

26-0104-CV

United States Court of Appeals
for the
Second Circuit

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

– v. –

STATE OF NEW YORK, KATHLEEN HOCHUL, Governor of New York,
in her Official Capacity, LETITIA A. JAMES, Attorney General of New York,
in her Official Capacity,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

**BRIEF OF *AMICI CURIAE* HON. JANET DIFIORE (Ret.),
HON. LAWRENCE K. MARKS (Ret.), HON. ALBERT M.
ROSENBLATT (Ret.), HON. LESLIE E. STEIN (Ret.), HON.
KAREN K. PETERS (Ret.), HON. ALAN D. SCHEINKMAN (Ret.),
HON. FERN A. FISHER (Ret.), AND HON. MICHAEL J. OBUS
(Ret.), IN SUPPORT OF DEFENDANTS-APPELLEES**

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INTERESTS OF *AMICI CURIAE*¹

We are former New York State judges and justices who have dedicated our careers to safeguarding the rule of law and ensuring our courts are accessible to all. Our combined experience includes more than 180 years of service on the bench, including serving as the Chief Judge of the New York Court of Appeals; the Chief Administrative Judge of the New York Unified Court System responsible for overseeing the day-to-day operation of the statewide court system; Deputy Chief Administrative Judge; Associate Judge of the New York Court of Appeals; Presiding Judge of the Appellate Division Second and Third Departments; and Administrative Judge for the New York State Supreme Court Criminal Term, New York County. We respectfully submit this memorandum, as *amici curiae* (full list in the Appendix), in support of the Brief for Appellees State of New York *et al.* (collectively, “New York”) urging affirmance of the United States District Court for the Northern District of New York’s (the “District Court”) judgment dismissing the Government’s Complaint.²

¹ Pursuant to Fed. R. App. P. 29(a)(4)(E) and Local Rule 29.1(b), counsel for *amici* certify that only *amici* and their counsel authored this brief in its entirety, and that no party and no counsel for any party, nor any other person or entity other than *amici* or their counsel, contributed money intended to fund preparing or submitting the brief.

² The parties have consented to the filing of this *amicus* brief. Accordingly, this brief may be filed without leave of court, pursuant to Fed. R. App. P. 29(a)(2).

As former judges and justices, we understand how civil immigration activities are likely to affect the day-to-day work of New York’s judges and its courthouses. In fact, some of us were involved in the decision to adopt Office of the Chief Administrative Judge Directive No. 1-2019, which, like the Protect Our Courts Act (“POCA”) provisions at issue here, prohibited arrests inside New York State courthouses, except when executed pursuant to a judicial warrant or judicial order authorizing the arrest.³ We write to detail how courthouse arrests without a judicial warrant are inimical to the proper functioning of our courts and, as such, constitute a severe encroachment on a core feature of state sovereignty.

³ State of New York Unified Court System, Office of the Chief Administrative Judge, Directive No. 1-2019, Protocol Governing Activities in Courthouses by Law Enforcement Agencies (Apr. 17, 2019) (the “2019 Chief Administrative Judge Directive”).

PRELIMINARY STATEMENT

Just a short walk from this Court, the New York County Courthouse at 60 Centre Street bears the following inscription: “The true administration of justice is the firmest pillar of good government.” That statement, taken from a 1789 letter written by President George Washington to Edmond Randolph shortly after President Washington took the oath of office to become our first President,⁴ elucidates the fundamental role that our courts and the rule of law play in our constitutional system. It is both an aspiration and a warning; it is what separates a truly free society from authoritarianism.

POCA was adopted to safeguard “the unhindered and untrammelled functioning of our courts,” which the Supreme Court has characterized as “part of the very foundation of our constitutional democracy.” *Cox v. Louisiana*, 379 U.S. 559, 562 (1965). Specifically, New York enacted POCA to address the chaos created in its courthouses when the first Trump administration reversed a long-standing Immigration and Customs Enforcement (“ICE”) policy that up until 2017 “prohibited its officials from engaging in civil enforcement action at courthouses except in ‘very limited circumstances.’” (Joint Appendix (“JA”) 124 (quoting *New*

⁴ The actual quote from President Washington’s letter is “the due administration of justice is the firmest pillar of good government.” Letter from George Washington to Edmund Randolph (Sept. 28, 1789), <https://founders.archives.gov/documents/Washington/05-04-02-0073>.

York v. U.S. Immigr. & Customs Enf't, 466 F. Supp. 3d 439, 441 (S.D.N.Y. 2020)).) As a result of ICE's actions pursuant to the revised policy, New York's judicial system experienced "serious impairments," as reflected in the "ample evidence" in POCA's legislative history. (JA134 (citing Assembly Memorandum in Support, *in* N.Y. Bill Jacket for ch. 322 (2020), at 8).) These impairments included, but are not limited to, decreases in the reporting of violent crimes, an unwillingness of crime victims, witnesses, and defendants to attend court proceedings, and a detrimental effect on law enforcement's ability to successfully prosecute criminal activity. N.Y. Bill Jacket for ch. 322, at 7-8, 40.

As the District Court found, and the Government does not appear to dispute, the State's "right to manage its 'judicial systems for the decision of legal controversies'" is "a core feature of its inherent sovereignty." (JA133 (quoting *Atl. Coast Line R.R. v. Bhd. of Locomotive Eng'rs*, 398 U.S. 281, 285, 287 (1970)).) Any claim that a federal law preempts a state from carrying out such authority, as the District Court further explained, must overcome "the assumption that the historic police powers of the States were not to be superseded . . . unless that was the clear and manifest purpose of Congress." (JA141 (quoting *City of Milwaukee v. Illinois*, 451 U.S. 304, 316 (1981))). POCA serves to protect the integrity of New York's judicature and, in so doing, enforces powers reserved to the State through the Tenth Amendment. *See Gregory v. Ashcroft*, 501 U.S. 452, 461 (1991) ("[T]he States retain

substantial sovereign powers under our constitutional scheme, powers with which Congress does not readily interfere.”).

