

SECTION 3:

BUILDING A STATEWIDE CAMPAIGN

The ICE Out of Courts Coalition and its advocacy campaign in New York State

BACKGROUND

Forming the ICE Out of Courts Coalition and Initiating a Campaign.

As the courthouse arrest crisis hit New York, IDP, legal services providers, and public defenders came together and formed what eventually became the ICE Out of Courts Coalition, a broad-based campaign to counteract courthouse arrests in New York. On April 10, 2017, we sent our first joint letter to New York State Chief Judge Janet DiFiore and Chief Administrative Judge Lawrence Marks identifying ICE courthouse arrests trends and requesting that they take action to end unlawful ICE arrests at New York courts. (See April 10, 2017 Letter to Judges DiFiore and Marks). This letter was signed by close to 100 organizations that provide legal counsel and services to immigrant and mixed-status communities in New York's criminal, family, and civil courts, on a wide range of issues, including **family courts** (orders of protection, custody and visitation, abuse and neglect, child support, and guardianship); **criminal courts** (defending against criminal charges, advocating for crime victims, pursuing criminal appeals and post-conviction relief); and **civil and housing courts** (wage theft, employment exploitation, landlord exploitation and other unsafe living conditions, public assistance, divorce).

The Political Foundations of Our Campaign.

To buttress against the political reflex to protect only those regarded as “victims” or witnesses, and because we did not want to privilege the rights of certain immigrants or those attending certain types of court over others, we intentionally built a broad-based coalition of stakeholders working with clients and members at all different points in the system. We have structured our demands and messaging to protect the rights of all immigrants attending criminal, family, and civil courts regardless of whether they are defendants, witnesses, or survivors of violence.

We have also been careful to situate our campaign in the context of a broader fight against criminalization, and to not present the courts or the criminal legal system as a source of “justice” for all. We recognize that for many, participation is mandated by the state or is the only form of mediation available for a wide range of conflicts. Some of our key messaging guidelines include:

- To not privilege the rights of victims and witnesses, or those attending certain courts, over those answering a criminal charge.
- To complicate the narrative around victims, including that many victims also face criminal charges.
- To not privilege the rights of those with valid status over those who are undocumented.
- To not feed into narratives that criminal defendants present a risk to society.
- To be careful to not play into assumptions that courts always provide “justice.”
- To frame courthouse raids as part of a larger system of ICE’s abusive actions that undermine rights and safety and feed its mass deportation mandate.

Approaching and Advocating with Decisionmakers in New York State.

As our coalition mobilized, we approached key policymakers in New York to educate them about the courthouse arrest crisis and to engage them about possible state and local interventions. In different configurations of advocates, we met with New York's Chief Judge, Chief Administrative Judge, and their counsel, and advocated for them to promulgate rules on behalf of the court system to ensure that access to the courts and to legal proceedings would not become dependent on immigration status, country of birth, or indigence.

Our advocacy campaign initially focused on New York's Chief Judge, and grew to include a parallel track with the state legislature. In furtherance of both efforts, we and our Coalition partners identified and met with key influencers in the state who would be persuasive to the Chief Judge and/or to the legislature. These influencers included employees of the governor's office and other state executive branch cabinet members; state and city lawmakers; district attorneys; lower and mid-level judges; and offices that administer various programs in the courts.

For these meetings, we developed FAQs, fact sheets, and compilations of compelling anecdotal evidence, each one engineered toward the particular interests or constituencies of the stakeholder with whom we were advocating. We did so because, for example, a district attorney's interests are likely to be slightly different in focus than a state legislator or the chief defender of a public defender's office. But given the baseline politics of our coalition, we were always careful to highlight that no one court and no one constituency is more or most deserving of unfettered access to legal proceedings. This is true because of basic notions of fairness and due process, but also because the same communities that are

overrepresented in the criminal legal system are overrepresented in family and other courts. Survivors of violence are often complaining witnesses and also criminal defendants, which we were able to document through attorney affidavits.

Community Resistance and Actions.

The ICE Out of Courts campaign has drawn strength from a broad-based coalition that unites community-based organizations and unions with the legal advocates who represent immigrants in court. It has involved powerful acts of protest and resistance by advocates and membership organizations have been crucial toward building power around this issue. Rallies and press conferences have been convened by the ICE Out of Courts Coalition, unions, immigrant rights groups, public defenders, anti-violence advocates, and legal services lawyers. Public defenders in New York City staged a powerful series of walk-outs in protest of the systemic violation of their clients' constitutional rights to participate in the court process without the threat of disappearance. These walk-outs garnered significant press and attention on the issue.

Role of Local Elected Officials.

Local municipal elected officials have been vocal in the chorus of voices speaking out against courthouse arrests and calling for them to stop. In New York, members of the City Council, including the Speaker, have publicly called on ICE to end the courthouse arrest practice and on New York's Chief Judge to promulgate the rules that the ICE Out of Courts Coalition have proposed.

In some places, municipal legislators and policymakers may have the legal authority and jurisdiction to promulgate policies that restrict court-

house arrests. Looking into these options should be a priority for any campaign in a place where municipal leaders are sympathetic, want to take action, and are able to do so.

In New York, for example, the centralization of the court system and the terms of tenancy for the courthouses between the state and New York City limit the power of local governments to impose the kinds of policies in the Proposed Judicial Rules and the Protect Our Courts Act. However, members of the City Council have held hearings, participated in rallies and press conferences, and given public statements and interviews against ICE and in support of the ICE Out of Courts Campaign and the Protect Our Courts Act. These actions have proved crucial to raising opposition to courthouse raids, and garnering media attention and exposure.

RESOURCES

Talking points and primers for meetings with judges district attorneys, and state legislators.

Letters sent by ICE Out of Courts Coalition and other stakeholders to the Chief Judge of New York State.

New York City Council hearings. In June 2017, the City Council's committees on immigration and the judiciary held joint hearings on ICE's conduct in the courts. Many advocates active in the ICE Out of Courts Campaign testified

including Andrew Wachtenheim from IDP. We have provided a copy of his testimony and the committee's report.

Walk outs and other actions by public defenders. Public defenders have been at the forefront of organizing direct actions to protest how ICE undermines access to justice. Since the fall of 2017, public defenders have begun to stage impromptu walk outs at courthouses across New York City. Attorneys walk out of court in direct response to an arrest and the actions are mobilized via social media within a matter of minutes. The actions have inspired public outcry and also been a powerful display of how attorneys can use creative means to stand up for the rights of their clients. See Section 10 on Media for examples of social media. Here is an example of a tweet from the Association of Legal Aid Attorneys announcing a walkout: <https://twitter.com/alaa2325/status/983724168754663424>

Rally Announcements:

- Flyer for ICE Out of the Courts Rally organized by the Association of Legal Aid Attorneys <https://twitter.com/alaa2325/status/971774471106433026>
- Flyer for Protect Our Courts Act Rally organized by the Immigrant Defense Project <https://twitter.com/ImmDefense/status/1003758225014099968>

Press conferences and rallies with local elected officials.

Over the course of the campaign, the ICE Out of Courts Coalition and allies has worked closely with elected officials on several press conferences and rallies. In some cases, the

events were put together in response to an egregious ICE courthouse raid. For example, in June 2017, in collaboration with the chair of the New York City Council, the Coalition organized a press conference on the steps of City Hall to condemn courthouse arrests broadly after an ICE operation that targeted immigrants in a court for victims of human trafficking. The Coalition also worked with state and local elected officials to host a press conference announcing the introduction of the Protect Our Courts Act. These events were often most successful when we were able to secure participation from elected officials.



ATTORNEY WORK PRODUCT
PRIVILEGED AND CONFIDENTIAL

TO:

FROM: Andrew Wachtenheim, Lee Wang

DATE: April 25, 2018

RE: Resources for Memorandum of Support on Courthouse Arrests Legislation

Introduction

Per your request, we've compiled a list of resources that may be helpful as you prepare a memorandum to support the courthouse arrests legislation. In addition to the materials provided here, the Center for State Courts has compiled a list of statements and other resources on courthouse arrests on their [website](#). IDP also has collected press stories and other background information on our [website](#).

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1) Courthouse Arrest Data

For more data, please see IDP's [press release on 2017 arrests](#).

- In 2017, the Immigrant Defense Project (IDP) received 144 reports of ICE arrests and attempted arrests at courthouses around New York State, up from 11 reports in all of 2016. This represents a more than 1200% increase from 2016 to 2017.
- Since the beginning of 2018, IDP has received 41 reports of arrests and attempted arrests. This represents a 70% increase from the same time period last year.

- Courthouse arrests have been reported from across the state. Incidents have been spread across 17 counties including Westchester, Nassau, Suffolk, Ulster, Columbia, Putnam, Rockland, Onondaga, Albany, Saratoga, Monroe, and Fulton.
- Both documented and undocumented immigrants are being arrested. According to IDP's data, at least 20% of the arrests targeted green-card holders.
- Immigrants are being arrested in a broad range of courts—including criminal courts, family courts, traffic courts, and specialized courts designed for victims of human trafficking.

2) Statewide Survey on Chilling Effect of ICE arrests

A coalition of legal service providers surveyed practitioners more than 220 practitioners statewide last June on the chilling effect of ICE courthouse operations on access to the courts. The full survey results are available [here](#). Some of the key findings include:

- Three out of four legal service providers report that clients have expressed fear of going to court because of ICE.
- Two-thirds of advocates working with survivors of violence have clients who decided NOT to seek help from the courts due to fear of ICE. One-third have had clients who have DECLINED to seek an order of protection because of ICE's presence in the courts.
- More than half of housing rights advocates said they had clients who were afraid to go file a complaint in housing court due to fear of ICE.

3) Statements by District Attorneys, Attorneys General, and Elected Officials

- [Attorney General Schneiderman](#): If the Trump Administration continues to arrest people in the heart of our justice system, immigrants will be less likely to serve as witnesses or report crimes—and that leaves us all at risk.
- In a [joint press conference](#), three NYC DAs and Public Advocate Letitia James also condemned ICE courthouse arrests.
 - **Manhattan DA Cyrus Vance**: “[Immigrants] can’t go [to courts] without fear of getting arrested. That means critical witnesses and victims in cases don’t proceed with important prosecutions, and New Yorkers are less safe because of it.”
 - **Bronx DA Darcel Clark**: “This enforcement is having a chilling effect on our witnesses.”
 - **Brooklyn DA Eric Gonzalez**: “We’re appealing to them as law enforcement officers not to make these arrests. It does not keep us safe. It jeopardizes public safety.”

- **NYC Public Advocate Letitia James:** “Not only is this new policy an attack on our immigrants, but it is an attack on our justice system. We cannot pursue justice when injustice prevails.”

4) Statements by ABA, NYSBA, U.S. Commission on Civil Rights

- **American Bar Association Resolution:** urging ICE to add courthouses to its “sensitive locations” list and urging Congress to amend the Immigration and Nationality Act to designate courthouses as “sensitive locations.”
- **New York State Bar Association Resolution** (same as ABA)
- **U.S. Commission on Civil Rights Statement:** expressing concern that ICE courthouse arrests hinders access to justice for most vulnerable immigrants.

5) Letters from Chief Judges

Five State Chief Judges have sent letters to Attorney General Jefferson Sessions and Department of Homeland Security Secretary John Kelly expressing grave concerns regarding reports of ICE arrests conducted at courthouses and the risk of such arrests eroding public trust in the state court system. Chief Judge DiFiore has not issued a letter, but she [publicly said she was “greatly concerned”](#) about ICE operations at the courts after they targeted several women at the Queens Human Trafficking Court. Chief Judge DiFiore has also called on ICE to treat courts as sensitive locations.

Below are excerpts from letters sent by various Chief Judges. The Center for State Courts has compiled all of the letters [here](#).

California:

On March 16, 2017, the Chief Justice of the California Supreme Court sent a letter to Attorney General Sessions and Secretary Kelly, requesting the following:

“[E]nforcement policies that include stalking courthouses and arresting undocumented immigrants, the vast majority of whom pose no risk to public safety, are neither safe nor fair. ...I respectfully request that you refrain from this sort of enforcement in California’s courthouses”.¹

¹ Letter from Hon. Tani G. Cantil-Sakauye, Chief Justice of Cal., to Jeff Sessions, Attorney General, and John F. Kelly, Sec’y of Homeland Sec. (Mar. 16, 2017) (on file with author).

On March 29, 2017, Attorney General Sessions and Secretary Kelly sent a response letter.² In their letter, they emphasized that courthouse arrests are targeted arrests, not sweeps.³ They additionally reply that local detainer laws limit ICE officers' ability to arrest immigrants at secure jail facilities, resulting in the need to conduct an arrest inside a courthouse as the next safest location.⁴ In response to Hon. Cantil-Sakauye's accusation of ICE officers "stalking" immigrants in court⁵, Attorney General Sessions and Secretary Kelly noted the legality of ICE officers conducting arrests of aliens where probable cause exists to believe such individuals are in violation of immigration laws (*citing* 8 U.S.C. § 1357).⁶

On April 4, 2017, twelve state prosecutors wrote to Sessions and Kelly in support of Justice Cantil-Sakauye's letter, urging ICE to "include areas in and around courthouses among the sensitive sites where immigration enforcement actions are discouraged".⁷

Connecticut:

On May 15, 2017, the Chief Justice of the Connecticut Supreme Court sent a letter to Attorney General Sessions and Secretary Kelly requesting that:

"[Y]ou designate public areas of state courthouses as "sensitive locations" pursuant to your Policy 10019.2 and not have [ICE] officers take custody of individuals inside the public areas of our state courthouses."⁸

The letter further noted "I am fully cognizant of the authority the ICE officers have to detain someone", asking for ICE discretion in conducting arrests in the courthouses.⁹

New Jersey:

On April 19, 2017, the Chief Justice of the New Jersey Supreme Court sent a letter to Secretary Kelly regarding reports of two recent courthouse arrests, stating:

"I write to urge that arrests of this type not take place in courthouses." ... "I respectfully request that courthouses be added to the list of sensitive locations".¹⁰

² Letter from Jefferson B. Sessions III, Attorney General, and John F. Kelly, Sec'y of Homeland Sec., to Hon. Tani G. Cantil-Sakauye, Chief Justice, Supreme Court of Cal. (Mar. 29, 2017) (on file with author).

³ Id.

⁴ Id.

⁵ Letter from Hon. Tani G. Cantil-Sakauye, Chief Justice of Cal., to Jeff Sessions, Attorney General, and John F. Kelly, Sec'y of Homeland Sec. (Mar. 16, 2017) (on file with author).

⁶ Letter from Jefferson B. Sessions III, Attorney General, and John F. Kelly, Sec'y of Homeland Sec., to Hon. Tani G. Cantil-Sakauye, Chief Justice, Supreme Court of Cal. (Mar. 29, 2017) (on file with author).

⁷ Letter from Mike Feuer, L.A. City Attorney, et al., to Jeffrey Sessions, Attorney General, and John Kelly, Sec'y of Homeland Sec. (Apr. 4, 2017) (on file with author).

⁸ Letter from Hon. Chase T. Rogers, Chief Justice, Supreme Court of Conn., to Jefferson B. Sessions III, Attorney General, and John F. Kelly, Sec'y of Homeland Sec. (May 15, 2017) (on file with author).

⁹ Id.

Oregon:

On April 6, 2017, the Chief Justice of the Oregon Supreme Court sent a letter to Attorney General Sessions and Secretary Kelly urging the following:

“I...urge you to direct federal law enforcement agencies, including ICE, not to arrest individuals inside or in the immediate vicinity of Oregon’s county courthouses. If you are unwilling to adopt that policy, then at a minimum, I request that you formally expand the definition of “sensitive locations” in the Homeland Security Policy to include these areas.”¹¹

Washington:

On March 22, 2017, the Chief Justice of the Washington Supreme Court sent a letter to Secretary Kelly expressing concerns regarding courthouse arrests. He requested the following:

“[C]onsider taking the necessary and appropriate steps to address these concerns. For example, I encourage you to designate courthouses as “sensitive locations”.”¹²

The Chief Justice distinguished between state courts’ cooperation with detainer requests, and “carrying out a public arrest in a courthouse for a civil immigration violation, which sends a chilling message”, adding that “the same sensible approach that bars ICE enforcement actions in schools and houses of worship should apply to courthouses”.¹³

6) Excerpts from Legal Service Provider Affidavits**Declaration of Carmen Maria Rey, Deputy Director of Immigration Intervention Project, Sanctuary For Families**

- “One client named Maria (pseudonym), has declined to seek an order of custody and visitation in Family Court against her daughter’s father, who has beaten Maria for a decade and recently kidnapped their daughter.” Maria was also the victim of rape in her home country and fled to the United States after she was unable to get support from her family.

