

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON IMMIGRATION  
JOINTLY WITH THE COMMITTEE  
ON CRIMINAL JUSTICE

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JUNE 9, 2021  
Start: 10:34 A.M.  
Recess: 1:56 P.M.

HELD AT: REMOTE HEARING VIRTUAL ROOM 2

B E F O R E: CHAIR CARLOS MENCHACA - Immigration  
CHAIR KEITH POWERS - Criminal Justice

COUNCIL MEMBERS: CARLOS MENCHACA  
KEITH POWERS  
ROBERT HOLDEN  
OSWALDO FELIZ  
SELVENA BROOKS-POWERS  
JAMES VAN BRAMER  
FRANCISCO MOYA  
DANIEL DROMM  
DARMA DIAZ  
CARLINA RIVERA  
ALICKA AMPRY-SAMUEL  
KEVIN RILEY

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

PUBLIC ADVOCATE JUMAANE WILLIAMS  
KENNETH STUKES  
DANA WAX  
LYNELLE MAGINLEY-LIDDIE  
HEIDI GROSSMAN  
CAROLINA CHAVEZ  
JILL WALDMAN  
CASEY DALPORTO  
ROSA COHEN-CRUZ  
SOPHIA GURULE  
HANNAH WALSH  
REBECCA PRESS  
ITZEL CORONA AGUILAR  
KIKI TAPIERO  
PRAMEELA KOTTAPALLI  
CATHERINE GONZALEZ  
GENIA BLASER  
LINDSAY NASH  
LUBA CORTES  
ZACHARY AHMAD  
YAMILKA MENA  
MERYL RANZER  
DEVASHISH BASNET

HEENA SHARMA  
NATHAN YAFFE  
MAUREEN SILVERMAN

COMMITTEE ON IMMIGRATION  
JOINTLY WITH THE COMMITTEE ON  
CRIMINAL JUSTICE

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SGT HOPE: Recording to the Cloud

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started.

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SGT. SADOWSKY: Backup is rolling.

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SGT. HOPE: Thank you. Sergeant BIONDO,

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will you begin your opening statement?

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SGT. BIONDO: Thank you. Good morning and

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welcome to the remote hearing on Immigration joining

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with the Committee on Criminal Justice. Will Council

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Members and staff, please turn on your video at this

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time. Once again, will Council Members and staff,

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please turn on your video at this time. Thank you.

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To minimize disruptions, please place all cell phones

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and electronics to vibrate. You may send your

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testimony to [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov), once again,

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that's [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Chairs, we are

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ready to begin.

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CHAIR MENCHACA: Thank you and buenos

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dias to everyone, and I will bring this hearing to

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order. Buenos dias. My name is Carlos Menchaca, and

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I am the Chair of the Committee on Immigration here

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in New York City Council. We're joined today by my

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colleague, Chair of the Committee on Criminal

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Justice, Keith Powers and later on I will acknowledge

COMMITTEE ON IMMIGRATION  
JOINTLY WITH THE COMMITTEE ON  
CRIMINAL JUSTICE

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2 all the Members who are here today. Today, the  
3 committees will be conducting oversight on the city's  
4 detainer laws with a specific focus on seven  
5 incidents brought to our attention related to the  
6 Department of Correction's implementation of our  
7 local laws. The Committee on Immigration will also  
8 hear the following legislation: Resolution Number  
9 1648 sponsored by Public Advocate Jumaane Williams  
10 and myself, calling on the New York State Legislature  
11 to pass and the govern to sign the New York for All  
12 Act which could and will prohibit and regulate the  
13 discovery and disclosure of immigration status by New  
14 York State and local government entities.  
15 Reconsidered Introduction T20217658 sponsored by  
16 myself in relation to creating a private right of  
17 action related to civil immigration detainers.  
18 Reconsidered Introduction T217657 sponsored by  
19 Council Member Powers is related to limiting the  
20 circumstances in which a person may be detained by  
21 the police department on a civil immigration  
22 detainer, and preconsidered Intro T20217659 sponsored  
23 by Council Members Powers in relation to limiting  
24 communication between the Department of Correction  
25 and Federal Immigration Authorities. My co-chair and

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2 colleague, my fellow progressive caucus co-chair,  
3 Council Member Powers will speak on his legislation,  
4 and we've also been joined by Public Advocate who  
5 will give a statement on his Resolution as well. So,  
6 I'll just say that for now, I'm incredibly proud of  
7 the work that these joint committees have done to  
8 really ensure that we're talking about some of the  
9 more serious things that the city can do at a local  
10 level to bring justice to our immigrant families. We  
11 wouldn't be able to hold this hearing if it wasn't  
12 for the incredible work of our public defenders and  
13 advocates who have been fighting on the ground to end  
14 deportations every single day and they're doing that  
15 with the support of the city, but they're doing that  
16 because they believe every single day that our city,  
17 as we struggle to build a sanctuary city, that we do  
18 this work together, and so I want to say thank to  
19 them. My preconsidered Bill will offer relief to  
20 families who have watched in horror as their loved  
21 ones ended up in ICE custody through a violation of  
22 our detainer laws as a result of an interaction with  
23 a city agency employee. The Bill would grant  
24 individuals the ability to sue the city for violation  
25 of our local laws. When the city violates the

1  
2     detainer law, it can lead to permanent damage and  
3     irreparable harm from extended detention, family  
4     separation, and deportation. My Bill underscores  
5     just how seriously we consider a violation of this  
6     type. Now, since 2011, the City of New York has  
7     attempted to minimize interaction with Federal  
8     immigration enforcement as a matter of policy. In  
9     2014, the City Council passed a package of laws that  
10    made clear the city's policy. Local entities were  
11    not empowered to engage in immigration enforcement.  
12    Federal detainer requests were required to be  
13    accompanied by federal judicial warrants and the DOC  
14    and the NYPD could not hold an eligible individual  
15    for longer than state law allowed prior to release.  
16    Four years ago, the committee on immigration again  
17    updated our detainer laws, passing legislation that  
18    prohibited the use of any city resource for the  
19    purpose of immigration enforcement and applying  
20    detainer restrictions on the Department of Probation.  
21    In April of 2021, public defenders affiliated with  
22    New York Immigrant Family Unity Project, or NYIFUP,  
23    presented me and my staff with seven instances where  
24    the Department of Corrections appears to have  
25    violated our detainer laws or acted in a way that is

1  
2 contrary to intent of our detainer laws. Most of  
3 these instances resulted in ICE transfers of  
4 immigrant New Yorkers. Five of the seven occurred  
5 within the last year, and two of them within the last  
6 few months. I'm horrified, and I'm angry. These  
7 incidents have been shared with the mayoral  
8 administration. Many of them, for the second time.  
9 As representatives of the DOC and MOIA, they were  
10 involved in decision making regarding these  
11 incidents, and will be subject to today's discussion.  
12 We will hold them accountable. To the  
13 representatives of the administration here to testify  
14 and answer question, I urge you to evaluate the  
15 guidance you've drafted and the decision makers  
16 you've empowered to carry out our city laws. Our  
17 city is home to more than 3 million immigrants, and  
18 trust in government is at an all-time low, especially  
19 for our immigrant communities. I want to say thank  
20 you to our incredible staff who are running this  
21 remote hearing behind the scenes, our immigration  
22 committee staff for the work on this committee  
23 counsel, Harbani Ahuja; policy analyst, Elizabeth  
24 Crounk (SP?) and my staff as well, Chief of Staff,  
25 Laura Lucero (SP?) and Deputy Chief of Staff Cesar

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2 Vargas (SP?), and a special thank you to my former  
3 Legislative and Communications Director Tony Churito  
4 (SP?), who is a fierce advocate for justice and is a  
5 big reason we are here today talking about these  
6 issues. I want to hand this over to Council Member  
7 and Chair Keith Powers for his statement.

8 CHAIR POWERS: Thank you, Chair Menchaca  
9 and good morning everyone. I'm City Council Member  
10 Keith Powers, Chair of the Committee on Criminal  
11 Justice, and I'm glad to have to join us remotely  
12 today for our joint hearing New York City's detainer  
13 law. Over the past decade, the City Council has  
14 taken many steps to limit the interaction between  
15 federal law enforcement and immigrant New Yorkers  
16 from expanding the Mayor's Office of Immigrant  
17 Affairs to enacting sweeping privacy protection,  
18 prohibiting ICE on non-public city property. Most  
19 critically, our detainer law is meant to ensure that  
20 when an immigrant New Yorkers is in custody of the  
21 city, ICE officers cannot come in and take them away  
22 from their families or their communities. Further,  
23 the city's detainer law attempts to ensure that the  
24 punishment meets the crime by preventing deportation  
25 for the minor offenses here. Today, the Committee on

1  
2 Immigration will be hearing two of my Bills. The  
3 first one in relation to limiting the circumstances  
4 in which a person may be detained by the police  
5 department on a civil immigration detainer. This  
6 Bill would amend our detainer law to no longer allow  
7 NYPD to detain an individual without a judicial  
8 warrant for 48 hours beyond the time when such a  
9 person would otherwise be released. Recent case laws  
10 determine that this type of detention is legal, and  
11 this Bill would update our detainer law to be  
12 consistent with (inaudible). The second Bill is in  
13 relation to limiting communication between the  
14 department of correction and federal immigration  
15 authorities. This Bill would prohibit DOC staff from  
16 communicating with federal immigration authorities  
17 regarding any person in DOC custody unless the  
18 communication is in relation to a person for which a  
19 civil immigration detainer is being honored or the  
20 communication is unrelated to the enforcement of  
21 civil immigration laws. When a city law was previous  
22 amended, federal law prohibited localities from  
23 enacting laws to prevent communication with ICE, but  
24 a federal court has since deemed this federal  
25 prohibition to be unconstitutional. Therefore, this

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2 Bill would limit DOC's communication with ICE to the  
3 furthest extent possible. Additionally, we will also  
4 be asking DOC and MOIA about the specific instances  
5 in which it appears that the detainer law was  
6 violated. The Committees are interested in hearing  
7 how these situations arose, how both agencies acted  
8 to address these situations, and what policy changes  
9 were made to ensure that this will never happen  
10 again. We are committed to protecting immigrant New  
11 Yorkers, and we will continue to work with public  
12 defenders and advocates to ensure that our policies  
13 reflect that commitment. I want to note that myself  
14 and Council Member, Chair Menchaca have sent these  
15 instances over to the Mayoral Administration Agencies  
16 ahead of this hearing, so we do anticipate that we  
17 will get some clarification and answers on those violations  
18 to the extent furthest as possible. With that said,  
19 I want to thank our committee staff for putting  
20 together this hearing. I'm going to head over to  
21 Committee Counsel to go over some procedural items,  
22 but the last thing I want to say is I just really  
23 want to thank Chair Menchaca who pushed very hard to  
24 make sure that this hearing happened today and that  
25 we were able to provide accountability for those

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2 instances where the law was violated, and of course,  
3 to push for better policies. So, I want to thank him  
4 for his partnership here today, and with that, I'll  
5 turn it over to Committee Counsel.

6 CHAIR MENCHACA: Thank you, Chair Powers  
7 and actually, I think Public Advocate; there I see  
8 him, Public Advocate Jumaane Williams is here, and if  
9 we can unmute him, and while he is getting unmuted, I  
10 want to welcome Council Members Holden, Feliz,  
11 Brooks-Powers, Van Bramer, and MOIA who are also here  
12 joining us today.

13 PUBLIC ADVOCATE JUMAANE WILLIAMS: Good  
14 morning. Can you hear me? Thank you so much. Peace  
15 and blessings to everyone, love and life, thank you  
16 to Chair Menchaca and Chair Powers for this hearing.  
17 I'd like to say a few words. As mentioned, my name  
18 is Jumaane Williams. I'm the Public Advocate for the  
19 City of New York. This is a very important hearing  
20 about New York City detainer laws. I want to thank  
21 you for including my office's Resolution 1648 as part  
22 of the agenda. Just a few years ago, myself and  
23 Council Member Menchaca actually were involved in  
24 preventing somebody from being deported, and that was  
25 the moment when I really realized that although we

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2 were a sanctuary city, so-called for immigrant  
3 residents, city and state law enforcement agencies do  
4 unfortunately, rather intentionally or  
5 unintentionally coordinate with ICE, and further  
6 ICE's cruel and genophobic agenda, we have to do  
7 whatever we can to prevent that from happening. We  
8 know about inquiring about a resident's immigration  
9 status, sharing information with ICE, and directly  
10 collaborating with ICE operation. These agencies  
11 have funneled New Yorkers into ICE detention. This  
12 breaks up families and communities and puts the  
13 health and safety of immigrant New Yorkers at risk  
14 and run very contrary to our values of the city.  
15 This has to end now. Resolution 1648 calls on the  
16 state legislature to pass and the governor to sign  
17 the New York for All Act 82328A by Assembly Member  
18 Reyes and S3076A by State Senator Salazar, which  
19 would (inaudible) municipal and state pipelines to  
20 ICE custody before (inaudible) it would prohibit  
21 state and local offices, including law enforcement  
22 and correction officials from enforcing federal  
23 immigration laws and inquiring about immigration  
24 status. This will ensure that our state and local  
25 agencies do not act outside of their government

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2 jurisdiction. Second, it would remove language and  
3 state law that requires information sharing between  
4 state and city agency and immigration enforcement  
5 (inaudible). Third, it will require people in  
6 custody to be given notice of their rights before  
7 interviewed by ICE. Further, it will prohibit ICE  
8 from entering non-public areas or state or local  
9 property without an additional warrant. (inaudible)  
10 that are being heard on the city level today, the New  
11 York for All Act would create real protection against  
12 ICE deportation. I urge Member to move this  
13 Resolution. I want to thank you for your time and  
14 consideration in protecting all New Yorkers and  
15 really making a push to make sure that everyone is  
16 safe without our city as we are finding out, these  
17 concerns, although they were heightened during one  
18 particular presidency, (inaudible) will necessarily  
19 provide protection for all New Yorkers. This piece  
20 of legislation will. Thank you so much.

21 CHAIR MENCHACA: Thank you, Public  
22 Advocate, Jumaane Williams and I'll just say that,  
23 we're in this together and I think we have a lot of  
24 things that we can actually do here in the city and  
25 the state to make and struggle in that vision of a

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2 sanctuary city that we are clearly still struggling  
3 with even, at our city agencies who are filled with  
4 humans and humans that may be ascribed to a white  
5 supremacy or racinophobic mentality and we'll get to  
6 the bottom of that, so thank you so much for your  
7 support today. We've also been joined by Council  
8 Members Dromm and Diaz. With that, I'm going to hand  
9 this over to Harbani Ahuja for some technical pieces  
10 and procedural items.

11 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
12 you, Chair. My name is Harbani Ahuja and I'm Counsel  
13 to the Committee on Immigration for the New York City  
14 Counsel. Before we begin, I want to remind everyone  
15 that you will be mute until you are called on to  
16 testify when you will be unmuted by the host. I will  
17 be calling panelists to testify. Please listen for  
18 your name to be called and I will be periodically  
19 announcing who the next panelist will be. For  
20 everyone testifying today, please note that there may  
21 be a few seconds of delay before you are unmuted, and  
22 we thank you in advance for your patience. All  
23 hearing participants should submit written testimony  
24 to [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). At today's hearing,  
25 the first panelist to give testimony will be

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2 representatives from the Administration followed by  
3 Council Member questions and then members of the  
4 public will testify. Council Members who have  
5 questions for a particular panelist should use the  
6 Zoom raise hand function and I will call on you after  
7 the panelists have completed their testimony. I will  
8 now call on members of the Administration to testify.  
9 Testimony will be provided by Kenneth Stukes, DOC  
10 Chief of Security. Additionally, the following  
11 representatives will be available for answering  
12 questions: Dana Wax, Deputy Chief of Staff for the  
13 Department of Correction; Lynelle Maginley-Liddie,  
14 First Deputy Commissioner for the Department of  
15 Correction; Heidi Grossman, Deputy Commissioner of  
16 Legal Matters for the Department of Correction; and  
17 Carolina Chavez, Deputy Commissioner and General  
18 Counsel at the Mayor's Office of Immigrant Affairs.  
19 Before we begin, I will administer the oath. Chief  
20 of Security Kenneth Stukes; Deputy Chief of Staff  
21 Dana Wax; First Deputy Commissioner Lynelle  
22 Magninley-Liddie; Deputy Commissioner Heidi Grossman;  
23 Deputy Commissioner Carolina Chavez, I will call on  
24 you each individually for a response. Please raise  
25 your right hands. Do you affirm to tell the truth,

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the whole truth, and nothing but the truth in your testimony before this committee and to respond honestly to Council Member questions? Chief of Security Kenneth Stukes.

CHIEF OF SECURITY KENNETH STUKES: Yes.

COMMITTEE COUNSEL HARBANI AHUJA: Thank you. Deputy Chief of Staff Dana Wax.

DEPUTY CHIEF OF STAFF DANA WAX: Yes.

COMMITTEE COUNSEL HARBANI AHUJA: Thank you. First Deputy Commissioner Lynelle Maginley-Liddie.

FIRST DEPUTY COMMISSIONER LYNELLE

MAGINLEY-LIDDIE: Yes.

COMMITTEE COUNSEL HARBANI AHUJA: Thank you. Deputy Commissioner Heidi Grossman.

DEPUTY COMMISSIONER HEIDI GROSSMAN: Yes.

COMMITTEE COUNSEL HARBANI AHUJA: Thank you. Deputy Commissioner Carolina Chavez.

DEPUTY COMMISSIONER CAROLINA CHAVEZ:

Yes.

COMMITTEE COUNSEL HARBANI AHUJA: Thank you. Chief of Security Kenneth Stukes, you may begin your testimony when you are ready.

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2 CHIEF OF SECURITY KENNETH STUKES: Good  
3 morning Chair Menchaca, Chair Powers, and Member of  
4 the Immigrant Committee and Criminal Justice  
5 Committee. My name is Kenneth Stukes and I'm the  
6 Bureau Chief of Security for the New York City  
7 Department of Correction. I am joined today by Dana  
8 Wax, Deputy Chief of Staff; First Deputy Commissioner  
9 Lynelle Maginley-Liddie; and Deputy Commissioner of  
10 Legal Matters, Heidi Grossman. I'm also pleased to  
11 be joined by colleagues at the Mayor's Office of  
12 Immigrant Affairs, an important partner in matters  
13 concerning incarcerated members of the immigrant  
14 community. I thank you for the opportunity to  
15 testify on the Department's practice and with respect  
16 to detainer laws and to comment on the three bills  
17 being considered at today's hearing. The Department  
18 recognizes that the city's effort to promote policies  
19 that support immigrant communities while  
20 simultaneously maintaining public safety and  
21 confidence in our jails and local government. In  
22 accordance with New York City laws, the Department  
23 does not subject its officers or employees to the  
24 direction of federal immigrant enforcement  
25 authorities. Our policies make clear that DOC's role

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2 is not to conduct immigrant enforcement. This helps  
3 give all New Yorkers a respective immigration status  
4 assurance in their local government's integrity. As  
5 a matter of policy, the Department does not comply  
6 with ICE detainer unless specifically directed to by  
7 local law. (Inaudible) generally, the only  
8 circumstances under which the Department of  
9 Correction is permitted to cooperate and notify ICE  
10 of the time of release and transfer custody of an  
11 incarcerated individual or when the individual has  
12 been convicted of a qualifying conviction or is  
13 identified as a possible match in the terrorist  
14 screening database, and federal immigration  
15 authorities provide documentation of the probable  
16 cause of immobility. As indicated in the  
17 Department's latest public report regarding ICE  
18 detainers, of the 270 civil immigration detainers  
19 that arrived at the DOC between July 2019 and June  
20 2020 only, 20 individuals were transferred to federal  
21 immigration authority. In fact, of the 1925  
22 detainees arriving between October of 2016 and June  
23 of 2020, the Department has only transferred 5% of  
24 the requested individuals to federal immigration  
25 authorities which equates to 90 people over a period

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2 of four years. Cooperation happens very  
3 infrequently. The Department thoroughly reviews an  
4 incarcerated individual's case to determine rather  
5 they meet the criteria for being a transfer upon  
6 release. Upon admission to custody, the Department,  
7 they receive a notification from federal authorities  
8 that the incarcerated individual has an immigration  
9 detainer. If the federal authorities have provided  
10 all necessary paperwork, we then access the  
11 individual to determine if they meet the criteria for  
12 being transferred upon release as outlined earlier.  
13 In most cases, individuals do not meet the criteria  
14 and we notify the federal authorities that we will  
15 honor their detainer. Occasionally, we encounter and  
16 individual who has a qualifying conviction as  
17 outlined in administrative code 9S131. Once we are  
18 aware of the qualifying conviction, the ICE unit of  
19 the custody management division confers with the  
20 Legal Division confirm that the individual meets the  
21 criteria. Federal immigration authorities will be  
22 notified of an individual impending release only once  
23 the ICE unit has confirmed that the individual meets  
24 the criteria. However, it is important to note that  
25 even in the limited scenarios in which the Department

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2 cooperates with federal authorities, the Department  
3 still proceeds with existing discharge procedures.  
4 It is not DOC policy to retain individuals due to  
5 immigration detainers beyond their time authorized  
6 under New York State and local law. With respect to  
7 the proposed legislation, Preconsidered Introduction  
8 7657. With regards to Intro 7657, the Bill retains  
9 that NYPD's detainment of an individual beyond the  
10 time which that individual would otherwise be  
11 released from custody. Although this is not DOC  
12 practices, we will note that, as mentioned earlier,  
13 even when cooperating with immigration detainers, it  
14 is not consistent with DOC policy to detain  
15 individuals beyond time authorized under New York  
16 State and local law. Preconsidered Introduction  
17 7658. With regard to Intro 7658, the Department has  
18 concerns regarding the broad circumstances that may  
19 give rise to a claim as it will be difficult to  
20 differentiate causes in which an individual was held  
21 on a (inaudible) due to an immigration detainer.  
22 Virtually, it is when an individual is held for an  
23 extended period due to other factors. We look  
24 forward to discussing further with Council.  
25 Preconsidered Introduction 7659. With regards to

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2 Intro 7659, New York City is committed to protecting  
3 their rights of undocumented individuals. The  
4 Department does have concern that this legislation  
5 would remove the city's flexibility that only allow  
6 the city to call ICE in very limited circumstances.  
7 We will continue to review the legislation and look  
8 forward to continuing discussion with the Council on  
9 the (inaudible) unnecessary cooperation with ICE.  
10 The Department of Correction is committed to carrying  
11 out these goals and protecting the safety and  
12 security of all individuals within our facilities.  
13 Those goals do not include enforcement of immigration  
14 laws. We appreciate the Council's interest in  
15 protecting the immigrant community and my colleagues  
16 and I are happy to answer your questions. Thank you.

