February 24, 2014

Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, D.C. 20536

Re: ICE Courthouse Arrests throughout Wisconsin

To Whom It May Concern:

We write with urgency regarding the conduct of Immigration and Customs Enforcement (“ICE”) agents in courthouses throughout Wisconsin.

ICE agents have interrogated and detained people present at courthouses attending misdemeanor and family court hearings, escorting family members to hearings, and even paying traffic fines. ICE officers appear to be detaining people for whom they do not have warrants. By deterring both litigants and victims of crime from utilizing court services and contacting law enforcement, ICE has created a culture of fear that has undermined public safety and the ability of local law enforcement and the state’s judicial system to carry out essential functions in Wisconsin.

Documented reports from lawyers, courthouse officials, community members, and journalists demonstrate that ICE agents have routinely come to courthouses in Milwaukee, Racine, Dane, Ozaukee, Waukesha, Kenosha, Walworth, Winnebago, Washington, and Rock Counties. Agents appear to have racially profiled Latino and non-English speaking individuals.

These practices undercut local law enforcement priorities and go against ICE policy.

ICE’s enforcement actions at courthouses have prevented residents from complying with their obligations to pay citations and appear for court hearings, disrupting the state’s judicial processes. Agents have prevented hearings from taking place. These practices interfere with the state’s ability to enforce its laws and carry out justice in its courthouses.

Moreover, ICE’s actions have created a culture of fear surrounding courts and law enforcement, deterring residents from exercising their constitutional right and civic duty to report crimes, appear for court hearings, obtain restraining orders or marriage licenses, attend family court, testify, or otherwise seek court services. As the Supreme Court has recognized, the First and Fifth Amendments of the Constitution protect access to the courts. See Borough of Duryea v. Guarnieri, 131 S. Ct. 2488, 2494 (2011) (First Amendment “protects the right of individuals to appeal to courts and other forums established by the government for resolution of legal disputes”); Christopher v. Harbury, 536 U.S. 403, 413 (2002) (Due Process Clause of Fifth Amendment protects against “systemic official action [that] frustrates a plaintiff or plaintiff class in preparing and filing suits at the present time”).

ICE’s actions not only undermine these important public policies, but are also contrary to ICE’s own written policies. On October 24, 2011, then-director of ICE John Morton issued a memorandum
entitled “Enforcement Actions at or Focused on Sensitive Locations” (“the Sensitive Locations Memo”). The Memo instructed ICE agents to avoid conducting enforcement actions in areas deemed “sensitive locations” except in certain discrete and limited circumstances. The Memo lists as “sensitive locations” schools, hospitals, places of worship, funeral and wedding sites, and sites of public demonstrations, and emphasizes that this “is not an exclusive list.” The Memo continues, “Particular care should be exercised with any organization assisting children, pregnant women, victims of crime or abuse, or individuals with significant mental or physical disabilities.” Courthouses provide essential services to all these people, especially victims of crime or abuse.

Like the other locations expressly listed in the Sensitive Locations Memo, courthouses should be considered a “sensitive location” where enforcement actions should be avoided absent exigent circumstances. It is clear that the Sensitive Locations Memo’s purpose is to ensure that ICE enforcement actions do not impede residents from taking their children to school, practicing their religion, or exercising other constitutional rights. Attending court hearings is not only a constitutionally protected right, but it is vital to public safety that residents can appear in court, comply with law enforcement citations and court orders, and seek other court services without fear of reprisal from ICE.

Arrests have occurred that are in tension with ICE’s stated priorities for immigration enforcement. On June 17, 2011, Mr. Morton adopted a memo regarding the exercise of prosecutorial discretion in the “apprehension, detention, and removal of aliens.” The memo outlines the factors to be considered in taking immigration enforcement actions, and prioritizes the arrest and removal of people with serious criminal histories, prior deportation orders and limited ties in the United States. In a separate memo issued the same date, Mr. Morton addressed cases involving “the victims and witnesses of crime, including domestic violence,” and civil rights complainants. In such cases, “[a]bsent special circumstances or aggravating factors, it is against ICE policy to initiate removal proceedings against an individual known to be the immediate victim or witness to a crime.”

ICE’s enforcement actions at Wisconsin courthouses not only have resulted in the arrest and deportation of people who do not appear to meet ICE’s priorities for immigration enforcement, but also of people who have gone to court to seek protection, including through family court. The arrests are contrary to ICE’s stated policies, and undermine the important interests the policies are designed to protect.

**Racial Profiling**

According to lawyers, courthouse officials, community members, and media reports, courthouses in Racine and other counties have made it a standard practice to schedule all people who require Spanish interpreters on the same days of the week. ICE agents have systematically come to the courthouses on these days to question and detain people in the court who do not speak English or look Latino. This is racial profiling, and may violate the Fourth Amendment which protects against unreasonable searches and seizures. Additionally, ICE’s practice of mass arrests based on perceived language ability or national origin potentially may violate the Fifth Amendment, which prohibits unequal protection under the law based on race or national origin.