Conversely, the ICE courthouse arrest policies unconstitutionally commandeer state resources by prohibiting state and local judges and state court officials from “tak[ing] action in response to ICE’s arrests, even when the federal agency causes great disruption to the functioning of the state judiciary and the state agents would therefore normally intervene.” *New York v. U.S. Immigr. & Customs Enf’t*, 431 F. Supp. 3d 377, 394 (S.D.N.Y. 2019) (“*New York I*”). Under our system of dual sovereignty, “[t]he Federal Government may not compel the States to implement, by legislation or executive action, federal regulatory programs.” *Printz v. United States*, 521 U.S. 898, 925 (1997). The principle applies equally to federal actions that command affirmative action or that, as in this case, impose a prohibition that directly interferes with a core function of state sovereignty. *See Murphy v. Nat’l Collegiate Athletic Ass’n*, 584 U.S. 453, 474-475 (2018).

As former judges and justices we know that, for courts to fully serve their communities, broad access to justice is vital. Given our experience, this brief focuses on several of the “serious impairments” to the state’s judicial system should the Government succeed in overturning POCA and carrying out the ICE policy that prioritizes civil arrests at courthouses, which the current administration

reimplemented in 2025. (*See* JA123-24 (citing Memorandum from Todd M. Lyons, Acting Director of ICE (May 27, 2025)).)

First, the invalidation of POCA would substantially interfere with the administration of justice because courthouse civil immigration enforcement (1) creates confusion and diverts court resources; (2) endangers courthouse staff, court participants, and the general public; and (3) disrupts court proceedings. There are myriad examples of these detrimental impacts on courthouse operations. These include, but are not limited to:

- chasing suspects through courthouse hallways, leading to standoffs that necessitated court officers to step in and prohibit public access to parts of the courthouse and thereby disrupting court proceedings;
- knocking over an elderly and disabled bystander in a courthouse lobby while tackling an unrelated target;
- mistakenly detaining a courthouse intern who a state court judge was attempting to drive home, after surrounding the judge's car and threatening to break the car's windows; and
- dragging a criminal defendant out of a courtroom shortly after the presiding judge left the bench.

As the Southern District of New York stated in a prior proceeding between the parties, “[c]ourts cannot be expected to function properly if third parties (not least the executive branch of the government) feel free to disrupt the proceedings and intimidate the parties and witnesses by staging arrests for unrelated civil violations in the courthouse, on court property, or while the witnesses or parties are in transit to or from their court proceedings.” *New York I*, 431 F. Supp. 3d at 380. Accordingly,

the invalidation of POCA would substantially interfere with judges' ability to maintain the order and safety necessary to effectively administer the justice system.

Second, the invalidation of POCA would have a chilling effect on immigrant communities' access to the justice system and, as a result, courts' ability to serve their communities. As the New York Assembly found in adopting POCA, “[f]ear of being targeted, either due to a lack of legal immigration status or concern about the uncertain status of a family member, have dissuaded many individuals from contacting law enforcement or following through with court proceedings.” N.Y. Bill Jacket for ch. 322, at 8. In fact, both ICE and the Department of Justice’s (“DOJ”) Executive Office for Immigration Review previously acknowledged that the policies at issue in this case disincentivized immigrant communities from accessing court systems.⁵ The Government notably does not dispute that its courthouse enforcement policy deters victims, witnesses, and litigants from participating in the judicial process. Accordingly, absent POCA’s protections, many immigrant litigants and witnesses—even those lawfully in the United States—would avoid courthouses

⁵ Memorandum from Sheila McNulty, Chief Immigration Judge, *Operating Policies and Procedures Memorandum 23:01: Enforcement Actions in or Near OCIJ Space*, at 2 (Dec. 11, 2023) (citation omitted), https://www.justice.gov/d9/2023-12/oppm_re_dhs_enforcement_actions_in_or_near_ocij_space_-_12.11.2023.pdf; Memorandum from Tae Johnson, Acting Director, U.S. Immigr. & Customs Enf’t & Troy Miller, Acting Comm’r, U.S. Customs & Border Prot., *Civil Immigration Enforcement Actions in or near Courthouses* (Apr. 27, 2021), <https://www.cbp.gov/sites/default/files/assets/documents/2021-Apr/Enforcement-Actions-in-Courthouses-04-26-21.pdf>.

altogether, harming those individuals as well as the public at large through lost opportunities to seek and obtain justice and by forcing judges to resolve matters without the participation of vital parties.

For these reasons and others, we support New York’s opposition urging affirmance of the District Court’s judgment dismissing the Government’s Complaint.

ARGUMENT

I. COURTHOUSE CIVIL IMMIGRATION ARRESTS INTERFERE WITH THE ADMINISTRATION OF JUSTICE

Immigration enforcement in and around state courthouses interferes with the effective administration of justice by creating confusion and distracting court officials, creating public safety hazards to all who have business before the courts, and disrupting proceedings. When ICE increased its use of civil enforcement actions near state courthouses during the first Trump administration, judges across the country, including in New York, warned federal officials that such arrests were disrupting court proceedings, burdening court staff with requests to facilitate such arrests, and leading to physical altercations involving court employees.⁶ Indeed, many of our judicial colleagues across the country, having seen the disruption caused

⁶ Letter to Ronald D. Vitiello, Acting Dir. of U.S. Immigr. & Customs Enf’t (Dec. 12, 2018), https://www.scribd.com/document/395488473/Letter-From-Former-Judges-Courthouse-Immigration-Arrests#fullscreen&from_embed (“Letter to Ronald D. Vitiello”).

by courthouse immigration arrests, adopted policies similar to the policy we adopted in New York, prohibiting or limiting courthouse arrests without a judicial warrant.⁷ Judges overseeing litigation over courthouse arrests found that ICE’s courthouse arrests undermined the orderly functioning of courts. *See e.g., New York I*, 431 F. Supp. 3d at 391-92; *Velazquez-Hernandez v. U.S. Immigr. & Customs Enf’t*, 500 F. Supp. 3d 1132, 1146 (S.D. Cal. 2020).

