NYPD

Wednesday, February 15, 2023

STATEMENT OF DIRECTOR MICHAEL CLARKE
NEW YORK CITY POLICE DEPARTMENT

BEFORE THE NEW YORK CITY COUNCIL
COMMITTEES ON IMMIGRATION AND CRIMINAL JUSTICE

COUNCIL CHAMBERS
FEBRUARY 15, 2023

Good morning Chair Rivera, Chair Hanif, and members of the Council. I am Michael Clarke, the Director of the Legislative Affairs Unit for the New York City Police Department. I am joined here today by Executive Director and Special Counsel Heidi Grossman of the Department's Criminal Justice Bureau. On behalf of Police Commissioner Keechant L. Sewell, I am here today to testify before your committees regarding the Department's policies and procedures around Federal civil immigration detainer requests.

At the outset, it is important to state unequivocally that the NYPD does not engage in immigration enforcement. Period, full stop. It is vitally important that all members of the public feel comfortable coming to the police for help, especially when they are victims of a crime. Undocumented immigrants should not fear deportation if they need to access police services and our vulnerable community members should not remain victims in the dark. Unreported crimes skew how we analyze crime trends and hinders our ability to dedicate resources where it will be most effective. Moreover, if certain groups of New Yorkers do not feel confident they can interact with the police, they will become permanent victims to be preyed upon by criminals with no fear of the consequences of their actions.

Our numbers, posted publicly, show that we practice what we preach. In our last reporting period, we received 157 detainer requests. We have honored zero of those requests. We transferred zero people to the custody of ICE. In the previous reporting period, we received 1,485 detainer requests. Again, we honored zero and transferred zero people to the custody of ICE.

I would like now to turn to two of the bills being heard today. **Intro. 184** would eliminate the exception in the law that allows the Department to hold individuals after receiving a detainer request without a judicial warrant for up to 48 hours under certain circumstances when it is anticipated that a judicial warrant will be presented within the 48 hours. The Department does not employ this exception to hold individuals, and has not for quite some time. The Administration has no position on this legislation.

Intro. 158-A would create a personal cause of action against any employee of the NYPD, Department of Probation or Department of Correction, as well as against either department, for any violation of any law restricting when and how an ICE immigration detainer request may be honored, and potentially for violations of other related laws. This would apparently be a strict liability cause of action for officers and the City, even when acting in good faith. This bill thus wholly reverses the original and longstanding City Council determination, codified in the present

law, that while City agencies would implement a policy of non-cooperation with immigration enforcement, the City would not subject itself and its agencies and employees to liability for the unfortunate occasional instance, almost always inadvertent, in which agencies fall short of the goal. In reversing that determination by the Council, this bill would undermine valid defenses that the City and an officer can utilize and even authorizes punitive damages, which are especially problematic. It further allows plaintiffs to elect an award of at least $30,000 that can be imposed, without having to prove damages. This bill would thus convert a beneficial City policy into an opportunity for the plaintiffs' bar to exploit difficult situations that may present themselves to City agencies. By newly placing issues related to implementation of that policy in a fraught litigation context, the bill could actually impede the City's ability to learn from those situations and report on them if the Department mistakenly takes someone into custody, or detains someone longer that we should, causes of action already exist to address that. The bill would also place onerous and unworkable obligations on officers to not only notify the individual and their attorney of the detainer request, but to also to provide detailed records about every contact with ICE regarding that person, whether the detainer request is honored or not. The administration strenuously opposes this legislation.

Thank you for this opportunity to testify about this important issue, and we look forward to answering any questions you may have.

Testimony before the

New York City Council

Committee on Criminal Justice

Chair Carlina Rivera

Committee on Immigration

Chair Shahana Hanif

By

Paul Shechtman, General Counsel

NYC Department of Correction

February 15, 2023

Good morning, Chair Hanif, Chair Rivera, and members of the Immigration Committee and Criminal Justice Committee. My name is Paul Shechtman, and I am the General Counsel for the New York City Department of Correction. Thank you for the opportunity to submit testimony related to the Department's practices with respect to detainer laws. My remarks this morning are brief.

The Department's policy is this: if the Department receives a detainer from Immigration and Customs Enforcement (ICE) we will notify ICE of an individual's release only if the individual is in custody on Rikers Island and (i) has a qualifying conviction, meaning a conviction for a violent or otherwise serious crime, within the past five years or (ii) is identified to us as a possible match in the terrorist screening database, and if the request is supported by a document showing probable cause.

Our notification is made when the discharge process begins. Importantly, we will not hold an individual for an ICE pickup beyond the time that the individual is authorized to be released from our custody under local or state law. If ICE is late, we will not wait.

Perhaps most significantly, if these criteria are not met – no qualifying conviction and no terrorist screening database match – we will not communicate further with ICE about the individual in question and will not facilitate a transfer to ICE custody. We do not honor ICE detainers.

The Department's public reporting reflects this policy. Between July 2021 and June 2022, federal immigration authorities lodged 92 detainers and only eight individuals were released to federal authority. We do not view our job as enforcing immigration laws.

I thank you for the opportunity to testify today.

PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Jumaane D. Williams

**STATEMENT OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE NEW YORK CITY COUNCIL COMMITTEE ON IMMIGRATION AND
COMMITTEE ON CRIMINAL JUSTICE
FEBRUARY 15, 2023**

Good Morning,

My name is Jumaane D. Williams and I am the Public Advocate for the City of New York. I would like to thank Chair Hanif, Chair Rivera, and members of the Committee on Immigration and Committee on Criminal Justice for holding this hearing.

New York City is the home of over 3 million immigrants, approximately one-third of the population, and more than 40% make up the workforce.[1] The communities, cultures, and traditions that make our city what it is today are in part due to the contributions of immigrants and their descendants. Our city will always be seen as a diverse microcosm to the world and a beacon of hope, mobility, and belonging. This rings true especially as we witness influxes of new immigrants to the city, who become our newest neighbors and the newest New Yorkers. Despite the social, economic, cultural, and political contributions of immigrants to our city's fabric, history has shown that anti-immigrant sentiment has existed for as long as our immigrant communities have. NYC is a sanctuary city, meaning there are safeguards to protect the millions of immigrants that call it home by limiting interactions and cooperation with federal immigration enforcement. We must seek to always protect our immigrant communities and take steps to fortify the city's status as a sanctuary city in order to uphold the humanity of immigrant New Yorkers.

One of the ways the city has maintained itself as a sanctuary city is through its detainer laws. Over the past decade, detainer laws have been amended to strengthen the ability for city law enforcement agencies to limit interactions with immigration enforcement agencies. Through the passage of numerous local laws[2] and subsequent amendments to the NYC administrative code, agencies such as the New York City Police Department (NYPD) and the Department of Correction (DOC) may only honor a civil immigration detainer dependent on two conditions. One, Immigration and Customs Enforcement (ICE) must present a judicial warrant for the detention of the individual subject to the detainer; two, the individual has been convicted of a violent or serious crime or is identified as a possible match in the terrorist screening database.[3]

While the city's detainer laws and protections for immigrants have strengthened throughout the years, there is still work to be done. Just this past year in 2022, Aleksy Raspoutny, a Ukrainian

[1] U.S. Census Bureau, 2019 American Community Survey 1-Year Public Use Microdata Sample
[2] Local Law 59 of 2014; Local Law 59 of 2014; Local Law 228 of 2017
[3] https://www.nyc.gov/assets/immigrants/downloads/pdf/nyc-detainer-laws.pdf

**STATEMENT OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE NEW YORK CITY COUNCIL COMMITTEE ON IMMIGRATION AND
COMMITTEE ON CRIMINAL JUSTICE
FEBRUARY 15, 2023**

undocumented immigrant charged with a misdemeanor, found himself in ICE detention after ICE was notified to pick him up from a Lower Manhattan courthouse.[4] This was a clear violation of New York City's existing detainer laws as well as the Protect Our Courts Act of 2018, which protects individuals from civil arrest in or around a New York State courthouse, including city courts.[5] These major oversights put immigrants in precarious situations they otherwise would not be in if the city's detainer laws were followed. These kinds of circumstances reflect the need to further fortify our current detainer laws, and such bills to do so are presented at this hearing today. As these bills are discussed throughout the hearing, one thing is for certain: we must work to ensure that our city agencies are committed to strict adherence to NYC's detainer laws for the safety and trust of immigrant New Yorkers. In line with the commitment expected of agencies, I too ensure my commitment to uplift, protect, and serve the vibrant immigrant communities. In the past year, my colleagues in the Council and I passed two resolutions, Res. 0066-2022[6] and Res. 112-2022[7], calling on the New York State Legislature to pass the Dignity Not Detention Act and New York for All Act, respectively.

The past several years in particular have been hard on us all, and it is not lost on me that our immigrant New Yorkers faced a significant brunt of it. We as a city must keep our immigrant communities safe from further hardship and entanglements with a complicated immigration system. The onus is on the City to follow through on its status as a sanctuary city and protect the 3 million and counting that call New York City home.

Thank you.

[4] https://www.thecity.nyc/2023/2/10/23593545/sanctuary-misdemeanor-ice-nypd
[5] https://www.nysenate.gov/legislation/bills/2019/s425
[6] https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=5465338&GUID=11F26BAE-B1C4-4B5F-833D-FD8A06DF0152&Options=&Search=
[7] https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=5552135&GUID=03072CF0-E7E8-4591-9C90-4CD02B538D3A&Options=&Search=

New York City Council
Committees on Immigration and Criminal Justice
Oversight Hearing on The New York City Detainer Law
February 15, 2023

Written Testimony of The Bronx Defenders
By Rosa Cohen-Cruz & Sophia Gurulé & Carol Larancuent, Policy Counsels and Legal Advocate to the Immigration Practice

Chairs Hanif and Rivera and Committee Members, we are immigration advocates at The Bronx Defenders ("BxD").[1] Thank you for your attention to these critical matters and for the opportunity to testify before you today. We are testifying today in support of Intros. 184 and 185 as a way to protect immigrant community members and strengthen the limitations on any communications between New York City agencies, including Department of Corrections ("DOC") and the New York Police Department ("NYPD") and Immigration and Customs Enforcement ("ICE"), and lastly to pass Intro.158, to allow those unlawfully transferred to ICE custody a private right of action.

INTRODUCTION

Immigrants comprised **37.2** percent (**3.14** million) of New York City's population in 2017. This population includes naturalized citizens accounting for **55.0** percent (**1,727,000**), and the remaining noncitizen population is composed of 942,000 immigrants with green cards or other

[1] The Bronx Defenders is a public defender non-profit that is radically transforming how low-income people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our staff of over 350 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement. Through this integrated team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation called *holistic defense* that achieves better outcomes for our clients. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, child welfare, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic reform at the local, state, and national level. We take what we learn from the clients and communities that we serve and launch innovative initiatives designed to bring about real and lasting change.

legal status; and **507,000** are undocumented immigrant community members[2]. Since 2017, these numbers have continued to rise, and the need to take action for a safer New York for us all, has never been greater.

Freedom to live without fear of being arrested by ICE and ending the terror of family separation is at the heart of this testimony, and in the hearts of all New Yorkers. Until the City takes the necessary steps to protect immigrant communities, New York City's inaction and compliance with ICE leaves many immigrant New Yorkers at risk. The City Council must strengthen New York City's detainer laws, originally passed by this Council in 2014. Failing to strengthen these laws ignores the reality that the Department of Corrections ("DOC"), the New York Police Department ("NYPD"), and the Department of Probation ("DOP") repeatedly evade their obligations to comply with City law to instead hand over immigrant New Yorkers for ICE arrest, detention, and deportation.

State and local law enforcement conspiring with ICE not only undermines the laws this City Council set forth in 2014, but also intensifies the harms of a racist and xenophobic systems of policing, criminalization, and incarceration. When New York law enforcement agencies violate local laws passed by this City Council to protect immigrant New Yorkers, it dishonors the basic rights of immigrant New Yorkers and creates pervasive fear and distrust that ultimately deepens the belief that New York City is not safe. New York law enforcement agencies must respect our local laws and prioritize the safety and wellness of our community. In the streets of New York, where Black, Latinx, and other marginalized people are under constant threat, the New York City Council must take immediate corrective action by:

- Passing Intro 184, which ensures that NYPD cannot communicate with ICE without a judicial warrant;
- Passing Intro 185, which ensures that DOC & DOP cannot communicate with ICE without a judicial warrant; and
- Passing Intro 158, which creates a private right of action for violations of the detainer laws.

DOC, DOP, and NYPD regularly and flagrantly exploit aspects of the 2014 detainer laws that allow communication with ICE without ICE ever producing a signed judicial warrant. In doing so, these city agencies wrongfully prolong a person's detention and facilitate transfers of immigrant New Yorkers into ICE custody. In this testimony we will detail several types of violations that BxD has tracked when representing immigrant New Yorkers, including:

A. Despite ICE never producing a signed judicial warrant, DOC transfers people convicted of a "violent or serious crime" into ICE custody;

[2] https://www1.nyc.gov/assets/opportunity/pdf/immigrant-poverty-report-2017.pdf.

B. Recently released documents of DOC/ICE correspondence corroborate BxD's long-time suspicions that DOC unlawfully communicates with ICE about people in its custody;
C. NYPD and DOP collaboration with ICE in making arrests and sharing information; and
D. NYC Detainer Laws Prejudice People in Resolving Criminal Cases.

The Council will also hear from community members and advocates detailing explicit violations of the City's detainer law.[3] Taken together, these violations demonstrate the serious weaknesses in our existing detainer laws and highlight the urgent need to create a meaningful and responsive shift to protect immigrant New Yorkers. In addition to detailing violations of the detainer law, we must not forget that part of what is at stake is conditions in ICE detention in New York State, so the final portion of our testimony will be to remind City Council why these laws matter and why we must protect our communities from the harmful and inhumane conditions experienced in ICE detention.

A. Despite ICE never producing a signed judicial warrant, DOC transfers people convicted of a "violent or serious crime" into ICE custody.

i. DOC guidance" defies the plain reading of the statute to circumvent the 2014 detainer laws.

New York City's detainer law prohibits New York City law enforcement agencies from transferring immigrant New Yorkers from DOC custody to ICE federal custody unless that person has been convicted of a "violent or serious conviction"[4] ("177 offense") as defined in city law *and* federal immigration authorities have presented a signed judicial warrant authorizing the arrest of that same person.[5] The statutory text is clear that both requirements must be met for DOC to effectuate transfer of custody to ICE, both when honoring an ICE detainer and ICE requests for notification of a person's release from DOC custody.[6]

Despite the requirement of a signed judicial warrant, this fundamental due process protection is regularly circumvented by DOC, whose interpretation of ICE "requests for notification" defies both the intent and plain reading of the applicable law.[7] Five years after the detainer laws took effect, DOC issued an Operations Order entitled "Interactions with Federal Immigration

[3] Correal, Annie and Shanahan, Ed, "*He Was Caught Jaywalking. He Was Almost Deported for It",* N.Y. Times (March 11, 2021) https://www.nytimes.com/2021/03/11/nyregion/daca-ice-nyc-immigration.htm).l.
[4] NYC Admin. Code § 9-131(a)(7)(i).
[5] NYC Admin. Code § 9-131(b)(1)(i).
[6] At the February 15, 2023 New York City Council Hearing, DOC General Counsel confirmed that they have never received any request to transfer custody of a person to ICE because they appear as a possible match in the terrorist screening database.
[7] *See generally* NYC Admin. Code § 9-131(b)(1)(i) ("The department may only honor a civil immigration detainer by holding a person beyond the time when such a person would otherwise be released from the department's custody, in addition to such reasonable time as necessary to conduct the search specified in subparagraph (ii) [177 offenses or terrorist screening database], *or by notifying federal immigration authorities of such person's release*, if: [a judicial warrant is presented]; *and* [177 offenses or terrorist screening database match]."). (emphasis added).

Authorities,"[8] detailing its procedures for compliance with DHS detainers and requests for notification:

> [DOC] intends to cooperate with DHS's written request for advance notice of release, whether such request appears on an Immigration Detainer or otherwise, and cooperation in transferring custody of the inmate to DHS on [DOC] property by notifying DHS of the time the inmate would ordinarily be released. *In other words, the pick up by DHS shall not extend the time normally needed to complete the discharge process*, and the Department will not detain such an individual beyond the time authorized under New York State and local law.

Id. (emphasis added).

According to this guidance, so long as a person is not detained beyond the time it takes to complete the regular discharge process, DOC can readily respond to ICE's requests for notification and transfer custody of that person to ICE. In this way, DOC can deftly — yet inconsistently — testify that they have not violated the detainer laws when honoring ICE "requests for notification" as they have not held people for longer than the discharge process required while simultaneously admit that since 2014 enactment of the City's detainer laws DOC has never received a signed judicial warrant from ICE.[9] DOC General Counsel Paul Shechtman similarly reiterated this DOC position at the February 15, 2023 New York City Council hearing, stating "We're not holding onto 'em if ICE isn't there" and that DOC hadn't received a signed judicial warrant in the past five years.[10] These jaw-dropping admissions are relevant for several critical reasons.

ii. DOC's non-transparent discharge processes further gut the 2014 detainer laws by preventing timely and impactful accountability for immigrant New Yorkers seeking to challenge their ICE transfer.

While DOC has consistently testified at two City Council hearings that they have not received a signed judicial warrant from ICE, in practice, DOC is non-transparent about its discharge processes, thereby revealing that the City's detainer laws are effectively gutted. As a matter of standard practice, DOC provides practically no transparency about its discharge process when

---

[8] The City of New York Department of Corrections Operations Order No. 9/19.

[9] *See generally* New York City Council, *Committee on Immigration Hearing Transcript on NYC Detainer Laws Transcript* (June 9, 2021), https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4972029&GUID=8F48A1CF-7885-4CFC-AD9A-6FA452D31892&Options=&Search=.

[10] Arya Sundaram and Matt Katz, *'#teamsendthemback': Emails reveal cozy relationship, cooperation between NYC correction officers and ICE*, Gothamist (Feb. 16, 2023), https://gothamist.com/news/teamsendthemback-private-emails-reveal-cozy-relationship-cooperation-between-nyc-correction-officers-and-ice.

ICE issues a detainer request or request for notification. As public defenders managing these bureaucratic, carceral systems every day, DOC honoring a "request for notification" often looks like DOC indefinitely holding a person until ICE picks them up for arrest without ever producing a signed judicial warrant, or ICE ever even issuing a detainer. In practice, DOC's distinctions appear meaningless yet the harms remain the same.

As an example, in March 2021, a BxD client finished a six-month sentence on Rikers Island for a 177 conviction and was informed by DOC officials that he was going to be released alongside two other people on the same day. On his actual release day, he was the only person transported from his housing unit to a separate holding cell to wait without any explanation. Two hours later, officers entered the holding cell and told him to follow them. It was only then that he learned the officers were ICE and that he was being transferred to ICE detention to face deportation. This BxD client never received any copy of a judicial warrant for his arrest, and as DOC has testified, they have not received a signed judicial warrant from ICE in this time period.

DOC's actions speak for themselves in explaining how this is a violation of NYC's detainer laws. As detailed by their own guidance interpreting the 2014 detainer laws, DOC is permitted to only notify ICE of the time of a person's release, but they are not permitted not to hold a person in their custody for any additional time beyond the regular discharge process.[11] Here, DOC never accounted for the time he was detained in the holding cell, yet an immigrant New Yorker nonetheless waited in DOC custody for two hours, without explanation, after completing his sentence instead of being freed to his community. Then, ICE officers physically entered a Rikers Island holding cell, ordered him to follow them, ushered him out of the cell, and then handcuffed him to initiate the ICE deportation process. And this all occurred without a judicial warrant ever being produced.

That we as advocates and public defenders are left to decipher DOC's non-transparent discharge practices is a consistent theme in our experiences representing criminalized immigrant New Yorkers held at Rikers Island. In October 2017, a BxD immigration attorney went to Rikers Island to meet with a client scheduled for release after completing his sentence. The attorney called DOC a day in advance to inform that she would meet with the client at 10:00AM to ensure his safe and timely release. DOC informed the attorney that ICE issued a detainer and that ICE would be permitted until midnight on the release day to take the client into ICE custody. The attorney asked DOC if ICE produced a signed judicial warrant, but was not given a direct answer. Accordingly, the next day the BxD attorney arrived at Rikers Island at 9:00AM and remained there until approximately 2:00PM. During this time, the attorney repeatedly asked DOC to meet with her client but consistently denied the opportunity to speak to or see the client. She was instead told by DOC officers to wait, to talk to other officers, and even shuttled back and forth between different buildings. After waiting for over four hours, DOC informed the

[11] *Id.*

attorney that the client had been transferred to ICE during the time she had been waiting at Rikers Island.

