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Policy Brief: ICE Arrests at Immigration Courts

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Contact: Vanessa Dojaquez-Torres vdojaquez-torres@aila.org, Gregory Chen gchen@aila.org

On January 23, 2025, Department of Homeland Security Acting Secretary Benamine Huffman [issued a directive allowing the Department of Justice \(DOJ\)](#) law enforcement officials across various federal agencies the expanded authority to investigate and apprehend noncitizens. American Immigration Lawyers Association (AILA) members reported widespread instances of ICE Enforcement and Removal Operations (ERO) agents appearing at immigration courts to detain individuals immediately following the dismissal of their case. These individuals are then placed into expedited removal proceedings where they can be deported without being given the opportunity to appear before an immigration judge. Reports indicate immigration judges are, in many cases, acting on prepopulated lists received from ICE of noncitizens targeted for enforcement. This collaboration between ICE and the immigration courts has serious implications for due process and reinforces the fact that the immigration courts are not independent adjudicatory bodies further heightening the [ongoing need](#) for fair and independent immigration courts.

This brief summarizes the key takeaways from the reports of AILA members, including the individuals being targeted, consistent elements across cases, impacts on due process, and the broader policy implications.

- **Most individuals being detained have either lived in the United States for less than two years or were initially apprehended near the border and subsequently released by ICE during that same timeframe.** The goal being to place individuals in [expedited removal](#) under the expanded ICE guidance. The detentions include individuals with pending asylum applications (Form I-589) who are afraid to return to their home country. In compliance with legal protections for asylum seekers, those individuals placed in expedited removal who articulate their fear must be given a "credible fear interview". Those who pass their interviews will then be placed *back* in removal proceedings in order to apply for asylum again, making the initial case dismissals inefficient and a poor use of government resources.
- **Detainees include individuals of all ages, with reports confirming the detention of families with young children, including toddlers as young as two and three years old.** One account described ICE detaining children present with their parents at court proceedings and attempting to detain a mother with a nursing infant. Everyone is a target as ICE seeks to increase arrest numbers, even if it means traumatizing families with

young children. Many members report that the individuals being detained have no prior criminal or negative immigration history.

- **Individuals with ongoing immigration proceedings remain vulnerable to detention—even if DHS motions to dismiss are denied.** In one reported case, an individual was still detained after the immigration judge denied the motion to dismiss, despite their attorney being present and opposing the arrest. Individuals being detained without notice or any opportunity to oppose detention causes stress and confusion during the moment of arrest. These arrests appear not to be based on a need to detain individuals due to concerns over them being a flight or public safety risk. This raises serious due process concerns as these chaotic detentions will likely make people, who are otherwise trying to comply with the law, scared to appear for their court hearings.
- **DHS justifies its motions to dismiss by stating that “circumstances have changed.” However, reports indicate that DHS is not providing any case specific reasoning but are rather presenting this limited and “boilerplate” argument.** Attorneys who oppose the motion may be granted 10 days to respond in writing. However, in many cases, AILA members are reporting that immigration judges are granting dismissals without allowing respondents to have adequate time to respond nor are they ensuring that unrepresented respondents are being informed of the consequences of their cases being dismissed. Denying respondent’s meaningful access to oppose these motions is a clear violation of due process.
- **Several reports indicate that personnel from agencies other than ICE are involved in these enforcement operations,** with some operations reportedly involving over 20 officers from multiple agencies. This includes personnel from the Department of the Treasury, Internal Revenue Service (IRS), Drug Enforcement Administration (DEA), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and the Department of Justice. Given that many arrests are of individuals with no criminal history and that have fully complied with requests from the U.S. government, it is unclear that the purpose of using the resources of so many other federal agencies in immigration enforcement operations.
- **ICE officers have been observed in and around immigration court buildings, both in marked and unmarked vehicles.** Officers are seen entering court premises dressed in varied attire, from full uniform to business or casual clothing. In many reports, officers wear masks to hide their identity. To avoid public or media scrutiny, agents reportedly follow individuals away from court premises before making arrests at a distance from the courthouse. These actions will have a chilling effect if people are too terrified of attending court hearings with the knowledge ICE officers may be waiting to detain them at any given moment. This fear tactic robs noncitizen respondents of accessing a fair hearing process.

- **Cities with reported ICE enforcement activities at immigration courts include:** Phoenix, San Francisco, Los Angeles, San Diego, Miami, Orlando, Chicago, Kansas City, Baltimore, Detroit, Las Vegas, Dallas, Charlotte Cleveland, and Seattle.

Conclusion

The reported actions severely undermine the integrity of due process and instill fear in individuals who are actively engaging with the legal pathways provided by the U.S. immigration system. The fear of aggressive detention is likely to discourage individuals from attending their hearings, which increases their risk of an *in absentia* removal order. Furthermore, the practice of dismissing cases for individuals with credible fears of returning to their home countries creates a counterproductive and inefficient cycle. These individuals will likely need to be placed back into removal proceedings if their fear is later deemed credible, contributing to further backlog. There is also a significant concern for unrepresented respondents who may be unaware that case dismissal will lead to detention and expedited removal. Additionally, the compliance from immigration judges who are “rubber stamping” these dismissal requests imply a serious violation of the immigration court’s role as neutral arbiters in immigration court hearings. Together, these operations threaten the integrity, operational efficiency, and fairness of the immigration courts.

More Resources:

- [Policy Brief: The Trump Administration's Assault on Immigration Courts](#)
- [Practice Alert: EOIR is Circulating Misleading Legal Advisories to Respondents](#)
- [AILA Sends Letter to EOIR Over Unethical Flyers](#)