

On April 24, the majority of the U.S. Commission on Civil Rights issued a statement objecting to Immigration and Customs Enforcement (ICE) agents arresting illegal immigrants in courthouses. We dissent from that statement.

We are concerned that our Commission colleagues do not fully recognize the ramifications of their argument. Presence in a courthouse does not ordinarily confer immunity from arrest. If it doesn't do so for anyone accused of violating other laws, why should it do so for those accused of violating immigration laws?

Rule Four of the Federal Rules of Criminal Procedure provides, "A warrant may be executed, or a summons served, within the jurisdiction of the United States or anywhere else a federal statute authorizes an arrest."¹ There is no exception for courthouses, or anywhere else. Anyone who has an outstanding warrant for anything - whether he is a U.S. citizen, legal resident, or illegal immigrant - can be arrested at a courthouse.

In fact, the police often make a point of arresting people at courthouses. In early 2017, police in Sonoma County arrested five people who had been ordered not to drive, but walked straight out of the courthouse, climbed into their cars, and drove away.² "Santa Rosa police driving enforcement efforts routinely include courthouse operations involving drivers with suspended or revoked licenses or who have no licenses."³ These practices are quite common, and not just in California.⁴

The majority's objection to ICE agents arresting illegal immigrants at courthouses appears only partly motivated by concern for illegal immigrants who have been victims of crime. Here is the giveaway: "Courthouses are often the first place individuals interact with local governments . . . for resolution of civil matters, including family and custody issues, housing, public benefits, and numerous other aspects integral to an individual's life." By that standard, no illegal immigrants should be arrested at the Department of Motor Vehicles, police stations, or the local IRS office. Consequently, the majority's objection is not limited merely to the enforcement of immigration laws at courthouses. The majority's objection to almost any enforcement of immigration laws.

There is no sound policy basis for such an exemption from generally applicable law. On its face, it might make sense that we would want individuals to go to court without fear of arrest. But where does it end?

The majority's statement does not address an injustice that singles out illegal aliens. Rather, it seeks to carve out special protection for one group of lawbreakers that is unavailable to other groups of lawbreakers. There is no sound basis in law or policy for such solicitude.

¹ Fed. R. Crim. P. 4(c)(2).

² Randi Rossman, *Santa Rosa police net five in courthouse driving sting*, THE PRESS-DEMOCRAT, February 1, 2017, <http://www.pressdemocrat.com/news/6614427-181/santa-rosa-police-net-five>;

³ *Id.*

⁴ Calley Cedarlof, *DUI court sting leads to arrests*, POUGHKEEPSIE JOURNAL, March 30, 2016, <http://www.poughkeepsiejournal.com/story/news/local/2016/03/30/dui-court-sting-leads-arrests/82453232/>; *Four arrested after Merced courthouse sting*, THE MODESTO BEE, July 19, 2010, <http://www.modbee.com/news/local/crime/article3128897.html>; Jeremiah Dobruck, *Don't drive, court tells people at DUI hearings; 4 did anyway and got nabbed*, L.A. TIMES, Aug. 4, 2015, <http://www.latimes.com/tn-dpt-me-0805-court-sting-20150804-story.html>.

