



**NEW YORK CITY: THE DANGEROUS CONSEQUENCES OF SANCTUARY
POLICIES**

Interim Staff Report

Committee on the Judiciary
Chairman Jim Jordan

Subcommittee on Immigration Integrity, Security, and Enforcement
Chairman Tom McClintock

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EXECUTIVE SUMMARY

Democrats' open-borders policies at the federal level and sanctuary policies at the state and local level allow millions of illegal aliens to pour into the country and ensure that criminal aliens, after encountered by local law enforcement, are released back into American communities. For four years, the Biden-Harris Administration's open borders allowed over eight million illegal aliens to enter the United States, including six million aliens who were released into the country and another two million "gotaways" who avoided apprehension entirely.¹ Once in the country, sanctuary policies in Democrat-run jurisdictions like New York City allow criminal aliens to stay, hurting public safety and endangering law-abiding Americans.

Many Democrat-run state and local jurisdictions prohibit law enforcement from cooperating with Immigration and Customs Enforcement (ICE) to ensure that criminal aliens are transferred to ICE custody and removed from the United States. Led by far-left officials and guided by radical immigration policies, these sanctuary jurisdictions provide a safe haven for criminal aliens. Democrat prosecutors in certain sanctuary jurisdictions provide foreign national criminals preferential prosecutorial treatment—leniency that similarly situated Americans do not receive—so that the criminal aliens may avoid immigration consequences for their criminality and can remain in the United States indefinitely.

The American people elected President Donald Trump and Congressional Republicans with a mandate to secure the border, restore immigration enforcement, and reverse Democrats' immigration agenda. President Trump's border enforcement agenda has worked, and illegal alien apprehensions at the southwest border are at historic lows.² Congressional Democrats, however, oppose the President's commonsense solutions to improve border security and immigration enforcement. To thwart this law-and-order approach and to protect criminal and illegal aliens, Democrats at the federal level shut down the federal government for months in 2025 and 2026. Their obstruction ensured that many of the hardworking men and women of the Department of Homeland Security were unpaid and unable to fully carry out their mission to protect the homeland.

¹ Info. provided to the H. Comm. on the Judiciary by U.S. Dep't of Homeland Sec., Table 1: Detention Histories of CBP Encounters, January 20, 2021 – March 31, 2024 (Aug. 16, 2024); U.S. Customs and Border Prot., *Custody and Transfer Statistics*, U.S. DEP'T OF HOMELAND SEC. (last accessed July 8, 2025); Camilo Montoya-Galvez, *Biden-Harris Administration has admitted more than 1 million migrants into U.S. under parole policy Congress is considering restricting*, CBS NEWS (Jan. 22, 2024); *Latest UC Data, Total Monthly Discharges to Individual Sponsors Only*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. (last accessed Aug. 7, 2026); Off. of Refugee Resettlement, *Unaccompanied Children Released to Sponsors by State*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. (last accessed Aug. 7, 2026); U.S. Customs and Border Prot., *CBP Releases December 2024 Monthly Update*, U.S. DEP'T OF HOMELAND SEC. (Jan. 14, 2025); Immigr. and Customs Enf't, *Daily SWB Placemat*, U.S. DEP'T OF HOMELAND SEC. (May 2024-Jan. 2025) (on file with Comm.); Off. of Homeland Sec. Statistics, *Immigr. Enf't and Legal Processes Monthly Tables – Apr. 2024*, U.S. DEP'T OF HOMELAND SEC. (last accessed Aug. 7, 2026); Casey Harper, *Border crisis creates national security threat for U.S., observers say*, WASH. EXAMINER (Aug. 7, 2023); Bill Melugin (@BillMelugin_), X (June 20, 2024, 10:22 AM).

² See, e.g., Press Release, Trump Administration Delivers 14 Straight Months of Zero Releases at the Border, U.S. Dep't of Homeland Sec. (July 16, 2026), <https://www.dhs.gov/news/2026/07/16/trump-administration-delivers-14-straight-months-zero-releases-border>.

Meanwhile, at the state and local level, Democrats' sanctuary policies continued to wreak havoc on American communities. Because sanctuary jurisdictions routinely refuse to cooperate with ICE, officials in these sanctuary jurisdictions release criminal aliens onto the streets instead of transferring them to ICE for removal from the country. According to ICE information, between October 2022 and early 2026, sanctuary jurisdictions declined to honor at least 41,085 detainers from ICE.³ A detainer is the formal request that a state or local law enforcement agency notify ICE before releasing a criminal alien or that the agency maintain custody of a criminal alien for a short period until ICE is able to arrest them in a secure setting.⁴ By refusing to honor ICE detainers, state and local jurisdictions guarantee that dangerous foreign national criminals—even illegal aliens who have been convicted of serious, violent crimes—are released into American communities and free to reoffend.

Sanctuary jurisdictions pose a significant threat to public safety and the enforcement of federal immigration law. The Committee on the Judiciary, with its Subcommittee on Immigration Integrity, Security, and Enforcement, has been conducting oversight of these sanctuary policies. Since January 2026, the Committee and Subcommittee have requested information relating to jurisdictions that restrict or prohibit cooperation with federal immigration officials, including their policies' devastating effects on public safety. To date, the Committee and Subcommittee have requested relevant material from 40 officials in 13 sanctuary jurisdictions across the country.

This interim staff report focuses on New York City, which has obstructed federal law enforcement with its sanctuary policies for years. Nonpublic documents and data obtained by the Committee and Subcommittee reveal the startling extent to which New York actively obstructs the enforcement of federal immigration law and shields foreign national criminals from accountability. The Committee and Subcommittee's oversight reveals:

- **Because of New York's sanctuary policies, repeat and dangerous criminals have been released onto New York City streets.** In roughly the past year alone, the New York City Police Department (NYPD) received nearly 10,000 detainers and honored zero.⁵ From July 1, 2018, through June 30, 2026, the NYPD received 20,255 detainers and did not honor a single one.⁶ In the same time period, the New York City Department of Correction received nearly 3,000 detainers and refused to honor any of them.⁷
- **The chief prosecutors for New York City's five boroughs treat illegal aliens differently than similarly situated American citizens.** District Attorneys Melinda Katz, Darcel Clark, Alvin Bragg, Eric Gonzalez, and Michael McMahon ensure prosecutors in their offices give preferential treatment to foreign nationals based solely on their

³ Info. provided to the H. Comm. on the Judiciary by U.S. Immigr. and Customs Enf't (Feb. 6, 2026) (on file with Comm.). The number of declined detainers is likely higher, given that ICE may not be aware that a detainer was declined until the agency encounters an alien who had previously been released.

⁴ See Immigr. Detainers, U.S. Immigr. and Customs Enf't, <https://www.ice.gov/immigration-detainers> (last accessed Oct. 19, 2026).

⁵ See *infra* note 64 and accompanying text.

⁶ See *infra* note 63 and accompanying text.

⁷ See *infra* note 62 and accompanying text.

immigration status—all so that criminal aliens can avoid deportation and remain in the United States indefinitely.⁸

- **Bronx District Attorney Darcel Clark trains prosecutors in her office to conceal certain facts from the record of conviction and pursue alternative charges so that aliens remain eligible to stay in the United States.**⁹ Clark’s office allows and even encourages the consideration of immigration consequences in cases involving aggravated felonies, crimes against children, domestic violence, strangulation, and firearms offenses.¹⁰
- **Clark’s office encourages its prosecutors to concoct nonexistent, legally impossible charges for foreign national defendants so that they may avoid immigration consequences for their crimes.** Documents provided to the Committee and Subcommittee show that the Bronx District Attorney’s Office instructs its prosecutors to arrange plea deals for crimes that are legally impossible or hypothetical, which it describes as “[c]rimes that cannot be factually accomplished—legal fictions.”¹¹ These made-up crimes would include, for example, “attempted reckless assault,” which is a legal impossibility because it would require the defendant to hold two contradictory mental states simultaneously (that is, a defendant cannot intend to be reckless). In other words, Clark’s office trains its prosecutors on how to create legally impossible, nonexistent crimes that do not carry immigration consequences—all so that foreign nationals can stay in New York City.
- **Queens District Attorney Melinda Katz urges prosecutors in her office to “exercise extreme caution” in resolving cases involving foreign nationals.**¹² Katz’s office advises its prosecutors to “not get caught up in the label of [f]elonies, [m]isdemeanors” when considering immigration consequences for criminal alien defendants.¹³

This interim report provides evidence of the ways in which just one city has implemented policies that allow dangerous foreign nationals to reoffend and avoid deportation. But New York and its leaders are not outliers. They are indicative of a modern, radical, socialist Democrat Party that seeks to erase national borders and place illegal alien criminals ahead of law-abiding American citizens. The policies supported by these Democrats, including sanctuary policies, will have negative and lasting consequences for Americans. The Committee and Subcommittee will continue to conduct oversight of these sanctuary policies to inform potential legislative reforms to better protect American communities.

