

Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
COMMITTEE REPORT
1350 Pennsylvania Avenue, N.W., Washington, DC 20004

To: Members of the Council of the District of Columbia

From: Councilmember Charles Allen *CA*
Chairperson, Committee on the Judiciary and Public Safety

Date: November 23, 2020

Subject: Report on B23-0501, the “Sanctuary Values Amendment Act of 2020”

The Committee on the Judiciary and Public Safety, to which Bill 23-0501, the “Sanctuary Values Amendment Act of 2020”, was referred, reports favorably thereon and recommends approval by the Council of the District of Columbia.

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STATEMENT OF PURPOSE AND EFFECT

I. Purpose and Effect

Bill 23-0501, the “Sanctuary Values Amendment Act of 2020,” was introduced on October 9, 2019, by Committee Chairperson Allen, Councilmembers Mary M. Cheh, Jack Evans, Vincent Gray, David Grosso, Kenyan McDuffie, Brianne K. Nadeau, Elissa Silverman, Robert C. White, Jr., Trayon White, Sr., and Chairman Phil Mendelson. The bill was referred to the Committee on the Judiciary and Public Safety on October 22, 2019. On October 9, 2019, Committee Chairperson Allen also introduced the “Sanctuary Values Emergency Amendment Act of 2019”, which was passed unanimously by the Council. On October 23, 2019, the Council passed identical temporary legislation, the “Sanctuary Values Temporary Amendment Act of 2019”. The Committee scheduled a hearing on B23-0501 for March 12, 2020, but had to cancel due to the onset of the COVID-19 pandemic. On September 21, 2020, Chairperson Allen introduced a second round of emergency and temporary legislation, both of which were passed unanimously by the Council. On October 1, 2020, the Committee held a public hearing on the bill.

The purpose of the Committee Print is to clarify and strengthen the District’s policies limiting its interactions with federal immigration agencies. Specifically, the bill prohibits the District from:

- (1) Holding an individual in custody after they would otherwise have been released;
- (2) Providing an office, booth, or any facility or equipment to a federal immigration agency for a search or inquiry about an individual in the District’s custody; and
- (3) Permitting a federal immigration agency to interview an individual in the District’s custody without a judicial order or request by the detained individual and without counsel present or a waiver of such right.

Except with respect to individuals covered by an existing Memorandum of Agreement between the Department of Corrections and the U.S. Marshals Service,¹ the bill also prohibits the District from:

- (1) Providing to any federal immigration agency a space in a District detention facility to house, detain, or hold individuals for civil immigration enforcement purposes;
- (2) Notifying a federal immigration agency of an individual’s date and time of release, location, address, personal identifying information, medical information, photograph, or criminal case information;
- (3) Granting a federal immigration agency access to any District detention facility for the purpose of releasing an individual into federal custody; and
- (4) Releasing an individual for the purpose of transferring the individual into the custody of any federal immigration agency.

¹ Intergovernmental Agreement No. 16-00-0016, which provides the Department of Corrections reimbursement for the care and custody of federal inmates.

The bill also prohibits the District from inquiring into the immigration status of an individual in its custody and implements training and data reporting requirements to ensure compliance and transparency.

Immigrants are valued in the District as neighbors, friends, family, teachers, coworkers, employees, business owners, and elected leaders. In the District, we are also committed to creating safe communities for all residents through innovative, fair, and just approaches to public safety. We refuse to compromise our values to support ineffective policies that over-criminalize those we hold dear and unfairly and disproportionately impact communities of color. Instead of creating an atmosphere of fear, we seek to foster trust between our local law enforcement and our communities, which we know in turn results in safe neighborhoods for all residents. This legislation is a critical part of the District's commonsense and humane immigration policy that respects our values, honors one other, and protects public safety.

II. Committee Reasoning

a. Background

Over the last four years, President Trump has made a more restrictive and punitive approach to immigration one of his chief priorities. As a candidate, President Trump infamously promised to build a wall along the U.S.-Mexico border to reduce crossings by immigrants, and shortly after his election, pledged to deport as many as three million undocumented immigrants with criminal records living in the U.S.² The actions and rhetoric by the Trump administration have sparked protests in many cities, including the District, as well as widespread criticism of Immigration and Customs Enforcement ("ICE") and conversations about whether the agency should even exist.³ In response to the Trump administration, jurisdictions across the country have taken both executive and legislative action to attempt to protect their immigrant residents from federal immigration enforcement. Such jurisdictions have been broadly labeled "sanctuary cities". Though there is no one definition of a "sanctuary city", the term generally means the jurisdiction has implemented a range of policies with the goal of protecting immigrant communities by limiting cooperation with federal immigration agencies.⁴

² *How border apprehensions, ICE arrests and deportations have changed under Trump*, Pew Research Center (March 2, 2020), <https://www.pewresearch.org/fact-tank/2020/03/02/how-border-apprehensions-ice-arrests-and-deportations-have-changed-under-trump/>. The number of interior arrests made by ICE (known as "administrative arrests") rose 30% in Fiscal Year 2017 after President Trump signed an executive order giving the agency broader authority to detain immigrants unauthorized to reside in the United States, including those without criminal records. *Id.*

³ *Supra* note 1. In a September 2019 survey, just 19% of Democrats and Democratic-leaning independents expressed a favorable view of the agency, compared with 70% among Republicans and GOP leaners. ICE was the only federal department or agency – out of 16 asked about in the survey – viewed more negatively than positively by the public (54% unfavorable view vs. 42% favorable). *Id.*

⁴ *Sanctuary Policies: An Overview*, American Immigration Council (Oct. 21, 2020), <https://www.americanimmigrationcouncil.org/research/sanctuary-policies-overview>. There is no legal standard or definition of the term, "sanctuary city". *Id.*

b. *District Values*

At the Committee's hearing on B23-0509, the Committee heard from witnesses who were immigrants themselves, many of whom came to the District to seek higher education, work opportunities, or safety from violence in their home countries. For example, one witness testified that he immigrated from El Salvador at the age of 15 to escape gang violence.⁵ Another testified that she came to the District at the age of 19 because she did not have the opportunity to succeed in her country of origin, and she is now enrolled at the University of the District of Columbia.⁶ Yet another witness testified that he moved here from El Salvador to attend college and is now pursuing an advanced degree and volunteering in his community.⁷

A consistent theme throughout the testimony was the constant fear that immigrant residents experience in the District when in proximity to public safety officials, particularly police officers. Witness after witness, both documented and undocumented, spoke about the fear they feel about being detained and deported when they interact with the police in the District. For example, one witness testified about an accident he had on his bicycle, fearing that the driver of the car who hit him would call the police.⁸ A witness submitted testimony that she was afraid to speak Spanish near police officers, even though she is documented, for fear they would think she was undocumented and transfer her to ICE.⁹ A young witness, a DACA recipient and University of the District of Columbia student, testified that she knows well the feeling of not feeling safe in your own home and feeling fear when you see the police.¹⁰ A teenage witness testified that she will "never trust the police" as a result of the fear her community experiences.¹¹ She stated that she lives in constant fear that the police will hurt her parents, who are not citizens.¹² And one spoke about her experience as the victim of a crime, stating that she was too scared to call the police because she thought they would ask her for her immigration status.¹³

As this testimony demonstrates, immigrant communities in the District fear and avoid interactions with the police because they believe the police will enforce immigration policies and potentially detain or deport someone they love. It is well-recognized in many jurisdictions that implement sanctuary policies that such an atmosphere of fear actually harms public safety overall. Witnesses at the hearing reinforced this idea. As the Office of the Attorney General ("OAG") testified, immigrants are much less likely to report crime or cooperate with law enforcement in criminal investigations when they fear immigration consequences could result from their contact with local law enforcement.¹⁴ OAG noted that, as a result, crimes like sexual assault, domestic violence, and human trafficking can proliferate and be more difficult to prosecute.¹⁵ Kelly White,

⁵ Committee on the Judiciary and Public Safety, *Public Hearing on B23-0501, the "Sanctuary Values Amendment Act of 2020"* (Oct. 1, 2020), https://dc.granicus.com/MediaPlayer.php?view_id=2&clip_id=5706.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* (testimony of Aurélie Mathieu, Assistant Attorney General, Office of the Attorney General for the District of Columbia).

¹⁵ *Id.*

representing the Capital Area Immigrants' Rights Coalition, concurred, submitting testimony that it is a "myth" that we are safer when a domestic violence victim does not report her abuser because she is afraid she will be deported.¹⁶ Instead, having clear policies in place that prohibit the cooperation between local law enforcement and federal immigration authorities can reverse fear, rebuild trust, and improve public safety outcomes.

In addition, in the midst of the devastating COVID-19 pandemic, the District must consider the public health consequences of allowing cooperation with federal immigration agencies. Witnesses at the hearing noted that detention of any kind during a pandemic exacerbates the public health crisis and puts lives at risk. OAG stated that immigrant communities are some of the hardest-hit communities by the public health crisis; however, when they fear interaction with the government, immigrants may be reluctant to seek out healthcare when they are sick.¹⁷ Several other witnesses also mentioned the pandemic and the effects of ICE transfer on public health. Katya Semyonova, representing the Public Defender Service, testified that the already existent negative health consequences have been exacerbated by the pandemic, and she noted that ICE detention centers have become virus hotspots.¹⁸ Transferring District residents to ICE could endanger their lives by exposing them to inhumane conditions where COVID-19 is flourishing.¹⁹ Therefore, limiting cooperation with federal immigration agencies can not only enhance public safety, but also protect public health.

Other witnesses spoke about the negative impacts the fear of and experience of detention and deportation has on District residents. JoLeah Stiles Gorman, a therapist at Mary's Center, submitted testimony about how she has seen deportation rip families apart, and leave individuals, particularly children, severely emotionally and mentally harmed.²⁰ Dr. Kate Sugarman, with Unity Health Care, testified about the lifelong mental and physical damages to children when they experience the deportation of a family member, as well as the significant trauma experienced by adults.²¹ She cited one patient who has long-term crippling anxiety and headaches after the deportation of her husband.²² Jessica Lee, with the D.C. Schools Project at the Georgetown Center for Social Justice, testified that she has witnessed second and third graders asking their teachers if they or their parents are going to be deported.²³ She noted, rightly, that children should be concerned with "kid stuff" at this age, not whether they are going to be detained and deported.²⁴ She also stated that school attendance rates among English learners have decreased since President Trump was elected – students are afraid to go to school because they fear deportation.²⁵ Ina Padua, a workers' rights advocate, spoke about how the fear of deportation also makes immigrant workers more vulnerable to labor law violations and abuse.²⁶ Workers do not report wage theft, sexual

¹⁶ *Id.* (testimony of Kelly White, Senior Director, Detained Adults Program, Capital Area Immigrants' Rights Coalition).

¹⁷ *Id.*

¹⁸ *Id.* (testimony of Katya Semyonova, Special Counsel to the Director for Policy, Public Defender Service for the District of Columbia).

¹⁹ *Id.*

²⁰ *Id.* (testimony of JoLeah Stiles Gorman, Public Witness).

²¹ *Id.* (testimony of Dr. Kate Sugarman, Physician, Unity Health Care).

²² *Id.*

²³ *Id.* (testimony of Jessica Lee, D.C. Schools Project, Georgetown Center for Social Justice).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* (testimony of Ina Padua, Public Witness).

harassment, and violations of paid leave policies for fear their employers will report their immigration status and they will be deported.²⁷

Here in the District, we believe that immigrants are an integral part of the District's diverse and thriving communities. We believe that families belong together. As a disenfranchised city, we believe our vulnerable residents should be protected. We believe that residents should feel safe and not live in fear of their own government. We recognize the humanity of all those who call the District home. We also believe that, as Ms. Hernandez testified, no one deserves to be imprisoned for seeking a better life.²⁸ As the nation's capital, the District should set an example for the rest of the country by building diverse communities, not over-policing them, and living our values through our laws.

c. Other Jurisdictions

Over the last several years, an increasing number of states, counties, and cities have adopted sanctuary policies, falling into the following categories:

- Policies restricting the ability of state and local police to make arrests for federal immigration violations, or to detain individuals on civil immigration warrants;
- Policies prohibiting "287(g)" agreements through which ICE deputizes local law enforcement officers to enforce federal immigration law;
- Policies that prevent local governments from entering into a contract with the federal government to hold immigrants in detention;
- Policies preventing immigration detention centers;
- Policies restricting the police or other city workers from asking about immigration status;
- Policies restricting the sharing of certain information about immigrants with the federal government;
- Policies restricting local police responses to federal immigration detainers; and
- Policies refusing to allow ICE into local jails without a judicial warrant.²⁹

The common thread of these policies is limiting local law enforcement's ability to cooperate with federal immigration authorities. Below is a table of numerous jurisdictions with such policies:

²⁷ *Id.*

²⁸ *Id.* (testimony of Pamela Hernandez, Public Witness).

²⁹ *Supra* note 4.

Table 1: Jurisdictions with “Sanctuary” Policies

Jurisdiction	Legislation Enacted or Action Taken	Year	Prohibits honoring I.C.E. detainer requests, civil immigration warrants, or notice of release?	Prohibits I.C.E. Interviews?	Other Effects	Complies with 8 U.S.C. § 1373?
Oregon	ORS § 181A.820	1987	No	No	Prohibits state law enforcement from arresting solely for immigration violation.	Yes
Washington State	SB 5165	2020	N/A	N/A	Adds citizenship and immigration status as protected categories to state anti-discrimination bills.	N/A
Washington State	SB 5497	2019	Yes	Yes	Mandates creation of model policies to limit immigration enforcement by state agencies; Prohibits inquiry into person’s immigration status.	Yes
Illinois	TRUST Act	2017	Yes	No	Prohibits inquiry into a person’s immigration status.	Yes
Connecticut	TRUST Act	2019	Yes	Yes	Prohibits law enforcement from performing any formal or informal function of a federal immigration authority.	Yes
Rhode Island	Executive Order	2014	No. Will not honor detainer request absent a warrant, but does not prohibit giving notice.	No	Rhode Island agencies, including the Department of Corrections, shall not detain someone solely on the basis of an I.C.E. detainer request.	Yes
Vermont	S. 79	2017	No	No	Prohibits sharing of identifying information including a person’s immigration status with Federal Agencies.	Yes. States that they must still share information to the extent required by law.
Colorado	Law Suit	2014	No. Counties may still give notice to I.C.E.	No.	Most counties do not honor I.C.E. detainer requests after a 2014 law suit.	Yes
New Mexico	Law Suit	2014	Yes	No	Most counties do not honor I.C.E. detainer requests after a 2014 law suit.	Yes
Massachusetts	Law Suit	2017	No. Still allows notice.	No	High Court in Massachusetts ruled ICE. detainer requests are illegal.	Yes
New York	Green Light Act	2019	No	No	Allows undocumented immigrants to get full driver’s licenses (not just provisional ones); Prohibited state DMV from sharing any information with federal immigration authorities without a warrant	No

California	California VALUES Act	2017	Yes, with exceptions for violent offenders.	No	Prohibits inquiry into a person's immigration status; Mandates creation of model policies to limit immigration enforcement by state agencies.	Yes
California	Cal Gov Code § 7285.1	2017	N/A	N/A	Requires a warrant for ICE. to access non-public parts of a workplace (employer cannot give consent); Enforced with fines.	N/A
California	Cal Gov Code § 12532	2017	N/A	N/A	Mandates AG to review conditions of all detention facilities for civil immigration violations.	N/A
Denver, Colorado	Denver Code 28-250	2017	No. Still allows notification of a person's release, but requires advising a person in custody that law enforcement have received a notification request.	Yes	Prohibits any city employees from assisting in immigration enforcement; Prohibits city officials from inquiring about a person's immigration status.	Yes
Seattle, Washington	Ordinance 121063;	2003	No.	No.	Prohibits city employees from inquiring about immigration status (with broad exceptions).	Yes
New York, New York	486-A and 487-A	2014	Yes, but exceptions for violent offenders or known gang members.	No.	Removes ICE presence from Rikers Island.	Yes
New York, New York	Executive Order No. 41	2003	N/A	N/A	City employees may not transmit confidential information, including immigration status, w/o person's permission; May not inquire about person's status.	No
San Francisco, California	SAC. 12-H.2	1989	N/A	N/A	Prohibits using funds or resources to assist ICE unless required by law.	Yes
San Francisco, California	SAC. 12-I	2013	Yes.	No.		Yes
Santa Clara County, California	Res. No. 2011-504	2011	Yes, with exceptions for violent offenders	Yes		Yes
Philadelphia, Pennsylvania	Ex. Order 5-16	2016	Yes.	Yes. (Separate policy requires this)		Yes
Philadelphia, Pennsylvania	Memorandum 01-06	2001	N/A	N/A	Restricts transmission of immigration status to federal immigration authorities.	No

	(Police Policy)					
Chicago, Illinois	Welcoming City Ordinance	2016	Yes, with exceptions for known gang members or violent offenders.	Yes		Yes. Restricts communication with I.C.E. except as required by federal law.

d. *Legality of Sanctuary Policies*

The Trump administration argues that sanctuary policies violate federal law, and has attempted to punish jurisdictions that implement such policies. In 2017 and 2018, the Department of Justice sent letters to a number of cities and counties with sanctuary laws, threatening to withhold criminal justice grants unless the jurisdictions complied with 8 U.S.C. § 1373, a federal statute that prohibits state and local governments from enacting policies that limit communication about “information regarding the immigration or citizenship status” of individuals with the Department of Homeland Security.³⁰ Several jurisdictions, including Santa Clara County and the City and County of San Francisco,³¹ Oregon and Portland,³² Chicago,³³ Philadelphia,³⁴ Seattle,³⁵ and New York City, New York State, and Connecticut³⁶ responded by filing lawsuits against President Trump and the Department of Justice for improperly and illegally placing these conditions on federal funds.

In October 2018, U.S. District Court Judge William Orrick issued a nationwide permanent injunction halting the stripping of federal funding from sanctuary jurisdictions.³⁷ The Court held found that Section 1373 is unconstitutional because the statute makes local and state governments enforce federal laws, which violates the separation of powers principles enshrined in the Tenth Amendment.³⁸ In making his ruling, the Court also found that the city and state presented credible evidence to support their position that sanctuary policies limiting cooperation with immigration authorities enhance public safety.³⁹ The ruling ordered the Department of Justice to immediately release grant funds to the state of California and city of San Francisco.⁴⁰ In June 2018, a judge found that Philadelphia’s sanctuary laws do not conflict with Section 1373, which does not require

³⁰ *Id.*

³¹ Consolidated in *City & Cty. of S.F. v. Trump*, 897 F.3d 1225 (9th Cir. 2018).

³² *Oregon v. Trump*, 406 F. Supp. 3d 940 (D. Or. 2019).

³³ *City of Chi. v. Sessions*, 888 F.3d 272 (7th Cir. 2018).

³⁴ *City of Phila. v. AG of the United States*, 916 F.3d 276 (3d Cir. 2019).

³⁵ *City of Seattle v. Trump*, No. 17-497-RAJ, 2017 U.S. Dist. LEXIS 173376 (W.D. Wash. Oct. 19, 2017).

³⁶ *New York v. United States DOJ*, 951 F.3d 84 (2d Cir. 2020).

³⁷ *City & Cty. of S.F. v. Trump*, 897 F.3d 1225 (9th Cir. 2018).

³⁸ *Id.*

³⁹ *City & Cty. of S.F. v. Sessions*, 17-cv-04642-WHO, (N.D. Cal. Oct. 5, 2018),

<https://www.courthousenews.com/wp-content/uploads/2018/10/sanctuary-city-grants-ruling.pdf>.

⁴⁰ *Id.*

local law enforcement to cooperate with federal enforcement.⁴¹ In July 2018, a federal judge in Chicago similarly held that Section 1373 is unconstitutional.⁴²

In February 2019, the Third Circuit rejected an appeal by the Trump administration and affirmed the lower court's decision that the Department of Justice could not withhold funds from Philadelphia based on its sanctuary policies.⁴³ In February 2020, the U.S. Court of Appeals for Second Circuit became the first federal court of appeals to rule in favor of the federal government, holding that the Department could place conditions on federal funding.⁴⁴ In March 2020, the First Circuit affirmed the lower court's holding that the Department had exceeded its authority in withholding grants from Providence, Rhode Island, and other cities that limit their cooperation with federal immigration agencies.⁴⁵ In April 2020, the U.S. Court of Appeals for the Seventh Circuit upheld a nationwide injunction and held that the Department cannot pursue the Executive's policy objectives through the power of the purse or the arm of local law enforcement.⁴⁶ The opinion noted that states do not forfeit autonomy over their police power merely by accepting federal grants.⁴⁷ In July 2020, the U.S. Court of Appeals for the Ninth Circuit ruled that DOJ cannot withhold federal grant money from California sanctuary cities.⁴⁸

To date, the vast majority of circuits have ruled in favor of sanctuary cities, finding that policies limiting cooperation with federal immigration enforcement do not violate federal law. In sum, Section 1373 does not: (1) prohibit jurisdictions from limiting communication regarding criminal case information, custody status, or release dates of individuals in custody; (2) mandate that jurisdictions comply with immigration detainer requests; (3) prohibit jurisdictions from restricting compliance with detainer requests; (4) or require local law enforcement to collect information on immigration or citizenship status.⁴⁹

⁴¹ Jeff Gammage and Anya van Wagtenonk, *Judge rules for Philadelphia in 'Sanctuary City' case*, PHILA. INQUIRER (June 6, 2018), <https://www.inquirer.com/philly/news/sanctuary-city-judge-rules-for-philadelphia-trump-undocumented-immigrants-20180606.html>.

⁴² Tal Kopan, *Judge strikes down law underpinning Sessions' anti-sanctuary city push*, CNN (July 27, 2018), https://www.cnn.com/2018/07/27/politics/trump-sessions-defeat-sanctuary-cities/index.html?utm_term=image&utm_source=twCNNp&utm_content=2018-07-28T00%3A34%3A03&utm_medium=social.

⁴³ *City of Phila. v. Atty. Gen. of the U.S.*, 18-2628 (E.D. Pa. February 15, 2019), <https://www.courthousenews.com/wp-content/uploads/2019/02/philly-sanctuary.pdf>. However, the court ruled that reversed the lower court's decision in part, ruling that it was an abuse of discretion to require the government to get a judicial warrant to transfer an undocumented immigrant to federal custody. *Id.*

⁴⁴ *2nd Circuit Rules Against Cities and States in Sanctuary Jurisdictions Case*, National Conference of State Legislatures (Feb. 27, 2020), <https://www.ncsl.org/blog/2020/02/27/2nd-circuit-rules-against-cities-and-states-in-sanctuary-jurisdictions-case.aspx>.

⁴⁵ *City of Prov. et al. v. Barr*, 19-1802, (1st Cir. 2020), <https://www.courthousenews.com/wp-content/uploads/2020/03/sanctuarycitygrants.pdf>.

⁴⁶ *City of Chicago v. Barr*, 19-3290 (7th Cir. 2020), <https://law.justia.com/cases/federal/appellate-courts/ca7/19-3290/19-3290-2020-04-30.html>.

⁴⁷ *Id.*

⁴⁸ Cassie Maas, *Ninth Circuit rules DOJ cannot withhold federal grants from California 'sanctuary cities'*, JURIST (July 15, 2020), <https://www.jurist.org/news/2020/07/ninth-circuit-rules-doj-cannot-withhold-federal-grants-from-california-sanctuary-cities/>.

⁴⁹ *Supra* note 4.

In addition, local and District courts have repeatedly upheld that compliance with detainer requests are voluntary, and that local law enforcement has no obligation to respond.⁵⁰ In fact, as a result of civil lawsuits claiming unreasonable search and seizure, courts have ruled that ICE detainers violate the Fourth and Fifth Amendments. Jurisdictions that comply with such requests may be held liable and be required to compensate individuals for damages.⁵¹

e. *District Law and Practice*

In 2011, Mayor Vincent Gray issued Mayor's Order 2011-174 to "establish District-wide policies and procedures concerning the disclosure of immigration status" and "to ensure that District resources [were] not used for federal immigration enforcement activities".⁵² The Mayor's Order prohibited public safety agencies from inquiring into a person's immigration status or contacting federal immigration officers for the purpose of initiating civil immigration enforcement proceedings "that have no nexus to a criminal investigation".⁵³ The Order further prohibited detaining someone solely for a civil immigration infraction.⁵⁴ It also prohibited the Department of Corrections ("DOC") from allowing federal immigration officials to interview residents in its custody about their immigration status without a court order, unless there was some nexus to a criminal investigation.⁵⁵ In accordance with the Mayor's Order, the Metropolitan Police Department ("MPD") issued General Order 201.26, which included a prohibition against inquiring into any person's immigration status.⁵⁶

Subsequently, in 2012, the Council passed the "Immigration Detainer Compliance Amendment Act of 2012", which limited the circumstances under which DOC could comply with an immigration detainer request from ICE.⁵⁷ While the bill made certain restrictions, it allowed DOC to comply with detainer requests by holding incarcerated individuals for an additional 24-hour period after they otherwise would have been released from DOC custody.⁵⁸ Additionally, the bill prohibited the District from providing ICE with space, facilities, or equipment to make a search or inquiry about inmates or interview an inmate without the inmate having the opportunity to have counsel present.⁵⁹

⁵⁰ *Galarza v. Szalczyk*, 745 F.3d 634, 641 (3d Cir. 2014) (local law enforcement agencies are free to disregard detainers and cannot use them as a defense of unlawful detention); *Morales v. Chadbourne*, 996 F. Supp. 2d 19, 40 (D.R.I. 2014), *aff'd in part, dismissed in part*, 793 F.3d 208 (1st Cir. 2015) ("The language of both the regulations and case law persuade the Court that detainers are not mandatory and the RIDOC should not have reasonably concluded as such."); *Villars v. Kubiowski*, 45 F.Supp.3d 791, 802 (N.D. Ill. 2014) (federal courts and all relevant federal agencies and departments consider ICE detainers to be requests).

