



The Courthouse Trap

How ICE Operations Impacted
New York's Courts in 2018

January 2019



Summary of Findings

In 2018, Immigration and Customs Enforcement (ICE) substantially expanded arrest and surveillance operations in New York’s courts, continuing a disturbing trend that began with the inauguration of President Donald Trump. ICE operations increased not only in absolute number but grew in brutality and geographic scope. Agents, disguised in plainclothes, used intrusive surveillance and violent force to execute arrests. They also reached into many new areas of the state, conducting arrests in several upstate counties that were previously untouched. And ICE agents pursued New Yorkers in a broader range of courts—conducting operations in civil and criminal courts and in courts designed to be rehabilitative instead of punitive. All of these changes underline ICE’s increasing reliance on the state’s court system as a place to trap and detain immigrant New Yorkers.

The Immigrant Defense Project has been monitoring ICE courthouse raids since 2013 and first reported the sharp rise in a [2017 report](#) highlighting changes to enforcement under the Trump administration. The information below is culled

from hundreds of reports collected by IDP’s staff over the course of 2018. In addition to presenting key statistics, the report highlights new trends in ICE courthouse enforcement and provides a selection of stories of individual New Yorkers who have been arrested while attending court, many of which have never been shared publicly. For more on IDP’s courthouse work, visit immigrantdefenseproject.org/ice-courts/



Left: Plainclothes ICE agents leading a man into an unmarked car outside of the Brooklyn Criminal Court.

This report highlights six key changes in ICE courthouse operations in 2018

ICE made more arrests and increased the physical presence of its agents in New York's courts

1

From 2017 to 2018, ICE operations in and around the courts continued to increase, keeping arrests at an unprecedented level. These operations increased by 17% compared to 2017 and by 1700% compared to 2016. New York City continued to account for about 75% of arrests statewide with Queens and Brooklyn reporting the largest numbers.

ICE targeted several upstate counties that it had left untouched in 2017

2

Several upstate counties, including Orange, Rensselaer and Fulton reported ICE courthouse arrests for the first time. Westchester County reported the largest increase in arrests statewide.

The arrest and surveillance tactics employed by ICE agents became more violent and the brutality more commonplace

3

Reports of ICE using violent force to conduct arrests—slamming family members against walls, dragging individuals from cars, and even pulling guns on people leaving court—have become commonplace. Witnesses to ICE arrests have called 911 to report that they were witnessing a kidnapping. ICE has also turned to more aggressive surveillance, trailing attorneys to their offices and eavesdropping on confidential attorney-client conversations.

ICE targeted particularly vulnerable immigrants including survivors of human trafficking, survivors of domestic violence, and youth

4

ICE set no limits on who they targeted in New York’s courts—arresting immigrants who appeared in a diversion court for victims of human trafficking and going after survivors of domestic violence. ICE also stepped up arrests of youth, even when they were eligible for special forms of immigration relief like DACA.

ICE officers refused to provide basic information or documentation, ignoring their own regulations

5

In the vast majority of operations, ICE agents refused to identify themselves, explain why an individual is being arrested, or offer proof that they have reason to believe that the individual they’re arresting is deportable. This occurred despite the fact that internal agency regulations require them to provide this information.

ICE’s courthouse operations expanded in the same year that the agency issued its first formal policy on courthouse arrests

6

In January of 2018, ICE issued its first policy on courthouse arrests.¹ Reports to IDP show that after this policy was issued, ICE agents expanded the reach of courthouse arrests. ICE agents also appeared to ignore their own policy directive, continuing to conduct arrests in civil and criminal courts, and targeting friends and family members who accompanied a loved one to court.



Left: ICE agents preparing to put a young man into an unmarked minivan outside of the Queens Criminal Court.

1. See “Directive 11072.1: Civil Immigration Enforcement Actions Inside Courthouses,” U.S. Immigration and Customs Enforcement (Jan. 10, 2018). For a complete analysis of the policy, see the “Annotated Version of Directive 11072.1,” which was produced by IDP and the NYU School of Law Immigrant Rights Clinic. The annotated directive is available at www.immigrantdefenseproject.org/national-resources/.