Declaration of Andrea Panjwani, Immigration Practice Managing Attorney, My Sister’s Place

¹⁰ Letter from Hon. Stuart Rabner, Chief Justice, Supreme Court of N.J., to John F. Kelly, Sec’y of Homeland Sec. (Apr. 19, 2017) (on file with author).

¹¹ Letter from Hon. Thomas A. Balmer, Chief Justice, Or. Supreme Court, to Jeff Sessions, Attorney General, and John F. Kelly, Sec’y of Homeland Sec. (Apr. 6, 2017) (on file with author).

¹² Letter from Hon. Mary E. Fairhurst, Chief Justice, Supreme Court of Wash., to John F. Kelly, Sec’y of Homeland Sec. (Mar. 22, 2017) (on file with author).

¹³ Id.

- “[C]lients who have survived horrific crimes, including child rape and aggravated assault are asking me to help them get the charges dropped against the defendants because they are afraid that one of the ways the defendants would retaliate would be by alerting ICE to the court dates.”
- “In the example that most stands out to me, my client came in with her head bandaged. When I asked what happened, she reported that the father of her children raped in a parking lot and then severely beat her about the head with his fists and ‘metal things.’ She has neurological damage and what appears to be permanent vision loss as a result. When I asked her why she did not report it or ask us to help her get a restraining order at Family Court, she told me she was afraid of being picked up by ICE. She is also the defendant in a case that is based upon false allegations from the same person- a common scenario- and feels even more vulnerable for that reason.”

Declaration of Terry D. Lawson, Director, Family and Immigration Unit, Bronx Legal Services

- “Ms.D is afraid to go to court and to seek an order of protection against her husband, who abused her for many years and kidnapped their eight year old son because she, her husband, and their four children are all undocumented. she is terrified that being in court, and asking the court to sign a U certification request puts her and her family, including her husband, at greater risk of being deported.”

Declaration of Atossa Movahedi, Director of Legal Services & Development at the Urban Justice Center-Domestic Violence Project

- “One specific example of a client who decided not to seek help due to recent ICE presence is a client who was in the middle of her affirmative VAWA application with our organization. We had met with the client for various sessions and put in hours of work with her, going through her history of domestic violence and reliving much of the trauma she endured to be able to prepare her application. Despite our attempts to counsel her fears of sudden deportation, she became so overwhelmed with warnings from her family that she left the country without letting us know. This client would have had a strong case for relief[.]

Declaration of Alexandra Drimal, Staff Attorney, Brooklyn Legal Services Corporation A

- “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.”
- “Soon after the first reports of arrests in New York State Courts, I had one particularly concerning interaction with a long-term client. This client, a green card holder, who is married to an undocumented man from Mexico, was a long-time member of a tenant

association in Cypress Hills. We had been preparing for a jury trial to enforce her succession rights in her apartment, a trial I believe we would have won. Suddenly, our client informed us that her husband- a key witness in the case- would not feel comfortable going to court.”

Declaration of Tiffany Gordon, Staff Attorney, The Legal Aid Society

- My client is in his late thirties, works full time, is married to a United States Citizen, and has two children that were born in the United States. When I went to court to check the status of his case it was brought to my attention that Immigration and Customs Enforcement (ICE) was present to arrest him. When I shared this information with him tears streamed down his face and his hands shook with fear. He said, “My children, what will they do without me? How will they eat? Who will care for them?”

Declaration of Katherine LeGeros Bajuk, Mental Health Specialist, New York County Defender Services

- “I explained to [ICE agents] that J.P. had cognitive and mental health issues, a history of suicide attempts, was a rape and sexual assault victim, was under the care of a psychiatrist now and prescribed medications as part of her mental health treatment...I asked if J.P. could be taken to a hospital after her arrest, advising that this situation was destabilizing enough that she risked a psychotic break. One of the ICE officers shrugged...I asked to see the paperwork they had for her arrest and they refused to show me.”
- “I noted that an individual seated behind us said she would tell her friends to not come to court because they would be deported.”

7) List of Organizations Participating in the ICE Out of Courts Coalition

Organization	Geographic Area
Adhikaar	Statewide
African Communities Together	Statewide
African Services Committee	Bronx County
Anti-Defamation League	Statewide
Appellate Advocates	Kings, Queens, and Richmond Counties
Asian American Legal Defense and Education Fund	Statewide

(AALDEF)	
Atlas: DIY	New York City
Brehon Law Society	New York City
Brooklyn Bar Association Volunteer Lawyers Project	Kings County
Brooklyn Defender Services	Kings County
Catholic Migration Services	Kings and Queens Counties
Center Against Domestic Violence	New York City
Center for Appellate Litigation	New York and Bronx Counties
Center on Latino/a Rights and Equality	New York City
Center for Safety and Change	Rockland County
Central American Legal Assistance	Statewide
Columbia County Public Defender	Columbia County
Columbia County Sanctuary Movement	Columbia County
Common Justice	Statewide
Community Development Project of the Urban Justice Center	New York City
Community Legal Advocates of New York	New York City, Suffolk, Nassau
Community Service Society of New York	New York City
Crime Victim and Sexual Violence Center	Albany County
Day One	New York City
Downstate Coalition for Crime Victims / Crime Victims Treatment Center	NYC, Rockland, Suffolk, Nassau, and Westchester Counties
DRUM - Desis Rising Up & Moving	New York City
Emerald Isle Immigration Center	Queens and Bronx Counties
Empire Justice Center	Statewide
Genesee County Public Defender	Genesee County

Greater Rochester Coalition for Immigration Justice	Monroe County
Harlem Independent Living Center	Greater Harlem area
Her Justice	New York City
HIV Law Project	New York City
Housing Court Answers, Inc.	New York City
ICE-Free Capital District	Statewide Capital District
Immigrant and Noncitizen Rights Clinics, CUNY School of Law	New York City, Nassau, Suffolk
Immigrant Defense Project	Statewide
Immigrant Justice Corps	New York City, Long Island, and the Lower Hudson Valley
Immigration Equality	Statewide
Immigration Law Clinic, Albany Law Clinic & Justice Center	Capital Region
Journey's End Refugee Services	Buffalo
Kathryn O. Greenberg Immigration Justice Clinic, Cardozo School of Law	New York City
Kids for College	Statewide
KIND, Inc. (Kids in Need of Defense)	Statewide
Kite's Nest	Hudson Valley
Korean Community Services of Metropolitan New York	Greater NYC Metro area
La Colmena	Richmond County
Labor-Religion Coalition of NYS	Statewide
LatinoJustice PRLDEF	Statewide
Latinos Unidos of the Hudson Valley	Hudson Valley
Lawyers For Children, Inc.	New York City

LeGaL (LGBT Bar Association of Greater New York)	Greater NYC Metro area
Legal Action Center	Statewide
Legal Aid Society of Nassau County	Nassau County
Legal Services NYC	New York City
Legal Services of the Hudson Valley	Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, and Sullivan Counties
Legal Services Staff Association, NOLSW/UAW 2320	New York City
Levy Davis & Maher LLP	New York City
LifeWay Network, Inc.	
Long Island Immigrant Alliance	Long Island
Long Island Wins	Long Island
Lutheran Social Services of New York	Statewide
Make the Road New York	New York City and Long Island
Masa	Bronx County
MFY Legal Services, Inc.	New York City
MinKwon Center for Community Action	New York City
Mobilization for Justice	New York City
Monroe County Conflict Defender Office	Monroe County
Mount Sinai Beth Israel Victim Services	New York City
My Sister's Place	Westchester County, Rockland County, Lower Hudson Valley
National Organization for Women New York	New York City
Neighborhood Defender Service of Harlem	Harlem
New York City Anti-Violence Project (AVP)	New York City
New York County Defender Services	New York County

New York Law School Asylum Clinic	New York City
New York Lawyers for the Public Interest	New York City
New York Legal Assistance Group	New York City, Long Island, and Westchester and Rockland Counties
New York State Coalition Against Sexual Assault	Statewide
Nixon Peabody LLP	New York City
Northeast NY Coalition for Occupational Safety and Health (NENYCOSH)	Statewide
Northern Manhattan Coalition for Immigrant Rights	Statewide
NY- NELA	Statewide
NYCLU-Suffolk Chapter	Suffolk County
Office of the Appellate Defender	New York City
Organización Latino-Americana of Eastern Long Island	Suffolk County
Prisoner Legal Services	Statewide
Queens Law Associates	Queens County
Regional Immigration Assistance Center, Hudson Valley Region	Hudson Valley
Regional Immigration Assistance Center, Region 2	Oneida County
Rockland Immigration Coalition	Rockland County
Rural and Migrant Ministry	Statewide
Safe Against Violence	Delaware County
Safe Horizon	Statewide
Safe Passage Project	Statewide
Sanctuary for Families	New York City
Sauti Yetu Center for African Women and Families	New York City
SBK Social Justice Center Inc	Columbia County

South Bronx United	New York City
St. Vincent de Paul Legal Program, St. John's University School of Law	Queens County
Statewide Coalition Against Domestic Violence	Statewide
Statewide Coalition Against Sexual Assault	Statewide
Statewide Youth Leadership Council	Statewide
STEPS to End Family Violence	New York City
Sylvia Rivera Law Project	New York City
The Bronx Defenders	Bronx County
The Door's Legal Services Center	New York City
The Hispanic Coalition NY, Inc.	Statewide
The Legal Aid Society	New York City
The Legal Aid Society of Rochester	Rochester County
The Legal Project	Capital District
UAW Region 9A	Statewide
Ulster County Defender	Ulster County
UnLocal, Inc.	New York City
Urban Justice Center	New York City
Violence Intervention Program	New York City
Volunteers of Legal Service	New York City
Wayne Action for Racial Equality	Wayne County
Wayne County Public Defender	Wayne County
WESPAC Foundation	Westchester County
Worker Justice Center of NY, Inc.	Kingston, Rochester, and Albany Counties
Youth Represent	New York City

PROTECT OUR COURTS ACT STATISTICS

A.11013/S.08925

CHILLING EFFECT ON SURVIVORS OF VIOLENCE

The Immigrant Defense Project conducted a statewide survey of advocates who work with immigrant survivors of violence and found the following. For complete results, see bit.ly/2sPu4mv

One-third of advocates in New York State had clients who failed to seek an order of protection due to fear of ICE in the courts.

Nearly half worked with clients who expressed fear of serving as a complaining witness because of ICE's presence in the courts.

Nearly half had clients who failed to seek custody or visitation due to fear of ICE in the courts.

PROSECUTORS SEE DROP IN CRIME REPORTING

The ACLU and the National Immigrant Woman's Advocacy Project conducted a national survey of prosecutors and found the following. For the full survey, see bit.ly/2xYy6yu

82% of prosecutors surveyed nationwide reported that since President Trump took office, domestic violence is now underreported and harder to investigate and/or prosecute.

55% of said sexual assault was harder to investigate and prosecute.

48% reported that child abuse was harder to investigate and prosecute.

COURT CASES INTERRUPTED

The ACLU and the National Immigrant Woman's Advocacy Project conducted a national survey of judges and found the following. For complete results, see bit.ly/2xYy6yu

54% of judges reported that court cases were interrupted due to an immigrant crime survivor's fear of coming to court.

PROTECT OUR COURTS ACT

TALKING POINTS

1. Since the beginning of 2017, there's been an unprecedented increase in ICE courthouse arrests across New York State.

- The Immigrant Defense Project documented a 1200% increase in ICE courthouse operations from 2016 to 2017.
- Arrests have been reported from every region of the state.

2. Immigrants and their families are now afraid to go to court.

- In a statewide survey by the Immigrant Defense Project, three out of four attorneys said their immigrants clients expressed fear of going to court.
- This means children aren't getting child support, domestic violence survivors aren't getting orders of protection, tenants aren't bringing complaints against abusive landlords, and people facing criminal charges are denied their fair day in court.

3. Prosecutors and police say that ICE's courthouse arrests undermine public safety.

- Several district attorneys across New York State have said that ICE arrests jeopardize public safety by making it harder for victims and witnesses to come forward.
- Law enforcement officers from across the country have also reported a drop in crime reporting from immigrant communities.

4. Courthouse arrests tear families apart.

- Family separations aren't just happening at the border; they're happening in New York, in our courthouses and communities.
- ICE courthouse arrests routinely target parents in court. These arrests separate families and inflict trauma on the children who are left behind.
- Numerous studies, including one from the Urban Institute, show that ICE arrests targeting parents subject children to depression and post-traumatic stress, and deprive them of critical financial support.

5. This bill will help ensure access to courts for ALL New Yorkers regardless of immigration status.

- Our constitution guarantees access to the courts to ALL New Yorkers, regardless of immigration status.
- Equal access to our courts is vital to our democracy and central to everything that New York stands for.

6. This bill will help protect the fundamental constitutional rights of all New Yorkers to have their fair day in court.

- ICE snatches immigrants from court when they're in the middle of defending themselves against criminal charges.
- Once ICE detains someone, they can refuse to send them back to state court, meaning that the person never gets their fair day in court.
- This not only violates basic constitutional rights, it derails our state's criminal justice system.

PROTECT OUR COURTS ACT

Ensuring that ALL New Yorkers can access our courts without fear of being arrested by ICE.

Prosecutors from around the country--including in New York, Massachusetts, Colorado, and California--have condemned ICE courthouse operations.

Albany DA David Soares

"Courthouses should be safe spaces for everyone. Prosecutors, advocates and police have spent decades researching and applying best practices in an effort to encourage the reporting of violent crimes, including sexual assaults and domestic violence crimes. Demagoguery of the issue has caused fear and concern in many citizens and has led to decreased reporting. **The activities of Immigration and Customs Enforcement is compromising our ability to hold accountable perpetrators who prey upon victims from vulnerable immigrant communities.**"

Bronx DA Darcel D. Clark

"I endorse the Protect Our Courts Act because, as the Bronx District Attorney, I encourage people to report crimes... If a victim or witness who is essential to the prosecution of a heinous case is arrested by Immigration and Customs Enforcement when he or she shows up at the courthouse, we cannot go forward with the case, resulting in cases being dismissed and dangerous individuals being released back into the community. **This could have a chilling effect on getting witnesses to assist in our cases, potentially resulting in a threat to public safety.**"

Brooklyn DA Eric Gonzalez

"**These actions jeopardize public safety by instilling fear in immigrant communities, which makes victims and witnesses afraid to come forward to report crimes, and unable to get justice.** Keeping Brooklyn safe and strengthening community trust in law enforcement are my top priorities as Brooklyn DA, and ICE's actions undermine those important goals. I support the efforts to end this misguided practice."

Manhattan DA Cyrus Vance, Jr.

"**Deporting New Yorkers who show up to court is antithetical to our values and detrimental to our public safety.** The fear of unjust deportation stops crime victims from coming forward, and stops defendants from responsibly attending their court dates. I thank Assembly Member Solages for her work on this bill and urge the legislature to pass it immediately, because all New Yorkers have the right to safely access our courts, whether they are documented or undocumented under federal law."

