Our communities are increasingly threatened by deportation—which in almost all cases is permanent exile. The U.S. has deported more people in the past 10 years—over 3 million—than in the preceding 110 years combined. The government increasingly uses the criminal legal system—most notably the police and jails—to identify people that they funnel into a unjust mass deportation system. Collaboration between police and jails and immigration has expanded rapidly, with very little scrutiny, despite the well-documented problems with the criminal legal system, including the discriminatory policies and policing practices that fuel it.

One devastating example is Immigration and Customs Enforcement (ICE) “Secure Communities” (S-Comm) program. Under S-Comm, when police collect fingerprints at booking, this information is sent to ICE via the FBI. This allows ICE to rapidly identify potential deportees, and issue a detainer request (a request that the police detain this person for ICE to pick up after release from criminal custody) or apprehend this person at home, work, at court, or elsewhere. After being picked up by ICE, these people are often locked up in detention centers in remote locations, with severely limited access to lawyers, medical care, family, witnesses, and evidence to defend against deportation. Many jurisdictions have stopped detaining immigrant residents on behalf of ICE to ensure that the City is acting within the confines of its legal authority and not subjecting itself to liability. We call on the City to end all collaboration with ICE. We cannot allow ICE to undermine decades of advocacy to end violence in our communities.

The following stories focus on the impact on survivors of domestic, intimate partner and trafficking violence, LGBTQ people, and/or sex workers—groups already susceptible to gender policing, surveillance and other harmful interactions with law enforcement. Based on actual cases, these stories remind us that ICE’s presence in local law enforcement places individuals at an increased risk for detention, deportation, and other forms of violence. The police should not play a role in limiting survivors’ options in attaining safety and accessing resources by collaborating with ICE’s deportation regime. Funneling abusers into the deportation system severely undermines survivors’ agency in making their own safety determinations. These stories illustrate how there is no place for ICE collaboration with the criminal legal system.

Jessica fled to the U.S. to escape a violent relationship and family. Jessica shoplifted and has received three convictions for petty larceny. Jessica later married Daniel, a U.S. citizen, who also abused her. Upon return from Brazil where Jessica traveled to see her ill father, she was put in deportation proceedings because of her petty larceny convictions. Her immigration attorney never pursued a VAWA self-petition application even though she told him about her abuse, and she was ordered deported. Jessica tried to piece her life back together but continued to find herself caught in the criminal legal system. One evening, the police stopped her while she was driving her drunk cousin. She panicked, refused to take the breathalyzer test, and the officer arrested her. Fearing extended separation from her children, Jessica pled guilty to driving while under the influence on her attorney’s advice. While in the criminal legal system, Jessica was never identified as a survivor nor was she ever advised of the immigration consequences of her pleas.

Jessica recently became a priority target because of her prior deportation order and convictions and ICE agents searched for her for months at her previous jobs and addresses. She was mandatorily detained in an Alabama facility. Jessica was not able to access the highly specialized attorneys that she needed to successfully fight her detention and deportation. She was deported and is now separated from her three children and exiled to a country she fled to escape abuse after 20 years in the U.S. ICE uses the words “fugitives” and “criminals” to provide the political justification for its mass deportation agenda. ICE’s presence in the criminal legal system allows it to easily and neatly deport hundreds of thousands in the name of “public safety” without scrutiny. Survivors with prior orders of deportation (“fugitives”) and/or prior convictions (“criminals”) are especially vulnerable.
Clara has been physically, sexually, emotionally and verbally abused by her former U.S. citizen boyfriend. He hired someone to break into her home to intimidate her and a private investigator to track her activities. Clara is the cooperating witness in two criminal cases pending against him and the petitioner in a pending family court order of protection case. The abuser’s mother, in retaliation, falsely accused Clara of credit card fraud. Despite Clara’s efforts to report her abuser and to seek protection, the police arrested her without investigation based on the mother’s allegation. At booking, the police sent her fingerprints to the ICE database under S-Comm. ICE identified her as deportable as she overstayed her visa and lodged a hold request against her. At arraignment, Clara was eligible to post bail but the judge did not permit her to do so because of the hold request. Clara was frantic as she has a young child and was emotionally and physically at her breaking point. Unlike most others, she had a legal advocate when this retaliatory arrest happened who presented ample evidence of the violent history in the relationship to get the hold request lifted. Many survivors do not have evidence or access to suitable legal resources.

