

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON IMMIGRATION

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January 25, 2013
Start: 10:13 a.m.
Recess: 1:24 p.m.

HELD AT: 250 Broadway
Committee Room, 16th Floor

B E F O R E:
DANIEL DROMM
Chairperson

COUNCIL MEMBERS:
Charles Barron
Mathieu Eugene
Melissa Mark-Viverito
Jumaane D. Williams

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

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District Attorney

John Feinblatt
Chief Policy Advisor
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Carmen Maria Rey
inMotion

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2 CHAIRPERSON DROMM: Okay. Good
3 morning everybody, my name is Daniel Dromm, and
4 I'm chair of the Council's Committee on
5 Immigration. And let me just start off by saying
6 first we have interpreters, if anybody needs
7 interpretation into Spanish, we have them, and
8 they are over here. Oh, okay, in the other room.
9 So that's available. And also, if anybody intends
10 to testify today, please make sure that you have
11 filled out one of these slips. And with that, I'm
12 going to give my introduction.

13 This morning, the Committee on
14 Immigration will consider two bills that would
15 build upon prior efforts to limit the cooperation
16 between Immigration and Customs Enforcement,
17 commonly referred to as ICE, and local law
18 enforcement.

19 I am proud to say that as a result
20 of the commitment and work of Speaker Quinn,
21 Council Member Mark-Viverito, the advocates in
22 this room, and this committee, the City Council
23 enacted Local Law 62 in 2011, the ICE at Rikers
24 bill. In passing that bill, we wanted to ensure
25 that the Department of Corrections' cooperation

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2 with ICE was solely for the detention and removal
3 of criminals. We knew that Secure Communities was
4 coming down the pike, but we wanted to act as
5 quickly as possible to help our immigrant
6 communities that were being devastated by the
7 federal government's aggressive immigration
8 policies that were being played out in our city.
9 Since the enactment of Local Law 62, Secure
10 Communities has been activated in New York City.

11 Under Secure Communities,
12 fingerprints of persons arrested by local law
13 enforcement, in our case, the NYPD, are shared
14 electronically with the federal government so that
15 ICE can determine whether that person is
16 deportable. If ICE identifies an arrestee as
17 unlawfully present in the United States or
18 otherwise be removable due to a criminal
19 conviction, ICE may place a detainer on them so
20 that they could be turned over to ICE. That is
21 why we are here today.

22 Since the activation of Secure
23 Communities in New York City, detainers have been
24 dropped more quickly and more often while
25 immigrant New Yorkers are in the custody of the

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2 NYPD. We acknowledge that our original bill has
3 done a lot to help immigrant New Yorkers, but with
4 the arrival of Secure Communities in New York
5 City, we need to do more.

6 Today we will hear Intro number
7 982, introduced by Speaker Quinn, a Local Law to
8 amend the Administrative Code of the City of New
9 York in relation to persons not to be detained by
10 the NYPD; and Intro number 989, introduced by
11 Council Member Mark-Viverito, a Local Law to amend
12 the Administrative Code of the City of New York in
13 relation to persons not to be detained by the
14 Department of Correction.

15 Under these bills, the NYPD and the
16 Department of Correction would generally be
17 prohibited from honoring detainers in the form of
18 holding an individual beyond the time when he or
19 she would otherwise be released from NYPD or
20 Correction's custody, and from notifying ICE of
21 such individual's release. Both the NYPD and the
22 Department of Correction will continue to honor
23 detainers in a significant number of cases. The
24 categories for which detainers would not be
25 honored are expanded from those in Local Law 62 in

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2 recognition of a variety of considerations,
3 including the types of charges that undocumented
4 immigrants generally receive and the frequency of
5 some of these charges.

6 The goal of the bills that we are
7 hearing today is to ensure that both the NYPD and
8 the Department of Correction's cooperation with
9 ICE will be solely for the detention and removal
10 of criminals. If enacted, these bills will
11 protect New Yorkers from being deported who pose
12 no risk to public safety and hopefully create a
13 positive effect on community policing.

14 I would like to thank everyone for
15 coming to this morning's hearing and I would like
16 to thank everyone in advance for their testimony.

17 Okay. So I do want to take a
18 moment to introduce my colleague, Council Member
19 Melissa Mark-Viverito, who is here, and I'm going
20 to give her a moment to--in a moment to present
21 her statement, but--yes, I said that there will be
22 interpreters in Spanish.

23 FEMALE VOICE: You need to say it
24 in Spanish.

25 CHAIRPERSON DROMM: In Spanish.

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2 FEMALE VOICE: No, you need to
3 state it in Spanish.

4 [Off mic]

5 CHAIRPERSON DROMM: Say it in
6 Spanish?

7 FEMALE VOICE: Yeah.

8 CHAIRPERSON DROMM: Okay.
9 Interpreters--

10 [Foreign language]

11 [Pause]

12 CHAIRPERSON DROMM: Okay. Council
13 Member Melissa Mark-Viverito.

14 COUNCIL MEMBER MARK-VIVERITO:
15 Thank you, Chair Dromm. I'm extremely excited to
16 be here today, and I want to say good morning to
17 everyone that is here, the agency reps and the
18 advocates. I want to also thank Speaker Quinn and
19 Chair Danny Dromm for expediting this important
20 hearing.

21 The pieces of legislation we will
22 hear today will expand upon the work we did to
23 limit the reach of federal immigration enforcement
24 in our city jails last year. With the forced
25 rollout of the so-called Secure Communities

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2 program over the objection of so many of us,
3 including our governor, immigrants can now be
4 funneled into our deportation system directly from
5 central booking. Under S-Comm, the fingerprints
6 of arrestees that are ordinarily shared with the
7 FBI will now also be transferred to ICE, which can
8 ask the NYPD to hold individuals for deportation.

9 These detainers can be issued even
10 if someone has no criminal record, if the person
11 is released or if the district attorney declines
12 to prosecute the case. In spite of its stated
13 goals, this program actually makes our communities
14 less safe by undermining relationships between
15 immigrant communities and the police, not to
16 mention indiscriminately dividing immigrant
17 families.

18 The two bills that Speaker Quinn,
19 Chair Dromm, and I have sponsored expand upon the
20 landmark protections we previously put in place
21 for immigrants in our city jails to the police
22 department, which would no longer be able to hold
23 immigrants on a detainer if they meet certain
24 specific criteria outlined in the legislation.
25 They will also broaden the protections of

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2 immigrants under both NYPD and DOC custody to
3 ensure that immigrant youth and immigrants with
4 minor or very old misdemeanors, as well as
5 misdemeanors related to their immigration status,
6 like driving without a license, are covered under
7 the bill.

8 These pieces of legislation do not
9 tell the federal enforcement--the federal
10 government what to do. We are still in the Secure
11 Communities program, as much as we would like not
12 to be in it, but we are clear that we will not use
13 our personnel or resources to hold immigrants that
14 pose no danger to our city. These are important
15 steps to protect hardworking, law-abiding,
16 immigrant New Yorkers from deportation as we await
17 federal action on comprehensive immigration
18 reform.

19 In fact, these bills actually align
20 our city's policy on immigration detainers with
21 what President Obama had stated publicly regarding
22 the need to exercise prosecutorial discretion and
23 not deport low-level offenders and people with
24 strong ties to the U.S.

25 Unfortunately, prosecutorial

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2 discretion has been widely regarded as a failed
3 policy, but we in the city of New York are
4 committed to protecting our immigrant communities
5 that do so much to contribute to the life and
6 vibrancy of our city. We will codify this
7 rhetoric into action with the two bills before us.

8 While it was my hope that we
9 already would have achieved comprehensive
10 immigration reform at this time, I am encouraged
11 that on Monday's historic inauguration day held on
12 Martin Luther King Day--Martin Luther King Jr.
13 Day, President Obama reaffirmed his commitment to
14 make immigration reform a reality this year. I
15 believe we're in a better position to make this
16 happen.

17 I want to thank again everybody
18 that is here, in particular Make the Road New York
19 and the Cardozo Law School, who continue to
20 provide such immense support in helping us to
21 formulate these important pieces of legislation.
22 Thank you, Chair Dromm.

23 CHAIRPERSON DROMM: Thank you,
24 Council Member Mark-Viverito. I just want to say
25 that we've been joined by Council Member Mathieu

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2 Eugene from Brooklyn. And I would like to call up
3 our first person who's going to give testimony,
4 District Attorney Robert Morgenthau.

5 [Pause]

6 CHAIRPERSON DROMM: Morning.

7 ROBERT MORGENTHAU: Good morning.

8 [Long pause]

9 ROBERT MORGENTHAU: Yeah, good
10 morning, and thank you for this opportunity to
11 come and support this extremely important
12 legislation.

13 In essence, the proposed laws will
14 direct the Department of Corrections and the
15 police department not to detain New Yorkers on
16 immigration charges unless they have been
17 convicted of a felony or misdemeanor or awaiting
18 trial on such a charge, or a gang member or a
19 terrorist watch list. If enacted, these laws will
20 focus law enforcement resources where they belong-
21 -on those who pose a significant threat to
22 society, rather than a wide net that would ensnare
23 the law-abiding and the rehabilitated.

24 I have been around long enough to
25 know that when it comes to public policy, there

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2 are no final victories. As Andrew Jackson said,
3 eternal vigilance is the price of liberty.

4 Certainly, this is true in immigration policy. We
5 are all aware that the struggle that brings us
6 here today was fought once before, when the City
7 Council wisely and successfully imposed limits on
8 the detainers with respect to the Criminal Alien
9 Program. Today, similar limits are just as
10 urgently required with respect to Secure
11 Communities.

12 If anything, the need for reform is
13 now even more compelling. The Secure Communities
14 program will go down in history as one of the
15 worst bait-and-switch policy initiatives in our
16 history. The Department of Homeland Security
17 marketed the program as a voluntary partnership
18 between the localities and the federal government,
19 a program that would target serious criminals who
20 were in our country in violation of immigration
21 laws. Both of these representations turned out to
22 be fraudulent.

23 We would not be here today if the
24 program were truly voluntary. Instead, once
25 Governor Cuomo wisely decided to opt out of the

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2 voluntary partnership, the program became
3 mandatory. Even worse, not only did Homeland
4 Security go back on its word, it lied about it and
5 denied that the program had ever been voluntary.
6 It is to my thinking, this just compounded the
7 offense. A federal judge found that there is
8 ample--quote, "there is ample evidence that ICE
9 and DHC have gone out of their way to mislead the
10 public about Secure Communities. And
11 particularly, these agencies have failed to
12 acknowledge a shift in policy when it is patently
13 obvious that there has been one.

14 [Pause]

15 ROBERT MORGENTHAU: Homeland
16 Security's other promise, that the program would
17 focus on and target serious criminals, proved to
18 be equally misleading. In fact, most of those who
19 were deported pursuant to Secure Communities fully
20 60% either had no criminal conviction or at most
21 misdemeanor convictions when they were ordered to
22 leave our shores. And at the same time they are
23 talking about focusing on serious criminals,
24 Homeland Security set a target of 400,000
25 deportees each year and for the last four years,

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2 they've reached that goal, in fact, they even
3 succeeded it last year when they deported 409,000
4 people. And you got to know there were not
5 400,000 serious criminals among the immigrant
6 population.

7 Homeland Security did manage to
8 accomplish one thing through its bait-and-switch
9 policy: It generated business by making the
10 voluntary program mandatory and by expanding the
11 program far beyond reasonable limits, Homeland
12 Security was able to lodge a lot more detainers.
13 In fiscal year 2009, it lodged about 20,000
14 detainers pursuant to Secure Communities. That's
15 a lot of detainers, but by the next fiscal year,
16 2010, the figure exploded by a factor of more than
17 five. In that one year, 111,000 were lodged.

18 And there's another thing not
19 covered by this bill, but under Secure
20 Communities, when anybody who is thought to be an
21 immigrant is arrested, those prints immediately go
22 to FBI and, according to reputable figures, 15
23 million prints have gone to the FBI. That number
24 in the south was astounding, but, you know, 40% of
25 the people who were arrested in New York City have

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2 their cases dismissed, but what steps are taken to
3 take those prints off the active list? I don't
4 think anything.

5 Yet the madness does not stop
6 there. These cases went to immigration courts--
7 perhaps the most overburdened judicial forum in
8 our nation. Every year the backlog goes up, and
9 by the end of this calendar year--this last
10 calendar year, the backlog, national backlog, was
11 315,000 and the cases lingered on the docket for
12 592 days. What's even worse, the immigration
13 court backlog for serious cases--those accused of
14 crimes, threats to national security, or outright
15 terrorism--had grown to 679 days. I can't think
16 of a more ill-advised policy than one that focuses
17 on non-criminals and low-level misdemeanants,
18 while terrorism cases lingered for year after
19 year.

20 Periodically, through four
21 presidential administrations, we have been assured
22 that our immigration officials will exercise sound
23 discretion and will focus scarce resources on
24 removing the worst of the worst and on real
25 criminals and terrorists. Time and again, our top

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2 immigration officials have issued measured policy
3 statements promising to set careful priorities and
4 in enforcing immigration laws, but every year we
5 get an even larger target of deportation cases
6 with little or no justification from a public
7 safety program.

8 And under the prosecutorial
9 discretion program, only 5% of the pending cases
10 been dismissed and, as I said before, the backlog
11 of pending cases has gone up every single year the
12 last four years, now stands at 315,000.

13 That's why I strongly believe that
14 by passing this proposed legislation, the City
15 Council will not be frustrating federal policy,
16 but will be implementing it. For years, the
17 federal government has promised to focus on
18 deporting those who pose a genuine threat to
19 public safety, but I have come to see that only if
20 sensible legislation is passed, such as the
21 legislation before you today, will the federal
22 government ever get down to doing the proper
23 business that it's said it's going to do and truly
24 implement its own priorities. Until then, federal
25 immigration policy will continue to focus beyond

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reason.

Nearly all of us are immigrants or children and it's my grandfather came here, 10 years old, not speaking a word of English and holding up huge signs up saying welcome, Morgenthau, the doors were open and he was able to get to City College, Columbia law school. He worked his way through law school by teaching night high school to immigrants and there were night high schools for immigrants all over the city, now there's exactly one.

I began by quoting Andrew Jackson farewell speech in which he said that eternal vigilance is the price of liberty. Many recall those words but few remember the words that followed. He continued, "it behooves you, therefore, to be watchful in your states as well as in the federal government. Let us here in New York continue to be watchful, aware of how much is at stake in protecting a vulnerable population. I strongly urge you to adopt the proposed legislation.

Thanks for the opportunity to testify.

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2 CHAIRPERSON DROMM: Well thank you
3 very much, Mr. District Attorney, thank you for
4 coming in, for lending your support to this. Your
5 voice is certainly one of the most credible voices
6 on this issue and your pointing out about the City
7 Council will not be frustrating the federal
8 policy, but will be implementing it is an
9 important statement to have made in regard to both
10 pieces of legislation that are before us today.
11 So I want to thank you very much for coming in and
12 lending your voice to this.

13 ROBERT MORGENTHAU: Thank you.

14 COUNCIL MEMBER MARK-VIVERITO:

15 Thank you.

16 CHAIRPERSON DROMM: Thank you.

17 ROBERT MORGENTHAU: Thank you.

18 CHAIRPERSON DROMM: Okay. I would
19 now like to call up our second panel, John
20 Feinblatt from the Mayor's office; Joseph Vasaturo
21 from the New York City Department of Corrections;
22 and Lewis Finkelman from the New York City
23 Department of Corrections.

24 [Pause]

25 FEMALE VOICE: So just be aware.

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[Pause]

CHAIRPERSON DROMM: And I do want to mention that we've been joined by my colleague, Charles Barron, from Brooklyn, thank you. Okay.

[Off mic]

CHAIRPERSON DROMM: Yep. We going to be joined by one other person or--

FEMALE VOICE: No.

CHAIRPERSON DROMM: No, okay. All right, Mr. Feinblatt, would you like to start?

JOHN FEINBLATT: Thank you very much, good morning, Chairman Dromm and members of the Immigration Committee. I'm John Feinblatt, I'm the mayor's chief policy advisor and I'm happy to be joined here today by Lew Finkelman from the Department of Corrections, Sue Petito and others from the police department, and Robert Feldstein [phonetic].

As you know, we're here to look at two proposed laws, one that affects the Department of Corrections and the other that affects the police department. And I think that what we are doing today is updating the City's guidelines for detainers issued by the federal agency of

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2 Immigration and Customs Enforcement, which is a
3 change that was necessitated by the federal
4 introduction of the Secure Communities program.

5 CHAIRPERSON DROMM: Mr. Feinblatt,
6 do you have written testimony with you?

7 [Off mic]

8 CHAIRPERSON DROMM: Okay. Thank
9 you. Sergeant-at-Arms, can we have that?

10 FEMALE VOICE: The testimony.

11 CHAIRPERSON DROMM: Testimony?

12 SERGEANT-AT-ARMS: They're making
13 copies.

14 [Pause]

15 FEMALE VOICE: Oh.

16 CHAIRPERSON DROMM: Okay.

17 FEMALE VOICE: All right.

18 CHAIRPERSON DROMM: All right, so
19 we'll get the copies and then follow along--

20 JOHN FEINBLATT: Sorry.

21 CHAIRPERSON DROMM: --with you.
22 That's--

23 [Crosstalk]

24 JOHN FEINBLATT: Sorry. First,
25 before we go into the substance, I want to say

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2 that these bills--and this is our second go-round
3 on these bills and I'm glad we're back at it--you
4 know, they're the intersection of public safety,
5 they're the intersection of immigration law, they
6 are the intersection of national security issues,
7 and so, as a result, what you need to do is find
8 the balance, and I think these two bills find the
9 balance. And I really want to thank everybody
10 because everybody worked so hard on this. And
11 it's not always easy to quite get the balance, but
12 I think that we got extraordinary input from the
13 Council, certainly from the immigrant community in
14 New York, I think we had discussions with people
15 around the country about how to strike this
16 balance.

17 I think that I will say I think
18 that Robert Feldstein and Rob Newman and Alix
19 Pustilnik just wouldn't stop in trying to figure
20 this out, and I, you know, my hat off to the three
21 of them, who just kept hearing from us and then
22 trying to find the way to reflect in the language
23 what we all were thinking about how to strike this
24 balance. So this is one of those occasions where
25 I think people just did what government should

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2 always do, which is just listen and then try to
3 figure out the creative solutions that reflect all
4 of, I think, collective wisdom. So I think this
5 was a great effort, actually. Sometimes took a
6 little while, but it was great.

7 But anyway--

8 MALE VOICE: [Interposing] Do you
9 want them to wait?

10 [Pause]

11 JOHN FEINBLATT: No. You know, and
12 I think what we're left with is a revision of the
13 old law that both fine tunes the law that was
14 passed last year, as well as making sure that it's
15 appropriate to the new circumstances, which is the
16 introduction of Secure Communities and I believe
17 we've got a bill that strikes all the right
18 balances and gives, you know, recognition to
19 public safety, national security, and also ensures
20 that New York City remain the most immigrant-
21 friendly city in the nation.

22 So we're here because the bills
23 needed to be updated and the original bill, as we
24 all know, was developed when ICE detainers were
25 only issued to those already held Rikers on

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2 criminal charges, and this summer, when the
3 Department of Homeland Security, essentially by
4 fiat, introduced Secure Communities, we knew that
5 there would be many more ICE detainers starting to
6 be issued even before somebody was arraigned and
7 even before a court had a made a decision of
8 whether somebody should be held at Rikers or not.
9 And there is no question about it that when you
10 look at the population of people who are held at
11 Rikers, either as a result of a judge setting bail
12 or as a sentence, and then compare that to the
13 much larger population of people who are arraigned
14 in the City's criminal courts, you are left with
15 two very different populations, and that's why we
16 felt so--and we all felt it was so important to
17 try to address this legislatively. And just by
18 example, the arraignment population is probably
19 66% more likely to have a criminal conviction of
20 any type than the group of people who are held by
21 a judge or sentenced generally thought to be a
22 more serious populations.

23 So the new bill really continues
24 the basic principle of the existing bill, but
25 applies it to a different population. It

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2 recognizes, I think, the importance of our
3 longstanding relationships with other
4 jurisdictions, including the federal government,
5 in maintaining a safe city, but it tries to,
6 rightly, focus enforcement on those who have a
7 recent or serious criminal history, have a chronic
8 history of serious immigration violations, or
9 people who are identified as suspected terrorists
10 or known gang members. And I think that's
11 actually an example of New York City trying to
12 take the spirit of what the federal government has
13 done and then try to engraft it in legislation,
14 and I'm happy that we're sort of on the forefront
15 of actually doing it.

16 So, you know, I think at the same
17 time, what we did was we took this as an
18 opportunity to, what I would say, tweak last
19 year's bill and come up with some common sense
20 changes that recognize that there was a difference
21 between somebody who had a, for instance,
22 misdemeanor conviction from last year versus
23 somebody who had a misdemeanor conviction from ten
24 years ago. We hadn't done that in the original
25 bill and I'm happy that we've made that

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2 distinction in here. I think we've also
3 recognized that there are certain convictions that
4 it's best to not include in terms of those that we
5 honor ICE detainers, I think prostitution being
6 one because of our concerns about international
7 trafficking, and I think that was a very good
8 adjustment to the bill last year. And, of course,
9 that will apply not just to the arraignment
10 population, but to the Corrections population as
11 well. And I think that we certainly took a second
12 look at the issue of if someone--only problem was
13 that there was a pending case, I think we tried to
14 make distinctions, particularly among misdemeanor
15 pending cases between somebody who had a pending
16 case for sex crimes or a firearms charge and a
17 couple of other categories, and then just other
18 people who might just have a pending case that
19 would be look more like a shoplifting case.

20 And so I think what this bill
21 really does quite well is sort of reflects on our
22 past efforts to legislate and makes some very good
23 fine tuning, nuanced fine tuning, as well as makes
24 sure that this is appropriate to a new population
25 that is suddenly at risk of having an ICE detainer

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enforced upon them.

