

SECTION 1:

DOCUMENTING THE PROBLEM AND BUILDING A CASE

Information collecting, case stories, surveys, and infographics

BACKGROUND

How to document and present information about courthouse arrests.

As reports of courthouse arrests and their chilling effect began coming to IDP, we developed a system to record the information. using three primary tools: 1) maintaining a database containing detailed information about each arrest and attempted arrest of a person attending court; 2) working with lawyers, advocates, and directly-impacted people to prepare sworn affidavits regarding arrests, attempted arrests, and the fear of participating in the court process due to fear of ICE arrest; and 3) conducting a statewide survey in New York, asking questions about lawyers' and advocates' experiences with ICE in the courts, and the impact on their clients or members.

It is important to note that some information about courthouse arrests and the dangers they create can be difficult for advocates to obtain. For example, statistically significant information about widespread declines in participation in the court process; decreases in the numbers of orders of protection sought in the family courts; increases in numbers of bench warrants, are all categories of information to which non-governmental actors (specifically, non-court actors) will not have access. Le-

gal services organizations can try to create systems internally to track this information for their client population, but this can be challenging. Courts are better-situated to have access to this kind of information, but may be reluctant to or refuse to release it publicly.

RESOURCES

List of questions asked, and system for gathering information and data. We developed a list of information to try to obtain and questions to ask about every arrest and attempted arrest reported to IDP. We maintained the information fastidiously, assigning one person to oversee volunteers and ensure that the information was verified and accurate statistics were maintained in a database. The reliability of information is crucial to a campaign, giving it a baseline level of legitimacy. Over the course of a year, from 2016 to 2017, we documented a 1200% increase in courthouse arrests in New York State.

Data. Policymakers we have engaged with our campaign have wanted to know the numbers of people arrested, demographic information about them, locations of arrests, and other details. We periodically release data sets about our recorded numbers, and have included some samples here. We have distributed these to judges, elected and appointed officials, and reporters. In our offices, we maintain a broader set of information about each arrest, which we do not publish or make publicly available.

Infographics. We have also used infographics, some included here, to break down and present our data for different audiences. We post these on our website and distribute them to policymakers and reporters.

Affidavits of advocates and community members. We worked with advocates to write sworn affidavits documenting the details of arrests, of client fear, and the harm on individual lives. Included here are 12 affidavits from attorneys and other legal service providers, and community based organizations in New York. They describe the individual circumstances of people arrested in the courts or afraid of attending court. They describe issues affecting housing security, domestic violence, human trafficking, youth exploitation, and mental health.

Case stories. Included are some informational materials we prepared for different audiences that integrate case stories and data to present the facts regarding courthouse arrests.

Survey questions (“how to”) and results. One measure of the impact of courthouse arrests on individual rights and public safety is the chilling effect--the fear and reluctance or unwillingness of individuals to attend court-mandated hearings, seek protection from the courts, or participate in treatment or rehabilitative services through the courts. To illustrate the chilling effect of ICE presence in the courts, in June 2017, IDP developed and conducted a survey of 225 advocates and attorneys across New York State. The questions that we asked in that survey are included here.

Findings include: 75% of attorneys responding worked with clients who expressed fear of going to court; two-thirds of attorneys who work with people affected by violence said they had clients who chose not to seek protection from a court because of potential ICE presence; and nearly half of housing court attorneys reported that their clients refused to bring complaints against abusive landlords for fear of ICE. The survey results are included here.

Additional resources:

- Immigrant Defense Project, [ICEwatch: ICE Raids Tactics Map--raidsmap.immdefense.org](https://www.immdefense.org/raidsmap) (July 2018).
- ACLU, [Report: Freezing Out Justice--How immigration arrests at courthouses are undermining the justice system](#) (2018).
- Make the Road New Jersey, [Report: ICE in the New Jersey Courts--The Impact of Immigration Enforcement on Access to Justice in the Garden State](#) (December 2017).
- Northeastern University School of Law Immigrant Justice Clinic, [Report: Blocking the Courthouse Doors--ICE Enforcement at Massachusetts Courthouses and Its Effects on the Judicial Process](#) (March 2018).



Tracking New York courthouse arrests

For the past four years, IDP has been monitoring immigration enforcement activity in New York communities, including arrests in and around courts. Since early 2017, there has been an increase of ICE arrests and attempted arrests at courts throughout New York State, including in criminal and family courts.

If you know of an arrest or attempted arrest by immigration agents in a NY courthouse, please contact Genia Blaser (genia@immdefense.org) and Lee Wang (lee@immdefense.org). You can also fill out the form on the other side of this sheet and fax it to us at 1-800-391-5713.

Below are some **suggested intake questions** to help you fill out the form.

Basics

- Name of person reporting information
- Organization/18b panel
- Contact information (phone & email)

Description of incident

- Date of incident (if don't have the exact date, please provide approximate month and year)
- Name/type of Court where incident took place (e.g. Bronx Criminal, Kings Family Court, etc.)
- How many ICE officers were there? How were they dressed? How did they identify themselves?
- Did the ICE agents present a warrant or refuse to present a warrant?
- Where in the courthouse did the incident take place? (e.g. courtroom, vestibule, hallway, outside the courthouse)
- Was there anything else notable about the arrest or attempted arrest?

Court staff or District Attorney involvement in the arrest

- Did any court staff (officers, clerks, judges) play any role in the arrest or attempted arrest? If so, please describe.
- Did the district attorney play any role in the arrest or attempted arrest? If so, please describe.

Background of person arrested

- What criminal charges was the individual facing at the time of the arrest/attempted arrest?
- What was the immigration status of the individual at the time of the courthouse incident?
- If you can, please describe the individual's ties to the US (length of time in US, family here).
- If you can, please describe the individual's prior criminal history (if any).