⁸ See *infra* notes 83-98 and accompanying text.

⁹ See *infra* notes 99-110 and accompanying text.

¹⁰ See *infra* notes 99-110 and accompanying text.

¹¹ See Intro. To “Crimmigration”: Immigration Consequences of Criminal Convictions, Bronx District Att’y’s Off. (Mar. 15, 2023), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.); see also Immigration-Conscious Plea Bargaining: A Prosecutor’s Guide, Bronx District Att’y’s Off. (Apr. 2, 2019), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.); Criminal Immigration Law for Supervisors, Bronx District Att’y’s Off., provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.).

¹² See *infra* note 112 and accompanying text.

¹³ See *infra* note 113 and accompanying text.

SANCTUARY JURISDICTIONS

A “sanctuary city” or “sanctuary jurisdiction” is a city or jurisdiction that refuses to cooperate, or limits cooperation, with federal authorities in the enforcement of federal immigration law.¹⁴ Under the principle that “illegal aliens do not have the right to remain in the U.S. undetected and unapprehended,”¹⁵ Congress has explicitly prohibited any restriction on communication between state or local entities and federal immigration authorities relating to an individual’s immigration status.¹⁶

Despite the statute’s clear prohibition on cities, counties, and states from restricting communication with federal immigration authorities, there are, according to an estimate from the Center for Immigration Studies, upward of 200 such sanctuary jurisdictions in the United States. These jurisdictions:

[H]ave laws, ordinances, regulations, resolutions, policies, or other practices that obstruct immigration enforcement and shield criminals from [U.S. Immigration and Customs Enforcement (ICE)]—either by refusing to or prohibiting agencies from complying with ICE detainers, imposing unreasonable conditions on detainer acceptance, denying ICE access to interview incarcerated aliens, or otherwise impeding communication or information exchanges between their personnel and federal immigration officers.¹⁷

Sanctuary jurisdictions range from entire states—such as Colorado, California, New York, and Illinois—to major cities—such as Chicago; New Orleans; New York, Newark, New Jersey; Washington, D.C.; Baltimore; and Seattle—to entire counties like Fairfax County, Virginia.¹⁸

Sanctuary jurisdictions’ refusal to cooperate with ICE, including by not honoring ICE detainers, means that dangerous aliens are released back onto American streets. To ensure that criminal aliens are safely apprehended and deported, ICE issues detainers for aliens who have been arrested and who ICE has “probable cause to believe . . . [are] removable” from the United States.¹⁹ With a detainer, ICE “sends a formal request to a law enforcement agency or correctional facility that has custody of a potentially dangerous alien” and asks the law enforcement agency to notify ICE “as early as possible before [the agency] release[s] a removable alien” and to “[h]old the alien for up to 48 hours beyond the time they would

¹⁴ See WILLIAM A. KANDEL, CONG. RSCH. SERV., IFI14328, “SANCTUARY” JURISDICTIONS: POLICY OVERVIEW (2020); see also SARAH PECK, CONG. RSCH. SERV., R44795, “SANCTUARY” JURISDICTIONS: FEDERAL, STATE, AND LOCAL POLICIES AND RELATED LITIGATION 3-4 (2019).

¹⁵ H. Rep. No. 104-469, part 1, at 277 (1996).

¹⁶ See 8 U.S.C. § 1373(a).

¹⁷ Jessica M. Vaughan, *Map: Sanctuary Cities, Counties, and States*, CENTER FOR IMMIGR. STUDIES (June 29, 2026), <https://cis.org/Map-Sanctuary-Cities-Counties-and-States> (last accessed Oct. 19, 2026). The list of sanctuary jurisdictions compiled by the Center for Immigration Studies is broader than the Justice Department’s list.

¹⁸ *Id.*

¹⁹ *Immigr. Detainers*, U.S. Immigr. and Customs Enf’t, <https://www.ice.gov/immigration-detainers> (last accessed Oct. 19, 2026).

ordinarily release them so DHS has time to assume custody in accordance with federal immigration law.”²⁰ Notably, these aliens are in the custody of a state or local law enforcement agency for a criminal offense—not because they entered the country illegally or otherwise lack lawful status.

Despite the effectiveness of detainers, in the first 12 months of President Trump’s second term, state and local law enforcement agencies declined at least 17,864 ICE detainers, including for aliens charged with crimes ranging from sexual assault to murder, according to ICE data.²¹ In its 2019 report, ICE again warned that sanctuary jurisdictions were “[o]ne of the biggest impediments to [ICE Enforcement and Removal Operations’] public safety efforts.”²² In addition to harming communities, refusing to honor ICE detainers also endangers law enforcement officers as they must resort to taking custody of the alien in an uncontrolled environment.²³

The Biden-Harris Administration worked to weaken the first Trump Administration’s efforts to hold sanctuary jurisdictions accountable for undermining immigration enforcement.²⁴ In addition to dropping federal litigation relating to sanctuary jurisdictions’ policies,²⁵ the Biden-Harris Administration’s Justice Department, beginning in April 2021, no longer required jurisdictions to cooperate with ICE as a condition of receiving federal grant funding.²⁶ The number of ICE detainers fell precipitously as a result, from a monthly average of 13,000 to 14,000 during the first Trump Administration to a mere 2,200 detainers in March 2021—just two months after President Biden took office.²⁷ Although the Biden-Harris Administration gradually increased its use of immigration detainers in response to public pressure against its immigration policies, it still issued 31 percent fewer detainers than the first Trump Administration.²⁸

²⁰ *Id.*

²¹ Info. provided to the H. Comm. on the Judiciary by U.S. Immigr. and Customs Enf’t, (Feb. 6, 2026) (on file with Comm.). The number of declined detainers is likely higher, given that ICE may not be aware that a detainer was declined until the agency encounters an alien who had previously been released.

²² See U.S. Immigr. and Customs Enf’t, Fiscal Year 2019 Enf’t and Removal Operations Rep., at 17 (2020), <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>; see also U.S. Immigr. and Customs Enf’t, Fiscal Year 2020 Enf’t and Removal Operations Rep., at 17-18 (2021), <https://www.ice.gov/doclib/news/library/reports/annual-report/eroReportFY2020.pdf> (emphasizing the impact of non-cooperative jurisdictions).

²³ See U.S. Immigr. and Customs Enf’t, Q&A: U.S. Immigr. and Customs Enf’t Declined Detainer Outcome Rep. (DDOR) (Mar. 20, 2017), <https://www.dhs.gov/news/2017/03/20/qa-us-immigration-and-customers-enforcement-declined-detainer-outcome-report>.

²⁴ See Sarah N. Lynch, *U.S. Justice Department ends Trump-era limits on grants to ‘sanctuary cities’*, REUTERS (Apr. 28, 2021, 8:31 AM), <https://www.reuters.com/world/us/exclusive-us-justice-department-ends-trump-era-limits-grants-sanctuary-cities-2021-04-28/>.

