

# The New York Protect Our Courts Act: Model Legislation to Regulate ICE Arrests at State Courts



IMMIGRANT  
DEFENSE  
PROJECT

STATE OF NEW YORK

11013--A

IN ASSEMBLY

May 30, 2018

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Solages, Crespo, Kim, Niou, Barron, Davila, De La Rosa, Dickens, Epstein, Espinal, Fernandez, Hevesi, Hyndman, Jaffee, Jean-Pierre, Lentol, Mosley, O'Donnell, Pichardo, Pretlow, Ramos, Rozic, Seawright, Weprin, Williams, Wright, Lavine, Gottfried) -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil rights law and the judiciary law, in relation to protecting certain interested parties or people from civil arrest while going to, remaining at, or returning from the place of such court proceeding

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. This act shall be known and may be cited as the "protect
- 2 our courts act".
- 3 § 2. The civil rights law is amended by adding a new section 28 to
- 4 read as follows:
- 5 § 28. Civil arrest; certain locations. 1. A person duly and in good
- 6 faith attending a court proceeding in which such person is a party or
- 7 potential witness, or a family or household member is a party or poten-
- 8 tial witness, is privileged from civil arrest while going to, remaining
- 9 at, and returning from, the place of such court proceeding, unless such
- 10 civil arrest is supported by a judicial warrant or judicial order
- 11 authorizing such civil arrest.
- 12 2. It is a contempt of the court and false imprisonment for any person
- 13 to willfully violate subdivision one of this section, or an order of the
- 14 court issued pursuant to section four-a of the judiciary law, by execut-

Under President Trump's leadership, U.S. Immigration and Customs Enforcement (ICE) has embraced a dangerous practice of raiding state (and some federal) courthouses in search of immigrants to arrest, detain, and deport. New York's courts have been some of the hardest hit, seeing a 1200% increase in courthouse arrests from 2016 to 2017, and an even greater escalation in the first half of 2018. Impacted individuals and communities, lawyers, judges, prosecutors, labor unions, and anti-violence advocates have loudly decried these raids, citing harmful barriers to access to courts and services for defendants, witnesses, victims, and other litigants, threats to public safety, and the legal and moral underpinnings of our court system. The Immigrant Defense Project, as part of a statewide ICE Out of Courts Coalition, has spearheaded the campaign in New York State to restrict ICE's unlawful civil arrest practice.

In early June 2018, the New York State legislature responded to these concerns by introducing the Protect Our Courts Act (A.11013/S.08925), drawing from IDP's legal research and analysis, developing one of the most protective pieces of state or local legislation in the country to respond to and impose legal restrictions on federal civil immigration arrests of individuals who are attending court. We are sharing this information to encourage legislators and advocates in other jurisdictions to take similar action, using New York's bill for guidance.

### **Summary of the Protect Our Courts Act**

The Protect Our Courts Act will place significant restrictions on civil arrests of those attending court by:

- Declaring unlawful the civil arrest of an individual attending a court proceeding while going to, remaining at, and returning from court, absent a judicial warrant or court order by codifying a [long history of judicial decisions](#) prohibiting the civil arrest of those attending court. The protection includes parties, potential witnesses, and family or household members of a party or potential witness. This provision does not narrow any existing immunity from civil arrest.
- Declaring that it shall be contempt of court and false imprisonment for an individual to willfully violate this law, or to willfully assist or facilitate an arrest that violates this law.
- Creating rights of action for individuals and for the state attorney general to sue for equitable and declaratory relief if the law is violated, and providing for the recovery of costs and attorney's fees for a prevailing plaintiff or petitioner.
- Defining carefully the statutory terms used in the bill.

- Authorizing judges to issue appropriate orders to ensure individuals' access to the courts and to protect the administration of the courts in the face of this unlawful civil arrest practice.
- Prohibiting entry into state courthouses for purposes of civil immigration enforcement absent a judicial warrant or court order, and carefully defining the process by which the state courts must execute this provision and review the requisite warrants and orders.