Tracking New York courthouse arrests

COURTHOUSE ARREST INTAKE FORM

BASICS (Name of person reporting, organization, contact info)

DESCRIPTION OF INCIDENT (Date of incident (at least month/yr); name/type of court; location of arrest in courthouse; how ICE agents presented themselves; interaction with ICE agents; anything notable)

COURT STAFF OR DISTRICT ATTORNEY INVOLVEMENT IN ARREST

BACKGROUND OF PERSON ARRESTED (pending charges, immigration status, criminal history, ties to the U.S.)

Email to: Lee Wang (lee@immdefense.org) and Genia Blaser (genia@immdefense.org)

Fax to: 1-800-391-5713



ICE COURTHOUSE ARRESTS 2017

Updated as of 4/13/2019

TOTAL NY State: 146 reports (130 arrests; 16 attempts)

TOTAL NYC: 99 reports (86 arrests; 13 attempts)

TOTAL Upstate & LI: 47 reports (44 arrests; 3 attempts)

Date, if known	Location	Type of Court	Arrest or Attempt
01/04/2017	Brooklyn	Criminal Court	Arrest
01/06/2017	Kingston (Ulster County)	Criminal Court	Arrest
~ Feb. 2017	Manhattan	Criminal Court	Attempt
02/03/2017	Staten Island	Criminal Court	Arrest
02/03/2017	Staten Island	Criminal Court	Arrest
02/06/2017	Nassau County	Criminal Court	Arrest
02/15/2017	Hudson (Columbia County)	Criminal Court	Arrest
02/15/2017	Hudson (Columbia County)	Criminal Court	Arrest
02/15/2017	Hudson (Columbia County)	Criminal Court	Arrest
02/16/2017	Livingston (Columbia County)	Criminal Court	Attempt
02/17/2017	Port Chester (Westchester County)	Criminal Court	Arrest
02/21/2017	Manhattan (New York)	Criminal Court	Arrest
~Mar. 2017	Queens	Criminal Court	Attempt
~Mar. 2017	Queens	Criminal Court	Arrest
~ Mar. 2017	New Rochelle (Westchester County)	Criminal Court	Arrest
~Mar. 2017	Putnam Valley (Putnam County)	Criminal Court	Attempt
~ Mar. 2017	Manhattan	Criminal Court	Arrest
03/01/2017	Suffolk County	Criminal Court	Arrest
03/01/2017	Brooklyn	Criminal Court	Arrest
03/01/2017	Hempstead (Nassau County)	Criminal Court	Arrest
03/16/2017	Brooklyn	Family Court	Arrest
03/23/2017	Bronx	Criminal Court	Attempt
03/31/2017	Port Chester (Westchester County)	Criminal Court	Arrest
04/05/2017	Manhattan (New York)	Criminal Court	Arrest
04/19/2017	Suffolk	Family Court	Arrest
04/20/2017	Hudson (Columbia County)	Criminal Court	Arrest
04/20/2017	Bronx	Criminal Court	Attempt
04/21/2017	Manhattan (New York)	Criminal Court	Arrest
04/25/2017	Millbrook (Dutchess County)	Criminal Court	Arrest
~May 2017	Albany	Criminal Court	Arrest
~May 2017	Albany	Criminal Court	Arrest

05/03/2017	Queens	Criminal Court	Arrest
05/10/2017	Queens	Criminal Court	Arrest
05/15/2017	Suffolk County	Youth Part	Arrest
05/23/2017	Spring Valley (Rockland County)	Criminal Court	Arrest
05/23/2017	Manhattan (New York)	Criminal Court	Arrest
05/30/2017	Brooklyn (Kings)	Criminal Court	Arrest
05/30/2017	Brooklyn (Kings)	Criminal Court	Arrest
05/31/2017	Bronx	Criminal Court	Attempt
~June 2017	Manhattan (New York)	Criminal Court	Arrest
~June 2017	Manhattan (New York)	Criminal Court	Arrest
06/06/2017	Staten Island (Richmond)	Criminal Court	Arrest
06/06/2017	Bronx	Criminal Court	Arrest
06/06/2017	Brooklyn (Kings)	Criminal Court	Arrest
06/07/2017	Manhattan (New York)	Criminal Court	Arrest
06/09/2017	Queens	Criminal Court	Arrest
6/9/2017	Queens	Human Trafficking Intervention Court	Arrest
06/12/2017	Brooklyn (Kings)	Criminal Court	Arrest
06/12/2017	Manhattan (New York)	Criminal Court	Arrest
06/13/2017	Bronx	Criminal Court	Arrest
06/14/2017	Brooklyn (Kings)	Criminal Court	Arrest
06/15/2017	Bronx	Criminal Court	Arrest
06/15/2017	Manhattan (New York)	Criminal Court	Arrest
06/15/2017	Manhattan (New York)	Criminal Court	Arrest
06/16/2017	Bronx	Criminal Court	Arrest
06/16/2017	Queens	Criminal Court	Arrest
06/16/2017	Queens	Human Trafficking Intervention Court	Arrest
06/16/2017	Queens	Human Trafficking Intervention Court	Attempt
06/16/2017	Queens	Criminal Court	Arrest
06/16/2017	Brooklyn (Kings)	Criminal Court	Arrest
06/16/2017	Bronx	Criminal Court	Attempt
06/27/2017	Bronx	Criminal Court	Arrest
06/28/2017	Skaneateles (Onondaga County)	Traffic Court	Arrest
06/29/2017	Bronx	Criminal Court	Arrest
~July 2017	Richfield Springs (Otsego County)	Village Court	Arrest
~July 2017	Kinderhook (Columbia County)	Traffic Court	Arrest
~July 2017	Watervliet (Albany County)	Traffic Court	Arrest
~July 2017	Manhattan	Criminal Court	Arrest
07/03/2017	Kinderhook (Columbia County)	Criminal Court	Arrest
07/05/2017	Broome County	Criminal Court	Arrest
07/07/2017	Brooklyn (Kings)	Criminal Court	Arrest
07/10/2017	Queens	Criminal Court	Arrest