As evidenced in this lived experience, DOC's lack of transparency is harmful as it limits advocates' ability to challenge whether a person is held beyond the time necessary to effectuate the discharge process and ultimately whether DOC violates the City's detainer laws. Though the detainer law authorizes DOC to continue detention past release for a reasonable amount of time to verify whether they may communicate with ICE about a particular individual,[12] what constitutes a "reasonable amount of time" is not defined. Similarly, when advocates inquire about the existence of a judicial warrant, DOC is either non-responsive or otherwise refers to its compliance with ICE as honoring a "request of notification", in effort to somehow mollify and justify its actions despite a nonexistent judicial warrant as consistent with the City's detainer laws when it is not. Finally, DOC's allegiance to ICE not only violates its own internal policies by extending a person's time in DOC custody to facilitate an ICE arrest, but they compromise a person's right to counsel.

DOC's lack of transparency not only allows the agency to evade accountability by immigrant New Yorkers and their advocates, but it also allows them to regularly conspire with ICE agents to further harm immigrant New Yorkers. Transferring a person into ICE custody is a physically violent, terrifying experience: a shackled person in a cage is temporarily unshackled by DOC officers, only to then be immediately re-shackled by ICE officers, to then be transported to an unknown location and placed in a ICE cage for an indefinite amount of time, to face permanent exile by deportation. DOC facilitating an ICE arrest without a signed judicial warrant ever being presented as required by City law clearly violates the letter and intent of the law, and eviscerates the protections the detainer laws are meant to confer. To put simply, DOC has concocted a bad faith reading of local law in an attempt to bureaucratically gloss over the harms they inflict on immigrant New Yorkers in their custody who otherwise should be free. This City Council has a responsibility and opportunity to rectify these harms in passing Intros. 158 and 185, and we urge you to follow through on the prior Council's promise to immigrant New Yorkers.

iii. Even where people are not transferred to ICE custody, DOC's inefficient, non-transparent assessment of whether to comply with an ICE detainer wrongfully prolongs non-citizen's detention.

DOC's lack of transparency and accountability is a serious issue, even for people who are not ultimately transferred to ICE custody. In our experience, people in jail with immigration holds remain in custody longer after their scheduled release time than those without lodged detainers. In the 2021 City Council hearing on NYC's detainers laws, DOC claimed that they would not be

[12] N.Y.C. Admin. Code § 9-131(b)(1).

able to account for the reason for delay in release,[13]and, as detailed *infra*, DOC is eager to extend people's detention regardless of the pain, trauma, and fear they instill in people in detention and the families who are doing whatever they can to reunite with their loved ones.

In late August 2020, DOC's Department of Custody Management confirmed, upon inquiry by a BxD attorney, that a detainer would not be honored for the BxD client. Nevertheless, on September 2, 2020, when the client's family arrived to pay bail, a DOC Captain informed the client's family that a "special warrant" had been lodged *prior* to our conversations with DOC and that DOC was required to call ICE about their family member's release from DOC custody. The Captain further informed the client's family that it "wouldn't make sense" to bail him out because ICE would take custody of our client. Consequently, the family was told they would not be able to pay bail. Two days later, the client's family was still not able to pay bail until our office intervened again and reminded DOC there was no lawful ground for his detention in their custody and that DOC must immediately release the client. While two days may not mean much to DOC, it is an eternity for a family trying to be reunited. For them, these were a terrifying, stressful, and painful two days of not knowing if they would all be together again. Had the Bxd client been a U.S. citizen, this never would have happened.

Similarly, on March 12, 2021, a BxD client was ordered released on their own recognizance by the criminal court, but held past his release date at Rikers Island due to an ICE detainer. This client did not have a qualifying conviction so an ICE detainer could not be honored under the law. Despite that, our client was not released until early in the morning on March 13, 2021. During the evening of March 12, our office tried to contact Captain Rainey and DOC Counsel's office but received no response. Ultimately, we contacted representatives from the Mayor's Office of Immigrant Affairs to assist in securing the client's release.

Even if DOC could provide a minute-by-minute accounting of the time this or any other person is held when determining whether to honor an ICE detainer or release a person to their community, the fundamental problem would remain: DOC prioritizing their relationships with ICE over their own duty to abide by City law, let alone their duties to the people in their custody.

B. Recently released documents of DOC/ICE correspondence corroborate BxD's long-time suspicions that DOC unlawfully communicates with ICE about people in its custody.

i. DOC violates the 2014 detainer laws by communicating with ICE about people in their custody who do not have a qualifying 177 conviction.

[13] New York City Council Committee on Immigration, Testimony of Kenneth Stukes, Bureau Chief of Security, New York City Department of Corrections, June 9, 2021.

DOC not only fails to account for discharge timing, but also fails to adequately account for their communications with ICE. Recently, the Immigrant Defense Project ("IDP") and the Black Alliance for Just Immigration ("BAJI") obtained communications between DOC and ICE through a Freedom of Information Law ("FOIL") request documenting the regular correspondence between DOC and ICE. While the documents obtained by IDP and BAJI indicate that ICE and DOC communicate by e-mail, they similarly establish that DOC staff frequently communicate with ICE by phone yet fail to log the timing and substance of those phone conversations[14]. Like transparency around DOC's discharge processes for people who ICE issues detainers or "requests for notification", the timing and substance of DOC communications with ICE are important in ensuring DOC's basic compliance with its legal obligations under local law. This lack of transparency is also particularly harmful where it appears that DOC communicates with ICE even where a person has not been convicted of a 177 offense.

Even though it is undisputed that DOC cannot respond to a request for notification or an ICE detainer unless the subject of the request has actually been *convicted* of a 177 offense, we have had reason to believe DOC regularly communicates with ICE about people who are not convicted of a 177 offense. We suspect ICE receives advance notice of plea dates where clients are charged with and ultimately plead to a 177 offense by observing ICE appearing moments after a BxD client accepts a plea to a 177 offense in criminal court. For example, in April 2022, we represented a non-citizen with no prior criminal convictions who was charged with one of the 177 enumerated offenses. Despite not being *convicted* of a 177 offense, DOC told the client's friend "not to bother" paying bail because DOC believed there was an ICE hold. The BxD attorney advised the client's friend to pay bail, but DOC continued to deny the client's release, requiring the BxD attorney to escalate the wrongful delay to the DOC Legal Department and the Mayor's Office of Criminal Justice ("MOCJ"). MOCJ responded stating that a "special unit" was looking into the ICE detainer and would get back to us after they reviewed the detainer. The client was held for two additional hours, *despite no prior criminal conviction history and only a pending 177 charge*.

The FOIL records obtained by IDP and BAJI have also confirmed our suspicions that DOC has not only communicated about people where there are no 177 offenses, but violated the law gleefully and with clearly articulated disdain for the people we defend. In a lengthy back and forth exchange, in November 2015 DOC identified a non-citizen New Yorker soon to be released to his community at the request of ICE despite knowing that the person in DOC custody did not have a qualifying conviction. Clarifying that the person was in DOC custody for a parole violation, DOC disturbingly signed off its e-mail with the hashtag "#teamsendthemback", presumably to communicate DOC's solidarity with ICE's enforcement efforts. After the DOC Legal Department clarified that the person should be processed for discharge to the community, Capt. Rainey informed ICE the bad news: "The court provided this office with a receipt for his

[14] See attached addendum

paid bail back in 2006. They are satisfied with the bail conditions and with no judicial warrant our legal division states he should be process for discharge. SORRY" (sic). Later that day, ICE replied: "No worries, it is what it is! Can't fight city hall, literally! Thanks for the info, we'll go out and get him. I already have a team ready to go find him." Three days later, DOC replied with another "update": "Here is an update. Judge placed another $1.00 bail on the case. He paid the bail in court and is on his way back to DOC. I will be discharging him to the community. He should be discharged sometime tonight or wee hours in the morning. FYI=next court date 12/15/16. SORRY".[15]

In a 2017 e-mail exchange between Captain Deshan Rainey and ICE Officer Robert Speruggia, ICE sent a list of people in DOC custody. In response, DOC explained that one person on ICE's list is "sentenced however his case must be sealed or adjudicated as a youthful Offender nothing shows in the CRIMS or Rap sheet and he doesn't have a detainer lodged on him." DOC further clarified that another two people on ICE's list had not yet been sentenced. In response, ICE asked: "The two that are pending sentence, upon conclusion of sentencing, would their detainers be honored?" DOC responds: "Yes. Let's hope they both go upstate."[16] This communication was on its face illegal under the detainer law. There were no qualifying convictions to allow DOC to communicate any information about the people in their custody to ICE.

These communications are malicious and show a culture of anti-immigrant animus within DOC. DOC must be given a clear and simple directive: there can be no communication with ICE under any circumstances unless ICE produces a judicial warrant.

ii. In clear defiance of City law, DOC affirmatively communicates with ICE to facilitate ICE arrests.

DOC's actions actually demonstrate an eagerness and enthusiasm to collaborate with ICE. In an e-mail dated September 26, 2017 between DOC Captain Deshan Rainey[17] and ICE Officer Nicole Francis, Captain Rainey assured ICE that DOC would continue to detain someone for a day past their release date to allow ICE the opportunity to pick them up for arrest .[18] In another email dated April 5, 2017, Captain Deshan Rainey notified ICE that a community member's release time depends on when ICE will arrive to make the arrest, stating: **"**Please advise me what your arrival time will be so I may inform the facility and have the subject waiting for your arrival.[19]" From these communications we know that DOC not only transferred people without ICE ever producing a signed judicial warrant, but DOC in fact delayed the timely release of an

[15] Rainey, Deshan. Email to ICE Officer Robert Speruggia, November 16, 2015, *See Addendum, pages 15-24*
[16] Rainey, Deshan. Email to ICE Officer Robert Speruggia, December 18, 2017, *See Addendum, pages 6-14*
[17] Captain Deshan Rainey is a DOC Supervisor in the Custody Management/ICE Unit, who oversees reviews of ICE detainers and requests for notification.
[18] Rainey, Deshan. Email to ICE Officer Nicole Francis, September 26, 2017, *See Addendum, page 1-4*
[19] Rainey, Deshan. Email to "VRKEROSUPERVISOR" ICE, April 5, 2017, *See Addendum, page 5*

immigrant New Yorker from Rikers Island to facilitate an ICE arrest. These are clear violations of the detainer law, and cast new light on our experiences with release delays that have allowed our clients to be arrested by ICE.

C. NYPD and DOP collaboration with ICE in making arrests and sharing information.

NYPD's relationship with ICE has understandably fueled distrust among many immigrant communities. One of the most pervasive reasons for this distrust is that ICE frequently identifies themselves as police, or even NYPD when attempting to arrest individuals in their homes. ICE also sometimes engages the NYPD to assist it in making an arrest for a purely civil immigration matter. In other instances, NYPD supports ICE in effectuating arrests together in the community, and ICE similarly supplies NYPD protection in the community. These interactions are terrifying for the communities we serve. During the June 2020 George Floyd protests, ICE provided protection for NYPD precincts and NYPD also worked with ICE to arrest and detain a protester who was Puerto Rican and a U.S. citizen.[20] In February 2020, ICE hospitalized Gaspar Avendano-Hernandez after tasering him more than six times. In that same interaction, ICE tasered and shot Eric Diaz-Cruz in the hand and face, also resulting in his hospitalization.[21] NYPD then escorted ICE officers as they transferred Mr. Avendano-Hernandez to ICE detention after he was discharged from the hospital.[22] ICE uses the NYPD as an intimidation tool, and NYPD often willfully obliges.

NYPD, like DOC, wrongfully cooperates with ICE to enforce immigration laws in our city. In May 2020, a BxD client was woken up by loud knocking on his door. The three officers at his door began yelling, "If you don't open the door, we're going to knock it down and arrest everyone." They yelled threats and said they would knock the door down without asking someone to open it first. No one in the apartment opened the door because they were terrified. As a result, the officers continued banging so hard that they damaged the door, later requiring its replacement. BxD obtained the apartment building's video footage of this incident, which showed NYPD officers with ICE officers attempting to enter our client's apartment by force.[23]

---

[20] *See* Matt Katz, *ICE Helped To Protect NYPD Station Houses During Protests,* WNYC (June 9, 2020), https://www.wnyc.org/story/ice-helped-protect-nypd-station-houses-during-protests/; *see also* Mazin Sidahmed, *Video Shows ICE Agents Arresting a Protestor in NYC,* Documented (June 5, 2020), https://documentedny.com/2020/06/05/video-shows-ice-agents-arresting-a-protestor-in-nyc/.

[21] Wes Parnell, Rocco Parascandola, Thomas Tracy and Larry McShane, *ICE agents, while arresting undocumented Mexican immigrant, wind up shooting second man in wild Brooklyn street brawl*, NY Daily News (Feb. 6, 2020), https://www.nydailynews.com/new-york/nyc-crime/ny-ice-agent-shoots-man-in-face-in-brooklyn-20200206-7db5cmlbqff2hflbs5pnssipuu-story.html.

[22] Wes Parnell, *'He was crying, crying': Family of ICE detainee held after Brooklyn raid-turned-shooting share story* (Feb. 17, 2020), https://www.nydailynews.com/new-york/ny-ice-detainee-mistreatment-brooklyn-raid-shooting-20200217-gd3b7ooapfdb5gep3dfq3uuc3e-story.html.

[23] Our attempts to verify NYPD's presence on the video were unsuccessful as they raised privileges or were otherwise unresponsive to the substance of our FOIL requests.

When our client went to the local precinct to find out more information he was told there was no record of the NYPD being at his apartment that morning.

With respect to the detainer law, NYPD is permitted to honor an immigration detainer under a three-pronged analysis: if an individual has been convicted of a violent or serious crime *and* has been previously deported and returned to the United States without permission *and* they are presented with a judicial warrant.[24] Absent a judicial warrant, the statute authorized NYPD to hold someone who meets the above criteria for up to 48 hours in order for ICE to attempt to secure a judicial warrant. This allowance is at odds with the court's decision in *Francis* and should be amended per our recommendations below[25].

A common scenario for our clients occurs at arraignments. Typically, an ICE detainer will be lodged while someone is in arraignments and the judge or prosecutor will be made aware of the detainer. We see this impact our clients negatively in two ways. First, often judges will not release people if they are concerned that ICE is targeting them for detention. In the second scenario, a judge may release someone, either through bail or on their own recognizance, but the person will remain detained for a prolonged period of time while NYPD considers how to respond to the detainer. Even a brief period of prolonged detention is detrimental to the person held in a cage and separated from their loved ones. Simplifying the detainer law to requiring a judicial warrant would hasten the process and make clear immediately whether or not NYPD could comply.

The Department of Probation ("DOP") has also collaborated with ICE in violation of the NYC detainer laws. In November 2022, a non-citizen represented by The Bronx Defenders took a plea to a misdemeanor with a sentence of probation. However, the probation report presented to the court stated that the client and their siblings were "illegal aliens" and that "based upon information provided to ICE, the law enforcement support center could not find a match in the database." This statement provided directly from DOP speaks for itself: DOP wrongfully communicated with ICE. In another instance, in January 2020, a BxD client was contacted by law enforcement to appear at a police precinct in the Bronx as a requirement of their probation. Upon arriving at the precinct, the BxD client was immediately detained by ICE and shipped to an ICE detention in New Jersey, where they remained for more than a year at the height of the COVID-19 pandemic.

To state the obvious: NYPD and DOP do not work for ICE but the City of New York. In 2014, the City of New York passed laws to limit NYPD's ability to collaborate with ICE in arresting immigrant New Yorkers for deportations and these laws were extended to the DOP.[26] Any

[24] NYC Admin. Code § 14-154(b)(1)(ii).
[25] *People ex rel. Wells o.b.o. Francis v. DeMarco*, 168 A.D.3d 31 (N.Y. App. Div. 2018).
[26] local law AC 14-154 of 2017

violations of these laws by both agencies are inexcusable. New York City agency employees are first and foremost accountable to New Yorkers. This is true no matter where a person was born or criminal arrest history. Colluding with ICE dangerously shifts that dynamic and cases like these demonstrate that DOC employees will put the requests of ICE above City law, their own duties to people in their custody, attorneys they interact with, and New Yorkers as a whole because ICE relies on them to facilitate arrests.

D. <u>NYC Detainer Laws Prejudice People in Resolving Criminal Cases.</u>

Finally, even the possibility of communication with ICE by DOC or NYPD negatively impacts immigrant New Yorkers as they navigate the criminal legal system. Immigrants who are incarcerated while their cases are pending have fewer safe case resolutions at their disposal due to the City's collaboration with ICE. An incarcerated immigrant who would benefit from and wishes to participate in inpatient treatment programs outside of DOC may not be able to risk paying bail or seeking a disposition from the court that includes programming if they believe that ICE will arrest them as soon as they are released from jail.

Many criminal defense attorneys without immigration counsel do not understand the parameters of the detainer law. Our deportation defense attorneys who represent clients in the NYIFUP program regularly encounter clients who did not realize they were taking a plea to an offense that would cause them to lose detainer law protections. Even if a client is properly advised about the legal consequences that a particular disposition might have on their immigration status, they might not have been advised of the consequences that such a plea might have on enforcement consequences. Indeed, given the opaque, unpredictable patterns and behavior of our City's agencies described in the testimony above, even if aided by competent *Padilla* counsel, a criminal defense attorney might not be able to fulfill their constitutional duty[27] to properly advise a client about the enforcement consequences of a plea.

This is also why we must eliminate the list of 177 offenses in the detainer laws. Permitting the DOC and NYPD to conspire with ICE and transfer people into federal custody based on a person's criminal history or match on a government watch list is deeply misguided. This approach exacerbates the disproportionate impact of the criminal legal system, which unequally targets Black and brown people and is highly prejudicial in immigration court proceedings. While the current bills do not eliminate the list of 177 criminal convictions, we urge this Council to include amendments that would strengthen the judicial warrant requirement without the additional list of 177 offenses. As demonstrated *supra*, these offenses are often used by local law enforcement officials to wrongly initiate contact with ICE. They also result in stripping immigrant New Yorkers of critical due process protections, including access to representation in

[27] *Padilla v. Kentucky*, 559 U.S. 356 (2010).

deportation cases[28]. The list of 177 offenses take on a life of their own when left to the discretion of local law enforcement, and ultimately communicates that New York City does not owe an equal duty of protection to all residents. That is not the case and we must end this practice.

CONCLUSION AND RECOMMENDATIONS

We urge the New York City Council to pass Intros. 184, 185, and 158. Together, this set of bills will strengthen the City's pre-existing detainer laws and ensure city agency compliance. Intros 184 and 185 aim to close the regularly exploited loopholes detailed above and ultimately reduce the number of detainer law violations by City agencies. We specifically support amendments to Intros. 184 and 185 that eliminate the 177 offenses as a metric and instead rely on a stronger requirement for a judicial warrant so that all immigrants in NYC custody will be equally protected. We similarly urge the New York City Council to pass Intro. 158 to ensure a private right of action so people harmed by these violations have some mechanism for redress. Local law enforcement agencies' failure to comply with local law has a long-lasting impact on the lives who these agencies disregard when violating the City's detainer laws. By passing Intro. 158, this Council will take a meaningful step to prevent such future harm and instead affirm the humanity of those impacted.

[28] Coltin, Jeff, "*NYC Covers Immigrants Legal Cost for those without a Criminal Conviction"*, City and State (June 14, 2018)https://www.cityandstateny.com/politics/2018/06/nyc-covers-immigrants-legal-costs-for-those-without-a-criminal-conviction/178375/

ADDENDUM

Document ID: 0.7.5266.143718

From: Rainey, Deshan </o=cs hosting/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=deshan.rainey>
To: Sperruggia, Robert <robert.sperruggia@ice.dhs.gov>
Cc:
Bcc:
Subject: RE: PICK UP WEDNESDAY SEPTEMBER 27, 2017 VCBC FILE [redacted]
Date: Wed Sep 27 2017 18:22:37 EDT
Attachments:

You know me well ;)

Deshan Rainey #112

Captain | Population Management ICE Unit

New York City Department of Correction

Work: 718-546-4472 | Fax: 718-546-4467/4110

Email address: deshan.rainey@doc.nyc.gov

Socialize with us on FB | Twitter | YouTube
nyc.gov/doc

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Wednesday, September 27, 2017 6:04 PM
To: Rainey, Deshan <Deshan.Rainey@doc.nyc.gov>
Subject: RE: PICK UP WEDNESDAY SEPTEMBER 27, 2017 VCBC FILE #[redacted]

Ok ill be in at 6…. I know, talk to you after 9 J

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Wednesday, September 27, 2017 5:36 PM
To: Sperruggia, Robert
Subject: RE: PICK UP WEDNESDAY SEPTEMBER 27, 2017 VCBC FILE #[redacted]
Importance: High

Side Bar

We need to talk. Heads Up on some things. Call you tomorrow.

Deshan Rainey #112

Captain | Population Management ICE Unit

New York City Department of Correction

Work: 718-546-4472 | Fax: 718-546-4467/4110

Email address: deshan.rainey@doc.nyc.gov

Socialize with us on FB | Twitter | YouTube
nyc.gov/doc

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Wednesday, September 27, 2017 8:19 AM
To: Rainey, Deshan <Deshan.Rainey@doc.nyc.gov>; DeSantis-White, SabinaMarie <SabinaMarie.DeSantis-White@ice.dhs.gov>
Subject: RE: PICK UP WEDNESDAY SEPTEMBER 27, 2017 VCBC FILE #[redacted]

Please call me as soon as you get in. We are going to pick this case up after all. Please disregard the last lift detainer I sent you.

