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COMMITTEE ON CRIMINAL JUSTICE JOINTLY
WITH THE COMMITTEE ON IMMIGRATION

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CRIMINAL JUSTICE
JOINTLY WITH THE COMMITTEE ON
IMMIGRATION

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February 15, 2023
Start: 10:12 a.m.
Recess: 12:55 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: Carlina Rivera,
Chairperson for Committee on
Criminal Justice

Shahana Hanif,
Chairperson for Committee on
Immigration

COUNCIL MEMBERS:

- Shaun Abreu
- David M. Carr
- Shahana K. Hanif
- Mercedes Narcisse
- Lincoln Restler
- Lynn C. Schulman
- Althea V. Stevens
- Sandra Ung
- Keith Powers
- Carmen De La Rosa

COMMITTEE ON CRIMINAL JUSTICE JOINTLY
WITH THE COMMITTEE ON IMMIGRATION

COUNCIL MEMBERS: (CONTINUED)

Rita Joseph
Shekar Krishnan

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2 WITH THE COMMITTEE ON IMMIGRATION

3

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

3 Alma Diego
4 Impacted by ICE

5 Daniel Lopez
6 Impacted by ICE

7 Meghna Philip
8 Special Litigation Attorney at the Neighborhood
9 Defender Service of Harlem

9 Scott Felida
10 Immigration Counsel for our client Alexa Resbutny

11 Paul Shechtman
12 General Counsel at DOC

13 Michael Clarke
14 Director of Legislative Affairs Unit at NYPD

14 Heidi Grossman
15 Executive Director and Special Counsel for the
16 Criminal Justice Bureau at NYPD

17 Wayne McKenzie
18 General Counsel at the Department of Probations

19 Miguel Santana
20 Chief of Staff at the Mayor's Office of Immigrant
21 Affairs

21 Janay Cauthen
22 Executive Director of Families For Freedom
23 Organization

23

24

25

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4

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

3 Ravi Ragbir
4 Executive Director of the New Sanctuary Coalition

5 Alex Zooker(SP?)
6 Child of an immigrant and a member of the New
7 York City Chapter of Showing up for Racial
8 Justice

8 Cheryl Andrada
9 Immigration Attorney at the Legal Aid Society

10 Lena Graber
11 Senior Staff Attorney at the Immigrant Legal
12 Resource Center

12 Rosa Cohen Cruz
13 Director of Immigration Policy at the Bronx
14 Defenders

14 Terry Lawson
15 Executive Director of Unlocal Community Center
16 Nonprofit

17 Yasmine Farhang
18 Director of Advocacy with Immigrant Defense
19 Project

19 Sophia Gurulè
20 Immigration Attorney at the Bronx Defenders

21 Tiena Wagnack(SP?)
22 Asian Immigrant as well the Senior Manager of the
23 state and local policy for the New York
24 Immigration Coalition

25

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

4 Zach Amid
5 Senior Policy Counsel to New York Civil Liberties
6 Union

7 Tanya Matos
8 Director of Advocacy and Policy at Envision
9 Freedom Fund

10 Nathan Yaffe
11 Immigration Attorney

12 Isabelle Muhlbauer
13 Advocacy Coordinator for Latino Justice PRLDEF

14 Lindsay Nash
15 Associate Professor and the Co-director of the
16 Kathryn O. Greenberg Immigration Justice Clinic
17 at Cardozo Law
18
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3 SERGEANT AT ARMS: Good morning. This is a mic
4 check for the Committees on Immigration jointly with
5 Criminal Justice. Today's date is February 15, 2023,
6 located in the Chambers, recording done by Pedro
7 Lugo.

8 SERGEANT AT ARMS: Good morning and welcome to
9 the Committees on Immigration jointly with Criminal
10 Justice. At this time we ask if you can please
11 phones on vibrate or silent mode. Thank you for your
12 cooperation, we're ready to begin.

13 CHAIRPERSON HANIF: [GAVEL] Good morning
14 everyone. I'm Council Member Shahana Hanif, Chair of
15 the Committee on Immigration. Thank you for joining
16 today's joint hearing with the Committee on Criminal
17 Justice. I'd like to begin by thanking my Co-Chair
18 Council Member Carlina Rivera, Chair of the Committee
19 on Criminal Justice who is unable to join today but
20 has been instrumental in putting this hearing
21 together. I want to thank my Council colleagues,
22 representatives from the Administration and public
23 for being here and to members of the public
24 participating remotely.

25 New York is a proud sanctuary city. As a
sanctuary city, New York has a responsibility of

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3 keeping immigrants safe and protected from federal
4 immigration agencies that have historically executed
5 punitive policies that result in unjust detention and
6 deportation.

7 Our city has been at the forefront of creating
8 legislation that protects our immigrants from the
9 enforcement of outdated and xenophobic federal
10 immigration policies and the agencies that wheel
11 them. From as early as 2011, New York City has
12 limited cooperation with ICE. Local Law 62 of 2011,
13 specifically prohibited the Department of Corrections
14 or DOC from detaining immigrants who did not have
15 criminal records.

16 More recently, under Local Law 228 of 2017, New
17 York City prohibited city agencies from partnering
18 with federal immigration authorities and utilizing
19 city resources to enforce federal immigration law.
20 New York City detainer laws also include limitations
21 on when requests to detain an individual for ICE
22 officers can be honored by the DOC, Department of
23 Probations, and NYPD.

24 These limitations are crucial for ensuring that
25 immigrants are not subject to violations of their
rights and dignity in our sanctuary city. However,

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3 even with the successes of New York City's detainer
4 laws for some, others have been victims of gaps in
5 the laws or blatant violations of the laws.

6 A 2021 City Council Immigration Committee Hearing
7 discussed specific cases of individuals who were
8 unjustly treated, arrested, and threatened with
9 deportation in violation of our New York City
10 detainer laws. Today, advocates continue to share
11 examples of these violations occurring. Highlighting
12 the urgency to reinforce and improve the protections
13 for immigrant community. The three Immigration
14 Committee bills we will discuss in the hearing will
15 strengthen these protections. Majority Leader
16 Powers's bills, Intro.'s 184 and 185, which he will
17 share more about include additional limitations on
18 how city agencies can interact and implement federal
19 immigration law.

20 In addition to limiting agency interactions with
21 ICE, immigrants need recourse when their rights under
22 these detainer laws are violated. For immigrants
23 interacting with DOC, DOP or NYPD, detainer law
24 violations can go unnoticed if they do not have legal
25 support or protections.

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3 If their rights are violated, immigrants deserve
4 a pathway to voice these violations and access
5 justice. My bill, Intro. 158 would create a private
6 right of action for folks whose rights have been
7 violated under New York City detainer laws. This
8 means they would be able to sue the parties
9 responsible for that violation.

10 Under 158, violations of the detainer laws can be
11 exposed and discussed in a court of law granting
12 immigrants who are victims of these violations, a
13 measure of dignity and fairness. I'd like to thank
14 the 17 Council Members sponsoring this bill,
15 especially co-prime sponsors Council Member Krishnan,
16 Chair Rivera and Majority Leader Powers.

17 It is clear that national immigration reform is
18 necessary and long overdue. While steps are being
19 taken to improve our nations immigration policies,
20 there is a long way to go before it catches up to the
21 current reality of migration into the United States
22 and provides the dignity that immigrants deserve.

23 In the interim, New York City can continue to be
24 a leader as a sanctuary city and a defender of
25 immigrants rights. We must. I look forward to
learning more about the administrations interactions

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3 with New York City detainer laws and how we can work
4 together to strengthen these protections for New York
5 City's immigrant community. I want to thank the
6 Committee Staff on both Committee's for their work on
7 this issue, including Jayasri Ganapathy Senior
8 Legislative Counsel, Jeremy Whiteman Legislative
9 Counsel, Rebecca Barilla Policy Analyst, Florentine
10 Kabore Principal Finance Analyst and Jack Storey Unit
11 Head of the Finance Division.

12 I would also like to thank my staff Chief of
13 Staff Nora Brickner, Legislative Director Alex Liao,
14 Communications Director Michael Whitesides and
15 Legislative Intern Amy Whitcomb(SP?) and every one
16 working in the background to make this joint hearing
17 run smoothly.

18 I will now be reading a statement on behalf of
19 the Criminal Justice Chair Rivera, who is unable to
20 join us for today's hearing as I mentioned. She is
21 out on parental leave. Over the course of the past
22 decade, New York City and the City Council in
23 particular has led the way in protecting its
24 immigrant residents. In 2014, the Council passed
25 legislation that removed ICE from Riker's Island and
prevented the Department of Correction, Department of

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2 Probation and the NYPD from unlawfully detaining
3 undocumented people without a judicial warrant.

4 In 2017, during the beginning of the Trump
5 Administration, these laws were again strengthened
6 when the Council passed another package of
7 legislation that restricted the use of city resources
8 for immigration enforcement and enhanced our status
9 as a city that welcomes immigrants, regardless of
10 xenophobic and cruel national policies. With today's
11 hearing, we are furthering that legacy and
12 reasserting our values as a safe haven for immigrants
13 by advancing three vital pieces of legislation.
14 These bills will close the existing gaps that enable
15 our city's law enforcement agencies to coordinate
16 with federal immigration authorities.

17 I am proud to cosponsor Intro. 158, which would
18 create legal redress for violations of local detainer
19 laws and will help remedy devastating consequences
20 and hold law enforcement officials accountable when
21 they do not adhere to our laws.

22 According to statistics compiled by the NYCLU
23 between 2017 and 2020, 89 people were transferred to
24 ICE custody as a result of the legal loophole that
25 enables DOC to disclose information to ICE regarding

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3 a persons immigration status, release dates or court
4 appearances. The DOC notification exception violates
5 the spirit of our laws and exposes Black 804 Brown
6 people, who are the disproportionate targets of law
7 enforcement actions to the federal deportation
8 machine.

9 Both Intro. 184 and Intro. 185 will remove these
10 harmful loopholes in our detainer laws and further
11 limit the circumstances that DOC and the NYPD can
12 honor civil immigration detainers. As Chair of the
13 Committee on Criminal Justice, the legislation being
14 considered today has my full support. If we truly
15 want to call ourselves a sanctuary city, all law
16 enforcement policies that lead to ICE arrests and
17 family separation must end.

18 I would now like to pass it to Majority Leader
19 Powers for his remarks.

20 MAJORITY LEADER POWERS: Thank you and nice to
21 see everyone here today. Thank you to the Chair for
22 letting me speak about Intro.'s 184 and 185, which we
23 are reviewing today and I'm proud to sponsor along
24 with my colleagues. I want to thank the Chair, both
25 Chairs and I want to congratulate Council Member
Rivera as well for holding this hearing and to the

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3 advocates who are here today who work tirelessly on
4 behalf of immigrant rights in New York City.

5 In my time, last term as Chair of Criminal
6 Justice Committee, I spent countless hours engaged on
7 issues with Department of Corrections and ways to
8 improve the system. The term Cultural Change is
9 mentioned repeatedly as DOC worked towards addressing
10 longstanding challenges that resulted in anything but
11 justice for many of the people that lived within the
12 city in the jail system.

13 The communications between DOC and ICE that we'll
14 discuss today, will make it abundantly clear that
15 that cultural change we don't believe has happened
16 and it's critical for the Council to pass legislation
17 to hold DOC accountable. Building on the past
18 detainer laws from 2014, these bills we're hearing
19 today will prohibit local authorities from
20 coordinating with ICE and the detention and
21 deportation of immigrants.

22 This package of legislation will strengthen our
23 existing detainer laws and ensure that NYPD and DOC
24 are upholding the intent and spirit of the law.

25 Intro. 184 will prohibit NYPD from holding a person
in ICE without a warrant signed by a federal judge,

3 which will bring the local law in line with the
4 existing state law. We have heard instances, this
5 goes back to last terms, where people were continuing
6 to be detained with a warrant in certain
7 circumstances despite the New York State law
8 requiring otherwise.

9 Similarly Intro. 885 cleared communication
10 between Department of Correction and ICE, despite the
11 existing laws, we have heard reports that DOC staff
12 have continued to facilitate, to transfer people into
13 ICE detention in certain circumstances without a
14 warrant from a federal judge. New York City has
15 always been a city of immigrants and this legislation
16 is a critical step to ensure that we are protecting
17 immigrant New Yorkers from violence and abuse while
18 in detention and to keep people together.

19 I want to thank Chair Hanif and Chair Rivera for
20 holding this hearing and my fellow sponsors,
21 Committee Staff, advocates for their support. I want
22 to thank my support from my staff in the Criminal
23 Justice Committee last term, who really highlighted
24 the need for these issues and these pieces of
25 legislation. And I want to thank the Administration

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3 for being here today and look forward to hearing
4 their testimony. Thanks.

5 CHAIRPERSON HANIF: Thank you so much. I'd like
6 to acknowledge my colleagues who have joined us this
7 morning, Council Member Joseph, Council Member Ung,
8 Council Member Narcisse, Council Member Abreu, and
9 Council Member Carr.

10 COMMITTEE COUNSEL: Thank you Chair. Good
11 morning and welcome. My name is Jayasri Ganapathy, I
12 am Counsel to the Committee on Immigration. Before
13 we begin testimony, I would like to remind everyone
14 that is joining via Zoom that you will be on mute
15 until you are called on to testify. I will be
16 calling on a panel of public witnesses to testify
17 currently, and then again we will call the public in
18 panels of four after the conclusion of the
19 administrations testimony.

20 Council Members, you will be called on for
21 questions after the full panel has completed their
22 testimony. Please note, we will be limiting Council
23 Members to five minutes. And for the purposes of
24 this hearing, we will allow a second round of
25 questioning.

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3 For the public panel, we do have a two-minute
4 timer and we do ask that you kind of stick to that
5 clock. We have another hearing in this room at one
6 o'clock, so we do have to be very strict with that
7 timer.

8 I will now call on the first panel. We have Alma
9 Diego, Daniel Lopez and Meghna Philip. I believe we
10 do have a few interpreters on this panel as well.
11 You can go ahead when you're ready.

12 INTERPRETER: Good morning, my name is Alma
13 Diego.

14 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 13:07-
15 13:19].

16 INTERPRETER: And I'm here to talk about how a
17 birthday party turned into a nightmare that continues
18 to impact my family and my community.

19 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 13:28-
20 13:43].

21 INTERPRETER: On December 14th of 2019, we were
22 celebrating the birthday of a close member of my
23 family.

24 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 13:50-
25 14:07].

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3 INTERPRETER: He was not only arrested by the
4 city but also reported to ICE.

5 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 14:13-
6 14:26].

7 INTERPRETER: This nightmare started one Monday
8 morning when I was working as an essential worker for
9 the city and learned that my son was in the custody
10 of ICE.

11 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 14:36-
12 14:53].

13 INTERPRETER: Three minutes can make all the
14 difference in harm and collateral damages to our
15 family, including economic harm and emotional harm.

16 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 15:03-
17 15:13].

18 INTERPRETER: And physical harm and we were -

19 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 15:18-
20 15:21].

21 INTERPRETER: Because we have to spend time
22 looking for support from people who could help us.

23 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 15:26-
24 15:37].

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3 INTERPRETER: Emotional harm because we had to
4 start thinking, what can we do? Who will help us?
5 Who will be with us to help us?

6 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 15:44-
7 15:53].

8 INTERPRETER: And a decision about whether to
9 continue with your work or to leave your work in
10 order to try to seek help for the person you're
11 supporting.

12 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 16:00-
13 16:10].

14 INTERPRETER: As an essential worker, I have to
15 continue my work even though I needed emergency
16 support.

17 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 16:16-
18 16:34].

19 INTERPRETER: At three o'clock in the morning, we
20 were searching for help. We walked for a time in the
21 rain between Fulton Street and Federal Plaza looking
22 for someone for an attorney who could help us.

23 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 16:45-
24 17:18].

25 INTERPRETER: The socioeconomic loss is great
because we were desperate. We needed help and when

1
2 you're in that situation, people take advantage of
3 you. They charge a lot of money. There's a huge
4 cost for private immigration attorneys who you know
5 take advantage of you and charge thousands and
6 thousands of dollars.

7 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 17:36-
8 18:08].

9 INTERPRETER: The emotional loss is not only for
10 the person who is under custody or the person who is
11 directly impacted but also for the people close to
12 them and for those of us who are employees, the
13 employers then have to make a decision about whether
14 they will continue with us.

15 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 18:24-
16 18:30].

17 INTERPRETER: 14 months of a nightmare that came
18 from what was referred to as an operational error.

19 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 18:36-
20 19:01].

21 INTERPRETER: That was a conclusion of a three-
22 minute period that one worker decided to report my
23 son to ICE and that resulted in 14 months of a
24 nightmare during a pandemic.
25

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3 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 19:13-
4 19:31].

5 INTERPRETER: The emotional damages are
6 incalculable. No matter how much therapy, no matter
7 how much support.

8 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 19:40-
9 19:42].

10 INTERPRETER: The incalculable harm continue.

11 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 19:45-
12 19:51].

13 INTERPRETER: I know that more than uhm, there
14 are many members of this community that have
15 immigrant stories.

16 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 19:58-
17 20:05].