07/10/2017	Manhattan (New York)	Criminal Court	Arrest
07/11/2017	Queens	Criminal Court	Arrest
07/11/2017	Manhattan (New York)	Criminal Court	Arrest
07/11/2017	Manhattan (New York)	Criminal Court	Arrest
07/14/2017	Brooklyn (Kings)	Criminal Court	Arrest
07/17/2017	Queens	Criminal Court	Arrest
07/25/2017	Brooklyn (Kings)	Community Court	Attempt
07/31/2017	Brooklyn (Kings)	Criminal Court	Arrest
~Aug. 2017	Queens	Criminal Court	Arrest
~Aug. 2017	Altamont (Albany County)	Criminal Court	Arrest
~Aug. 2017	Saratoga County	Criminal Court	Arrest
~Aug. 2017	Yonkers (Westchester County)	Criminal Court	Arrest
08/03/2017	Brooklyn (Kings)	Criminal Court	Arrest
08/07/2017	Suffolk	Criminal Court	Arrest
08/10/2017	Brooklyn (Kings)	Criminal Court	Arrest
08/14/2017	Queens	Criminal Court	Arrest
08/14/2017	Bronx	Criminal Court	Attempt
08/17/2017	Brooklyn (Kings)	Criminal Court	Arrest
8/21/2017	Staten Island (Richmond)	Criminal Court	Arrest
~Sept. 2017	Queens	Criminal Court	Arrest
~Sept. 2017	Spring Valley (Rockland County)	Criminal Court	Arrest
~Sept. 2017	Queens	Criminal Court	Arrest
09/11/2017	Bronx	Criminal Court	Arrest
09/12/2017	Brentwood (Suffolk County)	Criminal Court	Arrest
09/14/2017	Brooklyn (Kings)	Criminal Court	Arrest
09/14/2017	Brooklyn (Kings)	Criminal Court	Arrest
09/14/2017	Brooklyn (Kings)	Criminal Court	Arrest
9/14/2017	Brooklyn (Kings)	Criminal Court	Arrest
9/18/2017	Queens	Criminal Court	Arrest
9/19/2017	Bronx	Criminal Court	Arrest
09/19/2017	Bronx	Criminal Court	Arrest
9/19/2017	Bronx	Criminal Court	Arrest
9/19/2017	Brooklyn (Kings)	Criminal Court	Arrest
9/21/2017	Hempstead (Nassau County)	Criminal Court	Arrest
09/21/2017	Brooklyn (Kings)	Criminal Court	Arrest
09/25/2017	Mineola (Nassau)	Criminal Court	Arrest
09/27/2017	Queens	Criminal Court	Arrest
09/27/2017	Rockland County	Criminal Court	Arrest
10/06/2017	Albany	Criminal Court	Arrest
10/10/2017	Queens	Criminal Court	Arrest
10/12/2017	Brooklyn (Kings)	Criminal Court	Arrest
10/16/2017	Brooklyn (Kings)	Criminal Court	Arrest
10/26/2017	Saratoga Springs (Saratoga County)	City Court	Arrest

10/26/2017	Saratoga Springs (Saratoga County)	City Court	Arrest
10/27/2017	Queens	Criminal Court	Arrest
10/31/2017	Bronx	Criminal Court	Attempt
~Nov. 2017	Bronx	Criminal Court	Arrest
~Nov. 2017	Queens	Criminal Court	Arrest
~Nov. 2017	Staten Island (Richmond)	Criminal Court	Arrest
11/01/2017	Brooklyn (Kings)	Criminal Court	Attempt
11/02/2017	Saratoga Springs (Saratoga County)	Criminal Court	Arrest
11/2/2017	Ballston Spa (Saratoga County)	Criminal Court	Arrest
11/8/2017	Port Chester (Westchester County)	Criminal Court	Arrest
11/13/2017	Nassau County	Criminal Court	Arrest
11/13/2017	Brewster (Putnam County)	Criminal Court	Arrest
11/14/2017	Brooklyn (Kings)	Criminal Court	Arrest
11/15/2017	Schenectady (Schenectady County)	Criminal Court	Arrest
11/15/2017	Brooklyn (Kings)	Criminal Court	Arrest
11/15/2017	Brooklyn (Kings)	Criminal Court	Arrest
11/16/2017	Bronx	Criminal Court	Arrest
11/28/2017	Brooklyn (Kings)	Criminal Court	Arrest
~Dec. 2017	Rockland County	Integrated Domestic Violence Court	Arrest
12/5/2017	Bronx	Criminal Court	Attempt
12/7/2017	Suffolk County	Criminal Court	Arrest
12/11/2017	Brooklyn (Kings)	Criminal Court	Arrest
12/12/2017	Queens	Criminal Court	Arrest
12/12/2017	Bronx	Criminal Court	Attempt
12/13/2017	Bronx	Criminal Court	Arrest
12/13/2017	Bronx	Criminal Court	Arrest
12/14/2017	Geneva (Ontario County)	City Court	Attempt
12/21/2017	Brooklyn	Criminal Court	Arrest
12/21/2017	Brooklyn	Criminal Court	Arrest
Unknown	Manhattan (New York)	Criminal Court	Arrest
Unknown	Monroe County	Criminal Court	Arrest

FOR IMMEDIATE RELEASE:



IDP Unveils New Statistics & Trends Detailing Statewide ICE Courthouse Arrests in 2017

Reports of ICE Targeting Immigrants at Courthouses Increased Nearly 1200% since Last Year

Spike Reflects Dangerous New Era of Enforcement and Immigrant Rights Violations under Trump Administration

NEW YORK – December 31, 2017 – The **Immigrant Defense Project (IDP)** released new statistics & trends detailing Immigration and Customs Enforcement (ICE) arrests and attempted arrests in courthouses across New York State from January to December 2017. IDP compiled statistics from attorneys and advocates who work with immigrants and the family members of immigrants as part of their practice.