## Contents

The attached documents are included to help advocates and policymakers to understand the Protect Our Courts Act and to initiate legislation in your respective states (a broader campaign toolkit to get ICE Out of Courts will be available from IDP this summer):

1. The text of New York's Protect Our Courts Act (A.11013/S.08925).
2. Survey of 225+ New York State legal services providers and advocates, documenting the escalation in ICE arrests of those attending court, and the resulting chilling effect on people's willingness to participate in the court process.
3. FAQ about the Protect Our Courts Act.
4. Cora Engelbrecht, "Fewer Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation", *The New York Times*, June 8, 2018.
  - "Undocumented immigrants and even lawful immigrants are afraid to report crime," said Houston Police Chief Art Acevedo, who has spoken publicly about the need for local leaders to care for immigrants under increased pressure from state and federal authorities. "They're seeing the headlines from across the country, where immigration agents are showing up at courthouses, trying to deport people."

## Additional Resources

- Additional resources are available on IDP's website at <https://www.immigrantdefenseproject.org/ice-courts-nys/>.
- For advocates looking to learn more about the Protect Our Courts Act and to replicate the bill in other jurisdictions, please contact our in-house experts, Andrew Wachtenheim ([andrew@immdefense.org](mailto:andrew@immdefense.org)) and Lee Wang ([lee@immdefense.org](mailto:lee@immdefense.org)).

**PROTECT OUR COURTS ACT (A.11013/S.08925)**

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "protect our courts act".

§ 2. The civil rights law is amended by adding a new section 28 to read as follows:

§ 28. Civil arrest; certain locations.

1. A person duly and in good faith attending a court proceeding in which such person is a party or potential witness, or a family or household member is a party or potential witness, is privileged from civil arrest while going to, remaining at, and returning from, the place of such court proceeding, unless such civil arrest is supported by a judicial warrant or judicial order authorizing such civil arrest.

2. It is a contempt of the court and false imprisonment for any person to willfully violate subdivision one of this section, or an order of the court issued pursuant to section four-a of the judiciary law, by executing an arrest prohibited by subdivision one of this section or section four-a of the judiciary law, or willfully assisting or willfully facilitating an arrest prohibited by subdivision one of this section or section four-a of the judiciary law; provided, however, that nothing in this subdivision shall affect any right or defense of any person, police officer, peace officer or public officer pursuant to article thirty-five of the penal law.

3. Regardless of whether a proceeding for contempt of the court pursuant to subdivision two of this section has been initiated:

(a) a person described in subdivision one of this section may bring a civil action for appropriate equitable and declaratory relief if such person has reasonable cause to believe a violation of subdivision one of this section, as described in subdivision two of this section, or a violation of section four-a of the judiciary law, has occurred or may occur; and

(b) the attorney general may bring a civil action in the name of the people of the state of New York to obtain appropriate equitable and declaratory relief if the attorney general has reasonable cause to believe that a violation of subdivision one of this section, as described in subdivision two of this section, or a violation of section four-a of the judiciary law, has occurred or may occur.

4. In any successful action pursuant to subdivision three of this section, a plaintiff or petitioner may recover costs and reasonable attorney's fees.

5. Nothing in this section shall be construed to narrow, or in any way lessen, any common law or other right or privilege of a person privileged from arrest pursuant to this article or otherwise.

6. As used in this section:

(a) "civil arrest" shall mean an arrest that is not:

(i) for the sole or primary purpose of preparing the person subject to such arrest for criminal prosecution, for an alleged violation of the criminal law of:

(A) this state, or another state, for which a sentence of a term of imprisonment is authorized by law; or

(B) the United States, for which a sentence of a term of imprisonment is authorized by law, and for which

federal law requires an initial appearance before a federal judge, federal magistrate or other judicial officer, pursuant to the federal rules of criminal procedure that govern initial appearances; or

(ii) for contempt of the court in which the court proceeding is taking place or will be taking place;

(b) "court proceeding" shall mean any appearance in a court of this state before a judge or justice or judicial magistrate of this state ordered or scheduled by such judge or justice or judicial magistrate, or the filing of papers designed to initiate such an appearance before a judge or justice or judicial magistrate of this state;

(c) "family or household member" shall have the same meaning as in subdivision two of section four hundred fifty-nine-a of the social services law; and

(d) "judicial warrant or judicial order authorizing such civil arrest" means an arrest warrant or other judicial order, issued by a magistrate sitting in the judicial branch of a local or state government or of the federal government, authorizing a civil arrest and issued by the court in which proceedings following such arrest will be heard and determined.

