example, Erdoğan’s government opened investigations into over 48,000 individuals, including politicians, journalists, and ordinary citizens, for violating a defamation law that criminalizes insulting the president.⁴⁰ And between July 2015 and 2021, more than 5,000 opposition lawmakers and party members, largely from the People’s Democratic Party, were incarcerated on charges related to political speech and terrorism.⁴¹

II. THE FIRINGS AT ISSUE HERE BEAR STRIKING PARALLELS TO LAW ENFORCEMENT PURGES IN BACKSLIDING DEMOCRACIES.

This case raises concerning parallels to the politicization of law enforcement in the countries we have studied. The Complaint’s allegations—taken as true at this stage in the litigation, *see Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556 (2007)—indicate that Defendants terminated experienced, nonpartisan senior FBI leaders based on their perceived disloyalty to the President. Moreover, Defendants cited Article II of the Constitution, generally, as authority for the terminations, and now defend the terminations by invoking this same, unprecedented executive authority. This use of the trappings of law—in the absence of established legal precedent—to attack and reduce the independence of governmental institutions

Ziya Özcan & Recep Gültekin, *Police and Politics in Turkey*, 3 British Soc’y of Criminology (June 2000) (U.K.).

³⁹ Driesen, *supra* note 28, at 31; *see also* Sinan Ekim & Kemal Kirisci, *The Turkish Constitutional Referendum, Explained*, Brookings (Apr. 13, 2017), <https://www.brookings.edu/articles/the-turkish-constitutional-referendum-explained/>.

⁴⁰ U.S. Dep’t of State, Turkey (Türkiye) 2022 Human Rights Report, at 42 (2022), https://www.state.gov/wp-content/uploads/2023/03/415610_TU%CC%88RKIYE-2022-HUMAN-RIGHTS-REPORT.pdf.

⁴¹ *Id.* at 21.

is a hallmark of autocratic legalism. The challenged terminations thus resemble the pattern autocratizing countries have used to purge the ranks of their law enforcement agencies and remake them into tools to exert control rather than uphold the rule of law.

The allegations in the Complaint indicate that Defendant Patel summarily and improperly terminated Plaintiffs as part of a campaign for retribution—because they participated in investigations against the President and his allies, or protected FBI agents who did, and because they were perceived to be disloyal to the President, or the President’s political base disapproved of them. Plaintiff Brian J. Driscoll, Jr., who served as Acting FBI Director before the Senate confirmed Defendant Patel as Director, attempted to prevent career FBI agents from being fired based only on their participation in the investigations into the January 6, 2021 attack on the U.S. Capitol—a duty the agents had been assigned based on a duly opened investigation. Compl. ¶ 92, ECF No. 1. He also tried to protect their identities from being publicly disclosed. Compl. ¶¶ 93, 101. Driscoll informed then-Acting Deputy Attorney General Emil Bove, who had ordered Driscoll to provide him with the names of FBI personnel who had worked on January 6 matters, that dismissals of employees without an articulated reason and without compliance with due process requirements was unlawful. Compl. ¶ 92. Any disloyalty Driscoll evinced in his unwillingness to comply with Bove’s directive was likely compounded by Driscoll previously “fail[ing]” his vetting interview, prior to his appointment as Acting Director, for refusing to answer political questions, including about when he started supporting President Trump, thereby “fail[ing] to demonstrate sufficient alignment with and loyalty to . . . President Trump’s political base.” Compl. ¶¶ 62, 64-65.

Plaintiff Steve J. Jensen served as the Section Chief of the FBI’s Domestic Terrorism Operations Section and had coordinated FBI’s investigations into the January 6 attack. Compl. ¶

123. Defendant Patel’s decision to promote Jensen to Assistant Director in Charge of the FBI’s Washington Field Office “set off a social media firestorm,” as January 6 defendants and their sympathizers called for Jensen’s firing. Compl. ¶ 122. Plaintiff Spencer L. Evans was first told he would be fired on January 30, 2025; at that time, he appeared on Bove’s list of FBI employees “to be terminated for failing to be sufficiently loyal to the President’s agenda.” Compl. ¶ 154. Although DOJ’s political leadership did not fire Evans then, Compl. ¶ 156, Evans was ultimately fired on August 6, 2025. Compl. ¶ 166. The FBI official who informed Evans he was being fired told him it was not for discipline, performance, or misconduct. Instead, another FBI employee who had discussed the matter with Defendant Patel said it was for “‘politically driven’” reasons. Compl. ¶ 166-67.