From: Sperruggia, Robert
Sent: Wednesday, September 27, 2017 8:08 AM
To: 'Rainey, Deshan'; DeSantis-White, SabinaMarie
Subject: RE: PICK UP WEDNESDAY SEPTEMBER 27, 2017 VCBC FILE #[redacted]

Please see the attached lift detainer for this case.

From: Sperruggia, Robert
Sent: Wednesday, September 27, 2017 7:32 AM
To: 'Rainey, Deshan'; DeSantis-White, SabinaMarie
Subject: RE: PICK UP WEDNESDAY SEPTEMBER 27, 2017 VCBC FILE #[redacted]

Good morning,

If you could please call me as soon as you get in. We will not be taking custody of this alien and the detainer will be lifted.

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Tuesday, September 26, 2017 6:08 PM
To: Sperruggia, Robert; DeSantis-White, SabinaMarie
Subject: FW: PICK UP WEDNESDAY SEPTEMBER 27, 2017 VCBC FILE #[redacted]

He will remain in the intake (receiving room). Pick up will be easy.

Deshan Rainey #112

Captain | Population Management ICE Unit

New York City Department of Correction

Work: 718-546-4472 | Fax: 718-546-4467/4110

Email address: deshan.rainey@doc.nyc.gov

Socialize with us on FB | Twitter | YouTube
nyc.gov/doc

From: Rainey, Deshan
Sent: Tuesday, September 26, 2017 5:31 PM
To: VRKEROSUPERVISOR <VRKEROSUPERVISOR@ice.dhs.gov>
Cc: 'Francis, Nicole' <Nicole.Francis@ice.dhs.gov>
Subject: PICK UP WEDNESDAY SEPTEMBER 27, 2017 VCBC FILE #[redacted]

Good Evening All,

Inmate [redacted] #[redacted] case was ROR today. He will be available for pick up on the above subject date. Please the earlier the better. He is located at VCBC = The Boat in the Bronx.

Thanks

Deshan Rainey #112

004

Captain | Population Management ICE Unit

New York City Department of Correction

Work: 718-546-4472 | Fax: 718-546-4467/4110

Email address: deshan.rainey@doc.nyc.gov

Socialize with us on FB | Twitter | YouTube
nyc.gov/doc

Document ID: 0.7.5266.92907

From: Rainey, Deshan </o=cs hosting/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=deshan.rainey>
To: VRKEROSUPERVISOR <vrkerosupervisor@ice.dhs.gov>
Cc:
Bcc:
Subject:
Date: Wed Apr 05 2017 15:06:25 EDT
Attachments:

Good Afternoon

The above subject is scheduled to be Discharged from Custody Friday April 7th, 2017 from EMTC. The above subject meets the local law criteria for this agency to cooperate with your agency and transfer custody. Please advise me what your arrival time will be so I may inform the facility and have the subject waiting for your arrival.

Please contact me if you require further information.

Sincerely,

Captain D. Rainey #112

Office of Population Management/ICE

Phone: 718-546-4472

Fax: 718-546-4467

Email: Deshan.Rainey@doc.nyc.gov

Document ID: 0.7.5266.167715

From: Rainey, Deshan </o=cs hosting/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=deshan.rainey>
To: Sperruggia, Robert <robert.sperruggia@ice.dhs.gov>
Cc: Johnson, Karl </o=cs hosting/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=karl.johnson>; Monastero, Anthony </o=cs hosting/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=anthony.monastero>
Bcc:
Subject: RE: Inmates With Felony Convictions
Date: Mon Dec 18 2017 18:25:21 EST
Attachments:

Yes. Let's hope they both go upstate

Deshan Rainey #112

Captain | Population Management ICE Unit

New York City Department of Correction

Work: 718-546-4472 | Fax: 718-546-4467/4110

Email address: deshan.rainey@doc.nyc.gov

Socialize with us on FB | Twitter | YouTube
nyc.gov/doc

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Monday, December 18, 2017 5:04 PM
To: Rainey, Deshan <Deshan.Rainey@doc.nyc.gov>
Cc: Johnson, Karl <Karl.Johnson@doc.nyc.gov>; Monastero, Anthony <Anthony.Monastero@doc.nyc.gov>
Subject: RE: Inmates With Felony Convictions

The two that are pending sentence, upon conclusion of sentencing, would their detainers be honored?

Sent with BlackBerry Work
(www.blackberry.com)

From: Rainey, Deshan <Deshan.Rainey@doc.nyc.gov>

007

Date: Monday, Dec 18, 2017, 4:26 PM

To: Sperruggia, Robert <Robert.Sperruggia@ice.dhs.gov>

Cc: Johnson, Karl <Karl.Johnson@doc.nyc.gov>, Monastero, Anthony <Anthony.Monastero@doc.nyc.gov>

Subject: RE: Inmates With Felony Convictions

Sperruggia,

I have reviewed the below individuals : [redacted] is convicted of 265.03 but his sentence is still pending. [redacted] is sentenced however his case must be sealed or adjudicated as a youthful Offender nothing shows in the CRIMS or Rap sheet and he doesn't have a detainer lodged on him. [redacted] also convicted of 140.25 but his sentence is still pending.

I hope this helps.

Deshan Rainey #112

Captain | Population Management ICE Unit

New York City Department of Correction

Work: 718-546-4472 | Fax: 718-546-4467/4110

Email address: deshan.rainey@doc.nyc.gov

Socialize with us on FB | Twitter | YouTube
nyc.gov/doc

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Monday, December 18, 2017 2:44 PM
To: Rainey, Deshan <Deshan.Rainey@doc.nyc.gov>
Cc: Johnson, Karl <Karl.Johnson@doc.nyc.gov>; Monastero, Anthony <Anthony.Monastero@doc.nyc.gov>
Subject: Inmates With Felony Convictions

Captain Rainey,

Can you please verify that you have the required ICE paperwork for each of the below cases, all of which appear to meet the city criteria. Thank you!

[redacted]

NYSID:

[redacted]

Year of Birth:

[redacted]

Sex:

[redacted]

Race:

Other

Height:

[redacted]

Weight:

[redacted]

Hair Color:

[redacted]

Eye Color:

[redacted]

Nativity:

[redacted]

Booking Information

Incarceration [redacted]

Book & Case Number:

[redacted]

Current Housing Facility:

GMDC (George Motchan Detention Center)

009

Arrest Date:

[redacted]

Arrest Number:

[redacted]

Next Court Date:

[redacted]

Bail Status:

[redacted]

Charge Information

Docket:Indictment:Court Part:Court Name:

Charge:

CR-032177-17QN 02610/2017 W50 Queens Supr. Ct.

265.03 FC (CRIM POSS WEAPON-2ND DEGREE C Felony)

[redacted]

NYSID:

[redacted]

Year of Birth:

[redacted]

Sex:

[redacted]

Race:

Other

Height:

[redacted]

Weight:

010

[redacted]

Hair Color:

[redacted]

Eye Color:

[redacted]

Nativity:

[redacted]

Booking Information

Incarceration [redacted]

Book & Case Number:

[redacted]

Current Housing Facility:

GMDC (George Motchan Detention Center)

Arrest Date:

[redacted]

Arrest Number:

[redacted]

Projected Release Date:

18-JUL-2018

Disposition:

sentenced

Charge Information

Docket:Indictment:Conviction Date:Sentence Date:

Charge:

CR-031878-17QN 02345/2017 23-OCT-2017 15-NOV-2017

110-160.05 FE (Attempted ROBBERY-3RD E Felony)

[redacted]

011

NYSID:

[redacted]

Year of Birth:

[redacted]

Sex:

[redacted]

Race:

Other

Height:

[redacted]

Weight:

[redacted]

Hair Color:

[redacted]

Eye Color:

[redacted]

Nativity:

[redacted]

Booking Information

Incarceration[redacted]

Book & Case Number:

[redacted]

Current Housing Facility:

GRVC (George R. Vierno Center)

Arrest Date:

[redacted]

Arrest Number:

[redacted]

Next Court Date:

[redacted]

Bail Status:

[redacted]

Charge Information

Docket:Indictment:Court Part:Court Name:

Charge:

2014QN037447 00909/2015 N60 Queens Supr. Ct.

140.30 FB (BURGLARY-1ST B Felony)

Docket:Indictment:Court Part:Court Name:

Charge:

2014QN037448 00910/2015 N60 Queens Supr. Ct.

140.25 FC (BURGLARY-2ND C Felony)

Docket:Indictment:Court Part:Court Name:

Charge:

2014QN070811 00911/2015 N60 Queens Supr. Ct.

110-140.25 FD (Attempted BURGLARY-2ND D Felony)

Respectfully,

Robert L. Sperruggia

Supervisory Detention & Deportation Officer

"Put your heart, mind, and soul into even your smallest acts. This is the secret of success." -Swami Sivananda

Document ID: 0.7.5266.94392

From: Rainey, Deshan </o=cs hosting/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=deshan.rainey>
To: Sperruggia, Robert <robert.sperruggia@ice.dhs.gov>
Cc:
Bcc:
Subject: RE:
Date: Mon Nov 16 2015 14:48:24 EST
Attachments: image001.jpg

Good afternoon,

Here is an update. Judge placed another $1.00 bail on the case. He paid the bail in court and is on his way back to DOC. I will be discharging him to the community. He should be discharged sometime tonight or wee hours in the morning. FYI= next court date 12/5/16. SORRY

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Friday, November 13, 2015 10:03 AM
To: Rainey, Deshan
Subject: RE: [redacted]

No worries, it is what it is! Can't fight city hall, literally! J

Thanks for the info, we'll go out and get him. I already have a team ready to go find him.

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Friday, November 13, 2015 10:00 AM
To: Sperruggia, Robert
Subject: RE:
Importance: High

Good Morning,

The court provided this office with a receipt for his paid bail back in 2006. They are satisfied with the bail conditions and with no judicial warrant our legal division states he should be process for discharge. SORRY

Captain Rainey

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 4:55 PM
To: Rainey, Deshan
Subject: RE:

Ok then im leaving for the night!

Have a good night! :")

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 4:53 PM
To: Sperruggia, Robert
Subject: RE:

yes

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 4:48 PM
To: Rainey, Deshan
Subject: RE:

Ok so maybe tomorrow well know more?

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 4:47 PM
To: Sperruggia, Robert
Subject: RE:

Informed the facility to send him to court to get and updated paperwork. The paperwork he has now is from 2009. I will let to know the status.

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 4:38 PM
To: Rainey, Deshan
Subject: RE:

OK. This would be crazy if he was released after being locked up on manslaughter since 2009….

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 4:28 PM
To: Sperruggia, Robert
Subject: RE:

Stand by I was just told if I get the paperwork to send it to him (Horan) so he can review. I'll keep you updated.

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 4:01 PM
To: Rainey, Deshan
Subject: RE:

As expected but thank you anyway. Well track him down and arrest him.

Thanks!

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 4:01 PM
To: Sperruggia, Robert
Subject: RE:

Just spoke to legal the above inmate paid a bail on the case just waiting on the paperwork from the courts and facility. He will be released to the community.

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 1:50 PM
To: Rainey, Deshan
Subject: RE:

My money is on "NO"

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 12:26 PM
To: Sperruggia, Robert
Subject: RE:

Bingo!!!!!!!!!! I'll see what Legal (Mr. Horan) says

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 12:16 PM
To: Rainey, Deshan
Subject: RE:

SO I guess the million dollar question is, Will he be turned over to us? J

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 11:29 AM
To: Sperruggia, Robert
Subject: RE:

He was turned over to DOC from the state parole after doing his state time. Parole brought him back to DOC on the open case along with the detainer and parole warrant and that letter from you guys.

#teamsendthemback

018

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 11:14 AM
To: Rainey, Deshan
Subject: RE:

Good Morning,

Was he turned over to NYC from NYS? That's what it looks like. As far as any updates from us, he hasn't been in our custody for many years. The detainer was lodged in 2009 when he was in State custody. It's a case we would certainly want to take custody of….

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 10:37 AM
To: Sperruggia, Robert
Subject: FW:

Good Morning,

The above inmate was brought into our custody 11/11/15 with the following documents. Please review and let me know of any updates. The only reason he was NOT turned over to INS is an old case from 2006 which has not been resolved.

Captain Rainey

From: Custody Mgmt ICE [mailto:custmgmtice@doc.nyc.gov]
Sent: Thursday, November 12, 2015 10:29 AM
To: Rainey, Deshan
Subject:

Document ID: 0.7.5266.94375

From: Rainey, Deshan </o=cs hosting/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=deshan.rainey>
To: Sperruggia, Robert <robert.sperruggia@ice.dhs.gov>
Cc:
Bcc:
Subject: RE:
Date: Fri Nov 13 2015 10:14:36 EST
Attachments: image001.jpg

I was informed to send him to court on Monday 11/16/15 part F (NY).

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Friday, November 13, 2015 10:03 AM
To: Rainey, Deshan
Subject: RE:

No worries, it is what it is! Can't fight city hall, literally! J

Thanks for the info, we'll go out and get him. I already have a team ready to go find him.

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Friday, November 13, 2015 10:00 AM
To: Sperruggia, Robert
Subject: RE:
Importance: High

Good Morning,

The court provided this office with a receipt for his paid bail back in 2006. They are satisfied with the bail conditions and with no judicial warrant our legal division states he should be process for discharge. SORRY

Captain Rainey

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 4:55 PM
To: Rainey, Deshan
Subject: RE:

Ok then im leaving for the night!

Have a good night! :")

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 4:53 PM
To: Sperruggia, Robert
Subject: RE:

yes

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 4:48 PM
To: Rainey, Deshan
Subject: RE:

Ok so maybe tomorrow well know more?

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 4:47 PM
To: Sperruggia, Robert
Subject: RE:

Informed the facility to send him to court to get and updated paperwork. The paperwork he has now is from 2009. I will let to know the status.

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 4:38 PM
To: Rainey, Deshan
Subject: RE:

OK. This would be crazy if he was released after being locked up on manslaughter since 2009….

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 4:28 PM
To: Sperruggia, Robert
Subject: RE:

Stand by I was just told if I get the paperwork to send it to him (Horan) so he can review. I'll keep you updated.

022

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 4:01 PM
To: Rainey, Deshan
Subject: RE:

As expected but thank you anyway. Well track him down and arrest him.

Thanks!

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 4:01 PM
To: Sperruggia, Robert
Subject: RE:

Just spoke to legal the above inmate paid a bail on the case just waiting on the paperwork from the courts and facility. He will be released to the community.

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 1:50 PM
To: Rainey, Deshan
Subject: RE:

My money is on “NO”

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 12:26 PM
To: Sperruggia, Robert
Subject: RE: [redacted]

Bingo!!!!!!!!!! I'll see what Legal (Mr. Horan) says

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 12:16 PM
To: Rainey, Deshan
Subject: RE:

SO I guess the million dollar question is, Will he be turned over to us? J

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 11:29 AM
To: Sperruggia, Robert
Subject: RE:

He was turned over to DOC from the state parole after doing his state time. Parole brought him back to DOC on the open case along with the detainer and parole warrant and that letter from you guys.

#teamsendthemback

From: Sperruggia, Robert [mailto:Robert.Sperruggia@ice.dhs.gov]
Sent: Thursday, November 12, 2015 11:14 AM
To: Rainey, Deshan
Subject: RE:

024

Good Morning,

Was he turned over to NYC from NYS? That's what it looks like. As far as any updates from us, he hasn't been in our custody for many years. The detainer was lodged in 2009 when he was in State custody. It's a case we would certainly want to take custody of….

Rob Sperruggia

SDDO

From: Rainey, Deshan [mailto:Deshan.Rainey@doc.nyc.gov]
Sent: Thursday, November 12, 2015 10:37 AM
To: Sperruggia, Robert
Subject: FW:

Good Morning,

The above inmate was brought into our custody 11/11/15 with the following documents. Please review and let me know of any updates. The only reason he was NOT turned over to INS is an old case from 2006 which has not been resolved.

Captain Rainey

From: Custody Mgmt ICE [mailto:custmgmtice@doc.nyc.gov]
Sent: Thursday, November 12, 2015 10:29 AM
To: Rainey, Deshan
Subject:

Brooklyn Defenders

Brooklyn Defender Services
177 Livingston St, 7th Fl
Brooklyn, NY 11201

Tel (718) 254-0700
Fax (718) 254-0897
info@bds.org

TESTIMONY OF:

Michelle Dellatorre – Supervising Attorney
***Padilla Team,* Criminal Defense Practice**

BROOKLYN DEFENDER SERVICES

Presented before

The New York City Council Committee on Immigration Jointly with the Committee on Criminal Justice

Oversight Hearing on NYC Detainer Laws

February 15, 2023

My name is Michelle Dellatorre, and I am a Supervising Attorney in the *Padilla* Team[1] of the Criminal Defense Practice at Brooklyn Defender Services (BDS). BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. Thank you to the New York City Council Committees on Immigration and Criminal Justice, in particular Chair Hanif and Chair Rivera, for the opportunity to submit testimony today about the New York City detainer laws and proposed legislation regarding communication between city law enforcement agencies and federal immigration authorities.

BDS represents approximately 22,000 people each year who are accused of a crime, facing the removal of their children, or deportation. Our immigration practice works to minimize the negative immigration consequences of criminal charges for non-citizens, represent people in applications for immigration benefits, and defend people against ICE detention and deportation. Since 2009, we have counseled, advised, or represented more than 16,000 people in immigration matters including deportation defense, affirmative applications, and immigration consequence consultations in Brooklyn's criminal court system.

About a quarter of BDS' criminal defense clients are foreign-born, roughly half of whom are not naturalized citizens and therefore at risk of either losing their current lawful immigration status or the opportunity to obtain lawful immigration status as a result of criminal or family defense cases. Our *Padilla* team attorneys are criminal-immigration specialists who provide support and expertise on thousands of cases, including advocacy regarding enforcement of New York City's

[1] Named after the Supreme Court case that ruled people are entitled to advice about the immigration consequences of their case, *Padilla* attorneys have specialized knowledge about the intersection of immigration and arrests.

detainer law, individualized immigration screenings, and legal consults.

BDS is also one of New York City's three New York Immigrant Family Unity Project (NYIFUP) providers and has represented more than 1,500 people in detained deportation proceedings since the inception of the program in 2013. Our NYIFUP team represents people in detained and non-detained removal proceedings in bond, merits hearings, release advocacy with ICE, administrative and federal court appeals, and federal district court challenges to unlawful detention. Additionally, our Immigration Community Action Program (ICAP) represents people in non-detained removal proceedings as well as applications for immigration benefits, including family-based applications for lawful permanent status, fear-based applications, U&T visas, Special Juvenile Immigrant Status (SIJS), DACA renewal and other related applications.

NYC's Detainer Discretion Laws

Immigration and Customs Enforcement (ICE) and its predecessor, the Immigration and Naturalization Service (INS), have long relied upon state and local criminal legal systems to identify immigrants who could be deported. Nationally, ICE relies on prisons and jails to assist with the identification of immigrants subject to deportation by issuing an "immigration detainer" to notify ICE of their release and detain the individual for up to 48 hours beyond their mandated release time so that ICE can assume custody of the person and transfer them to an immigration detention facility. In the past few years, multiple courts across the United States, including in New York State, have held that this practice is unconstitutional.[2]

In October 2014, the Council passed groundbreaking legislation, referred to as detainer discretion laws.[3] The city laws removed ICE from Rikers Island and prevented the Department of Correction (DOC), New York City Police Department (NYPD), and Department of Probation (DOP) from unlawfully detaining non-citizens without a judicial warrant. These laws were intended to prevent non-citizens detained in DOC and NYPD custody from being transferred to immigration detention, with hopes of sparing thousands of New Yorkers from the nation's mass-deportation regime. Nine years later, it is evident that DOC continues to facilitate the notification and transfer of immigrant New Yorkers to ICE. While New York City has led the nation in the protection of non-citizen residents, many large cities across the nation have more robust protection against transfers to ICE.

Close the Gap in NYC's Detainer Laws

The 2014 NYC detainer law intended to prevent DOC from transferring many New Yorkers to ICE custody. However, DOC reports that they continue to cooperate with ICE, receive many immigration detainers and notifications of release requests from ICE, and continue to transfer

[2] https://ag.ny.gov/press-release/2020/ag-james-issues-additional-legal-guidance-ice-civil-detention-requests

[3] NYC Administrative Code §§ 9-131, 9-205, and 14-154, available at https://www1.nyc.gov/assets/immigrants/downloads/pdf/nyc-detainer-laws.pdf

immigrants into ICE custody.[4]

The 2014 detainer laws have been interpreted by DOC as containing a loophole which they have exploited in order to notify the Department of Homeland Security (DHS) of an individual's release based on a finding of "dangerousness," as established by a recent criminal conviction for one of the enumerated 177 offenses, or inclusion on the FBI's terrorist watch list. Once ICE is notified of the person's impending release, ICE is free to show up at the DOC facility and take custody of the person directly from DOC.

