



**Brooklyn Defender Services**  
177 Livingston St, 7<sup>th</sup> Fl  
Brooklyn, NY 11201

Tel (718) 254-0700  
Fax (347) 457-5194  
info@bds.org

**TESTIMONY OF:**

**Catherine Gonzalez,**

**Supervising Attorney and Policy Counsel**

**BROOKLYN DEFENDER SERVICES**

**Presented before**

**The New York City Council**

**Committees on Immigration and General Welfare**

**Oversight Hearing on Updates on the Implementation of the 30- and 60-day rules for**

**Asylum Seekers**

**November 19, 2024**

My name is Catherine Gonzalez, and I am a Supervising Attorney and Policy Counsel in the *Padilla* Unit of the Criminal Defense Practice at Brooklyn Defender Services. 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. I want to thank the Committees on Immigration and General Welfare, particularly Chair Aviles and Chair Ayala, for inviting us to testify today about the impact of shelter stay limits on immigrant New Yorkers.

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.

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BDS' Immigration Practice works to minimize the negative immigration consequences of family court 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 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 consultations.

BDS' Civil Justice Practice aims to reduce the civil collateral consequences for the people we serve who are involved with the criminal, family, or immigration legal systems. The people we serve experience housing instability in a variety of ways: we defend people from eviction in housing court, provide proactive relocation assistance and benefits advocacy, and help clients navigate the shelter system. Our Civil Justice Practice works with clients who are entering the shelter system, as well as shelter residents attempting to secure stable housing. Through this work we see the profound challenges New Yorkers face in accessing shelter and in obtaining housing vouchers and using those vouchers to secure safe, affordable, and permanent housing.

## **Background**

Today's hearing is an opportunity to examine how the city's provision of emergency shelter for newly arrived immigrants is functioning and the impact of its 30- and 60-day rules on these communities. Immigrant New Yorkers, including asylum seekers, face many barriers to accessing and maintaining affordable housing, including delays in obtaining work permits and lack of access to credit/credit reports and banking systems. NYC's homeless shelter system has been a lifeline to many of the newly arrived immigrants and their families and therefore, it is essential that any policies related to the shelter system focus not only on providing immediate relief but also on supporting this community in their efforts to find stability and thrive in our city.

## **A Bifurcated Shelter System**

For over two and a half years, the city has operated a bifurcated shelter system. While New York City has always had a steady flow of new immigrants arriving, most seeking financial, personal and political stability and freedom, the last couple of years we have experienced a dramatic increase in the number of new immigrants arriving in NYC. This recent increase is the result of Republican-led states on the southern border transporting newly arriving migrants and asylum seekers to the northeast, and later California, as an inhumane political stunt, challenging to challenge "sanctuary cities" to honor their commitments to immigrants. Reportedly, more than 210,000 migrants, many of whom are families with children, have arrived in New York City

since the spring of 2022.<sup>1</sup> The city’s bifurcated shelter system distinguishes between “new arrivals” and those who have been in the United States longer. “New arrival” refers to anyone who entered the United States after March 15, 2022. The current system directs that “new arrivals” follow a different process compared to New Yorkers who have been in the U.S. for a longer time. Other New Yorkers who have been in New York City longer follow the traditional shelter system.

Individuals and families accessing the traditional shelter system go through screening and eligibility evaluation at the NYC Department of Homeless Services (DHS) Prevention Assistance and Temporary Housing (PATH) intake center, the single point of entry to the shelter system. Families are placed in a shelter operated by DHS, where they can establish eligibility for valuable benefits and services, in particular CityFHEPS.<sup>2</sup>

Newly arriving New Yorkers are assigned to a wholly separate system with a dedicated intake center at the Roosevelt Hotel. Once in this 'HERRC' (Humanitarian Emergency Response and Relief Centers) system, residents are subject to the 30- and 60-day stay limits.

All single adults and families of recently arrived New Yorkers, and all families in the HERRC system, are subject to the 30- and 60-day stay limits respectively. With a few exceptions, a resident who has nowhere else to go after their 30- or 60-day limit will be forced to pack up and move out of their shelter and return to the Roosevelt Hotel. Families in a NYC DHS shelter are not subject to the 60-day stay limit if they have an active Cash Assistance case with the city’s Human Resources Administration (“HRA”).