So I think hat off to everybody is essentially my line here, and I look forward to seeing when this bill is law.

CHAIRPERSON DROMM: Okay. Well thank you. I just want to start off with a couple of questions, and they're more related, really, to the NYPD component of the bills 'cause there are actually two bills. And how is it, or can you describe for me when there is occasion that the NYPD has in their custody a person long enough that ICE becomes aware of that they're in their custody and then can put down a detainer on them?

JOHN FEINBLATT: Well as you know, and I'll let the--if I do a bad job of this, the police department will come in, but, you know, soon after arrest, prints are taken and we know that what Secure Communities does is share those prints, they go to Albany, then they get shared with the federal government through the FBI, and then they're shared, but it takes, generally, on average, just shy of 24 hours for somebody to be arraigned, some portion of that they will be in police custody, and that's when a detainer could

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fall.

CHAIRPERSON DROMM: How long are people generally in police custody? It was my understanding that they have to--and maybe I'm wrong on the word arraignment, but they have to be brought before a judge within 24 hours.

JOHN FEINBLATT: Correct.

CHAIRPERSON DROMM: So that process--

[Crosstalk]

CHAIRPERSON DROMM: --could happen within those 24 hours?

JOHN FEINBLATT: Yes, it could actually. They sometimes they can work quickly.

CHAIRPERSON DROMM: And then if a detainer was put on them, where would those people be held?

JOHN FEINBLATT: Well they are in custody at that point and so the detainer--you're talking about currently or--

CHAIRPERSON DROMM: [Interposing]
No, with--

[Crosstalk]

JOHN FEINBLATT: --talking about--

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2 CHAIRPERSON DROMM: --well
3 currently.

4 JOHN FEINBLATT: --what it would
5 be? So, you know, we're still actually working
6 that out, so if a detainer that's going to be
7 honored actually drops where you're still trying
8 to work out actually where they will be held. So
9 that's something that we're working on, knowing
10 we--anticipating that this legislation will pass.

11 CHAIRPERSON DROMM: So after they
12 leave NYPD custody, and let's say they are into
13 Department of Correction's custody, detainers can
14 still be dropped on them and then DOC would hold
15 them until that detainer is honored.

16 JOHN FEINBLATT: It's 48 hours they
17 have and if they can't pick somebody up within 48
18 hours, we won't honor--by law, you don't honor the
19 detainer after that period.

20 CHAIRPERSON DROMM: Now are we
21 addressing in the bill, the legislation, anything
22 with people who have charges pending? In other
23 words, I have had some people come into my office--
24 -

25 JOHN FEINBLATT: Right.

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2 CHAIRPERSON DROMM: --who--a man
3 who was arrested for selling counterfeit perfume
4 or cologne or something like that, he was in
5 custody and was bailed out. By virtue of being
6 bailed out, then ICE was notified, the charges
7 against him were later dismissed. Had ICE not
8 been notified, he never would have been put into
9 ICE custody. Are we looking at that--

10 [Crosstalk]

11 JOHN FEINBLATT: [Interposing] Well
12 what happens in court is public record. So the
13 disposition in court, whether somebody's released
14 or not released, is public and it's accessible to
15 the public. I think there's actually you can go
16 online and see status, if I'm not correct.

17 CHAIRPERSON DROMM: See the concern
18 that I'm trying to raise is that it would be
19 better for somebody like that to remain in DOC
20 custody, rather than to have been bailed out
21 because so long as they remained in custody, then
22 they would not have had the detainer honored
23 'cause the charges would have been dismissed.

24 JOHN FEINBLATT: Right. Right, so
25 here's the thing, the legislation, I think, fine

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2 tunes the pending issue and, I think,
3 significantly, and so what we have done
4 collectively here is determined that if the only
5 reason that you are--that we would honor detainer
6 is because of a pending misdemeanor, we've
7 essentially said that in those cases, except for a
8 few exceptions, we wouldn't honor the detainer and
9 I think that that's probably the most important
10 revision that we made between last year and this
11 year. And so what we all looked at was what were
12 those types of pending cases that were actually
13 serious and would give us a public safety
14 concerns, and it's a small list that I think that
15 we all easily agreed on, things like sex crimes
16 and the like. But generally speaking, because of
17 this new proposed legislation, if the only reason
18 that we would honor a detainer is because of a
19 pending misdemeanor, we would now not honor that
20 detainer.

21 CHAIRPERSON DROMM: And, Mr.
22 Feinblatt, on the level of the NYPD, if--

23 JOHN FEINBLATT: Yeah.

24 CHAIRPERSON DROMM: --they're still
25 in the custody of NYPD, who would actually be

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making the decisions to honor the detainer or not at that level? I mean, is it--

JOHN FEINBLATT: [Interposing] Well it's going to be clear in, I assume, in our training manuals and things like that about what are the criteria is and so most of that information is readily available, just like it is in to Corrections. And so, you know, we know the criminal conviction, we know whether there are criminal warrants, and the FBI's National Crime Information database will tell us, just as it does now, about things like terrorist watch list, immigrant violator's list, and the like. So that's easily obtainable, not hard to determine.

CHAIRPERSON DROMM: But just who is responsible? 'Cause I'm just trying to find out--

JOHN FEINBLATT: [Interposing] Probably what's called the Criminal Justice Bureau, which is the bureau of the police department that deals with all of these matters at arraignments and--

SUSAN PETITO: [Interposing] Prisoner processing.

JOHN FEINBLATT: Right, prisoner

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processing will take care of--

[Crosstalk]

CHAIRPERSON DROMM: [Interposing]

And then can be done quickly enough that--

JOHN FEINBLATT: [Interposing]

Yeah, yeah, I think--

CHAIRPERSON DROMM: --within the
24-hour period?

JOHN FEINBLATT: Yeah, these
determinations, these are very easy to do, these
are very readily available databases. Some of
that information's already available once the
prints come back, so we're not worried about this
operationally.

CHAIRPERSON DROMM: All right, let
me turn it over to Council Member Melissa Mark-
Viverito.

COUNCIL MEMBER MARK-VIVERITO:
Thank you, Chair Dromm. And it's great to see
you, Mr.--

[Crosstalk]

JOHN FEINBLATT: [Interposing] --
nice to see you.

COUNCIL MEMBER MARK-VIVERITO: --

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2 Feinblatt, and I want to thank you for your
3 testimony 'cause I remember some of those original
4 meetings where, you know, we did knock heads a
5 little bit. But I'm glad that we're at a point
6 now where, obviously, as I was saying that what
7 we're doing here at a municipal level really
8 aligns with what we've been hearing at the federal
9 level and I know that the mayor has been very
10 vocal on the issue of immigration reform, and we
11 thank him for that. And I thought it was--and
12 many of us thought that it was important that our
13 public policy really model what was being said.
14 And so I'm glad that we're on the cutting edge as
15 a municipality on these issues and, hopefully,
16 it's something that others will look at to
17 continue to put pressure on the need for this
18 federal reform.

19 I wanted to kind of jump a little
20 bit on what Danny was raising in terms of
21 understanding it, right? 'Cause this is a lot of
22 language, technical language, and just trying to
23 figure out, you know, from the ground how it gets-
24 -how it happens, right? So currently, we already
25 are in the Secure Communities program so I'd like

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2 to understand from the NYPD perspective that once
3 someone is arrested, what has the process been
4 like to-date? Like, you know, once the
5 fingerprints are processed, how quickly do we get-
6 -are we getting word back from the federal
7 government when a detainer is being dropped? You
8 know, just I don't know if somebody could just
9 walk us through, like the implementation of it
10 right now, and then being able to talk about how
11 this legislation is going to make it different, at
12 what point does it change. You know, so I don't
13 know if somebody could walk us through that, I
14 don't know if the NYPD is going to give testimony-
15 -

16 JOHN FEINBLATT: [Interposing]
17 Yeah, I mean, I think it's pretty straightforward
18 though.

19 COUNCIL MEMBER MARK-VIVERITO:
20 Okay.

21 JOHN FEINBLATT: You know, so
22 somebody is arrested, they are generally taken to
23 the precinct, the printing process, it generally
24 begins at that point and the prints go to, first
25 to Albany and then from Albany, they go,

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2 generally, to the FBI, and now, because of Secure
3 Communities, that information is being shared with
4 ICE. And so at that point, ICE will make a
5 determination of whether to drop a detainer or
6 not.

7 COUNCIL MEMBER MARK-VIVERITO: And
8 that's the first point I want to ask. So, okay,
9 so that's happening, what's the average timeframe
10 in which we're hearing back from ICE on whether a
11 detainer is being dropped or not?

12 [Crosstalk]

13 COUNCIL MEMBER MARK-VIVERITO: I
14 don't know if you--I think you may have to join
15 the table if--

16 CHAIRPERSON DROMM: Yeah.

17 COUNCIL MEMBER MARK-VIVERITO: --
18 you're going to speak and identify yourself.

19 CHAIRPERSON DROMM: [Interposing]
20 Speak into the mic so we can--and just identify
21 yourself.

22 COUNCIL MEMBER MARK-VIVERITO:
23 Yeah, yeah.

24 JOHN FEINBLATT: Sure, [off mic].
25 I mean, I think that the numbers, you know,

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absolutely come up. You know, the numbers as I--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] I mean, I'm just--

JOHN FEINBLATT: No--

[Crosstalk]

COUNCIL MEMBER MARK-VIVERITO: --

because I need to--I want to--

JOHN FEINBLATT: Absolutely.

COUNCIL MEMBER MARK-VIVERITO: --

understand it, yeah.

JOHN FEINBLATT: So, you know, my--

I believe that they're probably less than about

200 a month actually being--

COUNCIL MEMBER MARK-VIVERITO:

Okay.

JOHN FEINBLATT: --dropped and so,

while that seems like a large number, we have to

remember how many people are actually arraigned a

year, probably 400,000, something.

SUSAN PETITO: Four hundred

thousand arrests.

JOHN FEINBLATT: Right, 400,000

arrests, so at 200 a month, we're talking about

2,400 people and so, while 200 are real live human

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2 beings, this is a very, very tiny percent of the
3 overall group of people who are arrested and whose
4 prints are actually being shared now with ICE.

5 But why don't I turn it over to you--

6 WILLIAM MATUSIAK: [Interposing] To
7 answer your question, yeah, the--

8 COUNCIL MEMBER MARK-VIVERITO:
9 [Interposing] And you could identify yourself
10 first, sir.

11 WILLIAM MATUSIAK: Hi, I'm Chief
12 William Matusiak, I'm the commanding officer of
13 the police department's Criminal Justice Bureau.
14 To answer your question, the majority of ICE
15 detainers they come back on your rap sheet so when
16 you're printed, the average prints come back and
17 at citywide between an hour and two hours is how
18 long it takes to get a response from Albany, and
19 the overwhelming majority of ICE detainers would
20 come back on your rap sheets. So when you get
21 printed--

22 COUNCIL MEMBER MARK-VIVERITO: Yes.

23 WILLIAM MATUSIAK: --then your rap
24 sheet comes back with any prior arrests, the ICE
25 detainer would be on that rap sheet.

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COUNCIL MEMBER MARK-VIVERITO: So on average, you're getting that response within two or three hours.

WILLIAM MATUSIAK: Yeah, less--

[Crosstalk]

COUNCIL MEMBER MARK-VIVERITO:
[Interposing] Okay. In that situation, in that two and three hour period, is that person still at that point at the precinct or have they been sent downtown?

WILLIAM MATUSIAK: They would be--

COUNCIL MEMBER MARK-VIVERITO:
[Interposing] In two or three hours on average?

WILLIAM MATUSIAK: --they'd probably still be in the precinct.

COUNCIL MEMBER MARK-VIVERITO:
Okay. So then if you get notification that there is a detainer on that rap sheet, then what do you do at that point? What are you doing at that point?

WILLIAM MATUSIAK: We call ICE to see if it's valid and if they really--if it's valid.

COUNCIL MEMBER MARK-VIVERITO:

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Okay. And then if it's valid?

WILLIAM MATUSIAK: Then we would hope that they're being still we're processing them on their instant arrest, that's really what-- you know, this is a secondary thing, they're still in custody for whatever they've been arrested for.

COUNCIL MEMBER MARK-VIVERITO: No, understood, but then if you're getting verification from ICE that it's a detainer, I mean, just saying, remember, we're talking about once the law is implemented, 'cause I'm trying to understand how--when somebody's going through the system, at what point that.. So they're--

WILLIAM MATUSIAK: Right.

COUNCIL MEMBER MARK-VIVERITO: --in the precinct, ICE comes back and says the detainer is a valid detainer, whatever, however you would call it, you're going to hold that--what happens to the person at that point?

WILLIAM MATUSIAK: That's what I'm saying--

JOHN FEINBLATT: [Interposing]
They're being held regardless of ICE because--

WILLIAM MATUSIAK: [Interposing]

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They're being processed.

JOHN FEINBLATT: --they have to be arraigned.

COUNCIL MEMBER MARK-VIVERITO:
Correct.

JOHN FEINBLATT: So the presence or absence of a detainer at that point actually has no impact on the processing at that point because they've been arrested and they're going to be processed and come before a judge.

COUNCIL MEMBER MARK-VIVERITO:
Right, so then if this--this is what I'm trying to get at--if this legislation is indicating that NYPD is to not honor a detainer, you're saying that the person is being processed regardless of whether or not a detainer--at what point is that detainer being honored right now?

WILLIAM MATUSIAK: I'm really not, I--

COUNCIL MEMBER MARK-VIVERITO:
[Interposing] Well, I mean, you're being--a detainer is that you're going to hold the person until ICE assumes responsibility--

JOHN FEINBLATT: [Interposing] Well

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where--

COUNCIL MEMBER MARK-VIVERITO: --

for the person--

JOHN FEINBLATT: --where the rubber

would hit the road would be--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] Right, that's--

[Crosstalk]

JOHN FEINBLATT: --if somebody was

not sent to Rikers because a judge wasn't--

[Crosstalk]

JOHN FEINBLATT: --them and they

were released on their recognizance.

COUNCIL MEMBER MARK-VIVERITO:

Okay.

JOHN FEINBLATT: So that's really

where the issue of do they leave the systems--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] Or they don't.

WILLIAM MATUSIAK: Right.

JOHN FEINBLATT: --or they don't

comes into play--

COUNCIL MEMBER MARK-VIVERITO:

Right.

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JOHN FEINBLATT: --and that's really generally at the 24-hour period.

COUNCIL MEMBER MARK-VIVERITO: Okay. Okay, that help explains it. So then, and, I guess, also 'cause we are trying between these two laws, right? This law that's--

JOHN FEINBLATT: Yes.

COUNCIL MEMBER MARK-VIVERITO: -- already in and, hopefully, the law, is to create a kind of seamless situation--

[Crosstalk]

COUNCIL MEMBER MARK-VIVERITO: -- here. So then now if that person is sent to Rikers, then at that point, DOC kind of intervenes and then--

[Crosstalk]

JOHN FEINBLATT: [Interposing] DOC takes over and--

COUNCIL MEMBER MARK-VIVERITO: Right.

JOHN FEINBLATT: --DOC has now been doing this for a year--

COUNCIL MEMBER MARK-VIVERITO: Right.

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JOHN FEINBLATT: --and what the change of the proposed law will be is a basically fine tuning of some of the criteria that we're using that the ones that we agreed on, which seemed, after a year of doing this common sense ones, that we thought that there was some instances where public safety didn't require honoring--more instances than we originally thought where public safety really didn't require holding somebody.

COUNCIL MEMBER MARK-VIVERITO:

Okay. I appreciate that. And then I have a set of questions for DOC, but I'll wait for that. But the next thing on this, the NYPD issue, obviously, is once this becomes law, is the training aspect. I mean, there's a level, I think, of complexity to this and--

WILLIAM MATUSIAK: Right.

COUNCIL MEMBER MARK-VIVERITO: So

what is your envisioning about how the training is going to be incorporated, how this message is going to be sent? You know, I don't know if you could talk a little bit about that aspect of it.

SUSAN PETITO: Hello, I'm Susan

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2 Petito, Assistant Commissioner, Intergovernmental
3 Affairs at the PD.

4 When the laws pass, I personally
5 actually put out a memo to the police commissioner
6 and other members of the executive staff telling
7 them what the law does and making recommendations
8 as necessary, but the training will actually be
9 focused much more within the Criminal Justice
10 Bureau than to the general police population
11 because this is a sophisticated set of criteria in
12 the bill that it'll take some, you know, there'll
13 be a little learning curve about whether or not
14 somebody should be subject to the detainer or not,
15 and to set forth, like, the operational
16 procedures. So we don't know exactly yet how
17 we'll operationalize it, my feeling is that we
18 will probably focus on Criminal Justice Bureau
19 because those are the folks who already deal with
20 the detainers. When a detainer comes in, it
21 generally comes in to the Criminal Justice Bureau
22 to Chief Matusiak's folks and so they will receive
23 more training than, say, the general patrol
24 population on how to determine how to implement
25 the bill.

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2 So that will be the focus of
3 training will be within the Criminal Justice
4 Bureau because if a police officer on patrol comes
5 across this issue, they will probably--again, we
6 have to figure this out--but they will probably
7 call the Criminal Justice Bureau, and folks there
8 will be able to guide them on what to do.

9 Prisoner processing will stay the
10 same.

11 COUNCIL MEMBER MARK-VIVERITO:

12 Okay.

13 SUSAN PETITO: So it's when they
14 get to the custody, the prisoner comes to the
15 custody of the Criminal Justice Bureau in the
16 court sections in the actual courts awaiting
17 arraignment, those are the folks who will have
18 extra training on how to implement the bill.

19 CHAIRPERSON DROMM: Can you just
20 give me an example of when somebody would be
21 released from NYPD custody before going into DOC
22 custody or before going before a judge?

23 JOHN FEINBLATT: Well before going
24 to DOC custody would be if--there's always a bail
25 determination at the point of arraignment, which

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2 generally occurs around 24 hours, a little shy of
3 that, and differences, depending on the boroughs,
4 and a judge will make a determination whether to,
5 what's called release someone on their
6 recognizance, which would mean that they didn't
7 require to be held on bail. And if a judge either
8 releases someone on their recognizance or, which
9 is relatively rare, dismisses a case outright at
10 that point, then they would be at liberty and
11 would not be transported to the department by the
12 Department of Corrections to Rikers.

13 COUNCIL MEMBER MARK-VIVERITO: In
14 terms of you indicated that since the
15 implementation or whatever on the--Secure
16 Communities coming online, that it's been 200 a
17 year in terms of detainers.

18 JOHN FEINBLATT: No, I think it was
19 less than 200 per month.

20 COUNCIL MEMBER MARK-VIVERITO: Oh,
21 sorry, 200 per month.

22 JOHN FEINBLATT: Yeah.

23 COUNCIL MEMBER MARK-VIVERITO: Oh,
24 sorry.

25 JOHN FEINBLATT: So about a little

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less than 2,400 a year.

COUNCIL MEMBER MARK-VIVERITO:

Okay. So 2,400 a year, and then of those, is every single one honored right now?

JOHN FEINBLATT: Well here's the thing--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] Yeah, this--

JOHN FEINBLATT: --you know, that ICE does not follow through--

COUNCIL MEMBER MARK-VIVERITO:

Right.

JOHN FEINBLATT: --on many of the detainers that they actually lodge, and never have. And so I don't know what the precise percent is for this population, you know, if you're interested we can see if we can determine that, so--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] 'Cause it's only been in effect, like, two years--

JOHN FEINBLATT: Yeah.

COUNCIL MEMBER MARK-VIVERITO: -

right? So--

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JOHN FEINBLATT: Yeah.

COUNCIL MEMBER MARK-VIVERITO: --of those total numbers, it'd be great--if you don't have it on-hand, great, but--

JOHN FEINBLATT: Yeah, yeah.

COUNCIL MEMBER MARK-VIVERITO: -- I'd like to know of those total numbers, how many is ICE actually following up with and--

JOHN FEINBLATT: [Interposing]

Yeah, I don't have that--

COUNCIL MEMBER MARK-VIVERITO:

Okay.

JOHN FEINBLATT: --but I think we can determine that.

COUNCIL MEMBER MARK-VIVERITO:

Okay. I think that was on the--for me for right now, I did have some questions on the DOC stuff, but I'll leave that for--

CHAIRPERSON DROMM: [Interposing]

Okay. And now I'd like to turn it over to my colleague, Council Member Charles Barron.

COUNCIL MEMBER BARRON: Thank you very much. I just have a couple questions. To follow up where Melissa Mark-Viverito was going,

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let's say a person is arrested and they were going to get a DOT, a desk appearance--

JOHN FEINBLATT: [Interposing] A

DAT.

COUNCIL MEMBER BARRON: DAT, sorry-

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JOHN FEINBLATT: Yeah.

COUNCIL MEMBER BARRON: --desk

appearance ticket, and then you found out that they had a detainer, would you turn it into an arrest, a different kind of arrest and no longer a DAT and retain them?

JOHN FEINBLATT: I don't think so.

COUNCIL MEMBER BARRON: Or what would happen?

JOHN FEINBLATT: I think we're looking at that issue. My instinct is not, but we're trying to look at that issue because some of it depends on when you actually get the information. I mean, the DAT determination is often very quick and we'll--

COUNCIL MEMBER BARRON:

[Interposing] Quick, yeah, it--

JOHN FEINBLATT: --have to look at

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that.

COUNCIL MEMBER BARRON: --usually goes quick.

JOHN FEINBLATT: So we have to look at that.

COUNCIL MEMBER BARRON: So whether you would turn it into a summary arrest or not--

[Crosstalk]

JOHN FEINBLATT: [Interposing] Well you would be holding the--if you were to honor the detainer, you would be--

COUNCIL MEMBER BARRON: Right.;

JOHN FEINBLATT: --holding them for this 48-hour period--

COUNCIL MEMBER BARRON: A 48-hour period--

JOHN FEINBLATT: --subject to--

COUNCIL MEMBER BARRON: --would kick in.

