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**Testimony of the New York Civil Liberties Union  
Before the Joint Legislative Budget Hearing on Public Protection**

**February 12, 2026**

The New York Civil Liberties Union (NYCLU) appreciates the opportunity to submit testimony to the Joint Legislative Budget Hearing on Public Protection.

The NYCLU advances civil rights and civil liberties so that all New Yorkers can live with dignity, liberty, justice, and equality. Founded in 1951 as the state affiliate of the national ACLU, we marshal an expert mix of litigation, policy advocacy, field organizing, and strategic communications. Informed by the insights of our communities and coalitions and powered by 90,000 member-donors, we work across complex issues to create more justice and liberty for more people.

Numerous topics that the NYCLU works on are implicated in the Public Protection and General Government budget, including immigration, policing, criminal legal system reform, First Amendment rights, privacy, and surveillance issues. In this testimony, we ask the legislature to (1) ensure that there are robust, comprehensive, and sustainable measures in place to protect immigrant New Yorkers, (2) provide meaningful mechanisms for accountability when law enforcement violates constitutional rights, (3) reject any attempts to restrict First Amendment rights through the establishment of speech-free buffer zones, (4) adopt measures to improve conditions in carceral facilities and reduce the number of people funneled into the criminal legal system, and (5) advance measures that protect the privacy of New Yorkers and guard against surveillance.

**I. Advance Measures to Protect the Rights of Immigrant New Yorkers.**

As the 2026 state legislative session gets underway, immigrant New Yorkers are under attack by a federal administration whose cruelty seems to know no bounds. Under President Trump's second term, U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) have been untethered to act with maximum lawlessness and cruelty. Images of ICE and CBP agents kidnapping immigrants off city streets, tossing people into overcrowded and inhumane detention centers, and using lethal force against protesters have shocked people across the country and galvanized them to demand accountability.

The moment demands that New York stand up for the millions of foreign-born residents who contribute invaluable to our community, culture, and workforce. It has a prime opportunity to do so as part of this year's state budgeting process. In her annual state-of-the-state address and executive budget, Governor Hochul nodded to the need to use the state's power to push back against ICE and uplift immigrant communities. The rhetoric and handful of policy proposals she put forward are a welcome shift—but notably insufficient. As it engages in negotiations

with the executive, the Legislature can and must use its leverage to push forward meaningful protections for immigrant New Yorkers, not piecemeal policies.

***A. Advance Effective Measures to Disentangle New York from Federal Immigration Enforcement: The New York For All Act and Dignity Not Detention Act.***

Across New York and the country, immigrant communities live in fear that routine errands and daily tasks could lead to arrest and detention by ICE and subsequent deportation. Exacerbating this is the understanding that many public servants, including local law enforcement, regularly collude with ICE in a variety of ways, free of any express legal restrictions. Since the current Trump administration took office, the number of 287(g) agreements—formal agreements whereby local officers are deputized to enforce immigration law—have shot up from just one to 14 across New York.<sup>1</sup> Elsewhere in the state, law enforcement collude with ICE in less visible ways, turning over people in local jails to ICE custody and sharing information and intelligence with immigration authorities that leads to raids and arrests. This divides communities, erodes trust in government administration, impedes public health, and makes everyone less safe.

At the same time, New York allows county jails to profit directly from an expanding and increasingly cruel immigration detention system. In addition to colluding with ICE to help funnel people into the deportation pipeline, several local jails in New York have intergovernmental service agreements (IGSAs) in place to rent out empty cell space to detain immigrants for ICE. The Orange County jail, which has had a IGSA in place for years, has been the subject of complaints and lawsuits about the treatment of immigrants in detention there.<sup>2</sup> Contract facilities have expanded rapidly in the second Trump administration. At least seven county jails in the state have active detention contracts with ICE.<sup>3</sup>

In her executive budget, the governor included a “Sensitive Locations Protection Act,” which purports to protect certain locations from ICE raids.<sup>4</sup> This proposal would only limit access to certain types of government property for civil immigration enforcement without a judicial warrant, while purporting to “empower” privately run sensitive locations to exercise their *existing* legal rights to refuse ICE entry—permission they do not need. This piecemeal and largely symbolic measure does little to address the collusion that aids ICE’s enforcement efforts across the state.<sup>5</sup> The NYCLU urges the legislature to look past the limited measures put

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<sup>1</sup> U.S. Immigration and Customs Enforcement, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, <https://www.ice.gov/identify-and-arrest/287g> (accessed Feb. 5, 2026).

<sup>2</sup> NYCLU, *Detained Immigrants Sue ICE and NY Officials for Retaliation Against First Amendment Protected Protest*, April 4, 2023, <https://www.nyclu.org/commentary/new-york-jails-are-conspiring-ice-abuse-immigrants>.

<sup>3</sup> See Vera Institute of Justice, *ICE Detention Trends*, <https://www.vera.org/ice-detention-trends> (accessed Feb. 5, 2026).

<sup>4</sup> PPGG (A.10005/S.9005), Part L.

