2020 Report of the Howard County Human Rights Commission on Immigration Issues in Howard County

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INTRODUCTION

In October of 2019, during a public forum before the Howard County Human Rights Commission (the "Commission"), representatives from The Howard County Coalition for Immigrant Justice (the "Coalition") presented concerns they had – and still have – regarding several issues related to immigrant justice and safety. The Coalition is comprised of various immigrant groups, concerned organizations, and individuals working to support and protect foreign-born friends and neighbors in Howard County. They are working to, among other things, build a broad base of support in Howard County to welcome and respect foreign-born residents, give local immigrants a powerful voice in the community, pass laws to protect immigrants from discrimination, and minimize this County's cooperation with United States Immigration and Customs Enforcement ("ICE"). Additionally, they work to ensure that county agencies keep information about immigrants confidential, support programs to improve quality of life for immigrants, develop partnerships between County agencies – including the Howard County Police Department – and the immigrant community, and support state and national legislation to protect immigrants and educate the community at large on contributions made by immigrant communities to our state and our nation. Current members of the Coalition are:

- American Civil Liberties Union (ACLU);
- Asian Americans Advancing Justice| (AAJC);
- CASA;
- Channing Memorial Church (Unitarian Universalist);
- Chinese-American Network for Diversity and Opportunity (CAN-DO);
- Columbia Jewish Congregation;
- Conexiones;
- Council on American Islamic Relations (CAIR);
- Community Allies of Rainbow Youth (CARY);
- Doctors for Camp Closure;
- Friends of Latin America;
- Friends Committee on Immigration and Refugees;
- Howard County Board of Rabbis;

- Indian Cultural Association of Howard County;
- Indivisible HoCoMD-Immigration Action Team;
- Jews United for Justice;
- Our Revolution Howard County;
- Patapsco Friends Meeting;
- Sunrise Movement Howard County;
- Young Socialist Movement; and
- Unitarian Universalist Congregation of Columbia.

As a result of the presentation by the Coalition, the Commission formed a Committee on Immigration (the "Committee") to study two of the issues raised: (1) termination of the Intergovernmental Service Agreement between the Howard County Department of Corrections and the United States Department of Justice; and (2) addition of immigration status as a protected class to Subtitle 2 of the Howard County Code. It was agreed by the Commission that the Committee would study the two issues and prepare a report to be delivered to the full Commission for discussion and subsequent actions, if deemed appropriate by the Commissioners.

The Committee's efforts included gathering research material related to both issues and identifying/interviewing a variety of sources that were (or represented) stakeholders and/or were otherwise positioned to speak to the two issues before us. The following persons/organizations were interviewed:

Name	**Affiliation**	**Issue**
Reverend Louise Green	PATH,[1] Metro-IAF	1
Andrea King-Wessels, Deputy Director	Howard County Department of Corrections	1
Jack Kavanaugh, Director	Howard County Department of Corrections	1
Jennifer Jones, Deputy Chief of Staff	Howard County Executive's Office	1,2
Nick Steiner, Lawyer	ACLU[2] of Maryland	1
Liz Alex	CASA	1,2

[1] People Acting Together in Howard
[2] American Civil Liberties Union

Carolyn Sturgis, Assistant Chief Administrative Officer	Montgomery County Executive's Office	2
Chief Lisa Myers, among others	Howard County Police Department	1
Dana Sussman, Deputy Commissioner, Policy and Intergovernmental Affairs	New York City Commission on Human Rights	2
Bianca Victoria Scott, Policy Council,	New York City Commission on Human Rights	2
Renee Battle-Brooks, Executive Director	Human Relations Commission, Prince George's County	2
Ama Frimpong-Houser, Managing Attorney	CAIR[3]	1
Laurie Lisken, Thais Moreira, Michael David, and Ying Matties, among others	Coalition for Immigrant Justice	1,2
Alanna Dennis, Director of Equal Employment Opportunity and Human Relations Compliance Officer	Office of the Anne Arundel County Executive	2
Deni Taveras, County Council Member Julietta Cuellar,Legislative Aide to Council Member Tavares	Prince Georges County Council	2

In addition, on February 23, 2020, Committee members attended a Town Hall meeting sponsored by the Coalition at the Oakland Mills Meeting Center.

This Report, when first transmitted to the Commission, did not make recommendations or take a position on either issue. Rather, it aimed to provide the Commission with all the information necessary for it to decide – as a body – what, if any, follow-up actions should be taken after reading this Report and engaging in discussion on both issues. During its regularly scheduled meeting on November 19, 2020, the Commission voted in favor of taking the following positions. First, the Commission supports the change to the County's policy known as P & P No. C-205, such that the

[3] Capital Area Immigrant Rights Coalition

Howard County Department of Corrections' acceptance of detainees under the Intergovernmental Service Agreement between the Howard County Department of Corrections and the United States Department of Justice shall be limited to those who have been convicted of crimes of violence identified under Md. Code, Criminal Law, § 14-101 Second, the Commission supports adding immigration status as a protected class to each cause of action in the Howard County Human Rights Code (Sections 12.200-12.218 of the Howard County Code) to the maximum extent possible without conflicting with other federal, state, and local laws. The two issues are addressed in more detail below.

ISSUE NO. 1: TERMINATION OF THE INTERGOVERNMENTAL SERVICE AGREEMENT

As noted above, the Coalition is advocating for the termination of the Intergovernmental Service Agreement (the "Contract") between the Howard County Department of Corrections ("HCDC") and the United States Department of Justice ("DOJ"), a copy of which is attached hereto as Tab 1, and is asking the Commission to support its efforts. To ensure that the Commission is fully apprised before making a decision on what, if any, steps it should take, the Committee conducted interviews of – and requested documents and other materials from – the following:

(1) The Coalition (Laurie Liskin, Thais Moreira, Michael David, and Ying Matties, among others);

(2) The HCDC (Jack Kavanaugh, Director and Andrea King-Wessels, Deputy Director);

(3) The Office of the Howard County Executive (Jennifer Jones, Deputy Chief of Staff);

(4) People Acting Together Howard (PATH)/Metro-Industrial Areas Foundation (IAF) (Reverend Louise Green, Lead Organizer);

(5) American Civil Liberties Union of Maryland (ACLU of Maryland) (Nick Steiner, Staff Attorney));

(6) CASA (Elizabeth Alex, Chief of Organizing and Leadership);

(7) Howard County Police Department (Lisa Myers, Chief); and

(8) Capital Area Immigrants' Rights Coalition (CAIR Coalition) (Amy Frimpong-Houser, Managing Attorney).

The information provided below represents the Committee's efforts to provide the Commission with as many facts as possible so that the Commission can make an informed decision. Factual disputes, however, are inevitable, and the Committee has made note of where such factual disputes exist.

This Section first provides what the Committee deems to be necessary background for the Commission to understand the Coalition's position and the issues to be considered. The Coalition's position is then detailed, followed by a presentation of two primary issues that have been raised through interviews conducted by, and materials provided to, the Committee. In conclusion, this Section also summarizes recent actions taken by the County Council and County Executive's Office.

I. Background

As an initial matter, prior to assessing the Coalition's Position, it is important to have a firm understanding of the players, the laws, and the processes at issue. Indeed, there are many important distinctions that have direct bearing on the issues presented by the Coalition (e.g., federal v. local, civil v. criminal, law v. policy, etc…). The following provides background on the general immigration enforcement framework, the Contract that is at issue, and the process employed by the County to perform its obligations under the Contract.

A. The General Immigration Enforcement Framework[4]

1. The Law

The Immigration and Nationality Act ("INA"), passed by Congress in 1952, is federal law that authorizes the Department of Homeland Security to detain those who are removable.[5] While various changes have been made to applicable immigration laws since the INA was first enacted, the changes made to the INA by the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") by Congress in 1996 largely provide the current federal framework that governs proceedings and detention. The current framework requires standard and formal removal proceedings, establishes factors that determine whether detention is mandatory or discretionary, and determines when a detained person may be released from custody. For example, under what is oftentimes called the default rule, immigration authorities are permitted (but not required) to detain removable persons pending formal removal proceedings, and such detainees are eligible to be released on bond or conditional parole (INA Section 236(a)).[6] Changes made by the IIRIRA, however, mandate the detention of persons who are deportable or inadmissible for having committed certain specified crimes,[7] generally without the possibility of release from custody (INA Section 236(c)).[8] Changes made by the IIRIRA also mandate the detention of applicants for

[4] The background provided herein is not meant to be, nor should it be taken as, a comprehensive treatise on immigration law. Indeed, while general rules are included, there are countless exceptions that are not covered. Rather, this background is meant merely to provide context and a general framework so that the Commission can adequately assess the issue at hand. This Committee is not comprised of attorneys who are versed in immigration law, and the background provided herein merely provides what the Committee's understanding of the law is.

[5] *See* 8 U.S.C. § 1103(a)(1).

[6] *Id.* at § 1226(a).

[7] For example, the Section covers those who are: (a) inadmissible as a result of the commission of crimes involving moral turpitude, controlled substance violations, drug and human trafficking offenses, money laundering, and any two or more criminal offenses resulting in a conviction for which the total term of imprisonment is at least five years; (b) deportable as a result of a conviction of aggravated felonies, two or more crimes involving moral turpitude not arising out of a single scheme of criminal misconduct; (c) a controlled substance violation, and a firearm offense; and (c) deportable based on the conviction of a crime involving moral turpitude generally committed within five years of admission for which a sentence was imposed of at least one year of imprisonment.

[8] *Id.* at § 1226(c).

admission[9] who appear subject to removal (INA Section 235(b))[10] and the detention of those who are ordered removed after formal proceedings (INA Section 241(a))[11].

Title 8 of the United States Code imposes both civil and criminal penalties for immigration violations. 8 U.S.C. § 1325(a) provides that:

> An alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under Title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under Title 18, or imprisoned not more than 2 years, or both.[12]

8 U.S.C. § 1326(a) and (b) further provide as follows:

> (a) In general
>
> Subject to subsection (b), any alien who--
>
> > (1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter
> >
> > (2) enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act,
>
> shall be fined under Title 18, or imprisoned not more than 2 years, or both.
>
> (b) Criminal penalties for reentry of certain removed aliens

[9] Under INA Section 235(b), an "applicant for admission" includes both a person arriving at a designated port of entry and a person present in the United States who has not been admitted. *Id.* at § 1225(a)(1).
[10] *Id.* at § 1225(b)(1), (2).
[11] *Id.* at § 1231(a)(2), (6).
[12] *Id.* at § 1325(a).

> Notwithstanding subsection (a), in the case of any alien described in such subsection--
>
> > (1) whose removal was subsequent to a conviction for commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), such alien shall be fined under Title 18, imprisoned not more than 10 years, or both;
> >
> > (2) whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both;
> >
> > (3) who has been excluded from the United States pursuant to section 1225(c) of this title because the alien was excludable under section 1182(a)(3)(B) of this title or who has been removed from the United States pursuant to the provisions of subchapter V, and who thereafter, without the permission of the Attorney General, enters the United States, or attempts to do so, shall be fined under Title 18 and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.[1] or
> >
> > (4) who was removed from the United States pursuant to section 1231(a)(4)(B) of this title who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be fined under Title 18, imprisoned for not more than 10 years, or both.
>
> For the purposes of this subsection, the term "removal" includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either Federal or State law.[13]

It is important to note, however, that mere unlawful presence in the United States, without more, is generally a civil immigration offense.[14] To be clear, even if a criminal immigration violation has been committed, such persons are often not charged with any criminal offenses. Rather, they are subjected to civil removal proceedings without any criminal charges and/or penalties being imposed. Put another way, any discretionary or mandatory detention under INA Sections 236(a),

[13] *Id.* at § 1326(a)-(b).
[14] *Arizona v. United States*, 567 U.S. 387, 407 (2012) (stating that, "[a]s a general rule, it is not a crime for a removable alien to remain present in the United States.")

236(c), 235(b), and 241(a) is not detention being imposed as a criminal sentence or as a result of pending criminal immigration violations; it is generally detention that is permitted under federal law for civil immigration violations.

2. The Process

The process begins when a removable person is taken into custody. Generally, the federal government may arrest and detain a removable person upon the issuance of an administrative warrant, or without a warrant if an officer has reason to believe that a person is unlawfully in the United States and likely to escape before a warrant is issued.[15] The federal government is also authorized to enter into agreements, commonly referred to as Section 287(g) agreements, under which state and/or local law enforcement officers may be deputized and given authority to, among other activities, identify, process, and/or detain any immigration offenders they may encounter.[16]

For those who are already in custody by local or state law enforcement as a result of pending or adjudicated criminal charges, the federal government may take custody of such persons through immigration detainers.[17] Federal regulations provide that:

> Any authorized immigration officer may at any time issue a Form I-247, Immigration Detainer Notice of Action, to any other Federal, State, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that such agency advise the Department, prior to release of the alien, in order for the Department to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible.[18]

With immigration detainers, local or state law enforcement is also requested to maintain custody "for a period not to exceed 48 hours" beyond the time the detainee would have otherwise been

[15] 8 U.S.C. §§ 1226(a), 1357(a)(2).
[16] *See id.* at § 1357(g).
[17] *Id.* at § 1357(d).
[18] 8 C.F.R. § 287.7(a).

released to facilitate the transfer of custody.[19] Immigration officers must establish probable cause that a person is removable before the issuance of a detainer, and a detainer must be accompanied by an administrative arrest warrant or warrant of removal.[20] Importantly, courts have construed immigration detainers as mere requests rather than mandatory orders.[21]

Once in custody, the detainee may be released during the pendency of removal proceedings depending upon various factors. For those that are detained under INA Section 236(a), an immigration officer may make an initial determination as to whether the detainee may be released from custody.[22] A detainee may request review of this initial custody determination at a bond hearing before an immigration judge.[23] At that time, an immigration judge may determine that the person should remain detained or decide to release the person under specified conditions (e.g. bond, conditional parole).[24] Under federal regulations, a detainee may be released from custody if s/he does not pose a danger to the community and is likely to appear for any future proceedings.[25] In making such a determination, an immigration judge may consider the following factors, among others:

(1) whether the detainee has a fixed address in the United States;

(2) the detainee's length of residence in the United States;

(3) whether the detainee has family ties in the United States;

(4) the detainee's employment history;

[19] *Id.* at § 287.7(d).
[20] Policy Number 10074.2, Issuance of Immigration Detainers by ICE Immigration Officers, at ¶ 2.4, U.S. Immigration and Customs Enforcement (March 24, 2017), available at https://www.ice.gov/sites/default/files/documents/Document/2017/10074-2.pdf.
[21] *See, e.g., Galarza v. Szalczyk*, 745 F.3d 634, 640 (3d Cir. 2014) (stating that "no U.S. Court of Appeals has ever described ICE detainers as anything but requests."); *accord Giddings v. Chandler*, 979 F.2d 1104, 1105 (5th Cir. 1992) (describing an immigration detainer as "an informal procedure in which the INS informs prison officials that a person is subject to deportation and requests that officials give the INS notice of the person's death, impending release, or transfer to another institution.")
[22] *See* 8 C.F.R. §§ 236.1(c)(8), (d)(1), (g)(1).
[23] *Id.* at § 1003.19(a)
[24] *Id.* at § 1236.1(d)(1).
[25] *Id.* at §§ 236.1(c)(8), 1236.1(c)(8).

(5) the detainee's record of appearance in court;

(6) the detainee's criminal record, including the extent, recency, and seriousness of the criminal offense(s);

(7) the detainee's history of immigration violations;

(8) any attempts by the detainee to flee prosecution or otherwise escape from authorities; and

(9) the detainee's manner of entry to the United States.[26]

Either side may appeal decisions by the immigration judge to the Board of Immigration Appeals.[27]

A person detained under INA Section 236(c) may only be released for witness protection purposes.[28] Unlike a person detained under INA Section 236(a), a person detained under INA Section 236(c) has no right to a bond hearing before an immigration judge, but any such person may seek a ruling from an immigration judge that s/he was not properly classified as a mandatory detainee under INA Section 236(c).[29]

For those detained under INA Section 235(b), the Department of Homeland Security may parole a detained applicant for admission subject to expedited removal proceedings[30] if required to meet a medical emergency or if it is necessary for a legitimate law enforcement objective.[31] If a person detained under INA Section 235(b) is not subject to expedited removal proceedings, the Department of Homeland Security may parole those who do not present a risk of absconding and who:

(1) have serious medical conditions;

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[26] *See, e.g.*, In re Guerra, 24 I. & N. Dec. 37, 40 (BIA 2006), *abrogated on other grounds*.
[27] 8 C.F.R. §§ 1003.1(d)(1), 1236.1(d)(3)(i).
[28] *See* 8 U.S.C. § 1226(c)(2).
[29] 8 C.F.R. § 1003.19(h)(2)(ii).
[30] Under INA Section 235(b), detainees are subject to expedited removal, generally without a hearing or further review, if they are inadmissible because they lack valid entry documents or have attempted to procure admission by fraud or misrepresentation. 8 U.S.C. § 1225(b)(1)(A)(i). Additionally, a detainee is also subject to expedited removal if the detainee was in the United States without being admitted or paroled for less than two years. *Id.*
[31] *See* 8 C.F.R. § 235.3(b).

(2) are pregnant;

(3) are minors;

(4) will be witnesses in proceedings; or

(5) should not be detained because it is not in the public interest.[32]

Generally speaking, a person must be removed within 90 days after an order of removal becomes final at the conclusion of removal proceedings unless a stay of removal is entered or a person is detained for nonimmigration purposes (e.g., criminal incarceration),[33] and a person must be detained during that 90-day period if s/he has been found inadmissible or deportable on criminal or terrorist-related grounds under INA Section 241(a).[34] Under INA Section 241(a), if a detainee has not been removed within 90 days, the detainee generally will be released and subject to supervision pending removal."[35] The order of supervision is required to include requirements (in addition to any other requirements that may be imposed) that the person (1) periodically report to an immigration officer and provide relevant information under oath; (2) continue efforts to obtain a travel document and help DHS obtain the document; (3) report as directed for a mental or physical examination; (4) obtain advance approval of travel beyond previously specified times and distances; and (5) provide ICE with written notice of any change of address.[36]

A detainee, however, may be detained beyond the 90-day period if the detainee was not removed because s/he "fail[ed] or refus[ed] to make timely application in good faith for travel or other documents necessary to the [detainee]'s departure or conspire[d] or act[ed] to prevent the

[32] *Id.* at § 212.5(b).
[33] *See* 8 U.S.C. § 1231(a)(1).
[34] *Id.* at § 1231(a)(2).
[35] *Id.* at § 1231(a)(3)
[36] 8 C.F.R. § 241.5(a).

[detainee]'s removal subject to an order of removal.[37] A detainee may also be detained beyond the 90-day period under other enumerated circumstances (e.g., failed to comply with conditions of nonimmigrant status, committed specified crimes, declared inadmissible for lack of valid entry documents, etc…).[38] Any such detainee will undergo a custody review prior to the end of the 90-day period to determine whether continued detention is warranted,[39] during which several factors will be considered, including the detainee's disciplinary infractions, criminal convictions, mental health reports, evidence of rehabilitation, ties to the United States, prior immigration violations, risk of flight, and other information probative of whether the detainee will be a danger to the community.[40] If such factors do not warrant release, the detainee will undergo further custody reviews after 180 days, after 18 months, and annually thereafter.[41] Under such circumstances, a detainee may submit a written request for release because there is no significant likelihood of removal in the reasonably foreseeable future, and they will have to be released subject to appropriate conditions if there is no significant likelihood of removal.[42] Notably, the U.S. Supreme Court has found that detention should generally be limited to six months after the entry of a final order of removal.[43]

B. The Contract

The Contract, which was entered into by and between the parties in 1995, "establish[es] a formal binding relationship . . . for the detention of aliens of all nationalities authorized to be detained . . . in accordance with the Code of Federal Regulations, Title 8, Aliens & Nationality

[37] 8 U.S.C. § 1231(a)(1)(C)
[38] *See id.* at §§ 1182(a), 1227(a), 1231(a)(6).
[39] 8 C.F.R. §§ 241.4(c)(1), (h)(1), (k)(1)(i).
[40] *Id.* at §§ 241.4(f), (h)(3).
[41] *Id.* at §§ 241.4(k)(1)(ii), (c)(2), (i)(1), (k)(2)(i), (k)(2)(iii).
[42] *Id.* at §§ 241.13(d), (g), (h).
[43] *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

Act and related criminal statutes."[44] To be clear, the Contract is not a Section 287(g) agreement[45] referred to above. The Contract does not provide for the deputization by the federal government of local law enforcement or otherwise give authority to local law enforcement to identify, process, and/or detain removal persons under immigration law. Rather, under the Contract, the HCDC agrees to provide "housing, safekeeping, subsistence and other services for INS detainee(s) within its facility (or facilities) consistent with the types and levels of services and programs routinely afforded its own population."[46] For the services it provides, HCDC is paid at a rate that may be increased on an annual basis.[47] As a result of an amendment to the Contract in 2018, the "bed day rate" that the HDCD receives per detainee is $110.00.[48]

The Contract provides that "[t]he type of detainee will be non-juvenile males and females with prior approval of the Director of Corrections or designee[, and that t]he duration of service to be provided will be overnight holds, daily, and long term, not to exceed 120 days without contacting the contractor for approval."[49] The HCDC may not release any such detainees "from the facility into the custody of other Federal, state or local officials for any reason, except for medical or emergency situations, without the express authorization of INS."[50]

The Contract "remain[s] in effect indefinitely until terminated by either party[,]" and HCDC may also suspend or restrict the use of its facility if unusual conditions arise that make it "impractical or impossible to house detainee(s)."[51] Under the Contract, HCDC is required to give

[44] Contract, *supra,* at I.1.
[45] Indeed, not only is the County not a party to a 287(g) agreement, the County's police department has a general order that expressly states that 'HCPD officers have no statutory authority to enforce civil violations of federal immigration laws. Criminal investigations or enforcement shall never be initiated solely upon an individual's citizenship or immigration status." General Order OPS-10, Foreign Nationals, attached hereto as Tab 2.
[46] Contract, *supra,* at II.1; *see also id.* at III.1
[47] Id. at VI.1-2.
[48] *See id.* (last page).
[49] *Id.*
[50] *Id.* at IV.2.
[51] *Id.* at V.1.

60-days notice to terminate the agreement and 30-days notice to suspend or restrict use of its facility.[52]

C. The Process Under the Contract

Conduct by the HCDC under the Contract was largely dictated by policy identified as P & P No. C-205, a copy of which is attached hereto as Tab 3 (the "Policy"), which was made effective on June 3, 2019. The Policy states as follows:

> It is the policy of the Howard County Department of Corrections to only accept detainees from ICE who are criminally involved. This includes: 1. Those convicted of crimes, 2. Those charged with jailable offenses, 3. Those who are members of criminal gangs, and 4. Those who are deported criminal felons who have illegally reentered the U.S.[53]

According to the HCDC, the process of accepting ICE detainees begins when ICE sends the Director of the HCDC an e-mail asking if the HCDC would like to accept detainees who are specified in the e-mail.[54] The e-mails purportedly provide information sufficient for the HCDC to determine whether the detainee(s) are one of the four types the HCDC will accept under to the Policy.[55] Currently, the HCDC states that only the Director of the HCDC may decide whether to accept any ICE detainee(s) on a case by case basis.

The Policy largely sets forth other operating procedures regarding, among others: (1) Agency Cooperation;[56] (2) Medical Requirements;[57] (3) The Receipt of ICE Detainees;[58] (4) ICE Classification Levels;[59] (5) Housing, Searches and Security of ICE Detainees;[60] (6) ICE Detainee

[52] *Id.*
[53] Policy, *supra*, at 1.
[54] The HCDC has provided examples of such e-mails, which are attached hereto as Tab 4 ("Example HCDC Emails").
[55] See Example HCDC Emails, *supra*.
[56] Policy, *supra*, at 1.
[57] *Id.* at 2.
[58] *Id.*
[59] *Id.* at 4.
[60] *Id.*

Property During Admission;[61] (7) Notices of Infraction;[62] (8) Wellness Rounds;[63] (9) ICE Detainee Visits;[64] (10) Physical Recreation;[65] (11) Inmate/Detainee Marriage;[66] (12) Allowable Inmate/Detainee Property;[67] (13) ICE Detainee Transfers;[68] and (14) Authorization, Verification and Release of ICE Detainees Unless Otherwise Authorized in Writing by ICE Staff[69]. Importantly, the policy is not considered law, and the "Director has the authority to revise/change a policy or post order as needed to meet the operational demands of the Department."[70]

II. The Coalition's Position

As noted above, it is the Coalition's position that the HCDC should terminate the Contract with the DOJ.[71] According to the Coalition, the Contract should be terminated because of conduct attributable to both ICE and the HCDC.

As an initial matter, the Coalition maintains that ICE is a corrupt agency. According to the Coalition, "[t]he current immigration policies are heartless and unjust, routinely tearing families apart and deporting people who have lived and worked peacefully in the United States for decades[, and] ICE is the enforcement arm of the policy."[72] As the enforcement arm of the policy, the Coalition specifically points to the dramatic expansion in the scope of removable persons who are detained and removed. According to the Coalition, the prior administration, as a matter of practice, only focused on detaining removable persons who were also violent criminals, and the sudden

[61] *Id.* at 5.
[62] *Id.* at 6.
[63] *Id.*
[64] *Id.*
[65] *Id.* at 7.
[66] *Id.*
[67] *Id.*
[68] *Id.*
[69] *Id.*
[70] *Id.* at 8.
[71] Among other things, the Coalition provided this Committee with a position paper and written testimony, copies of which are attached hereto as Tab 5 (the "Position Paper and Testimony"). This summary of the Coalition's position is based on the Position Paper and Testimony, as well as the Committee's interview with Coalition representatives.
[72] Position Paper and Testimony, *supra*, at 1.

expansion under the current administration to include those who have not even been charged with or convicted of violent crimes makes ICE even more corrupt and increases the need for localities like Howard County to cease all cooperation. Even if the HCDC has a policy that limits the types of detainees it accepts, all information needed to assess whether a detainee is of the type that HCDC accepts is provided by ICE, and it is sometimes impossible and at other times impractical for the HCDC to verify any such information.

The Coalition also submits that the Contract should be terminated because of issues with the HCDC and/or County. As an initial matter, the Coalition claims that the County is not being transparent with respect to requests for information and documents. In support of its contention, the Coalition points to a Public Information Act request that has not been answered to the satisfaction of the Coalition. The Coalition provided a copy of the request, and filings relating to the dispute that followed, which are attached hereto as Tab 6.

The Coalition also takes issue with the Policy. As an initial matter, the Policy is not law, and any subsequent director of the HCDC may change the Policy to expand the scope of detainees that the HCDC accepts from ICE. Additionally, while the Policy states that the HCDC only accepts detainees that are "criminally involved," the Coalition contends that the HCDC is "holding people who have been charged but not convicted of a crime[,] . . . people charged with minor traffic violations and not guilty of crimes against people and property[, and those] . . . who have already served time for their crimes and then have been moved into the ICE section of the jail."[73] As the Policy itself also states, the HCDC may also accept detainees merely because they are identified as "members of criminal gangs" regardless of whether such persons have been charged or convicted of any crime.

[73] *Id.*

To be clear, the Coalition's position is that no person should be detained as a part of civil removal proceedings. Rather, detention should be limited to the criminal justice system. For example, if a removable person has been charged with a crime and released on bail, that person should not then be detained as a result of an ICE detainer for a civil immigration violation. If a removable person has been convicted of a crime and has served his/her criminal sentence, that person has already served the penalty for the crime and should not be detained thereafter pending deportation.

III. Issues

As noted above, the Committee has interviewed and requested documents from various organizations that participate in the process described above and/or advocate for those who are affected. The interviews conducted and documents received raised two primary issues, which are as follows.

A. Does The HCDC Only Accept Criminal Detainees?

There is much debate regarding whether the HCDC "only accepts criminal detainees." As an initial matter, it is important to note that, as a general matter, ICE detainees accepted by the HCDC are being detained as a part of removal proceedings that are civil in nature, not criminal. As discussed above, title 8 of the U.S. Code imposes criminal penalties on certain immigration violations. As specified above, illegal entry into the United States is, generally speaking, a crime that may result in imprisonment as a criminal sentence. That being said, even if a criminal immigration violation has been committed, such persons are not usually charged with the criminal offense of illegal entry. Rather, they only are subjected to civil removal proceedings without any criminal charges and/or penalties being imposed.

Put another way, detention by the HCDC for ICE detainees generally is not being imposed as a criminal sentence or as a result of pending criminal immigration violations; it is detention that is permitted under federal law for civil immigration violations. As such, even if a detainee is accepted by HCDC that has been charged with but not yet tried for a non-immigration criminal offense, they are detained by ICE and handed over to the HCDC after being released on bail (or under other conditions). If a detainee is accepted by HCDC that has been convicted of a non-immigration criminal offense, they are detained by ICE and handed over to the HCDC after the person has served his/her criminal sentence.

While the detention at HCDC for ICE detainees is generally not, in of itself, detention for a pending criminal charge or conviction, such a criminal charge or conviction may still serve as a predicate for mandatory detention for a civil immigration violation as described above. It is those detainees that are largely addressed by the Policy. The Policy, as specified above, expressly states that it "is the policy of the Howard County Department of Corrections to only accept detainees from ICE who are criminally involved." The Policy defines "criminally involved" as:

> (1) Those convicted of crimes;
>
> (2) Those charged with jailable offenses;
>
> (3) Those who are members of criminal gangs; and
>
> (4) Those who are deported criminal felons who have illegally reentered the U.S.

While those who were convicted of crimes and/or were deported criminal felons who illegally re-entered the United States are unequivocally "criminals," however, the express wording of the Policy permits the acceptance of those who have merely been charged with jailable offenses and/or who are members of criminal gangs.

Opponents of the Contract have raised concerns for ICE detainees accepted by the HCDC who have merely been charged with, but not convicted of, jailable offenses. As an initial matter, the express wording indicates that such persons have only been charged, but not convicted, of a crime. Charges may have been asserted as a result of uncorroborated witnesses or under false pretenses, and the HCDC has no way of verifying the information that served as the bases for any criminal charges. For example, an assault charge may have been based upon a person falsely claiming that they were assaulted, but the HCDC has no way to assess the veracity of any statements that may have served as the basis for the charge. While the criminal charges may later be dropped, the person has already been detained and is now in custody separately as a part of the civil immigration removal proceedings. Moreover, ICE is only taking custody for civil immigration violations after charged persons have been released from criminal custody on bail or under other conditions. If a judge has found that the circumstances warrant release from custody (on bail or under other conditions) pending trial for the criminal charges, that person should not then be detained on the civil immigration violations pending resolution of the criminal charges.

On the other hand, some who support the Policy point out that while criminal charges may later be dropped or a court may eventually find the defendant not guilty, a probable cause determination has nonetheless been made for the arrest, and the charged person has gone through the required preliminary criminal proceedings prior to being released on bail or under other circumstances. They also assert that detainees accepted by the HCDC may have only been charged, but they have all been charged with jailable, and therefore significant, offenses.[74]

[74] Attached hereto as Tab 7 is a list provided by the HCDC of all ICE inmates that were being held at the HCDC on August 28, 2019. This list specifies the criminal charges for ICE detainees who were accepted by the HCDC as a result of pending jailable charges.

Opponents of the Contract also have raised concerns for ICE detainees accepted by the HCDC solely on the basis of purported membership in a criminal gang. Indeed, such designations are not made as a finding of fact by a court, but rather by law enforcement. Opponents contend that the HCDC has no way of assessing whether the bases for any such designation is valid, or rooted in fact rather than mere suspicion.

According to the HCDC, however, it does not accept an ICE detainee solely on the basis of a conclusory designation that the detainee is the member of a criminal gang. ICE is required to submit a Form I-213 for each proposed detainee, and the HCDC reviews the form. According to the HCDC, those that are accepted by the HCDC as a result of gang affiliation are only accepted if there is information in detail sufficient for the HCDC regarding the gang affiliation and/or because of other factors that accompany the designation.[75]

Some have raised concerns that the HCDC accepts detainees who do not fall under one of the four enumerated categories in the Policy or whose detention is otherwise unjust.[76] As examples, CASA has provided videos downloadable at https://www.dropbox.com/sh/rk37p0d1hombdch/AAAD488ptxM0pxd4da7Y_ahka?dl=0, and written examples attached hereto as Tab 10. For those identified, the HCDC has provided its justification for acceptance under the Policy in the e-mails attached hereto as Tab 11. Additionally, the HCDC has provided a more expansive list of the HCDC's intakes of ICE detainees, attached hereto as Tab 12. The Committee has asked the Coalition, CASA, and the ACLU of Maryland whether it could meet with any of the persons identified to verify the information presented rather

[75] Attached hereto as Tab 8 is example of information that the HCDC considers when assessing whether to accept an ICE detainee as a result of gang affiliation.

[76] Others have also contended that the HCDC does not in reality even consider the factors enumerated in the Policy. In response, the HCDC has provided examples of detainees who the HCDC did not accept from ICE. Such examples are attached hereto as Tab 9.

than relying solely upon anecdotal accounts. After communicating with the persons identified, all three organizations have stated that they do not wish to subject the individuals to questioning by the Committee and/or provide additional information in light of privacy concerns.

B. Will Detainees Be Disadvantaged If The HCDC Terminates The Contract?

Supporters of the Contract raise two primary concerns with how termination of the Contract could adversely affect ICE detainees. One concern is that the termination of the Contract would make it harder for those currently in the custody of the HCDC to see their families. The other concern is that it would result in the transfer of detainees to detention centers that provide fewer services, including legal representation, to detainees than the HCDC.

With respect to the first concern, the Coalition states as follows:

> [M]any detainees in Jessup are not from Howard County. Only 8 of the 65 immigrants detained in the Jessup jail on August 28, 2019 lived in Howard County. Almost one in three of the detainees on that day came from out of state. Moreover, family members may be undocumented and thus too afraid to visit the facility even if it is close by. Detainees have access to skype and phone calls to their families but for a fee.[77]

The HCDC, however, refers to the list of intakes for 2019 referred to above and attached hereto as Tab 12, which provides the city and state of the detainee's last known address. Notably, ICE detainees are placed under the care of three facilities in Maryland (in Worcester County, Frederick County, and Howard County), two facilities in Virginia (in Farmville and Bowling Green), and no facilities in the District of Columbia.

Some supporters of the Contract contend that the HCDC provides better services than other detention centers, and raise the concern that the termination of the Contract would result in the transfer of ICE detainees to other detention centers that, for example, do not provide as much access to legal services. For those who are accepted by the HCDC under the Policy – particularly

[77] Position Paper and Testimony, *supra*, at 2.

those with have been charged with or convicted of predicate non-immigration crimes that result in mandatory detention under the INA – the argument is that if the INA mandates detention, it is better for such detainees to be detained at a facility like the HCDC than at other facilities. According to the HCDC,

> [A]ll detainees get orientation from the CAIR Coalition[.] . . . Cair provides detainees legal information and services[.] We also conduct a weekly new intake orientation and review the CAIR services with the detainees. This information is also in their handbook and posted in their housing area and on the unit computer kiosk.[78]

As specified above, the removal process is a complicated and lengthy process. According to the 2017 Center for Popular Democracy's Access to Justice Report, a copy of which is attached hereto as Tab 14 (the "CPD Report"), eight out of ten immigrants detained in Maryland and appearing in removal proceedings before the Baltimore Immigration Court did not have legal representation.[79] Unrepresented detainees in Baltimore were only successful in their cases 7% of the time, and having a lawyer quadrupled a person's chance of obtaining relief in Baltimore.[80]

According to one advocate, "[d]etained individuals have a greater chance of legal representation when in facilities [such as the HCDC] that have access to counsel programs such as LOP, ISLA or Safe City."[81] With respect to the Department of Justice's LOP program, services are only available at 46[82] out of the 137[83] facilities at which ICE detainees are detained and the HCDC is one of them. According to the CAIR Coalition:

> LOP refers individuals to external pro bono partners, as well as our in-house direct representation programs for pro bono representation. Over 95% of individuals represented in-house or by external pro bono attorneys are

[78] Tab 13, at ¶ 17.
[79] CPD Report, *supra*, at 4.
[80] *Id*.
[81] Tab 14.
[82] Legal Orientation Program, Vera Institute of Justice, available at https://www.vera.org/projects/legal-orientation-program/legal-orientation-program-lop-facilities.
[83] Detention Facility Locator, U.S. Immigration and Customs Enforcement, available at https://www.ice.gov/detention-facilities.

> directly referred by LOP. Throughout the 2 VA facilities we serve and the 3 MD facilities we serve, direct representation programs are able to provide legal services as a result of LOP referrals. LOP is not meant to be the equivalent of or substitution for direct representation. Rather, our LOP and our direct representation programs work hand-in-hand to provide legal services to as many individuals as possible.[84]

While the LOP Program is only available at approximately one-third of ICE detention facilities, the reach of legal service organizations also appears to be limited by the funding they receive. As an initial matter, finding stable, multi-year funding is difficult for any organization. Additionally, however, funding often also comes with limitations. For example, the Prince George's County's ISLA (Immigrant Services and Language Access Program) is funded by that particular county for the purpose of servicing that particular county's residents. Such funding may not be available to service detainees that are in custody at other detention centers.

According to the Coalition, however,

> The Jessup jail may be a better jail than others, but it is still a jail. . . . [While CAIR] personnel visit Jessup regularly to provide information and, sometimes, legal representation[,] . . . only 2 in 10 detainees in Baltimore immigra[tion] court have lawyers. In practical terms, ending the ICE contract will reduce opportunities for legal representation for a very small number of immigrants."[85]

Moreover, many advocacy groups, including the ACLU of Maryland, CASA, and the Coalition, subscribe to the notion that "less beds" mean "less detainees." According to the Coalition, "[w]hen there are fewer prisons for immigrants, fewer immigrants are arrested and detained."[86] In support of its contention, the Coalition states as follows:

> We can see this if we compare Washington, Massachusetts and Georgia. These states have similar size immigrant populations, but Massachusetts has less than half the detention capacity of Washington. According to TRAC, https://trac.syr.edu/phptools/immigration/apprehend/ ICE made about half as many arrests in Massachusetts (3760) as they did in

[84] Tab 14.
[85] Position Paper and Testimony, *supra*, at 1
[86] Tab 15.

> Washington (7139). In contrast, Georgia has a similar size immigrant population but twice as much immigrant detention infrastructure, and 3.5 times as many ICE arrests (25,137). If we dismantle the infrastructure that allows for easy detention of our neighbors and family members, we expect less immigration enforcement in this state.[87]

Under that line of reasoning, if there are fewer detention centers that accept ICE detainees in Maryland, there will be less immigrants from Maryland who are arrested and detained.

According to the Coalition, "[a]s long as Howard County continues to house immigrants, we are all complicit with a corrupt system. Unless communities refuse to collaborate with ICE, detentions will continue."[88] While Howard County is not a party to a 287(g) agreement, it is nonetheless a party to the Contract. The Coalition submits that

> Nationwide, state and local governments are ending their contracts with ICE, most recently, Norfolk, Virginia. Howard County needs to join this humanitarian action and be in the forefront for social justice. . . . We cannot wait for Washington to take action. Change begins community by community. Local political action puts pressure on national leaders to act. In the face of clear human rights violations, we have an obligation to our foreign-born friends and neighbors in Howard County to work against unjust policies and laws. If we want Howard County immigrants to trust local government and police, we cannot continue to take money from ICE.[89]

As such, the Coalition requests that this Commission support its efforts to call for the termination of the Contract.

IV. Subsequent Developments

Both the County Council and County Executive's Office have recently taken action regarding the Contract and the Policy. CB51-2020, introduced by Council Vice Chair Liz Walsh on September 8, 2020, aims to "prohibit[] the Howard County Department of Corrections from accepting into its custody persons detained by federal immigration law enforcement agencies and

[87] *Id.*
[88] Position Paper and Testimony, *supra*, at 2.
[89] *Id.*

housing those persons as they await disposition of exclusively immigration-related proceedings."[90] A copy of the legislation text and written testimony is attached hereto as Tab 16. According to the text of the legislation, it seeks to amend the Howard County Code by adding a provision to Section 7.501 (Department of Corrections) in Subtitle 5 (Department of Corrections) in Title 7 (Courts) as follows:

> (D) *Prohibitions*:
>
> Notwithstanding any provision in this Section to the contrary, the Department of Corrections shall not detain or keep in custody any person detained in federal custody for a federal immigration violation, except to the extent required for an unrelated State law purpose.[91]

The legislation was discussed at the public hearing on September 21, 2020. At the hearing, a vast majority of those who testified voiced support for the legislation without amendments. The legislation was passed by the County Council, and the County Executive vetoed the legislation.

Additionally, according to the Baltimore Sun, the County Executive's Office separately came to an agreement with CASA on a policy clarification – which presumably refers to a change to the Policy.[92] The article reports the County Executing as stating, "[u]nder the revised policy, only persons convicted of violent crimes would be housed in the detention center."[93] The predicate "violent crimes" would be limited to the crimes identified as "crime[s] of violence" under the Maryland Code,[94] which are as follows:

> (1) abduction;
> (2) arson in the first degree;
> (3) kidnapping;
> (4) manslaughter, except involuntary manslaughter;

[90] Tab 16, at 1.
[91] *Id.* at 4.
[92] Ana Faguy, Howard County Clarifies Contract With ICE To Accept Only Detainees Who Are Convicted Of Violent Crimes, Baltimore Sun, Sept. 18, 2020, available at https://www.baltimoresun.com/maryland/howard/cng-ho-ice-contract-policy-20200918-uamymojrzrg7hlg6jlbpgz4oyi-story.html, attached hereto as Tab 17 ("Baltimore Sun Article"), at 2.
[93] *Id.* at 3.
[94] *Id.*

(5) mayhem;
(6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;
(7) murder;
(8) rape;
(9) robbery under § 3-402 or § 3-403 of this article;
(10) carjacking;
(11) armed carjacking;
(12) sexual offense in the first degree;
(13) sexual offense in the second degree;
(14) use of a handgun in the commission of a felony or other crime of violence;
(15) an attempt to commit any of the crimes described in items (1) through (14) of this subsection;
(16) assault in the first degree;
(17) assault with intent to murder;
(18) assault with intent to rape;
(19) assault with intent to rob;
(20) assault with intent to commit a sexual offense in the first degree; and
(21) assault with intent to commit a sexual offense in the second degree.[95]

In addition to the foregoing, additional materials were provided to the Commission and/or referenced during discussions following the completion of this Report, but prior to the Commission voting on what action to take: (1) a letter send by the County Executive to the County Council regarding the County Executive's decision to veto CB51-2020, attached hereto as Tab 27; (2) a November 16, 2020 letter to the Commission from the Coalition, attached hereto as Tab 28; and (3) an October 28, 2020 report issued by the Office of Inspector General at the Department of Homeland Security regarding an unannounced inspection of the HCDC in December 2019, attached hereto as Tab 29.

V. Commission's Recommendation

The Commission held its regularly scheduled meeting on November 19, 2020. After discussion at that meeting, the Commission voted in favor of taking the following position:

[95] Md. Code, Criminal Law, § 14-101.

The Howard County Human Rights Commission supports the change to the County's policy known as P & P No. C-205, such that the Howard County Department of Corrections' acceptance of detainees under the Intergovernmental Service Agreement between the Howard County Department of Corrections and the United States Department of Justice shall be limited to those who have been convicted of crimes of violence identified under Md. Code, Criminal Law, § 14-101.

ISSUE NO. 2: CITIZENSHIP AND/OR IMMIGRATION STATUS AS A PROTECTED CLASS

The Coalition is advocating for the addition of immigration status as a protected class to Subtitle 2 of the Howard County Code and is asking the Commission to support its efforts. In studying this issue, the Committee: (i) reviewed the current Howard County Human Rights Code; (ii) interviewed the Coalition and the County Executive's Office regarding their positions on this issue; (iii) researched the implications of federal law; and (iv) researched other states and localities that have adopted protections similar to those advocated by the Coalition, and, where possible, interviewed officials from these jurisdictions. This Section summarizes the Committee's factual findings to provide the Commission with as much information as possible to enable it to make an informed decision about this issue.

I. Howard County Human Rights Code

Section 12.200 of the Howard County Human Rights Code provides that the "Howard County Government shall foster and encourage the growth and development of Howard County so that all persons shall have an equal opportunity to pursue their lives free of discrimination."[96] To that end, discrimination based on the following protected classes are contrary to the public policy of Howard County:

Race,

Creed,

Religion,

Disability,

Color,

Sex,

[96] Howard County Code § 12.200(I).

National Origin,

Age, Occupation,

Marital Status,

Political Opinion,

Sexual Orientation,

Personal Appearance,

Familial Status,

Source of Income, or

Gender Identity or Expression.[97]

(collectively, the "Protected Classes"). The Howard County Human Rights Code further states that:

> Howard County Government shall direct its efforts and resources toward eliminating discriminatory practices within Howard County in:
>
> (1) Housing
>
> (2) Employment
>
> (3) Law Enforcement
>
> (4) Public Accommodations
>
> (5) Financing
>
> (6) Any other facet of the lives of its citizens where such practices may be found to exist.[98]

Sections 12.207 through 12.211 of the Howard County Human Rights Code prohibit discrimination against persons based on any of the Protected Classes in housing, employment, law enforcement, public accommodations, and financing.[99] Presently, neither citizenship nor

[97] *Id.* § 12.200(II).
[98] *Id.* § 12.200(III).
[99] *Id.* §§ 12.207-12.211.

immigration status are included as a Protected Class under the Howard County Human Rights Code.

II. Interviews with Local Stakeholders

The Committee interviewed several local stakeholders to obtain their opinions on adding citizenship and/or immigration status as a protected class under the Howard County Human Rights Code.

A. Coalition for Immigrant Justice

The Coalition for Immigrant Justice, which originally brought this issue to the Commission's attention, strongly advocates for adding immigration status as a protected class. It believes that adding immigration status as a protected class would send a strong message to the immigrant community and to businesses that discrimination based on immigration status will not be tolerated in Howard County. The Coalition does not have any proposed legislation, but would be willing to work on drafting legislation for consideration.

B. County Executive's Office

The Committee interviewed Jennifer Jones, Chief of Staff to County Executive Calvin Ball. According to Ms. Jones, the County Executive is open to considering the addition of immigration status as a protected class but did not, at the time of the interview, have a position on the scope of protection. His office does not currently have any proposed language but is open to reviewing options from interested citizens and groups. The County Executive's Office is not aware of a high incidence of discrimination against individuals in Howard County based upon immigration status, but suggested checking with the Office of Human Rights and CASA.[100] The County Executive

[100] As suggested by Ms. Jones, the Committee discussed this issue with CASA during its interview regarding Issue No. 1. CASA stated that it had not thought much about this issue. CASA is not aware of incidents of discrimination based on immigration status against individuals in Howard County in employment, housing, financing, or public accommodations. However, CASA is aware of an increase in Howard County residents failing to report crimes or seek public resources and medical or social assistance due to their immigration status. CASA believes that adding

would like to ensure that any proposed legislation would not contravene or otherwise be in conflict with other federal, state, or local laws, and any proposed legislation would need to be reviewed by the County's legal counsel. The County Executive's Office was not aware of any other jurisdiction with similar protections other than Montgomery County, Maryland. If a change is made, the County Executive would prefer that it be done through the legislative process, as opposed to an executive order.

III. Federal Law[101]

Federal law provides an important backdrop to the consideration of whether and how to adopt protections against discrimination based on citizenship and/or immigration status at the state or local level. The federal government "has broad, undoubted power over the subject of immigration and the status of aliens."[102] "The federal power to determine immigration policy is well settled" since it "can affect trade, investment, tourism, and diplomatic relations for the entire Nation."[103] However, the broad reach of federal immigration law, "does not diminish the importance of immigration policy to the States."[104] States and localities may regulate in the area of immigration so long as their laws are not preempted by or in conflict with federal immigration law.[105]

Several notable court cases illustrate the complexity of this issue. In 2011, in *Chamber of Commerce v. Whiting*, the Supreme Court upheld an Arizona law that allowed the state to suspend

immigration status to the Howard County Human Rights Code would provide an additional layer of protection for the immigrant population.

[101] This section is not intended to be a definitive summary of federal immigration law. Rather, it is intended to illustrate the complex interplay between federal immigration law and state and local regulations.

[102] *Arizona v. United States*, 567 U.S. 387, 394 (2012) (citing U.S. Const., Art I, § 8, cl. 4). Many statutes and court decisions related to federal immigration law refer to immigrants as "aliens" and to immigrants who are undocumented or reside in the country in a manner contrary to federal immigration law as "illegal aliens" or "unauthorized aliens." For purposes of this report, unless quoting a statute or court decision, we use the term "immigrants" and "undocumented immigrants."

[103] *Id.* at 395.

[104] *Id.* at 397.

[105] *Id.* at 398-399.

or revoke the licenses of businesses that knowingly or intentionally hire undocumented immigrants.[106] The Court also upheld a requirement that all employees use the federal E-Verify system to verify the eligibility of employees to work in the United States.[107] However, just one year later, in *Arizona v. United States*, the Supreme Court struck down three provisions of an Arizona law – making any failure by immigrants to comply with federal registration requirements a crime, making it a crime for undocumented immigrants to seek employment, and allowing law enforcement to make warrantless arrests of people suspected of undocumented immigrants – as being preempted by federal immigration law.[108] In the same case, the Court declined to strike down a fourth provision, requiring state police officers to stop and detain people to inquire about their immigration status.[109]

One year later, in applying these two Supreme Court decisions, the Third Circuit Court of Appeals struck down two local ordinances from Hazelton, Pennsylvania as being preempted by federal immigration law.[110] The first made it unlawful "'to knowingly recruit, hire for employment, or continue to employ'" any person who is not authorized to work in the United States.[111] The second made it illegal to knowingly or, with reckless disregard, "'let, lease, or rent a dwelling unit to an illegal alien.'".[112] In a similar case, the Fifth Circuit Court of Appeals struck down an ordinance from Farmers Branch, Texas that prohibited landlords from knowingly renting to individuals who are not citizens or nationals of the United States.[113]

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[106] *Chamber of Commerce of the United States v. Whiting*, 563 U.S. 582, 587 (2011).
[107] *Id.*
[108] *Arizona v. United States*, 567 U.S. at 403, 406-407, and 410.
[109] *Id.* at 415.
[110] *Lozano v. City of Hazelton*, 724 F.3d 297, 300 (2013).
[111] *Id*. at 301 (quoting Illegal Immigration Relief Act Ordinance § 4A).
[112] *Id.* (quoting Illegal Immigration Relief Act Ordinance § 5A).
[113] *Villas at Parkside Partners v. City of Farmers Branch*, 726 F.3d 524, 526 (5th Cir. 2013).

Federal power in the area of immigration law is not unlimited. In 2008, landlord William Jerry Hadden of Lexington, Kentucky was arrested and charged with dozens of federal crimes including "harboring illegal aliens and encouraging illegal entrants to remain in the country" for renting to people who were not in the country legally.[114] This case appeared to be the first time the federal government sought to prosecute landlords for renting to "illegal aliens."[115] Mr. Hadden was facing jail time and the potential forfeiture of his properties if convicted; however, a jury acquitted him.[116]

These cases, and many others like them, illustrate the complicated interplay between federal immigration law and state and local statutes and ordinances. Therefore, federal immigration law should be given careful consideration when drafting legislation to add immigration and/or citizenship status as a protected class under the Howard County Human Rights Code.

IV. State and Local Jurisdictions That Have Adopted Protections for Citizenship and Immigration Status

The Committee studied jurisdictions across the country that have dealt with the issue of protecting people who are at risk of unequal treatment and who feel threatened due to their immigration status. The Committee discovered a wide array of actions including explicitly adding immigration status as a protected class to the state or local anti-discrimination code, issuing executive orders, and enacting "Trust Acts." What follows is a discussion of jurisdictions that were closely examined as examples of these actions.[117]

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[114] "Landlord Faced Criminal Charges for Renting to Illegals," https://www.american-apartment-owners-association.org/property-management/latest-news/landlord-faced-criminal-charges-for-renting-to-illegals/ (last visited Sept. 21, 2020).
[115] *Id.*
[116] *Id.*
[117] To the best of our knowledge, at the time of this report, none of the laws and executive actions discussed in this section have been challenged as being preempted by or in conflict with federal immigration law.

A. Montgomery County, Maryland

Montgomery County, Maryland is one of Howard County's neighboring jurisdictions. According to the latest U.S. Census Bureau Report, Montgomery County is home to around 1,050,688 million people, 32.3% of which are foreign born.[118]

On July 22, 2019, Marc Elrich, Montgomery County Executive, signed the "Promoting Community Trust Executive Order."[119] Among other things, the order prohibits all executive branch departments from using local government resources to assist federal agents in civil immigration investigations.[120] Pursuant to the Executive Order, local government resources may not allow U.S. Immigration and Customs Enforcement officers into non-public spaces in government buildings or give them access to individuals in county government custody unless they are in possession of a court order or criminal warrant.[121]

The Montgomery County Executive Order came on the heels of the federal government's executive branch's anti-immigration statements and policies as well as a vow of widespread crackdowns on residents considered to be illegally in the country.[122] In July 2019, The President

[118] United States Census Bureau, Quick Facts, Howard County, Maryland; Anne Arundel County, Maryland; Montgomery County, Maryland; Prince George's County, Maryland https://www.census.gov/quickfacts/fact/table/montgomerycountymaryland/PST045219 (last visited Sept. 27, 2020 (Tab 18).

[119] Montgomery County Executive Order No. 135-19, Promoting Community Trust (July 22, 2019) (Tab 19). *See also* "No Cooperation with ICE: Montgomery's new ban is strongest in D.C. region," *The Washington Post*, July 29, 2019 (https://www.washingtonpost.com/local/md-politics/no-cooperation-with-ice-montgomerys-new-ban-is-strongest-in-dc-region/2019/07/22/46b85870-ac7d-11e9-a0c9-6d2d7818f3da_story.html) (last visited Sept. 20, 2020)

[120] Montgomery County Executive Order No.135-19, No. 135-19, Promoting Community Trust (July 22, 2019).

[121] *Id*.

[122] "Trump Administration to expand its power to deport undocumented immigrants," *The Washington Post*, July 22, 2019 (https://www.washingtonpost.com/immigration/trump-administration-to-expand-its-power-to-deport-undocumented-immigrants/2019/07/22/76d09bc4-ac8e-11e9-bc5c-e73b603e7f38_story.html) (last visited Sept. 20, 2020).

of the United States announced that massive ICE raids were imminent.[123] *The Washington Post* reported that the President's announcement sparked fear in the foreign born communities.[124]

The Committee had the opportunity to speak about Montgomery County's Executive Order with Caroline Sturgis, Assistant Chief Administrative Officer for the Montgomery County Executive's Office. Although Montgomery County often described as a "sanctuary county" in the media, Ms. Sturgis explained that Montgomery County is not a sanctuary county and did not endure any federal consequences as a result of the Executive Order. There was no question about what needed to be done to protect the immigrant community in Montgomery County, Maryland. There was a significant outcry from the community regarding the safety and equitable treatment of immigrant communities. The immigrant community was in fear as a result of some of the language and threats being touted from the federal level, including but not limited to, abolishing DACA; building a wall at the U.S. and Mexican border; threats to implement a "public charge" rule; and the detention and separation of families and children.

Additionally, with the threat of "ICE raids," immigrant residents became terrified, which prevented them from seeking needed services. For example, many were hesitant to obtain medical assistance for themselves and their children, report crimes, and perform other basic life functions that documented residents would not have to give a second thought. Ms. Sturgis shared that immigrant families were reluctant to have children vaccinated, to receive assistance for food, or to deal with the police, creating a public health concern.

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[123] *Id.*

[124] No Cooperation with ICE: Montgomery's new ban is strongest in D.C. region," *The Washington Post*, July 29, 2019 (https://www.washingtonpost.com/local/md-politics/no-cooperation-with-ice-montgomerys-new-ban-is-strongest-in-dc-region/2019/07/22/46b85870-ac7d-11e9-a0c9-6d2d7818f3da_story.html) (last visited Sept. 12, 2020).

According to Ms. Sturgis, the Executive Order is designed to protect the immigrant community. She explained that the order prohibits county departments from asking employees or potential hires about immigration status or using immigration status to determine eligibility for benefits. Ms. Sturgis indicated that once the Executive Order was signed, various departments were given ninety days to review their regulations and ensure compliance. According to Ms. Sturgis, the Montgomery County Council also supported the Executive Order and Montgomery County policies that were in place prior to the Executive Order were consistent with the new order. However, it became important that those polices be formalized. The situation for the immigrant community was considered dire and there was no certainty that legislation to protect immigration status would pass swiftly enough to be included in the county code. It was determined that the fastest and most effective way to protect the Montgomery County community and to regain community trust was to issue an Executive Order.[125]

B. Prince George's County, Maryland

Prince George's County, Maryland is another of Howard County's neighboring jurisdictions. According to the latest U.S. Census Bureau Report, Prince George's County has a population of 909,327 people, with 22.4% being foreign born.[126]

On November 19, 2019, the Prince George's County Council voted unanimously to adopt fair housing legislation that amends the County Human Relations Commission Law to include prohibiting discrimination in all housing accommodations based on immigration status, citizenship

[125] Ms. Sturgis also provided the Committee with a summary chart of analogous trust policies in other jurisdictions, a copy of which is attached as Tab 20. Since trust policies are not the focus of the Committee's inquiry, we did not further study these other policies.
[126] *See*, *supra*, note 118 (Tab 18).

status, and source of income.[127] This bill was sponsored by Council Members Deni Taveras and Danielle Glaros and took effect on February 3, 2020.[128]

Among other things, this bill makes it unlawful to perform any one of the following acts in housing and residential real estate:

> Refuse to sell, lease, sublease, rent, assign, or otherwise transfer; or refuse to negotiate for the sale, lease, sublease, rental, assignment or other transfer of the title, leasehold, or other interest in any housing; or represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when in fact it is so available; or otherwise make housing unavailable, deny, or withhold any housing from any person because of race, religion, color, sex, national origin, immigration status, citizenship status, source of income, age, occupation, marital status, political opinion, personal appearance, sexual orientation, physical or mental disability, or familial status;
>
> Discriminate by inquiring about immigration status or citizenship status in connection with the sale, lease, sublease, assignment or other transfer of a housing unit;
>
> Discriminate by requiring documentation, information or other proof of immigration status or citizenship status;
>
> Discriminate in the sale, lease, sublease, assignment, or other transfer of a housing unit by requiring proof of immigration status or citizenship status such as social security number, without providing an alternative that does not reveal immigration status or citizenship status, such as individual taxpayer identification number;
>
> Discriminate by disclosing, reporting or threatening to disclose or report immigration status or citizenship status to anyone including any immigration authority, law enforcement agency or local state or federal agency for the purpose of inducing a person to vacate the housing unit or for the purpose of retaliating against a person for the filing of a claim or complaint; and
>
> Discriminate by evicting a person from a housing unit or otherwise attempting to obtain possession of a housing unit because of the person's immigration status or citizenship status unless the remedy is sought to comply with a federal or state law or a court order.[129]

[127] Prince George's County, Maryland CB 38-2019 (Tab 21).
[128] *Id.*
[129] *Id*.

The Committee had an opportunity to speak with co-sponsor Council Member Taveras and her legislative aide, Julieta Cuellar, about this bill. Ms. Taveras explained that the driving force behind her introducing this bill was source of income more than immigration status. She had learned from her constituents about patterns of discrimination in rental housing against undocumented immigrants based on a refusal to accept certain types of income verification. Many landlords would not accept proof of income other than a paystub with a social security number, which undocumented immigrants would be unable to produce. She wanted to ensure that they could rent housing by producing alternative type of income verification, such as bank statements and letters from employers.[130] She also added immigration and citizenship status to the bill in order to avoid other types of discrimination in housing. According to Ms. Taveras, this bill largely flew under the radar while it was being debated by the County Council because the Council was considering "sanctuary county" legislation at the same time, which was more controversial.

The bill has not been a law long enough for Ms. Taveras to have any significant data about the number of complaints filed or investigated. The legislation focused on adding citizenship status, immigration status, and source of income as protected classes only to the fair housing portion of the code because that is the area where the immediate need existed, and it would require less debate. Councilperson Taveras stated she would like to see these protections expanded to include employment and public accommodations. One frustration that Ms. Taveras shared is that outreach, education, and enforcement regarding these new protected classes have been spotty because they arguably fall within the jurisdiction of a few different County agencies. According

[130] Prince George's County CB 38-2019 and the Howard County Human Rights Code have similar, expansive definitions of "source of income" that includes things such as income received through a lawful profession or occupation, government assistance, private assistance, gift or inheritance, pensions, annuities, alimony, and child support. *Compare* CB 38-2019 *with* Howard County Code § 12.207(j). However, Prince George's County CB 39-2019 further specifies the type of documentation that can be accepted for proof of lawful employment to include "bank statements, official government issued letters, pay stub or letter from an employer," whereas the Howard County Code is silent on this issue. *Id.*

to Ms. Taveras, no single agency has taken the lead on these issues. She suggested that, if Howard County adds immigration status as a protected class, it should direct enforcement to a single agency and ensure that there is funding in place for adequate outreach about the change in law.

The Committee also had an opportunity to speak with Renee Battle-Brooks, the Executive Director of the Prince George's County Human Relations Commission. Ms. Battle-Brooks along with her staff explained that the County Council in Prince George's County had on their radar to include immigration status as a protected class in the County Code. The Council saw a need, especially in districts with a high Hispanic/Latino population. The Prince George's County Human Relations Commission was not initially part of the conversation surrounding including immigration and citizenship status as a protected class under fair housing, but they inserted themselves and became involved. The Human Relations Commission recognized that terms had to be defined so that expectations were clear. Co-sponsor Council Member Danielle Glaros acknowledged the work and support of the Human Relations Commission, the County's Civil and Human Rights Education and Enforcement Agency, the Housing Initiative Partnership, and CASA for urging the passage of the legislation.[131]

C. Anne Arundel County, Maryland

Anne Arundel County, Maryland is another of Howard County's neighboring jurisdictions. According to the latest U.S. Census Report, Anne Arundel County has a population of 579,234 people, of which 7.7% are foreign born.[132]

Over the last two years Anne Arundel County has had significant changes that affect the immigrant community. On December 27, 2018, Steuart Pittman, the County Executive for Anne

[131] Karen D. Campbell, "County Council Adopts Fair Housing Act to Ban Source of Income, Immigration Status and Citizenship Status in Housing," *The Prince George's Post*, A1 (Dec. 5, 2019 – Dec. 11, 2019) (Tab 22).
[132] *See*, *supra*, note 118 (Tab 18).

Arundel County, announced the termination of the County's 287(g) program.[133] The 287(g) program was a partnership between Anne Arundel County and ICE. It provided for the screening by local law enforcement of the immigration status of people taken into custody for allegedly committing crimes.[134]

On September 12, 2019, County Executive Steuart Pittman signed Fair Housing Bill 55-19, which provides protections against discrimination on the basis of citizenship, occupation and source of income in the sale or rental of housing.[135] He also signed Bill 57-19, which codified the Anne Arundel County Human Relations Commission and provided it with regulatory authority to resolve fair housing complaints through both enforcement and mediation.[136] County Executive Pittman said, that the new law was passed because it was long overdue and was the right thing to do.[137]

The Committee spoke about the Fair Housing Bill with Alanna Dennis, Director of Equal Employment Opportunity and Human Relations Compliance Officer for the Office of the Anne Arundel County Executive. Ms. Dennis explained that Anne Arundel County did not previously have a fair housing law that would enable the County to handle such complaints locally. Prior to its enactment, complainants could get support and guidance from Anne Arundel County, but no county agency had authority to act. Instead, complainants would need to address grievances about discrimination in housing with the U.S. Department of Housing and Urban Development (HUD) or to the Maryland Commission of Civil Rights. Since the fair housing law was new, it provided

[133] "Anne Arundel County terminating 287(g) immigration program," wbaltv.com (Dec. 27, 2018) https://www.wbaltv.com/article/anne-arundel-officials-to-release-report-on-287g-immigration-program/25685360# (last visited Sept. 27, 2020).
[134] *Id.* As stated above in the discussion of Issue 1, Howard County does not have a 287(g) agreement with ICE.
[135] CB 55-19
[136] CB 57-19
[137] "Anne Arundel County Passes Fair Housing Law & Codifies the Human Relations Commission," https://acdsinc.org/anne-arundel-county-passes-fair-housing-law (last visited Sept. 13, 2020).

Anne Arundel County with an opportunity to include citizenship status, occupation, and source of income as protected classes at its inception as opposed to having to add these protected classes later. Additional protected classes in the Anne Arundel County fair housing law are similar to that of other jurisdictions and include color, creed, disability, familial status, gender identity or expression, marital status, national origin, race, religion, gender, and sexual orientation as protected classes in fair housing.

Members of the Anne Arundel County Council sponsored the fair housing bill and many stakeholders supported it. The Office of Legislative Policy and the Office of Law were involved in the process as well. Prior to the new law being enacted, there were several hearings held before the County Council giving both proponents and opponents of the idea an opportunity to be heard. The bill had to be voted upon and approved by the County Council. Including citizenship status, occupation, and source of income as protected classes under the fair housing legislation in Anne Arundel County was intended to make Anne Arundel County even better than it already is and to create a more compassionate and inclusive place that gives people fair opportunities to access housing.

At the time of this report, the law was too new for Anne Arundel County to have compiled any significant data on the number of discrimination cases in fair housing since the law was enacted. Educating landlords about the new legislation adopted is important, given that some landlords were resistant to accepting housing vouchers. Additionally, Anne Arundel County has since formed a new Immigrant Affairs Commission. This commission is an advisory body that serves as a means for immigrant voices to be heard and understood.

D. New York City

In 1989, the New York City Human Rights Law ("NYCHRL") was amended to prohibit discrimination based on actual or perceived "alienage or citizenship status" in employment,

housing, public accommodations, biased-based profiling by law enforcement, and discriminatory harassment.[138] "Alienage and citizenship status" is defined by the NYCHRL to mean: "(a) the citizenship of any person, or (b) the immigration status of any person who is not a citizen or national of the United States."[139]

On January 10, 2020, the Committee interviewed Dana Sussman, Deputy Commissioner, Policy and Intergovernmental Affairs, NYC CHR and Bianca Victoria Scott, Policy Counsel, NYC CHR, to discuss their experience with the addition of citizenship and alienage status as a protected category under the NYCHRL. The topics discussed were as follows: (1) history and implementation of adding citizenship and alienage status as a protected category to the NYCHRL; (2) complaints received based on citizenship and alienage status; (3) protecting against discrimination in public accommodations; and (4) recommendations for implementing a similar change in law in Howard County, if desired.. The following is a summary of what the Committee learned during our meeting.

1. History and Implementation of Adding Citizenship and Alienage Status as a Protected Category

"Alienage and citizenship status" was added as a protected category to the NYCHRL largely in response to a study conducted by the New York State Interagency Task Force on Immigration Affairs after the federal government enacted the Immigration Reform and Control Act of 1986 ("IRCA") (which sanctions employers who hire undocumented workers).[140] The Task Force found that "New York employers were engaging in practices that disadvantaged or

[138] NYC Commission on Human Rights Legal Enforcement Guidance on Discrimination on the Basis of Immigration Status and National Origin at 1-3 (September 2019) ("2019 Guidance") (Tab 23) (citing N.Y.C. Admin Code §§ 8-102, 8-107(1), 8-107(4), 8-107(5), 8-602, 8-603, and 14-151).
[139] *Id.* at 4 (citing N.Y.C. Admin Code § 8-102(21)). Although the statute refers to "alienage," the NYC Commission on Human Rights ("NYC CHR") prefers to refer to "immigration status" due to negative connotations with the use of the word "alien." *Id.* at 4.
[140] *Id.* at 5-6.

discriminated against noncitizens by refusing to accept legally valid proof of residency, denying employment to those who experienced minor delays in gathering documentation, asking for documents only from individuals who they perceived to be foreign, and refusing to hire individuals not born in the U.S."[141] Based on this report, the City determined that immigrants "are often victims of discrimination and denied rights conferred upon them by the U.S. Constitution and other federal, state, and City law."[142] As a result, the City Council enacted Local Law 52 of 1989, adding "alienage and citizenship status" as a protected category to the NYCHRL.[143]

The statute includes an explicit carve out for compliance with other state and federal laws, such as the documentation requirements under IRCA, so long as they are done in a non-discriminatory manner. Also, employers, landlords, and others can contact NYC CHR for information and advice (not legal advice) regarding compliance with the statute.

When the change was first implemented, enforcement was less strict with an attempt to educate potential violators. Other agencies were cooperative in implementing this change. Since the initial implementation period, businesses and individuals have been largely compliant. In more recent years, there has been more of an emphasis on providing government documents and services in multiple languages and on providing translations when needed and appropriate.

According to Ms. Sussman and Ms. Scott, the addition of citizenship and alienage status as a protected category has been overwhelmingly positive. They believe the addition of this category is an important tool to address how the immigrant population feels and to avoid discrimination based on immigration status, particularly in the current political environment. While in many cases, there may be overlap between citizenship and alienage status

[141] *Id*. at 5-6 (citing Mayor Koch Testimony). *See also* NYLS' New York City Legislative History 1989, Local Law #52 (Tab 24).
[142] *Id*. at 6.
[143] *Id*.

and other protected classes (e.g., national origin), there are still many instances where citizenship and alienage status is the most appropriate (e.g., a landlord threatening to contact ICE about a tenant in response to a complaint). There have been no significant downsides to the addition of this protected category. The only issue currently on the table is whether to change "alienage status" to "immigration status" in the code. Although they are intended to have the same meaning, the term "alienage" has a more negative connotation.

The Committee asked whether NYC CHR has experienced any federal consequences including withholding of funding as a result of adding "citizenship and alienage status" as a protected category. Until recently, NYC CHR was partially funded by federal government block grants. Now, the agency is entirely funded by local tax revenue. This change was not due to this change in law. Ms. Sussman and Ms. Scott noted that, in early 2020, the 2019 NYC CHR Guidance on implementation of rules related to these protected categories was mentioned at a Presidential rally, bringing it greater national attention.

2. Incidence of Complaints Based on Citizenship and Alienage Status

The NYC CHR provided the Committee with a link to its annual reports, which report statistics related to its investigations of discrimination complaints.[144] According to the 2019 Annual Report, in fiscal year 2019, the NYC CHR received 35 and 40 inquiries, respectively, based on citizenship and alienage status out of a total of 9,804 discrimination inquiries.[145] The vast majority of these inquiries were related to employment and housing, with only two in public accommodations.[146] Ms. Sussman and Ms. Scott noted that there is often an overlap between the

[144] https://www1.nyc.gov/site/cchr/media/reports/annual-reports.page (last visited September 7, 2020).
[145] *NYC Commission on Human Rights 2019 Annual Report* at p. 34. available at https://www1.nyc.gov/assets/cchr/downloads/pdf/publications/AnnualReport2019.pdf (last visited September 7, 2020) (Tab 25)
[146] *Id*.

categories of citizenship/alienage and other categories, such as national origin, such that a single inquiry may be counted in multiple categories. NYC CHR has seen a large uptick in complaints under these protected categories since the publication of its 2019 Guidance, which called attention to these rights.

There have been instances of intimidation in various jurisdictions where landlords have threatened to call ICE to report their tenants. For example, the New York Times reported that a Jamaica Queens, New York landlord threatened her tenant through text and email messages after the tenant failed to pay the rent.[147] The landlord's messages threatened to contact ICE if she didn't get the money.[148] The tenant was from South America and had remained in the country on an expired tourist visa.[149] A judge ruled that the landlord had violated the city's human rights law by discriminating on the basis of immigration status.[150]

3. Protecting Against Discrimination Based on Citizenship and Alienage Status in Public Accommodations

The statute protects against discrimination based on citizenship and alienage status in a wide variety of public accommodations. However, foreign language requirements do not apply to these establishments. The NYC CHR receives very few complaints of discrimination based on public accommodations. The NYC CHR attributes the low number to great deal of education and outreach to local businesses to inform them about the law and its requirements.

4. Recommendations for Implementing a Similar Change in Law

According to Ms. Sussman and Ms. Scott, outreach and education of the public are key to implementing a law like this. The NYC CHR had a team of 30 people working on outreach and

[147] Goldbaum, Christina, "Threat to Report Tenant to ICE May Cost Landlord $17,000," *The New York Times* (Sept. 23, 2019), https://www.nytimes.com/2019/09/23/nyregion/immigrants-tenants-rights.html (last visited Sept. 21, 2020).
[148] *Id.*
[149] *Id.*
[150] *Id.*

education around the time this change was first enacted. Even now, it conducts regular training and information sessions for individuals and businesses. It is also important to receive public input and to adjust enforcement as needed.

Ms. Sussman and Ms. Scott told the Committee that representatives of the State of New Jersey have reached out for assistance in adding citizenship and/or immigration status as a protected class to its human rights code. They also said that Seattle, Washington State, and/or Massachusetts have been considering such a change to their laws and that California law is similar to New York City law.

If politically possible, they recommend that the change in law be made by legislation rather than executive order so that it cannot be easily rescinded by the next administration. In addition, an Executive Order would likely be limited to discriminatory acts by government entities, while a code change applies to everyone. However, an Executive Order can be a good way to "dip your toes in the water" to determine the appetite for this change to the law. Also, they told the Committee that it is important to distinguish between citizenship status and immigration status, as they have different legal meanings.

Finally, when the 2019 Guidance was published, the NYC CHR received a lot of hate mail and calls and had to change its phone numbers and increase security. Ms. Sussman and Ms. Scott advised that it is important to listen and get input from the public before implementing any change.

E. Illinois

The State of Illinois provides anti-discrimination protection for immigration and citizenship status only in the areas of employment and financing. Under Illinois law, it is unlawful for any employer "to refuse to hire, to segregate, to engage in harassment … or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment on the basis of

unlawful discrimination or citizenship status."[151] It is also unlawful for an employer, when inquiring about an employee's documents for purposes of compliance with federal employment laws, to request "more or different documents than are required" by federal law or to refuse to honor documents that appear to be genuine.[152] The Committee reached out to the Illinois Department of Human Rights for an interview but did not receive a reply.

F. California

California has expansive anti-discrimination laws in housing and public accommodations based on immigration and citizenship status. In 2015, California enacted SB 600 to add immigration status, primary language, and citizenship as protected classed under the Unruh Civil Rights Act.[153] Under that Act, all persons in California "are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever."[154] The Unruh Civil Rights Act applies to discrimination in housing and public accommodations.[155]

California employment law does not prohibit discrimination by employers based on immigration or citizenship status.[156] However, California has a patchwork of more narrowly tailored employment laws that prohibit discrimination based on immigration status. California AB 263 (2013) prohibits employers from using threats related to immigration status to retaliate against

[151] 775 ILCS 5/2-102(A),
[152] 775 ILCS 5/2-102(G).
[153] Jeffrey M. Tannenbaum, "California extends protections against discrimination for immigration status, language and citizenship," https://www.nixonpeabody.com/en/ideas/articles/2015/09/18/california-extends-protections-against-discrimination-for-immigration-status-language-a (last visited September 7, 2020).
[154] Calif. Civ. Code § 51(b).
[155] *Id.* §§ 51 to 51.3.
[156] California Department of Fair Employment and Housing, "What is Protected," https://www.dfeh.ca.gov/employment/#whoBody (last visited September 27, 2020) (Tab 26).

employees who have exercised their labor rights.[157] California AB 2571 (2014) specifies that it is an "unfair immigration-related practice" to file or threaten to file "a false report or complaint with any state or federal agency," and not just a police report.[158] California AB 524 (2013) expands the definition of "criminal extortion" to include threats made by an employer related to an employee's immigration status.[159] California SB 1001 (2016) and AB 622 (2015) prohibit employers from using the federal employment authorization process in a way that is not required by federal law.[160] California AB 450 (2017) prohibits employers from providing Immigration and Customs Enforcement (ICE) with access to nonpublic areas of the workplace and employment records if ICE has not obtained a warrant or subpoena, requires employers to notify workers when ICE plans to conduct an audit, and prohibits employers from requiring their existing employees to reverify their work authorization at a time not required by federal immigration law.[161]

V. Conclusion and Commission's Recommendation

The Howard County Human Rights Code currently prohibits discrimination in the areas of housing, employment, public accommodations, policing, and lending for a wide array of Protected Classes, but not citizenship and/or immigration status. This report provides several examples, most notably Prince George's County Maryland and New York City, that could be used as models in crafting such legislation. Any such legislation would need to be carefully reviewed by the Howard County Office of Law to avoid conflict with or preemption by federal immigration law.

The Commission held its regularly scheduled meeting on November 19, 2020. After discussion at that meeting, the Commission voted in favor of taking the following position:

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[157] Daniel Costa, "California leads the way: A look at California laws that help protect labor standards for unauthorized immigrant workers," *Economic Policy Institute*, March 28, 2018, https://files.epi.org/pdf/143988.pdf (last visited Sept. 27, 2020).
[158] *Id*.
[159] *Id*.
[160] *Id*.
[161] *Id*.

The Howard County Human Rights Commission supports adding immigration status as a protected class to each cause of action in the Howard County Human Rights Code (Sections 12.200-12.218 of the Howard County Code) to the maximum extent possible without conflicting with other federal, state, and local laws.

TAB 1

Intergovernmental Service Agreement

between

Howard County Detention Center
7301 Waterloo Road
P.O. Box 250
Jessup, Maryland 20794

And

U.S. Department of Justice
Immigration & Naturalization Service
70 Kimball Avenue
South Burlington, Vermont 05403-6813

Agreement Number: ACB-5-I-0002

Agreement Schedule

Article I - Purpose

1. The purpose of this Intergovernmental Service Agreement (IGSA) is to establish a formal binding relationship between the U.S. Immigration & Naturalization Service (INS) and the Howard County Detention Center (Contractor) for the detention of aliens of all nationalities authorized to be detained by INS in accordance with the Code of Federal Regulations, Title 8, Aliens & Nationality Act and related criminal statutes.

2. This Agreement sets forth the responsibilities of both INS and the Contractor regarding services to be performed and reimbursement when those services have been performed. There is no obligation, express or implied, on the part of INS to utilize the Contractor's facility nor on the part of the Contractor to accept detainees.

Article II - Covered Services

1. The Contractor will provide housing, safekeeping, subsistence and other services for INS detainee(s) within its facility (or facilities) consistent with the types and levels of services and programs routinely afforded its own population, and fully consistent with all applicable laws, standards, policies, procedures and court orders applicable to its facility (or facilities), unless or as specifically modified by this Agreement. Contingent upon availability, and based upon the 361 design capacity of this institution, the Contractor under this Agreement, may make available such number of beds as INS requests, but in no event a number greater than 40 beds without the approval of the Contractor's bond counsel. The unit of service will be the Detained Day and the cost as agreed to by the parties is $70.00 per Detained Day, $35.00 if less than 24 hours. The type of detainee will be non-juvenile males and females with prior approval of the Director of Corrections or designee. The duration of service to be provided will be overnight holds, daily, and long term, not to exceed 120 days without contacting the contractor for approval.

Article III - Support and Medical Services

1. The Contractor will provide housing, safekeeping, subsistence and other services for INS detainee(s) within its facility (or facilities) consistent with the types and levels of services and progress routinely afforded its own population, and fully consistent with all applicable laws, standards, policies, procedures, and court orders applicable to its facility (or facilities), unless or as specifically modified by this Agreement. The Contractor agrees to provide INS detainees with the same levels and types of medical services and care as are provided its own facility population. The Contractor will provide all necessary security and

transportation services, when directed or authorized by the INS, except as required in an emergency situation, to move INS detainee(s) to medical or other appropriate facilities.

2. The Contractor further agrees to notify the INS as soon as possible of emergency medical cases requiring removal of detainee(s) from its facility (or facilities). Prior authorization will be obtained from INS when removal is required for any other medical services that may be required at local clinics or hospitals.

3. Such transportation and security services shall be performed by qualified, sworn law enforcement or correctional officer personnel employed by the Contractor and under its policies, procedures and authorities. The Contractor agrees to augment such practices as may be requested by the INS to enhance specific requirements for security, prisoner monitoring, visitation and contraband control.

4. The Contractor agrees to invoice INS for all costs associated with hospital or health care services specifically provided to any INS detainee(s) outside of the Contractor's facility, with the regular monthly billing to INS for detention services. In this case, the Contractor arranges for the health care facility, consultant health care provider, and other health care vendor/suppliers. They will invoice the Contractor for services provided at rates no greater than those applicable for non-INS detainees in the custody of the Contractor, and then after payment of these invoices, submit for reimbursement payment from INS. INS shall include reimbursement payment to the Contractor for the hospital and health care services provided to INS detainee(s) along with the monthly payment for detention services. The Contractor shall submit invoices for hospital and health care services to INS within sixty (60) days after the services were rendered. Documentation must be provided in order to support INS payment of these costs.

Article IV - Receipt, Discharge and Population Level

1. The Contractor agrees to receive and discharge INS detainee(s) only from and to properly identified INS officer(s) and, with prior authorization from the designated INS point(s) of contact, to other properly identified Federal law enforcement officials. Admission and discharge of INS detainee(s) shall be fully consistent with the contractor's policies and procedures, and shall ensure positive identification and recording of both detainee(s) and officer(s).

2. INS detainee(s) shall not be released from the facility into the custody of other Federal, state or local officials for any reason, except for medical or emergency stuations, without the express authorization of INS.

3. The Contractor retains the right to reject or request the removal of any detainee(s) exhibiting violent or disruptive behavior.

Article V - Period of Performance

1. This Agreement shall remain in effect indefinitely until terminated by either party. Should conditions of an unusual nature occur, making it impractical or impossible to house detainee(s), the Contractor may suspend or restrict the use of the facility by giving written notice to the INS. Such notice will be provided sixty (60) days in advance of the effective date of formal termination and at least thirty (30) days in advance of a suspension or restriction of use unless an emergency situation requires the immediate relocation of detainee(s).

Article VI - Economic Price Adjustment

1. Payment rates shall be established on the basis of actual costs associated with the operation of its facility (or facilities) during the latest annual accounting period for which data is available or for which a formal report or audit was issued, or as provided for in an approved annual operating budget for detention facilities.

2. The Federal Government shall reimburse the Contractor at the fixed day rate identified in Article II. The rate may be renegotiated not more than once per year, after the Agreement has been in effect for twelve months. The effective date of any rate adjustment will be negotiated and specified on the IGSA Modification form approved and signed by an INS Contracting Officer. The effective date will be established on the first day of the month for accounting purposes. Payments at the modified rate will be paid upon the return of the signed modification by the authorized local official to the INS.

3. The rate covers one (1) person per "Detainee Day". The Federal Government may not be billed for two (2) days when a detainee is admitted one evening and removed the following morning. The Contractor may bill for the day of arrival but not for the day of departure. A detainee day is defined as a 24 hour period starting at book-in time. The 1/2 day rate is valid for any detainee book-in but removed prior to 24 hours.

4. The rate may be revised on the basis of data submitted and action taken by either or both the INS and the Contractor within ninety (90) calendar days before each annual anniversary of the initial Agreement's execution. The Contractor agrees to provide the necessary cost information to support the requested rate increase and to permit an audit of accounting records upon request of INS. Criteria used to evaluate the increase or decrease in the per-capita

rate shall be those specified in the OMB Circular A-87, Cost Principles for State and Local Governments or other guidance as revised, or in accordance with superseding guidance.

3. Payments at the modified rate will be paid upon return to INS of the signed modification by the authorized local official.

4. Unless other justifiable reasons can be documented by the Contractor, per diem rate increases shall not exceed the National Inflation rate as established by the U.S. Department of Commerce.

ARTICLE VII - Invoicing and Payment

1. Invoices shall be submitted to:
   U.S Immigration & Naturalization Service
   Baltimore District Office
   1530 Caton Center Drive, Suite N
   Baltimore, Maryland 21227
   Attn: Deportation Unit
   Phone: (410) 962-2037

After certified true and correct by the above office, relating invoices will be forwarded to the following address for payment.

U.S. Immigration & Naturalization Service
70 Kimball Avenue
South Burlington, VT 05403-6813
Attn: Finance
Phone: (802) 660-1127

2. The Prompt Payment Act, Public Law 97-177 (96 Stat. 85, 31 USC 1801) is applicable to payments under this Agreement and requires the payment to the Contractor of interest on overdue payments. Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and the Office of Management and Budget Circular A-125.

3. In accordance with the Prompt Payment Act, payments under this Agreement will be made thirty (30) calendar days after the receipt of a proper invoice in the office designated to receive invoices (paragraph 1, above). The date of the check issued in payment shall be considered the date payment is considered to have been made.

4. A proper invoice shall be submitted monthly, in arrears, to the office identified in Papagraph 1, above. To constitute a proper invoice, it must include the name, address, and phone number of the official designated payment office. It shall list each detainee, the specific dates of custody for each, the total number of days for which reimbursement is sought, the agreed-upon detainee-day rate, and the total amount billed. The Agreement number shall be stated on all invoices submitted to INS for final payment.

ARTICLE VIII - Modifications and Disputes

1. Either party may initiate a request for modification to this Agreement. Such requests must be submitted in writing, and approved in writing by a Regional Contracting Officer and the Contractor. The IGSA constitutes the entire agreement between the two parties, and that actions by parties other than those identified or designated within the Agreement will not serve to bind, or incur liability on behalf of, either party.

2. Disputes, questions, or concerns pertaining to this Agreement shall be resolved between the INS and the appropriate Contractor official. No resolution may explicitly or implicitly alter the terms and rates contained in this Agreement unless approved by formal modification by a Regional Contracting Officer. Unresolved issues are to be directed to the Contracting Officer, Eastern Regional Office, 70 Kimball Avenue, South Burlington, VT 05403-6813.

ARTICLE IX - Inspection and Technical Assistance

1. The Contractor agrees to allow periodic inspections of the facility by INS. The sole purpose of said inspections will be to insure a minimally acceptable level of services and acceptable conditions of confinement under this Agreement. Findings of the inspection will be shared with the facility administrator in order to promote improvements to facility operations, conditions of confinement and levels of services. The Contractor is required to promptly disclose to the designated INS point of contact any and all public results or copies of facility (or facilities) inspections, reviews, surveys or other forms of examinations.

ARTICLE X - Availability of Funds

1. The Government's obligation under this Agreement is contingent upon the availability of appropriated funds from which payment can be made. No legal liability on the part of the Government for any payment may arise until such funds are made available.

ARTICLE XI - Employment of Unauthorized Aliens

1. Subject to existing laws, regulations, Executive Orders, and other provisions of this Agreement, aliens unauthorized to be employed in the United States shall not be employed by the Contractor, or its subcontractors, to work on, under, or with this Agreement. The Contractor shall ensure that this provision is expressly incorporated into any and all subcontracts or subordinate agreements issued in support of this Agreement.

ARTICLE XII - Contracting Officer's Technical Representative

1. **John F. O'Malley** is the Contracting Officer's Technical Representative (COTR) for this Agreement.

2. The COTR is responsible for: receiving all deliverables; inspecting and accepting the services provided hereunder in accordance with the terms and conditions of this Agreement; providing direction to the Contractor which clarifies the Agreement's effort, fills in details or otherwise serves to accomplish the Agreement's requirements; evaluating performance; and certifying all invoices/vouchers for acceptance of the services furnished for payment prior to forwarding the original invoice to the payment office.

3. The COTR does not have the authority to alter the Contractor's obligations under the Agreement, direct changes that fall within the purview of the Contracting Officer and/or modify any of the expressed terms, conditions, specifications, or cost of the Agreement. If as a result of technical discussions it is desirable to alter/change obligations or requirements, the Contracting Officer shall issue such changes in writing and sign.

Approved by:

For the INS:

Roger E. Fregeau

Date: 10/2/95

Roger E. Fregeau
Contracting Officer
U.S. Department of Justice
Immigration & Naturalization Service
Eastern Region
70 Kimball Avenue
South Burlington, Vermont 05403-6813
Phone: 802-660-1134

Attest:

Raquel Sanudo

Raquel Sanudo
Chief Administrative Officer

Howard County, Maryland

By: Charles I. Ecker

Charles I. Ecker
County Executive

Recommended for Approval:

James N. Rollins

James N. Rollins, Director
Department of Corrections

Approved for Legal Sufficiency
this 25th day of September,
1995.

Paul T. Johnson

Barbara M. Cook
County Solicitor Acting

Howard County Detention Center
P.O. Box 250
7301 Waterloo Road
Jessup, Maryland 20794

Modification No. 01
ACB-5-I-0002

This is modification number 01 to Intergovernmental Service Agreement ACB-5-I-0002. The purpose of this modification is to make the following changes.

ARTICLE II - Covered Services

Delete: **$35.00** if less than 24 hours.
Add: the Contractor shall provide at least one sack meal, or two sack meals, if the detainee is released before 12 noon.

ARTICLE VI - Economic Price Adjustment

Delete: last sentence in paragraph 3.
The 1/2 day rate is valid for any detainee book-in but removed prior to 24 hours.

ACCEPTED BY:

For the Contractor:

_____
Signature

_____
Name

_____
Title

_____
Date

For the INS:

Roger E. Fregeau
Roger E. Fregeau

5/28/98
Date

ATTEST:

Raquel Sanudo 5/28/98
Raquel Sanudo
Chief Administrative Officer

HOWARD COUNTY, MARYLAND

By: Charles I. Ecker
Charles I. Ecker
County Executive

Recommended for Approval:

Melanie C. Pereira, Director
Department of Correction

Approved for Legal Sufficiency this 28th day of May, 1998:

Barbara M. Cook
Barbara M. Cook
County Solicitor

Office of Acquisition Management
U.S. Department of Homeland Security
801 I Street, NW, Suite 910-10
Washington, D.C. 20536

U.S. Immigration and Customs Enforcement

September 7, 2012

HOWARD COUNTY DET CNTR
County Executive
Ken Ulman
3430 Court House Drive, 3rd Floor
Ellicott City, MD. 21043

Attn: Mr. Ulman

Subject: Implementation of ICE's Sexual Abuse and Assault Prevention and Intervention Requirements at Facilities that House ICE Detainees.

Encl: (a) "Sexual Abuse and Assault Prevention and Intervention" Standard 2.11 in the ICE Performance-Based National Detention Standards (PBNDS) 2011
(b) Standard 2.11 Annual Inspection Checklist (G324A)
(c) Modification incorporating and requiring compliance with Standard 2.11
(d) Template facility Sexual Abuse and Assault Prevention and Intervention Program Policy

Dear Mr. Ulman,

U.S. Immigration and Customs Enforcement (ICE) expects all facilities where immigration detainees are located to protect immigration detainees against sexual abuse and assault. To that end, ICE recently revised its national detention standard governing Sexual Abuse and Assault Prevention and Intervention, included as Standard 2.11 in the agency's updated Performance-Based National Detention Standards 2011("Standard 2.11"). Further, the Department of Homeland Security is in the process of developing rules and procedures necessary to satisfy the requirements of the Prison Rape Elimination Act of 2003 (PREA).

The purpose of this letter is to inform you of ICE's schedule for implementation of Standard 2.11, and to request your review and signature of the enclosed modification(s) incorporating the requirements of this standard.

Overview of Standard 2.11

Standard 2.11 establishes facility requirements for measures to prevent sexual abuse and assault, such as screening, staff training, and detainee education, as well as facility procedures for effective response to all incidents or allegations of sexual abuse or assault, including timely

reporting and notification to ICE, protection of victims, provision of medical and mental health care, investigation, and monitoring of incident data. Facilities will also be required under this standard to: (1) develop a written facility Sexual Abuse and Assault Prevention and Intervention program policy; and (2) designate a Sexual Abuse and Assault Prevention and Intervention Program Coordinator for the facility.

Standard 2.11 Implementation Timetable

- It is requested that your facility sign and return to ICE the enclosed modification(s) incorporating Standard 2.11 by October 15, 2012.

- It is anticipated that your facility be in full compliance with the requirements of this standard by January 1, 2013. If your facility will have already signed a contract modification implementing PBNDS 2011 in its entirety prior to January 1, 2013, it is not necessary to sign the attached contract modification. In that case the deadline for compliance with Standard 2.11 will be January 1, 2013, or the effective date of PBNDS 2011 at the facility, whichever is earlier.

- For facilities not otherwise implementing PBNDS 2011, anticipated compliance with the training requirements of Section V.E of Standard 2.11 for all facility employees, contractors, and volunteers is August 1, 2013, although ICE encourages fulfillment of these requirements as soon as practicable.

- Beginning on January 1, 2013, ICE will inspect your facility against Standard 2.11 using the attached Sexual Abuse and Assault Prevention and Intervention Annual Inspection Checklist.

In addition, ICE continues to expect that all facilities notify the agency immediately of any allegations of sexual abuse or assault, and to assist ICE in responding to all such incidents.

In order to assist in implementation of Standard 2.11 at your facility, ICE has enclosed a template facility Sexual Abuse and Assault Prevention and Intervention Program Policy, as required by Section V.A of Standard 2.11, which your facility can complete with its specific information, and adopt if it chooses to do so. To obtain an electronic version of this template policy, please email HQ/DSCU@ice.dhs.gov. ICE will also be providing a new "Sexual Assault Awareness" poster to be posted in all housing areas.

We continue to value our relationship as you support us in accomplishing our important mission and look forward to a productive collaboration as we seek to implement this standard.

Please review the enclosures, and sign enclosure (c) and return a copy to this office as soon as you have completed your review.

If you have any questions regarding this request you may contact me at James.D.Adams @ice.dhs.gov or by telephone at 202-732-2541. If you have questions at any time about the substantive requirements of Standard 2.11, please contact ICESexualAssaultCoordinator@ice.dhs.gov.

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE OF PAGES
	1 1

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO	5. PROJECT NO. *(If applicable)*
PXXXXX	See Block 16		

6. ISSUED BY CODE	7. ADMINISTERED BY (IF OTHER THAN ITEM 6) CODE ICE/DM/DC
ICE Detention Management Contracts Immigrations and Customs Enforcement/ Office of Acquisition Management 801 I Street NW, Suite 930 Washington, DC 20536	ICE Detention Management Contracts Immigrations and Customs Enforcement/ Office of Acquisition Management 801 I Street NW, Suite 930 Washington, DC 20536

8. NAME AND ADDRESS OF CONTRACTOR (*No., Street, County, State, and Zip Code*)		
HOWARD COUNTY DET CNTR County Executive Ken Ulman 3430 Court Hoouse Drive, 3rd Floor Ellicott City, MD 21043	☐	9A. AMENDMENT OF SOLICITATION NO.
		9B. DATED (*SEE ITEM 11*)
	☒	10A. MODIFICATION OF CONTRACT/ORDER NO. ACB-5-1-0002
CODE: 1025471270000 FACILITY CODE:		10B. DATED (*SEE ITEM 11*) 09/07/12

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered, solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers ☐ is extended ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods:

(a) By completing Items 8 and 15, and returning copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers, FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (*If Required*)
See Schedule

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO., AS DESCRIBED IN ITEM 14

☐	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (*Specify Authority*) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
☐	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (*such as changes in paying office, appropriation date, etc.*) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43,103 (b).
☐	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
☒	D. OTHER (*Specify type of modification and authority*) Mutual Agreement of the Parties

E. IMPORTANT: Contractor ☐ is NOT ☒ is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.

The purpose of this modification is to incorporate ICE 2011 Performance Based Detention Standard 2.11 - Sexual Abuse and Assault Prevention and Intervention.

Should there be a conflict with between this standard and any other term and condition of the agreement identified in Block 10A on this modification, you are to contact the Contracting Officer for clarification.

All other terms and conditions remain unchanged.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER		16A. NAME AND TITLE OF CONTRACTING OFFICER	
Ken Ulman, County Executive			
15B. CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*	15C. DATE SIGNED 6/18/13	16B. UNITED STATES OF AMERICA *(Signature of Contracting Officer)*	16C. DATE SIGNED

Respectfully,

James D. Adams
ICE Office of Acquisition
Contracting Officer

INSTRUCTIONS

Instructions for items other than those that are self-explanatory, are as follows:

(a) Item 1 (Contract ID Code). Insert the contract type identification code that appears in the title block of the contract being modified.

Item 3 (Effective date)

(1) For a solicitation amendment, change order, or administrative change, the effective date shall be the issue date of the amendment, change order, or administrative change.

(2) For a supplemental agreement, the effective date shall be the date agreed to by the contracting parties.

(3) For a modification issued as an initial or confirming notice of termination for the convenience of the Government, the effective date and the modification number of the confirming notice shall be the same as the effective date and modification number of the initial notice.

(4) For a modification converting a termination for default to a termination for the convenience of the Government, the effective date shall be the same as the effective date of the termination for default.

(5) For a modification confirming the contacting officer's determination of the amount due in settlement of a contract termination, the effective date shall be the same as the effective date of the initial decision.

Item 6 (Issued By). Insert the name and address of the issuing office. If applicable, insert the appropriate issuing office code in the code block.

Item 8 (Name and Address of Contractor). For modifications to a contract or order, enter the contractor's name, address, and code as shown in the original contract or order, unless changed by this or a previous modification.

Item 9. (Amendment of Solicitation No. – Dated) and 10. (Modification of Contract/Order No.-Dated). Check the appropriate box and in the corresponding blanks insert the Number and date of the original solicitation, contract, or order.

Item 12 (Accounting and Appropriation Date). When appropriate, indicate the impact of the modification on each affected accounting classification by inserting one of the following entries.

(I) Accounting classification.....
Net Increase $.....

(2) Accounting classification .....
Net Decrease $.....

NOTE: If there are changes to multiple accounting classifications that cannot be placed in block 12, insert an asterisk and the words "See continuation sheet."

Item 13. Check the appropriate box to indicate the type of modification. Insert in the corresponding blank the authority under which the modification is issued. Check whether or not contractor must sign this document. (See FAR 43.103).

Item 14 (Description of Amendment/Modification).

(1) Organize amendments or modifications under the appropriate Uniform Contract Format (UCF) section headings from the applicable solicitation or contract. The UCF table of contents, however, shall not be set forth in this document.

(2) Indicate the impact of the modification on the overall total contract price by inserting one of the following entries:

(i) Total contract price increased by $.....
(ii)Total contract price decreased by $.....
(iii)Total contract price unchanged.

(3) State reason for modification.

(4) When removing, reinstating, or adding funds, identify the contract items and accounting classifications.

(5) When the SF 30 is used to reflect a determination by the contracting officer of the amount due in settlement of a contract terminated for the convenience of the Government, the entry in Item 14 of the modification may be limited –

(i) A reference to the letter determination; and
(ii)A statement of the net amount determined to be due in settlement of the contract.

(6) Include subject matter or short title of solicitation/contract where feasible.

Item 16B. The contracting officer's signature is not required on solicitation amendments. The contracting officer's signature is normally affixed last on supplemental agreements.

INSTRUCTIONS

Instructions for items other than those that are self-explanatory, are as follows:

(a) Item 1 (Contract ID Code). Insert the contract type identification code that appears in the title block of the contract being modified.

Item 3 (Effective date)

(1) For a solicitation amendment, change order, or administrative change, the effective date shall be the issue date of the amendment, change order, or administrative change.

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(3) For a modification issued as an initial or confirming notice of termination for the convenience of the Government, the effective date and the modification number of the confirming notice shall be the same as the effective date and modification number of the initial notice.

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Item 9. (Amendment of Solicitation No. – Dated) and 10. (Modification of Contract/Order No.-Dated). Check the appropriate box and in the corresponding blanks insert the Number and date of the original solicitation, contract, or order.

Item 12 (Accounting and Appropriation Date). When appropriate, indicate the impact of the modification on each affected accounting classification by inserting one of the following entries.

(1) Accounting classification.....
Net Increase $.....

(2) Accounting classification .....
Net Decrease $.....

NOTE: If there are changes to multiple accounting classifications that cannot be placed in block 12, insert an asterisk and the words "See continuation sheet."

Item 13. Check the appropriate box to indicate the type of modification. Insert in the corresponding blank the authority under which the modification is issued. Check whether or not contractor must sign this document. (See FAR 43.103).

Item 14 (Description of Amendment/Modification).

(1) Organize amendments or modifications under the appropriate Uniform Contract Format (UCF) section headings from the applicable solicitation or contract. The UCF table of contents, however, shall not be set forth in this document.

(2) Indicate the impact of the modification on the overall total contract price by inserting one of the following entries:

(i) Total contract price increased by $.....
(ii)Total contract price decreased by $.....
(iii)Total contract price unchanged.

(3) State reason for modification.

(4) When removing, reinstating, or adding funds, identify the contract items and accounting classifications.

(5) When the SF 30 is used to reflect a determination by the contracting officer of the amount due in settlement of a contract terminated for the convenience of the Government, the entry in Item 14 of the modification may be limited –

(i) A reference to the letter determination; and
(ii)A statement of the net amount determined to be due in settlement of the contract.

(6) Include subject matter or short title of solicitation/contract where feasible.

Item 16B. The contracting officer's signature is not required on solicitation amendments. The contracting officer's signature is normally affixed last on supplemental agreements.

2.11 Sexual Abuse and Assault Prevention and Intervention

I. Purpose and Scope

This detention standard requires that facilities that house ICE/ERO detainees act affirmatively to prevent sexual abuse and assaults on detainees; provide prompt and effective intervention and treatment for victims of sexual abuse and assault; and control, discipline and prosecute the perpetrators of sexual abuse and assault.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard "7.5 Definitions."

II. Expected Outcomes

Specific requirements are defined in "V. Expected Practices." The expected outcomes of this detention standard are as follows:

1. the facility shall articulate and adhere to a standard of zero tolerance for incidents of sexual abuse or assault that may occur in the facility. Sexual assault or abuse of detainees by other detainees, staff, volunteers, or contract personnel is prohibited and subject to administrative, disciplinary and criminal sanctions.
2. detainees and staff shall be informed about the facility's Sexual Abuse and Assault Prevention and Intervention Program and the zero tolerance policy.
3. staff shall receive training on working with vulnerable populations and addressing their potential vulnerability in the general population, and shall assign housing accordingly.
4. detainees shall be screened by staff to identify those likely to be sexual aggressors or sexual victims and these detainees shall be housed to prevent sexual abuse or assault. Detainees who are considered likely to become victims shall be placed in the least restrictive housing that is available and appropriate.
5. any allegation of sexual abuse or assault shall be immediately and effectively reported to ICE/ERO. In turn, ICE/ERO will report the allegation as a significant incident, and refer the allegation for investigation.
6. staff receiving reports of sexual abuse shall limit the disclosure of information to individuals with a need-to-know in order to make decisions concerning the detainee-victim's welfare, and for law enforcement/investigative purposes.
7. staff suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee contact pending the outcome of the investigation.
8. detainees shall be encouraged to promptly report acts of harassment of a sexual nature, abuse or signs of abuse observed, and shall not be punished for reporting.

9. if sexual abuse or assault of any detainee occurs, the medical, psychological, safety and legal needs of the detainee shall be promptly and effectively addressed.
10. as appropriate to the event, the detainee victimized by an act of sexual abuse, assault or any mistreatment while being detained in the facility shall be referred, under appropriate security provisions, to the health care unit for treatment. Gathering of clinical forensic evidence shall be conducted by external independent and qualified health care personnel.
11. assailants will be disciplined and may be subject to criminal prosecution.
12. documentation of medical and mental health evaluations and treatment, crisis intervention counseling and recommendations for post-release follow-up treatment and/or counseling shall be retained in the detainee's medical file in accordance with an established schedule;
13. for monitoring, evaluating and assessing the effectiveness of the sexual abuse or assault prevention and intervention program, incidents of sexual abuse or assault shall be specifically documented and tracked. ICE/ERO shall be notified promptly of any report of sexual abuse or assault;
14. the DHS Office of the Inspector General (OIG) hotline poster and all of "Appendix 2.11.C: Sexual Assault Awareness" shall be posted in every housing pod with information that assists detainees in reporting abuses;
15. facility policies and procedures will include a requirement that staff of the opposite gender will announce their presence upon entering detainee living areas; and
16. the applicable content and procedures in this standard shall be communicated to the detainee in a language or manner the detainee can understand.

    All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

    Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard incorporates the requirements for posting and distributing information to ICE/ERO detainees in a memorandum entitled "Sexual Assault Awareness Information" from the ICE/ERO Acting Director (10/26/2006). The information for detainees was provided in both poster and pamphlet format (see "Appendix 2.11.C: Sexual Assault Awareness" in this standard).

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-4D-22, 4D-22-1, 4D-22-2, 4D-22-3, 4D-22-4. 4D-22-5, 4D-22-6, 4D-22-7, 4D-22-8, 2A-29.

National Commission on Correctional Health Care, *Standards for Health Services in Jails, 2008*: J-B-04, J-B-05, J-1-03.

ICE/ERO *Performance-based National Detention Standards 2011:*

"2.1 Admission and Release";

"2.2 Custody Classification System";

"3.1 Disciplinary System";

"4.3 Medical Care," particularly in regard to confidentiality of records, medical and mental health screening and referrals and access to emergency care and crisis intervention; and

"7.1 Detention Files," particularly in regard to confidentiality of records and electronic records systems.

V. Expected Practices

A. Written Policy and Procedures Required

Each facility administrator shall have written policy and procedures for a Sexual Abuse or Assault Prevention and Intervention Program that includes, at a minimum:

1. a zero-tolerance policy for all forms of sexual abuse or assault;
2. measures taken to prevent sexual abuse and/or sexual assault;
3. the requirement that any allegation to staff of sexual assault or attempted sexual assault be reported immediately to a supervisor and to ERO.
4. measures taken for prompt and effective intervention to address the safety and treatment needs of detainee victims if an assault occurs;
5. data collection and reporting; and
6. the requirements for coordination with the ICE Office of Professional Responsibility (OPR) for investigation or referral of incidents of sexual assault to another investigative agency, and discipline and prosecution of assailants (see "Appendix 2.11.C: Sexual Assault Awareness" in this standard).

Each facility must have a policy and procedure for required reporting through the facility's chain-of-command procedure, from the reporting official to the highest facility official as well as the Field Office Director. Each facility administrator shall consider utilizing available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse and/or assault perpetrators to most appropriately address victims' needs. The facility administrator shall maintain or attempt to enter into memoranda of understanding (MOU) or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime.

"Appendix 2.11.B: Sample Sexual Abuse Prevention and Intervention Protocols" in this standard offers sample protocols as guidelines for the development of written policies and procedures.

The facility administrator shall ensure that, within 90 days of the effective date of this detention standard, written policy and procedures are in place and that the facility is in full compliance with its requirements and guidelines. The facility must meet all other requirements in this standard on the effective date of the standard.

Each facility's policy and procedures shall reflect the unique characteristics of each facility, based on factors such as the availability of specialized community-based services, including rape crisis/trauma units in local medical centers, clinics and hospitals.

The facility administrator shall review and approve the local policy and procedures and shall ensure that the facility:

1. specifies procedures for offering immediate protection, including prevention of retaliation and medical and mental health referrals, to any detainee who alleges that he/she has been

sexually assaulted;

2. specifies procedures for detainees to report allegations that allow for any staff to take a report;
3. specifies procedures for reporting an allegation or suspicion of sexual assault through the facility's chain of command, including written documentation requirements to ensure that each allegation or suspicion is properly reported and addressed;
4. specifies medical staff's responsibility to report allegations or suspicions of sexual assault to appropriate facility staff;
5. specifies the evidence protocol to be used, including access to a forensic medical exam;
6. specifies local response procedures (including referral procedures to appropriate law enforcement agencies) when a sexual assault is alleged or suspected;
7. specifies procedures for coordination of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations;
8. establishes procedures to include outside agencies in sexual abuse or assault prevention and intervention programs, if such resources are available;
9. designates specific staff (e.g., psychologist, deputy facility administrator, appropriate medical staff) to be responsible for staff training activities; designates the senior manager responsible for ensuring that staff are appropriately trained, and respond in a coordinated and appropriate fashion, when a detainee reports an incident of sexual abuse or assault;
10. specifies how a confirmed or alleged victim's future safety, medical, mental health and legal needs shall be addressed;
11. specifies how medical staff shall be trained or certified in procedures for examining and treating victims of sexual assault, in facilities where medical staff shall be assigned these activities;
12. specifies disciplinary sanctions for staff, up to and including termination when staff has violated agency sexual abuse policies; and
13. designates a specific staff member to be responsible for detainee education regarding issues pertaining to sexual assault;
14. provides instructions on how to contact DHS/OIG or ICE/OPR to confidentially report sexual abuse or assault.

B. Program Coordinator

The facility administrator shall designate a Sexual Abuse and Assault Prevention and Intervention Program coordinator to:

1. assist with the development of written policies and procedures for the Sexual Abuse and Assault Prevention and Intervention Program, as specified above in this standard (the program coordinator shall also be responsible for keeping them current);
2. assist with the development of initial and ongoing training protocols;
3. serve as a liaison with other agencies;
4. coordinate the gathering of statistics and reports on incidents of sexual abuse or assault, as detailed in "L. Tracking Incidents of Sexual Abuse and/or Assault" in this standard;
5. review the results of every investigation of sexual abuse and conduct an annual review of all investigations in compliance with the Privacy

Act to assess and improve prevention and response efforts; and

6. review facility practices to ensure required levels of confidentiality are maintained.

C. Acts of Sexual Abuse and/or Assault

For the purposes of this standard, the following definitions apply:

1. Detainee-on-detainee Sexual Abuse and/or Assault

One or more detainees, by force, coercion, or intimidation, engaging in or attempting to engage in:

a. contact between the penis and the vagina or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;

b. contact between the mouth and the penis, vagina or anus;

c. penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object;

d. touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person; or

e. threats, intimidation, or other actions or communications by one or more detainees aimed at coercing or pressuring another detainee to engage in a sexual act.

Specifically, detainees may be charged with prohibited acts detailed in standard "3.1 Disciplinary System":

a. Code 101 Sexual Assault;

b. Code 206 Engaging in a Sex Act;

c. Code 207 Making a Sexual Proposal;

d. Code 300 Indecent Exposure; or

e. Code 404 Using Abusive or Obscene Language.

2. Staff-on-detainee Sexual Abuse and/or Assault

One or more staff member(s), volunteer(s), or contract personnel engaging in or attempting to engage in:

a. contact between the penis and the vagina or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;

b. contact between the mouth and the penis, vagina or anus;

c. penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object;

d. except in the context of proper searches and medical examinations, touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing;

e. threats, intimidation, harassment, indecent, profane or abusive language, or other actions (including unnecessary visual surveillance) or communications aimed at coercing or pressuring a detainee to engage in a sexual act; or

f. repeated verbal statements or comments of a sexual nature to a detainee, including demeaning references to gender, derogatory comments about body or clothing, or profane or obscene language or gestures.

D. Sexual Conduct between Detainees Prohibited

In addition to the forms of sexual abuse and/or assault defined above, all sexual conduct – including consensual sexual conduct – between detainees is prohibited and subject to administrative

and disciplinary sanctions. (It should be noted that consensual sexual conduct between detainees and staff, volunteers, or contract personnel is included within the definition of staff-on-detainee sexual abuse and/or assault above.)

E. Staff Training

Training on the facility's Sexual Abuse or Assault Prevention and Intervention Program shall be included in training for employees, volunteers and contract personnel and shall also be included in annual refresher training thereafter. The level and type of training for volunteers and contractors will be based on the services they provide and their level of contact with detainees; however, all volunteers and contractors who have any contact with detainees must be notified of the facility's zero-tolerance policy. The facility must maintain written documentation verifying employee, volunteer and contractor training.

Training shall include:

1. definitions and examples of prohibited and illegal behavior;
2. agency prohibitions on retaliation against detainees and staff who report sexual abuse;
3. instruction that sexual abuse and/or assault is never an acceptable consequence of detention;
4. recognition of situations where sexual abuse and/or assault may occur;
5. recognition of the physical, behavioral and emotional signs of sexual abuse and/or assault and ways to prevent such occurrences;
6. the requirement to limit reporting of sexual abuse and assault to personnel with a need-to-know in order to make decisions concerning the detainee-victim's welfare, and for law enforcement/investigative purposes;
7. the investigation process and how to ensure that evidence is not destroyed;
8. prevention, recognition and appropriate response to allegations or suspicions of sexual assault involving detainees with mental or physical disabilities;
9. instruction on reporting knowledge or suspicion of sexual abuse and/or assault and making intervention referrals to the facility's program; and
10. instruction on documentation and referral procedures of all allegations or suspicion of sexual abuse and/or assault.

"Appendix 2.11.A: Resources" in this standard lists resources available from the National Institute of Corrections and other organizations that may be useful in developing a training program and/or for direct use in training.

F. Detainee Notification, Orientation and Instruction

The facility administrator shall ensure that the orientation program, required by standard "2.1 Admission and Release," and the detainee handbook required by standard "6.1 Detainee Handbook," notify and inform detainees about the facility's zero tolerance policy for all forms of sexual abuse and assault.

Following the intake process, the facility shall provide instruction to detainees on the facility's Sexual Abuse and Assault Prevention and Intervention Program and ensure that such instruction includes (at a minimum):

1. the facility's zero-tolerance policy for all forms of sexual abuse or assault;
2. prevention and intervention strategies;
3. definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and

coercive sexual activity;

4. explanation of methods for reporting sexual abuse or assault, including the DHS/OIG and the ICE/OPR investigation processes;
5. information about self-protection and indicators of sexual abuse;
6. prohibition against retaliation, including an explanation that reporting an assault shall not negatively impact the detainees immigration proceedings; and
7. right of a detainee who has been subjected to sexual abuse or assault to receive treatment and counseling.

Detainee notification, orientation and instruction must be in a language or manner that the detainee understands. The facility shall maintain documentation of detainee participation in the instruction session.

Each facility's sexual abuse or assault prevention and intervention program shall provide detainees who are victims of sexual abuse or assault the option to report the incident or situation to a designated staff member other than an immediate point-of-contact line officer (e.g., the program coordinator or a mental health specialist). The facility shall provide detainees with the name of the program coordinator or designated staff member and information on how to contact him or her. Detainees will also be informed that they can report any incident or situation regarding sexual abuse, assault or intimidation to any staff member.

As cited earlier under "III. Standards Affected," ICE/ERO has provided a sexual assault awareness notice to be posted on all housing-unit bulletin boards, as well as a "Sexual Assault Awareness Information" pamphlet to be distributed (see "Appendix 2.11.C: Sexual Assault Awareness" in this standard). The facility shall post with this notice the name of the program coordinator and local organizations that can assist detainees who have been victims of sexual assault. This information will be provided in English and Spanish, and to other segments of the detainee population with limited English proficiency, through translations or oral interpretation.

Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency. Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

G. Prevention

All staff and detainees are responsible for being alert to signs of potential situations in which sexual assaults might occur, and for making reports and intervention referrals as appropriate.

Classification is an ongoing, dynamic process. A detainee who is subjected to sexual abuse or assault shall not be returned to general population until proper re-classification, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse or assault, is completed.

In accordance with standards "2.1 Admission and Release" and "2.2 Custody Classification System":

1. Detainees shall be screened upon arrival at the facility for potential vulnerabilities to sexually aggressive behavior or tendencies to act out with sexually aggressive behavior.
2. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly.
3. Detainees with a history of sexual assault shall be identified, monitored and counseled while they are in ICE custody. Detainees identified as "high risk" for committing sexual assault shall

be assessed by a mental health or other qualified health care professional and treated, as appropriate.

4. Detainees at risk for sexual victimization shall be identified, monitored and counseled. Detainees identified as "high risk" for sexual victimization shall be assessed by a mental health or other qualified health care professional. Detainees who are considered at risk shall be placed in the least restrictive housing that is available and appropriate.
5. Detainees identified as being "at risk" for sexual victimization shall be transported in accordance with that special safety concern. The section on "Count, Identification and Seating," found in standard "1.3 Transportation (by Land)," requires that transportation staff seat each detainee in accordance with written procedures from the facility administrator, with particular attention to detainees who may need to be afforded closer observation for their own safety.

H. Prompt and Effective Intervention

Staff sensitivity toward detainees who are victims of sexual abuse and/or assault is critical.

Staff shall take seriously all statements from detainees claiming to be victims of sexual assaults, and shall respond supportively and non-judgmentally. Any detainee who alleges that he/she has been sexually assaulted shall be offered immediate protection from the assailant and shall be referred for a medical examination and/or clinical assessment for potential negative symptoms. Staff members who become aware of an alleged assault shall immediately follow the reporting requirements set forth in the written policies and procedures.

Facilities should use a coordinated, multidisciplinary team approach to responding to sexual abuse, such as a sexual assault response team (SART), which in accordance with community practices, includes a medical practitioner, a mental health practitioner, a security staff member and an investigator from the assigned investigative entity, as well as representatives from outside entities that provide relevant services and expertise.

Care must be taken not to punish a confirmed or alleged sexual assault victim. Victimized detainees should not be subject to disciplinary action either for reporting sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force. Care shall be taken to place the detainee in a supportive environment that represents the least restrictive housing option possible (e.g. protective custody). However, victims shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the detainee. .

I. Reporting, Notifications and Confidentiality

Each facility shall develop written procedures to establish the process for an internal administrative investigation that shall be conducted in all cases only after consultation with the assigned criminal investigative entity or after a criminal investigation has concluded. Such procedures shall establish the coordination and sequencing of the two types of investigations, to ensure that the criminal investigation is not compromised by an internal administrative investigation. All incidents and allegations of sexual abuse or assault shall be reported immediately.

Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have a need-to-know in order to make decisions concerning the detainee-victim's welfare, and for law enforcement/investigative purposes.

1. Alleged Detainee Perpetrator

When a detainee(s) is alleged to be the perpetrator, it is the facility administrator's responsibility to ensure that the incident is promptly referred to the appropriate law enforcement agency having jurisdiction for investigation and reported to the Field Office Director.

2. Alleged Staff Perpetrator

When an employee, contractor or volunteer is alleged to be the perpetrator of detainee sexual abuse and/or assault, it is the facility administrator's responsibility to ensure that the incident is promptly referred to the appropriate law enforcement agency having jurisdiction for investigation and reported to the Field Office Director. The local government entity or contractor that owns or operates the facility shall also be notified.

Staff suspected of perpetrating sexual abuse or assault shall be removed from all duties requiring detainee contact pending the outcome of an investigation.

J. Investigation and Prosecution

If a detainee alleges sexual assault, a sensitive and coordinated response is necessary. All investigations into alleged sexual assault must be prompt, thorough, objective, fair and conducted by qualified investigators. The program coordinator shall be responsible for reviewing the results of every investigation of sexual abuse.

When possible and feasible, appropriate staff shall preserve the crime scene, and safeguard information and evidence in coordination with the referral agency and consistent with established evidence-gathering and evidence-processing procedures.

At no cost to the detainee, the facility administrator shall arrange for the victim to undergo a forensic medical examination. During the forensic exam, the victim may request that an outside advocate be present for support. The results of the physical examination and all collected physical evidence are to be provided to the investigative entity. Appropriate infectious disease testing, as determined by the health services provider, may be necessary. Part of the investigative process may also include an examination and collection of physical evidence from the suspected assailant(s).

K. Health Care Services and Transfer of Detainees to Hospitals or Other Facilities

Victims shall be provided emergency medical and mental health services and ongoing care. When possible and feasible, victims of sexual assault shall be referred, under appropriate security provisions, to a community facility for treatment and for collection of evidence.

If available and offered by a community facility, prophylactic treatment, emergency contraception and follow-up examinations for sexually transmitted diseases shall be offered to all victims, as appropriate.