There have been **144 reports of ICE arrests and attempted arrests in courthouses this year**, up from 11 reports in all of 2016. **This more than 1200% increase from 2016** signifies a new era in aggressive ICE enforcement emboldened under the Trump administration.

“The exponential increase in ICE courthouse arrests reflects a dangerous new era in enforcement and immigrant rights violations,” said Lee Wang, Staff Attorney at IDP. “Immigrants seeking justice in the criminal, family, and civil courts should not have to fear for their freedom when doing so. The alarming ICE trends we’re seeing in New York undermine the safety and promise of sanctuary.”

“These arrests plague our clients in every borough and deter immigrants and others from seeking services offered by the court that should always be accessible,” said Tina Luongo, Attorney-In-Charge of the Criminal Defense Practice at The Legal Aid Society. “This report shows that courthouse arrests will only continue to proliferate under this Administration. We hope to work with Albany leaders and the Office of Court Administration next session on a legislative remedy that could address this injustice that’s now truly statewide.”

KEY STATISTICS & TRENDS:

- **The majority of ICE courthouse arrests are taking place in NYC.** Of the 144 reports, 97 of the incidents took place across all five counties of New York City. 84 were arrests; 13 were attempted arrests.

- **47 of the incidents took place in upstate New York and Long Island.** These incidents were spread across 16 counties including Westchester, Nassau, Suffolk, Ulster, Columbia, Putnam, Rockland, Onondaga, Albany, Saratoga, Monroe. 44 were arrests; 3 were attempted arrests.
- **Both documented and undocumented immigrants are being arrested. In cases where immigration status is known, 1 out of the 5 incidents involve documented immigrants.** Of these, the vast majority are green card holders, while others are in the U.S. on valid visas.
- **ICE has expanded arrests to target undocumented immigrants with NO prior criminal history.** 28% of the undocumented immigrants ICE has targeted have NO prior criminal history. In many of these cases, individuals were facing a first-time arrest for a traffic violation. And in some cases, charges were dismissed, but ICE still proceeded with the arrest.
- **Most immigrants were reporting to court on low-level offenses.** In cases where criminal charges were known, 80% of individuals who were arrested while attending court were appearing for violations and misdemeanors.
- **Immigrants are being arrested in a broad range of courts—including criminal courts, family courts, traffic courts, and specialized courts that are designed as rehabilitation programs.** ICE has arrested immigrants twice in family courts, once at a child support hearing, and another at a visitation hearing. They have also targeted immigrants in Youth Parts (designed to help provide rehabilitation to teenagers) and Community Courts (designed around a restorative justice model that emphasizes rehabilitation).
- **ICE has targeted immigrants in particularly vulnerable groups.** Several of those arrested have documented mental health issues, and/or are survivors of family violence. ICE agents have also gone after immigrants in Human Trafficking Intervention Court, which is designed for victims of human trafficking who face prostitution-related charges.
- **In some cases, court staff have facilitated ICE arrests.** In at least 21 incidents, employees of the Office of Court Administration assisted ICE agents. Assistance has included notifying ICE agents of an immigrant's presence in the courtroom, delaying the calling of a case to facilitate an arrest, physically assisting an arrest, and escorting ICE into restricted areas of the court meant only for court personnel.

Advocates across the country are working with state court justices and legislators to identify and implement solutions to address ICE's reckless disregard for public safety and access to justice. Given the complex entanglement of the criminal justice system with federal immigration law and deportation policies, many sanctuary cities often inadvertently feed the President's deportation machine. State and local officials need to stop federal immigration agents from using the U.S. court system to trap immigrants for arrest, detention, and deportation.

For more information, please visit the Immigrant Defense Project at ImmigrantDefenseProject.org.

###

Media Contact:

Alejandra Lopez

Immigrant Defense Project

E: Alejandra@ImmDefense.org

O: 646-760-0589



ICE Courthouse Arrests in New York

by the Numbers



There has been a **1200% increase** in reports of ICE arrests and attempted arrests at New York courthouses in 2017 from the previous year. The trend reflects a dangerous new era in enforcement and immigrant rights violations.

Reports of ICE arrests and attempted arrests at New York courthouses are way up.



Documented immigrants are being arrested.

In cases where immigration status was known, at least one out of 5 people targeted were documented. This includes people holding green cards and valid visas.



ICE has expanded arrests to target immigrants with no prior criminal history.

28%

Of the undocumented immigrants targeted had no prior criminal history. The majority were reporting to court on low level offenses, many for traffic violations.



Immigrants are being arrested in a broad range of courts.

- Family courts, including child support and visitation hearings
- Criminal courts
- Traffic courts
- Human Trafficking Intervention Court
- Youth Parts
- Community Courts



ICE has targeted immigrants in particularly vulnerable groups

Including those with documented mental health issues and survivors of family violence.



FACT SHEET: ICE IN NEW YORK STATE COURTS

A coalition of over 100 New York legal services providers and immigrants' rights groups is documenting incidents of Immigration and Customs Enforcement (ICE) activity in the state's courts. The coalition verifies each report through interviews with witnesses including attorneys, family members, and litigants.