⁵¹ *Galarza v. Szalczyk*, 745 F.3d 634, 641 (3d Cir. 2014) (a federal detainer does not shield municipalities from liability – and when a municipality holds an inmate without probable cause to support the detainer, the municipality is liable for damages); *Jimenez Moreno et al v. Napolitano et al*, 11-cv-05452 (N.D. Ill.) (ruling that detainers exceed the government's limited warrantless arrest authority under immigration laws).

⁵² Mayor's Order 2011-174, <https://cdn.cnsnews.com/documents/Mayor's%20Order%202011-174.pdf>.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ MPD General Order 206.26 at Part V.A., 11, "Duties, Responsibilities and Conduct of Members of the Department" (April 5, 2011), https://go.mpdconline.com/GO/GO_201_26.pdf.

⁵⁷ B19-0585, the "Immigration Detainer Compliance Amendment Act of 2011", <https://lims.dccouncil.us/Legislation/B19-0585>.

⁵⁸ *Id.*

⁵⁹ *Id.*

In July 2019, prior to the Council’s passage of the emergency version of this bill, Director Booth, in response to a correspondence from Chairperson Allen, reported that DOC did not hold individuals past their release dates for ICE pick-up, although the law allowed it. He reported that DOC’s practice was, however, to provide ICE with a person’s release date and time so that ICE could take custody of an individual as the individual was released from DOC custody. According to the *Washington City Paper*, DOC processed over 40 of such “pick-ups” from its facilities between January 2016 and June 2019.⁶⁰ The article confirmed that DOC policy was to allow ICE to pick up incarcerated individuals from DOC facilities on the day the individual is scheduled to be released.⁶¹ This article sparked engagement from the community and demands for changes to DOC’s policies of cooperating with ICE, contributing to the Council’s passage of the emergency and temporary versions of this legislation.

f. *Committee Print*

The Committee Print limits the District’s cooperation with federal immigration agencies in several ways. Importantly, the Print requires a federal immigration agency to have a judicial warrant or order (not merely a detainer request) issued by a federal judge (not an administrative judge) authorizing the agency to take an individual into custody. Unless there exists such a judicial warrant or order, the Print prohibits the District from holding an individual in custody after that individual would have otherwise been released. This is a significant change from the current law, which allows the District to comply with detainer requests from immigration agencies and hold an individual for an additional 24-hour period after they otherwise would have been released in response to a detainer request.⁶² As noted above, since the District passed its current permanent law, numerous courts have held that detainer requests without judicial warrants constitute unlawful search and seizure, and jurisdictions may be held liable if they comply.

In addition, the Print strengthens protections for individuals held in custody by prohibiting the District from allowing an immigration agency to interview an individual in the District’s custody unless the immigration agency presents a judicial warrant authorizing the interview or the interview is requested by the individual. The individual must also have counsel present or have knowingly, intelligently, and voluntarily declined to have counsel present. At the hearing, Katya Semyonova testified that the inclusion of a mere waiver in the emergency version of the legislation does not provide sufficient protection for vulnerable, detained individuals, who usually have no legal training, may have limited education, and not have received advice from an immigration attorney.⁶³ She suggested that the permanent legislation require that an immigration agency have a judicial order authorizing an interview, as well as require that an individual give clear and

⁶⁰ Will Lennon, *D.C.’s Department of Corrections Has Processed Over 40 ‘ICE Pick-Ups’ From Its Facilities Since 2016*, WASH. CITY PAPER (Aug. 23, 2019), <https://washingtoncitypaper.com/article/178824/dcs-department-of-corrections-has-processed-over-40-ice-pickups-from-its-facilities-since-2016/>.

⁶¹ *Id.*

⁶² The Print allows the exception for when an individual has been provided the option of remaining within DOC until release at 7 a.m. when the individual’s release time is between 10 p.m. and 7 a.m., which is current law, pursuant to D.C. Code § 24–211.02a. In this instance, DOC must obtain a written waiver stating that the individual has decided to remain in DOC custody for the additional hours.

⁶³ *Supra* note 5 (testimony of Katya Semyonova, Special Counsel to the Director for Policy, Public Defender Service for the District of Columbia), https://dc.granicus.com/MediaPlayer.php?view_id=2&clip_id=5706.

unambiguous waiver of counsel if the individual does not want an attorney present at the interview.⁶⁴ Farah Khan, a public witness, also testified about the importance of requiring counsel present or a clear waiver of counsel at these interviews.⁶⁵

The Print also includes several prohibitions that are excepted by Intergovernmental Agreement No. 16-00-0016 (“IGA”), which is an agreement between DOC and the U.S. Marshals Service. DOC Director Booth explained at the hearing that the agreement reimburses DOC for the care and custody of federal pre-trial detainees and individuals convicted short-term for felonies.⁶⁶ He noted that, as a result of the agreement, DOC must comply with certain conditions.⁶⁷ The District receives approximately \$22 million dollars annually through the agreement, and the funds are used to cover the cost of all personnel that staff the Correctional Treatment Facility and a portion of DOC’s healthcare costs.⁶⁸ The Print therefore exempts the populations covered by this pending contractual agreement for purposes of several of the prohibitions, although the Committee will continue to encourage the Executive to identify funds to allow it to terminate the IGA. However, the Print makes clear that the exceptions apply only to the class of individuals detained under this agreement - individuals awaiting trial, awaiting sentencing, or serving a sentence for a federal charge.

The Committee Print prohibits the District, except with respect to the IGA, from (1) providing a federal immigration agency a space to house, detain, or hold individuals for civil immigration enforcement purposes, (2) providing an individual’s date and time of release, location, address, personal identifying information, medical information, photograph, or criminal case information, (3) granting access to any District detention facility or place for the purpose of releasing an individual into federal custody, and (4) releasing an individual for the purpose of transferring them into the custody of any federal immigration agency. As discussed above, the Print prohibits DOC’s current practice of communicating release information to ICE when requested so that the agency can pick-up individuals as they are released from DOC custody. The Print also expands prohibited information to include other personal information that could be identifying and used to allow ICE to locate an individual upon release from DOC. The Committee also intends for it to be clear that DOC may not allow immigration enforcement agents into DOC facilities for the purpose of releasing individuals into federal custody, with the exception of the class of individuals discussed within the IGA.

The Print also includes a requirement that the District train employees to comply with the provisions of this legislation. At the hearing, Director Booth testified that DOC has engaged in training of its staff on the emergency legislation’s provisions.⁶⁹ He stated that DOC has ensured compliance with the revised policy by training staff in the Inmate Records Office and in the Release and Discharge Office.⁷⁰ The Committee is heartened to hear this and places this requirement in the Print to ensure training continues. Employee knowledge of the law is vital to compliance with the provisions and the protection of our residents. Other witnesses expressed

⁶⁴ *Id.*

⁶⁵ *Id.* (testimony of Farah Khan, Public Witness).

⁶⁶ *Id.* (testimony of Quincy Booth, Director, Department of Corrections).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

concern that the DOC policy directive to its employees is not clear enough. Katya Semyonova testified that the DOC policy statement does not include clear direction to staff about the new prohibitions on cooperation with ICE – and specifically, the policy is silent on how employees should handle phone calls or inquiries from ICE.⁷¹ The Committee urges DOC to ensure that its policy statements are updated to accurately and comprehensively reflect the changes made in this Print.

Additionally, the Print requires DOC, the Department of Youth Rehabilitation Services, the Department of Behavioral Health, and MPD to send a report to the Mayor and the Council on January 1 of each year providing data relating to the agencies' interactions with federal immigration agencies. At the hearing, numerous witnesses testified about the lack of available data for the public regarding how the District is cooperating with ICE. Zachary Perez testified that District agencies, to promote transparency and accountability, should be required to report release and transfer data, broken down to local and federal charges, the type of information requested, and the result of the request.⁷² Sam Singleton-Freeman also testified about the importance of including reporting requirements, noting that many sanctuary jurisdictions, such as California, have enacted such requirements. The Print requires the report to contain: (1) the number of requests for information or detainer made by a federal immigration agency, a breakdown of whether the requests were made regarding individuals held on local charges or on federal charges, whether the request was accompanied by a judicial warrant, and any action taken by the District agency in response to such a request; (2) the number of individuals released into the custody of a federal immigration agency, the date of each release, and the justification for each release; and (3) the types of information, anonymized and aggregated, the agency shared with federal immigration agencies, and whether it was at the request of a federal immigration agency.

LEGISLATIVE HISTORY

October 9, 2019	B23-0501 is introduced by Chairperson Allen, Councilmembers Cheh, Evans, Gray, Grosso, McDuffie, Nadeau, Silverman, Robert White, Trayon White, and Chairman Mendelson.
October 18, 2019	Notice of Intent to Act on B23-0501 is published in the <i>District of Columbia Register</i> .
October 22, 2019	B23-0501 is referred to the Committee on Judiciary and Public Safety.
March 6, 2020	Notice of Public Oversight Roundtable on B23-0501 is published in the <i>District of Columbia Register</i> .
March 12, 2020	Public Oversight Roundtable on B23-0501 is scheduled to be held by the Committee on the Judiciary and Public Safety but is rescheduled due to the pandemic.

⁷¹ *Id.* (testimony of Katya Semyonova, Special Counsel to the Director for Policy, Public Defender Service for the District of Columbia).

⁷² *Id.* (testimony of Zachary Perez, Law Student, Immigrant Justice Clinic, American University at Washington College of Law).

- August 28, 2020 Notice of Public Hearing on B23-0501 is published in the *District of Columbia Register*.
- October 1, 2020 Public Hearing on B23-0501 is held by the Committee on the Judiciary and Public Safety.
- November 23, 2020 Consideration and vote on B23-0501 by the Committee on the Judiciary and Public Safety.

POSITION OF THE EXECUTIVE

The Committee received testimony at its October 1, 2020 public hearing on B23-0501 from Quincy Booth, Director, Department of Corrections, whose testimony is summarized below:

Quincy Booth – Director, Department of Corrections

Director Booth testified that the Executive is committed to protecting all District residents, regardless of immigration status. He stated that, throughout 2019, DOC worked with the Executive to review its policies regarding immigration detainers and notifications. He noted that DOC is committed to protecting its immigrant population, while also maintaining compliance with the Intergovernmental Agreements with the U.S. Marshals Service and the Bureau of Prisons. These two agreements reimburse DOC for the care and custody of federal pre-trial detainees and individuals convicted short-term for felonies. As a result of these agreements, DOC must meet certain conditions. DOC receives approximately \$22 million dollars through these agreements from USMS and BOP. The funds are used to cover the cost of all personnel that staff CTF and a portion of DOC's healthcare costs.

Director Booth further testified that, prior to October 7, 2019, DOC operated under a policy that allowed for notification and compliance with ICE detainers. These policies have been discontinued under the current policy, as a result of the temporary legislation. DOC's compliance with ICE detainers is limited to only circumstances where DOC receives a directive from USMS or BOP that a federal inmate must be released to ICE. Even in this situation, DOC will not hold the person past their release date – ICE must present at the facility prior to the release process. He noted that in the calendar year 2019, out of 339 inmates, two were transferred to ICE pursuant to an immigration detainer.

Director Booth also stated that DOC has ensured compliance with the revised policy by training staff in the Inmate Records Office and in the Release and Discharge Office. DOC has also disabled the electronic function in their Offender Management System that allows for automatic or manual notification of release to ICE when a detainer request is present.

ADVISORY NEIGHBORHOOD COMMISSION COMMENTS

The Committee did not receive comments from Advisory Neighborhood Commissions.

WITNESS LIST AND HEARING TESTIMONY

On Thursday, October 1, 2020, the Committee on the Judiciary and Public Safety held a public hearing on B23-0501. A video recording of the hearing can be viewed at <https://entertainment.dc.gov/page/demand-2020-a>. The following witnesses testified at the hearing or submitted statements to the Committee:

Public Witnesses

Public Witness

P.W. testified in support of the bill. He stated that he immigrated from El Salvador when he was 15 years old because he was being targeted by gangs. He is undocumented and fears constantly that he will be deported back to El Salvador where he is not safe. He is scared that one day he will be stopped by the police because of the color of his skin and be deported. He has a nine-year-old sister for whom he provides. He then testified about a friend of his who was arrested and held in D.C. Jail. The friend was then transferred to ICE custody where he was held for four months. One day, the friend stopped calling from detention, and P.W. found out that he had been deported back to Honduras. He testified that he misses his friend, and that the broken system is the reason for their separation.

Public Witness

P.W. testified in support of the bill. She stated that she is a DACA recipient and currently attends Georgetown University. She was raised in Arizona, where there is great hostility to undocumented immigrants, but she believes the District is not much different. She grew up fearing every day when her parents went to work that they would not come home. One day, a police car stopped her mom's car, and she knew it would be the last time she saw her mom. She stated that she will never forget that an institution that is supposed to protect her instead criminalized her family. She testified that, after discovering that the District has similar policies, she continues to be terrified.

Austin Rose – Public Witness

Mr. Rose testified in support of the bill. He told his friend's story to illustrate why the Council must pass this bill. In January 2020, the friend was transferred to ICE from D.C. Jail in what Mr. Rose believes to be a violation of the emergency version of this legislation. The friend was in D.C. Jail for D.C. Code misdemeanor charges, and he served a shortened sentence for good behavior. Mr. Rose believes there is no way ICE could have known his friend's release date unless DOC provided this information, given the sentence was shortened. Mr. Rose also testified that the friend was transferred into ICE custody within the D.C. Jail facility, likely violating the emergency legislation's ban on ICE agents entering DOC facilities. He recommended that the permanent version of the bill clarify the provisions prohibiting ICE from accessing DOC facilities. He also recommended that the bill add reporting requirements.

Julie Mao – Deputy Director, Just Futures Law

Ms. Mao testified in support of the bill. As an immigrant and immigration attorney, she knows firsthand how deportations have affected the community. She stated that this bill is the key piece of legislation keeping families safe and together, but is just a first step in addressing the racist criminal legal system. She stated that it is estimated 70% of all ICE arrests happen through local law enforcement, for example, through detainer requests. Ending this collaboration is critical. The District has the highest rate of incarceration in the United States, and the protests of police violence have reminded us that we have work to do.

Ms. Mao then testified about one gap she sees in the legislation – the U.S. Marshal Service agreement, which she believes could be used as “back door” for the District to continue to collaborate with ICE. She suggested that the permanent bill eliminate the blanket exception for the agreement, and instead replace it with a clearly defined exception of the category of people excepted. She believes this will preclude DOC from adding new terms to the agreement unilaterally to get around the bill’s provisions. She also suggested that the Council explore solutions to mitigate transfers to ICE that are occurring at Superior Court through the U.S. Marshals Service.

Paromita Shah – Public Witness

Ms. Shah testified in support of the bill. She recommended that the Council add strong enforcement provisions to the bill. She believes that District agencies continue to not comply with the temporary version of the legislation. She thinks it is critical to have strong monitoring, complaint procedures, and data tracking to ensure the success of the bill. She noted that DOC has not tracked detainees well and continues to construct operational policies that do not reflect the changes in the law.

Ahoefa Ananouko – Policy Associate, ACLU-DC

Ms. Ananouko testified in support of the bill. She stated that the temporary version of this bill was an important first step, and she urged the Council to pass the permanent version. She noted that, although DOC updated its policy in response to the temporary bill, the policy does not clearly state that DOC will stop responding to notification requests, nor does the policy say anything about complying with detainer requests. In addition, the new policy does not direct DOC staff to stop sharing information with ICE. Because of this, she believes it is critically important for the permanent law to be clear.

Alex Taliadoros – Organizing Director, Kalmanovitz Initiative for Labor and the Working Poor

Mr. Taliadoros testified in support of the bill. He stated that more than half of District residents turned over to ICE are turned over through local law enforcement. He stated that this bill should address the biggest outstanding loophole – the USMS at D.C. Superior Court. He testified that, currently, undocumented people are brought to the courthouse for court appearances and then are transferred to ICE by the USMS. In fact, ICE has increasingly relied on the USMS to cooperate.

Though our court system is a hybrid federal and local system, he believes we do have some control over parts of this problem. He suggested that there are creative solutions, such as allowing undocumented people appear at court by video. He also noted that we should continue to pursue policing reform measures that reduce the number of people arrested in the first place.

P.W. – Public Witness

P.W. testified in support of the bill. She stated that she is undocumented. She noted that she has seen how the police have treated vendors who just want to bring food to the table for their kids. She noted that she is scared of interactions with the police. She has a daughter who was born here, but she is a single mom. If she gets deported, there is no one to take care of her daughter. She stated that everyone deserves to be with their children.

P.W. – Public Witness

P.W. testified in support of the bill. She is twelve and is a citizen, but her parents are not citizens. She stated that she goes out to vend with her parents, selling tacos, tamales, and other food. The money they make from vending helps pay the rent and buy them food. Since the pandemic, it has been difficult to make a living. She then described the experience of another young vendor who had a traumatic experience with the police. She said she will never trust the police because of everything she has seen and heard in her community. She testified that she fears that the police will hurt her parents, and this terrifies her.

P.W. – Public Witness

P.W. testified in support of the bill. She is a vendor in the District. She and other vendors have been mistreated by the police. She said police chase them, they do not give warnings, and they give them expensive tickets. She stated that things must change.

Megan Macaraeg – Worker Organizer, Many Languages One Voice

Ms. Macaraeg testified in support of the bill. She thanked all of the other witnesses for sharing their experiences and for overcoming technical barriers to testify. She testified that this is personal because her children almost lost their father to deportation when she was living in another state. She knew it could happen, but it felt like the bottom fell out of her life when it did happen. Not being a sanctuary city trickles down into everyday life for people. She has seen friends shake with fear when police drive past. She notes that we can only imagine how this makes people feel.

Rev. Peter Jarrett-Schell – Public Witness

Rev. Jarret-Schell testified in support of the bill. He stated that he supports passing a permanent bill that includes the strongest possible provisions. He noted that his faith teaches we have a responsibility to care for each other. He further noted that Jesus was criminalized and killed for it. He also testified that ICE is unaccountable and brutal and has shown they will break even their own policies to pursue detentions. He noted that the District is a disenfranchised city, and, as such, we should have empathy for disenfranchised members of our community.

Rev. Rob Keithan – Public Witness

Rev. Keithan testified in support of the bill. He talked about the mental and spiritual challenge of living in constant fear of your own government. He believes that the collaboration between local law enforcement and ICE is unconscionable. He stated that our city can and must do better – we should be a leader in building diverse communities not policing them.

Rev. Sharon Stanley-Rea – Public Witness

Rev. Stanley-Rea testified in support of the bill. She believes it is an urgent moment for the District to step boldly into the moral space of being a sanctuary city. She stated that punitive policies should not guide us. We should be a refuge for people fleeing violence, and not be turning over people to ICE to be further terrorized.

Jennifer Amuzie – Public Witness

Ms. Amuzie testified in support of the bill. She believes that MPD hands residents over to ICE, shares information with ICE, and even after the passage of the temporary bill, is still forcing people into the deportation chain. She gave the example of MPD allegedly calling ICE twice to ensure that one man was picked up. She believes that the most vulnerable people in our community have been ripped from their homes because MPD cooperates with ICE. She testified that, for the safety of the community and all District residents, and the permanent bill must include MPD.

Jessica Lee – D.C. Schools Project, Georgetown Center for Social Justice

Ms. Lee testified in support of the bill. She works with elementary school students in the District on literacy. She noted that when Trump was elected, she had second and third graders asking their teachers if they were going to get deported. She stated that children this age should not be worried about whether they or their parents are going to be departed. Our responsibility is to protect them and help them grow. She noted there has been a decrease in school attendance and graduation rates among English learners in schools since Trump was elected. Many students have been afraid to go to school because of threats of deportation.

Celestino Barrera – Organizer, Trabajadores Unidos de Washington DC

Mr. Barrera testified in support of the bill. He advocates for undocumented workers in Mt. Pleasant and Ward 5. He spoke about essential workers who are immigrants, many of whom are undocumented – stating that they make critical contributions to society and the District’s economy. Today, many of these workers are fearful of being arrested by federal immigration agents. This threat is real – just a few months ago, his own apartment building was surrounded by immigration agents armed with rifles. He was watching from his window while the agents took a person out of the building. This incident generated a lot of fear in his building.

Marcy Campos – Community Engagement & Service Director, Center for Community Engagement & Service at American University

Ms. Campos testified in support of the bill. Every semester her students do community-based learning, and one of the issues of strongest interest among students is immigration. Students have worked with numerous immigration organizations engaging in direct service, translating documents, answering phones, social media work, photography, and carrying out research projects. It is vital for students to understand what immigrants are going through in this day and age. Several students are DACA recipients themselves or have family members who do not have legal status. The immigrant community needs to feel safe and be a part of a better future. We must set an example for the country with a permanent version of this bill.

Anonymous

Anonymous spoke in Spanish, and the translation service was unable to simultaneously translate her testimony.

P.W. – Public Witness

P.W. testified in support of the bill. He was afraid of saying his name in this meeting because he is transitioning between immigration statuses. But he wanted to speak for everyone who could not be here. He moved here to go to college from El Salvador, and he then pursued an advanced degree. He started volunteering in the community and discovered the horrible conditions in which many El Salvadorians in the District live. The District is an unsafe community for undocumented immigrants – they have to tolerate inhumane housing conditions because they are afraid of being deported.

P.W. – Public Witness

P.W. testified in support of the bill. He is undocumented, but he was always told that the District was a sanctuary city. He stated that when Trump was elected, fear of being deported and separated from his family became more of a reality. He said that, one day his bicycle crashed into a car. The woman driving asked him if he was okay, but his first thought was what if she calls the police. He thought, will I get deported? He knows other immigrants can relate to this fear.

P.W. – Public Witness

P.W. testified in support of the bill. She arrived in the U.S. at the age of 4 and is a DACA recipient. She recently graduated from UDC. She noted that there is no permanent protection for undocumented immigrants in this city. She knows the feeling of not feeling safe in your own home and fear when you see the police. She knows what it feels like to go to school with fear for your family. She believes in education, not deportation, and the presumption of innocence. She thanked Councilmember Allen for being an ally in this fight.

P.W. – Public Witness

P.W. testified in support of the bill. She came to the District at the age of 19 because she did not have the opportunity to succeed in her country. She is currently a student at UDC, but many people look down on her because of her accent. She is oftentimes racially profiled because she looks Latina. One time, she was a victim of a crime, she was scared of speaking with the police because she thought they would ask for her immigration status. She thought ICE would be knocking on her door at any minute. This fear is experienced by many immigrants.

Abel Núñez – Executive Director, CARECEN-DC

Mr. Núñez testified in support of the bill. He is an immigrant who grew up in the District, and this legislation demonstrates why the District is such a great place to live. He noted that the District has a sizeable population of immigrants – approximately 14% of residents. Immigrants make up a vital part of the economy, from starting new businesses to paying taxes. Currently, the President is scapegoating immigrants, but these are not our District values. We recognize the humanity of all those who call the District home. He urged that the Council pass this bill to help keep communities together and protect due process for everyone.

P.W. – Public Witness

P.W. testified in support of the bill. He is a DACA recipient who lives and works in the District. Back in 2011, his father was detained by ICE because one of his co-workers was not wearing a seatbelt. This did not happen in the District, but he has heard similar stories from residents here. Luckily, his father's case was closed, but this is not the reality for many. He stated that we need to protect our communities from police who go after people for being Latino. He believes this bill will bring some feelings of safety to immigrant communities.

Ina Padua – Public Witness

Ms. Padua testified in support of the bill. She stated that she does not imagine jails and deportation when imagining a more just system. Through her work, she educates immigrant workers about their rights. It is her job to support workers in the District, and fear of being deported makes workers more vulnerable and without recourse. It discourages workers to come forward to report wage theft, sexual harassment, and violations of paid leave policies.

Zachary Perez – Law Student, Immigrant Justice Clinic, American University at Washington College of Law

Mr. Perez testified in support of the bill. He recommended that the Council amend the bill to include reporting and enforcement requirements. He believes that a lack of information is detrimental and causes more fear. He suggested that District agencies be required to report release and transfer data, broken down by local and federal charges, the type of information requested, and the result of the request. He noted that Austin requires quarterly reporting of immigration enforcement actions and demographic information. Making this kind of data accessible to the

public can promote transparency and accountability. He also recommended that the bill create a formal complaint process, such as exists in Austin and San Francisco.

Farah Khan – Public Witness

Ms. Khan testified in support of the bill. She is an immigrant herself, and she is committed to ensuring that the District permanently passing this bill to create a community where everyone feels safe. She stated that she is particularly troubled by what she sees as a loophole in the temporary bill: allowing ICE into DOC facilities to conduct interviews. She believes that all individuals interviewed must have their criminal defense attorneys present unless they waive their rights. She urged the Council to pass this bill, with her suggested improvements.

