

From: Sam McCann <smccann@ndsny.org>
Sent: Monday, August 12, 2019 5:23 PM
To: Rule Comments
Subject: Comment: DOC proposed rule re felony offenses related to immigration detainer requests

Hello,

Please consider the below comment on the proposed rule that would expand DOC cooperation with ICE.

Sincerely,

Sam McCann, Communications Specialist, NDS

Neighborhood Defense Service of Harlem (NDS) is a public defender office that represents residents of Upper Manhattan. Many of our clients are non-citizens who strengthen our vibrantly diverse community.

NDS opposes the proposed rule to expand the Department of Correction's (DOC) cooperation with Immigration Customs Enforcement (ICE). Specifically, the rule seeks to add seven additional penal law offenses to the definition of "violent or serious crimes" in the existing detainer law. In so doing, the rule seeks to increase DOC's cooperation with ICE. This rule would allow DOC to hold persons in custody past the time they are authorized. Holding anyone in custody past the time they are to be released infringes on their fundamental rights.

Equally troubling is that in adding more offenses to the list, the city would funnel more of our neighbors into ICE's dragnet. Moreover, the current detainer law allows DOC to communicate with ICE if a detainer exists and if the person has an enumerated offense in the past five years. The scope of the information sharing ability ostensibly includes release date. As such, even if there is no judicial warrant as mandated by the detainer law, a person is still at risk of ICE detention because of DOC's ability to share information when it otherwise would not be allowed to hold the person.

The proposed rule essentially undermines the city's commitment to protecting immigrant families and is fundamentally incompatible with its stated effort to be a 'sanctuary city.' The mayor has rightly acknowledged that ICE is a 'broken' agency. Any plan that would expand the city's cooperation with ICE unnecessarily endangers our clients, their families, and the city, and should be discarded at once.