Statistics

Collecting Reports from the Frontlines

During the past five years, IDP has collected reports of ICE courthouse raids through collaborations with community-based and legal services organizations throughout New York State, as well as through calls and reports received on our hotline. In addition, New York State uniquely houses both Regional Immigrant Assistance Centers (RIAC) in all counties across the state, as well as the New York Immigrant Family Unity Project (NYIFUP) in immigration courts. Both initiatives have provided a mechanism for IDP to collect firsthand accounts of raids from the individuals arrested by ICE (via their attorneys), whose experiences during ICE raids may otherwise not have been shared or reported. IDP confirms details of raids reports by speaking with witnesses of raids or those with direct knowledge, the individuals arrested by ICE themselves, or their attorneys.

What's the difference between an ICE arrest and an ICE sighting?

Arrest: We use the word arrest when we've been able to confirm that ICE took someone into custody during a courthouse operation.

Sighting: We use the word sighting when we've confirmed that witnesses saw ICE agents or ICE vehicles, but we weren't able to verify an arrest. This could mean a lot of things:

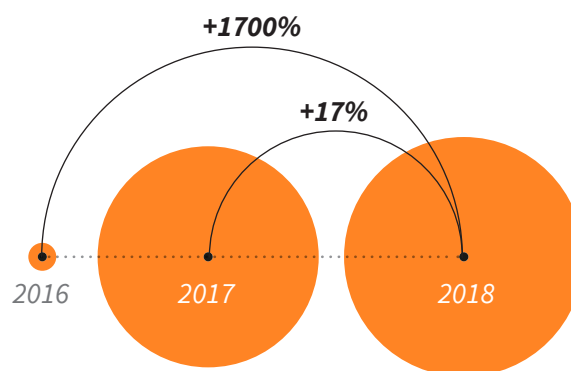
- ICE may have come looking for someone and not found the person;
- ICE may have made an arrest that simply wasn't reported; or,
- ICE may have come to the court for the purpose of conducting surveillance or collecting court records on people they are targeting.

The findings

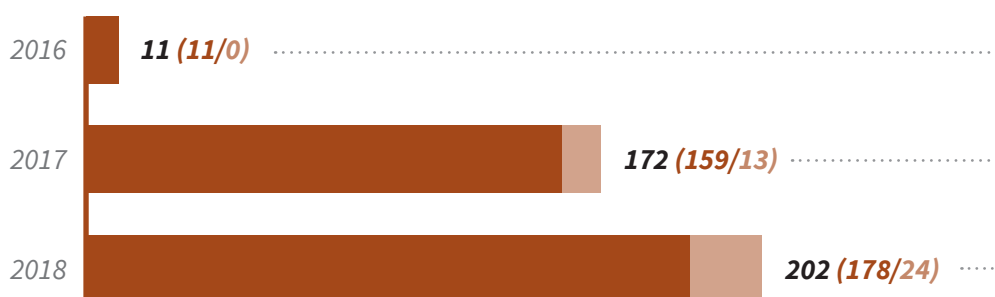
ICE Courthouse Operations (2016–2018)

A Marked Increase

From 2017 to 2018, ICE operations in and around the courts increased by 17%, keeping arrests at an unprecedented level. Compared to 2016, ICE courthouse operations increased by 1700% in 2018.



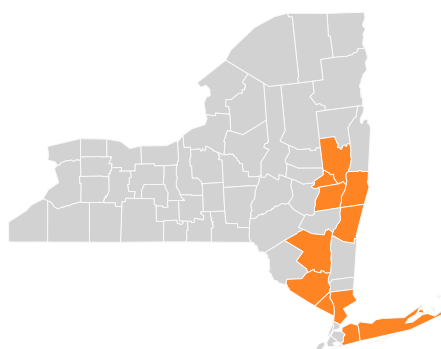
Total (Arrests/Sightings)



Why have the numbers from 2017 changed?

IDP has revised its figures for 2017 from 144 ICE operations to 172. The jump is due to the fact that IDP continued to receive many reports after the end of 2017. Because individuals routinely spend months in detention before they have a chance to see an immigration judge, we may not hear about an individual's arrest until they finally resurface in immigration court. Under current federal practices, that can take months. Note that several New York legal service organizations have sued federal immigration officials over the months long delay in immigration court appearances.

