



**The New York City Council  
Committee on Immigration**

Hearing RE: Int. No. 982, A Local Law to amend the administrative code of the city of New York, in relation to persons not to be detained and Int. No. 989, A Local Law to amend the administrative code of the city of New York, in relation to persons not to be detained by the Department of Correction.

**Testimony of Lynly Egyes, Esq.  
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250 Broadway, 16th FL, New York, NY 10007

Good morning, Council Member Dromm and members of the Committee on Immigration.

The Sex Workers Project at the Urban Justice Center very much appreciates the opportunity to offer comment on these proposed changes to administrative law. My name is Lynly Egyes and I am an attorney at the Sex Workers Project.

I'd like to start with a personal story. My father always told me that the way a community treats its most vulnerable members illustrates the values and principles of the community as a whole. My father told me the story of how different European countries treated the Jews during the Holocaust. Belgium is considered a one of the few European countries that tried to protect Jews within its borders. Hungary, on the other hand, willingly handed over Jews to be sent to concentration camps. Most of my father's family were Hungarian Jews, killed in these camps because their country failed to protect them. Knowing this history has led to a passion to

protect the most vulnerable in my society from danger, and to ask our government to do the same.

As an attorney, I represent some of the most vulnerable populations in New York. I represent people who are involved in the sex industry, often out of a need to survive, and often because they are forced by violent traffickers to engage in prostitution. A large portion of my clients are lesbian, gay, bisexual, and transgender individuals. For many of my clients, deportation does not only mean removal from the home they know, it can mean being forced back into a situation of forced prostitution. It can mean persecution and death. Secure Communities, if fully implemented in New York City, would be sure to lead to danger and suffering for my clients.

The legislation being discussed here today seeks to limit the impact of Secure Communities by asserting local authority over which immigrants will be turned over to the federal government for detention and possible deportation. I believe the intent of this legislation is to protect the most vulnerable members of our community, including sex workers, victims of human trafficking, and LGBT individuals. For example, the law exempts individuals with prior arrests or convictions for the crimes of Prostitution and for Loitering for the Purposes of Prostitution. Our research and experience has shown that victims of trafficking and LGBT individuals are routinely arrested on these charges. Unfortunately, under our current system, defendants often plead guilty even when they are not guilty or were forced to commit the crime. Traffickers often hire private defense attorneys to represent their victims when they are arrested, who coerce them into pleading guilty, in order to force them back into work more quickly. LGBT immigrants in particular, are often terrified to be sent to Riker's Island, where until now, they faced certain immigration detention and possible removal, in addition to mistreatment. A transgender woman, knowing she will be housed in a male unit at Riker's and fearful of rape and abuse, will likely plead guilty just to be set free.

However, I have three suggestions for how this bill could be expanded to fully protect our community's most vulnerable members.

This bill as written would still have New York City honor ICE detainers when a person has any other prior misdemeanor conviction in the past ten years, or when a person has two or more pending misdemeanor arrests. This allows unnecessary deference to ICE. In the past few weeks, ICE issued its own policy instructing its officers not to issue detainers if the defendant only has two prior misdemeanor convictions. Our City Council, attempting to protect city residents from Secure Communities, should at least reach the standard that has been acknowledged as reasonable by ICE. My first suggestion is that the bill be expanded to protect

those who have two or less prior misdemeanor convictions. My second suggestion is to expand the bill to protect individuals who have pending misdemeanors charges.