§ 3. The judiciary law is amended by adding a new section 4-a to read as follows:

§ 4-a. Certain powers of the courts regarding civil arrests. In order to maintain access to the court and open judicial proceedings for all persons in their individual capacity and to prevent interference with the needs of judicial administration, a court has the power to issue appropriate judicial orders to protect the privilege from civil arrest, in accordance with article three of the civil rights law.

§ 4. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (w) to read as follows:

(w) (i) In order to maintain access to the court and open judicial proceedings for all persons in their individual capacity and to prevent interference with the needs of judicial administration, consistent with section twenty-eight of the civil rights law and section four-a of this chapter, direct that court personnel responsible for all courthouses and the places of all court proceedings in the state shall not allow access to such courthouses and places of court proceedings to non-local law enforcement personnel seeking to enter such locations with respect to violation or violations of federal immigration law unless presented with a valid judicial warrant or judicial order, and designated counsel of the unified court system has individually reviewed and confirmed in writing the authenticity of such judicial warrant or judicial order. Non-local law enforcement personnel seeking to enter such a location with respect to violation or violations of federal immigration law shall identify themselves and such purpose, and present such judicial warrant or judicial order to such responsible court personnel when seeking such access. The chief administrator shall promulgate rules consistent with this subdivision designed to implement the provisions of this paragraph.

(ii) Such rules shall also require that a copy of each judicial warrant and judicial order reviewed by designated counsel of the unified court system under this paragraph be sent to and maintained in a central repository by the chief administrator, who shall on an annual basis compile statistics disaggregated by county and prepare a report of such statistics, and also identify in such report, for each such judicial warrant and judicial order, the date such judicial warrant or judicial order was signed, the judge and court which issued such judicial warrant or judicial order and the location of such

court as shown by such document, the date such judicial warrant or judicial order was presented to counsel for the unified court system, a description of the type of judicial warrant or judicial order and, to the extent known to court personnel, whether or not an arrest occurred and the date and location of such arrest. Such report, which shall not include the names of individuals involved, shall be published on the website of the unified court system and copies of such report shall be sent to the governor, the speaker of the assembly and the temporary president of the senate.

(iii) For purposes of this paragraph, "non-local law enforcement personnel" shall mean a person or persons employed or retained by a law enforcement agency: (A) of a jurisdiction other than the state of New York or a local government in the state of New York; or (B) of the state of New York or a local government in the state of New York, where such law enforcement agency or employee or agent thereof has entered into an agreement with a federal law enforcement agency, including but not limited to pursuant to 8 U.S.C. 1373, authorizing it or such person to enforce or assist in the enforcement of federal immigration law.

§ 5. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 6. This act shall take effect immediately.

# Key Findings

## ICE in NYS Courts Legal Service and Advocates Survey

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

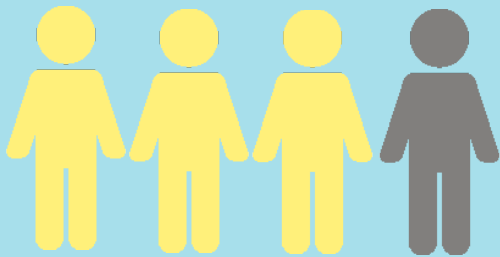
As a result, many advocates are hearing from immigrants that they have a profound fear of going to court. This includes immigrants who need access to the courts for orders of protection, to defend against criminal charges, and to vindicate their rights as tenants.

