Overview of Achievements

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 4,249 civil cases, benefitting 7,802 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 IOLA Grant: $144,000

Staffing Full Time Equivalents:
- Total Staff: 141.88
- Lawyers: 93.59
- Paralegals: 48.29
Direct Legal Services: Cases

**Income Maintenance / Housing:**
Ms. I was referred by our family defense team because an unsafe living situation and inability to access public assistance was impacting the outcome of her family court proceeding. A victim of abuse, Ms. I needed a safety transfer and had been unable to navigate the process alone. We submitted the transfer request on her behalf, and successfully expedited the transfer. Ms. I had also fallen behind on her rent and was unable to pay for food for her family because she had been unable to access a public assistance case that remained in her deceased husband’s name. We were able to resolve the issue and assist in opening her own public assistance case, so she has been able to access her benefits. Now stable in her new apartment, with active benefits, she’s able to focus on getting her kids back in her care.

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**Cases by Legal Problem Area**

- **Family:** 32%
- **Employment:** 16%
- **Income Maintenance:** 13%
- **Housing:** 13%
- **Miscellaneous:** 4%
- **Health:** 1%
- **Education:** 9%
- **Immigration:** 12%

7,802 people benefitted from 4,249 legal cases closed
Direct Legal Services: Cases

Employment:
Thanks to BDS’s immigration advocacy for individuals who are detained, Mr. C. was released from ICE custody in December 2020, under the condition that he wear an ankle monitor. He started a new job in August 2021 but after only one day of work a supervisor told him that they were firing him because of his ankle monitor, and that the company was not going to pay him because they do not employ criminals. BDS sent the company a demand letter in October 2021 alleging violations of Article 23-A, the state law that prevents employers from unjustly discriminating against individuals with criminal records, as well as the Fair Chance Act, requiring employers to follow certain procedures when making employment decisions based on background checks. In response to our advocacy, the employer agreed to a negotiated settlement compensating our client for past wages, emotional damages, and damages for the statutory violation. The speedy resolution of his employment issues helped our client maintain the stability he needed to remain in the community while his immigration case was pending.

Other Services: Overview

In the grant period, BDS participated in or led 28 events relating to immigration, housing, and family legal issues and reached 847 community members, via Zoom and Facebook Live online workshops.

At a time when in person assistance became more difficult to obtain, easily accessible KYR materials became more important than ever. Through community education and legal advocacy, as well as expansion of the information and resources BDS was able to provide to clients of our assigned counsel practices we continued to be a resource for our clients even when we weren’t providing direct assistance. While having a lawyer is beneficial, it can be just as impactful 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.
Other Services: Overview

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. Through a combination of private donor and foundation assistance BDS was able to secure and distribute: over 1,100 winter coats; more than 400 phones, facilitating virtual court appearances and contact with legal teams; approximately 500 uber rides for clients to access court appearances, medical appointments, treatment programs, ACS visits, and meetings with their legal teams; over 100 multi-ride metrocards to access transportation to essential appointments; clothing and household goods; and cash to individuals and families struggling to buy groceries and travel to obtain medical and other necessary services.

Other Services: Technology and Other Innovations

Technology is central to our ability to collaborate across units and CJP 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. Supervising attorneys can monitor and assign referrals, quickly answer questions, track caseloads and performance to improve efficiency, and flag issue types and referral sources to better map growing trends. BDS is in the middle of transitioning to an office-wide case management system which will further improve our referral and reporting systems and promote interdisciplinary assistance for all our clients.

BDS has always maintained a capability to communicate with our incarcerated clients via Skype but video conferencing capabilities have drastically expanded during 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 even now that our staff can work in the office again. We have created space in the office where clients can access computers for virtual appearances. This practice and capacity will remain, post-pandemic. In addition to employing two full-time Spanish interpreters, BDS uses a remote interpretation service for client meetings, translation of important documents, and other language access accommodations.