The removal of Driscoll, Jensen, and Evans—all independent, professional, and nonpartisan public servants, due to their perceived disloyalty to the President’s agenda mirrors the removal of law enforcement officers in the countries exhibiting democratic backsliding that we have studied, including, for example, Maduro’s removal of the commanders of the Caracas Metropolitan Police in Venezuela and—though at a smaller scale—the removal of career officers from Turkish law enforcement agencies following the 2016 attempted coup.

On August 8, 2025, Driscoll, Jensen, and Evans each received a one-page letter from Defendant Patel informing them that they had been fired “[p]ursuant to Article II of the United States Constitution.” Compl. ¶¶ 188-89, 198-99, 204-205. Driscoll, Jensen, and Evans were not initially provided with the official FBI form given to agents upon termination, reportedly because FBI Human Resources professionals did not know what the legal authority was for the termination—and thus could not complete that section of the form. Compl. ¶¶ 192, 202, 208. Defendants’ memorandum in support of the motion to dismiss similarly argues that “Article II

gives the President . . . the authority to remove from office those exercising substantial aspects of executive power . . .” and summarily notes “[t]hat principle is sufficient to decide this case.” Def.’s Mem. Supp. Mot. to Dismiss Mem. at 9, ECF No. 17. Even if Defendants’ arguments based on inherent executive power carried force, the manner in which the firings were carried out lacked established legal authority and departed from longstanding practices, bearing striking resemblance to backsliding democracies. This attempted expansion of presidential control over law enforcement personnel decisions without regard to established protections or processes parallels developments in Hungary and Turkey, where autocratizing leaders changed laws to attack the independence of government institutions.⁴² For example, in Hungary, Orbán altered labor laws so that civil servants who opposed Orbán could be fired without resort to process or protections. Erdoğan’s government also modified Turkey’s civil service system to remove procedural protections for public officials who sought to challenge their removals.

III. CAPTURE OF LAW ENFORCEMENT AGENCIES CAN UNDERMINE THE RULE OF LAW.

From our scholarship and research, we know that the illegitimate firing of law enforcement officials for retributive purposes, such as the firings at issue here, can lead to eventual capture of law enforcement as an institution, and can have outsized effects on the rule of law and adherence to democratic principles. This is because under a society ruled by law, all persons—including both the governed and the governors—are accountable to the law, which is equally enforced and fairly applied.⁴³ Once a law enforcement agency is captured by an autocratizing leader, that agency can then direct enforcement actions against political opponents

⁴² Scheppele, *supra* note 2, at 547-49.

⁴³ Robert Stein, *What Exactly Is the Rule of Law?*, 57 Hous. L. Rev. 185, 188 (2019), https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1711&context=faculty_articles.

and shield those in power from investigation. It is thus essential that such firings be quickly and decisively halted through judicial review based on well-established legal principles.

A. Capture of law enforcement allows autocratic leaders to direct the force of law against dissidents and political opponents by stifling protests and weaponizing criminal investigations.

Once autocratizing leaders fire perceived opponents within law enforcement and install party loyalists, they can direct law enforcement against dissidents and political rivals, further consolidating power. Some scholars describe the process of institutional capture as “capturing the referees”: “To consolidate power, would-be authoritarians must capture the referees, sideline at least some of the other side’s star players, and rewrite the rules of the game to lock in their advantage, in effect tilting the playing field against their opponents.”⁴⁴

The countries discussed above are instructive. In Hungary, Orbán’s increased control over law enforcement paved the way for police and prosecutors to undertake politicized investigations and target opposition leaders and civil society organizations. *Supra* pp. 5-6. In 2014, for instance, Hungarian police raided several civil society organizations critical of the Orbán regime and interrogated and detained organization employees.⁴⁵ Additionally, Orbán’s party selectively charged political opponents with corruption, often timing the charges to coincide with elections, “to shrink the space available for criticizing and opposing the government.”⁴⁶ Although defendants may ultimately be acquitted after trial, or have cases against them dismissed prior to trial, simply by bringing the charges, the prosecution discredits them and

⁴⁴ Levitsky & Ziblatt, *supra* note 6, at 78; *see also* Corrales, *supra* note 3, at 177-79 (“Backsliding also requires an executive that is able to achieve some degree of institutional capturing, namely, destroying or colonizing political institutions that are supposed, in theory, to be independent of the executive branch—that is, liberal democratic institutions.”).

