

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON IMMIGRATION JOINTLY WITH COMMITTEE ON
EDUCATION AND COMMITTEE ON PUBLIC SAFETY

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April 26, 2017
Start: 11:17 a.m.
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HELD AT: Council Chambers - City Hall

B E F O R E: CARLOS MENCHACA
Chairperson

DANIEL DROMM
Chairperson

VANESSA L. GIBSON
Chairperson

COUNCIL MEMBERS: Mathieu Eugene
Peter A. Koo
Rafael A. Espinal, Jr.
Vincent J. Gentile
Daniel R. Garodnick
Margaret S. Chin
Stephen T. Levin
Deborah L. Rose
Ben Kallos
Andy L. King
Inez D. Barron
Chaim M. Deutsch
Mark Levine

Alan N. Maisel
Antonio Reynoso
Ydanis A. Rodriguez
Helen K. Rosenthal
Mark Treyger
Rafael Salamanca, Jr.

A P P E A R A N C E S (CONTINUED)

Ruthie Epstein, Senior Policy Advisor
New York Civil Liberties Union

Jackie Pearce, Clinical Teaching Fellow
Immigration Justice Clinic
Cardoza Law School

Albert Kahn, Legal Director
New York Chapter
Council on American-Islamic Relations

Camilla Shabeen, Managing Director
Legal Services, GMHC

Hasan Shafiqullah, Deputy Attorney
Immigration Law Unit
Legal Aid Society

Nisha Agarwal, Commissioner
Mayor's Office of Immigrant Affairs, MOIA

Timothy Farrell, Deputy Commissioner
Department of Corrections, DOC

Maite Junco, Senior Advisor
Department of Education, DOE

Howard Friedman, General Counsel
Department of Education, DOE

Lawrence Byrne, Esq., Deputy Commissioner
Legal Matters
New York City Police Department, NYPD

Gary Strebel, Chief
New York City Police Department NYPD

Natalia Aristizabel, Co-Organizing Director
Make the Road New York

Chris Policano, Communications Director
DC-37 of the American Federation of State, County
and Municipal Employees, AFSCME

Priscilla Acuna
Organizing Department, Local 46
Appearing for: John Skinner, President, Local 46

David Cohen, Local Coordinator
32BJ SEIU

Lori Zeno, Co-Founder and Deputy Director
Queens Law Associates

Nyasa Hickey
Brooklyn Defender Services

Jennifer Friedman
Bronx Defenders

Stephanie Lopez, Supervising Attorney
Immigration Defense Practice

Meagan Hu, Immigration Attorney
New York County Defender Services

Ryan Munich, Staff Attorney
Immigrant Defense Project

Camille Mackler, Director

Legal initiatives
New York Immigration Coalition

Terry Lawson, Director
Family and Immigration Unit
Bronx Legal Services

Helen Drook, Senior Staff Attorney
Immigrant Protection Unit
New York Legal Assistant Group, NYLAG

Hasan Shafiqullah's, Deputy Attorney in Charge
Immigration Law Unit
Legal Aid Society

Ward Oliver, Supervising Attorney
Immigration Law Unit
Legal Aid Society

Dmitri Daniel Glinski, Founding President and CEO
Russian Speaking Community Council of Manhattan and
the Bronx, RCCMB

Sarika Kumar, Program Coordinator
Young Women's Advisory Council
Girls for Gender Equity

Adriana Lovera, Education & Youth Leadership Manager
New Yorkers Immigration Coalition

Rita Rodriguez-Engberg, Staff Attorney
Immigrant Students Rights Project
Advocates for Children

Carmen Maria Rey

Sanctuary for Families

[sound check, pause]

CHAIRPERSON MENCHACA: Buenos dias. I am Carlos Menchaca, Chair of the New York City Council's Committee on Immigration. Today, the Committees on Immigration, Education and Public Safety will hear a series of bills that would benefit every single New Yorker regardless of race, religion, gender identity, nationality or immigrant status. Before going any further, I'd like to thank Speaker Melissa Mark-Viverito for her non-stop, steadfast leadership and for joining us today. Council Member Vanessa Gibson, Chair of the Committee on Public Safety and Council Member Danny Dromm, Chair of the Committee on Education for joining the Immigration Committee today on this very important topic. I would also like to recognize all the members who are here today joining us. From Staten Island Debbie Rose, Council Member, Council Member Matteo from Staten Island, Peter Koo, Council Member in Queens. We have Robert Cornegy from Brooklyn. Ydanis Rodriguez from Manhattan. In the front we have Brooklyn, Jumaane William. From Brooklyn Rafael Espinal and from Brooklyn, Council Member Mathieu Eugene. Brooklyn in the house. Once we—we're going to begin this hearing by focusing on a

1
2 topic that's bigger than immigration, education or
3 even public safety: How the city deals with the
4 personal information of millions of New Yorkers.
5 Once we've heard from the panel testifying on these
6 two bills focusing on the privacy of information,
7 personal information, Chairs Gibson and Dromm as well
8 as the other sponsors of the other seven bills we're
9 hearing today will give their opening remarks, and
10 after that we'll hear from the Administration all the
11 bills before the committees today. [Speaking
12 Spanish]

13 So New Yorkers provide their personal
14 information to the City with expectation that it be
15 kept confidential, and our city has a champion in
16 protecting the privacy of all New Yorkers regardless
17 of their immigration or refugee status, race,
18 religion, national origin, age, sex, marital status,
19 sexual orientation or gender identity. It is clear,
20 however, that the Trump Administration does not share
21 our values, and our city is wholly committed to
22 protect the privacy of all New Yorkers to the fullest
23 extent possible under the law. Intro 1558 sponsored
24 by Williams, the Speaker, Espinal, Ferreras-Copeland
25 would require all city employees and contractors to

1 limit the inquiry and disclosure of personal
2 identifying information unless necessary to assess
3 eligibility for city services or help agencies
4 streamline services. The bill would require each
5 agency to review its data collection, retention and
6 disclosure policies, and update as necessary so that
7 going forward the city collects only what is
8 necessary to efficiently provide quality services.
9 Honoring the reasonable expectation that city
10 residents have about the confidentiality of our
11 private information creates the bedrock of trust.
12 The bedrock of trust that allows all New Yorkers
13 including immigrants to feel assured that engaging
14 with city agencies, schools and law enforcement will
15 not put them at risk. It is now my pleasure to
16 introduce Speaker of the City Council, our champion
17 for all New Yorkers Melissa Mark-Viverito.

19 SPEAKER MARK-VIVERITO: Thank you so
20 much, Chair Menchaca for your leadership and being so
21 steadfast and vocal strong in this Council. I'm very
22 proud of the work that we do each and every day to
23 uphold our values, which is truly inclusive of all
24 communities and particularly, obviously a lot of work
25 that we've done on the front to defend our immigrant

2 brothers and sisters. So I want to thank everyone
3 that is here today. I want to thank all the Chairs,
4 Chairs Gibson and Danny Dromm as well as Chair
5 Menchaca for holding this important hearing. Today,
6 we begin the process of bringing our legislative
7 tools to bear on the very threat coming out of
8 Washington to destabilize and undermine our community
9 and to undermine our city. And make no mistake, the
10 threat is not only to our immigrant community, it is
11 to all New Yorkers. In addition to threats to deport
12 millions of immigrants, we have heard threats to
13 Muslims, to women, the disabled, those accessing
14 public assistance and others. As I said in my State
15 of the City Address in February, we won't back down
16 from these threats. We will resist. We will speak
17 the truth to the lies, and we will protect ourselves
18 from the worst of human instincts. Islam is not a
19 terrorist organization whose followers are to be
20 banned from the entry into the country. Immigrants
21 are not criminals to be hunted down and deported.
22 The LGBTQ community deserves the same protections as
23 other vulnerable populations, and women do have the
24 capacity and right to make their own reproduction
25 health decisions. And by the way, the city is not

2 soft on crime. In fact, we are the safest big city
3 in America. We have been for years despite and
4 likely because of the fact that we are sanctuary city
5 protecting our immigrant families from misguided
6 civil immigration enforcement. So today, we begin
7 our legislative pushback. It bears noting that
8 nothing we are considering or have implemented has
9 been outside the bounds of the law. Unlike the
10 Executive Orders we see coming out of Washington, we
11 honor and protect the rule of law. Just yesterday a
12 federal judge issued a nationwide injunction blocking
13 the President's Executive Order targeting sanctuary
14 cities affirming that it is nothing more than an
15 unconstitutional effort to punish sanctuary cities
16 for defying the President's anti-immigrant fear
17 mongering agenda. We cooperate with federal
18 authorities to the extent we are required. Where it
19 is up to us. For example, when it comes to honoring
20 civil immigration detainer requests, we do so when it
21 is in the city's best interest. I want to say a few
22 words about the first two bills that we will be
23 hearing regarding the protection of personal
24 confidential information the city may have about New
25 Yorkers. This bill is not just about protecting

2 immigrant New Yorkers. It is about protecting all of
3 us. The world we live in is data driven. Data is
4 critical to the efficient operation of our city. We
5 gather and use vast amounts of data including
6 personal information for millions of New Yorkers. So
7 this bill is designed to protect all New Yorkers from
8 unwarranted intrusion on their privacy. I want to
9 just say before I conclude that, you know, our
10 leadership on the issues regarding our immigrant
11 communities in particular defending our immigrant
12 brothers and sisters, documented or not, is not just
13 through this legislative work. It's also through the
14 initiatives that we funded that have made incredible
15 in-roads and are historic in their own right, and
16 that now we're seeing other cities emulate in light
17 of the current threats. When we talk about our
18 NYFIP, we have been investing millions of dollars
19 into providing legal services and legal protection
20 for all that are facing—who are facing deportation
21 proceedings. That is historic, and we're seeing
22 other cities like Seattle and others looking to
23 emulate it. We've advocated and we've invested
24 millions of dollars in our Preliminary Budget. We've
25 advocated for the Administration to increase its

2 commitment to this initiative, and to baseline it,
3 and I'm happy that in the Executive Budget we will
4 see a reflection of that effort and a reflection on
5 an increase in that amount of money. So with that,
6 again, I want to thank the committee chairs here
7 today for their leadership, issues so important to
8 the city's safety and continued vitality, Immigration
9 Committee Chair, Carlos Menchaca, Education Committee
10 Chair Danny Dromm and Public Safety Committee Chair
11 Vanessa Gibson for your leadership on issues. We
12 have united a front in this council. Our Mayor has
13 also been very extremely strong. We are united in
14 the city of New York to push back and resist against
15 these unconstitutional and illegal actions on behalf
16 of the Administration, and I'm proud of these set of
17 bills here that we'll be hearing today. Thank you.

18 CHAIRPERSON MENCHACA: Thank you, Speaker
19 and now I want to hand it over to Council Member
20 Williams who will speak on his bill.

21 COUNCIL MEMBER WILLIAMS: Thank you so
22 much, Mr. Chair. I do want to say the one thing that
23 gives me comfort is I know history as we look back at
24 the bigotry and moral absence with this president,
25 and will frown on him, and will look at him as lucky

2 bigot who lucked in this in four years, but there
3 will be an empty four years because folks with good
4 conscience will have resisted and will have pushed
5 back, but we have to get there. The one lesson I
6 hope the nation learns is that those with good
7 conscience can't wait until times like this to react.
8 We have to be proactive constantly, and not believe
9 that Trump can never exist, and not believe that
10 America can continue on some of the evils that it has
11 done because that is always possible. So I hope
12 that's one lesson that we take from this, but to get
13 there, I am proud of people like Danny Dromm and
14 Vanessa Gibson who chair their committees and are
15 leading in that and, of course, folks like Carlos
16 Menchaca who has—his committee has become of most
17 importance and he's leading on this and, of course,
18 our Speaker Melissa Mark-Viverito who have pride,
19 seeing and pushing issues like this on a national
20 basis and—and I hope continues as we very much
21 continue to respond to what the—what is being pushed
22 forward. I'm proud to be the son of immigrants.
23 This country obviously is—is based on the things that
24 my parents believed and the migration of human beings
25 across the world and across the globe shouldn't be

2 stunted in anyway. The bills that are here are good
3 bills that should have—that make common sense and
4 also benefit folks who are protected. So my first
5 bill is Intro 1588. It requires city employees and
6 contractors to protect the identifying information
7 such as sexual orientation, religious—religion and
8 immigration status by eliminating its disclosure and
9 retention, requests for disclosures of identifying
10 information will be preceded by newly established
11 division within the Law Department. Agencies will be
12 required to review the data record collection,
13 retention and disclosure policies to make sure the
14 city collects only what is necessary to efficiently
15 provide quality services. The second bill, Intro
16 1578 will—that bill—the first bill is co-sponsored
17 Speaker Mark-Viverito. The second bill is co-
18 sponsored by Council Members Dromm and Speaker
19 Melissa Mark-Viverito. It would establish a task
20 force on immigrant affairs led by the Mayor's Office
21 of Immigrant Affairs and would work to improve
22 interagency communication and coordination issues
23 relating to immigration and review compliance with
24 relevant local laws and assess legal and policy
25 developments on the state and federal levels. I do,

2 if could just want to make sure people don't take our
3 word for this. I do want to read some quotes. Some
4 of the hardest working and most productive people in
5 this city are undocumented aliens. If you come here
6 and you work hard and you happen to be an
7 undocumented status, you're one of the people who we
8 want in this city. You're somebody that we want to
9 protect, and we want you to get out from under what
10 is often a life of being like a fugitive, which is
11 really unfair. Another quote. I think New York City
12 should not deal with undocumented immigrants in a
13 harsh way. I think they make a big contribution to
14 the life of the city, and we're much better off being
15 sensible and practical about it, and the reality is
16 that restaurants are going to have a certain number
17 of people who are undocumented. You know, people
18 that come here to make a living, trying to help
19 themselves and their families. Those are the words of
20 Rudolph Giuliani here in 1994 when he sued the
21 federal government to protect residents of
22 undocumented status before he was taking over by the
23 empire, and we shall call him now Darth Giuliani.
24 [laughter] But we understand how important these
25 residents are not just to the city, but to the

2 country. We cannot take the benefits that they bring
3 and then treat them like fugitives. We all know it
4 is not about public safety doing that. It is about
5 a—a belief and a theme and whatever it is based in
6 hate, bigotry and fear that is illogical, but is
7 working. I believe that facts at some point will
8 make come back, and I'm very proud to be part of the
9 resistance. Again, I thank the Speaker for her
10 leadership on this, and to those who are listening,
11 we will win. Unfortunately, there will be some
12 casualties, but we will minimize that if we stay
13 together and continue to push forward. Thank you.

14 CHAIRPERSON MENCHACA: Thank you, Council
15 Member Williams, and like you said, we are—we are a
16 team, we're a family, and we got a lot of work to do,
17 with further ado, I—I also want to say if you have
18 not yet filled out testimony cards, please do so over
19 here with the sergeant-at-arms, but we will go right
20 into our first panel on data privacy on the data—data
21 privacy bills, and we can have Ruthie Epstein from
22 the New York Civil Liberties Union; Albert Kahn,
23 Council On American-Islamic Relations; Jacqueline
24 Pearce Cardoza Law School; Camilla, GMHC; and Hasan
25 Shafiqullah from the Legal Aid Society if you can—if

1
2 you can make your way up front. [pause] And as they
3 get situated, I want to welcome from Brooklyn Mark
4 Treyger, Council Member, Coney Island and Rory
5 Lancman, Council Member in Queens. Thank you and
6 another Brooklyn boy, Alan Maisel. [pause] If we're
7 ready. [pause]

8 RUTHIE EPSTEIN: How's this? Good?

9 CHAIRPERSON MENCHACA: I you can bring-
10 bring it a little closer to your mouth. There you
11 go.

12 RUTHIE EPSTEIN: Yes.

13 CHAIRPERSON MENCHACA: Great. We want to
14 hear you.

15 RUTHIE EPSTEIN: Okay, thank you. My
16 name is Ruthie Epstein. I am the Senior Policy
17 Advisor at the New York Civil Liberties Union, an
18 affiliated of the American Civil Liberties Union.
19 The NYCLU thanks the Speaker and the City Council for
20 the opportunity to comment on the ambitious package
21 of legislative proposals before you today. My oral
22 testimony will focus on the two privacy bills, Intros
23 1588 and 1557. We have also submitted written
24 testimony that details the NYCLU's analyses of
25 several of the other bills under consideration.

1
2 Everyday the city collects vast amounts of data from
3 its—its residents for a variety of purposes. Much of
4 that information is reasonably considered personal by
5 the individual it belongs to. Therefore, all New
6 Yorkers, whether immigrants or citizens have an
7 interest in city policies that preserve their privacy
8 to the greatest extent possible. The best way to
9 preserve individuals' privacy, of course, is to avoid
10 collecting their personal information in the first
11 place. Intro 1588 would impose a clear legal
12 requirement on all city employees that they not ask
13 about certain information such as religion,
14 nationality or citizenship or immigration status
15 except in very limited circumstances. The bill goes
16 further by requiring that in the rare instances when
17 a city employee has a valid reason to ask about such
18 information such as, for example, assessing
19 eligibility for a particular benefit or service that
20 information may be used only for that narrow purpose
21 and may not be unnecessarily retained. Finally, the
22 bill would limit the ability of city employees
23 including police officers to share personal
24 information other than immigration or citizenship
25 status with federal immigration authorities. These

1 common sense measures build on existing city
2 practices including provisions in Executive Order 41
3 issued in 2003 by Mayor Bloomberg, and they are
4 consistent with federal law. The NYCLU supports
5 placing these requirements into law. Even if the
6 city strengthens privacy protections for New Yorkers,
7 it's also vital that new legislation in this area
8 preserves the public's right to know how their
9 government operates. As drafted, Intros 1588 and
10 1557 together may have unintended effects on timely
11 and complete responses to legitimate requests from
12 the public for information. The proposed bills would
13 create a new level of bureaucracy within the city's
14 Law Department, the Identifying Information Division
15 that would be charged with reviewing nearly all
16 information requests received by a city agency other
17 than the NYPD that contain identifying information as
18 defined by the new law. Currently, such disclosure
19 decisions are made by agency employees who must seek
20 the advice of the agency general counsel when they
21 have a question. This new structure has the
22 potential to hinder responses to legitimate attempts
23 to obtain government information that's completely
24 unrelated to immigration and some of our concerns are
25

2 detailed further in-in our written testimony. The
3 NYCLU firmly believes that protecting New Yorkers'
4 pri-personal privacy does not require sacrificing
5 government transparency. We very much appreciate the
6 spirit and the intent of the legislation under
7 consideration today. We look forward to working with
8 the Council to refine these proposals so that they
9 appropriately protect New Yorkers' personal
10 information while preserving the public's access to
11 government records and other information. Thank you
12 again for the opportunity to testify today. [pause]

13 JACKIE PEARCE: Good morning. I am
14 Jackie Pearce, Clinical Teaching Fellow at Cardoza
15 Law School's Immigration Justice Clinic. I want to
16 thank the Speaker and the Chairmen and members of the
17 Committees on Immigration, Public Safety and
18 Education for the opportunity to testify here today
19 in support of the package of bills being heard. As
20 the Council will surely hear from other speakers,
21 this ambitious package of legislation goes a long way
22 to address the fears of our most vulnerable community
23 in accessing city services. As others will discuss
24 the importance of that effort, I will focus my
25 remarks on how the bills accomplish two key

2 improvements on the existing patchwork of laws and
3 policies that govern confidential information
4 sharing, and how these bills prevent entanglement
5 with federal enforcement targeting city residents.
6 First, by placing these protections in laws as
7 opposed to an executive order, the City is making a
8 firm, durable and public commitment to stand by the
9 most vulnerable New Yorkers. This legislation would
10 provide clear guidance to city employees and the
11 public about when confidential information can be
12 collected and disclosed. It would also deliver a
13 more permanent solution that could withstand changing
14 political wins. It is critically important that we
15 permanently enshrine our commitment to inclusion and
16 equal access in law. Second, these laws would
17 strengthen the substance of the existing framework in
18 a number of key ways. For example, the definition of
19 confidential information has been expanded in Intro
20 1588 to include religion, gender identity and arrest
21 records in addition to a host of personal and contact
22 information that was not previously protected. These
23 bills would also bring our city's laws concerning
24 confidentiality into harmony with the principles
25 already embraced by this Council and this Mayor in

1
2 our 2014 Detainer Laws. Right now, Executive Order
3 41 issued by Mayor Bloomberg in 2003 does not in any
4 way restrict a city agency from releasing anyone's
5 contact information and expressly allows entanglement
6 and collaboration with federal immigration
7 authorities where a non-citizen is suspected of
8 illegal activity no matter how minor including
9 jaywalking and littering. The current bills would
10 significantly limit information disclosures by all
11 city agencies, and perhaps most importantly Intro
12 1568 will prevent the NYPD from actively using city
13 resources to engage in immigration enforcement at
14 homes and work places across the city. Together,
15 these bills reiterate the city's commitment to the
16 1.5 million immigrant New Yorkers that accessing
17 local government will not be a gateway to
18 deportation. Finally, in speaking to the legal
19 merits of the bills, it must be emphasized that the
20 city is well within its sovereign authority to
21 legislate these matters. First, these bills fit
22 squarely within the city's 10th Amendment authority
23 to promulgate laws that provide for the health,
24 safety and welfare of its residents. The 10th
25 Amendment also protects our local government from

1 being commandeered by the federal government, and as
2 a result, New York City cannot be compelled to
3 participate in federal immigration enforcement and
4 other ill-advised federal enforcement schemes.

5 Importantly, despite the bluster of President Trump
6 and Attorney General Sessions, nothing in these laws
7 expose New York City to any increased risk of federal
8 funding law. Just yesterday a federal judge sitting
9 in California issued a nationwide injunction against
10 Trump's Executive Order defunding sanctuary
11 jurisdictions, finding that the President lacks the
12 constitutional authority to strip cities of their
13 federal funding simply by labeling them a sanctuary.

14 Should the federal government attempt to withhold any
15 funds from New York City because of our decision not
16 become entangled in immigration enforcement, these
17 laws will place the city on excellent footing to
18 prevail in that litigation that would surely follow.

19 We appreciate the efforts and leadership of the
20 Council in protecting the privacy information of New
21 Yorkers and look forward in the coming weeks to
22 collaborating with the Council to strengthen these
23 bill—these bills further. Thank you.

24
25 CHAIRPERSON MENCHACA: Thank you.

2 ALBERT KAHN: Good morning. My name is
3 Albert Kahn and I'm the Legal Director for the New
4 York Chapter of the Council on American-Islamic
5 Relations, CAIR New York. I want to thank the
6 Speaker and the Council for this opportunity to
7 support Intro 1588 and 1557. CAIR New York is a
8 leading-leading civil rights advocacy organization
9 for the Muslim community here in New York State. Our
10 organization works with at-risk communities that have
11 witnessed a surge in harassment, discrimination and
12 hate crimes since President Trump's rise to
13 prominence. According to CAIR's recently released
14 2017 Civil Rights Report, anti-Muslim hate crimes
15 increased dramatically in the last two years rising
16 more than 500% since 2014. In-in our work to fight
17 these heartbreaking crimes, it's essential that
18 victims know that they will not risk deportation for
19 reporting their attacks. All too often members of
20 marginalized communities are unwilling to report
21 crimes to police, hearing that interactions with law
22 enforcement will invite scrutiny of the victim's
23 status and potentially even deportation. For nearly
24 15 years, Executive Order 34 and Executive Order 41
25 have made clear that New Yorkers cannot be

2 interrogated about their immigration status when
3 trying to report a crime or access city services.
4 These protections are vital in not only protecting
5 the rights of immigrant communities, but in helping
6 all New Yorkers. We are all safer when police can
7 investigate attacks on immigrant victims. At this
8 moment when the Federal Department of Justice is
9 trying to stop immigrant communities from accessing
10 their courts, our city must do everything in our
11 power to make sure that no New Yorker suffers in
12 silence scared to report their assault to
13 authorities. We must also make sure that city
14 programs such as IDNYC can't be used by federal
15 authorities to target the very New Yorkers they're
16 designed to help. CAIR New York is grateful that the
17 City Council is working to strengthen the protections
18 ~~affording~~ afforded by existing executive orders
19 making sure that no future mayor can reverse these
20 crucial policies and ensuring that all agencies
21 consistently follow the law. As we build on the
22 foundation presented by these draft bills, we must
23 address the gaps under the proposed legislation,
24 which largely exempts NYPD. Where there are
25 certainly times when the NYPD would have a bona fide

1
2 interest in sharing information with other law
3 enforcement agencies, we must make sure that these
4 extraordinary exemptions do not become the rule.
5 Specifically, if the City Council creates a
6 centralized authority to guarantee proper handling of
7 private information? That authority must have
8 oversight over all agencies including the New York
9 City Police Department. Additionally the privacy
10 protections complicated—contemplated here today would
11 be greatly enhanced by the passage of other reform
12 measures that have been proposed to this Council.
13 Crucially, the public oversight of surveillance
14 technology or post-act would eliminate a major
15 loophole that has allowed the NYPD to deploy new
16 surveillance technologies without oversight of what
17 they are purchasing and how they are using those
18 technologies. These novel surveillance technologies
19 present a potent threat to privacy raising many of
20 the same issues contemplated by these bills. Given
21 the long history of unlawful and unconstitutional
22 surveillance of Muslim New Yorkers, we cannot simply
23 let NYPD police itself on privacy. We at CAIR New
24 York look forward to partnering with Council Members
25 and other civil rights groups in the coming weeks and

1 months to ensure these bills are as strong as
2 possible. Together, I know that we can make New York
3 a sanctuary for all.
4

5 CAMILLA SHABEEN: Speaker Melissa Mark-
6 Viverito, Chairs Menchaca, Gibson, Dromm, Council
7 Members and staff, good morning and thank you for the
8 opportunity to testify and to speak about the
9 important of safeguarding the privacy of New Yorkers,
10 and to testify in support of Intros 1557 and 1588.
11 My name is Camilla Shabeen, and I'm the Managing
12 Director of Legal Services at GMHC. GMHC is a not-
13 for-profit social and legal services organization and
14 the world's first and leading provider of HIV-AID's
15 prevention, care and advocacy. Our mission is to end
16 the AIDS epidemic and to uplift the lives of all
17 affected including those who may be high risk for
18 infection, but do not test positive. Among the many
19 services we provide they include testing, mental
20 health counseling, meals programs, support groups,
21 housing and legal representation. GMHC believes that
22 to end the AIDS epidemic we need comprehensive
23 solutions that promote education, increase awareness,
24 improve care, reduce stigma, elevate policy and build
25 strong supportive communities. We help seniors,

2 members of the LGBTQIA communities, survivors of
3 domestic violence, women, men, low-income individuals
4 and youth. As a free social and legal services
5 provider assisting people living with HIV and AIDS
6 primarily GMHC sees the importance of privacy
7 protections and the impacts of breeches of privacy
8 and confidentiality almost on a daily basis. Our
9 clients still face stigma based on being HIV
10 positive, based on their gender expression or sexual
11 orientation, their immigration status—status, mental
12 health diagnosis, or past drug and alcohol abuse.
13 One of the pillars of being able to keep our clients
14 safely in care and, therefore, to be able to stop the
15 spread of HIV and ends the AIDS epidemic is by
16 protecting our clients' privacy and confidentiality
17 such to promote environments where clients feel safe
18 to engage in proper care. To be eligible for our
19 services, clients must be of low income and many of
20 our clients are members of one or several minority
21 groups. In order to be eligible for services with
22 our organization, other not-for-profits and most
23 government entities, clients must provide almost all
24 their person identifying information including their
25 very personal medical statuses and diagnoses.

1
2 Therefore, when accessing agency services, groups are
3 more likely to have their privacy—these groups—pardon
4 me—are more likely to have their privacy impinged or
5 violated. As such, as a matter of public health
6 policy, we applaud the Council's efforts to promote
7 the privacy of New Yorkers in these two bills. As an
8 HIV service provider, we are subject to separate laws
9 that requires to obtain a client's permission before
10 disclosing the information for example for billing
11 purposes to our funders, many of whom are government
12 entities. I believe we would be able to help more
13 people to feel comfortable engaging in prevention
14 services if their privacy regarded by information
15 receiving agencies. As such, we commend the Council
16 and these committees for working on this matter, and
17 support your efforts to protect the privacy of
18 individuals as a matter of public policy and public
19 health policy. We would welcome the opportunity to
20 further discuss these matters and the specific of
21 these bills with the committee. Thank you for the
22 opportunity to testify today.

23 CHAIRPERSON MENCHACA: Thank you.

24 HASAN SHAFIQULLAH: Good morning. My
25 name is Hasan Shafiqullah I'm the Deputy Attorney in

2 charge of the Immigration Law Unit at the Legal Aid
3 Society. Thank you to the Speaker and to the Council
4 for this opportunity to speak this morning. My
5 written testimony covers six different bills. I'm
6 addressing just two of them right now, 1588 and 1557.
7 The confidentiality of identifying information has
8 been a perennial for all of us, but as the city
9 recognized back in 2003 with Executive Order 41
10 signed by Mayor Bloomberg, it's a particular concern
11 to non-citizens whose personal information such as
12 immigration status and criminal records can be used
13 as grounds for immigration enforcement or to prevent
14 adjustment of status or the obtaining of immigration
15 benefits. This concern is not new, but now it's of
16 heightened concern because of the new enforcement
17 priorities and it is under this federal
18 administration and which has put all immigrants
19 without lawful status really all non-citizens at
20 increased risk of removal, and including prioritizing
21 enforcement acts against—actions against people who
22 have simply been charged of a crime without actually
23 a finding of guilt. Even increasing enforcement
24 activities against people who are alleged to have
25 abused government benefits, again without any finding

2 of actual abuse. Given what's at stake for these New
3 Yorkers, to ensure and continued willingness to
4 access city services by non-citizens, the city of New
5 York needs to be able to assure confidentiality of
6 the information given to the city and its contractors
7 subject to certain exceptions. We applaud the effort
8 to fill in any holes in the existing confidentiality
9 protections, but we do caution for the need to-for
10 vetting of the identifying information bill. In
11 particular to assure that it's-that it targets
12 precisely those areas where there are gaps in
13 protection without inadvertently lessening existing
14 protections by enacting rules that may be
15 inconsistent with existing confidentiality rules in
16 other areas impacted by the bill. We at the Legal
17 Aid Society would welcome the opportunity to work
18 with the Speaker and Council Members and their staff
19 to assure that the bills meet the standard. We also
20 caution the Council to be aware of setting up a
21 system that calls for the creation of additional
22 records that maybe contained the very confidential
23 information that the proposed bills are designed to
24 protect. For instance section 81209 of the
25 Identifying Information Bill calls for periodic

2 reporting of disclosures made under exigent
3 circumstances. The language is not particularly
4 specific and it could be read to require copies of
5 the disclosures to be duplicated, which would only
6 multiply the areas where confidentiality should be
7 maintained. Thank you.

8 CHAIRPERSON MENCHACA: Thank you for your
9 testimony, and want to open up to any questions from
10 the—this, but I think the first thing I want to do
11 is—is kind of acknowledge (1) that I think across the
12 board we're seeing some—some urgency to—to address
13 some very important issues that are connected to—to
14 privacy. Now, we went to define this as a collective
15 and broader scope of workers who are impacted by—by
16 the questions of privacy, and one—one of the—one of
17 the constituencies I think is important to lift in—in
18 this conversation right now are the LGBT community
19 members, members of our community that are coming to
20 the city for mental health services. So I will—I
21 will ask for a—a kind of deeper understanding
22 specifically from GMHC and the clients that you're
23 holding so close in the services that you provide,
24 and tell us a little bit more about—about that fear.
25 I think what's important is how—how we hear that, and

2 if you can give us sense about how they are coming to
3 all of you as case managers on the ground to-to
4 address or-or to-to speak to the fear. I think it
5 would be important for us to hear today.