<sup>5</sup> The same may be said for the governor’s recently announced “Local Cops, Local Crimes” legislation, which would—until its build-in July 2029 expiration date—prohibit law enforcement and jails from entering into 287(g) agreements or IGSAs. See Program Bill #19: Legislative Bill Drafting Commission 12022-01-6, available at [https://www.governor.ny.gov/sites/default/files/2026-01/gpb\\_19-sensitive\\_location\\_projection\\_act-bill.pdf](https://www.governor.ny.gov/sites/default/files/2026-01/gpb_19-sensitive_location_projection_act-bill.pdf) (no bill number available as of Feb. 5, 2026). This bill falls far short of addressing the many other ways that ICE colludes with local law enforcement outside of more formal 287(g) agreements and fails to recognize that ICE’s abuses are not limited to one presidential

forward in Governor Hochul's executive budget proposal and, instead, advance more comprehensive reforms that will protect and support immigrant New Yorkers in this year's budget.

New York cannot legislate federal immigration policy, but it can ensure that state and local law enforcement and other government entities are not gratuitously abetting a cruel federal deportation agenda. The legislature should use this year's budget negotiations as an opportunity to pass the:

- New York For All Act (A.3506/S.2235). This legislation—which would comprehensively address collusion between ICE and local officials by prohibiting the use of government resources for immigration enforcement, restricting the sharing of sensitive information with ICE, banning 287(g) agreements, prohibiting the transfer of people into ICE custody, and limiting access by ICE to nonpublic areas of government property—should be passed in its entirety.
- Dignity Not Detention Act (A.4181/S.316). This bill would get New York out of the business of immigration detention by banning contracts between county jails and ICE to detain people for civil immigration violations, and would further prohibit any privately owned and operated detention facilities from opening in New York.

### ***B. Guarantee Comprehensive and Sustainable Access to Legal Services for Immigrant New Yorkers.***

The increase in ICE arrests and detentions under the second Trump administration has created an enormous need for robust immigration legal services. While people in removal proceedings have a right to be represented by counsel, unlike in criminal proceedings, they are not entitled to a lawyer at the government's expense if they cannot afford to pay for one. In New York, nearly 30% of immigrants in removal proceedings go unrepresented, including nearly 40% of people in detention.<sup>6</sup> In the past, New York has provided state funding to provide people in removal proceedings access to free counsel. But the need is only growing, and more committed funding and infrastructure is needed.

In her executive budget proposal, Governor Hochul committed \$72.4 million total for immigration legal services—roughly equal to last year's enacted budget, and a notable improvement over her FY 2025-26 proposal. But this amount is still far short of what is needed. It is incumbent that the legislature close that gap.

To meet the current need, the legislature *must* invest \$175 million to the Office of New Americans (ONA) to sustain and expand legal services for immigrant New Yorkers. Specifically, the legislature should provide \$85 million to sustain existing services and programs, \$50 million for emergency deportation defense, and \$40 million to build the infrastructure and capacity to scale up these services.

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administration. Should this proposal enter budget conversations, the NYCLU urges the legislature to adopt measures that would comprehensively and permanently bar collusion and cooperation with federal immigration authorities.

<sup>6</sup> Vera Institute of Justice, *Immigration Court Legal Representation Dashboard*, <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative/immigration-court-legal-representation-dashboard>.

The legislature should also use this year's budget process as an opportunity to guarantee comprehensive and sustainable access to legal services for immigrant New Yorkers. First, the legislature should pass the Access to Representation Act (A.270/S.141), which would establish a right to counsel for people in removal proceedings and collateral cases, making sure that no immigrant New Yorker faces the threat of deportation without a lawyer by their side. Second, the legislature should also move forward the Building Up Immigrant Legal Defense (BUILD) Act (A.2689/S.4538), which would create a dedicated four-year fund to build out the infrastructure needed to maintain quality, consistent immigrant legal representation throughout the state.

## **II. As the Government Attacks Protestors and Attempts to Curtail the Right to Protest, the State Must Not Create Loopholes to Avoid Accountability or Create New Tools to Restrict First Amendment Rights.**

As federal officials act with greater impunity, kidnapping immigrants, brutalizing protestors, and killing U.S. citizens, the need for meaningful accountability has never been more urgent. Further, as the government has cracked down on protestors—most recently targeting and threatening prosecution against those who criticize federal immigration authorities—our state must reject any attempts to create speech-free buffer zones, which are unconstitutional and would provide the government another tool for suppressing dissent.

### ***A. Reject All Attempts to Codify Qualified Immunity in State Law.***

Governor Hochul's budget proposal includes a New York State Bivens Act, which attempts to create a pathway for New Yorkers to sue federal officials in state court for violations of constitutional rights. See PPGG Part M. However, the proposal currently allows federal officials to assert “any immunity defense to the same extent as a defendant may raise in response to a claim brought under 42 U.S.C. § 1983,”<sup>7</sup> including qualified immunity. The inclusion of qualified immunity as a defense creates troubling precedent and will fail to deliver real accountability.

Qualified immunity is a judicially created doctrine with no roots in federal civil rights statute or New York state law. Qualified immunity has barred New Yorkers from accessing justice even in some of the most egregious cases of law enforcement misconduct. For example, the Second Circuit has granted qualified immunity in cases where a prison official sexually assaulted incarcerated individuals,<sup>8</sup> prison officials held an individual in solitary confinement for over a year solely for inquiring about commissary access,<sup>9</sup> and police officers detained peaceful protesters in metal pens for two hours during a protest.<sup>10</sup>

Rather than building stronger protections against federal overreach, codifying qualified immunity means that we'd be importing this same legal shield that has historically blocked accountability. Enshrining qualified immunity in law means that lawsuits in state court will continue to be blocked unless plaintiffs can identify a previous case with almost identical facts.<sup>11</sup> This exceptionally high bar will result in courts routinely granting qualified immunity

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<sup>7</sup> PPGG (A.10005/S.9005), Part M, § 86(2).