Since the implementation of the 30- and 60-day rules, the city is displacing newly arrived New Yorkers. Many BDS clients have been evicted from or moved repeatedly from their shelter placements, which has caused significant disruption for their families and their legal cases. BDS clients have shared how they and their families receive a letter after arriving at a placement which states the date on which their stay ends. They report that when their stay limit date arrives, they are told to pack up their belongings and report to the Arrival Center at the Roosevelt Hotel to re-apply for shelter placement.

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<sup>1</sup> Sahalie Donaldson, Following the asylum-seeker odyssey: a timeline, City & State (October 10, 2024), available at <https://www.cityandstateny.com/policy/2024/10/following-asylum-seeker-odyssey/382850/#:~:text=More%20than%20210%2C000%20migrants%20have,countries%20in%20Africa%20and%20China>; according to the NYC Comptroller, “as of September 15, 2024, the City had approximately 61,700 people seeking asylum in City-funded shelter, and over 214,600 have come through the City’s system since the spring of 2022” *see* Asylum Seeker Census, Accounting for Asylum Seeker Services available at <https://comptroller.nyc.gov/services/for-the-public/accounting-for-asylum-seeker-services/asylum-seeker-census/>

<sup>2</sup> CityFHEPS is a rental assistance supplement to help individuals and families find and keep housing. *See* CityFHEPS - HRA available at <https://www.nyc.gov/site/hra/help/cityfheps.page>

Once they arrive at the Arrival Center at the Roosevelt Hotel, they and their children are made to wait hours, sometimes days, to restart the shelter application process all over again. It's a disruptive, exhausting, and confusing process.

It is our understanding that individuals issued a shelter stay limit notice may apply for an extension of their shelter stay if they can demonstrate “extenuating circumstances” such as medical conditions or “significant efforts” to secure their own housing. From reports we have received from clients; it appears that there is no standardized procedure or guidance for assessing an individual’s extenuating circumstances. The process is marred by chaos and confusion. Since the city has implemented its stay limits for recently arrived immigrants, it has displaced nearly half of the families in the system.<sup>3</sup> The remaining families have been moved repeatedly to multiple shelter placements, disrupting their children’s school placements and lives. While these evictions and frequent placement changes create a lack of stability for families who are trying to settle into a new life and find work and raise their families, it also causes serious disruptions and delays in their immigration cases. Lack of a stable address affects access to a stable mailbox which can be highly disruptive for people with pending legal and immigration matters.

Generally, the federal government sends communications and notices pertaining to pending immigration applications and/or immigration court hearings via mail. This lack of stability creates a serious risk that individuals can risk missing immigration case notices and/or immigration court hearing notices. A missed notice can have drastic consequences: missing a single immigration court appearance leads to being immediately ordered deported. Where the immigration agency is asking for additional information or evidence, a missed notice that requires a response can lead to the denial of an application due to a late response or no response.

For individuals waiting for an immigration document, like an employment authorization card, delivery to the wrong address can cause significant delays or hurdles. The United States Postal Service (USPS) has a policy of returning secure identity documents (or cards) sent by the U.S. Citizenship and Immigration Services (USCIS) if they are unable to be delivered to the applicant. When someone does not receive their card or other immigration documents by mail, they may be required to file a new application for USCIS to reissue the document.

These issues related to delay or non-delivery of employment authorization documents, can have a direct impact in people’s ability to secure stable employment – one of the very things the city is evaluating in deciding whether or not to grant an extension of shelter stay. Lack of a stable address also impacts our representation of individuals and families. We often rely on mail to

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<sup>3</sup> According to “As of April 14, 2024, the City reported that 9,873 families with children were given 60-Day Notices. In total, 37,118 individuals were impacted as of that date—19,192 adults and 17,926 children.” *see* New York City Comptroller, Report on the Investigation of the Implementation of the “60-Day Rule” for Asylum-Seeker Families at pp. 6 (May 9, 2024) available at <https://comptroller.nyc.gov/wp-content/uploads/documents/Report-on-the-Investigation-of-the-Implementation-of-the-60-Day-Rule-for-Asylum-Seeker-Families.pdf>

communicate with clients without reliable access to a phone. Lack of a stable address can affect a lawyer's ability to effectively represent a client, primarily due to challenges in maintaining consistent communication.

