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TESTIMONY OF:

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BROOKLYN DEFENDER SERVICES

Presented before

**The New York City Council
Committee on Immigration Jointly with the Committee on Hospitals**

Oversight Hearing on The Experiences of Black Migrants in New York City

April 16, 2024

My name is Catherine Gonzalez, and I am a Supervising Attorney in the Padilla Team of the Criminal Defense Practice 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. Thank you to the New York City Council Committees on Immigration and Hospitals, in particular Chair Avilés, and Chair Narcisse, for the opportunity to submit testimony today.

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. We represent approximately 22,000 people each year who are accused of a crime, facing loss of liberty, their home, their children, or deportation. Our staff consists of specialized attorneys, social workers, investigators, paralegals, and administrative staff who are experts in their individual fields. 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, we provide extensive wrap-around services to 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' Immigration Practice works to minimize the negative immigration consequences of family court involvement and criminal charges for non-citizens, represent people in applications for immigration benefits, and defend people against ICE detention and deportation. Since 2009, we have counseled, advised, or represented more than 16,000 people in immigration matters

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including deportation defense, affirmative applications, and immigration consequence consultations in Brooklyn’s criminal court system. Our Padilla team attorneys are criminal-immigration specialists who provide support and expertise on thousands of cases, including advocacy regarding enforcement of New York City’s detainer law, individualized immigration screenings, and legal consults.

Background

The need and timeliness for this hearing focused on the experience of recently arrived Black immigrants in New York City cannot be overstated. Just yesterday, April 15, 2024, New York City kicked off the start of Immigrant Heritage Week – a now 20-year-old annual week-long celebration during which our city celebrates the contributions of immigrant New Yorkers and commemorates “the legacy of April 17, 1907, the day in New York City history on which the largest number of immigrants – 11,000 – entered the U.S. through Ellis Island.”¹

Migration is neither a new nor recent phenomenon. As Immigrant Heritage Week denotes, people have been risking their lives and leaving their homelands in search of protection, safety, and opportunities for centuries. As New York continues to see immigrants arriving in the city from many different parts of the world, it is imperative that we acknowledge and address the challenges faced by Black immigrants who are joining our community from a wide array of countries, bringing with them diverse experiences, languages, and culture.

The Effects of Unequal Treatment at the Southern Border Reverberate all the way to New York City

“Black immigrants represent a significant, rapidly growing segment of our community in the United States, and all journey here with unique challenges, distinct backgrounds.”² Immigration policies and restrictions on entry to the United States have disproportionately targeted and excluded Black immigrants from entering the United States to seek asylum.³ Facing harsh and punitive treatment, such as automatic detention when they enter at the southern border, “U.S. immigration policies also continue to reinforce anti-Blackness through discriminatory practices,

¹ NYC Mayor’s Office of Immigrant Affairs, Immigrant Heritage Celebration 2024, <https://www.nyc.gov/site/immigrants/about/immigrant-heritage-celebration.page> (accessed on April 16, 2024)

² Tahirih Justice Center, Uplifting the Journey of Black Immigrants (February 24, 2023), available at <https://www.tahirih.org/news/uplifting-the-journey-of-black-immigrants/>

³ See Human Rights Watch, Mexico: Asylum Seekers Face Abuses at Southern Border Improve Conditions, Procedures; US Should End Pressure to Block Arrivals (June 6, 2022), available at <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>; US Discrimination Against Black Migrants, Refugees and Asylum Seekers at the Border and Beyond, available at ; N. Adossi, et al., “Black Lives At The Border,” Black Alliance for Just Immigration (BAJI), January 2018, available at <https://baji.org/wp-content/uploads/2020/03/black-lives-at-the-borderfinal-2.pdf>; see also S. Priya Morley et al., “There is a Target on Us” – The Impact of Mexico’s Anti-Black Racism on African Migrants at Mexico’s Southern Border (2021), available at <https://www.immigrationresearch.org/system/files/The-Impact-of-Anti-Black-Racism-on-African-Migrants-at-Mexico.pdf>. <https://humanrightsfirst.org/library/cerd-us-discrimination-against-black-migrants-refugees-and-asylum-seekers-at-the-border-and-beyond/>; N. Adossi, et al., “Black Lives At The Border,” Black Alliance for Just Immigration (BAJI), January 2018, available at <https://baji.org/wp-content/uploads/2020/03/black-lives-at-the-borderfinal-2.pdf>; see also S. Priya Morley et al., “There is a Target on Us” – The Impact of Mexico’s Anti-Black Racism on African Migrants at Mexico’s Southern Border (2021), available at <https://www.immigrationresearch.org/system/files/The-Impact-of-Anti-Black-Racism-on-African-Migrants-at-Mexico.pdf>.