Survivors of trafficking are often arrested for activities stemming from their subjugation. Rarely identified by police and prosecutors, they often do not assert themselves because of trauma and social stigma. Advocates pushed New York to develop an extensive statutory scheme to protect trafficking survivors. ICE presence in the criminal legal system severely undermines these efforts by interfering with access to benefits under these laws.

Mary is a survivor of human sex trafficking from Poland who overstayed her tourist visa when she came to visit her parents in the 1990s. She was trafficked by her intimate partner for over fifteen years. Mary suffers from a mental illness that was not diagnosed until she was in her twenties. She first began using drugs as a coping mechanism and later as a way to be able to continue performing commercial sex acts. Before S-Comm’s implementation, she was arrested numerous times and convicted of numerous controlled substance offenses. But she was always released from criminal custody. After S-Comm’s implementation, Mary was arrested for allegedly trespassing at a New York City Housing Authority building. ICE almost immediately dropped a hold request to initiate deportation proceedings against her. Although the charges against Mary were going to be dismissed, she could not get out of jail by posting bail because if she did the City would turn her over to ICE.

Mary’s public defender identified her as a possible trafficking victim and reached out to an immigration attorney to see if she could qualify for immigration relief. Mary had to remain incarcerated the ENTIRE time that her immigration attorney was working on her case because she faced the risk of being detained by the immigration authorities as a result of the hold request. Mary did not want to take this risk for many reasons and her advocates feared she would have less access to the medical attention she needed in immigration detention. Working on her application while incarcerated was no easy task for Mary. She spent countless hours reliving horrible experiences in a tiny, cramped interview room with no one to talk to afterwards to help her professionally deal with the trauma she had disclosed.

Mary spent three months more in jail than she should have because of the ICE hold request. Through tremendous advocacy and effort, her immigration attorney filed an immigration application for her as a victim of human trafficking and convinced ICE not detain her but instead to allow her to pursue the mental health and medical treatment she desperately needed while her case was pending. Today, she receives drug treatment, mental health services and job training while she awaits the outcome of her immigration application. Mary is also seeking to vacate her convictions under New York State’s “Vacating Convictions Law.”
Two transgender women were walking home one night and were assaulted by a man who had previously attacked them. They fought back in self-defense. The police refused to interview any witnesses and arrested only the women despite their statements to the contrary. They were charged with felony assault and received ICE hold requests. Both women were trafficking victims and neither had any prior convictions. Both women experienced repeated physical and sexual violence while incarcerated. They are now both fighting their deportation cases and fear serious abuse in Mexico because of transphobic violence they experienced there.

LGBTQ non-citizens are often arrested in self-defense scenarios when they are defending themselves against homophobic or transphobic violence.

Laura is a transgender woman from Colombia. The U.S. granted her asylee status in 2004 because of the extreme abuse and harassment she endured by the Colombian government due to her gender identity and sexual orientation. In 2008, she got into an abusive relationship, and she called the police. When they arrived, her abuser told the police that she assaulted him first and that she had a knife. The police asked her if this was true and then for her ID. They then asked her why she had an “M” gender marker on her passport. She told them she was a transgender woman. They arrested her and charged her with felony assault. At her arraignment, she took a plea to misdemeanor assault because she feared abuse in jail. ICE identified Laura while in Rikers and she is currently fighting her deportation.

People face enormous pressure to accept pleas, which may have immigration consequences, and LGBTQ people, especially those who are transgender, often face additional pressure due to gender-related abuse.