⁴⁵ Dagan & Paz, *supra* note 8.

⁴⁶ David M. Driesen, *The Unitary Executive Theory in Comparative Context*, 72 *Hastings L.J.* 1, 34, 36 (2020).

their political party, imposes legal costs, and effectively removes them as a political threat—while chilling the speech of others.

Venezuela witnessed a similar effect. Chávez and Maduro tightened their control over law enforcement as they faced increased political opposition. As discussed, *supra* pp. 7-8, Maduro created FAES as a tool of social control, focusing its efforts in neighborhoods that are hotbeds of opposition. Maduro also used law enforcement to quell public protests and target opposition leaders. In 2014, facing months of protest with over 800,0000 protestors spanning 38 cities in Venezuela, Maduro sent in the National Guard and national police to stifle opposition.⁴⁷ Human rights organizations estimated that 34 percent of the protests were dismantled by force.⁴⁸ These same efforts, combined with the appointment of a Chief Prosecutor, long considered a political ally,⁴⁹ eventually led to police arresting and the government prosecuting several key opposition leaders, including Leopoldo López, a former mayor of a Caracas municipality; as well as future Nobel Peace Prize winner María Corina Machado, a member of the National Assembly; and Antonio Ledezma, the mayor of Caracas,⁵⁰ who had helped lead the widespread protests.

In each case, the capture of law enforcement weakened political opposition and enabled the autocrats to accrue more power, further entrenching their party or faction in office.

B. An autocratic leader's control over law enforcement may lead to corruption and human rights abuses.

Autocratic capture of law enforcement can also lead to corruption and human rights abuses as the autocratizing government continues to centralize power. In Venezuela, the United

⁴⁷ Corrales, *supra* note 3, at 44.

⁴⁸ *Id.*

⁴⁹ *Luisa Ortega: Venezuela's Chief Prosecutor*, BBC (Aug. 3, 2017), <https://www.bbc.com/news/world-latin-america-40812321>.

⁵⁰ Corrales, *supra* note 3, at 44-45; *Venezuela Key Opposition Leaders Seized After Poll*, BBC (Aug. 1, 2017), <https://www.bbc.com/news/world-latin-america-40787830>.

Nations Office of the High Commissioner for Human Rights (OHCHR) and Human Rights Watch have documented extensive human rights violations by FAES and other security forces, including arbitrary arrests and killings of individuals perceived to be government opponents.⁵¹ An OHCHR report noted that between 2018 and 2019, the Venezuelan government and its institutions “implemented a strategy ‘aimed at neutralizing, repressing and criminalizing political opponents and people critical of the Government.’”⁵² This in turn has created broad disillusionment among Venezuelans about the role of law enforcement. In a recent survey, 94% of respondents doubted that FAES actions are legal.⁵³

Law enforcement capture in Turkey has also led to abusive practices and corruption within police ranks. In 2013, for example, in response to widespread protests, the police employed harsh tactics, including spraying water mixed with harmful chemicals and plastic bullets, that evidence indicated were unjustified.⁵⁴ As a result, some protesters were killed, many injured, and over 9,000 were arrested.⁵⁵ Under Erdoğan’s rule, the installation of loyalist

⁵¹ Press Release, *Venezuela: Extrajudicial Killings in Poor Areas*, Human Rights Watch (Sep. 18, 2019), <https://www.hrw.org/news/2019/09/18/venezuela-extrajudicial-killings-poor-areas>; Sarah Kinoshian & Angus Berwick, *Convicted criminals are among the special police force terrorizing Venezuela*, Reuters (Feb. 19, 2020), <https://www.reuters.com/investigates/special-report/venezuela-violence-police-faes/>.

⁵² Press Release, *UN Human Rights Report on Venezuela Urges Immediate Measures to Halt and Remedy Grave Rights Violations*, United Nations, Office of the High Commissioner on Human Rights (Jul. 4, 2019), <https://www.ohchr.org/en/press-releases/2019/07/un-human-rights-report-venezuela-urges-immediate-measures-halt-and-remedy?LangID=E&NewsID=24788>.

⁵³ Orianny Granado, *94% de la Población Duda que las Actuaciones de las FAES estén Apegadas a la Ley* [94% of the Population Doubts that the Actions of the FAES are in Accordance with the Law], Observatorio Venezolano de Violencia (Jul. 23, 2020), <https://observatoriodeviolencia.org.ve/news/94-de-la-poblacion-duda-que-las-actuaciones-de-las-faes-esten-apegadas-a-la-ley/> (Venez.).