18 INTERPRETER: Why don't we work together to move
19 forward?

20 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 20:08-
21 20:16].

22 INTERPRETER: Instead of dividing ourselves, we
23 need to come together to have a permanent union.

24 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 20:23-
25 20:49].

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3 INTERPRETER: If we could take advantage of the
4 knowledge and the abilities that we have, it would
5 benefit all of us to move forward.

6 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 21:01-
7 21:10].

8 INTERPRETER: Thank you for coming together for
9 hearing my testimony and please, let's work together.
10 Let's be more humane.

11 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 21:17].

12 INTERPRETER: Thank you.

13 DANIEL LOPEZ: [SPEAKING IN OTHER LANGUAGE 21:30-
14 22:35].

15 INTERPRETER: I'm going to translate for Daniel.
16 Hi, I'm Daniel Lopez, I'm going to share my story.
17 Esteemed Council Members, I'm here today to talk
18 about an issue that is extremely important to me and
19 that I believe will make our city stronger and
20 immigrant New Yorkers feel safer in our great city.

21 As a New Yorker, I am deeply concerned about the
22 gaps in the protections that immigrants have when it
23 comes to the city cooperating with ICE. Which is why
24 I'm here to advocate for the passage of Intro.'s 184,
25 185 and 158 that have clear language that will stop
any sort of collision between the city and ICE.

1
2 Additionally, I want to thank Council Members
3 Rivera, Hanif and Powers for leading the charge in
4 moving this legislation forward.

5 DANIEL LOPEZ: [SPEAKING IN OTHER LANGUAGE 23:24-
6 24:18].

7 INTERPRETER: My story begins back in 2020 when I
8 was arrested by ICE with the help of the police.
9 That summer, ICE arrived at my house unannounced and
10 began to violently knock on my apartment door. Since
11 they did not identify themselves as ICE, I was scared
12 and hide in my room and call the police, who I
13 thought would help find out who these strangers were.

14 When the police arrived, they told me to come out
15 of my room to talk to them and assured me that
16 nothing was wrong. No one was there. When I came
17 out of my room, I realized that something was off. A
18 police officer told me I had to go with ICE and
19 allowed me to be detained by ICE agents who appear,
20 despite what the NYPD officers had told me in the
21 beginning. Despite my shock, I was arrested and
22 quickly deported back to Mexico where I ended up
23 staying for about two years.

24 DANIEL LOPEZ: [SPEAKING IN OTHER LANGUAGE 25:13-
25 27:20].

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3 INTERPRETER: You could imagine my shock and
4 disappointment that the police who I reached out for
5 help were the ones that aid ICE in my arrest. I
6 always understood that the police would not cooperate
7 with ICE and I would never had called them if I knew
8 that my rights were going to be violated. Being the
9 stream of stress and trauma to my family and myself,
10 I was so distraught in Mexico thinking that I will
11 never see my family again. Thanks to the tremendous
12 work of Make the Road New York, that was able to come
13 back to New York and reunite with my loved ones after
14 almost two years of being separated from them.

15 It's time for this Council to help pass
16 legislation to protect our community members from
17 situations like this. Often times immigrants feel
18 unempowered and afraid to interact with city agents
19 because they know that their lives could be upended
20 by ICE at any moment.

21 Additionally, if their rights are violated,
22 immigrant New Yorkers don't have a way to hold ICE
23 accountable, given that they are such an unregulated
24 agency. This Council has an opportunity to step up
25 and do the right thing by passing Intro.'s 184, 185
and 158, which will make sure that there is no

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3 communication between ICE and the New York Police
4 Department or the Department of Correction. Prevent
5 individuals to be help beyond the required time in
6 order to facilitate ICE arrests and to allow an
7 individual to seek a private right of action that
8 will help them start legal action if their rights are
9 violated.

10 This is the only way that immigrants like myself
11 can truly feel safe in New York City. A place that
12 is often called as a sanctuary city but that often
13 times it does not feel like it. Thank you so much
14 for your time.

15 MEGHNA PHILIP: Good morning. Thank you to my
16 fellow panel members and thank you to the City
17 Council for holding this hearing. My name is Meghna
18 Philip, I'm a Special Litigation Attorney at the
19 Neighborhood Defender Service of Harlem. I'm an
20 immigrant New Yorker. I'm joined here by my
21 colleague.

22 SCOTT FELIDA: Scott Felida (SP?), Immigration
23 Counsel for our client Alexa Resbutny.

24 MEGHNA PHILIP: We're here to speak to the
25 experience of our client Alexa Resbutny, a 46-year-

1 old New Yorker who came to this country from Ukraine
2 when he was a teenager.
3

4 On September 15th of 2022, just this last year,
5 Mr. Resbutny was in Manhattan Supreme Court for a
6 routine court appearance where a judge ordered that
7 he be taken into DOC custody temporarily for a week
8 until a hearing could be held in his case. And his
9 attorney left him with two investigators from the
10 Manhattan DA's Office and believed them to be taking
11 him into DOC custody.

12 DOC did not take him into their custody.
13 Instead, a few days later, his attorney received a
14 distressed call from him and Mr. Resbutny was no
15 longer in New York. He was not at Rikers Island. He
16 was instead at an immigrant detention facility in
17 Pennsylvania. Where his understanding that he was
18 facing deportation to Ukraine. He had never
19 previously been in ICE custody before this.

20 I spoke with Mr. Resbutny last week about what
21 his experience was like and he wanted me to share the
22 following words with the City Council. I did not
23 expect this at all. I couldn't understand what was
24 going on. I did not understand why this was
25 happening to me. The DA detectives did not tell me

1 what was happening. The NYPD Officers did not tell
2 me what was happening. No one explained anything to
3 me. They just handed me to the people from
4 immigration.
5

6 They didn't answer my questions. They said they
7 are going to take me anywhere they want, probably to
8 a different state because it's federal. They took me
9 to Federal Plaza; they took my finger prints. They
10 took me downstairs, put me in a van and drove me
11 away.

12 In the van, I didn't know where they were taking
13 me. It was night time, I couldn't really see where
14 we were going. I felt like I was being kidnapped. I
15 didn't know where I was. I was expecting to go to
16 Rikers. I reached there in the middle of the night.
17 I was handed off and when I got into the unit, other
18 people told me where I was, that I was an ICE prison.
19 They said, they are going to deport us.

20 I was really scared and sad and angry. The
21 country I am going back to, I haven't been for 29
22 years and it's at war. My life is here. I don't
23 want to go back to ICE custody. I'm scared for my
24 life and I don't want to go back to Ukraine. I was
25 surprised that New York City would do this and hand

1 me over. I thought New York didn't hand over its
2 people like that. This whole country is made up of
3 immigrants. I don't know why they did that. It was
4 terrible how they treated me.
5

6 Mr. Resbutny is now back in DOC custody at Rikers
7 because the Manhattan DA's office scrambled to bring
8 him back here to continue to prosecute him when they
9 realized what had happened. But he has not received
10 any help from the Mayor's Office, from the DA's
11 Office, from NYPD or DOC to rectify what happened to
12 him and he expects that at the end of his time at
13 Rikers where he is serving time on a misdemeanor
14 case, he is going to be handed back over to ICE
15 custody.

16 This happened in September of 2022. This is not
17 a remote issue here. This is not a far away issue.
18 These problems continue to occur and this is exactly
19 why the loopholes in the detainer laws must be
20 closed. And Mr. Resbutny as it stands now has no way
21 to seek redress for the violations of the detainer
22 laws that occurred because there is no private right
23 of action.

24 So, these rights without remedies are not rights
25 at all and I encourage the City Council to ask

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3 questions of the Mayor's Office, of DOC, of NYPD as
4 to what happened in Mr. Resbutny's case and what the
5 city can do to support him and to pass these bills
6 urgently. Thank you.

7 CHAIRPERSON HANIF: Thank you to this powerful
8 panel. These are heartbreaking stories to take in.
9 For each panelists, could you repeat one more time
10 what year. So, for you Alma, when was your son
11 arrested by the NYPD? What year.

12 INTERPRETER: 2019.

13 CHAIRPERSON HANIF: 2019.

14 INTERPRETER: Yes.

15 CHAIRPERSON HANIF: And then Daniel, when were
16 you arrested by the NYPD?

17 DANIEL LOPEZ: 2020.

18 CHAIRPERSON HANIF: 2022?

19 DANIEL LOPEZ: No, 2020.

20 CHAIRPERSON HANIF: 2020. And then for Meghna
21 and Scott, which year was Alexa detained by DOC?

22 MEGHNA PHILIP: He was taken to ICE custody in
23 2022.

24 CHAIRPERSON HANIF: Thank you so much for kicking
25 off our hearing, appreciate it. We actually have a
question from Council Member Narcisse for this panel

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3 and I'd like to acknowledge that we've been joined by
4 Council Members Schulman, De La Rosa, Krishnan, Moya.
5 Great, Council Member Narcisse.

6 COUNCIL MEMBER NARCISSE: Good morning. As an
7 immigrant myself, listening to you that really break
8 my heart and that really put holes in the fabric; the
9 very fabric of New York City what we stand for.

10 So, my question, what's your son's name again? I
11 forgot.

12 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 35:13].
13 Javier Castillo Maradiaga.

14 COUNCIL MEMBER NARCISSE: Okay, so how long was
15 he detained for?

16 ALMA DIEGO: 14 months.

17 COUNCIL MEMBER NARCISSE: Okay, were you able to
18 visit.

19 ALMA DIEGO: Like two, three times but you know
20 remember, we was in the pandemic, so, ICE and all
21 facilities was closed, so that stopped, so the last
22 time I saw him is after like six, eight months after
23 you know they detained him and [INAUDIBLE 35:44].

24 For me in the minute, bye and good luck in our
25 country.

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3 COUNCIL MEMBER NARCISSE: Was he able to see any
4 lawyers? Were you offered? Did anyone ask you? Do
5 you want someone to represent him? No?

6 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 36:05-
7 36:35].

8 INTERPRETER: First initially when we were
9 looking for counsel, we went to a catholic charities
10 office when they opened early in the morning. From
11 there, we had been recommended an attorney near
12 Federal Plaza, who we went to see who was a private
13 attorney.

14 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 36:52-
15 37:11].

16 INTERPRETER: From there, that attorney never
17 visited him. He was detained first in New Jersey and
18 then in Gosha and that was when they [SPEAKING IN
19 OTHER LANGUAGE 37:21-37:22].

20 ALMA DIEGO: [SPEAKING IN OTHER LANGUAGE 37:23].

21 INTERPRETER: That was when ICE had closed for
22 visitation during the pandemic.

23 COUNCIL MEMBER NARCISSE: Mentally, I know this
24 can be a trauma too. I mean, for me as a nurse, I
25 want to know the medical part of it. The status.
Was he offered anyone in medical? Does he have any

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3 doctors visiting him, giving a thorough assessment to
4 make sure mentally and physically he was okay?

5 INTERPRETER: [SPEAKING IN OTHER LANGAUGE 37:49-
6 37:51].

7 ALMA DIEGO: [SPEAKING IN OTHER LANGAUGE 37:52-
8 37:54].

9 INTERPRETER: At that time, no.

10 COUNCIL MEMBER NARCISSE: Thank you. Before I
11 go, one more question for the lawyers. Your client
12 where he was in the U.S. for – in New York perse for
13 29 years?

14 MEGHNA PHILIP: Yes, that's correct.

15 COUNCIL MEMBER NARCISSE: He was here for 29
16 years. So, any explanation given to him how you
17 know, any problem? Did he encounter – I had to ask
18 that question. Did he encounter anything that should
19 put him in that position for police to come to his
20 door?

21 SCOTT FELIDA: No and in fact if the detainer law
22 had been followed, he never would have been
23 transferred to ICE custody in the first place. He
24 never would have had that contact with ICE.
25

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3 COUNCIL MEMBER NARCISSE: Alright, thank you.

4 Thank you Chair. I don't want to take too long.

5 Thanks.

6 CHAIRPERSON HANIF: Thank you. Council Member
7 Joseph.

8 COUNCIL MEMBER JOSEPH: Thank you. Good morning.
9 The question is to the attorney's. How often does
10 this happen and when it does happen, what are things
11 to remedy that situation and how long does it take?

12 SCOTT: So, in Mr. Resbutny's case, immediately
13 after being transferred to ICE custody, he was placed
14 in removal proceedings and so, now he's sort of in a
15 path that can't be turned back. He is in removal
16 proceedings and you know we are going to be fighting
17 on his behalf obviously but there's a very, it's very
18 possible that the could lose his case and be ordered
19 to move to Ukraine. And there's really nothing that
20 we can do to walk back the clock because removal
21 proceedings have already been started.

22 MEGHNA PHILIP: And again, this resulted from
23 violations of the detainer law. Of the State Protect
24 our Courts Act. His privilege against an arrest at a
25 court house and yeah, we will be fighting to protect
him from Return to ICE but there was no reason he

3 should have been turned over in the first place by
4 NYPD, DOC and the Manhattan DA's Office. There was
5 no judicial warrant from a federal judge for his
6 arrest and he had never previously been in ICE
7 custody.

8 COUNCIL MEMBER JOSEPH: How often do you see
9 cases like this?

10 SCOTT: This is the first case of this type that
11 has come to us but uhm, you know we've relied on
12 these protections very much because during the Trump
13 Administration and before the Protect our Courts Act
14 passed, our clients were arrested from the court
15 house all the time. And our clients rely on these
16 protections on a daily basis.

17 So, in cases like this that slip through the
18 cracks, our client has no remedy under the detainer
19 law to do anything about the violation that happened
20 to him. And that's one of the reasons why these laws
21 need to be strengthened.

22 COUNCIL MEMBER JOSEPH: Thank you.

23 CHAIRPERSON HANIF: Thank you. I have a question
24 for Alma. I know you mentioned that the NYPD admits
25 that they made an operational error. Have they

1 provided any support in any way after admitting the
2 harm that they did to you and your family?
3

4 ALMA DIEGO: No.

5 CHAIRPERSON HANIF: Never?

6 ALMA DIEGO: No.

7 CHAIRPERSON HANIF: Council Member Abreu, you got
8 a question?

9 COUNCIL MEMBER ABREU: I have a question for the
10 lawyers as well. Can you please speak to the city's
11 involvement with respect to how your client ended up
12 with ICE? Because I'm going to be expecting
13 testimony suggesting that the city had no involvement
14 in the transfers but it seems like the city, in this
15 past year alone has been involved. Can you please
16 speak to that?

17 MEGHNA PHILIP: Sure, so we're trying to get more
18 information about this as well. Our understanding
19 from our client is that he was taken by NYPD Officers
20 as well as Manhattan DA Investigators and it's also
21 possible that DOC Officers participated in some
22 communication to ICE. He was detained at the court
23 house at Manhattan Criminal Court while they waited
24 for ICE to come and get him and then they handed him
25 over to ICE officers and in terms of why this

3 occurred, what the communications were between those
4 agencies and ICE, we would welcome more information
5 and investigation by the Mayor's Office into what
6 happened here. We have not received any such
7 investigation at this point. We were told that there
8 are internal investigations happening in some of
9 these agencies as to what happened but we haven't
10 heard any answers specifically.

11 COUNCIL MEMBER ABREU: And do you have any idea
12 as to which officers who may have been involved?

13 MEGHNA PHILIP: We don't know the names of the
14 officers.

15 COUNCIL MEMBER ABREU: Okay, I sure hope that we
16 get answers to those questions. Go ahead.

17 SCOTT FELIDA: I'll just add that our
18 understanding from what our client has told us and
19 what we've been told otherwise is that, he was taken
20 to DOC. DOC refused to take him into custody. He
21 was taken to NYPD and NYPD Sergeant called ICE and
22 then the two district attorney investigators were
23 with him. Held him and waited for ICE and physically
24 transferred him to ICE custody.

25 COUNCIL MEMBER ABREU: Do you know if there were
body cameras in that incident?

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3 MEGHNA PHILIP: We don't know at this point.

4 COUNCIL MEMBER ABREU: Alright, we should get
5 answers to these questions. Thank you.

6 MEGHNA PHILIP: Thank you.

7 UNIDENTIFIED: Council Member Hanif if I can add
8 something to?

9 CHAIRPERSON HANIF: Yes.

10 UNIDENTIFIED: So, this is [INAUDIBLE 43:25] with
11 Make the Road New York. I just wanted to add that
12 similar to the other case and in Daniel's case, he's
13 been living in New York City for almost 20 years,
14 almost his whole life when this happened. And then
15 he was away in Mexico for almost two years, which of
16 course we can not give him back but that was
17 definitely the impact of this case and of the
18 collaboration between ICE and the police.

19 CHAIRPERSON HANIF: Thank you for that and thank
20 you Council Member Abreu for your questions. We will
21 be able to dig in a little bit more with the
22 Administration. Do any of my other colleagues have
23 any questions for this panel?

24 Seeing none, thank you and I'd like to
25 acknowledge -

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3 COUNCIL MEMBER NARCISSE: That I want to ask.
4 How many detainees that by now from let's say this
5 year, for example. Do you know the statistic on
6 that? That ICE from our city?

