



March 20, 2015

**Via U.S. and Electronic Mail**

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Court Administrator  
U.S. Department of Justice  
Executive Office for Immigration Review  
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**Re: Interfaith Support at Immigration Court**

Dear Ms. Jauregui and Mr. Wilson:

We write regarding your policy to refuse entry to the immigration court at 100 Montgomery Street to individuals involved in peaceful political and religious activities outside the building. As a general matter, immigration court hearings must be open to the public. *See* 8 C.F.R. § 1003.27. In violation of this rule, faith leaders who participate in peaceful vigils on the sidewalk are not permitted to enter the immigration court. We ask that you clarify your policy and train security personnel accordingly.

**Faith Leaders Are Not Permitted To Accompany Families at Immigration Court**

In 1993, religious leaders from diverse faith traditions formed the Interfaith Coalition for Immigrant Rights (“Coalition”) to advocate for fair treatment and dignity for all immigrants. Among other activities, Coalition members provide spiritual and moral support to immigrant families facing deportation, including accompaniment to immigration hearings. In October 2014, the Coalition began hosting weekly vigils outside of the immigration court at 100 Montgomery Street. Vigil participants stand quietly on the sidewalk outside the building and hold signs to show support for immigrant families who enter and exit the court. Participants also distribute informational flyers to passersby and give snacks, teddy bears, and coloring activities to children

attending court hearings. They also provide lists of pro-bono legal providers to *pro se* respondents. Around 9:15 a.m., the participants sing songs and pray.

On occasion, immigrant families entering the building request the faith leaders or other participants to accompany them to their hearings. Accompaniment provides necessary spiritual or moral support to families undergoing an intensely stressful and emotional process. As explained below, security officers have prohibited the faith leaders from accompanying families to court hearings without any legal authority to do so. In response to inquiries from Coalition members and the American Civil Liberties Union Foundation of Northern California (“ACLU”), employees of the EOIR Court Administration, the Federal Protective Service, and Allied Barton gave conflicting information regarding who is responsible for decisions to exclude the faith leaders and the reasons for their exclusion.

The first incident occurred on October 30, 2014 when an immigrant family requested that one of the faith leaders at the vigil, Reverend Anna Lange-Soto, accompany them to an immigration hearing. Reverend Lange-Soto put down her sign and attempted to enter the building with the family. The two security guards at the front desk recognized Lange-Soto as part of the vigil and told her that she could not enter. Reverend Deborah Lee, who was also at the vigil, came inside to find out what was happening. Reverend Lee understood that the guards called down Ms. Jauregui and another man, believed to be Mr. Humphrey. Ms. Jauregui told the faith leaders that they could not come to the court that day. At some point, two security officials, believed to be Federal Protective Service employees, also came down. These officials explained that “Maria Jauregui sets the rules” for who can come into court and, per Ms. Jauregui’s orders, anyone participating in the vigil could not enter. Later that day another vigil participant sought to enter the building to accompany another person and the private security guards again prevented him from entering.

The incident was brought to the ACLU’s attention. On November 11, 2014 Julia Harumi Mass, an ACLU attorney, emailed Ms. Jauregui that faith leaders who sought to accompany immigrant families to court were not allowed into the building. Ms. Mass asked EOIR to cease this practice and inform the Coalition that its members may accompany families to their hearings even if they participate in the vigil. Ms. Jauregui responded on November 19, 2014 that, while immigration hearings are generally open to the public, “access to the building itself is determined by building security and/or the Federal Protective Service.” Federal Protective Service representatives and the building security guards, however, had previously told Reverend Lee and Reverend Lange-Soto that they could not enter because of Ms. Jauregui’s “rules.”

Coalition members are still denied entry into court based on their participation in the vigil. On January 29, 2015, the Coalition was hosting another vigil when an immigrant family requested that a pastor accompany them to court. The security guards at the front desk refused to let the pastor enter. Reverend Lee came inside and asked why the pastor could not go in. The

guards told her that “if anything happened, we would be to blame” and the decision was pursuant to Allied Barton’s policies. The guards did not provide any other explanation.