17  
18 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
19 you for your testimony. I'm now going to turn it  
20 over to questions from Chair Menchaca followed by  
21 Chair Powers. Panelists, please stay unmuted if  
22 possible during this question-and-answer period.  
23 Thank you. Chair Menchaca, please begin.

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25 CHAIR MENCHACA: Yes, thank you. I want  
to say thank you so much for testimony. You gave a  
review of the law and I think we're going to be

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2 really kind of trying to drill down about where we  
3 believe the law was not just violated, but that it  
4 was violated in the spirit of the law itself and this  
5 is why we're trying to correct it, and I just want  
6 move into some of the question which mostly are going  
7 to focus on the accountability on the Mayor's Office  
8 of Immigrant Affairs and Chair Powers will focus on  
9 corrections. Chief, if you could tell us a little  
10 bit about all the laws essentially that are  
11 pertaining to the preconsidered laws you're not in  
12 support of, right? I think I kind of heard you kind  
13 of walk through each; you have problems with all of  
14 them. Is that right? Not one is good for you in  
15 support?

16  
17 DEPUTY COMMISSIONER HEIDI GROSSMAN: This  
18 is Heidi Grossman, Deputy Commission for Legal  
19 Matters. I would just reiterate what the Chief  
20 testified to in his testimony regarding the  
21 preconsidered Introduction to 7567, 7658, and 7659.  
22 We welcome the opportunity to talk with the Council  
23 further, but we invite our testimony in terms of what  
24 our concerns are.  
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CHAIR MENCHACA: So, you do not support  
the laws as they're written or the preconsidered  
legislation?

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DEPUTY COMMISSIONER HEIDI GROSSMAN:

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Right, we articulate that there are consents, I mean,  
as for the 7657, that has to do with the police  
department. The Department can't speak to that  
particular Bill, but to 7658 with the private right  
of action, as stated, we do have concerns about the  
broad circumstances giving rights to a private right  
of action and we do look forward to talking with the  
Council further to further discuss our concerns. As  
to 7659, the Department does have concerns that this  
removes the city's flexibility allowing the city to  
communicate with ICE under very, very limited  
circumstances and that's something that we would  
welcome further conversations with the City Council.

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CHAIR MENCHACA: Okay, and just so I can  
clarify, there is a room of four of you. Whose the  
one speaking right now?

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DEPUTY COMMISSIONER HEIDI GROSSMAN: I'm

24

sorry. I have my mask on. My name is Heidi Grossman,  
Deputy Commissioner for Legal Matters.

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CHAIR MENCHACA: Deputy Commissioner

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Heisman?

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DEPUTY COMMISSIONER HEIDI GROSSMAN:

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Grossman.

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CHAIR MENCHACA: Grossman, Grossman,

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okay, and will you be answering questions from here

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on out on behalf of the Chief or ... (crosstalk).

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DEPUTY COMMISSIONER HEIDI GROSSMAN:

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Well, I think we're a panel, we're, so we're both

12

going to be answering questions.

13

14

CHAIR MENCHACA: Okay, great, so I'm

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going to move over to some of my prepared questions

16

for the Mayor's Office of Immigrant Affairs, and I'm

17

going to start at the top which is directed to MOIA.

18

How would you describe the role that MOIA plays in

19

regard to the implementation of the city's detainer

20

law? We're looking for just a sense of relationship

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here, how many individuals have been transferred to

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ICE custody in violation of the city's detainer law

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since the adoption?

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DEPUTY COMMISSIONER CAROLINA CHAVEZ:

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Good morning, and I do not believe we've met before.

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CHAIR MENCHACA: No.

DEPUTY COMMISSIONER CAROLINA CHAVEZ: So,  
Chair Menchaca, my name is Carolina Chavez. I'm a  
Deputy Commissioner over at MOIA as well as the  
General Council. In terms of MOIA's role with  
respect to the detainer law, our role is one of  
advising and supporting to make sure that the  
criminal justice agencies who are implicated by the  
detainer law are complying with it, right, and we  
advise in situations where it's policy matter. As  
you know, we have worked with the Council over the  
last eight years to really home in on a detainer law  
that is very narrow and restrictive. As far as the  
operations of the detainer law, that would be  
something that we would defer to DOC in this  
instance, for example, to talk to any statistic or  
also speak to the process that they take in order to  
comply with the detainer, but MOIA as a whole, with  
our city partners has a really strong commitment to  
making sure that we are complying with the detainers  
and that's the role that we play.

CHAIR MENCHACA: Okay, so then what have  
you observed? It sounds like you've observed all  
these cases, how many have violated, how many

1  
2 instances, how many violations have your recorded in  
3 the time since the detainer laws have been passed and  
4 made law?

5 DEPUTY COMMISSIONER CAROLINA CHAVEZ: I  
6 believe my DOC colleague can speak to the specific  
7 statistics or numbers that may be out there, but as  
8 you'll see in the report that we filed a few months  
9 ago in terms of a detainer report, there was one  
10 instance of a violation, which I believe is one of  
11 the ones that we'll be discussing today, other than  
12 that, it's our understanding that we have been in  
13 compliance with the detainer law.

14  
15 CHAIR MENCHACA: Okay, and is that your  
16 determination as MOIA or are you taking DOC's  
17 determination of violation of law?

18 DEPUTY COMMISSIONER CAROLINA CHAVEZ: We  
19 work as a city, with city partners to make sure that  
20 we're complying with the law. We have, as you know,  
21 an oversight policy over the criminal justice  
22 agencies so we work with law, we work with DOC and  
23 RTP, DOP, to ensure that there's compliance and we  
24 trust that our city partners are working with us  
25 accurately.

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CHAIR MENCHACA: Okay, let's move on. In cases one, four, and seven, and these are cases where we shared with you before the hearing and is available on the web to everyone in the committee report, MOIA was involved in reviewing DOC decision making that led to immigration enforcement. Was MOIA aware of these and other cases before receiving our letter?

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DEPUTY COMMISSIONER CAROLINA CHAVEZ: Of the incidents that were in the report, we were aware of two of the incidents that were reported.

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CHAIR MENCHACA: And which two of those?

DEPUTY COMMISSIONER CAROLINA CHAVEZ:

Those would be number four involving Rogelio LS, and then number seven, the Bronx Defender's client, and number one being Javier Castillo Maradiaga which was a case that we were also familiar with.

21

22

CHAIR MENCHACA: Okay, and so what did you do when you first learned of these cases?

23

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DEPUTY COMMISSIONER CAROLINA CHAVEZ:

Okay, I'll take them in order, I supposed. As far as case number one for Javier Castillo Maradiaga, that

1  
2 was a case that we became familiar with shortly after  
3 it happened, about a week after it happened, so the  
4 incident occurred back in, I believe it was mid-  
5 December of 2019. About a week later, MOIA was  
6 informed of what had occurred. We immediately  
7 reached out to the family to see if we could provide  
8 any supports and also, we didn't put them in touch  
9 with any legal service providers at that time. They  
10 declined our offers of support in that capacity, and  
11 then fast forward, going forward to 2021 when it came  
12 to our attention in January that there was an eminent  
13 deportation of Mr. Maradiaga. Again, we were in  
14 communication with advocates, we were in  
15 communication with counsel as in his counsel as well  
16 as with our city partners including our federal  
17 legislative affairs office and corporation counsel's  
18 office to do the best we could to mitigate the harm  
19 that had occurred, to advocate for his release and  
20 so, that is the extension to which we've been  
21 involved in in that particular case. As far as the  
22 other two cases that we were alerted to, we did not  
23 play an active role in those other than, I believe in  
24 one of the instances communicating some information  
25 as in circumstances, but really DOC would be the one

1  
2 who would have the details of what those incidents  
3 included.

4 CHAIR MENCHACA: Okay, and I think we're  
5 going to go through that with DOC after we're done  
6 with MOIA, with you. What resources did MOIA utilize  
7 to assist in the release of these individual of ICE  
8 custody or to stop the actual ICE transfer?

9  
10 DEPUTY COMMISSIONER CAROLINA CHAVEZ: As  
11 far as, again, Mr. Castillo Maradiaga's case, which  
12 is the one where we were more heavily involved, as I  
13 said, as you know, there are legal services that are  
14 provided to all immigrants including people who may  
15 be facing similar immigration cases and in DOC or  
16 have a criminal case. So, we provided a connection  
17 to some of those legal service providers that we work  
18 with that would have been back in December of 2019.  
19 Again, those services were declined at the time of  
20 need, well, I won't speak for Mr. Castillo Maradiaga,  
21 but the decision, their family decided to go another  
22 route. Once it came to 2021, at that point, our  
23 office was heavily engaged with all of the different  
24 parts of city government that are involved. We  
25 talked to DOC, we talked to (inaudible) again, our  
federal legislative affair's office was in contact

1  
2 with the different representatives from New York at  
3 the federal level, and then also, we were able to  
4 file a letter of support signed by the Appropriation  
5 Council in Mr. Castillo Maradiaga's case in the  
6 southern district.

7  
8 CHAIR MENCHACA: Okay, and I think at  
9 this point, for folk listening, I would really micro  
10 into the weeds on this, what I'm trying to illustrate  
11 here is the fact that we have a Department of  
12 Corrections that we believe is violating law and  
13 Mayor's Administration that is now trying to fix the  
14 situation and utilizing resources to stop a  
15 deportation, that could have been prevented in the  
16 first place by not violating the spirit of the law  
17 which is why we're trying to fix it, and so, this is  
18 really helpful for us to understand that. One hand  
19 is pushing this way and another hand is doing this  
20 way, and it's just leaving kind of a horror in the  
21 families that are being separated by the City of New  
22 York. So, let's move on to the next question. Does  
23 MOIA review communication between DOC and ICE and how  
24 often does it actually review that communication?  
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DEPUTY COMMISSIONER CAROLINA CHAVEZ: No.

The communications that DOC receives or has with other law enforcement is within their review.

CHAIR MENCHACA: Okay, so, there's no review. What prevents MOIA from reviewing that direct communication between DOC and ICE?

DEPUTY COMMISSIONER CAROLINA CHAVEZ: The role that we play and the way the detainer law is effectuated is at a level of support and guidance when it comes to the actual determination as to whether or not there is a case that necessitates some sort of communication with similar immigration enforcement. We are not involved in the operational day to day that the Department of Correction has; however, again, we work very closely with them as our partner in ensuring that we're complying with this detainer law that we're very proud of for having been able to tailor something that is really the most restrictive detainer law in the county. So, we work with our partners, we trust our partners, and we meet with them regularly, but we also respect the fact that their operation, they control their operational components.

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CHAIR MENCHACA: I just want to link to the previous questions that you got heavily involved with cases one, four, and seven, and just kind of see the conundrum that we're in right now where you're not logging information and understanding the communication between city agencies and ICE, yet, when the community comes out and said there's something going on that's wrong, the administration does inject themselves into the case work and tries to prevent deportation, and so, I'm having trouble really reconciling the moments of engagement and that we have a problem here and this is why we're trying to fix some of this stuff. So, moving on, did MOIA and, well, really, did MOIA's team work with DOC in preparing the internal policy document called interactions with federal immigration authorities? Did you all work together to prepare that?

DEPUTY COMMISSIONER CAROLINA CHAVEZ: I just want to correct one thing in terms of what you just said, Council Member. We have a lot of (inaudible) with number one, number four, and number seven, we were aware of, so I wouldn't say that we're heavily involved in either of those cases, and I

1  
2 would have to get back to you as to rather or not  
3 MOIA worked with DOC on the creation of that policy.

4 CHAIR MENCHACA: Okay, that's going to be  
5 helpful for us as we get a fuller picture about the  
6 issue that we're seeing here today with MOIA, NYPD,  
7 DOC, and all the other agencies. Let's then move to,  
8 regarding case number one, Mr. Javier Castillo  
9 Maradiaga who was just released from ICE custody in  
10 March following the city's violation of our detainer  
11 law, what specific communications occurred between  
12 ICE and DOC regarding Mr. Castillo and what method of  
13 communication was used?

14  
15 DEPUTY COMMISSIONER CAROLINA CHAVEZ: I  
16 think that would be a question for DOC.

17 CHAIR MENCHACA: Okay, if I could, Chair  
18 Power, I'll just hand that over to DOC for that, and  
19 also just note that MOIA doesn't have this  
20 information.

21  
22 CHAIR POWERS: (Crosstalk) sorry.

23 CHAIR MENCHACA: Yeah, and the question  
24 to DOC is, regarding Javier Castillo's case, and he  
25 was just released from ICE in March following the

1  
2 violation of our detainer law, what specific  
3 communication occurred between ICE and DOC regarding  
4 Mr. Castillo, and what method of communication was  
5 used?

6 DEPUTY COMMISSIONER HEIDI GROSSMAN:

7 First of all, I just want to say that this is Heidi  
8 Grossman, Deputy Commissioner for Legal Matters.

9  
10 CHAIR MENCHACA: Great, thank you so  
11 much.

12 DEPUTY COMMISSIONER HEIDI GROSSMAN: I do  
13 want to say that Department takes compliance with  
14 these laws very seriously. It is not the  
15 Department's role to conduct immigration enforcement.  
16 We support efforts to promote policies that support  
17 immigrant communities, and we also want to  
18 acknowledge and express our regret about the outcome  
19 concerning Mr. Castillo Maradiaga's transfer to ICE.  
20 This is not consistent with Department practice or  
21 protocol. This was an operational error, and we  
22 appreciate the impact that this has on Mr. Castillo  
23 Maradiaga and his family, and we want to express our  
24 deep regret for that.

25 CHAIR MENCHACA: Thank you for that.

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DEPUTY COMMISSIONER HEIDI GROSSMAN: Yes.

CHAIR MENCHACA: It's much appreciated and if we could focus on the question though, what was that communication and in what way was that communicated?

DEPUTY COMMISSIONER HEIDI GROSSMAN: One of our members of the service did not follow policy and had a communication when there was no conviction, and that currently is, this individual has been charged with violation of the Department's procedures and policies and the matter is currently is under a process of discipline and so, we really do need to let that process play out in terms of what that determination is and what the facts reveal, but the person was admitted into our custody on December 15th. Bail was posted on about, in the evening, around 8:00 p.m. or 8:30 p.m. and then he discharged to ICE the next morning close to 9:00 a.m. in the morning. In terms of the communication and the back and forth, since this matter is being pursued through discipline, it's very difficult for me to speak about what those details are because the person who was involved is represented by counsel, is going through

1  
2 the disciplinary process, so you have to let that  
3 play out.

4 CHAIR MENCHACA: Okay, I'm going to press  
5 a little bit because this really pivotal and I want  
6 to thank you for reminding us about the law. I mean,  
7 we wrote the law. This is why we're here because  
8 there's been violation, and this is one that we  
9 caught in real gratitude from the thunders that we're  
10 going to hear from after this discussion ends but is  
11 there any legal reason why you're not giving us the  
12 information and may compel us to a subpoena or some  
13 other way to get that information. I think this is  
14 going to be incredibly important for this discussion  
15 and is going to elevate your ability to be partners  
16 in good faith with the City Council and I want to  
17 work with you, so help us understand how this  
18 happened. This was human error, I get it, they're  
19 going to be held accountable, but I need to  
20 understand what that communication is ... (crosstalk).

21  
22 DEPUTY COMMISSIONER HEIDI GROSSMAN:

23 Sure, I will say that generally when there's; I don't  
24 know, I don't personally know what the communication  
25 was, but I know generally ... (crosstalk).

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CHAIR MENCHACA: Does anybody know at DOC  
table right now?

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DEPUTY COMMISSIONER HEIDI GROSSMAN: Can  
I speak to the general means of communication would  
be through email or an occasional phone call. So, I  
don't know that, so the issue here isn't about a  
means of communication because when the law  
authorizes communication through an email or an  
occasional phone call, that could be appropriate  
under the current version of the law. So, you know,  
in terms of did the person communicate or not, we  
know that there was communication because ICE came  
and picked up the individual, and as I said, that was  
not consistent with Department policy in that this  
person did not have qualifying conviction. So, I do  
want to say, Council Member, that we too were very  
concerned about the results and the outcome and  
Department as well was very contributed and  
participated in trying to come up to contribute to  
the city-wide effort to the most we could do for Mr.  
Castillo Maradiaga and his family. So, we also  
communicated with individuals to try to convey  
information and we were very, very concerned, and as  
a result of this event, what we did was we enhanced

1  
2 some of our procedures and practices, and one of the  
3 things that we did was we immediately retained our  
4 custody management division. We also introduced a  
5 24/7 supervision. We added a supervisor to the  
6 process to make sure that there is supervision and  
7 review at those times. We also added ... (crosstalk).

8  
9 CHAIR MENCHACA: Well, can I pause you  
10 cause I think this is going to be important to our  
11 conversation about reinstating trust with the  
12 Department of Corrections, which we are on shaky  
13 ground here, and I want to ensure that we get through  
14 some of the questions that we need to be able to  
15 understand how we're going to build the law because  
16 we are also thinking about that and how to correct  
17 these issues when human error that's rooted in white  
18 supremacy and xenophobia is being utilized and so one  
19 case that we have caught, and this is what we're just  
20 talking about, one out of seven, have ripple effects,  
21 and so this is going to take more than a retraining  
22 to really, really get us back to where we need to be,  
23 and so let's move on to the next question if I could,  
24 and we'll come back to that, I promise, on  
25 understanding how you've been retraining internally.  
What time on December 15th was the bail posting

1  
2 processed and commenced, and what time was ICE  
3 contacted, and how long does it normally take for an  
4 individual to be released once bail is posted? There  
5 are a few timing issues here, so if you have a  
6 document that talks a little bit about timing, I want  
7 to get a sense of the bail posting, ICE contact, how  
8 long does it take for an individual to be released  
9 after bail, and how long did it take for bail to be  
10 posted in this case?

11  
12 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
13 can't speak to the individual circumstances regarding  
14 Mr. Castillo Maradiaga's transfer. What I can say is  
15 that our processing, there are many factors that go  
16 into the discharge process that are unrelated to the  
17 ICE detainer process and I will say that we take time  
18 to discharge people very seriously. It's very  
19 important we timely discharge individuals.

20 CHAIR MENCHACA: And what is that time?  
21 How quickly can that happen?

22 DEPUTY COMMISSIONER HEIDI GROSSMAN:  
23 Well, it depends on a variety of factors, so there  
24 are; when someone posts bail, the local law requires  
25 that we discharge individuals from notice of the

1  
2 posting of bail within three hours, but there are  
3 exceptions, and the exceptions would include the  
4 complexities involved with discharge planning, making  
5 sure that people receive their medication, if they've  
6 gone to a class known as the Brad H, making sure we  
7 discharge people at the right time of day ...  
8 (crosstalk).

9  
10 CHAIR MENCHACA: And where, and where do  
11 they get released and really specifically, this case,  
12 where was Javier's transfer, where did it happen,  
13 where DOC transferred to ICE, where did that occur  
14 inside the jail?

15  
16 DEPUTY COMMISSIONER HEIDI GROSSMAN: Let  
17 me just say that in addition to the discharge  
18 planning, there might be immediate medical needs and  
19 mental health needs that might delay someone's  
20 discharge generally. There may be issues with  
21 (inaudible). There may be warrant holds out of state  
22 that might impact the timing of the discharge  
23 process, and there may ... (crosstalk).

24  
25 CHAIR MENCHACA: Are there additional  
warrants that allow for the detainer?

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DEPUTY COMMISSIONER HEIDI GROSSMAN:

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THERE COULD BE (INAUDIBLE) BUT NOTHING TO DO WITH THE

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ICE detainers or judicial warrants. It could be a

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hold from another state that could impact the ...

6

(crosstalk).

7

CHAIR MENCHACA: That wasn't the case,

8

that wasn't the case for Javier. Is that right?

9

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DEPUTY COMMISSIONER HEIDI GROSSMAN: It

11

was not. You had asked about the regular discharge

12

process.

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CHAIR MENCHACA: Yeah, (crosstalk).

14

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DEPUTY COMMISSIONER HEIDI GROSSMAN: And

16

I want to just let you know that there's a whole

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discharge process that, and the exceptions under the

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law that I mentioned that someone should generally be

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released within three hours of notice of the bail

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paid, except when there are certain exceptions.

21

There could also be questions with the court

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paperwork. Sometimes, there ... (crosstalk).

23

CHAIR MENCHACA: So, I'm going to pause

24

you here on the possibilities here and really kind of

25

move to the location and I want to know where Javier

1  
2 was transferred to ICE and how ICE knew about that  
3 location where to meet a DOC officer and Javier.

4 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
5 think that what, as I said, when an individual meets  
6 the criteria to enable the Department to communicate  
7 with ICE and let ICE know that there is an individual  
8 that has a qualifying conviction within the last five  
9 years, and that this individual is going to be  
10 processed for discharge. The general way that that  
11 is communicated is through email and occasionally,  
12 usually by email. If there's an occasional phone, I  
13 can't speak to that, but I know that practically  
14 speaking, that that may happen, so when I say I can't  
15 really speak to specific circumstances about when the  
16 member of our service actually communicated with ICE  
17 at this point in time, I can say that that would be  
18 our practice and our policy, so there's no reason to  
19 think that it wasn't the matter in which our member  
20 of service communicated.

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22 CHAIR MENCHACA: Where, looking for  
23 location here (crosstalk), sure, yeah, a location?  
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DEPUTY COMMISSIONER HEIDI GROSSMAN: I believe the individual, and I can confirm that, was from ... (crosstalk).

CHIEF OF SECURITY KENNETH STUKES: BCDC.

DEPUTY COMMISSIONER HEIDI GROSSMAN: Right from our BCDC facility, that's where the individual was housed and so, the ICE would have come to BCDC to pick up Mr. Castillo Maradiaga.

CHAIR MENCHACA: Okay, and at what point did the city determine that the detainer law was broken, and which agencies were involved in making that determination?

DEPUTY COMMISSIONER HEIDI GROSSMAN: I can say that we, I can't speak to the exact moment in time, but I know that very soon thereafter, we identified that there was an issue. We all communicated to figure out what our best next step, and general counsel, Deputy Commissioner, General Counsel at MOIA very clearly articulated over details about how the city efforts to try to remediate and address this very important situation.

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CHAIR MENCHACA: And is this DOC completely or is this also in communication with MOIA?

DEPUTY COMMISSIONER HEIDI GROSSMAN: I believe, you know, I would say that MOIA and the Department and many city partners that are involved in the interpretation of the law and implementation, we've been in constant communication since the law went into effect in terms of receiving support from MOIA in the way that ... (crosstalk).

CHAIR MENCHACA: I'm just going to, I'm just going to interrupt cause we're doing generalities here, and I just want very specific on this case so we can get a sense of the flow. Was it the Mayor's Office of Immigrant Affairs that informed you first that there was a violation and you're saying we, there's a bigger group of partners that help make this determination? (Crosstalk). I want to get a sense about how, in this case, with Mr. Castillo, that that happened.