Sam Singleton-Freeman – Public Witness

Mr. Singleton-Freeman testified in support of the bill. He believes that the permanent bill must include reporting requirements and enforcement provisions. He stated that agencies should be required to release to the public information about every detainer request received by the District, whether the individual targeted is held on local or federal charges, and how the request is handled by the agency. He noted that many cities and states, like California, have already enacted such reporting requirements. He also believes that the bill must include an enforcement provision, so that if someone violates the provisions, there is a process for a formal complaint. Many jurisdictions have also enacted such enforcement provisions.

Dr. Kate Sugarman – Physician, Unity Health Care

Dr. Sugarman testified in support of the bill. She has developed an expertise working with asylum seekers and refugees, many of whom have escaped torture in their countries. She is now also teaching medical students about treating this community. She spoke about the lifelong mental and physical damages to children when they suffer adverse childhood experiences, like the deportation of a family member. She also talked about the trauma experience by adults. For example, she has one patient who has continued crippling anxiety and headaches after the deportation of her husband. She also noted the widespread mistreatment of immigrants held in ICE jails, which is particularly troubling during the pandemic. She urges the Council to pass the bill.

P.W. – Public Witness

P.W. submitted written testimony in support of the bill. She is an immigrant and is keenly aware of how much harm is caused with local law enforcement cooperates with federal immigration agencies. She believes no District resident should live with the fear that a traffic stop could lead to their deportation.

Helen Schietinger – Public Witness

Ms. Schietinger submitted written testimony in support of the bill. She stated that she was “ashamed” to learn that the District collaborated with ICE, and she expects the Council to close the current loopholes allowing such collaboration.

Lily Strellich – Public Witness

Ms. Strellich submitted written testimony in support of the bill. She stated that her neighbors, regardless of their immigration history or criminal history, make the District a place where people want to live. Everyone in the District deserves to live without fear of detention or deportation.

Jose de Arteaga – Public Witness

Mr. Arteaga submitted written testimony in support of the bill. He requested that the Council pass a national model to protect the vulnerable, as we are the nation's capital.

Dinesh McCoy – Public Witness

Mr. McCoy submitted written testimony in support of the bill. He stated that the immigrant deportation and detention system has shattered too many lives and broken apart too many families and communities. He believes that cooperation with ICE is not only dangerous under the current administration, but it is fundamentally inhumane. We need policies that promote stability and inclusion in our communities, and ICE cooperation instead creates an atmosphere of fear in the city.

Jagir Patel – Public Witness

Mr. Patel submitted written testimony in support of the bill. He stated that available data show the D.C. Jail has transferred at least 43 residents to ICE since 2016 and has helped ICE detain countless other District residents directly outside the jail.

Kate Taylor Mighty – Public Witness

Ms. Mighty submitted written testimony in support of the bill. She stated that collaboration with ICE has led to family separation, purposely cruel detentions, and deportations. It contributes to terror and anguish in our immigrant communities, belies the District's commitment to being a sanctuary city, deprives residents of their rights to fair representation and due process, creates an even crueler criminal legal system for immigrants who would otherwise have been released, and poses a grave threat to any person our federal government designates as "undesirable" — regardless of their status under current law. She noted that, as a Black woman, she knows that this also means she is not safe.

Isabella Irtifa – Public Witness

Ms. Irtifa submitted written testimony in support of the bill. She stated that it is clear that the District is not currently a sanctuary city. The D.C. Jail has been working with ICE to detain residents by notifying ICE when immigrants are released. DOC also gives ICE agents access to inside the Jail. She believes that when the District works with ICE it undermines the values of a sanctuary city. Immigrants in our community live in fear of basic dignities such as reporting a

crime to police, getting stopped at a traffic light, and more. Such cooperation leads to family separation, cruel detentions and deportations. She believes that these are heinous and volatile acts that are life-threatening. She asked that the District stand up for our community.

Justin Fang – Public Witness

Mr. Fang submitted written testimony in support of the bill. He stated that immigrants make the District the city many of us treasure living in, regardless of their immigration status. He noted that, based on the actions of ICE, there is no doubt that the arrests, removals, and punitive actions taken against individuals fail to reflect even basic rights that we ought to demand for a person regardless of their country of origin or immigration status.

Kelly White – Senior Director, Detained Adults Program, Capital Area Immigrants' Rights Coalition

Ms. White submitted written testimony in support of the bill. She stated that, under U.S. law, people held in immigration detention do not have the right to an attorney, unless they can afford to hire one themselves. In her experience, the vast majority of detained immigrants do not have the means, either because of poverty, or because of the additional economic disruption caused by detention. As such, most detained immigrants are forced into the precarious position of acting as their own attorney in a complex labyrinth of laws, and in most cases doing so from a jail cell and in a language that is not their first. She noted that the pandemic has drastically changed legal representation. Since the pandemic began, it has taken her staff four times the time to arrange and coordinate virtual visits, compared to in-person visits, even factoring in travel time to far away detention centers. Entire trials are now prepared over the phone, numerous clients have contracted COVID-19 while detained and have fallen ill, have had to seek continuances in their immigration cases, and have been quarantined up to 23 hours per day. Ms. White further noted that cooperation between ICE and local law enforcement facilitates the detention of our community members at a time when ICE has every incentive to fill up empty detention center beds by targeting local communities. Detaining people creates a ripple effect – families are worse off, legal services are stretched even thinner, and criminal proceedings are delayed. Detaining people during a pandemic exacerbates an international public health crisis.

Ms. White also testified that cooperation between police and ICE increases mistrust between immigrant communities and law enforcement, making immigrants less likely to report when they have been victims of or witnesses to crimes. It is a myth to believe that we are safer when a breadwinner is pulled apart from their family. It is a myth to believe we are safer when a domestic violence victim will not report her abuser because she is afraid she will land in immigration detention. This bill is one small step in facilitating the kind of trust and dignity that fosters true security rather than the façade of safety immigration detention provides.

JoLeah Stiles Gorman – Public Witness

Ms. Gorman submitted written testimony in support of the bill. In her work at Mary's Center, she interacts with a myriad of refugees and immigrants. Some of these families have had family members deported. As a therapist, she supports these people in their healing journey after

the deportation. She has seen deportation rip families apart and leave family members, especially children, severely emotionally and mentally harmed.

Emily Santella – Public Witness

Ms. Santella submitted written testimony in support of the bill. She stated that sanctuary cities are hugely important because they ensure that all residents, regardless of immigration status, do not need to live in the shadows. The ongoing coronavirus pandemic has shown how vital it is that all people can access necessary services without fear of deportation. Furthermore, the District's cooperation with ICE results in family separation, cruel detentions that could pose a further threat to public health and the health of individuals, and deportations. Our immigrant communities should not have to live in fear. She believes that cooperation with ICE strips immigrant residents of their rights to due process and fair representation.

Candice Crutchfield – Public Witness

Ms. Crutchfield submitted written testimony in support of the bill. She stated that the District needs a strong permanent bill that leaves no one behind. She believes that should not result in any transfers to ICE, and that each individual deserves to be treated with fairness and care, no matter their race, color, creed, or alleged offense. She requests that the District care and support Black and Brown communities by ending collaboration between local police, local incarceration systems, and ICE.

Tamar Hoffman – Public Witness

Ms. Hoffman submitted written testimony in support of the bill. She is a Ward 1 resident, and she noted that her neighborhood is experiencing a displacement crisis. Many of her neighbors, especially those who are immigrants or have undocumented loved ones, have suffered greatly during the pandemic as they have lost jobs and remained ineligible for support under the CARES Act. She believes that the District must stand with its community and stop being complicit with ICE.

Pamela Hernandez – Public Witness

Ms. Hernandez submitted written testimony in support of the bill. She stated that, though she and her family are here legally, it does not end the fear of being taken by ICE. She said there are many stories of ICE arresting U.S. citizens because they looked like immigrants. Her mother has told her since she was little to avoid speaking Spanish near police officers so that they do not think she is an undocumented person. She believes no one should live in fear of persecution for what they look like or the language they speak. No one deserves to be imprisoned for wanting a better life.

Leonce Byimana – Executive Director, Torture Abolition and Survivors Support Coalition (TASSC)

Ms. Byimana submitted written testimony in support of the bill. She stated that the majority of TASSC survivors enter the United States with visas and are applying for affirmative asylum. However, many have been forced to cross the U.S.-Mexican border to seek protection, and were then detained for months in ICE detention facilities. After already suffering in the prisons of authoritarian governments, they were detained again in the United States, this time by ICE. Detention is particularly dangerous now, when more than 6,500 detainees have been infected with the COVID-19 virus. She believes that every immigrant in the District should have the right to due process and should not be detained by a federal agency that will deprive them of their liberty and possibly deport them back to a country where their lives were in danger.

Rebecca Gordon – Public Witness

Ms. Gordon submitted written testimony in support of the bill. She stated that complicity with ICE represents a profound loss to the city's communities and culture and an undermining of our own values. Collaboration with ICE decreases the likelihood that immigrants will seek services for intimate partner violence, sexual exploitation, and sexual assault. It also decreases the chances that immigrants seek access to medical care when needed, which is a huge risk during a global pandemic. She noted that ICE also commits or directly enables institutional gender-based violence, including the forced sterilization of women in detention centers and unaddressed sexual abuse in camps and detention centers on the border. She testified that, furthermore, community experience and records have revealed that some District agencies are not complying with the law and continue to share information with ICE. In doing so, the District is depriving immigrant residents of their right to due process and fair representation and creating a separate criminal justice system for immigrants who otherwise would be released.

Government Witnesses

Aurélie Mathieu – Assistant Attorney General for Policy and Legislative Affairs, Office of the Attorney General for the District of Columbia

Ms. Mathieu testified in support of the bill. She stated that OAG has worked continuously to protect the rights of immigrant communities and has advocated for states and localities that promote pro-immigrant policies. She believes this bill is in line with those efforts. She testified that it is recognized by law enforcement leaders across the country that eroding trust between immigrant communities and local police degrades public safety. Immigrants are much less likely to report crimes they witness or are victims of and are less likely to cooperate with law enforcement if they fear immigration consequences. As a result, crimes like sexual assault, domestic violence, and human trafficking are more difficult to prosecute. In addition, immigrants become more vulnerable to exploitation and fraud. Immigrants are more reluctant to report abuse to police, and exploiters can use deportation as a threat. Ms. Mathieu noted that this legislation is critical to establish the District's public policy that we should disentangle local law enforcement from federal immigration enforcement. She further stated the importance of this bill in the context of the COVID-19 pandemic. Immigrant communities are some of the hardest-hit communities by the

public health crisis; however, when they fear interaction with the government, immigrants may be reluctant to seek out healthcare when they are sick. Thus, this bill helps preserve not only public safety, but also public health in the District.

Katya Semyonova – Special Counsel to the Director for Policy, Public Defender Service for the District of Columbia

Ms. Semyonova testified in strong support of the bill. She stated that PDS is concerned about DOC's implementation of the temporary version of this bill. She had several recommendations for the permanent version, including expanding the information and locations covered by the prohibitions, clarifying the exception for the federal contract, and strictly limiting the circumstances under which a District entity can make a detained individual available for an interview by immigration authorities.

Ms. Semyonova also discussed the health effects of deportations and detention, noting that when a family member is deported, it causes trauma and stress on other family members, and even shortens their lifespan. She noted these consequences have been exacerbated by the COVID-19 pandemic, citing statistics to detention centers that have become virus hotspots. She stated that cooperating with ICE directly results in detention at these facilities and endangers the lives of District residents.

Ms. Semyonova further discussed the gaps in implementation she believes exist, specifically with the DOC policy the agency created after the passage of the temporary and emergency legislation, which she believes fails to include broad prohibitions against cooperation with ICE. She noted that the policy also fails to direct DOC staff about how to handle requests for information from ICE. She stated that DOC leadership must issue clear directives to employees that are consistent with this bill.

Lastly, Ms. Semyonova made several recommendations. First, she suggested that the bill expand the types of information that the District is prohibited from disclosing to include "personal identifying information and medical information". She also recommended that the bill strengthen the provision related to the right to counsel during an interview with ICE. She suggested that only interviews authorized by a judicial order be allowed, and that DOC should require a clear and unambiguous waiver of the right to counsel. Finally, she recommended that the Council consider measures to decriminalize minor offenses and reform citation and release procedures to better protect immigrant communities.

IMPACT ON EXISTING LAW

B23-0501 amends An Act To create a Department of Corrections in the District of Columbia, effective December 11, 2012 (D.C. Law 19-194; D.C. Official Code § 24-211.07), to, absent a judicial warrant or order issued by a federal judge, prohibit the District from: (1) holding an individual after that individual would have been otherwise released, (2) providing a federal immigration agency space or equipment for a generalized search of or inquiry about an individual in the District's custody, and (3) permitting an interview of an individual in the District's custody unless there is a judicial order authorizing the interview, and the individual has counsel present or

waives counsel. The bill also, except with respect to individuals awaiting trial, awaiting sentencing, or serving a sentence for a federal charge, prohibits the District from: (1) providing any space for a federal immigration agency to house, detain, or hold individuals for immigration enforcement purposes, (2) providing federal immigration agencies with the date and time of release, location, address, personal identifying information, medical information, photograph, or criminal case information, (3) granting a federal immigration agency access to any District detention facility for the purpose of releasing an individual into federal custody, and (4) releasing an individual for the purpose of transferring the individual into the custody of a federal immigration agency.

In addition, the bill prohibits the District from inquiring into the immigration status of an individual in its custody, and requires the District to conduct trainings of its employees on compliance with the provisions in this section. The bill also requires the Department of Corrections, the Department of Youth Rehabilitation Services, the Department of Behavioral Health, and the Metropolitan Police Department to send a report on January 1 of each year to the Mayor and the Council providing data regarding requests from and transfers to immigration enforcement agencies. Lastly, the bill clarifies that nothing in this section shall be construed to establish a right to counsel that does not otherwise exist in law or be construed to create a private right of action.

FISCAL IMPACT

The Committee adopts the fiscal impact statement of the District's Chief Financial Officer.

SECTION-BY-SECTION ANALYSIS

Section 1 States the short title.

Section 2 Amends An Act To create a Department of Corrections in the District of Columbia, effective December 11, 2012 (D.C. Law 19-194; D.C. Official Code § 24-211.07), to:

(a) Absent a judicial warrant or order issued by a federal judge, prohibit the District from: (1) holding an individual after than individual would have been otherwise released, (2) providing a federal immigration agency space or equipment for a generalized search of an individual in the District's custody, and (3) permitting an interview of an individual in the District's custody unless there is a judicial order authorizing the interview and the individual has counsel present or waives counsel; except with respect to individuals awaiting trial, awaiting sentencing, or serving a sentence for a federal charge, prohibit the District from: (1) providing any space for a federal immigration agency to detain individuals for immigration enforcement purposes, (2) providing federal immigration agencies with the date and time of release, location, address, personal identifying information, medical information, photograph, or criminal case information, (3) granting a federal immigration agency access to any District detention facility for the purpose of releasing an individual into federal custody, and (4) releasing an

individual for the purpose of transferring the individual into the custody of a federal immigration agency;

(b) Prohibit the District from inquiring into the immigration status of an individual in its custody;

(c) Require the District to conduct trainings of its employees on compliance with the provisions in this section;

(d) Require the Department of Corrections, the Department of Youth Rehabilitation Services, the Department of Behavioral Health, and the Metropolitan Police Department to send a report on January 1 of each year to the Mayor and the Council providing data regarding requests from and transfers to immigration enforcement agencies;

(e) Clarify that nothing in this section shall be construed to establish a right to counsel that does not otherwise exist in law; and

(f) Clarify that nothing in this section shall be construed to create a private right of action.

Section 3 Contains the fiscal impact statement.

Section 4 Contains the effective date.

COMMITTEE ACTION

On November 23, 2020, the Committee on the Judiciary and Public Safety held an Additional Meeting to consider B23-0501, the “Sanctuary Values Amendment Act of 2020”. The meeting was called to order at 11:05 a.m. Chairperson Charles Allen recognized a quorum consisting of himself and Councilmembers Anita Bonds, Mary M. Cheh, Vincent C. Gray, Jr., Brooke Pinto, and Chairman Phil Mendelson. Without objection, Chairperson Allen moved the Committee Report and Print for B23-0501 en bloc with leave for staff to make technical, editorial, and conforming changes.

Councilmember Gray thanked Committee Chairperson Allen for his leadership on the bill. He noted that, as Mayor, he established the District as a “sanctuary city”, and he believes this bill will take the District to the next level. Councilmember Pinto commented that the bill respects our ideals and protects public safety. She believes it demonstrates the District’s commitment to creating safe communities for all residents and recognizes that an atmosphere of fear harms public safety. Councilmember Bonds noted that her ancestors were immigrants, and this bill makes a statement that our community is a place for everyone. Councilmember Cheh noted that she is a first-generation American, and she echoed her colleagues’ comments in support of the bill.

The Committee then voted 6-0 to approve the Committee Report and Committee Print, with the Members voting as follows:

YES: Chairperson Allen, Councilmembers Bonds, Cheh, Gray, and Pinto, and Chairman Mendelson

NO: None

PRESENT: None

ABSENT: None

LIST OF ATTACHMENTS

- (A) B23-0501, as introduced
- (B) Notice of Public Oversight Roundtable, as published in the *District of Columbia Register*
- (C) Notice of Public Hearing, as published in the *District of Columbia Register*
- (D) Agenda and Witness List
- (E) Witness Testimony
- (F) Fiscal Impact Statement
- (G) Legal Sufficiency Determination
- (H) Comparative Committee Print
- (I) Committee Print

ATTACHMENT A

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : 
Nyasha Smith, Secretary to the Council

Date : October 10, 2019

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Wednesday, October 9, 2019. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Sanctuary Values Amendment Act of 2019", B23-0501

INTRODUCED BY: Councilmembers Allen, Silverman, Evans, Grosso, T. White, Nadeau, Cheh, Gray, R. White, McDuffie, and Chairman Mendelson

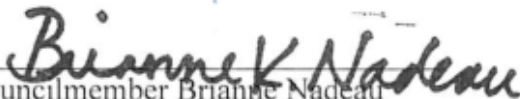
The Chairman is referring this legislation to the Committee on Judiciary and Public Safety.

Attachment

cc: General Counsel
Budget Director
Legislative Services

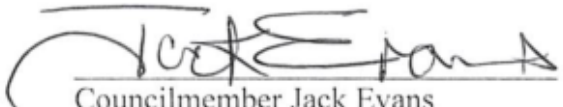
1 
2 Chairman Phil Mendelson

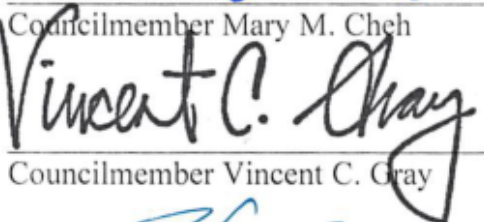

Councilmember Charles Allen

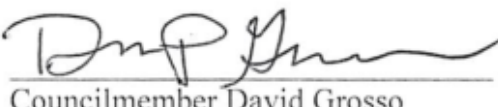
3
4 
5 Councilmember Brianne Nadeau


Councilmember Elissa Silverman

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7 
8 Councilmember Mary M. Cheh


Councilmember Jack Evans

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10 
11 Councilmember Vincent C. Gray


Councilmember David Grosso

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13 
14 Councilmember Robert C. White, Jr.


Councilmember Trayon White, Sr.

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21 A BILL
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26 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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31 To amend An Act To create a Department of Corrections in the District of Columbia to limit the
32 District's cooperation with federal immigration agencies, including by complying with
33 detainer requests, absent a judicial warrant or order.
34

35 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
36 act may be cited as the "Sanctuary Values Amendment Act of 2019".

37 Sec. 2. Section 7 of An Act To create a Department of Corrections in the District of
38 Columbia, effective December 11, 2012 (D.C. Law 19-194; D.C. Official Code § 24-211.07), is
39 amended to read as follows:

40 "Sec. 7. Prohibition on cooperation with federal immigration agencies.

41 “(a) Absent a judicial warrant or order, issued by a federal judge appointed pursuant to
42 Article III of the United States Constitution or a federal magistrate judge appointed pursuant to
43 28 U.S.C. § 631, that authorizes a federal immigration agency to take into custody the person
44 who is the subject of such warrant or order, the District of Columbia shall not:

45 “(1) Hold an individual in the District’s custody after that individual would have
46 been otherwise released, except as provided in § 24-211.02a(c)(6);

47 “(2) Except as provided in Intergovernmental Agreement No. 16-00-0016, entered
48 into between the Department of Corrections and the United States Marshals Service, provide to a
49 federal immigration agency an individual’s date and time of release, location, address, or
50 criminal case information;

51 “(3) Provide to any federal immigration agency an office, booth, or any facility or
52 equipment for a generalized search of or inquiry about an individual in the District’s custody;

53 “(4) Permit any federal immigration agency to interview an individual in the
54 District’s custody without giving the individual an opportunity to have counsel present; or

55 “(5) Except as provided in Intergovernmental Agreement No. 16-00-0016, entered
56 into between the Department of Corrections and the United States Marshals Service, grant any
57 federal immigration agency access to a District detention facility, including St. Elizabeths
58 Hospital or a facility under the control of the Department of Corrections or the Department of
59 Youth Rehabilitation Services, for the purpose of releasing an individual into federal custody.

60 “(b) The District shall not inquire into the immigration status of an individual in its
61 custody.

62 “(c) This section shall not be construed to establish a right to counsel that does not
63 otherwise exist in law.

64 “(d) Nothing in this section shall be construed to create a private right of action.”.

65 Sec. 3. Fiscal impact statement.

66 The Council adopts the fiscal impact statement in the committee report as the fiscal
67 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
68 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

69 Sec. 4. Effective date.

70 This act shall take effect following approval by the Mayor (or in the event of veto by the
71 Mayor, action by the Council to override the veto), a 60-day period of congressional review as
72 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December
73 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
74 Columbia Register.

ATTACHMENT B

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE ON THE MATTER OF

**BILL 23-0320, THE “SPECIAL POLICE OFFICER OVERSIGHT
AMENDMENT ACT OF 2019”**

AND

BILL 23-0501, THE “SANCTUARY VALUES AMENDMENT ACT OF 2019”

**Thursday, March 12, 2020, 9:30 a.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Thursday, March 12, 2020, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public oversight roundtable on the matter of Bill 23-0320, the “Special Police Officer Oversight Amendment Act of 2019”, and Bill 23-0501, the “Sanctuary Values Amendment Act of 2019”. The roundtable will take place in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 9:30 a.m. The Committee on the Judiciary and Public Safety previously filed a public hearing notice for these matters, but the hearing notice failed to appear in the *D.C. Register*. The Committee is therefore holding this topical roundtable on the subject of the two bills.

The stated purpose of Bill 23-0320 is to amend the Office of Citizen Complaint Review Establishment Act of 1998 to require the Office of Police Complaints (“OPC”) to make recommendations to the District of Columbia Housing Authority (“DCHA”) and the Department of Consumer and Regulatory Affairs (“DCRA”) regarding the incidence of police misconduct, to require that OPC review data related to complaints, subject officer and complainant demographics, recommended and imposed discipline, uses of force, and in-custody deaths for DCHA, DCRA, and special police officers, to prevent the disclosure of information received OPC from DCHA and DCRA, to require that OPC deliver an annual report that analyzes information related to DCHA and DCRA beginning December 31, 2021, to disallow current or former employees of DCHA and DCRA from serving as complaint investigators or carrying out mediation and

complaint determination functions, to authorize OPC to receive, investigate, and mediate complaints against special police officers and recommend discipline to the designated agency principal, to require that DCHA and DCRA transfer citizen complaints to the Office of Police Complaints within 3 business days, to allow the Executive Director of OPC to initiate his or her own complaint based on observed abuse or misuse of police powers, to require that the Executive Director of OPC give notice to the designated agency principal that a matter has been referred to the U.S. Attorney's Office, to require that employees of DCHA and DCRA cooperate with OPC and to prohibit retaliation against complainants, to establish a process by which the designated agency principal reviews a merits determination from OPC and disciplines the subject officer, and to clarify a designated agency principal's authority to implement discipline before and after receipt of a complaint.

The stated purpose of Bill 23-0501 is to amend An Act To create a Department of Corrections in the District of Columbia to limit the District's cooperation with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the roundtable should contact the Committee via email at judiciary@dccouncil.us and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Monday, March 9**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses should bring **twenty copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to judiciary@dccouncil.us.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the Committee of the need as soon as possible, but no later than five business days before the roundtable. The Committee will make every effort to fulfill timely requests; however, requests received in fewer than five business days may not be fulfilled, and alternatives may be offered.

For witnesses who are unable to testify at the roundtable, written statements will be made part of the official record. Copies of written statements should be submitted to the Committee at judiciary@dccouncil.us. **The record will close at the end of the business day on Thursday, April 9.**

ATTACHMENT C

Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

ANNOUNCES A PUBLIC HEARING ON

B23-0501, THE “SANCTUARY VALUES AMENDMENT ACT OF 2019”

AND

**B23-0837, THE “STORMIYAH DENSON-JACKSON RACE AND GENDER ECONOMIC
DAMAGES EQUALITY AMENDMENT ACT OF 2020”**

Thursday, October 1, 2020, 10:00 a.m. – 3:00 p.m.

Virtual Hearing via Zoom

To Watch Live:

<https://dccouncil.us/council-videos/>

<http://video.oct.dc.gov/DCC/jw.html>

<https://www.facebook.com/CMcharlesallen/>

On Thursday, October 1, 2020, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public hearing to consider Bill 23-0501, the “Sanctuary Values Amendment Act of 2019”, and Bill 23-0837, the “Stormiyah Denson-Jackson Race and Gender Economic Damages Equality Amendment Act of 2020”. The hearing will be conducted virtually via Zoom from 10:00 a.m. to 3:00 p.m. Pre-registered public witnesses will testify from 10:00 a.m. until 1:30 p.m., and government witnesses will testify from 1:30 p.m. until 3:00 p.m.