⁵⁴ Dagan and Paz, *supra* note 8.

⁵⁵ *Id.*

prosecutors and police chiefs has led to decreased government accountability.⁵⁶ In 2014, Erdoğan purged judges, prosecutors, and police chiefs that had uncovered money laundering schemes involving Erdoğan and his ministers.⁵⁷ The new loyalists installed helped end these investigations, despite significant evidence implicating Erdoğan's government.⁵⁸

C. Because law enforcement firings and increased control tend to be secretive and cloaked in the appearance of legality, recognizing the phenomenon as a step toward authoritarianism can be difficult.

Modern autocracies look different from their predecessors. Today's autocrats can "come to power not with bullets but with laws,"⁵⁹ and they tend to function—at least to some extent—within the legal system, in an attempt to legitimize their actions.⁶⁰ The "ultimate goal" of these regimes, however, is "to use the legal system to crush resistance and concentrate power."⁶¹ The result is that everyday citizens may be unable to recognize the effects on the rule of law and the damage to democratic principles. That democratic backsliding is often a nonlinear and gradual process only compounds the difficulty of recognizing it.

Politicized firings of law enforcement officers and capture of the institution fit well within this framework.⁶² In Hungary, as discussed *supra* p. 5, Orbán's Fidesz party changed labor laws to be able to swiftly fire police officers and other civil servants without process and

⁵⁶ Abdullah Bozkurt, *Turkey's Judiciary has Become a Tool of Tyranny Under Erdogan's Rule*, Nordic Monitor (Apr. 1, 2024), <https://nordicmonitor.com/2024/04/turkeys-judiciary-has-become-a-tool-of-tyranny-under-erdogans-rule/> (Swed.).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Scheppele, *supra* note 2, at 582.

⁶⁰ See Tom Ginsburg, *Authoritarian International Law?*, 114 Am. J. of Int'l L. 221, 223 (2020) ("Today's authoritarian regimes are increasingly facile in their engagement with international legal norms and institutions, deploying legal arguments with greater acuity, even as they introduce new forms of repression that are legally and technologically sophisticated.").

⁶¹ Javier Corrales, *Telltale Signs of Democratic Backsliding*, Persuasion (Jan. 28, 2022), https://www.persuasion.community/p/telltale-signs-of-democratic-backsliding?r=69ca3&utm_campaign=post&utm_medium=web.

⁶² See, e.g., Levitsky & Ziblatt, *supra* note 6, at 79 ("Most often, the capture of referees is done by quietly firing civil servants ... and replacing them with loyalists.").

Erdoğan similarly changed Turkish laws governing law enforcement to gain more power, *supra* p. 9. In 2010, Orbán also created what was originally a small antiterror police unit.⁶³ Eventually, using unrelated laws, Orbán increased the budget of this unit and granted it power to collect personal information of individuals without notifying them, allowing these officers to function as secret police.⁶⁴ By cloaking their institutional captures in legality, autocratic leaders can claim nothing improper is occurring.

IV. ADDITIONAL IMPROPER TERMINATIONS HAVE BEEN INITIATED OR THREATENED UNDER THIS ADMINISTRATION.

Because autocratic legalists cloak their actions in the legitimacy of law and previously trusted institutions, the descent into autocracy can be hard to stop.⁶⁵ Yet the ability to recognize the risks posed by the capture of previously independent institutions, like law enforcement, is vital, especially as firings such as these are usually part of a pattern of similar actions. Indeed, autocratic legalists tend to pursue these terminations close in time because doing so increases their chilling effect, signals the regime's strength, and exhausts the opposition.⁶⁶ This pattern of improper firings of law enforcement officials is already visible here: Plaintiffs are not the only

⁶³ Andrew Marantz, *Does Hungary Offer a Glimpse of Our Authoritarian Future?*, The New Yorker (June 27, 2022), <https://www.newyorker.com/magazine/2022/07/04/does-hungary-offer-a-glimpse-of-our-authoritarian-future>.

