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My name is Catherine Gonzalez, and I am Associate General Counsel at Brooklyn Defender Services. Brooklyn Defender Services (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. BDS is grateful to the Council for holding this timely and critical hearing. We recognize that there are many questions about recent changes to federal immigration policies and enforcement that will have a significant impact on New York City. We want to thank the Committee on Immigration, particularly Chair Avilés, for inviting us to testify today about how we can continue to collaborate in protecting New York City's immigrant communities.

For nearly 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 have expanded our criminal defense services to Queens. We now represent approximately 40,000 people each year across two boroughs who are accused of a crime, facing loss of liberty, their home, their children, or deportation. Our staff consists of specialized attorneys, social workers, investigators, paralegals and administrative staff who are experts in their individual fields. We provide extensive wrap-around services to meet the needs of people with legal system involvement, including civil legal advocacy, assistance with 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[1] attorneys are criminal-immigration

[1] Named after the landmark Supreme Court decision, Padilla v. Kentucky, 559 U.S. 356 (2010).

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, 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 over-policing, can lead to mandatory incarceration in the 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.

"[T]he immigration system's historic reliance on criminal arrests and convictions to inform discretionary decisions about whom to detain and deport incorporates these disparities directly into the immigration system"[2] results in the heightened policing of Black and brown communities. An arrest alone, even where the district attorney declines to prosecute or where a judge dismisses and seals the case, can lead to immigration detention.

A. Overview of Federal Immigration Changes Since January

Since January 2025, the federal government has adopted policies that dramatically widen the immigration-enforcement net and expose far more immigrant New Yorkers to arrest, detention, and deportation. Executive Order 14159 revoked prior enforcement-priority guidance and directed federal agencies to treat every removable noncitizen as a priority, regardless of criminal history, length of residence, family ties, or humanitarian considerations. The order also authorizes nationwide use of expedited removal, allowing arrests and deportations anywhere in the country without a hearing before an immigration judge. Together, these changes create an unprecedented enforcement posture in which nearly all noncitizens with any immigration vulnerability face heightened risk.

Most notably there has been a significant increase in immigration arrests due to intensified enforcement and policy changes targeting immigrants and a focus on increasing deportation numbers. According to the Migration Policy Institute, "[t]he number of unauthorized immigrants

[2] Policy Brief, *Disentangling Local Law Enforcement from Federal Immigration Enforcement*, National Immigrant Justice Center (Jan. 13, 2021), *available at* https://immigrantjustice.org/research-items/policy-brief-disentangling-local-law-enforcement-federal-immigration-enforcement

and other noncitizens placed into immigration detention has grown to the highest level in history" since January.[3]

At the same time, federal agencies have vastly expanded their ability to identify and locate individuals for civil immigration enforcement. DHS now draws on data from the Internal Revenue Service (IRS), Social Security Administration, Department of State, criminal justice agencies, and international travel systems, creating a far-reaching information network through which people can be flagged for civil immigration enforcement. Automated database matching enables Immigration and Customs Enforcement (ICE) to initiate action not on the basis of suspicious behavior but through the most routine administrative steps, including filing taxes, renewing documents, or updating an address. Ordinary acts of compliance have now become points of vulnerability. These developments are occurring at a time when internal oversight mechanisms within DHS have been weakened or dismantled, reducing transparency and accountability in how data are used and how enforcement decisions are made.

Prior limits on where ICE could conduct arrests have also been rolled back. The rescission of the "protected areas" policy now permits ICE to carry out enforcement in locations that immigrant communities have long relied on as sensitive locations, including schools, hospitals, shelters, and places of worship.[4] This mirrors the courthouse arrest patterns New Yorkers experienced before the passage of New York State's Protect Our Courts Act and has already contributed to heightened fear, reduced court participation, and diminished access to essential services.