<sup>8</sup> *Crawford v. Cuomo*, 721 Fed. App'x 57 (2d Cir. 2018).

<sup>9</sup> *Allah v. Milling*, 876 F.3d 48 (2d Cir. 2017).

<sup>10</sup> *Berg v. Kelly*, 897 F.3d 99 (2d Cir. 2018).

<sup>11</sup> *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).

without ever determining whether a rights violation occurred, or even after acknowledging that one did. Further, beyond our concerns with codifying qualified immunity, the fact that the proposal's new cause of action is limited to suits against federal officials—rather than also encompassing state and local actors—makes it vulnerable to challenge under the intergovernmental immunity doctrine, which bars states from discriminating against the federal government.<sup>12</sup>

While the NYCLU shares the Governor's goals of holding abusive federal agents accountable, this proposal falls short of delivering on those stated goals. We must pursue every effort to restrict the use of qualified immunity where we can, rather than embracing and codifying this barrier to justice and accountability into our state laws. We urge the Legislature to amend the budget proposal to reject its codification of qualified immunity.

***B. Oppose Efforts to Unconstitutionally Restrict First Amendment Rights and Reject All Attempts to Include a Speech-Free Buffer Zone Proposal in the Budget.***

The New York Civil Liberties Union (NYCLU) strongly opposes Part K of PPGG, which would unconstitutionally strip away New Yorkers' free speech and assembly rights on issues of tremendous public importance. We further urge the Senate to reject both the Governor's proposal and avoid the inclusion of any alternative measures seeking to adopt speech-free buffer zones in the one-house budgets.

In the wake of protests outside a New York City synagogue, the Governor proposed to create speech-free buffer zones that would prohibit protest within 25 feet of every house of worship and reproductive clinic in the state, *see* PPGG Part K, and a similar measure was introduced in the legislature, *see* S.8599 (Sutton)/A.9335 (Lasher). But both U.S. and New York laws *already* criminalize harassing, intimidating, or interfering with access to those places, and allow those affected to seek judicial relief if necessary.<sup>13</sup> Further, providing another tool to criminalize protest at a moment when the federal government is, as noted above, criminalizing dissent is plainly intolerable.

Creating speech-free buffer zones is dangerous move this Legislature should resist. Such proposals violate the First Amendment, undermine current clinic and house of worship protections, broadly chill protected assembly and peaceful demonstration, and increase policing of disfavored communities and messages. It would also unnecessarily create yet another vehicle for police to mistreat and abuse protesters at a time when protesters are being shot, beaten, gassed, and arrested without cause or Due Process.

The Supreme Court has established clear rules in response to federal and state efforts to establish speech-free buffer zones. First, *any* restriction on expression in a traditional public forum—like a sidewalk or park—must be both content- and viewpoint-neutral.<sup>14</sup> Second, even a content- and viewpoint-neutral law must be narrowly tailored to achieve an important government interest, which means (1) it may not be too *overinclusive*, restricting *more* protected expression than necessary to achieve the government's ends, or too *underinclusive*,

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<sup>12</sup> *See United States v. Washington*, 596 U.S. 832 (2022).

<sup>13</sup> *See* 18 U.S.C. § 248; N.Y. Pen. L. §§ 240.70-.71.

<sup>14</sup> *McCullen v. Coakley*, 573 U.S. 464, 477 (2014).

capturing *too little* unprotected conduct to be effective at its stated purpose,<sup>15</sup> and (2) it must fit the facts on the ground—the government must identify, with evidence, a problem so great that existing law cannot solve it, and then tailor the new law to solve the problem without suppressing too much lawful expression.

The Governor’s proposal and the Senate and Assembly legislation would meet none of those criteria. These measures are significantly overinclusive, in that:

- They would restrict far more public expression than necessary to accomplish the government’s interest in protecting worshipper safety and access to houses of worship,
- Existing law already criminalizes the sort of conduct these proposals wish to address, and
- Perhaps most importantly, there is no record of violence, intimidation, or interference emanating from the protests in the City or elsewhere in New York (nor is there any record of the City having tried to suppress *unlawful* activity within 25 feet of City houses or worship and *failing*) that could possibly justify a fixed statewide buffer zone outside of every place of religious worship and reproductive health care facility .

Lastly, Part K’s “alarm and annoy” intent requirement cannot salvage the proposal. The New York Court of Appeals has *twice* thrown out criminal speech laws that incorporated an annoyance or alarm standard, noting in both cases that “any proscription of pure speech must be sharply limited to words which, by their utterance alone, inflict injury or tend naturally to evoke immediate violence.”<sup>16</sup> None of the public protest speech motivating this proposal rises to that level. We urge the Legislature to reject any and all efforts to adopt speech-free buffer zone proposals in the budget.

### **III. Advance Measures to Improve the Condition of those in Carceral Settings and Reduce the Footprint of New York’s Criminal Legal System.**

While not included in the Governor’s budget proposal, we strongly encourage the legislature to advance measures in their one-house budgets that improve the conditions for individuals inside New York’s carceral institutions and reduce the footprint of our state’s criminal legal system. Specifically:

- The FY 2027 budget must include funding for community-based organizations throughout the state to provide critical programs for young people ages 12-25 such as mentoring, education support, and credible messenger and violence prevention programs. To date, much of the funding that New York State has appropriated for young people who come into contact with the criminal legal system has failed to reach community-based organizations.

