



A SAFE, OPEN CITY FOR IMMIGRANTS



Throughout its history, New York City's growth and vibrancy has been fostered by immigrants coming to the city to seek a better life. Immigrants make up nearly half of New York City's workforce,¹ including half of all small business owners.² Foreign-born New Yorkers are responsible for 28 percent of the metropolitan area's economic output.³ And yet, hard-working but undocumented immigrant members of our communities live in the shadows – exposed to extortion by unscrupulous employers and service providers, alienated from the local authorities charged with serving them, and isolated from the civic life and services that make our neighborhoods strong. Draconian deportation policies by the U.S. Immigration and Customs Enforcement have forced local law enforcement to act as deportation officials. This creates a culture of fear that alienates immigrants from

local police, makes vulnerable people afraid to seek the help they need, and ultimately leaves our streets less safe.

New York City cannot allow fear to dim our identity as a beacon for immigrant families across the world: a place where workers can come to find opportunities, entrepreneurs can come to start businesses, and families can come to build a meaningful and prosperous life.

To ensure that New York continues to be an open city for immigrants in the years to come, and to diffuse this debilitating culture of fear, Public Advocate Bill de Blasio is calling for the City to undertake the following reforms:

- (1) Offer a universal city ID card for all residents
- (2) Lead the fight to allow undocumented immigrants to apply for driver's licenses
- (3) End City collaboration with the abusive federal immigration detainers process
- (4) Stop punishing sponsors when immigrants seek assistance from the city
- (5) End the bureaucratic run-around for immigrant domestic violence victims seeking protection

❶ Offer a Universal City Identification Card

All members of our communities deserve the peace of mind and opportunity that comes with government-issued photo identification. Without a photo ID, undocumented workers are unable to access a wide array of city services and commerce, including the ability to open local bank accounts that keep earnings safe from theft and save for the future.

1 Fiscal Policy Institute, "New York City Immigrants in the Great Recession," August 2, 2010, available at http://fiscalpolicy.org/FPI_NYC_ImmigrantsInGreatRecession.pdf.

2 Fiscal Policy Institute, "Immigrant Small Businesses in New York City," October 3, 2011, available at http://fiscalpolicy.org/wp-content/uploads/2012/04/FPI_ImmigrantSmallBusinessesNYC_20111003.pdf.

3 Fiscal Policy Institute, "Immigrants and the Economy," December 2009, available at http://www.fiscalpolicy.org/ImmigrantsIn25MetroAreas_20091130.pdf.

Cities across the country, including New Haven⁴ and San Francisco,⁵ have successfully introduced municipal IDs available to all citizens regardless of documented status. A city ID program is currently being implemented in Los Angeles.⁶ In New Haven, the “Elm City ID Card,” has opened the door for undocumented residents to an array of services, benefits, and commercial goods accessible only to those with some form of photo identification. This includes opening a bank account, getting a Costco membership, cashing checks, purchasing health insurance, accessing a food pantry, and applying for a bus pass.⁷ In San Francisco, the card serves as a public library card, a discount card for local businesses, can be used to set up a family pass to city parks and recreational opportunities, as well as to set up a bank account with participating local banks and credit unions. In each place, the cards foster a sense of community that has knit undocumented workers into civic life.



Perhaps most importantly, in each city, this municipal ID serves as sufficient ID to file a police report. Much as a tax ID number allows working residents to pay taxes without regard to immigration status, a municipal ID card ensures that undocumented New Yorkers can report crime in their neighborhoods and assist in police investigations without fear of deportation. With their card, undocumented residents of New Haven feel confident calling the police to report crimes, knowing that their municipal ID is sufficient to file a police report.⁸ In the two years after the release of the municipal ID, crime in Fair Haven, a predominantly Hispanic immigrant neighborhood in New Haven, fell by 20 percent, even as more people began reporting crimes. Local officials believe the trend was at least partially due to the availability of the ID.⁹ New Haven Assistant Police Chief Luiz Casanova said of the card, “Prior to it coming out, undocumented immigrants were often afraid to report violations for fear of deportation.”¹⁰

Public Advocate Bill de Blasio has introduced a bill in the City Council to create a municipal ID, which would allow all city residents – including undocumented residents – to receive a government-issued photo ID through the City government. This ID will function as a library card and serve as adequate identification for all city programs and services, such as swimming pools or parking, and when interacting with local law enforcement to report criminal activity. In addition, as in San Francisco, the card will list emergency contacts and include information on the holder’s medical conditions or allergies. The bill will instruct officials to perform outreach to local banks, as in New Haven and San Francisco, to ensure this municipal ID can be used as proof of identification to open a checking account. It will also work to incorporate a debit card function into the card, a goal of the New Haven program, to protect workers without bank accounts targeted by muggers for carrying large quantities of cash.

