



Brooklyn Defender Services
177 Livingston St, 7th Fl
Brooklyn, NY 11201

Tel (718) 254-0700
Fax (347) 457-5194
info@bds.org

TESTIMONY OF:

Josh Epstein

Director of Immigration Practice, Queens Office

BROOKLYN DEFENDER SERVICES

Presented before the New York City Council

Committee on Committee Immigration

**Oversight Hearing Examining the Executive Order 13 of 2026 Report of Audit Findings
and Recommendations.**

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My name is Josh Epstein, and I am the Director of the Immigration Practice at Brooklyn Defender Services' (BDS) Queens Office. BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation, and other serious legal harms by the government. I want to thank the Committee on Immigration and Chair Encarnacion for holding this hearing on the findings and recommendations following the Executive Order 13 audit of city agencies which assessed implementation of and compliance with New York City's sanctuary laws.

Brooklyn Defender Services' Immigration Defense

For 30 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. After 29 years of serving Brooklyn, we expanded our criminal defense services to Queens. We represent over 40,000 people each year who are accused of a crime, facing the removal of their children, or facing deportation. Our staff consists of attorneys, social workers, investigators, paralegals and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with the educational needs of our clients or their children, housing and benefits advocacy, as well as immigration advice and representation.

BDS' Immigration Practice has counseled thousands of clients in immigration matters, including deportation defense, affirmative applications, advisals, and immigration consequence

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consultations in the criminal court system. Our *Padilla* team attorneys are criminal-immigration specialists who provide support and expertise on thousands of cases, including advocacy regarding enforcement of New York City's detainer law, individualized immigration screenings, and legal consultations. Since 2013, BDS has provided removal defense services through the New York Immigrant Family Unity Project (NYIFUP), New York's first-in-the-nation assigned counsel program for detained New Yorkers facing deportation. BDS also regularly litigates immigration cases in U.S. federal courts, including habeas petitions seeking release from unlawful detention and petitions for review before U.S. circuit courts.

BDS works at the intersection of the criminal legal, family court, and immigration legal systems. We witness everyday how interactions with these systems expose immigrant New Yorkers to unequal treatment as they often lead to double punishment because of the negative immigration consequences they often carry even after the local matters are resolved. Even minor offenses, often the result of biased policing, can lead to mandatory incarceration in Department of Homeland Security (DHS) detention facilities, or permanent separation from family and exclusion from this country because of the entanglement of the criminal or family legal systems and our federal immigration laws.

New York City's Sanctuary Laws

New York City has long been recognized as a sanctuary city for immigrants and people arriving in the United States. As deportation defense advocates, we know that New York City's sanctuary laws are an essential tool to protect immigrant New Yorkers and their families from the increasingly cruel and severe harms that result from an arrest by ICE. Immigration enforcement has always been devastating, but the harms faced by our noncitizen neighbors trapped in the detention and deportation dragnet today are more extreme than in recent history. The increase of federal agents in NYC not only creates fear in New Yorkers regardless of immigration status but also increases the likelihood of violent arrests and unlawful immigration detention.

The City Council has taken steps to prevent overreach of civil immigration enforcement and keep immigrant New Yorkers safe. In October 2014, the Council passed groundbreaking legislation (detainer discretions laws) that removed ICE from Rikers Island and prevented the New York City Department of Corrections (DOC), the New York City Police Department (NYPD), and the Department of Probation (DOP) from unlawfully detaining non-citizens without a judicial warrant. These detainer discretion laws were intended to prevent non-citizens detained in DOC and NYPD custody from being transferred to immigration detention. Additionally, last year the Council passed the Safer Sanctuary Act which prohibits ICE or any federal immigration enforcement agency from creating an office on Rikers Island. The interpretation and implementation of these laws has not been without flaws.

