

[UPBEAT MUSIC]

NINA MOINI: The Trump administration is vowing to continue what it's calling a major immigration enforcement effort in Minnesota. The Department of Homeland Security says agents have arrested 3,000 people since last month, a claim that NPR News has not been able to verify. At the same time, the Justice Department is investigating top Minnesota Democratic-elected officials for their repeated criticisms of the operation. Matt Sepic reports.

MATT SEPIC: The offices of Governor Tim Walz, Minneapolis Mayor Jacob Frey, St. Paul Mayor Kaohly Her and Minnesota Attorney General Keith Ellison say they all received subpoenas from Minnesota US attorney Dan Rosen, a recent Trump appointee. Last week, the Justice Department said it would investigate the Democrats over allegations that they conspired to impede federal law enforcement. After the shooting of Renee Macklin Good two weeks ago, Frey told ICE to get out of Minneapolis and he used an expletive.

Yesterday, Walz said Minnesota, quote, "Will not be drawn into political theater." Frey says the federal government is weaponizing its power to, quote, "Try to intimidate local leaders for doing their jobs." And Her says the government's tactics do not faze her.

Customs and Border Protection Chief Greg Bovino said at a news conference here yesterday that agents are not backing down. He accused local leaders of allowing, quote, "Criminal illegal aliens to roam the streets." Bovino insists that ICE agents are following the Constitution.

GREG BOVINO: What we do is legal, ethical and moral. Everything we do every day is legal, ethical and moral, well-grounded in law.

MATT SEPIC: Bovino's comments fly in the face of documented incidents where masked, heavily-armed agents broke into people's homes without judicial warrants. On Sunday, agents who said they were looking for two sex offenders with deportation orders forcibly entered the St. Paul home of Chung Lee Thao, a longtime American citizen who has no criminal record. Thao told the *Sahan Journal* that agents pointed guns at his family and took him out of his home, handcuffed on a 10-degree day wearing only underwear.

They drove him around for about an hour and later released him after verifying his identity. He got no apology. Thao said his four-year-old grandson was home and saw everything. Public records show there are no sex offenders living in Thao's house.

A week earlier, agents also illegally broke into the North Minneapolis home of Garrison Gibson. The 38-year-old from Liberia is authorized to be in the United States. He, too, has no record of serious crimes, just decade-old misdemeanors.

Some local law enforcement leaders are starting to criticize ICE's tactics. At a news conference yesterday, Brooklyn Park Police Chief Mark Bruley said agents stopped a civilian department employee. They also boxed in and pulled over an off-duty officer. The agents drew their guns and ordered her to present proof of citizenship. She carried none, because she's a citizen.

MARK BRULEY: If it is happening to our officers, it pains me to think of how many of our community members are falling victim to this every day. It has to stop.

MATT SEPIC: The agents knocked the officer's phone from her hands as she attempted to record the interaction. After the officer identified herself as law enforcement, Bruley says the men gave no explanation and drove away. He says both the officer and civilian are people of color.

At a separate news conference yesterday, dozens of physicians criticized ICE's presence at hospitals and clinics. Pediatrician Dr. Janna Gewirtz O'Brien says parents are avoiding potentially life-saving medical care because they're terrified to leave their homes when ICE agents are in and around hospitals.

JANNA GEWIRTZ O'BRIEN: We've seen moms that have called and said, my baby's having trouble breathing. I don't know if I should come in. Unacceptable. And we've seen a burst appendix that could have been detected days earlier had somebody not been afraid to come in.

MATT SEPIC: The physicians say ice needs to follow the long-standing protocols for how law enforcement should operate in medical settings. With reporting from Nicole Ki and Erica Zurek, I'm Matt Sepic, MPR News, Minneapolis.

NINA MOINI: We're going to focus now on one of the first pieces of news in that update you just heard from Matt Sepic. The Trump administration is asking state and local governments to hand over records that relate to federal immigration activity in Minnesota. Again, that includes the offices of Governor Tim Walz, Attorney General Keith Ellison, Minneapolis Mayor Jacob Frey, St. Paul Mayor Kaohly Her and Hennepin County and Ramsey County. Mayor Frey will appear before a US district court in a hearing coming up February 3, so in a couple of weeks.

Joining me now to help us understand this better is Mark Osler. He's a law professor at the University of St. Thomas. He also served as a federal prosecutor. Thank you for your time this afternoon.

MARK OSLER: Yeah, I'm glad to talk about this.