② Allow Undocumented New Yorkers to Apply for a Driver’s License

Currently, undocumented immigrant adults in New York who may need to drive to get to and from work are forced to choose between driving without a license and going without employment – while potentially putting the safety of other drivers and pedestrians at risk. Drivers without licenses are unable to purchase automobile insurance, don’t benefit from drivers’ education, and aren’t required to pass a driver’s test.

4 City of New Haven, Community Service Administration, “New Haven’s Elm City Resident Card: My City. My Card.” Available at <http://www.cityofnewhaven.com/CSA/NewHavenResidents/>.

5 City of San Francisco, “SF City ID Card,” available at <http://www.sfgov2.org/index.aspx?page=110>.

6 Ian Lovett, New York Times, “IDs for Illegal Immigrants Take a Step in Los Angeles,” October 16, 2012, available at <http://www.nytimes.com/2012/10/17/us/la-takes-step-to-issuing-id-cards-to-illegal-immigrants.html>

7 Thomas MacMillan, New Haven Independent, “Elm City ID Card Turns 5,” July 23, 2012, available at http://www.newhavenindependent.org/index.php/archives/entry/id_card_anniversary/.

8 Thomas MacMillan, New Haven Independent, “Elm City ID Card Turns 5,” July 23, 2012, available at http://www.newhavenindependent.org/index.php/archives/entry/id_card_anniversary/.

9 Ibid.

10 Ibid.

Allowing undocumented workers to receive New York State driver's licenses would ensure that the ability to safely and responsibly operate a motor vehicle, and not one's immigration status, is the metric used to offer drivers licenses in the State of New York. It would improve street safety by ensuring that drivers on our roads and streets pass driving tests. It would also help to drive down insurance rates by broadening the pool of auto insurance and reducing the number of accidents involving drivers without insurance. The state budget would benefit from additional revenue in the form of new registration fees and wheel taxes. Further, a driver's license serves as a photo ID – allowing its holder to access a broad array of businesses and services, from doctor offices and banks to libraries and charities, an even broader array of public and private sector services than would be accessible with a municipal ID alone.



Public Advocate Bill de Blasio is calling on the state to allow undocumented workers to be eligible for driver's licenses. The safety of our streets and the opportunities of our residents must not again be held hostage to national politics that puts fear-mongering above compassion and common sense.

③ End City Collaboration with the Abusive Federal Detention & Deportation Process

Consider this scenario: An undocumented Latino immigrant in Brooklyn with two kids who are U.S. citizens, who was convicted of a non-violent drug possession offense seven years ago, is arrested after a stop-and-frisk uncovers a single joint. Under current City policy, he could be fingerprinted, targeted by federal customs officials, and transferred to an immigration detention facility in Louisiana or Texas, cut off from his family, without bond, and without a lawyer.

Situations like this are not rare. Immigrant communities in New York City are routinely raided by federal immigration officials at the U.S. Immigration and Customs Enforcement (ICE). From October 2005 through December 2010 (the most recent data available), ICE apprehended more than 34,000 New Yorkers, 91 percent of whom are subsequently deported, typically after being held without bond in remote detention facilities, as far away as Louisiana and Texas, out of reach of family members or an attorney.¹¹ At least 13,500 of those detained had U.S. citizen children living in New York City.¹²

Conditions in these detention facilities are deplorable, with little protection from sexual or physical abuse, scant access to vital medical care, extremely limited visitation rights, and the widespread use of solitary confinement as punishment.¹³ Many of these detention facilities are privately run, leading to excessive cost-cutting that keeps facilities understaffed – yielding increases in human rights violations – and insulates the detention facilities from Freedom Of Information Act (“FOIA”) requests.¹⁴