If these procedures are performed in-house, the following guidelines apply:

1. Health care professionals shall conduct an examination to document the extent of physical injury and to determine whether referral to another medical facility is indicated. With the victim's consent, the examination shall include collection of evidence from the victim, using a kit approved by the appropriate authority.
2. All collected forensic evidence must be secured and processed according to the facility's established plan for maintaining the chain of custody for criminal evidence.
3. Health care professionals shall test for sexually

transmitted diseases and infections (e.g., HIV, gonorrhea, hepatitis, chlamydia and other diseases/infections) and refer victim for counseling, as appropriate.

4. Prophylactic treatment, emergency contraception and follow-up examinations for sexually transmitted diseases shall be offered to all victims, as appropriate.
5. Following a physical examination, a mental-health professional shall evaluate the need for crisis intervention counseling and long-term follow-up.

Once the transfer has taken place, a report shall be made to the facility administrator or designee to confirm that the victim has been separated from his/her assailant. Transfers shall take into account safety and security concerns and the special needs of victimized detainees.

L. Tracking Incidents of Sexual Abuse and/or Assault

All case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary, and/or counseling shall be maintained in appropriate files in accordance with these detention standards and applicable policies, and retained in accordance with established schedules.

Particularly applicable to the storage, confidentiality and release of case records are the requirements of the "Confidentiality and Release of Medical Records" section of standard "4.3 Medical Care" and the requirements of standard "7.1 Detention Files," especially in regard to the Privacy Act of 1974. Because of the very sensitive nature of information about victims and their medical condition, including infectious disease testing, staff must be particularly vigilant about maintaining confidentiality and releasing information only for legitimate need-to-know reasons.

Monitoring and evaluation are essential for assessing both the rate of occurrence of sexual assault and agency effectiveness in reducing sexually abusive behavior. The program coordinator is responsible for an annual review of aggregate data (omitting personally identifying information) and shall present the findings to the Field Office Director and ICE/ERO headquarters for use in determining changes to existing policies and practices to determine whether changes are needed to further the goal of eliminating sexual abuse. Accordingly, the facility administrator must maintain two types of files.

1. General files include:
   a. the victim(s) and assailant(s) of a sexual assault;
   b. crime characteristics;
   c. detailed reporting timeline, including the name of the staff member receiving the report of sexual assault, date and time the report was received, and steps taken to communicate the report up the chain of command; and
   d. all formal and/or informal action taken.
2. Administrative investigative files include:
   a. all reports;
   b. medical forms;
   c. supporting memos and videotapes, if any; and
   d. any other evidentiary materials pertaining to the allegation.

The facility administrator shall maintain these files chronologically in a secure location.

In addition, the facility administrator shall maintain a listing of the names of sexual assault victims and

assailants, along with the dates and locations of all sexual assault incidents occurring within the facility, on his/her computerized incident reporting system. Such information shall be maintained on a need-to-know basis in accordance with the standards "4.3 Medical Care" and "7.1 Detention Files," which includes protection of electronic files from unauthorized access. At no time may law enforcement sensitive documents or evidence be stored at the facility.

Access to this designation shall be limited to those staff involved in the treatment of the victim or the investigation of the incident. The authorized designation shall allow appropriate staff to track the detainee victim or assailant of sexual assault across the system. Based on the designated reporting data, the ICE/ERO program office shall report annually the number of sexual assaults occurring within secure detention facilities utilized by ICE/ERO. Data shall be provided through the SEN system.

Appendix 2.11.A: Resources

The National Institute of Corrections (NIC) offers:

1. training and technical assistance
2. copies of the video, including "Facing Prison Rape," and accompanying facilitator's guides.
3. a bibliography of reference material.

National Institute of Corrections: www.nicic.gov

Other resource links:

1. NIC/WCL Project on Addressing Prison Rape: www.wcl.american.edu/nic
2. Bureau of Justice Assistance: www.ojp.usdoj.gov/BJA
3. Bureau of Justice Statistics: www.ojp.usdoj.gov/bjs
4. The Moss Group: www.mossgroup.us
5. Just Detention International: www.justdetention.org
6. Center for Innovative Policies, Inc.: www.cipp.org

Appendix 2.11.B: Sample Sexual Abuse Prevention and Intervention Protocols

These protocols serve as guidelines for staff in the development of written policies and procedures for a Sexual Abuse and Assault Prevention and Intervention Program.

Some procedures may not be applicable or feasible for implementation at a particular facility; however, to the extent possible, they shall be incorporated as part of a successful program.

I. Victim Identification (All Staff)

A. Primarily, staff learns that sexual abuse or assault has occurred during confinement because:

1. staff discover an assault in progress;
2. a victim reports an assault to a staff member;
3. another detainee reports abuse or an assault, or a detainee is the subject of detainee rumors; or
4. medical evidence indicates the probability of abuse or an assault.

While some victims can be clearly identified, many, or even most, may not come forward directly with information. Some victims may be identified through unexplained injuries, changes in physical behavior due to injuries, abrupt personality changes such as withdrawal or suicidal behavior, or other changes in behavior.

B. The following guidelines may help staff in responding appropriately to a suspected victim:

1. If it is suspected that the detainee was sexually assaulted, the detainee shall be advised:
   a. of the importance of getting help to deal with the assault;
   b. that he/she may be evaluated medically for sexually transmitted diseases and other injuries; and
   c. that trained personnel are available to assist.
2. Staff shall review the background of a suspected victim and the circumstances surrounding the incident without jeopardizing the detainee's safety, identity, or privacy.
3. If staff discovers an assault in progress, the suspected victim shall be removed from the immediate area for care and for interviewing by appropriate staff. The suspected victim shall be segregated for interviewing by the responding law enforcement entity.
4. The victim and the alleged assailant shall be separated immediately.
5. If a suspected victim is fearful of being labeled an informant, he/she shall be advised that the identity of the assailant(s) need not be disclosed in order for him/her to receive assistance.
6. The staff member who first identifies or suspects that a detainee has been abused or assaulted must report his/her suspicions to the security shift supervisor or investigative supervisor immediately.

II. Procedures for Investigation

All reports of alleged sexual abuse or assault must be handled and investigated in accordance with standard "2.11 Sexual Abuse and Assault Prevention and Intervention."

The facility's response should be coordinated and must ensure that all victims receive the medical and support services they need. Both internal and outside investigators must be able to obtain usable evidence to substantiate allegations and hold perpetrators accountable.

Facilities must use a coordinated, multidisciplinary team approach to responding to sexual abuse, which

may include a formalized sexual assault response team (SART). The SART should include a medical practitioner, a mental health practitioner, a security staff member and an investigator. SART members may consist of staff as well as representatives from outside entities that provide relevant services and expertise.

A. The following procedures, as addressed in this standard, apply in the cases of reported or known victims of sexual assault.

1. The victim should receive a prompt examination to identify medical and mental health needs and to minimize the loss of evidence.
2. The victim's acute medical and mental health needs should be addressed before evidence is collected on-site or before they are transported off-site for evidence collection.
3. If the incident occurred within 96 hours of the report, the victim should be instructed to avoid actions that could inhibit evidence collection prior to forensic medical examination.
4. All forensic medical exams must be conducted by specially educated and clinically trained medical examiners who have been trained in the use of standard investigative and evidence-gathering procedures.
5. All forensic medical exams must use standardized sexual assault collection kits ("rape kits").
6. The incident must be reported to the appropriate law enforcement agency.
7. The medical examiner or designated staff member must ensure that the victim receives follow-up care or referrals for follow-up care.

The following procedures may apply for reported or known victims of sexual assault. If the detainee was threatened with sexual assault or was assaulted on a previous occasion, some steps may not be necessary.

The standard protocol is to transport every alleged victim and assailant (separately) to the nearest hospital for a "rape kit" as soon as possible.

B. Collect evidence from assailant (security and health services staff).

1. Identify the assailant if possible and isolate the assailant, whenever possible, pending further investigation.
2. Standard investigative and evidence-gathering procedures, by both internal and outside investigators.
3. Report the incident to the appropriate law enforcement agency.
4. If known, the assailant should undergo a forensic medical exam. If transported off-site for the exam, assailant and victim must be transported separately.
5. If facility medical staff attempts to examine the alleged assailant, findings shall be documented both photographically and in writing. A written summary of all medical evidence and findings shall be completed and maintained in the detainee's medical record. Copies shall also be provided to supervisory security staff and appropriate law enforcement officials.

III. Medical Assessment of Victim (Health Services Staff)

A. If trained medical staff are available in the facility, render treatment locally whenever feasible.

B. If the alleged victim is examined in the facility to determine the extent of injuries, all findings shall be documented both photographically and in writing, and placed in the detainee's medical record, with a copy to supervisory security staff and appropriate

law enforcement officials.

C. If deemed necessary by the examining physician, follow established procedures for use of outside medical consultants or for an escorted trip to an outside medical facility.

D. Notify staff at the community medical facility and alert them to the detainee's condition.

E. When necessary, conduct STD/STI and HIV testing and provide the option of emergency contraception if available.

F. Refer the detainee for crisis counseling or mental health services, as medically and time appropriate.

IV. Medical Transfers for Examination and Treatment (Security and Health Services Staff)

A. determined appropriate by the facility physician, and if approved by the facility administrator or designee, the detainee may be examined by medical personnel from the community.

A contractual arrangement may be developed with a rape crisis center or other available community medical service to enhance facility medical services. The contract shall provide for the following:

1. Clinical examination for assessing physical injuries and collecting any physical evidence of sexual assault, and
2. Contract medical personnel to come into the facility to escort detainees to the contract facility (e.g., crisis care center, medical clinic, hospital, etc.).

B. Escorting staff shall treat the victim in a supportive and non-judgmental way.

C. Information about the assault is confidential, and shall be given only to those directly involved in the investigation and/or treatment of the victim.

V. Mental Health Services (Mental Health Staff)

A. Mental health staff shall be notified immediately after the initial report of an allegation of sexual abuse or assault of a detainee.

B. Following the medical assessment, the alleged victim shall be seen by a mental health clinician within 24 hours of notification to the mental health staff, who will provide crisis intervention and assess any immediate and subsequent treatment needs.

C. The findings of the initial crisis evaluation session shall be summarized in writing within one week of the initial session, and shall be placed in the appropriate treatment record, with a copy provided to the hospital administrator or clinical director and other staff responsible for oversight of sexual abuse or assault prevention and intervention procedures.

D. Additional psychological or psychiatric treatment, as well as continued assessment of mental health status and treatment needs, shall be provided as needed, with the victim's full consent and collaboration. Decisions regarding the need for continued assessment and treatment shall be made by qualified clinicians according to established professional standards, and shall be made with awareness that a victim of sexual abuse or assault commonly experiences both immediate and delayed psychiatric or emotional symptoms.

E. If a victim chooses to continue to pursue treatment, the clinician shall either provide appropriate treatment or facilitate referral to an appropriate treatment option, including individual therapy, group therapy, further psychological assessment, assignment to a mental health counselor or facility, referral to a psychiatrist, or other treatment options. Pending referral, mental health services shall continue unabated. If a victim chooses

to decline further treatment services, he/she shall be asked to sign a statement to that effect.

F. All treatment and evaluation sessions shall be properly documented and placed in the appropriate treatment record to ensure continuity of care.

G. Should a victim be released from custody during the course of treatment, the victim shall be advised of community mental health resources in his/her area.

VI. Monitoring and Follow-up

A. Classification and security staff shall place the victim in appropriate housing and assess the risk of keeping the victim at the facility where the incident occurred. Detainees who are considered likely to become victims again shall be placed in the least restrictive housing that is available and appropriate.

B. Housing, medical and mental health staff shall monitor the physical and mental health of the victim and coordinate the continuation of necessary services.

C. Medical staff shall dispense medication and provide routine examinations and STD and HIV follow-up.

D. Mental health staff shall conduct post-crisis counseling and arrange for psychiatric care if necessary.

Appendix 2.11.C: Sexual Assault Awareness

All of "Appendix 2.11.C: Sexual Assault Awareness" is required to be posted in each Housing Unit Bulletin Board at all Service Processing Centers and Contract Detention Facilities and by Intergovernmental Service Agreement Providers that house ICE detainees.

While detained by the Department of Homeland Security, Immigration and Customs Enforcement, Office of Enforcement and Removal, you have a right to be safe and free from sexual harassment and sexual assault. Report all attempted assaults and assaults to your housing unit officer, a supervisor, the Officer In Charge, directly to the DHS Office of the Inspector General (OIG) or the ICE Office of Professional Responsibility (OPR), Joint Intake Center.

Definitions

Detainee-on-detainee Sexual Abuse/Assault

One or more detainees, by force, coercion or intimidation, engaging in or attempting to engage in: contact between the penis and the vagina or anus; contact between the mouth and the penis, vagina, or anus; penetration of the anal or genital opening of another person by a hand, finger or any object; touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person; or the use of threats, intimidation, or other actions or communications by one or more detainees aimed at coercing or pressuring another detainee to engage in a sexual act.

Staff-on-detainee Sexual Abuse/Assault

One or more staff member(s), volunteer(s), or contract personnel engaging in or attempting to engage in: contact between the penis and the vagina or anus; contact between the mouth and the penis, vagina, or anus; penetration of the anal or genital opening of another person by a hand, finger or any object; touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, except in the context of proper searches and medical examinations; the use of threats, intimidation, harassment, indecent, profane or abusive language, or other actions (including unnecessary visual surveillance) or communications aimed at coercing or pressuring a detainee to engage in a sexual act; or repeated verbal statements or comments of a sexual nature to a detainee, including demeaning references to gender, derogatory comments about body or clothing, or profane or obscene language or gestures. Sexual conduct of any type between staff and detainees amounts to sexual abuse, regardless of whether consent exists.

Sexual abuse/assault of detainees by staff or other detainees is an inappropriate use of power and is prohibited by ICE policy and the law.

Prohibited Acts

Sexual abuse/assault is a crime and this facility has a zero tolerance policy for sexual assault and abuse. A detainee or staff member who commits sexual assault shall be punished administratively and may be subject to criminal prosecution.

A detainee who engages in such behavior can be charged with the following Prohibited Acts under the Detainee Disciplinary Policy:

- Code 101: Sexual Assault
- Code 207: Making a Sexual Proposal
- Code 404: Using Abusive or Obscene Language

- Code 206: Engaging in a Sex Act
- Code 300: Indecent Exposure or Language

Victimized detainees should not be subject to disciplinary action for reporting sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force.

In addition, consensual sexual conduct between detainees is also prohibited and subject to administrative and disciplinary sanctions.

Detention as a Safe Environment

While you are detained, no one has the right to pressure you to engage in sexual acts or engage in unwanted sexual behavior regardless of your age, size, race or ethnicity. Regardless of your sexual orientation or gender identity, you have the right to be safe from unwanted sexual advances and acts.

Confidentiality

Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have the need-to-know in order to make decisions concerning the detainee victim's welfare and for law enforcement/ investigative purposes.

Avoiding Sexual Assault

Sexual assault is never the victim's fault. Knowing the warning signs and red flags can help you stay alert and aware:

1. Carry yourself in a confident manner. Many attackers choose victims who look like they would not fight back or who they think are emotionally weak.
2. Do not accept gifts or favors from others. Most gifts or favors come with special demands or limits that the giver expects you to accept.
3. Do not accept an offer from another detainee to be your protector.
4. Find a staff member with whom you feel comfortable discussing your fears and concerns. Report concerns!
5. Do not use drugs or alcohol; these can weaken your ability to stay alert and make good judgments.
6. Be clear, direct and firm. Do not be afraid to say "no" or "stop it now."
7. Choose your associates wisely. Look for people who are involved in positive activities like educational programs, work opportunities or counseling groups. Get yourself involved in these activities.
8. If you suspect another detainee is being sexually abused, report it to a staff member you trust or to the DHS/OIG at 1-800-323-8603 or ICE/OPR, Joint Intake Center at 1-877-246-8253.
9. Trust your instincts. Be aware of situations that make you feel uncomfortable. If it does not feel right or safe, leave the situation or seek assistance. If you fear for your safety, report your concerns to staff.

Report All Assaults

If you become a victim of a sexual assault, report the incident immediately to any staff person you trust, to include housing officers, deportation officers, chaplains, medical staff or supervisors. Staff members keep the reported information confidential and only discuss it with the appropriate officials on a need-to-know basis. If you are not comfortable reporting the assault to staff, you have other options:

1. Write a letter reporting the sexual misconduct to the Officer In Charge, Assistant Field Office Director, or Field Office Director. To ensure confidentiality, use special mail procedures.

2. File an emergency detainee grievance. If you decide your complaint is too sensitive to file with the Officer In Charge, you can file your grievance directly with the Field Office Director. You can get the forms from your housing unit officer, deportation staff or a facility supervisor.
3. Call the ICE Office of Professional Responsibility, Joint Intake Center 24 hours a day at 1-877-246-8253.
4. Write to the OIG, which investigates allegations of staff misconduct. The address is:
   Office of Inspector General P.O. Box 27606
   Washington, D.C. 20530
5. Call, at no expense to you, the DHS/OIG or the ICE/OPR, Joint Intake Center. The phone number for the OIG is posted in your housing unit.

Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported.

Next Steps after Reporting a Sexual Assault or Attempted Sexual Assault

You will be offered immediate protection from the assailant and you will be referred for medical examination and clinical assessment. You do not have to name the detainee(s) or staff member who assaulted you for you to receive assistance, but specific information may make it easier for staff to help you. You will continue to receive protection from the assailant, whether or not you have identified your attacker or agree to testify against them. It is important that you do not shower, wash, drink, change clothing or use the bathroom until evidence can be collected.

The Medical Exam

Medical staff shall examine you for injuries, which may or may not be readily apparent to you and shall gather physical evidence of assault. Bring with you to the medical exam the clothes and underwear that you had on at the time of the assault. You shall be checked for the presence of physical evidence, which supports your allegation. With your consent, a medical professional shall perform a pelvic and/or rectal examination to obtain samples of, or document the existence of physical evidence such as hair, body fluids, tears, or abrasions that remain after the assault. This physical evidence is critical in corroborating that the sexual assault occurred and in identifying the assailant; trained personnel shall conduct the exam privately and professionally.

Understanding the Investigative Process

Once the misconduct is reported, the appropriate law enforcement agency shall conduct an investigation. The purpose of the investigation is to determine the nature and extent of the misconduct. You may be asked to give a statement during the investigation. If criminal charges are filed, you may be asked to testify during the criminal proceedings. Any detainee who alleges that he/she has been sexually assaulted will be offered immediate protection and will be referred for a medical examination.

The Emotional Consequences of Sexual Assaults

It is common for victims of sexual assault to have feelings of embarrassment, anger, guilt, panic, depression and fear several months or even years after the attack. Other common reactions include loss of appetite, nausea or stomach aches, headaches, loss of memory and/or trouble concentrating, and changes in sleep patterns. Emotional support is available from the facility's mental health and medical staff, and from the chaplains. Also, many detainees who are at high risk of sexually assaulting others have often been sexually abused themselves. Mental health services

are available to them also so that they can control their actions and heal from their own abuse.

Sexual assaults can happen to anyone: any gender, age, race, ethnic group, socio-economic status and to an individual with any sexual orientation or disability. Sexual assault is not about sex; it is about Power and control. All reports are taken seriously.

Your safety and the safety of others is the most important concern. For everyone's safety, all incidents, threats, or assaults must be reported.

Report all attempted assaults and assaults to your housing unit officer, a supervisor, the Officer In Charge, or directly to the DHS/OIG or ICE/OPR, Joint Intake Center.

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE OF PAGES
	1 18

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
P00003	See Block 16C		

6. ISSUED BY	CODE	7. ADMINISTERED BY (If other than Item 6)	CODE
ICE/DCR		ICE/DCR	

ICE/Detention Compliance & Removals
Immigration and Customs Enforcement
Office of Acquisition Management
801 I Street, NW Suite 930
WASHINGTON DC 20536

ICE/Detention Compliance & Removals
Immigration and Customs Enforcement
Office of Acquisition Management
801 I Street NW, suite 930
Washington DC 20536

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)

HOWARD COUNTY OF MARYLAND INC
3430 COURT HOUSE DRIVE 3RD FLOOR
ELLICOTT CITY MD 210434300

CODE 1025471270000 FACILITY CODE

(x) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED (SEE ITEM 11)

X 10A. MODIFICATION OF CONTRACT/ORDER NO. ACB-5-I-0002/

10B. DATED (SEE ITEM 13) 06/03/2013

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)
See Schedule

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	
	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
X	D. OTHER (Specify type of modification and authority) Equitable Rate Adjustment - Mutual Agreement of the Parties

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

DUNS Number: 102547127
Contracting Officer Representative: Dionne Jones-Jerry, Dionne.K.Jones-Jerry@ice.dhs.gov 410-637-4160
Contracting Officer: Tony Ross, 202-732-2587
Contract Specialist: Rachel Ali, 202-732-2622
Howard County POC: Stephanie Carter, SCarter@howardcountymd.gov

There is no requisition associated with this action.

The purpose of this modification is to incorporate the Howard County Equitable Rate Adjustment as agreed upon on 8/14/2014.

Continued ...

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect

15A. NAME AND TITLE OF SIGNER (Type or print)	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)
Ken Ulman, County Executive	Tony Ross

15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)	10-10-14	(Signature of Contracting Officer)	10/30/14

NSN 7540-01-152-8070
Previous edition unusable

STANDARD FORM 30 (REV. 10-03)
Prescribed by GSA
FAR (48 CFR) 53.243

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED ACB-5-I-0002//P00003	PAGE 2	OF 18

NAME OF OFFEROR OR CONTRACTOR
HOWARD COUNTY OF MARYLAND INC

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	The bed day rate for ICE detainees at the Howard County Department of Corrections is now $90 per bed day. This rate goes into effect on 10/07/2014. In addition to the Rate Adjustment of $90 per bed day, Howard County must hereby implement PBNDS 2011 one year after the date of award. Howard County must ensure compliance with PREA regulations (attached). All other term and conditions remain unchanged. Exempt Action: Y				

CONTRACT MODIFICATION P00003 INCORPORATION OF DHS PREA STANDARDS

This contract modification incorporates the requirements of the U.S. Department of Homeland Security (DHS) regulation titled, "Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities," 79 Fed. Reg. 13100 (Mar. 7, 2014). Where any requirements of the DHS standards may conflict with the terms of the ICE 2011 Performance-Based National Detention Standards (PBNDS 2011) currently applicable at the facility, the DHS PREA standards shall supersede:

115.6 Definitions Related to Sexual Abuse and Assault

(1) Sexual abuse includes –
   (a) Sexual abuse and assault of a detainee by another detainee; and
   (b) Sexual abuse and assault of a detainee by a staff member, contractor, or volunteer.

(2) Sexual abuse of a detainee by another detainee includes any of the following acts by one or more detainees, prisoners, inmates, or residents of the facility in which the detainee is housed who, by force, coercion, or intimidation, or if the victim did not consent or was unable to consent or refuse, engages in or attempts to engage in:
   (a) Contact between the penis and the vulva or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
   (b) Contact between the mouth and the penis, vulva, or anus;
   (c) Penetration, however, slight, of the anal or genital opening of another person by a hand or finger or by any object;
   (d) Touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person; or
   (e) Threats, intimidation, or other actions or communications by one or more detainees aimed at coercing or pressuring another detainee to engage in a sexual act.

(3) Sexual abuse of a detainee by a staff member, contractor, or volunteer includes any of the following acts, if engaged in by one or more staff members, volunteers, or contract personnel who, with or without the consent of the detainee, engages in or attempts to engage in:
   (a) Contact between the penis and the vulva or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
   (b) Contact between the mouth and the penis, vulva, or anus;
   (c) Penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
   (d) Intentional touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
   (e) Threats, intimidation, harassment, indecent, profane or abusive language, or other actions or communications, aimed at coercing or pressuring a detainee to engage in a sexual act;
   (f) Repeated verbal statements or comments of a sexual nature to a detainee;
   (g) Any display of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, or
   (h) Voyeurism, which is defined as the inappropriate visual surveillance of a detainee for reasons unrelated to official duties. Where not conducted for reasons relating to official duties, the following are examples of voyeurism: staring at a detainee who is using a toilet in his or her cell to perform bodily functions; requiring an inmate detainee to expose his or her buttocks, genitals,

or breasts; or taking images of all or part of a detainee's naked body or of a detainee performing bodily functions.

PREVENTION PLANNING

115.11 Zero tolerance of sexual abuse; Prevention of Sexual Assault Coordinator.

(1) Each facility shall have a written policy mandating zero tolerance toward all forms of sexual abuse and outlining the facility's approach to preventing, detecting, and responding to such conduct. The agency shall review and approve each facility's written policy.
(2) Each facility shall employ or designate a Prevention of Sexual Assault Compliance Manager (PSA Compliance Manager) who shall serve as the facility point of contact for the ICE PSA Coordinator and who has sufficient time and authority to oversee facility efforts to comply with facility sexual abuse prevention and intervention policies and procedures.

115.13 Detainee supervision and monitoring.

(1) Each facility shall ensure that it maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse.
(2) Each facility shall develop and document comprehensive detainee supervision guidelines to determine and meet the facility's detainee supervision needs, and shall review those guidelines at least annually.
(3) In determining adequate levels of detainee supervision and determining the need for video monitoring, the facility shall take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody.
(4) Each facility shall conduct frequent unannounced security inspections to identify and deter sexual abuse of detainees. Such inspections shall be implemented for night as well as day shifts. Each facility shall prohibit staff from alerting others that these security inspections are occurring, unless such announcement is related to the legitimate operational functions of the facility.

115.15 Limits to cross-gender viewing and searches.

(1) Searches may be necessary to ensure the safety of officers, civilians and detainees; to detect and secure evidence of criminal activity; and to promote security, safety, and related interests at immigration detention facilities.
(2) Cross-gender pat-down searches of male detainees shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances.
(3) Cross-gender pat-down searches of female detainees shall not be conducted unless in exigent circumstances.
(4) All cross-gender pat-down searches shall be documented.
(5) Cross-gender strip searches or cross-gender visual body cavity searches shall not be conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners. Facility staff shall not conduct visual body cavity searches of juveniles and, instead, shall refer all such body cavity searches of juveniles to a medical practitioner.
(6) All strip searches and visual body cavity searches shall be documented.

(7) Each facility shall implement policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing.

(8) The facility shall not search or physically examine a detainee for the sole purposes of determining the detainee's genital characteristics. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a standard medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner.

115.16 Accommodating detainees with disabilities and detainees who are limited English proficient.

(1) The agency and each facility shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency and facility shall ensure that any written materials related to sexual abuse are provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency or facility is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164.

(2) The agency and each facility shall take steps to ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary.

(3) In matters relating to allegations of sexual abuse, the agency and each facility shall provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation, and the agency determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse.

115.17 Hiring and promotion decisions.

(1) An agency or facility shall not hire or promote anyone who may have contact with detainees, and shall not enlist the services of any contractor or volunteer who may have contact with detainees, who has engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); who has been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or

implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or who has been civilly or administratively adjudicated to have engaged in such activity.

(2) An agency or facility considering hiring or promoting staff shall ask all applicants who may have contact with detainees directly about previous misconduct described in paragraph (1) of this section, in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. Agencies and facilities shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. The agency, consistent with law, shall make its best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse.

(3) Before hiring new staff who may have contact with detainees, the agency or facility shall conduct a background investigation to determine whether the candidate for hire is suitable for employment with the facility or agency, including a criminal background records check. Upon request by the agency, the facility shall submit for the agency's approval written documentation showing the detailed elements of the facility's background check for each staff member and the facility's conclusions. The agency shall conduct an updated background investigation every five years for agency employees who may have contact with detainees. The facility shall require an updated background investigation every five years for those facility staff who may have contact with detainees and who work in immigration-only detention facilities.

(4) The agency or facility shall also perform a background investigation before enlisting the services of any contractor who may have contact with detainees. Upon request by the agency, the facility shall submit for the agency's approval written documentation showing the detailed elements of the facility's background check for each contractor and the facility's conclusions.

(5) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination or withdrawal of an offer of employment, as appropriate.

(6) In the event the agency contracts with a facility for the confinement of detainees, the requirements of this section otherwise applicable to the agency also apply to the facility and its staff.

115.18 Upgrades to facilities and technologies.

(1) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the facility or agency, as appropriate, shall consider the effect of the design, acquisition, expansion, or modification upon their ability to protect detainees from sexual abuse.

(2) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology in an immigration detention facility, the facility or agency, as appropriate, shall consider how such technology may enhance their ability to protect detainees from sexual abuse.

RESPONSIVE PLANNING

115.21 Evidence protocols and forensic medical examinations.

(1) To the extent that the agency or facility is responsible for investigating allegations of sexual abuse involving detainees, it shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall be developed in coordination with DHS and shall be developmentally appropriate for juveniles, where applicable.

(2) The agency and each facility developing an evidence protocol referred to in paragraph (1) of this section, shall consider how best to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling to most appropriately address victims' needs. Each facility shall establish procedures to make available, to the full extent possible, outside victim services following incidents of sexual abuse; the facility shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall provide these services by making available a qualified staff member from a community-based organization, or a qualified agency staff member. A qualified agency staff member or a qualified community-based staff member means an individual who has received education concerning sexual assault and forensic examination issues in general. The outside or internal victim advocate shall provide emotional support, crisis intervention, information, and referrals.

(3) Where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the facility shall arrange for an alleged victim detainee to undergo a forensic medical examination by qualified health care personnel, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel.

(4) As requested by a victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews.

(5) To the extent that the agency is not responsible for investigating allegations of sexual abuse, the agency or the facility shall request that the investigating agency follow the requirements of paragraphs (1) through (4) of this section.

115.22 Policies to ensure investigation of allegations and appropriate agency oversight.

(1) The agency shall establish an agency protocol, and shall require each facility to establish a facility protocol, to ensure that each allegation of sexual abuse is investigated by the agency or facility, or referred to an appropriate investigative authority.

(2) The agency shall ensure that the agency and facility protocols required by paragraph (a) of this section, include a description of responsibilities of the agency, the facility, and any other investigating entities; and require the documentation and maintenance, for at least five years, of all reports and referrals of allegations of sexual abuse.

(3) The agency shall post its protocols on its Web site; each facility shall also post its protocols on its Web site, if it has one, or otherwise make the protocol available to the public.

(4) Each facility protocol shall ensure that all allegations are promptly reported to the agency as described in paragraphs (5) and (6) of this section, and, unless the allegation does not involve potentially criminal behavior, are promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations. A facility may separately, and in addition to the above reports and referrals, conduct its own investigation.

(5) When a detainee, prisoner, inmate, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as the appropriate ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation.

(6) When a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as to the appropriate ICE Field Office Director, and to the local government entity or contractor that

owns or operates the facility. If the incident is potentially criminal, the facility shall ensure that it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation.

TRAINING AND EDUCATION

115.31 Staff training.

(1) The agency shall train, or require the training of, all employees who may have contact with immigration detainees, and all facility staff, to be able to fulfill their responsibilities under this part, including training on:
   (a) The agency's and the facility's zero-tolerance policies for all forms of sexual abuse;
   (b) The right of detainees and staff to be free from sexual abuse, and from retaliation for reporting sexual abuse;
   (c) Definitions and examples of prohibited and illegal sexual behavior;
   (d) Recognition of situations where sexual abuse may occur;
   (e) Recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and responding to such occurrences;
   (f) How to avoid inappropriate relationships with detainees;
   (g) How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees;
   (h) Procedures for reporting knowledge or suspicion of sexual abuse; and
   (i) The requirement to limit reporting of sexual abuse to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes.

(2) All current facility staff, and all agency employees who may have contact with immigration detention facility detainees, shall be trained within one year of May 6, 2014, and the agency or facility shall provide refresher information every two years.

(3) The agency and each facility shall document that staff that may have contact with immigration facility detainees have completed the training.

115.32 Other training.

(1) The facility shall ensure that all volunteers and other contractors (as defined in paragraph (4) of this section) who have contact with detainees have been trained on their responsibilities under the agency's and the facility's sexual abuse prevention, detection, intervention and response policies and procedures.

(2) The level and type of training provided to volunteers and other contractors shall be based on the services they provide and level of contact they have with detainees, but all volunteers and other contractors who have contact with detainees shall be notified of the agency's and the facility's zero-tolerance policies regarding sexual abuse and informed how to report such incidents.

(3) Each facility shall receive and maintain written confirmation that volunteers and other contractors who have contact with immigration facility detainees have completed the training.

(4) In this section, the term *other contractor* means a person who provides services on a non-recurring basis to the facility pursuant to a contractual agreement with the agency or facility.

115.33 Detainee education.

(1) During the intake process, each facility shall ensure that the detainee orientation program notifies and informs detainees about the agency's and the facility's zero-tolerance policies for all forms of sexual abuse and includes (at a minimum) instruction on:

(a) Prevention and intervention strategies;
(b) Definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity;
(c) Explanation of methods for reporting sexual abuse, including to any staff member, including a staff member other than an immediate point-of-contact line officer (e.g., the compliance manager or a mental health specialist), the DHS Office of Inspector General, and the Joint Intake Center;
(d) Information about self-protection and indicators of sexual abuse;
(e) Prohibition against retaliation, including an explanation that reporting sexual abuse shall not negatively impact the detainee's immigration proceedings; and
(f) The right of a detainee who has been subjected to sexual abuse to receive treatment and counseling.

(2) Each facility shall provide the detainee notification, orientation, and instruction in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to detainees who have limited reading skills.
(3) The facility shall maintain documentation of detainee participation in the intake process orientation.
(4) Each facility shall post on all housing unit bulletin boards the following notices:
(a) The DHS-prescribed sexual assault awareness notice;
(b) The name of the Prevention of Sexual Abuse Compliance Manager; and
(c) The name of local organizations that can assist detainees who have been victims of sexual abuse.
(5) The facility shall make available and distribute the DHS-prescribed "Sexual Assault Awareness Information" pamphlet.
(6) Information about reporting sexual abuse shall be included in the agency Detainee Handbook made available to all immigration detention facility detainees.

115.34 Specialized training: Investigations.

(1) In addition to the general training provided to all facility staff and employees pursuant to § 115.31, the agency or facility shall provide specialized training on sexual abuse and effective cross-agency coordination to agency or facility investigators, respectively, who conduct investigations into allegations of sexual abuse at immigration detention facilities. All investigations into alleged sexual abuse must be conducted by qualified investigators.
(2) The agency and facility must maintain written documentation verifying specialized training provided to investigators pursuant to this section.

115.35 Specialized training: Medical and mental health care.

(1) The agency shall review and approve the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse, in facilities where medical staff may be assigned these activities.

ASSESSMENT FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

115.41 Assessment for risk of victimization and abusiveness.

(1) The facility shall assess all detainees on intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly.

(2) The initial classification process and initial housing assignment should be completed within twelve hours of admission to the facility.
(3) The facility shall also consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization:
    (a) Whether the detainee has a mental, physical, or developmental disability;
    (b) The age of the detainee;
    (c) The physical build and appearance of the detainee;
    (d) Whether the detainee has previously been incarcerated or detained;
    (e) The nature of the detainee's criminal history;
    (f) Whether the detainee has any convictions for sex offenses against an adult or child;
    (g) Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
    (h) Whether the detainee has self-identified as having previously experienced sexual victimization; and
    (i) The detainee's own concerns about his or her physical safety.
(4) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing detainees for risk of being sexually abusive.
(5) The facility shall reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization.
(6) Detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (3)(a), (3)(g), (3)(h), or (3)(i) of this section.
(7) The facility shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the detainee's detriment by staff or other detainees or inmates.

115.42 Use of assessment information.

(1) The facility shall use the information from the risk assessment under § 115.41 of this part to inform assignment of detainees to housing, recreation and other activities, and voluntary work. The agency shall make individualized determinations about how to ensure the safety of each detainee.
(2) When making assessment and housing decisions for a transgender or intersex detainee, the facility shall consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety. The facility shall consult a medical or mental health professional as soon as practicable on this assessment. The facility should not base placement decisions of transgender or intersex detainees solely on the identity documents or physical anatomy of the detainee; a detainee's self-identification of his/her gender and self-assessment of safety needs shall always be taken into consideration as well. The facility's placement of a transgender or intersex detainee shall be consistent with the safety and security considerations of the facility, and placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee.
(3) When operationally feasible, transgender and intersex detainees shall be given the opportunity to shower separately from other detainees.

115.43 Protective custody.

(1) The facility shall develop and follow written procedures consistent with the standards in this subpart for each facility governing the management of its administrative segregation unit. These procedures, which should be developed in consultation with the ICE Enforcement and Removal Operations Field Office Director having jurisdiction for the facility, must document detailed reasons for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault.
(2) Use of administrative segregation by facilities to protect detainees vulnerable to sexual abuse or assault shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, as a last resort. The facility should assign detainees vulnerable to sexual abuse or assault to administrative segregation for their protection until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
(3) Facilities that place vulnerable detainees in administrative segregation for protective custody shall provide those detainees access to programs, visitation, counsel and other services available to the general population to the maximum extent practicable.
(4) Facilities shall implement written procedures for the regular review of all vulnerable detainees placed in administrative segregation for their protection, as follows:
    (a) A supervisory staff member shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted; and
    (b) A supervisory staff member shall conduct, at a minimum, an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter.
(5) Facilities shall notify the appropriate ICE Field Office Director no later than 72 hours after the initial placement into segregation, whenever a detainee has been placed in administrative segregation on the basis of a vulnerability to sexual abuse or assault.

REPORTING

115.51 Detainee reporting.

(1) The agency and each facility shall develop policies and procedures to ensure that detainees have multiple ways to privately report sexual abuse, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents. The agency and each facility shall also provide instructions on how detainees may contact their consular official, the DHS Office of the Inspector General or, as appropriate, another designated office, to confidentially and, if desired, anonymously, report these incidents.
(2) The agency shall also provide, and the facility shall inform the detainees of, at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request.
(3) Facility policies and procedures shall include provisions for staff to accept reports made verbally, in writing, anonymously, and from third parties and to promptly document any verbal reports.

115.52 Grievances.

(1) The facility shall permit a detainee to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint.
(2) The facility shall not impose a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse.

(3) The facility shall implement written procedures for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse.
(4) Facility staff shall bring medical emergencies to the immediate attention of proper medical personnel for further assessment.
(5) The facility shall issue a decision on the grievance within five days of receipt and shall respond to an appeal of the grievance decision within 30 days. Facilities shall send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE Field Office Director at the end of the grievance process.
(6) To prepare a grievance, a detainee may obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties.

115.53 Detainee access to outside confidential support services.

(1) Each facility shall utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse perpetrators to most appropriately address victims' needs. The facility shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime.
(2) Each facility's written policies shall establish procedures to include outside agencies in the facility's sexual abuse prevention and intervention protocols, if such resources are available.
(3) Each facility shall make available to detainees information about local organizations that can assist detainees who have been victims of sexual abuse, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the facility shall make available the same information about national organizations. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible.
(4) Each facility shall inform detainees prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

115.54 Third-party reporting.

(1) Each facility shall establish a method to receive third-party reports of sexual abuse in its immigration detention facilities and shall make available to the public information on how to report sexual abuse on behalf of a detainee.

OFFICIAL RESPONSE FOLLOWING A DETAINEE REPORT

115.61 Staff reporting duties.

(1) The agency and each facility shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility; retaliation against detainees or staff who reported or participated in an investigation about such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. The agency shall review and approve facility policies and procedures and shall ensure that the facility specifies appropriate reporting procedures, including a method by which staff can report outside of the chain of command.
(2) Staff members who become aware of alleged sexual abuse shall immediately follow the reporting

requirements set forth in the agency's and facility's written policies and procedures.

(3) Apart from such reporting, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions.

115.62 Protection duties.

(1) If an agency employee or facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee.

115.63 Reporting to other confinement facilities.

(1) Upon receiving an allegation that a detainee was sexually abused while confined at another facility, the agency or facility whose staff received the allegation shall notify the ICE Field Office and the administrator of the facility where the alleged abuse occurred.

(2) The notification provided in paragraph (1) of this section shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.

(3) The agency or facility shall document that it has provided such notification.

(4) The agency or facility office that receives such notification, to the extent the facility is covered by this subpart, shall ensure that the allegation is referred for investigation in accordance with these standards and reported to the appropriate ICE Field Office Director.

115.64 Responder duties.

(1) Upon learning of an allegation that a detainee was sexually abused, the first security staff member to respond to the report, or his or her supervisor, shall be required to:
   (a) Separate the alleged victim and abuser;
   (b) Preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence;
   (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
   (d) If the sexual abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

(2) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

115.65 Coordinated response.

(1) Each facility shall develop a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse.

(2) Each facility shall use a coordinated, multidisciplinary team approach to responding to sexual abuse.

(3) If a victim of sexual abuse is transferred between DHS immigration detention facilities, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the

victim's potential need for medical or social services.

(4) If a victim is transferred between DHS immigration detention facilities or to a non-DHS facility, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.

115.66 Protection of detainees from contact with alleged abusers.

(1) Staff, contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation.

115.67 Agency protection against retaliation.

(1) Staff, contractors, and volunteers, and immigration detention facility detainees, shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force.

(2) For at least 90 days following a report of sexual abuse, the agency and facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff, and shall act promptly to remedy any such retaliation.

115.68 Post-allegation protective custody.

(1) The facility shall take care to place detainee victims of sexual abuse in a supportive environment that represents the least restrictive housing option possible (e.g., protective custody), subject to the requirements of § 115.43.

(2) Detainee victims shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the detainee.

(3) A detainee victim who is in protective custody after having been subjected to sexual abuse shall not be returned to the general population until completion of a proper re-assessment, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse.

(4) Facilities shall notify the appropriate ICE Field Office Director whenever a detainee victim has been held in administrative segregation for 72 hours.

INVESTIGATIONS

115.71 Criminal and administrative investigations.

(1) If the facility has responsibility for investigating allegations of sexual abuse, all investigations into alleged sexual abuse must be prompt, thorough, objective, and conducted by specially trained, qualified investigators.

(2) Upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity.

(3) (a) The facility shall develop written procedures for administrative investigations, including provisions requiring:

i. Preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;

ii. (ii) Interviewing alleged victims, suspected perpetrators, and witnesses;

iii. (iii) Reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator;
iv. (iv) Assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph;
v. (v) An effort to determine whether actions or failures to act at the facility contributed to the abuse; and
vi. (vi) Documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings; and
vii. (vii) Retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years.

(b) Such procedures shall govern the coordination and sequencing of the two types of investigations, in accordance with paragraph (2) of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation.

(4) The agency shall review and approve the facility policy and procedures for coordination and conduct of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations.

(5) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.

(6) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

DISCIPLINE

115.76 Disciplinary sanctions for staff.

(1) Staff shall be subject to disciplinary or adverse action up to and including removal from their position and the Federal service for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies.

(2) The agency shall review and approve facility policies and procedures regarding disciplinary or adverse actions for staff and shall ensure that the facility policy and procedures specify disciplinary or adverse actions for staff, up to and including removal from their position and from the Federal service for staff, when there is a substantiated allegation of sexual abuse, or when there has been a violation of agency sexual abuse rules, policies, or standards. Removal from their position and from the Federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse, as defined under the definition of sexual abuse of a detainee by a staff member, contractor, or volunteer, paragraphs (a) - (d) and (g) - (h) of the definition of "sexual abuse of a detainee by a staff member, contractor, or volunteer" in § 115.6.

(3) Each facility shall report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to appropriate law enforcement agencies, unless the activity was clearly not criminal.

(4) Each facility shall make reasonable efforts to report removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to any relevant licensing bodies, to the extent known.

115.77 Corrective action for contractors and volunteers.

(1) Any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees. Each facility shall make reasonable efforts to report to any relevant licensing

body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall also be reported to law enforcement agencies, unless the activity was clearly not criminal.

(2) Contractors and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation.

(3) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse, but have violated other provisions within these standards.

115.78 Disciplinary sanctions for detainees.

(1) Each facility shall subject a detainee to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse.

(2) At all steps in the disciplinary process provided in paragraph (1), any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future.

(3) Each facility holding detainees in custody shall have a detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedure.

(4) The disciplinary process shall consider whether a detainee's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

(5) The facility shall not discipline a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact.

(6) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

MEDICAL AND MENTAL CARE

115.81 Medical and mental health assessments; history of sexual abuse.

(1) If the assessment pursuant to § 115.41 indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate.

(2) When a referral for medical follow-up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment.

(3) When a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral.

115.82 Access to emergency medical and mental health services.

(1) Detainee victims of sexual abuse shall have timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care.

(2) Emergency medical treatment services provided to the victim shall be without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

115.83 Ongoing medical and mental health care for sexual abuse victims and abusers.

(1) Each facility shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while in immigration detention.
(2) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
(3) The facility shall provide such victims with medical and mental health services consistent with the community level of care.
(4) Detainee victims of sexually abusive vaginal penetration by a male abuser while incarcerated shall be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful pregnancy-related medical services and timely access to all lawful pregnancy-related medical services.
(5) Detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate.
(6) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
(7) The facility shall attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

DATA COLLECTION AND REVIEW

115.86 Sexual abuse incident reviews.

(1) Each facility shall conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation was not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the Field Office Director, for transmission to the ICE PSA Coordinator.
(2) The review team shall consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
(3) Each facility shall conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator and Field Office Director or his or her designee, who shall transmit it to the ICE PSA Coordinator.

115.87 Data collection.

(1) Each facility shall maintain in a secure area all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary, and/or counseling in accordance with these standards and applicable agency policies, and in accordance with established schedules.

(2) On an ongoing basis, the PSA Coordinator shall work with relevant facility PSA Compliance Managers and DHS entities to share data regarding effective agency response methods to sexual abuse.

AUDITS AND COMPLIANCE

115.93 Audits of standards.

(1) The agency may require an expedited audit if the agency has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The agency may also include referrals to resources that may assist the facility with PREA-related issues.

ADDITIONAL PROVISIONS IN AGENCY POLICIES

115.95 Additional provisions in agency policies.

(1) The regulations in this subpart A establish minimum requirements for agencies and facilities. Agency and facility policies may include additional requirements.

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT	1. CONTRACT ID CODE	PAGE OF PAGES
		1 2

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
P00005	01/01/2019		

6. ISSUED BY	CODE	7. ADMINISTERED BY (If other than Item 6)	CODE
ICE/Detention Compliance & Removals Immigration and Customs Enforcement Office of Acquisition Management 801 I Street, NW Suite 930 WASHINGTON DC 20536	ICE/DCR	ICE/Detention Compliance & Removals Immigration and Customs Enforcement Office of Acquisition Management 801 I Street NW, suite 930 Washington DC 20536	ICE/DCR

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)	(x)	9A. AMENDMENT OF SOLICITATION NO.
HOWARD COUNTY OF MARYLAND INC 3430 COURT HOUSE DRIVE 3RD FLOOR ELLICOTT CITY MD 210434300		9B. DATED (SEE ITEM 11)
	X	10A. MODIFICATION OF CONTRACT/ORDER NO. ACB-5-I-0002/
		10B. DATED (SEE ITEM 13) 06/03/2013

CODE 1025471270000	FACILITY CODE

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended. ☐ is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)
See Schedule

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	
	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
X	D. OTHER (Specify type of modification and authority) Bilateral- Price adjustment

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

DUNS Number: 102547127
CONTACT INFORMATION
Program Office (COR): Dionne Jones-Jerry,
dionne.k.jones-jerry@ice.dhs.gov

Contracting Officer:
Sean Frey
Sean.Frey@ice.dhs.gov

Contract Specialist:
Pamela Odhiambo
Continued ...

Except as provided herein, all terms and conditions of the document referenced in Item 9 A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)
JACK KAVANAGH, DIRECTOR	SEAN FREY

15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)	12/6/18	(Signature of Contracting Officer)	Digitally signed by SEAN B FREY Date: 2018.12.10 10:24:38 -05'00'

NSN 7540-01-152-8070
Previous edition unusable

STANDARD FORM 30 (REV. 10-83)
Prescribed by GSA
FAR (48 CFR) 53.243

CONTINUATION SHEET	REFERENCE NO. OF DOCUMENT BEING CONTINUED ACB-5-I-0002//P00005	PAGE 2 OF 2

NAME OF OFFEROR OR CONTRACTOR
HOWARD COUNTY OF MARYLAND INC

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Pamela.Odhiambo@ice.dhs.gov The purpose of this modification is to incorporate new bed day rate in accordance with the vendor's Request for price adjustment initially submitted on May 16,2018. The bed day rate for ICE detainees at the Howard County Department of Corrections is increasing: From:$90.00 By: $20.00 To: $110.00 This rate becomes effective on 01/01/2019. Exempt Action: Y Sensitive Award: SPII Discount Terms: Net 30 All other terms and conditions remain unchanged and in full force and effect.				

TAB 2

HOWARD COUNTY DEPARTMENT OF POLICE

GENERAL ORDER OPS-10
FOREIGN NATIONALS

EFFECTIVE MAY 12, 2017

This General Order contains the following numbered sections:

I. POLICY

It is the policy of the Howard County Police Department (HCPD) to treat all individuals with respect, compassion, and courtesy, regardless of citizenship or immigration status.

II. GENERAL PRINCIPLES

A. HCPD officers have no statutory authority to enforce civil violations of federal immigration laws. Criminal investigations or enforcement shall never be initiated based solely upon an individual's citizenship or immigration status.

B. Officers shall not ask about immigration status except in rare circumstances such as the investigation of suspected criminal activity including, but not limited to, human trafficking, terrorist activity, and gang violence.

C. Officers may offer foreign nationals referral to services, including, but not limited to, T or U visa information, language services, appropriate community organizations, assisting with consular contacts, etc.

D. HCPD officers may be assigned to federal task forces and are permitted to assist with investigations when the primary focus of the task force or investigation does not involve the enforcement of federal civil immigration violations. Task forces may include, but are not limited to, human trafficking, terrorist acts, narcotics, child pornography, money laundering, hate crimes, etc.

E. HCPD officers may respond to requests for assistance or remain on the scene of any federal warrant service or investigation to assist with officer or public safety or scene security.

F. HCPD officers shall not confiscate Permanent Resident Cards/Documents (aka "green cards"), Employment Authorization Cards, or any other residency status, citizenship, or immigration documents unless the officer has reason to believe the documents are altered or counterfeit with fraudulent intent, indicative of a violation of applicable statutes involving the possession of fraudulent government identification documents (CR 8-303 of the Maryland Annotated Code).

III. DEFINITIONS

A. Civil Immigration Order/Detainer/Warrant

An administrative order or warrant issued by an immigration official for suspected civil violations of the immigration law, i.e. visa violations, illegal entry, or unauthorized arrival, and those subject to deportation and removal.

HCPD officers do not have the legal authority to enforce civil violations of immigration law.

B. Criminal Warrant

A judicial order signed by a judge or magistrate that authorizes a law enforcement officer to take a person into custody.

C. Deported Felon

An individual who has been officially deported after conviction of an aggravated felony as defined in 8 USC 1101(a)(43).

D. Diplomat

An official appointed by a national government to represent that country abroad.

E. Diplomatic Immunity

A principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and other authorities for both their official and, to a large extent, their personal activities. ("Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities," U.S. Department of State Office of Foreign Missions, June 2015)

F. Foreign National

A person who is not a citizen of the country in which they are living.

G. Immigration and Customs Enforcement (ICE)

The federal agency charged with enforcing federal laws governing border control, trade, and immigration to promote homeland security and public safety. ICE consists of three directorates: Homeland Security Investigations (HSI); Enforcement and Removal Operations (ERO); and Management and Administration (M&A).

H. Immigration Violator File (IVF)

1. A file within the National Crime Information Center (NCIC) that contains records on deported felons, aliens with outstanding administrative warrants of removal, and absconders.

    a. The Deported Felon category contains records for previously deported felons convicted and deported for drug trafficking, firearms trafficking, or other aggravated felonies as defined in 8 USC 1101(a)(43) (criminal violation – enforceable by HCPD).

    b. The Absconder category contains records for individuals with outstanding administrative warrants of removal from the United States who have unlawfully remained (civil immigration violations – not enforceable by HCPD).

2. An Immigration Violator File response includes guidance to the local law enforcement agency on handling the response.

I. T Visa / U Visa

Types of nonimmigrant visas issued to victims of certain crimes and their immediate family members who have qualified under federal law and are willing to assist law enforcement and government officials in the investigation and/or prosecution of the criminal activity.

J. Vienna Convention on Consular Relations of 1963

An international treaty that defines the framework for consular relations between independent states. Article 36 of the Convention states that foreign nationals who are arrested or detained must be given notice without delay of their right to have their embassy or consulate notified of that arrest.

1. Mandatory notification countries: Notification must be made to the consular offices of these countries when a national of the country is arrested or detained. Notification must be made regardless of the individual's request to do so or not.

2. Non-mandatory notification countries: Any country not on the list of mandatory notification countries. Nationals of these countries may request notification be made to their consular officers.

IV. FOREIGN NATIONAL VICTIMS AND WITNESSES

A. All victims and witnesses shall be afforded the rights and services outlined in General Order OPS-24, Victim Assistance, regardless of citizenship or immigration status.

B. Individuals will be provided with the Howard County Police Department Guide for Victims and Witnesses.

C. The HCPD is committed to assisting qualifying applicants in the completion of the T or U visa application process. Detailed information on the T or U visa process and required federal forms are available from the U.S. Department of Citizenship and Immigration Service at www.uscis.gov. Any request to prepare federal form I-918 or I-914, as applicable, shall be forwarded to the Records Section for processing.

V. NCIC RESPONSES

If during an officer's routine computer check one of the following alerts is received through METERS/NCIC, officers shall proceed as follows:

A. If an individual is wanted on an outstanding criminal arrest warrant, the officer shall confirm the warrant and proceed in accordance with General Oder OPS-04, Arrest Procedures.

B. If the officer is alerted to contact the Law Enforcement Support Center (LESC), he shall make contact to determine or confirm the nature of the alert.

C. Individuals shall not be detained any longer than is necessary to complete the initial contact or stop for which the officer has jurisdiction.

D. Officers are prohibited from detaining an individual based solely on an immigration civil detainer or administrative order or warrant.

E. If an individual is listed in the Immigration Violator File (IVF) as a deported felon and ICE confirms the status, the officer shall make a warrantless felony arrest pursuant to the authority of 8 U.S.C. 1252c and transport the individual to Central Booking for processing.

VI. ARREST PROCEDURES

A. When an individual is physically arrested, officers will follow the procedures and protocols outlined in OPS-04, Arrest Procedures.

B. After transport of the arrestee to the Central Booking Facility, the officer shall complete an arrest report. If ICE has confirmed the arrestee as a deported felon, the officer shall complete a Detainee Alert Form (HCPD Form 1251).

C. Citizens of countries other than the United States who are under arrest may have certain protections afforded to them via international treaties, in particular the Vienna Convention. HCPD officers shall:

1. Attempt to determine the individual's country of citizenship. In the absence of other information, assume this is the country displayed on the passport or other identification presented. This information will be placed on the arrest sheet.

2. When an arrestee is transported to the Detention Center, consular notification, when required or requested, will be made by the Detention Center. Officers shall ensure the Detention Center is aware of the arrestee's country of citizenship, if known.

3. If the arrestee is released via discretionary release or RWOP, the officer or his supervisor shall make the consular notification, when required or requested, before the end of the shift.

a. Consistent with U.S. Department of State guidelines (Appendix A):[1]

i. If the individual's country is on the list for mandatory notification available on the Department of State's Bureau of Consular Affairs website, officers shall (https://travel.state.gov/content/travel/en/consularnotification.html):

a) Notify the country's nearest embassy or consulate of the arrest or detention.

b) Advise the individual that notification is being made and they may communicate with the consulate.

c) Forward any communication from the individual to the consulate without delay.

ii. If the individual's country is NOT on the list for mandatory notification, officers shall:

a) Inform the individual that they may have their consulate notified and may communicate with them.

b) If the individual requests that the consulate be notified, notify the country's nearest embassy or consulate without delay.

[1] CALEA 1.1.4

c) Forward any communication from the individual to the consulate without delay.

4. All contacts and actions shall be documented in the incident report.

VII. CONTACTS INVOLVING DIPLOMATS

A. Foreign diplomats may be entitled to immunity from arrest and prosecution in the United States. There are limitations on what law enforcement officers may do when encountering a diplomat. The categories of personnel entitled to immunity, including diplomats, their family members, and staff, and the privileges associated with the levels of immunity, may be found in the "*Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities*" handbook (U.S. Department of State, Office of Foreign Missions).

1. Diplomatic or consular officers may be detained for a reasonable amount of time to verify diplomatic status. To verify the status of a diplomat, contact the Office of Foreign Missions at 202-895-3500 or the Bureau of Diplomatic Security at 202-895-3600.

2. All serious infractions involving persons with diplomatic status will be documented in an Incident Report. A copy of the report will be forwarded to the United States Department of State through the Chief of Police.

3. If an individual is entitled to diplomatic immunity they may not be handcuffed except when they pose an immediate threat to themselves or others.

4. The property of a person covered by full immunity, including a vehicle, may not be searched or seized. Vehicles may not be impounded but may be towed the distance necessary to remove them from obstructing traffic or endangering public safety.

a. If a diplomat's vehicle is suspected of being stolen or used in the commission of a crime, the occupants may be required to present vehicle documentation to permit police verification of the vehicle's status through a computer check.

b. If the vehicle is verified to have been stolen or to have been used by unauthorized persons in the commission of a crime, it may be searched.

B. Traffic Stops Involving Diplomats[2]

1. When a driver is stopped for a moving traffic violation and has proper and valid identification indicating their diplomatic status, the officer may issue the appropriate traffic citation or warning as issuance of a citation does not constitute an arrest or detention.

2. A diplomat does not have to sign a citation requiring signature and cannot be arrested for refusal to sign or accept the citation. A copy of the citation and any other documentation should be forwarded to the U.S. Department of State through the Chief of Police as soon as possible.

3. In the event of suspected DWI or DUI, a field sobriety test should be offered and documented; however, the taking of the test may not be compelled.

a. The individual shall not be permitted to continue to drive.

[2] CALEA 61.1.3d

b. The officer may, with the individual's permission, take them to the police station or another location where they may recover sufficiently to drive; may contact or allow the individual to contact another person to drive; or may contact or allow the individual to contact a taxi or car service to provide transportation.

VIII. REPORTING REQUIREMENTS

When completing any written report, officers shall document all contacts with ICE, the U.S. Department of State, and foreign consular officials.

AUTHORITY:

Gary L. Gardner
Chief of Police

OPS-10
Foreign Nationals
Appendix A[1]

Statements Regarding the Right to Consular Notification

The following statements to be provided upon the arrest or detention of a foreign national are from the U.S. Department of State's "Consular Notification and Access Reference Card". Additional information can be found in the "Consular Notification and Access" handbook published by the Department of State.

Officers may obtain assistance and advice from the U.S. Department of State's 24-hour Operations Center at 202-647-1512.

Statement for foreign nationals from mandatory notification countries:

Because of your nationality, we are required to notify your country's consular offices here in the United States that you have been arrested or detained. We will do this as soon as possible. In addition, you may communicate with your consular officers. You are not required to accept their assistance, but your consular officers may be able to help you obtain legal representation and may contact your family and visit you in detention, among other things.

Statement for foreign nationals from countries that are not mandatory notification:

As a non-US citizen who is being arrested or detained, you may request that we notify your country's consular officers here in the United States of your situation. You may also communicate with your consular officers. A consular officer may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. If you want us to notify your consular officers, you can request this notification now or at any time in the future.

[1] CALEA 1.1.4

TAB 3

HOWARD COUNTY DEPARTMENT OF CORRECTIONS
POLICY & PROCEDURE

	SUBJECT:	Admission and Release Procedures
	P & P #:	C-205
	TITLE:	U.S. Immigration and Customs Enforcement
	EFFECTIVE DATE:	June 3, 2019
	REVIEWED BY:	Andre McInnis, Classification Supervisor
	REVIEWED BY:	Andrea King-Wessels, Deputy Director
	AUTHORITY:	Jack Kavanagh, Director

POLICY: This agency has entered into a contract agreement with the U.S. Immigration and Customs Enforcement (ICE) to provide temporary housing for persons legally detained by that federal agency. It is the policy of the Howard County Department of Corrections to only accept detainees from ICE who are **criminally involved.** This includes: 1. Those convicted of crimes, 2. Those charged with jailable offenses, 3. Those who are members of criminal gangs, and 4. Those who are deported criminal felons who have illegally reentered the U.S. It is the responsibility of the Howard County Department of Corrections staff to provide these detainees a decent, humane living environment while administering the necessary custody and security requirements. All staff are expected to be firm, fair and consistent in their treatment of detainees under the jurisdiction of "ICE" authorities. The ICE detainees shall receive orientation and the ICE Detainee Handbook and be guided by such.

REFERENCE: Intergovernmental Service Agreement for Housing Federal Detainees. Performance Based National Detention Standards 2011 (PBNDS2011) Sections 2.1 V., 2.5 V. E. 3 and B.5.

DEFINITIONS:

ICE – U.S. Immigration and Customs Enforcement.

PROCEDURES:

I. Agency Cooperation

A. An office has been provided for use by ICE staff. The office contains necessary equipment for ICE staff to conduct business. Certain equipment is the property of ICE. The office facility remains the property of Howard County and may be used at times, by HCDC staff.

B. Staff of HCDC and ICE are expected to cooperate and/or assist each other as needed and to maintain a productive, harmonious relationship at all times.

C. Problems, discrepancies and/or other issues of concern are to be reported to the Security Chief, Deputy Director or Director immediately.

II. Medical Requirements

A. ICE Detainees received from another facility must be accompanied by medical records, to include testing for tuberculosis.

1. A detainee with records that indicate a "positive" TB skin test must be accompanied by documentation of a negative chest x-ray or other documentation to verify that the detainee is not infectious.

2. A detainee with records that indicate he/she is infectious will only be accepted by this agency with the approval of the Director/designee.

B. ICE detainees received that are not from another facility, and/or detainees that are from another facility but have not received a TB skin test within the previous year, shall be seen by HCDC medical staff at the time of intake and shall receive a TB skin test. The detainee may be placed in the ICE unit unless other circumstances dictate an alternate placement.

C. If it is determined by HCDC medical staff that a detainee is, or may be, positive and infectious at the time of intake, the detainee shall be immediately returned to ICE and removed from this facility.

D. An ICE detainee who receives a positive reading on his/her skin test shall be scheduled for x-rays and/or other treatment as indicated by medical staff.

E. Confidential medical information, to include tuberculosis testing results, shall accompany the detainee in a sealed envelope at the time of departure from this facility.

III. Receiving ICE Detainees

A. Upon delivery of ICE detainee(s), the responsibilities of the ICE staff are as follows:

1. United States Department of Justice Form I-203 attached as Appendix 1, Order to Detain or Release Alien", must be completed and delivered with the detainee(s).

a. This form MUST be signed by the ICE officer authorizing the action.

b. The HCDC intake officer receiving the detainee(s) shall sign the form.

c. The HCDC intake officer shall ensure the form is complete, and includes date, time, and a notation as to the ICE classification level.

2. HCDC intake staff must be provided with medical records, including tuberculosis testing results in a sealed envelope, on detainees that have been delivered from another facility.

3. If available, ICE shall provide one (1) photograph of each ICE detainee with his/her name printed on same.

4. The ICE officer shall remove all detainee property that is not acceptable by HCDC Policy.

B. Upon delivery of ICE detainees, the responsibilities of the HCDC Intake officer are as follows:

1. ALL ICE detainees MUST be frisk searched PRIOR to the ICE officer exiting the facility. The detainee shall be instructed to empty his/her pockets and remove all hats, outer garments (coats, sweaters, jackets, etc.), jewelry, watches and/or other extraneous articles.

2. Any contraband located shall be surrendered to the ICE officer.

3. The intake officer shall complete ALL forms in accordance with HCDC Policy C-200 Intake.

4. The detainee shall be issued institutional clothing. All clothing/shoes issued must be accounted for on the Admission Record HCDC Form C-200e.

5. ALL ICE detainees shall be assigned an HCDC "ID" number.

6. An ID wristband shall be produced and placed on the detainee. The Commitment Officer shall note on the wristband, ICE Level High or Low.

7. ALL ICE detainees shall be entered into the HCDC data base and money computer programs.

8. ALL ICE detainee folders shall have an "I" placed on the folder, under the "year" tag.

9. ALL ICE detainees shall be entered on the U.S. Immigration and Customs Enforcement Daily Intake Receiving/Discharge Record HCDC Form C-205a attached as Appendix 2.

   a. This form shall be completed daily, when detainees are received/released.

   b. This form shall be kept in the ICE box in the commitment office.

   c. The 12 to 8 shift shall ensure that a copy of this form is forwarded to the Audit Coordinator daily and the Records Department for billing purposes, when applicable.

10. All ICE detainees shall be interviewed by the Intake Officer using the ICE Intake Questionnaire, HCDC Form C-205b, attached as Appendix 3. The Intake Officer shall assign ICE detainees to the receiving unit until classified.

11. Classification Staff/designee shall determine a lower or higher-level housing unit for ICE detainees according to their classification by ICE staff. High Level ICE detainees shall be classified to West 6 and West 5 housing units, low level detainees shall initially be housed as designated by the Director. If there is an issue which requires the Shift Leader's immediate attention, and the detainee cannot be classified to the ICE unit, the classification staff/designee shall request the Shift Leader's review and signature on the Form C-205b. Housing for High level detainees may be changed at the discretion of the Director.

12. At the time of intake HCDC medical staff shall interview the detainee and/or review his/her medical records so that any appropriate medical action may be initiated.

IV. ICE Classification Levels

Currently, ICE detainees who do not have special needs are housed in a designated general population housing unit. Those who have short-term special needs or are security risks may be housed on administrative segregation. Placement on administrative segregation requires follow-up-review by classification staff to determine if continued placement is warranted and completion of form D-306a Placement on Administrative Segregation. The Form C-205b or an Incident Report shall be forwarded to the Classification department. High Level ICE detainees in general population are classified to maximum security status only.

There are two (2) levels of classification for ICE detainees. The ICE classification criteria that ICE uses are presented below. HCDC houses two (2) Levels – High and Low and are designated as such by ICE. An ICE detainee may appeal his/her classification decision by sending a written request to the ICE liaison officer. This can be done by kiosk or in writing.

1. **Low Level**

   a. May not be housed with High Level.
   b. May not include any detainee with a felony conviction that included an act of physical violence.
   c. May not include any detainee with an aggravated felony conviction.
   d. May include detainees with minor criminal records and nonviolent felonies.

2. **High Level**

   a. May include those detainees reclassified from Level Low due to institutional incidents or changes in classification information.

   b. High Level detainees are considered a high-risk category requiring medium to maximum security housing. High Level detainees are always monitored and escorted.

V. Housing, Searches and Security of ICE Detainees

A. Housing

High Level ICE detainees initially shall be housed in a receiving unit the first night they are received. They will view the Orientation Video their first morning. Once they have viewed the Orientation Video, they will be seen by a classification officer who will complete the ICE Intake Questionnaire. The ICE detainee will then be moved to the designated ICE unit.

1. Male ICE detainees shall be housed in a unit designated specifically for this purpose. Low Level detainees shall be housed in a unit designated by the Director. This unit is to be separate from High Level detainees. Generally, High Level detainees are housed in West 6 and West 5. However, the Director may designate other units. Intake process to include orientation is to occur for Low Level detainees as well.

2. Female ICE detainees shall be housed in an appropriate unit as designated by HCDC Administration on an as-needed basis.

B. Searches – All ICE detainees are subjected to strip search in accordance with the Department's search policy E-402.

C. Security rounds in ALL units designated for housing ICE detainees shall be made at one (1) hour intervals.

D. Should an ICE detainee be placed in Administrative Segregation, the detainee shall receive a copy of the Placement on Administrative Segregation HCDC Form D-306a pending classification review.

VI. ICE Detainee Property During Admission

A. Money in the possession of an ICE detainee, at the time of intake, shall be handled the same as other inmates, in accordance with HCDC Policy C-200 Intake.

B. ICE detainees are allowed the same clothing property as other inmates in accordance with HCDC Policy H-704 Allowable Inmate/Detainee Property. The exception to this is Court clothes. ICE detainees do not receive Court clothes.

C. The detainee may retain allowable property his/her possession, or surrender them at intake for safekeeping.

D. All property shall be itemized and listed on the detainee's Admission Record HCDC Form C-200e, indicating whether the item was retained by the detainee or surrendered for safekeeping.

E. ICE Form I-387 (02/10) shall be completed in cases where ICE detainees report missing property attached as Appendix 4.

F. All identification documents for ICE detainees shall be turned over to ICE agents. Documents received in the mail shall be secured in the Audit Office and given to ICE agents on their next visit to the facility.

NOTE: The ICE detainee is to be advised that HCDC accepts no responsibility for items retained in his/her possession unless the loss/damage is caused by negligence and/or willful misconduct of authorized HCDC staff.

VII. Notice of Infraction

A. When the Department of Corrections personnel have sufficient reason to believe that an ICE detainee has committed a violation of rules, the Reporting Officer shall, within 24 hours of knowledge of a suspected agency violation, complete a Notice of Infraction and Action, HCDC Form H-713. The knowledge of an alleged violation may occur upon review of video recordings, telephone recordings or other investigations (refer to Policy H-713).

B. The Audit office shall ensure a copy of the Notice of Infraction and Action is provided to the assigned ICE officer.

VIII. Wellness Rounds

ICE detainees who are placed on Administrative or Disciplinary segregation shall receive weekly reviews conducted by the Interdisciplinary Team. The detainee shall receive notification of the review via kiosk.

IX. ICE Detainee Visits

A. General Visits: Each detainee shall be permitted two (2) visits per week, unless authorized restrictions have been enforced as authorized by the Security Chief or higher, with Sunday being the first day of the week and Saturday being the last day. Legal/Professional visits are not counted in the permitted visits. (For more information see Policy H-708 Inmate/Detainee Visiting, Section IV.

B. Inmates/detainees receiving personal visits are not permitted to have writing materials unless authorized by a Shift Leader or higher authority.

C. Visiting Schedule:

1. Hendricks Hall and H-1: 6:00 p.m. – 9:00 p.m., on Tuesday, Thursday and Saturday only, Sunday visits shall occur from 9:00 a.m. - 11:00 a.m. 1:00 p.m. and 3:00 p.m. with general population.

2. Holiday visits for ICE detainees are: Christmas, New Year and Easter from 6:00 to 9:00 p.m. regardless of the day the holiday falls on.

Note: The Director/designee may authorize ICE visiting at other times on a case by-case basis, when warranted by circumstances.

D. Legal Visits: Attorneys shall be permitted unlimited visits during the hours of 9:00 a.m. through 9:00 p.m.

E. Video Visitation – See Policy H-708, Section V.

F. Visitor Registration and Appropriate Attire – See Policy H-708, Section VI.

X. Physical Recreation – See Policies H-706 Inmate/Detainee Recreation, D-304 Inmate/Detainee Disciplinary Segregation, and D-306 Inmate/Detainee Administrative Segregation and Medical Housing.

XI. Inmate/Detainee Marriage

The Howard County Department of Corrections does not permit marriages at the Detention Center. However, an ICE detainee may make a marriage request which should include a signed statement or comparable documentation from the intended spouse confirming marital intent. This request shall be forwarded to the Director, who shall forward the request to ICE officials for handling. Any ICE approved marriages shall take place outside of this department.

XII. Allowable Inmate/Detainee Property: Refer to Policy H-704, ICE detainees are allowed the same property as other general population inmates. The exception to this is Court clothes. ICE detainees do not receive Court clothes.

1. ICE detainees are permitted and upon request **only** to receive a USB flash drive to maintain for the storage of law/legal materials.
2. The USB flash drive is considered the property of the Howard County Department of Corrections.
3. The ICE detainee shall sign HCDC Form H-704e Issuance and Return of USB Flash Drive acknowledging rules, regulations and receipt of the USB flash drive. This form shall be placed in the detainee basefile.
4. The Compliance Office shall maintain a log book of issuance on USB flash drives for PBNDS compliance.
5. At the time of release, an ICE detainee shall surrender the USB flash drive to the officer processing the release as part of allowable property. The officer shall have the ICE detainee sign the agreement from his/her basefile acknowledging the agreement.

XIII. ICE Detainee Transfers

A. Times and transfer plans are never discussed with the detainee prior to transfer;

B The detainee is not notified of the transfer until immediately prior to departing the facility; and

C. The detainee is not permitted to make any phone calls or have contact with any detainee in the general population for security reasons.

XIV. Authorization, Verification and Release of ICE Detainees Unless Otherwise Authorized in Writing by ICE Staff (referenced in policy C-203).

A. Detainees under the jurisdiction of U.S. Immigration and Customs Enforcement (ICE) may be released from our facility without involvement of ICE staff. ICE Staff will no

longer be required to be on-site for the release to occur. Once the CCO receives the appropriate ICE legal release documents, the detainee will be processed for release. ICE staff shall ensure proper transportation arrangements are in place prior to authorizing the legal release documents.

1. Notification of release from ICE Official;
2. Receipt of an Order to Detain or Release, Form I-203;
3. Documentation of release being concluded or bond out; and
4. Documentation of self release or pick-up.
5. Provide an ICE Official with a courtesy phone call or email of the release.
6. Allow detainee to make appropriate phone call(s) for transportation.
7. Ask detainee if photo identification is needed.

Note: Howard County Department of Corrections will verify the detainee has transportation and will be responsible for assisting with transportation if needed.

B. Upon release, and only after correct identification has been established by fingerprinting, the ID wristband shall be removed from the detainee. The wristband shall be shredded and disposed.

C. Detainees shall be released with one (1) set of non-institutional, weather appropriate clothing.

D. Confidential medical records on each detainee shall be provided to ICE transportation staff at the time the detainee is released from this facility.

E. Detainees may request his/her medical records upon release from this facility.

XV. Directors Prerogative

The Director has the authority to revise/change a policy or post order as needed to meet the operational demands of the Department. As the changes are initiated, they may be communicated by an email, memoranda or in rare circumstances verbal due to unforeseen situations.

ATTACHMENTS: Appendix 1, Order to Detain or Release Alien I-203.
Appendix 2, U.S. Immigration and Customs Enforcement Daily Intake Receiving/Discharge Record, HCDC Form C-205a.
Appendix 3, ICE Intake Questionnaire, HCDC Form C-205b.
Appendix 4, Report of Detainee Missing Property, ICE Form I-387(02/10).

RESCISSIONS: HCDC Policy C-205 Immigration and Customs Enforcement Detainees effective July 19, 2018.

*U.S. GPO: 2005-315-849/90123

U.S. Department of Homeland Security	**I-203, Order to Detain or Release Alien**			
TO: (NAME and TITLE of Person in Charge of Facility)				
(Name of Facility)				
Please Detain Release			Date	Time
Name of Alien			File Number	
Age	Date of Birth (mm/dd/yyyy)	Gender	Citizenship/Nationality	Foreign Address
Nature of Proceedings			Signature of Officer Receiving Alien	
Remarks:				
Signature of Officer Authorizing Action		Title	Office	
				Form I-203 (Rev. 01/31/05)N

Howard County Department of Corrections

Immigration and Customs Enforcement Detainees Daily INTAKE receiving / discharge record

Date:

ICE Detainees Name Print: Last, First, MI	HCDC ID#	ICE ID #	Time Received	Time Released	ICE Officer Print: Last Name and Initial	Intake Officer

Distribute copies to: *Compliance Office* *Intake* *Records Department for ICE Billing*

HCDC Form C-205a (updated 5/31/19)

Howard County Department of Corrections
U.S. Immigration and Customs Enforcement (ICE)
Intake Questionnaire

Date: _____

1. Is this your first (1st) time in jail or prison? Yes __ No __
   If no, indicate where incarcerated and when if known. _____
   _____

2. Have you ever been assaulted or victimized (to include sexually assaulted) by other inmates? Yes __ No __
   If yes, indicate where and when if known. _____
   _____

3. Have you ever sexually assaulted anyone? Yes __ No __

4. Do you have any gang affiliations or enemies? Yes __ No __
   If yes, provide information regarding gang affiliation or enemies. _____
   _____

5. While housed here do you want to volunteer to work on special details or to help with sanitation in your housing unit? Yes __ No __
   Do you have any special skills you would like to use, like painting or carpentry, etc.?
   _____

6. Are there any issues requiring immediate referral to Shift Leader?
   _____
   _____
   _____

7. ICE Classification Level:

   Level Low House in designated unit and mark wristband.
   Level High House in West 6.
   Level _____ Special Housing in _____unit.

Detainee's Name: _____ ID Number: _____ Housing Unit: ____
(Print)

Signature: _____
Intake Officer

Signature: _____
Shift Leader (if assigned to a non ICE Unit)

cc: Classification (if assigned to a non ICE Unit)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

REPORT OF DETAINEE MISSING PROPERTY

1. A-Number		
2. Name of Alien		3. Date
4. Date of Birth	5. Place of Birth	6. Nationality
7. Date of Detention	8. Date and Place of Arrest	
9. Reporting Officer and Office		10. Date and Time Property Reported Missing
11. Description of Missing Property		
12. Supervisor Receiving Report		13. Estimated Value of Property
14. Action Taken ☐ Property Located ☐ Property Not Located & Reported to FOD on _____ (Date)		
15. Date Alien Release or Transferred _____	16. Date Alien Deported or Voluntarily Departed _____	
17. Forwarding Address of Alien		
18. Remarks		
19. Closing Action		
20. Signature		

ICE Form I-387 (02/10)

TAB 4

Kavanagh, Jack

From: Tierney, Adam P <Adam.P.Tierney@ice.dhs.gov>
Sent: Monday, August 26, 2019 11:55 AM
To: Flurry, Elhart; Kavanagh, Jack
Cc: King-Wessels, Andrea; Somerville, Renea; Wilson, Kim; Hayhurst, Shawn; Delaney, Phyllis; Barnes, Michael; Munford, Melanie; Morant, Darnell; Young, Perry; McInnis, Andre SR; Brabham, Felecia; Asempa, Prince; Dale, Raymond; Deadwyler, Lajuan; Ennals, Jeffrey; Fortson, Kevin; Georgie, Trina; Greene, Agnes; Harrod, Phillip; Jenkins, Elizabeth; Martin, Louise; Mayo, Tangela; Momo, Johnson; Murphy, James; Perkins, Howard; Powell, Cordell; Roy, Willard; Skoglund, David; Willis, Jack; Wilson, Richard; Blair, Clem; Liggins, Vernon
Subject: Bed Space Request 8/26

Good morning,

I am seeking beds for the below-referenced detainees. The yellow highlighted one came into our custody from Western Correctional Institution with prescribed medication for high blood pressure and arthritis. The blue highlighted one came into our custody from Baltimore County Detention Center without medications but suffers from hypothyroidism. According to his medical summary, he takes a 125 MCG tablet of Levothyroxine once daily in the morning.

096 045 521	SARMIENTO-Izaguirre	Jose	3/19/1982	37	Honduras	M	Assault 2nd Pending	No Medical Issue
201 991 483	CLAROS-Alvarenga	Melvin	5/27/1986	33	El Salvador	M	Sex Offense 3rd Conviction	No Medical Issue
200 233 559	PEDRAZA	Ramone	5/15/1978	41	Mexico	M	Sex Abuse Minor Conviction	High Blood Pressur Arthritis – Meds from

Also, just verifying that the two overnighters from Friday are still good to be returned to the facility today for permanent housing.

215 928 618	GARCIA- Briones	Fernando	6/27/1991	28	Mexico	M	Cocaine Distribution Conviction	No Medical Issues
201 991 357	ORELLANA Portillo	David	2/20/1997	22	El Salvador	M	Sex Offense 3rd Conviction	No Medical Issues

If there are any questions or concerns, please let me know. Thanks in advance!

Thanks,
Adam Tierney
SDDO
USDHS/ICE/ERO
Office – 410-637-4025
Cell – 443-677-9088
Fax – 410-637-4003

Kavanagh, Jack

From: Salcedo, Mark-Jonathan M <Mark-Jonathan.M.Salcedo@ice.dhs.gov>
Sent: Friday, August 23, 2019 2:21 PM
To: Flurry, Elhart; Kavanagh, Jack
Cc: Liggins, Vernon; Tierney, Adam P
Subject: RE: Bed Request - 08/23/2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

A215 928 618; GARCIA-BRIONES, Fernando: Pending charges for Felony Cocaine – Sell

A201 991 357; ORELLANA Portillo, David: Pending charges of Sex Abuse of Minor

From: Salcedo, Mark-Jonathan M
Sent: Friday, August 23, 2019 2:09 PM
To: eflurry@howardcountymd.gov; jkavanagh@howardcountymd.gov
Cc: Liggins, Vernon <Vernon.Liggins@ice.dhs.gov>; Tierney, Adam P <Adam.P.Tierney@ice.dhs.gov>
Subject: Bed Request - 08/23/2019

Good afternoon,

I am seeking a bed for the below-referenced detainees. There are no known medical issues and no known gang affiliation. If there are any questions or concerns, please let me know. Thanks in advance!

215 928 618	GARCIA- Briones	Fernando	6/27/1991	28	MEXICO	M
201 991 357	ORELLANA Portillo	David	2/20/1997	22	EL SALVADOR	M

Respectfully,
Mark-Jonathan M. Salcedo
Deportation Officer
U.S. Immigration and Customs Enforcement
Enforcement and Removal Operations
Baltimore Field Office

Somerville, Renea

From: Kavanagh, Jack
Sent: Thursday, August 22, 2019 3:32 PM
To: Brown, Kevin J; Flurry, Elhart
Cc: King-Wessels, Andrea; Somerville, Renea; Wilson, Kim; Hayhurst, Shawn; Delaney, Phyllis; Barnes, Michael; Munford, Melanie; Morant, Darnell; Young, Perry; McInnis, Andre SR; Brabham, Felecia; Asempa, Prince; Dale, Raymond; Deadwyler, Lajuan; Ennals, Jeffrey; Fortson, Kevin; Georgie, Trina; Greene, Agnes; Harrod, Phillip; Hayhurst, Shawn; Jenkins, Elizabeth; Martin, Louise; Mayo, Tangela; Momo, Johnson; Murphy, James; Perkins, Howard; Powell, Cordell; Roy, Willard; Skoglund, David; Willis, Jack; Wilson, Kim; Wilson, Richard; cpofficer, cpofficer; Tierney, Adam P; Liggins, Vernon
Subject: RE: transfer request 8/27 and 8/28

Approved

From: Brown, Kevin J [mailto:Kevin.J.Brown@ice.dhs.gov]
Sent: Thursday, August 22, 2019 3:28 PM
To: Flurry, Elhart <eflurry@howardcountymd.gov>; Kavanagh, Jack <jkavanagh@howardcountymd.gov>
Cc: King-Wessels, Andrea <akingwessels@howardcountymd.gov>; Somerville, Renea <rsomerville@howardcountymd.gov>; Wilson, Kim <kiwilson@howardcountymd.gov>; Hayhurst, Shawn <shayhurst@howardcountymd.gov>; Delaney, Phyllis <pdelaney@howardcountymd.gov>; Barnes, Michael <mrbarnes@howardcountymd.gov>; Munford, Melanie <mmunford@howardcountymd.gov>; Morant, Darnell <dmorant@howardcountymd.gov>; Young, Perry <pyoung@howardcountymd.gov>; McInnis, Andre SR <amcinnis@howardcountymd.gov>; Brabham, Felecia <fbrabham@howardcountymd.gov>; Asempa, Prince <pasempa@howardcountymd.gov>; Dale, Raymond <rdale@howardcountymd.gov>; Deadwyler, Lajuan <ldeadwyler@howardcountymd.gov>; Ennals, Jeffrey <jennals@howardcountymd.gov>; Fortson, Kevin <kfortson@howardcountymd.gov>; Georgie, Trina <tgeorgie@howardcountymd.gov>; Greene, Agnes <agreene@howardcountymd.gov>; Harrod, Phillip <pharrod@howardcountymd.gov>; Hayhurst, Shawn <shayhurst@howardcountymd.gov>; Jenkins, Elizabeth <ejenkins@howardcountymd.gov>; Martin, Louise <lmartin@howardcountymd.gov>; Mayo, Tangela <tmayo@howardcountymd.gov>; Momo, Johnson <jmomo@howardcountymd.gov>; Murphy, James <jmurphy@howardcountymd.gov>; Perkins, Howard <hperkins@howardcountymd.gov>; Powell, Cordell <cpowell@howardcountymd.gov>; Roy, Willard <wroy@howardcountymd.gov>; Skoglund, David <dskoglund@howardcountymd.gov>; Willis, Jack <jwillis@howardcountymd.gov>; Wilson, Kim <kiwilson@howardcountymd.gov>; Wilson, Richard <rswilson@howardcountymd.gov>; cpofficer, cpofficer <cpofficer.cpofficer@ice.dhs.gov>; Tierney, Adam P <Adam.P.Tierney@ice.dhs.gov>; Liggins, Vernon <Vernon.Liggins@ice.dhs.gov>
Subject: transfer request 8/27 and 8/28

Good Afternoon,

In an effort to fill some of the low bed space that you have available, I would like to transfer the detainees below 3 on 8/27 and 4 on 8/28. Please let me know if you can accommodate.

205947691	VALENZUELA-ROMERO	JUAN	MEXIC	11/26/1982	36	M	DUI

201576899	DE JESUS HERNANDEZ	MANUEL	ELSAL	12/22/1967	51	M	DUI
200233479	HERNANDEZ-PEREZ	RAMON	MEXIC	09/09/1983	35	M	DUI
206184164	PEREZ-DOMINGO	RUDY	GUATE	11/05/1996	22	M	SOLICITATION
208248617	MORALES-SOTO	EVER	GUATE	03/17/1989	30	M	DUI
94218209	ANTONIO-MATEOS	MARTIN	MEXIC	05/10/1987	32	M	DUI
200233427	RODAS-RAMON	ARTURO	GUATE	08/25/1973	45	M	DUI

Please let me know if you can accommodate.

Thanks,

Kevin J. Brown Jr.
Assistant Field Office Director
U.S. Immigration and Customs Enforcement
Baltimore Field Office
Detained / Detention Operations
31 Hopkins Plaza, Suite 700
Baltimore, MD. 21201

Office: 410-637-3921
Cell: 443-463-0888
Fax: 410-637-4002

TAB 5

HOWARD COUNTY COALITION FOR IMMIGRANT JUSTICE

Ensuring Justice and Safety for Immigrants in Howard County

The Howard County Coalition for Immigrant Justice is a group of immigrants, concerned organizations, and individuals working to support and protect our foreign-born friends and neighbors in Howard County. We believe all residents of Howard County deserve respect, justice, safety, and opportunities to thrive and prosper.

Extensive research (1, 2) shows that immigration is good for our country's economy with immigrants creating new businesses and jobs, revitalizing rural communities, and paying millions of dollars in national, state, and local taxes. Immigrants—both documented and undocumented—are less likely to commit crimes and less likely to be incarcerated than US-born citizens (3, 4).

Why does Howard County have an Intergovernmental Service Agreement (IGSA) with the Immigration and Customs Enforcement agency (ICE)?

Since 1995, Howard County has held an IGSA with ICE to house detained immigrants in the Jessup jail until they are deported, transferred, or otherwise released. **The major reason for keeping the IGSA is money**. ICE pays the County $110 per day for each detainee. The County receives about $3.8 million per year from ICE which is used for the annual jail budget of $19.5 million.

Why should Howard County end the IGSA with ICE?

- The current immigration policies are heartless and unjust, routinely tearing families apart and deporting people who have lived and worked peacefully in the United States for decades. ICE is the enforcement arm of the policy. Since 2016, ICE's budget has increased from $6.1 to $7.6 billion and the number of detained immigrants has skyrocketed. In 2019, approximately 70,000 children were kept in detention, the most ever in history. ICE agents violate human rights and engage in racial profiling by targeting people of color for arrest and deportation. To date, state and local cooperation has been the key component of ICE's rapid detention expansion. As long as Howard County collaborates with ICE, we are complicit in a corrupt and racist system.
- While the Howard County Office of Corrections has labeled detainees in Jessup as a "threat to the community", they are holding people who have been charged but not convicted of a crime. The jail also detains people charged with minor traffic violations and not guilty of crimes against people and property. In addition, there are people in the Jessup jail who have already served time for their crimes and then have been moved into the ICE section of the jail.
- The Jessup jail may be a better jail than others, but it is still a jail. As long as Howard County continues to house immigrants, we are all complicit with a corrupt system. Unless communities refuse to collaborate with ICE, detentions will continue.

- While there are many lawyers working in Howard County, few immigrant detainees can afford legal representation. Capitol Area Immigrant Rights (CAIR) personnel visit Jessup regularly to provide information and, sometimes, legal representation. However, only 2 in 10 detainees in Baltimore immigrant court have lawyers. In practical terms, ending the ICE contract will reduce opportunities for legal representation for a very small number of immigrants.
- It has been argued that keeping the Jessup jail open makes it easier for immigrants to see their families. However, many detainees in Jessup are not from Howard County. Only 8 of the 65 immigrants detained in the Jessup jail on August 28, 2019 lived in Howard County. Almost one in three of the detainees on that day came from out of state. Moreover, family members may be undocumented and thus too afraid to visit the facility even if it is close by. Detainees have access to skype and phone calls to their families but for a fee.
- Nationwide, state and local governments are ending their contracts with ICE, most recently, Norfolk, Virginia. Howard County needs to join this humanitarian action and be in the forefront for social justice.
- We cannot wait for Washington to take action. Change begins community by community. Local political action puts pressure on national leaders to act. In the face of clear human rights violations, we have an obligation to our foreign-born friends and neighbors in Howard County to work against unjust policies and laws.
- If we want Howard County immigrants to trust local government and police, we cannot continue to take money from ICE.

Why do we need County legislation to protect immigrant rights?

- Immigrants in Howard County are suffering from discrimination in the community and on the job. There is much anecdotal information as well as a small survey among 276 parishioners at St. John the Evangelist Roman Catholic Church indicating that many immigrants face harassment, discrimination, and exploitation.
- At present, the Howard County Public School System and Howard Community College and the Howard County Police Department have policies protecting the privacy of foreign-born students and limiting collaboration with ICE. There are no policies protecting immigrants at other county agencies and departments.
- Immigration status is NOT a protected policy under the current Office of Human Rights Section 12.200-12.218 of Howard County Code.
- When immigrants feel protected, they are more likely to report crimes and otherwise cooperate with the police, making the entire community safer.
- Legislation protecting immigrants from arrest via administrative warrants will reduce prevalence of racial profiling in the community.
- Many immigrants—documented and undocumented—work in Howard County, pay state and federal taxes, and contribute to the economy and social welfare of Howard County. They deserve to feel safe in their homes and in public and to have the full protection of law.

Why should we add Immigration Status to the current Office of Human Rights Section 12.200-12.218 of the Howard County Code?

The true measure of any society is how well it protects its most vulnerable members. Immigrants are frequently exploited and less likely to report discrimination. We owe them access to all county services as well as protection and an avenue to file complaints.

What are the policies in other Maryland localities?

- Baltimore City and Baltimore and Montgomery counties have Executive Orders that limit collaboration with ICE, refuse ICE detainers unless they include judicial warrants, and prohibit refusing city services based on immigration status.
- Prince George's County Council has just passed a Trust Act to protect immigrants.
- Rockville and Hyattsville have passed City Ordinances with similar requirements.
- Annapolis, Brentwood, Cheverly, Colmar Manor, Greenbelt, Forest Heights, and Mt. Ranier have policies protecting immigrants.
- Baltimore City and Montgomery and Prince George's counties support Legal Funds for immigrants. Fairfax County, Virginia has just voted to create a fund.
- In 2018, Anne Arundel County ended its 287(g) contract with ICE.

References

1. The Economic and Fiscal Consequences of Immigration. Division of Behavioral and Social Sciences and Education, National Academy of Sciences Engineering and Medicine, 2019.
2. Undocumented Immigrants' State and Local Tax Contributions. Lisa Christensen Gee, Matthew Gardner, Misha E. Hill, Meg Wiehe. Institution on Taxation and Economic Policy, March 2019.
3. Urban crime rates and the changing face of immigration: Evidence across four decades. Robert Adelman, Lesley Williams Reid, Gail Markle, Saskia Weiss, Charles Jaret.Journal of Ethnicity in Criminal Justice. Volume 15, 2017 - Issue 1, December 18, 2016.
4. Criminal Immigrants in Texas. Illegal Immigrant Conviction and Arrest Rates for Homicide, Sexual Assault, and Other Crimes. Alex Nowrasteh.

Note: Data on detainees was provided by Jack Kavanaugh for community members touring the Jessup jail on August 28, 2019.

HR Commission presentation. On 5/20/2020

Thank you for taking our comments.

Three of us signed up to present comments today belong to the Coalition for Immigrant Justice, a Coalition comprising immigrants and many stripes of civic minded groups. We are rapidly growing. The Coalition has overlapping Mission statements with the HC HR Commission – to improve the welfare of our minorities, stand up for moral justice. I venture to suggest that as HR commissioners, you agree that abuse based on immigration status is a violation of human rights. We need to work together to prevent and remedy such abuse. But immigrants are abused in HC.

To focus our conversation today, a Coalition's main ask is for a policy guiding immigrant detention in HCDC which does not abuse immigrants. In defense of the status quo, we hear falsehoods: 'we put away criminal felons; we treat ICE inmates with same consideration afforded the general inmate population.'

I hope you all have read the actual HCDC Policy on ICE inmates… On its very face, it fully contradicts the above falsehoods.

1st red herring we hear: (we detain criminal felons). Actually, the Policy states "We accept only detainees from ICE that are "criminally involved." This includes … those charged with jailable offenses." Minor infractions can result in jail sentences. "Criminally involved" definition also includes those (merely asserted to be) members of criminal gangs. Practically anyone falls under this sweeping definition of "criminal involvement." The question to you: is one who was e.g. a shoplifter five years back is now to be deported and to split up a family? To be clear, the Policy is NOT restricted to ICE detainees that are convicted of criminal felonies …

Moreover, according to public statements by Jack Kavanagh, HCDC Director, HC has never checked any ICE statement as to the nature of alleged offense under which ICE is detaining a person; so the Policy is not only defective, but is not even enforced!

1.b. Not only we hold ICE detainees, we refer inmates to ICE after being released from HC jail, no matter if they were released without conviction, or have already served their sentence. We do not only detain people, we destine them serve additional harsh sentences! Our policy in HC is abusive.

2nd falsehood we hear (We treat ICE inmates the same as the general population.) Actually, the Policy and the Inter-Governmental Services Agreement are very explicit:

- Security setting of ICE inmates is determined by ICE, HCDC cannot change it. The security setting determines if the inmate is to be
    - held in a cell vs open bay,
    - Detainee's visitation rights.
- No in-prison employment is allowed, critical for small purchases while detained.

- HCDC cannot enforce a court order to release an ICE detainee; ICE permission must be obtained.

The above are just some examples ….

A reminder of our predicament: the pandemic highlights the urgency to thin the detention center population.

We have been waiting for you, the HCHR Commission to take steps. I have provided comments now on three occasions …. Delay is really condoning the situation.

Good evening Chair Ford, members of the Human Rights Commission. My name is Ying Matties. I am here tonight as a member of the Howard County Coalition for Immigrant Justice. I represent CAN-DO (Chinese American Network for Diversity and Opportunity) on the Coalition. I am also an immigrant. I came to this county almost thirty years ago. After the 2016 elections, I became involved in local civic and political organizations.

On March 7, 2018, I sent an email on behalf of CAN-DO to Dr. Calvin Ball, then candidate running for County Executive, asking him to denounce a statement made by the FBI director Christopher Wray during a Senate Intelligence Committee hearing where he made a broad brushed comment calling all Chinese students in the US spies.

Dr. Ball responded quickly and forcefully condemned those remarks. Here is a quote from his response to CAN-DO:

"The civil liberties we've taken for granted like due process, a presumption of innocence, and equal protection vanish under the cloak of blanket race-based discrimination and profiling."

I felt reassured by his strong statement and was grateful to the fact that Dr. Ball seemed to understand that immigrants' rights are human rights. Here is another quote from the same email he sent to CAN-DO members:

"enforcement of immigration policy is a function of the federal government and as such, we should not use our local resources for enforcement"

I couldn't agree more! These past statements from two years ago during his campaign make Dr. Ball's current stance regarding Howard County's contract with ICE completely baffling to many of us. Howard County's participation makes us complicit in a corrupt, racist and unjust system. The current immigration policies criminalize the Latinx population and are designed to detain and deport them. Human rights violations are rampant. State and local cooperation has been the key component of ICE's rapid detention expansion.

Detaining people during this pandemic is a life sentence for many – especially those who are vulnerable. We know that keeping people in the detention center increases the risk of spreading coronavirus in the facility and in the community. Detainees cannot follow public health guidelines such as social distancing and

frequent hand washing. As a result, the lives of detainees, staff, families and the Howard County community are put at increased risk.

There are proven community-based alternatives to detention. Non-violent offenders and those charged but not convicted need to be at home. People whose immigration documents are in process need to be at home. Monitoring by electronics, phone or in-person check-ins work as alternatives to detention. We are all safer when people live at home, especially in the time of Coronavirus.

Detention tears families apart. Families are broken up by detaining men at the Howard County Detention Center (HCDC) who are fathers and contribute to the family income. Families of detainees often cannot pay rent, get evicted, lose jobs, and suffer other hardships. Loss of income during the time of economic and public health crisis amplifies the suffering of our immigrant neighbors. Communities are safer when families are NOT disrupted.

I urge you to support ending Howard County's contract with ICE.

Dear Ms. Matties,

Thank you for your recent email. Your inquiries are in relation to my position on matters as candidate for County Executive because of this, it calls for me to respond from my campaign email as oppose to my councilman email. I hope you understand. Going forward, please send all campaign related inquires or requests to: calvin@votecalvinball.com.

I write today in support of our Chinese Americans and Chinese students, denouncing the recent remarks made by FBI Director Christopher Wray to the U.S. Senate Intelligence Committee that appear to target and racially profile Chinese scholars.

History reminds us that when we allow fear and hatred to be the center of our discourse, we abandon the principles that our great nation was built on. We no longer value the diversity that brought us all together and made America the melting pot it is today and deny the possibility of a flourishing future. The civil liberties we've taken for granted like due process, a presumption of innocence, and equal protection vanish under the cloak of blanket race-based discrimination and profiling. We need only remember the Chinese Exclusion Act of 1882, the internment of Japanese Americans during World War II that targeted our Asian community or listen to the rhetoric that fills the national news to know we again find ourselves on a dangerous precipice where minorities rights that we have fought so hard to advance and which should be protected under our Constitution, are again being challenged.

Under the Trump Administration, we have seen fundamental American ideals threatened. Dangerous race-based policies have been crafted that target and vilify minorities including Muslims, Hispanics and now our Chinese brothers and sisters. The true balance of power as enumerated in the Constitution is being tested as Executive Orders are issued by the President and invalidated by the Supreme Court. This is a true testament to our founding fathers who had the foresight to establish checks and balances to our democracy.

Almost a year ago, I introduced legislation in Howard County to combat the rhetoric we saw coming out of Washington. This included the hateful bans from Muslim countries, declarations to build a wall on our southern border at the expense of the America taxpayer, conversations to defund DACA and rip apart families who have been living in our country legally and paying taxes, and support for white supremacist groups. Council Bill 9 was an effort to affirm locally what we know in our hearts – that we value our diversity and local resources should be used to promote safety and inclusion, not advance fearmongering. Furthermore, we should reject policies which are toxic, irresponsible and rely purely on an individual's race or national origin.

We recognize there are threats to our homeland, both foreign and domestic. However, enforcement of immigration policy is a function of the federal government and as such, we should not use our local resources for enforcement. To do so is fiscally irresponsible and jeopardizes how appropriately Howard County can invest in our schools, infrastructure, parks, personnel and other amenities that make our County such a great place to live, work, and play.

Our Chinese students as well as their families should not become the latest targets of the FBI and this Administration. I urge you to not let FBI Director Wray, other legislators or community leaders spark hatred and fear into your hearts or among us. I stand with you to ensure your voice is heard and you remain protected from discrimination.

All the best,

Dr. Calvin Ball
Howard County Council, District 2
Ph: 410-313-2001
http://cc.howardcountymd.gov/Districts/District-2/Bio
*"A true leader has the confidence to stand alone, the courage to make tough decisions, and the compassion to listen to the needs of others." —**Douglas MacArthur***

Human Rights Commission
Comments from Howard County Coalition for Immigrant Justice
May 21, 2020 @ 7 pm

I am Bette Hoover, a member of the Steering Committee of the Ho Co Coalition for Immigrant Justice. I moved to Howard County in 1987, my 2 sons went thru the public schools, I worked as a nurse with the Howard Co Hospice for many years and I feel at home here.

HOWEVER:

Howard County's participation with I.C.E. makes me very un-easy and it is not who we are. It makes us complicit in a corrupt, racist and unjust system.

Especially now - during this pandemic. Detaining people can be a death sentence for many and not only affects them and their loved ones - it affects our entire community.

An officer of the Howard County Health Department recently said, "***We need to protect people who are vulnerable."*** Yes, we do. That's who we are….committed to protecting the vulnerable….

The only way we can all be safe is to release those who are in the custody of I.C.E. in the Detention Center.

On Tuesday, April 7th, ICE released all detainees from the Frederick County Detention Center, yet refuses to do the same in Howard County. Why is that?

The danger that infectious disease spreads rapidly in jails is well documented. Does Frederick County know something we don't?

COVID 19 is highly contagious and since a nurse tested positive at the Jessup Jail, it becomes even more urgent to let the people go.

The recent lawsuit that was won by ACLU/CAIR argued that Howard County Detention Center **cannot** keep detainees safe from infection. It is not possible, the lawsuit argued, to follow even the basic CDC recommendations in the facility. Social distancing, testing, masks and cleaning products are **not** available to those detained. I've visited the center and can tell you the beds in the dorms are about 2 feet apart and in the small cells the men sleep in bunk beds. Medical care is minimal in good times.

Warden Kavanaugh said on a call with Howard County leaders a couple of weeks ago (on April 30th) that testing of detainees had not been done because tests were not available.

About the same time, Gov Hogan decreed that vulnerable populations in prisons were to be released. Unfortunately, he didn't include our neighbors being held by I.C.E. Thus, WE need to speak up for the human rights of those in the custody of I.C.E. in our own Howard County Detention Center. This is OUR responsibility. We can't wait on the federal government to decide. We have the power to make a difference in the lives of these men and their families.

We call on you, members of the Human Rights Commission to urge the Howard County government to end the I.G.S.A. NOW! Council members are waiting for your recommendation. They need to hear from you.

Tell them to release all those inmates that can safely be let go.
Release all pre-trial detainees, those being held without charge, the medically vulnerable and everyone over the age of 60.

In fact, freeing I.C.E. detainees would allow more space and resources to be used for the criminal population in our jails.

Many lives depend on you doing the right thing.

Thanks so much.

TAB 6

From: Clark, Janice [mailto:jclark@oag.state.md.us]
Sent: Monday, May 4, 2020 2:55 PM
To: ABresani@howardcountymd.gov
Cc: michael <bionlaw@gmail.com>
Subject: PIA Compliance Board Complaint - Michael David

Ms. Bresani,

Good afternoon,

The Public Information Act Compliance Board ("PIACB") received a complaint from Michael David regarding a Public Information Act ("PIA") request he submitted to Howard County in March 2020. This email transmits the complaint, with supporting correspondence, to you as the custodian of the records requested by the complainant (or the representative of that custodian). The complaint alleges that the estimated fee of $1,131.90 charged by Howard County for responding to the PIA request is unreasonable.

Under § 4-1A-06 of the General Provisions ("GP") Article of the Maryland Code, a written response to the complaint must be filed within 15 days after the custodian receives the complaint; accordingly, your response is due no later than Tuesday, May 19, 2020. Your response should include a detailed explanation of the basis for the fee and include any details or additional correspondence that explain the calculation of the fees. A sample form is attached to assist in outlining your response. You can also find more information about the PIACB on the Attorney General's website here.

Please submit the response and any attachments directly to the PIACB through its email address, PIAOpengov@oag.state.md.us, with a copy to the complainant.

Thank you for your cooperation.

Sincerely,

Janice Clark
Administrator
Public Information Act Compliance Board

Public Information Act Compliance Board ("PIACB")
Office of the Attorney General
200 Saint Paul Place
Baltimore MD 21202
By email only: piaopengov@oag.state.md.us

Complainant ("I," or "the undersigned"):
Michael David
6658 Windsor Ct
Columbia MD 21044
Tel 410-370-2122 (cell)
bionlaw@gmail.com

April 30, 2020

COMPLAINT

This is a request for reconsideration of fees demanded for responding to request for information under the Public Information Act (PIA).

The fee is demanded by the Howard County Government Office of Public Information ("HCG"):
Mark Miller, Administrator,
msmiller@howardcountymd.gov
410-313-2022
c/o Ms. Alexandra Bresani
Howard County Government
410-313-2023
ABresani@howardcountymd.gov.

The fee demanded is $1,131.90. A complete record of the correspondence between HCG and the undersigned is attached. The $1,131.90 sum was demanded in correspondence from HCG dated March 17, 2020 and reaffirmed on April 13, 2020. Therefore, the filing of this Complaint is timely.

A Summary of the Dispute: the fee charged is excessive and the denial of the request for a waiver of the fee is not appropriate.
The information sought for which the $1,131.90 has been demanded is:

"A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup. Please indicate of which specific infraction they were accused of (why were they at Jessup), whether they were convicted of the accused infraction, their immigration status while at Jessup, the time spent in non-ICE detention at Jessup and, if applicable, the time spent under ICE auspices at Jessup. Please include separate list for inmates in the male and female facilities. Please provide this information for detainees at Jessup starting with January 1, 2018 [to present, March 14, 2020]."

Clearly, by its very nature, the information sought is of public interest, a review of governmental action. My detailed explanations that this information is sought in the public's interest and that I had no commercial or personal interest in the information (see record attached) was not challenged by HCG.

But the request for a waiver of the fee was denied. No explanation was provided, just an assertion that reviewing for responsive documents takes 30 hrs. at $37.73/hr., total $1,131.90.

The amount charged to search for relevant documents is, *prima facie*, excessive. Surely the Detention Center has a listing or file specifically of inmates turned over to ICE. Then the record of these specific inmates limited to the period of time requested can be pulled. Really, 30 hrs.? A clerk with familiarity with the office files would likely need under 5 hrs. Moreover, national statistics show clerks in the year 2020 averaging about $15/hr., not $37.73. *See* https://www.ziprecruiter.com/Salaries/How-Much-Does-an-Office-Clerk-Make-an-Hour. HCG's estimate does not appear genuine. HCG needs to document how the estimate were made, who will conduct the search and why a highly salaried person is needed.

HCG stated that they had already used more than the PIA proscribed two hours providing free information under my request. *See* email dated March 17, page 2, fourth paragraph. That is incorrect. HCG has previously provided a list of inmates, under a different request. Not only these two hours do not relate to the PIA request now at hand, but as can be seen from my emails dated February 14, 2020, 1st page, 3rd paragraph the information I received was a) late in coming, b) not fully responsive and c) improperly processed (missing numbers and order), rendering the information of limited value. I requested that the processing mistakes be corrected (*see* email to Warden Kavanagh, dated February 27 and acknowledged by Warden Kavanagh on February 27, both attached). So far, the information has not been corrected. So, no, HCG did not spend two hours producing information, not fully comprehensible information, and not for this particular PIA request.

A Waver of the Fee Is the Appropriate Action under GP§4-206(e)

In explaining the purpose and objectives of Maryland's Public Information Act ("PIA"), Md. Code Ann., Gen. Prov. §§ 4-101 to 4-601 (2017), Maryland's then Attorney General, Joseph Curran, Jr., stated:

The public's right to information about government activities lies at the heart of a democratic government.

The particular request for information at issue here clearly reflects a desire to monitor action for abuse of human rights. Should such abuse be established, I would have a 1st Amendment right to bring this to the public's attention. I should not be denied my 1st Amendment rights by imposition of excessive fees.

The courts agree. A public purpose justifies the expenditure of public funds to comply with the request. *See* City of Baltimore v. Burke, 67 Md. App. 147 cert. denied, 306 Md. 118 (1986); *see* also 81 Opinions of the Attorney General 154 (1996) (waiver of fee depends on a number of relevant factors and cannot be based solely on the cost to the agency).

My assumed ability to pay the $1,139.90 should not be a single or primary factor considered here. Clearly, alike most individual private citizens, I would find a fee of $1,139.90 to be a large personal sacrifice. I derive no personal gain from this information. But HCG improperly only considered its costs.

The refusal to consider cost steps to save money, the size of the fee, the open ended aspect of the fee, and the refusal to wave or reduce the fee demanded support a conclusion that HCG response is obstructionist in nature, to suppress public information.
The record documents that I had taken steps to reduce the burden to HCG to provide the information. The information sought was reshaped, the time covered was reduced, and separate, parallel requests which I believe were improperly denied are, for now, not under dispute here. There is no evidence in the record that these compromises induced a sense of reciprocity. Reciprocity is not a legal requirement here, but an agency concerned with serving the public's rights for information should have taken notice and respond in kind.

More disconcerting and clearer evidence of obstruction is the refusal by HCG to consider the cost saving step of preparing lists of the required information. To be sure, I prefer copies of documents that I can review for myself, rather than information extracted and inserted in lists by others. But I thought and had explained that it should save money, as copies of potentially numerous document and any necessary redactions might have been rendered unnecessary. On a past request not specifically designated as a PIA request, HCG chose to prepare lists (even if incomplete and slowly produced). But despite this precedent, GCG now asserts it has no legal obligation to create lists and it will not do so. *See* email dated March 17, 2020, bottom of page 1.

The assertion of lack of obligation to extract information and "make lists" is erroneous. An agency has no obligation to create new data or interpret data in response for requests under PIA. But, the General Assembly indicated that "if a public record exists in a searchable and analyzable electronic format, the act of a custodian providing a portion of the public record in a searchable and analyzable electronic format does not constitute creating a new public record." GP § 4-205(c)(5). Moreover, an agency is obligated to extract data from an existing database if it has the capacity to do so "within [its] existing functionality and in the normal course." Comptroller of the Treasury v. Immanuel, 216 Md. App. 259, 271 (2014). So, an agency should comply with a request if it has staff available who routinely perform the type of data extraction requested. 216 Md. App. at 271-72 (requiring Comptroller to extract data from database of unclaimed property). Please note that I remain willing to receive copies of actual responsive records rather than lists, but adding the cost of copying seem inappropriate under the circumstances.

The estimate provided by HCG is troublesome in another aspect, beyond it apparently exaggerated size. It is open ended. Costs for copying are stated as likely but not estimated. It is

mused that uncertain sized lawyer fees will have to be added before information is released. This failure to make an effort to be precise and factual given specific circumstances make it yet less likely a requester for information, already facing high costs, would venture to obtain the information. Effectively, these cumulative steps obstruct the public from reaching the information for which the PIA was designated to provide access.

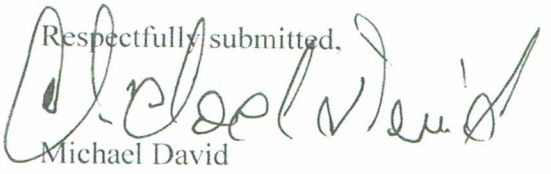
Conclusion

The total fees demanded are uncertain and larger than reasonable costs. Moreover, given the record in this matter by HCG, anything short of a complete waiver of fees would leave me uncertain of HCG's compliance. I request PIACB decide to wave fees for this public information.

PIACB makes yearly reports of its observations to elected officials. PIACB should note in its report that unless principled compliance with PIA is undertaken, PIA can be rendered meaningless.

PIACB has the right to communicate its finding to Agencies (here HCG) as to the record of its agents in implementing PIA. PIACB communication with HCG elected leadership is solicited.

Respectfully submitted,



Michael David

Clark, Janice

From: Bresani , Alexandra <ABresani@howardcountymd.gov>
Sent: Monday, April 13, 2020 9:22 AM
To: michael
Subject: RE: PIA request

Dear Mr. David,

As stated in my 17, 2020 letter: "Due to amount of County resources that will be used to gather and review records potentially responsive to your request, your fee waiver appeal has been denied."

With regard to the portion of the County's letter that states, "Accordingly, a party responding to a PIA request is not required to create a new record, such as a list[,]" in each of your original and revised requests, you repeatedly asked for "a list of ..." As the County does not maintain a list, we are not required under the PIA to create one in order to respond to your request. The Department of Corrections much go through each detainee file to determine which are responsive. A list will not be created from these files. As also noted in my previous letters, these records are maintained as paper.

Sincerely,
Alexandra

From: michael <bionlaw@gmail.com>
Sent: Sunday, April 12, 2020 11:32 PM
To: Bresani , Alexandra <ABresani@howardcountymd.gov>
Cc: 'Michael David' <bionlaw@gmail.com>
Subject: PIA request

Dear Ms. Bresani,

Please find attached a response to your email dated March 17.

Thank you for your attention.

Michael David

April 12, 2020

6658 Windsor Ct.
Columbia, MD 21044
Tel. 410/740-3423 or
410/370-2122 (cellular)

Ms. Alexandra Bresani
Office of Public Information
Howard County Government
3430 Court House Drive
Ellicott City MD 21043
By email only: ABresani@howardcountymd.gov

Re: Maryland Public Information Act Request
Information on ICE detainees at Howard County Detention Center ("HCDC")

Dear Ms. Bresani,

This email responds to your email dated March 17, 2020.

The email dated March 17 does not provide information sufficient for me to assess next steps. In particular, the March 17 email requests a fee of $1,131.90. The email does not specifically state that the waiver of fee was rejected nor inform why the waiver of fee request was denied. My request clearly had explained, with detail and precedent, that the waiver of fee is justified as the information sought is of no personal or commercial interest, but for informed public consideration of issues. *See*, for example, City of Baltimore vs. Burke, 67 Md App.147, cert denied, 306 Md 118 (1986). Please provide, for the record, a complete explanation of why the waiver of the fee would not be considered a step in the public interest.

Another insufficiently developed matter in the March 17 email is the form the information I seek will be provided. You state "a party responding to a PIA request is not required to create a new record, such as a list." I have repeatedly sought a telephone communication that might allow for this issue to become moot. I would prefer actual copies of documents, but I am trying to understand what specific documents (e.g. the names of documents that) would be provided. It is in deference to allowing your office to satisfy the MPIA request easily that I have requested a list.

The March 17 email is incomplete in its analysis of what you can do under MPIA. To be clear, the data sought is not new data. Nor does response to the request involve the need for you to hire consultants or interpret data. The law makes clear that "if a public record exists in a searchable and analyzable electronic format, the act of a custodian providing a portion of the public record in a searchable and

analyzable electronic format does not constitute creating a new public record." GP § 4-205(c)(5). An agency is obligated to extract data from an existing database if it has the capacity to do so. Comptroller of the Treasury v. Immanuel, 216 Md. App. 259, 271 (2014).

Again, I would actually prefer receiving copies of documents over lists created by agency staff, but I am seeking an explanation of types of documents that might be responsive. Your office is expected to facilitate the release of information that informs the public. Your cooperation is respectfully requested.

Thank you.

Sincerely,

Michael David

Clark, Janice

From: Bresani , Alexandra <ABresani@howardcountymd.gov>
Sent: Tuesday, March 17, 2020 2:47 PM
To: michael
Subject: RE:
Attachments: Michael David REVISED Receipt Response.pdf

HOWARD COUNTY DEPARTMENT OF COUNTY ADMINISTRATION
3430 Courthouse Drive ▪ Ellicott City, Maryland 21043 ▪ 410-313-2022

Mark Miller, Administrator, Office of Public Information FAX 410-313-3390
msmiller@howardcountymd.gov

March 17, 2020

Michael David
6658 Windsor Court
Columbia, MD 21044
bionlaw@gmail.com

Dear Mr. David:

This letter is to confirm receipt of your email to Howard County Government's Office of Public Information, received on Saturday, March 14, 2020 and sent in response to the County's February 14, 2020 letter regarding your January 21, 2020 PIA request.

In your March 14th letter, you request information in accordance with the Maryland Public Information Act, 4-101 *et seq.* of the General Provisions Article of the Annotated Code of Maryland (the "PIA"), stating: "Below, I restate and reduce the scope of my request. In the process, 1) I remove some items I had previously requested and 2) narrow the time frames covered. Any aspects of previous request that is not covered below can be for now dismissed as a suspended request. I hope this helps reduce your efforts and expenses.

"What I seek is:

- "A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup. Please indicate wich specific infraction they were accused of (why were they at Jessup), whether they were convicted of the accused infraction, their immigration status while at Jessup, the time spent in non-ICE detention at Jessup and, if applicable, the time spent under ICE auspices at Jessup. Please include separate list for inmates in the male and female facilities. Please provide this information for detainees at Jessup starting with January 1, 2018 [to present, March 14, 2020].

- "A list of inmates and which criminal offense they were accused of when brought by ICE to Jessup. Please indicate if they were either released or were retained by ICE or deported after time at Jessup. Please cover inmates brought to Jessup by ICE since January 1, 2018 [to present, March 14, 2020]."

Please note, the PIA grants you the right to review responsive and available public records that are not otherwise exempted from disclosure, and to obtain copies of those records. A "public record," within the meaning of the

PIA, is the original or copy of any documentary material in any form created or received by an agency in connection with the transaction of public business. Accordingly, a party responding to a PIA request is not required to create a new record, such as a list.

In response to bullet #2 and the portion of bullet #1 in which you seek information regarding "… if applicable, the time spent under ICE auspices at Jessup" these portions of your request are denied. Homeland security information that the federal government shares with the County may not be disclosed pursuant to 6 U.S.C. §§ 482(e), which provides that information obtained by a local government from a federal agency "shall remain under the control of the federal agency," and a "local law authorizing or requiring" the "government to disclose information "shall not apply." Furthermore, as noted by MD GEN PROVIS § 4-301(a)(1), (2)(ii),
"A custodian shall deny inspection of a public record or any part of a public record if by law, the public record is privileged or confidential; or the inspection would be contrary to a federal statute."

Additionally, the Freedom of Information Act (FOIA) exempts from disclosure:

- Protects information that is properly classified in the interest of national security pursuant to Executive Order 12958.
- Protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.
- Protects records or information compiled for law enforcement purposes the release of which could reasonably be expected:
    - a. 7(A) – to interfere with enforcement proceedings.
    - b. 7(B) – would deprive a person of a right to a fair trial or an impartial adjudication.
    - c. 7(C) – to constitute an unwarranted invasion of the personal privacy of a third party/parties (in some instances by revealing an investigative interest in them).
    - e. 7(E) – would disclose techniques and procedures for law enforcement investigations or prosecutions.
    - f. 7(F) –to endanger the life or physical safety of an individual.

The U.S. Department of Homeland Security has advised the County that the information you seek is protected from disclosure under this statute. Further, as noted in my previous letters, dated February 4, 2020 and February 14, 2020, the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE) has suggested that you send a Freedom of Information Act request directly to it for the information you seek Details on how to do so can be found ICE's website at https://www.ice.gov/foia/overview.

Additionally, as noted in my previous letters, under the PIA, Howard County has the right to charge for search time exceeding two hours as the first two are free; this fee is based on the hourly salary of the individual(s) carrying out the search. As previously stated, the County has already spent more than two hours on your overall request thus far.