BDS recently launched a comprehensive Intranet that is accessible to BDS staff working from every location, including remotely. The Intranet is BDS’ innovative go-to platform for staff to learn about internal events and policies, find common forms and templates and locate cross-practice referral information. The Intranet has vastly improved and streamlined our internal communications and improved our ability to quickly connect client with essential information and resources.
Other Services: 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 programs, including legal matters that affect our clients as well as ethics and legal practice. In the reporting period our office has rededicated itself to ensuring our attorneys receive regular and accessible CLE programming, and our in-house offerings are now sufficient to provide 100% of the credit hours necessary for bar registration renewal. 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 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 employs a full time Employee Wellness Program Manager who has developed ongoing programing and offers one on one support to all staff. And continues the initiatives implemented by our Director of Diversity, Equity, and Inclusion including organizing appropriate trainings, and establishing organization-wide benchmarks to incorporate a racial and diversity lens internally in delivering on our mission with a focus on 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. In 2021, BDS established its first ever DEI committee representative of the diversity of our staff; meeting bi-weekly the cohort continues to reinforce skills and strategies and we are currently in the middle of a broader staff-wide training on managing difference across diversity. In the reporting period all senior managers attended a multiday anti-racism training to reinforce these priorities organization wide.
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.

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; LEAP (Legal Advocacy Partnership), 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; 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, Campaign for Effective Behavioral Health Reforms for Children, New York Reentry Education Network (NYREN), Adolescent Advisory Board and Coalition of Reentry Advocates (CORA).

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.
Impact Cases

Agnew v. New York City Department of Correction

Following an admission in January 2022 by a DOC official that the Department was not complying with the December order, we filed a motion for contempt on February 1, 2022, which is pending. The scope of the problem is far-reaching: There were 998 instances where DOC failed to provide access to medical care in January 2022, on top of the 1,061 instances of non-production due to lack of escort in December 2021. In the months following, the problem continued to worsen. Through this litigation, we will continue to keep DOC accountable in its failure to provide medical services for people in its custody.

People v. Terrero

BDS—on behalf of a group of legal service providers who represent New Yorkers facing immigration consequences in criminal court—drafted and submitted an amicus brief in People v. Terrero, 198 A.D.3d 930, 155 N.Y.S.3d 435 (2021), leave to appeal denied, 37 N.Y.3d 1165, 181 N.E.3d 1144 (2022), where a noncitizen was not advised by defense counsel that his criminal court plea would prevent him from being admissible to the United States, permanently excluding him from the country. He sought to have his plea vacated based on violations of the Supreme Court’s landmark decision in Padilla v. Kentucky, 559 U.S. 356 (2010), which recognized that the Sixth Amendment requires defense counsel to provide specific advice on potential immigration consequences of a plea bargain, among other protections. The amicus brief, filed May 24, 2021, provided perspectives and examples from the experience of BDS representing and assisting noncitizens in New York’s criminal courts; clients for whom the immigration consequences of a plea bargain may mean the difference between continuing their lives in the United States or being permanently separated from their families and banished from this country that they consider home. For many noncitizens, it is grounds of inadmissibility, not deportability, that will impose the harshest and most severe consequence. The amicus brief demonstrated that convictions that trigger grounds of inadmissibility can have significant and often irrevocable harm on noncitizens and that when noncitizens are provided individualized and specific advice on how a disposition could trigger inadmissibility, they are better equipped to avoid catastrophic consequences for themselves and their families. Unfortunately, the Appellate Division Second Department issued a decision that would effectively narrow the scope of Padilla.