Prior to the passage of the Protect Our Courts Act (POCA) in 2019, ICE used courtrooms, hallways, entrances and exits of court buildings to aggressively target and apprehend immigrants attending court proceedings in local criminal, family, housing, civil or other courts. This not only created suffering for the people who were arrested and subsequently detained, but it also created fear among litigants and witnesses who were afraid to appear in court to resolve their cases. POCA was passed in 2019 for the specific purpose of stopping this egregious behavior and disallowing federal immigration agents from engaging in civil arrests in New York Courts. POCA applies to all state and local courts–criminal, family and civil courts, town and village courts as well as traffic and summons courts. The law specifies that immigration agents may not make an arrest unless they have a judicial warrant, identify themselves, show a copy of the

[3] Muzaffar Chishti and Valerie Lacarte, "U.S. Immigrant Detention Grows to Record Heights under Trump Administration," Oct. 29, 2025, *available at* https://www.migrationpolicy.org/article/trump-immigrant-detention; *see also* Axios, "New data: ICE arrests surge as agency chases Trump quota," Dec. 4, 2025, *available at* https://www.axios.com/2025/12/04/trump-ice-immigration-arrests-deportations

[4] As the National Immigration Law Center (NILC) notes, this long-standing policy was "repla[ced] with an unreleased directive that gives ICE agents unbridled power to take enforcement actions in any of these spaces using so-called "common sense."" *See* Factsheet: Trump's Rescission of Protected Areas Policies Undermines Safety for All, *available at*.https://www.nilc.org/wp-content/uploads/2025/01/2025-02.25-Protected-Areas-Fact-Sheet-English_.pdf

judicial warrant to court officers and judges, and await a sitting judge to authorize execution of the civil warrant.[5]

Moreover, since May, there have been widespread instances of ICE and Enforcement and Removal Operations (ERO) agents appearing at immigration courts to detain individuals following their scheduled hearings at immigration courts, in order to place them in expedited removal proceedings and deport them without hearings. This practice is severely undermining the fairness and integrity of immigration court proceedings. Additionally, ICE has been arresting and detaining individuals at their appointments with USCIS and at ICE check-ins.

In keeping with this broader enforcement agenda, civil immigration detention has grown significantly in scope and scale. In January, ICE instructed field offices to detain at least 75 individuals per day, totaling more than 1,800 daily detentions nationwide, compared to approximately 415 per day in 2023.[6] By June, the agency increased this internal target to 3,000 daily detentions. Congress further expanded mandatory detention through the Laken Riley Act, which amends the Immigration and Nationality Act (INA) to require the mandatory detention of undocumented immigrants who have been charged with a range of offenses, many of them low-level, and sharply limit judicial discretion to order release. In addition, on July 8, 2025, an ICE memo[7] issued guidance prohibiting bond hearings for individuals who entered without inspection or lawful admission, requiring them to remain detained for the duration of their proceedings unless ICE grants parole. These changes substantially increase the likelihood that an individual apprehended by ICE will remain in immigration detention for months or years.

At the same time, the federal government has restricted pathways that previously offered stability or protection to immigrant communities. Changes to asylum standards, heightened eligibility requirements, limitations on humanitarian parole, and narrowed interpretations of Temporary Protected Status have reduced the avenues through which individuals may seek safety or lawful status.

Together, the federal actions implemented since January have created a policy landscape that is broader in scope, faster in its operation, and more heavily enforced than at any point in recent memory. These developments heighten the urgency of ensuring that New York City does not

[5] Protect Our Courts Act, New York State Senate Bill S425A, *available at* https://legislation.nysenate.gov/pdf/bills/2019/S425A

[6] Arya Sundaram, "NY, NJ immigration enforcement offices now have quotas. It's 75 arrests a day or else, report says," Gothamist, Jan. 27, 2025, *available at* https://gothamist.com/news/ny-nj-immigration-enforcement-offices-now-have-quotas-its-75-arrests-a-day-or-else-report-says Priscilla Alvarez, "How the Trump administration is building out its immigration enforcement machine," CNN, Feb. 2, 2025, *available at* https://www.cnn.com/2025/02/02/politics/trump-immigration-enforcement

[7] Immigration Policy Tracking Project, "ICE issues memo eliminating bond for all applicants for admission" Jul. 8, 2025, *available at* https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/

facilitate federal immigration enforcement and that city agencies uphold the strongest possible protection for the communities we serve.