In the past nine years, BDS clients have continued to be arrested by ICE agents immediately upon their release from DOC custody (whether at Rikers Island or the Brooklyn Detention Complex) and transferred to immigration custody. This is, essentially, a fluid transfer of custody between DOC and ICE under the purview of the notification loophole. BDS believes that in those cases, DOC notified ICE about the individuals' pending release pursuant to a request for notification and ICE arrested and detained the individuals.

At today's hearing, DOC testified that they facilitate this transfer of individuals to ICE custody based on the notification loophole, when people have a qualifying conviction. The spirit behind these laws was to ensure that New York City protected its residents from ICE. We should not be denying New Yorkers this protection because of a criminal conviction.

As an institutional public defender, BDS is acutely aware of the complicated circumstances that can lead to a conviction ending up on someone's record. Immigrant New Yorkers face significant pressure to resolve their criminal cases with a guilty plea instead of risking going to trial, even if they stand a good chance of acquittal. This is because, at trial, immigrant New Yorkers face a decision not just on their guilt or innocence in the given criminal case, but often also on whether they will be allowed to remain with their families in the United States. Because certain convictions will make a person deportable or permanently ineligible for immigration benefits, immigrant New Yorkers often feel that they have no other choice to resolve their case with an "immigration safe" guilty plea. Ironically, immigrant New Yorkers may find themselves resolving their criminal case with a guilty plea to an "immigration neutral" offense, which does not technically trigger deportability or disqualify them from immigration benefits, only to find that this "neutral" plea triggers the exception to the current detainer law, allowing them to be transferred to ICE custody.

[4] NYC Department of Corrections, ICE Reports, *available at* https://www.nyc.gov/site/doc/about/statistics-and-compliance.page, showing that: in FY17, ICE lodged 536 detainers, and DOC detained 81 people for additional time and DOC transferred 20 people to ICE; in FY18, ICE lodged 627 detainers, and DOC detained 85 people for additional time, and DOC transferred 38 people to ICE; in FY19, ICE lodged 492 detainers, and DOC detained 0 people for additional time, and DOC transferred 22 people to ICE; in FY20, ICE lodged 270 detainers, and DOC detained 0 people for additional time, and DOC transferred 20 people to ICE; in FY21, ICE lodged 162 detainers, and DOC detained 0 people for additional time, and DOC transferred 11 people to ICE; in FY22, ICE lodged 92 detainers, and DOC detained 0 people for additional time, and DOC transferred 8 people to ICE.

Furthermore, even minor convictions that don't trigger the detainer law exception can result in mandatory incarceration by the order of an Immigration Judge in DHS detention facilities for someone who is in immigration proceedings.

ICE detainers are only one link in a chain that ties our clients to the immigration detention and deportation system. With or without a detainer, ICE can arrest people at home, work, and around court, detain them or release them, and give them a court date for deportation proceedings. New York City should not assist the federal government in detaining immigrants.

After a person's transfer to ICE custody, it can be needlessly difficult and labor intensive to successfully navigate the bureaucracy involved in having ICE produce them back to DOC custody for purposes of resolving their criminal cases. This task falls to both the District Attorney and the courts, as defense counsel is unable under the New York Criminal Procedure Law to request a writ of *habeas corpus ad prosequendum*. This has resulted in BDS clients not being produced for criminal court, which can cause unnecessary delays in a court case further complicating the underlying immigration case as one's eligibility for immigration relief is constrained by their criminal record.

The notification loophole in the current detainer law, which results in the transfer of people with certain criminal convictions to ICE custody, doubly penalizes immigrant New Yorkers who, unable to exercise their constitutional right to trial because of the risk of being convicted of a deportable offense, may have taken a plea to an offense that now leaves them vulnerable to detention. We urge the City Council to eliminate this exception in order to send a strong message that federal immigration enforcement does not belong in New York City facilities.

Greater Transparency is Needed on DOC's Dealings with ICE

The lack of transparency regarding DOC and ICE communications prevents defenders from truly knowing the extent to which detainer violations are ongoing. The history of violations of the law underscores the need for tighter restrictions on DOC's communication with ICE and the need for increased transparency about those communications. Beyond the emails between DOC and ICE officials shared at today's hearing, questions remain about the content of DOC and ICE communication and the steps DOC takes upon receiving a detainer. We do not know whether our clients for whom DOC receives an ICE detainer are released after the same amount of time as a client with no ICE detainer. Importantly, we suspect that DOC compliance with ICE requests for notification may be the reason behind some, often unexplained, delays in BDS clients' release from DOC custody. In these instances, BDS attorneys, appointed by the criminal court to represent these individuals, are not informed by DOC about the request for notification of the person's release Instead, upon our advocacy before each client's anticipated release date from DOC custody, we are informed generally that the individual was to be released pursuant to the DOC detainer law. Subsequently, BDS has not been informed about the release of the

individual to ICE custody directly from DOC custody. Additionally, BDS is not provided with a copy of the detainer or request for notification to determine whether it was lawful or accurate. Finally, we are also not provided sufficient information about who within DOC makes the ultimate determination to release our clients to ICE or who notifies ICE of pending release of our client and under what authority that determination is based. This lack of transparency creates opportunities for violations of the detainer law to occur out of view of immigrant advocates. Greater transparency is necessary in order to stop further violations of the law.

Recommendations

BDS supports the intention of the legislation discussed today and respectfully offer the following recommendations to strengthen Int 185:

Int. No. 185 seeks to close the notification loophole that DOC has been using to notify ICE without the existence of a judicial warrant of an immigrant New Yorker's release, if the person has certain criminal convictions. It makes clear that city officers and employees shall not accede to requests by federal law enforcement agencies to support or assist in operations primarily in furtherance of federal civil immigration enforcement and that no city resources shall be used for such efforts. However, the bill as drafted, does not go far enough in that it does not restrict DOC's ability to honor ICE detainers to *only* cases where a judicial warrant is issued for a law enforcement purpose other than civil immigration enforcement, and it does not clearly define what constitutes a judicial warrant. This modification would allow federal criminal judicial warrants to continue to be honored but protect New Yorkers from civil federal immigration enforcement at city facilities. BDS urges the City Council to close this gap in the law in order to fully fulfill the goal of disentangling the federal immigration enforcement system from the local criminal legal system.

Finally, BDS urges the City Council to amend the detainer law to explicitly state that if ICE transfers an individual to New York State custody, for purposes of resolving their state case, then DOC may transfer the person back to ICE after the state case has been resolved. This is an essential exception to the strict ban on transferring people from New York State to ICE custody, because without it, an individual who was detained by ICE while their state criminal case is open, will be unable to resolve their criminal case. The City Council is aware of how detrimental an open criminal case is to an application for immigration benefits. Furthermore, most immigration judges as well as USCIS will not grant an immigration benefit or render a positive decision in immigration court while the applicant has an open criminal case. Therefore, explicitly allowing for the transfer back to ICE of someone who has been brought to DOC by ICE is an essential exception. Otherwise, ICE will not allow anyone who is in their custody to complete their state criminal case.

Brooklyn Defenders

Conclusion

All New Yorkers benefit when our diverse communities can thrive together. As this Council has always noted, immigrants, regardless of their status, are the backbone of our city, our culture and our economy. The 2014 detainer discretion laws were a critical step in the right direction, and we applaud the City Council's leadership in forging these local laws. However, immigrant communities continue to face an enormous threat in an era of increased surveillance and enforcement. The city can and should do more to ensure that residents are not unnecessarily targeted for detention or deportation because of some action or failure to act by the city.

BDS is grateful to the Committee on Immigration and Committee on Criminal Justice for hosting this critical hearing and shining a spotlight on this issue. We thank the Council for your continued support of low-income immigrant New Yorkers. The Council continues to play a critical role in safeguarding New York City's immigrant community. Thank you for your time and consideration of my comments. If you have any questions, please feel free to reach out to Anya Mukarji-Connolly, Director of Policy and Advocacy, at amukarjiconnolly@bds.org.

New York City Council Committees on Immigration and on Criminal Justice
February 15, 2023
Hearing on New York City Detainer Laws and Related Legislation
Testimony of Yasmine Farhang, Director of Advocacy, Immigrant Defense Project

Thank you to the Committees on Immigration and on Criminal Justice for holding this hearing. My name is Yasmine Farhang and I am the Director of Advocacy with the Immigrant Defense Project. IDP was founded over 25 years ago to combat the targeting of immigrants for mass deportation and to fight for justice for ALL immigrants - in particular, those caught at the intersections of the racist and cruel criminal and immigration systems. We are proud to be part of the ICE Out! NYC coalition which brings together dozens of organizations with a simple mission: to stop the police-to-deportation pipeline. I am here to strongly condemn the City's years of intentionally flouting our key detainer laws, which we have heard some of the evidence of today, and in support of three key bills - Intros 184, 185 and 158 which we are eager to strengthen and pass this year to put an end to DOC and NYPD's collusion with ICE and create an accountability mechanism for immigrant New Yorkers who are harmed.

I want to step back to the oversight hearing in 2021, where many of the same advocates and community members appeared to testify before the Council. We heard multiple statements from DOC officials denying collusion with ICE: DOC Chief of Security Kenneth Stukes stated ***"it is not DOC policy to retain individuals due to immigration detainers beyond their time authorized"*** *(page 21 of the hearing transcript)*. DOC Deputy Commissioner Heidi Grossman stated, ***"someone should generally be released without three hours of notice of the bail paid****" (page 35)*. Stukes later says ***"We don't comply with the detainer in the sense that we detain the person… if they show up, they show up"*** and later "***we're not holding someone solely to transfer that person to ICE. That's not our policy****" (page 64)*. At that *same* hearing, we heard voluminous testimony directly in contradiction with these claims, showing clear facilitation and slow-down of release by DOC to ***ensure*** that they would be detained by ICE. Yet DOC refused to acknowledge the reality we've all known on the ground. Today, there can be no more doubt of the troubling relationship between DOC and ICE.

In fact, the e-mail correspondence shared and released today, obtained in a FOIL filed together by the Immigrant Defense Project and the Black Alliance for Just Immigration show routine illegal communication between DOC and ICE, frequent delays and slow down to facilitate arrest by ICE, evidence of regular unrecorded communication, and most importantly, a deep culture of collusion which shows not just a willingness, but a desire, to facilitate deportation. Captain Rainey perhaps made it most clear - referring to DOC and ICE as a team in her email which she signed: #teamsendthemback.

It has been over 8 years since passage of local laws limiting the City from working as an extension of ICE and our city has fallen behind the national trend in stronger, bolder legislation to protect our immigrant communities. This administration simply cannot say out of one side of their mouth that this is a welcoming city for immigrant New Yorkers - while speaking with ICE out of the other side to funnel community members directly into their custody. The e-mails and testimony is proof in hand of collusion we have long known to be happening, the harm of which is felt directly by individuals, their loved ones, and their communities, and the time is now for NYC to step up as a leader and send a clear message to ICE that our City will not be a pipeline to detention and deportation.

Testimony of Isabelle Muhlbauer of LatinoJustice PRLDEF before the Joint Meeting of the Committees on Immigration and Criminal Justice
February 15, 2023

Dear members of the Committee on Immigration and the Committee on Criminal Justice, my name is Isabelle Muhlbauer, and I am a voting rights advocacy coordinator for LatinoJustice PRLDEF, a national civil rights organization dedicated to ensuring that Latinx community is treated with dignity, justice, and fairness. I am here to testify in favor of Intro 184 and 185, which would ensure that the NYPD and the DOC refrain from holding any person on an immigration detainer unless presented with a judicial warrant, as they should have been doing since the Second Department Appellate Division issued *Francis v. DeMarco* in 2018. I am also here to enthusiastically support Intro 158, which would provide a remedy to those who have been unlawfully transferred to ICE, and in particular to speak in favor of the proposed version providing that no officer can hide behind qualified immunity when sued for illegally trying to get someone deported.

Collusion between immigration enforcement officers and local authorities—particularly law enforcement authorities—is a violation of the core tenets of public safety. Such collusion is harmful and has rightfully been illegal in New York State for years. In 2017, LatinoJustice PRLDEF sued the Suffolk County Sheriff's Office for its unlawful practice of keeping people incarcerated after they have posted bail based solely on administrative detainers from ICE. Law enforcement officers engaging in this illegal conduct are trying to control vulnerable populations through fear: fear that you could be transferred to immigration authorities for reporting a crime, for being the victim of a crime, or for a violation as minor as jaywalking. All New Yorkers deserve to live free from fear and intimidation by law enforcement, and for that reason LatinoJustice supports the passage of Intr. 184 and 185.

Unfortunately, it is not enough to amend city law to make it crystal clear that NYPD and DOC cannot contact ICE without a judicial warrant. There must also be private right of action and

qualified immunity cannot be a defense to an action. In 2019, Javier Castillo Mardiaga was arrested for jaywalking in the Bronx and subsequently turned over to ICE. Mr. Mardiaga is a Deferred Action for Childhood Arrivals (DACA) recipient and therefore protected from deportation through administrative relief. Despite this, he was illegally held in a federal detention center for fifteen months before being released in March 2021.

At that time, I was also a DACA recipient, and while it is difficult to express the chilling effect Javier's story had on me and on the entire DACAmented community in NYC, it does not even compare to the horror that Javier endured during his 15 months of detention. Due to the lack of private right of action in city law to sue the NYPD or the DOC for this illegal conduct, and because of qualified immunity and related federal doctrines that prevent him for suing ICE, he was left with no legal remedy for being kidnapped and imprisoned for over a year and nearly deported.

Providing a private right of action is the only way to protect people like Mr. Mardiaga, and the only way to hold the NYPD and DOC officers who violate the law accountable. We have seen this before and know that if there is no way for them to be held accountable, they will continue to break the law. Additionally, for any private right of action to be effective, it must contain a provision that qualified immunity is no defense to an action. Qualified Immunity is a judicially-created doctrine that provides an officer cannot be held liable even for obvious misconduct unless another officer has been held liable on precisely the same facts. It has led to the sanctioning of horrific abuse: in 2015, the Supreme Court relied on the doctrine to dismiss a suit against an officer who fired six times at a fleeing car, killing its driver. The case led Justice Sotomayor to write in dissent that the Court was "sanctioning a 'shoot first, think later' approach to policing."

In 2021, the New York City Council enacted a private right of action against police officers under the Administrative Code. *See* NY Admin. Code § 8-801. That law provided that qualified immunity would be no defense to such claims, and the police and their unions claimed that such a

provision would cause frivolous lawsuits to skyrocket. This is simply not true. According to the most recent Comptroller's Report, while claims against the NYPD make up an astronomical 37% of all tort claims paid by the city, last year such claims actually decreased by 10%, though the total amount paid by the City decreased only 1%. https://comptroller.nyc.gov/reports/annual-claims-report/ This suggests that since qualified immunity was repealed for some offenses, unmerited claims have decreased.

In addition to excluding qualified immunity as a defense, the private right of action must provide a speedy mechanism for recovery and recovery of attorneys' fees. Litigation, even litigation that has merit, can be costly and time consuming. The lawsuit LatinoJustice filed in 2017 against the Suffolk County Sheriff's Office is still in court today. Individuals who are mistreated when city law enforcement collaborates with ICE should have a swift and effective remedy, so we urge you to adopt the proposed version of Intro 158.

Legal Services NYC
DEMAND JUSTICE

February 17, 2023

Committees on Immigration and on Criminal Justice
New York City Council
City Hall
New York, NY

Re: February 15, 2023 Hearing on New York City Detainer Laws and Related Legislation

Dear Immigration and Criminal Justice Committees:

Please accept these written comments for the February 15, 2023 hearing about New York City detainer laws and related legislation.

My name is Rex Chen and I am the Director of Immigration at Legal Services NYC (LSNYC). We are the largest civil legal services provider in the country. We fight poverty and have been dedicated to fighting for racial, social and economic justice for low-income New Yorkers for over 50 years. In 2020, we gave immigration assistance to households in which over 25,000 people lived.

We write to comment on the impact that three proposed bills -- Intros. 0184-2022, 0185-2022, and 0158-2022 -- would have to help immigrant communities. These three proposed bills relate to limiting the circumstances under which New York City agencies will cooperate with the U.S. Immigration and Customs Enforcement (ICE) regarding civil immigration detainers and sharing of information.

These bills would have a positive effect on the health and well-being of immigrants in NYC and their relatives.

Each of the bills would give greater protection to immigrants from the risk of detention and deportation either by limiting when certain NYC employees can detain people, limiting when certain NYC employees can communicate with federal immigration authorities, or by creating a private right of action that would deter NYC employees from improperly detaining people or improperly cooperating with federal immigration authorities. If passed, this legislation would even improve the health and well-being of immigrants who would not have been targeted if the bills were not passed. The reason is that many immigrants do not know whether they will be targeted, so some who would not be targeted would still suffer stress and anxiety about whether they might be deported or detained.

If passed, this legislation would also improve the health and well-being of United States citizens and people with legal immigration status who have family members who are concerned about being deported. The reason is that when someone is anxious about being deported, it affects the person's immediate family and relatives.

Another way that the proposed bills would improve the health and well-being of all New Yorkers is that it would increase how much immigrants access critical public services. When immigrants access public services, they can obtain health, housing, and education services that make New York healthier, safer, and more productive. Immigrants do not access public services as much when they have more fear about deportation or that contacting law enforcement and the courts could put them at risk of

deportation. A 2022 report by the Center for Migration Studies found that community fears affect how much immigrants use public benefits and services.[1]

The three proposed bills would have a positive effect on the health and well-being of immigrants in New York City, a positive effect on the health and well-being of United States citizens in New York City, and a positive effect on all New Yorkers' safety and productivity.

Thank you for holding the hearing on the detainer laws and related legislation.

Sincerely,

Rex Chen
Director of Immigration
Legal Services NYC
40 Worth Street, Suite 606
New York, NY 10013
(646) 442-3552

[1] Daniela Alulema and Jacquelyn Pavilon, "Immigrants' Use of New York City Programs, Services and Benefits: Examining the Impact of Fear and Other Barriers to Access," 2022 (available at https://cmsny.org/publications/nyc-programs-services-and-benefits-report-013122/).

My name is Luba Cortes, I am the immigrant defense coordinator at Make the Road New York, the largest participatory and membership-led organization in New York that works with black, brown, and working-class immigrant families. In my role, I have worked with hundreds of families who have had encounters with Immigrations and Customs Enforcement (ICE), either by witnessing an arrest or being the person detained. Unfortunately, the stories are always deeply traumatizing, involving unnecessary use of force, surveillance, and lack of transparency --and they often end with family and community members confused as to who actually carried out the arrest. ICE agents throughout our city pretend to be police, sowing terror and mistrust. Often family members spend hours calling precincts under the assumption that the police arrested their loved one only to find out later that it was in fact ICE. Conversely, the prevalence of ICE raids by agents masquerading as police officers also causes panic and calls to organizations like Make the Road at the sight of operations that turn out to be NYPD.

Today I want to uplift the story of one of our members (who will remain anonymous to protect his identity) who was detained in 2020, in the midst and peak of the COVID pandemic. On the morning of the arrest ICE agents who did not identify themselves as ICE banged on the door. Scared, he called 911. The police arrived shortly and twice called and urged him to come outside, telling him there was “no one there." But that was not true. ICE was there. When he came outside, urged on by two NYPD officers, he was quickly arrested by ICE. Adding insult to injury, the NYPD officers who had lied to him were unmasked; in detention, he quickly caught COVID and ultimately was deported from the country where he had lived since the age of 12.

This experience raises several flags and shows that New York City’s current laws are inadequate to protect immigrants in this city. The NYPD should not have rendered assistance to ICE. Yet they did. The NYPD also failed to report its contact and assistance to ICE to the city council; in fact, it failed to report it to anyone. That is not a one-off. It shows this council and the city’s continued failure to effectively oversee and prevent NYPD assistance to ICE--a failure that requires new legislation to fix.

Situations like the one I shared only incite fear and mistrust between immigrants and local law enforcement. It must be clear whether it is ICE or the NYPD is conducting an arrest, and the NYPD must be prevented from cooperating or encouraging ICE to detain individuals--and there must be accountability and oversight. The same is true for the department of corrections, which we know regularly prolongs New Yorkers’ incarceration as it communicates and considers whether to hand them to ICE--without oversight or transparency to this council-- and which tramples on our existing laws by transferring dozens of New Yorkers a year to ICE despite the lack of a judicial warrant. As Make the Road NY we are asking for:

Complete and Clear Prohibition of Local Law Enforcement Agencies Supporting ICE Immigration Enforcement Actions

a. Eliminating the Cooperative Arrangement Exception.
b. Prohibiting Any NYPD Support for ICE Enforcement Actions.
c. Taking Action Against ICE “Ruses” Impersonating the NYPD.
d. Ending all Transfers to ICE and all communications between DOC and ICE.

In closing, Immigrants across the country have often looked to New York City as a “sanctuary city”. A place where immigrants can feel safe and thrive, but despite the sanctuary moniker, New York City has a long way to go to make immigrants feel safe from ICE and senseless ICE enforcement that threatens to deprive them of liberty and separate them from their families. Our membership urges you to move away from mechanisms that only serve to terrify our community. Promises will not ameliorate the damage done and we must see a clear separation between the NYPD and ICE and between DOC and ICE.