Joint Statement of 12 California District Attorneys

"ICE courthouse arrests make all Californians less safe. These practices deter residents concerned about their immigration status from appearing in court including as crime victims and witnesses--jeopardizing effective prosecution of criminals who may then re-offend... No one should fear that their immigration status prevents them from seeking justice, whether as a crime victim or otherwise. **ICE's practice is antithetical to a fair system of justice that must protect all of us.**"

Joint Statement of Denver DA, City Attorney, and Other Elected Officials

"We believe this practice has and will increasingly lead to an environment of fear for victims and witnesses. **Already, we have victims of domestic violence refusing to come to court for fear of immigration consequences** which results in violent criminal being released into the community. Unless ICE has a criminal warrant, we respectfully request you consider courthouses sensitive locations..."

PROTECT OUR COURTS ACT

Ensuring that ALL New Yorkers can access our courts without fear of being arrested by ICE.

Maine Attorney General Janet T. Mills

"In investigating matters of human trafficking, domestic violence and the like, it is critical to us that all individuals have free and open access to Maine courts, regardless of their immigration status. The recent action of ICE Agents at the Cumberland County Courthouse will have an unnecessary chilling effect on our efforts to obtain the cooperation of victims and our successful prosecution of crimes."

Maryland Attorney General Brian E. Frosh

"[M]y first priority is the safety of Marylanders who turn to the courts for protection against domestic violence and other crimes...I am concerned that the Administration's aggressive new policies will discourage the most vulnerable immigrants from seeking judicial protection...I seek the Department of Homeland Security's commitment that it will take steps that ensure that Maryland's courthouses remain open to all victims of crime and violence[.]"

Massachusetts Attorney General Maura Healey

"We've already seen reports that sexual assault and domestic violence reporting are down. This is why we think the Trump administration's approach is ultimately ineffective, because it **undercuts local law enforcement's ability to develop the critical trust needed to keep communities safe.**"

Middlesex County DA Marian T. Ryan (Massachusetts)

"I am deeply concerned that the prospect of ICE conducting civil arrests in courthouses across the Commonwealth will have a hugely detrimental effect on law enforcement and on the ability of prosecutors to seek justice on behalf of the Commonwealth...Justice is harmed when victims and witnesses, who are essential to our prosecutions, are afraid to even set foot in a courthouse because of the possibility of facing arrest for civil immigration infractions."

Essex County DA Jonathan W. Blodgett (Massachusetts)

"Immigration and Customs Enforcement (ICE) arrests at courthouses in our county have impacted witnesses appearing for trial, victims of crime (especially those of domestic violence), and criminal defendants we are seeking to prosecute. This practice often impedes access to justice for victims as well as our ability to prosecute cases, including, most recently, a defendant set to be tried for multiple counts of aggravated rape of a child."

Kings County DA Dan Satterberg (Washington)

"... ICE actions are undermining trust in the neutrality of the court system, where 'justice for all' has been our hallmark. We are not safer when victims of crime fear being deported if they call 911, talk to police, or come to the house to get protection. We are not safer when a victim of abuse thinks she must choose between deportation or suffering more violence at the hands of her abuser. Unpunished violent crime threatens us all."

ACTIONS JUDGES CAN TAKE TO RESPOND TO ICE PRESENCE INSIDE STATE AND MUNICIPAL COURTHOUSES

1. Permit attorneys to resolve a case off-calendar so ICE cannot anticipate when a defendant/litigant/witness is in court.
2. Notify attorneys whenever ICE is seen in the courtroom, in the hallways, or other parts of the courthouse so that they can properly advise their clients and witnesses.
3. Consider excusing appearances for defendant/litigants if ICE is present in the courthouse.
4. Consider permitting defendants to offer pleas by affidavit.
5. Ask clerks and other court staff not to share any identifying information about defendant/litigant/witness with ICE agents.
6. Ask clerks and court staff not to call names aloud in the hallways. ICE may use this to identify and detain clients before they appear on a case.
7. If ICE arrests a defendant, consider granting a bench warrant stay.
8. If ICE arrests a defendant, notify the ADA of their obligation to produce the client from ICE custody for future appearances.
9. Encourage defense attorneys who have questions about ICE targeting their clients in the courts to contact Robert Horne, managing attorney of the Regional Immigration Assistance Center.
10. Advocate for the Chief Judge and Chief Administrative Judge of the New York State Court of Appeals to implement a pair of protocols that will prohibit information sharing between court staff and ICE, and require ICE (and other non-New York civil law enforcement agencies) to obtain judicial warrants to make arrests inside courthouses.

Talking Points for Press

A coalition of over 120 organizations from around the state calls on the Chief Judge to take immediate steps to stop ICE from targeting immigrants in the courts.

1. ICE practice in the courts is reprehensible – ICE has exhibited extreme disregard for the integrity of the court system:

- a. ICE has sunk to a new low by targeting a young woman in the Human Trafficking Intervention Court, a court dedicated to helping trafficking victims.
- b. The young woman targeted had no prior criminal history and was facing misdemeanor charges when ICE came to arrest her.
- c. ICE's operation in trafficking court is consistent with their public pledges that agents will not refrain from arresting witnesses and survivors of crime at court appearances.
- d. ICE has refused to designate courthouses as "sensitive locations" despite multiple requests from elected officials and those who work in the State courts.
- e. ICE has targeted other vulnerable immigrants in family courts, special courts designed for youthful offenders, and adult criminal courts.

2. Since President Trump took office, ICE has significantly increased arrests in our State courts

- a. Under President Trump, Secretary Kelly, and AG Sessions, ICE is increasingly exploiting state courts to trap and arrest immigrants.
- b. In New York, advocates have seen more arrests in the last six months than the past two years combined.
- c. The pace of arrests has sharply increased in recent weeks, with at least 10 arrests or attempted arrests last week alone.
- d. ICE arrests have occurred throughout New York State: in every borough of New York City, on Long Island, and Upstate.

3. Chilling effect on access to the courts is profound.

- a. Immigrants and their families are increasingly afraid of appearing in State courts due to fear of ICE.
- b. Fear of the courts is preventing people from going to court to obtain protective orders, defend against criminal charges, or seek protection against abusive employers and landlords.
- c. 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.

- d. Our coalition of over 120 legal services organizations and community groups have collected sworn attorney declarations, which document the fear of the courts in communities throughout the State.

4. Statistics on courthouse arrests and attempted arrests

- a. Since the beginning of 2017, there have been 38 total arrests and attempted arrests statewide.
- b. 28 were arrests.
- c. 10 were attempted arrests.
- d. 26 of the incidents occurred in NYC; 12 happened outside of NYC.
- e. Of the 26 incidents in NYC, 19 people were arrested.
- f. Arrests and attempted have occurred in every borough of NYC.
The breakdown of arrests and attempted arrests is 7 in Manhattan; 6 in Queens; 7 in Brooklyn; 4 in the Bronx and 2 on Staten Island.

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.

- Since January of 2017, we have received 57 reports of ICE arrests or attempted arrests in courts throughout New York State. *See the attached chart for the dates and locations of the incidents.*
 - 48 were arrests; 9 were attempted arrests.
 - The pace of arrests appears to be accelerating with nearly half of the incidents occurring in the last two months.
 - The 57 incidents represent a significant increase from the prior two years for which we have data. In 2015, we received reports of 14 arrests statewide; in 2016, we received reports of 11 arrests statewide.
- ICE has expanded its operation in New York's courts arresting individuals in Human Trafficking Intervention Court, Family Court, the Youth Part of a Criminal Court, and Mental Health Treatment Court.
- Under the current administration's new "priorities," ICE has vastly expanded who they are targeting in court. ICE is currently pursuing both undocumented and documented individuals, including people who are long-term lawful permanent residents. They are also targeting undocumented individuals with no prior criminal history
- 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 in Human Trafficking Intervention Court and another woman facing misdemeanor charges who was a sexual assault victim with a history of serious mental health issues.
- 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.

Summaries of a few ICE Courthouse Arrests:

Kings County (Adult Criminal)

On July 7, multiple ICE agents targeted a father appearing in the Kings County Supreme Court. After his case was called and adjourned, the father exited the courtroom and was then met by ICE agents who arrested him and took him to a car outside of the courthouse. The father, who is now detained in an immigration jail, has a concurrent Family Court case in Kings County.

Kings County (Family Court)

On March 16, plainclothes ICE agents arrested a father in the waiting area outside of a child support part. The father, who has a five year old son, was making his second child support appearance. The plainclothes ICE agents waited for a court officer to call his name in the hall. When the father stood up, to enter the court part, the officers quickly surrounded him and arrested him. He is currently detained and facing deportation from a New Jersey jail.

Queens County (Human Trafficking Intervention Court)

On June 16, three ICE agents targeted a young East Asian woman who was facing misdemeanor charges in the Human Trafficking Intervention Court. After being notified that ICE was there to arrest their client, the attorneys representing the woman sought to have bail set on her case. It was only after she was taken into custody that ICE agents eventually left the court room. They subsequently arrested three other individuals at the Queens Criminal Court that day.

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.

Bronx County (Adult Criminal)

On March 27, plainclothes ICE officers waited in hallway outside of the court part in the Bronx County Hall of Justice. They then entered and waited in the courtroom vestibule, blocking the courtroom exit. ICE approached a criminal defense lawyer in the court part, showed a badge, and asked that she call the case of the individual they were looking for. When another lawyer tried to come into the vestibule to observe an arrest or invoke the individual's rights, she was told to leave. Reports indicate that court staff tried to facilitate the arrest by asking the individual to step out of the courtroom, but this individual did not. The criminal court judge set bail on this individual, and so ICE was unable to make the arrest.

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." The presiding judge called the young man's case. When he stood up, 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.

February 15, 2018

Via E-mail

Hon. Janet DiFiore
Chief Judge
Office of Court Administration
25 Beaver Street
New York, NY 10004

Hon. Lawrence K. Marks
Chief Administrative Judge
Office of Court Administration
25 Beaver Street
New York, NY 10004

RE: Immigration and Customs Enforcement Directive Number 11072.1

Dear Judges DiFiore and Marks:

We write as a coalition of legal service providers, good governance groups, and advocacy organizations to thank you for all that you have done to raise concerns with the Department of Homeland Security (DHS) about the impact of Immigration and Customs Enforcement (ICE) arrests on our State courts and to discuss how best to ensure that all New Yorkers are able to access the courts.

From press accounts¹, we understand that input from the National Conference of Chief Justices helped to prompt the publication of ICE Directive Number 11072.1.² We appreciate your leadership and your strong advocacy in seeking to have DHS designate courthouses as sensitive locations. We are heartened by your commitment to ensuring that the New York State court system is accessible to all.

Respectfully, we request an in-person meeting to discuss the Directive and our ongoing concerns about ICE enforcement operations in our State courts. We believe that the recommendations previously requested by numerous groups, including those that would clarify court policies and procedures, are needed now more than ever. We believe that it is imperative for the court system and the stakeholders to collaborate on pragmatic and practical means of cooperation to strengthen the role of state courts, ensure efficiencies and standards, promote equal access and to diminish the opportunities of unfair and improper actions by ICE. The essential power of state courts to manage their courthouses should not be undermined.

For those of us across the state who represent immigrants, monitor ICE actions and believe in the importance of efficiency, standards, public safety and the rights of all who

¹ Andrew Denney, *Amid Spike in Courthouse Arrests, ICE Issues Formal Policy*, NEW YORK LAW

² ICE Directive No. 11072.1, *Civil Immigration Enforcement Actions Inside Courthouses* (Jan. 10, 2018)[henceforth "Directive"].

use the courts, we know the Directive falls far short of meaningfully addressing the havoc that ICE enforcement actions continue to wreak on our justice system. It also fails to address the profound sense of fear that ICE's operations have lodged in our immigrant communities.

Our concern is that ICE's policy guidance offers no safeguards against the unconstitutional, indiscriminate and disruptive practices that we have seen thus far. Instead, the Directive "formally codif[ies]" the agency's practices and puts into writing what we have observed over more than a year of monitoring ICE conduct in New York's courts: ICE targets people without regard for who they are or why they are in court.³ One day it is a trafficking victim appearing to face prostitution-related charges⁴ and the next it is a college student who came to the U.S. at the age of three and has no prior criminal history.⁵ Tomorrow, it may well be a DACA recipient appearing in traffic court.⁶

The current federal administration has instructed ICE agents to exercise their authority to enforce immigration law to the "greatest extent practicable."⁷ This means that anyone who is in the country without authorization is a potential target. As ICE Director Thomas Homan put it, if you're undocumented, "you should look over your shoulder."⁸ Even those with legal authorization who have contributed to their communities for decades and raised generations of U.S. citizens may be targets based on involvement with the criminal justice system or untested allegations of dangerousness.

ICE's policy on courthouse arrests is built on a deeply troubling premise, namely, that some members of our community deserve access to justice through the courts while others do not. As legal professionals who serve and represent litigants across a broad array of courts, we strongly believe that the immigrants we work with will only be safe when all of our State courts are safe. It is a bedrock principle of our judicial system that access to justice cannot be selective. Our courts must be equally open to noncitizens and citizens; to individuals seeking protection from the courts and those exercising their constitutional rights to defend themselves against criminal charges. Our democracy requires this, and our Constitution demands it.

We again commend you for your continued attention to these difficult issues and look forward to further discussion.

³See *FAQ on Sensitive Locations and Courthouse Arrests*, U.S. Immigration and Customs Enforcement (last updated Jan. 31, 2018).

⁴ Beth Fertig, *When ICE Shows Up at Human Trafficking Court*, WNYC (June 22, 2017) available at <https://www.wnyc.org/story/when-ice-shows-court/>.

⁵ Noah Manskar, *ICE Arrests NYC Immigrant, 27, at Bronx Courthouse*, PATCH (Feb. 8, 2018) available at <https://patch.com/new-york/new-york-city/ice-arrests-nyc-immigrant-27-bronx-courthouse>.

⁶ *ICE agents arrest "Dreamer" at traffic court, jail him for 3 days*, CBS News (Feb. 2, 2018) available at <https://www.cbsnews.com/news/christian-gomez-garcia-ice-agents-arrest-dreamer-at-traffic-court-chicago/>.

⁷ See Memorandum from John Kelly, Secretary of Homeland Security, *Enforcement of the Immigration Laws to Serve the National Interest* (Feb. 20, 2017).

⁸ Maria Sacchetti, "ICE chief tells lawmakers agency needs much more money for immigration arrests," THE WASHINGTON POST (June 13, 2017).

