

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON IMMIGRATION

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October 15, 2014
Start: 10:10 a.m.
Recess: 1:35 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E: Carlos Menchaca
Chaiperson

COUNCIL MEMBERS:

Mathieu Eugene
Daniel Dromm
Peter A. Koo
Rafael L. Espinal, Jr.

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

Carlos Valdez
Northern Manhattan Coalition of Immigrant Rights

Amadu Bello

Maya Wiley
Counsel to the Mayor

Nisha Agarwal
Commissioner of New York Mayor's Office of
Immigrant Affairs

Susan Petito
Assistant Deputy Commissioner at Legislative
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Karl Johnson
Captain at New York City Department of
Corrections

Robert Morgenthau
Law Firm of Wachtell, Lipton, Rosen & Katz

Jenny Alcaide
Kathryn O. Greensberg Immigration Justice Clinic
at Cardozo School of Law

Daniel Coates
Make the Road New York

Alisa Wellek
Co-Executive Director of Immigrant Defense
Project

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

Lenore Friedlaender
Assistant to President at SEIU Local 32BJ

Donna Lieberman
New York Civil Liberties Union

Peter Markowitz
Cardozo Law School

Emily Tucker
Center for Popular Democracy

Jesus Garcia
Cook County Commissioner

Latoya Cantrell
New Orleans City Council Member

Larry Gossett
King County Commissioner

Marie Mark
Brooklyn Defenders

Genia Blaser
Bronx Defenders

Gavino Hernandez

Jasmine Rodriguez

Joseph Rosenberg
Catholic Community Relations Council

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

Abraham Paulos
Families for Freedom

Cynthia Conti-Cook
Legal Aid Society

Marissa Ram
Safe Horizon

Farrin Anello
Center for Social Justice

Hedwin Salmen-Navarro
Co-Chair of Immigration Customs
Enforcement/Enforcement and Removal Operations
Committee, AILA

Corey Forman
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Helen Drook
New York Legal Assistance Group

Oriana Sanchez
New York Immigration Coalition

Juana Peralta
Sylvia Rivera Law Project

Caroline Solis
Neighborhood Defense Service Harlem

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

Nabila Taj
CUNY School of Law

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2 CHAIRPERSON MENCHACA: Again, Buenos
3 dias. My name is Carlos Menchaca, and I am the Chair
4 of the New York City Council's Committee on
5 Immigration. Before going any further I would like
6 to introduce the other members of the committee that
7 are here today. We are joined by our Speaker Melissa
8 Mark-Viverito. We are joined by Council Member Danny
9 Dromm. We are joined by Council Member Peter Koo and
10 Council Member Crowley. We're going to move today.
11 The Committee on Immigration will hold a hearing on
12 two important and timely bills that build upon on our
13 prior efforts to limit the cooperation between
14 immigration and customs enforcement, commonly known
15 as ICE and local law enforcement. For far too long
16 our city has cooperated with ICE as they enforce
17 civil immigration by deporting individuals who do not
18 pose a public safety concern. Today, the committee
19 will hear testimony regarding two bills introduced by
20 Speaker Melissa Mark-Viverito who continues to
21 demonstrate time and time again her unwavering
22 commitment to the immigrant community. Intro Number
23 487 is a local law that seeks to amend the
24 administrative code of the City of New York in
25 relation to persons not to be detained by the NYPD,

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2 and Intro Number 486 is a Local Law that seeks to
3 amend the administrative code of the City of New York
4 in relation to persons not to be detained by the
5 Department of Correction. The proposed legislation
6 builds upon the work, the long time work that the
7 City Council has been doing and adopting in Local
8 Laws 21, 22 of 2013. They limit the cooperation
9 between the city and ICE. Under the proposed
10 legislation, the New York City Police Department and
11 the Department of Correction would only honor an
12 immigrant detainer if it was accompanied by a warrant
13 from a federal judge, and also only if that person
14 had been convicted of a violent or serious crime
15 during the last five years, or his or her name was
16 listed on a terrorist database. If enacted, these
17 bills will protect New Yorker from being deported
18 when they pose no risk to public safety. As the
19 federal government continues to postpone necessary
20 action to reform our broken immigration system, ICE
21 is allowed to continue to treat immigrants in
22 violation of civil laws as criminals. ICE's actions
23 have resulted in the forcible separation of thousands
24 of families in our city, and more alarmingly, they
25 have led to the defacto deportation of American

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2 citizen children who are forced to return to their
3 parent's country of origin. Immigrant communities
4 have grown weary of reporting crimes or otherwise
5 cooperating with law enforcement in fear that this
6 interaction would lead to their deportation. It is
7 my hope that if passed, these bills will allow law
8 enforcement to better protect immigrant communities
9 and to be an initial step toward improving an already
10 strained relationship. Today's bills are the result
11 of our city's commitment to ensuring that immigrants
12 are treated fairly and are not unnecessarily torn
13 apart from their families. I would like to thank the
14 Administration, community organizations, and the
15 individuals for providing testimony today crucial to
16 understanding the impact of the proposed legislation.
17 Please be aware that we have a large number of
18 individuals providing testimony today and we will be
19 limiting the testimony to three minutes. For
20 individual committee members, they will have two
21 minutes to do the questioning. Additionally, we are
22 providing interpretation services if you require an
23 interpreter. Please go to the back left of the room
24 to request one. With that, I will give our Speaker

1
2 Melissa Mark-Viverito, the lead sponsor of the
3 proposed legislation, an opportunity to speak.

4 SPEAKER MARK-VIVERITO: Thank you, Chair
5 Menchaca and also your steadfast commitment. I have
6 to say that it's an extremely proud moment, and I
7 really want to thank the advocates first and foremost
8 who have been steadfast in helping raise awareness to
9 Council Members. I know when we first met years ago
10 with regards to the prior bill, but your steadfast
11 commitment to making sure that we got and we arrived
12 at the point at which we find ourselves today. I'm
13 proud to be allied and to have bene supportive of
14 your efforts. I do want to just recognize quickly
15 that we've been joined by our former Manhattan DA and
16 someone who is an incredible advocate for immigrant
17 rights, Robert Morgenthau who's here. Thank you very
18 much for joining us. So I want to say good morning.
19 Buenos dias a todos, and thank you Chair Menchaca for
20 holding this hearing on an important issue that the
21 council has been diligently working on, and which
22 effects thousands of immigrants across this city.
23 Today, we will be hearing two bills that will
24 dramatically limit the city's cooperation with
25 Immigration and Customs Enforcement, also known as

1 ICE in the enforcement of civil immigration laws. I
2 would like to thank the co-sponsors of this
3 legislation, Council Members Dromm, Menchaca and
4 Espinal, as well as my council colleagues and
5 advocates for their unwavering support for this bill
6 and for the commitment to our immigrant community.
7 This bill will prohibit the Department of Correction
8 and the Police Department from honoring civil
9 immigration detainer requests issued by ICE unless a
10 federal judge issues a warrant and the subject of the
11 detainer has been convicted of a violent or serious
12 crime. These bills are simple. They're about
13 respecting the civil rights and the dignity of New
14 Yorkers. They're about keeping hardworking families
15 together. They're about keeping New Yorkers safe and
16 secure, and they're about simple fairness. New York
17 City has no business expending scarce resources,
18 assisting in the enforcement of broken immigration
19 laws. If Congress won't act, we must. So in addition
20 to significantly reducing the number of ICE civil
21 detainer requests the city will honor, we will also
22 remove ICE offices from Rikers Island. Under Intro
23 486, ICE may no longer maintain offices on Rikers
24 Island. We cannot allow immigrant families looking
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1 for a better life to be needlessly torn apart. These
2 bills will greatly reduce unnecessary deportation of
3 New York City residents while maintaining public
4 safety as we've been saying over and over again.
5 Though dragnet and the way that these federal
6 policies are being implemented right now where we're
7 seeing record numbers of deportations, that is all
8 false sense of security, right, that people are
9 given. And we're expending resources that are so
10 necessary elsewhere. And not only is it the product
11 as we were talking to the advocates in terms of the
12 resources that we spend as a city, but also looking
13 at the organizations that are providing the services
14 in defending, right, those that are being issued
15 these orders of detention. So, those resources can
16 once again be reinvested in our communities in ways
17 that are more effected. So before closing, I just
18 want to give a special thanks to Maya Wiley who's the
19 counsel to the Mayor as well as Nisha Agarwal, both
20 who are here from the Mayor's Office of Immigrant
21 Affairs, for their work on helping us crack these
22 bills. I also want to thank Javier Valdes, Executive
23 Director of Make the Road New York, and Peter
24 Markowitz from the Director of Cardozo Law School's
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2 Immigration Justice Clinic, and the entire coalition
3 of immigration and civil rights advocates who have
4 worked on this for their support and patience in this
5 process. Thank you very much, Chair.

6 CHAIRPERSON MENCHACA: Thank you so much,
7 Speaker, and I also want to just thank the staff who
8 have been working so long on this, not just through
9 time, but just to get us to this point here in this
10 Immigration Committee, Jennifer Montalvo [sp?], Rob
11 Newman. We also have our new counsel Katalina Cruz
12 [sp?], who will be joining us. This is her first
13 hearing, and then also members of my staff, Lee
14 Wellington and Vladimir Martinez [sp?]. And so
15 before we go, I just want to also to remember, to
16 remind everyone that we have translation in the back
17 and that we are going to now hear from two
18 individuals who will share their stories about their
19 own immigration struggles and their experiences with
20 detainers, and those names are Amadu Bello [sp?] and
21 Carlos Rodriguez. If you can join us over here.
22 [speaking Spanish] And there are translators as well.
23 You can get them. [speaking Spanish] Gracias.

24 UNIDENTIFIED: And you can talk right
25 into it.

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2 CARLOS RODRIGUEZ: Good morning everyone.
3 I want to thank the members of the City Council for
4 the opportunity to speak. My name is Carlos
5 Rodriguez, and I'm an active member for the Northern
6 Manhattan Coalition of Immigrant Rights, an
7 organization that is been forefront from the
8 defending the immigrant's communities. I'm a long
9 time New York resident with a US citizen daughter and
10 a citizen wife. I am also a chef who's very hard
11 working employee of the restaurant that I work
12 presently. I am very grateful that the City Council
13 has introduced those two bills that would have spare
14 me so much suffering if they had been introduce and
15 implemented sooner. In February of 2013 I was
16 visiting a friend in Washington Heights, and I was
17 wrongfully arrested by trespassing, and after I
18 illegally stop and frisk by the New York police.
19 Even though the trespassing charge it was immediately
20 dropped, I send the Department of Correction a
21 detainer request asking that I held because an old
22 [sic] deportation order. New York City complement
23 with this voluntary request from ICE, even though ICE
24 they don't have a warrant for me, I have no criminal
25 conviction. The order of deportation was saw from

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2 very poor and legal assistance and advice from
3 immigrant attorney years ago. When the city already
4 the detainee request from ICE, what become
5 significant destruction in my life turning into
6 terrifying nightmare. I was thrown [sic] from the
7 Manhattan Detention Complex, also known as The Tombs
8 and to an ICE detention in New Jersey in the Hudson
9 County. And I lost all physical contact with my
10 families, my daughters and my friends because they
11 all live in New York and they don't have their own
12 car so they couldn't go and visit me for a month
13 while I was in custody from ICE. I don't have--I
14 didn't have no idea how long I was going to stay in
15 there and what was going to happen. I don't have no
16 idea. Any night I couldn't sleep because I don't
17 have no idea if they just going to wake me up and
18 deport me. During those eight months my family
19 suffered a lot. I lost my job as a chef and also my
20 mother and my sister, they was about to lose their
21 apartment because they was available with my support.
22 So, and even--alright. And if New York City had
23 passed both of those bills sooner, I wouldn't have
24 been released from the Department of Correction once
25 the trespassing charges was dropped. I could have

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2 been returning to my job and been with my family
3 while fighting with my deportation case. I'm
4 personally grateful to the Speaker Melissa Mark-
5 Viverito, Council Member Carlos Menchaca, Council
6 Dromm and Council Ydanis Rodriguez and the rest of
7 the City Council that are working. I also want to
8 send the Cardozo Law School and the Coalition for New
9 York Coalition Immigrants' rights for helping out in
10 my case. And they are still fighting my case because
11 it is pending on deport. Thank you.

12 CHAIRPERSON MENCHACA: Thank you for that
13 testimony, and Mr. Bello?

14 AMADU BELLO: Bonjour [speaking French?]

15 CHAIRPERSON MENCHACA: Can we make sure
16 his mic is on, red button close to the--

17 AMADU BELLO: Bonjour [speaking French]

18 TRANSLATOR: Good morning, my name is
19 Amadu Bello. I would like to say thank you for the
20 opportunity to testify and for the leadership of the
21 City Council and Speaker Melissa Mark-Viverito.

22 AMADU BELLO: [speaking French]

23 TRANSLATOR: I'm from the Central African
24 Republic and came fleeing persecution in my country
25 in 2002. If I had stayed I would have died. I left

1
2 my family in a refugee camp in Chad as I came here
3 hoping to get protection in the US and bring my
4 family to join me.

5 AMADU BELLO: [speaking French]

6 TRANSLATOR: When I came here I applied
7 for asylum. The case took years to finish, however,
8 and at the end the judge said she was sorry for what
9 I had suffered, but that because the government had
10 changed in my country, I could go back to my country
11 now. She denied my asylum case and gave me a
12 deportation order, but my family still in Africa,
13 still in a refugee camp said it was not safe for me
14 to return, so I stayed.

15 AMADU BELLO: [speaking French]

16 TRANSLATOR: I worked selling bags on the
17 streets in Manhattan. Like many street vendors, I
18 could get--I could not obtain a license to sell the
19 bags because they are expensive and hard to get.
20 Because of this, I sometimes got tickets from the
21 police for selling without a license. One day I got
22 a ticket and was also arrested. They took me to jail
23 where I was two months before my case was dismissed,
24 but because I had an old deportation order I could
25 not leave the jail. Immigration Officers came and

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2 picked me up and took me to a detention center where
3 I spent the next eight months terrified thinking I
4 would be deported.

5 AMADU BELLO: [speaking French]

6 TRANSLATOR: I was lucky. I got an
7 attorney, Alexia from Make the Road New York who's
8 helping me. She reopened my case and I am now
9 reapplying for asylum. There are many others like me
10 who are not so lucky and who are not able to get an
11 attorney who can fight their case. Many people get
12 deported because of the connection between ICE and
13 New York City. Some of these are people with families
14 here. Others, like me, are people who will be killed
15 if they return home.

16 AMADU BELLO: [speaking French]

17 TRANSLATOR: I support the proposal today
18 because no one should have to spend eight months in
19 detention, face potential death, due to a criminal
20 charge that ends up being dismissed. People who are
21 in my situation, the future should not have to go
22 through what I went through. Thank you for the
23 opportunity to share my story.

24 CHAIRPERSON MENCHACA: And I just want to
25 say thank you to both of you for sharing your

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2 testimony, for giving us a sense about what's
3 happening with both of you from your families to the
4 deportation proceedings to how you got essentially
5 connected to this broken system. So I just want to
6 say thank you to doing that. We're going to hear
7 from the Administration, but before, I want to let
8 the Speaker address you.

9 SPEAKER MARK-VIVERITO: No, I wanted to
10 just reiterate what the Chair said. Normally, we
11 don't have the testimonies of those affected ahead of
12 the Administration, and this is obviously something
13 that I thank the Chair for encouraging because it's
14 always good to hear and get the context as to the
15 importance of the legislation that we've, we're
16 enacting today or that we're hearing today to enact
17 in the future. So thank you very much. I know it
18 takes a lot to be here. [speaking Spanish]

19 CHAIRPERSON MENCHACA: And I just to want
20 everyone know we're going to hear from more affected
21 individuals later in the testimony, but we want to
22 transition right now to the Administration.
23 [speaking Spanish] And so thank you so much. And so
24 next we're going to have from the Administration,
25 Counsel to the Mayor, Ms. Maya Wiley and Commissioner

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2 Nisha Agarwal, please. And we've also been joined by
3 Council Member Eugene. And as soon as you're ready
4 you can begin. Just make sure that the red light is
5 on.

6 NISHA AGARWAL: Thank you to Speaker
7 Mark-Viverito, Chairman Menchaca and the members of
8 the Committee on Immigration for the opportunity to
9 testify today. I also want to thank the Council and
10 the Speaker in particular for your leadership on this
11 issue for many years. My name is Nisha Agarwal, and
12 I'm the Commissioner of the New York City Mayor's
13 Office of Immigrant Affairs, our charter mandated
14 office that recommends policies and programs to
15 improve the lives of immigrant New Yorkers. On
16 behalf of the Administration, I'm pleased to announce
17 our support for Intros 486 and 487. These two bills
18 will prevent some 2-3,000 New Yorkers per year from
19 being held in city custody beyond the time when the
20 Criminal Justice System says they should be released.
21 Solely for the purpose of helping Federal Immigration
22 Officials take custody of them so they can be placed
23 in detention and deportation proceedings. These are
24 individuals, lawful permanent residents and visa
25 holders as well as undocumented immigrants who pose

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2 no significant threat to public safety. To the
3 contrary, the vast majority of these immigrants have
4 family and community ties to this city and call it
5 home. Intros 486 and 487 will treat these immigrant
6 New Yorkers equally to all others in our criminal
7 justice system who when they are released by a judge
8 or jury are allowed to return home to their families
9 and jobs. In addition, these bills will contribute
10 to trust between immigrant communities and the
11 police, encouraging victims of crime and witnesses to
12 come forward to work with law enforcement. New York
13 City was among the earliest voices on the issue of
14 overbroad civil immigration detainer requests and
15 Mayor de Blasio pledged as Public Advocate and as
16 Mayoral Candidate to end the city's cooperation with
17 these requests, except where it was warranted as a
18 public safety matter. With these bills, we cannot
19 only continue to improve the way we treat our
20 immigrant residents, but we can also reaffirm our
21 leadership in the growing movement among cities,
22 counties and states to take local action to better
23 serve all of our residents in the absence of viable
24 reform at the federal level. Local law enforcement
25 agencies involvement in civil immigration enforcement

1 originated with President Reagan signing of the
2 Narcotics Traffickers Deportation Act, a part of a
3 broader Anti-drug Abuse Act of 1986. That law
4 authorized federal officials to issue detainers to
5 request that local police and jails hold an immigrant
6 beyond the time when he or she is due to be released.
7 In 2003, the detainer process was codified in
8 immigration enforcement rules. Detainers
9 proliferated as proponents of harsher enforcement
10 measures, including individuals like Kris Kobach, the
11 man behind the now largely invalidated Arizona law
12 SB1070, pushed a theory that saw local and state
13 governments as force multipliers, effectively
14 expanding the capacity of federal immigration
15 authorities far beyond the borders. This model was
16 enthusiastically adopted by the federal government
17 over the last decade with the extension of the
18 criminal alien program into local jails, including
19 New York City's jails and the adoption of the 287G
20 Secure Communities Programs. These programs rely on
21 local manpower, resources and information to vastly
22 extend the reach of federal enforcement, primarily
23 through the broad issuance of detainers. This
24 enforcement model has created a situation in which
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1 local police and correctional resources are now used
2 to hold thousands of New Yorkers who pose no safety
3 threat for longer than is necessary. Through the
4 detainer process, localities including New York City
5 have been helping federal immigration authorities do
6 their job at considerable cost to New York City
7 families and the public fisc [sic]. In response to
8 this trend, in 2011, the City Council adopted one of
9 the first detainer discretion laws in the country,
10 sponsored by then Council Member Mark-Viverito. New
11 York City was a leader in recognizing that civil
12 immigration detainers were merely requests from
13 federal, ICE, as opposed to mandatory orders. That
14 2011 law directed the Department of Corrections not
15 to hold individuals based on a civil immigration
16 detainer unless the individual had a criminal
17 conviction, still had an open criminal charge or
18 warrant, or had a prior order of removal among other
19 grounds. The results were that DOC declined to hold
20 individuals subject to detainer requests in 27
21 percent of cases. In 2013, Speaker Mark-Viverito
22 again sponsored legislation on this topic in response
23 to the activation of the controversial federal Secure
24 Communities Program in New York State. The 2013
25

1 bills further limited the circumstances in which DOC
2 was authorized to extend its detention of individuals
3 who were due to be released, and these bills also
4 restricted the extent to which the police department
5 would honor detainers. The result of these changes
6 was that DOC declined to hold individuals subject to
7 detainers in 36 percent of the cases and NYPD
8 declined to hold individuals in about 48 percent of
9 the cases. Since New York City first took action on
10 this issue, there has been a growing recognition
11 about the destructive impact of federal immigration
12 detainer requests on local communities. Judges
13 across the country have decided that Civil
14 Immigration Detainers are non-mandatory requests to
15 local law enforcement agencies, and ICE now concedes
16 that point. Other cities, counties, and states have
17 followed New York City's lead. In fact, more than
18 200 jurisdictions across the United States are now
19 limiting their cooperation with detainer requests.
20 These bills, Intros 486 and 487 advance several
21 important interests of the city. The first is family
22 unity. The proposed legislation will help bring
23 stability to our communities by keeping families
24 together, as was discussed by the individuals who
25

1 testified previously. Second, these bills will
2 advance important city interests in community trust
3 and public safety, drawing a clear lien between local
4 law enforcement and Federal Civil Immigration
5 Enforcement will foster trust between the city's
6 immigrant communities and local law enforcement
7 agencies. This line drawing will support community
8 policing practices and promote public safety by
9 eliminating fear for immigrant victims of crime and
10 witnesses to come forward to work with law
11 enforcement. Law enforcement leaders throughout the
12 country have spoken out publicly about how blurring
13 lines between local policing and immigration
14 enforcement makes the job of local law enforcement
15 more difficult. These bills will direct the city's
16 law enforcement agencies to expend their time and
17 resources on public safety, rather than undoing the
18 federal immigration authority's job for them. The
19 legislation will also encourage the full
20 participation of immigrants in the civic and economic
21 life of the city by cementing protections for New
22 Yorkers regardless of their immigration status.
23 These bills are consistent with the city's other
24 efforts to integrate and protect its immigrant
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2 population, such as the New York Immigrant Family
3 Unity Project, the recent response to the influx of
4 unaccompanied child migrants and the Municipal ID
5 Card Initiative. Thank you very much for the
6 opportunity to testify on these two bills. We look
7 forward to working with the City Council to finalize
8 the legislation, and I'll now turn it over to Maya
9 Wiley.