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<sup>15</sup> *Id.* at 486.

<sup>16</sup> *People v. Golb*, 23 N.Y.3d 455 (2014) (finding part of New York’s aggravated harassment statute criminalizing “communication” “in a manner likely to cause annoyance or alarm” unconstitutional), *citing* *People v. Dietze*, 75 N.Y.2d 47, 51 (1989) (“Casual conversation may well be . . . intended to ‘annoy’. . . . But unless [such] speech presents a clear and present danger of some serious substantive evil, it may neither be forbidden nor penalized.”); *see also* *U.S. v. Williams*, 553 U. S. 285, 304 (2008) (the government cannot “tie[] criminal culpability to whether the defendant’s conduct was ‘annoying’ or ‘indecent’”); *Vives v. City of New York*, 305 F.Supp.2d 289 (S.D.N.Y. 2003) (First Amendment violated by NY Penal Law that criminalized mailing certain materials with intent to “annoy” or “alarm”; qualified immunity denied).

- The state must adopt the Prison Wage Act (S.439B/A.3596B) to increase the wage and restrict increases in commissary prices by creating a cap (S.1692A/A.2592A). Individuals incarcerated in New York’s prison system have not seen an increase in their wage for over three decades—since 1993—while the cost of goods has increased by sometimes as much as 333% in a given year.<sup>17</sup>
- During last year’s budget process, lawmakers considered sentencing reforms that would give New Yorkers an opportunity to earn time off their sentences (S.342/A.1085) and allow people serving lengthy sentences to have excessive sentences revisited and personal transformation to be considered (S.158/A.1283). The legislature should advance these measures in the FY 2027 budget process.
- Lawmakers should advance three bills in the FY 2027 budget process to establish a baseline standard of decency with which pregnant and postpartum people must be treated to prevent irreparable harm to them and their children.
  - The legislature should advance The CARE Act (A.4879-A/S.4583-A), which creates a clear statutory right to comprehensive, uninterrupted access to prenatal and postpartum health care, supplemental nutrition, mental health screening and care, and reasonable accommodations for sleep, rest, and work requirements. It would also give new parents the right to bond with their children in a safe and nurturing nursery program—currently treated as a privilege that is frequently and arbitrarily denied.<sup>18</sup>
  - The FY2027 budget should incorporate A.1607-A/S.2666-A, which would make sure that these new parents are also able to feed their children by providing them with access to breastfeeding and lactation supplies and resources, including personal pumping equipment. It would also require extensive data collection and reporting to better monitor outcomes for pregnant people and their children in the state’s prisons and jails.<sup>19</sup>
  - A.1670-A/S.2667-B would round out a package of support for pregnant and postpartum people by better protecting against the violence of shackling in carceral settings, custodial settings, and law enforcement custody, and expanding access to a loved one’s support during pregnancy-related care and appointments.<sup>20</sup>

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<sup>17</sup> Freddy Medina, *Inflation is Putting Food Out of Reach in New York Prisons*, New York Focus, Apr. 11, 2023, <https://nysfocus.com/2023/04/11/prison-package-ban-inflation-hunger>.

<sup>18</sup> The state is not only failing incarcerated pregnant and birthing people, but also their infants, who are often ripped from their parents immediately after birth without the opportunity for critical maternal-infant bonding. This is developmentally damaging for newborns and psychologically traumatic for them and their parents. Kimberly Howard et al., *Early Mother-Child Separation, Parenting, and Child Well-Being in Early Head Start Families*, *Attach Hum Dev.* (January 2011).

<sup>19</sup> Prisons and jails routinely deny new parents the opportunity to pump breast milk for their children, depriving both infants and their parents of the numerous medical benefits associated with breastfeeding. New York State Department of Health, *Breast/chestfeeding Promotion, Protection, and Support* (Aug. 2023), <https://www.health.ny.gov/community/pregnancy/breastfeeding/>.

<sup>20</sup> While New York has recognized for over fifteen years that shackling birthing people is an unnecessary, dangerous, and degrading violation of human rights, people who are pregnant or recovering from a



## V. Protect the Privacy of New Yorkers and Guard Against Surveillance.

The Governor's budget proposal includes multiple measures that increase criminalization and expand the surveillance state. The NYCLU urges the legislature to reject such proposals and advance measures to protect the privacy of New Yorkers and guard against unlawful and unwarranted surveillance.

### ***A. Avoid Creating New Crimes and Ensure that Law Enforcement Cannot Operate Drones Without Safeguards to Protect the Rights of New Yorkers.***

The NYCLU opposes the Governor's proposals to broadly criminalize the unlawful use of a drone (PPGG Part D) and fund the expansion of drone usage by law enforcement, while making no attempt to regulate such usage.

PPGG Part D creates new misdemeanors and felony crimes for the unlawful use of a drone and would allow for the imposition of additional penalties if a drone was used in furtherance of other criminal activity. The NYCLU opposes efforts to create new crimes and mandate harsher punishments. Continuing to expand the reach of the criminal legal system does nothing to address the root causes of criminal activity and is an ineffective tool for deterring future conduct.

The proposal is also overly expansive in its definition of what constitutes unlawful use of a drone, risking turning harmless activity into criminal conduct. Areas where drone use would be criminally prohibited include 500 feet around airports, military installations, correctional facilities, police and fire stations, emergency dispatches, large public gatherings such as concerts or festivals, critical infrastructure, and schools. In dense areas, this likely includes whole swaths of a city, giving an average person no clear indication as to where they or may not lawfully fly a drone.

