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TESTIMONY OF:

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Committee on Immigration

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My name is Sophie Dalsimer and I am an Associate Director of the New York Immigrant Family Unity Project at Brooklyn Defender Services (BDS). 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. We want to thank the Committee on Immigration and Chair Elsie Encarnacion for the opportunity to testify today about the importance of robust sanctuary protections in our city.

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 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.

Since 2009, BDS has counseled thousands of clients in immigration matters, including deportation defense, affirmative applications, advisals and immigration consequence 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 and family court systems and the immigration legal system. 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.

State of Immigration Enforcement in New York City

For over a decade, the New York City Council has demonstrated leadership and support for immigrant New Yorkers through the funding of the New York Immigrant Family Unity Project (NYIFUP). NYIFUP–which has become a model of access to justice and inspired replication across the country–provides high-quality, client-centered direct representation to low-income detained New Yorkers facing deportation. 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 gravity of the situation for immigrants in New York City is almost beyond comprehension. Immigrant New Yorkers are at significant risk of being separated from their families, communities, and jobs, and detained in detention centers across the country that cause rapid physical and mental health deterioration. Our neighbors are being snatched off the street by masked, plainclothes Immigration and Customs Enforcement (ICE) agents or are being detained at the very courthouses they are visiting to abide by the legal process of the immigration system. 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.

In our practice, we see that ICE officers regularly deploy ruses to stop and detain New Yorkers on the street or forcibly gain entry into private spaces. Once stopped, many people are subjected to violent, aggressive and verbally abusive arrests often leaving them injured, and in some cases, permanently disabled. After arrest, ICE is rapidly transferring many New Yorkers to detention facilities across the country that are far from their families and access to counsel. Notably, this tactic undermines NYIFUP's ability to represent every detained New Yorker if they are transferred before we learn about them or if we are not able to access them once we do. Many of

the detention facilities have inconsistent and unreliable communication systems that further impede our representation.

Lack of access is just the beginning of the horrors that immigrant New Yorkers face in ICE detention. We frequently hear our clients report conditions that include freezing cold temperatures, blinding bright lights on at all hours, rotten food, unhygienic spaces, and consistent deprivation of medical care, leading many of our clients to face deteriorating physical and mental health conditions.

In the past, many of our clients were eligible for release on bond while they fought their cases but now the government is keeping most people detained without the possibility of bond, prolonging detention for months and even years unless and until we are able to secure release through complex federal court litigation.

When immigrant New Yorkers do manage to have their day in court, they must also contend with the federal administration's many new strategies to curtail due process in removal proceedings by preventing people fleeing persecution from applying for asylum, limiting the ability to appeal court case denials and firing immigration judges whose records are deemed too immigrant friendly.

Even when we win protection from deportation, ICE is keeping some of our clients detained while they seek to deport them to a so-called "third country" where our clients have never been before, hold no status or ties, and could face dangerous or torturous conditions. News report reveal that many people renditioned to third countries are eventually repatriated to their countries of origin where they have already demonstrated they will experience persecution or torture.[1]

Concerns highlighted in DOI Reports

Two recent Department of Investigation (DOI) reports[2] highlighted deeply concerning incidents in which New York City's sanctuary laws were violated by Department of Correction (DOC) and New York City Police Department (NYPD) officers. The reports also warned there may be additional instances of local collusion with federal immigration authorities that were not detected, as well as broader systemic problems, including unclear agency policies, insufficient training of agency staff, and failures in tracking and documenting interactions with federal immigration authorities that create an ongoing risk of improper cooperation. These reports should serve as a warning that city agencies are unable to uniformly comply with sanctuary laws

[1] American Immigration Council, *What are Third-Country Removals? Understanding their Use in U.S. Immigration Policy*, Dec. 5, 2025, https://www.americanimmigrationcouncil.org/fact-sheet/what-are-third-country-removals-factsheet/; Sarah Stillman, "Disappeared to a Foreign Prison," The New Yorker, Nov. 24, 2025, https://www.newyorker.com/magazine/2025/12/01/disappeared-to-a-foreign-prison.

[2] NYC DOI, *DOI Investigation into DOC Correction Intelligence Bureau Investigator Assisting Federal Agents with Immigration Enforcement*, Sept. 2025, https://www.nyc.gov/assets/doi/reports/pdf/2025/38DOC.Release.Rpt.09.25.2025.pdf; NYC DOI, *DOI Investigation into the NYPD's Compliance with Local Laws Restricting City Assistance with Immigration Enforcement,* Dec. 2025, https://www.nyc.gov/assets/doi/reports/pdf/2025/49NYPD.SancLawsRelease.Rpt.12.03.2025.pdf

that have been in place for a decade and that there is a clear need for increased guidance, training, and tightened data privacy.