DEPUTY COMMISSIONER HEIDI GROSSMAN: I can't speak to that specific question at this point in time.

1  
2 CHAIR MENCHACA: Is it because you don't  
3 know or because you're holding back information  
4 because of the case?

5 DEPUTY COMMISSIONER HEIDI GROSSMAN: No,  
6 I'm not. I'm not sure that I, at this point in time,  
7 recall exactly what the sequencing of events were. I  
8 think at the end of the day, I'd come to back to we  
9 really regret what happened. We ... (crosstalk).

10  
11 CHAIR MENCHACA: And I hear that, I hear  
12 that. So, I'm going to pause you there. Thank you.  
13 I hear your regrets, and we're going to fix it. I  
14 promise you, we're going to fix this, and I want to  
15 go to Ms. Chavez over at the Mayor's Office, if you  
16 know the answer to that question and rather or not it  
17 was MOIA that informed DOC of the violation and got  
18 it going on the ultimate determination and process?

19 DEPUTY COMMISSIONER CAROLINA CHAVEZ:  
20 When the incident occurred in 2019, DOC alerted us as  
21 to the fact that there had been erroneous transfer.  
22 From there, it was MOIA who was working closely with  
23 DOC, constantly communicating about it. We got in  
24 contact with (inaudible) who also closely works with  
25 us when it comes to interpretation and compliance

1  
2 with the detainer, I believe the first deputy mayor's  
3 office was also involved in those communications.  
4 So, specifically those were the different agencies  
5 that were automatically alerted and kept in  
6 (inaudible) throughout the time, but I'm sure the  
7 Council's officer and some other parts of city hall  
8 as well.

9  
10 CHAIR MENCHACA: Okay. So, I have a  
11 couple more questions for the Mayor's Office of  
12 Immigrant Affairs. I'm going to hand it over to  
13 Chair Powers. We've also been joined by Council  
14 Member Rivera and Amprey-Samuel. Thank you so much  
15 for being here and listening to this this moment as  
16 we look at an oversight of our laws. For MOIA, in  
17 Mr. Castillo's case, MOIA shared with a representing  
18 attorney that updated guidance has been shared with  
19 DOC to avoid similar grievous mistakes in the future.  
20 What are these updates? What policies, procedures,  
21 protocols governing NYPD and DOC communications with  
22 ICE and DHS, and any other subcomponent of ICE  
23 existed before December 16, 2019, and what are the  
24 policies now? I want to get a sense, and I think DOC  
25 was just talking a little bit about what they've  
done, but I want to hear from what MOIA is doing and

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2 what communication through the agencies and changes  
3 have happened since December 16, 2019.

4 DEPUTY COMMISSIONER CAROLINA CHAVEZ: So,  
5 after the incident occurred in 2019, there were  
6 conversations as to how to prevent that from  
7 happening again, and again, I'll let DOC speak to the  
8 corrective actions that were taken to create a  
9 process that prevented that from happening. Again,  
10 in broad strokes, it involved the order in which  
11 communications were made to the law department as  
12 well as with MOIA. I believe the general counsel for  
13 DOC already referred to some of the other specifics  
14 as to operationally how they took care of that. In  
15 terms of, yeah, I'll leave it at that.

16  
17 CHAIR MENCHACA: Okay, and we can follow  
18 up to ensure we get; I want to see communication as  
19 well in terms of the highlighted, not the broad  
20 strokes, but the specifics, and it's our  
21 understanding, Ms. Chavez, that there's an oath trial  
22 that has been calendared for the DOC employee who  
23 broke the city law and effectuating an ICE detainer.  
24 Please share the date of the trial, if it's upcoming,  
25 and if it already happened, can you tell us a little  
bit about the decision and the date of that hearing?

1  
2 DEPUTY COMMISSIONER CAROLINA CHAVEZ: You  
3 know, that's a disciplinary process that DOC has  
4 directly moved into. I would defer to my colleagues  
5 at DOC.

6 CHAIR MENCHACA: Okay, over to you, DOC.  
7 Are you on mute? Uh, you're still on mute.

8  
9 DEPUTY COMMISSIONER HEIDI GROSSMAN:  
10 Okay. Yes, just to, you asked about policy that was  
11 implemented. One of the additions to our practices  
12 that we have, before our custody management unit will  
13 be authorized to communicate with ICE, we've  
14 introduced a legal review of any consideration for  
15 rather an individual meets a qualifying conviction  
16 and meets the criteria for sharing information with  
17 ICE, and so that is something that we (inaudible) in  
18 January following the transfer of Mr. Castillo  
19 Maradiaga to ICE, and we have implemented that. The  
20 attorneys are available during regular business hours  
21 as well as during off hours and weekends, so we have  
22 coverage at hours that our city management can confer  
23 with a lawyer in the legal division. As to the oath  
24 proceeding, that is currently, the matter is now in  
25 discovery, I believe and that then normally when a  
matter is in discovery, there will be a time after

1  
2 that discovery is exchanged where a case will be  
3 conferenced before oath and a trial date may be set  
4 and the process moves forward. So, that's the status  
5 of that matter. I will note that the individual  
6 member of the department who was involved with this  
7 communication was transferred the custody management  
8 unit immediately. I will also note that the  
9 individual was suspended for 14 days without pay and  
10 in addition, those are some of the immediate steps  
11 that we took immediately following this incident. I  
12 do want to note that one is too many. We, as I said,  
13 we regret. I do want to note that the Department has  
14 implemented the law since its inception and with over  
15 1925 ICE detainers lodged, there were 90 individuals  
16 as we reported who were transferred, so in terms of  
17 the number of people who we transferred in violation  
18 of the law, we have one individual and that's one too  
19 many. The Department takes this very seriously and  
20 works very hard to implement law in compliance with  
21 the law.

22  
23 CHAIR MENCHACA: Absolutely. One is too  
24 many and we have six other ones as well, and I think  
25 this is part of the problem, and don't worry, like I  
said, we're going to fix this. We hope we can work

1  
2 with you to make that happen. I'm going to pause  
3 here. I think I've been taking a lot of time here and  
4 hand it over to my co-chair, Keith Powers for  
5 questions, and I have a few other ones for MOIA, but  
6 I'll come back to that, and thank you.

7  
8 CHAIR POWERS: Thanks, Chair Menchaca.

9 Thank everyone for your testimony and answering  
10 questions. Just at a starting point here, Chair  
11 Menchaca and myself had sent over a letter a few  
12 weeks ago outlining some of the concerns that we had  
13 and some of the issues and cases that brought us most  
14 concern. Is there a respective response that we  
15 should be receiving from the agencies and an expected  
16 timeline when we might get a written response to  
17 that?

18 DEPUTY COMMISSIONER HEIDI GROSSMAN:

19 Chair Powers, this is Heidi Grossman again. I do  
20 want to address the seven cases that I believe were  
21 sent to the Department, to the Commissioner. My  
22 understanding is that we talked about Mr. Castillo  
23 Maradiaga, but of the seven, one, Mr. Castillo  
24 Maradiaga, the other six, one was not transferred,  
25 one individual was not transferred to ICE, and the  
other five were people who had qualifying

1  
2 convictions, and therefore, the Department's position  
3 is that those transfers to ICE were in compliance and  
4 consistent with the local law. So, we're not quite  
5 understanding now. I will say that the information  
6 that was provided to us was, we didn't have  
7 identifying information, we didn't have all the  
8 names, there initials provided. We did our best to  
9 do what we could do to look into who these people  
10 could be, so short of getting more information and  
11 more details from the City Council, what we know what  
12 now is our information reveals that these individuals  
13 were convicted of qualifying convictions and that we  
14 followed the law when we communicated with ICE.

15 (Crosstalk).

16  
17 DEPUTY CHIEF OF STAFF DANA WAX:

18 (Inaudible).

19 CHAIR POWERS: (Crosstalk). Yeah, go  
20 ahead, please.

21 DEPUTY CHIEF OF STAFF DANA WAX: In  
22 regards to your specific question that you sent us a  
23 letter, (inaudible). It was understanding that we  
24 would use this time to incur to walk those cases. If,  
25 following the hearing, if you still would like a

1  
2 written response from the Department that summarizes  
3 what we're telling you today, you know, we'll be  
4 happy to send that, but we haven't responded because  
5 we understood this was ... (crosstalk).

6  
7 CHAIR POWER: Okay, I got it, I got it.  
8 Yeah, thanks. Okay, I think Chair Menchaca may have  
9 some additional questions on those cases, so I'll let  
10 him ask those and we'll come back to that. I just  
11 want to briefly, just acknowledge we've been joined  
12 by Council Member Amprey-Samuel, Diaz, Rivera, Dromm,  
13 and Riley as well. One the one instance where I  
14 think you have conceded and acknowledge that was an  
15 issue here, I think the one that I've kind of been  
16 confused about the whole time is this was an  
17 individual who was arrested for jaywalking offenses,  
18 I understand, and I'm sort of confused and maybe you  
19 can help, maybe explain to me, because I may be  
20 missing a detail here, but how is it that an  
21 individual gets arrested for jaywalking end up in  
22 DOC's jurisdiction? I would always assume that would  
23 be a ticket that somebody would receive. What is an  
24 instance, or what happened in this instance where DOC  
25 then would have jurisdiction and custody over that  
person?

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DEPUTY COMMISSIONER HEIDI GROSSMAN: I can only say that, you know, the court is involved in issuing securing orders. So, we received an individual and it's really not up to the Department to question the reason why the court issued a securing order or demanding an individual to the Department's custody. So, I don't know that the Department has any information that we can shed light on with respect to your question as this point in time.

CHAIR POWERS: Okay, so, it is agreed that we will be having some follow up conversation. I think it may be helpful to understand context a little bit because, I agree, there must be some additional contacts here, but for those who are following us and seeing an arrest on jaywalking, it would be sort of an important detail, I guess to understand, you know, how DOC would end up with that person in custody. I want to go just through briefly, the process here, the ICE detainer process against someone in DOC custody, so, maybe describe the ICE detainer process against someone in DOC custody, who at DOC is informed by ICE, how are they

1  
2 informed, how is a detainer received? Can you go  
3 through that process for us?

4 CHIEF OF SECURITY KENNETH STUKES: Yeah,  
5 sure. Good morning again.

6  
7 CHAIR POWERS: Good morning.

8 CHIEF OF SECURITY KENNETH STUKES: This  
9 is Kenneth Stukes speaking. Good morning, Chair  
10 Powers. Currently civil immigration detainees that  
11 are lodging on custody are sent to the Department's  
12 Office of Custody Management ICE Unit. Subsequently,  
13 ICE and NYPD notifies DOC of detainer requests when  
14 an individual comes into DOC Custody. DOC then  
15 submits a receipt to ICE that the detainer request  
16 has been received. The ICE unit will determine  
17 rather the individual meets the qualifying crime  
18 criteria when an individual has a judgment entered on  
19 a qualifying crime in the last five years prior to  
20 their date of the incident arrest. The ICE unit  
21 reviews the individual's rap sheet, going back five  
22 years, including a review for terrorist indicators.  
23 If the individual does not have a qualifying  
24 conviction, the ICE unit will notify federal  
25 authorities of such, no further contact is made after

1  
2 this notification. If the individual does have a  
3 qualifying conviction, notification is made to ICE  
4 during the discharge process.

5 CHAIR POWERS: And just repeat for me  
6 again, the name of the Unit, you named it, but I  
7 couldn't remember the name of the unit we're talking  
8 about?

9  
10 CHIEF OF SECURITY KENNETH STUKES: Office  
11 of Custody and Management.

12 CHAIR POWERS: Okay, that is a particular  
13 unit that is in charge of handling these requests and  
14 these requests only, or do they do other work as well  
15 within the Department?

16  
17 CHIEF OF SECURITY KENNETH STUKES: That  
18 unit is charged with dealing with ICE requests.

19 CHAIR POWERS: Okay, how many  
20 individuals, how big is that unit, just curious from  
21 a staffing standpoint?

22 CHIEF OF SECURITY KENNETH STUKES:  
23 Staffing, there's a supervisor that's assigned to  
24 that unit and there are several correction officers  
25 who also work along with the supervisor.

1  
2 CHAIR POWERS: Several, one or two,  
3 twelve? You know, what is that?

4 DEPUTY COMMISSIONER HEIDI GROSSMAN:  
5 Probably under five.

6  
7 CHIEF OF SECURITY KENNETH STUKES: I  
8 would say there's between two to five person that's  
9 assigned to the unit that works under the supervision  
10 of the Capitan.

11 CHAIR POWER: And did I hear earlier, and  
12 I might be confused, that there was previously not a  
13 supervisor on that unit and now there's been one  
14 added or was I mistaken?

15  
16 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
17 believe that at the very, there may have been; I  
18 don't know that there were frequent, as my  
19 understand, I don't know that there were frequent ICE  
20 detainer discharges during the early morning hours or  
21 you know, at those times. So, I think that we  
22 recognize that there was a need to shore that up and  
23 make sure that we had around the clock supervision,  
24 people available to deal with this immediately. So,  
25 that's ... (crosstalk).

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FIRST DEPUTY COMMISSIONER LYNELLE

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MAGINLEY-LIDDIE: The coverage was added to provide  
4 24/7 coverage.

5

6

CHAIR POWER: Oh, okay, okay, and how's  
an individual informed if there is, after DOC is  
7 informed, how is the actual individual informed and  
8 second question, is DOC involved in serving the  
9 detainer on the individual?

10

11

CHIEF OF SECURITY KENNETH STUKES: No.

12

DOC has no interest in serving the portion with  
13 regards to the detainer.

14

15

CHAIR POWERS: Okay, and then the first  
question is how is the individual himself informed,  
16 individual custody?

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DEPUTY CHIEF OF STAFF DANA WAX: Chair  
Powers, for the most part, you know, as most of my  
colleagues, sorry, it's Dana talking, for the most  
part, as most of colleagues have testified, the  
Department does not comply with the ICE detainer in  
almost all cases. I mean, they only (inaudible) very  
limited cases, and so we don't notify the person  
because certainly, because we're not complying with  
the detainer. Um, there's ... (crosstalk).

1  
2 CHAIR POWERS: And for the 5% of cases, I  
3 think you guys used the number 5%, how is the  
4 individual informed in that case?

5 DEPUTY CHIEF OF STAFF DANA WAX: At the  
6 time of discharge ... (crosstalk).

7  
8 DEPUTY COMMISSIONER HEIDI GROSSMAN: At  
9 the time of discharge.

10 CHIEF OF SECURITY KENNETH STUKES: Right,  
11 we're placing, as a qualifying conviction and there  
12 is an ICE detainer that their partner is complying  
13 with, the person is notified of the detainer during  
14 the time of discharge.

15  
16 CHAIR POWERS: At discharge, okay. I  
17 think you've talked about this a little bit, but I  
18 wanted to clarify. Once a detainer has been lodged,  
19 what steps does the Department of Correction take in  
20 examining rather a detainer is to be honored and  
21 individual transferred to ICE. I know you talked  
22 about that a little bit. Can you just walk us  
23 through that process one more time?

24 CHIEF OF SECURITY KENNETH STUKES: Okay,  
25 once the detained is lodged, the Department submits

1  
2 the ICE receipt that the detainer request has been  
3 received, then the ICE unit will determine rather the  
4 individual meets the qualifying crime criteria when  
5 the individual has had a judgement entered on a  
6 qualifying crime in the past five years prior to the  
7 date of the incident arrest. The ICE unit reviews  
8 the individual's rap sheet, you know, going back five  
9 years including a review for terrorist indicators.  
10 If the individual does not have a qualifying  
11 conviction, the ICE unit will notify federal  
12 authorities of such, then there's no further contact  
13 is made after this notification. If the individual  
14 does have a qualifying conviction, notification is  
15 made to ICE during the discharge process.

16  
17 CHAIR POWERS: Okay, does the  
18 Commissioner ever get involved in any of these in  
19 terms of reviewing them before they happen or anybody  
20 in the actual Commissioner's officer, do they have  
21 any sort of oversight or insight into when these are  
22 happening?

23 DEPUTY COMMISSIONER HEIDI GROSSMAN: Not  
24 generally. I think that usually the custody  
25 management division will assess and determine rather  
there's a qualifying conviction under the law. As I

1  
2 mentioned earlier, there will be conferral with a  
3 lawyer from the legal division and then if there is a  
4 qualifying conviction, that information will be  
5 communicated back to custody management, and then  
6 custody management will process the discharge  
7 accordingly.

8 CHAIR POWERS: Okay, and if it is  
9 determined that DOC will notify and transfer to ICE,  
10 can you just tell us the protocol there? Who from  
11 DOC or other agencies would be involved there, and I  
12 think you've talked a little bit about communication  
13 to ICE, does it happen in writing, phone  
14 conversations, how does that communication occur?

15  
16 CHIEF OF SECURITY KENNETH STUKES:  
17 Typically, the notification of a person being  
18 discharged from custody who meets the criteria is  
19 typically an email during the discharge process.

20 CHAIR POWERS: So, you will email  
21 somebody over at ICE to notify them that you are  
22 agreeing and acknowledging the transfer, that that's  
23 going happen, is that correct?

24  
25 CHIEF OF SECURITY KENNETH STUKES: Yes.

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DEPUTY COMMISSIONER HEIDI GROSSMAN:

3

(Crosstalk).

4

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CHAIR POWERS: Does that ever happen by  
phone or writing otherwise or in hard copy

6

communication writing?

7

8

DEPUTY COMMISSIONER HEIDI GROSSMAN: No,

9

I would say that, as the Chief says, it's typically

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by email and that's generally the way that the

11

department will typically communication. If there

12

are occasions where there might be a conversation,

13

not sure when that would be, but I don't want to rule

14

that out, but typically, it's through email.

15

CHAIR POWERS: Okay.

16

17

DEPUTY CHIEF OF STAFF DANA WAX: I want

18

to just make sure, earlier when I used the word

19

comply with the detainer, just to be clear about the

20

time of notification to ICE, we let ICE know that

21

somebody is being discharged. We don't comply with

22

the detainer in a sense that we detain the person.

23

We just, that's why it's just an email and not a, you

24

know, a formal letter or a copy letter. We let ICE

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know someone is being discharged today and if they

show up, they show up.

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CHAIR POWERS: Got it, and so then, my next question was going to be, you know, how long can an individual be in DOC custody post base resolution prior to a detainer being honored? So, can you give us the answer to that question then?

DEPUTY COMMISSIONER HEIDI GROSSMAN: So, let me just say that I'm going to be really specific about responding to the question because the words that you're using, honoring a detainer, it has a meaning under the law which means the Department may only honor a civil immigration detainer by holding a person beyond the time when they would otherwise be released. So, we're not, I'm just being very specific to the language of the law, that we're not honoring ICE detainers in the way that the law contemplates. What we are doing is our policy is to notify ICE when we have someone who has a qualifying conviction. Our policy is to continue with the discharge process and ICE will make a determination rather they're going to send some to pick up the individual or not for transfer and our policy is not to delay the discharge process so that ICE can pick someone up. That's not our policy.

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CHAIR POWERS: Oh, if a person is scheduled to be released in that case, they are released, they're not being held beyond their, is that what you're saying the agency policy is, is not to hold beyond the scheduled release to allow ... (crosstalk)?

DEPUTY COMMISSIONER HEIDI GROSSMAN:

Right, and you know, the Department, as I mentioned earlier in my testimony, the Department needs to go through discharge process and there are many aspects that go into the discharge process and any steps, so the Department proceeds with the discharge process and it goes on simultaneously with the notification to ICE and if ICE; our policy is, is if ICE comes before, you know, if ICE comes to pick up the person, then we will transfer that person. If ICE doesn't come, we're not holding someone solely to transfer that person to ICE. That's not our policy.

CHAIR POWERS: Okay, can you describe a situation where DOC would grant ICE advance notice of, I guess, in which DOC would grant ICE on advanced notice of release of what documentation ICE must present in that situation?

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DEPUTY COMMISSIONER HEIDI GROSSMAN:

Well, a judicial warrant would, uh, could you just repeat the question again? I just want to ... (crosstalk).

CHAIR POWERS: Yeah, I said please

describe a situation in which DOC would grant ICE advanced notice of release and what documentation must ICE present in that situation?

DEPUTY COMMISSIONER HEIDI GROSSMAN:

Well, it's the same, I think, when we an ICE detainer is lodged, the Chief mentioned how we go through a process of determining rather the person meets the qualifying conviction and rather we are going to comply or not, and then fast forward to the actual; a person can be sentenced and could be in our custody for many months. A person can be with us for many weeks and months before they make bail, before they're release and so then, fast forward to shortly before, when we're getting ready for discharge, if we know that the person meets the qualifying conviction and the criteria, we then utilize the provision of the administrative code that allows us to communicate with ICE at that point in time to say that this

1  
2 person, we expect, we are planning to discharge this  
3 individual.

4 CHAIR POWERS: Okay, I want to get to the  
5 other cases that Chair Menchaca wanted to ask about,  
6 but just in regards to the individual, I know that  
7 these are some sensitive personnel issues, but in the  
8 more operationally here in the Department, the issue  
9 where an individual had broken policy and law to  
10 cooperate or work with ICE against, you know, what  
11 the agency's attention to policy is, was that, I'm  
12 just kind of, my question really is, was that  
13 perceived to be an intentional breaking (inaudible)  
14 operational breakdown of policy that led to that  
15 incident?  
16

17 DEPUTY COMMISSIONER HEIDI GROSSMAN: This  
18 individual was charged with conduct unbecoming and  
19 failure to efficiently perform duties. So, I don't  
20 know that I can get into, I'm not aware and I'm not  
21 sure about the intentional versus non-intentional,  
22 but those are the charges that the person has  
23 received.

24 CHAIR POWERS: Okay. I'm going to hand  
25 it back to Chair Menchaca for some follow up

1  
2 questions. I may have one or two more myself, but  
3 I'll let him take it from there. Thanks.

4 CHAIR MENCHACA: Thank you, Chair Powers,  
5 and for the dialogue that I think has prompted some  
6 follow up and then I'm going to head over to the  
7 case-by-case conversations. I just want to go back  
8 to what Ms. Grossman was kind of outlining earlier  
9 about the notification of ICE that you're technically  
10 not calling a transfer, but you're just like giving  
11 them a heads up that you have someone in custody,  
12 you're going to be, you know, following the rules  
13 that you've set for yourself and how you have  
14 understood how to follow the law, but essentially,  
15 you're saying that without a judicial warrant, you  
16 are making communication happen in some way to ICE  
17 for anyone detained. Is that right?

