IN THE MATTER OF THE DUTY OF STATE AND MUNICIPAL LAW ENFORCEMENT OFFICERS TO INTERVENE WHEN VOLUNTARILY PRESENT AT FEDERAL IMMIGRATION ENFORCEMENT ACTIONS

LEGAL BRIEF AND MEMORANDUM OF LAW

Including Analysis of Proactive Lawful Intervention Options

Prepared in Reference to the Events of March 11, 2026
South Burlington, Vermont — 337 Dorset Street

AGENCIES ADDRESSED:
Vermont State Police (VSP)
South Burlington Police Department (SBPD)
Burlington Police Department (BPD)
All Voluntarily Present Law Enforcement Agencies

Pike Porter
Burlington, Vermont
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INTRODUCTION AND STATEMENT OF QUESTIONS PRESENTED

This brief addresses two related questions of constitutional and operational importance:

1. **Primary Question:** When state and local law enforcement officers are voluntarily present at a federal immigration enforcement action conducted by U.S. Immigration and Customs Enforcement (ICE), do they bear a legal and moral obligation to intervene when they have reasonable cause to believe that ICE agents are violating the constitutional rights of individuals in their presence?
2. **Secondary Question:** Prior to the execution of a federal warrant, could Burlington Police, Vermont State Police, or other voluntarily present municipal officers have lawfully facilitated the voluntary departure of individuals not named in the warrant from the residence — thereby placing them beyond the immediate reach of unconstitutional detention — without obstructing the federal warrant's execution?

These questions arise directly from the events of March 11, 2026, at 337 Dorset Street, South Burlington, Vermont. ICE agents executed a judicially issued search warrant naming a single individual, Deyvi Daniel Corona-Sanchez, as the target. ICE detained three people who were not named in that warrant: two Ecuadorian sisters with pending asylum claims, Jisella Johana Patin Patin and Daysi Camila Patin Patin, and a Honduran community member, Christian Humberto Jerez Andrade. ICE subsequently deployed pepper spray and flashbangs against protesters. ICE later admitted the entire operation rested on a case of mistaken identity.

The events also involved a significant precedent established by civilian actors at approximately 1:40 p.m., several hours before ICE executed its warrant: community members and a South Burlington School District administrator facilitated the voluntary departure of a three-year-old child from inside the home. This child-removal effort — which succeeded without police involvement or obstruction — provides both a factual model and a constitutional framework for analyzing whether police could have similarly facilitated the voluntary departure of the three adults.

The answers to both questions presented are: yes. Voluntarily present officers had a legal duty to intervene when constitutional violations occurred in their presence, and — prior to ICE's entry —

they possessed lawful authority to facilitate the consensual departure of the adult residents, who were not named in the warrant and who were entitled to leave their own home freely.

TABLE OF AUTHORITIES

UNITED STATES SUPREME COURT

Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971)

Brigham City v. Stuart, 547 U.S. 398 (2006)

Forsyth County, Georgia v. Nationalist Movement, 505 U.S. 123 (1992)

Graham v. Connor, 490 U.S. 386 (1989)

Harlow v. Fitzgerald, 457 U.S. 800 (1982)

Michigan v. Fisher, 558 U.S. 45 (2009)

New York v. United States, 505 U.S. 144 (1992)

Payton v. New York, 445 U.S. 573 (1980)

Printz v. United States, 521 U.S. 898 (1997)

Steagall v. United States, 451 U.S. 204 (1981)

UNITED STATES COURTS OF APPEALS

Second Circuit — Controlling Authority for Vermont

Anderson v. Branen, 17 F.3d 552 (2d Cir. 1994) **(Primary Controlling Authority)**

Figueroa v. Mazza, 825 F.3d 89 (2d Cir. 2016) **(Tacit Collaborator Doctrine)**

Ricciuti v. N.Y.C. Transit Auth., 124 F.3d 123 (2d Cir. 1997) **(Duty Extended to Unlawful Arrest)**

Other Federal Circuits — Supporting Authority (Unanimous Circuit Consensus)

Byrd v. Brishke, 466 F.2d 6 (7th Cir. 1972) *(Seminal Founding Case)*

Byrd v. Clark, 783 F.2d 1002 (11th Cir. 1986)

Cunningham v. Gates, 229 F.3d 1271 (9th Cir. 2000)

