



April 24, 2017

## **U.S. Commission on Civil Rights Expresses Concern with Immigrants' Access to Justice**

The Commission is concerned that some of the most vulnerable individuals' access to justice is hindered by the recent actions of the federal government. The Commission urges Attorney General Sessions and Department of Homeland Security Secretary Kelly to consider the fair administration of justice when determining how and where they send Immigration and Customs Enforcement (ICE) agents.

In the last few months, troubling reports have emerged of federal immigration agents following, confronting, and in some instances, arresting undocumented immigrants in state and local courthouses when some of those immigrants were seeking help from authorities and the local justice system. For example, in Texas, ICE agents reportedly arrested a woman just after she obtained a protective order against her alleged abuser.<sup>1</sup> In Colorado, video footage of ICE agents with an administrative arrest warrant waiting in a Denver courthouse was widely circulated.<sup>2</sup> Similar reports have been made about courthouses in California,<sup>3</sup> Washington,<sup>4</sup> Arizona,<sup>5</sup> and Oregon.<sup>6</sup>

Stationing ICE agents in local courthouses instills needless additional fear and anxiety within immigrant communities, discourages interacting with the judicial system, and endangers the safety of entire communities. Courthouses are often the first place individuals interact with local governments. It is the site of resolution for not only criminal matters, where a victim might seek justice when she has been harmed or

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<sup>1</sup> Marty Schladen, *ICE detains alleged domestic violence victim*, El Paso Times, February 15, 2017,

<http://www.elpasotimes.com/story/news/2017/02/15/ice-detains-domestic-violence-victim-court/97965624/>.

<sup>2</sup> Erica Meltzer, *A video shows ICE agents waiting in a Denver courthouse hallway. Here's why that's controversial.*, Denverite, February 23, 2017, <https://www.denverite.com/ice-agents-denver-courthouse-hallway-video-30231/>.

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

<sup>4</sup> Natasha Chen, *More ICE agents seen waiting around local courthouses to intercept people*, KIRO 7, March 23, 2017, <http://www.kiro7.com/news/local/more-ice-agents-seen-waiting-around-local-courthouses-to-intercept-people/505226120>.

<sup>5</sup> *Supra* note 3.

<sup>6</sup> Aimee Green, *Men won't say they're federal agents, follow immigrant through Portland courthouse*, January 31, 2017, [http://www.oregonlive.com/portland/index.ssf/2017/01/men\\_wont\\_say\\_theyre\\_federal\\_ag.html](http://www.oregonlive.com/portland/index.ssf/2017/01/men_wont_say_theyre_federal_ag.html).

wronged, but also for resolution of civil matters, including family and custody issues, housing, public benefits, and numerous other aspects integral to an individual's life.

The chilling effect on witnesses and victims is already apparent. According to Denver City Attorney Kristin Bronson, four women dropped their cases of physical and violent assault for fear of being arrested at the courthouse and subsequently deported. Bronson stated that video footage of ICE officers waiting to make arrests at a Denver courthouse has “resulted in a high degree of fear and anxiety in our immigrant communities, and as a result, we have grave concerns here that they distrust the court system now and that we’re not going to have continued cooperation of victims and witnesses.”<sup>7</sup>

The response from Attorney General Sessions and Secretary Kelly to these concerns is that local officials “have enacted policies that occasionally necessitate ICE officers and agents to make arrests at courthouses and other public places,” and such policies “threaten public safety.”<sup>8</sup> Contrary to this claim regarding jurisdictions that are refusing to hold individuals solely based on ICE detainer requests, it appears that these tactics have been deployed even where local law enforcement has indicated that they are willing to act in concert with federal immigration agents. In El Paso County, Texas, for instance, Sheriff Richard Wiles signed a letter requiring his office to hold any individuals with an ICE detainer request.<sup>9</sup> Despite this, ICE agents entered a courthouse in El Paso County to arrest a woman after she left the courtroom where she secured a protective order against her alleged abuser.<sup>10</sup>

More importantly, even if this strategy were used exclusively in jurisdictions refusing to cooperate regarding enforcement of ICE detainers, studies have shown that public safety is in fact undermined when members of the community are fearful of local law enforcement and therefore less likely “to report crimes, make official statements to police or testify in court.”<sup>11</sup>

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<sup>7</sup> Heidi Glenn, *Fear of Deportation Spurs 4 Women to Drop Domestic Abuse Cases in Denver*, NPR, March 21, 2017, <http://www.npr.org/2017/03/21/520841332/fear-of-deportation-spurs-4-women-to-drop-domestic-abuse-cases-in-denver>.

<sup>8</sup> Letter from Attorney General Sessions and Secretary Kelly to the Honorable Tani G. Cantil-Sakauye, dated March 29, 2017, available at <https://www.nytimes.com/interactive/2017/03/31/us/sessions-kelly-letter.html>.

<sup>9</sup> Aileen B. Flores, *Sheriff honors US immigration detention requests*, El Paso Times, January 23, 2017, <http://www.elpasotimes.com/story/news/local/el-paso/2017/01/23/sheriff-honors-us-immigration-detention-requests/96972384/>.

<sup>10</sup> See *supra* note 1; Jonathan Blitzer, *The Woman Arrested By ICE In A Courthouse Speaks Out*, The New Yorker, February 23, 2017, <http://www.newyorker.com/news/news-desk/the-woman-arrested-by-ice-in-a-courthouse-speaks-out>.

<sup>11</sup> Wayne A. Cornelius, Angela S. Garcia, and Monica W. Varsanyi, *Giving sanctuary to undocumented immigrants doesn't threaten public safety – it increases it*, L.A. Times, February 2, 2017, <http://www.latimes.com/opinion/op-ed/la-oe-sanctuary-cities-trump-20170202-story.html> (citing Doris Marie Provine, Monica W. Varsanyi, Paul G. Lewis, and Scott H. Decker, *Policing Immigrants: Local Law Enforcement on the Front Lines*, University of Chicago Press, 2016).

In the words of California Supreme Court Chief Justice Tani G. Cantil-Sakauye: “Courthouses should not be used as bait in the necessary enforcement of our country’s immigration laws.”<sup>12</sup> Chair Catherine E. Lhamon adds: “The fair administration of justice requires equal access to our courthouses. People are at their most vulnerable when they seek out the assistance of local authorities, and we are all less safe if individuals who need help do not feel safe to come forward.”

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The U.S. Commission on Civil Rights is an independent, bipartisan agency charged with advising the President and Congress on civil rights matters and issuing an annual federal civil rights enforcement report. For information about the Commission, please visit <http://www.usccr.gov> and follow us on [Twitter](#) and [Facebook](#).

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<sup>12</sup> Letter from Chief Justice Tani G. Cantil-Sakauye to Attorney General Sessions and Secretary Kelly, dated March 16, 2017, available at <http://newsroom.courts.ca.gov/news/chief-justice-cantil-sakauye-objects-to-immigration-enforcement-tactics-at-california-courthouses>.