18  
19 DEPUTY COMMISSIONER HEIDI GROSSMAN: What  
20 I'm saying is that we're following administrative  
21 code, section 9-131H which represents the use of city  
22 land by facilities by federal immigration authorities  
23 and access to persons in custody. It says the  
24 Department personnel should not expend time while on  
25 duty or Department resources of any kind disclosing  
information that belongs to the Department and is

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2 available them to only in their official capacity  
3 that's, other than information related to a person's  
4 citizenship or immigration status unless its response  
5 for communication, one, relate to a person convicted  
6 of a violent or serious crime or identifies a  
7 possible match in the terrorist database. There are  
8 other exceptions, but that's generally the one that  
9 we are relying on, so, that is what is what we are  
10 relying on in terms of ... (crosstalk).

11 CHAIR MENCHACA: Without a judicial  
12 warrant?

13  
14 DEPUTY COMMISSIONER HEIDI GROSSMAN: Yes.

15 CHAIR MENCHACA: Okay.

16  
17 DEPUTY COMMISSIONER HEIDI GROSSMAN:  
18 Because the first section of the law that under 9-  
19 131AB1, that's the section of the law that has a  
20 prohibition on honoring a civil immigration detainer  
21 is to my understanding of that, is that we can only  
22 honor, which allows for holding a person beyond the  
23 time when we would otherwise discharge them if we  
24 have a judicial warrant and if they have the  
25 qualifying conviction, they need to have that  
qualifying conviction requirement.

1  
2                   CHAIR MENCHACA: Got it. So, this is  
3 what we're trying to fix, right? Because you're not  
4 calling it a transfer, but essentially, effectively  
5 it's a transfer after ICE has been notified that you  
6 have someone in custody and they come and you  
7 transfer them, and I think this is what we're trying  
8 to fix that has caused a lot of damage to the  
9 relationship with the city, and so just thank you for  
10 really kind of highlighting that. I have a question  
11 about the guidance at DOC. In the internal DOC  
12 guidance titled, "Interactions with Federal  
13 Immigration Authorities", there are guideline listed  
14 under procedures for inmates with immigration  
15 detainers. The guidelines state that when an inmate  
16 with an immigration detainer is otherwise eligible  
17 for release, the Department shall determine which of  
18 the following actions the Department shall take and  
19 list two possible actions. The first is that DOC  
20 will honor the immigration detainer if the criteria  
21 outlined in the law are met, and the second is that  
22 DOC intends to cooperate with DHS' written request  
23 for advanced notice of release rather such request  
24 appears on an immigration detainer or otherwise in  
25 cooperation in transferring custody of inmate to DHS

1  
2 on the Department property. As long as the person who  
3 is the subject of the request is a person convicted  
4 of a qualifying crime or identified as a possible  
5 match in the terrorist screening database and if the  
6 request is supported by a specific documentation of  
7 probable cause, not a judicial warrant, a  
8 documentation of probable cause, then the Department  
9 will cooperate with DHS by arranging a transfer of  
10 the inmate. Are you following me here, so far?

11  
12 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
13 think I am.

14 CHAIR MENCHACA: So, practically  
15 speaking, is there a different between DOC honoring  
16 an immigration detainer and DOC choosing to cooperate  
17 to DHS written or advanced notice of release and  
18 cooperating and transferring custody of the inmate on  
19 Department property?

20 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
21 see that it's two different issues because as I  
22 mentioned, one, is you mentioned the judicial warrant  
23 under the section that we talked about which that  
24 authorizes, if we receive a judicial warrant and the  
25 person has a qualifying conviction, we are authorized

1  
2 under the administrative code to actually delay the  
3 discharge of a person so that ICE can come and pick  
4 that individual up. Under the other section, you're  
5 referring to other paperwork that we receive about  
6 the ICE detainer that ... (crosstalk).

7  
8 CHAIR MENCHACA: I'm just going to pause  
9 here because I think we're going through the law, and  
10 we understand the law.

11 DEPUTY COMMISSIONER HEIDI GROSSMAN:  
12 Okay.

13 CHAIR MENCHACA: We totally understand  
14 it. It's that practical nature of the action that  
15 we're reviewing today that are causing issue. So,  
16 practically, are we saying that DOC is honoring  
17 immigration detainers even without a judicial  
18 warrant?

19  
20 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
21 would say that, you know, looking at the definition  
22 of honoring under the law, if you're using the law as  
23 the definition of honoring, that we're delaying  
24 discharge so that ICE can pick that person up. The  
25 Department's position is that is not out policy.  
What we are doing is we are following the section of

1  
2 the law that allows us to communicate when an  
3 individual has a qualifying conviction with ICE to  
4 let them know that we plan on discharging an  
5 individual on a particular day and that if ICE wants  
6 to appear and pick up this individual while we're  
7 simultaneously moving forward with the discharge  
8 process, we will transfer that individual.

9  
10 CHAIR MENCHACA: So, okay, words matter  
11 here, so I want to really get a sense of this, cause  
12 it feels a little slippery, and so I really want to  
13 get to a sense of this. Is the Department of  
14 Corrections effectuating a transfer without a  
15 judicial warrant in these cases?

16 DEPUTY COMMISSIONER HEIDI GROSSMAN:  
17 We're, I don't ... (crosstalk).

18 CHAIR MENCHACA: You're calling these  
19 transfers, right, you're transferring, so is there a  
20 situation where you're transferring someone in DOC  
21 custody to ICE without a judicial warrant?

22  
23 DEPUTY COMMISSIONER HEIDI GROSSMAN:  
24 We're not trying to be slippery. We are being very  
25 transparent. We are ... (crosstalk).

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CHAIR MENCHACA: I just want to get the  
answer to that question then, (crosstalk).

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DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
can say that we, I can only give you the answer that  
I've been giving you that when we learn that someone  
has a qualifying conviction, we communicate with ICE,  
that's our policy to communicate with ICE that we  
have someone here who has a qualifying ... (crosstalk0.

11

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14

CHAIR MENCHACA: I'm going to solve that  
loophole with one of Council Member Powers' Bills by  
the way, so, okay, we got that part, you're making  
communication.

15

16

DEPUTY COMMISSIONER HEIDI GROSSMAN: Yes.

17

18

CHAIR MENCHACA: Because the law is a  
little bit unclear, and (crosstalk).

19

20

21

DEPUTY COMMISSIONER HEIDI GROSSMAN: The  
law not, (crosstalk). The law says what the law  
says.

22

23

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25

CHAIR MENCHACA: I get that, and that's  
what we're trying to fix. We're going to fix that.  
What I'm saying is once that communication happens,  
and ICE shows up on to DOC property, you are

1  
2 transferring, then there is a transfer that happens  
3 with that said individual that they may or may not  
4 show up, and the timing might work or not, but it  
5 happens. So, I just need you to say yes or no, DOC  
6 is effectuating a transfer without a judicial warrant  
7 to ICE on city property?

8 DEPUTY COMMISSIONER HEIDI GROSSMAN:

9 Well, we're sharing information so that if an  
10 individual is about to be discharged, then ICE is  
11 able to pick them up if they meet the qualifying  
12 conviction and they meet the requirements of the  
13 local law.

14  
15 CHAIR MENCHACA: Uh, well, no, that's the  
16 second part. They're not, because the judicial  
17 warrant is what's necessary for that transfer to  
18 happened, but the transfer happens without a judicial  
19 warrant, yes or no?

20 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
21 would take a show at that, sir.

22  
23 CHAIR MENCHACA: (Crosstalk).

24 DEPUTY COMMISSIONER HEIDI GROSSMAN: I'd  
25 take a shoe with that because it says here under the

1  
2 law that the Department essentially is able to  
3 communicate through ICE if a person has been  
4 convicted of ... (crosstalk).

5 CHAIR MENCHACA: Ms. Grossman, I know the  
6 law. I'm sorry, I know the law. I'm just trying to,  
7 you're not answering the question here. And I'm  
8 going to ask a follow up question to this. Does it  
9 happened? Has it happened that DOC is transferring  
10 to individual to ICE custody without a judicial  
11 warrant?

12  
13 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
14 think, I'm going to stand by my testimony, sir. I  
15 think that, I think we've been very transparent  
16 throughout the process and how it is that individuals  
17 are discharged from our custody.

18 CHAIR MENCHACA: Okay, I'm not satisfied  
19 with this, but we're going to move on to the next, my  
20 follow up question which is the, I guess the best way  
21 to describe this next question is how many judicial  
22 warrants, federal judicial warrants that are codified  
23 in the law as part of this detainer law have been  
24 given and shown and communicated to the Department of  
25 Corrections since we have had these laws on the book

1  
2 since 2014? How many judicial warrants have you seen  
3 and have been presented with?

4 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
5 will say that based on the reports that we provided  
6 to the City Council that we're required to provide, I  
7 understand that since October, since Federal fiscal  
8 year 17, which covers October 16 to September 17  
9 through this city fiscal year 2020 which goes from  
10 July 19 to June 2020, there are detainers lodged in  
11 the amount of 1925, the number of individuals  
12 transferred to ICE are 90, so ... (crosstalk).

13  
14 CHAIR MENCHACA: These are federal  
15 judicial warrants?

16 DEPUTY COMMISSIONER HEIDI GROSSMAN: No,  
17 these are detainers. Frankly, I'm not ... (crosstalk).

18  
19 CHAIR MENCHACA: Are those  
20 administrative?

21 DEPUTY COMMISSIONER HEIDI GROSSMAN:  
22 Those are the, well, we have ICE detainers, not a  
23 judicial warrant, but we have ICE detainers.

24  
25 CHAIR MENCHACA: Okay, this is very  
clear. I don't want to confuse anyone that's

1  
2 watching. I'm asking for judicial warrants that are  
3 codified in the law.

4 DEPUTY COMMISSIONER HEIDI GROSSMAN:

5 Sure.

6  
7 CHAIR MENCHACA: That would allow for DOC  
8 to transfer legally an individual. How many of the  
9 judicial warrants have been presented to DOC or any  
10 said individual, how many?

11 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
12 will frankly, I'm personally not aware of many, um,  
13 and ... (crosstalk).

14 CHAIR MENCHACA: Okay.

15  
16 DEPUTY COMMISSIONER HEIDI GROSSMAN: I'm  
17 not aware of any certainly in the last couple of  
18 years, but it hasn't come to my attention ...  
19 (crosstalk).

20  
21 CHAIR MENCHACA: Is there anybody at the  
22 table that would know that question, then I'm going  
23 to hand that over the Mayor's Office of Immigrate  
24 Affairs, but what I'm hearing you say is zero federal  
25 judicial warrants and so, is there anybody at the  
table that ... (crosstalk).

1

2

DEPUTY COMMISSIONER HEIDI GROSSMAN: If  
there was any, it would be rare occurrence. I'm not  
aware of any in particular. If there was, it would  
be a rare situation where we received them ...

6

(crosstalk).

7

8

CHAIR MENCHACA: And what makes that  
rare?

9

10

DEPUTY COMMISSIONER HEIDI GROSSMAN: We  
just haven't received judicial warrants generally  
from the federal government. We really, that is just  
not, you know, we have 1925 detainers lodged ...

14

(crosstalk).

15

16

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19

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CHAIR MENCHACA: Well, we know detainers,  
you can just get them on the side of the street. I  
mean, that's, this is the point, and but 90 people  
have been transferred effectively to federal  
enforcement without any federal judicial warrants.  
Is that correct?

21

22

23

24

DEPUTY COMMISSIONER HEIDI GROSSMAN: To  
my knowledge, those 90 people didn't have judicial  
warrants.

25

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CHAIR MENCHACA: Okay, and I thank you  
for that. So, Mayor's Office of Immigrant Affairs,  
Ms. Chavez, are you aware of any federal judicial  
warrants?

6

7

DEPUTY COMMISSIONER CAROLINA CHAVEZ: I'm  
not.

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CHAIR MENCHACA: Okay, thank you for  
that. So, let's move on, Ms. Chavez to some of the  
other questions that we have about case number two.  
The Department of Corrections claimed that client WS,  
and I just have to make a comment about the fact the  
DOC couldn't find an initial, just with initials  
cause we want to protect information, they couldn't  
find it. As if there were too many on a list that  
were connected to what we're trying to talk about,  
violation ... (crosstalk).

DEPUTY COMMISSIONER CAROLINA CHAVEZ:  
That's not, sir, that's not true. What we're saying  
is we were not ... (crosstalk).

CHAIR MENCHACA: Okay, who is ...  
(crosstalk).

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DEPUTY COMMISSIONER CAROLINA CHAVEZ: We have abbreviations, having WS, there are many people that could have different or similar initials, we've done the best we could do. We think the information that we have gathered is what I testified to earlier, but it's subject to change if you give us the proper name and it turns out when we look into it, it turns out, it turns out to be another person with the same initials, so, I respectfully take issue with what your characterization is, sir, over my testimony.

CHAIR MENCHACA: Okay, well, thank you for sharing your truth, and I still stand by my truth that there's a problem where when we can't find even an initial with some identifying information and the advocates, I'll be able to engage with the advocates and I hope you can stay here while the advocates respond to some of our back and forth about what's happening cause there's another pieces of this information, so I appreciate your response, and thank you for sharing that. So, back to the Mayor's Office of Immigrant Affairs, I want to just ask that the case number two, WS was transferred to ICE due to safety issues, even though they did not have a qualifying conviction in the last five years. Please

1  
2 elaborate on what safety issue existed that justified  
3 that transfer.

4 DEPUTY COMMISSIONER CAROLINA CHAVEZ: So,  
5 I'll just start by saying that this was not one of  
6 the cases that we had been contacted on or were  
7 involved with. It's my understand, and again, I will  
8 refer to DOC because they were the ones who gave us  
9 more details as to this case after we received it ...  
10 (crosstalk).

11  
12 CHAIR MENCHACA: Oh, they don't know the  
13 case on this one, so, we're going to have to move on  
14 then.

15 DEPUTY COMMISSIONER HEIDI GROSSMAN: We  
16 do, we did, we did testify ... (crosstalk).

17  
18 CHAIR MENCHACA: You have number two,  
19 case number two, WS?

20 DEPUTY COMMISSIONER HEIDI GROSSMAN: Yes.  
21 We, I mentioned this earlier under case number two  
22 with WS, the Department received an ICE detained on  
23 September 9, 2017, and the individual was discharged  
24 on February 28, 2018. The individual had a  
25 qualifying conviction for, and ... (crosstalk).

1

2

CHAIR MENCHACA: What was that

3

conviction? What was the qualifying conviction?

4

DEPUTY COMMISSIONER HEIDI GROSSMAN:

5

Attested assault in the second degree. The

6

individual, the conviction was on April 28, 2015.

7

The individual was sentenced to five years' probation

8

on April 26, 2016.

9

10

CHAIR MENCHACA: And what was the safety

11

issue that was presented in this case?

12

DEPUTY COMMISSIONER HEIDI GROSSMAN: I'm

13

not, I'm, I, I, I understand that the reason why we,

14

this person had a qualifying conviction, so under the

15

law, we're authorized to share information, so we're

16

looking at the qualifying conviction, that's how we

17

analyzed it from the Department standpoint.

18

19

CHAIR MENCHACA: Okay, so the safety

20

issue is connected to the conviction solely, and ...

21

(crosstalk).

22

DEPUTY COMMISSIONER HEIDI GROSSMAN: I

23

don't know what is meant by the safety issue. I know

24

that that's how it's characterized in the letter to

25

the Commissioner, but I know that when we looked at

1  
2 our facts, the individual had a qualifying  
3 conviction, as a result, that triggered the provision  
4 of the law that allowed us to communicate with ICE.

5 CHAIR MENCHACA: Okay, is there a way  
6 that can get discovered, the safety issue piece? I  
7 think what we're trying to figure out is where all  
8 the loopholes are and this feels like one, and so, is  
9 there someone that we can follow up with later on  
10 just ... (crosstalk).

11  
12 DEPUTY COMMISSIONER HEIDI GROSSMAN: I  
13 don't know (crosstalk). I guess what I'm saying is  
14 that I don't think the law requires in this, under my  
15 interpretation of the law, that you require a safety  
16 issue in order to communicate with ICE. The  
17 Department communicated with ICE. My understanding  
18 is that our policy would allow the Department to  
19 communicate with ICE regarding this situation because  
20 the individual had the qualifying conviction within  
21 the five-year period.

22 CHAIR MENCHACA: Okay, well, we'll follow  
23 up with that case, but thank you so much for that  
24 response. In case number three, please explain DOC's  
25 decision to keep SS until the expiration of their

1  
2 sentence. SS was immediately transferred to ICE in  
3 August of 2020. So, please explain how this transfer  
4 was effectuated under the law.

5 DEPUTY COMMISSIONER HEIDI GROSSMAN: Yes,  
6 this is a similar situation where the individual, we  
7 received an ICE detainer on January 3, 2020, and this  
8 individual was discharged to ICE on or about July 31,  
9 2020, and the individual had a qualifying conviction  
10 and that was the reason that would be consistent with  
11 the law to allow us to communicate to ICE so that  
12 they could come and pick this person up?

13  
14 CHAIR MENCHACA: Without a judicial  
15 warrant?

16 DEPUTY COMMISSIONER HEIDI GROSSMAN:  
17 That' correct. There was no judicial warrant.

18  
19 CHAIR MENCHACA: Okay, thank you for  
20 that, and I think on this case, I'm just reading the  
21 notes, I think (crosstalk), for case two, WS, we do  
22 not believe there was a qualifying conviction there,  
23 but again, we're going to come back to these cases as  
24 we engaged, and earlier you asked Chair Powers about  
25 the follow up to the letter. We're going to need

1  
2 everything in writing, so I hope you're preparing for  
3 that as well as we move forward.

4 DEPUTY CHIEF OF STAFF DANA WAX: Chair  
5 Menchaca, I just want to correct it, I believe I  
6 heard you say Grossman say there was in fact, a  
7 qualifying conviction for case two?  
8

9 CHAIR MENCHACA: For case number two,  
10 correct.

11 DEPUTY CHIEF OF STAFF DANA WAX: I just  
12 want to be clear. Both case two and case number  
13 three have qualifying convictions.  
14

15 CHAIR MENCHACA: Okay, and I think that's  
16 where there's discrepancy and so, that's for a later  
17 discussion, but just for the public notes, note that  
18 our information says differently and so this is part  
19 of this longer discussion that we're going to have.

20 DEPUTY COMMISSIONER HEIDI GROSSMAN: But  
21 the law does say, it defines a violent or serious  
22 crime and there's a list of felonies defined, and  
23 then there are also, it talks about a felony attempt  
24 as well. So, as we look at this, our view is that  
25

1  
2 this fits within the law, in terms of the qualifying  
3 conviction.

4 CHAIR MENCHACA: And that gets to where  
5 we are today. So, thank you, and we're going to  
6 follow up with you on that. In case number six, ICE  
7 issued a non-public location within a DOC facility  
8 where they were able to transfer custody. This type  
9 of access is described in DOC guidance. Please  
10 explain how access non-public areas of DOC facilities  
11 is currently allowed under local law.  
12

13 DEPUTY COMMISSIONER HEIDI GROSSMAN: My  
14 information, and again, given the information that we  
15 have, we had limited information, so, we did the best  
16 we could do, and we believe our information that we  
17 have pertains to the description in the letter that  
18 we received. Our understanding here is that DOC  
19 received an ICE detainer on January 7, 2021. The  
20 individual was discharged to ICE on April 23, 2021,  
21 and the individual had a qualifying conviction.

22 CHAIR MENCHACA: Okay, and it sounds like  
23 you don't have a sense of where the non-public  
24 location given to ICE was or where that place is?  
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DEPUTY COMMISSIONER HEIDI GROSSMAN: I mean, you know, I can tell you that I don't know exactly where this particular individual was discharged from, but I think the Chief can speak mostly to the process of when, similar to ... (crosstalk).

CHAIR MENCHACA: You're right, you're right, Ms. Grossman, the question can be a general one which is the explanation of how access to non-public areas of DOC facilities is currently allowed under local law, even for a transfer to ICE. Do you have a sense of that?

CHIEF OF SECURITY KENNETH STUKES: This is Chief Stukes.

CHAIR MENCHACA: Hello, Chief.

CHIEF OF SECURITY KENNETH STUKES: Good afternoon. Yes, with regards to persons being discharged from all of our facilities, the discharge process takes place in our central intake area.

CHAIR MENCHACA: Okay, so, what you're saying is, I don't want to put words into your mouth, but I want to get a sense of this, is that ICE never

1  
2 goes to non-public spaces in the Department of  
3 Corrections for a transfer. That just doesn't  
4 happen, you're saying?

5 CHIEF OF SECURITY KENNETH STUKES: All of  
6 our discharges are released from intake.

7  
8 CHAIR MENCHACA: And that's a public  
9 area?

10 CHIEF OF SECURITY KENNETH STUKES: It is  
11 a not a public area in a sense where there are  
12 members of the public who enter that area. That is a  
13 location within the facility where all of our persons  
14 who are being taken into custody enter into a  
15 facility and upon any discharge, that is the location  
16 in the facility where a person is released back into  
17 the community.

18  
19 CHAIR MENCHACA: Okay, we may have to  
20 follow up on that. We're getting different  
21 information, and I hope your team and staff can stay  
22 for the advocates who have a different story about  
23 that. So, let's move on to case number seven, and  
24 this is the last question for me that has been  
25 prepared. The Mayor's Office of Immigrant Affairs  
representatives intervened in an unlawful extended

1  
2 detention and were able to assist in client seven's  
3 release. Please share with MOIA or actually, please  
4 share what MOIA communicated to the Department of  
5 Corrections that led to that release and how will DOC  
6 change its procedures moving forward to avoid that  
7 kind of situation?

8 DEPUTY COMMISSIONER CAROLINA CHAVEZ:

9 (Inaudible).

10  
11 CHAIR MENCHACA: Well, it's for both of  
12 you, but I kind of want to get that communication,  
13 what that was, so, Ms. Chavez, if you can talk a  
14 little bit about that communication, and then DOC,  
15 about how you're making efforts to make that change  
16 that doesn't happen again, in case number seven.

17 DEPUTY COMMISSIONER CAROLINA CHAVEZ:

18 Sure. I would certainly say that our understand of  
19 the case, looking back at what occurred in that  
20 instant, we wouldn't characterize it as our need to  
21 intervene to prevent something. It was rather us  
22 being in communication with DOC to get a sense of  
23 what was happening. It's our understand, and I'll  
24 let DOC speak a little bit more to the facts that the  
25 individual's release was delayed, but it wasn't

1  
2 associated with the detainer. It was for other  
3 factors which I think DOC has talked about a little  
4 bit already, but again, I'll let me colleague speak  
5 to that, and then MOIA worked with the Bronx  
6 Defender's office to ensure that the individual was  
7 released in compliance with the detainer. It's our  
8 understanding there was no qualifying conviction,  
9 there was never a notification that was made to ICE,  
10 but beyond that, I think that for the details I will  
11 refer to my colleagues.

12  
13 CHAIR MENCHACA: Okay, Department of  
14 Corrections?