- The coalition has seen a significant uptick in ICE's presence in New York's courts since the beginning of 2017. Since January, we have received more reports of ICE arrests or attempted arrests in the courts than we have for the past two years combined.
- For the first time ever, ICE has targeted immigrants in Family Court, arresting parents in visitation, child support and PINS proceedings. In Albany, ICE agents detained a mother who had sought help from the Family Court after her daughter ran away. As a result, both of her teenage children were placed into foster care for several weeks.
- ICE has refused to designate courthouses as "sensitive locations" and has announced publicly that it will not refrain from arresting witnesses and survivors of crime at court appearances. In New York, ICE has increasingly targeted vulnerable immigrants including a woman facing misdemeanor charges who was a sexual assault victim with a history of serious mental health issues.
- Legal and social services providers routinely speak to immigrants and family members of immigrants who are afraid to appear in State courts due to increased ICE presence. In a national survey, 75% of advocates report that immigrant survivors of intimate partner violence are now concerned about going to court; 43% have clients who have dropped a civil or criminal case due to fear of ICE in the courts.
- In a survey of immigrants in NYC, many expressed fear of going to court because of ICE:
 - *I have a disabled child and I fear going to court for custody.*
 - *I won't be safe if I need to go to court for any reason. I will not feel safe reaching out to any agencies in case I need help.*
 - *They could send me to immigration even if my case is pending.*
 - *I should be able to go to court without having to be scared of getting arrested or deported.*
- ICE is now targeting immigrants in the criminal courts at a much early point in criminal proceedings, arresting immigrants as early as arraignments. The agency also routinely refuses to return immigrants to State courts to participate in the resolution of their ongoing criminal proceedings.
- In virtually every instance documented by the coalition, ICE has refused to produce any type of arrest warrant—judicial or administrative. Federal immigration regulations require ICE to produce an administrative warrant, which is signed by an ICE officer and subject only to a "reason to believe" standard, unless there are exigent circumstances. However, ICE still refuses to produce even these bare bones warrants to justify arrests.
- In some cases, OCA staff and judges have assisted ICE arrests by providing personal identifying information about immigrant litigants, delaying the calling of cases, and physically blocking defense attorneys from accessing their clients while ICE conducted an arrest. One defense attorney who witnessed ICE arrest a man said "I was shocked. It seemed like everyone in the court—the interpreter, officers, even the Judge—was working for ICE."

Brooklyn (Adult Criminal)

On June 6, a client of The Legal Aid Society appeared in the Desk Appearance Part of Criminal Court to resolve a charge for misdemeanor possession of marijuana. The case was resolved by adjournment in contemplation of dismissal. This individual had no prior criminal justice contacts. Upon leaving the courtroom, 3 plainclothes ICE agents surrounded and handcuffed him, and removed him from the courthouse. The agents did not reveal their presence to the court or to defense counsel.

New Rochelle City Court (Adult Criminal)

On March 30, plainclothes ICE agents took a man into custody with the assistance of court officers, the court interpreters, and the presiding judge. The man initially appeared with assigned counsel in the morning to face a public drunkenness charge; he pled guilty and the judge sentenced him to 3 days. Later that afternoon, after ICE agents were seen talking with court staff the judge recalled the case. Without counsel present, the judge resentenced the man to time served and ICE promptly took the man into custody.

New York County (Adult Criminal)

On April 5, ICE arrested a rape and sexual assault victim who suffers from mental health issues and has a history of suicide attempts. Despite being informed of this by defense counsel, ICE arrested the woman who had appeared in New York County to face misdemeanor charges. ICE's practice of targeting a domestic violence survivor is consistent with reports about ICE conduct in other jurisdictions; in Texas, for example, ICE arrested a transgender woman at the Family Court where she sought an order of protection against her abusive partner. An investigative report by *The New Yorker* indicates that ICE likely targeted the woman after getting a call from her abuser.

Suffolk County Court (Youth Part-Criminal)

On May 15, three ICE agents arrested a young man facing minor charges in the youth part. ICE agents followed the young man into the court room and asked the presiding judge to call his case so that they could positively identify the young man. While the young man's attorneys contacted his parents so that they could come and say goodbye to him, ICE agents called the Administrative Judge of the Suffolk County Court to warn that the "delay" in calling his case constituted obstruction of justice. After this warning, the presiding judge called the young man's case, enabling ICE to positively identify him. The young man walked out of the courtroom and ICE officers arrested him. He is currently detained and has a pending petition for Special Immigrant Juvenile Status.

Albany Family Court (PINS)

On November 22, ICE arrested a mother who had appeared in Albany Family Court on a PINS petition. The mother had filed the petition after her teenage daughter had run away. While attorneys for the mother and daughter attempted to resolve the PINS petition, ICE agents stood outside of the courtroom, staking out the mother for several hours. At the conclusion of the proceeding, ICE took the mother away and detained her at Albany County Jail. During her month and a half long detention, the mother's teenage daughter and son were both placed in foster care. The mother has since been released from detention.

Suffolk Family Court (Visitation)

On April 19, plainclothes ICE agents arrested the father of two—a 4 and 5 year old—who was appearing for a visitation matter in the Suffolk County Family Court. The father who was targeted had sole custody of the children and the mother was filing for visitation. The ICE agents, who were in plainclothes, arrested the father in the hallway outside of the visitation part. The father came to the U.S. as a toddler when his family fled their native country because of persecution. His parents and 7 siblings are all U.S. citizens or lawful permanent residents. He is now detained in an immigration jail.

FACT SHEET

ICE COURTHOUSE ARRESTS

ICE Courthouse Arrest Facts

A coalition of New York State legal services providers and immigrants' rights groups is documenting incidents of ICE activity in the state's courts. Attorneys verify each report through every possible means. We conduct interviews with witnesses to the incident including attorneys, family members, and litigants who were present in court. Whenever possible, attorneys also speak directly with the immigrants who have been arrested and detained by ICE.

