

December 1, 2016

Hon. Melissa Mark-Viverito
Speaker, New York City Council
250 Broadway, Suite 1856
New York, NY 10007

Dear Speaker Mark-Viverito:

As immigration legal services, juvenile justice, and criminal defense providers and advocates, we stand ready to assist the New York City Council in its efforts to protect the rights and well-being of immigrants in our City. The multi-disciplinary staff in our immigration practices, funded in part by the Council's visionary New York Immigrant Family Unity Project (NYIFUP), as well as the Unaccompanied Minor Children (UMC) and Adults with Children (AWC) initiatives, will zealously fight any and all efforts to remove our fellow New Yorkers from their families, communities and country.

One way the City can reduce the likelihood of Immigration and Customs Enforcement (ICE) arrests, detention and deportation is to minimize immigrant New Yorkers' contact with the criminal and juvenile justice systems. Specifically, as the Council continues to negotiate the implementation of the Criminal Justice Reform Act with the New York Police Department (NYPD), it is critical to bear in mind that an arrest even for the lowest-level violation can lead to deportation, broken families and broken communities. Under the Priority Enforcement Program (PEP-Comm), a federal mass-deportation regime, all fingerprints taken by the NYPD are automatically provided to the FBI and ICE. The NYPD's high-arrest policies thus effectively provide the federal government with ready-made lists of thousands of immigrant New Yorkers whose humanity, family and community ties, and even lawful residency can be undermined simply because they bear the label of "criminal" for the most paltry alleged offenses. ICE collects information gathered through arrests regardless of whether the District Attorney declines to prosecute a case, a case is still pending so has no final resolution, all the charges are dismissed, or a case results in a non-criminal violation.

The President-elect has committed to vastly expanding existing deportation efforts, likely targeting those who have been arrested, even for non-criminal violations. In an interview with 60 Minutes on November 13th, he estimated that his mass deportation regime would sweep up between two and three million people with criminal records.¹ Senior officials in his transition team later clarified that mere arrests, regardless of findings of innocence or case dismissals, would trigger deportation actions.² **For this reason, among others many of our organizations have cited in the past, civil summonses are the preferred enforcement action, where any such action is necessary. (Of course, this holds true for immigrants and non-immigrants alike.)**

¹ <http://www.cbsnews.com/news/60-minutes-donald-trump-family-melania-ivanka-lesley-stahl/>

² <http://www.latimes.com/politics/la-na-pol-trump-immigration-criminals-20161114-story.html>

Our clients are terrified that they and their loved ones might be jailed and ultimately banished from the country that is their home. For many, the only source of hope in their lives at this time may be that they live in New York City, where the Council has passed legislation to restrict the circumstances in which the City will honor a detainer request by ICE. Unfortunately, ICE continues to arrest immigrant New Yorkers in their homes, in their communities, in homeless shelters, in the workplace, and in the courthouses. ICE particularly targets non-citizens with an arrest history, including people with open pending criminal cases or cases that resulted in a low-level disposition or violation. As a result, arrests for being in the park after dark, for possessing an open container of alcohol, or for other harmless activities, which are largely permitted in more affluent neighborhoods, essentially flag vulnerable New Yorkers for priority enforcement by ICE. If the President-elect ultimately implements the policies that he has promised, New York City must stand up and resist—not be complicit.

Other critical ways New York City can fight back against mass deportations, particularly in the likely event of substantially increased deportation proceedings, are by preserving and increasing funding for NYIFUP and the UMC and AWC initiatives. Our preliminary analysis of NYIFUP data suggests that having an attorney increases the likelihood of being able to remain in one's home and community *by a factor of ten*.

We share the Council's belief that all New Yorkers—and all Americans—benefit when our diverse communities can thrive together. As you have noted, immigrants, regardless of their status, are the backbone of our City, our culture and our economy. New York City—the superlative arts, cuisine, mom-and-pop businesses and street life that draw visitors from around the world—is as defined by newcomers as it is by the successive waves of immigrants that came before us. We must celebrate this unique gift, but we also must protect it. Making everyone feel welcome in our communities is essential to their safety and ours. Existing high-arrest policies undermine all of these benefits and threaten the health and safety of our City. They must be curtailed, now more than ever.

Thank you for your consideration. We look forward to continuing to work with you on these and other matters in the months and years ahead.

Sincerely,

Andrea Sáenz and Nyasa Hickey, Supervising Attorneys, Immigration Practice, Brooklyn Defender Services

Maria E. Navarro, Acting Attorney-in-Charge, Immigration Law Unit, The Legal Aid Society

Jennifer Friedman, Director of Immigration Practice, The Bronx Defenders

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Anne Pilsbury, Director, Central American Legal Assistance

Eve Stotland, The Door's Legal Services Center

C. Mario Russell, Director, Division of Immigrant & Refugee Services, Catholic Charities Community Services.

CC: Nisha Agarwal, Commissioner, Mayor's Office of Immigrant Affairs