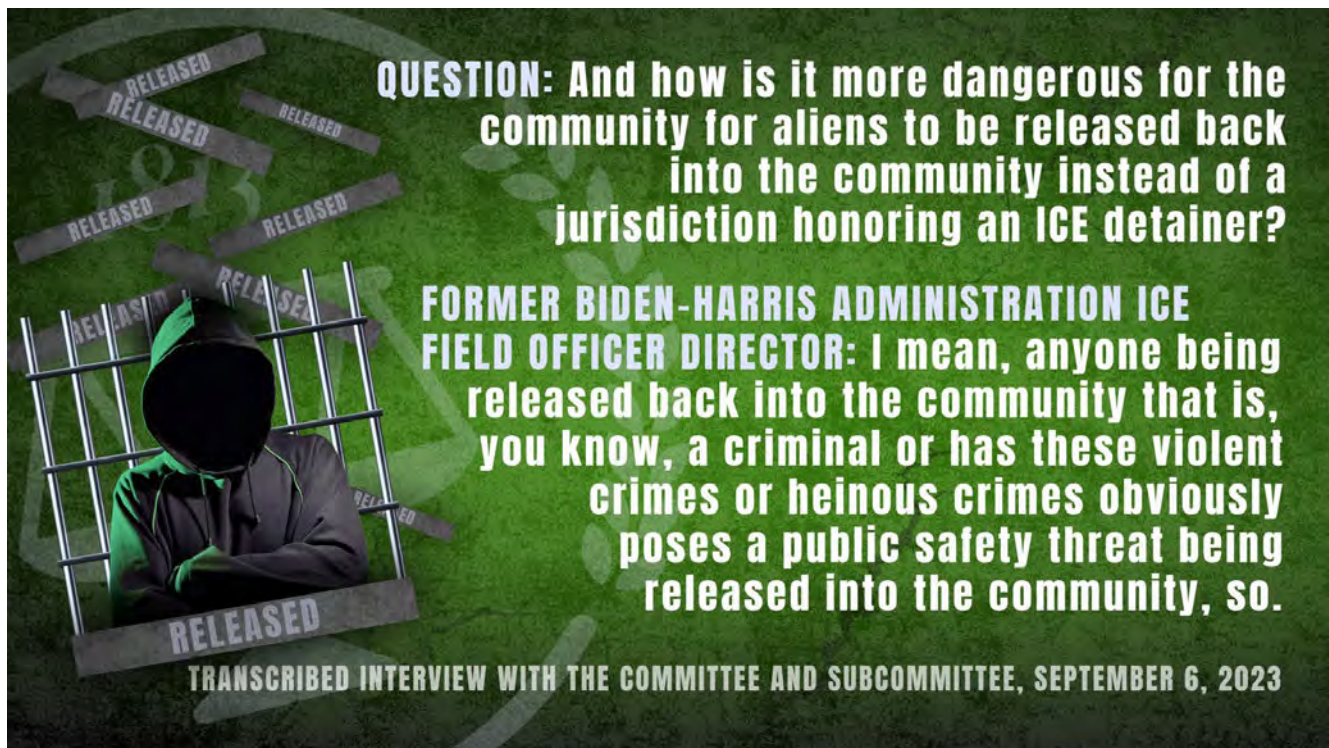
²⁵ Amy Howe, *Court dismisses “sanctuary cities” petitions*, SCOTUS BLOG (Mar. 5, 2021, 10:58 AM), <https://www.scotusblog.com/2021/03/court-dismisses-sanctuary-cities-petitions/>; see City Att’y of San Francisco, *Final victory for San Francisco in sanctuary city case against Trump administration* (Mar. 4, 2021), <https://www.sfcityattorney.org/2021/03/04/final-victory-for-san-francisco-in-sanctuary-city-case-against-trump-administration/>.

²⁶ See Lynch, *supra* note 24.

²⁷ *New Data on ICE Immigration Detainers Show Sharp Drop Since Start of Biden Administration*, TRAC IMMIGR. (June 20, 2023), <https://trac.syr.edu/reports/719/>.

²⁸ See U.S. Immigr. and Customs Enf’t, Fiscal Year 2024 ICE Enf’t and Removal Operations Rep., at 21 (Dec. 19, 2024), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf>; U.S. Immigr. and Customs Enf’t, Fiscal Year 2018 ICE Enf’t and Removal Operations Rep., at 9, <https://www.ice.gov/doclib/about/offices/ero/pdf/eroFY2018Report.pdf>.

Even Biden-Harris Administration ICE officials criticized sanctuary policies for endangering the public and law enforcement alike. In a transcribed interview with the Committee in 2023, one former high-ranking ICE official testified that sanctuary jurisdictions' refusal to honor ICE detainers endangers ICE officers and undermines ICE's mission.²⁹ Another Biden-Harris Administration ICE official told the Committee how detainer noncompliance for violent criminals "poses a public safety threat being released into the community."³⁰ One former ICE official even attributed sanctuary policies to potentially undermining national security.³¹ Another Biden-Harris Administration ICE official testified that ignoring ICE detainers endangers officers and the public because ICE is then forced to arrest criminal aliens at large in the community rather than in the secure setting of a jail or prison.³²



Since the start of President Trump's second term, the federal government has acted swiftly against sanctuary policies. In an executive order signed on January 20, 2025, President Trump directed the Attorney General and DHS Secretary to "evaluate and undertake any lawful actions to ensure that so-called 'sanctuary' jurisdictions, which seek to interfere with the lawful exercise of Federal law enforcement operations, do not receive access to Federal funds."³³

²⁹ Transcribed Interview of Former ICE Official 1, U.S. Immigr. & Customs Enf't, at 79-80 (Sept. 22, 2023) (on file with Comm.).

³⁰ Transcribed Interview of Former ICE Official 2, U.S. Immigr. & Customs Enf't, at 36 (Sept. 6, 2023) (on file with Comm.).

³¹ Transcribed Interview of Former ICE Official 3, U.S. Immigr. & Customs Enf't, at 23 (June 27, 2023) (on file with Comm.).

³² Transcribed Interview of Former ICE Official 4, U.S. Immigr. & Customs Enf't, at 87-88 (Oct. 10, 2023) (on file with Comm.).

³³ Exec. Order No. 14159, Protecting the American People Against Invasion, 90 Fed. Reg. 8443 (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/>.

President Trump also instructed the Attorney General and DHS Secretary to “undertake any other lawful actions, criminal or civil, that they deem warranted based on any such jurisdiction’s practices that interfere with the enforcement of Federal law.”³⁴ On February 19, 2025, President Trump signed an additional executive order to “ensure[] that Federal funds to states and localities will not be used to support ‘sanctuary’ policies or assist illegal immigration.”³⁵

On April 28, 2025, President Trump signed another executive order that directed the Attorney General to “publish a list of States and local jurisdictions that obstruct the enforcement of Federal immigration laws,” “notify each sanctuary jurisdiction regarding its defiance of Federal immigration law enforcement and any potential violations of Federal criminal law,” and “pursue all necessary legal remedies and enforcement measures to end these violations and bring such jurisdictions into compliance” with federal law.³⁶ The Justice Department produced its initial list of sanctuary jurisdictions in August 2025.³⁷ The most recent list from October 2025 identified 11 states, the District of Columbia, three counties, and 18 cities—meaning that, conservatively, about one-third of the U.S. population lives under dangerous sanctuary policies.³⁸ The number of Americans living under sanctuary policies may actually be much higher, however, as the Center for Immigration Studies estimates that the number of sanctuary jurisdictions is closer to 200.³⁹

SANCTUARY POLICIES IN NEW YORK CITY

New York’s Sanctuary Policies

New York has suffered under sanctuary policies for years. Statewide, New York Attorney General Letitia James has recommended that law enforcement agencies “not provide sensitive information that is not generally available to the public, such as information about an individual’s release details or home address.”⁴⁰ James also warned local officials to not honor ICE detainers because she claimed that such arrests and detention based on “an administrative arrest warrant or detainer alone are invalid because those documents are not judicial warrants issued by courts, and do not provide probable cause to believe an individual has committed a

³⁴ *Id.*

³⁵ Fact Sheet, President Donald J. Trump Ends Taxpayer Subsidization of Open Borders, WHITE HOUSE (Feb. 19, 2025), <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-ends-taxpayer-subsidization-of-open-borders/>.

³⁶ Exec. Order No. 14287, Protecting American Communities from Criminal Aliens, 90 Fed. Reg. 18761 (Apr. 28, 2025), <https://www.federalregister.gov/documents/2025/05/02/2025-07789/protecting-american-communities-from-criminal-aliens?>.

³⁷ Press Release, Justice Department Publishes List of Sanctuary Jurisdictions, U.S. DEP’T OF JUSTICE (Aug. 5, 2025), <https://www.justice.gov/opa/pr/justice-department-publishes-list-sanctuary-jurisdictions>.

³⁸ U.S. Sanctuary Jurisdiction List Following Executive Order 14287: Protecting American Communities From Criminal Aliens, U.S. Dep’t of Justice, <https://www.justice.gov/ag/us-sanctuary-jurisdiction-list-following-executive-order-14287-protecting-american-communities> (last accessed Oct. 19, 2026).

³⁹ See Vaughan, *supra* note 17.