6 CAMILLA SHABEEN: So it's-it's very
7 individual for each client, but we see many clients
8 who are immigrants or people of color or from
9 religious minorities who come from maybe backgrounds
10 where, you know, test-talking about HIV is not
11 accepted and so-so they not only fear sort of
12 repercussions from the Government, but their own
13 communities. And we have found that even-you know,
14 even-so the-the idea promoted by the Department of
15 Health and other sort of public health policy
16 organizations is that in order to proven the spread
17 of AIDS and in order to end the epci-epidemic people
18 have to be tested. They have to feel comfortable.
19 They have to come out and be testes and, therefore,
20 there's always conversations about protecting the
21 privacy in that context, but thereafter, you also
22 have to link people to care to maintain their safety,
23 to, you know, have their viral-viral loads reduced
24 and down and-and also to be in places and situations
25 where there-where HIV is not spread whether it be

2 through meal sharing or other means. And so, we see
3 in order for people to be comfortable to actually
4 engage in all the—the things that we've known and
5 we've seen for so many years to be helpful in
6 reducing this threat to public health is privacy.
7 Like and—and to—to know that if you go to an
8 organization or to—if you seek assistance that you
9 will not persecuted, that you will receive the help
10 that may be, you know, maybe your friend—the people
11 that you're comfortable telling will know, but not
12 all your family members. It won't be reported to the
13 police who can then, you know, somehow check on you
14 or persecute you, and, you know, and I—I'm focusing
15 my testimony today on the LGBTQIA community and—and
16 folks who are positives. But we also have many, many
17 immigrants who test positive, and we don't want these
18 people to be afraid to come forward so they don't get
19 the help. And so, that they, you know, they're
20 unhealthy and that they and/or that the epidemic, you
21 know, grows instead of keeps being reduced, and—and
22 so far New York in particular has made great strides
23 in reducing HIV infection. It's still—still a
24 concern and still a problem, and I would hate to see

2 that be reversed because of fewer privacy
3 protections.

4 CHAIRPERSON MENCHACA: So-so thank you
5 for-for really opening even further so much of our
6 conversation I think inherently connects to
7 government and government information, but third-
8 party information and the work that you're doing at
9 GMHC and really for all-all client-based third-party
10 organizations are really faced with the same
11 question, and I'm-I'm hoping that we all understand
12 that here as we talk about how we're going to address
13 that issue together with the municipal-the municipal
14 powers that we have here. And-and so thank you for
15 just, again, continuing to broaden. This is about
16 all New Yorkers, and the multiple needs that-that a
17 New Yorker will have over time and-and how really
18 removing any barrier to access for-for service just
19 based on privacy alone can have a chilling effect,
20 and I think you've really kind of pointed to that.
21 I-I want to-let's ask if-if there's going to be other
22 questions on the-on the base? Okay, and my final
23 question then to-to kind of address the-the kind of
24 current need and really the frame for NYCLU and
25 thinking about how we-how we kind of think the-about

2 the gaps. Where you see the gaps and the problem,
3 and I think—I think your testimony kind of provided a
4 really great road map for us to sit down and talk a
5 little bit more about the bill. We'll finding that—
6 but if you can—if you can kind of give us the—the
7 frame for how you're thinking about this, and really
8 defining what gap is in—in-in protecting our New
9 Yorkers while keeping it transparent for government
10 and third party.

11 RUTHIE EPSTEIN: Sure and thank you very
12 much for the question. So, as—as I noted and as my
13 colleagues up here noted, the amount of—of data that
14 is collected by the city both intentionally and as a
15 sort of collateral effects of the—of the city's
16 business activities is tremendous and becomes even
17 more so every day as the city seeks to increase its
18 use of various technologies that in many regards can
19 help improve efficiency of city services, but at the
20 same time create more and more data that—that rests
21 then in the hands of the city. So from a—from the
22 perspective of the NYCLU, it's crucially important
23 that the city have clear consistent standards for
24 when it is collecting particularly identifying our
25 confidential information, clear consistent standards

2 for when it is retaining that information and clear
3 consistent standards for how it makes decisions about
4 disclosure of that personal or identifying
5 information to—to third parties, to other parties
6 within the city government and importantly in the—the
7 larger context of this conversation the federal
8 immigration authorities, and I want to be clear that
9 these laws as drafted in particular 1588 is fully
10 consistent with federal law. This is—has obviously
11 been a—an area of great focus for the current
12 President and the current Attorney General. We were
13 very pleased to see the preliminary injunction come
14 out of California yesterday, and I think that's an
15 encouraging step for the City of New York. So in
16 terms of gaps if that's—that consistent standards
17 across the board and robust oversight of how those
18 decisions are made. Our concern here is that—that in
19 creating in—in the laudable attempt to create a—a
20 consistent process, and to make sure that—that people
21 are trained in the standards and the law about how to
22 make those disclosure decisions that the city doesn't
23 inadvertently create an additional level of
24 bureaucracy that slows down responses to legitimate
25 requests for information from the public. We fully

2 believe that balance is possible to achieve. We
3 think that as a drafted, this bill could use some
4 improvement in that area, and we do look forward to
5 working with the City Council and the City in making
6 those changes.

7 CHAIRPERSON MENCHACA: And on that note,
8 we're going to—we're going to move forward with that—
9 that concept of—of working together with all the
10 advocates to—to really iron out what the best
11 strategy would be, and you have—you have our full
12 commitment to that—to that work. So I want to thank
13 this panel for coming out today for really speaking
14 that truth to the multiple clients, and the multiple
15 New Yorker communities that are not only impacted
16 today, but are going to be impacted tomorrow for
17 whatever is coming, and with the—the dynamic nature
18 of this president we are—we are in a really critical
19 time. So thank you for—for that and for the future
20 work that is ahead of us. And on that, we're going
21 to move to the second part of this hearing to
22 continue to address the needs of our immigrant New
23 Yorkers. The rapid rate of which the Federal
24 Immigration policies that are changing creates a need
25 for new support, identifying new gaps for all New

2 Yorkers as well as the agencies that serve them.

3 [Speaking Spanish] With at we're going to have the

4 Administration testify. If we can have the Admin

5 with Commissioner Nisha Agarwal from MOIA. We have

6 Alisa Yang from MOIA as well as Deputy Commissioner

7 Lawrence Byrne. For NYPD Assistant Chief Gary

8 Strebel from NYPD, and I also want to welcome Council

9 Member Inez Barron from Brooklyn. We had with us

10 today Vinny Gentile from Brooklyn, Council Member

11 Ferreras-Copeland from—from Queens and as well as

12 Rory Lancman from Queens. [background comments,

13 pause] And as you sit, I'm just going to read some of

14 the—some of the bills we're going to be reading

15 today. [pause] So, Introduction 1566, which is

16 sponsored by Dromm, Rodriguez, and the Speaker would

17 expand the role of the Mayor's Office of Immigrant

18 Affairs by requiring that the federal, that they

19 establish a federal affairs unit to follow changing

20 federal laws and policies, work close with the Office

21 of the Civil Justice Coordinator to assess the legal

22 needs, the legal service needs of immigrants to

23 monitor city agency compliance with laws and policies

24 designed to protect immigrants and to promote

25 language access, and report on these and other

2 efforts of the Council. Additionally, Intro 1578,
3 sponsored by Dromm, Williams and the Speaker would
4 require MOIA to establish an interagency taskforce
5 that will meet quarterly to streamline the
6 coordination of City services for immigrant New
7 Yorkers in our city's mixed status families. Since
8 2001, the Council has limited circumstances under
9 which the NYPD and the Department of Correction may
10 coordinate with immigrant authorities on immigration
11 enforcement. Intro 1558 sponsored by the Speaker and
12 Ferreras-Copeland would expand on that work by
13 limiting the Department of Probation's cooperation
14 with immigration authorities in the same way as the
15 Department of Corrections. As you may know, in
16 January, the President issued an executive order that
17 reinstated secure communities a particularly harsh
18 immigration enforcement program terminated by
19 President Obama. The executive order also called for
20 an increase in the number of 287-G agreements, which
21 are formal partnerships between local law enforcement
22 and ICE. These agreement s deputize local police to
23 act as immigration officers and enforcement—and
24 enforce the Federal Immigration Law. These
25 agreements are voluntary, and by passing this law the

1
2 Council will establish a policy against entering into
3 such agreements. The City already cooperates with
4 ICE on its own terms through the Detainer Laws. Any
5 broader or formal arrangement would erode the public
6 trust in law enforcement, and waste local taxpayer
7 dollars. Accordingly, Intro 1568 sponsored by
8 Espinal, Johnson and the Speaker would bar the NYPD,
9 the Department of Corrections and the Department of
10 Probation from entering into 27-287-G or similar
11 agreements. Additionally, the legal—the legislation
12 prohibits the use of city resources for the purpose
13 of immigration enforcement to the fullest extent
14 permitted by the law.

15 Intro 1579 sponsored by Johnson, Council
16 Member Johnson, Speaker Melissa Mark-Viverito and I
17 would prohibit city agencies from granting local law
18 enforcement authorities access to areas of city
19 property where public access is normally restricted
20 unless they have a judicial warrant. Additionally,
21 for publicly accessible areas, agencies will be
22 required to prominently post signs with immigration
23 enforcement related Know Your Rights information in
24 multiple languages, and as the Chair of the
25 Immigration Committee, I welcome Intro 1579, which

2 applies to all non-local law enforcement including
3 immigration authorities. The recent escalation of
4 dragnet immigration enforcement nationally makes—
5 nationally makes clear that law abiding undocumented
6 immigrants are once again at high risk for
7 deportation. The threat of—of coming into contact
8 with ICE has caused immigrants to forego healthcare
9 and city services, which was highlighted in the first
10 panel, for their families out of fear that they will
11 be especially vulnerable to immigration enforcement
12 activities on government property. This bill would
13 ensure that all local law enforcement respect the—the
14 more private areas of city property where New Yorkers
15 receive services. The recent nationwide ramp-up in
16 immigration enforcement has left many immigrant—
17 immigrant parents scared to carry out daily tasks
18 like taking the children to school or meeting with
19 teachers. Intro 1565 sponsored by Dromm, myself, the
20 Speaker and Ferreras-Copeland would require the
21 Department of Education to bi-annually distribute
22 information related to students and parents' privacy
23 rights, as well as the DOE's policies and procedures
24 related to interactions with non-law law enforcement
25 and federal immigration authorities including

2 information on students' constitutional rights to a
3 public education regardless of immigration status,
4 the private rights that protect student records, the
5 DOE's protocol and policies with regard to
6 interactions with non-local law enforcement and
7 federal immigration authorities and the number of
8 staff trained on these policies. Other information
9 includes legal assistant resources, and how parents
10 may update their child's emergency contact
11 information. The bill would also require that the
12 DOE upon any request by federal immigration
13 authorities for access to a student's health—a
14 student to students records, notify the student's
15 parent of such request, and notify the student that
16 he or she has the right to refuse to speak with
17 federal immigrant authorities without an attorney.
18 On public safety there are many collateral
19 consequences associated with criminal convictions for
20 both native and foreign born individuals in the
21 United States. Under—under the Speaker's leadership,
22 this Council has made significant strides to enact
23 criminal justice reforms to blunt the impact of low-
24 level law enforcement. Intro 1569, sponsored by
25 Gibson, Lancman and the Speaker builds upon those

2 efforts. Specifically the legislation would require
3 or would create a disorderly behavior charge that
4 will carry a maximum penalty of no more than five
5 days in jail. While the primary goal of this
6 legislation is provide additional tools for police,
7 prosecutors and judges, the lower maximum sentence
8 allows—sorry. The lower maximum sentence also
9 minimizes the risk of triggering unintended and
10 necessary immigration consequences. The President’s
11 irresponsible rhetoric and the discriminatory
12 policies are an affront to all New Yorkers and do not
13 fall in line with our core values like inclusion,
14 respect for personal privacy and compassion and the
15 rule of law. New York City finds strength in our
16 diversity and innovation and inclusion, in justice,
17 and fairness. That is how we overcome—that is how
18 we’ve overcome the odds in the past, and that is how
19 we will continue to move forward. So I want to ask
20 first Dromm, Council Member Dromm and Chair of
21 Immigration, Chair of the Education Committee to
22 speak on his bills.

23 CHAIRPERSON DROMM: Thank you very much
24 Chair Menchaca, and thank you also to Chair Gibson
25 for holding this hearing today. I want to thank the

2 Speaker for her amazing leadership on these issues.

3 As former chair of Immigration Committee, current

4 Chair of the Education Committee and a former

5 teacher, immigration and education are my two passion

6 and the intersection of these two areas has been more

7 important. I want to start by sharing an experience

8 I had when visiting PS-222 in Jackson Heights. When

9 I first walked into the school, the principal said to

10 me I have a story to tell you. She said she went on

11 the loud speaker in the school, and announced that we

12 were going to receiving a visit from Council Daniel

13 Dromm. Right after that, a little boy ran into the

14 office and said, Mr. Mararo, Ms. Mararo come to class

15 2, or whatever it was. A little girl is crying, and

16 she said what's going on and she went up to the

17 classroom, and she found out that the little girl was

18 crying because she sadly misheard my name as Donald

19 Trump, and when I got there the principal said to me

20 you have to come into the classroom because I want

21 her to see who you are. Well, I'm not quite sure she

22 actually was convinced that I wasn't Donald Trump,

23 but if you can imagine the fear that was in this

24 girl's heart thinking that Donald Trump was going to

25 come to her school to either deport her or to take

2 away her parents. And I want to highlight that this
3 was during Donald Trump's campaign before he actually
4 became president. His campaign rhetoric instill such
5 intense fear in this young child that she might not
6 be able to go home and see her parents again. As we
7 approach the first 100 days since he took office, the
8 policies and actions we have seen from the Trump
9 Administration have only made the situation worse.
10 That's why I'm so proud to sponsor legislation today
11 that will help to alleviate some of those fears and
12 provide support for our immigrant families. I am
13 proud to sponsor Intro 1566 with Council Member
14 Rodriguez and the Speaker, which would expand the
15 Mayor's Office of Immigrant Affairs. And help our
16 immigrant communities feel supported in navigating
17 legal issues and assessing city resources.
18 Bolstering the work of MOIA will signal to all of the
19 city's immigrants that we stand by you. You are
20 welcome here, and we're here to help. I am also very
21 proud to sponsor Intros 1565 co-sponsored by Chair
22 Menchaca. It would require the Department of
23 Education to distribute information to students and
24 parents about their educational and privacy rights,
25 and the DOE's policies regarding interactions with

1 non-local law enforcement and federal immigration
2 authorities. We must make clear to families that all
3 children who reside in New York City and are of
4 school age have the right to attend public school
5 here. [Speaking foreign language] The immigration
6 status of a child or parents, guardians do not affect
7 that right. Families deserve to have a clear
8 understanding of their rights, and when information
9 about their children will be kept confidential. We
10 must do this so that parents feel safe sending their
11 children to school so we can ensure that the city's
12 children will continue to receive the education that
13 is so important for their futures. I look forward to
14 hearing the testimony today on all of these and all
15 of the bills before the committee. Thank you very
16 much.
17

18 CHAIRPERSON MENCHACA: Thank you Chair
19 Dromm, and Chair Gibson on your bills.

20 CHAIRPERSON GIBSON: Thank you very much,
21 Chair Menchaca. Good afternoon to each and every one
22 of you. Welcome to City Hall. I am Council Member
23 Vanessa Gibson of the 16th District in the Bronx, and
24 I'm proud to serve as Chair of the Committee on
25 Public Safety. I welcome each and every one of you

2 to our triple joint hearing today of the Committees
3 on Immigration, Public Safety and Education. I want
4 to thank our Speaker Melissa Mark-Viverito not only
5 for her relentless support, but for her leadership,
6 compassion and consistency. Thank you, Chair
7 Menchaca, Chair of Immigration. Thank you Chair
8 Dromm, Chair of Education and to all of our
9 colleagues who are here for this very important
10 hearing. I thank you all for this opportunity. It
11 is estimated that over one-third of New York City
12 residents in our communities are foreign born
13 representing one of the highest immigrant populations
14 among U.S. cities. New Yorkers hail from everywhere,
15 from the Dominican Republic, China, Jamaica,
16 Trinidad, Mexico, Ecuador, Haiti and in my community
17 of the Bronx the growing families we have from West
18 Africa. I am proud to be a product of immigrant
19 parents. My father came to this county from TNT,
20 Trinidad and Tobago, and I'm very, very proud of
21 that. So many of our countries are represented here
22 in our city. Simply put, we know without immigrants
23 we have no New York. Diversity and inclusion have
24 always been the true fabric and hallmarks of our
25 great nation. We are New York. [Speaking Foreign

2 Language] However, this new administration does not
3 share the same view of inclusivity and is threatening
4 to pull our fabric apart. [speaking foreign
5 language] That is why we want to make it clear that
6 regardless of where you were born if you live in this
7 city we stand in solidarity with you to protect the
8 rights of each and every one of our New Yorkers.

9 Non-citizen New Yorkers should not live in fear or
10 being detained or of a loved one being deported every
11 time they go to school, report a crime or get and
12 access social services and benefits. This is truly
13 not who we are as a city. It is possible and indeed
14 it is absolutely necessary to protect the rights of
15 all immigrants without compromising public safety.

16 In New York City we know these two goals are not
17 mutually exclusive. I want to commend Acting
18 District Attorney of Brooklyn Eric Gonzalez on his
19 announcement earlier this week that his office taking
20 steps to protect non-citizens from deportation over
21 low-level non-violent offenses. Deportations can
22 tear apart families and de-stabilize communities. We
23 know that and we've seen it happen. This does not
24 make our city safer. In fact, it makes our police
25 Department's job and all the offices that work

2 everyday to protect us even more difficult. When
3 there is no trust between the community and law
4 enforcement, we lose our first line of defense, the
5 eyes and ears on the streets of New York. Neighbors
6 and witnesses of crime stop coming forward. They are
7 fearful and they live in the shadows of darkness. On
8 average about 35 fewer crimes are committed per
9 10,000 people that are living in sanctuary cities as
10 compared to those cities that don not make their
11 immigrant populations a priority. The data suggests
12 that when local law enforcement focuses on keeping
13 our communities safe for all people, communities are
14 truly safer. That is why I am proud to not only co-
15 chair this important hearing with my colleagues, but
16 to also be the prime sponsor of Intro 1569, which is
17 on the agenda today, which relates to prohibiting
18 disorderly behavior. The passage of this bill will
19 ensure that low-level non-violent offenses do not
20 trigger negative immigration consequences. This
21 legislation would create an administrative code
22 offense that is an alternative to the state's
23 Disorderly Conduct Statute and would carry a maximum
24 penalty of no more than five days in jail. This
25 legislation would give more options to our

2 prosecutors in resolving these cases. Creating the
3 city offense alternative will not only help our
4 immigrant community but all New Yorkers and it's
5 absolutely in line with this Council's goal and
6 priorities of creating proportional penalties for
7 low-level non-violent offenses. I look forward to
8 hearing this morning, this afternoon from the
9 Administration and advocates and certainly thank all
10 of my colleagues and prime sponsors of all the
11 legislation today on our agenda, and as the Speaker
12 has mentioned, we are certainly not soft on crime.
13 Our police officers and the men and women of the NYPD
14 work hard every single day to keep New Yorkers safe,
15 and I take exception when anyone tries to discredit
16 the work of our law enforcement. We know how to get
17 it done, and we are getting it done every single day.
18 So I want to thank the NYPD and our commissioner for
19 staying firm in their principles and their values in
20 keeping every New York safe regardless of status. I
21 want to thank the staff of the Committee on Public
22 Safety for their work in this hearing. I want to
23 thank our Senior Legislative Counsel Deepa Ambekar,
24 our Legislative Counsel Beth Golub, Legislative
25 Policy Analyst Casey Addison, our Senior Financial

1
2 Analyst Steve Reister. I want to thank Brian Crowe,
3 Indiana Porta, Kelly Taylor, Rob Newman all of the
4 staff on all of the committees on immigration,
5 education and public safety. Truly you can see
6 already all of the work that has been done to get
7 today's hearing moving, and I really want to thank
8 the staff, and thank the Speaker and my fellow Chairs
9 for today's hearing, and now I'll turn it back over
10 to Chair Menchaca. Gracias.

11 CHAIRPERSON MENCHACA: [Speaking Spanish]
12 And I want—I want to now bring up Council Member
13 Espinal on his bills.

14 COUNCIL MEMBER ESPINAL: Thank you
15 Chairman Menchaca and a big thanks to Madam Speaker
16 for being a strong advocate in support of our
17 immigrants in the city, and thanks to Chair Gibson
18 and Dromm for holding this hearing. Good—good
19 afternoon, everyone. My name is Council Member
20 Rafael Espinal, and I am the sponsor of Intro No.
21 15168, a bill in relation to Federal Immigration
22 Enforcements. I'm the son of two immigrants from the
23 Jamaican Republic. I am extremely proud to put forth
24 this piece of legislation that would guarantee that
25 New York City remains a sanctuary city, one that

1 protects and nurtures our diverse group of
2 immigrants. New York City has always been a
3 sanctuary City, one that protects and nurtures our
4 diverse group of immigrants. New York City has
5 always been a city of immigrants. Today, it is a
6 majority/minority city and home to 3.1 million
7 immigrants, the largest population in the nation, and
8 I just want to make one thing clear: These immigrants
9 didn't come to America or to our city to be criminals
10 or drug dealers or gang members as has been implied
11 by certain members of the current federal
12 administration. They came here to work. They came
13 here to get educated. They came here to—to progress
14 and better themselves as they dream of owning a home
15 or a small business. They came here to start a
16 family. They came because they saw the promise that
17 that United States of American afforded to countless
18 numbers of immigrants that come to this country
19 before them. That is why this hearing is so
20 important. My bill along with the package of bills
21 being heard today will ensure that our city's
22 immigrants are shielded from any potential
23 overzealous federal deportation and detention
24 policies, and that they are allowed to continue to be
25

1
2 hardworking and productive residents of our great
3 city without fear of what may happen to them, or
4 their loved ones. Intro No. 1568 will prohibit city
5 agencies from partnering with ICE from using city
6 resources to help ICE and require any requests for
7 assistance by ICE agency and--and federal enforcement
8 agencies to be denied and documented. I look forward
9 to working with the Speaker, my colleagues here in
10 the Council and with the--with the Administration to
11 ensure that Intro 1568 along with all of the other
12 bills on today's agenda are enacted and signed into
13 law as soon as possible. Thank you.

14 CHAIRPERSON MENCHACA: Thank you, Council
15 Member Espinal for those words, and we have been
16 joined by Council Member Salamanca, King, Levin, and
17 Chin, and we have two other admin folks who will be
18 joining us today, Mr. Howard Fed--Friedman, General
19 Counsel to Department of Education and Maite Junco,
20 Senior Advisor to the Chancellor of the Department of
21 Education, and will--will you be testifying today?.

22 HOWARD FRIEDMAN: [off mic] We're
23 answering questions.

24 CHAIRPERSON MENCHACA: You're answering
25 questions. Great. Okay. So we're going to be

1 administering the oath next, and you can raise your
2 hand—your hands, please. Do you affirm to tell the
3 truth, the whole truth, and nothing but the truth in
4 your testimony before this committee today, and to
5 respond honestly to Council Member questions?
6

7 COMMISSIONER AGARWAL: I do.

8 HOWARD FRIEDMAN: I do.

9 CHAIRPERSON MENCHACA: Thank you. You
10 may begin.

11 COMMISSIONER AGARWAL: Thank you to
12 Speaker Mark-Viverito, Chair Menchaca, Chair Gibson,
13 Chair Dromm and the members of the Committees on
14 Immigration, Public Safety and Education. My name is
15 Nisha Agarwal, and I'm the Commissioner of the
16 Mayor's Office of Immigrant Affairs or MOIA. This
17 testimony will address the proposed bills on the
18 handling of identifying information by the city and
19 outline the city's approach to protecting the privacy
20 and confidentiality of all New Yorkers. My testimony
21 will also provide feedback on the other immigration
22 bills that have been proposed by the Council and will
23 be heard later today in addition to the identifying
24 information bills. As a general matter, my testimony
25 is informed by the city's approach to vigorously

2 protecting the privacy and security of all New
3 Yorkers while ensuring the city services and public
4 information remain open and accessible for all.

5 These goals that apply broadly but, of course, they
6 have special urgency for vulnerable populations in
7 the city including, but not limited to immigrants.

8 At the outset, I would like to applaud the leadership

9 of the Speaker and City Council in continuing to

10 fight for the rights and wellbeing of vulnerable New

11 Yorkers. As the Commissioner of MOIA, I'm aware of

12 the increased fear and anxiety with many—which many

13 immigrant communities at this time experience, and

14 recognize how important it is to have a local

15 government with leadership who are committed to

16 maintaining and expanding inclusive and welcoming

17 policies that recognize and celebrate our city's

18 diversity. I will start with the bills that relate

19 to identifying information and data security, Intros

20 1557 and 1588. Together these bills establish a

21 division within the Law Department to be solely

22 responsible for the reviewing and improving of

23 requests for information received by every city

24 employee, contractor and subcontractor. In addition,

25 these bills place restrictions on the collection,

2 retention, and disclosure of identifying information.

3 [coughs] We recommend that these bills be amended to

4 (1) Maintain consistency with the City's approach to

5 maintaining data and information privacy for all New

6 Yorkers; and (2) avoid a significant operational

7 burden on agencies and the Law Department that would

8 impinge on the city's ability to provide crucial

9 services efficiently. I will address each of these

10 recommendations now. First, the city's approach to

11 securing data and information privacy is to

12 vigorously protect the privacy of all New Yorkers.

13 We recognize that all New Yorkers including the 3

14 million foreign born New Yorkers may have concerns

15 about how the city handle their private information,

16 and their confidential information when they access

17 city services, and that these concerns may impact

18 their willingness to seek our critical help. From

19 healthcare services to public safety, to education

20 and civil rights as well as legal services. This is

21 particularly true for more vulnerable populations

22 including survivors of domestic violence, LGBTQ

23 individuals, victims of hate or biased crimes and

24 undocumented immigrants. Recognizing our ability to

25 maintain a safe, healthy and thriving city depends on

1
2 New Yorkers' confidence that local government will
3 protect confidential information. The Administration
4 takes the protection of data and information privacy
5 and security very seriously. This is not new.
6 Indeed we have learned from our experience in
7 implementing the IDNYC program that strong privacy
8 and confidentiality protections are foundational to
9 the broad based success of citywide initiatives. The
10 IDNYC program is proud to have over one million
11 cardholders from every corner of the city, and the
12 program's success is closely linked to stretch
13 protocols on storage and handling of cardholders'
14 identifiable information including secure processes
15 and standards for any third-party request for
16 cardholder information followed by the Human
17 Resources Administration, which is the administering
18 agency. This approach has been crucial in
19 maintaining the program's credibility with community
20 members and program partners. We strongly believe in
21 this broad-based approach to maintaining the security
22 of our residents' information and data. In seeking
23 to remain consistent with the city's approach, we
24 believe that legislation aimed at protecting
25 identifying information should broadly address the

1 privacy and security concerns of all New Yorkers.
2
3 Instead of a particular focus on requests from
4 Federal Immigration Enforcement authorities, as
5 currently reflected in the bills, we recommend that
6 Council adopt a broader approach that recognizes the
7 privacy concerns of all. Second, we strongly
8 recommend that the Council consider the
9 administrative and operational burdens that these
10 bills, as currently written, placed on City agencies
11 in a manner that could impact access to services for
12 many New Yorkers. Maintaining smooth and efficient
13 government operations is crucial for ensuring that
14 all New Yorkers are able to access the services they
15 need. Therefore, we are particularly interested in
16 not imposing severe operational burdens on city
17 agencies in a manner that could negatively impact New
18 York City residents' access to services or impeded
19 efforts to improve city services through data
20 integration. With more than 300,000 city employees
21 and upwards of tens of thousands of city contractors,
22 these bills could create a significant bottleneck in
23 operations given the proposed framework of having a
24 single division within the Law Department and review
25 the majority of requests. We recommend a more

2 streamlined approach to handling data disclosure
3 request that takes efficiency, access and agency
4 expertise into account while, of course, maintaining
5 high standards of privacy and confidentiality.
6 Specifically, we recommend amending the bills so that
7 requests for information are reviewed by each
8 agency's respective legal department with guidance
9 from the Law Department, which will alleviate the
10 administrative burden on the Law Department and
11 leverage the subject matter expertise of the agencies
12 themselves in reviewing and making determinations
13 regarding requests for information. Such an approach
14 would strike an appropriate balance between privacy
15 and effects of accessible services. The city has
16 experience in doing this, as demonstrated by efforts
17 led by the Citywide Data Integration Initiative,
18 which is managed by the Mayor's Office of Operations
19 and governed by a steering committee created by the
20 First Deputy Mayor. This initiative establishes
21 administration wide support for a one-city approach
22 to data while providing a vigilant legal privacy and
23 data security framework for developing multi-agency
24 projects involving the integration of data from three
25 or more agencies. Recently the Mayor's Office of

1 Operations and the City's Law Department worked
2 closely with the Citywide Data Integration Initiative
3 Steering Committee to provide internal guidance for
4 all city agencies on handling third-party requests
5 for information held by city agencies in a manner
6 that maximizes thoughtfulness and vigilance for data
7 privacy and security while not impeding agency
8 operations. Under this internal guidance, the agency
9 Legal Depen-Departments handle data disclosure
10 requests by considering a series of factors and legal
11 considerations and consult with the Law Department as
12 needed. This approach provides agencies with
13 standards while also allowing them to leverage their
14 expertise and make determinations in a streamlined
15 manner. We encourage a similar approach for Intros
16 1557 and 1588. Concerns about privacy and access
17 that drive my comments on the identifying information
18 bills also extend to other proposed legislation that
19 the Council is considering related to immigrant
20 protection. Before addressing these other bills
21 specifically, I want to briefly describe the city's
22 recent efforts on behalf of immigrant New Yorkers.
23 We are currently experiencing a time when there's
24 increased xenophobic and anti-immigrant sentiment
25

2 nationally, and a more enforcement oriented approach
3 to immigration at the federal level, which in turn
4 has led to fear and concern among immigrant and other
5 communities in New York City. In light of this
6 climate of heightened fear, the City under the
7 leadership of Mayor de Blasio has worked to ensure
8 that all New Yorkers know that city services rain-
9 remain available to them including public health,
10 education, emergency housing and public safety
11 resources. This effort has spanned city government.
12 For example, in February 2017, the Department of
13 Consumer Affairs, the City Commission on Human Rights
14 and MOIA, held a One New York Day of Action
15 protecting our Muslim communities to remind fellow
16 New Yorkers that the city is committed to protecting
17 the rights of all New Yorkers where you live, work
18 and shop. In January 2017, the Department of
19 Education and MOIA jointly issued immigration
20 guidance and supports for all schools. Those
21 guidelines were expanded in March 2017 to provide a
22 detailed protocol to school officials for responding
23 to request from non-local law enforcement agencies,
24 and offering additional trainings for students and
25 families across the city. In December 2016, the New

2 York City Health and Hospitals and MOIA issued an
3 open letter to reassure immigrant New Yorkers that
4 they can get medical care in any public healthcare
5 setting without fear, and on multiple occasions the
6 New York City Police Department has public reinforced
7 those commitments to neighborhood policing and
8 maintaining strong ties with immigrant communities
9 throughout the five boroughs. Both Commissioner Neal
10 and the Mayor have spoken our clearly that the NYPD's
11 role is not to enforce federal immigration law, and
12 the Police Department has made considerable efforts
13 to make sure that immigrant crime victims and
14 witnesses know they can feel safe coming forward to
15 report crime and seek help from the NYPD. In
16 addition, at MOIA we continue to closely monitor new
17 developments at the federal level in immigration
18 policy and practices and brief our sister agencies
19 about updates that may impact their work and the
20 communities they serve as well as engage with our
21 sister agencies to strengthen the city's response and
22 ensure access and inclusion for the immigrant
23 community. Indeed, we are delighted to hear about
24 the California Federal Court Ruling issued yesterday
25 that enjoined the President's attempt to cut vital

2 funding to cities, and we look forward to further
3 briefing our city colleagues on this development. My
4 office is also focused on working with community
5 partners to inform and empower community members
6 about their rights. We have conducted over 250 Know
7 Your Rights trainings since November 2016 in schools,
8 hospitals, churches and CBOs. We have also just
9 released a second edition of our Resource and
10 Referral Guide, which we have here translated into 10
11 different languages that provides information on a
12 broad range of services available to immigrant New
13 Yorkers regardless of immigration status. Finally, I
14 am delighted to say that the Administration will be
15 baselining \$16.4 million to fund legal representation
16 for immigrant New Yorkers facing deportation and
17 other immigration charges. With this investment, the
18 City will have dedicated over \$30 million
19 specifically for legal and other services for
20 immigrants.