We remain hopeful that the recent [November 18th announcement](#)<sup>4</sup> about the upcoming creation of a centralized mail center will successfully prevent lost and misplaced mail. However, we remain concerned about possible delays in getting mail to people in a timely manner and urge the city to ensure adequate staffing and consistent procedures that center on ease of access for New Yorkers.

Furthermore, the bifurcated shelter system continues to create additional challenges and burdens on BDS clients with pending legal and immigration cases.

## **Pervasive Issues in the Shelter System for Recently Arrived New Yorkers**

### 1. Eligibility Issues

Shelter staff have not been adequately trained to determine the eligibility of recently arrived families and individuals seeking shelter.<sup>5</sup> To apply for shelter, applicants must bring identification and proof of their household composition, their housing history for the past two years, and an explanation why they cannot return to any of those places. One person we represent was turned away from the new arrival shelter intake because he did not have a copy of the case documents from his pending asylum case. While he had other documents, the case worker was not familiar with the USCIS form he presented and turned him away. We are also deeply concerned that intake workers are demanding that people turn over highly sensitive court documents.

Another person we represent has lived in New York for over 7 years. When he went seeking shelter at the PATH intake shelter, DHS staff turned him away, believing that because he did not speak English that he had recently arrived as an asylum seeker and was not eligible for shelter. This incident is not isolated—we have heard from many single adults and families with minor children that they have been sent back and forth between the PATH and Roosevelt Hotel intake centers due to staff confusion over their eligibility.

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<sup>4</sup> “Mayor Adams Issues Orders to Further Save Taxpayer Dollars and Help Migrants Take Next Steps in Journeys, Updates New Yorkers on City's Ongoing Migrant Response“ (November 18, 2024) *available at* <https://www.nyc.gov/office-of-the-mayor/news/837-24/mayor-adams-issues-orders-further-save-taxpayer-dollars-help-migrants-take-next-steps-in>

<sup>5</sup> We have learned that staff in the traditional DHS shelters are also not adequately trained to determine eligibility. We have had clients who have lived in New York for a decade or longer and are seeking shelter, but due to language barriers or lack of status were incorrectly told by staff at intake that they were ineligible for DHS shelter and directed to go to the Arrival Center at the Roosevelt Hotel instead. Not only does such misinformation unnecessarily prolong homelessness and housing instability, but it also perpetuates fear and distrust of the shelter system.

## 2. Difficulty Accessing Benefits

New York State has an expansive definition of PRUCOL (Persons Residing Under the Color of Law), which includes having a pending application for either asylum or adjustment of status. Anyone whose immigration status falls under the umbrella of PRUCOL may be eligible for state and city-administered public benefits. Because many recently arrived immigrants immediately apply for asylum, a large number of residents in the city's new arrival shelter system qualify as PRUCOL and may be eligible for Public Assistance benefits, which are often a life-saving resource and important tool to establish stability.

However, the HERRC shelters are not equipped to help residents access these vital benefits. Whereas DHS shelters are staffed with caseworkers to identify eligible residents and assist with benefits applications, HERRC shelter staff are not trained to identify PRUCOL residents and are often wholly unaware that many residents could be eligible for benefits. Our practice at BDS when working with new immigrant clients in the shelter system is to screen for PRUCOL status and assist with the Public Assistance application ourselves because we know our clients will not be connected to benefits through their shelter.

The city's bifurcated shelter system also creates an arbitrary barrier to accessing CityFHEPS, which is an important tool for shelter residents to secure permanent housing. Homelessness is one of the main categories of CityFHEPS eligibility, but according to city regulation, "homelessness" is limited to residence in a DHS or HRA-administered shelter or street homelessness. Residents in HERRC shelters who meet all other CityFHEPS eligibility criteria are unable to access a voucher simply because they were sent to a separate shelter system based only on the date they arrived in New York. Our clients in this situation are otherwise eligible for CityFHEPS but have no way to access a voucher from the HERRC system. These clients are unable to afford an apartment on their own and are forced to remain in the shelter system where they continue to face the ongoing disruption of the 30- and 60-day stay limits.