These sweeping definitions grant wide discretion to law enforcement, increasing the likelihood of discriminatory or selective enforcement. The proposal also grants new – and concerning – authority for law enforcement to intercept and use force to take down drones. Although the proposal mandates that officers may only use kinetic measures when non-kinetic measures have or would reasonably be expected to fail, this authorization for law enforcement to use physical force against suspected unauthorized drones is deeply concerning, especially when police departments across the state already face numerous complaints of excessive force.<sup>21</sup> Further, the legislation creates no safeguards or regulations related to the (as of 2024) 876 active drones used by 127 different law enforcement and government agencies across the state,

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pregnancy outcome continue to be shackled in prisons, jails, and law enforcement custody as a result of gaps and loopholes in our current laws. See, e.g., Ashley Southall and Benjamin Weiser, *Police Forced Bronx Woman to Give Birth While Handcuffed, Lawsuit Says*, New York Times (Dec. 6, 2018), <https://tinyurl.com/4ru9a2sc>; Edward Helmore, *New York Woman was Shackled to Bed During Childbirth, Lawsuit Says*, The Guardian (Mar. 14, 2020), <https://tinyurl.com/ydmrj2d4>.

<sup>21</sup> See, e.g., Press Release, *NYPD Excessive Force Complaints Surged in Past 3 Years to Highest Since 2013, NYC Comptroller Report Finds*, OFFICE OF THE N.Y.C. COMPTROLLER, <https://comptroller.nyc.gov/newsroom/nypd-excessive-force-complaints-surged-in-past-3-years-to-highest-since-2013-nyc-comptroller-report-finds/>; Alec Snyder and Taylor Romine, *Class-action federal civil rights suit filed against Rochester police and city officials alleging racism and excessive force*, CNN, Apr. 6, 2021, <https://www.cnn.com/2021/04/06/us/civil-rights-suit-rochester>.



which are in operation with virtually no guardrails.<sup>22</sup> Instead, the Governor announced a \$5 million plan to further expand the use of drones through a New York State Police drones as first responders (DFR) pilot program.<sup>23</sup> This massive adoption of aerial surveillance represents unprecedented risks to New Yorkers' privacy, civil rights, and civil liberties.

Drones have been deployed to political protests all over the country. There are numerous instances of drones being used to surveil Black Lives Matter protestors,<sup>24</sup> with U.S. Customs and Border Protection used drones and other aerial surveillance tools to monitor protests against police violence in 15 different cities, including by deploying a Predator drone—military hardware—in Minneapolis.<sup>25</sup> Additionally, the Baltimore Police Department's aerial surveillance program—which put the daytime movements of virtually all Baltimore residents under surveillance for 12 hours a day over six months—was only stopped after a court ruled it unconstitutional.<sup>26</sup> Border Patrol has also used drones at numerous protests against ICE raids<sup>27</sup> and is further expanding their surveillance capabilities with more small drones.<sup>28</sup>

The use of drones as first responders poses significant constitutional concerns by expanding police surveillance capabilities while offering almost no meaningful benefits. Drones are first and foremost a surveillance technology; using them always raises significant constitutional concerns. There is also the risk that utilizing drones will shift funding away from in-person, human responders, or other supportive programs that are better equipped to keep people safe. In New York City, a DFR program has resulted in an exponential increase of drone flights, where beyond responding to 911 calls, police drones are also flown proactively, further patrolling already overpoliced neighborhoods and communities.<sup>29</sup> Constant drone deployment

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<sup>22</sup> *Prying Eyes: Government Drone Data Across New York State*, N.Y. CIVIL LIBERTIES UNION, Apr. 8, 2025, <https://www.nyclu.org/report/prying-eyes-government-drone-data-across-new-york-state#intro>.

<sup>23</sup> See FY 2027 Executive Budget Briefing Book, at 114, <https://www.budget.ny.gov/pubs/archive/fy27/ex/book/briefingbook.pdf>.

<sup>24</sup> For example, the ACLU of Northern California uncovered aerial surveillance of racial justice protests all over the state. Jennifer Jones & Matt Cagle, *Recordings Show the California Highway Patrol's Aerial Surveillance of Racial Justice Protests*, ACLU of Northern California, Nov. 16, 2021, <https://www.aclunorcal.org/news/recordings-show-california-highway-patrol-s-aerial-surveillance-racial-justice-protests/>. And, police in Massachusetts and Arizona also deployed drones to monitor Black Lives Matter protests. Emiliano Falcon-Morano, *Eyes in the Skey: Massachusetts State Police Used Drones to Monitor Black Lives Matter Protests*, The Data for Justice Project, ACLU of Massachusetts, Dec. 21, 2022, <https://data.aclum.org/2022/12/21/massachusetts-state-police-used-drones-to-monitor-black-lives-matter-protests/>; Matthew Gault, *Arizona Cops Use Drone Surveillance to Arrest Protesters*, Vice, June 30, 2020, <https://www.vice.com/en/article/arizona-cops-use-drone-surveillance-to-arrest-protesters/>.

<sup>25</sup> Zolan Kanno-Youngs, *U.S. Watched George Flody Protests in 15 Cities Using Ariel Surveillance*, N.Y. Times, June 19, 2020, <https://www.nytimes.com/2020/06/19/us/politics/george-floyd-protests-surveillance.html>; Jed Pressgrove, *Predator Drone Over Minneapolis Stokes Surveillance Fears*, Government Technology, June 3, 2020, <https://www.govtech.com/security/predator-drone-over-minneapolis-stokes-surveillance-fears.html>.