21 Intros 1565, 1566 and 1578 reflect this
22 expanded need for information among immigrant
23 communities that my office in conjunction with many
24 sister agencies and the Council worked to address.
25 At MOIA we are particularly proud of the work that

2 we've done in partnership with DOE to provide high
3 quality information and resources to immigrant
4 parents and families. As described above, we've
5 provided guidance on non-local law enforcement's
6 access to schools and are conducting many Know Your
7 Rights trainings in schools for students, parents and
8 community members. Additionally, the city's Action
9 NYC program, which provides immigration legal clinics
10 at schools across the city has held 70 clinics at 27
11 different schools in the last year providing safe
12 legal help for students who need it. Our IDNYC
13 program has also placed a special emphasis on making
14 sure that students over the age of 14 have access to
15 government issued identification cards and the myriad
16 benefits that come with IDNYC. The program is held
17 pop-up in moment sites at schools and Summer Youth
18 Employment Program enrollment sites to ensure that
19 students are informed by the card and have an
20 opportunity to enroll in the IDNYC program on the
21 spot. Finally, MOIA's outreach and organizing staff
22 has strong relationships with parent coordinators in
23 immigrant dense neighborhoods, and are regularly
24 present at school events, fairs and information
25 sessions. With these efforts to reach immigrant

1
2 parents and students in mind, we support the goal of
3 Intro 1565, which requires the Department of
4 Education to distribute information regarding
5 students and parent's educational rights and DOE---
6 DOE policies related to interactions with state and
7 federal law enforcement. However, we recommend that
8 the Council narrow the scope of require information
9 that DOE must distribute and provide the agency with
10 more flexibility. While the city firmly believes in
11 distributing information that is useful for parents
12 and children, we believe that some types of
13 information outlined in the bill relate to legal
14 issues that are often complex and case specific, and
15 that would involve putting DOE in the position of
16 providing legal advice to families and legal
17 information that is beyond the scope of the agency's
18 expertise. We suggest that MOIA and DOE work
19 together to develop and distribute materials
20 regarding DOE policies and appropriate resources for
21 immigrant students with clear referral information
22 for where to get more detailed assistance. As for
23 the two bills that specifically address the work of
24 my office, Intro 1566 and Intro 1578, we also support
25 the goals set out in these bills to enhance the

2 city's capacity to analyze national, state and local
3 developments related to immigration policy and
4 immigrant integration, and make recommendations for
5 how the city can further support the wellbeing of
6 immigrant New Yorkers. We would again urge more
7 flexibility for the Mayor and MOIA in the approach of
8 this work and welcome opportunities to work with the
9 Council on building in more flexibility to these
10 bills.

11 Next, I will discuss Intro 1579. Intro
12 1579 prohibits non-local law enforcement for
13 accessing non-public areas subject to narrow
14 exceptions and requires the posting of signs
15 containing immigration enforcement related to Know
16 Your Rights information in publicly accessible areas
17 controlled by the city. I will discuss the city's
18 feedback for each of these provisions individually.
19 Regarding the bill's prohibition on non-local law
20 enforcement accessing non-public areas controlled by
21 the city, we share in the Council's concern for
22 ensure that individuals on city property are not
23 unnecessarily targeted by non-local law enforcement.
24 However, we feel that this concern will be best
25 addressed through a more neutral and flexible

1 approach. Based on the city's successful experiences
2 with implementing a broad based approach to data
3 privacy and security, we believe that a similar
4 approach here is possible and beneficial. Providing
5 guidance for how city agencies should address all
6 visitors who seek to enter non-public areas of the
7 city in a manner that is flexible and adaptable for a
8 variety of circumstances would provide clarity to and
9 be beneficial to all individuals who may have
10 business with the city. Intro 1579 also requires the
11 posting of signs in publicly accessible areas. While
12 we certainly support the goals of ensuring that New
13 Yorkers are aware of their rights with regard to
14 federal immigration enforcement, we recommend that
15 the Council also take a more neutral and broad based
16 approach in considering the contents of these signs.
17 We would like to avoid approaches that may have the
18 counterintuitive impact of making city services seem
19 less accessible or of stoking fear and panic at a
20 time when rumors and confusion remain very dangerous.
21 We believe that the posting of signs on city property
22 with this messaging could create more anxiety and
23 confusion about what could or could not happen while
24 an immigrant New Yorker is in a city building.
25

1
2 Rather, we recommend an approach that promotes
3 positive messaging around the city's immigrant
4 inclusion policies, and our commitment to ensuring
5 access for all. We also believe that more detailed
6 information about individual rights would be
7 appropriately disseminated through the context of
8 Know Your Rights training or information sessions
9 where individuals are able to ask questions about
10 their rights vis-à-vis immigration enforcement and be
11 directly connected to qualified lawyers for cases
12 that they question. Such an approach would—would be
13 more likely to provide clear information rather than
14 signs, which may spark more confusion. We would be
15 happy work with the Council to increase our outreach
16 in these forums.

17 Intro 1568 and Intro 1558 relates to how
18 the city's relation with federal immigration
19 enforcement work. We recommend that these bills
20 remain consistent with recent approaches taken by the
21 City Council and this Administration, which has been
22 to work with federal immigration authorities in
23 limited circumstances where there risks to public
24 safety while otherwise prioritizing remaining and
25 accessible cities that values family unity, immigrant

2 inclusion and strong relations between local law
3 enforcement and immigrant communities. This approach
4 ensures that any cooperation with immigration
5 enforcement leads to meaningful gains in public
6 safety for all New Yorkers immigrant and native born
7 alike. This approach avoids exposing undocumented
8 immigrants who commit minor and non-violent
9 infractions such as getting a parking ticket, but
10 does—but does contemplate cooperation in situations
11 where public safety may be implicated. In an effort
12 to remain consistent with this approach we believe
13 that Intro 1568, which places a broad prohibition on
14 the use of city resources to support federal
15 immigration enforcement with a few limited exceptions
16 could benefit from taking a similarly nuisanced
17 approach that factors in the need to build community
18 trust while maintaining public safety. We also have
19 concerns that the bill currently prohibits local law
20 enforcement from enforcing certain criminal warrants.
21 This prohibition may place city agencies in a
22 position to disregard a lawfully issued court order.
23 We would instead support narrowing the bill in a
24 manner that would echo the current practice, which is
25 the city agencies are not engaged in nor do we assist

1 in civil immigration enforcement. As for Intro 1558,
2 which prohibits the Department of Probation from
3 honoring civil immigration detainers. We recognize
4 the support—recognize the support, the goal of the
5 bill, to ensure that important probation services
6 remain accessible to all probation clients. We
7 recommend revisions to this bill, however, that
8 reflect the distinct role and function of probation,
9 which unlike the Department of Corrections is a non-
10 custodial criminal justice agency. While also
11 ensuring that legislation does not inadvertently
12 diminish trust between probation and its immigrant
13 clients. Finally, we also support the goal of Intro
14 1569, which creates a city version of the disorderly
15 conduct offense. This bill would eliminate
16 immigration collateral consequences associated with
17 the conviction for the current version of disorderly
18 conduct. This continues the city's efforts to
19 lighten the tough of low-level criminal justice
20 enforcement. In summary, the City is appreciative of
21 the City Council's continuing work in fighting for
22 the rights, safety and security of immigrant New
23 Yorkers. We look forward to continuing to work with
24 you on this legislation to strengthen the city's
25

2 efforts to protect the privacy of all New Yorkers and
3 vulnerable population while also paying special
4 attention to need-to the needs of immigrant New
5 Yorkers during this time. Thank you.

6 CHAIRPERSON MENCHACA: Thank you,
7 Commissioner. Is anyone else presenting testimony
8 today?

9 COMMISSIONER AGARWAL: Here for Q&A.

10 MALE SPEAKER: No, just questions.

11 CHAIRPERSON MENCHACA: Well, thank you,
12 and we have a few questions we want to start off, and
13 we've also been joined by Council Member Chaim
14 Deutsch from Brooklyn, and Council Member Dan
15 Garodnick from Manhattan. So I'm going to start off
16 with a set of questions and then hand it over to the
17 other chairs, and the-the first set of questions-
18 And, again, I recognize the-the massive package of-of
19 bills here, and so we want to kind of go through them
20 as-as efficiently as possible. And really, the first
21 question that comes to mind for me is-the information
22 sharing around MOIA's interactions with ICE and ICE
23 agents or ICE information with the City Council. And
24 so, I guess my first question is how-how are you-how
25 do you currently inform Council-the City Council the

1
2 City Council members, the Speaker's Office on
3 incidents about ICE in our neighborhoods that you get
4 from advocates? Can you just paint the full picture
5 about your interactions with community organizations
6 or whatever and how you—how you currently give us
7 information and report to the City Council?

8 COMMISSIONER AGARWAL: Sure. So some of
9 this is specific to MOIA. I think some of it is
10 broader, but to use the example of several months ago
11 when there when there was significant ICE activity or
12 raids in New York City, we worked very closely with
13 community based organizations, and with the Council
14 to both hear what was happening on the ground, be
15 able to reach out to our city agencies if there were
16 rumors that ICE was present at our city agencies, and
17 also to essentially confirm or disconfirm what some
18 of those rumors were. So in those contexts we have—
19 we had very sort of closed circuit of communication
20 because there was clearly a lot of fear about—about
21 ICE activity. What we would like to do working with
22 you is actually figure out how to institutionalize
23 that process particularly with regard to immigration
24 enforcement information. Some of the information
25 comes up to us through Know Your Rights forums,

2 through other contacts and relationships that our
3 outreach team may have. That's the kind of ongoing,
4 I think, information sharing that we would want to
5 continue to do working in close collaboration with
6 the Council about those issues.

7 CHAIRPERSON MENCHACA: When-how-how did
8 you activate? So I just want to kind of underscore
9 this. This is not institutionalized right now, and
10 you're doing it and I'll---I'll let you describe is
11 this ad hoc? Is this-how-how are you determining
12 when-when it happens, when you are interacting right?
13 This will help us with institutionalizing it--

14 COMMISSIONER AGARWAL: Uh-huh.

15 CHAIRPERSON MENCHACA: --but you might
16 have some ideas about how something is working or not
17 working in coordination with the local organizations
18 that you have relationships with, and local Council
19 Members.

20 COMMISSIONER AGARWAL: Sure. So usually
21 we'll get a call or get outreach from either a
22 Council Member or from a community organization
23 saying this is what we're hearing about what's
24 happening on the ground. Can we work together to
25 figure out whether it's true or not true essentially

2 with regard to ICE activity in the community. And so
3 then we can leverage the relationships we have with
4 city agencies, with police precincts to find out from
5 our perspective what's happening. I will say
6 community organizations and Council Member offices
7 also have boots on the ground to be able to confirm
8 that, you know, that's ICE activity that's on
9 Roosevelt Avenue or whether it isn't. It's something
10 else, and so that's really how the process has been—
11 has been working.

12 CHAIRPERSON MENCHACA: And how have you
13 been able to verify—so and—and I know I'm asking a
14 repetitive questions, but I want to get deeper into
15 how you—how you kind of declare and verify the
16 information about ICE on a city property itself or a
17 public area. What—what—what kind of processing or—
18 or—verification process are you using currently
19 right now on—on verifying ICE?

20 COMMISSIONER AGARWAL: Sure. So from the
21 city's perspective we'll work with a broad range of
22 agencies whether it's NYPD, whether it's—there were
23 rumors about ICE being at Health and Hospitals or
24 we'll work with the Community Affairs Unit that has a
25 broad team that will be able to go into public spaces

2 and verify. So we use the resources and the context
3 that we have as a city in close communication with
4 community partners as well.

5 CHAIRPERSON MENCHACA: And that—is that
6 an observational? So, so really there's no—there's—
7 so the next kind of set of questions are really your
8 interactions with ICE itself, and s how—how have you
9 kind of-- Well, there's two separate questions. The
10 first one is—is this is a visual—this is a visual
11 confirmation from somebody and—and you'll grant it
12 as—as confirmed from a person on the ground and it
13 sounds like there's multiple persons on the ground
14 right now, organization, Council Member, staffer.
15 And so, that—that you kind of feel comfortable with
16 right now as—as an observational piece. What is—what
17 is—what is your communication right now with—with—
18 with ICE itself and ICE as the agency?

19 COMMISSIONER AGARWAL: Sure. So in the
20 Obama Administration we had an ongoing relationship
21 with the ICE that's sort of the regional office in
22 New York, and we've continued to try to maintain that
23 relationship with ICE here now, and have met with
24 their offices to really as an initial matter make
25 very clear what the City's policies are particular

2 our local laws around detainers, and make sure that
3 they know how things operate here, that they know
4 that we have an interest in wanting to have
5 relationship and conversations and often our role is
6 to communicate out concerns when they heard from the
7 community, hear back what they have to say, and it's
8 a relationship we'd like to continue.

9 CHAIRPERSON MENCHACA: And then finally
10 and I have a couple other questions on—on a couple
11 other topics, but are you—are you ready and prepared
12 as an agency to send us a kind of formal—as part of
13 institutionalizing this work, send us—send us
14 quarterly or—or periodic reports about ICE—ICE
15 related information gathering operations for MOIA,
16 and sending that to the City Council. Are you open
17 to that?

18 COMMISSIONER AGARWAL: We're open to
19 that. I think what we're working on right now we've
20 been partnering with the groups on the ground here in
21 New York, but also sort of share out the United We
22 Dream hotline around reporting raids. And so, we're
23 trying to figure out how we captured that information
24 and not consistent in real time basis, so we're
25

2 working on that, and but certainly open to sharing
3 that information.

4 CHAIRPERSON MENCHACA: Great, and we'll
5 be—we'll be working with you on—on that front.

6 There's a detainer question and really this is about
7 understanding. Well, we understood and understand
8 that there have been recent—that there have recently
9 been some individuals transferred to ICE custody from
10 DOC, custody without a judicial warrant. Can you
11 confirm this and—and maybe even explain the
12 Administration's position regarding when it has legal
13 authority to notify and/or transfer someone into ICE
14 custody without a judicial warrant.

15 COMMISSIONER AGARWAL: Sure. So I can
16 essentially summarize what the law permits us to do.
17 So in instances where—and also Commissioner Byrne can
18 speak to the NYPD situation, but with regard to the
19 Department of Corrections, when DOC receives a
20 detainer request or a request to hold, under the law
21 obviously the individual has to have certain criminal
22 convictions within a certain period time or be on
23 this terrorist watch list. That's one of the first
24 things that they look for, and then for a hold
25 meaning to hold somebody beyond the point they would

1
2 otherwise be released, a judicial warrant is
3 required. Under the local law, however, we're also
4 able to-if-if ISIS is asking for a request for
5 notifications date and time and release. Also, they
6 would need to-the individual they're asking about
7 would need to met the criminal convictions, the
8 requirements. And as long as ICE provides probable
9 cause that this is the right person that we're
10 looking for, it could be something like they're own
11 I-200 or 205 forms to establish probable cause, and
12 we can give notification or release date and time.
13 But in those instances, we are not actually holding
14 that person beyond the point at which they would
15 otherwise be released.

16 CHAIRPERSON MENCHACA: So-so that's the
17 summary in the review. Can you confirm that someone
18 has been transferred from custody? Is that-is that
19 something you can speak to or confirm?

20 COMMISSIONER AGARWAL: I-I believe so. I
21 would have to know more details about who it is that
22 you're speaking about. So, you know, can't confirm
23 specific individuals, but DOC does cooperate with
24 requests for notification of release date and time.

25

2 CHAIRPERSON MENCHACA: Is there anybody
3 else on the panel that can—that can speak to a case
4 or that can confirm that we've—we've—that somebody
5 has been transferred from—from DOC to—to ICE?
6 [background comments, pause] No? Okay. We want to
7 follow up with that. I think there's—there's—

8 MALE SPEAKER: [off mic]

9 CHAIRPERSON MENCHACA: Okay. If you can—
10 if you can come over. There's an extra seat right
11 over there, and we'll—we'll swear you in so you can
12 speak on this topic. [pause] If you can just raise
13 your hand. Do you affirm to tell the truth, the
14 whole truth, and nothing but the truth in your
15 testimony before this committee—these committees, and
16 to respond honestly to the Council Member questions?

17 DEPUTY COMMISSIONER FARRELL: [off mic] I
18 do.

19 CHAIRPERSON MENCHACA: Thank you and
20 introduce yourself.

21 DEPUTY COMMISSIONER FARRELL: [off mic]
22 I'm Timothy Farrell, Deputy Commissioner for the
23 Department of Corrections.

24 CHAIRPERSON MENCHACA: Make sure it's
25 red.

2 DEPUTY COMMISSIONER FARRELL: There we
3 go.

4 CHAIRPERSON MENCHACA: Three you go.

5 DEPUTY COMMISSIONER FARRELL: Timothy
6 Farrell, Deputy Commissioner, New York City
7 Department of Correction.

8 CHAIRPERSON MENCHACA: And so the
9 question is, you know, we're hearing from advocates
10 and some folks on the ground that someone recently
11 has been transferred from the Department of
12 Corrections' custody over to ICE custody. We want to
13 just confirm that that's happened, and really kind of
14 telling us a little bit about the--the position from
15 the Administration when it has that legal authority.
16 We heard--we heard a summary from MOIA, but want to
17 kind of get it from you, if you can--if you can
18 explain that.

19 DEPUTY COMMISSIONER FARRELL: Sure. To
20 date, we've have 161 requests year-to-date, 161
21 requests for notification from ICE on individuals,
22 and we have turned over six of those individuals who
23 have met the local law criteria to be turned over to
24 ICE, and to the information I have here, is I don't
25 believe there were judicial warrants in it. They met

1
2 the local law criteria for that. They've had pre-
3 prior felony convictions within the local law.

4 CHAIRPERSON MENCHACA: Just so I can get
5 that correct, because it—I think this is important.
6 You're saying that—that—well actually it's unclear
7 whether these are judicial warrants if there is any
8 judicial warrants tied to each of these requests that
9 were granted.

10 DEPUTY COMMISSIONER FARRELL:
11 [interposing] Correct. We have—we'll verify that
12 based on an individual basis.

13 CHAIRPERSON MENCHACA: Okay, that to
14 your—to your satisfaction the local law that we just
15 heard reviewed for—for transfer of custody.

16 DEPUTY COMMISSIONER FARRELL: That is
17 correct.

18 COMMISSIONER AGARWAL: And just to be
19 clear, assuming those situations there were request
20 for notification of release date and times where a
21 judicial warrant is not required, merely showing a
22 probable cause by ICE usually demonstrated by their
23 I-200 or 205 forms is what's required.

24 CHAIRPERSON MENCHACA: Okay. Thank you
25 for that and is this—is this—how does compare in time

2 to these requests that are coming in, 161 and the 6
3 transfers compared to say a year ago and in the past?
4 Is it—are we seeing an increase or are we seeing a
5 decrease in requests and transfers? Give us a sense
6 about in context where we are right now?

7 DEPUTY COMMISSIONER FARRELL: I don't
8 have the comparison from last year to this year year-
9 to-date.

10 CHAIRPERSON MENCHACA: Is that
11 information we can get--

12 DEPUTY COMMISSIONER FARRELL: Yes.

13 CHAIRPERSON MENCHACA: --for the
14 committees.

15 DEPUTY COMMISSIONER FARRELL: Right.

16 CHAIRPERSON MENCHACA: We'll be following
17 up on that as well

18 COMMISSIONER AGARWAL: And I will also
19 add that that information is provided year-to-year
20 publicly under the detainer bills. So we can share
21 the public bills. There are public reports that are
22 already provided as well.

23 CHAIRPERSON MENCHACA: So, I-I-I didn't
24 hear that last piece.

2 COMMISSIONER AGARWAL: Under the Detainer
3 Law there is annual reporting that happens as well.
4 That's publicly available so they can share that.

5 CHAIRPERSON MENCHACA: And that's
6 captured. So this-the transfers that we're talking
7 about are within the reporting framework of this
8 report?

9 COMMISSIONER AGARWAL: There's two-
10 there's sort of separate reporting we can provide the
11 Department of Correction on request for notification
12 and then the detainer reporting is made public under
13 the laws.

14 CHAIRPERSON MENCHACA: Got it and-and I
15 think what we're going to want is a little-something
16 a little bit sooner just so we can-we can kind of
17 measure-measure change and-and really have context
18 for what we're talking about. We'll wait for the
19 report for the larger kind of comprehensive, but we
20 want-we want-we want-we want this information that
21 says we can get that as well. And as far as-as ICE
22 and-and we understand that there's also new forms
23 that ICE is using right now. Have you seen that form
24 and if you can kind of categorize or-or describe how
25

2 many forms you've seen come in so far with the new-
3 with the new forms?

4 COMMISSIONER AGARWAL: So the new form
5 essentially is a combination of what used to be a
6 prior detainer or a hold request form and a request
7 for Notification form. So the Request for
8 Notification forms were created towards the tail end
9 of the Obama Administration. It appears that these
10 new detainer requests essentially merge the two
11 together. So there's both the hold request and the
12 request for notification of release date and time
13 built in among other things.

14 CHAIRPERSON MENCHACA: So it's the review
15 of the form kind of merger. How many forms have we
16 seen in the city as a request, is an official request
17 from ICE?

18 COMMISSIONER AGARWAL: In-in the new
19 format?

20 CHAIRPERSON MENCHACA: In the new format.
21 Have we seen that new format come in yet? Do we
22 know?

23 COMMISSIONER AGARWAL: I don't know if
24 Corrections or NYPD have seen the new forms come in.
25 We do have old pending forms.

2 CHAIRPERSON MENCHACA: So we don't—we
3 don't know if we—okay. Is that something we can get
4 in the near future? Here's the question. At the end
5 of the day we want to figure out whether the new form
6 causes any issues with our current law and how our
7 current law is kind of based on previous requests.
8 And so we want to be able to work with you to figure
9 out what—what if anything needs to change, if our
10 laws need to change and really keep up to the dynamic
11 nature of the changes and the merger of the forms and
12 the requests for people?

13 COMMISSIONER AGARWAL: Great. Yeah.

14 CHAIRPERSON MENCHACA: Okay. I have a
15 couple more questions, but I'm going to hand it over
16 to our—our chairs. Yeah, Council Member and Chair
17 Dromm.

18 CHAIRPERSON DROMM: Thank you very much,
19 Chair Menchaca and thank you Chair Gibson for letting
20 me go before you as well. My questions are really
21 around the Department of Education. So, [coughs]
22 but, I don't know, maybe the Commissioner knows as
23 well. What has been the impact of the Presidential
24 Executive Orders in schools across the city? Can you
25

2 give us a description, a feel for what people are
3 saying?

4 COMMISSIONER AGARWAL: Sure. So I can
5 start maybe. They are kind of coming up. I will say
6 that MOIA has been looking across the city at
7 utilization of a variety of different services, and
8 we are—have not seen a—a kind of significant decline
9 or sort of in a range of different services, which is
10 good. I think some of that perhaps comes from the
11 fact that city leadership has been very vocal about
12 continuing to engage, but it's something we're—we're
13 closely monitoring to make sure that New Yorkers who
14 need services are not being scared to access city
15 services against this climate. So as a broad matter
16 I can speak to the fact that we haven't seen notable
17 changes.

18 CHAIRPERSON DROMM: And so does that
19 include attendance? Have—have--have we seen any drop
20 in attendance in the—in the school—in the system?

21 COMMISSIONER AGARWAL: Can hear me?

22 CHAIRPERSON DROMM: Yes.

23 MAITE JUNCO: Do we need to be sworn in?

24 CHAIRPERSON DROMM: Yeah, let me just
25 swear you in I believe, Chair.

2 CHAIRPERSON MENCHACA: Yeah, let's—let's
3 swear you in. [pause] If you can raise your hand.
4 Do you affirm to tell the truth, the whole truth, and
5 nothing but the truth in your testimony before these
6 committees, and to respond honestly to Council Member
7 questions?

8 CHAIRPERSON MENCHACA: Thank you. Please
9 introduce yourself.

10 MAITE JUNCO: Maite Junco, Senior
11 Advisor, DOE.

12 HOWARD FRIEDMAN: Howard Friedman,
13 General Counsel, DOE.

14 MAITE JUNCO: Great. On the question of
15 attendance, no we have not seen a decline in
16 attendance.

17 CHAIRPERSON DROMM: And Ms. Junco, how do
18 you—what do you base that on? Do you base that on
19 overall attendance citywide or do you do it by
20 district?

21 MAITE JUNCO: I think we've look at
22 this—both. As you know, we're a big system. So, you
23 know, a couple of absences are hard to pick up, but
24 we haven't seen any systemic decline in attendance,
25 anything that sort of will raise a red flag.

2 CHAIRPERSON DROMM: But has any--anybody
3 looked specifically at districts where we have high
4 immigrant communities let's say Corona and Jackson
5 Heights and other parts of the city where we know
6 there are immigrant communities?

7 MAITE JUNCO: I think we have, but
8 should, you know, verify and I know we have heard
9 concerns, you know, some--you know anecdotal we
10 sometimes in the particularly in the ethnic a fear of
11 families, and our message is that at schools we want
12 children in school. That's where they learn. Our
13 schools are safe. The department, the Chancellor and
14 the Mayor have taken great steps to make sure that--
15 that we address the concerns around federal agents
16 and things like that and we can go more into detail
17 with that, but our message is that schools are safe,
18 and we want our children in schools and I'm happy to
19 sort do a deep dive if we have not done it and report
20 back to you.

21 CHAIRPERSON DROMM: Has the Chancellor
22 issued any type of directive to teachers to help them
23 deal with the situation like the one that I described
24 in my opening about students who bring these fears
25 with them to school? Have guidance counselors been

2 trained in terms of working with students who have
3 expressed these fear? Actually when I---when-in that
4 school I don't know exactly what the principal did
5 except to bring me to the classroom, but I don't know
6 if that student fears were allayed?

7 MAITE JUNCO: I think two things. I
8 think you-you know that we have done-I mean in terms
9 of teachers, there's been curriculum on the DOE
10 provided additional resources and social-social-
11 emotional supports giving schools more guidance on
12 how to-how to facilitate respectful conversations
13 about diversity and inclusivity. The Chancellor also
14 in favor to per weekly sort of send a list of-of
15 books and resources on immigration and diversity that
16 should be used, and also we have-that the Chancellor
17 has shared with you, the password for social studies
18 curriculum that addresses immigration topics to help
19 build contextual understanding of the rich
20 immigration history of the U.S. So we, you know,
21 the-the Chancellor how this is important to the
22 Chancellor and -and she's conscious that, you know,
23 we did send additional resources. And as you know,
24 we send them the guidance, and we have sent-the-the
25 department has sent out two letters to principals on

2 tasking and backpack letters and an FAQ to parents
3 across the system to all parents in-in all ten
4 languages including English.

5 COMMISSIONER AGARWAL: And I would--

6 CHAIRPERSON DROMM: [interposing] So.

7 COMMISSIONER AGARWAL: Sorry. I would
8 just add a kind of broader level. There's the New
9 York City Well Program, right, which is available in
10 a number of different languages that we've been
11 pushing out as MOIA through our one-pager including
12 through some of our work with DOE to ensure that
13 people have access to mental health services. We've
14 also been working to ensure enrollment in the Child
15 Health Plus Program, which is essentially universal
16 health insurance for-for children, and that's very
17 important because then it provides access to mental
18 health services for kids who may need it particularly
19 at this moment.

20 CHAIRPERSON DROMM: So has the DOE been
21 able to take advantage of the After School Teacher
22 Professional Development sessions to work with
23 teachers on immigration issues or to describe to
24 teachers some of the situations that students may
25 find themselves in particularly as it-what comes to

1
2 mind is DACA or discussing with parents at parent-
3 teacher conferences creating plans in case parents
4 don't come home or if somebody doesn't come to pick
5 up the student?

6 MAITE JUNCO: So the Passport for-the
7 Passport for Social Studies there-the Chancellor did
8 ask Principal Suscario (sp?) if, you know, discuss it
9 as part of the PD, one of the PD minutes we're aware
10 of. (sic) And-and in the letter to parents we did for
11 to principals and to parents both in-in large. We
12 did ask for parents to update their contact
13 information. As you know, that's-that's a concern
14 that perhaps that contact information and the
15 emergency card is just for both of the parents, and
16 we ask all families and I think in particular about
17 immigrant families to sort of add more names, other
18 people who could pick up the students, and we also
19 have protocols in place about what happens if a
20 student is not picked up.

21 CHAIRPERSON DROMM: Has DOE and MOIA done
22 any joint training in the schools for teachers?

23 COMMISSIONER AGARWAL: We've been-the
24 Know Your Rights forms that we announced as part of
25 the policy regarding non-local law enforcement are

2 open to students, parents, and faculty and we're
3 hoping we can continue to expand that partnership.

4 CHAIRPERSON DROMM: Do you keep a record
5 in terms of the number of teachers who have been
6 trained?

7 COMMISSIONER AGARWAL: You know, I don't
8 know if we do. We can find—I can find out and see
9 if—if we have breakdown at least of students, faculty
10 and parents sort of who the participants are, but
11 they're very broadly open.

12 CHAIRPERSON DROMM: Okay, and I would—I
13 would be interested, you know, in the—in the—the Know
14 Your Rights training as well, but I think that you've
15 networked with various agencies probably Legal Aid
16 and other organizations—

17 COMMISSIONER AGARWAL: Uh-huh.

18 CHAIRPERSON DROMM: --like that. Do you
19 know the number of trainings that you've done in
20 schools or is that done an individual basis or per
21 principal? How—how do you deal with that?

22 MAITE JUNCO: I think it was—it was in
23 the testimony, but there were—first there were 100
24 Know Your Rights workshops that--

25 CHAIRPERSON DROMM: Okay.

1
2 MAITE JUNCO: --with MOIA and the DOE and
3 the Mayor's Office of Community Affairs.

4 CHAIRPERSON DROMM: A hundred?

5 MAITE JUNCO: There were a hundred. Seven
6 of them--70 of them have been gone, and--and those are,
7 you know, our present system, our present (sic)
8 schools are in schools and also we are also offering
9 to our Borough Field Support Center and
10 Superintendent's Offices to plan to host with the
11 help of MOIA, Catholic Charities, and the Fordham
12 (sic) Immigration Law Project to host these where
13 they are needed, as they--as they are requested by
14 communities and principals that feel that there is
15 this, you know, that their communities have
16 questions, and that it will be helpful.

17 COMMISSIONER AGARWAL: And I would add
18 that the Know Your Rights forums in partnership with
19 DOE are connected to the Action NYC Legal Services--

20 MAITE JUNCO: Uh-huh.

21 COMMISSIONER AGARWAL: --that are
22 provided also through DOE schools. So folks who need
23 kind of a deeper legal consultation, and which many
24 do that they're able to be connected to Action NYC.

2 CHAIRPERSON DROMM: So, I'm-I'm
3 appreciative of the fact that 100 have been, but to
4 be honest with you, we have 1,700 schools. So is
5 there any type of plan moving forward about how we're
6 going to get to the other 1,600 schools?

7 COMMISSIONER AGARWAL: Yeah, we've been
8 thinking about how to expand the Know Your Rights
9 Law, and things have been going well, and so we're
10 continuing to work with the DOE to expand that plan?

11 MAITE JUNCO: We also hosted a webinar
12 for principals and sort of reminding them of the
13 protocols for dealing with possible with their
14 agents, but also to reach out to host-to host more
15 firms. So we are hoping that the both-both increases
16 that we have in both programs that we to increase it.

17 CHAIRPERSON DROMM: Okay, good, and I am
18 impressed with the book and how do we get more copies
19 of this? How many copies have you printed of this?

20 COMMISSIONER AGARWAL: Just let us know
21 how many you want. We'll make sure we get them to
22 you.

23 CHAIRPERSON DROMM: Okay, how many have
24 you printed?

2 COMMISSIONER AGARWAL: How many have we
3 printed? [background comments, pause] I believe
4 nearly 6,000 at this point.

5 CHAIRPERSON DROMM: Six thousand?

6 COMMISSIONER AGARWAL: But they're
7 available online as well--

8 CHAIRPERSON DROMM: Okay.

9 COMMISSIONER AGARWAL: --and we're--we are
10 continuing to print them.

11 CHAIRPERSON DROMM: And--and in--in what
12 language are they available?

13 COMMISSIONER AGARWAL: They're available
14 in ten languages in addition to English, which
15 include 11 and I don't remember all 10 languages, but
16 they represent the ten top immigrant communities in
17 New York .