- The coalition has received 22 reports of arrests and attempted arrests by ICE in New York State courts from February to May 2017. This compares to 20 arrests and attempted arrests for all of 2015 and 2016 combined.
- ICE has conducted arrests in criminal and family courts. They have also targeted immigrants in mental health courts and the youth part of criminal courts.
- Legal and social services providers daily have conversations with clients who are immigrants and family members of immigrants who have become afraid to appear in State courts due to increased ICE presence. Those afraid to go courts include: survivors of domestic violence and sexual abuse, survivors of other violent crime, exploited tenants and workers, survivors of human trafficking, and people who need to participate in family court proceedings (child custody, child support, divorce, orders of protection, abuse and neglect, adoption, guardianship). Advocates who work in all of these spheres unanimously report this chilling effect on immigrant communities' access to the courts.
- ICE has refused to designate courthouses as "sensitive locations" and has announced publicly that it will not refrain from arresting witnesses and survivors of crime at court appearances.
- ICE regularly arrests people who have ongoing criminal court proceedings, and then refuses to return them to State courts to participate in resolution of those proceedings.
- ICE obtains personal identifying information from OCA staff without a judicial subpoena, and uses the information to identify individuals to arrest. ICE also uses this information and documentation as evidence in subsequent detention and deportation hearings.

ICE's Arrest Authority

- ICE enforces civil immigration law, not criminal law. Under civil immigration law, ICE agents can arrest and detain individuals whom they believe are removable.
- ICE's own regulations require that ICE officers produce an administrative warrant when conducting an arrest, unless they can demonstrate exigent circumstances. However, in every instance reported to this coalition, ICE agents have refused to produce an administrative warrant. Administrative warrants are issued by ICE officers, not neutral magistrates; they are not subject to the "probable cause" standard that governs judicial warrants; instead, they are based on a "reason to believe" that a person is removable.
- Federal law does not require OCA staff to assist or cooperate with ICE enforcement activities. States cannot be forced to participate in federal immigration enforcement, except to communicate information about immigration or citizenship status if known.

**FACT SHEET
ICE COURTHOUSE ARRESTS****Accounts of Courthouse Arrests****Suffolk County Court (Youth Part-Criminal)**

On May 15th, three ICE agents took a young man into custody after he appeared to face minor charges in the youth part. ICE agents followed the young man as he walked into the youth part. When approached by counsel for the individual, the ICE agents repeatedly refused to identify themselves and would only say that worked for the “federal government.” When the presiding judge did not immediately call the young man’s case, ICE agents called the Administrative Judge of the Suffolk County Court to warn that the presiding judge was obstructing justice by “delaying” his case. After this morning, the presiding judge called the young man’s case; he stood up and ICE was able to positively identify him. The presiding judge was then forced to issue an adjournment in his case. The young man walked out of the courtroom and ICE officers quickly surround him outside and took him to a van waiting outside. He is currently detained in an immigration jail. He also has a pending petition for Special Immigrant Juvenile Status.

New York County (Adult Criminal)

On April 5, ICE arrested a rape and sexual assault victim who suffers from mental health issues and has a history of suicide attempts. Despite being informed of this by defense counsel, ICE arrested the woman who had appeared in New York County to face misdemeanor charges. The ICE agents also repeatedly refused to produce a warrant when asked by defense counsel. ICE’s practice of targeting a domestic violence survivor is consistent with reports about ICE conduct in other jurisdictions; in Texas, for example, ICE followed a transgender woman from a domestic violence shelter to the court appearance where she sought an order of protection against her abusive partner. ICE arrested her in court and detained her in an immigration jail. An investigative report by the New Yorker indicates that ICE likely targeted the woman after getting a call from her abuser.

Albany Family Court (PINS)

On November 22, ICE arrested a mother who had appeared in Albany Family Court on a PINS petition. The mother had filed the petitioner after her teenage daughter had run away. While attorneys for the mother and daughter attempted to resolve the PINS petition, ICE agents stood outside of the courtroom, staking the mother out for several hours. At the conclusion of the proceeding, ICE took the mother away and detained her at Albany County Jail. During her month and a half long detention, the mother’s teenage daughter and son were both placed in foster care.

Brooklyn Family Court (Child Support)

ICE agents arrested the father of a five year old, who is a long-time green card holder, as he waited for a child support appearance in Brooklyn Family Court. Plainclothes ICE agents staked the father out in the waiting area of the child support part. When the court officer outside of the part called the father’s name, he stood up, and ICE agents surrounded him and handcuffed him. The father is now detained in an immigration jail.

Nassau Family Court (Visitation)

ICE agents arrested the father of two a 4 and 5 year-old who was appearing for a visitation matter in the Suffolk County Family Court. The ICE agents, who were in plainclothes, arrested the father in the hallway outside of the visitation part. The father, who came to the U.S. as a toddler when his family fled their native country because of persecution, is now detained in an immigration jail.

PROPOSED JUDICIAL RULES

1) Compliance with Immigration Law Enforcement Activities:

Employees of the Unified Court System shall not:

- i) Assist or cooperate with federal immigration enforcement activities in the course of their employment, in any courthouse of the Unified Court System. This includes, but is not limited to, a prohibition on providing any information to immigration enforcement officers regarding persons appearing before the court, except information regarding citizenship or immigration status, as required by 8 U.S.C. § 1373, and then only if known.
- ii) Inquire into the immigration status of any individual within any courthouse of the Unified Court System unless such person's immigration status is necessary for the determination of program, service or benefit eligibility or the provision of services.

2) Civil arrests without judicial warrants:

Civil arrests that are not related to a proceeding in New York's Unified Court System may only be executed within a courthouse of the Unified Court System when accompanied by a judicial warrant authorizing them to take into custody the person who is the subject of such warrant. Judicial warrant is defined as a warrant issued by a magistrate sitting in the judicial branch of local, state, or federal government.