Crawford v. Ally

BDS—on behalf of itself, The Legal Aid Society, and Neighborhood Defenders of Harlem—drafted and submitted an amicus brief to the New York Appellate Division, First Department, in support of the Bronx Defenders’ challenge to the pervasive practice of New York criminal courts to issue pre-trial orders of protection without due process. See Crawford v. Ally, 197 A.D.3d 27, 150 N.Y.S.3d 712 (2021). The amicus brief, filed April 6, 2021, provided perspectives and examples from our experience as public defenders in New York City’s criminal courts to demonstrate that the constitutional violation that the Petitioner suffered is not an anomaly, but rather a regimented practice perpetuated against New Yorkers, depriving people of liberty and property without due process.
Impact Cases

Each year, tens of thousands of New Yorkers suffer significant and irrevocable harm after New York City criminal courts automatically issue pretrial “temporary” full orders of protection without the court requiring any showing of necessity or providing defendants any prompt and meaningful opportunity to be heard. The brief argued that the effects of these “temporary” orders—often renewed reflexively at each court date over several months—are far from temporary: they create long-lasting and reverberating impacts on every aspect of people’s lives, even when, as often happens, the underlying criminal case is dismissed. In its June 24, 2021 decision, the First Department held that the Constitution requires a prompt evidentiary hearing to challenge pretrial orders of protection in criminal court and cited the Defenders’ brief during oral argument. In addition to the systemic impact caused by this advocacy our civil justice practice attorneys have been essential in providing direct representation and assistance to criminal defense clients seeking to challenge orders of protection in these hearings.

Pro Bono Volunteer Involvement

Our pro bono practice focuses largely on the recruitment and partnerships with the private bar; training and mentoring private attorneys who take on our cases and projects and educating them about our clients and our work. These volunteers collaborate with BDS attorneys on complex research issues, draft motions, write appeals and amicus briefs and work on large-scale litigation projects. This year, BDS partnered with law firms by to host clinics for our Haitian clients seeking temporary protected status (“TPS”). We used a clinic type model in our state central registry (SCR) practice as well, training many law firms on this administrative process to meet more clients’ needs where BDS staff was at capacity. Beyond individual cases, the pro bono unit partners with our Civil Rights and Law Reform team on impact litigation work; including on the Rikers and Crawford affirmative litigation cases referenced above. In the past year alone, BDS’ Pro Bono program has partnered with 35 law firms, engaging more than 150 attorneys assisting with more than 85 cases for our clients.

219 Attorneys volunteered 140 hours

40 Law Students volunteered 1,400 hours

40 Other Volunteers volunteered 1,000 hours
Pro Bono Volunteer Involvement

DS’ Pro Bono team adapted to meet the current realities of court closures and less frequent in-person interactions with clients. While some court-based projects were placed on hold we continued our law-firm fellowship program with Cleary Gottlieb and were able to increase our staff in our NYIFUP and housing units. These attorneys were able to learn this practice, represent clients, and have returned to the firm to help develop future collaborations. Each year, 8-12 law students and social work interns from the New York University School of Law’s Family Defense Clinic are placed with the Family Defense Practice to handle some of our most complicated cases. Brooklyn Law School students work with BDS clients to correct errors on their rap sheets through the Rap Sheet Clean-Up Project. Law students from the CUNY Immigrant and Non-Citizens Rights Clinic, Cardozo Immigration Justice Clinic and NYU Immigrant Rights Clinic provide invaluable assistance to BDS clients facing deportation by co-counseling clients’ cases with BDS. Our education team partners with New York Law School’s education clinic to host a year-long extern and with Brooklyn Law School’s Disability and Civil Rights Clinic, and CUNY Law School’s Disability and Aging Clinic. In the past year, we also hosted three fellows from the Immigrant Justice Corps program, a Skadden Legal Fellow who works with our civil justice practice focusing representation and advocacy on systemic public housing issues including permanent exclusion, termination of tenancy and ineligibility determinations; and BDS is currently hosting an EJW Fellow whose project is focused on enforcing the employment rights of low-wage workers entangled in the immigration and criminal legal systems.

Sources of Funding

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![Pie chart showing sources of funding]

City 88%

Other 1%

State Funding 8%

IOLA 1%