15  
16 DEPUTY CHIEF OF STAFF DANA WAX: Thank  
17 you, this is Dana Wax speaking. Thank you, Deputy  
18 Commissioner Chavez, I actually personally remember  
19 this case very well, and I was personally in touch  
20 with Deputy Commissioner Chavez's staff who called me  
21 to let me know about a release that was taking a bit  
22 of time, and a concern that perhaps it was related  
23 ICE. Over the next few hours, I worked with my  
24 colleagues in custody management as well as at the  
25 facility itself to determine what was going on. I  
was able to confirm that it was not related to an ICE  
detainer but was unfortunately related to what we

1  
2 would later find out after the police was processed.  
3 There was a fire at the facility thar required  
4 (inaudible). So, in this case, ICE was not notified  
5 it was not related to trying to detain someone for a  
6 specific, because of the detainer. As I believe,  
7 probably Ms. Chavez and her staff can remember, we  
8 were in communication all that night up until about  
9 11:00 or 12:00 that night to make sure that person  
10 was released. Sadly, we do run jail facilities and  
11 so, you know there are certainly issues that can pop  
12 up that can cause delays in movement across the  
13 facility, and this was one of those time, and we're  
14 always looking for ways to reduce those incidents.

15  
16 CHAIR MENCHACA: Okay, so it sounds like  
17 there was a situation, you took care of it and what I  
18 haven't heard yet is rather or not you changed  
19 policies that this kind of delay doesn't happen; as  
20 you saw that it was, well, thankfully, it wasn't  
21 connected to, it sounds like an ICE transfer that,  
22 have you made internal changes within the Department  
23 of Corrections that this case doesn't happen again?

24 DEPUTY CHIEF OF STAFF DANA WAX: So, with  
25 the regards to the incident around that specific  
case, I can also say that it happened at the EMTC

1  
2 facility that thankfully, we've been able to reclose.  
3 I believe it happened pretty close to the time we had  
4 reopened EMTC, and as a result, a number of staff  
5 members had been pulled from all over the facility to  
6 help stand up the EMTC who don't know that was our  
7 COVID new admission facility over the course of the  
8 second wave, and so, we worked certainly to make sure  
9 that staff members could work together better, and  
10 ensure that, you know, any issues that were arising  
11 because of new staff coming together were resolved,  
12 and then globally across the Department, we are  
13 always looking at ways to address delays in discharge  
14 because we just, as much as everybody watching today,  
15 we would like people to be released from jail in a  
16 timely manner (inaudible), but we are continuing to  
17 work on our policy, and you know, always happy to  
18 work with the advocates in counsel to get those  
19 resolved.

20  
21 CHAIR MENCHACA: Beautiful. Well, I  
22 think with that on that note, I want to say thank you  
23 for your time today. We are fighting in the City  
24 Council for New Yorkers. These are people who  
25 deserve a sanctuary like any New Yorker, and this is  
why we're going hard and we're going to keep going

1  
2 hard until we fix loopholes so we can help you do  
3 your work with more humanity and ensure that people  
4 are safe in this community. One case, it only takes  
5 one case to destroy trust, and that has happened, and  
6 we have more cases in just last year. We're going to  
7 hear from advocates, so I'm hoping you and your team  
8 can stay and listen to their testimony, but it is  
9 their testimony that is driving us to fix these  
10 problems, and I hope we can come to some conclusion,  
11 but we will be using every power that we have in the  
12 Council to remediate this, and I think the last point  
13 I want to make is I hope that we can all agree that  
14 as we support our New York neighbors that this  
15 relationship with the federal enforcement, which is  
16 not our job, it is not the local, it is not our job  
17 as the local anything, NYPD, any city agency,  
18 including corrections to do their job, and it is our  
19 job to build a relationship with our community so  
20 that they can engage in COVID operations, that can  
21 engage in adult literacy programs, and the job  
22 market, and that is the essence of what we're trying  
23 to protect here, and that has been damaged with them,  
24 myself, and many members of our leadership community.  
25 So, I hope to work with you to correct that, and with

1  
2 that, I'm going to hand it over to Harbani Ahuja to  
3 get us to the next panel and thank Chair Powers as  
4 well for his leadership.

5  
6 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
7 you, Chair. I'm just going to quickly ask if any  
8 other Council Members have questions for this panel.  
9 Seeing no hands, I'd like to thank this panel for  
10 their testimony, and we'll be moving on to our public  
11 testimony.

12  
13 DEPUTY CHIEF OF STAFF DANA WAX: Chair, I  
14 just wanted to quickly add that even if you don't see  
15 the four of us, because of course, our Chief, our  
16 FDC, our general counsel needs to get back to their  
17 other duties, I am (inaudible).

18  
19 CHAIR MENCHACA: Beautiful, and I guess  
20 all I would ask if that they leave their camera on  
21 and engage, not engage, but just leave their camera  
22 on so that we can know that they're here, present.

23  
24 DEPUTY CHIEF OF STAFF DANA WAX:  
25 Understood. I'll let them know, thank you.

CHAIR MENCHACA: Thank you so much again.

1

2

DEPUTY COMMISSIONER HEIDI GROSSMAN:

3

Thank you.

4

5

CHIEF OF SECURITY KENNETH STUKES: Thank  
you.

6

7

COMMITTEE COUNSEL HARBANI AHUJA: Thank

8

you, and now we've concluded the Administration

9

testimony and will be turning to public testimony.

10

I'd like to remind everyone that we will be calling

11

on individual one-by-one to testify, and each

12

panelist will be given three minutes to speak. For

13

panelist, after I call your name, a member of our

14

staff will unmute you. There may be a few second of

15

delay before you are unmuted, and we thank you in

16

advance for your patience. Please wait a brief

17

moment for the Sergeant at Arms to announce that you

18

may begin before starting your testimony. Council

19

Member who has questions for particular panelists

20

should use the Zoom raise hand function and I will

21

call on you after the panel has completed their

22

testimony in the order in which you have raised your

23

hands. I would like to now welcome our first panel

24

to testify. First, I will be calling on Jill

25

Waldman, followed by Casey Dalporto, followed by Rosa

Cohen-Cruz, followed by Sophia Gurule, followed by

1  
2 Hannah Walsh, followed by Rebecca Press. Jill  
3 Waldman, you may begin your testimony when you are  
4 ready.

5  
6 SGT BIONDO: Time starts now.

7 JILL WALDMAN: Good morning. My name is  
8 Jill Waldman and I am the supervising attorney for  
9 the Criminal Immigration Unit at the Legal Aide  
10 Society. The Criminal Immigration Unit provides  
11 advise and affirmative representation to non-citizens  
12 who have had contact with the criminal justice  
13 system. Within my capacity, I have worked closely  
14 with non-citizens of Riker's Island, their lawyers  
15 and the Department of Corrections navigating the New  
16 York City Detainer Law. In 2018, I worked with a  
17 mentally ill legal permanent resident of the United  
18 States, WS. WS had prior misdemeanor convictions  
19 which the lawyers believed to be crimes involving  
20 (inaudible) as well as a 2014 conviction for attempt  
21 reckless assault to the second degree, a legally  
22 impossible crime which does not carry immigration  
23 consequences, but nonetheless falls within the 177  
24 crime carve out. WS's lawyers worked tirelessly to  
25 place WS in mental health treatment and to negotiate  
pleas which maintains eligibility for cancellation of

1  
2 removal, a discretionary form of relief from  
3 (inaudible). After extensive negotiations, WS pled  
4 guilty to immigration safe pleas before a judge  
5 (inaudible), but because WS had already served his  
6 time, he expected to be released from the courthouse,  
7 but instead, he was returned to Riker's Island,  
8 extensively for mental health discharge planning.  
9 Instead, he was turned over to immigration and  
10 Customs Enforcement by the staff at Riker's Island,  
11 even though ICE did not present a warrant from a  
12 federal judge. The Department of Corrections  
13 justified their transfer to ICE under the  
14 communication section of the New York City Detainer  
15 Law. In WS's case, DOC's coordination went well  
16 beyond communication. The Department informed ICE of  
17 the date and time of WS's release, to our  
18 understanding, permitted ICE on Riker's Island to  
19 arrest him, (inaudible) transfer to ICE and then  
20 recorded this transfer on the Department of  
21 Correction's website. DOC's justification was that  
22 as a public safety policy. DOC had decided to ensure  
23 an orderly transfer to ICE from what was my  
24 understanding. WS highlights two points. First,  
25 non-citizens who do everything possible to preserve

1  
2 their presence in this country, with care  
3 negotiations are still turned over to ICE under the  
4 detainer law. Second, the notification provision,  
5 (inaudible) as well as the rule. DOC is not simply  
6 not informing ICE of non-citizen release dates, they  
7 are using DOC resources and poverty to oversee well-  
8 coordinated transfers. If New York City is truly a  
9 sanctuary city, this Council must take swift and  
10 decisive action to enforce the letter and the spirit  
11 of the law and prohibit DOC from using this  
12 notification (inaudible).

13  
14 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
15 you for your testimony. I'd like to now welcome  
16 Casey Dalporto testify. You may begin when you are  
17 ready.

18 SGT. BIONDO: Time starts now.

19  
20 CASEY DALPORTO: Good afternoon. My name  
21 is Casey Delporto. I'm a policy attorney at New York  
22 County Defender Services and before joining NYCDS, I  
23 worked as a Criminal Immigration Specialist at the  
24 Legal Aide Society with Ms. Waldman, and I'm here to  
25 tell the story of a client that I represented there  
who, in March 2020 was a victim of a violation of the

1  
2 NYC Detainer Law and was ultimately transferred to  
3 ICE and deported. My client, who I will call SS was  
4 born in Gambia and had lived in the United States  
5 since 2014. He was married to a US citizen who was  
6 born and raised in the Bronx, and they had two young  
7 children together. In March 2020, he was serving a  
8 sentence on Riker's Island for two class E, non-  
9 violent felony offenses, attempted reckless  
10 endangerment in the first degree and attempted  
11 reckless assault in the second degree. On March 26,  
12 2020, as New York City plunged into lockdown, I got a  
13 frantic call from SS's wife, Rachel. She said that  
14 SS had just called her and told her that he was going  
15 to be picked up by ICE. She said that around 11:00  
16 a.m. that morning on March 26, he was given  
17 instruction that he was on Mayor De Blasio's list of  
18 individuals to be released early due to the  
19 Coronavirus pandemic that was spiraling out of  
20 control across the city, and especially in DOC  
21 correctional facilities. So, as instructed, he  
22 immediately packed up his belongings, went to  
23 discharge planning at RNDC. He said that when he  
24 arrived there and as he was going through the  
25 paperwork, the Deputy Corrections Office who was in

1  
2 charge of discharge planning came up to him and said,  
3 "You're not going home. You're going back to Africa.  
4 ICE is coming to get you". This corrections officer  
5 then sent him back to his cell for ICE pickup.  
6 That's when he called his wife and also me. So,  
7 immediately, alarm bells rang because this seemed to  
8 confirm our suspicion that DOC was not, in fact, just  
9 notifying ICE when somebody presented with a  
10 qualifying conviction. In fact, they were delaying  
11 stalling and prolonging that person's detention until  
12 ICE had arrived, and then they would facilitate the  
13 transfer. So, I immediately called the ICE captain  
14 on duty, Captain Rainy (SP?). She informed me, in  
15 fact, very frankly, that that was exactly what she  
16 planned to do. That she said in her words, that she  
17 was going to honor the detainer and she was not  
18 releasing my client until ICE had an opportunity to  
19 show up and arrest him. So, I immediately escalated  
20 the matter and I spoke to do, see legal.  
21 Specifically, I spoke to Lauren Mellow (SP?) who  
22 seemed to understand that this was a violation, if  
23 fact, of DOC law and so she said she would look into  
24 the matter. After many follow up emails, voicemails,  
25 unresponded text messages, about 24 hours later, I

1  
2 received an email from Kevin, he's a corrections  
3 officer who confirmed again that they were going to  
4 hold my client until the time that it took for ICE to  
5 arrive and pick him up. Anyway, there was a lot more  
6 back and forth and I'll rely on my written testimony  
7 for those details, but my client ... (crosstalk).

8  
9 SGT BIONDO: Time expired.

10 CASEY DALPORTO: My client was  
11 ultimately, he was transported to ICE custody through  
12 the investigation of DOC, and he was deported. His  
13 wife is now without a husband. His children are  
14 without a father.

15  
16 CHAIR MENCHACA: Thank you.

17 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
18 you for your testimony. I'd like to now welcome Rosa  
19 Cohen-Cruz to testify. You may begin when you are  
20 ready.

21  
22 SGT. BIONDO: Time starts now.

23 ROSA COHEN-CRUZ: Thank you. My name is  
24 Rosa Cohen-Cruz, and I am an immigration attorney and  
25 policy counsel to the Bronx Defenders Immigration  
Practice. The detainer laws were enacted to stim the

1  
2 arrest and deportation pipeline and insert some  
3 measure of due process by requiring a judicial  
4 warrant before transferring someone with a qualifying  
5 conviction to DHS custody. So, I'm going to focus  
6 specifically and quickly on two of the most common  
7 violations we see. First are transfers without a  
8 judicial warrant and the other, excessive detention  
9 and lockup transparency around when DOC is trying to  
10 determine rather or not a detainer can be honored.  
11 So, DOC testified today that they do not believe any  
12 transfers other than Javier Castillo Maradiaga have  
13 been in violation of the detainer law, but they also  
14 confirmed that there have been no judicial warrants  
15 in any of the cases where individuals have gone from  
16 their custody into ICE's custody. Their response is  
17 that they're merely notifying ICE of when a person  
18 will be released, but that is false. It also applies  
19 against the intent and spirit of the judicial  
20 requirement in the detainer law. In March of this  
21 year, a Bronx Defender's client finished a six month  
22 sentence on Riker's Island after a conviction for a  
23 violent and for a serious crime, and he was informed  
24 by DOC staff that he was going to be released, but on  
25 that same day, he was taken from his housing area to

1  
2 wait in a separate holding cell, he waited for two  
3 hours without any explanation from ICE, and two ICE  
4 officers went into his cell and told him to follow  
5 them. He was then informed outside of the cell that  
6 he was being arrested by ICE and was transported from  
7 DOC custody to ICE custody. We have never received,  
8 nor has he ever received any accounting of the time  
9 that he was held in the holding cell. No judicial  
10 warrant was ever presented to DOC. He never had one  
11 moment of liberty between his time in DOC custody and  
12 his time in ICE custody. Moreover, we're just left  
13 to guess at why our client was held for two hours.  
14 Was it the normal course of discharge or a delay  
15 tactic? This is a consistent theme that we see in  
16 all of our cases, and it has allowed DOC to continue  
17 to escape accountability. Similarly, in August of  
18 2019, a BXD client with a qualifying conviction was  
19 arrested by ICE without a judicial warrant in his own  
20 housing unit at Riker's. Both of these clients were  
21 transferred to ICE without a judicial warrant under  
22 the guy responding to request for notification. Both  
23 of these clients never had a minute of liberty and  
24 again, a judicial warrant was never presented, and we  
25 see any transfer of custody, the fact that someone

1  
2 never has this moment of liberty between their  
3 custody in DOC and their custody of ICE is clearly  
4 flies in the face of the intent behind the judicial  
5 warrant requirement and the detainer law and  
6 eviscerates any of the protections the law was meant  
7 to confer. DOC guidance in March of 2019 that they  
8 do not require a judicial warrant for individuals as  
9 long as those people are not detained beyond the time  
10 it takes to complete the discharge process is ...  
11 (crosstalk).

12  
13 SGT. BIONDO: Time expired.

14 ROSA COHEN-CRUZ: Is meaningless without  
15 any accounting for the actual discharge process. We  
16 heard today that, and I'll be quick in finishing, we  
17 heard today that it would be too difficult for DOC to  
18 differentiate cases in which an individual is held  
19 for an extended period of time for an immigration  
20 detainer versus those where they're just held for  
21 other factors. It is up to DOC. They are the ones  
22 responsible for detailing any reason that a person is  
23 being detained beyond the normal time, and how are  
24 we, as advocates, or our clients incarcerated in the  
25 system supposed to hold DOC accountable if they are  
not even accounting for the time that it takes for

1  
2 somebody to be released. You know, our belief is  
3 that they are often using delay tactics in order to  
4 allow ICE to come to the facility and pick up our  
5 clients, and that is what we see time after time  
6 under the guys responding to request for  
7 notification. I'm just going to quickly share one  
8 last story which in 2017, I, myself went to Riker's  
9 and asked to meet with a client. I knew he was being  
10 released that day, I knew there was an ICE hold, and  
11 I told DOC I was coming to be with him. I got there  
12 at 9:00 in the morning and waited until 2:00 p.m. in  
13 the afternoon. I spoke to five or six different  
14 officers throughout the day. I was sent back and  
15 forth from different buildings, told to speak with  
16 different officers, told to sit and wait, and  
17 eventually, after waiting for four hours, I was told  
18 that my client had been released to ICE custody  
19 during the time I had been at the facility and he was  
20 never given an opportunity to speak to me, his  
21 lawyer. I see DOC putting their interest in working  
22 with ICE above their obligations to the people in  
23 their custody, above the obligation to release people  
24 under detainer law, above the obligation to allow  
25 people their right to counsel. We cannot allow DOC's

1  
2 allegiances to ICE to override their allegiances to  
3 New Yorkers regarding of those New Yorkers'  
4 immigration status. The one last thing I'll mention  
5 is that this is an issue statewide. We recently had  
6 a client in Putnam County who was complying with  
7 probation ever day, doing everything he was supposed  
8 to do, checking in, and that probation officer told  
9 ICE to come and pick him up at his next scheduled  
10 appointment and for that reason, in addition to all  
11 the other measures that are in the table for today,  
12 it is very important that the Council pass the  
13 resolution calling on New York State Legislature to  
14 pass New York for All because we need to see this  
15 problem fixed both at the city level and on the state  
16 level. New York State should not be in the business  
17 with collaborating with ICE and funneling people into  
18 the deportation pipeline. Thank you.

19  
20 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
21 you so much for your testimony. I'd like to now  
22 welcome Sophia Gurule to testify. You may begin when  
23 you are ready.

24 SGT. BIONDO: Time starts now.  
25

1  
2                   SOPHIA GURULE: ... Public Defender and  
3 Policy Counsel to the Immigration of the Bronx  
4 Defenders. This is first oversight hearing on New  
5 York City's detainer laws which were passed during  
6 the Obama Administration in 2014, and here we are, a  
7 Trump-invited administration later because the New  
8 York Police Department and the Department of  
9 Corrections are consistently failing to comply with  
10 laws imposed on them to protect immigrant New Yorkers  
11 from deportation. The reason the detainer laws were  
12 passed seven years ago is because it was a fact that  
13 arrest and jailing by NYPD and DOC systematically led  
14 to immediate arrest by ICE. This was the reality,  
15 partly due to Draconian and unjust federal  
16 immigration law enforcement and partly due to the  
17 fact that NYPD and DOC readily shared information and  
18 communicated with ICE. Responsive to the communities  
19 they represented who demanded more protection for  
20 immigrant New Yorkers, the City Council stepped up  
21 and passed groundbreaking legislation to limit the  
22 city's cooperation with ICE. Yet, seven years later,  
23 the fact remains the same. NYPD and DOC share  
24 information and communicate with ICE and this  
25 collaboration is actually codified in limited

1  
2 circumstances where there are expects that instruct  
3 that people with certain violent or similar criminal  
4 convictions can have their information shared or even  
5 be transferred into ICE custody so long as ICE has  
6 obtained a warrant signed by a federal judge. In  
7 other words, if a person has a certain type of  
8 criminal convictions, and they are considered  
9 categorically expandable regardless of rather that  
10 person has fulfilled their punitive jail sentence or  
11 in other instances or forced to plea guilty to unduly  
12 harsh criminal charges through the systemic barriers  
13 that result in the hyper criminalization of poor,  
14 black, indigenous, and Latin X communities, but  
15 though some city collaboration with ICE is codified,  
16 much of the recent NYPD and DOC cooperation with ICE  
17 is just strictly prohibited by the city's detainer  
18 laws. As my colleagues have detailed before me,  
19 there have been countless instances of DOC notifying  
20 and transferring immigrant New Yorkers into ICE  
21 custody even though they have not, they can't account  
22 for one instance where ICE has actually produced the  
23 judicial warrant signed by a federal judge. The idea  
24 that ICE would obtain a judicial warrant signed by a  
25 federal judge to make an ICE arrest is actually just

1  
2 laughable. It's simply unheard of, it's unheard of  
3 because agencies like NYPD and DOC are notorious  
4 opaque and refuse to share this information with  
5 people in their custody and with their attorneys.  
6 It's also laughable because ICE cares even less to  
7 honor fundamental due process protections. So, the  
8 issue is not rather they collaborate with ICE, the  
9 issue is how to ensure DOC and NYPD compliance with  
10 the city's detainer laws and how to strengthen the  
11 laws. Any immigrant New Yorker being subjected to  
12 the terror of ICE with the assistance of NYPD and DOC  
13 is unacceptable. A city's agent violation of our  
14 detainer laws demonstrates a flagrant disregard for  
15 our laws and egregious misuse of our city's resources  
16 and makes a mockery of New York City's best effort to  
17 be a sanctuary for immigrants. We have to end the  
18 177 conviction carve outs to our existing laws. They  
19 are dehumanizing. They result in family separation  
20 and is simply not a response ...

21  
22 SGT BIONDO: Time expired.

23  
24 SOPHIA GURULE: For city agencies to  
25 facilitate federal deportation regardless of a  
the loopholes that allow for a city agency to

1  
2 communicate with ICE and the city council must urge  
3 New York City State's Legislature to pass the New  
4 York for All Act which would strengthen our city's  
5 detainer laws if passed, and we need to pass a  
6 private right of action because the only consequences  
7 that agencies like NYPD or DOC seem to understand  
8 involves money. Immigrant New Yorkers and their  
9 families should be able to sue the city for violating  
10 the detainer laws and seek civil damages for being  
11 subjected to the terrors of ICE enforcement and our  
12 nation's deportation courts, which have only become  
13 more dysfunctional and punitive in the past four  
14 years. Being a sanctuary for immigrant New Yorkers  
15 is an ongoing commitment and requires us learning and  
16 refining our collective efforts to protect our most  
17 vulnerable community members. We simple can't hand  
18 any immigrant New Yorker over to the federal  
19 deportation machine due to dehumanizing  
20 categorizations based on criminal legal system  
21 contact. Immigrant New Yorkers were the frontline  
22 caretakers and workers who showed up day in and day  
23 out for the New York City in its toughest months of  
24 the pandemic, at the same time, that the federal  
25 government cowered in its support for our city.

