



## Judicial Council of California

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.:*

For business meeting on April 24, 2026

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**Title**

Judicial Branch Administration: Rule for  
Reporting Civil Arrests in Court Facilities

**Report Type**

Action Required

**Effective Date**

May 1, 2026

**Rules, Forms, Standards, or Statutes Affected**

Adopt Cal. Rules of Court, rule 10.440

**Date of Report**

January 29, 2026

**Recommended by**

Trial Court Presiding Judges Advisory  
Committee

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## Executive Summary

The Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee recommend adopting a rule of court requiring reporting of civil arrests in superior court facilities, as defined. The recommended rule will help ensure consistent and coordinated statewide collection and reporting of data. The collected data is intended to help the judicial branch better understand the statewide impact that civil arrests in court facilities have on courts and access to justice, while also promoting public trust and confidence through transparency.

## Recommendation

The Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee recommend that the Judicial Council adopt California Rules of Court, rule 10.440, effective May 1, 2026, to govern the reporting of civil arrests in superior court facilities.

The recommended rule is attached at pages 8–9.

## Relevant Previous Council Action

The Judicial Council has taken no previous action concerning reporting civil arrests in superior court facilities.

## Analysis/Rationale

### Background

Civil arrests in court facilities can significantly impact superior court operations and administration, public perception, and access to justice. In fact, California law prohibits civil arrests inside a courthouse; this prohibition does not apply to arrests made pursuant to a valid judicial warrant.<sup>1</sup> However, no consistent, statewide approach exists for tracking or reporting civil arrests. This gap limits the judicial branch's understanding of the scope and impact of civil arrests in court facilities and its ability to respond effectively to court or community concerns.

Other states that also prohibit civil arrests in courts<sup>2</sup> have recognized the importance of collecting and reporting data about these arrests. For example, both New York and Washington have data collection requirements.<sup>3</sup> Each state requires reporting when law enforcement enters a courthouse or court facility to take an individual into custody. New York requires that court security personnel file an "Unusual Occurrence Report" in these instances,<sup>4</sup> and Washington requires that the governmental entity responsible for court security collect and report information on civil arrests on a monthly basis to its Administrative Office of the Courts.<sup>5</sup> The following information must be reported in Washington: (1) name and agency of the law enforcement officer, (2) date and time of the occurrence, (3) specific law enforcement purpose, and

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<sup>1</sup> Civ. Code, § 43.54.

Additionally, on January 6, 2026, Senator Eloise Gómez Reyes (D-Colton) introduced Senate Bill 873 to address immigration enforcement efforts in courthouses. While the bill currently does not contain substantive language, the author has indicated that the bill "will provide legal assurances that Californians are safe from immigration agents in and around the grounds of a courthouse." Office of Eloise Reyes, "Senator Reyes Working to Kick ICE Out of Courts, news release, January 6, 2026, <https://sd29.senate.ca.gov/news/senator-reyes-working-kick-ice-out-courts>.

<sup>2</sup> New York (N.Y. Civ. Rights Law § 28(1)); Washington (Wash. Rev. Code Ann. § 2.28.330).

<sup>3</sup> New York State Unified Court System, Hon. Joseph A. Zayas, Chief Administrative Judge, "Protocols Governing Activities in Courthouses by Law Enforcement Agencies," memorandum, February 6, 2025, <https://legalaidnyc.org/wp-content/uploads/2025/02/ProtocolGoverningLawEnforcementActivities.pdf>; Wash. Rev. Code Ann. § 2.28.320 (see also Washington State, Substitute House Bill 2567 (Laws of 2020, ch. 37, § 4), <https://lawfilesexxt.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/House/2567-S.SL.pdf?q=20220203102234>).

<sup>4</sup> New York State Unified Court System, *supra* note 3.

<sup>5</sup> Wash. Rev. Code Ann. § 2.28.320(1).

(4) proposed law enforcement action to be taken.<sup>6</sup> In addition, Washington requires that its Administrative Office of the Courts publish a quarterly report of the information collected.<sup>7</sup>

### **Recommended rule**

The Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee recommend adoption of rule 10.440, developed by their Joint Rules Subcommittee, to provide for a consistent, statewide approach to reporting data to the Judicial Council on civil arrests in superior court facilities. The recommended rule aims to increase transparency, as well as assist the judicial branch in assessing impacts on access to justice and courts.

#### ***Subdivision (a), Definitions***

Subdivision (a) of the recommended rule defines two terms used in the rule. First, the rule defines “civil arrest” to include an arrest of, or a communicated intent to arrest, an individual for an alleged violation of civil law. It does not include arrests for an alleged violation of criminal law or for civil contempt. Second, the rule incorporates an existing definition of “court facilities” from Government Code section 70301(d), which is part of the Trial Court Facilities Act of 2002. Referencing this existing definition is intended to maintain clarity and consistency within the law, and to assist courts in defining the scope of the reporting requirements. For example, as defined, a “court facility” would include the courthouse building as well as the grounds appurtenant to that building and parking areas for court users. Because civil arrests taking place in these areas may affect individuals’ access to the courts and justice, it is important for the judicial branch to be aware of these occurrences.

#### ***Subdivision (b), Reporting to the Judicial Council***

Subdivision (b) of the recommended rule would specify the data elements that courts must report to the Judicial Council, if known. The phrase “if known” is intended to clarify that courts are only expected to report information that they become aware of. The rule would not require them to seek out or request this information from law enforcement officers conducting a civil arrest in a court facility. Furthermore, the rule anticipates that any information reported to the council will be submitted after the occurrence of a civil arrest. The subdivision also includes a provision allowing the Judicial Council’s Administrative Director to determine that additional information is necessary to evaluate the impact of civil arrests in court facilities, which courts would then need to provide.

Subdivision (b) also specifies that the information must be reported to the council, in a form, manner, and frequency determined by, and on dates specified by, the Administrative Director so that all information submissions are consistent and easily aggregated on a statewide basis. The rule would take effect May 1, 2026, and courts would begin reporting to the Judicial Council in June 2026.

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<sup>6</sup> *Ibid.*

<sup>7</sup> Wash. Rev. Code Ann. § 2.28.320(2). See “Quarterly Reports of Law Enforcement Action at Courthouses,” [courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.qrtlyReports](https://courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.qrtlyReports).

### ***Subdivision (c), Personal identifying information of targeted individual***

To protect individuals' privacy and safeguard sensitive data, subdivision (c) of recommended rule 10.440 specifies that courts must not include the identity or other personal identifying information of an individual who is the target of a civil arrest in the reports submitted to the council.

### ***Advisory Committee Comment***

The recommended rule contains two advisory committee comments intended to clarify two aspects of the rule. First, because some courts may employ an "Administrative Director," to avoid confusion the committees recommend a comment stating that the term "Administrative Director" as used in the rule refers specifically to the Administrative Director of the Courts appointed by the Judicial Council. Second, the committees recommend a comment explaining that it is anticipated that the Judicial Council may compile and publish in periodic reports the information collected under this rule, in accordance with applicable data publication policy. Transparency of this kind helps build public trust by demonstrating the judicial branch's commitment to openness and integrity.

### **Policy implications**

Adopting the recommended rule requiring trial courts to report specified information concerning civil arrests occurring in court facilities will assist the judicial branch in assessing the impacts on courts and access to justice of civil arrests in court facilities.

This recommendation is, therefore, consistent with the judicial branch's goals of Access, Fairness, Diversity, and Inclusion and Quality of Justice and Service to the Public.

### **Comments**

This proposal was circulated for comment from December 19, 2025, to January 9, 2026, as part of a special invitation-to-comment cycle. The proposal received nine comments from the following: the California Partnership to End Domestic Violence; the County of Santa Clara; the Legal Aid Association of California; the superior courts of Los Angeles County, Mendocino County, Orange County, and Riverside County; the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee; and the Western Center on Law and Poverty. Two commenters agreed with the proposal, two agreed with the proposal if modified, and five did not state a position.

A chart with the full text of the comments received and the advisory committees' responses is attached at pages 10–52. The principal comments and the advisory committees' responses are summarized below.

### ***Scope of the recommended rule***

Several commenters suggested changes that would broaden the scope of the rule. For example, the California Partnership to End Domestic Violence suggested that the rule should be expanded to require courts to report incidents of "checkpoints" near courthouses. And both the Legal Aid Association of California and the Western Center on Law and Poverty raised concerns that

Government Code section 70301(d) of the Trial Court Facilities Act of 2002, referenced in the rule, contains the term “appurtenant,” which is undefined.

The committees are not recommending changes to the rule in response to these comments. The committees included the cross-reference to the definition of “court facility” in the Trial Court Facilities Act in order to incorporate a broad definition of what is considered a court facility and to provide clarity and consistency with existing law. In addition to a courthouse, this includes court parking lots and the sidewalks or other grounds outside of a courthouse. The committees are concerned that requiring courts to report incidents occurring on property that may not be included in the definition of “court facility,” such as “checkpoints,” as suggested, is not feasible for courts, would lead to inconsistent reporting, and would create unnecessary administrative demands.

### ***Definition of “civil arrest”***

Commenters raised concerns about the definition of “civil arrest” in the recommended rule. For example, the County of Santa Clara asked whether the rule would apply to non-immigration civil arrests, such as those under a writ of body attachment, and whether any forms of arrest for contempt of court, “such as arrests arising under the superior court’s inherent power to punish contempt,” fall within its scope. In response, the committees revised subdivision (a)(1) to clarify that civil arrest, under the rule, does not include arrests for “an alleged violation of criminal law, or for contempt.”

In addition, the Legal Aid Association of California and the Western Center on Law and Poverty commented that limiting data collection to civil arrests fails to capture the full impact of law enforcement activity on court access. The organizations recommended expanding the rule to include other interactions involving law enforcement and cited policies in Washington and New York that require court security personnel to report observable conduct, such as surveillance and questioning. The committees considered these suggestions but concluded that the changes would significantly broaden the scope of the rule. The committees instead recommend that the rule be consistent with Civil Code section 43.54 on this issue. Additionally, under the rule, courts may work with their court security personnel on the required reporting but are not required to do so.

### ***“If known” standard***

Recommended rule 10.440 requires courts to report information on civil arrests in court facilities “if known,” meaning courts are only expected to report information that they become aware of. The County of Santa Clara, Legal Aid Association of California, and Western Center on Law and Poverty suggested that the rule be broadened to require courts to actively collect and verify information, establish mechanisms for the public to report directly to courts, and adopt practices from Washington and New York, where court security personnel document law enforcement activity. The Superior Court of Los Angeles County, on the other hand, requested that the rule be amended to include language from the invitation to comment stating that nothing in the rule requires courts to seek out or request information from law enforcement officers conducting a civil arrest. Similarly, the Superior Court of Riverside County requested clarification on whether information from external sources, such as social media or media inquiries, should be included.