Sincerely,

AALDEF- Asian American Legal Defense and Education Fund (National)
Adhikaar (NYC)
African Communities Together (National)
African Services Committee (NYC)
Anti-Defamation League New York (Statewide and National)
Appellate Advocates (Kings, Queens, and Richmond Counties)
Atlas: DIY (NYC)
Brehon Law Society of New York (NYC)
Brooklyn Defender Services (Kings County)
The Bronx Defenders (Bronx County)
Center for Appellate Litigation (New York and Bronx Counties)
Center for Safety and Change (Rockland County)
Church World Service (Tri-State Area)
Common Justice (Statewide)
Community Legal Advocates of New York (NYC; Nassau and Suffolk Counties)
Community Service Society of New York (NYC)
Day One (Statewide and National)
The Door's Legal Services Center (NYC)
Downstate Coalition for Crime Victims (Downstate)
DRUM- Desis Rising Up & Moving (New York, Queens, Kings, and Bronx Counties)
Emerald Isle Immigration Center (NYC)
Empire Justice Center (Statewide)
GMHC- Gay Men's Health Crisis (NYC)
Greater Rochester Coalition for Immigration Justice (Fingerlakes Region)
Harlem Independent Living Center (NYC)
Housing Court Answers (NYC)
Human Rights First (NYC; Suffolk, Nassau, Westchester, and Rockland Counties)
ICE-Free Capital District (Albany, Schenectady, Rensselaer, and Saratoga Counties)
Immigrant and Non-Citizen Rights Clinic, CUNY School of Law (NYC; Nassau and Suffolk Counties)
Immigrant Defense Project (Statewide)
Immigration Equality (National)
Kids for College (Wayne and Surrounding Counties)
KIND- Kids in Need of Defense (NYC; Suffolk, Nassau and Westchester Counties)
Lambda Legal (National)
Latino Justice (National)
Lawyers For Children (NYC; Nassau, Suffolk, Westchester, and Rockland Counties)
The Legal Aid Society of Nassau County (Nassau)
LeGal- The LGBT Bar Association of Greater New York (Statewide)
Legal Services NYC (NYC)

Make the Road New York (Statewide)
Mobilization for Justice, Inc. (NYC)
Neighborhood Defender Service (New York County)
New York Immigration Coalition (Statewide)
New York Law School Asylum Clinic (NYC)
New York Lawyers for the Public Interest (Statewide)
New York Legal Assistance Group (NYC)
New York Legal Services Coalition (NYC)
New York State Coalition Against Sexual Assault (Statewide)
Northern Manhattan Coalition for Immigrant Rights (Statewide)
Office of the Appellate Defender (New York and Bronx Counties)
Organización Latino-Americana of Eastern Long Island (Suffolk)
Rockland Immigration Coalition (Rockland County)
Rural and Migrant Ministry (Statewide)
Safe Horizon (Statewide and National)
Safe Passage Project (NYC; Nassau and Suffolk Counties)
Sanctuary for Families (NYC)
SEIU 32BJ (Statewide)
Sosa Law (New York, Queens, Kings, and Bronx Counties)
South Bronx United (Bronx, New York, and Kings Counties)
Sylvia Rivera Law Project (NYC; Nassau, Westchester and Rockland Counties)
UnLocal, Inc. (NYC)
Violence Intervention Program (New York, Queens, Kings, and Bronx Counties)
Volunteers of Legal Service (NYC)
Wayne Action for Racial Equality (Wayne County)
WESPAC Foundation, Inc (Westchester County)
Worker Justice Center of New York (All Upstate Counties)
Youth Represent (NYC)



40 West 39th Street, Fifth Floor, New York, NY 10018
Tel: 212.725.6422 • Fax: 800.391.5713
www.ImmigrantDefenseProject.org

June 22, 2017

Via E-Mail and First Class Mail

Hon. Janet DiFiore
Chief Judge
Office of Court Administration
25 Beaver Street
New York, NY 10004

RE: Escalation in ICE Arrests in New York State Courts

Dear Judge DiFiore:

We are a group of 110 legal services organizations, domestic violence and victims services groups, and community based organizations that work with immigrant and citizen New Yorkers who depend on access to our state courts. We write to express our outrage at last Friday's events, where agents from U.S. Immigration and Customs Enforcement (ICE) came to a Human Trafficking Intervention Court to arrest a young woman who was appearing before the court. By doing so, ICE has again shown disregard for the functioning of the courts. It also reinforces the message that no immigrant is safe in the New York State court system, a feeling that is deepening in the communities we serve. As the Chief Judge of the New York State Courts, we ask that you take immediate steps to protect immigrant New Yorkers and their families, and restore trust in the State court system.

As a coalition, we last wrote to you on April 10 to express our concerns about ICE's increased presence in and around the courts, which we have witnessed since the beginning of 2017, when President Trump took office. In the intervening months, the problem of ICE arrests in our courts has only worsened. We have now confirmed 38 arrests or attempted arrests in courts around the State since the beginning of the year. In recent weeks, the pace of arrests has significantly increased, with at least 10 arrests or attempted arrests occurring last week alone. ICE has also expanded its courthouse raid practice to target immigrants appearing in our family courts, in the youth parts of our criminal courts designed to help youthful offenders rehabilitate, and our problem-solving courts.

Last Friday, ICE exhibited extreme disregard for the integrity of the court system by targeting a young woman in the Human Trafficking Intervention Court in Queens, a court that has been hailed as a national model for trafficking victims. The young woman had no prior criminal history and was facing misdemeanor charges stemming from her status as a victim of

human trafficking. Nevertheless, three plainclothes ICE agents targeted her for arrest at her court appearance while her family waited in the courtroom. This squad of agents then moved on to arrest three other people appearing for criminal court in Queens that day.

We regularly work with immigrants, and the family members of immigrants, who need access to the New York State court system for critical reasons, including obtaining orders of protection, defending against criminal charges, and seeking protection against abusive employers and landlords. ICE's exploitation of the court system has made it increasingly difficult to tell the individuals and families that we work with that our courts are a safe space. The immigrants who we work with now often express fear of going to court, of filing petitions seeking protection from the court, and of testifying as complaining witnesses.

Far from backing down from the courthouse arrest practice, in response to widespread criticism and requests to desist, ICE's leadership in the Department of Homeland Security (DHS) has doubled down. After public outcry over the arrest of a transgender woman, a survivor of domestic violence who sought an order of protection in a Texas court, DHS officials publicly declared that even the victims and witnesses of crimes were fair game in the courts. Friday's attempted arrest brings DHS's promise into sharp focus. And despite requests from other state chief justices and state and local elected officials, federal immigration authorities have refused to designate state courts as "sensitive locations" that would be protected from federal immigration enforcement.

In the face of ICE's reckless disregard for public safety and access to justice, as Chief Judge, it is imperative that you take all the steps necessary to stop federal immigration agents from using our court system to trap immigrants for arrest, detention, and deportation. As organizations that work daily with immigrant communities throughout New York State, we are witnessing ICE's presence erode trust in the court system and undermine equal access to justice. Without your intervention, this phenomenon will only worsen, endangering all New Yorkers and the integrity of our court system itself.

Thank you for your attention to this important issue.

Sincerely,

Adhikaar (Statewide)
African Communities Together (Statewide)
African Services Committee (Bronx County)
AIDS Health Care Foundation (NYC)
Albany Law Clinic & Justice Center, Immigration Law Clinic (Capital Region)
Appellate Advocates (Kings, Queens, and Richmond Counties)
Asian American Legal Defense and Education Fund (AALDEF)(Statewide)
Atlas: DIY (NYC)
Brooklyn Bar Association Volunteer Lawyers Project (Kings County)
Brooklyn Defender Services (Kings County)
Bronx Defenders (Bronx County)

Cardozo School of Law, Kathryn O. Greenberg Immigration Justice Clinic (NYC)
Catholic Migration Services (Kings and Queens Counties)
Center Against Domestic Violence (NYC)
Center for Appellate Litigation (New York and Bronx Counties)
Center on Latino/a Rights and Equality(NYC)
Central American Legal Assistance (NYC)
Columbia County Public Defender (Columbia County)
Columbia County Sanctuary Movement (Columbia County)
Common Justice (Statewide)
Community Development Project of the Urban Justice Center (NYC)
Crime Victim and Sexual Violence Center (Albany County)
Crime Victims Treatment Center (NYC)
Day One (NYC)
Desis Rising Up & Moving (DRUM)(NYC)
Door's Legal Services Center (NYC)
Downstate Coalition for Crime Victims (NYC)
Emerald Isle Immigration Center (NYC)
Empire Justice Center (Statewide)
Genesee County Public Defender (Genesee County)
Greater Rochester Coalition for Immigration Justice (Monroe County)
Harlem Independent Living Center (Manhattan)
HIV Law Project (NYC)
Hispanic Coalition NY, Inc. (Statewide)
Housing Court Answers, Inc. (NYC)
ICE-Free Capital District (Capital Region)
Immigrant Defense Project (Statewide)
Immigrant Justice Corps (Statewide)
Immigration Equality (Statewide)
Journey's End Refugee Services (Erie County)
Kids for College (Statewide)
KIND, Inc. (Kids in Need of Defense (Statewide)
Kite's Nest (Columbia County)
Korean Community Services of Metropolitan New York (Greater NYC Metro Area)
La Colmena (Richmond County)
Labor-Religion Coalition of New York State (Statewide)
LatinoJustice PRLDEF (Statewide)
Latinos Unidos of the Hudson Valley (Hudson Valley)
Lawyers For Children, Inc. (NYC)
LGBT Bar Association of Greater New York (LeGaL)(Greater NYC Metro Area)
Legal Aid Society (NYC)
Legal Aid Society of Nassau County (Nassau County)
Legal Aid Society of Rochester (Rochester County)
Legal Project (Albany)
Legal Services NYC (NYC)
Legal Services of the Hudson Valley (Hudson Valley)
Legal Services Staff Association, NOLSW/UAW 2320 (NYC)

Levy Davis & Maher LLP (NYC)
LifeWay Network, Inc.(Greater NYC Metro Area)
Long Island Immigrant Alliance (Long Island)
Long Island Wins (Long Island)
Lutheran Social Services of New York (Statewide)
Make the Road New York (NYC and Long Island)
Masa (Bronx County)
MFY Legal Services, Inc. (NYC)
MinKwon Center for Community Action (NYC)
Monroe County Conflict Defender Office (Monroe County)
Mount Sinai Beth Israel Victim Services (NYC)
Mount Sinai Human Rights Program (NYC)
My Sister's Place (Westchester County)
National Organization for Women New York (NYC)
Neighborhood Defender Service of Harlem (Manhattan)
New York City Anti-Violence Project (AVP) (NYC)
New York City Refugee and Asylee Health Coalition (NYC)
New York County Defender Services (NYC)
New York Lawyers for the Public Interest (NYC)
New York Legal Assistance Group (NYC)
Nixon Peabody LLP (NYC)
Northeast NY Coalition for Occupational Safety and Health (Statewide)
Northern Manhattan Coalition for Immigrant Rights (NYC)
NY- NELA (Statewide)
NYCLU-Suffolk Chapter (Suffolk County)
Office of the Appellate Defender (NYC)
OLA of Eastern Long Island (Long Island)
Prisoner Legal Services (Statewide)
Queens Law Associates (Queens County)
Regional Immigration Assistance Center, Hudson Valley Region (Hudson Valley)
Regional Immigration Assistance Center, Region 2 (Central New York)
Rockland Immigration Coalition (Rockland County)
Rural and Migrant Ministry (Statewide)
Safe Against Violence (Delaware County)
Safe Horizon (NYC)
Safe Passage Project (NYC)
Sanctuary for Families (NYC)
Sauti Yetu Center for African Women and Families (NYC)
SBK Social Justice Center Inc. (Columbia County)
Sosa Law (NYC)
St. Vincent de Paul Legal Program, St. John's University School of Law (Queens County)
Statewide Coalition Against Domestic Violence (Statewide)
Statewide Coalition Against Sexual Assault (Statewide)
Statewide Youth Leadership Council (Statewide)
STEPS to End Family Violence (NYC)
Sylvia Rivera Law Project (NYC)

Ulster County Defender (Ulster County)
UnLocal, Inc. (NYC)
Urban Justice Center (NYC)
Violence Intervention Program (NYC)
Wayne Action for Racial Equality (Wayne County)
WESPAC Foundation (Westchester County)
Worker Justice Center of NY, Inc. (Kingston, Rochester, and Albany Counties)
Youth Represent (NYC)

cc: Hon. Lawrence K. Marks

June 19, 2017

Via Email and First Class Mail

Hon. Janet DiFiore
Chief Judge
NYS Unified Court System
25 Beaver Street
New York, NY 10004

Re: Request for Meeting to further discuss the presence and impact of ICE in the NYS Unified Court System

Dear Judge DiFiore,

Thank you and Judge Marks for your response to our prior letter. We, as a group of organizations, agencies, and private practitioners who work with people affected by intimate partner violence, trafficking, elder abuse, and other forms of violence, appreciate your efforts to ensure the optimal operation of the NYS Unified Court System. However, we remain concerned that the current immigration climate has negatively impacted both court operations and access to justice for NYS immigrant survivors of domestic violence. We therefore request an opportunity to meet with you in person to discuss our concerns and discuss the development of protocols relating to ICE enforcement in the courts.

The NYS Unified Court System has long acknowledged that its family courts exist as a form of practical help for survivors of domestic violence seeking legal assistance to escape abusive situations,¹ and has worked to ensure that the courts are accessible to all New Yorkers. As a matter of public policy, New York State has historically engaged in various reforms to make the family courts increasingly accessible to survivors, with the understanding that the relief available there, such as civil orders of protection, custody, and child and spousal support, are crucial to ensuring survivors' safety and security. For example, the NYS Unified Court System has provided more streamlined filing processes, worked to improve language access, and supported initiatives to increase civil legal services funding with the understanding that support and knowledge of litigants' rights are essential when promoting access to the family courts.²

¹ See F.C.A. § 811.

² See Hon. Jonathan Lippman, *Ensuring Victim Safety and Abuser Accountability: Reforms and Revisions in the New York Courts' Response to Domestic Violence*, 76 Albany L. Rev. 1417 (2013) Republished with Permission on the New York Courts website at: <https://www.nycourts.gov/courts/family-violence/idv/pdfs/2016/Material%20to%20Post/SES%204%20ADD%20Ensuring%20Victim%20Safety.pdf>

In New York State, on average, 1 out of 3 women and men are victims of rape, physical violence, and/or stalking by an intimate partner in their lifetime.³ Importantly, also, 1 in 4-5 New Yorkers is foreign born, and nearly 1 in 20 lacks any immigration status.⁴ Consequently, any efforts to ensure survivor safety by maintaining accessibility to the courts for survivors of domestic violence must necessarily take into account the realities faced by the nearly 22% of our population who are foreign born,⁵ and for whom potential interaction with immigration authorities is of overwhelming concern.

As legal service providers that often represent immigrant survivors of domestic violence, we have noted that increased ICE activity in New York, including increased ICE enforcement in NY Courts and the media attention enforcement efforts have received in both the English and non-English-language press,⁶ have had a markedly negative impact on our clients. In part, this is because this climate has also emboldened offenders who use a survivor's lack of immigration status to threaten and control victims.⁷ Even as recently as last week, ICE agents pursued arrests in Queens Human Trafficking Court.⁸ Your honor was quoted as saying that you were "greatly concerned" and City Council Speaker Melissa Mark-Viverito expressed that immigration agents "sunk to new lows of moral depravity" seeking a woman in human trafficking court. The presence of ICE agents in Queens Human Trafficking Court where countless survivors of violence seek assistance underscores just how urgent this issue has become.⁹

We attach here several affidavits from legal service providers all over New York in which attorneys describe how the current climate has circumscribed their clients' access to the courts. These affidavits confirm that immigrant New Yorkers are choosing to avoid the courts for

³ See The National Intimate Partner and Sexual Violence Survey: 2010 Summary Report The National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, (November 2011), available at: https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf

⁴ Out of an estimated 19.65 million New York State residents, approximately 4.4 million are immigrants, and 775,000-850,000 lack immigration status. See DiNapoli, T. (2016). *A Portrait of Immigrants in New York*. P. 1. Retrieved from the Office of the New York State Comptroller website at https://www.osc.state.ny.us/reports/immigration/immigration_2016.pdf. See also Pew Research Center (2017). Overall Number of U.S. Unauthorized Immigrants Holds Steady Since 2009. Retrieved from the Pew Research Center website at: <http://www.pewhispanic.org/2016/09/20/overall-number-of-u-s-unauthorized-immigrants-holds-steady-since-2009/>.

⁵ Id.

⁶ See media coverage, inter alia: <http://www.wnyc.org/story/outcry-after-immigration-agents-come-trafficking-victim-queens-courthouse/>, <http://www.univision.com/los-angeles/kmex/noticias/redadas/ice-comienza-a-arrestar-indocumentados-en-las-cortes-como-respuesta-a-las-ciudades-santuario> <http://www.nydailynews.com/new-york/federal-immigration-agents-showing-nyc-courts-article-1.3010003> <http://observer.com/2017/02/immigration-agents-arresting-undocumented-immigrants-in-nyc-misdemeanor-court-advocates-report/> <http://www.politico.com/states/new-york/albany/story/2017/03/for-now-ice-operating-freely-in-nyc-courthouses-110791>, https://www.nytimes.com/2017/02/10/us/immigration-raids-enforcement.html?_r=0 <http://freebeacon.com/issues/nypd-alerts-ice-illegal-immigrant-court-dates-despite-new-york-sanctuary-city/>

⁷ See Immigrant Power and Control Wheel, available at: <http://www.thehotline.org/wp-content/uploads/2016/08/Power-Control-Wheel.pdf>

⁸ <http://www.wnyc.org/story/outcry-after-immigration-agents-come-trafficking-victim-queens-courthouse/>

⁹ Id.

fear of encountering ICE. Their fears are real and should not be ignored. These affidavits, *inter alia*, describe immigrant parents and adult relatives that decided not to pursue custody or guardianship of children for fear of immigration enforcement, and immigrant clients who were afraid to report recent incidents of severe physical abuse and obtain orders of protection for fear of contact with ICE and potential deportation. In addition, these affidavits, and the results of a recent survey administered to immigration providers,¹⁰ confirm that attorneys have noted an increased level of fear in their communications and meetings with clients, and that, as part of their ethical duties, they have had to advise clients at risk of immigration enforcement of the risk of encountering ICE in the courts. They confirm that the current immigration climate, coupled with the presence of ICE in the courts, now means that civil attorneys cannot comfortably encourage any court remedy to immigrant survivors of domestic violence. Unfortunately, it is those immigrant women, men, and children, who are at greatest risk, and who are most likely to be harmed or killed by their partners and abusive family members.¹¹

In closing, we remain very concerned that the lack of clear limitations on ICE access to NYS Courts will prevent increasing numbers of immigrant survivors of domestic violence from seeking the protections available to them in our Family Courts, and request the opportunity to address these concerns and any future protocols with you in person.