7 SCOTT: No, I don't.

8 MEGHNA PHILIP: I'm happy to just say one thing
9 in response to that, which is that the city is
10 obligated to report annually on you know both the DOC
11 and the NYPD have to report annually on their
12 communications with ICE but I think what you'll hear
13 today from the testimony that will follow the
14 Administration, is that we believe that that is
15 severely, severely misrepresenting the volume of
16 communication and collusion that we know and believe
17 and will explain happens on a regular basis.

18 So, unfortunately we can't answer that question
19 because the numbers are far larger than those which
20 are reported by the city. And we'll get to that with
21 testimony later today.

22 COUNCIL MEMBER NARCISSE: Because I'm very
23 concerned to have people that live 20 something years
24 and out of the blue, like this young man just said,
25 and just pick up in the nighttime and leave the
family behind and the trauma that we're dealing with

1 the high risk neighborhood. And I believe that's
2 where mostly probably that that's where they're
3 taking place and we cannot live in the blind. We
4 have to know exactly what's going on. So, I'm sure
5 the Chair will take care of that, to ask the question
6 to follow. Thank you. Thank you Chair.

8 CHAIRPERSON HANIF: Thank you Council Member
9 Narcisse and I'm really appreciative of my colleagues
10 for being here to hear from impacted folks and legal
11 service providers. We will hear more public
12 testimony later but wanted to begin today's hearing,
13 hearing directly from folks who have been impacted
14 and frustrated with the ways in which that the NYPD,
15 DOC and the city continues to collaborate with ICE in
16 participating in the federal mass deportation
17 machine.

18 I'd like to acknowledge that we've been joined by
19 Council Member Stevens and pass it back to Jaysari.

20 COMMITTEE COUNSEL: Thank you Chair. I will now
21 call on the following members of the Administration
22 to testify: Paul Shechtman General Counsel at DOC,
23 Michael Clarke Director of Legislative Affairs Unit
24 at NYPD, Heidi Grossman Executive Director and
25 Special Counsel for the Criminal Justice Bureau at

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3 NYPD, Wayne McKenzie General Counsel at the
4 Department of Probations and Miguel Santana Chief of
5 Staff at the Mayor's Office of Immigrant Affairs.
6 And I will administer the oath once they're settled.

7 Can you please raise your right hands. Do you
8 affirm to tell the truth, the whole truth and nothing
9 but the truth before this Committee, these Committees
10 and to respond honestly to Council Member questions?

11 PANEL: I do.

12 COMMITTEE COUNSEL; Thank you. Mr. Shechtman,
13 you can begin when you're ready.

14 PAUL SHECHTMAN: Thank you. Good morning. Good
15 morning Chair Hanif, Chair Rivera and Members of the
16 Immigration Committee and the Criminal Justice
17 Committee. My name is Paul Shechtman and I am the
18 General Counsel for the New York City Department of
19 Correction. Thank you for the opportunity to testify
20 about the departments practices with respect to
21 detainer laws. My remarks this morning will be
22 brief.

23 The Departments policy is this. If the
24 Department receives a detainer from Immigration and
25 Customs Enforcement from ICE, we will notify ICE of
an individuals relief only if the individual is on

1 Rikers Island and one, he has a qualifying
2 conviction. Meaning a conviction for a violent or
3 otherwise serious offense within the past five years
4 or two, he is identified to us as a possible match in
5 the tourist database and the request for that
6 individual is supported by a document demonstrating
7 probable cause.
8

9 Our notification is made when the discharge
10 process begins. Importantly, we will not hold an
11 individual for an ICE pick up beyond the time that
12 the individual is authorized to be released from our
13 custody under local or state law. Which is to say,
14 if ICE is late, we do not wait.

15 Perhaps most significantly, if this criteria are
16 not met, if there is no qualifying conviction or no
17 tourist database match, we will not communicate
18 further with ICE about the individual in question and
19 not facilitate a transfer to ICE custody. We do not
20 honor ICE detainers.

21 The Department's public reporting reflects this
22 policy between July 2021 and June 2022, which is to
23 say Fiscal Year 2022. Federal Immigration
24 Authorities logged 92 detainers and only 8
25 individuals were released to federal authorities. So

3 far in Fiscal Year 2023, we have received 109
4 detainers and released three individuals to federal
5 authorities. We do not view our job as enforcing
6 immigration laws.

7 I thank you for the opportunity to testify today
8 and I'm happy to answer your questions.

9 MICHAEL CLARKE: Good morning Chair Hanif and I'd
10 like to extend a congratulations to Chair Rivera on
11 behalf of the NYPD and members of the Council.

12 I am Michael Clarke, I'm the Director of the
13 Legislative Affairs Unit for the New York City Police
14 Department and I'm joined today here by Executive
15 Director and Special Counsel Heidi Grossman of the
16 Departments Criminal Justice Bureau, as well as our
17 colleagues from the Department of Corrections, the
18 Mayor's Office of Immigrant Affairs and the
19 Department of Probation.

20 On behalf of Police Commissioner Keechant Sewell,
21 I'm here to testify before your Committees regarding
22 the Departments policies and procedures around
23 federal, civil immigration detainer requests.

24 At the outset, it's important to state
25 unequivocally that the NYPD does not engage
immigration enforcement. It is vitally important

1 that all members of the public feel comfortable
2 coming to the police for help, especially when they
3 victims of crime. Undocumented immigrants should not
4 fear deportation if they need to access police
5 services and our vulnerable community members should
6 not remain victims in the dark.
7

8 Unreported crimes skew how we analyze crime
9 trends and hinders our ability to dedicated resources
10 where it will be most effective. Moreover, if
11 certain groups of New Yorkers do not feel confident
12 they can interact with the police, they will become
13 permanent victims to be preyed upon by criminals with
14 no fear of the consequences of their actions.

15 In our last reporting period, we received 157
16 detainer requests from ICE. We honored zero of those
17 requests and we transferred zero people to the
18 custody of ICE. In the previous reporting period, we
19 received 1,485 detainer requests. Again, we honored
20 zero and transferred zero people to the custody of
21 ICE.

22 I would like now to turn to the bills being heard
23 today. Intro. 184 would eliminate the exception in
24 the law that allows the department to hold
25 individuals after receiving a detainer request

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3 without a judicial warrant for up to 48 hours under
4 certain circumstances when it is anticipated that a
5 judicial warrant will be presented within 48 hours.

6 The Department does not employ this exception to hold
7 individuals. It has not for quite some time. The
8 Administration has no position on this legislation.

9 Intro. 158A would create a personal cause of
10 action against any employee of the NYPD, Department
11 of Probation, Department of Correction, as well
12 against either department for any violation of any
13 law restricting when and how an ICE immigration
14 detainer request may be honored and potentially for
15 violations of other related laws.

16 This would apparently be a strict liability cause
17 of action for officers in the city, even when acting
18 in good faith. This bill thus wholly reverses the
19 originally and longstanding City Council
20 determination codified in present law that while city
21 agencies would implement a policy of noncooperation
22 with immigration enforcement. The city would subject
23 itself and its agencies and employees to liability
24 for the unfortunate occasional instance, almost
25 always inadvertent when the agencies fall short of
that goal.

3 In reversing that determination by the Council,
4 this bill would undermine valid defense of the city
5 and an officer can utilize and even authorize as
6 punitive damages, which are especially problematic.
7 It further allows the plaintiff to elect an award of
8 at least \$30,000 that can be imposed without having
9 to prove damages. This bill would thus convert a
10 beneficial city policy into an opportunity for
11 plaintiffs to exploit difficult situations that
12 represent themselves to city agencies.

13 By newly placing issues related to implementation
14 of that policy and a litigation context, the bill
15 could actually impede the city's ability to learn
16 from those situations and report on them and in the
17 event of a mistake. The bill would also place
18 onerous and unworkable obligations on officers to not
19 only notify the individual and their attorney of the
20 detainer request, but also provide detailed records
21 on every contact with ICE regarding that person,
22 whether the detainer is on it or not.

23 The Administration opposes this legislation.

24 Thanks for the opportunity to testify on this
25 important issue and we look forward to answering any
questions you may have.

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3 CHAIRPERSON HANIF: Thank you. So, I'd like to
4 begin with some questions for the DOC. After the
5 2014 laws, advocates began to worry DOC was delaying
6 a release of people in their custody and otherwise
7 facilitating ICE arrests, identifying immigrants
8 where they would ask ICE to lodge detainer and
9 providing information to ICE about detained New
10 Yorkers.

11 In 2018, the Immigrant Defense Project, Black
12 Alliance for Just Immigration and NYU filed a foil
13 which requested information about DOC and ICE
14 communication related to people in DOC's custody.
15 This resulted in emails being produced between DOC
16 and ICE. So, I will begin my questioning around the
17 communication between DOC and ICE in these emails.

18 Does DOC communicate and share information with
19 ICE about people who do not have a conviction or
20 qualifying offense?

21 PAUL SHECHTMAN: No.

22 CHAIRPERSON HANIF: I have an email here from the
23 DOC Foil on December 18, 2017.

24 PAUL SHECHTMAN: Can I pause for a second. If
25 the question is, do we do it now? The answer is no.
I'm not familiar with what we did in 2017. If we

3 communicated then, I think under the city law it was
4 inappropriate but the short answer to your question
5 now is no.

6 CHAIRPERSON HANIF: That's fine. We want to
7 really elaborate on the culture that has existed and
8 it would be really important for us to hear from you
9 even if you do not have the information for the
10 particular emails.

11 PAUL SHECHTMAN: That's fine.

12 CHAIRPERSON HANIF: Captain Deshan Rainey and ICE
13 Officer Robert Sprusia (SP?) where ICE had sent a list
14 of detained individuals with information taken from
15 the inmate locator system and DOC tells ICE that one
16 person appears to be a youthful offender adjudication
17 or dismissal and that there is no detainer and
18 another, two of the persons have not yet been
19 sentenced. ICE then asks the two that are pending
20 sentence upon conclusion of sentencing, would their
21 detainers be honored? And DOC responded, yes, let's
22 hope they both go upstate. How do you explain this?

23 PAUL SHECHTMAN: I don't. As I read that, that
24 is not consistent with city law.
25

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3 CHAIRPERSON HANIF: Right, it is inconsistent and
4 it shows collaboration and violation of the detainer
5 laws.

6 PAUL SHECHTMAN: I don't mean to be difficult but
7 it shows collaboration in 2017. It would not happen
8 today.

9 CHAIRPERSON HANIF: To move on, does DOC ever
10 delay release of the — for the purpose of
11 facilitating ICE arrests?

12 PAUL SHECHTMAN: No.

13 CHAIRPERSON HANIF: I have another email dating
14 back to 2017 between Captain Deshan Rainey and ICE
15 officer Nicole Francis about a detained individual
16 who was ordered release on a Tuesday scheduling for
17 ICE's ability to pick up on Wednesday, assuring ICE
18 that "pick up will be easy." The email then
19 continues offline. Captain Rainey asks, I have to
20 call her so the conversation is continued off email.
21 How do you explain this?

22 PAUL SHECHTMAN: I assume it happened in 2017.
23 It would not happen today.

24 CHAIRPERSON HANIF: How do you hold that to
25 account? What are the practices right now?

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3 PAUL SHECHTMAN: The practices are what I said.
4 Our only communication involves individuals with a
5 qualifying offense. There's a terrorist list
6 provision, we've never had anybody in my knowledge
7 who satisfied it in recent years.

8 So, all of our communication involves individuals
9 with qualifying offenses consistent with city law.
10 We tell ICE that the person with a qualifying offense
11 is being released and then we do nothing more. We do
12 not hold that person. If ICE shows up, we turn that
13 person over. But all communications with ICE today
14 involve individuals with qualifying convictions.

15 CHAIRPERSON HANIF: Are there specific policy
16 changes that you can point me and this Council to
17 that indicate that communication between Captain
18 Deshan or Rainey and DOC communication has changed?

19 PAUL SHECHTMAN: Uhm, I'm not sure the policy has
20 changed. I'm not sure whether that communication in
21 2017 was consistent with an old policy or not. I can
22 share with you however you want to do it Councilman,
23 our current policy, which would not permit that
24 communication unless the individual had a qualifying
25 offense.

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3 CHAIRPERSON HANIF: Okay, does DOC slow down or
4 change the release process to facilitate ICE arrests?

5 PAUL SHECHTMAN: No.

6 CHAIRPERSON HANIF: Uhm, from another email
7 dating to 2017 between Captain Rainey and an ICE
8 officer indicated by an email that a community
9 members release time is dependent on when ICE will
10 arrive to make an arrest. It states, please advise
11 me when your arrival time will be, so I may inform
12 the facility and have the subject waiting for your
13 arrival. I also have an email from September of that
14 year where DOC affirmatively alerts ICE that a
15 detained individuals attorney called and advised them
16 to act fast in securing a warrant for the detained
17 person. How do you explain this?

18 PAUL SHECHTMAN: Uhm, if it happened, it happened
19 in 2017. It would not happen today and the proof in
20 many ways as they say is in the pudding. We had 109
21 detainers and we released eight people last year,
22 last Fiscal Year. So far this year we have even more
23 detainers and we released three people. It is not
24 our practice to communicate with ICE unless the
25 individual has a qualifying conviction and then only
to say he will be released on this date. If ICE

1 shows up, we will turn them over. If they don't, we
2 will not hold them.
3

4 CHAIRPERSON HANIF: Okay, that's reassuring.
5 Uhm, for MOIA, does MOIA monitor DOC communication
6 with ICE?

7 MICHAEL CLARKE: Uhm, what we do is we don't
8 monitor the conversation or interaction that's taking
9 place between DOC and ICE. We don't have that type
10 of role.

11 CHAIRPERSON HANIF: Could you elaborate on the
12 role that you currently play?

13 MICHAEL CLARKE: Okay. What we do is we engage
14 in conversations with DOC, with NYPD, and/or
15 Department of Probations. We provide technical
16 assistance. We make sure that we get a sense of
17 what's going on in the case and ask specifically what
18 ways we can support them in that process. In making
19 sure that the detainer laws are not violated.

20 CHAIRPERSON HANIF: Understood, we'll come back
21 to MOIA again just to learn a little bit more about
22 the Resbutny case.

23 Turning back to Paul. Would you say that DOC has
24 a culture of collusion and desire to facilitate the
25 deportation of immigrant New Yorkers?

1
2 PAUL SHECHTMAN: You'll be surprised at my answer
3 but the answer is absolutely not.

4 CHAIRPERSON HANIF: I have an email from 2015
5 when DOC signed an email to ICE asking them to pick
6 up someone with a hashtag, team send them back. As
7 well as one on March 2, 2018, in which DOC solicits a
8 detainer from ICE with the subject line, urgent
9 missing detainer.

10 DOC claims that the court is awaiting for these
11 documents but ultimately the detainer is located.

12 DOC informs ICE that you are my boo for real. And
13 BOO FOR REAL are all capitalized. How do you explain
14 this?

15 PAUL SHECHTMAN: Uhm, Councilwoman, 2015 is even
16 before 2017, right? I don't know what happened in
17 2015. If that happened, it was inappropriate. It
18 would not happen today.

19 CHAIRPERSON HANIF: And then the you are my boo
20 for real is from 2018.

21 PAUL SHECHTMAN: It would not happen today.

22 CHAIRPERSON HANIF: What kind of disciplining
23 happens in the team for messages like this that are
24 clearly failing to adhere to our detainer laws.

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3 PAUL SHECHTMAN: I don't know what happened in
4 2015 in terms of discipline. I do not what happened
5 in 2019 in an incident and the individual, officer
6 was disciplined and I think you know Commissioner
7 Molina well enough to know that if there was a
8 failure to abide by this policy, if we to use the
9 expression colluded with ICE, he would take strong
10 disciplinary action.

11 CHAIRPERSON HANIF: Understood. I'd like to pass
12 it to Council Member Powers for some questions.

13 COUNCIL MEMBER POWERS: Thank you. Why wouldn't
14 it happen today? It happened in 2018.

15 PAUL SHECHTMAN: Well, I think the short answer
16 is four years later, new Commissioner, new General
17 Counsel, and people learn lessons. 2019 we made a
18 mistake. The officer was punished. The message was
19 reinforced. I'm quite confident it would not happen
20 today and is not happening.

21 COUNCIL MEMBER POWERS: Does the staffer still
22 work at Department of Corrections?

23 PAUL SHECHTMAN: Uhm, he was terminated.

24 COUNCIL MEMBER POWERS: I think the question is
25 then maybe are appropriate. I understand and I am
grateful for your testimony and I do hope that the

1
2 thing. I don't think it's inappropriate to ask a
3 question about a current employee who has an existent
4 as evidence of something that you admit is a wrong
5 doing.

6 PAUL SHECHTMAN: No, nor do I and I didn't mean
7 to suggest that. I did mean to suggest that I am
8 confident that the law as it exists is being
9 followed. The person was suspended for a period of
10 time. It was, as viewed at the time, not an
11 intentional error. It's hard, whether it is our
12 agency or your City Council to terminate people for
13 mistakes but he was punished.