⁴⁰ *Immigr. Enf’t*, Off. of N.Y. Att’y Gen. Letitia James (updated Jan. 2025), <https://ag.ny.gov/police-departments-law-enforcement/immigration-enforcement> (last accessed Sept. 30, 2026).

crime or offense.”⁴¹ James’s pro-illegal alien guidance is provided in 13 languages, including Arabic, Bengali, and Chinese.⁴²

More recently, New York’s sanctuary officials expanded the state’s already-dangerous sanctuary status. In May 2026, New York enacted the Local Cops, Local Crimes Act, which prohibits local law enforcement from housing illegal aliens, orderly transferring criminal alien detainees to ICE custody, and entering into ICE cooperation agreements, also known as 287(g) agreements.⁴³ New York Governor Kathy Hochul and Attorney General James also announced a statewide Office of Immigrant Trust, a roving enforcement office that is devoted to ensuring that locally elected law enforcement officials obey the state’s sanctuary laws and release criminal aliens onto New York streets.⁴⁴ The office is part of the Attorney General’s Office’s Social Justice Division.⁴⁵

Despite New York’s long-time sanctuary status, several sheriffs in New York have maintained 287(g) agreements, Intergovernmental Agreements, and Intergovernmental Service Agreements with ICE.⁴⁶ Pursuant to these agreements, the sheriffs “have identified and processed removable aliens who pose risks to public safety in their communities and have provided housing for federal detainees.”⁴⁷ The Local Cops, Local Crimes Act prohibits the agreements, “declare[d] existing agreements ‘not consistent with state law’ and ‘void and unenforceable,’ and . . . require[d] that 287(g) agreements be terminated by August 25, 2026.”⁴⁸

Fifteen New York sheriffs have since sued Governor Hochul, Attorney General James, and the State of New York in federal court, arguing that the new laws violate the U.S. Constitution’s “Contracts Clause, the Tenth Amendment’s prohibition on reverse commandeering, and the preemptive effect of the Supremacy Clause.”⁴⁹ In their complaint, the sheriffs argue that the law’s Office of Immigrant Trust was created to “police compliance with” the Local Cops, Local Crimes Act, “and to second-guess the independent judgments of elected sheriffs concerning federal cooperation with immigration enforcement.”⁵⁰ As a result, the sheriffs note that the laws “nullify the ability of independently elected constitutional officers to enter into contracts authorized by federal law.”⁵¹ On August 25, 2026, the sheriffs filed

⁴¹ *Id.*

⁴² *Id.*

⁴³ See N.Y. Exec. Law § 170-k (McKinney); Mateo Forero, *Hochul Said ‘Bring It On.’ The Sheriffs Filed in Federal Court*, FAIR (Sept. 15, 2026), <https://www.fairus.org/opinion/hochul-said-bring-it-sheriffs-filed-federal-court>; Press Release, ICYMI: Governor Hochul and Attorney General James Sue To Defend New Community Safety Laws, Off. of N.Y. Att’y Gen. Letitia James (June 23, 2026), <https://ag.ny.gov/press-release/2026/icymi-governor-hochul-and-attorney-general-james-sue-defend-new-community-safety>.

⁴⁴ See Off. of Immigr. Trust, Social Justice Div., Off. of N.Y. Att’y Gen. Letitia James, <https://ag.ny.gov/about/about-office/social-justice-division#immigrant-trust> (last accessed Sept. 30, 2026).

⁴⁵ *Id.*

⁴⁶ *Bourgault et al. v. Hochul et al.*, No. 1:26-CV-1637, Complaint, at 3 (N.D.N.Y. Aug. 25, 2026).

⁴⁷ *Id.*

⁴⁸ *Id.* at 3-4.

⁴⁹ *Id.* at 5.

⁵⁰ *Id.* at 4.

⁵¹ *Id.*

emergency motions for a preliminary injunction and a temporary restraining order in an attempt to prevent the laws from going into effect while their lawsuit is pending.⁵²

New York City maintains its own anti-immigration enforcement policies. New York City's sanctuary laws prohibit the New York City Police Department (NYPD) and New York City Department of Correction (NYCDOC) from complying with most ICE detainers.⁵³ Instead, these law enforcement agencies may only honor an ICE detainer if it is accompanied by a judicial warrant and is for a foreign national who is "convicted of a violent or serious crime" or "is identified as a possible match in the terrorist screening database."⁵⁴ Judicial warrants are not required under federal law and are not possible in the overwhelming majority of immigration cases unless a foreign national is charged with a *federal* crime.⁵⁵ In testimony to the Immigration Subcommittee in May 2026, former Virginia Attorney General Jason Miyares explained the impossibility of obtaining a judicial warrant for most criminal aliens:

Q: Well, is a federal judicial warrant possible to obtain in a state crime?

A: No, it's not, and they know this.

Q: And if deportation is a civil matter, how does one get a federal judicial warrant?

A: You can't. Again, they know this.

Q: So, they're basically lying to the public? They are counting on the public not understanding that what they are asking for is legally impossible?

A: It's legally impossible, yes, Mr. Chair.⁵⁶

Mayor Zohran Mamdani has bolstered New York's protections for criminal aliens at the expense of Americans.⁵⁷ In February 2026, Mayor Mamdani signed an executive order that prohibits ICE from entering New York City schools, shelters, and hospitals without a judicial

⁵² *Bourgault et al. v. Hochul et al.*, No. 1:26-CV-1637, Pls. Emerg. Mot. for Prelim. Inj. (N.D.N.Y. Aug. 25, 2026); *Bourgault et al. v. Hochul et al.*, No. 1:26-CV-1637, Pls. Emerg. Mot. for TRO (N.D.N.Y. Aug. 25, 2026).

⁵³ See, e.g., NYC Administrative Code §§ 9-131, 9-205, 14-154 (prohibiting detainer compliance except with a judicial warrant for an alien who "has been convicted of a violent or serious crime" or "is identified as a possible match in the terrorist screening database").

⁵⁴ *Id.*

⁵⁵ See *Fairfax Cnty., Va.: The Dangerous Consequences of Sanctuary Policies: Hearing Before the Subcomm. on Immigr. Integrity, Security, and Enf't of the H. Comm. on the Judiciary*, 119th Cong. (May 14, 2026) (testimony of former Va. Att'y Gen. Jason Miyares).

⁵⁶ *Id.*

⁵⁷ Exec. Order 13, Protecting New Yorkers from Abusive Immigr. Enf't, New York City Mayor's Off. (Feb. 6, 2026), <https://www.nyc.gov/mayors-office/news/2026/02/executive-order-13>.

warrant and enacts additional pro-illegal alien protections.⁵⁸ Mayor Mamdani has also enlisted an open-borders former Biden-Harris Administration official to monitor and micromanage NYCDOC and the NYPD about a potential lack of compliance with New York's and Mayor Mamdani's sanctuary agenda.⁵⁹



New York's sanctuary laws and policies have devastating consequences. In just ten months in 2025, New York released nearly 7,000 criminal aliens after failing to honor ICE detainers.⁶⁰ Crimes involving the released aliens included "29 homicides, 2,509 assaults, 199 burglaries, 305 robberies, 392 dangerous drugs offenses, 300 weapons offenses, and 207 sexual predatory offenses."⁶¹ From July 1, 2018, through June 30, 2026, NYCDOC refused to honor 2,852 detainers.⁶² During the same timeframe, the NYPD received 20,255 detainers and did not honor a single one, "pursuant to local law."⁶³ In other words, instead of cooperating with ICE

⁵⁸ *Mayor Mamdani signs executive order on sanctuary laws to strengthen protections for New Yorkers*, ABC 7 (Feb. 6, 2026), <https://abc7ny.com/post/mayor-zohran-mamdani-signs-executive-order-nyc-sanctuary-laws-strengthen-protections-new-yorkers/18554112/>.

⁵⁹ Chris Sommerfeldt, *Mamdani taps ex-Biden official to audit NYPD, other agencies for sanctuary law lapses*, POLITICO (Feb. 16, 2026, 2:00 PM), <https://www.politico.com/news/2026/02/16/mamdani-taps-ex-biden-official-to-audit-nypd-other-agencies-for-sanctuary-law-lapses-00781624>.

⁶⁰ Press Release, *Sanctuary New York Released Nearly 7,000 Criminal Illegal Aliens Including Murderers, Terrorists, and Sexual Predators*, U.S. Dep't of Homeland Sec. (Dec. 1, 2025), <https://www.dhs.gov/news/2025/12/01/sanctuary-new-york-released-nearly-7000-criminal-illegal-aliens-including-murderers>.

⁶¹ Press Release, *HOCHUL POLICY WOULD PUT NEW YORKERS IN DANGER: Governor Hochul Proposes to Bar All Local Police Departments from Partnering with ICE*, U.S. Dep't of Homeland Sec. (Jan. 30, 2026), <https://www.dhs.gov/news/2026/01/30/hochul-policy-would-put-new-yorkers-danger-governor-hochul-proposes-bar-all-local>.

⁶² NYCDOC Detainer Reports, July 1, 2018, through June 30, 2026 (on file with Comm.).