JOHN FEINBLATT: --ICE, but it's something that we are trying--

COUNCIL MEMBER BARRON: [Interposing] Have to look in--

JOHN FEINBLATT: --to determine.

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COUNCIL MEMBER BARRON: All right.

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Then the other question is just to see the impact

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of this bill, do you have numbers on the number of

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detainers honored with the present system--

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JOHN FEINBLATT: [Interposing]

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Right, so the presence--

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COUNCIL MEMBER BARRON: --and then-

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-hold on a second.

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JOHN FEINBLATT: Yeah.

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COUNCIL MEMBER BARRON: And then

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subtracting what this bill, the impact this bill

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would have and how many of those that you--numbers

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that you have now would be reduced based upon this

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bill.

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JOHN FEINBLATT: So under the

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current law that's been operating roughly a year?

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MALE VOICE: Little less.

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JOHN FEINBLATT: Little less, about

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20% of the detainers were not honored. So you

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have to start with the fact that there are more

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detainers than ICE is ever going to actually

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enforce.

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COUNCIL MEMBER BARRON: Honor, mm-

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hmm.

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2 JOHN FEINBLATT: And about 20% of
3 them were not honored. I don't have calculations
4 now, but with this new law, that will be--we will
5 honor less--

6 COUNCIL MEMBER BARRON:

7 [Interposing] Even less.

8 JOHN FEINBLATT: --than we're
9 currently honoring and, of course, it will now
10 apply to a much larger population.

11 COUNCIL MEMBER BARRON:

12 [Interposing] Right, and you don't have a sense of
13 that, anticipate--

14 JOHN FEINBLATT: [Interposing] I
15 don't have a sense but--

16 COUNCIL MEMBER BARRON: --what that
17 would do to the--

18 JOHN FEINBLATT: Yeah.

19 COUNCIL MEMBER BARRON: --because
20 whatever the detainers were and this one would be
21 just subtracting those cases based on this law.

22 JOHN FEINBLATT: Yeah, I can give
23 you--this is going to be an imprecise--

24 COUNCIL MEMBER BARRON: Sure.

25 JOHN FEINBLATT: --if you were to

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look at just people--the major revision that we've done in terms of the DOC population is redefined when if--there's only a pending case--

COUNCIL MEMBER BARRON: Right.

JOHN FEINBLATT: --and that's the only reason you would honor the detainer, that's where we've made the biggest revision, and appropriately so. That's about 26%--

COUNCIL MEMBER BARRON: Got you.

JOHN FEINBLATT: --of the cases, however, because some of those are pending felonies and some of them--

COUNCIL MEMBER BARRON:

[Interposing] Right, you have--

[Crosstalk]

JOHN FEINBLATT: --are pending misdemeanors, that's why I'm being--

COUNCIL MEMBER BARRON: Got you.

JOHN FEINBLATT: --going to have to be pretty--

COUNCIL MEMBER BARRON: Got you.

JOHN FEINBLATT: --imprecise here. But that gives you a sense that that's a quarter of what we're talking about--

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COUNCIL MEMBER BARRON: Right.

JOHN FEINBLATT: --could potentially be affected, it won't be that full 26% because sometimes all you'll have is a pending felony.

COUNCIL MEMBER BARRON: But let's say, just talking--

JOHN FEINBLATT: [Interposing] But because there are many more--

COUNCIL MEMBER BARRON: --let's say six--

JOHN FEINBLATT: --misdemeanor than there are felonies--

COUNCIL MEMBER BARRON: --let's say 6% were--

JOHN FEINBLATT: Right.

COUNCIL MEMBER BARRON: --felonies and--

JOHN FEINBLATT: Right.

COUNCIL MEMBER BARRON: --the 20% were misdemeanors and that would be a total--

JOHN FEINBLATT: [Interposing] Yeah, that would be--

COUNCIL MEMBER BARRON: --of 40%

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now--

JOHN FEINBLATT: --that was the only reason, yes.

COUNCIL MEMBER BARRON: Right. I got you.

JOHN FEINBLATT: It's going to be a large proportion of it because there are just many more misdemeanor arrests than there are--

COUNCIL MEMBER BARRON: Right.

JOHN FEINBLATT: --felony arrests.

COUNCIL MEMBER BARRON: Okay.
Thank you very much.

CHAIRPERSON DROMM: Okay. And just a few other follow up questions. How long do you think it will take for the law to be fully implemented?

SUSAN PETITO: Well I think that it gives us four months, correct? I mean, is that--

JOHN FEINBLATT: Yeah.

SUSAN PETITO: --120 days, we might need a little more time than that, but probably not.

JOHN FEINBLATT: I think we, you know, I think that's realistic.

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CHAIRPERSON DROMM: That would include the training time?

SUSAN PETITO: Yes.

JOHN FEINBLATT: Yeah.

CHAIRPERSON DROMM: And--go ahead, I'm sorry.

JOHN FEINBLATT: Well I think that, as Sue Petito said, we're--it's the Criminal Justice Bureau, it's not training the entire police department, it's in the main training the Criminal Justice Bureau, whose business it is to deal with this part of the criminal justice system, so..

CHAIRPERSON DROMM: Is there any one person who is going to be appointed to oversee the implementation or how would that work?

SUSAN PETITO: I can't say right now, certainly the commanding officer of the Criminal Justice Bureau will have the large part of implementation because it's his folks who are going to be doing the actual work on the ground.

CHAIRPERSON DROMM: And is there any idea or plan about educating the public about the change?

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2 SUSAN PETITO: Not that I'm aware
3 of from our perspective, but--

4 [Crosstalk]

5 CHAIRPERSON DROMM: Are we working
6 with advocates, immigrant groups?

7 JOHN FEINBLATT: Yeah, I mean, I
8 think we definitely should make sure that
9 immigrant groups and advocacy groups understand
10 the legislation because I think that people are
11 going to wonder--they're going to know that there
12 was a change. This isn't easy, actually. I mean,
13 this is, you know, this is a little bit
14 complicated and I think we're going to have to--
15 it's only--

16 [Crosstalk]

17 CHAIRPERSON DROMM: [Interposing]
18 To be honest with you, that's a little bit of a
19 thing that worries me--

20 JOHN FEINBLATT: Yeah.

21 CHAIRPERSON DROMM: --a little bit
22 is because it is complicated, how it's actually
23 going to play out and I think that's why we were
24 focusing on those types of questions here today.

25 JOHN FEINBLATT: Yeah, I mean, one

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2 of the things that we will certainly focus on is
3 working with the indigent defense community
4 because, while you can sort of describe this to
5 the general community, I mean, when it really
6 becomes important to you is if you have been
7 arrested and we have, as you know, I think we've
8 discussed this before, we funded lawyers within
9 all of the indigent defense providers, whether
10 they be Legal Aid or the alternative providers, we
11 funded people to specifically work on immigration
12 issues and so they will be responsible within
13 their offices to make sure that the lawyers
14 understand this.

15 CHAIRPERSON DROMM: Okay. Council
16 Member Mark-Viverito?

17 COUNCIL MEMBER MARK-VIVERITO: No,
18 I guess, and I don't know at what point we can get
19 DOC because there are questions that I had
20 specifically about the--

21 JOHN FEINBLATT: [Interposing] We
22 can just--

23 COUNCIL MEMBER MARK-VIVERITO: No,
24 no, no. But I guess part of the question--

25 JOHN FEINBLATT: --play musical

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chairs and get them.

COUNCIL MEMBER MARK-VIVERITO: --
part of the question also is with regards to how
do you see the--is there going to be interagency
communication, at what point in terms of DOC and
NYPD interacting, considering that, you know, the
legislation--there's legislation--

JOHN FEINBLATT: Yeah.

COUNCIL MEMBER MARK-VIVERITO: --
that guides each, but they are kind of related.

JOHN FEINBLATT: Yeah, I mean, I
mean, I think that just, you know, by way of just--
-

SUSAN PETITO: They're all in--

[Crosstalk]

JOHN FEINBLATT: --context, they're
all in it together because DOC and the PD are
inextricably the two players in the--

COUNCIL MEMBER MARK-VIVERITO:
Right.

JOHN FEINBLATT: --system at this
very point where you actually hand over custody
from one agency to the other. So this is a
natural for communication because they actually

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are running this part of the process together.

COUNCIL MEMBER MARK-VIVERITO:

Together. And I did have some questions with regards because the law that we put in place with regards to DOC has been in place for about a year and there are reporting requirements, if there is a rep from DOC here that can--

JOHN FEINBLATT: Sure.

COUNCIL MEMBER MARK-VIVERITO: --

answer some specific questions about that, I would appreciate that.

LEWIS FINKELMAN: Morning.

COUNCIL MEMBER MARK-VIVERITO: Good

morning. So [off mic] you identify yourself--

[Crosstalk]

LEWIS FINKELMAN: Lewis Finkelman,

I'm first deputy commissioner at Department of Correction.

COUNCIL MEMBER MARK-VIVERITO: Well

thank you for being here. And I just want to, you know, with regards to the implementation of Local Law 62, is there any statistics or information that you can share with us about how it has been going, how has it--what level of impact it has

1
2 had. And actually, Local Law 62 was the one we're
3 going to pass now, but, yeah. So if you could
4 share with us any sort of update on that how it's-
5 -

6 LEWIS FINKELMAN: Absolutely.

7 COUNCIL MEMBER MARK-VIVERITO: --
8 been going. I'm sure there's lessons to be
9 learned that the NYPD can learn from the
10 implementation of that law with DOC.

11 LEWIS FINKELMAN: Sure. Well,
12 Council Member, as you mentioned, we do have a
13 reporting requirement. We had to iron out some
14 kinks, but our first annual report for the period,
15 it covers March 9th, 2012, through September 20th,
16 2012, has been issued, it's on our website, and it
17 is available to the public. Those statistics
18 indicate that we honored during that period 1,206
19 ICE detainers, the actual number of individuals
20 who were transferred to the custody of ICE from
21 that number was 1,193. And in total, there were
22 267 ICE detainers.

23 COUNCIL MEMBER MARK-VIVERITO: I'm
24 sorry, repeat that?

25 LEWIS FINKELMAN: Two hundred and

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2 sixty-seven ICE detainees that were not honored
3 pursuant to the Local Law.

4 COUNCIL MEMBER MARK-VIVERITO: And
5 what would the numbers have been if the law was
6 not in place?

7 LEWIS FINKELMAN: We would have
8 honored them all.

9 COUNCIL MEMBER MARK-VIVERITO:
10 Which is how many?

11 LEWIS FINKELMAN: It would have
12 been the 1,206, plus the 267, so I guess--

13 JOHN FEINBLATT: [Interposing] I
14 think it would have been 1,473.

15 LEWIS FINKELMAN: Yeah.

16 JOHN FEINBLATT: One thousand four
17 hundred and seventy-three.

18 COUNCIL MEMBER MARK-VIVERITO:
19 Okay.

20 JOHN FEINBLATT: So about 20% were
21 not honored. And as I said, with the enactment of
22 the DOC side of this, that will--the numbers that
23 we don't honor will grow, the percent that we
24 don't honor will grow.

25 COUNCIL MEMBER MARK-VIVERITO:

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Correct.

JOHN FEINBLATT: And I also suspect that it's likely, given that ICE, once again, has issued some new guidelines for when they issue a detainer, you know, what I hope would happen is that their practice would reflect those guidelines.

COUNCIL MEMBER MARK-VIVERITO: Let me ask a question, I guess one of the things that comes to mind is in the case of Rikers, there are actually ICE agents physically based there.

LEWIS FINKELMAN: Yes, there are.

COUNCIL MEMBER MARK-VIVERITO: So it's probably much easier for them to follow up when there is a detainer dropped on someone and if they fit the criteria, so to speak. I mean, I'm wondering, 'cause in the case of NYPD, it's very different, right? They're asking--ICE's there's detainers, but you don't have ICE agents at every precinct or you don't have them downtown so--

JOHN FEINBLATT: [Interposing] No, but they're pretty--I mean, the thing--

COUNCIL MEMBER MARK-VIVERITO:
[Interposing] I mean, you said, you indicated--

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JOHN FEINBLATT: Yeah, yeah.

COUNCIL MEMBER MARK-VIVERITO: --
earlier that they don't honor--or I mean, that you
drop them but that follow up is sometimes not
there on regards, I mean, you--

JOHN FEINBLATT: [Interposing] Well
it also happens sometimes at DOC, they don't
follow up every time they originally drop--

COUNCIL MEMBER MARK-VIVERITO:
Right.

JOHN FEINBLATT: --a detainer--

[Crosstalk]

COUNCIL MEMBER MARK-VIVERITO:
[Interposing] Can you give a percentage on the
NYPD side or not?

SUSAN PETITO: I don't know, it's--

LEWIS FINKELMAN: [Interposing]
That's tough to do, but I would like to emphasize
the fact, under the Local Law, we do the analysis
first of whether we're going to honor a detainer,
and if it's a detainer that we're not going to
honor, we do not communicate with ICE that we have
the inmate in our custody eligible to release, we
release them. So ICE doesn't get notified in

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those cases where we've made the determination the detainer is not going to be honored.

COUNCIL MEMBER MARK-VIVERITO:

Right, but I mean, but I'm looking at, like you said 1,206 detainers were dropped, 1,193 were transferred to ICE. I mean, that's a large--it's almost all of it.

LEWIS FINKELMAN: Yes.

COUNCIL MEMBER MARK-VIVERITO: I

mean, right? So those are people that are now being put into the detention system and possibly--

JOHN FEINBLATT: Right.

COUNCIL MEMBER MARK-VIVERITO: --

have deported. Now would you say that those numbers are as high on the NYPD side in terms of when ICE drops a detainer?

JOHN FEINBLATT: You mean the percent at which--

COUNCIL MEMBER MARK-VIVERITO:

[Interposing] Yes.

JOHN FEINBLATT: --they--I don't know the answer to that.

COUNCIL MEMBER MARK-VIVERITO:

Right, so I would like to--I mean, it would be--

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JOHN FEINBLATT: [Interposing]

Yeah, I don't know--

COUNCIL MEMBER MARK-VIVERITO: --

kind of interesting to see that--

JOHN FEINBLATT: --we can look--

COUNCIL MEMBER MARK-VIVERITO: --

number.

JOHN FEINBLATT: --and see if we

can determine that. I mean, I also--

COUNCIL MEMBER MARK-VIVERITO: I

mean, that's almost 100%.

JOHN FEINBLATT: --suspect--and

this is a bit of speculation--that there is--this

is speculation, but I suspect that they are

probably following through at DOC with a higher

percent now that the law is in place because we've

actually weeded out--

COUNCIL MEMBER MARK-VIVERITO:

Interesting.

JOHN FEINBLATT: --ones that we

think don't represent a public safety concern, and

so I think that the percentage may go up, but as I

said, that's--have gone up, but that is a bit of

speculation.

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COUNCIL MEMBER MARK-VIVERITO:

Okay. Thank you for that. Just two quick questions and then I'm done with questions for the panels, but is there someone at the DOC that's, kind of, oversees this whole implementation--

LEWIS FINKELMAN: [Interposing] Oh,

yes. We have a custody management unit, it's comprised of at least two captains, we have an assistant deputy warden also in that unit who is responsible for implementing this, and there is a warden who oversees that unit. And certainly, you know, at the start, our legal division was intimately involved with the issue of honoring detainees to make sure that we were fully complying with the Local Law.

COUNCIL MEMBER MARK-VIVERITO:

Right.

LEWIS FINKELMAN: So there is a

warden who specifically oversees that particular unit.

COUNCIL MEMBER MARK-VIVERITO: And

did it take--I mean, how was it in terms of implementation, did it take a long time or it was-

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LEWIS FINKELMAN: No, no.

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COUNCIL MEMBER MARK-VIVERITO: --

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pretty smooth?

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LEWIS FINKELMAN: I mean, prior to

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the actual implementation, we had spent a couple

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of months working, you know, the justice database

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that we use. We had been using it beforehand and

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so we made sure that, you know, the staff that was

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going to do this got trained on how to use the

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justice system, that was all done before the law

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was implemented. So, you know, we started

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implementing, actually, I think a week before the

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actual implementation date to see if we would have

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any kinks that had to be ironed out and I think

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everything's run pretty smoothly.

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COUNCIL MEMBER MARK-VIVERITO: And

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then, Mr. Feinblatt, do you--

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JOHN FEINBLATT: Yeah.

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COUNCIL MEMBER MARK-VIVERITO: --

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see that there's lessons to be learned in terms of

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how DOC implement and in terms of how NYPD? I

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know it's different systems and all that, but--

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JOHN FEINBLATT: [Interposing] It's

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a little different, but I think that the bottom

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2 line is that this is not--we talk about how the
3 legislation's a little complex, and it is, but
4 actually, the data is quite available, so what you
5 need to access to be able to determine whether
6 somebody fits within it or not, is not hard to
7 access. And so I think we're pretty comfortable
8 that this is just doable and I think we're happy
9 that we've made adjustments and happy that it's
10 going to apply to the arraignment population.

11 COUNCIL MEMBER MARK-VIVERITO: Well
12 thank you very much, thank you.

13 CHAIRPERSON DROMM: Okay. And a
14 couple more items. Of the 1,193 where the
15 detainer was honored, I think that's what you
16 said, or 1,193--

17 [Crosstalk]

18 CHAIRPERSON DROMM: Right, or
19 transferred, were any of them or is there a way to
20 know how many were put into ICE custody upon
21 posting bail?

22 LEWIS FINKELMAN: Out of the 1,193,
23 or are you asking how many posted bail, or what
24 happened to them after they were--

25 [Crosstalk]

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CHAIRPERSON DROMM: [Interposing]

What I'm trying to get at is how--

LEWIS FINKELMAN: --custody?

CHAIRPERSON DROMM: --many people posted bail and then were turned over to ICE custody?

LEWIS FINKELMAN: I don't have that information with me, I could certainly find that out for you.

CHAIRPERSON DROMM: [Interposing]

Because that goes to the issue of--

JOHN FEINBLATT: Yeah.

CHAIRPERSON DROMM: --of pending, of cases--

JOHN FEINBLATT: [Interposing]

Yeah, I understand--

CHAIRPERSON DROMM: --pending and so--

JOHN FEINBLATT: --I don't know the answer to that.

CHAIRPERSON DROMM: Okay. If we could try to figure that out--

[Crosstalk]

CHAIRPERSON DROMM: --that would be

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very, very helpful as well. And in terms of somebody being released in their own recognizance, do they just get up and they leave the court, how does that work? Can you just walk me through that a little bit?

JOHN FEINBLATT: They're--

CHAIRPERSON DROMM: They're in police custody still--

JOHN FEINBLATT: Yeah.

CHAIRPERSON DROMM: --at that point?

JOHN FEINBLATT: Well, no, they're actually in the courtroom and so it's OCA who's actually--is it police department?

[Crosstalk]

JOHN FEINBLATT: It's police department? So it's police department and there are other court officers as well at that point in the courtroom, but it's the police custody. So there's a bail argument, the defense attorney argues, the prosecution argues how the bail, there's actually a recommendation by the criminal justice agency, which is an independent agency that actually provides a recommendation whether

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2 somebody should be released or not that's largely
3 on their community ties, it's actually a
4 predictive instrument that's been proven to highly
5 correlate with whether somebody is going to come
6 back in court. And then the judge makes a
7 decision to either hold somebody on bail, to
8 release them on their own recognizance, or remand
9 them, which is rarer, but would be in the most
10 serious of circumstances where wouldn't have
11 really an impact on this because it would be
12 circumstances where we would be honoring the
13 detainer and--

14 [Pause]

15 CHAIRPERSON DROMM: So if somebody
16 is released by a judge in their own recognizance,
17 then it's up to the NYPD to determine whether or
18 not to honor that detainer or not. Okay.

19 JOHN FEINBLATT: Yes.

20 CHAIRPERSON DROMM: And then,
21 finally, do you have an idea in terms of how you
22 think the numbers will change with the
23 implementation of this legislation?

24 JOHN FEINBLATT: Well what I was
25 saying before to Councilman Barron is that the

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2 major difference on Corrections, since that the
3 only one we can measure because we've been doing--
4 we have a baseline, the major difference, not the
5 only, but the major difference here, is going to
6 have to do with the pending cases where I think
7 we, very smartly, took a second look at that and
8 essentially determined, but for a few exceptions,
9 the only reason that we're going to hold you was
10 because you had a pending misdemeanor case, we
11 would no longer honor the detainers in those
12 cases.

13 Pending cases are a quarter of the
14 basis for holding somebody and, while we would
15 continue to hold if your pending case was a
16 felony, but for a few exceptions, we would not
17 continue to hold if the only reason was because
18 your pending case--

19 [Pause]

20 JOHN FEINBLATT: So I think that
21 there's going to be certainly a significant
22 difference, it's hard to quantify it because of
23 this--particularly the felony misdemeanor issue,
24 but there's no question that there are going to be
25 more misdemeanor pending cases than there will be

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felony and, as I say, there are a few carve outs for the misdemeanors, but they're relatively-- they're few.

CHAIRPERSON DROMM: All right, we want to thank you for coming in today--

JOHN FEINBLATT: Oh, sure, thank you.

CHAIRPERSON DROMM: --we appreciate your time and we look forward to a further discussion with you, thank you.

JOHN FEINBLATT: Thank you.

[Pause]

CHAIRPERSON DROMM: Lindsay Nash from Immigration Justice Clinic; Cesar Palomeque, Make the Road; Nicholas Katz from Make the Road; and Nisha Agarwal from the Center for Popular Democracy.

[Long pause]

CHAIRPERSON DROMM: Three minutes, yeah.

FEMALE VOICE: It's four people, right? How many?

