



July 24, 2019

The Honorable Bill de Blasio
Mayor of the City of New York
City Hall
New York, NY 10007

ASSIGN: THOMPSON
FYI: WOLFE, IMMIGRANT,
HUMAN RIGHTS

Re: NYC's Plan to Expand the Criminal Carve Out for Cooperation with U.S. Immigration and Customs Enforcement

Dear Mayor de Blasio:

LatinoJustice PRLDEF respectfully submits this letter to express our vehement opposition to your recent announcement¹ to expand the list of crimes in which New York City will cooperate with U.S. Immigration & Customs Enforcement ("ICE") to detain immigrant New Yorkers. Founded in 1972 as the Puerto Rico Legal Defense and Education Fund, LatinoJustice PRLDEF champions an equitable society by protecting, defending and advancing the rights of the greater pan-Latinx communities in the United States. As you know first-hand, LatinoJustice has long worked to advance the constitutional and human rights of immigrants, which have become increasingly under attack by a President and White House that continues to vilify and scapegoat them, and targets even those who have naturalized or have legal status, making them fearful, unwelcomed and unsafe.

Immigrants are Counting on our Elected Leaders

Last year, you announced Citywide Guidance and NYPD Protocol to Codify Restrictions on Assistance with Federal Immigration Enforcement and explained that "our police officers and employees will not be a part of a federal deportation force."² Assisting the U.S. Immigration and Customs Enforcement in any way means NYC will be facilitating ICE's expanded enforcement agenda forward. We are thus perplexed and very disappointed to see you present a plan that is in direct contrast with this sentiment.

Other presidential aspirants like Julián Castro have come out in direct opposition to ICE's persecution and mistreatment of immigrants. Castro released a policy proposal that will dismantle ICE and take away the agency's enforcement power.³ Your recent announcement denotes that same misguided enforcement power, which you enable every time you tell New

¹ From May 2019 announcement of plan and defense of it on WNYC Brian Lehrer Show <https://www1.nyc.gov/office-of-the-mayor/news/244-19/transcript-mayor-de-blasio-appears-live-the-brian-lehrer-show> (last visited July 24, 2019).

² See *De Blasio Administration Announces Citywide Guidance and NYPD Protocol to Codify Restrictions on Assistance with Federal Immigration Enforcement* announced January 31, 2018. <https://www1.nyc.gov/office-of-the-mayor/news/075-18/de-blasio-administration-citywide-guidance-nypd-protocol-codify-restrictions-on> (last visited July 24, 2019).

³ See Julián Castro, *Putting People First*. <https://medium.com/@JulianCastro2020/putting-people-first-e0f765cee00c> (last accessed July 24, 2019).



York City's law enforcement to cooperate with ICE. We are extremely disappointed that you have retreated when it comes to protecting immigrant New Yorker's from ICE.

Recently, the President announced plans to begin ICE Raids in sanctuary cities like New York and Chicago.⁴ Mayor Lori Lightfoot of Chicago immediately took a public stance opposing such misguided expanded immigration enforcement saying: "Chicago will always be a welcoming city and a champion for the rights of our immigrant and refugee communities. [...] We are all aware of the threat from President Trump regarding raids by ICE, and in response, Chicago has taken concrete steps to support our immigrant communities."⁵ Mayor Lightfoot backed this up with tangible actions that provide protections to Chicago's immigrant residents. The Chicago police have terminated ICE's access to CPD's databases related to federal immigration enforcement activities. Mayor Lightfoot has also instructed CPD not to cooperate with or facilitate any ICE enforcement actions. Why, then are you seeking to expand NYC's cooperation with ICE?

New York State's Attorney General, Letitia James, when discussing the current administration's expanding assault on the civil rights and mistreatment of immigrant communities sought to reassure them "[a]s New York's top law enforcement officer, I can assure New Yorkers we will do everything in our power to fight back against these inhumane policies".⁶ The people you represent, and purport to champion, are counting on you to be their protector.⁷ Expanding NYC's cooperation with ICE in the enforcement of flawed immigration policy does the exact opposite.

