

Churches vs. ICE

di Kyle Cheney

When anti-ICE protesters disrupted a church service in St. Paul, Minnesota last month, the Trump administration was unequivocal: interfering with [“the right to pray in peace”](#) would be met with severe consequences.

But across the country, advocates say the very government [pledging to protect](#) the right to worship — and [prevent fear and intimidation](#) — is in fact violating it at an epic scale.

The Trump administration has eliminated 30-year-old restrictions on ICE operations at or near churches, they note, and barred members of the clergy from providing “pastoral care” care to people held in temporary detention facilities. Religious organizations representing thousands of congregations of multiple faiths have sued over the policy changes, and some federal judges have ruled in their favor.

“The president said that religious freedom is important to him,” said Ingrid Rasmussen, the lead pastor of Holy Trinity Lutheran Church in Minneapolis, referring to President Donald Trump’s [State of the Union remarks](#). “But I can’t help wondering whether this administration believes that only some people should be afforded the ability to practice their faith and to receive visits from their trusted religious leaders.” Some judges have found that the administration’s zeal for mass deportation has hampered religious rights not just of immigrants, but of congregations that welcome them. The legal fights center on the First Amendment’s right to worship freely as well as the Religious Freedom Restoration Act, which requires the government to use the “least restrictive” means possible whenever it encroaches on religious exercise.

U.S. District Judge Robert Gettleman found earlier this month that restrictions ICE has imposed at its Chicago-area holding facility [“substantially burdened”](#) the rights of clergy members who provide services to immigrants. He ordered ICE to allow them

limited access to the facility to “offer ashes and Communion” on Ash Wednesday. In Minnesota, U.S. District Judge Jerry Blackwell has called a March 13 hearing on a [similar lawsuit filed by](#) religious organizations and members of the clergy, seeking access to Minnesota’s Bishop Henry Whipple Federal Building.

Broader fights are playing out over the administration’s Day One order lifting decades-old restrictions on ICE enforcement at or near churches — as well as other “sensitive” locations like hospitals and schools. The change [eliminates “bright line rules”](#) regarding enforcement at these locations and instead asks local ICE officials to use “a healthy dose of common sense.”

Religious organizations representing thousands of congregations have sued over the change, saying it has measurably damaged attendance at houses of worship that welcome immigrants. They say the threat of enforcement actions has chilled their public speech, altered their decision-making about putting immigrants in leadership positions and caused them to consider new security measures to protect congregants. The Trump administration says those concerns are overblown.

“Newsflash: The Free Exercise Clause doesn’t permit lawbreaking. Those who are here legally and are not breaking other laws have nothing to fear,” said Tricia McLaughlin, a spokesperson for the Department of Homeland Security. “Elected officials and clergy members choosing to fearmonger by distorting reality are doing a great disservice to our country ... We are protecting our schools and places of worship by preventing criminal aliens and gang members from exploiting these locations and taking safe haven there.”

In court, the administration’s argument is simple: ICE has conducted few enforcement actions at churches, so fears that it might do so regularly are not legally actionable.

But a federal appeals court panel in Washington, D.C. appeared skeptical during arguments this month in a case brought by Christian and Jewish congregations who say ICE should have to obtain a judicial warrant before conducting operations near churches.

“We’re going to remove a barrier to enforcing at places of worship, but the court should presume that by doing so — even though we’re enforcing everywhere, we’re

not going to enforce at places of worship?” Judge Robert Wilkins said during the D.C. Circuit’s arguments. “Make that make sense.”

Judge Florence Pan said requiring ICE to obtain warrants for church operations would make houses of worship “safer than your home.”

Quaker, Baptist and Sikh congregations won [a smaller-scale injunction](#) last year, just weeks after the administration lifted the old restrictions. That case is slated for oral arguments at the Richmond-based 4th Circuit Court of Appeals in May.

Irina Vaynerman, the CEO of Groundwork Legal and a lead lawyer for clergy members seeking to access the Whipple building in Minnesota, said the root of the fight is about treating people with humanity at difficult moments in [“horrific” conditions](#) of detention.

“To deny them the ability to connect with a faith leader who can otherwise provide emotional or spiritual care,” she said, “is the next level of inhumanity that has permeated the treatment of individuals.”