For example, at an oversight hearing before the Council in February 2023, DOP testified that it interprets the 2014 detainer discretion laws to contain a loophole which allows DOC to notify the Department of Homeland Security (DHS) of an individual’s release based on a finding of “dangerousness,” as established by a recent criminal conviction for one of the enumerated offenses, or inclusion on the FBI’s terrorist watch list.¹ Unlike a request to detain an individual beyond the time they would otherwise be released to allow for ICE transfer, which can be honored by DOC only when there is both a finding of dangerousness and a judicial warrant, notification alone, under DOC’s interpretation, does not require a judicial warrant. Once ICE is notified of the person’s impending release, ICE can and does go to the DOC facility and take custody of the person directly from DOC.

In addition to interpretation concerns, two reports by the New York City Department of Investigation (DOI) last year highlighted incidents in which the city’s sanctuary laws were violated. The September 2025 report found a DOC employee had violated city sanctuary laws and DOC policy by sharing information on two people in DOC custody with federal civil immigration enforcement.² The second DOI report from December 2025, entitled *DOI Investigation into the NYPD’s Compliance with Local Laws Restricting City Assistance with Immigration Enforcement*³ highlighted a concerning incident in which an NYPD officer improperly assisted federal immigration enforcement by using NYPD resources. In addition to individual violations, these reports highlighted broader systemic problems—including unclear policies, insufficient training, and failures in tracking and documenting interactions with federal immigration authorities.

Executive Order 13: Reinforcing NYC’s Sanctuary Laws

In February 2026, Mayor Mamdani signed Executive Order 13 (EO13) which compelled six New York City agencies to audit their policies and practices related to interactions with federal immigration authorities.⁴ EO13 was intended to ensure that New York City’s sanctuary laws are meaningfully implemented across all agencies by requiring clear guidance, training, and accountability when city employees interact with federal immigration authorities.

¹ New York City Council Hearing “Oversight - New York City’s Detainer Laws,” Committee on Immigration Jointly with the Committee on Criminal Justice, February 15, 2023, 10:00 AM, meeting video available at <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=1078800&GUID=54D0B5D1-9B0B-4A5DB7C3F6E67806FBC5&Options=info%7C&Search=#>

² Department of Investigation reports available online here <https://www.nyc.gov/site/doi/newsroom/public-reports-2022-2025.page>

³ Department of Investigation, DOI Investigation into the NYPD’s Compliance with Local Laws Restricting City Assistance with Immigration Enforcement, December 2025, <https://www.nyc.gov/assets/doi/reports/pdf/2025/49NYPD.SancLawsRelease.Rpt.12.03.2025.pdf>

⁴ Office of the Mayor, Executive Order No. 13, February 6, 2026, <https://www.nyc.gov/mayors-office/news/2026/02/executive-order-13>

We are grateful to the mayor and the city for taking tangible steps to ensure that our sanctuary laws are properly implemented and followed. We want to express our thanks to the EO13 Interagency Response Committee (IRC) for their invitation to discuss our concerns and the harmful immigration consequences that may arise for New Yorkers with family court or criminal legal system involvement.

EO13 Audit Findings and Recommendations

On May 22, 2026, the Office of the Mayor released a report on the Executive Order 13 audit findings and results.⁵ The Administration for Children’s Services, DOC, DOP, Department of Health & Mental Hygiene (DOHMH), Department of Social Services (DSS), and NYPD all completed the EO13 audit as mandated, and NYC Health + Hospitals (H+H) participated voluntarily and the Department of Education initiated their own audit.

The report highlights the increased presence and activities of federal immigration authorities in New York City, including ICE, Homeland Security Investigation (HSI), FBI, and Drug Enforcement Agency (DEA). Strikingly, the report highlights instances in which federal agents misrepresent themselves to gain access to places like city shelters, claiming in one case to be member of the NYC Fire Department as well as lying about the type of warrant they had in order to gain entry. The report also found a 120% increase in civil immigration detainer requests in 2025. Per the report, only 24 of the 3,672 detainer requests were authorized under city law.