⁶³ NYPD Summary of Statistics on ICE Detainers, July 1, 2018, through June 30, 2026 (on file with Comm.).

and ensuring that dangerous foreign nationals were removed from New York City streets, law enforcement was forced to release thousands of criminal aliens over the last eight years, many of whom reoffended. New York's detainer numbers also reflect the Biden-Harris Administration's abandonment of immigration enforcement. The Biden-Harris Administration sent NYPD only 434 detainers from July 1, 2021, through June 30, 2024, compared to 9,645 detainers in just a single year of the second Trump Administration.⁶⁴



SUMMARY OF STATISTICS ON ICE DETAINERS

July 1, 2025, to June 30, 2026

- Number of civil immigration detainers received: **9,645**
- Number of individuals held pursuant to civil immigration detainers beyond the time when such individual would otherwise be released from custody of the NYPD: 0
- Number of individuals transferred to ICE pursuant to civil immigration detainers: 0
- Number of individuals for whom civil immigration detainers were not honored pursuant to local law AC 14-154 of 2017: **9,645**

Above: NYPD's most recent detainers report reveals that local law enforcement declined to honor nearly 10,000 detainers during a single year.

New York's pro-illegal alien policies have persisted for years. In 2020, ICE immigration enforcement activity in New York led to 54 arrests of aliens with criminal charges such as sexual assault against a child, lewd and lascivious acts upon a child, robbery, and grand larceny.⁶⁵ Of the 54 aliens arrested, more than 30 had been released from local law enforcement custody despite active ICE detainers.⁶⁶ These releases have tragic consequences. In 2020, an illegal alien allegedly assaulted and murdered a 92-year-old woman in Queens, New York.⁶⁷ Despite ICE requesting that local law enforcement hand him over to federal authorities after an arrest just two

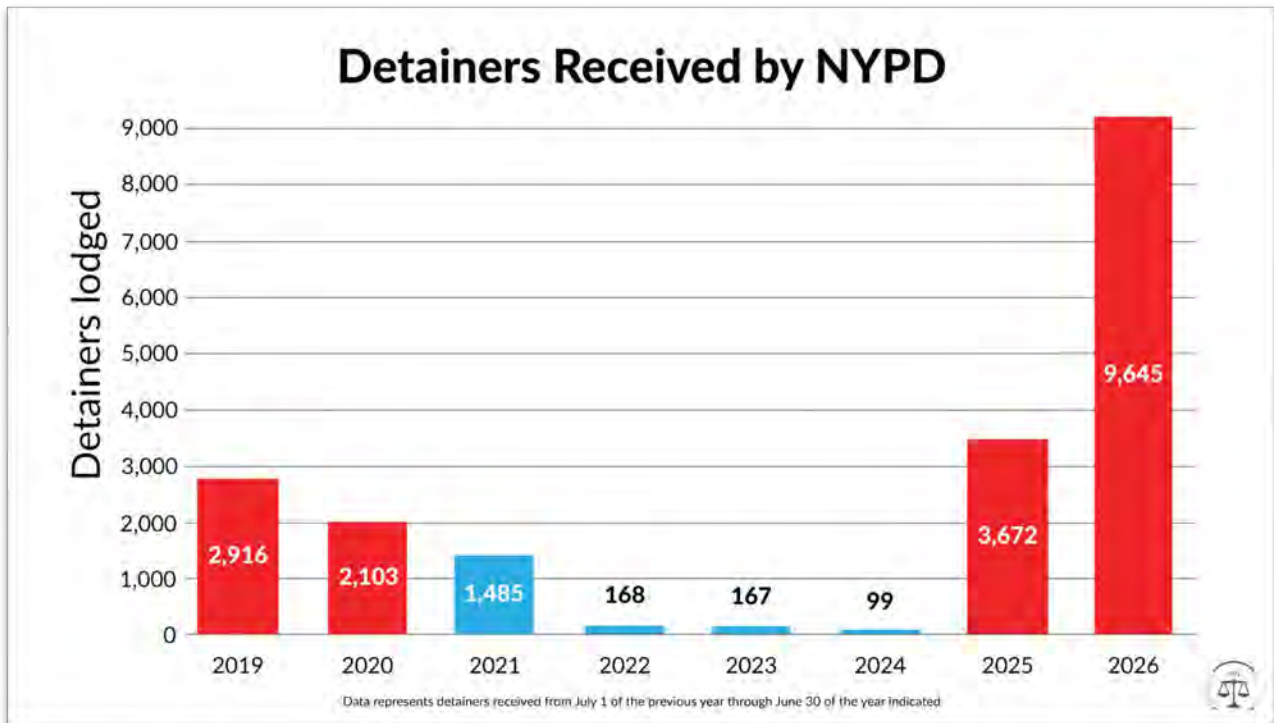
⁶⁴ See *id.*

⁶⁵ Press Release, U.S. Immigration and Customs Enforcement, New York's sanctuary city policy leads to increased ICE activity, dozens of arrests throughout metropolitan area (Oct. 20, 2020), <https://www.ice.gov/news/releases/new-yorks-sanctuary-city-policy-leads-increased-ice-activity-dozens-arrests>.

⁶⁶ *Id.*; see Press Release, U.S. Immigr. and Customs Enft, ICE arrests 225 during Operation Keep Safe in New York (Apr. 17, 2018), <https://www.ice.gov/news/releases/ice-arrests-225-during-operation-keep-safe-new-york> (highlighting criminal aliens arrested during a 2018 ICE enforcement action, including 60 aliens previously released by local law enforcement despite active ICE detainers).

⁶⁷ See Annie Correal, *Man Accused of Murdering Woman, 92, Should Have Been Deported, ICE Says*, N.Y. TIMES (Jan. 14, 2020), <https://www.nytimes.com/2020/01/14/nyregion/92-year-old-woman-queens-murder.html>; see also Adam Shaw, *DHS boss blasts NYC for springing illegal immigrant now held on murder charge: 'Preventable tragedy'*, FOX NEWS (Jan. 17, 2020, 9:57 AM), <https://www.foxnews.com/politics/dhs-illegal-immigrant-nyc-murder>.

months earlier, New York City authorities released him.⁶⁸ The woman’s granddaughter, Daria Ortiz, explained how her grandmother’s murder could have been prevented, noting that “[t]he tragedy in all of this is the fact that this could have been avoided, had there been no sanctuary law.”⁶⁹ The same month, ICE arrested an illegal alien from Ecuador who, despite having been arrested for sexually assaulting a child, had been released by NYPD instead of transferred to ICE.⁷⁰ Nonetheless, then-Mayor Bill de Blasio claimed that refusing ICE detainers made the city safer.⁷¹



In addition to suffering from the crime and violence perpetuated by New York’s sanctuary policies, residents now bear the financial burdens of the influx of the Biden-Harris Administration’s illegal aliens. According to former New York City Mayor Eric Adams, by the end of fiscal year 2025, the city was predicted to have spent more than \$12 billion on illegal aliens since 2022.⁷²

⁶⁸ *Id.*

⁶⁹ Larry Celona, *Slain 95-year-old’s granddaughter slams NYC’s sanctuary city policy during speech with Trump*, N.Y. Post (Feb. 14, 2020), <https://nypost.com/2020/02/14/slain-92-year-olds-granddaughter-slams-nycs-sanctuary-city-policy-during-speech-with-trump/>.

⁷⁰ Press Release, U.S. Immigr. and Customs Enf’t, ICE arrests Ecuadorian man accused of raping a minor during enforcement efforts in New York (Jan. 31, 2020), <https://www.ice.gov/news/releases/ice-arrests-ecuadorian-man-accused-raping-minor-during-enforcement-efforts-new-york>.

⁷¹ Shaw, *supra* note 67.

⁷² Jeffery C. Mays, *Mayor Adams Says Migrant Influx Will Cost New York City \$12 Billion*, N.Y. TIMES (Aug. 9, 2023), <https://www.nytimes.com/2023/08/09/nyregion/adams-nyc-migrants-cost.html>.