As for the rest of bullet #1, the County's Department of Corrections estimates it will take one employee 30 hours to review its paper files for records possibly responsive to your request. The hourly rate of the employee who would be performing the work is $37.73 per hour. Due to amount of County resources that will be used to gather and review records potentially responsive to your request, your fee waiver appeal has been denied.

If you would like the Department of Corrections to begin reviewing its files for records rsponive to bullet #1, please send a check in the amount of $1,131.90 ($37.73 hourly wage x 30 hours of review time) **made payable to the "Director of Finance"** and **mailed to the Office of Public Information, 8930 Stanford Boulevard, Columbia, MD 21045**. Upon receipt of your payment, I will have the Department of Corrections begin its work. However, should you wish to narrow your request in order to reduce or eliminate the search and preparation fee, please let me know at your convenience.

Again, please keep in mind, in addition to time spent by the Department of Corrections, any responsive records may have to be reviewed by the Howard County Office of Law. We would notify you in advance of any changes in the anticipated rate or if further review is necessary.

Finally, as mentioned in my previous letters, Howard County has the right to charge a copying fee of $0.25 per page for a black and white paper copy, as mentioned on page 10 of Howard County Council Resolution No. 76-2019, if electronic copies of the responsive records do not exist. As noted above, these records are maintained as paper.

Should the County not hear back from you within 30 calendar days from the date of this letter in response to the fees outlined above, we will consider your request withdrawn.

Pursuant to MPIA § 4-362, you are entitled to seek judicial review of this decision by filing a complaint in the Circuit Court for Howard County or the Circuit Court in Maryland in the County where you reside or maintain a principal place of business. You may also refer any concerns about this decision to the Public Access Ombudsman pursuant to MPIA § 4-1B-01 et seq.

Sincerely,
Alexandra

Alexandra Bresani
Office of Public Information
Howard County Government
410-313-2023 (phone)
410-313-3299 (fax)

www.howardcountymd.gov
www.facebook.com/HoCoGov

From: michael <bionlaw@gmail.com>
Sent: Saturday, March 14, 2020 11:10 AM
To: Bresani , Alexandra <ABresani@howardcountymd.gov>; Kavanagh, Jack <jkavanagh@howardcountymd.gov>
Cc: 'Michael David' <bionlaw@gmail.com>
Subject:

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Ms. Bresani,
The attached letter responds to your letter dated February 4, 2020, re PIA request on information of ICE activities at Jessup Detention Center.
Mr. Kavanagh is cc-ed.
Please contact me with any questions.
Michael David

Clark, Janice

From: michael <bionlaw@gmail.com>
Sent: Saturday, March 14, 2020 11:10 AM
To: 'Bresani , Alexandra'; Kavanagh, Jack
Cc: 'Michael David'
Attachments: Letter to Ms Bresani re ICE activities at Jessup_20200314.pdf

Dear Ms. Bresani,
The attached letter responds to your letter dated February 4, 2020, re PIA request on information of ICE activities at Jessup Detention Center.
Mr. Kavanagh is cc-ed.
Please contact me with any questions.
Michael David

March 13, 2020

6658 Windsor Ct.
Columbia, MD 21044
Tel. 410/740-3423 or
410/370-2122 (cellular)

Ms. Alexandra Bresani
Office of Public Information
Howard County Government
3430 Court House Drive
Ellicott City MD 21043
By email only: ABresani@howardcountymd.gov

CC Mr. Jack Kavanagh
Director Howard County Detention Center
7301 Waterloo Rd, Jessup, MD 20794
By email only: jkavanagh@howardcountymd.gov

Re: Maryland Public Information Act Request
Information on ICE detainees at Howard County Detention Center ("HCDC")

Dear Ms. Bresani,

This email responds to your email dated February 14, 2020.

In response to information I had sought previously under the Public Information Act ("PIA") MD. Code Ann. General Provisions ("GP") §§4-101 to 4-601, in a letter from you on February 14, you requested, *interalia*, that I pay fees amounting to thousands of dollars for this information. Under GP=206(e), I request a waiver of fees for this information. The information I seek is not for a personal interest, nor is there a commercial interest involved. The request is for information to inform on issues of interest to the public. It is surprising that you are requesting money at this time. Perhaps you do not have full information on the previous correspondence with Mr. Kavanagh's office. I have informed Mr. Kavanagh that this information will be shared with and used in conjunction with efforts by ACLU and the Howard County Coalition for Immigrant Justice. These are not-for-profit organizations focused on civil rights. Since January 2020, I have obtained some information from HCDC, without being asked for a fee. Accordingly, the information I seek is documented as being in the public interest.

Nonetheless, I wish to reduce the burden on your office. Below, I restate and reduce the scope of my request. In the process, 1) I remove some items I had previously requested and 2) I narrow the time frames covered. Any aspects of previous request that is not covered below can be for now dismissed as a suspended request. I hope this helps reduce your efforts and expenses.

What I seek is:

- A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup. Please indicate wich specific infraction they were accused of (why were they at Jessup), whether they were convicted of the accused infraction, their immigration status while at Jessup, the time spent in non-ICE detention at Jessup and, if applicable, the time spent under ICE auspices at Jessup. Please include separate list for inmates in the male and female facilities. Please provide this information for detainees at Jessup starting with January 1, 2018.
- A list of inmates and which criminal offense they were accused of when brought by ICE to Jessup. Please indicate if they were either released or were retained by ICE or deported after time at Jessup. Please cover inmates brought to Jessup by ICE since January 1, 2018.

Of course, we realize that the information provided to us will not reveal the identity of the individual detainees.

It is important that this information be provided to us within 30 days – see GP §4-203(a).

If you feel that this information can be provided in a more cost effective way or for any reason you wish to consult with me, please call within ten days.

Thank you.

Sincerely,

Michael David

Clark, Janice

From: Kavanagh, Jack <jkavanagh@howardcountymd.gov>
Sent: Thursday, February 27, 2020 2:50 PM
To: michael
Cc: Benfer, Cheryl; Tommy Alfano
Subject: Re: Clarification sought on PIA response

I will send this to the person that ran the report for response

Sent from my iPhone

On Feb 27, 2020, at 1:51 PM, michael <bionlaw@gmail.com> wrote:

Dear Mr. Kavanagh and Ms. Benfer,

On February 14, 2020, Ms. Bresani sent me an excel spreadsheet created by your office detailing the length of time each ICE detainee spent at Jessup. For your convenience, that spread sheet is attached. Thank you for the information.

I was unclear on aspects of the information provided, as explained below. Ms. Bresani directed me to ask for clarifications directly from the Department of Corrections.

I have two questions re the spreadsheet: 1) Is there any specific order these detainees are listed? None of the booking, release dates or number of days in detention seem to be in any chronologic or other order I discern, so I wonder how that list was organized. 2) I note that the inmate numbering jumps from inmate 390 to inmate 400. Is there any reason inmates 391-399 are omitted on that list?

Thank you for helping me understand the spreadsheet.

Sincerely,
Michael David

<Michael David.xlsx>

HOWARD COUNTY DEPARTMENT OF COUNTY ADMINISTRATION
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2022

Mark Miller, Administrator, Office of Public Information FAX 410-313-3390
msmiller@howardcountymd.gov

From: Bresani , Alexandra <ABresani@howardcountymd.gov>
Sent: Friday, February 14, 2020 11:26 AM
To: michael
Subject: RE: follow up on our conversation; list of information sought
Attachments: Michael David FOLLOW-UP Response.pdf

February 14, 2020

Michael David
6658 Windsor Court
Columbia, MD 21044
bionlaw@gmail.com

Dear Mr. David:

The following is in follow-up response to your email to Ms. Cheryl Benfer and Mr. Jack Kavanagh with Howard County Government's Department of Corrections, requesting information in accordance with the Maryland Public Information Act, 4-101 *et seq.* of the General Provisions Article of the Annotated Code of Maryland (the "PIA"), which these two individuals received on January 21, 2020.

Specifically, you have asked for:

- "A list of inmates and the nature of proceeding under which they were brought by ICE to Jessup. Please go back in time to the extent feasible.
- "A list with the residential jurisdiction listed for each ICE inmate, going back as far as feasible.
- "A list of the length of time each ICE detainee spent at Jessup. Please include a starting date.
- "A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup, with nature of crime, time spent in non-ICE detention at Jessup and time spent under ICE auspices at Jessup."

In response to the County's February 4, 2014 letter, you stated via email on February 5, 2020: "Thank you for the excel spreadsheet you provided, in response to my request/bullet no. 3, i.e. the length of time ICE detainees spent at Jessup. I have two questions re that spreadsheet: 1) Is there any specific order these detainees are listed? None of the booking, release dates or number of days in detention seem to be in any chronologic or other order I discern, so I wonder how that list was organized. 2) I note that the inmate numbering jumps from inmate 390 to inmate 400. Is there any reason inmates 391-399 are omitted on that list? Please thank Ms. Benfer and Mr. Kavanagh for the list and for the clarifications.

"In regard to question/bullet no 1, i.e. the nature of proceedings under which inmates were brought to Jessup by ICE, you inform me that the Department of Corrections ("DC") has no records responsive to this request. This could not be correct. If nothing else, form I-203 which DC obtains with each transferee to Jessup has a specific box to be filled-in by ICE that reads: 'Nature of Proceedings.' There may be records additional to I-203. I request this information as a list for detainees received from ICE since January 1, 2017. For a sampling of 40 detainees, first 40 detainees starting with detainees transferred to Jessup starting January 1, 2018, please provide photocopies of Form I-203, of course where the detainee name is redacted. Please provide also copies of any documents DC might have developed in any independent investigation as to the nature of proceedings or communication with ICE to clarify any nature of proceedings.

"Regarding request/bullet no 4, you ask for delineation of how long of a period I seek records. Please provide records for the period commencing with January 1, 2017 until present. I understand that some inmates turned over to ICE might not necessarily end up at Jessup under the ICE contract; I still request records for any inmate turned over to ICE, whether he remains or returns to Jessup under the contract with ICE.

"For question/bullet 2, please cover the period commencing with January 1, 2018 until now."

To speak with someone regarding the Department of Corrections record that was provided to you on February 4, 2020 in response to bullet #3, you will need to contact Corrections directly at 410-313-5200 for further assistance.

With regard to bullet #1 and your updated request stating:
"I request this information as a list for detainees received from ICE since January 1, 2017. For a sampling of 40 detainees, first 40 detainees starting with detainees transferred to Jessup starting January 1, 2018, please provide photocopies of Form I-203, of course where the detainee name is redacted." This portion of your request has been denied. Homeland security information that the federal government shares with the County may not be disclosed pursuant to 6 U.S.C. §§ 482(e), which provides that information obtained by a local government from a federal agency "shall remain under the control of the federal agency," and a "local law authorizing or requiring" the "government to disclose information "shall not apply." Furthermore, as noted by MD GEN PROVIS § 4-301(a)(1), (2)(ii),
"A custodian shall deny inspection of a public record or any part of a public record if by law, the public record is privileged or confidential; or the inspection would be contrary to a federal statute."

Additionally, the Freedom of Information Act (FOIA) exempts from disclosure:

- Protects information that is properly classified in the interest of national security pursuant to Executive Order 12958.
- Protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.
- Protects records or information compiled for law enforcement purposes the release of which could reasonably be expected:
    - a. 7(A) – to interfere with enforcement proceedings.
    - b. 7(B) – would deprive a person of a right to a fair trial or an impartial adjudication.
    - c. 7(C) – to constitute an unwarranted invasion of the personal privacy of a third party/parties (in some instances by revealing an investigative interest in them).
    - e. 7(E) – would disclose techniques and procedures for law enforcement investigations or prosecutions.
    - f. 7(F) –to endanger the life or physical safety of an individual.

As noted in my previous letter, to request records maintained by the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE), you will need to submit a FOIA request directly to this federal government agency. Details on how to do so can be found ICE's website at https://www.ice.gov/foia/overview.

The Department of Corrections has no records responsive to your request for: "Please provide also copies of any documents DC might have developed in any independent investigation as to the nature of proceedings or communication with ICE to clarify any nature of proceedings."

As noted in my previous letter, dated January 21, 2020, under the PIA, Howard County has the right to charge for search time exceeding two hours as the first two are free; this fee is based on the hourly salary of the individual(s) carrying out the search. As stated in my February 4, 2020 letter, the County has already spent more than two hours on your request thus far.

In response to bullet #2, the County's Department of Corrections estimates it will take one employee 25 hours to review its paper files for records possibly responsive to your request. The hourly rate of the employee who would be performing the work is $37.73 per hour. In addition, any responsive records may have to be reviewed by the Howard County Office of Law. We would notify you in advance of any changes in the anticipated rate or if further review is necessary.

If you would like the Department of Corrections to begin reviewing its files for records rsponive to bullet #2, please send a check in the amount of $943.25 ($37.73 hourly wage x 25 hours of review time) **made payable to the "Director of Finance"** and **mailed to the Office of Public Information, 8930 Stanford Boulevard, Columbia, MD 21045**. Upon receipt of your payment, I will have the Department of Corrections begin its work. However, should you wish to narrow your request in order to reduce or eliminate the search and preparation fee, please let me know at your convenience.

In response to bullet #4, the County's Department of Corrections estimates it will take one employee 40 hours to review its paper files for records possibly responsive to your request. The hourly rate of the employee who would be performing the work is $37.73 per hour. In addition, any responsive records may have to be reviewed by the Howard County Office of Law. We would notify you in advance of any changes in the anticipated rate or if further review is necessary.

If you would like the Department of Corrections to begin reviewing its files for records rsponive to bullet #4, please send a check in the amount of $1,509.20 ($37.73 hourly wage x 40 hours of review time) **made payable to the "Director of Finance"** and **mailed to the Office of Public Information, 8930 Stanford Boulevard, Columbia, MD 21045**. Upon receipt of your payment, I will have the Department of Corrections begin its work. However, should you wish to narrow your request in order to reduce or eliminate the search and preparation fee, please let me know at your convenience.

Please keep in mind, as also mentioned in my previous letters, Howard County has the right to charge a copying fee of $0.25 per page for a black and white paper copy, as mentioned on page 10 of Howard County Council Resolution No. 76-2019, if electronic copies of the responsive records do not exist. As noted above, these records are maintained as paper.

Should the County not hear back from you within 30 calendar days from the date of this letter in response to the fees outlined above, we will consider your request withdrawn.

Pursuant to MPIA § 4-362, you are entitled to seek judicial review of this decision by filing a complaint in the Circuit Court for Howard County or the Circuit Court in Maryland in the County where you reside or maintain a principal place of business. You may also refer any concerns about this decision to the Public Access Ombudsman pursuant to MPIA § 4-1B-01 et seq.

Sincerely,
Alexandra

Alexandra Bresani
Office of Public Information
Howard County Government
410-313-2023 (phone)
410-313-3299 (fax)

www.howardcountymd.gov
www.facebook.com/HoCoGov

From: michael <bionlaw@gmail.com>
Sent: Wednesday, February 5, 2020 6:25 PM
To: Bresani , Alexandra <ABresani@howardcountymd.gov>
Cc: 'michael' <bionlaw@gmail.com>
Subject: RE: follow up on our conversation; list of information sought

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

February 5, 2020

Dear Ms. Bresani,

Thank you for the excel spreadsheet you provided, in response to my request/bullet no. 3, i.e. the length of time ICE detainees spent at Jessup. I have two questions re that spreadsheet: 1) Is there any specific order these detainees are listed? None of the booking, release dates or number of days in detention seem to be in any chronologic or other order I discern, so I wonder how that list was organized. 2) I note that the inmate numbering jumps from inmate 390 to inmate 400. Is there any reason inmates 391-399 are omitted on that list? Please thank Ms. Benfer and Mr. Kavanagh for the list and for the clarifications.

In regard to question/bullet no 1, i.e. the nature of proceedings under which inmates were brought to Jessup by ICE, you inform me that the Department of Corrections ("DC") has no records responsive to this request. This could not be correct. If nothing else, form I-203 which DC obtains with each transferee to Jessup has a specific box to be filled-in by ICE that reads: "Nature of Proceedings." There may be records additional to I-203. I request this information as a list for detainees received from ICE since January 1, 2017. For a sampling of 40 detainees, first 40 detainees starting with detainees transferred to Jessup starting January 1, 2018, please provide photocopies of Form I-203, of course where the detainee name is redacted. Please provide also copies of any documents DC might have developed in any independent investigation as to the nature of proceedings or communication with ICE to clarify any nature of proceedings.

Regarding request/bullet no 4, you ask for delineation of how long of a period I seek records. Please provide records for the period commencing with January 1, 2017 until present. I understand that some inmates turned over to ICE might not necessarily end up at Jessup under the ICE contract; I still request records for any inmate turned over to ICE, whether he remains or returns to Jessup under the contract with ICE.

For question/bullet 2, please cover the period commencing with January 1, 2018 until now.

I appreciate the offer of estimates for costs for each of these questions. Should the cost be under $150, please proceed without waiting for my confirmation.

Thank you for your and DC's work in getting this request processed.

Michael David

From: Bresani , Alexandra [mailto:ABresani@howardcountymd.gov]
Sent: Tuesday, February 4, 2020 10:00 AM
To: michael <bionlaw@gmail.com>
Subject: RE: follow up on our conversation; list of information sought

HOWARD COUNTY DEPARTMENT OF COUNTY ADMINISTRATION
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2022

Mark Miller, Administrator, Office of Public Information
msmiller@howardcountymd.gov

FAX 410-313-3390

February 4, 2020

Michael David
6658 Windsor Court
Columbia, MD 21044
bionlaw@gmail.com

Dear Mr. David:

The following is in response to your email to Ms. Cheryl Benfer and Mr. Jack Kavanagh with Howard County Government's Department of Corrections, requesting information in accordance with the Maryland Public Information Act, 4-101 *et seq.* of the General Provisions Article of the Annotated Code of Maryland (the "PIA"), which these two individuals received on January 21, 2020.

Specifically, you have asked for:

- "A list of inmates and the nature of proceeding under which they were brought by ICE to Jessup. Please go back in time to the extent feasible.
- "A list with the residential jurisdiction listed for each ICE inmate, going back as far as feasible.
- "A list of the length of time each ICE detainee spent at Jessup. Please include a starting date.
- "A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup, with nature of crime, time spent in non-ICE detention at Jessup and time spent under ICE auspices at Jessup."

In response to your first bullet, the County's Department of Corrections has no records responsive to this portion of your request. These records are maintained by the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE). To request records from ICE, you will need to submit a Freedom of Information Act request to this federal government agency directly; see https://www.ice.gov/foia/overview for details on how to do so.

In response to the third bullet, the Department of Corrections has one record responsive to this portion of your request, which you will find attached. More than two hours was spent gathering records responsive to this portion of your request.

In response to your second and fourth bullet, we ask that you please specify the time frame for which you seek records, e.g. January 1, 2017 to January 21, 2020, so that we may provide you with a time estimate for how long the Department of Corrections estimates it will take its staff to research its files for possibly responsive records, and the corresponding cost for such work.

As noted in my previous letter, dated January 21, 2020, under the PIA, the County has the right to charge for search time exceeding two hours as the first two are free; this fee is based on the hourly salary of the individual(s) carrying out the search. As mentioned above, more than two hours has already been spent on this request.

Additionally, please keep in mind, Howard County has the right to charge a copying fee of $0.25 per page for a black and white paper copy, as mentioned on page 10 of Howard County Council Resolution No. 76-2019, if electronic copies do not exist. Electronic copies are free of charge; however, per page 10 of the Council

Resolution, when an electronic response, or portion therefore, is too large to send electronically, the Public Information Office shall convert the response, or portion thereof, to paper, CD, DVD or flash drive, as the requestor specifies. The cost of a CD/DVD is $10 per disk and a flash drive is $20 per drive.

Should the County not hear back from you within 30 calendar days from the date of this letter regarding the second and fourth bullet, we will consider your request withdrawn.

Pursuant to MPIA § 4-362, you are entitled to seek judicial review of this decision by filing a complaint in the Circuit Court for Howard County or the Circuit Court in Maryland in the County where you reside or maintain a principal place of business. You may also refer any concerns about this decision to the Public Access Ombudsman pursuant to MPIA § 4-1B-01 et seq.

Sincerely,
Alexandra

Alexandra Bresani
Office of Public Information
Howard County Government
410-313-2023 (phone)
410-313-3299 (fax)

www.howardcountymd.gov
www.facebook.com/HoCoGov

From: michael <bionlaw@gmail.com>
Sent: Tuesday, January 21, 2020 3:37 PM
To: Benfer, Cheryl <cbenfer@howardcountymd.gov>
Cc: Kavanagh, Jack <jkavanagh@howardcountymd.gov>
Subject: RE: follow up on our conversation; list of information sought
Importance: High

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Ms. Benfer and Mr. Kavanagh,

Thank you for sending over information this morning. I am not sure that the information you have sent responds to the questions I have posed. The documentation I have requested is:

- A list of inmates and the nature of proceeding under which they were brought by ICE to Jessup. Please go back in time to the extent feasible.
- A list with the residential jurisdiction listed for each ICE inmate, going back as far as feasible.
- A list of the length of time each ICE detainee spent at Jessup. Please include a starting date.
- A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup, with nature of crime, time spent in non-ICE detention at Jessup and time spent under ICE auspices at Jessup.

Your previous disclosures, although limited by the focus on what is the present ICE inmate population, are generally on topic for the first three requests. The unaddressed request is the forth bullet point: A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup, with nature of crime, time spent in non-ICE detention at Jessup and time spent under ICE auspices at Jessup. This question focusses on people at Jessup before ICE involvement that continue detention at Jessup after ICE was contacted.

Obviously, a focus on just 45 inmates is not statistically relevant for this question. I would very much appreciate an answer to this question and, preferably in reference to ICE inmates over the last at least two years.

Could you kindly estimate when that information would be made available?

Many thanks in advance.

Michael David

From: Benfer, Cheryl [mailto:cbenfer@howardcountymd.gov]
Sent: Tuesday, January 21, 2020 7:48 AM
To: bionlaw@gmail.com
Cc: Kavanagh, Jack <jkavanagh@howardcountymd.gov>
Subject: FW: follow up on our conversation; list of information sought

Attached is the updated list.

From: Kavanagh, Jack
Sent: Thursday, January 16, 2020 10:04 AM
To: michael <bionlaw@gmail.com>
Cc: Benfer, Cheryl <cbenfer@howardcountymd.gov>
Subject: RE: follow up on our conversation; list of information sought

We are working on the list to distinguish those convicted vs charged and should have it by Fri

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Sent: Saturday, January 11, 2020 2:03 PM
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Cc: Benfer, Cheryl <cbenfer@howardcountymd.gov>
Subject: RE: follow up on our conversation; list of information sought

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Thanks again.

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Sent: Saturday, January 11, 2020 1:27 PM
To: michael <bionlaw@gmail.com>
Cc: Benfer, Cheryl <cbenfer@howardcountymd.gov>
Subject: Re: follow up on our conversation; list of information sought

Currently at HCDC

Sent from my iPhone

On Jan 11, 2020, at 1:05 PM, michael <bionlaw@gmail.com> wrote:

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

How are these 45 inmates the ones you put on the list, are they current inmates or how else selected? Thanks again.

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Sent: Friday, January 10, 2020 6:40 PM
To: michael <bionlaw@gmail.com>
Cc: Benfer, Cheryl <cbenfer@howardcountymd.gov>
Subject: RE: follow up on our conversation; list of information sought

See attached. Thank you

From: michael <bionlaw@gmail.com>
Sent: Friday, January 10, 2020 4:23 PM
To: Kavanagh, Jack <jkavanagh@howardcountymd.gov>
Cc: Benfer, Cheryl <cbenfer@howardcountymd.gov>
Subject: follow up on our conversation; list of information sought
Importance: High

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Mr. Kavanagh,

Thank you so very much for the courtesy you have extended during our telephone call this morning. During the call, I have requested the documents listed below. You indicated you believe these documents should be available/easy to produce. I understand the documents I will receive will be stripped of personal identification. I did not mention this during the call, but I will be pleased to reimburse the Department for photocopying and such costs, but please let me know in advance if these costs will exceed $100.

The documents:

- A list of inmates and the nature of proceeding under which they were brought by ICE to Jessup. Please go back in time to the extent feasible.
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- A list of the length of time each ICE detainee spent at Jessup. Please include a starting date.
- A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup, with nature of crime, time spent in non-ICE detention at Jessup and time spent under ICE auspices at Jessup.

If feasible and not overly burdensome, I would appreciate if two or more of the above lists could be combined, e.g. a list which would contain the nature of crime, residence and the time spent at Jessup, for each ICE inmate on the list.

Please call for any clarification and with a rough estimate as to when I could expect this information.

Again, I truly appreciate your courtesy during the call and getting this information together.

Respectfully yours,

Michael David
410-370-2122 (cellular)
6658 Windsor Ct
Columbia MD 21044

Exhibit A

From: Kavanagh, Jack [mailto:jkavanagh@howardcountymd.gov]
Sent: Friday, January 10, 2020 6:40 PM
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Importance: High

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Currently at HCDC

Sent from my iPhone

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Subject: follow up on our conversation; list of information sought
Importance: High

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The documents:

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If feasible and not overly burdensome, I would appreciate if two or more of the above lists could be combined, e.g. a list which would contain the nature of crime, residence and the time spent at Jessup, for each ICE inmate on the list.

Please call for any clarification and with a rough estimate as to when I could expect this information.

Again, I truly appreciate your courtesy during the call and getting this information together.

Respectfully yours,

Michael David
410-370-2122 (cellular)
6658 Windsor Ct
Columbia MD 21044

Exhibit C

From: michael <bionlaw@gmail.com>
Sent: Wednesday, February 5, 2020 6:25 PM
To: Bresani , Alexandra <ABresani@howardcountymd.gov>
Cc: 'michael' <bionlaw@gmail.com>
Subject: RE: follow up on our conversation; list of information sought

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

February 5, 2020

Dear Ms. Bresani,

Thank you for the excel spreadsheet you provided, in response to my request/bullet no. 3, i.e. the length of time ICE detainees spent at Jessup. I have two questions re that spreadsheet: 1) Is there any specific order these detainees are listed? None of the booking, release dates or number of days in detention seem to be in any chronologic or other order I discern, so I wonder how that list was organized. 2) I note that the inmate numbering jumps from inmate 390 to inmate 400. Is there any reason inmates 391-399 are omitted on that list? Please thank Ms. Benfer and Mr. Kavanagh for the list and for the clarifications.

In regard to question/bullet no 1, i.e. the nature of proceedings under which inmates were brought to Jessup by ICE, you inform me that the Department of Corrections ("DC") has no records responsive to this request. This could not be correct. If nothing else, form I-203 which DC obtains with each transferee to Jessup has a specific box to be filled-in by ICE that reads: "Nature of Proceedings." There may be records additional to I-203. I request this information as a list for detainees received from ICE since January 1, 2017. For a sampling of 40 detainees, first 40 detainees starting with detainees transferred to Jessup starting January 1, 2018, please provide photocopies of Form I-203, of course where the detainee name is redacted. Please provide also copies of any documents DC might have developed in any independent investigation as to the nature of proceedings or communication with ICE to clarify any nature of proceedings.

Regarding request/bullet no 4, you ask for delineation of how long of a period I seek records. Please provide records for the period commencing with January 1, 2017 until present. I understand that some inmates turned over to ICE might not necessarily end up at Jessup under the ICE contract; I still request records for any inmate turned over to ICE, whether he remains or returns to Jessup under the contract with ICE.

For question/bullet 2, please cover the period commencing with January 1, 2018 until now.

I appreciate the offer of estimates for costs for each of these questions. Should the cost be under $150, please proceed without waiting for my confirmation.

Thank you for your and DC's work in getting this request processed.

Michael David

From: Bresani , Alexandra [mailto:ABresani@howardcountymd.gov]
Sent: Tuesday, February 4, 2020 10:00 AM
To: michael <bionlaw@gmail.com>
Subject: RE: follow up on our conversation; list of information sought

HOWARD COUNTY DEPARTMENT OF COUNTY ADMINISTRATION
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2022

Mark Miller, Administrator, Office of Public Information
msmiller@howardcountymd.gov

FAX 410-313-3390

February 4, 2020

Michael David
6658 Windsor Court
Columbia, MD 21044
bionlaw@gmail.com

Dear Mr. David:

The following is in response to your email to Ms. Cheryl Benfer and Mr. Jack Kavanagh with Howard County Government's Department of Corrections, requesting information in accordance with the Maryland Public Information Act, 4-101 *et seq.* of the General Provisions Article of the Annotated Code of Maryland (the "PIA"), which these two individuals received on January 21, 2020.

Specifically, you have asked for:

- "A list of inmates and the nature of proceeding under which they were brought by ICE to Jessup. Please go back in time to the extent feasible.
- "A list with the residential jurisdiction listed for each ICE inmate, going back as far as feasible.
- "A list of the length of time each ICE detainee spent at Jessup. Please include a starting date.
- "A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup, with nature of crime, time spent in non-ICE detention at Jessup and time spent under ICE auspices at Jessup."

In response to your first bullet, the County's Department of Corrections has no records responsive to this portion of your request. These records are maintained by the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE). To request records from ICE, you will need to submit a Freedom of Information Act request to this federal government agency directly; see https://www.ice.gov/foia/overview for details on how to do so.

In response to the third bullet, the Department of Corrections has one record responsive to this portion of your request, which you will find attached. More than two hours was spent gathering records responsive to this portion of your request.

In response to your second and fourth bullet, we ask that you please specify the time frame for which you seek records, e.g. January 1, 2017 to January 21, 2020, so that we may provide you with a time estimate for how long the Department of Corrections estimates it will take its staff to research its files for possibly responsive records, and the corresponding cost for such work.

As noted in my previous letter, dated January 21, 2020, under the PIA, the County has the right to charge for search time exceeding two hours as the first two are free; this fee is based on the hourly salary of the individual(s) carrying out the search. As mentioned above, more than two hours has already been spent on this request.

Additionally, please keep in mind, Howard County has the right to charge a copying fee of $0.25 per page for a black and white paper copy, as mentioned on page 10 of Howard County Council Resolution No. 76-2019, if electronic copies do not exist. Electronic copies are free of charge; however, per page 10 of the Council

Resolution, when an electronic response, or portion therefore, is too large to send electronically, the Public Information Office shall convert the response, or portion thereof, to paper, CD, DVD or flash drive, as the requestor specifies. The cost of a CD/DVD is $10 per disk and a flash drive is $20 per drive.

Should the County not hear back from you within 30 calendar days from the date of this letter regarding the second and fourth bullet, we will consider your request withdrawn.

Pursuant to MPIA § 4-362, you are entitled to seek judicial review of this decision by filing a complaint in the Circuit Court for Howard County or the Circuit Court in Maryland in the County where you reside or maintain a principal place of business. You may also refer any concerns about this decision to the Public Access Ombudsman pursuant to MPIA § 4-1B-01 et seq.

Sincerely,
Alexandra

Alexandra Bresani
Office of Public Information
Howard County Government
410-313-2023 (phone)
410-313-3299 (fax)

www.howardcountymd.gov
www.facebook.com/HoCoGov

Exhibit D

March 13, 2020

6658 Windsor Ct.
Columbia, MD 21044
Tel. 410/740-3423 or
410/370-2122 (cellular)

Ms. Alexandra Bresani
Office of Public Information
Howard County Government
3430 Court House Drive
Ellicott City MD 21043
By email only: ABresani@howardcountymd.gov

CC Mr. Jack Kavanagh
Director Howard County Detention Center
7301 Waterloo Rd, Jessup, MD 20794
By email only: jkavanagh@howardcountymd.gov

Re: Maryland Public Information Act Request
Information on ICE detainees at Howard County Detention Center ("HCDC")

Dear Ms. Bresani,

This email responds to your email dated February 14, 2020.

In response to information I had sought previously under the Public Information Act ("PIA") MD. Code Ann. General Provisions ("GP") §§4-101 to 4-601, in a letter from you on February 14, you requested, *interalia*, that I pay fees amounting to thousands of dollars for this information. Under GP=206(e), I request a waiver of fees for this information. The information I seek is not for a personal interest, nor is there a commercial interest involved. The request is for information to inform on issues of interest to the public. It is surprising that you are requesting money at this time. Perhaps you do not have full information on the previous correspondence with Mr. Kavanagh's office. I have informed Mr. Kavanagh that this information will be shared with and used in conjunction with efforts by ACLU and the Howard County Coalition for Immigrant Justice. These are not-for-profit organizations focused on civil rights. Since January 2020, I have obtained some information from HCDC, without being asked for a fee. Accordingly, the information I seek is documented as being in the public interest.

Nonetheless, I wish to reduce the burden on your office. Below, I restate and reduce the scope of my request. In the process, 1) I remove some items I had previously requested and 2) I narrow the time frames covered. Any aspects of previous request that is not covered below can be for now dismissed as a suspended request. I hope this helps reduce your efforts and expenses.

What I seek is:

- A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup. Please indicate wich specific infraction they were accused of (why were they at Jessup), whether they were convicted of the accused infraction, their immigration status while at Jessup, the time spent in non-ICE detention at Jessup and, if applicable, the time spent under ICE auspices at Jessup. Please include separate list for inmates in the male and female facilities. Please provide this information for detainees at Jessup starting with January 1, 2018.
- A list of inmates and which criminal offense they were accused of when brought by ICE to Jessup. Please indicate if they were either released or were retained by ICE or deported after time at Jessup. Please cover inmates brought to Jessup by ICE since January 1, 2018.

Of course, we realize that the information provided to us will not reveal the identity of the individual detainees.

It is important that this information be provided to us within 30 days – see GP §4-203(a).

If you feel that this information can be provided in a more cost effective way or for any reason you wish to consult with me, please call within ten days.

Thank you.

Sincerely,

Michael David

HOWARD COUNTY DEPARTMENT OF COUNTY ADMINISTRATION
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2022

Mark Miller, Administrator, Office of Public Information FAX 410-313-3390
msmiller@howardcountymd.gov

From: Bresani , Alexandra <ABresani@howardcountymd.gov>
Sent: Friday, February 14, 2020 11:26 AM
To: michael
Subject: RE: follow up on our conversation; list of information sought
Attachments: Michael David FOLLOW-UP Response.pdf

February 14, 2020

Michael David
6658 Windsor Court
Columbia, MD 21044
bionlaw@gmail.com

Dear Mr. David:

The following is in follow-up response to your email to Ms. Cheryl Benfer and Mr. Jack Kavanagh with Howard County Government's Department of Corrections, requesting information in accordance with the Maryland Public Information Act, 4-101 *et seq.* of the General Provisions Article of the Annotated Code of Maryland (the "PIA"), which these two individuals received on January 21, 2020.

Specifically, you have asked for:

- "A list of inmates and the nature of proceeding under which they were brought by ICE to Jessup. Please go back in time to the extent feasible.
- "A list with the residential jurisdiction listed for each ICE inmate, going back as far as feasible.
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In response to the County's February 4, 2014 letter, you stated via email on February 5, 2020: "Thank you for the excel spreadsheet you provided, in response to my request/bullet no. 3, i.e. the length of time ICE detainees spent at Jessup. I have two questions re that spreadsheet: 1) Is there any specific order these detainees are listed? None of the booking, release dates or number of days in detention seem to be in any chronologic or other order I discern, so I wonder how that list was organized. 2) I note that the inmate numbering jumps from inmate 390 to inmate 400. Is there any reason inmates 391-399 are omitted on that list? Please thank Ms. Benfer and Mr. Kavanagh for the list and for the clarifications.

"In regard to question/bullet no 1, i.e. the nature of proceedings under which inmates were brought to Jessup by ICE, you inform me that the Department of Corrections ("DC") has no records responsive to this request. This could not be correct. If nothing else, form I-203 which DC obtains with each transferee to Jessup has a specific box to be filled-in by ICE that reads: 'Nature of Proceedings.' There may be records additional to I-203. I request this information as a list for detainees received from ICE since January 1, 2017. For a sampling of 40 detainees, first 40 detainees starting with detainees transferred to Jessup starting January 1, 2018, please provide photocopies of Form I-203, of course where the detainee name is redacted. Please provide also copies of any documents DC might have developed in any independent investigation as to the nature of proceedings or communication with ICE to clarify any nature of proceedings.

"Regarding request/bullet no 4, you ask for delineation of how long of a period I seek records. Please provide records for the period commencing with January 1, 2017 until present. I understand that some inmates turned over to ICE might not necessarily end up at Jessup under the ICE contract; I still request records for any inmate turned over to ICE, whether he remains or returns to Jessup under the contract with ICE.

"For question/bullet 2, please cover the period commencing with January 1, 2018 until now."

To speak with someone regarding the Department of Corrections record that was provided to you on February 4, 2020 in response to bullet #3, you will need to contact Corrections directly at 410-313-5200 for further assistance.

With regard to bullet #1 and your updated request stating:
"I request this information as a list for detainees received from ICE since January 1, 2017. For a sampling of 40 detainees, first 40 detainees starting with detainees transferred to Jessup starting January 1, 2018, please provide photocopies of Form I-203, of course where the detainee name is redacted." This portion of your request has been denied. Homeland security information that the federal government shares with the County may not be disclosed pursuant to 6 U.S.C. §§ 482(e), which provides that information obtained by a local government from a federal agency "shall remain under the control of the federal agency," and a "local law authorizing or requiring" the "government to disclose information "shall not apply." Furthermore, as noted by MD GEN PROVIS § 4-301(a)(1), (2)(ii),
"A custodian shall deny inspection of a public record or any part of a public record if by law, the public record is privileged or confidential; or the inspection would be contrary to a federal statute."

Additionally, the Freedom of Information Act (FOIA) exempts from disclosure:

- Protects information that is properly classified in the interest of national security pursuant to Executive Order 12958.
- Protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.
- Protects records or information compiled for law enforcement purposes the release of which could reasonably be expected:
    - a. 7(A) – to interfere with enforcement proceedings.
    - b. 7(B) – would deprive a person of a right to a fair trial or an impartial adjudication.
    - c. 7(C) – to constitute an unwarranted invasion of the personal privacy of a third party/parties (in some instances by revealing an investigative interest in them).
    - e. 7(E) – would disclose techniques and procedures for law enforcement investigations or prosecutions.
    - f. 7(F) –to endanger the life or physical safety of an individual.

As noted in my previous letter, to request records maintained by the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE), you will need to submit a FOIA request directly to this federal government agency. Details on how to do so can be found ICE's website at https://www.ice.gov/foia/overview.

The Department of Corrections has no records responsive to your request for: "Please provide also copies of any documents DC might have developed in any independent investigation as to the nature of proceedings or communication with ICE to clarify any nature of proceedings."

As noted in my previous letter, dated January 21, 2020, under the PIA, Howard County has the right to charge for search time exceeding two hours as the first two are free; this fee is based on the hourly salary of the individual(s) carrying out the search. As stated in my February 4, 2020 letter, the County has already spent more than two hours on your request thus far.

In response to bullet #2, the County's Department of Corrections estimates it will take one employee 25 hours to review its paper files for records possibly responsive to your request. The hourly rate of the employee who would be performing the work is $37.73 per hour. In addition, any responsive records may have to be reviewed by the Howard County Office of Law. We would notify you in advance of any changes in the anticipated rate or if further review is necessary.

If you would like the Department of Corrections to begin reviewing its files for records rsponive to bullet #2, please send a check in the amount of $943.25 ($37.73 hourly wage x 25 hours of review time) **made payable to the "Director of Finance"** and **mailed to the Office of Public Information, 8930 Stanford Boulevard, Columbia, MD 21045**. Upon receipt of your payment, I will have the Department of Corrections begin its work. However, should you wish to narrow your request in order to reduce or eliminate the search and preparation fee, please let me know at your convenience.

In response to bullet #4, the County's Department of Corrections estimates it will take one employee 40 hours to review its paper files for records possibly responsive to your request. The hourly rate of the employee who would be performing the work is $37.73 per hour. In addition, any responsive records may have to be reviewed by the Howard County Office of Law. We would notify you in advance of any changes in the anticipated rate or if further review is necessary.

If you would like the Department of Corrections to begin reviewing its files for records rsponive to bullet #4, please send a check in the amount of $1,509.20 ($37.73 hourly wage x 40 hours of review time) **made payable to the "Director of Finance"** and **mailed to the Office of Public Information, 8930 Stanford Boulevard, Columbia, MD 21045**. Upon receipt of your payment, I will have the Department of Corrections begin its work. However, should you wish to narrow your request in order to reduce or eliminate the search and preparation fee, please let me know at your convenience.

Please keep in mind, as also mentioned in my previous letters, Howard County has the right to charge a copying fee of $0.25 per page for a black and white paper copy, as mentioned on page 10 of Howard County Council Resolution No. 76-2019, if electronic copies of the responsive records do not exist. As noted above, these records are maintained as paper.

Should the County not hear back from you within 30 calendar days from the date of this letter in response to the fees outlined above, we will consider your request withdrawn.

Pursuant to MPIA § 4-362, you are entitled to seek judicial review of this decision by filing a complaint in the Circuit Court for Howard County or the Circuit Court in Maryland in the County where you reside or maintain a principal place of business. You may also refer any concerns about this decision to the Public Access Ombudsman pursuant to MPIA § 4-1B-01 et seq.

Sincerely,
Alexandra

Alexandra Bresani
Office of Public Information
Howard County Government
410-313-2023 (phone)
410-313-3299 (fax)

www.howardcountymd.gov
www.facebook.com/HoCoGov

Exhibit E

Clark, Janice

From: Bresani , Alexandra <ABresani@howardcountymd.gov>
Sent: Tuesday, March 17, 2020 2:47 PM
To: michael
Subject: RE:
Attachments: Michael David REVISED Receipt Response.pdf

HOWARD COUNTY DEPARTMENT OF COUNTY ADMINISTRATION
3430 Courthouse Drive ▪ Ellicott City, Maryland 21043 ▪ 410-313-2022

Mark Miller, Administrator, Office of Public Information FAX 410-313-3390
msmiller@howardcountymd.gov

March 17, 2020

Michael David
6658 Windsor Court
Columbia, MD 21044
bionlaw@gmail.com

Dear Mr. David:

This letter is to confirm receipt of your email to Howard County Government's Office of Public Information, received on Saturday, March 14, 2020 and sent in response to the County's February 14, 2020 letter regarding your January 21, 2020 PIA request.

In your March 14th letter, you request information in accordance with the Maryland Public Information Act, 4-101 *et seq.* of the General Provisions Article of the Annotated Code of Maryland (the "PIA"), stating: "Below, I restate and reduce the scope of my request. In the process, 1) I remove some items I had previously requested and 2) narrow the time frames covered. Any aspects of previous request that is not covered below can be for now dismissed as a suspended request. I hope this helps reduce your efforts and expenses.

"What I seek is:

- "A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup. Please indicate wich specific infraction they were accused of (why were they at Jessup), whether they were convicted of the accused infraction, their immigration status while at Jessup, the time spent in non-ICE detention at Jessup and, if applicable, the time spent under ICE auspices at Jessup. Please include separate list for inmates in the male and female facilities. Please provide this information for detainees at Jessup starting with January 1, 2018 [to present, March 14, 2020].

- "A list of inmates and which criminal offense they were accused of when brought by ICE to Jessup. Please indicate if they were either released or were retained by ICE or deported after time at Jessup. Please cover inmates brought to Jessup by ICE since January 1, 2018 [to present, March 14, 2020]."

Please note, the PIA grants you the right to review responsive and available public records that are not otherwise exempted from disclosure, and to obtain copies of those records. A "public record," within the meaning of the

PIA, is the original or copy of any documentary material in any form created or received by an agency in connection with the transaction of public business. Accordingly, a party responding to a PIA request is not required to create a new record, such as a list.

In response to bullet #2 and the portion of bullet #1 in which you seek information regarding "… if applicable, the time spent under ICE auspices at Jessup" these portions of your request are denied. Homeland security information that the federal government shares with the County may not be disclosed pursuant to 6 U.S.C. §§ 482(e), which provides that information obtained by a local government from a federal agency "shall remain under the control of the federal agency," and a "local law authorizing or requiring" the "government to disclose information "shall not apply." Furthermore, as noted by MD GEN PROVIS § 4-301(a)(1), (2)(ii),
"A custodian shall deny inspection of a public record or any part of a public record if by law, the public record is privileged or confidential; or the inspection would be contrary to a federal statute."

Additionally, the Freedom of Information Act (FOIA) exempts from disclosure:

- Protects information that is properly classified in the interest of national security pursuant to Executive Order 12958.
- Protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.
- Protects records or information compiled for law enforcement purposes the release of which could reasonably be expected:
    - a. 7(A) – to interfere with enforcement proceedings.
    - b. 7(B) – would deprive a person of a right to a fair trial or an impartial adjudication.
    - c. 7(C) – to constitute an unwarranted invasion of the personal privacy of a third party/parties (in some instances by revealing an investigative interest in them).
    - e. 7(E) – would disclose techniques and procedures for law enforcement investigations or prosecutions.
    - f. 7(F) –to endanger the life or physical safety of an individual.

The U.S. Department of Homeland Security has advised the County that the information you seek is protected from disclosure under this statute. Further, as noted in my previous letters, dated February 4, 2020 and February 14, 2020, the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE) has suggested that you send a Freedom of Information Act request directly to it for the information you seek Details on how to do so can be found ICE's website at https://www.ice.gov/foia/overview.

Additionally, as noted in my previous letters, under the PIA, Howard County has the right to charge for search time exceeding two hours as the first two are free; this fee is based on the hourly salary of the individual(s) carrying out the search. As previously stated, the County has already spent more than two hours on your overall request thus far.

As for the rest of bullet #1, the County's Department of Corrections estimates it will take one employee 30 hours to review its paper files for records possibly responsive to your request. The hourly rate of the employee who would be performing the work is $37.73 per hour. Due to amount of County resources that will be used to gather and review records potentially responsive to your request, your fee waiver appeal has been denied.

If you would like the Department of Corrections to begin reviewing its files for records rsponive to bullet #1, please send a check in the amount of $1,131.90 ($37.73 hourly wage x 30 hours of review time) **made payable to the "Director of Finance"** and **mailed to the Office of Public Information, 8930 Stanford Boulevard, Columbia, MD 21045**. Upon receipt of your payment, I will have the Department of Corrections begin its work. However, should you wish to narrow your request in order to reduce or eliminate the search and preparation fee, please let me know at your convenience.

Again, please keep in mind, in addition to time spent by the Department of Corrections, any responsive records may have to be reviewed by the Howard County Office of Law. We would notify you in advance of any changes in the anticipated rate or if further review is necessary.

Finally, as mentioned in my previous letters, Howard County has the right to charge a copying fee of $0.25 per page for a black and white paper copy, as mentioned on page 10 of Howard County Council Resolution No. 76-2019, if electronic copies of the responsive records do not exist. As noted above, these records are maintained as paper.

Should the County not hear back from you within 30 calendar days from the date of this letter in response to the fees outlined above, we will consider your request withdrawn.

Pursuant to MPIA § 4-362, you are entitled to seek judicial review of this decision by filing a complaint in the Circuit Court for Howard County or the Circuit Court in Maryland in the County where you reside or maintain a principal place of business. You may also refer any concerns about this decision to the Public Access Ombudsman pursuant to MPIA § 4-1B-01 et seq.

Sincerely,
Alexandra

Alexandra Bresani
Office of Public Information
Howard County Government
410-313-2023 (phone)
410-313-3299 (fax)

www.howardcountymd.gov
www.facebook.com/HoCoGov

Howard County, Maryland

Howard County Office of Law
3450 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100

May 15, 2020

VIA EMAIL - piaopengov@oag.state.md.us

Public Information Act Compliance Board
c/o Office of the Attorney General
200 St. Paul Place
Baltimore, Maryland 21202

RE: PIA Compliance Board Complaint - Michael David

To the Public Information Act Compliance Board:

On behalf of Howard County, Maryland (the "County"), I write in response to Michael David's April 30, 2020 Complaint, which seeks a "reconsideration of fees demanded" by the County "for responding for information under" the Public Information Act, Md. Code, General Provisions Article Sec. 4-101, *et seq*. (the "PIA").

A. Introduction

Mr. David seeks from the County's Department of Corrections ("DOC") separate lists of male and female "detainees turned over to ICE after finishing non-immigration incarceration time at Jessup[,]" including the infraction of which they were accused, whether they were convicted of that infraction, their immigration status at Jessup, the time spent in non-ICE detention at Jessup, and the time spent under "ICE auspices at Jessup" from January 1, 2018 to present.

As the County has repeatedly advised Mr. David, DOC does not maintain such list. Thus, it would take an experienced DOC employee 30 hours, at a rate of $37.73/hour (for a total of $1,31.90), to manually review DOC's paper files and compile the lists Mr. David seeks. Because Mr. David's request does not shed light on a matter of public concern, the County appropriately denied his fee waiver request. The fee the County intends to charge is reasonable, and reflects the actual costs associated with responding to Mr. David's request. The charge is necessary to avoid over burdening County taxpayers.

A. Background

Mr. David first contacted the County/DOC with several requests for records under the PIA on January 10, 2020, when he sought, as he currently does, a "list of detainees turned over to ICE after

finishing non-immigration incarceration time at Jessup, with nature of crime, time spent in non-ICE detention at Jessup, and time spent under ICE auspices at Jessup." *See* January 10, 2020 e-mail from Michael David to Jack Kavanagh, Director DOC, attached hereto as Exhibit A. After several communications with DOC/the County, Mr. David limited his request to records from January 1, 2017 to present. *See* January 10, 11, 16, and 21 e-mail exchanges between Michael David and Jack Kavanagh, attached hereto as Exhibit B; February 4 and 5 email exchange between Michael David, and Alexandra Bresani, Office of Public Information, attached hereto as Exhibit C. On February 14, 2020, the County advised Mr. David that it had spent more than two hours searching for and preparing records responsive to his requests, and that it would take a County employee 40 hours, at a rate of $37.73/hour, to review its paper files and compile the requested list. In response, Mr. David narrowed his January 10, 2020 to the time period January 1, 2018 to present. *See* March 13, 2020 letter from Michael David to Alexandra Bresani, Office of Public Information, attached hereto as Exhibit D.

On March 17, 2020, the County advised Mr. David that, to accurately respond to his request, a DOC employee would need to manually review paper files for approximately 30 hours, at a rate of $37.73/hour, for a total of $1,131.90. *See* March 17, 2020 letter from Alexandra Bresani to Michael David, attached hereto as Exhibit E. The County also advised Mr. David that the costs associated with searching for and preparing the requested records for inspection was an estimate, and that additional fees could be incurred if other departments, like the Office of Law, needed to also review the records.

Mr. David subsequently contacted his Board.

C. Mr. David's Contentions Should be Rejected.

1. The Estimated Fee is Not Excessive, and Reflects the Actual Costs the County will Incur.

In his Complaint to this Board, Mr. David claims that the fee the County seeks to charge to respond to his PIA request is excessive because, "[s]urely[,] DOC has a "listing or file specifically of inmates turned over to ICE." Mr. David is wrong. As the County has advised him, DOC does **not** maintain such a list.

To respond to Mr. David's request, DOC intends to assign Corporal McInnis, the day shift commitment officer who processes all intakes, releases, and coordinates transfers, to review DOC's paper files and compile the information Mr. David seeks. Corporal McInnis is experienced in reviewing release documents and file records. If DOC used a less experienced employee to review its paper files, the task would take longer (and cost more). Given the volume of records involved in this search and Corporal McInnis' experience, the County provided Mr. David with a fee estimate that reflects the actual costs that will be incurred by the County to respond to his request.

2. The County Complied with PIA Sec. 4-206(c), and provided Mr. David with more than Two Hours of Free Search Time.

Mr. David's claim that the County is violating PIA Sec. 4-206(c) because it has failed to give him two hours of free search time is belied by the facts. As Mr. David admits in his Complaint and attachments thereto, the County has spent several hours communicating with him via e-mail,

phone, and letter to provide him the records he seeks and work with him to minimize costs. Mr. David initially contacted the County on January 10, 2020 for the records he now seeks (as well as others that have been provided to him). Although Mr. David refined his request, its nature and scope has been consistent since January 10, 2020; thus, and contrary to his contention, Mr. David's March 13, 2020 request does not represent a "different request" for which he is entitled to additional free search time under the PIA.

Several County employees have worked to respond to Mr. David's numerous requests, including Office of Public Information employee Alexandra Bresani, DOC Director Jack Kavanagh, and DOC employee Lieutenant Elizabeth Jenkins. In fact, Lieutenant Jenkins, at a rate of $45.00/hour, spent two hours reviewing ICE detainee records and DOC's jail management system to respond to Mr. David's PIA requests. The County has provided Mr. David with the information it has. When it lacked the information and records Mr. David sought, the County either reviewed its files to obtain the information, or directed him to contact other agencies.

To date, the County has communicated with Mr. David **nine times** since his January 10, 2020 request: on January 10, 11, 16, and 21; February 4, 14, and 27; March 17, and April 13. On February 14, 2020 (after five communications with Mr. David and the production of several records), the County specifically advised Mr. David that it had already spent more than two hours searching for, preparing, and producing the public records he sought for inspection and copying. Mr. David cannot now seek to use additional taxpayer time and money to obtain additional records by simply "restat[ing] and reduc[ing] the scope of [his] request." *See* March 13, 2020 letter from Michael David to Alexandra Bresani, attached hereto as Exhibit D.

Since the County has spent far more than two hours responding to Mr. David, the County has not improperly attempted to charge him for the first two hours of search and preparation time in violation of GP 4-206(c). To the contrary, the County has not charged Mr. David the fees associated with the majority of time it spent thus far handling his requests.

3. The County's Properly Declined Mr. David's Fee Waiver Request.

The County properly denied Mr. David's fee waiver request because Mr. David did not make a showing of indigency or demonstrate that he seeks the information for a public purpose that justifies the expenditure of taxpayer money. *See* PIA Sec. 4-206(e)(1)(2)(i); *Action Comm. for Transit, Inc. v. Town of Chevy Chase*, 229 Md. App. 540, 556–57 (2016). Although Mr. David claims that he intends to share the requested information the "ACLU and the Howard County Coalition for Immigrant Justice," there is no indication that these entities desire this information.

It is also unclear how the "list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup" would contribute to a "public understanding and the significance of that understanding." *Id*. Mr. David has failed to articulate how the disclosure will shed light on a "public controversy about official actions" or an "agency's performance of its public duties." *Id*.

Thus, this matter is markedly different from those cases where Courts have concluded that a fee waiver is appropriate. There is no indication that the information Mr. David seeks will expose health hazards or delays to improvements affecting public health. *See, e.g., Mayor & City Council of Baltimore v. Burke,* 67 Md. App. 147, 157 (1986). Further, because the requester is a private citizen and not a member of the press, there is no concern that imposing the reasonable fee will have a chilling effect on the "free exercise of freedom of the press." *Id*. Contrary to Mr. David's assertion, there is also no "First Amendment right to bring [this information] to the public's attention." There is no evidence that Mr. David's fee waiver request was denied because he has previously criticized the government. *Action Comm. for Transit, Inc.*, 229 Md. App. at 563.

Finally, Mr. David has acknowledged that, since January 2020, he had received information from DOC/the County without charge. He seems to suggest that because the County previously provided him with information *gratis*, it must continue to do so. This is clearly an untenable position and not supported by the PIA.

C. Conclusion

The County has clearly worked tirelessly to produce the public information Mr. David seeks. Unfortunately, the list Mr. David wants is not kept in an easily retrievable manner – thus, the County must assign an employee to painstakingly and manually review paper files to accurately respond to his request. Mr. David has not shown how his request will serve the public – particularly because there is no indication that the non-profit entities with which he intends to share the information seek the same. As a result, the Compliance Board should determine that the County did not charge an unreasonable fee in violation of PIA Sec. 4-206.

Sincerely,

HOWARD COUNTY OFFICE OF LAW

Melissa E. Goldmeier
Assistant County Solicitor

:meg
cc: Michael David (via email: bionlaw@gmail.com)

Public Information Act Compliance Board ("PIACB")
Office of the Attorney General
200 Saint Paul Place
Baltimore MD 21202
By email only: piaopengov@oag.state.md.us

CC: (by email): Respondents: Karafa, Rhonda rkarafa@howardcountymd.gov; Goldmeier, Melissa <mgoldmeier@howardcountymd.gov>; Peltzman, Cynthia <cpeltzman@howardcountymd.gov>; Mattison, Cindy cmattison@howardcountymd.gov

Rebuttal to Response by Howard County Government (HCG) to Complaint by Michael David

HCG did not provide the PIA proscribed two hours of free information. The Response refers to multiple communications with Michael David and to work required to gather previously provided information. But the record is clear. Initially four separate categories were sought (referred in various correspondences as "bullet points".) But,

- The information where provided was not under a PIA request. Rather, Mr. Jack Kavanagh, Director of the Detention Center, was responding at the request of County Executive Calvin Ball. The information released was not labeled as having been requested under PIA; the information came very late (unlike information under any PIA guidance), and it was incomplete (and never later completed). No mention of fees or PIA considerations. *See* email dated January 21, 2020, to Cheryl Benfer and Jack Kavanagh, officers of the Detention Center. (Exhibit B, by Respondent.)
- Importantly, as the January 21 and subsequent emails point out, "The **unaddressed** request is the fourth bullet point: A list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup ..." [Underline in the original email.] Follow up correspondence in respect to this fourth request (the subject matter of this Complaint) only addressed the fee requested by HCG, my reducing the time frame in an attempt to lower burden on the County, never was any information provided on this topic. (Actually, no information on any topic, once this was declared by HCG to be a PIA request.)

So, on the information which is the subject matter of the Complaint, the County provided no information, let alone two hours of free information.

The fee requested is excessive. It is also imprecise. The Response asserts that the Department of Correction (DOC) has no preexisting file of inmates turned over to ICE and would need to employ a highly skilled officer to go through the files. It seems incredulous that DOC files are so difficult to parse. These files are made of specific forms, each containing specific fields of information. It would likely take but a glance to determine whose file needs further viewing. Assertion to the contrary is not in line with DOC style of paperwork. An expert seems unlikely to be required.

The Response appears to indicate (but not be specific about it) that DOC has changed its mind, DOC is now ready to provide lists. Why is the fee unchanged? The initial estimate was accompanied by a refusal to provide lists.

The fee requested is described as an estimate. A large unknown is potential further fees for legal review. But the uncertainty as to cost discourages seeking the information, contrary to the purposes of PIA. HCG knows exactly what information is sought, and need for legal review, if any, should have been relatively easy to anticipate. But no effort was made to provide a reliable estimate.

HCG Has Responded To Complaint About Not Waiving The Fee; PIA Board Is Now Free To Consider This Aspect. By responding to this aspect of the Complaint, HCG has opened an opportunity for the PIA Board to be involved.

The Respondent asserts that a case was not made that this is an issue of public interest. Really, is not the record clear that this all started with a public protest over immigrant incarceration? Is immigrant incarceration an unknown public debate issue to a DOC official? Are the nine correspondences between Complainant and HCG not replete with assertions that this is information in the public interest – why only now is a question raised by HCG? Finally, an early assertion by Michael David that the information is to be shared with known public interest groups is only now, at this late stage, being questioned: 'are ACLU, CASA and the Coalition for Immigrant Justice interested in this information?' Easy item to resolve: If I produce a letter from one or more of these groups saying they were and continue to be interested in the information, is HCG agreeing to waive the fees?

Conclusion. The excessive fees, the imprecise fee amount, and the refusal to actually have considered a waiver of fees, each and together amount to a suppression of release of public information. The information should be provided promptly.

Michael David

From: Goldmeier, Melissa
To: michael; Karafa, Rhonda; piaopengov@oag.state.md.us
Cc: Peltzman, Cynthia; Mattison, Cindy
Subject: Re: Rebuttal to Response
Date: Tuesday, May 26, 2020 9:19:46 AM

To the Compliance Board:

Mr. David's response is improper under the statute and should be stricken. Under Md. Code, General Provisions Article Sec. 4-1A-05 and Sec. 4-1A-06, the applicant may file a written complaint to the Board and the custodian may respond to the same. There is no written authority authorizing a complainant to submit yet another document reiterating his grievances.

Please advise if the Board disagrees and would like written response from the County.

Thanks,

Melissa Goldmeier
410.313.1120 (o)
614.264.0137 (c)

From: michael <bionlaw@gmail.com>
Sent: Friday, May 22, 2020 7:55 PM
To: Karafa, Rhonda <rkarafa@howardcountymd.gov>; piaopengov@oag.state.md.us <piaopengov@oag.state.md.us>
Cc: Goldmeier, Melissa <mgoldmeier@howardcountymd.gov>; Peltzman, Cynthia <cpeltzman@howardcountymd.gov>; Mattison, Cindy <cmattison@howardcountymd.gov>
Subject: Rebuttal to Response

Please see attached commentary on Howard County's Response.

Respectfully,

Michael David

From: Karafa, Rhonda [mailto:rkarafa@howardcountymd.gov]
Sent: Friday, May 15, 2020 1:30 PM
To: piaopengov@oag.state.md.us
Cc: Goldmeier, Melissa <mgoldmeier@howardcountymd.gov>; Peltzman, Cynthia <cpeltzman@howardcountymd.gov>; Mattison, Cindy <cmattison@howardcountymd.gov>; bionlaw@gmail.com

Subject: PIA Compliance Board Complaint - Michael Davis

Please see the attached letter and exhibits.

Thanks so much,

Rhonda Karafa
Paralegal
Howard County Government
Office of Law
3450 Court House Drive
Ellicott City, Maryland 21043
o: 410.313.3084 | f: 410.313.3292 | rkarafa@howardcountymd.gov

From: michael
To: "Goldmeier, Melissa"; "Karafa, Rhonda"; piaopengov@oag.state.md.us
Cc: "Peltzman, Cynthia"; "Mattison, Cindy"
Subject: RE: Rebuttal to Response
Date: Tuesday, May 26, 2020 10:18:04 AM

To the Compliance Board,

I believe Ms. Goldmeier is incorrect about the procedure in front of the Board, and my Rebuttal to Response is accepted procedure.

Ms. Goldmeier would do everyone a favor by focusing on the merits of the dispute and not attempt to hide behind procedure. What I mean, the Rebuttal offered a settlement that would serve justice under the PIA's goal. Ms. Goldmeier, in her Response, newly asserted that there is no evidence that civic groups were interested in the specific information sought under PIA. In the Rebuttal, I offered to provide a letter from such organizations, declaring their interest in the information, if she agrees that the information would then be provided with a waiver of fee. Taking me up on this offer would be the proper solution to this dispute. The offer still stands.

Michael David

From: Goldmeier, Melissa [mailto:mgoldmeier@howardcountymd.gov]
Sent: Tuesday, May 26, 2020 9:20 AM
To: michael <bionlaw@gmail.com>; Karafa, Rhonda <rkarafa@howardcountymd.gov>; piaopengov@oag.state.md.us
Cc: Peltzman, Cynthia <cpeltzman@howardcountymd.gov>; Mattison, Cindy <cmattison@howardcountymd.gov>
Subject: Re: Rebuttal to Response

To the Compliance Board:

Mr. David's response is improper under the statute and should be stricken. Under Md. Code, General Provisions Article Sec. 4-1A-05 and Sec. 4-1A-06, the applicant may file a written complaint to the Board and the custodian may respond to the same. There is no written authority authorizing a complainant to submit yet another document reiterating his grievances.

Please advise if the Board disagrees and would like written response from the County.

Thanks,

Melissa Goldmeier
410.313.1120 (o)
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To: Karafa, Rhonda <rkarafa@howardcountymd.gov>; piaopengov@oag.state.md.us <piaopengov@oag.state.md.us>
Cc: Goldmeier, Melissa <mgoldmeier@howardcountymd.gov>; Peltzman, Cynthia <cpeltzman@howardcountymd.gov>; Mattison, Cindy <cmattison@howardcountymd.gov>
Subject: Rebuttal to Response

Please see attached commentary on Howard County's Response.

Respectfully,

Michael David

From: Karafa, Rhonda [mailto:rkarafa@howardcountymd.gov]
Sent: Friday, May 15, 2020 1:30 PM
To: piaopengov@oag.state.md.us
Cc: Goldmeier, Melissa <mgoldmeier@howardcountymd.gov>; Peltzman, Cynthia <cpeltzman@howardcountymd.gov>; Mattison, Cindy <cmattison@howardcountymd.gov>; bionlaw@gmail.com
Subject: PIA Compliance Board Complaint - Michael Davis

Please see the attached letter and exhibits.

Thanks so much,

Rhonda Karafa
Paralegal
Howard County Government
Office of Law
3450 Court House Drive
Ellicott City, Maryland 21043
o: 410.313.3084 | f: 410.313.3292 | rkarafa@howardcountymd.gov

STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 20-13

June 22, 2020
Howard County, Custodian
Michael David, Complainant

The complainant, Michael David, alleges that Howard County ("County") charged an unreasonable fee when it requested prepayment of $1,131.90 to respond to his Public Information Act ("PIA") request for a "list of detainees turned over to ICE after finishing non-immigration incarceration time at Jessup [Correctional Institution]," including "whether they were convicted of the accused infraction, their immigration status while at Jessup, the time spent in non-ICE detention at Jessup and, if applicable, the time spent under ICE auspices at Jessup" for the time period January 1, 2018 to March 14, 2020. The complainant also contends that the County should have granted his request for a fee waiver.

The County responds that its Department of Corrections ("Corrections") does not maintain such a list, and that it would take a Corrections employee approximately 30 hours, at a rate of $37.73 per hour, to review the relevant paper records to compile the information requested, resulting in a total estimated cost of $1,131.90 for the employee's time. The final cost to the complainant would also include copying costs, at a rate of $0.25 per page, and any time required for legal review of the responsive records. The County explains that it has already expended more than two non-compensable hours on the complainants' PIA request.

Analysis

This Board is authorized only to review complaints that allege: (1) that "a custodian charged a fee under § 4-206 of [the PIA] of more than $350" and (2) that "the fee is unreasonable." § 4-1A-05(a).[1] As we have explained on numerous occasions, this narrow jurisdiction does not permit us to review a custodian's decision to deny a fee waiver request. *See, e.g.*, PIACB 19-11 (July 19, 2019); *see also* *Final Report on the Public Information Act* at 31-32 (Dec. 27, 2019) (recommending that this Board be given jurisdiction to review fee waiver decisions, among other matters). Accordingly, we will not address the complainant's allegations pertaining to the County's decision to deny his fee waiver request.

[1] References are to the General Provisions Article of the Annotated Code of Maryland, unless otherwise indicated.

We thus turn to the complainant's allegation that the County's $1,131.90 fee estimate is unreasonable. The PIA defines a reasonable fee as "a fee bearing a reasonable relationship to the recovery of actual costs incurred by a governmental unit." § 4-206(a)(3). Although an agency's estimation of a fee—as opposed to a fee based upon actual costs already incurred by an agency—presents certain difficulties for our review, *see, e.g.*, PIACB 17-04 at 3 (Nov. 22, 2016), we have nonetheless reviewed the reasonableness of a fee estimate when it comprises a precise figure based upon a detailed breakdown of anticipated costs, and when the custodian requires prepayment of the estimate before providing the records, *see* PIACB 19-01 at 2-3 (Sept. 24, 2018). That is the case here. Based on the materials submitted by the parties, we cannot conclude that the County's fee estimate is unreasonable.

First, we have no reason to believe that the County has not already provided the two non-compensable hours to which the complainant is entitled under the PIA. *See* § 4-206(c). The requested information at issue here was among a larger field of information the complainant initially requested from the County. Through a series of communications, it appears the County has provided some of the requested information and has denied access to some of the information, and the complainant has refined the scope of his request. Based on our review of the history, it is not unreasonable to assume that the County has already expended at least two hours to respond to the complainant's initial request, and the remaining information the complainant seeks does not constitute a "new" or separate PIA request for which he should receive two additional non-compensable hours. *See* Chapter 7 of the PIA Manual, 1-2 (explaining that an agency should not "artificially aggregate *separate* requests to increase the fee") (emphasis added).

Second, contrary to the complainant's assertion that the County must have a "listing or file specifically of inmates turned over to ICE," the County explains that it does not maintain such a list, but that, instead, compiling all of the requested information will require a manual review of a large number of paper files. Based on the materials before us, we have no reason to doubt the County's claim.

Third, the complainant alleges that an employee with a lower hourly rate should be able to review the relevant records, but the County explains that the Corporal within Corrections who will review the records—at a rate of $37.73 per hour—is actually the most economical employee for the job because that employee is a "day shift commitment officer who processes all intakes, releases, and coordinates transfers" and is most familiar with "reviewing release documents and file records." According to the County, this Corporal's experience is necessary in order to efficiently review the large volume of potentially responsive paper records, and a "less experienced" employee would likely take longer than 30 hours and result in a higher cost. We have no reason to second guess the County's decision here.

Accordingly, based on the submissions, we conclude that the County's fee estimate appears to reflect a "reasonable fee" as that term is defined by the PIA. Of course, because the fee is only an estimate, the County should closely track the amount of time actually required to search for potentially responsive records and refund any overage. In addition, to the extent feasible and only

if amenable to the complainant, we encourage the County to scan responsive paper records into an electronic format to reduce copying costs. *See* § 4-103(b) (the PIA "shall be construed in favor of allowing inspection of a public record, *with the least cost and delay*" to the requestor) (emphasis added); PIACB 20-05 at 3 (Nov. 7, 2019) (encouraging an agency to scan a voluminous number of paper records onto a CD so as to reduce costs to the requestor, and explaining that "[a]lthough there may be more staff time involved with this method, we suspect it will result in a lower overall fee in situations . . . where there are voluminous paper records and the agency is charging a relatively high per page copying fee").

Conclusion

Based on the materials before us, we do not find that the County's fee estimate of $1,131.90 is unreasonable. We decline to review the County's decision to deny the complainant's fee waiver request as outside of our jurisdiction.

Public Information Act Compliance Board

John H. West, III, Esq., Chair
Deborah Moore-Carter
René C. Swafford, Esq.
Darren S. Wigfield

TAB 7

ICE Detainees
August 28, 2019

ooking #	DOB	Book Date	Place of Birth	Gang	Charges	Sentence
5740	07/26/95	03/29/19	El Salvador	MS-13	Attempted murder investigation PG County	Investigation
5832	03/14/80	11/03/18	El Salvador		Robbery	1 yr.
7667	08/07/89	08/14/19	Honduras		Assault	pending
7742	06/21/94	08/26/19	El Salvador	MS-13	Found in vacant apt. w/ 14&15 year old females both reported as runaways. Also found a 4 foot tall marijuana plant	pending
7647	01/01/90	08/09/19	Ghana		Bank Fraud 4/25/17	25 mos
6471	05/03/67	02/20/19	Nigera		Violate Protection Order-Balt. Co Assault-1st Degree Assault-1st Degree-Balt. City	pending pending pending
5661	02/12/70	10/08/18	Jamaica		Warrant in Jamica-rape/sexual assault	pending
7609	03/29/75	08/03/19	Honduras	MS-13	Aggravated Assault w/weapon DWI	pending
5785	08/08/85	10/29/18	El Salvador	MS-13	Destruction of Property DWI	Guilty Probation
6813	06/27/93	04/08/19	Cameron		CDS Possession-PG County	pending
6779	11/16/86	04/03/19	El Salvador		Sex Offense-Baltimore County	4 yrs. 6 mos
7702	07/22/91	08/20/19	Mexico		Drug Possession Property Damage	pending pending
7527	10/10/70	07/23/19	Sierra Leone		Theft-Georgia Larceny Rape, Kidnapping	18 mos. 4 Yrs.
6955	05/16/89	04/27/19	El Salvador	MS-13 Gang Leader	DUI ID Theft Fraud-Virginia	90 days 1 yr. 1 yr.
97574	09/22/84	07/31/19	Mexico		Assault-1st Degree	pending
97688	05/28/92	08/17/19	Mexico		Assault-1st Degree-Anne Arundel County	pending
97579	03/04/70	07/31/19	Guyana		Robbery Assault-1st Degree Violate Court Order Assault	pending pending pending 10 years
97738	05/27/86	08/26/19	El Salvador		Alien present w/o admission or parole Moral Turpitude Sexual Assault	pending pending 10 years
97514	07/09/82	07/19/19	Nigeria		Fraud FTA-Fail to register sex offense Forgery Kidnapping	pending 5 yrs.
97182	12/05/64	05/28/19	Nigeria		Assault-1st Degree	pending
97747	12/22/67	08/27/19	El Salvador		DWI	PBJ
95585	03/11/77	09/28/18	Guatemala		DUI Violation of Probation-Protection Order	30 days pending
97347	10/26/98	06/25/19	El Salvador		Assault-1st Degree	pending
97361		06/26/19	Guatemala		Previously Deported	
96747	09/07/86	04/05/19	Guatemala		Sexual Solicitation of a minor	5 yrs.

ICE Detainees
August 28, 2019

oking #	DOB	Book Date	Place of Birth	Gang	Charges	Sentence
528	01/10/80	08/07/19	Honduras		Assault	4 yrs.
					Weapon Offense	3 yrs.
L16	12/11/77	05/16/19	Guatemala		Alien w/o Admission or Parole	
					Convicted or commission of a crime involving Moral Turptitude	
					False Imprisonment	9 mos.
					Assault	9 mos.
					Rape-Strongarm	
					Sex Offense-same charge as Rape-Strongarm	9 mos.
					Sex Offense-4th Degree	9 mos.
					Assault-2nd degree	9 mos.
					False Imprisonment	9 mos.
368	07/19/78	06/26/18	Honduras		DUI	previously
					Previously Deported	deported
720	06/27/91	08/23/19	Mexico		Drug Dristribution-Cocaine	pending
					DUI-Carroll County, MD	pending
					Manufacture, Deliver, & Possession	time served 108 days, 54 days probation
7029	01/25/84	05/07/19	El Salvador		Sexual Exploitation of a Minor	pending
7387	09/01/89	07/05/19	Honduras		DUI-VOP	30 days
7580	05/13/90	07/31/19	Honduras		Aggravated Assault	20 yrs.
					Assault	pending
					Marijuana possession	60 days
					CDS-Possession of paraphernalia	PBJ
					CDS-Possession of paraphernalia	PBJ
					Theft-less than $100	
					DWI	90 days
7479	08/22/76	07/14/19	El Salvador	MS-13	Alien Previously Removed	
					Burglary	4 yrs.
					Possession of Weapon	
7660	10/07/70	08/13/19	El Salvador		Multiple DUI's	60 days susp.
					DWI	all but 2 days
7748	09/09/83	08/27/19	Mexico		DUI-2nd time	pending
					DUI	60 days
96461	12/17/83	02/19/19	El Salvador		DUI	Guilty-no
			previously deported		Drug Possession	sent. Listed
97543	03/30/63	07/25/19	Jamaica		Drug Possession	6 mos.

ICE Detainees
August 28, 2019

ooking #	DOB	Book Date	Place of Birth	Gang	Charges	Sentence
535	09/12/70	07/24/19	Trinidad & Tobago		2 crimes of Moral Turpitude	
					Larceny	30 days
					Assault	pending
					Marijuana possession	
					Indecent Exposure/False Statement	
					Theft-$100-$1500	6 mos.
					Theft-$100-$1500	6 mos.
					Petit Larceny-1st offense	30 days
7576	09/08/91	07/31/19	El Salvador	MS-13	Homicide	30 yrs.
					Attempted 2nd Degree Murder	30 yrs. Susp. all but 5
7659	07/05/91	08/13/19	Mexico		DUI	pending
					DWI	pending
7336	05/19/81	06/24/19	El Salvador		Assault	11 mos.
2336	01/04/96	08/16/17	Congo		Robbery-General, Howard County, MD	1 yr.
					Robbery-Armed, Howard County, MD	1 yr.
7461	02/16/76	07/11/19	Honduras		Assault	pending
6120	01/29/97	12/21/18	El Salvador	MS-13	Assault	5 yrs.
7694	05/04/86	08/19/19	Mexico		DUI-repeat offender	60 days
					No license	guilty
6462	07/01/77	02/19/19	Sierra Leone		Obstruction of Police	Guilty
7410	04/27/70	07/03/19	Nigeria		Domestic Violence	pending
					Traffic Offense	60 days
7721	02/20/97	08/23/19	El Salvador		Sex Offense	10 yrs.
					Sex Offense-3rd degree	Guilty
					Assault-2nd degree	Guilty
					Sex Abuse Minor	
7737	05/15/78	08/26/19	Mexico		Concealed Weapon	30 days
					Sex Offense	30 years
7657	05/11/69	08/12/19	Columbia		Violate exparte court order	
					Assault	
					Child abuse	1 yr.
					Stalking	
7684	11/03/89	08/08/19	Honduras		Larceny	pending
					DUI	
					Theft	
7124	07/04/64	05/17/19	Guatemala		DUI	pending
7344	03/09/87	06/25/19	El Salvador		Assault	Guilty
					Violation of Probation	PBJ
					Assault-2nd degree	pending
7309	10/18/91	06/19/19	Honduras		Violation of Probation	pending
					Assault-2nd degree	pending
7522	10/19/93	07/21/19	Jamaica		Assault-1st degree	pending
7525	01/15/87	07/22/19	El Salvador	MS-13	Robbery	pending
					DUI	pending

ICE Detainees
August 28, 2019

ooking #	DOB	Book Date	Place of Birth	Gang	Charges	Sentence
5914	04/08/86	04/22/49	Honduras		Illegal Entry	previously
					Theft charge	deported
7544	03/03/85	07/26/19	El Salvador	MS-13	Illegal Entry-previously deported	
7571	08/18/78	07/30/19	Guatemala		Sexual Assault	pending
					Sexual Abuse of a minor	pending
5823	07/08/82	11/02/18	El Salvador		Sex Offense	10 yrs.
					Sex Offense	10 yrs.
7673	12/29/84	08/14/19	El Salvador		Drug Trafficking	pending
					DUI	
6613	01/08/73	03/11/19	El Salvador		Assault-2nd degree	pending
7746	11/26/82	08/27/19	Mexico		DUI	90 days
					DUI	30 days
					DUI	PBJ
7637	04/27/00	08/08/19	Guatemala		Vehicle Theft	11 mos.
					Rogue & Vagabond	
					Theft	
7035	12/04/00	05/08/19	El Salvador		Sex Offense-3rd Degree	pending
					Sex Offense-4th Degree	pending
7503	11/19/82	07/18/19	El Salvador		DUI	previously
					Reentered after Deportation	deported
7639	09/07/84	08/08/19	Mexico		DUI	pending

TAB 8

RCA

Logged In: UMPIJSFH |

[redacted]

Subject ID : 387544958 Processing Disposition: Warrant of Arrest/Notice to Appear
Case #: [redacted] Case Category: 8A Docket: BAL - FOS PUGDOC 200-399 Kendisko
Status: Custody Classification Level Supervisory Approval Complete
Initialized On: 02/08/2020 | Man Det Stat/Alleg: No | Custody Decision: Detained by the Department of Homeland Security
Last Decision Date: 02/09/2020 | Risk to Public Safety: High | Custody Class.: Medium / High
Special Vulnerabilities: None | Risk of Flight: High

Current / Active Alerts

Gangs

[redacted]

View Custody Classification Level Decision

Approved on:	02/09/2020 1215
Approved by:	Furet Jr, A.9112
Approved DCO assignment:	BAL - BALTIMORE, MD
Special vulnerabilities?	None
Mandatory detention per statutes and allegations?	No
Risk to public safety:	High
Risk of flight:	High
Detain / release value at time of approval:	Detained by the Department of Homeland Security
Custody classification at time of approval:	Not Applicable, initial custody classification
New custody classification recommendation:	Medium/High
Submitted for supervisory approval on:	02/08/2020 1209
Submitted for supervisory approval by:	Kendrick, Dominique
Submitter agreement with recommendation:	Agree
Reason for subsequent custody classification:	Not Applicable, initial custody classification
Additional factors for supervisory consideration:	
Supervisor agreement with custody classification recommendation?	Agree
Custody classification level decision:	Medium/High
Supervisor comments / justification:	
Decision affirmed by:	Decision affirmed by Furet Jr, A.9112 on 02/09/2020 1215

Back

U.S. Department of Homeland Security Subject ID : 367544958

Record of Deportable/Inadmissible Alien

Family Name (CAPS)	First	Middle
[redacted]		

Sex	Hair	Eyes	Complexion
M	BLK	BRO	LGT

Country of Citizenship	Passport Number and Country of Issue	File Number
HONDURAS	443683 HONDURAS	BAL2012000211 094 765 273

Height	Weight	Occupation
60	170	Construction

U.S. Address: 5000 41st Pl Hyattsville, MARYLAND, 20781

Scars and Marks: See Narrative

Date, Place, Time, and Manner of Last Entry: Unknown Date, UNK, NI - Without Inspection

Passenger Boarded at:

FBI Number: 340798RB7

☐ Single ☐ Divorced ☒ Married ☐ Widower ☐ Separated

Number, Street, City, Province (State) and Country of Permanent Residence: [redacted]

Method of Location/Apprehension: NCA HA

Date of Birth	Age	Date of Action	Location Code	At/Near	Date/Time
12/19/1980	39	02/10/2020	BAL/BAL	See I-831	02/09/2020 10:12

City, Province (State) and Country of Birth: [redacted]

A# [redacted] Form (Type and No.) Lifted ☐ Not Lifted ☐

By: JOHN KONDISKO

Carrying Post and NIV Number:

Social Security Account Name:

Status at Entry:

Status When Found:

Date Visa Issued:

Social Security Number:

Length of Time Illegally in U.S.:

Immigration Record: NEGATIVE

Criminal Record: See Narrative

Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate): [redacted] 5000 41st Pl, Hyattsville, MARYLAND,

Number and Nationality of Minor Children: None

Father's Name, Nationality, and Address, if Known: UNKNOWN NATIONALITY: HONDURAS

Mother's Present and Maiden Names, Nationality, and Address, if Known: CONTRERAS, GLORIA NATIONALITY: HONDURAS ADDRESS: , FRANCISCO MORAZ, HONDURAS

Monies Due/Property in U.S. Not in Immediate Possession: None Claimed

Fingerprinted? ☒ Yes ☐ No

Systems Checks: See Narrative

Charge Code Words(s): See Narrative

Name and Address of (Last)(Current) U.S. Employer: Christa Window

Type of Employment: Employee

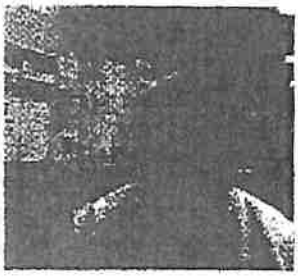
Salary: 120 Daily

Employed from/to:

Narrative (Outline particulars under which Alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

FIN: 1302744324

Left Index fingerprint



Right Index fingerprint

OTHER ALIASES KNOWN BY:

UNKNOWN, EL PONY
CONTRERAS SERRANO, PEDRO SAUDIEL

SCARS MARKS AND TATTOOS

TATTOO CHEST - TATTOO CHEST DRAGON

...(CONTINUED ON I-831)

JOHN KONDISKO
Deportation Officer
(Signature and Title of Immigration Officer)

Alien has been advised of communication privileges _____ (Date/Initials)

Distribution:

File

Lit

CIS

Received (Subject and Documents) (Report of Interview)

Officer: JOHN KONDISKO

On: February 10, 2020 (Time)

Disposition: Warrant of Arrest/Notice to Appear

Examining Officer: WOODRING, M 4315

Form I-213 (Rev. 08/01/07)

02/09/2020 13:59 4106373913

Alien's Name	File Number	Date
[redacted]	[redacted] Event No: BAL2012000211	02/09/2020

TATTOO BACK - PRAYING HANDS
TATTOO HAND, LEFT - LITTLE FEET
TATTOO BACK - LION HEAD COVERING UP SOME LETTERING
TATTOO ARM, LEFT, NONSPECIFIC - DOG HEAD
TATTOO ARM, RIGHT, NONSPECIFIC - TRIBAL BAND AND MAN PRAYING

Subject Health Status

The subject claims good health.

Current Criminal Charges

02/09/2020 - 8 USC 1227 - DEPORTABLE ALIEN

Current Administrative Charges

02/09/2020 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)

Previous Criminal History

No Crimes selected for inclusion on the I-213.

CRIMINAL AFFILIATIONS

Subject has been identified as a Member/Inactive of M.S.13

Records Checked

NCIC Pos
EARM Pos
CIS Pos
CLAIM Pos

FUNDS IN POSSESSION

United States Dollar 11.00

At/Near

Hyattsville, MD

Record of Deportable/Excludable Alien:
On 2/9/2020 at 0630hrs ICE Fugitive Operations officers knocked the address of 5000 41st Pl, Hyattsville, MD 20781 during operation Cross Check 2020. Officers were targeting [redacted] had used this address previously. [redacted] 6/8/85 answered the door and consented to officers to come in. [redacted] gave consent to search the house for our target. [redacted] was found upstairs in his bedroom. The target was brought downstairs and asked to sit on the couch to confirm his identity. Upon confirming his identity verbally and by a DC drivers license he had in his

Signature	Title
JOHN KONDISKO	Deportation Officer

Alien's Name	File Number	Date
[redacted]	[redacted] Event No: BAL2012000211	02/09/2020

possession. Subject was arrested by Fugitive Operations team members without incident. All officers were highly in highly visible police and or ICE markings. Subject was transported to Baltimore ICE office for processing.

ALIENAGE:
Subject is a citizen and national of Honduras.
Subject claims father is a citizen and national of Honduras.
Subject claims mother is a citizen and national of Honduras.
Subject makes no claim to U.S. citizenship.
Subject states he has never served in U.S. military.

HUMANITARIAN:
Subject claims fear of returning to Honduras.
Subject claims one child in Honduras.
Subject states he has been in the United States for 21 years.
Subject claims he is in good health and has no medical issues.

IMMIGRATION HISTORY/RECORD:
An inquiry of immigration databases produced no evidence that the subject was inspected or paroled by an immigration officer.
Subject was encountered by HSI Baltimore on 6/29/2006. A Notice to Appear(NTA) was created but was not served on the court. At that time the subject was a validated MS13 gang member in the Langley Park Salvatruchos (LPS) Clique. Subject was a veteran member of the gang and goes by the street name of "El Pony" Subject has multiple tattoos that are covering up prior tattoos however he denies this fact.

IMMIGRATION APPLICATIONS:
Subject has no pending or approved applications with USCIS.
Subject had applied for TPS and work authorization on 6/15/2003 and they were denied on 8/12/2003.

CRIMINAL RECORD:
FBI #[redacted]
SID #[redacted]

District Court for Prince Georges County, MD
Case # 2E00147471
Charging date: 4/2/2000
Charge: Conspiracy
Disposition: Nolle Prosequi
Disposition Date: 9/22/2000
This charge was for the plot to kill a police officer.

CONCLUSION:
Present without admission or parole.
Subject was given a phone call that lasted approximately five minutes.

Other Identifying Numbers

ALIEN-094765273
State Criminal Number/State Bureau Number-MD2150866 (MARYLAND UNITED STATES)

Signature	Title
JOHN KONDISKO	Deportation Officer

TAB 9

From: **Kavanagh, Jack** jkavanagh@howardcountymd.gov
Subject: FW: Overnight Bed Space
Date: March 10, 2020 at 12:16 PM
To: Joan Hash jhash999@icloud.com

JK

Another rejection for a female ICE detainee

From: King-Wessels, Andrea
Sent: Friday, March 6, 2020 1:29 PM
To: Gibbs, Charles R <Charles.R.Gibbs@ice.dhs.gov>; Kavanagh, Jack <jkavanagh@howardcountymd.gov>; Flurry, Elhart <eflurry@howardcountymd.gov>
Cc: Tierney, Adam P <Adam.P.Tierney@ice.dhs.gov>; Liggins, Vernon <Vernon.Liggins@ice.dhs.gov>
Subject: RE: Overnight Bed Space

Denied AKW

From: Gibbs, Charles R <Charles.R.Gibbs@ice.dhs.gov>
Sent: Friday, March 6, 2020 1:00 PM
To: Kavanagh, Jack <jkavanagh@howardcountymd.gov>; Flurry, Elhart <eflurry@howardcountymd.gov>; King-Wessels, Andrea <akingwessels@howardcountymd.gov>
Cc: Tierney, Adam P <Adam.P.Tierney@ice.dhs.gov>; Liggins, Vernon <Vernon.Liggins@ice.dhs.gov>
Subject: Overnight Bed Space

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

ALCON,

Respectfully request over night bed space for the following subject:

A213 303 889
RODRIGUEZ-RUBI, PAZ (FEMALE)
DOB: November 3, 1995
COB: EL SALVADOR
Pending Criminal Convictions: Child Abuse & Assault 2nd Degree (4 Counts) on December 10, 2019.

V/R
Agent Gibbs, Charles R. (MA1)
Deportation Officer
ICE | Enforcement and Removal Operations
Department of Homeland Security
31 Hopkins Plaza
Baltimore, MD 21201
Mobile: (717) 678-2901

Somerville, Renea

From: Kavanagh, Jack
Sent: Thursday, November 15, 2018 10:00 AM
To: Brown, Kevin J; Flurry, Elhart; Somerville, Renea
Subject: RE: Operation 11/30 - 12/3

Unfortunately we can't .

From: Brown, Kevin J [mailto:Kevin.J.Brown@ice.dhs.gov]
Sent: Thursday, November 15, 2018 9:58 AM
To: Kavanagh, Jack <jkavanagh@howardcountymd.gov>; Flurry, Elhart <eflurry@howardcountymd.gov>; Somerville, Renea <rsomerville@howardcountymd.gov>
Subject: Operation 11/30 - 12/3

Good Morning,

We are preparing for a fugitive operation scheduled for 11/30 – 12/3. Would HCDC be able to accept detainees off the street on Saturday 12/1 and Sunday 12/2? If so, please provide an estimate of how many you can accept on each day.

Thanks,

Kevin J. Brown Jr.
Assistant Field Office Director
U.S. Immigration and Customs Enforcement
Baltimore Field Office
Detained / Detention Operations
31 Hopkins Plaza, Suite 700
Baltimore, MD. 21201

Office: 410-637-3921
Cell: 443-463-0888
Fax: 410-637-4002

From: Kavanagh, Jack jkavanagh@howardcountymd.gov
Subject: FW: ICE
Date: Mar 10, 2020 at 10:36:33 AM
To: Joan Hash jhash999@icloud.com

Joan- an example of a rejected request for ICE housi= ng because the person did not meet our requirements

From: HP Scan <noreply@howardcountymd.gov&= gt;
Sent: Tuesday, March 10, 2020 10:43 AM
To: Kavanagh, Jack <jkavanagh@howardcountymd.gov>
Subject: ICE

Flurry, Elhart

From: Flurry, Elhart
Sent: Wednesday, March 4, 2020 10:26 PM
To: Harrod, Phillip; Jones, Andrew W
Subject: Re: Overnight bed space

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Denied. Security Chief Flurry

Get Outlook for iOS

From: Harrod, Phillip <pharrod@howardcountymd.gov>
Sent: Wednesday, March 4, 2020 10:20:55 PM
To: Jones, Andrew W <Andrew.W.Jones@ice.dhs.gov>
Cc: Flurry, Elhart <eflurry@howardcountymd.gov>
Subject: Rt: Overnight bed space

I will send this request to the Security Chief. PLH

From: Jones, Andrew W <Andrew.W.Jones@ice.dhs.gov>
Sent: Wednesday, March 4, 2020 10:19 PM
To: Harrod, Phillip <pharrod@howardcountymd.gov>
Cc: Tierney, Adam P <Adam.P.Tierney@ice.dhs.gov>; Kim, Jewoo <Jewoo.Kim@ice.dhs.gov>
Subject: Overnight bed space

Note: This email originated from outside of the organization. Please only click on links or attachments if

you know the sender.]

Good evening we are seeking overnight bed space for the following subject.

De Paz-Moran, Juan
DOB 6-26-83
COC Guatemala
No medical conditions
No known gang affiliations
Criminal: DUI conviction 2006
Public intoxication charge in 2017- no disposition

Please advise

Respectfully

Andrew Jones
ICE BAL
201-768-5160

TAB 10

Cases of Detention of Unjust Detention of Immigrants at Howard County Detention Center

Jose Tizol was detained by ICE on June 2019 while doing renovation work in front of a house in Baltimore county and taken to Jessup where he was held for an entire week and then later released (without bail- or an attorney). Upon his release, officers disclosed to him that they were looking for someone else that also shared the vehicle that he was using for work. Jose has been in the country for 15 years and has a 7-year old child who is adopted, a five-year old and a one-year old (who are his biologically children). He has not committed any crimes and he has had no prior deportations. He has now been given a check-in date and will have to continue checking into ICE periodically.

Justification for being in Howard County detention: He does not meet any of the criteria (convicted of a felony, charged with jailable offense, accused gang member or charged with re-entry – having been deported and returned to the United States).

Kevin Rivas was detained in June 2019 after being stopped while driving his car. He was detained initially in Frederick and then in July they moved him to the Jessup facility where he has since been detained. His only "crime" was returning after being deported. He has legal representation but was denied bond, so he was detained until November when he finally won the ability to stay in the country. He was willing to accept being detained because he knew if he were to return to his home country of El Salvador, he would be in grave danger. He has since won his case and is no longer at risk of being deported.

Justification for being in Howard County detention: According to ICE, he was a validated gang member, even though he has never been charged or convicted of any crime in the United States and he recently won his immigration case (where ICE's prosecutor did not bring up his alleged gang membership).

Eddy Monterroso was a passenger in the car when a tire went flat in Columbia Maryland in September 2017. A Howard County police officer saw them on the side of the road and stopped. He took both of their identifications and then held them for an hour until ICE came. Eddy had an order of removal (a civil immigration violation) in his file from July 2006, so ICE had a detainer for him. He was taken to Jessup detention center where he was held for about a week (with a short trip to Baltimore for ICE to call the Guatemalan embassy). He was then sent to Pennsylvania for a week and then Louisiana for a week before being deported. He left behind a 3-year old daughter and wife. He never had the chance to meet with a lawyer.

Justification for being in Howard County detention: According to Kavanagh (the Howard County Detention director), he was not detained "through the normal process." He does not fit any of the criteria to be detained.

Pedro Jose Ordoñez came to the United States at the age of 7 in 1998 and was deported at the age of 16 back to Honduras because he didn't have legal representation (even as a minor) to help prevent it. Many years later, when he was back in the United States, he was forced to serve 14 months in Federal prison for the "crime" of returning to the country after being deported. After finishing that 14-month sentence, he was immediately transferred to Jessup where he spent an additional 8 months in the immigrant detention center fighting his case to avoid being sent back to Honduras out of fear of survival there. He has since won his right to stay in the country without fear of deportation.

Justification for being in Howard County detention: Pedro Jose fits a couple of the criteria because he was charged with re-entry (a jailable offense) and theft under $1000 (a jailable offense). He was never convicted of either of these charges.

Jose Flores was detained by ICE on November 24th and subsequently taken to Howard County detention center, where he served time before eventually being deported back to El Salvador. Jose works in landscaping, and he was asked to go to a new site that he had not been to before. Jose ended up missing his exit and he entered the NASA Goddard Space Flight Center in Greenbelt. As soon as he entered the facility, he was followed by security and not allowed to leave until ICE arrived. Jose was transferred to Jessup detention center for weeks before they moved him to Pennsylvania. Jose has no criminal record besides returning to the country after being deported at the border. He was in the process of receiving a u-visa as a result of his support of law enforcement in the case where he was the victim of a crime.

Justification for being in Howard County detention: Jose fit the criteria as a result of his re-entry case.

Miguel Serrano was driving to work on March 17, 2019 when he was stopped for speeding and given a ticket to show up for court for driving without a license. He had other traffic violations in his record for driving without a license and so he was issued a court date. When he went to court on September 18 for his case he was sentenced to 15 days in jail in Anne Arundel County. On the 13th day that he was in jail, ICE picked him up and he was eventually booked at Jessup as an ICE detainee he spent over a month in detention before finally getting out on $10,000 bond. He is awaiting his court date in December 2020 to find out whether he can stay in the country.

Justification for being in Howard County detention: Miguel fits the criteria because "driving without a license" is a jailable offense.

Belvin Murillo Carcamo was pulled over in Calvert County (apparently for a burned out tail light) and given a ticket for driving with a learners permit on January 9. Instead of letting him go, Belvin was detained by the police and turned over to ICE where he was subsequently taken to the Howard County Detention Center. Belvin leaves behind his wife Miriam and their three young children.

Justification for being in Howard County detention: Belvin fits the criteria because he had been charged with a DUI (he was never convicted) and he has been charged with re-entry (not convicted).

Jose Hernandez was taken from his house by ICE in February, 2020 and subsequently taken to the Howard County Detention Center. ICE told the family that they had gotten his information through the MVA database. He had come to the country in the early 2000's and been a long time holder of temporary protected status (TPS) before losing the status and being deported in 2012 after applying for permanent residency.

Justification for being in Howard County detention: Jose fits the criteria because of his re-entry in 2012.

TAB 11

From: "Kavanagh, Jack" <jkavanagh@howardcountymd.gov>
Date: September 18, 2020 at 12:39:30 PM EDT
To: Joan Hash <jhash999@icloud.com>
Subject: Updates

Joan – see the updates hi lited in yellow

Jose Tizol was detained by ICE on June 2019 while doing renovation work in front of a house in Baltimore county and taken to Jessup where he was held for an entire week and then later released (without bail- or an attorney). Upon his release, officers disclosed to him that they were looking for someone else that also shared the vehicle that he was using for work. Jose has been in the country for 15 years and has a 7-year old child who is adopted, a five-year old and a one-year old (who are his biologically children). He has not committed any crimes and he has had no prior deportations. He has now been given a check-in date and will have to continue checking into ICE periodically.
Justification for being in Howard County detention: He does not meet any of the criteria (convicted of a felony, charged with jailable offense, accused gang member or charged with re-entry – having been deported and returned to the United States).
A201991279
The record of arrest states that this subject was apprehended during targeted enforcement after being previously identified due to a Baltimore County PD traffic stop. The subject was arrested by Arizona State Police in Maricopa County, Arizona and charged with False Report to Law Enforcement and Dangerous Drug-Possess/Use. The disposition for these charges is unknown but the subject states that he was convicted of DWI and paid a fine.
Nothing to add, other than the fact that we believe that he did fit the HCDC criteria as he had been previously charged with a arrestable offense: Dangerous Drug Poss-use and although the disposition could not be determined, he stated during processing that he was convicted of a DWI.

Pedro Jose Ordoñez came to the United States at the age of 7 in 1998 and was deported at the age of 16 back to Honduras because he didn't have legal representation (even as a minor) to help prevent it. Many years later, when he was back in the United States, he was forced to serve 14 months in Federal prison for the "crime" of returning to the country after being deported. After finishing that 14-month sentence, he was immediately transferred to Jessup where he spent an additional 8 months in the immigrant detention center fighting his case to avoid being sent back to Honduras out of fear of survival there. He has since won his right to stay in the country without fear of deportation.
Justification for being in Howard County detention: Pedro Jose fits a couple of the criteria because he was charged with re-entry (a jailable offense) and theft under $1000 (a jailable offense). He was never convicted of either of these charges.
Need biographic info. It appears that this subject was federally convicted for 8 USC 1326 for illegal reentry after removal. Upon being turned over from the USMS, he claimed fear of removal which his case was then placed in front of an asylum officer and immigration judge for review. As stated above the judge has the ability to issue a bond if a reasonable fear was found.
This subject was convicted of aggravated deadly assault-deadly weapon in Phoenix, AZ on 3/28/2007. He was removed from the country on 2/25/2008. He illegally reentered on 3/17/2009. On 4/25/2011 he was convicted of carry concealed weapon and obstruction of police. On 3/22/12 he was again removed from the country. He subsequently reentered the country illegally. On 10/31/2014 he was convicted of burglary. On 11/3/2015, he was removed from the country. On a unknown date he

reentered the country illegally. In May 2017 he was located in the Montgomery County Detention Center after being charged with theft less than $1000.

Jose Flores was detained by ICE on November 24th and subsequently taken to Howard County detention center, where he served time before eventually being deported back to El Salvador. Jose works in landscaping, and he was asked to go to a new site that he had not been to before. Jose ended up missing his exit and he entered the NASA Goddard Space Flight Center in Greenbelt. As soon as he entered the facility, he was followed by security and not allowed to leave until ICE arrived. Jose was transferred to Jessup detention center for weeks before they moved him to Pennsylvania. Jose has no criminal record besides returning to the country after being deported at the border. He was in the process of receiving a u-visa as a result of his support of law enforcement in the case where he was the victim of a crime.
Justification for being in Howard County detention: Jose fit the criteria as a result of his re-entry case.
Need biographic info. It appears that this subject was arrested due to a warrant of removal contained in NCIC.

Miguel Serrano was driving to work on March 17, 2019 when he was stopped for speeding and given a ticket to show up for court for driving without a license. He had other traffic violations in his record for driving without a license and so he was issued a court date. When he went to court on September 18 for his case he was sentenced to 15 days in jail in Anne Arundel County. On the 13th day that he was in jail, ICE picked him up and he was eventually booked at Jessup as an ICE detainee he spent over a month in detention before finally getting out on $10,000 bond. He is awaiting his court date in December 2020 to find out whether he can stay in the country.
Justification for being in Howard County detention: Miguel fits the criteria because "driving without a license" is a jailable offense.
Need biographic info.

Belvin Murillo Carcamo was pulled over in Calvert County (apparently for a burned out tail light) and given a ticket for driving with a learners permit on January 9. Instead of letting him go, Belvin was detained by the police and turned over to ICE where he was subsequently taken to the Howard County Detention Center. Belvin leaves behind his wife Miriam and their three young children.
Justification for being in Howard County detention: Belvin fits the criteria because he had been charged with a DUI (he was never convicted) and he has been charged with re-entry (not convicted).
Need biographic info. It appears that this subject was arrested due to a warrant of removal in NCIC. As he is indicated as reentering after removal, he is would not be eligible for a bond.

Jose Hernandez was taken from his house by ICE in February, 2020 and subsequently taken to the Howard County Detention Center. ICE told the family that they had gotten his information through the MVA database. He had come to the country in the early 2000's and been a long time holder of temporary protected status (TPS) before losing the status and being deported in 2012 after applying for permanent residency.
Justification for being in Howard County detention: Jose fits the criteria because of his re-entry in 2012.
Need biographic info. It appears this subject no longer had a temporary protected status and he was previously removed. If he reentered illegal he would have been processed for removal as he had no impediments to his removal.

From: "Kavanagh, Jack" <jkavanagh@howardcountymd.gov>
Date: April 24, 2020 at 10:29:45 AM EDT
To: Joan Hash <jhash999@icloud.com>
Subject: FW: Howard County Expanded Cases 4-20-20

Joan see below.

From: Brown, Kevin J <Kevin.J.Brown@ice.dhs.gov>
Sent: Friday, April 24, 2020 9:29 AM
To: Kavanagh, Jack <jkavanagh@howardcountymd.gov>
Cc: Ohin, Janean A <Janean.A.Ohin@ice.dhs.gov>
Subject: RE: Howard County Expanded Cases 4-20-20

Good Morning Jack,

We found details on a few of the subjects below.

A205 833 866
RIVAS-Navas, Kevin Alberto
DOB: 03/03/1995
COB: El Salvador
HCDC 07/26/2019-11/05/2019
information received by HSI stated he was involved with MS-13

A098 944 388
MONTERROSO-Romero, Eddy
DOB: 11/21/1986
COB: Guatemala
HCDC 09/05/2017-09/18/2017
Non-Crim – this was prior to HCDC's policy of only criminals
Removed 09/20/2017
2 more removals since

A088 673 849
ORDONEZ, Pedro Jose
DOB: 06/07/1991
COB: Honduras
HCDC 09/10/2018-03/27/2019
Burglary 2nd Degree – Guilty – 1 year
Obstruct Public Officer – Guilty – 110 days
Receive Stolen Property – Guilty 16 months
Manufacture/Possession Dangerous Weapon – Guilty – 16 months
Aggravated Assault – Guilty – 4 months
Surenos Gang Member

From: Brown, Kevin J
Sent: Wednesday, April 22, 2020 4:21 PM
To: Kavanagh, Jack <jkavanagh@howardcountymd.gov>
Cc: Ohin, Janean A <Janean.A.Ohin@ice.dhs.gov>
Subject: FW: Howard County Expanded Cases 4-20-20

Jack,

If we had the A#'s or biographic details, I could provide better details. I was only able to provide specifics on one case.

Cases of Detention of Unjust Detention of Immigrants at Howard County Detention Center

Jose Tizol was detained by ICE on June 2019 while doing renovation work in front of a house in Baltimore county and taken to Jessup where he was held for an entire week and then later released (without bail- or an attorney). Upon his release, officers disclosed to him that they were looking for someone else that also shared the vehicle that he was using for work. Jose has been in the country for 15 years and has a 7-year old child who is adopted, a five-year old and a one-year old (who are his biologically children). He has not committed any crimes and he has had no prior deportations. He has now been given a check-in date and will have to continue checking into ICE periodically.

Justification for being in Howard County detention: He does not meet any of the criteria (convicted of a felony, charged with jailable offense, accused gang member or charged with re-entry – having been deported and returned to the United States).

A201991279

The record of arrest states that this subject was apprehended during targeted enforcement after being previously identified due to a Baltimore County PD traffic stop. The subject was arrested by Arizona State Police in Maricopa County, Arizona and charged with False Report to Law Enforcement and Dangerous Drug-Possess/Use. The disposition for these charges is unknown but the subject states that he was convicted of DWI and paid a fine.

Kevin Rivas was detained in June 2019 after being stopped while driving his car. He was detained initially in Frederick and then in July they moved him to the Jessup facility where he has since been detained. His only "crime" was returning after being deported. He has legal representation but was denied bond, so he was detained until November when he finally won the ability to stay in the country. He was willing to accept being detained because he knew if he were to return to his home country of El Salvador, he would be in grave danger. He has since won his case and is no longer at risk of being deported.

Justification for being in Howard County detention: According to ICE, he was a validated gang member, even though he has never been charged or convicted of any crime in the United States and he recently won his immigration case (where ICE's prosecutor did not bring up his alleged gang membership).

Need biographic info. If he was identified as a gang member before or during processing we would not give him a bond. In fact he was not eligible for a bond as he illegally reentered the county, so it's not a case if he was willing to accept it. He would not become eligible for a bond until he was before a immigration judge for fear review proceedings and judge found his fear claim to be "reasonable".

Eddy Monterroso was a passenger in the car when a tire went flat in Columbia Maryland in September 2017. A Howard County police officer saw them on the side of the road and stopped. He took both of their identifications and then held them for an hour until ICE came. Eddy had an order of removal (a civil immigration violation) in his file from July 2006, so ICE had a detainer for him. He was taken to Jessup detention center where he was held for about a week (with a short trip to Baltimore for ICE to call the Guatemalan embassy). He was then sent to Pennsylvania for a week and then Louisiana for a week before being deported. He left behind a 3-year old daughter and wife. He never had the chance to meet with a lawyer.

Justification for being in Howard County detention: According to Kavanagh (the Howard County Detention director), he was not detained "through the normal process." He does not fit any of the criteria to be detained.

Need biographic info. In this instance this subject probably had a warrant of removal in NCIC. We don't place detainers on roadside traffic stops, detainers are placed when ICE identifies someone that is in a facility and we are requesting that the jurisdiction turns him over to us. In addition all subjects arrested by ICE are issued a list of low cost or free legal services. A copy of that list is given to the detainee and placed in their alien files.

Pedro Jose Ordoñez came to the United States at the age of 7 in 1998 and was deported at the age of 16 back to Honduras because he didn't have legal representation (even as a minor) to help prevent it. Many years later, when he was back in the United States, he was forced to serve 14 months in Federal prison for the "crime" of returning to the country after being deported. After finishing that 14-month sentence, he was immediately transferred to Jessup where he spent an additional 8 months in the immigrant detention center fighting his case to avoid being sent back to Honduras out of fear of survival there. He has since won his right to stay in the country without fear of deportation.

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Need biographic info. It appears that this subject was arrested due to a warrant of removal contained in NCIC.

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for his case he was sentenced to 15 days in jail in Anne Arundel County. On the 13th day that he was in jail, ICE picked him up and he was eventually booked at Jessup as an ICE detainee he spent over a month in detention before finally getting out on $10,000 bond. He is awaiting his court date in December 2020 to find out whether he can stay in the country.
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Need biographic info.

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Justification for being in Howard County detention: Jose fits the criteria because of his re-entry in 2012.
Need biographic info. It appears this subject no longer had a temporary protected status and he was previously removed. If he reentered illegal he would have been processed for removal as he had no impediments to his removal.

