

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON IMMIGRATION JOINTLY WITH
COMMITTEE ON JUSTICE SYSTEM

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April 10, 2019
Start: 1:09 p.m.
Recess: 3:30 p.m.

HELD AT: Committee Room - City Hall

B E F O R E: CARLOS MENCHACA
Chairperson

RORY I. LANCMAN
Chairperson

COUNCIL MEMBERS: Andrew Cohen
Daniel Dromm
Brad S. Lander
Alan N. Maisel
Deborah L. Rose
Eric A. Ulrich

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

Mizue Aizeki, Acting Deputy Director, Immigrant Defense Project

Terry Lawson, Director of the Family and Immigration Unit of Bronx Legal Services, Office of Legal Services NYC, & Co-leader of Bronx Immigration Partnership

Bitta Mostofi, Mayor's Commissioner Mayor's Office of Immigrant Affairs, MOIA

Richard Bailey, Supervising Attorney, Padilla Practice of the Immigration Unit at Brooklyn Defender Services

Jill Wildman, Immigration Monument, Legal Aid Society

Rosa Cohen-Cruz, Padilla Supervisor, Immigration Practice Bronx Defenders

Evan Bernstein, Regional Director, Anti-Defamation League, ADL's New York & New Jersey Office

Yvonne Chen, Outreach Manager of the Anti-Trafficking Initiative, Sanctuary for Families

Susanna Saul, Managing Attorney at Her Justice

Shani Adess, Associate Director, Matrimonial and Family Law Unit, New York Legal Assistance Group, NYLAG

Atosa Moula Heddi. (sp?), Director of Legal
Service & Development, Urban Justice Center

Fernanda Hidskin (sp?), Immigration Attorney
Council of Peoples Organization

Greg Waldman, G1 Quantum (Clean Energy Company)

1 COMMITTEE ON IMMIGRATION JOINTLY WITH COMMITTEE ON
JUSTICE SYSTEM 4

2 [sound check] [pause] [background
3 comments/pause] [gavel]

4 CHAIRPERSON MENCHACA: Buenos tardes
5 everyone. Buenos tardes and really excited to be
6 here today on a very important topic. My name is
7 Carlos Menchaca, New York City Council Member, and
8 Chair of the Immigration Committee. I want to thank
9 my Co-Chair for this committee, the Justice—the
10 Justice Committee with Rory—Rory Lancman and Council
11 Member from Queens. Just shy of two years ago in
12 2017, Chair Lancman and I held the first joint public
13 hearing documenting ICE presence in New York courts,
14 five months into the current federal administration.
15 Today, we are back to hear a full report of both the
16 rise in ICE presence at courthouses across the city,
17 and the detrimental impact ICE presents or the ICE
18 presence has had on our Justice System.

19 Additionally, we are here to make a case for the
20 state to pass legislation, and the Office of Court
21 Administration to promulgate rules that would protect
22 the sanctity of our state courts and the Criminal
23 Justice System. As such, the Committee on
24 Immigration will also be holding our first hearing
25 today on Resolution 828, co-sponsored by myself and

1 Chair—Chair Lancman calling on the State Legislature
2 to pass and the Governor to sign the Protect Our
3 Courts Act. In order to protect certain interested
4 parties or people from civil rest—civil arrest while
5 going to, remaining at or returning from the place of
6 such court proceeding. Immediately after the 2017
7 Presidential Inauguration, the Trump Administration
8 laid out its masked deportation agenda in an
9 Executive Order. It was called *Enhancing Public*
10 *Safety in the Interior of the United States*. This
11 agenda included among other things following
12 immigrants at their state level court appearances in
13 Criminal Court, Civil Courts such as Family Court and
14 problem solving courts such as Human Trafficking
15 Court. This was a distinct shift from immigration
16 enforcement under the Obama Administration, and since
17 20—since 2016, the Immigrant Defense Project, IDP has
18 documented an increase of a—of a 1,736%. It's 1,736%
19 increase in ICE Courthouse enforcement, and in and
20 around our state courts. A majority of these reports
21 come from New York City with Brooklyn and Queens
22 reporting the largest number of arrests. We will
23 hear extensive reports today from IDP as well as the
24 Bronx Legal Services—Bronx Legal Services and many of
25

1 the other social and legal service providers that
2 have seen clients affected by this policy shift, and
3 this is a shift that's happening on a daily basis,
4 and we want to hear from all of you, and what I want
5 to make sure that we all understand today is that
6 immigration enforcement at the State Courthouses is
7 incompatible with the functioning of our Justice
8 System. Law enforcement agencies from the District
9 Attorney Offices to the Attorney General's Office
10 have publicly condemned ICE for disrupting the trust
11 between New York's immigrant residents and law
12 enforcement. We hear stories of individuals who
13 forego calling the police when they are victims of
14 crimes or involved in domestic disputes for fear that
15 ICE will show up at a related court proceeding.
16 Public Defender organizations and judges have also
17 reported how ICE's recent tactics have interfered
18 with the administration of justice. There has been a
19 measurable drop in participation in Criminal Justice
20 programs in problem solving courts, and Civil Courts
21 as a result of ICE presence. These strains on our
22 justice system can make—can only make our city less
23 safe. ICE agents attempted to arrest a woman in
24 Queens Human Trafficking court last summer, creating
25

1 such a panic that other trafficking survivors were
2 terrified to leave the courtroom. ICE is
3 eavesdropping on privileged attorney-client
4 conversations, and literally stalking attorneys to
5 arrest their clients. ICE is increasing their use of
6 force and surveillance with agents surrounding
7 individuals with guns drawn. One woman in Brooklyn
8 had her son snatched by plain clothes ICE agents, and
9 thrown into a car. They shoved her against a wall
10 and repeatedly told her to shut up. She thought here
11 son had been kidnapped until she called here—until
12 they called her from the ICE Detention—the Center.
13 These are traumatic experiences ICE is putting on our
14 community—communities, and this is very—this is a
15 very clear indication of a rogue agency, rogue
16 operation, and with the sole mission of deporting as
17 many people as possible with no care for due process.
18 So, we are here and we are watching, and we will make
19 sure that we rise up, and that we raise our collect—
20 collective voices that we can bring attention to the
21 issue, and call for ICE to be held accountable. We
22 will not stand by, and let this happen. I want to
23 thank all the advocates that are here today, and
24 you've been with us not just in these public
25

1
2 hearings, but you've been working with us at the City
3 Council, and all the other advocates and leaders in
4 government because it is important to know that it is
5 not just an over-exaggerated sporadic telling of
6 stories that we are hearing. This is happening
7 everyday, and it's happening to all our communities,
8 and there's clear data that shows how disruptive and
9 destructive ICE's tactics are. This is a deliberate
10 attack on our city and our state. I'll repeat that.
11 It's a deliberate attack. This is a strategy. This
12 is the deportation machine. So, and—and this more a
13 fact: ICE has stated in its own policies that
14 courthouse arrests are a direct result of the
15 increasing unwillingness of some jurisdictions to
16 cooperate with ICE. That's New York City. We have
17 made it law, and because of that, some law
18 enforcement agencies are no longer on our ICE
19 detainers or limit ICE's excess-access to detention
20 facilities, and we're proud of that here in the New
21 York—in New York City. In ICE's own words they are
22 targeting sanctuary cities for intrusion in
23 courthouse proceedings. They're making a direct
24 connection, and we will not stand by and let this
25 federal administration continue to target our

1 resident, our families and our neighbors. So, I want
2 to thank everyone who prepared this hearing, my Chief
3 of Staff Sochi Meng; my Communications Director and
4 brand new father Tony Charito and the whole committee
5 staff, the Committee Counsel, Haryanvi Arusha (sp?);
6 Committee Policy Analyst Elizabeth Kronk and the
7 staff--and the entire staff of the Justice System
8 Committee. With that, I'm going to hand it over to
9 my Co-Chair, Rory Lancman.
10

11 CHAIRPERSON LANCMAN: Thank you, Council
12 Member Menchaca. Good afternoon everyone. I'm
13 Councilman Rory Lancman, Chair of the Committee on
14 the Justice System. We've been joined by our newest
15 member of our committee Danny Dromm. Welcome, and
16 thank you to Menchaca for leading this important
17 joint hearing on ICE in New York Courthouses. Almost
18 two years ago, our two committees held a hearing
19 about what was then the recently expanded practice of
20 sending ICE agents into our courts. Since then, our
21 judicial system has been even more seriously
22 undermined by the insidious predatory practices of
23 ICE agents who stalk our courthouses and make
24 defendants and litigants, victims and witnesses
25 afraid to appear. It make our society less fair and

1 all of us less safe. Thanks to the meaningful work
2 of the ICE Out of Courts Coalition and a report that
3 they released today, we know that since 2016, there
4 has been a 1736% increase in ICE operations in and
5 around New York's courthouses. In Queens alone 60
6 people have actually been arrested in the last two
7 year, but how many others have been scared off or
8 =had to weight showing up against possibly never
9 returning home. The fear pervades every aspect of
10 our Justice System stretching far beyond criminal
11 defendants. District attorneys have talked about how
12 immigrant victims are less likely to report crimes
13 leaving perpetrators unaccountable for their actions.
14 Between 2016 and 2018, there was a 72% decline in U
15 Visa requests, legal visas available to crime
16 victims. Fifty-six percent of legal services
17 providers and advocates say their clients are afraid
18 of even filing a complaint in Housing Court. The
19 city's Family Justice Centers, which provide services
20 to victims of domestic violence and sex trafficking,
21 but are not official-officially affiliated with the
22 court system even saw a 10% decline in new foreign
23 born clients from 2016 to 2017. Our judicial system
24 breaks down when defendants ignore court appearances
25

and prosecutors cannot get victims and witnesses to testify when domestic abusers can get—can act with impunity or when people refuse to cooperate.

Unfortunately, many immigrants must make the decision

to avoid the justice system or risk detention or

deportation at the courthouse door. Today, we are

also here in support of the Protect Our Courts Act, a

bill in the State Legislature to exempt individuals

from civil arrest while going to, remaining at or

returning from the place of such court proceeding

unless agents provide a judicial warrant [coughs] a

judicial warrant or a court order authorizing the

arrest. Any person attending court and proceeding in

good faith should have access to due process, and

public safety. The Protect our Courts Act will

ensure that court system operates effectively. It is

gratifying to see that the state is taking steps to

address this enormous problem, but we have the

ability to call for change right here in our city.

Our District Attorneys in particular must use every

tool at their disposal to limit the effect of ICE's

action on immigrant New Yorkers. That includes

immigration sensitive charging, plea office—offers

and sentencing. Working with defenders to reduce the

1 number of unnecessary in-person court appearances,
2 and declining to prosecute low-level cases that
3 shouldn't be handled by Criminal Justice System in
4 the first place. District attorneys can play a
5 critical role in fighting Trump's deportation
6 machine. We look forward to hearing from Legal
7 Services providers, immigrant advocacy organizations,
8 and other about what they are seeing in our
9 courthouses and immigrant communities, and what steps
10 the city and other governmental actors can take to
11 defend the integrity of our judicial system. Now
12 with that, let me also recognize that we have our
13 other new member to our Committee on the Justice
14 System, Council Member Brad Lander from Brooklyn, and
15 if you don't mind, I will introduce my colleague from
16 Queens, Council Member Francisco Moya. Mr. Chairman.

18 COUNCIL MEMBER LANDER: My Chair, could I
19 just say it's an honor to join this committee, and I
20 look forward to serving today. We have a hearing
21 next door as well so I'll be back and forth, but I'm
22 looking forward to serving on it.

23 CHAIRPERSON MENCHACA: Thank you. We're
24 going to—we're going to hand -we are going to call up
25 our first panel, a public panel, ad we're really

1 excited because we're going to get to get to hear
2 from you in the report, and other work. We can all up
3 the Immigrant Defense Project Mizue Aizeki and then
4 Ms. Terry Lawson from the Legal Services New York
5 City to come on up. [pause] Who wants to start?

7 MIZUE AIZEKI: [off mic] Thank you for
8 inviting us.

9 CHAIRPERSON MENCHACA: Red-red-red light
10 on, and then bring it closer to you.

11 MIZUE AIZEKI: [on mic] Bring it closer-

12 CHAIRPERSON MENCHACA: There you go.

13 MIZUE AIZEKI: Yes.

14 CHAIRPERSON MENCHACA: I can hear you
15 now. There you go.

16 MIZUE AIZEKI: [interposing] And it was
17 on top of my head right there. Okay, sorry-
18 apologies. I'm recovering from a cold so I'm a
19 little congested, but thank you for having me. So
20 thank you very much to the Immigration and Criminal
21 Justice Committee for giving IDP the opportunity to
22 speak today about this critical and urgent issue. My
23 name is Mizue Aizeki. I'm the Acting Executive
24 Director of the Immigrant Defense Project, an
25 organization that focuses to expand and protect the

1
2 rights of people caught at this intersection of the
3 Criminal, Legal and Immigration systems. As the
4 Council Member mentioned in the beginning, IDP has
5 been tracing ICE Enforcement Operations in New York
6 for a number of years, and we specifically monitored
7 ICE presence and activity in and around the
8 courthouses. In the report, which is available
9 today, The Courthouse Trap in January. I thought I
10 had a copy to show that. Now here it is. IDP--

11 CHAIRPERSON MENCHACA: and for tall the
12 members, it's this one on your--on your--

13 MIZUE AIZEKI: [interposing] That's--
14 that's Terry's.

15 CHAIRPERSON MENCHACA: Well, that's both.
16 Okay, there's two.

17 MIZUE AIZEKI: This is the January one.

18 CHAIRPERSON MENCHACA: Okay, that's the
19 January one. That I don't have.

20 MIZUE AIZEKI: [interposing] you know,
21 every three months we're going to issue a report. No
22 I'm not. Okay.

23 CHAIRPERSON MENCHACA: [interposing] I'll
24 agree to that. (sic)

25

2 MIZUE AIZEKI: [laughter] Okay, so this
3 is a—this is documenting ICE activity in and around
4 courthouses over the past two years, and as the
5 Council Member mention, we've found a 1700% increase
6 since the Trump Administration started, and I think
7 this point about targeting cities like New York that
8 are working and trying to protect immigrants rights
9 is a really important point to bring out. This is a
10 deportation machine that does not discriminate
11 against to or targets, but also, you know, the very
12 heart of it is to devalue people, and I think that
13 the many stories that we here, and also the report
14 that Terry is going to talk about and also the
15 testimony from us and other coalition members and
16 allies today just really highlights, you know, the
17 dehumanizing process, and how it's really tearing
18 away at the fabric of our communities. So, just a
19 couple highlights from the report. You know, one of
20 the things that we've documented is that ICE has, you
21 know, in addition to targeting courthouses, they've
22 also become very aggressive in their practices. You
23 mentioned the story of the mother that was pushed
24 against the wall by ICE. We've also seen, you know,
25 individuals dragged from their cars, people—ICE

1 pulling guns on people at the courthouse. You know,
2 and then I think another significant trend that this
3 legislation addresses is that ICE has expanded its
4 practice to not only sitting inside courthouses
5 waiting for people to arrest, but also arresting
6 people on their way to court, and also after leaving
7 court as well. And so, you know, ICE has sent a very
8 clear message to immigrant Communities and the
9 jurisdictions that safeguard their rights that nobody
10 is to be valued. No one is to be safe, and I just
11 want to highlight, you know, that there have been
12 calls made from judges. You know, 70 judges from
13 across the country issued a letter in December call-
14 from 23 states calling on ICE to stop this practice.
15 [coughing] As you can see in this report and the one
16 that we issue today, district attorneys and attorney
17 generals and the Anti-Violence advocates and public
18 defenders have been also calling for ICE to end this
19 practice ,and so since ICE has made it clear that it
20 does not see itself as accountable to anybody.
21 Waiting for ICE to change its own policy is foolish
22 at best, and at worst dangerously complicit. So, IDP
23 thanks the City Council for recognizing this urgency,
24 and for considering the proposal. The Resolution a
25

1
2 report of the Protect Our Court Acts. Just to
3 reiterate some of the things that this bill does,
4 this bill responds to ICE's unlawful courthouse
5 arrest practice by requiring a judicial warrant or
6 court order for a civil arrest of anyone attending
7 court. Because ICE has stated that no group of
8 immigrants is off limits, the bill protects
9 litigants, witnesses and even those who accompany
10 individuals to court. The bill also makes sure that
11 if federal agents willfully violate the law, that
12 there is cause for action for that violation. These
13 enforcement provisions provide meaningful resolutions
14 and meaningful recognition of immigrants' rights
15 under the law.

