



Brooklyn Defender Services
177 Livingston St, 7th Fl
Brooklyn, NY 11201

Tel (718) 254-0700
Fax (718) 254-0897
info@bds.org

TESTIMONY OF:

Samuel Hamilton, Senior Re-Entry Advocate

BROOKLYN DEFENDER SERVICES

Presented before

The New York City Council

Committees on Criminal Justice and Aging

Oversight Hearing on Justice in Aging and Reentry Issues for Older New Yorkers

February 17, 2023

My name is Samuel Hamilton and I am a Senior Re-Entry Advocate at Brooklyn Defender Services (BDS). BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. For over 25 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. Thank you to the Committees on Criminal Justice and Aging for the opportunity to testify today about justice in aging and reentry issues for older New Yorkers.

BDS represents approximately 22,000 people each year who are accused of a crime, facing the removal of their children, or deportation. BDS is fortunate to have the support of the City Council to supplement the services we provide as a public defender office in Brooklyn. Through specialized units of the office, we provide extensive wrap-around services that meet the needs of people with legal system involvement, including civil legal advocacy, assistance with educational needs of our clients or their children, housing and benefits advocacy, as well as immigration advice and representation.

BDS' Re-Entry Team is made up of advocates who provide individualized support for people from pre-entry to re-entry. This means that before a person is incarcerated, our team is available to provide pre-entry support, advice, and mentoring. During incarceration, we work to secure access to essential medical, mental health, safety and education needs through individual

Brooklyn Defenders

administrative advocacy. We mentor people in custody on accessing services and education opportunities and preparing for their release. We monitor and document the conditions incarcerated New Yorkers experience and advocate for their rights and well-being. After release from incarceration or completing an alternative to incarceration program, we help people find housing, gainful employment, continuing education, and community based support.

Justice in Aging

While New York's prison population has declined over the last decade, the average age of people in custody has risen. Because of decades of extremely harsh sentencing and a racially biased parole system that values vengeance and endless punishment above redemption, personal transformation, healing, and safety, New York State has a moral and fiscal crisis of people who are aging, very sick, and dying in our state prisons. One in four incarcerated New Yorkers are over 50 years old.¹ A New Yorker dies in state prison more than once every three days, a crisis that academics have called New York's "new death penalty."²

At the same time, many formerly incarcerated people have returned home and made tremendous contributions to our communities and neighborhoods as mentors, violence interrupters, entrepreneurs, policy advocates, non-profit leaders and more. This is all despite the life-long collateral consequences of a criminal conviction that a person faces upon release from prison.

The first barrier many older New Yorkers face to reentry is the parole board. BDS strongly supports **Res. 241-A (Hudson)**, which calls on the legislature to pass and the governor to sign the Fair and Timely Parole Act (S307/A162) and Elder Parole Act (S2423/A2035). Together, these parole justice bills will allow more older New Yorkers the opportunity to return to their families and communities after serving their sentence. Fair and Timely Parole would provide more meaningful parole reviews for incarcerated people who are already parole-eligible by changing the standard of parole and centering release not on the original crime, but on the person's rehabilitation while incarcerated. At its core, this means that parole commissioners would no longer be able to deny release based solely on the crime for which someone was convicted, and instead would be required to consider their current circumstance. Elder Parole would provide incarcerated people over the age of 55 who have already served 15 more years a chance to go before the Parole Board for a hearing.

Both of these bills represent opportunities for incarcerated people to have fair and equitable parole hearings, reducing the overall number of incarcerated New Yorkers, as well as the number of older adults trapped within the criminal legal system. For many incarcerated New Yorkers,

¹ NYS Comptroller, New York's Prison Population Continues Decline, But Share of Older Adults Keeps Rising, January 2022, Available at <https://www.osc.state.ny.us/press/releases/2022/01/new-yorks-prison-population-continues-decline-share-older-adults-keeps-rising>.

² Columbia Center for Justice, New York State's New Death Penalty: The Death Toll of Mass Incarceration in a Post Execution Era, 2021, Available at <https://centerforjustice.columbia.edu/news/new-yorks-new-death-penalty-report>

Brooklyn Defenders

these two bills offer not only opportunities to reunite with family or access life-saving care, but also the chance to live outside of the criminal legal system, where people age at an accelerated rate because of harmful and unhealthy conditions.³

The process of reentry does not just begin once an individual is released; as we outlined above, it begins with the programs that are set in place to ensure their success in the outside world. We believe that a Parole Board that looks at a person's current circumstance, rather than the crime they committed previously, and the amount of time they have served, rather than the amount of time left, does just that.