From: Ohin, Janean A <Janean.A.Ohin@ice.dhs.gov>
Sent: Wednesday, April 22, 2020 1:44 PM
To: Brown, Kevin J <Kevin.J.Brown@ice.dhs.gov>
Subject: FW: Howard County Expanded Cases 4-20-20

Janean A. Ohin
Acting Field Office Director
Baltimore Field Office
202-567-9224 cell
410-637-3653 desk

TAB 12

Book-In Date	COC	Reason	Jurisdiction
02/19/2019	Guatemala	Theft Over $500	Hyattsville, MD
02/19/2019	El Salvador	Drug Possession / DUI	Silver Spring, MD
02/19/2019	El Salvador	Injury Causing Murder, Gang Participation	Alexandria, VA
02/19/2019	El Salvador	Assault 1st Degree	Rockville, MD
02/19/2019	El Salvador	Sex Offense 3rd, Assault 2nd	Silver Spring, MD
02/19/2019	Dominican Republic	Firearm Poss / Drug Trafficking	Baltimore, MD
02/19/2019	Dem Rep Congo	Hindering Removal	No US Address
02/19/2019	Honduras	Attempted Murder	Halethorpe, MD
02/19/2019	Sierra Leone	Obstruct Police	Randolph, MA
02/21/2019	Guatemala	DUI	Easton, MD
02/21/2019	Mexico	DWI	Selbyville, DE
02/21/2019	Honduras	DUI	Easton, MD
02/21/2019	Turkey	Harassment	Salisbury, MD
02/21/2019	El Salvador	DWI / Gang Membership	Baltimore, MD
02/21/2019	El Salvador	Assault 1st Degree	Baltimore, MD
02/22/2019	Honduras	DUI	Essex, MD
02/25/2019	Guatemala	Rape	No US Address
02/25/2019	El Salvador	CDS: PWID Cocaine	Brentwood, MD

02/25/2019	El Salvador	Robbery, Assault 1st	Beltsville, MD
02/26/2019	Guatemala	DUI, Disrderly Conduct	Laurel, MD
02/28/2019	Honduras	Fraud	Baltimore, MD
02/28/2019	Mexico	DUI	Glen Burnie, MD
02/28/2019	El Salvador	DWI / Protective Order	Monrovia, MD
03/01/2019	Honduras	CDS: PWID	Baltimore, MD
03/04/2019	Gambia	Assault 2nd Degree	Frederick, MD
03/04/2019	Honduras	Assault 1st Degree	Annapolis, MD
03/04/2019	El Salvador	DUI, Theft, Robbery, Gang Associate	Riverdale, MD
03/04/2019	Guatemala	Aggravated Assault	Langley Park, MD
03/04/2019	Mexico	DUI, CDS: Poss Not MJ	Laurel, MD
03/06/2019	El Salvador	Assault 1st Degree	Gaithersburg, MD
03/06/2019	Nigeria	Theft, Assault, False Imprisonment	Rosedale, MD
03/06/2019	Dominican Republic	CDS: PWID Narcotic	Elkton, MD
03/07/2019	El Salvador	Home Invasion, Assault 1st	Silver Spring, MD
03/07/2019	El Salvador	Assault 1st Degree	Frederick, MD
03/12/2019	Honduras	Assault 2nd Degree	Baltimore, MD
03/12/2019	El Salvador	Assault 2nd Degree, Burglary	Parkville, MD
03/12/2019	El Salvador	Assault 2nd Degree, DUI	Annapolis, MD

03/12/2019	Colombia	Burglary 1st Degree	Enfield, CT
03/12/2019	Guatemala	DWI	Hagerstown, MD
03/12/2019	Guatemala	DUI	Salisbury, MD
03/12/2019	Mexico	Larceny	Leesburg, VA
03/12/2019	El Salvador	Violate Protection Order	Easton, MD
03/13/2019	El Salvador	DWI, False ID	Gaithersburg, MD
03/13/2019	Guatemala	Assault 2nd Degree, DUI	Essex, MD
03/13/2019	Guatemala	DUI	Peekskill, New York
03/13/2019	Nigeria	Aggravated Identity Theft	Towson, MD
03/13/2019	El Salvador	DWI / False ID	Gaithersburg, MD
03/14/2019	Mexico	PWID: Not MJ	Annapolis, MD
03/15/2019	Peru	Rape 2nd Degree	Beltsville, MD
03/15/2019	Mexico	Assault 1st Degree, DUI	Annapolis, MD
03/15/2019	El Salvador	Armed Robbery	Lanham, MD
03/19/2019	Honduras	Possession of Firearm	Baltimore, MD
03/19/2019	El Salvador	DUI, Gang Member	Landover, MD
03/19/2019	El Salvador	Trespassing, Gang member	Silver Spring, MD
03/19/2019	El Salvador	Assault, Possession Cocaine	Silver Spring, MD
03/20/2019	Honduras	Rape 2nd Degree, Sex Abuse of Minor	Hyattsville, MD

03/20/2019	El Salvador	DWI, CDS: Poss Not MJ, Gang Member	Hyattsville, MD
03/21/2019	Nicaragua	Kidnap Child, Assault 1st Degree	Lanham, MD
03/22/2019	El Salvador	DWI	Columbia, MD
03/22/2019	Mexico	Possession of Firearm / Drugs	College Park, MD
03/24/2019	Mexico	DUI	Columbia, MD
03/25/2019	Mexico	DUI	Hyattsville, MD
03/26/2019	Guatemala	DWI	Hyattsville, MD
03/26/2019	Honduras	Assault 2nd Degree, Rape	Baltimore, MD
03/27/2019	Guatemala	DUI	Glen Burnie, MD
03/28/2019	El Salvador	Drug Possession, Gang Member	Arnold, MD
03/29/2019	El Salvador	Murder Investigation, Gang Member	Temple Hills, MD
04/01/2019	Honduras	Assault 2nd Degree	Baltimore, MD
04/02/2019	Algeria	Assault 2nd Degree	Baltimore, MD
04/02/2019	Liberia	Armed Robbery, Gang Member	Baltimore, MD
04/02/2019	El Salvador	Assault 2nd Degree, Reckless Endangerment	Annapolis, MD
04/04/2019	El Salvador	Sex Offense 3rd	Westminster, MD
04/04/2019	El Salvador	Carjacking, Robbery, Assault	Halethorpe, MD
04/05/2019	El Salvador	Assault 1st Degree	Dundalk, MD
04/05/2019	Honduras	Assault 2nd Degree	Silver Spring, MD

04/08/2019	Central African Rep	Drug Possession, Disorderly Conduct	Mt. Rainier, MD
04/08/2019	Guatemala	Sexual Solicitation of a Minor	Laurel, MD
04/08/2019	Congo	Armed Robbery, Assault	Baltimore, MD
04/09/2019	Guatemala	DUI	Easton, MD
04/09/2019	Mexico	Assault 2nd Degree	Reisterstown, MD
04/10/2019	El Salvador	Sex Abuse Minor, Rape	Annapolis, MD
04/10/2019	Peru	DWI	Silver Spring, MD
04/15/2019	Mexico	Assault 2nd Degree	Annapolis, MD
04/16/2019	El Salvador	Drug Possession / DUI	Silver Spring, MD
04/16/2019	El Salvador	Prostitution / DUI	Silver Spring, MD
04/18/2019	El Salvador	Assault 2nd Degree, Sex Offense 3rd Degree	Silver Spring, MD
04/22/2019	Guatemala	DUI	Cockeysville, MD
04/23/2019	Nigeria	Assault 2nd Degree	Parkville, MD
04/23/2019	Honduras	Theft, False ID	Adelphi, MD
04/24/2019	El Salvador	Statutory Rape, Cocaine Possession	Gaithersburg, MD
04/25/2019	El Salvador	Armed Robbery	Baltimore, MD
04/25/2019	Mexico	DUI	Riverdale, MD
04/26/2019	El Salvador	Theft, Trespassing	Columbia, MD
04/29/2019	El Salvador	Firearm Possession, Gang Member	Clinton, MD

04/29/2019	El Salvador	Red Notice Gang Membership, Murder	North Chesterfield, VA
04/29/2019	El Salvador	Identity Fraud, DUI	Oxon Hill, MD
05/02/2019	El Salvador	DWI, False Documents	College Park, MD
05/06/2019	El Salvador	Robbery, Gang Member	Rockville, MD
05/06/2019	Honduras	DUI	Silver Spring, MD
05/06/2019	Morocco	Cocaine Possession	Dundalk, MD
05/06/2019	El Salvador	Non-Criminal	Bladensburg, MD
05/07/2019	El Salvador	Concealed Deadly Weapon	Baltimore, MD
05/08/2019	El Salvador	Sex Abuse Minor	Montgomery Village, MD
05/08/2019	El Salvador	Sex Offense 3rd Degree	Gaithersburg, MD
05/10/2019	Honduras	Illegal Entry	No US Address
05/10/2019	Honduras	Illegal Entry	Silver Spring, MD
05/10/2019	Honduras	Illegal Entry	No US Address
05/14/2019	Kenya	DUI	Burtonsville, MD
05/16/2019	Gambia	Burglary 3rd Degree, Assault	Gaithersburg, MD
05/16/2019	Guatemala	Red Notice Firearm Possession	Baltimore, MD
05/16/2019	Uzbekistan	CDS: Possession Paraphernalia	Brooklyn, NY
05/16/2019	Guatemala	DUI	Bel Air, MD
05/16/2019	Honduras	Assault	Rockville, MD

05/16/2019	Guatemala	Attempted Rape 2nd Degree	Harwood, MD
05/16/2019	Honduras	Assault 2nd, False Imprisonment	Oxon Hill, MD
05/17/2019	Guatemala	DUI	Brooklyn, NY
05/17/2019	Guatemala	Theft, Dangerous Weapon	Hyattsville, MD
05/17/2019	Guatemala	DUI	Baltimore, MD
05/20/2019	Dominican Republic	PWID: Narcotic	Elkton, MD
05/20/2019	El Salvador	DWI	Fort Washington, MD
05/20/2019	Honduras	Larceny, Gang Member	Fort Washington, MD
05/22/2019	Dominican Republic	PWID: Cocaine & Heroin	Elkton, MD
05/23/2019	Guatemala	Assault 1st Degree	Takoma Park, MD
05/23/2019	El Salvador	Sex Abuse of a Minor	Rockville, MD
05/24/2019	Senegal	Assault, Drug Possession	Jersey City, NJ
05/29/2019	Nigeria	Money Laundering	Upper Marlboro, MD
05/29/2019	Nigeria	Assault 1st Degree	Hyattsville, MD
05/29/2019	Mexico	Assault	Annapolis, MD
05/29/2019	Mexico	DUI	Baltimore, MD
05/31/2019	El Salvador	Armed Robbery	Dundalk, MD
05/31/2019	Guatemala	DUI	Middle River, MD
05/31/2019	El Salvador	Assault 1st Degree	No US Address

05/31/2019	Nigeria	Assault 2nd Degree	Bowie, MD
06/04/2019	Guatemala	DUI	Bloxom, VA
06/04/2019	Guatemala	DUI, Drug Possession, False ID	Waldorf, MD
06/04/2019	Honduras	DUI	Temple Hills, MD
06/05/2019	El Salvador	Weapon Possession, Gang Member	Mt. Rainier, MD
06/05/2019	Guatemala	DUI	Baltimore, MD
06/05/2019	El Salvador	Assault 1st Degree	Baltimore, MD
06/06/2019	Honduras	Burglary, Assault	Baltimore, MD
06/06/2019	Mexico	DWI	Street, MD
06/06/2019	Honduras	Assault 1st Degree, Gang Member	No US Address
06/11/2019	Mexico	DUI, Trespassing	Beltsville, MD
06/11/2019	El Salvador	Assault 2nd Degree	Laurel, MD
06/17/2019	El Salvador	Child Abuse Sexual	Hyattsville, MD
06/17/2019	Barbados	Attempted Murder 1st	Suitland, MD
06/17/2019	Guatemala	Attempted Murder 2nd	Hyattsville, MD
06/17/2019	Guatemala	False Report, Drug Possession	Baltimore, MD
06/18/2019	El Salvador	Resisting Officer	Halethorpe, MD
06/19/2019	El Salvador	Child Abuse Sexual	Hyattsville, MD
06/20/2019	Guatemala	Assault 2nd Degree	Silver Spring, MD

06/21/2019	Honduras	Assault 2nd Degree	Columbia, MD
06/21/2019	El Salvador	False ID, DUI	Gaithersburg, MD
06/21/2019	El Salvador	Aggravated Sexual Assault of Minor	Oxon Hill, MD
06/25/2019	Honduras	Sex Assault with Firearm, Gang Member	Gaithersburg, MD
06/25/2019	El Salvador	Assault	Baltimore, MD
06/25/2019	Mexico	Assault	Hagerstown, MD
06/25/2019	Honduras	Drug Possession	Baltimore, MD
06/25/2019	El Salvador	Assault 2nd Degree	Oxon Hill, MD
06/25/2019	Guatemala	DUI	Frederick, MD
06/26/2019	Honduras	Assault	San Antonio, TX
06/26/2019	El Salvador	Assault	Del Rio, TX
06/26/2019	Dominican Republic	Dangerous Drugs	No US Address
06/26/2019	Mexico	Gambling	Waco, TX
06/26/2019	El Salvador	DWI	Lewisville, TX
06/26/2019	Guatemala	Sex Offense 3rd Degree	Hyattsville, MD
06/26/2019	Honduras	DUI	Columbia, MD
06/26/2019	Honduras	DUI	Columbia, MD
06/26/2019	El Salvador	DUI	Columbia, MD
06/27/2019	Romania	Identity Theft, Forgery	Adelphi, MD

06/27/2019	Honduras	Assault 2nd Degree	Germantown, MD
06/28/2019	Guatemala	Attempted Murder 2nd	Hyattsville, MD
07/01/2019	Mexico	Attempted Murder 1st	Baltimore, MD
07/01/2019	El Salvador	Sex Abuse of a Minor	Rockville, MD
07/01/2019	Guatemala	DUI	Laurel, MD
07/02/2019	El Salvador	Theft, Larceny	Glen Burnie, MD
07/02/2019	Chile	Theft	No US Address
07/03/2019	El Salvador	Assault 2nd Degree	Gaithersburg, MD
07/03/2019	Mexico	Sex Abuse of Minor	No US Address
07/03/2019	Nigeria	Assault	Frederick, MD
07/04/2019	Dominican Republic	Fraud	No US Address
07/05/2019	Honduras	Assault 2nd Degree	Baltimore, MD
07/05/2019	El Salvador	CDS: PWID Not Marijuana	Gaithersburg, MD
07/08/2019	Honduras	DWI	Hagerstown, MD
07/10/2019	Mexico	Assault 1st Degree	Westminster, MD
07/10/2019	Ghana	Larceny, Possession Stolen Property	Gaithersburg, MD
07/12/2019	Honduras	Assault 2nd Degree	Baltimore, MD
07/12/2019	Guatemala	Larceny	Michigan
07/15/2019	El Salvador	Sex Offense 3rd Degree	Westminster, MD

07/15/2019	Dominican Republic	CDS: PWID Cocaine	Silver Spring, MD
07/15/2019	El Salvador	Firearm Possession, Gang Member	Alexandria, VA
07/16/2019	El Salvador	Burglary	Montgomery Village, MD
07/16/2019	India	Sexual Solicitation of a Minor	Laurel, MD
07/18/2019	Mexico	Assault 1st Degree, DUI	Annapolis, MD
07/18/2019	El Salvador	DUI	Silver Spring, MD
07/19/2019	Sierra Leone	CDS: Possession Cocaine	Silver Spring, MD
07/22/2019	Jamaica	Assault 1st Degree	Baltimore, MD
07/22/2019	El Salvador	Armed Robbery	Hyattsville, MD
07/23/2019	Honduras	DWI	Glen Burnie, MD
07/24/2019	Trinidad	Indecent Exposure, Larceny	Dundalk, MD
07/24/2019	Senegal	Theft	Hyattsville, MD
07/24/2019	Jamaica	Overnighter - Fraud	Capitol Heights, MD
07/24/2019	Mexico	Neglect of Minor	Baltimore, MD
07/25/2019	Jamaica	Drug Possession	Baltimore, MD
07/26/2019	El Salvador	Illegal Entry	Landover, MD
07/26/2019	Peru	Rape 2nd Degree	Towson, MD
07/26/2019	Dominican Republic	Conspiracy: CDS: PWID Cocaine	Baltimore, MD
07/26/2019	Jamaica	PWID: MJ	Reisterstown, MD

07/30/2019	Mexico	Assault, False Imprisonment	Baltimore, MD
07/30/2019	Mexico	Assault, Sex Offense	Chester, MD
07/30/2019	Mexico	Identity Theft	Springdale, MD
07/30/2019	Guatemala	Sex Abuse of a Minor	Bladensburg, MD
07/30/2019	Honduras	Assault	Baltimore, MD
07/31/2019	El Salvador	Attempted Murder 2nd	Hyattsville, MD
07/31/2019	Honduras	Assault 1st Degree, Gang Member	Silver Spring, MD
07/31/2019	Mexico	Assault	Halethorpe, MD
07/31/2019	Jamaica	Overnighter - Fraud	Fort Washington, MD
08/01/2019	Guinea-Bissau	Firearm Possession, Assault 2nd Degree	Baltimore, MD
08/02/2019	India	Murder 2nd Degree	Glen Burnie, MD
08/02/2019	Honduras	Identity Theft	Essex, MD
08/03/2019	Jamaica	Overnighter - Fraud	Atlanta, GA
08/05/2019	Honduras	Assault, Dangerous Weapon	Baltimore, MD
08/05/2019	El Salvador	Sex Abuse of a Minor	Ellicot City, MD
08/07/2019	Mexico	DUI, Malicious Destruction Property	Glen Burnie, MD
08/08/2019	Mexico	DUI, DWI	Pasadena, MD
08/08/2019	Mexico	DUI	Salisbury, MD
08/08/2019	Guatemala	False Statement, Theft Scheme	Marydel, MD

08/09/2019	Ghana	Conspiracy: Bank Fraud	Frederick, MD
08/13/2019	Colombia	Assault on Family, Child Neglect	Windsor Mill, MD
08/14/2019	Honduras	Assault 2nd Degree	Woodlawn, MD
08/14/2019	Mexico	Assault, DUI	Annapolis, MD
08/15/2019	El Salvador	DUI, PWID: Cocaine	Baltimore, MD
08/19/2019	Mexico	Assault 1st Degree	Annapolis, MD
08/19/2019	Mexico	DUI	Parkville, MD
08/20/2019	El Salvador	Sex Abuse of a Minor	Rockville, MD
08/20/2019	El Salvador	DUI	Columbia, MD
08/21/2019	Mexico	Drug Possession, DUI	Annapolis, MD
08/21/2019	Mali	Assault, CDS Possession	Hyattsville, MD
08/23/2019	Mexico	Assault 2nd Degree	Glen Burnie, MD
08/26/2019	Mexico	CDS: PWID Cocaine, DUI	Hampstead, MD
08/26/2019	El Salvador	Sex Abuse of a Minor, Assault	Baltimore, MD
08/26/2019	El Salvador	CDS: PWID, Gang Member	Hyattsville, MD
08/26/2019	Mexico	Sex Abuse of a Minor, Gang Member	Abingdon, MD
08/26/2019	El Salvador	Sex Offense 1st Degree	Owings Mills, MD
08/26/2019	Honduras	Theft, Assault 1st Degree	Columbia, MD
08/27/2019	Mexico	DUI	Easton, MD

08/27/2019	El Salvador	DWI	Denton, MD
08/27/2019	Mexico	DUI	Ocean City, MD
08/28/2019	Mexico	Violate Protection Order, DUI	Salisbury, MD
08/28/2019	Guatemala	Sexual Solicitation of a Minor	Millington, MD
08/28/2019	Guatemala	DUI, Dangerous Weapon	Easton, MD
08/29/2019	Ivory Coast	Robbery	Halethorpe, MD
08/29/2019	Mexico	Assault 2nd Degree	Baltimore, MD
08/30/2019	Trinidad	Solicit Murder 1st Degree	Silver Spring, MD
09/03/2019	Mexico	DUI	Baltimore, MD
09/04/2019	Honduras	Assault 1st Degree	Baltimore, MD
09/04/2019	Jamaica	PWID: MJ	Abingdon, MD
09/04/2019	Honduras	Kidnap Child, Abudct Child	Laurel, MD
09/04/2019	El Salvador	Assault 2nd Degree, Cocaine Poss	Silver Spring, MD
09/05/2019	Guatemala	Assault 1st Degree	Annapolis, MD
09/06/2019	Ethiopia	Fraud	Rosedale, MD
09/06/2019	Mexico	Assault 1st Degree	Washington, DC
09/09/2019	El Salvador	DUI	Hagerstown, MD
09/10/2019	El Salvador	Assault 2nd Degree, DUI	Frederick, MD
09/10/2019	Mexico	Theft, DWI	Elkridge, MD

09/11/2019	El Salvador	Assault 2nd on Law Enforcement	Aberdeen, MD
09/11/2019	Guatemala	DUI	Abingdon, MD
09/13/2019	Mexico	DWI	Cockeysville, MD
09/16/2019	Guatemala	Rape 2nd Degree	Baltimore, MD
09/16/2019	El Salvador	VOP (Assault 2nd Conviction)	Hyattsville, MD
09/18/2019	Guinea	Rape 1st Degree	Abingdon, MD
09/19/2019	El Salvador	Sex Abuse of a Minor	Annapolis, MD
09/20/2019	El Salvador	Theft $1,500-$25,000, Gang Member	Clinton, MD
09/21/2019	Honduras	DUI, DWI	Silver Spring, MD
09/23/2019	Tanzania	Robbery	Hyattsville, MD
09/23/2019	Ghana	PWID: MJ, DUI	Hagerstown, MD
09/24/2019	El Salvador	Disorderly Conduct	Waldorf, MD
09/27/2019	Honduras	Child Pornography	Riverdale, MD
09/30/2019	Dem Rep Congo	PWID: Narcotic, Vehicle Theft	Bryans Road, MD
09/30/2019	El Salvador	Red Notice: Aggravated Robbery, Firearms	Catonsville, MD
09/30/2019	Honduras	DUI	Baltimore, MD
09/30/2019	Nicaragua	Drug Possession	Waldorf, MD
10/03/2019	Mexico	FTA Aggravated Assault	Annapolis, MD
10/04/2019	Brazil	DUI	Silver Spring, MD

10/08/2019	El Salvador	Attempted 2nd Degree Murder	Indian Head, MD
10/09/2019	South Africa	PWID: Child Pornography	Pikesville, MD
10/09/2019	El Salvador	Assault 1st Degree	Frederick, MD
10/09/2019	Tanzania	Conspiracy: Heroin Importation	Frederick, MD
10/14/2019	El Salvador	FTA Assault	Baltimore, MD
10/15/2019	El Salvador	Rape 2nd Degree	Gambrills, MD
10/15/2019	Guatemala	DUI	Essex, MD
10/15/2019	Honduras	Home Invasion, Robbery	Montgomery Village, MD
10/15/2019	Guatemala	Rape 2nd Degree, Assault 2nd Degree	Cockeysville, MD
10/16/2019	Guatemala	DUI	Hyattsville, MD
10/16/2019	Guatemala	Child Abuse 1st Degree	Glen Burnie, MD
10/18/2019	Mexico	Firearm: Illegal Possession	Annapolis, MD
10/18/2019	Mexico	Assault 2nd Degree	Baltimore, MD
10/18/2019	Nigeria	Theft Scheme: $1,500-$25,000	Randallstown, MD
10/18/2019	Dominican Republic	CDS: PWID Narcotic	Chesapeake City, MD
10/22/2019	Mexico	Sex Abuse of a Minor, Rape 2nd	Gaithersburg, MD
10/23/2019	Honduras	Assault 2nd Degree, Firearm Possession	Baltimore, MD
10/23/2019	Mexico	DWI	Columbia, MD
10/23/2019	Guatemala	Cocaine Importation	Hyattsville, MD

10/24/2019	El Salvador	Child Pornography Solicitation	Essex, MD
10/25/2019	El Salvador	Assault 2nd Degree	Riverdale, MD
10/25/2019	Honduras	CDS: Possession, Dangerous Weapon/Concealed	Lothian, MD
10/28/2019	Honduras	DUI	College Park, MD
10/28/2019	Guatemala	Robbery	Hyattsville, MD
10/29/2019	Honduras	Assault 2nd Degree	Baltimore, MD
10/29/2019	El Salvador	PWID: Cocaine	Silver Spring, MD
10/29/2019	Guatemala	Assault 1st Degree	Jessup, MD
10/29/2019	Guatemala	Assault 2nd Degree	Queenstown, MD
10/29/2019	Honduras	DWI	Greenbelt, MD
10/30/2019	Mexico	DUI	Baltimore, MD
11/01/2019	Haiti	Robbery with Weapon	Silver Spring, MD
11/01/2019	El Salvador	DUI	Adelphi, MD
11/04/2019	Guatemala	DUI	Hyattsville, MD
11/04/2019	El Salvador	Murder 1st Degree	Silver Spring, MD
11/04/2019	Honduras	Sex Abuse of Minor	Baltimore, MD
11/06/2019	Mexico	DUI	Elkridge, MD
11/06/2019	Honduras	Rape 2nd Degree	Glen Burnie, MD
11/07/2019	Uzbekistan	Assault 2nd Degree	Westminster, MD

11/07/2019	Romania	Red Notice: Robbery	Baltimore, MD
11/08/2019	Eritrea	Malicious Destruction of Property	Aberdeen, MD
11/08/2019	Mexico	Assault 2nd Degree	Baltimore, MD
11/08/2019	El Salvador	Sex Abuse of Minor	Rockville, MD
11/12/2019	Nicaragua	DWI	Alexandria, VA
11/12/2019	El Salvador	Assault 1st Degree	Silver Spring, MD
11/12/2019	El Salvador	DWI	Edgewood, MD
11/12/2019	Mali	Fraud	Baltimore, MD
11/13/2019	Honduras	Assault 2nd Degree	Baltimore, MD
11/13/2019	Honduras	CDS: PWID	Elkton, MD
11/14/2019	Azerbijan	Assault 1st Degree	Bethesda, MD
11/14/2019	Honduras	Child Abuse, Assault 2nd	Silver Spring, MD
11/15/2019	Honduras	DUI	Ellicot City, MD
11/15/2019	Guatemala	CDS: Possession Marijuana	Hyattsville, MD
11/15/2019	Mexico	Murder 2nd Degree	Elkton, MD
11/18/2019	Jamaica	Assault 1st Degree	Deal Island, MD
11/19/2019	Iran	Conspiracy CDS: PWID Cocaine & Heroin	North Patomic, MD
11/20/2019	Jamaica	Assault 3rd Degree (Domestic)	Hyattsville, MD
11/20/2019	Nigeria	Possession Child Pornography	Windsor Mill, MD

11/20/2019	Guatemala	Assault 2nd Degree	Silver Spring, MD
11/20/2019	Guatemala	Sex Offense 3rd Degree	Baltimore, MD
11/21/2019	Uzbekistan	Theft	Bel Air, MD
11/22/2019	Honduras	Assault 1st Degree	Frederick, MD
11/22/2019	United Kingdom	Sex Assault 1st Degree Under 13 Years Old	Takoma Park, MD
11/22/2019	Mexico	Assault 1st Degree	Annapolis, MD
12/02/2019	Guatemala	Assault 2nd Degree	Easton, MD
12/02/2019	Honduras	Passport Fraud	Baltimore, MD
12/02/2019	Guatemala	Sex Offense 4th Degree, Assualt 2nd Degree	Hyattsville, MD
12/02/2019	Ghana	Failure to Display Licence/Registration	Hyattsville, MD
12/02/2019	Jamaica	Conspiracy: CDS: PWID Marijuana	Pikesville, MD
12/02/2019	Guatemala	Assault 2nd Degree	Lothian, MD
12/03/2019	Honduras	DUI, CDS: Poss MJ	Lanham, MD
12/03/2019	Mexico	DUI	Brandywine, MD
12/04/2019	El Salvador	Burglary 1st Degree	Annapolis, MD
12/05/2019	Guatemala	Impersonating Law Enforcement, Assault	Germantown, MD
12/05/2019	Guatemala	DUI	Hyattsville, MD
12/09/2019	El Salvador	Firearm Possession	Aberdeen, MD
12/09/2019	Georgia	Theft	Baltimore, MD

12/09/2019	Honduras	Prostitution	Baltimore, MD
12/11/2019	Colombia	Violate Exparte/Protection Order	Ellicot City, MD
12/12/2019	El Salvador	DUI	Salisbury, MD
12/12/2019	El Salvador	Sex Abuse of a Minor, Rape 1st Degree	Brooklyn, MD
12/12/2019	Mexico	Sexual Solicitation of a Minor	Pasadena, MD
12/13/2019	Mexico	Indecent Exposure	Baltimore, MD
12/16/2019	Mexico	DUI	Crofton, MD
12/16/2019	Mexico	Assault 1st Degree	Greenbelt, MD
12/17/2019	El Salvador	Motor Vehicle Theft	Brentwood, MD
12/17/2019	El Salvador	Assault 2nd Degree	Frederick, MD
12/17/2019	Guatemala	DUI	Gaithersburg, MD
01/03/2020	Guatemala	DWI	Pikesville, MD
01/03/2020	El Salvador	Deadly Weapon Concealed	Baltimore, MD
01/03/2020	Guatemala	DUI	Gaithersburg, MD
01/06/2020	El Salvador	Deadly Weapon Concealed	Baltimore, MD
01/07/2020	El Salvador	Eluding Police, Gang Member	Laurel, MD
01/08/2020	Pakistan	Assault 2nd Degree	Mt. Rainier, MD
01/08/2020	Nepal	Assault 1st Degree, Sex Offense 3rd Degree	Ocean City, MD
01/09/2020	Kenya	Attempted Murder 2nd Degree	Baltimore, MD

01/15/2020	Philippines	Assault 2nd Degree	Rockville, MD
01/15/2020	El Salvador	DWI	Montgomery Village, MD
01/16/2020	Guatemala	Firearm Possession	Baltimore, MD
01/20/2020	El Salvador	Arson, Assault, Gang Member	Hyattsville, MD
01/21/2020	Mexico	Rape 1st Degree, Gang Member	No US Address
01/21/2020	El Salvador	Racketeering, Gang Member	Silver Spring, MD
01/23/2020	Guatemala	Assault 2nd Degree	Hyattsville, MD
01/23/2020	El Salvador	DUI	Windsor Mill, MD
01/23/2020	Mexico	Child Abuse Sexual	New Carrollton, MD
01/23/2020	El Salvador	Assault 2nd Degree	Baltimore, MD
01/24/2020	Guatemala	Sex Abuse of a Minor	Hyattsville, MD
01/27/2020	Guatemala	Sex Offense 3rd Degree	Rockville, MD
01/27/2020	Mexico	Sex Abuse of a Minor	Edgewood, MD
01/27/2020	Honduras	Assault 2nd Degree	Baltimore, MD
01/28/2020	Guatemala	Assault 2nd Degree	Frederick, MD
01/28/2020	El Salvador	Deadly Weapon/Intent to Injure	Annapolis, MD
01/28/2020	Guatemala	Aggravated Animal Cruelty	Glen Burnie, MD
01/28/2020	El Salvador	Assault 1st Degree	Annapolis, MD
01/28/2020	Mexico	Assault 1st Degree	Annapolis, MD

01/29/2020	El Salvador	Mail Fraud, False Statement	Columbia, MD
01/29/2020	El Salvador	Attempted Rape 2nd Degree	Annapolis, MD
01/29/2020	El Salvador	DUI	Bel Air, MD
01/30/2020	Venezuela	Sex Abuse of a Minor	Landover, MD
01/31/2020	Mexico	CDS: Possession Marijuana	York, PA
01/31/2020	Honduras	2nd Degree Murder	Riverdale, MD
01/31/2020	Belize	Assault 1st Degree	Baltimore, MD
01/31/2020	El Salvador	Accessory After Murder, Threats to White House	Hyattsville, MD
02/03/2020	Mexico	Assault 1st Degree	Montgomery Village, MD
02/03/2020	El Salvador	Sex Abuse of a Minor	Hyattsville, MD
02/05/2020	Guinea	Assault 2nd Degree	Silver Spring, MD
02/05/2020	Mexico	Sex Abuse of a Minor	Baltimore, MD
02/05/2020	Mexico	DWI	Glen Burnie, MD
02/05/2020	Mexico	DUI	Glen Burnie, MD
02/05/2020	Kenya	DUI, Assault 2nd Degree	Lanham, MD
02/05/2020	Jamaica	CDS: Possession Marijuana	Baltimore, MD
02/05/2020	Mexico	Assault 1st Degree	Annapolis, MD
02/06/2020	El Salvador	Sex Abuse of a Minor	Rockville, MD
02/06/2020	El Salvador	Assault 2nd Degree, Gang Member	Silver Spring, MD

02/06/2020	El Salvador	Sex Abuse of a Minor	Adelphi, MD
02/06/2020	Honduras	Assault 2nd Degree	Owings Mills, MD
02/07/2020	El Salvador	Assault 2nd Degree, Gang Member	Silver Spring, MD
02/07/2020	Congo	Conspiracy: Assault 2nd Degree	Clarksburg, MD
02/07/2020	Bolivia	Carjacking	Rockville, MD
02/07/2020	El Salvador	Assault 2nd Degree, Larceny	Silver Spring, MD
02/07/2020	Mexico	Rape 2nd Degree	Baltimore, MD
02/07/2020	Grand Cayman	Armed Robbery	Baltimore, MD
02/09/2020	El Salvador	Theft, Gang Member	Gaithersburg, MD
02/09/2020	Guatemala	CDS: Poss-Not MJ, DUI	Germantown, MD
02/09/2020	Honduras	Conspiracy: Murder Law Enforcement, Gang Member	Hyattsville, MD
02/09/2020	El Salvador	Sex Offense 4th Degree	Owings Mills, MD
02/10/2020	Mexico	Assault 2nd Degree	Glen Burnie, MD
02/10/2020	Mexico	DWI	Severna Park, MD
02/10/2020	Guatemala	Reckless Endangerment, Assault 2nd Degree	Linthicum, MD
02/10/2020	Guatemala	DUI	Takoma Park, MD
02/10/2020	Guatemala	Assault 2nd Degree	Hyattsville, MD
02/10/2020	El Salvador	Assault 2nd Degree	Hyattsville, MD
02/11/2020	El Salvador	Assault 2nd Degree, DWI	Greenbelt, MD

02/11/2020	El Salvador	Assault with Dangerous Weapon	Greenbelt, MD
02/11/2020	El Salvador	Cocaine Possession	Rockville, MD
02/12/2020	Guatemala	Assault 1st Degree, Firearm Possession	Glen Burnie, MD
02/12/2020	Togo	Rape 2nd Degree	Adelphi, MD
02/12/2020	Mexico	Assault 2nd Degree	Georgiaetown, DE
02/12/2020	Honduras	DWI	Rockville, MD
02/12/2020	El Salvador	Sex Abuse of a Minor	Baltimore, MD
02/12/2020	El Salvador	Sex Offense 2nd Degree	Baltimore, MD
02/12/2020	El Salvador	Assault 2nd Degree	College Park, MD
02/13/2020	El Salvador	Assault 2nd Degree	Annapolis, MD
02/14/2020	Panama	Involuntary Manslaughter	Hyattsville, MD
02/18/2020	El Salvador	Rape 2nd Degree	Annapolis, MD

TAB 13

Questions About the Jessup Detention Center

Why does Howard County continue this IGSA with ICE?

Background on Detainees

1. How many detainees does the Center have on average? ***We range from 65-100***
2. What percent, on average, are from Howard County? ***Currently there are 8 from Howard County.***
3. What percent are from Maryland? ***Currently there are 45 are from Maryland.***
4. What is the average length of stay? ***See Attachment.***
5. What percent of detainees are charged with a violent crime? ***See Attachment.***
6. What percent of detainees have served their sentences/paid their fine for the crime committed previously? What percent have open cases? ***See Attachment.***

Howard County's Relationship with ICE

7. According to the July 25, 2019 article in the Baltimore Sun, "Howard County stipulates its detention center in Jessup only accept those under certain conditions...undocumented immigrants convicted of crimes, validated gang members, deported felons who have illegally made their way back to the United States and people charged with jailable offenses." How does Howard County ensure that every detainee meets these criteria? ***ICE is required to e mail us with the detainee's status before they are transported to the Detention Center. Attached are examples of the e mail notice we get. Our Commitment officers then verify the information once the detainee is received.***
8. Do the "immigrants convicted of crimes" include those who have traffic violations or other non-violent offenses? ***Yes, if they are jailable offenses. The majority held here have serious criminal histories ICE has asked us to take other non-criminal detainees and we have declined.***
9. Does Howard County ever turn away any detainees that don't meet these criteria? ***Yes, however I only recall one instance where this occurred.***
10. What percent of the detainees have been convicted of a violent crime? ***See attached spread sheet.***
11. Does the County check to see if ICE has a judicial warrant for every detainee they bring to the detention center? ***We accept them if they meet our criteria. If they are convicted felons and have had a deportation order, there wouldn't be a judicial warrant***
12. Does Howard County check to see if the detainees have been convicted of a crime or are just charged with a crime? ***There is no reason to distinguish. We accept them either way.***
13. Does the County report to ICE which detainees are seeing a lawyer or getting other legal services? ***No, we do not track or report legal activity of detainees.***
14. Does the County make any other reports to ICE about detainees' activities? ***We send them reports of rule violations as well as placement on any special confinement status. This includes disciplinary segregation for serious rule violations, administrative segregation or special confinement. Attached are the policies for each status.***
15. Is someone from ICE on site at the detention center? ***Yes, a Detention Compliance Monitor is here every other week. A deportation officer is here at least once per week and a case manager is also here at least once per week.***

16. How do detainees get to the Center? Are any arrested by Howard County Police, or only by ICE? ***Howard County police are not involved in any way with ICE detainee arrests or transports. Most of our detainees are transferred here from local detention facilities and state and federal prisons. Most have deportation orders because of their criminal involvement.***

Detainees' Situation in the Detention Center

17. What percent of detainees have legal support? ***We do not track that information. However, all detainees get orientation from the CAIR Coalition (see attached) Cair provides detainees legal information and services We also conduct a weekly new intake orientation and review the CAIR services with the detainees. This information is also in their handbook and posted in their housing area and on the unit computer kiosk.***
18. How can they find lawyers? ***Through CAIR and posted (in all housing units) Pro Bono attorneys.***
19. What percent have visitors? ***The majority. Those who don't can request visits from volunteers from the DC Volunteer Visitation Network. See attached emails from Erin Hustings of the DC Visitation Network. Detainees can also have video visits. We do not charge a commission for this service.***
20. How much visitation time do they get? ***Detainees get (2) 30 minute visits per week. Request can be made and are granted for additional visits when special circumstances arise. These include family emergencies, deaths in the family, etc.***
21. Are any detainees deported from the Detention Center? ***Yes, many have had deportation orders issued and are here pending transport back to their countries.***
22. Are any mental health series available? ***Yes- We have 2 full time Mental Health professionals (each works 40 hours per week) In addition, there is a psychiatrist here 16 hours per week.***
23. Are any detainees held in **solitary confinement**? If so, how long, on average? ***There is no such status here. There are 3 specialized housing statuses- disciplinary segregation, Administrative segregation and special confinement. Have been placed on these status for reasons such as assaults, possession of weapons, etc, resulting in disciplinary segregation status. ICE Detainees pending investigation for strong arming and intimidation complaints result in Administrative Segregation placement and those on suicide watch or are out of control are placed on special confinement. Attached are the policies for each. The average stay is less than 10 days. These status' require regular review. Special confinement status is a daily review and the others are weekly. The longest disciplinary stay was 75 days. That was an exception due to repeated assaultive incidents by the detainee. We had another stay on Admin segregation for several months at his own request. He did not want to be around other detainees at the time. Our mental health staff were eventually able to get him to agree to general population housing.***
24. Are there any educational opportunities or access to libraries? ***The detainees get 5 hours per week in the library. They also can check out books (up to 4 at a time). They also have access to computers on the unit that have Lexus Nexus legal reference material. The detainees are occasionally placed in school. We only have 1 teacher and priority is given to County inmates.***
25. How much outdoor time do detainees get? ***One hour per day seven days per week.***

Staff

26. Are the detention center staff employed by Howard County or ICE? ***Howard County***

27. Who trains these staff: ICE or Howard County? ***Howard County. Our Audit Office provides specific training on ICE housing standards. Other required correctional training is provided by our certified instructors.***
28. Who supervises them and disciplines them as needed? ***The Director is the appointing authority and handles personnel matters. It is done in consultation with the County Human Resources Director and County Office of Law attorney when serious conduct violations occur.***

Costs

29. What does ICE pay Howard County per detainee/per day? ***$110.00 per day.***
30. What are the costs to Howard County of keeping the facility open and operating in terms of staff, maintenance, utilities, etc.? ***Our annual budget is $19.5 million.***
31. According to the July 25th Baltimore Sun article Howard County has received $14 million in revenue since 2013. Is this the total amount received without considering costs? What is actual profit to County? ***There is no profit when defining profit as money obtained above costs to operate the facility. We had to provide very specific documentation to justify our per diem rate. The $ 3.8 million paid to the County off- sets the 19.5-million-dollar budget. We have only added 2 new positions for ICE. One was added to our audit office to ensure we comply with the 44 ICE Detention Center Standards These standards cover areas of detainee safety, facility security, food service, detainee rights, and medical management. The second staff member is assigned to work directly with ICE detainees. Officer Savage, who is currently assigned, checks on the ICE detainees daily to ensure their needs are being addressed. We are audited 2-3 times per year.***

Some of these answers need some additional explanation which can be provided during Thursdays meeting.

TAB 14

Gmail Peter Hwang <peterkimhwang@gmail.com>

Howard County Human Rights Commission

Ama Frimpong-Houser <Ama@caircoalition.org> Fri, Jun 26, 2020 at 1:01 PM
To: Peter Hwang <peterkimhwang@gmail.com>

Commissioner Hwang,

Good afternoon. Please see below. I hope you find these helpful. Have a great weekend!

Best,
ASF

From: Peter Hwang <peterkimhwang@gmail.com>
Sent: Wednesday, June 24, 2020 6:23 PM
To: Ama Frimpong-Houser <Ama@caircoalition.org>
Subject: Re: Howard County Human Rights Commission

Ms. Frimpong-Houser:

Your responses are very helpful, and we thank you so much for taking the time. I'm really sorry to be a bother, but we had a few more follow-up questions:

1. Your response to Question No. 1 below and the description of CAIR's three programs on its website (Detained Adult Program, Detained Children's Program, and the Immigration Impact Lab) appear to indicate that CAIR only provides services to immigrants who are detained. Just to make sure we accurately understand what CAIR does, does CAIR provide any services to immigrants who are not detained (and, if so, what services)? CAIR Coalition's focus and mission is on providing services to the detained population (and those at risk of detention). In certain cases, we will continue providing services after an individual has been released, but that is rare.

2. Page 12 of the 2017 Center for Popular Democracy's Access to Justice Report provides the number of detained immigrants screened by CAIR between 2011 and 2015 (1,094 in 2011, 1,498 in 2012, 1,456 in 2013, 2,013 in 2014, and 2,206 in 2015) and the number of detained immigrants provided with pro bono counsel by CAIR during the same time period (48 in 2011, 53 in 2012, 79 in 2013, 114 in 2014, 176 in 2015, and 189 in 2016). Those numbers reflect that CAIR can only provide legal representation to a very small percentage (3.5% - 8%) of the detainees it screens. What barriers are there to CAIR providing pro bono counsel to a greater number of detainees? Our greatest barrier to providing more direct representation is funding, and specifically, stable, multi-year funding. For example, as I mentioned in my last response, we have been able to provide direct representation to residents of PG County through the PG County ISLA initiative. However, this funding was enough to cover representation for only some (not all) PG County residents. Thanks to a new two-year partnership with the Immigrant Justice Corps that builds on our partnership with PG County, beginning in September 2020, we will be able to provide legal representation to all detained PG County residents. Among other things, this new partnership provides us with six additional attorneys for two years. More funding means greater resources and staffing, which means an ability to provide representation to a greater number of detainees.

3. You state in response to Question No. 5 below that CAIR has encountered detainees at Howard who did not fall under any of the enumerated categories set under policy. Can CAIR provide any identifying information about the detainees so that we can cross check with records at the Department of Corrections, and/or can CAIR identify other means by which the Human Rights Commission can independently verify that the Department of Corrections has accepted detainees who do not fall under any of the enumerated categories? We are unable to provide that information due to confidentiality. What recourse, if any, does a detainee have if s/he is being detained at Howard contrary to the Department of Corrections' policy? As far as we know, such a detainee has no recourse, considering that both ICE and the Department of

Corrections are aware of the detainee's presence, along with the detainee's immigration history and (lack of) criminal history. This is a question that would be better suited for DOC and/or ICE.

4. Our understanding is that services through the DOJ's LOP program are available at 46 (https://www.vera.org/projects/legal-orientation-program/legal-orientation-program-lop-facilities) out of the 137 (https://www.ice.gov/detention-facilities) facilities at which ICE detainees are detained. Is the LOP program the most common way detained immigrants are able to receive some sort of pro bono legal assistance? Would pro bono direct representation services be available at more or less facilities than the LOP program, and is it harder or easier for a detained immigrant to obtain pro bono assistance through direct representation services than the LOP program? A core component of the LOP is pro bono referrals, both externally and internally. At CAIR Coalition, LOP refers individuals to external pro bono partners, as well as our in-house direct representation programs for pro bono representation. Over 95% of individuals represented in-house or by external pro bono attorneys are directly referred by LOP. Throughout the 2 VA facilities we serve and the 3 MD facilities we serve, direct representation programs are able to provide legal services as a result of LOP referrals. LOP is not meant to be the equivalent of or substitution for direct representation. Rather, our LOP and our direct representation programs work hand-in-hand to provide legal services to as many individuals as possible. Regarding facilities with direct representation programs, here is a link to Vera's website showing jurisdictions that are part of the SAFE network (which includes Baltimore City and PG County).

I'd be happy to participate in a call if that will make things easier. Thank you again for taking the time. I know how busy you all are, and we really appreciate the information. It will go a long way in helping the Commission decide how it would like to help.

Please do not hesitate to contact me if you have any questions. Otherwise, we look forward to hearing from you.

Peter

On Thu, Jun 18, 2020 at 3:32 PM Ama Frimpong-Houser <Ama@caircoalition.org> wrote:

> Commissioner Hwang,
>
> Please see below responses in red. I hope they are helpful.
>
> Best,
> ASF
>
> ---
>
> **From:** Peter Hwang <peterkimhwang@gmail.com>
> **Sent:** Wednesday, June 17, 2020 11:43 AM
> **To:** Ama Frimpong-Houser <Ama@caircoalition.org>
> **Subject:** Re: Howard County Human Rights Commission
>
> Great, thank you! I look forward to hearing from you.
>
> Peter
>
> On Tue, Jun 16, 2020 at 9:14 AM Ama Frimpong-Houser <Ama@caircoalition.org> wrote:
>
> > Commissioner Hwang,
> >
> > Good morning. I am acknowledging receipt of your e-mail. I have just returned to the office after over a week so I am now seeing this. I will review and be back in touch.
> >
> > Thanks so much,
> > ASF
> >
> > ---
> >
> > **From:** Peter Hwang <peterkimhwang@gmail.com>
> > **Sent:** Wednesday, June 10, 2020 2:39 PM
> > **To:** Ama Frimpong-Houser <Ama@caircoalition.org>
> > **Subject:** Re: Howard County Human Rights Commission

Ms. Frimpong-Houser:

Thank you for responding to our e-mail and for offering to provide information in response to questions we may have. In particular, it would be very helpful if CAIR could provide information in response to the following questions/topics:

1) Please provide a summary of CAIR's involvement with ICE detainees at the Howard County Detention Center (e.g., what services CAIR provides at the detention center, how long CAIR has provided services, whether CAIR's services are provided free of charge or at reduced rates, a description of any agreements with the Department of Corrections under which CAIR operates at the detention center, etc.).

CAIR Coalition's Detained Adult Program provides free, direct legal services to ICE detainees at Howard County Detention Center. Currently, we provide these services primarily through our 1) Legal Orientation Program (LOP), and through our 2) direct representation programs. For more information on the LOP, please see the attached document explaining the program, as well as visit this relevant page on the website of the Department of Justice. Please also find attached a memorandum from ICE providing guidance to local field offices on how to support LOP operations and services at Howard.

We have provided services at Howard through the LOP since 2015. Even before we became LOP providers at Howard, we provided legal services to detainees at the facility from 2009 to 2015 through an agreement with ICE and the facility. Thus, we have provided services at Howard for eleven years. Each year, we provide in-depth LOP services to over 100 Howard detainees.

The primary direct representation programs through which we serve Howard detainees are the Prince George's County ISLA program, allowing us to provide free representation to detainees who are residents of PG County (since 2017), and Baltimore City's Safe City program (since 2018), allowing us to provide free representation to detainees who are residents of Baltimore City. In addition, we partner with private law firms to provide *pro bono* representation to Howard detainees. In 2019, we represented approximately 30 Howard detainees in-house and through external *pro bono* partners.

2) Does CAIR have a position on whether the agreement between ICE and the Howard County Department of Corrections should be terminated? If so, please state CAIR's positions and the reasons behind it.

We are unable to provide any commentary on the agreement between ICE and Howard.

3) As a general matter, please describe both advantages and disadvantages to ICE detainees if the agreement between ICE and the Howard County Detention Center was terminated (e.g., differences in case outcomes, differences in access to legal counsel, differences in access to family and community support, being detained elsewhere, etc.).

We are unable to provide commentary on the agreement between ICE and Howard. However, I would like to refer you to the 2017 Center for Popular Democracy's Access to Justice Report. Among other key findings, it noted that: eight out of ten immigrants detained in Maryland and appearing in removal proceedings before the Baltimore Immigration Court (Baltimore) did not have legal representation; unrepresented detainees in Baltimore were only successful in their cases 7% of the time; and having a lawyer quadrupled a person's chance of

obtaining relief in Baltimore. Detained individuals have a greater chance of legal representation when in facilities that have access to counsel programs such as LOP, ISLA or Safe City.

4) As a general matter, please describe any differences between those detained at the Howard County Detention Center on ICE detainers as compared to those detained at other facilities (e.g., detention conditions, access to counsel, access to family and community support, populations being detained, etc.).
We are unable to provide commentary on detention conditions and standards.

5) The Howard County Detention Center purportedly "only accept[s] detainees form ICE who are criminally involved. This includes: 1. Those convicted of crimes, 2. Those charged with jailable offenses, 3. Those who are members of criminal gangs, and 4. those who are deported criminal felons who have illegally reentered the U.S." Is CAIR aware of any incidents when the Detention Center accepted detainees who did not fall under any of these enumerated categories? If so, please provide any information you have (and are permitted to disclose) regarding any such incidents (e.g., name of detainee, approximate time frame, purported justification for detainment, why justification did not fit into any of the foregoing categories, whether you were able to verify the reasons and challenge the detainer, what eventually happened to the detainee, etc.).
Throughout our provision of legal services, CAIR Coalition has encountered detainees at Howard who did not fall under any of the enumerated categories. Rather, they were in custody solely for immigration violations, such as unlawful entry.

6) If the contract between ICE and the Howard County Detention Center is terminated, what other options would there be for monitoring the detainees and how would that likely work?
We are unable to provide commentary on ICE's enforcement and monitoring procedures.

7) As a general matter, please describe changes, if any, in the ICE detention process, procedures, or conditions at the Howard County Detention Center since 2017 (e.g., level of enforcement, detention conditions, ethnic and racial populations being detained, access to legal services, etc.)
Since the summer of 2019, we have noted at Howard a decrease in (or absence of) individuals who were apprehended at the border. We believe that this is attributable to the "Migrant Protection Protocols" program (aka the "Remain in Mexico program"), through which individuals encountered at the U.S.-Mexico border are returned to Mexico for the duration of their removal proceedings.

Certainly, we would be happy to meet with CAIR – via video or teleconference – if it will be easier for CAIR to have a discussion regarding the foregoing topics/questions rather than to draft written responses. I'm sure you're really busy with all that is going on, and we really appreciate you taking the time to correspond with us.

Please do not hesitate to contact me if you have any questions. Otherwise, we look forward to hearing from you.

Peter Hwang

On Wed, May 27, 2020 at 2:48 PM Ama Frimpong-Houser <Ama@caircoalition.org> wrote:

> Commissioner Hwang,
>
> Thank you for your e-mail. I hope you and your family are well during this time.
>
> Thank you for inviting CAIR Coalition to meet with the Human Rights Commission as the Commission examines the Department of Correction's contract with ICE. While we are unable to participate in a

meeting at this time, we are happy to provide information to assist in your examination, to the extent that the information is not confidential. Accordingly, if you have any specific questions that you would like us to address, please do let me know and we will provide as much information as possible.

Thanks again for reaching out, and thanks for all that you (and the rest of the Commission) do for our community.

Best,
ASF

From: Peter Hwang <peterkimhwang@gmail.com>
Sent: Friday, May 22, 2020 4:01 PM
To: Ama Frimpong-Houser <Ama@caircoalition.org>
Subject: Howard County Human Rights Commission

Ms. Frimpong-Houser:

I am a Commissioner on the Howard County Human Rights Commission. Recently, the Coalition for Immigrant Justice appeared before the Commission, and requested that the Commission look into issues related to the U.S. Immigration and Customs Enforcement agency and its activity here in Howard County - specifically, the Department of Correction's contract with Homeland Security.

To that end, we have spoken with various parties with different perspectives on the issue. It has been suggested to us by various parties that the CAIR Coalition would be able to provide perspective as immigration attorneys "with boots on the ground." As such, we would love to meet with you to get your perspective if your schedule permits.

Please kindly let me know whether you would be open to such a meeting and your general availability over the next few weeks. I am also available to discuss further over the phone. In the meantime, please do not hesitate to contact me if you have any questions. Thank you, and I look forward to hearing from you.

Regards,

Peter Hwang

TAB 15

From:	Leslie Salgado
To:	"Joan Hash"; Peter Hwang; "Scott Markow"; "Lynda Hill"
Subject:	FW: HRC Subcommittee Requests
Date:	Thursday, August 13, 2020 5:20:54 PM
Attachments:	HCCIJ Mission Statement 8-11-20.docx Media Coverage of End ICE Contract in HOCO.docx

FYI

I will forward to you the PI information as soon as I receive it.

Leslie

From: Laurie Liskin <lliskin49@gmail.com>
Sent: Thursday, August 13, 2020 4:35 PM
To: Leslie Salgado <cuba_is_hope@comcast.net>
Cc: Michael David <bionlaw@gmail.com>; Sonja Starr <rabbistarr@columbiajewish.org>; Thais Moreira <thaismoreiraq@gmail.com>; mattanster@gmail.com
Subject: HRC Subcommittee Requests

Dear Leslie,
Please pass this information on to the other members of the HRC Subcommittee.
1. Attached is the latest list of Howard County Coalition for Immigrant justice members.
2. Below is information linking the location of detention centers/prisons and the number of immigration arrests.

When there are fewer prisons for immigrants, fewer immigrants are arrested and detained. We can see this if we compare Washington, Massachusetts and Georgia. These states have similar size immigrant populations, but Massachusetts has less than half the detention capacity of Washington. According to TRAC, https://trac.syr.edu/phptools/immigration/apprehend/ ICE made about half as many arrests in Massachusetts (3760) as they did in Washington (7139). In contrast, Georgia has a similar size immigrant population but twice as much immigrant detention infrastructure, and 3.5 times as many ICE arrests (25,137). If we dismantle the infrastructure that allows for easy detention of our neighbors and family members, we expect less immigration enforcement in this state.

3. I have attached a list of media coverage of local efforts to end the ICE contract. This includes television, print, and radio features describing the experience of detainees and family members. I have spoken to CASA and to the individuals involved. It is everyone's decision not to subject these affected people to interrogation by the subcommittee. Their stories are included in the attached material. Repeated questioning by the subcommittee will not illuminate their stories. I'm sure you can understand.

4. Michael David will send the PIA material to you as soon as possible.

Finally, I would greatly appreciate your clarifying for us the planned schedule and outputs of your

comprehensive investigation. When will you be reporting to the larger Commission? What outputs will you provide?

Thanks again for your consideration of these important issues.

Laurie Liskin

TAB 16

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2020 Legislative Session Legislative Day No. **12**

Bill No. 51 -2020

Introduced by: Liz Walsh

AN ACT prohibiting the Howard County Department of Corrections from accepting into its custody persons detained by federal immigration law enforcement agencies and housing those persons as they await disposition of exclusively immigration-related proceedings.

Introduced and read first time _____, 2020. Ordered posted and hearing scheduled.

By order_____
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2020.

By order _____
Diane Schwartz Jones, Administrator

This Bill was read the third time on _____, 2020 and Passed ___, Passed with amendments _____, Failed _____.

By order _____
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____day of _____, 2020 at ___ a.m./p.m.

By order _____
Diane Schwartz Jones, Administrator

Approved by the County Executive _____, 2020

_____
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

WHEREAS, long faulted by human rights advocates for its over-policing and discriminatory methodologies and tactics, federal immigration law enforcement has for many years been the most heavily funded agency in federal law enforcement, by a lot; in 2012, Congress appropriated to that singular purpose $4 billion more than was received by all of the other major criminal law enforcement agencies combined, a total of $18 billion;

WHEREAS, by 2018—and invigorated by a United States President who openly and repeatedly dehumanizes, devalues and vilifies immigrants—that federal investment had risen to $24 billion;

WHEREAS, acting on the explicit racial animus of its Executive in Chief, the present Administration has furthered policies and practices intended to isolate, exclude and instill fear in Black and Brown immigrants specifically, their families and communities at large: banning travel from several majority-Muslim countries, suspending refugee admissions to the United States; terminating special protections from removal for migrants from nations experiencing war and natural disasters, including Nicaragua, Honduras, Haiti and El Salvador; increasing actual and threatened raids and deportations of undocumented migrants; and, most universally condemned, separating children from their parents and families as they enter the United States from Mexico, and detaining those children in unconscionable conditions.

WHEREAS, United States Immigration and Customs Enforcement ("ICE") plays a central role in this cruel and immoral regime;

WHEREAS, according to Pew Research, in the year between 2016 and 2017, ICE arrests of persons with no prior criminal convictions in the Baltimore area increased by 206%; over that same year, the number of persons ICE detained nationally without any known convictions increased 146% (up more than 22,000 arrests), compared with a 12% rise among those with past criminal convictions (up nearly 11,000); and those ICE detainees with pending criminal charges were overwhelmingly non-violent crime offenders; Pew Research reported that general traffic offenses topped the list of most common charges (24,438, or 17% of all charges);

WHEREAS, Howard County is one of only three counties remaining in the State of Maryland that continue to receive and house detainees presented by ICE pursuant to their existing

agreements with federal immigration authorities; in Howard County, the existing agreement with ICE dates back to 1995;

WHEREAS, on January 30, 2020, sixty-seven Maryland State Delegates co-sponsored The Dignity Not Detention Act, HB677—cross-filed with SB50, itself co-sponsored by another eight State Senators—which legislation mandated the termination of any existing immigrant detention agreements within the State, including Howard County's; three of HB677's Delegate-sponsors represent Howard County;

WHEREAS, the COVID-19 global pandemic and the risks it presents has only exacerbated ICE's penchant and potential for cruelty;

WHEREAS, on March 24, 2020, the National Immigration Project of the National Lawyers Guild, the Capital Area Immigrants' Rights Coalition (CAIR Coalition), the American Civil Liberties Union and ACLU of Maryland sued ICE on behalf of immigrants then detained in and by Howard and Worcester counties; those human rights groups sought release of civil detainees being held who were at highest risk for serious illness or death if infected with COVID-19;

WHEREAS, eight days earlier, as of March 16, 2020, Howard County had determined to suspend all new ICE intakes due to the pandemic;

WHEREAS, on March 27, 2020, Howard County held sixty immigration-related detainees in its Jessup facility; by April 3, 2020, that count had dwindled to thirty-eight; as of June 29, 2020, Howard County reports, its ICE detainees numbered only twenty-nine;

WHEREAS, for some time now, the ICE contract imposes costs on Howard County's own local taxpayers and diverts funds from the county's own local needs: ICE's agreed compensation to the County for housing each detainee, per day, is $110; the actual costs associated with housing each ICE detainee, Howard County reports, is $8 more; at present, Howard County is effectively subsidizing ICE;

WHEREAS, the independent, nonpartisan and nonprofit news site Maryland Matters recently recounted the stories of four detainees ICE presented to Howard County for immigration-related detention (August 19, 2020 *Ex-Inmates Tell Their Stories as Criticism of Howard Co. ICE Contract Intensifies*, by Horus Alas); two of the four men interviewed had no criminal record, no apparent records of arrest even; both described ICE agents arriving

promptly on the heels of local law enforcement, at a 6:30am traffic stop in Prince George's County or along a Howard County roadside, waiting on a tow;

WHEREAS, the recent Maryland Matters report followed others detailing the mounting opposition to Howard County's contract with ICE (*see, e.g.*, July 18, 2020: *Hundreds March in Ellicott City to Protest Howard County's Relationship with ICE*, by Ana Faguy, Baltimore Sun; June 22, 2020: *Protest at Howard's Detention Center Calls Out County's Contract with ICE Amid Coronavirus*, by Ana Faguy, Baltimore Sun; *Howard Coalition Calls on County Officials to End ICE Contract*, by Jess Nocera, Baltimore Sun; January 31, 2020: *How Outraged Activists in Maryland Counties are Pressuring Officials to Cut Ties with ICE*, by Alison Knezevich, Washington Post; October 17, 2019: *Howard Coalition Calls on County Officials to End Contract*, by Jess Nocera, Baltimore Sun; August 11, 2019: *"We Are All Accountable;" Maryland's Jewish Community Protests ICE in Howard County*, by Phil Davis, Baltimore Sun).

WHEREAS, Howard County has a strong tradition of leadership on issues of human rights, respecting the rights and dignity of all human beings, regardless of their race, religion, ethnicity, country of origin or immigration status;

WHEREAS, Howard County is comprised of immigrants from throughout the world who contribute not only to that strong tradition of human rights leadership, but also to our community's social vitality, cultural richness and economic strength;

WHEREAS, the Howard County Coalition for Immigrant Justice—whose membership includes the Columbia Jewish Congregation, Howard County Indivisible Immigration Action Team, Our Revolution Howard County, ACLU of Maryland, CASA in Action, Friends Committee on Immigration and Refugees, Indian Cultural Association of Howard County, Friends of Latin America, Jews United for Justice, Unitarian Universalist Congregation of Columbia, Asian Americans Advancing Justice and the Chinese-American Network for Diversity and Opportunity—has for years advocated for an end to the County's practice of housing detainees presented by ICE. More recently those organizations have been joined by scores of younger leaders, like HoCo for Justice, who have added their voices to the clarion call: end Howard County's contract with ICE, now.

Section 1. Now, Therefore, Be It Enacted *by the County Council of Howard County, Maryland, that the Howard County Code is amended as follows:*

By amending:

Title 7 – Courts.

Subtitle 5. – Department of Corrections.

Section 7.501. - Department of Corrections.

Title 7 – Courts.

Subtitle 5. – Department of Corrections.

Sec. 7.501. - Department of Corrections.

(a) *Head*. The Director of Corrections shall head the Department of Corrections.

(b) *Qualifications of Director of Corrections*. The Director of Corrections shall be thoroughly trained and experienced in the principles and practices of correctional institutional management. The Director shall have had at least ten years of increasingly responsible experience maintaining security and discipline in a public or military correctional institution or system, including a minimum of five years in a managerial position.

(c) *Duties and Responsibilities*. The Department of Corrections shall be responsible for:

(1) The detention of persons awaiting trial.

(2) The safekeeping, care and custody of all inmates in the County Detention Center from the time of their lawful commitment until their lawful discharge.

(3) Other duties and responsibilities. The Department of Corrections shall perform such other functions as may be prescribed by directive of the County Executive or by law.

(D) *PROHIBITIONS*:

NOTWITHSTANDING ANY PROVISION IN THIS SECTION TO THE CONTRARY, THE DEPARTMENT OF CORRECTIONS SHALL NOT DETAIN OR KEEP IN CUSTODY ANY PERSON DETAINED IN FEDERAL CUSTODY FOR A FEDERAL IMMIGRATION VIOLATION, EXCEPT TO THE EXTENT REQUIRED FOR AN UNRELATED STATE LAW PURPOSE.

Section 2. And Be It Further Enacted *by the County Council of Howard County, Maryland that this Act shall become effective 61 days after its enactment.*

CB51-2020

Sayers, Margery

From: Ruth Nimmo <ruthnimmo77@gmail.com>
Sent: Wednesday, September 16, 2020 10:09 AM
To: CouncilMail
Subject: Testimony Supporting CB 51

Dear Council Members,

I am writing to you in support of CB 51 which would end the Howard County contract with ICE to house ICE detainees.

With ICE's presence in Howard County, immigrants are less likely to cooperate with county police and less likely to report crimes, making everyone less secure. Many undocumented immigrants in Howard County work, pay state and federal taxes, and contribute to the community, yet many live in fear of detention and deportation.

I support a national effort to re-write our Immigration laws to make it easier for people from other countries to come here legally and become citizens. We benefit as a society from the diversity of thought, creativity, and contributions of people from around the world. While Howard County cannot, on its own, change federal policy, it can refuse to support or implement it. Social and legal change begins here at home. Local political action puts pressure on national leaders to change laws. We have an obligation to our foreign born friends and neighbors in Howard County to work against cruel and unjust policies and practices. Howard County should be at the forefront of efforts to achieve social and racial justice, not in the rear.

Please support CB 51.

Best Regards,

Ruth Nimmo
10001 Windstream Drive, Apt. 805
Columbia, MD 21044
410-531-0661

Sayers, Margery

From: Melissa Andrade <melyandra11@hotmail.com>
Sent: Tuesday, September 15, 2020 9:35 PM
To: CouncilMail
Subject: End ICE

To whom it may concern,

I am writing this for Calvin Ball and Opel Jones to support CB51. End the Howard County contract with ICE and dismantle institutional racism. Protects those you make up and contribute this this community, and deserve for their voices to be heard as well.

Thank you!

Sincerely,

Melissa A.

Get Outlook for iOS

Sayers, Margery

From: Jill Clark-Gollub <jill@clarkgollub.com>
Sent: Tuesday, September 15, 2020 6:06 PM
To: CouncilMail
Subject: Testimony for CB51-2020

Dear County Council Members:

I am writing to urge you to fully support CB51-2020 to END Howard County's contract with ICE. The very limited nature of the bill seems to me uncontroversial: "AN ACT prohibiting the Howard County Department of Corrections from accepting into its custody persons detained by federal immigration law enforcement agencies and housing those persons as they await disposition of exclusively immigration-related proceedings."

As you have probably observed on your own, our area is full of hard-working immigrants who have come here seeking refuge from violence and poverty at home. They are decent people committed to their families, and largely fill jobs that many American citizens are unwilling to do. Incarcerating them for committing no crime other than entering our country without a visa is patently unjust and counterproductive, as it leaves people unable to provide for their families and causes trauma to children and other relatives. It also creates an underclass of people who are less likely to report crimes or cooperate with law enforcement for fear of jail or deportation, which in turn makes our communities less safe. And keeping people awaiting immigration proceedings in jail prevents them from paying their bills or for attorney's fees, perpetuating a cycle of poverty.

This practice is also inherently racist. Black and brown people are far more likely to be targeted for immigration violations than white immigrants. Soon our society will come to see that immigrant detention is just as immoral and racist as Jim Crow laws. Please stand on the right side of history and help to stop this practice. I live in Montgomery county Maryland and do not want my state participating in the unconscionable practice of jailing my neighbors simply for visa violations.

Sincerely,
Jill Clark-Gollub
Silver Spring, MD

Sayers, Margery

From: Jason Siegel <jbsiegel5@gmail.com>
Sent: Tuesday, September 15, 2020 3:23 PM
To: Ball, Calvin; CouncilMail; Rigby, Christiana; Jung, Deb; Yungmann, David; Jones, Opel
Subject: Testimony for CB 51 - 2020

To whom it may concern,

I'm emailing to demand that Howard County divests from ICE. The current immigration policies are heartless. They tear families apart and destroy the lives of people who have lived and worked peacefully in the United States for decades.

We shouldn't use Howard County's greatly
needed tax dollars to enforce ICE's racist policies, especially in this health and economic emergency.

Thank you for your time,

Jason Siegel
5082 Durham Rd West
Columbia, MD

Sayers, Margery

From: Anika Jensen <anikasjensen@gmail.com>
Sent: Tuesday, September 15, 2020 2:09 PM
To: CouncilMail; Ball, Calvin; Jones, Opel; Rigby, Christiana; Jung, Deb; Yungmann, David
Subject: Testimony for CB51-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good afternoon,

I am writing today to urge you to vote for CB 51-2020 and end Howard County's contract with ICE. Howard County is extraordinary because of its diversity, tolerance, and sense of community, and a contract with ICE makes us complicit in a cruel system of injustice that targets black and brown immigrants. ICE has routinely torn families apart; their detentions facilities are sites of COVID outbreaks, and the accusations against ICE officers of sexual abuse and mass hysterectemies indicate a doctrine of cruelty that is inherently anthithetical to Howard County's values.It is clear that ICE does not keep American safe; instead, it terrorizes immigrants and at-risk groups.

As a Jewish woman whose family was annihilated in the Holocaust, I would be remiss if I did not speak out against the injustices faced by black and brown immigrants, the same injustices my ancestors faced only 80 years ago. ICE has repeatedly violated the Geneva conventions and, if left unchecked, will continue to perpetuate racially motivated devastation.

Please consider the black and brown immigrants who make Howard County great and vote to cut ties with ICE. Justice starts with communities.

Regards,
Anika Jensen

Sayers, Margery

From: Alex Kohn <alex.kohn76@gmail.com>
Sent: Tuesday, September 15, 2020 9:25 AM
To: CouncilMail; Jones, Opel; Walsh, Elizabeth; Rigby, Christiana; Jung, Deb; Yungmann, David
Subject: End Howard County ICE Contract

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council Members Liz Walsh, Deb Jung, and Christiana Rigby,
Thank you Councilwoman Walsh for writing the bill to end the unnecessary detainment of immigrants in our county, and thank you all for supporting this legislation. It is the duty of the government to protect the most vulnerable members of society and I'm glad that someone in Howard County was brave enough to stand up when they were needed.

Thank you so much for your support of this bill,
Alex

Dear Council Member Opel Jones,

As a resident of district 2, I am saddened to hear that you still have not taken a position on this essential issue. When you ran for County Council you championed the rights of immigrants and had overwhelming support because you were willing to stand up for what is right. Every day that you refuse to take action, you are putting the lives of people in danger. Locking people in prison during a highly contagious and deadly pandemic is negligent, and your inaction makes you responsible for everyone who becomes sick or dies in the Howard County detention center. The fact that you continue to work with a racist organisation goes against everything you have claimed to value in the past.

The continuation of this contract hurts our county every day. You spend hundreds of thousands of dollars every year to imprison overwhelmingly non-violent, essential members of the society we live in, and you add a burden to the lives of immigrant families who are already in a difficult situation. How would you feel if you were a child, only able to call your father on the phone for a total of 1 hour per week? How would you feel if you were thrown in jail while trying to support your family, knowing that they won't be able to make ends meet? You and I both know that ICE disproportionately arrests black and brown immigrants without any convictions or only non-violent convictions. The most common offence was a traffic violation.

By continuing this racist contract during a pandemic that is likely to continue for several years, you sentence people to death for a speeding ticket. You are responsible for every death, illness, and injury that occurs within our ICE detention center. Do not walk away from this issue while members of our community are suffering. Stand up for what is right like you used to. Do not bow down to the establishment because it is easy, take a stand and do not be afraid to help the people who need you the most.

You may have been very busy over the last year or two, so I linked some articles below so you can catch up with what's been happening.
U.S Loses Track of Another 1,500 Migrant Children
A COVID-19 outbreak unfolded in Virginia after ICE flew immigration detainees there so agents could be shipped to the nation's capital in response to protests
Immigrant Kids Keep Dying in CBP Detention Centers, and DHS Won't Take Accountability

How Racial Profiling Goes Unchecked in Immigration Enforcement
Whistleblower Alleges Mass Hysterectomies at ICE Detention Center

Anyone with an ounce of humanity can agree that we should not be working with ICE. I wish you still cared.

- Alex

Dear Council Member David Yungmann,

I am very concerned by your opposition to this bill. This bill is essential to save lives and create a more welcoming Howard County. As a council member you are the face of the county. What does it say to the residents of our county that you want innocent people in prison? Not only does this bill help protect the rights of immigrants in the county, it is also fiscally responsible. We pay 8 dollars per person per day to keep immigrants in detention in the Jessup facility. That means the county spends over $100,000 every year; can't you think of better things to do with that money?

Thanks,
Alex

Sayers, Margery

From: Richard Ochs <rjochs@comcast.net>
Sent: Monday, September 14, 2020 10:54 PM
To: CouncilMail
Subject: CB51-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear H.C. Council,

Please vote for CB51-2020 to end the county contract with ICE. I often shop in Howard County, but I will not spend a penny there as long as you have a contract with ICE. I will tell my friends as well.

Richard Ochs
Baltimore

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Monday, September 14, 2020 8:58 AM
To: Lisa.j.dickson@gmail.com
Subject: District 3 - HB 51

First Name: Lisa

Last Name: Dickson

Email: Lisa.j.dickson@gmail.com

Street Address: 9130 Bryant Ave

City: Laurel

Subject: HB 51

Message: Hello, I've lived in your district for 20 years and I vote in all the elections. I wanted to write today to explain that I support HB 51. I feel that immigrant offers a lot to our community. Most of our ancestors were immigrants, mine came here on a wing and a prayer from Europe. I know something about the Jessup Detention because I was visiting an inmate there for several months through the DC visitation network, (an excellent program). I saw how harshly they treat people in there, many of whom are not criminals, but whom ICE decides they are. I consider them to be political prisoners. The first time my friend was first put in solitary was because he was translating Spanish and English for two men who were fighting. The second time he went to solitary he'd been trying to help a friend who was being abused by MS 13. He tried to help his friend and got beaten. After that he was kept in there for several months. I was able to speak to him for 30 minutes a week on video. He wasn't given medical treatment and had worse food then those in general population. It was also restricted calories. At some point he was transferred to a state prison in NY where the conditions were much improved. After a year of incarceration, away from his children he was released of criminal charges and won his immigration trial. It is my understanding from talking to people who have been held there that many of the men there are not criminals and it's a dangerous place to be. In addition I feel that we should not be cooperating with ICE at all. We should not be separating families. We are better then this! Many of the people who are held there would be released if they were able to afford good attorneys. My friend had the good fortune to have an excellent lawyer, if not for that he would have been deported. I saw this first hand. We are a nation of immigrants and I support HB 51. I voted for you and I care how you vote on this bill. Thank you for reading my letter.

Sayers, Margery

From: Claudia Russell <cjrussell@erols.com>
Sent: Saturday, September 12, 2020 3:07 AM
To: CouncilMail
Subject: Bill CB5 - Comments
Attachments: Howard County .pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Please see the attached. Thank you. Claudia Russell

September 12, 2020

Dear Howard County Council Members;

RE: Bill CB5 - a bill to stop the Howard County Department of Corrections from accepting individuals detained by federal immigration law enforcement agencies introduced by County Council Vice Chair Liz Walsh.

We understand that legislation has been introduced requesting that the Howard County Detention Center, located in Jessup, no longer house individuals as they await disposition in exclusively immigration-related proceedings. We applaud and fully endorse this legislation. We have visited the Detention Center for the past two plus years which unfortunately has been curtailed due to Covid-19. Our visits with the detainees, through the secure visitor center, are part of our ministry with the Washington National Cathedral Sanctuary Ministry.

We have visited individuals who have committed no criminal act but rather a civil act of entering the country without authorization or presenting themselves at a port of entry seeking asylum. They include persons who have fled their countries due to life threatening experiences such as uncontrolled gang violence in their home countries. They had no choice but to seek safety here in the US. Those we met have created "American" lives after residing here for many years. They have jobs, families and contributed to their communities and this country. As you know, many of them also have US citizen children and spouses and deserve to be with their families.

Covid19 has increased the desperation of the detainees and their families. With detainees crowded together and without the ability to social distance as well as the ICE policy to transfer detainees among the many detention centers, the risk of COVID-19 is extreme.

For a better understanding of the ICE response to immigrants, we recommend viewing the 6 episode documentary on Netflix, *Immigrant Nation*. Journalists were above-cover and embedded with ICE agents for 3 years. It visually tells the dehumanizing stories of the actions ICE has taken against hundreds of thousands of immigrants. These ICE actions are tearing apart our humanity. As people of faith and leaders of the Washington National Cathedral Sanctuary Ministry, we are appalled at these actions against those who have already suffered enormously in their home countries. We are not a cruel nation.

The effort of Howard County to stop providing detention beds for ICE constitutes a step in rebuilding our humanity and living with kindness and goodwill by treating our neighbors as ourselves. It also will be viewed as a check to ICE to reconsider their actions against our neighbors. Thank you for raising this issue and for taking our thoughts into consideration when you debate this important matter.

Respectfully,

Dora Currea

Martin Dickinson
Claudia Russell
Co-chairs, Washington National Cathedral Sanctuary Ministry

Committee
cc. Calvin Ball, County Executive

Sayers, Margery

From: Elizabeth Alex <ealex@wearecasa.org>
Sent: Friday, September 11, 2020 4:44 PM
To: Jung, Deb; Walsh, Elizabeth; Rigby, Christiana; Jones, Opel; Yungmann, David; CouncilMail; Jones, Diane; Glendenning, Craig; Williams, China; Gick, Ginnie; Dvorak, Nicole; Gelwicks, Colette; Facchine, Felix; Harris, Michael; Alston, Ashley; Knight, Karen; Skalny, Cindy; Sidh, Sameer; Jones, Jennifer D.; Manley, Josh
Subject: Message from CASA
Attachments: CASA Letter to Howard County Council 9.11.2020.pdf

9/11/2020

Howard County Council
Drive

3430 Courthouse
Ellicott City, MD 21043

Dear Council members,

Howard County has long been recognized as a place where diversity is embraced and celebrated. Over 20% of our residents hail from Latino and Asian first and second generation immigrant families, and they play a critical role in every facet of our County's economy and social fabric. Despite this long standing attitude of welcoming and celebrating immigrants, Howard County's absence of critical policies to ensure trust between immigrant communities and county government is notable. Further, the presence of a formal contract between the County and the federal Immigration and Customs Enforcement (ICE) agency sends a chilling and contradictory message to immigrant communities.

Over the last few years, the national climate for immigrants has grown increasingly harsh. Rhetoric scapegoating immigrants and a mischaracterization of the root causes of immigration have fueled an increase in hate crimes against Latinos and immigrants over the last 5 years. Federal policy directives aimed at increasing and fast tracking the detention and deportation of immigrants, combined with harsh tactics of detaining children and forcibly separating young children from their parents, have drawn the national spotlight. As the County Executive said in a recent communication to the council, "The way immigration has been weaponized at the federal level in recent years is troubling and unacceptable."

As the changing national climate and policies around immigration have increasingly encroached upon our values and beliefs at the local level, Howard County residents, both immigrants and allies, have spoken up urging our local government to step up in leadership and solidarity with immigrant communities. The peaceful protests, vigils, community forums and conversations convened by religious and educational institutions have demonstrated the urgency for Howard County to join all of the other large jurisdictions in Maryland by rejecting outright and unlimited collaboration with ICE through formal policy. With 1430 members in Howard County, CASA has been deeply engaged in bringing our members together with key stakeholders – including all of you and the County Executive - to work toward policy solutions that would demonstrate our County's ongoing commitment to immigrants in an increasingly harsh national climate.

We identified two critical policy changes that would bring Howard County in line with other large counties in Maryland in welcoming immigrants: 1) Establishing a clear policy limiting collaboration and communication

between county agencies and ICE, along the lines of TRUST policies established and reiterated via legislation and executive orders in Baltimore City and Montgomery, Prince Georges, and Baltimore Counties in recent years. 2) Eliminating the long standing bed rental contract between the county and ICE, similar to steps taken in Anne Arundel county that resulted in dissolution of the 287(g) and IGSA contracts there since 2018.

We have appreciated sincere and open dialogue with each of you and with the County Executive's office, and with the steps many of you have taken to publicly stand with immigrants in Howard County. Our team at CASA has been working in close collaboration with the County Executive's team to develop policy language that we think will be a strong first step in advancing these goals. We would love to meet with each of you in the coming days to review this policy language and also discuss other ways that Howard County can continue to support immigrants in our community.

Thank you again for your continued engagement on this issue. We look forward to working with you to make sure that Howard County continues to be a welcoming place for immigrants. Feel free to reach out to Elizabeth Alex at ealex@wearecasa.org with any questions.

Sincerely,

Gustavo Torres, Executive Director

CASA

Elizabeth Alex | Chief of Organizing and Leadership

She/Ella

CASA and CASA in Action

o. 410.732.7777
c. 443.802.2933
e. ealex@wearecasa.org
www.wearecasa.org

9/11/2020

Howard County Council
3430 Courthouse Drive
Ellicott City, MD 21043

Dear Council members,

Howard County has long been recognized as a place where diversity is embraced and celebrated. Over 20% of our residents hail from Latino and Asian first and second generation immigrant families, and they play a critical role in every facet of our County's economy and social fabric. Despite this long standing attitude of welcoming and celebrating immigrants, Howard County's absence of critical policies to ensure trust between immigrant communities and county government is notable. Further, the presence of a formal contract between the County and the federal Immigration and Customs Enforcement (ICE) agency sends a chilling and contradictory message to immigrant communities.

Over the last few years, the national climate for immigrants has grown increasingly harsh. Rhetoric scapegoating immigrants and a mischaracterization of the root causes of immigration have fueled an increase in hate crimes against Latinos and immigrants over the last 5 years. Federal policy directives aimed at increasing and fast tracking the detention and deportation of immigrants, combined with harsh tactics of detaining children and forcibly separating young children from their parents, have drawn the national spotlight. As the County Executive said in a recent communication to the council, "The way immigration has been weaponized at the federal level in recent years is troubling and unacceptable."

As the changing national climate and policies around immigration have increasingly encroached upon our values and beliefs at the local level, Howard County residents, both immigrants and allies, have spoken up urging our local government to step up in leadership and solidarity with immigrant communities. The peaceful protests, vigils, community forums and conversations convened by religious and educational institutions have demonstrated the urgency for Howard County to join all of the other large jurisdictions in Maryland by rejecting outright and unlimited collaboration with ICE through formal policy. With 1430 members in Howard County, CASA has been deeply engaged in bringing our members together with key stakeholders – including all of you and the County Executive - to work toward policy solutions that would demonstrate our County's ongoing commitment to immigrants in an increasingly harsh national climate.

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We have appreciated sincere and open dialogue with each of you and with the County Executive's office, and with the steps many of you have taken to publicly stand with immigrants in Howard County. Our team at CASA has been working in close collaboration with the County Executive's team to develop policy language that we think will be a strong first step in advancing these goals. We would love to meet with each of you in the coming days to review this policy language and also discuss other ways that Howard County can continue to support immigrants in our community.

Thank you again for your continued engagement on this issue. We look forward to working with you to make sure that Howard County continues to be a welcoming place for immigrants. Feel free to reach out to Elizabeth Alex at ealex@wearecasa.org with any questions.

Sincerely,

Gustavo Torres, Executive Director

CASA

Sayers, Margery

From: Jones, Opel
Sent: Friday, September 11, 2020 10:03 AM
To: Sayers, Margery
Subject: Fw: County Bill No. 51-2020

From: Susanna Sung <susanna.s.sung@gmail.com>
Sent: Thursday, September 10, 2020 10:22 PM
To: Jones, Opel <ojones@howardcountymd.gov>
Subject: County Bill No. 51-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Dr. Jones,
As you know, Howard County has a contract with ICE to detain immigrants in the Jessup jail. I am calling on your vote for CB 51-2020 to end this contract TODAY because:
1. **Howard County's contract with ICE makes us complicit in a cruel and unjust system.** The current immigration policies are heartless and unjust, routinely tearing families apart and deporting people who have lived and worked peacefully in the United States for decades. Collaborating with this system is inconsistent with Howard County's stated values of diversity, equity, and inclusion. We should not be using our much needed tax dollars to enforce ICE's racist policies, especially in this health and economic emergency.
2. **ICE practices racial profiling, targeting Black and Brown immigrants.** Almost all the detainees in the Jessup

jail are from Mexico, Central America, and Africa.
3. **Howard County detains men who have not committed or been convicted of violent crimes.** The Department of Corrections accepts detainees charged with "any jailable offence" which includes minor traffic violations and possession of small amounts of marijuana. The County detains people who have been charged but not convicted, and people who have already served their complete sentences in jail or prison.
4. **While incarcerated, detainees cannot easily find or pay for competent legal representation.** It is much harder to find a lawyer from inside the detention center than in the community. While Howard County has many lawyers, there is no evidence that detainees at the Jessup jail are more likely to have legal representation than detainees in other facilities.
5. **Continuing the contract with ICE makes Howard County less safe.** With ICE's presence in Howard County, immigrants are less likely to cooperate with county police and less likely to report crimes, making everyone less secure. Many undocumented immigrants in Howard County work, pay state and federal taxes, and contribute to the community, yet many live in fear of detention and deportation.
6. **There are proven alternatives to detention.** For decades, immigrants facing deportation could continue living and working in the community while they waited for their hearings. Alternatives to detention include parole/release on own recognizance, check-ins at ICE offices, home visits and check-ins, telephone monitoring, and GPS monitoring through electronic ankle bracelets.
7. **Change has to start here. We cannot wait for Washington to act.** While Howard County cannot, on its own, change federal policy, it can refuse to support or implement it. Social and legal change begins here at home. Local political action puts pressure on national leaders to change laws. We have an obligation to our foreign- born friends and neighbors in Howard County to work against cruel and unjust policies and practices. Howard County should be at the forefront of efforts to achieve social and racial justice, not in the rear.
8. **Detention tears families apart.** Families are broken up by detaining men at the Howard County Detention

Center (HCDC) who are fathers and breadwinners. Family members of detainees often cannot pay rent, get evicted, lose jobs, and suffer other hardships.

Thank you for being on the right side of history.

Your constituent,
Susanna Sung
9455 Sargossa Place
Columbia, MD 21045

Sayers, Margery

From: Abby McAulifffe <alwaysabby317@gmail.com>
Sent: Friday, September 11, 2020 8:00 AM
To: CouncilMail
Subject: Testimony for CB 51

Good morning,

Howard County has a contract with ICE to detain immigrants in the Jessup jail. We are calling upon the County Executive, Calvin Ball, and the County Council to vote for CB 51-2020 and end this contract NOW in order to make our county, state, and country, places that live up to their promise of justice and compassion.

Howard County's contract with ICE makes us complicit in a cruel and unjust system. The current immigration policies are heartless and immoral. Collaborating with this system is inconsistent with the Howard County that raised me to believe in values of diversity, equity, and inclusion. In order to truly live those values, we must end this contract, which routinely tears families apart and deports people who have lived and worked peacefully in the United States for decades. Howard County should not be using our much needed tax dollars to enforce ICE's racist policies, especially in this health and economic emergency.

When I expressed concern about Howard's contract with ICE earlier this year, I was told that this wasn't an issue, because no women or children are detained through this contract. However, this deflection does not address that the men being detained are entitled to rights and liberties, in addition to deserving our mercy and compassion. Justice is not restricted by age or gender. The men detained have not committed or been convicted of violent crimes. The Department of Corrections accepts detainees charged with "any jailable offence" which includes minor traffic violations. The County also detains people who have been charged but not convicted, and people who have already served their complete sentences in jail or prison.

Furthermore, this shows a lack of understanding (or perhaps willful ignorance) about how the detention of these men affects their families and communities as well. Families are broken up by detaining men at the Howard County Detention Center (HCDC) who are fathers and breadwinners. Family members of detainees often cannot pay rent, get evicted, lose jobs, and suffer other hardships. With ICE's presence in Howard County, immigrants are less likely to cooperate with county police and less likely to report crimes, making the entire community less secure. Many undocumented immigrants in Howard County work, pay state and federal taxes, and contribute to the community, yet many live in fear of detention and deportation.

There are proven alternatives to detention. For decades, immigrants facing deportation could continue living and working in the community while they waited for their hearings. Alternatives to detention include parole/release on own recognizance, home visits and check-ins, telephone monitoring, and GPS monitoring through electronic ankle bracelets. I firmly believe amnesty and asylum should be granted liberally where it is applicable.

Change has to start here. We cannot wait for Washington to act. While Howard County cannot, on its own, change federal policy, it can refuse to support or implement it. Social and legal change begins here at home. Local political action puts pressure on national leaders to change laws. I have an obligation to my neighbors in Howard County to work against cruel and unjust policies and practices. You have that responsibility too. Howard County should be at the forefront of efforts to achieve social and racial justice, not in the rear.

Hyattsville, Rickville, Riverdale Park, Baltimore City, Montgomery County, Greenbelt, Colmar Manor, Norfolk, Anne Arundel County, Forest Heights, Prince George's County, Cheverly, Annapolis, Mt. Rainer, Brentwood, and Prince William County have all said no to ICE. Howard County must stand with them, on the right side of history.

Thank you for your time.

Sincerely,
Abby McAuliffe
10325 Twinedew Place
Columbia, MD 21044

Sayers, Margery

From: Jones, Opel
Sent: Thursday, September 10, 2020 4:52 PM
To: Sayers, Margery
Subject: Fw: Support CB-51

From: Anna Rubin <airubin@umbc.edu>
Sent: Thursday, September 10, 2020 4:22 PM
To: Jones, Opel <ojones@howardcountymd.gov>
Subject: Support CB-51

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Councilman Jones, I urge you to support CB-51. I am in your district and hope you understand how important this legislation is.

Dr. Anna Rubin (She/Her)
6268 Cobbler Court, Columbia MD 21045
annarubinmusic.com
soundcloud.com/annarubinmusic

Sayers, Margery

From: Richard Kohn <richardakohn@gmail.com>
Sent: Thursday, September 10, 2020 2:32 PM
To: Yungmann, David; CouncilMail
Subject: Re: End contracts with ICE

Dear Mr. Yungmann,

Time has shown that the reasons I gave previously for closing the ICE Detention Center have now been shown to have been correct. I expect you will vote yes on CB-51.

The main reason you opposed ending the ICE contract earlier was because you believed the contract was a money maker for the County even though it wasted our federal tax dollars. We now know that the County is losing money on housing immigrants in the Detention Center. How does one justify taking money from programs needed in the County at this time of severe economic austerity to use on a program that doesn't address a County issue at all? In fact most of the inmates don't even come from Howard County. Furthermore, unnecessarily putting men in prison prevents them from working and supporting their families.

You also state that these prisoners are "dangerous" to our County and we are better off with them in jail. However, most of these detainees are not from Howard County. This money-losing program is bringing in immigrants from throughout the country.

But more importantly, most of the detainees have been shown not to be violent criminals but rather people who were detained for non-violent offenses or no offense other than visa violations. In the case of those who were convicted of criminal offenses, they have served their time. We have a word in this country to describe people who have not been convicted of a crime whether accused or not, it also describes people who have been rehabilitated. They are called "innocent."

The US has the highest per capita prison population of any country in the world by far. We would have to go back 30 years to find a time when any other country's prison population was similar to ours. And then, it was the countries of the Soviet Union and apartheid South Africa that were similar. We know what happened there, but in the mean time, the US further militarized the police, expanded the drug war including the CIA pushing crack cocaine in the inner cities to fund war in Central America (It was all documented in Congressional investigations), implemented programs like "Stop and Frisk" and "Three Strikes", and passed the Crime Bill. Both Republican and Democratic politicians have escalated incarceration and targeted Black and Brown people. ICE mostly detains Black and Brown immigrants from Mexico, the Caribbean, Central America, and Africa even though overstaying ones visa is a common occurrence among Canadians. ICE Detention is just another excuse to put people in jail because of their race and origin. We already have an enormous prison system for criminals, and too many people in those prisons, we do not need to also have a prison for innocent people of color.

It seems that it is highly inconsistent with Republican Party values to waste money on a federal program that prevents people from working and supporting their families. It is also not in the interest of the County to bring in immigrants from other parts of the country to this prison. Immigration is a national and international issue, not a County issue. The County should not be carrying out a racist federal policy at its own expense. Once someone has served their time, they should not be given additional jail time because of their race, country of origin, or immigration status.

Richard Kohn

On Dec 9, 2019, at 7:27 PM, Yungmann, David <dyungmann@howardcountymd.gov> wrote:

Mr. Kohn,

I couldn't even get past your second sentence without reading the first misstatement and most of this email makes assertions that even my most liberal leaning friends wouldn't suggest. I doubt any of my responses below will change your perspective, but I'll give facts one more chance and again encourage you to do some research on the Howard Co facility and county policies. It's an important issue that deserves rational discussion of facts.

David Yungmann
Howard County Council – District 5
(410) 313-2001
https://cc.howardcountymd.gov/Districts/District-5

From: Richard A. Kohn <rkohn@umd.edu>
Sent: Monday, December 9, 2019 9:37 AM
To: Yungmann, David <dyungmann@howardcountymd.gov>; CouncilMail <CouncilMail@howardcountymd.gov>
Subject: Re: End contracts with ICE

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Mr. Yungmann (and County Council),

Thank you for your response regarding Howard County contracts with ICE. Contrary to your comments that putting innocent people in jail is a wonderful opportunity for the County to make money, You apparently didn't read the criteria that I sent, all four of which are pretty different than innocent people.

I doubt the County actual makes money. First, the millions of dollars received is gross income to the county, but it also costs millions of dollars to jail innocent people in ICE detention in Howard County. The County may well be losing money. I understand that you wish it lost money so you could justify your position, but it does. Extensive analysis of the contract has been done due to public's interest in the topic. The previous Council or the current County Exec would have eliminated had it not provided important funding for other corrections programs.

Furthermore, the money provided by ICE ultimately comes from US taxpayers so the citizens of Howard County are ultimately paying disproportionally for it. If you have an issue with the use of your Federal taxes write to Congress. If ICE didn't have a contract with us they would with another county. The violent prisoners need to be detained somewhere.

Regarding the prison, how many of the immigrant detainees did you speak to when you visited the ICE detention facility? Did you ask if they are provided opportunities for education, recreation, etc.? Everyone in the Howard Co unit are provided with those programs.

Did you visit the child detention facilities in other states also? We are discussing a county program. The only facility I'm familiar with is McAllen that was converted to a child holding facility in 2014. It's apparently nicer than an adult detention center but still not a great place.

Of course, a part of my objection is that ICE is an outlaw organization which violates US and international law and the County should not be assisting them. I have spoken with former immigrant detainees of the Howard County ICE detention center, and their stories contradict what Calvin Ball and associates are saying. It would appear that none of the detainees are criminals. That is frankly absurd. I'm sure every prisoner in that facility claims they didn't do it but there are multiple checks and balances to ensure these people meet the criteria. One we discussed during our tour was deported twice only to re-enter, had open warrants for crimes in I believe two states, is covered in MS-13 tattoos and was convicted of raping a 6 year old family member for several months.

In the most serious cases, they have completed their sentences and should be released because of this. The average stay in the ICE unit is 4 months. It's a temporary detention spot that gives prisoners better access to family members and their attorneys. They ultimately leave for State or Federal prisons.

Others in the prison were never even accused of a crime, let alone arrested and tried. Some of these prisoners were released after more than a year in detention because immigration courts found them to have been detained without cause. Again I wish you would have done some research. Nobody being detained on an immigration violation only is eligible to be held. There are other counties in Central MD that do allow immigration detainees to be held while they await trial.

All of these people are housed together without adequate protection from more dangerous members, and they are housed together with alleged gangs (which would be a helpful recruiting tool for the gangs). They have a system in place to separate prisoners in I believe 3 different risk levels but I imagine some get placed incorrectly.

Use of isolation for non-offenses is excessive. I agree. There is only one small group of cells used for isolation which has been stripped down to protect prisoners on suicide watch.

With respect to immigrants, the facility does not even meet minimal requirements for detention. For example, exercise time is not consistently provided, there are few books and almost no books approved for non-English speakers, access to internet and law documents is not provided and many of these individuals need to prepare for their own cases because they can't afford a lawyer and are not provided a court-appointed attorney. But, irrespective of how good or bad the conditions are in the ICE detention facility, or whether the County makes money or not, the County should not be keeping non-violent innocent people in a jail. The library in the detention center is full of books, as it is actually a branch of the HoCo library system. I can't comment on the number of foreign language books but I did observe different sections by language. There are 3 PC's with full access to Lexis-Nexis (a pretty expensive system to license) and apparently many of the prisoners have taken in interest in law either for their own cases or in general. There are several large activity yards and indoor activity spaces that were in use when I visited. I don't recall asking if any were ICE prisoners. I did go into an ICE unit during lunch and spoke with a few of the prisoners but not much was going on since it was lunch time.

An additional issue is that immigrants in Howard County are afraid to contact the police, go to the hospital, and are even afraid of receiving library services, or sending children to school and receiving educational services. The collusion of County Agencies with the illegal ICE organization, and the

potential for collusion of County workers with ICE contributes to these fears. As racial profiling is illegal in Howard County, County agencies must stop assisting ICE with racial profiling in the County. The fact that many of our residents are afraid to call the police when they are witnesses or targets of crime makes them more likely to be victims of domestic violence, human trafficking, and gang activity. The County's cooperation with ICE violates the rights of Howard County residents, and makes us all less safe. Every agency in Howard County has a consistent written policy of not asking about immigration status. That written policy prohibits contact with ICE. Howard Co has placed zero prisoners in the ICE unit. The prisoners are detained by ICE and are eligible to be housed in Howard Co based on those 4 criteria. That doesn't mean that some are afraid to report crimes, but that fear is being made worse by folks who misrepresent the policies of the county. There are notices all over the community non-profits, police stations and county buildings letting people know they are safe to report crimes. Instead of spreading untruths, you might want to help these neighbors understand the policies so they aren't as scared.

As the only Republican on the County Council, you may believe your party expects you to support policies that harm immigrants. The Trump Administration certainly would approve of your stance. This contract does not harm immigrants.

However, many Republicans support fiscal responsibility. There is nothing fiscally conservative about carrying out a contract for the Federal government that costs the County more than it returns, not true

prevents able US residents from working to support their families not true

, and ultimately increases both County and Federal taxes. Yes, dealing with illegal immigration is expensive which is why I prefer a secure border.

Many Republicans appeal to libertarian values, but there is nothing libertarian about putting innocent people in jail (or for that matter unnecessarily restricting where they live or work).Not true

You could certainly justify opposition to the County's policy. We have policy disagreements with people on different polices all the time and my only real expectation is that people debate facts not wild conjecture. But we all end up engaging people who are so passionately committed to their position they don't want to research the facts or will reject them if they don't line up. Thanks for your emails and discussion.
End all contracts with ICE.

Rick Kohn
5218 Wood Stove Lane
Columbia, MD 21045

> On Dec 8, 2019, at 10:37 AM, Yungmann, David <dyungmann@howardcountymd.gov> wrote:
>
> Mr. Kohn I encourage you to do some research on the Howard County contract with ICE. I actually toured the facility last week and gained a much better understanding of its operations including the facts on the ICE contract. The detention center operates well below capacity excluding the ICE prisoners, so this contract generates significant income to the county for space that would be

sitting empty. That income funds a myriad of other valuable programs that help rehabilitate other detainees including mental health, substance abuse and education. In order for ICE to house a prisoner in Howard Co, the individual must meet one of 4 criteria. These are not ordinary working people going about their business. They are real bad guys, most of which are the highest level criminals in the county facility, and the community is safer with them in jail. Here's more info if you'd like to research further: https://www.howardcountymd.gov/Departments/Corrections/The-Facilities/Detention-Center

David Yungmann
Howard County Council – District 5
(410) 313-2001
https://cc.howardcountymd.gov/Districts/District-5

From: Richard A. Kohn <rkohn@umd.edu>
Sent: Monday, December 2, 2019 8:12 PM
To: CouncilMail <CouncilMail@howardcountymd.gov>
Subject: End contracts with ICE

Dear Councilman Opel Jones:

It is past time to end all contracts with ICE. This is an outlaw organization that violates US and international law, as well as Howard County laws. All HowardCounty agencies must be prohibited from assisting ICE with profiling and incarcerating innocent people, and close the ICE detention center. Immigrants are afraid of their schools, libraries, hospitals, and especially the police. This fear endangers all of us and only helps gangs recruit. A clear law prohibiting cooperation with ICE will help ease the tension. We will all be safer if immigrants feel safe enough to work with police.

Sincerely,

Rick Kohn
5218 Wood Stove Ln
Columbia, MD 21045

Sayers, Margery

From: Susan Clack <susanclack@gmail.com>
Sent: Thursday, September 10, 2020 2:04 PM
To: CouncilMail
Cc: Clack, George
Subject: Please support my CB 51

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

I am a longtime Howard County resident. Address below. I am well informed and want you to support CB 51. Susan Clack

--
"The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little." -- FDR, Inaugural Address, January 20, 1937.

Susan Clack
10320 Log Raft
Columbia, MD 21044-3806
susanclack@gmail.com

Sayers, Margery

From: Jones, Opel
Sent: Thursday, September 10, 2020 11:00 AM
To: Sayers, Margery
Subject: Fw: Please support CB-51

From: Yona Gorelick <yona.lev.gorelick@gmail.com>
Sent: Thursday, September 10, 2020 10:50 AM
To: Jones, Opel <ojones@howardcountymd.gov>
Subject: Please support CB-51

Good morning, Councilmember Jones,

I am writing to urge your support of CB-51, prohibiting immigrant detainees from being held in Howard County's detention center.

I am a Maryland resident and a Jewish great-granddaughter of immigrants to the U.S. Simply being an undocumented immigrant is no reason to be locked up and separated from family and community. Howard County should have no part in the federal immigration enforcement machine that is violating people's basic human rights every day.

In my training as a hospital chaplain, I have seen firsthand the devastating toll it takes when, for example, a soon-to-be parent is torn away from their pregnant partner. As a Jew whose very existence is thanks to my recent ancestors' desperate departures from their home countries and thanks to the opportunities they had to build life anew here in the U.S., the thought of criminalizing and removing from society people who are simply seeking a place to live in relative safety chills me to the core.

ICE employs a brutal approach including raids, deportations, and family separations of immigrants. Some immigrant detainees are apprehended at the border, and some have lived peaceably here in the U.S. for decades before being stripped of their rights and ripped from their families and communities. The inhumanity, in either of these circumstances, is unconscionable.

Please do everything in your power to end Howard County's contract with ICE. Please support CB-51 without any weakening amendments.

Thank you,

Yona Gorelick
Baltimore, MD

Sayers, Margery

From: Ray Donaldson <rtdonaldson@gmail.com>
Sent: Wednesday, September 9, 2020 8:55 PM
To: CouncilMail
Subject: Get ICE out of the county

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

We need to get ICE out of the county. This is a disgrace to the memory of Jim Rouse along with lots of others..Calvin Ball should be ashamed of himself if he opposes this.

Ray Donaldson. Liz's district.

Sayers, Margery

From: Live <chrisfoster22@live.com>
Sent: Wednesday, September 9, 2020 6:27 PM
To: CouncilMail
Subject: Howard County needs ICE

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Hello,
This is in response to County Council member Liz Walsh's proposal to end Howard County's contract with ICE. The council members were elected to protect and serve Howard County residents, not to provide sanctuary to criminals. It's a crime to be here illegally and it is Howard County's responsibility to notify ICE when they are releasing a criminal back into society. You were elected for a reason and we expect you to put the the safety and security of Howard County residents before criminals.

Thank you,
Christine Foster

Sent from my iPhone

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Tuesday, September 8, 2020 7:35 PM
To: Cwskipper@smcm.edu
Subject: District 2 - Support CB 51

First Name:	Christian
Last Name:	Skipper
Email:	Cwskipper@smcm.edu
Street Address:	5444 Tilted Stone, Apt, Suite, Bldg. (optional)
City:	Columbia
Subject:	Support CB 51
Message:	Please support CB 51 to end Howard County's contract with ICE to detain immigrants. ICE uses cruel and unjust practices such as racial profiling, limiting access to legal resources, and ultimately makes our communities less safe. There are proven alternatives to detention that allow for families to stay safe and together and for immigrants to access the resources they need . Please support CB 51!

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Tuesday, September 8, 2020 7:34 PM
To: kmbenton@smcm.edu
Subject: District 2 - Support CB 51

First Name:	Kara
Last Name:	Skipper
Email:	kmbenton@smcm.edu
Street Address:	5444 Tilted Stone, Apt, Suite, Bldg. (optional)
City:	Columbia
Subject:	Support CB 51
Message:	Please support CB 51 to end Howard County's contract with ICE to detain immigrants. ICE uses cruel and unjust practices such as racial profiling, limiting access to legal resources, and ultimately makes our communities less safe. There are proven alternatives to detention that allow for families to stay safe and together and for immigrants to access the resources they need . Please support CB 51!

CB 51-2020

Sayers, Margery

From: Jung, Deb
Sent: Tuesday, September 8, 2020 1:07 PM
To: Sayers, Margery
Subject: FW: Support for CB51 / Thank you!!

Deb Jung
Council Chair, District 4
3430 Court House Drive
Ellicott City, MD 21043
410-313-2001

Sign up for my newsletter here.

From: Gavin Kohn <gavin.kohn@gmail.com>
Sent: Saturday, September 5, 2020 3:16 PM
To: Jung, Deb <djung@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Walsh, Elizabeth <ewalsh@howardcountymd.gov>
Subject: Support for CB51 / Thank you!!

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Hello Councilmember Walsh, Councilmember Rigby, and Councilmember Jung!

I would like to thank you for your support for ending the HoCo ICE Contract in the bill CB51-2020. I have been involved in activism in Howard County since working on the CB9 - 2016 campaign when I was in high school, and it is very exciting to see that something may come of it after all.

Seeing Councilmembers Walsh and Jung come speak at the anti ICE Contract / Defund pol-ICE protest over the summer was heartening, and I would like to thank you for your support at that demonstration. But even more exciting is seeing councilmembers Walsh and Rigby publicly state their support for this bill that would end our involvement with ICE. I hope I can expect to see Councilmember Jung's name added in support soon (unless I already missed it haha)!

I am very happy to see that change may be coming to this county. I plan to testify in support of CB51-2020, and I will pressure my representatives to support this bill. Please let me know if there is anything else I can do to help.

Thank you so much!!
Gavin Kohn

Sayers, Margery

From: cffarctic@verizon.net
Sent: Friday, September 4, 2020 4:23 PM
To: Walsh, Elizabeth; Dvorak, Nicole; Little, Cristiana; CouncilMail
Cc: Jones, Opel; Harris, Michael; Alston, Ashley; Rigby, Christiana; Gelwicks, Colette; Facchine, Felix; Jung, Deb; Williams, China; Gick, Ginnie; Yungmann, David; Knight, Karen; Skalny, Cindy
Subject: CB51-2020

I am writing to voice my opposition to the pre-filed legislation B51-2020. I find the proposal irresponsible and dangerous. I am extremely disturbed how our elected officials to continue to pander to special interest groups while ignoring the safety of their constituents and law abiding citizens of our great country. Our law enforcement agencies should cooperate and communicate at all levels. Are we that far removed from 9/11 that we forget the dangers that we face in this world.

Thank you for your consideration.

Respectfully,

Charles Fleck

Sayers, Margery

From: Dvorak, Nicole
Sent: Friday, September 4, 2020 2:03 PM
To: Sayers, Margery
Subject: FW: Howard County Detention

For the bill file – testimony on CB51

From: Connie Prince <walkbyfaith24and7@gmail.com>
Sent: Friday, September 4, 2020 11:10 AM
To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>; Knight, Karen <kknight@howardcountymd.gov>; Skalny, Cindy <cskalny@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>
Subject: Fwd: Howard County Detention

Dear County Council Members,

Years ago I was very involved with the County Council and County Executive re support for the Lisbon Volunteer Library which I started and greatly appreciated their support. Years after the County Library took over my library, it became the current library in Glenwood.

I am currently aware of the bill under consideration to stop the detention center from housing individuals as they await disposition in immigration-related proceedings. I want to state my opposition to this change. People who are currently being accused of breaking our country's laws through the immigration process should be detained to allow them to legitimize their situation. Our law enforcement should protect us from all lawbreakers. No one is above the law. We should not be deciding which laws we will enforce. That is not law enforcement's place or those in county government. And no, I am not prejudiced. I have adopted children from Central America and Korea, but I brought them into the country legally. I feel that those who want to come into our country should go through the required procedures and our government needs to know who is coming into our country, for our protection and safety. That's the government's job...to protect the citizens. In giving these probable lawbreakers a "pass", we are indicating that we also are not law-abiding citizens. You may not agree with how ICE has handled these people in some instances, but that's like saying we're not going to arrest anyone because they may not be treated well in jail. We have to do our part to support the law. And the people who decide to break the law may not like all of the consequences. Since these people who have probably broken our immigration laws are now in our detention center, it seems they haven't had consequences enough to stop breaking our laws.

Yes, this proposed legislation is probably due to the current protesting this summer but we shouldn't be reactionary just because of the current "in" position. Certainly there are other more appropriate ways of changing inequality rather than supporting lawbreakers by helping them avoid the natural consequences of their choices, since obviously some will continue to defy our laws until they learn to do otherwise.

Sincerely
Connie Prince

Sayers, Margery

From: tammy spengler <tammy424@me.com>
Sent: Sunday, September 6, 2020 1:27 PM
To: CouncilMail
Subject: Please support CB51!

Dear Opal Jones and County Council Members,

I am a resident of District 2 and am writing in support of County Bill No. 51-2020, which will end Howard County's contract with ICE to detain immigrants in the Jessup jail. This Bill is commendable, antiracist, and forward-thinking. We welcome the Council's leadership in working to end all forms of racism in Howard County.

Until our immigration system is overhauled and ICE stops racial profiling, we cannot be complicit with or subsidize ICE's efforts. ICE's practice of racial profiling has been clearly demonstrated in Maryland and throughout the county. Please note that the majority of the detainees at the Howard County Detention Center are from Central America and Africa even though most immigrants coming to the US now are from Asia.

Supporters of the status quo have posited several unsatisfactory arguments to continuing the ICE contract. My responses to these arguments are listed below.

Argument 1: Detention in the Jessup jail makes it easier for detainees to get legal representation.

- Most detainees do not have legal representation, no matter where they are incarcerated. Legal fees easily top $10,000 for uncomplicated cases, a price most detainees cannot afford, especially since they are no longer employed. We have seen no evidence that detainees in Jessup are more likely to have lawyers than detainees in other jails.
- ICE moves more than half of detained immigrants around the country, making in person representation difficult or impossible. According to Mr. Kavanagh, the average length of stay for detainees in the Jessup jail is 90 days, much too short a time for a legal case to be resolved.
- This issue is moot at present, since all legal representation is virtual due to COVID-19.
- It is immeasurably easier for immigrants to obtain legal representation when they are in the community instead of in detention.
- Most detainees in HoCo are already in Deportation Proceedings and will not have any more hearings or appeals that will require them to meet with an attorney.

Argument 2. Detainees in Jessup are closer to their friends and family, making visiting easier.

- There are no in-person visits now because of COVID-19.
- Many detainees do not live in Howard County or even in Maryland. ICE places detainees from all over the county in the Howard County jail.

- Undocumented family members may not feel safe enough to visit an ICE facility. Moreover, they cannot visit without a valid photograph ID from a US government agency or other federal identification card.
- If the detention center really wants to facilitate family visits, it would provide free telephone and Skype calls for all detainees.

Argument 3: It is better for immigrants to be detained at Jessup because Jessup is "nicer: than other detention centers.

- The Jessup Detention Center is not a hotel. Justifying detention because our jail is marginally better than others is no excuse for collaborating with unjust and racist policies. If there are fewer detention centers, ICE will detain fewer immigrants.
- There are less expensive and more effective ways to monitor undocumented immigrants than detention. For many years, the government relied successfully on alternatives to detention including regular in person and telephone check-ins with law enforcement and electronic monitoring. Detainees released from Fredrick Detention Center and other mid-Atlantic detention facilities have been sent home with other monitoring programs, such as ankle bracelets.
- Putting people in detention also stops them from working, paying taxes, supporting their families, and contributing to the community.

Argument 4: Jessup detainees are dangerous criminals and keeping them locked up makes the community safer.

- While the detention center has refused to provide us with comprehensive information (see attached—we need something about the PIA requests), we do know that many detainees have been charged but not convicted, and many have been accused of nonviolent crimes.
- ICE takes many detainees to Jessup immediately after they have ***completed*** serving their sentences in jail and prison. They have already served their time and now they are being incarcerated for being immigrants, especially for being Latinx and Black immigrants. This assumes that the justice system was "just" to begin with. Many people are forced to take guilty pleas due to their financial inability to hire a criminal attorney. Also saying that they are still a danger to the community assumes that the criminal justice system was incorrect in releasing them, that there is no possibility of rehabilitation, and that once a person has committed a violent crime, they will inevitably do so again. This flies in the face of multiple efforts in the county, state, and country to help rehabilitate former inmates and assist them in feeling like they belong in our communities. There is no basis for assuming that immigrants will be more likely to reoffend than people born in this country, and in fact, plentiful evidence that both documented and undocumented immigrants are less likely to commit crimes and less likely to be incarcerated than people born in America.
- Continuing to detain immigrants makes the entire community less safe since undocumented residents are less likely to report crimes and cooperate with the police.

Thank you for supporting CB 51 and for holding true to Howard County's stated commitment to equity, diversity, and human rights. While it is true that Howard County represents only one ICE contract, it is also true that social change and social justice begins at the local level, one community at a time. You have the opportunity to stand up for justice and compassion. Please vote yes on CB 51.

Thank you, Tammy Spengler

5218 Wood Stove Lane

Columbia MD 21045

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Saturday, August 29, 2020 5:20 PM
To: rozzinner@gmail.com
Subject: District 2 - ICE contract

First Name:	ROSLYN
Last Name:	ZINNER
Email:	rozzinner@gmail.com
Street Address:	8112 Sea Water Path
City:	Columbia
Subject:	ICE contract
Message:	Opal, please respond letting me know your position on ending the contract with ICE and the Howard County Detention Center. I understand Liz Walsh is writing a bill, will you vote for or against it?

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Monday, July 20, 2020 9:43 AM
To: dlely59@verizon.net
Subject: Council - ICE contract

First Name:	Dana
Last Name:	Ely
Email:	dlely59@verizon.net
Street Address:	8211 Reservoir Rd
City:	Fulton
Subject:	ICE contract
Message:	I would like to be counted as being against ending the ICE contract. I am a NAY on that one. If we do not obey Title 8 of the US Code(Immigration), can we ignore title 16(Environment) also? The Left is very fond of spouting the phrase"No one is above the law" except when it comes to their pet issues. I reside in District 5

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Thursday, July 2, 2020 12:34 PM
To: taliatracton@icloud.com
Subject: Council - ICE out now

First Name:	Talia
Last Name:	Tracton
Email:	taliatracton@icloud.com
Street Address:	6662 Mohawk Court
City:	Columbia
Subject:	ICE out now
Message:	Howard County should no longer cooperate with ICE, which has a notorious record of human rights abuses. You should be a leader in putting families above profit. As your constituent, I demand the council works to end the contract with ICE immediately. Immigrants are part of our community too.

Sayers, Margery

From: Cristina Sovereign <cristina.sovereign@gmail.com>
Sent: Thursday, June 25, 2020 8:47 AM
To: CouncilMail
Subject: abolish the ICE detention center

Even if you ignore the moral and ethical reasons why our county should not host an ICE detention center, please consider its impact on the entire community's health. Evidence shows that the COVID virus spreads more easily in environments where social distancing cannot be maintained. Surely, the detention centers would lack the necessary conditions to keep either the prisoners or their captors safe from spread. Then, the captors eat lunch or do other activities within our community that put the rest of us at risk. For the safety of the rest of the community, do not allow ICE to detain immigrants in Howard County.

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Wednesday, June 24, 2020 10:44 AM
To: taliatracton@icloud.com
Subject: District 3 - End ICE Contract

First Name:	Talia
Last Name:	Tracton
Email:	taliatracton@icloud.com
Street Address:	6662 Mohawk Court
City:	Columbia
Subject:	End ICE Contract
Message:	Howard County should no longer cooperate with ICE, which has a notorious record of human rights abuses. You should be a leader in putting families above profit. As your constituent, I demand the council works to end the contract with ICE immediately. Immigrants are part of our community too.

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Tuesday, June 23, 2020 8:38 AM
To: Todes.judith@gmail.com
Subject: District 4 - ICE

First Name:	Judith
Last Name:	Todes
Email:	Todes.judith@gmail.com
Street Address:	10738 SYMPHONY WAY
City:	COLUMBIA
Subject:	ICE
Message:	Thank you for standing up for justice and due process. Howard Count's relationship with ICE must end.

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Sunday, May 24, 2020 1:34 PM
To: alan.rein@gmail.com
Subject: District 3 - ICE partnership

First Name:	Alan
Last Name:	Rein
Email:	alan.rein@gmail.com
Street Address:	7295 Swan Point Way
City:	Columbia
Subject:	ICE partnership
Message:	Dear Councilwoman Rigby, We are writing you to urge you to oppose the continuation of the partnership between our county jail and ICE. We should not be participating in this cruel arrangement or supporting in any way the xenophobic policies of our current federal government. Thank you, Alan Rein and Sara Sukumar

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Saturday, May 23, 2020 10:28 AM
To: joannelocke@gmail.com
Subject: District 2 - Immigration

First Name:	Joanne
Last Name:	Locke
Email:	joannelocke@gmail.com
Street Address:	8575 Autumn Harvest
City:	Ellicott City
Subject:	Immigration
Message:	Dear Councilman Jones, I am one of your constituents. And I am asking you to support legislation to end the county's contract with ICE and stop detaining immigrants in the Jessup jail. I know that councilwomen Liz Walsh and Deb Jung already support this and we need your vote to pass the legislation. Would you be willing to meet with me and a few other members of Indivisible to discuss the issue?

Sayers, Margery

From: Ray Donaldson <rtdonaldson@gmail.com>
Sent: Sunday, May 10, 2020 3:17 PM
To: Rigby, Christiana
Cc: CouncilMail
Subject: Howard County's contract with ICE to warehouse immigrants in the Howard County jail.

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Are you ever going to support cancelling the county's contract with ICE to warehouse immigrants in the Howard County jail? Calvin Ball refuses to cancel the contract because he says these immigrants being held by the federal government (illegally in my view) are better off in Howard County than they would be in other places. What would Jim Rouse have said about this? What about Calvin's effort a few years ago to have Howard County declared a sanctuary county? There are times when it is important to **TAKE A STAND**. The county executives position seems similar to "These people are better off here than they would have been at the **Auschwitz** concentration camp." What would pastor and theologian Dietrich Bonhoeffer have said about this?

Ray Donaldson

Begin forwarded message:

From: Councilwoman Christiana Rigby <crigby@howardcountymd.gov>
Subject: Keeping Up with Christiana - May 2020 Newsletter
Date: May 7, 2020 at 5:40:16 PM EDT
To: rtdonaldson@gmail.com
Reply-To: ffacchine@howardcountymd.gov

Keeping Up with Christiana!

Raymond,

Welcome to our May Newsletter! This month, as we continue to live in the new normal during COVID-19, I am incredibly grateful for the numerous community organizations and Howard County residents who have stepped up to help our neighbors in need.

I would like to highlight just a few community efforts that have inspired me during these challenging times:

Columbia Community Cares

Almost immediately after this pandemic impacted Maryland, Howard County resident Erika Strauss Chavarria created Columbia Community Cares to meet community needs.

With over 4,000 members on Facebook, Columbia Community Care is collecting and distributing donations of groceries, toiletries, and other items in need. You can learn more about how to donate, volunteer, or access resources here.

Howard County Community Organizations Active in Disaster (COAD) is a group of community organizations focused on collecting and deploying resources during a local disaster.

If you are able to donate, are in need of grocery/medicine delivery, or are in need of a mask, please visit COAD's website here to learn more about their services.

The Community Foundation of Howard County, Horizon Foundation, United Way of Central Maryland and Women's Giving Circle of Howard County established HoCoRespond.

The goal of this coalition is to support Howard County nonprofits on the front-line of COVID-19 support, focusing on assisting with food security, housing, childcare and healthcare. To date, HoCoRespond has raised over $400,000 for Howard County's nonprofits. You can learn more about HoCoRespond here.

In addition to these organizations, County Executive Ball recently launched a "HoCo Donations Collections" map and database to share information with county residents on how they can donate groceries, toiletries, cleaning products, and other items in need during COVID-19. You can visit the database and learn more here.

As we head into warmer weather, please don't hesitate to contact my office if you are experiencing any issues in your community or would just like to get in touch. We are here to help with your concerns and listen to your feedback. Wishing you a safe, happy, and healthy May!

Yours in service,

Christiana Rigby
Councilwoman, District 3

May 7, 2020

COVID-19 Update

As COVID-19 (coronavirus) cases continue to increase in Howard County, I am closely following all updates from the state and federal government. To date, there are over 1,000 cases of COVID-19 in Howard County, and 30 of our Howard County neighbors have lost their lives to this disease. This is an incredibly challenging time for families across the nation, but I continue to be encouraged by the acts of kindness and generosity in our community.

Howard County Government is working closely with the Howard County Health Department, Howard County General Hospital, and the Maryland Department of Health to ensure that our county is flattening the curve of COVID-19 cases and has adequate response measures in place. For additional information and updates on our County's response to COVID-19, I encourage you to visit Howard County Government's COVID-19 website.

If you or a family member think that you may have coronavirus, please contact your healthcare provider, who will determine whether you need to be tested for COVID-19. You can learn more about the process of getting tested for COVID-19 in the infographic below. For additional information on testing, please visit the Howard County Health Department's website.

May 2020 Legislation

This month, I joined my colleagues on the County Council in introducing and sponsoring several pieces of legislation, including:

- **CB33-2020**: The Rental Protection and Stability Act, which would prohibit rent increases for residential tenants, commercial tenants, and mobile home owners in Howard County for the duration of our State of Emergency. This legislation is an important start to protecting the 30,000+ Howard County renter households, many of which are financially strained during COVID-19. This legislation would prevent these households from seeing their rents increased during the pandemic. Read more here. *Introduced by Liz Walsh, Deb Jung, and Christiana Rigby.*
- **CR85-2020**: legislation adopting a progressive structure to Howard County's recordation tax as part of the FY21 Budget. This legislation provides tax relief on property sales below $300,000 and strengthens Howard County Government's financial position. The recordation tax is a one-time cost paid when real estate is sold to a new owner, typically split as part of the closing costs of a real estate

transaction. Read more here. *Introduced by Christiana Rigby. Co-sponsored by Opel Jones.*

You can find the full text, details, and description of current and pre-filed legislation here.

Tax Credit Application Deadlines Extended

Due to the current situation with COVID-19, Howard County has extended the deadlines for several tax credit applications. Over the next several months, eligible Howard County residents can apply for a number of local tax credits from Howard County Government.

These tax credits include the Senior Tax Credit, the Aging-in-Place Tax Credit, the Public Safety Officer Property Tax Credit, and more. You can learn more and find information on all of Howard County's tax credits here.

Upcoming Council Dates

May 18, 7:00 PM - Legislative Public Hearing

May 18, 7:00 PM - Emergency Legislative Session

May 27, 2:30 PM - Legislative Work Session

June 1, 7:00 PM - Legislative Session

June 15, 7:00 PM - Legislative Public Hearing

June 22, 1:00 PM - Legislative Work Session

July 6, 7:00 PM - Legislative Session

You can find more information about our schedule on the Council's full online calendar.

Please note: all County Council meetings and sessions are live-streamed and available to the public online. Due to ongoing concerns about coronavirus, **residents wishing to testify on local legislation may do so virtually** (sign-up here). Residents are also encouraged to submit written testimony to the County Council by emailing us at CouncilMail@howardcountymd.gov.

Howard County Autism Society - Grants

The Howard County Autism Society is offering small Emergency Grants (up to $250) to meet the unique needs of individuals with autism and their families who have been significantly impacted by COVID-19 through its Madhu Thibaudeau Family Fund. Funds can be used to cover the cost of food, rent, utilities, medical needs, autism-related materials or other critical needs. Download the grant application here.

Additional autism-specific COVID-19 resources are available at www.howard-autism.org Questions? Email info@howard-autism.org or call 410-290-3466.

Draft Regional Transit Plan

For residents interested in the future of public transportation in Central Maryland, the Maryland Department of Transportation is soliciting feedback on their Draft Regional Transit Plan!

The Plan looks at how to improve the existing transit services, which areas can be better served by transit, and where new services could be appropriate. You'll also see a broad array of initiatives to help us move forward in a way that serves everyone – from specific, targeted local actions to long-term and large-scale projects that will meet the changing needs of the region.

The Draft Plan is available for review and comment through June 18th, 2020.

Green Bin Composting Service

Howard County Government is currently looking to expand their "Green Bin" composting service to additional communities in Howard County. This program reduces household trash, reduces greenhouse gases, and helps the planet!

District 3 residents who are interested in the "Green Bin" composting service in their community are encouraged to sign up and signal their interest in the Green Bin program here.

Complete the 2020 Census

As of May 7th, roughly 71.5% of Howard County households have responded to the Census. BUT, that still means over 28% of Howard County households have not yet responded -- equal to about 91,000 uncounted Howard County residents!

Haven't completed the 2020 Census yet? It's quick, easy, and safe to fill out online and will bring federal resources to Howard County.

I encourage you to take 5 minutes and visit my2020census.gov to respond for your household today.

Upcoming District 3 Pre-Submission Meetings

There are currently no pre-submission meetings scheduled in District 3 this month.

You can find info and updates on all of Howard County's upcoming pre-submission meetings, public hearings, and development plans here.

COVID-19 Resources

HCPSS Free School Meals

HCPSS is offering free breakfast, lunch, AND dinner to anyone age 18 & under and/or any HCPSS student through the end of the school year.

Participants will be given a Grab-N-Go snack, lunch and dinner for that day, as well as a Grab-N-Go breakfast for the following day. Friday distributions at school-based locations only also will include meals to sustain children through the weekend.

There is no application, enrollment, or fee for this program, so please share this information widely with our HCPSS community. Stop by any one of the 11 school sites or 3 community locations between 11:30am and 1:30pm to pick up meals. More info here.

Unemployment Services

If you or a family member recently lost a job due to COVID-19, you can apply for unemployment insurance from the state of Maryland.

After a number of issues and long delays for MD residents applying for unemployment, the State has updated and streamlined their system for unemployment. You can find more information and apply for unemployment benefits here. You can also find more information on job opportunities and employment assistance from the Howard County Office of Workforce Development here.

Healthcare Enrollment

Marylanders can now enroll in quality, affordable Maryland Health Connection health plans. Visit MarylandHealthConnection.gov and request or select "Coronavirus Emergency Special Enrollment Period."

The special enrollment period has been extended to **June 15, 2020** due to the public health emergency.

All eligible, uninsured Marylanders may qualify for this emergency special enrollment period.

Business Resources and Assistance

Howard County Economic Development Authority (HCEDA) has published a resource page for local businesses and employers looking for relief and assistance.

Last month, Governor Hogan announced several business grants, loans, and assistance programs. You can find the full info regarding state & federal resources for businesses here.

Maryland has received a federal designation as a Small Business Disaster Loan Area. Small businesses can learn more and apply here.

Want to Get in Touch?

Christiana Rigby
Councilwoman, District 3

crigby@howardcountymd.gov
410-313-2001

Colette Gelwicks
Special Assistant

cgelwicks@howardcountymd.gov
410-313-2421

Felix Facchine
District Aide

ffacchine@howardcountymd.gov
410-313-3108

Please feel free to contact us by email or phone. Plus, you can stay up-to-date with Christiana by following us on social media, where we post daily updates on events, county news, legislative priorities, and Christiana's activity! Don't miss out on any District 3 news!

Sign Up for Our Newsletter!

Sayers, Margery

From: ying matties <ymatties@hotmail.com>
Sent: Tuesday, April 14, 2020 3:06 PM
To: Ball, Calvin; CouncilMail
Subject: End contract with ICE

Dear Dr. Ball and County Council,

I learned that in March a group ICE detainees that were housed in Howard County were transferred to Etowah County Detention Center in Alabama. https://theintercept.com/2020/04/12/coronavirus-ice-detention-jail-alabama/

This begs the question, how much longer are we going to continue aiding this cruel agency?

I campaigned for quite a few of you during the 2018 elections because I believed that you respect and value the dignity and basic human rights of immigrants such as myself. The refusal to end the contract with ICE has made me question where your true beliefs lie. And if my personal experience and other Howard County Immigrant Justice Coalition members' experience is any guide, many people are starting to ask the same question. The look of shock and dismay on their faces when they heard that Howard County, under the current administration, still has a contract with ICE says it all. Please know that only a very small fraction of the county resident knows about the contract, a problem that Coalition is actively working to fix by educating people as much as we can.

I hope you will take the time to read the article and consider what active role you are playing in this horrendous situation.

Regards,

Ying Matties

Sayers, Margery

From: Ray Donaldson <rtdonaldson@gmail.com>
Sent: Friday, April 10, 2020 1:56 PM
To: Ball, Calvin
Cc: CouncilMail
Subject: You need to close down the ICE facility in Howard County

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

County Executive Ball,

You need to close down the ICE facility in Howard County. I'm a lifetime Democrat and I was in the Peace Corps in Ethiopia from 1962 to 1964 when Harris Wofford was the Peace Corps director for Ethiopia and all of Africa. I've been a member of Friends of Latin America in Howard County since 1985. I have lived in Howard County since 1972 and am currently living in Lutheran Village at Miller's Grant. I thought we had voted in many Democrats in the First District in the last election.

You need to get rid of ICE. Do we need a primary challenge for County Excutive in the next election?

Ray Donaldson

Sayers, Margery

From: Ray Donaldson <rtdonaldson@gmail.com>
Sent: Wednesday, April 8, 2020 10:23 PM
To: CouncilMail
Cc: Salgado Leslie
Subject: Fwd: End ICE contract now

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

I encourage all council members including my representative, Liz Walsh, to **end the Howard County contract with ICE.** I have been a member of Friends of Latin America since 1985.