16 MALE SPEAKER: [off mic] --with a twin
17 baby boy who is swaddled in her arms. So that is a
18 way to answer. (sic)

19 MIZUE AIZEKI: Okay, uh--

20 CHAIRPERSON MENCHACA: [interposing]
21 Let's make sure that this--that doesn't open again to
22 these. Thank you.

23 MIZUE AIZEKI: I thought it was someone
24 heckling me. I just couldn't-- [laughter] Alright,
25 the bill also--sorry--the bill also ameliorates the

1
2 confusion and chaos caused by the disruptions to
3 court function caused by ICE arrest. It creates a
4 clear protocol for court staff to follow regarding
5 civil immigration enforcement operations and requires
6 law enforcement agents to present a judicial warrant
7 or court order. So, thank you again for your
8 attention to this issue.

9 CHAIRPERSON MENCHACA: Thank you for
10 that. Terry.

11 TERRY LAWSON: Thank you for this
12 opportunity to testify about ICE operations in and
13 around New York courts. My name is Terry Lawson.
14 I'm the Director of the Family and Immigration Unit
15 of Bronx Legal Services, an office of Legal Services
16 NYC. I also co-lead the Bronx Immigration
17 Partnership, and that work of over 20 organizations
18 and agencies working together to create the
19 coordinated legal safety net of legal and special
20 services for Bronx residents. Today, we provide you
21 with and we make public a report entitled
22 *Safeguarding the Integrity of Our Courts*, the impact
23 of ICE courthouse operations in New York State, and
24 we have copies on this table if people would like to
25 pick up a copy. This report is the first of its

1 kind, a true collaborative effort of the most
2 unlikely allies including prosecutors, public
3 defenders, anti-violence attorneys, immigration
4 advocates and judges all of whom care about the
5 integrity of the court, and what happens when ICE is
6 allowed to patrol the court as their own personal
7 hunting ground. This report documents what we have
8 been seeing and saying since January 2017 that the
9 dramatic rise in ICE courthouse operations damages
10 the New York Unified Court system. Courthouse
11 operations are up 1700%, as Mizue said, since 2016.
12 Visits by new foreign born residents are down 10% in
13 New York Family Justice Center as Council Member
14 Lancman told the audience to begin with, and there
15 was 100% decline in victims of crime seeking U Visa
16 certifications in Manhattan Family Court. I am here
17 today to ask the New York City Council to urge the
18 New York State Office of Court Administration to
19 adopt two court rules. The first court rule would
20 require a judicial warrant for ICE to make an arrest
21 in New York State Courthouse, and the second court
22 rule would prohibit New York Court employees from
23 assisting ICE. For the past 2-1/2 years we have all
24 been watching access to New York State Court
25

deteriorate. Advocates of all kinds, many of whom are here today have testified before the City Council. We have held press conferences on the City Hall-City Hall steps outside. We have walked out of courthouses. We have conducted surveys, and we have written reports and op-eds. We have told countless stories about how the lack of court rules hurts plaintiffs and defendants, petitioners and respondents, witnesses and their family members how the lack of court rules hurts prosecutors and public defenders, judges and court officers, anti-violence advocates and housing attorneys, but most importantly how it hurts the judiciary, the branch of the government that is supposed to protect our most fundamental rights. The time to act is now. We cannot wait to see how much more ICE will erode access to our courts, how they will manipulate within and around the public property of the New York State Courthouses before taking action. Enough is enough. Thank you.

CHAIRPERSON MENCHACA: Well, I want to thank both of you and we have a few questions before we lay off and thanks for just setting the tone for not just research, gut the work that we're all going

2 to be doing together to get this bill passed at the
3 city level, and this is the only space that is
4 focused on immigration through the Immigration
5 Committee, and this is joint project, but this just a
6 moment to realize that not even the state has an
7 immigration committee in the Assembly and the Senate,
8 and this is where we get to talk about it and-and
9 really galvanize our communities to support this kind
10 of political campaign push to pass this bill. We've
11 been joined by Council Member Rose and Council Member
12 Miller, and thank you for being here today. So, my-
13 my first question is really about the-the-the kind of
14 expression of data that shows the problem solving
15 courts and providers of court mandated community
16 service. Have you heard that this has resulted in
17 fewer pleas that involve community service or-or
18 treatment?

19 MIZUE AIZEKI: Yes, that is what their
20 intention is.

21 CHAIRPERSON MENCHACA: [interposing] Can
22 you talk a little bit about what-what that-what that
23 is?

24 MIZUE AIZEKI: Yes, so what-what you see
25 in the report is a discussion about how-because ICE

1 is being observed in the courthouses and where a lot
2 of the community programs are also operating in the
3 courthouses, when people see ICE in the courthouses
4 or in the hallways outside of these programs, it does
5 discourage defendants from opting in to these
6 community programs, and my colleagues who are public
7 defenders who are in the office can certainly talk
8 about that more.
9

10 CHAIRPERSON MENCHACA: And can you walk
11 us through—the bill, the—the impact of the bill on
12 the day-to-day operations from your perspective on
13 the defender side. What—what changes, the kind of
14 mechanics of—or how—the court system can work
15 differently with this bill? Is there like a sense of
16 expectation that you have from the bill itself right
17 now?

18 MIZUE AIZEKI: Well I--

19 CHAIRPERSON MENCHACA: [interposing] That
20 you can articulate?

21 MIZUE AIZEKI: I'll try my best. Just to
22 be clear, I work with a lot of lawyers, but I'm not
23 one so take that with a grain of whatever you want to
24 take.
25

1
2 CHAIRPERSON MENCHACA: [interposing]
3 That's fine and we're going to asking those questions
4 of everybody because we want to get a sense about the
5 actual impact--

6 MIZUE AIZEKI: [interposing] Yeah.

7 CHAIRPERSON MENCHACA: --for people to
8 get excited about it getting on the campaign and
9 pushing for this.

10 MIZUE AIZEKI: You know, I think that the
11 reason why this bill is so important in many ways.
12 Like as we know, ICE is terrorizing our communities
13 in many places. This is one place where the
14 government can actually say there's a government
15 function here that we need to protect, and this is
16 why this bill can happen. I think--so, you know, this
17 judicial warrant requirement a lot of times it--what
18 happens and--and I--I assume the defenders and some of
19 the defenders and people who will speak to it there's
20 a lot of confusion with ICE comes to the court
21 because they don't have uniforms on, right? They
22 often don't announce themselves. We heard of an
23 incident recently upstate where they just grabbed
24 someone waiting on line for municipal ID that was
25 offered to undocumented people trying to rip off his

1 shirt to see if they could identify who he was,
2 right, and so this is a type of havoc. People were
3 running around and upset. You know, I think the idea
4 that there—there will be some kind of set of rules
5 that ICE has to obey in addition to having a
6 mechanism for staying. If ICE doesn't obey this,
7 then they can be sued, right. That just creates a
8 different playing field I feel like in terms of a
9 level of accountability that doesn't exist for ICE at
10 this point, right? I think also in our experience
11 like court officers even though there is a protocol
12 there's no real clear sense of what am I supposed to
13 do when ICE comes here. Right, and so, you know, we
14 feel like this is a—a positive both for people
15 attending court, people representing people who are
16 in court as well as the people who work there that
17 this a baselined expectation for how our court is
18 supposed to function, and ICE is only able to come
19 here under very particular circumstances.
20

21 TERRY LAWSON: And think Council Member
22 Lancman said something earlier in his remarks about
23 how many—how many more people have stayed home? How
24 many more people do we not—have we not heard from, do
25 we not know what the impact is, and as a practitioner

1 who operates both in Family Court and in Immigration
2 Court, to not be able to say to my clients that there
3 is a rule that says, you know, unless there's a
4 judicial—a judicial warrant that has your name on it,
5 you're not going to be taken out of a New York Family
6 Court when you go there to get an order of protection
7 or to get custody of your child. That is what we've
8 been pointing at for the last 2-1/2 years that lack
9 of guidance of a rule, of something that we can say
10 to our clients, Look, we want this judicial warrant
11 requirement because we want to be able to explain to
12 people what's going to happen. Obviously, a judicial
13 rule or requirement doesn't stop ICE from coming into
14 the court, but it does prevent this feeling of a
15 free-for-all whenever ICE does enter the building.

17 MIZUE AIZEKI: Can I just add one more
18 point in terms of the Legislation. I mean I think
19 it's really important at this point that we raised
20 about how ICE, you know, they surveil people at
21 court, and they wait for the—the best moment to
22 arrest them. Sometimes they think it's inside the
23 courthouse. Sometimes they think—and most often it's
24 outside of the courthouse, and so what this
25 legislation would do is ensure that anyone attending

1 court on your way there or leaving is equally
2 protected under the fact.

3
4 CHAIRPERSON MENCHACA: Chair Lancman.

5 CHAIRPERSON LANCMAN: Can you tell me
6 what conversations or cooperation you've gotten from
7 the different district attorney's offices in-in the-
8 the city in terms of making some of the
9 recommendations happen as well as just collecting
10 information to put the report together?

11 TERRY LAWSON: Yeah, absolutely going to
12 do it. So, we-I'm just going to sort of lay it on
13 the table. So, we have had several-several meetings
14 over the last 2-1/2 years both with district
15 attorneys' offices, with the Attorney General's
16 office, with the OCA itself, and we had meetings with
17 OCA in which OCA said to us, we want to hear about
18 what the district attorneys' offices say. We want to
19 hear it, you know, we want to know we want to know
20 what is being said all over the state, right? And we
21 need data. We need information, and so this report
22 *Safeguarding our Courts* is a response to those
23 meetings with OCA in which they asked for us to get
24 data. So, then we went our to the district attorneys
25 offices, which IDP and other had been advocating with

1
2 for months and months, and said, Look, we have this
3 call to action from OCA to—to find data and really
4 show what the effect is, and to put into numbers what
5 that chilling effect is, right, which is so hard to
6 prove a negative and so the district attorneys
7 offices were very responsive to us, and were—were
8 willing to provide us the data that you see in this
9 report. Some district attorneys offices didn't have
10 their immigrant affairs offices as up and running as
11 others. So, their data wasn't as robust as others
12 just because they were newer, but every district
13 attorney offices that we reached out to provided us
14 data that is now contained in this report. So, it
15 was a very collaborative effort.

16 CHAIRPERSON LANCMAN: I attended a
17 [coughs] a press conference I don't know, a month,
18 six weeks ago in support of the Albany legislation,
19 and in attendance were the district attorneys from
20 Bronx, Brooklyn and Manhattan--

21 TERRY LAWSON: Uh-hm.

22 CHAIRPERSON LANCMAN: The DA's offices
23 can speak for themselves, but what's your assessment
24 of, you know, each office's willingness to make the
25 accommodations that they can make to try to protect

1
2 immigrants from—from ICE. If you can give us a rough
3 scorecard or maybe you can tell us we really like the
4 fact that office X is doing this, and office Y is
5 doing that.

6 MIZUE AIZEKI: We have had great success
7 in working with certain district attorneys' offices,
8 which are covered in this report, and others, you
9 know, it takes a little more work.

10 CHAIRPERSON LANCMAN: Uh-hm.

11 MIZUE AIZEKI: I'm just going to leave it
12 at that.

13 CHAIRPERSON LANCMAN: You might have a
14 career in politics [laughter] with an answer like
15 that. I know our colleagues have questions.

16 CHAIRPERSON MENCHACA: Does anybody have
17 questions on the—on the committee side? The
18 advocates? Okay, so the last question before you—
19 before you head out: How—how—the Administration—the
20 Administration is about to testify for you. What—
21 what role can the city play in post-bill adoption to
22 really make this happen? When we did the research,
23 many of the incidents while they're statewide, most
24 of them are happening here in our city, and so
25 what's—what's the responsibility of the city and the

1
2 Mayor's Office to-to this-to-to this kind of
3 statewide action at the local level?

4 MIZUE AIZEKI: Sure. I always say this at
5 every meeting if they arrested less people the city,
6 then we'd have a sort of problem. [laughter] But-

7 CHAIRPERSON LANCMAN: Yes.

8 TERRY LAWSON: But I-I think that's part
9 of it honestly. I say it kind of jokingly, but I'm
10 also saying it seriously, and I know that there have
11 been efforts made by the city to think about things
12 that, you know, where people do not need to be
13 brought into a precinct and fingerprinted, or where
14 people can be not even issued a summons if it's not
15 like certain quality of life offences. So, I think
16 that that's something that we definitely support, and
17 appreciate. I think that another issue that we have
18 to be sensitive of is like ICE receives information
19 from a lot of different place, right. So, I think
20 that this is why it's been so important for us to
21 advocate in terms of the detainer advocacy right,
22 right, to not have people being brought into the
23 precinct unnecessarily because even if NYPD doesn't
24 want to do anything, those fingerprints are getting
25 sent to ICE with whatever other data that they're

1 collecting. So, I think part of this vision is like
2 to really think about how when we think about making
3 our communities really safer for everybody like what
4 are the different things that maybe are feeding into
5 the system that ICE is able to so effectively tap
6 into. I think that I am—I hope to continue
7 conversations about it.

9 MIZUE AIZEKI: And I'll also just say,
10 you know, our city partners have been wonderful. All
11 of the city agencies that we reached out to have been
12 really great in working with us. You know, they—they
13 continue to collect their own data, and we are eager
14 to continue to partner with them in sort of
15 understanding the impact that this continues to have
16 on our community.

17 CHAIRPERSON MENCHACA: Is any of that
18 data in this report as well?

19 MIZUE AIZEKI: They—my understanding is
20 they'll will be testifying about their—the data that
21 they've been collecting.

22 CHAIRPERSON MENCHACA: Okay, great.
23 We'll ask about that. Okay thank you so much.

24 TERRY LAWSON: Thank you very much.

25 MIZUE AIZEKI: Thank you.

2 CHAIRPERSON MENCHACA: Thank you. Our
3 next—our next panel is the Administration and we're
4 really excited to have Commissioner Mostofi to—to
5 speak with us, and—and present. We have also been
6 joined by Council Member Gjonaj from the Bronx, and I
7 think that's everyone—oh and Council Member Eugene
8 from Brooklyn. Commissioner, when you're ready. Oh,
9 we're going to do an oath. Where is it? Oh, you can
10 just do it, right.

11 LEGAL COUNSEL: Please raise your right
12 hand. Do you affirm to tell the truth, the whole
13 truth and nothing but the truth in your testimony
14 before these committees, and to respond honestly to
15 Council Member questions?