The committees considered but ultimately did not recommend changes in response to these comments. The rule includes the “if known” standard to minimize administrative burdens on courts and to avoid situations that could place court personnel in direct conflict with law enforcement officers conducting civil arrests. At the same time, the rule intentionally does not specify the sources from which courts may obtain information, thereby granting courts maximum flexibility.

***Subdivision (b)(8) as circulated***

As circulated for comment, subdivision (b)(8) would have required courts to report information concerning the subject matter of the court proceeding attended by the targeted individual and their role in the proceeding. In order to assist the committees in identifying potential privacy and confidentiality concerns, the committees included the following question in the invitation to comment: “Would courts’ reporting information about the subject matter of the court proceeding that the individual targeted for civil arrest was attending or their role in the proceeding (subdivision (b)(8)) potentially reveal the individual’s identity or other personal identifying information about the individual?”

In response to this question, the committees received comments from two courts, the County of Santa Clara, the Joint Rules Subcommittee, the Legal Aid Association of California, and the Western Center on Law and Poverty. The commenters expressed privacy and confidentiality concerns regarding the reporting requirement, suggesting that the identity of the individual targeted for civil arrest could be revealed by providing enough contextual information for identification to occur. For example, in courthouses with only one or two courtrooms or specialized courts, there may be just a few cases on calendar, and the identity of the targeted individual could be revealed. The committees recognize these concerns and, as a result, have deleted the requirement that courts report the subject matter of the proceeding and the targeted individual’s role in the proceeding from the recommended rule.

***Subdivision (c)***

In addition to the concerns raised regarding subdivision (b)(8) as circulated, several commenters raised concerns about the potential identification of individuals targeted for civil arrest with respect to subdivision (c). Both the Legal Aid Association and the Western Center on Law and Poverty made comments on this issue, and the County of Santa Clara suggested that language be added to the rule directing courts not to provide information “if the submission of such information could reveal the identity of the target of the arrest.” While the committees appreciate the commenter’s suggestion and understand the concern, the committees believe that the revision suggested is overly broad and could inadvertently negatively impact reporting to the Judicial Council because courts might choose not to report information out of an abundance of caution. As a result, the committees do not recommend that the rule be amended as suggested but have made other revisions to subdivision (c) to help address the concern and provide clarity. That subdivision has been revised to read: “Information reported under (b) must not include the identity, or other personal identifying information, of any individual who was a target for civil

arrest.” The committees also note that subdivision (b)(8) as circulated has been deleted from the rule, which should help reduce the risk of identification occurring.

### **Alternatives considered**

The advisory committees considered recommending no action but ultimately determined that the recommended rule is warranted because it would help bring consistency throughout the judicial branch to the reporting of civil arrest information. This will help the judicial branch better assess impacts on courts and access to justice because of civil arrests in superior court facilities. In addition, as discussed above, the committees considered several alternatives for language in the rule in response to the public comments.

### **Fiscal and Operational Impacts**

Rule 10.440 would require some personnel time for superior courts to collect and report the specified information to the Judicial Council on a regular basis, provided that the information is known to the court. Nothing in the rule requires courts to create a specific mechanism for data collection, such as entry or sign-in logs, although some courts might decide that such a log is a sufficient method for recordkeeping. Adopting the rule would also likely require communication with, and training for, court staff or other personnel, including court security.

The committees received comments from two courts and the Joint Rules Subcommittee in response to questions posed in the invitation to comment regarding the fiscal and operational impacts of the recommended rule. Although the commenters reported a possible need for additional procedures such as data-gathering revisions, clear communication and coordination (particularly with court security personnel who may be more likely to become aware of the required information), or training concerning the rule, no commenter reported substantial fiscal or operational burdens as a result of the recommendation.

### **Attachments and Links**

1. Cal. Rules of Court, rule 10.440, at pages 8–9
2. Chart of comments, at pages 10–52

Rule 10.440 of the California Rules of Court is adopted, effective May 1, 2026, to read:

**Title 10. Judicial Administration Rules**

**Division 2. Administration of the Judicial Branch**

**Chapter 6. Court Technology, Information, and Automation**

**Rule 10.440. Reporting civil arrests in court facilities**

**(a) Definitions**

As used in this rule, the following definitions apply:

- (1) “Civil arrest” means the arrest of, or a communicated intent to arrest, an individual for an alleged violation of civil law. It does not include an arrest for an alleged violation of criminal law, or for contempt.
- (2) “Court facility” has the same meaning as that provided in Government Code section 70301(d).

**(b) Reporting to the Judicial Council**

Beginning June 2026, each superior court must report to the Judicial Council, in a form, manner, and frequency determined by, and on dates specified by, the Administrative Director, the following information relating to any civil arrest in a court facility, if known:

- (1) The date, time, and location of each civil arrest;
- (2) Whether the civil arrest resulted in an individual being taken into custody;
- (3) The name of the agency conducting the civil arrest;
- (4) Whether law enforcement officers conducting the civil arrest were in uniform or plain clothes;
- (5) Whether law enforcement officers conducting the civil arrest presented government-issued law enforcement identification;
- (6) Whether law enforcement officers conducting the civil arrest presented a warrant;
- (7) If a warrant was presented, the type of warrant; and



1  
2       (8) Any other information, as determined by the Administrative Director,  
3       necessary to evaluate the impact of civil arrests in court facilities.  
4

5       **(c) Personal identifying information of targeted individual**  
6

7       Information reported under (b) must not include the identity, or other personal  
8       identifying information, of any individual who was a target for civil arrest.  
9

10                               **Advisory Committee Comment**  
11

12       “Administrative Director” refers to the Administrative Director of the Courts appointed by the  
13       Judicial Council. (See Cal. Rules of Court, rule 10.80(a).)  
14

15       It is anticipated that the Judicial Council may compile and publish in periodic reports the  
16       information collected under this rule, in accordance with applicable data publication policy.  
17

## SP25-05

### Judicial Branch Administration: Rule for Reporting Civil Arrests in Court Facilities (adopt Cal. Rules of Court, rule 10.440)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	California Partnership to End Domestic Violence by Christopher Negri	AM	<p>On behalf of the California Partnership to End Domestic Violence, I would like to provide the following feedback.</p> <p>While the proposed rule is well-intentioned and overall positive, it does not provide guidelines regarding the duty of court personnel to report instances of arrests on courthouse grounds (and associated facilities) or to whom such reports should be made. The rule should state that any person working at a California courthouse has an affirmative duty to report any arrest on courthouse grounds that comes to their attention. The rule should require every courthouse to designate a specific member of the court's administrative team to receive such reports and share that information with the Judicial Council Administrative Director according to an established reporting schedule.</p>	<p>The committees appreciate these suggestions; however, the committees do not recommend changes to proposed rule 10.440. Because superior courts have different needs and staffing levels, it is preferable to allow individual courts to determine the best way to record the information required under the rule.</p> <p>In addition, the committees note that, under existing law, court personnel do not currently have a “duty . . . to report instances of arrests on courthouse grounds (and associated facilities)” as stated in the comment. Moreover, the committees note that the recommended rule does not create such a duty.</p> <p>Finally, the committees point out that the recommended rule requires superior courts to report the specified information “in a form, manner, and frequency determined by, and on dates specified by, the Administrative Director.”</p>
			<p>Additionally, the rule should require courts to inform the public that they collect and track information regarding arrests at the courthouse and its associated facilities, as well as to whom such information may be reported. Without notice to the public or outreach efforts, this is likely to have little impact on the chilling</p>	<p>The committees appreciate these suggestions; however, they are beyond the scope of issues presented in this invitation to comment. The committees will consider these suggestions as time and resources permit.</p>

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	Commenter	Position	Comment	Committee Response
			effect that we have seen over the past year on those who need services and protections from the court.	The committees also note that, as stated in one of the recommended advisory committee comments, it is anticipated that the Judicial Council may publish periodic reports of the information collected.
			Finally, the rule does not address the practice of setting up "checkpoints" near courthouses to discourage non-citizens seeking justice from visiting the courts. We would favor seeing the rule expanded to include incidents of checkpoints near courthouses, as we know such practices negatively impact access to the courts and justice.	The committees appreciate these suggestions; however, the committees do not recommend changes to the rule. The rule cross references the Trial Court Facilities Act of 2002 to incorporate a broad definition of what is considered a "court facility" in order to provide clarity and consistency. In addition to a courthouse, this includes court parking lots and the sidewalks or other grounds outside of a courthouse. The committees believe that the suggestion to require courts to report incidents occurring on property that is beyond what is included in the definition of "court facility" is not feasible for courts, would lead to inconsistent reporting, and create unnecessary administrative demands.
2.	County of Santa Clara by Hannah Godbey, Deputy County Counsel	NI	The County of Santa Clara submits this public comment in response to proposed California Rules of Court, Rule 10.440, presented for comment on December 29, 2025 by the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee.	No response required.

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	Commenter	Position	Comment	Committee Response
			<p>The Committees' Invitation to Comment correctly observes that "[c]ivil arrests in court facilities can significantly impact superior court operations and administration, public perception, and access to justice." Indeed, as County of Santa Clara District Attorney Jeffrey Rosen explained in a sworn declaration he recently submitted in federal litigation seeking to protect policies limiting the use of local resources to assist with federal immigration enforcement, the "pursuit of justice" through the investigation and prosecution of criminal cases "is improved when people do not fear that their participation in a criminal prosecution will lead to deportation or other adverse immigration consequences." County of Santa Clara Sheriff Robert Jonsen has similarly explained in another such sworn declaration that his office "cannot effectively solve crimes without the willing participation of victims and witnesses, so when some community members fear working with us, the entire community's safety suffers." Civil immigration arrests in court facilities undermine the pursuit of justice and public safety by making victims and witnesses reticent to come forward and report a crime or participate in a prosecution—either as a victim or a witness.</p> <p>With this context in mind, and in light of the County of Santa Clara's longstanding commitment to fostering a relationship of trust, respect, and open communication between County government and the immigrant community, the County respectfully submits the following comments, which draw upon the extensive experience of attorneys from its Office of the County Counsel, who work in partnership with the staff of the County's Office of the District Attorney, Office of the Public Defender, Office of the Sheriff, and Office of Immigrant Relations, among other County departments and agencies.</p>	