B. New York City Detainer Discretion Laws

The New York City Council continues to be a leader in protecting the rights of New Yorkers and ensuring New York remains a place where all our communities can feel safe and thrive. In October 2014, the Council passed groundbreaking legislation—detainer discretions laws— that removed ICE from Rikers Island, and limited the New York City Department of Corrections (DOC), the New York City Police Department (NYPD), and the Department of Probation (DOP) from unlawfully detaining noncitizens for the purposes of civil immigration enforcement or cooperation with ICE without a judicial warrant signed by a federal judge establishing that there is probable cause to take the person into custody.

These laws were intended to reshape how local agencies use their resources for the purpose of federal civil immigration enforcement. For decades, prior to the passage of the detainer discretion laws, federal immigration enforcement, primarily through ICE, maintained a direct presence within the New York City criminal legal system, particularly through the identification of noncitizens in jails for potential deportation and physical presence at Rikers. As a result, many people were being held in city jails past their release dates so that ICE could assume custody. City agencies like NYPD and DOC were assisting with civil immigration enforcement under these programs after receiving detainers from ICE. Detainers are written requests issued by ICE to ask local authorities to hold individuals to allow ICE to assume custody. Detainers on their own cannot compel local agencies to detain individuals beyond their release time. Courts have ruled that without a judicial warrant, reliance on detainer requests alone raises serious constitutional concerns.[8]

More specifically, pursuant to the detainer laws, NYPD and DOC may not honor a detainer request issued by ICE unless ICE presents a judicial warrant from an Article III federal judge or a federal magistrate judge, which establishes that there is probable cause that the individual sought is subject to arrest by ICE. Even where ICE presents a judicial warrant, NYPD and DOC may not honor a request by ICE to hold an individual for ICE to assume custody unless the

[8] *See People ex rel. Wells o.b.o. Francis v. DeMarco*, 168 A.D.3d 31 (2d Dept 2018)(holding that New York State law enforcement officers only have arrest authority granted to them by New York State law and that New York State law does not authorize arrests based solely on a civil immigration violation. New York State law authorizes arrests on the basis of a warrant issued by a court or other competent authority, which ICE detainers and administrative "warrants" are not); *see also Onadia v. City of New York* (a class action settlement of up to $92.5 million with regards to claims by individuals who were unlawfully detained by the NYC DOC solely on the basis of an ICE detainer between April 1, 1997 and December 21, 2012); and *Orellana Castañeda et al. v. County of Suffolk and Suffolk County Sheriff's Office et al.*, (a jury awarded $112 Million to 674 individuals unlawfully held by Suffolk County for ICE).

individual has been convicted within the last five years of a "violent or serious crime"[9] or the individual is found to be a possible match on the terrorist watch list. The law also contains an exception that allows NYPD to hold certain individuals for a limited period of time without a judicial warrant. The law anticipates that this is for the purpose of providing ICE with sufficient time to seek such a judicial warrant. The law specifies that if within that time ICE secures a judicial warrant, only then may NYPD transfer a narrow additional class of individuals to the custody of ICE.

As public defenders representing people accused of crimes, we saw firsthand how ICE agents profiled and coerced people in DOC custody at Rikers prior to the passage of the 2014 detainer laws. ICE's prior activities at Rikers violated due process and targeted New Yorkers based on racial and national-origin profiling. ICE interrogated people without identifying themselves, coercing people to share information. The actions of ICE agents, including arresting people upon release from Rikers, prevented many people from fighting their state charges and interfered with the New York legal system. These detainer discretion laws were intended to protect New Yorkers' due process rights. However, contested interpretations of the law, along with recent developments and implementation challenges continue to highlight gaps in the detainer discretion laws.

Gaps in the Detainer Discretion Laws

Although the 2014 detainer discretion laws were enacted to prevent New York City agencies from facilitating civil immigration enforcement without a judicial warrant, ICE has continued to exploit several gaps in agency practice to obtain custody of New Yorkers.

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 an exception 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 177 offenses, or inclusion on the FBI's terrorist watch list.[10] Once ICE is notified of the person's impending release, ICE is free to show up at the DOC facility and take custody of the person directly from DOC.