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

# 1/3

have seen ICE agents  
or vehicles in and  
around the courts

## IMMIGRANTS SCARED TO GO TO COURT



### 3 OUT OF 4

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

# 29%

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

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

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



IMMIGRANT  
DEFENSE  
PROJECT



# CHILLING EFFECT ON SURVIVORS OF VIOLENCE

A third of the survey participants work with survivors of violence

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

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

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

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

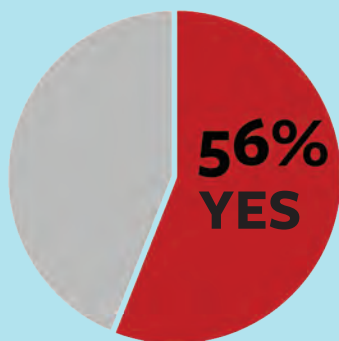
“[MY CLIENT] IS **AFRAID TO GO TO COURT TO SEEK AN ORDER OF PROTECTION** AGAINST HER HUSBAND, WHO ABUSED HER FOR MANY YEARS AND KIDNAPPED THEIR 8 YEAR OLD SON... SHE IS **TERRIFIED THAT BEING IN COURT PUTS HER AND HER FAMILY AT GREATER RISK OF BEING DEPORTED.**”

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

# TENANTS AFRAID TO GO TO HOUSING COURT

A sixth of the respondents work with tenants in Housing Court

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



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

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

For more information contact Lee Wang at [lee@immdefense.org](mailto:lee@immdefense.org) or go to [www.immdefense.org/ice-courts-survey](http://www.immdefense.org/ice-courts-survey)





# PROTECT OUR COURTS ACT FAQ

A.11013/S.08925

The Protect Our Courts Act ensures that ALL New Yorkers can access our courts without fear of being arrested by ICE.

**Contact:**  
Lee Wang, Immigrant Defense Project  
lee@immdefense.org  
(646) 760-0590

## WHAT DOES THE BILL DO?

Makes it unlawful for any law enforcement officer (including Immigration and Customs Enforcement) to arrest a person for a *civil* violation while that person is going to, attending, or leaving court *unless* a judicial warrant or court order authorizing the arrest is presented to court staff.

Prohibits law enforcement officers from outside of New York (including ICE) from entering a courthouse to enforce federal immigration law, unless they present a valid judicial warrant or court order authorizing the arrest.

## HOW WILL IT PROTECT PEOPLE FROM ICE?

ICE arrests people for *civil* violations of federal immigration law. By making *civil* arrests unlawful, this bill will effectively stop ICE from making arrests in our courts.

The only way ICE can make an arrest under this law is by presenting a valid judicial warrant or court order from a federal judge, a requirement that has effectively stopped ICE arrests in other contexts.

## WHO DOES THE BILL PROTECT?

The law will protect *any* person who is a party or potential witness in a court proceeding in New York state. This includes victims, witnesses, defendants, and anyone who is part of a non-criminal proceeding such as a family or housing court matter.

It will also protect any family or household members who are part of a court proceeding or potential witnesses.

## WHERE WILL PEOPLE BE PROTECTED FROM ARREST?

The bill protects people from arrest not only inside of a courthouse, but while they are going to the courthouse or leaving it. The exact boundaries of this protection are not spelled out in the legislation but would likely extend to the area within sight of the courthouse.

This concept of a zone of protection against civil arrest while attending court already exists in New York's civil rights law and has a long history in U.S. law. This concept was developed to prevent law enforcement agencies from using people's attendance in court as a way to arrest them on civil matters.

## HOW WILL IT BE ENFORCED?

The bill includes several enforcement measures. It empowers judges to hold any person who violates the law in contempt of court. It also instructs the New York Attorney General to pursue legal action on behalf of individuals who are arrested in violation of this law. In addition, the bill recognizes that individuals have a right to pursue legal claims when they are arrested.

## HOW WILL THE COURTS IMPLEMENT THIS?

The Office of Court Administration will designate attorneys to review any judicial warrants or court orders presented before allowing non-local law enforcement (including ICE) to enter a courthouse in order to make a *civil* arrest. The bill also requires that the court document any warrants or court orders presented to its staff.

The Office of Court Administration will also need to adopt rules explaining how it will implement this legislation.

## DO LAWMAKERS HAVE THE POWER TO DO THIS?

Yes. New York's Constitution grants the legislature the authority to regulate the court system to ensure that it operates effectively. The legislature also has an obligation to protect the constitutional rights of all New Yorkers to access the courts, receive due process, defend themselves in criminal proceedings, and petition the courts. When an outside entity threatens our judicial institutions and the constitutional rights of New Yorkers, the legislature has clear power to act.