14 COUNCIL MEMBER POWERS: Okay, I noticed in your
15 testimony and I listened to it. We have a bill, I
16 have a bill, Intro. 185 that impacts the Department
17 of Corrections. Does the agency have a position or
18 the Mayor's Office have a position on that bill?

19 PAUL SHECHTMAN: You have to help me.

20 COUNCIL MEMBER POWERS: Intro. 185. I'll read
21 you the -

22 PAUL SHECHTMAN: It's the provision that
23 basically eliminates the communication of the
24 department.

25 COUNCIL MEMBER POWERS: Hmm, hmm.

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3 PAUL SHECHTMAN: Uhm, no, we don't have a
4 position as such. Our position is simple. If the
5 law changes, we'll follow it. It is an issue of
6 public policy and that's your prerogative not ours.

7 COUNCIL MEMBER POWERS: Okay and Intro. 184,
8 NYPD; I know you guys said you have a no position of
9 no - you have no position on that legislation. Is
10 that fair to say?

11 MICHAEL CLARKE: That's fair to say, yeah, we
12 haven't held anyone in regards to that provision in
13 some time, so.

14 COUNCIL MEMBER POWERS: Okay. In 2018, there was
15 a New York State Court decision which I think changed
16 the way that enforcement happens and then I think
17 subsequent attorney general guidance around this.
18 Are you familiar with that?

19 MICHAEL CLARKE: Yeah, it basically said that
20 because it's a civil detainer, we're not permitted to
21 hold them for 48 hours or beyond the time we would
22 normally release them.

23 COUNCIL MEMBER POWERS: Right.

24 MICHAEL CLARKE: So, we've been complying with
25 that.

3 COUNCIL MEMBER POWERS: And the legislation I
4 have essentially you know I think codifies that the
5 city levels, is that fair to say?

6 MICHAEL CLARKE: I think that's fair to say.

7 COUNCIL MEMBER POWERS: Okay. This is not to
8 pick on you guys but it would be I think, why is
9 there no position? I feel like the Mayor would
10 support that if that's the legal standard of the
11 state and we often have agencies come here and some
12 say they hate my bills and they tell me they like
13 them. Sometimes they love them and they support
14 them. It feels like I'm just confused why there's no
15 position.

16 MICHAEL CLARKE: Yeah, I mean I think it's - I
17 agree with you that it is codifying what pretty much
18 already exists and for that reason, we're not
19 opposing or supporting it. I agree with you that
20 it's codifying what the Court of Appeals has already
21 said.

22 COUNCIL MEMBER POWERS: Okay and I just want to
23 ask - I have a minute and a half actually, so just to
24 clarify, under any circumstances or what
25 circumstances would the NYPD be permitted to detain a
person for civil immigration purposes?

3 MICHAEL CLARKE: Uhm, for civil only, I don't
4 think we could and we don't. You know if there was a
5 judicial warrant, which I don't believe, I mean,
6 rarely if ever happens. You know the context of that
7 warrant may change that but for based on an ICE
8 detainer, I don't think we would.

9 COUNCIL MEMBER POWERS: Okay and is there a
10 reason why the same standard that applies to DOC's
11 ability to detain individual federal immigration
12 enforcement should imply to NYPD?

13 MICHAEL CLARKE: And what's that standard?

14 COUNCIL MEMBER POWERS: The DOC has a different
15 standard I'm familiar with or I guess the question
16 is, it feels like the DOC's policy and the NYPD's
17 policies are different from each other. Am I correct
18 in asserting that?

19 MICHAEL CLARKE: I mean I think there might be
20 some difference. I think that circumstances
21 certainly since 2020 when the state passed Object our
22 Courts Act and we are operating mostly in the court
23 room. So, we've sort of pulled back even more than
24 we had been doing but I'm not familiar enough with
25 DOC's policies and 9131 to comment on what the
differences and the similarities are.

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3 COUNCIL MEMBER POWERS: Okay, we'll send over any
4 questions on it. Did you want to -

5 PAUL SHECHTMAN: No, I just wanted to say this
6 Councilman.

7 COUNCIL MEMBER POWERS: I'm down here today.

8 PAUL SHECHTMAN: I apologize or maybe demoted.
9 And people knowing more than me have now told me, we
10 did change our policy in 2019 after that unfortunate
11 incident to make clear it is what I've said today.

12 COUNCIL MEMBER POWERS: Okay, and just one last
13 question. This is for both agencies. For the NYPD,
14 what is the penalty for a viol- I know you mentioned,
15 DOC mentioned a suspension but maybe a clearer
16 understanding of what the policy or the process is
17 for violating this and for PD similar question.

18 MICHAEL CLARKE: I don't know off the top of my
19 head what it is. I can look at the discipline
20 matrix. It may not be specifically but you know
21 there would be some penalty for violating our patrol
22 guide procedures around this.

23 PAUL SHECHTMAN: I think the answer to that just
24 turns on the circumstances and as a lawyer, I'd say
25 it turns mostly on the men's rea. Was it intentional
as in the emails that have been read this morning?

1
2 Was it an accident? And so, it would vary but there
3 always would be some sanction. We take the policy
4 seriously.

5 COUNCIL MEMBER POWERS: Okay, but this one seemed
6 like more of an accident.

7 PAUL SHECHTMAN: Oh, I agree.

8 COUNCIL MEMBER POWERS: And the last thing, MOIA,
9 to MOIA, do you guys support 184 and 185?

10 MICHAEL CLARKE: MOIA and the city as a whole are
11 strongly committed to ensuring that all New Yorkers
12 can thrive regardless of immigration status. We are
13 reviewing the legislation and look forward to
14 continuing discussions with the Council on the
15 procedures in place to prevent unnecessary
16 cooperation with ICE.

17 COUNCIL MEMBER POWERS: Thank you for that. It
18 doesn't sound like you guys have a position on the
19 bill.

20 MICHAEL CLARKE: Yeah, that's our position.

21 COUNCIL MEMBER POWERS: Okay, thanks.

22 CHAIRPERSON HANIF: Thank you. Is Captain Rainey
23 still in the DOC?

24
25

3 PAUL SHECHTMAN: I think the answer to that is
4 yes but I'd have to check but I think the answer to
5 that is yes.

6 CHAIRPERSON HANIF: We know that she's still
7 there and holding her Captain position. Has there
8 been any disciplining based off of these email
9 exchanges?

10 PAUL SHECHTMAN: I don't know. I mean, as I
11 said, it well predates my time. I don't know if
12 disciplinary action was taken against her. I do know
13 the emails that you read are not our policy and
14 should not have happened.

15 CHAIRPERSON HANIF: We agree, they should not
16 have happened and if there's still emails being sent
17 back and forth, that show the xenophobic culture of
18 this department, it is really unfair to our immigrant
19 community.

20 PAUL SHECHTMAN: Yeah, but look, I don't want to
21 corral but I think xenophobic culture is a statement
22 that suggests it's ongoing. And I had no evidence of
23 that and respectfully, I don't think you have any
24 evidence of that. We are trying very hard to abide
25 by the law here, which limits our communications with
ICE greatly, which prevents us from holding people

3 for ICE to show up. So, whatever happened in 2015 as
4 General Counsel and more importantly, I can tell you
5 this is Commissioner Molina's policy, it will not
6 happen in 2022 or 2023.

7 CHAIRPERSON HANIF: We really hope so because
8 that hashtag team send them back doesn't send that
9 message to immigrants.

10 I'd like to now turn over to colleagues, Council
11 Member Krishnan.

12 COUNCIL MEMBER KRISHNAN: Thank you so much
13 Chairs Hanif and Powers for today's hearing and I
14 appreciate the testimony today. My first question
15 and thank you for your position. I just want to
16 state upfront, you know I understand Counselor that
17 your position is that these practices are not
18 happening now but they were in the past, they
19 predated your tenure. I have to say, I find that and
20 not necessary representations but I find the fact
21 that they're not happening. I find it to be not
22 credible because what really these emails show in the
23 fault request is a culture, a pattern and practice of
24 ICE regularly cooperating, sorry with DOC regularly
25 cooperating with ICE in contravention of the laws
passed by this body.

3 And so, given that's the case, my first question
4 is I'd like to know, when was the last time or has
5 Department of Corrections ever received a signed
6 judicial warrant? And if so, when was the last time?

7 PAUL SHECHTMAN: Not in the past five years.

8 COUNCIL MEMBER KRISHNAN: Not in the past five
9 years but there have been transfers to ICE in the
10 past five years correct?

11 PAUL SHECHTMAN: Indeed.

12 COUNCIL MEMBER KRISHNAN: Okay and what
13 circumstances were those typically?

14 PAUL SHECHTMAN: The only circumstance was the
15 existence of a qualifying offense, a violent or
16 otherwise serious crime. We have notified ICE of the
17 persons release and if they're on time, the person is
18 transferred to their custody.

19 COUNCIL MEMBER KRISHNAN: And how do you document
20 the length of the normal discharge process? It's
21 your testimony that if ICE is late, they don't wait.
22 How do you all document the length of time of the
23 normal discharge process?

24 PAUL SHECHTMAN: Well, some of these matters uhm,
25 involve individuals in our custody on bail. Where
they meet the bail that the court has required of

1 them. And there, our rule is that the person should
2 be released in three hours.
3

4 Three hours is tight and we don't always make it
5 but we try very hard. And so, you do have a record
6 in those cases when the bail was paid and when the
7 release was made and I think 80 percent of them, we
8 do within the three hours. The others will sometimes
9 go slightly over. And in those cases, we release the
10 person. We have a law that says release.

11 The other individuals are sentenced prisoners and
12 there we tell ICE when the release process starts and
13 then the person's out the door. We're not holding on
14 to them if ICE isn't there.

15 COUNCIL MEMBER KRISHNAN: Going back to the
16 larger question of as I mentioned the pattern and
17 practice of DOC violating these laws that City
18 Council in terms of communication with ICE. When did
19 your representation; when did your position as
20 General Counsel of Department of Corrections start?

21 PAUL SHECHTMAN: Uhm, August.

22 COUNCIL MEMBER KRISHNAN: August of this past
23 year?

24 PAUL SHECHTMAN: Yeah, maybe July.
25

3 COUNCIL MEMBER KRISHNAN: July, okay. Given the
4 extent - I mean, the full request is a plea with
5 communications and I understand your testimony that
6 this was in the past but the fact of the matter is it
7 is repeat with cooperation, which raises serious
8 questions about the agencies commitment to actually
9 complying with the statute.

10 And so, given what we're seeing in those foil
11 requests and the response, given statements like,
12 team, send them back and all those kinds of things.
13 When you come in in your position in last year, what
14 are the steps at that point the General Counsel's
15 Office is taking as far as any corrective action,
16 training, any ways to address this situation?

17 Because given how systemic it is and the fact that
18 some of the employees or many of them are still at
19 DOC, it sounds like it's an ongoing issue.

20 PAUL SHECHTMAN: Look, uhm, I don't want to
21 corral. I mean, you have evidence from 2015, 2017,
22 2018. That's a while back.

23 COUNCIL MEMBER KRISHNAN: It's also the three
24 years with evidence 2015, 2017, 2018.

25 PAUL SHECHTMAN: I understand, it's systemic but
the good thing about the City of New York is that

1 agencies can learn and grow and we have. And people
2 have been trained on these policies. My lawyers in
3 the legal division are involved whenever there is,
4 whatever proports to be a qualifying offense.
5 Because often times it's not so easy to determine.
6 The best example of that is if a qualifying offense
7 is out of state. And there you often times have to
8 look at the elements to see if they match New York
9 elements.
10

11 So, I can tell you that my lawyers are involved
12 in these decisions. We are advising whether there is
13 or isn't a qualifying offense and we are doing
14 everything we can to make sure that the communication
15 is limited to what the law allows. And the best
16 proof I can give you of that is just the numbers
17 here.

18 COUNCIL MEMBER KRISHNAN: But Counsel, sorry, I
19 just want to make sure; Chair, if you don't mind, I
20 have a couple more questions to ask if that's okay.
21 Continue please.

22 PAUL SHECHTMAN: No, you're fine.

23 COUNCIL MEMBER KRISHNAN: Anymore testimony?

24 PAUL SHECHTMAN: Not on that topic.
25

3 COUNCIL MEMBER KRISHNAN: So, I do understand
4 that point but it is your testimony that despite the
5 fact that these instances occurred in the past; they
6 did occur over at least several years as far as we
7 know. It is your testimony that those instances
8 revealed in the foil request violated the law. That
9 DOC violated the law in those instances, correct?

10 PAUL SHECHTMAN: It's my testimony that if the
11 law is then was what it is now, those communications
12 should not have occurred.

13 COUNCIL MEMBER KRISHNAN: So, knowing that coming
14 into your position as General Counsel for the agency,
15 knowing that the agency has committed serious
16 transgressions of the law in the past. In the recent
17 past, it's not that long ago, what specifically what
18 corrective measures were taken? Were there any
19 trainings done? Were there any policy amendments,
20 new manuals issued? What corrective practices were
21 taken to ensure no such violation ever happened
22 again?

23 PAUL SHECHTMAN: Our policies were changed in
24 2019 to ensure that they were consistent with the
25 law. I'm confident the training was done because
training is always done when policies have changed.

3 When I came in, I'm unaware of any problems. I'm
4 unaware of any communications that have occurred and
5 as I said, I think you're unaware of any
6 communications that have occurred in my tenure or
7 before.

8 And so, I don't take corrective action when I'm
9 not aware that anything has happened that violates
10 the law. We are being very careful. As I said, my
11 lawyers are involved in each of these and the numbers
12 support that just because you lodge a detainer
13 doesn't mean you get an individual. When your
14 numbers are more than 100 detainees and you're
15 releasing eight people, that should be proof that
16 we're taking our legal obligations quite seriously.

17 COUNCIL MEMBER KRISHNAN: But are there any
18 ongoing trainings to ensure compliance with these
19 legal obligations? It says you have regular
20 trainings at any place of work under civil rights
21 laws or anything else. Are there ongoing trainings
22 given what's happened in the past to ensure there's
23 no future violations of this law?

24 PAUL SHECHTMAN: I'm not aware of ongoing
25 trainings.

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3 COUNCIL MEMBER KRISHNAN: Thank you. My next
4 question is, you do stipulate that the employees that
5 were involved in these communications in the past
6 that DOC are still employees at DOC.

7 PAUL SHECHTMAN: I don't know that sir. I mean,
8 they may be, they may not be, I can get back to you
9 on that. I think some of them are but I don't know.

10 COUNCIL MEMBER KRISHNAN: What was Captain
11 Rainey's position as far as the - or did she have any
12 training responsibilities in her role at DOC at the
13 time that this was all happening?

14 PAUL SHECHTMAN: I don't know.

15 COUNCIL MEMBER KRISHNAN: And so, do you have any
16 sense of those who like Captain Rainey and others who
17 in all likelihood still at DOC, isn't it a concern of
18 yours to that they may have trained other officers as
19 well on these kinds of practices that violate the
20 law?

21 PAUL SHECHTMAN: Uhm, what I care about is that
22 we train people on what is the law. We changed our
23 policies and as I sit here today, I am aware of no
24 instance in the last two years in which we
25 communicated with ICE inappropriately.

3 COUNCIL MEMBER KRISHNAN: It seems to me that
4 given the serious transgressions before, given that
5 the employees have continued in the agency and the
6 likelihood that other employees have also received
7 trainings from them too, it is of grave concern that
8 there are not ongoing trainings right now as to
9 ensure compliance with the law.

10 If in the past what's happened, the fact that a
11 future transgression may happen again to, it seems
12 like a realistic possibility. So, it is of deep
13 concern that there is an ongoing training, just as a
14 general matter, as a preempted matter, to ensure
15 compliance with this law.

16 PAUL SHECHTMAN: I hear you. I would just say
17 the following. This law is easy to comply with. You
18 simply say if it's not a qualifying offense, do not
19 talk to ICE, right? That doesn't require daily
20 training and our people know if it's not a qualifying
21 offense, do not talk to ICE and that is our policy.

22 COUNCIL MEMBER KRISHNAN: Understood and I hear
23 that. As a lawyer myself to, I know the laws are
24 only as good as they are enforced in reality. And my
25 concern would be that the laws and the books my be
there but if the agency and the staff are not

1 actually being trained on them, there's a serious
2 question they could be violated in the future. But
3 thank you. No further questions.

4 PAUL SHECHTMAN: Thank you.

5 CHAIRPERSON HANIF: Thank you Council Member
6 Krishnan. Do any of my other colleagues have follow-
7 ups? Council Member Narcisse.

8 COUNCIL MEMBER NARCISSE: Good morning. How long
9 you had the job?

10 PAUL SHECHTMAN: Since July or August. Not that
11 long.

12 COUNCIL MEMBER NARCISSE: Alright, you're kind of
13 new to it, right?

14 PAUL SHECHTMAN: I am kind of new to it.

15 COUNCIL MEMBER NARCISSE: Alright. Uhm, but
16 there's a lot of I don't know in the answers that we
17 cannot get commitment. So, my thing is, I can
18 understand you're new to the job but when you go
19 back, can you make a commitment for those trainings
20 that we're talking about? Because after all, New
21 York City is a city of immigrants. Am I correct?
22 Because I'm an immigrant myself. I was born in
23 Haiti.