16 BITTA MOSTOFI: I do.

17 LEGAL COUNSEL: Thank you.

18 BITTA MOSTOFI: Thank you.

19 CHAIRPERSON MENCHACA: Thank you.

20 BITTA MOSTOFI: I wanted to begin today b
21 first addressing some comments that were made by
22 Council Member Yeger several weeks past, and as the
23 daughter of Iranian immigrants, my personal
24 experience has often been one in which my family's
25 country of origin, my history and experience are

1
2 blatantly demonized in the past by elected officials
3 and by political discourse that is often removed from
4 the complex reality of my own experience, my
5 understanding and my identity as an Iranian-American,
6 something that has been in many ways a lifelong
7 struggle. It's been an honor to serve in my role as
8 Commissioner of the Office of Immigrant Affairs
9 because the very existence of this office and the
10 values driven by this administration have been ones
11 that recognize that every person in our great city of
12 immigrants deserves to be recognized with dignity,
13 with humanity and with respect for the myriad
14 histories that we bring including our Palestinian
15 sisters and brothers, but our job is to put forward a
16 vision and a commentary that advances inclusion and
17 just for all. I wanted to thank the Speaker and the
18 Chair, Chair Menchaca of this committee for sharing
19 in this vision for this committee and for taking
20 action to demonstrate that nothing less is
21 acceptable. Now, turning to the topic at hand, thank
22 you to Speaker Johnson, Chair Menchaca and Chair
23 Lancman and members of the Committees on Immigration
24 and the Justice System. My name is Bitta Mostofi.
25 I'm the Commissioner for the Mayor's Office of

1 Immigrant Affairs. My testimony today addresses
2 federal immigration enforcement activity in and
3 around state courthouses in New York City and the
4 city's deep concern about the impact that this
5 activity has on New Yorkers' access to justice.
6 Though the city does not have jurisdiction to
7 regulate activities in the courts, which are
8 controlled and operated by the state. We do
9 recognize the great import of this issue. A hallmark
10 of the Trump Administration continues to be overbroad
11 immigration enforcement. In New York City and the
12 surrounding region U.S. ICE has dramatically
13 increased arrests of immigrants. In the first full
14 federal fiscal year of the Trump Administration total
15 ICE arrests in the New York City area increased 88%
16 compared to the last full federal fiscal year for the
17 previous administration. Arrests of people with
18 absolutely no criminal convictions increased even
19 more sharply between those two time periods by an
20 alarming 414%. By its own statements and the
21 accounts of a range of stakeholders concurrent with
22 this overall shift, ICE has increased its efforts to
23 conduct enforcement at courthouses in New York City
24 and throughout the state. This degree of enforcement

1 demonstrates a disturbing lack of concern for the
2 devastating human consequences of immigration
3 arrests, and the mere threat of encountering an ICE
4 officer in the course of one's daily life on
5 individuals, families and communities. So, does
6 ICE's willingness to conduct these enforcement
7 actions in and around courthouses, which we believe
8 should be designated as some civic location. Mayor
9 de Blasio has repeatedly called for ICE to cease
10 overbroad enforcement in our communities including
11 ICE presence and enforcement in and around
12 courthouses. The city does not, as I noted, have
13 jurisdiction to regulate access to the courts, but
14 has and will continue to advocate for ICE to limit
15 its enforcement actions at the courts. We have
16 raised our concerns directly with ICE and remain
17 engaged with a range of stakeholders on this issue.
18 We recognize that the New York State Office of Court
19 Administration's recent expansion of its court access
20 protocol will help to ensure safety and security in
21 courtrooms, and provide for additional data
22 collection and transparency around ICE's activities
23 in and around the courts. We support the goals of
24 the Protect Our Courts Act to limit civil immigration
25

1 enforcement in and around state controlled
2 courthouse, and will continue to work with our
3 partners in the Council, the advocacy community and
4 our colleagues in state government towards a solution
5 that is as strong and protective of access to courts
6 for all New Yorkers regardless of immigration status
7 as possible. We also continue to call on the federal
8 government to designate courthouses as sensitive
9 locations, and if ICE will not act to do so, Congress
10 must. The motives of the Trump Administration are
11 clear. Time and again this administration pursues
12 anti-immigrant policies. They can do so in the
13 name of public safety, but we know in New York City
14 is that overbroad enforcement including ICE presence
15 in and around the courts only increases the risks for
16 any vulnerable New Yorkers by deterring them from
17 accessing the justice system. The state courts are
18 an essential component of our justice system, and as
19 such play a critical role in public safety for
20 individuals and the community as a whole. For the
21 criminal courts to perform their function, it's
22 imperative that victims, witnesses and defendants are
23 able to fully and fairly participate in the criminal
24 justice process. Whether a person is coming to court
25

1 to testify as a witness, seek an order of protection,
2 participate in their own defense or observe a
3 judgment being issued, they must be able to do so
4 without fear that they will be apprehended by federal
5 immigration authorities. Anything short of this
6 risks undermining due process, and squandering the
7 resources of the system, critically jeopardizing the
8 safety of and wellbeing of victims of crime or abuse.
9 Moreover, the criminal justice system must be able to
10 resolve cases in a way that is fair for victims as
11 well as those facing prosecution. For these reasons
12 we're concerned by reports that vulnerable New
13 Yorkers including victims and survivors of domestic
14 and gender based violence among others are staying
15 away from the courts out of fear of ICE enforcement
16 or encounters. In addition, beyond the criminal
17 courts, we're deeply concerned that the fear of
18 potential ICE enforcement at state, civil and problem
19 solving courts could similarly deter immigrant New
20 Yorkers from pursuing or defending their rights or
21 engaging in essential services that they may need.
22 Civil courts such as the Family Court, the Supreme
23 Court and the Housing Court are important forums for
24 individuals to resolve matters essential to their
25

1 well—to their wellbeing. For example seeking
2 custody, attaining an order of protection or
3 preventing eviction. Problem solving courts such as
4 the human trafficking intervention court provide an
5 indispensable opportunity to engage trafficking
6 victims and supportive services including immigration
7 legal services and culturally appropriate counseling
8 services. It's imperative that these courts be as
9 accessible as possible to New Yorkers who need them
10 not matter their immigration status. While a 2018
11 ICE directive instructs officers to generally avoid
12 conducting enforcement actions in courthouse areas
13 dedicated to non-criminal proceedings, such actions
14 not strictly prohibited. Such actions—excuse me—are
15 not strictly prohibited. What is clear is that this
16 distinction does not—does very little to dispel the
17 community fears that we hear regularly. We are proud
18 that in New York City our office has in collaboration
19 with many partners across government and the
20 community strongly mobilized to combat the Trump
21 Administration's actions that have stoked fear among
22 immigrant communities, and our approach is multi-
23 faceted. We've worked with the Council to ensure
24 that our local laws and policies protect the privacy
25

of and access to services for all New Yorkers, and
promote public safety for all. In New York City we
generally do not and will not use city resources to
do ICE's job for them especially where it is not in
the city's public safety interests to do so.

Furthermore, the city has strong confidentiality laws
and policies that protect the personal information of
all New Yorkers who engage with the city. We

continue working to strengthen these protections

under the leadership of the Mayor's Office of

Information Privacy to help ensure all of our city's
residents feel safe accessing services regardless of

immigration status. The city agencies are generally
prohibited from permitting non-local law enforcement

personnel to access non-public areas of city

property. Exceptions are made for when a judicial

warrant is presented, exigent circumstances exist or

access is otherwise required by law or to further the

mission or purpose of the agency. In addition,

together with our partners in the Council we have

increased access to legal help for immigrants by

investing at historic levels in legal services and

promoting programs such as Action NYC, NY

Citizenship, Legal Services for Immigrant Survivors

1 of Domestic Violence and the New York Immigrant
2 Family Unity Project. These programs provide
3 immigrant New Yorkers with access to a continuum of
4 services that meet a broad spectrum of legal needs
5 from screening and brief advice to deportation
6 defense or other complex forms of rep-complex forms
7 or representation. The city has dedicated special
8 attention to enhancing access to justice and services
9 for immigrant crime victim s. In collaboration with
10 the Mayor's Office to End Domestic and Gender Based
11 Violence, the Mayor's Office for Criminal Justice,
12 and key city law enforcement agencies, including the
13 NYPD, the Administration for Children's Services, the
14 New York City Commission on Human Rights, the Law
15 Department, and the Department of Consumer Affairs,
16 we have successfully cut red tape in the process of
17 requesting law enforcement certifications and
18 declarations for you and T Visa applicants. As a
19 result, in 2018, the city continued to see historic
20 levels U Visa certification requests, and issuances
21 by our law enforcement agencies. In addition, since
22 2016 the city has partnered with OCA through the
23 Remote Temporary Order of Protection Project. This
24 project is responsive to state legislation, amending
25

1 the Family Court Act to allow electronic filing and
2 appearance-appearances for ex-parte family offense
3 petitions when traveling to or appearing in the
4 courthouse would constitute an undue hardship or
5 create a risk of harm to the petitioner. Currently,
6 NBGVV has implemented this remote T-O-P project in
7 collaboration with OCA at four of the New York City
8 Family Justice Centers increasing access to Family
9 Court for survivors of domestic and gender based
10 violence. Further, in partnership with our sister
11 agencies and community based organizations as well as
12 leaders throughout the city, we have worked to affirm
13 immigrant communities in the face of ongoing attempts
14 by the federal government to advance the anti-
15 immigrant policies. We're committed to empowering
16 New Yorkers with timely and trustworthy information
17 about their rights and important immigration related
18 developments that affect them. Last year we engaged
19 approximately 18,000 individuals through Know Your
20 Rights events and other outreach efforts, and
21 mobilized extensive campaigns around issues of
22 crucial concern to communities such as the proposed
23 public charge rule change. These efforts have helped
24 immigrant New Yorkers know they're welcome in our
25

1 city and can access city services. Nonetheless,
2 throughout our work in immigrant communities we
3 continue to see high levels of fear related to the
4 threat of ICE enforcement. The harsh reality of
5 increased enforcement is also reflected in our own
6 constituent service work where in 2018 we saw an
7 uptick in requests for legal assistance for those who
8 are detained or under orders of deportation. The
9 persistent fear of ICE enforcement serves to
10 undermine this important work. This threat to the
11 effectiveness of the city's efforts is further
12 evidenced by harmful impacts of ICE courthouse
13 enforcement observed by service providers. For
14 example, a city contracted legal service provider
15 reported that a client who is a survivor of domestic
16 violence was too afraid to file here order of
17 protection and visitation petition in Family Court
18 because she believed that ICE would find out about
19 the filing and try to apprehend her. The client
20 heard about a rumored episode in the Bronx in which
21 ICE made an arrest in a courtroom, and the client was
22 convinced that this would also happen to her. As is
23 evident in the examples recounted by legal service
24 providers throughout their safeguarding the integrity
25

1 of our courts' reports released this morning, this is
2 from a one-off occurrence. In closing, I'd like to
3 reiterate our deep concern about ICE's activities in
4 the State Courthouses and the impact that these
5 actions on New Yorkers' access to justice. We again
6 call on ICE to limit enforcement in the courthouses
7 and to designate them as sensitive locations. We'll
8 continue to work in partnership with Council,
9 advocates and colleagues in state government to
10 advance a solution alternatively that protects
11 access to the courts for all New Yorkers regardless
12 of immigration status as robustly as possible. We
13 look forward to hearing even more testimony today and
14 continuing to work with our partners on this
15 important issue. Thank you for inviting me to
16 testify.

18 CHAIRPERSON MENCHACA: Thank you,
19 Commissioner, and I want to say also thank you for
20 your—for your words in the opening.

21 BITTA MOSTOFI: Thank you.

22 CHAIRPERSON MENCHACA: It's—it's so
23 important that—that your voice is heard. You're a
24 New Yorker. You got the duty and the privilege and
25 the honor to do your work as the Commissioner and our

1 work here is so important for people to hear your
2 story is hopefully a signal that compounds on the
3 signal that we sent, a very serious signal that we
4 are affirming our commitment to every New Yorker no
5 matter what country they come from, and that every
6 time they look at us from where you're sitting,
7 you're sitting in the chair where so many people come
8 and testify and tell their story many times without
9 able to even give their full name because of fear,
10 and that we take seriously--

12 BITTA MOSTOFI: Thank you.

13 CHAIRPERSON MENCHACA: --and I know that
14 it's has--it has been a difficult conversation for
15 us, but it's a conversation that we have to have and
16 we did and will continue to have it, and that's--I'm--
17 I'm kind of signaling to the Immigration Committee
18 here that we're very serious about that, and we won't
19 deter from that commitment. So, thank you.

20 BITTA MOSTOFI: Thank you.

21 CHAIRPERSON MENCHACA: My--my first
22 question is really for as an administration, and the
23 lead up to June, the Legislative session that's just
24 moved and passed budget in Albany. How are we going
25 to land this bill, and what's the Mayor doing to

1 really put everything that you all have into ensuring
2 that this passes. Any kind of sense about where we
3 are, and how we can kind of work together to make
4 that happen?

6 BITTA MOSTOFI: Yes. So, I'll start by
7 saying that we've been engaged for some time with OCA
8 and other actors to really kind of understand what
9 they're saying, understand what's happening. I think
10 as you've heard from the providers a request had been
11 made for better data to really demonstrate kind of
12 what the experiences are and how to effectively
13 ensure that people understood and seriously took the
14 impact of this enforcement. So, I think we're really
15 grateful for that report. We—we're continuing
16 conversations with OCA itself who I know has
17 indicated through reporting in the last 24 or 48
18 hours that they're seriously looking at their
19 recommendations themselves, and as I noted--

20 CHAIRPERSON MENCHACA: [interposing] OCA?

21 BITTA MOSTOFI: Yes, I believe and
22 reporting this morning, and I think, you know, we're--
23 we're eager to continue those conversations and as I
24 noted, support the goals of the bill. So, we'll
25 continue to speak to the sponsors, and ensure that we

1 understand where all the possibilities are, and where
2 we can see them as for the best protections.

3
4 CHAIRPERSON MENCHACA: And really the—the
5 next question, and this is—this is more in terms of
6 the accountability that—that I want to have on our
7 side as well as including our Speaker, and our—our
8 kind of State Legislative team that goes up every—
9 every—what are the conversations that—that you or the
10 Mayor are having right now with folk in terms— Are
11 there—are there actual conversations one-on-ones?
12 You mentioned OCA and kind of data collection and
13 sharing. What about the district attorneys and the
14 Police Department itself?

15 BITTA MOSTOFI: We have had internal
16 conversations with our agencies to better understand
17 what we see the impacts to be. I think as you've
18 heard the providers testified to and it may have been
19 in your opening remarks as well there was evidence of
20 a decrease in foreign born individuals in the
21 calendar year from 2016 to '17 across the Family
22 Justice Centers. I think, you know, what we're happy
23 to say is that that decrease has leveled. It's not
24 quite so dramatic and I can—and say confidently that
25 our partners at NBGVV are taking that very seriously,

2 and are looking at where there has been an impact in
3 calibrating their outreach and engagement to address
4 that effectively, and I think some of that obviously
5 can be noted not, you know, on the specific
6 engagement that they've done to try to combat those-
7 those fears and concerns, but also broadly what we as
8 a city have done to demonstrate that people should
9 feel confident engaging with our system. I think
10 equally noteworthy is that while they've seen a-while
11 those numbers demonstrated a decrease in clients
12 actually returning foreign born clients increased
13 their utilization of the Family Justice Centers,
14 which again I think speaks positively to the
15 experience of folks who are accessing the services,
16 and the confidence that they have in the delivery of
17 those. We've talked as well with NYPD and others.
18 The challenges I think you will appreciate in
19 effectively understanding impact here is that PD does
20 not ask immigration status for individuals who are
21 reporting crimes or serving as witnesses, which we-we
22 affirm is the correct course of action, and so, it's
23 been more challenging to try and document or
24 understand if there is a greater impact that they're
25 witnessing.

