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TESTIMONY IN SUPPORT OF SB88/HB304
State and Local Government- Participation in Federal Immigration Enforcement

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Joanna Silver

My name is Joanna Silver and I live in District 18 in Silver Spring, Maryland. I write in support of Senate/House Bill SB88/HB304, State and Local Government- Participation in Federal Immigration Enforcement, from a variety of perspectives.

First, I am a parent of a school-aged child whose schools in Montgomery County have had significant populations of immigrant families. My child is fortunate to learn alongside children from diverse backgrounds with diverse experiences. The success of my child's school, and thus my child's own educational experience, depends on the safety, security, and well-being of all of the children in his community. Children cannot be successful if their families do not feel safe and secure. For this reason, I urge you to support SB88/HB304.

Second, I am a leader with Jews United for Justice and a member of the Community Social Action Council of Temple Emanuel in Kensington, Maryland. A cornerstone of my religious observance is Tikkun Olam, the idea that Jews have an obligation to repair the world. Jewish tradition is also rooted in the commandment that we welcome the stranger, for we were strangers in the land of Egypt. These core principles animate my fervent belief that our State has an obligation to welcome the stranger and to refuse to be complicit in the enforcement of policies based on fear, hatred, and distrust. For this reason, I urge you to support SB88/HB304.

Third, I am a member of the Takoma Park Mobilization Equal Justice Committee. Our members live throughout Montgomery County and we advocate for the safety and well-being of our immigrant neighbors throughout the county. We know that our immigrant neighbors live in fear and that this fear hampers their ability to access services to which they are entitled and to assist law enforcement in making our entire community safe. We also know that immigration enforcement at the state and local level diverts essential resources from the public safety needs of our community. And, we know that jurisdictions around the country that refuse to cooperate with ICE have lower crime rates and stronger economies than jurisdictions that assist ICE in its civil immigration enforcement activities. Trust between law enforcement and the community makes everyone safer. For this reason, I urge you to support SB88/HB304.

Finally, while I offer my testimony in my personal capacity, I have spent the past 17 years working as an Assistant Federal Public Defender in the District of Maryland and I specialize in the intersections between criminal and immigration law. From this experience I can share a few relevant observations.

The most populous jurisdictions in Maryland have already enacted policies prohibiting law enforcement from detaining an individual at the request of ICE without a judicial warrant or notifying ICE if they encounter someone who is suspected of being in violation of our federal immigration laws. Despite this, my office's caseload for the offense of illegal reentry into the United States – a criminal offense investigated by ICE -- has increased significantly over the past few years. This increase is not due to an increase in the number of illegal reentries into the United States, but rather to the fact that ICE has prioritized its own resources to identify, investigate, and detain individuals who are here unlawfully. Over the past two years, I have personally represented several individuals who were released from our local detention centers and then arrested by ICE in the community, placed in deportation proceedings, then charged with illegal reentry. ICE has demonstrated time and again that it does not need the assistance of our local law enforcement officers to do its job.

These community arrests arise because immigrants charged with or convicted of crimes in Montgomery County usually have the same strong ties to our community as US citizens; they are usually arrested by ICE at their homes, with their families, or on their way to work. In addition to using their civil arrest powers to executive administrative immigration warrants, it is not difficult for ICE to obtain a judicial warrant if there is probable cause to believe an individual has committed a federal criminal offense. ICE can alert the United States Attorney's Office (USAO) to the suspected presence of a suspect in the community, the USAO and the ICE agent can present a criminal complaint to a Federal Magistrate, who can in turn issue a warrant; there is a "duty" Assistant United State Attorney and a "duty" Magistrate judge on call at both federal courthouses in Maryland every business day. Similarly, the USAO can convene a grand jury to obtain an indictment, which can also be the basis of a judicial warrant. As with any suspected offense, once an arrest warrant is active, it will be apparent to any local law enforcement officer who runs an individual for open warrants.

If ICE has probable cause to believe an individual violated a criminal law, it can get a judicial warrant; if it does not, it should not be permitted to circumvent the Fourth Amendment by asking a local law enforcement or corrections officer to detain someone. Our state should not be complicit in this violation of a fundamental right that exists for the benefit of all of us and, thus, must be enforced for all of us, regardless of our immigration status. For this reason, I also urge you to support SB88/HB304.

As a parent, as a member of the Jewish community, as an activist, and as someone with professional knowledge of ICE's capacity to carry out federal policies without this State's assistance, **I respectfully urge you to support SB88/HB304.**