Ray Donaldson
2911 Pauls Provision
Lutheran Village at Miller's Grant
Ellicott City, MD 21042

Begin forwarded message:

From: "Leslie Salgado" <cuba_is_hope@comcast.net>
Subject: End ICE contract now
Date: April 8, 2020 at 6:47:01 PM EDT
To: <crigby@howardcountymd.gov>

Dear Councilwoman Rigby,

I am writing to you as your constituent and also as Chair of Friends of Latin America, one of 16 member organizations of the Howard County Coalition for Immigrant Justice.

Our request is very simple, **please support legislation to end the Howard County contract with ICE**. Under Articles 2 and 4 of the County Charter, in case of an immediate emergency affecting public health, the Council can pass bills with much shorter public hearing requirements.

Legal experts in our Coalition with members such as ACLU and CASA believe **the council does in fact have the authority to pass legislation to end the IGSA contract with ICE.**

Based on public health experts' advise, detention centers and jails across the country are releasing detainees, including Frederick County!

Finally, I highly suggest that you read today's article on this subject in the Washington Post. Here is the link for your convenience:

https://www.washingtonpost.com/local/ice-coronavirus-detention-centers-release/2020/04/08/f4dcaef8-74ee-11ea-87da-77a8136c1a6d_story.html

I would appreciate your response so I can inform our members of your position.

Sincerely,

Leslie P. Salgado, Chair
Friends of Latin America (Formerly Howard County Friends of Latin America)
www.friendsoflatinamerica.org

"La lucha que se pierde es la que se abandona" Che Guevara
The struggle that is lost is the one that is abandoned (My interpretation in English)

Sayers, Margery

From: Richard A. Kohn <rkohn@umd.edu>
Sent: Tuesday, December 10, 2019 11:42 AM
To: Yungmann, David; CouncilMail
Subject: Re: End contracts with ICE

Dear Mr. Yungmann,

Thank you for your timely and thorough response. I will say briefly that I have contradictory information and additional references in addition to what you provided, but I thank you for providing references.

I have now spoken with four men who were locked up in the ICE detention center in Jessup, and none of them fit the four criteria you referred to. All of them were lucky enough to eventually make it through the Court Proceedings and be released. You might wonder if they are lying, and I will seek corroborating evidence. However, does it not seem odd that they would be released after their hearings if they were known hardened criminals?

In addition, some of your statements were contradicted by Mr. Ball and Mr. Cavenaugh in the press. They claim it is not a profit generating endeavor, although I may doubt this, I would like to see the balance sheet.

I will prepare a more thorough response when I have the time.

Again, I think you for attention to this issue and for candidly stating your position and rationale.

Rick Kohn
Columbia, MD

On Dec 9, 2019, at 7:27 PM, Yungmann, David <dyungmann@howardcountymd.gov> wrote:

Mr. Kohn,

I couldn't even get past your second sentence without reading the first misstatement and most of this email makes assertions that even my most liberal leaning friends wouldn't suggest. I doubt any of my responses below will change your perspective, but I'll give facts one more chance and again encourage you to do some research on the Howard Co facility and county policies. It's an important issue that deserves rational discussion of facts.

David Yungmann
Howard County Council – District 5
(410) 313-2001
https://cc.howardcountymd.gov/Districts/District-5

From: Richard A. Kohn <rkohn@umd.edu>
Sent: Monday, December 9, 2019 9:37 AM
To: Yungmann, David <dyungmann@howardcountymd.gov>; CouncilMail <CouncilMail@howardcountymd.gov>
Subject: Re: End contracts with ICE

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Mr. Yungmann (and County Council),

Thank you for your response regarding Howard County contracts with ICE. Contrary to your comments that putting innocent people in jail is a wonderful opportunity for the County to make money, You apparently didn't read the criteria that I sent, all four of which are pretty different than innocent people.

I doubt the County actual makes money. First, the millions of dollars received is gross income to the county, but it also costs millions of dollars to jail innocent people in ICE detention in Howard County. The County may well be losing money. I understand that you wish it lost money so you could justify your position, but it does. Extensive analysis of the contract has been done due to public's interest in the topic. The previous Council or the current County Exec would have eliminated had it not provided important funding for other corrections programs.

Furthermore, the money provided by ICE ultimately comes from US taxpayers so the citizens of Howard County are ultimately paying disproportionally for it. If you have an issue with the use of your Federal taxes write to Congress. If ICE didn't have a contract with us they would with another county. The violent prisoners need to be detained somewhere.

Regarding the prison, how many of the immigrant detainees did you speak to when you visited the ICE detention facility? Did you ask if they are provided opportunities for education, recreation, etc.? Everyone in the Howard Co unit are provided with those programs.

Did you visit the child detention facilities in other states also? We are discussing a county program. The only facility I'm familiar with is McAllen that was converted to a child holding facility in 2014. It's apparently nicer than an adult detention center but still not a great place.

Of course, a part of my objection is that ICE is an outlaw organization which violates US and international law and the County should not be assisting them. I have spoken with former immigrant detainees of the Howard County ICE detention center, and their stories contradict what Calvin Ball and associates are saying. It would appear that none of the detainees are criminals. That is frankly absurd. I'm sure every prisoner in that facility claims they didn't do it but there are multiple checks and balances to ensure these people meet the criteria. One we discussed during our tour was deported twice only to re-enter, had open warrants for crimes in I believe two states, is covered in MS-13 tattoos and was convicted of raping a 6 year old family member for several months.

In the most serious cases, they have completed their sentences and should be released because of this. The average stay in the ICE unit is 4 months. It's a temporary detention spot that gives prisoners better access to family members and their attorneys. They ultimately leave for State or Federal prisons.

Others in the prison were never even accused of a crime, let alone arrested and tried. Some of these prisoners were released after more than a year in detention because immigration courts found them to have been detained without cause. Again I wish you would have done some research. Nobody being

detained on an immigration violation only is eligible to be held. There are other counties in Central MD that do allow immigration detainees to be held while they await trial.

All of these people are housed together without adequate protection from more dangerous members, and they are housed together with alleged gangs (which would be a helpful recruiting tool for the gangs). They have a system in place to separate prisoners in I believe 3 different risk levels but I imagine some get placed incorrectly.

Use of isolation for non-offenses is excessive. I agree. There is only one small group of cells used for isolation which has been stripped down to protect prisoners on suicide watch.

With respect to immigrants, the facility does not even meet minimal requirements for detention. For example, exercise time is not consistently provided, there are few books and almost no books approved for non-English speakers, access to internet and law documents is not provided and many of these individuals need to prepare for their own cases because they can't afford a lawyer and are not provided a court-appointed attorney. But, irrespective of how good or bad the conditions are in the ICE detention facility, or whether the County makes money or not, the County should not be keeping non-violent innocent people in a jail. The library in the detention center is full of books, as it is actually a branch of the HoCo library system. I can't comment on the number of foreign language books but I did observe different sections by language. There are 3 PC's with full access to Lexis-Nexis (a pretty expensive system to license) and apparently many of the prisoners have taken in interest in law either for their own cases or in general. There are several large activity yards and indoor activity spaces that were in use when I visited. I don't recall asking if any were ICE prisoners. I did go into an ICE unit during lunch and spoke with a few of the prisoners but not much was going on since it was lunch time.

An additional issue is that immigrants in Howard County are afraid to contact the police, go to the hospital, and are even afraid of receiving library services, or sending children to school and receiving educational services. The collusion of County Agencies with the illegal ICE organization, and the potential for collusion of County workers with ICE contributes to these fears. As racial profiling is illegal in Howard County, County agencies must stop assisting ICE with racial profiling in the County. The fact that many of our residents are afraid to call the police when they are witnesses or targets of crime makes them more likely to be victims of domestic violence, human trafficking, and gang activity. The County's cooperation with ICE violates the rights of Howard County residents, and makes us all less safe. Every agency in Howard County has a consistent written policy of not asking about immigration status. That written policy prohibits contact with ICE. Howard Co has placed zero prisoners in the ICE unit. The prisoners are detained by ICE and are eligible to be housed in Howard Co based on those 4 criteria. That doesn't mean that some are afraid to report crimes, but that fear is being made worse by folks who misrepresent the policies of the county. There are notices all over the community non-profits, police stations and county buildings letting people know they are safe to report crimes. Instead of spreading untruths, you might want to help these neighbors understand the policies so they aren't as scared.

As the only Republican on the County Council, you may believe your party expects you to support policies that harm immigrants. The Trump Administration certainly would approve of your stance. This contract does not harm immigrants.

However, many Republicans support fiscal responsibility. There is nothing fiscally conservative about carrying out a contract for the Federal government that costs the County more than it returns, not true

prevents able US residents from working to support their families not true

, and ultimately increases both County and Federal taxes. Yes, dealing with illegal immigration is expensive which is why I prefer a secure border.

Many Republicans appeal to libertarian values, but there is nothing libertarian about putting innocent people in jail (or for that matter unnecessarily restricting where they live or work). Not true

You could certainly justify opposition to the County's policy. We have policy disagreements with people on different polices all the time and my only real expectation is that people debate facts not wild conjecture. But we all end up engaging people who are so passionately committed to their position they don't want to research the facts or will reject them if they don't line up. Thanks for your emails and discussion.
End all contracts with ICE.

Rick Kohn
5218 Wood Stove Lane
Columbia, MD 21045

On Dec 8, 2019, at 10:37 AM, Yungmann, David <dyungmann@howardcountymd.gov> wrote:

Mr. Kohn I encourage you to do some research on the Howard County contract with ICE. I actually toured the facility last week and gained a much better understanding of its operations including the facts on the ICE contract. The detention center operates well below capacity excluding the ICE prisoners, so this contract generates significant income to the county for space that would be sitting empty. That income funds a myriad of other valuable programs that help rehabilitate other detainees including mental health, substance abuse and education. In order for ICE to house a prisoner in Howard Co, the individual must meet one of 4 criteria. These are not ordinary working people going about their business. They are real bad guys, most of which are the highest level criminals in the county facility, and the community is safer with them in jail. Here's more info if you'd like to research further: https://www.howardcountymd.gov/Departments/Corrections/The-Facilities/Detention-Center

David Yungmann
Howard County Council – District 5
(410) 313-2001
https://cc.howardcountymd.gov/Districts/District-5

From: Richard A. Kohn <rkohn@umd.edu>
Sent: Monday, December 2, 2019 8:12 PM
To: CouncilMail <CouncilMail@howardcountymd.gov>
Subject: End contracts with ICE

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Councilman Opel Jones:

It is past time to end all contracts with ICE. This is an outlaw organization that violates US and international law, as well as Howard County laws. All HowardCounty agencies must be prohibited from assisting ICE with profiling and incarcerating innocent people, and close the ICE detention center. Immigrants are afraid of their schools, libraries, hospitals, and especially the police. This fear endangers all of us and only helps gangs recruit. A clear law prohibiting cooperation with ICE will help ease the tension. We will all be safer if immigrants feel safe enough to work with police.

Sincerely,

Rick Kohn
5218 Wood Stove Ln
Columbia, MD 21045

Sayers, Margery

From: Richard A. Kohn <rkohn@umd.edu>
Sent: Monday, December 2, 2019 8:12 PM
To: CouncilMail
Subject: End contracts with ICE

Dear Councilman Opel Jones:

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Sincerely,

Rick Kohn
5218 Wood Stove Ln
Columbia, MD 21045

Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Tuesday, November 5, 2019 5:28 PM
To: goodfamily4@verizon.net
Subject: District 4 - ICE immigrant detention in Howard County

First Name:	Margaret
Last Name:	Goodlin
Email:	goodfamily4@verizon.net
Street Address:	10714 Mid Summer Lane
City:	Columbia
Subject:	ICE immigrant detention in Howard County
Message:	I was visiting at the detention center and noticed that ICE keeps immigrants there. I was shocked that Howard County would do this. We are a very liberal county, at least in your district, and we support immigrants. I am ashamed that we are doing this and urge you to support the position of Indivisible's Immigration team and CASA and other groups to cease supporting this effort. Please give it some thought.

Sayers, Margery

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TAB 17

HOWARD COUNTY MARYLAND

Howard County clarifies contract with ICE to accept only detainees who are convicted of violent crimes

By ANA FAGUY
BALTIMORE SUN MEDIA | SEP 18, 2020

CASA Executive Director Gustavo Torres speaks at a news conference in Ellicott City on Friday, Sept. 18, 2020. Howard County Executive Calvin Ball announced Friday afternoon that the Howard County Detention Center in Jessup will only accept detainees from U.S. Immigration and Customs Enforcement who are convicted of a "crime of violence." (Ana Faguy/Baltimore Sun Media)

Howard County Executive Calvin Ball on Friday afternoon announced the Howard County Detention Center in Jessup will only accept immigration detainees from U.S. Immigration and Customs Enforcement who are convicted of a "crime of violence."

According to a letter Ball sent to the County Council on Thursday evening, obtained by the Howard County Times, the county's announcement comes after a policy clarification agreed upon with CASA, an advocacy group for Latino and immigrant people in Maryland.

"Under the revised policy, only persons convicted of violent crimes would be housed in the detention center," Ball wrote in the letter to the County Council.

Howard County's contract with ICE, **which has existed since 1995**, allows immigration detainees to be held in the Howard County Detention Center. The center does not hold women or child ICE detainees.

The county's previous policy was to detain undocumented immigrants convicted of crimes, validated gang members, deported felons who have illegally made their way back to the United States and people charged with jailable offenses.

[More Maryland news] Financial woes at Strong City Baltimore are creating big problems for vital community programs it is supposed to support »

According to Ball, the county will now follow the **Maryland Criminal Code section 14-101**'s definition of a "crime of violence," which includes murder, rape, first-degree assault, carjacking and kidnapping, among others.

“This takes a balanced approach to ensure that when there are convicted felons of a violent crime, that we do do our part,” Ball said Friday at the news conference.

Ball said Howard County does not perpetuate the “weaponization” of ICE by the federal government.

“I think what we’ve seen especially during COVID-19 as the policy has naturally evolved with us trying to ensure physical distancing and minimizing having too many people in the detention facility, that formalizing this policy clarification is not only good for health and safety but it’s also good for the values that our community upholds,” he said.

Ball also emphasized that his administration has been having conversations with CASA and immigration advocates about the ICE contract for about a year.

[More Maryland news] After photo of teacher giving finger to Trump sticker goes viral, John Carroll School dismisses her, changes social media policies »

In the past six months, CASA has organized several protests against the county’s contract with ICE. **Earlier this week, local residents** not affiliated with CASA showed up at **Ball’s Hispanic Heritage Month news conference**, calling the event “hypocritical” in light of the existing ICE contract.

The policy announcement comes weeks after **County Council Vice Chair Liz Walsh introduced a bill** to stop the Howard County Department of Corrections from accepting individuals detained by federal immigration law enforcement agencies.

“This revision significantly differs from council bill CB-51, which was introduced on Sept. 8. If enacted, CB-51 would effectively prohibit the county from housing any person who is in federal custody in the detention center under the contract with ICE,” Ball wrote in his letter to the County Council.

"We believe that our policy revision strikes the appropriate balance between ensuring the fair treatment of our immigrant population while protecting our community from those convicted of a ‘crime of violence.’ ”

Gustavo Torres, executive director of CASA, spoke at the news conference and said he was pleased the updated policy would fix some of the problems with the previous one.

[More Maryland news] Carroll County sheriff’s deputy allegedly assaulted at traffic stop in Keymar; passersby stop to help »

Zainab Chaudry, director of the Council on American-Islamic Relations office in Maryland, also voiced support for the decision.

“This policy, we are confident, will establish and preserve trust in policing,” Chaudry said Friday at the event. “It will demonstrate local government’s commitment to public safety to all of its county’s residents, and it will reassure immigrant communities that, yes, you too are welcome here.”

Walsh said Friday she is not planning to withdraw her legislation to end the county’s contract with ICE permanently.

“[The policy clarification] doesn’t change my opinion as to whether or not we should continue the policy with ICE,” County Council Chair Deb Jung said Friday.

Jung said she would continue to support the council bill unless CASA and the local immigrant advocates would prefer Ball’s proposal going forward.

[More Maryland news] Carroll County sheriff’s deputy allegedly assaulted at traffic stop in Keymar; passersby stop to help »

“While it would be our preference to institute this policy immediately as we discussed with CASA, it was not known or expected that CB-51 would be filed this month, especially given the public nature of our discussions,” Ball wrote in the letter.

“While it was unfortunate that intent was not communicated with either of our offices prior to filing, I respect the council’s legislative process. If the council feels strongly about continuing forward with CB-51, we will step back to allow the public process to unfold over the next couple of months. Then, based upon how that is resolved, revisit this policy and next steps.”

Besides Howard, Frederick and Worcester are the other two counties in Maryland that receive money from ICE to house people detained by the ICE at their jails. In January 2019, **Anne Arundel County ended its ICE contract**.

LATEST HOWARD COUNTY

Howard County clarifies contract with ICE to accept only detainees who are convicted of violent crimes
54m

'The View' segment with Maryland Republican Kimberly Klacik ends abruptly after she says host Joy Behar 'paraded around in blackface'
1h

Howard County schools plan to begin limited in-person support for some students
1h

Howard County **does not participate in the 287(g) program**, in which county jails screen inmates for immigration violations after ICE trains local police in federal immigration law. However, Cecil, Frederick and Harford counties do participate in the program.

Ana Faguy

Ana Faguy covers Howard County government. Previously, she has reported for Maryland Matters, in addition to completing internships with NBC Washington and the European Parliament. Ana is a 2019 graduate of Saint Joseph's University in Philadelphia. She joined Baltimore Sun Media in 2019 and is a native of Montgomery County, Maryland.

Maryland's governor shoots a spitball, picks an unnecessary fight over school reopening | COMMENTARY

BALTIMORE SUN

The Orioles traded away four veteran pitchers this season. How have they — and their replacements — fared?

By BALTIMORE SUN EDITORIAL BOARD

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By BALTIMORE SUN

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Police: Elderly woman's neck cut after being assaulted from behind in Columbia

BALTIMORE SUN

Raven's Harbaugh on rookie WR Devin Duvernay

By REVIN RICHARDSON

CHICAGO TRIBUNE

If Stephen Hawking is right about Earth's end, keep an eye on the deer

MOST READ • MARYLAND

EDUCATION
Anne Arundel court temporarily halts National PTA effort to restructure Maryland PTA
15m

HIGH SCHOOL SPORTS
'I want to put the city on': Franklin safety Daymon David commits to Oregon football
35m

HOWARD COUNTY
Howard County clarifies contract with ICE to accept only detainees who are convicted of violent crimes
54m

United States Census Bureau

QuickFacts

Howard County, Maryland; Anne Arundel County, Maryland; Montgomery County, Maryland; Prince George's County, Maryland

QuickFacts provides statistics for all states and counties, and for cities and towns with a ***population of 5,000 or more***.

Table

All Topics	Howard County, Maryland	Anne Arundel County, Maryland	Montgomery County, Maryland	Prince George's County, Maryland
Population estimates, July 1, 2019, (V2019)	**325,690**	**579,234**	**1,050,688**	**909,327**
PEOPLE				
Population				
Population estimates, July 1, 2019, (V2019)	**325,690**	**579,234**	**1,050,688**	**909,327**
Population estimates base, April 1, 2010, (V2019)	287,123	537,631	971,284	864,029
Population, percent change - April 1, 2010 (estimates base) to July 1, 2019, (V2019)	13.4%	7.7%	8.2%	5.2%
Population, Census, April 1, 2010	287,085	537,656	971,777	863,420
Age and Sex				
Persons under 5 years, percent	▲ 5.9%	▲ 6.1%	▲ 6.1%	▲ 6.5%
Persons under 18 years, percent	▲ 24.2%	▲ 22.3%	▲ 23.1%	▲ 22.1%
Persons 65 years and over, percent	▲ 14.3%	▲ 15.0%	▲ 16.1%	▲ 13.9%
Female persons, percent	▲ 51.1%	▲ 50.5%	▲ 51.6%	▲ 51.9%
Race and Hispanic Origin				
White alone, percent	▲ 55.9%	▲ 73.6%	▲ 60.0%	▲ 27.1%
Black or African American alone, percent (a)	▲ 20.4%	▲ 18.3%	▲ 20.1%	▲ 64.4%
American Indian and Alaska Native alone, percent (a)	▲ 0.4%	▲ 0.4%	▲ 0.7%	▲ 1.2%
Asian alone, percent (a)	▲ 19.3%	▲ 4.2%	▲ 15.6%	▲ 4.4%
Native Hawaiian and Other Pacific Islander alone, percent (a)	▲ 0.1%	▲ 0.1%	▲ 0.1%	▲ 0.2%
Two or More Races, percent	▲ 3.9%	▲ 3.3%	▲ 3.5%	▲ 2.7%
Hispanic or Latino, percent (b)	▲ 7.3%	▲ 8.4%	▲ 20.1%	▲ 19.5%
White alone, not Hispanic or Latino, percent	▲ 50.3%	▲ 66.7%	▲ 42.9%	▲ 12.3%
Population Characteristics				
Veterans, 2014-2018	17,597	50,635	42,375	55,843
Foreign born persons, percent, 2014-2018	21.1%	8.3%	32.3%	22.4%
Housing				
Housing units, July 1, 2019, (V2019)	122,593	227,936	391,006	335,752
Owner-occupied housing unit rate, 2014-2018	73.2%	74.3%	65.4%	62.0%
Median value of owner-occupied housing units, 2014-2018	$448,000	$355,200	$476,500	$287,800
Median selected monthly owner costs -with a mortgage, 2014-2018	$2,560	$2,141	$2,505	$2,033
Median selected monthly owner costs -without a mortgage, 2014-2018	$830	$618	$812	$663
Median gross rent, 2014-2018	$1,690	$1,612	$1,742	$1,434
Building permits, 2019	779	2,650	3,225	2,569
Families & Living Arrangements				
Households, 2014-2018	112,966	207,599	370,227	308,849
Persons per household, 2014-2018	2.77	2.65	2.79	2.87
Living in same house 1 year ago, percent of persons age 1 year+, 2014-2018	86.7%	85.8%	85.5%	85.3%
Language other than English spoken at home, percent of persons age 5 years+, 2014-2018	25.5%	11.1%	40.6%	25.6%
Computer and Internet Use				
Households with a computer, percent, 2014-2018	96.5%	93.6%	95.6%	93.5%
Households with a broadband Internet subscription, percent, 2014-2018	93.2%	89.5%	90.7%	85.5%
Education				
High school graduate or higher, percent of persons age 25 years+, 2014-2018	95.5%	92.1%	91.3%	86.5%
Bachelor's degree or higher, percent of persons age 25 years+, 2014-2018	61.4%	40.9%	59.0%	32.7%
Health				
With a disability, under age 65 years, percent, 2014-2018	4.7%	7.3%	4.8%	6.4%
Persons without health insurance, under age 65 years, percent	▲ 4.2%	▲ 5.0%	▲ 7.8%	▲ 11.1%

Economy				
In civilian labor force, total, percent of population age 16 years+, 2014-2018	71.1%	67.4%	71.1%	71.2%
In civilian labor force, female, percent of population age 16 years+, 2014-2018	66.2%	64.6%	65.8%	67.5%
Total accommodation and food services sales, 2012 ($1,000) (c)	610,885	1,564,002	2,080,014	1,685,461
Total health care and social assistance receipts/revenue, 2012 ($1,000) (c)	1,406,355	2,975,254	7,227,231	3,126,368
Total manufacturers shipments, 2012 ($1,000) (c)	1,538,172	4,456,881	2,172,647	2,216,764
Total merchant wholesaler sales, 2012 ($1,000) (c)	9,266,672	7,606,510	10,456,845	7,639,806
Total retail sales, 2012 ($1,000) (c)	4,867,692	8,758,765	13,706,235	9,358,060
Total retail sales per capita, 2012 (c)	$16,257	$15,911	$13,642	$10,620
Transportation				
Mean travel time to work (minutes), workers age 16 years+, 2014-2018	31.3	30.7	34.6	37.0
Income & Poverty				
Median household income (in 2018 dollars), 2014-2018	$117,730	$97,810	$106,287	$81,969
Per capita income in past 12 months (in 2018 dollars), 2014-2018	$52,586	$44,979	$52,828	$35,869
Persons in poverty, percent	⚠ 5.2%	⚠ 7.0%	⚠ 6.9%	⚠ 8.3%

BUSINESSES

Businesses				
Total employer establishments, 2018	9,554	14,367	27,432	15,308
Total employment, 2018	176,880	246,375	441,094	269,979
Total annual payroll, 2018 ($1,000)	11,955,340	14,152,363	29,395,002	13,405,646
Total employment, percent change, 2017-2018	-1.3%	1.6%	0.3%	1.4%
Total nonemployer establishments, 2018	29,187	44,895	118,612	82,444
All firms, 2012	30,457	46,997	118,965	77,204
Men-owned firms, 2012	15,977	25,348	62,015	37,899
Women-owned firms, 2012	10,839	17,089	46,404	34,395
Minority-owned firms, 2012	10,464	9,994	51,051	59,172
Nonminority-owned firms, 2012	18,522	35,336	63,992	16,219
Veteran-owned firms, 2012	2,596	5,547	9,178	7,644
Nonveteran-owned firms, 2012	26,031	39,219	105,555	67,290

GEOGRAPHY

Geography				
Population per square mile, 2010	1,144.9	1,295.9	1,978.2	1,788.8
Land area in square miles, 2010	250.74	414.90	491.25	482.69
FIPS Code	24027	24003	24031	24033

About datasets used in this table

Value Notes

⚠ Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources.

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Quick Info ⓘ icon to th row in TABLE view to learn about sampling error.

The vintage year (e.g., V2019) refers to the final year of the series (2010 thru 2019). *Different vintage years of estimates are not comparable.*

Fact Notes

- **(a)** Includes persons reporting only one race
- **(b)** Hispanics may be of any race, so also are included in applicable race categories
- **(c)** Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data

Value Flags

- **-** Either no or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest or upper in open ended distribution.
- **D** Suppressed to avoid disclosure of confidential information
- **F** Fewer than 25 firms
- **FN** Footnote on this item in place of data
- **N** Data for this geographic area cannot be displayed because the number of sample cases is too small.
- **NA** Not available
- **S** Suppressed; does not meet publication standards
- **X** Not applicable
- **Z** Value greater than zero but less than half unit of measure shown

QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Income and P Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

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MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject	Executive Order No.	Subject Suffix
Promoting Community Trust	135-19	
Department	**Department No.**	**Effective Date**
Office of the County Executive		7/22/19

BACKGROUND

1. Montgomery County is one of the most diverse counties in the United States, with a thriving immigrant community representing more than 30% of the County's population. Consistent with the vision of creating a more equitable and inclusive Montgomery County, it is vital that all residents of Montgomery County feel safe and welcomed within the County and have access to the many resources which make the County an exceptional place to live.

2. It is especially important that all County residents feel safe contacting police and other County law enforcement officials without fear that such contact could lead to negative consequences for themselves or their family members. Any perception that such contact could lead to negative immigration consequences for an individual or member of their family undermines that goal and erodes public safety.

3. Enforcing federal immigration law is the sole responsibility of the federal government of the United States and it is not in the interests of Montgomery County to utilize its limited resources to facilitate the enforcement of federal civil immigration law.

4. Cities and counties, including several communities within Montgomery County and in neighboring jurisdictions, are increasingly declining to use limited community resources to facilitate enforcement of federal civil immigration laws.

5. Montgomery County is further bound by the Fourth Amendment of the United States Constitution to ensure that no individual is subjected to unreasonable search or seizure. The United States Supreme Court in *Arizona v. United States* held that such an obligation means that, absent certain exceptional circumstances, local law enforcement officers may not detain or arrest an individual solely based on known or suspected civil immigration violations.

6. Immigration detainers, that are not accompanied by judicial warrants, are civil detainers for which the federal government bears sole responsibility.

7. The Promoting Community Trust Executive Order aims to reaffirm current County policy and improve community security by ensuring that immigrant and otherwise vulnerable communities can engage with County departments, including public safety departments, with assurance that such engagement will not be used to assist in civil immigration enforcement or a federal discriminatory practice. Further, the present Order is intended to ensure that the constitutional rights of immigrant County residents are not violated and that County benefits and services are provided to residents regardless of country of birth or immigration status.

Section 1. Definitions.

The following terms wherever used in this Order shall have the following meanings unless a different meaning appears from the context:

"Administrative warrant" means an immigration warrant of arrest, order to detain or release aliens, notice of custody determination, notice to appear, removal order, warrant of removal, or any other document, including those issued by the United States Department of Homeland Security ("DHS") or any other federal immigration official or agency, including an immigration judge, that can form the basis for an individual's arrest or detention for a civil immigration enforcement purpose. This definition does not include any active criminal warrants issued upon a judicial determination of probable cause and in compliance with the requirements of the Fourth Amendment to the U.S. Constitution and Article 26 of the Maryland Declaration of Rights.

"Department" means any executive branch County department, agency, division, commission, council, committee, board, other body, or person established by authority of an order, executive order, or County Council order.

"DHS" means the United States Department of Homeland Security.

"DOJ" means the United States Department of Justice.

"Agent" means any person employed by or acting on behalf of a department.

"County resources" means any County moneys, facilities, property, equipment, personnel (including personnel time), or other assets funded in whole or in part by Montgomery County.

"Citizenship or immigration status" means all matters regarding questions of citizenship of the United States or any other country, the authority to reside in or otherwise be present in the United

States, the time and manner of a person's entry into the United States, or any other immigration matter enforced by DHS, its predecessor or successor agency, or any other federal agency charged with the enforcement of civil immigration laws.

"Contact information" means home address, work address, telephone number, electronic mail address, social media contact information, license plate information, or any other means of contacting an individual or through which an individual may be located.

"Eligible for release from custody" means one of the following conditions has occurred:

(a) All criminal charges against the person have been dropped or dismissed.
(b) The person has been acquitted of all criminal charges filed against him or her.
(c) The person has served all the time required for his or her sentence.
(d) The person has been released on a conditional bail release.
(e) The person is otherwise eligible for release under state or local law, or local policy or regulation.

"Family member" means a person's (i) immediate family, (ii) extended family, (iii) court-appointed legal guardian or a person for whom the person is a court-appointed legal guardian; or (iv) domestic partner or the domestic partner's immediate or extended family.

"ICE" means the United States Immigration and Customs Enforcement agency and shall include any successor agency charged with the enforcement of civil immigration laws.

"Immigration detainer" is a civil detainer and means a request by ICE to a federal, state, or local law enforcement agency that the law enforcement agency provide notice of release or maintain custody of an individual based on an alleged violation of a civil immigration law, including detainers issued pursuant to sections 236 or 287 of the Immigration and Nationality Act or 287.7 or 236.1 of Title 8 of the Code of Federal Regulations. These detainers include but are not limited to DHS Form I-247D "Immigration Detainer – Request for Voluntary Action"; DHS I-247X "Request for Voluntary Transfer"; or DHS Form I-247N "Request for Voluntary Notification of Release."

"Immigration enforcement official" means any federal employee or agent engaged in immigration enforcement operations as herein defined, including but not limited to employees of DHS and DOJ.

"Immigration enforcement operation" means any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States, including but not limited to efforts to identify or apprehend persons for purposes of subjecting them to immigration detention and/or removal from the United States.

Section 2. Requesting information prohibited.

(a) No agent or department may request information about or otherwise investigate or assist in the investigation of the citizenship or immigration status of any person unless such inquiry or investigation is required by court order.

(b) If the citizenship or immigration status of an individual is relevant to protections accorded to them under any state or federal law, or required by any international treaty, an agent or department may notify the individual of the relevant protection or requirement and provide them an opportunity to voluntarily disclose their status or citizenship.

Section 3. Threats based on citizenship or immigration status prohibited.

(a) No agent or department may coerce, intimidate, or threaten any person based on the person's actual or perceived citizenship or immigration status or the actual or perceived citizenship or immigration status of a member of the person's family or any other associate of the individual.

(b) No agent or department may subject an individual to verbal abuse, including disparaging or offensive comments, based on the individual's actual or perceived immigration status, or the actual or perceived immigration status of a member of the individual's family or any associate of the individual.

Section 4. Conditioning benefits, services, or opportunities on immigration status prohibited.

(a) No agent or department may condition the provision of County benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by state or federal law, or court order.

(b) Where presentation of a Maryland driver's license or identification card is accepted as adequate evidence of identity, presentation of a photo identity document issued by the person's country of origin, such as a driver's license, passport, or matricula consular (consulate-issued document), or by a pre-approved non-profit organization shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a Maryland driver's license or identification card, except that this subsection (b) shall not apply to the completion of the federally mandated I-9 forms.

Section 5. Civil immigration enforcement.

(a) No agent or department may arrest or detain a person based on an Administrative Warrant, an Immigration Detainer, or any other directive by DHS, on a belief that the person is not present legally in the United States or has committed a civil immigration violation.

(b) No agent or department may:

(1) affect in any way the manner in which a person is processed following an arrest based on an Administrative Warrant or an Immigration Detainer;

(2) detain the person based on an Administrative Warrant or Immigration Detainer, or otherwise comply with an Administrative Warrant or Immigration Detainer, after that person becomes eligible for release from custody;

(3) detain the person based solely on the belief that the person is not present legally in the United States, or that the person has committed a civil immigration violation.

(c) No agent or department may utilize County resources to coordinate with an immigration enforcement official in furtherance of a civil immigration enforcement operation by:

(1) permitting immigration enforcement officials access to non-public space within a government facility;

(2) permitting immigration enforcement officials access to a person being detained by, or in the custody of, the agent or department; or

(3) permitting immigration enforcement officials use of non-public space within a government facility, information or equipment for investigative interviews or other investigative purposes.

(d) No department may:

(1) enter into an intergovernmental services agreement, or other contract or agreement, with the federal government for the purpose of housing individuals subject to detention on civil immigration charges, or for any other purpose related to civil immigration enforcement; or

(2) enter into an agreement under 8 U.S.C. § 1357(g) or any other federal law that permits state or local governmental entities to enforce federal civil immigration laws.

Section 6. Avoiding Aiding Federal Government in Acts of Discrimination.

No County resources may be used to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, or national or ethnic origin.

Section 7. Exchanging File Information.

(a) All applications, questionnaires, interviews or other forms used in relation to County benefits, opportunities, or services shall be promptly reviewed by the pertinent departments and any questions regarding citizenship or immigration status, other than those required by statute, order, federal law or court order, shall be deleted if that information is not necessary for a County function. All County departments shall engage in a review of their confidentiality provisions to ensure that they are in compliance with this Order and have sufficient safeguards in place to protect the privacy of sensitive information, including but not limited to an individual's citizenship or immigration status.

(b) Any request received by an agent or department from immigration enforcement agents or officials to detain or notify immigration enforcement officials regarding a person in custody shall be provided or communicated to the subject of such a request within 48 hours. Where such request is in writing, the subject of the request shall be provided with a copy of the request.

(c) Departments shall report to the County Executive every six months the number of requests received from immigration enforcement officials and the manner in which each request was handled.

MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject	Executive Order No.	Subject Suffix
Promoting Community Trust	135-19	
Department	Department No.	Effective Date
Office of the County Executive		7/22/19

Section 8. Compliance with Federal Law.

No provision in this order shall be interpreted as preventing a law enforcement agent from sending to or receiving from any local, state, or Federal agency information regarding the citizenship or immigration status of an individual in accordance with applicable federal or constitutional law.

Section 9. Directive to Departments.

All Departments will develop policies consistent with implementation of this Order within 90 days of it becoming effective.

Section 10. Severability.

If any provision, clause, section, part, or application of this Order to any person or circumstance is declared invalid by any court of competent jurisdiction, such invalidity shall not affect, impair, or invalidate the remainder hereof or its application to any other person or circumstance.

Section 11. Effective Date.

This Order shall take full force and effect immediately.

By: _____
MARC ELRICH
County Executive

Approved as to form and legality:
Office of the County Attorney

By: _____
Silvia C. Kinch, Chief
Date: 7/16/19

Trust Act Executive Orders and Laws from around the Country

Most trust act policies from across the country are enacted through legislation, however, there are several examples of trust act executive orders from across the country. This creates an opportunity for Montgomery County to lead regionally and nationally. The table below are a list of the best-known executive orders from across the country. This list starts with some great examples from our region then looks across the country. **We have included just a few samples from our region but in fact all of the following jurisdictions have existing policies, many adopted in the last 18 months: Annapolis (an anti-discrimination law versus a true TRUST Act), Baltimore City, Baltimore County, Brentwood, Cheverly, Colmar Manor, Greenbelt, Hyattsville, Mt. Rainier, Rockville, Prince Georges County (administrators implement a non-coordination council resolution and the AG order, but advocates are still seeking to pass a true TRUST bill), Takoma Park.**

Jurisdiction	Year Enacted	Policy Type	Description
Baltimore City, MD	N/A	Executive Order	• Prohibits city departments, agencies, resources, and employees from assisting in immigration enforcement. • ICE detainers will not be accepted unless it includes a judicial warrant. • City services will not be conditioned on immigration status.
City of Hyattsville, MD	2017	City Ordinance	• Prohibits questions, threats, stops, and detentions solely based on immigration status and/or ICE detainer. • Prohibits employees, agencies, and resources to be used for immigration enforcement including notifying ICE about a person's location or release date. • Prohibits city services to be based on immigration status.
City of Rockville, MD	2017	City Ordinance	• Prohibits questions, threats, stops, and detentions solely based on immigration status and/or ICE detainer. • Prohibits employees, agencies, and resources to be used for immigration enforcement, including notifying ICE about a person's location or release date. • Prohibits city services to be based on immigration status.

Baltimore City, MD	2019	Police Order	• Officers will not ask about immigration status or engage in immigration enforcement.
			• When the member receives a "hit" in the NCIC database on a person, the member shall contact the BPD Hot Desk in accordance with Policy 1301, *National Crime Information Center (NCIC)*. If the Hot Desk personnel advises the member that the person is subject to an Administrative Warrant, the member shall take no action on the Administrative Warrant. If the BPD Hot Desk confirms that there is no outstanding federal, state or local criminal warrant, the member shall immediately release the person.
			• Officers shall not notify ICE of the current or prospective location, address, work location, or other identifying and location information of an individual for the purposes of civil immigration enforcement.
			• The BPD shall not engage in, assist, or support immigration enforcement except as follows:
			  ○ In response to an articulated, direct threat to life or public safety; or
			  ○ When such services are required to safely execute a criminal warrant or court order issued by a federal or state judge.

Baltimore County, MD	2017	Executive Order	• ICE detainers will not be accepted unless it includes a judicial warrant. • Prohibits city departments, agencies, resources, and employees from assisting in immigration enforcement. • County services will not be conditioned on immigration status.

Washington State	2018	Trust Policy (Keep Washington Working Act)	• An individual will not be stop, detained, arrested, or held pass release time solely based on an administrative order or immigration status.
			• An individual must be provided all rights due to the individual, including consular notification as required or authorized by treaty or applicable law, regardless of the individual's immigration status.
			• State and local law enforcement agencies, school resource officers, and security departments may not:
			  ○ Respond to notification requests from federal immigration authorities.
			  ○ State and local law enforcement agencies may not provide non-publicly available personal information about an individual to federal immigration authorities in a noncriminal matter, except as required by law.

Cook County, Illinois	2011	County Ordinance	• Unless ICE agents have a criminal warrant, or County officials have a legitimate law enforcement purpose that is not related to the enforcement of immigration laws, ICE agents shall not be given access to individuals or allowed to use County facilities for investigative interviews or other purposes, and County personnel shall not expend their time responding to ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates while on duty. • Any person who alleges a violation of this Ordinance may file a written complaint for investigation with the Cook County Sheriff's Office of Professional Review.
Rhode Island	2014	Governor's Directive	• Will not honor ICE detainers without a judicial warrant. • The department of corrections will not hold an individual unless there is an outstanding warrant.
Illinois	2015	Executive Order	• An individual may not be detained solely based on immigration status or/and administrate warrant. • An individual will not be detained solely based on an administrative order after becoming eligible for release.
California	2017	Values Act	• An individual will not be detained pass release time solely on an administrative warrant. • Repeals laws that involve local law enforcement agencies notifying ICE about a potential undocumented immigrant for specific crimes. It also prevents agencies from using their resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes.
Washington, DC	2011 & 2017	Mayor's Order & Police order	• Public Safety Agencies shall not inquire about a person's immigration status or contact ICE for the purpose of initiating civil enforcement of immigration proceedings • Does not send ICE a registry of foreign-born individuals in custody. • ICE detainers will not be acted upon unless the inmate has been convicted of a serious crime, and ICE has agreed to reimburse the city for any costs incurred. In such a case, the individual may only be held for an additional 24 hour period beyond that which he/she would ordinarily be released.

			• The District is prohibited from providing ICE agents an office, facility or equipment to conduct an individualized interview of inmates without giving the inmate an opportunity to have counsel present. • The police order address administrative warrants in the NCIC. If officers encounter ICE administrative warrants, and the individual does not have a criminal warrant or has not committed any other offense for which he or she would be subject to arrest, then the officer shall not take action on the administrative warrant.
Prince George's County	2019	Police Order	• Police officers will not be serve civil immigration warrants, unless it is accompanied by a criminal warrant. • Police officers cannot take law enforcement action solely based on immigration status or perceived immigration status. • Highlights that immigration enforcement is a federal responsibility.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2019 Legislative Session

Bill No. CB-38-2019

Chapter No. 38

Proposed and Presented by Council Members Glaros & Taveras

Introduced by Council Members Glaros, Taveras, Turner, Ivey, Harrison, Anderson-Walker, Davis, Streeter, Dernoga and Hawkins

Date of Introduction October 22, 2019

BILL

AN ACT concerning

Fair Housing

For the purpose of establishing Prince George's County's Policy of ensuring equal opportunity and eliminating discrimination in all housing accommodations; and generally regarding fair housing.

BY repealing and reenacting with amendments:

SUBTITLE 15A. CONSOLIDATED HOUSING AND COMMUNITY DEVELOPMENT PLAN.

Section 15A-101,

The Prince George's County Code

(2015 Edition; 2018 Supplement).

BY repealing and reenacting with amendments:

SUBTITLE 2. ADMINISTRATION.

Sections 2-186 and 2-210,

The Prince George's County Code

(2015 Edition; 2018 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 15A-101 of the Prince George's County Code be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 15A. CONSOLIDATED HOUSING AND COMMUNITY DEVELOPMENT PLAN.

Sec. 15A-101. Legislative findings and declaration of policy and purpose.

(a) It is the policy of Prince George's County, in the exercise of its regulatory powers for the protection of the public safety, public health and general welfare, to assure equal opportunity to all persons to live in safe and decent housing facilities and to eliminate discrimination in all housing accommodations regardless of race, color, religion, disability, familial status, sexual orientation, gender identity, marital status, sex, source of income, citizenship or immigration status, or national origin, and to that end to prohibit discrimination in all housing accommodations by any person. Section 201 of the Charter ensures that no person shall be deprived of life, liberty, or property without due process of law, nor be denied the equal protection of laws in such a way that such person(s) is adversely affected in the areas of housing and residential real estate, employment, law enforcement, education, financial lending, public accommodations, or commercial real estate.

(b) The Prince George's County Council finds that areas of the County are in varying stages of physical and/or economic decline; that a number of persons of low and moderate financial means reside in these areas; and that the welfare of the County and the well-being of its citizens depend on the alleviation of these conditions and the establishment and maintenance of viable urban and rural communities through a coordinated and systematic County-wide program utilizing Federal, State, and local resources. In recognition of these conditions, the County Council hereby declares its intent to establish a coordinated and systematic County-wide housing and community development plan and program incorporating innovative approaches designed to revitalize deteriorating communities, and provide decent housing, a suitable living environment, expanded economic opportunities, and public services, principally to persons of low and moderate income.

* * * * * * * * *

SECTION 2. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 2-186 and 2-210 of Division 12 of the Prince George's County Code be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 2. ADMINISTRATION.

DIVISION 12. HUMAN RELATIONS COMMISSION.

Sec. 2-186 Definitions.

*** * * * * * * * ***

(17) "Source of income" means any lawful verifiable source of money paid directly or indirectly to a renter or a buyer of a housing unit, including:

(A) Income received through any lawful profession or occupation, including but not limited to, bank statements, official government issued letters, pay stub or letter from an employer;

(B) Federal, state, or local government assistance including housing vouchers, medical assistance subsidies, rental assistance, and rent supplements as issued under the United States Housing Act of 1937.

(C) Any inheritance, pension, annuity, alimony, child support, trust, or investment accounts;

(D) Any gift verified by a letter or other means but, unless it is recurring throughout a tenancy, the gift may support one-time expenses only, such as a seccurity deposit or pet fee; and

(E) Any sale or pledge of property if the sale or pledge will result in proceeds inuring to the recipient's benefit within sixty days of the application to rent a housing unit, purchase a housing unit, or purchase an interest in a housing unit.

(18) Wrongful practice shall mean an act for which the Commission shall have the power to issue Cease and Desist Orders and enforce through the Court. It shall not constitute a misdemeanor or a prohibited act as defined by Section 1-123 of this Code.

* * * * *

SUBTITLE 2. ADMINISTRATION

DIVISION 12. HUMAN RELATIONS COMMISSION

SUBDIVISION 5. PROHIBITED ACTS IN HOUSING AND RESIDENTIAL REAL ESTATE

Sec. 2-210. - Sale or rental of housing; exception.

(a) No person, whether acting for monetary gain or not, shall:

(1) Refuse to sell, lease, sublease, rent, assign, or otherwise transfer; or refuse to negotiate for the sale, lease, sublease, rental, assignment or other transfer of the title, leasehold, or other interest in any housing; or represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when in fact it is so available; or otherwise make housing unavailable, deny, or withhold any housing from any person because of race,

religion, color, sex, national origin, immigration status, citizenship status, source of income, age, occupation, marital status, political opinion, personal appearance, sexual orientation, physical or mental disability, or familial status;

(1.1) Deny any person access to, or membership or participation in, any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing, or to discriminate against any person in the terms or conditions of such access, membership, or participation, or in the selling, brokering, or appraisal of residential real estate on account of race, religion, color, sex, national origin, immigration status, citizenship status, source of income, age, occupation, marital status, political opinion, personal appearance, sexual orientation, physical or mental disability, or familial status;

(2) Include in the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment, or other transfer of any housing, any clause, condition, or restriction discriminating against any person in the use or occupancy of such housing because of race, religion, color, sex, national origin, immigration status, citizenship status, source of income, age, occupation, marital status, political opinion, personal appearance, sexual orientation, physical or mental disability, or familial status;

(3) Discriminate in the furnishings of any facilities, repairs, improvements, or services, or in the terms, conditions, privileges, or tenure of occupancy of any person because of race, religion, color, sex, national origin, immigration status, citizenship status, source of income, age, occupation, marital status, political opinion, personal appearance, sexual orientation, physical or mental disability, or familial status;

(4) Print or publish, or cause to be printed or published, any notice, statement, listing or advertisement, or to announce a policy, or use any form of application for purchase, lease, rental, or financing of any housing indicating any preference, limitation, or specification based upon race, religion, color, sex, national origin, immigration status, citizenship status, source of income, age, occupation, marital status, political opinion, personal appearance, sexual orientation, physical or mental disability, or familial status;

(5) Induce or attempt to induce any person to sell or rent any housing by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, immigration status, citizenship status, source of income, age, occupation, marital status, political opinion, personal appearance,

sexual orientation, physical or mental disability, or familial status;

(6) Discriminate in the sale or rental, or otherwise make unavailable or deny, housing to any buyer or renter because of a disability of:

(A) The buyer or renter;

(B) A person residing in, or intending to reside in, the housing after it is sold, rented, or made available; or

(C) Any person associated with the buyer or renter.

(7) Discriminate against any person in terms, conditions, or privileges of sale or rental of housing, or in the provisions of services or facilities in connection with such housing, because of a disability of:

(A) The person; or

(B) A person residing in, or intending to reside in, the housing after it is so sold, rented, or made available; or

(C) Any person associated with the person.

(8) For purposes of Subsections (6) and (7), above, discrimination includes:

(A) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(B) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy housing;

(C) A failure to construct a covered multifamily dwelling in accordance with the Building Code with regard to accessibility by a person with a disability.

(9) Discriminate by inquiring about immigration status or citizenship status in connection with the sale, lease, sublease, assignment, or other transfer of a housing unit, unless to comply with a federal or state law or a court order.

(10) Discriminate by requiring documentation, information, or other proof of immigration status or citizenship status, unless to comply with a federal or state law or a court

order.

(11) Discriminate in the sale, lease, sublease, assignment, or other transfer of a housing unit by requiring proof of immigration status or citizenship status, such as a social security number, without providing an alternative that does not reveal immigration status or citizenship status, such as an individual taxpayer identification number.

(12) Discriminate by disclosing, reporting, or threatening to disclose or report immigration status or citizenship status to anyone, including an immigration authority, law enforcement agency, or local, state, or federal agency, for the purpose of inducing a person to vacate the housing unit or for the purpose of retaliating against a person for the filing of a claim or complaint.

(13) Discriminate by evicting a person from a housing unit or by otherwise attempting to obtain possession of a housing unit because of the person's immigration status or citizenship status unless the remedy is sought to comply with a federal or state law or a court order.

(14) Nothing in this Subsection requires that housing be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(b) Discrimination based on age or familial status as defined in Section 2-186 shall not be wrongful with regard to housing operated in connection with any retirement or senior citizen home or housing which is:

(1) Provided under any Federal or State program that the Executive Director determines, as consistent with the U.S. Department of Housing and Urban Development, is specifically designed and operated to assist elderly persons;

(2) Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or

(3) Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit, provided that the housing satisfies the requirements of Title 24, Code of Federal Regulations, Section 100:304.

(c) Discrimination shall not be wrongful with regard to the leasing of a room(s) or apartment(s) in an owner-occupied dwelling consisting of not more than three (3) rental units except as specified in (a)(4) of this Section.

(d) No person shall coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Division.

(e) Nothing in this Division shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of housing which it owns or operates, for other than commercial purposes, to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, immigration status, citizenship status, source of income, age, occupation, marital status, political opinion, personal appearance, sexual orientation, physical or mental disability, or familial status.

SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection, or section.

SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect on forty-five (45) calendar days after it becomes law.

Adopted this 19th day of November , 2019.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

BY: _____
Todd M. Turner
Chair

ATTEST:

_____
Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.

The Prince George's Post

A COMMUNITY NEWSPAPER FOR PRINCE GEORGE'S COUNTY *SINCE 1932*

Vol. 87, No. 49 December 5 — December 11, 2019 Prince George's County, Maryland Newspaper of Record Phone: 301-627-0900 25 cents

Young Playwrights' Theater Celebrates New Partnership with Prince George's Community College

A special collaboration expands the college's theater arts curriculum and transforms students into playwrights.

By TESHONNE POWELL
Young Playwrights' Theater

PHOTOGRAPH COURTESY YOUNG PLAYWRIGHTS' THEATER

PGCC playwriting students Jade, Maya and Lauren discussing their one-act plays.

PRINCE GEORGE'S COUNTY, Md. (November 26, 2019)—This fall, Young Playwrights' Theater (YPT) has partnered with Prince George's Community College (PGCC) to provide playwriting workshops to PGCC students. The partnership grew from PGCC's desire for playwriting to be integrated into the college's theatre arts courses and curriculum. With the help and coordination of Artistic Director of Student Programming Gary Fry and Theatre Coordinator Peggy Yates, and with support from the Prince George's Arts and Humanities Council, YPT Program Director Jared Shamberger implemented PGCC's first playwriting workshop series within Yates's Script Analysis course. Throughout the fall, students learned the core principles and strategies of dramatic writing and incorporated what they learned into original, imaginative short plays. Those plays will be presented in a public, staged reading featuring professional actors on December 4 at PGCC's Center for the Performing Arts.

For YPT, this partnership is unique. Historically, YPT has facilitated playwriting workshops for students in 3rd grade through 12th grade. However, as YPT moves into its 25th year, the organization seeks to expand the demographic of young people that it serves. YPT acknowledges that some young people complete secondary education without having access to arts-oriented courses and YPT would like to fill that need. "After 25 years of cultivating playwrights in K–12 environments, primarily in Washington, DC, we are excited and poised to expand our impact to the college-level and in Prince George's County," said YPT Program Director Jared Shamberger.

This partnership is also a testament to the impact of PGCC's new performing arts center on the college and highlights that PGCC is a beacon and an asset to the community.

The fall program will culminate in the PGCC Young Playwrights' Showcase, a staged reading of the students' original one-act plays on **Wednesday, December 4, 2019, at 7 p.m. at the Center for the Performing Arts at Prince George's Community College.** The reading will feature professional actors with direction from Jared Shamberger.

This event is free, and guests can visit https://bit.ly/YPTShowcase to reserve seats.

Young Playwrights' Theater *inspires young people to realize the power of their own voices. Young Playwrights' Theater believes that creative expression and theater are valuable tools for the education, enrichment and self-actualization of young people. Through our programs and productions, we fulfill their creative vision by hiring professional artists to guide and perform original youth-generated work for their peers and for the public. YPT believes that it is important that youth, especially those whose voices are often minimized, have access to high-quality arts education that centers their experience and is culturally competent and affirming for all young people involved.*

County Council Adopts Fair Housing Act to Ban Source of Income, Immigration Status and Citizenship Status in Housing

County's Fair Housing Act Updated with Additions to Protected Housing Categories

By KAREN D. CAMPBELL
PG County Council Media

UPPER MARLBORO (November 25, 2019)—The Prince George's County Council voted unanimously on Tuesday, November 19, 2019, to adopt Council Bill 38-2019, a Fair Housing Act establishing Prince George's County's policy of ensuring equal opportunity and eliminating discrimination in all housing accommodations.

The Fair Housing Act, proposed by Council Member Dannielle Glaros (D) – District 3, and Council Member Deni Taveras (D) – District 2, amends the County's existing law to prohibit discrimination in housing based on proof of immigration or citizenship status; a required screening process that forces a buyer to reveal citizenship status without providing a reasonable alternative option; or source of income.

Council Member Glaros comments, "I appreciate the work and support of the Prince George's Human Relations Commission, the County's civil and human rights education and enforcement agency charged with ensuring equity and inclusion Prince George's County residents. I am also grateful to the Housing Initiative (HIP) Partnership and CASA, for urging passage of this important and timely legislation."

CB-038-2019 also updated language in the County Code related to persons with disabilities. Council Member Glaros thanks Independence Now for its advocacy for this update, and looks forward to updating this language throughout the division, next year.

Through her work as Chair of the Council's Planning, Housing, and Economic Development Committee and as co-chair of the Prince George's County Housing Opportunity for All Workgroup, Council Member Glaros maintains a focus on the County's housing policy. The Housing Opportunities for All Workgroup, established by Council Resolution 16-2019, is charged with assisting the County with setting priorities and implementing the Comprehensive Housing Strategy Report, entitled "Housing Opportunity for All" for Prince George's County. Learn more about the Housing Opportunities for All Workgroup.

Trained to Serve: Maryland's Natural Resources Police K-9 Unit

By CODY A. WILCOX
Capital News Service

PHOTOGRAPH COURTESY OF MARYLAND DNR POLICE

Ruckus is a 4-year-old Chesapeake Bay retriever that works out of Prince George's County.

ANNAPOLIS, Md. (November 25, 2019)—According to the square Army green patch on the back of his harness, this officer's "Beast Mode" is always "ON." Rider, a 30-pound K-9 assigned to the state's Natural Resources Police, may offer the department more brains than brawn.

For the hound-terrier mix and his trainer, Sgt. Ben Lillard, the insignia demonstrates that his 30-pound frame does not hinder his ability to perform regular patrol duties.

Rider is one of four Maryland Department of Natural Resource Police dogs, which are specially selected and trained to execute tasks like detecting poached wildlife, tracking violators, searching and locating missing individuals and detecting human remains.

Maryland's Department of Natural Resource K-9 program, which began in 1994, seeks dogs that have a strong drive—the most important trait.

Sgt. Devin Corcoran said that any dog that the Department of Natural Resources Police acquires must combine a high level of determination with a playful demeanor.

A dog that is willing to crawl under a parked car to retrieve a toy is preferred over a dog that does not demonstrate the initiative, said Virginia's Department of Game and Inland Fisheries Conservation Police Officer Jim Patrillo, handler of a 3-year-old black Labrador retriever named Bailey.

"Everything we do with our dogs is toy-rewarded," Patrillo said. "When we test dogs, puppies, we look for a high energy and a toy drive."

Maryland's Department of Natural Resources operates under similar measures.

"If they have drive and motivation … and some intelligence, we can train them," Corcoran said.

Along with Rider, the Department of Natural Resources Police cares for and maintains three other dogs, including two yellow Labs, Beacon and Badger, and a Chesapeake Bay retriever, Ruckus.

Prior to 2016, Maryland's Department of Natural Resource's K-9 units received training from locations in Florida, Kentucky and Indiana, according to Corcoran.

Indiana Conservation Officer Jeff Millner has instructed about 72 dogs, including three from Maryland, since 1997.

In 2014, Millner trained Corcoran, who is one of three conservation officers who have attended Millner's training.

Millner, handler of an 11-year-old Labrador retriever, breaks his training regimen down into three different phases, including mantracking, wildlife detection and article search, with each lasting approximately three weeks.

Corcoran, who completed a 2015 Train the Trainer Course with K2 Solutions in Southern Pines, North Carolina, due to a contribution from the Humane Society of the United States, said that he brought a similar approach to Maryland.

Maryland's training usually lasts about nine weeks and varies from 400 to 480 hours, according to Corcoran.

Although the dogs enjoy searching for and locating wildlife, mantracking is the most difficult part of the training, according to Millner.

"Most dogs track naturally, but don't track humans naturally," Millner said.

Dogs typically follow a scent but can often get redirected, compelling the handler to reassess the situation and give the canine a moment to regather the scent, according to Millner.

"Reading the dog is key," Millner said. "(Handlers) learn every sign that the dog gives them."

Maryland's canine training has since transpired in-house—for reasons including proximity and cost, and it allows the department to tailor the training to Maryland's geofactors.

Although the department's four dogs are located on the Eastern Shore and in Montgomery, Prince George's and Baltimore counties, Corcoran said that he does not uniquely

See **K-9 UNIT** *Page* **A8**

Rider is a 4-year-old hound-terrier mix that is based out of Montgomery County.

Badger is a 6-and-a-half-year-old yellow Labrador retriever that is commissioned in Baltimore County.

Beacon is a 6-and-a-half-year-old yellow Labrador retriever that is stationed on the Eastern Shore.

PHOTOGRAPHS COURTESY OF MARYLAND DNR POLICE

INSIDE

TOWNS and NEIGHBORS

In and Around Morningside-Skyline

by Mary McHale will return next week

Brandywine-Aquasco

by Audrey Johnson 301-922-5384

WOMEN'S DAY

The women of Clinton United Methodist Church celebrated Women's Day ("Women walking with God") Sunday, November 17, 2019. Rev. Dorothea Belt Stroman, Pastor. Our speaker at the 8 a.m. service was Pam Stahl who is minister of Music at Clinton United Methodist Church.

Pam was born and raised in Missouri. She graduated from the University of Missouri with a BS in Music Education and received an MA in 2000 from Towson University. Pam and her husband, John, moved to the DMV area when he took a job with the Federal government.

Throughout her career, Pam has worked as a secretary, store clerk, bank teller, organist, elementary school music teacher, piano teacher, children's choir director, substitute teacher, middle school keyboard teacher, youth choir director and adult choir director. She has also been a stay-at-home mom. Pam and John are the proud parents of two children and grandparents of three grandsons.

Pam and her husband joined Clinton United Methodist Church in 1974. In 2011, Pam became a lay servant and continues to strive to do God's will every day.

Our speaker at the 10:30 a.m. service was Rev. Jamila Jaye Woods who is an anointed preacher and teacher of the Gospel and a Psalmist. She has traveled throughout the United States, South Africa, Haiti, the Caribbean, and Turkey, sharing her ministry, preaching and/or gifts. A native of Chesilhurst, New Jersey, she earned a Bachelor of Arts Degree in Political Science and a Master of Divinity degree from Howard University. Rev. Jamila was ordained an Itinerant Elder in the African Methodist Episcopal (AME) Church and served as the Pastor of the Cornerstone AME Church of LaPlata (MD) for six years. She currently serves as the Pastor of the Jabez Christian Community Church, White Plains, Maryland.

LIFE GIVING SAGE ADVICE

"Life is a mixture of plans not met and other plans that delight. Hold onto the good times that will help you through the night. When you age your body will change but you are now bolder with words of sage wisdom. Sometimes you trade a young sexy body for a mature sexy body and brain. Go with change and if you are lucky, you will have more sexiness to bounce. Sexy is what you make of it, advertise your good points. Enter a place and light the room with your personality and picture yourself in a warm and vivacious joint, and at some point you accept the change for if you are wise you can never go back, and who would want to go through the problems of youth at this age. Not I, for I look forward to days of excitement and nights of passionate thoughts. Looking forward to a better new year." This poem was written by Joan Evelyn Hayes, a poet who resides in Fort Washington, Maryland. I have known Joan for over forty years. She is a very close friend.

BOWIE STATE UNIVERSITY

More than 150 guests attended the 3rd Annual James E. Proctor Jr. Forum on Education, Leadership and Innovation, where the keynote address was delivered by Dr. Ivory Tolson, bestselling author of NO BS (Bad Stats), president and CEO of Quality Education for Minorities, and professor of counseling psychology at Howard University .

His book is a provocative challenge to the false narratives and negative stereotypes used to deny educational opportunities to African-American students.

The family of the late Honorable James E. Proctor Jr. ('69 & '72), one of BSU's most distinguished alumni, was in attendance to present the James E. Proctor, Jr. Endowed Scholarship to Leighton William, a junior elementary education major at Bowie State University.

BSU Alumna and CEO of Prince George's County Schools, Dr. Monica Goldson ('00), presented the Inaugural Proctor Excellence in Education Award to Ms. Nicole Isley-McClure ('02), principal of High Point High School.

Governor Hogan Announces Judicial Appointments

Fills Vacancies in Washington and Prince George's County Circuit Courts

By SHAREESE CHURCHILL
Maryland Governor's Press Office

ANNAPOLIS, Md. (November 27, 2019)—Governor Larry Hogan today announced he has selected Andrew Fisher Wilkinson as judicial appointee for Washington County Circuit Court and Bryon Seth Bereano as judicial appointee for Prince George's Circuit Court.

"The appointment of qualified individuals to serve across our state's justice system is paramount to upholding our responsibilities to the people of Maryland and the rule of law," said Governor Hogan. "I have confidence that Mr. Wilkinson and Mr. Bereano will continue to be strong advocates for the law and will serve the citizens of Washington County and Prince George's County admirably."

Andrew Wilkinson has a solo practice operating under the name Wilkinson Law. Prior to opening his own firm, Wilkinson worked as a partner at the firm of Divelbiss & Wilkinson for four years. His practice focuses in the areas of land-use and real estate law, civil litigation, estate planning, and commercial law. He has also provided family law mediation services for the Circuit Court for Washington County since 2009. Prior to joining Divelbiss, he served as an assistant county attorney in the Office of the County Attorney for Washington County where he represented the Board of County Commissioners. After graduating law school, he served as a law clerk for the Circuit Court for Washington County for the Honorable Fred C. Wright III, the Honorable John H. McDowell, the Honorable W. Kennedy Boone, and the Honorable Donald E. Beachley. Wilkinson received his B.A. from the University of North Carolina. He received his J.D. from the Emory University School of Law.

Bryon Bereano was appointed by Governor Hogan to the District Court for Prince George's County in 2016. Prior to that appointment, Bereano worked for the Prince George's County Office of Law as an associate county attorney, where he focused zoning and property maintenance cases and responses to equal employment opportunity complaints. Bereano was previously a solo practitioner for three years. From 2001–2010, he worked as a litigation associate at the firms of Knight, Manzi, Nussbaum & LaPlaca, P.A. and Lerch, Early & Brewer. He clerked for the Honorable Alexander Williams, Jr. in the United States District Court for Maryland from 2000–2001. He also clerked for the Honorable William B. Spellbring, Jr. in the Circuit Court for Prince George's County from 1999–2000. Bereano received his B.A. from the University of Virginia. He received his J.D. from the University of Baltimore School of Law.

Prince George's County 4-H Presents: Adult Spelling Bee Fundraiser

Open to Ages 21 & Up • Compete Solo or in Pairs

Join us December 11, 2019 at the Maryland 4-H State Office as we raise funds to benefit our Scholarship Fund, Camping program and more!

December 11, 2019 • 6–8 p.m. (Doors open at 5:30 p.m.)
MD 4-H State Office
8020 Greenmead Dr, College Park, MD 20740

Heavy hors d'oeuvres will be served. Registration and additional information: https://tinyurl.com/yxlywcs7
If you have any question or concerns please contact Ariel Delgado (adelgad2@umd.edu) or (301) 868-9636.

Hospice of the Chesapeake Gala
Saturday, April 4, 2020 • 5:30 to 11:30 p.m.
The Hotel at the University of Maryland
College Park

This year's theme, "An Evening Under the Tuscan Sky," will take guests to the Italian countryside filled with gardens, groves and vineyards. The gala is the organization's signature black tie event and features an open bar, fine cuisine, a silent and live auction, a band and dancing. The gala draws close to 500 attendees and directly supports the mission and programs of Hospice of the Chesapeake.
The nonprofit is celebrating its 40th year of serving the community and continues to celebrate its status as a leader in hospice and palliative care as well as grief support in Anne Arundel and Prince George's counties.
For sponsorship opportunities, contact
Meg Lawton at 443-837-1531 or
mlawton@hospicechesapeake.org.

Save the Date for the 10th Annual
"A Fairway to Help" Golf Tournament
Friday, May 8, 2020

Registration 7:30 a.m. Shotgun start 8:30 a.m.
Oak Creek Golf Club, 600 Bowieville Manor Lane,
Upper Marlboro, MD 20774

We are also looking for sponsors for this annual event and New Horizons' only fundraiser.
Proceeds benefit over 200 individuals with disabilities. Funds raised provide necessary skill development, job training, and employment services to help those we serve lead fulfilling and productive lives.

Jerry's Seafood is once again hosting our turn refreshments. As part of your golf registration, enjoy a delectable spread to include Jerry's famed crab cake sandwich and lots more.

Around the County

Prince George's County and the City of Bowie Present a Community Fair Housing Forum

UPPER MARLBORO (November 27, 2019)—Prince George's County and the City of Bowie are conducting an Analysis of Impediments to Fair Housing Choice. This process is required by the U.S. Department of Housing and Urban Development and includes a market analysis, community input, and policy analysis to identify barriers and impediments that restrict a person's housing choice. The study includes topics such as:

- Racial and ethnic segregation, including segregated, concentrated areas of poverty;
- Gentrification and displacement of residents from their communities;
- Access to communities with high quality schools, good jobs, and public transportation;
- Access barriers for people with disabilities;
- Zoning regulations that limit housing types and price points;
- Fair housing enforcement; and
- Particular housing challenges faced by families with children, voucher holders, and persons with disabilities.

You're Invited!

Prince George's County and the City of Bowie invite you to attend a kick-off community forum to learn about the Analysis of Impediments to Fair Housing Choice process and provide input on housing issues important to you and your community.

Where: Prince George's County Sports and Learning Complex, 8001 Sherriff Road, Landover, MD 20785

When: **Thursday, December 5, 2019, 6–8 p.m.**

*Please note that this Public Meeting will be held in conjunction with the Prince George's County Fiscal Years 2021–2025 Consolidated Plan and Fiscal Year 2021 Annual Action Plan.

Additional Questions?

Prince George's County: Funmi George (301) 883-5536, aogeorge@co.pg.md.us or City of Bowie: Kay Starr 301-809-3009, kstarr@cityofbowie.org

Need Language Interpretation?

To request sign language or Spanish interpretation services, contact the Department of Housing and Community Development at 301-883-5540 or TTY 301-883-5428 at least 3 days in advance.

Can't Make the Meeting?

Written comments may also be sent by e-mail or mail to the Department of Housing and Community Development at 9200 Basil Court, Suite 500, Largo, Maryland 20774. Written Comments should be submitted by Thursday, December 19, 2019.

—Prince George's County MD

Library News

PGCMLS Strategic Plan 2020-2023

The Prince George's County Memorial Library System (PGCMLS) will be adopting: (1) a new mission, (2) a new vision, (3) new values, and (4) a new Strategic Guide for 2020–2023. PGCMLS is committed to our community, to the county initiatives and to designing experiences that allow each individual to achieve their pursuit of happiness. As an essential learning institution, we thrive because of the support of Prince George's County, the County Council, the State of Maryland, and our partners both current and new, our Board of Trustees, our Friends and our Library Foundation who contribute to our striving to be Prince George's Proud!

Library as Go-To Venue for 2020 Census

By law, every 10 years the U.S. Census counts every resident in the United States. The Prince George's County Memorial Library System (PGCMLS) is a key partner in the 2020 Census count. For the first time ever, computers are an important option available for recording census data. Residents will receive an invitation to respond online and some households will receive paper invitations to participate in the 2020 Census, beginning March 12–20, 2020.

At that time, County residents may visit their neighborhood library for computer access and assistance with filling out their census information. The Library will have dedicated computers and a trained staff. All personal information is confidential, including citizenship, income, and other sensitive data by law. You may respond in 12 different languages.

The census count is very important and determines the financial contributions received by the states and their localities. Your participation determines representation and how billions in federal funds are distributed. If our community is undercounted, friends and neighbors miss out on an estimated $18, 250 per person over a 10-year period. Statewide, that's a total of $26.6 billion.

—D. Scott-Martin, PGCMLS

The Neighborhood Design Center News

Call for Nominations:

Board of Directors

Are you a champion of the Neighborhood Design Center's mission, programs, and accomplishments? Are you ready to make a tangible difference in the built environment of Baltimore City and Prince George's County? If you answered yes, perhaps you should consider applying to join our Board of Directors.

The Neighborhood Design Center seeks prospective Board members ready to serve a 3-year term for a nonprofit that's been growing equitable neighborhoods through pro bono design for the last 50 years. Applications close January 10, 2020 at 11:59 p.m. Candidates for election to the Board will be presented to the full Board in March 2020, with full orientation and Board training beginning in May 2020. Contact the Prince George's Office at 301-779-6010.

Upcoming Volunteer Opportunities:

Inclusive Educational Spaces & Upton Hack Hub

Are you a designer in the Prince George's area interested in collaborating with students to create inclusive educational spaces? Or an architect in Baltimore interested in designing emergency housing and startup incubator space with the Upton Hack Hub? For Prince George's projects, feel free to reach out to Allie and Sophie at aoneill@ndc-md.org and smorley@ndc-md.org. For Baltimore-based projects, contact Katryna at kcarter@ndc-md.org in Baltimore if you have any questions. We'll be announcing more information about these opportunities in early December!

—The Neighborhood Design Center Newsletter, November 27, 2019

Community

The American Counseling Association's
Counseling Corner

Don't Let the Holiday Season Get the Best of You

The holiday season leaves many people feeling anxious and nervous as they receive invitations to holiday office parties, family gatherings and other social events that they would rather avoid. It's understandable, for while such events can be a great time to socialize, they also can lead to disaster.

Stories are common of that guy who had one drink too many at that holiday office party and ended up doing permanent damage to his career.

Of course, family holiday gatherings offer the same sort of opportunities to mess things up. A few drinks, then a desire to share family secrets, to rekindle an old disagreement, or to share an opinion better left unshared—all opportunities for trouble.

If worries about upcoming holiday celebrations have you nervous and tense, here are some suggestions on how to make such events less stressful and more enjoyable.

When an event of any type has you anxious that something could go wrong, take steps to limit the opportunities for disaster. Rather than be a no-show, arrive early, visit for a short time, then thank your host and leave. And if it turns out that your anxiety was ill-founded and you're having a good time, then stay and enjoy yourself.

A good rule to avoid problems and embarrassment is to skip the alcohol. Even one or two alcoholic drinks can affect judgment. If a host forces a drink on you, say thanks but don't feel obliged to drink it.

You can also avoid holiday party trouble by simply avoiding potential problem areas. A holiday party is not the place to share negative or critical comments about others. Even things said in confidence have a way of getting repeated to all the wrong people.

It's also important to mind your manners. Avoid excessive drinking, don't overdo it at the buffet table, and be sure to thank your host.

Often problems arise at holiday parties because of problem people. If there's someone who always knows how to push your buttons, focus instead on staying close to those you enjoy and avoid that person. If he or she corners you to argue, simple refuse to respond and instead politely excuse yourself.

You don't have to fear or avoid the holiday party. Focus on being sober, polite and sociable and you may find even a holiday party you're "required" to attend just might be a pleasant experience.

Counseling Corner *is provided by the American Counseling Association. Comments and questions to ACAcorner@counseling.org or visit the ACA website at www.counseling.org.*

Maryland Department of Health Releases First Statewide Diabetes Action Plan With Intervention Strategies to Engage Partners

By PRESS OFFICER
The Maryland Department of Health

BALTIMORE, Md. (November 21, 2019)—In conjunction with National Diabetes Month, the Maryland Department of Health (MDH) today released its first Diabetes Action Plan, which includes intervention strategies for health care providers, stakeholders and individuals to help reduce the burden of diabetes in Maryland.

"Our administration remains committed to ensuring that all Marylanders have the resources they need to lead healthy lives," said Governor Larry Hogan. "This innovative plan promotes greater coordination to enhance quality of life for Marylanders living with diabetes and ultimately to decrease the prevalence of this disease in our state."

MDH officials announced the plan during the day-long Diabetes is Primary education conference for 200 physicians and health care professionals organized by the Maryland Chapter of the American Diabetes Association (ADA) at the Hyatt Regency Inner Harbor in Baltimore.

"Nearly 45 percent of the adult population in Maryland has diabetes or prediabetes, and this disease is the sixth leading cause of death in our state," said MDH Secretary Robert R. Neall. "But the good news is diabetes is generally preventable, and for those with the disease, it can be managed. Our vision is to engage partners across Maryland to coordinate efforts and get the numbers trending downward."

Neall said the goal of the action plan is to spur increased collaboration with partners throughout the state, employing detailed strategies and educating the public about the disease. MDH will involve local health departments and providers from both public and private sectors.

Deputy Secretary of Public Health Fran Phillips highlighted aspects of the 65-page plan, developed from mid-June through mid-September by a 40-member work group. The plan includes a resource guide, comprehensive data about risk factors and specific intervention strategies. The draft plan was available for public comment from Oct. 7 to Nov. 7.

"This plan is a roadmap for both preventing and managing diabetes. It includes specifics for state agencies, hospitals, physicians, schools, local governments, community-based organizations and individuals. We won't reverse the tide unless everyone plays a role," she said.

According to the Centers for Disease Control and Prevention (CDC), nearly 30 million Americans have diabetes. In Maryland, 10.5 percent of adults have diabetes (nearly 500,000) and 34 percent have prediabetes (approximately 1.6 million). Maryland is

See **DIABETES ACTION PLAN** *Page* **A5**

Governor's Office on Service and Volunteerism Now Accepting Nominations for 2020 Black History Month Leadership & Service Awards

Awards Recognize Exceptional Volunteer Service

By JOANNA CHEN
Governor's Office on Service and Volunteerism

ANNAPOLIS, Md. (November 25, 2019)—The Governor's Office on Service and Volunteerism today announced the opening of the nomination period for the 2nd Annual Black History Month Leadership & Service Awards. Introduced in 2018, this awards ceremony recognizes Maryland-based, African American-founded organizations that provide exceptional volunteer service to improve Maryland communities for all. Recipients will be announced during an awards ceremony in February 2020.

"Each year, the month of February offers an opportunity to recognize and celebrate the countless contributions of African Americans throughout our history, and the lasting impact of that heritage today," said Governor Hogan. "I encourage all Marylanders to take time to reflect on the invaluable influence of African American leaders and citizens on our state and our nation."

Over 100 nominations were received for the 2nd Annual Black History Month Community Leaders Awards, and ten organizations were selected as recipients of the accolade during an awards ceremony held at the Banneker-Douglass Museum last February.

"Our award recipients represent the meaningful dedication of our African American communities to serve others, leaving a better world for future generations," said Lt. Governor Rutherford. "From mentoring boys and girls and providing opportunities for these youth to thrive, to providing skills training and workforce development for low-income or formerly-incarcerated men and women, these organizations are to be commended for investing their time and resources into our communities."

The deadline to submit a nomination is Friday, January 3, 2020. Eligible organizations must be Maryland-based, African American-founded, and must have been operational for at least two years. Selection for the awards are based on nominations received which describe the highest degree of meaningful volunteer commitment and service, making a transformative impact in the community. Recipients of the awards will be notified and honored in a February 2020 ceremony in Annapolis. For more information and to nominate an organization, visit gosv.maryland.gov/blackhistorymonth and complete this nomination form.

Local High School and College Students Join Forces With The Breya M. Browner Performing Arts Company to Cheer Up Patients at Children's National Hospital For The Holidays

The Breya M. Browner Performing Arts Company to showcase, "How The Grinch Stole Christmas" at Children's National Hospital in Washington, D.C.

By PRESS OFFICER
The Breya M. Browner Performing Arts Company

PRINCE GEORGES COUNTY, Md. (November 25, 2019)—On Friday, December 13, The Breya M. Browner Performing Arts Company will host their first annual charity performance to promote community service; arts in education and destigmatizing the negative narrative surrounding the performing arts. This interactive event features a showcase of local students, actors, singers, artists and dancers and will be free and open to the visitors and patients of Children's National Hospital in Washington, D.C. The Breya M. Browner Performing Arts Company's performance will highlight local examples of the pertinence in saving arts culture, developing students through arts in education, expressing the importance of youth development and social responsibility. This charitable event will be one of over dozens taking place right here in our community, of the Washington, D.C. metropolitan area as a part of the international "Save The Arts" campaign coordinated by DoSomething.Org, a digital platform powering offline action. More information available at www.dosomething.org.

"At The Breya M. Browner Arts Foundation, we believe in making dreams come true. The BMB Arts Foundation is the leading nonprofit committed to strengthening the Prince George's County community through arts in education, youth development, social responsibility and the visual and performing arts. Since 2019, we have donated to a number of great causes and have helped a number of individuals fulfill their dreams with our contributions."

In Prince George's County, The Breya M. Browner Performing Arts Company's participants are on their way to effectively evoke change within our county, country and within the world. They have taken the proper steps to take the non-profit locality by storm. They will begin to improve the lives of millions of our most talented citizens by providing high class recreational education to children and adults in the Prince George's County area, issuing funds to students to continue their education throughout college, creating a center (which will serve as a safe haven and after school care for residents) and expanding our community's efforts to create change in different causes through the visual and performing arts.

"The Breya M. Browner Performing Arts Company's volunteers serve our community with an immense amount of dedication and passion," said Breya Browner. "Without their assistance, we wouldn't be able to provide these wonderful performances for our community. They are everything to me."

The Breya M. Browner Performing Arts Company *is all about evoking changes in social injustices through arts in education. Together we can build better citizens through arts integration, youth development and social responsibility for America. For more information, visit www.thebmbartsfoundation.org*

Hundreds of Doctor Bears Light Up at Children's National And Across the Region to Bring Hope and Healing

Light up Dr. Bears Deliver Holiday Magic to Hospitalized Kids

By PRESS OFFICER
Children's National Hospital

WASHINGTON (BUSINESS WIRE) (November 20, 2019)—This holiday season, hundreds of children will spend the holidays at Children's National Hospital. The hospital's mascot, Dr. Bear—a symbol of hope and healing that delights kids—is lighting up everywhere to brighten the holidays for patients and their families. Every time someone makes a gift to Children's National, more than 300 light-up four-foot bears shine simultaneously in the hospital, at outpatient centers and at select locations across the Washington, D.C., metropolitan region. Gifts to this campaign support exceptional care for every child and groundbreaking pediatric research that leads to new treatments and cures.

"The Light Up Dr. Bear campaign provides a bit of holiday magic for our children and their families in a truly meaningful way," says DeAnn Marshall, MHA, president of Children's National Hospital Foundation. "You can see the delight on the children's faces every time a bear lights up or when they hug a bear in the hospital. The experience brightens everyone's day."

The Light Up Dr. Bear campaign is Children's National's second annual winter holiday effort to illuminate the community with the spirit of giving. The non-profit institution is Washington, D.C.'s only hospital that specializes in kids. It also advances children's health globally. Philanthropy supports the mission of Children's National to deliver world-class care to every child, regardless of illness, injury or ability to pay.

Campaign giving funds care for the whole child and family, equipment designed just for kids, specialized care teams that nurture children's emotional needs and unique spaces and programs for play, including art, music and pet therapy. It ensures that these special services are available for all patients—for children like Noah—a music-loving 2½-year-old diagnosed with acute myeloid leukemia. This holiday season, Noah rang the victory bell to mark the end of his treatment and celebrate that he is cancer-free.

"Noah is an easy-going kid, but even for him the hospital isn't an easy place to be," says Farissa Elvis Russell, Noah's mom. "We are so thankful for his amazing team at Children's National and for everything they do. Music therapy has been especially comforting for Noah. Even more incredible is how these types of programs are funded through philanthropy, which is why campaigns like Light Up Dr. Bear are so important for our children and our community."

PHOTOGRAPH COURTESY CHILDREN'S NATIONAL HOSPITAL

Brighten the holidays for a sick child.

The Light Up Dr. Bear campaign runs through Dec. 31 to brighten the stay of children and families who can't be home for the holidays. Bear locations also include CityCenter, The Wharf in DC, Bethesda Row, Pike & Rose in Rockville, Reston Town Center and Pentagon Row in Virginia. For more information about the campaign, visit https://childrensnational.org/bears#TheVideo.

Light Up Dr. Bear corporate sponsors include Amazon Web Services (AWS) and Interstate Moving and Storage. AWS generously supports bear installation and maintenance. Interstate provides in-kind logistical support for bear delivery and pickup at more than fifty locations throughout the region.

Give at ChildrensNational.org/Lights to light up Dr. Bear. Use #LightUpDrBear to light up social media and tag Children's National. Give today. Show them you care. Light up Dr. Bear.

Commentary

Marc Morial

President and CEO, National Urban League

To Be Equal:

On Thanksgiving, Reflect Upon the Redemptive Power of Love

"I do therefore invite my fellow citizens in every part of the United States, and also those who are at sea and those who are sojourning in foreign lands, to set apart and observe the last Thursday of November next, as a day of Thanksgiving and Praise to our beneficent Father who dwelleth in the Heavens ... and fervently implore the interposition of the Almighty Hand to heal the wounds of the nation and to restore it as soon as may be consistent with the Divine purposes to the full enjoyment of peace, harmony, tranquility and Union."

—President Abraham Lincoln, 1863

The origin of Thanksgiving as a national holiday is rooted in the need to heal the nation following the Civil War. In recent years, it seems as though our nation has needed healing more than any other time since then.

Everywhere we look, we see advice for negotiating political differences over the Thanksgiving table. How will we get through the day being nice to people who disagree with us?

As a civil rights organization dedicated to righting historical wrongs, we have felt this nation's divisions all too keenly. As we struggle as a nation to find a way to come together on this holiday that Abraham Lincoln dedicated to unity, I recall a sermon of Martin Luther King, Jr., on "loving your enemies," in which he invoked Lincoln's own approach to loving his enemies.

Lincoln famously appointed Edwin Stanton, a bitter rival, as his Secretary of War. And after Lincoln's assassination, Stanton offered up what King called "a beautiful statement concerning the character and the stature of this man," the often-quoted, "Now he belongs to the ages."

King saw in the story of Lincoln and Stanton a powerful message about the redemptive power of love.

"If Abraham Lincoln had hated Stanton, if Abraham Lincoln had answered everything Stanton said, Abraham Lincoln would have not transformed and redeemed Stanton. Stanton would have gone to his grave hating Lincoln, and Lincoln would have gone to his grave hating Stanton. But through the power of love Abraham Lincoln was able to redeem Stanton."

King always counseled against answering hate with hate. In that same sermon, he told a story of driving at night with his brother. His brother was agitated by passing drivers who failed to dim their lights, and threatened to respond in kind to the next discourteous driver. But as King reminded him, that would simply make the highway more dangerous for everyone.

"Somebody got to have some sense on this highway," King said.

We have to have some sense on this highway we are negotiating right now. We have got to resist the temptation to answer hatred with blinding hatred.

If you dread breaking bread with someone who disagrees with you politically, remember that King forgave a woman who stabbed him, nearly killing him.

Loving our enemies doesn't mean accepting oppression. Loving our enemies is the way we transform them from oppressor. To paraphrase King, there are three ways to respond to oppression: with violence and hatred, with acquiescence and resignation, or non-violent resistance based on love.

We often see King's messages of peace invoked as a caution against the ambitious pursuit of justice, and his radicalism downplayed. To imagine exactly what Dr. King would have said or done in response to the events of recent history is a game played by those who would use his legacy to justify their own responses. But what we can know is that he would never give up hope, and he would never stop believing in the redemptive power of love.

November 26, 2019

Benjamin L. Cardin

United States Senator for Maryland

Cardin: GAO Says Failure to Prepare for Climate Change Impacts Will Cost Taxpayers

Since 2005, federal funding for disaster assistance is at least $450 billion

WASHINGTON (November 22, 2019)—U.S. Senator Ben Cardin (D-Md.), Ranking Member of the Senate Environment and Public Works Transportation and Infrastructure Subcommittee, announced Friday the results of a new report from the U.S. Government Accountability Office (GAO) outlining how unprepared the federal government is for climate change and extreme weather events. In a study requested by Senator Cardin, GAO lays out what small investments in resilience have been made to date, but laments the vast financial exposure facing the federal government for its lack of strategic planning. According to GAO, the federal government has spent at least $450 billion for disaster assistance since 2005. The report can be downloaded at www.gao.gov/products/GAO-20-127

"The best available science tells us that climate change is causing irreparable harm and that the increasing instances and severity of extreme weather are adding to social and economic instability. Dealing with climate change has become a national security imperative and the longer we turn a blind eye to the impacts, the more costly it will be for American taxpayers," said Senator Cardin. "Americans have a right to expect that their tax dollars are spent on the most effective resilience projects and that Congress will do everything within its power to ensure that happens."

On September 8, 2017, Senator Cardin sent a letter asking GAO to identify the benefits of adaptation to manage federal climate change fiscal exposure. The result is the report released today: "Climate Resilience: A Strategic Investment Approach for High-Priority Projects Could Help Target Federal Resources."

In the report, GAO sets out six key steps that provide an opportunity for the federal government to strategically identify and prioritize climate resilience projects for investment, based on GAO's review of its prior work, relevant reports, and stakeholder interviews with officials from the U.S. Global Change Research Program (USGCRP), which produces the National Climate Assessment, as well as the Federal Emergency Management Agency (FEMA) and others with expertise in climate resilience and hazard mitigation.

GAO identified two options for focusing federal funding on high-priority climate resilience projects: coordinating funding through multiple existing programs with varied purposes and creating a new federal funding sources dedicated to investment in climate resilience and assessed the strengths and limitations of each option.

The report's findings make clear that the federal government does not have a strategic approach for investing in climate resilience projects—that is, an intentional, cross-cutting approach in which the federal government identifies and prioritizes projects for the purpose of enhancing climate resilience. Information on the benefits and costs of climate resilience projects suggests that such projects can convey benefits, such as protecting life and property from climate hazards, according to the Fourth National Climate Assessment and other reports GAO reviewed.

Senator Cardin: "Maryland's miles of low-lying coast make it particularly vulnerable to the effects of climate change. Inland, South Baltimore, Frederick and Ellicott City have seen unprecedented flooding due to human-caused changes to our climate. Our water and transportation infrastructure systems will be challenged with the expected increase in rainfall in the region, causing damage to homes and businesses. I will continue to advocate for climate resilience investments to ensure communities in Maryland and the nation are prepared."

Governor Hogan Commemorates Victims of Drunk Driving Crashes

16th Annual Maryland Remembers Ceremony Honors Victims and Families, Calls Attention to Consequences of Impaired Driving as Holiday Season Begins

By SHAREESE CHURCHILL
Office of the Governor

ANNAPOLIS, Md. (November 26, 2019)—Governor Larry Hogan [last week] joined state officials and more than 100 family members and friends of victims of impaired driving crashes for the 16th annual Maryland Remembers ceremony. Maryland Remembers honors the lives and legacies of Marylanders who have been killed in impaired driving crashes. During the ceremony, Governor Hogan presented the Kevin Quinlan Award to retired Maryland State Police Lieutenant and the state's current Drug Recognition Expert (DRE) Coordinator Thomas Woodward for his work and advocacy in preventing impaired driving.

The ceremony included Maryland State Police Superintendent Colonel William Pallozzi, Maryland Department of Transportation Motor Vehicle Administrator (MDOT MVA) Chrissy Nizer, and highway safety advocates from the Maryland Affiliate of Mothers Against Drunk Driving (MADD) and the Washington Regional Alcohol Program (WRAP).

"Too many Maryland families have been shattered and too many lives have been cut short, which is why we will never stop fighting to prevent more needless deaths from drunk or drugged driving," said Governor Hogan. "On behalf of all the citizens of our state, let me say thank you and God bless you for choosing to speak out about the heartbreak you have endured, thank you for your courage and your bravery, and thank you for channeling your unimaginable grief and pain into such a positive effort to save lives and help keep others from experiencing the same loss."

The annual event—held this year at the Miller Senate Office Building in Annapolis—takes place at the beginning of the holiday season, when impaired driving crashes tend to increase. In 2018, of the more than 19,000 people arrested for driving under the influence of alcohol or drugs, approximately 2,225 arrests occurred from Thanksgiving to New Year's Day.

Maryland is at the forefront of the national effort to stop the increasingly dangerous trend of impaired driving. Earlier this year, following a multi-year effort, Governor Hogan enacted House Bill 707, which increases penalties for those convicted of a DUI or DWI for first-time and subsequent offenders. These penalties include increased fines and jail time for repeat offenders and the doubling of penalties for first and repeat offenders if they transport a minor while impaired by drugs or alcohol. In 2016, the governor enacted Noah's Law, a measure that expanded Maryland's Ignition Interlock Program to mandate that interlock devices be installed in vehicles of convicted drunk drivers even for the first conviction.

"Maryland State Police, along with our law enforcement partners throughout the state, are committed to ensuring the safety of our citizens," said Colonel Pallozzi. "Officers will be out during the holiday season targeting those who have made the reckless decision to get behind the wheel while impaired."

From 2014 to 2018, nearly 800 people were killed and 16,000 were injured in impaired driving crashes in Maryland. Impairment caused by alcohol and/or drugs is a contributing factor in roughly one-third of highway fatalities and serious injuries each year.

"Impaired driving crashes are no accident, and the resulting injuries and deaths from these crashes are completely preventable," said Administrator Nizer, who also serves as Governor Hogan's Highway Safety Representative. "Always make a plan for a safe and sober ride home."

In August, MDOT MVA debuted the Driver Alcohol Detection System for Safety, which the U.S. Department of Transportation's National Highway Traffic Safety Administration says could help reduce drunk driving fatalities by as much as 60 percent. The system works by measuring the level of alcohol on a driver's naturally exhaled breath. MDOT MVA is piloting the technology on several of its fleet vehicles.

"There is never a good reason to get behind the wheel of a car and drive impaired, which is why we must continue to do everything in our power to save lives and to prevent future tragedies," said Governor Hogan. A Maryland Remembers Memory Stone will be placed on state grounds in Annapolis.

Study Shows That Too Many American Adults Don't Know the Symptoms of a Heart Attack, Says AMAC

WASHINGTON, DC (November 29, 2019)—New research shows that some 13.5 million adults in the U.S. could not identify a single symptom of a heart attack—not even that chest pains are an obvious sign of a cardiac event.

The study was conducted for a recent scientific gathering sponsored by the American Heart Association [AHA]. It was based on findings of data gathered by the Centers for Disease Control in a massive 2017 National Health Interview Survey among more than 25,000 U.S. adults.

According to the AHA, "About 805,000 Americans have a heart attack each year, and about 15% of them die from it. Because early intervention is so critical, health officials have spent decades trying to improve public knowledge of heart attack symptoms and the appropriate emergency response."

Dan Weber, president of the Association of Mature American Citizens [AMAC], notes that cardiovascular disease is of particular concern for seniors. "The American College of Cardiology says that more than a million American adults will have a cardiac event this year and that the average age of heart attack victims is 65.6 years for men and 72 percent for women. It's as you get older it is critical to be aware of the symptoms so that you can get help quickly."

However, according to Harvard Medical School about 45% heart attacks are what is known as silent heart attacks. "They are described as "silent" because when they occur, their symptoms lack the intensity of a classic heart attack, such as extreme chest pain and pressure; stabbing pain in the arm, neck, or jaw; sudden shortness of breath; sweating, and dizziness."

These silent myocardial infarctions (SMI) are more common in men than in women. And, because the symptoms of SMIs can be so mild, its victims can readily ignore them, attributing them to the aches and pains of old age, for example.

"It's a good reason to get regular checkups, especially as you get on in years," suggests AMAC's Weber. Meanwhile, the Harvard report on SMIs, recommends that if you experience suspicious discomfort, whatever the reason, you should see your doctor as soon as possible.

According to that report, "suspicious discomfort" includes:

- Discomfort in the center of the chest that lasts several minutes or goes away and comes back. It can feel like an uncomfortable pressure, squeezing, or pain.
- Discomfort in other upper-body areas, such as one or both arms, the back, the neck, the jaw, or the stomach.
- Shortness of breath before or during chest discomfort.
- Breaking out in a cold sweat or feeling nauseated or lightheaded.

The Prince George's Post

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Business and Finance

Social Security Matters

Ask Rusty:

Should I Claim Benefits at Age 67 if I'm working?

By RUSSELL GLOOR,
AMAC Certified Social Security Advisor
Association of Mature American Citizens

Dear Rusty:

My wife and I were talking to some other senior citizens who say it would be more beneficial to start drawing social security when I turn 67 next year, rather than wait till 70, even if I work full time. Can I do that? ***Signed: Working Senior***

Dear Working Senior: Yes, you can do that, but it may not be your best strategy. Let's explore your options:

If your wife is already collecting Social Security on her work record, you might consider filing a "restricted application for spousal benefits only" and collect a spousal benefit from your wife, while continuing to delay your claim for your own benefit, thus allowing your benefit to continue to grow. You can do this because you were born before 1/2/1954, which is the cutoff date for filing in this manner. In this way you could collect 50% of the benefit your wife is entitled to at her full retirement age (FRA) until such time as you file for your own benefit. If you wait until age 70 to file for your own, your payment will be 24% more than it will be when you are 67. But you cannot use this option unless, or until, your wife is collecting her Social Security benefit from her own work record.

There is no simple answer to when you should claim. It depends upon your current financial needs, your current health and your anticipated longevity (considering your family history). If you anticipate a long healthy life and don't urgently need the money, then waiting until age 70 to claim your benefit will not only give you the highest possible monthly payment but also the most in lifetime benefits (assuming you live to at least the "average" age (84 for a man today). Waiting until 70 will also ensure that your wife gets the highest possible survivor benefit, should you predecease her (at her FRA, your surviving spouse gets 100% of the amount you were receiving at your death).

As for you working, since you've reached your full retirement age you no longer need to worry about Social Security's "earnings test" which takes back benefits from anyone whose earnings exceed a certain limit. But it would be wise to consider that Social Security benefits are subject to Federal Income Tax (and, depending upon where you live, possibly a State income tax), so adding your Social Security income to your earnings from work could be an important tax consideration for you.

Claiming your benefit at age 67 will give you a payment which is 8% more than you would have gotten at age 66. But if the factors discussed above suggest you should wait longer, then you'll earn an additional 8% for each additional year you wait to claim your benefit, up to age 70 when your maximum benefit is reached. What is the downside to waiting? Well, only that your wife, if she will be eligible for a spousal benefit from you, cannot collect that spousal benefit until you start collecting your own benefit. Your wife's spousal benefit would be half of your age 66 benefit if she claims at her full retirement age.

So, as you can see, there is no easy answer to whether you should claim Social Security at age 67, but with the above information you should be able to make an informed decision. And here's one final suggestion: don't take Social Security advice from "armchair experts" and don't be swayed by those who might say "collect now because Social Security is going bankrupt." It's not. It's true that Congress needs to fix some portions of the program soon, and it's also true they've been dragging their collective feet to do so. But, historically, Congress has always stepped up to the task when they had to, and I'm confident they will eventually do so again.

The 2 million member Association of Mature American Citizens (AMAC)*(https://www.amac.us) is a vibrant, vital senior advocacy organization that takes its marching orders from its members. We act and speak on their behalf, protecting their interests and offering a practical insight on how to best solve the problems they face today. Live long and make a difference by joining us today at https://amac.us/join-amac.*

This article is intended for information purposes only and does not represent legal or financial guidance. It presents the opinions and interpretations of the AMAC Foundation's staff, trained and accredited by the National Social Security Association (NSSA). NSSA and the AMAC Foundation and its staff are not affiliated with or endorsed by the Social Security Administration or any other governmental entity. To submit a question, visit our website (amacfoundation.org/programs/social-security-advisory) or email us at ssadvisor@amacfoundation.org.

Maryland Small Business Development Center

Ready Set Go! The Nuts & Bolts of Starting a Business

December 10, 2019 • 1:30–4 p.m.
Silver Spring Library 900 Wayne Ave,
Silver Spring, MD 20910
Cost: FREE
Contact Information: 410-706-5463

This FREE workshop is for those who are interested in starting their first business, but want to find out more information on what to expect before they begin their first business. Our experienced business consultants will share with you everything to anticipate when starting a new business including, information on the legal and licensing requirements, the business plan, the different financing options, preparing a marketing strategy and all the perks and drawbacks that come with the life of an entrepreneur.

Nation's First Ever Registered Apprenticeship In Government Business Development Approved by State of Maryland

OST Global Solutions Approved Sponsor of Apprenticeship; Women, Minorities, and Veterans Targeted

By MARC BRAILOV
OST Global Solutions, Inc.

ROCKVILLE, Md. (November 17, 2019)—As our country mark[ed] National Apprenticeship Week, the nation's first ever registered apprenticeship in government business development has been approved by the state of Maryland. OST Global Solutions, Inc. (OST), based in Rockville, MD, will be the approved sponsor of the Apprenticeship program, which will prioritize accepting women, minorities, and veterans as candidates from Maryland employers.

Engendering a larger pool of highly trained business development professionals to help Maryland government contractors win a greater share of federal contracts more consistently is the impetus behind the new program.

Maryland a Nationwide Leader in Registered Apprenticeships

Maryland has been a nationwide leader in apprenticeship programs, with nearly 11,000 apprentices currently earning and learning in various occupations across the state. This has been in line with the federal policy of making apprenticeship programs a priority—recognizing the need to empower more industries and professions to embrace registered apprenticeship opportunities.

"OST's new registered apprenticeship program in government business development helps ensure that Maryland remains a trailblazer in creating innovative and non-traditional programs that expand professional opportunities for Maryland workers," said Christopher MacLarion, Director of Apprenticeship and Training with the Division of Workforce Development and Adult Learning at the Maryland Department of Labor.

Apprenticeships are an earn-and-learn opportunity where individuals receive salaries and acquire the skills relevant to their chosen career.

Administering of New Apprenticeship Program

OST will administer the Apprenticeship program in support of Maryland businesses, tens of thousands of which are government contractors.

"We're extremely happy that now we'll be able to help address the void in the profession of government business development," said OST's CEO Olessia Smotrova. "Large businesses often have their own 'universities', but mid-tier and small businesses usually have little more than on-the-job training with a few seminars here and there. This Apprenticeship will offer a systematic way to develop skilled business development professionals to help state businesses gain new contracts with the nation's largest customer—the government."

The new Apprenticeship will cover 160 hours in the fields of business development (pipeline development, opportunity qualification), capture (positioning to win contracts prior to issuance of a formal solicitation for bid), and proposal development. The Apprenticeship will combine education that OST's Bid & Proposal Academy provides with hands-on professional work and mentorship at the employer companies.

Governor Hogan Celebrates Grand Opening of Universities at Shady Grove Biomedical and Engineering Facility

$175 Million Educational Building in Rockville Will Help Expand STEM Degree Programs

By SHAREESE CHURCHILL
Maryland Governor's Press Office

ANNAPOLIS, Md. (November 7, 2019)—[In November,] Governor Larry Hogan celebrated the grand opening of the Universities at Shady Grove (USG) Biomedical Sciences and Engineering Education Facility. The governor was joined by University System of Maryland Chancellor Robert Caret, USM Board of Regents Chair Linda Gooden, university presidents from around the state, and local elected officials, business and community leaders, faculty, university staff and students.

"I want to congratulate everyone who has been involved in this exciting achievement for the Universities at Shady Grove, for the University System of Maryland, and for our entire state," said Governor Hogan. "For 5 years, the top priority of my administration has been education, and we are proud to have delivered more than $162 million to support the very important project that we are celebrating here today."

The new Biomedical Science and Engineering Education Facility will provide USG with the opportunity to expand educational offerings and degrees in the STEM fields, including new programs in life sciences, cybersecurity, and engineering. The building will house 20 teaching laboratories, 2 lecture halls, and 12 active learning classrooms, along with an innovation and entrepreneurship center where students and mentors will partner with local businesses. It will also house a community dental clinic, where faculty-supervised students from the School of Dentistry can provide comprehensive dental care to the community.

PHOTOGRAPH CREDIT MARYLAND GOVERNOR'S PRESS OFFICE

Celebrating the grand opening of the Universities at Shady Grove (USG) Biomedical Sciences and Engineering Education Facility.

Established in 2000, USG combines the resources and the tools of nine public Maryland universities to provide high-quality and affordable educational opportunities. This innovative partnership provides 80 upper-level undergraduate, graduate degree, and certificate programs at one central campus location in Montgomery County.

Diabetes Action Plan from A3

consistently one of the 25 states with the highest diabetes prevalence rates.

Diabetes is a chronic disease occurring when a person's blood glucose level is too high due to the body's inability to properly absorb glucose. Prediabetes refers to the condition in which blood sugar levels are higher than normal, but not high enough to be diabetes. Diabetes often leads to other diseases and serious disabilities. About 95 percent of diabetes in the United States is type 2, which is preventable. Being overweight or obese is the most significant contributing factor in developing the disease.

In Maryland, diabetes disproportionately impacts specific populations based on income and education level, race and ethnicity, geographic location and access to healthcare. Other risk factors include poor nutrition, lack of physical activity and tobacco use.

Mark Luckner, Executive Director of the state's Community Health Resources Commission, said the Commission will award grant funding to organizations that serve vulnerable populations and address the social determinants impacting diabetes.

"The Commission fully supports implementation of Maryland's Diabetes Action Plan," Luckner said. "Diabetes impacts far too many individuals and families in our state. We look forward to bringing access to much-needed services and programming in underserved and at-risk communities and addressing the health inequities that are associated with diabetes."

According to the American Diabetes Association, medical expenses for diabetes and its complications in Maryland exceed $4.9 billion a year, with another $2 billion in indirect costs from lost productivity.

"We are excited the Health Department chose our Diabetes is Primary conference to launch the Diabetes Action Plan and look forward to working collaboratively to help bend the curve of diabetes in Maryland in the months and years ahead," said David McShea, Executive Director of ADA's Maryland Chapter.

Reducing diabetes in the state will require a multi-faceted strategy including:

- Expanding nutrition and obesity prevention programs in every community
- Sharing data among health care providers, program providers and state agencies
- Supporting healthy eating in the workplace, in schools and through health systems
- Assessing the food supply chain to address food pricing and access to healthy foods
- Increasing opportunities for physical activity for students and workers
- Encouraging healthcare providers to refer overweight children and adults to evidence-based weight loss programs and lifestyle counseling
- Establishing referral mechanisms to health care specialists for obese children and adults
- Engaging partners to support state-of-the-art diabetes care including the use of telemedicine, case managers and community workers

To review MDH's Diabetes Action Plan, go to health.maryland.gov/diabetes-action-plan.

Maryland Department Of Health Reports Lowest Number of New HIV Cases in More Than 30 Years

BALTIMORE, Md. (November 26, 2019)—In advance of World AIDS Day on Dec. 1, the Maryland Department of Health (MDH) announced the lowest number of new HIV cases reported in Maryland in more than 30 years. For the first time since 1986, Maryland reported less than 1,000 new HIV diagnoses, putting the state on track to support the U.S. Department of Health and Human Services (HHS) goals for Ending the HIV Epidemic: A Plan for America.

"Though Maryland is one of the states hit hard by HIV, we have made substantial progress in reducing new infections over the past 10 years," said MDH Secretary Robert R. Neall. "We still have a lot of work to do, but today's numbers are an encouraging sign that Maryland's prevention and treatment efforts are working to achieve our goals."

According to HHS, Ending the HIV Epidemic: A Plan for America seeks to reduce the number of new HIV infections across the country by 75 percent within five years and by 90 percent by 2030, averting 250,000 new HIV infections. The initiative directs new funds to communities that are most impacted by HIV and leverages landmark biomedical and scientific research advances that have proven effective in HIV treatment and prevention, in addition to improving care for people living with HIV.

See **LOWEST NUMBER** *Page* **A8**

Out on the Town

PHOTOGRAPHS COURTESY MONTPELIER HISTORIC SITE

Tea goodies

Holiday Teas and Artists' Boutique at Montpelier Historic Site

See Montpelier all decked out for the holidays, then enjoy a prix fixe menu of fine finger sandwiches, scrumptious cakes and pastries, buttery scones, and your choice of two quality loose leaf teas, all served on china and tiered stands in Montpelier's elegant East Wing, which will be decorated in festive holiday style.

While here, you can also shop at the Artists' Boutique, featuring original ornaments, fiber art creations and other artistic crafts, and the Montpelier Gift Shop, featuring books, music cds, old-fashioned toys, tea and tea accoutrements and Montpelier memorabilia. The Artists' Boutique is free to enter.

Reservations for the tea is required by Wednesday, December 11. Call 301-377-7817 (no e-mail reservations please). $30 + tax per person, $26 + tax for members of Friends of Montpelier. Price includes gratuity and self-guided tour of the historic house.

Date and Time: Saturday, December 14, 2019, 11 a.m. and 2 p.m.; Sunday, December 15 at 11 a.m. and 2 p.m.
Ages: Adults
Location: Montpelier Historic Site, 9650 Muirkirk Road, (Muirkirk Road at Route 197), Laurel, MD 20708
Contact: 301-377-7817, TTY: 301-699-2544, www.pgparks.com

Below: Purple shawl and runner from the Artists' Boutique. Shop for original ornaments, fiber art creations and other crafts, all by local artisans, will be for sale. Perfect for unique holiday gifts.

Spotlight: Auditions!

Auditions: Missoula Children's Theatre Robinson Crusoe
Date and Time: Monday, December 9, 2019, 4:30–6:30 p.m.
Registration required. *Wear comfortable clothing. All material for song and movement auditions will be provided. Late arrivals will not be admitted.* Missoula Children's Theatre provides two professional tour actor/directors who will audition and cast 50–60 local elementary school students in a full-length, original musical production of "The Amazing Adventures of Robinson Crusoe."
Cost: Free. ***Register*** through Parks Direct.
Ages: Pre-K through 12 grade
Location: Harmony Hall Arts Center, 10701 Livingston Road, Fort Washington, MD 20744
Contact: 301-203-6070; TTY: 301-699-2254

OPEN TO THE PUBLIC

Harmony Hall Arts Center

PHOTO COURTESY THE M-NCPPC

Harmony Hall Arts Center opened its doors to the public in September of 1989 and quickly evolved into Prince George's County's most popular, premier arts facility. We are your one-stop-shop for all your visual and performing arts needs. The Center offers in-depth programs for the creative passions of aspiring artists of all ages in ceramics, sculpture, dance, drama, painting, voice, belly dance and photography. Enjoy our John Addison Concert Hall for a cozy entertainment experience, or view exceptional works of local, national and international artists in our exhibition spaces. The galleries are open Monday through Friday, 8:30 a.m. to 8 p.m., Saturday 10 a.m. to 4 p.m. and Sunday, 10 a.m. to 2 p.m. (no office hours) as well as during most performances.

Harmony Hall Arts Center: 10701 Livingston Road, Fort Washington, MD 20744 • 301-203-6070 • http://www.mncppc.org/1979/Harmony-Hall-Arts-Center

Upcoming Events

IN LARGO:

Surviving the Holidays—Coping with Grief
Date and Time: Thursday, December 12, 2019, 5–6:30 p.m.
Description: A holiday grief support group for those who have lost a loved one. Capital Caring Health grief support services are available to everyone in the local community.
Cost: Free
Ages: All ages are welcome
Location: Capital Caring Health, 1801 McCormick Drive, Suite 180, Largo, MD 20774
Contact: Teyawanda Booker, LCSW-C. ***Call to register:*** 301-883-0866, capitalcaringhealth@messagepartnerspr.com
https://www.capitalcaring.org/wp-content/uploads/CC-Point-of-Hope-December-2019_1.pdf

IN DISTRICT 2:

Hermandad Fiesta
Date and Time: Saturday, December 14, 2019, 11 a.m.–1 p.m.
Location: Langley Park Community Center, 1500 Merrimac Drive, Hyattsville, MD 20783

Dottie McNeil Annual Christmas Celebration and Toy Drive
Date and Time: Saturday, December 14, 2019, 6:30–8:30 p.m.
Location: Rollingcrest Community Center, 120 Sargent Road, Chillum, MD 20782

IN BOWIE:

Saturday Fun With Santa
Date and Time: Saturday, December 14, 2019, 10 a.m.–12 p.m.
Description: Get your photo taken with Santa and enjoy some holiday fun. Moon bounces, face painting, and a live children's band.
Cost: Free with new unwrapped toy per child for the US Marine Corps Toys for Tots Toy Drive. $3 per child without a toy.
Ages: 10 and under, with parents
Location: City Of Bowie Gymnasium, 4100 Northview Drive, Bowie, MD 20716
Contact: 301-809-2388

Rufus the Red-Nosed Rain Dog: Children's Puppet Show
Date and Time: Saturday, December 14, 2019, 2:30–3:30 p.m.
Description: A lost and lonely dog shows up at Santa's workshop. First, he's rejected because he has a red nose, but eventually we learn that everyone is different and everyone is special.
Cost: Free. No reservations needed.
Ages: Great for family audiences and the younger child
Location: Belair Mansion, 12207 Tulip Grove Drive, Bowie, MD 20715
Contact: 301-809-3089 or museumevents@cityofbowie.org.

IN ACCOKEEK:

Guided Nature Hike: Who's Hibernating?
Date and Time: Sunday, December 15, 2019, 1 and 3 p.m.
Description: Explore the natural wonders of Piscataway Park with a guided trail walk led by an educator. Identify plants and animal life, learn about wild edible plants, or explore the changes in the Potomac River landscape over time. Hikes depart from the visitor center .
Cost: $5/person or Free for Accokeek Foundation members
Ages: All ages are welcome
Location: Piscataway Park, 3400 Bryan Point Road, Accokeek, MD 20607
Contact: 301-283-2113

ERIC D. SNIDER'S **IN THE DARK**

···· Movie Review ····

Don't Let Go

Don't Let Go
Grade: C+
Rated R, strong language, some violence and bloody images
1 hr., 43 min.

David Oyelowo, the soulful actor who played Martin Luther King Jr. in "Selma" a few years ago, deserves mainstream success if he wants it, and tossing off a few crowd-pleasing potboilers might seem like the way to get it. But while "Don't Let Go" (called "Relive" at its Sundance premiere) starts with a perfectly good premise, it soon turns into a formulaic police procedural with the most obvious, easily guessed resolution.

Detective Jack Radcliff (Oyelowo) gets a shocking phone call from his recently-murdered niece Ashley (Reid). Working together across time, they race to solve her murder before it can happen.

ROTTENTOMATOES.COM

The hook is irresistible, though: LAPD detective Jack Radcliff (Oyelowo) is surprised to get a phone call from his recently murdered niece, Ashley (Storm Reid), calling from three days before she and her parents were killed. Uncle Jack eventually takes advantage of the time warp to try to prevent the murders, but not before spending a combined seven or eight minutes (or so it feels) staring agape at the caller ID. Writer-director Jacob Estes (whose "Mean Creek" and "The Details" were also Sundance debuts, which goes a long way toward explaining how this one made the cut), quickly loses interest in his sci-fi/fantasy conceit and defaults to disappointingly mundane dirty-cop, this-conspiracy-goes-all-the-way-to-the-top detective tropes that don't do anyone any favors. Oyelowo is magnetic, though, even when stumbling around panicked and dumbfounded.

Calendar of Events

December 5–December 12, 2019

Dinosaur Park Open House
Date and Time: Saturday, December 7, 2019, 12–4 p.m.
Description: Digging and personal fossil hunting prohibited. Discover an ancient world right in Prince George's County! Paleontologists and educators will display fossils, casts, and models of Astrodon johnstoni, Maryland's state dinosaur, along with other 112 million-year-old creatures found at Dinosaur Park. Weather permitting, visitors help search for new fossils and make discoveries that will be preserved with their names for all time!
Cost: Free
Ages: All ages are welcome
Location: Dinosaur Park, 13100 Mid-Atlantic Blvd, Laurel, MD 20708
Contact: 301-627-1286; TTY 301-699-2544

Santa Fly-In
Date and Time: Saturday, December 7, 2019, 12–4 p.m.
Description: Watch Santa fly into historic College Park Airport with some help from local aviators! Make holiday arts and crafts and enjoy holiday activities before having your picture taken with Santa. Santa arrives at approximately 12:30 pm.
Cost: $5/participant
Ages: All ages are welcome
Location: College Park Aviation Museum,1985 Corporal Frank Scott Drive,College Park, MD 20740
Contact: 301-864-6029; TTY 301-699-2544

Family Fun Series: Holidays Around the World
Date and Time: Saturday, December 7, 2019, 2–3 p.m.
Description: 'Tis the season for hilarity! When the tour guides for Worldwide Tours get separated at holiday time, a worldwide adventure awaits. As they travel around the world in search of each other, these guides share what they learn about the season from a wide variety of places and cultures. Celebrate holidays from all over the globe—the Lohri Festival, St. Lucia Day, Hanukkah, Kwanzaa, Christmas, and more!
Cost: $5/person. Get your tickets online, or call 301-277-1710
Ages: All ages are welcome
Location: Publick Playhouse,5445 Landover Road, Cheverly, MD 20784
Contact: 301-277-1710; TTY 301-699-2554

Holiday Candlelight Tea
Date and Time: Saturday, December 7, 2019, 4 p.m.
Description: Set aside a special time to enjoy the season with our candlelight holiday tea! Tea tiers will include festive desserts, scones with jam, and finger sandwiches. We will serve our Marietta special holiday blend tea. Following the tea, you are welcome to tour the beautifully decorated and candlelit historic home.
Cost: $25/person. ***Reservations are required.***
Ages: 8 and older
Location: Marietta House Museum, 5626 Bell Station Road, Glenn Dale, MD 20769
Contact: 301-464-5291; TTY 301-699-2544

Holiday Make and Take Workshop
Date and Time: Sunday, December 8, 2019, 1–3 p.m.
Description: Tinsel, glitter, and evergreens—Oh my!! Come celebrate the holidays by making your own greeting card and/or a holiday ornament. Team up with your family to make lasting memories or come on your own to create a loving gift for that special someone. Participants will get in the holiday spirit when they attend this holiday workshop! No experience needed.
Cost: Free!
Ages: All ages are welcome
Location: Montpelier Arts Center,9652 Muirkirk Road, Laurel, MD 20708
Contact: 301-377-7800; TTY 301-699-2544

Holiday Tours 2019
Date and Time: Tuesday, December 9–Saturday, December 28, 11 a.m.–4 p.m. (closed Wednesdays and December 25)
Description: See Montpelier dressed up for the holidays on these self-guided tours. Rooms decorated in traditional style by local garden clubs. You can also shop at the Artists' Boutique through December 27, featuring original ornaments, fiber art creations and other artistic crafts, and the Montpelier Gift Shop, featuring books, music cds, old-fashioned toys, tea and tea accoutrements and Montpelier memorabilia.
Cost: Regular mansion tour prices apply ($5/adults; $4/seniors; $2/children; ages 4 and under free). No reservations required.
Ages: All ages are welcome
Location: Montpelier Historic Site, 9650 Muirkirk Road, (Muirkirk Road at Rt 197), Laurel, Maryland 20708
Contact: 301-377-7817, TTY: 301-699-2544,

Fairy Tale Fun
Date and Time: Tuesday, December 10, 2019, 10–11 a.m.
Description: Make new friends while enjoying stories, snacks and a craft!
Cost: Free. No reservations
Ages: 2–5 years old
Location: Belair Mansion, 12207 Tulip Grove Drive, Bowie, MD 20715
Contact: 301-809-3089 or museumevents@cityofbowie.org.

A Jazzy Holiday with the Eric Byrd Trio
Date and Time: Thursday, December 12, 2019, 12–1 p.m.
Description: The Eric Byrd Trio graces our stage with cool arrangements of holiday classics. Everything from traditional holiday carols to modern-day favorites will be performed in their own unique styles of gospel, blues, and jazz. ADA: Yes
Cost: $12/person. Purchase through Parks Direct.
Ages: All ages are welcome
Location: Montpelier Arts Center, 9652 Muirkirk Road, Laurel, MD 20708
Contact: 301-377-7800; TTY 301-699-2544

News from The Maryland Zoo

By CLAIRE AUBEL
The Maryland Zoo

The Maryland Zoo Receives Sensory Inclusion Certification

BALTIMORE, Md. (November 8, 2019)—The Maryland Zoo has become the first tourist destination in Maryland to earn sensory inclusion certification through KultureCity.

KultureCity is a nationally recognized nonprofit that provides sensory inclusion training and tools to venues and large-scale events

"We strive to make The Maryland Zoo welcoming to everyone," said Don Hutchinson, president and CEO of The Maryland Zoo. "This certification better prepares us to assist guests in having the most comfortable and accommodating experience possible at the Zoo."

Sensory sensitivities or challenges with sensory regulation are often experienced by individuals with autism, dementia, PTSD and other similar conditions.

As part of the certification, Zoo staff was trained by leading medical professionals on how to recognize guests with sensory needs and how to handle a sensory overload situation. KultureCity supplied the Zoo with sensory bags, which are equipped with noise cancelling headphones (provided by Puro Sound Labs), fidget tools, and verbal cue cards (produced in conjunction with Boardmaker).

One of the major barriers at the Zoo for guests with sensory challenges is sensitivity to over stimulation and noise. KultureCity signage around the Zoo denotes loud areas where noise-cancelling headphones might be helpful and quiet areas where guests can relax.

