
April 22, 2019

*Sent via first-class U.S. mail
and e-mail to jason.d.specht@ojd.state.or.us*

The Honorable Martha L. Walters
Chief Justice, Oregon Supreme Court
1163 State Street
Salem, OR 97301

Re: Petition of Adelante Mujeres, Causa Oregon, Immigration Counseling Service, Metropolitan Public Defender, Northwest Workers' Justice Project, Unite Oregon, and Victim Rights Law Center for Order Prohibiting Civil ICE Intrusions in and Around Oregon State Courthouses

Dear Chief Justice Walters:

Thank you for the opportunity to meet with you and your colleagues to discuss Petitioners' proposed rule to end ICE intrusions in Oregon's state courthouses. The rigor and thoughtfulness of your approach to this public crisis was evident in our productive conversation and your follow-up letter of March 27, 2019.

In your letter, you asked us to summarize the total number of ICE arrests in or around Oregon courts and, of those, the number that occurred outside of the courthouse doors. You requested examples of ICE's failure to follow its January 2018 directive in taking enforcement actions at Oregon's courthouses, and you requested additional information regarding ICE's agreement to follow normal law enforcement protocols in conducting arrests, and any violations of that agreement. We provide this letter in response.

As we explained in our original Petition, there is an immediate need for protection against ICE intrusions in state courthouses. That is clear not only here in Oregon, but also nationwide. On April 17, 2019, the State Courts of New York acted in response to that need, adopting a rule similar to the rule that Petitioners request here.¹

¹ State of New York Unified Court System, Directive: Protocol Governing Activities in Courthouses by Law Enforcement Agencies (Apr. 17, 2019); N.Y. Post, *NY Courts Block ICE From Arresting Undocumented Immigrants in Their Buildings* (Apr. 17, 2019, 7:55 PM), <https://nypost.com/2019/04/17/ny-courts-block-ice-from-arresting-undocumented-immigrants->

We cannot overstate the urgency of our request. Oregonians from immigrant communities, especially communities of color, fear what will happen if they appear at an Oregon courthouse. As a result, individual rights cannot be fully protected. Our justice system is disrupted. The Chief Justice Order that we request would provide a swift and effective solution, serving the justice system's role in promoting Oregon's prosperity and ensuring that the courthouse doors remaining open to all. We urge you to issue an order now.

ICE Intrusions

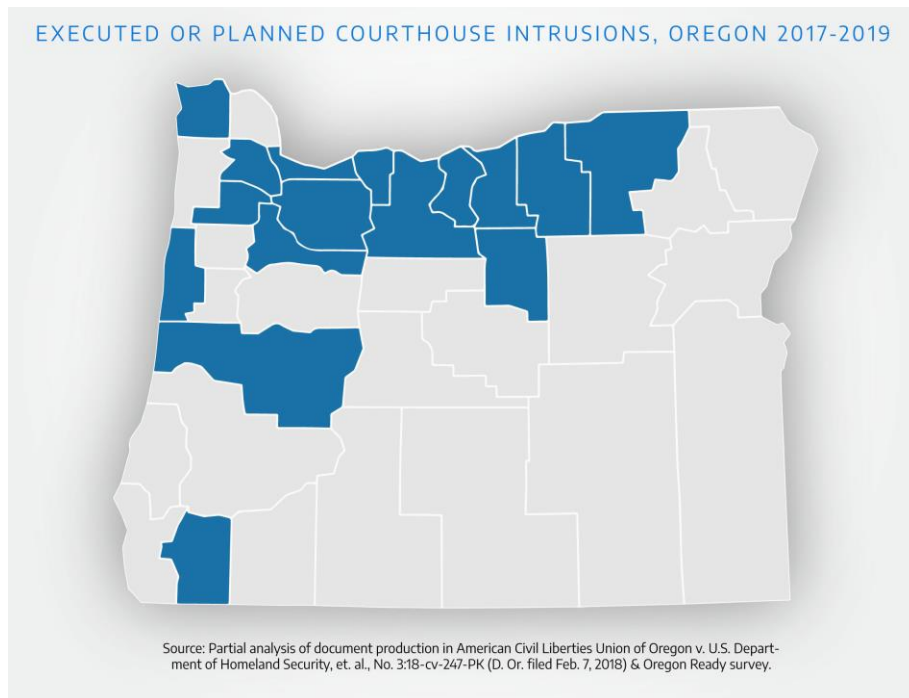
As you note, the impact of ICE intrusions on Oregon's state courts, and the fear incited by those intrusions, is well documented in our Petition. On that basis alone, we believe that you should find Petitioners' request warranted and issue the proposed rule.