This risk is particularly acute given the broader federal information-sharing systems already in place. Even where New York City limits direct cooperation with immigration enforcement, local law enforcement activity is already embedded in federal data systems. When a person is arrested, their fingerprints are automatically transmitted to the Federal Bureau of Investigation (FBI) and, through interoperable databases, shared with the Department of Homeland Security (DHS). This automatic data-sharing occurs nationwide and can trigger immigration enforcement, including home raids, the issuance of detainers, or the initiation of removal proceedings, regardless of how the underlying local case is ultimately resolved.[3]

In other words, routine contact with the criminal legal system—such as an arrest—can place individuals into the federal immigration enforcement pipeline, even in jurisdictions with strong sanctuary laws. In this context, any additional local data-sharing, surveillance, or failure to comply with sanctuary protections compounds the risk and increases the likelihood that New Yorkers will be exposed to immigration enforcement.

Address Critical Gaps in the Detainer Law

The New York City Council continues to be a leader in ensuring the protection of all New Yorkers. 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. However, given the intransigence of ICE's aggressive apprehension and detention policies, and the agency's enforcement priorities, years later, it is evident that our criminal legal system continues to cause non-citizens to be apprehended by ICE, as the vast majority of New York City residents detained by ICE have had contact with the criminal legal system. This is especially concerning given that more noncitizens in ICE custody are now subject to mandatory detention under the federal government's interpretation of 8 U.S.C. § 1225(b)[4] and the enactment of the Laken Riley Act.[5]

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[3] National Immigration Law Center, *How ICE Uses Databases and Information Sharing to Deport Immigrants* (Jan. 25, 2018) https://www.nilc.org/articles/how-ice-uses-databases-and-information-sharing-to-deport-immigrants/

[4] "Interim Guidance Regarding Detention Authority for Applicants for Admission," Available at https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (claiming all persons present in the United States without having been admitted shall now be subject to mandatory detention provision under § 1225(b)(2)(A) regardless of when or where a person is apprehended and affects those who have resided in the United States for months or years); *Matter of Yajure Hurtado*, 29 I&N Dec. at 229 (Sept. 5, 2025); *see also Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, ECF No. 87 at 3 (C.D. Cal.) (asserting the agencies are disregarding the district court's "declaratory judgment requiring bond hearings for the class").

[5] H.R.7511 - 118th Congress (2023-2024): Laken Riley Act

During an oversight hearing before the New York City Council in February 2023, DOC 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.[6] 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.

We understand that DOC believes this interpretation of the law allows it to effectively facilitate the transfer of such individuals to ICE custody and that DOC does not need to be provided with a judicial warrant in these instances. We disagree with this interpretation. More importantly, the intention behind these laws, however, was to ensure that New York City upheld the due process rights of its residents to protect them from the abusive overreach of federal civil immigration enforcement without judicial oversight. The city should not be denying New Yorkers this protection because of a criminal conviction. This protection takes on renewed urgency at a time when ICE seeks to detain more people in jail-like conditions while affording them less due process, and is actively seeking to deport people to third countries they have never been to.

The City Council should make clear that city agencies cannot communicate with ICE about an individual for the purposes of civil immigration enforcement without the presentation of a judicial warrant. The city cannot adequately protect New Yorkers, or uphold the detainer discretion laws, without upholding the requirement that ICE present a judicial warrant in interactions with City agencies about an individual for the purpose of civil immigration enforcement.

The enactment of the Safer Sanctuary Act (Intro 1412) in January amended existing detainer laws by clarifying previously ambiguous language. These revisions were designed to prevent inconsistent interpretations of the statute and to strengthen protections against the use of local government resources in federal deportation proceedings.

In addition to tightening NYC's sanctuary laws, city agency staff will benefit from additional training on how to ensure compliance with the laws. In our experience with DOC, for example, officers will frequently not accept bail or not release someone who has posted bail if there is an ICE hold on that person in custody. This misinformation can deter families from posting bail, unnecessarily prolong detention, and increase the risk of immigration enforcement. When this has come up for our office, we have found that the DOC staff are not intentionally trying to violate the law but rather do not understand the law and would benefit from in depth training to ensure compliance.