18 CHAIRPERSON DROMM: Okay. Alright, thank
19 you very much. Thank you, Chair.

20 CHAIRPERSON MENCHACA: Thank you, Chair
21 Dromm. Chair Gibson.

22 CHAIRPERSON GIBSON: Thank you, Chair,
23 and thank you Chair Dromm. Thank you, Commissioner,
24 to you and the agencies that are here. I just had a
25 few questions, and certainly I appreciate your

2 testimony outlining concerns, suggestions, criticisms
3 on the package of bills, but I really wanted to
4 understand process. So, MOIA is the agency that is
5 really leading the conversation for the city of New
6 York, and how we address services for all immigrant
7 New Yorkers. Very important for me and many of my
8 colleagues to make sure that while we're having the
9 conversations at the top, at the executive level that
10 also translates to the staff because the staff even
11 our staffs are the ones who engage with New Yorkers
12 every single day. So I wanted to understand, and
13 while not referencing any specific bill, but just in
14 terms of the level of sensitivity that our municipal
15 workforce is giving to every client that comes to
16 their door whether it's, you know, ACS, or whether
17 it's HRA, DHS, is your agency similar to what Chair
18 Dromm was talking about in terms of teachers at the
19 Department of Ed, are we having the same
20 conversations with agency heads about their staff on
21 the ground making sure that we're having the same
22 conversation, and we're really sensitive about an
23 issue that's very important because we appreciate
24 that clients are coming out. You know, certainly we
25 want to encourage them especially if they're

2 receiving government services, but how do we reassure
3 every New Yorker that when they go to their HRA
4 center or when they talk to someone at an agency that
5 they're giving the same information and the same
6 level of sensitivity?

7 COMMISSIONER AGARWAL: Yeah, it's a great
8 question. You know, I'll just start by saying that
9 my vision of what agency should do is really be a
10 partner to all our agency—other agencies. So if we
11 were the only ones who were thinking about immigrant
12 inclusion, I don't think we would be doing our job as
13 a city very well, and we've been really happy to work
14 across city government. The way we do that we have
15 actually a team that's focused on immigrant
16 inclusion, who really works with city agency partners
17 whether it's on language access, whether it's on
18 other sort of immigrant inclusion. Right now, we've
19 been doing a lot of work to help translate some of
20 the federal policies that are coming out about at
21 rapid pace for city agencies that may be affected.
22 In a new context, work on training at the staff
23 level, help advise on that training for agencies that
24 want to do that. Help advise on everything from
25 community ethnic media buys to other ways to do

2 outreach, and often we're doing that—that outreach
3 and work in partnership with our city agencies. So
4 it's really very multi-faceted. I think some of the
5 materials that we've put out to the community members
6 around Know Your Rights like the one-pager that the
7 Speaker and the Mayor put out around access to city
8 services is also something that we've shared with all
9 of our city agencies so that that can then be given
10 to staff as a reminder as well about what our—our
11 openness is in all—all communities and that
12 immigration status, the ability to pay. The sort of
13 range of other things may not matter in many cases
14 with our city agencies. So across the board we've
15 been working to push information out, partner on
16 outreach and training and we'll continue to do that.
17 The—the need is obviously quite big.

18 CHAIRPERSON GIBSON: Okay, you referenced
19 the staff that's at MOIA that deals with all the
20 agencies. What does that staff look like? Is it
21 subject based, or agency driven? How does—how does
22 the team work under MOIA?

23 COMMISSIONER AGARWAL: Yeah, so our staff
24 is really—many of them are partners from other
25 agencies to actually—

2 CHAIRPERSON GIBSON: [interposing] Okay.

3 COMMISSIONER AGARWAL: --facilitate the
4 work that we do, and we have a few folks that are
5 really focused on the interagency collaboration. So
6 as an example, we are required under the charter to
7 work on language access issues and make sure the city
8 is meeting its obligation on language access. So we
9 have individuals who are focused on that working with
10 all city agencies now on implementing Local Law 30,
11 which was recently passed by the City Council and
12 signed by the Mayor on language access expand-
13 expansions. That's just an example that--

14 CHAIRPERSON GIBSON: [interposing] Okay.

15 COMMISSIONER AGARWAL: --that's part of
16 our responsibility and we have staff who do that.

17 CHAIRPERSON GIBSON: Okay. It almost
18 sounds like very similar to one of the bills on the
19 agenda on the task force that we are proposing just
20 in terms of multi-agencies working together with the
21 same mind set, with the same focus, but every agency
22 bringing together their resources and services to
23 come together under the umbrella of making sure that
24 services are administered to every New Yorker.

25 COMMISSIONER AGARWAL: Yes, absolutely.

2 CHAIRPERSON GIBSON: Okay, okay, just
3 trying to get you guys closer to supporting our
4 bills. Okay, two things. Recently, I was with the
5 Speaker and the Mayor and Schools Chancellor Carmen
6 Maria Rey and NYPD School Safety Chief Brian Conroy,
7 and we announced that TWEED (sic), an effort to
8 ensure that we prohibited federal authorities from
9 coming into our public school grounds. What I'd like
10 to understand is that was several weeks ago. If
11 there have been any visits or inquiries. I mean is
12 there anything that we could know now, or anything
13 you could share in terms of from that announcement
14 what has happened? And then, I guess Deputy
15 Commissioner Byrne could speak about school safety
16 itself in terms of I know that with the announcement
17 all 5,000 school safety agents were given a level of
18 training just to understand what the announcement
19 meant in terms of enforcing that in our local
20 schools. Sorry for my long-pronged question.

21 DEPUTY COMMISSIONER BYRNE: On the first
22 question, we do not know of any approaches by ICE
23 agents to the schools either before or since.

24 CHAIRPERSON GIBSON: Okay. None to your
25 knowledge at DOE?

2 DEPUTY COMMISSIONER BYRNE: Correct.

3 CHAIRPERSON GIBSON: Okay.

4 COMMISSIONER AGARWAL: And I would just
5 add that the sort of day after the announcement was
6 made ICE did reaffirm its Sensitive Locations Memo,
7 which says that they are not meant to be conducting
8 enforcement activities. So, I think, you know,
9 that's worth noting that--that they sort of claimed
10 that publicly, which was helpful.

11 CHAIRPERSON GIBSON: Okay.

12 DEPUTY COMMISSIONER BYRNE: So under the
13 Obama Administration, schools were designated
14 sensitive locations--

15 CHAIRPERSON GIBSON: Uh-huh.

16 DEPUTY COMMISSIONER BYRNE: --and ICE has
17 reaffirmed that policy in the current administration.

18 CHAIRPERSON GIBSON: Okay, and in
19 addition to, you know, schools and obviously all
20 public city grounds, I'm very interested in maybe
21 because in the Bronx I represent all of the courts,
22 the civic along 161st Street. Is there any
23 conversation that we're having about any efforts that
24 we can? Obviously we have to work with OCA, but
25 where we have jurisdiction over courts I think it

1 warrants a conversation because many New Yorkers that
2 are facing eviction, housing issues, civil
3 proceeding, et cetera, are visiting our courts
4 everyday. So is that on our radar? Are having those
5 talks?
6

7 COMMISSIONER AGARWAL: Yeah, absolutely.
8 So as you say it's a huge concern as there are
9 enforcement activities that chilling victims and
10 witnesses from coming forward and accessing justice
11 in our court system. The Mayor's Office has met with
12 OCA, facilities-facilitated discussions between OCA
13 and the Defense Bar on this topic and are in constant
14 communication, but also as you know, there is--there
15 may be limits on what the city can do both in terms
16 of limiting ICE activity in public spaces, but also
17 with the City's control over the court system. So I
18 think you know, there needs to be continuing
19 conversations on this front.

20 CHAIRPERSON GIBSON: At the time did OCA
21 have any position at this point or was it still what
22 I like to say a work in progress?

23 COMMISSIONER AGARWAL: I think that
24 ongoing conversations would be helpful.
25

2 CHAIRPERSON GIBSON: Okay, okay, great.
3 Just wanted to understand Intro 1569, which is the
4 bill that I prime sponsored on disorderly behavior.
5 Just for the record, Deputy Commissioner, I just
6 wanted to understand what the NYPD is doing right now
7 in terms of measures to reassure New Yorkers that
8 number one we're not federal authorities. Number
9 two, we're not out to get them and deport them. You
10 know, just the bare bones, what is the message that
11 we're sending as a department and do you think that
12 we can further enhance that message to make sure that
13 every New Yorker feels that they can come to the NYPD
14 and that there is a level of assurance and confidence
15 in their safety?

16 DEPUTY COMMISSIONER BYRNE: Good
17 afternoon. So I think a couple of things in response
18 to your question. Commissioner O'Neill has been very
19 clear and very vocal publicly that the NYPD does not
20 do civil immigration enforcement. We have not signed
21 onto ICE's program to be deputized and we don't
22 intend to. We've sent that message loud and clear to
23 all 36,000 of our uniformed officers. We've sent
24 that message out to communities all across the city
25 through forums, community Council meetings.

1
2 Community Affairs Officers. You know our
3 neighborhood policing precincts and our NCOs, which
4 are now more than half of our 77 precincts, and all
5 of our housing service areas. That message has been
6 sent and gone with the Commissioner. Council Member
7 Deutsch left, but we went out into his district, and
8 met with groups, immigrant groups out there to tell
9 them our policies, to reassure them that we are not
10 ICE. So I don't think there is any ambiguity in the-
11 in the NYPD's position, and we've been communicating
12 that very clearly and publicly.

13 CHAIRPERSON GIBSON: Okay, and do you
14 think that's enough? Do you think that we need to
15 look at other measures of public service
16 announcements or any other awareness campaign?

17 DEPUTY COMMISSIONER BYRNE: I think based
18 on what we've seen so far people understand what our
19 role is, what we do and what we don't do. So I think
20 that message has gotten out from an NYPD point of
21 view.

22 CHAIRPERSON GIBSON: Okay. Has the
23 department noticed any trends in less crimes being
24 reported just comparing this time year to date last
25

2 year? Specifically, I think about the DIRs, Domestic
3 Incident Reports--

4 DEPUTY COMMISSIONER BYRNE: Okay.

5 CHAIRPERSON GIBSON: --just in terms of
6 those particular cases.

7 DEPUTY COMMISSIONER BYRNE: I'm going to
8 have to check the exact number for you. I think this
9 year we've seen a slight decrease in domestic
10 violence reports. I think it's down about 4%. We
11 don't know enough to know why that's down if it's
12 simply that the crime is down, if there are other
13 issues. We do not, as a matter of policy as crime
14 victims or witnesses to crimes their immigration
15 status. We simply ask them what happened and we look
16 for the person who perpetrated the crime. With the
17 exception of that, we have--I don't think we have seen
18 any decline in other categories of crime being
19 reported. We don't have any sense that the immigrant
20 communities around the city are less likely to come
21 forward and work with us at this point. We don't
22 have empirical data on that but when we talk to our
23 precinct COs and our Community Affairs Officers,
24 we're not getting wind of any of that type of
25 activity.

2 CHAIRPERSON GIBSON: Okay, and then in
3 addition as we're looking at the data, certainly I
4 encourage you to try to identify if there are any
5 trends like, you know, just with schools, in
6 particular immigrant communities where we know that
7 numbers are at a certain level. If there are any
8 changes. I think obviously that is a factor that I
9 want to make sure we're considering because it could
10 have a meaning behind it.

11 DEPUTY COMMISSIONER BYRNE: Right.

12 CHAIRPERSON GIBSON: So while I think,
13 you know, less reporting to mean it doesn't
14 necessarily mean less crime. I just think that some
15 people because of the rhetoric and what they're
16 hearing and seeing and reading about and just the
17 fear. People like to incite fear in vulnerable
18 communities when they see weakness. And, you know,
19 many of our—our parents and—others are, you know,
20 they—they feel it, and they're reacting to it. So
21 I've heard from some of my community based
22 organizations in particular healthcare providers,
23 some of our health centers that have seen a drop in
24 some of their patients coming forward. So when I
25 heard that I said well there may be some overlay in

2 reporting crime and also in sending their children to
3 school. So I just wanted to ask these questions
4 because obviously--

5 DEPUTY COMMISSIONER BYRNE: Yes.

6 CHAIRPERSON GIBSON: --we're so data
7 driven. I mean I do feel like the numbers will tell
8 a story. Okay. Can you describe and give us a sense
9 of what the NYPD's current policy is in terms of your
10 partnership with federal agents and federal
11 authorities?

12 DEPUTY COMMISSIONER BYRNE: Yeah, we work
13 with the full range of federal, state and local
14 agencies on both preventing and investigating and
15 arresting crime, and preventing terrorism. When it
16 comes to ICE, we follow scrupulously the law that
17 this Council passed in 2014. Our law is different
18 than the law that applies to the Department of
19 Corrections, and so under the law that governs our
20 conduct we cannot turn someone over to ICE unless
21 there is a judicial warrant, and a judicial warrant
22 as you know in your statute is defined as a warrant
23 issued by a federal judge or a federal magistrate
24 judge based on probable cause. To date through
25 earlier this week, the NYPD had received 182 detainer

1 requests from ICE. We honored none of them, zero.
2 That's up. Someone asked the question about DOC. In
3 all of 2016 I think the NYPD received about 72
4 detainer requests from ICE. So the detainer requests
5 are up, but we've not turned anyone over. It's
6 important to keep in mind that unlike the Department
7 of Corrections, which may have people in their
8 custody for a considerable period of time, at most
9 someone is in our custody for 24 hours because if
10 we've arrested them, they have to be presented and
11 arraigned in court within 24 hours. So, there is-
12 even if the statute was met, which it hasn't been to
13 date, and even if ICE presented an arrest warrant,
14 that would all have to happen within 24 hours or
15 less. Otherwise the person is no longer in our
16 custody. They're either in the custody of the
17 Department of Corrections or they've been released by
18 the judge.
19

20 CHAIRPERSON GIBSON: The—the 72 detainer
21 requests that you just described that's--?

22 DEPUTY COMMISSIONER BYRNE: In 2016.

23 CHAIRPERSON GIBSON: Oh, in 2016. Okay.
24
25

2 DEPUTY COMMISSIONER BYRNE: For all of
3 2016, the NYPD received approximately 72 detainer
4 requests from ICE.

5 CHAIRPERSON GIBSON: Okay.

6 DEPUTY COMMISSIONER BYRNE: From January
7 1st through earlier this week we had received 182
8 detainer requests from ICE.

9 CHAIRPERSON GIBSON: Wow.

10 DEPUTY COMMISSIONER BYRNE: And I think
11 and I'll have to check this number, but earlier on in
12 the Obama Administration I think the peak year we had
13 received approximately over 2,000 detain requests.
14 Is that right, Castro? [background comments] In 20-
15 2014, we received over 2,000 detain requests.

16 CHAIRPERSON GIBSON: Okay, and just to
17 further understand what happens when an individual is
18 arrested for a low-level offense? How do you work
19 with the authorities in terms of their immigration
20 status once it's determined? How does that work?

21 DEPUTY COMMISSIONER BYRNE: So if someone
22 is arrested as opposed to being given a--

23 CHAIRPERSON GIBSON: [interposing] A
24 summons.

2 DEPUTY COMMISSIONER BYRNE: --a C

3 summons--

4 CHAIRPERSON GIBSON: Right.

5 DEPUTY COMMISSIONER BYRNE: --if you're
6 given a summons, you're given your summons. You're
7 sent on your way. You're not fingerprinted, and
8 there's no record of that beyond the NYPD, the
9 Summons Court and the person who has the summons. If
10 for whatever reason you've been arrested, the nature
11 of the offense or you have an outstanding warrant
12 when we stop you for something or you don't and are
13 not able to present the ID, you will be arrested and
14 either processed or in certain circumstances given a
15 desk appearance ticket. [sirens] In those instances,
16 you are fingerprinted. The fingerprints go into a
17 state database, and they're sent to Albany, a range
18 of law enforcement agencies including ICE has access
19 to that database just as the NYPD does. So if
20 someone were looking for and had an open warrant for
21 is arrested in California, we would be notified
22 through that system that the person we're looking for
23 is now in the custody of some agency in California.
24 ICE can access that database. If we've arrested
25 someone that they've flagged in the database we

2 notified, they then can choose to contact us. That's
3 the principal way or the principal reason I'm
4 informed of when ICE sends us detainers. It's because
5 they get the fingerprint notification.

6 CHAIRPERSON GIBSON: Okay, and in that
7 instance you just described the federal authorities
8 would know through the database that that individual
9 is in NYPD custody?

10 DEPUTY COMMISSIONER BYRNE: The--the
11 federal authorities would know that that person is in
12 NYPD custody--

13 CHAIRPERSON GIBSON: Okay.

14 DEPUTY COMMISSIONER BYRNE: --what they
15 were charged with, and what borough in the city they
16 were arrested in.

17 CHAIRPERSON GIBSON: Okay, and in order
18 for them to take ahold of that individual, they would
19 have to through--through the judicial process to get
20 an actual order?

21 DEPUTY COMMISSIONER BYRNE: Under--for
22 them to take custody of the person from the NYPD,
23 they would have to meet the criteria of the statute.
24 So under the first prong of the statute, the person
25 must have been convicted of a defined set of felonies

2 and there would be judicial warrant for that person's
3 arrest, or the person must be on a terror watch list
4 or terrorist database, and there is a judicial
5 warrant for that arrest. If those two prongs are
6 met, which they have not been so far in 2017, I'm not
7 sure that they were met in 2016, but I don't want to
8 say that because I'd have to check that. The person
9 is not turned over from us to ICE. There's a second
10 part of the statute that says if someone has been
11 convicted, and they've been deported, and re-enter
12 the country illegally, we are allowed to hold that
13 person for 48 hours beyond the normal processing time
14 we would hold that person, and to give ICE the
15 opportunity to present a judicial arrest warrant.
16 Again, that has not happened in 2017. So, as a
17 general matter, not matter, we've turned no one over
18 to ICE in 2017 at the NYPD. There have been people
19 in our custody who subsequently have been picked up
20 by ICE either at the courthouse or at—from the
21 Department of Corrections or through other
22 interactions between ICE and those people, but we
23 don't control what enforcement actions ICE can take.

2 CHAIRPERSON GIBSON: Thank you. I just
3 wanted to make sure we understood. That's a lot of
4 information to understand and absorb.

5 DEPUTY COMMISSIONER BYRNE: It's very
6 confusing and complex even to those of us who have
7 studied it carefully for the last three years.

8 [laughs]

9 CHAIRPERSON GIBSON: Absolutely. Is
10 there anything specific that we are doing with our
11 domestic violence officers and other officers that
12 have specialized training in working, you know,
13 within immigrant communities, is there anything that
14 we're doing beyond just the general measures over the
15 entire department? Just to make sure that like for
16 instance DV officers understand the high level of
17 sensitivity with working with DV clients and making
18 sure that they are working with them, et cetera? Is
19 there anything else that we're doing?

20 DEPUTY COMMISSIONER BYRNE: Yeah, as you
21 know, we have some of the most highly trained and
22 specialized DV officers in the country. They receive
23 all types of training. They've been informed along
24 with the rest of the department of our policies with
25 ICE, what we do and what we don't do. I think our DV

2 Officers, Special Victims Officers and our Hate
3 Crimes teams are very sensitive to that, and that
4 message is reinforced in a variety of ways throughout
5 the department and the normal cycle of training and
6 communication.

7 CHAIRPERSON GIBSON: Okay, and the bill
8 specifically that adds a local provision for
9 disorderly behavior does the department have a
10 position meaning the NYPD have a position?

11 DEPUTY COMMISSIONER BYRNE: Yeah. That
12 bill as we read it tracks pretty closely the-the
13 criminal version of that. It just provides a civil
14 summons. That's consistent with what we've worked
15 with the Council to do I think very successfully over
16 the last two years. The Council added a number of
17 civil options while retaining the criminal options
18 and criminal enforcement powers. This is another
19 example of the Council doing that, and we support
20 adding that civil option?

21 CHAIRPERSON GIBSON: Okay and do you
22 anticipate any additional training or any costs that
23 would be necessary associated with this legislation?

24 DEPUTY COMMISSIONER BYRNE: We would fold
25 this into our training that we will be doing and the

2 guidance we'll be putting out on our other civil
3 summons things. So it's not--

4 CHAIRPERSON GIBSON: Okay.

5 DEPUTY COMMISSIONER BYRNE: --going to be
6 an increased burden in any way.

7 CHAIRPERSON GIBSON: Okay. So as we
8 implement the Criminal Justice Reform Act this will
9 just be rolled in, and then it would be coupled in
10 the academy training?

11 DEPUTY COMMISSIONER BYRNE: Yeah, it
12 would be new recruit training and in-service training
13 probably rollcall training.

14 CHAIRPERSON GIBSON: Okay, and would
15 there be any amendments to the Patrol Guide?

16 DEPUTY COMMISSIONER BYRNE: [background
17 comments] Yeah, we're--we'll be amending the Patrol
18 Guide as part of the Summons Reform Bills to reflect
19 the civil option, and so if this bill is passed the
20 Patrol Guide would be further amended in this regard.

21 CHAIRPERSON GIBSON: Okay. You make it
22 sound so easy. [laughter] It can just be amended
23 and rolled right in with Criminal Justice Reform Act.
24 Okay. I guess my--my final question before I turn it
25 back to Chair Menchaca is looking at this package of

2 legislation coupled with all of the work that this
3 city and this administration has been doing both
4 legislatively and budgetary through all of the
5 initiatives around immigration, IOI, all of the
6 different measures that we have invested money to
7 make sure that New Yorkers feel safe and understand
8 the magnitude of really what's happening. It's scary
9 talking to many residents who are, you know,
10 receiving government assistance or accessing benefits
11 in some way and they're making decisions just based
12 on the fear of living everyday as an immigrant. And
13 so, I've said to many that our work has to be
14 creative because there are too many New Yorkers that
15 are in the darkness that just really don't understand
16 the work we're doing, and they're very scared. They
17 want to go to courthouses and go through meta
18 detectors and go to government agencies, and so we
19 want to make sure that they are reassured and given
20 the opportunity to see that we are working in their
21 best interest. So, we're—are there any suggestions
22 that you would make for us as a Council moving
23 forward with the Executive Budget coming out today
24 that we can do to enhance our efforts? I always feel
25 like we can never be complacent. We can never just

2 be at ease with what is happening. Unfortunately,
3 they're reacting and we have to react as such, but do
4 you have any suggestions that we should consider as
5 we move forward as a Council working in partnerships
6 with you?

7 COMMISSIONER AGARWAL: Sure. So, you
8 know, I would suggest more of a lot-of what has been
9 happening. Right, I think the voices of City
10 leadership including Council Members is very
11 important at this time to remind New Yorkers across
12 the board that the city remains open and accessible.
13 I'm sharing information about city services so that
14 folks don't assume that the city government has the
15 same philosophies with respect to immigrants, for
16 example, as the federal government is expressing at
17 this time. So I think certainly your leadership is
18 very important continuing to do more. We have done
19 so many Know Your Rights forums and workshops with
20 Council Members. We welcome the opportunity to
21 continue doing those. I think that one-on-one on the
22 ground outreach and information is critical at this
23 time, and the demand that we have heard at MOIA is
24 immense, and so I think continuing to partner with
25 your offices and figuring out how we can do that

1 better and in collaboration I think would be really
2 very important. And--and then finally I think
3 continuing to remind folks that whether it was, you
4 know, before this presidential administration or now,
5 New York has--has been the same and remains committed
6 at the broadest level. And so I think the policies
7 that we're talking about today, the budgetary work
8 that we've done continuing to amplify and support
9 that and say that this is a lot of work we did even
10 before. We're not just responding to the current
11 lament, and I think that's an important reminder that
12 New York sort of stands strong across the board.

14 CHAIRPERSON GIBSON: Okay. Thank you so
15 much. I appreciate your work. We appreciate your
16 partnership, and I agree my values and principles and
17 the things I--I hold near and dear to my heart have
18 not changed because of an election, and they won't.
19 If anything, I'm more re-energized and recommitted to
20 continue to be a voice for not just the city but
21 certainly the residents in the borough of the Bronx.
22 Immigrant or not, don't care, but I certainly want
23 them to know that they have champions here at City
24 Hall that care about them and their families. So, I
25 think you and I thank you Chair for your leadership,

2 and for everything you've done on behalf of the city.
3 Thank you.

4 CHAIRPERSON MENCHACA: Thank you, Chair
5 Gibson and for your leadership, and I think—I think
6 this—the trifecta of this—of these committees have
7 really kind of presented the interactions between
8 these multiple agencies and how important it is right
9 now, and so I have a few final questions, and then
10 we'll head over to our testimony. I know there are a
11 lot of folks that are here to testify. So we want to
12 get to you as well, and for the NYPD there was a
13 reference to a database, and I'm wondering—I just
14 wondered if that was the same NCIC data base that
15 we're talking about.

16 DEPUTY COMMISSIONER BYRNE: Correct.

17 CHAIRPERSON MENCHACA: Okay, and if—and
18 if so then, and I just want to clarify some of the
19 interaction conversations that you're—you were
20 having. If the NYPD does encounter an individual who
21 is subject to an NCIC hit, because they have a
22 deportation order, what is the NYPD policy if that
23 person is not otherwise arrestable?

24 DEPUTY COMMISSIONER BYRNE: Well, the
25 NCIC hit wouldn't be triggered if we hadn't arrested

2 the person. In other words, the--the notice that
3 they--

4 CHAIRPERSON MENCHACA: [interposing] Say
5 that again, once more if the NC---

6 DEPUTY COMMISSIONER BYRNE: And the NCIC
7 notification wouldn't be triggered if we hadn't
8 arrested the person. So it's when we take someone
9 into custody, bring them back to the precinct and
10 fingerprint them and the fingerprints are--are sent to
11 Albany. That's what triggers the issue. If you're
12 given a summons and sent on your way on the street,
13 there's no NCIC notification.

14 CHAIRPERSON MENCHACA: Well, and so I--so
15 we're--we're trying to figure out how--can you just for
16 the record define the NCIC database?

17 DEPUTY COMMISSIONER BYRNE: It's
18 basically a database that collects the rap sheets,
19 the criminal history of individuals, and it's
20 maintained on a state level and a federal level. So,
21 it will have arrests. It will have convictions. If
22 here are outstanding warrants, it will indicate that.
23 When we see a hit, in many instances it will say
24 there's a warrant, but it's unclear if that's civil
25 warrant or a criminal warrant. Civil and

2 administrative warrants we do not honor. Criminal
3 warrants we have legal obligation to honor and we're
4 committed to honor under the Council legislation. So
5 there are times when we contact ICE to clarify what
6 type of warrant it is. If it's a criminal warrant
7 and the person fits the other requirements of the
8 statute, we would then honor a detainer request if we
9 had that from ICE. To date this year we have not had
10 any that have fallen into that category.

11 CHAIRPERSON MENCHACA: But that-and-and-
12 so thank you for that, and that's pretty
13 comprehensive in how the database works, but the
14 arrest so that the-like I think that the question
15 there's a few follow-up questions I think we want to-
16 -

17 DEPUTY COMMISSIONER BYRNE: [interposing]
18 Sure

19 CHAIRPERSON MENCHACA: --we want to have,
20 but the-the arrestable piece is-is disconnected from
21 a history arrest, and so someone could have had a
22 history-an arrest history, but not be arrestable.
23 I'm assuming that's possible in the world.

24 DEPUTY COMMISSIONER BYRNE: Officers have
25 and every day exercise discretion to just send people

2 on their way with a warning. We don't have a way to
3 numerically tack that. So, officers have discretion
4 to say, you know, we generally don't send someone on
5 their way when they've committed a murder or shot
6 someone, but if they've committed a low-level
7 offense, and it could be anything. You say, you
8 know, you shouldn't have done that. Don't do that.
9 Have a nice day, and I hope we don't run into each
10 other again under this circumstance. I--there's a
11 certain level of offense that qualifies for a
12 criminal summons or a legislation we've been
13 discussion in the future, a civil summons, and that
14 person has ID and we do accept New York City's
15 Municipal ID as acceptable ID, and a call to the
16 central station indicates that there are no
17 outstanding warrants for that person. That person is
18 given their summons and sent on their way. There's
19 no fingerprinting. There's no triggering an NCIC
20 that we the NYPD have a tap on that person. If the
21 person commits an offense, a misdemeanor or a felony,
22 that he's going to get arrested for or if the person
23 has an outstanding warrant or the person doesn't have
24 ID, they're taken back to the stationhouse. If the
25 issue is the ID, we hold them for a reasonable period

1 of time to see if someone can bring their ID to them.
2 If they don't, they are processed for arrest. If the
3 person has an open warrant that's a court order to
4 arrest someone on that warrant. We hold them on that
5 warrant, and if it's an offense, then they would be
6 processed. In those circumstances, that category of
7 individuals are fingerprinted. The fingerprints are
8 sent to Albany with some basic information, and that
9 allows other state, local and federal law enforcement
10 agencies including ICE to know that that person is
11 now in the custody of the NYPD.

12
13 CHAIRPERSON MENCHACA: So again, I-I-I'm-
14 I'm trying to kind of pin one of those pieces or
15 interaction and really understand whether the NYPD
16 actually flags affirmatively for ICE by picking up-
17 essentially pick up the phone and calling them that
18 there was a-an NCIC hit.

19 DEPUTY COMMISSIONER BYRNE: If-if there's
20 a notation in there that there's a warrant or a hit
21 from ICE, from the FBI, from any agency, we're going
22 to call and find out what that warrant is. Normally,
23 for other agencies who we turn people over any
24 warrant because of the Council's legislation if it's
25 a civil warrant or an administrative warrant we don't

2 hold the person and we don't turn the over to ICE.

3 If it's a criminal warrant and the other portions of
4 the statute are met, we would turn them over to ICE
5 if they presented us with a judicial warrant.

6 [background comments, pause] Yeah, I--again, this
7 issue of--of hits doesn't only involve ICE, it
8 involves all local state and federal law enforcement
9 agencies, the FBI, the California Sheriff's
10 Department. We get notified everyday from all over
11 the country that people have departments and agencies
12 that have taken people into custody that we have an
13 open warrant for.

14 CHAIRPERSON MENCHACA: Okay, a little bit
15 further and--and just clarity because this is an
16 important part of an interaction with an officer
17 that--

18 DEPUTY COMMISSIONER BYRNE: [interposing]
19 Right.

20 CHAIRPERSON MENCHACA: --I think is
21 connected to a lot of legislation that we've passed
22 already, and things that we're thinking about in the
23 future, and so we can wait until--we can settle him
24 in?

25 DEPUTY COMMISSIONER BYRNE: Yeah. [pause]

2 CHAIRPERSON MENCHACA: And--?

3 DEPUTY COMMISSIONER BYRNE: This is Chief
4 Gary Strebel from the NYPD. He's the head of our
5 Criminal Justice Bureau.

6 CHAIRPERSON MENCHACA: If we can swear
7 you, a quick moment. Do you affirm--if you can raise
8 your hand. Do you affirm to tell the truth, the
9 whole truth, and nothing but the truth in your
10 testimony before these committees, and to respond
11 honestly to our--to Council Member questions?

12 CHIEF GARY STREBEL: Yes, I do.

13 CHAIRPERSON MENCHACA: Thank you. Do you
14 want to add something before I ask the next question
15 to the--the string?

16 CHIEF GARY STREBEL: Could you repeat the
17 last?

18 CHAIRPERSON MENCHACA: So--so we're really
19 trying to figure out does the NY--does the NYPD
20 affirmatively contact ICE if there's a hit on NCIC
21 without a detainer?

22 CHIEF GARY STREBEL: When--when someone is
23 fingerprinted just to expand on what Commissioner
24 Byrne said we get a response back based on the
25 fingerprints that goes to Albany and it comes back

2 in—in several parts. We get a state—a state
3 response, what's on the New York State rap sheet
4 criminal history, and it depends on the person and
5 what the history is, but we will often times get back
6 a—what we call a Triple I, which is an out-of-state
7 arrest history. So like the person is arrested in
8 Chicago or something like that, and we could get back
9 and NCIC response. The NCIC response the verbiage
10 would be along the lines of a possible warrant sexual
11 predator. It will have some sort of alert on there,
12 and it will say ask us to ask to ask the arresting
13 agency, confirm the hit with the originating agency.
14 So we would make that call that we have to do before
15 we can arraign somebody that we have to go through
16 that wrap sheet, that history and we use the term
17 clear warrants. We need to make sure that the person
18 is not wanted because the judge needs to know that.
19 We would call whatever agency that rap sheet, any
20 portion of that rap sheet is asking us to call to
21 confirm a hit, we would make a phone call. They
22 already know we have the person. We're not telling
23 them anything they don't know. They know that. We
24 are calling them in essence saying we have this.
25 We're being asked to call you. What, if anything, do

2 you have? And it might result in us getting a
3 warrant. It might not result in a warrant.