RATIONALE SUPPORTING PROPOSED JUDICIAL RULES

- These rules were drafted to ensure safe access to the New York State court system, to restore its proper functioning, and to place little burden on the courts to administer.
- Reducing the role of New York State courthouses in immigration enforcement will generally improve the functioning of the criminal, family, and civil courts. Fewer litigants in ongoing cases will disappear into immigration detention and deportation system. Immigrants and their family members will feel a restored sense of safety in participating in the court process.
- The participation of OCA staff in ICE arrests is showing community members that the State courts are a part of federal immigration enforcement. Prohibiting OCA staff from doing so will insulate them from commandeering and pressure by the federal agency, which cannot constitutionally require State staff to enforce federal immigration law. This will restore the impression in the community that the immigration system is separate from the New York State courts.
- Only in remote circumstances does ICE currently obtain a judicial warrant to conduct an arrest. Requiring them to do so to make an arrest inside a State courthouse will substantially diminish the courthouse arrest practice. Where ICE decides to obtain the warrant, ICE will be functioning consistently with the Fourth Amendment.
- The judicial requirement will enhance the reputation of the New York State courts as protecting communities, as it will expressly require federal agents to comply with the Constitution.
- These two rules are defensible against federal litigation challenges. States cannot be forced to participate in federal immigration enforcement, except to communicate information about immigration or citizenship status if known. The judicial warrant requirement applies to all civil arrests that are not related to the New York State Unified Court system. Both rules regulate conduct inside State courthouses; they do not regulate immigration. Outright banning ICE from State courthouses could be vulnerable to legal challenge.

April 2017

ICE in NY State Courts Survey

The ICE Out of NY Courts Coalition has compiled this survey to document the impact of ICE's presence in the courts on access to justice in immigrant and mixed-status communities. This is a questionnaire that is intended to be completed by attorneys, social workers, and others who work with immigrants as part of their practice. Please answer to the best of your knowledge. If you do not inquire about immigration status specifically, we ask that you use foreign-birth or limited English proficiency as a proxy.

Responses will be kept anonymous but we ask for your name and email for our internal record-keeping purposes.

For more information about the ICE Out of NY Courts Coalition, please visit immdefense.org/ice-out-of-courts/

* Required

1. Email address *

2. Name

3. Title

4. Organization

5. What type of legal services do you provide (check all that apply) *

Check all that apply.

☐ Immigration (Affirmative or Defensive)

☐ Criminal Defense

☐ Family Court Proceedings

☐ Housing

☐ Wage Theft

☐ Other:

6. Since January, 2017, the number of immigrants I have seen at intake has:*Mark only one oval.*

- ☐ Increased
- ☐ Decreased
- ☐ No change
- ☐ Do not track

7. Since January 2017, immigrants I work with have: (check all that apply) **Check all that apply.*

- ☐ Been subjected to arrest by ICE in the courts
- ☐ Failed to file petitions for fear of encountering ICE
- ☐ Withdrawn petitions for fear of encountering ICE
- ☐ Failed to appear in court for fear of encountering ICE
- ☐ Expressed fear of calling police due to fear of ICE
- ☐ Expressed fear of the courts due to fear of ICE
- ☐ Expressed fear of serving as a complaining witness due to fear of ICE
- ☐ Other: _____

8. Since January 2017, have you seen ICE agents and/or ICE vehicles in and around the courts where you practice? **Mark only one oval.*

- ☐ Yes
- ☐ No

9. If yes, please specify the type of court(s) and the location of the court(s) where you have seen ICE agents and/or vehicles?

10. Has your legal office created a policy to provide guidance to immigrants you work with about the possibility of ICE apprehension at court since January of 2017?*Mark only one oval.*

- ☐ Yes
- ☐ No
- ☐ Discussed but not yet created

11. **Has your office provided guidance to staff related to the possible arrival of ICE officers at your office since January of 2017?**

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ Discussed but not yet created

12. **If immigrants you work with have been apprehended by ICE in the courts, please describe the incident. Include the date, type of proceeding, location of the arrest, a description of how the ICE agents were dressed, and any interaction you had with ICE agents.**

SIJS: If you primarily serve immigrants who seek Special Immigrant Juvenile Status for themselves or their children, please answer the following. If not, please skip to the next section.

13. **Since January 2017, have you met with immigrants who have expressed fear of participating in a guardianship or custody proceeding due to fear of encountering ICE?**

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ Not Applicable

14. **Since January 2017, do you work with immigrants who have withdrawn a guardianship or custody petitions due to fear of encountering ICE?**

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ Not Applicable

15. **Since January 2017, do you work with immigrants who have expressed fear of submitting fingerprints in connection to a guardianship or custody petition due to fear of ICE?**

Mark only one oval.

- ☐ Yes
- ☐ No
- ☐ Not Applicable

People Affected by Violence: If you primarily serve people affected by violence, please answer the following. If not, please skip to the next section.

16. Since January 2017, have you worked with immigrants who are afraid to go to court because their abusive partners have threatened that ICE will be there?

Mark only one oval.

- ☐ Yes
☐ No
☐ Not Applicable

17. Since January 2017, do you have immigrant clients who have withdrawn or failed to pursue any of the following due to fear of ICE. Check all that apply.

Check all that apply.

- ☐ Orders of Protection
☐ Custody
☐ Visitation
☐ Child Support
☐ Divorce
☐ U certification through a court proceeding
☐ U certification through the police
☐ U certification through a DA's office
☐ Not Applicable
☐ Other: _____

18. Since January 2017, have you worked with immigrants who have withdrawn or failed to pursue any of the following immigration relief due to fear of ICE. Check all that apply.

Check all that apply.