Fogarty v. Gallegos, 523 F.3d 1147 (10th Cir. 2008)

Helm v. City of Rainbow City, 989 F.3d 1265 (11th Cir. 2021)

Putman v. Gerloff, 639 F.2d 415 (8th Cir. 1981)

Stevenson v. City of Seat Pleasant, 743 F.3d 411 (4th Cir. 2014)

Yang v. Hardin, 37 F.3d 282 (7th Cir. 1994)

STATUTES AND CONSTITUTIONAL PROVISIONS

U.S. Const. amend. IV (Fourth Amendment — Unreasonable Searches and Seizures)

U.S. Const. amend. X (Tenth Amendment — Reserved Powers)

42 U.S.C. § 1983 (Civil Rights Act, Section 1983)

8 U.S.C. § 1357 (Immigration Enforcement Authority)

Vermont Constitution, Chapter I, Article 1 (Natural Rights)

Vermont Constitution, Chapter I, Article 11 (Searches and Seizures)

Vermont Fair and Impartial Policing Policy

STATEMENT OF FACTS

A. The ICE Operation

On the morning of March 11, 2026, ICE agents initiated a surveillance operation at 337 Dorset Street, South Burlington, a residential home occupied by an Ecuadorian family — Jisella Johana Patin Patin, 31, a mother with two young children enrolled in South Burlington schools, and her sister, Daysi Camila Patin Patin, 20 — along with Christian Humberto Jerez Andrade, 31, a Honduran community member. Both sisters had active, pending asylum claims. The home also sheltered the family's two children, ages three and eight.

ICE agents, surveilling the home in pursuit of Deyvi Daniel Corona-Sanchez — a Mexican national wanted on a criminal reentry warrant — observed two men entering a Toyota Camry. Believing the driver was Corona-Sanchez, agents initiated a vehicle pursuit. The chase ended near South Burlington High School during morning school arrival. The car crashed; its occupants fled on foot into the Dorset Street residence. ICE agents surrounded the home and began waiting for a judicial warrant to enter.

South Burlington Police were called to the scene by ICE at 8:45 a.m. to assist with crowd management. SBPD then requested Burlington Police, and Vermont State Police assistance. By afternoon, VSP deployed its Critical Action Team. Officers from Burlington Police, Williston Police, the Vermont Fish and Wildlife Warden Service, and the Department of Motor Vehicles Enforcement also arrived voluntarily. None had been advised by ICE in advance of the planned

action. Vermont's Fair and Impartial Policing Policy, which bars state and local agencies from assisting in civil immigration enforcement, was in effect throughout.

B. The Child Removal: A Civilian Model of Consensual Departure

At approximately 10:30 a.m., Monica Desrochers, a South Burlington School District administrator, learned that two of her district's students lived in the besieged home — a third-grader and a pre-kindergarten child. Desrochers drove to the scene and called Johana Patin Patin, who answered from inside the home. A young child's crying was audible in the background. Desrochers told her: 'We have to get her out.'

An initial attempt to transfer the pre-K child through the front door was unsuccessful — the child cried out in fear and clung to her mother. At approximately 1:40 p.m., however, protesters formed a protective human tunnel from the home's front door to a waiting vehicle. The three-year-old child was carried out wrapped in a blanket and placed in a car seat, then taken from the scene by the school district administrator.

This departure was: (1) entirely voluntary, with the mother's consent; (2) accomplished without police involvement; (3) unobstructed by police; and (4) lawful. No warrant existed for the child. No ICE agent detained the child. The child simply walked — was carried — out of her own home with her mother's permission.

This sequence is constitutionally and operationally significant. It demonstrates that occupants of the home could, with consent, exit the premises before the warrant was executed — and that their voluntary departure was not subject to ICE interception at that stage of the operation.

C. ICE Entry, Unlawful Detention, and Law Enforcement's Role

At approximately 5:00 p.m., an ICE agent arrived at the scene with a judicially issued search warrant. The warrant named Deyvi Daniel Corona-Sanchez as the subject. VSP troopers physically removed protesters from the home's front steps, enabling ICE to breach the door with a battering ram. Three individuals were removed from the home and placed in an unmarked vehicle: Johana Patin Patin, Daysi Patin Patin, and Christian Jerez Andrade.

