



March 5, 2025

The Honorable Chief Justice Natalie E. Hudson
Minnesota Supreme Court
Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

RE: Civil Arrests at State Courthouses

Honorable Chief Justice Hudson:

The undersigned organizations urge expedited adoption of a state-wide administrative rule providing that no individual may be placed under civil arrest without a judicial warrant while present on or near the grounds of any Minnesota courthouse. We respectfully ask the Minnesota Supreme Court to broadly authorize the state courts to adopt remote options for attending hearings and accessing other court services.

Collectively, the organizations below are made up of attorneys who may often be at odds—but we all agree that access to justice in the State of Minnesota is paramount. The steps we are calling for are necessary to protect the institutional integrity of our state courts and the constitutional rights of all Minnesotans to free public access to their justice system.

On January 20, 2025, U.S. Immigration and Customs Enforcement (ICE) issued a policy memorandum broadly allowing that “ICE officers or agents may conduct civil immigration enforcement actions in or near courthouses.”¹ This memorandum rescinds prior ICE policy in place since 2021 that had strictly limited federal enforcement of civil immigration laws at state courts.²

Contrary to ICE’s assurances in the new policy, during the past month federal immigration agents have been systematically conducting arrests on the grounds of Minnesota

¹ U.S. Immigr. & Customs Enf’t, Policy No. 11072.3, Interim Guidance: Civil Immigration Enforcement Actions in or near Courthouses (Jan. 20, 2025), https://www.ice.gov/doclib/foia/policy/11072.3_CivImmEnfActionsCourthouses_01.21.2025.pdf.

² U.S. Dep’t of Homeland Sec., 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>.

courthouses in ways that are highly disruptive and in no way discreet. At Hennepin County Government Center and Public Safety Facility ICE agents posted at the entrances have arrested at least 10 individuals including a number making first appearances on misdemeanor charges.

These federal intrusions into the operation of Minnesota’s judicial system are troubling and certain to escalate in the coming weeks and months.³ They have already caused significant harm by making Minnesotans afraid to attend state court proceedings.⁴

Constitutionally embedded common-law principles that are essential to the viability and independence of judicial power led a number of courts to turn back ICE’s past campaign of courthouse arrests, and those same principles support our call for an administrative rule to protect Minnesota’s courts today:

Courts 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. Accordingly, more than 500 years ago, the English courts developed a common law privilege against civil arrests on courthouse premises and against arrests of parties and other persons necessarily traveling to or from court. This ancient privilege, incorporated into American law in the early years of our republic by virtually all state and federal courts, has remained largely intact over the centuries. But now federal Immigration and Customs Enforcement agency, in implementation of an Executive Order issued by the Trump Administration in January 2017 and a Directive to ICE agents promulgated in January 2018, has increased its civil arrests in or around New York state courthouses by a remarkable 1700 percent and more.

New York v. U.S. Customs and Immigr. Enf’t, 431 F. Supp. 3d 377, 380 (S.D.N.Y. 2019).

³ See, e.g., Exec. Order No. 14159, 90 Fed. Reg. 18 (Jan. 29, 2025) (“[ICE] shall, to the maximum extent permitted by law . . . authorize State and local law enforcement officials . . . to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of [noncitizens] in the United States.”)

⁴ See, e.g., Katrina Pross, *ICE arrests target immigrants at Hennepin County courthouse, causing ‘immense’ anxiety*, Sahan Journal (Jan. 28, 2025), <https://sahanjournal.com/public-safety/ice-arrests-minneapolis-hennepin-county-courthouse/>; Mary Moriarty, *Mary Moriarty: The better path forward on public safety and immigration*, The Minnesota Star Tribune (Feb. 27, 2025), <https://www.startribune.com/mary-moriarty-the-better-path-forward-on-public-safety-and-immigration/601229005>.

Similarly, prior to the adoption of state statutory limits on ICE activity at Oregon courthouses, the Chief Justice of the Oregon Supreme Court promulgated an interim operational rule immediately barring ICE from making civil immigration arrests at or near that state's courts, while also providing the public both notice and opportunity to comment on that policy.⁵ Similar policies are or have been in place in Massachusetts and New York state. The urgent need to protect the independent judicial power established in Minnesota's Constitution warrants adoption of such a rule now.

Sincerely,

/s/Teresa Nelson

Legal Director Minnesota American Civil Liberties Union

/s/Guadalupe Lupez

Executive Director Violence Free Minnesota

/s/Sarah Brenes

Executive Director, Binger Center for New Americans

/s/ Jennifer Stohl Powell

Executive Director Immigrant Law Center of Minnesota

/s/John Choi

Ramsey County Attorney

/s/Andrew Garvis

Andrew Garvis

President Minnesota Association of Criminal Defense Lawyers

/s/ Milo Mumgaard

Director Mid-Minnesota Legal Aid

/s/Jennifer Prestholdt

Interim Co-Executive Director of The Advocates for Human Rights

/s/Malaika Eban

Executive Director Legal Rights Center

/s/Erica Davis

⁵ *In the Matter of Out-of-Cycle Adoption of New Uniform Trial Court Rule 3.190*, Chief Justice Order No. 19-095 (Or. Nov. 14, 2019), https://www.courts.oregon.gov/rules/UTCR/CJO_2019-095.pdf

President Minnesota Society for Criminal Justice