BDS Recommendations

NYPD

We thank the IRC for reviewing the data sharing agreements between DOC and NYPD and their third-party technology vendors. We appreciate the recognition that relying on outside vendors in an era of mass data accumulation by big tech companies and the federal government carries serious risks for immigrant New Yorkers and all New Yorkers’ broader civil rights and liberties. We are also glad the Interagency Response Committee will continue reviewing contracts and data sharing agreements between city agencies and third parties, including agencies’ compliance with the city’s Identifying Information Law,⁶ and we are grateful that the IRC plans continued audits of the emails of NYPD officers who are on interagency task forces with federal partners for compliance with sanctuary laws.

⁵ Office of the Mayor, Executive Order 13 Audit Report of Audit Findings & Recommendations, May 22, 2026, <https://www.nyc.gov/content/dam/nycgov/mayors-office/downloads/pdf/press-releases/2026/EO-13-Report-of-Audit-Findings-and-Recommendations.pdf>

⁶ Administrative Code §§ 23-1201

In addition to audits of NYPD's email system, we urge the Mayor's Office and Interagency Response Committee to also review NYPD's policies regarding audits of the Department's surveillance systems and databases housed within the Domain Awareness System (DAS). DAS is NYPD's surveillance platform and serves as a hub for aggregating data under NYPD's control. DAS houses data from live CCTV feeds and automated license plate readers, as well as biometric data, social media reports, and records of any New Yorker who has come into contact with NYPD or other city agencies, among other tools. Despite DAS's vast scope, the system's privacy and security controls have not been comprehensively updated since they were published in 2009.⁷ DAS has only been independently audited once, by the NYC Comptroller in 2015.⁸ In response to that audit, the NYPD adopted a policy requiring their Integrity Control Officers to review the DAS usage of just five department members per month, chosen at random.⁹ For a department of roughly 30,000 officers, this auditing schedule is woefully insufficient, particularly for a system NYPD itself describes as "one of the world's largest networks of cameras, license plate readers, and radiological sensors."¹⁰ However, when BDS submitted a FOIL request for these audit results in August 2020, we were told nothing existed. That FOIL litigation continues and we look forward to NYPD providing us with any documentation that they have complied with their own audit policy. The risk posed by allowing NYPD to maintain such insufficient safeguards on a system as massive as DAS, which synthesizes billions of datapoints, is particularly acute in the immigration context, where information may be informally shared simply by accessing the system, and where broader federal information-sharing systems are already in place. Arguably a system of this scale should not be accessed without a warrant, but here we have a situation where potentially 50,000 NYPD personnel have completely unregulated and unaudited access to this massive amount of data and CCTV networks. The risk of unauthorized leaks to immigration enforcement is enormous, and yet without meaningful usage audits, those disclosures would remain entirely hidden.

The NYPD's gang database is a striking example of a harmful collection of data that carries immense risk, particularly for immigrants. Oversight bodies, researchers, and community members have long documented that the database overwhelmingly targets Black and Latine youth.¹¹ The criteria used to justify placement, such as alleged "self-admission" pulled from social media or proximity to others similarly labeled, are unscientific, pretextual, and racially coded. Inclusion in the database does not require a criminal conviction, an arrest, or even

⁷ NYPD, Public Security Privacy Guidelines, April 2, 2009, Available online at https://assets.nyclu.org/public_security_privacy_guidelines.pdf

⁸ New York City Comptroller, Audit Report on the Information System Controls of the Domain Awareness System Administered by the New York City Police Department, June 26, 2015, <https://comptroller.nyc.gov/reports/audit-report-on-the-information-system-controls-of-the-domain-awareness-system-administered-by-the-new-york-city-police-department/>

⁹ *Idib.*

¹⁰ *Technology*, NYPD, <https://www.nyc.gov/site/nypd/about/about-nypd/equipment-tech/technology.page>.