CHAIRPERSON DROMM: Yeah, four. Maybe they're in the other room?

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FEMALE VOICE: Yeah, they're
coming--

[background noise]

CHAIRPERSON DROMM: Okay. Just
present the testimony to the Sergeant-at-Arms.

[Pause]

CHAIRPERSON DROMM: Okay. Here you
go.

[Long pause]

CHAIRPERSON DROMM: Okay. Before
you begin, I just want to ask people to try to
keep their testimony to three minutes, and I ask
the Sergeant-at-Arms to please time, put the timer
on as well because we have a huge number of people
who want to give testimony today, and I plan on
being here at least 'til 2 or 3 o'clock as it is
so that we can hear as many stories and testimony
as possible. So if we want to start right over
here, I guess, to my left, we're ready.

[Pause]

NICHOLAS KATZ: Hello?

MALE VOICE: Yeah.

NICHOLAS KATZ: Great. Thank you
very much, Chair Dromm, Council Member Mark-

1
2 Viverito. My name is Nicholas Katz, I'm a staff
3 attorney with Make the Road New York, the state's
4 largest participatory immigrant rights
5 organization with over 12,000 members in New York
6 City and Long Island. I also want to thank
7 Speaker Quinn and the rest of the City Council for
8 taking leadership on this very important issue.

9 Over three years ago, Make the Road
10 New York and other allies in this room started to
11 work on the issue of detainers--the hold requests
12 Immigration and Customs Enforcement places on
13 individuals in Department of Correction's custody.
14 We were concerned when many of our members
15 expressed concern about being deported after being
16 arrested by the NYPD. After learning more and
17 engaging with many people around this issue, we
18 developed the ICE Out of Riker's Campaign, and
19 worked with you all to pass legislation that
20 limits New York City's collaboration with ICE.

21 We firmly believe the City should
22 take action to stop this collaboration because it
23 has pernicious and wide-ranging effects on our
24 community and on our city. The first bill was a
25 strong initial step, and these bills are another

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2 step forward in that process, responding to the
3 new reality in our city after the Secure
4 Communities program was activated, over the
5 protests of all of us, including Governor Cuomo,
6 in 2011.

7 Today in New York City, under
8 Secure Communities, immigrants who are arrested
9 and brought to precincts around the city often
10 have detainers lodged against them by the time
11 they see a judge for arraignment. This means that
12 immigrants can be held and turned over to ICE for
13 deportation proceedings before receiving a trial,
14 while charges are still pending, and in many other
15 instances that our allies will describe in their
16 testimonies. It's an affront to the criminal
17 justice system that deprives immigrants of a fair
18 day in court and tears families in the city apart.
19 Additionally, it drives a stake between the
20 immigrant community and law enforcement that our
21 coalition was working to rebuild after the passage
22 of the first piece of legislation in 2011.
23 Immigrants now have additional reason to fear the
24 NYPD because any arrest for any reason could end
25 up in deportation, essentially casting an even

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2 larger dragnet than the original program ICE
3 established and the Departments of Corrections
4 did.

5 We at Make the Road believe that
6 the ideal outcome would be to terminate ICE's
7 relationship with the city altogether, and we
8 applaud the Intros proposed today, which, if
9 passed, would strengthen the bills passed in 2011
10 and combat the damaging effects of Secure
11 Communities by moving the NYPD to not honor
12 detainers, as well as the Department of
13 Corrections. We have now proven beyond all doubt,
14 and ICE itself acknowledges this, the detainers
15 are voluntary, and we look forward to continuing
16 to work with our legislative leaders to keep New
17 York families together. New York must continue to
18 lead nationally in stopping the over-aggressive
19 enforcement policies that have led to a record
20 number of deportation and devastated many
21 families.

22 Again, we look forward to working
23 with you to ensure that these bills pass, and
24 thank you very much for having us today.

25 CHAIRPERSON DROMM: Thank you.

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Next?

[Foreign language]

CHAIRPERSON DROMM: Thank you very much, Cesar. Next.

[Pause]

LINDSAY NASH: My name is Lindsay Nash, I'm an attorney at the Immigration Justice Clinic at Cardozo Law School. Thanks for having us here today.

I'm here to talk about the pending legislation, which is an important step in our long-term struggle to disentangle city functions from the tentacles of federal immigration enforcement. I know that you're all too familiar with the financial and personal costs that this collaboration makes on the City of New York and it really, it has to end.

So first I want to highlight what a lot of you already know. The first Rikers bill had important impacts for the city and across the nation. New York was one of the first cities to step forward as localities were trying to figure out how to respond to these aggressive federal enforcement tactics, and New York was one of the

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2 cities that set a real example for other cities
3 that wanted to say, no, we're not going to simply
4 bow to your requests. But just as localities were
5 figuring out how to blunt the worst impacts of
6 ICE's previous enforcement programs, ICE unleashed
7 another program called Secure Communities. And
8 the irony of that name is not lost on us.

9 This new program, links not only
10 the Department of Corrections, but also the New
11 York City Police Department to federal immigration
12 initiatives and it does so at the earliest stages
13 of the process. So this not only hampers the
14 criminal justice process, but it also pushes
15 people quickly into the deportation proceedings
16 without the necessary checks on their deportation
17 proceedings and without giving them an opportunity
18 to challenge their detention. So it has really
19 severe impacts on this city. And recognizing
20 this, the Governor Cuomo and other governors have
21 tried to opt out of this program which was once
22 described as voluntary, and it turns out that now
23 the federal government is saying they can't.

24 So this legislation gives us
25 another opportunity to talk--to speak back to the

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2 federal government and to have some role in when
3 and how we respond to their requests. And, while
4 it's not the end goal, in our view, it's an good
5 step towards getting there.

6 So just to clarify some of the
7 changes that this bill would make. It limits the
8 number of people--it improves the existing law by
9 bringing within its protection some of the
10 additional categories of people who are not
11 threats to public safety and who the City has no
12 interest in detaining. So this includes people
13 that have had no convictions in the past ten
14 years, people whose only convictions are status-
15 based offenses, and it really, through these and
16 other provisions, it recognizes the absurdity of
17 this city paying to detain people solely for ICE
18 when, in the ordinary course, they wouldn't even
19 be in the Department of Correction's custody.

20 But really, the most important
21 aspect of this legislation for New York City is
22 that it's a step forward in our quest to create
23 truly secure communities. As the city knows, the
24 neighbors and bystanders here can, and do, save
25 lives by reaching out to help people, calling for

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2 medical and police assistance, keeping ears and
3 eyes open for trouble.

4 CHAIRPERSON DROMM: Just wrap up
5 quickly as you can.

6 LINDSAY NASH: Okay. Well I'll
7 stop by saying subsequent measures can, and must,
8 further the provisions we put in place today.
9 It's a good step forward, but it's one step
10 forward in our goal of disentangling the city from
11 the harms wrought by roughshod federal
12 enforcement. And we look forward to working with
13 you towards that end.

14 CHAIRPERSON DROMM: Thank you very
15 much. Next, please?

16 NISHA AGARWAL: Hi, good morning,
17 and thank you, Chairman Dromm and Council Members,
18 for the opportunity to testify in strong support
19 of the two bills that are being considered today
20 introduced by City Council Speaker Quinn and
21 Council Member Mark-Viverito. I am Nisha Agarwal,
22 the deputy director of the Center for Popular
23 Democracy, we are the national sister organization
24 to Make the Road New York. We partner with
25 community-based organizations, progressive unions,

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2 and allies in government to advance a pro-worker,
3 pro-immigrant racial justice agenda in cities and
4 states across the country. A significant portion
5 of our work is focused on efforts by local and
6 state governments to resist the harsh and negative
7 impacts of federal immigration enforcement
8 practices in their local communities.

9 New York City is at the forefront
10 when it comes to attracting talented and
11 hardworking people from around the world. The
12 diversity of newcomers and longstanding residents
13 is what gives New York City its one-of-a-kind
14 energy and helps our economy to grow. Immigrants
15 comprise close to half of the city's workforce
16 and, in 2009, accounted for about \$215 billion in
17 economic activity. That is, basically, 1 in every
18 \$3 the city brought in that year, which this
19 committee actually identified in considering the
20 first Rikers bill. This economic growth and
21 vibrancy has not come about by accident. New York
22 City has been a national leader in enacting
23 policies that enable immigrant families to live,
24 work, and thrive.

25 Importantly, the city has taken,

1
2 repeatedly, stands against the punitive and harsh
3 immigration enforcement practices of the federal
4 government, which have resulted in record numbers
5 of deportations in the past four years, torn
6 families apart, and devastated immigrant
7 communities that sustain the local economy. And
8 these are enforcement practices that are not
9 likely to be enforced, or to addressed, or
10 remedied in the federal immigration reform efforts
11 unless cities and communities like New York take a
12 stand against them.

13 So many people have mentioned the
14 earlier 2011 DOC bill, which, you know, before
15 that law went into effect, thousands of immigrant
16 New Yorkers were being held at Riker's Island and
17 every year turned over to Immigration and Customs
18 Enforcement for eventual deportation. The impact
19 of deportations on New York's families is
20 devastating. Research by a sort of blue-ribbon
21 panel of scholars and practitioners found that
22 federal immigration enforcement agents arrested
23 the parents of over 13,000 U.S. citizen children
24 in New York City, and more than 10,000 of them had
25 parents who were detained during the removal

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2 proceedings. Data show that in 87% of those
3 cases--in the cases commenced against parents of
4 U.S. citizen children, the parent is deported. As
5 a result, more than 7,000 U.S. citizen children in
6 New York City lost a parent to deportation.

7 Losing a parent has concrete costs: It pushes
8 kids into foster care, families into the public
9 benefit system, and takes a well-documented
10 emotional and psychological toll on children.

11 Immigration detainers aid and abet
12 this process and the deportation that damages New
13 York City's families. They are also very
14 expensive. The City has spent millions of dollars
15 to hold individuals in custody on behalf of ICE,
16 past the point when doing so served any criminal
17 justice purpose, and despite the fact that the
18 City is under no legal obligation to honor
19 detainers, which are, by law, merely hold requests
20 from the federal government.

21 So I'll conclude by saying that the
22 bills that are before you are not just important
23 for New York, they are essential and important
24 steps in the national struggle to end the
25 entanglement of civil immigration enforcement and

1
2 criminal justice priorities. We look forward to
3 working with you to pass these bills and to
4 continue working towards a severing of the tie
5 between criminal justice and immigration
6 enforcement. Thank you.

7 CHAIRPERSON DROMM: My question to
8 all of you is are you comfortable with the way
9 that the bills that are written that we're going
10 to be able to protect people who have charges
11 pending? It was kind of the line of questioning
12 that I was trying to get at with Mr. Feinblatt,
13 and are we doing enough in this legislation to
14 protect those people?

15 LINDSAY NASH: Well I think from
16 most of our perspective, the only way--I mean, the
17 only enough is ending all collaboration. It's our
18 understanding that this was what has been agreed
19 to and what seems likely to pass, and so, if
20 that's the case, then we're happy with that, but
21 we would certainly like something stronger and we
22 aren't going to stop asking for something stronger
23 because this is in place. Although we are happy
24 about this.

25 NISHA AGARWAL: I would echo that

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2 as well. I think in other parts of the country,
3 there are bills that are--that cover a broader
4 range of people and so we can move in New York
5 towards that, though the realities in New York,
6 both politically and otherwise, are more
7 complicated. And so these bills are a critical
8 and important step forward, we should keep
9 fighting for more and to end the collaboration.

10 CHAIRPERSON DROMM: Mr. Katz?

11 NICHOLAS KATZ: Yeah, I would just
12 say, I mean, Make the Road, obviously, echoes
13 those sentiments, and I think, you know, the key
14 issue there that you're getting at, Chair Dromm,
15 is that many times people who have pending charges
16 haven't had a day in court, they haven't, you
17 know, had the opportunity to have their case heard
18 and, even if they are relatively serious charges,
19 it could be that they are completely innocent and
20 they'll be exonerated, but they're not able to
21 bail out because they're going to honor the ICE
22 detainers. So any step forward that we can take
23 in terms of pending charges, you know, would
24 obviously help a lot of people and be an excellent
25 step, but for right now, I think this is--

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CHAIRPERSON DROMM: Yeah.

NICHOLAS KATZ: --this is step forward.

CHAIRPERSON DROMM: We're going to hear in the next panel from somebody to whom that happened, so that's why I'm asking this question now.

LINDSAY NASH: If I could just say one other thing, we do feel that the pending charges protection could be strengthened, however, there's other aspects of the bill that I think we would also like to see strengthened in the future, including when people have prior convictions. I think there's room to expand on this bill in several areas.

CHAIRPERSON DROMM: Council Member Mark-Viverito?

COUNCIL MEMBER MARK-VIVERITO:
Yeah, I have a question which actually I probably should have asked to the prior panel, but, you know, we heard from the DOC, right, that in terms of the implementation of the law from last year, in a six-month period, which is the first report that they did, 1,206 ICE detainers honored, 267

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2 not honored, and of those, about 1,193 transferred
3 to ICE, which is almost 100% of the detainees that
4 were dropped. Have you done any--since you guys
5 have been so instrumental in the crafting of the
6 law as well, in terms of the implementation and
7 the change in language, right, we've now--in
8 changing the language of the DOC legislation and
9 the NYPD, do we have any idea or projected, like,
10 how many additional people might be kind of like
11 detainees not honored? Two hundred and sixty-
12 seven, which if you double that, is about 520,
13 right, and for a year, 'cause this is a six-month
14 report. Do we have any idea how many additional
15 people might be saved from the transfer to ICE
16 custody?

17 LINDSAY NASH: Well to be honest,
18 this is the first we've gotten of these numbers--

19 COUNCIL MEMBER MARK-VIVERITO:
20 Okay.

21 LINDSAY NASH: --even though they
22 were due a long time ago, that statement today was
23 the first we heard that they were available and
24 we've been asking for them. But I also--

25 [Crosstalk]

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COUNCIL MEMBER MARK-VIVERITO:

[Interposing] Well then I'm glad we were able to get that for--

[background noise]

LINDSAY NASH: So we were glad too.

And, you know, more reporting requirements in the future I think would help us get these kinds of numbers and be useful for forward for perspective movements.

But the other thing is that I think it's a little bit difficult to tell because in the instances in which ICE is issuing detainers--

COUNCIL MEMBER MARK-VIVERITO:

Right.

LINDSAY NASH: --is currently changing and I can't--I don't think that we can say for sure that the same number of detainers that drop at DOC will be the same number that drops on NYPD.

COUNCIL MEMBER MARK-VIVERITO: I

guess people would also have to--I mean, in looking at it, and I don't know if that's data that would be made available to us or is available, is in terms of all the people held

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2 Rikers, why are they being held, right? And then
3 in knowing why, probably we'd be able to determine
4 which ones would be kind of, you know, protected
5 by the legislation and which ones were not. I
6 mean, it'd be kind of interesting to see, right?
7 'Cause we have at least the implementation of this
8 law for about a year, we have some data and then
9 analyzing perspective in terms of maybe how many
10 additional people would be safeguarded by the
11 implementation of this law. So I don't...

12 NISHA AGARWAL: Yeah, and I would
13 add sort of in the discussions around this
14 legislation and exactly where the line would be
15 drawn. There are actually a number of public
16 defender allies that are in the room who, you
17 know, based on--they kind of did a analysis based
18 on their own intake and it's certainly not
19 official data from DOC or NYPD, but that reassured
20 us that these bills will actually improve
21 situations for many more people, which I think is
22 a reason to support the bill. But we don't have
23 the hard and fast numbers, the official numbers
24 yet, but we do feel reassured, and ultimately, the
25 goal, again, will be to move towards zero

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detainers honored.

COUNCIL MEMBER MARK-VIVERITO: I totally agree with you on that. So thank you, Chair Dromm.

CHAIRPERSON DROMM: Okay. Thank you very much to this panel, I'm going to call up the next panel. Thank you. Brunilda Leon from 32BJ, Sara Valenzuela from Manhattan Borough President Scott Stringer's office, Nadira Kashem from DRUM, and Diane Steinman from New York State Interfaith Network.

[Off mic]

FEMALE VOICE: --today?

[Pause]

CHAIRPERSON DROMM: Yeah. Yeah.

FEMALE VOICE: So I was asking her for that information.

[Crosstalk]

COUNCIL MEMBER MARK-VIVERITO: Oh, you're saying that the report just went online today? Was it based on--

[Off mic]

[Pause]

FEMALE VOICE: But since then, we

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2 have been constantly told that they were working
3 on it. So it was a surprise to--

4 [Pause]

5 FEMALE VOICE: --afterwards I
6 thanked them and I--

7 [Crosstalk]

8 COUNCIL MEMBER MARK-VIVERITO: Yes.

9 FEMALE VOICE: --but I told them it
10 was--

11 [background noise]

12 [Pause]

13 CHAIRPERSON DROMM: Totally,
14 totally, yeah.

15 FEMALE VOICE: I mean, that's how I
16 feel.

17 [Off mic]

18 CHAIRPERSON DROMM: Okay. Let's
19 start over here with DRUM.

20 [Foreign language]

21 NADIRA KASHEM: Thank you for
22 holding this hearing and for these legislations.
23 My name is Nadira Kashem and I am an active member
24 of DRUM, Desis Rising Up and Moving. I'm here to
25 testify about the consequences of Secure

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2 Communities program on my family. My husband,
3 Abul Kashem, worked at a perfume store in
4 Manhattan and was falsely arrested by police and
5 taken to jail on counterfeiting charges. When he
6 posted bail, they turned him over to immigration
7 authorities. And for this reason life has become
8 miserable for my children and for me for the past
9 11 months.

10 My daughter, Nushin, is a sixth
11 grade student; my son, Fatin, is 9 years old and
12 in fourth grade. Both children were born here,
13 and I am also a citizen. My husband is from
14 Bangladesh. My children do not know anything
15 about life, language, or culture in Bangladesh.
16 The political situation is dangerous back home,
17 and when my children see this on the news, they
18 wonder what will happen when their father is
19 deported.

20 In order to look after my children,
21 and due to my mental state, I am unable to work.
22 I'm struggling to pay bills, the rent, and other
23 expenses. I have sold away my personal
24 properties, including jewelry, and I'm taking out
25 loans. My son has special needs and receives an

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2 individual education program and needs additional
3 attention. He wants his father to come home and
4 can't live without him. And my son sees him as a
5 caring father, and I see him as a caring husband.
6 Me and my children need him to come back home or
7 else our family will be broken apart and our
8 future will be destroyed.

9 My husband's criminal case was
10 dismissed, but he still remains in immigration
11 detention in Orange County, New York. This
12 critical situation is not only my story, but
13 similarly of thousands of others. People may get
14 arrested for minor things, by mistake, or by being
15 targeted by the police, and then get turned over
16 to Immigration. The immigration consequences are
17 devastating, particularly for low-wage immigrant
18 workers, such as street vendors, cab drivers, or
19 small shop workers like my husband, who are
20 routinely arrested by the police on false charges,
21 which are then later dismissed. They can't afford
22 to wait inside jail until the case is resolved.
23 So we end up doubly targeted, first by the police
24 and then by Immigration.

25 Families are being torn apart

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2 because of this and this is unjust. This
3 situation makes people afraid to even contact the
4 police because undocumented people know that their
5 immigration status may come up and get them in
6 trouble. It is very important to change this law
7 so that policing and immigration are not mixed
8 together.

9 My question to you is, just because
10 my husband is undocumented, should my family be
11 destroyed? While I'm appealing for my husband to
12 be returned home, I want this law to be changed so
13 that no family has to suffer like we are
14 suffering. Thank you.

15 CHAIRPERSON DROMM: Just before we
16 go on to the others, you know, this is exactly why
17 we are here today is to try to help prevent these
18 types of situations from occurring in the city of
19 New York and that's why I wanted to make sure that
20 your story was heard. And I do appreciate you
21 coming into my office and working with us on this
22 case, and I'm most grateful to you for coming in
23 and for your courage. Thank you very much.

24 [Pause]

25 CHAIRPERSON DROMM: Okay. If you'd

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like to start, yes.

BRUNILDA LEON: Good morning, Chairman Dromm and member of the City Council Committee on Immigration, and thank you for inviting me to speak to you on those important pieces of legislation. My name is Brunilda Leon, and I'm member of the Service Employees International Union, SEIU, 32BJ. 32BJ members come from 64 different countries, speak 28 different languages, and represent workers-- immigrant and non-immigrant--throughout the East Coast. 32BJ represents over 70,000 members, all in New York. Our members, who include commercial office cleaners, security officers, building engineers, and maintenance workers keep buildings institutions running throughout the state. It is in behalf of our members and in recognition of their diversity and the important contribution they make to New York's economy and communities that I am here to testify today.

The two bills before you are proper response to the federal government's notorious Secure Communities program, known as S-Comm. By passing those bills, the City Council would

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2 reaffirm our city reputation as one of the most
3 immigration-friendly cities in America.

4 As an immigrant from the Dominican
5 Republic, I came here over 30 years ago looking
6 for a better life, looking to fulfill the American
7 dreams that all Americans, including non-
8 immigrants, deserve to have. As a mother of two,
9 I raised my boys in this country because I want
10 them to have same opportunity that I have and that
11 all people deserve. To me, it is important in a
12 very important that family to stay together and
13 for hardworking people to be allowed to live their
14 life. Family provide security and work support to
15 each other and it strengthen our communities.
16 Breaking up family is like crushing dreams and
17 hopes.

18 Those two bills before you would
19 limit the City's cooperation with federal
20 authorities looking to deport people who pose no
21 risk to society. Those bill are another important
22 step toward rolling back the entanglement between
23 local law enforcement and civil immigration that
24 is destroying our community unnecessarily.
25 Collaboration between local law enforcement and

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2 ISE jeopardize public safety for all of us. Put
3 it simple: It is bad public habits.