2 CHAIRPERSON MENCHACA: And—and before I
3 hand it over to Chair Lancman, I want to ask a little
4 bit about the discrepancy. You know, I'm kind of
5 hearing, and maybe it's not, but the—the numbers of U
6 and T Visa in the report is saying that there's a
7 decrease while we're kind of looking at from—from the
8 kind of city numbers that there's an increase.

9 BITTA MOSTOFI: Yes.

10 CHAIRPERSON MENCHACA: Is there—or what's
11 the—what's the discrepancy here?

12 BITTA MOSTOFI: Yeah. So, I think the
13 report is primarily and specifically speaking to
14 requests and issuances that are occurring within the
15 Family Court context. We are—we are speaking to
16 requests and issuances that are from city law
17 enforcement agencies. So, I think this has been a—a
18 huge effort on the part of MOIA and our sister
19 agencies in the top force that we hold together to
20 ensure that we're doing everything that we can to
21 increase access to U and T Visa certifications. I
22 think you've seen that effectively play out in the
23 sheer volume of increase that we've seen over the
24 last couple of years, including again an increase
25 this year in the number of issued certifications. So,

1 it's a stark contrast to the Family Court system.
2 All the reasons I'm not personally aware of, but I
3 thin the difference is—or the inconsistency there is
4 that we're talking about two different issuing
5 agencies.
6

7 CHAIRPERSON MENCHACA: And—and I'm just
8 kind of looking at the data from the NYPD for and the
9 Law Department the U and T Visas. Your annual report
10 talks about the decrease marginally in 2018 as
11 compared to 2017, and is there—is there the
12 qualitative data that explains the decrease?

13 BITTA MOSTOFI: Yeah, it's a pretty
14 nominal decrease in requests, and so--

15 CHAIRPERSON MENCHACA: Okay, what—what is
16 that? What is that nominal?

17 BITTA MOSTOFI: I can get you the exact
18 number comparatively between each years, but it's—
19 it's not—it's not hugely significant, and in fact, I
20 think what you know is that we've seen a steady
21 increase every year, and we—we believe that last year
22 was sort of a good reflection of where we were at,
23 and now we might be stabilizing in terms of the
24 number of requests, but our—we're focused on the
25

1
2 number of positive grant, which you actually saw an
3 increase in.

4 CHAIRPERSON MENCHACA: Okay. I'm going
5 to hand it over to Chair Lancman.

6 BITTA MOSTOFI: Twenty fewer requests I
7 mean.

8 CHAIRPERSON MENCHACA: Twenty citywide?

9 BITTA MOSTOFI: Yes.

10 CHAIRPERSON MENCHACA: Got it. Thank you
11 for that.

12 BITTA MOSTOFI: Thank you.

13 CHAIRPERSON LANCMAN: So, one of the
14 things [coughs] that the prior panel testified to
15 that would be helpful to protecting immigrants in-
16 from the clutches of ICE would be easing up on the
17 prosecution of certain low-level offenses that both
18 require immigrants to come to court in the first
19 place as well as expose them to-to deportation as a
20 basis for deportation--

21 BITTA MOSTOFI: Yes.

22 CHAIRPERSON LANCMAN: --if they were
23 convicted of those offenses. What are your views on
24 that?

25

2 BITTA MOSTOFI: Yeah, I mean I think, you
3 know, credit to both the Council and the
4 Administration. We've seen a tremendous shift in
5 criminal arrests and the issuances of civil
6 summonses. Right, I think the number is about a
7 five-150,000 fewer arrests over the course of the
8 last several years, a shift in the implementation of
9 the Criminal Justice Reform Act to an increase in
10 civil summonses as opposed to criminal summonses.
11 That's been one of the central goals of IDNYC
12 ensuring that people who don't otherwise need to be
13 arrested are not because they can prove their address
14 with their IDNYC when interacting with a law
15 enforcement officer for a low level offense. I think
16 all of those initiatives are welcome, and we, you
17 know, hope to continue seeing them realize in even
18 more robust ways, and I think we'll see
19 implementation, the full implementation of the
20 Criminal Justice Reform Act, and an increase moved
21 towards issuances of civil summonses and sort of
22 vacating old ones. We'll continue to see a more
23 equitable sort of system and people being less-
24 required less to go through fingerprinting. I think,
25 you know, that is obviously a goal that we share, and

we'll hopefully resolve in even fewer individuals
having to go through that process.

CHAIRPERSON LANCMAN: Well, what are we
to make then of the Mayor's insistence on continuing
to arrest people for Marijuana possession, his
insistence on continuing to arrest people for fare
evasion? Just this week his insistence on
continuing to arrest primarily women, but not
exclusively for low-level prostitution offenses?

BITTA MOSTOFI: You know, I would say
obviously the balance that his an attempt to be
struck by the Administration has been one at looking
at limiting or us where necessary while ensuring that
we're advancing public safety concerns. I can't
speak specifically to those decisions. What I can
say is, and I hope everybody is aware that even in
those instances it's not New York City that's
proactively providing information about arrests to
the federal government. Rather, we're mandated to
provide that to the state, which is mandated by the
federal government to share that information.

CHAIRPERSON LANCMAN: No, I can't quite
let you off the hook there completely because you're
the Administration at this hearing. It's the

1 Administration, the Mayor's Police Department that is
2 making these arrests. Almost all of the changes that
3 have resulted in the large scale reduction of arrests
4 have been the result of this Council dragging the
5 Mayor kicking and screaming, and his two Police
6 Commissioners to those conclusions. And I can't let
7 you off the hook either in not addressing those three
8 specific—for instance, which we find have a
9 particular impact on the immigrant community, and so
10 as the voice of the Administration and Immigration
11 matters at hearing where we are discussing what we
12 can do in New York City to prevent and make it
13 difficult for ICE to get people at courthouses in the
14 Criminal Justice System. Will you go to the Mayor
15 and say, Mr. Mayor, we are needlessly exposing people
16 to deportation, to ICE by continuing to arrest them
17 for these low-level non-violent offenses specifically
18 Marijuana, fare evasion, and prostitution.

19
20 BITTA MOSTOFI: What I would say is that
21 certainly my office is always interested in
22 understanding impacts that people are seeing, and
23 ensuring that we're informing and advising the
24 Administration accordingly, and as it relates to
25 these three open to—to hearing more.

2 CHAIRPERSON LANCMAN: Alright, well thank
3 you very much.

4 BITTA MOSTOFI: Thank you.

5 CHAIRPERSON MENCHACA: Council Member
6 Dromm.

7 COUNCIL MEMBER DROMM: Thank you very
8 much. Commissioner, good to see you.

9 BITTA MOSTOFI: [off mic] Thank you.

10 COUNCIL MEMBER DROMM: Is it the
11 Administration's belief that it does not have legal
12 authority to ensure that ICE does not have access to
13 courthouses with-without a warrant?

14 BITTA MOSTOFI: That's correct.

15 COUNCIL MEMBER DROMM: And what legal
16 basis is that based on?

17 BITTA MOSTOFI: I think if I could parse
18 maybe your question a little bit I think it's because
19 the property is technically owned by the city. Is
20 that what you're asking?

21 COUNCIL MEMBER DROMM: Yes, and my next
22 question actually is does the state lease that
23 property?

24 BITTA MOSTOFI: Yeah. So, our
25 understanding in consultation with our Law Department

1 because we have looked into this, is that we're
2 essentially mandated by the State to provide the
3 property for the utilization of the Courts and
4 limited in any functionality of what occurs on that
5 property by state law.
6

7 COUNCIL MEMBER DROMM: So, would you know
8 when those leases expire or how often they come up
9 for expiration?

10 BITTA MOSTOFI: I don't know, but as I
11 said again, it's actually state law that governs the
12 content of that, that governs what happens within
13 the—the space, and that the city is, in fact,
14 mandated to provide it. So, we're happy—I'm happy to
15 share that information with you, and that's
16 specifically what laws that those are.

17 COUNCIL MEMBER DROMM: So, have you ever
18 explored any legal action to take against the state
19 to not allow ICE to enter those buildings?

20 BITTA MOSTOFI: We have looked into the
21 sort of what authority or jurisdiction we have vis-à-
22 vis the property, and as I said, concluded that it's
23 actually state law specifically. Thank you. The New
24 York Constitution, Article VI, Section 28, Subsection
25 (b) that literally outlines what happens on that

property. So, we are essentially superseded, if you will, [laughter] by what occurs there, which is why we've engaged in conversation with OCA directly.

COUNCIL MEMBER DROMM: So, there's no way that at least could be drawn up stating the officers other than court officers, New York State court officers are allowed on the property?

BITTA MOSTOFI: That is our understanding. That's correct that we cannot do that.

COUNCIL MEMBER DROMM: Okay, and does the Administration support the New York Protect Our Courts Act?

BITTA MOSTOFI: We definitely protect—we definitely support the goals of that, and we want to continue to support both with these own explorations and thinking as well as the bill and the Legislature's work on it.

COUNCIL MEMBER DROMM: Okay, thank you.

BITTA MOSTOFI: Thank you.

CHAIRPERSON MENCHACA: Thank you, Council Member Dromm. Are there any other questions from Committee members? So, I have a few more questions that—that really kind of tease out MOIA's specific

1 role in this—in this kind of run-up just—not just to
2 the passing of this piece of legislation, but all the
3 mechanics around how we keep fighting because we're
4 not going to—this—this bill, as we've heard isn't
5 going to remove ICE. It's just going to give them a
6 process that allows for everyone to have a fairer
7 opportunity to—to justice. The—how—how is MOIA doing
8 outreach and education planning regarding ICE
9 presence at a courthouse right now? And then, really
10 thinking about how you disseminate information. How
11 are you communicating with—with IOI providers, and
12 just kind of give us a sense about what—what your
13 role in disseminating information and education.

14 BITTA MOSTOFI: Yes. So, thank you for
15 the question. I think part of what we have been
16 trying to do as effectively as and robustly as
17 possibly has been to do our own kind of analysis and
18 research where we're able to understand kind of what
19 impacts the federal policies are locally. We have
20 increased the level of sort of research and
21 evaluation on that front that we do as an office, and
22 with that the issuances of our findings publicly, and
23 part of that, of course, is intended to help inform,
24 advocates, practitioners, the community at large and
25

1 others on what is actually happening. The most
2 recent demonstrative of this particular issue is the
3 ICE enforcement fact sheet so that people can
4 understand what's happening, and—and to the degree
5 possible where.

7 CHAIRPERSON MENCHACA: And it's a MOIA
8 document?

9 BITTA MOSTOFI: Yes.

10 CHAIRPERSON MENCHACA: Okay.

11 BITTA MOSTOFI: We do the—we do the
12 analyses. We produce that, and we really said—it's
13 the second one now that we've done.

14 CHAIRPERSON MENCHACA: Is it a public
15 document or is that to the providers only?

16 BITTA MOSTOFI: It's public.

17 CHAIRPERSON MENCHACA: Okay.

18 BITTA MOSTOFI: So, we've made it public.
19 We intentionally share it with providers. We've put
20 it on our website, and our—our team as well as
21 organizations that we fund through legal services or
22 Know Your Rights work receive it so that they
23 understand and can effectively communicate with
24 community members or others as they're looking at
25 either advocacy or just community outreach and

2 information sharing, which was so important
3 particularly to dispel some myths and concerns around
4 what is happening where to ensure that people are
5 able both to determine for themselves what—what makes
6 sense in terms of follow-up, but also how they can
7 access advice from legal service providers in the
8 event that they do have to go to a court, right, or
9 in the event that they might have an old order of
10 deportation recognizing that there is this dramatic
11 increase in enforcement. So, that's been a big part
12 of what we've done is ensuring that we're producing
13 this kind of work. Obviously, staying in close
14 contact with providers like IDP and Bronx Legal
15 Services, who you just heard testify as they were
16 working on their report, making sure that we are
17 internally. As I noted we're trying to figure out
18 what we're seeing in terms of chilling and impact,
19 and then, you know, thinking through and we're always
20 wanting to hear how we can do better in this regard,
21 but thinking through how we best share that
22 information across communities or where there might
23 be gaps so that we can address them. I will again
24 reiterate that that's not just MOIA doing that, but
25 in partnership with sister agencies who we work very

1
2 closely with on these issues like NBGVV, right.
3 They're looking at their own data to sort of
4 understand the impact and calibrate effectively the
5 responses they need to have from an outreach front
6 and we work with them on that--on those issues as
7 well.

8 CHAIRPERSON MENCHACA: Thank you for
9 that, and we're--we're kind of looking some of that up
10 now. I might--I might have some follow-up questions
11 about the links or if your team can send those links
12 over, that would be great.

13 BITTA MOSTOFI: Sure.

14 CHAIRPERSON MENCHACA: I think what's--
15 what's also interesting or we're interested in
16 learning more about any immigrant info desks--

17 BITTA MOSTOFI: Uh-hm.

18 CHAIRPERSON MENCHACA: --that may be in
19 or kind of pop-up style things--

20 BITTA MOSTOFI: Yeah.

21 CHAIRPERSON MENCHACA: --in response to
22 some of the hot spots in the courthouses. Is that a
23 strategy that you're employing right now?

24 BITTA MOSTOFI: So, I think as you know
25 this was a joint Administration and Council funded

1 initiative about a fiscal year cycle ago [laughter]
2 and we really happy with and believe that this was an
3 important addition to the work that we're doing in
4 ensuring communities have access to us for a number
5 of reasons. One, immigrant communities may be less
6 readily inclined, of course, to engage with agencies
7 or other actors who maybe they don't know they can
8 receive language access in their—in their languages
9 or they might already be in a community setting, and
10 so we have since that time maintained through in-kind
11 dollars the info desk at three locations: Coney
12 Island Hospital, the Flushing Library and
13 Metropolitan, Coney Island, not hospital. Coney
14 Island HRA center, the Metropolitan Hospital and the
15 Flushing Library, and I think I'm—well, I'm happy to
16 say that that does—of the addition to the broader
17 kind of outreach in community engagement is that it
18 provides sort of an in-person support of city
19 representatives that can really help somebody
20 navigate any issue or concern that they have. The
21 number one issue that we hear through those desks is
22 immigration legal services or questions. So, I think
23 we recognize the ongoing--
24
25

2 CHAIRPERSON MENCHACA: [interposing] I'll
3 just pause you there because--

4 BITTA MOSTOFI: Yeah.

5 CHAIRPERSON MENCHACA: --just to clear--
6 clear that up, those are the three sites that you are
7 currently building our these desks. These HRA
8 locations?

9 BITTA MOSTOFI: Those are the three sites
10 where we currently operate. So, they're not HRA
11 locations. They're--the Coney Island is an HRA
12 location. Flushing is the Library.