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	Commenter	Position	Comment	Committee Response
			<p><b>Definition of Civil Arrest.</b> Proposed Rule 10.440, subdivision (a)(1) defines civil arrest as “the arrest of, or an expressed intent to arrest, an individual for an alleged violation of civil law. It does not include an arrest for an alleged violation of criminal law, or for contempt under title 5 of part 3 of the Code of Civil Procedure.”</p> <p>The County would welcome clarification regarding whether Rule 10.440 would require superior courts to report information related to non-immigration civil arrests, such as arrests made in a court facility pursuant to a writ of body attachment. Additionally, clarification would be welcome regarding whether any forms of arrest for contempt of court—such as arrests arising under the superior court’s inherent power to punish contempt—fall within the scope of the Rule, or if the Judicial Council understands the Rule to exclude all arrests for contempt of court.</p>	<p>The committees appreciate the need for clarification identified in this comment and have revised subdivision (a)(1) of the recommended rule so that the second sentence of that subdivision now reads: “It does not include an arrest for an alleged violation of law, or for contempt.”</p>
			<p><b>Reporting Information “If Known.”</b> Proposed Rule 10.440, subdivision (b) specifies a list of information related to civil arrests in court facilities that, “if known,” must be reported to the Judicial Council. The Committees’ Invitation to Comment clarifies that “[t]he phrase ‘if known’ is intended to clarify that courts are only expected to report information that they become aware of. They are not required to seek out or request this information from law enforcement officers conducting a civil arrest in a court facility. Furthermore, the rule anticipates that any information reported to the council will be submitted after the occurrence of a civil arrest.”</p> <p>The County would welcome clarification regarding whether Rule 10.440 contemplates superior court staff seeking to verify information that is brought to their attention. In the County’s experience, not all reports regarding immigration enforcement activities can be verified (and in some cases reports are based on a misunderstanding or a misidentification of other law enforcement</p>	<p>The committees appreciate these suggestions; however, the committees do not recommend changes to the rule. The recommended rule does not require verification, and the committees do not recommend adding such a requirement or mandating a disclosure regarding verification, which could impose significant administrative demands on courts and potentially place court staff in conflict with law enforcement officers conducting the civil arrest.</p>

## SP25-05

### Judicial Branch Administration: Rule for Reporting Civil Arrests in Court Facilities (adopt Cal. Rules of Court, rule 10.440)

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	Commenter	Position	Comment	Committee Response
			activity). To avoid inadvertently increasing community anxiety by creating the impression of an uptick in immigration enforcement activity, Rule 10.440 could be amended to require a disclosure regarding whether the reporting court undertook any efforts to verify the information and, if so, whether the information could be verified. The County also commends the Committees' recognition that data must be submitted <i>after</i> the occurrence of a civil arrest.	
			<b><i>Personal Identifying Information.</i></b> Proposed Rule 10.440, subdivision (c) provides that "[i]nformation reported under (b) must not include personal identifying information of any individual who was a target for civil arrest." The Committees' Invitation to Comment also indicates a special interest in public comments focused on whether "reporting information about the subject matter of the court proceeding that the individual targeted for civil arrest was attending or their role in the proceeding (subdivision (b)(8)) [could] potentially reveal the individual's identity," as well as public comments focused on how well the overall proposal would work "in courts of different sizes."  For courthouses with only one or two courtrooms (including courthouses in smaller counties and smaller satellite courthouses in larger and midsize counties), disclosure of the time, date, and location of a civil arrest—even on their own, but especially in combination with the information discussed in subdivision (b)(8)—would risk revealing the identity of the target of the arrest. Even for larger courthouses, if the disclosed location information includes details such as the specific courtroom number, disclosure could reveal the identity of the target of the arrest, in some instances (again, especially if combined with the information discussed in subdivision (b)(8)).	The committees appreciate the commenter's response to the question in the invitation to comment concerning subdivision (b)(8). The committees received a number of comments expressing privacy and confidentiality concerns with this subdivision. The committees recognize these concerns and, as a result, recommend that subdivision (b)(8) be deleted from the rule.

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	Commenter	Position	Comment	Committee Response
			<p>Clarification would be welcome regarding whether superior courts must ensure, before submitting any of the information contemplated by proposed Rule 10.440, subdivision (b), that a given piece of information—considered on its own and in combination with any other submitted information—will not reveal the identity of the target of the civil arrest. For example, proposed Rule 10.440, subdivision (c) could be rephrased to provide that courts “shall not” submit information contemplated in subdivision (b), even if the information “is known” if the submission of such information could reveal the identity of the target of the arrest.</p> <p>In addition, proposed Rule 10.440, subdivision (c), or the Advisory Committee Comment to the Rule, could clarify that superior courts should take account of the number of courtrooms at a facility and the number of cases on a courtroom’s docket before disclosing such information, and must consider the number of parties and witnesses in attendance at the courthouse before disclosing such information.</p>	<p>The committees appreciate the commenter’s suggestion and understand the concern. However, the committees are concerned that the revision suggested is overly broad and could inadvertently negatively impact reporting to the Judicial Council because courts might choose not to report information out of an abundance of caution. As a result, the committees do not recommend the revision suggested in this comment but have proposed other revisions to subdivision (c) to help address the concern and provide clarity. Subdivision (c) has been revised to read: “Information reported under (b) must not include the identity or other personal identifying information of any individual who was a target for civil arrest.”</p> <p>In addition, the committees note that subdivision (b)(8) has been deleted from the recommended rule, which should help reduce the risk of identification occurring.</p>
			<p>The County respectfully submits these comments to the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee and thanks the Committees for the opportunity to be heard on this important matter.</p>	<p>No response required.</p>

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	Commenter	Position	Comment	Committee Response
3.	Legal Aid Association of California By Lorin Kiline, Director of Advocacy, and Zachary Newman, Directing Attorney	NI	<p><b>LAAC supports the stated purpose of the proposal and appreciates the Judicial Council’s efforts to address this serious and urgent issue.</b> The goal articulated by the Council—to better understand the statewide impact that civil arrests in court facilities have on courts, while also promoting public trust and confidence through transparency—is a necessary and commendable one. While the proposal moves in the right direction, some adjustments are needed to ensure the rule meaningfully serves that purpose.</p> <p>As described in this comment, the Judicial Council could adopt the Attorney General’s model policies issued in December 2024 on a statewide basis. While some courts have adopted these policies, others have not, resulting in inconsistency and confusion for court users, advocates, and court staff. Additionally, the Attorney General’s framework is substantively stronger because it does not narrowly limit court protections to “civil arrests” or situations involving expressed intent to arrest, addressing a broader range of law enforcement conduct.</p> <p>Ultimately, collecting data alone is not sufficient; immediate action alongside data collection is necessary to prevent ongoing harm.</p>	<p>The committees appreciate the comment but note that it is beyond the scope of this rule proposal. Moreover, Government Code section 7284.8 already requires courts to adopt the Attorney General’s <i>Model Policies to Assist California’s Superior Courts in Responding to Immigration Issues</i>. Accordingly, the committees do not recommend revising the rule to require Judicial Council adopt the Attorney General’s policy.</p>
			<p><b>LAAC is the statewide membership association of over 100 public interest law nonprofits that provide free civil legal services to low-income people and communities throughout California.</b> LAAC member organizations provide legal assistance on a broad array of substantive issues, ranging from general poverty law to civil rights to immigration, and serve a wide range of low-income and vulnerable populations. LAAC is California’s unified voice for legal services and a zealous advocate advancing the needs of the clients of legal services on a statewide level regarding funding and access to justice. Because we work directly with legal</p>	<p>No response required.</p>



## SP25-05

### Judicial Branch Administration: Rule for Reporting Civil Arrests in Court Facilities (adopt Cal. Rules of Court, rule 10.440)

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	Commenter	Position	Comment	Committee Response
			aid attorneys and advocates on the ground, we understand the importance of any improvements in court rules or procedures.	
			<b>The Rule Seeks to Address a Significant Problem: Chilling Access to the Courts</b>  The problem this rule seeks to address is severe, widespread, and already well-documented: Fear of civil arrest in and around courthouses fundamentally disrupts an individual's ability to go to court and, thereby, undermines access to justice.  People are not avoiding court simply because arrests occur inside courtrooms. Individuals are being arrested outside courthouses, including on courthouse grounds and nearby areas, making it even harder for people to access the court as necessary. Even when arrests do not occur, people are routinely subjected to harassment, intimidation, and surveillance by law enforcement officers present for the purpose of making civil arrests.  The cumulative effect is profound, resulting in court users choosing not to appear at hearings out of fear, even when doing so means forfeiting fundamental rights or access to just results in a case. In housing cases, for example, tenants are defaulting on evictions rather than risking coming to court, even if they have valid claims or defenses. Ultimately, this results in avoidable displacement, loss of housing, and cascading harm to families and communities. The problem, though, goes way beyond housing. When people are too afraid to access the courts, the justice system fails in its most basic function of giving people the ability to rectify wrongs and seek access to justice.	The committees appreciate the information.
		A	<b>Data Collection is Sufficient, But Needs to Go Further, Immediately</b>	The committees appreciate the information.

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			<p>In this context, we are grateful to the Council for taking this issue seriously and for working to address it. We commend the Council’s recognition that transparency and data collection are essential to restoring public trust and confidence in the courts.</p> <p>But data collection is necessary, not sufficient: While data collection is important, more must be done now. Data collection will not, by itself, address the problem: Civil arrests at courthouses are already well-documented at both the federal and state levels as having a chilling effect on court participation.</p> <p>A significant amount of information about the scope and urgency of this problem already exists through court observations, advocacy organizations, and direct service providers. The magnitude of the harm is apparent even without additional data. If people are being arrested or intimidated today—and as a result are avoiding the courts today—waiting six months or longer for data to be reported before taking further action will result in substantial and irreparable harm. This is an urgent problem that demands immediate action. Therefore, the rule should be structured to both (a) gather information and (b) prompt immediate institutional responsibility to make an impact now.</p>	
			<p><b>Specific Comments on the Proposed Rule Text</b></p> <p><i>i. Subdivision (a): Definitions</i></p> <p><u>Civil Arrests</u>: Limiting data collection to “civil arrests” as defined in the rule fails to capture the full scope of the problem. Many of the most harmful interactions never result in an “arrest” as contained in this definition, and yet they still deter court access. Harassment, intimidation, surveillance, and questioning by law enforcement officers can be just as effective at chilling court</p>	<p>The committees note the commenter’s suggestion to expand the scope of the rule to also include “other interactions or incidents involving law enforcement present for the purpose of making civil arrests that do not result in an arrest.”</p> <p>The committees acknowledge this suggestion; however, the committees do not recommend changes to the rule.</p>