The stated purpose of B23-0501, the “Sanctuary Values Amendment Act of 2019”, is to amend An Act To create a Department of Corrections in the District of Columbia to limit the District’s cooperation with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant or order.

The stated purpose of B23-0837, the “Stormiyah Denson-Jackson Race and Gender Economic Damages Equality Amendment Act of 2020”, is to amend Title 16 of the District of Columbia Code in actions for personal injury or death caused by wrongful act, neglect, or default, to provide

that estimations, measures, or calculations of past, present, or future damages for lost earnings or impaired earning capacity may not be reduced based on race, ethnicity, or gender.

The Committee invites the public to provide oral and/or written testimony. Public witnesses seeking to provide oral testimony at the Committee's hearing must thoroughly review the following instructions:

- Anyone wishing to provide oral testimony must email the Committee at judiciary@dccouncil.us with their name, telephone number, organizational affiliation, and title (if any), by the **close of business on Thursday, September 24.**
- The Committee will approve witnesses' registrations based on the total time allotted for public testimony. The Committee will also determine the order of witnesses' testimony.
- **Witnesses who are approved by the Committee to testify will be emailed Zoom registration instructions for the hearing, which they must complete in order to be placed on the final witness list and access their unique Zoom link.**
- Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals (and any subsequent representatives of the same organizations) will be allowed a maximum of three minutes.
- Witnesses are not permitted to yield their time to, or substitute their testimony for, the testimony of another individual or organization.
- If possible, witnesses should submit a copy of their testimony electronically in advance to judiciary@dccouncil.us.
- Witnesses who anticipate needing language interpretation are requested to inform the Committee as soon as possible, but no later than five business days before the hearing. The Committee will make every effort to fulfill timely requests; however, requests received fewer than five business days before the hearing may not be fulfilled.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be emailed to the Committee at judiciary@dccouncil.us **no later than the close of business on Friday, October 9.**

ATTACHMENT D

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
AGENDA & WITNESS LIST
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC HEARING ON

B23-0501, THE “SANCTUARY VALUES AMENDMENT ACT OF 2019”

AND

**B23-0837, THE “STORMIYAH DENSON-JACKSON RACE AND GENDER ECONOMIC
DAMAGES EQUALITY AMENDMENT ACT OF 2020”**

**Thursday, October 1, 2020, 10:00 a.m. – 3:00 p.m.
Virtual Hearing via Zoom**

To Watch Live:

<https://dccouncil.us/council-videos/>
<http://video.oct.dc.gov/DCC/jw.html>
<https://www.facebook.com/CMcharlesallen/>

AGENDA AND WITNESS LIST

- I. CALL TO ORDER**
- II. OPENING REMARKS**
- III. WITNESS TESTIMONY**

**B23-0837, the “Stormiyah Denson-Jackson Race and Gender Economic Damages Equality
Amendment Act of 2020”**

- i. Public Witnesses**

Panel 1

1. Will Lightfoot, Attorney, May Lightfoot, PLLC
2. Bill Lightfoot, Attorney, May Lightfoot, PLLC
3. LaRuby May, Attorney, May Lightfoot, PLLC
4. Caragh Fay, President, Trial Lawyers Association of Metropolitan DC
5. Robert Johnson, President, Robert W. Johnson & Associates

ii. Government Witnesses

B23-0501, the “Sanctuary Values Amendment Act of 2019”

i. Public Witnesses

Panel 1

1. William Pacheco, Public Witness
2. Anonymous, Public Witness
3. Anonymous, Public Witness
4. Austin Rose, Public Witness

Panel 2

5. Julie Mao, Deputy Director, Just Futures Law
6. Paromita Shah, Public Witness
7. Ahoefa Ananouko, Policy Associate, ACLU-DC
8. Alex Taliadoros, Organizing Director, Kalmanovitz Initiative for Labor and the Working Poor

Panel 3

9. Ingrid Contreras, Public Witness
10. Joana Gonzalez Alvarez, Public Witness
11. Reyna Sosa, Public Witness
12. Megan Macaraeg, Worker Organizer, Many Languages One Voice
13. Arisaid Gonzalez Porras, Public Witness

Panel 4

14. Rev. Peter Jarrett-Schell, Public Witness

15. Rev. Rob Keithan, Public Witness
16. Rev. Sharon Stanley-Rea, Public Witness
17. Jennifer Amuzie, Public Witness

Panel 5

18. Anonymous, Public Witness
19. Anonymous, Public Witness
20. Celestino Barrera, Organizer, Trabajadores Unidos de Washington DC
21. Marcy Campos, Community Engagement & Service Director, Center for Community Engagement & Service at American University

Panel 6

22. Anonymous, Public Witness
23. Rasul El Amin, Public Witness
24. John Goryongo, Public Witness
25. Marilyn Miranda, Public Witness

Panel 7

26. Gerson Quinteros, Public Witness
27. Joella Roberts, Public Witness
28. Vidalia Calles, Public Witness

Panel 8

29. Abel Núñez, Executive Director, CARECEN-DC
30. Juan Belmán Guerrero, Public Witness
31. Nnennaya Amuchie, Co-Chair, BYP100 Project
32. Ina Padua, Public Witness

Panel 9

33. Zachary Perez, Law Student, Immigrant Justice Clinic, American University at Washington College of Law
34. Farah Khan, Public Witness
35. Sam Singleton-Freeman, Public Witness
36. Dr. Kate Sugarman, Physician, Unity Health Care

ii. Government Witnesses

1. Quincy Booth, Director, Department of Corrections
2. Aurélie Mathieu, Assistant Attorney General for Policy and Legislative Affairs,
Office of the Attorney General for the District of Columbia
3. Katya Semyonova, Special Counsel to the Director for Policy, Public Defender
Service for D.C.

IV. ADJOURNMENT

ATTACHMENT E

Good morning DC Council Members,

My name is P.W. I was born in El Salvador and immigrated to the United States when I was 15 years old. I have lived in DC for the past 6 years. In El Salvador, a few guys came to my school looking for me with the intention of beating me up. They were gang members who were targeting me because they thought my family was wealthy. I came to the United States because I had to flee violence. I defended myself and was able to live to tell the story, most people unfortunately can not. -- Because of this incident I left everything behind, including my family, to escape to the United States. Now I am undocumented and I fear that one day I will be deported back to El Salvador.

I'm scared that one day I'll be stopped by DC police because of the color of my skin. Due to the practices the city has, this could eventually leave me in ICE custody. I fear that one day I'll get deported and will not be able to provide for my younger sister. She's only 9 years old and she was born with sickle cell anemia.

--

I've never encountered myself with DC police, that was... until 2018. I could always count on seeing my friend Gerson at work to hear about his day. A week went by and I started noticing something unusual, he wasn't present at work. I was getting worried and started to look for him at his home, weeks went by and I asked an officer from MPD to search him up on their database. The officer told me he had been arrested and was in jail.

He was expected to be released later that day and so I decided to wait at his house for his return. I waited for hours and it started to get late. He never came home, the very next day I received a call from an unknown number. It was Gerson, he had called to tell me that he was transferred into ICE Custody. They were asking for bail money for him, money in which I didn't have. For him, I was the only family he had, he was alone here and that's why he confided in me. He was in ICE custody for 4 months, I remember our weekly calls, he told me how lonely it was in the cells, how he wished he was home and how it all felt like a bad nightmare in which he couldn't wake up from.

Then suddenly one day the calls stopped.. weeks past, and I got informed that he was deported back to Honduras. To this day, I'm very upset about how this happened to him, I miss my friend Gerson, but because of the broken system we have in place in DC I'll never be able to see him again.

I'm here to plead to DC Council to pass the permanent Sanctuary Values Act to protect my friends, my neighbors, and my family. I don't want what happened to my friend Gerson to happen to anyone else. Being deported to El Salvador to me would be a deportation to my death. I want you to make DC a true Sanctuary City and end the collaboration with ICE and any agencies in DC.

Thank you



**JUST
FUTURES
LAW**

October 9, 2020

Council of the District of Columbia
1350 Pennsylvania Ave. NW
Washington, DC 20004

**Just Futures Law Statement
in support of Sanctuary Values Amendment Act of 2019, Bill 23-0501**

Just Futures Law submits this testimony in support of the Sanctuary Values Amendment Act of 2019, Bill 23-0501, as permanent legislation. As we stated in our oral testimony, we also urge the council to strengthen the bill by adopting the recommendations provided below. Just Futures Law is privileged to stand alongside the thirty community member witnesses - mothers, children, youth, workers, advocates and faith leaders - who testified in support of the Sanctuary Values Act.

Summary

The Sanctuary Values Act will curb dangerous collaboration between the District of Columbia and Immigration and Customs Enforcement (ICE). Immigrants are a vital part of our communities. At this moment in history, where Trump and other political forces are scapegoating immigrants to score political points, we are called to stand up for our values of compassion, common humanity, and racial justice. Passing the Sanctuary Values Act with our recommendations below would keep immigrant families and loved ones together in Washington, DC. It would be a powerful and meaningful step towards ending the criminalization of immigrants in Washington, DC.

History of Just Futures Law

Just Futures Law is an immigration and civil rights office based in the District that works with communities to dismantle criminalization and deportation. We are a member of ICE out of DC, which includes dozens of organizations and members.¹ Representatives from these organizations and coalitions, and directly impacted individuals testified on October 1 in support of the bill.

¹ ICE Out of DC Coalition is a locally-led coalition of immigrant organizations, community groups, faith congregations, and service providers fighting for a DC that does not incarcerate, surveil, or deport but instead invests in the growth, health, and healing of its people. Organizational members include Calvary Episcopal Church, CARECEN, Congregation Action Network, DC Jobs With Justice, DIWA, Georgetown University Kalmanovitz Initiative for Labor and the Working Poor, Just Futures Law, Many Languages One Voice, Pan African Community Action, Sanctuary DMV, and United We Dream DMV.

Just Futures Law staff has a decade-long history of working on sanctuary city policies in the United States, including the District's first sanctuary city policies created in 2011 and 2012 (e.g. the Immigration Detainer Compliance Act.) The District's policy was cited in key legal decisions, jumpstarting similar policies across the country grappling with a resurgence of anti-immigrant policies and bills. Just Futures Law staff have provided direct legal services to immigrants in DC and across the country, worked on litigation that impacts the rights of immigrants, and advocated before key stakeholders on the rights of immigrants. We have assisted immigrants who have "disappeared" from our communities as a result of the collusion between ICE and DC agencies. Just Futures Law Deputy Director Julie Mao is an immigrant and Executive Director Paromita Shah is a resident of Ward 6.

Our statement

A strong Sanctuary Values Amendment Act is essential to keep immigrant families together and safe from deportation; it represents a first step towards reckoning with DC's unjust and racist criminal legal system. Instead of continuing to invest resources of D.C. agencies into prisons, police and deportations, we can and should invest in improving our health, hospitals, education, and housing for D.C. residents.

While ICE raids are often the focus of media attention, ICE's deportation system--estimated 70% of all ICE arrests--originate from local jail or police complicity with ICE.² This is done through their submission to ICE detainers or notification requests: a technical way of saying that a prison or police officer will call ICE to pick up a suspected immigrant or share the immigrant's location with ICE agents so they can arrest them at a later time.

Deportation has a huge impact on the District's residents: one in seven D.C. residents is an immigrant; one in 9 has an immigrant parent.³ The deportation of a loved one causes deep emotional trauma and financial hardship even homelessness for the families left behind.

Under current policy and laws, officers from the Metropolitan Police Department and Department of Corrections can transform every stop and frisk or traffic stop encounter into a deportation. Prior to this law, this was the harsh reality for DC immigrants. Ending our police and prison's collaboration with ICE, a notoriously abusive federal police force, is a first step and part of addressing the larger problems in DC's criminal legal system. DC residents experience one of the highest rates of incarceration in the country. The protests and police violence this Summer have reminded us that DC is far from being a sanctuary, particularly for its Black, Brown, and immigrant communities. The Sanctuary Values Act is needed to prevent this unjust criminal legal system from funneling immigrants into ICE's deportation pipeline.

² Wessler, Seth Freed, "Cold as ICE: How Local Sheriffs Are Driving Trump's Deportation Agenda," Mother Jones, September/October 2020, <https://www.motherjones.com/politics/2020/08/sheriffs-ice-immigration-detention-gwinnett/>

³ "Immigrants in the District of Columbia," American Immigration Council, Aug. 2020, <https://www.americanimmigrationcouncil.org/research/immigrants-in-washington-dc>.

Recommendations to strengthen and improve the Act

Just Futures Law offers the following recommendations to address problems that could undermine the bills' implementation.

Our first three recommendations seek to address the pernicious impact of the U.S. Marshals Service agreement to the Sanctuary Values Act. We are concerned that the U.S. Marshals, which operate within the District of Columbia, will be used as a loophole for DC agencies to continue collaborating with ICE.

The first USMS loophole to the Sanctuary Values Act is the U.S. Marshals Service Intergovernmental Service Agreement No. 16-00-0016 (USMS IGSA) with the Department of Corrections. This IGSA currently impacts DC residents in several ways:

- The IGSA allows for the USMS, BOP, and ICE to incarcerate “federal detainees” at DC jail for a fee. Per *current* agreement and the testimony of DOC Director Booth, federal detainees are defined as individuals charged, awaiting sentencing, or sentenced for a *federal* offense.⁴
- The IGSA also requires that DOC help the US Marshals with transportation, shackling, and providing medical care for federal detainees.

The USMS IGSA, an agreement that dates back to at least 2007--could be interpreted or modified in the future to frustrate this law:

- Currently, we understand the USMS IGSA exception at Section 7(a)(4) to mean that individuals brought to USMS, BOP, or ICE on federal charges or awaiting sentencing or sentenced to a federal offense are excepted and released to ICE; while individuals arrested by MPD and charged with local crimes receive the protections of the Sanctuary Values Act.
- However, the IGSA can be changed by DOC or USMS at any future date to flout the Sanctuary Values Act. For example, almost *all contracts for ICE detention centers are created through a minor modification to the USMS IGSA, colloquially termed as an “ICE rider”*. This essentially involves checking off ICE as an “Other Authorized User” in Block 18 of a detention services modification agreement to the IGSA. See FOIA records [here](#) at 30; see example of Union County IGSA which serves an ICE detention facility via US Marshals IGSA modification [here](#).
- We are concerned that this USMS IGSA could be modified without notice or consultation of the council to add an ICE rider or other provisions that would frustrate the enforcement of this law. We know that DOC and USMS frequently modify this IGSA. Since 2007, parties have modified the USMS IGSA no less than 10 times. FOIA records link [here](#).

Second, the more common and most abusive scenario involves the US Marshals keeping people in custody even after a Superior court judge orders their release. Typically, when a person is ordered released, the person is unshackled and immediately released. However, what the US Marshal does is very different. After a suspected noncitizen is ordered released, the person is detained by US Marshals Services. During that period of time, they investigate the person's immigration status and/or coordinate a transfer to ICE. At no time, do they provide information to a person's criminal defense counsel or public defender about the basis for continued detention. We believe the USMS detains dozens of immigrants per

⁴ As of a 2017 modification to the IGSA, the per diem is around \$122.28/day per person. USMS, FOIA Library, last visited Oct. 8, 2020 https://www.usmarshals.gov/foia/IGAs_Cap_Agreements/washington_dc/dc_doc.pdf.

year in this fashion. These transfers currently account for the largest number of D.C. residents who are detained by ICE each year and thus warrant D.C. exerting power over other interconnected aspects of its criminal legal system to prevent immigrants from falling through this sanctuary loophole.

Our three recommendations involving the USMS are:

1. The Council should eliminate the blanket exception for the USMS IGSA 16-00-0016 at Section 7(a)(4) and replace it with a clearly defined exception such as “individuals awaiting trial for a federal charge or awaiting sentencing or serving a sentence for a federal offense.”

We ask that the Council explicitly exclude the category of persons that the USMS agreement applies, rather than make reference to an agreement whose terms could change in the future. We believe this will help avoid problems down the line where DOC or the USMS can unilaterally add new terms to the agreement that could render the law ineffectual.

2. The Council should limit the ability of DC detention facilities to serve as an immigration detention center. This could be done by adding a short clause in the law prohibiting DC detention facilities from serving as a civil immigration detention center or restricting the ability of the USMS IGSA from adding an ICE rider in the future.

If DC jail were to serve as an ICE detention center in the future, it would obviously create a huge loophole in this law. This addition is consistent with D.C. Mayor’s Order limiting youth immigration detention centers in the District.

3. Third, the Council should explore solutions to mitigate ICE transfers at the D.C. Superior Court through the U.S. Marshals. These transfers currently account for the largest number of D.C. residents who are detained by ICE. An example of this could include restructuring pre-arraignment processing procedures and strengthening cite and release policies. We hope to work with this committee to address this U.S. Marshals loophole.

Lastly, JFL supports adding strong compliance and reporting requirements to the Sanctuary Values Act because community experience and records have revealed that some District agencies are not complying with the temporary law and continue to share information with ICE.

Several policies and laws enacted in 2011 and 2012 were insufficient to manage the growing collaboration of ICE and District agencies.⁵ Lack of compliance is in large part why we are once again before this Council to pass the Sanctuary Values *Amendment* Act. Continuous monitoring, complaint procedures, and data tracking are critical to ensure the success of the bill’s implementation.

⁵ D.C. Mayor’s Order 2011-174, § II(B)(1, 4-5) (prohibiting any District law enforcement officers from detaining people based solely on a belief “that he or she has committed a civil immigration violation”); MPD Executive Order EO-17-010 (Mar. 24, 2017), § I (prohibiting the MPD from assisting ICE agents “in the arrest or transport of people on administrative warrants.”); District compliance with federal immigration detainees § 24-211.07.

Over the last *ten* years, reports of the following nature have been shared with staff at Just Futures Law or coalition partners.

- JFL and the ICE Out of DC learned that the DOC executed dozens of transfers of immigrants to ICE. This was not disclosed in a DOC oversight hearing.⁶
- DOC tracking and monitoring of immigration detainer compliance is inconsistent.
- DOC continues to construct erroneous policies that do not reflect changes in the law or even current law. For example, in the last 9 years, DOC has not referred to the Detainer Compliance Act in a key operational document – Policy and Procedure 4356.2D, a critical DOC document covering immigration status interviews and releases. (4356.2D is now 4356.5.)
- While the temporary Sanctuary Values Act requires that DOC not communicate an individual's date and time of release, location, address, or criminal case information with ICE, DOC did not include affirmative instructions on how to do that in Policy and Procedure 4356.2D and 4356.5.
- In 2013 and 2014, Paromita Shah raised complaints about ICE transfers with DOC after several criminal defense attorneys complained to Paromita Shah that a number of immigrant clients were being picked up by ICE on “Spanish Day” from DC Superior Court or DOC. Some clients were transferred to ICE prior to sentencing. Also, at that time, Paromita Shah received several complaints about ICE interviewing DC inmates without notifying counsel. DOC took no action and relied only on the Mayor’s order.⁷ It appears as if transfers have continued since this time.
- Also, in 2013 and 2014, DOC counsel relayed to us that DOC treats “immigration detainees” as a disqualifier for rehabilitative release, despite the fact they do not convey anything about immigration status. It is unclear whether DOC has changed that policy.

Recent complaints alone justify the need for reporting and data tracking to ensure compliance with the Sanctuary Values Act. But the fact that D.C. struggled with compliance soon after the 2011 and 2012 laws and policies passed.

Our recommendations involving compliance and reporting include:

4. Require DOC, MPD and other DC detention facilities to track and publish aggregate data on the number of ICE detainees or notifications that it receives, the number of releases or notifications to ICE, and the reason for the release or transfer (e.g. federal offense). This should be done on a quarterly basis.

Other cities such as Austin, Texas have implemented similar laws and agency reporting requirements. *See* Austin Immigration Enforcement Reporting requirements Resolution No. 20180614-074 <https://www.austintexas.gov/edims/document.cfm?id=300891>; see Sample Quarterly report at http://www.austintexas.gov/sites/default/files/files/Police/Resolution_74_Q2_April-June_2019.pdf

⁶ Will Lennon, *Court Documents Describe MPD Sharing Information with ICE*, Washington City Paper, Sept. 3, 2020. Available at <https://washingtoncitypaper.com/article/308837/dc-sanctuary-city-mpd-ice/>

⁷ Information on file with Paromita Shah, paromita@justfutureslaw.org

DOC and MPD have contended that there is minimal information sharing, let alone releases to ICE, so these reporting requirements should not be onerous. Moreover, per the first Detainer Compliance law and temporary bill, DOC is already required to track the number of ICE detainees.

5. Require DOC to publish its USMS IGSA and any modifications therein.

The District has an opportunity to pass a strong and bold Sanctuary Values Act. This is possible because it is well known that any assistance to ICE is voluntary. It is not required by federal law. It is a choice and this Council can choose to pass a law limiting that collaboration. Multiple district and appellate courts have enjoined the Department of Justice from making federal funding contingent on compliance with ICE detainees.⁸ Our communities deserve a Sanctuary Values Act that leaves no one behind.

Thank you and please do not hesitate to contact Julie Mao at julie@justfutureslaw.org with any questions you may have.

Julie Mao
Paromita Shah
Just Futures Law

⁸ For more information, see Immigrant Legal Resource Center, “DOJ loses court battles over DOJ grants conditioned on ICE enforcement,” Forest Lieberman and Lena Graber, Immigrant Legal Resource Center (August 2020), https://www.ilrc.org/sites/default/files/resources/doj_grants_and_sanctuary_cities_08.2020.pdf

**Statement by Ahoefa Ananouko
on behalf of the
American Civil Liberties Union of the District of Columbia
before the
DC Council Committee on Judiciary and Public Safety
Public Hearing on
B23-0501 – Sanctuary Values Amendment Act of 2019
October 1, 2020**

Hello Councilmember Allen and members of the Committee. My name is Ahoefa Ananouko and I am a policy associate with the ACLU of the District of Columbia (ACLU-DC). I present the following testimony on behalf of our 13,500 members across the District. Today, I am testifying in strong support of Bill 23-501— the “Sanctuary Values Amendment Act of 2019.”

Introduced in October of 2019 by Councilmembers Allen, Cheh, Gray, Grosso, McDuffie, Nadeau, R. White, T. White, Silverman, Chairman Mendelson, and former councilmember Evans, the purpose of Bill 23-501 is to limit the District’s involvement in federal immigration enforcement, by prohibiting cooperation between District government agencies and federal immigration authorities such as Immigration and Customs Enforcement (ICE). Among other things, the bill prohibits the District from complying with detainer requests without a warrant or order from a federal judge or magistrate judge.¹ The bill also forbids the sharing of information regarding an individual’s date and time of release, location, address, or criminal case information and does not allow ICE agents access to the DC Jail or any other DC detention facility.²

The ACLU-DC applauds the Council in taking an important first step by unanimously passing a temporary version of this legislation³ in October of 2019. We now urge the Council to pass this legislation as permanent to protect the rights and safety of the District’s immigrant communities, and support the recommendations put forth by the ICE Out of D.C. coalition to strengthen Bill 23-501.

One reason this legislation is critical is to end the Department of Corrections’ (DOC) practice of complying with ICE notification requests that result in DOC not just alerting federal agents when someone is in its custody, but giving ICE agents access to the DC Jail and releasing individuals into ICE custody “if ICE picks up the inmate prior to the inmate’s departure.”⁴ Although DOC updated its policy in December, the Department’s policy does not clearly state that it will cease responding to ICE notification requests, which

¹ Detainers, or “ICE holds,” ask law enforcement agencies to hold a person for up to 48 hours beyond the time that the person would otherwise be released, constituting a new arrest.

² Council of the District of Columbia. “B23-0501 - Sanctuary Values Amendment Act of 2019.” Introduced October 9, 2019, Available at <https://lims.dccouncil.us/Legislation/B23-0501>.

³ Council of the District of Columbia. “B23-0486 - Sanctuary Values Temporary Amendment Act of 2019.”

⁴ District of Columbia Department of Corrections. “Policy and Procedure.” Available at <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/PP%204356.5%20Immigration%20Statute-Immigration%20Interview%20Process%2010-07-2019.pdf>.

DOC has done in the past, and says nothing about complying with detainer requests. While there is currently no clear evidence that District agencies have been complying with ICE detainer requests, it is important for District law to be clear about its prohibition instead of relying on agency policies and practices to uphold residents' rights.⁵ Moreover, nowhere in DOC's policy does it direct its staff to stop sharing release time, address, or criminal case information with ICE.