None of these three individuals was named in the warrant. ICE subsequently deployed chemical irritants and flashbangs against protesters attempting to block the vehicles. Eight protesters were briefly detained; three were issued disorderly conduct citations by VSP.

South Burlington Police Chief William Breault publicly criticized ICE's 'poor decision-making and planning.' Governor Phil Scott called the operation 'totally unnecessary.' Three separate federal judges issued emergency restraining orders preventing the transfer of the detainees out of Vermont. In a federal court filing dated March 25, 2026, ICE admitted that the entire operation began with a case of mistaken identity. All three detainees were subsequently released — two by court order and one on immigration bond — after a federal judge strongly condemned ICE's conduct.

ARGUMENT

I. THE FOURTH AMENDMENT APPLIES TO ALL PERSONS WITHIN THE UNITED STATES, AND THE DETENTION OF INDIVIDUALS NOT NAMED IN A WARRANT REQUIRES INDEPENDENT PROBABLE CAUSE

The foundational constitutional principle governing this brief is uncontested: the Fourth Amendment's protections against unreasonable searches and seizures extend to all persons within the territorial United States, without regard to citizenship or immigration status.

An arrest warrant authorizes the detention of specifically named individuals. A search warrant authorizes entry to a specific location to search for a named person or specified items. Neither document authorizes the detention of every person found within. In Steagall v. United States, 451 U.S. 204 (1981), the Supreme Court held that an arrest warrant for one person does not provide authority to arrest third parties found in the premises, absent independent probable cause for each.

When ICE agents detained the three Dorset Street residents — none of whom was named in the warrant — each detention was an independent Fourth Amendment event requiring its own factual predicate. No such predicate existed. ICE's own subsequent filings confirm the factual basis for the operation was itself erroneous: the man they sought was not present, not driving the car, and not in the home.

Both VSP officers and BPD officers who were present on scene, having heard the warrant announced as directed at 'Mr. Corona-Sanchez,' had an immediate basis to recognize that the three individuals being escorted out were not the named subject. This is the constitutional trigger for the duty analyzed below.

II. THE DUTY TO INTERVENE IS CLEARLY ESTABLISHED FEDERAL LAW, GOVERNING BOTH VSP AND ALL MUNICIPAL AGENCIES VOLUNTARILY PRESENT

The legal duty of a law enforcement officer to intervene when a constitutional violation is committed in his or her presence is not a novel or contested proposition. It is clearly established

federal law with a lineage spanning over fifty years, recognized in every federal circuit, and — critically for this brief — directly and bindingly articulated by the Second Circuit, which governs Vermont. It applies equally to Vermont State Police and to every municipal agency — South Burlington, Burlington, Williston, and others — that chose to be present on Dorset Street that day.

A. The Controlling Second Circuit Standard: Anderson v. Branen, 17 F.3d 552 (2d Cir. 1994)

Vermont lies within the Second Circuit. The controlling authority on the duty to intervene — binding on Vermont federal courts and directly relevant to any § 1983 claims arising from the events of March 11, 2026 — is Anderson v. Branen, 17 F.3d 552 (2d Cir. 1994). The Second Circuit stated the rule with broad and unambiguous force:

> *'It is widely recognized that all law enforcement officials have an affirmative duty to intervene to protect the constitutional rights of citizens from infringement by other law enforcement officers in their presence. An officer who fails to intercede is liable for the preventable harm caused by the actions of the other officers where that officer observes or has reason to know: (1) that excessive force is being used; (2) that a citizen has been unjustifiably arrested; or (3) that any constitutional violation has been committed by a law enforcement official.'* 17 F.3d at 557 (emphasis added).

Three elements of this formulation are dispositive to the events at 337 Dorset Street. First, the duty applies to 'all law enforcement officials' — explicitly encompassing SBPD, BPD, and VSP equally. Second, the trigger includes a citizen 'unjustifiably arrested' — precisely what occurred when three individuals not named in the warrant were placed in custody. Third, the standard requires only that an officer 'observes or has reason to know' of the violation; legal certainty is not required. Reasonable belief suffices.