NINA MOINI: Yesterday, again, these local and state officials I listed received these subpoenas from the federal government, their demands for records, documents. Can you explain how these work in a case like this one? What types of things are these investigators looking for?

MARK OSLER: Sure. Yeah, I mean, subpoenas are usually going to be issued under the name of the grand jury. And prosecutors just have a stack of these on their desk and can issue them without asking the grand jury to send them out. And what they're going to ask for is really two types of things.

Sometimes it's asking for testimony. You have to come in and testify. And sometimes it's for documents. And that seems to be what's going on here.

Typically, they're going to look for records of what they're interested in and also communications, so things like emails and text messages often. Here, because it appears that what they're looking for is a conspiracy is that they'd be particularly interested in communications, where you'd have an agreement to work together towards some illegal goal.

NINA MOINI: So the Department of Justice says, again, it's investigating the leaders for conspiring to impede the work of federal officers, some of what you were describing there. A lot of commentary has been very public, though. I think a lot of our listeners may have thought that this had to do with just public comments, like in front of the camera, that these officials have been making. Can you explain how that factors in?

MARK OSLER: Yeah. And we don't know exactly what they're looking for. And the thing is that the statute that they seem to be looking towards, 18 USC 372, requires that the government ultimately prove that the people conspired to prevent the officers from doing their job by force, intimidation or threat. And force, intimidation or threat is something that is communicated publicly.

So I do think that's the basis of what they're looking at. But they're apparently rooting around, trying to find background on was there agreement to simultaneously make comments that they can construe as a threat? Although based on what we've seen publicly, that seems like quite a stretch.

NINA MOINI: All of the disagreement and the back and forth between local and state officials here and the federal government, it's notable because a lot of officials, like Mayor Frey, have said they're really used to working together with other branches of government and other levels of government. How unusual is it, in your opinion, for federal prosecutors to subpoena other levels of government?

MARK OSLER: Well, it's not unusual for federal prosecutors to subpoena local and state governments, because they do that in corruption investigations. What's different here is how public the conflict is and the context for it. That what we've got going on here is a kind of public fight between organizations that should be cooperating.

The administration is saying, what's really important is fighting fraud. Well, if that's the case, you really need all hands on deck and cooperation. Instead, we have this really faceoff between state, local and federal officials.

Part of that also that's different now is the politicization of the DOJ, which changes the complexion of the whole thing. That there's a sense that these directives are coming from the White House, something that no one is used to.

NINA MOINI: What are the options for the state, counties and cities, because they're all included here, that received subpoenas? Do they have to comply?

MARK OSLER: Well, I mean, they could go to court and try to make the case that there's not a basis for this and they don't have to comply. More typically, they have compliance where they'll produce some documents that are responsive to what's being asked for. I haven't seen the actual request. I don't what these subpoenas ask for.

Sometimes they can be incredibly broad. And that's a difficulty in itself, because if you're asking for all communications that deal with ICE, well, that's going to be thousands of communications across an agency like the city, say. And so it could just whatever is relevant might be buried in that mass. But we'll see. The city has to decide and these other entities have to decide whether they want to fight it or send the government something.

NINA MOINI: What are the options for the DOJ if they find that laws were broken? I mean, do you have a sense for what specific laws? I think you mentioned one that they're looking at. Or what can they do with all of this information?

MARK OSLER: Yeah, I mean, as a prosecutor, you're going to start with the elements of the crime and then try to see if you've got enough to prove that beyond a reasonable doubt. I think that most people are taking them at their word that what they're looking at most closely is this conspiracy to impede or injure an officer. And frankly, just based on the public statements that the governor, the mayor and others have made, I can't imagine that any other would possibly apply. And frankly, like I said, I can't imagine 372 itself is going to apply, because it's very hard to construe what's been said as a threat that rises to the level of being a felony offense.

NINA MOINI: So we mentioned that Mayor Jacob Frey of Minneapolis, his subpoena does require him to go to that hearing, we were mentioning, February 3. What do you expect would come out of a court appearance like that?

MARK OSLER: We'll see. I think that's something that they're going to have to come up with a strategy. Something like that also is an opportunity for Mayor Frey to tell his side of the story, to explain what the conflict is. And he can be quite skilled at that at times. And so in a hearing, it's something where it depends on what the questions are and how it's cabined, of course, but it's an opportunity as well.

NINA MOINI: All right, Professor, thank you so much for making time for us again. Really appreciate it.

MARK OSLER: My pleasure. Thank you.

NINA MOINI: That's Mark Osler, University of St. Thomas law professor and former federal prosecutor.