**Recommendations**

First, we request a meeting with the Acting Director of ICE as soon as one is appointed, Chicago Field Office Director Ricardo Wong, and Deputy Secretary of DHS Alejandro Mayorkas. This meeting should take place in Milwaukee and include concerned local public officials, community leaders, affected community members, and signatories of this letter.

Second, ICE should investigate the courthouse arrest and interrogation practices of its agents in Wisconsin, including allegations of racial profiling. ICE should also investigate the nature of any tips received from county personnel and the apparent violations of agents’ warrantless arrest and interrogation
authority under 8 U.S.C. § 1357. ICE should take steps to ensure that its officers are properly trained on governing ICE enforcement policy and the statutory and constitutional limitations on its arrest and interrogation authority.

Third, we urge ICE to revise its policies and trainings to ensure that courthouse arrests do not occur in Wisconsin or any other location, and to ensure that ICE agents do not arrest or detain people based on information they learn because the people have mandatory court appearances or otherwise access court services. ICE should update its Sensitive Locations Memo to explicitly include courthouses as a “sensitive location” site, and ensure that its agents are properly trained not to conduct enforcement actions at courthouses absent extraordinary circumstances. ICE should institute measures to hold agents accountable to this agreement.

**ICE has taken similar action recently**

We urge ICE to take similar actions as it did recently in response to similar arguments made by advocates from Kern County, California. In a letter dated January 10, 2014, Executive Associate Director of Enforcement and Removal Operations Thomas Homan wrote, “ERO has decided to refrain from taking enforcement actions at [Kern County Superior Courthouse], except in exigent circumstances.” While this is an encouraging first step, we urge ICE to halt enforcement actions at all courthouses in Wisconsin and throughout the country.

Since January 10, ICE officers in Kern County have at least twice arrested people at their homes after learning about them because they had court hearings concerning traffic violations. ICE should halt this sort of enforcement action.

We appreciate your attention to this important matter and look forward to hearing what steps the agency will take to address these problems. Please contact Christine Neumann-Ortiz regarding next steps.

Regards,

1. Christine Neumann-Ortiz  
   Executive Director, Voces de la Frontera  
   414-643-1620  
   cineumann@aol.com

2. Alderman Q.A. Shakoor II  
   8th District  
   Racine, WI

   9th Assembly District  
   Milwaukee, WI

4. Mayor John Dickert  
   Racine, WI

5. Rev. Willie E. Brisco  
   President  
   Milwaukee Congregations Allied for Hope (MICAH)  
   1927 N. 4th St., Milwaukee, WI 53212

6. Will Perry  
   Executive Director  
   Milwaukee Islamic Dawa Center  
   5135 N. Teutonia Ave.  
   Milwaukee, WI 53209

7. Rev. Scott Anderson  
   Executive Director  
   Wisconsin Council of Churches

8. Donna L. Veatch  
   WI United Methodist Immigration Task Force  
   608-212-3374  
   750 Windsor St.  
   Sun Prairie, WI 53590

9. Pastor Jhon Freddy  
   Emmaus Lutheran Church  
   262-634-5515  
   1925 Summit Ave.  
   Racine, WI 53404
10. Rev. Michelle Townsend de Lopez  
Cross Lutheran Church  
1821 N. 16th Street  
Milwaukee, WI 53205  
Office: 414-344-1746

11. Sr. Grace Golata, SSSF  
Justice and Peace Team  
School Sisters of St. Francis, US Province  
1515 South Layton Blvd  
Milwaukee, WI 53215

12. Fr. William Key  
St. Joseph  
818 N. East Ave.  
Waukesha, WI 53186

13. Jesus Villanueva  
Music Director  
St. Rafael  
Milwaukee, WI

14. Fr. William Hayward, MIC  
Holy Rosary Church  
2224 45th St.  
Kenosha, WI 53140

15. Fr. Curt Frederick  
St. William and St. John Neumann  
440 N. Moreland Blvd.  
Waukesha, WI 53188

16. Fr. Michael Bertram  
St. Francis of Assisi Church  
1927 N. 4th St.  
Milwaukee, WI 53212  
414-374-5750

17. Z! Haukeness  
Groundwork, Madison, WI

18. Boyd McCamish  
Executive Director  
AFSCME Council 48  
414-344-6868

19. Patrick Hickey  
Workers’ Rights Center  
608-255-0376  
worker@workerjustice.org

20. Juan Ruiz  
Vicepresidente  
Federación de Oaxaqueños del Medio Oeste  
1616 Austin Ave.  
Racine, WI 53204

21. Bruce Colburn  
SEIU Wisconsin State council

22. Earl Barnes  
Chair  
Grassroots Citizens of Wisconsin Immigration Taskforce  
608-623-2109  
grassroots@merr.com

23. Anita Johnson, Organizer  
Citizen Action of Wisconsin  
221 South 2nd Street Suite 300  
Milwaukee, WI 53204  
414 899-3386 cell  
anita.johnson@citizenactionwi.org  
www.citizenactionwi.org