That fear is rooted in numerous, ongoing courthouse intrusions across the state. Based on the information available to us, we know that **between 2017 and 2019, ICE has executed or planned courthouse intrusions, at a minimum, at state courthouses in the Second (Lane), Third (Marion), Fourth (Multnomah), Fifth (Clackamas), Sixth (Umatilla, Morrow), Seventh (Sherman, Gilliam, Wheeler, Wasco, Hood River), Fourteenth (Josephine), Seventeenth (Lincoln), Eighteenth (Clatsop), Twentieth (Washington), and Twenty-fifth (Yamhill) Judicial Districts, and at the municipal courts in Beaverton and Molalla.**² Those courthouses combined serve nearly 3 million Oregonians—citizen and noncitizen alike. In other words, more than 71 percent of the Oregon population lives in a jurisdiction compromised by ICE intrusions:

in-their-buildings/. For a comprehensive study on the impact of ICE intrusions in New York courthouses, see *The Courthouse Trap: How ICE Operations Impacted New York's Courts in 2018*, Immigrant Defense Project (Jan. 2019), available at

<https://www.immigrantdefenseproject.org/wp-content/uploads/TheCourthouseTrap.pdf>

² The ACLU of Oregon filed a FOIA request in Fall 2017 requesting documents relating to (1) ICE arrests at state courthouses, and (2) ICE's communications with local government bodies and law enforcement. Complaint, *ACLU of Oregon v. U.S. Dep't of Homeland Security*, No. 3:18-cv-247-PK (D. Or. Feb. 7, 2018). At this time, the ACLU has not received many of the documents that it requested and continues to litigate access to those documents. Thousands of pages remain unreleased, and those that have been released are heavily redacted, impeding review and, likewise, the ACLU's ability to understand the scope of ICE's courthouse actions.



ICE shrouds its intrusions with secrecy. It does not release public data, it stymies public information requests, it refuses to answer questions about its work, and it deploys plainclothes officers who do not identify themselves in public spaces. That is not the work of a normal, accountable public safety agency.

Because of the intentional opacity with which ICE operates, the data available to us undoubtedly underrepresents the extent of ICE intrusions that impact Oregon’s courts. Concealing the scope of courthouse intrusions is itself a cultivated method of creating fear and instability in immigrant communities, particularly communities of color.

The data nevertheless demonstrates that intrusion into Oregon’s courthouses is one of ICE’s core tactics. ICE routinely uses state court dockets to track, locate, and arrest Oregonians. Individual ICE agents then leverage their relationships with state law enforcement officers to obtain booking and custody information, which they use to identify “targets”—*i.e.*, individuals they suspect may be foreign-born or present in violation of the immigration laws. ICE frequently attempts to make arrests with the cooperation of jail staff when an individual is released.³

³ This practice violates ORS 181A.820. See Findings of Fact & Conclusions of Law on Motions for Summary Judgment, *Stovall v. NORCOR*, No. 17CV31082 (Wasco Cty. Cir. Ct. Feb. 8, 2019).

Where ICE cannot make an arrest immediately upon release from a county jail, its agents track the individual using state court dockets and plan arrests to coincide with state court appearances. Once ICE agents are at a courthouse, they may opportunistically arrest multiple people, based on information they gather by staking out courtrooms or by racially or ethnically profiling those around them.⁴ It is not clear whether ICE courthouse arrests are made pursuant to any warrant, much less an “administrative warrant”—an initial review of available documents strongly suggests that, in most cases, ICE has no warrant at all.⁵

Increased surveillance and detention of immigrants and those who may be perceived to be immigrants in courthouses is consistent with the Administration’s assault on immigrant communities for its deportation objectives. ICE announced in May 2017 that, pursuant to President Trump’s immigration enforcement directives, ICE had arrested 41,318 people between Inauguration Day and April 2017, a 38 percent increase from the same period in 2016.⁶ Over the course of the government’s 2017 fiscal year, ICE made 37,734 “noncriminal” arrests—more than twice the number from the previous year.⁷ And that increased enforcement was, and continues to be, targeted toward sanctuary jurisdictions like Oregon. Similarly, ICE intrusions in New York state courthouses have reportedly increased by 1,700 percent,⁸ precipitating the New York State Courts’ recent protocol proscribing ICE arrests absent a judicial warrant.

