



Office of
Immigrant Affairs
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Commissioner

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Immigration, Public Safety, and Education:

Hearing on Intro 1557, 1558, 1565, 1566, 1569, 1578, 1579, 1588



Thank you to Speaker Mark-Viverito, Chair Menchaca, Chair Gibson, Chair Dromm, and members of the Committees on Immigration, Public Safety, and Education. My name is Nisha Agarwal and I am the Commissioner of the Mayor’s Office of Immigrant Affairs (MOIA). This testimony will address the proposed bills on the handling of identifying information by the City and outline the City’s approach to protecting the privacy and confidentiality of all New Yorkers. My testimony will also provide feedback on the other immigration bills that have been proposed by the Council and will be heard later today, in addition to the identifying information bills.

As a general matter, my testimony is informed by the City’s approach of vigorously protecting the privacy and security of all New Yorkers, while ensuring that City services and public information remain open and accessible for all. These are goals that apply broadly, but of course they have special urgency for vulnerable populations in the City, including but not limited to immigrants.

At the outset, I would like to applaud the leadership of the Speaker and City Council in continuing to fight for the rights and well-being of vulnerable New Yorkers. As the Commissioner of MOIA, I am aware of the increased fear and anxiety within many immigrant communities at this time and recognize how important it is to have local government leaders who are committed to maintaining and expanding inclusive and welcoming policies that recognize and celebrate our City’s diversity.

Protecting the Privacy and Confidentiality of All New Yorkers

I start with the bills that relate to identifying information and data security, Intro 1557 and Intro 1588. Together, these bills establish a division within the Law Department to be solely responsible for reviewing and approving of requests for information received by every city employee, contractor, and sub-contractor. In addition, these bills place restrictions on the collection, retention, and disclosure of identifying information.

We recommend that these bills be amended to 1) maintain consistency with the City’s approach to maintaining data and information privacy for all New Yorkers, and 2) avoid a significant operational burden on agencies and the Law Department that would impinge on the City’s ability to provide crucial services efficiently. I will address each of these recommendations now.

First, the City’s approach to securing data and information privacy is to vigorously protect the privacy of all New Yorkers. We recognize that all New Yorkers, including the three million foreign-born New Yorkers, may have concerns about how the City handles their private and confidential information when they access City services, and that these concerns may impact their willingness to seek out critical help – from health care services, to public safety, to education and civil rights and legal services. This is particularly true for more vulnerable populations – including survivors of domestic violence, LGBTQ individuals, victims of hate or bias crimes, and undocumented immigrants.

Recognizing that our ability to maintain a safe, healthy, and thriving city depends on New Yorkers' confidence that local government will protect confidential information, the Administration takes the protection of data and information privacy and security very seriously. This is not new. Indeed, we have learned from our experience in implementing the IDNYC program that strong privacy and confidentiality protections are foundational to the broad-based success of citywide initiatives.

The IDNYC program is proud to have over 1 million cardholders from every corner of the City, and the program's success is closely linked to strict protocols on the storage and handling of cardholders' identifiable information, including secure processes and standards for any third-party request for cardholder information followed by the Human Resources Administration, as the administering agency. This approach has been crucial in maintaining the program's credibility with community members and program partners. We strongly believe in this broad-based approach to maintaining the security of our residents' information and data.

In seeking to remain consistent with the City's approach, we believe that legislation aimed at protecting identifying information should broadly address the privacy and security concerns of all New Yorkers. Instead of a particular focus on requests from federal immigration enforcement authorities, as currently reflected in the bills, we recommend that Council adopt a broader approach that recognizes the privacy concerns of all.

Second, we strongly recommend that the Council consider the administrative and operational burdens that these bills, as currently written, place on city agencies in a manner that could impact access to services for many New Yorkers. Maintaining smooth and efficient government operations is crucial for ensuring that all New Yorkers are able to access the services they need. Therefore, we are particularly interested in not imposing severe operational burdens on City agencies in a manner that could negatively impact New York City residents' access to services or impede efforts to improve City services through data integration.

With more than 300,000 city employees, and upwards of tens of thousands of city contractors, these bills could create a significant bottleneck in operations, given the proposed framework of having a single division within the Law Department review the majority of requests. We recommend a more streamlined approach to handling data disclosure requests that takes efficiency, access, and agency expertise into account, while of course maintaining high standards of privacy and confidentiality. Specifically, we recommend amending the bill so that requests for information are reviewed by each agency's respective legal departments, with guidance from the Law Department, which would alleviate the administrative burden on the Law Department and leverage the subject-matter expertise of the agencies themselves in reviewing and making determinations regarding requests for information.

Such an approach would strike an appropriate balance between privacy and effective, accessible services. The City has experience in doing this, as demonstrated by efforts led by the Citywide Data Integration Initiative, which is managed by the Mayor's Office of Operations and governed by a steering committee created by the First Deputy Mayor. This initiative establishes

Administration-wide support for a “One City” approach to data, while providing a vigilant legal privacy and data security framework for developing multi-agency projects involving the integration of data from three or more agencies.

