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Policy Brief: ICE Arrests at Immigration Courts

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On January 23, 2025, Department of Homeland Security Acting Secretary Benjamine Huffman issued a [directive](#) authorizing law enforcement officials in several agencies within the Department of Justice (DOJ) to investigate and apprehend people for immigration violations. Since May, AILA members have reported trends of ICE attorneys requesting that immigration judges dismiss ongoing cases against individuals, and immediately following the case being dismissed, Enforcement and Removal Operations (ERO) agents have been appearing at court to detain the person. Frequently ICE agents operate with their faces covered or arrive in plain clothes, fostering fear and intimidation in the community and the people they are targeting. After apprehension, ICE has placed many people into expedited removal proceedings which enables ICE to unilaterally deport the person without a hearing before an immigration judge. Recently, members report more instances of people being arrested no matter the outcome of their hearing.

It is extremely problematic that EOIR has [instructed](#) immigration judges to bypass essential due process protections when ICE requests a dismissal. For example, judges were told they did not need to request a motion to dismiss in writing from ICE or to provide noncitizens time to respond to the motion before ruling. Even more troubling are the recent [reports](#) from former immigration judges that they were instructed directly to grant these requests from ICE. This collaboration between ICE and the immigration courts to “dismiss-and-detain” violates due process and underscores how the immigration courts are not independent in the way Americans expected them to be but are controlled by the Attorney General. This brief summarizes the key takeaways from the reports of AILA members.

- **Most people being detained either have 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.** However, in about a quarter of reports from AILA members, people have resided in the U.S. for more than 2 years. ICE’s initial goal seemed to be to place individuals in [expedited removal](#) under the expanded ICE guidance. More recent reports show a shift to detaining individuals in any posture. Approximately two-thirds of reports included individuals who had pending applications for relief. An overwhelming majority of those had pending asylum applications (Form I-589) and have expressed a fear of returning to their home country.

The dismiss-and-detain policy is highly inefficient and imposes enormous hardship and delays on asylum seekers. Federal statute requires the government to provide people

subject to expedited removal who articulate a fear of persecution to be given a "credible fear interview" before removal. Now asylum seekers whose cases are dismissed, are being put in detention, then they must wait to undergo a credible fear interview which they will likely pass since most have submitted complete asylum applications, and if they pass, they will be put *back* into removal proceedings to appear before an immigration judge to apply for asylum again. This rinse-and-repeat cycle severely delays cases, is unnecessarily depriving people of their liberty, and is a gross misuse 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.** ICE appears to be targeting nearly anyone without regard for age or vulnerabilities. One account described ICE detaining children present with their parents at court proceedings and attempting to detain a mother with a nursing infant. Many AILA members report that the individuals being detained have no prior criminal or negative immigration history. Members also report that after many weeks of this being a common practice, noncitizens are expressing fear of coming to court. Attorneys are reporting that few people appear to be showing up to court hearings, resulting in increased rates of *in absentia* removal orders being entered.
- **ICE is also detaining people even if the court does not grant the motion to dismiss.** AILA members report that ICE is detaining people even if immigration judges deny ICE's request to dismiss cases. These arrests do not appear to be based on any law enforcement assessment of flight risk or a public safety risk. This raises serious due process concerns as detention is deterring people who are trying to comply with the law from appearing at their court hearings. The new detention practice is depriving people of their opportunity to have their claims heard and is undermining the integrity of the courts as neutral and fair institutions.
- **AILA reports indicate that courts are granting dismissals without giving time for the person to respond and are not requiring ICE to provide any case specific reasoning.** ICE justifies the motions to dismiss with nothing more than boilerplate language that "circumstances have changed." Until the new policy went into effect, the courts typically provide 10 days for the person to respond to a motion to dismiss in writing. Now, AILA members are reporting that immigration judges are granting dismissals without allowing respondents adequate time to respond. Courts are also not always taking necessary procedural steps to ensure unrepresented respondents are informed of the consequences of a dismissal. Denying the respondent's meaningful opportunity to oppose these motions violates due process.

- **Before the hearing begins, ICE attorneys have communicated to the immigration court which cases they plan to request dismissals, but they have not given similar notice to the attorney of record in the case.** On May 30, 2025, the New York Times [reported](#) on a memo from ICE indicating the agency will provide a list of intended arrestees to the Executive Office of Immigration Review (EOIR) at least 24 hours in advance of a planned arrest.
- **Several reports indicate that personnel from multiple agencies in addition to ICE are involved in these enforcement operations.** Some operations reportedly have involved over 20 officers from various agencies, including 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.
- **ICE officers have been observed in and around immigration court buildings, both in marked and unmarked vehicles.** AILA members have seen officers entering court premises dressed in varied attire, from full uniform to business or casual clothing. Frequently, officers wear masks over their faces. Several AILA members have also reported that officers can be seen walking the hallways and in courtrooms. This creates an intimidating atmosphere in court spaces.
- **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, Seattle, Salt Lake City, Hartford, Boston, Fort Snelling, New York City, Newark, Concord, and Van Nuys.
 - AILA members report that in Phoenix immigration court there were several days of “mayhem” when people were being detained at court in large numbers. People were “dragged down” hallways and observed at least 20 officers at one time in the court.
 - Attorneys reported that ICE was waiting outside Chicago immigration courtrooms with lists of noncitizens whom they planned on arresting that day.
 - In San Diego, ICE officers were approaching all individuals and asking them to identify themselves so they could be checked against their arrest lists.
 - Members reported that in several courts across the country, it seemed like individuals without attorneys were targeted or particularly at risk of arrest.

Conclusion

The new ICE and immigration court practices are severely undermining the fairness, efficiency and integrity of immigration court proceedings. The fear of aggressive detention is discouraging individuals from attending their hearings. The practice of dismissing these cases is counterproductive and inefficient and imposes hardship on the asylum seekers. These individuals will likely need to be placed back into removal proceedings if their fear is later deemed credible, contributing to further backlog. Finally, the participation by immigration judges in this “dismiss-and-detain” process greatly compromises their ethical duty to ensure due process and the rule of law. AILA urges Congress to engage in greater accountability and oversight to ensure ICE and the immigration courts provide a fair and efficient legal process.

More Resources:

- [Policy Brief: The Trump Administration's Assault on Immigration Courts](#)
- [AILA Sends Letter to EOIR Over Unethical Flyers](#)
- [Policy Brief: ICE Plan to Detain Most Undocumented Noncitizens Would Deprive Millions of Liberty and Undermine Immigration Courts' Authority](#)