### 1. **An unprecedented increase in ICE arrests makes it impossible for our courts to run the way they're supposed to.**

- The Immigrant Defense Project documented a 1200% increase in ICE courthouse operations from 2016 to 2017.
  - The surge in ICE arrests has made immigrants and their families fearful 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.
- 

### 2. **ICE's courthouse arrests undermine public safety for all New Yorkers.**

- Prosecutors and law enforcement have said that ICE arrests make it harder for them to convince victims and witnesses to come forward.
  - In a statewide survey by the Immigrant Defense Project, more than two-thirds of advocates who work with survivors of violence said they have clients who have delined to seek help from the courts due to fear of ICE.
  - More than half of housing rights advocates surveyed have clients who are too scared to file a housing court complaint because of ICE being in court.
- 

### 3. **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.
- 

### 4. **This bill will help protect the fundamental constitutional right 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.
- 

### 5. **The legislature has the power to protect the state's courts from ICE.**

- ICE is exploiting our courthouses by using them as a hunting ground for immigrants.
- When an outside agency interferes with our courts, we have a duty to protect them.
- The state constitution gives New York's legislature clear authority to regulate the court system to ensure that they operate effectively and serve EVERY New Yorker.

# PROTECT OUR COURTS ACT STORIES

A.11013/S.08925

A mother showed up to My Sister's Place, a Rockland County legal services organization, with her head bandaged. When the attorney asked what happened, the woman said that the father of her children had raped her in a parking lot and severely beat her on the head with "metal things." The woman suffered neurological damage and permanent vision loss as a result.

When asked why she did not report it to the police and seek a restraining order in Family Court, she told the attorney that she was too afraid of being picked up by ICE.

*- As reported by Andrea Panjwani, Esq., Former Managing Attorney, My Sister's Place*

## AFRAID TO GET A RESTRAINING ORDER

## A BRONX MAN WHO CAME TO THE U.S. AT AGE 3

A young man who came to the U.S. at the age of 3 was ambushed by a team of 8-10 ICE officers outside of a Bronx courthouse. Originally from the Ivory Coast, the Bronx man had big plans for building a life with his U.S. citizen wife. He was working as a barrista, had recently applied to college, and was in the process of applying for a green card. On the day that ICE grabbed him, he was in court on a misdemeanor case and had no prior criminal record.

When news of his arrest spread, close to a hundred public defenders walked out of the courthouse in protest.

*- As reported by Casey Dalporto, Esq., The Legal Aid Society*

When a 29 year-old Chinese woman showed up to the Queens Human Trafficking Intervention Court last June, she stepped into a courtroom designed to be a safe space for victims of human trafficking. She, like most of the women appearing that day, was charged with a prostitution related offense. Instead of a fine and jail time, she was expected to get help.

But that day, two plainclothes ICE officers watched her and other women appearing in the courtroom. Thanks to quick thinking by her attorneys, the young woman was not taken away by ICE. But later that day, the ICE agents arrested another woman just minutes after she left the human trafficking court.

*- As reported by WNYC and The New York Times*

## VICTIMS OF HUMAN TRAFFICKING

When ICE agents showed up in Judge Wait's courtroom in Saratoga City Court to arrest a young man from Mexico, he asked his bailiff to escort them out. But the ICE agents refused to leave the courthouse and lurked in the hallway. After reducing the young man's charge to a traffic violation, the judge allowed the young man a moment to call his family. Then, the young man had no choice but to step into the hallway where ICE arrested him.

His attorney said he had to change his advice for undocumented clients: "I'm going to have to tell them if you go to court for a minor charge, you might walk out in shackles ... It's going to scare the bejesus out of people."

- As reported by the Times Union

## A JUDGE TELLS ICE TO BACK OFF

## A HISTORY OF SUICIDE ATTEMPTS; ICE SHRUGS

Her client trembled when she broke the news. Katherine, a mental health specialist from New York County Defender Services, had just told her that ICE agents were there to arrest her.