10 CHAIRPERSON MENCHACA: Thank you.

11 MAYA WILEY: Good morning Speaker Mark-
12 Viverito, Chairperson Menchaca and members of the
13 Immigration Committee. It's my great privilege to
14 appear before you today. Thank you for your
15 leadership on immigration issues and many other
16 matters of importance to New Yorkers. As Counsel to
17 Mayor Bill de Blasio, I'm responsible both for
18 supporting the Mayor's policy initiatives and
19 ensuring compliance with city, state, and federal
20 law. The policy decisions around immigration and
21 customs enforcement detainers implicate all aspects
22 of my job. It's been my great privilege and I want
23 to acknowledge the work on the important and complex
24 questions before us by a number of colleagues from
25 the Administration including Commissioner Agarwal,

1 Corporation Counsel Zachary Carter, leaders from the
2 Mayor's Office on Criminal Justice, the New York
3 Police Department, Department of Corrections, and the
4 Intergovernmental Affairs Unit of the Mayor's Office,
5 and I want to give a special recognition to my Deputy
6 Brittany Saunders who has really led this work for my
7 team. I'm pleased to join you this morning to
8 support intro's 486 and 487 which would reform the
9 city's responses to ICE immigration detainer
10 requests. The Mayor's platform, as you know,
11 specifics that detainers should not be honored,
12 except where is issued against individuals who have
13 previously been convicted of serious or violent
14 felonies. The Mayor adopted this position to account
15 for a range of interests, and the Administration
16 remains committed to striking the appropriate balance
17 between them. You've heard Commissioner Agarwal
18 testify about the Administration's commitment to
19 ensuring that New York remains a global city and one
20 that continues to welcome immigrants. In addition to
21 these commitments, the question of how the Department
22 of Corrections and New York Police Department should
23 respond to federal detainer requests designed to aid
24 in the enforcement of Civil Immigration Law
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2 implicates a range of additional public interests.
3 These include providing a fair and appropriate
4 process and guaranteeing public safety. So my
5 testimony will focus on these issues. All New York
6 City residents, whether US born citizens or
7 undocumented immigrants should be treated fairly and
8 appropriately. Even the best intentioned public
9 servants can make clerical errors. Recall the case
10 of Mark Little, a US citizen with diabetes and
11 cognitive impairment. He could read but was barely
12 able to write. As the New Yorker has reported, after
13 serving a sentence for misdemeanor assault, he was
14 flown shackled and handcuffed to Hidalgo, Texas.
15 There he was taken to the international border and
16 ordered to walk across a bridge into Reynoso, Mexico
17 with only the prison jump suit on his back, three
18 dollars in his pocket and a deportation order for
19 Jose Thomas. That mistake didn't happen in New York
20 City, nor should we let it. As you know, if ICE
21 would like for the purposes of arrest and removal to
22 assume custody of an individual, it may issue an
23 immigration detainer, asking that local law
24 enforcement agency to continue to hold that
25 individual for up to 48 hours, whether or not the

1 person was every convicted of a crime. ICE transmits
2 a DHS form I247, checking a box or boxes indicating
3 why it's requesting that the individual be detained.
4 Generally, the Department of Correction or New York
5 Police Department receives no further documentation
6 to support what has been checked on the box. By
7 requiring that a judicial warrant accompany the form
8 I247, the bills ensure that probably cause concerns
9 are addressed. In addition, a detainer may not be
10 honored unless the individual has been convicted of a
11 serious or violent felony offense. Consistent with
12 the Mayor's platform, the offenses are limited to
13 those involving violence or force, terrorism, fire
14 arms, high level drug crimes, or the endangerment or
15 abuse of children or other vulnerable individuals.
16 Alternatively, a detainer supported by probable cause
17 may be honored where the individual in question is a
18 match in a terrorist screening database. In short,
19 these bills would support a fair process and ensure
20 that detainers are honored where there is evidence of
21 a meaningful risk to public safety. The bills
22 include other elements designed to focus resources on
23 those cases in which public safety threat is
24 pronounced, with the exception of individuals who are
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1 matches in a terrorist database, the city would only
2 honor requests for those with criminal convictions,
3 not mere charges. In addition, the conviction in
4 question must have been within the previous five
5 years with totaling [sic] provisions for periods of
6 incarceration. This would ensure that individuals
7 with prior convictions who have not re-offended in at
8 least five years would not be punished again. The
9 council bills are not only consistent with the
10 Mayor's commitment to honoring detainers only where
11 serious public safety threats are implicated, they're
12 also aligned with developments in other states and
13 major cities. As Commissioner Agarwal has noted,
14 hundreds of jurisdictions across the country have
15 instituted policies limiting the degree to which ICE
16 detainers will be honored, with some like the state
17 of California and King County, Washington, for
18 example, only honoring detainers in connection with
19 certain types of offenses as these bills do. These
20 policy shifts reflect a growing consensus that local
21 law enforcement and federal immigration enforcement
22 should generally remain distinct. The administration
23 does, however, have some suggestions to improve the
24 bills before us today. We believe that successful
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2 implementation of this policy will require a greater
3 degree of flexibility in the interest of public
4 safety. We're concerned that the legislation lacks
5 some delegated authority to identify additional
6 offenses that would be appropriate to add consistent
7 with the principles of these bills which we support.
8 The bills do provide that the Department of
9 Correction in coordination with the police department
10 may add new crimes codified by the legislator after
11 the enactment of the legislation through a rule-
12 making process, and we think that's important and
13 appreciate that. While we trust that the Council's
14 been thoughtful and deliberate in determining which
15 offenses should be included, we anticipate the
16 changing conditions or experiences may suggest
17 existing crimes be considered sufficiently violent or
18 serious that are not currently included in covered
19 offenses. The city's ability to ensure the
20 appropriate balance between public safety and the
21 important interest relevant to this policy should not
22 be limited to consideration of the limit universe of
23 new offenses created by state law makers each year.
24 Consistent with this point, we note that there are a
25 number of felony offenses that are not included in

1 the bills before us today that we would suggest being
2 included. These include tampering with a witness in
3 the first and second degree, B and D felonies
4 respectively that involve the infliction of physical
5 injury on individuals who intend to testify or who
6 have testified in criminal proceedings. They also
7 include the offenses of sex trafficking and labor
8 trafficking, which combine elements of violence and
9 other forms of exploitation of vulnerable
10 populations. We believe that the Mayor must have the
11 prerogative to add these and other offenses
12 consistent with the principles embodied in this
13 legislation. We also believe that we should add
14 federal magistrate judges, not just Article Three
15 judges to the list of those who may issue warrants
16 consistent with the Intros. Federal magistrate
17 judges, as you know, regularly issue arrest warrants
18 in the federal court system and we believe the bill
19 should reflect that reality. We also believe that
20 the bills would be strengthened by the addition of a
21 provision delegating to the Mayor the authority to
22 add other Article One judges who may in the future be
23 legally empowered to issue judicial warrants as to
24 removability. Again, in sum, we support the
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2 Council's bills and thank the Council for its hard
3 and thoughtful work to reconcile the important
4 objectives of inclusivity and public safety, and we
5 look forward to working with the Council to ensure
6 that the city's detainer policy reflects the most
7 closely held principles and affirms the value of each
8 and every New Yorker. Thank you.

9 CHAIRPERSON MENCHACA: Thank you so much.
10 And I know we've been joined by others to the desk
11 [sic]. Can we have everyone introduce themselves
12 first, and then I'm going to swear you in.

13 SUSAN PETITO: Good morning. I'm Susan
14 Petito, Assistant Deputy Commissioner at Legislative
15 Affairs of the New York City Police Department.

16 CHAIRPERSON MENCHACA: Great.

17 KARL JOHNSON: Good morning. My name is
18 Captain Karl Johnson from the New York City
19 Department of Corrections.

20 CHAIRPERSON MENCHACA: Great. And so,
21 thank you so much for the testimony. We're going to
22 go right into questions, but before that, I want to
23 swear you all in for this round of questions. Do you
24 affirm to tell the truth, the whole truth and nothing
25 but the truth in the testimony you just gave before

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2 this committee and respond honestly to the Council
3 Member's questions? Great. Thank you so much. I'm
4 going to hand it over to our Speaker first.

5 SPEAKER MARK-VIVERITO: Thank you, Chair,
6 and thank you Commissioner and Ms. Wiley for your
7 testimony. I hear some of the thought process and
8 recommendations that are being made, but I think we
9 obviously find ourselves in a really good place, and
10 it's great to hear the support of the Administration,
11 and I know having a representative from the NYPD at
12 the table is also important to again affirm that this
13 is a proposal that has the full support of the
14 Administration, and I think that's important. I
15 just have one question, but there are a couple of
16 things that I think, Commissioner, you mentioned in
17 your testimony that I really, really want to re-
18 emphasize because I think it's incredibly important.
19 You know, one of them, as you indicated in the
20 beginning of your testimony, is to say that what
21 these Intros seek to do is that it's going to treat
22 these immigrant New Yorkers equally to all others in
23 our criminal justice system. Again, the reason we're
24 talking about people that are being held is for a
25 civil offense. It's not a criminal offense. So,

1 they would be treated as everybody else in the
2 system, and so that needs to be understood. You know,
3 this thought process that goes out there of the fear
4 mongers and people that are the haters out there, as
5 we say, really want to make it seem like every single
6 immigrant is, an undocumented immigrant is somehow a
7 threat to our society and they're out there in the
8 corners lurking to cause harm. It's just such--it's
9 so offensive just in thought. So that's important to
10 note, and these again are civil issues that we're
11 dealing with. And the other factor is on the cost to
12 society, not only the cost financially as a city, but
13 you know, also morally, right? And we're talking
14 about a lot of times children have been ripping these
15 families apart, and the way you talk about in your
16 testimony that reducing the disruption of families
17 caused by the Federal Immigration Enforcement System
18 will not only protect children, but will also protect
19 the city's finances and services by preventing the
20 family members of deportees from being deprived of
21 their parents and spousal support and income. So
22 that again, I think those are two issues that I think
23 really need to be highlighted about when we take
24 these measures, that we're looking out for the
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2 multiple interests of the city in terms of safety,
3 finances, but also of these children that a lot of
4 times, sometimes one parent may be undocumented. A
5 lot of time the children are US citizens. So that's,
6 I think, really important. My one question, because
7 I guess we're in a good place, there's not much
8 adversarial thought here, that we've been--it's been
9 made--we've been made aware by advocates that the
10 Department of Probation has made between 150 to 200
11 arrests over the past two years based on what ICE
12 calls administrative warrants. Are you familiar with
13 the concerns regarding Department of Probation and
14 where do we find ourselves on that front?

15 NISHA AGARWAL: Yes, so we're familiar
16 with that. The Department of Probation has received
17 requests from ICE in the form of administrative
18 warrants on forms I200 and I205. The Department of
19 Probation has taken steps to address these requests,
20 so now all such requests go to the DOP's general
21 counsel, and the ICE requests will be handled at DOP
22 in a manner consistent with this legislation.

23 SPEAKER MARK-VIVERITO: Oh, perfect.
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2 NISHA AGARWAL: The DOP is currently
3 crafting an internal policy which we'll hopefully be
4 able to share soon.

5 SPEAKER MARK-VIVERITO: Perfect, okay. I
6 appreciate that. I'll let other colleagues ask
7 questions. Again, thank you so much for being here
8 and your testimony. It's a great day. Thank you.

9 CHAIRPERSON MENCHACA: Thank you,
10 Speaker. And my question is really a kind of
11 comparison question. This is essentially I think the
12 third time that the Council's back with a new
13 council, with a new Mayor, and were there any
14 challenges implementing the local laws that were
15 passed by the previous council and adopted in the
16 last sessions that limited the instances that the DOC
17 and the NYPD honor these detainers? Can you give us
18 a sense of that history?

19 SUSAN PETITO: There weren't actually any
20 problems. We did need to do some training of our
21 Criminal Justice Bureau personnel who are primarily
22 responsible for receiving and screening detainers,
23 but once they became familiar with the actual
24 provisions of the prior law, of the current law, they
25 were able to apply it consistently. It was somewhat

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2 complicated because it had many, many component
3 parts, which are now actually going to be streamlined
4 somewhat. There are fewer component parts, so we
5 don't expect that the new legislation will present as
6 great a challenge, because also the folks are already
7 familiar with the concept.

8 CHAIRPERSON MENCHACA: Great, great. And
9 so next, jumping to the judicial warrants that this
10 essentially the new piece of legislation really kind
11 of hovers around this very, very important piece of
12 the judicial warrants, how does the requirement of
13 this warrant and the new process, how does that
14 intervene into the current process and how's that
15 going to help us get to where we want to get to?
16 Specifically with the requirement of the judicial
17 warrant. Tell us how you see this from Department of
18 Corrections and NYPD.

19 KARL JOHNSON: Well, I don't think it
20 will vary much from what we currently accustomed to.
21 So, the only thing that we just got to get acclimated
22 with is the new codes that we have, you know, as far
23 as with the felonies, the severe, the periods, five
24 years convictions, but other than that, I don't see
25 it causing much issue in the processing.

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CHAIRPERSON MENCHACA: Okay.

MAYA WILEY: From a practical standpoint, essentially, our understanding of the way the legislation will work is in addition to the form that normally both the NYPD and the Department of Corrections would act upon, that we're essentially would be asking that the warrant actually be attached to the form. So the process essentially would be the same except for the addition of the warrant itself.

CHAIRPERSON MENCHACA: Great, great. And of course, we're just trying to tease the seamless process that the new law kind of solves with the complicated nature of the previous pieces of legislation is the streamline. I hear that really the only thing that you have to do now is training because it's just an addition to things, and so this is going to be a lot more simple to walk through together.

KARL JOHNSON: Right. So, since the last law passed, we got, you know, familiar with the changes. So with this new change it won't be--it won't affect us greatly at all.

CHAIRPERSON MENCHACA: Okay, great. So, I'm going to hold a couple more questions. I want to

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2 bring other Council Members from the committee up,
3 and the first person we want to welcome, Council
4 Member Espinal, and you get two minutes for your
5 questions.

6 COUNCIL MEMBER ESPINAL: Thank you.

7 Thank you, Chairman Menchaca. I kind of want to talk
8 about ICE's protocol and how what their behavior is
9 inside of Rikers Island. I'm speaking from personal
10 experience. I know someone who went through the
11 process and was actually deported, and he told me
12 that when he was, when he went to Rikers, ICE pretty
13 much comes in and interviews everyone in the prison
14 who is not a citizen of this country. And after they
15 serve their sentence they are later held for a day or
16 two and then picked up and transported to detention
17 center. Can you tell me more? Is that accurate?
18 Can you tell me more of what the process is like?

19 KARL JOHNSON: Okay, so I'm not sure that
20 they actually interview everyone, but when they do
21 make a request, yes, they an interview and individual
22 in our counsel visit area, and that individual has a
23 right to say yes or no. So it's not mandatory that
24 they do consent to an interview by ICE.

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2 COUNCIL MEMBER ESPINAL: So, if the
3 person in jail says no, how does ICE get permission
4 or how do they receive this detainer for the person
5 at the end of their prison sentence?

6 KARL JOHNSON: They--if they say no, it's
7 just simply just that. ICE sometimes will--right.
8 Yeah, so the detainers are not at all connected to
9 the interviews. That's just totally separate issues.
10 And so most of the time the inmates do enter the
11 department with a detainer through the courts. If
12 ICE wants to interview that individual, yes, they do
13 put a request through to the department, and that
14 individual can either accept or deny that interview.

15 MAYA WILEY: Generally happens through a
16 fingerprinting process. So, most detainers are
17 honored when they are honored at the Department of
18 Corrections, not actually at NYPD, but it's through
19 the process of going, taking the fingerprints through
20 a national database. When essentially ICE sees a
21 match for someone from the fingerprinting process,
22 and every single person who goes through the system
23 goes through the fingerprinting process, if they
24 think the person may be someone who is subject to
25 removal, that's when they will then submit the

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2 detainer. So it actually is a separate process that
3 happens from the interview itself.

4 COUNCIL MEMBER ESPINAL: Have you see a
5 big difference of let's say of the law that Mark-
6 Viverito passed a few years ago, have you seen the
7 process change within Rikers Island since then?

8 KARL JOHNSON: Well, I cannot say because
9 I wasn't around for the previous law. I only came
10 into familiar with it in the second change, the
11 current change, rather. So, I couldn't really tell
12 you if there was a dramatic change or anything else
13 besides what's happening now.

14 NISHA AGARWAL: I think one thing that's
15 important to note is when the first law was passed in
16 2011, then Secured Communities went into effect,
17 which is this fingerprinting process that Counsel
18 Wiley was talking about, and that did dramatically
19 increase the speed with which detainees were dropping
20 and also the earlier stage at which they were
21 dropping on individuals. So many people coming into
22 Rikers already may have had detainees whereas before
23 that wasn't necessarily happening. So the second
24 round of laws helped to intervene in that process.

25 COUNCIL MEMBER ESPINAL: Thank you.

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2 CHAIRPERSON MENCHACA: Thank you Council
3 Member Espinal, and we're going to hear again from
4 Speaker Mark-Viverito.

