

July 20, 2017

Via US Mail

The Honorable Lloyd A. Karmeier
Chief Justice
Illinois Supreme Court
200 E. Capitol Springfield, IL 62701

Re: Immigration Enforcement in Illinois Courthouses

Dear Chief Justice Karmeier:

The Illinois courts take pride in their reputation of openness to all people—whether parties to a civil dispute, defendants in criminal cases, witnesses, complainants, family members, or the general public. Any policy or practice that limits Illinois residents' access to the courts harms both the appearance and practice of the exercise of justice. The growing tide of immigration enforcement taking place at or near Illinois courthouses has just that effect.

The organizations and individuals listed below work with immigrants and their families as they interact with the justice system. We are advocates and attorneys in areas including immigration, domestic violence, civil rights, criminal justice, social services, and family law. As the number of reported immigration enforcement actions at courthouses has grown steadily throughout 2017, our clients and their families are increasingly fearful of engaging with the court system. The widely reported presence of Immigration and Customs Enforcement ("ICE") personnel at courthouses chills access to the courts, impedes residents from complying with the law and accessing essential court services, and deters them from doing so in the future.

Additionally, in at least one Illinois judicial circuit, a standing order requires probation officers to notify ICE about "foreign born" probationers. As a result, ICE has arrested people at appointments with their probation officers, which deters probationers from attending those appointments.

Because ICE enforcement activity at courthouses undermines both public safety and the authority of state courts, we ask that you take the following actions: (1) Pursuant to the Supreme Court's broad supervisory authority, direct the Circuit Courts not to maintain or enact policies that require or promote reporting to immigration authorities about individuals who interact with the justice system; and (2) Request the Secretary of Homeland Security to refrain from immigration enforcement at Illinois courthouses.

1. Instruction to Circuit Courts

In the Sixth Judicial Circuit, an administrative order adopted in 1995 requires each Probation and Court Services Department within the circuit to report all "foreign-born adult

offenders" to ICE.¹ The report must be transmitted within seven days after (1) a presentence investigation concerning a misdemeanor or felony offense is ordered, or (2) a defendant is sentenced to probation or conditional discharge. Among other things, these reports include the date of the offender's next appointment with his probation officer. It is our understanding that as a result, some offenders arrive at mandatory meetings with their probation officer only to find ICE agents waiting to arrest them.

The administrative order has a dubious legal basis. It cites 730 ILCS 110/12 (4), which states that information about a probationer or person under presentence investigation "shall not be divulged . . . except upon order of court." The plain language of the statute suggests that, by default, such records are meant to be confidential, but that a judge may order disclosure on a case by case basis when circumstances warrant. The administrative order turns this presumption on its head, mandating disclosure for all "foreign-born" offenders with no consideration of individual circumstances.

Moreover, the order is contrary to public safety and good public policy. The "dual purpose of the probation system" is "the rehabilitation of the probationer and the protection of the public." *People v. Absher*, 242 Ill. 2d 77, 90 (2011) (citing *Griffin v. Wisconsin*, 483 U.S. 868, 875 (1987)). These purposes are frustrated, and the authority of the court is undermined, when probationers are deterred from attending meetings with their probation officers due to fear of immigration consequences. Probation officers will find it difficult to help offenders maintain employment, ties to the community, and a productive, law-abiding life if probationers are afraid to show up to meetings.

The Supreme Court has "administrative and supervisory authority over all courts" to be "exercised by the Chief Justice in accordance with its rules." Ill. Const. art. VI, § 16. "This authority is unlimited in extent and hampered by no specific rules or means for its exercise," and "extends to the adjudication and application of law and the procedural administration of the courts." *People v. Salem*, 2016 IL 118693, ¶ 20 (citations and internal quotation marks omitted). *See also City of Urbana v. Andrew N.B.*, 211 Ill. 2d 456, 470-78 (2004) (invoking supervisory authority to correct circuit court's erroneous use of court supervision and contempt in juvenile proceedings).

We respectfully request that you exercise the supervisory authority vested in you as Chief Justice to instruct the Chief Judge of the Sixth Judicial Circuit to withdraw Circuit Administrative Order 95-7, and to advise the other Circuits that the confidentiality of offender records under 730 ILCS 110/12 (4) should not be abrogated by reports to immigration authorities.