24 PAUL SHECHTMAN: You couldn't be more correct.
25

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3 COUNCIL MEMBER NARCISSE: Alright, so that gives
4 me some hope because I am a person with faith. Like,
5 New York City is a great city and we're going to do
6 our very best to make sure everyone that steps in the
7 city, that feel welcome and treated fairly and knows
8 their right and we're going to have to keep on doing
9 that. Because that's what makes us; if anything,
10 that the great city of immigrants, right?

11 PAUL SHECHTMAN: Councilwoman, I don't think
12 you've had that many I don't know from me.

13 COUNCIL MEMBER NARCISSE: Uh, no, in refer to
14 Shekar's question about the training, I realized
15 there was a lot of I don't know.

16 PAUL SHECHTMAN: I promise you both this. I will
17 go back and I will reenforce with the unit in charge
18 here, what the rules are. I have no sense whatsoever
19 that they're violating them. None, but I will make
20 clear to people, that two distinguished members of
21 this Committee wanted me to reenforce it and I will.

22 COUNCIL MEMBER NARCISSE: And I believe that
23 because we have faith here. Because we're hoping
24 when we put a law in place, that it follows because
25 this is an immigrant city.

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3 How often does the Department of Probation
4 receive detainer requests?

5 PAUL SHECHTMAN: Uhm, I can give you the exact
6 number. I'm sorry oh, for probation?

7 COUNCIL MEMBER NARCISSE: Yeah, Department of
8 Probation.

9 PAUL SHECHTMAN: I'm happy not to answer that
10 question.

11 COUNCIL MEMBER NARCISSE: Alright.

12 WAYNE MCKENZIE: The Department has received zero
13 detainer requests and there is zero cooperation in
14 that regard.

15 COUNCIL MEMBER NARCISSE: Thank you. What is the
16 internal process for how DOP handles a detainer
17 request?

18 WAYNE MCKENZIE: Is that for probation?

19 COUNCIL MEMBER NARCISSE: Department of
20 Probation, DOP.

21 WAYNE MCKENZIE: Okay, so not only detainer
22 requests but any communications from ICE is directed
23 to the Office of General Counsel for my personal
24 attention.

25 COUNCIL MEMBER NARCISSE: Thank you. Both NYPD
and DOC have previously posted detainer reports

1 available online from as far back as 2013. I mean
2 for NYPD and 2017 for DOC. Why does DOP only post
3 the most recent detainer report online?
4

5 WAYNE MCKENZIE: As far as I am aware, our
6 numbers have always been zero and so, if you're
7 saying that prior reports were not there, I will go
8 back and look into that.

9 COUNCIL MEMBER NARCISSE: Thank you. You commit
10 to post all of them online, right?

11 WAYNE MCKENZIE: When it's zero, yes.

12 COUNCIL MEMBER NARCISSE: Alright, even the zero.
13 We want to know the zero. When an immigrant is
14 called to appear at DOP, when ICE officers are
15 present, who is making that call, DOP or ICE?

16 WAYNE MCKENZIE: To my knowledge, there are no
17 ICE officials present at DOP when our clients come to
18 see their probation officers.

19 COUNCIL MEMBER NARCISSE: Thank you. Will you
20 commit to reporting on the exchange of information
21 regardless of who initiated the exchange, rather than
22 as a response to federal authority requests. Do you
23 like every single exchange between the two agencies?

24 WAYNE MCKENZIE: Uh, we keep records of the
25 detainer requests, which as I've stated before are

1 zero. In terms of every single interaction, the
2 answer to that is no.
3

4 COUNCIL MEMBER NARCISSE: Thank you. Who is DOP
5 exchanging info with ICE?

6 WAYNE MCKENZIE: We are not exchanging any
7 information with ICE.

8 COUNCIL MEMBER NARCISSE: You probably say I'm
9 persistent and consistent right? Uhm, who initiates
10 information exchange between DOP and ICE? Is that
11 documented, tracked?

12 WAYNE MCKENZIE: No one initiates that exchange
13 and as I've said, any inquiries coming from ICE of
14 any nature are directed to the Office of General
15 Counsel.

16 COUNCIL MEMBER NARCISSE: One last question
17 Chair, is that okay? Under consensus, would DOP
18 affirmatively reach out to federal immigration
19 authorities?

20 WAYNE MCKENZIE: The answer to that is no.

21 COUNCIL MEMBER NARCISSE: I appreciate your time.
22 Thank you so much. Thank you Chair.

23 CHAIRPERSON HANIF: Thank you so much. For the
24 DOC, can we get a copy of the change or updated
25 policy that you had referred to from 2019?

3 PAUL SHECHTMAN: I'm never sure what our policy
4 is with sharing with Council but I'll go back and if
5 it's consistent with our policy, no reason you
6 shouldn't have it.

7 CHAIRPERSON HANIF: Could you elaborate about
8 what that means? You can't share with us the policy
9 -

10 PAUL SHECHTMAN: I know there are other policies
11 we haven't shared with Council because of security
12 reasons. I don't know if this is a policy we can
13 share but it may well be. And so, if you will give
14 me an opportunity to check, I'm happy to -

15 CHAIRPERSON HANIF: That would be great. We
16 would really appreciate that. And the testimony we
17 heard from the Neighborhood Defender Services,
18 involves a case where DOC detainer law violation
19 occurred in 2022.

20 PAUL SHECHTMAN: No, can I speak to that?

21 CHAIRPERSON HANIF: Go for it.

22 PAUL SHECHTMAN: So, here is what I know. That
23 individual was presented to us in the court house and
24 I believe I'm right in saying the court house in
25 Manhattan and presented to us to take him into
custody. We didn't because there was no securing

1
2 order. In other words, there was no order saying he
3 had bailed a post and handed posted it. And so, we
4 simply said to the NYPD, we can't take him. At that
5 point, he went back and I do think; I don't live in a
6 world where one should assign blame, but I do think
7 the District Attorney's Office has said publicly that
8 they made a mistake involving ICE and bringing ICE in
9 and taking him into ICE custody. But we had no role
10 in that incident whatsoever, other than to say, we
11 can't take him into our custody because there is no
12 bail that we're aware of that has been set.

13 After that, what occurred seems to be self help
14 on the part of the District Attorney's Office and
15 self-help that I think the District Attorney has
16 said, shouldn't have happened. I will tell you this
17 Councilwoman. It's created a problem because that
18 person was then written back out of immigration
19 custody to face the charges in Supreme Court. He is
20 now in our custody because he was brought into us as
21 what is called a borrowed individual. We borrowed
22 him from federal custody. We're going to have a
23 great deal of trouble not giving him back to ICE,
24 right because they brought him to us in response to a
25 writ. And so, we would be thrilled if the District

3 Attorney's Office and other agencies found a way to
4 get him so that he doesn't go back into ICE custody,
5 where he wouldn't have been but for communications
6 that seemed to be wrongful.

7 CHAIRPERSON HANIF: Thank you. I'd like to turn
8 to MOIA for a few questions. Could you share the
9 role that MOIA plays in the implementation of our
10 city's detainer laws?

11 MIQUEL SANTANA: Yes of course. We serve in two
12 different capacities. First and foremost as a
13 consultant/advisor, however, you know there's no
14 specific role under the city detainers law for MOIA.
15 We do have a charter mandate that requires us to play
16 an advisory role on questions related to
17 implementation of these laws.

18 In general, we support agencies whose expertise
19 is not on immigration issues and we also serve as a
20 trusted liaison to the community at large, who works
21 hard to build bridges between immigrant communities
22 and city government.

23 When advocates have concerns about detainer laws
24 implementation and bring them to MOIA, we elevate to
25 the appropriate agencies, facilitate dialogue between
the city and the provider, advocate or constituent

3 and we provide agencies with technical assistance on
4 immigration questions.

5 CHAIRPERSON HANIF: Could you elaborate on what
6 kind of consulting or what those meetings look like?
7 Is that like a quarterly meeting that is happening?
8 Is that biweekly conversations? What's the advisory
9 role here?

10 MIGUEL SANTANA: Well, we always - I mean, we
11 have different stakeholders that reach out to us.

12 CHAIRPERSON HANIF: Well, specifically with the
13 DOC and NYPD and DOP.

14 MIQUEL SANTANA: Yes, in terms of DOC, NYPD, and
15 Department of Probation, our objective is to focus on
16 the issues that are being raised at the time that
17 they're being raised. I mean, there's no set
18 timeframe. It's just when these issues arise, then
19 we engage with DOC, DOP and/or NYPD.

20 CHAIRPERSON HANIF: So, outside of an issue or a
21 case, you're not necessarily meeting with DOC, DOP,
22 NYPD?

23 MIQUEL SANTANA: That's correct.

24 CHAIRPERSON HANIF: There's no consulting that's
25 happening on a regular basis?

1
2 MIQUEL SANTANA: Uhm, no consulting unless on a
3 case-by-case basis.

4 CHAIRPERSON HANIF: Could you talk about any
5 investigation that MOIA has conducted into the
6 September 15, 2022 hand over by NYPD and
7 investigators from the Manhattan DA's Office of the
8 case we've been hearing about, Mr. Alexa Resbutny to
9 ICE custody at Manhattan Criminal Court. Is that an
10 incident of a case that would now require you all to
11 begin some consulting and advising?

12 MIQUEL SANTANA: MOIA first learned about this
13 situation on September 29th from the constituents
14 attorney. His attorney followed-up with additional
15 information on October 5th.

16 We responded in more of a liaison role. MOIA
17 immediately elevated the issue to the law department,
18 MOCJ, DOC, the Manhattan DA's Office and NYPD. MOIA
19 has met with these agencies to understand what
20 happened and discuss requests made by the attorney to
21 support their client.

22 MICHAEL CLARKE: And I just want to be clear, he
23 was never in NYPD custody and we never received a
24 detainer. I think as Paul mentioned, probably the
25 Manhattan DA's Office is probably the best place to

1 talk about the whole incident. But he was never in
2 our custody.

3
4 CHAIRPERSON HANIF: Understood, just wanted to
5 get some clarity on what the investigation is looking
6 like in MOIA's court right now.

7 MIQUEL SANTANA: And again, MOIA doesn't do
8 investigations. I mean that falls on you know DOC
9 and the law enforcement entities. What we do is we
10 provide support. We have communications. We engage
11 in finding out what happened in ways that we try to
12 support the person that's being brought up on
13 charges.

14 CHAIRPERSON HANIF: So, are you working with Mr.
15 Resbutny or anyone in his orbit right now?

16 MIQUEL SANTANA: The extent of our -

17 CHAIRPERSON HANIF: Help him or what is that
18 looking like?

19 MIQUEL SANTANA: The extent of our engagement is
20 more so with his attorney.

21 CHAIRPERSON HANIF: And so, are you in touch with
22 the attorney or who in MOIA is the one working on
23 this case?

24 MIQUEL SANTANA: MOIA is engaged with NDS, having
25 conversations.

3 CHAIRPERSON HANIF: Okay. And have you conducted
4 any interviews with the NYPD regarding this incident?
5 And then any interviews with the Manhattan DA's
6 Office regarding this incident? I'm just trying to
7 understand the channel of communication per case that
8 comes up to MOIA.

9 MIQUEL SANTANA: Well, I mean we just engage on
10 fact finding our end and then look at ways that we
11 can support in whatever ways that we can as it
12 relates to that particular case.

13 CHAIRPERSON HANIF: So, the fact finding right
14 now doesn't include conversations with NYPD,
15 Manhattan DA's Office?

16 MICHAEL CLARKE: No, sorry, I mean, I think we've
17 all been in conversations about what happened and
18 trying to figure it out and maybe, you know I
19 understand this was sort of an abnormal and confusing
20 thing that didn't follow the normal protocols but I
21 know I've been on phone calls with MOIA and Danny to
22 try to figure it out. I think ultimately it's
23 Manhattan DA's Offices case and they're the best
24 place to talk about the role. But certainly, you
25 know in my experience when issues are raised to MOIA,
MOIA's attorney's will come to me or other people in

1
2 the NYPD to sort of raise them and figure out if this
3 is a one offense if there's something that we need to
4 fix.

5 I know right now we're working with MOIA or we're
6 going to be working with MOIA to develop a training
7 around sort of various topics and laws related to our
8 interactions with immigrant communities. So, you
9 know those are ways that we sort of collaborate.

10 CHAIRPERSON HANIF: So, for this particular case
11 regarding Mr. Resbutny, you're working on some
12 trainings you mentioned?

13 MICHAEL CLARKE: No, not on this case. Just in
14 general, it's something you know every now and again
15 we look and make sure we're up to date on what we've
16 done. Make sure we've alerted our officers on the
17 rules. So, not based on this case, based on I mean,
18 I guess, the conversations that were inspired by this
19 case but uhm, you know that's just a way of
20 collaborating. Sometimes these discussions come
21 into, is there ways we can improve, right? So, one
22 thing we thought maybe it's just time to update
23 training after these conversations.

24 CHAIRPERSON HANIF: Meaning the conversations
25 about Mr. Resbutny's case?

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3 MICHAEL CLARKE: Right, right.

4 CHAIRPERSON HANIF: Okay, so what kinds of
5 trainings are you all thinking about developing or
6 community conversations?

7 MICHAEL CLARKE: So, right now, we're working on
8 probably you know something to work with our criminal
9 justice bureau specifically and then maybe an NYPD
10 video that we could send out to everyone. But that's
11 still, we're in the early process of trying to figure
12 that out.

13 CHAIRPERSON HANIF: And what role does MOIA play
14 in that?

15 MIQUEL SANTANA: I mean we consult. I mean, we
16 try to engage with whether it's DOP, DOC and NYPD in
17 terms of the content that's being shared out and we
18 also engage with our different legal providers that
19 can also help to frame and shape the content that's
20 going to be disseminated ultimately to the public.

21 CHAIRPERSON HANIF: So, is MOIA working on any
22 recourse support Mr. Resbutny or engage with the
23 community to better understand what justice for him
24 looks like?

25 MIQUEL SANTANA: You know, we have to defer first
and foremost obviously to the District Attorney's

3 Office. We don't know the extent of their process in
4 that matter. So, right now you know we're available
5 to support but we can't take the lead in that
6 process.

7 CHAIRPERSON HANIF: I see, okay, so in 2021 when
8 the city's detainer laws were violated against Javier
9 Castillo Maradiaga, the New York City Law Department
10 provided a letter acknowledging the violations that
11 occurred. Will a similar letter be supplied for Mr.
12 Resbutny?

13 MIQUEL SANTANA: We'll take that back and we'll
14 circle back with you to have a response for you.

15 CHAIRPERSON HANIF: Yeah, I'm just trying to
16 understand the role captured by MOIA as it comes to
17 the detainer laws and how exactly you're
18 administering. I mean, it sounds like there is no
19 oversight role that MOIA plays outside of an advisory
20 role that is sounding a little vague from the
21 responses. But if you can provide anything tangible
22 in like what particular cases have yielded and
23 especially with Mr. Resbutny's case, we will be
24 really keeping our eyes peeled on what comes out of
25 MOIA, if anything. But we also want to see MOIA be a

3 partner in the fight for immigrant justice, which you
4 all of course prioritize and play the role of.

5 MIQUEL SANTANA: Yes, I mean, again, you know we
6 are serving in the capacity of consultants as
7 mandated by the Charter and as a trusted liaison and
8 our objective is, this already has been elevated in
9 terms of you know engaging all the appropriate
10 agencies. But the bottom line is we want to
11 facilitate that dialogue, engage with the different
12 entities that are involved in this process and
13 provide the technical assistance that we can provide
14 as it relates to these immigrant related issues.

15 CHAIRPERSON HANIF: Does this mayoral
16 administration take a different position on
17 affirmatively supporting immigrant New Yorkers and
18 defending the city's sanctuary laws than the last
19 administration?

20 MIQUEL SANTANA: I mean, our administration is
21 committed, committed to supporting immigrant New
22 Yorkers throughout this process and making sure that
23 you know their rights are not violated as a result of
24 the detainer laws. So, that's our position.

25 CHAIRPERSON HANIF: Thank you. Council Member
Joseph.

3 COUNCIL MEMBER JOSEPH: Thank you Chair. So, one
4 of the good things I'm hearing out of this
5 conversation is that each and every one of your
6 agencies is taking responsibility for dropping the
7 ball, is that correct?

8 PAUL SHECHTMAN: It depends if when the question
9 is, when did we drop it?

10 COUNCIL MEMBER JOSEPH: Oh when the gentlemen
11 wound up in ICE.

12 PAUL SHECHTMAN: Oh, not, no, we have no
13 responsibility in that.

14 COUNCIL MEMBER JOSEPH: Hmm.

15 PAUL SHECHTMAN: We don't. I mean, the person
16 was not in our custody and we didn't communicate with
17 ICE. So, this one I'm happy to say is not on us.