POCA returned control over the State’s courtrooms and courthouses, which ICE had usurped, to the courts themselves, where it properly belongs. *See United States v. Smith*, 426 F.3d 567, 576 (2d Cir. 2005) (expressing concern over the executive branch’s unilateral attempts to restrict court access and stating that control by the courts over courthouses is “essential”). It achieved this result through the codification of New York’s “‘very ancient’ privilege protecting parties and

⁷ *See, e.g.,* Circuit Court of Cook Cnty., Gen. Admin. Order No. 2025-10 (Oct. 15, 2025) (“The fair administration of justice requires that courts remain open and accessible, and that litigants and witnesses may appear without fear of civil arrest. The common law has long recognized this privilege to ensure individuals can fulfill legal duties without risking further legal jeopardy. Courts in Illinois and nationwide have consistently reaffirmed its necessity.”), https://ocj-web-files.s3.us-east-2.amazonaws.com/orders/GAO_2025-10.pdf?VersionId=atjFosyslX95ZiwwSl9UeuDOeS0gB7x6; Allison Sherry and Ben Markus, *Western Slope judge warns ICE to stop civil immigration actions in courthouses*, CPR News (Apr. 16, 2025), <https://www.cpr.org/2025/04/16/colorado-judge-orders-ice-stop-enforcement-western-slope-courthouses/>; Franklin Cnty. Ct., Gen. Div., R. 111 (2025), <https://www.fccourts.org/DocumentCenter/View/1304/Local-Rule-111-Prohibiting-Warrantless-Civil-Arrests>.

witnesses from civil arrests in courthouses, and while traveling to and from court proceedings,” unless such arrest is supported by a judicial warrant or judicial order authorizing it. (JA134 (quoting *Parker v. Marco*, 136 N.Y. 585, 589 (1876).) This common law privilege belongs to the court itself because it was “deemed necessary for the maintenance of its authority and dignity and in order to promote the due and efficient administration of justice.” *Parker*, 136 N.Y. at 589; *see also, e.g., Stewart v. Ramsay*, 242 U.S. 128, 130 (1916) (stating that the privilege was “founded in the necessities of the judicial administration”).

The period following the reimplemention in 2025 of the ICE policy prioritizing civil courthouse arrests provides substantial additional evidence of the deleterious effects of ICE courthouse enforcement on the judicial function and the rule of law. In fact, the Government does not address in its appeal brief, let alone dispute, the detrimental impact that its ICE courthouse enforcement policies have had on the administration of justice. Indeed, the harms and intrusions are self-evident and indisputable.

A. COURTHOUSE CIVIL IMMIGRATION ENFORCEMENT INTERFERES WITH THE ADMINISTRATION OF JUSTICE BY CREATING CONFUSION AND DIVERTING COURT RESOURCES

POCA was enacted for the specific purpose of stopping the violence, confusion, and chaos caused by courthouse arrests, and its invalidation would lead to the disruption that we saw in New York prior to POCA’s enactment and that we

are currently seeing in other courthouses throughout the country. Prior to POCA's enactment, ICE targeted and apprehended individuals appearing in New York's criminal, housing, family, civil, and other non-immigration courts, leading to confusion and physical altercations.⁸ For example, the Unusual Occurrence Reports ("UORs") filed by New York State court security personnel⁹ during the first Trump administration "make clear that ICE courthouse operations create a work environment rife with confusion and guesswork for court officers and staff. Inadequate and nonexistent documentation forces court officers to guess at the ICE agents' authority and jurisdiction, leading inevitably to wrongful and collateral arrests."¹⁰ Similarly, in prior litigation between the parties during the first Trump

⁸ Letter to Ronald D. Vitiello, *supra* note 6, at 2.

⁹ Since 2017, New York State court security personnel have been required to file a UOR documenting each law enforcement action taken in a New York State courthouse by a covered law enforcement agency. Office of the Chief Admin. Judge, N.Y. State Unified Court Sys., *Policy and Protocol Governing Activities in Courthouses by Law Enforcement Agencies* (Apr. 26, 2017), <https://www.nycourts.gov/courts/ad1/committees&programs/CLE/111%20Centre%20-%20Immigration%20-%20ICE%20-%2009-28-17.pdf>. The State filed some of the UORs issued between 2017 and February 2020 in support of its motion for summary judgment during the prior litigation between New York and the Government challenging ICE's courthouse arrest policy. *See New York v. U.S. Immigr. & Customs Enf't*, No. 19-cv-8876, ECF Nos. 91-24 ¶¶ 1-7, 91-57 through 91-59 (S.D.N.Y.).

¹⁰ ICE Out of Courts Coalition, *Safeguarding the Integrity of Our Courts: The Impact of ICE Courthouse Operations in New York State*, at 63 (2019) ("Safeguarding Report"), <https://www.immigrantdefenseproject.org/wp-content/uploads/Safeguarding-the-Integrity-of-Our-Courts-Final-Report.pdf>; *see*,

administration, the court cited to testimony from a Brooklyn assistant district attorney as to the “complete chaos” that resulted from ICE’s arrests inside the courthouse itself. *State of New York v. U.S. Immigr. & Customs Enf’t*, 466 F. Supp. 3d 439, 444 (S.D.N.Y. 2020) (“*New York IP*”), *vacated on other grounds* 2023 WL 2333979 (2d Cir. 2023).