13 CHAIRPERSON MENCHACA: That's the
14 library, okay.

15 BITTA MOSTOFI: And Metropolitan is the
16 H&H Hospital.

17 CHAIRPERSON MENCHACA: H&H Hospital?

18 BITTA MOSTOFI: Yes.

19 CHAIRPERSON MENCHACA: Okay, and--and I
20 guess I'm asking more about courts specifically, and
21 if there's presence like a desk there that's--well, do
22 you have any presence that has that kind of function
23 at--at a court as--as you're overlaying the--the need
24 for--for the kind of ICE engagement, and what MOIA can

1 be doing to really connect folks to information, and-
2 and access to lawyers or whatever they might need.
3

4 BITTA MOSTOFI: Yeah. I mean it's
5 certainly something we would be interested in
6 exploring. What we've done is co-located this with
7 additional services specifically with locations where
8 we have IDNYC enrollment as way to ensure that we're-
9 we're meeting people where they're at, right,
10 remaining communities where they're at, and I think,
11 you know, what we've heard from providers and I think
12 is evident through some of the reporting is a lot of
13 the issues with the court setting is really
14 communication with people before they even get to the
15 courts. So, you know, there might be a different
16 things to consider in terms of whether or not that's
17 the right location for us to be in.

18 CHAIRPERSON MENCHACA: Okay, you did
19 answer my question, and-and we'll ask our advocates
20 actually to tell us a little bit more about what they
21 think is-is-is important. The-the stuff that we've
22 just looked up on line, the fact sheet is-is we think
23 broadly about ICE enforcement and-and NYC, not
24 necessarily the courthouses.

25 BITTA MOSTOFI: Yes.

CHAIRPERSON MENCHACA: Is there something that's more connected to courthouse activity?

BITTA MOSTOFI: There's nothing that's more connected to courthouse activity. If I'm recalling correctly, the fact sheet speaks to an increase in arrests at courthouses, and then the specifics of the impact as I noted has been more challenging from the agency level, which is why, you know, we've also been interested in receiving the Advocate's Report to better understand what they're seeing kind of with-with increased-greater data and clarity.

CHAIRPERSON MENCHACA: Okay. Let's move to the information that you're getting on ICE sighting. How are you receiving that from the public at or near courthouses specifically from-from the public--

BITTA MOSTOFI: Yes

CHAIRPERSON MENCHACA: --and-and what- what are you doing to kind of aggregate that information? Is that-is that also available public. This is all kind of connected this idea of-of information. What we saw is not specific but are you

1 collecting data? Is there a hotline? Are people
2 calling you? How are you taking that data?

3
4 BITTA MOSTOFI: Yes, so in terms of court
5 access, folks are generally calling the IDP hotline
6 and that is actually I think where people should be
7 calling because they have been serving as the right
8 repository for receiving this information, and that's
9 one of the areas that they functioned as an agency be
10 it, you know, pre this—pre this moment in time with
11 the Federal Administration, and so, it's very
12 important I think for us to maintain that line of
13 communication. There have been in—we are obviously
14 interested in understanding what's happening, but
15 individual—people are not coming to us directly, if
16 you will, every time they sort of see an ICE agent—
17 agents or an entity conducting an enforcement action.
18 We're hearing from our legal service providers what
19 they're seeing, of course, but the most sort of
20 systematic kind of compilation of kind of immediate
21 reporting and understanding is—is more readily going
22 through IDP.

23 CHAIRPERSON MENCHACA: Is that—is that an
24 official policy that we can—we can kind of amplify,
25 call IDP hotline and--

BITTA MOSTOFI: [interposing] Yeah, and I—and it—it is—is what we both through Know Your Rights forums as well as through legal service providers. It's one of the resources that we ensure people know exists and have.

CHAIRPERSON MENCHACA: Okay. I think—I think that we—I'd like a commitment that MOIA, and we can talk about that later so we can kind of get to some of the other questions that MOIA really commits to—to doing outreach and specifically in communities that are impacted in relationship to courthouses--

BITTA MOSTOFI: Uh-hm.

CHAIRPERSON MENCHACA: --and—and I think that they're going to want to hear from us as a city on that—on that front, and —and work in partnership with the advocates on the ground, but is that something that you can commit to today that we could figure out how we communicate that information because we're communicating a lot of different things. All the—the work that we're doing Through Action NYC and the Key to the City we're—we're in spaces that are really designed by us--

BITTA MOSTOFI: Yes.

1
2 CHAIRPERSON MENCHACA: --as city, and-and
3 I think that-that there needs to be a little bit
4 more-more commitment to-to that, and we're-we're
5 hoping that this law passes, of course and then
6 there's going to be implementation and-and really
7 working with your-all of our relationships with the
8 courts and-and can-can we commit to that together?

9 BITTA MOSTOFI: Yeah, yeah, I mean always
10 if there are-are kind of specific ideas or strategies
11 on where we can ensure that we're-we're better in
12 providing increased-better information or where
13 information needs to be provided more directly. We
14 absolutely want to hear that and connect to doing
15 that. I think as I noted where we've been able to
16 most tangibly understand that has been within that JC
17 context and that the-that learning has already been
18 adopted and is considered in what outreach happens by
19 that office. So, that is already happening in that
20 setting, and then more broadly in terms of
21 communities understanding what is happening in the
22 city both in terms of enforcement at courts and more
23 broadly is incorporated in everything that we do from
24 an outreach perspective as well as programming and
25 legal service provision.

CHAIRPERSON MENCHACA: Got it. Okay, and there's more I think on the budget side that we can think about in really creating a resource gap question or filling the resource--

BITTA MOSTOFI: [interposing] Sure.

CHAIRPERSON MENCHACA: --gap in getting resources to courts--

BITTA MOSTOFI: Yep.

CHAIRPERSON MENCHACA: --especially as we're going to see this ramp up more and more beyond the NYFUP expansion or more up lawyers and whatnot. Okay, so in accordance with the Raise the Age legislation, the Law Department is regularly sending attorneys to night court. We understand and has MOIA briefed the Law Department on ICE operations in our courts?

BITTA MOSTOFI: Yes.

CHAIRPERSON MENCHACA: Yes, and would MOIA be amenable to developing an action plan with the Law Department as a precaution should ICE interfere in the city's administration and justice?

BITTA MOSTOFI: Sorry. Can you repeat your question?

2 CHAIRPERSON MENCHACA: Would MOIA, would
3 you amenable to developing an action plan with the
4 Law Department as a precaution should ICE interfere
5 in the city's administration and justice?

6 BITTA MOSTOFI: I think I would need to—I
7 would certainly be amenable to talking with Law
8 Department understanding what that might look like,
9 and thinking about how the city might be best
10 responsive in that context. Yes.

11 CHAIRPERSON MENCHACA: And I think what's—
12 what's—well, okay. I think that if you want to
13 expand on that and what that might look like from
14 your frame, the Law Department will have a kind of
15 big component to that, but we want to follow up on
16 that immediately--

17 BITTA MOSTOFI: Sure.

18 CHAIRPERSON MENCHACA: --to kind of get a
19 sense about what that can look like. What
20 coordination exists between MOIA and the Mayor's
21 Office of Criminal Justice in relationship to
22 monitoring and responding to immigration enforcement?

23 BITTA MOSTOFI: MOCJ has been a partner
24 with us on this, and in both engaging OCA as well as
25 thinking about kind of more broadly all of the

1 impacts around enforcement to our communities, and,
2 you know, we certainly welcome that partnership, and
3 they will continue to be a key agency that's at the
4 table with us as we're looking at doing this work.

5 CHAIRPERSON MENCHACA: Okay, so I think
6 we're going to—we're going to pause there, and we
7 really want to follow up soon and really work in
8 tandem with your team, with the office and—and the
9 Council as—as we advocate together in Albany to land
10 this before the end of the legislative session.

11 BITTA MOSTOFI: Well, good. Thank you.

12 CHAIRPERSON MENCHACA: Thank you so much,
13 Commissioner. [background comments] Okay, we're
14 going to pick up our next panel, and panel number 2,
15 panel number 3. We're at number 3 is the Bronx
16 Defenders of Rosa Cohen-Cruz, Brooklyn Defender
17 Services; Richard Bailey, Legal Aid Society; Jill
18 Wildman and the Anti-Defamation League Adam
19 Bernstein. [background comments/pause] Okay, who
20 would like to begin? Let's begin over here with you.
21 Make sure that the mic is on, and it's near you.

22 RICHARD BAILEY: Good afternoon. Thank
23 you for having me. My name is Richard Bailey. I am
24 a Supervising Attorney in the Padilla Practice of the
25

1 Immigration Unit at Brooklyn Defender Services. I'd
2 first like to thank City Council Committees on
3 Immigration and the Justice System, and in particular
4 Chairpersons Menchaca and Lancman for having us
5 today, and for giving me this opportunity to testify
6 about the impact of immigration and Customs
7 enforcement having a presence in the New York City
8 Court system. Brooklyn Defender Services is one of
9 the largest legal service providers in New York City
10 representing approximately 30,000 low-income Brooklyn
11 residents each year who are arrested facing child
12 welfare allegations or challenging the deportation.
13 Since 2009, Brooklyn Defender Services has counseled,
14 advised or represented more than 10,000 immigrant
15 clients, and about a quarter of Brooklyn Defender
16 Services' criminal defense clients are foreign born,
17 roughly half of whom are not naturalized citizens and
18 are, therefore, at risk of deportation or other
19 disproportionate collateral consequences as a result
20 of their criminal case. Our Padilla Unit advises
21 DVS' criminal defense attorneys and their non-citizen
22 clients on the immigration consequences like guilty
23 pleas and different trial outcomes to help them avoid
24 or minimize negative immigration consequences. Since
25

1 we last testified about the ICE presence and—and
2 arrests in courts, arrests in and round New York City
3 courthouses has increased 1750%. According to the
4 Immigrant Defense Project Report, the majority of
5 people caught up in this wave of enforcement or
6 reporting to court on low-level offenses including
7 many traffic violations. Since the beginning of 2019
8 alone, Brooklyn Defender Services has had more than
9 18 clients arrested by ICE in or outside the
10 courthouse or in the community because of pending
11 criminal allegations mostly misdemeanors.
12

13 CHAIRPERSON MENCHACA: Can I—can I pause
14 you there really quick. Two-two quick things
15 operations wise. One is we're going to put the clock
16 for two minutes. If you can focus your remarks on
17 anything that would be great to add to the
18 conversation. We're going to read everything, and
19 then we want to focus on some Q&A to kind of really
20 kind of get some of the—some of the pieces out.
21 They're going to help us make the case, and—and get
22 everything out. Is that—is that good?

23 RICHARD BAILEY: Yes.
24
25

CHAIRPERSON MENCHACA: And it's the
sergeant-at-arms' two-minute clock. Thank you. You
may continue.

RICHARD BAILEY: Okay. I'll keep it well
below that now. So, I-I wanted to take a minute then
and -and just talk about one client, one recent
arrest outside of the court. About a month ago or
so, one of our clients was leave the Brooklyn
Criminal Court at 120 Schermerhorn, and was with her
attorney, and two men grabbed her on the street
outside of the courthouse. She did not know who they
were. They did not identify themselves, and given
her history of trauma, it was a very problematic way
to interact with her. She grabbed for her attorney,
and in the middle of that kind of scuffle, the-the
officers identified themselves as ICE agents, and-and
finally produced a badge, but-but the entire
experience was, you know, understandably very
traumatizing for her. So, for that reason, you know,
for the-the clients that we've seen impacted by this,
Brooklyn Defender Services strongly supports the
Protect Our Courts Act, and we-we believe that it
would place significant restrictions on civil arrests
of those attending or traveling to or from court, and

1 we have seen that ICE's courthouse arrests have
2 undermined our clients' fundamental rights to have
3 their fair day in court. In addition to the proposed
4 resolution here at the City Council, we call on the
5 Council to consider the following campaigns that
6 would limit immigrant New Yorkers' contact with the
7 criminal legal system. In our written testimony we
8 offer some recommendations, but that includes ending
9 arrests of human trafficking victims and
10 decriminalizing sex work, providing equal access to
11 drivers' licenses for all, and supporting the
12 legalization and regulation of Marijuana access.
13 Thank you for considering my comments, and I'd be
14 happy to answer any questions.

15
16 CHAIRPERSON MENCHACA: Thank you.

17 JILL WALDMAN: My name is Jill Waldman.
18 I'm a Criminal Immigration Attorney at the
19 Immigration Monument of the Legal Aid Society. I've
20 been at Legal Aid since 2007, and since 2016 I have
21 seen a significant change in ICE enforcement, and in
22 the way that clients and attorneys alike approach
23 immigration and appearances in court. I've seen
24 ICE arrest among others, clients who were sole
25 providers for young children, clients who have no

1
2 criminal record who are pleading guilty to traffic
3 violations, and who are appearing in human
4 trafficking courts. ICE is aggressive, public, and
5 seemingly indiscriminate enforcement in court is
6 dramatic and alarming to Legal Aid attorneys and
7 clients alike. Because immigration law is complex
8 and ever-changing, even defendants who are not
9 removable from the United States often fear coming to
10 court due to ICE's presence. Non-citizen defendants
11 frequently feel pressured to take unfavorable pleas
12 rather than fight their cases in court for fear that
13 the repeated court appearances will expose them
14 apprehension by ICE. Non-citizens will sometimes
15 forego rehabilitative programs such as drug and
16 alcohol treatment in favor of jail time for the same
17 reasons. Attorneys now balance the risk of
18 apprehension in court against the strength of their
19 clients' cases. Finally, defendants are often
20 apprehended prior to court appearances and are unable
21 to communicate with their attorneys. As a result,
22 judges will issue warrants thinking the clients
23 intentionally missed their court dates. This
24 disadvantages clients both in their criminal cases as
25 it interferes with speedy trial calculations, and

1 leaves the non-citizen with unresolved cases and
2 active warrants when they appear before the
3 Immigration judges. These non-citizens are then very
4 likely to face prejudice in Immigration Courts
5 especially in bond proceedings due to their
6 unresolved cases. [bell]

8 CHAIRPERSON MENCHACA: Thank you. I have
9 some questions for you after. Okay, thank you.

10 ROSA COHEN-CRUZ: Good afternoon. My
11 name is Rosa Cohen-Cruz and I'm Padilla Supervisor in
12 the Immigration Practice of the Bronx Defenders, and
13 in this role I oversee the practice of advising non-
14 citizen defendants on the Immigration consequences of
15 their cases. I also want to focus on kind of three
16 main ways that the Protect Our Courts Act will
17 improve our clients' abilities to defend themselves.
18 First, right now in the current climate our clients
19 are accepting unfavorable plea deals to avoid coming
20 back to court. Second, open cases end up creating
21 delay and disruption to Immigration Court proceedings
22 and third, we've seen ICE disregard our client's
23 rights in making their arrests. As far as ICE
24 arrests in courts creating base case resolutions, we
25 do have to advise our clients on under the risk of

1 ICE arrests when considering whether to take pleas or
2 go to trial. Because of this, we've had clients who
3 were likely to win a trial but pled guilty. We've
4 had clients who had no prior criminal record and
5 decided to resolve their case with a misdemeanor at
6 arraignment because even when a non-criminal
7 violation would have been likely at a later court
8 date, we have had clients even accept a plea offer
9 that resulted in the loss of future eligibility for
10 status or at least from deportation because of the
11 fear of ICE-ICE apprehend-apprehension in court.
12 Some clients have-have stated children to accept
13 incarceratory sentences instead of rehabilitative
14 programs as part of the plea because they knew that
15 going to jail would give them a time limit before
16 having to-before they would be able to see their
17 families again. Whereas, showing up to court at a
18 compliance date could result in an indefinite
19 detention until their deportation. So, a part (sic)
20 of our court addresses this because it because it
21 gives clients a security to come to court knowing
22 that they will not be arrested by ICE without
23 process, without a judicial warrant and it messages
24 that all New Yorkers deserve to feel that the
25

1 courthouse is a place based to focus on these
2 actually life altering decisions. [bell] Is that my
3 time?
4

5 CHAIRPERSON MENCHACA: Do you want—do you
6 want to finish up for the moment?

7 ROSA COHEN-CRUZ: I did have just—I just
8 wanted to talk quickly about what I've personally
9 witnessed. I've witnessed several of my own clients
10 get arrested in court. In one case a client of mine
11 was while we were actually within the halls of—within
12 the halls of justice in the Bronx and our client was
13 completely compliant, was—and he was in mid
14 conversation with me as his attorney, was pressed up
15 against the glass doors by several ICE officers, and
16 violently removed from me. We both asked to speak to
17 each other me and his counsel, and he was just
18 quickly rushed into a car and driven off. It was
19 extremely horrifying for both of us. His young
20 children were there and watched this happened. In an
21 other case I had to facilitate an opportunity for my
22 client to hug his young children goodbye in the court
23 while ICE officers—before ICE officers could arrest
24 him and take him away, and just last week I had
25 another client arrested. He was being offered a 2420

1 a disorderly conduct violation on court that day, and
2 he was arrested before he was able to take the
3 violation, and now we know that because he has an
4 open case, when he appears for a bond hearing in a
5 few weeks, he's more likely to be denied even though
6 that case is going to resolve with a non-criminal
7 case resolution. So, these are the kinds of things
8 that we are dealing with everyday in the court and
9 Protect Our Courts Act addresses each of these
10 issues, and improves our ability to do our jobs and
11 zealous—zealously represent our clients for the—for
12 the best outcomes.