4 CHAIRPERSON MENCHACA: So we need
5 confirmation whether or not the NCIC database is
6 connected to fingerprints.

7 CHIEF GARY STREBEL: The NCIC. To my
8 knowledge and I am not expert with the technical end
9 of the way the points are transmitted among agencies.
10 To my knowledge the NCIC portion is based on a name.
11 Now the way it comes back sometimes depending, and
12 again, I am not an expert with fingerprinting, if the
13 person has an FBI number, maybe they were previously
14 fingerprinted, those numbers might appear in the NCIC
15 response and elsewhere in the rap sheet, and then
16 there's a--it's 100% that's the person because it's
17 Biometric. It's based on the fingerprints, but in
18 the absence of that, it's based on a name, which is
19 one of the reasons why if the language on that NCIC
20 responses call to confirm the hit because we also
21 don't want to hold somebody if it's the wrong person,
22 and that's one of the reasons we call to confirm.

23 DEPUTY COMMISSIONER BYRNE: Let me just
24 try to clarify this because I think there's a lot of
25 confusion. I think some of it comes from a recent

2 article in the Daily News. Once we arrest someone,
3 and we fingerprint them, and we send their
4 fingerprints and other basic pedigree information to
5 Albany for purposes that Chief Strebels has outlined,
6 before we take the person before a judge and have
7 them arraigned, any agency who has flagged that
8 person for notification knows that that person is in
9 the custody of the NYPD. That would apply to ICE,
10 the FBI, the California State Troopers. Without the
11 NYPD doing anything further that agency knows that
12 that person is now in our custody. When we get back
13 the NCIC information, it will say various things so
14 with respect to one of the individuals who was
15 described in the recent daily article. The NCIC told
16 us that he was a sexually violent predator. It said
17 that he was a previously deported felon and he said
18 that he was sexual offender and an aggravated felon.
19 In that circumstance that criteria appeared to
20 satisfy the second prong of the law that the Council
21 passed defining what the NYPD can do with ICE. We
22 then reached out to ICE and said we have this person.
23 Is there a warrant? ICE did not show up and ask us
24 to transfer custody, but ICE already knew he was in
25 our possession. We were clarifying whether the

1 second prong of the law giving them in effect their
2 48 hours notice and they did not ask us to hold the
3 person for 48 hours. In the instance of the other
4 person named in the Daily News article, that person
5 had a prior criminal history, and in the NCIC
6 information it said outstanding warrant. Under that
7 circumstance, we would call any agency and say you
8 have an outstanding warrant. What type of warrant is
9 that, and when we learn that it's a civil judicial
10 warrant, it's a civil warrant not a criminal warrant
11 that's the end of our discussion with ICE or any
12 other agency. What happens to that person after we
13 take them to court is not within the control of the
14 NYPD.

16 COMMISSIONER AGARWAL: And I would just-

17 DEPUTY COMMISSIONER BYRNE: [interposing]

18 I-I don't know how to explain it any clearer than
19 that.

20 COMMISSIONER AGARWAL: And I would-I
21 would just add from an immigration perspective right
22 on the immigration side and to the fingerprints that
23 is a relatively recent vintage. It started with the
24 Secure Communities Program, which is really a
25 technological program that allows the ICE to be able

2 to access the FBI—what the FBI already has access to
3 for criminal justice purposes, which are
4 fingerprints. And so, the fingerprint sharing
5 between ICE and FBI is what then gets filtered down
6 to local law enforcement as has been described, but
7 that's really happening on the immigration side at
8 the federal level.

9 CHAIRPERSON MENCHACA: So, I guess I—I—as
10 we said earlier, this is—this is complicated and we
11 want to understand every—every component of the
12 interaction, and so I'm thankful for your patience in
13 walking us through this. I think this is very
14 important to see how the bills that we'll pass in the
15 future and the ones we're looking at--or in the past
16 and the ones we're looking at the future really kind
17 of create the intentions, manifest the intentions
18 that I think we're all talking about today. And so,
19 we want to get a little bit more clarity on that
20 moment in the interaction where the hit shows and you
21 said multiple agencies are connected to this database
22 including ICE and ICE will be listed on—on a—on a
23 sheet on a rap sheet as you call it, and this as we
24 understand it is—and confirmed. These are
25 administrative warrants, not a judicial warrant, and

1
2 so clarify that piece and we can go through follow-
3 ups, but I'm assuming that whatever would show up on
4 the rap sheet there would be an administrative
5 warrant that don't—that don't at all trigger our
6 previous pre-utilization (sic) on a judicial warrant.
7 And what I'm hearing from you is that you will make
8 that call anyway and alert ICE when—when we believe
9 that might not be necessary in alerting ICE if you
10 have someone in a verification process. Do—do I have
11 that right?

12 DEPUTY COMMISSIONER BYRNE: No, you have
13 it wrong.

14 CHAIRPERSON MENCHACA: Okay. So, please-
15 -

16 DEPUTY COMMISSIONER BYRNE: Okay, so
17 let's try to get it right.

18 CHAIRPERSON MENCHACA: We want to get it
19 right here. We want to understand exactly what's
20 happening here?

21 DEPUTY COMMISSIONER BYRNE: So when we
22 arrest someone, we've taken them back to the station
23 house or a secure facility and they're being
24 processed. Everyone arrested is fingerprinted, and
25

1 they're fingerprints are sent to Albany and then we
2 get the NCIC information. We need that information.

3 CHAIRPERSON MENCHACA: And let me pause
4 you there. That's the only way you get NCIC
5 information after you've processed someone in the
6 station? Is that right? So you've already--

7 CHIEF GARY STREBEL: Well, for an arrest,
8 yes. If somebody is arrested and they're
9 fingerprinted that's how we will get the information
10 back based on the fingerprints. But again, in
11 specific instances or more--it's more technical than
12 I'm--

13 DEPUTY COMMISSIONER BYRNE: Right.

14 CHIEF GARY STREBEL: --the expert on.
15 The NCIC end of it is generally based on a name. It's
16 not based on--

17 DEPUTY COMMISSIONER BYRNE: Right.

18 CHIEF GARY STREBEL: --the prints, which
19 is why again if the language is always regardless of
20 registry we call to confirm the hit to see if he's
21 same person.

22 DEPUTY COMMISSIONER BYRNE: So NCIC is
23 only as good as any other database. The information
24 in the database is only as good as the person who
25

2 entered it in. It doesn't always say civil warrant
3 or criminal warrant. It may say warrant. It varies
4 by individual, by agency, and when it comes back open
5 warrants we like every other law enforcement agency
6 in the country is going to call and find out this has
7 nothing to do--this is not specific to ICE. This is
8 with every warrant we get from every law enforcement
9 agency and they do it for us. When it comes up on
10 the rap sheet, warrant we will call and clarify. If
11 it's--

12 CHAIRPERSON MENCHACA: Can I pause your
13 right there?

14 DEPUTY COMMISSIONER BYRNE: Yeah.

15 CHAIRPERSON MENCHACA: Sorry. That's--
16 that's an--that's--that's I think the crux of this. So
17 you get--you get an ICE warrant and just to be clear--
18 I'm not a lawyer, and we're going to hear from
19 advocates very soon, but I do not believe that ICE
20 can issue judicial warrants. So any warrant coming
21 from ICE--

22 DEPUTY COMMISSIONER BYRNE: [interposing]
23 ICE--ICE gives criminal warrants everyday.

24

25

2 CHAIRPERSON MENCHACA: So let me repeat.
3 Let me repeat the question. ICE cannot issue
4 judicial warrants. Is that correct?

5 DEPUTY COMMISSIONER BYRNE: No, law
6 enforcement agency can issue judicial warrants.

7 CHAIRPERSON MENCHACA: [interposing]
8 Right.

9 DEPUTY COMMISSIONER BYRNE: Only a judge.

10 CHAIRPERSON MENCHACA: So, that—okay
11 we're clear on that.

12 DEPUTY COMMISSIONER BYRNE: Right.

13 CHAIRPERSON MENCHACA: So anything that
14 comes up in an NCIC database hit would say warrant,
15 but it would an administrative warrant from ICE not a
16 judicial warrant?

17 DEPUTY COMMISSIONER BYRNE: You can't
18 always tell that.

19 CHAIRPERSON MENCHACA: You can't always
20 tell that?

21 DEPUTY COMMISSIONER BYRNE: You cannot.

22 CHAIRPERSON MENCHACA: So it's unclear
23 for NYPD on a response after a name was sent in
24 whether or not ICE has a judicial warrant, is that
25 right?

2 DEPUTY COMMISSIONER BYRNE: That's
3 correct.

4 COMMISSIONER AGARWAL: And also there are
5 criminal warrants in the immigration context as well
6 for people who have illegally re-entered.

7 DEPUTY COMMISSIONER BYRNE: Right and ICE
8 uses that as a criminal enforcement tool as well.
9 What that statute you pass says that we can and quite
10 frankly we have a legal obligation to honor judicial
11 warrants, and the statute you passed to a judicial
12 warrant as a warrant issue by a federal judge or a
13 federal magistrate judge based on probable cause. To
14 take it out of law enforcement and lawyer jargon the
15 arrest warrant or a warrant from the federal judge to
16 arrest someone is a court order to take that person
17 into custody.

18 CHAIRPERSON MENCHACA: Okay, so we have
19 a—we—we have some—we have some real important follow-
20 ups on--on this piece. I think—I think we—there's
21 some concerns that I think were raised today in—in
22 these interactions, and maybe more in understanding
23 how information is shared with two agencies both in a
24 processing point at the station with name and
25 potential fingerprints that come back with NCI hit-

1
2 NCIC hits. There's a question about whether or not
3 this processing can happen the street when you're
4 looking things up. If you can answer that that would
5 be great. Right now, could NCIC information be
6 given, received, asked for on the street on a-on a-on
7 a street interaction?

8 DEPUTY COMMISSIONER BYRNE: I don't think
9 I understand your question.

10 CHAIRPERSON MENCHACA: So, we're hearing,
11 just to clarify, we're—we're hearing—we heard in
12 testimony today that the NCIC hits come only after
13 coming to the station and—and in an arrest situation
14 or a name and fingerprints are sent into the system
15 for review. That's when we NCIC information. If I'm
16 on the street, I'm on my bike, I'm on—on sidewalk, an
17 officer stops me, takes my ID—my IDNYC. In that
18 moment can you request NCIC information with my name?

19 CHIEF GARY STREBEL: I am not sure if a
20 check that will be done in the scenario you're giving
21 if that would touch that NCI system. I can't—I can't
22 answer that. I don't know.

23 CHAIRPERSON MENCHACA: Wait can you
24 repeat that one more time? I think it's important.
25

2 CHIEF GARY STREBEL: And if I'm
3 understanding your questions, I mean someone who's
4 not fingerprinted, not arrested, but someone an
5 officer is checking, running their name, checking
6 them on the street. I don't know if running a name
7 like that interfaces, touches that NCI system or not.
8 I don't know.

9 CHAIRPERSON MENCHACA: So we don't know?

10 CHIEF GARY STREBEL: I—I can't answer
11 that.

12 CHAIRPERSON MENCHACA: Nobody on the
13 panel knows that answer? It's pretty inter--

14 DEPUTY COMMISSIONER BYRNE: [interposing]
15 Well, let me--

16 CHAIRPERSON MENCHACA: [interposing]
17 Interrupted--

18 DEPUTY COMMISSIONER BYRNE: --there's
19 another commissioner here. NCIC is a database. It's
20 used for a bunch of reasons: When we're conducting
21 investigation of a homicide or assault and we think
22 we've identified the perpetrator, we will probably
23 run that person through NCIC to see what kind of
24 criminal record they have. Do they have a violent
25 history? Do they have warrants? I think what Chief

2 Strebel is saying, what I can't answer for you is if
3 I query the system to ask about an individual, does
4 that query give notification to other agencies that
5 have questioned the system, or is it just when we're
6 at the process where we're formally arresting
7 someone, and sending notification to the database
8 that the person is in our custody. The first part I
9 can't answer for you. The second part I've explained
10 already.

11 COMMISSIONER AGARWAL: And what I will
12 say, but we will confirm this is that with regard to
13 immigration it is a fingerprint based sharing of
14 information. So if the concern here is about
15 immigration information and not broadly a criminal
16 warrant that would require the fingerprinting to be
17 notified, and that's something we—we'll, you know, we
18 can certainly follow up on. I also just wanted to
19 sort of weigh in for clarity purposes on the warrants
20 issues, right? The warrant—there's one component of
21 warrants we're talking about which is a law
22 enforcement agency saying we want this person.
23 There's another warrant that says we can hold this
24 person. The judicial warrants that we require in our
25 law are of the latter kind. They say yes, you can,

2 hold this person beyond the time they would otherwise
3 have been released for the purposes of a detainer.
4 That's not the kind of warrant that we're talking
5 about in the sort of broader conversation. There
6 it's criminal and there may be some administrative
7 warrants that are questioned, but not warrants that
8 give permission to NYPD or Corrections to hold
9 someone. It's a very different warrant altogether.

10 CHAIRPERSON MENCHACA: Well, again and—
11 and I think we're clear on the differentiation on
12 the—on the warrants. I think what's unclear that we
13 need to very, very quickly sit down and—and walk
14 through with all the members of your team to
15 understand exactly the questions that we are leaving
16 on the table where there's still questions unanswered
17 at this point. A lot of the questions that we've
18 been asking are coming from the advocates right now
19 about how we actually clarify these—these—these
20 interactions, the arrests information from the
21 database and—and what we're hearing is that it's—
22 it's—well, one, it's unclear, but two we need, we
23 need to understand how—how tipped—how—how we're
24 tipping off agencies interactions that might seem
25 routine, and—and actually are—are causing harm and

2 potentially they're violating some of our local laws.
3 That we need to clarify as soon as possible. When we
4 have 182 since January detainers—I just want to—I
5 want to confirm that. This year alone, right, 182
6 detainers for NYPD?

7 DEPUTY COMMISSIONER BYRNE: Correct.

8 CHAIRPERSON MENCHACA: And then 162—67
9 from DOC. This is concerning, and—and so it would be
10 great to hear from you all about what's causing that,
11 what you believe is causing that.

12 DEPUTY COMMISSIONER BYRNE: I can't tell
13 you. I have no idea what causes ICE to issue a
14 detainer and not their separate federal agency. To
15 your point earlier, I'm not aware of any violations
16 of local laws at least by the NYPD. So I don't agree
17 with your statement there.

18 CHAIRPERSON MENCHACA: Okay. So, we're
19 going to—we're going to pause. We want to hear from
20 the advocates, and we're hoping that your staff—some
21 of your staff can stay here and listen to some of the
22 testimony, but it's—it's—it's incredibly concerning
23 that—that high level members of the—of the agencies
24 here still are—are not completely understanding the—
25 the pieces that we're trying to focus on right now,

2 and we're going to have to clarify that as soon as
3 possible. I can't imagine what the rank and file on
4 the ground are doing or-or-or how they interact with
5 our-with our-with our New Yorkers, and so this is-
6 this is something that's incredibly concerning to us,
7 and we're going to want to sit down as soon as
8 possible not only to clarify it, but to rectify any
9 policies internally that are connected to the law,
10 and maybe even fix some of them with future-future
11 pieces of legislation. I want to thank you for your
12 patience in walking us through this. We're going to
13 get to some really good testimony right now from
14 advocates, and again, thank you for your work. I
15 know we're all-we're all pointing to the same-same
16 goals here. We've-we've heard from multiple agencies
17 here that-that sanctuary city promise and vision is
18 real. These little pieces are going to be-are going
19 to be incredibly important to fix and understand. So
20 we actually get to sanctuary city. Some of the
21 concerns I heard in the testimony from MOIA are
22 around putting Know Your Rights into public spaces.
23 I think that's concerning that-that we haven't yet
24 kind of reconciled the opportunity to put valuable
25 important information that we're giving in-in spaces

1
2 like Know Your Rights workshops, and then—and then
3 amplifying that work within. So we want to work with
4 you to figure out what that looks like. If it's not
5 positive, what does positive mean to you. So we want
6 to work with MOIA figuring out what—what that—what
7 that looks like for you all. But that needs to
8 happen soon. We're really aggressively pushing these
9 pieces of legislation forward, and working with all
10 of you in this room to make that happen. So thank
11 you, and we look forward to working with you shortly.
12 We—we're also joined by Council Members Torres,
13 Levine and Rosenthal, and our next panel is if we can
14 get them on here in front is from DC-37, Chris
15 Balanco (sp?) Balasciano (sp?) Sorry. I don't know
16 if I—I got that right—right. David Cohen from 32BJ,
17 Priscilla Acuna from Local 46 and Natalia Aristizabel
18 from Make the Road. If you can come up here in
19 front. [background comments, pause] And—and can I
20 get a show of hands really quick of who's here and
21 ready to testify today? I just want to make sure
22 that we still have our crew here. Okay, great.
23 Thank you so much for your patience. We're going to
24 get through these. We're going to give everybody two

1 minutes to testify, and then a—a two-minute Q&A from
2 Council Members. And Natalia, you can start.

3
4 NATALIA ARISTIZABEL: Good afternoon, and
5 first of all, thank you so much for having this
6 panel, for having this hearing today with the three
7 committees and public hearing Education and
8 Immigration. I specifically want to thank the
9 Chairs, Council Member Menchaca—Menchaca, Dromm and
10 Gibson. I also want to give an extra thank, Carlos,
11 for speaking Spanish. A lot of our members who are
12 here for half of the day, and they really feel
13 included when they hear an elected official speak to
14 them in Spanish, and they wish that we could actually
15 have translation throughout this hearing. So, you
16 know, again thank you for this opportunity. I'm
17 testifying on the importance of protecting immigrant
18 communities on the local level that face heightened
19 federal enforcement. Our testimony will focus on the
20 importance of strong city laws not just policies that
21 protect New York City's most vulnerable residents,
22 confidential information and created greater access
23 to city services. I'm Natalia Aristizabel, the Co-
24 Organizing Director of Make the Road New York, and
25 Make the Road New York is the largest grassroots

2 immigrant organization in New York City working to
3 build the power of Latino working class communities,
4 and to achieve the dignity and justice through our
5 organizing policy innovation, transformative
6 education and survival services. With our member-
7 with our membership of over 20,000 low-income
8 individuals and 20 years of history in the Outer
9 Boroughs, we critical issues facing our communities
10 including workers, tenant rights, language access,
11 LBBTQ justice, healthcare access, youth development
12 and immigrant civil rights. Our vibrant communities
13 reach from Jackson Heights, Queens to Bushwick,
14 Brooklyn to Port Richmond, Staten Island, and our
15 community centers draw upon 15,000 people annually
16 for adult literacy classes, legal and support
17 services and a thousands (sic) more for community
18 education. As we all are very well aware, our
19 immigrant communicates are under attack. Yet, the
20 fear that sensitive information may be disclosed
21 discourages not just immigrants but many of the
22 city's most vulnerable residents from accessing
23 [bell] vital services, their right on hateful
24 rhetoric towards woman, the LGBTQI, the community,
25 the Muslim Brothers and Sisters as well as the Latino

2 and brother—as Latino and other immigrant communities
3 regardless of immigration status that cause great
4 distrust between residents and city officials. Our
5 members and clients increasingly are afraid to report
6 crimes, clear warrants, pay tickets, seek medical
7 attention, apply for public benefits, take their
8 children to school, and sometimes even to go to work.
9 Like as the case of Manuel, a member from Brooklyn,
10 who was picked up outside of the court. You know, we
11 know how—outside of the court when he was there to
12 attend a hearing. Manuel took off a day from work.
13 He’s the caretaker in his family, and he thought it
14 was his civic duty to appear in court. Manuel also
15 has other identities besides that of a criminal, and
16 I’m saying this specifically in reference to the
17 folks who were the last Q&A that we just heard. It
18 is also like the story of Maria whose landlord
19 threatens to evict her by threatening to call ICE.
20 Maria is unsure who will help her, and she’s afraid
21 to fight for her rights as a tenant because of the
22 fear of deportation, or 17-year-old Bella whose door
23 was almost knocked down by ICE. For police and ICE
24 at the door was terrifying, and it’s unclear how much
25 the NYPD is part of the same problem. The most

2 commonly asked question by our members is whether
3 it's still safe for them to continue to apply for
4 food stamps for their U.S. born children, which
5 allows them to be fed and not to go school hungry.
6 Some community members are afraid ICE will show up at
7 the welfare center, or that using public benefits
8 could put the at-risk of deportation. Some people
9 are choosing to go hungry instead of taking that
10 risk. Because distrust can only be overcome by clear
11 laws evidenced in the city commitment to protecting
12 residents, its safe access to city services. It is a
13 disservice to all of us when immigrant community
14 members lose their trust in city agencies where there
15 is fear of deport—of reporting domestic violence to
16 the police, children fearing ICE at the door,
17 community members not wanting to pay fines, and
18 tickets that actually gets them a warrant adding
19 their names because they didn't show up to a court,
20 and a warrant is actually an aggravated felony in
21 terms of deportation, or the most low-income families
22 refusing to support their everyday needs. We need
23 stronger laws to assure vulnerable communities that
24 the city has their back. We also need Know Your
25 Rights workshops at every school not only 100 of

2 them. So I just want to like reinforce that. The
3 City Council proposed codification of Executive Order
4 41 is an important first step in assuring the city's
5 residents that their sensitive information be it
6 sexual orientation, gender identity, religion,
7 nationality, immigration status, victimization,
8 arrest history, social media account information and
9 more is protected. While the Administration's
10 current policies regarding disclosure of such
11 information is laudable, without more we cannot
12 confidently tell our members that clients—and clients
13 that their information is safe. Codification of
14 Executive Order 41 will allow those fears and the
15 fears of the future administrations, and the fears
16 that future administrations may not value such
17 limitations on disclosure of sensitive information.
18 What New York City needs now is not just sound
19 practice, but sound law. We fully support the
20 Council's intentions, and look forward to working
21 with them on strengthening and refining the bills as
22 we believe that they can be better. The bills need
23 to be realistic in terms of implementation and at the
24 same time, we must include safe bars to ensure
25 compliance. Immigrant communities are fears full--

2 fearful of the police. They are fearful of what
3 happens (sic) when the police include them to the
4 entanglement with the Criminal Justice System putting
5 them at high risk of deportation. The proposed
6 packing of legislation will help ensure that the
7 important city resources including city official's
8 times are—are used solely for effective immigration—
9 administration of our city government and not a
10 dollar spent furthering—further immigration
11 enforcement. This is important that this first step
12 is build the trust between local enforcement and
13 city-New York City residents in immigrant
14 communities. We look forward to working the city to
15 strengthen and expand such protections. Finally,
16 Make the Road New York applauds the city's—Council
17 proposal to create an alternative to New York State
18 Disorderly Conduct Violation. The Council proposed
19 alternative will avoid—avoid disproportionately
20 immigration related consequence and should be
21 implemented in a robust—robust way. Once again,
22 thank you to the Speaker and the City Council members
23 for holding this important hearing and listening to
24 the community members' voice.

2 CHAIRPERSON MENCHACA: Thank you, Natalia
3 for your work and Make the Road and for really kind
4 of setting the context for work that we're not only
5 doing already in our communities, but with the
6 administration and Council working together on
7 legislation, you—you kind of prepared really good
8 context. For the rest of the speakers I want to see
9 if there's anything that you can kind of pull out
10 that might be of concern to us on the bills. We—we
11 are putting a clock so we can make sure we get to as
12 many—many folks as possible today, but we're also
13 looking for anything that really kind of points—
14 points to concerns that you have on the bills or
15 suggestions on changing the bills, and—and Chris, if
16 you can go next, that would be great. Thank you so
17 much.

18 CHRIS [off mic] Good afternoon. [pause]

19 CHAIRPERSON MENCHACA: And I want to
20 acknowledge that we've been also joined by Council
21 Member Ben Kallos from Manhattan.

22 CHAIRPERSON MENCHACA: Thank you, Chris,
23 for that testimony. [pause]

24 PRISCILLA ACUNA: First off, I just
25 wanted to say thank you to Chair Gibson, Chair

2 Menchaca and Chair Dromm for holding this joint
3 hearing. My name is Priscilla Acuna. I work with
4 the Organizing Department at Local 46.

5 SERGEANT-AT-ARMS: [interposing] Quiet
6 down, please.

7 PRISCILLA ACUNA: And I'm here on behalf
8 of President John Skinner, who unfortunately was not
9 able to come. He regrets this and asked me to
10 deliver this testimony on his behalf. Questions can
11 be directed to him at a later date. Good afternoon.
12 As Local 46, a construction trade union of metallic
13 lathers and reinforcing iron workers, we would like
14 to voice our support for Intros 1558, 1565 and
15 especially 1579. We are a union that cares about the
16 health and wellbeing of all New York City
17 construction workers regardless of whether they are
18 union or non-union. Immigration issues are a key
19 part of this. Through our organizing as non-union
20 workers, we understand that some of the city's most
21 vulnerable workers are undocumented immigrants.
22 These are folks who are unable to report abusive
23 conditions at the work site because they are afraid
24 of being reported to immigration authorities by
25 retaliating employers. We will not stand for a

2 status quo where the city's most marginalized workers
3 have even more to fear on the job, but beyond our
4 general concern for worker wellbeing this issue also
5 hits close to home for Local 46. One of our own
6 members was unfairly targeted by immigration
7 authorities in recent weeks. This individual has a
8 green card, and has not been found guilty of any
9 criminal wrong—of any criminal wrongdoing.
10 Nonetheless, ICE found and detained him at his
11 worksite, causing unnecessary distress and suffering
12 to him and his family. We support these bills
13 because we believe that in matters of immigration
14 people have a right to live peaceful healthy lives
15 with minimal interference from immigration
16 authorities. Anything less will create a climate of
17 fear in workplaces and communities. Protect
18 individual and community wellbeing. Please support
19 Intro 1579 as well as [bell] 1558 and 1565. Thank
20 you.

21 CHAIRPERSON MENCHACA: Thank you for that
22 testimony, and send our best to John Skinner. David.

23 DAVID COHEN: Sure. Thank you, Chairs
24 and thank you for the opportunity to testify here
25 today. I'll do my best to be brief. I'm David

1 Cohen, the Local Coordinator at 32BJ SEIU. On behalf
2 of our members and President Hector Figueroa, I'll be
3 testifying today. I'm trying to highlight the roles
4 of Intro 1558, 1565 and Intro 1579 to answer Chair
5 Menchaca's question to add a few things on-on the
6 bills. Our union proudly represents 165,000 property
7 service workers including 85,000 in New York City,
8 and ensuring the lives and rights of immigrants are
9 respected as deeply important to the union. Our
10 members hail from 64 different countries, speak 28
11 different languages, and we fight for stronger
12 contracts everyday, and try to help support our
13 members and their communities as well. Every
14 resident in New York City deserves to feel safe and-
15 and free to interact with law enforcement without
16 fear. Intro 1558 closes an important gap that exists
17 in the city's policy regarding immigration detainer
18 requests. In order to foster trust and cooperation
19 between communities and law enforcement, the city
20 currently restricts circumstances in with the
21 Department of Correction complies with the federal
22 detainer requests and is common sense in the interest
23 of effect law enforcement to extend this policy of
24 the department of probation and to ensure consistency
25

1 throughout the city's Criminal Justice System. New
2 York City schools, of course, are a place where—are
3 places where our members work and so many thousand of
4 immigrant families are. We welcome Bill 1565 helping
5 protect students and parents in New York Schools and
6 providing them with bi-annual information regarding
7 educational rights on DOE policies and procedures
8 pertaining to interact—interactions with non-local
9 law enforcement. I'm going to skip forward to stay on
10 time. Bill 1579 makes clear that immigrant rights
11 are to be respected in all corners of our city by
12 limiting circumstances which entry is granted of city
13 property to personnel for purposes of federal
14 immigration enforcement. By protecting immigrants in
15 city buildings and schools and all these properties,
16 the city will make real its commitment of providing
17 sanctuary and allowing immigrants to participate
18 fully in civic life, and this bill will also provide
19 legal guidelines for security officers, other
20 building service workers including our members who
21 are charged with ensuring the safety and wellbeing in
22 city buildings and property. Thank you.

24 CHAIRPERSON MENCHACA: Thank you, David,
25 and—and I think that that's my—my—there's going to—

2 there's going be questions, but I'm glad that your
3 testimony kind of pushed that affirmation from the
4 workers and--and--the union itself who would be
5 possibly and--and not only an affirmation, but
6 following new laws around city property. So it's
7 great to know we have support from--from the members
8 of 32BJ at least to be able on the--at the table
9 helping us craft the final--the final version. So
10 thank you for that.

11 DAVID COHEN: Thank you.

12 CHAIRPERSON MENCHACA: And then for
13 Natalia, I had a question specifically on something
14 that came up in testimony from the Mayor's Office of
15 Immigrant Affairs saying that they--that they were
16 concerned in putting Know Your Rights information
17 prominently, and this is how the bill is written
18 right now prominently in spaces in these public
19 spaces that--that we are speaking to like hospital
20 lobbies and other. How--how does Make the Road feel
21 about--about that intention to put Know Your Rights
22 information prominently in multiple languages and--and
23 offer some guidance for us on how we can land in a
24 place that might be helpful to everybody.

25

2 NATALIA ARISTIZABEL: Yeah, I think Know
3 Your Rights information is key, and we're talking
4 about like people's like rights that defend them by
5 the Constitution that often are—unless people go to a
6 Know Your Rights workshops or working closely with a
7 community agency that can tell them about their
8 rights, there's no way for community members to find
9 out. I also want to expand that to say that actually
10 Know Your Rights materials and information it's only
11 a small Band-Aid to a bigger problem because we know
12 that when ICE is interacting with community members
13 they will use coercion, intimidation, violence and
14 other tact—tactics to try to get their goal, right?
15 Like whether it is to—like in the case of person that
16 I spoke in my testimony, Della—Della knew her rights
17 because she had been at our workshop by Make the Road
18 that literally thought that ICE was going to knock
19 down her door, and she saw folks who had a sign that
20 said, police. It wasn't clear if it was ICE or
21 police. So intimidation may happen and people may
22 forget what they know, but we also know of other
23 cases actually a case in New Jersey where ICE went to
24 a—like a deli and the daughter knew their rights and
25 didn't let them in unless they had a judicial

2 warrant, which thank you, by the way, about
3 emphasizing the difference between a judicial warrant
4 and administrative warrant, and because they didn't
5 have a judicial warrant, they couldn't go inside the
6 store and, therefore, their daughter say that her mom
7 was put on detention, right, and kept her family
8 together for a longer period of time. So I think
9 it's imperative that we do it.

