



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

March 24, 2026

By ECF

The Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *African Communities Together v. Lyons*, No. 25 Civ. 6366 (PKC)

Dear Judge Castel:

This Office represents defendants (the “Government”) in the above-referenced Administrative Procedure Act (“APA”) case commenced by plaintiffs African Communities Together and The Door (“Plaintiffs”).

We write respectfully and regrettably to correct a material mistaken statement of fact that the Government made to the Court and Plaintiffs. Specifically, this morning, counsel from U.S. Immigration and Customs Enforcement (“ICE”) informed the undersigned of the following: the memorandum entitled *Civil Immigration Enforcement Actions in or Near Courthouses*, dated May 27, 2025 – which the Government relied on in presenting its arguments in this case and referred to as the “2025 ICE Guidance” – does not and has never applied to civil immigration enforcement actions in or near Executive Office for Immigration Review (“EOIR”) immigration courts. Attached to this letter is an e-mail memorandum dated March 19, 2026 (which the undersigned attorneys also received for the first time today) that was sent to ICE Enforcement and Removal Operations personnel as a “reminder that the May 27, 2025, Guidance does not apply to Executive Office for Immigration Review (Immigration) courts, regardless of their location.” *See* Ex. A (emphasis in original).

In light of the fact that the 2025 ICE Guidance does not apply to immigration court arrests, the Government withdraws those portions of its briefs (ECF Nos. 39, 66, 70 and 74) and the statements made at the September 2, 2025 oral argument that relied on the 2025 ICE Guidance to correct the record before the Court.¹ The Government recognizes that the Court’s September 12, 2025 opinion and order (ECF No. 51) and Plaintiffs’ briefs, all of which relied on the Government’s prior representations regarding the applicability of the 2025 ICE Guidance,

¹ To be clear, the Government’s withdrawal of its representations regarding the applicability of the 2025 ICE Guidance does not affect its arguments that ICE’s immigration courthouse arrests do not violate any so-called common-law privilege against courthouse arrests, its arguments in support of the “EOIR Dismissal Policy” generally, and its pending motion to dismiss Plaintiffs’ claim against EOIR on mootness grounds.

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will need to be reconsidered and re-briefed for the Court to adjudicate Plaintiffs' APA claims against ICE on the merits.

We deeply regret that this error has come to light at this late stage, after the parties have expended significant resources and time to litigate this case and this Court has carefully considered Plaintiffs' challenge to the 2025 ICE Guidance. This error, however, was not caused by a lack of diligence and care by the undersigned attorneys. The undersigned were specifically informed by ICE that the 2025 ICE Guidance applied to immigration courthouse arrests. In addition, we discussed with and obtained the approval of assigned ICE counsel before filing every brief in this case and making any oral representations to the Court and Plaintiffs. We also transmitted copies of the Court's orders, the transcript of the September 2, 2025 oral argument, and Plaintiffs' filings to ICE counsel throughout this litigation. Based on our discussions with ICE today, this regrettable error appears to have occurred because of agency attorney error.

At 5:00 p.m. today, we informed Plaintiffs' counsel during a Teams videoconference of this factual error and the Government's intention to immediately notify the Court and withdraw portions of its filings and statements regarding the 2025 ICE Guidance. Plaintiffs intend to file a response promptly on the docket after they have had an opportunity to review this letter.

We deeply regret this error and thank the Court for its consideration of this letter.

Respectfully,

JAY CLAYTON
United States Attorney for the
Southern District of New York

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Attachment

cc: All Counsel of Record (via ECF)

EXHIBIT A

From: ERO Assistant Directors
Sent: Thursday, March 19, 2026 5:05 PM
Subject: Reminder as to applicability of Civil Immigration Enforcement Actions In or Near Courthouses, May 27, 2025.
Attachments: 11072.4.pdf

Assistant Director for Field Operations

Enforcement and Removal Operations



To: All ERO Personnel

Subject: Reminder as to applicability of *Civil Immigration Enforcement Actions In or Near Courthouses, May 27, 2025.*

On May 27, 2025, Senior Official Performing the Duties of the Director Todd M. Lyons issued ICE Memorandum, *Civil Immigration Enforcement Actions In or Near Courthouses*. This Guidance outlines the responsibilities of ICE officers and agents in conducting civil immigration enforcement actions in or near Courthouses **other than** immigration courts. The May 27, 2025 ICE Guidance explains its scope, the circumstances under which a civil immigration enforcement action may be taken in or near certain types of courthouses, the need for training on the guidance, tracking of planned or executed civil immigration enforcement actions in or near certain type of courthouses, and specifies that the guidance is not intended to, does not, and may not be relied upon to, create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil or criminal matter.