18 COUNCIL MEMBER JOSEPH: Okay, good. It's not on
19 you, okay. NYPD suggested that there would be
20 training, why has it taken so long to start training?

21 MICHAEL CLARKE: I mean, I'm not saying that we
22 haven't ever had training, I'm saying we are doing a
23 refresher training. I don't know what the training
24 was in the past but this is a refresher training. I
25 know we put out notices. We have a patrol guide
procedure on you know these laws. When people in

3 terms of the detainer laws, all the detainers come
4 through our Criminal Justice Bureau, which is
5 responsible for central booking. Officers are
6 instructed and informed of their obligations when
7 they join that unit but this is more of a refresher
8 training to go make sure everyone's -

9 COUNCIL MEMBER JOSEPH: On the same page?

10 MICHAEL CLARKE: Right.

11 COUNCIL MEMBER JOSEPH: Pretty much.

12 MICHAEL CLARKE: Yeah.

13 COUNCIL MEMBER JOSEPH: Okay, so when someone is
14 being released from the criminal court after a
15 conviction right, who runs the warrant check?

16 MICHAEL CLARKE: So, I guess maybe it would be
17 helpful to explain a little bit how the process works
18 for NYPD. So, the way it all starts off is when we
19 have an arrest, we fingerprint people. It is
20 fingerprinted through; we have mandatory
21 fingerprinting on the Criminal Procedure Law for
22 felonies and penal, on misdemeanors and a few other
23 uhm, for instance if it's a violation that could be
24 bumped up to a misdemeanor if it is a second
25 conviction, that would be something we fingerprint
on.

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3 It goes to DCGS, which is a state board that
4 handles fingerprints and then goes to the federal
5 government. The federal government would then
6 determine whether they want to lodge a detainer. If
7 they did and I just, you know individuals are only in
8 our custody for 24 hours. If they do it in time, it
9 will come to us. In which our case, our individuals
10 in the CJB would do a review of the rap sheet and
11 look at the warrant. Again, you know in the last few
12 reporting periods we've honored zero of them and
13 facilitate no transfers to ICE. If a person after
14 arraignment it goes to DOC custody, we would send the
15 detainer along with them. If they're released, then
16 it just stays with us.

17 COUNCIL MEMBER JOSEPH: But DOC determine whether
18 they'll notify the transfer to ICE or no? Yes or no?

19 PAUL SHECHTMAN: Uhm.

20 COUNCIL MEMBER JOSEPH: Yes sir.

21 PAUL SHECHTMAN: How are you?

22 COUNCIL MEMBER JOSEPH: Okay.

23 PAUL SHECHTMAN: We'll only notify ICE if there
24 is a qualifying conviction and that we do do. And
25 again, you see it in the numbers.

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3 COUNCIL MEMBER JOSEPH: Yes. Where are generally
4 held in a holding cell, court house or elsewhere?

5 Where do you normally hold them until they are
6 transferred, picked up, how ever you want to call it?

7 PAUL SHECHTMAN: Our policy is not to notify ICE
8 in the court house. So, none of our employees at the
9 court house are empowered to call ICE. And that I
10 think is consistent with City Law about not having
11 ICE come to court houses.

12 So, in my remarks, what I said is, one of the
13 conditions is that the person be on Riker's Island
14 and if the person isn't on Riker's Island or on the
15 boat, as people call it, we won't notify ICE.

16 COUNCIL MEMBER JOSEPH: Uhm, do you communicate
17 with OCA personnel about individuals to whom
18 detainers are honored that ICE is notified? At what
19 point is OCA notified?

20 MICHAEL CLARKE: So, I think OCA would know when
21 the person comes to arraignment whether an ICE
22 detainer has been lodged.

23 COUNCIL MEMBER JOSEPH: Okay, what is considered
24 a violation of the detainers law?

25 PAUL SHECHTMAN: I think the answer to that is
any communication that isn't exempt under the law.

3 That being communication involving qualifying
4 individuals and terrorist matches, and use of city
5 resources to assist ICE.

6 I think if we held somebody beyond the time
7 authorized by law, that would be a violation of that
8 law as well. So, that's why our policy is shaped the
9 way it is.

10 COUNCIL MEMBER JOSEPH: Thank you. Thank you
11 Chair.

12 CHAIRPERSON HANIF: Thank you. I'd like to
13 follow-up with DOP about were someone is called into
14 DOP and they happen to be taken in by ICE. How often
15 does that happen and how is that tracked?

16 WAYNE MCKENZIE: I actually did an inquiry
17 specifically for this hearing over the last few years
18 and we have no incidents of that occurring.

19 CHAIRPERSON HANIF: What kind of an inquiry was
20 that?

21 WAYNE MCKENZIE: With or without. So, if someone
22 for example, I can say there is no one who has been
23 taken into custody from ICE on any DOP premises. If
24 ICE was operating out of a court house, we might, the
25 probation officer might know everything. I've

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3 checked that and the response to that over the past
4 number of years has also been negative.

5 CHAIRPERSON HANIF: I see and how would any
6 conversations between DOP and ICE be logged?

7 WAYNE MCKENZIE: Any and all conversations with
8 ICE; any inquiries that come from ICE are
9 automatically referred to the Office of General
10 Counsel. If it involves a detainer request for law,
11 we would log that. As I've stated before, we
12 received zero detainers, detainer requests.

13 CHAIRPERSON HANIF: Thank you. Those are all my
14 questions. Thank you.

15 PANEL: Thank you.

16 COMMITTEE COUNSEL: Thank you. We will be
17 calling public panels next but we'll give the
18 Administration a few moments. [1:48:47-1:49:52].

19 Thank you. We will now call for public
20 testimony. For public witnesses, once your name is
21 called, if you are joining us by Zoom, a member of
22 our staff will unmute you and the Sergeant at Arms
23 will give you the go ahead to begin after setting the
24 timer. So, please listen for that queue.

25 For fairness of all testifying today, all public
26 testimony will be limited to two minutes per person.

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3 When the Sergeant announces that your two minutes are
4 up, we ask that you please wrap up testimony, so we
5 can move on to the next person. As I mentioned, we
6 do have a hard stop at 1:00 p.m.. For those of you
7 who are here in person, once your name is called, you
8 can come up to the dais or to the table and give your
9 testimony once everyone has settled.

10 If you have not already registered to testify and
11 you are present in person today, please speak with
12 the Sergeant at Arms and make sure to fill out a
13 witness slip. I will now call the first panel. We
14 have Janay Cauthen, Alex Zooker, Cheryl Adradra and
15 Ravi Ragbir.

16 JANAY CAUTHEN: Good afternoon everyone. My name
17 is Janay Cauthen. I am the Executive Director of
18 Families For Freedom Organization, which is the
19 immigrants rights organization based in New York
20 City. I'm also a child of an immigrant. So, I'm
21 going to share briefly with you a personal story of
22 mine.

23 My former spouse Gene Montraville003(SP?), I met
24 him back in 2003. He was on parole for a drug
25 offense that he committed at the age of 19. In 2005,
he received a letter in the mail from Department of

3 Probation stating that they were going to release him
4 early for good behavior. It turned out to be an ICE
5 sweep. He was deported back to Haiti in 2018.

6 Fortunately, we were able to get them back but as I
7 sat here with the previous panel and I hear them say,
8 oh a mistake. A mistake has changed and damaged a
9 lot of peoples lives and it must stop.

10 I'm going to share with you another story of a
11 mistake of a client that swept families of freedom.
12 His name is Wayne Gardene(SP?). He served 29 years
13 in the state penitentiary for a crime he didn't
14 commit. Only for the detective who was working in
15 the 30th Precinct in the Bronx, which was formerly
16 known as the dirty thirty, because they targeted
17 Black and Brown people back in the days.

18 Wayne was looking forward to being released from
19 jail in April of 2022 only to be met with ICE. I'm
20 going to read to you a letter from the Legal Aid
21 Society.

22 The Legal Aid Society wrongful conviction unit is
23 currently representing Wayne Gardene, a 48-year-old
24 Jamaican American man who was unjustly incarcerated
25 for 28 years for a 1994 shooting that he did not
commit. Now, the detective has recanted his story

3 and we still have to wait patiently to see when he's
4 going to be released from a detention center.

5 I tried to get his mom to come speak but she is
6 heartbroken because has been living without her one
7 and only son for nearly three decades for a crime
8 that they did not commit.

9 New York City is a no IMPI and immigrants should
10 be welcome here and the Police Department, the
11 Correction Department, Department of Parole,
12 Department of Probation should not be sharing
13 information because at the end of the day, when you
14 are an immigrant in New York you don't have a right
15 to an attorney like citizens do. And detention
16 centers are a horrible place and it's very inhumane.

17 We currently service members of the immigrant
18 community that's scared to report crime that's
19 happening to them in New York City because they don't
20 want ICE to be reported. I've heard with my own two
21 ears recently when I was in the Bronx, there was some
22 kids play fighting in the street. They were of
23 Hispanic descent and the NYPD Officer called and I'm
24 going to quote his exact words. "If you all don't
25 cut it out, I'm going to send you back to your
country."

3 This is un-right and this is unjust and I'm happy
4 I have the chance to testify and I'm happy that you
5 introduced these bills because we need to pass
6 something. New York City is a sanctuary city.
7 Everyone should be welcome here.

8 I just testified at a press conference a couple
9 of weeks ago. My former job before I started running
10 Families For Freedom was the New York City Department
11 of Homeless Services. New York City Department of
12 Homeless Services have rules for citizens and they
13 have rules for the immigrant community.

14 I remember about prepandemic 2018 when I was
15 working at Auburn Homeless Shelter, someone committed
16 suicide, which was a citizen. That room was quickly
17 put offline but in December, one of the migrants that
18 were transported here from Texas, he killed his self-
19 due to stress. He just couldn't take it and his
20 family was forced to sleep in the same room that he
21 killed his self in. This is inhumane treatment and
22 it must stop. Thank you.

23 RAVI RAGBIR: Thank you. My name is Ravi Ragbir,
24 I'm the Executive Director of the New Sanctuary
25 Coalition. We work with people who are facing
deportation and many of them have criminal

1 convictions, which you have heard about similar
2 stories of them being taken away from DOC and in
3 their interaction with NYPD. But I also wanted to –
4 I actually will talk about my own case where in
5 January 2018, when ICE shackled me to take me away,
6 the NYPD was very closely walking with them.
7 Including when I went to the hospital, the officers
8 came in full riot gear with guns and there label was
9 Joint Terrorism Task Force.
10

11 And it was very bazaar that uhm, the Terrorism
12 Task Force would be involved in that. I don't know
13 if I'm a terrorist. I know I am a dangerous person
14 to ICE because I speak up against them but that
15 doesn't mean that there should be this outrageous
16 response working with ICE.

17 I also wanted to speak to some of the questions
18 that Councilwoman Narcisse had about medical. Being
19 in immigration myself, detained in immigration
20 myself, there is little or no medical access and if
21 someone is suffering from mental trauma or they have
22 medication that will issue from a doctor on the
23 outside, the detention centers do not give anything
24 like that. If you have any mental – if you have any
25

3 depressive nature, they will probably give you what
4 do you call those things – antihistamines.

5 They will give them those things that will put
6 them to sleep but not actually treating the problem
7 itself. I'll stop here but there is a lot of stories
8 I could tell you. If you need to, you can reach out
9 to me for more stories about the inhumanities but
10 also the interaction between ICE and NYPD and DOC.
11 Thank you.

12 COMMITTEE COUNSEL: Thank you. Next we will move
13 to Alex Zooker(SP?) followed by Cheryl Andrada, then
14 Lena Graber. All three of these witnesses are on
15 Zoom. Alex, you can go ahead when the Sergeant calls
16 time.

17 SERGEANT AT ARMS: Starting time.

18 ALEX ZOOKER: Thank you. Thank you the
19 Committees on Immigration and on Criminal Justice for
20 holding this public hearing to address New York City
21 detainer laws. My name is Alex Zooker(SP?), I'm the
22 child of an immigrant and a member of the New York
23 City Chapter of Showing up for Racial Justice, SURJ
24 short.

25 I'm testifying in support of Intro.'s 184 and 185
and in support of passing Intro. 158. Thank you

3 Council Members for introducing these bills. SURJ is
4 a national organization created to move White people
5 into action as part of the multiracial movement for
6 justice and liberation for all.

7 The system of White supremacy harms everyone,
8 including White people in very different ways than it
9 harms people of color and Black people in particular.

10 On the bills you're considering today, just a few
11 words. Intro. 158, we support the City Council
12 adopting this bill, maintaining this bill or sorry,
13 adopting this bill for a private right of action by
14 people harmed by the city's action due to violations
15 of the detainer law, so that they and their families
16 can be justly compensated.

17 NYPD, DOC and ICE are institutions created to
18 uphold White Supremacy. The violence they commit is
19 not because they are "broken" or "failing" but it is
20 in their nature. It is what they are designed to do.

21 On Intro. 184, we support the requirement of a
22 judicial warrant in every case where DOC or NYPD
23 wishes to communicate with ICE. The current law
24 allows for abuse by ICE, which has repeatedly shown
25 itself to be a bad faith actor, showing immigrants

1
2 administrative warrants and pretending they are
3 judicial.

4 On Intro. 185, we strongly support eliminating
5 the criminal carveouts that allow DOC and NYPD to
6 transfer people into federal custody based on their
7 so-called criminal history or matches on a government
8 watchlist.

9 SERGEANT AT ARMS: Time expired.

10 ALEX ZOOKER: Even the White Supremacist nature
11 of the police in jails and surveillance that make up
12 the prison industrial complex, Black and Brown
13 people, including immigrants are disproportionately
14 policed in this city and therefore more likely to
15 have contacted the criminal legal system. Policing,
16 whether by NYPD or ICE is a system of social control.
17 It does not provide public safety and is not meant
18 to. It is time for the city to end its complicity in
19 this practice.

20 You've already heard about the abuses committed
21 by ICE, the NYPD and DOC and I'm sure you will hear
22 more today. SURJ NYC has been part of the organizing
23 to end the abuses -

24 COMMITTEE COUNSEL: Thank you.
25

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3 ALEX ZOOKER: We urge the City Council to do the
4 right thing by adopting all three of the bills the
5 Committees are considering today. Thank you for your
6 time.

7 CHAIRPERSON HANIF: Thank you Alex.

8 COMMITTEE COUNSEL: Cheryl Andrada is next. You
9 can go ahead when the Sergeants call time.

10 SERGEANT AT ARMS: Starting time.

11 CHERYL ANDRADA: Thank you Council for holding
12 this important meeting today. My name is Cheryl
13 Andrada and I'm an Immigration Attorney at the Legal
14 Aid Society. In my role, I collaborate with other
15 public defenders to minimize the immigration
16 consequences to our noncitizen clients.

17 In 2018, Legal Aid represented a mentally ill
18 green card holder who I will refer to as Mr. S. Mr.
19 S. had prior misdemeanor convictions that made him
20 deportable and a felony conviction which notably
21 itself was not a deportable offense but which happens
22 to fall within the 177 carveout.

23 Our public defenders negotiated a plea in mental
24 health court that preserved his ability to remain in
25 the United States if he ended up in removal
proceedings. But once he plead guilty, Mr. S. was

1 returned to Riker's sensibly for mental health
2 discharge planning but once there, he was turned over
3 to ICE, even though ICE never showed DOC a warrant
4 from a federal judge.
5

6 DOC justified the transfer under the
7 communication loophole of the detainer law. In this
8 example, DOC's coordination went beyond
9 communication. They informed ICE of the date and
10 time of the release. They allowed ICE on Riker's to
11 make the arrest for a civil immigration law
12 violation. They oversaw the transfer to ICE and they
13 recorded the transfer on the public DOC website.
14 DOC's justification was that as a public safety
15 policy, they had to ensure a so-called orderly
16 transfer to ICE when someone has a conviction under
17 the 177 carveout.

18 So, Mr. S.'s example here is just one example of
19 continued abuse and deliberate misinterpretation of
20 the detainer law. This example highlights three key
21 points. First, that non-citizens are still handed
22 over to ICE. Second, that DOC still abuses the
23 communication loophole to evade the detainer law.
24 And lastly, that the 177 crime carveout has been used
25 to the detainer law.

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3 Today's bills don't eliminate the 177 carveout
4 but we respectfully urge the Council to include
5 amendments that would abolish the carveout all
6 together and ensure that all New Yorkers are afforded
7 equal protection.

8 If New York is truly a sanctuary city, this
9 Council must amend the detainer law to prohibit DOC
10 and the NYPD from abusing the communication loophole
11 and to provide a private right of action for those
12 harmed by detainer law violations. Thank you for
13 your time.

14 COMMITTEE COUNSEL: Thank you. The last witness
15 on this panel will be Lena Graber. Lena, you can go
16 ahead when the Sergeants call time.

17 SERGEANT AT ARMS: Starting time.

18 LENA GRABER: Thank you. My name Lena Graber and
19 I'm Senior Staff Attorney at the Immigrant Legal
20 Resource Center. I'm an actual expert on immigration
21 enforcement and how local law enforcement agencies
22 work with ICE. For more than a decade, the ILRC has
23 tracked local policies that promote immigrant rights
24 and restrict local agencies from participating in the
25 immigrant enforcement.