1  
2 Immigrant New Yorkers are also from the same black,  
3 indigenous communities disproportionately policed due  
4 to anti-black, racist policing practices and from  
5 communities routinely divested from and ignored, and  
6 as the Biden Administration reshapes and finalizes  
7 its immigration law enforcement priorities in the  
8 coming weeks, now is the critical moment to make New  
9 York City's values known. New York City  
10 unequivocally stands with all immigrant New Yorkers  
11 and refuses to cooperate with a punitive impartial  
12 deportation machine that dehumanizes people based on  
13 their contact with the criminal legal system. Thank  
14 you.

15 CHAIR MENCHACA: Thank you.

16  
17 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
18 you for your testimony. I'd like to now welcome  
19 Hannah Walsh to testify. You may begin when you are  
20 ready.

21 SGT. BIONDO: Time starts now.

22  
23 HANNAH WALSH: Good afternoon. My name  
24 is Hannah Walsh. I'm a staff attorney at the Bronx  
25 Defenders and I will be reading a statement by a  
client of the Bronx Defenders. I entered a jail in

1  
2 New York City after pleading guilty in a criminal  
3 case against me. Throughout my criminal case, I  
4 attended every hearing, I communicated with my  
5 criminal defense attorney. My criminal defense  
6 attorney never told me that the conviction I plead to  
7 could lead me to be arrested by ICE. One day in  
8 April 2021, I was told by the officers at the jail  
9 that I was going to be released. They then called me  
10 down to the cell to wait for release. I waited two  
11 hours in a cell close to the part where people are  
12 released from the jail. After waiting around one  
13 hour in the cell, I noticed two officers who were in  
14 the room outside of the cell. I later learned that  
15 these officers worked for ICE, but I did not know  
16 this when I was, I first saw them. They were there  
17 for around one hour while I waited for my release.  
18 They were speaking with the corrections officers or  
19 the COs. After waiting for about another hour, one  
20 of the ICE officers opened the door to my cell and  
21 asked for me by name. I said yes, and he signaled  
22 that I should come with them. Upon leaving the cell,  
23 I entered the room of the jail where people leaving  
24 jail can pick up their clothing and property. There  
25 were two COs there and two officers who I believe

1  
2 were captains because they were wearing white shirts.  
3 The two officers I had seen from cell and that had  
4 come to get me were also there. When I entered the  
5 room, these officers told me that they were  
6 immigration and that I had to go with them. They  
7 also wore hats that said ICE. The ICE officers did  
8 not speak much Spanish, so one of the COs translated  
9 for us. ICE gave me my clothing and ordered me to  
10 change my clothes. Now understanding that ICE was  
11 going to arrest me, I asked them why they were  
12 arresting me. They did not answer me. I told them I  
13 want to speak to my lawyer. One of the ICE officers  
14 responded to me in Spanish and told me relax, relax,  
15 you're going to have a lawyer. This calmed me down a  
16 little bit in the moment because I thought I would be  
17 able to call a lawyer, but in fact, they did not  
18 allow me to speak to a lawyer that day. The jail  
19 officers took my fingerprints and gave me a paper to  
20 sign. I did not know what the paper said because it  
21 was all in English. Then the ICE officers handcuffed  
22 my wrists and ankles connected by a chain on my  
23 waste. It was very difficult to walk, and this hurt  
24 my arm a lot. When we finally left the jail, I  
25 believe two to three hours had passed since I was

1  
2 first called down to wait. From there, ICE  
3 transferred me to Manhattan where I was processed and  
4 transported to an ICE detention facility where I  
5 remain today. I had no idea that I was going to be  
6 arrested by ICE. I thought I was complying with  
7 everything I needed to do for my criminal case, and I  
8 was supposed to begin probation upon release. Being  
9 in ICE detention has been very difficult for me and  
10 it has had a big impact on my family. At home, I  
11 support my partner and her child emotionally and  
12 financially. I also support my mother who is getting  
13 older and has health problems. It has now been six  
14 months since I have been able to see my loved ones.  
15 Thank you.

16  
17 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
18 you so much for your testimony. I'd like to now  
19 welcome Rebecca Press to testify. You may begin when  
20 you are ready.

21 SGT. BIONDO: Time starts now.

22 REBECCA PRESS: Thank you. Good  
23 afternoon. My name is Rebecca Press and I'm the  
24 Legal Director of Unlocal, a community-centered non-  
25 profit organization that provides community

1  
2 education, outreach, and legal representation to New  
3 York City's immigrant communities. We are a critical  
4 part of the team that represents Mr. Castillo  
5 Maradiaga in his legal case. I know that we have  
6 spent a long time talking about Mr. Castillo's case,  
7 but I am going to revisit it because his case  
8 demonstrates all of the ways in which our current  
9 detainer laws fail. First and foremost, the current  
10 detainer laws fail in so many ways as we've heard.  
11 The fact that the laws do not regulate the kind of  
12 communication between ICE and city agency, the  
13 extent, when, how, they don't require that this  
14 communication be made publicly available is shocking.  
15 We've heard from MOIA earlier this morning that they  
16 don't even track these communications. How are we  
17 even to know where to begin if we don't know what  
18 kind of communication is occurring. We believe that  
19 the detainer laws should be amended to prohibit all  
20 communication between city agencies and ICE. That  
21 would go along way in ensuring that the kind of error  
22 that occurred with Javier, never occurs again, but  
23 short of that, absent that, at the very least, the  
24 detainer laws must be amended to ensure and regulate  
25 the communication between city agencies and ICE, and

1  
2 those communications must be made publicly available  
3 quickly. There is no reason that a full year passed  
4 between Javier's arrest or transfer and when it  
5 became publicly known. The other way in which the  
6 detainer law currently fails is the choice to absolve  
7 the city from all responsibility when these grievous  
8 errors occur, and by that, I'm referring to the lack  
9 of a private cause of action. The detainer law must  
10 be amended to include a private right of action. You  
11 know, we heard MOIA talk about all the efforts that  
12 they made to mitigate this horrible error that  
13 occurred, this horrible violation of the law that  
14 occurred and while we appreciate those efforts,  
15 truly, Javier's case shows clearly that once an error  
16 like this occurs, once a violation of the law like  
17 this occurs, there's very little that the city can do  
18 to mitigate the harm, right. We appreciate  
19 everything that was done, but the reality is that  
20 Javier was released from ICE detention because of  
21 tremendous community action, because all of the legal  
22 work that went into it, right, and the reality is  
23 that he was released on an exceedingly thin margin.  
24 It just as well could have gone the other way, and it  
25 has gone the other way with many of the clients of my

1  
2 colleagues, right, and then what, and then what? The  
3 mitigating efforts are far ... (crosstalk).

4 SGT BIONDO: Time expired.

5  
6 REBECCA PRESS: So, we full support a  
7 private cause of action and we request that the  
8 detainer laws be amended even further to prohibit all  
9 communication between ICE and city agencies. Thank  
10 you.

11 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
12 you for your testimony. I'm now going to turn it to  
13 Chair Menchaca for questions.

14  
15 SGT. BIONDO: Time starts now.

16 CHAIR MENCHACA: Thank you Rebecca,  
17 Sophia, Hannah, all of the folks that either  
18 testified on their own behalf and organizations or  
19 testified with testimony from people who have been  
20 impacted. Your voices matter. Your voices are what  
21 is driving so much of this hearing and what we want  
22 to do to fix the issues, and I just want to do, and  
23 we have so many folks that are wanting to testify, so  
24 I don't want to spend too much time, but I do want to  
25 hit on two pieces. For the WS's case, there was a

1  
2 discrepancy with the DOC labeling the crime within  
3 the De Blasio carve out of the 177 crimes and our  
4 information that we have received from all of you.  
5 Can you offer your rendition, and as you do that, I'm  
6 going to ask for the DOC and the MOIA representatives  
7 who are here today to turn on their cameras for the  
8 rest of this hearing. I hope that's not a lot to ask  
9 and if that's a lot to ask, let me know. I think  
10 that's fair for you to be here to listen and witness  
11 and be with us in your presence, and so, at that  
12 point, can I hand it over to Ms. Waldman, or was it  
13 Ms. Waldman that you were talking about WS, right?  
14 Okay. Just the discrepancy that was confronted, we  
15 were confronted by DOC's information, and can you  
16 just help us clarify that?

17  
18 JILL WALDMAN: Sure, I feared that  
19 something got lost in translation. WS did have an  
20 attempted reckless felony assault which is assault  
21 stature is on the 177 carve out. It is; however, a  
22 legally possible crime, and so it was immigration, it  
23 was something where their well-intentioned attorney  
24 had attempt to negotiate an immigration safe plea,  
25 and yet still was considered a danger under the  
detrainer law, but he was convicted of a crime that

1  
2 was under the 177 carve out. We can sort of discuss  
3 rather the attempts should be included in those  
4 violent or serious crime categories that is correct,  
5 and I apologize if the wrong impression was ...  
6 (crosstalk).

7  
8 CHAIR MENCHACA: No, this was just to  
9 clarify, you know, so this is part of what we do here  
10 and ensure the right information is correct. I've  
11 have yet to see or understand if we have MOIA and DOC  
12 on the line, so I want to make sure that that  
13 happens, and question for Sophia who is one of the  
14 Defenders who has been really pushing this  
15 conversation forward, but also on the ground  
16 defending, utilizing the contract through the New  
17 York Immigrant Family Unity Project that is now a  
18 national model for other municipalities to bring  
19 representation. Sophia, you represent kind of the  
20 force on the ground that is paid for by the city of  
21 New York to defend and offer legal assistance for  
22 anyone that finds themselves in a deportation  
23 proceeding, and I just want to get a sense from you  
24 about how you feel that the city is paying for legal  
25 representation while the city is also offering these  
very dangerous communications without a judicial

1  
2 warrant violating the spirit of the law and I just  
3 want to get a sense from you about how you're  
4 feeling, representing the defenders that are  
5 defending while we're also causing this massive  
6 humanitarian issue right here in our city? If we can  
7 unmute Sophia, there we go.

8                   SOPHIA GUGURLE: Thank you. I mean, it's  
9 incredibly frustrating. It's incredibly frustrating  
10 to hear DOC officials and MOIA officials, you know,  
11 try to (inaudible) with the law is. It's incredibly  
12 frustrating to hear them say that they basically have  
13 not received one signed federal judicial warrant as  
14 required under the law and yet, there are so many  
15 instances that we see, you know, basically fairly  
16 regularly, I mean, I'm not kidding when I say that it  
17 is laughable to us that there would ever be signed  
18 judicial warrant filed with any of these agencies and  
19 of course, it's like inconsistent with the ways that  
20 New York City is trying to be an actual sanctuary for  
21 immigrant New Yorkers. Why are we allowing these  
22 different agencies to use our money, the money from  
23 immigrant communities and all New Yorkers to  
24 facilitate federal deportations while at the same  
25 time, we're trying to defend immigrant New Yorkers

1  
2 from the Draconian Immigration law enforcement and  
3 the Draconian Immigration courts that are becoming  
4 increasingly, you know, kind of, for lack of a better  
5 phrase, cesspools of due process, I mean, we are  
6 constantly operating in those courts and when you try  
7 to raise these issues within the courts themselves,  
8 there is very little concern, so being able to fight  
9 this from the frontend and ensure compliance is  
10 really of the utmost importance because there are  
11 very limited circumstances where we can actually find  
12 a remedy for the people who are harmed by these  
13 decisions, let alone fight their deportation cases  
14 because of it.

15 CHAIR MENCHACA: Thank you. I just  
16 wanted to really give you a sense of, or the  
17 opportunity, anyway, to give us a sense about how  
18 you're feeling on the ground as our defenders.  
19 You're the ones that we call when we find out that  
20 there is a deportation situation happening, when the  
21 breadwinner has been pulled from a home and is now,  
22 the whole family is now disarrayed and many times, we  
23 win that, and sometimes we don't, and so, this is  
24 what's at stake here. So, I just want to say thank  
25 you for that. We still do not have a MOIA or DOC

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2 representative because I understand I'm going to need  
3 you to, if not, please let us know what the issue is,  
4 rather or not there is a problem, but I still don't  
5 hear that there's a MOIA representative listening to  
6 the rest of this testimony or from the DOC which  
7 we're going to be following up with you later. So,  
8 just noting that. Okay, that's it for me. Chair  
9 Powers, do you have any questions?

10

CHAIR POWERS: No, but I appreciate  
11 everyone's testimony and giving us a sense of what is  
12 happening here with your clients and adding sort of a  
13 level of urgency here of the work we're doing in this  
14 hearing. So, thanks so much.

15

COMMITTEE COUNSEL HARBANI AHUJA: Thank  
16 you chairs. I'm just going quickly ask if any other  
17 Council Members have questions for this panel?  
18 Seeing none, I'm going to thank this panel for their  
19 testimony, and we'll be moving on to our next public  
20 panel. Next, I will be calling on Itzel Corona  
21 Aguilar, followed by Kiki Tapiero, followed by  
22 Prameela Kottapalli. Itzel Corona Aguilar, you may  
23 begin your testimony when you are ready.  
24

25

SGT. BIONDO: Time starts now.

1  
2                   ITZEL CORONA AGUILAR: Hi, my name is  
3 Itzel Corona Aguilar and I'm a paralegal organizer  
4 for Unlocals Rapid Response Legal Cooperative. The  
5 IRSV is a coalition between Unlocal Make the Road and  
6 NYLAC and was created to provide critical legal  
7 support for individuals, families, and communities  
8 that are at high risk of deportation. I will be  
9 reading a testimony from a New York resident named  
10 Mario Lopez. "I, Mario Lopez give testimony on  
11 behalf of my companion. I was detained for 15 months  
12 in Hudson County, and I was able to meet several  
13 people who arrived at this place due to a previous  
14 arrest by the New York Police. I asked that the  
15 police not work with ICE. If a resident makes a  
16 mistake, they have to be accountable for not alerting  
17 ICE. No one should have to be caged and separated  
18 from their children. I met many who were deported  
19 just because they were arrested by the NYPD. The  
20 police passed the individual's information to ICE and  
21 people who did not have documents to live this  
22 country were wrongly impacted". While managing a  
23 local rapid response legal collaborative hotline for  
24 the past year and a half, it has become increasingly  
25 clear that most, if not all people who reach our

1  
2 services have had an encounter with the NYPD shortly  
3 before being detained by ICE, particularly black,  
4 indigenous, Latin, trans, and queer (inaudible) are  
5 being targeted on a regular basis. Many of these  
6 stories I hear seek to the precarity of lack of  
7 support that undocumented immigrants experience, even  
8 within a sanctuary city like New York. Although  
9 undocumented communities refrain from calling the  
10 police, many are forced to do so after they have  
11 experienced significant harm and rather than  
12 receiving direct support, (inaudible) who go on to  
13 share this information with ICE. ICE then takes over  
14 and ensures the individual is detained and eventually  
15 deported, approximately 99.9% of the time, as they do  
16 not have a judicial warrant to detain individuals.  
17 At Unlocal, we provide educational support by  
18 empowering undocumented communities to know their  
19 rights and verify what a judicial warrant looks like.  
20 While this information is invaluable to immigrant New  
21 Yorkers, we know that ICE and NYPD continue to  
22 violate detail laws in order to maintain white  
23 supremacist ideals (inaudible) processing the  
24 immigration case outside of the activity. The seven  
25 cases that have been highlighted at this Council

1  
2 meeting today are specifically related to scenarios  
3 where severe (inaudible). I want to emphasize that  
4 these numbers are actually much higher, but the  
5 reality (inaudible) limit a transparent understanding  
6 of what historical and contended collaboration  
7 (inaudible) between ICE and the New York Police  
8 Department. Thank you.

9  
10 CHAIR MENCHACA: Thank you.

11 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
12 you so much for your testimony. I'd like to now  
13 welcome Kiki Tapiero to testify. You may begin when  
14 you are ready.

15  
16 SGT. BIONDO: Time starts now.

17 KIKI TAPIERO: Good afternoon, everyone.  
18 My name is Kiki Tapiero. I'm a staff attorney at the  
19 Bronx Defenders and I am sharing this story of my  
20 client, Rogelio, who is not able to be here today.  
21 He has given me permission to share his story. I had  
22 served my time of one year at Riker's Island, but  
23 following completion of my sentence, I was removed  
24 from my cell and placed in an intake room for 30  
25 minutes while DOC and ICE coordinated my transfer  
into ICE custody. At the time, I didn't understand

1  
2 what was happening. They only spoke to me in  
3 English. I was not given a warrant or anything  
4 signed by a judge. I was not told my rights in a  
5 language I could understand. I was confused because  
6 I thought I was being released, and I should have  
7 been released. Instead, I was brought to 26 Federal  
8 Plaza for several hours and then transferred to  
9 Hudson County Jail. Later, I learned through my  
10 attorney that ICE placed a detainer hold on me and  
11 DOC complied with ICE. At Hudson County Jail, the  
12 unlivable conditions drove me to go on hunger strike.  
13 At the time that I was on strike, there were at least  
14 80 people infected with COVID because of lack of  
15 proper quarantine. I was then transferred to Orange  
16 County Jail in January 2021 where I continued my  
17 hunger strike. The cell I was place in was cold and  
18 dirty, and like Hudson, OCJ failed adequately protect  
19 its inmate against the COVID-19 virus. I also  
20 experienced racism and harassment from many of the  
21 guards who abused their power over the inmates. I  
22 was treated even worse than a zoo animal. I had to  
23 eventually stop the strike because of the toll it  
24 took on my body. My eyes and my head in particular  
25 were in a lot of pain. My first meal after my hunger

1  
2 strike was a small portion of hard bread and very  
3 watery pasta that was practically soup. I tried to  
4 buy more food from the commissary, but they often  
5 doubled or tripled the prices. This is what happens  
6 when prisons are a business. Fortunately, I was  
7 released in March, but that is not always the case  
8 for everyone transferred into ICE custody. Some  
9 people wait many more months or even years before  
10 eventually being released or sometimes the story ends  
11 in a deportation. More laws like New York for All  
12 Act must be passed to better protect our New Yorkers,  
13 and DOC and ICE must also be held accountable to  
14 follow the law. There is no point in making legal  
15 progress when policies are simply ignored by  
16 enforcement officials. This willful ignorance is a  
17 blatant act of white supremacy in a continuation of  
18 the US's legacy of violence against black,  
19 indigenous, and other people of color. Let's do  
20 better New York City. Thank you.

21  
22 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
23 you so much for your testimony. I'd like to now  
24 welcome Prameela Kottapalli to testify. You may  
25 begin when you are ready.

SGT. BIONDO: Time starts now.

1  
2 PRAMEELA KOTTAPALLI: Hi. My name is  
3 Prameela and I'm a volunteer for Food for Immigrants  
4 and I'm here to read for Bryan Bragara (SP?). He was  
5 on this call earlier, but he had to leave because of  
6 work, so I will be reading off the translation of his  
7 testimony word for word. "Good morning. My name is  
8 Bryan Bragara. First, thank you very much for giving  
9 me the opportunity to speak with you all and for  
10 listening to my testimony and that of my peers who  
11 went through the process. I've lived in the US for  
12 five years. Both my daughter and wife live in this  
13 country. In 2018, I arrived at court for the first  
14 time in my life. When I arrived at court, my  
15 attorney told me not to pay bail. He said that even  
16 though it was only \$300, if I paid the bail, ICE  
17 would pick me up within 72 hours. I endured three  
18 months in jail until something happened in the  
19 Supreme Court. I was told I could leave the jail  
20 because ICE was no longer allowed to arrest  
21 immigrants at jails. When I got out of the jail, I  
22 had to do probation for three years. On September  
23 24, 2020, upon leaving an appointment I had with my  
24 probation officer, I was arrested by five heavily  
25 armed ICE agents. They tied me up with chains on my

1  
2 feet, my waste, and my hands. Then they moved me  
3 directly to Hudson County, New Jersey. When I  
4 arrived at Hudson, I realized that a lot of the  
5 detainees around me were also handed over to ICE by  
6 the NYPD. Most people at Hudson were transferred  
7 there from Riker's Island. I watched more than five  
8 people arrive at Hudson after spending five days at  
9 Hudson. Then, five days later, I saw those people  
10 were also sent back to Riker's Island. I don't know  
11 what the motive was to do this, but they did it many  
12 times. I was detained at Hudson County for five  
13 months. During that time, I saw that many of my  
14 peers were wasting their time and life inside the  
15 jail for no reason. I say this because the NYPD  
16 arrests many immigrants for no reason. They invent  
17 charges and then they bring people before a judge on  
18 the very unjust charges that they police made up.  
19 Many of the people I was detained with were deported,  
20 leaving their families here in New York. Many of  
21 them signed orders for volunteer departure because we  
22 were detained during the pandemic and the conditions  
23 we lived in were quite deplorable. We were not well-  
24 fed. We spent 23 and a half hours a day inside the  
25 cells. There were two people with epilepsy who

1  
2 suffered seizures in one unit. The guards responded  
3 by placing handcuff on their feet and hands when  
4 really, they should have taken the person to see a  
5 doctor, and this isn't even to mention the  
6 discrimination we suffered from the guards. We must  
7 endure the lies the ICE agents tell and we also had  
8 to deal with the suffering caused by being away from  
9 our families. I think the NYPD should not  
10 collaborate with ICE since their agents have no  
11 criteria to arrest people. ICE doesn't care that  
12 children have to spend so much time away from their  
13 mothers or fathers. However, the process people must  
14 go through is excessively unjust. There is no  
15 justice to keeping jails full solely for the sake of  
16 keeping them open. They don't care if we die inside,  
17 and I will remind you in 2020, 21 immigrants died in  
18 ICE custody. It's truly sad to see how many families  
19 are separated because of the racist and xenophobic  
20 belief held by people with the power to continue  
21 incarcerate others. I want to thank you for giving  
22 me the opportunity to speak so that it is known by  
23 the public how many immigrants are mistreated by  
24 immigration authorities. Thank you very much."

25

CHAIR MENCHACA: Thank you.

1  
2 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
3 you so much for your testimony. I'll turn it to  
4 Chair Menchaca for any questions.

5 CHAIR MENCHACA: Thank you. These cases  
6 are just so heartbreaking, and I think the one, maybe  
7 the one question that really illustrates the  
8 situation, I think it was Rogelio's case, Kiki, if  
9 you can get back on to the Zoom; you walked us  
10 through the really like the whole timeline of what  
11 had happened. There was a finished sentence, I  
12 understand, and that, I just want to connect the dots  
13 here, essentially the, what's the word I want to use,  
14 the conviction that led; I want to make a connection  
15 here. Bear with me. That's there's conviction that  
16 led to jail time of a year, and I'm assuming, and you  
17 can correct me, that conviction is what tipped the  
18 one 175 crimes, is that right?

19  
20 KIKI TAPIERO: Yeah, that's correct.

21 CHAIR MENCHACA: Okay, so this New Yorker  
22 paid for, through the justice system, his crime, for  
23 the conviction. The conviction happened, he spent  
24 time in jail, and as soon as that was over, ICE went  
25 out, or I guess ICE went without a federal judicial

1  
2 warrant, got a transfer from DOC and that led to the  
3 deportation proceeding.