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as demonstrated by the Border Patrol’s racist and brutal mistreatment of Haitian refugees at the U.S. southern border in the past few years.”⁴

Ms. L, a BDS client who is a native of Chad and speaks only a specific dialect of Arabic, received documents, including a notice of her first ‘check-in’ appointment with U.S. Immigration and Customs Enforcement (ICE) entirely in Spanish, a language she does not speak.

Mr. D, a BDS client who is a native of Senegal and speaks Wolof, shared documents he received from U.S. Customs and Boarder Protection (CBP) officers at the border about his immigration case are entirely in Spanish. Mr. D does not speak Spanish.

These are just two examples but represent a problem we see among many of the people we represent. We continue to encounter clients who speak French, Igbo, Wolof, Arabic, and other languages who have been given their immigration paperwork in Spanish at the border.

Heightened Policing of Recently Arrived Immigrants

It has long been established that police disproportionately target members of marginalized groups for arrest and that people of color remain disproportionately represented in the criminal legal system.⁵ Newly arriving Black immigrant New Yorkers are living in highly policed and surveilled situations whether they find themselves in shelters or experiencing street-based homelessness.

The ensnaring of Black immigrants into the New York criminal legal system reflects the mistreatment they faced when they arrived at the border where the risk of detention and fear of deportation loom large. Black immigrant New Yorkers, those who have newly arrived and as well as those who have lived here for decades, are experiencing increased rates of ICE apprehension, as biased policing practices intersect with current ICE enforcement priorities prioritize both people who recently arrived and people who have contact with the criminal legal system. BDS continues to see an increase in ICE arrests in the community. Pursuant to current ICE enforcement guidelines, a growing number of noncitizens being detained in ICE custody after an arrest or other contact with the criminal legal system.

Involvement in the criminal legal system and family court can have devastating consequences for a recently arrived immigrant. An arrest alone, even where the District Attorney’s office declines to prosecute or where a judge dismisses and seals the case, can have dire consequences for people facing removal, including leading an asylum seeker to end up in immigration detention.

⁴ Tahirih Justice Center, *Tahirih Updates*, “Uplifting the Journey of Black Immigrants,” (February 24, 2023) available at <https://www.tahirih.org/news/uplifting-the-journey-of-black-immigrants/>

⁵ NYCLU, “A Racial Disparity Across New York that is Truly Jarring,” (November 29, 2022) available at <https://www.nyclu.org/commentary/racial-disparity-across-new-york-truly-jarring#:~:text=Felony%20Convictions%20by%20Race&text=And%20Latinx%20people%20were%20convicted,record%20and%20who%20doesn't.>



ICE and its predecessor, the Immigration and Naturalization Service (INS), have long relied upon state and local criminal legal systems to identify immigrants who could be deported.

Challenges That Stem from Unstable Immigration Status

Compounding the challenges Black immigrants face from discrimination and racial prejudice, are the numerous barriers that many face due to unstable immigration status.⁶ Lack of immigration relief directly impact so many aspects of a person’s life and wellbeing – from access to healthcare, to employment and safe housing.

We have been encountering many clients who are ineligible for forms of relief that provide immediate access to employment authorization, such as Temporary Protected Status (TPS) and Humanitarian Parole, because they are from countries that lack or have not been designated with any protective status by the federal government. As a result, they require full legal immigration representation, and right now must go on our waitlist for full immigration representation.

Recommendations

BDS supports Int 0084-2024, Int 0085-2024 and Int 0739-2024 as important steps towards ensuring an improved approach to welcoming and supporting immigrants to our city. Additionally, BDS supports Res 0340-2024 and the city’s call to our federal government to enact a more humanitarian-centered approach to meet the needs of Black immigrants arriving at our borders seeking protection.

Conclusion

BDS is grateful to New York City Council’s Committees on Immigration and Hospitals for hosting this important and timely hearing. Thank you for your time and consideration of our comments. We look forward to further discussing these and other issues that impact the people and communities we serve. If you have any additional questions, please contact Catherine Gonzalez, Supervising Attorney and Policy Counsel, at cgonzalez@bds.org.

⁶ Tahirih Justice Center, *Tahirih Updates*, “Uplifting the Journey of Black Immigrants,” (February 24, 2023) available at <https://www.tahirih.org/news/uplifting-the-journey-of-black-immigrants/>