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			<p>participation as an actual arrest. Thus, counting arrests alone does not sufficiently advance the stated goal of understanding the statewide impact on courts: Consequently, we recommend that the rule require collection of at least two categories of data. This would include civil arrests as well as another category, such as “other interactions or incidents involving law enforcement present for the purpose of making civil arrests that do not result in an arrest.”</p> <p>By including this secondary aspect of the problem, this distinction would allow the Judicial Council to better understand how law enforcement presence affects court access, even when arrests are not made. The precise contours of the second category can be refined, but excluding these interactions altogether will severely understate the problem. This helps effectuate the Council’s goals of understanding the full scope of the problem of impeding court access.</p> <p>Accordingly, focusing on intent or arrests alone is insufficient; the definition should encompass ICE presence and interactions that deter court participation. Unlike narrower approaches, the Attorney General’s framework extends protections beyond “civil arrests” or expressed intent to arrest, covering a wider range of law enforcement conduct.</p>	<p>In drafting the rule, the committees considered whether to include similar language and decided not to include the language because it lacked sufficient clarity to be implementable. The committees instead recommend that the rule be consistent with Civil Code section 43.54, on this issue.</p>

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		<p><u>Court Facility</u>: We also urge the Council to provide greater clarity regarding what areas are included in “grounds appurtenant” to a courthouse building. We understand that Civil Code Section 662, in summary, defines an appurtenance as something incidental to or used with the land for its benefit, which could include walkways, surrounding grounds, and easements. And, because the Court Facilities Act of 2002 does not define “appurtenance,” this definition could be the best reference. In practice, this could cover the land parcels courts own and operate, plus any associated easements; however, one way of determining this is from property deeds, which is impractical. The Judicial Council should clearly designate which grounds are considered appurtenant to court facilities and clarify that areas routinely used by the court and public to access courthouses are included. Without this clarity, ambiguity could skew the data.</p> <p>Ultimately, given that arrests and intimidation frequently occur outside courthouse doors, ambiguity in this definition risks inconsistent reporting and undercounting. While we do not have a specific proposal to amend this definition, we believe further clarification and delineation would help ensure uniform application across counties and court facilities.</p>	<p>The committees appreciate these suggestions; however, the committees do not recommend changes to the rule. In order to maintain consistency with existing law, the committees recommend cross-referencing the existing statutory definition contained in Government Code section 70301(d) of the Trial Court Facilities Act of 2002.</p>
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			<p><i>ii. Subdivision (b): Reporting</i></p> <p>With respect to the specific data points called for, setting aside anonymity concerns which will be discussed below, these data points seem like they would be useful in evaluating the problem. This would include:</p> <ul style="list-style-type: none"><li>• Knowing the subject matter of the proceeding the person was attending could be helpful in crafting new policy or managing fears of clients.</li><li>• Knowing whether the officer was in plain clothes and whether they showed a warrant would be helpful to demonstrate harassment and intimidation.</li></ul> <p>The most significant flaw in the rule is the repeated limitation that information need only be reported “if known,” combined with the statement in the explanatory memo that courts are not required to seek out or request information from law enforcement officers conducting a civil arrest. If courts have no obligation to seek out this information, the rule lacks any meaningful enforcement mechanism. In practice, this means that reporting will likely depend on voluntary disclosures by the very officers whose conduct is at issue. It is unrealistic to expect comprehensive or reliable data under that framework.</p> <p>We recommend that the rule be strengthened by:</p> <ul style="list-style-type: none"><li>• Creating an affirmative obligation on courts to seek out relevant information when an incident occurs;</li></ul>	<p>The committees appreciate these suggestions; however, the committees do not recommend changes to the rule.</p> <p>First, the recommended rule does not require courts to affirmatively seek information, and the committees do not recommend adding such a requirement, which could impose significant administrative demands on courts and potentially place court staff in conflict with law enforcement officers conducting the civil arrest.</p> <p>Second, the rule does not specify the sources from which courts may receive information, which could include members of the public. Requiring courts to implement a specific reporting mechanism, as suggested by the commenter, could, however, result in significant costs and strain court resources.</p> <p>Finally, the committees note that both the New York and Washington statutes referenced by the commenter place requirements on court <i>security</i> personnel to make reports. The committees also note that, in California, court security services are governed primarily by statute and individual memorandums of</p>

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			<ul style="list-style-type: none"><li>Establishing a mechanism for court users, advocates, or observers to report incidents, particularly those that do not result in an arrest; and</li><li>Drawing from the approaches used in other states, such as Washington and New York, where court security personnel are responsible for reporting when law enforcement enters court facilities.</li></ul> <p>These approaches would be an improvement over a system that relies entirely on passive receipt of information. In sum, the “if known” standard is inadequate and could distort the data. We recommend designating court staff to record any ICE presence in and around court facilities, like New York’s incident reporting system, and California could adopt a similar approach.</p>	understanding. Therefore, this proposal neither mandates courts to work with their court security personnel on the required reporting, nor does it limit their ability to do so.
			<p><i>iii. Subdivision (c): Personal identifying information</i></p> <p>We share concerns about anonymity and potential re-identification. Even if names are excluded, combining data points such as case type, date, time, and location could allow someone to identify an individual by reviewing public dockets. This concern is especially acute given the vulnerability of the affected population. While this information is valuable, collecting personal identifiers—including immigration status—poses serious risks. We recommend that courts avoid collecting such data, allow pseudonyms, and aggregate information in reports. Additional safeguards are needed to protect the dataset from public disclosure through PRA requests.</p> <p>We encourage the Council to consult directly with legal services providers and impacted communities to ensure that reporting requirements do not inadvertently expose individuals to further risk.</p>	<p>The committees appreciate the comment and recognize the expressed concerns. As a result, the committees recommend revisions to the rule to help address the concern and provide clarity. For example, proposed subdivision (c) has been revised to read: “Information reported under (b) must not include the identity or other personal identifying information of any individual who was a target for civil arrest.”</p> <p>In addition, the committees received a number of comments in response to the question in the invitation to comment concerning subdivision (b)(8). These</p>

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				comments expressed privacy and confidentiality concerns with that subdivision. The committees recognize these concerns and, as a result, recommend that subdivision (b)(8) be deleted from the rule.
			<b>Conclusion</b>  LAAC appreciates your Committees' and the Council's attention to this critical issue and its efforts to address the serious harms caused by civil arrests and related law enforcement activity in and around court facilities. We are grateful for the opportunity to provide these comments and welcome further engagement. Please do not hesitate to contact us with any questions or concerns as the Council continues its work on this.	No response required.
4.	Superior Court of Los Angeles County by Stephanie Kuo	A	The following comments are representative of the Superior Court of California, County of Los Angeles, and do not represent or promote the viewpoint of any particular officer or employee.  In response to the Judicial Council of California's Invitation to Comment, "SP25-05 Judicial Branch Administration: Rule for Reporting Civil Arrests in Court Facilities," the Superior Court of California, County of Los Angeles (Court), agrees with the proposal and provides the following specific comments responsive to the request.	No response required.
			Q: Does the proposal appropriately address the stated purpose?  A: Yes, the proposal seems to address the goal of documenting civil arrests in court facilities as defined by Government Code section 70301(d). The committees should be aware that there may be a lack of accuracy in the reporting. The reported information will only be	The committees appreciate the information.

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			based on what can be observed by Court staff or Court Security, i.e. the subject of interest (SOI) and for what court matter the SOI was at court. The ITC indicates the intent of the proposed CRC under subsection (b) – Reporting, does not require a court to seek out information; however, reporting based on court or security personnel observation only may result in incomplete or erroneous information. The Court is not always informed when a civil arrest occurs in a court facility, on the grounds appurtenant to the building, or in court facility parking lots. The law enforcement agencies carrying out civil arrests in court facilities do not consistently cooperate or provide transparency regarding their enforcement actions.	
			<p>Q: Would courts’ reporting information about the subject matter of the court proceeding that the individual targeted for civil arrest was attending or their role in the proceeding (subdivision (b)(8)) potentially reveal the individual’s identity or other personal identifying information about the individual?</p> <p>A: Yes, unless a case is confidential, personal identifying information (PII) may be obtainable through public access tools the court provides. Researching the case being heard and its connection to the arrest could potentially reveal the identity of the arrested individual.</p> <p>Additionally, while the ITC indicates courts would only be required to report information “if known,” it further states it would not require a court to inquire with law enforcement officials to compile information; the assumption stated in the ITC should be added to the CRC. Consequently, we recommend under subdivision (b) adding section (10) and the following statement:</p>	<p>The committees appreciate the comment. The committees received a number of comments in response to the question in the invitation to comment concerning subdivision (b)(8). These comments expressed similar privacy and confidentiality concerns with this subdivision. The committees recognize these concerns and, as a result, recommend that subdivision (b)(8) be deleted from the rule.</p> <p>The committees appreciate the suggestion to add the language described in the invitation to comment to the rule making clear that courts are not required to seek out or request information from law enforcement officers conducting a civil arrest in a court facility. The committees have</p>



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			Nothing in this CRC shall require a court to seek out or request this information from law enforcement officers conducting a civil arrest in a court facility or from case records.	considered this suggestion and determined that the recommended rule is sufficiently clear.
			<p>Q: What would the implementation requirements be for courts, for example, training staff or other personnel (please identify position and expected hours of training) and revising processes and procedures (please describe)?</p> <p>A: The proposal necessitates training court staff and clear communication with the LA County Sheriff's Department (LASD) regarding reporting requirements and the designated recipients of these incident reports for the Court.</p> <p>The proposal allows the Administrative Director of the JCC, subdivision (b) Reporting, to specify the information to be reported and allows the Administrative Director to determine whether any additional information is necessary to evaluate the impact of civil arrests. These requirements will impose administrative requirements and modifications to current procedures to accommodate data gathering requirements of the JCC. The Court would have to ensure its reporting from each of its 36 courthouses is consistent and aggregated to meet JCC reporting requirements. An application and database would be required to collect and store incidents for reporting purposes.</p>	The committees appreciate the information.
			<p>Q: How well would this proposal work in courts of different sizes?</p> <p>A: The proposal would work in courts of different sizes, but the impact largely depends on the administrative reporting requirements and elements to be captured. In addition, data management capacities vary by court, as do relationships between local, state, and federal agencies and local Court Security entities</p>	The committees appreciate the information.