Supports for Returning Elders

People returning to New York City after incarceration in State Department of Correction and Community Supervision (DOCCS) prisons or City Department of Correction (DOC) jails face many obstacles to successful reintegration into the community. Regardless of age or the amount of time served, people returning home need housing, healthcare, and—in order to access those—an identification card and transportation. With these things, and the assistance of a reentry advocate, case manager, or a peer, outcomes for people coming home can be greatly improved.

With the proper support in place, we see people thrive when they return home. One gentleman we represented, Mr. L, was released from DOCCS custody at age 59, after serving 40 years. At the height of the COVID-19 pandemic, he was released to the overcrowded and unsafe city shelter system. Fortunately, Mr. L was connected to our Re-Entry team and reached out to his advocate. We were able to help him secure a bed in one of the Mayor's Office of Criminal Justice (MOCJ) emergency reentry hotels. The hotel environment provided Mr. L with a safe and supportive place to adjust and navigate the other challenges he faced. He was able to find a job and save money. With the wraparound services in the hotel and our ongoing support, Mr. L was able to secure his own one-bedroom apartment where he lives today, remains employed full time, and has reintegrated into his community.

The City Council should continue to invest in programs and solutions that work to help older adults make the transition home.

Housing

In her State of the State address in January, Governor Hochul declared "Housing is a human right," yet we know far too many New Yorkers face housing insecurity and homelessness. Formerly incarcerated individuals are nearly ten times more likely to experience homelessness

³ Office of the State Comptroller, New York State's Aging Prison Population, 2017, Available at <https://www.osc.state.ny.us/files/reports/special-topics/pdf/health-aging-prison-2017.pdf>.

Brooklyn Defenders

than the general public⁴ and fifty percent of people leaving DOCCS custody statewide⁵ are released directly to the DHS shelter system.

The New York City shelter system is loud, chaotic and often violent. People have little privacy or security. For older people and people with medical concerns, congregate settings present a number of challenges to staying healthy. Many shelters are not ADA accessible and are not equipped for older people with chronic health conditions or limited mobility. After enduring the trauma of incarceration, New Yorkers need the space and the resources to decompress and assimilate back into society.

To improve access to housing for returning citizens, we respectfully offer the following recommendations:

1. Fully fund the Mayor’s Office of Criminal Justice (MOCJ) reentry hotel program.

In April 2020, the City of New York partnered with direct service providers to establish the emergency Reentry Hotel Program to provide emergency housing for people transitioning out of incarceration. With co-located wrap-around services including medical care, case management, and housing and vocational support, people returning to the community had a safe, stable place to stay and receive care. This setting has proven to be life-changing for many of the people we serve, many of whom have successfully obtained employment and permanent housing through the program.

In the first two years of the program from March 2020 to 2022, over 2,100 people returning to New York City from prison or jail were served by this program. The current emergency hotel program is scheduled to close on June 30, 2023, with the 530 current residents being moved into transitional housing. This plan, however, fails to serve the goal of using transitional housing to decarcerate Rikers Island. As of February 2, 2023, there are over 375 people on a waitlist for a bed in the emergency hotel program—many of whom are incarcerated only because they do not have stable housing. The Council has a moral imperative to continue to fund this critical program as a step in a continuum of reentry housing.

2. Pass Fair Chance for Housing (Int 2047-2020).

An arrest or conviction should not constitute a permanent barrier to stable housing. Prohibiting housing discrimination on the basis of an arrest or conviction record is an important step towards guaranteeing equal access to stable housing for all New Yorkers.