The Second Circuit reaffirmed and extended this standard in Ricciuti v. N.Y.C. Transit Auth., 124 F.3d 123, 128-29 (2d Cir. 1997), applying the duty specifically to false arrest situations. The duty is not confined to excessive force — it reaches any unlawful seizure. Most recently, Figueroa v. Mazza, 825 F.3d 89, 106 (2d Cir. 2016), confirmed that an officer who, by inaction, fails to prevent a constitutional violation in progress becomes a '*tacit collaborator*' in that violation — regardless of agency affiliation. All three of these cases are Second Circuit decisions and are controlling authority in Vermont.

B. The Historical Foundation: Byrd v. Brishke (7th Cir. 1972) and Fifty Years of Unanimous Circuit Consensus

The Anderson standard did not arise in isolation. It reflects a principle that federal courts have recognized for over fifty years, originating in the seminal Seventh Circuit decision Byrd v. Brishke, 466 F.2d 6 (7th Cir. 1972):

> *'[I]t is clear that one who is given the badge of authority of a police officer may not ignore the duty imposed by his office and fail to stop other officers who summarily punish a third person in his presence or otherwise within his knowledge.'* 466 F.2d at 11.

Since Byrd, every federal circuit has independently recognized and applied this principle. The Eleventh Circuit held: 'If a police officer, whether supervisory or not, fails or refuses to intervene when a constitutional violation such as an unprovoked beating takes place in his presence, the officer is directly liable under Section 1983.' Byrd v. Clark, 783 F.2d 1002, 1007 (11th Cir. 1986). The Seventh Circuit reinforced that the number of officers present does not dilute individual responsibility: 'Each police officer present has an independent duty to act.' Yang v. Hardin, 37 F.3d 282, 285 (7th Cir. 1994). The Eleventh Circuit confirmed as recently as 2021: 'The principle that an

officer must intervene when he or she witnesses unconstitutional force has been clearly established in this Circuit for decades.' Helm v. City of Rainbow City, 989 F.3d 1265, 1281 (11th Cir. 2021).

The breadth and longevity of this consensus across circuits is legally significant beyond its precedential weight. It establishes that the duty to intervene was not, on March 11, 2026, an obscure or contested legal theory. It was one of the most durably established principles in American civil rights law — a principle that every sworn officer in the country was or should have been trained to understand. That consensus reinforces the Second Circuit's controlling rule and defeats any qualified immunity argument premised on lack of notice.

C. The Duty Applies Across Agency Lines

Officers may contend that the duty to intervene does not extend across agency lines — that state or local officers cannot be held responsible for the conduct of federal ICE agents. This contention is expressly rejected by federal courts.

Courts have found it 'irrelevant that the bystander officer is from a different law enforcement agency than the one committing the constitutional violation.' Anderson v. Branen, 17 F.3d at 557. The case itself arose from DEA agents — a federal agency — observed by a fellow federal officer. The duty was recognized without qualification as to agency affiliation. Figueroa v. Mazza, 825 F.3d 89, 106 (2d Cir. 2016), confirmed that an officer 'who by choosing to do nothing goes along with the constitutional violation' becomes a 'tacit collaborator' regardless of agency identity.

The standard is not whether the bystander officer has formal authority over the violating officer. It is whether the bystander officer had a reasonable opportunity to prevent the harm and failed to act. Cunningham v. Gates, 229 F.3d 1271, 1289 (9th Cir. 2000).

D. Municipal Police Are Bound to a Duty to Intervene

South Burlington Police Department (SBPD) was the first law enforcement agency on scene, arriving at 8:45 a.m. at ICE's request. SBPD maintained a command post with the city manager and attorney. Chief Breault monitored live body camera feeds throughout the day and personally urged ICE to reconsider executing the warrant. SBPD's extensive, sustained, voluntary presence — including active command-level engagement — created the same constitutional obligations as VSP's tactical deployment. Chief Breault was not merely a bystander; he was, by his own account, a key decision-maker managing the scene.

Burlington Police Department (BPD) sent eleven officers and deputy chiefs to the scene voluntarily. Burlington subsequently acknowledged an internal use-of-force review of one of its officers' conduct toward protesters. BPD's large voluntary presence and participation in crowd management bring it within the same constitutional framework.

Under Anderson v. Branen, every officer of every agency who was on scene and who observed the detention of three individuals not named in the warrant was independently obligated to consider intercession. The constitutional duty does not require a departmental decision — it is personal and individual. 'Each police officer present has an independent duty to act.' Yang v. Hardin, 37 F.3d at 285.