5 SPEAKER MARK-VIVERITO: Thank you, again
6 Chair. Apologies, just I wanted to follow up on a
7 question that I wanted to ask. That one of the
8 things that we're also hearing from advocates with
9 regards to the NYPD and obviously the representatives
10 from the NYPD may be able to answer this, is that
11 sometimes individuals are being arrested by the NYPD
12 based on hits in the National Crime Information
13 Center database stemming from civil immigration
14 violations. Do you know if this is correct?

15 SUSAN PETITO: I believe there have been
16 some instances where that might have happened, but
17 one thing to remember is that when a police officer
18 is on the street and intends to issue a summons but
19 does a warrant check, the only information that the
20 police officer on the street will get from the
21 dispatcher is a hit or a no hit on a warrant. So in
22 any case of a warrant hit, the person is brought into
23 the station house, and the warrant is investigated.
24 In other words, you know, the desk officer or the
25 arrest processing officer will look at the--try to

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2 contact the individual or the agency who is
3 responsible for the warrant and whether it's still
4 valid, acknowledging that some of these warrants may
5 in fact be administrative warrants issued by ICE. We
6 intend to create an appropriate procedure to handle
7 that situation in a manner similar to the detainer,
8 and you know, in the spirit of the new law. But there
9 is going--

10 SPEAKER MARK-VIVERITO: [interposing]

11 Because I would think that that presents an issue of
12 constitutionality or not. No? In terms of whether or
13 not we're getting a hit on the database which is a
14 civil violation of getting picked up and arrested and
15 held, is that a--I mean, are you saying that that's
16 being addressed? And I'm sure when the advocates come
17 up they can speak to the issue as well, but there is
18 concerns of the constitutionality of that kind of
19 action, no?

20 MAYA WILEY: Well, I'll take this
21 question. I think we're very concerned about
22 protecting constitutional rights, which is why the
23 NYPD is saying, as well as I can report from the
24 Mayor's office, going to make sure that we have a
25 procedure that is compliant with both the US

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2 Constitution as well as other laws, and I think all
3 we're identifying is the way the process actually
4 works right now, is that the police officer on the
5 beat doesn't actually know what the warrant is. In
6 other words, it could be a criminal warrant for
7 arrest because someone has fled another jurisdiction,
8 for example. There's just no way for the officer to
9 know right now. So the commitment is to make sure
10 that we fix that so that this is in compliance with
11 the new bills, which we support.

12 SPEAKER MARK-VIVERITO: So that there is
13 going to be a cross-referencing and trying to align
14 the policies and procedures so that it all complies
15 with this law.

16 MAYA WILEY: Yeah, we're going to have to
17 create an implementation process obviously that
18 brings us into alignment with the principals that we
19 share. The question will be how, given the way the
20 current system works, so we're committed to doing
21 that.

22 SPEAKER MARK-VIVERITO: Okay, I
23 appreciate that, and we'll get--we'll talk more about
24 that later, but thank you so much for clarifying.

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CHAIRPERSON MENCHACA: Council Member

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Dromm?

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COUNCIL MEMBER DROMM: Thank you very

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much, Chair Menchaca. Let me start off just first by

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thanking our Speaker Melissa Mark-Viverito for all of

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the legislation that she has helped to enact in the

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last session and for introducing this piece of

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legislation as well. As you know, I served as the

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former Chair of this Committee, and I believe that

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because we enacted the previous legislation we were

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able to prevent numerous unfair deportations and this

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legislation that we're talking about today is just

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going to be additional help in that regard. And I

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remember in the hearings that we held on the previous

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legislation there were predictions that all heck

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would break loose if we did this, and I don't think

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that any heck has broken loose and I'm very happy to

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hear from both the NYPD and the Corrections

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Department, that basically the implementation of the

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previous legislation went very, very smoothly, and to

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also hear the prediction that you expect that the

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implementation of this legislation as we negotiated

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out will also go as smoothly. And I also wanted just

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to remind people that most people on Rikers Island

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2 are detainees. They have not been convicted of any
3 crime, and I think that's really important for the
4 public to understand. And most people on Rikers also
5 are people who cannot afford bail, and that's why
6 they remain on Rikers, and that's what adds to the
7 unfairness of the implementation of ICE policies to
8 deport those who remain on Rikers. So, I think that
9 this legislation ultimately sends a very positive
10 message to immigrant communities and one about police
11 relations with those communities. And I was wondering
12 if somebody on the panel could address what you think
13 the relations between NYPD and immigrant communities
14 in particular, will they improve? How has that
15 improved in the past, etcetera?

16 NISHA AGARWAL: So, as I mentioned in my
17 testimony, you know, as we limit the links between
18 Federal Immigration Enforcement and local law
19 enforcement, that can only, and I think there's
20 research to support this, really enhance the trust
21 between immigrant communities and local law
22 enforcement. Individuals will hopefully feel less
23 nervous about stepping forward if they're victims of
24 crime, more likely to step forward to be witnesses to
25 serve as witnesses if there have been crimes, and we

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2 really hope that this will create a climate of
3 increased safety and security and trust within
4 immigrant communities, but really all New Yorkers.

5 COUNCIL MEMBER DROMM: And this is
6 domestic violence month, right, and we see many cases
7 in communities like mine, and I just think that
8 having people feeling more comfortable about
9 approaching the police department, because it's
10 domestic violence month I'm going to focus a little
11 bit on that. This will only tend to help communities
12 like ours combat the terrible issue of domestic
13 violence, and so I'm very proud to be a co-sponsor on
14 this right behind the Speaker, and look forward to
15 its passage as we move forward. Thank you.

16 CHAIRPERSON MENCHACA: Thank you Council
17 Member Dromm. We're going to hear now from Council
18 Member Eugene.

19 COUNCIL MEMBER EUGENE: Thank you very
20 much, Mr. Chair. Let me first thank the Speaker for
21 her leadership and also Chair Menchaca, and I want to
22 congratulate and thank all of you from the panel for
23 your testimony. Ms. Maya Wiley, in your testimony,
24 you mentioned that I'm responsible for both
25 supporting the Mayor policy initiative and ensuring

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2 compliance with city, state, and federal government
3 law, and somewhere you say that all New Yorkers,
4 whether they're US born citizen or undocumented
5 immigrant should be treated fairly and appropriately.
6 I love that, and I commend the Mayor also for his
7 dedication to make sure that New York City, you know,
8 will remain a place where all of us immigrants and
9 born in the United States can feel, you know, home
10 and enjoy all the benefit of this good city. But
11 could you tell me or tell us, you know, what
12 Administration has put in place to implement the
13 legislation that we are talking about?

14 MAYA WILEY: Well, I think what we've
15 actually--thank you so much. As you know, you're my
16 representative as well in a community which has a
17 very large number of immigrants. So, I think what
18 we've heard is that we actually have systems in place
19 already thanks to the previous work of this committee
20 and the reforms that have already been made, that
21 largely what we're going to be doing is looking to
22 ensure that there's proper support and training,
23 particularly at the NYPD and at Department of
24 Corrections, that people understand what's supposed
25 to be attached to the detainer form, because

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2 essentially, that's the one of the substantial
3 changes is that there must be a judicial warrant that
4 accompanies it. Obviously, the second is the
5 criminal history, right? Because the Intros have a
6 provision for identifying which offenses, because
7 there are offenses, and this is I think important for
8 everyone to understand based on the principles that
9 you all have so importantly laid out, there are
10 crimes that someone may commit, but they are no
11 violent and not serious, and therefore, even if there
12 is a judicial warrant, there will not be an honoring
13 of an ICE detainer. Which means that it's just
14 important for the personnel to understand which
15 offenses they should honor the detainer for. The
16 list is in the legislation, and so it's a matter of
17 ensuring that personnel know what that is and are
18 able to cross-check for the criminal history within
19 the timeframe set out by the legislation with the
20 proper tolling periods. So there will be some
21 additional training steps to implementation, but the
22 important thing about the Intros is that they're very
23 specific to which offenses, and I think that will
24 help support implementation.

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2 CHAIRPERSON MENCHACA: Great, thank you
3 so much Council Member Eugene.

4 COUNCIL MEMBER EUGENE: Thank you. Thank
5 you very much, and there's a--when we are trying, we
6 are struggling to make sure that immigrant people are
7 treated fairly, there are certain element that we
8 should keep in mind, put on the table, the fact that
9 immigrant people, they are facing many barriers, like
10 language barriers, like cultural barriers, and some
11 language assistance for people who don't, you know,
12 English is not their primary language, what do you
13 have in place? How do you help those people who
14 don't speak English, who don't understand English
15 property? Are you helping navigate and get the
16 proper answer to their situation?

17 NISHA AGARWAL: I'm very glad that you
18 brought that up. My office, the Mayor's Office of
19 Immigrant Affairs along all of our agencies are
20 deeply committed to language access and to ensuring
21 that individuals who need it get the interpretation
22 and translation services that they're entitled to
23 under federal, state and local law. So we work
24 closely with agencies to ensure that they have the
25 tools and resources and best practices available to

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2 ensure that those, those services are provided, and I
3 know that certainly in the context of this
4 legislation for the NYPD and the Department of
5 Corrections and other agencies, we work with them as
6 well in thinking through language access issues.

7 COUNCIL MEMBER EUGENE: Thank you very
8 much. If you'll allow me the last one?

9 CHAIRPERSON MENCHACA: Last question.

10 COUNCIL MEMBER EUGENE: Yes, last
11 question, but this is a very important one. Because
12 so many people, you know, usually go to my office and
13 meet them in this here also, when they have the
14 family members in jail and they're in the list to be
15 deported, usually they send them away, far away from
16 New York City, away from their families, very far.
17 And the parents cannot even see them. Some of them,
18 they don't know where they are. This is a very tough
19 situation, and some of it are a big financial or big
20 burden, they try to pay to travel to go see them.
21 What the Administration can do in this respect?
22 Because I think this is a family issue that New York
23 City as a tradition of United States has a philosophy
24 or ideas to unite family, to keep family together,
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2 what the Administration has been doing or can do to
3 alleviate this burden on families?

4 MAYA WILEY: That is such an important
5 point, and one that I think the Administration both
6 recognizes and regrets. Unfortunately, if we were to
7 honor detainer in an instance in which the
8 legislation would permit the honoring of a detainer,
9 once a person is detained then they are outside of
10 the jurisdiction of the city because they're in
11 federal custody and we actually have no control as a
12 city where the federal government places people
13 who've been detained. So, it's something that I
14 think is frustrating. I will say personally, I find
15 very frustrating that that's not something that's
16 easy for the city to address, other than to raise the
17 concerns. That's not something, obviously, that
18 we've discussed in relationship to these Intros
19 because it's outside of the scope of the Intros
20 themselves, but I can only say that we think that's a
21 humanitarian issue that deserves attention.

22 COUNCIL MEMBER EUGENE: Thank you very
23 much. Thank you, Mr. Chair.

24 CHAIRPERSON MENCHACA: Thank you Council
25 Member Eugene, and I just want to continue with that

1 sentiment that this continues to be a conversation as
2 we work through post hearing. We're going to hear
3 from advocates today. We're going to hear from Mr.
4 Morgenthau very shortly, and so I just want to thank
5 you for your work on this. This was a team effort in
6 so many ways, but we'll continue to work through this
7 new bill. And I want to clarify something that I
8 think wasn't necessarily clear, that while the law is
9 a lot more simple it actually decreases the ability
10 for ICE to do what they want to do, which is as we've
11 heard has been rot with many injustices, and so
12 that's the kind of clarity around the simplification
13 of this law that allows for the detainer to decrease
14 the number of instances where judicial warrant and
15 the list of violent serious crimes, felony crimes are
16 going to be a shorter list, and that we limit the
17 conversations between the Department of Corrections
18 and ICE. These are all things that are going to make
19 it harder for ICE to continue to do what we've seen
20 as injustices. We're going to hear from the
21 community now. Thank you so much, and we'll look
22 forward to continuing the conversation. And next we
23 want to bring up Mr. Robert Morgenthau, a long time
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1
2 advocate on this in so many ways, and so we can
3 invite you over to the table.

4 ROBERT MORGENTHAU: Good morning.

5 CHAIRPERSON MENCHACA: Good morning.

6 When you're ready.

7 ROBERT MORGENTHAU: Thank you, Madam
8 Speaker for giving me this opportunity to testify on
9 this extremely and far sided legislation. I am
10 Robert Morgenthau, a former District Attorney of New
11 York County, former United States Attorney for the
12 Southern District of New York, and now counsel to the
13 law firm Wachtell, Lipton, Rosen & Katz. I have with
14 me David Sall [sp?] who's an Associate of that firm,
15 who's worked closely with me on many immigration
16 matters. City Council should be congratulated on
17 setting the national precedent by tackling this
18 serious issue with far sided and well thought out
19 legislation. I take great pride in the fact that our
20 city and this council have long recognized that we
21 should not be in the business of helping the US
22 Department of Homeland Security deport and detain
23 immigrants whose greatest crimes are misdemeanors or
24 traffic violations or no crime at all. The current
25 law already prohibits the police and corrections

1 officials from honoring federal immigration
2 detainers, unless the target individual is either
3 charged with or has been convicted of a felony or
4 serious misdemeanor or appears on a terrorist watch
5 list. However, a criminal charge is not as you all
6 know the same thing as a conviction. According to
7 statistics from the Office of Court Administration,
8 40 percent of people arrested in New York City
9 eventually have their cases dismissed. The city
10 should not be handing over immigrants who have had
11 criminal charges against them dropped or dismissed.
12 In addition, a wide range of offenses qualified as
13 felonies under Homeland Security's broad definition.
14 The city must draw its own clear lines as this
15 legislation does about what crimes are serious enough
16 to justify detainers and eventual deportation. This
17 legislation is the necessary and logical next step.
18 By limiting the city's enforcement of federal
19 immigration detainers to convicted violent felons and
20 threats to national security, these bills would
21 safeguard our city and our country while also
22 protecting the rights of immigrants who came to this
23 country seeking a better life and the American dream.
24 Throughout the Obama Administration, the Federal
25

1
2 Government has been too aggressive in deporting
3 people for minor violations. President Obama has
4 repeatedly promised to deport only, and I quote
5 "criminals" and I quote "gangbangers" whatever they
6 are, but he has not followed through. Out of the
7 370,000 people deported last year, a mere 12 percent
8 have been convicted of a crime that even Immigration
9 and Customs Enforcement considers to be serious. In
10 fact, an analysis by a not for profit group at
11 Syracuse University found that over 100,000 people
12 were deported in 2013 for either minor traffic
13 violations or illegal entry, which is a petty
14 misdemeanor. More than 150,000 people deported last
15 year have no criminal conviction at all. To achieve
16 these deportation numbers, the Federal Government
17 piggy backs [sic] off all arrests made by local and
18 state authorities under a mandatory program called
19 Secure Communities. Local law enforcement submits
20 fingerprints of people they arrest to an FBI
21 database, and the FBI automatically sends these
22 fingerprints to Homeland Security. ICE then looks
23 for noncitizens who can be deported through
24 immigration or criminal violations. Through this
25 policy, ICE, Immigration Customs Enforcement, has

1
2 already reviewed 32 million fingerprint records. New
3 York State tried to opt out of Secure Communities,
4 and 12,000 was denied, 2012 was denied. Once it
5 identifies removable immigrants, ICE issues detainers
6 which are requests to keep people in jail after their
7 local charges have either been satisfied by dismissal
8 or sentence served. So the Homeland Security has
9 time to transfer these records, these men, directly,
10 or women, into federal custody. These detainers are
11 not limited to violent felonies or terrorists or
12 gangbangers. Instead, Homeland Security uses the
13 definition of convicted criminal that is so broad
14 that it includes anyone who gets a speeding ticket
15 and pays the fine. If that law applied to all United
16 States citizens, all of us here would be, including
17 me, would be convicted criminals. As a result, the
18 city has previously turned over the ICE immigrants
19 who were arrested for sleeping on the subway or
20 drinking in public or arrested for speeding
21 violations. Even worse, Homeland Security sometimes
22 issues detainers against immigrants who have no
23 criminal conviction at all. That is because the city
24 has to submit fingerprints at the time of arrest,
25 even if an immigrant is eventually never charged with

1 a crime or found not guilty. His fingerprints will
2 already been in the database. It is likely that a
3 signification portion of the 32 million people whose
4 fingerprints have been reviewed by ICE do not have a
5 criminal conviction, and there is no provision or
6 process for purging people's records after charges
7 have been dismissed. The city has a moral obligation
8 to do everything it can to prevent its residents from
9 being deported for trivial offenses. The city
10 blindly agrees to Homeland Security's detainers or
11 immigrant communities will never trust or cooperate
12 with law enforcement and will be badly treated in the
13 process. As I mentioned, city already blocks
14 detainers against, except those issued against
15 immigrants charged with or convicted of a felony or a
16 serious misdemeanor. Local law enforcement may still
17 be enforcing detainers against immigrants who were
18 charged, but never convicted of any crimes.
19 Furthermore, the felony category is broadly
20 interpreted by Homeland Security and includes
21 offenses that are not violent or otherwise egregious.
22 Lawyers I have talked to estimate that the current
23 law blocks only about one-third of all detainees.
24 These bills close the gap in the current law, and
25

1
2 ensure that the city only enforces detainers against
3 immigrants who have been found guilty of serious or
4 violent felonies or who appear on terrorism watch
5 lists. The bills define which crimes qualify as
6 "serious or violent" felonies. The bill also provides
7 an additional layer of protection for New York City
8 immigrants with the requirement of Homeland Security
9 obtained arrest warrants from a federal court before
10 being issued. The violation of this legislation will
11 guarantee that immigrants arrested for minor offenses
12 will not be automatically turned over to Homeland
13 Security for deportation. At the same time, it will
14 allow local law enforcement to continue to work with
15 Homeland Security to remove dangerous immigrants from
16 our community. I urge the City Council to pass this
17 far sided legislation. I would like also to take this
18 opportunity to ask the Council to consider additional
19 legislation to bar Homeland Security from keeping a
20 mobile base manned by agents, last count 15 agents at
21 Rikers Island, from entering city prisons and jails.
22 Prison officials regularly furnish immigration agents
23 with the names of all inmates who indicate on their
24 questionnaire that they were born overseas. No other
25 federal law enforcement agency camps out at Rikers.

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2 Psychologically, the onsite presence of instill fear
3 and paranoia among immigrants held at Rikers,
4 practically being on hand gives agent the opportunity
5 to interview immigrants in the absence of counsel.
6 We have to get federal immigration agents out of
7 Rikers and other local jails and prisons. Thank you
8 very much for giving me the opportunity to testify.

9 CHAIRPERSON MENCHACA: Thank you so much
10 Mr. Morgenthau, and your presence in this room with
11 your testimony and your years of experience in
12 career, it's such an honor for us to have you here
13 today speaking on this, on this very topic and this
14 moment in City Council and City Hall history. I want
15 to underscore something you said, that a criminal
16 charge is not the same thing as a conviction, and
17 that couldn't be more true, and you really laid the
18 case for the consequences of that statement. I
19 respect the due process and our achieving the greater
20 goal of constitutional rights for all our residents
21 in our great city. I'm going to hand it over to
22 Speaker Melissa Mark-Viverito.

23 SPEAKER MARK-VIVERITO: Hello, thank you,
24 Mr. Morgenthau, because I think we've worked together
25 on the prior bills and you have been such an

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2 incredible voice on this issue for the need for
3 comprehensive immigration reform and then taking it
4 upon ourselves. Just for clarification, because you
5 indicate in the last paragraph of your--I have some
6 good news, I guess, for you. Thinking about the
7 recommending that the Council consider additional
8 legislation to bar Homeland Security from keeping a
9 mobile base at Rikers. Intro 486 actually does that.
10 So we are going to be limiting any sort of presence
11 of ICE on Rikers, and that's what is in the language
12 here. So I think we--that's been something that many
13 of us have been wanting for a long time, and
14 thankfully, again, we have an administration that is
15 supportive of those efforts. So, I guess, just wanted
16 to--

17 ROBERT MORGENTHAU: Well, I remember the
18 cooperation of your interest when you were the
19 sponsor of the original legislation.