4 KIKI TAPIERO: Yes. That's all correct.

5  
6 CHAIR MENCHACA: This, this is, I mean,  
7 this is the greater injustice, I think of all these  
8 cases, but this is just one of those lines where you  
9 have to meet, where someone has paid their price on a  
10 conviction, even through it wasn't a 177, and they  
11 should be allowed to leave, and they did not, and  
12 that's what we're talking about here. So, just thank  
13 you. I just want to let everyone who is listening  
14 and how we're thinking about it, and what we're  
15 trying to fix here, this is wrong. This is wrong.  
16 Thank you. Thank you, Kiki. That's it for me.

17 KIKI TAPIERO: Thank you, thank you for  
18 highlighting that.

19  
20 CHAIR MENCHACA: Thank you.

21 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
22 you, Chair Powers, any questions? Okay, I will  
23 quickly ask if there are any other Council Members  
24 that have questions at this time. Seeing no hands,  
25 I'd like to thank this panel for their testimony, and

1  
2 we'll be moving on to our next panel. In order, I  
3 will be calling on Catherine Gonzalez, followed by  
4 Genia Blaser, followed by Lindsay Nash, followed by  
5 Luba Cortes, followed by Zachary Ahmad. Catherine  
6 Gonzalez, you may begin when you are ready.

7  
8 SGT. BIONDO: Time starts now.

9 CATHERINE GONZALEZ: My name is Catherine  
10 Gonzalez. I'm a senior staff attorney and policy  
11 counsel in the immigration practice at Brooklyn  
12 Defender Services. I thank the Committee on  
13 Immigration and on the Committee of Criminal Justice,  
14 in particular Chair Menchaca and Chair Powers for the  
15 opportunity to testify today. At my time a BDS, I  
16 worked as a criminal defense attorney and an attorney  
17 of immigration practice, I've witnessed first-hand  
18 the direct harmful result of the entanglement between  
19 the criminal and immigration legal systems, an  
20 entanglement that results in immigrant New Yorkers,  
21 as has been pointed out today, being treated  
22 unequally. ICE has long relied on local and state  
23 law enforcement to target arrest and deport people,  
24 tearing people from their families and our  
25 communities. What we are seeing is essentially a  
fluid transfer of custody between DOC and ICE under

1  
2 the purview of the (inaudible) exception. Rather  
3 there is a violation of the detainer laws is a  
4 question BDS cannot answer because there's a lack of  
5 transparency. We do not have information about the  
6 actual communications between DOC and ICE. We do not  
7 know rather our clients for whom DOC receives an ICE  
8 detainer are released after the same amount of time  
9 as a client with no ICE detainer, but those 14  
10 detainer laws were a critical step in the right  
11 direction and we applaud the Council's leadership  
12 enforcing them; however, immigrant communities  
13 continue to face an enormous threat in an era of  
14 increased surveillance and enforcement. The city can  
15 and should do more to ensure that residents are not  
16 unnecessarily targeted for detention and deportation  
17 because of some action or failure to act by the city.  
18 In our written testimony, we offer a number of  
19 recommendations including the elimination of the  
20 notification exception to the detainer laws and a  
21 requirement for all DOC, NYPD, and the Department of  
22 Probation to inform defendants or people who are  
23 clients and defense counsel of a detainer or a  
24 request for a notification from ICE and to provide  
25 both our client and us as their counsel a copy of the

1  
2 detainer or whatever request for notification they  
3 receive and any accompanying information issued by  
4 federal law enforcement to DOC, NYPD, or DOP. In our  
5 testimony, we share the unfortunate story of our NYFA  
6 client, Juan Cruz Mestizo, a Brooklyn resident for  
7 over 30 years and a beloved father and grandfather.  
8 Mr. Cruz Mestizo tragically died after contracting  
9 COVID-19 on Riker's Island. This Friday, June 11th,  
10 of 2021, will be the tragic one-year anniversary of  
11 his unnecessary death and we believe that his story  
12 exemplifies a tragic and sometimes fatal consequences  
13 of the entanglement between these systems. The past  
14 seven years, New York City's law enforcement agencies  
15 have relied on the notification ... (crosstalk).

16  
17 SGT. BIONDO: Time expired.

18 CATHERINE GONZALEZ: Let me finish, as a  
19 loophole to allow for (inaudible) entanglement with  
20 the federal mass deportation regimen, and we urge the  
21 City Counsel to close this loophole that target our  
22 immigrant communities to meaningfully work towards  
23 making New York City the sanctuary city we believe it  
24 to be. The City Council must use its authority to  
25 prioritize the safety and needs of immigrant New  
Yorkers over the discretionary powers of our city's

1  
2 barriers law enforcement agencies. I thank you for  
3 your time, and I'm happy to answer any questions.

4 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
5 you so much for your testimony. I'd like to now  
6 welcome Genia Blaser to testify. You may begin when  
7 you are ready.

8  
9 SGT. BIONDO: Time starts now.

10 GENIA BLASER: Hi. Thank you for the  
11 opportunity to testify today. My name is Genia  
12 Blaser and I'm a senior staff attorney with the  
13 Immigrant Defense Project. I'm testifying in support  
14 of the laws and the New York for All Resolution  
15 introduced today. IDP is a New York-based non-profit  
16 that works to minimize the harsh and disproportionate  
17 immigrant consequences of contact with the criminal  
18 legal system. In an effort to limit the damage that  
19 ICE surveillance and policing reaps on New York  
20 Communities, IDP has long advocated to end the  
21 entanglement between the criminal legal system and  
22 ICE. The first New York City detainer law was passed  
23 in 2011 on the premise that immigrant New Yorkers  
24 should be protected from the overreaching arm of ICE.  
25 This law was passed while ICE was aggressively

1  
2 implementing its secure community program nationally  
3 which effectively transformed the local police  
4 precinct into a notification system for ICE. Over  
5 the past decade, ICE has further embedded itself in  
6 the criminal system requiring cities like New York to  
7 come up with policies to limit the harms of ICE's  
8 looming presence in our city. One goal of passing a  
9 detainer law was to send a clear message that an  
10 arrest by NYPD should not be a pipeline to ICE  
11 detention and deportation. The current version of  
12 New York City's detainer law falls short of this  
13 message in the original premise because of the carve  
14 outs. At the time it passed, IDP and others raised  
15 concerns about having any carve out in a law intended  
16 to cut off the arrest to deportation channel and  
17 protect immigrant New Yorkers. Advocates pointed out  
18 how the carve out feeds into ICE's false rhetoric  
19 that some immigrants are perpetual threats to public  
20 safety, and therefore disposable under our sanctuary  
21 policies. In response to this concern, the judicial  
22 warrant requirement for cooperation was added to  
23 further due process for immigrant New Yorkers, but  
24 the carve out and allowance for ICE notification,  
25 even without a judicial warrant remained part of the

1  
2 law. As the first part of this hearing covered in  
3 detail, the judicial warrant requirement has been  
4 circumvented by allowing notification between DOC and  
5 ICE under the carve out. It has become increasingly  
6 clear that carve outs have led to a systemic problem  
7 of DOC communication with and notification to ICE  
8 that is against the spirit of the detainer law. DOC  
9 and MOIA have failed to provide any clear answers  
10 about this. As MOIA testified today, they have no  
11 oversight or access to communications between DOC and  
12 ICE. IDP, (inaudible), and the New York Immigrant  
13 rights clinic had to litigate a foil with DOC after  
14 we requested documents related to communication and  
15 collaboration between DOC and ICE. After finally  
16 receiving nearly a thousand pages of production,  
17 we're starting to analyze what we received, but even  
18 at first glance, it demonstrates how DOC officials  
19 are extremely collegial with ICE, and that despite  
20 the testimony here today, they are eager to discuss  
21 cases with ICE prior to case resolution or an  
22 individual's release from custody, and that DOC  
23 officials hold animus towards immigrant New Yorkers  
24 including describing their support of deporting  
25 immigrants.

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SGT. BIONDO: Time expired.

GENIA BLASER: The current detainer law has proven to enable officials to skirt the law and act on their personal beliefs. It is evident that DOC has helped facilitate ICE's transfer of some immigrant New Yorkers as a result of the carve out. As we've heard today, there is no transparency or public protocol about how the city responds when violations occur, or DOC helps facilitate individuals into the hands of ICE. The secrecy and lack of communication on this issue has an irreparable impact on immigrant New Yorkers who find themselves in ICE's crossfires after coming into contact with NYPD. When someone has been arrested by ICE, they face deportation regardless of whether the city's agencies miss interpreted or violated our local detainer law. There is no going back once ICE has been brought into the picture. By approving circumstance in which DOC can collaborate with ICE, New York City's current detainer law carve outs fall short of the promise of sanctuary to immigrant New Yorkers. The very existence of this policy is a codification of a list of people New York City Council has deemed to be disposable, of immigrants against whom the city's

1  
2 distaste for ICE is thrown to the side. The city's  
3 role in extending the deportation pipeline into our  
4 communities by way of the detainer law exceptions  
5 must end. New York City can do better. We must take  
6 additional actions to make clear that the criminal,  
7 legal, and immigration system stand separate and  
8 apart from one another. Thank you.

9  
10 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
11 you for your testimony. I'd like to now welcome  
12 Lindsay Nash to testify. You may begin when you are  
13 ready.

14 SGT. BIONDO: Time starts now.

15  
16 LINDSAY NASH: My name is Lindsay Nash.  
17 I'm a clinical professor and the Co-Director of the  
18 Kathryn O. Greenberg Immigration Justice Clinic at  
19 Cardozo Law. Today's hearing and the legislation  
20 proposed at it serve as recognition of the critical  
21 nature of city law that seek to disentangle city  
22 functions from federal immigration enforcement. You  
23 can see that these laws have been incredibly  
24 impactful limiting the city's work with ICE and in  
25 protecting many community members, but these laws are  
far from perfect. They contain some significant

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2    loophole and gaps that mean that city officers  
3    continue to turn New Yorkers over to ICE, and they do  
4    so largely with impunity.  Others have spoken today  
5    about the importance of the legislation the Council  
6    is proposing now and the grave harms that result when  
7    these laws are violated.  So, I'm going to focus on  
8    the Bill that would provide a private right of action  
9    for certain violations of the city's detainer laws.  
10   This Bill is really important because it recognizes  
11   the need for accountability when local officers  
12   violate these laws, and it seeks to place the power  
13   to hold these officers accountable in the hands of  
14   those who have been harmed.  This is something that,  
15   as the violations described today make all too clear,  
16   is sadly critical.  Now, this legislation is an  
17   extremely important first step, but to make this  
18   legislation meaningful and to ensure that it promotes  
19   genuine accountability, the city should make a least  
20   five changes to this law, and I'm just going to  
21   briefly describe them here.  First, this Bill only  
22   provides a cause of action when people are detained  
23   in violation of the city's detainer laws, and while  
24   this is a good start, we know that there's other  
25   types of violations of the city's disentanglement

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2 laws including the detainer law, but also the city's  
3 non-using law prohibiting the use of city resources.  
4 These kinds of violations have equally devastating  
5 consequences, and this legislation should permit suit  
6 for violations of those laws as well. Second, this  
7 violation should set the statutory damage amount so  
8 that when a party proves that one of these laws has  
9 been violated, they're automatically entitled to some  
10 significant amount of damages at a minimum. This is  
11 important, because, for among other reason, having to  
12 prove damages can create an enormous burden for  
13 people whose right have already been violated as it  
14 can expose them to invasive discoverage. Third,  
15 while this Bill provides for prevailing parties to be  
16 compensated for the cost expended in litigation, it  
17 should explicitly provide for attorney fees as well  
18 so that folks have the genuine opportunity to  
19 litigate these cases. Forth, the Bill should impose  
20 more transparency inducing measures including real  
21 time agency reporting of violations and a right to  
22 certain documents associated with potential  
23 violations so that people don't have to go through  
24 the lengthy and frustrating foil process. Fifth, and  
25 finally, the Bill should ensure that damages awards

1  
2 for violations of these laws are paid by the party  
3 responsible, rather than be the officer or the agency  
4 at fault. Currently, city damages awards are  
5 generally paid through general municipal fund, and  
6 it's important that ...

7  
8 SGT BIONDO: Time expired.

9 LINDSAY NASH: And the officers feel the  
10 financial consequences of their actions. So, I'll  
11 just close by saying this private right of action  
12 legislation proposed a really important step in  
13 ensuring municipal compliance with the city's  
14 disentanglement laws and with some of the  
15 modifications that I just described, it will be a  
16 powerful tool for holding local law enforcement  
17 accountable. Thank you.

18 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
19 you for your testimony. I'd like to now welcome Luba  
20 Cortes to testify. You may begin when you are ready.

21  
22 SGT. BIONDO: Time starts now.

23 LUBA CORTES: Hi everyone. My name is  
24 Luba Cortes. I'm the Immigrant Defense Coordinator  
25 at Make the Road New York, the largest participatory

1  
2 and membership organization in New York that works  
3 with working class immigrant families. In my role, I  
4 have worked with hundreds of families who have had  
5 encounters with immigration and customs enforcement  
6 either by witnessing an arrest or being the person  
7 detained. Unfortunately, the stories are always  
8 deeply traumatizing involving unnecessary use of  
9 force, surveillance, and lack of transparency, and  
10 then often end with family and community members  
11 confused as to who actually carried out the arrest.  
12 ICE agents throughout out city pretend to be police  
13 sowing terror and mistrust. Often family members  
14 spend hours calling precincts under the assumption  
15 that the police arrested their loved one only to find  
16 out later that it was in fact, ICE. Conversely, the  
17 prevalence of ICE raids by agents masquerading as  
18 police officers also causes panic and calls to  
19 organizations like Make the Road at the site of  
20 operations that turn out to be NYPD. So, today, I  
21 want to uplift a story from one of our member who  
22 will remain anonymous to protect his identity, who  
23 was detained in 2020 in the midst and the peak of the  
24 COVID pandemic. In the morning of the arrest, ICE  
25 agents, not identifying themselves as ICE banged on

1  
2 the door. Scared, he called 9-1-1. The police  
3 arrived shortly, and twice called and urged him to  
4 come outside, telling him there was no one there, but  
5 that was not true. ICE was there. When he came  
6 outside, urged on by two NYPD officers, he was  
7 quickly arrested by ICE adding insult to injury, the  
8 NYPD officers who had lied to him were unmasked. In  
9 detention, he quickly caught COVID and ultimately was  
10 deported from the country where he had lived since  
11 the age of 12. This experience raises several flags  
12 and shows that New York City's current laws are  
13 inadequate to protect immigrants in the city at all  
14 levels. The NYPD should not have rendered assistance  
15 to ICE, yet they did. The NYPD also failed to report  
16 its contact and assistance to ICE to the City  
17 Council. In fact, it failed to report it to anyone.  
18 This is not a runoff thing. It shows this Council  
19 and the city's continued failure to effectively  
20 oversee and provide the NYPD assistance to ICE a  
21 failure that requires new legislation to fix.  
22 Situations like the one I shared only incite fear and  
23 mistrust between immigrants and local law  
24 enforcement. It must be clear rather it is ICE or  
25 the NYPD that is conducting an arrest and the NYPD

1  
2 must be prevented from cooperating or encouraging ICE  
3 to detain individuals and there must be  
4 accountability and oversight. The same is true for  
5 the Department of Corrections which we know and have  
6 heard by all the testimonies today, regularly  
7 prolongs New Yorkers' incarceration as it  
8 communicates and considers rather to hand them to ICE  
9 without oversight or transparency to this Council and  
10 which tramples on our existing laws by transferring  
11 dozens of New Yorkers a year to ICE despite the lack  
12 of a judicial warrant. So, Let's Make the Road New  
13 York ... (crosstalk).

14  
15 SGT. BIONDO: Time expired.

16 LUBA CORTES: More complete and clear for  
17 vision of local law enforcement agencies supporting  
18 ICE, immigration enforcement actions, by A.  
19 eliminating the cooperative arrangement exception,  
20 B. Prohibiting any NYPD support for ICE enforcement  
21 actions, C. Take an action against ICE impersonating  
22 the NYPD and D. Ending all transfers to ICE and all  
23 communications between the Department of Corrections  
24 and ICE, and in closing, immigrants across the  
25 country always look to New York City as a sanctuary  
city, a place where immigrants can feel safe and

1  
2 thrive (inaudible). New York City has a long way to  
3 go to make immigrants feel safe from ICE and  
4 senseless ICE enforcement. The (inaudible) to  
5 deprive them of liberty and separates them from the  
6 families. Our membership urges you to move away from  
7 mechanisms that only serve to terrify our community,  
8 promises will not (inaudible) the damage done, and we  
9 must see a clear separation between the NYPD and ICE,  
10 and between the Department of Corrections and ICE.  
11 Thank you.

12  
13 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
14 you for your testimony. I'd like to now welcome  
15 Zachary Ahmad to testify. You may begin when you are  
16 ready.

17 SGT. BIONDO: Time starts now.

18  
19 ZACHARY AHMAD: Hi. My name is Zach  
20 Ahmad. I'm a policy counsel with the New York Civil  
21 Liberties Union. There's a lot to cover here and we  
22 will be submitting written testimony that contains  
23 our feedback on these three pieces of legislation and  
24 includes other recommendations on how the city can  
25 truly disentangle itself from immigration  
enforcement. In short, we support, preconsidered

1  
2 Intro 7657 and 7659 to remove some of the harmful  
3 carve outs in the city's detainer laws that currently  
4 allow the Department of Correction and the NYPD to  
5 work with ICE based on a person's history or  
6 (inaudible). There is no justification for law  
7 enforcement agencies to be transferring people to ICE  
8 custody without a judicial warrant and these  
9 misguided loopholes reinforce the harms of a racist  
10 criminal legal system. We also support Intro 7658 to  
11 allow people who have been unlawfully detained for  
12 immigration enforcement purposes to bring a claim in  
13 court sowing an accountability void in making sure  
14 the city's detainer laws have teeth. The city should  
15 also extend the opportunity for judicial relief to  
16 other situations outside of the detention contacts in  
17 which unlawful cooperation with ICE leads to someone  
18 being insnared by immigration authorities and to  
19 consider ways to expand oversight and improve other  
20 laws pertaining to an immigration enforcement within  
21 the city, including local 228 of 2017. But what I  
22 mostly want to talk about here is Resolution 1648,  
23 introduced by Public Advocate Williams and Chair  
24 Menchaca calling on the state legislature to pass the  
25 New York for All Act. This is an especially timely

1  
2 Resolution coming during the final week of this  
3 year's state legislative calendar. The New York for  
4 All would prohibit state and local law enforcement  
5 and other government from cooperating with ICE across  
6 New York. It would prohibit the use of public  
7 resources for immigration enforcement, prohibit the  
8 sharing of sensitive information with ICE, prohibit  
9 facilitating transfers of people to ICE custody and  
10 limit access to non-public areas of government  
11 property, absent to judicial warrant. This Bill  
12 would bolster the local laws we have on the books  
13 here in New York City and add to the loose  
14 (inaudible) laws and policies that exists across the  
15 state. This Council is right to action on its own to  
16 improve its own locals that regulate the NYPD and the  
17 DOC's cooperation with ICE including the Bills on  
18 today's agenda. The New York for All would go  
19 further by circumscribing the powers of law  
20 enforcement in New York and making it clear that the  
21 duties of police and police officers can drive court  
22 authority under law shall not include the authority  
23 to enforce immigration law. New York for All does  
24 not contain the type of carve outs that we've  
25 discussed today and have been the source of so much

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2 confusion and harmful collision with ICE and would  
3 help fill the gaps in the city's own laws that  
4 continue to permit cooperation and transfers to ICE  
5 under certain circumstances. New York for All would  
6 also ensure that law enforcement and local  
7 governments across the state are not working hand-in-  
8 hand with ICE, (inaudible) in 2018 that made clear  
9 police in New York cannot detain a person for civil  
10 immigration violations without a judicial warrant.  
11 This directly affects what the ... (crosstalk).

12  
13 SGT. BIONDO: Time expired.

14 ZACHARY AHMAD: If I could just finish, a  
15 person who lives in outer Queens should not be  
16 vulnerable in being targeted for immigration  
17 detention and deportation by police if they travel 10  
18 minutes to do grocery shopping in Nassau County.  
19 That's exactly what we have now. From county to  
20 county, city to city, town to town, police play by  
21 different rule when it comes to working with ICE and  
22 sometimes by no rules at all. New York State needs  
23 to follow the lead of other states like California  
24 and Washington by removing state and local government  
25 from immigration enforcement entirely statewide. The  
City Council, having taken progressive steps over the

1  
2 past decade to disentangle law enforcement from ICE,  
3 imperfect as those laws are right now, can be a  
4 unique and powerful voice on the benefits of doing  
5 so. Law makers up in Albany are right now deciding  
6 on which Bills will move before the legislature  
7 leaves town and which will wait for another day. So,  
8 the time to speak up is now, and I thank the Council  
9 for adding their voice and I urge the committee and  
10 the entire Council to pass this Resolution and the  
11 other Bills on today's agenda without delay. Thank  
12 you.

13  
14 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
15 you so much for your testimony. I'd like to turn it  
16 to Chair Menchaca for any questions.

17  
18 CHAIR MENCHACA: Yeah, thank you for this  
19 panel and I think I just want to lift up are the  
20 recommendations from Lindsay and the ways to maybe  
21 codify a better law, especially the private right to  
22 action, and I just want to say I welcome those  
23 conversations with you and I think most of them are  
24 in your testimony, but I'm just alerting the staff  
25 right now that I'm going to look at them serious, and  
powerful for New Yorkers to keep, we're trying to

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keep our city accountable. At the City Council, we are, we are trying to leap into where we need to get to, but I think the idea of New Yorkers holding the city accountable as well and giving that power to them is not only what we need to do, but making it stronger, I hear you. So, thank you so much for that.

LINDSAY NASH: That's wonderful work, we're thrilled, and I'll be submitting joint testimony with Make the Road (inaudible).

CHAIR MENCHACA: Beautiful, okay, awesome, thank you, and every single voice that just testified, I want to say thank you. We hear you.

COMMITTEE COUNSEL HARBANI AHUJA: Thank you so much. I just like to ask if any other Council Members have questions at this time? Seeing none, I'm going thank this panel for their testimony and we'll be moving on to our next panel. In order, I'll be calling Yamilka Mena, followed by Meryl Ranzer, followed by Devashish Basnet, followed by Heena Sharma, followed by Alex Zucker, followed by Nathan Yaffe, followed by Maureen Silverman. Yamilka Mena, you may begin when you are ready.

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CHAIR MENCHACA: Well, actually pause  
really quick. Harbani, is this the last panel?

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COMMITTEE COUNSEL HARBANI AHUJA: Yes.