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			<p>which may also impact the extent to which data is shared or able to be obtained.</p> <p>In a large court system like the Superior Court of Los Angeles County, ensuring consistent identification and reporting of civil arrests is challenging. While it's straightforward to report arrests at the courthouse, adjacent areas pose verification difficulties. Currently, local, state, and federal agencies do not provide specifics on civil arrests which have complicated our current tracking efforts and would be an ongoing challenge.</p>	
5.	Superior Court of Mendocino County by Kim Turner, CEO	A	Since JCC has identified the data elements that it wants to collect, it would be helpful if JCC could develop a fillable form that could be submitted by each court when a civil arrest occurs.	The committees appreciate this comment and agree that a fillable form as described by the commenter would be helpful for courts as well as Judicial Council staff compiling the required information. As a result, the committees recommend that council staff develop such a form.
6.	Superior Court of Orange County by David Yamasaki, CEO	NI	In response to the email below seeking comments regarding proposed rule changes, one of our observations related to reporting arrests or possible arrests is that we may not know what an agent might actually do. Specifically, there are occasions where an agent may seek information regarding a case that has been filed or possibly upcoming hearings and it's not entirely clear if an arrest will be made. In this instance, it would be difficult to comply with subdivision (a). Within the spirit of the reporting requirement, it seems appropriate to strike the second portion of this subdivision which limits reporting to an immediate arrest.	The committees recognize that courts may find it challenging to discern the intent of law enforcement officers. As a result, the recommended rule defines "civil arrest" to include an arrest as well as those situations where law enforcement communicates its intent to arrest an individual. This language is intended to avoid ambiguity by including a clear, observable action or statement indicating the intent to arrest an individual. The rule also provides that courts are only expected to report

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				information that they become aware of by including the phrase, “if known.” The committees are not recommending the revision suggested in this comment but are recommending other revisions to subdivision (a)(1) to address the concern and provide clarity. The first sentence of that proposed subdivision now reads: “‘Civil arrest’ means the arrest of, or a communicated intent to arrest, an individual for an alleged violation of civil law.”
7.	Superior Court of Riverside County by Sarah Hodgson, Chief Deputy of Legal Services/General Counsel	NI	<p>General Comment:</p> <p><i>Subdivision (b) numbers 5-7 may be confusing as phrased: is the question whether government issued IDs and warrants were presented to a court employee or to the person subject to civil arrest? Responding court would likely interpret the broad phrasing of this subsection in conjunction with the “if known” language to seek any information re: government issued IDs and/or warrants being presented to anyone.</i></p>	The committees appreciate the comment and are not recommending revisions to the rule because the committees determined that the language is sufficiently clear. Under the “if known” standard, a court must report whether a government identification or warrant was presented to anyone.
			<p>Does the proposal appropriately address the stated purpose?</p> <p><i>Yes. There is a risk to the accuracy of the data being compiled. Many civil arrests are not known or witnessed by court staff, particularly if they occur in areas outside a courthouse but within the definition of a court facility (e.g. parking areas), or outside of regular business hours. The stated purpose of the proposed rule is to assess impacts on access to justice, but the rules aren't clear that courts should only report the arrests that occur within a court facility's operating hours.</i></p>	The committees appreciate the comment and do not recommend revisions to the rule. The rule intentionally avoids specifying the sources of information, allowing courts the greatest possible flexibility.

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			<i>Regarding data accuracy, it may be helpful to clarify whether the “if known” language includes information about arrests that are only brought to the court’s attention through other means (e.g. social media and/or media inquiries) rather than court staff/court security’s own awareness? Clarity on this will help appropriately develop training and implementation procedures.</i>	
			<p>Would courts’ reporting information about the subject matter of the court proceeding that the individual targeted for civil arrest was attending or their role in the proceeding (subdivision (b)(8)) potentially reveal the individual’s identity or other personal identifying information about the individual?</p> <p><i>It is possible, under proposed rule 10.440(b)(8), that the subject matter could lead to the identification of the person that was arrested. It will depend on the specificity of the subject matter being reported. To reduce the likelihood of revealing an individual’s identity, perhaps the individual’s role in the case is unnecessary to meet the stated goal of the proposed rule.</i></p>	The committees appreciate the comment. The committees received a number of comments in response to the question in the invitation to comment concerning subdivision (b)(8). These comments expressed similar privacy and confidentiality concerns with this subdivision. The committees recognize these concerns and, as a result, recommend that subdivision (b)(8) be deleted from the rule.
			<p>What would the implementation requirements be for courts—for example, training staff or other personnel (please identify position and expected hours of training) and revising processes and procedures (please describe)?</p> <p><i>Implementation requirements would include developing a reporting process, preparation of training materials and forms, and data collection. Courts would also need to determine the format of the report, who to designate as the recipient of all such reports that will compile the data for disclosure.</i></p>	The committees appreciate the information.

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			<p><i>Training would include all court staff responsible for reporting civil arrests on courthouse property (which is likely all court staff) and court security.</i></p> <p><i>Implementation would require at least 40 hours to develop a system of reporting and tracking information, as well as training information for staff and court security. Training all staff would take additional time, and depending upon the number of arrests/reports per month, additional time would be spent compiling and reporting the known information.</i></p>	
			<p>How well would this proposal work in courts of different sizes?</p> <p><i>Large courts with multiple court facilities will require a higher level of coordination for data reporting and collection, but with training and clear reporting guidelines, it should work well, with the caveats discussed above re: data accuracy and completeness.</i></p>	The committees appreciate the information.
8.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) (TCPJAC/CEAC Joint Rules Subcommittee (JRS))	AM	<p>The JRS notes that the proposal should be implemented because collecting and reporting this data will help the Judicial Branch measure and demonstrate the impact of civil arrests in court facilities on access to justice.</p> <p>The JRS also notes the following impact to court operations:</p> <ul style="list-style-type: none"> <li>• Results in additional training, which requires the commitment of staff time and court resources.</li> <li>• Increases court staff workload <ul style="list-style-type: none"> <li>○ The proposed rule would create extra work for court staff to complete the mandated reporting, which would include necessary coordination and training with court security personnel as they often become aware of more of the requested information than court personnel. That coordination may be difficult for courts who have court security personnel that are not cooperative in this area.</li> </ul> </li> </ul>	<p>No response required.</p> <p>The committees appreciate the information.</p>

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			<p>New procedures and internal reporting mechanisms may also need to be developed or formalized by courts to comply with the mandated reporting. These impacts are, however, outweighed by the important purposes served by mandated reporting in this area.</p> <ul style="list-style-type: none"><li>• Impact on court security</li></ul>	
			<p>Suggested modification(s) and comments:</p> <p>The ITC requests specific comments responding to the following question:</p> <p>Would courts' reporting information about the subject matter of the court proceeding that the individual targeted for civil arrest was attending or their role in the proceeding (subdivision (b)(8)) potentially reveal the individual's identity or other personal identifying information about the individual?</p> <p>The language in subdivision (b)(8) is as follows:</p> <p>The subject matter of the court proceeding that the individual targeted for civil arrest was attending and their role in the proceeding (e.g., witness, party); and</p> <p>The JRS believes the inclusion of these two metrics, especially coupled with the reporting of the date, time, and location of each civil arrest pursuant to subdivision (b)(1) of the rule, creates an increased potential to reveal the identity of the individual targeted for civil arrest by providing enough contextual information for such identification to occur. That potential may be significantly greater depending on the specifics reported, such as in instances in which someone visits the court for an appointment or hearing that is only</p>	<p>The committees appreciate the comment. The committees received a number of comments in response to the question in the invitation to comment concerning subdivision (b)(8). These comments expressed similar privacy and confidentiality concerns with this subdivision. The committees recognize these concerns and, as a result, recommend subdivision (b)(8) be deleted from the rule.</p>

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			<p>for them, and instances in which someone attends a court calendar with few cases on calendar.</p> <p>When civil arrests occur in court facilities, court personnel and other individuals that witness or become aware of the arrests often learn of information that either identifies or can be used to identify the targeted individuals. Court personnel take efforts in such instances to not document or share any of that information so that identity of the targeted individuals is protected, which is a core goal of this proposed rule as outlined by subdivision (c). Creating a requirement to document and report these metrics, which were specifically not included by the JRS when developing the rule, works directly against that goal and the efforts of courts to protect the identity of individuals targeted for civil arrests. Accordingly, the JRS proposes that the proposed rule be modified by removing subdivision (b)(8).</p> <p>The JRS understands the potential benefits of collecting information about why individuals targeted for civil arrest visited a court facility, but believes those potential benefits are outweighed by the need to protect the identity of these individuals. If the Judicial Council's Rules Committee disagrees and decides to keep subdivision (b)(8), the JRS believes the language should be modified to the following:</p> <p>For non-confidential court services only, the case type and type of the court service that the individual targeted for civil arrest was visiting the court facility for, and their role (e.g., witness, party); and</p> <p>The above alternative language is proposed because of three issues with the currently proposed language. The first is that it only covers court proceedings and not all purposes for which an individual</p>	

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			targeted for civil arrest may visit a court facility, such as to visit the clerk's office, self-help center, or other court services. The second is that the term "subject matter" is open to interpretation as including varying levels of specificity and likely to result in inconsistent levels of information being reported. If that term is maintained, it would be prudent to define it in subdivision (a) of the proposed rule. The third is that the currently proposed language would include reporting information that violates the current standard for confidential court cases, such as juvenile cases. Court personnel are not supposed to even acknowledge the existence of a confidential case or any individual's involvement in such a case to anyone that is not a party to the case or that has not been granted access to the case's information by a judicial order. Documenting and reporting information about a confidential case would violate that standard, even without the inclusion of specifically identifying information. Further, it may result in the provision of enough contextual information to identify individuals that are a party to a confidential court case, therefore violating their legal right to confidentiality.	
9.	Western Center on Law and Poverty By Tina Rosales-Torres, Esq., Policy advocate	NI	<p>The Western Center on Law and Poverty (Western Center) submits these comments <b>in support</b> of the Judicial Council's Proposed Rule for Reporting Civil Arrests in Court Facilities, SP25-05, (Proposed Rule).[1]</p> <p>[1] Judicial Council of Cal., Judicial Branch Administration: Rule for Reporting Civil Arrests in Court Facilities Notice of Proposed Rulemaking, SP25-05 (proposed Dec. 2025) (to be codified at Cal. Rules of Court, Rule 10.440).</p> <p>As California's oldest legal services organization, Western Center protects the rights of low-income residents, Black, Indigenous, and Brown communities, people with disabilities,</p>	<p>No response required.</p> <p>No response required.</p>



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	Commenter	Position	Comment	Committee Response
			and other protected groups through litigation, policy advocacy, technical legal assistance, and legal training. Our clients rely on California's courts to navigate critical aspects of their lives including securing support for themselves and their families, seeking protection from violence, avoiding homelessness, asserting consumer rights, participating as witnesses, and accessing justice free from discrimination.	
			<p>While we support data collection as a tool for transparency, data collection and analysis alone are insufficient to protect access to justice. California courts have an independent constitutional and statutory duty to maintain safe, neutral, and accessible forums for all court users. Federal immigration enforcement in and near courthouses targeting Latino and other communities undermines this duty, chilling participation in legal proceedings, delaying cases, and eroding public trust in the judiciary. Therefore, we recommend the following:</p> <ul style="list-style-type: none"><li>• Immediate adoption of the <u>California Attorney General's model policies</u> (or equivalent) to ensure safe access to court facilities and prevent chilling effects.</li><li>• Expand the definition of "civil arrest" to include all federal enforcement activity that interferes with court access, not only completed arrests or expressed intent to arrests.</li><li>• Further define "court facility" to include all areas functionally used to enter, exit, or participate in court proceedings, including walkways, grounds, and easements under court control.</li><li>• Proactively gather information by requiring courts to collect information on federal enforcement activity even when no arrest occurs and establish a reporting mechanism for court users to provide reports on federal enforcement activity.</li></ul>	The committees appreciate the comments; please see detailed responses below.