New York’s Preferential Prosecution of Criminal Aliens

Under the direction of far-left district attorneys, prosecutors in New York City’s five boroughs give preferential treatment to aliens based solely on their immigration status—all so that criminal aliens can avoid deportation and remain in the United States indefinitely. Under federal law, aliens who have admitted to or have been convicted of certain crimes are inadmissible to and removable from the United States and otherwise ineligible for various forms of immigration relief and protection from removal.⁷³ For instance, aliens who have been convicted of an aggravated felony are ineligible for asylum and cancellation of removal, a form of immigration relief that “cancels” certain aliens’ deportation/removal from the country.⁷⁴ An “aggravated felony” encompasses offenses ranging from theft to sexual abuse of a minor to drug trafficking and frequently requires a term of imprisonment of at least one year.⁷⁵ Similarly, a crime involving moral turpitude (CIMT) is both a ground of inadmissibility⁷⁶ and a ground of removability⁷⁷ and also bars an alien from certain forms of relief.⁷⁸ Controlled substances convictions carry similar consequences.⁷⁹ Illegal aliens are *already* inadmissible to the country—and thereby deportable—because of their illegal entry into the U.S., but certain convictions nonetheless bar them from receiving immigration relief to remain in the country indefinitely.

To avoid these consequences of criminality for illegal aliens, prosecutors in New York have crafted policies that shield dangerous foreign nationals from deportation. Examples of these policies include:

- **Queens District Attorney Melinda Katz** employs an “Immigration Specialist” to help dangerous foreign nationals avoid immigration consequences for their criminality.⁸⁰ Recognizing that “[a] broad range of criminal convictions may trigger severe immigration consequences” for criminal aliens, the Immigration Specialist “helps Assistant District Attorneys navigate through plea options and assist in framing dispositions that will prevent unwanted immigration consequences.”⁸¹ This work includes guidance for “post-conviction relief motions” and “request[s] for prosecutorial discretion” for foreign nationals,⁸² “training to incoming prosecutors,” participation “in conferences for plea negotiation,” “case specific written analysis” for certain cases,⁸³

⁷³ See, e.g., 8 U.S.C. § 1182(a)(2) (criminal grounds of inadmissibility); 8 U.S.C. § 1227(a)(2) (criminal grounds of removability); 8 U.S.C. § 1158(b)(2)(B) (asylum ineligibility for an aggravated felony conviction).

⁷⁴ 8 U.S.C. § 1101(f)(8) (no person can be regarded as a person of good moral character if convicted of an “aggravated felony”); 8 U.S.C. § 1158(b)(2)(B)(i) (defining “particularly serious crime,” which renders an alien ineligible for asylum, to include “aggravated felony”).

⁷⁵ See 8 U.S.C. § 1101(a)(43).

⁷⁶ See 8 U.S.C. § 1182(a)(2)(A)(i)(I).

⁷⁷ See 8 U.S.C. § 1227(a)(2)(A)(i).

⁷⁸ See, e.g., 8 U.S.C. §§ 1229b(b)(1), (2) (cancellation of removal requirements).

⁷⁹ See 8 U.S.C. § 1227(a)(2)(B)(i).

⁸⁰ See Appeals and Special Litigation Div., Queens District Att’y’s Off., <https://queensda.org/appeals-special-litigation/> (last accessed Oct. 22, 2026).

⁸¹ *Id.*

⁸² Brave Justice Annual Rep. 2025, Queens District Att’y’s Off., at 51 (2025), https://queensda.org/wp-content/uploads/2026/02/BraveJustice_2025_final_digital_sm.pdf.

⁸³ Brave Justice Annual Rep. 2023, Queens District Att’y’s Off., at 67 (2023), https://queensda.org/wp-content/uploads/2024/02/BraveJustice_2023_digital_final.pdf.

advice on “changing immigration laws and policies,” and counsel on “[i]ssues surrounding clemency and pardons.”⁸⁴

- **Manhattan District Attorney Alvin Bragg** has admitted that “consider[ing] any likely immigration consequences” is “appropriate” in cases involving foreign nationals.⁸⁵ Bragg previously specified in a January 2022 memorandum that his office would “seek dispositions that avoid immigration consequences for all misdemeanors, and all felonies for which non-carceral outcomes are the presumptive outcome.”⁸⁶ In correspondence to the Committee and Subcommittee, Bragg’s office described that policy as “outdated” and replaced by a policy that broadly directed assistant district attorneys “to apply their judgment on a case-by-case basis to achieve public safety and justice.”⁸⁷
- **Bronx District Attorney Darcel Clark** requires prosecutors in her office to consider “immigration” along with a “broad range of other potential collateral consequences when initiating a prosecution.”⁸⁸ She has even boasted that her office agreed to dozens of requests “to re-plead to an alternative crime, primarily due to immigration concerns.”⁸⁹
- **Brooklyn District Attorney Eric Gonzalez** announced nearly a decade ago that his office was “implementing a new policy aimed at minimizing collateral immigration consequences of criminal convictions, particularly for misdemeanor and other low-level offenses.”⁹⁰ At that time, the Brooklyn District Attorney’s Office “hired two immigration attorneys to train all staff on immigration issues and to advise prosecutors when making plea offers and sentencing recommendations on cases of non-citizen defendants in an effort to avoid disproportionate collateral consequences, such as deportation, while maintaining public safety.”⁹¹ To achieve “an immigration-neutral disposition,” Gonzalez directed prosecutors to “consider alternative offenses the defendant can plead to as well as reasonable modifications to the sentence recommendation,” even suggesting that a criminal alien be offered “a plea for a lesser offense in light of the disproportionate immigration consequences a higher level offense may result in.”⁹² Gonzalez has boasted

⁸⁴ Brave Justice Annual Rep. 2021, at 91 (2021), https://queensda.org/wp-content/uploads/2022/03/BraveJusticeVol3_2021_final_digital.pdf.

⁸⁵ Letter from Alvin Bragg, Manhattan District Att’y, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 10, 2026) (on file with Comm.).

⁸⁶ Memorandum, Achieving Fairness and Safety, from District Att’y Alvin Bragg to All Staff (Jan. 3, 2022), <https://web.archive.org/web/20260317193044/https://www.manhattanda.org/wp-content/uploads/2022/02/Day-One-Memo-w.-cover-page.pdf> (archived Mar. 17, 2026).

⁸⁷ See Letter from Alvin Bragg, Manhattan District Att’y, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 10, 2026) (on file with Comm.).

⁸⁸ A Safer Bronx Through Fair Justice, Bronx District Att’y’s Off., at 12, <https://www.bronxda.nyc.gov/downloads/pdf/safer-bronx-through%20fair-justice.pdf>.

⁸⁹ 2018 Annual Rep., Off. of the Bronx Cnty. District Att’y Darcel D. Clark, at 20, <https://www.bronxda.nyc.gov/downloads/pdf/annual-reports/2018-Annual-Report.pdf>.

⁹⁰ Press Release, Acting Brooklyn District Attorney Eric Gonzalez Announces New Policy Regarding Handling of Cases against Non-Citizen Defendants, Brooklyn District Att’y’s Off. (Apr. 24, 2017), <https://www.brooklynda.org/2017/04/24/acting-brooklyn-district-attorney-eric-gonzalez-announces-new-policy-regarding-handling-of-cases-against-non-citizen-defendants/>.

⁹¹ *Id.*

⁹² *Id.*

that his policy has resulted in reaching “plea deals with immigrant defendants that allowed them to avoid deportation.”⁹³

- **Staten Island District Attorney Michael McMahon** established an Immigrant Affairs and Collateral Consequences Unit to advise prosecutors “on cases with collateral consequences” to ensure that criminal aliens can avoid deportation.⁹⁴ This work includes drafting motions related to “immigration collateral consequence[s] and pardon requests” and even “[c]ontacting [Immigration and Customs Enforcement] to postpone removal proceedings against defendants, witnesses, and victims for the interest of justice.”⁹⁵



With varying approaches, each New York City prosecutor’s office goes to great lengths to ensure that foreign national criminals can remain in the Big Apple instead of being deported to their home countries. The Bronx District Attorney’s Office, led by District Attorney Darcel Clark since 2016,⁹⁶ trains its prosecutors and supervisors on avoiding immigration consequences for foreign national criminals, including those charged with child sex crimes, aggravated

⁹³ Rep. to the People 2022, Brooklyn District Att’y’s Off., at 32, <https://view.publitas.com/kcda/bda-annual-report-7-26-23-spreads/>.

⁹⁴ Press Release, District Attorney McMahon Pens Letter Reflecting on the Murder of George Floyd in Minneapolis; Outlines New Efforts at RCDA to Address Racial Bias and Reaffirms Commitment to RCDA’s Ongoing Initiatives Ensuring Fairness in the Criminal Justice System on Staten Island, Off. of the District Att’y, Richmond Cnty. (June 5, 2020), <https://www.statenislandda.org/wp-content/uploads/2020/06/District-Attorney-McMahon-Pens-Letter-Reflecting-on-the-Murder-of-George-Floyd-in-Minneapolis...-compressed.pdf>.