¹¹ See, e.g., Office of the Inspector General for the NYPD, *An Investigation into NYPD's Criminal Group Database*, April 2023, <https://www.nyc.gov/assets/doi/reports/pdf/2023/16CGDRpt.Release04.18.2023.pdf>

reasonable suspicion of criminal activity. Once a person is designated as a gang member by the NYPD, they have no means to challenge that label in court or elsewhere. This “gang” designation often results in higher bail amounts, increased pre-trial incarceration, and the inability to access much needed programming. Even if a person’s charges are dismissed or they complete a sentence, their name remains in the database, leaving them vulnerable to continued police scrutiny and abuse. A December 2025 report reflected that the NYPD shared gang database information with Homeland Security Investigations through a gang task force, effectively treating the “gang” label as a justification to sidestep sanctuary limitations.¹² This risk of immigration detention for those who have been labeled as gang members is particularly acute after the recent designation of certain gangs as “terrorist organizations.”¹³ Moreover, young asylum seekers who are fleeing violence from gangs in their home countries are often themselves erroneously labeled as active gang members.¹⁴

Department of Corrections

In correctional settings, the use of digital surveillance technology also raises additional risks of data leaks that could lead to immigration enforcement in violation of our city’s sanctuary protections. The jail phone call systems operated by Securus, for example, not only records jail phone calls, but also stores voiceprints, a form of biometric data, on every individual who uses the system, including the family members, friends, community groups, or children of people experiencing incarceration. Securus also uses Threads, a platform designed to aggregate and analyze communications and then uses algorithms to track social networks in and outside of prisons and jails. Reporting has indicated that federal agencies, including DHS, previously had access to the data collected by Securus through the federally connected Fusion Center on Riker’s Island.¹⁵ We still have very little information on this Fusion Center and what data is shared with federal law enforcement through it.

¹² Chris Gelardi, More Than 5,000 People Are on a NY State Police Gang Database That’s Talking to ICE, *The City*, April 24, 2025, <https://www.thecityreporter.nyc/2025/04/24/gang-database-new-york-trump-immigration-enforcement/>.

¹³ Terrorist Designations of International Cartels - United States Department of State, <https://www.state.gov/terroristdesignations-of-international-cartels/>.

¹⁴ Melissa del Bosque, Faulty Information About Immigrants Can Lead to Family Separation and Denied Asylum Claims, Documented, December 13, 2022, <https://documentedny.com/2022/12/13/faulty-information-about-immigrants-can-lead-to-family-separation-and-denied-asylum-claims/>; Sarah Gonzalez, Undocumented Teens Say They’re Falsely Accused Of Being In A Gang, NPR, August 17, 2017, <https://www.npr.org/2017/08/17/544081085/teens-in-u-s-illegally-say-theyre-falsely-accused-of-being-in-a-gang>

¹⁵ Maurizio Guerrero, ICE May Still Have Massive Access to Rikers Island Data Despite City’s Sanctuary Status, Documented, July 2, 2025, <https://documentedny.com/2025/07/02/ice-may-still-have-massive-access-to-rikers-island-data-despite-citys-sanctuary-status/>; George Joseph & Debbie Nathan, Prisons Across the U.S. Are Quietly Building Databases of Incarcerated People’s Voice Prints, *The Intercept*, January 30, 2019, <https://theintercept.com/2019/01/30/prison-voice-prints-databases-securus/>.

To meaningfully audit and prevent unlawful data sharing with federal immigration authorities, we first have to know when and how that data is being accessed. Yet the NYPD has almost no information on the extent of unauthorized use of its own massive surveillance databases because it does not conduct meaningful audits of database access or usage. That is unacceptable as a matter of basic law-enforcement accountability, but it is especially troubling in a sanctuary city.