While POCA has limited the “chaos” in New York State courts, incidents from other states after the current administration reimplemented courthouse enforcement in 2025 provide further evidence of the detrimental effects of these policies on courts’ ability to administer justice. For example, in November 2025, ICE detained a high school student intern at the Rhode Island Superior Court.¹¹ The incident that led to the teen’s arrest reportedly started inside the courthouse, including in one of the courtrooms, when ICE agents took photographs of the teen in violation of court rules.¹² A Superior Court Judge thereafter attempted to drive

e.g., *New York v. U.S. Immigr. & Customs Enf’t*, No. 19-cv-8876, ECF No. 91-57 at 91-92 (describing incident in which door to secure area in courthouse “had to physically be held closed by a court officer” due to the commotion); ECF No. 91-59 at 14 (describing an incident in which glass door to courthouse building cracked during an attempted arrest and entry to the area was subsequently restricted “until I.C.E. agents completed their task of taking the Subject into custody”).

¹¹ Jusolyn Flower et al., *RI judge intervenes after ICE wrongfully detains Superior Court intern*, WPRI 12 (Nov. 21, 2025), <https://www.wpri.com/news/local-news/providence/ri-judge-intervenes-after-ice-mistakenly-detains-superior-court-intern>.

¹² *Id.*

home the student, who was shaken by the agents' actions, and ICE agents surrounded the judge's car.¹³ The agents reportedly demanded that everyone, including the judge, exit the vehicle and threatened to break the car's windows if they did not comply.¹⁴ Over the judge's protests, as well as those of the court's head of security, ICE agents restrained the student and led him away before confirming that it was a case of mistaken identity.¹⁵

There have been multiple other incidents in which ICE's courthouse enforcement activities have distracted court officials from their duties or been so disruptive to courthouse facilities as to render them effectively inoperable for state judicial purposes, at least temporarily. With these arrests often taking place in courthouse hallways, for example, they have resulted in physical altercations that block those otherwise public spaces¹⁶ or that require court staff to put aside their

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Imani Clement, *ICE mistakenly detains teenage judicial intern outside Providence courthouse*, WCVB 5 (Nov. 21, 2025), <https://www.wcvb.com/article/ice-mistakenly-detains-teenage-judicial-intern-outside-providence-courthouse/69502648>.

¹⁶ *See, e.g.*, Yesenia Amaro, *Video shows questionable ICE arrest inside Oregon Courthouse*, The Oregonian (Apr. 3, 2026), <https://www.oregonlive.com/politics/2026/04/video-shows-questionable-ice-arrest-inside-oregon-courthouse.html>.

regular responsibilities and take action to limit the disruption.¹⁷ In one incident during the first Trump administration, a Chief Criminal Judge in Oregon described how an attempted courthouse arrest outside of his courtroom, and an ensuing “melee,” put his court-security deputy in a “clear Hobson’s dilemma.”¹⁸ As described by the chief judge, the deputy had to “decide whether to confront the present violence and unknown danger, thereby abandoning the in-custody defendants, or stay at his post and accept the consequences [of] the violence being wrought.”¹⁹ Needless to say, such an environment makes it difficult for judges to do their jobs.

B. COURTHOUSE CIVIL IMMIGRATION ENFORCEMENT INTERFERES WITH THE ADMINISTRATION OF JUSTICE BY ENDANGERING THE PUBLIC

ICE’s courthouse arrests also impede the functioning of our courts by endangering courthouse staff, court participants, and the general public. Prior to the enactment of POCA, ICE agents in New York were observed breaking courthouse doors and slamming individuals to the ground and against courthouse walls and

¹⁷ See, e.g., Simón Rios and Rachell Sanchez-Smith, *ICE agents are staking out local courthouses. As they’ve roamed the halls, Mass. court arrests tripled*, WBUR (Dec. 16, 2025), <https://www.wbur.org/news/2025/12/16/ice-courthouses-arrest-massachusetts>.

¹⁸ E-mail from Chief Criminal Judge Andrew R. Erwin to WSH-Judges, et al. (June 1, 2018), https://www.brennancenter.org/sites/default/files/2020-05/Ryan%20et%20al_Erwin%20email%206.1.18.pdf.

¹⁹ *Id.*

fences.²⁰ As the New York Legislature found in adopting POCA, “public safety is enhanced by protecting parties and witnesses from civil arrests in connection with their attendance at court proceedings.” (JA134 (citing N.Y. Bill Jacket for ch. 322, at 8).)

Since the Trump administration’s reimplementing of the civil courthouse enforcement policy in early 2025, multiple incidents of courthouse immigration enforcement have created public safety threats, including to individuals who were not targets of ICE’s actions. As a result of POCA’s protections, these incidents have been limited to courts in other states or in the federal immigration courts in New York (where POCA does not apply).

For example, in or about February 2025, ICE agents tackled a Venezuelan man in the lobby of the courthouse in Nashua, New Hampshire as he was heading to an arraignment on misdemeanor charges.²¹ In the process, the ICE agents knocked over an elderly and disabled bystander.²² A witness to the incident questioned why

²⁰ Immigrant Defense Project, *Denied, Disappeared, and Deported: The Toll of ICE Operations at New York’s Courts in 2019*, at 5, 12 (Jan. 2020) (“IDP Report”), <https://www.immigrantdefenseproject.org/wp-content/uploads/Denied-Disappeared-Deported-FINAL.pdf>.

²¹ Holly Ramer, *A Venezuelan man was tackled in a New Hampshire courthouse and sent by ICE to Texas*, AP News (Apr. 14, 2025), <https://apnews.com/article/immigrant-ice-arrest-court-c81b0c7b5b50767072fc35bebce8a373>.

²² *Id.*

the detainee was “so violently hustled to the ground the way he was in such an unsafe manner for him and everyone else around him.”²³

In another incident in approximately late September 2025, an ICE officer violently shoved a woman into a wall and then threw her to the floor at the Immigration Court for the Southern District of New York.²⁴ While ICE had previously arrested her husband, the woman was not a target of their activity, and the incident occurred after her husband had already been taken into custody.²⁵

Just several days later in the same courthouse, ICE agents assaulted several journalists.²⁶ The incident started when a masked ICE agent cursed at a journalist in an elevator and shoved the journalist out of the elevator.²⁷ Another ICE agent then shoved several other journalists in the hallway outside the elevator, causing at least

²³ Kelly O’Brien, *Agents who detained man at Nashua courthouse were working with ICE, News 9 learns*, WMUR 9 (Apr. 8, 2025), <https://www.wmur.com/article/agents-nashua-courthouse-detention-ice-4825/64424438>.