This exception has led to New Yorkers being arrested by ICE agents immediately upon their release from DOC custody and, in essence, a fluid transfer to immigration custody. What these instances reveal most is that there is a lack of transparency. We do not have information about

[9] The term "violent or serious crime" is defined in the new law by reference to a list of 177 enumerated felonies.
[10] 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-B7C3-F6E67806FBC5&Options=info|&Search=#

the actual communication between DOC and ICE. We do not know whether clients for whom DOC receives an ICE detainer are released after the same amount of time as a client with no ICE detainer. DOC does not notify defense counsel when they respond to a request for notification from ICE. Instead, upon our inquiry before each client's anticipated release date from DOC custody, we are informed generally that the individual was to be released pursuant to the DOC detainer law. Subsequently, BDS has not been informed about the release of an individual to ICE custody directly from DOC custody.

We understand that DOC facilitates the transfer of individuals to ICE custody based on the notification exception, when people have a qualifying conviction. The spirit behind the detainer discretion laws was to ensure that New York City protected its noncitizen residents. NYC should not deny New Yorkers this protection because of a criminal conviction.

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. DOC's interpretation of the law as allowing communication with ICE without a judicial warrant is not in line with the spirit of the law. 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.

A second gap arises from the ongoing communication and information-sharing practices of the Department of Probation. Although the detainer laws restrict the ability of city agencies to honor civil detainers, as public defenders we know that when conducting pre-sentence investigation reports, the Department of Probation regularly communicates with ICE for information. This gap creates a risk that a city agency's internal processes are used to carry out federal civil enforcement without a judicial warrant.

By leveraging routine probation operations as an informal intelligence-gathering mechanism, ICE continues to draw noncitizen New Yorkers into the immigration enforcement system through precisely the types of local-government touchpoints the detainer laws were designed to insulate. This exploitation of supervisory structures undermines both the purpose and the practical effect of the Council's reforms and heightens the risks faced by individuals who are otherwise complying with all court-imposed obligations.

In 2025, the Adams administration issued Executive Order 50 authorizing federal immigration authorities to open an office at Rikers Island under the premise that it would be for the limited purpose of assisting with criminal investigations related to gang and drug offenses. Executive orders are not subject to public legislative debate and can temporarily expand ICE access, increase data sharing, or authorize broader cooperation, even when these actions conflict with the spirit of existing laws. We saw this danger materialize in 2025 when Mayor Eric Adams issued Executive Order 50, although the order did not explicitly dismantle the protections established in

2014, it created operational exceptions that signaled to agencies that heightened communication with ICE was permissible.

The issuance of NYC Executive Order 50 earlier this year profoundly magnified fear in immigrant New Yorker communities. Since then, many of the people we serve and their families have expressed real fear - not only that being incarcerated Rikers might expose them to ICE, but even that simply visiting a loved one there could subject someone to immigration enforcement.

That fear has lingered even after Judge Rosado's ruling that the order is "null and void". Though the court decision brought finality to the issue, in the time since then, many of the people we represent, and their families continue to express heightened anxiety at any contact with Rikers out of fear ICE might still show up or that their presence there could trigger immigration enforcement.

C. What Immigrant New Yorkers Face in Detention

Brooklyn Defender Services has long documented that immigration detention functions as a system of incarceration marked by punitive and dangerous conditions. Detained New Yorkers are routinely held in facilities that mirror the harshest aspects of jails: overcrowded dorms, inadequate medical care, extended isolation, unsanitary living conditions, and degrading treatment by staff. The situation worsens when ICE transfers people to remote jails, often out of state, where family contact becomes nearly impossible and oversight is even weaker. These conditions reflect systemic failures that inflict profound physical and psychological harm on people who have not been accused of any new crime and whose custody is purely civil in nature.

BDS' work representing detained immigrants makes clear that these conditions are compounded by profound barriers to due process. Unlike in the criminal legal system, people in immigration detention have no right to appointed counsel and must navigate one of the most complex areas of law from within facilities that severely limit communication. BDS repeatedly reports that detained clients struggle to access phones, gather documents, consult with attorneys, or understand the legal claims against them. Transfers to far-away jails routinely sever existing attorney-client relationships. These barriers make it extraordinarily difficult to challenge removal. Many are deported rapidly, sometimes within days or weeks, through expedited processes that offer little opportunity for meaningful review.

Immigration detention is not a neutral administrative mechanism but a punitive system that strips people of safety, family connection, and due process. It underscores why even minimal information-sharing by city agencies can trigger life-altering consequences for immigrant New Yorkers.