You most recently criticized the President's policy and stance towards immigrants on twitter in response to his tweeted plans announcing more raids. You correctly responded that this "is a policy of fear and division — and more proof that we need to abolish ICE. Our city is stronger, safer and more prosperous than ever BECAUSE of our immigrant communities. We will do EVERYTHING we can to protect them." We ask that you stick to your words.⁸

New York is a City of Immigrants

In March 2018, the Mayor's Office of Immigrant Affairs released an annual report on the "State of our Immigrant City", in which you said "New York has always been a city of immigrants, and for generations, diverse people from around the globe have come here to make a better life for themselves and their families. Today, more than a third of our residents are immigrants, and it is clear that they are our city's past, present, and future."⁹ You said that your administration is

⁴ Michelle Gallardo, *ICE raids postponed for 2 weeks, Trump says* <https://abc7chicago.com/politics/ice-raids-delayed-for-2-weeks-trump/5359240/> (last visited July 24, 2019).

⁵ Liz Nagy, *CPD will not cooperate with planned ICE raids, Lightfoot Says* <https://abc7chicago.com/politics/cpd-wont-cooperate-with-planned-ice-raids-lightfoot-says/5357897/> (last visited July 24, 2019).

⁶ Jason Grant, *AG James Vows to Fight Trump Administration's Purported Weekend Migrant Raids* <https://www.law.com/newyorklawjournal/2019/06/21/ag-james-vows-to-fight-trump-administrations-purported-weekend-migrant-raids/?kw=AG%20James%20Vows%20to%20Fight%20Trump%20Administration&slreturn=20190525163420> (last visited July 24, 2019).

⁷ Message from Bill de Blasio in *State of our Immigrant City*, March 2018 annual report at 2. https://www1.nyc.gov/assets/immigrants/downloads/pdf/moia_annual_report_2018_final.pdf (last visited July 24, 2019).

⁸ See July 11, 2019 twitter post: <https://twitter.com/NYCMayor/status/1149408848056397824>.

⁹ See *supra*, note 7 at 2.

determined to use every tool at your disposal to protect the freedoms and well-being of all New York residents. In this year's "State of Our Immigrant City", you acknowledged that "no matter where you came from, when you got here, or what documents you have, the City of New York will be here to support you."¹⁰

Your proposed plan to expand NYC's cooperation with ICE is in direct conflict with La Gran Manzana's identity as a city of immigrants. It will further ostracize a community that is already dealt an unfair hand, and completely betray our values as a sanctuary City. If NYC truly respects and embraces immigrants regardless of documentation status, as you've repeatedly said, we must put ICE on notice that our city will not comply with the agency's destructive enforcement tactics.

New York City is home to 3.2 million immigrants, who make up nearly 37.1% of the city population and 44% of its workforce. Of those 3.2 million, approximately 477,000 are undocumented immigrants.¹¹ Over 25% of our 3.2 million foreign born residents come from Latin America, and 14.3% alone come from the Dominican Republic.¹² It is the responsibility of our elected officials like you to protect this vast and vital community, and to ensure that they feel the safety and protection that all New Yorkers deserve.

Condoning ICE is Condoning Racism

ICE is an agency that undermines our community values, violates constitutional rights, and threatens immigrant NYC residents' safety. You have called the agency broken.¹³ The administration has made great strides to attack our hardworking and vital immigrant community, proposing rules that would evict mixed status immigrant families out of public housing, and deny immigrant residents the public benefits they qualify for like food stamps and Medicaid.

As you know, ICE continues to wear apparel that falsely identifies them as "Police" during public immigration enforcement actions and seeks to take advantage of innocent New Yorkers' trust and respect of local law enforcement. President Trump has made numerous overtly anti-Latinx comments on twitter, to news reporters, in pep rallies, and even upon announcing his initial run for presidency. In his June 2015 presidential run announcement, Trump emphasized his anti-immigrant agenda, referring to Latin immigrants, particularly Mexicans, and saying "They're bringing drugs, they're bringing crime, they're bringing rapists." In August 2016, while referring to undocumented immigrants, he said "We will begin Moving them out Day 1 [sic]." As President, Trump has proven himself to be committed to this racist exclusionary agenda through executive orders increasing border security, expanding ICE and its authority, and taking away benefits our immigrants deserve.¹⁴

¹⁰ *Id* at 1. (last visited July 24, 2019).

¹¹ *See, supra* note 7 at 9-11.