TESTIMONY OF THE NEIGHBORHOOD DEFENDER SERVICE

before the

Committee on Criminal Justice jointly with the Committee on Immigration

IN RELATION TO

New York City's Detainer Laws

by

Meghna Philip

Special Litigation Attorney, Criminal Defense Practice

February 15, 2023

Introduction

My name is Meghna Philip, Special Litigation Attorney at the Neighborhood Defender Service of Harlem, a community-based, holistic public defender office that provides the highest quality representation to residents of Northern Manhattan who cannot afford an attorney. For over 30 years, NDS has worked across practices to prevent and mitigate the harms caused by contact with the criminal legal system, including the harshest civil punishment of ICE detention and deportation. I am joined by my colleague Scott Foletta, Supervising Attorney on the Immigration Defense Team. Together, along with our colleagues, we represent Aleksy Raspoutny, a 46-year-old New Yorker who arrived here from Ukraine when he was a teenager.

The Experience of Aleksy Raspoutny

On September 15, 2022, Mr. Raspoutny was in Manhattan Supreme Court for a routine court appearance. On that date, the presiding judge ordered him to be taken into DOC's custody for one week, until a hearing that would be held on his next court date. Subsequently, my colleague Sonia Roubini, who is Mr. Raspoutny's criminal defense attorney, walked out of the courtroom with Mr. Raspoutny who was being escorted by two investigators from the Manhattan DA's office. The investigators told her they were taking him to be booked into custody at the Department of Corrections. Ms. Roubini left Mr. Raspoutny with the investigators.

A couple of days later, Ms. Roubini received a distressed phone call from Mr. Raspoutny. He told her he was not at Rikers. In fact, he told her he was no longer in New York. He was calling her from an ICE detention facility in Pennsylvania, where his understanding was that he was facing deportation to Ukraine.

I spoke with Mr. Raspoutny last week, about what his experience was like, and he wanted me to share the following words with the City Council:

"I did not expect this at all. I couldn't understand what was going on. I did not understand why this was happening to me.

The DA detectives did not tell me what was happening. The NYPD officers did not tell me what was happening. No one explained anything to me. They just handed me to the people from immigration.

They didn't answer my questions. They said they are going to take me anywhere they want, probably to a different state because it's federal.

At federal plaza they did paperwork, they took my fingerprints, they took me downstairs and put me in a van and drove me away. In the van, I didn't know where they were taking me. It was nighttime, I couldn't really see where we were going. I felt like I was being kidnapped, didn't know where I was going. I was expecting to go to Rikers.

I reached there in the middle of the night.

When I reached there, I was just handed off.

When I got into the unit, other people being held there told me where I was, that it was an ICE prison.

They said, "They are going to deport us"

I was really sad, I was angry. It happened out of nowhere. I was scared – the country I am going back to I haven't been for 29 years, and it's at war. My life is here.

After two or three days at the ICE prison, I started feeling really sick. I started bleeding, and then started feeling bad. I told the doctor at the ICE facility but they didn't do anything about it, I told them it was a bad condition and I was feeling very unwell.

I couldn't even walk. I was so sick. Had so much pain, bleeding. Felt like I was dying.

Later when I was back at Rikers, they diagnosed me with ulcerative colitis and I was hospitalized for a long time. I lost 50 pounds – went down to 135 pounds from 185. It was bad.

I don't want to go back to ICE custody, I am scared for my life, I will get sick and they won't do anything about it, I will be stuck there, away from my family in New York and New Jersey. I don't want to go back to Ukraine.

I was surprised that New York City would do this and hand me over. I thought New York didn't hand over its people like that.

This whole country is made up of immigrants. I don't know why they did that. It was terrible how they treated me."

Before these violations of the City's detainer laws occurred, Mr. Raspoutny had never previously been in ICE custody. He has admittedly had a difficult life, and struggled, as many people do, with addiction and housing insecurity. He has only a misdemeanor criminal record. He has lived in Brighton Beach for nearly 29 years, and his family is in New York and in New Jersey.

Mr. Raspoutny's case exactly illustrates why the City must pass this package of bills. NYPD officers, Manhattan DA investigators, and possibly DOC officials, all appear to have communicated and coordinated actively with ICE to detain our client. He is now back in New York City in DOC custody, because the Manhattan DA's office scrambled to bring him back to New York in order to prosecute him, but has done nothing to prevent his return to ICE. In fact, as things now stand, DOC and the Manhattan DA's office intend to return Mr. Raspoutny to ICE's custody when he is done serving his misdemeanor sentence in New York City, which is precisely what the detainer law prohibited in the first place. If he is returned to ICE custody, he faces indefinite detention and eventual deportation to Ukraine. Because there is currently no private right of action built into the detainer laws, they are toothless; they give him no means under New York City's laws to prevent or correct the life-altering violations he has and will experience. A right that cannot be enforced is not a right at all.

The City must stop being complicit in ICE surveillance and enforcement. The City Council must pass these bills to make it clear that no one can be detained, like Mr. Raspoutny was, without a warrant signed by a federal judge. The City Council must make it clear that city agencies cannot communicate with ICE to further deportations. And the City Council should create a private right of action to allow individuals whose rights have been violated to seek justice. This is what Mr. Raspoutny hopes for, for himself, and for his fellow immigrant New Yorkers.

WRITTEN TESTIMONY OF THE
IMMIGRATION AND NATIONALITY LAW COMMITTEE

NEW YORK CITY COUNCIL COMMITTEE ON IMMIGRATION
AND COMMITTEE ON CRIMINAL JUSTICE

OVERSIGHT HEARING - NEW YORK CITY'S DETAINER LAWS

FEBRUARY 15, 2023

Thank you to the Committees on Immigration and on Criminal Justice for holding a public hearing to address the New York City Detainer Laws. My name is Danny Alicea. I am a member of the Immigration and Nationality Law Committee of the New York City Bar Association ("the Immigration Committee"). On behalf of the Committee, I submit the following written testimony in support of Intros. 0184-2022 and 0185-2022 to further limit any communication between New York City agencies, including the Department of Corrections ("DOC") and the New York Police Department ("NYPD") and Immigration and Customs Enforcement ("ICE"). At this time, the Immigration Committee takes no position with respect to Intro. 0158-2022.

Founded in 1870, the New York City Bar Association is a 23,000-member organization. The City Bar's mission is to equip and mobilize a diverse legal profession to practice with excellence, promote law reform, and uphold access to justice. The Immigration Committee addresses diverse issues pertaining to immigration law and policy. Our members include staff of legal services organizations, private immigration attorneys, staff of local prosecutor's offices, employees of government immigration agencies, academics, and law students. Our testimony in support of Intros. 0184 and 0185 is based on the expertise of our members and the experiences of their clients.

I. INTRODUCTION

For decades, the Immigration Committee has spoken out about the devastating impacts that result from City and State governmental agencies aiding or cooperating with federal immigration enforcement efforts. In 2017, we urged then Mayor de Blasio to protect non-immigrants from ICE

by encouraging NYPD to issue civil citations rather than arrests for low-level offenses.[1] Similarly, we have spoken about the need to reform New York's detainer laws[2] and to remove any funding restrictions that prohibit legal service providers from using city funding to represent non-citizens convicted of certain crimes.[3] Permitting the DOC and NYPD to cooperate with ICE and transfer people into federal custody based on a person's criminal history is deeply misguided. This approach exacerbates the disproportionate impact of the criminal legal system.

Since 2014, the New York City detainer laws have prohibited the DOC and the NYPD from holding a person on an immigration detainer unless presented with a judicial warrant naming an individual who was convicted of certain enumerated violent or serious crimes.[4] Local laws also permit the NYPD to hold people for ICE for up to 48 hours after their release date if they have been convicted of one of the enumerated crimes and re-entered the country after deportation.[5] Importantly, in 2018 the Appellate Division of New York's Second Department recognized in *Francis v. DeMarco* that law enforcement officers in New York have no authority under existing state law to detain a person for civil immigration purposes without a judicial warrant, effectively prohibiting civil immigration detainers statewide.[6] The current law, which allows the NYPD to hold people without a judicial warrant appears to be on its face a violation of the Second Department's decision in *Francis*.[7]

Also in 2014, the Immigration Committee testified at a hearing of the New York City Council commending you for introducing legislation to limit the constitutional violations arising from New York's detainer laws.[8] We heralded your efforts as improving the NYPD's ability to keep all New Yorkers safe by building trust between police and immigrant communities. At the time, we were deeply troubled by the devastating results of local law enforcement cooperation with immigration enforcement efforts. We have since amplified our concerns in a transition memo to Mayor Eric Adams.[9] The Immigration Committee remains concerned about New York City's

---

[1] *See* https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/letter-to-mayor-de-blasio-regarding-protecting-immigrant-new-yorkers-from-deportation (all cites last visited Feb. 16, 2023).

[2] *See* https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/testimony-before-the-new-york-city-council-in-support-of-legislation-to-further-limit-the-constitutional-violations-arising-from-current-detainer-practices-between-the-us-immigration-and-customs-enforcement-ice-the-department-of-correction-and-the-new-york-police-department.

[3] "We urge you to reconsider the criminal Carve-Out altogether and fully fund desperately needed immigration legal services, whether the potential clients are facing removal or seeking affirmative immigration benefits..." "Ending the funding "Criminal Carve Out" for Immigration Legal Service Providers," New York City Bar Association, June 1, 2018, https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/ending-the-funding-criminal-carve-out-for-immigration-legal-service-providers.

[4] NYC Admin. Code § 9-131(b)(1)(ii); NYC Admin. Code § 14-154(b)(1)(ii).

[5] NYC Admin. Code § 14-154(b)(2).

[6] *People ex rel. Wells o.b.o. Francis v. DeMarco*, 168 A.D.3d 31 (N.Y. App. Div. 2018).

[7] *See Francis*, 168 A.D.3d at 53.

[8] *Supra* n 1.

[9] *See* https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/supporting-new-york-citys-non-citizen-residents-policy-recommendations-for-mayor-adams.

detainer law. NYPD and DOC's continued cooperation with Immigration and Customs Enforcement (ICE) is especially disheartening.

II. INTROS. 0184 AND 0185 ARE NECESSARY TO REMEDY ONGOING DANGERS OF NEW YORK'S DETAINER LAWS

Proponents of Intros. 0184 and 0185 highlight the specific perils of local law enforcement agencies, like the NYPD and DOC, working with Immigration and Customs Enforcement. In particular, they are concerned with DOC's prolonged holding of non-citizens in custody premised solely off of the person's criminal history. They have similar concerns about NYPD. Intros. 0184 and 0185 would essentially clarify any confusion among local law enforcement agencies vis-à-vis any assistance or cooperation provided to ICE. They do not call for an outright ban of such collaboration; rather, they are seeking basic due process rights for New York's non-citizen population by holding city agencies to the requirement that such collaboration is limited to the instances where ICE acquires a warrant signed by an Article III federal court judge.

Intros. 0184 and 0185 improve the existing detainer law by eliminating the request for notification language, and clearly requiring a judicial warrant be presented in all cases for DOC or NYPD to communicate with ICE. The judicial warrant requirement inserts an important element of due process and accountability, ensuring that ICE is held to the probable cause standard of proof before taking away a person's liberty. Currently ICE only proffers their own internal administrative warrants, which are not signed by a judge and are not subject to any reliable standards or review. The warrant requirement ensures that a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631 is the one who authorized federal immigration authorities to take a person into custody.

As you no doubt are aware, many devastating immigration policies remain in effect because federal legislators have been unable to agree on comprehensive immigration reform. The Biden Administration has improved some of the immigration landscape by voiding some of the harshest enforcement mechanisms put into place by the prior administration. Nevertheless, immigration enforcement remains in full force. Local jurisdictions must continue the fight to defend and support our immigrant communities. As the historic gateway for immigrant Americans and the as a truly global city, New York, we believe, has a particular responsibility to its non-citizen residents.

Intros. 0184 and 0185 are critical because violations of the existing detainer laws can have devastating impacts on individuals and creates a sense of terror for non-citizens and their loved ones. Furthermore, violations inevitably result in unnecessary detention, arrests, and possible deportation.[10] In reference to a particular instance where a non-citizen was transferred to ICE custody by local law enforcement, former Mayor de Blasio referred to it as an "egregious mistake and a clear violation of local law."[11] All violations, both technical and in spirit, demonstrate the serious weaknesses in our existing detainer laws and highlight the urgent need to create

[10] Correal, Annie and Shanahan, Ed, "*He Was Caught Jaywalking. He Was Almost Deported for It",* N.Y. Time (March 11, 2021) https://www.nytimes.com/2021/03/11/nyregion/daca-ice-nyc-immigration.html.

[11] *Id.*

meaningful, responsive mechanisms to protect immigrant New Yorkers from not only ICE's abuses, but also the abuses perpetrated by DOC and NYPD.

These violations make clear that the detainer law must be strengthened to prevent further violations. The bills currently before City Council can help rectify some of the shortcomings in the City's existing laws and constitute a step towards true disentanglement from immigration enforcement. Intros. 0184 and 0185 eliminate the loopholes to the current law which ICE uses to justify violations of the detainer law, by ignoring the judicial warrant requirement, as well as violations of the intent and spirit of the laws.

Intertwining local law enforcement with ICE enforcement runs counter to New York's longstanding history of welcoming, including, and protecting all of its residents regardless of their background. It also contradicts our purported status as a "sanctuary city" that respects, values, and heralds non-citizens for their contributions to the fabric of our great city. This will inevitably make New Yorkers lose confidence that City agencies and their representatives will not communicate and collude with ICE and creates grave mistrust and fear in communities not only of immigration enforcement, but also of accessing City services and engaging with City agencies. A January 2022 report from the Center for Migration Studies found that fear and other barriers often prevent immigrants from accessing public services for which they are eligible.[12] Some immigrants are hesitant to call the police, report crimes or testify in court out of fear of exposing themselves to immigration enforcement. However, when strong local policies are in place that clearly protect against localities communicating and colluding with ICE, domestic violence and other crimes are more likely to be reported.[13]

III. CONCLUSION

Intros. 0184 and 0185 directly address the Immigration Committee's longstanding concerns about New York's detainer laws by removing ambiguity about whether and when city agencies will cooperate with ICE. Strengthening the judicial warrant requirement will remove lingering confusion within the local law enforcement offices and aligns with due process and our city's spirit of inclusion and fairness for non-citizens.

Immigration and Nationality Law
Danny Alicea, Chair

Contact:
Elizabeth Kocienda, Director of Advocacy | 212.382.4788 | ekocienda@nycbar.org
Maria Cilenti, Senior Policy Counsel | 212.382.6655 | mcilenti@nycbar.org

[12] Alulema, Daniela and Pavilon, Jacquelyn, "Immigrants' Use of New York City Programs, Services and Benefits: Examining the Impact of Fear and Other Barriers to Access," (Jan. 31, 2022) https://cmsny.org/publications/nyc-programs-services-and-benefits-report-013122/.

[13] *Id.*

Legislative Affairs
One Whitehall Street
New York, NY 10004
212-607-3300
www.nyclu.org

Testimony of the New York Civil Liberties Union
to
The New York City Council Committee on Immigration
and
Committee on Criminal Justice
regarding
Oversight of New York City's Detainer Laws and Related Legislation

February 15, 2023

The New York Civil Liberties Union (NYCLU) respectfully submits the following testimony with respect to the joint New York City Council Committee on Immigration and Committee on Criminal Justice oversight hearing concerning New York City's detainer laws and multiple bills related to New York City's non-cooperation in immigration enforcement matters.

I. Introduction.

The NYCLU, the New York State affiliate of the American Civil Liberties Union, is a not-for-profit, nonpartisan organization with eight offices across the state and over 100,000 members and supporters. The NYCLU defends and promotes the fundamental principles and values embodied in the Bill of Rights, the U.S. Constitution, and the New York Constitution, through an integrated program of litigation, legislative advocacy, public education, and community organizing.

Disentangling local government from immigration enforcement across New York State has long been a priority for the NYCLU. For more than a decade, the NYCLU has helped shape the multiple iterations of New York City's local laws prohibiting law enforcement from responding to immigration detainers and otherwise limiting collusion with immigration enforcement. In 2017, the NYCLU worked closely with the Council on a package of legislation to prohibit the use of city resources for immigration enforcement, protect city data, and reaffirm the city's commitment to protecting its immigrant residents. Since that time, we have kept close tabs on the

city's observance of its disentanglement laws, where compliance has lapsed, and how those laws can be strengthened.

Today's hearing comes amid renewed attention towards how New York City welcomes and protects its immigrant residents. Since last fall, the city has welcomed thousands of new residents who have immigrated to the United States seeking better lives for themselves and their families. Though newly arriving migrants have been met with immense generosity from New Yorkers, they have unfortunately not been treated with the same kind of dignity from our city government. Mayor Adams has invoked New York's status as a "sanctuary city" while in the same breath speaking of excluding new arrivals from legally enshrined right to shelter.[1]

Against this backdrop, it is as important as ever that New York City's claim to be a safe and welcoming city for immigrants amount to more than rhetoric. That begins with an examination of the local laws that have for years placed a barrier between local government and federal immigration enforcement. Laws enacted by the Council over the past decade – restricting the use of immigration detainers and notifications to U.S. Immigration and Customs Enforcement (ICE),[2] prohibiting the use of city resources for immigration enforcement,[3] and limiting access to city property by non-local law enforcement[4] – are at the core of the city's disentanglement policies. But they also contain harmful exceptions that allow collusion between city law enforcement and ICE to continue.

The bills currently before the Council can begin to address the flaws in the city's existing disentanglement laws and fulfill the city's promise to its immigrant communities. Our testimony addresses the three bills before the committee today, and explores other ways that the city's disentanglement laws can be improved on and better enforced.

---

[1] Chris Sommerfeldt and Michael Gartland, *Mayor Adams claims right-to-shelter law does not apply to NYC asylum seekers; critics pounce*, Daily News (Jan. 25, 2023), https://www.nydailynews.com/news/politics/new-york-elections-government/ny-adams-migrants-right-to-shelter-biden-harris-relief-center-legal-aid-20230125-cbb7g2sfbbdt5lrbdwlovxj7oy-story.html.
[2] NYC Admin. Code § 9-131; NYC Admin. Code § 14-154.
[3] NYC Admin. Code § 10-178.
[4] NYC Admin. Code § 4-210.

II. Intros. 184-2022 and 185-2022: Filling the gaps in New York City's detainer laws.

A key piece of New York City's disentanglement policies are its laws restricting law enforcement from honoring civil immigration detainers.[5] These laws have evolved over the years. In 2011, the Council enacted a local law to prohibit the Department of Correction (DOC) from honoring civil immigration detainers unless a person had been convicted of a crime, was a defendant in a pending criminal case, had an outstanding criminal warrant, or was identified as a gang member or match in a terrorist watch database.[6] At the urging of advocates, amendments were enacted in 2013[7] and 2014[8] to strengthen these laws and limit their exceptions.

As they currently exist, New York City's detainer laws prohibit both the DOC and the NYPD from honoring an immigration detainer by holding a person past their release date, or by notifying immigration authorities of a person's release, unless presented with a judicial warrant *and* that person was convicted of certain enumerated violent or serious crimes or is identified as a match on a terrorist watch list.[9] The city's prohibition on honoring immigration detainers was put in place years before the Second Department Appellate Division's holding in 2018 that law enforcement officers in New York have no authority under state law to detain a person for civil immigration purposes without a judicial warrant.[10]

The requirement for a judicial warrant issued by a federal judge or magistrate is one that ICE seemingly does not abide by. In 2021, city officials testified before this same committee that they were not aware of a judicial warrant having ever been provided alongside a detainer request.[11] Rather, ICE's general practice is to attach its own administrative warrants alongside its detainer requests.[12] Administrative warrants are issued by ICE itself, with no judicial or other independent review, and do not fall within the definition of arrest warrants recognized under state law.[13]

---

[5] NYC Admin. Code § 9-131; NYC Admin. Code § 14-154.
[6] NYC Local Law No. 62 (2011).
[7] NYC Local Law No. 21 (2013); NYC Local Law No. 22 (2013).
[8] NYC Local Law No. 58 (2014); NYC Local Law No. 59 (2014).
[9] NYC Admin. Code § 9-131(b)(1)(ii); NYC Admin. Code § 14-154(b)(1)(ii).
[10] *People ex rel. Wells o.b.o. Francis v. DeMarco*, 168 A.D.3d 31 (N.Y. App. Div. 2018).
[11] NYC City Council Committee on Immigration, Hearing: Oversight of New York City's Detainer Laws, Testimony of NYC Department of Corrections and Mayor's Office of Immigrant Affairs, June 9, 2021, *available at* https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=868388&GUID=BFBC7758-EFA3-44A8-B76B-28FD920F1AC8&Options=info|&Search=.
[12] 8 U.S.C. 1226(a).
[13] *See Francis*, 168 A.D.3d at 43.