⁴ ICE agents admit to racial profiling to identify targets for deportation, and recent reports reveal widespread mismanagement and forgery of administrative “warrants” among ICE agents. *See* Bob Ortega, *ICE Supervisors Sometimes Skip Required Review of Detention Warrants, Emails Show*, CNN (Mar. 13, 2019, 7:30 AM), <https://www.cnn.com/2019/03/13/us/ice-supervisors-dont-always-review-deportation-warrants-invs/index.html>. (“You look every day to see who’s locked up in the jails—it’s racial profiling, really. You’re looking for odd names: a Carlos Lopez, not a John Smith.”).

⁵ *Id.* ACLU of Oregon legal observers report that ICE has never shown an arrest warrant at any observed courthouse arrest, despite repeated requests. More recent reports reveal widespread mismanagement and forgery of administrative “warrants” among ICE agents.

⁶ Caitlin Dickerson, *Immigration Arrests Rise Sharply as a Trump Mandate Is Carried Out*, N.Y. Times (May 17, 2017), <https://www.nytimes.com/2017/05/17/us/immigration-enforcement-ice-arrests.html>; *see also* U.S. Immigration & Customs Enforcement, Statement of Thomas D. Homan Regarding the Fiscal Year 2018 President’s Budget Request at 3 (June 13, 2017), *available at* <https://docs.house.gov/meetings/AP/AP15/20170613/106057/HHRG-115-AP15-Wstate-HomanT-20170613.pdf> (explaining that “President Trump’s EOs have [caused ICE arrests to be] up 38 percent since the same time period last year”).

⁷ Nick Miroff & Maria Sacchetti, *Trump Takes “Shackles” off ICE, Which Is Slapping them on Immigrants Who Thought They Were Safe*, The Washington Post (Feb. 11, 2018), https://www.washingtonpost.com/world/national-security/trump-takes-shackles-off-ice-which-is-slapping-them-on-immigrants-who-thought-they-were-safe/2018/02/11/4bd5c164-083a-11e8-b48c-b07fea957bd5_story.html?utm_term=.a9d7a04f74a0.

⁸ Immigrant Defense Project, *ICE Out of Courts*, <https://www.immigrantdefenseproject.org/ice-courts/> (last visited Apr. 19, 2019).

Here in Oregon, ICE's internal emails extensively document planned and executed courthouse arrests of individuals with no prior criminal convictions or convictions for minor offenses; individuals appearing for entry into DUII diversion; individuals in the process of completing diversion programs and, in at least one case, an individual who had just successfully completed DUII diversion; and individuals appearing at arraignment. The vast majority of ICE's courthouse arrests target individuals whose proceedings have not concluded. Many arrests occur within the courthouse walls. Because ICE agents frequently act without valid warrants and seemingly act in biased and/or discriminatory ways, they are often wrong about just who it is they are targeting. We have seen evidence of ICE targeting or detaining individuals who have no deportable offenses or who, in some cases, are U.S. citizens.

ICE arrests continue unabated in Oregon courthouses. Just two weeks ago, ICE arrested an individual in the hallway of the Clackamas County Circuit Court. The person targeted was reported to be a single father and legal permanent resident. In early April 2019, attorneys working in Multnomah County Circuit Court reported plainclothes ICE agents patrolling the halls and surveilling proceedings.

Every ICE intrusion in an Oregon courthouse has a profound impact on the individuals arrested, their families, and the community's view of Oregon's courthouses as safe and accessible places. ICE's mere presence in courthouse spaces is often widely reported in news media, social media, and among parishioners, neighbors, and the local community. As we explained in our Petition, ICE's courthouse activities have already resulted in a widespread deterrence and chilling of courthouse participation. Given the life-changing consequences of an immigration arrest, just one incident in a community's courthouse can cause Oregonians who are immigrants, or whose loved ones are immigrants, not to seek restraining orders, appear at arraignments, appear as witnesses, request assistance with housing, or file for divorce. And every time a community member is forcibly taken by ICE from the courthouse, thousands of individuals begin to feel the very real threat that they might be next.

