



Lourdes M. Rosado
President and General Counsel

August 14, 2025

ACIJ Amiena Khan
Federal Plaza Immigration Court
26 Federal Plaza, 12th Floor, Room 1237
NY, NY 10278

ACIJ Khalilah Taylor
Broadway Immigration Court
290 Broadway, 15th Floor
NY, NY 10007

ACIJ Ubaid ul-Haq
Varick Immigration Court
201 Varick Street, 5th Floor, Room 507
NY, NY 10014

RE: Immigration Court Procedures During ICE Arrests at Courts

Dear ACIJs Khan, Taylor, and ul-Haq,

We write to address a grave problem at the immigration court – arrests of people at immigration court. We describe the issue in more detail at the bottom of this letter. For now, we briefly describe the problem, EOIR’s responsibility to address it, and how EOIR is violating its duties by not addressing the problem.

First, we briefly describe the problem: since May 2025, federal agents and unidentified masked people have been detaining, arresting, and interrogating people at the NYC immigration courthouses and around the country. This includes people who have hearings, bystanders, relatives, and lawyers. The agencies seem to include ICE, FBI, and HSI. Some people wear masks and do not identify themselves, leaving it unclear if they are illegally kidnapping people. EOIR has not protected people from being arrested or taken away. There is an unacceptable climate of fear. EOIR’s failure to take action to protect people in the courthouse violates due process and the fair administration of justice.

Second, EOIR has a responsibility to address the problem. Immigration courts have a duty to provide fair hearings in a safe environment. They also are required to protect the common law privilege that people cannot be arrested for civil enforcement reasons when they go to an immigration court hearing. For hearings to be fair, people must be able to come to court without facing the risk of civil arrest.

Third, EOIR violates its duties by not addressing the problem. EOIR violates its duty to hold fair hearings if people are being arrested, stopped, and interrogated by ICE and unidentified masked people. EOIR also violates its duty by not ensuring everyone enjoys the common law privilege against civil arrests at courthouses. This privilege is incorporated in the INA and is recognized in New York case law. EOIR must take reasonable steps to protect everyone going to court. There are many

475 Riverside Drive, Suite 1901
New York, NY 10027
212-219-3360
800-328-2322

4700 Millenia Blvd., Suite 500
Orlando, FL 32839
321-250-2853

611 S. Congress Ave., Ste. 450D
Austin, TX 78704
512-649-9129

latinojustice.org



reasonable steps that EOIR is not taking. The fear of being arrested at courthouses improperly discourages people from going to court, interferes with court proceedings, and stops judges from fulfilling their duties.

We call on EOIR and each immigration court to take immediate action in the following ways:

1. Until respondents, lawyers, paralegals, witnesses, observers, and others going to immigration court are not arrested, stopped, or interrogated, take the following steps:
 - a. Instruct immigration judges to offer continuances until the court can make sure people going will not be arrested.
 - b. Give every respondent, lawyer, legal staff member, witness, and observer the option to appear virtually for a hearing rather than attending in-person, with no prejudice to the cases and without requiring filing a motion.
2. Advise every respondent, the general public, and others who might attend an immigration court hearing:
 - a. That federal officers and unidentified masked individuals are arresting people at immigration court buildings and EOIR does not know where they are being taken. Advise that these arrests are not just of respondents, but also observers, lawyers, and members of the public. Also, advise that they are arresting respondents who are following the law by attending their immigration court hearings.
 - b. That ICE is at times asking the court to dismiss removal proceedings, even if the respondent has made an application for legal immigration status.
 - c. That if ICE asks the judge to dismiss the case and the judge agrees to dismiss it, that can affect the respondent's ability to ask the court for immigration protections, to ask the court for legal immigration status, to present evidence and witnesses, to challenge the government's evidence, to be heard by an impartial and independent person, to appeal any decision to order removal, and to get independent review of whether the government can put them in detention without an opportunity to post a bond.
3. Treat delays due to fear that government agents or unidentified masked people will arrest those going to court as a delay caused by the court or by ICE, not a delay caused by the respondent.
4. Reopen cases for any respondent who did not attend a hearing and received an in absentia order of removal since government agents and unidentified masked people started taking people away from the courthouse. Tell judges of the extraordinary circumstance of respondents' fearing being taken away



by masked people and that it supports reopening the cases. INA § 240(b)(5)(C) is a ground to rescind in absentia orders.

5. Take all steps possible to stop federal officers and unidentified masked people from arresting people (including respondents, their relatives, their friends, observers, witnesses, lawyers, paralegals, and social workers) on their way to court, at court, or on their way out of court. Inform respondents and the public of the steps EOIR is taking and how ICE and unidentified masked people are responding to the steps EOIR takes.
6. Announce to the public when EOIR has successfully stopped ICE and unidentified masked people from arresting, stopping, and interrogating people.

Background

Since May 2025, federal agents and unidentified masked people have been conducting a large number of detentions, arrests, and interrogations at immigration courts across the country, including at 26 Federal Plaza and other NYC immigration courthouses. This is a major change from the past. People being arrested and interrogated include people going to immigration court for their hearings, bystanders, relatives, and lawyers. The federal agencies involved seem to include U.S. Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation (FBI), and Homeland Security Investigations (“HSI”). Some arrests and detentions are being done by people wearing masks who refuse to show identification, and it is unclear if they work for the government. It is impossible to know whether the unidentified, masked people are illegally kidnapping people. EOIR has not protected people going to the courthouse to be able to come and leave the courthouse without being arrested or taken away. EOIR has not made any apparent effort to check whether the arrests and detentions are done legally or validly. EOIR has also not made any apparent effort to identify who is detaining, questioning, and taking people away from the courthouse. This creates an unacceptable climate of fear. It causes people to be afraid of going to court, even when they are legally required to go. This is unfairly causing people to get *in absentia* removal orders. It also causes lawyers, paralegals, social workers, observers, and witnesses to be afraid of going to court. Holding hearings in these conditions is unfair for several reasons, including because it chills people’s access to the courts, undermines due process, and blocks the fair administration of justice. EOIR has made no apparent effort to postpone hearings, reschedule hearings, or allow remote appearances to avoid the risk that people will be illegally kidnapped while they attend hearings.