4 We are committed to continuing the
5 fight to make sure that S-Comm is terminated
6 nationally. This issue is very important to 32BJ.
7 We have passed a law in DC, are advocating in
8 Maryland, and we are working governor in
9 Connecticut. Here in New York, the City Council
10 bill takes an important step to help limit reach,
11 protect immigrant, and help keep families
12 together.

13 CHAIRPERSON DROMM: Thank you very
14 much. Next?

15 SARA VALENZUELA: Hi, my name is
16 Sara Valenzuela, I'm with Manhattan Borough
17 President, Scott M. Stringer. I want to thank the
18 Committee on Immigration and Chair Council Member
19 Dromm and the lead sponsors of the bill, Speaker
20 Quinn and Council Member Mark-Viverito, for the
21 opportunity to testify today on the proposed Local
22 Laws to amend the Administrative Code of the City
23 of New York and further limit the protection of
24 the New York Police Department and Department of
25 Correction in unjust immigration enforcement and

1
2 to expand the reporting requirements in relations
3 to persons not to be detained.

4 These bills are necessary because,
5 under current federal, state, and city law and
6 policy, many New Yorkers remain vulnerable to
7 inhumane immigration detention conditions and
8 eventually deportation regardless of whether they
9 pose a serious threat to public safety.

10 In 2010, the borough president
11 began to address his concerns on the collaboration
12 of the DOC with Immigration Customs and
13 Enforcement to the mayor and City Council through
14 letters, testimony, and a New York Times op-ed in
15 partnership with Make the Road New York asking
16 that the City adopt a policy clearly separating
17 ICE operations from Riker's Island. He again
18 commends the City Council and mayor for passing
19 critical legislation to finally end a major part
20 of one of New York's most anti-immigrant policies.

21 He is expressing his support for
22 Intros 982 and 989 presently before the committee
23 which will protect certain individuals from
24 detention and deportation through ICE from City
25 jails, as well as further promote greater

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2 accountability with the NYPD and DOC for persons
3 who are detained. The proposed bills recognize
4 that it is not in New York City's best interests
5 to detain many of the people that are being held
6 on immigration detainers under the current law.

7 The proposed legislation would be a
8 good step forward because it would ensure that, in
9 most case, the NYPD and DOC not hold a person on
10 the immigration detainer simply because that
11 person faces low-level charges. It recognizes
12 that the current law is insufficient because it
13 oftentimes results in people who face misdemeanor
14 charges to be held solely based on those charges
15 when, in truth, those people pose no threat to
16 public safety. In addition, this legislation
17 would ensure that people are not held on
18 immigration detainers solely because of decade-old
19 misdemeanor convictions.

20 Furthermore, the bill would require
21 that the City report a number of statistics
22 related to detainers, which is critical to
23 understanding exactly how much the City ends up
24 having to pay to support this federal enforcement
25 strategy. These measures help ensure that

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2 hardworking people who pose no serious threat to
3 public safety are not unfairly detained and
4 deported and that the City meets a new standard of
5 transparency and accountability in its
6 interactions with immigration enforcement.

7 Continuing certain practices of
8 DOC's and NYPD's collaboration with ICE,
9 particularly with the onset of Secure Communities,
10 would only create a sense of fear and distrust of
11 law enforcement and police among immigrant
12 communities, and that would cause these
13 communities to be hesitant to call upon the police
14 for assistance as they may associate law
15 enforcement with the threat of deportation.
16 Further, unnecessary collaboration with ICE is
17 wasteful use of the City's financial resources
18 while the City faces large budget shortfalls.

19 After ensuring the passage of these
20 bills, we must do more to ensure that all New
21 Yorkers are treated equally and fairly,
22 communities are not broken, and hardworking
23 individuals who do not pose a serious threat to
24 safety are not alienated by our society. And
25 ultimately, our local police are not to be in the

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2 business of immigration enforcement. With the two
3 proposed Local Laws, we will further strengthen
4 our City's immigrant policy.

5 The borough president looks forward
6 to continuing the necessary work with you and your
7 committee to advance immigrant rights in our city.
8 Thank you.

9 CHAIRPERSON DROMM: Thank you. And
10 did you have copies of your testimony?

11 SARA VALENZUELA: We do, I think
12 they have them.

13 CHAIRPERSON DROMM: Okay. Thank
14 you. Next, please, Diane?

15 DIANE STEINMAN: Sorry.

16 [background noise]

17 DIANE STEINMAN: Yes, sorry, we're
18 just doing a switch here.

19 [Off mic]

20 DIANE STEINMAN: Good morning, I'm
21 Diane Steinman, I'm the director of the New York
22 State Interfaith Network for Immigration Reform,
23 which is a network of more than 100 faith
24 community leaders and organizations formed in 2009
25 to advocate for just and humane immigration reform

1
2 that provides a path to citizenship for
3 undocumented immigrants, promotes family unity,
4 and protects worker rights, as well as due
5 process, civil, and human rights for all.

6 The network reflects New York's
7 racial, ethnic, and religious diversity, an
8 example of what Mayor Dinkins used to call the
9 gorgeous mosaic of our city. Our purpose is to
10 promote the shared moral vision of Buddhists,
11 Catholics, Hindus, Jews, Muslims, mainline,
12 Evangelical Protestants, and Sikhs, as well as of
13 secular New Yorkers for whom moral values are of
14 paramount importance--a vision grounded in the
15 belief in the inherent dignity of every human
16 being. This belief leads us to reject the very
17 notion of a person as illegal and to promote and
18 to repudiate an immigration policy that shatters
19 immigrant lives and families through detention and
20 deportation; tramples their due process, civil,
21 and human rights; and allows for the exploitation
22 of their labor and their relegation to the shadows
23 of our communities. Inspired by our shared
24 commitment to welcome the stranger and to treat
25 all those who live among us as we ourselves would

1
2 wish to be treated, also known as the Golden Rule,
3 our mission is to strive to ensure that our
4 society and its laws reflect these values.

5 And as we have just witnessed this
6 morning in such a powerful way, these values are
7 not an abstract matter. They have to do with who
8 we are as a people and how we treat and care for
9 those who live among us.

10 Although as testifiers today have
11 already argued, there are important ways that the
12 legislation under consideration this morning could
13 be strengthened. From the network's perspective,
14 it is respectful of these values and we thank
15 Council Member Mark-Viverito, Speaker Quinn, and
16 Chair Dromm for your leadership on these matters.

17 We believe that S-Comm is inimical
18 to the values we have just articulated. And to
19 reiterate the point that you made this morning,
20 Council Member Mark-Viverito, as a group of key
21 democratic and republican congressional leaders
22 work to craft principles of comprehensive
23 immigration reform, the timing of this legislation
24 could not be more propitious. By passing these
25 bills, network leaders believe the City Council

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2 would be making a clear statement to our nation:
3 New York City, this city of immigrants whose
4 enduring symbol is a statue that welcomes the
5 tired, the poor, and the downtrodden, declines to
6 allow NYPD and the Department of Corrections to
7 take steps that would trample the future of
8 immigrants and their families--immigrants who, as
9 Speaker Quinn had already put it at a press
10 conference on December 13th, are good New Yorkers
11 who pose no danger to New York City residents.
12 And we applaud your effort to move this
13 legislation forward.

14 CHAIRPERSON DROMM: Thank you.
15 Fahd, when Mrs. Kashem's husband was arrested,
16 where was the detainer put on him? Was he in
17 police custody or was he at that point in
18 Department of Correction's custody?

19 FAHD AHMED: Part of the problem
20 with this is there's a lot of ambiguity in the
21 process, but he appeared in court, he asked for
22 bail, bail bond, he posted bail bond in the amount
23 of 3,000, and immediately after he posted it, he
24 was transferred over to Immigration. Generally,
25 it's a little bit hard to know sort of exactly how

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2 much time there was, was he still just sort of in
3 the back of the courtroom or whether he was in DOC
4 custody by then, we're actually a little bit
5 unsure. But I think part of these ambiguities is
6 kind of what Secure Communities preys upon, that
7 it has multiple avenues of being able to target
8 people and that's why we kind of need to make sure
9 that whatever legislation is put forward is
10 comprehensive in being able to fill up all those
11 loopholes and those gaps.

12 CHAIRPERSON DROMM: How long was he
13 in custody before he was taken into--how long was
14 he in NYPD or DOC custody before he was taken into
15 ICE custody?

16 FAHD AHMED: Four days.

17 CHAIRPERSON DROMM: Four days.

18 FAHD AHMED: And most likely,
19 probably in DOC custody.

20 CHAIRPERSON DROMM: I mean, and the
21 other horrible thing that has happened here is he
22 put up \$3,000 thinking he's going to get out,
23 which is extremely difficult for somebody to put
24 up to begin with in the first place, only to be
25 tricked into having then, you know, put into ICE

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custody, is just--it's outrageous that something like this happens, you know.

FAHD AHMED: And then, you know, particularly one of the things that Nadira points out is for immigrants, particular vulnerable workers who are already targeted by the police, there's a higher rate of being put into that situation. So, you know, with street vendors amongst our members, we know that they routinely get picked up by the police, charged really high, and then the case ends up falling apart or being dismissed later on, but by that time, it's too late if you happen to be an immigrant.

CHAIRPERSON DROMM: I mean, beyond what the legislation does, how can we educate people that, you know, 'cause I'm not 100% sure that the pending charges, pending thing is going to be settled here, I think we're moving in the right direction, but there has to be some type of a process by which we can educate the community that it's not always in their best interest to put up that type of money to be bailed out when, in fact, this man's case, the charges were dismissed, you know, not even upheld and minor violation,

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2 dismissed outright. So what can we do for that?

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FAHD AHMED: Because the process is so complex, it's really hard to know. It matters so much on a case-by-case basis, but it is something that fundamentally, public defenders need to be educated on because they are the ones that, in that situation, would have the best awareness of what all the possibilities are. And there are some trainings for public defenders that do say at particular moments, you should not actually ask for bail or bond, it may put your client in a more difficult situation. And I think working with bar associations, with the public defenders' offices, Legal Aid might be one of the best avenues.

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CHAIRPERSON DROMM: And I'm finding more and more in my office that oftentimes attorneys, criminal attorneys, don't necessarily understand immigration law and don't understand the intersection between the two and the consequences by just informing a person of the criminal law without also informing them of the immigration issues as well. So I think it's something we have to really work on.

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2 Thank you everybody, thank you for
3 coming in. Oh, yes, I'm sorry, Melissa Mark-
4 Viverito, please?

5 COUNCIL MEMBER MARK-VIVERITO:

6 Thank you, Mr. Chair. I just have a quick
7 question with regards to Ms. Kashem's case. My
8 understanding is that once--although it's been a
9 failed policy when President Obama said that there
10 was going to be kind of a directive about
11 prosecutorial discretion and really going after
12 the ones--the cases about, you know, that pose a
13 threat to safety and security, has the
14 congressperson where you live been involved?

15 Because my understanding is that in the cases of a
16 situation like that, this is obviously an--it was
17 dismissed, you know, it should be dismissed
18 outright that if the congressperson intervenes and
19 advocates that there may be an ability here to
20 kind of get this taken care of. I mean, has that
21 happened? Is--

22 FAHD AHMED: [Interposing] Ms.

23 Kashem just joined DRUM so we're in the process of
24 working through that. We have been reaching out
25 to the Council Member's office and to the

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2 congressman, a congressional representative, and
3 also to the senator, so we're still kind of a
4 little bit further behind on that process. And
5 we're going to see--even with the advocacy,
6 there's been times where it's not been effective
7 and--

8 COUNCIL MEMBER MARK-VIVERITO:

9 [Interposing] No, understood, but, you know, I
10 just thought--I didn't know if that was something
11 that was being looked at, but you are--

12 [Crosstalk]

13 COUNCIL MEMBER MARK-VIVERITO: --so

14 I appreciate it, okay. Thank you.

15 [Pause]

16 CHAIRPERSON DROMM: Thank you very
17 much, everybody. And our next panel is Ward
18 Oliver from the Legal Aid Society, Rachel Kling
19 from the Neighborhood Defender Service of Harlem,
20 Ashley Kaper from the Bronx Defenders, and Lisa
21 Schreibersdorf from the Brooklyn Defender
22 Services.

23 [Pause]

24 ASHLEY KAPER: I'm Ashley, I'm from
25 the Bronx Defenders.

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[Crosstalk]

LISA SCHREIBERSDORF: --slide down.

[Off mic]

CHAIRPERSON DROMM: Yeah, okay,
good. Borough president's testimony.

FEMALE VOICE: Thank you.

[Off mic]

[Long pause]

WARD OLIVER: I can go first, sure,
I can go first.

CHAIRPERSON DROMM: Okay. We could
start with you.

WARD OLIVER: Good afternoon, my
name is Ward Oliver, I'm supervising attorney with
the Immigration Law Unit of the Legal Aid Society.

We want to, once again, to thank
the New York City Council for its continued
attention to the manner in which the federal
Secure Communities program has impacted the
immigrant communities in New York City.

Just over a year ago, the City
Council passed legislation that limits the
cooperation between the New York City Department
of Correction and the United States Immigration

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2 and Customs Enforcement. In doing so, the Council
3 recognized that such cooperation erodes trust
4 between immigrant communities and law enforcement,
5 and has a chilling effect on immigrants, including
6 non-citizen survivors of domestic violence, crime
7 victims, and trafficking victims. Since the city
8 law on detainers went into effect last year, the
9 criminal defense lawyers of the Legal Aid Society
10 have assisted many immigrant clients to secure
11 their release from the Department of Correction
12 and to return to their communities in New York
13 City, despite the federal immigration warrants
14 that had been lodged against them. Let us assure
15 you that our communities are in many ways safer
16 because of their release, which has preserved the
17 stability of substantial numbers of families.

18 On behalf of these clients, we
19 thank the Council for this law that has done so
20 much to protect the immigrant families of this
21 city. We are honored that the committee has once
22 again invited the Society to participate in the
23 hearing of these important issues.

24 The Legal Aid Society supports the
25 New York City Council's proposed amendments to the

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2 New York City Administrative Code, which expand
3 the protections offered in last year's bill and
4 contained in the current law. New York City has
5 always been cognizant of the needs of its vibrant,
6 but vulnerable, immigrant population. Immigrants
7 add to the creativity and social and economic
8 fabric of this vibrant city and the Society is
9 pleased that the Council is committed to providing
10 a protective barrier that will prevent many
11 vulnerable immigrants from being swept into the
12 inhumane pipeline between the criminal justice
13 system and the federal immigration removal
14 apparatus. We also congratulate the Council on
15 its accomplishments in this area.

16 We believe that the proposed
17 amendments to the Administrative Code with these
18 proposed amendments, the Council is taking another
19 important step forward towards limiting the Secure
20 Communities Program to its professed objective:
21 Deporting truly violent felony offenders from the
22 United States. If this bill is passed, we look
23 forward to working with the Council to ensure that
24 the Department of Correction and the police
25 department implement the legislation to protect

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2 immigrants to the fullest extent that the Council
3 intends. We believe that, in particular, the
4 present bill will assist undocumented immigrants who
5 are eligible or may be eligible for future
6 immigration benefits, but are at particular risk
7 of deportation when they become entangled in the
8 criminal justice system as a result of false
9 charges or other conduct by their abusers and
10 exploiters.

11 Of course, in the future, as our
12 experience continues to demonstrate that limiting
13 Secure Communities to its stated purpose does not
14 compromise the safety of our communities, we stand
15 ready to work with the Council to continue to
16 develop such further refinements of this law as
17 the Council may determine are needed based on its
18 ongoing oversight. For example, there are a
19 number of innocuous misdemeanor offenses, such as
20 theft of services or unlicensed general vending,
21 which the Council may want to address in further
22 refinements since a conviction for such offenses
23 disqualifies an individual from release under the
24 law. Unfortunately, both offenses are fairly
25 common within some of our immigrant communities.

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2 Furthermore, in light of the City's
3 recent proposal to address the needs of criminal
4 defendants with mental illness, we also recommend
5 that the City Council consider refining the
6 protections for non-citizens with mental illness
7 who often have complicated criminal and
8 immigration histories. These individuals are the
9 most vulnerable to removal from the United States
10 because of their incapacities and inability to
11 report their personal histories. Removal
12 proceedings are complex and adversarial, yet there
13 is no right to appointed counsel even for those
14 with mental disabilities. For non-citizens with
15 mental disabilities, the lack of representation
16 places them in an even more precarious position.
17 One estimate is that 15% of the immigrants
18 detained by the Department of Homeland Security
19 pending removal have mental disabilities. In
20 2008, the Department of Homeland Security
21 estimated that up to 18,929 immigration detainees
22 suffered from serious and persistent mental
23 illness. Immigration judges often proceed with
24 removal proceedings, ignoring the non-citizen's
25 mental illness or grant several continuances with

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2 the hope that a legal service provider will
3 eventually provide representation. Forced to
4 proceed on their own, mentally ill non-citizens
5 are unable to defend their interests against well-
6 trained government lawyers. This leads to
7 disastrous results. Reevaluating the need for
8 further protection for immigrants with mental
9 illness will afford them the opportunity to
10 receive urgent care, as opposed to forcing them to
11 relocate to their countries of origin, where such
12 care is usually not available.

13 Notwithstanding these two
14 suggestions for further refinements as the Council
15 oversight in this area continues, we urge that
16 this amendment be enacted because it is yet
17 another step forward in the effort to protect
18 immigrants in New York City. We continue to
19 strongly support the Council's leadership on these
20 issues.

21 Thank you for the opportunity to
22 testify on this important issue, and we greatly
23 appreciate the Council's efforts to amend the
24 legislation to protect our immigrant clients.

25 CHAIRPERSON DROMM: Thank you. Who

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would like to go next?

[Pause]

CHAIRPERSON DROMM: Turn that on.

LISA SCHREIBERSDORF: There you go.

Lisa Schreibersdorf, Brooklyn Defender Services, nice to see you. I have prepared testimony which I turned in and I would welcome you to read it. Some of it reflects some of the comments made by Legal Aid, which is that we really would like to keep the dialogue open for further improvements, but I have to say I really appreciate the City Council's taking the lead on this.

The DOCs law has been incredibly successful. We have 100%, so far as we can tell, compliance with that law through really effective implementation at the level of DOCs.

Now you know that I am a public defender, not an immigration attorney, although my office has seven immigration attorneys on staff that advise attorneys every day about what implications--what immigration implications are going to affect their clients on cases. And even with attorneys who are really qualified to give advice, it's hard to keep track of all of that.

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2 I want to comment on just a couple
3 of points, rather than, you know, sort of
4 reiterating my deep support for this legislation.
5 Because I think what I'm worried about is--I have
6 a couple of concerns, one is implementation by the
7 police department. And I know that you asked some
8 questions about that earlier and I wasn't here for
9 that part, but I did hear that that was of concern
10 to the members as well. So I would like to point
11 out that DOCs has made a very significant
12 investment in this law. They were in favor of
13 this law, they supported it, and then they
14 implemented it extremely effectively. They also
15 have time to review the case. The person has been
16 sentenced or released, they have time to really
17 look at it.

18 I'm very worried about the fact
19 that when the arraignment takes place, the police
20 don't have a lot of time to figure out and
21 investigate, you know, the details of the case.
22 And my experience with the police is that they
23 would rather opt to put the guy in, rather than,
24 you know, let him go, so I'm worried a little bit
25 about that.

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2 And I would like to just at least
3 comment on something John Feinblatt, I believe,
4 said, which is that somehow the indigent defense
5 providers could help implement that, and I just
6 want to explain the way arraignments works
7 quickly. We have lawyers assigned to arraignments
8 and when somebody sees--after 24 hours after
9 they're arrested, roughly, they see a lawyer, we
10 interview them, we do get their immigration status
11 as best as we can. We would probably be able to
12 figure out if they were eligible or not for this
13 if their case was resolved. The case is called,
14 the decision is made in front of the judge whether
15 it's going to be a plea, bail set, or other
16 possibilities, those are the two main.

17 At that time, if the person, not
18 just if bail is set and not just if the case is
19 dismissed, but also if they take a plea to a
20 disorderly conduct or get an ACD, which in
21 Brooklyn is roughly 60% of the cases are resolved
22 in arraignments with some kind of a plea that
23 would probably keep the people eligible for this
24 law. At that moment, the police department's
25 going to have to decide right then and there if

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2 the persons should go in to Immigration and be
3 held or be released. I think they can do it, but
4 I think it's going to be a little more involved
5 implementation.

6 And I want to just say pointblank
7 that the indigent defense provider, despite the
8 fact that we have immigration attorneys and
9 resources, we cannot do that. There are a couple
10 of reasons why we can't be responsible for that.
11 First of all, the police aren't going to listen to
12 us. If I say to the police, no, this guy gets
13 out, I mean, they're not going to listen to me, it
14 has to be within their own office. I'm not in the
15 chain of command, much as I would like to be, not
16 in the chain of command.

17 The other thing is, ethically
18 speaking, we can't say, yeah, this guy gets out
19 because then we have to say, oh, this guy doesn't
20 get out. We can never do that against our own
21 clients, that has to be done by the police.

22 So I would like you--I would really
23 appreciate it if you would spend time really
24 focusing on implementation, and I can guarantee
25 that we will monitor whether the implementation

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2 has been done right. We will let you know if it's
3 not been done right and we welcome that
4 opportunity.

5 I just want to say two quick
6 points, which is, to the extent that this is
7 successful, which I'm sure it will be, I would
8 like to talk later about people who have options
9 in criminal court that they cannot take advantage
10 of if they're not qualified for this law. One of
11 which in a very big way is treatment and you know
12 Brooklyn is known for its treatment courts, so
13 people cannot get drug court, they cannot get
14 mental health court if they're in on bail and not
15 eligible for this law right now, and I would hope
16 that the next conversation would be about people
17 who might have had a prior misdemeanor and,
18 therefore, they're not eligible, but everybody,
19 the DA, the judge, and the defense all agrees that
20 that's what should be the right option, that maybe
21 we can really consider other laws that would, you
22 know, result in lifting those detainers.