ICE Arrests Outside of New York City (2018)



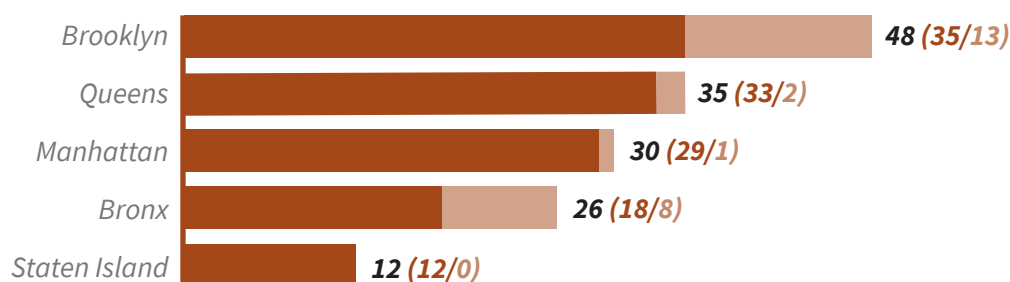
13 Westchester	3 Ulster
8 Orange	2 Rockland
6 Saratoga	2 Schenectady
6 Suffolk	1 Columbia
4 Albany	1 Nassau
4 Rensselaer	

New York with Counties Single Color
by FreeVectorMaps.com

ICE agents reached into new territory, stepping up courthouse operations counties outside of New York City. For the first time, IDP received reports of ICE courthouse arrests in Orange, Rensselaer, and Fulton counties. While most arrests in 2017 focused on larger county or city courthouses, ICE widened its net to town and village courts. Operations were reported in more than a dozen town and village courts across Westchester, Rockland, Columbia, Orange, Ulster, and Albany. Westchester reported the largest increase in arrests statewide, with ICE courthouse operations more than tripling from 4 in 2017 to 13 in 2018.

ICE Operations Within New York City (2018)

Total (Arrests/Sightings)



New York City continued to account for the majority of ICE operations statewide. Within New York City, Brooklyn reported the largest number of operations when accounting for arrests and sightings. However, Brooklyn and Queens were about tied when comparing just arrests with 35 arrests reported in Brooklyn and 33 in Queens. Staten Island reported the largest increase from 2017 to 2018 with arrests doubling from 6 to 12.

Trends

Use of Force

One of the most striking changes in ICE operations has been an increase in the use of force. ICE agents typically operate in large teams of 3 or 4 agents, with reports of up to 10 agents involved in



a single arrest. Over the past year, IDP has received reports of ICE agents tackling individuals to the ground, slamming family members against walls, and dragging individuals from cars in front of their children. They have also pulled guns on individuals leaving court. In one incident, ICE officers physically assaulted an attorney who was 8 months pregnant.

A Mother's Cry for Help

A young man and his mother had just left the Brooklyn Criminal Court after the man's appearance in court. About a block from the court, two plain-clothes ICE officers appeared out of nowhere, grabbed the man and started to drag him towards an unmarked car. Thinking that her son was being kidnapped, the mother repeatedly asked who the agents were. The officers refused to answer her and when she asked if they were immigration, the officers said no. As the mother cried for help, a third plain-clothes ICE officer came over and pushed her against a wall, causing her head to hit the wall. The officer repeatedly told her to "shut up" and physically blocked her from going over to the unmarked car where her son had been pushed inside. The officers then drove away, leaving his mother sobbing on the street, panicked that her son had been kidnapped. She did not know it was ICE agents who arrested him until she received a call from her son in an ICE processing facility later that day.

Guns on the Van Wyck

A man with no prior arrests had just left the Queens Criminal Court where he had made a brief appearance before a judge. After getting into his car with a friend he noticed a strange car trailing him. When he got onto the Van Wyck Expressway, the car followed. Suddenly, the car flashed its lights. The man pulled over and three unmarked cars suddenly surrounded him and his friend. Seven ICE officers jumped out of the cars and surrounded them with guns drawn. They asked him and his friend for ID and then pulled him from the car and arrested him.

“911: There’s a Kidnapping!”

A man was leaving the Brooklyn Supreme Court with his attorney and family when he was suddenly surrounded by plainclothes ICE agents. He had just exited the courthouse when two agents threw him against a wall and put his hands behind his back. Two other plainclothes agents and a court officer blocked him from his attorney. When the attorney demanded to know who they were, the agents refused to identify themselves and simply replied that they were doing their jobs. The ICE officers pulled the man into an unmarked car with no plates. Several bystanders witnessed the commotion and one woman, believing that the man was being kidnapped, called 911.

Increased Surveillance

ICE agents are not just making arrests at courthouses, they are also using the courts as places to surveil immigrants. Agents have been spotted sitting in courtrooms, and lurking in hallways, where they watch and wait for individual cases to be called. ICE agents also loiter by security lines at courthouse entrances, and stand directly



outside of the courthouse. Individuals appearing in court have been followed in and out of courtrooms, down elevators, into bathrooms, and even out of the court to the subway. ICE officers have also trailed family members, eavesdropped on privileged attorney-client conversations, and followed individuals all the way from the courthouse to their attorney’s office.