14 CHAIRPERSON MENCHACA: And thank you for
15 saying that—that testimony as well. Thank you.

16 [pause]

17 EVAN BERNSTEIN: Thank you Co-Chair
18 Menchaca and Co-Chair Council Member Lancman for
19 having us today. It's such an important topic. My
20 name is Evan Bernstein and as the Regional Director
21 of the ADL's New York-New Jersey office. It's an
22 honor to be here today to support a New York City
23 Resolution calling for the City's legislation to
24 pass, the Governor to sign the Protect Our Courts
25 Act. Since 1913, the mission of ADL has been to stop

1 the defamation of the Jewish people with good justice
2 and fair treatment for all, and that's why we're a
3 proud member of ICE Out of Courts Coalition here in
4 New York. We remain extremely alarmed by the
5 dramatic escalation of ICE enforcement in and around
6 New York courthouses. Indeed, since 19—since 2016
7 the Immigration Defense Project, IDP has documented
8 an over 1700 increase—percent increase in ICE
9 operations in the courthouses throughout the state.
10 This had a chilling effect on reporting of crime and
11 the ability for victims and witnesses to access our
12 justice system. Immigrants are already reluctant to
13 interact with law enforcement in the current
14 political climate are even more afraid to come
15 forward to report crime and seek assistance. This
16 means domestic violence survivors aren't getting
17 orders of protection. Tenants aren't bringing
18 complaints to abuse of landlords and victims of
19 violent crimes including hate crimes or denied their
20 fair day in court. Compound the issue even further
21 is we know that non-citizens are more likely to be
22 the victims of crime relative to their U.S. born
23 counterparts, and that immigrants are particularly
24 susceptible to crimes that prey on the vulnerable—
25

1 vulnerable statuses. By the way of example, FBI data
2 from 2017 revealed a 24% annual increase in hate
3 crime attacks against the—the Lennox—the Lennox
4 community ore the Latino community and a community
5 already targeted to have significant anti-immigrant
6 bigotry where victims or witnesses are reluctant to
7 come forward out of fear or deportation or other
8 immigrant related repercussions. Perpetrators are
9 more likely to escape the justice system without
10 consequence. Crimes increase when perpetrators have
11 nothing to fear. The vicious cycle makes it that
12 much more difficult if not impossible for local
13 police to rebuild the bonds of trust, cooperation
14 within immigrant communities. This compromises the
15 safety and security for all of us. The Protect Our
16 Courts Act is critical to disrupting these trends.
17 [bell] Thank you.

18
19 CHAIRPERSON MENCHACA: Thank you. Thank
20 you for that. Thank you all for being here, and I
21 have some follow-up questions and then I'll hand it
22 over Chair Lancman for any questions that he might
23 have. I'm—I'm—one, I just want to acknowledge that
24 the—the traumatic experience that' happening in the
25 courts isn't just happening to the person being taken

1 away in a car, be it a young-young child or a father.
2 It's also the family that's there. It's also for all
3 of the other families that are there watching this
4 happen, maybe immigrant, non-immigrant and then it's
5 for the lawyers that have taken on a-a pledge to
6 defend your client, and-and I think that's-that's
7 the-that's the kind of nature of what's-what's
8 happening here and the fabric that is being destroyed
9 in our justice system, and so I just want to say
10 thank you for-for offering that piece because I thin
11 that's an important think to talk about for folks
12 that are not ever going to go into a courtroom, and
13 we're going to need on our side to push this, and
14 make it-make it clear to our elected officials. And
15 so, I want to say thank you for the work that you're
16 doing. The other-the other kind of point to this is
17 from the -the IDP and the Bronx Legal Services
18 Report, it sounds like ICE has been found in problem
19 solving courts. You're reporting some of that now,
20 and providers of-of court mandated community service.
21 Have you found that this has resulted in fewer pleas?
22 And I think you-you spoke about-you spoke about that
23 in your testimony that involved community service or
24 treatment, and has that meant that clients with
25

1 immigration status issues generally kind of take
2 pleas that involve treatment? And can you talk a
3 little bit more about how that actually happens, and—
4 and give us a kind of deeper flavor of that and—and
5 if you have a—

7 ROSA COHEN-CRUZ: Well, one piece of that
8 when clients are sentenced to programs and
9 rehabilitative programs is part of their plea, they
10 have to come back to court to demonstrate compliance.
11 So, it's that fear of, you know, coming back and
12 showing that they've cooperating and doing what the
13 court had asked them to do that at each court date
14 ICE could be there waiting for them regardless of how
15 successful they've been in the program. And so, you
16 know, when considering that, it is logical to face
17 that you will have a better chance—you know if
18 you're going to take a jail sentence of, you know, 30
19 days, that after 30 days you'll go and see your
20 family again. But if you have a—have to come back to
21 a compliance date, and ICE could be there one day to
22 arrest you, you never know if you'll see your family
23 again after that, and that's—it's a logical decision
24 that our clients are making.

1
2 JILL WALDMAN: I-I agree with that, and I
3 would also say that even things like paying fines or
4 doing community service, showing for community
5 service or a DWI compliance, I get calls daily about
6 clients who are concerned about even going to
7 compliance parts and fear that ICE will be waiting
8 for them there.

9 CHAIRPERSON MENCHACA: And-and so those
10 are the pleas. What about-what about-what about a
11 sense of public safety and essentially the ICE
12 operations has--essentially has pulled back (sic) and
13 people are less likely to report crimes. How are you
14 seeing that from any one of your organizations?

15 EVAN BERNSTEIN: So, we do a lot of work
16 with-with the Council with the consulates in New York
17 especially the Mexican Consulate. We have a
18 Memorandum of Understanding. We're actually-ALD is
19 work with the-the local law enforcement to train
20 officials in the consulates on how to handle these
21 hate crimes because the consulates have become the-
22 the call instead of the police for that exact reason.
23 There are so fearful of making those calls to the law
24 enforcement. We're trying to break those barriers
25 down here, you know, and the New York City Police is

1 different than other policing systems throughout New
2 York State. The challenge is that we're hearing from
3 consulate members is that there is just a total
4 under-reporting. So, we especially have some
5 domestic violence component where people are not-
6 they're-they're being-women are being assaulted by
7 their partner or spouse, and there's such a fear
8 there is absolutely no phone call being made to
9 children who are actually witnessing this. The women
10 are not able to-to leave their home situation.
11 They're not able to get the kind of treatment that
12 they need or protection that they need out of the
13 fear because of what's happening with ICE. So,
14 they're not even getting to the point of where
15 they're-they're even engaging with local police, and-
16 and that's what we're seeing, and-and it's incredibly
17 disturbing, and hearing specifically from the
18 consulates.

19
20 CHAIRPERSON MENCHACA: Thank you for
21 that, and I-and I know that the-I know about this
22 radio and the Mexican Consulate work, and I just want
23 to say thank you and your entire team for-for that
24 work. We were out in Union Square last year to do a
25 leaf letting and-and the person that committed the

1 hate crime was found, and it was all part of our-our
2 work together. So, thank you-thank you for that.
3 Anyone else want to kind of comment on that-on that
4 piece. Because I think the-the next piece is really
5 thinking about how-how the city from your
6 perspective, and this is-this is-I want to ask those
7 consistent questions to all the panels. What can the
8 city do from your perspective? I asked the
9 Commissioner, Can we be in the courts, and she's open
10 to thinking about that, and we're going-we're going
11 to work with-with MOIA and all of the agencies to
12 figure out what works, but you're-you're the
13 practitioners on the ground. You're seeing this.
14 You're seeing-you're seeing the impacts. How-how can
15 you invite us into these spaces from your
16 perspective? Think big and we'll start from there,
17 and think vision but that's where we're-that's the
18 kind of information we're going to want here. We're
19 in the middle of a budget process right now. We're
20 both Council Member Lancman and I are on the Budget
21 Negotiating Team, and now is the time to understand
22 what we need to do in this crisis moment. [pause]

24 ROSA COHEN-CRUZ: Well, one-in addition
25 to asking the State Legislature to pass and the

1
2 Govern to sign the Protect Our Courts Act, the report
3 is asking the Office of Court Administration to pass
4 our own rules, and to the extent that the city can,
5 you know, ask—can echo us in this ask, that's
6 extremely important. It is a—it is a two-pronged
7 approach, and having the court itself speak out, and
8 make that—designate themselves as safe space and make
9 those rules, messages to the immigrant community of
10 New York that it is a place where they need to fear
11 immigration enforcement, and that's extremely
12 important so, it's, you know, I urge you to press the
13 court administration as well.

14 CHAIRPERSON MENCHACA: So, and you got
15 that, and you'll—you'll continue to get that, and
16 what else in terms of presence that—do our agencies
17 need to be in the space? Do they need to be in
18 there? Do they need to have something there? Is
19 there--? This is—and—and if you if you don't have an
20 answer, now come back to us if you think about how we
21 can support with resources. That—we're not
22 Congressmen. We're not the federal government.
23 We're not—we're not able to change those laws, but we
24 are able to offer opportunities, and so much of that
25 is in funding, make sure that you are funded to go

1 into these courts and do the work, but if there's
2 anything else, now-now is the time to talk and-and
3 present. And so, if you can-if you can come back to
4 us, that would be great. If you have anything now to
5 share, I'd live to hear it.

7 ROSA COHEN-CRUZ: I would say that-that
8 if-hopefully the Protect Our Courts Act is passed,
9 that there be a widely-a wide public information
10 campaign is the people in immigrant communities
11 obviously in different languages are made aware of
12 the fact that this-that a warrant is required for ICE
13 to enter in the courthouses, and so that people
14 throughout New York City are aware that this is a
15 safe space, and what is going on and they are
16 protected.

17 CHAIRPERSON MENCHACA: That's a great-
18 that's a great idea, a public awareness campaign, and
19 you heard the Commissioner talk about our-our
20 collaboration, the law the Local Law that we passed
21 that really kind of sets that standard on our city
22 property with city information, and so we can-we can
23 kind put all that together, and say this is how we're
24 protecting your rights, your privacy and your-your
25 connection to justice with these courts. The-to-to

1
2 varying degrees some of the city's district attorneys
3 have been outspoken about the detrimental effects of
4 ICE and in the state courthouses. Have you found
5 that the DAs are receptive to immigration issues and
6 other aspects of your practices like immigration safe
7 plea deals for example across the board citywide? Is
8 that--what's that all--what's--what's happening there?

9 RICHARD BAILEY: I could speak to our
10 experience in Brooklyn. We have been very grateful
11 to work with the--the Brooklyn DA on negotiating pleas
12 that will mitigate or--or reduce potential immigration
13 consequences for our clients. Of course, there is
14 room for improvement, but we have had a very positive
15 experience with that and, you know, I think there are
16 probably other steps that could be taken with law
17 enforcement just to go to your previous question in
18 terms of reducing the number of arrests and
19 definitively ending Broken Windows Policing in the
20 city, and that would have a downstream effect on the
21 exposure that our clients face when entering into
22 plea agreements with the District Attorney's Office.

23 EVAN BERNSTEIN: Our experience so far
24 with the DAs have been excellent especially--

25 RICHARD BAILEY: Across the board?

2 EVAN BERNSTEIN: No, again, the spaces
3 that we're in sometimes it's not always—we're not
4 always leading necessarily with ICE in courts. We're
5 leading with other hate crime issues, other issues
6 that are taking place in the community base and, you
7 know, the broadness of our—of our mission. Certainly
8 we were in those spaces. We were having those
9 conversations and the conversations that I've had
10 have been very receptive with the DAs that I've met
11 with. Going back to the last part I think one we
12 know, would be very helpful if it's possible is to
13 work with the—the NYPD. I think we've had a great
14 partnership with the work with the Special Hate
15 Crimes Taskforce in partnership, and I think if
16 there's a way for three to be particularly what we
17 said like a marketing campaign to help with under—you
18 know, people understand that NYPD especially the Hate
19 Crimes Taskforce is doing everything in their power
20 to try to be a real—a real partner in this, and even
21 the trainings we have, they're giving out their cell
22 phone number. They're making this very personal. So,
23 I think that there is sometimes misnomers about what
24 the police are—are doing and I think there's an
25 opportunity there maybe to—to try to educate and—and

1 try to show a more formal partnership for especially
2 the--the pieces of the department that are--that are
3 actively trying to work on this issue.

4
5 CHAIRPERSON MENCHACA: Thank you for
6 that, and--and maybe the--the next question, the final
7 question is, I kind of want to hear the operational
8 response to the law itself that you're here
9 supporting with us. Once it passes, how--how do you
10 see and what's your expectation of the mechanics of
11 the courtroom and how it works, and do you have a
12 sense about that, are you getting ready for that and
13 can you present any sense of some examples of how
14 things will change on the ground in the court offices
15 that we can--we can kind of hear directly?

16 ROSA COHEN-CRUZ: I think one thing is
17 that law--the law enables the judges to make some of
18 their own rules to ensure clients' presence at court
19 so when they are taken into ICE custody, and so this
20 issue that we've been seeing particularly with people
21 being denied bonds because they're not able to come
22 back to court and resolve their cases I think will be
23 more easily addressed by empowering judges to kind of
24 enforce clients' presence in their courtrooms, and
25 resolve cases. You know, just requiring the judicial

1 warrant and requiring the process also is extremely
2 important. I mean one really concrete way that we
3 see things is our clients get arrested in court.
4 ICE, you know, they have a picture our clients.
5 They're kind of looking for them. They don't really
6 know who they are. Sometimes they'll just yell out
7 their name and grab them, and then after separating
8 from-them from their attorney regardless of whether
9 we even go to the right to counsel and the right to
10 remain silent, they're questioned between the ride
11 from the courthouse to 26 Federal Plaza and those
12 statements are then used to prove their alienage in
13 their immigration procedure. So, having this law
14 that, you know, is on the books to prohibit ICE from
15 arresting people in court, and to provide more due
16 process in getting a warrant will actually make
17 immigration advocates more able to then go into
18 immigration court and terminate those cases where
19 admission statements (sic) were unlawfully procured.
20 So, it could be a very concrete result for-for many
21 immigrants who may end up being arrested, and if
22 they're-if they end up being arrested in violation of
23 this law.
24
25

1
2 CHAIRPERSON MENCHACA: Can you walk me
3 through the presentation of a—of a judicial warrant
4 and that the process that you would imagine and ICE
5 agent if they actually had a warrant, and what they
6 would do after this law if they didn't have a
7 warrant, and what would change, and maybe nothing
8 would change except for your ability—ability to build
9 a case like you just mentioned, but does that change
10 at all.