⁶⁴ See *id.*; Kim Lane Scheppele, *The New Hungarian Secret Police*, N.Y. Times (Apr. 17, 2012), <https://archive.nytimes.com/krugman.blogs.nytimes.com/2012/04/19/the-new-hungarian-secret-police/>; see also Press Release, *Hungarian Legislation on Secret Anti-Terrorist Surveillance Does Not Have Sufficient Safeguards Against Abuse*, European Court of Human Rights (Jan. 12, 2016), <https://www.statewatch.org/media/documents/news/2016/jan/echr-case-SZAB-%20AND-VISSY-v-%20HUNGARY-prel.pdf> (finding that laws granting the secret police force extensive powers to collect data violated Article 8 of the European Convention on Human Rights, i.e., the “right to respect for private and family life, the home and correspondence”).

⁶⁵ See Javier Corrales, *Trump Is Using the Legal System Like an Autocrat*, N.Y. Times (Mar. 5, 2020), <https://www.nytimes.com/2020/03/05/opinion/autocratic-legalism-trump.html>.

⁶⁶ See, e.g., Daniel S. Nagin, *Deterrence in the Twenty-First Century*, 42 Crime & Just. 199 (Aug. 2013); Steven Levitsky & Lucan A. Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War* 9 (2010).

law enforcement officers who appear to have been terminated for taking actions against the President's personal interests.

Indeed, in Plaintiffs' Complaint, they allege that in a meeting on January 27, 2025 between Emil Bove, Plaintiff Driscoll, and Robert Kissane, then Acting Deputy Director of the FBI, Bove stated he was being pressured by the Trump administration to fire FBI leadership and staff. Compl. ¶ 83. Bove demanded lists of FBI personnel that could face termination, including those in certain leadership positions and those associated with investigations into the January 6, 2021 attack on the U.S. Capitol. Compl. ¶¶ 88, 92. When Plaintiff Driscoll and Kissane attempted to ensure these employees would be provided with proper process before being terminated, "Bove repeated that his own unilateral assessment that he had lost faith and confidence in an employee's ability to carry out the President's political agenda was sufficient." Compl. ¶¶ 84-86.

There have already been a slate of seemingly illegitimate, politicized firings of law enforcement personnel since the start of the second Trump administration, including at least 50 at the FBI.⁶⁷ Before Defendant Patel was confirmed as FBI Director, DOJ political leadership forced out the top six FBI executives and the heads of the FBI field offices in Washington, DC, and Miami.⁶⁸ One of these officials said she had been told they were "being fired because we could not be trusted to carry out the president's agenda"—and not due to any allegations of misconduct.⁶⁹ Under Patel's leadership, other longtime, nonpartisan FBI officials were fired or pushed out. Multiple agents from the public corruption squad in Washington—the squad that ran

⁶⁷ Peter Eisler et al., *Trump's Campaign of Retribution: At Least 470 Targets and Counting*, Reuters (Nov. 25, 2025), <https://www.reuters.com/investigates/special-report/usa-trump-retribution-tracker/>.

⁶⁸ Emily Bazelon & Rachel Poser, *A Year Inside Kash Patel's F.B.I.*, N.Y. Times (Jan. 22, 2026), <https://www.nytimes.com/interactive/2026/01/22/magazine/trump-kash-patel-fbi-agents.html>.

⁶⁹ *Id.*

the investigation into Trump’s alleged interference into the 2020 election—were fired and the entire squad was shutdown.⁷⁰ “Dozens” of other FBI agents, prosecutors, and support personnel who worked on cases relating to the January 6, 2021 attack on the Capitol or Trump’s alleged election interference were also fired.⁷¹ The apparent targeting of law enforcement connected with investigating the January 6 attacks closely parallels Orbán’s decision to punish officers who investigated the violent 2006 uprising led by Fidesz in Hungary, see *supra* p. 6.

Others, in the FBI and beyond, have been fired as part of the President’s campaign for retribution, after voicing opposition or doubt regarding the administration’s demands to investigate or pursue debunked claims or for their perceived political positions or associations. Maurene Comey, the daughter of James Comey, a former FBI Director whom President Trump has long viewed as an adversary, was fired without explanation and has since sued the administration alleging she was fired as retribution against her father.⁷² Recently, Paul Brown, a special agent in charge of Atlanta’s FBI field office, was terminated after he expressed opposition to an investigation centered around widely debunked claims of election fraud in Fulton County, Georgia, where President Trump has repeatedly questioned his loss in the 2020 elections.⁷³

⁷⁰ *Id.*

⁷¹ Sarah N. Lynch & Andrew Goudswaard, *FBI Fires More Agents Who Investigated Trump, Then Reverses Course, Sources Say*, Reuters (Nov. 3, 2025), <https://www.reuters.com/legal/government/fbi-fires-four-more-agents-who-investigated-trump-sources-say-2025-11-03/>; Ken Dilanian & Carol Leonnig, *Patel Ousts Senior FBI Agents Linked to Trump Probes, Say Sources* (Jan. 23, 2026), <https://www.ms.now/news/kash-patel-fbi-senior-agents-ousted-trump-jan-6-mar-a-lago>.