<sup>26</sup> ACLU, *Federal Appeals Court Rules Baltimore Aerial Surveillance Program is Unconstitutional*, June 24, 2021, <https://www.aclu.org/press-releases/federal-appeals-court-rules-baltimore-aerial-surveillance-program-unconstitutional>.

<sup>27</sup> Steve Fisher, *Predator Drones Shift from Border Patrol to Protest Surveillance*, L.A. Times, Sept. 22, 2025, <https://www.latimes.com/california/story/2025-09-22/predator-drones-shift-from-border-patrol-to-protest-surveillance>.

<sup>28</sup> Dell Cameron, *Border Patrol Bets on Small Drones to Expand US Surveillance Reach*, Wired, Dec. 17, 2025, <https://www.wired.com/story/border-patrol-bets-on-small-drones-to-expand-us-surveillance-reach/>.

<sup>29</sup> *Prying Eyes*, *supra* note 22.

can negatively impact people's quality of life, trigger trauma responses, and create chilling effects on their free speech.

Already, several police departments across New York State have begun such DFR programs, including the NYPD, the Yonkers Police Department, the Schenectady Police Department, and the Village of Hempstead Police Department on Long Island. None of these departments have the necessary guardrails in place to safely deploy drones. Nor did any of these departments conduct audits or show any evidence that their respective DFR programs truly deliver on the lofty sales pitches and overbroad marketing claims regarding their efficacy and effectiveness. Given these concerns, similar proposals across the state have already faced significant backlash from community members, privacy advocates, and civil rights groups, including, for example, in Syracuse, where widespread community opposition brought a temporary stop to the Syracuse DFR program.<sup>30</sup>

The continued unregulated use of drones by police poses a unique threat to our rights to protest, privacy, and to be free from invasive and warrantless government surveillance. We urge state leaders to ensure: law enforcement is prohibited from using drones to surveil protests and other activities protected by the First Amendment, a search warrant is required before departments can use drones in police investigations, and drones cannot use facial recognition software, weapons, or crowd control devices.

#### ***B. Establish Guardrails on the Use of Automatic License Plate Readers (ALPRs) and How ALPR Data is Used and Maintained.***

The Executive Budget includes \$50 million in funding for the Law Enforcement Technology (LETECH) grants for automatic license plate readers (ALPRs) and other surveillance tools.<sup>31</sup> Instead of expanding surveillance technologies across the State without any safeguards, lawmakers must act to curtail ALPRs by significantly limiting when they can be used, dramatically reducing data retention periods, and prohibiting data sharing outside of New York without explicit judicial oversight.

ALPRs capture detailed information about vehicles' license plates, make, model, and other characteristics, as well as time and location data on its movements, feeding into enormous databases for analysis and sharing. Without meaningful legal protections, ALPRs enable the tracking of New Yorkers' daily movements and behaviors, revealing where they go to work, who they meet, which healthcare providers they visit, which protests they attend, and which places of worship they frequent. Such invasive surveillance dangerously undermines our constitutional protections, in particular our rights to freedom of association, speech, religion, and privacy under the First and Fourth Amendments.

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<sup>30</sup> See, e.g., Patrick McCarthy, *Syracuse lawmakers again leave drone program waiting on the runway*, CENTRAL CURRENT, July 28, 2025, <https://centralcurrent.org/syracuse-lawmakers-again-leave-drone-program-waiting-on-the-runway/>; Patrick McCarthy, *Syracuse police received historic pushback on drone technology. Lawmakers could soon vote to approve it*, CENTRAL CURRENT, July 28, 2025, <https://centralcurrent.org/syracuse-police-received-historic-pushback-on-drone-technology-lawmakers-could-soon-vote-to-approve-it/>; Beryl Lipton, *Drone As First Responder Programs Are Swarming Across the United States*, ELEC. FRONTIER FOUND., June 27, 2024, <https://www.eff.org/deeplinks/2024/06/drone-first-responder-programs-are-latest-aerial-police-surveillance-push>; Jay Stanley, *Eye-in-the-Sky Policing Needs Strict Limits*, ACLU, July 27, 2023, <https://www.aclu.org/documents/eye-in-the-sky-policing-needs-strict-limits>.

<sup>31</sup> FY 2027 Executive Budget Briefing Book, *supra* note 23, at 113.

The NYCLU and the ACLU have long warned about the dangers of this technology.<sup>32</sup> Recent developments make these concerns urgent: both the Trump Administration and Project 2025 have been crystal clear about weaponizing this technology against abortion-seekers, immigrants, and other communities in their crosshairs.<sup>33</sup> And in the last months, numerous reports have uncovered the exploitation of license plate reader networks with billions of location records for these exact purposes,<sup>34</sup> making ALPRs one of the most utilized technologies by ICE.<sup>35</sup>

### ***C. Cut Funding For—and Drastically Limit Cooperation or End Participation with— Federal-State-Local Data Sharing Partnerships.***

The Governor’s FY2027 budget proposal includes \$4.5 million to expand the statewide Crime Analysis Center (CAC) network by establishing a new center in Westchester County.<sup>36</sup> This expansion is alarming, as the State’s CACs are notoriously opaque and unregulated, and their activities pose serious risks to our civil liberties.