This broadcast serves as a reminder that the May 27, 2025, Guidance does not apply to Executive Office for Immigration Review (Immigration) courts, regardless of their location. As stated in the Guidance, it also does not apply to criminal immigration enforcement actions inside courthouses.

The Guidance does, however, apply to civil immigration law enforcement at or near all non-immigration courts at federal, state, and local/municipal level.

ERO personnel should continue to consult with their respective OPLA Field Location with any questions regarding this guidance.

Thank you for all you continue to do for the agency.

Liana J. Castano
Assistant Director
Field Operations
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

This message expires one year from the date it was sent, pursuant to ERO [Policy](#).

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Policy Number: 11072.4

Office of the Director

U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20536



**U.S. Immigration
and Customs
Enforcement**

May 27, 2025

MEMORANDUM FOR: All ICE Employees

FROM: Todd M. Lyons
Acting Director 

SUBJECT: Civil Immigration Enforcement Actions In or Near
Courthouses

Purpose

This memorandum provides guidance governing U.S. Immigration and Customs Enforcement (ICE) civil immigration enforcement actions in or near courthouses. The January 21, 2025, *Interim Guidance: Civil Immigration Enforcement Actions in or near Courthouses* memorandum from Acting ICE Director Caleb Vitello is superseded by this guidance.

This guidance is effective immediately and remains in effect until superseded.

Background

Federal, state, and local law enforcement agencies routinely engage in enforcement activities in or near courthouses because many individuals appear in courthouses for unrelated criminal or civil violations. Individuals entering courthouses are typically screened by law enforcement personnel to search for weapons and other contraband. Accordingly, when ICE engages in civil immigration enforcement actions in or near courthouses it can reduce safety risks to the public, targeted alien(s), and ICE officers and agents. Finally, enforcement activities in or near courthouses are often required when jurisdictions refuse to cooperate with ICE, including when such jurisdictions refuse to honor immigration detainers and transfer aliens directly to ICE custody.

Implementation

For purposes of this guidance, a civil immigration enforcement action is any action taken by an ICE officer or agent to apprehend, arrest, interview, or search an alien in connection with

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enforcement of administrative immigration violations. This policy does not apply to criminal immigration enforcement actions inside courthouses.

Aliens Subject to Enforcement Actions

Generally, ICE's civil immigration enforcement actions in or near courthouses include actions against targeted aliens, including but not limited to:

- National security or public safety threats;
- Specific aliens with criminal convictions;
- Gang members;
- Aliens who have been ordered removed from the United States but have failed to depart; and/or
- Aliens who have re-entered the country illegally after being removed.

Other aliens encountered during a civil immigration enforcement action in or near a courthouse, such as family members or friends accompanying the target alien to court appearances or serving as a witness in a proceeding, may be subject to civil immigration enforcement action on a case-by-case basis considering the totality of the circumstances.¹

Procedures

ICE officers or agents may conduct civil immigration enforcement actions in or near courthouses when they have credible information that leads them to believe the targeted alien(s) is or will be present at a specific location.

Additionally, civil immigration enforcement actions in or near courthouses should, to the extent practicable, continue to take place in non-public areas of the courthouse, be conducted in collaboration with court security staff, and utilize the court building's non-public entrances and exits. When practicable, ICE officers and agents will conduct civil immigration enforcement actions against targeted aliens discreetly to minimize their impact on court proceedings.

Non-Criminal or Specialized Courts

ICE officers and agents should generally avoid enforcement actions in or near courthouses, or areas within courthouses that are wholly dedicated to non-criminal proceedings (e.g., family court, small claims court). When an enforcement action in the above situations is operationally necessary, the approval of the respective Field Office Director (FOD), Special Agent in Charge (SAC), or his or her designee is required prior to conducting the enforcement action.

¹ ICE officers and agents will make enforcement determinations on a case-by-case basis in accordance with federal law and consistent with U.S. Department of Homeland Security and ICE policy.

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Responsibilities

Each FOD or SAC, in consultation with OPLA, must ensure that all employees under their supervision comply with this policy by providing guidance to officers and agents on the approval process and procedures for civil immigration enforcement actions in or near courthouses within their area of responsibility. This includes ensuring all civil immigration enforcement actions in or near courthouses are properly documented² and recorded in the applicable ICE system of record, which can be searched and validated.

As with any planned enforcement action, ICE officers and agents should exercise sound judgment when enforcing federal law and make substantial efforts to avoid unnecessarily alarming the public or disrupting court operations. ICE officers and agents will make every effort to limit their time at courthouses while conducting civil immigration enforcement actions.

No Private Right

This memorandum provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.

² ICE officers and agents will document the physical address of planned civil immigration enforcement actions in accordance with standard procedures for completing operational plans, noting that the target address is a courthouse.