New York's detainer laws are often the reference point used when discussing New York City's "sanctuary" status. Yet these laws have not prevented the DOC from colluding with ICE and transferring people in city jails into immigration detention. By DOC's own accounting, it has transferred 108 people into ICE custody since 2017.[14] The purported authority invoked by the DOC for these transfers is a section of the law that prohibits use of department resources or communicating with ICE regarding a person's incarceration status, release dates, or court appearances – unless the person in question was convicted of certain offenses or is a match on a terrorist watch screening database.[15]

The city's detainer law regulating the NYPD contains additional problematic exceptions. Like the companion DOC law, the NYPD detainer law generally prohibits the NYPD from honoring an immigration detainer unless provided with a judicial warrant *and* the individual has a qualifying conviction or is a match on a watchlist.[16] However, the law separately allows the NYPD to hold people for ICE for up to 48 hours after their release date if a search reveals that they were convicted of certain crimes and re-entered the country after a previous removal, or are a match on a terrorist screening database.[17] The validity of this exception, which purports to allow prolonged detention absent a judicial warrant, is called into serious question in light of the Second Department's decision in *Francis*.[18]

These loopholes in the city's detainer laws sow confusion, put people at risk, and undermine the city's claim as a safe and welcoming place for immigrants. The perplexing structure of the local laws sends mixed messages to city law enforcement about their role in immigration enforcement, inviting loose interpretations that keep city agencies actively engaged in immigration enforcement. Public records obtained by the Immigrant Defense Project and shared with the NYCLU reveal the alarming extent to which DOC and ICE employees communicate about people in custody, actively and sometimes gleefully arranging for people to be picked up.[19] This collusion between the DOC and ICE runs contrary to the spirit of the detainer laws and the city's commitment to immigrant communities.

---

[14] *See* NYC DOC, *Statistics and Compliance: ICE Reports*, https://www.nyc.gov/site/doc/about/statistics-and-compliance.page (total number compiled from ICE reports posted starting in FY2017 and ending in FY2022).
[15] NYC Admin. Code § 9-131(h).
[16] NYD Admin. Code § 14-154(b)(1).
[17] NYC Admin. Code § 14-154(b)(2).
[18] *See Francis*, 168 A.D.3d at 53.
[19] Records obtained through the New York Freedom of Information Law (FOIL), filed by the Immigrant Defense Project and the Black Alliance for Just Immigration, in December 2018. Portions of these records were provided to the NYCLU by IDP and BAJI.

The convoluted drafting of the existing laws also invites errors by corrections employees. In one high-profile example in 2019, the DOC transferred a Bronx man into ICE custody in response to a detainer despite not having any prior convictions that might have invoked one of the detainer law's exceptions.[20] The city publicly acknowledged at the time that the transfer was an "operational error."[21] The existence of carveouts in the city's detainer law makes such mistakes by DOC employees all but inevitable.

If New York City is to live up to its claim to be a welcoming city for immigrants, it must finally close the loopholes in its detainer laws that enable ongoing collusion with immigration authorities. Doing so would bring the city in line with modern approaches pursued by other jurisdictions, such as Chicago, that have moved to eliminate similar exceptions in their local disentanglement laws.[22] To fully protect immigrants across New York, the state legislature must act to pass the New York For All Act,[23] which would prohibit transfers to ICE by all law enforcement agencies in New York, without criminal carveouts. But New York City must continue to lead the way by strengthening its own longstanding disentanglement laws.

Intros. 184 and 185 would take an important step in this direction. Intro. 184 would eliminate the suspect provision of local law that purports to allow the NYPD to hold a person beyond their release date for ICE even when they are not provided with a judicial warrant. Intro. 185 would remove the language that the DOC relies on to justify transferring a person into ICE custody in response to a detainer when a person has prior criminal convictions. These bills would significantly narrow the circumstances under which city law enforcement can collaborate with ICE.

While these two pieces of legislation would represent progress, they can still be improved upon to more completely move away from a model that categorizes immigrants based on their past contact with the criminal legal system. As drafted, these bills would leave in place references to particular offenses that the city has pointed to as justification for treating certain immigrant residents less favorably,

---

[20] Eric Lach, *A Deportation Nightmare in the Bronx*, The New Yorker (Feb. 20, 2021), https://www.newyorker.com/news/our-local-correspondents/a-deportation-nightmare-in-the-bronx.
[21] Annie Correal and Ed Shanahan, *He Was Caught Jaywalking. He Was Almost Deported for It.*, N.Y. Times (March 11, 2021), https://www.nytimes.com/2021/03/11/nyregion/daca-ice-nyc-immigration.html.
[22] Fran Spielman, *City Council eliminates carve-outs to strengthen Welcoming City ordinance*, Chicago Sun-Times (Jan. 27, 2021), https://chicago.suntimes.com/2021/1/27/22252689/immigration-chicago-city-council-eliminates-carve-outs-welcoming-city-ordinance-ice-undocumented#:~:text=By%20a%20vote%20of%2041%20to%208%2C%20the%20Chicago%20City,or%20prior%20felony%20convictions%3B%20or.
[23] New York for All Act, S.B. 987 (Gounardes), https://nyassembly.gov/leg/?bn=S00987&term=2023.

including by refusing to fund legal representation for some people under the New York Immigrant Family Unity Project (NYIFUP).[24] As these bills move through the legislative process, the Council should continue to work with advocates to refine and strengthen them.

III. Intro. 158-2022-A: Creating a private right of action related to civil immigration detainers and cooperation with federal immigration authorities.

New York City's multiple laws concerning detainers and immigration enforcement, while far from perfect, have provided a meaningful buffer that restricts city employees from colluding with ICE. But when those laws are violated and people are transferred to ICE custody unlawfully, there are few remedies that individuals can pursue to hold city agencies accountable. The DOC, NYPD, and other agencies subject to the city's disentanglement laws are largely left to police themselves and deal with any violations they identify through their own disciplinary procedures.

Intro. 158-A attempts to fill this accountability void by allowing those who were detained by immigration authorities and their relatives, where such detention resulted from the deprivation of a right created or protected by one of the city's disentanglement laws, to bring a civil action for legal or other equitable relief. Giving those who have been wronged by the actions of law enforcement a pathway to the courts is an important part of holding officers accountable and deterring unlawful behavior, in addition to compensating those harmed. We look forward to working with the Council to ensure that those who have been wronged by disentanglement law violations by city employees receive their day in court and are afforded meaningful relief.

IV. Further efforts to disentangle New York City from immigration enforcement.

In addition to the legislation before the Council at today's hearing, there are other steps that the city can take to strengthen its disentanglement laws. In 2017, the Council passed a local law that broadly prohibits the use of city resources, including time on duty, for immigration enforcement.[25] The goal was to create comprehensive restrictions on ICE collusion for city employees that extend beyond

---

[24] Jeff Coltin, *NYC covers immigrants' legal costs for those without criminal conviction*, City & State (June 14, 2018), https://www.cityandstateny.com/politics/2018/06/nyc-covers-immigrants-legal-costs-for-those-without-a-criminal-conviction/178375/.

[25] NYC Local Law No. 228; NYC Admin. Code § 10-178.

the context of people held in local jails or police custody. The passage of Local Law 228 was a significant addition to the city's disentanglement laws, and the Council should be attentive to its implementation.

While strong in many respects, Local Law 228 contained unfortunate and unclear exceptions. For example, the law provides that city employees shall not be prevented from "performing their duties in accordance with state and local laws" and allows the use of city resources for immigration enforcement if done as part of cooperative arrangements with federal law enforcement that are not "primarily intended to further immigration enforcement."[26] Such exceptions can be interpreted in multiple ways, and it is unclear how city agencies and departments might be invoking them in practice to continue colluding with ICE.

For example, in its patrol guide, the NYPD lays out a procedure for responding to requests for immigration enforcement that generally requires such requests to be decided on by a duty chief, "considering the need to ensure public safety."[27] Yet the guide permits decisions about whether to support non-local law enforcement agencies to be made by the highest ranking officer at the scene in "emergency, public safety related situations," rather than being elevated up the chain of command.[28] The patrol guide also states, without additional guidance, that the prohibition on resources does not apply to cooperative agreements such as task forces not primarily intended to further immigration enforcement, seemingly leaving it to individual officers to determine when that exception applies.[29]

As part of its oversight into New York City's disentanglement laws, the Council must not lose sight of Local Law 228 and the many questions concerning its implementation. The Council should scrutinize how different city agencies, including the NYPD, are applying the law in particular situations, such as when ICE officers request traffic or crowd control support when conducting a raid. Most importantly, the Council should revisit the exceptions built into the local law to ensure that they are not leaving the door open for unintended ICE collusion.

The Council should also use its authority to increase transparency around the city's disentanglement laws and their implementation. Local Law 228 requires that requests to assist immigration enforcement be recorded, along with the action

---

[26] NYC Admin. Code § 10-178(e).
[27] NYPD Patrol Guide No. 212-126 (June 24, 2020), *available at* https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide2.pdf.
[28] *Id.*
[29] *Id.*

taken, and reported to the speaker of the City Council.[30] However, the city is not required to post the reports publicly. Recent reports obtained by the NYCLU have contained no entries, raising questions about how diligently agencies are adhering to their reporting requirements. The DOC and NYPD are also required to report annually on the detainers they receive and how they respond and post those publicly, but those reports contain minimal details on the individual instances in which the agencies communicate and transfer people to ICE.

As the Council is considering revisions to the city's disentanglement laws, it should consider how transparency around the laws can be enhanced. All reports should be made available to the public and easily accessible online. The law should mandate more specific details be provided about how the DOC, NYPD, or other agencies receive and respond to requests from ICE. We would welcome the opportunity to work with the Council to shape future legislation to accomplish this.

V. Conclusion.

Now as much as ever, New York City must make clear that it is committed to welcoming and protecting its immigrant residents. That commitment must be reflected in our city's laws and carried out faithfully. We urge the City Council to move quickly in passing legislation to fill the holes in the city's detainer laws, continue its oversight of the implementation of those laws, and work with advocates on further legislation to protect the rights of immigrant New Yorkers.

[30] NYC Admin. Code § 10-178(d).

New York City Council Committees on Immigration and on Criminal Justice
February 15, 2023
Hearing on New York City Detainer Laws and Related Legislation
Testimony of Showing Up For Racial Justice NYC, (SURJ NYC)

Thank you to the Committees on Immigration and on Criminal Justice for holding this public hearing to address the New York City Detainer Laws.

Our organization is SURJ NYC (Showing Up for Racial Justice, New York City chapter) and we are submitting this testimony in support of Intros. 184 and 185, to further limit any communication between New York City agencies, including the Department of Corrections ("DOC") and the New York Police Department ("NYPD") and Immigration and Customs Enforcement ("ICE"), and to pass Intro.158, to allow people unlawfully transferred to ICE custody a private right of action. Thank you, Council Members Hanif and Powers, for introducing these bills.

SURJ is a national organization created to move white people into action as part of the multiracial movement for justice and liberation for all. The system of white supremacy harms everyone—including white people, though in very different ways than it harms people of color and Black people in particular. Through community organizing, mobilizing, and education, SURJ's NYC chapter works to connect and involve New Yorkers with racial justice organizing by groups led by people of color. SURJ NYC provides a space to build relationships, skills, and political analysis to act for change.

Background:

Since 2014 the New York City detainer laws have prohibited the DOC and the NYPD from holding a person on an immigration detainer unless presented with a judicial warrant and that person was convicted of certain enumerated violent or serious crimes or is identified as a match on a terrorist watch list.[1]

Local laws also permit the NYPD to hold people for ICE for up to 48 hours after their release date if they have been convicted of one of the enumerated crimes and re-entered the country after deportation, or is a match on a terrorist watchlist.[2] Importantly, in 2018 the Second Department Appellate Division recognized in *Francis v. DeMarco* that law enforcement officers in New York have no authority under existing state law to detain a person for civil immigration purposes without a judicial warrant, effectively prohibiting civil immigration detainers statewide.[3] The

[1] NYC Admin. Code § 9-131(b)(1)(ii); NYC Admin. Code § 14-154(b)(1)(ii).
[2] NYC Admin. Code § 14-154(b)(2).
[3] *People ex rel. Wells o.b.o. Francis v. DeMarco*, 168 A.D.3d 31 (N.Y. App. Div. 2018).

current law, which allows the NYPD to hold people without a judicial warrant appears to be on its face a violation of the Second Department's decision in *Francis.*[4]

On June 9th, 2021, the Committees held the first oversight hearing of the existing detainer law to assess the functioning of the law. Testimony during the hearing detailed the ways in which the "DOC" and the New York Police Department " NYPD" regularly and flagrantly violate the intent and spirit of the existing detainer laws. During the hearing it became clear that NYPD and DOC read the "request for notification[5]" section of the existing law as permitting notification and transfers of custody to ICE without a judicial warrant as long as the individuals were either convicted of the enumerated crimes or identified as a possible match on the terrorist watch list[6]. In fact, DOC testified that ICE has *never* proffered a judicial warrant in conjunction with a request for notification or a transfer of someone in DOC custody[7].

Importantly, the Council heard deeply disturbing details of the undisputed violation of the detainer law which resulted in the arrest and detention and near deportation of Javier Castillo Maradiaga.[8]A spokesperson for then Mayor de Blasio stated that "Mr. Maradiaga's transfer to ICE was an egregious mistake and a clear violation of local law."[9] Yet, Mr. Castillo Maradiaga had no recourse available to him for all he was made to endure. All violations, both technical and in spirit, demonstrate the serious weaknesses in our existing detainer laws and highlight the urgent need to create meaningful, responsive mechanisms to protect immigrant New Yorkers from not only ICE's abuses, but also the abuses perpetrated by DOC and NYPD.

These violations make clear that the detainer law must be strengthened to prevent further violations. The bills currently before City Council can help rectify some of the shortcomings in the city's existing laws and constitute a step towards true disentanglement from immigration enforcement. Intros 184 and 185 eliminate the loopholes to the current law which ICE uses to justify actual violations of the detainer law, by ignoring the judicial warrant requirement, as well as violations of the intent and spirit of the laws.

Fear of Accessing City Services

Under existing law, immigrant New Yorkers cannot feel confident that City agencies and their representatives won't communicate and collude with ICE, a concern which is exacerbated by the lack of any enforcement mechanism for detainer law violations. This creates grave mistrust and

---

[4] *See Francis*, 168 A.D.3d at 53.
[5] NYC Admin. Code § 14-154(h).
[6] N.Y.C. Council Committee on Immigration, Testimony of Kenneth Stukes, Bureau Chief of Security, New York City Department of Corrections, June 9, 2021. *See also* Immigrant Defense Project explainer of DOC's position, https://www.immigrantdefenseproject.org/wp-content/uploads/NYC-Detainer-law-DOC-position-explainer-FINAL.pdf
[7] *Id.*
[8] Correal, Annie and Shanahan, Ed, "*He Was Caught Jaywalking. He Was Almost Deported for It",* N.Y. Time (March 11, 2021) https://www.nytimes.com/2021/03/11/nyregion/daca-ice-nyc-immigration.html.
[9] *Id.*

fear in communities not only of immigration enforcement, but of accessing City services and engaging with City agents. A January 2022 report from the Center for Migration Studies found that fear and other barriers often prevent immigrants from accessing public services they are eligible for.[10] Immigration policies worsened under the Trump administration perpetuated fear of accessing services that have persisted and outlived the Trump administration, such as access to public benefits, access to health services and access to law enforcement and the courts. Some immigrants are hesitant to call the police, report crimes or testify in court out of fear of exposing themselves to immigration enforcement. However, when strong local policies are in place that clearly protect against localities communicating and colluding with ICE, domestic violence and other crimes are more likely to be reported.[11]

Judicial Warrant Requirement

Intros. 184 and 185 improves the existing detainer law by eliminating the request for notification language, and clearly requiring a judicial warrant be presented in all cases for DOC or NYPD to communicate with ICE. The judicial warrant requirement inserts an important element of due process and accountability, ensuring that ICE is held to the probable cause standard of proof before taking away a person's liberty. Currently ICE only proffers their own internal administrative warrants which are not signed by a judge and are not subject to any reliable standards or review. The warrant requirement ensures that a judge appointed pursuant to article III of the United States constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631 is the one who authorized federal immigration authorities to take a person into custody.

Eliminating Criminal Carveouts

Permitting the DOC and NYPD to conspire with ICE and transfer people into federal custody based on a person's criminal history or match on a government watch list is deeply misguided. This approach exacerbates the disproportionate impact of the criminal legal system, which unequally targets Black and Brown people. While the current bills do not eliminate the list of 177 criminal convictions that allow NYC agents to initiate communication with ICE, we urge this Council to include amendments that would eliminate criminal carveouts. Carveouts set a dangerous precedent that some New Yorkers are not deserving of the same degree of protection and due process as others. In fact, the 177 list of qualifying crimes has already been used to strip new yorkers of other important due process protections, including access to representation in deportation cases[12]. Criminal carveouts take on a life of their own and send a message to the

---

[10] Alulema, Daniela and Pavilon, Jacquelyn, "Immigrants' Use of New York City Programs, Services and Benefits: Examining the Impact of Fear and Other Barriers to Access.: (January 31, 2022) https://cmsny.org/publications/nyc-programs-services-and-benefits-report-013122/

[11] *Id.*

[12] Coltin, Jeff, "*NYC Covers Immigrants Legal Cost for those without a Criminal Conviction"*, City and State (June 14, 2018)https://www.cityandstateny.com/politics/2018/06/nyc-covers-immigrants-legal-costs-for-those-without-a-criminal-conviction/178375/

administration that this city does not owe an equal duty of protection to all residents. That is not the case and we must end this practice. SURJ NYC supports amendments to eliminate the criminal carveouts.

Conditions in ICE Detention

The detainer law, and New York City's protection of our immigrant communities matter because ICE causes irreparable harm by separating families, disrupting communities, and putting people in cages simply because they were not born in this country. ICE detention in New York State is inhumane. Most people who are arrested by ICE in New York City are detained at Orange County Jail in Goshen, NY. Orange County Jail is notoriously dangerous and abusive. Last year during the New York City Council Hearing on COVID-19 in ICE Detention, directly impacted people testified about the conditions in the jail. People reported unsanitary conditions, exceedingly cold temperatures, inedible and inadequate food. Testimony and legal claims have also highlighted that officers at Orange County jail are abusive: they make xenophobic and racist comments, including using the N word; scream at detainees for not speaking in English; threaten to put detainees in solitary confinement for wearing a sweater in freezing temperatures; and regularly fail to provide appropriate meals and prayer spaces. There are widespread reports of physical violence and excessive force by Orange County Jail officers, including pepper spraying, kicking, and punching people involved in nonviolent protest. The detainer laws must be fixed so we can prevent more of our New York City neighbors from being funneled into these violent places.

Private Right of Action

A violation of the detainer law that causes family separation, anxiety, or leads to detention for any period of time is unacceptable and must be accounted for. Councilmember Hanif's bill **Int. No. 158-A**, "Civil action for deprivation of rights," recognizes that those who are harmed by our city's wrongdoing, and their direct relatives, need to be justly compensated.

Legislation Being Considered

- Int. 158 (CM Hanif) – Would create a private right of action to allow individuals who were wrongfully held due to the City's violations of the civil immigration detainer laws to take legal action in any court and seek justice. SURJ NYC supports the City Council adopting this bill for a Private Right of Action by people harmed by the city's actions due to violations of the detainer law, so that they and their families can be justly compensated. NYPD, DOC, and ICE are institutions created to uphold white supremacy. The violence they commit is not because they are "broken" or "failing," but is in their nature. It is what they are designed to do.

- Int. 184 (CM Powers) – Would prohibit the NYPD from holding a person for ICE without a warrant signed by a federal judge, bringing the local law in line with state law and closing this gap in New York City's laws. SURJ NYC supports the requirement of a judicial warrant in EVERY case where DOC or NYPD wishes to communicate with ICE. The current law allows for abuse by ICE, which has repeatedly shown itself to be a bad-faith actor, showing immigrants administrative warrants and pretending they are judicial.

- Int. 185 (CM Powers) – Would limit communication between the department of correction and federal immigration authorities SURJ NYC strongly supports eliminating the criminal carveouts that allow DOC and NYPD to transfer people into federal custody based on their so-called criminal history or matches on a government watchlist. Given the white supremacist nature of the policing, jails, and surveillance that make up the prison-industrial complex, Black and brown people, including immigrants. are disproportionately policed in this city and therefore more likely to have contact with the criminal legal system. Policing, whether by NYPD or ICE, is a system of social control; it does not provide public safety and is not meant to. It is time for the city to end its complicity in this practice.

SURJ NYC urges the City to stop being complicit in ICE surveillance and enforcement. End the 177 convictions carveouts. Give reparations to Black and brown immigrants who are survivors of NYPD, DOC, and ICE violence. Defund NYPD for regularly flouting NYC law at the expense of the lives of immigrant New Yorkers. SURJ NYC has been part of the organizing to end these abuses, and we urge the City Council to do the right thing by adopting all three of the bills. We thank you for the time and consideration.