It is important to know that survivors of trafficking and vulnerable members of the LGBT community frequently have misdemeanor arrests and convictions for a variety of low-level crimes, directly due to being exploited, profiled or falsely arrested. Our clients who are survivors of trafficking have prostitution crimes on their records, but also have convictions for trespass, low-level drug possession, and petty larceny, just to name a few. For example, my client who I will call "Allison," was trafficked into stealing. Every day, Allison was forced to go into stores and steal baby formula and powdered milk, she thinks so that her traffickers could mix these substances with drugs for sale. She was also forced into prostitution. A case like this could easily result in a trafficking victim having two pending misdemeanor charges for petty larceny. Another client of my project, Lucille, was forced by her trafficker to purchase drugs for his use, and sustained a low-level drug conviction. The same pressures that lead my clients to plead guilty to prostitution, lead them to plead guilty to these other crimes. The Criminal Court, recognizing Lucille's exploitation, vacated her criminal record. Allison and Lucille are both living safely in the US with T-visas. But under the proposed law, victims like them would be placed into deportation proceedings before they are even convicted of these charges, or have a chance to be identified as a trafficking victim.

I would also respectfully suggest to the Committee that the carve-out currently applied to prostitution should at least expand to include trespass. Immigration attorneys and well-trained criminal defense attorneys know that "trespass" is a safe plea bargain to take if you are an immigrant, because it has no immigration consequences. Often when faced with the possibility of being sent to Riker's or pleading guilty to trespass, immigrant defendants will reasonably choose the guilty plea. District Attorneys will accept these pleas because they are misdemeanors. I have advised criminal defense attorneys that trespass is a "safe" plea for their immigrant clients, including victims of trafficking. Now all of these individuals will be subject to detainer should they be arrested again. Trespass is a low-level, nonviolent crime and is a logical addition to offenses that do not trigger a detainer.

My client "Allen" was young gay man who had suffered horrific child abuse after being brought to the US by a relative. At 19 he was living in a state-run HIV housing program, where his roommate soon began physically and sexually abused him. This roommate had him arrested numerous times on false allegations, where untrained police officers did not see him as a victim of domestic violence. Although clearly eligible for a U visa and other immigration relief, he was sent to immigration detention. After learning his story, I was able to secure his release with a trespass plea, a safe option for immigration purposes at the time. While Allen now has his green card, domestic violence survivors like him are common.

The undocumented individuals I am concerned about have many forms of immigration status available to them in theory, such as asylum, T-visas, U-visas, or Special Immigrant Juvenile Status. Unfortunately, Secure Communities operates to deprive vulnerable individuals of the opportunity to have legal status. There is no right to counsel in removal proceedings, and there are no detention facilities in New York. Once someone is placed in immigration detention, they are quickly transferred to Louisiana or Texas. There, they have no family, no friends, and no one to secure any limited pro bono legal counsel that might exist. The immigration court or prosecutors do not screen them for possible remedies, but quickly deport them.

That is exactly what happened to my client "Shelia." Shelia, a transgender woman, experienced extreme violence and persecution in her home country because of her gender identity and was forced into prostitution. She luckily escaped the trafficker and fled to New York. Here, she was arrested several times for prostitution and pled guilty each time to avoid being sent to Riker's. After her third arrest, she was flagged for immigration detention, and rapidly transferred to Louisiana. In Louisiana, she was horribly mistreated in immigration detention, subjected to extreme isolation, and told she would be left there to die if she did not agree to voluntarily depart the United States. Shelia consented and within an hour inside her country, she was arrested for being transgender, beaten and threatened with death. Once again she found the strength to escape to the United States. Vulnerable and fearful, she fell victim to her smuggler who trafficked her into sex slavery for several days. Finally, she escaped and made her way home, to New York, where she finally connected with the Sex Workers Project. This story is not uncommon among my clients. Immigration law tries to protect victims of violence and persecution by offering remedies, but once people are placed in detention and taken so far away, they have no real access to help.

I'd like to return to the story of Belgium and Hungary during the holocaust. Many do not know that of the Jews that Belgium protected only six percent were Belgian. The rest were stateless people, refugees seeking safety, protection and a home. I believe New York City and this City Council want to provide that same safety, even to those who are not US citizens. I commend the City Council for creating this legislation to protect my clients, and believe that my three suggestions will help the City Council to fully realize its intent.