²⁴ Diego Mendoza et. al, *Ice officer seen pushing woman to the floor at NY immigration court relieved of duties, agency says*, ABC7 (Sept. 26, 2025) <https://abc7.com/post/ice-officer-seen-pushing-woman-floor-nyc-immigration-courthouse-is-relieved-current-duties-agency-says/17887465/>.

²⁵ *Id.*

²⁶ Ana Ley et. al, *Journalist Injured in Chaotic Scene at New York Immigration Court*, N.Y. Times (Sept. 30, 2025) <https://www.nytimes.com/2025/09/30/nyregion/journalist-injured-immigration-courthouse.html>.

²⁷ *Id.*

two journalists to fall to the floor. These actions caused serious injuries to one of the assaulted journalists, who left the courthouse in a stretcher with a neck brace after being attended to by emergency crews.²⁸

In an incident near the state courthouse in Chelsea, Massachusetts, ICE surrounded the car of a green card holder who was accompanying a family member to a court hearing.²⁹ According to a complaint filed with the Department of Homeland Security, after breaking the windows of the car, ICE officers forcibly pulled the green card holder out of the car.³⁰ ICE also pulled from the car her 13-year-old son, a United States citizen with autism.³¹ The complaint further asserts that, as her son was sobbing next to his mother, one of the officers kicked the woman's leg and, with the help of two other officers, slammed her face-down against the ground and twisted her arms back to handcuff her.³² While the woman and her

²⁸ *Id.*

²⁹ Sarah Betancourt, *Chelsea mother with green card files federal complaint against ICE for September arrest*, WGBH (Dec. 16, 2025), <https://www.wgbh.org/news/local/2025-12-15/chelsea-mother-with-green-card-files-federal-complaint-against-ice-for-september-arrest>; *see also* Letter of Jillian Lenson, Esq. *et al.* of the Lawyers for Civil Rights to U.S. Dept. of Homeland Security Office of the General Counsel and Charles Wall, Principal Legal Advisor, U.S. Immigr. and Customs Enf't (Dec. 15, 2025) ("Lenson Letter"), <https://lawyersforcivilrights.org/wp-content/uploads/2025/12/FTCA-Complaint-Ramirez-Family-REDACTED.pdf>.

³⁰ Lenson Letter, *supra* note 29, at 2-3.

³¹ *Id.*

³² *Id.* at 3.

son were ultimately released without being charged after local authorities arrived on the scene and suggested that ICE check the woman's identification, they both were taken from the scene by ambulance to a hospital emergency room for medical evaluation.³³

In an incident at the state courthouse in Stamford, Connecticut, ICE agents reportedly arrested two brothers who had locked themselves in a courthouse bathroom.³⁴ The bathroom confrontation required the Connecticut judicial marshals to clear lawyers and members of the public from the area, and ICE thereafter reportedly kicked in the glass on the bathroom door to gain entry and take the brothers into custody.³⁵ A lawyer who was nearby when the incident occurred stated that he smelled an odor that resembled pepper spray, and another eyewitness reported that the ICE agents ignored the direction of one of the Connecticut judicial

³³ *Id.* at 6-8. The woman's daughter subsequently testified about this incident before Congress. See *Teen Testifies in Congress Against ICE*, Lawyers for Civil Rights (Mar. 24, 2026), <https://lawyersforcivilrights.org/our-impact/immigrant-rights/teen-testifies-in-congress-against-ice/>.

³⁴ Angela Carella, *Federal Immigration Agents Step Up Enforcement at Stamford Courthouse*, CT Examiner (Aug. 12, 2025), <https://ctexaminer.com/2025/08/12/federal-immigration-agents-step-up-enforcement-at-stamford-courthouse/>.

³⁵ *Id.*; Jim Haddadin, *Immigration enforcement officers arrest two men inside Stamford courthouse*, CT Mirror (Aug. 12, 2025), <https://ctmirror.org/2025/08/12/ice-stamford-courthouse-arrests/>.

marshals who had unsuccessfully attempted to prevent the ICE agents from entering the courthouse in the first place.³⁶

As former judges and justices, we know how crucial an orderly and safe courthouse is to the proper administration of justice. To properly function, courts must be places where individuals from all backgrounds and statuses can safely access the justice system. Without this sense of safety, courts will be unable to provide the protection and services on which individuals depend, and courts' promise of equal justice under the law will remain unfulfilled.

C. COURTHOUSE CIVIL IMMIGRATION ENFORCEMENT INTERFERES WITH THE ADMINISTRATION OF JUSTICE BY DISRUPTING COURT PROCEEDINGS

Even in instances that do not tax court resources or create a risk to public safety, a policy permitting courthouse arrests without judicial authorization impedes the administration of justice because it disrupts court proceedings and deprives defendants, victims, and witnesses of having their day in court. *New York II*, 466 F. Supp. 3d at 443-44 (discussing the “substantial evidence” that, before POCA, ICE courthouse enforcement “undermined the orderly functioning of New York courts

³⁶ Angela Carella, *Federal Immigration Agents Step Up Enforcement at Stamford Courthouse*, CT Examiner (Aug. 12, 2025), <https://ctexaminer.com/2025/08/12/federal-immigration-agents-step-up-enforcement-at-stamford-courthouse/>; Jim Haddadin, *Immigration enforcement officers arrest two men inside Stamford courthouse*, CT Mirror (Aug. 12, 2025), <https://ctmirror.org/2025/08/12/ice-stamford-courthouse-arrests/>.

themselves,” including by “forc[ing] courts to adjourn proceedings at the last minute, wasting scarce judicial time and resources.”).