⁷² Victoria Bekiempis, *Court Hears Maurene Comey was Fired as Retaliation Against Ex-FBI Chief Father*, The Guardian (Dec. 4, 2025), <https://www.theguardian.com/us-news/2025/dec/04/maurene-comey-fired-prosecutor-court-retaliation>.

⁷³ Sara Braun, *Atlanta FBI Boss Reportedly Ousted After Questioning DOJ’s Renewed Interest in 2020 Election*, The Guardian (Jan. 30, 2026), <https://www.theguardian.com/us-news/2026/jan/30/atlanta-fbi-boss-reportedly-ousted-fulton-county>.

Meanwhile, the administration is formalizing its ability to fire senior career officials throughout the federal government, as the Office of Personnel Management has recently finalized a regulation permitting the reclassification of an estimated 50,000 career, nonpartisan roles as at-will positions, permitting the administration to terminate employees without traditional civil service protections.⁷⁴ All of this is by design. Trump believed career government employees had hindered his ability to achieve his agenda during his first term,⁷⁵ and campaigned on the idea of dismantling this “Deep State” by “fir[ing] rouge bureaucrats” and “clean[ing] out all of the corrupt actors in our National Security and Intelligence” agencies, including the FBI.⁷⁶

In the absence of senior career law enforcement leaders, there are fewer guardrails to prevent the President and his loyalists from directing investigations at perceived opponents. This is especially troubling given the many directives President Trump has issued regarding investigations of his enemies. For example, during an Oval Office meeting last fall with Attorney General Pam Bondi, Deputy Attorney General Todd Blanche, and Defendant Patel, President Trump reportedly identified individuals he wanted investigated and potentially prosecuted due to their involvement in investigations against him or his administration. At the top of his list was Jack Smith, who had brought criminal indictments against President Trump related to efforts to

⁷⁴ *Improving Performance, Accountability and Responsiveness in the Civil Service*, 91 Fed. Reg. 5580 (Feb. 6, 2026), <https://public-inspection.federalregister.gov/2026-02375.pdf>; *Final Rules Issued for New At-Will ‘Schedule Policy/Career’ that Could Affect 50K Positions*, FEDweek (Feb. 5, 2026), <https://www.fedweek.com/fedweek/final-rules-schedule-policy-career-adds-category-of-appointees/>.

⁷⁵ Eileen Sullivan, *Trump Strips Job Protections From Thousands of Federal Workers*, N.Y. Times (Feb. 5, 2026), <https://www.nytimes.com/2026/02/05/us/politics/trump-federal-workers-protections.html>; Adam Edelman, “*Trump Railed Against the ‘Deep State,’ but He also Built his Own. Biden Is Trying to Dismantle it,*” (Feb. 28, 2021), <https://www.nbcnews.com/politics/politics-news/trump-railed-against-deep-state-he-also-built-his-own-n1258385>.

⁷⁶ Summer Lane, *Agenda47: Trump Presents 10-Point Plan to ‘Dismantle the Deep State and Return Power to the American People*, RSNB (Mar. 21, 2023), <https://www.rsnbnetwork.com/news/agenda47-trump-presents-10-point-plan-to-dismantle-the-deep-state-and-return-power-to-the-american-people/>.

overturn the 2020 elections and handling of classified information.⁷⁷ The Office of Special Counsel launched an investigation into Smith.⁷⁸ Also on the list during the Oval Office meeting were Andrew Weissman, who was part of a team investigating the Trump campaign's ties to Russia, and Lisa Monaco, the former Deputy Attorney General under the Biden administration who oversaw investigations relating to President Trump's alleged election interference and mishandling of classified documents.⁷⁹