ICE's 2018 Directive

As you are aware, ICE issued a directive in 2018 that was widely reported on and, in many instances, described as establishing more reasonable practices for courthouse enforcement.⁹ But in reality, the 2018 directive accomplished nothing to alter ICE's courthouse intrusion tactics. Indeed, on careful reading, it becomes clear that the 2018 directive only reaffirmed the practice of ICE's courthouse intrusions as a core tactic for immigration enforcement and codified it as a

⁹ U.S. Immigration & Customs Enforcement, Directive No. 11072.1: Civil Immigration Enforcement Actions Inside Courthouses (Jan. 10, 2018), *available at* <https://www.ice.gov/sites/default/files/documents/Document/2018/ciEnforcementActionsCourthouses.pdf> (hereinafter referred to as "2018 directive").

tool for deportation.¹⁰ ICE’s 2018 directive serves therefore to normalize courthouse intrusions, not limit them.

Every “civil immigration enforcement action,” *see* 2018 Directive ¶ 1, that takes place at an Oregon state courthouse is more than just an arrest. ICE intrusions compromise every aspect of courthouse operations—the individuals arrested; those who witness the arrest, including other litigants; the courthouse security officers and staff who allow it to happen; and the state resources that are drained as a result.

Moreover, the directive’s vague and amorphous standard directing ICE agents to “generally avoid” arrests in areas of courthouses dedicated to non-criminal cases, *see* 2018 Directive ¶ 2, provides virtually no protection for the vast majority of Oregonians who appear in courthouses where civil and criminal functions are consolidated. This is particularly true in smaller courthouses such as Wasco County Circuit Court and Clatsop County Circuit Court, where the courtrooms and spaces for civil and criminal cases are unavoidably intertwined.

But this aspect of the directive is also premised on a deeply troubling assumption about individual rights to access justice; it is no more constitutionally permissible to target those participating in criminal proceedings than it is to target those who use other, non-criminal courthouse services. Indeed, if anything, it is the presumptively innocent individuals participating in criminal proceedings who have the constitutional right to access the courts without interference.

On its face, ICE’s directive also violates Oregon’s sanctuary law, *see* ORS 181A.820, which precludes state law enforcement from collaborating with ICE. *Cf.* 2018 Directive ¶ 2.¹¹

ICE’s 2018 directive is also problematic from a broader access-to-justice perspective, especially to the extent that it encourages courthouse arrests of individuals participating in criminal cases. Sanctioning ICE arrests of accused (but presumptively innocent) individuals unfairly targets those individuals, putting them at risk of disproportionate prosecution and damaging the individual and the integrity of the justice system. When defense counsel cannot present

¹⁰ For a compelling presentation of this analysis, *see ICE Directive 11072.1: Civil Immigration Enforcement Inside Courthouses: Annotations by the Immigrant Defense Project and the NYU Immigrant Rights Clinic*, p. 3 (2018), *available at* <https://www.immigrantdefenseproject.org/wp-content/uploads/IDP-NYU-ICE-Courthouse-Directive-Annotated.pdf> (last visited Apr. 22, 2019).

¹¹ Even if non-public arrests were permissible under Oregon law, the directive does not solve the underlying problem of obstructing access to the courts for many of our community members. When ICE arrests are conducted out of public view, the fact of the arrest activity does not (and should not) remain a secret in the community. Secret arrests should not be normalized or sanctioned by the Court. Indeed, hidden arrests would serve only to exacerbate fear because the only perception the community would have is that people go to court and disappear at the court into the deportation system.

important exculpatory evidence because non-U.S.-citizen parties or witnesses fail to appear, the risk of wrongful conviction increases exponentially. Absent further protection from ICE arrests, criminal proceedings become obstructed, and justice cannot be served.