Fusion centers have reportedly spied on racial justice protesters, environmental activists, and counselors at an Israel-Palestine peacebuilding camp;<sup>37</sup> they have been used by ICE to tap into local law enforcement databases to track down and deport immigrants.<sup>38</sup> They’ve even snooped on nonpolitical cultural events.<sup>39</sup>

Shockingly little public information has been disclosed about what CACs and our primary fusion center (the New York State Intelligence Center (NYSIC)) do, what policies and rules

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<sup>32</sup> Jay Stanley, ACLU, *Fast-Growing Company Flock is Building a New AI-Driven Mass-Surveillance System*, Mar. 3, 2022, [https://assets.aclu.org/live/uploads/2022/03/flock\\_1-revised-0107225.pdf](https://assets.aclu.org/live/uploads/2022/03/flock_1-revised-0107225.pdf); Vasudha Talla, ACLU, *Documents Reveal ICE Using Driver Location Data from Local Police for Deportations*, Mar. 13, 2019, <https://www.aclu.org/news/immigrants-rights/documents-reveal-ice-using-driver-location-data>; ACLU, *You are Being Tracked: How License Plate Readers are Being Used to Record Americans’ Movements*, July 2013, <https://www.aclu.org/files/assets/071613-aclu-alprreport-opt-v05.pdf>.

<sup>33</sup> Jason Koebler & Joseph Cox, *ICE Taps into Nationwide AI-Enabled Camera Network, Data Shows*, 404 Media, May 27, 2025, <https://www.404media.co/ice-taps-into-nationwide-ai-enabled-camera-network-data-shows/>; Johana Bhuiyan, *How Expanding Web of License Plate Readers could be “Weaponized” Against Abortion*, The Guardian, Oct. 6, 2022, <https://www.theguardian.com/world/2022/oct/06/how-expanding-web-of-license-plate-readers-could-be-weaponized-against-abortion>.

<sup>34</sup> Susan Samples, *Kzoo Police Shut Down Immigration-Related Use of License Plate Readers*, Wood TV8, June 7, 2025, <https://www.woodtv.com/news/kalamazoo-county/kzoo-police-shut-down-immigration-related-use-of-license-plate-readers/>; Joseph Cox & Jason Koebler, *A Texas Cop Searched License Plate Cameras Nationwide for a Woman Who Got an Abortion*, 404 Media, May 29, 2025, <https://www.404media.co/a-texas-cop-searched-license-plate-cameras-nationwide-for-a-woman-who-got-an-abortion/>.

<sup>35</sup> Hafsa Quraishi & Scott Tong, *How ICE is Using Surveillance Technology in Immigration Crackdowns*, WBUR, Feb. 2, 2026, <https://www.klcc.org/npr-news/2026-02-02/how-ice-is-using-surveillance-technology-in-immigration-crackdowns>.

<sup>36</sup> FY 2027 Executive Budget Briefing Book, *supra* note 23, at 113.

<sup>37</sup> Alice Speri, *The Defund Police Movement Takes Aim at Fusion Centers and Mass Surveillance*, The Intercept, Apr. 21, 2021, <https://theintercept.com/2021/04/21/maine-defund-police-fusion-centers-mass-surveillance/>.

<sup>38</sup> Eleni Manis et al., *Surveillance Technology Oversight Project, Deportation Data Centers: How Fusion Centers Circumvent Sanctuary City Laws* (2024), <https://www.stopspying.org/deportation-data-centers>.

<sup>39</sup> Mara Hvistendahl, *Austin Fusion Center Spied on Nonpolitical Cultural Events*, The Intercept, Nov. 30, 2020, <https://theintercept.com/2020/11/30/austin-fusion-center-surveillance-black-lives-matter-cultural-events/>.

they follow, what agencies or individuals are involved in their operation, what types of information they have access to, what information they share and with whom, and what invasive surveillance technologies they use. However, year after year, the State spends millions of New Yorkers' taxpayer dollars to fund and expand them.

The Trump administration has made explicitly clear<sup>40</sup> that it wants “total information-sharing in the context of both federal law enforcement and immigration enforcement,”<sup>41</sup> particularly to obtain information about immigrants in sanctuary jurisdictions. Trump wants “access to department of motor vehicles and voter registration databases” for similar reasons.<sup>42</sup> And he wants information on people seeking or providing reproductive care or gender-affirming care, as well as to ramp up social media surveillance.

Given this environment and the Trump administration's insatiable desire for sensitive state and local information, there has never been a more important time for New York to curtail and create guardrails for its federal-state-local data sharing partnerships, such as CACs, fusion centers, Joint Terrorism Task Forces (JTTF), and High Intensity Drug Trafficking Areas (HIDTA) programs. They have metastasized far beyond their initial purposes, and they lack any semblance of local or democratic control.

We urge our state leaders to take immediate action to cut funding and drastically limit cooperation or end participation with any such federal-state-local data sharing partnership. This is especially critical at a time when the Trump administration is using these programs to target law abiding people, activists, immigrants, students, and any other group the President wants to terrorize.

#### ***D. Include Privacy in Name and Gender Marker Changes in This Year's Budget.***

Given the vulnerabilities created by existing law, the NYCLU urges the legislature to include Privacy in Name and Gender Marker Changes (A.3925/S.2431) in their one-house budgets. The vast majority of name changes—including those pursuant to marriage,<sup>43</sup> divorce,<sup>44</sup> adoption,<sup>45</sup> and citizenship<sup>46</sup>—are categorically private. Name and gender marker changes that proceed through the courts are a glaring (and dangerous) exception to this rule. What is more, those who must rely on the courts to change their names or gender markers are often the most in

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<sup>40</sup> Jude Joffe-Block, *The Trump Administration is Making an Unprecedented Reach for Data Held by States*, NPR, June 24, 2025, <https://www.npr.org/2025/06/24/nx-s1-5423604/trump-doge-data-states>.