Yours truly,

African Services Committee
Battered Women's Resource Center, Voices of Women - VOW
BOOM!Health
Day One
Emerald Isle Immigration Center
GMHC
Her Justice
Immigrant Defense Project
Immigration Equality
Kohan Law Group
Lawyers Committee Against Domestic Violence
Legal Services NYC
Legal Services of the Hudson Valley
Lutheran Social Services of New York
MFY Legal Services, Inc.
My Sisters' Place

¹⁰ On May 18th, 2017, seven national organizations working to end domestic violence and sexual assault-- Asian Pacific Institute on Gender-Based Violence (API-GBV), ASISTA, Casa de Esperanza: National Latin@ Network, National Alliance to End Sexual Violence (NAESV), National Domestic Violence Hotline (NDVH), National Network to End Domestic Violence (NNEDV), and Tahirih, collected data to assess concerns voiced by advocates about the potential impact of immigration enforcement on survivors. Their key findings are available here: <http://www.tahirih.org/wp-content/uploads/2017/05/2017-Advocate-and-Legal-Service-Survey-Key-Findings.pdf>

¹¹ [1] New York City Domestic Violence Fatality Review Committee: 2016 Annual Report, available at <http://www1.nyc.gov/assets/ocdv/downloads/pdf/2016-frc-report.pdf>.

Nancy Erickson, Esq., Private Practitioner
Nazareth Housing
New York City Anti-Violence Project
New York Legal Assistance Group
Safe Horizon
Safe Passage
Sanctuary for Families
Sauti Yetu Center for African Women & Families
Sosa Law
Stella Justice Center, Inc.
The Legal Aid Society
The Safe Center LI
UnLocal
Urban Justice Center Domestic Violence Project
Urban Justice Center Sex Workers Project
Urban Resource Institute
Volunteers of Legal Service
Violence Intervention Program
WomanKind (formerly New York Asian Women's Center)
Women's Prison Association

cc: Hon. Lawrence K. Marks



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www.ImmigrantDefenseProject.org

April 10, 2017

Via E-Mail and First Class Mail

Hon. Janet DiFiore
Chief Judge
Office of Court Administration
25 Beaver Street
New York, NY 10004

Hon. Lawrence K. Marks
Chief Administrative Judge
Office of Court Administration
25 Beaver Street
New York, NY 10004

RE: Immigration and Custom's Enforcement Actions in the New York State Courts

Dear Judge DiFiore and Judge Marks:

We are a group of organizations that provide counsel, services, and support to immigrant communities who use the New York State courts. We work with individuals who need safe access to the New York State court system for critical reasons, including: obtaining orders of protection, vindicating child custody rights, defending against criminal charges, seeking protection against exploitative employers and landlords, participating in family court proceedings, and maintaining public assistance.

We write to express our serious concern about the impact of Immigration and Customs Enforcement's (ICE) activities in and around the State's courts. ICE's looming presence is quickly eroding the public's trust in the State court system, undermining access to justice and threatening public safety for all New Yorkers. We respectfully request that as Chief Judge and Chief Administrative Judge of the Unified Court System you take all steps necessary to prevent ICE from apprehending immigrants in the State's courts.

There has been a sharp increase in ICE's presence throughout the New York State court system. Since February, advocates can verify that, at a minimum, ICE has arrested or attempted to arrest 17 individuals in New York's courts. This compares to reports of 20 arrests over the past two years. The arrests have occurred in Westchester, Putnam, Columbia and all five counties of New York City. ICE agents did not present a valid judicial warrant in

any of these cases, skirting the constitutionally-mandated rules that generally order the State court system.¹

For the first time, in early March, ICE arrested an individual in New York's Family Courts. This follows reports from El Paso, Texas, of ICE arresting a transgender domestic violence survivor who was seeking an order of protection.² Federal immigration authorities have publicly stood by such arrests declaring that victims of crime and witnesses will be targets for deportation under the new administration.³

With each new report of an immigration arrest, mistrust of the court system grows and access to justice withers. This has troubling civil rights implications, impeding constitutional rights to due process, equal protection, and the right to petition the government for redress of grievances. Immigrants from communities that already face difficulty with access to courts for different reasons, such as fear of identity-based discrimination, language barriers, or age, are likely to be multiply deterred in their efforts to meaningfully access the courts. Survivors of domestic violence and sexual assault will increasingly be too fearful to seek protection from the courts; and children's access to support, protection, and permanency will be diminished.

We appreciate that the court system is monitoring the presence of ICE, but would like to highlight the trends that we have observed over the past few months.

- **ICE is now making arrests in Family Court:** On March 16th, ICE arrested a father appearing for a child support hearing in Kings County Family Court. The father, a lawful permanent resident from Jamaica, was seated in the waiting area when he heard the court clerk call his name. He stood up and was immediately surrounded by plain clothed agents who handcuffed him and shackled his ankles. The father is now detained in an immigration jail in New Jersey and his ability to support his nine year-old son has been significantly impeded.⁴
- **Survivors of domestic violence are often too fearful to seek protection from the courts.** Legal Services NYC reports that one mother, who suffered severe domestic violence and

¹ See Betsy Woodruff, *Legal Residents Fear Getting Arrested in Court by ICE*, Mar. 30, 2017, THE DAILY BEAST <http://www.thedailybeast.com/articles/2017/03/30/legal-immigrants-fear-getting-arrested-in-court-by-ice.html>; Additional data on file with the Immigrant Defense Project.

² ICE subsequently detained the woman in an immigration jail and has denied her the hormones that she requires. See Jonathan Blazer, *The Woman Arrested by ICE in a Courthouse Speaks Out*, Feb. 23, 2017, THE NEW YORKER, <http://www.newyorker.com/news/news-desk/the-woman-arrested-by-ice-in-a-courthouse-speaks-out>; See also *Undocumented transgender woman filing domestic violence claim arrested at El Paso courthouse by ICE, official says*, Feb. 16, 2017, CBS NEWS <http://www.cbsnews.com/news/undocumented-transgender-woman-filing-domestic-violence-claim-arrested-at-el-paso-courthouse-by-ice-official-says/>.

³ Devlin Barrett, *DHS: Immigration agents may arrest crime victims, witnesses, at courthouses*, Apr. 4, 2017, THE WASHINGTON POST https://www.washingtonpost.com/world/national-security/dhs-immigration-agents-may-arrest-crime-victims-witnesses-at-courthouses/2017/04/04/3956e6d8-196d-11e7-9887-1a5314b56a08_story.html?utm_term=.870f28d41d4d

⁴ Based on interviews conducted by the Immigrant Defense Project.

the kidnapping of her son by her partner, is now too scared to ask the Family Court to sign a U visa certification. In another case, a Sanctuary for Families attorney urged a client who is a rape survivor to seek custody of her daughter after her abusive partner took the child and refused to allow her any contact. The woman, who is undocumented, was too terrified of the prospect of deportation to file the petition.

- **In the Criminal Courts, ICE is targeting a wide range of individuals including documented and undocumented individuals, people facing both misdemeanor and felony charges, and apprehending defendants as early in the court process as the arraignment.** Per President Trump’s executive orders, ICE agents are targeting both documented and undocumented immigrants. This includes documented immigrants, who have certain criminal convictions, and undocumented immigrants who have simply been “charged with a criminal offense” or who have “committed acts that constitute criminal conduct.”⁵ Advocates have seen ICE agents follow through on these sweeping new priorities by showing up at arraignment parts and arresting undocumented immigrants appearing to face misdemeanor charges.⁶
- **Public defenders are reporting significant increases in the number of clients who are failing to appear for court.** Brooklyn Defender Services has seen double the number of warrants issued for clients facing misdemeanor charges.⁷ One public defender from New York County reports that even after he negotiated the dismissal of all charges for an undocumented client, the immigrant, who had no criminal record, declined to show up to get the charges dismissed.⁸
- **In some instances, OCA employees are assisting ICE enforcement actions.** In Hudson City Court, the court clerk has called ICE agents to share docket information so that they can identify immigrants for apprehension.⁹ In Brooklyn Criminal Court, a private defense attorney reports that court officers physically blocked him from accompanying his client into the vestibule of a courtroom where ICE agents were waiting. As a result, ICE agents were able to surround his client and arrest him.¹⁰

⁵ Executive Order 13,768 directs the Secretary of Homeland Security to prioritize removal of several categories of immigrants including lawfully admitted residents who are deportable due to criminal convictions described in 8 U.S.C. § 1227(a)(2)(A). It also prioritizes the removal of undocumented immigrants who have “been charged with a criminal offense, where such charge has not been resolved,” and those who have “committed acts that constitute criminal conduct.” EXEC. ORDER NO. 13,768, 82 C.F.R. 8799 § 9 (2016), *available at* <https://www.federalregister.gov/documents/2017/01/30/2017-02102/enhancing-public-safety-in-the-interior-of-the-united-states>.

⁶ Roger Wilson, *Immigration officers detain 3 men in Hudson, defense attorneys say*, REGISTER-STAR, Feb. 15, 2017, http://www.registerstar.com/news/article_10d31df2-f3da-11e6-b865-475c549b1644.html.

⁷ Data on file with Brooklyn Defender Services. *See also* Woodruff, *supra* note 1.

⁸ Woodruff, *supra* note 1.

⁹ Wilson, *supra* note 7.

¹⁰ Based on interviews conducted by the Immigrant Defense Project.

Given the grave threat to access to justice and public safety, we ask that as Chief Judge and Chief Administrative Judge of the Unified Court System you take steps to stop ICE enforcement actions at State courthouses.

Thank you for your consideration of this important issue. Please contact Lee Wang of the Immigrant Defense Project to arrange a meeting. She can be reached at (646) 760-0590 or lwang@immigrantdefenseproject.org.

Sincerely,

Adhikaar
African Communities Together
African Services Committee
Appellate Advocates
Asian American Legal Defense and Education Fund (AALDEF)
Atlas: DIY
Brooklyn Bar Association Volunteer Lawyers Project
Brooklyn Defender Services
Catholic Migration Services
Center Against Domestic Violence
Center for Appellate Litigation
Central American Legal Assistance
Columbia County Public Defender
Columbia County Sanctuary Movement
Common Justice
Community Development Project of the Urban Justice Center
Crime Victim and Sexual Violence Center
Crime Victims Treatment Center
Day One
Downstate Coalition for Crime Victims
DRUM - Desis Rising Up & Moving
Emerald Isle Immigration Center
Empire Justice Center
Genesee County Public Defender
Greater Rochester Coalition for Immigration Justice
Harlem independent living center
Her Justice
HIV Law Project
Housing Court Answers, Inc.
ICE-Free Capital District
Immigrant Defense Project
Immigrant Justice Corps

Immigration Equality
Immigration Law Clinic, Albany Law Clinic & a Justice Center
Kathryn O. Greenberg Immigration Justice Clinic, Cardozo School of Law
Kids for College
KIND, Inc. (Kids in Need of Defense)
Kite's Nest
Korean Community Services of Metropolitan New York
Labor-Religion Coalition of NYS
LatinoJustice PRLDEF
Latinos Unidos of the Hudson Valley
Lawyers For Children, Inc.
Legal Aid Society of Nassau County
Legal Services NYC
Legal Services of the Hudson Valley
Legal Services Staff Association, NOLSW/UAW 2320
Long Island Immigrant Alliance
Long Island Wins
Lutheran Social Services of New York
Make the Road New York
Masa
MFY Legal Services, Inc.
MinKwon Center for Community Action
Monroe County Conflict Defender Office
Mount Sinai Beth Israel Victim Services
My Sister's Place
National Organization for Women New York
Neighborhood Defender Service of Harlem
New York City Anti-Violence Project (AVP)
New York County Defender Services
New York Legal Assistance Group
New York State Coalition Against Domestic Violence
New York State Youth Leadership Council
Northeast NY Coalition for Occupational Safety and Health (NENYCOSH)
NYCLU-Suffolk Chapter
Office of the Appellate Defender
OLA of Eastern Long Island
Prisoner Legal Services
Queens Law Associates
Regional Immigration Assistance Center, Hudson Valley Region
Regional Immigration Assistance Center, Region 2
Rockland Immigration Coalition

Rural and Migrant Ministry
Safe Against Violence
Safe Horizon
Safe Passage Project
Sanctuary for Families
Sauti Yetu Center for African Women and Families
SBK Social Justice Center Inc
Sosa Law
St. Vincent de Paul Legal Program, St. John's University School of Law
STEPS to End Family Violence
Sylvia Rivera Law Project
The Bronx Defenders
The Door's Legal Services Center
The Hispanic Coalition NY, Inc.
The Legal Aid Society
The Legal Aid Society of Rochester
The Legal Project
UAW Region 9A
Ulster County Defender
UnLocal, Inc.
Urban Justice Center
Violence Intervention Program
Wayne Action for Racial Equality
Wayne County Public Defender
WESPAC Foundation
Worker Justice Center of NY, Inc.
Youth Represent



June 29, 2017 New York City Council Committee on Courts and Legal Services jointly with the
Committee on Immigration
Testimony of Andrew Wachtenheim, Supervising Attorney

RE: Oversight—ICE Enforcement in New York City Courts

Thank you to the Committee for the opportunity to speak on this critical issue of ICE arrests in New York City Courts. I am a Supervising Attorney with the Immigrant Defense Project, which works to protect and expand the rights of those caught at the intersection of the criminal justice system and the immigration system. The Immigrant Defense Project (“IDP”) is a not-for-profit organization based in New York State. IDP is an expert in the intersection between federal immigration law and State criminal and family law, has been tracking and documenting federal immigration enforcement operations inside State courthouses. In addition to collecting detailed information on individual arrests and attempted arrests, IDP is a repository of information from a diverse coalition of organizations offering legal services and support to immigrant communities throughout the State.

Summary

Under President Trump, U.S. Immigration and Customs Enforcement (“ICE”) has begun to target State courthouses and scheduled court appearances for immigration arrests and enforcement operations. In the first six months of 2017, advocates have reported three times as many arrests or attempted arrests by ICE than were reported for all of 2016.

ICE uses the courts in several ways: to obtain information and otherwise confidential documents without subpoena, to identify individuals to arrest, and to ask State court staff to offer assistance. The consequence is widespread fear of accessing the courts in immigrant and mixed-status families and communities, as the testimony of many of today’s panelists will further illustrate. This chilling effect is also confirmed by statistics gathered through a recent statewide survey conducted by IDP of lawyers who work in the New York State court system (see immdefense.org/ice-courts-survey).

Because of ICE’s increased presence in New York State courts, a wide range of people are afraid to enter the courts. Survivors of domestic violence and other crime, witnesses, criminal defendants, people living in unsafe housing, people experiencing employment discrimination and exploitation, people who need to access the family courts for custody, visitation, child support, abuse and neglect, and PINS proceedings, This chilling effect on people’s confidence to safely participate in the court system is a serious threat to public safety and to the integrity of the New

York State court system. ICE has stated openly that it will not reduce arrests inside State courthouses, and will continue to arrest people attending court regardless if they are victims and witnesses.