## SP25-05

### Judicial Branch Administration: Rule for Reporting Civil Arrests in Court Facilities (adopt Cal. Rules of Court, rule 10.440)

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			<ul style="list-style-type: none"><li>• Protect individuals' privacy by prohibiting the collection of personal identifying information, including immigration status, and permit the use of pseudonyms; ensure all reported data is aggregated and anonymized to prevent re-identification.</li><li>• Establish immediate judicial notification protocols to notify the presiding judges or designees of enforcement activity in real time and document court responses to maintain accountability.</li></ul>	
			<p><b>I. DATA COLLECTION MUST BE ACCOMPANIED BY POLICIES TO SATISFY THE COURT'S AFFIRMATIVE DUTY TO PROTECT EQUAL ACCESS TO JUSTICE.</b></p> <p><b>A. The Judiciary Has an Independent, Affirmative Duty to Prevent Interference with Court Access.</b></p> <p>The Judicial Council states that the purpose of the Proposed Rule is to establish consistent statewide reporting of civil arrests occurring in court facilities, based on the recognition that such arrests affect court administration, access to justice, and public confidence in the judiciary. [2] That purpose aligns with but is significantly narrower than the judiciary's constitutional and statutory obligation to ensure that courts remain safe, neutral, and accessible forums for all court users. State courts possess the constitutional and statutory authority and the affirmative duty to regulate conduct within court facilities to ensure the orderly administration of justice, protect participation in judicial proceedings, maintain courthouse safety, and prevent interference with court operations. [3]</p>	<p>The committees appreciate the commenter's suggestion but note that it is beyond the scope of this rule proposal. Moreover, Government Code section 7284.8 already requires courts to adopt the Attorney General's <i>Model Policies to Assist California's Superior Courts in Responding to Immigration Issues</i>. Accordingly, the committees do not recommend revising the rule to require courts to adopt the Attorney General's policy.</p>

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			<p>California law generally prohibits civil arrests in courthouses, absent a judicial warrant, and authorizes judges to regulate activity within court facilities. [4] California further requires courts to adopt model policies by the California Attorney General to limit state and local participation in federal immigration enforcement in state courthouses. [5] In December 2024, the California Attorney General issued guidance and model policies to protect public access to courts.[6]</p> <p>Despite the statutory requirement that these policies or similar policies must be adopted immediately, Judicial Council is waiting for data to understand the scope of the public access issue. Waiting for data before implementing protective policies risks delaying court operations, deterring litigants and witnesses, and undermining public trust in the judiciary. Courts must exercise real-time authority and adopt proactive policies to prevent case delays, witness nonappearance, and systemic prejudice.</p> <p>Reporting alone will also not resolve the courts' failure to adopt proactive policies. While reporting promotes transparency, it cannot substitute for the judiciary's affirmative obligation under SB 54. Where interference is known or foreseeable, courts must act immediately.</p> <p>We recommend Judicial Council require all courts to publicly adopt the California Attorney General's model policies or similar policies including, establishing procedures to immediately notify the presiding judge of designee of any federal law enforcement activity. To ensure transparency, we recommend each court document their response and proactive public safety measures.</p> <p>[2] <i>Supra</i> note 1 at 1-2.</p>	

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			<p>[3] U.S. Const. art. VI, § 1 (preserving judicial power to courts); Cal. Code Civ. Proc., § 128; see also <i>Walker v. Superior Court</i> (1991) 53 Cal.3d 257, 266 (“We have often recognized the “inherent powers of the court ... to insure the orderly administration of justice”).</p> <p>[4] <i>See</i> Cal. Civ. Code § 43.54. <i>See also</i> Cal. Code of Civ. Proc. § 177(a)-(e).</p> <p>[5] Cal. Gov. Code § 7284.8.(a) states that courts must adopt the CA AG model policy unless the court has a policy that is more restrictive or equivalent to the model policy. The Counties of Alameda, El Dorado, Kern, Napa, Sacramento, Santa Barbara, Mono, and Contra Costa have publicly adopted the CAAG’s model policy or an equivalent policy.</p> <p>[6] <i>See generally</i> California Attorney General, <i>Securing Equal Access to Justice For All: Guidance and Model Policies to Assist California’s Superior Courts in Responding to Immigration Issues</i> (December 2024) available at <a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/immigration/court.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/immigration/court.pdf</a>.</p>	
			<p><b>B. Federal Law Enforcement Activity at Courthouses has a Chilling Effect that is Well-Documented and Requires Immediate Policy Changes.</b></p> <p>Judicial Council asserts that data is needed to “assist the judicial branch in assessing impacts on access to justice and courts.” [7] However, many of the harms the Proposed Rule now seeks to document have been well known and documented since at least 2017. [8] Courts, federal authorities, and state leaders have recognized that civil immigration arrests at courthouses negatively</p>	<p>Please refer to the committees’ response immediately above.</p>

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			<p>impact access to justice. The data exists, and this moment demands action.</p> <p>The federal government and ICE have long acknowledged that civil immigration enforcement in and near courthouses chills participation in judicial proceedings. [9] The previous Trump administration prohibited arrests of witnesses, family members, and others present for court proceedings absent special circumstances involving threats to public safety. [10] ICE directives from 2018 and 2021 directed officers to generally avoid enforcement actions in courthouses dedicated to noncriminal proceedings, noting that such actions “chill[] access to justice and impair[] the fair administration of justice”. [11] In 2025, these directives were rescinded and replaced with guidance allowing arrests based solely on anticipated presence in court facilities. [12]</p> <p>California leaders have repeatedly emphasized this chilling effect. In 2018, Chief Justice Tani Cantil-Sakauye warned:</p> <p>I am deeply concerned about reports from some of our trial courts that immigration agents appear to be <i>stalking</i> undocumented immigrants in our courthouses to make arrests. Crime victims, victims of sexual abuse and domestic violence, witnesses to crimes who are aiding law enforcement, limited-English speakers, unrepresented litigants, and children and families all come to our courts seeking justice and due process of law. [13]</p> <p>Similarly, the current California Supreme Court Chief Justice Patricia Guerrero stated:</p>	

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			<p>Making courthouses a focus of immigration enforcement hinders, rather than helps, the administration of justice by deterring witnesses and victims from coming forward and discouraging individuals from asserting their rights. [14]</p> <p>Empirical studies further confirm these concerns. A nationwide ACLU survey of immigrant survivors of domestic violence and sexual assault found that 78% feared contacting police, 75% feared coming to court, and 43% dropped cases due to fear of immigration enforcement. [15] Recent 2025 reports from Riverside and Fresno counties indicate that victims and witnesses avoid reporting crimes or testifying because of fear of deportation. [16]</p> <p>Daily enforcement actions, including arrests of individuals attending scheduled court proceedings or accompanying litigants, have created a climate of fear throughout California communities. Despite this overwhelming evidence, current proposals focus on data collection rather than immediate protection. Data alone cannot ensure orderly proceedings or safeguard litigants' rights.</p> <p>We recommend that the court immediately adopt model policies to protect access to courts, in addition to collecting data.</p> <p>[7] Judicial Council of Cal., <i>supra</i> note 1, at 1-2.</p> <p>[8] <i>See</i> Appendix A for a list of documented arrests by ICE at California state courthouses since 2017.</p> <p>[9] Message from Philip T. Miller, ICE's Assistant Director for Field Operations, on "Enforcement Actions at or Near Courthouses" (Mar. 19, 2014), reaffirmed in Message from Philip</p>	

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			<p>T. Miller, ICE’s Assistant Director for Field Operations. Guidance Update: Enforcement Actions at or Near Courthouses” (Jan. 26, 2015) (limiting civil arrests in and around courthouses only to noncitizens who posed a danger to national security or a serious risk to public safety, including individuals engaged in terrorism, convicted of violent felonies, or subject to outstanding criminal warrants due to the negative impact in accessing courts). U.S. Immigration and Customs Enforcement, Directive No. 11072.1, “Civil Immigration Enforcement Inside Court-houses,” (Jan. 10, 2018) (instructing officers to avoid enforcement actions in courthouses due to the chilling effect on courts). <i>See also</i> U.S. Immigration and Customs Enforcement, FAQ on Sensitive Locations and Courthouse Arrests, last updated January 31, 2018.</p> <p>[10] Exec. Order No. 13,768, 82 Fed. Reg. 8799, 8800 (Jan. 25, 2017), ICE Directive No. 11072.1, hereinafter Directive No. 11072.1 <i>supra</i> note 7.</p> <p>[11] Directive No. 11072.1, <i>supra</i> note 7. Memorandum from Tae Johnson, Acting Director of ICE &amp; Troy Miller, Acting Comm’r of U.S. Customs and Border Protection, on “Civil Immigration Enforcement Actions in or near Courthouses” (Apr. 27, 2021) at 5-6.</p> <p>[12] <i>See</i> ICE Policy No. 11072.3, Memorandum from Caleb Vitello, Acting ICE Director, on “Interim Guidance: Civil Immigration Enforcement Actions in or near Courthouses” (Jan. 21, 2025) [Interim Guidance]; ICE Policy No. 11072.4, ICE Memorandum from Todd M. Lyons, Acting ICE Director, on “Civil Immigration Enforcement Actions in or Near Courthouses” (May 27, 2025) [Final Guidance], ICE Policy No. 11072.3.</p>	