Brooklyn Defenders

Recommendations

Strengthen and Codify Protections Against ICE Presence in City Jails

Brooklyn Defender Services urges the Council to adopt Int. 1412-2025 to reinforce and strengthen the protections established by Local Law 58. Local Law 58 was enacted to prohibit federal immigration authorities, including ICE, from operating an office or maintaining a presence on Rikers Island for purposes of civil immigration enforcement. That protection was tested in 2025 when the mayor issued Executive Order 50, seeking to allow ICE and other federal agencies to return to Rikers in direct contravention of the law. Although a New York State Supreme Court judge ruled on September 8, 2025, that the executive order was "null and void," the episode exposed how vulnerable these protections remain when they can be circumvented through unilateral executive action.

Int. 1412 addresses this vulnerability by explicitly prohibiting ICE or any federal immigration authority from maintaining offices, quarters, or operational space in any Department of Correction facility, not only on Rikers Island. The bill also modernizes and clarifies the definitions of immigration enforcement and makes clear that no executive order, memorandum of understanding, or similar instrument may override these statutory protections. By closing the gaps revealed during the 2025 executive order attempt, Int. 1412 ensures that City jails cannot be repurposed as sites of federal immigration enforcement and that the intent of Local Law 58 cannot be undermined through administrative reinterpretation.

We recommend swift passage of Int. 1412 to provide clarity, stability, and enforceable safeguards against future attempts to restore ICE's presence within New York City's jail system and to ensure that immigrant New Yorkers can interact with City systems without fear of civil immigration enforcement.

Pass Int. 214-2024

Brooklyn Defender Services supports the passage of Int. 214-2024, 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. 214 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. 214 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.

Eliminate the Gang Database

Brooklyn Defender Services strongly urges City Council to pass Int. 798 to permanently abolish the NYPD's criminal group database, commonly called the gang database. Since its creation, this database has been a tool of mass surveillance and racialized policing that disproportionately targets Black and Latine youth, criminalizes association rather than conduct, and operates without transparency, accountability, or due process. It has failed to enhance public safety and instead facilitates unconstitutional policing practices that harm the very communities the NYPD claims to protect. We've already seen ICE rely on false gang allegations to justify arrests and deportations.[11] New York City cannot allow discriminatory databases to become a backdoor to ICE enforcement.

The harms of the gang database are not theoretical—they are borne by real young people whose lives are shaped by relentless police surveillance and harassment. The transition from widespread stop-and-frisk to expansive data policing has not reduced racial disparities; it has only made them more insidious. Our clients experience persistent police scrutiny, unjustified stops, and coercive interrogations simply because they live in over-policed communities. The gang database also causes Black and Latine immigrants to be more susceptible to immigration detention and deportation based on little more than where they live and who they are friends with; this risk of separation from their families and communities is particularly acute after the recent designation of certain gangs as terrorist organizations. Moreover, young asylum seekers who are fleeing violence from gangs in their home countries are often themselves erroneously labeled as gang members. Through the gang database, the NYPD has taken the worst elements of racial profiling and rebranded them as intelligence gathering. This is not a move toward justice but a deepening of surveillance-based policing that treats Black and Latine youth as suspects before they even have a chance to grow up.

Conclusion

All New Yorkers benefit when our diverse communities can thrive together. 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

[11] Recent investigations show that federal immigration authorities have used unsubstantiated allegations of "gang affiliation," without presenting credible evidence, to classify Venezuelan men as members of the Tren de Aragua gang and remove them under the Alien Enemies Act, resulting in transfers to highly restrictive facilities such as El Salvador's CECOT prison. *See* Human Rights Watch, *Punished for Seeking Change: Killings, Enforced Disappearances and Arbitrary Detention Following Venezuela's 2024 Election* (Apr. 30, 2025); Julie Turkewitz & Hamed Aleaziz, *Family of Venezuelan Migrant Sent to Guantánamo: "My Brother Is Not a Criminal"*, N.Y. Times (Feb. 11, 2025).

welcomes and protects all New Yorkers, including its immigrant community. 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 Catherine Gonzalez at cgonzalez@bds.org.