### **Refusal to Permit the Faith Leaders to Enter Immigration Court Violates the Constitution and Federal Regulation**

The public has a first amendment right to attend most judicial proceedings, including administrative hearings. *See Detroit Free Press v. Ashcroft*, 303 F.3d 681, 694 (6th Cir. 2002) (collecting cases). Recognizing this principle, federal regulation provides that “all [immigration court] hearings, other than exclusion hearings, *shall* be open to the public.” 8 C.F.R. § 1003.27 (emphasis added). The regulation authorizes an immigration judge to limit attendance or close a particular hearing in certain situations. *Id.*<sup>1</sup> The immigration judge may not, however, exclude someone for a reason other than the exceptions enumerated in the regulation. *See Stevens v. Holder*, 950 F. Supp. 2d 1282, 1289-90 (N.D. Ga. 2013) (holding that professor stated a claim for a First Amendment violation where exclusion from immigration hearing was not based on a § 1003.27 exception). None of the exceptions apply here because, among other reasons, the faith leaders sought to attend court hearings per the request of respondents and their families. Moreover, § 1003.27 does not authorize building management or court administrators to exclude members of the public from attending immigration hearings.<sup>2</sup>

Like other members of the public, Coalition members have a First Amendment right to be present at removal hearings. *See Detroit Free Press v. Ashcroft*, 303 F.3d 681, 704 (6th Cir. 2002) (holding that there is a First Amendment right to access deportation hearings), *but see N. Jersey Media Grp., Inc. v. Ashcroft*, 308 F.3d 198, 220 (3d Cir. 2002) (holding that there is no First Amendment right of access to an “extremely narrow class of deportation cases that are determined by the Attorney General to present significant national security concerns”). Section 1003.27 further protects the public’s right to attend immigration court hearings. Although §1003.27 authorizes immigration judges to exclude individuals in specific situations, the immigration judges at 100 Montgomery Street were not responsible for the decision to exclude the faith leaders here.<sup>3</sup> Instead, private security guards and building management sought to exclude the faith leaders without any legal authority to do so.

In her November 19 email, Ms. Jauregui stated that FPS and its private contractors determine access to the building. FPS and its security contractors exist to protect property that is

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<sup>1</sup> *See, e.g.*, 8 C.F.R. § 1003.27 (a) (permitting “the Immigration Judge” to limit attendance depending on the building’s physical capacity); (b) (permitting “the Immigration Judge” to limit attendance or close the hearing “to protect witnesses, parties or the public interest”); (c - d) (authorizing closed hearings for hearings involving certain subject matters).

<sup>2</sup> Notably, even where the building’s physical capacity limits attendance (an area one might consider to be the area of expertise of a building manager or administrator), the regulation requires the *immigration judge* to determine who may be excluded. § 1003.27(a).

<sup>3</sup> As stated above, the immigration judges would be unable to exclude the faith leaders here because no exception to § 1003.27 applies.

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owned or occupied by the Federal Government and persons on the property. *See* 40 U.S.C. § 1315 (a). In keeping with this mission, FPS officials may address legitimate public safety threats or threats to destroy federal property. They may not, however, deny entry to public hearings when no security threat is present.

FPS and its private security contractors did not deny entry based on an individualized assessment of a security threat. FPS and its contractors were enforcing a uniform policy that anyone participating in the vigil could not enter the building. No party has suggested that the vigil participants pose a threat to public safety. Indeed, there is no evidence to support such a conclusion. Largely silent, the vigil takes place on the sidewalk in front of the building and consists of prayer, songs, and the distribution of flyers, teddy bears, and coloring books. Because there was no legal basis to exclude Coalition members on the occasions described above, refusal to admit them violates the First Amendment and federal regulation.

We ask that EOIR and FPS clarify that individuals may be excluded from 100 Montgomery Street only if they pose a threat to damage federal property or harm individuals on the property. Individuals may *not* be excluded based on political belief or past political activities, including activities outside the building. FPS should train contract security personnel on the policy and ensure that overzealous security guards do not deny the public their First Amendment rights. Finally, we request that you inform the Interfaith Coalition for Immigrant Rights that participants in the vigil will not be denied entry to court based on their participation in peaceful activities outside the building.

Thank you in advance for your prompt attention to this matter. Please contact Megan Sallomi at the American Civil Liberties Union of Northern California at 415-621-2493 or [msallomi@aclunc.org](mailto:msallomi@aclunc.org) with any questions or concerns. We look forward to your response.

Sincerely,



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Legal Fellow

ACLU Foundation of Northern California

Julia Harumi Mass  
Senior Staff Attorney  
ACLU Foundation of Northern California

cc: Richard Sstatus, Operations Manager, Allied Barton Security Services  
Jonathan Yee, General Services Administration  
Reverend Deborah Lee, Interfaith Coalition for Immigrant Rights