Under the first Trump administration’s courthouse arrest policy, ICE deported hundreds of immigrants with open court cases in New York City, while, in other instances, ICE’s failure to produce detained individuals required courts to abruptly adjourn or delay scheduled hearings in criminal cases.³⁷ For these reasons, judicial leaders warned ICE that “[r]emoval of state criminal defendants pending trial severely, and often irreparably, interferes with the state criminal process. Among other things, it prevents victims from having their day in court, denies defendants the opportunity to be exonerated, and allows defendants who would otherwise be convicted to escape punishment.”³⁸

The reimplementing of the courthouse arrest policy has resulted in similar disruptions. For example, in or about March 2026, ICE agents reportedly “drag[ged]” a criminal defendant out of a federal courtroom in Los Angeles shortly

³⁷ IDP Report, *supra* note 20, at 13.

³⁸ Letter from Massachusetts Supreme Judicial Court Chief Justice Ralph D. Gants and Trial Court Chief Justice Paula M. Carey to Acting Field Office Director Marcos Charles (Oct. 23, 2019), <https://masslawyersweekly.com/wp-content/blogs.dir/1/files/2019/10/Correspondence-from-Chief-Justice-Gants-and-Chief-Justice-Carey.pdf>.

after the presiding judge left the bench following a pretrial status conference.³⁹ The presiding judge reportedly returned to the bench after the arrest and stated that he had “never had something like that happen” in his courtroom and that “there is not much I can do.”⁴⁰

In another incident in Los Angeles in approximately June 2025, ICE agents arrested two women outside the Los Angeles Superior Courthouse after their hearing in a local criminal case.⁴¹ The presiding judge was not given advance notice of the arrests and issued the following public statement addressing the implications of these actions: “Federal immigration enforcement activities inside courthouses disrupt court operations, breach public trust, and compromise the Court’s constitutional role as a neutral venue for the peaceful resolution of disputes.”⁴²

ICE similarly arrested a man in Boston charged with providing false information on a driver’s license application as he was leaving the Boston Municipal

³⁹ Brittny Mejia, *In rare move, ICE drags criminal defendant out of a federal courtroom*, L.A. Times (Mar. 20, 2026), <https://www.latimes.com/california/story/2026-03-20/in-rare-move-ice-drags-criminal-defendant-out-of-federal-courtroom>.

⁴⁰ *Id.*

⁴¹ James Queally, *ICE arrests at L.A. courthouse met with alarm: ‘Absolutely blindsided’*, L.A. Times (June 25, 2025), <https://www.latimes.com/california/story/2025-06-25/ice-arrests-los-angeles-courthouse>.

⁴² *Id.*

Courthouse after the first day of his trial.⁴³ As the presiding judge found, ICE thereafter “secreted the defendant in an unknown location and refused to bring the defendant back to court for trial.”⁴⁴ As a result, the trial jurors were present in the courthouse for two days in which ICE refused to produce the man for trial before the jurors were permanently excused by the Court.⁴⁵ In another incident in Mecklenburg County, North Carolina, “multiple police and civilian witnesses were sent home after subjects were apprehended [by ICE] in advance of their scheduled trials,” according to the local District Attorney.⁴⁶

This Court has previously emphasized that “the Supreme Court has made clear that ‘courtroom and courthouse premises are subject to the control of the court.’” *Smith*, 426 F.3d at 576 (quoting *Sheppard v. Maxwell*, 384 U.S. 333, 358 (1966)) (internal quotation marks omitted). As is evident from these and other incidents,

⁴³ Mary Markos et al., *Judge dismisses case against man detained by ICE mid-trial, finds agent in contempt*, NBC Boston (Mar. 31, 2025), <https://www.nbcboston.com/news/local/dismayed-and-surprised-das-office-responds-after-man-is-detained-by-ice-mid-trial/3671872/>.

⁴⁴ *Massachusetts Executive Office of the Trial Court v. Sullivan*, No. 25-cv-10769 (D. Mass.) (ECF Nos. 1-4 and 1-5) (Orders in *Commonwealth v. Martell Lebron*, 2001 CR 000384 (Boston Municipal Ct.)).

⁴⁵ *Id.*

⁴⁶ Joe Bruno, *Four taken into ICE custody at Mecklenburg County Courthouse*, WSOC-TV (Feb. 24, 2026), <https://www.wsoc.tv/news/local/four-taken-into-ice-custody-mecklenburg-county-courthouse/NOVVFQITQZCOJG3ENQZ3UHJTLE/>.

ICE’s courthouse arrest policy improperly usurps courthouse control from the courts with extreme disruptive effect and in derogation of the rights of those with business before the courts.

II. COURTHOUSE CIVIL IMMIGRATION ENFORCEMENT CHILLS IMMIGRANT COMMUNITIES’ ACCESS TO THE COURT SYSTEM

The longstanding privilege against courthouse civil arrests that POCA codified ensures that parties and witnesses are not deterred from attending court proceedings for fear of arrest. *See, e.g., Person v. Grier*, 66 N.Y. 124, 125 (1876) (“This immunity is one of the necessities of the administration of justice, and courts would often be embarrassed if suitors or witnesses, while attending court, could be molested with process. Witnesses might be deterred, and parties prevented from attending, and delays might ensue or injustice be done.”). Indeed, for these reasons, numerous states have long codified protections from civil arrest for at least some persons appearing in the states’ courts, many of which protect persons on their way to and from the courthouse.⁴⁷

⁴⁷ *See, e.g.,* Ohio Rev. Code Ann. § 2331.11 (identifying as “privileged from arrest” persons “while going to, attending, or returning from court”); Mich. Comp. Laws Ann. § 600.1821 (offering protections to “all parties, attorneys, subpoenaed witnesses . . . while going to, attending, and returning from the places they are required to attend”); Va. Code Ann. § 8.01-327.2 (providing protections to any “judge, grand juror or witness, required by lawful authority to attend any court or place, during such attendance and while going to and from such court or place”); W. Va. Code § 7-8-10 (same); Ind. Code Ann. § 34-29-2-1 (identifying as “privileged from arrest . . . [a]ll persons while engaged in necessary attendance at a court and in