In addition to the risk of wrongful conviction, defendants risk devastating immigration consequences if they are arrested and detained by ICE before their criminal cases have ended. When an individual is arrested at the courthouse before the close of their criminal case, that pending criminal case becomes a negative factor in the individual's bond and immigration proceedings.¹² Additionally, failing to appear in criminal proceedings can have significant—and, in some cases, permanent—consequences in a non-U.S. citizen's removal proceeding.¹³

ICE arrests that occur during pending criminal cases are an affront to the fundamental constitutional rights that every officer in our courts is sworn to protect—judges and advocates alike. When individuals are removed from the community during the pendency of their criminal proceedings, they lose all ability to defend themselves against charges of which they may be innocent. Justice cannot be served when an individual is involuntarily removed by immigration authorities before the final disposition of his or her criminal case. Even if they are successful in ultimately obtaining release on bond or parole, in the meantime a warrant already has issued, witnesses have moved or become unavailable, and exculpatory evidence has become stale.

ICE Does Not Comply With its Own Directive

You asked us to explain, in particular, the extent to which ICE has failed to follow its 2018 directive in taking immigration enforcement actions at Oregon's courthouses. Based on all the information we have reviewed, it is clear that ICE's 2018 directive has not altered ICE's conduct in any meaningful way.

¹² Attorneys for Immigrant Defense Oregon, a unit within Metropolitan Public Defender's Community Law Division, report that immigration judges will use an open criminal case to justify denying bond or granting an extremely high bond.

¹³ By way of example, a charge for "Failure to Appear" can be an "aggravated felony" (a very serious class of deportable offense under federal immigration law) if the individual fails to appear for service of sentence and the underlying sentence is punishable by imprisonment for a term of five years or more. 8 U.S.C. § 1101(a)(43)(Q). Likewise, failing to appear to answer to or dispose of a felony charge for which a sentence of two years' imprisonment or more may be imposed also constitutes an "aggravated felony." 8 U.S.C. § 1101(a)(43)(T). An aggravated felony conviction generally will render an individual ineligible for most forms of relief from removal, including asylum, and in certain circumstances may result in administrative removal (deportation without the opportunity to seek relief before an immigration judge). 8 U.S.C. § 1158(b)(2)(B)(i); 8 U.S.C. § 1231(b)(3)(B)-(2); 8 U.S.C. § 1228(b); American Immigration Council, *Aggravated Felonies: An Overview* (Dec. 16, 2016), available at <https://www.americanimmigrationcouncil.org/research/aggravated-felonies-overview>.

To be sure, ICE has never viewed state courthouse arrests as a last resort, and does not, in any significant way, limit the scope of its courthouse enforcement activities. Indeed, based on information we have reviewed, ICE *focuses* its enforcement at state courthouses, intentionally disregarding state courthouse operations as a means toward accomplishing its mass deportation objectives. Cf. 2018 Directive ¶ 2 (providing that ICE officers and agents “generally avoid” enforcement in courthouses). Although ICE purports to rely on the safety and security of courthouse spaces, there is no indication in the data available to us that the safety and security of state courthouse spaces is of any concern to ICE officers or agents.¹⁴

ICE also continues to arrest individuals without criminal convictions or gang affiliations, and continues to arrest individuals who pose no apparent public safety or security threat.¹⁵ Many of the individuals who are arrested in Oregon’s courthouses have no known prior orders of removal.¹⁶ Across the country, ICE routinely violates its January 2018 directive by arresting DACA recipients, mothers seeking restraining orders, and other individuals who pose no threat to community safety.¹⁷ Cf. 2018 Directive ¶ 2.

ICE’s January 2018 directive has not been followed in Oregon. Instead, it has been used merely to legitimize an offensive on Oregonians—citizen and noncitizen alike—who seek to conduct legitimate business at our courts.

¹⁴ To the extent that ICE agents must request “approval” for courthouse arrests, *see* 2018 Directive ¶ 2, records predating the 2018 directive suggest that agents’ requests rarely are accompanied by a rigorous FOD or SAC review. The ACLU has also seen little evidence of valid arrest warrants.