Attorney Followed Out of Court

A Brooklyn attorney asked a judge to excuse her client's appearance for the day; the judge granted the request, but asked the attorney to personally serve the client with an order of protection. She left the Brooklyn Supreme Court, and headed toward a nearby McDonald's, where she had arranged to meet her client. Unbeknownst to her, undercover ICE agents had followed her. After meeting with her client and serving him with the order, the attorney and the client left the McDonald's and went their separate ways. Suddenly, five undercover ICE officers surrounded her client and arrested him. The client, who is married to a U.S. citizen, languished in immigration detention for more than four months before being scheduled for his first hearing in immigration court.

Targeting Vulnerable Immigrants

ICE agents aggressively targeted immigrants who are survivors of domestic violence, survivors of human trafficking, and youth. Despite public outcry from a series of high profile arrests in 2017, ICE continued to conduct operations in special courts for human trafficking, arresting at least one man appearing in the Queens Human Trafficking Court in 2018.

ICE also arrested survivors of domestic violence, arresting one woman after her case had been dismissed. Young people also appeared to be a growing ICE target. In one case, ICE went after a 20 year-old who had already submitted an application for a special visa for minors who are abused, neglected or abandoned by their parents. In other cases, ICE arrested young people who were brought to the United States as toddlers and were eligible for DACA (Deferred Action for Childhood Arrivals).



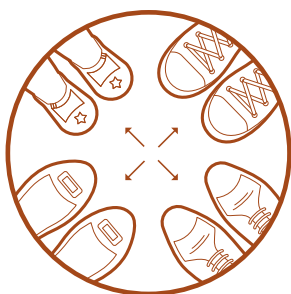
A DREAM Deferred

A 23 year-old man was walking into the New Paltz Town court with a friend when a man he had never seen before asked him for his name. When he declined to answer, two more men surrounded him, handcuffed him, and took him to an unmarked SUV. It wasn't until he was in the car that the three men revealed that they were ICE. The young man is an LGBT activist in his community who came to the United States when he was 6 years old. He is a DREAMER who previously had Deferred Action for Childhood Arrivals (DACA).

A Survivor of Domestic Violence Held for ICE

A survivor of domestic violence had just appeared in the Yonkers City Court for a hearing at which all charges were dismissed. The woman had no prior criminal history. After the hearing ended, a local law enforcement officer (either a court officer or jail employee) returned to the court and said that ICE was waiting for her. The officer suddenly re-arrested her and took her to a holding cell inside the courthouse which is maintained by the Yonkers police. She was held there for several hours until ICE agents came to pick her up that evening.

Friends and Family at Risk

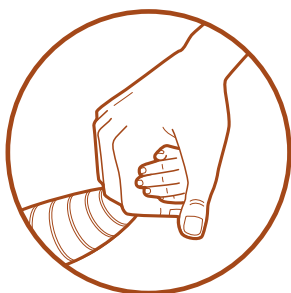


Although ICE said in a 2018 memorandum that it would only go after specific “targets” and avoid “collateral arrests” of their friends and family members, IDP has received several reports of ICE agents questioning friends and family members who accompany their loved ones to court. In a handful of cases, this has led ICE agents to arrest family members.

A Tale of Two Brothers

When his brother had to go to criminal court in Queens, the young man decided he would go too. He believed in supporting his family. The man and his brother were just leaving the Queens courthouse when they were suddenly approached by plainclothes ICE agents. The agents asked his brother for identification and then turned to him with the same question. When he presented a Mexican ID, the ICE agents handcuffed him and took the two brothers into custody.

No Courts Off Limits



Despite a pledge made in a January 2018 memorandum to stay away from non-criminal courts, ICE arrested at least one individual who was attempting to attend a Family Court hearing. ICE also pursued individuals appearing in community justice courts, which are designed to be rehabilitative instead of punitive. In one case, ICE targeted a young man attempting to participate in a parole reentry program in Manhattan.

No Justice in the Community Justice Court

A young woman was leaving the Midtown Community Court in Manhattan after appearing on the court's quality of life docket. She had just received an adjournment in contemplation of dismissal when two ICE agents surrounded her outside of the courthouse and arrested her.