The ACLU-DC strongly opposes such cooperation between local District government agencies and federal immigration enforcement for several reasons, not the least of which is that any cooperation between District agencies and federal immigration authorities results in significant safety consequences for District residents. As the Council acknowledged in its Sanctuary Values Emergency Declaration Resolution first passed on October 8, 2019, "When the District cooperates with ICE, trust in District agencies by the immigrant community erodes, and public safety is compromised. Immigrant residents become less likely to seek the help of District agencies, particularly law enforcement."⁶ Among other things, fear of deportation reduces crime reporting by immigrants and discourages crime survivors from participating in court proceedings.⁷ As a result, crimes like domestic violence, sexual assault, and human trafficking are harder to investigate and prosecute because immigrant crime survivors fear that coming forward would result in immigration consequences—limiting the effectiveness of an already broken and unequal legal system.⁸

Furthermore, distrust in local agencies due to collaboration with ICE also undermines current efforts to control the spread of COVID-19. First, fear of detainment by ICE and lack of trust in DC agencies discourages immigrants and their family members from seeking necessary testing and treatment. Second, ICE's continued detainment of individuals exacerbates the risk of detention centers being hotspots for COVID-19 by increasing their populations. Public health officials have warned from the beginning of this public health crisis that congregate settings like detention facilities present unique challenges to mitigating the spread of COVID-19 due to the inability to ensure safe social distancing and quarantining measures.⁹ The District should strive to reduce, *not increase*, the detained population—protecting both the people detained and vulnerable communities.

⁵ ICE "detainers" – that is, requests from ICE to a local law enforcement agency to keep a person in custody – are typically issued without a judicial warrant supported by probable cause, and so when local law enforcement extends the length of a person's detention based on an ICE detainer, it's unconstitutional. Once the traditional basis for an individual's criminal detention has lapsed, continued detention violates the Fourth Amendment's bar on unlawful detentions.

⁶ Council of the District of Columbia. "PR23-0501 - Sanctuary Values Emergency Declaration Resolution of 2019." Approved on October 8, 2019. Available at <https://lims.dccouncil.us/Legislation/PR23-0501>.

⁷ American Civil Liberties Union and the National Immigrant Women's Advocacy Project. "Freezing Out Justice: How immigration arrests at courthouses are undermining the justice system." American Civil Liberties Union. 2018, Available at <https://www.aclu.org/report/freezing-out-justice>.

⁸ Ibid.

⁹ The Center for Disease Control & Prevention. "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities." Updated July 22, 2020. Available at <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.

In 2016, Mayor Bowser issued a statement reaffirming D.C.’s status as a “Sanctuary City,”¹⁰ committing to protecting the District’s immigrant communities through its laws, policies, and practices. The documented continued cooperation between ICE and District agencies such as the DOC and MPD is antithetical to that commitment. A recent Washington City Paper article revealed that MPD cooperated with ICE—thereby violating the temporary Sanctuary Values law—on at least two occasions.¹¹ The first incident occurred in December, exactly one month after the Mayor signed the bill, and the second instance occurred in January of 2020. MPD and ICE denied cooperation in both instances, despite evidence from affidavits.¹² It is therefore imperative that the Council engage in strong oversight of DOC and MPD to ensure continued compliance with the law once it is in effect.

The ACLU-DC looks forward to working with the Council and alongside community partners to ensure passage of a strong Sanctuary Values Amendment Act that upholds the District’s commitment to protecting the rights and safety of our immigrant communities.¹³

Thank you for the opportunity to testify and I’m happy to answer any questions you may have.

¹⁰ Officer of the Mayor. “Mayor Bowser Issues Statement Reaffirming that DC is a Sanctuary City.” Government of the District of Columbia. Available at <https://mayor.dc.gov/release/mayor-bowser-issues-statement-reaffirming-dc-sanctuary-city>.

¹¹ Lennon, W. “Court Documents Describe MPD Sharing Information with ICE.” Washington City Paper, September 3, 2020. Available at <https://washingtoncitypaper.com/article/308837/dc-sanctuary-city-mpd-ice/>.

¹² ICE also claimed that, in the second incident, it was alerted by an automatic notification system that sends fingerprints to the Department of Justice (DOJ) to run against outstanding warrants and criminal history, which in turn, DOJ sends to Homeland Security to run through its Automated Biometric Identification System, alerting ICE if there is a match. See article in previous citation.

¹³ The Council recognized the emergency nature of this issue when it unanimously passed the recent Sanctuary Values Emergency Declaration Resolution on September 22, 2020. Council of the District of Columbia. “PR23-0941 - Sanctuary Values Emergency Declaration Resolution of 2020.” Approved unanimously on September 22, 2020. Available at <https://lims.dccouncil.us/Legislation/PR23-0941>.

Testimony at the DC Council's Judiciary Committee Hearing on the Sanctuary Values Act
Thursday, October 1, 2020
Alexandros C. Taliadoros

Chairperson Allen, Councilmembers, and Staff of the Committee,

My name is Alex Taliadoros, I'm a DC resident in Ward 1, and I serve as organizing director at Georgetown's Kalmanovitz Initiative for Labor and the Working Poor. I'm grateful for the opportunity to testify today and for your work to advance this important bill.

While many people's perception of immigration enforcement in the US is ICE conducting raids in the community to detain our neighbors in their homes or workplaces, the reality is that more than half of DC residents who are detained by ICE are turned over to ICE through DC's criminal legal system.

The Sanctuary Values Act includes key protections to prevent the DC Jail, MPD, and other DC agencies from sharing information with ICE, giving ICE access into DC facilities, holding individuals for ICE, or releasing them into ICE's custody. It is shameful and destructive that DC's government voluntarily aided the detention of its own residents for so long.

However, this bill currently leaves unaddressed DC's largest sanctuary loophole: the US Marshals at DC Superior Court. Right now in DC, if any undocumented person is arrested for any reason, they are brought to the courthouse where Federal Marshals transfer them to ICE custody, putting them on the path to deportation.

ICE has increasingly relied on the cooperation of the Marshals at DC Superior Court to detain DC residents. In 2014, only 5% of ICE detainer requests in DC were addressed to the US Marshals. Five years later by 2019, that percentage surged to almost 80%! Since March, even though MPD was arresting fewer people and ICE had curtailed its activity due to the pandemic, we still saw list DC residents turned over to ICE by the Marshals at DC Superior Court.

The frightening reality that any DC resident who enters Superior Court could be detained and deported has been treated for too long as a foregone conclusion... We consider it as an unavoidable consequence baked into our system by the Home Rule Act and DC's hybrid local-and-federal criminal system. But it does not have to be this way. While the Marshals are a federal entity, the individuals impacted by their transfers to ICE are brought there by *local* police, charged with *local* offenses, and sometimes prosecuted by *local* prosecutors in the Office of the DC Attorney General. It is a system partially of our own creation and partially under our control. We have tools to slow the DC Superior Court deportation pipeline.

There are two types of tools available to us. First, we can adopt narrow changes targeted at preventing these Marshals transfers. These options include giving defendants the option of making court appearances by video rather than in person, or to request that they be out-processed by MPD upon release rather than by the US Marshals. My understanding is that MPD is already holding some individuals and handling out-processing from its precinct that's adjacent to DC Superior Court as a measure to prevent the spread of COVID. Another creative solution is requiring that

police contact prosecutors upon arresting an individual to proactively decide whether someone will be charged with an offense. This would prevent individuals whose charges would later be dropped anyway from having to come to the courthouse, spend a night in custody, and face the risk of being transferred to ICE.

Secondly, DC can reduce courthouse transfers to ICE by adopting broad reforms to policing and its criminal legal system that lead to fewer people being arrested, jailed, or prosecuted altogether. Our coalition is interested in reforms such as issuing citations instead of arrests whenever possible and decriminalizing some offenses entirely. As an abolitionist coalition, we also echo the calls led by the Movement for Black Lives to defund MPD and reinvest those resources into services that truly keep our communities safe. A DC that doesn't over-police and criminalize its residents will inevitably see far fewer of them detained and deported.

For decades, immigrants in DC have seen their loved ones disappear after interactions with DC law enforcement – only to call them from a detention center in Virginia or Maryland days later facing the grave risk of deportation. The Marshals' cooperation with ICE separates DC families and has a chilling effect on immigrant communities wanting to go to work, send their kids to school, and live their lives without fear.

We call on the Council to work with our coalition and key stakeholders to identify the best ways to address the Marshals sanctuary loophole and adopt them in the permanent Sanctuary Values Act.

Thank you for your time.

Chairperson Allen, Councilmembers, and Staff of the Committee,
My name is Peter Jarrett-Schell. I am a resident of Ward 2, and the pastor of Calvary Episcopal Church in NE DC. I'm here today to speak in support of the Sanctuary Values Act. I'm urging you to pass a strong permanent bill that pushes to the furthest edge of your legislative authority, to end all collaboration between institutions of the District Government and ICE, without exception.

During the fifteen years I've served as a pastor in the DC area I've seen Church members and friends apprehended, detained and deported by ICE. The human cost, measured in broken families, childhood trauma and daily terror has been horrific. And it continues.

Now, I am a Christian pastor. Among the beliefs our faith teaches is that we are all bound together as one body. And as one body, we have a responsibility to care for one another. Our faith also teaches that this body we share together, is the body of a criminalized man. Jesus was criminalized, and he was killed for it.

Today, there are members of our collective body, this city of Washington, who are being criminalized. Specifically the Black, Latino and Asian residents of this city are being criminalized. Some of them will die because of it. Some of them already have it.

It is no secret the criminal justice in this city, as in every city of this nation, is deeply racially biased. Through our collaboration with ICE, we are outsourcing that injustice. We are offering up our neighbors to a brutal, and frighteningly unaccountable outside entity.

ICE has demonstrated a willingness to break even their own policies in the pursuit of detentions. Just three weeks ago, and not far from here, they apprehended a man on Church property, in direct violation of their Sensitive Location agreement. Given this brazenness, it is essential that the District establish itself clearly and unequivocally as a true sanctuary.

The District has long understood itself to be a disenfranchised city. And this fact should engender in all of us empathy for the disenfranchised members of our community. We should understand that the fact of being criminalized does not diminish in anyway a person's worth, any more than it diminished the worth of Jesus himself.

And to that end, you must all collaboration, cooperation and information sharing with ICE. you must make clear that this cancerous organization will not be allowed to prey on our neighbors, and will have no place in the body of the Washington, DC. Thank you."

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-Rev. Peter Jarrett-Schell,
Pastor,
Calvary Episcopal Church, Washington, DC

Testimony from Rev. Rob Keithan, Minister of Social Justice at All Souls Church Unitarian
On B23-0501, the “Sanctuary Values Amendment Act of 2019”
October 1, 2020

Chairperson Allen, Councilmembers, and Staff of the Committee,

My name is Rev. Rob Keithan, and I serve as the Minister of Social Justice at All Souls Church Unitarian. Our congregation will celebrate its 200th anniversary next year, and we are dedicated to making this city and this country welcoming and equitable for all people. Personally, I’m honored to have called DC home for more than 25 years, and my wife and I are raising two little girls to be proud of the city as well as committed to making it better.

All Souls Church is located at 16th and Harvard Streets NW, where Adams Morgan, Columbia Heights, and Mt. Pleasant come together. It’s the most diverse part of the city, and if you stand at any one spot for awhile you’ll see a beautiful, amazing variety of people going about their lives. We know about the richness and strength that immigrants bring, yes because they are our neighbors, but also because they are our congregants, and our co-workers. They are our friends and they are our family.

In addition to collective organizing and advocacy, like this, All Souls Migrant Solidarity Team provides direct support to individuals and families in various stages of the immigration process. We’ve helped to throw baby showers for new moms, collected professional clothing and winter clothing, helped find furniture and housing and move people, provided job support and legal support, and so on. We know about these folks hopes and dreams; what they want to do with their lives and their families here. But we also know the other part of the story. We know about the mental and spiritual challenge of living with constant fear. Some of the fear is about our nation’s broken immigration system, yes, but some of the fear is very much about the policies and practices of our own city’s government.

Quite simply, I believe that the collaboration between local law enforcement and ICE is unconscionable in a city that purports to be a Sanctuary. At a time when black, brown, and immigrant communities across this nation are experiencing shameful scapegoating and bias, I believe that our city can and must do better. Washington, DC, should be a leader in building diverse communities, not a leader in policing them! We should be a critic of the nation’s unethical immigration system, not colluding with it!

We need a strong permanent Sanctuary Values Act because no one in our communities, and no one in our congregations, should have to live in fear. Thank you for the opportunity to be here today, and for your work.

Statement from Rev. Dr. Sharon Stanley-Rea to DC City Council Sanctuary Values Act,

Oct. 1, 2020

Chairperson Allen, Councilmembers, and Staff of the Committee,

I am Rev. Dr. Sharon Stanley-Rea. As a congregation leader with National City Christian Church, the national director for Refugee & Immigration Ministries with the Christian Church (Disciples of Christ), a Ward 5 District resident, Convenor for D.C.'s Congregation Action Network, and as one inspired by sacred scriptures that share so many migrant experiences and calls to welcome that the Bible is sometimes called "the essential immigration handbook," I deeply believe it is an urgent moment for us to step boldly into the moral space where we must stand as a sanctuary city.

We would all hope that justice—not jeers—would roll down like an ever-flowing stream in every quadrant of D.C. I'd pray public protections—not punitive policies that make others shake and live in secret—would guide us; that we might be a city of refuge for those seeking escape from horrific violence and life threats unimaginable--and that we'd not, by our practices, turn immigrants over to ICE in ways that further threaten and tear apart their hearts and families. It is EXHAUSTING to neighbors I know to have to fear dehumanizing tactics (from ICE or any public agency) designed to intimidate and target—instead of allowing them to daily contribute the love, laughter, and lasting benefits that living safely in the light brings to our district!

As faith communities through the Congregation Action Network who act to end detention, deportation, and criminalization of immigrants, we stand--in prayer and vigil with our immigrant congregants, thru grocery deliveries, and this morning at the DHS and national ICE Headquarters offices—in solidarity with neighbors whose life experiences have made it necessary to migrate for security and often survival of their families. Kenneth, Yeslin, Marta, Prince, Dylan, Rosa--Our city must welcome and protect these our neighbors--not multiply traumas.

Allowing DC agencies to release immigrants to ICE separates families, unnecessarily terrifies neighborhoods, and ends work that supports families and our whole city. Especially now--as COVID deepens inequities in black and brown communities, as agents have been deployed on our streets against protesters voicing inequities, and as ICE has shown again recently on church grounds in neighboring Glenmont that it will use invasive tactics that break even their own rules against sensitive locations--we must uphold dignity, justice, and family unity by passing a permanent Sanctuary Values Act now that ensures protection of all neighbors, and leaves no one behind.

Dear Chairperson Allen, Councilmembers, and Staff of the Committee,

My name is Jessica Lee. I'm a Ward 1 resident, and I work with the DC Schools Project through Georgetown University's Center for Social Justice, which is a tutoring, mentoring, and advocacy program made up primarily of Georgetown undergraduates who serve as program tutors and student leaders. We work with low-income immigrant communities here in DC. We work with K-12 English learners and their families.

I'm going to start with a fact. Immigrant communities, in particular undocumented immigrants, pay about \$11.74 billion in taxes per year. Just a few days ago, we learned that Trump paid just \$750 in taxes in 2017.

There are more concrete impacts of ICE's relationship to local DC agencies aside from the fact that ICE's existence is about legislating the dignity of human beings and whose life matters based on a set of documents. When Trump was elected, the second and third graders we worked with asked their tutors if they would get deported. Our jobs, as responsible adults, should also be to protect them and enable them to live full lives. Since 2017, there is heightened fear especially with strengthened connections between local agencies and ICE. In the first months of the Trump administration we saw drastic decreases in school attendance. IN 2018-2019, we saw a DECREASE in graduation rates for English learners, to just about 51%. Can imagine not going to school because you're afraid of being stopped by ICE on the street? School is central to our young people, and for working families.

Many of the families we are connected with have talked about the levels of fear that prevents them from accessing basic services that are available to them -- we NEED them to be able to access food services or rent support. That's the whole purpose of a social safety net. Our families are so afraid of the police that they would rather go hungry or be victims of crime rather than to call them because they've only witnessed MPD's violence.

I'm a child of immigrants. My parents survived the Korean War and immigrated here in the 80's. My mom, who still does not speak English, fought for me to go to school and learn my alphabets before my first day of school because she firmly believed education would give me a better life.

We need a strong permanent Sanctuary Values Act that leaves no one behind because immigrants are people. No parent should be afraid to send their kids to school because they migrated here for a better life. No parent should be afraid to go get food for their kids, or live in permanent fear for the simple fact that they are also people. We need a strong permanent Sanctuary Values Act that keeps our communities, as well as our families together. Thank you.

Testimony of Marcy Campos, American University, October 1, 2020

Chairperson Allen, Council Members, Staff of the Committee, and all who made this hearing happen:

My name is Marcy Campos and I represent American University. I am the Director of the Center for Community Engagement & Service and I also have taught a course called the *Latinx Community of the DC Metropolitan Area* for many years.

Thank you for the invitation to speak today about this bill and advocate for its passage.

I have a long history of work in this arena. Prior to AU, I worked with *UnidosUS* – it was *National Council of La Raza* when I worked there -- and many affiliates of *UnidosUS* are the community groups supporting the Latino community.

In addition, I first came to DC -- & specifically Mt Pleasant, the heart of the Latino community -- in the late 1970s when Central Americans began to flee their countries due to wars & U.S. foreign policy which supported brutal dictators. As you know, many Central Americans settled and stayed in DC.

I have stayed involved since then – yes, quite a long time – about 40 years! More recently, a group of colleges in the area formed the Cross-Campus Organizing Network which focuses on sharing strategies for more immigrants and undocumented youth to access college.

At AU, we believe strongly that students' learning is enhanced by applying the theory and readings of the classroom to the issues of the community through involvement in nonprofit agencies, schools, and local government. Not only do students deepen their understanding of what residents are experiencing, but they also lend a hand and offer their skills to the organizations that serve them.

We believe this a win-win situation, its beneficial for all involved. And on top of that, this involvement promotes civic engagement in the broadest sense. And -- my personal hope – is that it encourages our students to consider careers in human services, nonprofits and education.

Every semester hundreds of AU students connect their classroom learning to the city's socio-economic issues through what we call “community-based learning”-- also known as “service-learning.”

One of the strong areas of interest has been to engage in immigration-related issues and collaborate with organizations supporting the Latino community. Perhaps because this issue is so prominent in the news, it has become even more critical to our faculty and students to not only be informed but to play a positive role & change the negative narrative of the current administration around immigrants.

Students have worked with an array of sites including CARECEN, AYUDA, the Capitol Area Immigration Reform Coalition, the Latin American Youth Center, Clínica del Pueblo, Mary Center, The Family Place, The Mayor's Office on Latino Affairs, GALA Theater & schools such as Next Step Public Charter School and LAYC Career Academy.

Some do direct service – they tutor children or co-train adults getting ready for the citizenship test. Some translate documents from English to Spanish. Other students answer the hotline with the CAIR Coalition or accompany lawyers to detention centers.

Some do projects such as social media work, video production or website development, skills that young people can offer to an already busy staff.

And others carry out research projects. For example, a graduate student interviewed day laborers with *Trabajadores Unidos* at the Home Depot on Rhode Island Avenue to examine sources of stress in their lives such as family separation, tenuous employment, and discrimination. In fact, even now one of our faculty in the Spanish Dept brings bags of groceries to day laborers in our “Humanities Truck” at Home Depot every Friday.

Due to COVID all this has changed for the current semester, but the work continues virtually.

I have been struck time and time again that one critical aspect of learning is understanding up close what the immigrant community is going through in these troublesome times: Young people who don’t know if their parents will be there when they get home from school, day laborers who worry they could get picked up randomly by ICE, women at the Family Place struggling to get by on minimum wages, and the DACA students in the DMV area who came as children but are not feeling very welcome here.

And in fact, there AU students & alumni who personally face these stresses & concerns as well:

- Several have DACA themselves so are not sure how long they can be in school or work or drive a car.
- Many are in families with mixed status, so they worry about their parents or their siblings.
- Some have experienced hateful remarks when on the metro or at a restaurant.

I speak on behalf of the Center and AU in stating that we emphatically believe that the immigrant community needs to feel safe in this city and that we must commit to building a better future for ALL residents.

In an era when racial profiling and hate crimes are on the rise, DC can and must set another example for our residents and for the country.

We need a strong permanent *Sanctuary Values Act* that leaves no one behind.

We cannot just espouse terms like “diversity,” “community,” and “family values.” *We must walk the talk and put our beliefs into action. In this case, that is this concrete piece of legislation.*

Thank you.

Buenos Dias Miembros del Consejo del Distrito de Columbia,

Yo llegue a los Estados Unidos cuando tenia 16 años desde El Salvador. Vine huyendo de mi país porque habían pandilleros que intentaron matarme. Llegue a la frontera y fui detenido por la patrulla fronteriza. Me dijeron que me iban a soltar, si tenia un familiar aqui. Mi tío que vive en DC me recibió sin muchas ganas y no quería que fuera a la escuela. Tuve que rogarle mucho para que fuera a inscribirme y finalmente empeze a ir a Cardozo High School Después de un tiempo, me voto de la casa y empeze a vivir solo con muchas dificultades.

En el otono del 2018 cuando tenía 18 años mi primo, un amigo y yo estábamos en camino a hacer ejercicio en la cancha de futbol cuando mi primo fue atacado por una persona y yo intente separarlos. Su cara fue lastimada y estaba sangrando.

La policía llevo y nos detenio a todos. Cuando un oficial se me acerco, me puso las manos detras de mi cuello y me arresto, tambien me grito diciendome que si habia votado armas, cuchillos o drogas, le dije que no .

Mi primo, mi amigo y yo fuimos arrestados y pasamos dos dias en la estacion de policia que esta en la Georgia Ave.

Al tercer dia fuimos transferidos al departamaneto de correcciones donde nos prometieron un abogado y una audiencia

con un juez. Durante este tiempo, mi primo nunca recibio ninguna atencion medica. Despues de unos dias pensamos que estabamos en camino a una audiencia con el juez, pero en vez fuimos transferidos a un centro de detencion de ICE.

Cuando fuimos transferidos al centro de inmigracion estamos encadenados desde las manos hasta los pies. Cuando llegamos mi amigo fue separado y yo me quede con mi primo. Yo tuve la oportunidad de ver un juez algo que mi primo no tuvo porque lo hicieron firmar su deportacion. Cuando yo estaba en el centro de inmigracion yo me acuerdo como dormiamos todos juntos. Me acuerdo de la comida que los davan, una comida sin sabor. Los unicos dias que davan comida mejor era cuando los davan pollo y un arroz tan duro. Cada vez que comia yo cerraba los ojos y aveces yo salia corriendo al bano para vomitar. Tiempo paso y sali de ese horrible lugar.

Desde que yo sali yo no soy el mismo me acuerdo que odiaba estar encerrado y que un dia yo pegue mi cabeza contra la pared de concreto ya avia perdido la esperanza. En esto momento a veces me levanto pensando que estoy en ese terrible lugar. Aveces no me puedo dormir y un panico que me entra cuando escucho o veo una patrulla de policia.

Miembros del Consejo le pido que paren la colaboración entre migración y cual quiere agencia del Distrito de Columbia. Que jovenes migrantes y mi comunidad puedan vivir sin miedo a ser

entregados a migracion. Que no sean transferidos a horribles lugares como al centro de inmigracion que yo estuve. No quiero que nadie viva lo que yo e vivido. Espero que hagan lo correcto porque miembros del consejo y que protejan los miembros de su comunidad.

Gracias

Gerson

Good afternoon Council Members,

My name is P.W.

I immigrated to the United States 15 years ago. DC was the city that made my biggest dreams come true, to reunite with my mom. This city has seen me grow and thrive as I pushed to achieve my dreams.

I always have told people I was undocumented, I was never ashamed about my status as I organized and joined the movement. As we pushed for policies and ways in which we could feel safe. I was always told that DC was a sanctuary city which meant that I couldn't get torn apart from my family.

When Trump was elected, a fear that had not come up in a long time came back. The fear of being deported and separated from my family became more of a reality. One day, my friend and I decided to go to a lacrosse game so we could support UDC. We decided to go on our bicycles to the game, while I was riding down a hill my bicycle lost control and crashed into a car and suddenly I was on the floor. The elderly woman who was driving stepped out and looked down upon me asking me if I was okay.

My first thought was not if I needed to go to the hospital but instead, Other questions came to my head. What if she calls the police? What if I get deported? What if I am separated from my family?

I stayed calm and gave the lady my information and went on my way. I was still disoriented from the accident but I made it to the game to cheer on my friends. I know this is a story which others immigrants can relate to and probably to you it didn't mean anything but the fear I felt at that moment it was a similar fear I had felt before. The fear felt the same when I was 9 years old and was put in a cold cell by agencies that terrorize my community, ICE & CBP.

I don't want any of my neighbors, friends or family to experience that fear, that feeling of uncertainty, the fear of being deported, the fear of being torn apart from their family. The fear to be put in a detention Camp that doesn't treat you like a human being.

This bill will ensure my family and I are protected from ICE's overreach and abuse of power and won't allow DC institutions to hand us over for detention and deportation without a judicial warrant. This is a good first step to protecting our community from ICE's and I am here asking you to vote to make that protection permanent so my family and I can have peace of mind.

I want to give glory to God, the author, and perfecter of my faith.

I want to greet Chairperson Allen, Councilmembers, and Staff of the Committee.

My name is P.W., and I think that it is past due to pass permanent legislation that protects DC residents, **regardless** of citizenship status, charges, or convictions.

I am one of 47,921 DACA recipients living in the DMV.

I've lived in Washington, D.C. ever since my arrival to the United States at the age of four. I am a product of DC's commitment to great public education: I attended Trusdell Elementary, Meyer Elementary, Howard University Middle, McKinley Technology High and recently graduated from the University of the District of Columbia.

It was at UDC that I founded Migration Matters, which is the first and only organization at an HBCU to center undocumented students. We are committed to building awareness, education, and advocacy on behalf of ALL migrant communities.

