



December 5, 2018

Dear Members of the Sentencing Commission,

My name is Ana María Rivera Forastieri, I am the co-director of the Connecticut Bail Fund, a grassroots community organization working to reduce the harms of mass incarceration, deportation, and homelessness, while building power among those most directly impacted. I am writing in *support* of an Act Concerning Misdemeanor Sentences.

We operate two community bail funds, one in the pre-trial context and one in the immigration context, which gives us an opportunity to engage regularly with individuals facing criminal charges and deportation. We also practice an organizing model called “Participatory Defense” which involves a weekly meeting where people fighting criminalization and/or deportation are able to strategize about their cases, build community, and regain some power in the process. Some of the hardest cases that come before us are those of people that could be facing serious immigration consequences if they are convicted of the charges they are accused of. Many of the people that I have worked with throughout the years have ultimately been deported.

I want to describe to you some of the additional hurdles through which someone who is not a citizen (whether they are undocumented or not) has to jump if they have any contact with the criminal legal system. First, if someone is arrested, their first hurdle is to try to avoid contact with Immigration Customs Enforcement (ICE) at the lockup or jail if and when their bond is posted. Despite advances in the legislature, law enforcement and DOC continue to illegally hold people for ICE. If the person does manage to post bond or get released on a Promise to Appear, their next hurdle is avoiding an arrest in court. Judicial Marshals continue to cooperate with ICE, so even when a judge determines that the person should be released on a Promise to Appear or a bond is paid in court, the Marshals can still hold the person. If the Marshals do not hold the person, they still risk arrest every time they show up to court because ICE has ramped up its courtroom arrest efforts. (A study in NYC released in 2017 stated that arrests have increased by %1100.) Then, the person can try to work with their attorney either to fight the charges or to negotiate the charges being reduced to achieve a maximum sentence of 364 days or less.

After the criminal legal process is over, if the person is apprehended, they are at serious risk of deportation because of the way federal immigration law defines two terms: 1) crimes involving moral turpitude; and 2) aggravated felonies. A large number of Connecticut misdemeanor convictions (mostly theft offenses, fraud, forgery, etc.), because they carry a maximum possible sentence of at least one year, are considered crimes involving moral turpitude, rendering the individual deportable—regardless of the actual sentence the judge or the jury determines is appropriate. Moreover, non-citizens who are sentenced to a year in jail are subject to mandatory detention and deportation. This is because federal law deems convictions of a year or more “aggravated felonies”, regardless of whether the judge suspends the sentence entirely and the



individual serves 0 days in jail. This also makes the non-citizen ineligible for almost all forms of immigration relief (including asylum, U-visas, and cancellation of removal).

Connecticut has made some progress in differentiating itself from other states by protecting our immigrant communities from the violence of the federal government. We have passed several laws and policies that protect basic human rights, we have welcomed refugees fleeing violence and persecution, and we have passed laws to decrease the cooperation between law enforcement and ICE. We have done this because we know it is not in the best interest of our community to advance ICE's hunting agenda. But, as you can see from my testimony, we have a long way to go. If we are truly going to be a welcoming state, one that abides by the rights and principles of due process and equal protection of the law, we need to do better.

This proposal was raised in the Judiciary Committee of the legislature in 2018 and received widespread bi-partisan support. It is a simple yet impactful step that we can take to make access to justice real for immigrant communities. We recognize that it will not prevent ICE from continuing to tear apart communities. But it is a start. I urge you to support this proposal.

Thank you for your time and consideration.

A handwritten signature in black ink, appearing to read "Ana María Rivera Forastieri". The signature is fluid and cursive, with a large initial "A" and a long, sweeping tail.

Ana María Rivera Forastieri