10 CHAIRPERSON MENCHACA: Well, thank you to
11 everyone on this panel for your work and for your
12 continued dedication to our immigrant and really all
13 New Yorkers. We'll be following up with you on any
14 items that testimony presents today. Our next—our
15 next panel is from New York County Defender Services,
16 Megan Hugh, Immigrant Defense Project, Ryan Munich—
17 Munich, from Queens Law Associates Defenders, Lori
18 Zeno, the Bronx Defenders Jennifer Friedman, the
19 Brooklyn Defenders Nyasa Hickey from Brooklyn
20 Defender Services, Neighborhood Defender Services of
21 Harlem, Stephanie Lopez. [pause] And as you get
22 situated the next panel after that so you know when
23 you're coming [background comments] Camille Mackler
24 from the New York Immigration Coalition, Helen Droom
25 from NYLAG, Legal Services NYC terry Lawson; Legal

1
2 Aid Society Hasan Beck, Antu Dibayess (sp?) and then
3 Ward Oliver, the Legal Aid Society as well. That
4 will be second panel after this, and then we have two
5 panel after that. The—the Q&A has been fruitful I
6 think, and so if we can summarize the testimony and
7 really focus on some of the areas that you've heard,
8 and I'd love some feedback on some of the testimony
9 that we've heard today that will help the drive the
10 conversation. We have your testimony here, and if
11 you can start over here, please. [background
12 comments, pause]

13 Actually, if it's okay with you
14 Councilman, we had already set up a—

15 CHAIRPERSON MENCHACA: If you have a
16 plan---

17 LORI ZENO: We do.

18 CHAIRPERSON MENCHACA: --then go for it
19 and then concentrate on that.

20 LORI ZENO: We're trial lawyers. We have
21 to have a plan. [laughs] Anyway, my name is Lori
22 Zeno, and I am the Co-Founder and Deputy Director of
23 Queens Law Associates, one of the two public defender
24 Organizations in Queens, the most ethnically diverse
25 county in the United States. I'm going to pass on my

2 speech that I had prepared as well in order to
3 comment on some of the testimony and the Q&A that has
4 gone on. Most specifically with not this last panel
5 but the panel before that included the Deputy
6 Commission of the Police Department. I-I-I've been a
7 public defender for 35 years and I can probably fill
8 in some of the areas in which he couldn't help us
9 with because he didn't have--

10 CHAIRPERSON MENCHACA: [interposing]

11 Please do.

12 LORI ZENO: --he didn't have the
13 information he said. Anyway, [laughs] I'm going to
14 move just right to the NCIC Report is a report that
15 is gotten from the Department of Justice. It's a DOJ
16 report, okay? So what happens is somebody gets
17 arrested-- Well, first of all, let me just say for
18 people who are not arrested on the street, the bike,
19 when you're riding you bike like that, the answer to
20 whether or not NYPD can go back into their car and
21 get that NCIC information is unequivocally yes. That
22 is the answer. It's unfortunate that our Deputy
23 Commissioner didn't know that, but the answer is yes.
24 No, when we're talking about people who are arrested,
25 what happens is you get arrested, you go back to the

2 precinct, you get fingerprinted. Your fingerprints
3 then get sent to Albany, okay, and then from there he
4 was right when he said all other kinds of agencies
5 the FBI, I imagine ICE, DOJ like whatever, right.
6 Everybody gets those fingerprints, and they have the
7 information that, you know, there that this person is
8 in custody.

9 CHAIRPERSON MENCHACA: How quickly does
10 that happen? [bell]

11 LORI ZENO: Well, it happens I would say
12 probably within 12 hours. It depends on if-if it's a
13 first arrest, and you don't have prints already there
14 and a record already there. It takes a little longer
15 but, you know, I'm not really sure exactly of the
16 timeframe. I know that people are-are arraigned
17 within 21 to 24 hours, and the thing that they wait
18 on the most is the rap-is the rap sheet. So now,
19 attached to that rap sheet when it comes through is
20 another piece of paper called the NCIC. That is not-
21 it's only attached, okay. That is not based on any
22 fingerprints. It's based only on a name check and a
23 date of birth, okay. It is known to be at least 75%
24 inaccurate. More times than not, the person that
25 they-this, you know, they're-they're checking, you

2 know, is not the person you ultimately find out, and,
3 you know, and probably because, you know, John Smith
4 born April 1st. Wow, how many of those people,
5 right, are-are-and that's it. It's not based on
6 anybody's fingerprints. So, when NYPD picks up the
7 phone affirmatively, which is a word that the
8 Commissioner couldn't get out either, when they
9 affirmatively pick up the phone from Central Booking
10 and call ICE, okay, they're calling based on
11 information that is on this report that everybody
12 knows more times than not is not accurate. Okay. So
13 what happens is the end--this report comes in. Our
14 clients are sitting in the jail cell in Central
15 Booking right behind Arraignments. Same building,
16 same everything, and when that report comes back
17 there is an employee a PAA from the NYPD is their
18 title. They sit at the desk and they wait for those
19 NCIC reports to come, and then they look at it and
20 they look ad see what it says. Now, sometimes it
21 will say, you know, this-this person may be wanted
22 for murder in Texas. Sometimes it will say this
23 person some has, you know, there's a civil warrant on
24 so and so. The warrants that come if they're-they
25 already know. They don't need the NCIC report to

2 check a warrant for, you know, if you're arrested in
3 Queens and maybe you have a warrant in Brooklyn, they
4 don't need that. That's not what they--how they find
5 out their warrants, but they do look at the NCIC
6 report to see if there's a possible out-of-state
7 thing, right and, of course, some immigration
8 information can come up. It could say the person is
9 awaiting deportation. It could say the person--what's
10 interesting it could say that they're sex offender,
11 which is what the commissioner did manage to remember
12 after he was questioned a little more after denying
13 that they used that to call ICE or even talk to ICE,
14 right. And then everything is out of their control
15 because the person is in their--in their custody for
16 such a little time. Yeah. Well, what happens is
17 they see if there's anything on there about
18 immigration, and if so, they pick up the phone and
19 they affirmatively call. Okay. Now, they say--their--
20 their--their position is well, as soon as he gets
21 fingerprinted everybody sees, everybody has those
22 fingerprints. They do out to all these agencies.
23 Well, my guess is, you know, sometimes it's 3:00 in
24 the morning when they come through, right? My guess
25 is there isn't somebody ICE that's at the desk

2 waiting to see how many people are, you know, coming
3 through and then checking to see if they've got the
4 warrant or whatever. And so their position is, so,
5 you know, if they want the person, they can call us
6 and tell us that they want them and then, of course,
7 if they come in with a warrant under the law, right?
8 We'll turn them over. Well, here's what really
9 happens. Okay, what really happens is what happened
10 in the case that actually the Commissioner referred
11 to that was—that was a case that was in—in the Daily
12 News. That was a Queens Law Associate's client. So
13 I can tell you exactly what happened in that case.
14 Our client comes in. They get an NCIC report. They
15 look at the report. The PAA see something on there
16 about immigration, picks up the phone and calls ICE.
17 There's a little note section in the computer system
18 that's in Arraignment and it says, you know, John Doe
19 got arrested at 2 o'clock in the morning out of the
20 101 Precinct, right, and it says what time they came
21 to Central Booking, and so we can track everybody and
22 kind of find out if anybody gets lost right? Well,
23 there's another section. It's called notes that not
24 everybody is privy to, but in this circumstance the
25 notes said PAA so and so called ICE on this client.

1 ICE agent number, ICE agent number. Waiting to hear
2 back from ICE for instructions on what to do. Okay.
3 So the Commissioner also said that that particular
4 person ICE didn't make a detainer request, right, and
5 it did—nothing happened. It's beyond me. Okay,
6 because what happened is that—first the PAA shift
7 ended. Then there was a sergeant that came on and
8 took over with the notes, right. Still waiting to
9 hear from ICE. Eleven hours went by. Finally, ICE
10 called them back and says, you know what, we want to
11 come and get him, right. Well, forget about asking
12 for a detainer. We want to come to the arraignment
13 party. We want to get him, and they said okay. So
14 they held him and they waited, and they waited until
15 ICE showed up and ICE shows up. Now, when they show
16 in arraignments I might add, they're in plain
17 clothes. They're sitting amongst the crowd. You
18 know, there's a first row just like there was here
19 that was reserved. The first row is always for
20 lawyers, law enforcement and something like that,
21 right. They don't sit there. They sit in the back
22 mixed in with the other, you know, moms and dads, and
23 when they get there, they notify a court officer, and
24 they say, okay we're here, we're ICE. Where
25

2 officers are like okay [shushing]. One, you know,
3 goes over. The DA gets notified that ICE is there.
4 The judge gets notified that ICE agents are there.
5 In this particular case there were six of them, but
6 the DA gets noted-notified, the clerk gets notified,
7 the court officers get notified, the judge gets
8 notified. Guess who gets left out? The defense
9 attorneys. We do not get notified when ICE walks
10 into the courtroom. So we find out when the plan is
11 already done, okay, because now they go into the back
12 and they say okay he's court ready now because the
13 ICE people are here to pick him up. They call the
14 case, they bring him out before the judge. The first
15 thing the DA says, Judge, ICE is in court. They want
16 to take the client-you know, the defendant. So,
17 we're consenting to an ROR. That's the first time we
18 find out ICE is in court. Okay, not to mention this
19 NIC-NCIC Report that comes in, we don't get it. We
20 don't get to see it. We used to get to see it. We
21 used to get it. For 35 years we got to see it. Now,
22 all of a sudden with all this immigration stuff going
23 on, we don't get to see it any more. The court got
24 to see it, and the DA got to see it until we
25 complained, and then when we complained the court oh,

2 I guess you're right, you know, and then the court is
3 not going to see it any more either, but that's not
4 precluding the DA who gets to see it to ask for bail
5 or what-based on this 75% inaccurate report. So, then
6 what happens is there's a ROR because the DA doesn't-
7 they're not even asking for bail, right. So NYPD who
8 still has custody, okay, of this person, they've not
9 gone over to Corrections yet. When the ROR happened,
10 right, NYPD takes off the cuffs. In comes the ICE
11 agent. ICE puts on their cuffs. NYPD goes back
12 behind the pens, and ICE walks out and our client is
13 gone, and I think within three weeks that client was
14 deported. No lawyer, no hearing, and by the way,
15 they did not have any kind of a warrant. They didn't
16 have anything. No piece of paper, nothing, and-and
17 he was arrested. That has happened over and over and
18 over in the Queens courthouse. They come in, they-
19 these 100 and what did he say 182 requests. Uh-huh,
20 well, all of their requests in the courthouse once
21 they get there the court officers, the judge, NYPD
22 everybody okay, everything stops, every-you know, the
23 case gets called. They get turned over or they get
24 information from the back or they go out into the
25 hallway when the case is finished being called, and

2 you know, a court officer will say that's—that's the
3 guy. His number is 62 on the calendar, right, and
4 the case gets moved up, right, or put back depending,
5 right, and then they call the case, so the guy walks
6 into the hallway. ICE picks him up and arrests him.
7 I-I wanted to tell you about one particular client
8 because the other thing the Commissioner talked about
9 was that they're only doing this with people who
10 qualify under the exception and have, you know, three
11 felony convictions or whatever, right. Okay, well,
12 here's somebody who begs to differ. I'm going to
13 call him Mr. Fuentes because I don't want to say his
14 real name. Mr. Fuentes a Mexican citizen came to
15 this country in 1995 when he was 15 years old. He is
16 now 37. He married s U.S. citizen. They have six
17 children ranging from the ages of 2 to 14 obviously
18 all American citizens. Okay, he was arrested in
19 December on a first arrest misdemeanor assault, okay.
20 Now, because it came in a DV part that's how ICE
21 becomes interested, right. But he comes back to
22 court and the case gets disposed of with a disorderly
23 conduct, a violation, okay. When he walks out of the
24 courtroom, guess what? He's now been—he's now
25 sitting in New Jersey in Immigration custody because

2 he can't afford bail and he's fighting his-his
3 deportation because he pled to a disorderly conduct,
4 and since December, you know, he's been away from his
5 wife, away from his children, you know. So-so when-
6 when we're talking about immigration, and you're
7 talking to NYPD or law enforcement or even OCA, you
8 know, their position is, Look, it's not happening to
9 that many people. So, what's the big deal? Right?
10 And the people that it is happening to frankly they
11 deserve it. They're the bad hombres, right? They
12 are sex offenders, they're sex abusers, which is what
13 happened in the case in the Daily News, right. He
14 was-fell within one of those sex abuse charges. So
15 it's politically popular to get rid of sex offender.
16 So nobody is going to look at how it's done, you
17 know, and so when they're coming in and they don't
18 have warrants, of any kind, nobody else could do
19 that. You know, as the NCIC said, I think we think
20 that he committed a murder in Texas and then Texas
21 came to get him, we wouldn't let them take him
22 without showing us a warrant. NYPD they can't come
23 into the courthouse and arrest somebody without a
24 warrant. They can't do that because that's what our
25 Constitution says, and under those circumstances the

2 court complies, right? But because it's immigration
3 and it's the federal government, what they get to
4 come and just break laws whenever they feel like it,
5 and do what they want? And our court system sits
6 there and lets them do it, and one other thing. You
7 know, people always say, but for the grace of God go
8 you, right, or go me. So, you know, when we say this
9 to people, they kind of look at you and like yeah,
10 you know, okay. When we say, soon all the sex
11 offenders and the robbers and right all these bad
12 guys they're going to be gone, right because they're
13 going to be deported. And then there's going to be
14 somebody else, right. Who's that going to be? Well,
15 now it looks like it's turning into Muslims, right,
16 or people from the East, but then when they're gone,
17 who is it going to be, right? So the thing is people
18 kind of look at that like well that's so far off that
19 I don't really have to pay attention. However,
20 already, okay, already NYPD and-or Immigration,
21 excuse me. Immigration comes into the courthouse and
22 arrests people with open DWI cases, okay. Now, I get
23 it. Nobody likes a DWI. Understand, okay, but there
24 is a list of crimes very specific what you are

2 removable for. So, if you plead, you know, convicted
3 of murder, oh great.

4 CHAIRPERSON MENCHACA: [interposing] Are
5 you speaking of the Detainer Laws our—our Detainer
6 Laws or are you talking about Immigration?

7 LORI ZENO: No, Immigration.

8 CHAIRPERSON MENCHACA: Okay.

9 LORI ZENO: There's a list of laws,
10 right. If you commit this crime, or this crime or
11 this crime, you get deported, whether or not you're
12 a—you know, you have a green card, right. A DWI is
13 not one of those crimes. Now, these people have not
14 even been convicted yet. They have open cases that
15 they're coming to court for, right, and they have not
16 even been convicted and if they were convicted, it's
17 not a designated crime. So they have no right coming
18 in and arresting anybody. Well, guess what? They're
19 doing it anyway. You know, and they're doing it with
20 the help of the court, the court officers, you know,
21 and I guess because DWI falls within a charge of
22 well, look they kind of deserve it anyway. Who wants
23 drunk—drunk drivers on our streets.

24 CHAIRPERSON MENCHACA: Well, this a
25 discretionary issue that we're seeing coming down

2 from the Immigration-Immigration Law, Immigration
3 enforcement, and so one, I just want to thank you for
4 really walking us through not only-not only a case-a
5 typical kind of case that really reveals what we were
6 all questioning the NYPD and the Commissioners on
7 and-and so thank you for really confirming what we
8 were in our investigation oversight. Thank you for
9 doing that.

10 LORI ZENO: You're welcome.

11 CHAIRPERSON MENCHACA: And I know-I know
12 we have some questions. What-what I want to do and
13 that was pretty comprehensive as well. Does anybody
14 else on the panel have anything new to add to-to
15 really the texture of what we're-what we're all
16 looking for right now, and if not, we want to go into
17 some Q&A and the offer anything else that has-has yet
18 to be discovered on this panel.

19 LORI ZENO: Can I just say one other
20 thing?

21 CHAIRPERSON MENCHACA: Okay.

22 LORI ZENO: Okay. you know, the bills
23 are great, and, you know, the spirit of the bills are
24 great, but there's a lot of discretion still that is
25 being left up to NYPD, and I will implore seriously,

2 you know, I-I kind of feel like we don't have any
3 place else to go, right. You saw what happened when
4 it's up to the discretion of what they tell you under
5 oath, right, and they only tell you what you ask or
6 what they finally figure out you know already, and so
7 then they're okay, okay, okay. So I mean it didn't
8 take a genius to figure out what was happening here,
9 right? And so, I can't see any reason for any
10 discretion to be left to law enforcement to decide
11 whether or not there's probable cause, and they don't
12 really have to bother going through the warrant or
13 they can't decide. They have to be told and that's
14 it, and if they don't do it, there has to be a
15 consequence. There's no consequence for them.
16 Nobody is holding them accountable, and that's why
17 they're doing it because they can so--

18 CHAIRPERSON MENCHACA: Thank you for that
19 point and--and I think we want to explore how we--how
20 we can kind of build--build options for that--

21 LORI ZENO: [interposing] Thank you.

22 CHAIRPERSON MENCHACA: --with these
23 bills. Thank you.

24 LORI ZENO: Uh-huh.
25

2 CHAIRPERSON MENCHACA: Anybody else want
3 to want to help?

4 NYASA HICKEY: Yes, quickly. My name is
5 Nyasa Hickey from Brooklyn Defender Services. I just
6 want to mention very briefly a couple of points and
7 then see what sort of peaks your interest in what you
8 want to ask more about. So, over the past two weeks,
9 two of our clients have been transferred from Rikers
10 custody to Immigration custody, and in one of those
11 cases we were told specifically by the Department of
12 Corrections that the Detainer was not going to be
13 honored, and then it turns out that the client was
14 picked up by ICE at Rikers. The other client was
15 also picked up by ICE directly at Rikers, and I'm
16 happy to go into more detail about those cases, but
17 there is just a lack of information for defenders.
18 As-as Lori Zeno mentioned defense counsel are not
19 given a copy of the detainer or the request for
20 notification, which are now being issued together on
21 one form as opposed to before they were issued on two
22 separate forms, and when we're call the Department of
23 Corrections and asking whether the detainer is going
24 to be honored if we find out there's a detainer or at
25 that point not provided with a copy of the detainer,

2 and in neither of those cases were we informed by the
3 Department of Corrections that there would be
4 requests for notification honored. And that makes
5 things complicated on a number of levels in terms of
6 our advocacy, in terms of challenging what the
7 Immigration Enforcement is call probable cause, and
8 whether or not probably cause under that definition
9 is even satisfied and then also advising the clients
10 about their rights and trying to figure out strategy
11 as well as tracking the clients once they're in
12 immigration detention as well as figuring out whether
13 or not the current existing laws about detainers were
14 violated or now when we don't know that a request for
15 notification has been honored. And similarly about
16 NYPD there have been reports of sharing information
17 and there are questions about that, but there have
18 also been reports of an-an individual who was
19 arrested at a Staten Island police precinct by
20 immigration. And then [bell] I would just say as
21 well there are questions and issues of confusion by
22 DOC staff about warrants versus detainers and what
23 are the effects of those at various levels and that
24 has resulted in the-at the least the delayed release
25 of our clients because of that confusion. So there

2 are a number of issues that I think need to be worked
3 out, but we certainly commend the city for taking the
4 steps that they've been taking, and also ask them to
5 look into other issues that are even resulting in the
6 fingerprinting like the Stop and Frisk. I'm sorry,
7 the Broken Windows Policing.

8 CHAIRPERSON MENCHACA: Thank you for
9 that. Any other, any new items before we go into
10 Q&A?

11 JENNIFER FRIEDMAN: I'd like to make a
12 few brief moments. I'm Jennifer Friedman from the
13 Bronx Defenders. Thank you for this opportunity to
14 testify, and thank you for political courage and
15 leadership to put forth this package of legislation.
16 I—I think I want to make two maybe three very brief
17 points. I think one important point that I'd like to
18 contributed to the conversation is that over the past
19 several months, we've seen a real shift in culture in
20 the courthouses, and that is base in large part on
21 our—an increase in our clients' fear based on
22 interacting in government systems and a lot of that
23 comes from these reports and rumors about ICE arrests
24 in the courthouse, and to be really clear even—it is
25 a problem when someone, an individual is detained and

2 arrested in one of our courthouses, but the problem
3 doesn't stop there. The problem is much greater in
4 that it creates and contributes to the pervasive fear
5 that goes way beyond just the individuals that are
6 affected and it bleeds into other forms in which
7 we're present, and we and other Bronx Defenders have
8 seen parents who are now afraid to show up in Family
9 Court to exercise and defend their parental rights
10 because of the rumors about increased courthouse
11 arrests. We've also seen in our experience an
12 increase in the culture of using immigration status
13 and the threat of deportation by our judges and our
14 district attorneys in the courthouses. And, you
15 know, we've seen—we've recently had a case where a
16 local district attorney made a bail application based
17 on a client's inability to prove that she was
18 lawfully in the country, and this was based on
19 someone first arrest, and it was based on a dispute
20 in a workplace. It was middle-age and the bail
21 application included a reference to immigration
22 status seemed to stem entirely from the language she
23 was speaking and her physical appearance. We're
24 still working on getting to the bottom of that, but
25 the point is this is happening everywhere and it's

2 happening to everyone, and we have to do more in
3 order to—to make true the—our promise a sanctuary
4 city. I want to make just a couple more points. I
5 think that we can also call on and perhaps pass a
6 resolution or call on ICE to categorize our
7 courthouses as sensitive locations, and also call on
8 other state leaders including Chief Judge DiFiore to
9 follow the lead of counterparts in California and New
10 Jersey in calling for ICE not to enter our
11 courthouses and to take steps in that process. When
12 we're talking about the NCIC hits, I think that
13 there's a lot of work and—and investigation that can
14 be done, and we—we look forward to—to working
15 together with that. It seems to me that we heard
16 today a concession that there—there—the ICE warrants
17 that appear on NCIC to the extent that they do appear
18 on the NCIC database are never judicial warrants, and
19 so it seems to me that that would mean that there
20 would be no need in any instance to make an
21 affirmative call to ICE because it is that call that
22 is triggering an enforcement action and—and I agree
23 with what Lori said about, you know, there are—there
24 are many, many pieces of data being sent over to ICE
25 and when an affirmative call gets made saying we have

2 this person here, there isn't any, you know, that is
3 really calling—calling attention to that existence.
4 And the final point that I want to make briefly is
5 that the Bronx Defenders we, you know, we really need
6 to do—to take steps to help New Yorkers who get swept
7 in the—in the deportation system, and we applaud the
8 creation of the new non-criminal disorderly behavior
9 Administrative Code violation, and that will help
10 protect some of our most vulnerable populations. I
11 think that it's important to note that the
12 effectiveness of that provision is going to really
13 depend on District Attorney's office's willingness to
14 engage with that, and to offer that as an alternative
15 disposition. And then I think that we could really
16 do more, but like—just like Nyasa said, by—in massing
17 dramatic widespread reform and helping keep more New
18 Yorkers in the community by eliminating Broken
19 Windows Policing, and I also think that we should on
20 the district attorney's offices across the city to
21 follow in the footsteps of the Brooklyn office and
22 instituting a formal policy names to prevent
23 collateral consequences of convictions. Thank you.

24 CHAIRPERSON MENCHACA: Thank you, Jen.
25 Thank you so much. [background comments] Please.

2 I had a quick point on-on DOC's custody--

3 CHAIRPERSON MENCHACA: [interposing] Can
4 you--can you identify yourself?

5 STEPHANIE LOPEZ: My name--yes, my name is
6 Stephanie Lopez. I'm the Supervising Attorney at the
7 Immigration Defense Practice, a neighborhood defender
8 services in Harlem. So to be very brief, earlier
9 this year we represented a non-citizen with desk
10 appearance ticket, and after going to Criminal Court
11 voluntarily for his arraignment, there with that, and
12 subsequently a detainer was launched against him. In
13 that instance, after bail was paid and despite a
14 judicial warrant having never been provided, our
15 client was transferred into ICE custody. So DOC's
16 unauthorized discretion led to an apparent violation
17 with detainer laws that this Council crafted to
18 protect our communities, and the violation has
19 serious repercussions on the communities we serve
20 especially when there are now bills being approved
21 that use the detainer law as a model to be
22 implemented with other agencies. We've also of other
23 instances when bail has been paid, and a detainer is
24 lodged and the--and the person does not fall under the
25 caveat, which is a violent and serious crime in the

2 past five years. Nor-nor is there a detainer or a
3 judicial warrant, but their release has been delayed
4 because they're checking in with ICE to make-DOC is
5 checking in with ICE to make sure that they're
6 okaying their release, and saying that ICE has the
7 authority-has the own-has only the authority to lift
8 the detainer, which is grossly inaccurate to what the
9 law was meant to do. And one second that our client
10 is in detention, then they legally should be as a
11 cause for concern for our communities. SO, to that
12 end we support the Executive Order bill in that it
13 limits the information shared and the information
14 collected from city agencies, but we urge the Council
15 to go further and direct city agencies to stop asking
16 questions about place of birth and immigration status
17 as ICE can't allow on that information when deciding
18 to place someone as a new proceeding. And we ask
19 that the bill specify a time limit or a duration when
20 information can be collected to be retained, and our
21 office supports the bills extending the protections
22 that exist under the Detainer Law to other city
23 agencies including the Department of Probation and
24 recommend it's also extended to the New York City
25 Police Department. However, since our office has

2 recently witnessed a violation of the Detainer Law
3 with DOC, we are hopeful that any subsequent
4 limitation on cooperation with ICE comes as a clear
5 directive along with training of employees of when
6 information can and cannot be disclosed. We also ask
7 the Council to consider that if its laws are violated
8 leading to the unlawful information sharing that
9 members of the community be allowed to seek legal
10 remedy for the unlawful disclosure as an
11 accountability measure. So we thank you for your
12 time and—and I'm eager to—for you to listen to our
13 clients' experiences and take to heart their
14 legitimate fears. We are hopeful that through
15 legislation you can help quell those fears so that
16 families aren't separated, people aren't uprooted and
17 the city of New York really lives up to its promise
18 of protection.

19 CHAIRPERSON MENCHACA: Thank you.

20 Anybody else want to add anything new or--

21 MEGAN HU: [off mic] Yeah, I'm [on mic]
22 Meagan Hu. I'm an Immigration attorney at New York
23 County Defender Services. Everything I—I just want
24 to direct you to my written testimony, which details
25 a specific arrest that occurred in Manhattan Criminal

2 Court in front of my clients a few weeks ago, which I
3 think just provides some more context and color for
4 the sort of—the details about the sort of cooperation
5 that occurs between court personnel and ICE when
6 effectuating these arrests, and I think that, you
7 know, we can't really rightfully call ourselves a
8 sanctuary city if they continue to let ICE, you know,
9 interrupt the regular process of our courts.

10 CHAIRPERSON MENCHACA: Agreed.

11 RYAN MUNICH: Good afternoon. [coughs]
12 My name is Ryan Munich. I'm a staff attorney with
13 the Immigrant Defense Project. We focus specifically
14 on criminal immigration issues in the intersection
15 between immigration and the criminal legal systems,
16 and just like reiterate what everyone else on the
17 panel has said. I will say that and if he does have
18 some specific recommendations that appear in the
19 written testimony having to do with expanding the
20 scope of the orders to include such things as adding
21 a reporting requirement to the Detainer, the exiting
22 Detainer Bills that include now this notification
23 process, right. It seemed to me a little evasive
24 that there was a disclaimer that no detainers were
25 honored, but if the notification request results in

2 the exact same outcome for the non-citizen, i.e.,
3 they go into ICE custody that should also be reported
4 to the Council. They should be—being made aware that
5 that occurs, right. In addition there is a—we find
6 this policy memorandum from December 2014 where
7 [coughs] NYPD has already laid out a policy on how to
8 address these NCIC cases of civil immigration
9 violations, and so I'm surprised that the Deputy
10 Commissioner was not familiar with this policy. We
11 will say that in order to address that policy in law
12 through legislation, which we think will be a better
13 walk forward, it would be—the committee could add
14 language to the existing orders now saying that the
15 NYPD shall not arrest or detain individuals based on
16 civil immigration violations appearing in the NCIC
17 database. You know, there are other suggestions in
18 the written testimony, which I'll rely on, but thank
19 you for your time.

20 CHAIRPERSON MENCHACA: Thank you for your
21 time, and I think you—you've created a really
22 comprehensive review. I want to hand it over to
23 Council—Chair Dromm for some—for first review
24 questions.

2 CHAIRPERSON DROMM: Thank you very much
3 and I thank you for speaking out on this issue. I'm
4 proud to say that we've begun to address that issue.
5 I sent a letter to Lawrence Marks, Chief
6 Administrative Judge on the issue of arrests in
7 courthouses.

8 FEMALE SPEAKER: Wow, thank you.

9 CHAIRPERSON DROMM: And so, that's a
10 beginning, but I am very distressed to learn that the
11 Queens District Attorney's Office you were saying has
12 not been cooperative with you in terms of sharing the
13 NCIC reports. Is that correct?

14 LORI ZENO: That is correct, but let me
15 just say even though I [coughs] have a hard time
16 defending this (sic) as of today, but I'll do it.
17 Anyway, I was just kidding, but-but apparently the-
18 the decision to not give the defense attorneys, the
19 NCIC Report is a DOJ--

20 CHAIRPERSON DROMM: From the federal?

21 LORI ZENO: Yeah, they-they are saying--

22 CHAIRPERSON DROMM: [interposing] Federal
23 Bureau.

24 LORI ZENO: --only these people can get
25 it and so they're saying that there's I don't know

2 top secret information or something in there, and
3 that they can't be shared with us. So I don't
4 necessarily think--

5 CHAIRPERSON DROMM: [interposing] Right.

6 LORI ZENO: --it's the DA's Officers
7 doing it. I think that they're--

8 CHAIRPERSON DROMM: [interposing] So it
9 is citywide that it's happening, right?

10 LORI ZENO: Oh, it is happening citywide,
11 yes.

12 CHAIRPERSON DROMM: Okay, so you had
13 something that said in Queens. So that's why I
14 wanted to--

15 LORI ZENO: [interposing] Oh, I'm sorry.
16 Yes, it is happening citywide. Yes.

17 CHAIRPERSON DROMM: Uh-huh.

18 LORI ZENO: Although that's--with regard
19 to the immigration policies in Queens, that's the one
20 thing I'll say that's good for the District
21 Attorney's Office. The rest they are lumped right
22 into my [laughs]--

23 CHAIRPERSON DROMM: So you are having
24 problems.

25 LORI ZENO: --one of the parties in my--

2 CHAIRPERSON DROMM: You are having
3 problems in Queens?

4 LORI ZENO: Of course, sure, yeah.

5 CHAIRPERSON DROMM: Can you describe more
6 of that to me?

7 LORI ZENO: Well, I mean in Queens legis-
8 I mean more of the same, right where immigration is
9 coming in whether they're being called by NYPD at
10 arraignments, right or whether they're coming into
11 the all-purpose parts beyond arraignments. You know,
12 every time we go and say we, you know, meet with
13 Judge Marks, we've met with Judge Marks as defender
14 organization and say, you know, the judge is allowed
15 to say this isn't going to happen in my courtroom.
16 You know, if you let your judges know that then
17 maybe, you know, they'll start to do the right thing.
18 Many of them have--

19 CHAIRPERSON DROMM: [interposing] That
20 has to come from the Office of Court Administration?

21 LORI ZENO: I believe so. I mean he is
22 the--the head of all the courts in the city, and so I
23 know that many of the judges are saying that they're
24 looking to OCA for guidance, but there's no policy.
25 They just won't set a policy one way or the other,

2 and in fact, you know, the same when we sat at
3 meetings for over a month with, you know, everybody
4 and their brother, right, about how is ICE finding
5 out so soon, right? I mean, I know I'm talking to a
6 governmental agency, but let's all be serious right.
7 This is like 8 to 12 hours after an arrest and we
8 really think that ICE has figured out that this
9 person is in the Queens Courthouse, you know, so--

10 CHAIRPERSON DROMM: Those are court
11 officers?

12 LORI ZENO: It's the NYPD.

13 CHAIRPERSON DROMM: So, it's NYPD by
14 making that phone call?

15 LORI ZENO: Right, right, and then court
16 officers by accommodating everything that ICE is
17 asking for when they get into the courthouses, you
18 know.

19 CHAIRPERSON DROMM: They--are they taking
20 that upon themselves the court officers?

21 LORI ZENO: Well, I think frankly they
22 are, although they did get--we were--we found out about
23 some memo that was sent out to the court officers
24 that said, you know, you're law enforcement, you--you
25 cooperate with anything that ICE wants, and if

2 somebody tells you differently let me know, and it
3 was from their Union president.

4 CHAIRPERSON DROMM: I'm wondering since
5 you're in Queens as well I'm kind of—I kind of—I
6 represent, you know, I represent Jackson Heights,
7 which is why I'm focused on that, but it's a citywide
8 thing as well. I think I heard you mention something
9 about a DWI charge.

10 LORI ZENO: Uh-huh.

11 CHAIRPERSON DROMM: And one of the things
12 that I've seen in Jackson Heights is a—what I think
13 may be an increase in arrests for prostitution on
14 Roosevelt Avenue.

15 LORI ZENO: Sure.

16 CHAIRPERSON DROMM: Prostitution is a
17 charge that if—if you're arrested for it, and you go
18 into Immigration Court, it's going to throw your
19 whole case out right away.