POCA was adopted to address these same concerns. As reflected in POCA’s legislative history, the New York Legislature found that courthouse arrests during the first Trump administration had a chilling effect on immigrant communities’ access to the court system, which thereby undermined public safety as to all New Yorkers. N.Y. Bill Jacket for ch. 322, at 8. Specifically, the Legislature stated:

Changes by federal agencies regarding the enforcement of federal immigration law have instilled significant fear in immigrant communities across New York State. In particular, the use of court calendars and courthouses as a means of locating allegedly undocumented individuals has soared, leaving many immigrants, documented and undocumented, afraid to access the justice system or respond to court summonses for fear of potentially life-changing immigration-related repercussions. This trend has a potentially damaging impact on all New Yorkers, not just immigrant communities, as the operation of our judicial system and public safety are undermined.

Id.

On appeal, the Government does not address, let alone dispute, that its policies deter victims, witnesses, and litigants from participating in the judicial process. In fact, as the District Court stated in dismissing the Complaint, “ICE’s own prior policies urging discretion in conducting enforcement activities expressly

going to and returning from the court”); S.C. Code Ann. § 14-1-140 (identifying “[a]ll persons necessarily going to, attending on, or returning from, the courts of record” as “exempt from arrest”); *see also* George Ervin Dail, *Procedure – Immunity of Non-resident Witness from Service of Civil Process*, 2 Wm. and Mary Rev. of Va. L. 180, 181-82 (1955) (“The great weight of authority in the United States concurs in protecting non-resident suitors, both plaintiff and defendant, and witnesses from civil process, as well as from civil arrest, while in attendance upon court. . .”).

acknowledged the potential that such activities may ‘deter[] individuals from reporting crimes and from pursuing actions to protect their civil rights.’” (JA134 (quoting Memorandum from Director John Morton, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (June 17, 2011)).)

Similarly, in prior litigation between New York and the Government challenging ICE’s courthouse arrest policy during the first Trump administration, the Southern District of New York found that there was “substantial evidence” that these arrests deterred some individuals from accessing courts. *See New York II*, 466 F. Supp. 3d at 443 (“Evidence proffered by [New York] indicates that substantial numbers of non-citizen litigants, even those who were not themselves subject to these actions, now feared any kind of participation in the legal system, including reporting domestic violence, litigating family court actions, and pursuing meritorious defenses to criminal charges.” (citations omitted)). As several state chief justices noted at that time, such a climate of fear deters litigants, witnesses, and interested parties alike from attending court, undermining the core mission of our state judiciaries.⁴⁸

⁴⁸ Immigrant Defense Project, *Section 4: Statements from Chief Judges, Governors, Prosecutors, Attorneys General, and Bar Associations*, at 8 (Letter of Connecticut Chief Justice Chase T. Rogers dated May 15, 2017, stating: “I believe that having ICE officers detain individuals in public areas of our courthouses may cause litigants, witnesses and interested parties to view our courthouses as places to avoid, rather than as institutions of fair and impartial justice.”), 9 (Letter of New Jersey

Numerous metrics collected during the first Trump administration demonstrate that ICE courthouse arrests led members of immigrant communities to avoid courts. For example, court systems and law enforcement agencies reported declines in domestic violence reports and requests for protective orders among immigrant communities.⁴⁹ Prior to POCA's passage, New York's court system also reported a decline in participation in problem-solving courts, with 10 percent fewer

Chief Justice Stuart Rabner dated April 19, 2017, stating: "When individuals fear that they will be arrested for a civil immigration violation if they set foot in a courthouse, serious consequences are likely to follow. Witnesses to violent crimes may decide to stay away from court and remain silent. Victims of domestic violence and other offenses may choose not to testify against their attackers. Children and families in need of court assistance may likewise avoid the courthouse. And defendants in state criminal matters may simply not appear."), 12 (Letter of Oregon Chief Justice Thomas A. Balmer dated April 6, 2017, stating: "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."), <https://www.immigrantdefenseproject.org/wp-content/uploads/CourthouseToolkitSection4.pdf>.

⁴⁹ See, e.g., James Queally, *Fearing deportation, many domestic violence victims are steering clear of police and courts*, L.A. Times (Oct. 9, 2017), <http://www.latimes.com/local/lanow/la-me-ln-undocumented-crime-reporting-20171009-story.html>; Cora Engelbrecht, *Few Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation.*, N.Y. Times (June 3, 2018), <https://www.nytimes.com/2018/06/03/us/immigrants-houston-domestic-violence.html>; Safeguarding Report, *supra* note 10, at 22 (analyzing data from the New York State Unified Court System showing a general decline in the issuance of orders of protection against intimate partners and family members at the same time ICE increased its presence in New York courthouses).

foreign-born clients seeking assistance in the state's Family Justice Centers in 2017 as compared to 2016.⁵⁰

In addition, a 2019 survey revealed that 60 percent of respondents, who were people in mixed immigration status families and that included immigrants lawfully in the United States, avoided attending court when they had been a victim of a crime.⁵¹ A 2017 survey of judges about the impact of ICE's presence at courthouses found that 54 percent of respondents reported case interruptions due to an immigrant crime survivor's fear of coming to court.⁵² Statistics like these prompted judicial leaders, including chief justices in California, Connecticut, New Jersey, Oregon, Rhode Island, and Washington, to warn federal officials that courthouse arrests were deterring immigrant communities from attending court, undermining public confidence in courts.⁵³

⁵⁰ Safeguarding Report, *supra* note 10, at 23.