5

6

CHAIR MENCHACA: Okay, so, at this point,

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I just want to take a moment of privilege and let

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everyone know that I have been contacted by the

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Mayor's Office and the Admin says that there is a

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Department of Corrections and MOIA person taking

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notes during this hearing, so I want to say thank you

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to that, but my request was different. I want them

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to be on this Zoom call so that we can note, so that

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people who are testifying know that there is someone

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on the other end, and I understand that that puts

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staff, they're staff members, and I get that too,

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that they're getting new updates, so they are now in

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Zoom. I think they might be on Zoom, and the whole

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point that I'm trying to make here is that we are

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dealing with some very serious allegations around

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accountability for New Yorkers that may be deported

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and my preference is to have the Commissioners and

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the Chief here directly listening because that's who

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we're holding accountable, staff work on behalf of us

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at the top, and so that's why I'm making this an

extra step along this way, and maybe we're just going

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2 to have to build another law that requires the  
3 Commissioners to stay here and listen to the people  
4 and not have to send staff to take notes. The  
5 Commissioners and the people on the top are the ones  
6 we're trying to hold accountable here, and that's  
7 serious to me, and to the Committee in the work that  
8 we're trying to do. So, thank you, and let's  
9 continue.

10 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
11 you, Chair. I'm going call on Yamilka Mena for  
12 testimony. You may begin when you are ready.  
13

14 SGT. BIONDO: Time starts now.

15 YAMILKA MENA: Thank you. I think that  
16 was a very important thing to say, Council Member  
17 Menchaca. Good afternoon everyone. My name is  
18 Yamilka Mena, and I am the Director of the  
19 Immigration Initiatives at the Hispanic Federation.  
20 Immigrants are vital to the fabric of America and New  
21 York. About 40% of New York City's residents are  
22 foreign born and out of that foreign born population,  
23 about 6% or 476 undocumented, the vast majority being  
24 Latinos. During the height of the pandemic, we  
25 became the lifeline of New York City, essential

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2 workers, many of them undocumented supplied and  
3 delivered our food, cleaned our hospitals and grocery  
4 stores, and were at the forefront of the healthcare  
5 industry, and although it was heavily acknowledged  
6 that immigrants kept our city running, the  
7 undocumented community has continued to have been  
8 left out of federal aid. We have (inaudible) with a  
9 huge win; however, as a sanctuary city, we must  
10 ensure that we continue to push for the reform that  
11 will further mitigate the serious challenges faced by  
12 the undocumented community, especially as it pertains  
13 to federal immigration enforcement. ICE has had a  
14 deep history of cruel and illegal treatment of  
15 undocumented immigrants. IDP notes that between 2017  
16 and 2018 there was a 1700% increase in arrest and  
17 attempted arrest by ICE in and around our court  
18 houses. These reports of ICE alone have had a  
19 chilling effect on the ways that undocumented  
20 immigrants interact in our city. There's a deep  
21 embedded fear that is so deeply integrated that many  
22 families do not live their full lives and this  
23 anxiety and distress must end. When the Protect Our  
24 Courts Act became law in 2020, it was the first step  
25 towards protecting the undocumented community from

1  
2 the cruelty of ICE in our court system. Now, it is  
3 an inequity to have expanded, Hispanic Federation is  
4 asking the City Council to act more broadly because  
5 when immigrants feel safe in their community, they're  
6 more likely to participate in our society  
7 economically, socially, and civically. Mitigating the  
8 fear of deportation is a responsibility of us all and  
9 the proposed legislation can help us move toward a  
10 more just city for everyone. We must reinforce the  
11 commitment to all New Yorkers despite their  
12 immigration status and we can do that by passing the  
13 Resolution to call on the New York State Legislature  
14 to pass and the governor to sign the New York State  
15 for All Act; we've all heard a lot about that today,  
16 that will further strengthen our New York City  
17 detainer laws, adopting the true Resolution to hold  
18 these agencies accountable in giving the families and  
19 friends the ability to sue the city when those  
20 detainer laws are violated, and then we also want to  
21 have City Council consider coupling the elimination  
22 of ICE from New York City with expanded immigration  
23 legal services for the most vulnerable populations in  
24 need of representation along with emphasizing the  
25 distribution of multi-lingual community updates

1  
2 pertaining to these ever changing matter of  
3 immigration law, detainer policies, and protections  
4 from ICE, and lastly ... (crosstalk).

5 SGT. BIONDO: Time expired.

6  
7 YAMILKA MENA: Expansion of benefits that  
8 will support the undocumented communities such as the  
9 Excluded Workers' Fund. We thank you for your time  
10 and we look forward to working with the City Council  
11 on the prioritization of policy, policies and  
12 programs that will make our undocumented immigrant  
13 community feel safe at home in the city they kept  
14 moving throughout the gravest of time.

15 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
16 you so much for your testimony. I'd like to now  
17 welcome Meryl Ranzer to testify. You may begin when  
18 you are ready.

19  
20 SGT. BIONDO: Time starts now.

21 MERYL RANZER: Hi everyone. My name is  
22 Meryl Ranzer, and I work for New Sanctuary Coalition,  
23 an immigrant's rights organization here in New York.  
24 I'm here today to talk about how both the NYPD and  
25 the Department of Corrections failed to comply with

1  
2 New York City's detainer laws and willingly  
3 jeopardized the lives of immigrant New Yorkers. I  
4 was at Maimonides Hospital for two days after I  
5 received information that ICE had shot Eric Diaz Cruz  
6 (SP?) in the face while attempting to kidnap and  
7 detain Gaspar Evan Dono Hernandez (SP?). I witnessed  
8 the NYPD working with ICE at Maimonides, and during  
9 the summer of 2020, during the uprising after George  
10 Floyd was murdered at the hands of police, I  
11 witnessed ICE working with NYPD again. I bring this  
12 up because it's impossible to believe it's either ICE  
13 or the NYPD when they say they do not work together.  
14 They lie. How dare we call ourselves a sanctuary and  
15 progressive city. We've seen years of harm and  
16 family separation cause by both ICE and the NYPD.  
17 Hearing the testimony today of immigrants who have  
18 been abused by ICE and the NYPD read by attorneys and  
19 advocates is enraging. New Yorkers shout at the top  
20 of their lungs in protest about injustices at the  
21 border and the family separation perpetrated by the  
22 Trump Administration, yet we allow the same level of  
23 injustice and cruelty to happen here, driven by the  
24 same fear tactics and racism. This whole  
25 conversation is dehumanizing to immigrants and is

1  
2 part of our long and inhuman history of the  
3 criminalization of black and brown people. The  
4 middle of the road, political niceness is  
5 unacceptable. Let's choose to be better than that  
6 here in New York City in stopping complicit and ICE  
7 prevalence and enforcement. Abolish ICE, abolish the  
8 NYPD. I'm done.

9  
10 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
11 you for your testimony. I'd like to now welcome  
12 Devashish Basnet to testify. You may begin when you  
13 are ready.

14 SGT. BIONDO: Time starts now.

15  
16 DEVASHISH BASNET: Thank you. My name is  
17 Devashish Basnet and I'm a current student at CUNY  
18 Hunter. I'm an immigrant New Yorker and I'm one of  
19 hundreds of thousands of CUNY students that are  
20 immigrants or children of immigrants. I'm mostly  
21 here today to talk about the culture and cooperation  
22 between ICE, the NYPD, and the Department of  
23 Corrections fails to comply with New York City's  
24 detainer laws and willingly jeopardizes the lives of  
25 immigrant New Yorkers. The emerging nexus between  
criminalization and immigration status is a

1  
2 horrifying trend emerging in cities across the United  
3 States. Trends such as the migration to prison  
4 pipeline, programs authorized by two-days of NG, and  
5 private detention centers have created a deportation  
6 pipeline for immigrants who are often subject to the  
7 same predatory criminal legal system that US citizens  
8 are. Cities agencies such as the NYPD and Department  
9 of Correction are complicit in creating this pipeline  
10 and are singularly responsible for any immigrant New  
11 Yorker falling into the hands of ICE. As the  
12 Department of Corrections testified earlier today,  
13 one violation is too many, and I agree. The city  
14 agency that demonstrated that they failed to hold the  
15 power to exercise discretion seems they have  
16 consistently failed immigrant New Yorkers without any  
17 oversight. The culture and cooperation are dangerous  
18 and antithetical to the scattered testimony of the  
19 Department of Correction today. In fact, as WYNC  
20 reports, in the protests and sole unrest of summer  
21 2020, ICE protected precinct houses as police  
22 officers were brutalizing New Yorkers in many  
23 documented instances of brutality throughout the  
24 course of the summer. Furthermore, detailed human  
25 rights watch reports cites that a legal observer

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providing jail support said that ICE agents responded at the 40th precinct raising concerns that they may have been using protest arrest to investigate people's immigration status. Under no circumstances should the NYPD or Department of Corrections be allowed to collaborate with ICE or NYPD. Should they be able to share information with ICE, notify ICE of someone's imminent release from NYPD or DOC custody, or transfer people into ICE custody. Detainer laws extend ICE's reach throughout New York neighborhoods, increase our overall jail and prison populations and exacerbate an existing culture of fear that effects immigrant communities. A sanctuary city protects all immigrant New Yorkers from federal deportation machines and New York City is failing as long as they allow these loopholes to exist. I urge the Council to pass the Resolution calling the state legislature to pass New York for All and echo the sentiments of many of the advocates today who have spoken up calling to close all loopholes around communication between ICE and the Department of Corrections and allowing for a private cause of action. Thank you.

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COMMITTEE COUNSEL HARBANI AHUJA: Thank you so much for your testimony. I'd like to now welcome Heena Sharma to testify. You may begin when you are ready.

SGT. BIONDO: Time starts now.

HEENA SHARMA: Hi. My name is Heena Sharma, and I am testifying from Staten Island. I am a youth educator and advocate here in the city, and I frequently work with the young black and brown immigrants, and I myself, immigrated here as a young child from India. The young people I work with are mostly from Queens and neighborhoods that are frequently terrorized by ICE raids, by NYPD targeting them in their high schools and communities without elder family members who often don't speak English being harassed and living in fear of the police and ICE. How can I tell these young people in their communities that their fear is unfounded and that NYC is actually a sanctuary city when their lived realities say otherwise? Why is it necessary for educators and advocates like myself to teach young people and their families about how ICE will often disguise themselves as NYPD when doing raids and to instead alert them of the right, but in the end,

1  
2 knowing that ICE will find a way to arrest and detain  
3 people regardless? The school to prison to  
4 deportation pipeline is rampant here in NYC, and it  
5 is unconscionable that this city criminalizes,  
6 incarcerates and deports young black and brown  
7 immigrants who are then trapped in cycles of trauma  
8 and lack of resources for most of their lives, if  
9 they even live that long. The City Council must stop  
10 uncomplacent ICE surveillance and enforcement. End  
11 the 177 convictions carve outs. Give (inaudible) to  
12 black and brown immigrants who are survivors of NYPD,  
13 DOC, and ICE violence. Defund NYPD for regularly  
14 flouting NYC law at the expense of the lives of  
15 immigrant New Yorkers, and close Riker's now without  
16 any new jails. Thank you.

17  
18 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
19 you so much for your testimony. I'd like to now call  
20 on Nathan Yaffe to testify. You may begin when you  
21 are ready.

22 SGT. BIONDO: Time starts now.

23  
24 NATHAN YAFFE: Hi. My name is Nathan and  
25 I'm an immigration attorney in the city. I want to  
start with an antidote about a type of DOC abuse that

1  
2 hasn't been discussed enough. I have a friend who  
3 wanted me to share his story here. He came to the US  
4 as a child in the 1960s and lived in New York for  
5 over 50 years. He had an old deportation order that  
6 was basically stateless, so he couldn't be deported.  
7 In 2018, he was arrested for something trivial  
8 related to his addiction. I raised some money for  
9 his bail, but the COs at Rikers told him that he was  
10 being held on an ICE detainer. His criminal defense  
11 attorney contacted DOC Legal which said he wasn't, in  
12 fact, being held on an ICE detainer, there was no  
13 basis to hold him, so I went to pay his bail. At the  
14 bail window, they refused the bail money. They said  
15 their records showed an ICE detainer. I left and  
16 came back with a print out of New York City  
17 Administrative Code 9131 and said, look, you're not  
18 allowed to do this. They said, oh, how do we know  
19 you didn't alter this document. Is that a valid  
20 copy? I said, you've got to be kidding me in this  
21 context, and eventually left. I couldn't get in  
22 touch with his legal aide attorney and so I had a  
23 civil rights attorney I know contact DOC and say  
24 what's going on here, you know, do you want to be  
25 sued. They had me come back. I paid the bail, and

1  
2 he was eventually released only after another 24  
3 hours had elapsed. Now, I want to make four quick  
4 points about this story. This story that I've  
5 shared, my friend's story is hardly exceptional. In  
6 fact, it's extremely routine. Every transfer to ICE  
7 is a catastrophic racist failure and you've talked  
8 about investigating seven of them today, but there  
9 are stories of harassment and abuse like the one I  
10 just shared that are extraordinarily common, also  
11 horrific, and get far less attention, but they are  
12 systematic of the systemic racism and the view of  
13 immigrants who have been criminalized as disposable  
14 and deportable that's universally held by DOC and  
15 NYPD. Due to this abuse that my experienced, he lost  
16 72 hours of freedom because of DOC, he was afraid to  
17 seek treatment after this because he wasn't sure what  
18 city funded programs collaborated with ICE, and he  
19 lost a job in that 72 hours, and I have personal  
20 direct knowledge of at least half of dozen comparable  
21 cases that don't ultimately result in arrest and  
22 deportation, but reflect the culture of abuse  
23 pandemic at DOC. Second, in later exchanges I had  
24 with ICE about this case, they swore up and down that  
25 they never, in fact, issued a detainer because they

1  
2 knew they couldn't deport him. If that's true, DOC  
3 was just harassing him because they could. Even if  
4 it's not true, it showed DOC undermining the detainer  
5 laws by using immigration status to abuse people.  
6 This can obviously lead to transfer as we've talked  
7 about, but it also leads to informal coordination to  
8 pick someone up outside the jail or abuses like my  
9 friend experienced. I'm confident that, but for the  
10 fact that he could not be deported, he would have  
11 been arrested by ICE on his release, despite not  
12 falling into the conviction carve out.

13  
14 SGT. BIONDO: Time expired.

15  
16 NATHAN YAFFE: I employ the Council be  
17 realistic about what power in DOC and NYPD can and  
18 does mean in this context. They will find any way  
19 they can to use immigration status against people  
20 even when it's just "lower level" abuses like the one  
21 I just shared. That's why there should not be any  
22 wiggle room in terms of carve outs. There should be  
23 a blanket ban on honoring detainers cause if you open  
24 the door a crack, they will push through as much as  
25 they can and this is why to really protect immigrant  
New Yorkers, you need to defund the NYPD and close  
Rikers with no new jails because whenever they have

1  
2 that power over people, they will use it in this way  
3 and shrinking their power is the only way to shrink  
4 the abuses. Thank you.

5 CHAIR MENCHACA: Thank you.

6  
7 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
8 you so much for your testimony. I'd like to now  
9 welcome Maureen Silverman to testify. You may begin  
10 when you are ready.

11 SGT. BIONDO: Time starts now.

12  
13 MAUREEN SILVERMAN: Hi. My name is  
14 Maureen Silverman. I'm testifying from Manhattan as  
15 a member of Survived and Punished New York. My focus  
16 today is on the human tragedy caused by failing to  
17 protect immigrant New Yorkers through laws such as  
18 the detainer laws and the state level, New York for  
19 All Bill. Asia Serrano (SP?) is a survived and  
20 punished New York member. She's a friend to many of  
21 us who visit her and correspond her. She's a  
22 beautiful poet. She is a mother. She is someone who  
23 has cared for other children within Bedford. She was  
24 incarcerated in New York over 15 years for actions  
25 taking under the immense psychological direct of her  
abusive partner. This year, she was released early

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2 under a law called the Domestic Violence Survivors  
3 Justice Act in recognition of the fact that her  
4 abuser's cohesive control and psychological  
5 manipulation contributed significantly to the  
6 commission of the crime. Instead of releasing her to  
7 freedom; however, New York transferred her directly  
8 to ICE which is currently incarcerating her and  
9 imminently trying to deport her. She now faces being  
10 permanently separated from her family and her entire  
11 life in the United States including her children.  
12 First and obviously, I acknowledge Asia's transfer is  
13 a state level issue and I urge to Council to pass its  
14 Resolution calling of the state to enact the New York  
15 for All Act which would have prevented Asia's  
16 transfer ICE if it had been a law today, but second,  
17 I feel compelled to mention that New York City also  
18 has a responsibility for tragedies like the one  
19 playing out in Asia's case. The detainer laws are  
20 inherently flawed because they allow for immigrant  
21 New Yorkers to be turned over to ICE based on their  
22 criminal convictions. Not only are there instances  
23 where NYPD and DOC actively collaborate with ICE as  
24 is well-documented and discussed by prior testimony,  
25 but also the mere arrest and fingerprinting of people

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2 by NYPD triggers automatic notification for ICE.  
3 There should be no exemptions of the detainer laws,  
4 no data sharing and no collaboration. Enacting  
5 legislation to prevent NYPD and DOC from acts of  
6 acting as ICE's foot soldiers is an essential first  
7 step towards NYC living up to the idea that it is a  
8 sanctuary city which at presence ... (crosstalk).

9  
10 SGT. BIONDO: Time expired.

11 MAUREEN SILVERMAN: And a cruel joke at  
12 worst. End the detainer laws, end the detainer laws  
13 carve outs, defund NYPD, close Rikers now with no new  
14 jails, free them all. I call on New York City  
15 Council to end the cruel, inhuman hypocritical  
16 practices in New York City and New York State by  
17 enacting the recommendations of Survived and Punished  
18 New York. It is time for New York City to truly  
19 protect and treat immigrant and other vulnerable  
20 communities with the dignity they deserve.

21 CHAIR MENCHACA: Thank you.

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23 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
24 you for your testimony. I'd like to turn it to Chair  
25 Menchaca for any questions.

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CHAIR MENCHACA: I do not have questions. I have the final statement, but I just want to say that this last panel really, I think highlighted the importance of the connections we have to make across all of the systems of justice, and I want to say thank you for that, including Meryl who reminded us of the incident in my District. Well, actually, it didn't happen in my District, but it was at Maimonides in south Brooklyn where were hours after the incident with the family for 48 hours, really just confused by the cooperation that was happening between the NYPD and ICE, and I'll never forget that. That is something that continues to drive me in terms of how we solve the issues, but I just want to say thank you to the panel for really speaking that truth and power and abolishing ICE is something that I believe in. Chair Powers, do you have any questions?

CHAIR POWERS: No, I just want to say thank you to everyone for your testimony here today and thank Chair Menchaca for his work and partnership here in terms of pursuing ways to both fix existing gaps, but also make our city a much better place when it comes to how we treat our fellow New Yorkers. So,

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2 no questions, but I want to say a big thank to staff  
3 and my fellow Chair here for the work here today.

4 COMMITTEE COUNSEL HARBANI AHUJA: Thank  
5 you, Chairs. I'm just going to quickly ask if we  
6 have inadvertently missed anyone that is registered  
7 to testify today and has yet to be called. Please  
8 use the Zoom raise hand function now, and you will be  
9 called on in the order that your hand has been  
10 raised. Great. I'm not seeing any hands. So, I'm  
11 going to turn it back to the Chairs for closing  
12 remarks. Chair Menchaca.

13  
14 CHAIR MENCHACA: Yeah, thank you. I also  
15 want to thank staff for being here today, for  
16 organizing this on the committees that have been  
17 working together now for several weeks to assure that  
18 we had a very positive, productive hearing,  
19 especially Council Member Holden whose is actually  
20 here as well in person for this conversation, thank  
21 you, and then I also want to say thank you to Chelsea  
22 (SP?) who is on here from the Department of  
23 Corrections, thank you so much for being present and  
24 I believe there was a MOIA representative here as  
25 well. We will be following up with you. There are  
many things that we're going to follow up on, and I

1  
2 just also want to say thank you to Chair Powers for  
3 our work together. Our work together isn't just for  
4 these committees at the progressive caucus, we are  
5 both on the Budget Negotiation team and we are deep  
6 in that discussion right now, and so we hear you when  
7 we think about what we need to do to solve that gap  
8 for justice for our immigrant neighbors, many of them  
9 essential workers that have kept the city alive and  
10 thriving in the midst of a pandemic, but I also want  
11 to say that so much as happened in this hearing that  
12 has allowed for us to understand that the Department  
13 of Corrections and the NYPD, and the Defenders, all  
14 the system that we've been trying to get moving in a  
15 good way have hole, loopholes. There are loopholes  
16 and we have solutions, and that's where the laws that  
17 we are proposing today, the preconsidered laws  
18 especially, are going to help fix that. We heard  
19 some really great ideas on how to make them better,  
20 and so I'm really excited to work with our committee  
21 staff to figure out how we can do that, but we are  
22 living in a world right now where not one federal  
23 judicial warrant has been issued here in the city of  
24 New York, yet 90 people have been effectively  
25 transferred to ICE. That is a problem that we can

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2 fix. We have city workers who are taking it upon  
3 themselves to pledge allegiance to whatever they, and  
4 I'm going to be calling it white supremacy or racism  
5 or xenophobia or something else that is contrary to  
6 the spirit of the law and that is a major flag, and  
7 we have ways to fix that. We must hold NYPD and the  
8 Department of Corrections accountable to ensure that  
9 none of them get away with it and that none of them  
10 continue to serve with the power that they have in  
11 holding a gun or keys to a jail cell. That is my  
12 belief, that no one that exhibits this kind of anti-  
13 New Yorker sentiment is allowed to continue in this  
14 justice work, and then finally, I want to say  
15 something about sanctuary because we talk a lot about  
16 sanctuary and I'm just realizing that my sense of  
17 sanctuary is connected to, not a destination, it's  
18 not a place that we can be at at any one moment on a  
19 map, say, like New York City even, but that sanctuary  
20 is more like a compass. It is a direction that is  
21 all the time pointing us in a way that we need to  
22 continue to move. We are going to be in constant  
23 struggle for sanctuary. Things are going to continue  
24 to change, Presidents are going to change, the mayor  
25 is going to change, all these people are going

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change, and we need to keep walking in formation towards that sanctuary. It is movement, it is moving, and these are laws that we're proposing and the conversations and the follow up that are going to happen are in that spirit, and so with that, I'm done. Chair Powers, do you have any final words?

CHAIR POWER: I hear you loud and clear and I appreciate everyone's work here today and your testimony and all the advocates who have bringing these issues forward to us, and so I hope we will be able to pass these Bills quickly, and I want to say thank you to everyone for being here today.

CHAIR MENCHACA: Wonderful, and with that, we call this hearing to close. Thank you all.

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 July 15, 2021