To maintain safe access to and confidence in the court system, the State government must implement policies that restrict federal immigration enforcement inside the courts. Part of this response must include rules promulgated by the Chief Judge of the New York State Court of Appeals (“Chief Judge”). The New York State Constitution and Judiciary Law vest the Chief Judge with rulemaking authority to establish standard and administrative policies relating to the dispatch of judicial business. In addition, the Chief Judge holds an inherent authority to issue rules governing her court system, particularly when they concern the proper administration of justice. Examples of existing rules promulgated by a Chief Judge govern the prohibition on the disclosure of confidential information, issues of discrimination based on race and national origin, prohibitions on smoking, decorum, and behavior of the press. Rules also govern access to the courts, including grounds for excluding the public from a court proceeding.

Immigrant Defense Project (“IDP”) appreciates Chief Judge DiFiore’s public expression of concern over ICE’s presence in the New York State courts, and openness to productive conversation and exchange of information with those who are working directly with impacted communities. IDP is confident that Chief Judge DiFiore will take appropriate steps to protect access to justice for all New Yorkers, regardless of citizenship status.

Information Regarding ICE Operations

ICE is one of the country’s largest and best-funded federal law enforcement agencies. President Trump has now ordered ICE to almost triple its staff from 5,800 agents to nearly 16,000. He has also dramatically expanded the number of people targeted for deportation, largely abandoning the priority systems employed by past presidents in favor of a system that makes virtually any removable immigrant a target. This includes people who are undocumented, green card holders, asylees, and refugees.

Within New York State, ICE has vast access to State and local law enforcement databases and the information they maintain--data and identifying information submitted to New York’s Division of Criminal Justice Services in connection with background checks for a range of purposes (including job licenses), and fingerprint and biometric information obtained by local police and departments of correction. Even where State or local governments have enacted “sanctuary” policies that limit cooperation with federal immigration enforcement, ICE retains virtually unfettered access to fingerprints and biometric information, and the information collected by local law enforcement agencies.

To effectuate arrests, ICE agents may go to almost any location within the State, provided they comply with the restrictions imposed by the Constitution and the governing statutes and regulations. Courthouses are just one of many locations where ICE agents regularly conduct enforcement. In fact, courthouses represent a small fraction of ICE’s arrests in New York State, and their public statements that they depend on the practice to enforce the immigration laws is a

fallacy. Agents more frequently arrest people in their homes, workplaces, public spaces like sidewalks and outside airports. IDP has received reports of ICE arresting people at homeless shelters and supportive housing facilities. While official ICE policy “advises against” enforcement actions at a short list of specified “sensitive locations,” courthouses are not included, and ICE has outright rejected requests to add courthouses to its list of sensitive locations. Even at places ICE designates as “sensitive locations,” such as schools and churches, protection from arrest is uncertain. ICE has recently arrested individuals leaving a church-run hypothermia center and targeted a father who was dropping his children off at school. ICE has publicly stated that it will not hesitate to arrest crime victims and witnesses at court appearances, as confirmed by many of the stories you will hear today.

How Trump’s ICE Uses State Courthouses

To apprehend people who are generally regarded as vulnerable and protected by law and policy from apprehension in certain places. For example, ICE agents in Texas tracked a transgender woman from a domestic violence shelter to the court where she sought an order of protection against her abusive partner. In Manhattan, ICE agents tracked a defendant to criminal court, where they arrested her despite the substantial evidence offered by her lawyers (which ICE refused to accept) showing her to be a survivor of multiple incidents of rape and sexual assault, and suffering from significant mental health issues fully before the criminal court. In Queens, ICE attempted the arrest of a woman identified as a victim of human trafficking when she appeared in a human trafficking intervention court part.

To obtain personal, often sensitive identifying information and documents from OCA court staff. Prior to making an arrest, ICE often has an individual’s name but no photograph or evidence of immigration status. ICE may rely on OCA staff to pair names with faces. This was the case in multiple incidents reported to IDP. ICE depends on OCA staff to delay arraignments and other court appearances to facilitate an arrest, which happened in several cases. In a recent incident in Suffolk County, ICE called a State criminal court judge and directed him when to call a defendant’s case. ICE also relies on OCA to obtain information about court appearances that is not publicly available or in the law enforcement databases to which ICE has access. This is particularly true of the arrests in family court, where docket information is not publicly available in the same way as in criminal court.

To physically restrain people attending court. ICE relies on the cooperation of OCA staff to restrain people they seek to arrest. In several cases reported to IDP, OCA staff blocked a court litigant in a courtroom vestibule to enable ICE to take that person into custody. Court staff have also physically prevented defense counsel from accessing their clients while ICE questioned them.

ICE’s Practices Inside the State Courts Undermine Access to the Courts and Threaten Public Safety

A national survey documenting the threat to public safety created by ICE's presence in the State courts shows that 75% of advocates report that immigrant survivors of intimate partner violence are now concerned about going to court, and 43% of advocates have worked with clients who have dropped a civil or criminal case because of fear of ICE presence in courts. That survey is available at <http://www.tahirih.org/pubs/key-findings-2017-advocate-and-legal-service-survey-regarding-immigrant-survivors/>. This is consistent with a New York-specific survey of 255 lawyers and advocates working in 31 counties in New York State (available at immdefense.org/ice-courts-survey), which shows that, for example:

- 44 of the 255 advocates surveyed worked with immigrants arrested by ICE in New York State courts.
- 75% have worked with immigrants who have expressed fear of the courts because of ICE.
- Of those who 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; and
 - 48% have worked with immigrants who have failed to seek custody or visitation due to fear of ICE.
- 56% of housing court advocates have clients who have expressed fear of filing a housing court complaint due to fear of ICE.

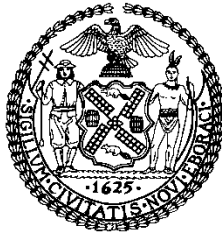
This chilling effect is reflected in data released by the police departments in Los Angeles and Houston showing dramatic decreases in the numbers of reported rapes and other violent crimes in among Latinos and Latinas. Attorneys General from five states, including New York, and the District of Columbia have spoken publicly about the diminished trust between community members, law enforcement, and the courts, and increased exposure to violence and other harm that results from the integration of federal immigration enforcement into the state law enforcement system.

Conclusion

ICE's enhanced presence in New York State courts and public promise that it will continue to track and apprehend even the most vulnerable litigants at their court appearances is a direct threat to public safety and to the integrity of the New York State court system. The New York State government, including the Chief Judge, must intervene to restore access to the courts for all New Yorkers, regardless of immigration status.

Courts and Legal Services Staff
Ze-Emanuel Hailu, Counsel
Casie Addison, Policy Analyst
Sheila Johnson, Finance Analyst

Immigration Staff:
Indiana Porta, Counsel



THE COUNCIL OF THE CITY OF NEW YORK

**BRIEFING PAPER OF THE
GOVERNMENTAL AFFAIRS DIVISION**

Matt Gewolb, Legislative Director
Rachel Cordero, Deputy Director, Governmental Affairs Division

COMMITTEE ON COURTS & LEGAL SERVICES

Hon. Rory Lancman, Chair

COMMITTEE ON IMMIGRATION

Hon. Carlos Menchaca, Chair

June 29, 2017

Oversight: ICE Enforcement in New York City Courts

I. Introduction

On June 29, 2017 the Committee on Courts and Legal Services, chaired by Council Member Rory Lancman and the Committee on Immigration, chaired by Council Member Carlos Menchaca, will hold a joint hearing to examine ICE enforcement in New York City courts. The Committees have invited representatives from Mayor's Office and various advocates, stakeholders and the public to testify.

II. Background

On February 9, 2017, Irvin Gonzalez, a transgender woman seeking a protective order against her abusive partner, was arrested by U.S. Immigration and Customs Enforcement ("ICE") agents in the El Paso County Courthouse.¹ Eyewitnesses, including Ms. Gonzalez's attorney, reported that there were up to six ICE agents inside the courthouse, and that the agents were likely acting on a tip from Ms. Gonzalez's abuser himself.² Ms. Gonzalez is not the only individual who ICE has recently apprehended in a courthouse. In February 2017, a 24 year old participant in the Deferred Action for Childhood Arrivals ("DACA") program, was arrested by ICE agents in a Phoenix, Arizona courthouse while awaiting retrial;³ in March 2017, a man in Austin, Texas was arrested by ICE agents when he showed up for a court appearance for two misdemeanor charges;⁴ and on June 16th, three ICE agents appeared at the Human Trafficking

¹ Slate, Is ICE Out of Control?, February 17, 2017, http://www.slate.com/articles/news_and_politics/jurisprudence/2017/02/ice_s_crackdown_is_beyond_aggressive_it_s_illegal.html.

² El Paso Times, ICE detains alleged domestic violence victim, February 15, 2017, <http://www.elpasotimes.com/story/news/2017/02/15/ice-detains-domestic-violence-victim-court/97965624/>.

³ Los Angeles Times, ICE agents make arrests at courthouses, sparking backlash from attorneys and state supreme court, March 16, 2017, <http://www.latimes.com/local/lanow/la-me-ln-ice-courthouse-arrests-20170315-story.html>.

⁴ My Statesman, ICE in Austin: Sheriff had released immigrant arrested at courthouse, March 3, 2017, <http://www.mystatesman.com/news/crime--law/ice-austin-sheriff-had-released-immigrant-arrested-courthouse/yMUgUP68VSFbgCxRdgG5uL/>.

Intervention Court in Queens, New York, where they arrested a woman who had come to the courthouse to check-in with a judge about her case.⁵

In New York, according to the Legal Aid Society, there have been 38 arrests and attempted arrests statewide since the beginning of 2017;⁶ in comparison, for the entirety of 2015 and 2016, the Immigrant Defense Project (“IDP”) recorded 20 arrests and attempted arrests statewide. Many of these arrests have targeted parents and minors, appearing in court for family matters or minor criminal charges. In Albany Family Court, for example, ICE staked out a mother who had appeared on a Persons in Need of Supervision petition for hours, arresting her after her proceeding finished. In Suffolk County, three ICE agents arrested a young man facing minor charges in the youth part of criminal court, while other agents arrested a father appearing in the Suffolk County Family Court for a visitation matter concerning his two young children. In New York City, ICE has made arrests in courthouses in all five boroughs, targeting immigrants in criminal court as early in a criminal court case as the arraignment process. Recently, ICE agents in plainclothes targeted immigrants in family court arresting a father waiting to appear for a child support hearing in Kings County Family Court.⁷ According to IDP, ICE agents are usually dressed in plainclothes, and in almost every reported instance, the agents refused to produce a judicial warrant, or even an administrative warrant, when defense counsel inquired about either.

⁵ WNYC, When ICE Shows Up in Human Trafficking Court, June 22, 2017, <http://www.wnyc.org/story/when-ice-shows-court/>.

⁶ Spectrum News NY1, Advocates Call for Federal Immigration to Get Out of State Courthouses, June 23, 2017, <http://www.ny1.com/nyc/all-boroughs/news/2017/06/22/immigration-advocates-push-back-against-ice-raids-after-queens-courthouse-incident.html>.

⁷ Immigrant Defense Project, Letter to Judges DiFiore and Marks, May 4, 2017, <https://www.immigrantdefenseproject.org/wp-content/uploads/Letter-to-Judges-DiFiore-and-Marks-05042017.pdf>.

III. Impact of ICE's Presence in Courthouses

Both locally and nationally, immigrants' rights groups and local law enforcement have seen immediate negative consequences as a result of this more aggressive ICE enforcement activity in courthouses. In a national survey, conducted by a coalition of national organizations, 78% of advocates report that immigrant survivors of intimate partner violence are now concerned about contacting law enforcement, while 43% have clients who have dropped a civil or criminal case due to fear of ICE arrests in courts.⁸ In Los Angeles, the city police chief has reported that sexual assault reports from the Latino community have dropped by a quarter in 2017, compared to the same period in 2016, and reports of domestic violence have decreased by almost 10%.⁹

In a NYC survey of immigrants, many expressed distinct fears of going to court because of ICE, including: "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," and "I should be able to go to court without having to be scared of getting arrested or deported." These fears may be well founded. On April 4, 2017, the Department of Homeland Security ("DHS") formally announced that it would use State courthouses to find and arrest immigrants who are witnesses and victims of crimes.¹⁰ "Just because they're a victim in a certain case does not mean

⁸ Tahirih Justice Center, 2017 Advocate and Legal Service Survey Regarding Immigrant Survivors, <http://www.tahirih.org/wp-content/uploads/2017/05/2017-Advocate-and-Legal-Service-Survey-Key-Findings.pdf>

⁹ The Guardian, Fearing deportation, undocumented immigrants wary of reporting crimes, March 23, 2017, <https://www.theguardian.com/us-news/2017/mar/23/undocumented-immigrants-wary-report-crimes-deportation>; <http://www.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html>.

¹⁰ The Washington Post, DHS: Immigration agents may arrest crime victims, witnesses at courthouses, April 4, 2017, https://www.washingtonpost.com/world/national-security/dhs-immigration-agents-may-arrest-crime-victims-witnesses-at-courthouses/2017/04/04/3956e6d8-196d-11e7-9887-1a5314b56a08_story.html?utm_term=.aa56d6652ada.

there's not something in their background that could cause them to be a removable alien," David Lapan, a Department of Homeland Security spokesman, has said.¹¹

The immigrant community's fears have been echoed by judges, attorneys, and local law enforcement officials nationwide. The most common concern has been that ICE's presence in courthouses not only generates fear of deportation, which dissuades voluntarily participation and cooperation in the justice system, but it also erodes trust and cooperation between the City's immigrant population and local law enforcement. Both, officials say, jeopardize public safety. The outcry against the presence of ICE in courthouses has been widespread, as have efforts by jurisdictions across the country to put a stop to this policy.

On March 16, 2017, Justice Cantil-Sakauye wrote a letter to Attorney General Jeff Sessions and DHS Secretary John F. Kelly requesting that ICE agents stop arresting immigrants at courthouses.¹² In the letter, Justice Cantil-Sakauye explained that courthouses are a vital forum for ensuring access to justice and protecting public safety, and that they should not be used as bait in the enforcement of immigration laws. Specifically, crime victims, victims of sexual abuse and domestic violence, witnesses who are aiding law enforcement, limited-English speakers, unrepresented litigants, and children and families all depend on courts to seek justice and protect their due process rights. By "stalking courthouses and arresting undocumented immigrants, the vast majority of whom pose no risk to public safety," the Justice wrote, ICE is endangering public trust and confidence in the California court system. In Los Angeles, for example, City Attorney Mike Feuer has made strong efforts to end ICE presence in courthouses, by joining the mayor of Los Angeles and the president of the Los Angeles City Council in

¹¹ *Id.*

¹² Chief Justice Tani G. Cantil-Sakauye, Supreme Court of California, March 16, 2017, http://newsroom.courts.ca.gov/internal_redirect/cms.ipressroom.com.s3.amazonaws.com/262/files/20172/Chief%20Justice%20Cantil-Sakauye%20Letter_AG%20Sessions-Secretary%20Kelly_3-16-17.pdf.

writing a letter to ICE and by offering public support to California Chief Justice Tani Cantil-Sakauye. In Orange County, Superior Court Presiding Judge Charles Margines took action by calling the deputy field officer at ICE's Southern California office to find out what ICE agents will and will not do in local courts.¹³

On April 6, 2017, the Mayor of Denver, Presiding Judge of the Denver County Court, City Attorney, District Attorney, and various Denver City Council members wrote a letter to ICE, urging ICE to make courthouses a "sensitive location." On that same day, Chief Justice Thomas A. Blamer of the Oregon Supreme Court wrote a letter to Attorney General Sessions and DHS Secretary Kelly, asking ICE to immediately cease immigration enforcement actions inside and in the immediate vicinity of Oregon's courthouses. On April 19, 2017, New Jersey Supreme Court Chief Justice Stuart Rabner wrote a letter to DHS Secretary Kelly, raising objections to the recent arrests of two individuals making routine appearances in New Jersey Superior Court.¹⁴ In his letter, the Chief Justice requested that ICE agents stop conducting these types of arrests, because courthouses must be viewed as a safe forum for all.¹⁵ On May 15, 2017, Chase Rogers, the Chief Justice of the Connecticut Supreme Court, wrote a letter to U.S. Attorney General Jeff Sessions and DHS Secretary John F. Kelly, denouncing ICE arrests taking place in courthouses.¹⁶ Specifically, he asked ICE agents to refrain from taking custody of individuals and expressed concerns that such arrests may cause litigants, witnesses and interested parties to view courthouses as places to avoid. Finally, on June 16, 2017, Rhode Island Chief Justice Paul

¹³ The Orange County Register, Some Orange County judges worry ICE presence might scare undocumented immigrants away from court, May 8, 2017, <http://www.ocregister.com/2017/05/08/some-orange-county-judges-court-workers-worry-that-courthouse-presence-of-immigration-agents-is-steering-some-people-away/>.