20 LORI ZENO: Sure.

21 CHAIRPERSON DROMM: We have a state
22 senator, Senator Peralta, Jose Peralta who has been
23 pressing for the arrests of people on Roosevelt
24 Avenue. He's a matter of fact bragging about the
25 fact that weekend or two weeks ago they arrested

2 eight men. It was in the papers. He took credit for
3 it. All Latino I would think a number of them
4 probably undocumented because I know Roosevelt Avenue
5 well.

6 LORI ZENO: Uh-huh.

7 CHAIRPERSON DROMM: Have you see any type
8 of increase in prostitution arrests and your thoughts
9 and ideas about what should be done in terms of these
10 prostitution arrests?

11 LORI ZENO: Well, I think that the answer
12 to have we seen an increase, the answer to that is
13 yes, and you know, what we should be doing about it I
14 mean, it's a low-level crime—it's a low-level crime,
15 but, you know, ICE and immigration people are all
16 going to say, but it's against moral turpitude. You
17 know, we're protecting, and I don't say that we
18 shouldn't. Don't—don't get me wrong, but we are
19 protecting the—the woman who is arrested for the
20 prostitution act, right, because many times it's, you
21 know--

22 CHAIRPERSON DROMM: [interposing]
23 Hopefully, we're—we're protecting them, right.

24 LORI ZENO: Well, I think we're, you
25 know, I have to say in the courthouse--

2 CHAIRPERSON DROMM: [interposing] Judge
3 Sharita (sp?).

4 LORI ZENO: --I think they're doing it,
5 yes. I think she's really doing a great job with,
6 you know, protecting these women. You know, we're
7 probably not getting everybody, but at least with who
8 we're getting, but I think it's sort of, you know,
9 how do you protect them, and then you, you know, you
10 say that the crime against moral turpitude for the-
11 the guy, you know, because he's not a citizen, he
12 should be deported for that, I, you know, it's a low-
13 level crime. S o the whole moral turpitude thing I,
14 you know, we can have an hour-long conversation on,
15 but-but, you know, that's the other thing about the
16 discretion of the NYPD right? They're not stupid.
17 They know which are the hot crimes for immigration
18 these days and, you know, so here we are back to
19 their discretion.

20 CHAIRPERSON DROMM: [interposing] Is
21 anybody tracking them?

22 LORI ZENO: I don't know to be honest
23 with you what's that about?

24 CHAIRPERSON DROMM: [interposing] But I'm
25 wondering like what the disposition on those cases

2 were, you know. I mean with if-if you're saying
3 prostitution arrests are up if the conviction rate is
4 up as well, not that you need to have the conviction.
5 I think it's just the arrest that's important.

6 LORI ZENO: It is.

7 CHAIRPERSON DROMM: Yeah.

8 LORI ZENO: -Yeah, yeah, just like on the
9 DWI cases, and, you know, as long as

10 CHAIRPERSON DROMM: [interposing] And
11 similar--

12 LORI ZENO: --and, you know, as long as
13 we're talking about stats, too, I want to say this
14 because I realize I'm a defender office, but still
15 when-when you asked the Commissioner whether or not
16 they saw-he saw a decrease in domestic violence
17 crimes, I just came from a domestic violence round
18 table, right with the Police Department there, and
19 their staff that they were talking about in that
20 meeting they said citywide domestic violence cases
21 account for about 15%, 14 to 15% of crimes, right,
22 and he said they have gone down by 4%. Now, and he
23 said-he called it slight. I mean seriously. Okay 4%
24 if you're just saying it in a vacuum right it seems
25 like it's not all that much, but 4% out of 14% that's

2 a whole lot. You know what I mean, and—and that
3 really is the reality of what's happening. You know
4 people are not coming forward. They're not going to
5 the police, they're not—you know, and these are
6 victims and they're not going to get any kind of
7 services, you know, and they're not doing it because
8 they're afraid they're going to be deported or
9 they're afraid that the spouse is going to be
10 deported because they need the spouse for other
11 issues, right, whether we agree with it or not, you
12 know. And, in the, you know, these DIRs, the same
13 thing, you know, and so, and it is a shame because
14 the one thing I will agree with the Police Department
15 on is their community officers, their-their—I forgot,
16 but their CCOs.

17 CHAIRPERSON MENCHACA: NCOs

18 LORI ZENO: NCOs, right. I will say I
19 mean I—I know—I—I work very much a lot in—in Far
20 Rockaway with the 101 Precinct especially in the 100
21 Precinct, that program is fabulous. I mean I really
22 have seen a difference especially with the kids,
23 which makes a huge difference, right, with them
24 interacting with these NCOs, right, and it's really
25 helping. Now, you've got this—all this immigration

1
2 stuff and NYPD is calling them, and we have to tell
3 our clients the truth because they're not safe, you
4 know, when they're coming into the courthouses. So
5 when—now, it's like they've put all this money and
6 all this training into this NCO program, and now
7 there's so much mistrust going on with this
8 immigration program they may as well throw that money
9 in the garbage, you know, and all the hard work of
10 the officers because we're right back they're
11 trusting anybody again.

12 CHAIRPERSON MENCHACA: Right. So thank
13 you for—for that, and I don't know if Council if
14 Chair Dromm has any more questions.

15 CHAIRPERSON DROMM: Well, just to say
16 that I think the testimony of this panel completely
17 contradicts what the Commissioner was saying in terms
18 of no violations of the existing ICE off Rikers Law,
19 which was—was heard under my committee when I was
20 Chair of the Immigration Committee, and if it doesn't
21 violate it directly, it certainly violates the spirit
22 of it, and it's very concerning for this committee.
23 So thank you.

24

25

2 LORI ZENO: Thank you. It's concerning
3 to us, too, especially because there's no consequence
4 for tem.

5 CHAIRPERSON MENCHACA: Chair Gibson.

6 LORI ZENO: And I don't care what the
7 Deputy Commissioner said. They are being violated.
8 [laughter] Uh-hm. I like you. Thank you.

9 CHAIRPERSON GIBSON: Thank you.

10 [laughter] I like you, too. I've been listening to
11 you all day. [laughter] This is--so--so I, too, just
12 joining both my chairs who's very concerned about,
13 you know, the differences of answers that we're
14 getting when we speak on--on record and off record.
15 As the representative of the Bronx, and all of the
16 Bronx courts, you know, this is something deeply
17 personal to me. So what I'm trying to understand
18 further to the extent that we have, you know, very
19 little oversight over the courts--

20 LORI ZENO: Uh-huh.

21 CHAIRPERSON GIBSON: --and OCA has not
22 been forthcoming with a real affirmative position.
23 We need to do something further. Because whether
24 it's 5 people, 15 people or 100, I don't care, but
25 the fact that any agents are coming into our courts

2 should be concerning to everyone who sits on the
3 bench.

4 LORI ZENO: That's right.

5 CHAIRPERSON GIBSON: Point blank.

6 LORI ZENO: I agree.

7 CHAIRPERSON GIBSON: So what can you
8 suggest to us to do because we're having
9 conversations with OCA and we'll talking until we're
10 blue in the face, but we need real action. So, I
11 suggest that we involve the Governor because everyone
12 on the court works for the Governor, and something
13 has to be done. If we don't have the ability to make
14 any, you know, legal provisions over the courts in
15 terms of preventing agents from coming into courts,
16 we need to do something because, you know, I'm
17 dealing with just tons of evictions and, you know,
18 civil legal service proceedings and you got Bronx
19 Defenders. You know how much we deal with in the
20 Bronx. So, I-I certainly take your suggestions and
21 your experience to say what else can we do further as
22 a City Council because something has to be done, and
23 while the numbers may not give attention to OCA,
24 those numbers can easily become worse and worse and
25 worse if we do nothing.

2 LORI ZENO: Well, frankly, when we met
3 with Judge Marks, and he said that there were only
4 six cases that had been arrested or six people who
5 had been arrested, you know, I—that was absolutely
6 not true. Now, there were six cases that happens in
7 arraignments, but apparently they were unaware of
8 unwilling to share the number of cases that were in
9 all the all-purpose parts, and then when I—when we
10 told him that they're being arrested in the hallways.
11 They're being arrested on the courthouse steps.
12 They're being arrested on the way to subway. They
13 have ICE agents at each subway stop on-on the right
14 to the—you know, right and left of the courthouse and
15 they're being arrested there, our lawyers are
16 literally escorting clients out of the courthouse
17 through back door getting, you know, our cars—getting
18 our cars, putting them in and then driving them to a
19 different subway station. I mean, you know, and—and
20 when I asked—we told him people are not coming to
21 court. Your warrant cases are going—people aren't
22 coming back to court because they're afraid and then
23 he, you know, he—he asked us well isn't that a little
24 over reaction? I think they're being a little
25 paranoid. So I was like, you know, no not really

2 because—because they really are getting arrested. So
3 I think—I love your idea of going to the Governor,
4 and, you know, because we kind of started going to
5 everybody, you know, through the court system, too,
6 and then came to you, right, and finally, you know,
7 [cell phone message] not only finally you did you
8 something, but finally we feel like we got somewhere,
9 right, and you guys have really taken this seriously,
10 and made some real strides. And so, if the Governor
11 can help, we certainly can't go to Trump. [laughs]

12 CHAIRPERSON MENCHACA: We're going to go
13 to—we're going to go everywhere, and so--

14 LORI ZENO: [interposing] Good, good.

15 CHAIRPERSON MENCHACA: --and so.

16 LORI ZENO: Good. I'll drive you there.

17 CHAIRPERSON MENCHACA: I want to thank
18 Chair—Chair Gibson and—and Chair Dromm for on this—
19 questions on this panel. I want to thank each and
20 every one of you. Each and every one of you brought
21 and we've noted all your cases. We have your
22 testimony. We're going to be following up with more—
23 more ideas. There are probably ideas that we don't
24 want to talk about right now as well that can really
25 help think about not only legislation in the future,

2 but also figuring out where we can go outside the
3 city to the state to get support. So thank you all,
4 and we'll be following up.

5 LORI ZENO: Thank you very much all of
6 you.

7 CHAIRPERSON MENCHACA: Thanks for the
8 good work don't. And we have—we have more panelists.
9 This panel really opened up the larger focus on the
10 work, and so we want to make sure that we get to
11 everybody and really kind of look at any other areas
12 that we haven't spoken to. So if we can get Camille
13 Mackler, please, from New York—New York Immigration
14 Coalition, Terry Lawson, Helen Drook, Hasan and Ward
15 over to—the desk, and the next group after that we
16 have Demetri Galinsky—Dmitri Daniel Glinski from the
17 Russian-Speaking Community Council. We have Howard
18 Shi, Chelsey Johnson and Sarika Kumar from Girls for
19 Gender Equity on deck after that. And then the final
20 panel—is that right, this is the final panel?—is
21 Adriana Lovera, from the New York Immigration
22 Coalition, Rita Rodriguez Engberg Advocates for
23 Children New York, Eve Stot—Stotland Door, and then
24 Carmen Ray. [background comments, laughter] I'm
25 sorry. It wasn't supposed to be funny, but last but

1 not last at all. Okay. Let's gets—let's get going.

2 We want to put a two-minute clock, and really we want
3 you to focus on anything that hasn't been discussed.

4 We're hoping that you can just give us a testimony
5 and the we can go with Q&A. Camilla, do you want to
6 kick us off?

7
8 CAMILLE MACKLER: Is this on. Okay. So
9 thank you for this opportunity. It seems very
10 fitting to be here today because about I'm going to
11 say two hours ago when I was preparing these remarks,
12 but about five hours now, that ICE announced a
13 citation of the Victims of Immigrant Crime Engagement
14 office to help victims of crimes perpetuated by
15 immigrants, which is one of the most sickening new
16 releases I've every read because of the continued
17 demonization of immigrants. And, I'm going to leave
18 my specific comments on these bills to my written
19 testimony. I do think that this continued
20 demonization of immigrants is having a far broader
21 impact intentionally, of course, by the Trump
22 Administration, and making immigrants far less likely
23 to come forward avail themselves of city services,
24 report crimes, be witnesses to criminal prosecutions
25 and contribute to our economy, which makes us less

2 safe, and less strong. I want to focus on one
3 specific thing said by the NYPD the PD Commissioner
4 about warrants, and I'm happy to take questions on
5 anything else. But they—they insisted that ICE can
6 issue criminal warrants and—and you had a back and
7 forth with them, Chair Menchaca about that. ICE is
8 two agencies, and I know we've had these offline
9 conversations before. ICE is Homeland Security
10 Investigations and Enforcement and Removal
11 Operations. Enforcement and Removal Operations
12 arrests, detains, deports immigrants. They are a
13 civil agency. Homeland Security Investigations does
14 a wide variety of investigations. That name is
15 pretty self-explanatory. They are a criminal agency
16 that has administrative and sorry civil jurisdiction
17 if it furthers a criminal investigative purpose.
18 There is no reason for a civil agency that is not
19 subject to constitutional protections for the
20 criminal in the criminal real to interact with a
21 criminal agency. And ERO when they show up at our
22 courts, when they show up at our precincts wherever
23 they are, they have no business being there because
24 they are a civil enforcement agency. I think it's
25 really disingenuous of the NYPD to just sort of throw

2 out there that, of course, ICE can also issue
3 criminal warrants, which are judicial warrants, when
4 that's not a full picture and not the case, and
5 that's the only thing I wanted to say.

6 CHAIRPERSON MENCHACA: Thank you. A
7 strong a very strong point to be made today. Thank
8 you.

9 TERRY LAWSON: Hi. My name is Terry
10 Lawson. I'm the Director of the Family and
11 Immigration Unit for Bronx Legal Services. I also
12 co-lead the Bronx Immigration Coalition, which is a
13 network of over 20 social services and legal services
14 providers providing services for immigrants in the
15 Bronx. Thank you again for this opportunity to
16 testify. I am offering it and will be very brief and
17 not read my written remarks. I just want to say a
18 couple of things about the things that we heard
19 today. We—we disagree with the NYPD that the message
20 has been sent and received by all that they are not—
21 they are working with ICE that they are not—they
22 repeated over and over again that Commissioner
23 O'Neill has made that message clear, but it is not
24 being clearly received in the Bronx. Our communities
25 that we work with are very scared, and do not want to

1
2 have any interactions with the police for the reasons
3 that we all understand. We also were surprised to
4 hear MOIA say that they wanted a more flexible
5 approach to not-to restricting ICE from City
6 property, and that they were—they seemed to not
7 support the proposal that Know Your Rights
8 information be posted prominently on city property.
9 Our—all of our agencies experience a high demand for
10 people to have access to Know Your Rights
11 information, and so the more that we can all do to
12 make that information known to people that they do
13 not have to give their documents, they do not have to
14 answer information about their place of birth is
15 crucial. I also just wanted to let the Council know
16 that—that ICE vans, there's—there was report in which
17 there was an ICE van parked outside of the Queens
18 Family Justice Center and the reports for people who
19 were working in the Queens Family Justice Center were
20 that people didn't show up to their appointments that
21 day. And so, there certainly is the—there certainly
22 is a chilling effect that we all know, but even just
23 by having an ICE Van in a location close to a city
24 office like the Mayor's Office to Combat Domestic
25

1
2 Violence has an enormous effect on the people that we
3 serve. [bell] Thank you.

4 CHAIRPERSON MENCHACA: Thank you.

5 HELEN DROOK: Is it on? Right. Yes, hi.
6 Again, I'm not going to read my notes. I just want
7 to make a couple of points. My name is Helen Drook
8 and I'm a Senior Staff Attorney with NYLAG Immigrant
9 Protection Unit. I appreciate the opportunity of
10 being here today. A lot has been about the fear of
11 the community, and this is something we see every
12 single day because we conduct those large scale
13 clinics, and with the key to the city, events and we
14 hear it from clients everyday. They are afraid to go
15 to the hospital, they're afraid to take their kids to
16 school, they're afraid to go to court, they're afraid
17 to complain. We'll work with victims of domestic
18 violence so this is very, very troubling for us.
19 Just really two other points. Those mass
20 deportations that basically have done away with the
21 priorities that existed under the previous
22 administration because they used to be priorities for
23 removal. And now, basically every illegal immigrant
24 who crossed the border committed a misdemeanor. So
25 he—basically now we're just dealing with everybody

1
2 being a criminal. So that does away with—with the
3 priorities that did exist in the past, and we support
4 those bills. They're in full accord with the Ten
5 Commandments. There are couple of Supreme Court cases
6 that actually removed the Ten—Ten Commandments so
7 this federal commandeering of state government to
8 help enforce federal laws. So once again, thanks for
9 having me here. This is really great. Thank you.

10 CHAIRPERSON MENCHACA: Thank you for
11 being here, not only your testimony but the work you
12 do in your organization. Thank you.

13 HASAN SHAFIQULLAH: Hi. Good afternoon.
14 I'm Hasan Shafiqullah's, the Deputy Attorney in
15 Charge of the Immigration Law Unit at the Legal Aid
16 Society, and with me is Ward Oliver, Supervising
17 Attorney in our unit. He acceded his two minutes to
18 me so I'll speak for four minutes, but I'll make it
19 brief. In my written testimony I gave this morning
20 on the first panel. So the written testimony covers
21 six of the bills. I'm just going to talk about four
22 very briefly. In terms of the Federal Immigration
23 Enforcement Bill, 1568, because of the changing
24 enforcement that my colleague next to me just
25 referenced, we're concerned about immigration

2 enforcement generally, but particularly ICE presence
3 in the courts and at shelters and other sensitive
4 locations things that we've seen happening in this—in
5 this area in New York and so we have increased
6 enforcement and we're seeing an uptick in detention,
7 and we're seeing immigrants afraid to access city
8 agencies and services. Domestic violence survivors
9 afraid to go to court to see orders of protection,
10 parents afraid to appear in court for child support
11 hearings, and criminal defendants are afraid to
12 appear in court for their hearings with the resulting
13 results. So getting ICE out of the courts is of
14 paramount importance, and anything that the Council
15 can do in—in that regards would be great. Regarding
16 the prohibiting disorderly behavior bill, 1569 we
17 commend the Council for this bill. There are adverse
18 consequences for low-level violations things like as
19 we've heard about fingerprints getting sent to the
20 Division of Criminal Justice Services and to the FBI,
21 eventually to ICE, and also things like immigration
22 benefits are just Deferred Action for Childhood
23 Arrivals for DACA being denied for people who have
24 three or more violations like disorderly conduct
25 because Immigration was treating those as

1
2 misdemeanors for immigration purposes in the DACA
3 context, and the disorderly behavior bill addresses
4 both of concerns, and it's great to have the option
5 for civil rather than criminal offenses. But, to be
6 effective, the police and the DAs have to use the
7 option for a civil offense not criminal. And so, one
8 ask is if we can maybe have—take away that discretion
9 and make it a purely civil offense and have it be a
10 purely civil option that can be used in arraignments
11 to plead down. [bell] In terms of the education
12 and distribution of information bill where we applaud
13 the City Council for this as well, the passage of
14 this bill is just a first step. The hard is going to
15 be content development, language access, how
16 information is going to be distributed and the Legal
17 Aid Society would welcome the opportunity to partner
18 with the City Council and the Mayor's Office in
19 flushing out those details. Regarding the Department
20 of Probation Bill 1558, we know in the past that the
21 Department of Probation has misused its power under
22 state law to assist ICE with removing non-citizen
23 probationers from the U.S., requesting probationists
24 to report to its offices in order to facilitate ICE
25 coming and taking them into custody. There are

2 certain state statutes under the Penal and Criminal
3 and Procedures Laws that impose certain duties on the
4 Probation Department and we believe that what the
5 Probation Department is doing is undermining those.
6 And so, we recommend that the City go even further
7 than this bill by using the framework of existing
8 state laws and duties to restrict the Department of
9 Probation in that sort of collaboration with ICE.
10 Thank you.

11 CHAIRPERSON MENCHACA: Great suggestions
12 and we'll be following up. Thank you. Is that?
13 Okay, you're not going to—thank you so much for—for
14 being here all of you and again not just for driving
15 the points home but giving us some real deep analysis
16 about the individual bills and some suggestions on
17 how to make them better. Any questions from—from the
18 members or from our chairs.

19 COUNCIL MEMBER GFNTILE: I have one. I'd
20 actually like to make one comment. One of the more
21 disturbing things I heard today and I've been here
22 for the entire hearing, and I thank you for
23 conducting it and listening to everyone, but hear—
24 hearing the Department of Correction embrace the
25 opportunity to—to speak with ICE and to provide

2 information regarding the release to ICE as you
3 realize, of course, this defeats the purpose of the
4 Detainer Bill. One of the—some of the testimony
5 today I think was given by DC-37 concerned the arrest
6 of a member, and at least I understood that member's
7 criminal record to be such that he would fit under
8 this exception and would have been handed over to or
9 would have let's say Department of Correction would
10 have cooperated with ICE and communicating regarding
11 his release.

12 CHAIRPERSON DROMM: I'm not sure because
13 I don't know that. I think he said that arrest
14 occurred many years ago and our law says within five
15 years.

16 COUNCIL MEMBER GENTILE: Right, but it is
17 possible for someone to have that conviction within
18 three years, four years—

19 CHAIRPERSON DROMM: [interposing] Okay.

20 COUNCIL MEMBER GENTILE: --be
21 rehabilitated because that individual got 2-1/2—2-1/2
22 years. ICE would have been interested in that
23 individual if he'd receive a one-year sentence, which
24 easily could have put him within the five years. So,
25 I—I—I guess my only point is that there are many

1
2 people within our communities who have communities
3 for—who have convictions for these offenses, but who
4 we shouldn't be cooperating with..

5 CHAIRPERSON DROMM: [interposing] No, but
6 he would have to have committed the crime within the
7 last five years.

8 COUNCIL MEMBER GENTILE: What's that?

9 CHAIRPERSON DROMM: He would had to have
10 committed the crime within the past five years. It
11 was longer than the five years. So our bill should
12 have protected him.

13 COUNCIL MEMBER GENTILE: It should—it
14 should have protected him assuming that he did his 2-
15 1/2 years and—and was---

16 CHAIRPERSON DROMM: [interposing] Right.

17 COUNCIL MEMBER GENTILE: --still within
18 the five-five years, right. It should have protected
19 him, but my point only being that it shouldn't be
20 just based on the conviction.

21 CHAIRPERSON DROMM: Okay, thank you, and
22 if I may, Mr. Chair, I just want to thank Legal Aid
23 for coming out and dealing with the fire that I had
24 in Elmhurst, 112 families were affected and Legal Aid

2 came out and provided this legal assistance to all of
3 them. So thank you for that.

4 HASAN SHAFIQULLAH: Yeah, our pleasure.

5 CHAIRPERSON MENCHACA: Our first
6 responders. You all—all—you are all our first
7 responders in so many cases. Thank you. Our next—
8 our next panel Dmitri Daniel Glinski, Howard Chelsey
9 Insarica (sp?) if you can come up, and then if you can
10 raise your hand if you're still here in the room
11 Adriana Lovera-Loretta. Sorry. Rita Rodriguez
12 Engberg, Grace Eve (sic) [background comments, pause]
13 and then Carmen is here? Okay. [pause] Mr. Glinski,
14 you can begin.

15 DMITRI DANIEL GLINSKI: Good afternoon,
16 Chairman and members of the committee. I'm Dmitri
17 Daniel Glinski, Founding President and CEO of Russian
18 Speaking Community Council of Manhattan and the
19 Bronx, RCCM, and I, of course am also one of RCCM
20 immigrants and thus we're naturalize Americans right
21 now. Thank you for this invitation to the hearings,
22 and for this exceptional opportunity testify on
23 behalf of RCCMB of our—our wide organizations of
24 immigrants who form a Soviet Union around this city
25 and many members of our immigrant and refugee

1
2 community, and I truly wanted to be speaking here
3 after such a such distinguished city leaders who are
4 fighting everyday for immigrants in this very
5 threatening times. Due to the kind of basis of my
6 community, the focus of my testimony will be a bit
7 different from the previous ones. RCCMB to tell it
8 briefly is the 501(C)(3) organization founded in 2011
9 to provide organizing advocacy and other services to
10 immigrants from the 15 countries of the former Soviet
11 Union and their first (sic) region. Over the years
12 organized many educational events for our community
13 by ourselves joining with others with participation
14 of city, state and federal officials and we have been
15 in the campaigning with the Immigration Coalition of
16 which we are a member and many other allies for our
17 shared immigrant needs and, you know, various
18 legislation over the years. Here I am today to give
19 comments specifically on two of the bills that we
20 support today that's 1566 and 1578 by expanding the
21 role of the Mayor's Office of Human Affairs
22 specifically on a section (sic) analysis and on the
23 task force. And our organization respectfully
24 suggests to the committee that these bills can be
25 made more effective by taking the following two

2 considers into account. First, there is a
3 significant degree of disparity among immigrant
4 communities to the public as well as private support
5 for the non-profit organizations, and this greatly
6 affects them and their ability to provide services
7 including legal and other services. Thus, for
8 example, there are at least 200,000 immigrants from
9 these two countries in New York City. Russian
10 speakers are officially the third largest immigrant
11 language-linguistic minority immigrant-minority by
12 language, and yet in FY2016 there were the total
13 amount of in the contracts with the city for all
14 organizations from these regions was merely \$10,000
15 as can be seen on City Council website. Just for the
16 sake of comparison in the same year immigrant
17 organizations serving some of the other small
18 immigrant communities including European received
19 between \$400,000 and \$60 million in city contracts.
20 Disparities in private funding are broadly seen over,
21 and of those-those actual organizations cannot hire
22 lawyers, cannot provide immigration services on a
23 regular basis and some are dying out with the result
24 that communities have no regular voice, no regular
25 representation in public affairs. What we are

2 suggesting for this bill is that the research and
3 analysis are—also includes a study of these
4 disparities among immigrant communities, and
5 recommends actions that would help those communities
6 if they're lagging in access to resources. And we
7 also suggest that the bill includes the need to
8 involve immigrant community based callers (sic) and
9 experts in MOIA research and reports. And second of
10 the two points on 1578, the results is significant
11 disparity across immigrant communities in terms of
12 representation and government agencies, and I will
13 skip some of the details. And we believe that an
14 immigrant task force could help miti—mitigate this
15 lack of representation for many immigrant
16 communities. First, by including representative
17 leaders of major immigrant communities in its ranks,
18 and second by providing a forum at least once a year
19 for immigrant community leaders from around the city
20 to convene and share their views and concerns with
21 city officials. A number of city and state
22 governments across the U.S. where they have such
23 immigrant communities representation and their
24 government agencies including Advisory Council of
25 Refugees and Immigrants under the Governor of

1
2 Massachusetts. New Americans Advisory Council under
3 the Mayor of National, Advisory Council of New
4 Americans under the Mayor of Houston, and so on. In
5 San Francisco the Immigrant Rights Commission masked
6 by city ordinance ensure that more that more than
7 half of its members are immigrants, and also to hold
8 annual public hearings. Important members of the
9 Newport (sic) Policy Commission are appointed by city
10 ordinance to provide representation from a reasonably
11 broad spectrum of refugee and immigrant communities.
12 We respectfully suggest that the bill on the
13 immigrant task force provide for representatives from
14 our city immigrant communities to be appointed.
15 There could be at least equal representation of the
16 city agencies in the said task force. Thank you.

17 CHAIRPERSON DROMM: Thank you. I-you
18 know, the Speaker did hold a large forum if not a
19 round table or whatever, but a large number of
20 immigrant groups did come about a year or so ago.
21 So, I'll bring that to her attention again, and see
22 if we can't convene it at another day and another
23 time. So thank you. Thank you for your suggestion.
24 Next, please. [background comments]

2 MALE SPEAKER: So thank you to Chair
3 Dromm, Chair Gibson and Chair Menchaca for the
4 opportunity to testify on behalf of the Asian
5 communities of New York. You know immigration is
6 also challenged the climate is also a big challenge
7 for the Asian community. We have a-MPI estimates
8 that's there's about 150,000 undocumented Asian
9 immigrants living in the city and about 200,000
10 immigrants from Asia who are eligible for
11 citizenship. So there's a demand for services and a
12 demand—a need for protection in the Asian community
13 as well. I'd like to highlight in particular the
14 task force bill. We support the Council's effort to
15 assign more responsibility and make more accessible—
16 accountable than the Mayor's Office of Immigrant
17 Affairs. MOIA has been shown to be capable of
18 watching really big programs, but one of the
19 challenges is that sometimes these benefits don't
20 filter down to Asian communities, and we've had many
21 discussions with members of the Council about the
22 challenges that we've faced in working with the
23 Mayor's Office of—on Immigrant Affairs, and we hope
24 that when you start to ramp—start the—the—the task
25 force that the City Council also has a role to play

2 on that—on that task force, and to—to build
3 accountability and build transparency in—in the—in-in
4 activities of MOIA. We also support the—all of the
5 bills that are really making concrete concepts of the
6 same to our city of New York City, and we believe
7 that these will have a positive influence on—on the
8 Asian community in terms of accessing services and—
9 and building trust within the community. For example,
10 we've been asking the city for guidelines on mixed
11 status families to create legal documents for
12 potential guardianship situations based on our
13 experience in working with schools with large
14 citizens, children and authorized—unauthorized
15 populations, and we also believe that—that—that a lot
16 of the initiatives that have happened [bell] through—
17 through your leadership have been really helpful for—
18 for our community to cite it. (sic) Okay.

19 SARIKA KUMAR: Hi, good afternoon. My
20 name is Sarika Kumar, and I'm a Program Coordinator
21 for the Young Women's Advisory Council with Girls for
22 Gender Equity. Today, I represent the Young Women's
23 Advisory Council at GGE. We are part of the Young
24 Women's Initiative that was launched by Speaker
25 Melissa Mark-Viverito and the New York City Council

2 to identify gaps in services for young women ages 12
3 to 24. Together with Girls for Gender Equity, we are
4 committed to the wellbeing and safety of this and
5 transgender girls of color and gender non-conforming
6 youth of color. GGE works with young people of
7 diverse backgrounds many of whom are children of
8 immigrants. It's particularly and after school
9 programming. The heightened fear of deportation and
10 detainment after the election has made it more
11 obvious that students, parents, guardians, educators
12 and counselors do not have the access to accurate
13 information on student rights, and what to do in
14 situations of immigration crisis. This only leads to
15 more fear. Intro 1565 will ensure accountability of
16 the DOE to the students it serves. Students and
17 families of undocumented and mixed immigration status
18 backgrounds deserve to know their educational rights,
19 and that the City of New York will stand by
20 undocumented communities. Within the proposed
21 legislation I further call on the Council to expand
22 on Intro 1565 by considering the following: LGBTQ
23 youth of color are increasingly pushed out of school,
24 and immigration status on exacerbates this reality.
25 Intro 1565 must affirm trans and gender non-

2 conforming and LGBTQ people in the immigrant
3 community, and speak to the experiences of TGNC
4 people of color and the experiences that they have
5 with law enforcement and federal immigration
6 authorities so that their rights are known and
7 resources are made readily available to this
8 community. And to ensure that we as a city are aware
9 of the diversity of family structure, we must also go
10 further to consider foster care and homeless youth
11 who may not have access to a parent in order to be
12 notified with the proposed request for student
13 records. For parents and guardians working multiple
14 jobs [bell] we must also consider how will
15 notifications and information be readily available.
16 Often, children of immigrants take on greater
17 responsibilities as advocates and interpreters for
18 their family members, and thus, as the materials and
19 information that is supposed to be distributed we
20 must make sure that they're available in multiple
21 languages and not just kind of the generalized like
22 five languages that we assume that every immigrant
23 knows. This would also include thinking of our
24 growing Southeast Asian communities and thinking of
25 Bengali and Sanjabi as additional languages to add.

1 With this addition to this bill, the City will
2 continue to ensure all parents, student and guardians
3 know their rights and are protected from federal
4 immigration authorities, and as we've heard today on
5 this, particularly ICE, to be a true sanctuary city
6 our institutions, agencies and departments must
7 refrain from being complicit, since complicity is an
8 act of further endangering our undocumented
9 communities. I think the City Council for working
10 with the Young Women's Advisory Council, and request
11 the passing of Intro 1565. Thank you. [pause]

13 HASAN SHAFIQULLAH: I am Hasan
14 Shafiqullah's, Deputy Attorney in Charge of
15 Immigration Law Unit at the Legal Aid Society. I'm
16 here now on behalf of the ICARE Coalition which is
17 comprised of the Legal Society, the Door, Catholic
18 Charities, Central American Legal Assistance, Make
19 the Road New York, the Safe Passage Project and Kids
20 in Need of Defense. We're speaking together
21 providing good testimony in support of 1565, the
22 Department of Education Bill, and 1588, the access to
23 the non-public areas of City property. We applied
24 these changes. These are good valuable changes that
25 will help to- I'm trying to shorten my testimony,

2 but I'm not getting confused where I am. These
3 changes to local are important initiatives that go a
4 long way to ensuring that vulnerable youth that we're
5 serving will have access to their educational and
6 city services that they need in order to thrive, and
7 otherwise I'll stand on the written testimony. Thank
8 you.

