

May 9, 2017

The Hon. Paul Suttell
Chief Justice
Rhode Island Supreme Court
250 Benefit Street
Providence, RI 02903

(by fax and mail)

Re: ICE Courthouse Arrests

Dear Chief Justice Suttell:

As organizations that represent, assist or otherwise regularly interact with members of the immigrant community in Rhode Island, we are writing to express our serious concerns regarding the growing tide of immigration enforcement taking place at or near courthouses across the country, including right here in New England.¹ Throughout the first few months of 2017, the number of reported immigration enforcement actions at courthouses has grown steadily, with the widely reported presence and actions of Immigration and Customs Enforcement (“ICE”) personnel at courthouses chilling access to the courts. These arrests have impeded residents from complying with the law and accessing essential court services, and are deterring them from doing so in the future – potentially undermining the health and safety of the entire community.

Recently, the Chief Justices of at least four state Supreme Courts – California,² Washington State,³ Oregon⁴ and New Jersey⁵ – have separately sent letters to Department of Homeland Security Secretary John Kelly, asking DHS to refrain from conducting immigration enforcement at or near state courthouses. We believe a similar letter from you would be of tremendous value.

In their letters, the chief justices describe how state courts provide critical protection for communities, and how residents, regardless of immigration status, need to have unfettered access to the courts. “When people are afraid to appear for court hearings, out of fear of apprehension by immigration officials, their ability to access justice is compromised,” Washington Chief Justice Mary Fairhurst wrote. “Their absence curtails the capacity of our judges, clerks and court personnel to function effectively.”

California Chief Justice Tani Cantil-Sakauye similarly stated that she was “deeply concerned about reports from some of our trial courts that immigration agents appear to be stalking undocumented immigrants in our courthouses to make arrests,” noting that “our courts are the main point of contact for millions of the most vulnerable Californians in times of anxiety, stress, and crises in their lives.”

¹ <http://mainepublic.org/post/somali-man-arrested-federal-immigration-agents-maine-courthouse#stream/0>

² <http://newsroom.courts.ca.gov/news/chief-justice-cantil-sakauye-objects-to-immigration-enforcement-tactics-at-california-courthouses>

³ <https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/KellyJohnDHSICE032217.pdf>

⁴ http://media.oregonlive.com/portland_impact/other/CJ%20ltr%20to%20AG%20Sessions-Secy%20Kelly%20re%20ICE.pdf

⁵ <https://www.documentcloud.org/documents/3673664-Letter-from-Chief-Justice-Rabner-to-Homeland.html#document/p1>

As Chief Justice Thomas Balmer of the Oregon Supreme Court cogently wrote:

"The State of Oregon needs to encourage, not discourage, court appearances by parties and witnesses, regardless of their immigration status. However, ICE's increasingly visible practice of arresting or detaining individuals in or near courthouses for possible violations of immigration laws is developing into a strong deterrent to access to the courts for many Oregon residents. A number of our trial courts report that even attendance at scheduled hearings has been adversely affected because parties or witnesses fear the presence of ICE agents. The chilling effect of ICE's actions deters not only undocumented residents, but also those who are uncertain about the implications of their immigration or residency status or are close family, friends, or neighbors of undocumented residents. ICE's actions also deter appearances in court by those who are legal residents or citizens, but who do not want to face the prospect of what they see as hostile questioning based on perceived ethnicity, cases of misidentification, or other intrusive interactions with ICE agents."

Indeed, people come to court to obtain restraining orders, obtain child support orders, seek back wages, testify in criminal cases, and pay traffic fines. The administration of justice depends on all people having free and full access to the courts. The state judiciary cannot deliver the promise of equal access to justice and due process under law if a segment of the community is afraid to access the courts.

Recent courthouse incidents involving undocumented women who are victims of violent crime are of particular concern and have demonstrated the severity of this problem across the country. In February 2017, DHS agents in El Paso County Court arrested a domestic violence victim after she came to court to obtain a restraining order against her abusive ex-boyfriend.⁶ Before her arrest, she had been living at a battered woman's shelter. County officials believe that it was her abuser who notified DHS of her hearing date and location.

The El Paso arrest sent waves of fear through immigrant communities across the country. According to Los Angeles Police Department Chief Charlie Beck, reports of sexual assault and domestic violence made by Latinas have plummeted in 2017 amid concerns that immigrants could risk deportation by interacting with police or testifying in court.⁷ The Chief further commented that reports of sexual assault have dropped 25 percent, while reports of domestic violence have fallen by 10 percent. Corresponding decreases were not observed in crime reporting by other ethnic groups.

Similarly, Denver city attorney Kristin Bronson reported that four assault victims recently dropped their cases for fear that DHS agents would locate them at the courthouse and then detain and deport them.⁸ Bronson noted that their fear stems from a video taken in February 2017 that shows immigration officers waiting to make an arrest at a Denver courthouse. The video, she says, "unfortunately has resulted in a high degree of fear and anxiety in our immigrant

⁶ <http://www.elpasotimes.com/story/news/2017/02/15/ice-detains-domestic-violence-victim-court/97965624/>

⁷ <http://www.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html>

⁸ <http://www.npr.org/2017/03/21/520841332/fear-of-deportation-spurs-4-women-to-drop-domestic-abuse-cases-in-denver>

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."

In light of the above, we urge you to follow the examples of the Chief Justices of California, Washington, New Jersey and Oregon. We request that you send a letter to DHS Secretary Kelly urging DHS agents to refrain from conducting immigration enforcement actions at or near state courthouses. We fear it is only a matter of time before it happens here.

We appreciate your attention to this important matter, and we look forward to hearing back from you about it. Thank you for your time.

Sincerely,

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