

## THE PROTECT OUR COURTS ACT (S.425/A.2176) FEBRUARY 4, 2020

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LatinoJustice PRLDEF respectfully submits this memorandum in support of the *Protect Our Courts Act* (POCA), a bill that will ensure access to state court proceedings for all New Yorkers, regardless of immigration status. Since 2017, we have seen a disturbing increase in the number of Immigration and Customs Enforcement (ICE) operations executed in and around New York State (NYS) civil, criminal, and problem-solving courts to carry out civil immigration arrests.<sup>1</sup> Squads of federal immigration officers have been observed surveilling, harassing, and forcibly arresting members of our community as they attend state court proceedings, effectively undermining both the purpose and operations of our court systems and threatening the constitutional rights of all New Yorkers.<sup>2</sup> After several years of advocacy by a number of civil and immigrants' rights groups including LatinoJustice urging the NYS Office of Court Administration (OCA) to bar ICE from making arrests in and about state courthouses, OCA in April 2019 enacted a new policy requiring all ICE agents to identify themselves and present judicial warrants if they wish to effect an arrest inside NYS courthouses. Unfortunately ICE agents have been able to easily contravene this policy directive by brazenly waiting outside courthouses to snatch and arrest individuals, sometimes with the assistance of uniformed court officers.<sup>3</sup> It is clear that more robust protection must be enacted, and we commend the New York State Assembly and Senate for introducing this legislation in order to restore universal access to the courts, regardless of one's immigration status.

Founded in 1972 as the Puerto Rico Legal Defense and Education Fund, LatinoJustice PRLDEF champions an equitable society by protecting, defending and advancing the rights of the greater Latino communities in the U.S. LatinoJustice has long worked to advance the constitutional and human rights of immigrants which have increasingly come under attack by a President and White House administration that continues to vilify and scapegoat them, targeting even those who have naturalized or have legal status. The result is an entire community feeling fearful, unwelcomed and unsafe. Heightened ICE operations at NYS courthouses has meant surveillance, harassment, and arrests by force against Latino immigrant community members going to court to address housing conditions, seeking an order of protection, or testifying about a crime they may have witnessed, resulting in increased fear and hesitation in cooperating with local law enforcement and prosecution and in utilizing our court systems. In 2017 when ICE arrest operations at NYS courthouses began to be documented, LatinoJustice was one of the first organizations to petition NYS Chief Judge Janet DeFiore to prohibit these illegal arrest actions and ensure the public's access to our courts.<sup>4</sup> We respectfully submit that passing and enacting the *Protect Our Courts Act* will ensure that the Latino community and all New Yorkers have unfettered access to our state's justice system and free exercise of their civil rights.

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<sup>1</sup> Immigrant Defense Project, Denied, Disappeared, and Deported: The Toll of ICE Operations at New York's Courts in 2019, (Jan. 2020), Summary of Findings available at <https://www.immigrantdefenseproject.org/wp-content/uploads/Denied-Disappeared-Deported-FINAL.pdf>.

<sup>2</sup> Ibid at 12.

<sup>3</sup> Email Re: Courthouse Arrests (Apr. 18, 2019). Obtained under FOIA in Immigrant Defense Project v. U.S. Immigration and Customs Enforcement, <https://www.immigrantdefenseproject.org/wp-content/uploads/311.pdf>.

<sup>4</sup> Letter enclosed.



This bill is a crucial and necessary response to the 1,700% increase in ICE enforcement actions undertaken at our state courthouses since 2016.<sup>5</sup> Last year alone there were 203 operations at court buildings, with nearly half of the actions occurring after the OCA directive regarding ICE arrests inside courthouses.<sup>6</sup> Despite the requirement that ICE officers identify themselves to the court and provide a copy of the judicial warrant they are enforcing before taking action, plain-clothes federal immigration officers have continued surveillance inside courts without identifying themselves, lying in wait to make arrests just outside the courthouse doors. Refusing to identify themselves or provide a judicial or court warrant, in combination with increasingly violent tactics during arrest has left some families wondering if they just witnessed the kidnapping of their loved one. As intended, ICE operations have created an atmosphere of terror, particularly for mixed status families appearing in court.

This overwhelming fear has had a chilling effect on immigrants' exercise of their civil rights, even at the national level. According to a survey conducted by Ceres Policy Research in 2019, of 1,000 people in mixed immigration families, 60% reported that they avoided attending court as witnesses.<sup>7</sup> Further, 41% of respondents had avoided a domestic-violence-related hearing when they had been the victim, and 37% of respondents had avoided appearing for child welfare hearings.<sup>8</sup> The implications for immigrant communities in New York are unavoidable. If ICE continues to use New York's state courts as a hunting ground for immigrant New Yorkers, immigrant litigants and witnesses will stop appearing for court proceedings altogether, effectively truncating an entire community's access to the justice system. ICE's continued prioritization in expanded civil immigration enforcement definitively erodes the effectiveness of New York's justice and court system.

The ***Protect Our Courts Act*** will ensure that all New Yorkers retain the civil rights guaranteed to them by this legislature over 100 years ago and that immigrant communities are not pushed to the side.<sup>9</sup> Every New York resident deserves equal and open access to our justice system to secure the rights they are guaranteed by law, regardless of their or their family's immigration status.

For the aforementioned reasons, ***LatinoJustice PRLDEF*** strongly supports and endorses the ***Protect Our Courts Act*** and urge its immediate passage and enactment in this 2019-2020 legislative session as soon as possible.

Respectfully,

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<sup>5</sup> Immigrant Defense Project, Denied, Disappeared, and Deported: The Toll of ICE Operations at New York's Courts in 2019, 6 (Jan. 2020), See full report at <https://www.immigrantdefenseproject.org/wp-content/uploads/Denied-Disappeared-Deported-FINAL.pdf>.

<sup>6</sup> Id.

<sup>7</sup> Angela Irvine et al., Ceres Policy Research, The Chilling Effect of ICE Courthouse Arrests: How Immigration and Customs Enforcement Raids Deter Immigrants from Attending Child Welfare, Domestic Violence, Adult Criminal, and Youth Court Hearings, 8 (Oct. 2019), Full report here: <https://static1.squarespace.com/static/58ba8c479f7456dff8fb4e29/t/5dae6ba65642ea5d1cef9705/1571711914510/ice.report.final.21oct2019.pdf>

<sup>8</sup> Ibid.

<sup>9</sup> NY CIV RTS § 23, (Westlaw through McKinney's Consolidated Laws of New York Annotated Civil Rights Law).

