



Legislation Text

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Res. No. 2287

Resolution calling upon the Mayor and the New York City Department of Correction to end their involvement with United States department of Immigration and Customs Enforcement by refusing to allow Immigration and Customs Enforcement to have access to pre-trial detainees at Rikers Island and other Department of Correction facilities and declining to participate in the Secure Communities Program.

By Council Member Foster, Ferreras, Jackson, James, Mark-Viverito, Mealy and Palma.

Whereas, A coalition of immigrant advocates and religious leaders launched a campaign on August 25, 2009 to call for the Department of Correction (DOC) to end its involvement with Immigration and Customs Enforcement (ICE), a division of the United States Department of Homeland Security (DHS), by (i) denying ICE access to pre-trial detainees at Rikers Island and other DOC facilities, (ii) prohibiting the collection or sharing of immigration data about pre-trial detainees with ICE, (iii) declining ICE detainers on New Yorkers who have been promised legalization, and (iv) requiring ICE to observe the legal rights of all New York City immigrant detainees; and

Whereas, DOC regularly provides ICE officials with a list of foreign-born inmates at Rikers Island; and

Whereas, ICE agents are provided free space at Rikers Island and other DOC facilities in order to have easy access to DOC detainees; and

Whereas, ICE uses the DOC inmate list to question approximately 4,000 inmates per year about their immigration status, of which ICE puts a hold or “detainer” on approximately 3,000 inmates per year; and

Whereas, A detainer is a request from ICE to a state or local law enforcement agency that the agency notify ICE prior to the release of a non-citizen from its custody so that ICE can assume custody and for such agency to maintain temporary, 48-hour custody of a non-citizen who is not already in the agency’s custody; and

Whereas, Since 2004, at least 13,000 Rikers Island inmates have been placed in deportation proceedings

as a result of these practices; and

Whereas, The large majority of people in DOC custody targeted for ICE interrogations are pre-trial detainees who still enjoy the presumption of innocence, including New Yorkers who may have been wrongfully arrested and later found not guilty of any crime, New Yorkers who are arrested for minor crimes, many who are eligible for and in the process of getting legal status, others who are asylees and refugees fleeing persecution, and people who are green card holders who have spent nearly all of their lives in New York; and

Whereas, According to immigrant advocates, during interrogations at Rikers Island and other DOC facilities, ICE agents regularly deny detainees their constitutional rights to remain silent and to an attorney; and

Whereas, As a result of these practices, immigrant New Yorkers may be less likely to cooperate with local police as witnesses and victims of crime; and

Whereas, ICE's enforcement program at Rikers Island and other DOC facilities has the additional effect of tearing apart New York families by deporting breadwinners and leaving the abandoned family members dependent on New York City's social service agencies; and

Whereas, Advocates have indicated that, in June 2009, DOC responded to reports that ICE agents inadequately notified inmates of the nature of their visits, the right to decline such visits, and the right to have legal representation by agreeing to make changes to help protect the rights of inmates interviewed by ICE, including having inmates sign a form consenting to an ICE interview and providing DOC officers with training so that they would be better able to make detainees aware that the interviews are voluntary; and

Whereas, ICE's program at Rikers is a precursor to the Secure Communities Program, a federal initiative put in place in order to identify, process and remove illegal immigrants held in local jails throughout the United States; and

Whereas, As of August 30, 2009, the Secure Communities Program was already operating in 81 jurisdictions in nine states, and is expected to be operational nationwide by 2013; and

Whereas, The Obama administration has reportedly pledged \$195 million over the next year to expand

the Secure Communities Program nationwide by 2012/13; and

Whereas, If the Secure Communities Program becomes operational at DOC facilities, DOC officials will be required to check fingerprints of all persons in custody against fingerprints of those already in the FBI's Integrated Automated Fingerprint ID System and the DHS Automated Biometric Identification System; and

Whereas, Under the Secure Communities Program, should a person be identified as an illegal immigrant, DOC officials will be further required to turn the matter over to ICE to determine the criminal charges and for deportation proceedings; now, therefore, be it,

Resolved, That the Council of the City of New York calls upon the Mayor and the New York City Department of Correction to end their involvement with United States department of Immigration and Customs Enforcement by refusing to allow Immigration and Customs Enforcement to have access to pre-trial detainees at Rikers Island and other Department of Correction facilities and declining to participate in the Secure Communities Program.

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