Learn More:

- Conditions in ICE detention in NYS: COVID-19 outbreaks, sexual abuse by guards, denial of health care, harassment by guards, and unsanitary conditions.
- In November 2022 ICE released the private information of over 6,000 detained people fleeing persecution and torture.
- When someone is arrested by local police in New York State, New York shares their information with ICE. ICE can then take this person into custody, triggering indefinite detention and deportation, among other things.
- In 2018, ICE sent threatening letters to NYC residents, contributing to a "climate of fear."
- In December 2019, NYC's Department of Corrections admitted that they violated local law in transferred Javier Castillo Maradiaga to ICE custody. And here.

- In January 2020, ICE's Acting Director supported NYPD Commissioner in his bail reform scare tactics and quite literally told him to call him.
- In February 2020, ICE hospitalized Gaspar Avendano-Hernandez after tasering him more than six times. In that same interaction, ICE tasered and shot Eric Diaz-Cruz in the hand and face, also hospitalizing him. NYPD then escorted ICE officers as they kidnapped Mr. Avendano-Hernandez as he was discharged from the hospital and transported him to ICE detention at the Hudson County Correctional Facility.
- During the summer 2020 uprising, ICE provided protection for NYPD precincts (WNYC story). NYPD also worked with ICE to arrest and detain a protester who was in fact Puerto Rican and a U.S. citizen, thereby showcasing how such arrests are dictated by both agencies' rampant racist policing.
- In October 2020, there were repeated kidnaps of immigrant New Yorkers conducted by NYPD and ICE alike.
- NYPD is also a recipient of a federal COPS hiring grant, which requires PDs to cooperate with ICE.
- More information on the devastating impacts of the NYPD arrest to deportation pipeline and the NYPD's history of targeting Black immigrants.

New York City Council Committees on Immigration and on Criminal Justice

Hearing on New York Detainer Laws and Related Legislation

February 15, 2023

Testimony of Mekong NYC and the Southeast Asian Defense Project (SEADP)

Thank you to the Committees on Immigration and on Criminal Justice ("the Committees") for holding this public hearing to address the New York City Detainer Laws. My name is Socheatta Meng, the Director at the Southeast Asian Defense Project, and I provide this testimony on behalf of Mekong NYC and the Southeast Asian Defense Project. Mekong NYC and the Southeast Asian Defense Project support Intros. 184 and 185 to further limit any communication between New York City agencies, including the Department of Corrections ("DOC") and the New York Police Department ("NYPD") and Immigration Law Enforcement ("ICE"), and urge the New York City Council to pass Intro. 158, allowing those unlawfully transferred to ICE custody a private right of action.

Mekong NYC is a social justice organization that brings dignity and value to the lives of Southeast Asian refugees and immigrants in the Bronx and throughout New York City. Mekong NYC does so through the combined strategies of community organizing and movement building, centering healing through arts and culture, and creating a strong safety net rooted in community power. As a project under Mekong NYC, the Southeast Asian Defense Project's mission is to end the detention and deportation crisis that has devastated the Southeast Asian community for the past twenty years, and ensure our community can finally be reunited and thrive.

Historical Background of New York City's Southeast Asian Community

New York City's current collaboration with ICE contributes to perpetuating the cycle of trauma, violence, and displacement experienced by New York's City's Southeast Asian community.

During the 1980s and 1990s, more than 1.1 million Southeast Asians from Cambodia, Vietnam, and Laos arrived in the US as the largest refugee community in US history. In New York City, tens of thousands of mostly Cambodian and Vietnamese refugees were resettled in the Bronx and Brooklyn after fleeing the war in Southeast Asia (more commonly known as the "Vietnam War"), the Khmer Rouge genocide, and mass carpetbombing, all of which were fueled by the US's military intervention in the region.

Upon arriving in New York, the Southeast Asian community was resettled into heavily disinvested neighborhoods such as the Bronx, where buildings were literally on fire as a result of the systemic destruction and neglect caused by government policies. Despite the promise of a new start, Southeast Asian refugees in New York continued to face an ongoing struggle to survive, now alongside other immigrants and communities of color in the Bronx. Since then, New York's Southeast Asian community has and continues to face a complex combination of challenges: limited job opportunities, dependence on government benefits, linguistic barriers, over policing, poor educational environments, and mental health challenges.

As a result of these conditions, many Southeast Asian youth became involved with gangs to find protection against bullying and to support their struggling families in the 1990s. This combined with key policies and practices during that period - the Violent Crime Control & Law Enforcement Act of 1994 (the "1994 crime bill") and the overpolicing of communities of color – to convict and incarcerate tens of thousands of Southeast Asian refugees, many of whom were youth at the time of their incarceration. The passage of the 1996 immigration laws - the Illegal Immigration Reform & Immigration Responsibility Act (IIRIRA) and the Anti-terrorism & Effective Death Penalty Act (AEDPA), further punished Southeast Asians who were entangled with the criminal legal system. By expanding the list of deportable offenses and reducing due process protections, the 1996 immigration laws solidified the prison to deportation pipeline, making approximately 17,000 Southeast Asians eligible for deportation.

Since Southeast Asian deportations began in 2002, with Cambodian community members in the Bronx amongst the first individuals to be deported, this country's criminal legal and immigration systems have continued to separate Southeast Asian families and communities for the past two decades. For Southeast Asians with deportation orders, deportation constitutes a second and endless punishment, despite the fact that many have already served their time, been released, started families, and have gone on to rebuild their lives. Furthermore, Southeast Asians with deportation orders face deportation to countries that many fled as babies or young children, and that they have little to no ties to. As Southeast Asians continue to experience detention and deportation, our community continues to be devastated by an endless cycle of violence, displacement, and family separation.

Harmful Impacts of New York City's Collaboration with ICE on the Southeast Asian Community

New York City's current collaboration with ICE serves to further harm, traumatize, and isolate the Southeast Asian community, particularly given our community's deportation history. For Southeast Asians living with deportation orders, or family members of Southeast Asian New Yorkers who have already been deported, the City's collaboration with ICE serves as a deterrent to interact with the government for fear of being identified or detained and deported. As a result, many Southeast Asians - whether they are directly or indirectly impacted by deportation - view the government with fear and suspicion, leading them to live under the radar, and to avoid government interactions.

Additionally, New York's Southeast Asian *immigrant* (versus Southeast Asian *refugee*) community has grown significantly in recent years, with many Cambodian and Vietnamese community members who are undocumented and now call New York City home. Especially for New York's undocumented Southeast Asian immigrants, many struggle to survive and rely on support from the government. However, many undocumented Southeast Asian community members avoid interacting with the government, even when they need support. For example, during the Covid-19 pandemic, most of our undocumented Southeast Asian community members faced financial crisis; many lost their jobs and were unable to access unemployment benefits due to their undocumented status. They declined to contact New York City's government, instead choosing to rely on mutual aid assistance distributed by Mekong NYC and other non-governmental entities who they viewed with less fear and suspicion.

Mekong NYC and the Southeast Asian Defense Project Strongly Urge the City Council to Immediately Pass Intros. 184, 185, and 158

Mekong NYC and the Southeast Asian Defense Project strongly support Intros. 184, 185, and 158; and call on New York's City Council to immediately pass this set of policies. New York City must fulfill its promise to protect its immigrant community by taking concrete action to oppose ICE's surveillance, detention and deportation machine; and finally ending its collaboration with ICE.

Furthermore, we also urge the New York City Council to amend these bills to eliminate any criminal carveouts, including the current list of 177 criminal convictions that allow New York City agents to initiate communication with ICE. Firstly, we oppose any criminal carveouts because we believe that all immigrants are deserving of protection, and not just immigrants with certain convictions. Secondly, as the experiences of the Southeast Asian community demonstrate, there are several mitigating factors that counter arguments for criminal carveouts. Within the Southeast Asian community, many of our community members are deportable based on serious

convictions that would fall under the existing list of carveouts, thereby depriving them of protection under these bills if they were to be passed. Yet, many of these community members were prosecuted as adults despite the fact that they were minors at the time of their conviction and incarceration. Additionally, many received these convictions because they joined gangs to seek protection and support, as they faced bullying, financial instability, and alienation in a new country.

The existence of any criminal carveouts would further serve to exacerbate the injustice that is deeply embedded at every stage of this country's immigration and criminal legal systems. For these reasons, Mekong NYC and the Southeast Asian Defense Project urge the New York City Council to amend Intros. 184, 185, and 158 to eliminate any criminal carveouts, and to swiftly pass these amended bills.

THE LEGAL AID SOCIETY
Justice in Every Borough.

TESTIMONY BEFORE
THE COUNCIL OF THE CITY OF NEW YORK
COMMITTEES ON IMMIGRATION AND
CRIMINAL JUSTICE

Oversight – New York City's Detainer Laws

FEBRUARY 15, 2023

Introduction

This testimony is submitted on behalf of The Legal Aid Society. We want to thank the New York City Council for holding this public hearing to address the New York City Detainer Law. My name is Cheryl Andrada and I am a Staff Attorney in the Criminal Immigration Practice at The Legal Aid Society and I am testifying today in support of Intros. 184 and 185 to further limit any communication between New York City agencies, including Department of Correction ("DOC") and the New York Police Department ("NYPD") and Immigration and Customs Enforcement ("ICE"), and to pass Intro.158, to allow those unlawfully transferred to ICE custody a private right of action.

The Legal Aid Society

The Legal Aid Society ("LAS" or "Legal Aid"), originally founded in 1876 to provide comprehensive services to New York City's immigrant community, is the nation's oldest and largest non-profit legal service provider of legal help for vulnerable low-income children and adults. LAS is organized into three practice areas: Civil, Juvenile Rights and Criminal Defense. Each year, the Society's staff provides free legal services in over 300,000 legal matters involving indigent families and individuals in all five boroughs of New York City. LAS's experience and knowledge make it uniquely qualified to address the issue before the Council.

Legal Aid has for decades maintained a robust citywide Immigration Law Unit that specializes in representing non-citizens in removal proceedings before the New York immigration courts, in petitions before the United States Citizenship and Immigration Service and in federal court, and on appeals. Staff also advise criminal defense attorneys about the immigration consequences of criminal convictions. LAS has a specialized unit, the Criminal Immigration Practice, dedicated to advising and assisting non-citizens who have contact with the criminal legal system. In this capacity, the Criminal Immigration Practice has worked closely with non-citizen clients at Rikers Island, their defense and immigration lawyers, and the DOC in navigating the Detainer Law.

The New York City Detainer Law Creates Barriers to Treatment

The Legal Aid Society routinely encounters non-citizen clients who are charged with "violent or serious" felonies as enumerated under the Detainer Law. Frequently these clients are suffering from untreated mental health or addiction issues, and are offered treatment as a way to humanely resolve their case. Although not required by law, District Attorneys often require the client to plead guilty to the most serious offense charged as a condition of their treatment offer. If the client successfully completes the program, the plea can later be withdrawn, and the case either dismissed or resolved with a lower level offense. Non-citizens who have been charged with violent or serious felonies, however, are unable to take advantage of these treatment programs, for fear that the initial plea will trigger notification and transfer to ICE by the DOC, potential removal from the United States and permanent separation from their families. Non-citizens instead plead guilty to offenses which are not "violent or serious" felonies but accept longer periods of incarceration, and, not having had the benefit of mental health court, are eventually released into the community without treatment. The Detainer Law constrains non-

citizens from taking advantage of the mental health and addiction services that they often need, harming both the client and the community at large.

The Department of Correction Liberally Misinterprets the Notification Provision of the Detainer Law to Circumvent the Law's Judicial Warrant Requirement

The Department of Correction's interpretation of the "notification provision" undermines the Detainer Law, which requires ICE to produce a judicial warrant before DOC can transfer a non-citizen into ICE custody. According to ICE's own admissions before this Council, it has not once procured a judicial warrant to accompany a detainer request. Yet, in violation of the Detainer Law, the DOC has transferred some noncitizens to ICE merely for having a violent or serious felony conviction, but absent a judicial warrant authorizing that transfer.

The DOC justifies their collusion with ICE by relying on the "notification" section of the detainer law, which reads:

> Department personnel shall not expend time while on duty or department resources of any kind *disclosing information* that belongs to the department and is available to them only in their official capacity, in response to federal immigration inquiries or in communicating with federal immigration authorities regarding any person's incarceration status, release dates, court appearance dates, or any other information related to persons in the department's custody, other than information related to a person's citizenship or immigration status, *unless such response or communication: (i) relates to a person convicted of a violent or serious crime* or identified as a possible match in the terrorist screening database; (ii) is unrelated to the enforcement of civil immigration laws; or (iii) is otherwise required by law. NYC Administrative Code 9-131(h) (emphasis added.)

In 2018, Legal Aid represented a mentally ill Legal Permanent Resident from Jamaica, Mr. S. Mr. S's public defenders worked tirelessly to resolve his pending criminal case in mental health court and negotiate a plea that would preserve his eligibility for cancellation of removal, a form of discretionary relief in immigration court. Mr. S had prior misdemeanor convictions that

made him deportable, and a 2014 felony conviction for attempted reckless assault in the second degree, which notably is not a deportable offense itself, but which happens to fall within the 177 crime carveout. After extensive negotiations with the prosecution, Mr. S pled guilty to immigration-safe pleas before a judge at 111 Centre Street. Because Mr. S had already served his time, he expected to be released from the courthouse. Instead, he was returned to Rikers Island, ostensibly for mental health discharge planning. Instead, he was turned over to ICE by Rikers Island staff, even though – in this case, nor in any other detainer request – ICE never presented a warrant from a federal judge. DOC justified their transfer to ICE under the communication section of the New York City Detainer Law.

In Mr. S's case, DOC's coordination went well beyond communication. DOC informed ICE of the date and time of Mr. S's release, allowed ICE on Rikers Island to make the arrest for a civil immigration law violation, oversaw Mr. S's transfer to ICE, and then recorded this transfer on the public Department of Correction website. DOC's justification was that as a public safety policy, they had decided to ensure a so-called "orderly transfer" to ICE when someone has a violent or serious felony conviction.

Mr. S's case is just one example of DOC's continued abuse and deliberate misinterpretation of the Detainer Law. Mr. S's case highlights three key points: First, non-citizens who do everything possible to preserve their presence in this country, through careful negotiations, are still handed over to ICE under the detainer law. Second, the "notification loophole" is being used by DOC to evade the NYC Detainer law – DOC is not simply informing ICE of non-citizens' release dates, they are actively using DOC resources and property to oversee well-colluded transfers. Third, the 177 crime carveout has been abused to subvert the detainer law.

Adding Amendments Abolishing the Criminal Carve Out Will Help Us Protect The Most Vulnerable Non-Citizen New Yorkers

While the current bills do not eliminate the criminal carveout, we urge the Council to include amendments that would abolish the carveout altogether and ensure that all New Yorkers are afforded equal protection under the detainer law. Legal Aid's work as public defenders in both criminal court and immigration court puts us in a position to acutely understand how any interaction between the criminal legal system and deportation machine actually helps perpetuate not prevent violence for some of the most vulnerable New Yorkers- non-citizen survivor defendants. This includes survivors of intimate partner violence and human trafficking. Survivor defendants are charged with many of the crimes enumerated in the criminal carveout- such as felony level assault, robbery and sex trafficking to name a few- often as a direct result of the victimization they experience in their personal lives.

Survivors ensnared in these systems are often difficult to identify because an arrest that triggers an immigration enforcement action reinforces the very fear their batterers or traffickers have instilled in them in order to maintain their power and control. Survivor defendants turned over to ICE face added violence as they experience compounded trauma, difficulties accessing supportive services such as counseling and immigration representation, and often face prolonged immigration detention in inhumane conditions.

In New York City, we still struggle every day with improving our community policing relationships and increasing access to justice and safety for everyone. As our testimony highlights, we need to ensure that survivors and the immigrant community at large do not equate any local law enforcement with deportation. Doing so helps us build rather than erode the trust that is so critical in encouraging survivors to come forward and seek safety. Working to end the

cycle of abuse in non-citizen survivors' personal lives is not enough. We should also do everything possible to end the cycle of abuse in the systems they encounter. Eliminating the criminal carveouts is a crucial step in that direction.

Conclusion

The Legal Aid Society respectfully urges the City Council to ensure that the letter and spirit of the Detainer Law are enforced, and that there is meaningful oversight to protect non-citizen New Yorkers from DOC's deliberate abuses of the notification loophole. For New York to truly be a sanctuary city, these abuses must end immediately. Thank you for the opportunity to testify on this important issue. We welcome any questions from the panel.

The Legal Aid Society

/s/ Cheryl Andrada

By: Cheryl Andrada, Esq.
Staff Attorney
Criminal-Immigration Specialist
Criminal Defense Practice
The Legal Aid Society

WRITTEN TESTIMONY OF

THE URBAN JUSTICE CENTER DOMESTIC VIOLENCE PROJECT

NEW YORK CITY COUNCIL COMMITTEES ON IMMIGRATION AND ON CRIMINAL JUSTICE

FEBRUARY 15, 2023

HEARING ON NEW YORK CITY DETAINER LAWS AND RELATED LEGISLATION

Thank you to the Committees on Immigration and on Criminal Justice for holding a public hearing to address the New York City Detainer Laws. My name is Joy Ziegeweid. I am the supervising immigration attorney at the Urban Justice Center Domestic Violence Project ("DVP"). On behalf of DVP, I submit the following written testimony in support of Intros. 184 and 185 to further limit any communication between New York City agencies, including the Department of Corrections ("DOC") and the New York Police Department ("NYPD") and Immigration and Customs Enforcement ("ICE"). At this time, DVP takes no position with respect to Intro. 158.

Thank you on behalf of my colleagues and our clients for the opportunity to submit written testimony on this issue. We are grateful for the Council's support of the organizations that work with the immigrant community to improve life in our city for all New Yorkers. The Council's support allows DVP to continue to provide meaningful services and support to survivors of domestic abuse and human trafficking and empower the most vulnerable members of our communities to live free from violence.

At DVP, we consider domestic violence in any type of intimate partner relationship, regardless of gender identity or sexual orientation, to be a human rights violation. Since our founding in 2003, our project has provided legal advocacy, direct representation, case management, financial empowerment, safety planning and crisis counseling to survivors of domestic violence. Our efforts have proved successful: we are able to reach approximately 1,600 survivors a year, of whom approximately 68% are immigrants. The impact on one individual can change the trajectory of multiple lives: in reality, we are delivering service to the family unit and the community.

In the course of our work with non-citizen survivors of domestic violence, we frequently encounter clients who are terrified of the potential immigration consequences of any type of contact with the criminal legal system—whether as a victim or as a defendant. We see the damage done when local law enforcement agencies collaborate with Immigration and Customs Enforcement.

During the prior presidential administration, the Urban Justice Center was active in the ICE Out of Courts Coalition that advocated for better state and local policies to protect immigrants from ICE arrests at civil and criminal courthouses. The Urban Justice Center filed suit against ICE to challenge its then-policy of arresting immigrants in and around courthouses and filed an amicus brief in related litigation. We engaged in this advocacy because our immigrant clients regularly questioned us about whether ICE would arrest them if they appeared in court to file for custody, seek an order of protection against an abuser, or to defend themselves against a criminal charge. They questioned whether it was even worthwhile to engage the legal system given the risk. We knew that advocacy with elected officials and New York state court officials was imperative to ensure that our clients could continue to safely access the legal system.

In many ways, New York City is a leader in ensuring that immigrant New Yorkers are protected by city agencies. For example, city agencies may not ask about a person's citizenship status unless it is directly relevant to a benefit being sought, and city agencies must provide translation services to speakers of languages other than English. Policies like these have helped DVP's attorneys and advocates explain to survivors of violence that they have rights and protections in New York City, and policies like these encourage survivors who want the protection of law enforcement to call 911 or go to a police precinct to report abuse. However, shortcomings remain.

The New York City Police Department and Department of Corrections are limited in the extent to which they can collaborate with ICE to effectuate ICE's arrest of noncitizens who have been in NYPD or DOC custody. But because of gaps in existing policies and inconsistencies because New York City policy and New York State law, the NYPD and DOC still hand over immigrants to ICE. These policies operate to the detriment of community safety and community trust, and they are especially devastating to our clients—immigrant survivors of violence.

First, although our clients are victims of crimes, they are also at risk of arrest and prosecution, frequently because of cross-arrests or false complaints made by their abusers. Any collaboration at all between local law enforcement and federal immigration enforcement authorities puts our clients at risk. We have seen this repeatedly in our practice. For example, our client AS was falsely accused of assault by their spouse. Fortunately, the criminal case against AS was dismissed, but as AS left the New York City courthouse where the case had been heard, AS was arrested by ICE officers and detained for months before DVP attorneys were able to win bond and free them. In another case, our client AN was also falsely accused of assault by their intimate partner. AN was arrested by the NYPD and fingerprinted, and the fingerprints were transmitted to federal databases where immigration enforcement agencies made

a match and then initiated removal proceedings against AN. We offer these examples to illustrate the many ways in which any contact with the criminal system—even through no fault of their own—puts immigrant survivors at risk.