It seems this trend of targeting political opponents using the immense investigatory power of the federal government will continue. Reporting indicates the administration is seeking to install loyalists at the IRS criminal-investigative division to facilitate the initiation of politically-motivated probes into left-leaning individuals and groups.⁸⁰ And a Justice Department directive sent to several U.S. attorney's offices instructed the offices to investigate a group funded by George Soros, a significant donor to the Democratic Party who has often been the object of the President's ire.⁸¹ The directive "suggests department leaders are following orders from the president that specific people or groups be subject to criminal investigation—a major break from decades of past practice meant to insulate the Justice Department from political

⁷⁷ Glenn Thrush, *Trump Names More Foes He Wants Prosecuted as Bondi and Patel Look On*, N.Y. Times (Oct. 15, 2025), <https://www.nytimes.com/2025/10/15/us/politics/trump-bondi-patel-blanche-oval-office.html>.

⁷⁸ Lydia Moynihan, *Ex-Trump Prosecutor Jack Smith Under Investigation by Office of Special Counsel After Claims of Playing Politics: 'No One is Above the Law'*, N.Y. Post (Aug. 1, 2025), https://nypost.com/2025/08/01/us-news/official-investigation-into-trump-prosecutor-jack-smith-launched/?utm_campaign=iphone_nyp&utm_source=pasteboard_app.

⁷⁹ Thrush, *supra* note 77; Caitlin Oprysko et al., *K Street Shudders as Trump Demands a Microsoft Exec's Firing*, POLITICO (Oct. 1, 2025), <https://www.politico.com/news/2025/09/30/microsoft-monaco-kstreet-trump-00589058>.

⁸⁰ Brian Schwartz et al., *Trump Team Plans IRS Overhaul to Enable Pursuit of Left-Leaning Groups*, The Wall Street Journal (Oct. 15, 2025), <https://www.wsj.com/politics/policy/trump-irs-investigations-left-leaning-groups-democratic-donors-612a095e>.

⁸¹ Devlin Barrett, *Justice Dept. Official Pushes Prosecutors to Investigate George Soros's Foundation*, N.Y. Times (Sept. 25, 2025), <https://www.nytimes.com/2025/09/25/us/politics/justice-trump-george-soros-foundation.html>.

interference.”⁸² More recently, Trump has increasingly pressured Justice Department officials to aggressively investigate officials who had previously investigated him or his administration.⁸³ A working group set up to conduct these investigations will apparently start to meet daily in order to meet the President’s demands.⁸⁴

Unfortunately, we have already started to see some of the effects of this attempt to capture law enforcement agencies. A prosecutor appointed by President Trump, who was previously one of his personal attorneys, attempted to criminally prosecute James Comey and Letitia James, both of whom Trump publicly suggested should be prosecuted.⁸⁵ These cases were thrown out by the court based on the prosecutor being improperly appointed.⁸⁶ And law enforcement agents in the U.S. Immigration and Customs Enforcement and Customs and Border Patrol agencies have used increasingly aggressive and potentially unconstitutional tactics—including warrantless arrests and entering homes without judicial warrants—to target, arrest, and detain individuals in order to meet arrest quotas set by the Trump administration.⁸⁷

Capture of and subsequent lack of independence in law enforcement agencies is typical of autocratic countries, not democratic ones. We see a concerning trend of such capture through the firing of career staff and installation of loyalists with directions to pursue investigations of perceived enemies in the first year of President Trump’s second administration.

⁸² *Id.*; see also U.S. Dep’t of Just., Just. Manual § 1-8.600(A) (2022).

⁸³ Paula Reid & Casey Gannon, *Justice Department Expected to Ramp up Efforts to Deliver on Trump’s ‘Weaponization’ Priorities*, CNN (Feb. 2, 2026), https://www.cnn.com/2026/02/02/politics/justice-department-trump-weaponization-priority?cid=ios_app.

⁸⁴ *Id.*

⁸⁵ Holmes Lybrand et al., *Federal Judge Dismisses Indictments Against Letitia James and James Comey, Saying Lindsey Halligan Appointment Was Unlawful*, CNN (Nov. 24, 2025), <https://www.cnn.com/2025/11/24/politics/james-comey-letitia-james-indictments-dismissed>.

⁸⁶ *Id.*

⁸⁷ Brittany Gibson, *New Data: ICE Arrests Surge as Agency Chases Trump Quota*, Axios (Dec. 4, 2025), <https://www.axios.com/2025/12/04/trump-ice-immigration-arrests-deportations>.