¹ Circuit Administrative Order 95-7, available at <http://www.sixthcircuitcourt.com/pdf/1995AdminOrders.pdf>. The administrative order refers to ICE's predecessor agency, the Immigration and Naturalization Service. For ease of reference, this letter refers to ICE, the agency to which the order now applies.

chief, 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.⁶ The LAPD chief commented that reports of sexual assault have dropped 25 percent, while reports of domestic violence have fallen by 10 percent. Similar decreases were not observed in reports of those crimes by other ethnic groups. Likewise, the chief of the Houston Police Department announced that the number of Hispanics reporting rape is down 42.8 percent from last year, and reports of other violent crimes among the same population are down 13 percent.⁷

Similarly, Denver city attorney Kristin Bronson reported that four survivors of physical and violent assault have 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.⁹ The video, she says, “unfortunately 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.”

We have seen similar effects of immigration enforcement at courthouses here in Illinois. Many of us who work directly with immigrants have seen a noticeable pattern of increased immigration enforcement—including arrests—in Illinois courthouses since January. People we work with tell us regularly that they are afraid to attend court proceedings because of DHS presence in courthouse and the risk of immigration arrests.

Based on numerous reports that rising fear in the immigrant community is preventing access to courts, the U.S. Commission on Civil Rights issued a statement expressing concern that immigration enforcement at courthouses undermines both access to justice and public safety.¹⁰

In light of the above, we urge you to follow the examples of the Chief Justices of California, Washington, and New Jersey. We respectfully request that you send a letter to DHS

⁶ James Qually, *Latinos are reporting fewer sexual assaults amid a climate of fear in immigrant communities, LAPD says*, Los Angeles Times (Mar. 21, 2017), <http://www.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html>.

⁷ Brooke A. Lewis, *HPD chief announces decrease in Hispanics reporting rape and violent crimes compared to last year*, Houston Chronicle (Apr. 6, 2017), <http://www.chron.com/news/houston-texas/houston/article/HPD-chief-announces-decrease-in-Hispanics-11053829.php>.

⁸ Heidi Glenn, *Fear of Deportation Spurs 4 Women to Drop Domestic Abuse Cases in Denver*, National Public Radio (Mar. 21, 2017), <http://www.npr.org/2017/03/21/520841332/fear-of-deportation-spurs-4-women-to-drop-domestic-abuse-cases-in-denver>.

⁹ Erica Meltzer, *A video shows ICE agents waiting in a Denver courthouse hallway. Here's why that's controversial*, Denverite (Feb. 23, 2017), <https://www.denverite.com/ice-agents-denver-courthouse-hallway-video-30231/>.

¹⁰ Statement, U.S. Commission on Civil Rights Expresses Concern with Immigrants' Access to Justice (Apr. 24, 2017), http://www.usccr.gov/press/2017/Statement_04-24-2017-Immigrant-Access-Justice.pdf.

Secretary Kelly urging DHS agents to refrain from conducting immigration enforcement actions at or near state courthouses.

We appreciate your attention to this important matter. Thank you for your time.

Sincerely,

AMERICAN CIVIL LIBERTIES UNION OF ILLINOIS
APNA GHAR, INC. (OUR HOME)
ASIAN-AMERICANS ADVANCING JUSTICE-CHICAGO
ASSYRIAN AMERICAN BAR ASSOCIATION
CAIR-CHICAGO
CENTER FOR ADVANCING DOMESTIC PEACE
CHICAGO ALLIANCE AGAINST SEXUAL EXPLOITATION
CHICAGO LAWYERS' COMMITTEE FOR CIVIL RIGHTS
CHICAGO LEGAL RESPONDERS NETWORK
CHINESE AMERICAN BAR ASSOCIATION OF GREATER CHICAGO
COMMUNITY ACTIVISM LAW ALLIANCE
DOMESTIC VIOLENCE LEGAL CLINIC
FAMILY RESCUE
HISPANIC LAWYERS ASSOCIATION OF ILLINOIS
ILLINOIS COALITION FOR IMMIGRANT AND REFUGEE RIGHTS
INDOAMERICAN CENTER
LATINOS PROGRESANDO
LEGAL COUNCIL FOR HEALTH JUSTICE
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND
MIJENTE
MUSLIM BAR ASSOCIATION OF CHICAGO
NATIONAL IMMIGRANT JUSTICE CENTER
ORGANIZED COMMUNITIES AGAINST DEPORTATIONS
RINCON FAMILY SERVICES
RODERICK AND SOLANGE MACARTHUR JUSTICE CENTER
SARGENT SHRIVER NATIONAL CENTER ON POVERTY LAW
SOUTH SUBURBAN FAMILY SHELTER

Enclosures

cc: Melissa Roth, Chief Deputy Clerk (via email, mroth@illinoiscourts.gov)
Danielle Hirsch, Commission on Access to Justice (via email, dhirsch@illinoiscourts.gov)