Overview of Achievements, 2020-2021

Amid the Covid-19 pandemic, BDS’ Civil Defense and Civil Justice programs concluded another year of representation and advocacy on behalf of low-income Brooklyn residents. The Programs closed 4,866 civil cases, benefitting 7,984 people in a wide range of civil legal matters. BDS’ work was funded through contracts and/or grants from the Interest on Lawyers Account, Mayor’s Office of Criminal Justice, New York City Council, the New York State Office of Court Administration, the New York State Division of Criminal Justice Services, private foundations, and individual contributions.

BDS’ Family Defense Project (FDP) is the primary provider of parent representation in abuse and neglect (Article 10) cases in Brooklyn Family Court. In FY20, ACS only filed Article 10 petitions in cases where they were seeking remand. Other than active Article 10 cases, Family Court has effectively been closed. In FY20, FDP closed 837 child welfare cases, and another 74 related custody, paternity, visitation, and family offence cases for those clients benefitting 3,325 parents and their children. In the vast majority of these cases, our litigation and advocacy resulted in family reunification. BDS also provided early defense to 582 families where an abuse or neglect case was indicated and ACS was involved, but no petition was yet filed. In these cases, parents were able to get the services and advice they needed to avoid a filing altogether or to reduce the likelihood that the children were removed from the home if a petition was filed.

BDS’ Immigration Defense Practice undertakes detained removal defense cases for immigrants in deportation proceedings under the New York Immigrant Family Unity Project, securing clients’ release from immigration detention, arguing in immigration court for a finding of non-deportability, and applying for Cancellation of Removal, Adjustment of Status, and other discretionary waivers of deportation based on favorable factors in our clients’ lives. During the grant period, our attorneys obtained release from ICE custody for 40 immigrants.

Population Served: Low Income Populations

Area Served: Kings County

Total Funding: $20,240,748

Total IOLA Grant: $150,000

Staffing - Full Time Equivalents:

- Total Staff: 145.53
- Lawyers: 97.60
- Paralegals: 26.61
- Other: 21.32
EMPLEYMENT

Mr. C. became unemployed due to the COVID-19 pandemic when the retail store he had worked at for dozens of years abruptly closed. When he applied for unemployment insurance benefits, his application was denied because the Department of Labor (DOL) misunderstood his status as a lawful permanent resident and issued a finding that he was not a citizen and did not have valid work authorization. Prior to the pandemic, BDS’s immigration team had successfully worked with Mr. C. to get a cancellation of an order of removal and was continuing to work with him on the naturalization process. When DOL began asking Mr. C. questions about his immigration status, BDS tried to avoid an administrative hearing by providing documentation to the DOL explaining current immigration law and proof that he was in fact a legal permanent resident. When that was not successful, BDS’s employment and immigration teams closely collaborated at an administrative hearing to present evidence and law clarifying Mr. C.’s status and rebuking the DOL’s erroneous assumptions. Ten months after Mr. C. first lost his job, the Department of Labor finally issued a favorable decision granting Mr. C. thousands of dollars in back benefits, with which he was able to pay his outstanding rent and car payments.

INCOME MAINTENANCE / HOUSING

Ms. H was referred to the Civil Justice Practice in August 2020 by a social worker in BDS’s Integrated Defense Practice, which represents Ms. H in criminal and family court related to allegations brought by her abusive former partner. Because of her domestic violence situation, she and her children were afraid to return to their apartment. One of BDS’s civil attorneys was able to advise Ms. H on how to request an emergency DV transfer for her section 8 voucher so she could relocate to a safe apartment for her family. Ms. H was able to temporarily move in with her aunt and was then connected to our Affordable Housing Specialist to help find a new apartment. The affordable housing specialist worked with Ms. H and advocated with NYCHA to get her infant son added to her voucher, despite difficulties getting the necessary paperwork during the pandemic. Working with the NYC Commission on Human Rights, the affordable housing specialist was able to find a landlord with set aside units for voucher holders and set up appointments for Ms. H to view several apartments. Because public transportation during the pandemic was unsafe, our social work team used our Client Essentials fund to arrange carfare for Ms. H to the apartment views. Our affordable housing specialist helped Ms. H to fill out the applications for the apartments and worked with the landlord to get the necessary approval paperwork submitted to section 8. When approval was delayed due to lack of apartment specifications our specialist personally went to the unit to take measurements and expedite the approval process. As of this week, Ms. H was approved for move-in by section 8 and was able to pick up the keys for her new apartment. The work of our team was able to keep Ms. H out of shelter and away from a dangerous DV situation.
Other Services...