23 If you have any questions, I would
24 be glad to answer them.

25 CHAIRPERSON DROMM: I do have

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2 something to say, but let's hear from the other
3 people as well before I say something.

4 [Pause]

5 RACHEL KLING: Good morning, thank
6 you so much for the opportunity to speak today.
7 My name is Rachel Kling, I'm a staff attorney with
8 the Neighborhood Defender Service of Harlem. I
9 definitely want to just echo everything that the
10 other people today said, and just thank you for
11 the opportunity to testify. At NDS, we serve the
12 residents of Harlem, Inwood, and Washington
13 Heights, which, of course, includes a very large
14 immigrant population.

15 The policy before the Council today
16 deeply impacts the lives of our non-citizen
17 clients and their loved ones. As attorneys
18 representing defendants in the criminal justice
19 system, we've seen firsthand the ways that ICE's
20 Secure Communities infringes upon our clients'
21 basic rights to due process and humane treatment.
22 And so we applaud you for taking these further
23 steps to protect immigrants from the broken
24 immigration system.

25 The policy proposed today, of

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2 further limiting when New York City agencies will
3 honor these ICE detainers, will have a large
4 impact on our clients in that we hope it'll give
5 some power back to the criminal court judges to
6 release defendants during the pendency of their
7 cases. And, moreover, it will prevent them from
8 being funneled into an immigration system that is
9 unfair. Once in the system, New York City
10 residents are frequently transferred to a
11 detention center thousands of miles away from
12 their families in states such as Louisiana and
13 Texas. And, as you heard, they have no right to
14 counsel at their hearings, few are able to access
15 pro bono attorneys, and for many of these
16 individuals, their cases end in deportation.

17 I did want to highlight that, you
18 know, the Department of Homeland Security has
19 recently issued guidance to its officers
20 recommending that they exercise discretion when
21 lodging detainers, and this is a positive sign
22 that the agency understands that Secure
23 Communities is casting too wide of a net, but it
24 does not negate the importance of passing the
25 legislation before you today. The guidance issued

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2 by the Department of Homeland Security is not
3 mandatory and there is no way to guarantee that it
4 will be fully implemented on the ground. So the
5 policy before you today is an important and
6 necessary step in protecting New York City
7 residents from the negative consequences of Secure
8 Communities.

9 So we thank you for the steps that
10 you're taking today and hope that we can pursue
11 more in the future.

12 CHAIRPERSON DROMM: Thank you.

13 ASHLEY KAPER: My name is Ashley
14 Kaper and I'm an immigration attorney at the Bronx
15 Defenders, a holistic public defense office,
16 located in the Bronx.

17 First off, I do want to say that I
18 appreciate you guys giving us the opportunity to
19 speak today. Along with my fellow panelists,
20 we're in the unique position of seeing how Secure
21 Communities is taking place within the courtroom.

22 In that note, I'd like to give an
23 example of how the proposed legislation will
24 actually help our clients by giving a case
25 example. We have a client whose name is Sherry,

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2 and she's an individual who would benefit from
3 this proposed bill. She was born in Jamaica, she
4 entered the United States in 2007 on a visa, and
5 during a verbal dispute with the father of her 4-
6 month old, the police responded to the scene.
7 Both parties were arrested. Sherry had no prior
8 criminal contact, she was working full-time at a
9 small grocer, and still breastfeeding her
10 daughter. When she was brought before a criminal
11 court at arraignments, an immigration detainer was
12 lodged that revoked the criminal judge's authority
13 to release her. Sherry sat in jail for months
14 with charges pending. She was separated from her
15 daughter, despite the fact that the father, and
16 her boyfriend, had no intention of pressing
17 charges against her. While the existing law
18 that's in place allowed Sherry to ultimately be
19 released once the charges were dismissed, she
20 spent months and separated from her child.

21 Under this new bill, with the
22 pending charges, if they were not converted on the
23 17070 day, she would have been released and
24 reunited much faster. So we do commend City
25 Council for the steps that are being taken.

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2 Nevertheless, we are asking for
3 continued expansion. As been noted by other
4 panelists, there are areas for growth and we do
5 hope the City will take into consideration how to
6 further protect non-citizens in New York City. In
7 one area, it is with people that do have prior
8 criminal contact, misdemeanor convictions within
9 the past ten years. As has been highlighted by
10 the media recently, there are a large number of
11 unconstitutional stop-and-frisks that are
12 occurring, specifically, that's been occurring
13 within the Bronx, and these do result, especially
14 with the trespass and marijuana arrests and
15 convictions where many times clients have actually
16 been advised by immigration attorneys that taking
17 a trespass conviction is safe for immigration
18 purposes. Nevertheless, under this proposed
19 legislation, they will not be eligible for release
20 if that conviction was in the past ten years.

21 Similarly, with marijuana arrests,
22 we do feel that, given that it's not even
23 considered with a small amount to be a criminal
24 conviction, that these should not be bar someone
25 from release.

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2 Furthermore, I would like to just
3 note that the DOC report that was referenced in
4 earlier testimony said that there are 1,206
5 honored detainers, that was in the last report. I
6 was looking at that report and 619 of those
7 honored detainers have no misdemeanor or felony
8 convictions. And so we'd like to point out that
9 many of those detainers, we are presuming, are
10 because of prior orders of removal and people
11 under this proposed bill who have prior orders of
12 removal will not be eligible for release. And
13 we'd just like to note that in many circumstances,
14 these orders of removal came from contact at the
15 border that happened decades in the past, people
16 weren't even aware that they had orders of removal
17 or orders of removal when people were young and
18 guardians were actually in charge of bringing
19 people to court for proceedings and they were not
20 brought forth.

21 So we ask that City Counsel
22 consider an extension of the proposed bill, and we
23 look forward to working with you in the future.
24 Thank you.

25 CHAIRPERSON DROMM: First let me

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2 just say we just got those numbers today actually
3 and they said they were put on the website but we
4 don't know when they were put on the website, and
5 had I been a little more quick, I would have been
6 able to ask that question. But that does the
7 raise the issue that you also raising, which is
8 about the NYPD's involvement here and I have deep
9 concerns about that and how that's going to
10 translate into action on the local level. And so
11 I think we do have to watch that situation very,
12 very carefully.

13 LISA SCHREIBERSDORF: I just want
14 to make one suggestion, I know when young people
15 are arrested under 16 who are treated as
16 juveniles, they have the Department of--the police
17 department has a unit which they can call and the
18 people that work in that unit, of course,
19 understand these laws backwards and forwards and
20 they can explain to the person in that unit what's
21 going on and they will tell them what to do,
22 whether to keep that youth in or out. And I think
23 the people either in that unit or in a separate
24 unit that's devoted just to this--

25 CHAIRPERSON DROMM: [Interposing]

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Well she did say--

LISA SCHREIBERSDORF: --who would really need to exist where they could call them up and say, all right, this is my situation.

And the other thing would also be to hopefully work something out in the courts, which we can try to work on, where when we think this is happening, we have little time in advance to let the police look, this case probably is going to be resolved, we want you to already figure out that the person is eligible so that when we take the plea, they can just go.

So I would really look forward to trying to work with the court--

[Crosstalk]

LISA SCHREIBERSDORF: --to delay some of those cases a few minutes, you know, and kind of like identify the ones where the police would need to do the research.

CHAIRPERSON DROMM: Well some of this was discussed with her, and she did say that there is a unit--and I can't remember the name of the unit that she said it was, but--

[Crosstalk]

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CHAIRPERSON DROMM: I'm sorry?

[Off mic]

CHAIRPERSON DROMM: Yeah, yeah, that they were going to check with. And I'm just curious to know how quickly that will be done, how often that will be done, how will people be made aware to do that, et cetera, and those were the types of concerns that we had as well on that issue.

WARD OLIVER: May I comment for a minute? I guess I disagree with Ms. Schreibersdorf about the ability of public defenders to become more sophisticated about immigration units. We're a different time as far as criminal defenses go. Two years ago, the Supreme Court decided that criminal defense lawyers must tell their clients the immigration consequences of any disposition. We've been training our lawyers at the criminal defense division at Legal Aid to become more sophisticated in arraignments when there is a detainer, a Secure Communities detainer. Ironically, under the present law, many times it's prevented our clients from taking a disposition at arraignments. It's

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2 very important, as you pointed out earlier, for
3 the lawyers to tell the clients to check with the
4 Department of Correction, make sure there is not a
5 detainer before they post the bond to get out
6 because we can avoid tragedies like what was
7 testified to earlier.

8 So I do disagree, I think public
9 defenders can play a large role in implementation
10 of the present law and the amendments.

11 CHAIRPERSON DROMM: I don't want to
12 get into whether or not it's public defenders but--
13 -

14 LISA SCHREIBERSDORF: [Interposing]
15 No, no, I just want to, with all due respect, I
16 just want to answer that only because I think
17 that's coming from somebody who doesn't work in
18 arraignments and the fast--obviously, we have to
19 learn a lot about immigration, and we do, as I
20 explained, but in arraignments, it is so quick
21 compared to the DOC law and even if a public
22 defender tells the police that person qualifies,
23 the police may not listen to us. And only because
24 I know that I've been in court a lot more times in
25 arraignments, with all due respect, than this

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2 colleague, that I think we have to be very wary of
3 the fact--

4 CHAIRPERSON DROMM: [Interposing]

5 Well let's--

6 LISA SCHREIBERSDORF: --that we can
7 be--

8 [Crosstalk]

9 CHAIRPERSON DROMM: [Interposing]

10 Right, I'm just going to stop it here--

11 LISA SCHREIBERSDORF: --of course
12 we can--

13 CHAIRPERSON DROMM: --because I
14 don't want to get into an argument--

15 LISA SCHREIBERSDORF: Yes, no.

16 CHAIRPERSON DROMM: --over whether
17 the public defenders or whatever--

18 LISA SCHREIBERSDORF: Yeah.

19 CHAIRPERSON DROMM: --it's a
20 problem in the legal profession.

21 LISA SCHREIBERSDORF: It is, yes.

22 CHAIRPERSON DROMM: Okay. Whether
23 they're public defenders or not, so let's just
24 leave it at that and I want to--

25 WARD OLIVER: [Interposing] May I

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just note for the--

CHAIRPERSON DROMM: --and I want to thank everybody for coming in today, thank you very much.

WARD OLIVER: If I may, I just want to note for the record that I was a public defender for about 17 years in this city before I joined the immigration unit.

CHAIRPERSON DROMM: Okay. Thank you.

WARD OLIVER: Thank you.

[Pause]

CHAIRPERSON DROMM: All right, next up Heather Yvonne Axford from the Central American Legal Assistance, Camille Mackler from the American Immigration Lawyers Association, Lynn Neugebauer from Safe Horizon, and Shelby Chestnut from New York City Anti-Violence Project.

[Long pause]

CHAIRPERSON DROMM: Okay. Who would like to start? Would you like to start here on the left?

CAMILLE MACKLER: Yes, thank you to the City Council and Chairman Dromm and Council

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2 Members Mark-Viverito and, I think, Council Member
3 Williams. I'm testifying today on behalf of the
4 American Immigration Lawyers Association, we're
5 one of the largest professional associations of
6 immigration lawyers, law professors, and students,
7 and our chapter, the New York City chapter, is the
8 largest chapter of that association in the
9 country. As such, we're uniquely placed to see
10 the impact that policies like Secure Communities
11 have had on our clients and that these laws can
12 have in helping our clients face this immigration
13 system.

14 We commend the New York City
15 Council on these proposed changes and on all of
16 their efforts to protect New Yorkers from
17 devastating programs such as Secure Communities
18 and the Criminal Alien Program, and others. And
19 we do note a few places where we would like to see
20 maybe possibly the laws be expanded.

21 Last month, ICE did issue new
22 guidelines that closely mirror the proposed laws
23 and, in fact, in some areas, proposed expanded
24 protections and we were hoping that these laws
25 could be amended to at least mirror what ICE has

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2 proposed, especially in terms of the prior
3 misdemeanor convictions. The ICE guidelines would
4 not enforce a detainer if there were less than
5 three misdemeanor convictions.

6 And we think it's important that
7 the New York City laws reflect that for two
8 reasons. The first one is that, honestly, despite
9 past guidance that has been issued by ICE, ICE
10 just very unevenly applies their guidance,
11 especially in the field. We've even seen examples
12 of ICE--the union representing ICE workers
13 refusing to train their ICE agents to implement
14 the prosecutorial discretion guidelines that were
15 implemented a year ago. So we think it's
16 important that it be codified in New York City law
17 so that, you know, ICE wouldn't even have an
18 option to not enforce their own guidelines here in
19 New York City.

20 And the second reason is that,
21 quite frankly, the consequences of being funneled
22 into the immigration deportation system are
23 dramatic. And we heard today from one very, you
24 know, emotional and compelling person testifying,
25 but the truth is that, to us, we see that every

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2 single day. Families are destroyed every single
3 day; communities, the trust that they have in the
4 police department is eroded every single day
5 through programs like Secure Communities, and it
6 is important that New York City step up and extend
7 these protections to our New Yorkers.

8 I think that a report that was
9 issued last year, last summer, showed that four
10 out of five New Yorkers that are detained by ICE
11 are never allowed to get a bond, that 45% of
12 people given by ICE--only 45% of those given bonds
13 are able to pay it, rarely do we see a bond under
14 \$5,000. And you can imagine that for someone who
15 has lost a financial support and who is facing
16 costly legal fees to defend themselves in
17 immigration court, \$5,000 is unreachable.

18 And, finally, our last concern that
19 is being addressed by these laws is that our
20 communities are just less and less trustful of the
21 New York Police Department, and that just makes us
22 all less safe. People are not reporting crimes,
23 they're not cooperating in criminal
24 investigations. We need to make sure that our
25 communities, that their faith and their trust in

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2 the police department is restored and this would
3 be a start. Obviously, there are other issues
4 like stop-and-frisk that, you know, go towards
5 that as well, but this would be a good start. And
6 although we know that New York City can never
7 change federal law, we think it's important that
8 we stand up and protect New Yorkers and lead by
9 example.

10 So thank you for this opportunity.

11 CHAIRPERSON DROMM: Thank you.

12 Next, please?

13 LYNN NEUGEBAUER: Thank you,
14 Chairman Dromm and Council Member Mark-Viverito,
15 for the opportunity to testify before you today on
16 these proposed laws, both of which are intended to
17 mitigate the impact of the federal Secure
18 Communities policy on innocent New Yorkers,
19 including victims of domestic violence,
20 trafficking, and other crimes. My name is Lynn
21 Neugebauer, I work at Safe Horizon in the
22 Immigration Law Project. Safe Horizon is one of
23 the nation's leading victim assistance
24 organizations, and in New York City, we're the
25 largest provider of services to victims of crime

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2 and abuse, their families and the communities in
3 which they live.

4 Last spring, the federal government
5 announced that Secure Communities would be
6 implemented in New York City, over the objections
7 of our governor, once again putting our clients at
8 significant risk. We immediately reached out to
9 the governor's office, the mayor's office, the
10 District Attorney's Association, and the NYPD to
11 see how we might protect our clients from
12 immigration implications. We were encouraged by
13 our discussions with senior officials in the NYPD
14 who pledged to reinforce the need for officers to
15 make primary aggressor determinations when
16 responding to calls on domestic violence incidents
17 to ensure that the correct individual is arrested.
18 Obviously, our clients will be far less likely to
19 suffer adverse immigration consequences if they
20 can avoid being arrested in the first place, and
21 we're grateful to Commissioner Ray Kelly and his
22 staff at the NYPD for their efforts to reiterate
23 this policy across the entire department. But we
24 can't rest until we take every available step to
25 protect our clients.

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2 We're really, really pleased that
3 the City Council has responded with these bills
4 which look to address this issue. We greatly
5 appreciate the leadership of Speaker Quinn,
6 Chairman here, Council Member, in recognizing the
7 particular vulnerabilities that our undocumented
8 victims of crime face under S-Comm. While we are
9 supportive of the City Council efforts as a whole,
10 we have some recommendations about how the
11 legislation might be strengthened in order to
12 better protect our clients, which I want to just
13 outline for you right now.

14 In order to strengthen this
15 legislation and better protect undocumented
16 victims of crime, we recommend expanding the list
17 of exemptions of misdemeanor offenses that will
18 trigger a detainer to at very least include, as
19 some of the former speakers had mentioned,
20 trespassing and petty larceny. We also recommend
21 removing contempt and assault from the list of
22 pending misdemeanors. Although the legislation
23 exempts certain crimes that trigger the ICE
24 detainer, we fear the inclusion of these crimes,
25 such as assault and criminal contempt, will cast

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2 so broad a net, many of our clients will be
3 affected, primarily in cases involving the dreaded
4 retaliatory arrests that we see so many of. For
5 example, one of our clients who has suffered
6 egregious abuse, including her being kicked,
7 punched, assaulted with a wood block, threatened
8 with a gun, and nearly stabbed with a pair of
9 scissors by her partner, she filed police reports
10 and received multiple criminal orders of
11 protection. She was arrested herself on two
12 separate occasions after her abuser made cross
13 complaints against her. One of the arrests was
14 for criminal contempt, a pending charge of which
15 under the proposed bill would not exempt her from
16 the ICE detainer being accepted. Despite the fact
17 that both arrests resulted in a dismissal, our
18 client would be separated from her two U.S.
19 citizen children and would not be eligible for
20 immigration relief.

21 I realize that I'm over my time,
22 but I just really hope that we can work going
23 forward with the City Council to make amendments
24 to this rule to exempt certain other pending
25 charges that we see a lot of impact on our

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immigrant clients.

CHAIRPERSON DROMM: Thank you very much. Next, please?

HEATHER YVONNE AXFORD: Good morning, I'm Heather Axford, I'm a staff attorney at Central American Legal Assistance.

For nearly three decades, CALA has been providing removal defense for--at free or low cost to New York's Latino immigrant community. We welcome the committee's concern about the overly broad use of the so-called immigration detainers to cause people guilty of no crime or only a civil violation to be turned over to removal agents. I'm here today to give a concrete example of the tragic consequences of the current policy, consequences that I believe could be remedied by the proposed legislation.

We represent a young man, a resident of Queens, who has been in immigration detention in Gadsen, Alabama, since July of 2011. Juan was one of many victims of a middle-of-the night warrantless home raid on his home in Jamaica Queens conducted by ICE back in 2007. He and his roommates were arrested, processed, and released

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2 pending their removal proceedings. At that time,
3 they were not detained and they were released on
4 their own recognizance. We represented this
5 household of six men. We requested that the
6 immigration court terminate proceedings against
7 them because ICE's arrest was so egregiously
8 unconstitutional, and the immigration judge agreed
9 and terminated proceedings.

10 ICE appealed and at the appellate
11 stage, the proceedings were reinstated. Now in
12 order to challenge that ruling in federal court,
13 we had to accept a final order of removal from an
14 immigration court, and then file a petition for
15 review with the U.S. Court of Appeals for the
16 Second Circuit. It was during that period that
17 Juan was picked up NYPD for having an open
18 container of beer in a park in Jamaica, Queens.
19 NYPD contacted ICE, even though Juan was only
20 facing a violation. ICE took him into custody
21 because, according to their records, he had a
22 final order of removal. And even though we
23 provided evidence that he had a pending case in
24 federal court, they have since refused to release
25 him, and he's been down in Alabama for over a year

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2 now. This is an incredible waste of taxpayer
3 funds, and, while ICE may have the legal right to
4 detain a person with a final order, they never
5 would have done so had NYPD not held this man and
6 called ICE.

7 As I read the proposed legislation,
8 the proposed definition of a pending criminal case
9 would exclude people like Juan, where the highest
10 charge is not even a crime, but rather a
11 violation, and who have no other criminal record.
12 It would avoid the situation at hand, where a man
13 who has been convicted of no crime, has been
14 sitting in a jail in Alabama for well over a year,
15 as the price for having his constitutional rights
16 vindicated in federal court.

17 In light of this situation, we
18 commend your proposed legislation, but we also
19 urge you to add some clarifying language to
20 proposed subpart 2(ii)(B) in Intro 982. We
21 suggest it read: B. Is or has previously been
22 subject to a final removal order pursuant to 8
23 C.F.R. 1241.4 that is not subject to any pending
24 appeal or petition for review in federal court.
25 This would ensure protection for those who are

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2 unlucky enough to encounter the NYPD during a time
3 when they may have technically a final order of
4 removal, but have not yet had their claim disposed
5 of by federal court.

6 Thanks very much.

7 CHAIRPERSON DROMM: Thank you very
8 much, and thank you for that suggestion too.
9 Next, please?

10 SHELBY CHESTNUT: Thank you. My
11 name is Shelby Chestnut, I am the Senior Organizer
12 at the New York City Anti-Violence Project. I am
13 reading the statement on behalf of the Anti-
14 Violence Advocates Coalition Against Deportation.
15 We work with survivors of family and intimate
16 partner violence, human trafficking, sexual
17 assault, and homophobic and transphobic violence
18 throughout New York City.

19 Our communities have frequent
20 interactions with the police, and we came together
21 to bring an end to this dangerous collaboration
22 between ICE and the police that is undermining
23 decades of advocacy to protect our rights.
24 Although we represent particular constituencies,
25 we fight for the fundamental rights of all.

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2 Our communities are facing massive
3 deportation. We are encouraged that the City
4 Council is taking an important step to protect
5 some from being turned over to ICE, but the City
6 must expand this bill as too many people are still
7 at risk. ICE/police collaboration exacts too high
8 a cost. One cost is public safety. Survivors of
9 violence face increasingly difficult choices of
10 involving police in abusive situations since it
11 may result in deportation. The loss of community
12 trust has been raised by many, including
13 Commissioner Kelly and Sheriff Baca of LA County,
14 once a key supporter of S-Comm who recently
15 announced he would not comply fully with ICE
16 detainer requests.