3 New York City like many places across the country
4 passed key legislation in 2014 to stop unlawfully
5 imprisoning people on ICE detainers but the correct
6 policy as was just alluded to and leaving aside any
7 violations that take place, nonetheless still allows
8 the continued involvement of Department of
9 Corrections and facilitating immigration arrests.
10 Leading to the indefinite detention and deportation
11 and the many other horrors attested to by those who
12 spoke before me.

13 Other comparable jurisdictions across the
14 country, covering populous cities like Chicago, Los
15 Angeles, Washington DC, Seattle, San Jose, and
16 Philadelphia, as well as many other localities across
17 the country have enacted local policies that fully
18 prohibit all such participation in the deportation of
19 their own residents.

20 It is frankly shocking that New York City, a
21 global symbol of immigration continues to lack a
22 strong policy that protects all of its immigrant
23 residents from deportation by their own public
24 servant. Thank you.

25 COMMITTEE COUNSEL: Thank you. Council Member,
do you have any questions.

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3 CHAIRPERSON HANIF: I do have a question for Ravi
4 if you could come back. Could you remind us what
5 year you were arrested or detained? And you said
6 that the officers that showed up were from the Joint
7 Terrorism Task Force?

8 RAVI RAGBIR: Correct. It is 2018, January 11,
9 2018, and there were at least a half a dozen of JTTF
10 officers present in the courtroom. Sorry, in the
11 hospital as they take me away.

12 CHAIRPERSON HANIF: And then could you describe
13 the work of the New Sanctuary Coalition where the
14 members, what kind of work you are engaging in right
15 now?

16 RAVI RAGBIR: New Sanctuary Coalition believes no
17 one should be deported because the law itself is
18 racist in dehumanizing. Our membership includes
19 everyone, which is strange to say but for people who
20 need help, they can come to us. When you say those
21 who need help, you're speaking of immigrants who
22 don't have access to any legal resources or don't
23 have uhm or need information, who just need working
24 with them.

25 So, we had an accompanying program where we would
accompany them to the court. We would accompany them

3 to any interaction with immigration officers, so the
4 officers themselves, the court itself would learn to
5 treat our immigrant community with respect and
6 dignity. This happened and in fact, we were doing
7 100 accompaniments a week, which meant we had about
8 500 citizens who accompany people.

9 So, the other group you are speaking of, is sort
10 of apart from the people who need help, we also
11 organize people who can help citizens from various
12 levels, including talking with lawyers. We worked
13 with elected officials. We especially worked with
14 faith communities where we were able to create
15 sanctuary spaces. In fact, we had four sanctuary,
16 four members who took sanctuary in the former
17 administration because they will be targeted by
18 immigration and custom enforcement.

19 In fact, in the early days of that
20 administration, they were telling people to walk with
21 the tickets on their passports which was so wrong.
22 So, that's one of the ways we found out that people
23 were going to be targeted and taken away and they
24 took Sanctuary and a few of our churches in New York
25 City.

CHAIRPERSON HANIF: Thank you.

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3 RAVI RAGBIR: Oh, I have one more question. That
4 this happen in 2018, with the law, the new
5 legislation that you created to be able to sue the
6 city. Would I be able to assess that as proactive
7 and I should. Go ahead.

8 CHAIRPERSON HANIF: I'll have to double check but
9 my understanding is that you should be able to.

10 RAVI RAGBIR: Great, they owe me a lot. I'm
11 sorry.

12 CHAIRPERSON HANIF: No, thank you.

13 RAVI RAGBIR: Thank you.

14 COMMITTEE COUNSEL: Thank you. The next panel we
15 have up is Esab Alonzo(SP?), Terry Lawson and Rosa
16 Cohen Cruz. You can go ahead and get started.

17 ROSA COHEN CRUZ: Good afternoon, my name is Rosa
18 Cohen Cruz and I'm the Director of Immigration Policy
19 at the Bronx Defenders. I would like to thank the
20 New York City Council and Council Member Hanif for
21 holding this important hearing, so we may hopefully
22 hold the NYPD, DOC and DOP accountable to the
23 countless harms to immigrant New Yorkers, and
24 prevents them from perpetuating those harms in the
25 future. I'm testifying in favor of Intro.'s 184, 185
and 158. Although I do want to say that the Bronx

3 Defenders supports a clear, concise version of
4 Intro.'s 184 and 185 that is equally applicable to
5 all regardless of criminal legal system contact.

6 There should be no criminal carveouts to this
7 law. We've already seen what happens when City
8 Council draws lines around which immigrants are
9 deserving a full protections. Not only do these
10 agencies use it as an excuse to violate the law for
11 those outside the full protections of the detainer
12 law, but the city then uses these lines to deny
13 critical legal services including access to
14 representation to immigrant New Yorkers. The best
15 version of this bill is one that is equally
16 applicable to all immigrants full stop.

17 We urge City Council to adopt amendments that
18 eliminate the criminal carveout. Intro.'s 184 and
19 185 are crucially important to making sure DOC and
20 NYPD can no longer twist the language of the detainer
21 law and circumvent their intent. We know that the
22 behavior that we heard about from the emails is
23 ongoing.

24 In 2021, we testified about recent examples from
25 that same year where ICE has seemingly known the
minute someone takes a plea to a conviction for one

1 of the 177 qualifying offenses where ICE has delayed
2 release without accounting for the extra time when
3 they should have been at liberty. And DOC testified
4 then and now that ICE has never proffered a judicial
5 warrant when they have transferred custody.
6

7 The simplest read of the testimony we heard of
8 the Department of Corrections, is what advocates have
9 long believed. That DOC continues to knowingly
10 violate the intent of the detainer laws and has in
11 fact been illegally communicating with ICE, detaining
12 people past their release dates and facilitating
13 arrests in the community in actual violation of the
14 laws. It happened in 2015. I happened in 2017. We
15 know it's still happening today.

16 So, we urge the passage of 184 and 185 and it's
17 also crucially important to have a private right of
18 action that holds the city accountable, that makes
19 sure that there is some transparency and that gives
20 us access to documents. The reason we don't have
21 anything since 2017, is because foil requests take a
22 really long time. They take years to process.

23 If we had more recent access to the city, they
24 would have to be more careful and not violating their
25 own laws into the documents. Thank you.

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3 TERRY LAWSON: Thank you. Good morning or good
4 afternoon. My name is Terry Lawson, I'm the
5 Executive Director of Unlocal Community Center
6 Nonprofit. Thank you to the City Council, to Chair
7 Hanif, to the Committee on Immigration and Committee
8 on Criminal Justice for holding this important
9 hearing and for all that you're doing to support
10 Intro.'s 158, 184 and 185.

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

18 It has been two years since we appeared before
19 this Council to urge the city to close the loopholes
20 in our detainer laws. Two years of testifying before
21 this Council. Two years of working behind the scenes
22 to draft and redraft the legislation with our
23 partners at IDP, Bronx Defenders, NYCLU and NYC
24 Coalition. Two years of rallies and press
25 conferences. Two years of waiting for action.

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3 We know the limitations of the law, that it so
4 often fails to put right what has gone horribly
5 wrong. That so rarely can we change the law to make
6 a significant difference in peoples lives. We are
7 here to tell you that you can make this change and it
8 will have an immediate impact on families like Alma's
9 Daniel's Alexi's and Ravi's.

10 Intro. 184 and 185 close the loopholes through
11 its DOC and NYPD had been and continue to collude
12 with ICE in violation of the letter and spirit of the
13 detainer laws passed by this Council in 2014, despite
14 the administrations statement to the contrary today.
15 Collusion, which is openly on display in the email
16 shared today made explicit during DOC's previous
17 testimony before this Council in 2021 and has been
18 revealed today in testimony by Alma, Daniel and the
19 New York Defender Services. We heard the
20 Administration ask us to trust them and we simply
21 cannot. We need legislative change.

22 Intro. 158 will finally create a private right of
23 action so that when those laws are violated, there
24 will be redress for the families who suffer
25 outrageous consequences of Alma and Daniel have so
powerfully testified. We urge you to make right what

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3 New York City has gotten so wrong in its treatment of
4 immigrant families for far too long. Thank you.

5 COMMITTEE COUNSEL: Thank you. Next, we will
6 call Yasmine Farhang, Sophia Gurulé, Tiena Wagnack
7 and Zachery Amid and I apologize if I killed anyone's
8 name.

9 JASMINE FARHANG: Good morning, my name is
10 Yasmine Farhang and I'm the Director of Advocacy with
11 Immigrant Defense Project. Thank you so much to
12 Chair Hanif for your leadership. In this work and in
13 this hearing and thank you to the Committee's on
14 Immigration and Criminal Justice for holding this
15 hearing.

16 I do want to take a minute to note how fortunate
17 it is that the representatives from DOC and the rest
18 of the panel are no longer here with us to hear this
19 testimony. We are here to strongly condemn the
20 city's years of intentionally flouting our key
21 detainer laws and in support of the three key bills
22 before the Council today. But I want to take a step
23 back for a moment, back to the oversight hearing in
24 2021. It was not that long ago. Where many of the
25 same advocates and community members appeared to
testify before the Council.

3 We heard multiple statements from DOC officials
4 denying collusion with at that time. DOC Chief of
5 Security Kenneth Stooks stated at that time, "it is
6 not DOC policy to retain individuals due to
7 immigration detainers beyond their time authorized."

8 DOC Deputy Commissioner Heidi Grossman, who was
9 here earlier today and has left, stated at the time,
10 "someone should generally be released within three
11 hours of notice of bail paid." Stooks later said,
12 "we don't comply with the detainer in the sense that
13 we detain the person if they show up, they show up."
14 And later, "we're not holding someone solely to
15 transfer that person to ICE, that's not our policy."

16 At that same hearing, we heard voluminous
17 testimony directly in contradiction to all of those
18 claims, showing clear facilitation, delay and
19 slowdown of release by DOC for the purpose of
20 ensuring that they would be detained by ICE. Yet DOC
21 refused to acknowledge the reality we've all known on
22 the ground. Today, there can be no more doubt of the
23 troubling relationship between DOC and ICE based on
24 some of the correspondence and there is more and more
25 will be shared between the DOC and ICE.

3 I would like to just address this concern that
4 has been years since those emails. It hasn't been
5 years since we've heard these experiences. Many,
6 many more troubling examples were shared at this
7 hearing in 2021.

8 This foil was filed together by the Immigrant
9 Defense Project and the Black Alliance for Just
10 Immigration and it shows routine illegal
11 communication and really quite frankly, not just a
12 willingness but a desire to facilitate deportation.
13 Captain Rainey who continues to be in her position
14 today in case there was any lack of clarity perhaps
15 made it most clear, referring to DOC and ICE as a
16 team in her email and I think it bears repeating,
17 which she signed with a hashtag, team send them back.

18 It has been over eight years since passage of
19 local laws limiting the city from working as an
20 extension of ICE and our city has fallen short behind
21 the national trend as we heard from Lena Graber
22 earlier as well. This administration simply cannot
23 say out of one side of the mouth that this is a
24 welcoming city for immigrant New Yorkers. And yet,
25 through the other side of the mouth speak with ICE to
funnel people into their custody.

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3 The time is now for New York City to step up as a
4 leader and send a clear message to ICE that our city
5 will not be a pipeline to detention and deportation.
6 Thank you.

7 SOPHIA GURULÈ: Good afternoon, my name is Sophia
8 Gurulè and I'm an Immigration Attorney at the Bronx
9 Defenders. Thank you to the Committees for this
10 public space to speak about this important issue.
11 New York City needs to tighten its 2014 detainer laws
12 which were a critical step in narrowing their arrest
13 to Rikers to deportation pipeline in New York City.
14 But now nearly a decade and three presidencies later,
15 must be updated to address today's realities.

16 Immigrant New Yorkers continue to be funneled
17 into ICE's hands by New York City Law Enforcement
18 agencies in violation of these laws. These agencies
19 don't even hide their xenophobic contempt for
20 immigrants nor their cozy personal relationships with
21 ICE. I'm going to repeat what other people have said
22 that these people are literally writing emails where
23 they say things like hashtag, "team send them back."
24 And write to ICE officers "LOL, you are my boo for
25 real," which is just sad to even see in text.

1 I'm disturbed by the glee DOC officials exhibit
2 when putting vulnerable people in harms way but I'm
3 also not surprised. Sadly, such flagrant disregard
4 for human life is inherent to these institutions who
5 operations include surveilling, arresting,
6 prosecuting, incarcerating and killing the very same
7 people that detainer laws are intended to protect.
8 We've inherited a world that normalizes this type of
9 state violence where city law enforcement agencies
10 taught their relevance and forever increasing budgets
11 because they are the protectors and arbiters of
12 public safety, even though they inflict violence in
13 the community every day.

14 I'm also not surprised by these agencies who
15 plague violations of law and life because of the
16 NYFUP staff attorney at the Bronx Defenders
17 representing criminalized immigrant New Yorkers for
18 the past five years. I have witnessed truly
19 countless constitutional statutory and human rights
20 violations of New York City's poor, Black and Latinx
21 immigrant communities.

22 The same communities who law enforcement agencies
23 that issue here today demonize and dehumanize because
24 they broke the law for being born without a U.S.
25

1 Passport and committed a criminal offense. But I
2 challenge the premise of criminality touted by these
3 law enforcement agencies. What even is criminality
4 when government agencies regularly violate the laws
5 they are bound to follow? Where is the condemnation
6 let alone the consequences for them that's for city
7 agencies that subject other human beings to torture
8 inside their jail cells, only to hand them over in
9 chains to ICE's jails to face more torture and
10 permanent exile? When is illegality by government
11 institutions ever mayor reparations to harm
12 communities, which is effectively the goal and
13 purpose of Intro. 158.
14

15 The testimonies and lived experiences that you
16 heard today, I hope will challenge you to think more
17 holistically about public safety and more critically
18 about what protect and serve even means to you as
19 city elected officials. You are similarly tasked
20 with the enormous responsibility of ensuring safety
21 and protection for the people of New York. I hope
22 this hearing amounts to more than mere condemnation
23 of these agencies because condemnation means next to
24 nothing without concrete action to shrink the arrest
25 to Rikers to deportation pipeline that funnels New

3 Yorkers who are from the poorest and working class
4 communities of color into these human cases by ICE.
5 We may have inherited the prison industrial complex
6 from generations prior but we live in the world today
7 as people with a power to create real public safety
8 for all of us, including our most vulnerable
9 communities.

10 Both Intro.'s 184 and 185 aim to end DOC and NYPD
11 communication with ICE, so we never have to read a
12 sentence like, "you are my boo for real" ever again
13 from a DOC official in an email to ICE.

14 And to also close the regularly exploited
15 loopholes from the 2014 detainer laws. I urge you to
16 pass these bills sponsored by Council Member Powers
17 as soon as possible. I also urge you to pass Council
18 Member Hanif's bill, Intro. 158 which would be the
19 nations first of its kind, material consequence for
20 law enforcement agencies that violate local laws
21 intended to protect immigrant communities.

22 More broadly, I urge you to prioritize the health
23 and safety of the people of New York, who are
24 counting on you to create meaningful barriers between
25 their lives lived in chains and cages and their wives
live freely.

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3 TIENA WAGNACK: Good afternoon, my name is Tiena
4 Wagnack(SP?) and I am an Asian Immigrant as well the
5 Senior Manager of the state and local policy for the
6 New York Immigration Coalition, which is an umbrella
7 policy and advocacy organization that works statewide
8 with over 200 immigrant serving member organization.
9 Thank you Chair Hanif and City Council for convening
10 this hearing and putting forth this groundbreaking
11 legislative package, including Intro. 158A, 184 and
12 185 regarding limiting communication between city law
13 enforcement agencies and federal immigration
14 authorities.

15 Almost nine years ago, the Council passed
16 groundbreaking legislation that removed ICE from
17 Rikers and prevented DOC and NYPD and DOP from
18 unlawfully detaining immigrant New Yorkers without a
19 judicial warrant. These detainer discretion laws
20 were intended to end the war unless an
21 unconstitutional detention of immigrants is very
22 clear from today's testimonies that they have not.
23 And although the NYPD and DOC have repeatedly stated
24 that they have been compliant, we do know that it's
25 not true and we're not surprised at all that they're
refusing to take accountability and also support

1
2 immigrant communities. Rather, what we have been
3 seeing is the fluid transfer of custody between DOC
4 and ICE under the purview of the notification
5 exception.

6 Throughout the years, you'll see NYPD have
7 repeatedly and blatantly violated the law as they
8 read the request notification as simply permitting
9 notification and transfers for custodies to ICE
10 without a judicial warrant as long as the individual
11 were either convicted of a crime or identified as a
12 possible match on the terrorist watchlist.

13 Intro. 184 and 185 would rectify this issue and
14 close this loophole permanently. In addition, Intro.
15 184 will provide financial relief by allowing
16 individuals who were unlawfully detained by the NYPD
17 and ICE to be able to receive payment for the
18 separation anxiety that they have experienced while
19 in facility.