Recently, the Mayor’s Office of Operations and the City’s Law Department worked closely with the Citywide Data Integration Initiative Steering Committee to provide internal guidance for all City agencies on handling third-party requests for information held by City agencies in a manner that maximizes thoughtfulness and vigilance for data privacy and security, while not impeding agency operations. Under this internal guidance, agency legal departments handle data disclosure requests by considering a series of factors and legal considerations and consult with the Law Department as needed. This approach provides agencies with standards, while also allowing them to leverage their expertise and make determinations in a streamlined manner. We encourage a similar approach for Intros 1557 and 1588.

Concerns about privacy and access that drive my comments on the identifying information bills also extend to other proposed legislation that the Council is considering related to immigrant protection. Before addressing these other bills specifically, I want to briefly describe the City’s recent efforts on behalf of immigrant New Yorkers.

The City’s efforts on behalf of immigrant New Yorkers

We are currently experiencing a time where there is increased xenophobic and anti-immigrant sentiment nationally and a more enforcement-oriented approach to immigration at the federal level, which has in turn led to fear and concern among immigrant and other communities in New York City. In light of this climate of heightened fear, the City, under the leadership of Mayor de Blasio, has worked to ensure that all New Yorkers know that City services remain available to them, including public health, education, emergency housing, and public safety resources. This effort has spanned City government. For example:

- In February 2017, the Department of Consumer Affairs, the City Commission on Human Rights, and MOIA held a #OneNewYork Day of Action: Protecting Our Muslim Communities to remind fellow New Yorkers that the City is committed to protecting the rights of all New Yorkers where they live, work, and shop;
- In January 2017, the Department of Education (DOE) and MOIA jointly issued immigration guidance and supports for all schools. Those guidelines were expanded in March 2017 to provide a detailed protocol to school officials for responding to requests from non-local law enforcement agencies and offering additional trainings for students and families across the City;
- In December 2016, NYC Health and Hospitals and MOIA issued an open letter to reassure immigrant New Yorkers that they can get medical care in any public health care setting without fear; and
- On multiple occasions, the New York City Police Department has publically reinforced its commitment to neighborhood policing and maintaining strong ties with immigrant

communities throughout the five boroughs. Both Commissioner O’Neill and the Mayor have spoken out clearly that the NYPD’s role is not to enforce federal immigration law, and the Police Department has made considerable efforts to make sure that immigrant crime victims and witnesses know they can feel safe coming forward to report crime and seek help from NYPD.

In addition, at MOIA, we continue to closely monitor new developments at the federal level in immigration policy and practices and brief our sister agencies about updates that may impact their work and the communities they serve, as well as engage with our sister agencies to strengthen the City’s response and ensure access and inclusion for the immigrant community. Indeed, we were delighted to hear about the California federal court ruling issued yesterday that enjoined the President’s attempt to cut vital funding to cities, and we look forward to further briefing our City colleagues on this development.

My office has also focused on working with community partners to inform and empower community members about their rights. We have conducted over 250 Know Your Rights trainings since November 2016 in schools, hospitals, churches, and community-based organizations. We have also just released a second edition of our Resource and Referral Guide, translated into ten different languages, that provides information on a broad range of services available to immigrant New Yorkers, regardless of immigration status.

Finally, I am delighted to say that the Administration will be baselining \$16.4 million to fund legal representation for immigrant New Yorkers facing deportation and other immigration charges. With this investment, the city will have dedicated over \$30 million total specifically for legal and other services for immigrants.

Discussion of Intro 1565, Intro 1566, and Intro 1578

Intros 1565, 1566, and 1578 reflect this expanded need for information among immigrant communities that my office, in conjunction with many sister agencies and the Council, have worked to address.

At MOIA, we are particularly proud of the work that we’ve done in partnership with DOE to provide high-quality information and resources to immigrant parents and families.

- As described above, we provided guidance on non-local law enforcement access to schools, and are conducting many Know Your Rights trainings in schools for students, parents, and community members.
- Additionally, the City’s ActionNYC in Schools program, which provides immigration legal clinics at schools across the city, has held 70 clinics at 27 different schools in the last year, providing safe legal help for students who need it.
- Our IDNYC program has also placed a special emphasis on making sure that students over the age of 14 have access to a government-issued identification card and the myriad

benefits that come with the IDNYC. The program has held pop-up enrollment sites at schools and Summer Youth Employment Program enrollment sites to ensure that students are informed about the card and have an opportunity to enroll in the IDNYC program on the spot.

- Finally, MOIA's outreach and organizing staff have strong relationships with parent coordinators in immigrant-dense neighborhoods and are regularly present at school events, fairs, and information sessions.

With these efforts to reach immigrant parents and students in mind, we support the goal of Intro 1565, which requires the Department of Education (DOE) to distribute information regarding students' and parents' educational rights and DOE policies related to interactions with state and federal law enforcement. However, we recommend that the Council narrow the scope of the required information that DOE must distribute and provide the agency with more flexibility. While the City firmly believes in distributing information that is useful for parents and children, we believe that some types of information outlined in the bill relate to legal issues that are often complex and case-specific, and that would involve putting DOE in the position of providing legal advice to families and legal information that is beyond the scope of the agency's expertise. We suggest that MOIA and DOE work together to develop and distribute materials regarding DOE policies and appropriate resources for immigrant students, with clear referral information for where to get more detailed assistance.