- ☐ U nonimmigrant status
☐ T nonimmigrant status
☐ VAWA
☐ Battered Spouse Waiver
☐ Not Applicable

Housing, Wage Theft, and Other: if you primarily serve clients in housing, wage theft, or other civil proceedings please answer the following. If not, please skip.

19. **Since January 2017, have you worked with immigrants who have expressed fear of filing a complaint in housing court due to fear of ICE?**

Mark only one oval.

- ☐ Yes
☐ No
☐ Not Applicable

20. **Since January 2017, have you worked with immigrants who have expressed fear of filing a wage theft complaint due to fear of ICE?**

Mark only one oval.

- ☐ Yes
☐ No
☐ Not Applicable

21. **If you have immigrants clients who have expressed fear of filing other types of complaints, please explain below.**

Powered by



Key Findings

ICE in NYS Courts

Legal Service and Advocates Survey

Since the election, Immigration and Customs Enforcement (ICE) has substantially increased the number of immigrants it targets in New York State Courts. In the first six months of 2017, advocates have reported three times as many arrests or attempted arrests than were reported for all of 2016.

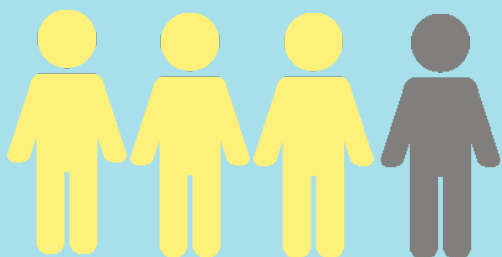
As a result, many advocates are hearing from immigrants that they have a profound fear of going to court. This includes immigrants who need access to the courts for orders of protection, to defend against criminal charges, and to vindicate their rights as tenants.

To better understand these concerns, a coalition of legal services and community based organizations sent out a survey to the field from June 12 - June 23. Two hundred twenty five (225) advocates and attorneys from 31 counties across New York State participated. The participants practice in criminal, family, and civil courts. View more results at www.immdefense.org/ice-courts-survey

1/3

**have seen ICE agents
or vehicles in and
around the courts**

IMMIGRANTS SCARED TO GO TO COURT



3 OUT OF 4

**legal service providers report that
clients have expressed fear of going
to court because of ICE**

29%

**have worked with immigrants
who have failed to appear
in court due to fear of ICE**

WHEN I TOLD MY CLIENT **ICE WAS PRESENT TO ARREST HIM...** TEARS STREAMED DOWN HIS FACE AND HIS HANDS SHOOK WITH FEAR. HE SAID, **"MY CHILDREN, WHAT WILL THEY DO WITHOUT ME?"**

I EXPLAINED TO [MY CLIENT] THAT ICE WAS THERE. SHE BEGAN CRYING AND TREMBLING AND HAD TO BE CALMED BY A FRIEND... **AN INDIVIDUAL SEATED BEHIND US SAID SHE WOULD TELL HER FRIENDS TO NOT COME TO COURT** BECAUSE THEY WOULD BE DEPORTED.



**IMMIGRANT
DEFENSE
PROJECT**



CHILLING EFFECT ON SURVIVORS OF VIOLENCE

A third of the survey participants work with survivors of violence

67% have had clients who decided not to seek help from the courts due to fear of ICE

37% have worked with immigrants who have failed to pursue an order of protection due to fear of ICE

“[ONE] CLIENT’S **HUSBAND THREATENED TO CALL IMMIGRATION OFFICIALS SO THAT THEY WOULD “TAKE HER AWAY” ON THE DATE OF HER NEXT COURT APPEARANCE** AND HAVE HER DEPORTED... NOT APPEARING FOR THE NEXT COURT DATE WOULD RESULT IN HER ABUSIVE HUSBAND GAINING CUSTODY OF HER CHILDREN.”

48% have worked with immigrants who have failed to seek custody or visitation due to fear of ICE

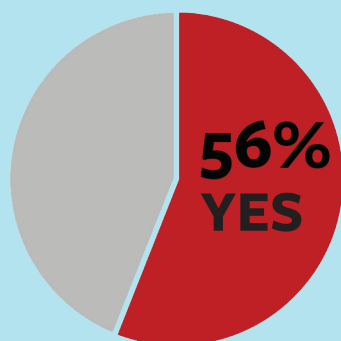
“[MY CLIENT] IS **AFRAID TO GO TO COURT TO SEEK AN ORDER OF PROTECTION** AGAINST HER HUSBAND, WHO ABUSED HER FOR MANY YEARS AND KIDNAPPED THEIR 8 YEAR OLD SON... SHE IS **TERRIFIED THAT BEING IN COURT PUTS HER AND HER FAMILY AT GREATER RISK OF BEING DEPORTED.**”

46% have worked with immigrants who have expressed fear of serving as a complaining witness

TENANTS AFRAID TO GO TO HOUSING COURT

A sixth of the respondents work with tenants in Housing Court

Have clients expressed fear of filing a housing court complaint due to fear of ICE?



“TENANTS REGARDLESS OF STATUS ARE TYPICALLY EXTREMELY SCARED AND SKEPTICAL ABOUT FIGHTING FOR THEIR RIGHTS IN COURT PROCEEDINGS. THIS **FEAR HAS TRANSFORMED INTO CRIPPLING PARALYSIS IN THE WAKE OF ICE ACTIVITY IN NEW YORK STATE COURTS.**”

225 Respondents participated in this survey conducted June 12 - June 23, 2017. They include attorneys and advocates who work with immigrants and family members. The respondents work in criminal, family, housing, employment, education, and immigration law, and practice in criminal, family, and civil courts in New York State. They work in 31 counties from across New York State including all five counties of NYC; Long Island; Westchester; the Capitol Region; Western and Central New York.

For more information contact Lee Wang at lee@immdefense.org or go to www.immdefense.org/ice-courts-survey