9 CHAIRPERSON MENCHACA: Thank you for that
10 testimony, and before I hand it over to—to the other
11 chairs for questions, I think what—what this panel
12 really reveals is the opportunity really with your
13 testimony at the beginning really thinking about
14 where there are disparities in not only access to
15 information and services, but also how we bring in
16 organizations, how we bring in communities that are
17 historically vulnerable, but also historically
18 disconnected from—from the conversations. The task
19 force one of the bills really kind of gives that
20 opportunity, and I'm really happy that you brought up
21 the—not only the opportunity to—to build the task
22 force that can bring oversight, but also give more
23 access to things like how we bring funding into
24 communities, and bring capacity up for organizations
25 that don't have the capacity to do some of the work

2 that we're doing. That's not an easy task, but
3 that's a possible task if we actually concentrate on
4 it, and so I want to really—really thank—thank you
5 all for that—for that work. Is—is there—is there
6 anything that is beyond what's already been testified
7 as well to [bell] increase the work that a task force
8 can do to really bring in more—more resources to the
9 Russian speaking community or the Chinese speaking
10 community in our neighborhoods? Is there anything
11 beyond what you've already testified that we can—that
12 we can take back? Because these bills are going to
13 continue to get drafted. I want you to be a part of
14 that, but we also want to make sure that you're
15 talking to the Mayor's Office. Are you speaking to
16 the Mayor's Office directly? And on that note, is
17 MOIA in the room right now? Give—awesome. Thank you
18 so much for being here. So MOIA is in the room.
19 They're listening to what we're—what we're really
20 focusing on, and the notes that are being taken right
21 now are really kind of thinking about how we bring
22 multiple access points to the funding questions, the
23 capacity questions. We already talk about them, but
24 we're still hearing some real frustrations on the
25 ground that needs to get addressed. [pause]

2 DMITRI DANIEL GLINSKI: You can give a
3 number of answers to this, but one thing that
4 immediately comes to mind for example there is for
5 members there is now Mayor's task force or some
6 roundtable for non-profit resiliency and the
7 Resiliency Committee, which basically is made up as
8 it's supposed to be of very large capacious service
9 providers, but there is a large number of small
10 immigrant-immigrant led non-profit organizations that
11 are trying to provide services for their community,
12 and there are some communities, which are other East
13 Europeans, and I will name some other that just
14 somehow I see as not qualified to sit on these
15 committees, and are excluded from that. And there is
16 no so-called trickle down that some of those larger
17 organization really provide ground support to the
18 smaller folks who are—are fighting for their
19 community's survival. So there should be some kind
20 of access for a small immigrant led maybe not-not-not
21 just immigrant led, but-but the start-up non-profits
22 that try to provide services to the folks to whom
23 nobody else provides because the large organizations
24 may say that they have this language for ability
25 (sic) on their staff but, in fact, our people in most

2 cases find that there is no cultural competency there
3 to serve other folks. And likewise in government
4 agencies as well we've had long--many years of
5 struggle up in Northern Manhattan where our
6 organization is--is initially based. To get at least
7 one community representative from our--from our
8 organizing low-income community leaders to any single
9 one of government agencies they are--and we collected
10 hundreds of signatures--big stop sign--signing those
11 letters to raise government officials because nothing
12 happens. So maybe that could be another thing to--to
13 do something about.

14 CHAIRPERSON MENCHACA: Thank you for
15 that. Is there any--anything else?

16 MALE SPEAKER: Yes. I just wanted to
17 second his comments, but more than access there's a
18 challenge in terms of designing the programs. For
19 example, Action NYC followed a really effective
20 program, and we ended up not having an Asian
21 navigator being funded by that program because the
22 way the program is designed emphasized a high
23 capacity in the Asian Communities, and at--at that
24 threshold level yet to meet the numbers that were
25 demanded by the program, but it is a very aggressive

2 program, but there's no single Asian Ethnic community
3 group that can meet—met those challenges, and so
4 we've had discussions with MOIA about trying to
5 design programs that are more—are a better fit for
6 our community organizations so that they can build
7 the capacity and eventually reach the stage where
8 they can compete for the larger contracts. So that's
9 one of the things that we would like to see from our
10 perspective. (sic)

11 CHAIRPERSON MENCHACA: And for the
12 record, we're joining both of you in—in—this is not
13 the first time that you've said these things both in
14 public hearings and in meetings, and so I want to
15 acknowledge that this is not first time. This is not
16 the first time that this is—this conversation is
17 happening, but these capacities issues are—are—are—
18 are bigger—bigger questions that really require a
19 kind a of comprehensive understanding of what's
20 happening, and—and really fixing the way that—that
21 the administration works through some of these
22 contracts and these programs like Action—Action NYC,
23 and the bills that—that—that we—we're proposing
24 today, while they offer kind of changes in culture,
25 the task force really gives us an opportunity may be

2 to bring real focus on that—on that work. So much of
3 what we are going—are going to be basing our success
4 on is—is our third-party organizations on information
5 sharing, on all these bigger questions that we're
6 asking here, and you all have to be ready to do that
7 with the—with the adequate resources, and so again,
8 wit that, I want to say thank you all for being here
9 today. We have one final panel, and then we have our
10 final thoughts from—from the chairs. Thank you for
11 being here today.

12 MALE SPEAKER: Thank you.

13 CHAIRPERSON MENCHACA: And then for the
14 final panel you know who are, but come on up least—
15 our—our last but not least if we can have—have you
16 all come up and bring—there's four of you, yep.
17 There's four of you here today. Thank you so much.
18 [background comments, pause] Okay, if we can start—if
19 you have a plan or if you want to go left right,
20 right to left it's up to you. [background comments,
21 pause]

22 ADRIAN LOVERA: Good afternoon, and thank
23 you to the members of the Council for convening this
24 hearing, and in particular to Chairmen Menchaca and
25 Dromm and Chairwoman Gibson for their continued

2 leadership for immigrant communities. My name is
3 Adriana Lovera, and I am the Education and Youth
4 Leadership Manager at the New Yorkers Immigration
5 Coalition. Among other areas of our work, we fight
6 to increase English language learners and immigrant
7 students access to quality education, and to expand
8 opportunities for their parents to be engaged. The
9 New York Immigration Coalition strongly supports the
10 Council's important efforts to ensure that families
11 receive critical information from the DOE. We salute
12 Speaker Melissa Mark-Viverito for her leadership as
13 well on these issues. It is strong policy for the
14 DOE to biannually distribute the information required
15 in the proposed bill to students and families. Given
16 the extent of questions and concerns circulating in
17 the early part of this year, and the fact that new
18 families are constantly coming into the system, and
19 that ICE enforcement isn't likely to diminish, this
20 is a very sensible approach. There are a few
21 additional considerations. Given the importance of
22 accessible information, we suggest specifying that
23 translation and distribution to parents in their
24 preferred language is required. It's important to
25 note also that schools need to make available to

2 students and parents these translated versions in the
3 materials they keep on hand. We appreciated the
4 requirement regarding the number of staff who
5 received training and suggest that this reporting be
6 categorized by roll: Principals, School Safety
7 Officer, et cetera to provide families with the
8 helpful picture of schools preparedness. We also
9 suggest that family welcome centers in addition to
10 the rotations already specified, have this
11 information available so that parents can acquire
12 details on these vital issues as soon as they come
13 into the system. The counselor rightly raises the
14 issue of emergency contact information. This another
15 area where the DOE has shown a real concern for
16 families, and it's helpfully advising schools to be
17 updating this information. We are pressuring parents
18 to do as well. As the next step the DOE should
19 increase the number of emergency contacts parents or
20 guardians can provide on blue cards, which have
21 emergency contact [bell] information. We've had
22 productive conversations with the DOE on this topic,
23 and encourage all to push this through to
24 implementation. Educational records are not a
25 critical issue. The DOE should issue guidance on

2 this topic as a complement to the steps they have
3 already taken to protect children and families. In
4 order to limited the presence of sensitive
5 information within students' educational records in
6 the first place, we strongly recommend that schools
7 be advised to never photocopy or keep on file
8 sensitive immigration information regarding a student
9 or their family. Advocates for Children of New York
10 has excellent recommendations for how to comply with
11 relevant requirements, and still accomplish the
12 aforementioned goal, and we're—and we very strongly
13 support them. Furthermore, any information that
14 teachers or other administrators acquire regarding a
15 student or family status should not be included in
16 notes or written records. When these protocols are
17 in place, schools and family welcome centers should
18 provide training to staff regarding these issues.

19 Thank you. [pause]

20 RITA RODRIGUEZ-ENGBERG: Good afternoon.
21 My name is Rita Rodriguez-Engberg and I'm staff
22 attorney at the Immigrant Students Rights Project at
23 Advocates for Children. I'm going to echo some of
24 what Mr. Lovera from NYIC has already said. In the
25 course of our work with immigrant families we're

2 seeing how the federal government's new immigration
3 enforcement tactics are interfering with the
4 education in New York City children. We have heard
5 from parents who worried about a potential arrest by
6 ICE have stopped visiting their children's—children's
7 schools altogether. In other cases, parents have
8 scaled back on how often and how much they
9 participate in in-school events such as parent-
10 teacher conferences. Something that Council—Council
11 Member Dromm—Dromm, sorry, asked earlier was about
12 the attendance of students, and whether or not
13 there's been any changes in—in attendance records. I
14 think just as important, if not more important in
15 some ways is the attendance of parents at school
16 events, at parent-teacher conferences, because in New
17 York City parents have the right to participate in a
18 meaningful way in their children's education and this
19 is all the more important in the IEP process for
20 students who have disabilities. Parents have to
21 participate in the process of creating a plan for
22 students with disabilities. A lot of it happens in
23 person, and if parents are not show up to school,
24 that's something that's very important it's going to
25 inhibit their ability to fulfill that right that they

2 have in the city. The New York City Department of
3 Education has taken some steps to protect New York
4 City's children and families, but additional action
5 is needed. We ask that the DOE issue guidance to
6 address a collection of sensitive immigration
7 information, and to address the very likely situation
8 of immigrant parents being picked up by ICE during
9 the day while their children are at school. Although
10 DOE does not ask families to disclose their
11 immigration status, when students enroll in New York
12 City public schools, parents must provide proof of
13 identity, age and residency. In our experience,
14 often times families rely on immigration documents
15 such as Office of Refugee Resettlement Papers, visas
16 and work authorization documents. Copies of these
17 document then become part of the student's file. In
18 order to avoid the collection and storage of
19 sensitive immigration information, we urge the DOE to
20 instruct Family Welcome Center and school staff to
21 refrain from photocopying immigration related
22 documents [bell] at the time of enrollment and
23 registration. Sorry, I'm going to go over. [laughs]
24 We recognize that these may be the only documents the
25 family has in their possession. For such cases, we

1
2 urge the DOE to create a policy whereby DOE staff
3 simply review these sensitive documents and instead
4 of photocopying them complete a separate form
5 confirming that they have verified the necessary
6 information. With such a policy, DOE staff will
7 still be able to review a family's documents without
8 their ending in the student's file. School staff may
9 also become aware of a family's immigration status
10 through other means, and these and other less formal
11 instances, NYC DOE staff should not make any notice
12 of the student's status and student records, teacher
13 files, emails or any other internal way of
14 communication. Additionally, students or families
15 who share their status with DOE staff should be
16 informed that this information will not be shared
17 with other DOE staff, and will remain confidential
18 unless the family gives express concerns. As we
19 continue to hear reports of parents across the
20 country being deported, the DOE also needs to take
21 steps to address the very likely situation of parents
22 being picked up by ICE during the school day. In
23 addition to updating emergency contact information
24 the Blue Card, we suggest that DOE also expand the
25 number of emergency contacts that may be listed on

1 the Blue Card. Finally, we want to voice our support
2 for Intro 1565 sponsored by—co-sponsored by Council
3 Member Dromm and Chair Menchaca to require the DOE to
4 distribute information to families about educational
5 rights and DOE policies related to interactions with
6 non-local law enforcement and federal immigration
7 authorities. To help ensure families can benefit
8 from this information, however, we recommend amending
9 the bill to require the DOE to translate the material
10 and distribute the information in families preferred
11 languages. Thank you for the opportunity to testify
12 today.
13

14 CHAIRPERSON MENCHACA: Thank you for
15 that.

16 CARMEN MARIA REY: And my—I'm Carmen
17 Maria Rey, and I am in the enviable position of
18 basically holding up everybody lunch. So apologies
19 in advance. I'm not going to read out my testimony.
20 You have it in writing if you'd like to refer to it.
21 There are some points that I'd like to make. First
22 of all, I just want to commend your stamina. This is
23 the first time I've sat through an entire hearing,
24 and I don't know how you do this. [laughs] I'd like
25 to second the statements made by all of the prior

2 non-governmental speakers. Sanctuary for Families is
3 the country's largest organization dedicated to
4 providing services for survivors of human trafficking
5 and domestic violence, and we just kind of want to
6 underline that we are living a world where our
7 clients are petrified of accessing free services, and
8 so we, you know, strongly support pursuit of our
9 legislation because we think it takes great steps to
10 ease some of those fears. We respectfully disagree
11 with prior speakers from the City who suggested that
12 information has trickled down about the position of
13 certain city agencies with respect to revealing
14 information to immigration authorities. That is not
15 what we are seeing on the ground. People remain
16 petrified despite public statements. We would like
17 to reiterate what some prior speakers mentioned about
18 our having to do more to ensure that the city's
19 courts feel safe for all New Yorkers to enter. We've
20 been part of those conversations with the courts, but
21 we would really appreciate the support of City
22 Council in ensuring that the court does make a public
23 statement ensuring that New Yorkers can feel safe in
24 courts. The conversation that was had earlier about
25 what is happening in our courts is petrifying, and we

2 are seeing that our clients are not reporting crimes.
3 We are that--that--part of that 20% of folks who are
4 not--whose clients are not calling NYPD despite
5 domestic violence. And then, we really do--would
6 strongly support adding a punitive measure to these
7 laws to ensure compliance. The feds themselves do
8 this. For example, I have a citation. 8 USC 1367(c)
9 which involves confidentiality around domestic
10 violence status and immigration status, has a
11 specific section that creates a personal liability to
12 any immigration officer or employee of the U.S.
13 Government who violates the confidentiality of an
14 individual. We'd like to see a similar provision to
15 create individual liability for City employees,
16 because realistically the people that will uphold the
17 law will be individual employees, and they must
18 understand that it is part of their duty as an
19 employee of New York City to ensure the safety of all
20 New Yorkers, and this is it. Thank you very much for
21 your time and attention.

22 CHAIRPERSON MENCHACA: Well, thank you
23 all, and we have a couple follow-up questions and I
24 just want to announce that Antonio Reynoso is--is with
25 us today, and I think what--what I want to do is--is

1 kind of pick up on the children—the children's them
2 in our schools and the—the—the affirmative kind of
3 action that has been taken by the Administration, the
4 Mayor's Administration to protect schools. And one,
5 if you've kind of seen any implementation of that
6 with some clients or—who want to get—it's so new, but
7 we—we want to see if you have any—anything to testify
8 on that front. Two, conversations that I'm having
9 with schools are a little bit different than what was
10 testified by the Department of Education on actual
11 decreases in attendance. And, one specific—and—and I
12 think heart wrenching fact was on the day—day without
13 immigrants that happened a few—a few weeks maybe a
14 month or so back, some schools saw a—a reduction in—
15 in school attendance down by 70% only 70%. So I'm—
16 I'm seeing some head nodding here, and it sounds like
17 you also saw that as well or heard that, and are
18 connect to our schools. That did not seem like that
19 that had made it up to the ranks of the Department of
20 Education. That's concerning. So, you know, some of
21 my final thoughts, but [laughs] the—so I—I just
22 wanted to see if you had any—any kind of comments on
23 that and—and—and these are the kinds of things that
24
25

2 we're going to have to all collectively provide
3 oversight on together.

4 CARMEN MARIA REY: I just want to say
5 that the—the guidance that was issued by the—by the
6 DOE was a step in the right direction, but advocates
7 were hope to see more, and specifically looking at
8 for example the protocol about ICE coming into
9 schools. You know, we were hoping to see, you know,
10 some one above principals that would need to approve
11 those—those requests for data and access to students.
12 You know, we'd be happy to continue this conversation
13 with you because I—I, you know, I echo what—what was
14 said earlier also about, you know, there being a
15 chilling effect on parent engagement. We've been
16 hearing about that as well, and we're very concerned
17 about that. So there is much more that can be done.

18 CHAIRPERSON MENCHACA: Thank you and we
19 will continue that—that conversation.

20 RITA RODRIGUEZ-ENGBERG: Just from the
21 parents that we work with, and this is all on
22 anecdotal basis because, you know, we just have
23 parents give us feedback on a daily basis on
24 different things in schools, but I know that some
25 parents have received the letter that was sent in

1 March. I don't know if all parents have read it
2 because it was sent in their backpack, and, you know,
3 it just so happens that some parents don't read
4 everything, but I do want to say that the—the data
5 that was given or not really given by DOE in the
6 earlier testimony is a little instructive, and we
7 don't know what the numbers are. I don't know if the
8 are actually keeping track of attendance in such a
9 way that will actually shed some light on whether
10 or not students haven't been going to school, or if
11 there are periods when students don't go to school or
12 certain days when students don't go to school. For
13 instance on the, you know, no immigrants day or, you
14 know, following the election result, et cetera. So I
15 think that if—if we are going to make any
16 generalizations, we need to have actual concrete
17 data, not just—not just anecdotes. And I think—I
18 don't know and I doubt that schools are keeping track
19 of what parents go to parent-teacher conferences,
20 what parents attend school events, what parents are
21 going even to IEP meetings, which as you know, is
22 governed by federal law, and I think if schools did
23 keep a log of this information, we could actually
24
25

2 figure out if there have been trends or any changes
3 in attendance.

4 CHAIRPERSON MENCHACA: One question and
5 to follow up on that, what kind of information are
6 talking that isn't already being acquired?

7 RITA RODRIGUEZ-ENGBERG: Numbers. So,
8 for attendance at parent-parent-teacher conferences.

9 CHAIRPERSON MENCHACA: Right.

10 RITA RODRIGUEZ-ENGBERG: I think—I—I have
11 parents who go to parent-teacher conferences, don't
12 get to speak anybody because there's no interpreter,
13 and so that person doesn't even get marked as present
14 if there is such a thing as marking if a parent is
15 present or not.

16 CHAIRPERSON MENCHACA: Got it. So it's
17 really the only that you—because I thought you were
18 talking about students, but you're saying some PTAs
19 we should just keep a list of how many bodies are
20 coming in and out.

21 RITA RODRIGUEZ-ENGBERG: For parent-
22 teacher conferences, yes I think that the school
23 should keep a log of—I—I don't think they do, but
24 they should keep a log of what parents are coming in.
25 Not just for these purposes, but just to know whether

2 or not there's parent involvement has gone down. For
3 student attendance, clearly there are--there is data
4 on students attendance. I don't know if it's being
5 compiled in a way or analyze in a way that lets one
6 know whether or not there are trends, and I think
7 that unfortunately the DOE rep who testified earlier
8 didn't have that information, but maybe--maybe it does
9 exist in a way that could be analyzed, and then
10 conclusions could be drawn.

11 CHAIRPERSON MENCHACA: Thank you for
12 that, and I--and I think one of the things that--that
13 we hit and--and we're trying to figure out how to--how
14 to keep--keep government transparent and accessible,
15 and accountable by taking the information, but also
16 protecting that information. And it would be great
17 to see if you have any ideas on how we would do that,
18 an--and extreme you'd have attendance records of
19 people and names and who's on--who's on the PTA
20 officially, who's not. That's at the extreme, which
21 probably raises a lot of flags for people, but then
22 maybe there is just sheer numbers that get reported.
23 So it would be great to work with you, and whoever
24 else wants to be part of this conversation about how--
25 how we can set trends and also investigate what's--

2 what's actually being collected right now ad hoc or-
3 in-in official terms.

4 RITA RODRIGUEZ-ENGBERG: We'd more than
5 happy to.

6 CHAIRPERSON MENCHACA: Okay, wonderful
7 and I'm going to hand it over to Chair Gibson for
8 her-her final thoughts.

9 CHAIRPERSON GIBSON: Oh, okay, well
10 before I do my final thoughts, Carmen from Sanctuary?
11 Okay. I just wanted to ask a quick question because
12 Sanctuary for Families does an incredible amount of
13 work with the NYPD, and I know for a fact that you
14 have staff at our local PSAs--

15 CARMEN MARIA REY: Uh-huh.

16 CHAIRPERSON GIBSON: --which are our
17 public housing residents and families, and often is
18 the case when we talk about domestic incidents and DV
19 while numbers have been going down citywide, we still
20 struggle in public housing, and you know that, and
21 Judge Kruger has been amazing and his team. I meet
22 with Sanctuary all the time. So while the Deputy
23 Commissioner alluded to not having enough data to
24 determine if there has been any decrease in the
25 number of complaints filed and even 911 calls, has

2 your staff seen any changes in working with a lot of
3 the DV clients and their families in terms of with
4 this administration. Have you seen any changes, and
5 even in that regard as well because I do believe you
6 have staff at Family Justice Centers, too--

7 CARMEN MARIA REY: Yeah.

8 CHAIRPERSON GIBSON: --which are in
9 courthouses. So you have to go through a metal
10 detectors. So it's the same kind of, you know,
11 environment. So what have noticed on the ground?

12 CARMEN MARIA REY: So, and this is all
13 anecdotal, but we—we have anecdotal evidence that FJC
14 numbers are—have dropped substantially since January
15 19. We know from clients that they are not calling
16 police, and we can tell you that as far as our
17 immigration attorneys, which make up about half of
18 our legal center, we are advising clients correctly
19 that there—they—we can no longer guarantee that
20 making that police report will not have a very
21 serious immigration consequence for themselves or for
22 their abuser. And so we have clients. I have
23 clients in my personal docket who I am advising
24 barring a life or death situation it may not be in
25 their best interest to call authorities.

2 CHAIRPERSON GIBSON: So, I—I understand,
3 and I agree and I think you know, the agencies need
4 to look further at their data. While DOE admitted
5 that they, too, didn't see any decrease, I think
6 there is. If you look beyond the normal, you know,
7 truancy numbers that we see every year, I have high
8 concentrations of families that are living in
9 temporary housing. So they're being shuffled back
10 and forth. So I just see all these different nuances
11 that comes to our district offices. Our immigration
12 attorneys are telling us the same thing, and so I
13 think all of this is very, very relative and it's
14 scary, and while we can assure clients as much as we
15 can, it doesn't help that, you know, everyone else is
16 not having the same conversation.

17 CARMEN MARIA REY: [interposing] And--

18 CHAIRPERSON GIBSON: So it's very
19 concerning to me and—and our colleagues.

20 CARMEN MARIA REY: And I—I agree with you
21 completely, and I think this is why Sanctuary has
22 such a strong stance in support of the privacy law in
23 particular because, you know, as some of the earlier
24 speakers mentioned, we rely on the Executive Orders
25 to try to explain to folks that, you know, their

2 information shouldn't get shifted up to other
3 authorities. But it's just an Executive Order can
4 disappear at any time, and you just aren't sure that
5 that Executive Order is being followed on the ground
6 realistically, right? I mean in my testimony you'll
7 see a story of a client living out in the Rockaways
8 in a homeless shelter who is an asylum seeker. She's
9 been here for two years. She's awaiting adjudication
10 of her case, and a city employee at the shelter told
11 her that the shelter had shared information about
12 immigrants living at the shelter. They wanted her
13 to-to move, and she hadn't been able to find
14 employment, and so they needed--they wanted to clear
15 that bed. And so they told her that immigration was
16 coming, and slept in the subway--

17 CHAIRPERSON GIBSON: [interposing] Oh, my
18 goodness.

19 CARMEN MARIA REY: --with her kids and
20 then came to our office to seek refuge in our office.
21 This is happening on the ground everyday, and a law
22 like--like the ones that we're discussing today at
23 least gives us something to hang our hats on so that
24 we can advise clients that at least there's some
25 remedy. We can assure you that in this city, this

2 isn't going to happen, and that protects us all
3 including realistically my clients who are petrified,
4 for example, as survivors of human trafficking that
5 if they call—the call us or they initiate legal
6 action against their employer, that they're going to
7 end up deported in the current climate, and it's—
8 it's—it protects us all to have a climate of safety
9 in New York.

10 CHAIRPERSON GIBSON: [pause] Thank you.
11 Thank you all. We thank you, ladies for your work
12 for your everyday commitment. It's so disheartening
13 to hear these stories, and it's even more
14 disheartening to know that there are so many more
15 stories, and I am just fearful of what residents are
16 using as their only alternatives of, you know,
17 becoming homeless and going back to their abusers.
18 I've had cases where that's happened over a Link 3
19 client who became employed, and was not longer
20 eligible and had to decide to either become part-
21 time, quit her job or go back to her abuser. Like
22 what type of choices is that for anyone, and what
23 does that say about us as a city. So I am just
24 thankful for all of your work, and—and certainly
25 encourage you to please continue to work with us

2 because as long as we know those stories are out
3 there, it means that our work is not done. And it's
4 even more important why this legislation needs to be
5 pushed forward because I mentioned to the
6 Commissioner, all of the executives at the top are
7 having one conversation, and then their workforce at
8 the bottom are having a different conversation. Case
9 managers at local shelters should not be telling
10 clients that they're sharing information with
11 immigration officials. Like that's not what we
12 should be doing, and I know it's happening because
13 I've heard some of these cases. I've had cases where
14 school safety agents are making comments to children
15 in school, and what I have done and, you know, I go
16 on record saying, and I'm not ashamed, if it comes to
17 my office, I will deal with it at the school level,
18 but I will also make sure it gets addressed. Because
19 people's personal opinion is irrelevant. I just want
20 you to do your job. That's all--

21 CARMEN MARIA REY: Which is--

22 CHAIRPERSON GIBSON: --just do your job.

23 CARMEN MARIA REY: --we agree 100%, which
24 is why we really would support an independent
25 enforcement mechanism in the legislation to allow us

2 the tools to ensure that city employees actually
3 abide by the law.

4 CHAIRPERSON GIBSON: Thank you, thank
5 you. So as we wrap with this hearing, I certainly
6 want to thank our Speaker Melissa Mark-Viverito and
7 our amazing Chair of Immigration, Carlos Menchaca for
8 what he does each and every day, and our Education
9 Chair Danny Dromm, and so all of our colleagues who
10 ae here today was a very, very important hearing. It
11 was enlightening to understand further what we can do
12 as a city to further commit ourselves to protect ever
13 New Yorker, but to understand that being an immigrant
14 should never be a crime, and we are all immigrants in
15 some shape, form or fashion, and as a City Council we
16 are remaining committed to not just talking about it,
17 but we're going to be about it. And we're not only
18 investing funding where our commitment is, but we're
19 going to make sure that we can use every legal
20 measure possible to protect New Yorkers. I think
21 when you hear some of the examples and the stories of
22 clients and woman and mothers who are victims in
23 their own communities, it just highlights the work
24 that we sill need to do because beyond the headline
25 and beyond the story there is so many more victims

1
2 who just have a different name, and when you put them
3 altogether it just means that our work is not done.
4 So I am grateful for the City Council and to Chair
5 Public Safety, and to work with my colleagues,
6 because our work is not done yet. We need to go
7 after OCA, and make sure that our courts are in line
8 with the work that we are doing. It is an
9 embarrassment when you see the things that are
10 happening across our court system, and we also want
11 to make sure our district attorneys are a part of
12 this conversation because they are a stakeholder in
13 this effort. So once again, I thank everyone. I
14 want to thank our staff for all of the work you did
15 in putting this hearing together. Know that this is
16 not the last time we will be talking about these
17 bills on the agenda, and certainly want to thank our
18 sergeant-at-arms for your work that you do in
19 allowing us to have a very smooth hearing, and with
20 that, thank you, Chair Menchaca for your leadership
21 and I'm proud to work with you on this issue and many
22 more, and that is it for my final thoughts. Thank
23 you.

24 CHAIRPERSON MENCHACA: Thank you to Chair
25 Gibson, and not only I think did we join forces

2 today, but I think we're committing in a very way-
3 way—a very real way with Council Member and Chair
4 Dromm that we want to take this to the next level,
5 and really sit down and make sure that we have some
6 follow-up here. So many things that were discussed
7 today provide us new paths. Some of them actually
8 clarified some of the path that we're on and whether
9 it be the information confidentiality of bills that
10 can—that help us think about how we think about our-
11 or help us think about how we capture information to
12 bring the task force into fruition so that we can
13 actually bring the oversight necessary. All of these
14 bills represent the real voices on the ground that
15 had—we have heard from our district offices and from
16 the advocates before it, but also got confirmed here
17 at the district or at the public hearing. The—my—my-
18 my kind of understanding of this—of this moment we're
19 in right now is really going back to the campaign
20 rhetoric and how much fear the campaign itself
21 caused. We now have someone that had—is moving from
22 campaign fear and rhetoric into actual
23 implementation. We're beginning to see that
24 implementation of so many of those things that were
25 promised on the camp—on the campaign trail. Those

2 impacts have been last-lasting and I think—I think
3 some of the work that—that’s happening in our schools
4 is revealing that our kids are sometimes the first
5 indicators of some of that fear. They’re the ones
6 that are expressing it in real time, and where adults
7 I think are—are—are holding onto, and they’re now
8 just beginning to kind of—we’re beginning to
9 experience and—and expose some of that work. All of
10 these members are part of our community. These are
11 all New Yorkers, and so this is how we are going to
12 continue to define our relationship with our New
13 Yorkers as a city municipal government, but it also
14 begs the question about how we actually define our
15 relationship with the state, and how we continue to
16 relate—define our relationship with the federal
17 government, and these are all relationships that need
18 to be based on trust, and right now fear continues to
19 be the number thing that connects us all, and we’ve
20 got to move beyond that. This is a city that
21 deserves and has been for a long time committed to
22 safer neighborhoods. We are committed to making sure
23 that we grow healthy families. We are committed to
24 ensuring that we thrive in our community in the face
25 of mental health issues, some of them caused by so

2 many different things, and the new things that we're
3 seeing right now from the federal government. We want
4 an accessible and transparent government. No doubt.
5 We heard from some of the folks that testified today
6 that some of these bills are testing us on those—on
7 those issues. We want to address that, but nothing—
8 nothing removes us from-- In—in this public hearing
9 I think we did that. All three of us really—really
10 hit the Administration hard on how we think about our
11 relationship with ICE, and what they're actually
12 doing, and exposing every incident because even the
13 courts are—are I think are a troubling situation. As
14 was discussed, when one case is not—should be enough
15 for us to raise the alarm be it an NYPD interaction
16 on the street in—in an arrest or in a court that an
17 ICE agent was able to come in. All of that should
18 sound an alarm, and right now the numbers aren't
19 causing that impact to be felt. We need to change
20 that, and we can do that together as one community.
21 And so with that incredible work that—that is going
22 to beg us to continue to—to push the Administration,
23 but also push the legislative process forward. And
24 these—these bills especially the data bills are—are—
25 and we said in the beginning for all New Yorkers.

1 This is not just about an immigrant population. This
2 is about—we heard from the LGBT community today. We
3 heard from—from folks with mental illness, HIV
4 status. These are things that need to be protected
5 and this has—this has—is a separate situation, but
6 connected through intersectionality, a—a—a real kind
7 of all New Yorker impact. Every New Yorker is
8 impacted. So we're really excited to continue
9 working with all of you, and as you follow up, we
10 hope that you can come up with new ideas because we
11 need them in—in the face of what we're seeing today
12 from the federal government. So thank you all.

14 CARMEN MARIA REY: Thank you.

15 CHAIRPERSON MENCHACA: And this concludes
16 the hearing. [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date May 25, 2017