<sup>41</sup> The Heritage Foundation, *Mandate for Leadership 2025: The Conservative Promise*, 138 (2023), [https://static.heritage.org/project2025/2025\\_MandateForLeadership\\_FULLL.pdf](https://static.heritage.org/project2025/2025_MandateForLeadership_FULLL.pdf).

<sup>42</sup> Jude Joffe-Block & Miles Parks, *The Trump Administration is Building a National Citizenship Data System*, NPR, June 29, 2025, <https://www.npr.org/2025/06/29/nx-s1-5409608/citizenship-trump-privacy-voting-database>.

<sup>43</sup> See *Marriage Certificates*, NY DEP'T OF HEALTH, Jan. 2023, [https://www.health.ny.gov/vital\\_records/marriage.htm](https://www.health.ny.gov/vital_records/marriage.htm).

<sup>44</sup> See *Divorce Certificates*, NY DEP'T OF HEALTH, Jan. 2023, [https://www.health.ny.gov/vital\\_records/divorce.htm](https://www.health.ny.gov/vital_records/divorce.htm).

<sup>45</sup> N.Y. Fam. Ct. Act § 166 (McKinney).

<sup>46</sup> See *Request Records through the Freedom of Information Act or Privacy Act*, U.S. CITIZENSHIP & IMMIGRATION SERVICES, Aug. 16, 2024, <https://www.uscis.gov/records/request-records-through-the-freedom-of-information-act-or-privacy-act>.

need of confidentiality to protect their safety<sup>47</sup>; namely transgender New Yorkers<sup>48</sup> and survivors of intimate partner violence.<sup>49</sup> Privacy in Name and Gender Marker Changes would remedy this inequity and keep people who use the courts to change their names and/or gender markers safe by requiring that, like other methods of changing one's name, name and gender marker changes sought through the courts be categorically private.

When a person applies for a name or gender marker change through the courts, a clerk must put the file in a public database before a judge can see the papers and sign a sealing order. Because of e-filing, coupled with the advent of court data aggregation services, the intimate, legally sensitive information required as part of a name or gender marker change application is now available and searchable online.<sup>50</sup> In addition to name and gender marker change petitions themselves (which contain new names, old names, addresses, and other personally identifiable information), name and gender marker change practitioners have been able to find their clients' birth certificates, driver's licenses, immigration documents, medical records, orders of protection, and more in these public databases and on the open internet. These records can easily "out" a person as transgender or reveal a survivor's current address to their abuser, exposing these individuals to danger.

In the face of a federal administration that has made it increasingly dangerous to be openly transgender,<sup>51</sup> it is imperative that New York enact A.3925/S.2431 expeditiously.

#### ***E. Reject Proposals that Mandate Content Screening of Consumer Technology.***

Broadly requiring printer manufacturers to pre-install blocking algorithms that screen all files before printing forces private companies to act as content police and creates an unprecedented surveillance infrastructure in personal equipment. However, PPGG Part C would mandate content screening technology in 3D printers.

The Governor's proposal opens the door to similar mandates across other technologies. For example, if 3D printers and computer numerical control (CNC) machines can be required to screen files against a government database, what prevents: requirements that paper printers block certain terms, phrases, or documents; computers from refusing to open specific Word documents or PDFs; or cameras from taking photos the government disagrees with?

The technical approach is also fundamentally flawed and could be circumvented through hardware and software modifications, while the criminalization of possessing or distributing

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<sup>47</sup> See generally Kristen Fermaglich, *'To assume another name': Race, gender, family and name changing in New York City, 1887 – 2012*, 00 GENDER & HISTORY, 1 – 16 (2023), <https://onlinelibrary.wiley.com/action/showCitFormats?doi=10.1111%2F1468-0424.12763>.

<sup>48</sup> "By 2012, transgender individuals submitted almost 9 *per cent* of all name-change petitions[]" in New York City, *id.* (emphasis original), when transgender people make up only 0.53% of New York's adult population. Jody L. Herman, Andrew R. Flores, & Kathryn K. O'Neill, *How Many Adults and Youth Identify as Transgender in the United States*, UCLA School of Law Williams Institute, June 2022, <https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/>.

<sup>49</sup> See generally Kristen M. Driskell, *Identity Confidentiality for Women Fleeing Domestic Violence*, 20 Hastings Women's L. J. 129 (2009).

<sup>50</sup> Sanford F. Young, *Electronic Court Filings Are a Privacy Nightmare*, THE WALL STREET JOURNAL, Jan. 4, 2023, <https://www.wsj.com/articles/electroniccourt-filings-trial-privacy-records-motions-paper-trail-hippa-sensitive-personaldata-11672869403>.

<sup>51</sup> See generally ACLU, TRUMP ON LGBTQ RIGHTS (June 12, 2024).

digital manufacturing code sweeps far too broadly. While we recognize the harm from ghost guns, the state should focus on approaches that address genuine public safety concerns without requiring constant monitoring of what New Yorkers create in their own homes or establishing an unprecedented principle that the government may mandate content screening in consumer technology.

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The NYCLU thanks the legislature for the opportunity to provide testimony and for your work on the FY2027 budget.