We cannot claim to have identified or stopped every leak of New Yorkers' information to immigration authorities when we have no reliable way of knowing who is accessing these databases, for what purposes, or whether that information is being shared outside authorized channels. This problem is compounded by the sheer volume of data that the city allows the NYPD and DOC to collect and retain about New Yorkers without a clear justification for its collection or use. If we allow local law enforcement agencies to amass troves of data about New Yorkers while asking minimal questions about who is accessing it, why, or how it is being used, we cannot meaningfully protect it from misuse—or credibly assure New Yorkers that their data is not reaching federal immigration authorities.

NYC Administration for Children's Services

These concerns extend beyond these carceral systems and include the Administration for Children's Services (ACS). The EO13 report found multiple instances of federal immigration officials contacting ACS to obtain information about children in ACS custody. We are pleased to learn that ACS has established an ongoing audit process to ensure sensitive immigration information, including legal status, is not included in reports its agency staff prepare to share with courts. We recommend that all staff continue to be trained not to inquire about or document legal status as part of their practice. We also urge ACS to train and require all quality assurance case reviewers to alert Immigration Services and Language Affairs (ISLA) when they find inappropriate reference to immigration status in case reports. These trainings should be repeated and updated as needed.

Another important area of vulnerability is the impact of orders of protections on immigrants and their families. The existence of an order of protection can have serious immigration consequences for an individual and their family. We urge ACS to strengthen its practice of reviewing determinations for seeking orders of protection, and where the safety of the children and/or caregiver can be met otherwise, to consider alternative safety measures.

ACS must develop and share protocols regarding ICE enforcement at ACS and foster agency buildings. Families and advocates should be advised of these protocols.

Finally, in this time of heightened federal immigration enforcement, including by unidentified agents, it is vital that ACS workers identify themselves clearly and ensure families are aware of their rights during the course of an investigation.

Legislative Recommendations for the Council

Immigrant New Yorkers are at significant risk of being separated from their families, communities, and jobs, and detained in jail-like conditions that cause rapid physical and mental health deterioration. Increasingly, people in immigration can be transferred anywhere in the country without the ability to seek a bond hearing. And it is now more likely that an ICE arrest and detention could result in deportation to a third country where a person has never been to, holds no status in, and could face dangerous or torturous conditions. The increase of federal agents in NYC not only creates fear in New Yorkers regardless of immigration status but also increases the likelihood of violent arrests and unlawful immigration detention. The city must take immediate steps to protect the rights of immigrant New Yorkers, expand immigration legal services, and ensure all New Yorkers know their rights. Additionally, the Council can pass common sense legislation to further strengthen the city's sanctuary policies.

Pass the NYC Trust Act

Brooklyn Defender Services supports the passage of the NYC Trust Act (Int. 209-2026), which will strengthen the enforceability of New York City's existing detainer protections. As described earlier in our testimony, ICE has been able to rely on communication practices at DOC, information-sharing within Probation, and shifts in executive policy to facilitate civil immigration arrests despite the framework the Council established in 2014. Int. 209 responds to these concerns by creating a private right of action, allowing individuals to seek judicial review when city agencies engage in cooperation or communication with ICE that violates municipal law. This mechanism reinforces the requirement that city agencies adhere to the statutory limits on civil immigration enforcement, regardless of internal interpretations or external pressure. By establishing a means of accountability, Int. 209 helps ensure that the protections set out by the Council are meaningful and that agencies cannot rely on informal communication channels or executive directives to circumvent the judicial-warrant standard. We support its passage and view it as an important step in ensuring that city systems do not serve as conduits for civil immigration enforcement.

Conclusion

BDS is grateful to the administration and to this council for its steadfast work to protect immigrant New Yorkers. We are also grateful to Chair Encarnacion for her leadership and for hosting this critical hearing. Thank you for your time and consideration of our comments. We welcome any opportunity to meet with this Committee and its staff to discuss the issues we've raised in our testimony. If you have any questions, please feel free to reach out to Anya Mukarji-Connolly, Managing Director, Policy & Advocacy at Brooklyn Defender Services, at amukarjiconnolly@bds.org.