17 Another cost is our ability to
18 protect communities from harmful interactions with
19 the police. For example, LGBTQ people are
20 repeatedly targeted for arrest based on sexual
21 orientation and/or gender identity profiling.
22 When arrested, LGBTQ non-citizen survivors are
23 often funneled from the criminal legal system into
24 remote immigration detention centers, increasing
25 their fear of reporting violence and making their

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2 lack of access to services more severe. In
3 addition, deportation may result in their return
4 to a country with homophobic and transphobic
5 policies that further endanger their safety.

6 Another cost is the extreme
7 consequences of interaction with the criminal
8 justice system that non-citizens face, including
9 separation from their children and deportation.
10 Police officers still commonly mis-arrest both
11 abusive partners and survivors when addressing a
12 domestic dispute, especially in cases that involve
13 LGBTQ people. Survivors of violence are often
14 arrested and convicted of a multitude of crimes,
15 including assault and criminal contempt, because
16 abusers and traffickers commonly manipulate the
17 legal system as a form of control and punishment.
18 Others have convictions related to trauma and
19 economic instability. Common offenses include
20 drug possession and petty larceny.

21 Once turned over to ICE detention,
22 which often means being transferred far from legal
23 and personal support, people face an incredibly
24 difficult time fighting a pending criminal charge,
25 reuniting with children, or fighting their

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2 deportation. It becomes even more difficult to
3 screen people for abuse or trafficking. Even
4 though immigration remedies, such as a U or T
5 visa, may be available, many are unable to access
6 them.

7 This story is an example of a
8 common situation. Carmela married a man who
9 promised to provide her if she came to the U.S.

10 I cannot read that story, I'll just
11 read the last sentence from this. Having a prior
12 misdemeanor or a pending charge should not mean a
13 life sentence of exile. We cannot allow ICE,
14 ICE's dragnet for so-called fugitives or criminals
15 to destroy our city. The merger of the criminal
16 legal system with an unjust deportation system
17 undermines basic civil and constitutional rights
18 for lawful permanent residents and the
19 undocumented alike, and makes us all less safe.

20 We look forward to working together
21 until ICE is completely out of New York, which is
22 the only way that we believe our communities will
23 truly be safe. Thank you.

24 CHAIRPERSON DROMM: Okay. Thank
25 you very much. I know that Council Member

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Williams has a question.

COUNCIL MEMBER WILLIAMS: Thank you very much, Mr. Chair, and thank you and Melissa Mark-Viverito for these bills and championing these issues, which are very important. And thank you for testifying.

I'm sure everyone has lauded the bills, which are definitely good. I had one particular question, anyone can answer, but I think it's particularly for Ms. Neugebauer, probably butchered your name, I apologize.

LYNN NEUGEBAUER: No, that's okay.

COUNCIL MEMBER WILLIAMS: I've been concerned about the domestic violence, particularly among immigrants that I know with VAWA not being passed, I feel like there's no protections and I've been calling--I've called NYPD and a few people to try to find out if locally we do have some protections if, mainly women, but not only women, but if people call in for domestic violence, to prevent them from being deported. Is there anything in place now in absence of VAWA that would stop that?

LYNN NEUGEBAUER: Well we still

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2 have VAWA, even though they haven't reenacted it--

3 CHAIRPERSON DROMM: [Interposing]

4 Is that mic on?

5 LYNN NEUGEBAUER: Yes.

6 CHAIRPERSON DROMM: Oh.

7 LYNN NEUGEBAUER: Oh, sorry, I'm
8 just sitting a little bit back. Even though VAWA
9 hasn't been renewed yet, the protections in the
10 law for immigrants, including self-petitions and u
11 visas and T visas, haven't been rescinded. So
12 what was there before in terms of statute toward a
13 protection still exists. So--

14 COUNCIL MEMBER WILLIAMS: Okay.

15 Okay.

16 [Crosstalk]

17 LYNN NEUGEBAUER: --it's more or
18 less the monetary stuff that and--

19 COUNCIL MEMBER WILLIAMS:

20 [Interposing] So is there a chance of it not
21 existing if they don't renew it? Like, how does
22 that work?

23 LYNN NEUGEBAUER: Well I think
24 they'd have to actually go into the law and make
25 changes in the law to take the statutes, the U.S.

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2 Code out of the law. And we've just heard last
3 week, actually, that there've been proposals by
4 the democrats in the congress--

5 COUNCIL MEMBER WILLIAMS: Yeah.

6 LYNN NEUGEBAUER: --to expand in
7 certain ways some of the provisions for crime
8 victims. So we're really hopeful that something
9 can be done in the new, hopefully, the new climate
10 in Washington.

11 COUNCIL MEMBER WILLIAMS: Okay. So
12 the protections are still there.

13 LYNN NEUGEBAUER: They're still
14 there.

15 COUNCIL MEMBER WILLIAMS: Thank
16 you.

17 LYNN NEUGEBAUER: They're still
18 there.

19 CHAIRPERSON DROMM: All right,
20 Thank you very much to the panel, and we'll bring
21 up our next panel, thank you.

22 LYNN NEUGEBAUER: Okay.

23 CHAIRPERSON DROMM: Alisha Williams
24 from the Sylvia Rivera Law Project, Melissa
25 Brennan from Sanctuary for Families, Ravi Ragbir

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2 from New Sanctuary Coalition, and Lynly--I always
3 mess up your name, Lynly.

4 LYNLY EGYES: That's okay, Egyes.

5 CHAIRPERSON DROMM: Egyes from the
6 Sex Workers Project.

7 [Pause]

8 CHAIRPERSON DROMM: All right,
9 start whenever you'd like, maybe we'll start right
10 here.

11 ALISHA WILLIAMS: Okay. Thank you
12 very much for the opportunity to address you
13 today. My name is Alisha Williams, I'm a staff
14 attorney with the Sylvia Rivera Law Project, SRLP,
15 which is a community-based organization that
16 provides free legal services to low-income people
17 and people of color who are transgender, intersex
18 and/or gender nonconforming. Through our legal
19 services program, we work with hundreds of
20 transgender immigrants each year who are caught at
21 the intersections of our criminal and immigration
22 enforcement systems. From engaging in this work
23 for the past ten years, we know that our
24 communities will not be safe until all ICE/police
25 collaborations end.

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2 We are grateful that the City
3 Council is considering limiting the reach of
4 collaboration between the NYPD and ICE following
5 the activation of Secure Communities, however, the
6 proposed City Council bill has raised several
7 concerns for our organization. Because of the
8 ways in which low-income transgender immigrant
9 communities are criminalized in New York City, our
10 organization cannot support any legislation that
11 limits protection to individuals who have no
12 misdemeanor convictions in the past ten years
13 other than the limited carve outs. Such a
14 proposal will not help the vast majority of our
15 immigrant clients who are profiled and targeted
16 because of their transgender and gender
17 nonconforming statuses, and who are regularly
18 forced to take unfavorable pleas in the wake of
19 false and often violent arrests.

20 Although the legislation carves out
21 specific misdemeanor convictions from its ten-year
22 restriction, these carve outs do not extend far
23 enough. Our clients are routinely falsely
24 arrested for loitering for purposes of
25 prostitution, promoting prostitution, public

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2 lewdness, trespassing, criminal possession of
3 marijuana, and various assault charges. These
4 false arrests happen because of prevailing
5 stereotypes about transgender and gender
6 nonconforming people as suspicious and/or engaging
7 in criminal activity.

8 There has been a long history of
9 unaccountability and abuses of transgender
10 individuals by police officers in the New York
11 City. Many of our clients have been harassed on
12 the street, sexually assaulted, and made
13 spectacles of for the amusement of police and
14 other individuals in the precinct. Our clients
15 are regularly and publicly strip-searched for the
16 sole purposes of determining, or in some cases,
17 mocking their genital status. After experiences
18 such as these, our clients feel pressured to
19 accept unfavorable pleas at arraignment rather
20 than risk the violence and humiliation of
21 returning to custody.

22 We have collected countless stories
23 of clients who have accumulated misdemeanor
24 convictions as a result of such profiling and the
25 failures of the court system to honor our clients'

1
2 gender identities and experiences. I ask that you
3 please refer to the written testimony that I have
4 submitted, which is just a little bit longer, it
5 would probably take about two more minutes to
6 read, but they include some of those client
7 stories and include how people are often targeted
8 and profiled, such that they do have a compilation
9 of misdemeanor offenses on their rap sheet.

10 So for those reasons, we
11 respectfully ask that you reconsider the
12 limitations of the bill so that it ensures actual
13 safety for all immigrant communities. Thank you
14 very much for your time.

15 CHAIRPERSON DROMM: Thank you.

16 Lynly?

17 LYNLY EGYES: Hi, thank you so much
18 for having us all here today. I work at the Sex
19 Workers Project at the Urban Justice Center, I'm
20 an immigration attorney there.

21 And actually want to start by
22 telling a bit of a personal story. My father
23 always told me that the way a community treats the
24 most vulnerable members illustrates the values and
25 the principles of the community as a whole. My

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2 father told me the story of how different European
3 countries treated the Jews during the Holocaust.
4 Belgium is one that actually Jews quite well and
5 tried to protect them from deportation, while
6 countries like Hungary, where my family was from,
7 willingly handed over the Jews to be killed.

8 Knowing this history has led to, in part, some of
9 the work that I do and the passion that I have to
10 protect some of the most vulnerable members in our
11 society from danger, and I'm asking our government
12 to continue doing that.

13 As an attorney, I represent some of
14 the most vulnerable populations in New York. I
15 represent people who work in the sex industry, who
16 often work in the sex industry out of a need to
17 survive, often because they're forced by violent
18 traffickers to engage in prostitution. A large
19 portion of my clients are lesbian, gay, bisexual,
20 and transgender. For many of my clients,
21 deportation would not only mean removal from the
22 home they know, it would mean being forced back
23 into prostitution and possible certain death in
24 some instances, as well.

25 I believe the intent of the

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2 legislation today is to protect the most
3 vulnerable members of our community, including
4 victims of trafficking and the LGBT individuals.
5 For example, there have been some carve outs that
6 we greatly appreciate--Loitering for the Purposes
7 of Prostitution and prostitution offenses as well--
8 -because we know that when people are arrested,
9 specifically, people who are trafficked, when
10 they're arrested, often the traffickers actually
11 pay the defense attorneys and so they're pretty
12 much forced to plead guilty so they can get back
13 to work quicker. And LGBT members of the
14 community also sometimes take pleas because they
15 know the violence they'll experience at Rikers.

16 However, I do have a few
17 suggestions of how this bill could be--could more
18 fully protect our community members most
19 vulnerable members. So I'm just going to go over
20 them quickly, sorry. My first suggestion is to
21 expand people with two or less misdemeanor
22 convictions and kind of meet the same standards
23 that ICE has already set out, and as well as to
24 protect individuals who have two pending
25 misdemeanor charges. It's important to know that

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2 survivors of trafficking and members of the LGBT
3 community frequently have misdemeanor arrests and
4 convictions for a variety of low-level offenses,
5 due to being exploited, profiled, and falsely
6 arrested. For example, I have a client who was
7 forced into stealing. Every day, she had to go
8 and buy--she had to steal powdered milk. In
9 situations like this, it's not odd to have a
10 couple of petty larceny offenses pending at the
11 same time. Another client of mine who was forced
12 into buying drugs for her trafficker. In these
13 cases, they would not be protected by this bill
14 and they would probably be sent back to their
15 country and either re-trafficked or maybe killed.

16 Also, I would really strongly
17 encourage to include the trespass carve out that
18 other people have talked about.

19 There are a lot more stories that I
20 discuss in the testimony, but I want to respect
21 time, and I just kind of want to finish with
22 bringing back the discussion to the story of
23 Belgium and Hungary during the holocaust. Many do
24 not know that the Jews in Belgium, there's only
25 about 6% of them were actually Belgian

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2 nationality, the rest were stateless people who
3 came after World War I who had not been in Belgium
4 long. But that didn't matter, they still
5 protected them and made sure that they kept them
6 as safe as possible. Just like what I think the
7 City Council is trying to do today is protecting
8 our community here in New York.

9 CHAIRPERSON DROMM: Thank you.

10 Next, please?

11 MELISSA BRENNAN: Hi, good
12 afternoon, my name is Melissa Brennan and I'm a
13 senior staff attorney with the Immigration Project
14 at Sanctuary for Families. We're honored to have
15 this opportunity to present at today's hearing
16 before the Committee on Immigration, and I'd like
17 to thank the members of the committee,
18 particularly Chair Dromm and Councilwoman Mark-
19 Viverito, for focusing on this issue of great
20 importance.

21 As you may know, Sanctuary for
22 Families is the largest nonprofit in New York
23 State dedicated exclusively to serving victims of
24 domestic violence and sex trafficking and their
25 children, through shelter, legal, and social

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2 services. In the last year alone, we served 8,000
3 clients directly and reached approximately 30,000
4 individuals through outreach, training, and public
5 events. Approximately 70% of our clients are
6 foreign-born, hailing from 109 different
7 countries. We have staff fluent in 30 languages,
8 and offer a variety of distinct programs. Our
9 Immigration Project staff of 17 full-time
10 employees provides a wide range of legal services
11 to immigrant victims of gender-based violence and
12 sex trafficking--from the filing of various types
13 of affirmative immigration applications to the
14 representation of victims and their children in
15 removal proceedings before the immigration court.
16 We have staff on the ground serving immigrant
17 victims citywide, with offices in Manhattan,
18 Brooklyn, the Bronx, and Queens. In the last
19 year, we provided representation to more than
20 1,600 immigrant New Yorkers.

21 As advocates for immigrant victims
22 of domestic violence and sex trafficking,
23 Sanctuary for Families applauds this initiative of
24 the City Council under the leadership of Speaker
25 Christine Quinn in seeking to limit the harmful

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2 impact of Secure Communities. At Sanctuary for
3 Families, we are deeply aware of just how often
4 victims of domestic violence and sex trafficking
5 end up in the criminal justice system as
6 defendants. Our clients, many of whom are
7 cooperating with law enforcement as victim
8 witnesses, are often arrested and sometimes
9 convicted as a direct result of the actions of the
10 batterers and traffickers who abuse and exploit
11 them. Frequently, our immigrant clients are
12 arrested as the result of baseless allegations
13 made by their abusers intent on maintaining power
14 and control over their victims. And I know I'm
15 just echoing a lot of what has been said by other
16 speakers today. Often we see abusers bring false
17 charges against their victims to retaliate against
18 them for leaving them or for seeking protection of
19 the justice system and cooperating with law
20 enforcement. We have seen many cases in which
21 abusers obtained ex parte orders of protection
22 against our clients in family court and then
23 falsely alleged that those orders have been
24 violated, causing the arrest and prosecution of
25 the victims, rather than the perpetrators of the

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violence.

Our clients' vulnerability to arrest and conviction places them at great risk of detention and deportation by the implementation of Secure Communities. It also places the children of our clients at considerable risk of temporary or even permanent separation from their primary caretaker parents.

The legislation being discussed today is a great step forward towards preventing vulnerable immigrant victims from being swept into an immigration enforcement net and away from their families and children. Notably, the legislation would protect immigrants who have criminal convictions only related to prostitution, which has been--as has been mentioned, is a critical protection for sex trafficking victims, who frequently have a history of prostitution convictions.

The new legislation may help to prevent trafficking victims from being whisked away from New York City where criminal courts routinely provide victims with access to social services. We also acknowledge the efforts being

1
2 made through the legislation to allow prosecutors
3 a window of opportunity to potentially identify
4 victims of domestic violence who have been wrongly
5 arrested.

6 Again, we applaud the leadership of
7 Speaker Quinn and the Council in acting to
8 mitigate some of the harmful consequences of
9 Secure Communities for victims of gender-based
10 violence and sex trafficking, and we look forward
11 to continuing to work with the Council to ensure
12 that immigration enforcement and criminal justice
13 systems protect, but do not penalize, victims of
14 sex trafficking and domestic violence. Thank you
15 so much.

16 CHAIRPERSON DROMM: Thank you.

17 Ravi?

18 RAVI RAGBIR: Thank you. Want to
19 thank the Speaker Quinn, Chairman Dromm, the
20 Councilwoman Melissa Mark-Viverito, for their
21 vision and leadership in moving this forward. I'm
22 Ravi Ragbir, representing the New Sanctuary
23 Coalition, which is a network of interfaith
24 organizations working with people who face
25 deportation. We work with those people with

1
2 criminal convictions. So on the onset, this bill
3 isn't going to help our members. But let me I'll
4 address that in a little later.

5 The U.S. government and its agency
6 Immigration Customs Enforcement have constantly
7 said that they have broken records in their
8 deportations. They have reported in 2011 that
9 409,000 people were deported. That's a lot of
10 people. That doesn't include expeditious removal
11 of people with voluntary departure.

12 We have had reported 46,000
13 parents, people who have been deported who
14 admitted to being a parent of a U.S. citizen
15 child, and that number is--we suspect that number
16 is low because they're afraid--we are afraid to
17 always say that we have children because we don't
18 know if ICE will go to the home and take away our
19 children or deport our member of families.

20 How many times have you heard our
21 members testify here? Remember Luis? Right? He
22 said he was arrested by NYPD because he fit the
23 description of a perpetrator, and his witnesses
24 refused to speak up because they were afraid NYPD
25 would deport them. Even when his charges were

1
2 dropped, he was still sent to ICE to be deported.

3 We have two families, we have a family whose
4 father was taken by ICE when he was taking the
5 garbage out. That family has had to spend five
6 years for the shelter system because he was the
7 breadwinner and a husband. We have another family
8 of six U.S. children who were traumatized when ICE
9 went into their homes looking for their father.

10 And I included a photograph of how they come--body
11 armor, assault rifles. And that is important
12 because immigration is a civil procedure. And
13 that family is still in the shelter because the
14 mom is sick and unable to work.

15 The justification of all of this is
16 the language, right? Secure the border, threat to
17 society. We have agencies like the federal
18 bureau--FBI, the Secret Service, Drug Enforcement
19 Administration, the U.S. Marshall, and ATF, which
20 [off mic] pays for \$14.4 billion to secure and to
21 protect our country. Yet, we spent \$18 billion on
22 immigration and its enforcement mechanisms.

23 The Supreme Court have said that it
24 is not a crime to be here, in this Arizona against
25 U.S. decision. It is not a crime because it's

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civil procedure, and that is very, very important.

As someone who has been in the system, in the criminal justice and in immigration detention, I will tell you, nothing is civil about detention and immigration. I've spent two years in immigration detention, I've been taken from New Jersey into Alabama, it is not pleasant. I'm sorry.

The New Sanctuary--I'll end with this--opposes all implementation of S-Comm and its other and enforcement programs, 287g, Criminal Alien Program, Operation Streamline, because we believe that this will continue to destroy our community and continue to destroy our family. We have to stop this drive to criminalize our communities. Thank you.

CHAIRPERSON DROMM: I just want to thank you all for coming and I do want to say, the issue of past arrests for people falsely charged with criminal--with prostitution charges, something very close to me, it happened to me, and, you know, it's something that I want to look at further, and I think we're going in that direction to try to make sure that that doesn't

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2 continue to happen, and on many levels and many
3 categories. But I do appreciate you coming in and
4 bringing up that issue to us as well. Thank you
5 very much.

6 COUNCIL MEMBER MARK-VIVERITO: Can
7 I ask a question?

8 CHAIRPERSON DROMM: Yes, Council
9 Member Mark-Viverito.

10 COUNCIL MEMBER MARK-VIVERITO: I'm
11 not sure--and, again, this is something I--I guess
12 it's coming to me now, I didn't ask the first
13 panel, but would you any of you know--maybe you
14 don't--if, you know, New York City as a
15 municipality refused to participate in S-Comm,
16 what would be the consequences? I mean, I don't
17 know if there's federal funding that will be at
18 stake and all that stuff, but I don't know if
19 there's been any example of any municipality that
20 has tried to resist that at all, but...

21 [Crosstalk]

22 COUNCIL MEMBER MARK-VIVERITO:
23 Right? So just question, posing it out loud. All
24 right, thank you.

25 LYNLY EGYES: And there have been

1
2 some municipalities who actually have taken even
3 further steps to limit Secure Communities in their
4 communities.

5 COUNCIL MEMBER MARK-VIVERITO: In
6 terms of legislation?

7 LYNLY EGYES: Legislation--

8 COUNCIL MEMBER MARK-VIVERITO:
9 [Interposing] But the legislation goes further.

10 LYNLY EGYES: And I think Santa
11 Clara is one of them, and I know there are a lot
12 of people who are going to speak in the audience
13 who can speak more articulately than I can about
14 this, but there are communities that have taken
15 this--

16 COUNCIL MEMBER MARK-VIVERITO:
17 Okay.

18 LYNLY EGYES: --a lot further too.

19 COUNCIL MEMBER MARK-VIVERITO:
20 Thank you.

21 RAVI RAGBIR: Did we have a chief
22 of police from Utah, Salt Lake City, who said he's
23 not a civil enforcer. He doesn't honor any
24 detainers by Immigration Custom Enforcement.

25 CHAIRPERSON DROMM: Well thank you.

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[Pause]

CHAIRPERSON DROMM: And last, but not least by any means, Rebecca Engel from NYCLU, Carmen Maria Rey from inMotion, Alina Das from New York City Bar Association, and Alisa Wellek from the Immigrant Defense Project. Thank you for waiting to give testimony, really appreciate it, thank you.

[background noise]

CHAIRPERSON DROMM: Okay.

[Pause]

CHAIRPERSON DROMM: All right, let's start, right over here.

REBECCA ENGEL: I apologize for the loss of my voice, it will come back. My name is Rebecca Engel, I'm policy counsel at the New York Civil Liberties Union, which has been fighting for the rights of civil liberties of all New Yorkers, including immigrant New Yorkers, since 1951.