⁵¹ Angela Irvine et al., *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*, Ceres Policy Research (Oct. 2019), Executive Summary available at https://www.immigrantdefenseproject.org/wp-content/uploads/ice.report.exec_summ.5nov2019.pdf.

⁵² American Civil Liberties Union, *Freezing Out Justice*, at 2 (May 3, 2018), <https://www.aclu.org/report/freezing-out-justice>.

⁵³ Immigrant Defense Project, *Section 4: Statements from Chief Judges, Governors, Prosecutors, Attorneys General, and Bar Associations*, <https://www.immigrantdefenseproject.org/wp-content/uploads/CourthouseToolkitSection4.pdf>.

During the first Trump Administration, the chilling effect in New York was so severe that district attorneys across the state publicly expressed their concern about how ICE courthouse enforcement had discouraged noncitizen crime victims from reporting crimes, resulting in serious public safety issues.⁵⁴ New York State elected officials similarly expressed that ICE courthouse enforcement in New York “threaten[ed] to sow distrust in the relationship among our constituents and state and local law enforcement.”⁵⁵ All of this prompted New York courts to adopt the 2019 Chief Administrative Judge Directive prohibiting courthouse arrests absent a judicial warrant or order.⁵⁶ As one of us noted at the time, “[j]udges can’t do their jobs unless people come to court.”⁵⁷

Likewise, shortly before the start of the second Trump administration in 2025, public and private attorneys who collectively represented hundreds of thousands of people with cases in the courts throughout New York wrote a letter to New York Chief Judge Rowan Wilson and New York Chief Administrative Judge Joseph A.

⁵⁴ Safeguarding Report, *supra* note 10, at 7-8.

⁵⁵ Letter from Member of N.Y. State Assembly Patricia Fahy et. al. to Sec’y of U.S. Dept. of Homeland Security Kirstjen M. Nielsen (Feb. 5, 2019), <https://www.scribd.com/document/399491138/DHS-Secretary-NielsenLetter>.

⁵⁶ 2019 Chief Administrative Judge Directive, *supra* note 3.

⁵⁷ Richard Gonzales, *No ICE Arrests In Courthouses Without Judicial Warrants, N.Y. Court Directive Says*, NPR (Apr. 17, 2019), <https://www.npr.org/2019/04/17/714496186/new-york-courts-tell-ice-not-to-arrest-immigrants-in-courthouses-without-warrant>.

Zayas requesting that they take clear, affirmative steps to ensure that New York courts are operating in compliance with POCA.⁵⁸ In discussing the impact that ICE's courthouse arrest policy had on New York residents during the first Trump administration, these attorneys stated:

More invisible but equally as disturbing is that many litigants fearing ICE apprehension at the courthouse forwent the legal process altogether. Parents stopped attending Family Court proceedings and lost custody of their children. People stopped coming to criminal courts and warrants were issued. Others did not defend against evictions. Prosecutors faced witnesses refusing to testify. Impacted people chose to take a plea bargain or accept a settlement that was not fair.⁵⁹

The administration's practice of making arrests at federal immigration courts has already deterred immigrant communities from participating in the state judicial process, including in New York. For example, twenty New York District Attorneys, who filed an *amicus* brief in support of New York's motion to dismiss before the District Court, reported, *inter alia*, that the number of calls to the Manhattan District Attorney's Office's Immigrant Affairs and Worker Protection hotlines "almost completely dried up in 2025;" that the Albany County District Attorney's Office was required to send witness advocates to assist investigators when they pick up victims to testify in court to ensure their appearance; and, in multiple cases, immigrant

⁵⁸ Letter from Public Interest Groups to Chief Judge Rowan Wilson and Chief Administrative Judge Joseph A. Zayas (Jan. 13, 2025), <https://www.nyipi.org/wp-content/uploads/2025/01/Sign-On-Letter-to-OCA-re.ICE-1.13.25.pdf>.

⁵⁹ *Id.* at 3.

victims of domestic violence ceased cooperating with the Brooklyn District Attorney's Office's Victim Services Unit in 2025 "out of a distinct fear that they would be arrested by ICE if they came to court to testify to grand juries," resulting in the dismissal of these cases.⁶⁰ After observing that fear of ICE activity had impacted "hundreds" of his office's cases, the District Attorney for Suffolk County Massachusetts stated, "[t]he ultimate concern is that it has a chilling effect on our ability to deliver public safety for victims and witnesses of crime."⁶¹

As former judges and justices, we believe that to properly function, courts must be places where individuals from all backgrounds and statuses can safely access the justice system. Without this sense of safety, some members of the public will be reluctant to access courts. In turn, courts will be unable to provide the protection and services on which individuals depend, and courts' promise of equal justice under the law will remain unfulfilled.

⁶⁰ *Amicus* Brief of N.Y. District Attorneys in Support of Defs.' Mot. to Dismiss the Compl. at 5 (ECF No. 41), *United States v. New York*, No. 1:25-cv-744 (N.D.N.Y. Aug. 17, 2025).

⁶¹ Simón Rios and Rachell Sanchez-Smith et al., *ICE agents are staking out local courthouses. As they've roamed the halls, Mass. court arrests tripled*, NHPR (Dec. 17, 2025), <https://www.nhpr.org/new-england-news/2025-12-17/ice-courthouses-arrest-massachusetts-newengland-immigration>.

CONCLUSION

For the foregoing reasons, *amici* join in asking this Court to affirm the District Court's judgment dismissing the Government's Complaint.

Dated: New York, New York
June 17, 2026

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Hon. Albert M. Rosenblatt, Associate Judge of the New York Court of Appeals (Ret.)

Hon. Leslie E. Stein, Associate Judge of the New York Court of Appeals (Ret.)

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CERTIFICATE OF COMPLIANCE

(1) This document complies with the type-volume limitation of Local Rules 29.1(c) and 32.1(a)(4)(A) because this brief contains 6,878 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

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Dated: June 17, 2026

Respectfully submitted,

/s/ Scott B. Klugman

Scott B. Klugman