20 SPEAKER MARK-VIVERITO: Yes.

21 ROBERT MORGENTHAU: Which passed, but we
22 go to go beyond that now.

23 SPEAKER MARK-VIVERITO: Yes. Thank you
24 very much, and appreciate your testimony. It's very
25 impactful. Thank you so much.

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ROBERT MORGENTHAU: Thank you.

CHAIRPERSON MENCHACA: We have a couple more questions for you. Mr. Morgenthau, if you could? One more question. I don't think anybody else has any more questions. But, I wanted to--

ROBERT MORGENTHAU: [interposing] I thought I was home free.

CHAIRPERSON MENCHACA: Thank you so much for your patience. I wanted to ask if you in reviewing not just what you just heard today, but in reviewing this new piece of legislation, how do you believe this is going to impact our local district attorneys having been part of the district attorney office in the past? How is this piece of legislation going to impact our local district attorneys?

ROBERT MORGENTHAU: Well, I think it's going to be helpful, because it means, you know, a lot of cases belong in the criminal justice system won't be there, but I mean, as you may know, I set up an immigrant justice group in the office to help immigrants who were wrongly charged with crimes, so I think it's positive from the standpoint of district attorneys.

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2 CHAIRPERSON MENCHACA: Great. And like
3 you said, the case load is going to go down, and this
4 is going to be helpful with the district attorneys,
5 and so we're hoping and we'll continue our own
6 conversations with the current district attorneys and
7 we'll welcome you back any day to talk on this issue.
8 Thank you so much. So we're done with questions now.
9 Thank you so much. We're going to invite the next
10 panel. Thank you Mr. Morgenthau. And so the next
11 panel we're going to have Mr. Peter Markowitz, Alisa
12 Wellek, Daniel Coates, Jenny Alcaide, Donna
13 Lieberman, and Lenore Freeland. If you can walk up
14 to the table please. You're going to go first?
15 Okay. Okay?

16 JENNY ALCAIDE: Thank you Speaker Mark-
17 Viverito, Chairman Menchaca and to the rest of the
18 committee for the opportunity to speak today. My
19 name is Jenny Alcaide, and I am a law student. I'm
20 here today on behalf of the Kathryn O. Greenberg
21 Immigration Justice Clinic at Cardozo School of Law.
22 My testimony will first provide a brief background in
23 history of the legislation. Second, I will discuss
24 the improvements the bills will make under the
25 current discretion law and what makes these bills so

1
2 necessary. Immigration detainers are the primary
3 mechanism by which thousands of New Yorkers are
4 funneled into immigration detention each year.
5 Detainers are merely pieces of paper drafted by low
6 level federal ICE agents. They're request to local
7 law enforcement agencies to hold people whom they
8 already have in their custody for up to 48 additional
9 hours beyond the time they would otherwise be
10 released so that immigration authorities may place
11 them into immigration detention to face deportation.
12 In 2009, our clinic developed a concept of detainer
13 discretion. Working with organizations like Make the
14 Road New York and with Councilwoman from East Harlem
15 named Melissa Mark-Viverito, the first elected
16 official in the nation to push for a detainer
17 discretion law. In 2011, New York City became one of
18 the first jurisdictions in the nation to enact a
19 detainer discretion law, and in 2013 the law was
20 expanded even further. Because of that, today, over
21 250 jurisdictions nationwide have detainer discretion
22 policies, but we must remember that it all started
23 here in New York City. While substantial success was
24 achieved with the passage of the 2011 and 2013 laws,
25 those bills still left a majority unprotected. So,

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2 what improvements do the new bills make? The first
3 improvement relates to the requirement of a judicial
4 warrant. Under the current law, the city honors some
5 ICE detainer requests even though recent court
6 decisions make it clear that detainers alone are not
7 sufficient authority for an arrest. The new bill
8 requires ICE to provide a judicial warrant before the
9 city will honor detainer to ensure individuals are
10 not illegally arrested and protect the city from
11 liability. The second significant improvement
12 contained in these new bills related to the category
13 of people New York City will hold for deportation.
14 This bill recognizes that it's not in the city's best
15 interest to hand over anyone for deportation unless
16 that individual poses a significant threat to public
17 safety. That is why the new bill permits the city to
18 hold a person on a detainer only if he or she has
19 been convicted of a serious or violent felony within
20 the last five years or is on the terrorist watch
21 list. This will significantly reduce the fear
22 immigrants often feel in approaching police officers
23 as victims and witnesses of crimes. The final
24 significant improvement relates to ICE's physical
25 presence on Rikers Island. For decades, ICE has

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2 operated a permanent office rent free on Rikers
3 Island. This has undermined community trust. The new
4 bill prohibits Federal Immigration Authorities from
5 keeping an office on DOC property. This bill will
6 position New York City once again as a jurisdiction
7 leading the way towards protecting the constitutional
8 rights of its residents, building trust with
9 immigrant communities and making us all safer.

10 CHAIRPERSON MENCHACA: Thank you Jenny,
11 and thank you for persevering with this noise. This
12 is construction that's happening. We've already sent
13 a very strong message that they need to give us peace
14 and quiet here. So, until that time, continue to
15 persevere, and Daniel, we can have you. Thank you.

16 DANIEL COATES: Morning. Thank you for
17 the opportunity to testify. My name is Daniel
18 Coates. I'm the Lead Organizer at Make the Road New
19 York, and on behalf of 15,000 members of Make the
20 Road New York in the city and the state, I want to
21 thank Speaker Melissa Mark-Viverito, Council Member
22 Menchaca, Dromm, Espinal, the Administration, the
23 Mayor and his team, and all of the members of the ICE
24 Out of Rikers Coalition for getting us to this point
25 today, almost five and half years after we launched a

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2 campaign to end New York City's collaboration with
3 ice. Get them out of Rikers Island and get New York
4 City out of the deportation business. This
5 legislation will draw a clear line between the local
6 New York City authorities and immigration, protect
7 immigrant families and put New York City back in the
8 lead, at the cutting edge across the country in terms
9 of immigrant protection. The idea that
10 municipalities could use their discretion and not
11 cooperate with an unjust federal deportation machine
12 was in some ways born in New York City as we've
13 mentioned, and we're really glad to have the
14 opportunity to step back onto that cutting edge. At
15 a time of cynicism about immigration in Washington,
16 this is yet another example of how we can move the
17 ball forward at a local level and it is additionally
18 important for that reason. There are many stories
19 like the ones we heard and will hear today, families
20 that this law will protect. In addition to many
21 people testifying today, I just want to highlight
22 one, Cesard [sic], the US citizen young person who's
23 a member of Make the Road was unable to be here. His
24 father currently in Rikers Island was arrested during
25 a fight after work a few weeks ago. Otherwise, were

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2 it not for this current policy he would be back with
3 his family, but he's in Rikers Island and will be
4 transferred to immigration where he will have to
5 fight a deportation. Cesard is working right now
6 because as he said to me, he has to manage the money
7 since his father is not around. After work, Cesard
8 comes to Make the Road, makes phone calls to get
9 people out to vote in the local elections, connects
10 with other youth members, but has to worry about this
11 as well. This is why we should pass the bill,
12 because what it happening to Cesard's family should
13 have nothing to do with the immigration system, and
14 the fact that it does has devastating consequences.
15 Thousands of families have stayed together because of
16 the current detainer legislation that we do have on
17 the books and thousands more will because of this
18 one. Additionally, this proposal is strong because it
19 takes into account what ICE could do in the future by
20 not only requiring a judicial warrant to honor
21 detainers, but also declaring under what limited
22 situations the city would comply if ICE is able to
23 produce a warrant, which I think is critical. This
24 proposal will allow, will also improve all New York
25 City residents' safety by helping to build trust with

1
2 immigrant communities. The value of this cannot be
3 overstated. Many of our members look at the police
4 and see the police as one of their last resorts, and
5 it makes sense, given how much people often times
6 risk by simply having a conversation with them. This
7 bill will help change that calculation, and I'm proud
8 to speak in support. Thank you.

9 CHAIRPERSON MENCHACA: Thank you, Mr.
10 Coates.

11 ALISA WELLEK: Hi, my name is Alisa
12 Wellek and I'm the Co-Executive Director of the
13 Immigrant Defense Project. I first want to just
14 thank the Speaker as well as Council Member Dromm,
15 Chairman Menchaca, Council Member Espinal and all of
16 the others on your committee for your leadership on
17 this really important issue. We know that this issue
18 of protecting New York City residents from mass
19 deportation programs that tear apart families, wastes
20 city resources, erode community trust and public
21 safety, and perpetuates systems that deny equal
22 justice and due process for all New Yorkers. IDP,
23 where I work, works for fundamental fairness for all
24 immigrants, and we really work with folks who are
25 facing harsh and disproportionate consequences

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2 because of their contact with the criminal justice
3 system, so the very people that we're talking about
4 today. We do this by serving as a legal resource and
5 training center by engaging in advocacy and policy
6 change and by building capacity of community based
7 organizations. As part of this work, we take over
8 2,000 calls on our hotline a year from directly
9 impacted folks and their lawyers generally from
10 people in this very situation where they're facing
11 deportation. We also convene advocates across the
12 city including immigration attorneys at all the city
13 public defender offices and folks facing--advocates
14 who are fighting against violence in their
15 communities including domestic violence, trafficking
16 and LGBTQ survivors of violence who are equally
17 worried about his issue. Because of our mission and
18 experiences, we're passionate about ending ICE's use
19 of the criminal justice system to detain and deport
20 immigrants. For my testimony I'm hoping to just give
21 a little bit more context on some of the broader
22 immigration landscape in which the Council's
23 considering these bills. You've heard the compelling
24 stories of some of the folks who've testified and the
25 story that Daniel just told, and at IDP we hear

1 stories like this every day. There's stories of
2 lawful permanent residents, asylum seekers, and
3 undocumented people who've often lived in the country
4 for decades and are now facing permanent exile and
5 separation from their families. Few other legal
6 systems, either criminal or civil, are as rigid and
7 mechanical as our current immigration laws. An
8 offense that disqualifies someone from getting legal
9 status or from keeping their legal status lasts
10 forever, even if it was a mistake that occurred years
11 ago. By vastly expanding the number of crime that
12 can trigger deportation and making deportation
13 essentially a mandatory minimum for a wide range of
14 offenses, these punitive immigration laws often
15 impose punishments that are far disproportionate to
16 any criminal sentence received, and they often deny
17 people a fair day in court. For these non-citizens
18 who will get ensnarled in the criminal justice
19 system, one that we know disproportionately targets
20 and convicts people of color, they face a double
21 jeopardy. They serve a sentence, and then with few
22 exceptions they get deported without and opportunity
23 for a judge to ever even consider any other aspect of
24 their lives, including how long they've been in the
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2 country, whether they're a parent or even whether
3 they're a veteran. The coupling of these laws with
4 the increasingly massive and brutal deportation
5 machine has resulted in untold devastation for New
6 York's residents. And so I just want to take a second
7 to say we shouldn't take for granted that this is how
8 it's always been. This is a really kind of recent
9 phenomenon. In the last 15 years, we've deported
10 more people than the last 150 years of our history,
11 and there's, you know, 18 billion dollars is going
12 into this system and the city can really take a stand
13 and is taking a stand on this legislation in fighting
14 back against this enforcement regime and saying that
15 New York City protects its residents. Thank you for
16 your time.

17 CHAIRPERSON MENCHACA: Thank you so much,
18 and we're going to go into that context with the Q &
19 A, so thank you so much for setting that ground.

20 LENORE FRIEDLAENDER: Okay, good morning.
21 We're used to speaking loud, so a little background
22 noise doesn't bother us, for all the rallies and
23 activities that many of us been involved in. Good
24 morning, Chairperson Menchaca and members of the
25 Council. My name is Lenore Friedlaender. I'm

1 Assistant to the President at SEIU, Local 32 BJ.

2 We're union in our 80 year history that has always

3 been open and welcoming to immigrants and people from

4 around the world wherever they were born and whatever

5 their status was, and represent cleaner, security

6 officers, workers in residential buildings, and

7 today, continue to stand with immigrant workers

8 working and others working at airports and

9 residential and commercial buildings in their fight

10 for justice, and many of you have supported us in

11 that effort. Our members come from many different

12 countries. We've identified at least 28 languages,

13 and I'm sure there's lots more. And so that, we have

14 that long history and tradition being part of that

15 and are committed to the fight to really making sure

16 that everybody's able to live the American dream, and

17 that there's respect for all workers and for work.

18 I'm here today very proud to be on the panel with a

19 number of partner organizations that have been active

20 in this supporting and strongly supporting Intro 46

21 and 47, both of which would go to a much needed step

22 further to ensure that local law enforcement

23 resources are not misspent on immigration enforcement

24 activities that target working people, undermine

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2 community safety and violate individual's
3 constitutional rights. We commend the Speaker for
4 championing the previous policies that were
5 referenced and to try to limit the city's
6 participation in the misguided Federal Secure
7 Communities Program. However, even with the limited
8 participation, the Department of Corrections has
9 complied with over 3,000 detainer requests between
10 October 2012 and September 2013. The program is
11 supposed to target individuals with serious criminal
12 convictions, yet more than 75 percent of the
13 individuals deported had not committed a serious
14 offense, and many had no prior criminal record at
15 all. And I think we heard some very compelling
16 stories, and many of us hear stories every day about
17 what the impact is on people's lives, on their
18 communities, on their jobs, and something that we
19 haven't heard about as much is how employers
20 sometimes threaten workers that they will call
21 immigration or call the police when the workers come
22 together to demand improved conditions. And it has a
23 very chilling effect, and it, you know, and takes
24 away those worker's rights to stand up to make sure
25 they're not a victim of wage theft, to organize with

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2 the union, to make sure they're treated fairly and
3 equally and not subject to discrimination or
4 retaliation, and so these policies would go a long
5 way to changing that perception. And so we want to
6 commend you and the leadership for these bills, and
7 look forward to their implementation and particularly
8 in light of the inaction in Congress and the
9 Republicans blocking comprehensive solution, which
10 would--is really what we need to continue to advocate
11 for. So thank you very much.

12 CHAIRPERSON MENCHACA: Thank you, Ms.
13 Friedlaender.

14 DONNA LIEBERMAN: So many people are
15 here. We have to play musical chairs. And it's
16 wonderful to be here and to be on the same side with
17 District Attorney Morgenthau and with what appears to
18 be a vast majority of City Council, and thank you for
19 your leadership. The legislation before us today
20 promises to take New York City out of the business of
21 immigration enforcement, finally, and thank you for
22 moving this towards a reality, and moving us away--
23 well, moving us towards closing one chapter in the
24 tale of two cities, New York City style as we move
25 away from the double standard of justice where

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2 citizens are protected against detention that doesn't
3 meet constitutional standards of probable cause, but
4 all constitutional bets are off if you're an
5 immigrant. The detainers are pitched by ICE and
6 federal government as a public safety tool, but in
7 fact, as we have heard today and we all know now, the
8 vast majority of detainers are slapped onto low level
9 offenders, and there is enormous collateral damage to
10 the individuals and their families who suffer as a
11 result incredible pain and hardship, but also to our
12 public safety because it undermines the trust and the
13 cooperation that's absolutely essential to effective
14 law enforcement. It also comes at great cost, not to
15 the feds, but to the city, and you know, we want to
16 do everything to balance the budget. The good news
17 for New York City and for the rest of the country, I
18 think, is that the federal courts have finally
19 acknowledged in a series of decisions that not only
20 are detainers--not only are municipalities not
21 required to honor detainers, but they could be liable
22 for wrongful arrest if in fact they hold people by
23 virtue of the detainers. So New York City is
24 certainly doing the right thing, and the NYCLU wrote
25 to sheriffs all around the state following some of

1 the federal court decisions, and 40 counties in New
2 York State have also agreed to stop honoring the
3 detainers. I was thrilled to see the Sheriff's
4 Association citing the NYCLU as being on the right
5 side of the law. I also want to comment, and I'm
6 glad that Mr. Morgenthau did as well, it's about time
7 that we evict ICE from Rikers. They don't need the
8 office and the people who are detained there don't
9 need the constant harassment and strong-arming and
10 coercion that ICE as a presence at Rikers has
11 provided the opportunity for far too often. Moving
12 forward, it's really important that the
13 implementation of this legislation and city policies
14 with regard to immigrants and honoring warrants of
15 detainers or pseudo warrants that they'll call
16 warrants moving forward are monitored. The City
17 Council has an important oversight role, and it's
18 important that all city agencies comply with the
19 spirit of this legislation, even agencies that we
20 might not have realized would be, you know, possibly
21 being asked to honor detainers. And the conversation
22 about custodial arrests based on immigration hit is a
23 really important one. It's time--that should not be
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1
2 an excuse, a pretext, or a reason for holding
3 somebody in detention when the charge isn't.

4 CHAIRPERSON MENCHACA: Thank you so much
5 for that testimony, again, and you know, I think
6 we're all very excited to be on this side and
7 realigning each of these agencies with the commitment
8 that we're making to the constitution itself. And so
9 the first question I have, this is for Daniel Coates
10 from Make the Road. We want to get a sense, because
11 we haven't heard the numbers of people necessarily on
12 what we're dealing with here, and can you provide the
13 estimate number of individuals we see arrested on a
14 day to day basis for this misdemeanor infraction
15 offenses who end up in immigration, essentially in
16 immigration hold? What's the population we're
17 dealing with here?

18 DANIEL COATES: The--so I'm not totally
19 sure I understand your question. What I'm--

20 CHAIRPERSON MENCHACA: [interposing] So,
21 how many lives are we affecting with this--

22 DANIEL COATES: [interposing] Sure.

23 CHAIRPERSON MENCHACA: law, and
24 specifically how many--and I think we kind of heard
25 that this is a recent phenomenon, and the increase in

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2 number of people who are detained and deported. For
3 New York City, bring us back to New York City a
4 little bit, how--what population number are we
5 dealing with here?

6 DANIEL COATES: So, the current law that
7 we have on the books that we passed a couple of years
8 ago is stopping about 30 percent to 35 percent of all
9 detainer requests that the city receives. This
10 results in approximately 1,000 people not being
11 turned over to immigration for deportation
12 proceedings every single year. However, that means
13 that 2,000 people are turned over, and you know, they
14 fit a variety of reasons that that's the case. This
15 current proposal would drastically, drastically, you
16 know, lessen that number. I'm sorry, increase the
17 number of people who are protected. And here, you
18 know, we're not just talking about, you know, 1,000
19 or 3,000, you know, because as everybody who's talked
20 about it today, like people have families. People
21 have jobs. You know, so we're actually talking
22 about, you know, entire communities here. So, in
23 that sense I think the impact is much deeper and more
24 profound. I don't know if--other folks on that.

1
2 CHAIRPERSON MENCHACA: No, no, thank you.
3 Thank you for that. And I think that's the picture
4 we're trying to paint here is we're not just dealing
5 with this one person being detained. We're dealing
6 with families and we're dealing with communities that
7 are being destabilized. Mr. Markowitz, can you share
8 with us your thoughts on the Administration's
9 response to our question regarding the use of NCIC
10 database. I don't know if you caught that?