Too many of those swept into this abusive, degrading, and inhumane system are there because of cooperation between federal officials and local law enforcement. Almost 77 percent of these apprehensions were the result of the “Criminal Alien Program,” which targets those who have interactions with local law enforcement for deportation. The problem with detainees has only gotten worse with the so-called “Secure Communities” program, which requires mandatory reporting from local

11 NYU School of Law Immigrant Rights Clinic; Immigrant Defense Project; Families for Freedom, “Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City,” July 23, 2012, available at <http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>. The study finds that more than half of those New Yorkers detained were transferred to facilities outside of New York or New Jersey (as far away as Texas and Louisiana), 4 out of 5 are never given a bond setting, and that those who are *not* transferred are 70% more likely to be granted relief from deportation than those who are transferred remotely.

12 Ibid.

13 Detention Watch Network, “Expose and Close,” available at <http://detentionwatchnetwork.org/ExposeAndClose>.

14 Private corporations administer 49% of all beds in the immigration detention system. Detention Watch Network, “The Influence of the Private Prison Industry in the Immigration Detention Business,” May 2011, available at <http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/PrivatePrisonPDF-FINAL%205-11-11.pdf>

police arrest data for potential immigration apprehension.¹⁵ Federal officials regularly submit “detainer requests” (also known as “ICE holds” or “immigration holds”) to local law enforcement and Department of Correction officials. These requests ask local officials to detain an arrested immigrant for up to 48 hours beyond when he or she would otherwise be entitled to be released, based solely on suspicion regarding immigration status. That means that even when a criminal court judge has ordered bail or allowed the individual to return on his or her own recognizance, the immigrant remains in jail or is turned over to the ICE. According to the NYC Department of Correction, from March 9, 2012 through September 20, 2012, at least 1,206 New Yorkers were held in custody beyond the time they would otherwise have been released pursuant to a civil immigration detainer.¹⁶ This policy forcibly deputizes local officials and devotes scarce local police resources to enforcing federal immigration law. The constitutionality of these “detainers” has been seriously questioned by civil liberties experts.¹⁷ The detainers have also caused serious damage to the relationship between the police and local immigrant communities, which is essential to the safety of the city.

Two recent City Council bills, Local Laws 21 and 22 of 2013, have limited the types of “detainer requests” that local officials honor to exclude requests to detain juvenile offenders, those without felony criminal convictions, those with only misdemeanor convictions over 10 years old, and those for whom the pending charges against them are violations or certain misdemeanors.¹⁸ The recent bills also prevent detentions of those convicted of prostitution or driving without a license, crimes undocumented workers or victims of sex trafficking are often convicted of.

Nevertheless, these limitations did not go far enough to protect a wide swath of immigrant New Yorkers who pose no threat to their neighborhoods and communities. Of the 1,206 New Yorkers transferred to ICE custody between March and September 2012, 688, or 55% of those transferred, had either previous misdemeanor but no previous felony convictions (376 individuals) or had no previous convictions but were defendants in an ongoing criminal case and had not yet been convicted (312 individuals).¹⁹ These individuals would still be subject to immigration detainers even under Local Laws 21 and 22. Consider these stories based on actual cases:



Public Advocate Bill de Blasio with Council Members Melissa Mark-Viverito and Jumaane Williams calling for an investigation into allegations of abuse at private immigrant detention facilities

- **Victims of domestic violence whose abusers make cross-complaints:** A lawful permanent resident in the Bronx who is the sole custodian of two US citizen children calls the police for help after being attacked by her partner. When the police come, they arrest both the woman and her partner, after he accuses her of attacking him. The woman’s lawyer is confident that if given a chance, she can persuade the prosecutors to drop the charge or get the court to dismiss them. But the immigration detainer causes a problem. Because the woman has a drug conviction from eight years ago, her lawyer tells her that the only way she can fight the current criminal charge is to stay in Rikers until her criminal court hearing, which might take several months. Meanwhile, her children have been taken into temporary city custody, because there is no parent available to care for them.
- **People with recent misdemeanor convictions:** A 25-year-old immigrant who has graduated from a community college and is working as a technician is arrested for occupying two seats on a subway. The arrest should lead to a

¹⁵ Ibid.