III. VOLUNTARY PRESENCE CREATES HEIGHTENED CONSTITUTIONAL RESPONSIBILITY, NOT A LICENSE FOR COMPLICITY

Under Printz v. United States, 521 U.S. 898 (1997), the federal government cannot compel state or local law enforcement to participate in federal regulatory or immigration enforcement: 'The Federal Government may neither issue directives requiring the States to address particular

problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program.' 521 U.S. at 935.

Vermont's Fair and Impartial Policing Policy independently confirms that state and local agencies were not legally required to assist ICE. Their presence was the product of discretionary command decisions, not federal compulsion.

Voluntary presence carries voluntary responsibility. An officer who independently chooses to attend an enforcement action, who actively manages crowds to facilitate that action, and who uses state authority and equipment in service of federal goals cannot simultaneously disclaim the constitutional obligations that accompany law enforcement authority at that scene. The badge does not come with a selective conscience.

SBPD actively cleared protesters. VSP deployed specialized tactical resources and physically moved people to allow ICE entry. Burlington officers assisted, sometimes violently, with crowd management. These were not the acts of passive observers. They were affirmative exercises of state and municipal law enforcement power in direct service of the federal operation. The duty to intervene was proportionate to the degree of participation.

IV. COULD LOCAL POLICE HAVE LAWFULLY FACILITATED THE VOLUNTARY DEPARTURE OF THE THREE ADULTS BEFORE THE WARRANT WAS EXECUTED?

This section addresses the secondary question — and the argument advanced by community members following the events — that local police could have, *and should have,* taken a fundamentally different course of action: facilitating the consensual, voluntary departure of the three adult residents from the home before ICE executed its warrant.

The legal analysis requires examining what authority local police possessed at that juncture, what the residents' rights were, and whether the action would have constituted obstruction of a federal operation.

A. The Legal Status of the Residents Before Warrant Execution

Before ICE entered the home at approximately 5:30 p.m., the three adult residents were in their own home. They had committed no crime within the officers' knowledge. They were not named in any warrant. They were not under any lawful restraint. Under the Fourth Amendment, a person inside a private residence has the highest constitutional protection from government intrusion. Payton v. New York, 445 U.S. 573, 590 (1980) ('[T]he Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant.').

Crucially: the residents retained the right to leave their own home at any time. Nothing in the judicial warrant for Corona-Sanchez authorized ICE to prevent the occupants from departing. The warrant authorized agents to enter the residence to search for and arrest one specific named individual. It conferred no authority to hold anyone else inside, and no authority to detain anyone leaving voluntarily.

This is not a theoretical proposition. It was demonstrated at 1:40 p.m. when protesters formed a human tunnel and facilitated the voluntary departure of the three-year-old child. ICE agents — present and watching — did not detain or intercept the child. They lacked authority to do so: the child was not named in any warrant, no independent probable cause existed, and the departure was voluntary. The same legal analysis applies to the three adults.

B. The Community Caretaking Doctrine and Police Welfare Authority

Local police possess recognized authority to take protective action independent of criminal enforcement — authority commonly known as the community caretaking function or emergency aid doctrine. The Supreme Court has confirmed that law enforcement officers may enter premises and facilitate the movement of persons when there is a reasonable basis to believe individuals face danger or require assistance. Brigham City v. Stuart, 547 U.S. 398, 403 (2006); Michigan v. Fisher, 558 U.S. 45, 47 (2009).

At 337 Dorset Street, local police had ample basis to invoke this authority. The residents inside the home — particularly the mother of young children and her sister with a pending asylum case — were in a situation of documented distress: a child inside was audibly crying, the home was surrounded by tactical law enforcement, and it was apparent that federal agents intended to enter the residence. SBPD Chief Breault had access to live body camera feeds and was in active command communication throughout the day.

Under the community caretaking doctrine, BPD, SBPD or VSP officers could have approached the front door of the residence — before the warrant was presented — and invited the occupants to exit voluntarily, informing them that they were free to leave, that a warrant existed for another person, that they were not its subjects, and that police could facilitate their safe departure through the crowd if they chose to leave. This would have been the exercise of a protective, non-enforcement function — consistent with the community caretaking authority — not a law enforcement action directed at the residents.