11 PETER MARKOWITZ: Thank you, absolutely.
12 Thank you for having me here, Chairman, and the rest
13 of the committee. And first I'm going to say how
14 excited I am about yours, the Speaker's, all of your
15 support for this legislation as well as the
16 Administration's support for this legislation. It's
17 been a very team effort. So I was very happy to hear
18 from the Administration that they take seriously the
19 constitutional issues that are raised when NYPD
20 officers take people into custody based on civil and
21 CIC hits, and it was very heartening to hear that
22 they're moving towards a new policy to address that,
23 and so the bottom line is I was very excited to hear
24 those statements from the Administration. There was
25 something that was said by the Administration, I

1 think, which we should correct publicly. I understand
2 from the Administration's testimony that it is the
3 policy of the NYPD when there's a warrant hit on NCIC
4 to take somebody into custody. The civil immigration
5 hits on NCIC are not warrants. They are requests
6 that local law enforcement reach out to ICE and make
7 an inquiry as to whether this person is subject to
8 arrest. The fact that New York City police department
9 is currently treating these as warrants and taking
10 people into custody simply because of this
11 notification seems to raise serious legal issues. It
12 sounds like serious legal issues that the
13 Administration is committed to addressing and I'm
14 very happy to hear that.

15
16 CHAIRPERSON MENCHACA: Thank you. Thank
17 you for that. And we're going to continue to just
18 walk through that and clarify that as much as
19 possible as we walk through the legal process, the
20 legislative process. And then my final question
21 before I hand it over to my colleagues, this is for
22 Ms. Friedlaender from 32BJ. Something that I'm
23 definitely dealing on the ground in Sunset Park and
24 we're dealing with in a lot of ways are these
25 worker's rights issues and the environment that our

1
2 immigrant population is in right now with some of
3 these workers, and I'm glad you mentioned kind of bad
4 actor employers. How, you know, in specific, in any
5 way you can specifically describe for us how this law
6 particularly helps us do our work and if there's
7 anything that you were already in plans for post,
8 kind of post world in this 486, 487 passing in the
9 City, and how we can help you kind of work on that
10 particular issue of the threats that these bad actor
11 employers are creating for our workers.

12 LENOIRE FRIEDLAENDER: Sure. I think
13 sometimes in organizing campaigns police get called
14 or when workers come forward to go to the regulatory
15 agencies, they are very--we deal with incredible
16 amount of fear when people go to regulatory agencies
17 that their name, their information will be shared and
18 when they go to the labor board or they go to wage an
19 hour, they go to EEOC, or they even come to City
20 Council to testify, that somehow if they have to give
21 their name and sometimes their social security number
22 that it will get run through the system and something
23 will happen. And so any interaction with city
24 agencies, any interaction with police people are
25 fearful and so the noncooperation with ICE, the you

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2 know, being able to--and we sometimes due civil
3 disobedience, and so people get arrested, or
4 participate, and so limits people's ability to
5 participate because of fear that they will be held
6 and deported or their name and information will be
7 shared and then, you know, there will be consequences
8 for them. So it has an incredible chilling effect.
9 So any attempts to reduce the ability to share names,
10 to make it less likely that the police will be
11 deputized to function as immigration enforcement
12 agents or be part of the immigration system rather
13 than deal with the regular law enforcement stuff
14 makes an incredible difference for workers that we
15 represent as well as those who are seeking to address
16 their issues and have their rights enforced, because
17 they are, undocumented workers are covered by the--to
18 the degree we have labor laws and protections.
19 They're covered.

20 CHAIRPERSON MENCHACA: Well, thank you
21 again for organizing our immigrant workers. And now
22 we're going to hear from Council Member Dromm.

23 COUNCIL MEMBER DROMM: Thank you. You
24 may know that I've been working on the overall issue
25 of Rikers and reform on Rikers Island as well, and

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2 one of the things that I do continually hear is that
3 in order to really effect the culture of violence
4 that exists on Rikers is to reduce the number of
5 people who actually are on Rikers. And it seems like
6 a side benefit of this legislation may be in fact to
7 help reduce that number. And it's just, especially
8 if we're talking 3,000 people a year who fall into
9 this category. That seems to be a significant number
10 of people. I'm wondering if there's also a cost issue
11 here. Will we be saving money? Will the city be
12 saving money? Mr. Markowitz, I know, you know, a
13 couple of years ago when we did the original
14 legislation there was some consideration around that
15 as well. Do you have any idea what that would look
16 like with this legislation?

17 PETER MARKOWITZ: Yes, thank you, and
18 thank you Council Member Dromm for your leadership on
19 this issue over many, many years. Yes, so with
20 approximately 3,000 detainees being issued per year
21 on Rikers Island, we know from a report by the
22 Justice Strategies Institute that each detainer
23 causes an additional on average 73 days of detention.
24 So that's 3,000 people, 73 days more each. We also
25 know from the Department of Corrections last go

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2 around in 2013, they told us that the marginal cost
3 per day per inmate is in the range of 70 dollars per
4 day. So when you look at 70 dollars per day for
5 3,000 people for 73 extra days, we're talking about
6 over 10 million dollars per year that the city right
7 now is subsidizing the federal government's
8 deportation efforts, and virtually all of that will
9 be eliminated by this bill. And that only kind of is
10 one element of the cost savings. When we talk about
11 bread winners being ripped away from their families,
12 we know that families which were previously self-
13 sufficient become relying on city safety net
14 services. We know that people who with detainers
15 can't take advantage of much more effective and much
16 cheaper alternative to incarceration programs. So
17 there's a whole bundle of cost-savings here for the
18 federal gov--excuse me, for the City of New York to
19 say nothing of the protection against liability.

20 CHAIRPERSON DROMM: Thank you. I just
21 wanted to know that and remember that because I just
22 think it's an important piece of what it is that
23 we're talking about today. Thank you.

24 CHAIRPERSON MENCHACA: Council Member
25 Espinal?

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2 COUNCIL MEMBER ESPINAL: Thank you. I
3 just want to thank you guys for all the work you do.
4 I don't think--I believe that you guys help out a
5 tremendous amount of families who are really in need
6 and really don't know what their rights are and
7 thanks to your advocacy, a lot of these people who
8 see the protection they need and deserve. This is
9 actually one of those issues that motivated me to run
10 for public office. So, it's really an honor to be
11 here and working with my colleagues and you guys on
12 this issue. I'd like to talk about--do you think
13 that there's something that maybe we can, district
14 attorneys can do to kind of flag people who are at
15 risk of being detained by ICE before they get into
16 city jails?

17 ALISA WELLEK: Sure. So, we at IDP work
18 with the public defender offices across the city and
19 often with the district attorney's offices too.
20 There was a Supreme Court case in 2010, Padilla
21 versus Kentucky that said that it's part of, you
22 know, everyone's right, the 6th amendment right to
23 counsel that if you're an immigrant, you should
24 receive advice about the really devastating
25 consequences of a potential plea. And part of that

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2 decision really talked about district attorney's
3 duties as well to negotiate a plea. And I think we
4 can really push our DA office to take into
5 consideration the potential immigration consequences,
6 and very often there is a way to protect someone's
7 immigration status or leave them eligible to get
8 status in the future if the DA and the public
9 defender, you know, both agree upon it. Similarly
10 with alternative to incarceration programs, you know,
11 we've constantly seen defenders fighting to get their
12 immigrant clients into say a drug treatment program
13 and they can't go into that program often because of
14 a detainer. So now that the detainer won't be the
15 issue because of this legislation. We need DA's to
16 get on board and really start offering these
17 programs, and specifically diversion programs where
18 they don't have to plea up front. So there's a
19 provision in the CPL where they can do that, and
20 because of this weird definition in immigration law
21 of a conviction, it's different than the definition
22 under state law. So even if someone's plea is
23 vacated, so you do--you plead up front. You do drug
24 treatment. Your plea is vacated under New York Law,
25 you have no criminal conviction. Under immigration

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2 law, you still have a criminal conviction, and so we
3 need DA's and judges to really start consenting to
4 allow people into treatment programs without pleading
5 up front, because that's really going to ruin any
6 possibility they have to maintain status or get
7 status in the future.

8 DONNA LIEBERMAN: I think there's two
9 other points. One is that actually, and this is the
10 NYCLU saying it, some DA's have complained to us that
11 their prosecutions have been interrupted by ICE
12 detainers that result in shipping people out for
13 deportation to jurisdictions way beyond New York
14 City, and so that they can't do their job adequately
15 because ICE gets in the way. But the other point I
16 want to make, and this is a little bit more
17 tangential, but I think germane, which is that just
18 as we were just told that, you know, what's not a
19 conviction for New York City purposes may well be a
20 conviction for immigration purposes. One of the un--
21 one of the hidden secrets of the NYPD's broken
22 windows policing approach is the immigration
23 consequences. Nobody has tracked those consequences,
24 but those remaining 2,000 individuals who've been
25 subject to detainers and who have been thrown into,

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2 many of whom been thrown into deportation proceedings
3 as a result of the NYPD crackdown on marijuana
4 smoking by people of color, not by white people, the
5 collateral immigration consequences are huge. There
6 is no discretion under our immigration law not to
7 deport somebody who has two convictions, and putting
8 ICE into the picture early on so that they can do
9 their dirty works is not what we want to be about.
10 So, we need to really look at the police department's
11 role in making New York City actually inhospitable to
12 immigrants.

13 CHAIRPERSON MENCHACA: Thank you Council
14 Member Espinal. We're going to end this panel. I
15 want to thank each and every one of you for your
16 continued work. This has been many years in the
17 making with so many of the Council Members here on
18 the ground. Thank you so much. And Ms. Emily
19 Tucker, if we can have you--Emily Tucker from Center
20 of Popular Democracy, we can have you at the table.
21 We're going to be moving into a panel with a
22 conference call component, no stranger to the
23 immigration committee. And so I want all the Council
24 Members here just, Council Member Dromm and I, to--
25 we're going to listen to Ms. Tucker speak about the

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2 three members on the call, Commissioner Jesus Garcia
3 from the Cook County Board of Commissioners, whose
4 past detainer policies covering Chicago and all of
5 Cook County, City Council Latoya Cantrell from New
6 Orleans, and then King County Council Member Larry
7 Gossett who sponsored the detainer legislation that
8 covers Seattle and King County. And so Ms. Emily
9 Tucker will review all of those profiles first and
10 then we're going to go right into Q & A with a
11 conference call component. They're going to be
12 listening to your introduction so that they won't
13 have an introduction, and then we'll--when we ask
14 questions, address each question to the person that
15 we want to answer. So every question will have a
16 directed person. Okay?

17 EMILY TUCKER: Great.

18 CHAIRPERSON MENCHACA: Thank you, Ms.
19 Tucker.

20 EMILY TUCKER: Thanks to the council and
21 the committee and to the Speaker for this really
22 exciting legislation, and I'm very excited to be here
23 today. My name is Emily Tucker. I'm a staff attorney
24 at the Center for Popular Democracy in Brooklyn.
25 We're a national organization working on issues of

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2 immigrant rights and racial and economic justice. We
3 partner with grassroots groups across the country to
4 create paths and implement progressive state and
5 local policy changes, and one of my primary roles at
6 CPD has been to support local campaigns to stop
7 collaboration between police and federal immigration
8 authorities here in New York and also elsewhere
9 around the country. When New York first passed the
10 first version of this legislation it was new
11 territory. There were only a handful of
12 jurisdictions that limited compliance with
13 immigration detainers and New York was a leader and
14 an innovator in the burgeoning movement to use local
15 power to protect communities from the overreach of
16 harsh federal immigration enforcement and to protect
17 families from being separated by detention and
18 deportation. As we sit here today there are over 250
19 jurisdictions that limit compliance with ICE
20 detainers, including many that do not have any
21 particular history of pro-immigrant activism, and of
22 those 250, more than 100 have stopped honoring any
23 detainers at all. It's also worth noting that
24 there's a growing trend towards avoiding drafting
25 these policies in a way that discriminates on the

1 basis of old criminal convictions for which
2 individuals have in all cases already served their
3 time. So various localities have taken different
4 approaches to limiting detainer discretion depending
5 on the different on the ground circumstance and
6 political realities and there's now a depth of
7 expertise on this issue among local legislators that
8 did not exist when New York first addressed the
9 issue. So we're very lucky to have with us by phone
10 today three policy makers who have been leading on
11 detainer discretion to share their experiences and
12 perspectives and the details of the policies they
13 worked on. We have Commissioner Garcia from the Cook
14 County Board of Commissioners in Chicago, New Orleans
15 City Council Member Latoya Cantrell, and Metropolitan
16 King County Council Member Larry Gossett in Seattle.
17 So I'm actually going to start with New Orleans
18 because I hear that Council Member Cantrell actually
19 has to step out shortly. Council Member Cantrell,
20 can you hear me?

21 LATOYA CANTRELL: Yes.

22 EMILY TUCKER: Great. So, if you want to
23 talk briefly about the New Orleans policy. I know
24 that your policy has only a short list of six
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2 extremely serious offenses for which detainers will
3 be complied with and also completely excludes ICE
4 from the local jail. I'm just wondering have these
5 strict limitations posed any problems for law
6 enforcement either in carrying out their regular
7 investigative and policing work in maintaining smooth
8 and effective relationships with other federal
9 agencies.

10 LATOYA CANTRELL: We are still working
11 with the New Orleans Police Department, because there
12 are still a number of arrests [sic] and detentions
13 that we feel are unnecessary, but the ICE hold
14 resolution that we created did end the indefinite
15 detention that was taking place until we pushed the
16 Sheriff to reconsider his policy. So, we are still
17 experiencing a number of arrests and need to focus
18 more on the police than we have been, but in terms of
19 the issues in the jails that has been rectified by
20 the change in policy.

21 CHAIRPERSON MENCHACA: Thank you, Council
22 Member Latoya Cantrell for joining us today in your
23 via conference call. You know, I wanted to talk a
24 little bit more about that policy and that, I guess,
25 essentially self-regulation, and if you can kind of

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2 share with us the relationship that you have with the
3 law enforcement and be a little bit more specific
4 about the kind of push back, and then also what
5 you've been able to do kind of post-enforcement of
6 the pieces of legislation with community response,
7 community engagement, and really bring this back to
8 the community.

9 LATOYA CANTRELL: Okay, when we offered
10 the resolution in May 2013 with--which I worked on
11 with my colleague, we were unable to pass legislation
12 that was binding, so what we did was we created a
13 resolution. And because Council has the fiscal
14 authority, we focused a lot on the cost to New
15 Orleans of indefinite detention, and in New Orleans
16 we have relatively lost cost, but we also have a
17 relatively low budget. And so we asked the Sheriff
18 in the resolution to go back and review his policy
19 and that if he decided to continue with the policy of
20 indefinite detention, that he would need to figure,
21 explain to us how he was going to cover those costs
22 without burdening New Orleans tax payers. And you
23 probably realized this, but our Sheriff is under a
24 number of pressures, and so he felt like this was an
25 easy one for him to comply with. So even though it

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2 was not a binding piece of legislation, he came back
3 with a very progressive policy of not holding people
4 in jail who he determined didn't have papers. We
5 have been working all along with the Congress for Day
6 Laborers on, and worked with them on the policy and
7 have been out to meet with them several times to talk
8 to them about how things are working out, and they
9 have been brining issues back to us about people now
10 having, who are arrested, having to wear ankle
11 bracelets, and I think this is the substitute policy
12 for holding them in jail indefinitely. So, we are
13 now trying to figure out how to work directly with
14 the police, so that they don't take that kind of an
15 action. We are right now have been in a--we lost our
16 old Police Chief, and we're in an interim position.
17 The new Police Chief was hired this morning as a full
18 time, so this is going to be an issue we're going to
19 take up with the police department directly.

20 CHAIRPERSON MENCHACA: Thank you, Council
21 Member. That's all the questions that we have for
22 you this morning.

23 EMILY TUCKER: Thank you Council Member.
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25

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2 LATOYA CANTRELL: Okay, well thank you so
3 much for the opportunity, and let us know if we can
4 be of further assistance.

5 CHAIRPERSON MENCHACA: Thank you.

6 EMILY TUCKER: Commissioner Garcia, are
7 you there?

8 JESUS GARCIA: Good morning, yes I am.

9 EMILY TUCKER: Good morning. Thank you
10 for joining us. So yours was one of the first
11 detainer discretion policies in the nation and
12 remains one of the most protective. Can you speak a
13 bit about implementation and about the thinking
14 behind the reimbursement requirement?

15 JESUS GARCIA: Gladly. So, on September
16 7th of 2011 the Cook County Board of Commissioners
17 with the strong support of our Board President Toni
18 Preckwinkle enacted an ordinance that re-wrote the
19 county's response to ICE detainers. It was costing
20 us 143 dollars per day for holding people. We had
21 concerns about cost, but also real concerns about the
22 constitutional violation of holding people without a
23 probable cause and due process. The provisions of the
24 ordinance are permitted reimbursement by ICE to the
25 County, but they never took us up on that offer to

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2 engage in a conversation about the ICE picking up the
3 cost. They only came to us after we adopted the
4 ordinance. The ordinance, as you may know, was the
5 first of its kind in that it ceased to honor any ICE
6 detainer request except where they had a criminal
7 warrant in order to pursue someone who was in our
8 custody. The implementation has gone very smoothly.
9 We do not allow ICE in our facilities at the county
10 jail. The county jail, by the way, is in my
11 district. That is why the issue was first brought to
12 me by immigration rights advocates. The opponents of
13 the ordinance claimed that rampant crime and risk to
14 county residents would occur if we adopted the
15 ordinance. Nothing to that effect has happened. No
16 surge in undocumented immigrant violence. As a
17 matter of fact, when we conducted an analysis after
18 the first 14 months since the ordinance was in place,
19 we determined in a case of about 850 detainer
20 requests which were not honored, that immigrants are
21 more likely to appear in court after being released
22 on bond, that ICE detainer eligible inmates are more
23 likely to be released on bond, which means that they
24 are less dangerous than the citizen population or
25 those who are not undocumented. Almost 10 percent of

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2 ICE detainer eligible inmates raised significant
3 constitutional liability issues that people had
4 citizenship and we had even detained and held people
5 who were US citizens and members, veterans of the US
6 Armed Forces. So, my point being that after two
7 years, there has not been one notable incident of
8 crime that has occurred due to our policy. More
9 recently, as of like a month ago, over 200 counties,
10 localities and state had adopted legislation similar
11 to ours. Currently, in Illinois, an Illinois Trust
12 Act is being considered. It is already past the
13 state senate, and we're hoping that it will be
14 considered and approved in the House of
15 Representatives in the next couple of months. Thank
16 you very much.

17 CHAIRPERSON MENCHACA: Thank you, so much
18 Commissioner Garcia, and again, just we're honored to
19 have your testimony today. The probably the most
20 curious component of the work you're doing is related
21 to the reimbursement questions and the work you're
22 doing to really illuminate the cost that this has on
23 the city municipalities and the counties. Can you
24 tell us any--and we heard a little bit about the push
25 back and them, the federal government, not having

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2 that conversation with you. What's, you know, as of
3 date today, how are you continuing to kind of pursue
4 the cost question around the, I think it was 143
5 dollars per day that it costs?

6 JESUS GARCIA: Correct, yes. As we ceased
7 honoring ICE detainer requests, but for instances
8 where there is a warrant for someone to be held and
9 turned over to ICE authorities, there is really no
10 cost to the county. So we are not pursuing any
11 reimbursement. The policy seems to be a very sound
12 one. It is upholding constitutional principles.
13 Courts all over the land have upheld that what we're
14 doing is constitutional, so we really don't have a
15 problem at the present time. We have not suffered any
16 loss of any federal funding as was threatened and
17 insinuated during the debate around ICE detainer
18 policy. So, everything has continued fairly normal
19 in Cook County. And we have worked with many other
20 localities who have sought to emulate our
21 legislation.

22 CHAIRPERSON MENCHACA: Well, again, thank
23 you so much for continuing to inspire the country and
24 other counties, and even New York City as we move to
25 kind of bring this standard across every

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2 municipality. Thank you so much for your time this
3 morning.