24. Aldira Aldape  
Director  
Social & Immigration Services  
Centro Hispano  
614 W. National Ave.  
Milwaukee, WI 53204  
414.384.3700 Ext. 214  
aaldape@spanishcenter-milw.org  
www.centrohispanomke.org

25. Dave Somerscales  
Wisconsin Coordinator  
SEIU Local 1

26. Guadalupe Rendon  
President, Hispanic Business Professionals Association  
P.O. Box 081644  
Racine, WI 53408

27. Vincent Esqueda  
Gran Morelos Market  
1105 N. Memorial Dr.  
Racine, WI 53404
28. Maria Davalos  
La Mexicana Grocery Store  
262-633-4245  
1336 State St.  
Racine, WI 53404

29. Rick Jimenez  
Supermercado Jimenez  
2210 16th St Racine, WI 53405

30. Lauro Davalos  
La Tapateria  
262-633-7816  
1951 Mead ST  
Racine, WI 53403

31. Rafael Sanchez  
MG Oficina  
923 S. Cesar Chavez Drive  
Milwaukee, WI 53204

32. Irma Yolanda Cáceres  
Owner, Jalisco Restaurant  
1035 S. 16th St.  
Milwaukee, WI 53204  
414-672-7070

33. Eduardo Davalos  
El Rodeo Restaurant  
262-898-2007  
1743 State St.  
Racine, WI

34. Jose Sanchez and Eva Flores  
Mi Jacalito Restaurant  
262-633-8633  
1318 Douglas Ave.  
Racine, WI

35. Jose Arnaldo Hernandez  
Agencia Viajes Mexico  
1016 S. Cesar Chavez Drive  
Milwaukee, WI 53204  
414-213-6789

36. Robert Hudek  
Campaign Coordinator  
SEIU Healthcare Wisconsin  
608-277-1199  
4513 Vernon Blvd. Suite 300  
Madison, WI 53705

St. Benedict the Moor  
1015 N 9th St  
Milwaukee, WI 53233  
(414) 271-0135

38. Fr. David Preuss, OFM Cap.  
St. Martin de Porres  
128 W Burleigh St  
Milwaukee, WI 53212  
(414) 372-3090

Order of Friars Minor, Capuchins  
Province of St. Joseph  
Milwaukee, WI

40. Rachel Buff  
Associate Professor  
University of Wisconsin Milwaukee  
2972 N. Hackett Ave.  
Milwaukee, WI 53211  
414-801-8991

41. Jorge Velasquez  
Lincoln Wireless  
1101 W. Lincoln Ave.  
Milwaukee, WI 53215

42. Delia Dominguez  
Novedades Ana  
1129 W. Lincoln Ave.  
Milwaukee, WI 53215

43. Henry Hernandez  
H&H Auto Repair  
1371 W. Windlake Ave.  
Milwaukee, WI 53215

44. Ramiro Gonzalez  
Owner  
Gonzalez Auto Sales  
2201 S. 13th St.  
Milwaukee, WI 53215

45. Ana Sanchez  
Owner  
Durango Western Wear  
1112 W Lincoln Ave  
Milwaukee, WI 53215
46. Francisco Sanchez  
Latin Communications  
Milwaukee, WI  
414-383-7877  
1000 S 16th Street  
Milwaukee, WI 53204

50. Maria Ryan  
Immigration Attorney  
128 W. Mineral St.  
Milwaukee, WI 53204

51. Kime Abduli  
Immigration Attorney  
8929 W. National Ave.  
West Allis, WI 53227

47. Kris Hoflin  
ABC Cellular  
1000 S Cesar E Chavez Drive  
Milwaukee, WI 53204  
414-383-7779

52. Marc Christopher  
Immigration Attorney  
4639 S. Howell Ave, Ste. 301  
Milwaukee, WI 53207

48. Patti Seger  
Executive Director  
End Domestic Abuse Wisconsin

53. Eloisa de Leon  
Immigration Attorney  
4639 S. Howell Ave, Ste. 301  
Milwaukee, WI 53207

49. Kabzuag Vaj and Monica Adams  
Co-directors  
Freedom Inc  
601 Bayview  
Madison WI 53715  
608-661-4089

54. Stacy Taeuber  
Director  
University of Wisconsin Immigrant Justice Clinic  
P.O. Box 259938  
Madison, WI 53725

Enclosure: “Three Case Histories”

CC:
Thomas Homan  
Executive Associate Director  
ICE Enforcement & Removal Operations

Andrew Lorenzen-Strait  
Deputy Assistant Director  
Custody Programs and Community Outreach

Deborah Fleischaker  
DHS Office for Civil Rights and Civil Liberties

Ricardo Wong  
Director  
Chicago Field Office  
101 West Congress Parkway, 4th Floor  
Chicago, Illinois 60605
Megan Mack
Officer
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Building 410, Mail Stop #0190
Washington, D.C. 20528

Brent Kriehn
Supervising Detention and Removal Officer
U.S. DHS – ICE
310 E. Knapp Street
Milwaukee, WI 53202

Alejandro Mayorkas
Deputy Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528