⁹⁵ IAU/SVB Paralegal Immigr. Affairs Unit, NYC Job Posting ID # 533484, <https://www.statenislandda.org/wp-content/uploads/2022/05/533484-Immigrant-Affairs-Unit-SVB-Paralegal-May-2022PDF.pdf>.

⁹⁶ District Att’y’s Biography, Off. of the Bronx District Att’y, <https://www.bronxda.nyc.gov/html/about/district-attorneys-bio.shtml> (last accessed Oct. 5, 2026).

felonies, domestic violence, firearms offenses, stalking, and controlled substance offenses.⁹⁷ In one training, the office outlined its overall approach: “As appropriate, we should strive to ensure that a conviction for certain offenses does not lead to unintended and severe consequences such as deportation that can tear families apart and destabilize communities.”⁹⁸

The Bronx District Attorney’s Office’s training includes three strategies that underly its “Immigration-Conscious Plea Bargaining”: (1) avoiding a conviction; (2) avoiding an aggravated felony as defined under immigration law; and (3) offering “a non-deportable offense.”⁹⁹ Because

3. Immigration-Conscious Plea Bargaining

Strategies

1. Avoid “Conviction”
2. Avoid Aggravated Felony
3. Offer a Non-Deportable Offense



Above: The Bronx District Attorney’s Office trains its prosecutors on the best strategies for foreign national criminals to avoid immigration consequences.

only certain crimes trigger deportation under federal law, Clark encourages prosecutors in her office to “offer something else”—in other words, pursue alternative charges against foreign nationals.¹⁰⁰ In some cases, the Bronx District Attorney’s Office even endorses its prosecutors arranging plea deals for crimes that are legally impossible or hypothetical, which it describes as “[c]rimes that cannot be factually accomplished—legal fictions.”¹⁰¹ Because “[l]egally impossible crimes cannot serve as the basis for [immigration] removal proceedings” in the U.S. Court of Appeals for the Second Circuit,¹⁰² which has jurisdiction over immigration cases in

⁹⁷ Immigration-Conscious Plea Bargaining: A Prosecutor’s Guide, Bronx District Att’y’s Off. (Apr. 2, 2019), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.); Criminal Immigration Law for Supervisors, Bronx District Att’y’s Off., provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.).

⁹⁸ Intro. To “Crimmigration”: Immigration Consequences of Criminal Convictions, Bronx District Att’y’s Off. (Mar. 15, 2023), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.).

⁹⁹ Immigration-Conscious Plea Bargaining: A Prosecutor’s Guide, Bronx District Att’y’s Off. (Apr. 2, 2019), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.); Criminal Immigration Law for Supervisors, Bronx District Att’y’s Off., provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.).

¹⁰⁰ See *id.*

¹⁰¹ See Intro. To “Crimmigration”: Immigration Consequences of Criminal Convictions, Bronx District Att’y’s Off. (Mar. 15, 2023), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.); see also Immigration-Conscious Plea Bargaining: A Prosecutor’s Guide, Bronx District Att’y’s Off. (Apr. 2, 2019), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.); Criminal Immigration Law for Supervisors, Bronx District Att’y’s Off., provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.).

¹⁰² Immigration-Conscious Plea Bargaining: A Prosecutor’s Guide, Bronx District Att’y’s Off. (Apr. 2, 2019), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.).

New York City, Clark’s office encourages prosecutors to allow defendants to “plead guilty to a lesser offense that is technically non-existent or [a] hypothetical crime.”¹⁰³ The training even offers numerous examples of such crimes, which ultimately insulate criminal aliens from immigration consequences, including attempted reckless assault, attempted reckless endangerment, attempted resisting arrested, and attempted felony murder.¹⁰⁴

Impossible Crime Rule

Legally impossible crimes cannot serve as the basis for removal proceedings.

Examples of legally impossible crimes:

- Attempted Reckless Assault (110/120.05[4], 110/120.10[3])
- Attempted Reckless Endangerment (110/120.20, 110/120.25)
- Attempted Reckless Manslaughter (110/125.15[1], 110/125.20[4], 110/125.21)
- Attempted Reckless Murder (110/125.25[2], [4])
- Attempted Felony Murder (110/125.25[3])
- Attempted Felony Assault (110/120.05[6], 110/120.10[4])
- Attempted Reckless Endangerment of Property (110/145.25)
- Attempted Obstruction of Governmental Administration (110/195.05)
- Attempted Resisting Arrest (110/205.30)

Gil vs. INS, 420 F.3d 82 (2nd Cir. 2005) (“removal based on a crime that, because it is legally impossible, demonstrates no clear mental state” is unlawful).

Above: The Bronx District Attorney’s Office encourages prosecutors to allow criminal alien defendants to plead to non-existent, hypothetical crimes to avoid immigration consequences.

These crimes are legal impossibilities—that is, no prosecutor can prove guilt beyond a reasonable doubt—because they would require the defendant to have two contradictory mental states (*mens rea*) at the same time. For example, “attempted reckless assault” would require the defendant to have a specific intent to commit criminal attempt, while “recklessness” means acting without intent and merely having a conscious disregard for the risk of causing injury to another. A defendant cannot have a specific intent to act recklessly. Similarly, “attempted felony

¹⁰³ Intro. To “Crimmigration”: Immigration Consequences of Criminal Convictions, Bronx District Att’y’s Off. (Mar. 15, 2023), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.).

¹⁰⁴ See Immigration-Conscious Plea Bargaining: A Prosecutor’s Guide, Bronx District Att’y’s Off. (Apr. 2, 2019), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.). In one training, the office cited case law from the U.S. Court of Appeals for the Second Circuit that held that “removal based on a crime that, because it is legally impossible, demonstrates no clear mental state” is unlawful. See *id.* Another training relied on Second Circuit case law that held that “because a person cannot intend to commit a reckless act, an attempted reckless assault could not constitute [a crime involving moral turpitude (CMT), which makes an alien both inadmissible and deportable and ineligible for certain immigration relief] even though the completed crime itself is a CMT.” See Intro. To “Crimmigration”: Immigration Consequences of Criminal Convictions, Bronx District Att’y’s Off. (Mar. 15, 2023), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.).

murder” is a legal impossibility because felony murder is an unintended death that occurs during the commission of a felony. A defendant cannot have a specific intent to commit an unintentional death. For that reason, the Bronx District Attorney’s Office admits that someone “[c]an only plead guilty to a hypothetical crime” and “cannot be convicted at trial to one.”¹⁰⁵ In other words, by urging its prosecutors to use these legal impossibilities, the Bronx District Attorney’s Office not only encourages but also trains its prosecutors about how to concoct nonexistent crimes so that foreign national criminals can avoid immigration consequences and remain in the country.

To further accomplish Clark’s pro-illegal alien goals, the Bronx District Attorney’s Office directs prosecutors to exclude relevant information from conviction records and offer lenient plea deals. For example, because certain firearms offenses make an alien deportable from the United States,¹⁰⁶ the Bronx District Attorney’s Office directs its prosecutors to “[k]eep the firearm out of the record of conviction” and “[o]ffer something that does not specify a firearm.”¹⁰⁷ Similarly, because an immigration official can consult an alien’s record of conviction to determine whether the alien has committed a crime of domestic violence that makes him deportable, the Bronx District Attorney’s Office instructs its prosecutors to “[k]eep the domestic relationship out of the record of conviction.”¹⁰⁸ For similar reasons, for crimes of stalking, the office trains its prosecutors to “[o]ffer something that does not involve repeated instances or an intent to instill fear.”¹⁰⁹ For “crimes against children,” which include sex crimes, drug offenses involving a child, endangering the welfare of a child, prostitution involving a child, and sexual abuse of a minor, Clark’s office trains its prosecutors to “[o]ffer something that does not have the child’s age as an element of the crime.”¹¹⁰ In practice, this means that foreign nationals who commit sexual abuse of a child, child endangerment, domestic violence, stalking, and other similar offenses may receive plea deals that allow them to not only escape full criminal accountability for their actions but also remain in the U.S. indefinitely. Concealing the relevant portions of a foreign national’s criminal conduct also endangers public safety by hiding details from future court proceedings and from law enforcement officers who will likely re-encounter the dangerous criminal alien and be unaware of his violent history.

¹⁰⁵ Intro. To “Crimmigration”: Immigration Consequences of Criminal Convictions, Bronx District Att’y’s Off. (Mar. 15, 2023), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.) (noting that “[t]he underlying offenses must be sufficiently pled in the accusatory instrument” and emphasizing that “[c]ontrary to popular belief, a factual recitation (allocation) of the crime is not *required* from a pleading defendant on a **negotiated plea**”) (emphases in original).