4 JESUS GARCIA: Thank you, and I'm honored
5 to be able to share this with the New York City
6 Council.

7 CHAIRPERSON MENCHACA: Thank you.

8 JESUS GARCIA: Thank you.

9 EMILY TUCKER: Thank you, Commissioner
10 Garcia. Moving onto Council Member Larry Gossett in
11 King County. Are you there?

12 LARRY GOSSETT: Yes, I am.

13 EMILY TUCKER: Thank you so much for
14 joining us this morning. So I know Seattle has had a
15 couple of different iterations of a detainer
16 discretion policy. Can you talk a little bit about
17 what prompted the most recent revision of the policy
18 and specifically about the warrant requirement and
19 why it is that your policy requires that the warrant
20 before a new criminal violation.

21 LARRY GOSSETT: Thank you very much.

22 First of all, I'd like to say that Seattle is one of
23 39 cities that we on the County Council represent,
24 and I'd like to indicate to my colleagues on the New
25 York City Council that we are very proud of the fact

1 that ours is only county, geographic jurisdiction, in
2 the world named after Martin Luther King, Junior. So
3 I'm from King County, and we have about two million
4 people. Now, two--the centesis [sic] of your
5 question, we passed arrest [sic] ordinance in
6 December of 2013, and then we updated it September
7 2nd, 2014, just a couple of months ago. And the
8 reason we did that is because three federal judges in
9 our region, two in Oregon and one in Idaho, ruled and
10 one of the speakers a little earlier talked about
11 concerns that many judges have about whether or not
12 the constitution is being violated by holding people
13 who had not been subject to any kind of due process,
14 and they ruled that a couple women and a couple men
15 had to be immediately let out of jail. On our first
16 ordinance that we past in December of 2013, we were
17 only able to get it passed with both democratic and
18 republican support by allowing ICE to still get
19 people who had committed, alleged to have been
20 committed violent crimes, so all our three strike
21 laws were still on there. Now, those are gone, and
22 we only allow people out of the King County. ICE
23 detained people out of the King County jail if a
24 federal judge has issued a criminal warrant for them.
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2 ICE has never, since we passed our first legislation,
3 been willing to do the work necessary to make any
4 civil requests on their own for the release to them
5 any persons. So in fact, since December of 2013 we've
6 not had one person. And like the other speakers,
7 nobody had--the crime rate has not gone up because
8 we have these people. Matter of fact, University of
9 Washington professors have done studies to show that
10 about 73 percent of everybody we were holding in the-
11 -excuse me. Of the 900 people we were letting go
12 each year, about 73 percent of them had only minor
13 misdemeanor holds or they weren't guilty of any
14 crime. So that was a growing concern of many of us
15 elected officials. Thank you.

16 CHAIRPERSON MENCHACA: Thank you so much
17 Council Member. And we're very honored for you to be
18 part of our legislative public hearing here today in
19 New York City, and we will continue converstaoins
20 with you, and it just sounds like there are so many
21 parallels happening across the country and the work
22 that's happening in each of these cities and
23 counties, and so we just want to say thank you for
24 your work and that you're not alone, and we are

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2 pursuing a very similar and comprehensive legislative
3 package.

4 LARRY GOSSETT: Great.

5 CHAIRPERSON MENCHACA: And so I just want
6 to say thank you so much on behalf of the Immigration
7 Committee and the Speaker of the City Council. Thank
8 you so much.

9 LARRY GOSSETT: Thank you very much, and
10 we're one of those that took our inspiration from
11 Cook County 2011 decision too. Appreciate the time.

12 CHAIRPERSON MENCHACA: Thank you. I
13 appreciate your time, too.

14 LARRY GOSSETT: Bye.

15 CHAIRPERSON MENCHACA: Goodbye. Okay,
16 thank you so much to Ms. Tucker for facilitating this
17 conversation, and I just couldn't be more thankful
18 for that work that is happening across the country
19 that can really be heard here in New York City. And
20 our next panel is comprised of Ms. Genia Blaser from
21 the Bronx Defenders, Gavino Hernandez [sp?], Make the
22 Road, Jasmine Rodriguez from the Brooklyn Defenders
23 Services, Marie Mark from the Brooklyn Defender
24 Services. If you can all come over to the table, and
25 you can begin as soon as you get there. Make sure

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2 that the red light is on and you're speaking directly
3 into the mic. And the next panel, so that you're
4 ready so that we can move this quickly, the next
5 panel after this will be Abraham Paulos from Families
6 For Freedom, Marissa Ram from Safe Horizon, Joseph
7 Rosenberg from the Catholic Community Relations
8 Council, Farrin Anello from the New York City Bar
9 Association, and then Cynthia Cook from the Legal Aid
10 Society. That'll be the panel after this. Okay,
11 you'll have three minutes. If we can start over here
12 on the right. You can go ahead right in, jump into
13 your testimony and make sure the red light is on and
14 the mic is close to your mouth.

15 GENIA BLASER: Good afternoon. Thank you
16 for the opportunity to testify this afternoon about
17 Intros 486 and 487. My name is Genia Blaser, and I'm
18 a Staff Attorney with the Bronx Defenders. We're a
19 holistic community based--

20 CHAIRPERSON MENCHACA: [interposing] Can
21 you get the mic closer to you? Just if you can, a
22 little bit closer. Thank you.

23 GENIA BLASER: My name is Genia Blaser,
24 and I'm the Staff Attorney with the Bronx Defenders.
25 We're a holistic community based public defense

1 office and provide criminal, civil, and family
2 services to residents of the borough. Because of
3 this, we're in a unique position to witness firsthand
4 the current detainer policy at play. And while the
5 current policy has been a crucial and important first
6 step, it's too narrow, and has left out too many non-
7 citizen New Yorkers from its protections. We've
8 heard many examples today. I just want to give one
9 more example of a client of mine to demonstrate the
10 narrowness of the current policy. My client Jose was
11 arrested after his school-aged son swiped him into
12 the subway using his student metro card. Jose had
13 never been arrested before, but he had an old
14 deportation order from 20 years ago, from when he
15 first came to the United States from Ecuador.
16 Because of his old deportation order, immigration
17 lodged the detainer, and Jose had to decide whether
18 he would sit at Rikers with the detainer while we
19 explored options and requested his immigration file,
20 which could take months, or if he would pay bail, be
21 released to ICE and be deported. Jose had a family
22 here. He had two school-aged sons. He worked and he
23 was the family's bread winner. Initially, he waited
24 at Rikers for a few weeks waiting for the immigration
25

1 file which never came. His family was suffering until
2 Jose decided to resolve his criminal case and be
3 deported. His criminal case was dismissed. Jose was
4 released to ICE and he was deported. This is just one
5 example of many, and there are more that I included
6 in my written testimony of how the current detainer
7 policy is too narrow and causes unequal treatment for
8 non-citizens in the criminal process. Most of our
9 clients who are noncitizens are forced to choose
10 between prioritizing their criminal or their
11 immigration matters. Many noncitizens with
12 detainers, as we've heard, are often held in a low
13 bail for weeks or months, sometimes years in the
14 Department of Correction's custody regardless of the
15 severity of their charges. Because if they paid bail
16 where their charges are still pending, they'll be
17 released to ICE and face deportation. This slows
18 down the criminal process in an already back-logged
19 and overburdened system. Similarly, our noncitizen
20 clients with priority deportation orders like Jose or
21 prior criminal convictions will be released to ICE
22 regardless of the outcome of their criminal cases.
23 This means they can choose to sit in DOC custody and
24 try to fight their cases, but regardless of the
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1
2 outcome, they will be released to ICE. Our clients
3 are also unable to access pre-trial programs or
4 treatment because of the detainers. Release to these
5 programs will mean release to ICE. And lastly, our
6 clients with mental illness are stuck at Rikers in a
7 system that is inadequately equipped to provide
8 treatment as recent articles and reports have shown.
9 Clients cannot be released for medical treatment
10 during their case because they would be released to
11 ICE. The new bills that are being introduced address
12 many, although not all of these concerns, and it will
13 allow noncitizen New Yorkers more equal treatment in
14 the criminal justice process. They'll have the
15 opportunity to be released to their families and
16 communities and to fight their criminal cases without
17 the fear of being released to ICE. Thank you.

18 CHAIRPERSON MENCHACA: Thank you.

19 MARIE MARK: Good morning. Thank you for
20 having me here to speak about, in support of the
21 proposed amendments. My name is Marie Mark. I'm an
22 immigration staff attorney at Brooklyn Defender
23 Services. BDS is a public defender office that
24 protects the legal rights of more than 40,000
25 Brooklyn residents each year. By their nature,

1
2 detainers interfere with our justice system by
3 preventing the release of immigrants to their
4 communities even when a state judge thinks that
5 release is appropriate. While the current law has
6 mitigated some of the harm of detainers, there's
7 still room for improvement. Clients with an
8 immigration detainer as Genia spoke about, are still
9 spending unnecessary time in pre-trial detention. We
10 are also seeing many clients with detainers who are
11 denied access to Alternative to Incarceration
12 Programs. One of BDS's clients, I'll call him John,
13 was unable to finish court ordered drug treatment
14 because of detainer lodged against him. A judge had
15 put him in jail for just a few days to teach him a
16 lesson after his urine tested positive for drugs on
17 one occasion. While he was at Rikers an immigration
18 hold dropped. He wasn't eligible for release under
19 the detainer law because of prior misdemeanor
20 convictions. The Criminal Court Judge personally
21 wrote a letter to ICE asking them to lift the
22 detainer and ICE refused. Our client was transferred
23 to immigration custody and spent a year in detention
24 in New Jersey fighting against his deportation. He
25 wasn't able to complete drug treatment. ICE has told

1
2 us repeatedly they won't consider lifting detainers,
3 even for clients whose circumstances are very
4 compelling. ICE wants to make the custody
5 determination only after a client is transferred
6 pursuant to a detainer. But they're issuing these
7 detainers without any review of whether they are
8 appropriate. For example, BDS right now is
9 representing a young man who's fleeing gang violence
10 and recruitment in El Salvador. Our client has been,
11 was incarcerated at Rikers Island for over two months
12 because of the immigration hold. He'd been targeted
13 by local gangs as one of the few college students in
14 his neighborhood. After repeated harassment and
15 threats, he fled, coming to the United States as an
16 unaccompanied minor. He was stopped at the border
17 and released with a notice to appear in the
18 immigration court, but when he went to court they
19 told him there was no record of him in the system. He
20 went home and continued to adjust to life in the
21 United States and didn't receive any more notices
22 from immigration. He had no idea he'd been ordered
23 deported in his absence until he was arrested. He
24 was depressed and frightened in jail, but even more
25 terrified of being deported to El Salvador. Although

1
2 the DA was willing to dismiss his case early on, we
3 asked them to delay the case so that he--and our
4 client had to wait in criminal custody for two months
5 while our office worked to have his immigration case
6 reopened. There are other examples of the harsh
7 consequences of honoring detainers in my written
8 statement. I'd like to thank you for allowing me to
9 testify today.

10 GAVINO HERNANDEZ: Buenos dias.

11 [speaking Spanish]

12 TRANSLATOR: Good morning. My name is
13 Gavino Hernandez, and I'm a member of Make the Road
14 New York. Thank you to the Speaker Melissa Mark-
15 Viverito, the Council Member Carlos Menchaca, and all
16 the Council Members here for having given me the
17 opportunity to tell my story. I am from Puebla [sp?]
18 Mexico. I came to this country 20 years ago to look
19 for a better life. I found my wife here. Today, we
20 have four kids, all citizens. The oldest is 18 years
21 old, and I want to support the proposal on the table
22 today because it would help immigrant families like
23 my own, not to have to go through all that I went
24 through and confront what we are confronting. I was
25 arrested after a bar fight. I was trying to protect

1 an elderly gentleman who was being harassed, and when
2 I tried to do that they called the police of a door
3 that I had broken, and they arrested me. I spent two
4 and a half months in jail. I could not leave or pay
5 bail because I had a hold from my immigration. I had
6 to wait there. While I was inside I knew that my
7 family was hungry. They did not have any money.
8 That was why I accepted a lower charge, a plea deal,
9 criminal negligence or something like that. It was
10 to get out. But they just took me directly to
11 immigration. There, thank God, they let me go with
12 my family. But I'm still fighting a case against
13 deportation. I'm with the organization and the my
14 lawyer is doing good work, but regardless, I would
15 never have been in the situation if it had not been
16 for the collaboration between ICE and the city. I
17 would have paid my bail and been back with my family
18 as always. That's why I think it is critical to pass
19 this proposal so that fathers like me don't have to
20 confront my family separation, that would leave my
21 kids alone depending on the government and public
22 assistance. Also, now, I do not trust the police,
23 because why would I call them if any situation could
24 risk everything I have worked for. Passing this
25

1
2 proposal would create a little more confidence
3 between the community and the police which will make
4 us all safer. Many thanks.

5 JASMINE RODRIGUEZ: Hi, good afternoon.
6 My name is Jasmine Rodriguez. I was born at Elmer's
7 [sic] Hospital Queens to an Irish mother and a
8 Dominican father. I am a US citizen and I am a New
9 Yorker. I have lived my entire life here. I now
10 live in Ozone Park with my partner, Louis, and our
11 three US born children that is Chris and Roman who
12 are from a prior relationship of mine and our six
13 year old daughter Jazlyn [sp?]. Thank you for giving
14 me the chance to speak today. I would like to share
15 with you the chaos, confusions, and incredible
16 sadness my family went through while Louis was held
17 at Rikers Island for four long months under an
18 immigration detainer. I believe no family should
19 have to suffer in this way. I know you have the
20 power to change the law to protect families like
21 ours, and I ask you to support the change that will
22 help keep families like us together. Louis and I
23 have been together for eight years now. When I first
24 met him I had lost everything. I was in a homeless
25 shelter with my sons after their biological father

1 had taken all my savings and abandoned us. Louis was
2 a constant comfort to us. He still is. Most men get
3 scared off by a woman who's 100 percent devoted her
4 children, but Louis wasn't like that. If I needed to
5 go to the hospital for my kids, he was there for me.
6 He would bring my babies things I needed to whichever
7 shelter I was staying in. He helped me and get my
8 first apartment and then helped me move into it. He
9 takes care of Chris and Roman, now 15 and 12 as if
10 they were his own sons. They both have educational
11 disability and Roman suffers from severe health
12 problems. Louis is very patient with them and he is a
13 good role model for them, and he is the most devoted
14 dad to our little girl. Louis had been a taxi driver
15 with the same private services in Ozone Park for as
16 long as I've known him. He works steady and hard all
17 the time, and he has supported me and our children
18 financially, mentally, physically and more for all
19 these years. In July of last year, Louis was arrested
20 in Brooklyn. He was driving his taxi cab and a cop
21 pulled him over for failure to signal while driving.
22 What would have and should have been a ticket and
23 maybe a fine turned into a nightmare for us. When the
24 cop ran Louis' driver's license against a database,
25

1 the cop saw that Louis had an old deportation order.
2 So Louis was arrested and once he was arrested, an
3 immigration detainer dropped against him. Louis
4 couldn't come home that day or the next day, even
5 though the prosecutre in the criminal case was
6 willing to dismiss the charges, because of the
7 immigration detainer, Louis was jailed and couldn't
8 come home to us for the next four months. My
9 children and I were so scared and worried for him and
10 for us. Jazlyn was waking up nights with nightmares.
11 My daughter couldn't sleep. It was so terrifying for
12 her to not see her father when she use to see him
13 every day. My sister had to move in with us to help
14 because Louis wasn't there to raise the kids with me.
15 I know it was ter--sorry. I know it was tearing
16 [sic] for Louis apart too, not to be home with us and
17 taking care of us. He is our only bread winner, so
18 my children and I were torn into financial crisis
19 with his detention. All of this because Louis is not
20 a US citizen and there was an immigration detainer
21 against him. Louis came to this country from
22 Dominican Republic as a teenager and has been living
23 in the United States for more than 30 years. He has
24 received his green card as far back as 1986. Still,
25

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2 Louis was ordered deported in the 1990's for the one
3 and only criminal conviction he had from 20 years
4 ago, a felony drug possession case. He was sentenced
5 only to probation for that offense and he
6 successfully completed the probation, even discharged
7 early, but back then, the immigration law had just
8 changed for the worse and immigration judges were
9 wrongfully denying people like Louis their chance to
10 ask for a deportation pardon. Louis' lawyers at
11 Brooklyn Defender Services explained that they could
12 help him reopen his deportation case and speak--and
13 seek the pardon denied to him so many years ago.
14 They work hard to prepare the papers to the
15 immigration court asking for that reopening. Because
16 of the immigration detainer, Louis had to make the
17 painful choice of staying in at Rikers Island during
18 those four months it took for them to reopen it. The
19 other choices he had to face was simply far worse,
20 getting a quicker resolution of his criminal case,
21 only to disappear into immigration jail and risk
22 being deported and separated from me and our children
23 for forever. I thank this City Council for listening
24 to me today. I hope what I have told you today will
25 help you decide to change the local laws so that

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2 other families will not suffer the way we did. I
3 hope you continue to work to protect people against
4 being held in jail unnecessarily and against being
5 turned over to immigration. Thank you.

6 CHAIRPERSON MENCHACA: Thank you so much,
7 Ms. Rodriguez, for your testimony. That was
8 incredibly powerful and really the entire panel,
9 you've given us a personal account of how this system
10 is not only broken, but how it's effecting your
11 family on the ground in your individual families.
12 And what I also want to say is that these stories are
13 not stories that we keep to ourselves. These are the
14 stories that we tell our family members and our
15 friends, and they have this ripple effect in our
16 communities. And so when kids are in this situation
17 and they go to school, and we're hearing from schools
18 that our kids are failing because of this issue.
19 We're hearing from folks in--I want to--Ms. Mark,
20 about one of your, Mr. John, who couldn't get access
21 to Alternatives to Incarceration and programs on drug
22 treatment programs. These are things--this isn't
23 justice that we're talking about at all, and so this
24 hopefully will solve that, those issues, but I also
25 want to connect to the fact that these are moment

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2 where people have to make decisions in which they
3 either make bail and leave the Department of
4 Corrections and then get put into this abyss, this
5 dark, dark space called Immigration Courts and then
6 get kind of trapped into this. What I also want to
7 connect everybody to is the NYFUP program, the New
8 York Immigration Family Unity Project, and emphasis
9 on unity. We want to reunite. That's why we made
10 such a huge commitment this year to bring those
11 dollars into the court system and to make sure that
12 happened and that they qualified based on income,
13 they can get access to legal representation. This--
14 and the third thing I want to connect to all of this
15 is the Municipal Identification Card that this City
16 Council passed, the Mayor signed, and is coming in
17 January will allow for those conversations to happen
18 on the ground so that--Mr. Hernandez was talking
19 about, why do we call the police? Why should we call
20 the police if we're going to be potentially in an
21 altercation with them about our immigration status?
22 That's going to hopefully heal that conversation
23 issue and connect communities to police. So you've
24 really kind of hit every kind of component that this
25 council for the last month, last nine months has been

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2 committed with our advocates and community partners
3 and residents like you. So I just want to say thank
4 you so much, really painting the picture and for
5 being so brave to be here to talk about your story,
6 and very soon, this is a long term work that we're
7 all doing, and this is a marathon not a sprint.
8 We're going to get there. And I just want to say
9 thank you so much for your time.

10 JASMINE RODRIGUEZ: Thank you.

11 CHAIRPERSON MENCHACA: Thank you. Our
12 next panel, Abraham Paulos. Correct me if I said your
13 name wrong. Marissa Ram, Joseph Rosenberg, Farrin
14 Anello, and Cynthia Cook, if you could come to the
15 table please. Mr. Rosenberg, you can start your
16 testimony, and I'll read, before you start, I'm going
17 to read the next panel so you're ready for the cue.
18 Mr. Corey Forman, Hedwin Salmen-Navarro, Juana
19 Peralta, Helen Drook from NYLAG, and then Oriana
20 Sanchez, you'll be next in cue. Mr. Rosenberg?