¹⁴ NJ.com, N.J.'s chief justice asks ICE to stop arresting immigrants at courthouses, April 20, 2017, http://www.nj.com/politics/index.ssf/2017/04/nj_top_judge_asks_ice_to_stop_arresting_immigrants.html.

¹⁵ Chief Justice Stuart Rabner, Supreme Court of New Jersey, April 19, 2017, <https://www.documentcloud.org/documents/3673664-Letter-from-Chief-Justice-Rabner-to-Homeland.html#document/p1>.

¹⁶ <http://www.ncsc.org/Topics/Courthouse-Facilities/Improving-Relationships-with-ICE/ICE.aspx>

A. Suttell issued a public statement stressing that courts are places where everyone should be treated with respect, dignity and fairness and went on to say that, when immigrant communities fear going to court, the court's mission of justice is compromised.¹⁷

Each of these letters echoes similar concerns and content, namely, that ICE's presence in courthouses creates heightened fear in immigrant communities, and negatively impacts the justice system by discouraging victims from reporting crimes, witnesses from coming forward, and individuals from appearing in court. By effectively denying immigrants access to justice, judges, attorneys, and officials fear that ICE's presence in courthouses is eroding the public's confidence in the justice system, and impeding due process for these individuals and communities.

IV. The New York State Office of the Court Administrator ("OCA")

The New York State Office of the Court Administrator ("OCA") is the administrative arm of the New York State Unified Court System ("UCS"), and falls under the direction of the Chief Judge of the State of New York, the Hon. Janet DiFiore. The Chief Judge serves as both Chief Judicial Officer of the State, and the Chief Judge of the Court of Appeals.¹⁸ The Chief Judge establishes Statewide standards and administrative policies, after consulting with the Administrative Board of the Courts and receiving approval by the Court of Appeals. Executive officers of the OCA are responsible for the day-to-day operations of courts, including trial-level and specialty courts, and work with Administrative Judges in New York's courts to allocate resources and meet their needs and goals.¹⁹

OCA's current policy is "to permit law enforcement agencies to act in the pursuit of their official legal duties in New York State courthouses, provided that the conduct in no way disrupts

¹⁷ <http://www.ncsc.org/Topics/Courthouse-Facilities/Improving-Relationships-with-ICE/ICE.aspx>

¹⁸ NYCourts.gov, Office of Court Administration, <https://www.nycourts.gov/Admin/oca.shtml>.

¹⁹ NYCourts.gov, Office of Court Administration, <https://www.nycourts.gov/admin/execofficers.shtml#younkin.s>.

or delays court operations, or compromises public safety or court decorum.”²⁰ In furtherance of this policy, OCA protocols require representatives of law enforcement agencies who enter a New York State Courthouse to take a person into custody, without a warrant,²¹ to identify themselves to court personnel and disclose any enforcement actions they may take inside the courthouse. Court personnel are required to immediately pass this information to their supervisor, who must inform the judge that such representatives are in the courthouse and intend to arrest a participant in a case before the judge. Every arrest made in the courthouse under these circumstances must be documented and reported by court personnel.²²

V. Conclusion

The escalation of ICE enforcement at courthouses nationally breaks the hard earned-trust between immigrant communities and local law enforcement and courts. Without this trust, immigrant defendants may forego their right to a fair and impartial hearing, crime victims may chose not to report crimes or withdraw complaints, and witnesses may decline to assist in the investigation or prosecution of a crime – all out of fear that their mere presence in the courthouse puts them at increased risk of being arrested by ICE and deported. Through this oversight hearing, the Committees hope to learn more about ICE’s disruptive enforcement in New York City courts and community recommendations on how to minimize their presence in courts, as well as maintaining the immigrant community’s trust in the judiciary.

²⁰ OCA Memorandum, Policy and Protocol Governing Activities in Courthouses by Law Enforcement Agencies, April 26, 2017.

²¹ Issued by a UCS judge, authorizing them to take such person into custody.

²² OCA Memorandum, Policy and Protocol Governing Activities in Courthouses by Law Enforcement Agencies, April 26, 2017.

STATE OF NEW YORK
OFFICE OF
COURT ADMINISTRATION



MEMORANDUM

TO: All Chiefs and Majors

FROM: Chief Michael Magliano 

DATE: April 26, 2017

**Office of the Chief Administrative Judge
New York State Unified Court System**

**Policy and Protocol Governing
Activities in Courthouses by Law Enforcement Agencies**

It continues to be the policy of the Unified Court System to permit law enforcement agencies to act in the pursuit of their official legal duties in New York State courthouses, provided that the conduct in no way disrupts or delays court operations, or compromises public safety or court decorum.

The following protocol shall apply to representatives of law enforcement agencies who enter a New York State courthouse to take a person into custody but do not have a warrant issued by a judge of the Unified Court System authorizing them to do so:

- Upon entry to a courthouse, law enforcement officials covered by this protocol shall identify themselves to UCS uniformed personnel, and state their specific law enforcement purpose and the proposed enforcement action to be taken. The UCS officer shall immediately transmit this information to an appropriate supervisor.
- The supervisor shall inform the judge if a law enforcement agent covered by this protocol is present in the courthouse with the intent of arresting or otherwise taking into custody a party or other participant in a case before the judge.
- Absent leave of the court under extraordinary circumstances (e.g., extradition orders), no law enforcement action may be taken by a law enforcement agency in a courtroom.
- UCS uniformed personnel shall file an Unusual Occurrence Report for each law enforcement action taken in a New York State courthouse by a law enforcement agency covered by this protocol.
- UCS uniformed personnel remain responsible for ensuring public safety and decorum in the courthouse at all times.

This policy and protocol is subject to modification based on changed circumstances.

FOR IMMEDIATE RELEASE:

***** PRESS RELEASE *****



**Elected Officials, Advocates, and Public Defenders Gather to Introduce
Groundbreaking New Bill to Protect Immigrants from Unlawful ICE Arrests
at Courthouses**

***The Protect Our Courts Act would prohibit federal immigration agents from making
arrests without a judicial warrant and is the first-of-its-kind nationally***

NEW YORK – June 5, 2018 – New York Assemblymembers Michaelle Solages, Carmen De La Rosa, Inez Dickens, Councilmember Carlos Menchaca, District Attorney Cy Vance Jr., advocates, and public defenders convened today in NYC and Albany to support the introduction of the Protect Our Courts Act ([A11013](#)). The groundbreaking new bill would prohibit Immigration & Customs Enforcement (ICE) agents from making civil arrests at New York State courthouses without a judicial warrant or court order. The protection extends beyond courthouse walls, and applies to arrests of individuals going to or leaving a court as well. To date, the bill offers the most comprehensive regulations on ICE courthouse arrests in the U.S.

Sponsored by Assemblymember Michaelle Solages, the Protect Our Courts Act upholds a pillar of our democracy – equal access to our judicial system, regardless of immigration status – and will protect any party in a court proceeding in New York State, including victims, witnesses, and defendants attending a variety of courts, such as family and housing court.

Since the beginning of 2017, there has been an unprecedented 1200% increase in ICE courthouse arrests across New York State, effectively disrupting court functions, sowing fear in immigrant communities seeking justice, and undermining public safety. In fact, a statewide [survey](#) conducted by the Immigrant Defense Project found that more than two-thirds of advocates working with survivors of violence said they have clients who have decided not to seek help from the courts due to fear of ICE. Another [report](#) from the ACLU found that courthouse arrests were deterring immigrants from reporting crimes.

New York is leading the way in providing meaningful protection to its immigrant communities. In April, Governor Andrew Cuomo signed an Executive Order banning ICE arrests in state-run buildings without a judicial order. The Protect Our Courts Act follows suit by helping ensure access to courts for all New Yorkers.

To learn more about courthouse raids, visit www.immigrantdefenseproject.org/ice-courts/. For an FAQ on the bill and stories of people impacted, visit <https://www.immigrantdefenseproject.org/ice-courts-nys/>. Photos available upon request.

Assemblymember Michaelle C. Solages, said:

“Residents of our State rely on the court system to address important legal issues that affect our communities. All New Yorkers regardless of income, race, religion or immigration status should have the opportunity to use the court system to advocate for themselves and their interests. Federal immigration agents searching and detaining immigrants inside our courts, deters individuals from interacting with the court system which in turns has a chilling effect on our rights. I join the Immigrant Defense Project, SEIU 32BJ and all other advocates to ensure that our courts remain safe for all New Yorkers.”

Assemblymember Ron Kim, said:

“While President Donald Trump and ICE continue to target and punish law abiding immigrants, here in New York, we stand strong together to protect all New Yorkers. I look forward to working closely with my colleagues to get ICE out of our courts. I applaud the Immigrant Defense Project, and Assemblymember Michaelle Solages efforts to bring this timely and meaningful legislation to protect the integrity of our court system in New York.”

Assemblymember Harvey Epstein, said:

“Emboldened by Donald Trump’s xenophobia, ICE has accelerated the contemptible tactic of courthouse arrests, which pervert the course of justice for immigrant and undocumented New Yorkers and have a chilling effect on victims and witnesses attending proceedings. New Yorkers, regardless of immigration status, should not be afraid to seek justice.”

Assemblymember Dan Quart, said:

“ICE has no place in our courts -- their presence severely threatens equal access to justice,” said Assemblymember Dan Quart. “Everyone, regardless of their immigration status, should feel safe to seek help from the legal system. New York’s state court system should not be used as a tool by ICE agents to arrest and deport people. As federal authorities ramp up their enforcement of deportation orders, we must work together on the state level to ensure immigrants are not fearful of entering a courtroom.”

Senator Marisol Alcantara, said:

“The use of ICE agents to engage in courthouse arrests is a damaging and dreadful act. It is damaging and dangerous to our immigrant communities, as local law enforcement needs the cooperation and engagement of those immigrant communities to keep us all safe. The federal governments attacks on immigrants does not reflect New York values, which are embodied by the Statue of Liberty, which calls for America to be a welcoming beacon for those yearning to breathe free. ICE agents who have neither a judicial warrant, nor court order, should not be permitted to make court house arrests in New York State.”

Public Advocate Letitia James, said:

“Safe and universal access to the court of law is key to a fair, democratic society and a basic requirement in the vindication of individual rights. ICE’s indiscriminate campaign of courthouse arrests puts all New Yorkers at risk and goes against everything we stand for. The Protect Our Courts Act is a thoughtful and commonsense update of longstanding Civil Rights Law, made necessary by an unprecedented attack on our immigrant communities and our judicial system. I thank Assembly Member Solages and the Immigrant Defense Project for their leadership, and look forward to working with them as we continue this fight against unjust courthouse arrests.”

NYC Councilmember, Chair Immigration Committee Carlos Menchaca, said:

“I stand in support of the Protect Our Courts Act and the leadership of Assemblywoman Michaelle Solages and community groups to ban ICE out of our courthouses. ICE must go through the rigorous process of obtaining a judicial warrant as required under our Constitution. In a dangerous move, our New York City Mayor Deblasio has decided that some immigrants are worthy of legal representation and some are not and Chief Judge Janet Difiore has refused to act even though she has the authority to ban ICE from disrupting

judicial proceedings. Both need to understand that they are standing in the way of justice and facilitating the emerging deportation machine President Trump has been setting up since day one in office.”

Manhattan District Attorney Cy Vance, Jr. said:

“Deporting New Yorkers who show up to court is antithetical to our values and detrimental to our public safety. The fear of unjust deportation stops crime victims from coming forward, and stops defendants from responsibly attending their court dates. I thank Assembly Member Solages for her work on this bill and urge the legislature to pass it immediately, because all New Yorkers have the right to safely access our courts, whether they are documented or undocumented under federal law.”

Brooklyn District Attorney Eric Gonzalez, said:

“I have been calling on ICE for months to treat our courthouses as sensitive locations and to stop arresting people inside those buildings. These actions jeopardize public safety by instilling fear in immigrant communities, which makes victims and witnesses afraid to come forward to report crimes, and unable to get justice. Keeping Brooklyn safe and strengthening community trust in law enforcement are my top priorities as Brooklyn DA, and ICE’s actions undermine those important goals. I support the efforts to end this misguided practice.”

Bronx District Attorney Darcel D. Clark, said,

“I endorse the Protect Our Courts Act because, as the Bronx District Attorney, I encourage people to report crimes so that they can be processed through the criminal justice system. If a victim or witness who is essential to the prosecution of a heinous case is arrested by Immigration and Customs Enforcement when he or she shows up at the courthouse, we cannot go forward with the case, resulting in cases being dismissed and dangerous individuals being released back into the community. This could have a chilling effect on getting witnesses to assist in our cases, potentially resulting in a threat to public safety. We need everyone to cooperate in our fight to keep the streets of the Bronx safe.”

Brooklyn Borough President Eric L. Adams, said:

“ICE’s overaggressive behavior in and around our courts has been counterproductive to public safety in our city and our state. I am grateful to Assembly Member Solages, our public defenders, and the broad coalition of community advocates who are putting the public’s safety first as they put the Protect Our Courts Act forward.”

Bronx Borough President Ruben Diaz Jr., said:

“ICE’s presence in the New York State Court System has a chilling effect on justice. The agency’s presence in our courts is preventing the fair adjudication of cases within our system, and is an affront to the concept of impartial justice. I support Assembly Member Solages efforts to remove ICE from the New York State Court System, and I will continue to work with immigration advocates, attorneys and others to protect our immigrant community from needlessly splitting up families through detention and deportation.”

Alisa Wellek, Executive Director of the Immigrant Defense Project, said:

“For too long, ICE has been allowed to roam free in our courthouses and use them as hunting grounds for immigrants. The Protect Our Courts Act is a groundbreaking bill that will help ensure equal access to courts and protect the constitutional rights of all New Yorkers. We applaud Assembly Member Solages for taking this courageous stance in defense of our courts.”

Héctor Figueroa, President of 32BJ SEIU, said:

“We are heartened by the bill introduced by Assemblymember Michael Solages to put an end to the presence of ICE agents in courthouses. Instead of serving justice, increased and aggressive ICE enforcement in and near courtrooms denies justice to victims of domestic violence and of violent crimes, and terrorizes

witnesses of crimes into staying silent. This doesn't just hurt immigrants, it hurts all of us and makes us less safe."

Judge Judy Harris Kluger, Executive Director of Sanctuary for Families, said:

"At Sanctuary for Families 75% of the gender violence and sex trafficking survivors we serve are immigrants. Our vulnerable clients rely on the courts for orders of protection, child custody and support and are often witnesses in criminal cases against their abusers. Yet, the very presence of ICE in our courthouses and the threat of detention and deportation deters many of them from ever coming to court and seeking the protections that are rightfully theirs. We applaud Assemblywoman Solages for crafting this measure and urge all of our legislators and Governor Cuomo to make sure this measure becomes law before end of session."