But city policies that permit city agencies to turn immigrants over to ICE not only harm immigrants caught up in the criminal system, they also reduce immigrants' trust in law enforcement and willingness to report crimes. We hear over and over again from our clients that they want to report their abusers to law enforcement and hold them accountable, but they do not want their abusers—who are often their co-parents and a source of financial support—deported. When city law enforcement agencies collaborate with ICE, our clients' worst fears can come true. For this reason, DVP strongly supports Intros 184 and 185.

Strong policies that protect against local law enforcement collaborating with ICE are essential to ensure that domestic violence and related crimes are more likely to be reported. Intros 184 and 185 are critical in removing ambiguity about whether and when city agencies will cooperate with ICE. Intro 184 would only allow the NYPD to hold a noncitizen for ICE if ICE presents a warrant signed by a federal judge, thus ensuring that city policy is consistent with state law and ensuring that the due process safeguards of a federal judicial warrant are in place before an immigrant New Yorker is handed over to ICE. Intro 185 would forbid the DOC from communicating with ICE about a noncitizen for purposes of ICE enforcement without warrant signed by a federal judge, again ensuring the safeguards of a federal judicial warrant are in place.

In closing, we appreciate the City Council's continued work in fighting for the rights, safety, and security of immigrant New Yorkers. We look forward to continuing to work with you on developing city policies that protect the most vulnerable immigrant New Yorkers.

Sincerely,

Joy Ziegeweid
Supervising Immigration Attorney
jziegeweid@urbanjustice.org |

Madeline Garcia Bigelow
Managing Director, Domestic Violence Project
Associate Director, Urban Justice Center
Mbigelow@urbanjustice.org |

UnLocal
Community Immigration
Legal Services & Education

Testimony submitted to the Joint Committees on Immigration and Criminal Justice, New York City Council
Wednesday, February 14, 2023, 10:00am

T2023-2944 - Oversight - New York City's Detainer Laws

Int 0158-2022 - A Local Law to amend the administrative code of the city of New York, in relation to creating a private right of action related to civil immigration detainers and cooperation with federal immigration authorities

Proposed Int. No. 158-A

Int 0184-2022 A Local Law to amend the administrative code of the city of New York, in relation to limiting the circumstances in which a person may be detained by the police department on a civil immigration detainer

Int 0185-2022 A Local Law to amend the administrative code of the city of New York, in relation to limiting communication between the department of correction and federal immigration authorities

Good morning. My name is Terry Lawson and I am the Executive Director of UnLocal, a community-centered non-profit organization that provides direct community education, outreach, and legal representation to New York City's undocumented immigrant communities. Thank you to the Committee on Immigration and the Committee on Criminal Justice for holding this important hearing.

45 W 29TH STREET, SUITE 203, NEW YORK, NY 10001
main 646-216-8210 | *fax* 212-602-0071 | INFO@UNLOCAL.ORG | UNLOCAL.ORG
/UnLocalInc | @UnLocalInc | @UnLocal

UnLocal
Community Immigration
Legal Services & Education

UnLocal represents individuals who have been turned over by NYPD and DOC in violation of our detainer laws, upending the lives of immigrant New Yorkers and their families. As an organization, we are committed to ending the deportation pipeline and fighting to stop this city from colluding with ICE and harming other families.

It has been two years since we appeared before this Council to urge the City to close the loopholes in our detainer laws, two years of testifying before this Council, two years of working behind the scenes to draft and redraft legislation with our partners at IDP, NYCLU, Bronx Defenders, and the ICE out of NYC Coalition, two years of rallies and press conferences, two years of waiting for action.

We know the limitations of the law, that it so often fails to put right what has gone horribly wrong. That so rarely can we change the law to make a significant difference in people's lives. We are here to tell you that you can make this change and it will have an immediate impact on families like Alma's, Daniel's, and Alexie's. Intros 184 and 185 close the loopholes through which DOC and NYPD have been and continue to collude with ICE in violation of the letter and spirit of the detainer laws passed by this Council in 2014, despite the Administration's statements to the contrary. Collusion which is openly on display in the emails shared today, made explicit

UnLocal
Community Immigration
Legal Services & Education

during DOC's previous testimony before this Council in 2021, and has been revealed in testimony today by Alma, Daniel, and the New York Defender Services. We heard the Administration ask us to trust them, but we cannot and must not do that in lieu of making real legislative change. Intro 158 will finally create a private right of action so that when those laws are violated, there will be redress for the families who suffer outrageous consequences as Alma and Daniel so powerfully testified.

We urge you to make right what New York City has gotten so wrong in its treatment of immigrant families. Thank you.

Terry Lawson
Executive Director, UnLocal
terry@unlocal.org

Garfield Green:

Garfield Green is a husband, father, activist, and dedicated to caring for the needs of his loved ones. Garfield is at Krome Detention Center; his time here has been everything but accommodating to his medical needs.

Garfield is not only an amputee.But he faces chronic health conditions; that are overlooked. Krome Detention Center originated for short-term stays. Garfield's treatment plan requires long-term care. However, ICE officials continue to neglect his health. He publicly shared on several occasions that his medical needs were disregarded. He has faced authoritative retaliation against such complaints. On several occasions, he has been ridiculed and faces the fear he may lose his life behind bars.

Garfield's circumstances affect him but also his loved ones. His immediate family is left to amend the disruption ICE has caused. His family fears Garfield will not return home. He leaves behind his wife and children, who desperately need their father. Garfield was the head of the household. Involuntary, Garfield has to now lean on his family for emotional/financial support. **Garfield Green deserves a second chance.** He has already served his sentence; anything else is repressive.

Families for Freedom works tirelessly to bridge the gap between immigration policies and those directly impacted by them. The negligence of the U.S Immigration and Customs Enforcement will not be condoned. **Free Garfield Green NOW!**

Deskovic Foundation

3148 East Tremont Avenue
Bronx, New York 10461
www.deskovic.org

Written Testimony by Exoneree Jeffrey Deskovic, Esq., Regarding Resolution #473

At the age of 16, I was arrested for a murder and rape which I did not commit. Based upon a coerced, false confession, I was ultimately wrongfully convicted and imprisoned for 16 years- from age 17 to 32-prior to being exonerated via DNA Testing.

My “Miranda” warnings were read to me many times by the police during my 6 weeks of interaction with them, including on the day of the false confession. But I ***neve***r understood them. Neither do other youth who therefore unknowingly waive their rights, very often with disastrous results. This Act would mandate that all youth 17 and younger first consult with an attorney to explain their rights to them. This would be a non-waivable consultation without which no waiver would be valid. Coerced, false confessions have caused wrongful convictions in 29% of the DNA proven wrongful convictions, with youth particularly vulnerable. This bill would address the systemic deficiency. Don’t our children’s lives matter?

Here are 2 Op-Ed’s that I have recently wrote:

Queens Eagle:

https://queenseagle.com/all/2023/2/9/opinion-albany-must-pass-legislation-to-protect-young-new-yorkers-from-invasive-police-interrogations

Daily News:

https://www.nydailynews.com/opinion/ny-oped-teenagers-lawyers-20220513-vf4fqoaxebdahpermayej7qahm-story.html

My name is Nathan Yaffe, I'm an immigration attorney here in NYC. I'm here to talk about being realistic. I want to urge you all to be realistic about who runs our jail system and their relationship to ICE. I urge you to pass these 3 bills but to also be realistic and go further in recognition of the fact that as long as you in council continue to maintain & expand our city's caging capacity, you've done little to protect immigrant New Yorkers.

As usual, we've heard lots of numbers during this hearing.

But DOC numbers are suspect, and because of that, each of the underlying problems are worse than the numbers suggest. **I have here a bail receipt from a friend I posted bail for in late 2018**. DOC wrote, in black & white, on this receipt, that an ICE detainer prevented them from releasing this individual. I recall vividly & have corroborating messages to show that DOC refused to release my friend for more than 24 hellish hours & after a lot of fighting.

Now earlier Paul Schechtman from DOC sat here & said, the past is the past is the past. And time and again he came back to one purported trump card: the DOC #s put out in their annual report for each FY.

But when I go to DOC's ICE report for FY2019, the year my friend was held for ICE, it says "0 individuals were held by DOC for extra time as a result of a civil immigration detainer". But this is false. I know it to be false, I have documents showing it's false, & I have personal knowledge of two other violations from the same FY.

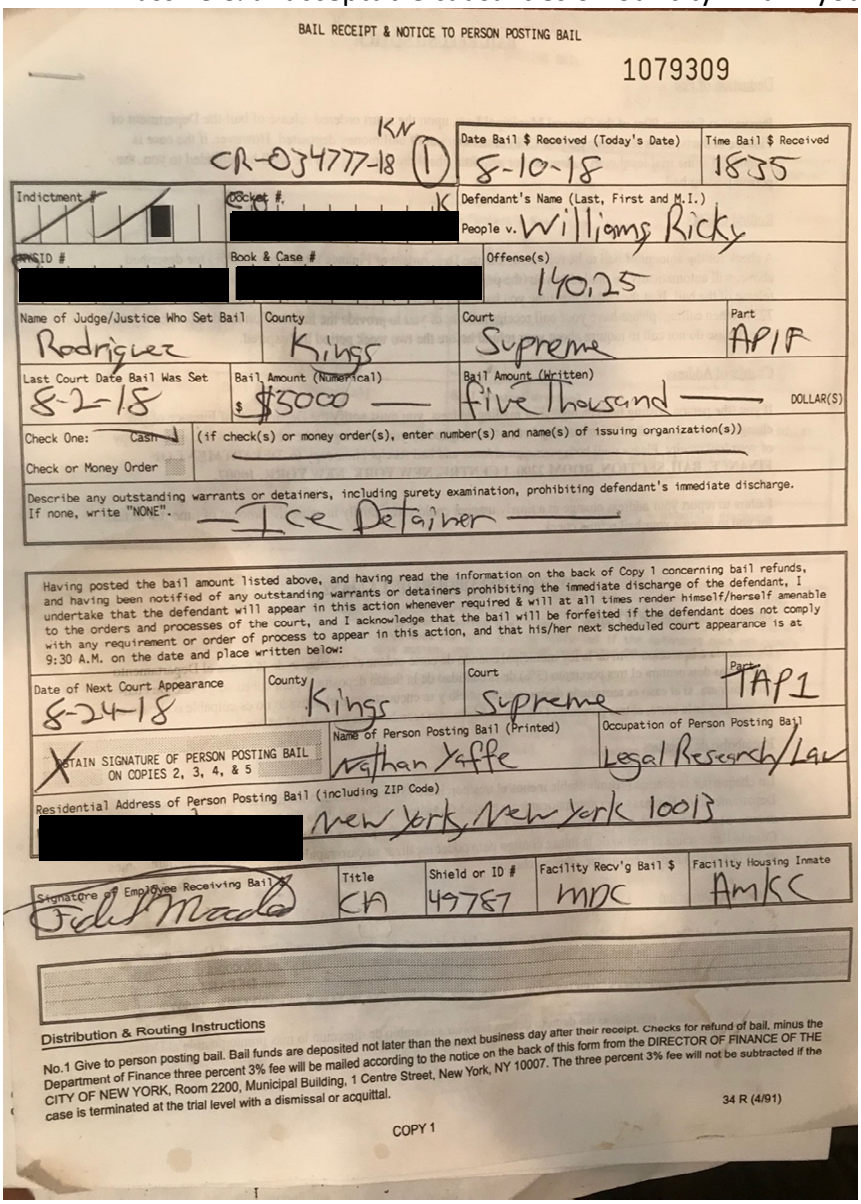
So when Mr. Schechtman sits here and says, I'm looking at the numbers from the new reports and there aren't any transfers or delays in release, well, the reports used to be false, and he's given you no reason to think they're more reliable today. So you're presented with a curious spectacle: Mr. Schechtman acknowledges old violations, but doesn't address the fact that the old reports don't have record of the violations that occurred. Then, he uses those same reports which were false in 2018 and 2019 to say, today we don't collude. Meanwhile, we have testimony today about ongoing violations, and the only response has been: the people to blame are from a different agency, don't look at us.

So when I say be realistic, I mean acknowledge that the extent of DOC – ICE collaboration is far greater than the numbers suggest. We've heard how in private, COs repeatedly & unequivocally express their support of & allegiance to ICE's mission. We know that they see themselves as on the same side—that is, against ordinary New Yorkers; and in favor of a government that interacts with the population through violence workers inflicting mass criminalization.

And that's the second way I'd ask you to be realistic. Pass these measures, yes. People should get the little bit of additional protection & the little bit of reparations that these measures offer, and the financial incentive will actually help bring to light DOC violations that they otherwise hide. But be realistic in recognizing that there's no tweak you can make to this detainer law or related protections that will end this collaboration in all its forms. The problem is Rikers & the Tombs, & these COs & other DOC folks who understand their job as

fundamentally aligned with ICE's will absolutely carry the problem into the new jails you all are trying to build, if they get built and open. The problem is our criminalization system marking people as disposable or undesirable in the eyes of COs, NYPD, and if we're being honest, in the eyes of many of you in city council.

Being realistic here means not only passing these measures but going beyond that to shrink the criminalization machine in NYC. NYPD and COs are front line soldiers for ICE in the war against ordinary NYers, & in addition to passing these measures I urge you to recognize that maintaining & expanding city cages just ensures that this front of ICE's war continues to inflict massive & unacceptable causalities on our city. Thank you.



BAIL RECEIPT & NOTICE TO PERSON POSTING BAIL

1079309

KN CR-034777-18 (1) | Date Bail $ Received (Today's Date): 5-10-18 | Time Bail $ Received: 1855

Indictment #: | Docket #: [redacted] | Defendant's Name (Last, First and M.I.): People v. Williams Ricky

NYSID #: [redacted] | Book & Case #: [redacted] | Offense(s): 140.25

Name of Judge/Justice Who Set Bail: Rodriguez | County: Kings | Court: Supreme | Part: AP1F

Last Court Date Bail Was Set: 5-2-18 | Bail Amount (Numerical): $ $5000 | Bail Amount (Written): five Thousand DOLLAR(S)

Check One: Cash / Check or Money Order | (if check(s) or money order(s), enter number(s) and name(s) of issuing organization(s))

Describe any outstanding warrants or detainers, including surety examination, prohibiting defendant's immediate discharge. If none, write "NONE". Ice Detainer

Having posted the bail amount listed above, and having read the information on the back of Copy 1 concerning bail refunds, and having been notified of any outstanding warrants or detainers prohibiting the immediate discharge of the defendant, I undertake that the defendant will appear in this action whenever required & will at all times render himself/herself amenable to the orders and processes of the court, and I acknowledge that the bail will be forfeited if the defendant does not comply with any requirement or order of process to appear in this action, and that his/her next scheduled court appearance is at 9:30 A.M. on the date and place written below:

Date of Next Court Appearance: 5-24-18 | County: Kings | Court: Supreme | Part: TAP1

X OBTAIN SIGNATURE OF PERSON POSTING BAIL ON COPIES 2, 3, 4, & 5 | Name of Person Posting Bail (Printed): Nathan Yaffe | Occupation of Person Posting Bail: Legal Research/Law

Residential Address of Person Posting Bail (including ZIP Code): [redacted] New York, New York 10013

Signature of Employee Receiving Bail: [signature] | Title: CA | Shield or ID #: 49787 | Facility Recv'g Bail $: MDC | Facility Housing Inmate: AMKC

Distribution & Routing Instructions

No.1 Give to person posting bail. Bail funds are deposited not later than the next business day after their receipt. Checks for refund of bail, minus the Department of Finance three percent 3% fee will be mailed according to the notice on the back of this form from the DIRECTOR OF FINANCE OF THE CITY OF NEW YORK, Room 2200, Municipal Building, 1 Centre Street, New York, NY 10007. The three percent 3% fee will not be subtracted if the case is terminated at the trial level with a dismissal or acquittal.

34 R (4/91)

COPY 1

← Photograph of bail receipt from FY2019

2. The number of persons held pursuant to civil immigration detainers beyond the time when such person would otherwise be released from the department's custody, disaggregated to the extent possible by the reason given by federal immigration authorities for issuing the detainers, including, but not limited to:

0 individuals were held for extra time as a result of a civil immigration detainer.

← FY2019 ICE-DOC report
https://www.nyc.gov/assets/doc/downloads/pdf/ICE_Report_2019_FINAL.PDF

Wayne Gardine Testimony:

Wayne Gardine has been fighting for his freedom since his arrest in 1994. A brief summary of his arrest: Wayne Gardine who was also known as 'Tingaling' was 20 years old at the time of his arrest, living in the Bronx. He was wrongfully accused of the murder of Robert Mickens who was shot just after midnight on September 3, 1994. Miscommunication, and false reports led police officers to arrest Wayne Gardine and hold him accountable for a heinous crime that he did not commit.

Wayne's account of his actions that night has been consistent for 29 years stating that he was not around the setting where the crime had occurred. Despite providing investigators with a valid and truthful story where he had witnesses to vouch for him, the NYPD never took his statement into consideration, nor looked into the tips that Wayne provided for them. Despite there being six other potential witnesses on the night of the event, NYPD never made any efforts to confirm or deny the allegations.

After 29 years in custody Mr Gardine was granted parole in April of 2022. Upon his release he was detained by ICE who are seeking to deport him to Jamaica based on the murder conviction aforementioned. He suffers many health problems that will only advance and deteriorate him further if he is deported to Jamaica. After being failed by the American Justice System, which took 29 years of his life, he deserves an opportunity to start over, without the fear of deportation.

Families for Freedom and other communities stand behind him, supporting his release, and demanding justice for **Wayne Gardine**.

Families For Freedom

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 184/185 Res. No. 158

☒ in favor ☐ in opposition

Date: 2-15-23

(PLEASE PRINT)

Name: Jinay Fuchen

Address: 30 W 26 St NYC

I represent: Families for Freedom

Address: 35 W 31st NYC

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 184, 185 Res. No. _____

☒ in favor ☐ in opposition

Date: 2/15/23

(PLEASE PRINT)

Name: Jerry Lawson, UnLocal

Address: NY, NY 10001

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: ESAU ALONSO

Address: _____

I represent: Represent ALL INMIGRANTS RIGHTS

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☑ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Daniel Inoa

Address: Queens NY 11372

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 184, 185, 158 Res. No. _____

☑ in favor ☐ in opposition

Date: 2.15.23

(PLEASE PRINT)

Name: Sophia Gurulé

Address: 360 East 161st St. Bronx, NY 10451

I represent: THE BRONX DEFENDERS

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 184, 185 Res. No. _____

☒ in favor ☐ in opposition

Date: 2/15/23

(PLEASE PRINT)

Name: Rosa Colon-Cruz

Address: 360 E. 161st street Bronx NY

I represent: The Bronx Defenders 10451

Address: 360 E. 161st street Bronx NY 10451

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☐ in favor ☐ in opposition

Date: 2/15/2023

(PLEASE PRINT)

Name: Zachary Ahmad

Address: 1 Whitehall Street

I represent: New York Civil Liberties Union

Address: 1 Whitehall Street

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☒ in favor ☐ in opposition

Date: 2/15/23

(PLEASE PRINT)

Name: [illegible]

Address: [illegible] NY NY

I represent: [illegible] Urban Justice Center

Address: 317 Lenox Ave New York NY 10027

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: KAVI RAGBIR

Address: Brooklyn 11201

I represent: New Sanctuary Coalition

Address: 619 Lexington Ave NY NY

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

☒ in favor ☐ in opposition

Date: 2/15/23

(PLEASE PRINT)

Name: Meghna Philip

Address: 317 Lenox Ave, Ny NY

I represent: Neighborhood Defender Service of Harlem

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 184, 154 Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Alma Maradiaga

Address: Macombs Rd Bx NY 10452

I represent:

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 158 & 184 Res. No. _____

☐ in favor ☐ in opposition

Date: 2-15-23

(PLEASE PRINT)

Name: Michael Clarke

Address: 1 Police Plaza

I represent: NYPD

Address:

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 158 & 184 Res. No. _____

☐ in favor ☐ in opposition

Date: 2-15-23

(PLEASE PRINT)

Name: Heidi Grossman

Address: 1 Police Plaza

I represent: NYPD

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 155, 158 Res. No. _____

☐ in favor ☐ in opposition

Date: 2/15/23

(PLEASE PRINT)

Name: Paul Shechtman

Address: 7520 Astoria Blvd, Queens

I represent: NYC Dept. of Correction

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 158, 184, 185

☐ in favor ☐ in opposition

Date: 2/15/2023

(PLEASE PRINT)

Name: WAYNE MCKENZIE

Address: 33 Beaver St NY NY 10004

I represent: Dept. of Probation

Address: S/A/A

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 158, 184 ~~185~~

☐ in favor ☐ in opposition

Date: 2/15/23

(PLEASE PRINT)

Name: Miguel Santana, Chief of Staff

Address: (GA only)

I represent: Mayors Office of Immigrant Affairs

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 184, 185, 158 Res. No. _____

☐ in favor ☐ in opposition

Date: 2/15/2023

(PLEASE PRINT)

Name: Estelle Muhlbauer

Address: _____

I represent: Latino Justice PRLDEF

Address: 475 Riverside Drive

Please complete this card and return to the Sergeant-at-Arms