Katherine had pleaded with the plainclothes agents not to take her client away. She had had a string of arrests but was finally getting treatment for her underlying mental health issues. She had already made several suicide attempts and Katherine feared that if she was locked up in ICE custody, her client might have a psychotic break.

She told all this to the ICE agents. They just shrugged. When she asked to see the warrant for her client's arrest, they refused to produce anything.

- As reported by Katherine LeGeros Bajuk, Esq., New York County Defender Service

Soon after the first reports of arrests in New York State Courts, a housing rights advocate had a concerning interaction with a long-term client. The client, a green card holder, was a long-time member of a tenant association in Cypress Hills, Brooklyn, and was married to an undocumented man. The attorney had been working with her to enforce her succession rights and had been preparing for trial.

Suddenly, the client informed the attorney that her husband—a key witness in the case—wouldn't feel comfortable going to court. The attorney was unable to continue the case.

- As reported by Alexandra Drimal, Esq., Brooklyn Legal Services Corp. A

## A WITNESS GOES SILENT IN HOUSING COURT

## The New York Times

# *Fewer Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation.*

By Cora Engelbrecht

June 3, 2018

HOUSTON — For years, she slept with a gun under her pillow, living in fear of a boyfriend who beat her, controlled her life and threatened to kill her and her children. Domenica, who came to this country illegally from Mexico in 1995 and became part of the booming immigrant community in Houston, said her partner was a United States citizen, and often reminded her that she could be deported if she went to the police.

“He told me nobody would help me, because I don’t have papers,” said Domenica, 38, who has a son and daughter with her boyfriend, and asked that her last name not be used in order to protect them. “I was with him like that for a pretty long time. I felt like there was no help for me.”

In August of last year, fearing for the safety of her children, Domenica decided to flee. She never called the police. She said she would rather go into hiding than appear in court and risk being separated from her children, or sent home to Mexico.

“That scene is happening all the time,” Houston’s police chief, Art Acevedo, said in an interview. Though Houston’s immigrant population is one of the fastest-growing in the country, the city last year saw a 16 percent drop in domestic violence reports from the Hispanic community — a decline that the police blame on a tough new immigration enforcement law in Texas and the increasingly hostile political climate across the country surrounding the issue of illegal immigration.

The Houston police recorded 6,273 domestic violence reports from Hispanics in 2017, compared with 7,460 the year before.

Police departments in several cities with large Hispanic populations, including Los Angeles, Denver and San Diego, also experienced a decline in reports of domestic violence and sexual assault in their Hispanic communities. In Houston, Latino domestic violence reports went down even as the city’s Hispanic community, now 44 percent of the population, grew significantly.

“Undocumented immigrants and even lawful immigrants are afraid to report crime,” said Chief Acevedo, who has spoken publicly about the need for local leaders to care for immigrants under increased pressure from state and federal authorities. “They’re seeing the headlines from across the country, where immigration agents are showing up at courthouses, trying to deport people.”

One case drew national headlines in February 2017, when an undocumented transgender woman from Mexico went to a courthouse in El Paso County, Tex., to file a protective order against her ex-boyfriend. She was detained on the spot by federal agents.

In interviews across Houston, women's activists, domestic violence shelter workers and immigrants shared detailed stories of women who had become more fearful than ever of any contact with the authorities, tying those fears to the threat of deportation.

One 38-year-old woman said she had never called the police about her husband, who frequently beat her, not even when she was six months pregnant and he punched her in the stomach, causing her to lose the baby. Eventually, when her husband threatened to kill her, she left him — but she did not report him. “I know the police are there to help,” said the woman, who feared she would be identified and deported if she gave her name. “But with the laws now, a lot of women like me are too afraid to come forward.”

Across the country, authorities have documented declines in crime reporting by immigrants. Though a general reluctance to contact authorities has always been a problem for police departments dealing with immigrant communities, the police say that many of the steepest declines began early in 2017, when President Trump took office and ordered federal Immigration and Customs Enforcement to step up its targeting of those in the country illegally.

Removal orders are up over all from 2016, and much more broadly applied than they were during the last two years of the Obama administration. Arrests of immigrants who appear in court have also increased.