Juan Cartagena, President and General Counsel of LatinoJustice PRLDEF, said:

"The sanctity of our courts must be maintained in order to ensure that our justice system is not hijacked by fear. ICE officers lurking in the shadows of our courts are like vultures seeking prey who will pounce at the sight of dark skin complexion. LatinoJustice has been fighting for immigrants' rights in the courts and in the streets for decades. We applaud the bill introduced by Assembly Member Solanges and call upon the State Senate and the Governor to join their State Assembly colleagues to take prompt legislative action to ensure that ICE is barred from making arrests in our courts unless they have a judicial warrant. The safety of our communities depends on every individual's ability to access our judicial system."

Steven Choi, Executive Director of the New York Immigration Coalition, said:

"ICE's increasing presence in our courthouses is a Trump tactic to instill fear in immigrant communities - and it undermines the very integrity of our justice system. America will not be safer or greater if people cannot come forward to report crimes, bear witness at trial, and seek the protection of the law, for fear of deportation. New York State should require ICE to get nothing less than a full judicial warrant before they try to use our courts to do ICE's dirty work. I applaud Assemblywoman Michaelle Solages for introducing this vital bill and urge the Legislature to take action to ensure every New Yorker has equal access to justice."

Tina Luongo, Attorney-in-Charge of the Criminal Defense Practice at The Legal Aid Society, said:

"ICE's presence in our courts undermines our ability to represent our clients and safeguard their constitutional rights," "Immigrants, both people who are accused and witnesses, are terrified to appear in court knowing that ICE is indiscriminately targeting anyone who's not a U.S. citizen. Enough is enough. We laud Assembly Member Michaelle C. Solages for introducing this important legislation that addresses a crisis that has plagued our courts since January 2017."

Lisa Schreibersdorf, Executive Director of Brooklyn Defender Services, said:

"ICE's increasing arrests and intimidation of our immigrant clients in and around our courthouses has compromised the administration of justice. If the people we represent, as well as witnesses and victims of crimes, cannot safely appear in court to participate in the legal process then the integrity of the whole system is undermined. We strongly support the Protect Our Courts Act, legislation introduced by Assembly Member Michelle Solages to end ICE arrests without judicial warrants in our courts."

Sarah Deri Oshiro, Managing Director of the Immigration Practice of The Bronx Defenders, said:

"The presence of Immigration Customs Enforcement (ICE) officers in our courthouses has had a chilling effect on the ability of people to seek justice in our courts. We applaud Assemblywoman Solages for introducing this piece of legislation, which will be an important step towards ensuring that our immigrant communities can enjoy the full protections of our judicial system."

Anne Erickson, President and CEO of Empire Justice Center, said:

“Empire Justice Center applauds bill sponsor, Assemblymember Michaelle Solages, and the many co-sponsors of the Protect our Courts Act for taking steps to ensure that immigrant families in New York have their day in court. Everyday, our attorneys represent undocumented immigrants who must balance the fear of being torn away from their families, without due process, with the responsibility of showing up in court like any other New Yorker. It is in every New Yorker’s interest to protect the integrity of our state’s court processes and guarantee access to justice for all, as required in our state constitution. Passage of this bill will send a message that New York cares for its people and for our values.”

Luis Bautista, Staff Attorney at Make the Road New York, said:

“ICE is seeking every tool at its disposal to tear apart immigrant families, including stalking them in and around courthouses. We support the Protect Our Courts Act because it will protect and safeguard communities across New York State from ICE's reckless practices at the courts, while guaranteeing equal and safe access to New York State Courts for all.”

Evan Bernstein, New York Regional Director of the Anti-Defamation League, said:

“ADL welcomes the introduction of the Protect Our Courts Act (A11013), which would ensure equal access to our state courthouses, regardless of immigration status. We remain deeply concerned about the escalation of Immigration and Customs Enforcement (ICE) enforcement in New York state courthouses. The practice has a chilling effect and denies vulnerable victims and individuals access to justice by deterring them from contacting authorities and accessing courts when needed, such as in the event of a hate crime. This legislation would represent a significant step in ensuring that all community members, regardless of immigration status, can access the justice system without fear of deportation.”

Karen Freedman, Executive Director, Lawyers For Children, said:

“Every day thousands of vulnerable children seek justice in our courts and depend on them to provide safety from violence and abuse. This bill is critical in ensuring that all New Yorkers can access justice without fear. We join a wide coalition of advocates in calling on the New York State Legislature to demonstrate our state’s leadership and values, and pass the Protect our Courts Act.”

Andrea Callan, Program Director at Worker Justice Center of New York, said:

“New York’s courthouses should not be a place where our immigrant residents fear going because they are concerned that they will be arrested by federal immigration authorities as a consequence. It is crucial that we ensure that courthouses are safe and accessible for all New Yorkers to conduct their judicial business, whether that be serving as a witness, securing a court order for one’s own protection, or utilizing our court system to remedy any number of other grievances for which a person may petition the court. Threats of federal immigration enforcement action at our state’s courthouses serves to further push our immigrant neighbors into the shadows and deny access to the services and protections only our courts can provide. WJCNY fully supports and encourages the passage of Assembly bill 11013.”

Khalil A. Cumberbatch, Associate Vice President of Policy of The Fortune Society, said:

“The Fortune Society applauds the courageous actions of immigrant advocates, public defenders, and elected officials, especially Assembly Member Michaelle Solages, who seek to protect immigrants in state court buildings from warrantless arrest by Immigration and Customs Enforcement officers. At the very least, ICE in the courthouse interrupts the legal and due processes. At worst, it becomes an out-and-out threat to justice. Immigrants seeking protection from the court, those who are victims or witnesses, and those who go to court to prove their innocence should be able to enter the courthouse without fear of immigration-related jeopardy. Knowing first-hand the harm that immigration detention and the threat of deportation can do to a family, I am proud to stand with this coalition and demand an end to this injustice.”

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FOR IMMEDIATE RELEASE

May 9, 2018

Contact:
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650-814-0565
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***NYC Councilmembers Lancman, Menchaca, and Moya Join
Public Defenders and Advocates to Demand Chief Judge
DiFiore Eject ICE from New York's Courthouses***

***Participants Called on DiFiore to Follow Gov. Cuomo's Lead and
Prohibit ICE Arrests Without Judicial Warrants***

(New York, NY) – Today, NYC Council Criminal Justice System Committee Chair Rory Lancman, Immigration Committee Chair Carlos Menchaca and Councilmember Francisco Moya joined public defenders, the Immigrant Defense Project (IDP), and other advocates on the steps of City Hall to call on New York State Chief Judge Janet DiFiore to prohibit civil immigration arrests in all courthouses unless agents present judicial warrants.

Last week, Governor Cuomo issued an Executive Order prohibiting warrantless arrests in all buildings owned or leased by agencies and authorities under his executive control, but courthouses are governed by the judicial branch and justice requires urgent action from Chief Judge DiFiore. In the midst of a sharp uptick in State courthouse arrests, each passing week of silence by the Chief Judge means New Yorkers are deprived of their day in court. **According to IDP, there have been 52 incidents of courthouse arrests and attempted arrests this year alone, a 60% increase over the previous year.** Chief Judge DiFiore must act to show the immigrant community that New York's courts are a safe place for all New Yorkers, including people accused of crimes, victims, and witnesses.

Rory Lancman, NYC Council Criminal Justice System Committee Chair, said:

"ICE's enforcement activity in our courts is frightening victims, litigants, witnesses, and defendants away from participating in the peaceful and orderly resolution of civil disputes and criminal charges. Our system of justice is being undermined, making all of us less safe, and our society less fair. We must ensure that our justice system is accessible to all, and that begins with getting ICE out of our courts."

Lisa Schreibersdorf, Executive Director of Brooklyn Defender Services, said:

"ICE's increasing use of unlawful arrests and intimidation of our immigrant clients in and around our courthouses have compromised the administration of justice. If the people we represent, as well as witnesses and victims of crimes, cannot safely appear in court to participate in the legal process then the integrity of the whole system is undermined. This situation is intolerable. Something must change, and it must change now. We join in Governor Cuomo's call to get ICE out of state buildings and urge Chief

Judge Janet DiFiore and the Office of Court Administration to act to ensure the fair administration of justice in all of our state courts.”

Tina Luongo, Attorney-In-Charge of the Criminal Defense Practice at The Legal Aid Society, said:

“ICE’s presence in our courts undermines our ability to represent our clients and safeguard their Constitutional rights. Immigrants, both people who are accused and witnesses are terrified to appear in court, knowing that ICE is indiscriminately targeting anyone who’s not a US citizen. After detaining our clients through warrantless arrests, ICE has a pattern and practice of failing to produce these individuals for subsequent criminal court hearings. And having an open criminal case prejudices our clients’ ability to seek relief from removal immigration court.”

Lee Wang, Senior Staff Attorney at Immigrant Defense Project, said:

“So far in 2018, we've had 52 reports of ICE arrests and attempted arrests across New York State courthouses. That's a 60% increase from the same time period last year. This alarming proliferation of arrests continue the trampling of immigrants’ rights and undermining the promise of sanctuary in NY. Immigrants seeking justice in the criminal, family, and civil courts should not have to fear for their freedom when doing so. We look forward to working with the Chief Judge and state legislators to end ICE's interference with our judicial system and work towards a true vision of safety and justice.”

Natalia Aristizabal, Co-Director of Organizing of Make the Road New York, said:

"The presence of federal immigration agents (ICE) in the courts over the past few months has made our community feel unsafe when they attend their court appointments. It is not fair for our community to be attacked outside of state courts, and that a place of justice becomes a place of family separation."

Steven Choi, Executive Director of the New York Immigration Coalition, said:

“ICE's increasing presence in our courthouses is a Trump tactic to instill fear in immigrant communities - and it undermines the very integrity of our justice system. America will not be safer or greater if people cannot come forward to report crimes, bear witness at trial, and seek the protection of the law, for fear of deportation. New York State should require ICE to get nothing less than a full judicial warrant before they try to use our courts to do ICE's dirty work. Chief Judge DiFiore must take action to ensure every New Yorker has equal access to justice.”

Susanna Saul, Managing Attorney of the Immigration Practice at Her Justice, said:

“Her Justice represents undocumented immigrant survivors of intimate partner violence and other forms of gender-based violence seeking safety through the courts and immigration systems. Our clients seek custody, child support and orders of protection for themselves and their children. ICE presence in the courts has caused a nationwide decrease in undocumented immigrant victims coming forward to report crimes or seek relief in the court system. We support all efforts to remove ICE presence in the courts without a judicial warrant.”

Evangeline M. Chan, Director, Safe Horizon Immigration Law Project, said:

“Forty years ago, Safe Horizon got its start by creating safe, supportive settings in the Brooklyn Criminal Court for victims and witnesses to receive assistance and guidance. Today, we continue to work to remove obstacles to justice for New Yorkers impacted by violence and abuse. Unfortunately, the steady presence of ICE officers within courthouses has had a chilling effect on victims and witnesses, deterring

them from seeking justice, and sends the message that participating in the judicial system could place them at risk of detention or deportation. We strongly urge the Chief Judge to prohibit ICE from conducting immigration enforcement actions within our courthouses.”

Karen Freedman, Executive Director, Lawyers For Children, said:

“The number of courthouse arrests should be alarming to anyone who cares about public safety, our rule of law and access to justice. Every day thousands of vulnerable children seek justice in our courts and depend on them to provide safety from violence and abuse. We call on the Chief Judge to demonstrate her leadership and ensure that all New Yorkers can freely access our justice system by prohibiting ICE from making courthouse arrests without a judicial warrant.”

Beth Goldman, President and Attorney-in-Charge of the New York Legal Assistance Group, said:

“As advocates who work to protect and defend the rights of New Yorkers in courts across the City, NYLAG believes that it is vital for our clients to feel safe when they walk through the courthouse door. The presence of ICE in the courtroom silences immigrant communities, depriving them of due process under the law and undermining the sanctity of our court system. Requiring ICE to obtain judicial warrants prior to engaging in enforcement activities in our courthouses is necessary to ensure that the power of our laws and systems are not degraded and that our courts remain a safe place for individuals to come forward and be heard.”

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June 29, 2017

Contact:

*****FOR IMMEDIATE RELEASE*****

IDP Unveils Survey Detailing Statewide Impact of ICE Courthouse Raids on Immigrants Seeking Justice

ICE Raids Deterring Domestic Violence Survivors, Tenants and others from Securing Protection and Services Provided by NYS Courts

NEW YORK – The Immigrant Defense Project (IDP) released the results of a statewide survey this morning detailing the impact of Immigration and Customs Enforcement (ICE) raids at courthouses on immigrants seeking justice, protections and services provided by New York State's court system. IDP collected 225 responses from attorneys and advocates who work with immigrants and family members of immigrants as part of their practice over a two-week period.

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 the state including all five counties of New York City; Westchester, the Capitol Region, Western and Central New York.

This survey comes in response to recent ICE courthouse raids that have proliferated under President Donald Trump and escalated in recent weeks including the arrest of three individuals in Queens on June 16, 2016 and the attempted arrest of a young woman appearing in Queens Human Trafficking Intervention Court.

KEY FINDINGS:

- 74% have worked with immigrants who have expressed fear of the courts because of ICE
- 45% have worked with immigrants who have either failed to file a petition or withdrawn a petition due to fear of encountering ICE in the courts
- 29% have worked with immigrants who have failed to appear in court due to fear of ICE
- 67% of advocates working with survivors of violence have had client who decided not to seek help from the courts due to fear of ICE

- 50% have worked with immigrants who are afraid to go to court because their abusive partners have threatened that ICE will be there
- 56% have clients who have expressed fear in filing a housing court complaint due to fear of ICE

“The sobering results of a recent survey of attorneys and advocates that serve New York’s immigrant communities reveal a clear truth – for the safety of our city as a whole, ICE must cease immigration enforcement operations in state courthouses,” said **New York City Council Speaker Melissa Mark-Viverito**. “The distrust created by ICE presence in the courts has a detrimental impact on immigrant New Yorkers’ ability to access justice. When service providers report that three-quarters of their clients fear appearing in court – in any capacity - due to the risk of ICE arrests, and almost seventy percent of domestic violence survivors chose not to seek justice in the courts for the same reason, it undeniably proves that ICE involvement in the court system has a devastating impact on public safety. I thank the coalition of community organizations who organized this survey, and will certainly look to it for insight as we work toward addressing this pressing issue.”

"Everyone who cares about the integrity of our justice system should be alarmed by these findings. ICE's enforcement activity in our courts is frightening victims, litigants, witnesses, and defendants away from participating in the peaceful and orderly resolution of civil disputes and criminal charges. Our system of justice is being undermined, making all of us less safe, and our society less fair. ICE must immediately designate our courts as 'sensitive locations' where people can come and go without fear of deportation,” said **Council Member Rory Lancman, Chair of the Council’s Committee on Courts and Legal Services**.

“Public trust in our justice system is broken when immigration enforcement operates in or near court locations. People who fear for their personal safety avoid reporting crimes, participating in investigations, and entering courts. A recent Immigrant Defense Project survey of immigration attorneys and advocates proves how justice and public safety are degraded when ICE targets vulnerable people at courthouses. The New York State Office of Court Administration should take immediate steps to prohibit access by ICE enforcement agents. This is especially important for survivors of human trafficking, domestic violence, and sexual assault who should never face the threat of immigration detention as they seek justice,” said **Council Member Carlos Menchaca, Chair of the Council’s Committee on Immigration**.

“These findings show that ICE courthouse raids are depriving people from accessing justice, protections and services afforded by the courts,” said **Tina Luongo, Attorney-In-Charge of the Criminal Practice at The Legal Aid Society**. “Courthouses must be safe locations where people, especially immigrants, can exercise basic and fundamental legal rights. Freewheeling ICE courthouse raids threaten these principles, and they obstruct our laws and due process. We need a statewide solution to these raids immediately.”

“At Her Justice, we know that the presence of ICE in the courts has a chilling and rippling effect on the most vulnerable of our clients, said Executive Director Amy Barasch. The results of this survey unfortunately confirm what our attorneys have heard from clients. In one recent example,

a client whose order of protection had just expired, was burglarized but she was afraid to go to court to file for a new order of protection. No one should be afraid to seek help,” **said Amy Barasch, Executive Director of Her Justice.**