Teresa had been living in the U.S. for over ten years when she married her citizen husband Zack. They had a baby girl named Natasha. Zack became physically, emotionally and economically abusive. One day, Teresa was arrested for shoplifting and sent to Rikers. Teresa had a prior deportation order (she was identified by ICE when previously convicted of criminal contempt based on false allegations by her former abuser) but never left the country. Although the charges in the shoplifting case were dismissed, Rikers still transferred Teresa into ICE custody. ICE sent her to detention in Texas even though her four-month-old daughter Natasha, who remained in New York, was still nursing. Zack then initiated a custody case against Teresa. Her time in detention was extremely traumatic because she could not easily obtain counsel and could not physically appear in family court on her child’s custody case. If her country’s embassy had not intervened with ICE to have her released from detention, Teresa’s due process rights to litigate custody of her child would have been violated. She is back with her child, under ICE supervision, fighting her deportation back to Mexico. Although Teresa now has custody of Natasha, she requires Zack’s consent (which he will not provide) to bring Natasha with her if deported.

ICE’s presence in the criminal legal system makes it extremely difficult for parents to exercise their rights. Immigration detention isolates survivors with children, substantially diminishing their ability to reunify with them and obtain needed resources and support.
Lourdes came to the U.S. in 1999 from Peru and was deported when crossing at the border. As part of the expedited removal process, she was fingerprinted. She reentered and later met her abuser, a U.S. Citizen, and they have two young children. Her abuser always used her immigration status as a threat to maintain power and control. Although they separated years ago, Lourdes’ abuser still wanted to have a relationship. When she refused, he made false allegations to the Administration for Children’s Services (ACS) in 2011 that she was abusing their children. During the ACS investigation, Lourdes disclosed that he had been threatening to get her deported and take custody of their children. She told ACS about the time that he called the police and based on false allegations, she was charged with assault and harassment. ACS referred Lourdes to domestic violence services and instructed her to go to Family Court to obtain an order of protection. ACS closed the case because they could not substantiate the allegations of abuse and she was seeking appropriate services. Yet, Lourdes was forced to drop her order of protection case when she found that using the family court system only escalated the abuse.

Lourdes continued to try to only deal with her abuser on issues involving the children. But when she refused his sexual advances again, he made a series of false allegations to the NYPD resulting in her arrest in 2013 on assault, harassment, and menacing charges. Because the NYPD sent her prints to DHS via S-Comm, ICE issued a hold request. Because of her prior removal order and her pending assault charge, Lourdes did not qualify for release at arraignment under New York’s detainer discretion law. So she remained at Rikers for four months to avoid being taken into ICE custody.

Lourdes was incredibly distraught at being separated from her children while at Rikers. There, she met another survivor whose immigration attorney was working to obtain a U certification for her. Lourdes has no idea what this was but begged for the immigration attorney’s number and frantically tried to reach her. With immigration representation, Lourdes was eventually able to obtain a timely U certification from ACS which was instrumental in advocating that ICE not take custody of her on the completion of her criminal case. On being shown credible evidence that Lourdes was in fact a domestic violence survivor whose abuser used the legal system in a retaliatory manner against her, the District Attorney dismissed Lourdes’ case ahead of schedule. Lourdes is working on her U application to fight her immigration case.

The day after she was released from Rikers, her batterer called the police to make a false complaint against her. Unfortunately, the NYPD system still showed a valid order of protection in place against Lourdes even though it had technically been dismissed by the criminal court the previous day. The police officers assigned to the case insisted that she had to be arrested. They refused to acknowledge the court evidence that the case had been dismissed when it was provided by the public defender and even when the district attorney made a call to explain that there was no legal basis for the arrest. Lourdes was distraught at the thought of being arrested again, especially because the risk of going into ICE custody. It took several weeks for the warrant against her to be vacated.

During this time, she feared going to family court for fear of being arrested on the warrant and this led to a one month delay in filing for custody of her children. Since Lourdes’ abuser had physical custody of the children during her incarceration, he took the opportunity to file for custody in family court. He has been granted temporary custody while the case is being litigated in family court. Even if she is granted custody, her abuser would most likely end up with court ordered visitation with their children. This means that she would require his consent to take them back to Peru with her if deported, which is unlikely given the ongoing history of abuse.