V. AS LAW ENFORCEMENT AGENCY CAPTURE THROUGH IMPROPER FIRINGS DAMAGES THE RULE OF LAW, JUDICIAL REVIEW PROVIDES AN IMPORTANT CHECK.

As discussed in Section III, the firing of career law enforcement officers in autocratic and backsliding countries to secure the regime's authority and target the opposition damages the rule of law and public trust in governmental institutions. This context, together with the continuing and increasing pressure from the Trump administration to terminate other law enforcement officers who are not deemed suitably loyal to the administration, is important to consider when determining whether the termination of the Plaintiffs here was proper.

Amici understand that the executive branch has some latitude in terminating law enforcement personnel such as Plaintiffs, as they can be fired for cause based on legitimate reasons and consistent with proper procedures. However, it is essential that courts carefully examine whether these terminations violated Plaintiffs' constitutional rights and ensure that the necessary procedures have been followed. Here, as explained above in Section II, Plaintiffs' allegations, taken as true, indicate that they were improperly fired for retributive reasons, including perceived insufficient loyalty to the administration. Moreover, Plaintiffs are not the only law enforcement officers who have been fired for similar reasons, and public reporting suggests that this trend will continue, and may increase in the future. In such circumstances, the courts must not shy away from carefully reviewing the terminations to protect the integrity of the judicial system and the rule of law.

As the growing group of present-day autocracies has amply demonstrated, democracies require both law enforcement officers and leaders protected from political pressure and a strong

and independent judiciary to stand firm and faithfully apply the law, no matter the identity of the parties before it or how they are perceived by those in power.⁸⁸

CONCLUSION

Amici respectfully request that the Court consider the context in which these terminations were initiated and the danger to the rule of law they pose and deny Defendants' motion to dismiss.

Dated: February 18, 2025

Respectfully submitted,

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**Pro Hac Vice Application Forthcoming*

⁸⁸ See Susan C. Stokes, *The Backsliders: Why Leaders Undermine Their Own Democracies* 6 (2025).

ADDENDUM

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- **David M. Driesen** is an emeritus professor of law at Syracuse University College of Law where his areas of academic interest include constitutional law and law and economics. His book, *The Spector of Dictatorship: Judicial Enabling of Presidential Power*, analyzes the chief executive's role in the democratic decline of Hungary, Poland, and Turkey.
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- **Tom Ginsburg** is the Leo Spitz Distinguished Service Professor of International Law and a professor of political science at the University of Chicago, where his research focuses on comparative and international law. His most recent book is *Democracies and International Law*.
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- **Gretchen Helmke** is a professor of political science at the University of Rochester, where she also serves as the Faculty Director for the University of Rochester's Democracy Center.

A 2025 Guggenheim Fellow, Helmke's research focuses on political institutions, the rule of law, and democratic erosion in Latin America and the United States.

- **Aziz Z. Huq** is a professor of law at the University of Chicago Law School. He is a scholar of U.S. and comparative constitutional law and his recent work includes a focus on democratic backsliding. His award-winning scholarship is published in several books and in leading law, social science, and political science journals.
- **Dr. Rachel Kleinfeld** studies and advises on issues involving troubled democracies and the intersection of democracy and security. Her award-winning book, *Advancing the Rule of Law Abroad*, describes the history of efforts to advance the rule of law and the most effective methods to deepen the rule of law within democratic systems. Earlier in her career, Kleinfeld co-founded and then directed the Truman National Security Project, which works to promote national security and democracy.
- **Sonia Mittal** is a Clinical Lecturer in Law and Associate Research Scholar in Law at Yale Law School. Her research in law and political science concerns constitutional failure in the United States and abroad.
- **Maria Popova** is an associate professor at McGill University. Her work explores the rule of law and democracy in Eastern Europe. Her book *Politicized Justice in Emerging Democracies* examines the weaponization of law to manipulate elections and control the media in Russia and Ukraine (1997-2004).
- **Stephen Richer** is the CEO of Republic Affairs, a consulting firm for democracy and the rule of law. He is also a Senior Practice Fellow in American Democracy at the Harvard Kennedy School's Ash Center for Democratic Governance and Innovation.
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- **Lucan Way** is a professor at the University of Toronto. His research focuses on global patterns of democracy and dictatorship. He has authored or co-authored several books on these topics, including *Revolution and Dictatorship: The Violent Origins of Durable Authoritarianism* and *Competitive Authoritarianism: Hybrid Regimes after the Cold War*.