As a Black undocumented woman living in an overpoliced city, it is by God's grace that I return home every day, because there is no permanent protection for migrants like myself. It is because of organizations such as UndocuBlack Network and United We Dream that I know my rights to protect myself -- generally and against harassment by law enforcement.

I have experienced not feeling safe in my home, having to whisper in our apartment when it comes to conversations regarding our immigration status.

Can you imagine being fearful when seeing police? Knowing the possibility of being racially profiled, arrested, and then turned over to ICE, an agency that will try and deport you? Can you imagine going to school trying to focus on your studies the day after a loved one was detained? This is the nerve-racking reality for much of my community.

I myself am a proud, yet fearful, resident of Washington, D.C. As a DACA recipient, I constantly have check-ins with my mother when I leave home to assure I wasn't at the wrong place at the wrong time. I worry that the same thing that happened to [Ousman Darboe](#) could happen to me.

Councilmembers, and community, I believe in education, not deportation. I believe in the presumption of innocence, which is a legal principle that considers someone "innocent until proven guilty" not innocent until **deported**.

I know you are a true ally, Councilmember Allen, because I remember on July 12, 2019 when the ICE Out of DC coalition met with you in a coffee shop and you

expressed your commitment to meeting with us again. I remember the multiple meetings we had in your office that led us to The Sanctuary Values Emergency Act passed on October 8, 2019, and you're proving your allyship NOW, affirming the necessity of permanent protection for DC residents.

We need a strong permanent Sanctuary Values Act that leaves no one behind because as our national government launches daily attacks to criminalize not migration and immigrants it is up to our local government to keep us safe. Thank you for this opportunity.

Bio: Joella Roberts is

Good afternoon DC Council,

My name is P.W. I came to the United States and resided in Washington DC at the age 19 in 2015. I didn't know anything about the United States and life here, I only knew that if I stayed in my country I would not have the opportunity to strive for a better future for me or the future generations of my family. I attended Roosevelt S.T.A.Y high school. During my time there, I was also working full time as a busser at a restaurant.

I'm a English Major at the University of the District of Columbia now. It's been very difficult for me to adjust in higher education as people always look down on me because of my accent. Many times I have been asked if I could speak English just because I looked Latina. Because of the color of my skin, people will always racially profile me.

When I was working at a restaurant, I was a victim of a crime. Someone went into the employees locker room and stole everything from me including my wallet that had all my essential belongings. I had to talk to the police about the crime, something that I had been always scared about all my life.

Even though I was the victim of the crime, I was scared of going to talk to the police. When I spoke to the police officers, I was afraid because I thought they were going to ask me for my immigration status. I provided all the information they needed but for weeks I was fearful for my life because I thought at any moment ICE would be at my door.

This is a fear that many people in my community have, and even worse I came to realize that DC is not a true Sanctuary City like they say they are; and that immigrants like myself aren't welcomed any more since we are being deported and separated from our families throughout different interactions that ultimately result in us, being handed off to ICE

I want to feel safe in my community, I long for the day that my skin color doesn't matter, and the fact that I have an accent doesn't give me away as an immigrant that can be potentially racially profiled and handed off to the police and ICE.

I am here on behalf of my family, and the ones who are too afraid to speak up today to ask the DC Council to vote in favor of the Sanctuary Values Act and truly stand in solidarity with the right side of history by making this a permanent legislation **without criminalizing and taking anyone's humanity and dignity away.**

Thank you.

"Chairperson Allen, Councilmembers, and Staff of the Committee," good morning my name is Zachary Blas Perez. I am a student attorney with American University's Immigrant Justice Clinic. Today I will be speaking briefly in support of the Sanctuary Values Act Amendment as a district community member.

In addition to my work with the Clinic, since 2018 I have held a job in the district as a research assistant to a national service provider: The National Immigrant Women's Advocacy Project. We offer trainings and technical assistance to attorneys as well as law enforcement. Our focus is on providing safe solutions to immigrant victims of domestic violence.

One common sentiment I have observed during my years providing this nationwide assistance on immigration issues...is fear. This fear and uncertainty permeate all parties, from lawyers who are concerned about who has collected their client's information, to prosecutors worried that disclosure regulations will put their witnesses at risk, and certainly to the immigrant community members who are reluctant to pursue justice in our system due to concerns for their own family. My personal experience working in the system is that a lack of reliable information holds back all efforts to defend immigrants. The only cure to this fear comes from bold leadership: passage of the Act would be a step in this direction. While this re-affirming of the Act is a positive development, I want to use my brief time today to talk about a dynamic initiative that would allow us to address this fear by providing the community with more information.

Specifically, I wanted to highlight the importance of robust compliance and reporting requirements. We are seeking DC agency reports that would make anonymized data available to the public. This should include release/transfer to ICE statistics broken down into people on local charges and people on federal charges. Additionally, these reports could track DC agency response to ICE inquiries for information, namely the type of information requested from and shared by DC agency, such as location data, address, driver's license data, utility data, criminal records and whether the subject of inquiry was on local or federal charges

One of our sister cities, Austin, took a similar bold step back in 2018 to let their community better assess the impact of immigration actions. Their city council passed [a resolution], mandating quarterly reporting of immigration enforcement activities. Notably,

this data also included demographic information of immigration enforcement actions taken in their jurisdiction. Here at American University, we are taught to apply critical race theory to better understand how systemic racism leads to disproportionate enforcement. Statistics such as those that have been compiled by Austin quarterly since 2018 are an invaluable window into the actions of immigration agents within our communities. These initiatives promote accountability at the local level.

DC should assert its authority in offering this data of immigration agent interaction so that the public can better assess whether the cost of enforcement is justified. This would not be a difficult implementation -- in fact, the MPD released a 2019 report on demographics of their stops, which shone a light on problematic racial bias that our residents are just beginning to unpack. We are seeking a minor augmentation, along the lines of the old adage "who watches the Watchmen?". The answer should be the people, and this council has the opportunity to make it so. In addition to requiring more data, this council can create a formal complaint procedure that allows residents to blow the whistle on abusive actions by immigration agents. Numerous cities with sanctuary regulations, such as Austin, have created such complaint procedures already.

Finally, as a law student rep, I want to stress how burdensome the challenge is for immigrant advocates to pierce the veil of ICE. Every single time that advocates attempt to use litigation to challenge the immigration agencies on unlawful practices, they are forced to reckon with the infuriating opaqueness of the bureaucratic beast. Simply put, it is the defensive tendency of an enforcement agency to bar disclosures of pertinent data. Like many of my fellow law students, I have done a short intern stint redacting records on behalf of an agency and I can personally testify that this practice is alive and well in keeping vital statistics out of the hands of the public. The lessons of 2020 have been painfully clear: we can never trust a rogue agency to open itself up voluntarily to accountability and the courts are highly unlikely to order such disclosure in the future.

Thank you for taking the time to listen to my testimony in support of the Sanctuary Values Act. I implore you to remember as you proceed that strict reporting requirements are the cure to the fear fostered by ICE. We need a strong permanent Sanctuary Values Act because the only way to counter a loud culture of fear from the top is with bold local action.

Testimony at Public Hearing for Sanctuary Values Act | DC Council Judiciary Committee
Thursday, Oct 1, 2020
Farah Khan

Chairperson Allen, Councilmembers, and Staff of the Committee-

My name is Farah Khan and I am here as a law student from the George Washington University Law School. I have been involved with Sanctuary DMV since 2018 and broader immigrant justice work since early high school, as an immigrant myself. I've had the privilege of working with CASA de Maryland, the Bronx Defenders, and I am currently a student attorney with the GW Law School Immigration Clinic.

I am testifying today because I want my community to be safe, period. I moved to this country when I was a young child and I have been lucky to have grown up in communities throughout the US that are dedicated to ensuring the safety of every single human being, regardless of immigration status. That is why I am committed to ensuring Washington DC, the city I call my home, permanently passes the Sanctuary Values Act and creates a true sanctuary for all, where immigrants are treated no differently than our neighbors who were born in this country.

I am particularly troubled by the District's practice of allowing immigration enforcement agencies access to the Department of Corrections for immigration interviews of individuals in custody. This is a worrisome loophole to our sanctuary policy. A permanent Sanctuary Values bill should ban all ICE interviews in DC facilities, unless the immigration entity seeking the interview presents a court order requiring it, or the person in custody affirmatively requests the interview. To ensure that any such interview does not lead to an abuse of power, all individuals in custody should have their criminal defense attorney informed of the interview request. Individuals must also be meaningfully advised of their right to counsel during any interview, as well as the possibility that any information they provide during an interview may be used against them. If someone does waive their right to have their criminal defense attorney present during an interview, this waiver must be made knowingly and voluntarily, after having had meaningful opportunity to consider whether or not they want their attorney present.

Without these protections, our community members could be placed in highly coercive interview settings where the stakes for them and their legal case are extremely high. This practice keeps our immigrant neighbors in DOC custody perpetually vulnerable to ICE.

I am encouraged by the steady progress that the District is making to keep my community members and neighbors safe in this city. Passing permanent legislation that addresses these remaining issues brings us even closer to living in the District that we deserve. We need a strong Sanctuary Values Act that leaves no one behind because immigrants deserve safety and the right to due process just as our citizen neighbors do.

Chairperson Allen, Councilmembers, and Staff of the Committee,

My name is Sam Singleton-Freeman. I am a second-year law student at Georgetown, and I have volunteered with the ICE Out of DC Coalition since 2019. Prior to that, I worked as a community organizer with the immigrant rights movement in Wisconsin beginning in 2013.

Earlier, Paromita Shah spoke to the long history of the DOC in particular not complying with legislation passed by this council to stop collaboration with ICE. I want to reinforce what she said and what Mr. Perez said. The permanent law must include robust reporting and enforcement requirements.

First, reporting. MPD, the DOC, and all DC agencies must regularly release to the public all information about when ICE or any anti-immigrant agency contacts them. We need to know about every detainer and notification request. We need to know whether each of these requests targeted a person accused of local infractions or a person accused of federal infractions. We need these agencies to affirmatively say in these reports which detainer or notification requests they refused or ignored—which should be all of them—and how many requests they complied with, which should be 0.

But we need to know.

Many of the states and cities that have passed measures like this have included reporting requirements. For example, New York City requires their police department to issue an annual report including the number of detainer requests received. California law says that when any law enforcement agency provides ICE access to any person, the local government there has to hold a community forum and provide the public with detailed information about this collaboration. If we are serious about preventing deportations, the rules must have real reporting requirements.

There are already many reporting requirements for DC agencies that are not that different from what we are talking about. For example, the DC Code requires the DOC to report grievances, jail conditions, and other information on a quarterly basis. Reporting requirements related to contact with ICE should be included.

Second, enforcement. If DC police or jail guards or any DC employee violates this policy and helps ICE agents, there must be a way for people to formally complain. Again, many cities that have passed these sanctuary policies, like Chicago, New Orleans, Seattle, and San Francisco, all have included complaint procedures. And these complaint procedures must be publicized. If MPD or the DOC violate these policies, then the DC Council needs to know.

These rules don't mean much without reporting and enforcement mechanisms. ICE is an incredibly abusive agency that thrives on secrecy. We demand that the DC government not be complicit. Sunlight is the best medicine.

We are experiencing a historic uprising against this country's racist system of policing. We want real, radical change. We want a DC that doesn't target Black people, that doesn't cage people, that doesn't kill people—in the name of public safety. We want all people to be able to live life to the fullest potential, free of poverty, discrimination, and fear.

The least that we can do is say that some kind of contact with this country's racist criminal legal system will not lead to detention and deportation—to possibly permanent separation from your friends and family.

I am so grateful to the many amazing people in our community who have spoken today, especially the undocumented and DACA-mented speakers. Please, make sure that the permanent Sanctuary Values Act includes strict reporting requirements and real enforcement mechanisms. Make DC a real sanctuary city, and stop MPD and the DOC from collaborating with ICE. Thank you.



Healthier You. Healthier Communities.

TESTIMONY OF

Dr. Kate Sugarman
Family Physician
UNITY HEALTH CARE

Regarding the

B23-501 Sanctuary Values Amendment Act of 2019

On

March 12, 2020

Good morning Councilmember Allen and members of the Committee. My name is Dr. Kate Sugarman. I have been a family physician at Unity Health Care since 2010 and work at the Upper Cardozo Health Center. I have developed an expertise and a passion for working with refugee patients and patients seeking asylum. As a physician I see and document scars of torture that our patients have experienced from their countries of origin. Escaping from torture has caused thousands of our patients to flee their homelands seeking safety in the US. Documenting these scars is critical as evidence as we know that the bar for being granted asylum is quite high. Due to this experience I am now teaching medical students, residents and physicians about the critical role that physicians play in the health and well-being of refugees and asylum seekers. I am also an active member of the national group D4CC, Doctors for Camp Closure and I am the co-chair of the D4CC DMV chapter. I strongly urge the DC Council to support a strong, comprehensive Sanctuary Values Act.

As a family physician it is my role to ensure and advocate for the well-being of my patients and my patients' families and their communities. Unfortunately, we know all too well the irreparable harm that families suffer when one of their family members are detained or deported. We know that children lose their ability to concentrate and focus on their education. The medical and mental health literature is filled with the overwhelming evidence of the lifelong damage that happens when children suffer adverse child events (ACES). We know the grief that befalls a husband or wife when they no longer have their spouse with them. Adult children are often the ones who bring their elderly parents to their medical appointments and arrange their medication and complex medical needs.

And on top of it all, many of these families have lost the income of their wage earner, plunging these families deeper into poverty.

I still see my patient Rosa who suffers from crippling depression, anxiety and headaches. She has not recovered from the loss of her husband who was deported. These are man-made crises. As a physician I know what happens when people get taken by ICE and are then put into ICE detention prisons.

Many people in ICE prisons are denied medical and surgical care to the point where they suffer permanent injury or death due to the lack of medical care. Physical and psychological mistreatment by the staff is widespread. There have been many suicides in ICE prisons.

In the past few months we have seen a wave of preventable illnesses and deaths in ICE jails. An ICE jail is the absolute most dangerous setting in which to get infected from Covid 19. Detainees are housed in very close quarters. The ventilation is poor. There is a severe lack of face masks, PPE, soap, water and hand sanitizer. ICE staff and new detainees are constantly entering the jails, constantly bringing in new cases of infection. Medical care is quite lacking to the point where I have been told of multiple detainees begging and crying when sick for medical attention, only to be completely ignored, even while they are burning from fever and vomiting. The deaths from Covid 19 in ICE jails are mounting. And this does not even include the women in Georgia ICE jail who were sterilized without their consent.

The two largest detention centers in the DC region, Farmville and Caroline, have experienced major COVID outbreaks. At one point, Farmville had 93% of detained individuals there test positive for COVID and even had a detained individual die after

contracting the virus. That means that DC residents turned over to ICE will almost certainly be sent to a detention facility where they will face great risk to their health.

I have been in both Farmville and Caroline County. I have seen the conditions with my own eyes and as a physician understand the perils of being detained there.

Working for Unity Health Care, working at Upper Cardozo clinic and working in Washington DC is a privilege that I cherish. Every day I take pride as I watch my co-workers try to speak and communicate in the languages of our patients. We are a shining example of how we all can get along with each other, no matter where we are from. I urge the Council to stand on the right side of history.

Please do everything in your power to keep families together by supporting a strong permanent Sanctuary Values Act that leaves no one behind. Thank you.

Dear Chairperson Allen, Councilmembers, and Staff of the Committee,

I am writing to express my strong support for the Sanctuary Values Act. This issue is deeply personal to me for a variety of reasons -- I am an immigrant, a proud naturalized U.S. citizen, and a Ward 6 resident passionate about D.C. statehood and building an inclusive community.

I also work at a national immigration advocacy organization, which has made me keenly aware of how much harm is caused when local law enforcement cooperates with federal immigration authorities. No D.C. resident should live in fear that any interaction with police could lead to their deportation, that their entire life could be upended for something as simple as a traffic stop.

I also believe D.C. should hold itself, and any agencies it cooperates with, to the highest standards of accountability and transparency -- standards that ICE consistently falls short of. U.S. Immigration and Customs Enforcement is disjointed and severely lacking in oversight, and our city should not be turning its residents over to an agency that has only added to its long record of abuse and shortcomings amid the COVID-19 pandemic.

From statehood to voting rights for incarcerated residents, I have always seen D.C. at its best as a place dedicated to combating marginalization. This pursuit of justice and equity will not be truly successful if it does not include our immigrant neighbors. This is why we need a strong, permanent Sanctuary Values Act.

Thank you,

Joanna Taylor
Ward 6

I was proud of my city when I learned that DC was a Sanctuary City. I was ashamed when I then found out it was just window-dressing on shameful collaboration with ICE. I expect the DC City Council to ensure that the Sanctuary Values Act leaves no one behind, and closes the loopholes ICE uses to detain and deport immigrant communities in DC. And be sure, I will watch this issue as I vote in November.

Sincerely,

Helen Schietinger

Chairperson Allen, Councilmembers, and Staff of the Committee;

My name is Lily Strellich and I am a Ward 4 resident, and my community deserves better than a city government that complies and collaborates with ICE.

Living and working in a neighborhood with the largest Latino population in the city has afforded me a new connection to my own identity and heritage as an American with Latin ancestry. My neighbors—regardless of migration history, charges, or convictions—make this city a place where people want to live; more importantly, they shouldn't have to in order to live in safety and security. Everyone in DC deserves to live without fear of detention or deportation.

We need a strong permanent Sanctuary Values Act that protects our neighbors regardless of their migration history, charges, or convictions. We need a city government that acknowledges our neighbors' humanity. We need a city government that will stop collaborating with an agency that is engaging in forced sterilization, family separation, and abuse in our neighborhoods. Please pass a permanent version of the Sanctuary Values Act now.

Thank you for your consideration.

Respectfully submitted,

Lily Strellich

Greetings Chairperson Allen and all the Council

Please provide for a national model as the nation's capital and protect the vulnerable. We can not have the Nation's Capital on the Potomac look like 1930's Berlin on the River Spree. The world is watching please demonstrate courage and compassion and pass the Sanctuary Values Act

Thanks
Jose de Arteaga
Ward 7

Chairperson Allen, Councilmembers, and Staff of the Committee,

I am writing to share my support for the vital DC Sanctuary Values Act. The immigrant deportation and detention system has shattered too many lives, and broken apart too many families and communities. Cooperation with ICE is not only dangerous under the current administration, it is fundamentally inhumane. We need policies that promote stability and inclusion in our communities, and ICE cooperation instead creates an atmosphere of fear in the city.

Furthermore, no one should be banished from their home because of their criminal history. We need to stop the dehumanization of immigrants who have criminal convictions, and the dehumanization of people with criminal convictions in general. Every person is deserving of rights, comfort, and compassion, and our public policy should reflect this.

As a new DC resident, I believe in a DC and a country that ends the demonization and scapegoating of noncitizens, and instead, thinks critically about a future rooted in an expansive vision of what it means to share our communities with people from all walks of life and all backgrounds. I come from an immigrant family myself, and I know my family was afforded many privileges that many immigrants today are denied. It's time we choose policies that reflect the values we strive to hold, rather than the fear, exclusion, and racialized violence that has defined this country's history.

I urge you to support this important piece of legislation, and I look forward to celebrating its passage.

Best,

Dinesh McCoy

Chairperson Allen, Councilmembers, and Staff of the Committee,

My name is Jagir Patel, and I am a resident of Ward 6 in Washington, D.C. I am writing in support of the Sanctuary Values Act. I believe we need a strong permanent Sanctuary Values Act that leaves no one behind because it is the moral thing to do. Available data show that the DC Jail has transferred at least 43 of our neighbors to ICE since 2016, and helped ICE detain countless other DC residents directly outside the jail. This is abhorrent. I urge you to vote for the Sanctuary Values Act.

*Thank you,
Jagir Patel*

Chairperson Allen, Councilmembers, and Staff of the Committee,

My name is Kate Taylor Mighty, I'm a resident and homeowner in Ward 5. As a Black woman who, like all of you, is older than the Department of Homeland Security and has witnessed ICE's legal power and extralegal rap sheet grow, I am acutely aware of the dangers that DC's continued collaboration with ICE poses to every DC resident.

This collaboration, in violation of the temporary Sanctuary Values Act, has led to family separation, purposely cruel detentions, and deportations. We know, as of this week's report about top Justice Department officials' engineering of family separations, that this barbarism is deliberate. It contributes to terror and anguish in our immigrant communities, belies DC's commitment to being a "Sanctuary City," deprives DC residents of their rights to fair representation and due process, creates an even crueler criminal legal system for immigrants who would otherwise have been released, and poses a grave threat to any person our federal government designates as "undesirable" — regardless of their status under *current* law. **As a Black woman, I know that that means I am not safe.**

With Trump signaling his refusal to leave office regardless of the election's results, the Senate preparing to steal yet another Supreme Court Seat after having confirmed over 200 federal judges to the bench, and no meaningful consequences for ICE's continued violation of the *temporary* Sanctuary Values Act, there is no guarantee for any DC resident that ICE and similar agencies won't come for them, too. **As long as ICE can legally kidnap a DC resident with the implicit consent and explicit cooperation of DC agencies, none of us is safe.** Draw a line in the sand now, before it's too late.

If the Council doesn't make permanent the Sanctuary Values Act, which would enable us to hold those responsible for the DC Jail's collaboration with ICE accountable for their *illegal* activity, everyone involved will see it as tacit approval. ICE and DC agencies will be emboldened to continue to collaborate without accountability, the families will continue to be separated, and every DC immigrant — documented and undocumented — will have undeniable confirmation that their city doesn't have their back.

Councilmembers Bonds and Cheh, you've previously co-sponsored bills to protect DC residents from being extorted by their landlords and employers because of their immigration status. **Councilmember Gray**, as mayor, you went further than any other mayor before you to prevent the District from cooperating with ICE -- in your own words, you wanted to "assure the equal treatment of citizens and noncitizens alike."

The best way to make good on those intentions and promises is to pass a permanent Sanctuary Values Act. The best way to signal to the tens of thousands of DC residents who expressed their grave concerns about DC's criminal legal system this spring that you are serious about addressing racism is to pass a permanent Sanctuary Values Act. **We need a strong and permanent Sanctuary Values Act that leaves no one behind because no one is safe until the most marginalized among us is safe.**

Chairperson Allen, Councilmembers, and Staff of the Committee,

My name is Isabella Irtifa and I support the Sanctuary Values Act, and urge its passage. I am the department head of the Women and Girls Strategic Partnerships at The Uplift Agency and frequently travel to DC for work. The Sanctuary Values Act provides necessary implementable changes to make our communities safer and to ensure that individuals, regardless of status, are able to live with dignity.

It is clear that DC is not currently a Sanctuary City. The DC Jail has been working with ICE to detain residents as they notify ICE when immigrants are released. ICE then is able to detain immigrants, and often gives ICE agents access to inside the jail. According to the Kalmanovitz Initiative for Labor and the Working Poor, since 2016 the DC Jail has transferred at least 43 people to ICE and helped ICE detain many other people. These detentions have happened right outside of the jail, demonstrating that those most vulnerable are not released ever, but instead passed to more treacherous hands and rights consistently violated. This is not sanctuary. In such, since passing the Sanctuary Values Act, community experience and news sources have shown that District agencies are not complying with the law and continue to cooperate with ICE, sharing confidential information. This is life-threatening as individuals undergoing deportation face life-threatening circumstances and are often returned to a country they have never known.

When DC works with ICE it undermines the values of a Sanctuary City. Immigrants in our community live in fear of basic dignities such as reporting a crime to police, getting stopped at a traffic light, and more. Such cooperation leads to family separation, cruel detentions and deportations. These are heinous and volatile acts that are life-threatening. It is clear that our community member are under attack, and we must stand up for our community.

We need a strong permanent Sanctuary Values Act that leaves no one behind because we must create a more just world that treats all of our community members with dignity. We must stand up for our community and conscribe to the true and realized values of a Sanctuary City.

Thank you.

Chairperson Allen, Councilmembers, and Staff of the Committee,

I am contacting you today to encourage the DC Council to pass a permanent version of the Sanctuary Values Act. I have been a resident of DC for over 8 years, first as a college student, and now as a full-time professional. But before I arrived in DC, I lived in Los Angeles for my entire childhood, a city built on a diversity of color, countries of origin, and cultures. Indisputably, immigrants are the bedrock of our communities, both large and small.

It is this diversity that I first sought out having arrived in DC. It is this diversity that made me feel at home in the most important moments of my day. To this day, a friendly smile (visible despite the masks we wear) at a local restaurant or business lifts my spirits, turning a rough Monday into a moment of gratitude. Immigrants make DC the city many of us treasure living in, regardless of their immigration status. While many go unnoticed largely due to their work in the service sector, all residents rely upon their contributions day in and day out. There is no H St. corridor, no bar in Shaw, no public transportation without them.

And based on the actions of ICE and the Enforcement and Removal Operations division, there is no doubt in my mind that the arrests, removals, and punitive actions taken against individuals fail to reflect even basic rights that we ought to demand for a person regardless of their country of origin or immigration status. I am thankful for the immigrant populations I have the privilege of interacting with. But even that aside, as a citizen and resident of DC, I expect my city and country to respect all individuals. We need a strong permanent Sanctuary Values Act. Please uphold and pass this legislation to ensure protections for those most vulnerable among us.

