

Thomas A. Balmer  
Chief Justice



**OREGON SUPREME COURT**

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April 6, 2017

Attorney General Jeff Sessions  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

The Honorable John F. Kelly  
Secretary of Homeland Security  
Washington, DC 20528

Dear Attorney General Sessions and Secretary Kelly:

On behalf of the Oregon Judicial Department, I write to urge you to direct federal law enforcement agencies, including Immigration and Customs Enforcement (ICE), not to arrest individuals inside or in the immediate vicinity of Oregon's county courthouses. If you are unwilling to adopt that policy, then at a minimum, I request that you formally expand the definition of "sensitive locations" in the Homeland Security Policy to include these areas.

Let me explain. Our courthouses are open to the public, as a matter of tradition and as required by the Oregon Constitution, which provides that "justice shall be administered openly." ICE agents and other law enforcement officers have the same access to the public areas of our courthouses as all members of the public.

I fully recognize the scope of the statutory authority of ICE and other federal law enforcement agencies. OJD's policy is scrupulous neutrality -- just as we will not hinder federal, state, or local law enforcement agencies, including ICE, in the exercise of their enforcement authority, neither can we assist federal (or other) law enforcement in apprehending those who may have violated the law. As you know, the courts strive to be -- and must be -- impartial and neutral forums for the resolution of criminal and other cases.

To help the Oregon courts preserve their mandated impartial and neutral role, I respectfully request that you exercise your broad discretion in enforcing federal immigration and criminal laws, and *not* detain or arrest individuals in or in the immediate vicinity of the Oregon courthouses.

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As I am sure you appreciate, the Oregon courts must be accessible to all members of the public. The safety of individuals and families, the protection of economic and other rights, and the integrity of the criminal justice system all depend on individuals being willing and able to attend court proceedings: a witness who is subpoenaed to testify in a criminal case; a victim seeking a restraining order against an abusive former spouse; a driver paying a traffic fine; a landlord seeking an eviction or a tenant defending against one; or a small claims court plaintiff in a dispute with a neighbor.

The State of Oregon needs to encourage, not discourage, court appearances by parties and witnesses, regardless of their immigration status. However, ICE's increasingly visible practice of arresting or detaining individuals in or near courthouses for possible violations of immigration laws is developing into a strong deterrent to access to the courts for many Oregon residents. A number of our trial courts report that even attendance at scheduled hearings has been adversely affected because parties or witnesses fear the presence of ICE agents. The chilling effect of ICE's actions deters not only undocumented residents, but also those who are uncertain about the implications of their immigration or residency status or are close family, friends, or neighbors of undocumented residents. ICE's actions also deter appearances in court by those who are legal residents or citizens, but who do not want to face the prospect of what they see as hostile questioning based on perceived ethnicity, cases of misidentification, or other intrusive interactions with ICE agents.

I understand and appreciate the difficulty of the law enforcement work that you do. I trust that you understand as well the central role that the Oregon courts play in our state's criminal justice system, our efforts to protect children and families, and our daily work to ensure the rule of law for all Oregon residents. ICE's detention or arrest of undocumented residents in and near Oregon's courthouses seriously impedes those efforts. It deters individuals, some undocumented and some not, from coming to court when they should. For that reason, I urge you to adopt a policy of *not* arresting individuals for alleged immigration violations in or near Oregon's courthouses, or, at a minimum, to formally include courthouses in your definition of "sensitive locations" where ICE will thoroughly review the implications of and alternatives to making such arrests.

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We appreciate the discussions that our judges and staff have had with ICE officials in Oregon about their policies and practices, but believe this current and prospective interference with the administration of justice in Oregon calls for policy changes that only you can direct.

Thank you for your attention to this serious problem for the Oregon courts.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas A. Balmer". The signature is fluid and cursive, with the first name "Thomas" being particularly prominent.

Thomas A. Balmer  
Chief Justice

cc: Governor Kate Brown  
Attorney General Ellen Rosenblum  
Senator Ron Wyden  
Senator Jeff Merkley  
Oregon Congressional Delegation  
Oregon Presiding Judges