⁴ Lucius Couloute, Nowhere to Go: Homelessness among formerly incarcerated people, *Prison Policy*, August 2018, Available at <https://www.prisonpolicy.org/reports/housing.html>

⁵ New York State Bar Association. Report of the New York State Bar Association Task Force on the Parole System. June 2020. Available at <https://nysba.org/app/uploads/2020/02/Task-Force-on-Parole-Systems-Report-June-2020-with-amendments-FINAL.pdf>



3. Reduce barriers to NYCHA Housing

NYCHA has a practice of denying applicants and evicting households based on any contact with the criminal legal system. While NYCHA tenancy requirements are governed by federal law,⁶ NYCHA's own regulations go significantly further than legally required, unnecessarily barring potential tenants with conviction records and in evicting current tenants who have any contact with the criminal legal system. NYCHA's policy is to automatically deny any applicant with a conviction from the past three to six years, depending on the level of conviction. NYCHA also mandates denial based on any illegal drug use within the past three years. These strict eligibility criteria, which are not required by HUD, have the harshest impact on families and communities with minor law enforcement contact who are excluded from public housing. We encourage the City Council to work with the NYCHA's efforts to remove barriers to public housing for New Yorkers with conviction records and to ensure that those with criminal system involvement have access to and can maintain stable housing.

Identification Documents

Photo identification is needed to participate fully in society. New Yorkers are asked for photo identification in many situations: picking up a child from school, obtaining groceries from a food bank, checking in to medical appointments, or accessing social services or programs like Access-A-Ride, HASA and more. Lack of a government-issued ID can create a barrier to other critical resources, such as accessing rent relief, economic relief under the Excluded Workers Fund, health insurance, and Fair Fares. Having a photo ID also empowers New Yorkers to move freely and safely around the city without fear of being penalized or apprehended by police for lack of ID.

New Yorkers are regularly released from DOCCS and DOC custody without proper identification. In many cases, documents they had before incarceration may have been confiscated at arrest or lost. While people in DOCCS custody are supposed to get access to a social security card and birth certificate before release, they must then go to the DMV to access a photo ID.

We encourage the City Council to work with partners in Albany to ensure all New Yorkers leaving DOCCS have government issued photo ID, pass legislation to increase access to IDNYC for people leaving city jails, and expand documents accepted for IDNYC proof of identity. While both the City and State have taken steps to reduce barriers to getting an ID, required documentation can be impossible to provide for residents who are excluded from services. Lowering barriers to obtaining IDNYC will in turn remove barriers from other services.

⁶ Federal law only requires housing authorities to deny applicants who have been evicted from public housing for drug-related criminal activity, convicted of methamphetamine production, or are subject to a lifetime sex offender registration.



Care Management

With the funding of the City Council and state legislature, our office is able to provide wraparound pre-entry to re-entry support for clients throughout and after their incarceration. Developing relationships with our clients and their loved ones, we are able to create individualized care plans to meet people's needs during and after incarceration. We can help prepare people both for their time in DOCCS and for their return home.

For older New Yorkers, support through the transition home is critical. Advances in technology and communication mean many older adults are returning from periods of incarceration to a landscape they no longer recognize. Digital literacy is a requirement for everything from accessing medical care, housing and benefits to applying for a job. Elders may have health needs and need immediate assistance finding accessible housing, medication refills, and supports. Traditional senior centers and aging service providers are often not prepared to meet the needs of older adults who have experienced incarceration or are experiencing barriers due to a criminal record. Reentry programs that are versed in the needs of people returning home, across the life course, are critical to ensuring the success of returning older adults.

Transportation

It is universally understood that many New York City residents cannot afford to pay for public transportation, yet they rely on it every day, often multiple times a day. For New Yorkers returning from prison or jail, access to transportation is critical to go to the parole office, set up public benefits, look for permanent housing and employment. More needs to be done to not only make public transportation affordable to low-income New Yorkers, but to ensure access to critical benefits. Programs are needed to educate NYC residents and assist them in applying for the Fair Fares and Reduced Fare programs. New Yorkers should leave prison or jail with a Metrocard, at a minimum, and should receive comprehensive information on enrolling in Fair Fares or Reduced Fares when applying for any other means tested public benefits, like SNAP.

Conclusion

At Brooklyn Defenders, we work every day to ensure the people we serve have the resources they need to address the complex challenges they face upon release from prison and jails. We thank the Council for your attention on this topic and urge you to work with the Mayor's Office to ensure continued funding for critical support for older adults returning home. Thank you again not only for your support that allows us to do such important work, but also for your time. If you have any questions, please feel free to contact Kathleen McKenna, Senior Policy Social Worker, at kmckenna@bds.org.