A survey of hundreds of police officers, victims' advocates and prosecutors across all 50 states, released by the American Civil Liberties Union in May, found numerous reports that undocumented immigrants are now more reluctant to call the police, press criminal charges and testify against assailants. A total of 82 percent of the prosecutors surveyed said that domestic abuse cases have become harder to prosecute.

But the threat in Texas has been particularly pronounced.

In Harris County, which includes Houston, the number of immigrants transferred from county jails to federal agents enforcing immigration orders jumped 60 percent in the first five months of 2017, according to an analysis by the Migration Policy Institute, a Washington-based immigration think tank.

In September, the Texas Legislature approved a sweeping law that orders local police departments to comply with requests by federal authorities to turn over local detainees suspected of being in the country illegally. Gov. Greg Abbott, a Republican, declared the measure was necessary in order to prevent municipalities from setting up so-called “sanctuary cities.”

Under the new Texas law, known as Senate Bill 4, local officials could face jail time and fines that exceed \$25,000 for refusing to honor federal “detainer” requests.

Houston has joined Dallas, Austin and other Texas cities with large Hispanic populations in a lawsuit to overturn the law, arguing that S.B. 4 could lead to widespread racial profiling.

Mr. Abbott has characterized critics’ concerns as “fear mongering,” and said that the law does not pose problems for noncriminals. “If you’re a criminal and you’ve done something wrong, yes, whether you’re here legally or illegally, you’ve got something to be concerned about,” he said during a Univision television interview last spring. “If not, you’ve got nothing to be concerned about.”

A federal appeals court largely upheld the measure in April, but is currently weighing a request by the cities for a rehearing.

Meanwhile, the political storm surrounding the Texas immigration debate has driven some of the state’s more vulnerable immigrants further into the shadows. This is especially troubling for the Houston Police Department, which recorded 43 domestic violence homicides among all ethnic groups last year.

City officials said they needed the entire community’s help in identifying potential perpetrators.

“Legislation like this doesn’t help at all. It just makes our job harder,” said Jason Cisneroz, a community service officer who is conducting outreach to make Hispanics feel comfortable reporting crimes. “It’s not just the decrease in calls for service, it’s also the decrease in willingness to be a part of an investigation.”

Chief Acevedo’s answer is to comply fully with S.B. 4, while curbing its influence on his department’s operations.

He requires his officers to file a report on every case in which they report on immigration status to federal authorities. Since the law went into effect, his officers have asked only four people to disclose their immigration status.

“We’re not interested in somebody’s immigration status,” Chief Acevedo said at a news conference in March, when he announced a new policy that requires supervisors to be present at all domestic violence crime scenes to help determine if an arrest should be made. “If a person is a victim of a crime or a witness to a crime, we want them to understand that this department, this D.A., our mayor, our community, stands with victims and witnesses of crime.”

Despite the drop in reports to the police, victims are finding workarounds. The Houston Area Women’s Center, which received 33,692 calls to its domestic violence hotline last year, saw an increase in Hispanic women seeking help.



Hotline counselors at the center inform callers of their legal rights and encourage them to disclose their immigration status, so that they can be advised on applying for special legal protections that may be available.

Victims of sexual assault and domestic violence can be granted permission to stay in the United States under what is known as a U visa, perhaps permanently, if they assist the police in their investigation. But a statutory cap of 10,000 such visas per year has resulted in a logjam: Last year, 33,500 assault victims applied for U visas — more than three times the number available.

Many women, like Domenica, are convinced that it is still too risky to come forward.

“I sleep better, knowing my children are safe,” Domenica said. She is living in a shelter outside Houston, but can only stay there temporarily.

The problem of where she will go next is a source of constant anxiety, but her fear of coming forward is worse. “I am still afraid of the courts,” she said.

***Correction: June 3, 2018***

*An earlier version of this article misstated the year that the Houston police recorded 6,273 domestic violence reports from Hispanics. It was 2017, not 2016.*

Isabel Castro contributed reporting.

A version of this article appears in print on June 4, 2018, on Page A12 of the New York edition with the headline: Fewer Hispanics Report Domestic Abuse. Police Fault Deportations.

[immdefense.org](http://immdefense.org)

© 2018 Immigrant Defense Project