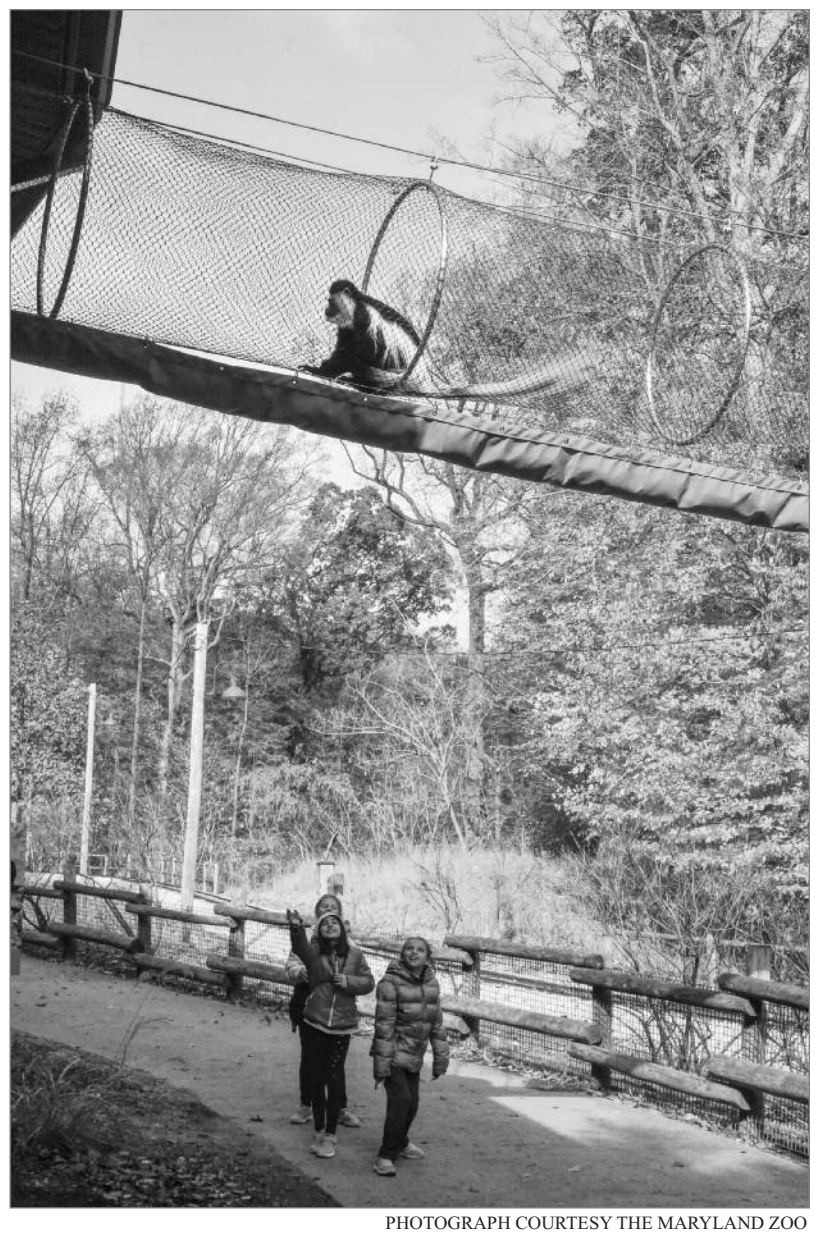
"To know families can visit The Maryland Zoo with their loved ones who have a sensory challenge and who were not able to previously attend, is truly a heartwarming moment. Our communities shape our lives, and to know that The Maryland Zoo is willing to go the extra mile to ensure that everyone, no matter their ability, is included in their community is amazing." Dr. Julian Maha, co-founder of KultureCity.

Prior to visiting the Zoo, guests can download the free KultureCity app to see what sensory features are available and where they can access them. The app also includes a photo preview of what to expect while visiting the Zoo.

For details on the KultureCity program at the Zoo, please visit www.marylandzoo.org and www.facebook.com/marylandzoo.

Founded in 1876, The Maryland Zoo *in Baltimore is the third oldest zoo in the United States and is internationally known for its contributions in conservation and research. More than 1,500 animals are represented in the Zoo's varied natural habitat exhibits in areas such as the award-winning Penguin Coast, Polar Bear Watch, the Maryland Wilderness, African Journey and the Children's Zoo. Situated in Druid Hill Park near downtown Baltimore, the Zoo is accredited by the Association of Zoos & Aquariums. For more information, visit www.marylandzoo.org.*

KultureCity *is a leading non-profit recognized nationwide for using their resources to revolutionize and effect change in the community for those with sensory needs; not just those with Autism. Since the program's inception, KultureCity has created over 350 sensory inclusive venues in 4 countries; this includes special events such as: NFL Pro-Bowl, NFL Super Bowl, MLB All Star Weekend. KultureCity has won many awards for its efforts: NASCAR Betty Jane France Humanitarian Award in 2017, Cleveland Cavaliers' Quiet Space Sensory Room at Quicken Loans Arena was a finalist for the 2018 Stadium Business Award, and the 2018 Clio Sports Silver for social good in partnership with Cleveland Cavaliers/Quicken Loans Arena. Recently, KultureCity was awarded one of the World's Most Innovative Companies for 2019 by FastCompany.*



PHOTOGRAPH COURTESY THE MARYLAND ZOO

To the delight of zoogoers, a monkey tests out the Colobus Trail at The Maryland Zoo.

Monkeys Test Out New Trail at The Maryland Zoo

We are nearing completion of the new Colobus Trail, and thanks to mild temperatures today (November 20), the Zoo's colobus monkeys were able to explore the new pathway for the first time.

When complete, Colobus Trail will be the newest addition to the Zoo's African Journey.

What is a Colobus Trail?

- The raised mesh and Plexiglas tunnel is suspended from the ceiling of Chimpanzee Forest.
- Inside, the Colobus Trail connects the colobus and lemur habitats leading to the connecting trail outside of the building.
- The trail is positioned 12 feet off the ground and runs adjacent to the Jones Falls Zephyr train tracks.
- The trail will lead to the three outdoor habitats on Lemur Lane.
- Construction is predicted to be complete by the end of November.
- Once the trail is complete, the colobus and lemurs will have access to it depending on outside weather conditions.

Colobus monkeys (Colobus guereza) are found in all types of forests in equatorial Africa. They are easily distinguishable by their black bodies and long white tails, and are highly social animals that spend most of their time sitting in the treetops eating and socializing.

For updates on Colobus Trail construction and all Chimpanzee Forest animals, please visit www.marylandzoo.org and www.facebook.com/marylandzoo.

The Maryland Zoo in Baltimore
One Safari Place
Baltimore, MD 21217

Earth TALK™ Canine Cancer Rates on the Rise: Are Lawn Chemicals to Blame?

Dear EarthTalk:
Is it true that lawn chemicals can cause canine cancer, and if so, how can I protect my dog?
—Bill W., Ithaca, NY

Unfortunately, the answer may very well be yes. A 2012 study published in the peer-reviewed scientific journal, *Environmental Research*, found that exposure to certain lawn care products, such as the nearly ubiquitous herbicide 2,4-Dichlorophenoxyacetic acid (2 4-D for short), increases dogs' chances of developing Canine Malignant Lymphoma (CML) by 70 percent. When ingested repeatedly, 2 4-D acts as an endocrine disruptor, mutating a dog's white blood cell count allowing malignant tumor cells to replicate unchecked. While obviously worrisome for dogs and those of us who love them, the implications for people aren't good either, given the similarities between the onset of CML in canines and non-Hodgkin's lymphoma in humans.

A 2013 study in another peer-reviewed journal, *Science of the Total Environment*, found that "exposure to herbicide-treated lawns has been associated with significantly higher bladder cancer risk in dogs." Certain breeds of dogs (terriers, beagles, sheep dogs) are at greater risk, but needless to say lots of 2 4-D or other synthetic lawn chemicals like glyphosate (the active ingredient in RoundUp) aren't good for dogs of any stripe. "A strong justification for the work was that dogs may serve as sentinels for potentially harmful environmental exposures in humans," report the researchers behind the bladder cancer study.

What can you do to help prevent more dogs (and humans) from getting sick? For starters, avoid using lawn care chemicals around your home. And if you hire or manage someone else to take care of your yard, make sure they are not using 2 4-D, glyphosate or any other potentially hazardous pesticides, herbicides or fertilizers. Getting rid of your lawn altogether and replacing it with regionally adapted native plants that don't need fertilizers or pesticides to thrive is another way to protect dogs from chemicals while saving yourself the trouble of having to mow the lawn.

IMAGE CREDIT: BRETT SAYLES, PEXELS

Maybe you shouldn't let your dog run free at the park—or in your neighbor's yard—if carcinogenic chemicals are used on the lawn.

If you can't live without a grassy green lawn and can't bear to just let it go wild, opt for all-natural, organic inputs. For instance, organic compost distributed across your lawn with a shovel in a thin layer can do just as well or better at nourishing your grass as chemical fertilizers. For weed control (beyond good-old hand-pulling), a great all-natural alternative to RoundUp is BurnOut, which uses the power of food-grade vinegar and clove oil instead of glyphosate to eradicate unwanted plants.

As for protecting your dog while out on a walk, steer clear of private lawns, even if you have to leash Fido to keep him out of neighbors' yards. And the days of letting your dog run free in parks where your municipality may use questionable landscaping chemicals are over now that we know the potential consequences. Fortunately, many enlightened cities and towns have taken steps to rid their publicly accessible lands of such hazardous treatments. But you won't know unless you ask, so contact your local parks department to find out exactly what they're spraying. And if you don't like the answer, rally other dog owners to help get it changed, for dogs' sake.

CONTACTS: "Household Chemical Exposures and the Risk of Canine Malignant Lymphoma, a Model for Human Non-Hodgkin's Lymphoma," ncbi.nlm.nih.gov/pmc/articles/PMC3267855/; "Detection of herbicides in the urine of pet dogs following home lawn chemical application," ncbi.nlm.nih.gov/pubmed/23584031; BurnOut Weed and Grass Killer, amzn.to/2XyhKGe.

EarthTalk® is produced by Roddy Scheer & Doug Moss for the 501(c)3 nonprofit **EarthTalk**. See more at https://emagazine.com. To donate, visit https://www.earthtalk.org. Send questions to: question@earthtalk.org.

County Church Directory

UNITED METHODIST

WESTPHALIA
United Methodist Church

"A CHURCH ON THE REACH FOR GOD"
9363 D'Arcy Road
Upper Marlboro, MD

Two Worship Services:
8 and 10:30 a.m.
Sunday School: 9:30

(301)735-9373
Fax: (301) 735-1844

Rev. Dr. Timothy West, Pastor

ALL ARE WELCOME

Web Site:
www.westphaliaum.org

BAPTIST

FIRST BAPTIST CHURCH OF HIGHLAND PARK

'A Bible Based, Christ Centered & Spirit Led Congregation'
6801 Sheriff Road Landover, MD 20785 **(301) 773-6655**
Sunday Biblical Institute:
9:30 a.m.
Sunday Worship:
7:30 a.m., 11:00 a.m.
Saturday Worship:
6:30 p.m
'WONDERFUL WEDNESDAYS WITH JESUS':
12 noon (The Power Hour) and 6:45 pm

"A Time of Prayer, Praise, Worship, & The Word"
Dr. Henry P. Davis III, Pastor
www.fbhp.org

BAPTIST

First Baptist Church of College Park
Welcomes You Where Jesus Christ Is Lord and King
Stephen L. Wright, Sr., Pastor

5018 Lakeland Road
College Park, MD 20740
301-474-3995
www.fbc-cp.org

Sunday School 9:30a.m.
Sunday Worship 11a.m.
Holy Communion 1st Sunday
Wednesday Bible Study 7-8p.m.
Wednesday Prayer Service 8p.m.

UNITED METHODIST

Union
United Methodist Church

14418 Old Marlboro Pike,
Upper Marlboro, MD

Church (301) 627-7389

Sunday School: (Children/Adults) - 8:30 a.m.

Sunday Worship: 10:00 a.m.

Rev. Dr. Kendrick D. Weaver, Pastor
www.uumchurch.com

S. G. Spottswood A.M.E. Zion Church

419 Hill Road, Landover, MD
20785 • 301-490-2625

Rev. Ranesa Mayo, Pastor

"We are training disciples to experience victory in every area of their lives"
Matthew 28:19–20

Sunday School 9:00 a.m.
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K-9 Unit from A1

train each dog for its region, and that the dogs can travel state-wide.

When the dogs locate an item or person of interest—what Corcoran classifies as the "ultimate goal"—Maryland's Department of Natural Resources trains them to use a passive action that is easily visible to indicate the find, such as sitting or laying down.

Corcoran trains the dogs to execute a passive action instead of an aggressive one, such as scratching or biting, to ensure that the dog and the evidence or item of interest remain safe.

The canines are then rewarded for their work by the department's handlers, granting them play time with a toy of their choice.

Millner said that he recommends handlers to utilize a variable reward system, which causes a build up of anticipation and a rush of endorphins.

"Whatever motivates the dog … is what I want the handler to use," Millner said. "Nationwide, KONG is the toy of choice—probably the dog's favorite choice."

KONG toys are made out of rubber that can withstand lengthy chewing and can be filled with snacks.

The K-9's training program is based around positive reinforcement and high praise—tactics that are most effective when instructing dogs, according to Millner.

Two of the department's dogs—Rider and Ruckus—arrived as donations from county animal shelters, while Beacon was donated by a family.

Badger, the Natural Resource cadaver, or human remains, dog was purchased for $700 from private yellow Labrador breeder Scott Stapleford in Delaware.

The Maryland State Police can pay more—anywhere from $3,500 to $9,000 based on the type of dog, where it is procured, the length of warranty, and the amount of training the dog may already have, according to the department. The state police have 42 dogs, including German shepherds, Belgian Malinois, Labrador retrievers, bloodhounds and a springer spaniel.

The state police obtained one German shepherd from a rescue facility, according to the department.

Maryland State Police dogs are trained in both police activities and detection of material, including narcotics and explosives, according to Brenda Carl, public affairs officer for the Maryland State Police.

Their training is also done in house with department trainers and lasts between 12 and 20 weeks depending on the dog and its handler, according to the department.

Millner also cited the execution of obedience as another factor in the longer training of police dogs.

After tearing his right cranial cruciate ligament, which is similar to an anterior cruciate ligament in humans, in June, Rider tore his left cranial cruciate ligament in October—not an uncommon occurrence for dogs, the department said.

But after Rider makes a full recovery—as the department expects—Beast Mode will be back on duty, tracking down illegal activity involving Maryland's natural resources.

Lowest Number from A5

MDH data released in September reported 997 new HIV diagnoses in Maryland in 2018, the lowest since 947 new HIV diagnoses were reported in 1986. New HIV diagnoses in Maryland reached their highest number in 1991, with 2,612 cases reported.

MDH identified the first HIV case in Maryland in October 1981. Since then, more than 59,000 Marylanders have been infected with HIV, 41,000 of whom received an AIDS diagnosis. To date, there have been more than 23,000 AIDS-related deaths in Maryland.

HIV, the virus that causes AIDS, is an infectious blood-borne pathogen that leads to severe immune system suppression, hospitalization and death when left untreated. When treated, HIV is a manageable chronic disease, and people who achieve HIV suppression can live healthy lives.

HIV spreads through sexual activity, by sharing hypodermic needles (generally during injection drug use) and from mother to baby during pregnancy and breastfeeding. Common symptoms of acute infection include fever, fatigue, swollen lymph glands or tonsils, sore throat, joint and muscle aches, diarrhea and rash. The first symptoms may begin a few days after infection and may last for about 14 days. After the initial symptoms subside, a person may remain asymptomatic for years until they become immunosuppressed and susceptible to many infections.

"The best way to protect yourself and your community is to take an HIV test," said Deputy Secretary for Public Health Frances B. Phillips. "If you test positive, there are safe and effective treatments that can keep you healthy. If you test negative, there are multiple prevention options to consider, including PrEP, a daily pill to prevent infection."

HIV testing is recommended at least once for everyone ages 13 to 64, and for pregnant women, patients initiating treatment for tuberculosis and patients seeking treatment for sexually transmitted infections. Repeat testing, at least annually, is recommended for individuals who are at high risk for acquiring HIV including:

- Injection drug users and their sex partners
- Sex partners of HIV-infected people
- Men who have sex with men
- Heterosexual people who themselves or whose sex partners have had more than one sex partner since their most recent HIV test

Free and confidential HIV testing is available through local health departments.

NYC Commission on Human Rights

Central Office Address:
22 Reade Street
New York, NY 10007

September 2019

NYC Commission on Human Rights Legal Enforcement Guidance on Discrimination on the Basis of Immigration Status and National Origin

I. Introduction

Approximately 3.2 million New York City residents were born outside of the United States, representing 37% of the City's population.[1] Nearly 1.4 million New York City residents, or 16% of the population, are noncitizens.[2] More than 50% of children in New York City have a foreign-born parent,[3] and approximately 60% of New Yorkers live in a household with at least one immigrant.[4] New York is also among the most linguistically diverse cities in the world, with hundreds of languages being spoken throughout the five boroughs.[5]

Millions of immigrants have settled in New York City. They have built homes, communities, and businesses; they lead houses of worship, non-profit organizations, corporations, small businesses, City agencies, and educational institutions; and they continuously contribute—in immeasurable ways—to the fabric of this City.

The New York City Human Rights Law ("NYCHRL") prohibits discrimination on the basis of actual or perceived "alienage and citizenship status," and "national origin," among

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1 *State of Our Immigrant City: MOIA Annual Report for Calendar Year 2018*, N.Y.C. Mayor's Office of Immigrant Affairs (2019), https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia_annual_report%202019_final.pdf.

2 *Id*.

3 *Id*.

4 *Id*.

5 Sam Roberts, *Listening to (and Saving) the World's Languages*, N.Y. TIMES (Apr. 29, 2010), https://www.nytimes.com/2010/04/29/nyregion/29lost.html.

other categories, by most employers,[6] housing providers,[7] and providers of public accommodations[8] in New York City. The NYCHRL also prohibits discriminatory

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[6] The NYCHRL prohibits unlawful discriminatory practices in employment and covers entities including employers, labor organizations, employment agencies, joint labor-management committee controlling apprentice training programs, or any employee or agent thereof. N.Y.C. Admin. Code § 8-107(1). Under the NYCHRL:

> The term "employer" does not include any employer with fewer than four persons in his or her employ, provided however, that in an action for unlawful discriminatory practice based on a claim of gender-based harassment . . ., the term "employer" shall include any employer, including those with fewer than four persons in their employ. . . . [N]atural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers shall be counted as persons in the employ of such employer.

Id. § 8-102.

"The term 'employment agency' includes any person undertaking to procure employees or opportunities to work." *Id*. "The term 'labor organization' includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms and conditions of employment, or of other mutual aid or protection in connection with employment." *Id*.

[7] The NYCHRL prohibits unlawful discriminatory practices in housing, and covers entities including the "owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be constructed, or an interest therein, or any agent or employee thereof." N.Y.C. Admin. Code § 8-107(5). Covered entities also include real estate brokers, real estate salespersons, or employees or agents thereof. *Id.* The NYCHRL defines the term "housing accommodation" to include "any building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings. Except as otherwise specifically provided, such term shall include a publicly-assisted housing accommodation." *Id.* § 8-102. However, the NYCHRL exempts from coverage:

> the rental of a housing accommodation, other than a publicly-assisted housing accommodation, in a building which contains housing accommodations for not more than two families living independently of each other, if the owner [or] members of the owner's family reside in one of such housing accommodations, and if the available housing accommodation has not been publicly advertised, listed, or otherwise offered to the general public; or (2) to the rental of a room or rooms in a housing accommodation, other than a publicly-assisted housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.

Id. § 8-107(5)(4).

[8] The NYCHRL prohibits unlawful discriminatory practices in public accommodations, and covers entities including any person who is the owner, franchisor, franchisee, lessor, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation. N.Y.C. Admin. Code § 8-107(4). The NYCHRL defines the term "place or provider of public accommodation" to include:

> providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold, or otherwise made available. Such term shall not include any club which proves that it is in its nature distinctly private . . . [or] a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state, or a religious corporation incorporated under the education law or the religious corporation law [which] shall be deemed to be in its nature

harassment[9] and bias-based profiling by law enforcement.[10] Pursuant to Local Law 85 (2005), the NYCHRL must be construed "independently from similar or identical provisions of New York State or federal statutes," such that "similarly worded provisions of federal and state civil rights laws [are] a floor below which the City's Human Rights law cannot fall, rather than a ceiling above which the local law cannot rise."[11] In addition, exemptions to the NYCHRL must be construed "narrowly in order to maximize deterrence of discriminatory conduct."[12]

The New York City Commission on Human Rights (the "Commission") is the City agency charged with enforcing the NYCHRL. Individuals interested in vindicating their rights under the NYCHRL can choose to file a complaint with the Commission's Law Enforcement Bureau within one year of the discriminatory act and within three years for claims of gender-based harassment,[13] or file a complaint in court within three years of the discriminatory act.[14] The Commission has procedures in place to protect the confidentiality of an individual's immigration status and does not seek out such information.[15] Moreover, the Commission—in compliance with Executive Orders 34 and 41[16] and the City's Identifying Information Law[17]—does not ask for or collect information about immigration status from complainants, respondents, or witnesses, and seeks protective orders as necessary to protect all parties from disclosure about immigration status.[18]

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distinctly private.

Id. § 8-102.

9 N.Y.C. Admin. Code §§ 8-602–603.

10 *Id.* § 14-151.

11 Local Law 85 § 1 (2005); N.Y.C. Admin. Code § 8-130(a) ("The provisions of this title shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York state civil and human rights laws, including those laws with provisions worded comparably to provisions of this title, have been so construed.").

12 Local Law 35 (2016); N.Y.C. Admin. Code § 8-130(b).

13 N.Y.C. Admin. Code § 8-109(e).

14 *Id.* § 8-402.

15 The Commission also has the ability to receive anonymous complaints and prosecute a Commission-initiated investigation. *Id.* § 8-109(c). Individuals do not need to retain an attorney to file at the Commission.

16 N.Y.C. Mayoral Executive Orders 34 and 41 of 2003, https://www1.nyc.gov/site/immigrants/about/local-laws-executive-orders.page. Executive Order 34, as amended by Executive Order 41, prohibits City officers or employees (other than law enforcement officers, who are subject to separate restrictions) from inquiring about a person's immigration status unless: "(1) Such person's immigration status is necessary for the determination of program, service or benefit eligibility or the provision of City services; or (2) Such officer or employee is required by law to inquire about such person's immigration status." Executive Order 41 prohibits law enforcement officers from inquiring about a person's immigration status unless investigating illegal activity other than mere status as an undocumented immigrant. Executive Order 41 also prohibits City officers from disclosing another person's immigration status unless the disclosure is required by law or permitted by other provisions of the Order.

17 Local Laws 245, 247 (2017); Charter § 8(h); N.Y.C. Admin. Code § 23-1201 *et seq*.

18 47 R.C.N.Y. § 1-65(d) ("Materials related to immigration status are not subject to disclosure or discovery absent an order to compel issued by the Chair. A party seeking production of such materials may move the Administrative Law Judge for a recommendation to the Chair for an order to compel. When deciding a motion for an order to compel the production of such materials, the Chair must consider the following factors: whether the materials are relevant and necessary to a claim or defense, and whether

"Alienage and citizenship status" is defined by the NYCHRL to mean: "(a) the citizenship of any person, or (b) the immigration status of any person who is not a citizen or national of the United States."[19] This guidance uses the term "immigration status" wherever possible, as the term "alienage," as a derivative of "alien," may be offensive.[20]

"Alien"—used in many laws to refer to a "noncitizen" person—is a term that may carry negative connotations and dehumanize immigrants, marking them as "other."[21] As discussed in Section III, the use of certain language, including "illegal alien" and "illegals," with the intent to demean, humiliate, or offend a person or persons constitutes discrimination under the NYCHRL.[22]

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production of the materials will subject a party to annoyance, embarrassment, oppression, undue burden, or prejudice (including in terrorem effect). Notwithstanding the foregoing, an individual may voluntarily produce or authorize the production of information about the individual's own immigration status.").

[19] N.Y.C. Admin. Code § 8-102(21).

[20] *See* Stephen Hiltner, *Illegal, Undocumented, Unauthorized: The Terms of Immigration Reporting*, N.Y. TIMES (Mar. 10, 2017), https://www.nytimes.com/2017/03/10/insider/illegal-undocumented-unauthorized-the-terms-of-immigration-reporting.html ("alien" and "illegal" are "off the table entirely" in the New York Times style guide). The Commission avoids the use of the term "alien" wherever possible to describe an individual or a community despite the fact that the word "alienage" appears in the NYCHRL and in many relevant state and federal laws. *See, e.g.*, 8 U.S.C. § 1324b *et seq*.; N.Y. Const. art. III, § 5; N.Y. Civ. Serv. Law § 53. The Commission recognizes that federal, state, and local laws often contain the word "alien" to describe a "noncitizen" person. Where covered entities are required to complete certain forms that contain a reference to "alien" pursuant to federal, state, or local law, such use does not amount to unlawful discrimination in violation of the NYCHRL.

[21] Keith Cunningham-Parmeter, *Alien Language: Immigration Metaphors and the Jurisprudence of Otherness*, 79 FORDHAM L. REV. 1545, 1569 (2011). *See generally* D. Carolina Núñez, *War of the Words: Aliens, Immigrants, Citizens, and the Language of Exclusion*, 2013 B.Y.U. L. REV. 1517 (2013); Gerald L. Neuman, *Aliens as Outlaws: Government Services, Proposition 187, and the Structure of Equal Protection Doctrine*, 42 UCLA L. Rev. 1425 (1994); Kevin R. Johnson, *"Aliens" and the US Immigration Laws: The Social and Legal Construction of Nonpersons*, 28 U. MIAMI INTER-AM. L. REV. 263 (1996).

[22] The use of the term "illegal" is problematic for many reasons, including that it purports to assign guilt to a person before a fair trial. In 2009, Supreme Court Justice Sonia Sotomayor became the first justice on the high court to opt for the term "undocumented immigrant" in an opinion. *See generally Mohawk Indus., Inc. v. Carpenter*, 130 S. Ct. 599, 175 L. Ed. 2d 458 (2009). In discussing *Carpenter*, she explained that using the term "illegal alien" creates the perception "that immigrants are all criminals and criminals in a negative sense of drug addicts, thieves, and murderers." *See* Derek Hawkins, *The long struggle over what to call 'undocumented immigrants' or, as Trump said in his order, 'illegal aliens',* Wash. Post (Feb. 9, 2017), https://www.washingtonpost.com/news/morning-mix/wp/2017/02/09/when-trump-says-illegals-immigrant-advocates-recoil-he-would-have-been-all-right-in-1970/?noredirect=on&utm_term=.dad8d593d0ac. The 2012 Supreme Court decision on immigration omitted the terms "illegal immigrants" and "illegal aliens" all together, except when quoting other sources. *See id.* Advocates highlighted that this reflected a more "humanistic approach" in addressing U.S. immigration policy. *Id. See also* Beth Lyon, *When More "Security" Equals Less Workplace Safety: Reconsidering U.S. Laws that Disadvantage Unauthorized Workers*, 6 U. Pa. J. Lab. & Emp. L. 571, 576, 2004 (referring to such people as "illegal aliens" is equivalent to referring to defendants awaiting trial as "convicted criminals"). International human rights law mandates that States respect immigrants' human rights and refrain from criminalizing migrants who enter the State irregularly. *See* International Justice Resource Center, *Ten Human Rights Standards Implicated by U.S. Immigration Policy*, https://ijrcenter.org/2018/06/27/ten-human-rights-standards-implicated-by-u-s-immigration-policy/; Inter-American Commission on Human Rights Press Release, *IACHR Expresses Concern over Recent Migration and Asylum Policies and Measures in the United States*, I.A.C.H.R. Press Release 130 (June

Discrimination based on immigration status often overlaps with discrimination based on national origin[23] and/or religion. The "line between discrimination based on ancestry or ethnic characteristics, and discrimination based on place or nation of . . . origin, is not a bright one,"[24] and it is often difficult to disentangle the motivation behind discriminatory animus based on immigration status, national origin, and other protected categories. Individuals who feel they have experienced discrimination may file a complaint under any or all of these categories that relate to their claim.[25]

This document serves as the Commission's legal enforcement guidance on the NYCHRL's protections against discrimination based on actual or perceived immigration status and actual or perceived national origin.[26] This document is not intended to serve as an exhaustive description of all forms of immigration status-related or national origin-related discrimination claims under the NYCHRL.

II. Legislative History

Local Law 97 of 1965 amended the NYCHRL to add "national origin" as a protected category in employment, public accommodations, and housing.[27] Two decades later, the federal government passed the Immigration Reform and Control Act of 1986 ("IRCA")—a statute that changed the landscape of immigration law by creating sanctions for employers who hire undocumented workers,[28] legalizing the presence of certain seasonal agricultural undocumented immigrants, and granting amnesty for all immigrants who entered the United States before January 1, 1982.[29]

After the passage of IRCA, New York City found that some employers, in an effort to comply with the new federal law, were discriminating against immigrant New Yorkers by asking only "foreign-looking" individuals for work authorization documents or hiring only U.S. citizens.[30] The New York State Interagency Task Force on Immigration Affairs similarly found that, due to IRCA, New York employers were engaging in practices that disadvantaged or discriminated against noncitizens by refusing to accept legally valid proof of residency, denying employment to those who experienced minor delays in

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18, 2018), http://www.oas.org/en/iachr/media_center/PReleases/2018/130.asp.

23 The term "national origin" is undefined in the NYCHRL.

24 *Saint Francis College v. Al–Khazraji*, 481 U.S. 604, 614 (1987) ("race, religion, and national origin are commonly associated with one another, it is difficult, and unnecessary, to consider whether the various allegedly discriminatory incidents . . . clearly point to either race-, religion-, or national-origin-based discrimination.").

25 *See Payne v. N.Y.C. Police Dep't*, 863 F. Supp. 2d 169, 182 n.8 (E.D.N.Y. 2012).

26 While this document is focused on the NYCHRL, the Commission cites federal authority where instructive. This document does not constitute legal guidance on federal law.

27 Marta B. Varela, *The First Forty Years of the Commission on Human Rights*, FORDHAM URBAN L. J., 984–85 (1995) (citing N.Y.C. Local Law 97 (1965)).

28 Bill Jacket, Local Law 52 (1989); 8 U.S.C. §§1160, 1187, 1188, 1255a, 1324a, 1324b, 1364, 1365. IRCA introduced Form I-9 and established financial and other penalties for those employing immigrants without work authorization.

29 8 U.S.C. §§ 1160, 1255a.

30 Mayor Koch Testimony, Local Law 52 (1989), available upon request from the Commission.

gathering documentation, asking for documents only from individuals who they perceived to be foreign, and refusing to hire individuals not born in the U.S.[31] The City determined that immigrants "are often victims of discrimination and denied rights conferred upon them by the U.S. Constitution and other federal, state, and City law."[32] As a result, the City enacted Local Law 52 of 1989, adding "alienage and citizenship status" as a protected category to the NYCHRL,[33] providing anti-discrimination legal protections to documented and undocumented immigrants alike.[34]

III. Violations of the NYCHRL Based on Immigration Status and National Origin

A. Disparate Treatment

Disparate treatment—which occurs when a covered entity treats an individual less well than others because of a protected characteristic[35]—based on an individual's actual or perceived immigration status or national origin in employment, housing, and places of public accommodation violates the NYCHRL.[36] Disparate treatment may be overt, or it may manifest itself in more subtle ways. Disparate treatment can manifest through policies, treatment, harassment, and actions based on stereotypes or assumptions.

Disparate treatment based on actual or perceived immigration status or national origin may also be expressed by animus based on characteristics closely associated with one's actual or perceived immigration status or national origin. For example, discriminating against someone because of their accent, English proficiency, or use of another language[37] is discrimination based on immigration status and/or national origin.

To establish disparate treatment under the NYCHRL, an individual must show that they were treated less well or subjected to an adverse action at least in part because of their membership in a protected class.[38] An individual may demonstrate this through direct evidence of discrimination or indirect evidence that gives rise to an inference of discrimination.[39]

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31 *Id*.

32 *Id*.

33 Codified in N.Y.C. Admin. Code §§ 8-102, 8-107. The protected category was also included with the later additions of bias-based profiling and discriminatory harassment. *See* N.Y.C. Admin. Code §§ 8-602–603, 14-151.

34 Richard Levine, *Koch Favors Measure to Protect Illegal Aliens*, N.Y. TIMES (Dec. 22, 1988), https://www.nytimes.com/1988/12/22/nyregion/koch-favors-measure-to-protect-illegal-aliens.html.

35 *Raytheon Co. v. Hernandez*, 540 U.S. 44, 52 (2003).

36 *Williams v. N.Y.C. Hous. Auth*., 872 N.Y.S.2d 27, 39 (1st Dep't 2009). The NYCHRL also protects individuals based on actual or perceived immigration status in several other contexts such as licensing, real estate, credit, discriminatory harassment, and bias-based profiling. *See* N.Y.C. Admin. Code §§ 8-107(9), 8-107(5), 8-107(24), 8-603, 14-151.

37 In the employment context, proficiency in English may be necessary to requirements of the job. In such instances, an employer must establish that English proficiency is necessary to the job to argue that no discriminatory animus motivated a decision to reject an applicant or to take an adverse action against an employee. *See Mejia v. N.Y. Sheraton Hotel*, 459 F. Supp. 375, 377 (S.D.N.Y. 1978).

38 *Williams*, 872 N.Y.S.2d at 39.

39 Examples of direct evidence could include explicit statements by a covered entity that an adverse action was based on a protected status, or explicitly discriminatory policies. *See In re Comm'n on Human*

1. Employment

It is unlawful to discriminate in the terms and conditions of employment because of a job applicant's or employee's actual or perceived immigration status or national origin.[40] Adverse actions and discriminatory policies based on these protected categories violate the NYCHRL because they subject employees to worse treatment based on their actual or perceived immigration status. As discussed further below, the NYCHRL states that compliance with federal, state, or local laws that expressly permit inquiry into immigration status in limited circumstances is not discriminatory conduct;[41] in the employment context, this includes federal legal requirements that employers verify job applicants' work authorization upon hiring. However, if an employer decides to hire someone regardless of work authorization, the employer cannot exploit, harass, or otherwise discriminate against the employee. Such treatment violates the NYCHRL.

a. Hiring practices

The NYCHRL acknowledges that different treatment of individuals based on immigration status may be explicitly required under federal or state law with respect to hiring.[42] Pursuant to IRCA, employers are not permitted to knowingly hire or employ individuals without work authorization.[43] Federal law allows employers to prefer to hire a U.S. citizen or national over a noncitizen where two candidates are "equally qualified" but only after fully considering all other applicants.[44] Outside of this limited circumstance, it is a violation of the NYCHRL for employers to discriminate among work-authorized individuals—including, but not limited to, citizens, permanent residents, refugees, asylees, and those granted lawful temporary status—unless required or explicitly permitted by law.[45] For further discussion on the interaction between the NYCHRL and federal and state law with respect to hiring and employment, *see infra* Section IV.

Rights ex rel. Stamm v. E&E Bagels, OATH Index No. 803/14, Comm'n Dec. & Order, 2016 WL 1644879, at *4 (Apr. 21, 2016). A plaintiff may prevail in an action under the NYCHRL if "he or she proves that unlawful discrimination was one of the motivating factors, even if it was not the sole motivating factor, for an adverse employment decision, or that the action was 'more likely than not based in whole or in part on discrimination." *Melman v. Montefiore Med. Ctr.*, 98 A.D.3d 107, 127, (1st Dep't 2012) (quoting *Aulicino v. N.Y.C. Dep't of Homeless Servs.*, 580 F.3d 73, 80 (2d Cir. 2009)). If plaintiff makes this *prima facie* showing, then the burden shifts to the employer to rebut the presumption of discrimination by demonstrating that there was a legitimate and non-discriminatory reason for its employment decision. If the employer articulates a legitimate, non-discriminatory basis for its decision, then the burden shifts back to the plaintiff "to prove that the legitimate reasons proffered by defendant were merely a pretext for discrimination." *Ferrante v. Am. Lung Ass'n*, 90 N.Y.2d 623, 629–30 (1997); *see Texas Dep't of Cmty. Affairs v. Burdine*, 450 U.S. 248, 253 (1981). *Fields v. Dep't of Educ. of the City of New York*, No. 154283/2016, 2019 WL 1580151 (Sup. Ct. N.Y. Cty. Apr. 12, 2019).

40 N.Y.C. Admin. Code § 8-107(1).

41 *Id.* § 8-107(14).

42 *Id*.

43 *See* 8 U.S.C. § 1324a *et seq*.

44 *Id.* § 1324b(a)(4).

45 *See* U.S. Citizenship & Immigration Servs., *Preventing Discrimination* (Feb. 24, 2017), https://www.uscis.gov/i-9-central/employee-rights-resources/preventing-discrimination.

Employers may not ask applicants questions related to work authorization in an inconsistent manner based on actual or perceived immigration status or national origin. For example, an employer may not ask someone who has an accent whether they have work authorization if the employer does not ask the same question of someone who does not have an accent.[46]

If an employer hires workers who are not work-authorized, those workers cannot be treated less well than any other employee because of their immigration status, including the status of being undocumented.[47] Such treatment violates the NYCHRL.

b. Document abuse

An employer must not demand specific documents beyond what is required to establish work authorization under federal law.[48] Federal law requires employers to accept any document an employee presents from the "List of Acceptable Documents" established by statute,[49] so long as the document "reasonably appears to be genuine and to relate to the employee."[50] Employers must not: demand that an employee show specific documents, such as a green card or birth certificate, to establish identity and/or work

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[46] Employers should also be aware of nondiscrimination requirements under federal law. The U.S. Department of Justice has published guidance for employers with respect to the process for having employees complete the mandatory I-9 form to verify their employment authorization. The guidance states that the authorization process does not require an employee to prove their citizenship status to the employer, and that "[a]sking an employee for proof of citizenship or immigration status could violate the law at 8 U.S.C. § 1324b(a)(6)." *See* U.S. Dep't of Justice, Immigrant & Employee Rights Section, *How Employers Can Avoid Discrimination in the Form I-9 and E-Verify Process*, https://www.justice.gov/crt/page/file/1132606/download (citing 8 U.S.C. § 1324a(b), 8 C.F.R. § Part 274a.2(b)).

[47] N.Y.C. Admin. Code § 8-107(1).

[48] Federal law requires that, at the outset of employment, employees, in most circumstances, complete a Form I-9 to verify the employee's identity and work authorization for employment in the United States. U.S. Citizenship & Immigration Servs., *I-9, Employment Eligibility Verification*, https://www.uscis.gov/i-9. An individual does not need to complete an I-9 if: they are an independent contractor; employed for casual domestic work in a private home on an irregular or intermittent basis; not physically working on U.S. soil; or if they are providing labor and are employed by a contractor providing contract services (e.g., employee leasing or temporary agencies). EMPL'T LAW INST., HANDBOOK FOR EMPLOYERS U.S. CITIZENSHIP AND IMMIGRATION SERVICES, 20160311A NYCBAR 264, at 4 (N.Y.C. Bar Ass'n 2016).

[49] 8 U.S.C. § 1324a. It is an "unfair immigration-related employment practice" under 8 U.S.C. § 1324b(a)(6) for (i) A person or other entity, for purposes of satisfying the requirements of 8 U.S.C. § 1324a(b), either– (A) To request more or different documents than are required under § 1324a(b); or (B) To refuse to honor documents tendered that on their face reasonably appear to be genuine and to relate to the individual; and (ii) To make such request or refusal for the purpose or with the intent of discriminating against any individual…." 28 C.F.R. § 44.200(a)(3).

[50] *See* EMPL'T LAW INST., HANDBOOK FOR EMPLOYERS U.S. CITIZENSHIP AND IMMIGRATION SERVICES, 20160311A NYCBAR 264, at 5 (N.Y.C. Bar Ass'n 2016). In the work authorization process, employees are required to provide proof of both their identity and their employment authorization. The instructions for completing I-9 forms have three lists of documents. An employee may provide a document from List A to establish both their identity and their employment authorization. Alternatively, an employee may provide a document from List B to establish their identity and a document from List C to establish their employment authorization. *See* U.S. Citizenship & Immigration Services, *Acceptable Documents*, https://www.uscis.gov/i-9-central/acceptable-documents.

authorization; ask to see work authorization documents before an individual accepts a job offer; "refuse to accept a document, or refuse to hire an individual because a document will expire in the future;"[51] or "demand a specific document when reverifying that an employee is authorized to work."[52] Such practices are commonly referred to as "document abuse,"[53] and, when motivated at least in part by an employer's discriminatory animus, are unlawful under the NYCHRL because they subject applicants to discriminatory treatment based on their actual or perceived immigration status or national origin.

Federal law requires or allows employers to reverify an employee's work authorization in the following limited circumstances: (1) the employee's work authorization is expiring;[54] (2) an employer develops "constructive knowledge"[55] that the employee is not work-authorized;[56] (3) the employer conducts a neutral, non-discriminatory self-audit of their compliance with work authorization requirements;[57] or (4) during an I-9 audit by the federal government.[58] Federal law also requires some employers with federal

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51 *See* U.S. Citizenship & Immigration Servs., *Preventing Discrimination*, (Feb. 24, 2017) https://www.uscis.gov/i-9-central/employee-rights-resources/preventing-discrimination.

52 *Id*.

53 *Id*.

54 8 C.F.R. § 274a.2(b)(1); U.S. Citizenship & Immigration Servs., *Completing Section 3, Reverification and Rehires*, https://www.uscis.gov/i-9-central/complete-correct-form-i-9/completing-section-3-reverification-and-rehires.

55 U.S. Citizenship and Immigration Services defines constructive knowledge as "knowledge which may fairly be inferred through notice of certain facts and circumstances which would lead a person, through the exercise of reasonable care, to know about a certain condition." *See* 8 C.F.R. § 274a(1)(l)(1). This regulation also offers these examples:

> Constructive knowledge may include, but is not limited to, situations where an employer:
> (i) Fails to complete or improperly completes the Employment Eligibility Verification Form I-9;
> (ii) Has information available to it that would indicate that the alien is not authorized to work, such as Labor Certification and/or an Application for Prospective Employer; or
> (iii) Acts with reckless and wanton disregard for the legal consequences of permitting another individual to introduce an unauthorized alien into its work force or to act on its behalf.

56 *See Collins Foods Int'l, Inc. v. U.S. I.N.S.*, 948 F.2d 549, 554 (9th Cir. 1991) (noting employment offer before verification of work-authorized status does not constitute constructive knowledge); *Mester Mfg. Co. v. U.S. I.N.S.*, 879 F.2d 561, 566–67 (9th Cir. 1989) (noting knowledge element satisfied where employer failed to investigate after a U.S. Immigration and Naturalization Service ("INS") agent advised the employer of specific employees that INS suspected of using false alien registration cards); *Trollinger v. Tyson Foods, Inc.*, 543 F. Supp. 2d 842, 848, 853 (E.D. Tenn. 2008) (noting non-English application does not raise reasonable suspicion to constitute knowledge of non-work-authorized status). INS was a federal agency that was eliminated in 2003 and its duties transferred to U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection. *See* U.S. Citizenship & Immigration Servs., *Did You Know?: The INS No Longer Exists*, (Apr. 13, 2011), https://www.uscis.gov/archive/blog/2011/04/did-you-know-ins-no-longer-exists.

57 Employers may conduct self-audits of their compliance with work authorization requirements by selecting records to be audited based on neutral and non-discriminatory criteria. U.S. Immigration and Customs Enforcement has published guidance to help employers structure and implement internal audits in a manner consistent with the employer sanctions and anti-discrimination provisions of the INA. It explicitly states that audits should not be conducted on the "basis of an employee's citizenship status or national origin, or in retaliation against any employee or employees for any reason." U.S. Citizenship & Immigration Servs., *Guidance for Employers Conducting Internal Employment Eligibility Verification Form I-9 Audits*, https://www.justice.gov/crt/file/798276/download.

58 EMPL'T LAW INST., HANDBOOK FOR EMPLOYERS U.S. CITIZENSHIP AND IMMIGRATION SERVICES,

contracts or subcontracts to verify the work authorization of their current employees using the federal government's E-Verify system.[59] Beyond these circumstances, reverification is not permitted. For example, reinstatement of an employee's position, such as when the employee returns from medical or parental leave, does not trigger federal requirements for checking an employee's eligibility.[60] Federal rules provide that an employer "is not deemed to have hired an individual for employment if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times," as, for example, when an employee is being promoted, being transferred to a different unit, or on strike. Accordingly, such events do not trigger requirements for reverification.[61] An employer that acquires a new company in a merger and acquisition is permitted to choose how to treat employees who are continuing their employment with the related successor after the merger. If the new employer treats these employees as new hires, the employer must complete a new Form I-9 for work authorization for all employees of the acquired company; if the new employer considers these employees as continuing their employment, the employer is only required to obtain and maintain the previously completed Form I-9.[62]

Reverification of employment is unlawful under the NYCHRL when it is based on discriminatory animus towards an employee's actual or perceived immigration status or national origin or other protected category under the NYCHRL and takes place outside circumstances permitted under federal law.[63] It is also unlawful under the NYCHRL to

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20160311A NYCBAR 264, at 5 (N.Y.C. Bar Ass'n 2016); *see also* Immigration and Nationality Act § 274A, 8 U.S.C. § 1324a(b)(1)(B)–(D); 8 C.F.R. §§ 274a.1(l)(1)(ii), 274a.9(c); U.S. Citizenship & Immigration Servs., E-Verify, 2.1 Form I-9 and E-Verify, https://www.e-verify.gov/e-verify-user-manual-20-initial-verification/21-form-i-9-and-e-verify.

[59] 48 C.F.R. § 22.1802 (E-verify requirements for certain federal contractors and subcontractors). E-Verify, the U.S. Citizenship and Immigration Service's employment eligibility verification program, is an Internet-based system that compares information from an employee's Employment Eligibility Verification Form (I-9) to U.S. Department of Homeland Security and Social Security Administration records to confirm that that the employee is authorized to work in the United States. Employers may also conduct self-audits of their compliance with work authorization requirements by selecting records to be audited based on neutral and non-discriminatory criteria. U.S. Immigration and Customs Enforcement has published guidance to help employers structure and implement internal audits in a manner consistent with the employer sanctions and anti-discrimination provisions of the INA. It explicitly states that audits should not be conducted on the "basis of an employee's citizenship status or national origin, or in retaliation against any employee or employees for any reason." U.S. Citizenship & Immigration Servs., *Guidance for Employers Conducting Internal Employment Eligibility Verification Form I-9 Audits*, https://www.justice.gov/crt/file/798276/download.

[60] U.S. Citizenship & Immigration Servs., *Continuing Employment*, https://www.uscis.gov/i-9-central/complete-correct-form-i-9/complete-section-1-employee-information-and-verification/continuing-employment.

[61] *See* 8 C.F.R. § 274a.2 ("An employer will not be deemed to have hired an individual for employment if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.").

[62] U.S. Citizenship & Immigration Servs., *Mergers and Acquisitions*, https://www.uscis.gov/i-9-central/mergers-and-acquisitions.

[63] Guidance from the U.S. Citizenship and Immigration Services states that employers should not reverify U.S. citizens and U.S. noncitizen nationals and should not reverify lawful permanent residents who have presented certain documents. For other individuals, the guidance states that employers should not reverify "List B documents" (documents that are used to establish a person's identity during the work

use reverification as a tool to retaliate against workers who have engaged in protected activity under the NYCHRL.[64]

If an employer receives an "Employee Correction Request Notice," commonly referred to as a "No-Match Letter" from the Social Security Administration ("SSA"),[65] the letter by itself does not constitute "constructive knowledge" requiring an employer to take an adverse employment action against the employee.[66] A No-Match Letter is an educational letter intended to "advise employers that corrections are needed in order for [the SSA] to properly post its employee's earnings to the correct record" for purposes of Social Security benefits.[67] The letter advises that the reported information about an employee's name and/or Social Security number ("SSN") does not match the name or SSN in the SSA's records.[68] As noted in the SSA No-Match Letter itself, as well as in U.S. Department of Justice guidance, employers should not assume that if an employee is listed in a No-Match Letter, the named employee has an issue with their immigration status.[69] A mismatch could happen for many reasons, including clerical errors and name changes.[70] Receipt of a No-Match Letter should not be used as a basis for taking adverse action against an employee or for reverifying an employee's work authorization.[71] Taking an adverse action against an employee due to a mismatch, such

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authorization verification process), but should reverify "List A" documents and "List C" documents (documents used to establish work authorization) when the employee's employment authorization or employment authorization documentation expires. U.S. Citizenship & Immigration Servs., *Completing Section 3, Reverification and Rehires*, https://www.uscis.gov/i-9-central/complete-correct-form-i-9/completing-section-3-reverification-and-rehires.

64 *See* 8 U.S.C. § 1324b; N.Y.C. Admin. Code § 8-107(7); *see infra* Section III(E) for discussion on retaliation.

65 Soc. Sec. Admin., *Employer Correction Request Notices*, https://www.ssa.gov/employer/notices.html. *See* U.S. Dep't of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices, *SSA No-Match Guidance Page*, https://www.justice.gov/crt/ssa-no-match-guidance-page.

66 *Aramark Facility Servs. v. Serv. Employees Int'l Union, Local 1877, AFL CIO*, 530 F.3d 817, 825–27 (9th Cir. 2008); *see also* U.S. Dep't of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices, *Names and Social Security Numbers (SSNs) "No-Matches" Information for Employers*, (employers should not: "[a]ssume the no-match conveys information regarding the employee's immigration status or actual work authority;" "[u]se the receipt of a no-match notice alone as a basis to terminate, suspend or take other adverse action against the employee;" "[a]ttempt to immediately reverify the employee's employment eligibility by requesting the completion of a new Form I-9 based solely on the no-match notice;" "[f]ollow different procedures for different classes of employees based on national origin or citizenship status;" "[r]equire the employee to produce specific I-9 documents to address the no-match;" or "[r]equire the employee to provide a written report of SSA verification (as it may not always be obtainable)."

67 Soc. Sec. Admin., *Employer Correction Request Notices*, https://www.ssa.gov/employer/notices.html.

68 N.Y.C. Comm'n on Human Rights and Mayor's Office of Immigrant Affairs, *Employers: What You Need to Know About Social Security Administration No-Match Letters*, (July 2019), https://www1.nyc.gov/site/cchr/media/No-Match-Letter-Factsheet.page.

69 U.S. Dep't of Justice, *Frequently Asked Questions about Name/Social Security Number "No-Matches,"* https://www.justice.gov/sites/default/files/crt/legacy/2010/12/29/FAQs.pdf.

70 N.Y.C. Comm'n on Human Rights and Mayor's Office of Immigrant Affairs, *Employers: What You Need to Know About Social Security Administration No-Match Letters*, (July 2019).

71 U.S. Dep't of Justice Civil Rights Div. Immigrant and Employee Rights Section, *Name and Social Security Number (SSN) "No-Matches" Information for Employers*, https://www.justice.gov/crt/case-

as putting an employee on leave or terminating employment, could violate the NYCHRL.[72]

c. Immigration worksite enforcement

Worksite enforcement is one form of immigration enforcement conducted by the federal government. Immigration worksite enforcement occurs in two ways: (1) in the form of a raid, in which Immigration and Customs Enforcement ("ICE") physically comes to a worksite unannounced to inspect files and/or detain workers who they determine may be unlawfully present;[73] or (2) in the form of an I-9 audit, in which ICE requires employers to submit their employment authorization records, usually within three business days, for verification.[74]

Employers and employees can prepare for immigration worksite enforcement in order to reduce economic and community disruption. Both employers and employees should understand the rights of immigrant workers in the event of an audit or worksite raid.[75] Employers are encouraged to give notice to their employees when they know or suspect that an audit or raid will occur so that employees have an opportunity to update any necessary documents and make other preparations. Unless explicitly prohibited (such as during an ongoing criminal investigation), it is not against the law for employers to provide notice to their employees of a worksite raid or audit.[76] In fact, some unions have contract provisions that require the employer to take certain actions in the event a Notice of Inspection is served on an employer.[77] This may include requiring employers to hold a meeting to notify workers of their rights, notifying the union and workers of discrepancies ICE found during the audit, and allowing workers a reasonable amount of

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document/file/1138471/download.

[72] For additional information on how to appropriately handle SSA No-Match Letters, please refer to the SSA's website, which contains sample notices and step-by-step instructions. SOC. SEC. ADMIN., *Employer Correction Request Notices (EDCOR)*, https://www.ssa.gov/employer/notices.html.

[73] ICE may physically visit an employer in a raid of the worksite in which ICE agents question and detain individual workers or groups of workers, or conduct a "silent raid" where ICE agents examine personnel files at an employer's main office. *See* Julia Preston, *Illegal Workers Swept from Jobs in Silent Raids*, N.Y. TIMES (July 9, 2010), https://www.nytimes.com/2010/07/10/us/10enforce.html.

[74] In an I-9 audit, ICE will typically serve a "Notice of Inspection" upon an employer, which requires the employer to produce I-9 forms. U.S. Citizenship & Immigration Servs., *Inspections*, https://www.uscis.gov/i-9-central/retain-store-form-i-9/inspections; *see* U.S. Citizenship & Immigration Servs., *Form I-9 Inspection Overview*, (Aug. 9, 2019), https://www.ice.gov/factsheets/i9-inspection for more information.

[75] For additional resources, *see* N.Y.C. Comptroller, *Immigrant Rights and Services: A Comprehensive Guide to City, State, and Federal Services*, https://comptroller.nyc.gov/services/for-the-public/immigrant-rights-and-services/; N.Y.C. Commission on Human Rights, *Important Information for Immigrant Workers*, , https://www1.nyc.gov/site/cchr/media/immigration-workers-rights-factsheet.page; N.Y.C. Mayor's Office of Immigrant Affairs, *Research & Evaluations*, https://www1.nyc.gov/site/immigrants/about/research-evaluations.page.

[76] *See United States v. California*, 921 F.3d 865, 879–82 (9th Cir. 2019) (affirming district court's denial of preliminary injunction in consideration of California law requiring employers to notify employees before federal immigration inspections).

[77] *See, e.g.*, UNITE HERE, *Workplace Protections For Immigrant Workers*, https://www.unitehereimmigration.org/about-unite-here/workplace-protections-for-immigrant-workers/ (last accessed Sep. 24, 2019).

time to correct discrepancies in work authorization documents.[78] Employers can also potentially reduce the immediate disruption of unexpected immigration worksite enforcement by refusing ICE access to non-public facing areas if the agents do not produce a warrant signed by a judge.[79]

Exploiting or threatening ICE involvement to further a discriminatory motive, to harass or intimidate employees, or to retaliate against employees for engaging in protected activity[80] is a violation of the NYCHRL.[81]

d. Employment protections for undocumented immigrant workers

Once an employer has decided to hire an individual, that individual enjoys the same protections under the NYCHRL as any other employee, regardless of their immigration status or work authorization.[82] Undocumented immigrants can file claims of discrimination at the Commission and in court. Remedies, including, but not limited to,

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78 *See New Toolkit gives Workers Tools to Fight against Raids and Audits*, MIJENTE (May 11, 2017), https://mijente.net/2017/05/11/workers-toolkit-fight-against-raids-and-audits/ (discussing AFL-CIO, Toolkit for Organizers and Advocates on Workplace Raids and Audits, May 2017).

79 ICE must either have consent of the employer or a judicial warrant, rather than an administrative warrant, to enter non-public facing areas (such as the kitchen of a restaurant or the back office of a store where members of the public are not allowed). An administrative warrant is any document issued by a designated ICE official purporting to document the authority of an ICE agent to arrest a person suspected of violating immigration laws. *See* 8 U.S.C. § 1357, 8 C.F.R. § 287.5. When exigent circumstances are not present, law enforcement agents must have a warrant signed by a neutral magistrate in order to demand entry to private property. Administrative warrants are not issued by a neutral magistrate, and thus do not provide authority to demand entry. *See generally Camara v. Mun. Ct.*, 387 U.S. 523, 534 (1967) (holding administrative warrant insufficient to permit entry into residence); *See v. City of Seattle*, 387 U.S. 541, 545 (1967) (holding that administrative warrant does not provide authority to enter non-public parts of business without owner's consent); *Coolidge v. New Hampshire*, 403 U.S. 443, 454–55 (1971) ("[s]earches conducted outside judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment."); *United States v. Abdi*, 463 F. 3d 547, 551 (6th Cir. 2006) (describing the procedure for obtaining an administrative warrant); *United States v. Castellanos*, 518 F.3d 965, 971–72 (8th Cir. 2008).

80 For more on retaliation, *see infra* Section III(E).

81 In addition, New York Labor Law § 215(1)(a)(enacted by Chapter 126 of 2019) provides that "to threaten, penalize, or in any other manner discriminate or retaliate against any employee includes threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member."

82 N.Y.C. Admin. Code § 8-107(1); *see* N.Y. Labor L. §§ 193, 663, 681; Formal Op. No. 2003-F3, Office of the Att'y Gen. of the State of N.Y., 2003 WL 22522840 (Oct. 21, 2003) (federal case law does not preclude the New York State Department of Labor from enforcing state wage payment laws on behalf of undocumented immigrants). There are additional worker protections against retaliation regardless of immigration status in New York City. *See, e.g.*, N.Y.C. Admin. Code § 20-1204 (prohibiting retaliation against employees in relation to their rights under the Fair Work Week Law); 6 R.C.N.Y § 7-104(b) ("Any person who meets the definition of employee in section 7-101 of this subchapter is entitled to the rights and protections provided by this subchapter to employees and any applicable provision of the [Office of Labor Policy and Standards] laws and rules, regardless of immigration status."); *see also* N.Y.C. Dep't of Consumer Affairs, *The Office of Labor Policy & Standards*, https://www1.nyc.gov/assets/dca/downloads/pdf/workers/OfficeofLaborPolicyandStandards-WhatWeDo.pdf.

economic and emotional distress damages, are available under the NYCHRL regardless of an employee's immigration status.

e. Harassment

Disparate treatment may manifest as harassment when the incident or behavior creates, reflects, or fosters a work culture or atmosphere that is demeaning, humiliating, or offensive. Harassment related to an individual's actual or perceived immigration status or national origin is a form of discrimination, and may consist of a single or isolated incident or a pattern of repeated acts or behavior. Under the NYCHRL, harassment related to immigration status or national origin in the workplace covers a broad range of conduct and generally occurs when an individual is treated less well on account of their actual or perceived immigration status. The severity or pervasiveness of the harassment is only relevant to damages.[83] Even an employer's single comment made in circumstances where that comment would signal discriminatory views about one's immigration status or national origin may be enough to constitute harassment.[84]

The use of the terms "illegal alien" and "illegals," with the intent to demean, humiliate, or offend a person or persons in the workplace, amounts to unlawful discrimination under the NYCHRL. As with other forms of harassment, employers are strictly liable for an unlawful discriminatory practice where the harasser exercises managerial or supervisory responsibility.[85] Employers may be held liable for a non-managerial employee's harassment if the employer: (1) knew about the employee's conduct and "acquiesced in such conduct or failed to take immediate and appropriate corrective action,"[86] or (2) should have known about the employee's discriminatory conduct and "failed to exercise reasonable diligence to prevent such discriminatory conduct."[87]

Employer threats to call federal immigration authorities can constitute unlawful harassment under the NYCHRL when motivated, in whole or in part, by animus related to the employee's actual or perceived immigration status and/or national origin. In addition, using the specter of calling immigration authorities or the police to force employees to work in unsafe, unequal, or otherwise unlawful conditions is unlawful harassment under the NYCHRL.[88] While reporting a violation of the law to the police is

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83 *Goffe v. NYU Hosp. Ctr.*, 201 F. Supp. 3d 337, 351 (E.D.N.Y. 2016) ("the federal severe or pervasive standard of liability no longer applies to NYCHRL claims, and the severity or pervasiveness of conduct is relevant only to the scope of damages…"); *Williams*, 872 N.Y.S.2d at 38.

84 *See Cardenas v. Automatic Meter Reading Corp.*, OATH Index No. 1240/13, Comm'n Dec. & Order, 2015 WL 7260567, at *8 (Oct. 28, 2015) ***aff'd sub nom. Automatic Meter Reading Corp. v. N.Y.C.***, 63 Misc. 3d 1211(A) (Sup. Ct. N.Y. Cty. 2019) (citing *Williams*, 872 N.Y.S.2d at 41 n.30).

85 N.Y.C. Admin. Code § 8-107(13)(b)(1).

86 *Id.* § 8-107(13)(b)(2).

87 *Id.* § 8-107(13)(b)(3).

88 *See United States v. Rivera*, 799 F.3d 180, 187 (2d Cir. 2015) ("[v]ictims testified that Appellants threatened that they would report the victims to the immigration authorities and that they were threatened with or subjected to physical violence if they did not comply with Appellants' instructions."). In discussing labor trafficking, "known objective conditions that make the victim especially vulnerable to pressure (such as youth or immigration status) bear on whether the employee's labor was obtained by forbidden means." *Muchira v. Al-Rawaf*, 850 F.3d 605, 618 (4th Cir.), *amended* (Mar. 3, 2017), *cert. denied*, 138 S.Ct. 448,

otherwise permitted, it is a violation of the NYCHRL when such action is taken or threats to take such action are made based solely on a discriminatory or retaliatory motive. If workers have engaged in any protected activity, such reports to authorities may be actionable as retaliation.[89]

Examples of disparate treatment in employment

- A construction company sponsors a temporary worker for the summer with an H-2B visa. The company does not allow the worker to take any breaks for his twelve-hour shift, while the company allows U.S. citizen workers to take two breaks during their twelve-hour shifts. The company threatens to not sponsor the worker again for next season when he complains.
- An employee develops a medical condition and requests an accommodation to attend necessary medical appointments once a week. The employer denies her request. When the employee informs her employer that another employee is permitted to leave work for medical appointments, the employer tells her that she does not have that right because she is an undocumented immigrant. The employer then threatens to call ICE if she misses work for any reason.
- An employer refuses to accept a Social Security card and demands a birth certificate from a job applicant because the applicant speaks English with an accent.
- A hotel prohibits its housekeepers from speaking Spanish while cleaning because it would "offend" hotel guests or make them uncomfortable.
- An employer receives a No-Match Letter that lists an employee who immigrated from the Philippines. The employer has long looked for a reason to discharge the employee because of their accent. With receipt of the No-Match Letter, the employer discharges the employee.
- A construction company provides its Polish workers first priority in scheduling and time off to the disadvantage of its U.S. citizen workers.

2. Housing

It is unlawful to sell, rent, or lease housing with different terms, conditions, or privileges or to misrepresent the availability of housing to someone because of their actual or perceived immigration status or national origin.[90] It is also unlawful to post an advertisement for housing that discriminates based on membership in a protected category.[91] Under the NYCHRL, practices or policies that single out tenants, home buyers, or housing applicants based on their actual or perceived immigration status or national origin are unlawful disparate treatment unless the covered entity can demonstrate a legitimate non-discriminatory justification for the distinction.

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199 L. Ed. 2d 329 (2017) (internal quotation marks and alteration omitted).

89 U.S. Dep't of Labor, *Fact Sheet: Retaliation Based on Exercise of Workplace Rights is Unlawful*, https://www.dol.gov/dol/fact-sheet/immigration/RetaliationBasedExerciseWorkplaceRightsUnlawful.htm.

90 N.Y.C. Admin. Code § 8-107(5)(a)(1).

91 *Id.* § 8-107(5).

Adverse treatment may be overt, such as refusing to accept a rental application for an apartment because the applicant is not a U.S. citizen, or may be subtle, such as a landlord telling an applicant that an apartment is no longer available after hearing the applicant speak English with an accent. Landlords may not ignore tenants' requests for repairs, create or allow unsafe conditions, or fail to provide adequate heat because of tenants' actual or perceived immigration status or national origin.

There may be very limited circumstances in which immigration status is relevant and can factor into one's eligibility to access certain housing-related benefits. For example, a public housing provider may be required to ask about a benefit applicant's immigration status to ascertain eligibility for a federal program.[92] However, information requested should be limited to what is required and may not be used as an excuse for invidious discrimination.

a. Immigration status and national origin cannot be considered in rental and home purchase transactions

Housing providers cannot refuse to rent or sell, or alter the terms and conditions of housing, because of actual or perceived immigration status or national origin. Some personal information may be necessary to complete an application for housing: generally, landlords, sellers, and their agents are permitted to request photo identification and other personal information for purposes of running a credit inquiry. This may include a driver's license, a passport, an SSN, or an individual tax identification number ("ITIN"). However, questions related to immigration status or national origin are discouraged and may be a basis for presuming discriminatory animus. For example, if a landlord tells an applicant they will only accept a passport or an SSN for purposes of a credit check and refuses alternative forms of identification or documentation sufficient to run a credit check, it may be pretext for discrimination.[93]

Under New York State law, landlords are required to place security deposits in an escrow account separate and apart from the landlord's personal funds.[94] A landlord does not need a tenant's SSN in order to open an escrow account for the security deposit in the tenant's name.[95] Accordingly, if a landlord insists that they require an SSN for an escrow account, does not offer an alternative arrangement if no SSN can be provided,[96] and rejects a prospective tenant on that basis, it may be considered as pretext for discrimination based on immigration status or national origin under the NYCHRL. With respect to home purchases, it is also an unlawful discriminatory practice under the NYCHRL for any individual, bank, trust company, loan association, credit

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92 *See* National Immigration Law Center, *Rental Housing Programs* (last updated Oct. 2018), https://www.nilc.org/wp-content/uploads/2016/03/rental_housing_1005.pdf; *see also* N.Y.C. Admin. Code § 8-107(14).

93 Requesting unnecessary additional documentation, like a driver's license, may also be a proxy for discriminating based on other protected categories such as race, disability, and age.

94 *See* N.Y. Gen. Oblig. L. § 7-107 *et seq*.

95 *See id*.

96 For example, some online programs partner with landlords to provide deposit-free listings and listings that are explicitly open to international citizens and students.

union, mortgage company, or other financial institution or lender or any agent thereof to discriminate against applicants in the granting, withholding, extending or renewing, or in the fixing of rates, terms, or conditions of any mortgage because of a prospective occupant's actual or perceived immigration status or national origin.[97]

b. Housing protections for undocumented immigrant tenants

Undocumented immigrant tenants and those seeking housing are protected from discrimination by individuals who sell, rent, or lease housing, including owners, other tenants, managing agents, real estate brokers, and real estate agents. Tenants with and without leases are protected from being evicted based on immigration status and national origin, so long as they comply with local housing law. In most circumstances, tenants whose occupancy has lasted thirty days or more, regardless of immigration status, may be evicted only after the landlord has served them with a termination notice and obtained a court order from a judge authorizing eviction.[98] Only a sheriff, marshal, or constable, not a landlord, can carry out a court-ordered eviction of the tenant.[99] A landlord's efforts to evict any tenant through intimidation, coercion, or by making the living conditions so unpleasant or uninhabitable, motivated in whole or in part by a tenant's actual or perceived immigration status or national origin, are unlawful under the NYCHRL.

c. Harassment

Under the NYCHRL, harassment related to immigration status or national origin covers a broad range of conduct and occurs generally when an individual is treated less well because of their actual or perceived immigration status or national origin. Such treatment may be demeaning, humiliating, or offensive. Even a single comment by a housing provider or agent made in circumstances where that comment would signal discriminatory views about immigration status or national origin may be enough to constitute harassment.[100]

Threats by landlords or their agents to evict tenants or call federal immigration authorities can constitute unlawful harassment under the NYCHRL when motivated, in whole or in part, by animus related to the tenant's actual or perceived immigration status and/or national origin. In addition, using the specter of calling immigration authorities or the police to intimidate tenants from making complaints about unsafe housing conditions or otherwise unlawful conditions is illegal harassment under the NYCHRL. Such harassment includes appearing unannounced at a tenant's apartment with individuals who appear to be law enforcement to intimidate tenants or threatening to make false accusations to law enforcement about unlawful activity. While reporting a violation of the

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97 *See* N.Y.C. Admin. Code § 8-107(5)(d).

98 *Id.* § 26-521(a). However, if an eviction is motivated in whole or in part by discrimination based on a protected category—such as immigration status or national origin—the landlord would be in violation of the NYCHRL regardless of the length of the tenant's occupancy.

99 *See* State of N.Y. Office of the Attorney General, *Immigrant Tenant Rights*, https://ag.ny.gov/sites/default/files/immigration_tenants_rights_web.pdf; *see* N.Y. Real Prop. L. § 232-a-b.

100 *See Cardenas*, 2015 WL 7260567, at *8 (citing *Williams*, 872 N.Y.S.2d at 41 n.30).

law to the police is otherwise permitted, it is a violation of the NYCHRL when such action is taken or threats to take such action are made based solely on a discriminatory or retaliatory motive. If tenants have engaged in any protected activity, such reports to authorities may be actionable as retaliation.

A housing provider's use of the terms "illegal alien" and "illegals," with the intent to demean, humiliate, or offend a person or persons, amounts to unlawful discrimination under the NYCHRL.

Examples of disparate treatment in housing

- A property management company has a policy of asking for a security deposit of six months' rent from applicants whom the company perceives to not have U.S. citizenship compared to one month's rent from applicants the company perceives to be U.S. citizens.
- A landlord fails to make adequate repairs or provide equal services to undocumented tenants because the housing provider believes the tenants will not complain.
- A broker refuses to help an Arabic-speaking individual find an apartment because he believes the individual is a temporary worker and is likely to leave the U.S.
- An Indian immigrant family complains to their landlord about mold and cockroaches in their unit. The landlord tells them to "just deal with it" and threatens to call ICE if they file a complaint in housing court.

3. Public Accommodations

It is unlawful for places or providers of public accommodations,[101] their employees, or their agents to directly or indirectly deny any person, or communicate an intent to deny any person, the services, advantages, facilities, or privileges of a public accommodation, or to make their patronage feel unwelcome, because of their actual or perceived immigration status or national origin.[102] Any policy or practice not otherwise required by law that singles out individuals based on their immigration status or national origin is unlawful disparate treatment under the NYCHRL. Policies that categorically exclude or impose different conditions on individuals because of their immigration status, unless specifically required by law, are unlawful.[103]

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101 The NYCHRL defines the term "place or provider of public accommodation" to include:

> providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold, or otherwise made available. Such term shall not include any club which proves that it is in its nature distinctly private . . . [or] a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state, or a religious corporation incorporated under the education law or the religious corporation law [which] shall be deemed to be in its nature distinctly private.

N.Y.C. Admin. Code § 8-102.

102 *Id.* § 8-107(4).

103 However, it is not a violation for public accommodations to conduct activities and host events

Discriminating against patrons or customers of public accommodations because of their accent, limited English proficiency ("LEP"), or use of another language—such as making a patron or customer feel unwelcome, or turning them away from receiving services—is discrimination based on national origin under the NYCHRL.[104]

a. Language access

Depending on the circumstances, a City agency's failure to seek to provide language interpretation services may be discrimination based on actual or perceived national origin where it amounts to a denial of meaningful access to direct public services or emergency services.[105] City agencies that provide direct public services or emergency services are required to develop and implement plans to provide language services in ten languages other than English and provide telephonic interpretation in at least 100 languages, as well as translate documents most commonly distributed to the public that contain or elicit important and necessary information.[106] Websites maintained by City agencies are also required to include a translation feature.[107] Failure to provide language access services as required by Local Law 30 may constitute a violation of the NYCHRL.[108]

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which are intended to celebrate and preserve the language and culture associated with a particular national origin. Providers of public accommodations cannot exclude individuals from such activities because they do not, or are perceived to not, belong to a particular protected category.

[104] *See* N.Y.C. Admin. Code § 8-107(4); *Boureima v. N.Y.C. Human Res. Admin.*, 128 A.D.3d 532 (1st Dep't 2015) (citing *Colwell v. Dep't of Health & Human Servs.*, 558 F.3d 1112, 1116–17 (9th Cir. 2009)) (finding that discrimination against limited English proficient individuals was discrimination based on national origin in violation of NYCHRL when provider of public accommodation failed to provide language access services).

[105] *See generally Boureima*, 128 A.D.3d 532; N.Y.C. Admin. Code § 8-107(4)(a)(1)(a) (it is an unlawful discriminatory practice for a provider of public accommodation to "withhold from or deny. . . the full and equal enjoyment, on equal terms and conditions, of any of the accommodations, advantages, services, facilities or privileges of the place or provider of public accommodation."). Federal agencies similarly interpret Title VI's prohibition on national origin discrimination to require federal funding recipients to provide translation services to ensure that Limited English Proficient ("LEP") individuals have meaningful access to federal programs. *See, e.g.*, U.S. Dep't of Health, Education, and Welfare, Identification of Discrimination and Denial of Services on the Basis of National Origin, 35 Fed. Reg. 11,595 (July 18, 1970); Notice of Proposed Rulemaking, Nondiscrimination on the Basis of Race, Color, or National Origin Under Programs Receiving Federal Financial Assistance Through the Department of Health and Human Services, 45 Fed. Reg. 82,972 (Dec. 17, 1980); Exec. Order No. 13,166, Improving Access for Persons with Limited English Proficiency, 65 Fed. Reg. 50,121 (Aug. 11, 2000); U.S. Dep't of Justice Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002).

[106] N.Y.C. Admin. Code § 28-1101 *et seq*., added by Local Law 30 (2017). An earlier law, added by Local Law 73 (2003), requires social service agencies to provide language services. N.Y.C. Admin. Code § 21-190. There are also language translation requirements for the City's emergency notification system. *Id.* § 30-115.

[107] N.Y.C. Admin. Code § 23-810. The translation feature must be indicated by a means, other than or in addition to English, that is comprehensible to speakers of the seven most commonly spoken languages within the City.

[108] *See id.* § 8-107; *accord Boureima*, 128 A.D.3d 532 (basis for the court's decision was denial of

Additional federal, state, and local requirements also exist to ensure that individuals have language access to services, some mandating certain places of public accommodation to provide translation or interpretation services. For example, the City distributes the Business Owner's Bill of Rights that includes the right to access information in languages other than English and request language interpretation services for inspections.[109] Chain pharmacies must provide free, competent oral interpretation services to counsel individuals about their prescription medications or when soliciting information necessary to maintain a patient medication profile.[110] Providers of immigration services must give customers a written contract in a language understood by the customer, either alone or with the assistance of an interpreter, and, if that language is not English, an English language version of the contract must also be provided.[111] Hospitals must also provide language assistance for patients.[112] New York State court rules require interpreters to be provided to LEP litigants in criminal and civil cases.[113] The City's Department of Education also has a language access plan in place for students with LEP parents such that they are "given a meaningful opportunity to participate in their child's education program."[114] In addition, government contractors and subcontractors have obligations to provide language services. Under regulations implementing Title VI of the Civil Rights Act of 1964,[115] recipients of federal financial

services by HRA).

109 N.Y.C. Charter § 15(f).

110 N.Y.C. Admin. Code § 20-621.

111 *Id.* § 20-777.

112 N.Y. Pub. Health L. § 2807-k(9-a)(c) (requiring financial assistance forms to be printed in any language that is either (i) used to communicate, during at least 5% of patient visits in a year, by patients who cannot speak, read, write or understand the English language at the level of proficiency necessary for effective communication with health care providers, or (ii) spoken by non-English speaking individuals comprising more than 1% of the primary hospital service area population); 10 N.Y.C.R.R. § 405.7 (requiring hospitals to develop a language assistance program to ensure meaningful access to the hospital's services and a reasonable accommodation for all patients who require language assistance).

113 N.Y. Comp. Codes R. & Regs. tit. 22, §§ 217.1, 217.2.

114 N.Y.C. Dep't of Educ., *Language Access Policy*, https://www.schools.nyc.gov/school-life/policies-for-all/language-access-policy; Chancellor Regulation A-663 (June 26, 2007) (requiring that the City's Department of Education ("DOE") provide interpretation services, either at the school/office where the parent is seeking assistance or by telephone, to the maximum extent practicable, during regular business hours to parents whose primary language is a covered language and who request such services in order to communicate with the DOE regarding critical information about their child's education and translation of documents produced by central DOE offices and schools which contain critical information regarding a child's education).

115 42 U.S.C. § 2000d *et seq*.; 28 C.F.R. § 42.104(b)(2). In August 2000, President Clinton issued Executive Order 13166, which directed each federal agency providing federal financial assistance to issue guidance to recipients of such assistance on their legal obligations to take reasonable steps to ensure meaningful access for LEP persons under the national origin nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, and implementing regulations. The Department of Justice issued guidance pursuant to the Executive Order advising that the requirement to take reasonable steps to ensure meaningful access to programs and activities for LEP persons is "designed to be a flexible and fact-dependent standard," based on an individualized assessment that balances the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's

assistance—including government agencies and certain contractors and subcontractors—have a responsibility to ensure meaningful access to their programs and activities by LEP individuals.[116]

b. Inquiries about immigration status

Unnecessarily asking someone about their immigration status can cause them to feel their "patronage [ ] is unwelcome, objectionable, [or] not acceptable,"[117] and can have a chilling effect on an individual's access to services. For most covered entities, such as schools, libraries, gyms, stores, restaurants, and cultural institutions, an individual's immigration status is irrelevant to the provision of services. However, inquiries about immigration status may be relevant to the services offered by some providers, such as attorneys and providers of immigration-related services. In addition, federal law imposes eligibility limits on certain government programs that require providers to inquire about immigration status.[118] In such circumstances, it is recommended that providers of public accommodations explain that the inquiry is required by law.

c. Harassment

Harassment by providers of public accommodations because of an individual's immigration status or national origin, or any other protected category, is unacceptable. Such harassing conduct may include an incident or behavior that makes a patron feel unwelcome, or that fosters an atmosphere that is demeaning, humiliating, or offensive. A single comment made in circumstances where that comment would signal discriminatory views about immigration status or national origin may be enough to constitute harassment.[119] Harassment by providers of public accommodations may include comments, or jokes and can occur in public accommodations such as schools, hospitals, or public transportation.

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lives; and (4) the resources available to the grantee/recipient and costs. Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455, 41459 (June 18, 2002).

116 In *Boureima*, a case involving access to the services of a city government agency, plaintiffs alleged violations of the NYCHRL relating to availability of language services. 128 A.D.3d 532. The First Department found that "discrimination against LEP individuals such as plaintiffs constitutes discrimination based on national origin" and that "plaintiffs stated a claim for disparate treatment based on national origin pursuant to the City HRL." *Id*. at 533. The case was later settled.

117 N.Y.C. Admin. Code § 8-107(4)(b).

118 Some government services may be required to determine the immigration status of an individual to distribute such service. For example, federal government voucher housing programs are permitted to specifically ask for immigration status, as such service is only available to documented individuals. *See* U.S. Dep't of Hous. & Urban Dev., *Housing Choice Voucher Program Guidebook, Eligibility and Denial of Assistance*, https://www.hud.gov/sites/documents/DOC_35615.pdf.

119 *See Cardenas*, 2015 WL 7260567, at *8 (citing *Williams*, 872 N.Y.S.2d at 41 n.30). However, the conduct complained of must be more than "petty slights and trivial inconveniences." *Williams*, 872 N.Y.S.2d at 41.

Threats by providers of public accommodations to call federal immigration authorities can constitute unlawful harassment under the NYCHRL when motivated, in whole or in part, by animus related to the patron's actual or perceived immigration status and/or national origin. In addition, using the specter of calling immigration authorities or the police to intimidate patrons or make them feel unwelcome because of their actual or perceived immigration status and/or national origin is unlawful harassment under the NYCHRL. While reporting a violation of the law to the police is otherwise permitted, it is a violation of the NYCHRL when such action is taken or threats to take such action are made based solely on a discriminatory or retaliatory motive. If patrons have engaged in any protected activity, such reports to authorities may be actionable as retaliation. Furthermore, the use of the terms "illegal alien" and "illegals," with the intent to demean, humiliate, or offend a patron, amounts to unlawful discrimination under the NYCHRL.[120]

Examples of disparate treatment in public accommodations

- A restaurant host tells a man who is speaking Hindi with his family that they must wait to be seated for a table. One hour passes and the family is still not seated, while the host has seated four English-speaking groups that arrived after the family and do not have reservations.
- Classmates repeatedly bully a student who wears a hijab at school, calling her an "illegal" and telling her to "take that off, you're in America now." The student tells her teacher and the school administration that she is being bullied. The teacher and school administration, despite being aware of the conduct, have not taken the usual, mandatory measures to end the behavior.
- At a rest stop, a bus driver of a coach bus company voluntarily identifies to federal immigration authorities passengers whom he perceives to be foreign based on their ethnicity and the language they are speaking. He invites the federal immigration authorities to do a search on the coach bus, telling the agent, "Go ahead, round up the 'illegals.'"
- A store owner tells two friends who are speaking Thai while shopping in his store to "speak English" and "go back to your country."

4. Actions Based on Stereotypes or Assumptions

It is unlawful under the NYCHRL for covered entities in employment, housing, and public accommodations to take an adverse action against an individual or treat an individual less well than another due to stereotypes or assumptions, without regard to individual ability or circumstance, related to immigration status or national origin. Judgments and stereotypes about employees, tenants, or patrons based on their actual or perceived immigration status or national origin, including assumptions about their education, beliefs, or behavior, are pervasive in our society and cannot be used as pretext for unlawful discriminatory treatment or decisions. Such treatment may also contribute to a hostile work environment under the NYCHRL.[121]

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120 *See supra* Section I.

121 Under the NYCHRL, behavior that constitutes a hostile work environment is much broader than the "severe or pervasive" standard at the federal level; it is simply being treated less well because of

Examples of actions based on stereotypes or assumptions

- An employer interviews a highly qualified applicant for a new position. Upon hearing the applicant's accent, the employer decides not to hire them, assuming that their accent indicates that the applicant is not very smart.
- A landlord is renting an apartment to a prospective tenant who will be arriving from Nigeria with his family. The tenant mentions his children in one of their conversations. The landlord begins to assume that the tenant must have a lot of children and becomes concerned about noise and damage to the apartment. The landlord decides to require a larger security deposit from the family compared to other renters who are not immigrants.
- Hotel staff voluntarily call federal immigration authorities to report the Spanish-sounding names of the guests staying at the hotel because they believe there are too many undocumented immigrants in the U.S.

B. Neutral Policies That Have a Disparate Impact Based on Immigration Status and National Origin

The NYCHRL explicitly creates a disparate impact cause of action, applying to claims of discrimination in employment, housing, public accommodations, and bias-based profiling by law enforcement.[122] Disparate impact claims involve policies or practices that appear to be neutral, but disproportionately impact one group more than others. Such policies or practices are unlawful under the NYCHRL unless they bear a significant relationship to a significant business objective of the covered entity.[123] Therefore, under a disparate impact theory of discrimination, a facially neutral policy or practice may be found to be unlawful discrimination even without evidence of the covered entity's subjective intent to discriminate.[124] In contrast, if such a policy allows for the possibility of other identifying information to be provided to the landlord, it would likely not run afoul of the NYCHRL.

The standard for establishing a *prima facie* case of disparate impact under the NYCHRL is lower than the standard for analogous claims under federal laws such as Title VII or the New York State Human Rights Law.[125] Under the NYCHRL, a complainant must show that a facially neutral policy or practice has a disparate impact on a protected

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membership to a protected category. *Bermudez v. City of New York*, 783 F. Supp. 2d 560, 579 (S.D.N.Y. 2011) ("[t]he NYCHRL imposes liability for harassing conduct that does not qualify as 'severe or pervasive' and questions of 'severity and pervasiveness' are applicable to consideration of the scope of permissible damages, but not to the question of underlying liability.") (citing *Williams*, 872 N.Y.S.2d at 38). The New York State governor signed legislation in August 2019 that eliminates the severe and pervasive standard from the State Human Rights Law (S6594). N.Y. State Bill S6594 (June 17, 2019), https://legislation.nysenate.gov/pdf/bills/2019/S6594.

122 *Levin v. Yeshiva Univ.*, 96 N.Y.2d 484, 492–93 (2001) (citing N.Y.C. Admin. Code §§ 8-107(17), 14-151(c)(2)).

123 N.Y.C. Admin. Code § 8-107(17)(2).

124 *Raytheon*, 540 U.S. at 52–53.

125 *Teasdale v. N.Y.C. Fire Dep't,* 574 F. App'x 50, 52 (2d Cir. 2014).

group.[126] Once such a showing has been made, the covered entity has an opportunity to plead and prove as an affirmative defense that either: (1) the complained-of policy or practice bears a significant relationship to a significant business objective; or (2) the policy or practice does not contribute to the disparate impact.[127] However, this defense is overcome if the complainant produces substantial evidence of an available alternative policy or practice with less disparate impact, and the covered entity is unable to establish that an alternative policy or practice would not serve its business objective as well as the complained-of policy or practice.[128] In the employment context, a "significant business objective" includes, but is not limited to, successful performance of the job.[129]

Covered entities should modify policies and practices that may have a disparate impact on individuals due to their immigration status or national origin when there are appropriate alternatives.

Examples of neutral policies with disparate impact

- *Employment*. An employer's policy states that the only acceptable identification document all employees must provide for purposes of employment is a passport.
- *Housing.* A landlord requires all tenants to show a U.S. passport in order to pick up keys for access to their newly rented apartment.
- *Public Accommodations*. A service provider has a policy requiring all clients to provide their Social Security numbers as the only acceptable identifying information for receipt of services.

C. Discriminatory Harassment

The NYCHRL prohibits discriminatory harassment or violence motivated by an individual's actual or perceived immigration status or national origin.[130] Discriminatory harassment occurs when someone uses force or threatens to use force against a victim, or when someone damages or destroys another individual's property, because of the victim's actual or perceived immigration status or national origin. This form of discrimination does not require a special relationship, such as employer-employee, landlord-tenant, or between a provider of public accommodation and a customer.

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126 N.Y.C. Admin. Code § 8-107(17)(1); *see also id.* § 8-107(17)(2)(b) ("The mere existence of a statistical imbalance between a covered entity's challenged demographic composition and the general population is not alone sufficient to establish a *prima facie* case of disparate impact violation, unless the general population is shown to be the relevant pool for comparison, the imbalance is shown to be statistically significant, and there is an identifiable policy or practice, or group of policies or practices, that allegedly causes the imbalance.").

127 N.Y.C. Admin. Code § 8-107(17)(2)(b).

128 *Id.*

129 *Id.*

130 *Id.* §§ 8-602–604.

Examples of discriminatory harassment

- A family of mixed immigration status lives in an apartment unit. The new tenants next door to them repeatedly bang on their door and wave a baseball bat at them while screaming discriminatory comments about their culture and threatening to call ICE.
- An immigrant shop owner asks a couple of customers to leave his store after they start breaking merchandise. The customers tell the owner he should "go back to where he came from," and exit the shop. The next morning, the owner discovers that the windows have been smashed and the walls spray-painted with anti-immigrant obscenities.

D. Bias-Based Profiling by Law Enforcement

City law prohibits bias-based profiling by law enforcement.[131] This occurs when a law enforcement agent takes a law enforcement action against someone because of an individual's actual or perceived immigration status or national origin (or other protected status) rather than a person's behavior or other information or circumstances that would link an individual to suspicious unlawful activity.[132] For example, profiling drivers for traffic stops because they appear to be Middle Eastern or from Central America may violate this law. An individual subject to bias-based profiling may file a complaint with the Commission pursuant to the NYCHRL.[133]

E. Retaliation

The NYCHRL prohibits retaliation for opposing discrimination. The purpose of the retaliation provision is to enable individuals to speak out against discrimination and to freely exercise their rights under the NYCHRL. Retaliating against an individual based on actual or perceived immigration status or national origin because they opposed discrimination is a violation of the NYCHRL.[134]

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131 *Id.* § 14-151. "As used in this section, the following terms have the following meanings:
'Bias-based profiling' means an act of a member of the force of the police department or other law enforcement officer that relies on actual or perceived race, national origin, color, creed, age, alienage or citizenship status, gender, sexual orientation, disability, or housing status as the determinative factor in initiating law enforcement action against an individual, rather than an individual's behavior or other information or circumstances that links a person or persons to suspected unlawful activity.
'Law enforcement officer' means (i) a peace officer or police officer as defined in the Criminal Procedure Law who is employed by the city of New York; or (ii) a special patrolman appointed by the police commissioner pursuant to section 14-106 of the administrative code."

132 *Id.* § 14-151(1).

133 The local law also provides for a private cause of action. The remedy in any civil action or administrative proceeding undertaken pursuant to N.Y.C. Admin. Code § 14-151 is limited to injunctive and declaratory relief.

134 In addition, New York Labor Law § 215(1)(a) (as amended by Chapter 126 of 2019) provides that "to threaten, penalize, or in any other manner discriminate or retaliate against any employee" includes "contacting or threatening to contact United States immigration authorities or otherwise reporting or threatening to report the suspected citizenship or immigration status of an employee or an employee's

A covered entity may not retaliate against an individual because they engaged in protected activity, including: (1) opposing a discriminatory practice prohibited by the NYCHRL;[135] (2) raising an internal complaint regarding a practice prohibited under the NYCHRL; (3) making a charge or filing a complaint with the Commission or any other enforcement agency; (4) testifying, assisting, or participating in an investigation, proceeding, or hearing related to an unlawful practice under NYCHRL; or (5) providing any information to the commission pursuant to the terms of a conciliation agreement.[136] In order to establish a *prima facie* claim for retaliation, an individual must show that: (1) the individual engaged in a protected activity; (2) the covered entity was aware of the activity; (3) the individual suffered an adverse action; and (4) there was a causal connection between the protected activity and the adverse action.[137] When an individual opposes what they believe in good faith to be unlawful discrimination, it is illegal to retaliate against the individual, even if the underlying conduct they opposed is not ultimately determined to violate the NYCHRL.

An action taken against an individual that is reasonably likely to deter them from engaging in such activities is considered unlawful retaliation. The action need not rise to the level of a final action or a materially adverse change to the terms and conditions of employment, housing, or participation in a program to be retaliatory under the NYCHRL.[138] The action could be as severe as termination, demotion, removal of job responsibilities, or eviction, but could also be relocating an employee to a less desirable part of the workspace, shifting an employee's schedule, or failing to make repairs in a resident's unit.

It is a best practice for covered entities to implement internal anti-discrimination policies to educate employees, tenants, and, in the context of public accommodations, patrons, patients, and program participants, of their rights and obligations under the NYCHRL, and regularly train staff on these issues. Covered entities should create procedures for employees, residents, and program participants to internally report violations of the law without fear of adverse action and train those in supervisory roles on how to handle those claims when they witness discrimination or instances are reported to them by subordinates. Covered entities that engage with the public should implement a policy for doing so in a respectful, non-discriminatory manner consistent with the NYCHRL, and ensuring that members of the public do not face discrimination.

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family or household member to a federal, state or local agency."

135 The NYCHRL has more liberal retaliation protections than federal law. Under federal law, retaliation must involve some kind of materially adverse change in the terms and conditions of employment, while under the NYCHRL, retaliation can involve any act which would be reasonably likely to deter a person from engaging in protected activity (e.g., changing the location of plaintiff's locker or warning her about allegedly excessive use of sick days might not qualify as retaliation under the federal law but might qualify under the NYCHRL). *Selmanovic v. NYSE Grp., Inc.*, No. 06 Civ. 3046(DAB), 2007 WL 4563431, at *3 (S.D.N.Y. Dec. 21, 2007).

136 N.Y.C. Admin. Code § 8-107(7).

137 *Id*.

138 *Id*.

Examples of retaliation

- A tenant who lives with several undocumented family members files a complaint with the Commission against his landlord based on a violation of the NYCHRL. The landlord sends a copy of his written response to ICE, identifying the immigration status of the tenant's family members, in an effort to intimidate the complainant.
- An employer has not paid a worker his full wages in two months. When the worker asks for his earned wages, his employer responds that due to slow business, he has to cut costs somewhere, and the employee's wages were cut rather than someone else's because the employee is not a U.S. citizen. When the employee objects, the employer tells the employee, "No one will listen if you complain, since you don't have status, and if you do complain, I'll call ICE."[139]
- A real estate agency fires an employee for reporting that a large landlord with whom the agency closely works refused to rent to the agent's client because the client is a recent immigrant.

F. Associational Discrimination

The NYCHRL's anti-discrimination protections extend to prohibit unlawful discriminatory practices based on an individual's relationship to or association with an individual who actually has or is perceived to have a particular immigration status, or because of their actual or perceived national origin.[140] The law does not require a familial relationship for an individual to be protected by the association provision; the relevant inquiry is whether the covered entity was motivated by the individual's association with an individual who has a particular immigration status or national origin.

To establish a disparate treatment claim of associational discrimination under the NYCHRL, a complainant must show that: (1) the covered entity knew of the individual's relationship or association with someone with an actual or perceived immigration status or national origin; (2) the individual suffered an independent injury, separate from any injury to the person with protected status; and (3) the covered entity treated the associate or relative less well, at least in part because of discriminatory animus.[141]

A covered entity may not take adverse action based on the immigration status or national origin of a family member or anyone else with whom the applicant, employee, or customer has a relationship or association.

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139 *See Centeno-Bernuy v. Perry*, No. 03 Civ. 457, 2009 WL 2424380, at *1 (W.D.N.Y. Aug. 5, 2009). Such discrimination and retaliation are actionable under the NYCHRL, but they are also actionable under other statutes, such as the New York Labor Law and Fair Labor Standards Act.

140 N.Y.C. Admin. Code § 8-107(20).

141 *See In re Comm'n on Human Rights ex rel. Blue v. Jovic*, OATH Index No. 1624/16, Comm'n Dec. & Order, 2017 WL 2491797, at *9 (May 26, 2017) ***aff'd sub nom. Jovic***, Index No. 100838/2017 (citing *Jing Zhang v. Jenzabar, Inc.*, No. 12 Civ. 2988, 2015 WL 1475793, at *12 (E.D.N.Y. Mar. 30, 2015)).

Examples of associational disparate treatment claims

- An employer refuses to pay for health benefits for an employee's spouse, where health benefits are typically available to all employees' spouses, because the spouse is not a U.S. citizen.
- A landlord refuses to rent out her apartment to a U.S. citizen who she believes will live with undocumented family members.

IV. Interaction Between the NYCHRL and Federal and State Law

While the NYCHRL protects individuals on the basis of actual or perceived immigration status, the NYCHRL explicitly recognizes that federal and state law may expressly permit discrimination on the grounds of "alienage or citizenship" in certain contexts.[142] The NYCHRL states:

> Notwithstanding any other provision of this section, it shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status, or to make any inquiry as to a person's alienage or citizenship status, or to give preference to a person who is a citizen or a national of the United States over an equally qualified person who is an alien, *when such discrimination is required or when such preference is expressly permitted by any law or regulation of the United States, the state of New York or the city of New York*, and when such law or regulation does not provide that state or local law may be more protective of aliens; provided, however, that this provision shall not prohibit inquiries or determinations based on alienage or citizenship status when such actions are necessary to obtain the benefits of a federal program. An applicant for a license or permit issued by the city of New York may be required to be authorized to work in the United States whenever by law or regulation there is a limit on the number of such licenses or permits which may be issued.[143]

(Emphasis added.)

Establishing laws regulating immigration is exclusively in the province of the Federal Government.[144] This includes the determination of an individual's immigration status; the issuance of visas, employment authorization documents, and green cards; and employers' restrictions on hiring. IRCA specifically prohibits employers from knowingly hiring immigrants without work authorization and requires that employers attest to their employees' immigration status. Federal law also governs the issuance of employment authorization documents, which are required for noncitizens or non-lawful permanent

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142 *See, e.g.*, N.Y. Pub. Off. Law § 3 (state law imposing citizenship requirements for certain positions, such as police officer).

143 N.Y.C. Admin. Code § 8-107(14).

144 *See* the Commerce Clause, Art. I, Sec. 8, cl. 3 of the U.S. Constitution; the Naturalization Clause, Art. I, Sec. 8, cl. 4; the Migration and Importation Clause, Art. I, Sec. 9, cl. 1; *see also Chae Chan Ping v. United States*, 130 U.S. 581, 609 (1889); *Fong Yue Ting v. U.S.*, 149 U.S. 698, 711 (1893).

residents.[145] Under the NYCHRL, therefore, it is not unlawful to deny employment to an individual who is not authorized to work in the United States.[146] But if the employer asks whether an applicant has work authorization, the employer must ask all applicants regardless of race, national origin, religion, or another protected category. Once in the workplace, employees have protections and remedies available to them under the NYCHRL regardless of their immigration status, work authorization, or whether they are paid on the books or under the table.

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The Commission is dedicated to eradicating discrimination on the basis of immigration status and national origin in New York City. If you believe you have been subjected to unlawful discrimination on the basis of your immigration status, national origin, or membership in another protected class, please contact the Commission at 311 or at (718) 722-3131 to file a complaint of discrimination with the Commission's Law Enforcement Bureau.

[145] IRCA required employers to attest to their employees' immigration status; made it illegal to hire or recruit illegal immigrants knowingly; and legalized certain seasonal agricultural undocumented immigrants. 8 U.S.C. § 1324a *et seq*.

[146] However, it is unlawful to discriminate against someone once they are in the workplace based on their immigration status. *See* Section III(A)(1).

NYLS'
NEW YORK CITY LEGISLATIVE HISTORY

1989
Local Law #52

83 Pages

Staff: Stefanie Cooper
Counsel

THE COUNCIL
REPORT OF THE LEGAL SERVICES DIVISION
RICHARD M. WEINBERG, DIRECTOR AND GENERAL COUNSEL

COMMITTEE ON INTERNATIONAL INTERGROUP RELATIONS AND SPECIAL EVENTS

PROPOSED INT. NO. 1072-A: By Council Members Alter and Michels; also Council Members Castaneira Colon, Crispino, Dryfoos, Foster, Friedlander, McCaffrey, Messinger and Pinkett.

TITLE: A local law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on alienage or citizenship status.

BACKGROUND: On December 22, 1988, the Committee on International Intergroup Relations and Special Events considered Int. No. 1072. Proposed Int. No. 1072-A is the result of that hearing.

ANALYSIS: Proposed Int. No. 1072-A and its predecessor, Int. No. 1072, represent an attempt to afford all individuals, regardless of their alienage or citizenship status, a remedy when they experience unlawful discrimination or are denied rights conferred upon them by the U.S. Constitution or other federal, state or city law. Both versions of this legislation establish "aliens" as an additional category of individuals who may seek redress for discrimination under the New York City Civil

Rights Law and make it an unlawful practice to discriminate against those individuals with respect to employment, union membership, housing, commercial space, access to public accommodations, loans and financial assistance to the extent that such non-discrimination requirement does not conflict with the Immigration Reform and Control Act of 1986 or any other provision of federal or state law, when such law or regulation does not provide that state or local law may be more protective of aliens.

Proposed Int. No. 1072-A differs from the original legislation in three ways. First, Proposed Int. No. 1072-A designates discrimination on the basis of "alienage or citizenship status" as an unlawful discriminatory practice. The original legislation prohibited discrimination on the basis of "alien status". Second, Proposed Int. No. 1072-A includes a provision that would allow New York City licenses and permits in uncapped categories to be issued without requiring applicants to produce proof that they are authorized to work in the United States. The original legislation did not address this issue. Third, on a technical matter of drafting, the amended legislation integrates the proposed alienage and citizenship status language into each applicable section of the Administrative Code. The original legislation accomplished the same legal result by the addition of a new section following section 8-108.2 of the Administrative Code which incorporated by reference "alien status" into each provision.

Under current law, (Sections 8-107-8-108.2 of the New York City Administrative code, also known as the New York City Civil Rights Law) it is unlawful to discriminate against individuals on the basis of race, creed, color, national origin, sexual orientation, sex, marital status, age, occupation or handicapped status with respect to employment, union membership, housing, commercial space, access to public accommodations, loans and financial assistance. Although discrimination against, and even exploitation of, unauthorized aliens has been widely documented, it has also been shown that authorized aliens, i.e., aliens who are in this country legally, are often victims of discrimination and denied rights conferred upon them by the United States Constitution and other federal, state and city law. For example, incidents have been reported in which aliens lawfully authorized to work in the United States have been wrongfully denied employment on the basis of their alien status. Proposed Int. No. 1072-A would make such discrimination an unlawful discriminatory practice and provide victims an opportunity to file a complaint with the New York City Human Rights Commission. Under existing law, the Commission is empowered to conduct an investigation based on the complaint, and if probable cause of discrimination is found, the Commission is mandated to eliminate such unlawful discriminatory practice by conference, conciliation and persuasion. If the discrimination is not eliminated in this manner, the Commission may conduct a hearing, issue a cease and desist order and take other affirmative action, such as, in the

case of employment discrimination, ordering reinstatement, back pay and other appropriate remedies. These remedies are, of course, in addition to any remedy afforded by federal or state law.

SC:bg
DG-LL
Prop.Int.No.1072-A
6/13/89

PROCEEDINGS

OF THE

COUNCIL

OF

THE CITY OF NEW YORK

FROM

JANUARY 4 TO JUNE 30, 1989

VOLUME I

PUBLISHED BY AUTHORITY OF THE COUNCIL

004 — Other Than Personal Service	$635,000
TO	
	AMOUNT
826 — Department of Environmental Protection	
001 — Administration	$635,000

Referred to the Committee on Finance.

MICHAEL DeMARCO, Chairman, ARTHUR J. KATZMAN, WALTER WARD, CAROL GREITZER, MARY PINKETT, ARCHIE SPIGNER, ABRAHAM G. GERGES, HERBERT E. BERMAN, JERRY L. CRISPINO, WENDELL FOSTER, SHELDON S. LEFFLER, JUNE M. EISLAND, ROBERT J. DRYFOOS, JEROME X. O'DONOVAN, SUSAN MOLINARI, Committee on Finance, June 20, 1989.

On motion of the Vice-Chairman (Council Member Vallone), and adopted, the foregoing matter was coupled as a General Order for the Day. (See ROLL CALL ON GENERAL ORDERS FOR THE DAY.)

Report of the Committee on International Intergroup Relations and Special Events

Int. No. 1072-A

Report of the Committee on International Intergroup Relations And Special Events in favor approving and adopting, as amended, a local law to amend the administrative code of the City of New York, in relation to prohibiting discrimination based on a alienage or citizenship status.

The Committee on International Intergroup Relations And Special Events to which was referred on June 30, 1989 (Minutes, page 1381) the annexed amended local law respectfully

REPORTS

On December 22, 1988, the Committee on International Intergroup Relations an d Special Events considered Int. No. 1072. Proposed Int. No. 1072-A is the result of that hearing.

Proposed Int. No. 1072-A and its predecessor, Int. No. 1072, represent an attempt to afford all individuals, regardless of their alienage or citizenship status, a remedy when they experience unlawful discrimination or are denied rights conferred upon them by the U.S. Constitution or other federal, state or city law. Both versions of this legislation establish "aliens" as an additional category of individuals who may seek redress for discrimination under the New York City Civil Rights Law and make it an unlawful practice to discriminate against those individuals with respect to employment, union membership, housing, commercial space, access to public accommodations, loans and financial assistance to the extent that such non-discrimination requirement does not conflict with the Immigration Reform and Control Act of 1986 or any other provision of federal or state law, when such law or regulation does not provide that state or local law may be more protective of aliens.

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Under current law, (Sections 8-107—8-108.2 of the New York City Administrative code,

also known as the New York City Civil Rights Law) it is unlawful to discriminate against individuals on the basis of race, creed, color, national origin, sexual orientation, sex, marital status, age, occupation or handicapped status with respect to employment, union membership, housing, commercial space, access to public accommodations, loans and financial assistance. Although discrimination against, and even exploitation of, unauthorized aliens has been widely documented, it has also been shown that authorized aliens, *i.e.,* aliens who are in this country legally, are often victims of discrimination and denied rights conferred upon them by the United States Constitution and other federal, state and city law. For example, incidents have been reported in which aliens lawfully authorized to work in the United States have been wrongfully denied employment on the basis of their alien status. Proposed Int. No. 1072-A would make such discrimination an unlawful discriminatory practice and provide victims an opportunity to file a complaint with the New York City Human Rights Commission. Under existing law, the Commission is empowered to conduct an investigation is found, the Commission is mandated to eliminate such unlawful discriminatory practice by conference, conciliation and persuasion. If the discrimination is not eliminated in this manner, the Commission may conduct a hearing, issue a cease and desist order and take other affirmative action, such as, in the case of employment discrimination, ordering reinstatement, back pay and other appropriate remedies. These remedies are, of course, in addition to any remedy afforded by federal or state law.

Accordingly your committee recommends its adoption as amended.

A LOCAL LAW to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on alienage or citizenship status.

Be it enacted by the Council as follows:

Section one. Declaration of legislative intent and findings. New York City is currently home to more than one million aliens. These individuals make a unique contribution to the stimulating economic and cultural diversity which is one of the City's primary features. As a city of immigrants, New York City has a special obligation to assist those who, like most of our ancestors, have come to our country seeking a better way of life. Even under the best of circumstances, newcomers to this country find it difficult to obtain housing, employment and other necessities. However, this difficulty is compounded when landlords, employers or other persons practice discrimination against aliens. Aliens are also especially vulnerable to exploitation by unscrupulous entrepreneurs in many areas of life. The entire City suffers when a substantial part of its population lacks adequate housing, insurance coverage, health care or education.

Recent changes in federal immigration law, intended in part to discourage the entry of undocumented aliens into the United States, have aroused fears among immigrants of a growing bias within the community against those who may look or sound foreign. It has come to the City's attention that such people have been asked to document their citizenship status when such documentation was not required by law. Inquiries of this nature indicate that not only aliens, but those suspected of being aliens, face the threat of discrimination. Such intolerance harms the City and aggravates the difficult adjustment of American life which every newcomer must make.

It is the intent of the Council to prevent aliens from being treated unfairly in housing, employment and other areas of life. This law prohibits discrimination against aliens unless such prohibition is contrary to Federal, State or City law. Victims of alienage-based discrimination will have recourse to the City Commission on Human Rights. Unless otherwise mandated by law, all aliens are entitled to and will be guaranteed equal treatment. Nothing in this local law is intended to or shall have the effect of contradicting the requirements of federal law concerning the employment and provision of benefits to aliens.

§2. Section 8-102 of the administrative code of the city of New York is amended by adding a new subdivision eighteen to read as follows:

18. The term "alienage or citizenship status" means:

(a) the citizenship of any person, or

(b) the immigration status of any person who is not a citizen or national of the United States.

§3. Subdivisions one, one-a, two, three, three-a, four and five of section 8-107 of such code, subdivisions three and five are amended to read as follows:

§8-107 Unlawful discriminatory practices. 1. It shall be unlawful discriminatory practice:

(a) For an employer, because of the age, race, creed, color, national origin, [or] sex *or alienage or citizenship status* of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(b) For an employment agency to discriminate against any individual because of such individual's age, race, creed, color, national origin, [or] sex *or alienage or citizenship status* in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applications for its services or in referring an applicant or applicants to an employer or employers.

(c) For a labor organization, because of the age, race, creed, color, national origin, [or] sex *or alienage or citizenship status* of any individual, to exclude or to expel from its membership such individual or to discriminate an any way against any of its members or against any employer or any individual employed by an employer.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, or sex *or alienage or citizenship status*, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because such person has opposed any practices forbidden under this chapter or because such person has filed a complaint, testified or assisted in any proceeding under this chapter.

1-a. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

(a) To select persons for an apprentice training program registered with the state of New York on any basis other than their qualifications, as determined by objective criteria which permit review.

(b) To deny to or withhold from any person because of his or her race, creed, color, national origin, [or] sex *or alienage or citizenship status* the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, or other occupational training or retraining program.

(c) To discriminate against any person in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of race, creed, color, national origin, [or] sex *or alienage or citizenship status*.

(d) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, [or] sex *or alienage or citizenship status*, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

2. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, creed, color, national origin, [or] sex *or alienage or citizenship status* of any person directly or indirectly, refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld form or denied to any person account of race, creed, color, national origin, [or] sex *or alienage or citizenship status* or that the patronage or custom thereat of any person belonging to or purporting to be of any particular race, creed, color, national origin, [or] sex *or alienage or citizenship status* is unwelcome, objectionable or not acceptable, desired or solicited. Notwithstanding the foregoing, the provisions of this subdivision shall not apply, with respect to sex, to places of public accommodation, resort or amusement where the commission grants an exemption based on bona fide considerations of public policy. Any place of accommodation which is required as a result of this section to construct or reconstruct locker room, shower, or other facilities shall be allowed until May twenty-third, nineteen hundred eighty-five to complete such work, and prior to such date shall not be found to be in violation of the provisions of this subdivision which apply to such facilities with regard to discrimination on account of sex. The commission, for good cause shown, may grant an extension not to exceed an additional ninety days after the date allowed such place of accommodation to complete such work.

3. It shall be an unlawful discriminatory practice for the owner, lessee, sublessee, assignee, or managing agent of publicly-assisted housing accommodations or other person having the right of ownership or possession of or the right to rent or lease such accommodations:

(a) To refuse to rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodations because of the race, creed, color, national origin, sex, age, [or] marital status *or alienage or citizenship status* of such person or persons, or because children are, may be or would be residing with such person or persons.

(b) To discriminate against any person because of such person's race, creed, color, national origin, sex, age, [or] marital status *or alienage or citizenship status* or because children are, may be or would be residing with such person, in terms, conditions or privileges or any publicly-assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

(c) To cause to be made any written or oral inquiry or record concerning the race, creed, color, national origin, sex, age, [or] marital status *or alienage or citizenship status* of such a person seeking to rent or lease any publicly-assisted housing accommodation, or to make any such inquiry or record as to whether children are, may be or would be residing with such a person, provided, however, that this paragraph shall not be construed to prohibit inquires concerning family size or whether children are, may be or would be residing with a person if such inquiries are made to assist such person in meeting the needs of a child, including but not limited to the availability of educational and recreational facilities, and are not for the purpose of limitation or discrimination.

(d) Nothing in this subdivision shall restrict the consideration of age in the rental of publicly-assisted housing accommodations if the division grants an exemption based on bona fide consideration of public policy for the purpose of providing for the special needs of a particular age group without the intent of prejudicing other age groups.

3-a. It shall be an unlawful discriminatory practice;

(a) For an employer or licensing agency, because an individual is between the ages of eighteen and sixty-five *or because of any individual's alienage or citizenship status,* to refuse to

hire or employ or license or to bar or to terminate from employment such individual, or to discriminate against such individual in promotion, compensation or in terms, conditions or privileges of employment.

(b) For any employer, licensing agency or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation, specification or discrimination respecting individuals between the ages of eighteen and sixty-five *or respecting any person's alienage or citizenship status,* or any itent to make any such limitation, specification or discrimination.

(c) For any employer, licensing agency or employment agency to discharge or otherwise discriminate against any person because he or she has opposed any practices forbidden under this chapter or because such person has filed a complaint, testified or assisted in any proceeding under this chapter. But nothing contained in this subdivision or in subdivision one of this section shall be construed to prevent the termination of the employment of any person who is physically unable to perform his or her duties or to affect the retirement policy or system of any employer where such policy or system is not merely a subterfuge to evade the purposes of said subdivisions; nor shall anything in said subdivisions be deemed to preclude the varying of insurance coverages according to an employee's age.

4. It shall be an unlawful discriminatory practice for an education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law to deny the use of its facilities to any person otherwise qualified, by reason of such person's race, creed, color, age, [or] religion *or alienage or citizenship status.*

5. (a) It shall be an unlawful discriminatory practice for the owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease a housing accommodation, constructed ro to be constructed, or any agent or employee thereof:

(1) To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons such a housing accommodation because of the race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status* of such person or persons, or because children are, may be or would be residing with such person or persons, in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

(2) To discriminate against any person because of such person's race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status*, or because children are, may be or would be residing with such person, in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such a housing accommodation or to make any record or inquiry in conjunction with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status*, or whether children are, may be, or would be residing with a person, or any intent to make such limitation, specification or discrimination.

The provisions of this paragraph (a) shall not apply: (1) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or members of the owner's family reside in one of such housing accommodations, or (2) to the rental of a room or rooms in a housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner

of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation, or (3) to the restriction of the rental of rooms in a rooming house, dormitory or residence hotel to one sex if such housing accommodation is regularly occupied on a permanent, as opposed to transient, basis by the majority of its guests.

(b) It shall be an unlawful discriminatory practice for the owner, lessee, sublessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, or lease, land or commercial space:

(1) To refuse to sell, rent, lease or otherwise deny or to withhold from any person or group of persons such commercial space because of the age of such person or persons; or such land or commercial space because of race, creed, color, national origin, sex, marital status *or alienage or citizenship status* of such person or persons, or because children are, may be or would be residing with such person or persons.

(2) To discriminate against any person because of race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status,* or because children are, may be or would be residing with such person, in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space or because of such person's age in relation to such commercial space; or in the furnishing of facilities or services in connection therewith.

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial space which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status*, or whether children are, may be or would be residing with such person, or in relation to commercial space as to age; or any intent to make any such limitation, specification or discrimination.

(c) It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof:

(1) To refuse to sell, rent or lease any housing accommodation, land or commercial space to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any housing accommodation, land or commercial space to any person or group of persons because of the race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status* of such person or persons, or because children are, may be *or would be* residing with such person or persons, or in relation to commercial space because of the age of such person or persons, or to represent that any housing accommodation, land or commercial space is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any housing accommodation, land or commercial space or any facilities of any housing accommodation, land or commercial space from any person or group of persons because of the race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status* such as person or persons, or because children are, may be or would be residing with such person or persons, or in relation to commercial space because of the age of such person or persons.

(2) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any housing accommodation, land or commercial space or to make any record or inquiry in connection with such the prospective purchase, rental or lease of any housing accommodation, land or commercial space which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status*, or to whether children are, may be or would be residing with a person, or in relation to commercial space as to age; or any intent to make any such limitation, specification or discrimination.

(d). It shall be an unlawful discriminatory practice for any person, bank, trust company, private banker, savings bank, industrial bank, savings and loan association, credit union, investment company, mortgage company, insurance company, or other financial institution or lender, doing business in the city and if incorporated regardless of whether incorporated under the laws of the state of New York, the United States or any other jurisdiction, to whom application is made for financial assistance for the purchase, acquisition construction, rehabilitation, repair or maintenance of any housing accommodation, land or commercial space, or any officer, agent or employee thereof:

(1) To discriminate against any such applicant or applicants because of the race, creed, color, national origin, sex, [or] marital status *or alienage or citizenship status* of such applicant or applicants or of any member, stockholder, director, officer or employee of such applicant or applicants, or of the prospective occupants or tenants of such housing accommodation, land or commercial space, or because children are, may be or would be residing with such applicant, in the granting, withholding, extending or renewing, or in the fixing of rates, terms or conditions of any such financial assistance.

(2) To use any form of application for such financial assistance or to make any record or inquiry in connection with applications for such financial assistances which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, age, [or] marital status *or alienage or citizenship status,* or whether children are, may be, or would be residing with a person.

(e) The provisions of this subdivision, as they relate to age, shall not apply to persons under the age of eighteen years.

(f) The provisions of this chapter with respect to discrimination against persons with whom children are, may be or would be residing shall not apply to dormitories or to the rental of housing units insured, subsidized or guaranteed by the federal government that are specifically designed to provide accommodations for senior citizens.

§4. Section 8-107 of such code is amended by adding a new subdivision eleven to read as follows:

11. Notwithstanding any other provision of this section, it shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status, or to make any inquiry as to a person's alienage or citizenship status, or to give preference to a person who is a citizen or national of the United States over an equally qualified person who is an alien, when such discrimination is required or when such preference is expressly permitted by any law or regulation of the United States, the state of New York or the city of New York, and when such law or regulation does not provide that state or local law may be more protective of aliens. An applicant for a license or permit issued by the city of New York may be required to be authorized to work in the United States whenever by law or regulation there is a limit on the number of such licenses or permits which may be issued.

§5. This local law shall take effect immediately.

WENDELL FOSTER, Chairman, SUSAN ALTER, STANLEY E. MICHELS, JUNE M. EISLAND, NOACH DEAR, STEPHEN DiBRIENZA, JULIA HARRISON, Committee on International Intergroup Relations And Special Events, January 19, 1989.

Laid over.

Reports of the Committee on Transportation

Int. No. 1185

Report of the Committee on Transportation in favor of filing a local law to amend the charter of the city of New York, in relation to a traffic control signal photo-monitoring device demonstration project.

The Committee on Transportation to which was referred on January 19, 1989 (Minutes,

THE COUNCIL

THE CITY OF NEW YORK

COMMITTEE ON INTERNATIONAL INTERGROUP RELATIONS AND SPECIAL EVENTS

DATE: 12/22/88

INTRO NO: 1072 RES. NO.___ M-___

OVERSIGHT SUBJECT: _____

COUNCIL MEMBER	PRESENT	item aye	nay	abstain	item aye	nay	abstain
FOSTER	1						
ALTER	2						
MICHELS	3						
EISLAND	5						
DEAR							
DIBRIENZA							
HARRISON	4						
TOTAL PRESENT	_____	aye___	nay__	abstain__	aye___	nay__	abstain___

OTHER COUNCIL MEMBERS ATTENDING:

TIME OF OPENING:
TIME OF ADJOURNMENT:

SPEAKERS: Mayor Edward I. Koch, Jeremy Travis, Dr. John E. Brandon Russell Pierce, M. Gleason Kay Raymond Colon, Arthur Helton, Margaret Chisholm Hillary Salmons, Jean D. Vernet & Yves Villes

THE COUNCIL

THE CITY OF NEW YORK

COMMITTEE ON INTERNATIONAL, INTERGROUP, RELATIONS AND SPECIAL EVENTS

DATE: June 19, 1989

INTRO NO: 1072-A RES. NO. ____ M- ____

OVERSIGHT SUBJECT: ____

COUNCIL MEMBER	PRESENT	item 1072-A aye	nay	abstain	item ____ aye	nay	abstain
Wendell Foster	✓	✓					
Susan Alter	✓	✓					
Stanley Michels	✓	✓					
June Eisland	✓	✓					
Noah Dear							
Stephen Di Brienza	✓	✓					
~~Walter McCaffrey~~							
Julia Harrison	✓	✓					
TOTAL PRESENT	6	aye 6	nay 0	abstain 0	aye ___	nay ___	abstain ___

OTHER COUNCIL MEMBERS ATTENDING:

~~Julia Harrison~~

TIME OF OPENING: 10:10

TIME OF ADJOURNMENT:

SPEAKERS:

74pp

LL52of89

DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

OFFICE OF IMMIGRANT AFFAIRS

August 10, 1988

Mr. Joseph Strasburg, Counsel
The New York City Council
City Hall
New York, NY 10007

Re: Intro. No. 1072

Dear Mr. Strasburg:

I am responding to your inquiry of August 4 on behalf of the Office of Immigrant Affairs and of the Department of City Planning, of which the OIA is a part.

Because Intro. No. 1072 involves the Human Rights Commission, I consulted with Rockwell Chin, an attorney at the Commission, before preparing my response to you.

On the basis of my reading of the proposed law, and the opinion of the Commission, I would say that this law is well worth supporting. It will give the Human Rights Commission auhority to act in some discrimination cases which are not at this moment within its mandate. It will permit the Commission to take action in cases in which an employer, landlord, or provider of public accommodations is discriminating on the basis of a person's alien status. At the moment, the Commission has authority to deal only with those cases that involve national origin discrimination as opposed to the broader scope of alienage. Federal law protects aliens from discrimination in employment but not in housing or public accommodations.

The proposed law makes it very clear that it is not intended to circumvent any existing city, state or federal laws, but it does add "teeth" in an area currently uncovered by law.

If there is any more information I can provide you, please let me know.

Yours truly,

Elizabeth Bogen

Elizabeth Bogen

EB:
cc: Sylvia Deutsch

22 Reade Street, New York, NY 10007-1216, Room 6N, (212) 720-3465
Elizabeth Bogen, *Director*

THE COUNCIL

CITY OF NEW YORK

OFFICE OF COMMUNICATIONS

City Council — City Hall
Tel.: (212) 566-5852

166-89
June 15, 1989

FOR IMMEDIATE RELEASE

A bill by Council member Susan Alter, chair of the Select Committee on Immigration, to protect the city's immigrant population against unlawful discrimination and abuse in jobs and city services will be considered by the Committee on International Intergroup Relations and Special Events at 10 a.m. on Monday June 19 in the Council Committee Room.

Intro. No. 1072-A seeks to ensure that immigrants living in New York City receive all basic rights extended to them by the Constitution, federal, state and city law, and that they are protected by the city's Commission on Human Rights.