11 ROSA COHEN-CRUZ: You know, I imagine
12 that they would have to have more substantial proof
13 that somebody is deportable when they arrest them,
14 and a lot of the time they don't. Like I said, a lot
15 of the time the proof that they get about our
16 clients' immigration status comes through these—
17 through questioning them. When an undocumented
18 person enters the country, they don't always have—
19 there is not always other evidence until they are
20 questioned outside of the presence of counsel and,
21 you know, as I've just described. So, I think that
22 requiring more process can really inhibit ICE's
23 ability to arrest our clients in the court when they
24 don't have proof of their immigration status.

CHAIRPERSON MENCHACA: Okay, and any other items? I'm going to hand it to Council-to Chair Lancman.

CHAIRPERSON LANCMAN: Thank you. I'm just curious from Bronx Defenders, Brooklyn Defenders and Legal Aid. Do you--have you seen any impact as a result of the--the Court of Appeals decision giving-- I'll say just to simply giving--giving immigrants the right to a jury trial in a B misdemeanor cases, and-- and as--are you seeing any change in plea conversations as a result of that. It's a very specific question. If you don't know that's okay, but--and I know you're not, if I'm not mistaken you're not doing the hands-on criminal work, but--

ROSA COHEN-CRUZ: We--we have--I mean in-- sorry. By and large we see it mostly in DWI cases, and also forcible touching cases that those are often reduced for--to--to bench trials, and that's not happening any more. We have had some problems of DAs saying well, if you don't consent to this--to a bench trial, then we're not going to reduce and then the person will still be charge with the A misdemeanor, and increase their exposure to jail time. But I'd say that by and large district attorneys are

1 consenting to—to jury trials, which is wonderful for
2 our clients, and we have seen some pushback in terms
3 of requiring motions or hearings, but in general it's
4 been a very positive development.

5
6 CHAIRPERSON LANCMAN: Well, I want to
7 hear from the others if you have anything to add,
8 but—but the part of that I am really interested in is
9 are they [pause] holding cases? Are they—are they
10 using as—as leverage the fact that they don't want to
11 submit to a jury trial, and keeping—keeping that, you
12 know, as a higher level of—of offense. That's—that's
13 what I'm—I'm interested in.

14 ROSA COHEN-CRUZ: I haven't seen that
15 very often. It's a very new decision. So, I think we
16 still have yet to see how it's going to play out, and
17 it's also very borough specific. It's also very
18 district attorney specific. It's assistant district
19 attorney specific. I—I've seen it in a few cases,
20 but it's not a widespread practice. No.

21 JILL WALDMAN: I would—I would echo that
22 this larger (sic) decision, you know, has created
23 some incentive to—to resolve cases in more favorable
24 ways so that DAs will not have to be at jury trials
25 and to offer—to offer non-criminal violations rather

1
2 than go to trial on misdemeanors. So, there have
3 been some positive-positive plea resolutions as a
4 result I would say.

5 RICHARD BAILEY: My understanding at
6 Brooklyn Defender Services is that we are still
7 monitoring to see what the impact of the SWASA
8 decision is, and I've-I would be-I would have to
9 speak with the Criminal Defense Practice to get more
10 information about what they've been seeing. I'd be
11 happy to get that information.

12 CHAIRPERSON LANCMAN: Alright, and-do you
13 know-are your offices in any kind of conversations
14 with the district attorneys about limiting the number
15 of times that a-that a defendant has to appear in
16 person at a hearing to try to limit that-limit the
17 number of times that they're exposed to ICE at the
18 courthouse? [pause]

19 ROSA COHEN-CRUZ: I don't know that we
20 are, but I certainly think faster case resolutions
21 ending (sic) on DA's offices to help resolve cases
22 sooner is something to address your previous question
23 about-that the city could do to help address this
24 issue especially before the act is passed.

25 CHAIRPERSON LANCMAN: Uh-hm.

2 RICHARD BAILEY: I believe that on an
3 individualized basis we are—our criminal defense
4 attorneys are asking the assistant district attorneys
5 to consent to setting a hearing past the speedy trial
6 dismissal date if they know they won't be converting
7 the case and—and being able to move forward with it,
8 and I—my understanding is that that has been
9 successful on—on some cases. It releases the amount
10 of exposure that our clients do have in—in coming
11 back to court, but again it's a case-by-case.

12 CHAIRPERSON LANCMAN: Yeah. I'll just
13 mention that we've been joined by Council Member
14 Erich Ulrich from Queens. Do you think that there—
15 there is room for some kind of systematic approach
16 that limits the number of times that defendants have
17 to appear in court compared to—to—to where we are
18 today to something less than just an ad hoc basis?

19 ROSA COHEN-CRUZ: Definitely.

20 CHAIRPERSON LANCMAN: I'm—I'm looking for
21 some guidance on—on what we should expend our
22 political governmental capital on trying to get—

23 ROSA COHEN-CRUZ: [interposing] I mean
24 especially in case--

25 CHAIRPERSON LANCMAN: --the system to do.

1
2 ROSA COHEN-CRUZ: In cases where—cases
3 unconverted, which means there's no—a misdemeanor
4 case unconverted and there's a--

5 CHAIRPERSON MENCHACA: [interposing] Can
6 you speak into the mic.

7 ROSA COHEN-CRUZ: Sure.

8 CHAIRPERSON MENCHACA: I just want to
9 make sure you record all this.

10 ROSA COHEN-CRUZ: [laughter] If our case
11 is unconverted, and it doesn't look like it's going
12 to be converted, being able to adjourn the case past
13 the—what we call the 30/30 days of speedy trial
14 dismissal base would be extraordinarily helpful
15 because usually there's a series of appearances where
16 the client has to come to court just to adjourn the
17 case and wait for it to be dismissed.

18 CHAIRPERSON LANCMAN: Okay. Thank you.

19 CHAIRPERSON MENCHACA: Thank you, Co-
20 Chair Lancman, and I want to say just thank you.
21 We're done for this panel and keep fighting the good
22 fight. The work is not done on the—on the legislative
23 side, but hopefully that will help alleviate issues,
24 and take care of yourselves and your heart, and just
25 keeping fighting. We're in it with you. Thank you.

1 [background comments] We have two more panels, three
2 more panels, nine more folks that want to testify
3 today, and we want to make sure we get to everyone.
4 Her Justice, Suzanne Saul; The Urban Justice Center,
5 Atosa Amobahedy (sp?); Yvonne Chin from the Sanctuary
6 for Families; Shani Adess, New York Legal Assistance
7 Group, NYLAG. Thank you for your patience. We're
8 going to put the 2-minute clocks like we did, and
9 then really focus on Q&A so we can dig deeper, and if
10 you can give us your testimony, we have it, we'll
11 read it, and if there's any way that you could focus
12 on items that have not told that can help push the
13 conversation forward, that would be great and
14 especially for the record to make sure that we hear
15 that you are in support of the resolution as well.
16 Thank you and we can start over here.

18 YVONNE CHEN: Good afternoon. My name is
19 Yvonne Chen, and I'm the Outreach Manager of the
20 Anti-Trafficking Initiative at Sanctuary for
21 Families. Thank you so much and we are so grateful
22 to the Committee on Immigration and to Chair Council
23 Member Menchaca for this opportunity to testify
24 today, and for holding a hearing on the critical
25 issue of Immigration Enforcement Agents making

1 arrests in our courthouses. Needless to say, this
2 represents a threat to our fundamental Constitutional
3 right to due process, and is having a disastrous
4 effect on our Justice System's ability to serve some
5 of our most vulnerable neighbors. Sanctuary has long
6 prioritized at-risk isolated immigrants including
7 scores of undocumented individuals and families. As
8 members of this committee know, City Council has
9 support Sanctuary's work with immigrants and with
10 Human Trafficking Intervention Courts. Since 2014,
11 Sanctuary and our pro bono partners have conducted
12 information sessions and intakes for over a thousand
13 immigrant defendants in Queens and Brooklyn. A
14 significant number of those individuals are either
15 identified as victims of human trafficking or
16 domestic violence. In many cases both. Many of these
17 immigrant victims choose to enter with representation
18 with Sanctuary and pro bono term full, and we are
19 happy to report that a number of them have legal
20 status today as direct results of the H cases. When
21 defendants meeting with counsel are able to speak
22 freely perhaps for the first time, their information
23 not only is assisted with procuring legal status for
24 themselves, but in some cases have led to
25

1 investigation and prosecution of traffickers. That
2 trust and the safe confidential environment, however,
3 has been greatly eroded by presence of ICE in State
4 Courts. This chilling effect applies to anyone that
5 isn't seeking justice through the court system, but
6 the effect on domestic violence and trafficking
7 survivors is especially devastating. Our client,
8 Anna was identified by defense counsel as a potential
9 trafficking victim. Anna wanted to participate in
10 the program to receive services, but was also too
11 terrified to appear in court, or to meet with
12 Sanctuary staff in a safe location. She tried many
13 times to overcome her fear to come and meet with us,
14 but in the end was paralyzed by the fear of ICE each
15 time and unable to meet. Unfortunately, the fear of
16 detention and deportation along with misinformation
17 about immigration processes led her to avoid further
18 participation [bell] of those in-person meetings.
19 She currently has a warrant out for her arrest.

21 SUSANNA SAUL: Hi. Good afternoon. I
22 want to thank the City Council also and the
23 Committees on Immigration and the Justice System. My
24 name is Susanna Saul. I'm a Managing Attorney at Her
25 Justice. We're a non-profit organization that takes

1 a pro bono first approach to free legal services for
2 women living in poverty in New York City. We train
3 and mentor volunteer lawyers from the city's premier
4 law firms who enable our clients to access the legal
5 system and obtain the justice they so deserve. We
6 practice in the areas of family, national, and
7 immigration law, and I want to focus my testimony
8 today on the impact that the Protect Our Courts Act
9 has on the clients and pro bono attorneys we work
10 with. We strongly support the Protect Our Courts
11 Act. We believe that this legislation restores the
12 integrity of the court system as the place where pro
13 bono attorneys can confidently assist our clients in
14 seeking life saving remedies for themselves and their
15 children. Our clients come from all five boroughs of
16 New York City. Approximately 80% are domestic
17 violence survivors and three-quarters of our clients
18 are mothers; 70% of our clients were born abroad.
19 The increase in ICE arrests at civil court of the
20 last couple of years has created a paralyzing climate
21 of fear for our clients, and cloud of confusion for
22 the pro bono attorneys we work with. Before ICE
23 increased the arrests of people in the civil courts,
24 our staff and pro bono attorneys would encourage
25

1 their clients to seek to help in the courts no matter
2 of their immigration status. We could confidently
3 tell our clients and pro bono attorneys that they
4 could access the courts and the protections to which
5 they are legally entitled without any regard to their
6 immigration status, and we've had to shift our advice
7 to our clients and our voluntary-voluntary attorneys
8 since these ICE, since these ICE arrests starting
9 increasing, and many pro bono attorneys asked us about
10 the risks of ICE arresting their clients in the court
11 when they show up for court appearances as witnesses
12 in criminal cases or as litigants in Family Court of
13 Supreme Court cases, and we are not able to give them
14 any assurances. With the Protect Our Courts Act,
15 [bell] we can't rule out completely ICE arrests in
16 courts, but we can reassure them that there are
17 protocols in place and that these arrests are more
18 limited in scope and have judicial oversight. So, we
19 strongly support this legislation.
20

21 CHAIRPERSON MENCHACA: Thank you. Chairs
22 Menchaca and Lancman, Council Members and staff,
23 thank you for the opportunity to speak. My name is
24 Shani Adess, and I'm the Associate Director of the
25 Matrimonial and Family Law Unit at the New York Legal

1
2 Assistance Group. NYLAG's work in the Family Court,
3 Supreme Court, Housing Courts and sitting at four of
4 the five Family Justice Centers provide us with an
5 on-the-ground view of the detrimental impact ICE
6 presence in courts has on the administration of
7 justice, and the particularly outsized impact it has
8 had on those most vulnerable, including survivors of
9 domestic violence, trafficking and youth. We have
10 worked directly with clients who have withdrawn
11 request for orders of protection, remain married to
12 their abusive spouse out of fear of having to go to
13 court to obtain a divorce, and who have refused to
14 even begin a court face-case despite being in need of
15 court intervention because of ICE courthouse
16 presence. Some of our examples are contained in the
17 written testimony as well as the report that was
18 released today. Never before have had to when
19 meeting-meeting with a survivor or domestic violence
20 include in our safety plan with them whether or not
21 it's safe for them to go to court because they're
22 fearing that ICE would be there. We had one specific
23 client who filed for an order of protection. She
24 came to us with marks all over her body, and we filed
25 with her day, and when she served the other side by

1 the time she realized that she was going to be coming
2 back and her abusive partner was going to be there,
3 in that in between time he had posted posters all the
4 neighborhood where she works saying words to the
5 effect of ICE an illegal immigrant works here. And
6 so, she immediately asked us what if he tips off ICE
7 at court. There's court date, there's a floor.
8 There's a specific place I'm going to be. Is it
9 safe? And she ended up withdrawing her court-
10 withdrawing her court case. The presence of ICE in
11 the courtroom silences immigrant communities. It
12 deprives them of due process under law, and it
13 undermines the sanctity of our court systems. We
14 support the Protect Our Courts Act because while it
15 still allows ICE to engage in lawful enforcement
16 activity, it requires a warrant or court order
17 ensuring a case-by-case analysis of each particular
18 immigrant circumstances, and it will allow legal
19 service providers to the ability to counsel our
20 clients to their individual risk, ensure judicial
21 oversight, and help delay the chilling effect [bell]
22 of ICE in the courthouse. It would also send a
23 strong message that our New York State government
24 believes that our courthouses are open for all, and
25

1 help change the perception that our immigrant
2 communities are currently saying to us that they
3 don't believe that's the case.
4

5 ATOSA MOULA HEDDI: Good afternoon to the
6 Council. My name is Atosa Moula Heddi (sp?). I'm
7 the Director of Legal Service and Development at the
8 Urban Justice Center's Domestic Violence Project.
9 Please imagine the following: LGBTQ client E.J. in
10 court seeking protection from severe abuse unaware
11 ICE is in the courtroom. The case is adjourned.
12 Again, unaware, the clients is followed by ICE and
13 summarily arrested outside the building. As a direct
14 result of this, today E.J. is on the verge of
15 reconciling with her abuser because an abusive
16 relationship is safer than being targeted by ICE in
17 the courts. E.J. is one of 60% of our non-U.S.
18 citizen clients facing a wide range or issues: Their
19 complaining witnesses and different defendants who
20 are in criminal court, petitioners and respondents in
21 Family Court, tenants in Housing Court, victims of
22 identity theft and more. The presence of ICE in our
23 community courts in New York City impacts our ability
24 to effectively help them navigate all of these
25 systems, and I think we—I feel compelled to screen

1
2 our clients for immigration issues before filing in
3 Family Court. While our program of interdisciplinary
4 team includes immigration attorneys, this is not a
5 readily available resource to 18B (sic) Panels and to
6 the other attorneys. Screening for these issues is
7 really a (sic) fete that takes time, expertise and
8 resources, and while the necessity of these
9 screenings is not eliminated with the passing of this
10 legislation, it would enable us to more accurately
11 calculate the risks to our clients in filing. This
12 is an act that's a justice issue. The public deserves
13 order and reliability within our legal system. The
14 very purpose of this bill is to ensure smoother
15 access to justice. Community Court such as Family
16 Court are often the only means of accessing justice
17 for working poor and indigent families. By the time
18 you're there, you're already desperate. You're often
19 already marginalized, discriminated against, and
20 impoverished. ICE in these courts impact everybody
21 and impedes access. Like E.J., those seeing help
22 deserve order and reliability rather than panic and
23 instability for domestic violence plans. So, we
24 cannot protect them in every from ICE. What we can
25 do is allow them a venue to pursue a tool to protect

1 them from one evil in their lives, the perpetrators.
2 We can promote our legal remedies as [bell] as one
3 that are real that they can avail, too, with
4 unjustifiable intrusion by the government during that
5 process. At least when they leave the courthouse
6 they are leaving a little bit more empowered and a
7 little bit more safe. Thank you.