C. Would Facilitated Voluntary Departure Have Constituted Obstruction of the Federal Warrant?

This is the critical limiting question. The federal search warrant gave ICE agents authority to enter the home and search for Corona-Sanchez. Could local police, by facilitating the departure of the

residents before warrant execution, have 'obstructed' the federal operation in violation of 18 U.S.C. § 111?

The answer is no — under clearly defined legal parameters. Facilitating the voluntary departure of people not named in a warrant, before the warrant is executed, does not obstruct the warrant's execution with respect to its named subject. The warrant authorized the search for one person. Its execution required entry into the premises and search for that person. The lawful presence or absence of other occupants does not impede that search.

ICE's legal authority to detain individuals not named in the warrant was limited to situations where officers had, at the moment of encounter, independent articulable suspicion or probable cause. The ICE agents had neither reasonable suspicion or probable cause. Even if ICE agents attempted to claim authority to detain the three individuals now in the care of local police, once outside the home, in a public location and a very public setting, the three individuals could more readily assert rights and access counsel. Under the community caretaking authority, the practical and constitutional protections governing the interaction would differ, and ICE agents would know it.

Had local police facilitated the residents' voluntary exit before warrant execution, and had ICE agents then — in a public setting on Dorset Street — detained the three individuals based on independent probable cause, that detention would be subject to full constitutional scrutiny and would represent a different legal transaction than the unwitnessed warrantless seizure inside the home. The home is where Fourth Amendment protections are at their absolute zenith, but moving an interaction from inside a home to a public street, with the occupant's consent, changes the legal calculus — potentially in the occupant's favor, given access to counsel, witnesses, and the ability to assert rights more effectively.

This is not obstruction. It is the exercise of local law enforcement's independent obligation to protect civilians within their community from the unconstitutional exercise of federal authority.

D. The Child Removal as Constitutional Precedent

The 1:40 p.m. removal of the three-year-old child by protesters and a school district administrator — without police involvement, without ICE interference, and without legal consequence — is direct evidence of the lawfulness of voluntary departure. That action was:

- *Not obstructed by local police,* who were present and watching.
- *Not challenged by ICE* as obstruction of its warrant.
- *Not prosecuted* as interference with federal enforcement.
- *Constitutionally sound* because no warrant named the child, and her departure was consensual.

Every element of that analysis applies with equal force to the adult occupants. If civilian protesters could — with legal impunity and without ICE interference — facilitate the voluntary exit of one family member from the home, local police could have done the same for all three adult residents, with the added authority and protection conferred by their official status.

Indeed, local police would have been better positioned than protesters to execute this protective action: they had direct communication with SBPD's command post, they had access to the ICE supervisory agents on scene, they could have formally documented the residents' voluntary departure as a welfare action, and their badge would have provided a measure of protection against ICE interference with the departure.

E. What This Option Required — and What It Did Not

The facilitated voluntary departure option this brief endorses would have required:

- **A command decision before warrant execution** — specifically, a decision by the local command officer in charge to offer the residents the opportunity to exit voluntarily before ICE entered.

- **Clear communication to residents** — informing them in neutral terms that they were not named in any warrant, that they were free to leave, and that police would escort them safely through the crowd.
- **Full documentation** of the residents' voluntary and uncoerced decision to leave, with witnesses present.
- **No physical interference** with the warrant's execution once the residents had departed — ICE could enter, search, and confirm the absence of its named target.

The facilitated voluntary departure option did not require:

- *Physical obstruction of ICE's warrant execution.*
- *Any claim by local police that ICE lacked authority to enter or search.*
- *Refusal to allow ICE to execute the warrant after the residents departed.*
- *Any form of immigration enforcement decision by local police.*

Critically, the Supreme Court has held that the community caretaking and emergency aid functions do not require officers to have criminal investigative purposes. Their authority to protect persons in distress is independent of the enforcement context in which those persons find themselves. Brigham City v. Stuart, 547 U.S. at 403 ('The need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal absent an exigency or emergency.').

The residents inside 337 Dorset Street — surrounded by a federal enforcement operation not directed at them, with a young child in distress, knowing armed agents were preparing to break down their door — were persons in distress. Local police had both the authority and, this brief argues, the obligation to offer them a path to safety.