"We've had many hearings on discrimination against immigrants in this city and it is quite clear that this bill is essential," said Alter. She continued: "We know that the laws prohibiting discrimination against aliens with respect to employment, union membership, housing, commercial space and access to public accomodations are not being upheld. This bill would authorize the New York City Commission on Human Rights to investigate and intervene with legal proceedings on behalf of those discriminated against."

She added, "This legislation is also significant since it is being considered on a day when the committee is paying tribute to three civil rights activists who died fighting against discrimination 25 years ago. This law is the first of its kind in the country."

The bill does not alter any provisions of the federal Immigration Reform and Control Act concerning the restrictions on hiring unauthorized aliens and employer sanctions, Alter said.

#

Bill Int. #

1072

Maria Regina Convent

BRENTWOOD, N. Y. 11717

June 25, 1989

Councilman Peter Vallone

Dear Councilman Vallone,

Permit me to register my strong support for the bill introduced by Councilwoman Susan D. Alter which would prohibit discrimination against aliens. This is something that concerns me deeply, and I am anxious to help illegal aliens who want to work to support themselves and their families.

I hope that this bill will be signed into law.

Sincerely,

Joanna Ohlandt, CSJ

nysba new york state bankers association
Michael P. Smith, Executive Vice President (212) 949-1168
485 LEXINGTON AVENUE
NEW YORK, N.Y. 10017
(212) 949-1155

June 16, 1989

Honorable Wendell Foster
Chair
International Intergroup Relations
and Special Events
City Council
City Hall
New York, NY 10007

RE: PUBLIC HEARING ON CITY COUNCIL INTRO. NO. 1072-A

Dear Chairman Foster:

The New York State Bankers Association, on behalf of the State's commercial banks, wishes to express its concerns regarding proposed City Council Intro. No. 1072-A, which prohibits discrimination based on alienage or citizenship status. The same concerns have been expressed in detail by the New York Chamber of Commerce and Industry, Inc.

Our common concerns relate to the provisions of section 4 of the proposal which would conflict with Federal Reserve Regulation B. Regulation B Section 202.6(b)(7) and its Official Commentary provide that it is not per se discrimination to deny credit on the basis of national origin, since an applicant's immigration status and community ties could bear on the ability to repay the debt.

Thus, along with the Chamber of Commerce, we urge the Council to incorporate amendments to the proposal which would be consistent with Federal Reserve Regulation B and eliminate the apparent conflict between the proposed bill language and federal regulations.

Sincerely,

Michael P. Smith
Executive Vice President

MPS/cmg

THE COUNCIL

CITY OF NEW YORK

OFFICE OF COMMUNICATIONS

City Council — City Hall
Tel.: (212) 566-5852

178-89

July 18, 1989

FOR YOUR INFORMATION - Legislative History for today's Local Law Hearing, 3 p.m., Blue Room, City Hall.

The following bill was approved by the Committee on International Intergroup Relations and Special Events, chaired by Wendell Foster, on June 19:

Intro. No. 1072-A- ensuring immigrants in New York City all rights conferred by the U.S. Constitution or other federal, state or city law, and protection by the city's Commission on Human Rights.

The following bills were approved by the Committee on Parks, Recreation and Cultural Affairs, chaired by Walter Ward, on June 23:

Intro. No. 1278 - naming East 91st Street from Second to Third Avenues in Manhattan "East 91st Street-James Cagney Place" in honor of the legendary actor who was once a resident of the Yorkville neighborhood.

Intro. No. 1280 - would repeal the legislation which named the triangle bounded by West 61st Street, Central Park West, Broadway and Columbus Circle in Manhattan "Gulf and Western Plaza." The Gulf and Western Company recently changed its name to Paramount.

All of the above bills were approved by the full Council on June 28.

#

IIG-
1072A.

Sisters of Mercy
6301 12th Ave.
Brooklyn, N.Y.
11219
(718) 837-7615
Director:
Sr. Pat Hartigan
Office of social action

June 30, 1989

Councilman Peter Vallone
City Council of New York
New York, New York 10007

Dear Councilman Vallone:

I am writing to you to encourage you to support a bill being introduced by Councilwoman Susan Alter. This bill would prohibit discrimination against "aliens" in employment, housing and government services. I am aware that Mayor Koch has already issued a memo which states that no public service should ask for legal status and that vendor licenses should be issued to the undocumented. Councilwoman Alter's bill would seek to strengthen this memo.

The city should not be employed as police to enforce the rules and regulations of the Immigration Service. The city, rather, is about providing human services to all.

Please give your support to this bill and ensure personal and economic freedom and independence to all those immigrants "legal" or otherwise who reside in our boundaries.

Thank you for the attention you will bring to this matter.

Sincerely yours,

Patricia Hartigan, RSM

Patricia Hartigan, RSM

1072A IIG

Sisters of the Presentation of the Blessed Virgin Mary

Mount Saint Joseph RD 2 Box 33 Newburgh, New York 12550

GENERALATE OFFICE 914-564-0513

June 23, 1989

Councilman Peter Vallone
Majority Leader
City Council of New York
New York, NY 10007

Dear Mr. Vallone,

On behalf of the Sisters of the Presentation, most of whom minister in schools and parishes in the City of New York, I am writing to urge you to support the bill which is being introduced by Councilwoman Susan Alter.

Ms. Alter's bill seeks to prohibit descrimination against aliens in employment, housing and government services in New York City. I noted with great joy that it passed (6-0) the International Inter-Group Relations Committee of the Council.

I agree with her position that it is imperative to allow undocumented aliens to earn a living. Presently I am a plaintiff in a suit filed by the Intercommunity Center for Justice and Peace seeking to over-turn the employer sanctions provisions of IRCA on grounds of religious freedom. The mission of our Congregation is "to respond to the needs of the poor by dedicating themselves to the service of those who are deprived of spiritual, intellectual, economic or physical strengths which are necessary to live a fully human life." (Constitutions, Article 47)

Our Congregation was founded in 1775 in Cork, Ireland, by Honore Nagle, a woman who sought to redress the ills created by the discriminatory penal laws of the country as they were applied unjustly to the Catholic poor. Today, we, as a congregation, continue to work for legal redress for those who are not empowered to help themselves.

We believe that the right to employment is a means of fulfilling the gospel mandate of promoting human dignity and justice for all persons. We have committed our lives to witness to the gospel of Jesus Christ and resist attempts by the city, state or federal government to limit the manner in which it may be done.

On behalf of all of our Sisters, I urge you to work for passage of this bill in the City Council.

Sincerely,

Sister Dale McDonald

Sister Dale McDonald, PBVM
President

Intermittent
1072

Int. No.
1072

ISV
46
55

JUNE M. EISLAND
MEMBER
CITY COUNCIL 10TH DISTRICT, BRONX
CHAIRWOMAN
COMMITTEE ON TRANSPORTATION

COMMITTEE MEMBER:
FINANCE
PUBLIC SAFETY
CONSUMER AFFAIRS
INTERNAT'L INTERGROUP RELATIONS
& SPECIAL EVENTS

THE COUNCIL
OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, N. Y. 10007

PLEASE REPLY TO:
☐ 490 WEST 238TH STREET
BRONX, N. Y. 10463
549-0158

☐ 3605 SEDGWICK AVENUE
BRONX, N. Y. 10463

☐ 177 DREISER LOOP
BRONX, N. Y. 10475

December 27, 1988

Honorable Peter F. Vallone
Vice Chairman and Majority Leader
The Council of the City of New York
City Hall
New York, N.Y. 10007

Dear Mr. Vallone:

I inadvertently neglected to submit my name as a co-sponsor of Intro. #1072, which seeks to designate discrimination against an alien as an unlawful discriminatory practice.

At the appropriate time I wish to be included as a co-sponsor of this important legislation.

Sincerely,

June M. Eisland
Councilwoman

JME:gk

MARINE MIDLAND BANK, N.A.
140 Broadway
New York, N. Y. 10015

ANTOINETTE TOMAI HERON
Regional President and
Division Executive
Eastern
(212) 908-6421

June 28, 1989

By Hand

The Honorable Stanley E. Michels
Council Member
City Hall
New York, New York 10007

Re: Intro.#1072A: Discrimination and Alienage

Dear Councilman Michels:

Marine Midland Bank is very concerned about New York City Intro.#1072A, which would affect a bank's ability to consider alienage when making credit decisions. I am disappointed that Intro.#1072A was passed by the City Council's Intergroup Relations and Special Events Committee on June 19 without regard for our concerns that the bill would conflict with current federal regulations and would present significant problems to the New York City banking community. I seek your support in amending the bill before it goes to the City Council for a final vote. The minor changes we seek would simply make the proposed New York City law more closely track the existing federal language.

Intro.#1072A would make it an unlawful discriminatory practice to discriminate on the basis of alienage or citizenship status, to inquire about a person's status and to give a preference to persons who are U.S. citizens or nationals over those who are not. But the proposal is at odds with federal regulations which implement the Equal Credit Opportunity Act.

The issue of alienage and credit is adequately governed by Federal Reserve Board Regulation B at Section 202.6(b)(7) and the Official Commentary to that section. Regulation B provides that a denial of credit to a person who is not a citizen is not per se discrimination on the basis of national origin. Thus, a creditor may consider whether an applicant for credit is a permanent United States resident, an applicant's immigration status and other information that will enable the creditor to make a decision about an applicant's likelihood of repaying the debt if credit is granted. For instance, it would not be a sound credit

decision for a bank to grant a ten year loan to a person who is present in this country on a six month visa. For this reason, the Commentary to Regulation B states:

> The applicant's immigration status and ties to the community (such as employment and continued residence in the area) could have a bearing on a creditor's ability to obtain repayment.
>
> Accordingly, the creditor may consider and differentiate, for example, between a noncitizen who is a long-time resident with permanent resident status and a noncitizen who is temporarily in this country on a student visa.

Section 4 of the bill now provides that it will not be considered an unlawful practice to discriminate or grant a preference on the basis of alienage or citizenship status when "such discrimination is required or when such preference is expressly permitted" by other laws and regulations. Our concern is that neither Regulation B nor the Official Commentary "require" or "expressly permit" institutions to deny credit. Instead, they permit banks to consider alienage as a factor in the credit approval process. Then, if credit is denied, the denial will not be considered to be discrimination.

I have attached a copy of Intro. #1072A marked to show the minor changes necessary to satisfy our concerns. To reiterate, these changes will simply make the local law more closely track the federal language.

Regulation B is clear and even-handed. There has been no showing that it does not work or that creditors have acted unreasonably. Enactment of Intro. # 1072A would burden financial institutions and other creditors with yet another impediment to doing business in New York City. Faced with a law that would prevent us from making sound and otherwise lawful credit decisions, the banking community would be forced to seek a federal preemption from the New York City law.

Sincerely,

cc: Mr. Joseph Strasburg, Counsel to the Majority Leader
Mr. Richard M. Weinberg, Director and General Counsel

applications for such financial assistances which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, age, [or] marital status or alienage or citizenship status, or whether children are, may be, or would be residing with a person.

(e) The provisions of this subdivision, as they relate to age, shall not apply to persons under the age of eighteen years.

(f) The provisions of this chapter with respect to discrimination against persons with whom children are, may be or would be residing shall not apply to dormitories or to the rental of housing units insured, subsidized or guaranteed by the federal government that are specifically designed to provide accommodations for senior citizens.

§4. Section 8-107 of such code is amended by adding a new subdivision eleven to read as follows:

11. Notwithstanding any other provision of this section, it shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status, or to make any inquiry as to a person's alienage or citizenship status, or to give preference to a person who is a citizen or national of the United States over an equally qualified person who is an alien, when such discrimination is required or ~~when such~~ preference ~~is expressly~~ permitted by any law or regulation of the United States, the state of New York or the city of New York, ~~and when such law or regulation does not provide that state or local law may be more protective of aliens.~~ An applicant for a license or permit issued by the city of New York may be required to be

MS PATRICIA KOLLMER
3100 HEMPSTEAD TPKE.
LEVITTOWN NY 11756

3100 Hempstead Tpke.
Levittown N.Y. 11756
June 29, 1989

Dear Mr. Vallone,

I would like to voice my support for City Council Bill 1072A against descrimination of clients regarding housing & employment. The folks here are there and people are working to help themselves - let us not destroy this great aid search for survival.

I appreciate your consideration

Sincerely,
Patricia Kollmer

Int. No. -1072-A

6301 Riverdale Ave.
Bronx, N.Y. 10471
July 2, 1989

Councilman Peter Vallone
City Hall of N.Y.
New York, N.Y. 10007

Dear Councilman Vallone:

I want to voice my support of the bill introduced by Councilwoman Susan Alter to prohibit discrimination against "aliens" in employment, housing and government services.

Sincerely yours,

Catherine Hunt

200 Madison Avenue
New York, New York 10016
212-561-2020

New York Chamber of Commerce and Industry, Inc.

Affiliated with the New York City Partnership, Inc.

TO: STEPHANIE COOPER

FROM: EVANGELINE BINDER

RE: INTRO. 1072 - A

DATE: JUNE 15, 1989

My Chamber colleague, Paul Magaril, has discussed with you the Chamber's concerns with City Council Intro. 1072-A. He has asked that you amend the bill to clarify employer obligations toward legal and illegal aliens, in order not to confuse City employers regarding their obligations under federal immigration law and under the proposed City Council Intro. 1072-A. We hope you will be able to amend the bill to address this concern prior to the public hearing on June 19th.

In addition, I have discussed with you our concern that Intro. 1072-A affects a bank's ability to consider alienage as part of a credit decision, and that is in conflict with federal regulations. We appreciate your attempt to amend the bill to respond to our concern. However, legal counsel advises us that the amended bill does not resolve our concern. For this reason, I submit the following comment to explain the issue, and ask that you make the minor amendments which we recommend to address our concern.

Intro. #1072A would make it an unlawful discriminatory practice to discriminate on the basis of alienage or citizenship status, to inquire about a person's status and to give a preference to persons who are U.S. citizens or nationals over those who are not. This proposal is at odds with current federal regulations and would present significant problems to the New York City banking community and its credit practices.

The issue of alienage and credit is adequately governed by Federal Reserve Board Regulation B at Section 202.6(b) (7) and the Official Commentary to that section. Regulation B provides that a denial of credit is not per se discrimination on the basis of national origin. Thus, a creditor may consider whether an applicant for credit is a permanent United States resident, an applicant's immigration status and other information that will enable the creditor to make a

decision about an applicant's likelihood of repaying the debt if credit is granted. For instance, a bank would not want to grant a ten year loan to a person who is present in this country on a six month visa. For this reason, the Commentary to Regulation B states:

> The applicant's immigration status and ties to the community (such as employment and continued residence in the area) could have a bearing on a creditor's ability to obtain repayment.
>
> Accordingly, the creditor may consider and differentiate, for example, between a noncitizen who is a long-time resident with permanent resident status and a noncitizen who is temporarily in this country on a student visa.

Section 4 of the bill now provides that it will not be considered an unlawful practice to discriminate or grant a preference on the basis of alienage or citizenship status when "such discrimination is required or when such preference is expressly permitted" by other laws and regulations. Our concern is that neither Regulation B nor the Official Commentary "require" or "expressly permit" institutions to deny credit. Instead, they permit them to consider alienage as a factor in the credit approval process. Then, if credit is denied, the denial will not be considered to be discrimination.

I have attached a copy of Intro. # 1072A marked to show the minor changes necessary to satisfy our concerns. These changes will simply make the local law more closely track the federal language.

Regulation B is clear and even-handed. There has been no showing that it does not work or that creditors have acted unreasonably. Enactment of Intro. #1072A would burden financial institutions and other creditors with yet another impediment to doing business in New York City. Our members tell us that faced with a law that would prevent them from making sound and otherwise lawful credit decisions they would be forced to seek a federal preemption from the New York City law.

Thank you for considering our comments.

cc: Mr. Al Gallando
Mr. Steve Goulden
Mr. Steven Rosenberg
Mr. Joseph Strasburg

applications for such financial assistances which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, age, [or] marital status or alienage or citizenship status, or whether children are, may be, or would be residing with a person.

(e) The provisions of this subdivision, as they relate to age, shall not apply to persons under the age of eighteen years.

(f) The provisions of this chapter with respect to discrimination against persons with whom children are, may be or would be residing shall not apply to dormitories or to the rental of housing units insured, subsidized or guaranteed by the federal government that are specifically designed to provide accommodations for senior citizens.

§4. Section 8-107 of such code is amended by adding a new subdivision eleven to read as follows:

11. Notwithstanding any other provision of this section, it shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status, or to make any inquiry as to a person's alienage or citizenship status, or to give preference to a person who is a citizen or national of the United States over an equally qualified person who is an alien, when such discrimination is required (or permitted) or when such preference is ~~expressly~~ permitted by any law or regulation of the United States, the state of New York or the city of New York, and when such law or regulation does not provide that state or local law may be more protective of aliens. An applicant for a license or permit issued by the city of New York may be required to be

ll. 52 of 1989

MARINE MIDLAND BANK, N.A.
1200 Marine Midland Center
Buffalo, New York 14203

PHILIP S. TOOHEY
Deputy General Counsel
(716) 841-2473

Omnifax 638
(716) 841-5087

October 27, 1989

Honorable Edward I. Koch
Mayor
City of New York
City Hall
New York, New York 10007

Honorable Stanley E. Grayson
Deputy Mayor for Finance and
Economic Development
City of New York
City Hall
New York, New York 10007

Peter L. Zimroth, Esq.
Corporation Counsel
City of New York
100 Church Street
New York, New York 10007

Honorable John E. Brandon
Commissioner/Chairperson
Commission on Human Rights
City of New York
52 Duane Street
New York, New York 10007

Honorable Susan Alter
Council Member
City Council
City Hall
New York, New York 10007

Dear Mayor Koch, Deputy Mayor Grayson, Mr. Zimroth,
Commissoner Brandon, and Council Member Alter:

I am writing to you on behalf of the New York Chamber of Commerce, Marine Midland Bank, N.A., Citibank, N.A., The Chase Manhattan Bank, N.A., Chemical Bank, and National Westminster Bank regarding Local Law 52 For The Year 1989 (Intro #1072-A). We strongly support the purpose of this law to prohibit discrimination

on the basis of alienage or citizenship status. We do not condone discrimination in any form. However, despite the laudable intent of the law, we think that the law creates serious problems for lenders in New York City.

Our principal concern with the law is that in prohibiting discrimination in credit on the basis of alienage or citizenship status, the law conflicts with the provisions of the Equal Credit Opportunity Act and Regulation B issued by the Board of Governors of the Federal Reserve System. When Local Law 52 was under consideration by the City Council, Mayor Koch solicited the comments of a number of financial institutions. In his response to one bank's comments, the Mayor wrote that "the bill I have supported is not intended to override this [i.e., the Federal Equal Credit Opportunity Act] or any other federal, state or local law or regulation that requires or permits differential treatment based on alienage." Unfortunately, Local Law 52 does just that.

Both the Equal Credit Opportunity Act and Regulation B permit a lender to consider whether an applicant is a permanent United States resident, an applicant's immigration status, and any other information that would enable the lender to make a decision about an applicant's likelihood of repaying the debt if credit were granted. The Federal Reserve Board recognized that it would be an unsound credit decision for a lender to have to make a 20-year mortgage loan to a person who is present in this country on a temporary basis. However, Local Law 52 does not recognize the clear need for making this type of decision.

We believe that this attempted override of a federal law is not only unwise, but of questionable validity. Although the Act and Regulation permit <u>state</u> laws to override the Act and Regulation if those laws are more protective of an applicant, a "state" is defined as "any state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States." The definition of "state" does not include a municipality. We think that it is quite clear that Congress never intended that a local law could override a federal law.

In a meeting last month with representatives of the Mayor's office and the Human Rights Commission, we proposed a minor amendment to this law to bring it into conformity with federal law. We are seeking your support of this amendment and enclose a copy of it for your consideration. We are very interested in working with you to bring about this change because the law, as currently written, would result in major problems for lenders in New York City and in a

serious lack of available mortgage financing for New York City residents.

One major reason for this relates to the secondary mortgage market. The lenders who have joined in this letter sell most of their mortgage loans on the secondary market. However, the Federal National Mortgage Association (FNMA) which purchases many of these loans requires that for any mortgage to a non-permanent resident alien to be purchased, the loan may not have a loan-to-value ratio in excess of 75%. Loans to non-resident aliens are not purchased under any conditions.

The FNMA guide is also the standard used by private purchasers in the secondary market. Since lenders frequently make loans with loan-to-value ratios of up to 95% and Local Law 52 would not permit lenders to distinguish between loans to citizens and non-citizens, the result would be that lenders would be forced into making loans which could not be sold on the secondary market. If these loans cannot be sold, they will likely not be made in the first place. We do not believe that the City Council intended to create such a disastrous situation for potential borrowers.

Unless Local Law 52 is amended, mortgage lenders will be forced to either discontinue making mortgage loans in New York City or obtain a declaration by either the Federal Reserve Board or a court that Local Law 52 cannot override the Federal Equal Credit Opportunity Act. We hope to avoid such an action and would much prefer to work with you in a cooperative way to amend this worthwhile legislation so we can continue to meet the credit needs of New York City consumers. To this end, we would be happy to meet with you to discuss this issue further.

Very truly yours,

Philip S. Toohey

Philip S. Toohey
Deputy General Counsel

/mc
Enc.
2974N

cc: E. Binder (w/enc.)
C. Nadell (w/enc.)
I. Rakowsky (w/enc.)
M. Sheldon (w/enc.)
A. Weinstein (w/enc.)
L. Rubin (w/enc.)
L. Ciferni (w/enc.)
M. Moss (w/enc.)
M. Hirst (w/enc.)
S. Goulden (w/enc.)
R. Pearce (w/enc.)
J. Strasburg (w/enc.)
R. Weinberg (w/enc.)
S. Cooper (w/enc.)

LL52

THE COUNCIL
OF
THE CITY OF NEW YORK
LEGAL SERVICES DIVISION
250 BROADWAY, 23RD FLOOR
NEW YORK, N.Y. 10007

RICHARD M. WEINBERG
DIRECTOR AND
GENERAL COUNSEL

212-566-0267
566-8399

M E M O R A N D U M

September 22, 1989

TO: Yvonne Gonzalez

FROM: Stefanie Cooper

RE: Local Law 52

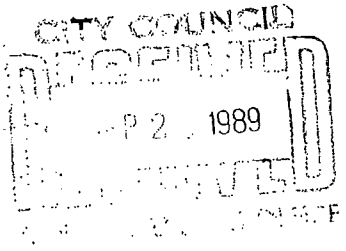
The first correction to Local Law 52 cited in Corporation Counsel's memo is accurate and should be incorporated into the final print of the bill. The file does not indicate who proof-read and corrected the print previously sent to the Secretary for filing.

The second correction to Local Law 52 cited in the memo is incorrect. Subdivision 4 of §8-107 of section 3 of the bill passed by the council and signed by the Mayor did not contain the word "creed" at all. However, the printed Intro. did include the word creed in that section. Perhaps the printer carried forward that word from the previous paragraph. The word "creed" must be

deleted from the section of the local law amending Administrative code §8-107, subdivision 4.

The relevant portion of Corporation Counsel's memo is enclosed.

SC:bg
DG-Memo
LL 52
9/21/89



ILGWU
INTERNATIONAL LADIES' GARMENT WORKERS' UNION
IMMIGRATION PROJECT
275 SEVENTH AVENUE
NEW YORK, NY 10001
212-627-0600

January 5, 1989

Yvonne Gonzalez, Esq.
Assistant Counsel
Vice Chairman of the Council
New York City Council
City Hall
New York, NY 10007

Dear Ms. Gonzales:

Pursuant to your invitation, I testified before the Council's Committee on International and Intergroup Relations on December 22, 1988 on "Resolution No. 1072: Discrimination against an alien".

Enclosed are five copies of my testimony.

Thanks very much.

Sincerely,

Muzaffar A. Chishti, Esq.
Director

INTRO 1072-A

intercommunity center
for justice and peace
20 washington square north
new york, new york 10011
212/475/6677

June 26, 1989

Councilman Peter Vallone
Council of the City of New York
New York, NY 10007

Dear Councilman Vallone:

The religious communities of this city have been struggling since the passage of the Immigration Reform and Control Act of 1986. The number of undocumented persons is growing each day in our city so the premise of IRCA to stop the flow and force them to return to their homelands is not reality.

For over a year we have been discerning a course of action we can take that will keep us faithful to our commitment to the teachings of our Church and the Holy Scriptures. With few alternatives before us some religious orders have taken a position of non-compliance while others are seeking a legal alternative.

On May 1st of this year our Center and seven members of the ICJP filed suit in the US District Court of Eastern New York to challenge if this law was violating our first admenment right.

When it was brought to our attention that Councilwoman Susan Alter has introduced a bill prohibiting the discrimination against "Aliens" in employment, housing, and government services we immediately called Councilwoman Alter to express our gratitude that the City Council was concerned for the quality of life for all people. There are many reasons why there are so many undocumented people in this country and that is an interesting debate but the real question before us: they are here and what is our response?

As public servants and people in ministry of service we must ask that question.

We support this legislation and urge you and members of the city council to affirm its passage.

Sincerely,

Darlene Cuccinello

Darlene Cuccinello
Human Rights Coordinator

Int 1072
G.W.

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF HUMAN RIGHTS
55 WEST 125 STREET
NEW YORK, NY 10027

DOUGLAS H. WHITE
COMMISSIONER

August 25, 1988

Joseph Strasburg, Counsel
The City of New York
Vice Chairman of the Council
City Hall
New York, New York 10007

Re: Intro. No. 1072

Dear Mr. Strasburg:

This is in reply to your letter of August 4, 1988 requesting comment on the above-referenced legislative proposal.

The State Division of Human Rights is fully in accord with and supports the purposes of the proposal. The bill would send a signal to employers, landlords and owners of retail establishments that they cannot discriminate against persons because of their alien status so long as the action did not otherwise "conflict with any law of the United States or New York State."

The proposal is a valuable adjunct to the City's Law on Human Rights.

Sincerely,

SAM SINGER
Acting General Counsel

SS/HJH/dj

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

NEW YORK CHAPTER

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TREASURER

J. ALLEN REINER
350 Broadway, Suite 200
New York, N.Y. 10013
(212) 925-1651

December 16, 1988

Yvonne Gonzalez, Esq.
Assistant Counsel
City of New York
Vice Chairman of the Council
City Hall
New York, New York 10007

Re: Intro. #1072 - Discrimination Again an Alien

Dear Ms. Gonzalez:

Thank you for your letter of December 9th inviting our organization to testify in connection with the anti-discrimination amendment. Unfortunately, I am unable to attend this hearing.

Please be advised that the AILA New York Chapter supports the enactment of this legislation. We feel that the passage of this law would certainly deter discrimination against aliens, and will address a potentially significant problem involving those individuals authorized to work in the United States.

If you would like additional information from our organization, please do not hesitate to contact me.

Sincerely,

Donald Jay Wolfson

Donald Jay Wolfson

DJW:gf

Lawyers Committee
for Human Rights

330 SEVENTH AVENUE, 10TH FLOOR N
NEW YORK, NEW YORK 10001
(212) 629-6170
TELEX: 5106005783
(LCHRNYC)
FAX: (212) 967-0916

Michael H. Posner, Executive Director
Arthur C. Helton, Director, Political Asylum Project

December 14, 1988

Yvonne Gonzalez
Assistant Counsel
The City of New York
Vice Chairman of the Council
City Hall
New York, NY 10007

Dear Ms. Gonzalez:

I am writing to accept your invitation to testify at the December 22, 1988, hearing of the Committee on International Intergroup Relations and Special Events on a proposal to amend the administrative code to prohibit discrimination on account of alien status. I will bring copies of my testimonial statement to the hearing.

Sincerely,

Arthur C. Helton

AHC/mjj

12/16/88
called w/location change any

PRESIDENT OF THE BOROUGH OF BROOKLYN
CITY OF NEW YORK

HOWARD GOLDEN
PRESIDENT

NOVEMBER 16, 1988

TESTIMONY OF BROOKLYN BOROUGH PRESIDENT HOWARD GOLDEN

TO AMEND THE NEW YORK CITY HUMAN RIGHTS LAW

GOOD EVENING, MY NAME IS RAYMOND COLON. I AM AN ATTORNEY AND IMMIGRATION SPECIALIST ON THE STAFF OF BROOKLYN BOROUGH PRESIDENT HOWARD GOLDEN. THE BOROUGH PRESIDENT HAS ASKED ME TO DELIVER HIS TESTIMONY IN SUPPORT OF AN AMENDMENT TO THE NEW YORK CITY HUMAN RIGHTS LAW TO TO ADD "ALIENAGE" AS A PROTECTED CLASS.

HISTORICALLY, BROOKLYN HAS BEEN KNOWN AS THE BOROUGH OF IMMIGRANTS AND IT IS ESTIMATED THAT TODAY, ALMOST ONE QUARTER OF THIS CITY'S NEW AMERICANS LIVE IN BROOKLYN. WE ARE HOME TO 2.5 MILLION PEOPLE FROM MORE THAN NINETY DIFFERENT ETHNIC GROUPS. THEREFORE, AS PRESIDENT OF THE CITY'S MOST POPULOUS AND ETHNICALLY DIVERSE BOROUGH, I TAKE A SPECIAL INTEREST IN THE NEEDS OF NEWCOMERS. MY OFFICE OFFERS A VARIETY OF SERVICES TO HELP IMMIGRANTS MAKE A SMOOTH TRANSITION AND ATTAIN THEIR SHARE OF THE AMERICAN DREAM. MY EFFORTS WOULD BE GREATLY ENHANCED IF THE LAWS OF THIS CITY, AS ARTICULATED IN THE ADMINISTRATIVE CODE, ARE AMENDED TO INCLUDE "ALIENAGE" AS A PROTECTED CLASS.

TITLE 8 OF THE NEW YORK ADMINISTRATIVE CODE PROVIDES FOR THE ESTABLISHMENT OF A COMMISSION ON HUMAN RIGHTS AND CREATED A PERMANENT BODY TO ENSURE THAT PREJUDICE, INTOLERANCE, BIGOTRY AND DISCRIMINATION WOULD HAVE NO PLACE IN OUR CITY.

THE EMPOWERING STATUTE CLEARLY EXTENDS THE COMMISSION'S PURVIEW TO PEOPLE OF EVERY RACE, COLOR, CREED, AGE, NATIONAL ORIGIN AND ANCESTRY. AND, IT WOULD BE TOTALLY CONSISTENT WITH ITS BROAD LEGISLATIVE INTENT, FOR THE STATUTE TO BE CONSTRUED LIBERALLY TO INCLUDE "ALIENAGE" AS A PROTECTED CLASS.

THE STATUTE WOULD THEN BE CONSISTENT WITH SEC. 102 OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA), WHICH PROHIBITS EMPLOYMENT DISCRIMINATION ON THE BASIS OF NATIONAL ORIGIN AND CITIZENSHIP STATUS. AMENDING THE HUMAN RIGHTS LAW IN THIS WAY WOULD ALSO RESPOND TO THE REAL CONCERN OF IMMIGRANTS WHO FEAR THAT THE EMPLOYER SANCTION PROVISIONS IN IRCA, WOULD RESULT IN EMPLOYMENT DISCRIMINATION AGAINST NON-CITIZENS, ETHNIC MINORITIES OR ANYONE PERCEIVED BY AN EMPLOYER AS LOOKING OR SOUNDING FOREIGN.

BECAUSE NEARLY 25% OF NEW YORK CITY'S RESIDENTS (A SUBSTANTIAL PORTION OF WHOM LIVE IN BROOKLYN) ARE NEW IMMIGRANTS, IT IS IMPERATIVE THAT THE CITY COUNCIL AMEND THE NEW YORK CITY ADMINISTRATIVE CODE TO DESIGNATE DISCRIMINATION AGAINST ANY ALIEN, AN UNLAWFUL DISCRIMINATORY PRACTICE. ANYTHING LESS WOULD SEND THE WRONG SIGNAL TO MILLIONS OF ALIENS WHO HAVE CHOSEN TO CALL THIS CITY THEIR HOME. IT WOULD ALSO SAY

TO THEM THAT DUE PROCESS, EQUAL PROTECTION AND ALL THE RIGHTS AND PRIVILEGES THAT AMERICAN CITIZENS ENJOY, WILL NOT BE EXTENDED TO THEM SIMPLY BECAUSE OF THE WAY THEY LOOK OR THE MANNER IN WHICH THEY SPEAK ENGLISH.

THANK YOU.

Human Rights Commission Testimony
November 16, 1988

Church Avenue Merchants Block Association

My name is Hillary Salmons. I am here today to testify on behalf of the immigration assistance staff, the 150 small businesses and the hundreds of clients served by the Church Avenue Merchants Block Association. It is my intent to inform you of just how IRCA is destabilizing the lives in our N. Flat. community

For ten years the Church Avenue Merchants Block Association has been providing educational opportunities and support to the refugees and immigrants living in and around the North Flatbush area of Brooklyn, New York. Each year over 3,000 immigrants attend CAMBA's English as a Second Language and Citizenship classes; seek job readiness training and job placements; send their children to CAMBA's afterschool tutorial program targeted to assist immigrant and refugee children struggling to keep up in schools; and seek the advice and assistance of CAMBA's immigration cousellors. This year the immigration staff processed 150 amnesty applications all of which were accepted.

CAMBA's work has been nothing but rewarding, prinicipally because of the clients' determination to better themselves, to adapt to life in America and to work. Armed with the beginnings of English, help with their children and basic job readiness training, in short time, the immigrants who leave CAMBA are prospering and even beginning to help contribute to the welfare of their neighbors and the community at large. As I ~~typed away at this testimony last night~~ Prepare this testimony one late evening, a Vietnamese man dropped by the office after his work to deliver a huge bag of laundered clothes which he offered to share with our clients. He told me that he was an ESL student years ago and was grateful for the support given to him.

One of the challenges CAMBA has faced has been helping to integrate immigrants into an old-time community of merchants. Where Church Avenue shops were once owned by White Jewish and Catholic residents, the street is now a blend of West Indian, Indian, Lebanese, Korean, Israeli and old-time shop owners. These shop owners have come to respect one another and to recognize that by investing in educational and job-related programs for the newest immigrants in the community, the entire community will benefit.

It is unclear to the Church Avenue Merchants Block Association what positive effect the Immigration Reform and Control Act has had on our community other than to reward a small percentage of the hard working immigrants in our community who have qualified for the amnesty program. In fact, there is great concern that it has helped to rebuild the ethnic barriers which were just beginning to erode.

For those who did not qualify for amnesty, the suffering and hardship has worsened. CAMBA receives regular reports of worker exploitation - one call last week from a Mexican man who is being forced to work seven days a week at $2.80 an hour. Several weeks ago a woman arrived weeping about her miserable life living and working for a woman who is sponsoring her for a Green Card. She has already waited for two years and was wondering why she hadn't received her card yet. She was even more dismayed at hearing it may take two or more years.

We have met with many undocumented Mexican families where the men are underpaid and where in one case a seven year old child was so depressed about being out of school she would'nt look at two of us visiting with her family. Her mother has tried repeatedly to determine which school offers bilingual

education, which district she lives in and where to get her daughter tested. Confused by the bureaucratic nightmare of processing a child with bilingual needs the family has since fled to L.A. in hopes of greater support.

In trying to convince one undocumented client that she has a right to police protection which is needed in her drug-infested apartment building, she described being stopped by a Transit Policeman who asked for her green card because she and her friend were giggling loudly one night on the subway. Now she is too afraid of calling the police when drug dealers are having ~~almost~~ nightly shoot-outs in her building.

As winter nears and construction and lawn maintenance jobs close down, CAMBA is witnessing more and more hunger and poverty. Undocumented immigrants are finding it so difficult to work that they are losing their apartments and are soon to be added to the homeless population in New York City.

The Employer Sanctions provision has served to alienate the immigrant populations within our community as well. Merchants who were once more than willing to hire local immigrants are now reticent to do so - once again rekindling the "us and them" sentiments which were strong in the 1970's when the neighborhood began to change. CAMBA has had three or four cases where amnesty applicants have come to complain of a firing or an employer who wouldn't hire someone because he was unfamiliar with the temporary work authorizaion cards. One Eligible Legal Alien called for assistance because her employer was unwilling to let her leave work to attend citizenship classes - she is a live-in domestic.

Likewise, complaints are regularly heard from merchants about compliance procedures and the difficulty of finding legal workers. Last spring, CAMBA received a New York Community Trust grant to help inform the small business community about the procedural requirements of the "employer sanctions provision." CAMBA disseminated information to over 2,000 businesses. Of the 250 businesses with whom CAMBA had direct contact, at least half complained about the problems of finding enough committed documented workers to hire, and the frustration of not being able to hire local people as a result of IRCA. 90% of the small businesses complained about the increased demands of filling out and filing the I-9 Forms. Most of the small businesses in Brooklyn are run by the owners who don't have personnel to keep track of such forms for the years required. All of the small businesses resent having to ask employers to prove that they are Americans or else that they are authorized to work - a process which furthers the segregation of American and non-American workers. Deciphering the vast array of worker authorization forms is also overwhelming for small businesses.

In addition to the increase for of worker exploitation which is hard to document, IRCA has allowed increased exploitation by the legal profession where a few rotten eggs are capitalizing on the money to be made from filing for green cards and alternative work Visas. Last week a Nicaraguan mother told of how she and her son paid an exorbitant amount to file for political asylum. In talking with the many Nicaraguans who wait with her for long hours in the lawyer's waiting room - many of whom she sees crying - this Nicaraguan woman inquired to see if her papers had been filed with immigration as her lawyer alleged to have done months ago. She discovered that immigration had no record of her or her son's application papers.

Racial and ethnic tensions are on the rise in New York City and IRCA has only contributed to the growing racial and ethnic tension, alienation and fears. Immigrants in crack-infested neighborhoods are afraid to call the police. CAMBA has been fighting a landlord in the community who has refused to grant leases or make repairs to the over 50 Chinese, Laotian, Cambodian, and Vietnamese tenants in his five buildings. With a law like IRCA behind him the landlord feels confident about declaring "there is no incentive to repair kitchens for people who fill them with wiggly things.

As an active member of a block association in the area, I have felt the effects of IRCA too. In a fight to rid our community of 3 resident drug dealers, neighbors have turned to me inquiring about the dealers' landlady from Pakistan. "Hillary, you are familiar with this new law - why don't we check into the landlady's visa status and have her deported if she won't help by evicting the dealers." This very same landlady has been working on her own with the police to try and evict the drug dealers.

How ironic that raids are being conducted to rid the country of hard workers. And how questionable that IRCA, a law meant to stem the flow of immigrants, is now being used to demoralizing the decent people who are already here. And, as far as we can see, the families are still pouring in - so IRCA is not working on many levels. Meanwhile those immigrants who are ruining our city with their drug businesses are not being deported and don't fit into INS' overcrowded prisons. Wouldn't it make more sense to spend time and money ridding the country of those who are ruining us rather than on those who are contributing to our economy and who are in fact adding to the basic strength of our country?

Speaking on behalf of the Church Avenue Merchants and Block Association, I can strongly say that IRCA has created headaches and dissention in a community which was at last starting to get back on its feet. Our office is spending far too much time responding to a problematic law instead of concentrating on rebuilding our community.

Thank you.

Council Members Susan Alter and Stanley Michaels
CAMBA fully supports your anti-discrimination legislation. We intend to fully support you as in educating the community on the purpose & spirit of this law.

Testimony of
Muzaffar A. Chishti
Director, Immigration Project
International Ladies' Garment Workers' Union
Before the New York City Council
Committee on International and Intergroup
Relations and Special Events
December 22, 1988

Mr. Chairman and members of the Committee:

Thanks for giving us the opportunity to express the Union's views on the proposed legislation before the City Council that would bar discrimination on the basis of "alienage" under the City's Human Rights Law.

During the Congressional debate on the Immigration Reform and Control Act (IRCA), we expressed our concern that discrimination against immigrants would result from the employer sanctions provision. Unfortunately our fears have been borne out.

We support the proposed legislation before the City Council. I doubt that it will significantly alleviate the vulnerability and exploitation of the undocumented population in the City, but it will certainly provide a legal mechanism and a forum for the documented immigrants, and to those undocumented ones who are brave enough to complain. I think it is important that our City make that statement, and be the leader in the country in doing so.

First let me address the issue of extending the protection of the City's Human Rights Laws to the documented permanent

residents of the United States. I believe there are compelling economic and equitable arguments that make it irrational to distinguish between citizens and permanent resident immigrants in the application of human rights laws. Immigrants contribute significantly to the industry, economy and culture of this city. Frequently, they are employed in jobs that citizens stay away from. They have proven that they are resources that add to the richness of this city. They should thus be rewarded for their contribution and not be penalized. Extending the protection of the human rights laws would be an important step.

On the issue of extending Human Rights Law protections to the undocumented population, we sincerely believe that the City should not make any distinctions between the documented and the undocumented, except in those areas where federal law has specifically preempted local action.

In enacting IRCA, Congress barred hiring of undocumented workers. It did not speak to or make any distinctions against undocumented workers in other aspects of their day to day life. Indeed, even in enacting employer sanctions. legislative history is clear that Congress intended labor protection laws to extend to undocumented as well as documented workers. That is why a federal appeals court, in the Patel case, recently upheld our Union's position that despite IRCA, undocumented workers are covered by the Fair Labor Standards Act.

In a similar manner, equal treatment between the documented and the undocumented should prevail when it comes to extension of bank credit or the provision of housing. Banks in the City

constantly transact with non-immigrants who have marginal roots or connections in the City. Many undocumented workers, on the other hand, cannot even open an account in a bank. It is our experience that this simple fact contributes to the pattern of cash payments of wages to the undocumented, and, therefore, to the underground economy.

On the issue of housing, there is less scope for disagreement. This is particularly true in an immigrant city like ours, where frequently, undocumented immigrants, citizens, and documented immigrants are part of the same family. For example, could the City rationally allow a landlord to discriminate against an undocumented female head of household when such discrimination would inevitably lead to loss of housing for her children who may be U.S. citizens?

We commend the Council's initiative in introducing this resolution, and offer our support for its passage.

Thanks, once again.

TESTIMONY OF MAYOR EDWARD I. KOCH
BEFORE THE CITY COUNCIL COMMITTEE
ON INTERNATIONAL AND INTERGROUP
RELATIONS AND SPECIAL EVENTS
DECEMBER 22, 1988

THANK YOU FOR GIVING ME THIS OPPORTUNITY TO TESTIFY IN SUPPORT OF THE INCLUSION OF "ALIENAGE AND CITIZENSHIP STATUS" AS PROTECTED CLASSES UNDER THE NEW YORK CITY HUMAN RIGHTS LAW. I STRONGLY BELIEVE THAT ALL NEW YORKERS -- REGARDLESS OF IMMIGRATION STATUS -- SHOULD BE PROTECTED AGAINST DISCRIMINATION IN HOUSING, PUBLIC ACCOMMODATIONS AND EMPLOYMENT, TO THE EXTENT PERMITTED BY FEDERAL, STATE AND LOCAL LAW.

NEW YORK IS THE QUINTESSENTIAL CITY OF IMMIGRANTS. NEARLY 30% -- OR 2.5 MILLION -- NEW YORK RESIDENTS WERE BORN IN OTHER COUNTRIES AND HAVE COME HERE IN PURSUIT OF A BETTER LIFE FOR THEMSELVES AND THEIR FAMILIES. THESE IMMIGRANTS SPEAK OVER 120 LANGUAGES AND COME FROM MORE THAN 160 COUNTRIES. WITH THIS HERITAGE IT IS FITTING THAT NEW YORK BECOME THE FIRST CITY IN THE NATION TO INCLUDE ALIENS AS A PROTECTED CLASS IN ITS HUMAN RIGHTS LAW.

MANY FOREIGN BORN NEW YORKERS ARE NOT LIVING HERE LEGALLY. FOR SOME OF THEM, THE AMNESTY PROGRAMS ESTABLISHED BY THE FEDERAL IMMIGRATION REFORM AND CONTROL ACT OF 1986 PROVIDED A GOLDEN OPPORTUNITY TO ACHIEVE LEGAL STATUS. BUT AS YOUR COMMITTEE IS AWARE, THE TURNOUT RATE FOR THE AMNESTY PROGRAM WAS LOW IN NEW YORK CITY. ALTHOUGH THE CITY HAS

SOMEWHERE BETWEEN 400,000 AND 750,000 UNDOCUMENTED ALIENS, ONLY 119,000 APPLIED FOR LEGAL STATUS UNDER THE NEW IMMIGRATION LAW. NOW, WITH THE EXPIRATION OF THE AMNESTY APPLICATION PERIOD AND THE STRICTER ENFORCEMENT OF EMPLOYER SANCTIONS, HUNDREDS OF THOUSANDS OF NEW YORK RESIDENTS HAVE BECOME MORE VULNERABLE TO THE WHIMS OF UNSCRUPULOUS EMPLOYERS, LANDLORDS AND SERVICE PROVIDERS.

I AM CONVINCED THAT THE CITY MUST TAKE TWO INITIATIVES TO ADDRESS THE PROBLEMS OF THE UNDOCUMENTED. FIRST, WE MUST ENSURE THAT WE PROVIDE ESSENTIAL CITY SERVICES SUCH AS HEALTH CARE, EDUCATION, POLICE PROTECTION, AND PUBLIC SERVICES. AS YOU KNOW, ON THE DAY AFTER THE AMNESTY APPLICATION PERIOD ENDED, I RELEASED A BROCHURE INFORMING UNDOCUMENTED IMMIGRANTS OF THEIR RIGHTS TO CITY SERVICES.

SECOND, WE MUST ENSURE THAT IMMIGRANTS ARE NOT SUBJECT TO DISCRIMINATION IN THE PROVISION OF HOUSING, PUBLIC ACCOMMODATIONS AND OTHER SERVICES. THIS REQUIRES AN AMENDMENT TO THE NEW YORK CITY HUMAN RIGHTS LAW.

BY ALL ACCOUNTS, THE IMMIGRATION REFORM AND CONTROL ACT -- WHICH ESTABLISHED SANCTIONS AGAINST EMPLOYERS WHO HIRE UNDOCUMENTED WORKERS -- HAS HAD DISTURBING RAMIFICATIONS BEYOND THE ORIGINAL GOAL OF PROHIBITING THE HIRING OF UNDOCUMENTED IMMIGRANTS. IN THEIR ZEAL TO AVOID

SANCTIONS, MANY EMPLOYERS HAVE ADOPTED "CITIZEN-ONLY" HIRING POLICIES OR HAVE DISCRIMINATED AGAINST PEOPLE WITH "FOREIGN-SOUNDING" NAMES.

THE FRAMERS OF IRCA RECOGNIZED THAT WHEN EMPLOYERS ARE ENTITLED AND OBLIGED TO REQUEST WORK AUTHORIZATION DOCUMENTS FROM JOB APPLICANTS, THE DOOR IS OPEN TO DISCRIMINATION OF VARIOUS KINDS. PREDICTIONS THAT EMPLOYMENT DISCRIMINATION WOULD INCREASE HAVE PROVEN TO BE TRUE. TWO RECENT GOVERNMENT REPORTS DOCUMENT THAT EMPLOYMENT DISCRIMINATION DUE TO IRCA IS PERVASIVE:

- THE FEDERAL GOVERNMENT'S GENERAL ACCOUNTING OFFICE (GAO) FOUND THAT 16% OF EMPLOYERS WHO WERE AWARE OF THE NEW IMMIGRATION LAW VIOLATED THE ACT'S ANTIDISCRIMINATION PROVISIONS BY ASKING ONLY "FOREIGN-LOOKING" PERSONS FOR WORK AUTHORIZATION DOCUMENTS OR HIRING ONLY U.S. CITIZENS. THE GAO ESTIMATES THAT IN CALIFORNIA ALONE, 53,000 EMPLOYERS FOLLOWED THESE UNLAWFUL PRACTICES.

- THE NEW YORK STATE INTERAGENCY TASK FORCE ON IMMIGRATION AFFAIRS FOUND THAT, AS A RESULT OF THE NEW IMMIGRATION LAW, NEW YORK EMPLOYERS UNLAWFULLY DISCRIMINATE BY REFUSING TO ACCEPT LEGALLY VALID PROOF OF RESIDENCY, BY DENYING EMPLOYMENT TO THOSE WHO EXPERIENCE MINOR DELAYS IN GATHERING

DOCUMENTATION, BY ASKING FOR DOCUMENTS ONLY FROM PERSONS WHO "LOOK" OR "SOUND" FOREIGN, AND BY REFUSING TO HIRE THE FOREIGN BORN. THE TASK FORCE FOUND THAT 22,000 CITIZENS OR ALIENS AUTHORIZED TO WORK WERE TEMPORARILY DENIED WORK -- OR NOT HIRED -- BECAUSE OF CONFUSION ABOUT THE LAW OR FEAR OF SANCTIONS.

DISCRIMINATION AGAINST IMMIGRANTS IS OCCURRING IN AREAS OTHER THAN EMPLOYMENT. THE NEW YORK CITY COMMISSION ON HUMAN RIGHTS RECENTLY HELD HEARINGS TO ASCERTAIN THE EXTENT OF DISCRIMINATION AGAINST IMMIGRANTS AND THOSE PERCEIVED TO BE IMMIGRANTS. THE TESTIMONY OF OVER 70 PARTICIPANTS VIVIDLY DESCRIBED THE PERSONAL STORIES OF VICTIMS OF DISCRIMINATION IN PUBLIC ACCOMMODATIONS AND HOUSING AS WELL AS IN EMPLOYMENT. JUST TO GIVE A FEW EXAMPLES, THE COMMISSION HEARD FROM:

- A LEGALIZED IMMIGRANT FROM MEXICO WHO TRIED TO OPEN A BANK ACCOUNT EIGHT TIMES. ONLY WHEN HER HUSBAND'S EMPLOYER STATED IT WOULD DIRECTLY DEPOSIT HIS PAY CHECK DID THE BANK AGREE TO OPEN AN ACCOUNT.

- PUERTO RICAN WORKERS WHOSE PROSPECTIVE EMPLOYERS DEMANDED "GREEN CARDS" AND THEN REFUSED TO

CONSIDER THEIR JOB APPLICATIONS WHEN THEY WERE NOT ABLE TO PRODUCE THESE CARDS.

- A WEST INDIAN MAN WAS DENIED CAR INSURANCE BECAUSE HE WAS NOT A UNITED STATES CITIZEN.

- IN MY MEETINGS WITH IRISH GROUPS I HAVE HEARD THAT UNDOCUMENTED IRISH WORKERS ARE UNABLE TO CASH THEIR CHECKS AT BANKS SINCE THEY DO NOT HAVE THE NECESSARY DOCUMENTATION. INSTEAD THEY MUST GO TO CHECK CASHING ESTABLISHMENTS WHICH CHARGE EXORBITANT RATES.

THESE EXAMPLES -- AS WELL AS COUNTLESS OTHERS -- SUBSTANTIATE THE NEED TO EXTEND THE PROTECTION OF OUR HUMAN RIGHTS LAW TO BOTH DOCUMENTED AND UNDOCUMENTED IMMIGRANTS. IT IS PARTICULARLY IMPORTANT THAT UNDOCUMENTED IMMIGRANTS RECEIVE PROTECTION. MEMBERS OF THIS COMMUNITY ARE EASY PREY BECAUSE THEY ARE AFRAID TO REPORT WORK PLACE ABUSES AND OTHER DISCRIMINATION. WE DO NOT WANT TO CREATE A PERMANENT UNDERCLASS THAT IS CUT OFF FROM THE REST OF SOCIETY.

DOCUMENTED IMMIGRANTS CANNOT BE PROTECTED UNLESS THE UNDOCUMENTED ARE PROTECTED TOO. IF LANDLORDS AND PROVIDERS OF PUBLIC ACCOMMODATIONS ARE PERMITTED TO ASK FOR PROOF OF CITIZENSHIP OR IMMIGRATION STATUS, SELECTIVE

INQUIRY IS LIKELY TO RESULT. THOSE WHO "LOOK" AND "SOUND" FOREIGN WOULD MOST LIKELY BE THE TARGETS OF THIS SELECTIVE ENFORCEMENT. IN ADDITION, LANDLORDS AND PROVIDERS OF PUBLIC ACCOMMODATIONS WOULD ALSO GAIN ACCESS TO ALL KINDS OF INFORMATION THAT THEY ARE NOT ENTITLED TO AND DO NOT NEED.

THE OFFICE OF THE CORPORATION COUNSEL HAS DRAFTED SOME AMENDMENTS CONTAINING MOSTLY TECHNICAL CHANGES TO INTRO 1072. THE MAJOR SUBSTANTIVE CHANGE PERMITS THE CITY TO DISQUALIFY APPLICANTS WHO LACK AUTHORIZATION TO WORK IN THE UNITED STATES FROM OBTAINING CITY LICENSES THAT ARE LIMITED IN NUMBER. I BELIEVE THAT THESE LIMITED EMPLOYMENT OPPORTUNITIES SHOULD BE GRANTED ONLY TO INDIVIDUALS WITH WORK AUTHORIZATIONS. THIS EXEMPTION FOLLOWS THE LEAD ESTABLISHED BY THE CITY COUNCIL WHICH PASSED LEGISLATION LIMITING THE ISSUANCE OF FOOD VENDOR LICENSES TO WORK AUTHORIZED INDIVIDUALS.

I COMMEND THE INITIATIVE TAKEN BY THE CITY COUNCIL IN THIS AREA. THIS PROPOSED LEGISLATION IS COMPLETELY IN THE SPIRIT OF THE CITY'S HISTORICAL RELATIONSHIP TO ITS FOREIGN BORN RESIDENTS. BY ADDING THESE PROTECTED CLASSES TO OUR HUMAN RIGHTS LAW, WE CAN ASSURE IMMIGRANTS AN EQUAL OPPORTUNITY TO PURSUE A BETTER LIFE FOR THEMSELVES WITHOUT SUFFERING FROM PREJUDICE.

THANK YOU VERY MUCH.

STATEMENT

OF

ARTHUR C. HELTON

BEFORE THE

COUNCIL OF THE CITY OF NEW YORK

ON

A PROPOSAL TO AMEND THE ADMINISTRATIVE CODE TO PROHIBIT DISCRIMINATION ON ACCOUNT OF ALIEN STATUS

DECEMBER 22, 1988

Thank you members of the Committee on International Intergroup Relations and Special Events for the opportunity to testify at this hearing on a proposal to amend the administrative code to prohibit discrimination on account of alien status. I have followed developments in this critical subject area as Director of the Political Asylum Project of the Lawyers Committee for Human Rights, and the Chair of the Advisory Committee to the New York State Inter-Agency Task Force on Immigration Affairs. My interest also stems from my teaching immigration and refugee law as an Adjunct Professor at the New York University School of Law.

My most recent involvement with the matters you are considering today concerns a November 4, 1988, report by the New York State Task Force, Workplace Discrimination Under the Immigration Reform and Control Act of 1986: A study of Impacts on New Yorkers. As a preliminary mater, I should advise you that this is the third report issued by the Task Force on the implementation of the Immigration Reform and control Act of 1986 (IRCA). Governor Mario Cuomo established the New York State Inter-Agency Task Force on Immigration Affairs, in response to the enactment of IRCA. The Task Force is chaired by Cesar Perales, Commissioner of the New York State Department of Social Services. In recognition of the significant effect that this law would have on the State, a statewide committee was also

established to draw upon the experience of experts on immigration and discrimination law. This is the Advisory Committee which I chair.

The Task Force was charged with the responsibility of assuring that the greatest number of undocumented illegal aliens residing in New York State avail themselves of the opportunity to obtain legal status under the provisions of the 1986 law. In addition, the Governor requested that appropriate safeguards be developed to discourage IRCA-related discrimination.

In early 1986, the Task Force documented 64 cases of discrimination apparently related to the Act. Commissioner Perales wrote to then Attorney General Meese urging the immediate appointment of a Special Counsel for Unfair Immigration-Related Employment Practices, as required under the new law, and a special Counsel was ultimately appointed. There is evidence, however, that discrimination against U.S. citizens and work-authorized aliens is occurring at alarming levels in New York State. Such evidence is a primary concern to the Governor and the Task Force.

The indications of possible discriminatory behavior on the part of employers prompted the Task Force to examine formally hiring policies and practices implemented by employers in New York after the enactment of IRCA. A study was undertaken in

October of 1988 involving a random telephone survey of 400 employers in the New York metropolitan area, and a survey of community organizations.

The Task Force report estimated, extrapolating from the employer survey results, that at least 22,262 persons -- U.S. citizens or aliens authorized to work -- have been denied employment on account of a "widespread pattern of discrimination" in New York under the new immigration law. Individuals have not been hired as a result of discriminatory and inappropriate employer practices, including selective screening, failure to accept valid documents which show the authorization of job applicants to work, and the failure to give applicants grace periods permitted under the law to obtain documents. In the survey of community organizations, 46 groups identified 168 cases of authorized workers who have suffered abuse under the new immigration law.

The employer survey produced results that are capable of being generalized to the 132,012 employers, which employ 4,002,347 persons, in the New York metropolitan area. The survey found specifically:

1. A large proportion of employers -- 24 percent -- are still unaware of the need to file the I-9 form;

2. A large portion of employers -- 15 percent -- know they can be fined but do not know what they should be doing to avoid the fines -- a problem that could lead to wrongful denial of employment;

3. A large portion of employers -- 20.5 percent -- who are aware of I-9 procedures cannot determine which documents are appropriate and this has likely led to numerous losses of employment;

4. The vast majority of employers will not hire until they get the appropriate documents, which will result in applicants not being considered; being denied employment for some waiting period and then hired; or being denied employment after some period of waiting;

5. A very large number of people have been subject to at least temporary denial of employment -- a practice which is clearly inappropriate under IRCA provisions;

6. A very large number of people have been denied employment because they cannot get documents fast enough;

The report concluded and recommended as follows:

1. The Task Force concludes that for the purposes of Congressional review of the impact of employer sanctions as currently implemented a "widespread pattern of discrimination" has been documented in New York. We ask that the General Accounting Office (GAO) take the Task Force findings into account in its report to Congress and that Congress review these documented hardships which adversely affect New Yorkers;

2. The General Accounting Office and Congress must monitor the various ways in which U.S. citizens and authorized alien workers have suffered hardship in the workplace. This mandate goes beyond the narrow question of discrimination for which remedies have been provided under IRCA, and includes the employer policies and practices discovered in this survey, such as non-acceptance of certain documents and refusal to allow job applicants grace periods to permit further documentation. These practices have resulted in erroneous failures to hire U.S. citizens and authorized alien workers. The intent of Congress is to protect those who are authorized to work under the provisions of IRCA, and the GAO must determine whether that protection is being provided. We recommend the General Accounting Office incorporate the areas of inquiry into its future studies;

3. The Immigration and Naturalization Service should develop uniform documents which evidence authorization to work so that individuals are not unfairly deprived of employment opportunities by employers who do not recognize and accept their documents. Such a measure would, for example, provide immediate protection to the almost 7,000 refugees who were resettled and granted political asylum in New York last year, but who have limited documentation to evidence their work authorization. Moreover, all individuals legally authorized to work would benefit from such administrative clarity when seeking employment;

4. The Immigration and Naturalization Service must devote additional resources and sophistication to employer education in New York, including clarification and improvement of the I-9 form. The employment of U.S. citizens and authorized workers should not be jeopardized on account of lack of employer information or education. Such efforts would include a revision of the INS Employer Handbook and training regarding the specific procedural findings cited in this report;

5. The GAO should conduct studies that are capable of estimating the harm and discrimination to New Yorkers resulting from IRCA. Such in depth studies might be appropriate in other states with a large population of foreign born workers.

In view of the findings of the New York State study, prompt action is required. One initiative that might help to address the problems identified in the study is the enlargement of the jurisdiction of the New York City Human Rights Commission to remedy discrimination against individuals because of their alien status, a proposal that is currently pending before the City Council. Congress clearly meant to protect work opportunities for U.S. citizens and authorized aliens. The

enactment of the proposal to amend the administrative code could help to guarantee full employment opportunities for aliens permitted to work under the new immigration law and provide them a remedy for unlawful discriminatory practices.

The City may provide various protections to aliens, whether documented or undocumented, that are not inconsistent with Federal law. For example, Mayor Koch's memorandum of November 15, 1985, extends such protections to non-criminal aliens who utilize City services. There is no principled reason to not extend analogous protections to aliens who seek essentials from the private sector, including obtaining bank loans and leasing apartments. This approach would be consistent with that taken by the U.S. Supreme Court in Plyler v. Doe, 457 U.S. 202 (1982), which held alien children must be given access to public education under constitutional equal protection, regardless of whether or not they have valid immigration status. Surely, a municipality is permitted to do what, under certain circumstances, it is required to do in terms of providing access by individuals to services which are essential to the general welfare, irrespective of immigration status. The interests of the entrepreneurs with whom such aliens deal can be fully satisfied through procedures and criteria already utilized, for

example, in determining credit worthiness and the stability and ability of tenants to pay rent. Any other approach can only promote economic loss and homelessness.

Moreover, expansion of the Human Rights Law could, subject to principles of federal pre-emption, provide remedies against policies that are being used by employers against aliens authorized to work, such as failing to give grace periods permitted under law to furnish documentation showing permission to work, and not accepting certain valid documentation that establishes authority to work. These employer practices were found to be prevalent in the recent report of the State Inter-Agency Task Force. Additional protection in these respects may well be required.

More fundamentally, it is incumbent upon the State and City to be vigilant in safeguarding New Yorkers against unfair abuse. Many in Congress who considered the legislation were concerned that employers, fearful of sanction for hiring unauthorized workers, would discriminate against those who look or sound foreign born. Those congressional concerns seem to be realized. The principal responsibility for the problems identified in the State report lay with the federal immigration

authorities, who have failed in basic ways to educate and inform employers adequately, and avoid discrimination under the new law. For example, of those employers aware of IRCA's verification procedures, 19 percent reported difficulties in contacting the Immigration and Naturalization Service to obtain needed information. The federal government must be urged to do more.

ACH11/STATEMENT

TESTIMONY OF DR. JOHN E. BRANDON,

COMMISSIONER/CHAIRPERSON OF THE

NEW YORK CITY COMMISSION ON HUMAN RIGHTS

BEFORE THE COMMITTEE ON INTERNATIONAL INTERGROUP RELATIONS

June 19, 1989

I would like to thank you for inviting me to testify on behalf of Intro. 1072 which would add alienage and citizenship status as a protected class to the New York City Human Rights Law. I would like to commend Councilmembers Susan Alter and Stanley Michels for their excellent work in introducing this legislation, and to commend Councilmember Wendell Foster, the Chair of this Committee, for his strong support for these efforts.

This outstanding piece of legislation represents a significant step forward in civil rights. As demonstrated by hearings the Commission held in November 1988, discrimination against immigrants and persons perceived as immigrants is a pervasive problem. At the hearings, immmigrants testified that because of their alienage status they suffered discrimination in employment, housing and public accommodation. Testimony further indicated that discrimination had increased dramatically in the aftermath of employer sanctions which went into effect in June 1988. While Intro. 1072 will not in any way conflict with the federal requirement of sanctions, it will prohibit discrimination in areas not covered by federal law.

Intro. 1072 will strengthen the Commission in two ways. First, although the New York City Human Rights Law currently prohibits national origin discrimination, it does not prohibit discrimination based on alienage status. This ommission in the law has left the Commission unable to adequately protect immigrants who suffer from "citizen-only" and "greencard-only" policies. Second, many persons use alienage discrimination as a subterfuge for national origin discrimination. Intro. 1072 will make it easier for the Commission to investigate and prosecute this conduct.

By protecting citizens and immigrants against exploitation, the City insures that all New Yorkers are given an equal opportunity, regardless of their immigration status. Intro. 1072 sends a clear message that New York City is, and will continue, to be, a City that welcomes and cares for its immigrant population.

PUBLIC HEARING ON LOCAL LAWS

TUESDAY, JULY 18, 1989

3:00 P.M. -- CITY HALL

THE LAST BILL BEFORE ME FOR CONSIDERATION TODAY IS INTRODUCTORY NUMBER 1072-A SPONSORED BY COUNCIL MEMBERS SUSAN ALTER AND STANLEY MICHAELS AND CO-SPONSORED BY NINE OF THEIR COLLEAGUES. THIS BILL WOULD MAKE DISCRIMINATION AGAINST PERSONS ON ACCOUNT OF THEIR ALIENAGE OR CITIZENSHIP STATUS ILLEGAL.

NEW YORK CITY HAS ALWAYS BEEN A CITY OF IMMIGRANTS. MOST NEW YORKERS CAME TO THIS COUNTRY AS IMMIGRANTS OR ARE DESCENDENTS OF IMMIGRANTS. RECENT IMMIGRANTS ARE AMONG THE MOST PRODUCTIVE MEMBERS OF OUR SOCIETY AND ADD TO THE ETHNIC AND CULTURAL DIVERSITY WHICH MAKES OUR CITY UNIQUE.

I STRONGLY BELIEVE THAT ALL NEW YORKERS -- REGARDLESS OF THEIR IMMIGRANT STATUS -- SHOULD BE PROTECTED AGAINST DISCRIMINATION. THE BILL BEFORE ME EXTENDS THE PROTECTIONS AFFORDED BY THE CITY'S ANTIDISCRIMINATION LAWS TO OUR IMMIGRANT NEIGHBORS, WHO BECAUSE OF THEIR LACK OF FAMILIARITY WITH OUR LANGUAGE AND CUSTOMS, ARE PARTICULARLY VULNERABLE TO DISCRIMINATORY ACTS AND ARE OFTEN RELUCTANT OR UNABLE TO SEEK HELP. UNDER THE PROVISIONS OF THIS BILL, DISCRIMINATION ON THE BASIS OF ALIENAGE OR CITIZENSHIP STATUS WILL BECOME AN UNLAWFUL

DISCRIMINATORY PRACTICE, SUBJECT TO THE INVESTIGATORY AND ENFORCEMENT AUTHORITY OF THE CITY COMMISSION ON HUMAN RIGHTS. PERSONS WHO SUFFER UNLAWFUL DISCRIMINATION IN EMPLOYMENT, HOUSING, PUBLIC ACCOMMODATIONS OR IN OTHER AREAS BECAUSE OF THEIR CITIZENSHIP STATUS WILL NOW BE ABLE TO OBTAIN REDRESS FROM THE COMMISSION.

THIS BILL WILL ALSO ENABLE PERSONS WHO ARE NOT CITIZENS TO OBTAIN LICENSES AND PERMITS FROM CITY AGENCIES; HOWEVER, IN THOSE INSTANCES WHERE A LAW OR REGULATION EXPRESSLY LIMITS THE NUMBER OF LICENSES OR PERMITS WHICH MAY BE ISSUED, PROOF OF AUTHORIZATION TO WORK IN THIS COUNTRY WILL BE REQUIRED.

THIS BILL REPRESENTS A SIGNIFICANT STEP FORWARD IN OUR EFFORT TO PREVENT THE CREATION OF AN UNDERCLASS OF NEW YORKERS, CUT OFF FROM THE REST OF OUR SOCIETY AND SUBJECT TO EXPLOITATION AND DISCRIMINATION.

IS THERE ANYONE TO BE HEARD IN OPPOSITION?

IS THERE ANYONE TO BE HEARD IN SUPPORT?

THERE BEING NO ONE ELSE TO BE HEARD, AND FOR THE REASONS STATED ABOVE,

I WILL NOW SIGN THIS BILL.

I AM PERSUADED THAT THERE IS A SERIOUS PROBLEM REGARDING THE PROVISION TO UNDOCUMENTED ALIENS OF GENERAL BANKING SERVICES - INCLUDING BANK ACCOUNTS AND CHECK-CASHING PRIVILEGES. THIS LEGISLATION EXTENDS THE PROTECTION OF OUR HUMAN RIGHTS LAW TO IMMIGRANTS SEEKING THESE AND OTHER BANKING SERVICES, AND I AM PLEASED TO SIGN THIS BILL.

A NARROW ISSUE HAS BEEN RAISED ABOUT THE IMPACT OF THIS LEGISLATION ON THE ABILITY OF BANKS TO DETERMINE THE CREDIT WORTHINESS OF APPLICANTS FOR LOANS. IF THE BANKS CAN CLEARLY DEMONSTRATE TO THE HUMAN RIGHTS COMMISSION, TO THE CITY COUNCIL AND TO DEPUTY MAYOR STAN GRAYSON THAT THIS LAW AS DRAFTED CAUSES THEM A SERIOUS PROBLEM IN THE LIMITED AREA OF CREDIT APPLICATIONS, THEN I AM PREPARED TO JOIN WITH COUNCIL VICE CHAIRMAN PETER VALLONE AND PRIME SPONSOR COUNCIL MEMBER SUSAN ALTER TO REVIEW THIS LANDMARK LEGISLATION IN THE FALL AND TO MAKE ANY CHANGES THAT WILL IMPROVE THE LAW.

Corrections of Printing Errors in Local Laws

40, 42, 48, 50, 52, 55, 58, 59 and 61

Local Law 40:

1. Section 1 of the local law amends New York City Charter §487, subdivision a. That subdivision should appear in the local law as follows:

> a. The commissioner shall have sole and exclusive power and perform all duties for the government, discipline, management, maintenance and direction of the fire department and the premises and property in the custody thereof, however, the commissioner shall provide written notice with supporting documentation at least [thirty] forty-five days prior to the permanent closing of any firehouse or the permanent removal or relocation of any fire fighting unit to the council members, community boards and borough presidents whose districts are served by such facility or unit and the chairperson of the council's public safety committee. For the purposes of this section, the term "permanent" shall mean a time period in excess of six months. In the event that the permanent closing of any firehouse or the permanent removal or relocation of any firefighting unit does not occur within four months of the date of the written notice, the commissioner shall issue another written notice with supporting documentation prior to such permanent removal or relocation. The four months during which the written notice is effective shall be tolled for any period in which a restraining order or injunction prohibiting the closing of such noticed facility or unit shall be in effect.

2. Section 3 of the local law amends Administrative Code §19-505, subdivision j. That subdivision should appear in the local law as follows:

> j. Fees shall be paid by each applicant for a driver's license, as determined by the commission, but not to exceed the following:
>
> For each original one-year license.....$[50.00] <u>60.00</u>
> For renewal of a one year period..... .....$[50.00] <u>60.00</u>
>
> The fee for an original license or a renewal thereof shall be paid at the time of filing the applications and shall not be refunded in the event of disapproval of the application. An additional fee not exceeding twenty dollars shall be paid for each license issued to replace a lost or mutilated license. There shall be an additional fee of twenty-five dollars for late filing of a license renewal application where such late filing is permitted by the commission.

In the print previously submitted to the Secretary for filing, the word "a" was omitted from the phrase "fee for an original license or a renewal thereof shall be paid" in the second sentence.

<u>Local Law 52</u>

1. Section 3 of the local law amends Administrative Code §8-107, subdivision 1, paragraph (b). That paragraph should appear in the local law as follows:

> (b) For an employment agency to discriminate against any individual because of such individual's age, race, creed, color, national origin, [or] sex <u>or alienage or citizenship status</u> in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant

or applicants to an employer or employers.

The printed version of the local law had erroneously repeated the phrase "applications for its services or in referring an applicant or". In the print previously submitted to the Secretary for filing, that phrase with the exception of the words "for its services" had been crossed out. The failure to cross out those words was inadvertent.

2. Section 3 of the local law also amends Administrative Code §8-107, subdivision 4. That subdivision should appear in the local law as follows:

> 4. It shall be an unlawful discriminatory practice for an education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law to deny the use of its facilities to any person otherwise qualified, by reason of such person's race, <u>creed,</u> color, age, [or] religion <u>or alienage or citizenship status</u>.

In the print previously submitted to the Secretary for filing, the word "creed" and the comma that follows it were not italicized and therefore failed to indicate that they constitute new material.

<u>Local Law 55</u>

1. Section 3 of the local law amends Administrative Code §26-142, subdivision d, paragraph 1. That paragraph should appear in the local law as follows:

cc Yvonne Vicki

52/89

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

ALBERT A. GALLARDO
Assistant Legislative Representative
to the City Council

52 Chambers Street - Room 312
(212) 566-4926

NOTICE OF PUBLIC HEARING ON PROPOSED LOCAL LAWS

The Mayor will hold a public hearing on local laws on Tuesday, July 18, 1989 at 3:00 p.m. in the Blue Room, City Hall. The following legislation will be before him for consideration.

Introductory Number 1072-A, A LOCAL LAW to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on alienage or citizenship status.

Introductory Number 1278, A LOCAL LAW in relation to a street name East 91 Street-James Cagney Place, Borough of Manhattan.

Introductory Number 1280, A LOCAL LAW in relation to a repeal of a plaza name, Gulf and Western Plaza, Borough of Manhattan.

PERSONAL CONVICTIONS OF THE PLANTIFFS

I have come to recognize the connection between personal poverty and structures which maintain inequity. It is not enough to care for the poor but I must also work to change the structures that cause the poverty. S. Monica McGloin, DSSP

I feel obliged by the Gospel, Church Documents and my community's options for the poor to assist the disenfranchised in whatever way possible, and to have to deny a person employment when their survival depends upon it, seems to me to violate my right to freedom of religion.
S. Joanna Ohlandt, CSJ

To respond to the "Cry of the Poor" is not an optional choice, it is the heart of our Christian life.
Bro. Stephen Schlitte, FMS

The employer sanctions provisions are a national disgrace, one which betrays the legacy of our immigrant beginning, and promotes discrimination and further institutionalizes injustice in our country.
S. DAle McDonald, PBVM

The law tells us that the undocumented are now outside the framework of our concern as a society. S. Pat Jelly, O.P.

Clarifying distinctions between political and economic refugees are meaningless when biblical understanding instructs us as to how poverty, or economic need, cannot be understood apart from oppression.
S. Clare Nolan, RGS

Direct services to the poor must be accompanied by simultaneous actions to transform structural causes of poverty.
Margaret Galiardi, O.P.

CALLED BY THE SPIRIT

CONFINED BY THE LAW

INTERCOMMUNITY CENTER
FOR JUSTICE AND PEACE

20 Washington Square North
New York, New York 10011
(212) 475-6677

HISTORY OF INTERCOMMUNITY CENTER FOR JUSTICE AND PEACE INVOLVEMENT

In *December of 1980,* the tragic deaths of our four church women in El Salvador set the focus for our *HUMAN RIGHTS PROGRAM.* The forty one Religious Orders, who comprise the Center, shared the pain and anger of many, in that tiny country, who had lost a loved one by torture and assassination. We supported the families in their efforts to find answers and to seek justice after this brutal attack.

ICJP HUMAN RIGHTS PROGRAM

ADVOCATING:

From 1981-83 our program took on an extensive educational outreach as well as advocating the end of all military aid to that country.

As the conflict grew into a regional war, the devastation of life and property increased in direct proportion to the increase in U.S. military aid. This human tragedy brought the crisis to our shores with an increasing number of refugees each year. Our Religious Orders became involved in their plight as they found humanitarian ways of assisting their physical, emotional, social and legal needs.

RESPONDING:

By *1984* more and more churches and synagogues were becoming sanctuaries, so our program developed a packet, *THE SPIRIT OF THE LORD IS UPON ME,* as a reflection guide to enable Religious Orders to discern the moral and legal implications of this prophetic position.

NETWORKING:

During these years legislation was being introduced that would have a negative effect and impact on the refugee community. We at *ICJP* began, at this same time, networking with immigrant rights groups. Despite the efforts of advocates for refugees, the *IMMIGRANT REFORM and CONTROL ACT (IRCA)* was passed in *November of 1986.* The amnesty provision of the law left millions of people undocumented and without authorization to work.

Religious Orders are affected by the employer sanctions provision *of this law, which presents a moral dilemma. To comply with the law and our civic responsibility was to deny the sacredness and dignity of the person and their right to work., The Center gave workshops for our own members to study and reflect on what it would mean for us to implement this law.*

REQUESTING:

After many months of reflection the Center wrote to the *INS* requesting exemption from the verification and report (I-9 form) provision. On *January 5, 1989 our request was denied.*

CHALLENGING:

This left the legal option to challenge the law in the courts. On *May 1, 1989,* the feast of St. Joseph the Worker, several individual members and the Center file suit to challenge the constitutionality of the *employer sanctions provision* of the *IRCA.*

WHAT THE LAW REQUIRES

The *IMMIGRATION REFORM and CONTROL ACT (IRCA)* through its employer sanctions verification and reporting provisions, requires all employers:

- *To inspect documents of all hired since November 1986 in order to confirm their identity and legal authorization to work.*
- *To determine that the documents appear valid.*
- *To sign an I-9 form indicating that the documents have been inspected.*
- *To hold the signed forms on file for INS inspection.*

If an employee's papers cannot be produced because the person is undocumented or simply has none of the required forms of identification, if the papers appeal invalid, or if the employee refuses to present them, the law prohibits the employer from retaining or hiring the person-regardless of skills. There are severe penalties for failure to comply.

Although the provisions of the law focus on employers, the punishment for employees are deportation or, in the case of false documentation, criminal penalties.
Both are, in most cases, more severe than those imposed on violating employers.

RELIGIOUS AND THEOLOGICAL BASIS FOR A LEGAL CHALLENGE TO THE LAW

The *ICJP's* challenge to the employer sanctions provision is a challenge based on religious grounds. The documentation and record-keeping of *IRCA* dictate that employers discriminate against a class of people by excluding them from employment in the U.S. This is contrary to Catholic teaching which embodies the belief that every human being is made in the image and likeness of God and, therefore, is the clearest reflection of God's presence in our world.

> *The Old Testament's call to welcome the stranger does not simply mean to offer that person food and temporary lodging. Rather, it calls members of the one human family to the fullest sharing as sisters and brothers to each other. The social encylicals of the church affirm this belief through the articulation of the various Popes. For us to refuse a person's employment based solely on the person's legal status, would be to reject the stranger and, therefore, to deny the dignity and respect which is the person's due.*

The Bishops' pastoral letter on the economy, *ECONOMIC JUSTICE FOR ALL: CATHOLIC SOCIAL TEACHING AND THE U.S. ECONOMY,* reminds us that our belief as catholics ought to guide our behavior.

> *We cannot separate what we believe from how we act in the marketplace and the broader community, for this is where we make our primary contribution to the pursuit of economic justice.*

The Bishops also restate this belief when they say,

> *Biblical faith in general and prophetic faith especially insist that fidelity to the covenant joins obedience to God with reverence and concern for the neighbor.*

Therefore for us to comply with the employer sanctions provisions of *IRCA would be to violate the basic tenets of our faith.*

WHAT CAN YOU DO?

Join us as a Friend of the Court. Your support could be one of two categories:

- Supporting ICJP's right to be exempt from the requirements of employer sanctions on the basis that a threat to the "free exercise of religion" for any person presents a danger to the liberty of all.
- claiming emforcement of employer sanctions is a violation of your own "free exercise of your religion" and runs counter to the tenets of your faith.

A brief statement should include:

- a short paragraph describing your organization, its members, who and how many it represents and its geographic scope. Include the official name, your formal address and your tax status.
- a brief paragraph of the work of your organization, your history and nature of your interest in ICJP's case and your involvement in the employer sanctions concern on the broader immigration and refugee issue.

STATEMENTS MUST BE SUBMITTED BY JUNE 15, 1989

Or You Can!

Express your moral dilemma with your church leaders and ask them to call for the repeal of the employer sanctions provisions.

Write your local, state and congressional representatives expressing your opposition to the employer sanctions provisions and urge congress to repeal this provision.

Find ways of supporting the undocumented community especially with food, clothing and shelter.

Form a study group to study and reflect on the implications of the IMMIGRATION REFORM and CONTROL ACT of 1986.

Send a financial contribution to support the efforts of the ICJP's challenge to the law. Make checks payable to ICJP-IRCA FUND.

For further information contact:

Darlene Cuccinello
ICJP
20 Washington Square No.
New York, N.Y. 10011
(212) 475-6677

New York Newsday EDITION

DEC 22 1988

(L) (IIR) - Aliens Alter Michels

City Planning to Protect Aliens

The city plans to amend the Human Rights Law to include aliens as a class that cannot be discriminated against in housing, employment or receiving city services, officials said yesterday.

"During two days of hearings on this topic last month, the city Human Rights Commission documented a troubling rise of improper practices such as 'citizen only' hiring policies, employers refusing to hire Puerto Ricans because they do not have immigration papers, and discriminatory treatment against New Yorkers with 'foreign-sounding' names," Mayor Edward I. Koch said.

Koch said the proposed changes would be sponsored in the City Council by council members Susan Alter of Brooklyn and Stanley Michels of Manhattan.

—William Murphy

MBER 22, 1988

"All the News That's Fit to Print"

The New York Times

DEC 22 1988

Koch Favors Measure to Protect Illegal Aliens

BY RICHARD LEVINE

Seeking to protect what he called "a very vulnerable population," Mayor Koch said yesterday that he would support a bill amending the city's Human Rights Law to prohibit discrimination based on "alienage or citizenship status."

The bill would enable both documented and undocumented aliens to take to the Human Rights Comission complaints of bias in housing, in public accommodations and, with limits for undocumented aliens, in employment.

Officials estimate that there are from 400,000 to 750,000 undocumented aliens in New York City, about 119,000 of whom have applied for legal status under the Federal amnesty program.

Mr. Koch also said he would make permanent a 1985 mayoral directive that requires city agencies to provide services to undocumented immigrants and prohibits them from turning over information to the Federal Immigration and Naturalization Service.

The Mayor said he had proposed an amendment to Executive Order 50 that would require employers doing business with New York City to comply with the anti-discrimination provisions of the Federal Immigration Control and Reform Act.

"These initiatives should send a clear message to the immigrant and ethnic communities in our city that they are New Yorkers, like anyone else, and entitled to services, like anyone else, and the protection of the law, like anyone else," Mr. Koch said at a City Hall news conference.

The Mayor cited recent hearings by the Human Rights Commission that he said had shown that thousands of immigrants had become "easy prey for unscrupulous employers."

"Do we want kids hidden?" he said. "Do we want people bleeding to death because they are undocumented?"

Mr. Koch said that Federal officials had agreed with him that the city was under no legal obligation to report illegal residents.

The Mayor said he would testify in favor of the bill at a hearing today before the City Council Committee on International Intergroup Relations and Special Events. The measure is sponsored by Susan Alter of Brooklyn and Stanley E. Michels of Manhattan. Approval is expected early next year.

The bill generally treats both documented and undocumented aliens the same, except for employment, according to Peter L. Zimroth, the city's corporation counsel. Mr. Zimroth noted that the city could not prosecute an employer under the city's human rights law if it was illegal to employ someone under Federal law.

But, Mr. Zimroth said, an undocumented alien who had already been hired could file a complaint.

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The New York Times

December 22, 1988

Koch Favors Measure to Protect Illegal Aliens

BY RICHARD LEVINE

Seeking to protect what he called "a very vulnerable population," Mayor Koch said yesterday that he would support a bill amending the city's Human Rights Law to prohibit discrimination based on "alienage or citizenship status."

The bill would enable both documented and undocumented aliens to take to the Human Rights Commission complaints of bias in housing, in public accommodations and, with limits for undocumented aliens, in employment.

Officials estimate that there are from 400,000 to 750,000 undocumented aliens in New York City, about 119,000 of whom have applied for legal status under the Federal amnesty program.

Mr. Koch also said he would make permanent a 1985 mayoral directive that requires city agencies to provide services to undocumented immigrants and prohibits them from turning over information to the Federal Immigration and Naturalization Service.

The Mayor said he had proposed an amendment to Executive Order 50 that would require employers doing business with New York City to comply with the anti-discrimination provisions of the Federal Immigration Control and Reform Act.

"These initiatives should send a clear message to the immigrant and ethnic communities in our city that they are New Yorkers, like anyone else, and entitled to services, like anyone else, and the protection of the law, like anyone else," Mr. Koch said at a City Hall news conference.

The Mayor cited recent hearings by the Human Rights Commission that he said had shown that thousands of immigrants had become "easy prey for unscrupulous employers."

"Do we want kids hidden?" he said. "Do we want people bleeding to death because they are undocumented?"

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But, Mr. Zimroth said, an undocumented alien who had already been hired could file a complaint.

http://www.nytimes.com/1988/12/22/nyregion/koch-favors-measure-to-protect-illegal-aliens.html?module=Search&mabReward=relbias%3Ar&pagewanted=print

The New York Times

June 20, 1989

Bill to Safeguard Rights of Aliens Passed by Panel

By ARNOLD H. LUBASCH

A proposed law prohibiting discrimination against aliens in employment, housing and government services in New York City was passed unanimously yesterday by a committee of the City Council.

The bill's protections would extend to illegal aliens, except in employment discrimination. The 1986 Federal immigration law bars employers from hiring illegal aliens, and the Council bill specifically says it excludes conflicts with Federal laws.

Councilwoman Susan D. Alter, who introduced the bill, said she expects it to be passed by the full Council and signed into law next month. She added that it will be the first law of its kind in any city in the country.

"With the enactment of this law," Councilwoman Alter said, "New York City will once again reassert its historic role as a haven for hardworking immigrants."

Licenses for Vendors

The bill includes a provision for the city to grant some licenses, such as vendor licenses to sell hot dogs and other foods, without requiring the applicants to prove they are legally authorized to work in the United States.

The provision will provide an opportunity for undocumented aliens to earn a living, Councilwoman Alter said, and prevent the creation of an "underclass of immigrants" who might feel compelled to commit crimes to support themselves.

Opposition to the provision was expressed by a spokesman for the Federal Immigration and Naturalization Service, Verne Jervis, who said in Washington that it would violate the spirit of the Immigration Reform and Control Act of 1986. The agency is against any proposal allowing undocumented aliens to earn wages here, he said. "

But Councilwoman Alter, a Brooklyn Democrat who is on the Council's Committee on International Intergroup Relations, disagreed, saying, "We think we are taking the proper approach in dealing with people who may be illegal aliens but who want to work."

The committee passed the bill, 6 to 0, and Mayor Edward I. Koch's office said later that he is expected to sign it.

Hearings by the City Council and the city's Human Rights Commission have shown extensive discrimination against immigrants, the Councilwoman said. The new legislation authorizes the commission to conduct legal proceedings for immigrants, including undocumented aliens, who complain of discrimination.

http://www.nytimes.com/1989/06/20/nyregion/bill-to-safeguard-rights-of-aliens-passed-by-panel.html?module=Search&mabReward=relbias%3Ar&pagewanted=print

The New York Times

July 19, 1989

To Make Laws on Discrimination Stronger

To the Editor:

In a June 20 news story on an immigrant rights bill passed by a City Council committee, you paraphrase the bill's sponsor as saying that the bill would "provide an opportunity for undocumented aliens to earn a living" in New York City. This is not what the bill does.

What it does is to add alienage and citizenship status to the city's Human Rights Law as grounds on which it is illegal to discriminate. It has been obvious in New York City, in the state and in many other parts of the country, that discrimination against the foreign-born and people perceived as foreign-born has increased significantly since passage of the Immigration Reform and Control Act of 1986.

Federal, state and city statutes provide means to combat only some types of anti-immigrant discrimination. The City Council bill would empower the city's Commission on Human Rights to act in areas not covered under current law, such as conditions of employment, access to private housing and access to public accommodations like banks and doctors' offices.

The bill does not intend to evade the immigration act's employment requirements. It would not turn New York City into some sort of exempt zone in which unauthorized aliens were permitted to work. The bill specifically says it would not supersede any city, state or Federal law. It makes clear, however, that the city does not intend to be stricter than the law requires, unless there are powerful considerations to do so.

Mayor Edward Koch intends to sign the bill, which was passed in the Council June 23. Its purpose is to strengthen local antidiscrimination laws, particularly important in a city as heterogeneous and constantly changing as New York.

ELIZABETH BOGEN Director, Office of Immigrant Affairs Department of City Planning New York, July 17, 1989

http://www.nytimes.com/1989/07/19/opinion/l-to-make-laws-on-discrimination-stronger-578289.html?module=Search&mabReward=relbias%3Ar&pagewanted=print

NYC Commission on Human Rights

FISCAL YEAR

2019 ANNUAL REPORT

BILL DE BLASIO, Mayor | **CARMELYN P. MALALIS,** Chair/Commissioner

Cover photo credit: Commission staff

NYC Commission on Human Rights

FISCAL YEAR

2019 ANNUAL REPORT

BILL DE BLASIO, Mayor | **CARMELYN P. MALALIS,** Chair/Commissioner

MESSAGE FROM THE MAYOR

New York City is a beacon to the world because it is a place for everyone.

Our administration took office determined to preserve and build on that idea today, tomorrow, and for generations to come. And over the past few years – as racism, xenophobia, anti-Semitism, misogyny, homophobia, and other forms of bigotry have been amplified at the highest levels of federal government – our mission of fairness and inclusion has become more critical than ever.

Every day, the Commission on Human Rights leads the charge. This talented team shows how government can use its power for justice and good – and over the past year, the Commission has accomplished remarkable things. CCHR released path-breaking legal enforcement guidance on race discrimination based on hair, inspiring changes to law in New York State and California and a citywide campaign to fight racism head-on. It partnered with a world-renowned artist, installing city murals that give voice to New Yorkers' experiences with anti-Blackness and gender-based street harassment. It changed conversations on pregnancy and caregiver discrimination, and lifted up new mothers in the workplace by helping employers better meet the needs of breastfeeding workers.

With these initiatives and more, the Commission continues to show New Yorkers that we will live our values – that we will not just be the largest, most diverse city in the nation, but also the safest and fairest. And as you'll see in this report, CCHR will only grow in the years ahead.

Together, we'll confront discrimination wherever we find it. Together, we'll show the world there is a better way. That is who we are – and always will be – as New Yorkers.

Bill de Blasio

Mayor

MESSAGE FROM THE COMMISSIONER

Each year, as I craft this message, I reflect upon what I have learned over the course of the previous twelve months. Often, what emerges is a deep sense of pride at what the hard-working staff at the Commission has been able to accomplish through our law enforcement, community outreach, and communications and policy efforts. I am heartened by the ways we have been able to deliver some measure of justice or visibility for individuals who have experienced discrimination—increasingly through negotiated agreements that drive policy and cultural change at powerful institutions. I am encouraged to see the universe of communities that trust and increasingly rely upon the Commission grow each year. I am gratified to see so many employers and businesses creating relationships with the agency to make their workplaces more inclusive. I am thrilled to see our work and the messages we develop driving the public dialogue on important issues. And I am humbled each time I see guidance and rules originating with the Commission replicated in other parts of the country.

This, of course, is countered by how troubled I feel when reflecting on recent changes in our country. For many of the communities in which Commission staff work and have deep roots, this has been another exhausting year, in no small part due to hateful policies and rhetoric emanating from the federal government. It is important to acknowledge these developments and the impact that they have on many in New York and across the country. While earning and maintaining the trust of the New Yorkers whom we serve has always been an essential part of the agency's approach, the events of the last two years have underscored this point. The work of convincing community members to engage with local government is made far more difficult when these communities see the federal government engaging in a sustained campaign of cruelty.

At the Commission we recognize that it is incumbent on those of us who have the privilege of serving in positions of government power to confront this cruelty every way we know how. We must call out hate and embrace and embody the values of dignity and inclusion. Embracing these values also means engaging New Yorkers in honest conversations about what they have experienced in their city and listening to the insights they offer—good or bad, painful or uplifting as they may be. We must grapple with new policy challenges and centuries-old quandaries alike. We must build new partnerships even as we nurture longstanding ones. In short, we must both speak out in defense of the values that make our city great and implement policy in a way that shows our values are not simply rhetoric, but rather a guide for creating the sort of community we want to live in. We must commit to all of this not only because we wish to present an alternative to dispiriting developments at the national level but also because we believe it is the best way to build and govern a fully-inclusive democracy.

This year, in service of these goals, the Commission took a number of steps. We organized other municipal and state human rights agencies to sign on to a statement and appear in a video condemning the conditions under which undocumented immigrants have been detained by the U.S. government. We convened a

hearing on pregnancy and caregiver discrimination and released a report outlining recommendations for better supporting pregnant, breastfeeding and caregiving New Yorkers. We released legal enforcement guidance on race discrimination based on hair—a form of discrimination experienced all too often by Black people. This guidance ultimately served as a model for legislation in New York State, California and New Jersey. And we released a campaign calling out efforts to harass, intimidate or stigmatize Black New Yorkers.

There is so much more that remains to be done. And each day, Commission staffers are working closely with New Yorkers, community and faith organizations, small and large businesses, and others to figure out where and how to focus its efforts.

It continues to be one of the greatest honors of my life to work with New Yorkers to uphold and advance human rights. You are what makes this city so special.

I hope that you will follow us on social media and visit our website to learn more about our resources and how you can get involved.

Carmelyn P. Malalis

Chair and Commissioner

CONTENTS

Photo credit: Adrienne Nicole Productions

COMBATING ANTI-BLACK RACISM

In recent years, the Commission has increased its efforts to challenge anti-Black racism. While interpersonal, institutional and structural racism targeting African-American, Afro-Caribbean, Afro-Latinx and African people and others who identify as having African ancestry has been consistent throughout the history of New York City and the nation as a whole, in recent years both the advocacy of the Black Lives Matter movement and the rise of violent white nationalism have spurred a greater focus on the persistence of anti-Blackness and its role in our public conscience and our public policy.

LEADING GOVERNMENT IN CALLING OUT DISCRIMINATION BASED ON BLACK HAIR AS RACE DISCRIMINATION

Photo credit: Kelly Williams

This work has been informed by the insights of Black New Yorkers who have reported experiences with discrimination to the Commission as well as other stories reported in press and social media. For example, Commission staff and leadership were outraged at news and video footage of a high school wrestler who was forced to cut his locs in order to compete in a match. Stories abound of children being turned away from school on the first day of classes because their locs or braids do not comport with school grooming or appearance standards and employers demanding that Black employees straighten or relax their hair

to fit the “image” of the company. This includes several such cases filed at the Commission itself. While federal courts have failed to recognize discrimination on the basis of hair or hairstyles most closely associated with Black people as race discrimination, no court has addressed the issue with respect to the New York City Human Rights Law. The Commission believed it was necessary to take a clear and unequivocal public position with respect to protections in New York City, making it plain that policies that prohibit hair or hairstyles most commonly associated with Black people, including locs, braids, bantu knots and fades constitute race discrimination. Hair is part of who we are, and no one should be forced to deny or hide a part of themselves as a condition of being in the workplace or public spaces.

In February 2019, the Commission released landmark legal enforcement guidance clarifying for employers and employees as well as operators and patrons of places of public accommodation—like stores, bars and restaurants—that policies, practices, harassment, and discrimination on the basis of natural hair and hairstyles most commonly associated with Black people is unlawful race discrimination. The Commission also took care to name the fact that such policies are often rooted in Eurocentric notions of beauty and racist assumptions about “professionalism” and often perpetuate racist stereotypes. These policies also exacerbate anti-Black bias in employment, at school, while playing sports, and in other areas of everyday life. From the New York Times to Vogue, the guidance made international headlines and prompted legislative action in California, New Jersey, New York State, and in other local jurisdictions nationwide

CAMPAIGN STATS /

2.05 million
estimated impressions generated across social media.

4,030
clicks driven to Hair Discrimination Legal Enforcement Guidance.

7,106
engagements generated across social media.

1,184
shares of campaign advertisements on social media.

ACKNOWLEDGING AND NAMING THE DAILY INDIGNITIES OF EXISTING "WHILE BLACK"

Photo credit: Kelly Williams

Discrimination based on hair is only one of many daily indignities Black New Yorkers and Black Americans continue to face with alarming regularity. A stream of viral videos in recent years—from "BBQ Becky" in Oakland, California to "Cornerstore Caroline" in Brooklyn, New York—featured different scenarios but one striking commonality: a white person reporting Black people engaged in routine activities to law enforcement authorities. While the videos themselves were a relatively new phenomenon amplified by social media, they echo a long history of racist oppression.

At the Commission, we know that these incidents dehumanize the person victimized, are an affront to the community at large, and are an expression of the persistence of anti-Blackness. On October 2018, a video went viral in which a white woman verbally harassed a 9-year-old Black child and falsely accused him of sexual assault—another distressing example of the perils of living while Black. The incident prompted the Commission to join Flatbush community members in hosting Reclaiming Our Space: A Community Truth and Restoration Forum, providing participants with the Commission's education, outreach, and community-building resources. The event featured community leaders and members engaging in meaningful conversations about the racial tensions in the community and looking at how collectively we can heal that division.

The Commission also sought to bring attention to such daily indignities in its citywide "While Black" public education campaign. The campaign addressed common forms of discrimination that Black people face while going about everyday activities like driving, shopping, and working. It signaled that the Commission would not tolerate efforts to harass, intimidate or discriminate against Black New Yorkers and affirmed the rights of all Black New Yorkers to live their lives free of bias, harassment, and discrimination.

CAMPAIGN STATS /

Ads placed in 14
community and ethnic print publications.

1.5 million
estimated impressions generated from posters in barbershops, nail salons, and laundromats.

46.2 million
estimated impressions generated across digital, outdoor, and print media.

43,746
clicks driven to the "Report Discrimination" webpage.

PROVOKING CONVERSATIONS ABOUT RACE THROUGH ARTISTIC PARTNERSHIPS

Brooklyn: Corner of Bedford and Hancock Streets, Brooklyn, NY 11216 Photo credit: Tatyana Fazlalizadeh

Recognizing that the arts can be a powerful tool for combating deep-seated issues like anti-Black racism, the Commission leveraged the power of art to engage New Yorkers in a conversation about anti-Blackness and gender-based street harassment. Over the course of an 18-month residency with the Commission, artist Tatyana Fazlalizadeh installed a series of large-scale murals and installations in Brooklyn, the Bronx, Queens, and Manhattan featuring powerful imagery of New Yorkers whom she and the agency had engaged on these issues. The murals were informed by a series of community conversations Fazlalizadeh conducted in partnership with Bronx Defenders, Girls for Gender Equity, YWCA Brooklyn, GRIOT Circle, Weeksville Heritage Center, Jamaica NAACP, New Settlement Community Center, and other groups.

Other partnerships have also allowed the Commission to further explore the deep connections between culture and the struggle for Black liberation and self-determination. The Commission, through the receipt of a Mayor's Grant for Cultural Impact, completed a six-month long partnership with the Weeksville Heritage Center which focused on collecting stories of Black community spaces and Black-owned businesses in the face of gentrification and neighborhood change. The effort, *Meals as Collective Memory*, documented the social and culinary history behind Black-owned restaurants in central Brooklyn. Through this project, the Commission celebrated Brooklyn's food culture, which itself is representative of the African diaspora. The partnership created opportunities to share delicious food, promote discussions about entrepreneurship, and foster connections between City's resources, including Small Business Services, and Black-owned restaurants and entrepreneurs in Brooklyn. This initiative culminated in the Commission's first-ever Juneteenth Community Festival which honored the rich history of Black activism in Brooklyn and beyond and was attended by over 100 participants.

Bronx: 360 E. 161st Street, Bronx, NY 10451 Photo credit: Commission Staff

1

2

3

4

5

1. Manhattan: Corner of Avenue A and 2nd Street, New York, NY 10009 Photo credit: Commission Staff
2. Brooklyn: Corner of Bedford and Hancock Streets, Brooklyn, NY 11216 Photo credit: Adrienne Nicole Productions
3. Manhattan: Corner of 55th Street and 12th Avenue, New York, NY 10019 Photo credit: Adrienne Nicole Productions
4. Manhattan: 125th Street and Lenox Avenue, New York, NY 10027 Photo credit: Commission Staff
5. Queens: 113-1 196th Street, St. Albans, NY 11412 Photo credit: Adrienne Nicole Productions

PIONEERING LAW ENFORCEMENT ACTIONS TO COMBAT SYSTEMIC RACISM /

Photo credit: Cali York Photography

The Commission has taken innovative approaches in its law enforcement efforts to root out systemic race discrimination. For instance, while it is not currently illegal to discriminate against tenants based on criminal conviction history, these policies often have a disparate impact based on race or national origin, and therefore may still violate anti-discrimination laws. In the first case of its kind in the Commission's history, in 2018, the agency entered into a settlement with PRC Management, LLC, a housing management company controlling 100 buildings with 5,000 units citywide. The Commission had charged the firm with discriminating against prospective tenants based on their race, color, and national origin because it had denied housing to applicants with criminal histories without performing individualized analysis of those records. The Commission filed charges after the 2016 release of U.S. Department of Housing and Urban Development enforcement guidelines that addressed the discriminatory effects of criminal history checks on Black and Latinx prospective tenants, who are disproportionately impacted by arrest, conviction, and incarceration rates in New York City and around the United States. As part of the settlement, respondents were required to pay $55,000 in emotional distress damages to a victim impacted in the case, $25,000 in civil penalties, change and distribute new screening and application policies, train staff on new policy and law, and invite applicants with criminal histories who were previously denied housing to reapply.

NOTABLE CASE SETTLEMENTS /

Landlord Pays $15,000 in Damages and $2,500 in Civil Penalties for Disparaging and Rejecting Couple Based on Race

A couple filed a complaint against the owners of one two-unit building in Brooklyn alleging that the owners denied them an apartment on the basis of race. The Law Enforcement Bureau investigated and issued a determination of probable cause, finding that Respondents met the Complainants in person and then made disparaging statements and rejected the Complainants because one of the Complainants is Black. Respondents, Complainants, and the Commission entered into a conciliation agreement requiring the Respondents to pay $15,000 to the Complainants in emotional distress damages, $2,500 to the City of New York in civil penalties, attend training regarding the New York City Human Rights Law, and put up notice of rights posters in their building.

Home Depot Undergoes Training, Revises Its Anti-Discrimination Policy, Makes Written Apology, and Pays $3,000 in Emotional Distress Damages to Complainant in Race Discrimination Case

A customer, who is Black, filed a complaint against Home Depot alleging that when she attempted to make a purchase at the retailer's Bronx store, a cashier became upset and used racist language. The Commission, Complainant, and Respondent entered into a conciliation agreement requiring Respondent to pay $3,000 to Complainant for emotional distress damages; train its staff on their obligations under the New York City Human Rights Law; and make a written apology to the Complainant. Over the course of the investigation, Respondent also revised and updated its anti-discrimination policies.

Gansevoort Hotel Agrees To Pay a Black Customer Who Alleged Race Discrimination $10,000 in Damages and $5,000 in Civil Penalties to the City of New York

A Black customer filed a complaint with the NYC Commission on Human Rights because they were denied entry to a hotel bar, despite their white friends been previously allowed in. Complainant alleged race discrimination. Following an investigation by the agency, the hotel agreed to pay $10,000 to the customer, $5,000 in civil penalties to the City of New York, and conduct anti-discrimination training for all staff.

National Retailer Settles Racial Profiling Case by Black Shopper; Pays $13,000 and Agrees To Create Anti-Bias and Anti-Profiling Policy

A shopper at J.C. Penney filed a complaint of race discrimination alleging that he was targeted for an ID check at checkout because of his race. After investigation, the parties entered into a Commission conciliation agreement requiring J.C. Penney to pay a $6,500 civil penalty, pay $6,500 in compensation to the shopper, post Commission postings in all New York City locations and create an anti-bias and anti-profiling policy and train all staff in New York City.

PRESS RELEASES AND MEDIA HIGHLIGHTS /

NYC Commission on Human Rights Announces Investigation into Prada Following Reports of Racist Merchandising and Display

"In a time when reports of anti-Black discrimination and racism are increasing, it is appalling to see this kind of blatantly racists displays and merchandise from Prada," said Assistant Commissioner of the NYC Commission on Human Rights Sapna V. Raj. "Black New Yorkers face discrimination and bias every day. To see racist Jim Crow-era imagery so patently on display at an international luxury retailer's storefront is appalling and not tolerated in our city. The Commission is taking swift action to demand Prada immediately comply with the New York City Human Rights Law, examine internal practices, issue an apology to all New Yorkers, and refrain from engaging in this type of harmful and discriminatory conduct in the future."

NYC Commission on Human Rights Settles Landmark Housing Discrimination Case with Bronx Management Company Controlling 100 Buildings with 5,000 Units Citywide Accused of Denying Housing to Any Applicant with Criminal Record

"For every New Yorker, access to housing is an essential part of maintaining a safe and stable life for themselves and their families, which is why the Commission is conducting strategic and thorough investigations in this area to root out policies that wholesale discriminate against entire communities," said Assistant Commissioner of the Law Enforcement Bureau at the NYC Commission on Human Rights [now Deputy Commissioner], Sapna V. Raj, who oversaw the investigation. "Everyone in New York City deserves equal access to housing and we hope the Commission's strategy in this case serves as a model for other cities in protecting vulnerable communities from discriminatory housing policies."

The Hill: NYC human rights panel launches 'While Black' campaign to combat racism – Owen Daugherty (March 15, 2019)

New York Times: New York City to Ban Discrimination Based on Hair – Stacey Stowe (February 18, 2019)

NPR: Hair Style Discrimination Banned in NYC – Mary Louise Kelly (February 26, 2019)

Business Insider: Prada pulled monkey trinkets accused of using 'blackface imagery,' and now New York's commission on human rights is investigating – Dennis Green (December 16, 2018)

The Root: Exclusive: In Combatting Housing Discrimination, New York City Goes an Unconventional Route, Anne Branigin (December 5, 2018)

Photo credit:

LEADING THE FIGHT FOR GENDER JUSTICE

Combating gender discrimination, including sexual harassment, has been a Commission priority since 2015. Over the last four years, the Commission has used every tool at its disposal to address sexual harassment, from wide-ranging investigations, to comprehensive settlement agreements to make victims whole, to issuing the Commission's highest ever civil penalty and successfully advocating for its affirmance in New York State Supreme Court. In Fiscal Year 2019, the Commission solidified its position as a national leader in the fight against workplace sexual harassment through its testimony before state and local legislatures, and, most significantly, the launch of a first-of-its-kind sexual harassment prevention training that is being used by employers across New York State.

SETTING A NEW STANDARD IN ANTI-SEXUAL HARASSMENT TRAINING

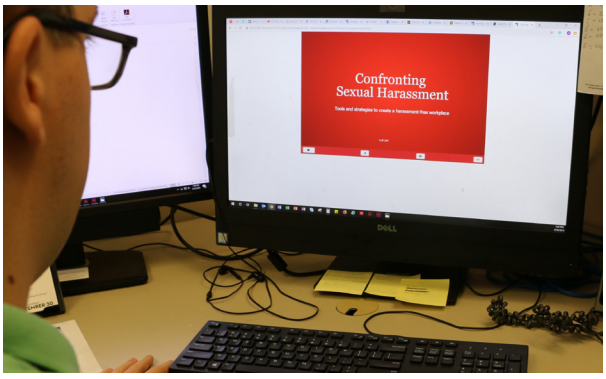


Photo credit: Commission staff

On April 1, 2019, the Commission launched an interactive, online, anti-sexual harassment training which can be used by New York City employers to meet new state-wide and New York City-based requirements mandating that all workforces receive an annual anti-sexual harassment training. Pursuant to the Stop Sexual Harassment Act signed by Mayor de Blasio in 2018, anti-sexual harassment training became mandatory for New York City employers with 15 or more employees. Similarly, New York State passed its own training requirement, mandating that all employers, regardless of the number of employees, provide anti-sexual harassment training to their workforces. The Commission designed, with extensive stakeholder review and feedback, a groundbreaking training to

meet both the New York City and New York State training requirements, part of the Commission's multi-faceted effort to shift workplace culture and expectations. The training uses a story-based learning model, features scenarios drawn from real cases, and highlights the ways in which sexual harassment commonly intersects with other protected categories, including race, immigration status, national origin, religion, sexual orientation, gender identity, and pregnancy and lactation. It educates the user on the Commission's encompassing definition of gender, which includes gender identity and gender expression, and of its broad and protective sexual harassment standard. It also provides tools and strategies for bystanders to disrupt patterns of sexual harassment.

The training was developed with, and incorporates, feedback from over two dozen external stakeholders, including government partners from the Commission's counterpart agencies at the State level, and several dozen City agency and administration partners representing interests and expertise across City government.

The Commission engaged in an extensive outreach effort to inform large and small businesses alike of both their new legal responsibility to provide anti-sexual harassment training, and to share with them information about how to access the Commission's training for their employees. In this effort, the Commission distributed this information to nearly 300,000 businesses through multi-lingual mailers and conducted business outreach through over a dozen business improvement districts throughout New York City, speaking at convening's of chambers of commerce, non-profit associations, and associations of management attorneys, and through a targeted campaign to employers through digital ads on LinkedIn, Google, and Facebook.

The training was completed more than 30,000 times in the first three months of its release. Moreover, representatives of governments from across the country are seeking to adopt or adapt the training for their jurisdiction.

CAMPAIGN STATS /

7.54 million
estimated impressions generated across Facebook, Google Display, and LinkedIn.

10,708
clicks driven to anti-sexual harassment training.

39,448
page views of anti-sexual harassment training during digital media campaign.

5,807
engagements on Facebook advertisements.

COMMISSION'S LARGEST CIVIL PENALTY FOR SEXUAL HARASSMENT UPHELD BY NEW YORK STATE COURT

Photo credit: Ajay Suresh

In March 2019, the New York State Supreme Court upheld a 2015 decision & order, in an egregious sexual harassment case, ordering the payment of a $250,000 civil penalty—the maximum allowable under the New York City Human Rights Law and the largest in Commission history—and nearly half a million dollars in damages to a victim of sexual harassment. The case, *Commission of Human Rights ex rel. Cardenas v. Automatic Meter Reading Corp. and the Estate of Jerry Fund*, began in 2011 when the complainant filed a complaint at the Commission alleging sexual harassment by her boss. The complainant reported that the respondent had repeatedly humiliated her in front of colleagues and clients over a three-year period by posting a lewd cartoon with her name written on them in a common area, repeatedly hitting her backside with an umbrella after she demanded he stop, regularly commenting on her appearance to colleagues and clients, and offering sex as a cure for her migraines, among other harassment. The respondent admitted to his behavior, stating that he "deserved to have a little fun" with her for having employed her for fifteen years.

In a 2015 decision & order, the Commission ordered the highest civil penalty available under the New York City Human Rights Law—reserved for willful, wanton, or malicious conduct—given Respondents' failure to cooperate during the process, multiple admissions of Respondents' behavior, a complete lack of contrition, and the extreme nature of the harassment. In March 2019, Justice Shlomo Hagler of the State Supreme Court upheld the decision & order in its entirety and confirmed that the first-ever $250,000 civil penalty was warranted.

The Supreme Court's affirmation of the Commission's decision & order sends a strong message to employers throughout New York City that they cannot violate the New York City Human Rights Law with impunity; the Commission will be steadfast and unrelenting in its pursuit to hold violators accountable to the fullest extent of the law.

STRENGTHENING PROTECTIONS FOR GENDER-BASED DISCRIMINATION

Photo credit: Commission staff

The fight against discrimination takes place on multiple fronts at all times, and one place where the Commission advocated insistently in Fiscal Year 2019 was on the floor of City and State legislatures. The Commission testified at three hearings before the New York City and New York State legislatures in Fiscal Year 2019. The Commission took these opportunities to advocate for the continued expansion of laws protecting people from gender-based discrimination, and to highlight the ways that the Commission was moving this fight forward:

In February 2019, the Commission advocated for the State to adopt the New York City Human Rights Law's legal standard for gender-based harassment. The Commission's testimony noted that if the State were to adopt New York City's broader standard, more perpetrators would be held accountable, and more victims would get justice.[1]

In May 2019, the Commission testified again before the New York State Assembly and Senate to discuss the work of the Commission's Gender-Based Harassment Unit, its experience enforcing a more protective anti-harassment standard under the New York City Human Rights Law, and again encouraged the State to adopt a similar standard. As the testimony highlighted, the Commission's new Gender-Based Harassment Unit, launched in January 2019 to exclusively handle allegations of gender-based harassment in employment, was formed in response to the recognition that these claims often require specialized skills and expertise.[2] The Commission has seen a rapid escalation of the number of such claims brought to the Commission in recent years from 56 in 2017 to 115 in 2018.

In November 2018, the Commission testified before the Committee on Consumer Affairs and Business Licensing and highlighted our partnerships with other City agencies and City businesses to ensure that employers across the City would meet their obligation to provide anti-sexual harassment training to their employees. Our partners in this crucial effort included Small Business Services, the Office of Nightlife, and the Mayor's Office to End Domestic and Gender-Based Violence.[3]

BUILDING RESPECTFUL AND INCLUSIVE WORKPLACES FOR WORKERS WHO NEED ACCOMMODATIONS FOR PREGNANCY AND BREASTFEEDING

Photo credit: Adrienne Nicole Productions

In January 2019, the Commission held its first-ever public hearing on pregnancy and caregiver discrimination. Held on January 30, 2019, the five-year anniversary of the NYC Pregnant Workers Fairness Act, which amended the New York City Human Rights Law to require that employers provide reasonable accommodations to workers for pregnancy, childbirth, and related medical conditions, the hearing included testimony from workplace rights, birth justice, and reproductive justice advocates, medical professionals, including doctors, midwives, and doulas, and brave members of the public who shared their stories. The hearing led to the publication of a report which summarizes the hearing testimony, key themes, and policy, legislative, and process-orientated recommendations, in partnership with CUNY School of Law, the New York Women's Foundation, the NYC Department of Health and Mental Hygiene, and the NYC Commission on Gender Equity.

1 Testimony before the New York State Senate and New York State Assembly, February 13, 2019, *available at* https://www1.nyc.gov/assets/cchr/downloads/pdf/CCHR%20Testimony%20to%20NYS%20on%20SH%202.13.19.pdf.

2 Testimony before New York State Senate and New York State Assembly, May 24, 2019, *available at* https://www1.nyc.gov/assets/cchr/downloads/pdf/CCHR%20Testimony%20to%20NYS%20052419%20FINAL.pdf.

3 Testimony before the New York City Council Committee on Consumer Affairs and Business Licensing, November 13, 2018, *available at* https://www1.nyc.gov/assets/cchr/downloads/pdf/CCHR%20Testimony%20Nightlife%20Harassment,%2011.13.18.pdf.

Accommodations for workers who need to pump breastmilk were further clarified through legislation that went into effect in March 2019, requiring employers to provide a lactation room with specific requirements, reasonable time to pump, and a lactation accommodation policy and request form. In furtherance of the Commission's efforts to create tools and models for workplaces to utilize, the Commission published three model policies and a model request form, along with extensive Frequently Asked Questions and a document for employers to understand their obligations regarding the creation of workplace lactation rooms. With these comprehensive materials, the Commission is striving to change work culture surrounding lactation accommodations to reduce stigma, educate employers, support employees, and normalize pumping at work.

SHOWING SOLIDARITY WITH SURVIVORS WHEN GENDER-BASED HARASSMENT IS IN THE NEWS

Photo credit: Adrienne Nicole Productions

On September 26, 2018, the Commission and the Office of the First Lady of the New York City, along with host organizations Girls for Gender Equity, Hollaback!, and YWCA Brooklyn, organized a powerful rally on the steps of City Hall in the midst of the Supreme Court confirmation hearings to send a message to the nation that New York City stands with survivors of sexual assault and sexual harassment. The rally, which was covered by national news outlets, featured the voices of five survivors of sexual assault, along with leading government officials, including the First Lady of New York City, Commissioner Malalis, and state and local elected officials adding their voices to a chorus of people that survivors will be heard and will be believed. The rally included over fifty co-sponsoring organizations from across New York City, a diverse coalition galvanized by the ubiquity of sexual violence and the silencing and stigmatization of survivors' voices. It was estimated that over 400 people attended, and City Hall staff reported it appeared to be one of the largest rallies the City Hall steps had ever seen to date. It also reached a large audience on social media; its livestream through the First Lady's Facebook and Twitter accounts garnered over 78,000 views, and it was amplified by social media posts from notable accounts including Women's March, the editors of Teen Vogue and Bustle, and others.

NOTABLE CASE SETTLEMENTS

$181,000 to Resolve Gender-Based Harassment and Retaliation Claims

In a notable settlement, the Commission conciliated a case in which both a husband and wife had suffered the effects of gender-based harassment and retaliation. The couple had both been employed by Kent Security of New York, Inc., a company that provides security, janitorial, and maintenance services. They filed complaints with the Commission against Kent, alleging that their supervisor demanded sexual favors from the woman in exchange for her request to be transferred to a different work location, and then fired her husband after she reported the sexual harassment. After the Law Enforcement Bureau's investigation, the Commission and the parties entered into conciliation agreements requiring the employer to pay the husband $56,000 and the wife $100,000 in damages and attorney's fees, pay $25,000 in civil penalties, attend anti-discrimination training, create new policies that resulted in substantial changes to its procedures and Employee Handbook, and put up postings notifying employees of their rights under the New York City Human Rights Law with respect to sexual harassment and other requirements under the Law.

Morton Williams Supermarkets Pays $22,500 in Damages in Sexual Harassment Case and Commits To Creating Comprehensive Anti-Discrimination and Anti-Sexual Harassment Policies and Training

A former employee filed a complaint against Morton Williams Supermarkets and a Morton Williams manager alleging that she was subjected to sexual harassment in the workplace. Following the Law Enforcement Bureau's investigation, the Commission and the parties entered into a conciliation agreement requiring Morton Williams to pay $12,500 in emotional distress damages to the Complainant, pay a civil penalty of $10,000 to the City of New York, conduct in-person anti-discrimination training for all managerial employees, create a policy detailing its obligations under the New York City Human Rights Law, which must include policies and procedures for the prevention of sexual harassment in the workplace, and post copies of the Commission's Notice of Rights, Stop Sexual Harassment Act Notice, and Pregnancy Employment Notice at all of its locations in New York City.

Taylor Recycling Center and Its Successor Company Vee Recycling Inc. Pays $60,000 in Emotional Distress Damages and $50,000 in Civil Penalties To Settle Sexual Harassment Claim; Individually-Named Owner Must Perform 50 Hours of Community Service

A former employee filed a sexual harassment claim against her employer, Taylor Recycling Center, Inc. ("Taylor Recycling"), a recycling company, alleging egregious claims of sexual harassment by the owner that escalated from harassing comments to forcible physical touching. Taylor Recycling has ceased operations. The settlement was reached with Taylor Recycling and its successor company, Vee Recycling Inc. ("Vee") to pay $60,000 in emotional distress damages to the complainant, $50,000 in civil penalties to the City of New York, to create and implement a written policy detailing its obligations under the New York City Human Rights Law, implement procedures for the prevention and detection of unlawful discriminatory practices and a meaningful and responsive procedure for investigating complaints, and display postings outlining its obligations under the New York City Human Rights Law, including the Stop Sexual Harassment Act Notice in English and Spanish. In addition, the individually named Respondent-owner must perform fifty (50) hours of community service working with organizations that provide services to the homeless population.

Lasio Inc. Pays $32,500 To Settle Pregnancy Accommodation, Gender and Retaliation Claim

A former employee filed a pregnancy accommodation, gender discrimination, and retaliation claim against her former employer, Lasio, Inc., and its owner alleging that the employer failed to accommodate requests made related to her pregnancy, including time off for medical visits related to her pregnancy, a request for additional bathroom breaks, and permission to eat at her desk. Complainant also alleged that approximately a week after she began discussing her plans for parental leave with the employer, the employer terminated her employment. After the Law Enforcement Bureau's investigation, the Commission and the parties entered into a conciliation agreement, requiring the employer to pay the complainant $25,000 in back pay and emotional distress damages, pay $7,500 in civil penalties to the City of New York, attend anti-discrimination training, and put up postings notifying employees of their rights under the New York City Human Rights Law with respect to pregnancy accommodations, sexual harassment, and other requirements under the law.