9 CHAIRPERSON MENCHACA: Thank you for
10 that, and just giving us more context about what's
11 happening on the ground. I think what I want to ask
12 now is hoping there's, you know, if this law passes,
13 what happens in terms of all the work we'll do with
14 communication? Does this change the needle? Is it
15 too late? Is the chilling effect had its impact?
16 Will we see a turn and could we make a difference in
17 people's perception about what's happening. Even
18 with the law as it's written, ICE will still be able
19 to come in, but they'll just have to follow more
20 rules. Will that help change the culture or the kind
21 of fear factor for—for our courts?

22 ATOSA MOULA HEDDI: I think so. I think
23 that--

24 CHAIRPERSON MENCHACA: [interposing] Can--
25 can you speak--

2 ATOSA MOULA HEDDI: Sure. I think that if
3 you look historically awhile back or not so long ago,
4 but there was a lot of fear with immigrant
5 communities in terms of engaging with our systems,
6 and we did a lot of work with specifically survivors
7 of domestic violence and trafficking and youth to
8 make them feel safe coming forward, and
9 unfortunately, we've lost some of the things that
10 we've gained. That's certain, but there's no reason
11 that we wouldn't be able to hopefully be able to get
12 that back, and what I think the Protect Our Courts
13 Act does is it—it sends a message, and it sends a
14 real powerful message that can hopefully change this
15 perception. There's a perception amongst immigrant
16 communities, right. You see ICE just wandering freely
17 in the courthouse or you hear about that from your
18 friend that was just in court, and then there's the
19 perception: Is the court working with ICE? Is the
20 court going to report me to ICE? And if you have
21 something coming out really strongly from the city
22 and from the state from the Protect Our Courts Act,
23 then you can have this thing to rely back on and say
24 no. There's this very clear statement by everybody
25 that our courts are not working with ICE, and that if

1
2 ICE wants to come after you, they have to go through
3 all of these processes. Let's talk about you. Let's
4 talk about your case. How big of a risk are you at
5 being detained by ICE? Just because ICE is there for
6 another person doesn't mean they can pick you up also
7 while being there because they find out that you are
8 also somebody who might not be in lawful immigration
9 status. And so I do think that it certainly provides
10 us with a much better tool to be able to give our
11 clients information and assurances. [background
12 comments.

13 SHANI ADESS: Yeah, I mean I also think
14 it's important to recognize, too, because we will
15 have a lot of work to do because there has been such
16 a big chilling effect, and-and I think that requires-
17 someone had mentioned funding earlier on previous
18 panels, right, and I think funding for organizations
19 to do community organizing, and I think it's very
20 important to put more resources in that because the
21 communities are very strong, and this information
22 they hear is very strong, and most people who-most
23 organizations who are working with immigrants already
24 are so backlogged, and so we really want to make sure

25

1 that there is also a plan in place for implementation
2 on really doing community outreach and education.

3
4 SUSANNA SAUL: Just one-one quick
5 addition to what's been said is that, of course, I
6 believe that there's--there's an ability to improve.
7 If there wasn't for them, why would we do this work?
8 But more importantly is what if we don't act? This
9 chilling effect can eliminate all forms of justice
10 for our clients, and what is does is it legitimizes
11 for our clients and for domestic violence clients for
12 example for domestic violence victims what they keep
13 hearing: If you ask for help, ICE will get you. So,
14 I think what's most dangerous is the failure to act.

15 CHAIRPERSON MENCHACA: Yes, agreed,
16 agreed and hopefully this session will be the
17 session. Chair Lancman? Okay, thank you so much.

18 SUSANNA SAUL: Thank you.

19 CHAIRPERSON MENCHACA: Our next panel is,
20 last panel. The last panel? The last panel we have
21 Make the Road, Miriam Martinez, please. The Anti-
22 Violence project H. Linn House (sic). I think he
23 might have already left. Virginia Goggin (sp?), Greg
24 Waltman; Fernanda Hidskin(sic). The Council Peoples
25 Organization; and is there anyone else that submitted

1 a—an appearance card but it was not called? Anybody
2 else want to testify to day? Okay, great. If we can
3 start here to the left. [background comments] Okay,
4 that's fine, too.

6 RISA DIXON: Good afternoon. My name is
7 Risa Dixon (sic). I'm an immigration attorney at
8 Make the Road New York. I'm going to be interpreting
9 for Miriam Hernandez who is a Make the Road community
10 member. Go ahead.

11 MIRIAM HERNANDEZ: [Speaking Spanish]
12 [bell]

13 CHAIRPERSON MENCHACA: Muchas gracias.

14 TRANSLATOR: My name is Miriam Martinez.
15 I'm here today because I want to share with the City
16 Council how immigration has affected my life, and why
17 the State Legislature must pass and for Governor
18 Cuomo to sign the Protect Our Courts Act. My husband
19 Plutarco Ramirez was arrested by Immigration on July
20 2018 after being falsely charged with a crime that
21 was later dropped. His detention drastically shifted
22 my everyday life. For the first time my family was
23 torn part. The way that Plutarco was detained was
24 very difficult, and thanks to the work of Make the
25 Road New York, Plutarco is now back with us, and

1 continuing to fight his case from the outside. I
2 have—I have the stories of people who have been
3 detained outside of the court, and while my husband
4 was in Immigration Detention, he also heard similar
5 stories. The day before Plutarco was arrested by
6 immigration, he had a court appearance, and after the
7 court appearance was over, we accidentally left the
8 courthouse through the back, but I am sure if
9 Plutarco and I had left through the front,
10 Immigration would have detained him right there.
11 Immigration detains people without letting them know
12 who they are while people are trying to fix their
13 cases in the court. The Protect Our Courts Act will
14 help mitigate—will help mitigate arrests outside the
15 courts, require immigration agents to show judicial
16 warrants before arresting someone. It will help
17 people not be afraid to go to court, which can be
18 risky for their cases. I support this bill for these
19 reasons as an immigrant and a York—and a New York
20 resident. The presence of ICE in New York courthouses
21 is a tactic being used to terrorize our immigrant
22 community, and undermines our constitutional right to
23 access courts in our judicial system. Trumps
24 deportation mission has no place in our courthouses
25

1
2 and New Yorkers should not fear being ripped away
3 from their families when accessing our courts. My
4 husband—my husband and I support the Protect Our
5 Courts Act, which would allow all New Yorkers
6 regardless of immigration status to have equal and
7 safe access to New York courts.

8 CHAIRPERSON MENCHACA: Senior Martinez
9 [Speaking Spanish]

10 MIRIAM MARTINEZ: [Speaking Spanish]

11 CHAIRPERSON MENCHACA: Muchas gracias.
12 Thank you. [background comments]

13 FERNANDA HIDSKIN: Okay, got you. Thank
14 you for having me today. My name is Fernanda Hidskin
15 (sp?). I'm an immigration attorney at the Council of
16 Peoples Organization. We predominantly serve the
17 South Asian community, and we have been a strong
18 chilling effect regarding people being arrested by,
19 or near or inside courthouses. The clients have told
20 us that they have been hearing rumors of courthouses
21 arrests for years especially in an environment of
22 general ICE fear and anxiety created by the rhetoric
23 of the current administration. This is spread
24 quickly enough that we have seen immigrants too
25 scared to show up to court even to support a family

1
2 or community or serve as witnesses. This has been
3 true of immigrants with every level of status as they
4 feel that the Trump Administration will use any
5 excuse to get rid of them. They know that ICE shows
6 up to courthouse arrests and makes courthouses
7 arrests. This is discouraging legal process, and
8 forcing judges to make decisions without full access
9 to witnesses. Without some sort of relief, we expect
10 to hear more stories of immigrants too scared to show
11 up to court many of whom have legitimate avenues of
12 relief, but are intimidated and bullied into
13 undocumented life, leaving them vulnerable to these
14 types of arrests. The Protect Our Courts Act would
15 serve to ensure that individuals who are trying to do
16 the right thing either for themselves and their case
17 or to assist family members in the process are given
18 the protection necessary to do so. And I would like
19 to share one example of a client that I had not that
20 long ago. She had been sexually assaulted, and I was
21 doing a consultation with her, and I explained the
22 process to obtain U Visa, and in that process I
23 explained that it was very likely that she would have
24 to go to court at some point, and in the end she said
25 I'm scared, and I said okay, are you scared of the

1 attacker? And she said, No, I'm scared of ICE. So,
2 I don't think that—that she would be the only one
3 that I see that will tell me the same thing. She
4 hasn't been the only one that I've seen that has told
5 me that [bell] and different types of scenarios, if—
6 if I may, and so, you know, I do believe that I can
7 speak for myself and other members of the Council of
8 Peoples Organization that we strongly support this
9 act. Thank you.
10

11 GREG WALDMAN: Councilman Menchaca, Greg
12 Waldman, G1 Quantum, the clean energy company called
13 G1 Quantum, but the issues are—are pretty complex.
14 So, where should we begin? Obviously you have
15 Christian Neelson being or resigning or being like
16 out, but I wouldn't say that—that is indicative of
17 anything new, or a new policy coming from the
18 Administration to help resolve the issue. Again, the
19 issue for remains one of the value based hyper
20 protectionism within the media and narratives of the—
21 the viability of alternative solutions. Solutions
22 like I suggested to you a couple of weeks ago with
23 solar wall opportunity, because if you're putting
24 solar panels on 2,000 miles or border wall, all of a
25 sudden you have new jobs, and you're creating \$242

1 trillion kilowatt hours of energy or \$291 billion of
2 energy per year, and then you're able to export
3 energy to Latin America for cheaper, which on average
4 pays 20 to 25% more in energy prices, reducing the
5 barrier to entry for Latin American citizens to
6 participate in the global economy and resolving chain
7 migratory issues through that type of proprietary
8 application. But the—the issue remains one of the
9 value scope of the narratives or solutions being
10 suggested to the public. So, if these solutions are
11 superior courses of action, these—these exist, it's
12 one of parsing through these value based
13 protectionist narratives to make sure that these
14 alternative solutions do, in fact, exist so that a
15 more diverse conversation can be created to resolve
16 these issues. And—it does go—come down to the courts
17 and the courts' discretion, but through improperly
18 type of value bench trial monopolies and a type of
19 graft and malversation that these people [bell] have
20 testified to. Obviously taking a—a broader stance, a
21 broader approach through this—this bill and
22 legislation is appropriate. Thank you.

24 CHAIRPERSON MENCHACA: Thank you for that
25 and—and I think what—what I—what I heard you say very

1
2 plainly was how do we—how do we come up with more
3 solutions, and—and different solutions and bringing
4 different people to the table for that discussion,
5 and—and I—and I hope that this—that’s what, you know,
6 we started this conversation with the Commissioner
7 giving some incredibly eloquent personal reflections
8 about what we recently did with the committee and how
9 we’ve changed the makeup of the committee to ensure
10 that everyone feels welcome here to speak to us
11 directly about some of these things that are so
12 traumatic. We’re not just hearing from lawyers.
13 We’re hearing from advocates and we’re hearing from
14 people who have been personally impacted like Ms.
15 Martinez, and that’s—that’s important, and that’s
16 what we’re trying to do here. So, thank you and I
17 hope you feel welcome to all of you. I have a—I have
18 a question for Ms. Martinez. [Speaking Spanish]
19 MIRIAM MARTINEZ: [Speaking Spanish]
20 CHAIRPERSON MENCHACA: [Speaking Spanish]
21 MIRIAM MARTINEZ: [Speaking Spanish]
22 CHAIRPERSON MENCHACA: I asked Ms.
23 Martinez what could the city do essentially to
24 support her, and having gone through it with her
25 husband in her testimony what could the city do, and

1 she quickly pointed to Make the Road, and really
2 supporting Make the Road as an organization, and an
3 organization that as with her every step of the way
4 bringing the lawyer, but also bringing other
5 resources for her and her daughter who even—her
6 daughter, who is an American born, is—is fearful, too
7 of police and that—that I think is—is what she's kind
8 of describing as—as the real need, and how we can—how
9 we can—and that's something we can do as a city. We
10 can support the family as they walk through, in and
11 out of the courts, and out of—and in and out of
12 immigration needs, and—and that's what we're doing.
13 That's what we're doing here in the—in the
14 Immigration Committee, and that's what we're fighting
15 for every single budget to ensure that we get the—
16 that all immigrants get access to—to justice.
17 [Speaking Spanish] I don't think I have any other
18 questions for—for you all. I do want to end with
19 this: Not only an incredible thank you to all the
20 staff, both from the Justice Committee, but also the—
21 the Immigration Committee, and we started this
22 conversation with the reports, and the reports
23 offered data, and what—what I think is so—so
24 important about this is that we have both testimony
25

1 that's connected to the impact and the trauma that's
2 happening in our courts that are supposed to be
3 delivering justice, and that's part of how—the only
4 way that our—our government and our democracy and the
5 promise of the Constitution and, you know, what
6 America is all about is requires that—that branch of
7 government to be strong, and—and that's being
8 impacted by the Executive right now in a very big
9 way. And so, how do we that with the legislative
10 bodies moving forward to propose a law to change that
11 structure to—to return to a better justice system,
12 and so—but it has to be fueled not just for stories
13 that are so impactful, and we've got to tell those
14 stories, but also through data, and we're seeing that
15 data, and both IDP and the work that the Mayor's
16 Office of Immigrant Affairs has put together, and
17 Bronx Legal Services, and Make the Road and all these
18 organizations that are bringing the data forward to
19 tell the stories through numbers about how it's
20 actually impacting people from applying to U and T
21 Visas, and asking for a lawyer and—and reporting
22 crimes in the neighborhood. That's—that's—that's how
23 our society can work, and so this is—this is—this is
24 what makes it so fundament, and that's why we're here
25

1
2 and then we're going to advocate for a passage of
3 this law, and very soon we'll vote on it. I look
4 forward to the City Council hopefully with unanimous
5 support to send that message to—to Albany, to the
6 Governor, to the State Senate and the State Assembly.
7 So, thank you all for your—your support today, and—
8 and we'll see you at the next Immigration Committee
9 hearing. Thank you. [gavel]

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C E R T I F I C A T E

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



Date May 11, 2019