¹⁶ City of New York Department of Corrections, “Summary of Discharges of Inmates with Federal Immigration and Customs Enforcement (ICE) Detainers: For Discharges March 9, 2012-September 20, 2012,” available at http://www.nyc.gov/html/doc/html/events/Summary_of_Discharges_012513.pdf.

¹⁷ Testimony of Rebecca Engel on behalf of the New York City Civil Liberties Union before the New York City Council Immigration Committee in support of Intro Nos. 982 and 989, January 25, 2013, available at <http://www.nyclu.org/content/testimony-new-york-city-council-support-of-legislation-limiting-detention-and-deportation-of>.

¹⁸ New York City Local Laws 21 & 22 (2013); “Committee Report of the Governmental Affairs Division for the Committee on Immigration on Proposed Intros 982-A and 989-A,” February 26, 2013.

¹⁹ Ibid.

very minor penalty, if any. But because of a shoplifting conviction from before the young man went back to school, he is held on a detainer, is unable to show up for work, and loses his job.

Under these laws, immigrants with misdemeanor convictions from the last 10 years can be pushed into the detention system for an arrest, for any reason whatsoever. The disproportionate number of immigrants living in heavily policed neighborhoods, where the City's over use of the stop-and-frisk program is most aggressive, means immigrants of color with minor convictions on their record are particularly at risk of being turned over by police to ICE detention.

Immigrant communities in New York need a bright line between the police officers in their neighborhood whom they can rely upon to keep them safe, and the federal immigration officials enforcing a broken and abusive immigration system that fails too many hard-working immigrant families. Municipalities across the country, including Santa Clara County, CA; Cook County and Chicago, IL; and Washington, D.C.,²⁰ have passed laws restricting local official cooperation with federal immigration officials even further, by restricting cooperation to those convicted of serious or violent crimes and demanding that federal officials compensate local authorities for costs associated with detention.²¹

Public Advocate Bill de Blasio is proposing New York City take the lead in resisting the excesses of the federal detention program by proposing legislation to:

- End cooperation with all federal detainers, except those pertaining to arrestees who have been convicted of violent or serious felonies, including drug and human trafficking. Detainers for those with previous misdemeanor convictions will not be honored. Under this proposal, the City will continue to honor ICE detainers for individuals suspected of terrorism or gang activity;
- Require that detainer requests be made within 24 hours of sharing the arrest data;
- Require the federal government to fully compensate local officials for the cost of detaining and transporting suspects for federal immigration offenses;
- Press federal authorities to use their discretion to allow New Yorkers to defend their immigration cases from where they live, and not from far-away detention centers;
- Discourage federal authorities from setting exorbitant bonds that make it very difficult for New Yorkers to present a case for why they should be allowed to remain with their families and work, to ensure federal immigration officials do not impose physical detention when reasonable alternatives exist.

④ Stop Punishing Sponsors When Immigrants Seek Assistance from the City

In 2012, the New York City Human Resources Administration implemented a policy, unique to New York City, seeking reimbursement from an immigrant's sponsor for any cash assistance benefits accessed by that immigrant.²² The result:

20 DC City Council, Immigration Detainer Compliance Amendment Act of 2012. Committee report available at <http://dclims1.dccouncil.us/images/00001/20120604161227.pdf>.

21 Testimony of Rebecca Engel on behalf of the New York City Civil Liberties Union before the New York City Council Immigration Committee in support of Intro Nos. 982 and 989, January 25, 2013, available at <http://www.nyclu.org/content/testimony-new-york-city-council-support-of-legislation-limiting-detention-and-deportation-of>.