Employment Agency Pays over $26,000 in Compensatory Damages To Settle Claim of Gender, Pregnancy, and Age Discrimination

An employee alleged that an employment agency, ExecuSearch discriminated against her based on her gender, pregnancy, and age by removing her from a paraprofessional assignment, in which she worked with a child. Following an investigation, the Law Enforcement Bureau found that the employment agency, which placed Complainant in a job and supervised her work, had removed her from the position in part because the mother of the child complainant worked with had expressed concerns about Complainant's pregnancy. As a result, the Law Enforcement Bureau, Complainant,

and Respondent employment agency entered into a conciliation agreement where the agency agreed to pay Complainant $6,228 in back pay and $20,000 in emotional distress damages, as well as update its anti-discrimination policies and hiring practices and train its employees on those updated policies.

The Atlantic Group LLC Settles Pregnancy Discrimination Claim by Former Employee; Pays $40,000 in Damages and $10,000 in Civil Penalties; and Agrees To Modify Mandatory Arbitration Clause to Exclude All City Claims, Among Other Affirmative Relief

Complainant, represented by The Legal Aid Society, filed a complaint of disability and gender discrimination due to pregnancy against her former employer, The Atlantic Group LLC ("Atlantic Group"). After an investigation, the Law Enforcement Bureau issued a probable cause determination, finding that supervisors made discriminatory comments to Complainant regarding her pregnancy and appearance, and reduced her schedule in response to her request for periodic changes to her schedule to accommodate her doctors' appointments. The Law Enforcement Bureau, Complainant, and Respondents entered into a conciliation agreement in which Atlantic Group agreed to pay $40,000 in emotional distress damages to Complainant and $10,000 in civil penalties to the City of New York; modify its mandatory arbitration clause in its employee handbook to exclude all claims under New York City Law, including under the New York City Human Rights Law; conduct training for all of their New York City employees; institute policies subject to Commission approval; and post a notice of rights for pregnant workers.

CAMPAIGN STATS /

265,618

impressions generated from Facebook advertisements.

PRESS RELEASES /

NYC Commission on Human Rights and Legal Aid Society Announce Largest-Ever Civil Penalty Levied in Commission History in Affirmation from NY Supreme Court

"The NYC Commission on Human Rights and the Legal Aid Society announce that the Supreme Court of the State of New York, New York County, affirmed Commissioner Carmelyn P. Malalis' decision in Commission of Human Rights ex rel. Cardenas v. Automatic Meter Reading Corp. and the Estate of Jerry Fund ordering $422,670.26 in damages to the victim for sustained and egregious sexual harassment, and, for the first time, ordering the maximum civil penalty of $250,000 allowable under the NYC Human Rights Law."

New York City Commission on Human Rights Publishes Lactation Accommodation Requirements for New York City Employers

The New York City Commission on Human Rights has released a new lactation policy in compliance with a 2018 law requiring that employers provide employees with lactation accommodations, including a designated private space and reasonable time to pump. Employers are also required to have a written lactation policy and provide it to all new employees. The Commission has developed three model policies to reflect different types of workplaces that can be adapted for employers' use, a model request for accommodations form, and an extensive FAQ document to help employers comply with the law.

MEDIA HIGHLIGHTS /

The City: South Bronx-Born AI App Aims to Change Maternal Health Disparities – Ese Olumhense (July 24, 2019).

Romper: Workplace Protections Don't Reach Pregnant People Working In Private Homes, Report Finds – Morgan Brinlee (July 24, 2019).

AMNY: Anti-sexual harassment training for NYC businesses based on real experiences – Nicole Brown (April 1, 2019).

AMNY: Christine Blasey Ford rally at City Hall gathers survivors of sexual – Alison Fox and Lisa L. Colangelo (September 24, 2018).

New York Times: Protesters Rally Against Kavanaugh, and Back His Accusers: 'The Wave of Women is Here" – Maya Salam and Niraj Chokshi (September 24, 2018).

Photo credit: Adrienne Nicole Productions

ENSURING NYC'S ACCESSIBILITY FOR PEOPLE WITH DISABILITIES

The Commission continues to deepen its commitment to making New York City an accessible city for all people living with disabilities. In July 2018, the Commission issued extensive legal enforcement guidance that explains discrimination against people with disabilities in housing, employment, and places of public accommodation under the New York City Human Rights Law, including clarification on discriminatory policies and practices, best practices on how to assess and provide reasonable accommodations to people with disabilities, and examples of reasonable accommodations. The guidance, which seeks to provide clarity, transparency, and best practices to stakeholders and members of the public, is responsive to questions and requests for clarification from employers, housing providers, and providers of public accommodation about how to meet their obligations under the law. It also contains model policies, model accommodations request forms, sample signage, and other tools that employers and housing providers can use to make real world and practical improvements to their workplaces, businesses, and housing.

The Commission highlighted the disability discrimination and accommodations legal enforcement guidance throughout its programming in Fiscal Year 2019. The Commission organized a disability rights symposium in November 2018, co-hosted with Independence Care System, Visions, the Mayor's Office for People with Disabilities, Disability Rights New York, Barrier Free Living, the Urban Justice Center, and the Department of Consumer and Worker Protection, which featured programming and resources that addressed the needs and rights of people with disabilities. During Fair Housing month, in April 2019, the Commission organized a convening to discuss disability discrimination in housing, with a focus on invisible disabilities at Metropolitan College of New York. The Commission was joined by the Mayor's Office for People with Disabilities, Project FIND, and Mobilization for Justice's Mental Health Law Project. The partnerships behind these community events allow the agency to reflect the diversity and multi-faceted nature of disabilities and disability discrimination.

The Commission was proud to again join the New York City Disability Pride Parade in July 2018 for the fifth straight year. Commission staff joined over 100 local and national organizations for the parade that made its way down Broadway from Madison Square Park to Union Square. The 2019 theme was "Creativity," which was on display in the costumes, floats, decorated wheelchairs, and spirit of the event.

The Commission's Project Equal Access continues to advocate for accommodations

for people with disability in housing through its pre-complaint resolution efforts, achieving 139 such accommodations in Fiscal Year 2019, up significantly from Fiscal Year 2018. Project Equal Access remains a key program of the Commission in its focus on resolving matters for members of the public expeditiously and without litigation where appropriate. Project Equal Access deploys specialized staff at the Commission to work directly with landlords and other housing providers to create physical modifications and other accommodations to allow people with disabilities to remain in their homes, improve access to common spaces and entrances/exits, and ensure that people can live with their service animals or emotional support animals.

Photo credit: Adrienne Nicole Productions

CAMPAIGN STATS /

445,799

impressions generated from Facebook advertisements.

2,105

video views of at least 25% of the video.

NOTABLE CASE SETTLEMENTS /

River Park Residences, L.P. Pays $160,000 in Emotional Distress Damages, Highest Award to Date in Housing Case, for Failing to Reasonably Accommodate Tenant with Disabilities, Creates Accessible Website, and Installs Automated Doors

The Law Enforcement Bureau resolved a case involving housing provider River Park Residences, L.P., in which a tenant alleged that River Park failed to reasonably accommodate his use of a wheelchair by refusing his repeated requests over several years to widen a bathroom door and install a roll-in shower in his apartment, and to make the building's entrance accessible. After the Law Enforcement Bureau investigated and issued a probable cause determination, the parties entered into a conciliation agreement requiring that River Park revise its anti-discrimination policies; create a website—the first of its kind as part of a conciliation agreement with the Commission—that is specifically designed to be accessible to individuals with disabilities and includes information about requesting reasonable

accommodations; conduct anti-discrimination training for all employees; display the Commission's postings; and pay Complainant $160,000 in emotional distress damages, the highest emotional distress damages award to date in a housing action. As further relief negotiated under the settlement, River Park has installed automated entrance and mailroom doors throughout the four buildings of River Park Towers to make the entire housing complex physically accessible to individuals with mobility impairments.

Commission Decision Upheld in Full by Highest Court in New York State

In another housing disability accommodations case, the Commission's Decision & Order in *Politis v. Marine Holdings*, in which the Commission found that the respondent housing provider did not establish it was an undue hardship to create a separate entrance for wheelchair bound resident, was upheld in full by the New York Court of Appeals, the highest court in New York State.[4] The Court of Appeals, in reversing the Appellate Division, determined that the Commission's findings and legal analysis were entitled to deference. In addition to mandating that the accommodation be made, the Commission's Decision & Order imposed $125,000 in civil penalties paid to the City of New York, and $75,000 in emotional distress damages to the complainant.

Commission Decision Awards $13,000 in Emotional Distress Damages for Refusal of Access-A-Ride Provider to Allow Service Dog in Vehicle

In *Commission on Human Rights ex rel Rodriguez v. A Plus Worldwide Limo, Inc., and John Leonardi*, issued in March 2019, the Commission found Respondents liable for repeatedly denying Complainant Access-A-Ride car services because of the presence of his service dog. The Commission ordered that Respondents pay Complainant $13,000 in emotional distress damages, undergo training on the New York City Human Rights Law, and perform six months of community service or, in the alternative, pay a fine of $15,000.

PRESS RELEASES /

NYC Commission on Human Rights Issues New Legal Guidance to Clarify Anti-Discrimination Protections for New Yorkers with Disabilities in Housing, Employment, and Public Accommodations, and Provide Best Practices to Improve Accessibility

"Making New York City more inclusive and accessible allows people with disabilities to be full participants in New York City life, from engaging with their communities, accessing fundamental services, and meeting their most basic and critical needs like entering and remaining in the workforce," said Chair and Commissioner of the NYC Commission on Human Rights Carmelyn P. Malalis. "Today's guidance provides a helpful roadmap for employers, landlords, and business owners to help them comply with the New York City Human Rights Law and improve accessibility so that all New Yorkers can access services, spaces, and programs in New York City. The Commission looks forward to continuing its work educating New Yorkers about their rights and obligations, and working with stakeholders, advocates, and elected officials to make New York City an accessible city for all."

4 *See Matter of Marine Holdings, LLC v. NY City Commn. on Human Rights*, 31 N.Y. 3d 1045 (2018).

Photo credit: Adrienne Nicole Productions

FOSTERING THE NEXT GENERATION OF HUMAN RIGHTS DEFENDERS

The Commission has a longstanding commitment to working with and supporting young people from vulnerable communities and has plans to expand this work in the coming years. The Commission's approach to engaging young people is guided by two overarching principles: ensuring that these efforts empower young people to take action when they encounter bias, discrimination, and harassment in their community; and working with young people to address bias, discrimination, and harassment at a systemic level.

These principles are embedded in the core trainings that the Community Relations Bureau ("CRB") led within schools and afterschool programs, and for youth service providers and community organizations. Throughout Fiscal Year 2019, the Community Relations Bureau conducted over 260 youth-focused outreach activities reaching over 7,500 young New Yorkers. Furthermore, the CRB led workshops on topics such as discrimination on the basis of gender identity and expression, racism and colorism, and young women's empowerment.

The Commission unveiled two new workshops to present to young people and to people who work with young people, an overview of New Yorkers' rights and responsibilities under the New York City Human Rights Law, and a workshop focused on discrimination based on race and color. These programs were developed in response to ongoing national rhetoric targeting people of color and immigrant communities, which is creating anxiety and fear among young people in their schools and communities. The Commission presented the workshops to leaders within the Department of Education, including Respect for All liaisons and school mental health counselors, so they may improve their capacity to assess race-based bias incidents and conduct appropriate interventions within their schools. The Commission brought the youth-focused Race and Color program to schools and institutions across New York City from the Riverdale YMCA in the Bronx during their Martin Luther King Day of Service to Forest Hills High School in Queens.

The Commission has been building relationships with schools and communities that would benefit most directly from the learning opportunities the Commission provides. For example, in April 2019, in response to growing racial tensions between Black and Asian students in a Queens high school, the Commission presented its New York City Human Rights Law workshop to seventeen history classes for sophomore, junior, and senior high school students. The workshop educated students on their rights and protections under the New York City Human Rights Law and highlighted students' own rights and obligations. Following the training, educators at the school reported an improvement in race relations.

This year, the Commission expanded its presence in youth-focused convenings, bringing young people throughout the city. For example, the Commission's Public Artist in Residence, Tatyana Fazlalizadeh, created a live art installation and was the closing speaker at the Department of Youth and Community Development's Youth Summit in May 2019, highlighting her work addressing racism and misogyny through creative practice. In October 2018, the Commission hosted a youth visioning town hall to provide a platform for young people to speak about their visions for a "Fair Chance" in New York City, as the City commemorated the third anniversary of the Fair Chance Act.

Photo credit: Adrienne Nicole Productions

The Commission also played an active role at the 2019 Gender and Sexuality Alliance (GSA) Summit in January 2019. At the Summit, Commission staff conducted workshops for students, educators and school administrators. In one workshop, the Commission cultivated space for educators and GSA Advisors to connect with Commission staff who developed our Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) program and curriculum for young people titled Discrimination: Gender, Gender Identity and Sexual Orientation. The workshop served the purpose of creating a bridge between the Commission and school staff who are on the ground leading their GSAs and supporting LGBTQI young people on a daily basis. Commission staff also conducted follow up workshops engaging middle school and high school students on the New York City Human Rights Law and participated in the resource fair attended by over 1,000 attendees. As an outcome, the Commission was able to effectively build of off this workshop and conduct our program in local middle and high school GSAs. These new partnerships brought us into untapped New York City communities, for example the Commission now actively engages with Tottenville High School which serves students in the Southwest and Southeast regions of Staten Island and Leon M. Goldstein High School in Manhattan Beach, Brooklyn, many of whom lack access to resources and supportive networks in their communities.

In addition to these programs and workshops, the Commission launched a series of youth roundtables and listening sessions in 2019. In partnership with community organizations such as IntegrateNYC, the Committee of Hispanic Children and Families, South Asian Youth Action, and the Coalition for Asian American Children and Families, the Commission convened 38 Black, Latinx, and Asian and Pacific Islander youth leaders to build relationships and receive feedback on how the Commission can better work with and engage young people. Findings from these discussions point to a need for the Commission to use social media to better reach young people. The youth leaders also shared concerns around racism and the increase in harassment or bullying against youth of color, lack of language access in educational settings, the criminal legal system, and bias-based policing. The Commission is incorporating participants' feedback from these roundtables into new programming geared towards combatting harassment and bullying.

Finally, the Commission continues to serve as a lead agency of the Unity Project, which is tasked with coordinating actions and activities across City agencies to support and uplift LGBTQI young people. The Commission expanded its conversation series with Gender and Sexuality Alliances within Department of Education schools about discrimination based on gender, gender identity, and sexual orientation, which began as an initiative through the Unity Project, In Fiscal Year 2019, the Commission's programming with GSAs grew from six schools to 14, and more than tripled its numbers, from 63 in its first year to 209 in its second. These programs create space for young people to address anti-LGBTQI bullying and harassment in their schools and communities, provide participants with resources to foster more welcoming school environments, and support youth to create action plans to address these challenges.

Photo credit: Adrienne Nicole Productions

UPLIFTING IMMIGRANT AND RELIGIOUS COMMUNITIES

With immigrant and religious communities routinely targeted by the federal government through its xenophobic policies and rhetoric, the Commission continued to prioritize its visibility and its relationship-building with many of New York City's immigrant and religious communities in 2019. The foundation of trust the Commission has worked to build over the past several years continues to ensure the Commission remains a consistent presence in immigrant and religious communities and a reliable government partner in their fights against discrimination and bigotry.

HEALING AFTER HATE CRIMES AND OTHER ACTS OF HATE, DISCRIMINATION, OR BIAS

Photo credit: Kelly Williams

Hate and prejudice against immigrants and religious communities has been amplified nationwide and has reverberated around the world. In Fiscal Year 2019, two especially horrific mass shootings were committed, motivated by hatred certain religious communities, that stunned the public. After these attacks, the Commission joined New Yorkers at vigils throughout New York City and at local houses of worship to condemn these hate crimes, honor the victims, and support communities impacted. Commissioner Malalis joined many of these community-led gatherings and spread the Commission's message at these gatherings that we, as a City, reach across all faiths to affirm the City's commitment to diversity, inclusion, and love.

RESPONDING TO BIAS INCIDENTS

Photo credit: Commission staff

The Commission also responded to local incidences of bias, hate, and discriminatory harassment throughout New York City. The Commission's Bias Response Team responded to 235 bias incidents overall in Fiscal Year 2019, nearly one hundred more than last year, including the incidents below.

- In response to anti-Chinese graffiti in Bensonhurst, the Commission's Bias Response Team organized a day of visibility in partnership with other City agencies and community partners to create awareness about discrimination and share information on how to report to incidents to the Commission. The Commission was joined by the Mayor's Immigrant Affairs, Community Affairs Unit, and Public Engagement Unit as well as local community based-organizations, Chinese American Social Services Center, and United Chinese Association of Brooklyn. The agencies and organizations collectively distributed more than 1,000 multi-lingual flyers on protections from discrimination under the NYC Human Rights Law as well as information on how to report incidents in three different locations in Bensonhurst. The Commission's multi-lingual staff engaged with the community members and many business owners agreed to display the flyers in their store windows.

- In the fall of 2018, following a series of anti-Semitic incidents in Brooklyn, the Commission's Bias Response Team launched a multi-pronged approach to engage with the community and respond to the incidents. A day of visibility was conducted in a Hasidic neighborhood on Kingston Avenue in Crown Heights, followed by a day of visibility in Prospect Heights. The events were organized in partnership with the Mayor's Immigrant Affairs and Repair the World NYC. Commission staff engaged with the community at different transit locations and handed over 2,500 flyers. The flyers had information on the NYC Human Rights Law on one side and on the other side, it had details for an upcoming bystander intervention training the Commission was hosting in Crown Heights.

- In the Bronx, a Black Muslim woman was harassed by young people on a bus. In response, the Commission, in coordination with the Mayor's Office of Immigrant Affairs, Action Network, the Bronx Borough President's African Advisory Council, the African Immigrants' Commission of New York and Connecticut, the Young African Network, and the Guinean Community of America, mobilized a day of visibility to bring awareness to this incident and to educate New Yorkers about their rights under the NYC Human Rights Law.

JOINING COMMUNITIES OF FAITH IN CELEBRATION AND UNITY

Photo credit: Kelly Williams

As efforts to sow division and fear among different religious communities continue unabated, New Yorkers came together in record numbers to celebrate and uplift each other during sacred holidays. Nowhere was this more visible than at

the Fourth Annual Iftar in the City, hosted by the Commission in partnership with the Mayor's Office of Immigrant Affairs and the Mayor's Community Affairs Unit in May. Over 1,000 people came together to share a meal breaking the fast at the end of one of the 30 days of Ramadan. The event showcased the diversity of New York City and of the Muslim community itself, as attendees and speakers included people hailing from Senegal, Mali, Bangladesh, and across the Muslim world.

The Commission collaborated with other community-based organizations and houses of worship in jointly celebrating other significant holidays. In April, the Commission led a coalition of eleven faith, government, and community groups to host the Third Annual Interfaith Passover Seder for Immigrant and Refugee Justice, for over 150 attendees this year at Union Temple in Brooklyn. This celebration of Passover, the Jewish holiday that commemorates the story of the Jewish people's exodus from Egypt and connects this narrative to the universal story of liberation and welcoming. It featured leaders of many faiths sharing prayer, poetry, and music and highlighted their shared work in fighting xenophobia and discrimination to make New York City a safer place for all.

After great success last year, the Commission hosted its second annual Vaisakhi: A Celebration of New York City's Sikh Communities event along with co-sponsors The Mayor's Office of Immigrant Affairs, the Mayor's Center for Faith and Community Partnerships, Comptroller Scott Stringer's Office, the New York University's United Sikh Association, the Sikh Cultural Society, Sikh Coalition, and United Sikhs at the NYU Kimmel Center for nearly 300 attendees in April. Vaisakhi is an important celebration in the Sikh faith, as it is a recognition of the Khalsa, the community of initiated Sikhs, that formally committed to Sikh principles of social justice and selfless service, and also marks when Sikhs were given their distinct religious identity.

The Commission joined Harlem-based Jewish and racial justice organizations to host Celebrate Sukkot in Harlem: An Evening of Radical Welcome. Over 100 attendees gathered in a Sukkah (a temporary dwelling or tabernacle) under the stars in Morningside Park for an evening of food, ritual, song, and community.

PROVIDING RESOURCES TO RELIGIOUS COMMUNITIES

Photo credit: Adrienne Nicole Productions

It is written in the New York City Charter that the Commission shall "foster mutual understanding and respect among all persons in the city." One way we sought to fulfill this mandate in Fiscal Year 2019 was by educating New Yorkers about each other. We offered our Discrimination Based on Race & Color workshop to several Jewish community groups in the Riverdale section of the Bronx. We also provided Understanding Muslim Experiences trainings to staff and teachers at the Department of Education and personnel within the Mayor's Office. We partnered with Repair the World and the Arab American Association of New York to convene bystander intervention training workshops for communities in Bay Ridge and Crown Heights.

In response to the increase in anti-religious bias incidents against houses of worship, the Commission held a convening in April 2019 entitled Protecting and Supporting Our Houses of Worship. Faith leaders joined us to learn about resources and best practices on how to protect houses of worship from acts of hate. Attendees were able to hear from different faith communities about their experience building safety plans and working with different resources to create safe spaces for congregants.

The Commission continued its partnership with many of the organizations that were part of our 2018 survey and report on discrimination against Muslim, Arab, South Asian, Jewish, and Sikh (MASAJS)

New Yorkers in the aftermath of the 2016 election. We created a pilot referral network which convened community-based organizations who work closely with MASAJS communities to train their frontline staff on the NYC Human Rights Law, coordinated events and workshops for their members, and shared printed materials for distribution at their offices and events. The pilot was created in direct response to findings in our 2018 survey which found low levels of the reporting of discrimination by MASAJS communities. Commission staff acted as direct liaisons with referral network organizations to help guide community members through the process of reporting discrimination or harassment at the Commission as well as referring cases outside of the Commission's jurisdiction to the appropriate resources.

NOTABLE CASE SETTLEMENTS /

One of Nation's Largest Tenant Application Processors Offers Option of Using an Independent Taxpayer Identification Numbers In Lieu of Social Security Number and Landlord, Rose Associates, that Insisted on an Additional Security Deposit, Agrees to Two Months Free Rent

Complainant, an immigrant, alleged that Respondent Rose Associates, a major New York City landlord, discriminated against her based on her immigration status in requiring her to obtain an additional security for her apartment because her social security number "was too new." In settling the case, Respondent agreed to provide Complainant two months of free rent (valued at $5,400), reimburse her $2,500 for fees incurred as a result of the security requirement, and require one of the nation's largest tenant application processors to offer prospective tenants the option of using an independent taxpayer identification number (ITIN) in lieu of a social security number. It has also trained its employees on the requirements for landlords under the NYC Human Rights Law.

Alma Bank Pays $20,000 in Damages and $17,000 in Civil Penalties for Failure to Provide the Religious Accommodation of Time to Pray

An employee filed a complaint against Alma Bank alleging that it denied her a religious accommodation. Complainant, a practicing Muslim, used her meal period to pray at work. Complainant alleged her manager forbade her to take her meal period despite Complainant's explanation about the use of her meal period to perform her religious obligations. After the Law Enforcement Bureau's investigation, the Commission, Complainant, and Respondent entered into a conciliation agreement requiring Alma Bank to pay Complainant $10,000 in back pay and $10,000 in emotional distress damages, pay $17,000 in civil penalties to the City of New York, significantly overhaul policies on providing religious accommodations, post the Commission's Notice of Rights in the workplace, and undergo anti-discrimination training with a focus on religious accommodations.

Hampton Inn Hotel Franchisee Pays $35,000 in Emotional Distress Damages and $20,000 in Civil Penalties to Settle Hostile Work Environment Case Based on Gender and Religion

A former employee filed a complaint against a Hampton Inn franchise operating a single hotel in New York City, alleging that his manager repeatedly made discriminatory remarks about his gender and religion. The employee complained to a manager, but the employer could not show any evidence that the complaint had been investigated or addressed. Following the Law Enforcement Bureau's investigation, Complainant, Respondents, and the Commission entered into a conciliation agreement requiring Respondents to pay the Complainant $35,000 in emotional distress damages, pay $20,000 in civil penalties to the City of New York, train managers on the New York City Human Rights Law, update its anti-discrimination policy, and post the policy and the Commission's Notice of Rights poster throughout the hotel.

Landlord pays $10,000 in Civil Penalties and $5,000 in Damages for Rejecting Non-Citizen Subtenant

A Queens resident filed a complaint against a landlord, alleging that the landlord denied his application to sublet his apartment because the potential subtenant was not a United States citizen. The Law Enforcement Bureau investigated and found that the landlord, who is also a licensed real estate broker and co-owns several rental properties, repeatedly told Complainant that she would only accept a subtenant who was a citizen, even though the New York City Human Rights Law prohibits discrimination on the basis of national origin and citizenship status in housing. Respondents, Complainants, and the Commission entered into a conciliation agreement requiring Respondents to pay $5,000 in economic and emotional distress damages to Complainant; pay $10,000 in civil penalties to the City of New York; attend training regarding the New York City Human Rights Law; and place the Commission's Notice of Rights poster in each of her buildings.

PRESS RELEASES /

NYC Commission on Human Rights Holds Second Annual Vaisakhi Celebration

The NYC Commission on Human Rights held the second-annual Vaisakhi celebration in partnership with the Mayor's Office of Immigrant Affairs, the Mayor's Center for Faith and Community Partnerships, Comptroller Scott Stringer's Office and several Sikh community organizations. The event, first held in 2018 to celebrate Sikh communities and to combat anti-Sikh discrimination, celebrates Vaisakhi; a recognition of the Khalsa community of initiated Sikhs that formally committed to Sikh principles of social justice and selfless service. The celebration also marks the moment when Sikhs were given distinct religious identity. Sikh is the world's 5th largest religion and New York City houses the second-largest Sikh population in the United States. People of the Sikh religious wear turbans and maintain unshorn hair, and as a result of this external appearance have been acutely vulnerable to hate crimes and discrimination.

New York City Holds 4th Annual Iftar In the City

"At a time when Muslim communities face an increased amount of discrimination and anti-Muslim rhetoric, the Iftar in the City offers a place where our vibrant NYC community can come together and honor our strength in diversity," said Carmelyn P. Malalis, Commissioner and Chair of the NYC Commission on Human Rights. "Now is the time that we double down on recognizing and celebrating the people who build, maintain, and nurture our city."

MEDIA COVERAGE /

AMNY: Bronx iftar celebrates Ramadan in 'act of resilience'' – Nicole Brown (May 17, 2019)

Photo credit: Nancy Siesel

DEFENDING, CELEBRATING, AND SUPPORTING LGBTQI COMMUNITIES

2019 marked the 50th anniversary of the rebellion at the Stonewall Inn launching the modern-day fight for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI) equality. On June 28, 1969, when the patrons of the Stonewall Inn stood up to harassment by the police, those activists, led by transgender women of color, did not know that they would be ushering in the modern movement for LGBTQI rights that continues to this day or that New York City would become one of the world's most welcoming cities for LGBTQI people.

In addition to the 50th anniversary of the Stonewall rebellion, New York City hosted World Pride this year, and the Commission took this opportunity to both honor this history and celebrate the vibrancy and beauty of New York City's LGBTQI communities. The Commission redoubled its efforts to support the LGBTQI community's most marginalized members: youth, transgender people, people of color, and immigrants and also further increased its presence at celebratory Pride events throughout the spring and summer to over 100 such events in all five boroughs. The Commission's contingent at World Pride in June 2019 was the largest in the agency's history, with over 130 Commission staff, family, and friends marching together and chanting "human rights!" along the 2.5-mile route.

For transgender people, and transgender women of color in particular, addressing safety and biased-based policing remains a priority. The Commission's Transgender Communities Liaison spoke at a listening session on issues facing transgender women of color with the Trans Latinx Network, Make the Road New York, and New York State Senator Jessica Ramos. To celebrate Women's History Month, the Commission co-hosted a panel discussion with Destination Tomorrow and the Trans Latinx Network focusing on addressing issues affecting transgender women of color. Subsequently, as planning for World Pride and Stonewall 50 went into high gear, the Commission took a lead role with City Hall, the New York City Police Department, and other agencies on public safety planning for the City's over five million celebrants.

The Commission also sought to increase its visible support for intersex communities this year. In response to concerns brought to the Commission from intersex advocates, Commissioner Malalis and New York City Department of Health Commissioner Oxiris Barbot, M.D. joined together in an op-ed published online at Ozy.com to condemn non-consensual cosmetic surgical procedures on intersex infants. In addition, the Commission codified its gender identity and gender expression

legal enforcement guidance into rules, including more examples involving intersex, non-binary, and gender non-conforming people, and updating definitions of key terms. The Commission also updated legal enforcement guidance originally published in 2015 to incorporate these changes.

In Fiscal Year 2019, the Commission's Community Relations Bureau has engaged over 7,339 attendees in 214 workshops and outreach activities on LGBTQI discrimination and educated participants about sexual orientation and gender identity protections under the New York City Human Rights Law. In addition to the Commission's workshops, we have continued to host vibrant community gatherings. For the third year in a row, the Commission organized its annual LGBTQI Community Iftar in partnership with the LGBT Center, Muslims for Progressive Values, Tarab NYC, SALGA NYC, the Muslim Alliance for Sexual and Gender Diversity, Nur Ashki Jerrahi Community, and the Caribbean Equality Project. This event has grown every year, and this year the Commission broke bread with over 130 LGBTQI Muslim New Yorkers and allies.

Photo credit: Commission staff

In line with the Commission's goal of advancing the dialogue on human rights, the agency used art and music to engage LGBTQI communities on human rights issues. During Pride Month, the Commission and Dailymotion, a video-sharing technology company, hosted a concert featuring up-and-coming LGBTQI musicians of color. In addition, the Commission, joined by Mastercard, the New York City Department of Transportation, and the Mayor's Community Affairs Unit, unveiled "Acceptance Street" in the West Village—a colorful art installation that acknowledges and celebrates the rich diversity of the LGBTQI community, including its intersex, asexual, nonbinary, pansexual, and two-spirit communities.

NOTABLE CASE SETTLEMENTS /

Promesa Residential Health Care Facility Overhauls Policies and Pays Civil Penalties After Commission Testers Revealed Blatant Gender Identity Discrimination

In July 2018, the Commission's investigation into Promesa Residential Health Care concluded with the payment of $10,000 in civil penalties to the City of New York as well as affirmative relief. Commission testers found Promesa blatantly discriminating against transgender people—turning away transgender women seeking care or telling transgender women that they would be required to room with men. Respondents agreed to implement policies that prohibit gender-based discrimination and harassment, including by permitting transgender people to participate in all aspects of their services in a manner consistent with their gender identity, including room assignments and other gender specific programs and facilities. They also agreed to conduct ongoing anti-discrimination training and submit to monitoring by the Commission.

Mount Sinai Beth Israel Medical Center Implements New Procedures To Ensure Compliance with Gender Identity Protections

A transgender woman patient filed a complaint alleging discrimination based on her gender identity. The complaint outlined that staff members asked invasive questions about "what she had down there"; insisted that she could not room with

other women; and asked her, "Did you have the operation? If you did not have the operation, you have to be roomed alone." After investigation, the Law Enforcement Bureau issued a probable cause determination. The Commission, Complainant and Respondent entered into a conciliation agreement requiring Beth Israel to: pay Complainant $25,000 in compensatory damages; hold ongoing staff trainings on working with transgender patients; post the NYC Department of Health's LGBT "Bill of Rights" poster; update its systems to make patients' preferred names and personal pronouns visible to frontline staff; update its website with information on its non-discrimination policies and how individuals can file a grievance with the hospital; flag and direct grievances regarding transgender patients to its Patient Safety/Patient Grievances Committee; continue its meetings of the Community Advisory Board for the Center for Transgender Medicine and Surgery to meet every six months; and submit to monitoring by the Commission.

PRESS RELEASE /

NYC Commission on Human Rights Announces "Acceptance Street" Installation at the Intersection of Gay and Christopher Streets in Collaboration with MasterCard

"It is imperative, now more than ever, that we as a city show our LGBTQIA communities that we have their back," said Carmelyn P. Malalis, Commissioner and Chair of the NYC Commission on Human Rights. "With World Pride right around the corner we want to welcome people from all walks of life to celebrate in our city while feeling safe and accepted for who they are. The installation here today acknowledges that we see you, we love you, and we will continue to fight for your right to express yourself without fear of discrimination. Under the NYC Human Rights Law, every street is acceptance street."

MEDIA HIGHLIGHTS /

The Advocate: New York City's 'Gay Street' Renamed 'Acceptance Street' for Pride – Tracy Gilchrist (June 19, 2019)

Good Morning America: Pride 2019: Gay Street renamed 'Acceptance Street' in New York City nearby Stonewall Inn – Tony Morrison (June 17, 2019)

New York Times: Gay Street was renamed Acceptance Street – Corey Kilgannon (June 6, 2019)

Ozy.com: Scalpels Down! Let Intersex Children Choose – Dr. Oxiris Barbot and Carmelyn P. Malalis (June 30, 2019)

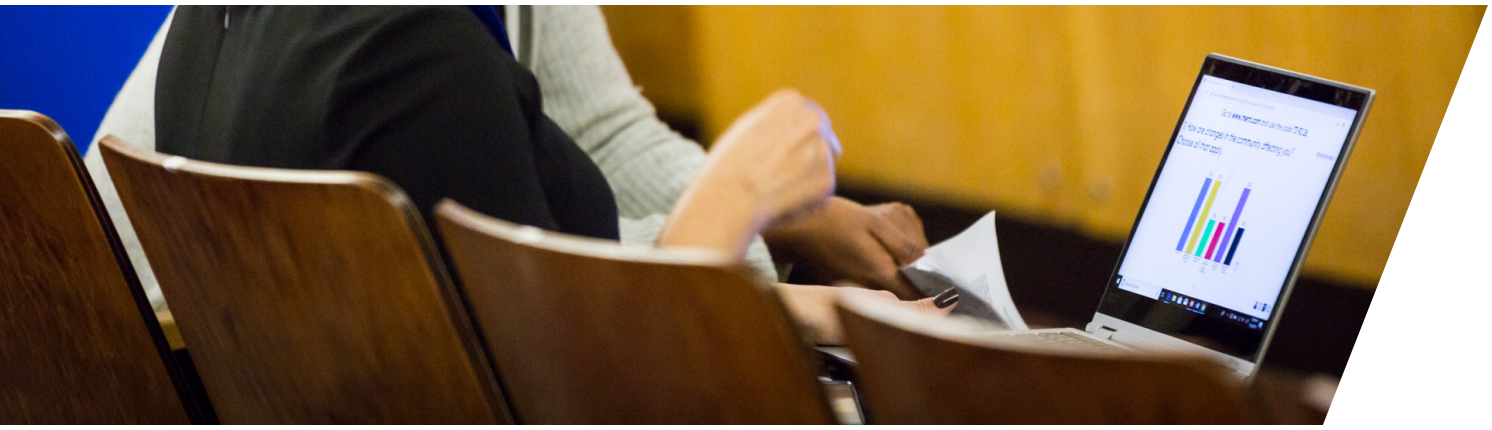


Photo credit: Kelly Williams

HUMAN RIGHTS AND EMERGING TECHNOLOGIES

Photo credit: Commission staff

This year, the Commission continued its work at the intersection of human rights and emerging technologies. The agency continued to research the use of algorithms in decision-making and to build relationships with individuals and institutions with expertise in data science, racial and social justice issues and other topics. This included presentations at NYU School of Law's conference on Artificial Intelligence in a Democratic Society and at the Black in AI and AI for Social Good workshops at the 32nd Annual Conference on Neural Information Processing Systems (NeurIPS).

The Commission also continues to co-chair the Automated Decision Systems (ADS) Task Force, which per Local Law 49 of 2018, is charged with developing a set of recommendations related to government use of algorithms. This year, the Task Force continued its challenging but incredibly important work in support of fairness and accountability, including a series of public engagement sessions during the spring and summer of 2019. The Task Force will submit its recommendations in late 2019.

Photo credit: Commission staff

BUILDING INCLUSIVE AND SUPPORTIVE WORKPLACES AND LIVING SPACES THROUGH ENGAGEMENT WITH SMALL BUSINESSES

With the recognition that businesses need tools, strategies, and information in order to properly comply with the New York City Human Rights Law, the Commission has built several initiatives and pathways to connect with and support entities with legal responsibilities under the New York City Human Rights Law. For example, the Commission has developed a library of materials, all available on the agency's website, geared towards answering questions the agency has received from employers and housing providers, including extensive FAQs, factsheets, and model policies and forms, in over a dozen different areas of protection, from disability discrimination, the Fair Chance Act, and the ban on salary history, to source of income discrimination, and new requirements around lactation rooms and the sexual harassment prevention training. With respect to the implementation of the lactation room requirement, for example, the Commission published not one (as mandated by statute) but three model lactation policies, tailored to different workplace scenarios, over two dozen FAQs, and an employer-focused factsheet answering common questions the Commission has fielded about the new requirements. With respect to the Commission's sexual harassment prevention training, the Commission has included, along with the free training, extensive guidance to employers on how to complete the training requirement, and, in response to concerns from the business community, coordinated with New York State directly to ensure that the Commission's free training meets both the new City and State training requirements. The Commission mailed information about the new training requirements and the new sexual harassment prevention posters to approximately 300,000 businesses in New York City and conducted in-person walk-throughs through a dozen Business Improvement Districts to directly provide the materials to small businesses.

Representatives from all offices within the Commission regularly present to business and housing provider audiences alike on a variety of topics, from sexual harassment to source of income discrimination. In Fiscal Year 2019, the Commission presented to, among others, the College of Labor and Employment Lawyers; the Manhattan Chamber of Commerce; the Bronx Chamber of

Commerce; the Lawyers Alliance; Non-Profit New York; the Continuing Care Leadership Coalition; National Employment Law Council; Arent Fox LLP; real estate brokers at Bohemia Realty, Sotheby's, Nooklyn, and Bold New York; Phipps Houses, the largest non-profit provider of affordable housing in New York City; and more, on sexual harassment prevention, compliance with the New York City Human Rights generally, and other topics. The Commission also regularly presents at convenings before business associations, attorneys who represent businesses, and other practitioners through the New York City Bar Association, the New York State Bar Association, the American Bar Association Labor and Employment Law Section, among others.

Photo credit: Adrienne Nicole Productions

The Commission has also created a streamlined and accessible way for businesses, employers, and housing providers to ask questions, get information, and connect to the agency. Entities can email policy@cchr.nyc.gov, and will get a response within two business days, either by phone or email, to directly and personally address their inquiries. In addition, any entity, large or small, can request a free, in-person training by emailing training@cchr.nyc.gov. Many of these conversations result in additional FAQs on the website to reflect and respond to questions about the law.

The Commission has created innovative programming and pathways for small businesses, and specifically immigrant-owned businesses, seeking to become certified as Minority or Women-Owned Businesses (M/WBEs). The Commission hosted two M/WBE information sessions focused on providing information on the process to become M/WBE certified in languages spoken by immigrant business owners and vendors in the neighborhoods in which they operate. In January 2019, the Commission hosted one session in Bengali at Parkchester in the Bronx. In March 2019, the Commission conducted a second session in Mandarin in Flushing, Queens. Nearly three dozen immigrant-owned small businesses attended. The Commission also hosted its 2nd annual M/WBE networking series in April 2019 at the agency's Manhattan office to: bring together M/WBE certified vendors to learn how they may work with our agency for future projects; and to conduct a M/WBE workshop in partnership with Small Business Services for businesses who are interested in becoming M/WBE certified.

Finally, the Commission leverages city resources in reaching as many businesses as possible. For example, the Commission publishes content about changes to the law, new resources on the agency's website, and new trainings available to businesses in nearly every BID Bulletin, an email newsletter published by Small Business Services, which is sent to Business Improvement Districts throughout the City. The Commission also regularly partners with the New York City Department of Consumer and Worker Protection to disseminate information through their newsletter, social media channels, and other platforms to employers. Commission's resources and information are also published on the City's Office of Nightlife's website.

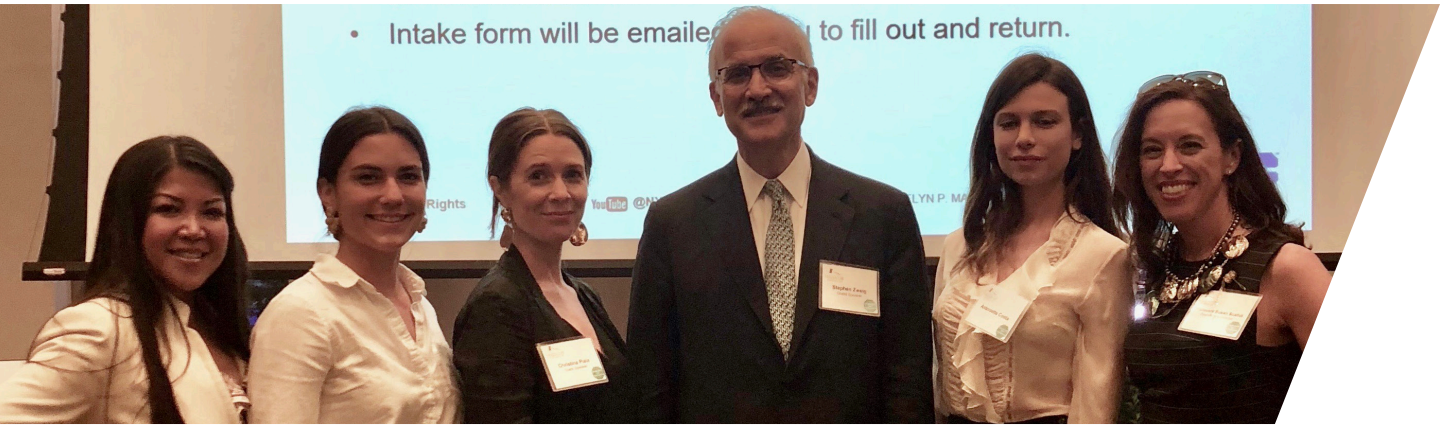


Photo credit: Commission staff

INVESTIGATION, ENFORCEMENT, MEDIATION AND ADJUDICATION OF THE NEW YORK CITY HUMAN RIGHTS LAW IN FISCAL YEAR 2019

The Commission's Law Enforcement Bureau (LEB) implements and enforces the New York City Human Rights Law. Through the enforcement of one of the most comprehensive civil rights laws in the nation, the LEB addresses discrimination in employment, housing and public accommodations in New York City, in addition to discriminatory harassment and bias-based profiling by law enforcement. The attorneys in the Commission's LEB evaluate allegations of discrimination brought to the Commission by members of the public and utilize the agency's investigatory and prosecutorial powers to root out pattern-or-practice discrimination through Commission-initiated investigations.

The LEB's relatively new specialized Units, including the Early Intervention Unit, the Source of Income Unit, and Gender-Based Harassment Unit offer the option of resolving claims before a complaint is filed. Resolutions through pre-complaint intervention have significantly increased over the past several years, as the LEB works to address increased its volume and to streamline responsiveness to urgent concerns that may warrant immediate action or that can be resolved in in a pre-complaint posture. At the end of Fiscal Year 2019, the LEB had an active caseload of over 2,195 cases, comprising of matters at the pre-complaint intervention, investigation, and litigation stages.

INVESTIGATIONS /

INQUIRIES /

Allegations of discrimination are brought to the Commission's attention in a variety of ways. The most common way is when a member of the public contacts the agency. LEB's Human Rights Specialists fielded 9,804 inquiries from members of the public in Fiscal Year 2019, a record high, in the form of phone calls, emails, letters, visits to Commission offices, and queries to mobile intake units dispatched to community sites or Commission events. Human Rights Specialists

who answer the Commission's Infoline, the most common way members of the public access LEB, speak seven languages other than English. Infoline staff assess each person's situation and routes them for pre-complaint intervention, for further assessment by an attorney, and/or refer them to another City agency or community resource.

The chart below provides further information about these inquiries. Because many individuals alleged more than one jurisdiction and/or protected class, the total below (10,884) exceeds the number of inquiries addressed by LEB (9,804). Since 2015, the number of inquiries the agency receives has sharply increased from 5,296 in calendar year 2015, to a record high of 9,803 in Fiscal Year 2019.[5] The increase can be attributed, in part, to the Commission's efforts to raise its visibility and inform communities about the broad protections afforded by the New York City Human Rights Law, improve access to the Commission's services to New Yorkers with limited English proficiency, and share information through campaigns launched by the Commission to affirm all New Yorkers' right to live free from discrimination and harassment.

Due to the ubiquity of technology, social media, and viral news, the sights and sounds of discriminatory and harassing acts from across the City are in the palms of New Yorkers' hands. To address these incidents, the Commission resurrected initiatives from its work in the 1990s by relaunching its multilingual Bias Response Team. In Fiscal Year 2018, it significantly expanded its work by hiring two dedicated Human Rights Specialists to serve as Bias Response Investigators. The Commission now quickly mobilizes in the immediate aftermath of incidents of bias or hate with a range of different responses, including: ensuring Commission staff are visible and present at the site of the incident with material about people's rights as well as services the Commission provides; connecting with community leaders and affected parties; providing programming and on-site legal intake; and engaging with the community about an appropriate agency response.

In Fiscal Year 2018, the Bias Response Team responded to 146 bias incidents – a greater than 200% increase compared to the previous fiscal year. The Commission both strategically responds to and tracks these bias incidents, and this tracking effort will enhance its responses in the future. A few of the Commission's bias response actions include:

5 The New York City Charter was amended in January 2018 to change the Commission's statutory reporting period from calendar year to fiscal year (*i.e.* July 1 – June 30). See Charter § 905(e)(8). Consequently, this report covers Fiscal Year 2019 (July 1, 2018 – June 30, 2019). Last year's report covered Fiscal Year 2018 (July 1, 2017 – June 30, 2019). References to data or statistics from years prior to that reflect information compiled over a 12-month calendar year.

INQUIRIES IN FISCAL YEAR 2019
(July 1, 2018-June 30, 2019)

Protected Class	Bias-Based Profiling	Discriminatory Harassment	Employment	Housing	Lending Practices	Public Accommodation	Jurisdiction Not Stated	Total
Age	/	3	106	33	/	18	/	**160**
Aiding/Abetting	/	/	1	2	/	/	/	**3**
Alienage Status (Immigration Status)	1	/	10	22	/	2	/	**35**
Arrest Record (Employment only)	/	/	16	/	/	/	/	**16**
Caregiver Status (Employment only)	/	/	12	/	/	/	/	**12**
Citizenship Status	/	/	20	17	/	3	/	**40**
Color	4	1	86	47	1	48	/	**187**
Conviction Record (Employment only)	/	/	101	/	/	/	/	**101**
Credit History (Employment only)	/	/	8	/	/	/	/	**8**
Creed/Religion	2	2	61	23	/	36	/	**124**
Disability	1	3	291	494	/	178	/	**967**
Domestic Partnership Status	/	/	/	1	/	/	/	**1**
Gender*	1	8	377	70	/	107	/	**563**
Housing Status	1	/	/	/	/	/	/	**1**
Interference with Protected Rights	/	1	2	1	/	1	/	**5**
Lawful Source of Income (Housing only)	/	/	/	485	/	/	/	**485**
Marital Status	/	/	4	9	/	/	/	**13**
National Origin	3	1	135	80	1	45	/	**264**
Pregnancy Accommodation (Employment only)	/	/	77	4	/	4	/	**85**
Presence of Children (Housing only)**	/	/	/	26	/	/	/	**26**
Race	9	9	320	119	2	143	/	**602**
Retaliation	/	/	182	20	/	9	/	**211**
Salary History (Employment only)	/	/	55	/	/	/	/	**55**
Sexual Orientation	1	4	57	40	/	33	/	**135**
Unemployment Status (Employment only)	/	/	4	/	/	/	/	**4**
Uniformed Services Member	/	/	1	3	/	1	/	**5**
Victim of domestic violence (Employment & Housing only)	/	/	8	11	/	/	/	**19**
Protected Class Not Stated	/	/	/	/	/	/	6757	**6757**
Total	**15**	**64**	**1616**	**1346**	**2**	**629**	**6701**	

Total Inquiries 9,804

* Includes Gender Identity and Gender Expression.
** Includes children that are, may be, or would be residing there.

INQUIRIES BY MEMBERS OF THE PUBLIC WHOSE PREFERRED LANGUAGE IS NOT ENGLISH /

The Commission takes pride in maintaining a staff that reflects the diversity of New York City and the individuals who seek help from the Commission. The Commission's Infoline staff answering calls are fluent in Spanish, Haitian Creole, Arabic, Hindi, Urdu, Mandarin, and Nepali. Across the agency, Commission staff speak more than 30 languages. When there is a need for a language other than those spoken by available staff, the LEB reaches out to an outside service provider to connect staff with an interpreter by phone. In Fiscal Year 2019, the staff fielded 826 such inquiries in seventeen languages. The chart below shows which languages, other than English, were spoken by members of the public who made inquiries to the Commission.

American Sign Language	3
Arabic	9
Bengali	1
Chinese - Cantonese	9
Chinese - Mandarin	8
French	2
Greek	2
Haitian Creole	1
Hindi	1
Japanese	1
Korean	3
Nepali	1
Polish	3
Russian	26
Spanish	754
Thai	1
Urdu	1
Grand Total	**826**

Photo credit: Adrienne Nicole Productions

PRE-COMPLAINT INTERVENTIONS

The Commission intervenes, when appropriate, before or in lieu of filing a complaint in order to provide immediate relief from continuing harm. In 2018, the Law Enforcement Bureau launched the Early Intervention ("EI") Unit, the Source of Income Unit ("SOI") and, in Fiscal Year 2019, the Gender-Based Harassment Unit ("GBH"). The EI Unit primarily assists members of the public with issues that may be resolved quickly without filing a complaint. The SOI and GBH Units assist the public with seeking immediate relief, but also address allegations that may necessitate the filing of a complaint. Pre-complaint interventions significantly reduce the time it takes to investigate and then possibly litigate and obtain a resolution for the complainant.

The Units intervene in a range of situations, including:

- The EI Unit negotiates, on an expedited basis, for disability-related accommodations in housing, such as installation of grab bars, roll-in showers, ramps, or moving to more accessible housing.

- In employment, if an employee is denied a reasonable accommodation, the EI Unit may contact the employer to inform it of the requirements under the New York City Human Rights Law and obtain the accommodation for the employee.

- The EI Unit identifies cases in which the parties may agree to an immediate non-monetary resolution, such as a patron who alleges she was denied service by a business because she has a service animal. In such situations, the EI Unit works with the business owner to allow the patron to obtain services, understand the requirements of the New York City Human Rights Law, change policies, and train staff to comply with the law going forward.

- The GBH Unit may reach out to an employer when a worker experiences ongoing sexual harassment or if an employee faces ongoing discrimination because of their gender identity. If an employee is facing ongoing harassment, the GBHU may, after evaluating the circumstances and, in consultation with the complainant, reach out to the employer and address the issue prior to or instead of filing a complaint. This may involve working with the employer to enter an agreement addressing the harassment and providing relief for the employee, in accordance with the NYC Human Rights Law.

If early intervention efforts do not succeed, LEB will often file a complaint and proceed with investigating the allegations of discrimination. In addition, the Commission itself may determine that a pre-complaint intervention is necessary when a clear pattern or practice violation comes to its attention. LEB may send a cease-and-desist letter or otherwise contact the discriminating entity to

demand that it immediately stop the illegal practice, and among other actions, attend a training on the New York City Human Rights Law. Often, LEB does not need to file a complaint and initiate a formal investigation because LEB is able to obtain a full resolution through pre-complaint intervention when the entity responds and complies with the Law.

In Fiscal Year 2019, the Law Enforcement Bureau resolved 396 cases[6] without filing a complaint, more than double the 141 successful interventions in Fiscal Year 2018. Of these 396 interventions, 77 were the result of Commission-initiated investigations.

The chart below lists the area of jurisdiction and the protected classes involved in the successful interventions. Some interventions involved claims under more than one jurisdiction and many involved more than one protected class.

6 This number does not include the 139 pre-complaint interventions resolved through the Commission's Project Equal Access.

	Discriminatory Harassment	Employment	Housing	Public Accommodations	Grand Total
Age		1	1	1	**3**
Aiding/Abetting		1			**1**
Alienage Status			4	2	**6**
Arrest Record		20			**20**
Citizenship Status		2	6	2	**10**
Color		2		2	**4**
Conviction Record		24			**24**
Credit History		1			**1**
Creed		1	3		**4**
Disability		8	130	22	**160**
Gender		8	2	7	**17**
Lawful Source of Income			206		**206**
National Origin	1	18	7	3	**29**
Pregnancy		6	1		**7**
Presence of Children			3		**3**
Race		20	6	6	**32**
Retaliation		2	1		**3**
Salary History		2			**2**
Sexual Orientation		2	3	1	**6**
Uniformed Services Member			2		**2**
Victims of Domestic Violence			4		**4**
Grand Total	**1**	**118**	**379**	**46**	**544**

SOURCE OF INCOME PRE-COMPLAINT INTERVENTION

The SOI Unit's pre-complaint intervention work has been particularly successful in obtaining housing for some of the most vulnerable New Yorkers, people seeking housing and being denied apartments because they are using a voucher to pay for it. The SOI Unit was able to resolve 206 matters through pre-complaint intervention in Fiscal Year 2019, its first full year in operation. The SOI Unit is set up in such a way to both respond immediately to critically urgent cases—in some situations before a landlord can rent the unit to another applicant—and to also combat systemic legal violations, by filing complaints and challenging larger landlords who routinely turn away candidates with vouchers. For example, in Fiscal Year 2019, the SOI Unit obtained housing for a single mother with disabilities who was denied housing because she had a CITYFEPS voucher. The broker informed the applicant that the owner would not accept CITYFEPS. The SOI Unit immediately contacted the owner to inform them of their obligations under the NYC Human Rights Law. As a result, the applicant was able to move into the apartment using her voucher. In another case, a landlord refused to complete paperwork for an elderly Holocaust survivor who just received a Section 8 voucher after spending more than fifteen years on the waitlist. The SOI team intervened, and after some negotiations, the landlord completed the paperwork.

COMMISSION-INITIATED PRE-COMPLAINT INVESTIGATIONS

The Commission has the power to initiate its own investigations when entities are suspected of engaging in discriminatory policies or practices. In addition to filing complaints and testing, both of which are further described below, the Commission sends cease-and-desist letters and also uses a range of investigative methods, such as requests for information on policies and practices, demands for documents, and interviews of key witnesses. These are equivalent to the fact-gathering mechanisms available to attorneys litigating in state and federal courts. The investigative process can result in enforcement actions.

In Fiscal Year 2019, Commission-initiated pre-complaint investigations covered 17 protected categories. To highlight a few key areas, the Commission:

- Opened investigations into the policies and practices of companies that were suspected of discriminating on the basis of gender identity.
- Launched investigations into the policies and practices of employers where repeat instances of sexual harassment came to the Commission's attention.
- Opened investigations to address pregnancy discrimination in employment and ensure lactation space for employees.
- Conducted expansive testing of public accommodations and housing providers to identify discrimination based on disability.
- Continued its investigations into the accessibility of mammography centers for patients with disabilitiess.

In Fiscal Year 2019, the Law Enforcement Bureau initiated 69 new pre-complaint investigations and resolved 77 matters without having to file a complaint.

The chart below provides a breakdown of the resolved Commission-initiated pre-complaint investigations according to the area of jurisdiction and protected class of the alleged violations. Most investigations involve more than one protected class, and several involve claims under more than one jurisdiction.

COMMISSION-INITIATED PRE-COMPLAINT INVESTIGATIONS BY JURISDICTION

Employment	Housing	Public Accommodations
36	15	21

COMMISSION-INITIATED PRE-COMPLAINT INVESTIGATIONS BY PROTECTED CLASS

Employment		Housing		Public Accommodations	
Age	1	Disability	2	Age	1
Arrest Record	5	Gender	19	Color	3
Color	2	Lawful Source of Income	6	Disability	1
Conviction Record	5	Marital Status	1	Gender	1
Credit History	1	National Origin	32	Interference with Protected Rights	60
Disability	10	Presence of Children	4	National Origin	1
Gender	17	Retaliation	1	Pregnancy	19
National Origin	4			Race	1
Pregnancy	4			Retaliation	7
Race	12			Sexual Orientation	7
Retaliation	1				
Salary History	6				

TESTING

The Commission uses testing, a historically effective investigative tool used in civil rights litigation, to determine whether there is discrimination in housing, employment, or public accommodations. As part of an investigation, the agency may send testers to perform in-person testing or have testers conduct telephone testing of potential employers, employment agencies, landlords/real estate brokers, restaurants, hospitals, gyms, stores, or other public accommodations to see if our testers are treated differently or are given different information because they belong to a protected class. In Fiscal Year 2019, Commission testers tested 899 entities,[7] an increase over Fiscal Year 2018 (691 entities tested) and calendar year 2017 (577 entities tested). An entity may be tested for violations in multiple jurisdictions and/or multiple protected classes.

TESTS IN EMPLOYMENT - 291*

Protected Class	Number of Entities Tested
Alienage Status	6
Arrest and/or Conviction	252
Citizenship Status	2
Credit History	157
Gender	1
National Origin	77
Pregnancy	26
Race	82
Salary History	157

TESTS IN HOUSING - 319*

Protected Class	Number of Entities Tested
Alienage Status	8
Citizenship Status	32
Disability	121
Gender	4
Lawful Source of Income	245
Presence of Children	29
Race	26

TESTS IN PUBLIC ACCOMMODATIONS - 327*

Protected Class	Number of Entities Tested
Disability	148
Gender	168
Race	9
Sexual Orientation	2

***** Entities tested. Numbers below reflect tests in multiple protected classes of the same entities.

7 Entities are defined as individual companies or corporations. Some entities may have been tested under multiple jurisdictions or protected classes, or at different locations.

COMMISSION-INITIATED COMPLAINTS

Some Commission-initiated investigations lead to the filing of a Commission-initiated complaint alleging pattern or practice violations. In Fiscal Year 2019, the Bureau filed 56 Commission-initiated complaints, an increase over 44 filed in Fiscal Year 2018.

The chart below lists the number of Commission-initiated complaints according to the jurisdiction and protected class of the alleged violation.

Most complaints allege discrimination based on more than one protected class. As the table below shows the Commission filed 36 Commission-initiated complaints to address employment practices that discriminate on the basis of arrest and conviction record and which also have a disparate impact on Black and Latinx job applicants; these complaints allege violations under four protected classes — arrest record, conviction record, race, and national origin.

JURISDICTION

Employment	41
Housing	13
Public Accommodations	2
Grand Total	**56**

PROTECTED CLASS

Employment	
Arrest Record	36
Conviction Record	36
Citizenship Status	2
Credit History	2
Gender	3
National Origin	36
Race	36
Salary History	4
Housing	
Age	1
Alienage Status	2
Citizenship Status	1
Creed	1
Lawful Source of Income	14
National Origin	2
Public Accommodations	
Disability	2

TOTAL COMPLAINTS FILED IN FISCAL YEAR 2019

The Commission filed 785 public-initiated complaints of discrimination in Fiscal Year 2019.[8] Sixty-two percent (62%) of those cases were in employment and twenty-six percent (26%) were in housing. Disability-related claims were the most common across all areas of jurisdiction at 17%. Race (15%), gender (15%), and national origin (8%) were the other highest trending claims.

The types of discrimination claims filed with and by the Commission during Fiscal Year 2019 are below—first, the number of claims filed in each jurisdiction, and second, the number of claims in each protected class. Most complaints allege more than one violation, sometimes under more than one jurisdiction and, more commonly, under more than one protected class. Complaints filed by members of the public and Commission-initiated complaints are included. Therefore, the numbers below overlap with the Commission-initiated complaints in the chart above. Note that the graphic shows only categories with one or more claims.

CLAIMS FILED BY JURISDICTION	
Bias-Based Profiling	2
Discriminatory Harassment	9
Employment	491
Housing	206
Lending Practices	3
Public Accommodations	87

8 This number represents all complaints filed, both public-initiated and Commission-initiated.

CLAIMS BY PROTECTED CLASS

	Bias-Based Profiling	Discriminatory Harassment	Employment	Housing	Lending Practices	Public Accommodation	Total
Age	/	2	42	17	/	4	**65**
Aiding/Abetting	/	/	1	2	/	/	**3**
Alienage Status (Immigration Status)	/	2	2	18	/	/	**22**
Arrest Record (Employment only)	/	/	41	/	/	/	**41**
Caregiver Status (Employment only)	/	/	7	/	/	/	**7**
Citizenship Status	/	/	5	7	/	/	**12**
Color	1	1	27	23	1	9	**62**
Conviction Record (Employment only)	/	/	74	/	/	/	**74**
Credit History (Employment only)	/	/	5	/	/	/	**5**
Creed/Religion	/	1	21	5	/	4	**31**
Disability	/	2	124	103	/	29	**258**
Gender	/	2	177	16	/	24	**219**
Interference with Protected Rights	/	/	1	/	/	1	**2**
Lawful Source of Income (Housing only)	/	/	/	85	/	/	**85**
Marital Status	/	/	1	4	/	/	**5**
National Origin	/	/	101	23	/	2	**126**
Pregnancy Accommodation (Employment only)	/	/	40	1	/	3	**44**
Presence of Children (Housing only)**	/	/	/	7	/	/	**7**
Race	2	2	157	36	2	25	**224**
Retaliation	/	/	132	15	/	5	**152**
Salary History (Employment only)	/	/	55	/	/	/	**7**
Sexual Orientation	/	1	23	6	/	16	**46**
Unemployment Status (Employment only)	/	/	1	/	/	/	**1**
Uniformed Services Member	/	/	1	/	/	/	**1**
Victim of Domestic Violence (Employment & Housing only)	/	/	3	4	/	/	**7**

* Includes Gender Identity and Gender Expression.
** Includes children that are, may be, or would be residing there.

DETERMINATIONS AND RESOLUTIONS IN CASES WITH FILED COMPLAINTS

In Fiscal Year 2019, the Law Enforcement Bureau resolved 986 cases that had been initiated through filed complaints, improving on a case closure trend over previous years (730 in Fiscal Year 2018). The possible case outcomes are a determination of either Probable Cause or No Probable Cause, settlement, administrative closure, or withdrawal. In Fiscal Year 2019, settlements rose 84% from Fiscal Year 2018, while Administrative Closures decreased by almost 20%. Each are described below.

PROBABLE CAUSE OR NO PROBABLE CAUSE

After the Law Enforcement Bureau has undertaken a full investigation, a determination of either Probable Cause or No Probable Cause is issued. The following is the Commission's standard in making a determination: whether probable cause exists to credit the allegations of a complaint that an unlawful discriminatory practice has been or is being committed by a respondent where a reasonable person, looking at the evidence, could reach the conclusion that it is more likely than not that the unlawful discriminatory practice was committed.

Probable Cause Determinations	**68** (7%)
No Probable Cause Determinations	**29** (3%)

SETTLEMENTS

The Commission resolved nearly one-third of cases closed in Fiscal Year 2019 through settlement.[9] In such cases, the parties and the Commission enter into a conciliation agreement, which is an enforceable Commission Order. Some cases also resolve through a private settlement agreement and then a withdrawal of the case at the Commission. Finally, cases resolved through the Commission's Office of Mediation and Conflict Resolution are also included in these totals. Noted below are a sampling of the many conciliations which can also be found on the Commission's website. Other settlements are summarized throughout the earlier sections of this Report.

- An employee who worked at the Albert Einstein College of Medicine before it was acquired by Respondent Montefiore Medical Center underwent a "re-hiring" process and a background check, during which it discovered his felony conviction from the early 1990s and refused to re-hire him. Following the investigation, the parties entered into a settlement agreement with Montefiore agreeing to create a comprehensive Fair Chance Act policy to properly assess applicants or employees with criminal conviction histories, train their staff, post a Notice of Rights and pay Complainant $111,624 in backpay and damages, and a $50,000 in civil penalties to the City of New York.

- A prospective tenant and the Commission jointly filed a complaint alleging that Respondent, the owner of three buildings containing affordable units, refused to accept Complainant's SEPS Voucher. As part of a conciliation agreement paid $45,000 in emotional distress and lost housing opportunity damages and $35,000 in civil penalties to the City of New York. The landlord also agreed to adopt model policies regarding tenant screening, reasonable accommodations, and the use of criminal history information in making housing decisions, to train all employees with managerial authority or with job duties related to reviewing applications, and

9 Several cases had both a determination of Probable Cause and then a successful settlement in the same reporting period of Fiscal Year 2019.

to post the Commission's Fair Housing poster in all buildings they owned in New York City.

/ Rochdale Village denied a tenant's request to keep an emotional support animal in her apartment and initiated eviction proceedings when she did not remove the animal. The parties entered into a conciliation agreement whereby Respondents agreed to pay $30,000 in civil penalties to the City of New York, adopt the Commission's sample reasonable accommodation policy, train all board members, employees with managerial authority, and employees involved in receiving or responding to reasonable accommodation requests, and to post the Commission's Fair Housing Poster throughout its buildings.

Settlements	302 (30%)

ADMINISTRATIVE CLOSURES /

An administrative closure may be issued in several circumstances: at the complainant's request; when a complaint is deemed non-jurisdictional after investigation; when the LEB is unable to locate the complainant after diligent efforts; and when the bureau has determined a case is unlikely to lead to probable cause. Notably, an administrative closure preserves a complainant's right to bring the same claim in another forum.

Administrative Closures	573 (58%)

WITHDRAWAL /

Some complainants request to withdraw because they have decided not to pursue the matter.

Withdrawal	14 (1%)

As noted above, the Commission has significantly increased its pre-complaint intervention work. The average time to process pre-complaint interventions was approximately 94 days in Fiscal Year 2019. These cases do not involve full, longer investigations and possible litigation that are characteristic of filed complaints. The average time that cases involving filed complaints were pending while moving to resolution was 760 days. The longer processing time for filed cases is influenced, in part, by the fact that the New York City Human Rights Law has been amended to include more protected categories (26), expanding the LEB's mandate. These changes in the law combined with the Commission's efforts to increase awareness through publicized legal enforcement guidance and media campaigns have contributed to both the increasing number of matters handled by LEB across all protected classifications and to an increasing number of inquiries from the public. Thorough in-depth and wide-ranging investigations of publicly-filed complaints and investigating and prosecuting Commission-initiated actions to address systemic issues have lengthened the LEB's investigation time and increased the time to resolve complaint-filed cases. The Commission's focus remains on balancing the need to conduct thorough and comprehensive investigations, creating alternative pathways to resolution through pre-complaint intervention to resolve matters more expeditiously where appropriate, and ensuring that the LEB's resources are utilized most effectively and efficiently.

Photo credit: Commission staff

OFFICE OF MEDIATION AND CONFLICT RESOLUTION

The Commission's Office of Mediation and Conflict Resolution (OMCR), formed in early 2017, is a voluntary mediation program that provides a neutral and empowering process for all parties to facilitate a quick, efficient, and mutually acceptable resolution of claims. The OMCR assists in facilitating resolutions at various stages of the process, including pre-investigation, mid-investigation, conciliation and/or after a finding of Probable Cause. OMCR provides these mediation services at no cost.

OMCR is staffed by a Mediation Director. In Fiscal Year 2019, the Mediation Director successfully mediated 37 cases to resolution—the highest in this category since 2009— representing, in the aggregate, damages for complainants totaling $1,193,500, excluding non-economic terms and affirmative relief such as agreements to provide reference letters and conduct trainings. The average time from the acceptance of a case in mediation to its closure was 186 days.

Photo credit: Adrienne Nicole Productions

ADJUDICATION

When there has been a finding of Probable Cause, a case is usually referred to the City's Office of Administrative Trials and Hearings (OATH), where an Administrative Law Judge conducts a trial and issues a report & recommendation as to whether there has been a violation of the New York City Human Rights Law. That report & recommendation is then sent to the Commission's Office of the Chairperson to review *de novo*, solicit additional briefing from the parties, if warranted, and to either remand the case back for further factual development, or to issue a final decision & order. In Fiscal Year 2019, the Office of the Chairperson issued six decisions & orders, two of which are described below:

- In *Commission on Human Rights ex rel. Steven B. Nieves v. Gilbert Rojas a/k/a Ren Rojas*, the Commission found Respondent, a real estate broker, liable for refusing to show Complainant and his family an apartment because Complainant had a housing voucher. The Commission ordered that Respondent pay Complainant $10,000 in emotional distress damages, undergo training on the New York City Human Rights Law, and pay $10,000 in civil penalties to the City of New York.

- The Respondents in *Commission on Human Rights ex rel. Joo v. UBM Building Maintenance Inc.*, were held liable for firing Complainant based on his age and then retaliating against him when he sought to file a discrimination complaint. The Commission awarded $70,216 in compensatory damages (including back pay, interest, and emotional distress damages), imposed a civil penalty of $30,000, and ordered the Respondents to modify their policies, and undergo training on the New York City Human Rights Law.

Summaries of all decisions & orders are available on the Commission's website.

DAMAGES AWARDS AND CIVIL PENALTIES

In Fiscal Year 2019, the Commission, through Decisions & Orders, conciliations, mediated settlements, and withdrawals with benefits obtained $6,094,313 in compensatory damages and civil penalties the highest in Commission history, and up significantly from Fiscal Year 2018 ($4,272,562) which was the previous highest total. Of that, $5,306,052 were awarded in compensatory damages to complainants and $788,261 in civil penalties to the City of New York.

Photo credit: Kelly Williams

FISCAL YEAR 2019 BUDGET

The Commission's funding comes primarily from City tax-levy monies. Additional funding has also been provided through a contract with the Equal Employment Opportunity Commission ("EEOC") for cases the Commission resolves that also could have been filed under federal law at the EEOC.

City Tax Levy	$ 13,660,728
Additional Program Grant Funding	
EEOC Contract (Workshare Agreement)	$ 228,300
TOTAL	**$ 13,889,028**

Photo credit: Cali York Photography

COMMUNICATIONS AND MARKETING

The Commission's communications and marketing team consists of an executive director, press secretary, creative and social media manager, video content producer, and a graphic designer. This combination of skill sets creates a unified force which amplifies and supports the work happening at the Commission. The result has netted the Commission record media coverage, higher social media engagements, more accessible content, and professional and attractive graphics for campaigns.

SOCIAL MEDIA AND CREATIVE SERVICES

Photo credit: Adrienne Nicole Productions

Social media engagement grew exponentially this fiscal year, with each of the Commission's existing channels gaining over 1,500 followers each. The Commission overhauled its LinkedIn and Medium channels and are steadily gaining followers. Social media posts garnered over 3.2 million organic impressions in Fiscal Year 2019. In tandem with increased social media engagement, the Commission's website visits increased to over 1.6 million visits. The Commission invested over $60,000 in community and ethic media buys, representing 100% of its digital and print media buys.

PRESS /

Photo credit: Commission staff

The press office saw a successful year in engaging with and disseminating information to the public. Working with local, national, and international outlets, the press office saw over 1,000 positive stories about the Commission's work. Most notably, in February 2019—following coverage in the New York Times on the Commission's Legal Enforcement Guidance on Race Discrimination on the Basis of Hair—the story was syndicated in every state across the nation and went viral. The success of the placement propelled the Commission's work onto the international stage and helped increase its credibility as a venue for justice for New Yorkers. Additional stories included coverage of the Commission's "While Black" campaign, a landmark settlement in housing discrimination, and the Commission's pregnancy and caregiver discrimination report.

WEBSITE AND SOCIAL MEDIA METRICS FISCAL YEARS 2017 AND 2018 COMPARISON /

NYC HUMAN RIGHTS

Website	FY 2018	FY 2019
Page Views	840,000	**1,460,000**
Visits	377,000	**561,000**
New Website Visitors	158,000	**221,000**
Average Visits Per Week	7,200	**8,960**

Twitter	FY 2018	FY 2019
Tweet Impressions	9,708,000	**6,100,000**
Twitter Profile Visits	117,700	**85,500**
New Twitter Followers	2,500	**2,064**

Facebook	FY 2018	FY 2019
Average Reach	155,000	**232,000**
Average Engagement	9,200	**7,200**
New Facebook Likes	8,100	**3,200**

Instagram	FY 2018	FY 2019
New Followers	460	**2,100**
Engagement (Likes and Comments)	6,800	**7,700**

WEBSITE AND SOCIAL MEDIA AS ONE-STOP SHOPS FOR COMMISSION'S KEY MESSAGING /

NYC HUMAN RIGHTS

Website

The Commission's website experienced its highest levels of traffic recorded (since the Commission began tracking this information in 2014), increasing 73% year-over-year and surpassing 1 million-page views for the first time. 2019 also saw an increase in new visitors to the site, rising almost 40% year-over-year.

Twitter

The Commission's Twitter account continued steady growth in Fiscal Year 2019, surpassing 2,000 new followers for the third straight year. Additionally, 2019 saw an increase in organic engagement rate, jumping from 1.5% to 1.8% year-over-year.

Facebook

The Commission's Facebook presence grew again in Fiscal Year 2019, with a 50% increase in average post reach per month. Followership surpassed the 25,000 marks, representing the largest audience within the Commission's social footprint.

Instagram

The Commission's Instagram page garnered 2,100 new followers in Fiscal Year 2019, representing an almost 100% increase from last year. Instagram content netted 7,700 likes and comments throughout the Fiscal Year.

Photo credit: Commission staff

OFFICE LOCATIONS & CONTACT INFORMATION

To file a complaint or learn more about the Commission, dial 311 and ask for Human Rights.

MAIN OFFICE

22 Reade Street
New York, NY 10007
Dial 311 or (212) 306-7450
Fax: (212) 306-7658

NY RELAY SERVICES

Dial 711 or
(800) 421-1220 (English)
(877) 662-4886 (Spanish)

WEBSITE

NYC.gov/HumanRights

COMMUNITY SERVICE CENTERS

MANHATTAN

22 Reade Street
New York, NY 10007
(212) 306-7450

BRONX

1932 Arthur Avenue, Room 203A
Bronx, NY 10457
(718) 579-6900

BROOKLYN

25 Chapel Street, Suite 1001
Brooklyn, NY 11201
(718) 722-3130

QUEENS

153-01 Jamaica Avenue, 2nd Floor
Jamaica, NY 11432
(718) 657-2465

STATEN ISLAND

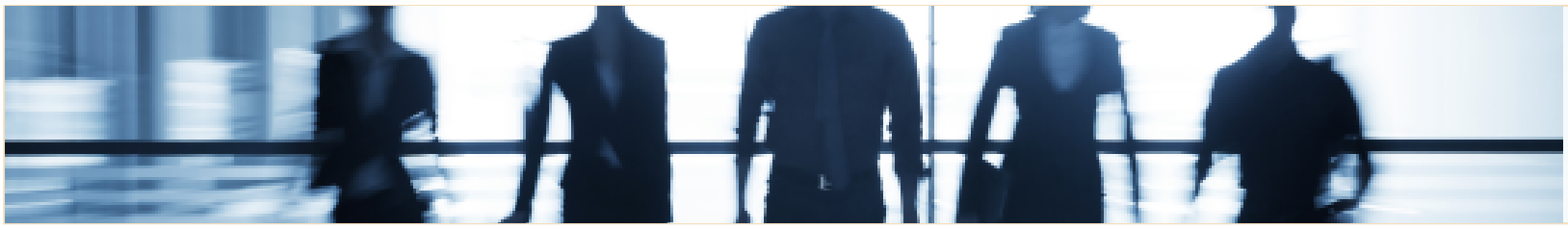
60 Bay Street, 7th Floor
Staten Island, NY 10301
(718) 390-8506

NYC™ Commission on Human Rights

Employment Discrimination

The Department of Fair Employment and Housing (DFEH) is responsible for enforcing state laws that make it illegal to discriminate against a job applicant or employee because of a protected characteristic (see “What is Protected” below).

What Discrimination Looks Like



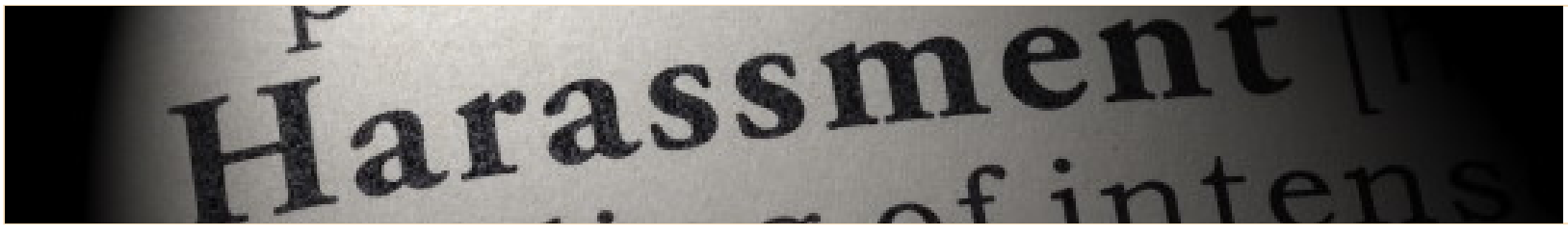
What is Protected

Available Remedies

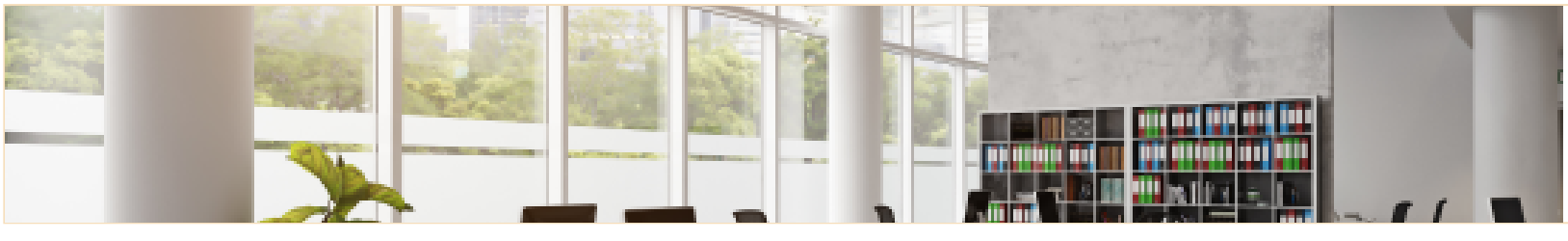
Complaint Process

FAQ

FAQ: Pregnancy Disability



FAQ: Sexual Harassment



For Employers

WHAT IS PROTECTED

California law protects individuals from illegal discrimination by employers based on the following:

- Race, color
- Ancestry, national origin
- Religion, creed
- Age (40 and over)
- Disability, mental and physical
- Sex, gender (including pregnancy, childbirth, breastfeeding or related medical conditions)
- Sexual orientation
- Gender identity, gender expression
- Medical condition
- Genetic information
- Marital status
- Military or veteran status

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FAX 410-313-3051

October 7, 2020

Deb Jung, County Council Chairperson
Howard County Council
3430 Courthouse Drive
Ellicott City, Maryland 21043

Dear Council Chairperson Jung:

Today, by the authority granted by Section 209 of the Howard County Charter, I have vetoed Council Bill No. 51-2020 (CB-51).

Four years ago, I co-sponsored CB-9, a bill that would designate Howard County as a "sanctuary jurisdiction" for undocumented immigrants. This legislation was important to me to help protect many of our residents who lived in constant fear of being detained and deported as they worked hard to support their families and children. That legislation was unfortunately vetoed by the previous County Executive. Despite this setback, I have never given up on being an ally to our immigrant communities.

The CB-9 legislation did not address or include ending the long-standing ICE contract with the Howard County Department of Corrections. The intent of the legislation was to help protect innocent, undocumented residents from being persecuted. Individuals are never detained at the Howard County Detention Center solely because of their immigration status, and no women or children in ICE custody have ever been detained there.

In the wake of national news about the conditions and treatment of ICE detainees under the Trump Administration, it is understandable that our concerned and compassionate residents do not support ICE's actions toward immigrant communities. Advocates have focused their response on denying the Trump Administration access to the Howard County Detention Center as retaliation toward his aggressive rhetoric and actions; however, this reaction is short-sighted.

Council Member David Yungmann noted during the vote on CB-51, that: "The misinformation being fed to people and their willingness to believe it on this issue has been sad and frustrating. Any moderate thinker who reads the recitals in this bill or tuned into our work session will recognize this as nothing more than a knee jerk response to national politics, national immigration policies at a tremendous cost to Howard County taxpayers."

If the goal is to ensure that all ICE detainees are treated humanely and with dignity in the Trump Administration era, we should want them housed at the Howard County Detention Center. Even the sponsor of CB-51, Council Vice Chair Liz Walsh, noted during a council work session that, after touring and witnessing the daily operations of the Detention Center, she was "not alleging human rights violations within our own walls."

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Our Department of Corrections has ensured that our Detention Center exceeds extensive state and federal standards, for which they are audited annually, and has never been cited for inadequate conditions. In the wake of the COVID-19 pandemic, our corrections facility has not only instituted the recommended safety protocols but have gone beyond the required measures to ensure the health and safety of inmates. To date, after seven rounds of COVID-19 testing, not one ICE detainee has tested positive for the virus. The Howard County Detention Center's medical providers must also meet the community standard of care and provide medical and mental health care to all our inmates within 24 hours of a request. And if inmates believe they are not properly treated, which has been extremely rare, there is an urgent review and oversight process.

Over the past year, advocates have come to us with recommended changes to the Detention Center's policies relating to housing detainees in ICE custody. Weeks ago, after a year of meetings and discussions with immigrant advocates, we announced that the Howard County Department of Corrections has updated its policy and will only hold ICE detainees at the Howard County Detention Center who been convicted of a crime of violence as defined in section 14-101 of the Criminal Law Article of the Annotated Code of Maryland. Under the previous policy, the Department of Corrections housed ICE detainees who were charged with or convicted of jailable offenses. The updated policy was supported and endorsed by CASA, CAIR, and other immigration advocates and attorneys who represent ICE detainees.

Throughout our discussions with CASA and other stakeholders, our goal was to ensure that the policies regarding the County's contract with ICE addressed community concerns about justice and fairness while balancing the safety of our community. We believe that our policy revision will preserve public safety by ensuring that the contract between ICE and the Howard County Department of Corrections clearly protects our community from convicted violent offenders while maintaining our commitment to fair treatment for all members of our community. By revising the Detention Center's policy for housing ICE detainees under the contract, we have provided a practical long-term solution.

The Council's passing of CB-51 would end a 25-year contract that has helped make Howard County and the State of Maryland safer. By prohibiting housing ICE detainees in the Detention Center, the bill would result in ICE detainees being moved to other facilities in other states, so making it tougher for ICE detainees to access legal representation and their families. Additionally, I agree with the Foreign-Born Information and Referral Network (FIRN) who strongly opposed CB-51 because it "fails to provide a comprehensive plan and solution for detainees who would be transferred if the ICE contract were to be canceled."

Council Member Opel Jones noted during the CB-51 vote that the majority of ICE detainees housed in the Howard County Detention Center are from the Baltimore/Washington Metropolitan area will likely be moved into less desirable facilities, and specifically, "they could end up far from support networks of family and friends, in rural detention centers in Georgia,

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Virginia, Louisiana, or North Carolina; with some of the worst reputations in the country for unsanitary, unsafe and abusive conditions."

As Council Member Christiana Mercer Rigby recognized during the CB-51 vote: "Every resident of the United States, documented or undocumented, deserves legal representation and due process." Even while voting in favor of CB-51, Council Member Mercer Rigby stated that her vote came with the "knowledge on my conscience that this legislation will not help current detainees who will likely be transferred to a worse ICE facility in the short term."

These points from Council Members Jones and Mercer Rigby, as well as comments from FIRN and recommendations from other advocates begs the questions: if we shut out ICE detainees from our facility, what happens to them? Where will they end up? And do we have the faith, trust and knowledge about the conditions and treatment in federal detainment facilities like we have in our Detention Center?

I remain confident that our updated Detention Center policy strikes the right balance of ensuring safety for County residents and businesses while allowing for fair treatment for those who have been convicted of serious crimes by the criminal justice system.

Therefore, and for the above reasons, I am vetoing CB-51.

Sincerely,

Calvin Ball
County Executive

cc: Howard County Council
Diane Schwartz Jones, Council Administrator
Gary W. Kuc, County Solicitor

HOWARD COUNTY COALITION FOR IMMIGRANT JUSTICE

Dear Mr. Ford,

The Howard County Coalition for Immigrant Justice (HCCIJ) appreciates the Commission's study on immigrant rights in Howard county. We are still waiting to for a written report summarizing the results of your deliberations.

Before you make any final decisions, it is critically important for all members of the HRC to review a newly published document about substandard conditions in the Howard County Detention Center. Released on October 28, 2020 by the Inspector General of the Department of Homeland Security, the report, *ICE Needs to Address Concerns about Detainee Care and Treatment at the Howard County Detention Center,* details the results of an unannounced site visit to the Detention Center in December 2019. https://www.oig.dhs.gov/sites/default/files/assets/2020-10/OIG-21-03-Oct20.pdf

The report concludes the following:

During our December 2019 unannounced inspection of HCDC, we identified violations of ICE detention standards that threatened the health, safety, and rights of detainees. Although HCDC generally complied with ICE detention standards regarding communication, it did not meet the standards for detainee searches, food service, and record requirements for segregation and medical grievances. We determined HCDC excessively strip-searched ICE detainees leaving their housing unit to attend activities within the facility, in violation of ICE detention standards and the facility's own search policy. In addition, HCDC failed to provide detainees with two hot meals per day, as required. For those in segregation, HCDC did not consistently document that detainees received three meals a day and daily medical visits. Further, HCDC did not properly document the handling of detainee medical grievances.

The information about unwarranted strip-searches is most disturbing. See below:

We reviewed HCDC's strip-search log from August to December 2019 and found that HCDC staff conducted 35 strip searches of low custody detainees, with 1 detainee strip searched 13 times. In addition, HCDC staff did not consistently include the purpose for the strip search, and we were unable to identify why most of the strip searches occurred. The facility did not provide documentation showing reasonable suspicion that detainees were in possession of contraband or why leaving the housing unit created an increased risk of detainees transporting contraband to other parts of the facility. Because low custody detainees have minimal to no contact with high custody detainees or high-level inmates, even when outside the east wing, it was unclear why the facility believed detainees would spread contraband to other parts of the facility. ***Further, HCDC reported no incidents of low custody detainees caught with contraband.***

The Human Rights Commission should address these findings as soon as possible. It is unconscionable that low custody detainees are subjected to strip-searches when they visit the onsite medical unit, use

outdoor recreation, attend religious services, receive contact and non-contact visits, or use the law library.

The Department of Homeland Security defines strip-searches as follows: “A strip search is a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person’s breasts, buttocks, or genitalia” (5 ICE, Performance-Based National Detention Standards, 2011, Section 2.10.V.D.2, Searches of Detainees (Revised Dec. 2016).

The report clearly states that strip-searching would not be necessary if the Detention Center provided different housing options for low-custody detainees instead of placing them with county inmates on work release programs.

The Commission should also determine if all county inmates are subjected to strip-searches after they go to chapel or if this inhumane practice is reserved only for immigrant detainees.

We would like to know if the Director of Corrections, Jack Kavanagh, offered any information regarding this and previous inspections to the HRC Immigration group.

The Howard County Coalition for Immigrant Justice strongly recommends that you consider this new information before making any final decisions or taking any votes.

Laurie Liskin, on behalf of the Howard County Coalition for Immigrant Justice
November 16, 2020

OFFICE OF INSPECTOR GENERAL

ICE Needs to Address Concerns about Detainee Care and Treatment at the Howard County Detention Center

Homeland Security

October 28, 2020

OIG-21-03

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

October 28, 2020

MEMORANDUM FOR: The Honorable Tony H. Pham
Acting Director
U.S. Immigration and Customs Enforcement

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

JOSEPH V CUFFARI
Digitally signed by JOSEPH V CUFFARI
Date: 2020.10.27 15:09:56 -04'00'

SUBJECT: *ICE Needs to Address Concerns about Detainee Care and Treatment at the Howard County Detention Center*

Attached for your information is our final report, *ICE Needs to Address Concerns About Detainee Care and Treatment at the Howard County Detention Center*. We incorporated the formal comments from U.S. Immigration and Customs Enforcement in the final report.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Tom Kait, Assistant Inspector for Special Reviews and Evaluations, at (202) 981-6000.

Attachment

DHS OIG HIGHLIGHTS

ICE Needs to Address Concerns about Detainee Care and Treatment at the Howard County Detention Center

October 28, 2020

Why We Did This Inspection

As directed by Congress, we conduct annual unannounced inspections of U.S. Immigration and Customs Enforcement (ICE) detention facilities to ensure compliance with detention standards. In December 2019, we inspected Howard County Detention Center (HCDC) in Jessup, Maryland, to evaluate compliance with ICE detention standards.

What We Recommend

We made two recommendations to improve ICE's oversight of detention facility management and operations at HCDC.

For Further Information:
Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

During our December 2019 unannounced inspection of HCDC, we identified violations of ICE detention standards that threatened the health, safety, and rights of detainees. Although HCDC generally complied with ICE detention standards regarding communication, it did not meet the standards for detainee searches, food service, and record requirements for segregation and medical grievances. We determined HCDC excessively strip searched ICE detainees leaving their housing unit to attend activities within the facility, in violation of ICE detention standards and the facility's own search policy. In addition, HCDC failed to provide detainees with two hot meals per day, as required. For those in segregation, HCDC did not consistently document that detainees received three meals a day and daily medical visits. Further, HCDC did not properly document the handling of detainee medical grievances.

ICE Response

ICE concurred with the two recommendations outlined in the report and has identified a corrective action plan to address the deficiencies we identified.

Table of Contents

Appendixes

Abbreviations

DRCF	Dorsey Run Correctional Facility
DSM	Detention Service Manager
ERO	Enforcement Removal Operations
HCDC	Howard County Detention Center
HSA	Health Services Administrator
ICE	U.S. Immigration and Customs Enforcement
OIG	Office of Inspector General
PBNDS	Performance-Based National Detention Standards

Introduction

U.S. Immigration and Customs Enforcement (ICE) houses detainees at roughly 200 facilities nationwide, but the conditions and practices at those facilities can vary greatly. Although treatment and care of detainees at facilities can be challenging, complying with ICE detention standards and establishing an environment that protects the health, safety, and rights of detainees are vital to detention. In recent years, such care and treatment have been the subject of increased congressional and public attention, and our program of unannounced inspections of ICE detention facilities has identified violations at facilities across the country. In December 2019, we launched our fiscal year 2020 round of inspections with an unannounced visit to the Howard County Detention Center (HCDC) in Jessup, Maryland, and identified concerns regarding detainee care and treatment.

Background

ICE apprehends, detains, and removes aliens who are in the United States unlawfully. ICE Enforcement and Removal Operations (ERO) oversees the detention facilities that it manages in conjunction with private contractors or state or local governments. Owned and operated by the Howard County Department of Corrections, the HCDC has had an intergovernmental service agreement with ICE (or its predecessor, Immigration and Naturalization Services) to house detainees for the past 25 years. In addition to the maximum 154 ICE detainees it can hold, HCDC houses county inmates and U.S. Marshals Service prisoners. HCDC houses only male detainees with criminal histories, classified by ICE as low or high custody.[1] ICE pays HCDC $110 per day for each detainee held.

ICE's intergovernmental service agreement with HCDC requires the facility to comply with the *2011 Performance-Based National Detention Standards* (PBNDS), as revised in December 2016. According to ICE, the 2011 PBNDS establish consistent conditions of confinement, program operations, and management expectations within ICE's detention system. These standards set requirements for areas such as:

[1] Low custody detainees have minor criminal histories with non-violent felony charges and convictions. High custody detainees have significant criminal histories, gang affiliation, or a history of violence and are always to be escorted around the facility by staff. Regardless of criminal history, ICE detainees are held in civil, not criminal, custody, which is not supposed to be punitive according to the 2011 PBNDS.

- environmental health and safety — e.g., cleanliness, sanitation, security, detainee searches, segregation[2] (Special Management Units), and disciplinary systems;
- detainee care — e.g., food service, medical care, and personal hygiene;
- activities — e.g., visitation and recreation; and
- grievance systems.

ICE's 2011 PBNDS includes a range of facility compliance ratings from minimal to optimal. For facilities with deficient conditions that do not meet standards, facilities may request and ICE may issue waivers exempting them from complying with certain detention standards. From 2013 to 2016, ICE granted HCDC five waivers for compliance with 2011 PBNDS for mail and correspondence, visitation, strip searches, key and lock control, and razor usage. Further, in November 2018, ICE contractor for inspection services, the Nakamoto Group Inc. (Nakamoto), determined HCDC was deficient in the standards related to custody classification system, detainee handbook, environmental health and safety, special management units, and food service. As a result, ICE required HCDC to fix these deficiencies in a corrective action plan. HCDC reported it had finished addressing the deficiencies in February 2019.

On December 17, 2019, we made an unannounced visit to HCDC to determine whether HCDC complied with ICE's 2011 PBNDS. At the time of our visit, HCDC housed 61 ICE detainees in different housing units within the facility. Low custody detainees were held in the facility's east wing open dormitory with county inmates, and high custody detainees were held in cells within two units on the west wing. There were no inmates in the high custody detainee units. During our visit, we inspected HCDC facilities including detainee housing units, food service areas, the medical unit, and recreation and religious areas. We also interviewed ICE personnel, HCDC officials, and 10 detainees.

[2] ICE, *Performance-Based National Detention Standards, 2011,* Section 2.12, Special Management Units (Revised Dec. 2016). Segregation is the process of separating certain detainees from the general population for administrative or disciplinary reasons. Detainees in segregation at Howard County are placed in individual cells. Detainees in disciplinary segregation can be held for no more than 30 days per incident, except in extraordinary circumstances. Detainees in disciplinary segregation are allowed out of their cells for 1 hour of recreation time at least 5 days a week. Detainees in administrative segregation are separated from the general population to ensure the safety of all detainees and can be held in segregation until their safety, and the safety of others, is no longer a concern. Detainees in administrative segregation are allowed out of their cells for up to 2 hours of recreation time at least 7 days a week. Detainees in both disciplinary and administrative segregation are also allowed time out of their cells for showers, phone calls, law library, visitation, and religious services.

Results of Inspection

Our December 2019 unannounced inspection of HCDC identified violations of ICE detention standards that threatened the health, safety, and rights of detainees. Although HCDC generally complied with 2011 PBNDS communication standards, it did not meet the standards for detainee searches, food service, and record requirements for segregation and medical grievances. We determined HCDC violated detention standards by excessively strip-searching low custody detainees leaving their housing unit to attend activities within the facility. Although HCDC received a waiver from ICE related to strip searches, HCDC's current practice of strip-searching low custody detainees without documented reasonable suspicion exceeds the parameters of the waiver and contradicts facility policy. In addition, HCDC failed to provide detainees with two hot meals per day, as required. For those in segregation, HCDC did not document that detainees received three meals a day or daily medical visits, as required. Further, HCDC did not properly document the handling of detainee medical grievances.

HCDC Generally Complied with Communication Standards

After reviewing HCDC's policies and guidance, we determined HCDC generally complied with the 2011 PBNDS for detainee communication.[3] Nine of the 10 ICE detainees we interviewed said they were able to communicate regularly with both ICE and HCDC personnel in person and electronically through HCDC communication kiosks, which are electronic devices provided in housing units for detainees to send messages to ICE and facility staff. HCDC's Detainee Handbook[4] instructs detainees on how to communicate with staff informally or formally by submitting written questions, requests, or concerns to facility or ICE personnel using the kiosks or detainee request forms. The Handbook also provides the address and phone number to the local ICE ERO Field Office and states ICE staff are scheduled to be at the facility once a week.

[3] ICE, *Performance-Based National Detention Standards*, 2011, Section 2.13.V.A, Staff-Detainee Communication (Revised Dec. 2016). "ICE/ERO detainees shall not be restricted from having frequent informal access to and interaction with key facility staff members.... The local supplement to the detainee handbook shall include contact information for the ICE/ERO Field Office...."
[4] HCDC, *ICE Detainee Handbook*, October 21, 2019.

HCDC's Strip Searches of Low Custody Detainees Violated ICE Detention Standards and Facility Policy

According to detainees and HCDC officials, HCDC strip searches[5] low custody detainees to look for contraband[6] anytime they leave their housing unit. This practice includes strip-searching low custody detainees when they visit the onsite medical unit, use outdoor recreation, attend religious services, receive contact and non-contact visits, or use the law library. ICE's 2011 PBNDS permits strip searches of detainees only when a supervisor approves the strip search based on documented reasonable suspicion[7] that contraband may be concealed on the detainee.[8] However, low custody detainees at HCDC are routinely strip searched without documented reasonable suspicion and supervisory approval. HCDC officials indicated contraband is a concern because low custody detainees are housed with county inmates who are allowed to leave the facility for work release. HCDC officials said the facility's practices are to prevent contraband from moving from the east wing to the rest of the facility.

HCDC holds both low custody detainees and county inmates in Hendricks Hall, a two-story open floor dormitory with beds placed throughout the unit. Figure 1 shows Hendricks Hall, which houses ICE detainees upstairs and county inmates downstairs. There is no barrier separating detainees from inmates and the two populations move unimpeded throughout the dorm.

[5] ICE, *Performance-Based National Detention Standards*, 2011, Section 2.10.V.D.2, Searches of Detainees (Revised Dec. 2016). "A strip search is a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia."
[6] HCDC Policy E-402 - *Searches* defines "contraband" as any item not authorized or approved for receipt by an inmate/detainee and any other item specifically forbidden by law.
[7] ICE, *Performance-Based National Detention Standards*, 2011, Section 2.10.V.D.2.b, Searches of Detainees (Revised Dec. 2016) defines "reasonable suspicion" as "suspicion based on specific and articulable facts that would lead a reasonable officer to believe that a specific detainee is in possession of contraband. … It must be based on specific and articulable facts — along with reasonable inferences that may be drawn from those facts—that the officer shall document…."
[8] ICE, *Performance-Based National Detention Standards, 2011,* Section 2.10.II.7, Searches of Detainees (Revised Dec. 2016). "A strip search shall be conducted only when properly authorized by a supervisor and only in the event that there is reasonable suspicion that contraband may be concealed on the person, or when an officer has reasonable suspicion that a good opportunity for concealment has occurred…."

Figure 1. Hendricks Hall where low custody detainees are housed, as observed by DHS Office of Inspector General (OIG) on December 17, 2019.
Source: OIG

We reviewed HCDC's strip-search log from August to December 2019 and found that HCDC staff conducted 35 strip searches of low custody detainees, with 1 detainee strip searched 13 times. In addition, HCDC staff did not consistently include the purpose for the strip search, and we were unable to identify why most of the strip searches occurred. The facility did not provide documentation showing reasonable suspicion that detainees were in possession of contraband or why leaving the housing unit created an increased risk of detainees transporting contraband to other parts of the facility. Because low custody detainees have minimal to no contact with high custody detainees or high-level inmates, even when outside the east wing, it was unclear why the facility believed detainees would spread contraband to other parts of the facility. Further, HCDC reported no incidents of low custody detainees caught with contraband. Figure 2 shows entries from HCDC's strip-search log.

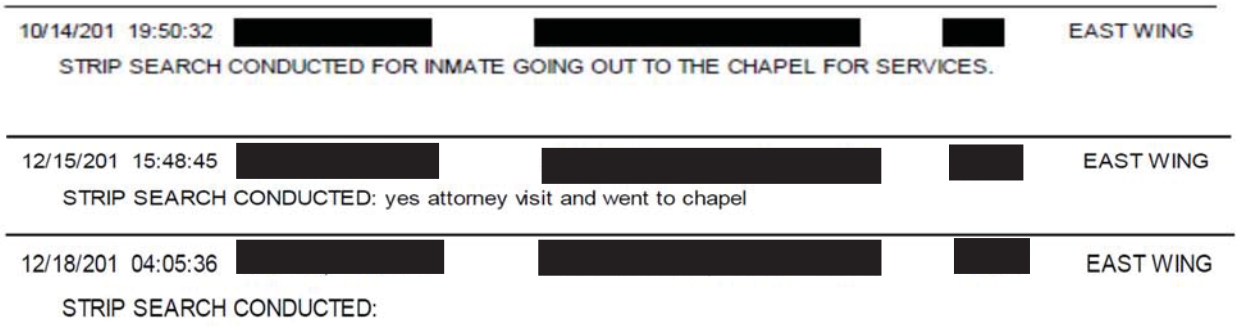

Figure 2. Entries from HCDC's Strip-Search Log showing HCDC strip searches ICE detainees[9] leaving their housing unit to go to chapel, for an attorney visit, and with no recorded explanation.
Source: HCDC Strip-Search Log

In December 2015, a Nakamoto inspection determined HCDC was deficient in the standard for detainee searches because HCDC routinely strip searched all detainees during the intake process and without the establishment of reasonable suspicion. Rather than correct the deficiency, HCDC sought, and ICE granted, a waiver[10] in 2016 to expand its strip searches of detainees not only at intake, but also for any returning from outside visits including attorney visits. The waiver does not specify that low custody detainees can be strip searched when leaving their housing unit, without supervisor-approved and documented reasonable suspicion of contraband.

Further, in October 2019, HCDC issued its policy on searches,[11] which the facility also violates with its current practice of strip-searching low custody detainees. The policy requires officers to frisk search — examine a fully clothed detainee for contraband concealed under clothing — all detainees entering or exiting a housing unit, but does not state that detainees are to be strip searched for only leaving their housing unit. The policy specifies that strip searches shall be conducted on all detainees at intake or returning from kitchen duty, outside visits, and attorney visits. Otherwise, the policy allows strip searches of detainees only when staff have a reasonable suspicion of the immediate presence of contraband, notify their supervisor, and submit a report documenting the need for the strip search. HCDC did not produce any such documentation of supervisors approving strip searches of low custody detainees.

[9] In the first entry, HCDC erroneously identified the detainee as an inmate.
[10] Waiver for Strip Searches – Howard County Detention Center signed on June 8, 2016, by ICE Assistant Director, Custody Management.
[11] HCDC Policy E-402 – *Searches.*

HCDC's strip searching of detainees also raises concerns about the comingling of detainee and inmate populations given intent of ICE detention.[12] By housing ICE detainees with county inmates, HCDC inappropriately applied policies and practices intended for those in criminal custody to detainees meant to be held in civil custody while their immigration court proceedings are pending. HCDC should consider physically separating low custody detainees from inmate populations to ensure proper treatment and care as required by ICE's 2011 PBNDS.

We determined HCDC's practice of strip-searching low custody detainees whenever they leave their housing unit exceeds the authority provided by ICE's waiver on strip searches and is not allowed by HCDC policy. Detainees told us HCDC's strip-search practices deterred them from leaving their housing unit to go to the law library or attend religious services. HCDC's practice of strip-searching low custody detainees leaving their housing unit is unnecessarily invasive and ultimately decreases detainee morale.

Lengthy Kitchen Renovations Hampered HCDC's Ability to Meet Food Service Standards

The 2011 PBNDS requires detainees be served three meals every day, at least two of which are to be served hot.[13] All meals must also accommodate the needs of its detained population accounting for differences in age, physical condition, ethnicity, gender, religious preference, and medical considerations. However, for more than 8 months, ICE detainees at HCDC were provided only one hot meal and two cold meals. At the time of our inspection, HCDC's kitchen was undergoing renovations, as shown in Figure 3, due to persistent drainage issues, and could only be used for food storage, refrigeration, and freezer needs. Due to the renovations, HCDC obtained one hot meal (dinner) each day for detainees by contracting with Dorsey Run Correctional Facility (DRCF), a nearby state prison.

[12] Although other ICE contracted facilities hold both detainees and inmates, this is the first facility we have inspected where they were housed together.
[13] ICE, *Performance-Based National Detention Standards, 2011,* Section 4.1.V.D.1, Food Service (Revised Dec. 2016). "Ordinarily detainees shall be served three meals every day, at least two of which shall be hot meals."

Figure 3. HCDC's kitchen undergoing renovation as observed by DHS OIG on December 17, 2019.
Source: OIG

The HCDC kitchen renovation began in June 2019, and was expected to be completed within 30 to 45 days, but was delayed several times because of the time it took HCDC to get kitchen equipment purchased, delivered, and installed. It was not until about 8 months after renovations began that the kitchen reopened. During this entire period, detainees at HCDC received only one hot meal per day. Of the 61 ICE detainees at HCDC during our visit, 36 detainees had received only one hot meal per day for more than 30 days, with 2 of those detainees receiving only one hot meal per day for more than 5 months. We asked HCDC officials why they did not work with DRCF to provide detainees with two hot meals. HCDC officials stated they lacked the budget to pay DRCF to produce another hot meal and DRCF could not handle the workload of producing and transporting two hot meals per day.

We asked ICE officials if they were aware of the facility's renovations and that detainees would only receive one hot meal daily. ICE officials said that HCDC informed ICE of the planned renovations in February 2019. According to ICE officials, HCDC said the renovations would begin in June 2019, last for 30 to 45 days, and DRCF would provide HCDC with hot meals in the interim.

However, ICE officials said HCDC did not inform them until after renovations began that DRCF would only provide one hot meal per day. Even after the kitchen's completion was delayed by several months, ICE officials said they did not plan to make any adjustments regarding the housing of detainees at HCDC because the renovation was expected to be quick and there was limited bed space at other facilities within the Baltimore area. Further, ICE officials did not take any action to ensure detainees received two hot meals or request a temporary waiver for HCDC's noncompliance with 2011 PBNDS' expected practices for food services.[14]

During the kitchen renovation, detainees repeatedly complained about the food served at the facility, including the lack of variety and the facility's failure to meet dietary requirements. All 10 detainees we interviewed criticized the facility's food and many said they often received the same meals for multiple days in a row. Detainees also filed grievances stating their medical and religious diets were not being met while the kitchen was under renovation. Of the 23 non-medical grievances we reviewed from the previous 6 months, 7 grievances concerned detainee requests or complaints regarding a special diet. For instance:

- A detainee claimed that, although the doctor ordered a 2,400-calorie diet, he did not receive it for 2 or 3 days at a time, and when he did receive it, it did not conform to the doctor's instructions. The facility stated the oversight could have been due to switching to a new system.

- A detainee said upon arrival he requested kosher meals but he did not receive them for 2 weeks. Once he did receive the meals, he was given the same food for 3 weeks straight. The facility stated the detainee's grievance had merit and the dinner meal was not always rotated correctly.

The lengthy kitchen renovations and the facility's inability to provide detainees with the required hot meals per day during the renovations raised concerns regarding HCDC's ability to continuously provide detainees a balanced diet and accommodate special diets based on medical, therapeutic, or religious needs. However, HCDC officials informed us that the kitchen reopened on February 20, 2020, and that it resumed providing detainees the required two hot meals per day.

[14] ICE, *Performance-Based National Detention Standards, 2011,* Section 4.1.V.D.1 (Revised December 2016). "Ordinarily detainees shall be served three meals every day, at least two of which shall be hot meals…."

Incomplete Detainee Records Raise Concerns about Detainee Care

During our inspection, we reviewed HCDC documentation related to detainee care, including records and logs for detainees held in segregation, and medical grievance records. We found that HCDC did not consistently record meals and medical visits for detainees in segregation. Consequently, we could not verify whether those detainees received three meals daily and received the necessary review by medical staff to ensure their suitability for continued stay in segregation. Further, HCDC was unable to provide an official medical grievance log with complete records.

HCDC's Records for Detainees in Segregation Were Incomplete

ICE's 2011 PBNDS require detainees in segregation be provided three nutritionally adequate meals per day[15] and health care personnel conduct face-to-face medical assessments at least once a day.[16] The standard also requires facilities log in the segregation housing record whether detainees received these medical assessments and ate each meal.[17] We reviewed housing records for 5 of the 13 detainees placed in segregation from June to December 2019, and identified incomplete documentation and logs. For instance, some logged activities indicated segregated detainees were not receiving three meals or a medical visit daily.

All five detainee files reviewed were missing information to show detainees in segregation received or were offered three meals a day. Specifically:

- Records for a detainee in segregation for 57 days[18] were incomplete, only documenting that the detainee received three meals a day for 15 of the 57 days (26 percent).

[15] ICE, *Performance-Based National Detention Standards, 2011,* Section 2.12.V.Q, Special Management Units (Revised Dec. 2016). "Detainees in SMU shall be provided three nutritionally adequate meals per day…."
[16] ICE, *Performance-Based National Detention Standards, 2011,* Section 2.12.V.P, Special Management Units (Revised Dec. 2016). "Health care personnel shall conduct face-to-face medical assessments at least once daily for detainees in an SMU."
[17] ICE, *Performance-Based National Detention Standards, 2011,* Section 2.12.V.P, Special Management Units (Revised Dec. 2016). "Medical visits shall be recorded on the SMU housing record or comparable form…."; and ICE, *Performance-Based National Detention Standards, 2011,* Section 2.12.V.D.3, Special Management Units (Revised Dec. 2016). "The special housing unit officer shall immediately record … whether the detainee ate…."
[18] Each day represents a full day in segregation. We did not include partial days when the detainee entered or was released from segregation.

- Records for a detainee in segregation for 15 days were incomplete, only documenting that the detainee received three meals a day for 5 of the 15 days (33 percent).

- Records for a detainee in segregation for 8 days were incomplete, only documenting that the detainee received three meals a day for 3 of the 8 days (37 percent).

- Records for a detainee in segregation for 3 days were incomplete, only documenting that the detainee received three meals a day for 1 of the 3 days (33 percent).

- Records for a detainee in segregation for 6 days did not show the detainee receiving three meals on any of the days.

Additionally, segregation housing records for four of the five detainees we reviewed did not reflect required daily medical visits. Nakamoto found this same deficiency during its November 2018 inspection. Although HCDC reported fixing this deficiency in December 2018, we found the following:

- Records for a detainee in segregation for 57 days indicated he only received a daily medical visit for 29 of the 57 days (51 percent).

- Records for a detainee in segregation for 15 days indicated he received a daily medical visit for only 8 of the 15 days (53 percent).

- Records for a detainee in segregation for 8 days indicated he received a daily medical visit for only 1 of the 8 days (12 percent).

- Records for a detainee in segregation for 6 days indicated he received a daily medical visit for only 1 of the 6 days (17 percent).

Because of the incomplete records, we could not verify that detainees in segregation received three meals a day or that HCDC's medical personnel properly monitored these detainees. Facilities must demonstrate they are following standards, and providing food and proper care to detainees in segregation by recording all required activity in segregation logs.

HCDC Was Unable to Provide an Official Medical Grievance Log with Complete Records

ICE's 2011 PBNDS require facilities to maintain accurate records for filed medical grievances and their resolution in a grievance log, the detainee's

detention file, and keep them separate from other grievances.[19] The standard also requires designated medical staff act on the grievance within 5 working days of receipt.

During our inspection, we requested HCDC's medical grievance log and responses to detainee grievances from June 1, 2019 to December 17, 2019. However, HCDC was unable to provide an official medical grievance log, and the only log available was the facility Health Services Administrator's (HSA) personal log. HCDC provided forms for three medical grievances between those dates. We had concerns with two of the three medical grievances. One grievance was not resolved until 7 days after the grievance was received and after the detainee submitted a second grievance form. Another grievance showed HCDC medical did not receive a grievance until 3 days after the detainee submitted it.

ICE detainees may submit grievances by placing a completed HCDC Grievance Form[20] in the medical grievance mailbox, which the facility HSA or designee should check daily. Among other requirements, the HSA or designee is responsible for maintaining the medical grievance log according to ICE detention standards. The medical grievance log should include: (1) a grievance log number; (2) the date the grievance was filed; (3) the date the grievance was received by medical personnel; (4) the nature of the grievance; (5) the date a decision was provided to the ICE detainee, with the receipt; and (6) the outcome of the adjudication.

Without a medical grievance log, we could not determine whether the three grievances represented all medical grievances submitted to HCDC during the relevant timeframe. Due to HCDC's inability to provide us with a medical grievance log and complete records, we do not have assurance that HCDC efficiently and responsibly addressed detainee medical issues.

Conclusion

Complying with ICE's PBNDS and establishing an environment that protects the rights, health, and safety of detainees are crucial to detention. ICE must ensure HCDC complies with detention standards through immediate attention and increased engagement with HCDC and its operations.

[19] ICE, *Performance-Based National Detention Standards*, 2011, Section 6.2.II.7, Grievance System (Revised Dec. 2016).
[20] HCDC Grievance Form, H-707a.

Recommendations

We recommend ICE's Executive Associate Director of ERO:

Recommendation 1: Review and reevaluate HCDC's strip-search waiver, practices, and policies to ensure compliance with PBNDS requirements.

Recommendation 2: Establish a process for routine oversight of HCDC to ensure it:

a) provides, and records that detainees in segregation receive, three nutritionally balanced meals per day;
b) completes and records daily medical visits for segregated detainees; and
c) establishes and maintains a separate medical grievance log, per PBNDS requirements.

Management Comments and OIG Analysis

ICE concurred with our recommendations and described corrective actions to address the issues identified in this report. Appendix B contains ICE management comments in their entirety. We also received technical comments to the draft report and revised the report as appropriate. We consider the recommendations resolved and open. A summary of ICE's response and our analysis follows.

ICE Comments to Recommendation 1: Concur. ICE ERO will work with the ICE Office of the Principal Legal Advisor and DHS Office of Civil Rights and Civil Liberties to review HCDC's strip-search policy, the 2016 waiver, and applicable court rulings that might affect the ability of county jails and local inter-governmental service agreement facilities to comply with the PBNDS, Section 2.10 "Searches of Detainees," and make changes, as appropriate. Estimated Completion Date: May 30, 2021.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation confirming that HCDC has completed appropriate changes.

ICE Comments to Recommendation 2: Concur. ICE ERO is in the process of hiring an on-site federal Detention Service Manager (DSM) to conduct daily compliance reviews at HCDC. DSMs work with ICE ERO field office personnel and facility staff to identify deficiencies, provide "on the spot" resolution of

issues and concerns when possible, and monitor the facility's implementation and maintenance of corrective action plans. In the interim, ICE ERO assigned a local DSM to temporarily visit the detention facility at least two weeks per month, beginning in November 2020. The DSM conducted a site assistance visit the week of September 20, 2020, to assess whether detainees in segregation are receiving three nutritionally balanced meals per day, documenting medical visits for segregated detainees, and utilizing and maintaining a medical grievance log. Estimate Completion Date: March 28, 2021.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and open. We will close this recommendation when we receive documentation confirming the DSM that ICE ERO has put in place at HCDC has completed appropriate corrective actions.

Appendix A
Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

DHS OIG initiated this inspection at Congress' direction. As part of our unannounced inspections, we also review and analyze concerns raised by immigrant rights groups and complaints to the DHS OIG Hotline about conditions for aliens in U.S. ICE custody. We generally limited our scope to the 2011 PBNDS for health, safety, medical care, mental health care, grievances, classification and searches, use of segregation, use of force, language access, and staff training. We focused on elements of these standards that we could observe and evaluate during our onsite inspections. Our visit to HCDC was unannounced so we could observe normal conditions and operations.

Prior to our inspection, we reviewed relevant background information, including:

- OIG Hotline complaints
- ICE 2011 PBNDS
- DHS Office for Civil Rights and Civil Liberties reports
- ICE Office of Detention Oversight reports
- Information from nongovernmental organizations
- Information provided in congressional requests
- Information provided from state and local governments requests

We visited HCDC from December 17 to December 18, 2019. During the visit we:

- inspected areas used by detainees, including intake processing areas; medical facilities; kitchens and dining facilities; residential areas, including sleeping, showering, and toilet facilities; legal services areas, including law libraries, immigration proceedings, and rights presentations; recreational facilities; and barber shops;
- reviewed facility's compliance with key health, safety, and welfare requirements of the 2011 PBNDS for classification and searches, segregation, access to medical care and mental health care, medical and nonmedical grievances, and access to translation and interpretation;

- interviewed ICE and detention facility staff members, including key ICE operational and detention facility oversight staff, detention facility wardens or someone in an equivalent position, and detention facility medical, classification, grievance, and compliance officers;
- interviewed detainees held at the detention facility to evaluate compliance with 2011 PBNDS grievance procedures and grievance resolution; and
- reviewed documentary evidence, including medical files, and grievance and communication logs and files.

We conducted this review under the authority of the *Inspector General Act of 1978, as amended*, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

Appendix B
ICE Comments to the Draft Report

Office of the Chief Financial Officer

U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20536

U.S. Immigration and Customs Enforcement

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Stephen A. Roncone
Chief Financial Officer and
Senior Component Accountable Official

STEPHEN A RONCONE Digitally signed by STEPHEN A RONCONE Date: 2020.10.01 17:09:48 -04'00'

SUBJECT: Management Response to Draft Report: "ICE Needs to Address Concerns About Detainee Care and Treatment at the Howard County Detention Center" (Project No. 20-003-SRE-ICE(a))

Thank you for the opportunity to comment on this draft report. U.S. Immigration and Customs Enforcement (ICE) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

ICE is pleased to note OIG's recognition that the Howard County Detention Center (HCDC) in Jessup, Maryland, generally complied with the 2011 Performance-Based National Detention Standards (PBNDS), as revised in December 2016, for detainee communication. Specifically, the OIG found that detainees were able to communicate regularly with both ICE and HCDC personnel, and that guidance on communication was included in HCDC's detainee handbook.

The OIG also acknowledged ICE Enforcement and Removal Operations efforts to oversee the detention facilities it manages in conjunction with private contractors or state and local governments. ICE utilizes a multi-layered approach to monitor conditions of confinement in these facilities and works daily to ensure that facilities comply with ICE detention standards, and the safety, rights, and health of detainees in its custody are protected.

The draft report contained two recommendations, with which ICE concurs. Attached, please find our detailed response to the recommendations. ICE previously submitted technical comments under a separate cover for OIG's consideration.

www.ice.gov

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment

Attachment: Management Response to Recommendation Contained in Project No. 20-003-SRE-ICE(a)

OIG recommended that the ICE Executive Associate Director of Enforcement and Removal Operations (ERO):

Recommendation 1: Review and reevaluate HCDC's strip-search waiver, practices, and policies to ensure compliance with PBNDS requirements.

Response: Concur. ICE ERO will work with the ICE Office of the Principal Legal Advisor (OPLA) and DHS Office of Civil Rights and Civil Liberties (CRCL) to review HCDC's strip-search policy, the 2016 waiver, and applicable court rulings that might affect the ability of county jails and local inter-governmental service agreement (IGSA) facilities to comply with the PBNDS, Section 2.10 "Searches of Detainees," and make changes, as appropriate. Estimated Completion Date (ECD): May 30, 2021.

Recommendation 2: Establish a process for routine oversight of HCDC to ensure it:

a) provides, and records that detainees in segregation receive, three nutritionally balanced meals per day;
b) completes and records daily medical visits for segregated detainees; and
c) establishes and maintains a separate medical grievance log, per PBNDS requirements.

Response: Concur. ICE ERO is in the process of hiring an on-site federal Detention Service Manager (DSM) to conduct daily compliance reviews at HCDC. DSMs work with ICE ERO field office personnel and facility staff to identify deficiencies, provide "on the spot" resolution of issues and concerns when possible, and monitor the facility's implementation and maintenance of corrective action plans. In the interim, ICE ERO assigned a local DSM to temporarily visit the detention facility at least two weeks per month, beginning in November 2020. The DSM conducted a site assistance visit the week of September 20, 2020, to assess whether detainees in segregation are receiving three nutritionally balanced meals, documenting medical visits for segregated detainees, and utilizing and maintaining a medical grievance log. ECD: March 28, 2021.

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Appendix C
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Appendix D
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