¹⁰⁶ 8 U.S.C. § 1227(a)(2)(C).

¹⁰⁷ See Immigration-Conscious Plea Bargaining: A Prosecutor’s Guide, Bronx District Att’y’s Off. (Apr. 2, 2019), provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.); Criminal Immigration Law for Supervisors, Bronx District Att’y’s Off., provided to H. Comm. on the Judiciary (Sept. 23, 2026) (on file with Comm.).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

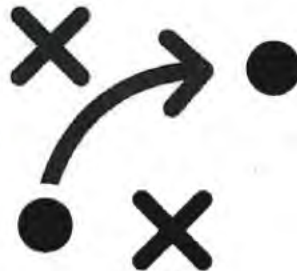
3. Immigration-Conscious Plea Bargaining

Strategy 2: Avoid Aggravated Felony

Crimes of Violence/Property Crimes



- 364-Day Sentence
(not for murder/rape/sexual abuse of a minor)
- Intentional => Reckless
- Facilitation
- Impossible Crime Rule
- Offer Something Else



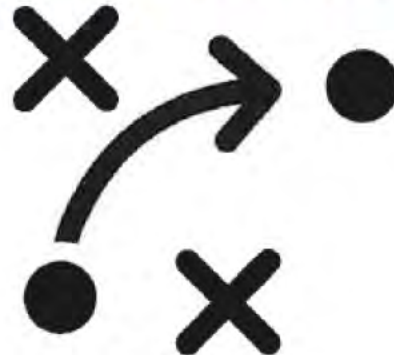
*Left and below:
The Bronx District
Attorney's Office
trains its
prosecutors to
"offer something
else" and pursue a
"non-deportable
offense" for
criminal alien
defendants.*

3. Immigration-Conscious Plea Bargaining

Strategy 3: Non-Deportable Offense

Other Designations

- ⚠ Firearms Offenses
- ⚠ Crimes of Domestic Violence
- ⚠ Crimes of Stalking
- ⚠ Crimes Against Children



Below: Even for crimes against children, domestic violence cases, and firearms offenses, the Bronx District Attorney's Office trains its prosecutors to hide certain facts from the record of conviction and pursue alternative charges—all so that criminal aliens can avoid deportation and remain in the United States.

3. Immigration-Conscious Plea Bargaining

Firearms Offense



- Impossible Crime Rule
- Facilitation
- Offer something that does not specify a firearm
- Keep the firearm out of the record of conviction

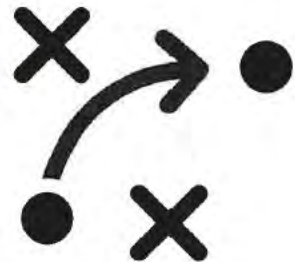


3. Immigration-Conscious Plea Bargaining

Crimes of Domestic Violence



- Offer something that is not a crime of violence
 - Intentional => Reckless
 - Impossible Crime Rule
 - Facilitation
- Keep the domestic relationship out of the record of conviction



3. Immigration-Conscious Plea Bargaining

Crimes against Children



- Impossible Crime Rule
- Facilitation
- Offer something that does not have the child's age as an element of the crime

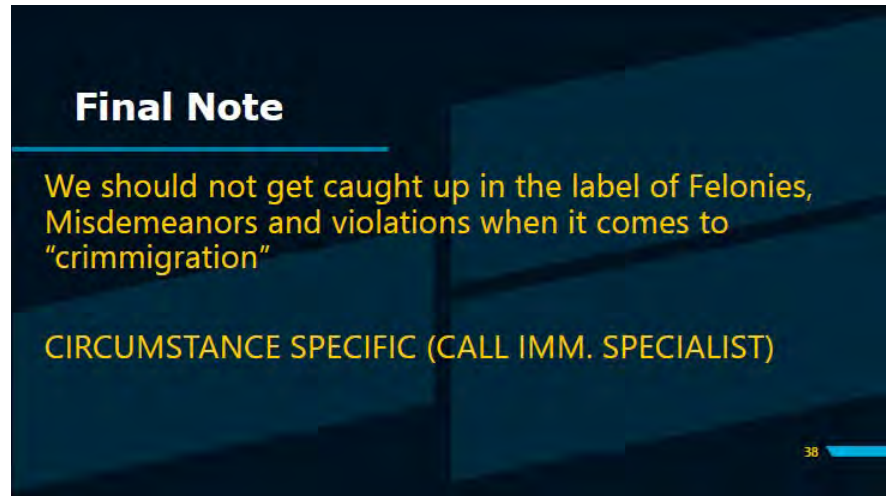


The Queens District Attorney's Office, led by District Attorney Melinda Katz since 2020,¹¹¹ also trains its prosecutors to avoid immigration consequences. In one training, the office commands its prosecutors to "[e]xercise extreme caution when using alternative dispositions to avoid consequences."¹¹²

Katz's office directs prosecutors to "not get caught up in the label of [f]elonies, [m]isdemeanors[,] and

violations when it comes to" the intersection of criminal law and immigration and to call the office's immigration specialist.¹¹³ The office then crafts "immigration safe" plea deals. In one e-mail from May 2026, for example, a prosecutor in Katz's office informed an NYPD detective that the office had "basically made a [plea] deal which is 'immigration safe' while still having [the defendant] plea to multiple crimes and do some jail time."¹¹⁴ Katz has also highlighted her agenda "to provide relief for transformative individuals whose immigration status was fatally affected through a guilty plea from a time when the overall justice system did not consider immigration."¹¹⁵

Katz's policies have produced pro-illegal alien results. In 2021 alone, Katz personally "authorized 27 applications [to replead], involving convictions that had significant immigration consequences, to be replead."¹¹⁶ In 2020, the Queens District Attorney's Office's Immigration Specialist assisted with "more than 30 dispositions," including "21 cases where [foreign national] defendants had their convictions reduced or vacated entirely" and "[six] cases where the District Attorney recommended a pardon to the Governor so that defendants could avoid deportation consequences."¹¹⁷



Above: The Queens District Attorney's Office considers immigration consequences for criminal defendants, regardless of whether the crime is a felony or misdemeanor.

¹¹¹ DA Melinda Katz, Queens District Att'y's Off., <https://queensda.org/team/da-katz/> (last accessed Oct. 5, 2026).

¹¹² See Document Production from District Att'y Melinda Katz, Queens District Att'y's Off., to H. Comm. on the Judiciary (Sept. 1, 2026) (on file with Comm.).

¹¹³ *Id.*

¹¹⁴ See E-mail from Assistant District Att'y, Queens District Att'y's Off., to NYPD Detective (May 26, 2026), provided to H. Comm. on the Judiciary (Sept. 14, 2026) (on file with Comm.).

¹¹⁵ Brave Justice Annual Rep. 2023, Queens District Att'y's Off., at 67 (2023), https://queensda.org/wp-content/uploads/2024/02/BraveJustice_2023_digital_final.pdf.

¹¹⁶ Brave Justice Annual Rep. 2021, Queens District Att'y's Off., at 91 (2021), https://queensda.org/wp-content/uploads/2022/03/BraveJusticeVol3_2021_final_digital.pdf.

¹¹⁷ Brave Justice Annual Rep. 2020, Queens District Att'y's Off., at 38 (2020), https://queensda.org/wp-content/uploads/2022/02/BraveJusticeV2_2020_Final.pdf.

CONCLUSION

Democrats' open-borders policies and sanctuary jurisdictions have had devastating consequences for U.S. citizens. Even after the American people resoundingly rejected Democrats' pro-illegal alien policies in November 2024, Democrats across the country reinforced sanctuary policies to ensure that the millions of illegal aliens who entered the U.S. are never removed from the country. New York City is just one example of Democrats' efforts to erase national borders and undermine immigration enforcement. Meanwhile, President Trump and House and Senate Republicans continue to work on commonsense solutions to secure the border, enforce federal immigration law, and protect American communities.

On March 5, 2026, the Committee favorably reported H.R. 7640, the Shut Down Sanctuary Policies Act. The Shut Down Sanctuary Policies Act protects American communities by prohibiting state and local laws and policies that restrict cooperation with federal immigration officials. The bill also would defend cooperative jurisdictions from frivolous lawsuits from sanctuary officials, allow jurisdictions to receive federal funding if they do not thwart federal law, and give much-needed relief to victims of sanctuary policies. The Committee will continue its oversight into sanctuary jurisdictions that prioritize the comfort of illegal alien criminals over the safety of U.S. citizens.