Number of People Benefitted by Services Other Than Direct Legal Representation

<table>
<thead>
<tr>
<th>Total</th>
<th>15,426 people</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community legal Education</td>
<td>15,426 people</td>
</tr>
</tbody>
</table>

Overview

In the grant period, BDS participated in or led 21 events relating to immigration, housing, and family legal issues and reached 15,426 individuals in the community, via Zoom and Facebook Live online workshops.

This focus on community lawyering – the ability to maintain the practice virtually during the pandemic has proved to be an extremely valuable resource, as many of the clients we meet with have already been turned away from multiple legal services providers and are facing complex multi-system involvement. Through community education and legal advocacy, we are able to resolve problems before court involvement becomes necessary. While having a lawyer is beneficial, we believe it is even more beneficial in many instances to give people the ability to resolve their problems without setting foot in a courtroom. This has been highly effective for clients in several of our practices, with housing matters and access to stimulus benefits being the most obvious.

Client Essentials Program

The acute need for tangible help expressed by our legal services clients during the pandemic spurred us to seek funding to provide material resources to clients struggling with immediate needs. BDS has secured more than $300,000 from private donors and foundations to provide material goods including: 1500 winter coats; more than 300 tablets, phones, and chromebooks – with data plans - to stay connected to services, family members, education, and the community; clothing and household goods; and cash to individuals and families struggling to buy groceries and travel to obtain medical and other necessary services.
BDS spearheads different advocacy efforts to further the rights of our clients.

This Spring, BDS joined the other New York City public defenders to challenge the State’s refusal to ensure equal access to vaccines for people living in all types of congregate settings. The litigation, Holden v. Zucker, No. 801592/2021E, filed against the Governor and Commissioner of Health in New York State Supreme Court, was brought on behalf of a class of people detained in the custody of the City Department of Correction. The Court granted our motion for a preliminary injunction, ordered the State to immediately make incarcerated individuals eligible for vaccination, and found the State’s exclusion of these individuals to be arbitrary and capricious and an abuse of discretion, as well as a violation of state and federal equal protection guarantees. As a result, the more than 5,500 people in the City’s jails and the nearly 45,000 people in prisons in New York State—congregate settings widely understood to be at particularly high risk for rapid COVID-19 transmission—were made eligible for vaccination, and as of mid-April, more than 4,000 vaccine doses had been administered to people in the City’s jails.

BDS was a leader nationwide in federal litigation to win the release of immigrants from civil immigration detention because of danger from COVID. BDS won the first, or one of the first, federal cases granting release from civil immigration detention for multiple people in Basank v. Decker, 449 F. Supp. 3d 205 (S.D.N.Y. 2020). That case ordered the immediate release of ten immigration detainees. It alone has been relied upon by 172 courts around the country. Through the development of litigation, BDS won the release of at least 80 people from immigration detention and secure dozens of court orders that were cited by hundreds of courts around the country. As part of this effort, BDS created a network of doctors around the country who submitted medical record reviews that courts and administrative agencies relied upon in granting the release of at least 18 people from civil immigration detention. Relatedly, BDS shared resources, engaged in consultations, and conducted trainings with partners in New York and around the country to share our experience and expertise, including by submitting extensive evidence for a nationwide case that resulted in a court-ordered review of the propriety of continued civil detention in light of COVID for every person held by Immigration and Customs Enforcement (“ICE”), ultimately leading to hundreds if not thousands of releases nationwide (and the release of dozens of BDS clients).

BDS played a leading role in efforts to push back against ICE arrests of New Yorkers in or around courthouses (including Family Court) through coalition efforts, advocacy, and playing an active role in litigation, including by submitting significant evidence – including a 14 page declaration regarding ICE arrests at or around Brooklyn courthouses – in support of the NY Attorney General and Brooklyn District Attorney in the successful New York State litigation against ICE. Thousands of New Yorkers with cases in family court benefited from the results of the case New York v. ICE, 466 F. Supp. 3d 439 (S.D.N.Y. 2020).

BDS developed and litigated legal theories challenging delays by federal agencies in granting New Yorkers certain immigration benefits or status. As a result of the development of this litigation, BDS has obtained employment authorization for three New Yorkers, citizenship for four New Yorkers, and other benefits (including green cards) for four New Yorkers. These efforts have also become models that are already benefiting or will benefit dozens or hundreds of others.