22 Testimony of Robert Doar, Commissioner of the Human Resources Administration/Department of Social Services before the New York City Council Finance and General Welfare Committees on the 2013 Executive Budget, May 22, 2012. Available at



elderly or needy immigrants are reluctant to seek assistance, fearing a financial hit on their children or relatives (who often serve as a sponsor in immigration proceedings).²³

Sponsors targeted by the City are often low-income and may be eligible for certain assistance themselves. We must immediately end this practice, so immigrants eligible for cash assistance feel free to seek it without being a financial burden on their relatives or loved ones serving as sponsor. Reversing this policy would cost the City less than \$1 million in 2014 and approximately \$400,000 in 2015.²⁴

⑤ End the Bureaucratic Run-Around for Immigrant Domestic Violence Victims Seeking Protection

U-visas, established through the Violence Against Women Act, offers temporary legal status and work eligibility to documented or undocumented non-citizen victims of domestic violence or other violent criminal activities (typically women and children) for up to four years. To be eligible for the program, victims must obtain a “certification” from an investigatory or prosecuting official who certifies that the victim has been helpful, or is likely to be helpful, in the prosecution of the perpetrator of the violence or abuse.²⁵

Currently, a wide array of City officials has the legal capacity to offer this certification. However, as the City Bar of New York has recently identified, the quality of the certification process varies widely among officials, and there is a widespread failure of coordination or collaboration among certifying officials and within certifying agencies.²⁶ This inefficiency leads to confusion and delays among a vulnerable group of people anxious to avoid deportation to remain with communities and loved ones while also escaping abuse and mistreatment.²⁷ When an immigrant victim of violence seeks assistance, there should be no “wrong door” among prosecuting and investigating agencies able to offer immigration relief in exchange for help in bringing violent abusers to justice. In response to pressure from public officials, including Public Advocate Bill de Blasio, the NYPD has recently streamlined the U Visa process, but these measures have not gone far enough.²⁸

The Mayor's Office, in partnership with law enforcement and the District Attorney, should ensure that (i) officials with the power to certify U-visas are aware that they have the power; (ii) those with certification power are given best practices to ensure a smooth and efficient certification process. Public Advocate Bill de Blasio is also introducing legislation in the City Council that will require each agency with the power to offer U-Visa certification to designate a “U-Visa coordinator.” This coordinator will serve as a point person responsible for ensuring that U-Visas certifications are offered in a timely, efficient and appropriate manner to all New Yorkers who may be eligible. In addition, to improve accountability and track efficiency improvements, the legislation will require each agency to publicly report U-Visa certification statistics each year, including the number of applications received, the number granted, the number denied, the number pending, and the length of time it took to resolve each application. It shouldn't take a victim speaking out to break the bureaucratic logjam at agencies that drag their feet.

http://www.nyc.gov/html/hra/downloads/pdf/testimonies/2012/May_2012/hra_budget_2013_testimony.pdf

²³ New York Sun, “Bloomberg USA: New York City Will Sue Sponsors of Legal Immigrants Who End Up On The Dole,” March 31, 2012, available at <http://www.nysun.com/new-york/bloomberg-usa-new-york-city-will-sue-sponsors/87769/>.

²⁴ City of New York Office of Management and Budget, “Agency Gap Closing Programs,” November 18, 2011, available at http://www.nyc.gov/html/omb/downloads/pdf/peg11_11.pdf

²⁵ 8 U.S.C. 1101(a)(15)(U)(iii). Discussed in Legal Momentum, “U Visa Fact Sheet,” available at <http://www.legalmomentum.org/assets/pdfs/wwwuvisafactsheet-2.pdf>.

²⁶ See, for example, Heidi Evans, New York Daily News, “NYPD bureaucracy thwarts U-Visa law giving immigrant victims legal status if they help prosecutors,” March 20, 2010, available at <http://www.nydailynews.com/new-york/nypd-bureaucracy-thwarts-u-visa-law-giving-immigrant-victims-legal-status-prosecutors-article-1.172277#ixzz2TDBhZRAU>

²⁷ See Vera Institute for Justice, “How Law Enforcement is Using the U Visa,” October 2011, available at <http://www.vera.org/sites/default/files/resources/downloads/U-visa-practice-brief.pdf>.

²⁸ Public Advocate Bill de Blasio, Letter to Commissioner Raymond W. Kelly, dated March 24, 2010. See also, Heidi Evans, New York Daily News, “City Councilwoman to push NYPD to aid illegal immigrants who help fight crime obtain U-Visas,” March 24, 2010, available at <http://www.nydailynews.com/new-york/city-councilwoman-push-nypd-aid-illegal-immigrants-fight-crime-obtain-u-visas-article-1.172276#ixzz2THDN4FoN>.