A Father in Family Court

A father went to a Westchester Family Court to appear on a case. He was waiting for his case inside the courthouse when several ICE officers approached. He asked if he could talk to the Family Court judge, his lawyer, or his partner. The officers would not let him. They took him into custody and placed him into removal proceedings.

Court Officer Involvement



New York State court officers have participated in several ICE operations. This has included physically assisting arrests, allowing ICE to use private areas of the court to make arrests, and providing information to ICE agents about individuals. A new decision from New York's appellate courts suggests that this type of participation in ICE operations violates states law.²

² In *People ex rel. Wells v. DeMarco*, a New York appellate court held that it is unlawful for New York state and local officers to detain people for civil immigration violations because New York law does not authorize them to enforce civil immigration law. See *People ex rel. Wells v. DeMarco*, No. 2017-12806, 2018 WL 5931308 (N.Y. App. Div. Nov. 14, 2018).

Court Officer Does ICE's Job

A man was in the Chatham Justice Court, and after his case was called, a Chatham police officer, who was providing security for the court, arrested him. The police officer handcuffed the man without giving him a reason or Miranda warnings and refused to answer questions asked by his attorney. The police officer then took the handcuffed man out of the court's back door, where ICE agents were waiting in the parking lot. When the ICE agents began questioning the man, his attorney asked if they had a warrant and the ICE officers refused to provide any documentation.

Caught on Tape

A father was on his way into the Queens Criminal Court when he was arrested by ICE. He never got to appear on his case. A bystander outside of the Queens Criminal Court caught several plainclothes ICE agents working with uniformed court officers to arrest him directly outside of the courthouse. The [video](#) shows at least three uniformed court officers helping the ICE agents to hold the father down as he screams, "Why are you doing this to me?" One uniformed court officer is then seen holding the man with an ICE agent and walking the man to an unmarked car parked on the curb. He has been detained by ICE, transferred to an ICE facility in Oklahoma.

Derailing Criminal Cases

ICE operations are derailing criminal cases, preventing individuals from attending hearings, and threatening to undermine court operations. Many individuals attempting to attend required court proceedings are arrested before they even get to the courtroom. After ICE arrests and detains individuals, they may refuse to return that person to court again, even when a state court orders that ICE produce the person. Increasingly, ICE is also transferring New Yorkers to far away facilities,

forcing people to fight their cases from detention in New Mexico, Massachusetts, or Oklahoma. In practice, this means that once individuals are disappeared into the immigration detention system, their criminal cases remain in limbo.



From Queens to Oklahoma

After several ICE agents were caught on tape tackling a man outside of the Queens Criminal Court, the man faced long odds. He was torn from his family, locked up in a New Jersey immigration jail and facing deportation with an open criminal case. But a few days later, things got worse when ICE transferred him to a detention facility in Oklahoma. In the New York area he had been eligible to get a free immigration attorney through a special program that assigns attorneys to indigent immigrants. But in Oklahoma, he had to go it alone in immigration court. Without an attorney, he was quickly deported, but his criminal case remained open. Even though he was now out of the country, a Queens judge issued a bench warrant for his arrest because he failed to appear in court.

ICE Ignoring ICE Regulations



ICE routinely ignored its own regulations, which require that they answer basic questions about their identity and provide information justifying arrests. In almost every report received by IDP, ICE agents were described as dressing in plain clothes without visible badges. Individuals and attorneys frequently reported that agents would refuse to identify themselves or answer questions about why they were taking an individual into custody, a violation of ICE's own regulations. ICE's internal regulations also require that they provide documentation that they have reason to believe that someone is indeed subject to deportation. This documentation—often referred to as an “administrative warrant”—does not meet the standard of a criminal warrant and merely requires another ICE officer's signature, not a judge's. But despite this minimal requirement, IDP has found that ICE agents almost never provide these documents, even when directly asked by attorneys.

Where's the Warrant?

Of the 317 ICE courthouse arrests IDP has documented in 2017 and 2018, ICE has only once presented a judicial warrant signed by a federal Article III judge.



The Immigrant Defense Project (IDP) was founded 20 years ago to combat an emerging human rights crisis: the targeting of immigrants for mass imprisonment and deportation. As this crisis has continued to escalate, IDP has remained steadfast in fighting for fairness and justice for all immigrants caught at the intersection of the racially biased U.S. criminal and immigration systems. IDP fights to end the current era of unprecedented mass criminalization, detention and deportation through a multipronged strategy including advocacy, litigation, legal advice and training, community defense, grassroots alliances, and strategic communications.

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