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			<p>[13] Letter from Chief Justice Tani Cantil-Sakauye to Attorney General Sessions and Secretary Kelly (March 16, 2017) (emphasis added).</p> <p>[14] Cathal Connelly, <i>California Chief Justice Issues Statement on Immigration Enforcement at California Courthouses</i>, California Courts Newsroom (July 31, 2025) at <a href="https://newsroom.courts.ca.gov/news/california-chief-justice-issues-statement-immigration-enforcement-california-courthouses">https://newsroom.courts.ca.gov/news/california-chief-justice-issues-statement-immigration-enforcement-california-courthouses</a>.</p> <p>[15] <a href="https://www.aclu.org/freezing-out-justice">https://www.aclu.org/freezing-out-justice</a>.</p> <p>[16] Meg Anderson <i>Some Legal Experts Say ICE in Criminal Courts Means a Slower Path to Justice</i>, NPR, August 8, 2025 at <a href="https://www.npr.org/2025/08/08/nx-s1-5496530/legal-experts-ice-criminal-courts-a-slower-path-to-justice">https://www.npr.org/2025/08/08/nx-s1-5496530/legal-experts-ice-criminal-courts-a-slower-path-to-justice</a>.</p>	
			<p><b>II. THE DEFINITION OF CIVIL ARRESTS MUST ENCOMPASS ALL FEDERAL ACTIVITIES THAT SEEK TO CHILL ACCESS TO COURTS AND COURT FACILITIES MUST BE CLEARLY DEFINED.</b></p> <p><b>A. Subdivision (a) Civil Arrests Must Be Expanded to Include All Federal Activities that Chill Access to Courts.</b></p> <p>The Proposed Rule narrowly defines “civil arrests” as an arrest of, or “expressed intent to arrest,” an individual for an alleged violation of civil law, excluding contempt or arrests for violations of criminal law. [17] Judicial Council provides no explanation for this narrow definition or for relying on the undefined term “expressed intent to arrest.” As drafted, the definition undermines</p>	<p>The committees appreciate the commenter’s suggestion, however revising the proposed rule as suggested would significantly broaden the scope of the rule. The committees drafted the rule to be consistent with Civil Code section 43.54 on this issue and do not recommend broadening it as suggested.</p> <p>The committees also note that both the New York and Washington statutes referenced by the commenter place requirements on court <i>security</i> personnel to make reports. In</p>



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			<p>the Proposed Rule’s stated purpose which is to understand how federal law enforcement activity in and around courthouses chill public participation, disrupts court operations, and erodes public trust in the judiciary. A definition that is limited to completed arrests or expressed intent to arrest fails to capture the real-world ways federal enforcement interferes with court access. To ensure accurate data and meaningful oversight, the Proposed Rule must adopt a functional, effects-based definition reflecting the judiciary’s constitutional obligation to preserve access to justice and maintain courts as safe, neutral forums.</p> <p>California judges have the authority to “prohibit activities that threaten access to state courthouses and court proceedings, and to prohibit interruption of judicial administration, including protecting the privilege from civil arrest at courthouses and court proceedings.” [18] Historically, the common law “privilege from arrest” shields litigants, witnesses, and court participants from arrest while attending, traveling to, or waiting for court proceedings. [19] This privilege serves two objectives: protecting individuals’ right to access justice without fear of arrest, and safeguarding the sanctity of the court as an institution, ensuring judges can conduct proceedings without physical interference. [20]</p> <p>Critically, harms from federal civil enforcement arise before a completed arrest occurs. Individuals are deterred from accessing and utilizing courthouses when federal civil enforcement agents monitor, surveil, or position themselves in court facilities or their functional equivalents. Recently, federal civil enforcement agents have used plain clothed officers, refused to provide identification to court personnel, and engaged in intimidation tactics such as stalking people outside courthouses. [21] California Attorney General model policies and other states’ policies recognize this</p>	<p>California, court security services are governed primarily by statute and individual memorandums of understanding. Therefore, this proposal neither mandates courts to work with their court security personnel on the required reporting, nor does it limit their ability to do so.</p>

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			<p>and cover detention and all activities that interrupt judicial administration, not just completed arrests. [22]</p> <p>Other states' policies demonstrate how reporting can and should include non-arrest conduct. Washington's Courts Open to All Act defines law enforcement action to include observation of court proceedings, investigations, and questioning. [23] New York's Unified Court System protocols similarly require reporting of observable law enforcement conduct, including surveillance or observation of court proceedings. [24] These laws acknowledge that actions short of physical arrest can chill participation in courts and interfere with judicial administration.</p> <p>A definition that hinges on completed arrests or expressed intent creates perverse incentives for federal civil enforcement agencies to engage in surveillance or intimidation that chills participation while avoiding reportable conduct. Data will be skewed if it does not account for these tactics undermining the Proposed Rule's purpose. Courts cannot protect access to justice or control their facilities if reporting is so narrowly defined.</p> <p>We therefore recommend that the court expand subdivision (a) to cover all federal activities that may chill access to courts, not just completed arrests or expressed intent.</p> <p>[17] <i>Supra</i> note at 1.</p> <p>[18] Code. Civ. Pro. § 177(e).</p> <p>[19] William Blackstone, <i>Commentaries</i>, Book III, ch. 19, p. 289 (Nineteenth-century American treatise writers understood this privilege to have been widely accepted in the American colonies and tacitly adopted by the states that incorporated the English</p>	

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			<p>common law, including California); <i>Sampson v. Graves</i> (1924) 203 NYS 729, 730); <i>Hale v. Wharton</i> (1896) 73 F. 739, 740.</p> <p>[20] Christopher Lasch, <i>A Common Law Privilege to Protect State and Local Courts During the Crimmigration Crisis</i>, 127 Yale L. J. F. 410, 423-431.</p> <p>[21] <i>See</i> Appendix A.</p> <p>[22] <i>Supra</i> note 5 at 8.</p> <p>[23] Wash. Rev. Code Ann. § 2.28.320, <i>See also</i> Washington State, Substitute House Bill 2567, Chapter 37, Laws of 2020, Sec. 4.</p> <p>[24] New York (NY CLS Civ R § 28 (1).</p>	
			<p><b>B. The Definition of “Court Facility” Must Be Clarified to Include All Areas That Are Functionally Used by the Public to Participate in Judicial Proceedings.</b></p> <p>We support the use of Government Code Section 70301(d) to define court facilities. For litigants and witnesses, the approach to the courthouse is inseparable from the court experience. Federal civil enforcement activity in appurtenant or adjacent areas to court facilities produces the same functional chilling effect as arrests within the courthouse building. However, the term “appurtenant to” is ambiguous and can create confusion when collecting data. [25] Civil Code Section 662 defines an appurtenance to land as a “thing deemed to be incidental to, or used in connection with, the land for its benefit.” This could include walkways, grounds surrounding the courthouse, parking areas, and easements that run</p>	<p>The committees appreciate these suggestions; however, the committees do not recommend changes to the rule. The rule cross references the Trial Court Facilities Act of 2002 to incorporate a broad definition of what is considered a “court facility” in order to provide clarity and consistency. In addition to a courthouse, this includes court parking lots and the sidewalks or other grounds outside of a courthouse. The committees believe that the suggestion to require courts to report incidents occurring on property that is beyond what is included in the</p>

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			<p>with the land. However, ambiguity around what is appurtenant to the courthouse facility could allow federal civil enforcement agencies to strategically relocate activity to evade oversight.</p> <p>Several states have recognized the need to extend protections beyond the courthouse building itself. New York bars ICE from arresting individuals at or near courthouses without a judge-signed warrant, a restriction upheld by a federal judge as a valid exercise of state authority to protect court access. [26] Illinois legislation prohibits federal civil immigration arrests in the vicinity of courthouses, including a 1,000-foot buffer zone outside courthouse buildings including sidewalks, parking areas, and entryways. [27] The Chief Judge of the Circuit Court of Cook County, Illinois, issued an order prohibiting federal civil immigration arrests of any party, witness, or potential witness inside and around courthouses, including parking lots, surrounding sidewalks, and entryways. [28] Washington prohibits federal civil arrests inside or near state court facilities which include adjacent property such as sidewalks and parking areas. [29] The Oregon Supreme Court bars federal civil immigration arrests in courthouses and their vicinity including parking lots, sidewalks, and entryways.[30] These state laws and court orders make clear that limiting ‘court facility’ to the building interior and an undefined area appurtenant to the facility could leave critical public spaces unprotected, allowing federal enforcement activity to chill participation in judicial proceedings.</p> <p>To prevent this harm and ensure meaningful oversight, the Rule must clearly define court facilities to encompass all areas routinely used by the public to access, exit, or participate in court proceedings.</p> <p>[25] Gov Code Section 70301(d)(8).</p>	<p>definition of “court facility” is not feasible for courts, would lead to inconsistent reporting, and create unnecessary administrative demands.</p>

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			<p>[26] N.Y. Civ. Rights Law § 28. <i>United States v. State of New York</i> (N.D.N.Y 1:25-CV-744) 11/15/2025.</p> <p>[27] Illinois HB 1312, 104th Gen. Assemb. (Ill. 2025) (enacted).</p> <p>[28] Circ. Court Cook Cnty General Order No. 2025-10 <i>Common Law Privilege Against Civil Arrests for People Attending Court</i> (eff. 10/15/2025).</p> <p>[29] <i>Supra</i> note 22 hereinafter SHB 2567.</p> <p>[30] Oregon Chief Justice Rule Limiting Courthouse Arrests (11/14/2019) available at <a href="https://www.courts.oregon.gov/news/Lists/ArticleNews/Attachments/1101/acd3fb79befadf4982b20ceba127ffd0-Media-Release-New-UTCR-Limiting-Civil-Arrests-in-Court-Facilities-effective-2019-11-14.pdf?utm_source=chatgpt.com">https://www.courts.oregon.gov/news/Lists/ArticleNews/Attachments/1101/acd3fb79befadf4982b20ceba127ffd0-Media-Release-New-UTCR-Limiting-Civil-Arrests-in-Court-Facilities-effective-2019-11-14.pdf?utm_source=chatgpt.com</a>.</p>	
			<p><b>III. COURTS MUST BE REQUIRED TO AFFIRMATIVELY SEEK OUT INFORMATION REGARDING FEDERAL CIVIL ENFORCEMENT ACTIVITIES IN AND AROUND COURT FACILITIES.</b></p> <p>The Proposed Rule limits data collection to federal civil arrests that are already known to local courts and does not require courts to actively seek information from federal law enforcement or court participants. This passive approach will produce incomplete and skewed data. To accurately assess the impact of federal civil enforcement on access to judicial proceedings, the Judicial Council should require local courts to dedicate staff to actively collect information on all federal civil law enforcement activity in and around court facilities, even if no arrest occurs. This will</p>	<p>The committees appreciate these suggestions; however, the committees do not recommend changes to the rule.</p> <p>First, the recommended rule does not require courts to affirmatively seek information, and the committees do not recommend adding such a requirement, which could impose significant administrative demands on courts and potentially place court staff in conflict with law enforcement officers conducting the civil arrest.</p>