I. EOIR must provide fair hearings

EOIR’s decision to continue holding in-person hearings during periods of arrests and detentions by federal officers and unidentified, masked people at the immigration court building violates fundamental fairness. EOIR violates respondents’ rights by allowing arrests in court buildings while conducting in-person hearings in the buildings. EOIR violates respondents’ right to appear at hearings and to present



evidence. Holding hearings while arrests are happening unfairly affects people's ability to attend court, bring witnesses to court, have their lawyers go to court, and have observers watch the hearing. It also violates respondents' right to have their case heard by an impartial adjudicator because it is preventing some people from going to immigration court at all. For hearings to be fair, people must be able to come in and out of court for them without facing the risk of civil arrest. The steps we demand are the minimum actions that EOIR must take to provide fundamentally fair hearings.

Judges are dismissing removal proceedings of people who do not have lawyers. They are dismissing them without giving the respondents advisals on the impact dismissing removal proceedings would have and that ICE and unidentified, masked people are arresting and taking away many people after judges dismiss their removal proceedings. EOIR and immigration judges violate immigrants' opportunity to be heard, right to present evidence, right to counsel, right to understand the proceedings, and access to an impartial adjudicator. The court also improperly takes away respondents' right to be heard on pending applications for relief. EOIR Policy Memo 25-33 instructing judges to grant DHS' unilateral motions to dismiss further denies respondents the right to have their cases heard by an impartial adjudicator.

II. EOIR's duty to protect the public from the risks posed by ICE courthouse arrests.

EOIR in 1988 recognized that a fundamental policy is to conduct hearings "in an environment in which all EOIR personnel as well as the parties, witnesses, and the public are secure as to their personal safety."¹ Over the years, EOIR has issued several memos and guidelines about keeping people safe and secure in immigration buildings. On May 17, 2022, for example, EOIR issued Frequently Asked Questions with protocols to help protect all people working in and visiting EOIR spaces throughout the country.² In 2020, EOIR created a protocol to protect people going to court from Covid risks. It had a policy to encourage judges to resolve cases without in-person hearings to minimize contact and to protect people visiting the court.³ In order to protect the public, EOIR has regularly closed its courts due to inclement weather, hazardous air quality and incidents of civil unrest.⁴ Similarly, EOIR should take the steps outlined here to fulfill its duty to protect the public from being taken

¹ See EOIR Operating Policies and Procedures Memorandum 88-9: Courtroom Security at 1 (Nov. 29, 1988), available at <https://www.justice.gov/eoir/reference-materials/OPPM08809/dl>

² See EOIR Frequently Asked Questions, May 17, 2022, available at <https://www.justice.gov/eoir-operational-status/media/1175376/dl?inline=>

³ See EOIR COVID-19 Policy Memo, available at <https://www.justice.gov/eoir/eoir-policy-manual/OOD2013/dl>

⁴ See EOIR posts on Twitter relating to closures, such as https://x.com/DOJ_EOIR/status/1666543302462562306; https://x.com/DOJ_EOIR/status/1285935396287909890



away by federal officers and unidentified masked people when attending hearings in immigration courthouses.

III. EOIR is violating common law privilege from civil arrest

EOIR is violating the common law privilege not to be arrested when going to or returning from court. EOIR violates this when it does not stop ICE and masked people from arresting people in the court building. The common law privilege protects everyone from civil arrests inside, on their way, or while returning from courthouses. This privilege is incorporated in the INA, it is firmly rooted in New York case law, and it applies today. For example, see [Doe v United States Immigration & Customs Enforcement](#), 490 F Supp 3d 672, 694 (S.D.N.Y. 2020). This applies to all courts, including immigration courts. Federal courts have explained that the fear of being arrested at courthouses improperly discourages people from going to court, interferes with court proceedings, and stops judges from fulfilling their duties.

Conclusion

We demand that each NYC Immigration Court takes common sense steps to make sure it is meeting its duty to hold fair hearings, regardless of whether the other NYC Immigration Courts do so. Each NYC Immigration Court must also take reasonable steps to safeguard the common law privilege of not being arrested for civil enforcement when going to an immigration court hearing. Each court must take action to protect the integrity of Immigration Court hearings since federal agents and unidentified masked people started detaining and arresting people in May 2025.



If you would like to discuss this topic, please contact Rex Chen, LatinoJustice PRLDEF, 475 Riverside Drive Suite 1901, New York, NY 10115, rchen@latinojustice.org, 212-219-3360.

Dated: August 14, 2025

Sincerely,

Rex Chen, LatinoJustice PRLDEF

and

CARECEN NY

Episcopal Diocese of Long Island

Episcopal Diocese of New York

I-ARC

Immigration Law & Justice New York

Neighbors Link

NYC Anti-Violence Project

NY Lawyers for the Public Interest

St. John's University School of Law's Child Advocacy Clinic

UnLocal

Young Center for Immigrant Children's Rights