21 JOSEPH ROSENBERG: Okay. Thank you.

22 Good afternoon, Chairman Menchaca. I'm Joseph
23 Rosenberg, Director of the Catholic Community
24 Relations Council. I'm pleased to be here today and
25 to testify in support of Intros 486 and 487. Intros

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2 486 and 487 establish very limited and specific
3 criteria for detaining and individual by NYPD or the
4 Department of Corrections at the request of ICE.
5 These bills clarify that immigration detainers issued
6 by ICE will not be honored by DOC or the NYPD, unless
7 a federal judge issues a warrant for such detention
8 based upon the conviction of a violent or serious
9 crime or the identification of the subject as a
10 possible match in United States terrorist screen
11 database. Over the last several years, the City
12 Council has moved in the direction protecting
13 immigrants and our city from unjust detention. In
14 2011, the Council limited DOC's cooperation with ICE
15 by creating a category of persons not to be detained
16 for deportation proceedings. Just last year in 2013,
17 you further clarify that individuals defined under
18 the New York State penal law as traffic immigrant
19 victims forced into prostitution cannot be detained
20 and deported. Current law, however, still requires
21 the city to comply with detainer requests without
22 requiring a judicial warrant or for alleged
23 misdemeanors. Such harmful enforcement policies
24 serve only to disrupt and destroy households.
25 Families find themselves crippled with a detainer and

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2 deportation of loved ones based only on accusations
3 of minor violations. The bills before you, however,
4 remedy this unfortunate situation and are another
5 important step in your successful efforts to continue
6 to welcome, embrace, and protect the immigrant
7 community of our city. The protection of this
8 growing community regardless of one's place of origin
9 or religious beliefs is at the heart of the mission
10 of both the immigrant and refugee services of
11 Catholic Charities of the Archdiocese of New York and
12 of Catholic Migration of the diocese of Brooklyn.
13 The church has been at the forefront of immigration
14 reform in this country and city for over 100 years.
15 Over the last several decades, Catholic Migration and
16 Immigrant and Refugee Services have worked to help
17 immigrants and refugees find a safe haven in our
18 city, reunite with their families, learn English,
19 obtain housing, receive employment counseling and
20 obtain legal services to protect them from
21 unwarranted detainer and deportation and essential
22 protection that you are advancing today with your
23 hearing on these measures. This City Council has
24 consistently been a champion of New York's immigrant
25 community, and your actions today further solidify

1
2 your commitment to improving and protecting the lives
3 of thousands. Thank you.

4 ABRAHAM PAULOS: Thank you so much. My
5 name's Abraham Paulos. I'm the Executive Director of
6 Families For Freedom, a New York City based human
7 rights organization that's led by people with
8 convictions affected by ICE policies. We educate
9 people about deportations. We try to organize and we
10 also advocate for policies that have and promote the
11 human rights to be with our families and to remain in
12 our communities. I first learned about ICE's presence
13 in Rikers Island while I was in prison there. While
14 I was there I was able to avoid ICE's apprehension,
15 thanks to a fellow person that was also imprisoned
16 there that alerted me and informed me about ICE's
17 presence. I went home. I was able to get support
18 from Families For Freedom and from the Immigrant
19 Defense Project, was able to beat my case. That's
20 not a luxury. That should be a right for all New
21 Yorkers. Citizens, noncitizens alike have that human
22 right to be with their families and to reintegrate.
23 Because of ICE's policies, thousands of New Yorkers
24 suffer daily at the hand of the deportation machine.
25 Loved ones are banished forever, families are

1 separated, folks are going to detention indefinitely.
2 Some even perish in these detention facilities. Our
3 members goes through that every day, all day,
4 children without a parent, spouse that's left to do
5 the work of others, folks that are languishing in
6 faraway detention centers, some even to the point of
7 suicide. ICE and the collaboration with New York
8 City needs to end, because by having that
9 collaboration there is this complacent sort of issue
10 with being against and with these human rights
11 violations. Now, we support this legislation to get
12 ICE out of Rikers. We commend the City Council. We
13 commend all those advocates that are here to support
14 that city--that legislation. We do have certain
15 concerns. One of those concerns is that if a city
16 employee violates this new bill, what happens to
17 that? We also do understand that ICE is evicted from
18 Rikers Island, but do they still have access to city
19 jails? And last the concern is around data. When
20 folks are released, will our personal information be
21 shared, where we live, phone numbers, where we work,
22 particularly those that are on probation? We must
23 head the warning of other organizers and other
24 localities. ICE has ramped up to aggressive tactics
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2 in lieu of detainer policies, such as raids at homes,
3 going to courts. Also the probation program is
4 really dis-serving. With this momentum that we've
5 built on this City Council bill and this legislation,
6 we hope that the City Council, Immigrant advocates
7 can urge the Mayor to take head of this momentum to
8 essentially use executive authority to allow for city
9 polices to reflect the reality that this bill is
10 going to create, and essentially by making sure that
11 NYPD and DOC do not hold anyone for any civil
12 immigrant violations, that our data is confidential
13 and secure, and that does not get shared with ICE,
14 and that we designate sensitive locations to prohibit
15 ICE from being in these locations, such as homes,
16 schools, places of worship, city hall.

17 CYNTHIA CONTI-COOK: Good afternoon. My
18 name is Cynthia Conti-Cook. I'm from the Special
19 Litigation Unit of the Legal Aid Society. Thank you
20 for the opportunity to testify and for continuing to
21 respond to this fundamental unfairness in our justice
22 system. We urge the Council to act swiftly. This
23 past summer, Legal Aid led by young attorneys from
24 Queens, who've joined us today, filed writ of habeas
25 corpus all over the city on the premise that it was

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2 unconstitutional for DOC to hold anyone beyond the
3 end of a criminal case without new charges. Through
4 these efforts, they secured the release of over 20
5 clients to the community rather than letting DOC
6 release those clients to ICE. But for how long after
7 a person is free to go will our attorneys still have
8 to fight for their client's release. Many people
9 would be free to go from arraignments but for ICE
10 detainers. Legal Aid handles over 200,000
11 arraignments per year and we are all too familiar
12 with how NYPD operates at arraignments in regards to
13 ICE detainers. Contrary to testimony today, the NYPD
14 in our experience was rarely able to identify who is
15 eligible for release under the 2013 detainer law
16 before they were arraigned, making release from
17 arraignment into NYPD custody risky for our clients.
18 As several people testified today, they opted to have
19 bail set in order to have that examined more closely
20 so that they could be released from DOC. We saw that
21 with our clients many times as well. Specifically,
22 it has been historically impossible for the NYPD and
23 our defense attorneys to verify before arraignments
24 whether someone was previously deported. While these
25 bills are huge steps forward in limiting cooperation

1 with ICE and we wholeheartedly applaud that, we still
2 have concerns that such confusion and inconsistency
3 will continue under a new law, because as we read it,
4 Section B2 of the proposed NYPD bill authorizes
5 detention without a judicial warrant, if the NYPD
6 believes that person was previously deported and has
7 a recent violent and serious record. This exception
8 to the judicial warrant requirement is not, again as
9 we read it, in the DOC bill. The point is this,
10 simple rules are the easiest to enforce. We
11 therefore, urge the city to adopt a simple and
12 consistent rule that neither the Department of
13 Correction, nor the police department shall be
14 authorized to honor an ICE detainer, absent an arrest
15 warrant from an Article Three Judge. Finally, being a
16 possible match on a terrorist database is a factor
17 both bills propose. We ask that you conduct a
18 thorough review of the recent investigations into the
19 unreliability of these databases before making it a
20 factor that justifies one's detention. We do very
21 much appreciate the Council's sustained attention to
22 this issue. We can't emphasize enough how it's swift
23 resolution will help us achieve a more fairly
24

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2 operating justice system for our community. Thank
3 you again.

4 MARISSA RAM: I just want to thank Chair
5 Menchaca and the members of City Council that are
6 here today for the opportunity to testify in support
7 of Intros 486 and 487, which would reduce the impact
8 of the federal government's secure communities
9 program on countless of New York City's victims of
10 domestic violence, trafficking and other crimes as
11 well as homeless and street involved youth that
12 experience abuse and exploitation. My name is
13 Marissa Ram, and I'm an attorney at Safe Horizon.
14 Safe Horizon is the nation's leading victim
15 assistance association and New York City's largest
16 provider of services to victims of crime and abuse as
17 well as these victim's families and communities.
18 Safe Horizon Immigration Law Project provides expert
19 legal counsel in immigration proceedings to victims
20 of crime, torture and abuse. We represent thousands
21 of immigrants in their VOWA [sic] battered spouse
22 self-petitions, U-Visa applications for crime victims
23 and asylum petitions. We assist immigrant children
24 and youth who are the victims of abuse, neglect or
25 abandonment in filing for special immigrant juvenile

1 status, and we also counsel clients and numerous
2 others of immigration law including permanent
3 residency, naturalization, work authorization
4 applications as well as defense and deportation and
5 removal proceedings. Safe Horizon's anti-trafficking
6 program is the largest such program on the East
7 Coast, and since its founding we have assisted over
8 500 survivors from more than 60 countries. We offer
9 intensive case management, legal services to
10 survivors of trafficking. We work on legislative
11 advocacy at the federal, state and local levels, and
12 we also provide comprehensive trainings to our
13 partners in government, law enforcement, medical
14 care, and social services. Safe Horizon applauds the
15 New York City Council for taking a stand and joining
16 the growing number of jurisdictions across the
17 country that either refuse to comply with ICE's
18 detainer requests or only comply with them in very
19 limited circumstances. We commend Speaker Melissa
20 Mark-Viverito, Immigration Committee Chair Carlos
21 Menchaca and the entire City Council for recognizing
22 that detainer requests from the federal government
23 are voluntary. They differ from criminal detainers.
24 They differ from criminal warrants, and they fail to
25

1 provide a lawful basis for arrest and detention, and
2 that municipalities may indeed be violating the
3 constitution by holding someone based on a detainer
4 without sufficient cause. And as many of you know,
5 between October of 2012 and September 2013, more than
6 3,000 people in New York were transferred to Federal
7 Immigration Authorities for deportation pursuant to
8 an ICE detainer. And according to information
9 obtained under the Freedom of Information Act, no
10 more than 14 percent of detainers issued by the
11 government in fiscal year 2012 and the first four
12 months of fiscal year 2013 met ICE's stated goal of
13 targeting individuals who "pose a serious threat to
14 public safety or national security." And in fact,
15 nearly 350,000 individuals subject to an ICE
16 detainer, so this is almost 50 percent, have no
17 record of a criminal conviction, even a minor traffic
18 violation as we heard in earlier testimony. And as
19 advocates and service providers who work with
20 survivors of human trafficking, sexual assault,
21 intimate partner violence and domestic violence as
22 well as other forms of abuse and exploitation, we
23 have witnessed firsthand the tragic impact of New
24 York City's prior collaboration with ICE on countless
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2 immigrant survivors that we serve as well as their
3 families and communities. And as we noticed, noted
4 in our testimony to the City Council in January 2013,
5 it is truly the rare occurrence that a victim reaches
6 our program without at least one prior interaction
7 with law enforcement. In many cases, victims of human
8 trafficking will be arrested for prostitution, theft
9 or other crimes. Our clients, including those who
10 use weapons to defend themselves from their abuser or
11 exploiter will often plead out to lesser charges in
12 order to avoid the risk of deportation. Having a
13 victim arrested is often, in fact, the goal of an
14 abuser or a trafficker. The threat of criminalization
15 and the possibility of deportation are used as tools
16 of coercion and control. They create a situation
17 where both the criminal justice system and
18 immigration enforcement work to the perpetrator's
19 advantage, and this renders victims even more fearful
20 of seeking help from law enforcement. Dual and
21 mandatory arrests are common in cases of intimate
22 partner violence or domestic abuse and this can
23 expose a victim with criminal history that may appear
24 on first glance to be unrelated to their abuse to
25 detention, deportation, and separation from children,

1
2 family and community. We encourage the City Council
3 to ensure that the NYPD is provided with additional
4 support and direction on how to proceed when they
5 suspect somebody may be a victim of intimate partner
6 violence, domestic violence, human trafficking or
7 other forms of abuse and exploitation. In our
8 experience, proper screening for trafficking and
9 identification of victims remains extremely
10 challenging. Despite prosecutorial discretion,
11 victims of human trafficking are consistently
12 deported without crucial screening and services that
13 would have in fact identified them as victims. And
14 at times, they're deported right back into the hands
15 of their traffickers or their trafficker's
16 associates. The multiple arrests--

17 CHAIRPERSON MENCHACA: [interposing] If
18 we can wrap--just--

19 MARISSA RAM: [interposing] Oh, sure.

20 CHAIRPERSON MENCHACA: Wrap it up.

21 MARISSA RAM: Sure. I think the main, the
22 sort of the last thing I wanted to point out is that
23 for our clients that are LGBTQ, they're already at a
24 higher risk of profiling arrest and detention, and so
25 they are, remain the most vulnerable to abuse and

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2 detention. They also are especially our transplants,
3 they're disproportionately at risk of sexual and
4 other forms of abuse in immigration detention and ICE
5 refused to include protections that are routinely
6 provided by other corrections and law enforcement
7 agencies around the country that were pursuant to the
8 Prison Rape Elimination Act, so as a result, you
9 know, even though this is a smaller risk now, due to
10 these bills if they're passed, this is incredible for
11 so many of our clients. It's dangerous for any of
12 our clients who are vulnerable, but especially our
13 LGBTQ clients and our trans clients in particular to
14 have any contact with detention, the detention and
15 deportation system at all because they have shown
16 time and time again they cannot keep them safe. So,
17 thank you.

18 CHAIRPERSON MENCHACA: And I want to
19 really thank you for bringing that voice into this
20 conversation with our LGBTQ, particularly our
21 transgendered community and our detention facilities,
22 and like Council Member Dromm said that we're working
23 really, really hard to figure out what we can do on
24 that front, but I want to just thank you again for
25 illustrating that. And really, for all the questions

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2 that were posed and just the continued commitment
3 from all of you in the advocacy world and legal, the
4 legal world, legal services world I should say, the
5 questions you brought up in its entirety about how we
6 need to continue to look at those communities. We
7 need to look at the databases and the information
8 that's being shared, the access to not just our, you
9 know, Rikers, but also our city jails, the raids that
10 we've seen in other municipalities like New Orleans.
11 We're looking at that very, very strongly, and then
12 just the intimate or domestic partner violence and
13 really making sure that we're connected to that
14 community, that work that needs to happen on that
15 front. That comes down as local as our precincts and
16 how we make, we're making sure the precincts have all
17 their training. And so we hear you. We hear you.
18 These are the same questions we have. We're looking
19 at a lot of this and so we're going to be able to do
20 some report back from our committee, and a lot of
21 these questions are being asked right now, and we'll
22 be able to report very, very soon on all those
23 things. Those are things that we're taking very,
24 very seriously. So thank you so much. Oh, and we
25 have one more. That's right. Thank you. And so

1
2 from here on out, we want to make sure that we keep
3 to our three minutes, and so what I'll say for here
4 and the rest of the panels, a lot has been said thus
5 far, and so if we can concentrate on things that are
6 a little bit new maybe or highlight, worthy of
7 highlighting in testimony. All your testimony is
8 going to be inserted into the public record, but if
9 we could keep the conversation going, that'll be
10 great. Thank you.

11 FARRIN ANELLO: Thank you, Chairman
12 Menchaca. I want to thank you and committee and
13 Speaker Mark-Viverito for your leadership on this
14 really important issue and for giving us the
15 opportunity to speak today. My name is Farrin
16 Anello. I'm a visiting Assistant Clinical Professor
17 at Seaton Hall Law School, where I focus on
18 immigration law, but I'm speaking today in my
19 capacity as Chair of the Detention Subcommittee of
20 the Immigration and Nationality Law Committee of the
21 New York City Bar Association, and I'm also
22 representing several other committees, the Criminal
23 Courts Committee, the Criminal Justice Operations
24 Committee and the Corrections and Re-entry Committee
25 of the City Bar. We represent collectively a wide

1 range of lawyers, prosecutors, defense lawyers,
2 immigration lawyers, law professors, and we commend
3 the City Council for taking action on detainer
4 reform. We support the pending bills for a variety
5 of reasons, but primarily because they help local law
6 enforcement to make the city safer while protecting
7 the constitutional rights of all New Yorkers and
8 saving tax payer dollars. While these bills
9 represent a huge step forward, we also urge the city
10 to go a step further and to stop accepting all ICE
11 detainers as well as to take steps to ensure that ICE
12 does not have the ability to interview people or
13 speak with people in city facilities before
14 individuals have had access to immigration counsel.
15 Over 250 localities across the country have now
16 limited or ended compliance with detainer requests.
17 This summer, the New York State Sheriff's Association
18 recommended that its members refuse all detainer
19 requests, and as you may know, Suffolk and Nassau
20 Counties among many others have already done so. New
21 York City, under the current law, honors 63 percent
22 of detainer requests. So this law is a very
23 important step. Accepting detainer requests violates
24 the constitutional rights of New Yorkers. First,
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1
2 detainers raise serious due process concerns because
3 New Yorker cannot challenge them in court, and
4 because people held on detainers are usually
5 transferred to ICE detention, often in remote
6 facilities and often without access to counsel.
7 Detainers also raise serious fourth amendment
8 concerns. They are not issued by a judge and do not
9 require probable cause. This is why the warrant
10 requirement is critical. Next, ICE detainers are
11 very expensive for the city. As has been discussed,
12 individuals with ICE detainers are kept in detention
13 an average of 73 days longer than someone who does
14 not have an ICE detainer. ICE detainers, not only
15 extend detention after a sentence has been imposed in
16 Criminal Court, but they can also cause judges to
17 deny bond in pretrial proceedings and they can bar
18 access to problem-solving courts, treatment programs
19 or other alternative to detention, or excuse me,
20 incarceration even when the district attorney's
21 office may support this alternative sentence. Just
22 very briefly, compliance with ICE detainers also
23 undermines community trust in law enforcement. That
24 is one of the real reasons that we think it's
25 important to have a clear rule of not cooperating

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2 with any ICE detainers because that clarity is
3 important to building trust in the community and
4 making people feel safe in calling the police or
5 cooperating with the police. And so for all these
6 reasons, we refer otherwise to our written testimony
7 and thank the Council very much for your action on
8 this issue.

9 CHAIRPERSON MENCHACA: Thank you so much
10 for being here and for representing all the work that
11 the Bar is doing and all the committees that you're a
12 part of and just having work with various components
13 of the Bar, the work is very important, and as you
14 specialize throughout all these committees. This is
15 clearly impacting a lot of them, and so we're very
16 committed to taking a lot of the testimony and the
17 concerns and the accomplishments of this bill is
18 going to have on our justice system. So thank you so
19 much for being here. Thank you to the panel. And
20 we're going to call the next panel up, if you can
21 already start walking to the table. Oriana Sanchez,
22 Helen Drook, Juana Peralta, Hedwin Salmen-Navarro,
23 and Corey Forman. The last panel on cue for next is
24 Jessica Rosco [sp?] from Hispanic Federation, Devin
25 Buroni [sp?], Nabila Taj from CUNY Law School, and

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2 Carolyn Solis from Neighborhood Defender Services of
3 Harlem. You'll be the last panel to testify today.
4 Thank you so much again, and remember, let's stick to
5 time and really concentrate on some of the things
6 maybe that we haven't heard and really maybe
7 emphasize the top points in your testimony. All that
8 testimony's going to be included in our records.
9 Thank you. We can start from the left here.

