



**U.S. Immigration
and Customs
Enforcement**

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

FEB 12 2020

Dear Mayor de Blasio:

I am writing to you with strong concerns about New York City's lack of cooperation with U.S. Immigration and Customs Enforcement (ICE) and the impact that lack of cooperation has on the safety of New York residents. Although immigration policy remains an issue that is subject to vigorous debate in our country, the need for federal and local law enforcement to cooperate to ensure that criminals are kept off the streets should not be a polarizing subject. New York City officials and ICE still share a common mission: keeping the communities that depend on us safe.

Despite what is often reported, 86 percent of those administratively arrested by ICE's Enforcement and Removal Operations (ERO) during Fiscal Year (FY) 2019 had criminal convictions or pending criminal charges at the time of their ICE arrest. The 123,000 individuals so arrested collectively accumulated 485,000 criminal convictions and pending criminal charges. These numbers highlight the recidivism of those who ICE targets for enforcement and the public safety benefits of working with ICE to ensure such individuals are arrested by ICE prior to release from local criminal custody.¹

¹ I would also highlight data recently released by the Orange County, California Sheriff's Department (OCSD) that highlights the adverse impact that laws preventing local jurisdictions from cooperating with ICE have on public safety. Specifically, OCSD cites that of the 1,015 inmates released into the community in 2019 because the department could not notify ICE of the aliens' release, 238 were re-arrested for new crimes in Orange County, "including on charges of assault and battery, rape, and robbery, among others." Press Release, Orange County Sheriff's Department, Year two of SB 54: More individuals reoffending in Orange County post-release (Feb. 3, 2020), <http://www.ocsd.org/civicax/inc/blobfetch.aspx?BlobID=110535>. OCSD observed that this is a "38% increase in the number of individuals with ICE detainers reoffending once released from custody" into the community. *Id.* It was further cited that of the 1,106 inmates OCSD was forced to release without notifying ICE in 2018, 173 committed new criminal offenses in Orange County.

As you have stated yourself, I am also dismayed to see the recent spikes in crime as the City has begun releasing more repeat offenders back onto the streets as a result of the Bail Reform Act. As New York Police Department (NYPD) Commissioner Dermot Shea recently recognized when he cited a “significant” eleven percent (11%) crime spike for the first weeks of 2020, “If you let out individuals that commit a lot of crime, that’s precision policing in reverse and we’re seeing the effects in very quick time”² I could not agree more with your commissioner. Releasing criminals, including violent offenders, runs counter to any notion of public safety.

As a career law enforcement official who has worked in criminal justice for decades, I am profoundly saddened to see how this issue has become politicized, and concurrently, fraught with misinformation. To be clear, ICE is not asking New York City to conduct immigration enforcement or change the manner in which NYPD performs its duties. Rather, we only seek your assistance with providing timely notice to ICE when removable criminal aliens are going to be released back into your community and when necessary, holding them for a very short period for ICE to take custody. We will use our authorities to keep them off your streets, where they may reoffend, and help you keep New York City safe.

In FY 2019, the ERO New York City field office issued 7,526 detainers on subjects associated with 6,705 criminal charges and 17,873 convictions; the subjects of these detainers had criminal histories including, but not limited to, more than 3,500 assaults, 1,500 DUIs, 1,000 sex crimes, 1,000 weapon offenses, 500 robberies, and 200 homicide offenses. However, ICE’s data show that during the same time period, at least 4,000 detainers were declined, and our local leadership advises that New York City actually honored just 25 detainers. While recently you have suggested that ICE has attempted to do nothing but sow division and spread lies, going so far as to characterize our agency as “illegitimate,” the data does not lie. For the good of the communities we are sworn to serve, I implore you to cease the inflammatory rhetoric which does nothing to help the people of your city, and instead, work with us for the greater good of all. There should be nothing divisive about ICE exercising its federal law enforcement authority on the exact same individuals upon whom NYPD has exercised its own authority.

Although it has been suggested that immigrant communities are less apt to report crime and that victims of crime may be swept up by ICE if New York City cooperates with us regarding criminal aliens already arrested by NYPD, nothing could be further from the truth. By keeping criminal aliens off the street, ICE prevents the very releases recently highlighted by Commissioner Shea, making communities safer. Moreover, a lack of cooperation by local officials does not prevent ICE from continuing to arrest and detain criminal aliens in a community; rather, it requires us to increase our presence to locate and apprehend those individuals in their homes, places of work, or in public, where we may encounter other individuals who are removable from the United States under federal law. Unfortunately, our efforts will never be as successful in keeping these criminal aliens off the streets as cooperation from New York City would.

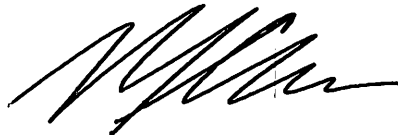
² Anthony M. DeStefano, *Bail reform law spikes crime in New York City, NYPD commissioner says*, NEWSDAY, Jan. 24, 2020, <https://www.newsday.com/news/new-york/nypd-bail-reform-crime-increase-1.40972335>.

A key part of this agency's mission is to protect the public by preventing criminals from committing more crimes. Our officers are empowered and expected to exercise appropriate discretion when making enforcement decisions during encounters with aliens who are victims of or witnesses to a crime, including domestic violence. Similar to other law enforcement agencies, ICE officers are trained to consider the unique circumstances of each case when conducting an enforcement action. Further, ICE has particular tools it can utilize to actually assist crime victims and allow them to remain lawfully in the United States. However, any suggestion that cooperating with ICE will lead to the arrest of crime victims is a blatant falsehood. The individuals we seek your assistance in keeping off the streets are the *perpetrators* of crime in your city's custody, and not those who have been victimized by criminal aliens. In the vast majority of cases, we don't even know who the victim is.

Additionally, it is important to understand that it is safer for everyone if ICE takes custody of a criminal alien in the controlled environment of another law enforcement agency, as opposed to at an alien's residence, place of work, or other public area. Arresting a criminal alien in the safety, security, and privacy of a jail is always the best option.

Strong working relationships with our state and local partners are critical to ICE's public safety mission, and we have proven they work, even in New York City. For example, ICE, along with many of its federal and local partners has arrested more than 373 criminal gang members in the New York area in just the past year. ICE Homeland Security Investigations also seized 6,487 pounds of narcotics, made 149 arrests of individuals who committed crimes of child exploitation, and rescued or identified 105 victims of human trafficking or child exploitation in New York during that same period. Given the essential public safety goal that I know you and I share, I request that you reconsider the range of ordinances, orders, practices, and policies that New York City has put in place that make it harder for the law enforcement officers who serve both New York City and ICE to carry out their respective duties. Should you wish to discuss this matter directly, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Albence', with a stylized, flowing script.

Matthew T. Albence
Acting Director