[6] 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-4A5D-B7C3F6E67806FBC5&Options=info%7C&Search=#

This Council should also augment New York City's detainer discretion laws - those harmed by violations of the law must have the ability to hold the government accountable. This needs to include the ability to enforce the law if or when it is not followed. Intro 209-2026 creates a private right of action for individuals who experience harm as the result of a violation of the detainer discretion laws.

Implement Executive Order 13 to Ensure Compliance with Sanctuary City Laws

Executive Order 13 is 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. However, the continued reporting of violations and the findings of oversight bodies make clear that these protections are not being consistently realized in practice.

A central concern is the persistent lack of understanding among city workers about what sanctuary laws require and what conduct is prohibited. Frontline staff are often placed in situations involving federal immigration authorities without clear direction. This confusion is not incidental—it is the result of agencies failing to provide adequate guidance, training, and internal protocols to ensure compliance.

Our experience representing New Yorkers reflects these gaps in implementation. As described above, we have encountered repeated situations in which Department of Correction staff unlawfully refuse to release individuals after bail is paid based on the mistaken belief that the existence of an ICE detainer requires continued detention, even where the individual is clearly protected under the city's detainer laws. Families are also frequently given incorrect information about the effect of ICE detainers. They are often told that bail cannot be posted, or that release will not occur, because of an "ICE hold." As a matter of law, an ICE detainer alone does not provide a valid basis for continued detention once a person has met the conditions of release. This misinformation can deter families from posting bail, unnecessarily prolong detention, and increase the risk of immigration enforcement.

These implementation failures are compounded by deficiencies in oversight and reporting. City law requires agencies to document and report interactions with federal immigration authorities, including under the detainer laws, yet it remains unclear whether all agencies are consistently complying with these requirements. Incomplete or inconsistent reporting undermines transparency and limits the City Council's ability to conduct meaningful oversight.

These concerns are further reinforced by public reporting. Media outlets, including Gothamist, Politico, the Associated Press, and The City, have documented multiple incidents in which city employees may have acted inconsistently with the city's sanctuary laws. Taken together, these findings demonstrate that, despite the existence of Executive Order 13, gaps in implementation, training, and accountability persist across agencies.

Surveillance and Database Concerns

New York City's sanctuary laws are intended to limit local involvement in federal immigration enforcement. However, the city's extensive data collection and surveillance systems create parallel pathways through which sensitive information can be accessed, shared, or misused in ways that undermine those protections.

City agencies routinely collect and maintain large amounts of personal data through everyday operations, including benefits records, housing information through NYCHA, and law enforcement databases. At the same time, policing technologies—such as license plate readers, transit surveillance, and other monitoring tools—generate detailed records about New Yorkers' movements, associations, and activities. These systems often contain inaccurate, incomplete, or unverified information, yet they can have significant consequences when accessed or relied upon by law enforcement or federal authorities.

When local agencies share sensitive information about individuals with ICE, such as immigration status, it can lead to the unjust targeting of vulnerable populations.

This Council should enact new and strengthen any existing policies that keep communities' personal data private. By doing so, New York City can ensure that immigrant communities are not subject to unlawful surveillance or data-sharing practices. For example:

- minimize, as much as possible, the amount of data that is collected and stored by city agencies;
- avoid the retention, transmission, or storing of sensitive data such as immigration status;
- enact transparent policies on data sharing with federal agencies.

New York City's sanctuary laws are intended to prevent local systems from being used to facilitate federal immigration enforcement. To uphold sanctuary protections, the city must address not only direct and limited cooperation with federal immigration enforcement, but also the underlying data systems that enable it.

Pass the NYC Trust Act (Int. 209-2026)

Brooklyn Defender Services supports the passage of the NYC Trust Act (Int. 209-2026), which would 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

All New Yorkers benefit when our diverse communities can thrive. As this Council has always noted, immigrants, regardless of their status, are the backbone of our city, our culture and our economy. New York City has long made efforts to reassure our communities that the city welcomes and protects all New Yorkers, including its immigrant communities. We applaud our City Council's leadership in forging city policies and laws that center the protection of all New Yorkers. However, immigrant communities continue to face an enormous threat in an era of increased surveillance and immigration enforcement. The city can and should do more to ensure that residents are not unnecessarily targeted for detention or deportation because of some action or failure to act by the city.

The City Council has played a critical role in safeguarding New York City's immigrant community and established itself as a national leader in the creation and ongoing support of the NYIFUP program. We thank the New York City Council for its continued support of low-income immigrant New Yorkers. This support and the need for our services is more acute than ever. If you have any questions, please feel free to reach out to Anya Mukarji-Connolly, Managing Director, Policy & Advocacy at amukarjiconnolly@bds.org.