The New York Civil Liberty Union is strongly in support of this legislation that would limit the role that both the DOC and NYPD play in facilitating the detention and deportation of immigrants living in New York City. The NYCLU

1
2 believes that immigration enforcement is a job for
3 federal authorities and not for local law
4 enforcement, whose job is to protect all of our
5 residents, regardless of immigration status.

6 This legislation will make New York
7 City part of an emerging national trend which
8 actually was just mentioned and which I'll discuss
9 later, of counties and cities nationwide actually
10 choosing to preserve their own needed financial
11 resources--is that better?--and focusing on their
12 own priorities as opposed to ICE priorities in
13 choosing who to detain.

14 Just to give you a little
15 background, NYCLU has had serious concerns about
16 the constitutionality of detainers overall ever
17 since their beginning of their use in New York
18 state. The detainers themselves don't allege or
19 demonstrate any probable cause for detaining
20 someone and are issued without any authorization
21 by a neutral judicial oversight. To deprive a
22 person of liberty solely because the government
23 seeks to investigate that person's immigration
24 status without requiring any concrete showing of
25 probable cause offends both the constitution and

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fundamental principles of justice.

But thankfully, because of concerns about constitutionality, costs, risks of racial profiling, threats to community safety, citizen counties all over the country are now choosing to lessen the brunt of S-Comm and detainers on a local level by simply limiting the number of detainer requests that they choose to respond to. So just to give you some examples: In Cook County, Illinois, no detainers are being honored unless there is a written agreement with the federal government to reimburse costs. In Santa Clara County, California, no ICE detainers will be honored unless there is both reimbursement and the person has been convicted of a serious or violent offense. In Chicago, they do not detain anyone unless the person has an outstanding criminal warrant, is facing a felony charge, has a felony conviction, is a gang member. In Washington, D.C., detainers are honored only for 24 hours, as opposed to 48 hours, only if the person is 18 years or older and has been convicted of a dangerous crime as defined by the D.C. code.

So we like to think that we think

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2 that this legislation is part of this trend that
3 is taking place across the country of lessening
4 the impact of S-Comm by allowing cities to decide
5 who they believe it is appropriate to detain. And
6 so the NYCLU commends the City Council for
7 revisiting the law that was passed in 2011 and
8 making it even stronger. It makes it stronger by
9 bringing the policy to the NYPD in addition to
10 DOC, a significant addition due to the activation
11 of S-Comm, which has caused so many undocumented
12 immigrants to be held upon initial arrest. And
13 then, of course, it increases the number of--it
14 further limits the role that non-serious crimes
15 play in the decision to honor a detainer.

16 But in light of the fact that ICE
17 has actually now changed its own policies about
18 detainers, which I can talk about later if you're
19 interested, which are actually quite similar to
20 this legislation, we believe that City Council
21 could even go further. And the NYCLU, in
22 suggesting this, urges the City Council to look
23 like to places such as Cook County, Santa Clara,
24 Chicago, Washington, D.C., and there are many
25 others that are now part of this movement. And as

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2 it builds, the NYCLU looks forward to continuing
3 this conversation with City Council about how to
4 best balance immigration requests from our federal
5 government with what is our identity as a city,
6 which is one that is often a leader in paving the
7 way on issues such as community safety, racial
8 justice, and due process. Thank you.

9 ALISA WELLEK: Hi, thank you for
10 having me. My name is Alisa Wellek, I'm the
11 deputy director of the Immigrant Defense Project
12 and we work for fundamental fairness for all
13 immigrants who are accused or convicted of crimes.
14 I just want to thank you both especially for your
15 leadership on this issue, along with Speaker
16 Quinn. And I submitted a longer testimony, but
17 I'm just going to highlight a couple of things.

18 We receive thousands of calls every
19 year from immigrants, their loved ones, and
20 advocates, and also work closely with community-
21 based organizations and training public defenders.
22 And through this, we've borne witness to some of
23 the really cruel realities of the U.S. immigration
24 system, and I know you've heard some very personal
25 stories of people who have lived that experience

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2 today, but I was hoping to give you a little bit
3 of a broader context because I think, even though
4 I'm sure you're both very familiar, some of it can
5 be kind of shocking.

6 So the rapid expansion of what we
7 now call mass incarceration and mass deportation
8 system, you know, isn't a coincidence, and in the
9 past two decades, we've seen our jail and prison
10 population quadruple from 500,000 people in 1982
11 to 2.3 million in 2008, much of this due to the
12 war on drugs, which we know target communities of
13 color and poor communities, despite the fact that
14 there's no higher rates of drug use or selling in
15 those communities. In our local context, we see--
16 and I know you both have worked on this issue--
17 stop-and-frisk tactics, as well as these going
18 after so-called quality of life crimes really
19 impact the number of folks, especially poor people
20 of color, including immigrants, who now have some
21 kind of contact with the criminal justice system.
22 And I know some of my colleagues talked about the
23 issue of trespass and marijuana in public view.

24 And as a person who has trained
25 public defenders for years, that for an

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2 undocumented person who is at arraignments pre-S-
3 Comm to get, you know, to get out of DOC custody,
4 people are taking--we told them to take trespass
5 pleas, even if it was unconstitutional because
6 otherwise they would go into DOC custody and get
7 deported. So now it's really heartbreaking to us
8 that these prior trespass convictions are going to
9 make them handed over to ICE at this point under
10 the bill.

11 So at the same time, our
12 immigration laws have really changed in a
13 devastating way in the last two decades. More
14 than 3 million immigrants have been deported since
15 2001. To give you a sense of historical
16 perspective, we deported more people between 2001
17 and 2010 than in the past 108 years combined.
18 Much of that is based on the success of these
19 programs, it's based on the draconian laws that
20 mandate deportation for a wide variety of criminal
21 offenses and also our--the federal government's
22 entanglement with our local enforcement policies
23 like the Criminal Alien Program and Secure
24 Communities.

25 So just to give you a little

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2 context for what happens when someone is arrested,
3 they're funneled into the deportation system
4 directly that which lacks many due process
5 protections. And we've been at meetings with ICE-
6 -Council Member Dromm, I know you had asked about
7 pending cases--we've been at meetings with ICE
8 where they say now with S-Comm, it's so early that
9 they have decide whether to drop a detainer that,
10 despite this guidance, they're just kind of
11 dropping it on everybody and assuming that it'll
12 get sorted out later, which has really serious
13 implications for people's criminal cases,
14 including getting bail, getting sent into ICE
15 custody if they pay bail, like the person who
16 spoke earlier.

17 Just quickly, we settled a lawsuit,
18 a Freedom of Information Act lawsuit, along with
19 the NYU Immigrant Rights Clinic and Families for
20 Freedom against ICE, where we got some numbers for
21 the first time on New Yorkers who were sent to
22 deportation from 2005 to 2010, and I included some
23 of the statistics, both in my testimony and I
24 included one of our report. But it hadn't been
25 released ever before, some of these numbers of

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2 what happens to, you know, between half and two-
3 thirds of New Yorkers are sent to Louisiana and
4 Texas and far away states where they're much less
5 likely to win their cases, much less likely to get
6 access to counsel, and it's a huge issue.

7 So I thank you for your work on
8 this bill and encourage you to expand it in the
9 future.

10 CARMEN MARIA REY: Good morning,
11 I'm here representing inMotion, which provides
12 legal services to low-income and working poor
13 women in New York City in the areas of family,
14 divorce, and immigration law. We serve an average
15 of over 2,000 women per year in these areas. And
16 join the speakers in commending the members for
17 introducing this legislation, but we do believe
18 that it must be refined further to protect
19 vulnerable populations from Secure Communities.

20 We will limit our testimony to two
21 issues, discussed further in our testimony, that
22 we believe are of particular concern and which we
23 think you are also interested in. First, we're
24 concerned that honoring detainers for pending
25 misdemeanor assault and misdemeanor contempt

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2 charges will interfere with the functioning of the
3 civil system in New York City, particularly the
4 effective functioning of the family courts. About
5 75% of our client base are victims of domestic
6 violence and trafficking, and so we have a
7 particular view on family court proceedings.

8 And secondly, we're concerned that
9 honoring detainers for past misdemeanor
10 convictions will unnecessarily entangle our
11 clients in the immigration system, as testified to
12 by prior speakers.

13 As others have said, Secure
14 Communities has served only to create additional
15 tools for abusers to exercise power and control
16 over their immigrant victims. And to effectuate
17 their most common threat, which is to have the
18 victim deported and to keep the children. By
19 honoring detainers for pending misdemeanor assault
20 and misdemeanor contempt charges, which are so
21 easy to fabricate, the pending legislation fails
22 to protect immigrant victims from further abuse.

23 We have a client right now--sorry--
24 our client, Yasmin, she was brought by her
25 husband, a United States citizen, to the United

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2 States, they have two children together. She was
3 brought her as his fiancée, he never married her
4 so that she would never be able to secure
5 immigration status. Although he had the right to
6 petition for immigration status for her, he chose
7 not to so that he could keep her under his
8 control. When he found out that she was done with
9 the relationship and she wanted to abandon him, he
10 called the police, he filed a false police report
11 and she was arrested. He spoke English and she
12 didn't. In the meantime, while she was being in
13 the process of being arraigned and the criminal
14 justice system kind of starts and doesn't stop, he
15 went into family court, he filed for an order of
16 protection, and he filed for temporary custody of
17 the children, which was, of course, she was in
18 detention and not available to testify on her own
19 defense to the family court judge or present a
20 defense, was automatically given to him. So now
21 he has custody of the children.

22 Yasmin was eventually issued a
23 detainer, was transferred into immigration
24 custody, sent to a detention facility where, in
25 case you don't know, unless you have money to put

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2 into your commissary account, you can't make phone
3 calls, so she was, of course, because we've all
4 done great work in New York City, issued an 18-B
5 attorney to represent her rights in the family
6 court, but she could only communicate with him by
7 mail because she had no access to a phone because
8 her only supporter in the United States, her
9 husband, was, in fact, her abuser, which is also,
10 by the way, why her charges were, in fact,
11 converted in criminal court because the 17770
12 procedure protects those who are in healthy
13 relationships, not in those who are in abusive
14 relationships where the abuser actually intends to
15 use the criminal--the justice system against his
16 victim.

17 So sorry. Yasmin was lucky because
18 she's a victim of domestic violence and so she was
19 eventually released during those three--after
20 three months of detention, but, unfortunately,
21 during that detention, she had no contact with her
22 children, she wasn't able to visit or speak with
23 them, which means that the family court then uses
24 the fact that she's had no contact with her
25 children against her in determining custody and

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2 visitation proceedings. So she continues to fight
3 an uphill battle now because her abuser was able
4 to use the criminal justice system against her,
5 partially, and because of S-Comm to try to
6 maintain her parental rights over her children,
7 even though immigration will give her the right to
8 remain in the United States permanently.

9 I have a second point, I know we're
10 over time, I would like to mention it. We do
11 believe that honoring detainers for past
12 misdemeanor convictions will unnecessarily
13 entangle our clients. We ask you that, at the
14 minimum, you broaden the list of prior convictions
15 that do not trigger the honoring of a detainer
16 request to include those that are most common in
17 the populations that we see: Convictions for
18 trespass, convictions for aggravated harassment,
19 theft, and drug-related offenses.

20 Trespass, I kind of mirror what
21 other speakers have said. For years, we've been
22 telling folks to accept trespass convictions
23 because they had no immigration consequences and
24 would free them from immigration consequences. It
25 really tears at our credibility with our clients

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2 when the law now changes and that prior
3 conviction, which we encouraged them to take,
4 triggers their being placed in immigration
5 detention.

6 Our immigrant clients have suffered
7 years of physical, emotional abuse, they've been
8 trafficked, they've been tortured, they've been
9 raped. Their convictions are often tied directly
10 to the harm for which the United States government
11 will eventually give them immigration status. We
12 believe that by honoring detainers for these
13 convictions, New York City risks placing this
14 really vulnerable population into farther trauma.
15 We kind of mirror what folks have said: You put
16 folks into the immigration system, they disappear.
17 I represent clients that I can't find anymore.
18 And when I do find them, I have to communicate
19 with them by putting money into their commissary
20 accounts because otherwise I get no access to my
21 clients who are sitting in detention in Texas.
22 And I have clients who sat in detention for three
23 years because they want to actually fight the
24 charges against them.

25 We commend you for taking this as

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2 an issue and holding it dear to your hearts and
3 doing all the work that you've done, but we really
4 encourage you to continue the conversation with us
5 so that we can move even further in this
6 discussion. Thank you.

7 ALINA DAS: Good afternoon, my name
8 is Alina Das, I'm a professor at NYU Law School
9 and speaking here as a member of the New York City
10 Bar Association.

11 Five of the committees of the New
12 York City Bar who are intimately familiar with the
13 negative impacts of detainers got together, and
14 this includes the Criminal Courts Committee, Civil
15 Rights Committee, Corrections, and Community
16 ReEntry Committee, Domestic Violence Committee,
17 and our Immigration and Nationality Law Committee,
18 and that represents a cross section of people who
19 work in those committees, so not just defense
20 attorneys but also prosecutors, people who are
21 working directly in corrections, and people who
22 work with domestic violence victims and immigrants
23 on an everyday basis who see the negative effects
24 of detainers. And, together, we do applaud the
25 City Council and all of you for your leadership on

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2 this very important issue, and we are thrilled
3 that the City Council has returned to this issue
4 so quickly after Secure Communities has been
5 implemented in our city so that we can address
6 some of those negative effects.

7 I'm going to focus my time on a
8 couple of the recommendations that the city Bar
9 has that definitely echo the concerns that you've
10 heard here today. As a bar association, we are
11 actually supportive of the more expanded measures
12 that we've seen in places like Cook County and
13 Santa Clara that you've heard of because that is
14 the one most effective way that localities have
15 been able to fight back against S-Comm, which is
16 to not honor detainers. You could either have
17 stopped the fingerprints from going to DHS, which
18 people have not quite figured out how to do yet,
19 or you can stop it on the back end, which is the
20 detainer policies. And that's why we think there
21 should be blanket policies across the board, like
22 we've seen other localities try to accomplish.

23 But specifically, in terms of some
24 of the carve outs that we've seen, we did want to
25 point out a couple of things. You know, we are

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2 deeply concerned about pending charges. There is
3 a lot of talk about trying to pick cases and types
4 of charges in order to protect public safety, but
5 at the end of the day, you see this pending charge
6 problem when the New York City criminal justice
7 system has already decided that someone should be
8 out on bail or released on their recognizance or
9 placed into an alternative program, such as a drug
10 treatment program or a mental health program. So
11 the City has already decided that there is not
12 such a public safety risk that this person cannot
13 be released, and it's those people who are then
14 finding themselves either facing a choice of
15 staying in jail and, you know, just not paying the
16 bail in order to remain closer to their families,
17 or being forced into immigration detention. So
18 the carve outs we see here, which, you know, so
19 you will be held under the proposed legislation if
20 you have a felony, if you have one of that list of
21 misdemeanors, or if you have two or more
22 misdemeanor charges pending against you. So the
23 idea that people who have misdemeanor charges are
24 going to be safe isn't exactly true.

25 And we know from common experience

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2 that people often do have multiple misdemeanor
3 charges against them for related things. Like
4 you'll see criminal trespass and marijuana
5 possession, or you'll see charges for petit
6 larceny and criminal possession of stolen
7 property. These are misdemeanor charges, but if
8 you have both of them that you're facing, you
9 won't be protected by this bill, and so we would
10 like to see an expansion of that.

11 In addition, in terms of the single
12 misdemeanor charge, our bar association, and
13 particularly the domestic violence committee,
14 expressed the same concerns, particularly about
15 criminal contempt and assault, because they do
16 affect domestic violence victims.

17 And just to close, in terms of the
18 past convictions, we're also very concerned about,
19 you know, any misdemeanors within the last ten
20 years. The proposed legislation actually doesn't
21 go as far as the ICE guidance would go and with
22 respect to some of that. And things like one
23 petit larceny, one marijuana possession, one
24 trademark counterfeiting for our street vendors
25 who often have these multiple convictions in their

1
2 past will prevent them from being able to benefit
3 from the proposed legislation.

4 And finally, we do have civil
5 rights concerns with respect to the known gang
6 members and possible match in terrorist databases
7 because of the well documented inaccuracies in
8 those databases. If the City is willing to not
9 honor detainers, it doesn't prevent ICE from
10 coming in and deciding to put someone into removal
11 proceedings if they feel like they have strong
12 charges against them, it only ensures that those
13 people are more likely to stay in New York and to
14 find representation. And we know from the report
15 that the representative from IDP mentioned, while
16 74% of New Yorkers who are able to be out of
17 detention and find representation can get a
18 positive outcome in their cases, only 3% of New
19 Yorkers who are unrepresented and detained will do
20 that, so handing people over to ICE virtually
21 guarantees that they will be deported.

22 Thank you for your concern for
23 these issues and we look forward to working with
24 you in the future.

25 COUNCIL MEMBER MARK-VIVERITO:

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2 Thank you, Chair Dromm. You know, I want thank
3 everybody that has come here today and testified,
4 and I know that there's been a lot of testimony,
5 particularly given with regards to domestic
6 violence situations, and definitely, you know, the
7 chair and I were just talking and we definitely
8 want to sit and process with the staff everything
9 that's been raised and see if there's room for
10 improvement in some of those cases. So I really
11 want to thank everyone 'cause you've been very
12 thoughtful and deliberative about your
13 recommendations.

14 I just have one quick question, I
15 don't see your name on your--oh, Rebecca, right?
16 From the NYCLU? With regards to those
17 municipalities that have set up those, you know,
18 saying that we will not honor detainer unless we
19 get reimbursed, one, and then additional to that,
20 whether they meet certain criteria. Have any of
21 those municipalities done any--or localities--done
22 any sort of financial analysis as to what are the,
23 you know, financial--what does it cost them to--if
24 they were to implement this policy? I'm wondering
25 if, you know, we could probably look at that as

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well, but are you aware of any of that kind of--

REBECCA ENGEL: [Interposing]

Excuse me--

[background noise]

REBECCA ENGEL: I'm not aware of any, but I actually--the Cook County one at least--and apparently the executive in Cook County has now moved beyond--initially, he thought of it merely as a financial--

COUNCIL MEMBER MARK-VIVERITO:

Right.

REBECCA ENGEL: --thing, and now he has expanded his viewpoint to now saying, look, and ever since now putting this into motion and there was a little push back from ICE, but actually nothing has really happened there in terms of them losing funding, I think there's been some reports about this. He said now I have come to see detainers as purely unconstitutional.

But to answer your question about whether there is, I don't know if there is, I don't know if anyone else does, but I would be more than happy to look into.

CARMEN MARIA REY: I--

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REBECCA ENGEL: Yeah.

CARMEN MARIA REY: --I know that no one has lost any ICE funding because--

REBECCA ENGEL: Yeah.

CARMEN MARIA REY: --of this and that the cities that have done analysis have just focused on the amount of savings because what we see in New York is if someone has a detainer, basically they're sitting in Rikers sometimes for years because they can't pay their bail. So the cities that focused on the amount of money that they're saving by not holding people, not only for the 48-hour period, but also for the extended amount of time in which they're waiting to fight their case.

COUNCIL MEMBER MARK-VIVERITO:

Yeah, I know there had been a report when we were doing the DOC, the Department of Correction's one, I [off mic] some records bill that there was a report that came out to talk about the costs of holding people beyond the time that they normally would. So but it's interesting to see what other localities are doing and seeing if there's anything more that we could consider here, but,

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yeah...

ALINA DAS: I think what we most of us still left in this room would be more than happy to sit down and work together to prepare a report for you, specifically on this issue. If you were interested, we all dedicate our lives to this work and in any way that we can be of help, we really are very concerned about the effects in our community.

[Pause]

CHAIRPERSON DROMM: Thank you. I want to ask a little detailed question, the trespassing piece of it. When you would advise clients or people would advise clients in the past to plea down to trespassing, is it because the original charge was burglary?

CARMEN MARIA REY: No, often someone is charged with--so prior to S-Comm of say an undocumented person is arrested, there was no detainer at the NYPD level so the detainer was only dropped when the person entered DOC custody, so it was often someone charged--

CHAIRPERSON DROMM: Oh, okay.

CARMEN MARIA REY: --with a

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2 misdemeanor trespass where, you know, if you paid
3 bail--a normal person would just pay bail or get
4 RORd and they, you know, if they were able to pay
5 bail or get RORd, they would be able to fight the
6 case or the case would go away, they would take a
7 discon [phonetic], but because people had to get
8 out of custody so quickly, we would advise
9 attorneys to take the trespass if there no discon
10 offer. Does that make sense?

11 CHAIRPERSON DROMM: I think so. I
12 mean, I'm just trying to figure out what would be
13 the City's opposition to that particular charge.

14 ALISA WELLEK: Yeah, I think the
15 context we often see trespass in is when somebody,
16 it's part of the quality of life policing where
17 someone's visiting a friend in another building
18 and where it's actually--it's an unfortunate
19 circumstance in that if you didn't have the
20 pressure of facing jail and then facing detention,
21 you would probably be able to resolve that with a
22 dismissal, but then we're seeing people pleading
23 to the offense.

24 CARMEN MARIA REY: Yeah, I know the
25 Clean Halls program has been a big..

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2 CHAIRPERSON DROMM: Okay. All
3 right, well thank you very much, everybody, for
4 coming in, I really appreciate it. Thank you to
5 all the advocates and to everybody who attended
6 today's hearing. I think that's it.

7 I want to thank my staff, Julene
8 Beckford and Jennifer Montalvo, for all your work.
9 And I guess, with that, this meeting is adjourned.

10 [Gavel]

11 CHAIRPERSON DROMM: Thank you.

C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature *Tammy Wittman*

Date February 11, 2013