¹² *See, supra* note 7 at 12.

¹³ *See, supra* note 8.

¹⁴ *See* Center for Migration Studies article, *President Trumps Executive Orders on immigration and Refugees*, https://cmsny.org/trumps-executive-orders-immigration-refugees/?gclid=EAlaIqObChMlWKK075311eIV0V5-Ch1VfgPLEAAYASAAEgJSevD_BwE (last visited July 24, 2019).

You are effectively condoning the actions of ICE, by expanding cooperation with them, and that is a complete misuse of our City's resources and priorities as a Sanctuary City¹⁵. More importantly, it will cause great harm to this integral part of our community who will rightfully lose trust in a city they call home; in a city we call "sanctuary". Elected officials and leaders like you must take a stand for all New Yorkers, especially those put in such vulnerable positions, and your recent decision to encourage further cooperation and compliance with ICE goes in the opposite direction.

Tragic Impact on Our Communities

There are harmful effects of a system that picks and chooses which people deserve the basic right to fair process. The Immigration and Nationality Law Committee of the New York City Bar Association released a committee report opposing your plan. In this statement, they explain the harmful causes and effects of this broken system. "In many cases, vulnerable and low-income defendants plead guilty to charges because they are unable to afford to post bail. Immigration attorneys are also often successful in obtaining post-conviction relief for clients who have failed to receive proper advice or due process in their criminal cases. In addition, many people involved in removal proceedings have viable claims to U.S. Citizenship that they are unlikely to be able to assert without expert immigration representation due to the inherent complexity of the law in these areas. Even those who appear removable due to one of the offenses listed on the detainer may be eligible for statutory forms of relief from removal but would likely be unable to avail themselves of those highly complex forms of relief as a pro-se litigant."¹⁶

These New Yorkers deserve legal representation we all should be entitled to.¹⁷ ICE uses detainers so that local law enforcement will maintain custody of people who are no longer supposed to be imprisoned.¹⁸ Complying with detainer orders and refusing to give these immigrants a fair chance will inevitably lead to increased deportations of New Yorkers and destruction of immigrant families & communities that make this city what it is, and who truly deserve to remain here. These New Yorkers deserve the chance to be with family, be a part of their communities, and retain proper representation against claims of removability or deportability. Facilitating deportations means having a hand in facilitating the federal

¹⁵ See <https://www1.nyc.gov/office-of-the-mayor/news/075-18/de-blasio-administration-citywide-guidance-nvdp-protocol-codify-restrictions-on> (last accessed July 15, 2019).

¹⁶ See Victoria Nielson, *Opposition to an Expansion of the Criminal Carve Out for Cooperation with ICE*, NYCBA Immigration and Nationality Law Committee (March 31, 2019) <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/opposition-to-an-expansion-of-the-criminal-carve-out-for-cooperation-with-ice> (last visited July 24, 2019).

¹⁷ See Katie Benner and Charlie Savage, *Due Process for Undocumented Immigrants, Explained*, New York Times. <https://www.nytimes.com/2018/06/25/us/politics/due-process-undocumented-immigrants.html> Last accessed July 15, 2019).

¹⁸ See definition of 'detainer' on ICE website. <https://www.ice.gov/detainers> (Last accessed July 15, 2019).

government's separation of families. This has such harmful effects on the children in these families, who face toxic stress, attachment damage, and trauma.¹⁹

You have said that "It's so clear that this is a city that respects and embraces immigrants regardless of documentation status," but your plan to expand ICE cooperation further ostracizes a community that is already dealt an unfair hand, and completely betrays our values as a sanctuary City.

LatinoJustice PRLDEF and many of our allies in NYC's immigrants' rights community would be happy to meet with you and your staff to discuss how your expanded ICE cooperation policy is not in the best interests of NYC and its immigrant residents.

Please do not hesitate to contact me if you have any questions at 212.219.3360, x7575 or by email at jperez@latinojustice.org

Respectfully submitted,



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¹⁹ See Laura C. N. Wood, *Impact of Punitive Immigration Policies, Parent-Child Separation and Child Detention on the Mental Health and Development of Children*, 2 *BMJ PAEDIATRICS OPEN* (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6173255/> (last accessed July 24, 2019).