BDS served as a plaintiff in a nationwide federal class action to challenge the Trump Administration’s overhaul of processes and procedures in immigration courts. The Administration’s rule made it significantly more difficult for immigrants, and their advocates, to obtain any due process, resulting in deportation even for people eligible for protection. The litigation, CLINIC et al. v. EOIR et al., No. 1:21-cv-00094 (RJL) (D.D.C.), stayed the rule and ensured the regulation would not be applied any longer. In New York, the litigation helped thousands of immigrants access a fair hearing in immigration court, retain the ability to pursue relief they are eligible for, and stay united with their families.

BDS joined other nonprofit organizations around the country as amici curiae before the Supreme Court in Mahanoy Area School District v. B.L., No. 20-255, arguing that First Amendment off-campus speech should not result in discipline for students. The case was argued at the Supreme Court on April 28, 2021.
Significant Collaborations

Brooklyn Defender Services has dozens of existing partnerships with Brooklyn community-based organizations and local elected officials and other community representatives. BDS belongs to many citywide umbrella civil practice organizations in the areas of housing, public benefits, education, family services and school discipline, allowing for increased collaboration, targeted advocacy and the opportunity to share and learn from experienced practitioners in relevant fields, including LEAP (Legal Advocacy Providers), an 18-partner coalition of civil legal service providers in the areas of housing, consumer debt, human rights, re-entry and cycles of poverty, among others. LEAP partners include Housing Conservation Coordinators; Bronx Defenders; Urban Justice Center; MFY Legal Services; Goddard Riverside SRO Law Project; CAMBA; Northern Manhattan Improvement Corporation; Brooklyn Legal Services Corporation; Make the Road NY; Catholic Migration Services; The Door; New York Lawyers for the Public Interest; and Lennox Hill Houses.

BDS Civil Justice Practice is involved in numerous statewide, citywide and national membership organizations and advocacy groups including: the New York Legal Services Coalition, a statewide association which seeks to join resources to avoid duplication of services and share knowledge and expertise throughout the legal services community; the NYS tech consortium; the National Legal Aid and Defender Association; the Right to Counsel Coalition; the NYS Permanent Commission on Access to Justice; the NYCHA permanent exclusion workgroup; the National and Brooklyn Tenant Lawyer Network; the NYC Welfare Task Force; the Education Law Taskforce; ARISE, Student Safety Coalition; the New York Immigrant Family Unity Project (NYIFUP) Coalition; and the ASFA Coalition, a group of child welfare agencies and advocates, among many others. These memberships benefit BDS by providing a support network through the sharing of expertise as well as allowing the member organizations to pool resources and provide benefits to their staff together, such as joint trainings.

Additionally, BDS remains active in a number of coalitions and task forces that focus on education, employment and reentry. For instance, BDS is a member of the Education Law Task Force and Campaign for Effective Behavioral Health Reforms for Children, two coalitions that advocate to improve access to special education services, school-based mental health and positive school-based behavioral supports. BDS is an active participant in the New York Reentry Education Network (NYREN), Adolescent Advisory Board and Coalition of Reentry Advocates (CORA).

BDS has members of its Civil Program on various committees at the New York State Bar Association, such as the Committee on Legal Aid, and the New York Legal Services Coalition (NYLSC). Both associations seek to share knowledge and expertise in a variety of fields, while attempting to unite our voice across the city and the state to better serve our clients both in substantive and procedural areas.

Finally, BDS' Community Office has established numerous partnerships and collaborations with other non-legal community organizations to share information about our legal services, know-your-rights events, and other opportunities for community members. These partnerships continued despite the shift to a remote work environment. These include being part of the Workforce 1 Partners meetings, the monthly East New York Community Partnership Meeting, the Monthly Community Coalition of East New York meeting, the Direct Service Cabinet Meeting, and on the Advisory Council regarding the Multi-Service Health Hub ICL.
Technology and Other Innovations

Technology is central to our ability to collaborate across units and BDS’ Civil Justice Program continues to use Legal Server; this system gives staff access to their case notes remotely or via mobile devices and, in turn, allows our assigned counsel practices to refer cases or raise questions via their phones. With this system supervising attorneys can monitor and assign referrals, quickly answer questions, track attorney caseloads and performance to improve efficiency and ensure tasks are delegated evenly and track issue types and referral sources to better map growing trends.

BDS has always maintained a capability to communicate with our incarcerated clients via Skype. As a result of the pandemic, BDS has distributed pre-imaged laptops, peripheral hardware, and software to all staff so that they can engage virtually with their clients, the courts, service providers, and other partners. Despite the difficulties it was imperative we provide remote access for client virtual court appearances. We have created space in the office where attorneys can register their clients to appear via computer from an interview room in our office. This practice and capacity will remain, post-pandemic.