V. THE PRACTICAL SCOPE OF INTERVENTION: A SPECTRUM OF LAWFUL OPTIONS

This brief articulates a range of interventions available to BPD,VSP, SBPD, and other *voluntarily* present agencies — ranked from most to least proactive, all of them legally defensible:

A. Before Warrant Execution (Most Proactive — Available Until Approximately 5:00 p.m.)

1. **Facilitate voluntary departure of non-warrant residents:** As analyzed in Section IV, local police could have approached the residence's occupants, informed them they were not subjects of the warrant, and offered to escort them safely out before ICE entered. This was lawful, non-obstructive, and entirely within state and local police authority.
2. **Formally advise ICE of constitutional limits:** The Burlington Police, through SBPD Chief Breault, who was in direct communication with ICE supervisors, could have formally stated on the record — with documentation — that local police would not facilitate the detention of individuals not named in the warrant, and that any such detention would be challenged.
3. **Coordinate with the U.S. Attorney's Office:** Local command had access to federal contacts. A formal call to the duty Assistant US Attorney to flag the constitutional risk of detaining people not named in the warrant could have produced immediate judicial intervention — as the subsequent emergency restraining orders demonstrated was available.

B. At the Moment of Warrant Execution (Intermediate — Available Approximately 5:00-5:30 p.m.)

4. **Verbal challenge of extra-warrant detentions:** Officers present when ICE began removing individuals not named in the warrant could have — and under Anderson v. Branen *had a duty to* — verbally demand that ICE agents articulate the independent probable cause basis for each additional detention.
5. **Physical positioning to separate warrant execution from extra-warrant detentions:** Officers could have stationed themselves between departing residents and ICE vehicles, not to obstruct but to ensure ICE agents were not detaining occupants without documented justification.

C. After Detention (Minimum — Available Throughout)

6. **Document and report:** Create contemporaneous records of the detention of individuals not named in the warrant, immediately report to BPD, VSP and SBPD command chains, and notify the Vermont Attorney General.
7. **Withdraw facilitation:** Once local police recognized that ICE was detaining people not covered by the warrant, they could have ceased active assistance — stopped managing the crowd, declined to continue providing tactical support — without physically obstructing ICE.

8. **Connect detainees with counsel:** Local officers had authority and opportunity to ensure detainees had access to legal counsel before being transported, which multiple federal judges later ordered as an emergency measure.
9. **Aid injured citizens:** While not bearing directly on the detainees, at a bare minimum, BPD, SBPD, and VSP, as community caretakers, had a duty to ensure all citizens were free from harm, including road traffic, and that citizen injuries were treated.

VI. CIVIL LIABILITY UNDER § 1983 FOR ALL VOLUNTARILY PRESENT AGENCIES

Under 42 U.S.C. § 1983, any person acting under color of law who causes the deprivation of a federally protected right is subject to civil liability. This liability extends to bystander officers of any agency who observe a constitutional violation and fail to intervene when they had the opportunity.

'Police officers have a duty to intercede when their fellow officers violate the constitutional rights of a suspect or other citizen.' Cunningham v. Gates, 229 F.3d at 1289. An officer's failure to intervene when another officer conducts an unlawful arrest, despite having the opportunity to do so, renders that officer liable under § 1983. Anderson v. Branen, 17 F.3d at 557.

Each of the following agencies faces potential § 1983 exposure for the events of March 11, 2026, proportionate to their degree of involvement:

- **Vermont State Police:** Deployed tactical resources, physically cleared protesters enabling ICE entry, were present throughout the detention of non-warrant individuals.
- **South Burlington Police:** First responders, maintained active command, Chief Breault personally managed the operational scene.
- **Burlington Police:** Voluntarily present, participated in crowd management, subject to internal use-of-force review.

Qualified immunity does not shield these agencies. The duty to intervene in response to an unlawful arrest has been clearly established in the Second Circuit since Anderson v. Branen in

1994. Vermont officers are on notice. The circumstances presented — warrant for one person, three different people detained, none matching the warrant's named subject — presented a violation not legally obscure. A reasonable officer on scene had sufficient facts to recognize the Fourth Amendment violation. Harlow v. Fitzgerald, 457 U.S. at 818.