As for the two bills that specifically address the work of my office, Intro 1566 and Intro 1578, we also support the goals set out in these bills to enhance the City's capacity to analyze national, state, and local developments related to immigration policy and immigrant integration and make recommendations for how the City can further support the well-being of immigrant New Yorkers. **We would again urge more flexibility for the Mayor and MOIA in the approach to this work, and welcome the opportunity to work with the Council on building in more flexibility into these bills.**

Discussion of Intro 1579

Next, I will discuss Intro 1579. Intro 1579 prohibits non-local law enforcement from accessing non-public areas, subject to narrow exceptions, and requires the posting of signs containing immigration enforcement-related "Know Your Rights" information in publically accessible areas controlled by the City. I will discuss the City's feedback for each of these provisions individually.

Regarding the bill's prohibition on non-local law enforcement from accessing non-public areas controlled by the City, we share in the Council's concern for ensuring that individuals on city property are not unnecessarily targeted by non-local law enforcement. However, we feel that this concern would be best addressed through a more neutral and flexible approach. Based on the City's successful experiences with implementing a broad-based approach to data privacy and security, we believe that a similar approach here is possible and beneficial. Providing guidance for how City agencies should address all visitors who seek

to enter non-public areas of the City in a manner that is flexible and adaptable for a variety of circumstances would provide clarity to and be a benefit to all individuals who may have business with the City.

Intro 1579 also requires the posting of signs in publically accessible areas. **While we certainly support the goal of ensuring that New Yorkers are aware of their rights with regard to federal immigration enforcement, we recommend that the Council also take a more neutral and broad-based approach in considering the content of these signs.**

We would also like to avoid approaches that may have the counter-intuitive impact of making City services less accessible or of stoking community fear and panic at a time when rumors and confusion remain very dangerous. We believe that the posting of signs on city property with this messaging could create more anxiety and confusion about what could or could not happen while an immigrant New Yorker is in a city building. Rather, we recommend an approach that promotes positive messaging about the City's immigrant inclusion policies and our commitment to ensuring access for all.

We also believe that more detailed information about individual rights would be more appropriately disseminated through the context of a Know Your Rights training or information session, where individuals are able to ask questions about their rights vis-à-vis immigration enforcement and be directly connected to qualified lawyers for case-specific questions. Such an approach would be more likely to provide clear information, rather than signs that may spark more confusion. We would be happy to work with Council to increase our outreach in these forums.

Discussion of Intro 1568, Intro 1558, and Intro 1569

Intro 1568 and Intro 1558 relate to how the City's relationship works with federal immigration enforcement. **We recommend that these bills remain consistent with recent approaches taken by the City Council and this Administration, which has been to work with federal immigration enforcement authorities in limited circumstances where there are risks to public safety, while otherwise prioritizing remaining an accessible city that values family unity, immigrant inclusion, and strong relations between local law enforcement and immigrant communities.** This approach ensures that any cooperation with immigration enforcement leads to meaningful gains in public safety for all New Yorkers, immigrant and native-born alike.

This approach avoids exposing undocumented immigrants who commit minor and non-violent infractions, such as getting a parking ticket, but does contemplate cooperation in situations where public safety may be implicated. In an effort to remain consistent with this approach, we believe that Intro 1568, which places a broad prohibition on the use of city resources to support federal immigration enforcement, with a few limited exceptions, could benefit from taking a similarly nuanced approach that factors in the need to build community trust while maintaining public safety.

We also have concerns that the bill currently prohibits local law enforcement from enforcing certain criminal warrants. This prohibition may place city agencies in a position to disregard a lawfully issued court order. We would instead support narrowing the bill in a manner that would echo the current practice, which is that City agencies are not engaged in, nor do we assist in, civil immigration enforcement.

As for Intro 1558, which prohibits the Department of Probation from honoring civil immigration detainees, we recognize and support the goal of this bill to ensure that important Probation services remain accessible to all Probation clients. We would recommend revisions to this bill, however, that better reflect the distinct role and function of Probation, which, unlike the Department of Corrections, is a non-custodial criminal justice agency, while also ensuring that legislation does not inadvertently diminish trust between Probation and its immigrant clients.

Finally, we also support the goal of Intro 1569, which creates a city version of the disorderly conduct offense. This bill would eliminate immigration collateral consequences associated with a conviction for the current version of disorderly conduct. This continues the City's efforts to lighten the touch of low-level criminal justice enforcement.

Conclusion

In summary, the City is appreciative of the City Council's continued work in fighting for the rights, safety, and security of immigrant New Yorkers. We look forward to continuing to work with you on this legislation to strengthen the City's efforts to protect the privacy of all New Yorkers and vulnerable populations, while also paying special attention to the needs of immigrant New Yorkers during this time.