BDS’ advocates are given smart phones to allow attorneys to instantly contact other units to refer a client or ask a technical support question, even from court. We routinely resolve issues with a text or an email that would traditionally require referrals, waitlists, formal intakes, and review processes before a client could be assigned an attorney to answer even basic question. We aim to reduce, or do away with completely, the requirement that clients recite the same demographic information for every attorney or advocate they meet. Instead, we provide clients with the opportunity to focus on what is important.

We participate in the Legal Services National Technology Assistance Project to ensure we are up to date on trends and changes in access to justice that can improve our practice and better assist our clients.
Trainings

BDS takes professional development seriously and encourages and finances staff participation in conferences and external trainings for all staff, not just attorneys. BDS social workers receive training and supervision consistent with their professional and ethical requirements as well, including weekly case supervision and access to continuing education opportunities and BDS investigators, paralegals and administrative staff are also provided with extensive training for their specific expertise.

As a CLE provider, BDS conducts a wide range of CLE programs, including legal matters that affect our clients as well as ethics and legal practice. Given the multi-disciplinary nature of our practice BDS promotes cross-training within and between practices to make staff are up to date on laws and policies that impact our clients, can issue-spot effectively, and can provide basic counsel or referrals as appropriate. Civil Program Staff train all attorneys on immigration consequences of criminal and family defense cases, and on the collateral impacts on housing, employment, and education. We provide in-depth, all-day trainings to new attorneys, and periodic CLE and Law Lunch presentations within BDS. Our Immigration Practice is often asked to train attorneys and community-based advocates outside BDS, including through a contract with the Vera Institute of Justice to provide training, case-based legal advice to new attorneys and mentoring to attorney supervisors in the upstate NYIFUP / Safe Cities programs. As a member of LEAP, and LEAP’s training committee, BDS staff help to coordinate, schedule, and conduct trainings for our coalition of 19 legal service providers city wide.

BDS has made it a priority to ensure all staff have attended workshops on vicarious trauma, de-escalation, undoing racism, and other workplace issues. BDS recently hired a full time Employee Wellness Program Manager who has developed ongoing programing and offers one on one support to all staff. In FY20 BDS hired our Director of Diversity, Equity, and Inclusion. The Director is setting goals, organizing appropriate trainings, setting up a committee to review policies and procedures, and establishing organization-wide benchmarks to assess progress on incorporating a racial and diversity lens internally and in delivering on our mission. This process began with an internal survey of how staff experience the work and work environment, experiences related to identity in the workplace, dynamics with colleagues across lines of identity difference, relationships between supervisors and those they supervise, and aspirations for equity-related work at BDS. The results continue to guide and focus BDS’s efforts to infuse equity across the organization and has already led to a 3-day management training with a diversity focus as a top priority. The cohort continues to meet bi-weekly to reinforce skills and strategies and we are currently in the middle of a broader staff-wide training on managing difference across diversity. More interventions are planned and incorporated in management’s decision making and budget. The director sends staff regular updates with opportunities for DEI trainings and resources and continues to create new and innovative programs.
Pro Bono Volunteer Involvement

All of BDS’ practice areas utilize pro bono attorneys to leverage and increase resources for BDS’ clients. In the criminal practice area, pro bono attorneys assist staff attorneys on complex research issues, draft motions, and work on large-scale impact litigation projects with the potential to impact a broad range of clients. In immigration, family defense and civil justice practice areas, pro bono attorneys co-counsel individual cases with the BDS attorney from within the practice. In each of these units, pro bono volunteers also work on larger-scale projects aimed to benefit the larger population or address a systemic injustice. The Director of Pro Bono works closely with the Director of our Civil Rights and Law Reform unit, placing partners on a wide variety of impact litigation efforts, including class action litigation, Amicus briefs, Appellate matters, and projects that address current issues in poverty law. In the past year alone, BDS’ Pro Bono program has partnered with 35 law firms, engaging more than 100 attorneys assisting with more than 70 cases for our clients.

BDS Pro Bono team also adapted to meet the current realities of court closures and less frequent in person interactions with clients. For example, while some court-based projects were placed on hold we developed a partnership to take on five full time fellows from a law firm for the next year. These attorneys will work at BDS in several units to learn the practice, represent clients, and be able to return to their firm to mentor their colleagues for future pro bono collaborations.

Pro Bono Statistics

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Sources Of Funding

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