10 HEDWIN SALMEN-NAVARRO: Sure. My name is
11 Hedwin Salmen-Navarro. I'm alongside with Corey
12 Forman. We co-chair the Immigration Customs and
13 Enforcement/Enforcement and Removal Operations
14 Committee of AILA's New York Chapter. We thank you,
15 Chair Menchaca for this opportunity to speak before
16 the panel today. Really quick, AILA has over 13,000
17 members nationwide, with more than 1,500 members in
18 New York whose practice has been in the entire scope
19 of immigration law because of our knowledge,
20 experience and expertise in immigration law including
21 dealings with the impact and effect of civil
22 immigration detainers on a daily basis. We're well
23 positioned to discuss with the Council the proposal
24 to limit the use of detainers in New York City.
25 Because of the lack of time, I'm going to allow my

1 Co-Chair to speak about the financial burdens of the-

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4 COREY FORMAN: Good afternoon and thank
5 you Council for giving us this opportunity. I'm
6 going to speak a little bit about the financial
7 considerations that should be taken into effect.
8 Since foreign national subject to a detainer are
9 released from police or DOC into ICE custody, once
10 they either post bail or plead guilty, attorneys,
11 criminal defense attorneys often advise them to move
12 the case toward trial to at least have a chance at
13 avoiding a second detention. This is vastly more
14 costly to the city than plea bargaining and results
15 in unnecessary expense and preventable court delays
16 and back logs. Since the federal government does not
17 reimburse New York City for continuing to incarcerate
18 these individuals who have otherwise been released,
19 the city wastes precious funding detaining people
20 already determined to be not a threat to the
21 community. Refusing to honor detainers will save the
22 city a considerable amount of money which can be
23 better directed at supporting rather than punishing
24 immigrant communities. In addition, requiring the
25 judicial warrant component of the bill is important.

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2 By doing this, before honoring a detainer will mean
3 that the city no longer has to rely on its own
4 personnel and its own resources to determine who and
5 who does not come under the reach of the law. Aside
6 from the fact that this current system is completely
7 contrary to those fundamental principles of due
8 process, it is also an unwarranted expenditure of
9 local resources. I will also say that the detainer
10 policy has a crippling effect on our overall criminal
11 justice system and the lodging of the detained
12 undermines any incentive for incarcerated criminal
13 defendants to resolve even minor offenses within a
14 short period of time through the payment of fine,
15 community service, or the acceptance of a sentence of
16 time served. That will just speed up, because that
17 ultimately will just speed up their transfer to ICE
18 custody. Similarly, it often renders the posting of
19 criminal bail useless as noncitizens will wind up in
20 ICE custody soon after their own bail is posted. As
21 a result, hundreds if not thousands of criminal cases
22 are kept pending for months, sometimes even years,
23 far longer than they otherwise would. This is a huge
24 financial expense to the city, both in terms of
25 litigation and incarceration costs. I'll also note

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2 that law enforcement agencies around the country and
3 in New York are facing lawsuits filed by prisoners
4 who argue that extending their incarceration on the
5 basis of a detainer violates their constitutional
6 rights. These lawsuits are becoming increasingly
7 frequent with growing success for the plaintiffs. We
8 are delighted that the City Council recognizes these
9 reasons for significantly limiting the use of
10 detainers, as again, there is a huge financial
11 burden. Again, and finally, furthermore, from the
12 direct financial burden there is also the indirect
13 ones to consider. Most notably, the loss of the
14 economic contributions of foreign nationals that have
15 been extensively discussed during this hearing. So I
16 will defer to just one final humanitarian point with
17 my colleague. Thank you again.

18 HEDWIN SALMEN-NAVARRO: Far too many
19 noncitizens, both long time permanent resident and
20 individuals without immigration status have been
21 swept up by overzealous immigration enforcement
22 systems that does not see them as individuals with
23 certain rights and respect. Like many people of
24 color in New York City and elsewhere, immigrants
25 often bear the brunt of unfair policies and

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2 practices. Their interaction with law enforcement
3 often begins with a traffic spot or other routine
4 incident and ends up with their banishment from the
5 only country they call home. In sum, AILA supports
6 the efforts of the City Council to limit the use of
7 detainers and overall cooperation with ICE and DHS.
8 Significantly, the constitution, federal courts,
9 human rights and sound public policy all support this
10 position as well. We commend the City Council for
11 taking the complete steps to ensure that immigrants
12 feel welcome, protected, and safe in New York City.

13 HELEN DROOK: Good afternoon. I'm really
14 excited to be here. My name is Helen Drook, and I'm
15 a Senior Staff Attorney with NYLAG. New York Legal
16 Assistance Group is one of the largest providers of
17 civil legal services in New York City. We serve
18 thousands of immigrants and we applaud the Council
19 for introducing this legislation and Municipal ID's
20 by the way as well. I just want to bring up a point
21 that's very important to us. At NYLAG, and it was
22 briefly mentioned before, we serve many, many members
23 of the LGBTQ community, and the fear of deportation
24 is an everyday reality for thousands of undocumented
25 New Yorkers, and obviously, it directly impacts how

1 safe they feel in accessing services and cooperating
2 with criminal investigations. This is especially
3 true for the New York's LGBTQ immigrant community who
4 face horrific treatment within immigration detention,
5 including violence, deprivation of necessary medical
6 care, psychological torture and solitary confinement
7 and rape. According to the 2013 report, LGBTQ
8 immigrants held in immigration detention were 15
9 times more likely to be sexually assaulted. Many of
10 the LGBTQ immigrants in detention are asylum seekers
11 or survivors of torture who have fled their home
12 country to escape persecution for their sexuality and
13 continue to face violence and harassment here in New
14 York and the added burden of fear in deportation when
15 seeking the assistance of local police. As was
16 mentioned here before, detainers deprive thousands of
17 men and women of their basic constitutional due
18 process rights, and you know, the legislation that
19 requires detainers to be accompanied by the judge's
20 warrant would afford New York immigrants additional
21 degree of protection and prevent more immigrant
22 families from being separated. Many of our clients
23 with relatively minor criminal backgrounds who
24 despaired the great hardship of immigration detention
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1
2 and deportation. When so little is being done in
3 Washington today to protect this population's
4 interest, it's extremely heartening that New York
5 City is choosing to provide a safe harbor and
6 sanctuary for its immigrants. Thank you, again.

7 ORIANA SANCHEZ: Hi, good afternoon. My
8 name is Oriana Sanchez, and I'm from the New York
9 Immigration Coalition. I'll try to keep it brief.
10 First of all, thank you for giving me an opportunity
11 to testify today. The New York Immigration Coalition
12 is an umbrella policy and advocacy organization for
13 nearly 200 groups in New York State that work with
14 immigrants and refugees. The NYIC has played a
15 prominent role in the fight against the encroachment
16 of immigration enforcement policies and our local law
17 enforcement agencies, and we commend the City Council
18 for its efforts in ensuring that the criminal system
19 does not become a funnel into a broken deportation
20 system and for creating new protections to restore
21 due process rights. For detainers, they have led to
22 increasing numbers of immigrant defendants being kept
23 in jail for much longer than used to be, and for
24 example, a detainer often effects an immigrant's
25 ability to be released on bail pending criminal

1 charges, and according to research conducted by the
2 justice strategies, immigrants in custody with an
3 immigration detainer spend up to 73 days longer in
4 detention on average than individuals without a
5 detainer. Longer detention periods mean that more
6 local tax dollars are spent on detaining immigrants.
7 The unreimbursed cost to New York of this prolonged
8 detention is estimated to be in the tens of millions
9 of dollars and the practice of dealing [sic]
10 immigrants based upon immigration detainers also
11 exposes local governments to significant financial
12 liability. In 2009, an immigrant obtained 145,000
13 dollar settlement with the City of New York after
14 being held unlawfully for more than a month on an
15 immigration detainer. When local law enforcement
16 agencies like the NYPD and the Department of
17 Corrections collaborate with federal immigration
18 enforcement agents, immigrant communities become
19 fearful that any kind of interaction with the police
20 would lead to detention and deportation. This
21 discourage immigrant communities from reporting
22 crimes and cooperating in the investigation of
23 crimes, making everyone less safe. For example, with
24 victims of domestic abuse in light of this being
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1 domestic abuse month, only 30 percent of documented
2 women reported their abuses, and a startlingly low 14
3 percent of undocumented women do the same. In
4 conclusion, the expansive use of detainers has
5 allowed DHS, Department of Homeland Security, to
6 vastly increase deportations at the city's expense.
7 Countless families have been torn apart. The trust
8 between local police and the communities they serve
9 has been badly damaged, and the fairness of the
10 criminal justice system has been severely
11 compromised. The continued and proposed amendments
12 to the administrative code to limit New York City's
13 cooperation with ICE assures that our city will
14 continue to become a welcoming community for
15 immigrants where their contributions are valued and
16 encouraged. And this wasn't written in my testimony,
17 since we're trying to bring up topics that haven't
18 been brought up before, I just wanted to mention that
19 the criminalization of the homeless in American
20 cities, it's only growing. And perhaps, this is
21 something that can be talked about with DHS,
22 Department of Homeless Services here in New York
23 City, to see how immigrant homeless are being--would
24 be affected. Okay? Thank you.
25

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2 JUANA PERALTA: Good afternoon. My name
3 Juana Peralta from the Sylvia Vera Law Project. I'm
4 reading a statement of the Anti-Violence Advocates
5 Coalition Against Deportation, which is based on our
6 letter attached, signed by 14 organizations. We are
7 advocates for survivors of domestic, intimate partner
8 violence, family violence, human trafficking, sexual
9 assault, other forms of gender based homophobic and
10 transphobic violence and discrimination against
11 individuals living with HIV. In 2011, when we
12 learned of the potential activation of ICE's Secure
13 Communities Program, we came together to call for an
14 end to New York's collaboration with ICE. Any
15 cooperation between ICE and local law enforcements
16 not only makes our work more challenging, but
17 actually further victimizes and endangers a survivor
18 on the road to safety. Through our work, we know
19 that survivors are often the very people the
20 government seeks to deport, because they too have
21 criminal histories. Our clients have a range of
22 criminal convictions including felony assault,
23 criminal contempt, and serious drug related
24 convictions to name a few. Batterers often threaten
25 immigrant survivors with arrest and deportation and

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2 our adept at using the criminal legal system as a
3 tool to reinforce their power and control. Once
4 enmeshed in a deportation process, survivors are
5 often unable to access social services support and
6 find the road to obtaining immigration relief such as
7 U or T nonimmigrant status even more difficult. You
8 can see examples in the letters and stories attached
9 to this testimony. Even if the criminal charges
10 against survivors are eventually dismissed, we have
11 seen firsthand how ICE's ability to identify
12 immigrants through the booking process has increased
13 the likelihood that they will face deportation,
14 detention and indefinite separation from their
15 children, families and communities. For this reason,
16 it is essential that we continue to fight ICE's info
17 sharing programs even where felonies are concerned.
18 We applaud the city for taking significant measures
19 to minimize ICE's presence in our criminal legal
20 system by refusing to honor detainers and eliminating
21 ICE's presence at Rikers. Thank you.

22 CHAIRPERSON MENCHACA: And I want to just
23 thank the panel again for not only the advocacy but
24 the continued awareness of what's happening and as
25 you know, I think everyone testified to this fact

1
2 that this bill really addresses a lot of the issues
3 that we've been seeing, that you've been seeing on
4 the ground, and so I'm just thankful that you're here
5 today. I know we're at hour three at this point in
6 this hearing, but thank you for being here. And on
7 that note we're going to close with this final panel,
8 Ms. Caroline Solis, Nabila Taj, Devin Maroney [sp?],
9 and Jessica Orosco [sp?] from the Hispanic
10 Federation. If you can head over to the table.
11 Thank you again for staying with us throughout this
12 very long but very, very, very important hearing on
13 two pieces of legislation 486 and 487. Great, you
14 can begin.

15 CAROLINE SOLIS: Good afternoon. My name
16 is Caroline Solis, and I'm a Staff Attorney with the
17 Neighborhood Defender Service of Harlem. We're a
18 neighborhood based criminal defense organization in
19 northern Manhattan. I'd like to thank the City
20 Council for giving us this opportunity to testify
21 today. At NDS we serve the residents of Harlem,
22 Washington Heights, Inwood, which includes a large
23 immigration population from all corners of the world.
24 We represents clients from the beginning of their
25 criminal cases all the way through their immigration

1 cases, including any removal cases or applications
2 for immigration benefits. We, because we represent
3 these clients in both their criminal and immigration
4 cases, we see firsthand the way that immigration
5 detainers infringe upon our clients basic rights to
6 due process and humane treatment, and so this
7 proposed bill before the City Council today will have
8 a profound impact on the lives of our noncitizen
9 clients and their loved ones. Since the City Council
10 first passed legislation limiting its cooperation
11 with ICE detainers, we have seen many benefits to our
12 clients and their families. They're spending less
13 time in the DOC custody and they're being reunited
14 with their families instead of being transferred to
15 ICE detention centers outside of New York City.
16 However, unfortunately, not all of our clients have
17 benefitted from the prior legislation. As a result
18 of the immigration detainers, there's still
19 individuals in DOC custody forced to choose between
20 exercising their constitutional rights and their
21 criminal cases and spending lengthy amounts of times
22 in jail. When an immigration detainer is lodged, and
23 individual cannot be released from their custody
24 during the pendency of their case. This means a
25

1 noncitizen is more likely to be held in jail during a
2 long process of defending against their criminal
3 charges. For example, one of our noncitizen clients
4 spent nearly a year and a half in jail at Rikers
5 Island awaiting trial before his criminal charges
6 were ultimately dismissed. This was in spite of the
7 fact that the prosecutor had recommended he be
8 released on his recognizance, initially. More often,
9 tired of languishing at Rikers, our clients choose to
10 plead guilty to a crime of which they have been
11 wrongly accused which can then lead to their
12 deportation. Lengthy detention at Rikers Island or
13 at an immigration jail has devastating consequences
14 for the families in northern Manhattan that we at NDS
15 represent. In one instance, our client's family, wife
16 and children, were unable to afford rent after the
17 loss of the client's income to the family household.
18 As a result, the family was forced to move out of
19 their home and into a city funded homeless shelter.
20 Therefore, we thank the City Council for the proposed
21 bill today that will ensure no New York City resident
22 is unnecessarily detained by the city.

24 NABILA TAJ: Hi, good afternoon. My name
25 is Nabila Taj. I'm a third year law student at CUNY

1 School of Law. At CUNY I practice as a student
2 attorney in the Immigrant and Noncitizen Rights
3 Clinic. We represent individuals in myriad
4 immigration proceedings. I'm here today to talk to
5 you about one of my clients, Andreas Veras [sp?], who
6 is currently in removal proceedings after being
7 subject to an ICE detainer. Andreas was raised in a
8 single parent household in the Dominican Republic,
9 frustrated with the lack of opportunities and upward
10 mobility, he moved to Puerto Rico to pursue a career
11 in professional boxing. In Puerto Rico, he became a
12 lawful permanent resident, which allowed him to later
13 join his older sister in the Bronx. His limited
14 ability to communicate in English made it difficult
15 to obtain a steady job. He worked odd jobs in the
16 Bronx, and enrolled in English Language classes.
17 Just a few years after moving to the Bronx, he had
18 what he describes as one of his proudest moments in
19 his life, his first child Andrew was born. A second
20 proud moment occurred when his daughter Emily was
21 born seven years later. He says his proudest moment
22 was when he held his granddaughter Grace, Andrew's
23 daughter, in his arms for the first time. Andreas
24 treasures his time with his children and has a close
25

1 relationship with both of them. However, the pressure
2 of supporting a family and finding a steady job still
3 proved to be difficult. His neighborhood was ripe
4 with temptation to make easy money. In June 2012,
5 Andreas succumbed to the pressure. He was arrested
6 near his home for possession of a small amount of
7 drugs and detained at the Vernon C. Bain [sp?]
8 Center, also known as the Boat for seven months
9 before his case was finally adjudicated. On March
10 7th, 2013, he accepted a disorderly conduct
11 violation. At this point he should have been
12 released to go back to his family. Instead, ICE
13 issued a request for the Corrections Department to
14 detain Andreas until he could pick him up. The
15 Correction Department obliged and detained him for
16 another five days at Rikers Island. ICE then
17 detained him at the Hudson County Correctional
18 Facility in New Jersey for an additional three
19 months. During that time he felt completely helpless
20 in ICE custody. He was anxious about being separated
21 from his friends and family. He did not know what
22 was going to happen to him. In fact, a psychologist
23 assessed Andreas while he was in custody and found
24 that he suffered from symptoms of post-traumatic
25

1 stress disorder. Because of his constant fear of
2 being forced to leave a life that he worked so hard
3 to build in New York City and of being deported to a
4 country that he had chosen to leave 30 years ago. The
5 CUNY legal team was able to Andreas released on bond.
6 Since then we've been working to obtain relief so
7 that he can remain in the United States with his
8 friends and family. If Andreas is deported, he would
9 no longer be with his children or his granddaughter.
10 He'd be forced to restart his life at age 51 in a
11 country where he'll be entered into the system as a
12 criminal deportee upon arrival for a mere violation.
13 The bill that is up for consideration today would
14 allow individuals like Andreas to avoid the hardships
15 that he experienced and continues to experience.
16 Andreas is just one of countless hardworking New
17 Yorkers who's needlessly funneled into removal
18 proceedings because of the criminal justice system's
19 relationship with ICE. It's time for the city's
20 police and Correction Department to stop using its
21 resources to honor ICE detainer requests. I urge
22 and--I urge the New York City Council to take this
23 opportunity to prevent the flawed immigration system
24

1
2 from tearing families apart, as it is attempting to
3 do with Andreas and his family. Thank you.

4 CHAIRPERSON MENCHACA: Thank you to both
5 of you for testimony and your examples of families
6 that are being affected. These stories continue to
7 leave the impression of urgency that is needed. And
8 in my final remarks as we close this hearing, and
9 again, thank you for being here and being on this
10 final panel. We've now over three hours have been
11 speaking to the two bills that are now introduced and
12 through community testimony, organizations, the
13 Administration, I think it's more and more clear that
14 this is something that we need to move forward. The
15 new bills for both NYPD and the Department of
16 Corrections offer us a more simple bill, but continue
17 to road the injustices of ICE that ICE has wrought on
18 our cities, on our municipalities. What I'm also very
19 excited is about the actual removal of ICE from
20 Rikers, and that's an important piece to this
21 legislation. As we move forward and talk to the
22 Administration about some of the questions, we want
23 to remain resolved that we really decrease the
24 presence, the ICE presence in our communities. And
25 so all the questions that were asked today, all the

1 still kind of lingering issues we will continue to
2 maintain, and what we do know that, and this is what
3 I'm feeling directly in my own district in Sunset
4 Park, when we think about our relationship, our
5 community's relationship with NYPD, these things
6 begin to offer different, a different ecosystem of
7 experience for our immigrant communities. And at a
8 time right now that is high pressure, high stakes,
9 and each of these pieces, and I brought up Municipal
10 ID cards, I brought up the New York Immigrant Family
11 Unity Project, we, this council yet again was
12 committed to legal representation for unaccompanied
13 minors. These are all pieces to the whole puzzle,
14 and this is just one of them. And so we're going to
15 continue to come back with fierce activity that is in
16 so many ways brought from our residents, but also our
17 organizations, our legal services providers, our
18 coalitions that have formed around this, and so I
19 want to thank you all for staying with us throughout
20 this conversation. Thank you for being the last
21 panel. Thank you for those who went through the
22 cacophony of noise through the construction that was
23 happening, and we're going to continue to move
24 forward and move expeditiously. Thank you so much,
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1
2 and again, thank you for the staff, Jennifer Montalvo
3 and Katalina Cruz [sp?], and all the staff that have
4 made this possible today. And I now adjourn this
5 hearing.

6 [gavel]

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C E R T I F I C A T E

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



Date October 21, 2014