20 And more importantly, I would be remiss to not
21 take the opportunity to ask the Council to call for
22 the swift passage of the New York For All Act, which
23 is Senate 987 in the Senate House. As we all know,
24 New York For All will ensure that state and local law
25 enforcement and other resources are not used to

1 support ICE deportation agenda, which is targeting
2 and separating New York immigrant families in storing
3 fear in our communities. This is a commonsense
4 legislation that would protect the rights of
5 immigrant New Yorkers and enhance public safety for
6 everyone. All New Yorkers benefit when state and
7 local government use their limited resources to serve
8 their communities, rather than carrying out a federal
9 immigration deportation agenda. In addition, so
10 historically high, ICE has long reliable state and
11 local enforcement agencies to find immigrants who may
12 be removeable and it is our duty and our task to put
13 an end to such. Thank you.

14
15 ZACH AMID: Hi, my name is Zach Amid. I'm a
16 Senior Policy Counsel to New York Civil Liberties
17 Union. First of all, I just want to thank the
18 Council and Chair Hanif for holding today's hearing.
19 New York is very casually sometimes referred to as a
20 sanctuary city but it's much less often we actually
21 step back and look at what that means. And so, it's
22 very important that this is happening and I'm hoping
23 it won't be the last.

24 We submitted written testimony that kind of
25 outlines comprehensively our support and feedback for

1
2 the legislation before the Council and my colleagues
3 have done a very thorough job of testifying to some
4 of the ways in which the law is not being upheld as
5 is.

6 In the couple of minutes I have here, I actually
7 want to lift up a few additional points about the
8 city's disentanglement laws that I've heard less
9 about today and that I think just shouldn't go
10 overlooked. So, at the beginning of the hearing in
11 some of the opening statements there was mention of
12 Local Law 228 passed in 2017. It's also sometimes
13 referred to as the City Resources Law. Whereas the
14 detainer laws deal with the specific context of
15 people who are in city custody being transferred into
16 ICE custody. Local Law 228 broadly prohibits all
17 city employees and officers from using city resources
18 which includes their time on duty to assist
19 immigration authorities in any way. And so, the aim
20 of that law when it was enacted a few years ago was
21 to plug any holes in the legal landscape and
22 comprehensively disentanglement. Not just law
23 enforcement but all city agencies from immigration
24 enforcement. It's intended to cover all those
25 situations that the detainer laws don't reach, such

1 as when ICE is conducting a raid and they call on the
2 NYPD to block off the street or provide some kind of
3 crowd control. Or when ICE calls ACS and asks for
4 information on a parent who has an article 10 family
5 court case pending or situations in which you know
6 ICE agents have been spotted at protests during the
7 field seemingly working with NYPD agents.
8

9 Local law 228 is arguably the most far reaching
10 of New York City's disentanglement laws but it
11 sometimes gets overlooked in these conversations.
12 And so, I just want to uplift that law and make sure
13 that you know, we're also paying attention to that.
14 There are vacuously worded exceptions built into the
15 law that allow for cooperation with ICE. We don't
16 know how those are being interpreted or how they are
17 being invoked in practice. The reports that come out
18 about the city's compliance with Local Law 228,
19 similar to the detainer laws, contains the bare
20 minimum information and leaves a lot of questions
21 unanswered about whether or not agencies are even
22 aware of this law or taking their obligation
23 seriously.

24 And so, while we're talking about the full slate
25 of the city's laws intended to disentangle from

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3 immigration authorities, I want to make sure that
4 doesn't get lost in the mix and we welcome the
5 opportunity to work with the Council on laws that
6 would plug the holes in those laws as well. Thank
7 you very much.

8 COMMITTEE COUNSEL: Thank you. I do want to
9 acknowledge that we were previously joined by Council
10 Member Restler and we have been joined by Council
11 Member Sanchez.

12 Thank you. We will now move on to the next
13 panel. We have Tanya Matos, Nathan Yaffe, Isabelle
14 Muhlbauer and Lindsey Nash. I believe Tanya is on
15 Zoom. You can begin when the Sergeants call time.

16 SERGEANT AT ARMS: Starting time.

17 TANYA MATOS: Okay, good afternoon everybody. My
18 name is Tanya Matos, I'm the Director of Advocacy and
19 Policy at Envision Freedom Fund, formerly known as
20 Brooklyn Community Bail Fund. I am testifying today
21 in support of Intro.'s 184, 184 and in support of
22 passing Intro. 158.

23 As a formerly undocumented person with a prior
24 deportation order, this issue is truly personal. My
25 family and I lived with the fear of being stopped by
police every day and one day, I was stopped by two

1
2 police officers from the 110th Precinct in Corona
3 Queens. They debated whether to take me in for not
4 having an ID on me and for riding my bicycle on the
5 sidewalk.

6 Fortunately, they decided to let me off with a
7 warning. Though I'm grateful for the first round of
8 detainer discretion laws passed in 2004, they do not
9 go far enough. As an advocate and activist, I met
10 dozens of people who are currently detained at Orange
11 County Jail, a federal facility or were detained at
12 Hudson Ethics or county jails in New Jersey. Many of
13 them, New York City residents who wound up there
14 after some form of interaction with NYPD currently.

15 Working at the intersection of the criminal,
16 legal and immigration system, Envision Freedom Fund
17 is aware that providing meaningful responsive
18 mechanisms to protect immigrant New Yorkers from
19 ICE's abuses, as well as the abuses perpetrated by
20 DOC and NYPD.

21 In paying bond for detained New Yorkers and
22 providing support services to people once they have
23 been released from these detention centers, we've
24 heard many, many stories of people whose interaction
25

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2 with NYPD was followed by ICE showing up to their
3 house days later.

4 One person had the police call on him because he
5 was accused of stealing a sandwich from a bodega. He
6 was interrogated and released but only to find ICE at
7 his door days later.

8 SERGEANT AT ARMS: Thank you. Time expired.

9 TANYA MATOS: Thank you so much for your time.

10 COMMITTEE COUNSEL: Thank you. Next, we have
11 Nathan Yaffe followed by Isabelle Muhlbauer and then
12 Lindsey Nash. Nathan, you can go ahead when the
13 Sergeants call time.

14 SERGEANT AT ARMS: Starting time.

15 NATHAN YAFFE: My name is Nathan Yaffe, I'm an
16 Immigration Attorney and I'm here to talk about being
17 realistic. I want to urge you all to pass these
18 measures but also be realistic about who runs our
19 jail system and their relationship to ICE. As usual,
20 we've heard lots of numbers during this hearing but
21 DOC numbers are suspect. I have here a bail receipt
22 from a friend who I posted bail for in 2018. DOC
23 wrote that an ICE detainer prevented them from
24 releasing this individual, who was held for an extra
25 24 hours and only released after a lawsuit threat.

1
2 Now, earlier Paul Shechtman from DOC sat here and
3 said, those were the bad old days. The past is the
4 past and he repeatedly relied on DOC's ICE reports for
5 each fiscal year to say that. But when I go to DOC's
6 ICE report for fiscal year 2019, the year my friend
7 was held, it says that zero individuals were held by
8 DOC for extra time as a result of civil immigration
9 detainers in that year. But that's false. I have
10 documentation showing that's false. I have personal
11 knowledge of two other cases when people were held
12 during that time.

13 So, when Mr. Shechtman sits here and says, I'm
14 looking at numbers from new reports and there aren't
15 any transfers or delays in release, well, the reports
16 used to be false and there's no reason to think
17 they're more reliable today. Meanwhile, we have
18 testimony about ongoing violations and the only
19 response has been, someone else is to blame.

20 So, when I say be realistic, I mean acknowledge
21 the extent of DOC and ICE collaboration is far
22 greater than the numbers suggest and the CO's who
23 have repeatedly and unequivocally expressed their
24 allegiance to ICE are continuing to find ways to
25

1
2 clued. Which brings me to the second way I'd like to
3 ask you to be realistic.

4 Pass these measures, yes but be realistic in
5 recognizing that there's no tweak you can make to
6 detainer law that will end this conclusion for good.
7 The problem is Rikers and the Toombs. These CO's who
8 understand their mission as fundamentally aligned
9 with ICE's will absolutely carry that problem into
10 the new jails that they get built and open. The
11 problem is our criminalization system marking people
12 as disposable or undesirable in the eyes of these
13 CO's, NYPD and if we're being honest, in the eyes of
14 many of you in City Council.

15 NYPD and CO's are frontline soldiers for ICE in
16 the city. So, in addition to passing these measures,
17 I urge you to recognize this basic structural
18 reality.

19 SERGEANT AT ARMS: Thank you. Time is expired.

20 NATHAN YAFFE: And shrink the criminalization
21 machine in New York City. Thank you.

22 COMMITTEE COUNSEL: Thank you. Isabelle, you can
23 go ahead.

24 ISABELLE MUHLBAUER: Good afternoon. My name is
25 Isabelle Muhlbauer and I'm an Advocacy Coordinator

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3 for Latino Justice PRLDEF, a national civil rights
4 organization dedicated to ensuring that the Latinx
5 community is treated with dignity, justice and
6 fairness.

7 I'm here to testify in favor of Intro. 184, 185
8 and to enthusiastically support Intro. 158. In
9 particular to speak in favor of the proposed version
10 providing that no officer can hide behind qualified
11 immunity when sued for illegally trying to get
12 someone deported. Collusion between immigration
13 enforcement officers and local law enforcement has
14 rightly been illegal in New York State for years. In
15 2017, Latino Justice PRLDEF sued the Suffolk County
16 Sheriff's Office for its unlawful practice of keeping
17 people incarcerated after they have posted bail based
18 solely on an administrative detainers from ICE. Law
19 Enforcement Officers engaging in this illegal conduct
20 are trying to control vulnerable populations through
21 fear. Fear that you could be transferred to
22 immigration authorities for reporting a crime, for
23 being victim of a crime or for a simple violation
24 like jaywalking.

25 Unfortunately, it is not enough to amend city law
to make it clear that NYPD and DOC cannot contact ICE

3 without a judicial warrant. There must also be
4 private right of action and qualified immunity cannot
5 be a defense to an action.

6 In 2019, Javier Castillo Maradiaga, whose mother
7 we heard from today and a DACA recipient was
8 illegally held in a federal detention center for 14
9 months after being arrested for jaywalking. At that
10 time, I was also a DACA recipient and while it is
11 difficult to express the chilling effect that
12 Javier's story had on me and the entire DACA
13 community in New York City, it does not even compare
14 to the horror that he endured during his 14 months of
15 detention.

16 Due to the lack of private right of action in
17 city law to sue the NYPD or the DOC for this illegal
18 conduct and because of qualified immunity and related
19 federal doctrines that prevent him from suing ICE, he
20 was left with no legal remedy for being kidnapped and
21 in prison for over a year and nearly deported.
22 Providing a private right of action is the only way
23 to protect people like Mr. Maradiaga and the only way
24 to hold the NYPD and DOC officers who violate the law
25 accountable.

3 We have seen this before and know that there is
4 no way for them to be held accountable. They will
5 continue to break the law. Additionally, for any
6 private right of action to be effective, it must
7 contain a provision that qualified immunity is no
8 defense to an action. Thank you.

9 COMMITTEE COUNSEL: Thank you. Next, we have
10 Lindsey Nash. Lindsey, you can go ahead when the
11 Sergeants call time.

12 SERGEANT AT ARMS: Starting time.

13 LINDSAY NASH: Good afternoon. My name is
14 Lindsay Nash. I'm an Associate Professor and the Co-
15 director of the Kathryn O. Greenberg Immigration
16 Justice Clinic at Cardozo Law. Today's hearing and
17 the legislation proposed serve as recognition of the
18 critical nature of the city laws that seek to
19 disentangle city functions from federal immigration
20 enforcement.

21 These laws have been incredibly impactful but it
22 is also becoming fortunately clear that these laws
23 are not perfect and their implementation is not
24 perfect. The city can and should do more and the
25 bills today are an important step in doing so. Not
only for the city and its residents but also for the

1 movement for immigrant protective legislation
2 nationwide.

3
4 A focus today on Intro. 158, which would provide
5 a private right of action and in so doing, create a
6 critical first of its kind mechanism for ensuring
7 that the city's immigrant protective laws play the
8 vital role that the City Council intended.

9 First, a private right of action would be an
10 important way to impose accountability when local
11 officers and agencies violate these laws. This is
12 something that as the violations described today make
13 all too clear, it is unfortunately necessary to
14 ensure that these officers and agencies are complying
15 with the letter and the spirit of the laws that the
16 Council has adopted.

17 Second, the bill provides an important way to
18 place the power to hold these officers accountable in
19 the hands of those who have been harmed. As it
20 stands now, the people who have experienced devastating
21 harm and do little more than call on the city to
22 recognize and redress these violations. But as there
23 are repeated violations, the city's failure to
24 provide information about these violations and the
25 obfuscation have shown that's not enough. You have

1
2 to empower those who have been harmed with more
3 meaningful ways to take action.

4 Third, this legislation plays an important
5 transparency and function. It creates a way to bring
6 these disputes into court with all of the mechanisms
7 that entails and it gives the people new tools to
8 obtain evidence of the violation and perhaps most
9 importantly, it means that the interpretation of
10 these laws will no longer be left to the law
11 enforcement officers who are supposed to be bound by
12 them. It will allow neutral parties, judges -

13 SERGEANT AT ARMS: Thank you. Time has expired.

14 LINDSAY NASH: Role just as they do in many other
15 areas of law. And I would like to end just by
16 applauding the city for considering this and
17 applauding Council Member Hanif for sponsoring this
18 visionary legislation.

19 COMMITTEE COUNSEL: Thank you. Next, we have
20 Eileen Mayor, Jeffrey Deskovic and Fabiola Harford.

21 SERGEANT AT ARMS: Starting time.

22 COMMITTEE COUNSEL: Fabiola, you can go ahead, I
23 do not see the other -

24 FABIOLA HARFORD: Okay, can you hear me? Good
25 morning everybody. So, thank you for having me and

3 thank you for hosting this session. I feel that it
4 is very important to discuss and be transparent about
5 the situation. I hear a lot of issues that are
6 pointing me to oversight. It seems to me like the
7 issue is an oversight issue and a procedural issue.
8 Also, an issue of liaison, whereas DHS [INAUDIBLE
9 2:40:07].

10 I oppose these bills. First because I have seen
11 that they are flaw in the wording. They actually
12 state that the immigration detainers of the I247's
13 are civil actions. That is false. Immigration and
14 Nationality Act, the U.S. Code and the Code of
15 Federal Regulations are not civil laws. So, this is
16 false and they need to be reviewed. It is the matter
17 as an immigrant and as a victim of an illegal alien
18 who chase me, stalk me until he assaulted me and
19 raped me. The facilitation of the release of
20 criminal aliens. I don't know of any of the panel
21 members or the Council Members have ever been raped,
22 a victim of a crime by an illegal alien, it's a
23 horrible experience. That can never measure up to a
24 few days or a few months in a detention center.

25 So, I must oppose these laws. There is a lot of
work to be done especially on the oversight area. On

3 the knowledge and the education of immigrants and the
4 knowledge of the Council Members of the priorities
5 for ICE to exercise discretion and deportation. I
6 seen a lack in that area.

7 SERGEANT AT ARMS: Thank you. Time expired.

8 FABIOLA HARFORD: I even heard one of your
9 Council Members asking for how a person is removed
10 after 20 years. If the person entered the country
11 illegally, that person is removable. It doesn't
12 matter how many years that person has in the country.
13 Education is that is needed. That is also the fact
14 that a new deal is pending in congress that is going
15 enforce the detainer's.

16 COMMITTEE COUNSEL: Thank you.

17 FABIOLA HARFORD: It's going to be a matter of
18 law and it needs to be taken into consideration
19 before the decision about these bills are made.
20 Thank you so much.

21 COMMITTEE COUNSEL: Thank you. If we have
22 inadvertently missed any witnesses, please see the
23 Sergeant at Arms to sign a witness slip to testify or
24 if you are on Zoom, please use the raise hand
25 function to let us know we have missed you.

1 Seeing no additional witnesses, Council Member or
2
3 Chair, I turn it back over to you.

4 CHAIRPERSON HANIF: Thank you so much Jayasri.
5 Thank you to everyone who made today's hearing
6 possible while DOP, DOC, NYPD assured us that they
7 are in full compliance with the city's detainer laws.
8 The emails foiled along with the testimony from
9 countless legal services providers and impacted New
10 Yorkers, clearly articulate the egregious violations
11 and how they've aided, continue to aid the federal
12 deportation machine.

13 We must close the loopholes of the detainer laws
14 and pass Intro.'s 158, 184 and 185, which will
15 reassert our city as a true sanctuary city while
16 delivering justice to families like Alma's, Daniel's
17 and countless others and especially in the wake of
18 welcoming asylum seekers.

19 And yes, we must also pass the New York For All
20 Act at the state level. A resolution was passed last
21 year in this Council to show our affirmative support.
22 Thank you all so much and I will gavel us out.

23 [GAVEL]. Thank you.
24
25

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 February 21, 2023