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			<p>allow for the collection of a broader dataset to better evaluate impacts of federal law enforcement presence in courts.</p> <p>Courts should also provide a mechanism for court users to report incidents directly, including those that did not result in an arrest. California’s Attorney General, for example, has created a public reporting website that collects information such as incident details, courthouse location, date, time, and supporting photo or video evidence. [31] Similarly, New York requires court personnel to file an Unusual Occurrence Report (UCS 101) to document law enforcement activity in and around court facilities. [32] Affirmative data collection and standardized reporting is feasible and necessary to understand the chilling effects of enforcement activity.</p> <p>We recommend that Judicial Council require courts to affirmatively collect information regarding federal civil enforcement activities in and around courthouses and establish a mechanism for the public to report such conduct.</p> <p>[31] Report Misconduct By Federal Agents to the California Attorney General available at <a href="https://oag.ca.gov/reportmisconduct">https://oag.ca.gov/reportmisconduct</a>. [32] New York State Unified Court System, Hon. Joseph A. Zayas, Chief Administrative Judge, “Protocols Governing Activities in Courthouses by Law Enforcement Agencies,” Feb. 6, 2025, <a href="https://legalaidsnyc.org/wpcontent/uploads/2025/02/ProtocolGoverningLawEnforcementActivities.pdf">https://legalaidsnyc.org/wpcontent/uploads/2025/02/ProtocolGoverningLawEnforcementActivities.pdf</a>.</p>	<p>Second, the rule does not specify the sources from which courts may receive information, which could include members of the public. Requiring courts to implement a specific reporting mechanism, as suggested by the commenter, however, could result in significant costs and strain court resources.</p> <p>Finally, the committees note that the New York statute referenced by the commenter places requirements on court <i>security</i> personnel (not court personnel) to make reports by filing an Unusual Occurrence Report. The committees also note that, in California, court security services are governed primarily by statute and individual memorandums of understanding. Therefore, this proposal neither mandates courts to work with their court security personnel on the required reporting, nor does it limit their ability to do so.</p>

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			<p><b>IV. COURTS MUST ENSURE THAT ALL DATA THAT IS COLLECTED AND REPORTED DOES NOT VIOLATE INDIVIDUALS' PRIVACY.</b></p> <p>Subdivision (b)(8) of the Proposed Rule requires courts to report the subject matter of the proceeding and the individual's role in that proceeding. While this information may be useful in assessing the impact of federal civil enforcement activity, it also raises significant privacy concerns. Even without names, granular data regarding case type, participant role, courthouse location, and timing can enable re-identification—particularly in small, rural, or specialized courts. The risk of identification may itself deter litigants, witnesses, and observers from appearing in court, directly undermining the Proposed Rule's purpose of safeguarding access to justice.</p> <p>We support subdivision (c) of the Proposed Rule, which appropriately prohibits the inclusion of personal identifying information about individuals who are the subject of federal civil law enforcement activity. Consistent with the Attorney General's guidance, courts should also refrain from collecting any personal identifying information, including immigration status, and should encourage the use of anonymized identifiers or pseudonyms where internal tracking is necessary. [33] These safeguards are essential to ensure that data collection does not itself create a chilling effect on court participation.</p> <p>We therefore urge the Judicial Council to adopt privacy-protective limitations on data collection and reporting. Courts should report only generalized case type and participant role and should aggregate this information to ensure anonymity.</p> <p>[33] <i>See generally Supra</i> note 5.</p>	<p>The committees appreciate the comment. The committees received a number of comments in response to the question in the invitation to comment concerning subdivision (b)(8). These comments expressed similar privacy and confidentiality concerns with this subdivision. The committees recognize these concerns and, as a result, recommend subdivision (b)(8) be deleted from the rule.</p> <p>The committees do not recommend the revision to subdivision (c) suggested in this comment but have proposed other revisions to that subdivision to help address the concern and provide clarity. Subdivision (c) has been revised to read: "Information reported under (b) must not include the identity or other personal identifying information of any individual who was a target for civil arrest."</p>

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		<p><b>IV. CONCLUSION</b></p> <p>California’s courts serve as essential gateways to justice for millions of residents, particularly low-income communities, immigrants, and survivors of violence. When federal civil enforcement activity in or around court facilities deters participation in judicial proceedings, it undermines individual rights and the integrity and functioning of the judicial system itself.</p> <p>The Proposed Rule appropriately recognizes that civil arrests at courthouses affect access to justice and public confidence in the judiciary. However, as detailed above, data collection alone cannot satisfy the judiciary’s independent constitutional and statutory obligation to maintain courts as safe, neutral, and accessible forums. The chilling effects of federal civil immigration enforcement at courthouses are well-documented, foreseeable, and ongoing. Where such interference is known or predictable, courts must act affirmatively and immediately.</p> <p>By adopting the recommendations outlined in these comments, expanding the definition of reportable federal civil enforcement activity, clarifying courthouse boundaries, requiring proactive and standardized reporting, protecting individual privacy, and mandating the immediate adoption of Attorney General model policies, the Judicial Council can ensure that the Proposed Rule meaningfully advances its stated purpose. These steps will improve transparency, safeguard equal access to justice, preserve judicial independence, and reaffirm public trust in California’s courts.</p> <p>Western Center respectfully urges the Judicial Council to strengthen the Proposed Rule accordingly and looks forward to further collaboration.</p>	<p>The committees appreciate the information. Please see more detailed responses above.</p>
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		<p><b>APPENDIX A: Documented Incidents of Arrests in and Around Courthouses (2017-2025)</b></p> <p><b><u>2025</u></b></p> <p><u>September 2025</u></p> <ul style="list-style-type: none"><li>• <b>Alameda County Superior Court (Oakland):</b> ICE arrested a man as he was leaving a court hearing inside the courthouse. (<a href="https://oaklandside.org/2025/09/23/ice-arrest-inside-oakland-courthouse-blasted-by-public-defender-other-leaders/">https://oaklandside.org/2025/09/23/ice-arrest-inside-oakland-courthouse-blasted-by-public-defender-other-leaders/</a>).</li></ul> <p><u>August 2025</u></p> <ul style="list-style-type: none"><li>• <b>Sacramento County Superior Court:</b> ICE agents entered a courtroom during an arraignment and arrested an undocumented individual, removing him from the courtroom mid-proceeding. (<a href="https://www.sacbee.com/opinion/editorials/article217518585.html">https://www.sacbee.com/opinion/editorials/article217518585.html</a>).</li><li>• <b>Fresno County Superior Court:</b> At least 22 individuals were arrested by ICE inside or around the courthouse from January 2025-August 2025. (<a href="https://capitolweekly.net/ice-raids-in-our-courts-must-stop-now/">https://capitolweekly.net/ice-raids-in-our-courts-must-stop-now/</a>)</li></ul> <p><u>July 2025</u></p> <ul style="list-style-type: none"><li>• <b>Butte County Superior Court (Oroville):</b> ICE agents arrived with a list of names and photographs and arrested six individuals who were waiting in public areas in and in front of the courthouse. Court officials reported receiving no cooperation or information from ICE following the arrest.</li></ul>	<p>The committees appreciate the information.</p>
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## SP25-05

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	Commenter	Position	Comment	Committee Response
			<p>(<a href="https://www.actionnewsnow.com/news/butte-county-superior-court-issues-statement-after-ice-raid-at-oroville-courthouse/article_ac809bd3-45af-4b1c-b186-ed6e0479df54.html">https://www.actionnewsnow.com/news/butte-county-superior-court-issues-statement-after-ice-raid-at-oroville-courthouse/article_ac809bd3-45af-4b1c-b186-ed6e0479df54.html</a>)</p> <p><u>June 2025</u></p> <ul style="list-style-type: none"><li>• <b>Los Angeles County Superior Court, Airport Courthouse:</b> Federal immigration agents stalked two women in courthouse hallways and arrested them immediately after they appeared for their scheduled court proceedings. The women were handcuffed, placed into unmarked vehicles, and removed without advance notice to the court. (The LA Times ICE Arrests at Los Angeles Courthouses Met with Alarm available at (<a href="https://www.latimes.com/california/story/2025-06-25/ice-arrests-los-angeles-courthouse">https://www.latimes.com/california/story/2025-06-25/ice-arrests-los-angeles-courthouse</a>))</li></ul> <p><u>2020</u></p> <ul style="list-style-type: none"><li>• <b>February 18, 2020 – Sonoma County Superior Court (Santa Rosa):</b> ICE agents arrested at least three individuals in the hallways of the courthouse,. (<a href="https://apnews.com/general-news-56303dd4fea7b23d9375c1400d997364">https://apnews.com/general-news-56303dd4fea7b23d9375c1400d997364</a>)..</li><li>• <b>Late February–Early March 2020 – Santa Clara County Courthouses (San Jose, Palo Alto, and surrounding areas):</b> ICE agents arrested at least four individuals outside or immediately adjacent to Santa Clara County courthouses over a period of several weeks. Arrests occurred as individuals were entering or leaving court for scheduled proceedings, including arrests near the San Jose Hall of Justice and Palo Alto courthouse. Advocates and local officials reported that these arrests occurred without judicial</li></ul>	

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			<p>warrants. (<i>The Guardian</i>, <i>ICE arrests immigrants at California courthouses despite sanctuary laws</i>, Mar. 13, 2020).</p> <p><b><u>2018</u></b></p> <p><u>July 2018</u></p> <ul style="list-style-type: none"><li>• <b>Fresno County Superior Court:</b> Over several weeks, plain clothed ICE agents began arresting individuals in court hallways. A client of the Fresno County Public Defender was taken into ICE custody while waiting for his case to be called. The presiding judge learned of the arrest only after it occurred and ordered an investigation. The individual was removed from the United States the following day. (<a href="https://www.fresnobee.com/news/local/crime/article215404565.html">https://www.fresnobee.com/news/local/crime/article215404565.html</a>).</li></ul> <p><u>June 2018</u></p> <ul style="list-style-type: none"><li>• <b>San Francisco County Superior Court:</b> ICE officers in plain clothes arrested an individual inside criminal court.</li></ul> <p><u>March 2018</u></p> <ul style="list-style-type: none"><li>• <b>Solano County Superior Court:</b> Plain-clothes ICE entered a courtroom and photographed a criminal defendant and his family members. ICE later arrested the defendant. (Communication from Lesli Caldwell, Public Defender, Solano County.)</li></ul> <p><b><u>2017</u></b></p>	

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			<p><u>September 2017</u></p> <ul style="list-style-type: none"><li>• <b>Stanislaus County Superior Court (Modesto):</b> Three plain-clothes ICE agents arrested a man while waiting for him near the metal detectors at the courthouse entrance. (<a href="https://www.modbee.com/news/local/crime/article172944781.html">https://www.modbee.com/news/local/crime/article172944781.html</a>)</li></ul> <p><u>March 2017</u></p> <p><b>Los Angeles County Superior Court (Pasadena):</b> Four ICE agents arrested an individual inside the courthouse. (<a href="https://www.cnn.com/2017/03/17/us/immigration-ice-courthouse-arrests/">https://www.cnn.com/2017/03/17/us/immigration-ice-courthouse-arrests/</a>)</p> <p><b>Contra Costa County Superior Court (Family Court):</b> ICE arrested a man when he appeared in family court to seek visitation rights with his children. Agents were waiting for him upon arrival at the courthouse. (Communication from Jeff Adachi, Public Defender, City and County of San Francisco.</p>	