VII. THE MORAL DIMENSION: THE OATH OF ALL SWORN OFFICERS

Beyond the legal framework, there is a dimension that every officer's oath of office directly addresses. Every officer of every agency present on Dorset Street on March 11 took an oath to uphold and defend the Constitution of the United States and the Constitution of the State of Vermont. That oath did not include an exception for officers who carry federal badges.

The Vermont Constitution, Chapter I, Article 1, declares that 'all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights.' The individuals detained at 337 Dorset Street — a mother of two children in the South Burlington schools, her sister with a pending asylum claim, a community member — were persons. They were entitled to the protection that every officer on that scene was sworn to provide.

The school district administrator who rushed to the scene at 10:30 a.m. and said 'We have to get her out' — referring to a three-year-old child — understood something that armed law enforcement officers did not act on: that their obligation to protect members of this community did not stop at the jurisdictional boundary of a federal operation. Civilian compassion prompted a protective act that resulted in a child's safe removal. Sworn officers, with greater authority and resources, stood by and ultimately facilitated the detention of the child's mother.

'[I]t is clear that one who is given the badge of authority of a police officer may not ignore the duty imposed by his office.' Byrd v. Brishke, 466 F.2d at 11. That duty existed on March 11, 2026. It was not fulfilled.

CONCLUSION

For the foregoing reasons, this brief submits that state and local law enforcement officers who were voluntarily present at the March 11, 2026, ICE enforcement action at 337 Dorset Street, South Burlington, had both legal and moral obligations that were not fulfilled. The events in question at the March 11 ICE enforcement action unfolded over many hours; this was not a fast-moving situation as the Burlington Mayor claims in her March 25 press release. The local officers' obligations arose at multiple points throughout the day and were available in multiple forms — from the most proactive (facilitating voluntary departure of non-warrant residents before ICE entered) to the minimum (documenting and reporting unconstitutional detentions after the fact).

This brief further submits that the successful, lawful, and legally uncontested removal of a three-year-old child from the home by civilian protesters and a school administrator — hours before warrant execution — establishes as a matter of demonstrated fact that voluntary departure of the home's occupants was legally available, operationally feasible, and would not have constituted obstruction of the federal warrant. Local police, with their authority and resources, were better positioned than protesters to have offered this option to the three adult residents. Their failure to do so contributed to one of the most constitutionally significant enforcement failures in Vermont's modern history.

I recommend that the following concrete remedial actions be taken:

I. Vermont State Police, South Burlington Police, Burlington Police, and other local law enforcement agencies at the scene on March 11 should publicly acknowledge that the facilitated voluntary departure of non-warrant residents was a lawful option that was not considered or offered.

II. All Vermont law enforcement agencies should adopt formal written protocols for situations in which federal enforcement agencies are present, specifically including: (a) the right of residents not named in warrants to be informed of that fact; (b) the availability and lawfulness of facilitated voluntary departure; and (c) the duty to intervene when unlawful detentions, other constitutional violations, or violations of state or local law occur in officers' presence.

III. The Vermont Legislature should conduct a formal review of the March 11 events, including whether existing Vermont law adequately empowers local police to take protective action on behalf of community members during federal operations.

IV. The Vermont Attorney General should issue formal guidance clarifying the scope of local law enforcement's duty to intervene and the lawfulness of the facilitated voluntary departure mechanism in future federal enforcement actions.

V. Each of the three individuals unlawfully detained should be recognized by the State of Vermont as having had their rights violated, and the State should cooperate fully with any civil rights litigation they choose to pursue.

VI. The Burlington City Council and the Office of the Mayor should adopt a Joint Resolution that: (1) formally reminds Burlington Police Department officers of their sworn oaths to uphold and defend the United States Constitution and the Vermont Constitution, and of the obligations those oaths impose independent of any federal enforcement action; (2) acknowledges that BPD's presence and conduct on March 11, 2026, while not rising to the level of willful misconduct, was inconsistent with the spirit and intent of Vermont's Fair and Impartial Policing Policy; (3) affirms that BPD's primary obligation is to the safety and constitutional rights of all Burlington residents, including immigrant community members; and (4) consistent with applicable law and the anti-commandeering principles established in Printz v. United States, 521 U.S. 898 (1997), commits Burlington and its Police Department to protecting residents from unlawful federal immigration enforcement actions in the future.

Respectfully submitted,

Pike Porter

Burlington, Vermont

March 2026