Best,
Justin Fang



*Working to ensure all immigrants are treated with fairness,
dignity and respect for their human and civil rights.*

www.caircoalition.org

1612 K Street, NW Suite 204
Washington, DC 20006

T 202 / 331.3320
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**The Committee on Judiciary and Public Safety:
Written Testimony by Kelly White and, Senior Program Director, DC Detained
Representation Program
Capital Area Immigrants' Rights (CAIR) Coalition
In Support of
Sanctuary Values Act
B23-0501**

Chairperson Allen, Councilmembers, and Staff of the Committee,

Thank you for the opportunity to submit written testimony in favor of the Sanctuary Values Act. I am the Senior Program Director overseeing the Detained Adult Program (DAP) at the Capital Area Immigrants' Rights (CAIR) Coalition. CAIR Coalition is a Washington, DC-based nonprofit legal services organization. CAIR Coalition is the primary organization dedicated to providing legal services to indigent immigrant adults and children who are detained by the Immigration Customs Enforcement (ICE) agency under the Department of Homeland Security (DHS) or the Office of Refugee Resettlement throughout Virginia and Maryland.

Under U.S. law, people held in immigration detention do not have the right to an attorney, unless they can afford to hire one themselves. In our experience, the vast majority of detained immigrants have not the means, either because of poverty, or because of the additional economic disruption caused by detention. As such, most detained immigrants are forced into the precarious position of acting as their own attorney in a complex labyrinth of law, and in most cases doing so from a jail cell and in a language that is not their first language.

CAIR Coalition serves the approximately 2,000 immigrant adults and children who are detained in ICE custody on any given day in the DC, Virginia, and Maryland Region. ICE typically sends anyone detained in the District of Columbia to the immigration detention centers in Virginia. The Detained Adult Program routinely conducts jail visits to the five adult detention facilities where ICE detains immigrants in civil custody: Farmville detention Center, Caroline County Detention Center, Worcester County Detention Center, Howard County Detention Center, and Frederick County Detention Center, at least once a month for each facility, or by phone during COVID.

This past year saw sweeping immigration law changes, including the Migrant Protection Protocol, otherwise known as "Remain in Mexico." That policy requires people who want to seek asylum to wait for their court dates in Mexico. These folks currently live in unhygienic, chaotic conditions just south of the border, as they wait to enter the United States and exercise their right to seek freedom from persecution. The fact that these asylum seekers are now living in tent cities in Mexico means that there are more beds available in American detention centers. We assure you that ICE is finding and will find ways to fill those beds. One way ICE has already

begun filling up detention centers is by detaining people who are following the rules and attending ICE check-ins. ICE will also conduct more community raids—on the streets, in work places, and at peoples’ homes—in order to fill those empty beds. In short, because refugees arriving at the border no longer occupy the bed space, ICE will seek to fill detention quotas internally, turning towards the local population. This phenomenon has already been documented by the Washington Post as [recently as last week](#).

Although detained representation has increased in recent years, CAIR Coalition can only represent a small fraction of the more than 2,600 detained immigrants that we intake. Through these intakes we determined that approximately half of DC residents ICE detains through DC’s criminal legal system. Of those people, most still had matters pending or dismissed in traffic or criminal court, meaning, before being turned over to ICE, they had not been convicted of an offense. Of those people who did have a final decision on their case, 26 percent were found guilty. Moreover, at least 32 percent of people transferred from criminal custody had their cases dismissed in criminal or traffic court.

In addition to what we know about the criminal histories of people in detention, we also know about their families, their work, their lives. Of the people CAIR Coalition intaked, 41 percent are heads of households, and more than 90 percent were employed at the time of their detention. More than half of the people ICE detained were parents, immediately impacting the lives and wellbeing of at least 43 DC resident children.

While someone is detained, they of course cannot work, meaning the loss of income affects their ability to pay for legal representation and support their families. COVID-19 exacerbates all these challenges. When one parent is detained, that means less money for PPE or medical costs. It means more work on the parent at home who is now supporting children who are attending school exclusively online.

In addition to the way this pandemic has affected the people we work with, it has drastically changed legal representation. Since the pandemic began, it has taken our staff four times the amount of time to arrange and coordinate virtual visits, compared to in-person visits, even factoring in travel time to far away detention centers. Entire trials are now prepared over the phone; numerous clients have contracted COVID-19 while detained and have fallen ill, have had to seek continuances in their immigration cases, and have been quarantined up to 23 hours per day.

At CAIR Coalition, we are not concerned just for the folks who are fighting their cases, challenging as their circumstances are. We know that detention numbers are not stagnant. According to the 2019 DC Access to Justice Commission, more than 4,000 D.C. residents with DACA and TPS face loss of their status in the coming year, making them, too, subject to detention and deportation. This only adds to the already high demand in immigrant communities for assistance with other immigration issues such as asylum claims, naturalization, family-based immigration, and visas.

The grim reality facing DC immigrant residents demonstrates the need for this bill. Cooperation between ICE and local law enforcement facilitates the detention of our community members at a

time when ICE has every incentive to fill up empty detention center beds by targeting local communities. Detaining people creates a ripple effect—families are worse off, legal services are stretched even thinner, and criminal proceedings are delayed. Detaining people during a pandemic exacerbates and international public health crisis.

Moreover, cooperation between police and ICE increases mistrust between immigrant communities and the law enforcement, making immigrants less likely to report when they have been victims of or witnesses to crimes. It is a myth to believe that we are safer when a breadwinner is pulled apart from his family. It is a myth to believe we are safer when a domestic violence victim will not report her abuser because she is afraid she will land in immigration detention. This bill is one small step in facilitating the kind of trust and dignity that fosters true security rather than the façade of safety immigration detention provides.

Capital Area Immigrants' Rights Coalition
Kelly White
Detained Adult Program Director

Elizabeth Schmelzel
Attorney

Chairperson Allen, Councilmembers, and Staff of the Committee,

My name is JoLeah Gorman, and I am a DC resident in Ward 7, zip code 20019. I go to church at Peace Fellowship Church in DC and work at Mary's Center in DC. I write this email to urge you all to support the Sanctuary Values Act. Especially in my work at Mary's Center, I interact with a myriad of refugees and immigrants to the US. Some of these families have had family members deported. As a therapist, I support these people in their healing journey after the deportation. Let me assure you that deportation rips families apart and leaves family members, especially children, severely emotionally and mentally harmed. We need a strong permanent Sanctuary Values Act that leaves no one behind because no family deserves to be ripped apart.

Thank you,

JoLeah

Chairperson Allen, Council members, and Staff of the Committee,

As a DC Resident in Ward 3, I am contacting you all today in support of the Sanctuary Values Act.

It is important that DC permanently retains its status as a sanctuary jurisdiction. Sanctuary cities are hugely important- they ensure that all residents, regardless of migration status, do not need to live in the shadows. The ongoing coronavirus pandemic has shown how vital it is that all people can access necessary services without fear of deportation.

Furthermore, DC's cooperation with Immigration and Customs Enforcement (ICE) results in family separation, cruel detentions that could pose a further threat to public health and the health of individuals, and deportations. Our immigrant communities should not have to live in fear. Cooperation with ICE strips DC's immigrant residents of their rights to due process and fair representation.

Our city is stronger when it accepts and welcomes all people, and allows them to live their lives as intended.

We need a strong permanent Sanctuary Values Act that leaves no one behind because our city is stronger and safer when no one lives in fear.

Thank you,
Emily Santella
Ward 3 Resident

Chairperson Allen, Councilmembers, and Staff of the Committee,

My name is Candice Crutchfield and I'm a recent graduate from Columbia University with a master's degree in Human Rights Studies. I presently work at a criminal justice nonprofit with offices in both New York City and DC and having grown up in Northern Virginia, I've had the pleasure of living, commuting to and from, and working in the Capital Region for nearly half of my life.

Devoting my academic career to issues of mass incarceration, particularly the impact of local jails on immigrant communities and communities of color, it has been unsettling to read the countless stories of individuals being released from the DC jail and transferred into the hands of ICE. This carelessness, without regard to the individual's past, present, or future, is dangerous and harms communities of color at disproportionate rates. I'm deeply concerned with what has continued to occur in Washington. The district's cooperation and assistance to the inherently cruel behavior of ICE personnel have resulted in so many family separations, horrible detentions, and deportations. It doesn't have to be this way.

We need a strong permanent Sanctuary Values Act that leaves no one behind because local jail incarceration is already a mechanism for the creation of additional problems and should not result in any transfers to ICE. Each individual deserves to be treated with fairness and care, no matter their race, color, creed, or alleged offense. I encourage this great district to care and support Black and brown communities by ending collaboration between local police, local incarceration systems, and ICE.

Thank you for your time.

Respectfully,
Candice Crutchfield

Dear D.C. Council Judiciary Committee Members,

My name is Tamar Hoffman and I am a resident of Ward 1. I am writing to express my support for the Sanctuary Values Act. My D.C. neighborhood is experiencing a displacement crisis. Many of my neighbors, especially those who are immigrants and/or have undocumented loved ones, have suffered greatly during the pandemic as they have lost jobs and remained ineligible for support under the CARES Act. Many of my neighbors have struggled to pay D.C.'s climbing rent for years, and the past few months have only exacerbated their challenges. I am inspired by my D.C. neighbors who fight everyday for their homes and our neighborhood. Part of that fight is getting ICE out of D.C. Displacement is not only the product of climbing rent. It is also the product of the cruel caging and deportation of our undocumented neighbors by ICE. D.C. must stand with its community and stop ICE from snatching its residents. ICE custody is dangerous, and deportation is a violation of civil and human rights. I refuse to elect representatives who are complicit in ICE's harm to our communities, and would be proud to continue to call myself a D.C. resident if my representatives support the Sanctuary Values Act.

Thanks,
Tamar Hoffman

Chairperson Allen, Councilmembers, and staff of the committee,

My name is P.W., and I am an El Salvadorian immigrant and a Political Science major at Towson University. Due to having lived closed to D.C, I have spent much time in the city., When I was Highschool, I did my volunteer work in D.C, and because I am a member of the College Democrats Of Towson, I have even lobbied at the capitol building. My dream is to one day be able to work there myself.

Thankfully, my family and I are blessed to be here legally. However, that does not end the fear of being taken by ICE. There are many stories of Ice agents arresting even U.S citizens because they looked like and Immigrant. So anytime I am in D.C, specifically, in the parts that are closer to government buildings, I make sure to listen to the advice my mother has been giving me since I was a little girl. Always dress well, so they do not think you look like an illegal immigrant, avoid speaking Spanish when you are near police, and the most recent advice she has given me is to carry my green card with me at all times because you may never know.

Now that I am older, I realize that I'm not the only one who has received this advice. All of my friends, who also come from immigrant families, have heard a version of this regardless of nationality. No one deserves to live in fear of persecution for what they look like or the language they speak. They deserve to be imprisoned and treated inhumanely for wanting a better life. We need a strong permanent Sanctuary Values Act that leaves no one behind because what ICE is doing goes against this country's values, and the future generations deserve better.

October 9, 2020

Dear Chairperson Allen, Council Members and Committee Staff,

My name is Leonce Byimana, Executive Director of the Torture Abolition and Survivors Support Coalition—TASSC International. TASSC is a non-profit based in

Washington DC that provides legal services, case management, psychological and employment counseling and advocacy training to approximately 300 survivors

of torture every year. Many of the torture survivors TASSC serves have escaped government persecution in Africa and are now living and working in Washington DC.

As a human rights and pro-immigrant organization, TASSC strongly supports the Sanctuary Values Act, which would permanently prevent all DC agencies from

cooperating with Immigration and Customs Enforcement (ICE). The majority of TASSC survivors enter the United States with visas and are applying for affirmative

asylum. However many have been forced to cross the US-Mexican border to seek protection in the United States, and were then detained for months in ICE

detention facilities. After already suffering in the prisons of authoritarian governments, they were detained again in the United States, this time by ICE. Detention

is particularly dangerous now, when over 6,500 detainees have been infected with the Covid-19 virus.

TASSC encourages the DC Council to pass the Sanctuary Values Act so that no immigrant in Washington DC will be turned over to ICE, under any conditions. Every

immigrant in Washington DC should have the right to due process, and should not be detained by a federal agency that will deprive them of their liberty and possibly

deport them back to a country where their lives were in danger.

TASSC was pleased when the DC City Council passed the Sanctuary Values Emergency Amendment Act in October 2019, which lived up to Washington DC's reputation

as a welcoming city for immigrants. We hope that the Council will take the next step by passing the Sanctuary Values Act, so that not only survivors of torture but all

immigrants will be safe in this city.

Leonce Byimana

Executive Director

TASSC International

Dear Chairperson Allen, Councilmembers, and Staff of the Committee:

My name is Rebecca Gordon. I am a Ward 1 resident and voter and have lived in DC for over six years. I am an advisor on gender equity for a large refugee resettlement and asylum seeker/immigrant services agency. I am submitting this testimony on behalf of myself, informed by years of work on violence prevention and response, and experience as a DC resident in support of our immigrant communities, in strong support of the passage of the Sanctuary Values Act.

Over decades local migrant communities have built and developed DC neighborhoods, economy, arts, and communities. Now they are under attack from Immigration and Customs Enforcement. We know the DC police and legal system have collaborated with ICE for the arrest, detention, and deportation of numerous DMV community members.

Complicity with ICE represents a profound loss to the city's communities and culture, and an undermining of our own values. These abuses create horrific risks for immigrants, as individuals and families. Collaboration with ICE decreases the likelihood of seeking services for intimate partner violence, sexual exploitation, and sexual assault; or accessing medical care when needed—a huge risk during a global pandemic. We know that ICE commits or directly enables institutional gender-based violence, including the forced sterilization of women in detention centers and unaddressed sexual abuse in camps and detention centers on the border.

Community experience and records have revealed that some District agencies are not complying with the law and continue to share information with ICE, contributing to the human rights catastrophe. We are depriving immigrant DC residents of their right to due process and fair representation and creating a separate criminal justice system for immigrants who otherwise would be released.

There are uncountable ways that my neighbors and friends from other countries enrich the city. Daily I see the widespread harm that collaboration with ICE does to immigrants from all countries, across the U.S. A few years ago, through a previous role in humanitarian GBV work, I was privileged to visit the Genocide Museum in Rwanda. The museum details how years of action and culture shift build into genocide. Forced sterilization, concentration camps, normalization of violence; these are all tools to destroy cultures and communities, in the service of hatred and reinforcing oppressive power. Even if ICE's actions did not get worse—and they will—what is happening now, what has been happening, is an atrocity.

It is our duty to our neighbors to the fabric of the city to end relationships with ICE; to care deeply about the individuals and families that make up DC's communities; and for the city to keep children and adults safe. DC can be an example of what a safe city for immigrants should look like. The temporary authorization of the Sanctuary Values Act was an important first step; now we need a strong permanent Sanctuary Values Act that leaves no one behind.

Sincerely,

Rebecca Gordon

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS



B23-0501,
the “Sanctuary Values Amendment Act of 2019”

Testimony of
Quincy L. Booth
Director

Before the
Committee on the Judiciary and Public Safety
Council of the District of Columbia
The Honorable Charles Allen, Chairperson

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

October 1, 2020
10:00 am

Good afternoon Chairperson Allen and members of the Committee on the Judiciary and Public Safety. I am Quincy L. Booth, Director of the D.C. Department of Corrections (DOC) and joining me is Eric Glover, DOC's General Counsel. I appreciate the opportunity to provide testimony on Bill 23-0501, the "Sanctuary Values Amendment Act of 2019."

Throughout 2019, DOC worked with the Executive Office of the Mayor to review its internal policies and procedures to ensure they adhered to all applicable legal requirements, including the Intergovernmental Agreements with the U.S. Marshal Service (USMS) and the Bureau of Prisons (BOP). These agreements establish a reimbursable format for the care and custody of federal pre-trial detainees and short-term sentenced felons. Under these agreements, the DOC receives approximately \$22 million annually in reimbursement from USMS and BOP, which cover the personnel costs of the Correctional Treatment Facility and a portion of the DOC's inmate healthcare costs.

On October 7, 2019, DOC issued Policy and Procedure 4356.5, *Immigration Status/Immigration Interview Process*, which modified our internal practices. It clarified that specific federal inmates housed at DOC facilities may be released to federal agencies when DOC receives a directive from USMS or BOP. However, because DOC is statutorily mandated to process individuals' release within five hours, it does not hold inmates longer than necessary to complete that process.

To ensure DOC staff comply with law and policy, the agency engaged in a rigorous review and training of its Inmate Records Office, and Release and Discharge staff. The training emphasized the agency's policy, the limited circumstance where DOC complies with USMS and BOP directives, and the agency's inmate release processes. DOC is in compliance with both District law and agency policy.

In conclusion, I appreciate the hard work of representatives of advocacy groups who have met with me and who testified today. And I greatly appreciate the ongoing dedication and hard work of the DOC staff in meeting the agency's mission and making the DOC a national model of what corrections can be.

Thank you for the opportunity to testify today.



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL

Karl A. Racine

Immediate Office

Statement of Aurélie Mathieu
Assistant Attorney General for Policy and Legislative Affairs
Office of Attorney General for the District of Columbia

Before the

Committee on the Judiciary and Public Safety
Councilmember Charles Allen, Chairperson
Public Hearing

On
Sanctuary Values Amendment Act of 2019
October 1, 2020

Chairperson Allen and members of the Council. I am Aurélie Mathieu, Assistant Attorney General for Policy and Legislative Affairs at the Office of the Attorney General (“OAG”). I am pleased to appear on behalf of Attorney General Karl Racine in support of Bill 23-0501, the “Sanctuary Values Amendment Act of 2019.”

Under Attorney General Racine’s leadership, OAG has worked to protect the rights and safety of immigrant communities. OAG has challenged several federal laws and practices that unfairly target immigrant communities, from the Muslim travel ban to limitations on asylum, the termination of Temporary Protected status, and family separation.¹ Not only have we stood up for immigrants, but we have also advocated for States and localities that have instituted pro-immigrant policies. For example, we have helped protect public safety funding for sanctuary cities and opposed immigration-related conditions on law enforcement grants.² We have

¹ *AG Racine Leads 15-State Coalition Backing State Efforts Limiting Local Resources for Federal Immigration Crackdowns*, Office of the Attorney General for the District of Columbia (June 26, 2020), <https://oag.dc.gov/release/ag-racine-leads-15-state-coalition-backing-state>.

² See Brief for D.C. et al as Amicus Curiae Supporting Pl.’s Mot. for Prelim. Inj., *Cal. v. Sessions*, No. 3:17-cv-04701-WHO, (N.D. Cal. 2017), <http://oag.dc.gov/sites/default/files/2018-02/Release-November-20-2017-Byrne-Grant-CA-Amicus-Brief.pdf>; see also Brief for N.Y. et al. as Amicus Curiae Supporting Appellee, *City of Chicago v. Sessions*, No. 17-cv-05720, (7th Cir. 2018), https://ag.ny.gov/sites/default/files/byrne-jag_amicus_brief.pdf.

consistently stood up to support state laws that ensure that local law enforcement is not entangled with enforcement of civil immigration laws.³

OAG's support of the Sanctuary Values Amendment Act of 2019 is a continuation of those efforts. The bill limits the District's cooperation with federal immigration agencies, including by complying with detainer requests from Immigration and Customs Enforcement ("ICE") absent a judicial warrant or order issued by a federal judge or by providing to federal immigration agencies information about when or where someone will be released. This bill prevents mistreatment of our immigrant neighbors and enhances public safety by ensuring that the District's criminal justice system is not coopted to enforce civil immigration laws.

It is critical to public safety that immigrants trust and cooperate with our criminal justice system, as law enforcement leaders across the country, including here in the District, have recognized. Immigrants are far less likely to report crimes, cooperate with law enforcement, or seek help when they are victims or witnesses, if they fear that a court appearance, arrest, or other interaction with the police will result in them or their family being turned over to immigration authorities. As a result, crimes, including domestic violence, human trafficking, and sexual assault, become more difficult to investigate and prosecute. In 2006, the Major Cities Chiefs Association, a group of police chiefs and sheriffs from the 69 largest law enforcement agencies in the United States issued a statement warning that "[i]mmigration enforcement by local police would likely negatively... affect and undermine the level of trust and cooperation between local police and immigrant communities."⁴ The police chiefs explained that local involvement in federal immigration enforcement would discourage documented and undocumented immigrants from contacting or cooperating with the police for "fear that they themselves or undocumented family members or friends may become subject to immigration enforcement."⁵

Fear of local authorities in immigrant communities can also lead to increased victimization and exploitation of immigrants as perpetrators of crime take advantage of heightened immigrant fear to target them for criminal activity or fraud.⁶ Immigrants, and especially undocumented immigrants, are vulnerable to violence, abuse, and exploitation.⁷ For example, in 2019, OAG filed suit against an operator of several teacher exchange companies for preying upon dozens of foreign teachers working in D.C. schools. OAG alleges the companies misled the teachers to get them to pay for unnecessary services, including by threatening them with deportation to coerce them into signing costly contracts.⁸ As the Major Cities Chiefs cautioned, "[w]ithout assurances that contact with the police would not result in purely civil immigration enforcement action, the hard-won trust, communication and cooperation from the immigrant community would

³ See Brief for D.C. et al. as Amicus Curiae Supporting Defs.' Mot. to Dismiss, *U.S. v. NJ*, No. 20-cv-1364-FLW-TJB, (D.N.J. 2020), <https://oag.dc.gov/sites/default/files/2020-06/US-v-NJ-Multistate-Amicus.pdf>.

⁴ Major Cities Chiefs Ass'n, M.C.C. Immigration Committee Recommendations for Enforcement of Immigration Laws by Local Police Agencies 6 (June 2006).

⁵ *Id.*

⁶ National Police Foundation, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* (2009), <https://www.policefoundation.org/publication/the-role-of-local-police-striking-a-balance-between-immigration-enforcement-and-civil-liberties/> (last visited Sept. 30, 2020).

⁷ Marjorie S. Zatz & Hilary Smith, *Immigration, Crime, and Victimization: Rhetoric and Reality*, 8 Ann. Rev. L. & Soc. Sci. 141, 146-47 (2012).

⁸ Complaint at 2, *D.C. v. Bilingual Teacher Exchange*, No. 2019 CA 002088 (D.C. Super. Ct. March 29, 2019).]

disappear.”⁹ This would “result in increased crime against immigrants and... create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes...”¹⁰ This is true for documented immigrants as well because they “may have strong concerns about the other members of the household—perhaps their own parents.”¹¹

It is for these reasons that the District¹² and the Metropolitan Police Department have long had a policy of not enforcing federal immigration law. As Chief Newsham has stated, “[i]t’s a long-standing policy of the Metropolitan Police Department not to enforce civil immigration law. We believe that the enforcement of civil immigration laws creates a divide between us and the community we serve and at the end of the day we believe that will make our community less safe. As the Chief of Police, I don’t think I should be involved in any behavior that makes our city less safe.”¹³

Even though the District has avoided entanglement of local law enforcement with civil immigration enforcement, this legislation is nevertheless critical in establishing the District’s public policy, which in turn ensures that District government and federal law enforcement operating in the District treat immigrants fairly. For example, in the District, the local criminal court is staffed in significant part by the U.S. Marshals Service (“USMS”). The USMS had a practice of routinely detaining anyone who appeared in D.C. Superior Court who was suspected of civil immigration violations after that person was either ordered released by a judge or after the criminal charges were dropped.¹⁴ USMS detained immigrants who would have been released if they had been citizens. Absent District law making clear that local law enforcement cannot detain individuals solely for the purpose of civil immigration enforcement, USMS could contend that its detention policy is justified in part by District law, as incorporated in 28 U.S.C. § 564, which states that the USMS, “in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.”

In a lawsuit challenging this practice, a class of plaintiffs—joined by OAG, as amicus curiae supporting the challenge—relied on the temporary versions of this bill to argue that USMS could not detain individuals who had been released by the Court under Section 564 because District law does not permit its law enforcement officers to detain individuals solely for federal immigration purposes. The Court agreed with us on that and concluded that Section 564 does not independently authorize the USMS to detain individuals otherwise eligible for release based solely on an ICE detainer. By reinforcing that it is improper to detain immigrants based on District law, this bill ensures that no one is detained solely for federal immigration purposes in a

⁹ Major Cities Chiefs Ass’n, M.C.C. Immigration Committee Recommendations for Enforcement of Immigration Laws by Local Police Agencies 6 (June 2006).

¹⁰ *Id.*

¹¹ David A. Harris, The War on Terror, Local Police, and Immigration Enforcement: A Curious Tale of Police Power in Post-9/11 America, 38 Rutgers L.J. 1, 39-40 (2006).

¹² D.C. Mayor’s Order 2011-174 § II(B)(4-5), <https://cdn.cnsnews.com/documents/Mayor's%20Order%202011-174.pdf> (last visited Sept. 30, 2020).

¹³ DC Mayor, *Police Dept. Reiterate District Policy of Not Enforcing Civil Immigration Laws*, FOX 5 DC, (March 28, 2017), <https://www.fox5dc.com/news/dc-mayor-police-dept-reiterate-district-policy-of-not-enforcing-civil-immigration-laws>.

¹⁴ Order Granting Pl.’s Mot. for a Prelim. Inj., *N.S. v. Hugues*, No. 1:20-cv-101-RCL (D.D.C. May 2020).

District detention facility, including St. Elizabeths Hospital or a facility under the Department of Corrections or the Department of Youth Rehabilitation Services.