¹⁵ For example, in December 2018, ICE officers arrested Ruben Perez, a long-time resident of Astoria, Oregon, after he made an appearance in an ongoing DUII diversion case. Court documents and ICE’s own arrest records both show that Mr. Perez had no prior convictions. ICE’s arrest records also show that Mr. Perez had no prior deportation orders but did have a pending application for a U-visa, which provides lawful status to eligible crime victims. The ICE officers arrested Mr. Perez after stopping his wife, Maria, a U.S. citizen, as she was driving away from the courthouse—a stop that almost certainly violated the Fourth Amendment. Brenna Visser, *Vigil Planned for Astoria Man in ICE detention*, *The Daily Astorian* (Jan. 25, 2019) *available at* https://www.dailyastorian.com/news/local/vigil-planned-for-astoria-man-in-ice-detention/article_104f7636-20b6-11e9-b0c7-6f5d42fc2afa.html. Additional case documents are on file with the ACLU of Oregon.

¹⁶ *Id.*

¹⁷ *The Courthouse Trap: How ICE Operations Impacted New York’s Courts in 2018*, Immigrant Defense Project (Jan. 2019), *available at* <https://www.immigrantdefenseproject.org/wp-content/uploads/TheCourthouseTrap.pdf>.

ICE Operates Without Law Enforcement Protocols and Accountability

Although ICE acts as a law enforcement agency, it acts well outside of the protocols and public accountability expected of law enforcement. ICE's conduct in Oregon over the last two years demonstrates that fact on a local level.

As illustrated in the case of Isidro Andrade-Tafolla, ICE has misled Oregon law enforcement and acted in a manner that jeopardizes law enforcement relations with local communities. In early 2017, ICE assured Oregon law enforcement that it would follow normal law enforcement protocols in conducting enforcement actions in Oregon. That was a false assurance. In the wake of ICE's intrusion at the Washington County Circuit Court on September 18, 2017, in which they detained U.S. citizen Isidro Andrade-Tafolla as he left the courthouse, Washington County Sheriff Pat Garrett, then-President of the Oregon Association of Sheriffs, explained the assurances that ICE had made: "We were assured in those cases that agents would identify themselves verbally with a clearly visible badge or vest or a jacket with clear insignia, and that their vehicles were equipped with red and blue lights."¹⁸

Sheriff Garrett noted that "the facts in the case of Andrade-Tafolla [we]re inconsistent with those assurances" and set a dangerous example for law enforcement agents: "For many years the standard for plainclothes police who contact or stop a person in the community has been to clearly and immediately identify themselves . . . To not do so is reckless and dangerous."¹⁹ Sheriff Garrett further explained that when plainclothes police don't identify themselves, confusion results and confrontations become escalated because suspects don't understand whether they are being questioned by police or whether they are about to become the victims of a crime. Those incidents often lead people to call 9-1-1, which creates more confusion as officers arrive, unaware that the individuals involved are law enforcement: "You can see first-hand the damage that this incident has had on the trust between local law enforcement and the community . . . which is a necessary component of us being able to do our job successfully."²⁰

ICE consistently fails to follow regular arrest procedures by operating undercover. In virtually all courthouse intrusions that the ACLU of Oregon has documented, ICE agents have either refused to identify themselves—as in the detention of Andrade-Tafolla—or have revealed their affiliation only after legal observers demanded it. They rarely revealed their badges. To our knowledge, ICE has never shown a warrant in any courthouse arrest it has conducted in Oregon.

¹⁸ Geoff Pursinger, *Congressional Lawmakers Call on ICE to Investigate Hillsboro Incident*, Hillsboro Tribune (Sept. 22, 2019), <https://pamplinmedia.com/ht/117-hillsboro-tribune-news/373110-257651-congressional-lawmakers-call-on-ice-to-investigate-hillsboro-incident>.

¹⁹ *Id.*

²⁰ *Id.*

Chief Justice Order and Remedy

For two reasons, the rule that Petitioners request is key to the efficacy of the available remedy. First, a Chief Justice Order itself is a powerful action that will convey to ICE that its intrusions interfere with courthouse operations and the ability of our courts to administer justice. That alone should serve to minimize, if not eliminate, disruptive ICE intrusions. Second, a rule will provide a basis for an effective remedy in immigration court—that is, suppression of the evidence obtained from an intrusion in an individual’s later removal proceeding.