Disentangling the criminal justice system from federal immigration enforcement also enhances public health, a concern that takes on added significance during the COVID-19 pandemic. Immigrant communities are among the hardest hit by the twin health and economic crises the pandemic presents. When immigrant communities fear that interaction with government actors may lead to deportation of them or a family member, they may be reluctant to enroll in healthcare programs and to seek treatment when they are sick.¹⁵ For example, the Migrant Clinicians Network reported that 65 percent of health care providers surveyed saw a change “in immigrant or migrant patients’ attitudes . . . toward health care access” in the first year of the Trump Administration, with most providers citing “an increase in fear among their patients that drives them to avoid care.”¹⁶ Similarly, “[i]n Los Angeles, a large community-based provider reported a 20 percent reduction in health-care visits in May 2017, by likely unauthorized immigrants.”¹⁷ In Houston, local governments indicated that “fewer Latino immigrants were participating in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) as well as preventive check-ups and health screenings in public health clinics.”¹⁸ Further, “Texas Children’s Hospital also noted a drop in the number of low-income Latino patients,” while several Houston clinics “reported a more than 50 percent drop in unauthorized [immigrant] patients” in late 2017.¹⁹ By reinforcing that interacting with the District government will not lead to adverse immigration consequences, this bill encourages immigrants, documented or not, to seek the health care and other services they need during the pandemic. That protects not only these communities, but all those who come into contact with them.

In sum, this bill is important to protecting the rights of our immigrant neighbors and preserving public health and safety. The bill takes into consideration the limited resources of the District; the complexity of federal immigration laws; the risk of civil liability for immigration and enforcement activities; and the need to foster trust and cooperation between District agencies and the public, including members of immigrant communities. OAG urges the Council to pass Bill 23-0501. This concludes my testimony, and I am happy to answer any questions.

¹⁵ See, e.g., Alexia Elejalde-Ruiz, *Fear, Anxiety, Apprehension: Immigrants Fear Doctor Visits Could Leave Them Vulnerable to Deportation*, Chi. Trib. (Feb. 22, 2018), <https://www.chicagotribune.com/business/ct-biz-immigration-fears-hurt-health-care-access-0225-story.html>; see also Kelli Kennedy, *Deportation Fears Have Legal Immigrants Avoiding Health Care*, Assoc. Press (Jan. 21, 2018), <https://tinyurl.com/avoiding-health-care>.

¹⁶ Claire Hutkins Seda, *Taking a Pulse: Clinician Poll on Migrant and Immigrant Patient Care*, Migrant Clinicians Network (Mar. 14, 2018), <https://tinyurl.com/taking-pulse>.

¹⁷ Randy Capps et al., *Migration Pol’y Inst., Revving Up the Deportation Machinery: Enforcement and Pushback Under Trump* (May 2018)

¹⁸ *Id.* at 69-70.

¹⁹ *Id.* at 70.

THE
PUBLIC
DEFENDER
SERVICE

for the District of Columbia



CHAMPIONS OF LIBERTY

TESTIMONY OF THE PUBLIC DEFENDER SERVICE
FOR THE DISTRICT OF COLUMBIA

concerning

THE SANCTUARY VALUES AMENDMENT ACT OF 2019

BILL 23-0501

Presented by

Katerina Semyonova

before

COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Charles Allen

October 1, 2020

Avis E. Buchanan, Director
Public Defender Service
633 Indiana Avenue, N.W.
Washington, D.C. 20004
(202) 628-1200

Thank you for the opportunity to testify on Bill 23-0501, the Sanctuary Values Amendment Act of 2019. I am Katerina Semyonova, Special Council to the Director on Policy and Legislation at the Public Defender Service for the District of Columbia. PDS strongly supports this bill and appreciates the work of this Committee in enacting its emergency and temporary versions. PDS is concerned about the Department of Corrections implementation of the emergency and temporary versions of the Sanctuary Values Amendment Act and makes several recommendations for the permanent bill including expanding the entities covered by the prohibitions, clarifying the exception for the federal contract,¹ and strictly limiting the circumstances under which a District entity can make a detained individual available for interrogation by immigration authorities.

Cooperation between District entities and Immigration and Customs Enforcement (ICE) causes devastation to immigrant communities and results in dangerous detention, deportation, and trauma to family members who remain behind.² A growing body of evidence demonstrates that toxic stress caused by parental deportation can lead to long-term negative outcomes in childhood development, learning, and health.³ “Children are not the only ones harmed. When one parent is deported the health of the remaining parent

¹ The Sanctuary Values Amendment Act of 2019 prohibits the District from engaging in specified actions, “except as provided in Intergovernmental Agreement No. 16-00-0016, entered into between the Department of Corrections and the United States Marshal Service.” PDS recommends clarifying within the context of the statute that Intergovernmental Agreement No. 16-00-0016, applies only to individuals detained pending federal trial or pending sentencing in a federal case or pending designation and transport to the Bureau of Prisons for federal offenses and to individuals detained pending a hearing on immigration status or deportation.

² Sarah Elizabeth Richards, “*How Fear of Deportation Puts Stress on Families*,” The Atlantic, March 22, 2017. Available at: <https://www.theatlantic.com/family/archive/2017/03/deportation-stress/520008/>

³ Dr. Alan Shapiro, “*Immigration: Deporting Parents Negatively Affects Kids’ Health*,” The Hill, May 13, 2016. Available at: <https://thehill.com/blogs/congress-blog/healthcare/279544-immigration-deporting-parents-negatively-affects-kids-health>

suffers, sometimes even shortening the remaining spouse's lifespan.”⁴ The impact is also felt in the collective fear of communities and their reluctance to engage in what could otherwise be supportive and beneficial services, like medical care, visits to libraries, stores, and schools.⁵

The grave consequences of detention and deportation have been rendered more severe by the COVID-19 pandemic. The private jails that house individuals detained by ICE in the DC area have been COVID-19 hotspots. As of September 28, 2020, 339 people at Farmville Detention Center have tested positive for COVID-19 and one individual died.⁶ As of the same date, ICE has reported that 34 individuals have tested positive for COVID-19 at Caroline Detention Center in Bowling Green, Virginia.⁷ Across the country, eight individuals have died from COVID-19 while in ICE custody since the pandemic began.⁸ While there is no right to counsel in immigration proceedings, CAIR Coalition, the one non-profit that typically visits ICE detention centers in this area to provide know your rights information and conduct intakes, has suspended visitation completely during the pandemic. Social visits at the facilities have similarly been suspended, resulting in further isolation in addition to the frustration of due process due to lack of access to counsel for detained immigrants. Cooperation

⁴ *Id.*

⁵ Sarah Holder, “*What the Fear Campaign Against Immigrants Is Doing*,” Bloomberg City Lab, July 25, 2019. Available at: <https://www.bloomberg.com/news/articles/2019-07-25/how-fear-of-ice-is-gripping-immigrant-communities>

⁶ See: <https://www.ice.gov/coronavirus> (under tab at top middle titled “ICE Detainee Statistics”).

⁷ *Id.*

⁸ *Id.*

between District law enforcement and detention entities directly results in detention at these facilities and endangers the lives of District residents.

The Council and the Mayor worked to prevent cooperation between District entities and ICE in the emergency and temporary versions of the Sanctuary Values Amendment Act in 2019.⁹ Nonetheless, PDS has real concerns about gaps in implementation of the Act by the Department of Corrections (DOC). The DOC policy that implements and disseminates information to DOC staff about the Sanctuary Values Amendment Act fails to include any broad prohibition against cooperating with ICE.¹⁰ Although the 2019 Sanctuary Values Amendment Act prohibits a District entity from “provid[ing] to a federal immigration agency an individual’s date and time of release, location, address, or criminal case information,” the DOC policy statement is silent on this prohibition.¹¹ The DOC policy does not include any direction to DOC staff about how to handle phone calls or inquiries from ICE. Under the DOC policy, DOC staff may believe that they can report release dates and times to ICE and may continue the disastrous practice of causing the release of individuals into ICE custody just outside the D.C. Jail. This type of seizure, immediately outside of the doors of the D.C. Jail, can escape the Council’s notice since it appears that DOC does not document these detentions by ICE in its records.¹² In order to truly prevent DOC employees from cooperating with

⁹ Bill 23-0486.

¹⁰ Department of Corrections Policy 4356.5.

¹¹ *Id.*

¹² Will Lennon, “D.C.’s Department of Corrections Has Processed Over 40 Ice Pick-Ups from Its Facilities Since 2016,” D.C. City Paper, August 23, 2019. Available at: <https://washingtoncitypaper.com/article/178824/dcs-department-of-corrections-has-processed-over-40-ice-pickups-from-its-facilities-since-2016/>

ICE, DOC leadership must issue clear directives to employees that are consistent with the Sanctuary Values Amendment Act.

PDS strongly supports the Council's expansion of the District entities covered in the 2020 version of the emergency and temporary Sanctuary Values Amendment Act. The most recent legislation expands coverage to the Metropolitan Police Department and the Department of Behavioral Health. It is important to expand covered entities for the permanent bill given recent reports of direct cooperation between MPD and ICE, which have included MPD calling ICE on two separate occasions about a man who on one occasion was charging a cellphone at Target and on another had consumed alcohol in front of a library and then struggled with a police officer.¹³ The permanent legislation should cover all criminal legal system actors under District control, and District entities such as, public libraries, schools, the Department of Health,¹⁴ and special police officers employed by the District. This approach is necessary because any collaboration between the District and federal immigration authorities prevents the District from meeting its promise to be a sanctuary city where all residents can live freely and access the services of local government without the threat of federal immigration enforcement.

PDS also recommends that the Council amend the provision regarding the waiver of counsel by detained individuals facing immigration related interviews. As currently drafted, the 2020 emergency and temporary Sanctuary Values Amendment Act provides

¹³ Will Lennon, "*Court Documents Describe MPD Sharing Information with ICE*," Washington City Paper, September 3, 2020. Available at: <https://washingtoncitypaper.com/article/308837/dc-sanctuary-city-mpd-ice/>

¹⁴ For example, the Department of Health (DOH) is conducting contact tracing related to COVID-19. If DOH is not prohibited from sharing information with federal immigration authorities, individuals will be even more reluctant to share information with contact tracers, thereby potentially imperiling overall health outcomes for the District.

that: “the District of Columbia shall not: permit any federal immigration agency to interview an individual in the District’s custody without giving the individual an opportunity to have counsel present.” PDS is concerned that the mere waiver of the presence of counsel provides insufficient protection for individuals who are detained, vulnerable, usually have no legal training, may have limited education, and have not received advice from an immigration attorney.¹⁵ Rather than allowing interviews in situations where a detained resident waives the right to counsel, the District should in the first instance prohibit all interviews by immigration enforcement authorities that are not specifically authorized by a judicial order or initiated by the detained individual. Once an interview is permitted as the result of a court order or a request by the detained individual, the Department of Corrections should permit a lawyer to be present, and when a lawyer does not appear, should require a clear and unambiguous waiver of the right to counsel following a recitation of the harms of participating in the interview.

PDS recommends the following language to amend the immigration related interview portion of the Sanctuary Values Amendment Act of 2020:

(d) With respect to any interview of a detained individual by an immigration enforcement or investigation entity, the District shall:

- 1) permit such interview only when the immigration entity presents a court order authorizing or requiring the interview, or the interview is requested by the detained individual;
- 2) inform the criminal defense attorney of the detained person of the request for an interview;
- 3) permit an attorney to be present for the interview;

¹⁵ Amending this portion of the Sanctuary Values Amendment Act would also bring clarity to the Department of Correction’s policy 4356.5 which currently, diverges significantly from the Sanctuary Values Amendment Act by requiring court permission where there is no “criminal nexus” for the immigration interview. The term “criminal nexus” is not defined and immigration law presents many instances where seemingly civil immigration infractions, like, unlawful entry are criminal offenses.

4) inform the detained individual of their right to counsel for the interview, that any information obtained during the interview may be used to support criminal charges, deportation, or denial of status; and 5) obtain a knowing, intelligent, and voluntary waiver of counsel for any interview conducted outside the presence of the detained individual's lawyer.

Finally, as the Council works to expand the protection of immigrant communities, it should consider measures to decriminalize minor offenses and to reform citation and release procedures. Under current law, any arrest for even a minor offense such as possession of an open container of alcohol can lead to detention, fingerprinting, and presentment in D.C. Superior Court where the U.S. Marshal Service, which provides security throughout the courthouse, coordinates with ICE and transfers released individuals into ICE custody. This cooperation results in DC residents being sent into detention at a local ICE facility, where they could be exposed to COVID-19 and would certainly face long-term if not permanent separation from their family even if the Office of the Attorney General or the Office of the United States Attorney chooses not to prosecute the criminal case that brought the individual to court. The best way for the Council to avoid triggering deportation and family separations, and beginning a process over which it will then have no control, is by decriminalizing minor offenses (i.e., making them subject to civil fines only) and by prohibiting the arrest of individuals for offenses that do not pose an immediate public safety concern, requiring instead the issuance of notices to appear at court at a later date. These changes would not only provide protection for the District's non-citizen residents, but would also protect all residents from overnight detention and potentially dangerous interactions with police for cases that typically result in release at the time of the initial appearance in court and that are often resolved with a

decision not to prosecute.¹⁶ The Council can prevent this disruption to individuals' lives and the possible accompanying threat of deportation without compromising public safety by reforming arrest practices.

PDS appreciates the work already done by this Committee and the Council to advance protections for immigrant residents and is ready to work with the Council on any amendments that would strengthen the Sanctuary Values Amendment Act and on other legislation to implement these values.

¹⁶ Examination of daily lists of pending cases and "no paper lists" has revealed over a long period of time that nearly 30 percent of arrests result in a decision not to prosecute.

ATTACHMENT F

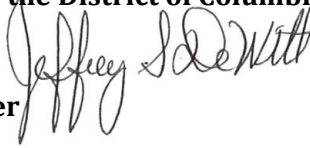
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: November 23, 2020

SUBJECT: Fiscal Impact Statement – Sanctuary Values Amendment Act of 2020

REFERENCE: Bill 23-501, Draft Committee Print as circulated on November 20, 2020

Conclusion

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill.

Background

Current law¹ authorizes the District to detain certain inmates for an additional 24 hours beyond their release date upon receiving a written civil detainer request from United States Immigration and Customs Enforcement (ICE) for an inmate suspected of federal civil immigration violations if enumerated conditions are met. The District is prohibited from providing ICE with physical space for a generalized search or inquiry about inmates or to permit an interview with an inmate without giving the inmate the opportunity to have counsel present.

The bill amends the District's laws around federal immigration cooperation by requiring that federal immigration authorities provide the District with a judicial warrant or order issued by a federal judge or federal magistrate judge that authorizes the federal immigration authority to take custody of the inmate. The bill prohibits the District from detaining an inmate beyond when they would otherwise be released² and continues to prohibit the use of physical space by any federal immigration agency

¹ Immigration Detainer Compliance Amendment Act of 2012, December 11, 2012 (D.C. Law 19-194; D.C. Official Code § 24-211.07).

² The District can detain an inmate beyond their release time if the release time is between the hours of 10:00 p.m. and 7:00 a.m. and the inmate requests to stay until 7:00 a.m. (D.C. Official Code § 24-211.02a(c)(6)).

space for a generalized search or inquiry about inmates. The bill also requires the federal immigration authorities to present a judicial warrant or order prior to allowing the interview of a District inmate, in addition to allowing the inmate to have counsel present. The bill prohibits the District from providing federal immigration authorities with space to house, detain, or hold an individual for civil immigration enforcement purposes; an inmate's release details; access to any District operated detention facility³ for transfer of custody purposes; and the release of an inmate to transfer them into federal custody.

The bill prohibits the District from inquiring about the immigration status of any individual in its custody.

The bill requires the Department of Corrections (DOC), the Department of Youth Rehabilitative Services (DYRS), the Department of Behavioral Health (DBH), and the Metropolitan Police Department (MPD) to annually report by January 1st on the number of requests for information or detainer made by federal immigration authorities, whether the individuals were being held on local or federal authorities, whether a judicial warrant or order was presented, and what actions the agency took. The report should also include the number of individuals released into the custody of a federal immigration agency, the dates of those releases, and the type of information shared with those agencies.

The District should properly train all employees on compliance with the bill's provisions.

Some of the bill's provisions are currently in effect under emergency legislation.⁴

Financial Plan Impact

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. DOC is currently complying with the emergency restrictions and there are no costs associated with the agency continuing to meet the bill's requirements. DOC can absorb the cost of the bill's new training and reporting requirements within its existing budgeted resources.

MPD, DYRS, and DBH have not historically interacted with federal immigration agencies and enforcement officers either due to the limited time they have individuals detained or the type of the populations they house. These agencies do not believe the bill's restrictions will have a significant negative impact on the agencies' operations and they can implement the bill's provisions with existing budgeted resources.

³ This includes facilities operated by the Department of Corrections, the Department of Youth Rehabilitation Services, the Department of Behavior Health, or the Metropolitan Police Department.

⁴ Sanctuary Values Emergency Amendment Act of 2020, enacted October 14, 2020 (D.C. Act 23-414; 67 DCR 12241).

ATTACHMENT G



OFFICE OF THE GENERAL COUNSEL

Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: Councilmember Charles Allen

FROM: Nicole L. Streeter, General Counsel *NLS*

DATE: November 21, 2020

**RE: Legal sufficiency determination for Bill 23-501, the
Sanctuary Values Amendment Act of 2020**

The measure is legally and technically sufficient for Council consideration.

The bill would amend An Act To create a Department of Corrections in the District of Columbia to limit the District's cooperation with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant or order.

I am available if you have any questions.

ATTACHMENT H

Comparative Committee Print
B23-0501
Committee on the Judiciary & Public Safety
November 23, 2020

Section 2

D.C. Official Code § 24-211.07. Prohibition on cooperation with federal immigration agencies.

~~(a) The District of Columbia is authorized to comply with civil detainer requests from United States Immigration and Customs Enforcement (“ICE”) by holding inmates for an additional 24-hour period, excluding weekends and holidays, after they would otherwise be released, but only in accordance with the requirements set forth in subsection (b) of this section~~

~~(b) Upon written request by an ICE agent to detain a District of Columbia inmate for suspected violations of federal civil immigration law, the District shall exercise discretion regarding whether to comply with the request and may comply only if:~~

~~(1) There exists a prior written agreement with the federal government by which all costs incurred by the District in complying with the ICE detainer shall be reimbursed; and~~

~~(2) The individual sought to be detained:~~

~~(A) Is 18 years of age or older; and~~

~~(B) Has been convicted of:~~

~~(i) A dangerous crime as defined in § 23-1331(3) or a crime of violence as defined in § 23-1331(4), for which he or she is currently in custody;~~

~~(ii) A dangerous crime as defined in § 23-1331(3) or a crime of violence as defined in § 23-1331(4) within 10 years of the detainer request, or was released after having served a sentence for such dangerous crime or crime of violence within 5 years of the request, whichever is later; or~~

~~(iii) A crime in another jurisdiction which if committed in the District of Columbia would qualify as an offense listed in § 23-1331(3) or (4); provided, that the conviction occurred within 10 years of the detainer request or the individual was released after having served a sentence for such crime within 5 years of the request, whichever is later.~~

~~(e) Notwithstanding subsection (b)(2)(B)(ii) and (iii) of this section, a detainer request for an individual who has been convicted of a homicide crime, pursuant to § 22-2101 et seq., or a crime in another jurisdiction which if committed in the District of Columbia would qualify as a homicide crime, may be honored regardless of when the conviction occurred.~~

~~(d)(1) The District shall not provide to any ICE agent an office, booth, or any facility or equipment for a generalized search of or inquiry about inmates or permit an ICE agent to conduct an individualized interview of an inmate without giving the inmate an opportunity to have counsel present.~~

~~(2) This subsection shall not be construed to establish a right to counsel that does not otherwise exist in law.~~

(a) Absent a judicial warrant or order, issued by a federal judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631, that authorizes a federal immigration agency to take into custody the person who is the subject of such warrant or order, the District of Columbia shall not:

(1) Hold an individual in the District's custody after that individual would have been otherwise released, except as provided in section 2a(c)(6);

(2) Provide to any federal immigration agency an office, booth, or any facility or equipment for a generalized search of or inquiry about an individual in the District's custody;

(3) Permit any federal immigration agency to interview an individual in the District's custody unless:

(A) The federal immigration agency presents a judicial order authorizing the interview, or the interview is requested by the detained individual; and

(B) The detained individual has counsel present or knowingly, intelligently, and voluntarily declines to have counsel present for the interview; or

(4) Except with respect to individuals awaiting trial or sentencing for a federal criminal charge, or serving a sentence for a federal criminal charge:

(A) Provide to any federal immigration agency a space in a District detention facility to house, detain, or hold individuals for civil immigration enforcement purposes;

(B) Provide to a federal immigration agency an individual's date and time of release, location, address, personal identifying information, medical information, photograph, or criminal case information;

(C) Grant any federal immigration agency access to any District detention facility or place, including a facility under the control of the Department of Corrections, the Department of Youth Rehabilitation Services, the Department of Behavioral Health, or the Metropolitan Police Department, for the purpose of releasing an individual into federal custody;
or

(D) Release an individual for the purpose of transferring the individual into the custody of any federal immigration agency.

(b) The District shall not inquire into the immigration status of an individual in its custody.

(c) The District shall conduct trainings of its employees on compliance with the provisions in this section.

(d) The Department of Corrections, the Department of Youth Rehabilitation Services, the Department of Behavioral Health, and the Metropolitan Police Department shall transmit a report on January 1 of each year to the Mayor and the Council providing the following:

(1) The number of requests for information or detainer made by a federal immigration agency, a breakdown of whether the requests were made regarding individuals held on local charges or on federal charges, whether the request was accompanied by a judicial warrant, and any action taken by the District agency in response to such a request;

(2) The number of individuals released into the custody of a federal immigration agency, the date of each release, and the justification for each release; and

(3) The types of information, anonymized and aggregated, that the agency shared with federal immigration agencies, and whether it was at the request of a federal immigration agency.

(e) Nothing in this section shall be construed to establish a right to counsel that does not otherwise exist in law.

(f) Nothing in this section shall be construed to create a private right of action.

ATTACHMENT I

Committee Print
B23-0501
Committee on the Judiciary & Public Safety
November 23, 2020

A BILL

23-0501

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend An Act To create a Department of Corrections in the District of Columbia to limit the District's cooperation with federal immigration agencies, including by complying with detainer requests, absent a judicial warrant or order.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Sanctuary Values Amendment Act of 2020".

Sec. 2. Section 7 of An Act To create a Department of Corrections in the District of Columbia, effective December 11, 2012 (D.C. Law 19-194; D.C. Official Code § 24-211.07), is amended to read as follows:

"Sec. 7. Prohibition on cooperation with federal immigration agencies.

"(a) Absent a judicial warrant or order, issued by a federal judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631, that authorizes a federal immigration agency to take into custody the person who is the subject of such warrant or order, the District of Columbia shall not:

"(1) Hold an individual in the District's custody after that individual would have been otherwise released, except as provided in section 2a(c)(6);

34 “(2) Provide to any federal immigration agency an office, booth, or any facility or
35 equipment for a generalized search of or inquiry about an individual in the District’s custody;

36 “(3) Permit any federal immigration agency to interview an individual in the District’s
37 custody unless:

38 “(A) The federal immigration agency presents a judicial order authorizing the
39 interview, or the interview is requested by the detained individual; and

40 “(B) The detained individual has counsel present or knowingly, intelligently,
41 and voluntarily declines to have counsel present for the interview; or

42 “(4) Except with respect to individuals awaiting trial or sentencing for a federal
43 criminal charge, or serving a sentence for a federal criminal charge:

44 “(A) Provide to any federal immigration agency a space in a District detention
45 facility to house, detain, or hold individuals for civil immigration enforcement purposes;

46 “(B) Provide to a federal immigration agency an individual’s date and time of
47 release, location, address, personal identifying information, medical information, photograph, or
48 criminal case information;

49 “(C) Grant any federal immigration agency access to any District detention
50 facility or place, including a facility under the control of the Department of Corrections, the
51 Department of Youth Rehabilitation Services, the Department of Behavioral Health, or the
52 Metropolitan Police Department, for the purpose of releasing an individual into federal custody; or

53 “(D) Release an individual for the purpose of transferring the individual into
54 the custody of any federal immigration agency.

55 “(b) The District shall not inquire into the immigration status of an individual in its custody.

56 “(c) The District shall conduct trainings of its employees on compliance with the provisions in
57 this section.

58 “(d) The Department of Corrections, the Department of Youth Rehabilitation Services, the
59 Department of Behavioral Health, and the Metropolitan Police Department shall transmit a report on
60 January 1 of each year to the Mayor and the Council providing the following:

61 “(1) The number of requests for information or detainer made by a federal immigration
62 agency, a breakdown of whether the requests were made regarding individuals held on local charges
63 or on federal charges, whether the request was accompanied by a judicial warrant, and any action taken
64 by the District agency in response to such a request;

65 “(2) The number of individuals released into the custody of a federal immigration
66 agency, the date of each release, and the justification for each release; and

67 “(3) The types of information, anonymized and aggregated, that the agency shared with
68 federal immigration agencies, and whether it was at the request of a federal immigration agency.

69 “(e) Nothing in this section shall be construed to establish a right to counsel that does not
70 otherwise exist in law.

71 “(f) Nothing in this section shall be construed to create a private right of action.”.

72 Sec. 3. Fiscal impact statement.

73 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
74 statement required by section 4a of the General Legislative Procedures Act of 1975, approved October
75 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

76 Sec. 4. Effective date.

77 This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor,
78 action by the Council to override the veto), a 60-day period of congressional review as provided in

79 section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat.
80 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.