The common-law privilege against civil arrest falls squarely within the scope of the Fourth Amendment. *See, e.g., Whalen v. McMullen*, 907 F.3d 1139, 1152 (9th Cir. 2018) (citing *Camara v. Mun. Court of S.F.*, 387 U.S. 523, 530–34 (1967)) (explaining that Fourth Amendment protections apply to both civil and criminal proceedings, and so encompass both civil and criminal arrests). Thus, any ICE arrest, at any state courthouse, constitutes a *per se* violation of the Fourth Amendment.

But the suppression remedy (*i.e.*, the exclusionary rule) is available only in certain circumstances in immigration proceedings—that is, circumstances of egregious or widespread Fourth Amendment violations that occur through conduct that ICE knows to be unconstitutional, conduct that ICE should know to be unconstitutional, or conduct that amounts to a consistent and constitutionally impermissible pattern. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1050–51 (1984) (explaining that the exclusionary rule may apply in civil deportation proceedings to the extent that the Fourth Amendment violation at issue is egregious or widespread); *Orhorhaghe v. INS*, 38 F.3d 488, 493 (9th Cir. 1994) (quoting *Adamson v. CIR*, 745 F.2d 541, 545 (9th Cir. 1984)) (explaining that conduct is egregious if it involves “deliberate violations of the fourth amendment or . . . conduct a reasonable officer should know is a violation of the Constitution.” (internal quotation marks omitted)); *Oliva-Ramos v. Att’y Gen. of the United States*, 694 F.3d 259, 279–80 (3d Cir. 2012) (widespread constitutional violations fall within the scope of the *Lopez-Mendoza* exception). The proposed rule is thus vital to the availability of that remedy, as it will place ICE officers on notice that individuals going to, returning from, or attending court at Oregon’s state courthouses are privileged from civil arrest. Arrests made notwithstanding the rule—*i.e.*, in knowing violation of the rule—would *per se* constitute a deliberate violation of the Fourth Amendment. ICE’s consistent practice of courthouse arrests would amount to a consistent and constitutionally impermissible pattern of misconduct, and a suppression remedy may become available for individuals ultimately placed in removal proceedings. Thus, notwithstanding the existence of the common-law doctrine, a clear rule is necessary to make any remedy effective.

Other Relevant Updates

In our meeting, we discussed briefly Senate Bill 950, which was designed to codify protections similar to those petitioners seek through a Chief Justice Order and UTCR. We understand that Senate Bill 950 did not receive a hearing by the legislative deadline and therefore will not move forward.

We also discussed whether ICE operates in other state courthouses in the same problematic manner as Oregon, and how other states have reacted. A recent article from Crosscut.com, cited below, focuses on ICE courthouse arrest activity in Washington and provides a helpful summary of the current status of this issue in other states.²¹ And, as noted above, the New York State Courts issued a new protocol just last week prohibiting ICE intrusions in New York courthouses without a federal judicial warrant.

Conclusion

As you know, the mission of Oregon state courts is to provide fair and accessible justice services that protect the rights of individuals, preserve community welfare, and inspire public confidence. The presence of ICE at Oregon's courthouses prevents those courts from fulfilling that mission.

ICE activity in Oregon courthouses limits access to courts and fundamentally compromises our justice system. Victims do not receive justice when criminal proceedings are closed without a final disposition. Individuals in criminal proceedings cannot fully and fairly defend themselves when exculpatory evidence cannot be presented. Survivors of abuse are afraid to seek help for themselves and their children. And the justice system suffers when individuals are arrested before the conclusion of their criminal proceedings and precious judicial resources go to waste.

At bottom, non-U.S. citizen community members can find neither safety nor justice in a system that fails to protect them from unlawful arrests by federal immigration authorities.

The rule that Petitioners seek will provide critical guidance to Oregon's courts in preventing disruptive ICE intrusions. Additionally, a uniform rule expressing the rights of all Oregonians to access justice—regardless of their immigration status—will do much to restore the faith of the immigrant community in our justice system and our state institutions. The legal and factual basis for the court rule is clear, and the need is urgent.

Respectfully submitted,



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²¹ Lilly Fowler, *More Immigrants Report Arrests at WA Courthouses, Despite Outcry*, Crosscut.com (Apr. 9, 2019), <https://crosscut.com/2019/04/more-immigrants-report-arrests-wa-courthouses-despite-outcry>.



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