## 3. Mail Issues

We have countless examples of individuals whose mail was misplaced or lost because of a shelter transfer or eviction. BDS client Eva has been living in the New York City shelter with her 7-year-old son for the past 2 years. She has been moved various times between boroughs. She began being assigned to a shelter in Brooklyn, and enrolled her son in school near that shelter, since then she has been moved to shelters in Queens and Manhattan. After receiving her first shelter transfer, Eva decided that she would do everything possible to avoid disrupting her son's schooling. She began looking for her own housing but that has proven challenging due to an inability to find stable employment and numerous delays with obtaining her employment authorization document (EAD). She is currently at a shelter in Manhattan, but her son continues to be enrolled at a school in Brooklyn, so Eva and her son wake up at 5:00AM each day to ensure they make it into Brooklyn in time for school. When we began to work with Eva a year

ago, her main concern was related to having missed her biometrics appointment with USCIS after not receiving her correspondence in time. After her first shelter transfer, she was actively inquiring with shelter staff at both her new placement and her old placement about her correspondence. Our staff made various efforts to try to rectify the missed biometric appointment. Ultimately, it took numerous attempts of Eva walking into the USCIS biometrics site and one month of constant calls to USCIS to get Eva to complete her required biometrics with USCIS. Unfortunately, it took many more months to try to rectify other issues that the delayed correspondence brought to Eva. The missed biometric appointment delayed Eva's ability to obtain an EAD and she missed various employment opportunities. Over a year later, Eva continues to live in the shelter system. She was so impacted by that mail issue that the first thing she does when she receives a stay limit notice is obtain the necessary forms to update her address with USCIS and the immigration court (EOIR). Eva recently secured stable employment after receiving her EAD earlier this year and has been actively looking for an apartment to rent in Brooklyn to be closer to her son's school.

#### 4. Frequent Placements Changes

Limited shelter is destabilizing for people and individuals and families constantly moving often complicates our advocacy. BDS client Lucy who is originally from West Africa and speaks French, lives in a shelter with her niece and 5 children. Despite being in a family unit, Lucy has been issued both 30- and 60-day stay limit notices. We continue to inquire but at this time have not been able to obtain any additional information about this change. Lucy also shared with our staff facing a lot of issues at the shelters. Lucy reports experiencing segregation between Latin American and African immigrants at the shelters and facing discrimination and mistreatment by staff at various shelters. Lucy has shared details of the chaotic environment at the different shelters she's been transferred to. Lucy has also shared issues regarding food insecurity. More than once, she has gone without meals to ensure there is enough food for her children and niece. She shared how after each shelter transfer, she has sought churches near the shelter and often makes the line for church pantry access. Lucy's BDS social worker reports that Lucy has not been connected to any case managers at any of the shelters she's been transferred to over the past year.

Shelter stay limits and transfers affect almost every aspect of people's lives. One of the most concerning has been the impact of transfers on access to education for our clients' children. Multiple BDS clients have reported needing to transfer their children to new schools after a shelter eviction.

#### 6. Reticketing

Social workers at our office have shared examples of obstacles clients face with the reticketing process. The reticketing process is stressful and opaque. Through trial and error our staff has learned that reticketing requires that, when their shelter stay limit date comes, people prove that



they have met the requirements to continue in shelter. Our understanding is that these requirements include a point system that is used to make a determination as to whether someone will be reticketed. Our understanding is that 20 points are needed, and points are awarded based on steps individuals take to obtain stable housing and/or employment. Our staff has learned that the reticketing process also requires an intake process during which individuals are interviewed at the Arrival Center and are required to provide an array of documents, ranging from identity documents, to documented proof of prior stay at a shelter, documentation related to immigration applications or cases.

Our staff has been encouraging clients in shelters to go to the Arrival Center for reticketing at least one week before their stay limit date to prevent gaps in housing. This has proven difficult. Our staff has seen that shelter eviction dates have not been clearly communicated and, in more than one case, shelter residents have been provided letters with the wrong eviction date. Our staff has also noticed that, for people who do not speak English or Spanish, or who do not read those languages, information has been even more limited.

BDS has provided documentation to the people we represent to affirm that they have an active immigration case and are meeting the required steps to stay in shelter. In our office's experience, the requirements have not been adequately explained to people in shelter, who often call us for information when communication breaks down.

BDS client Luis was kicked out of his shelter after months living there when the new rule was implemented. The eviction took place months before BDS began working with Luis. Luis reported to our office that he was denied a reticketing request. He had a letter detailing the efforts that Luis had taken to find stability including obtaining a driver's license, completion of certification classes, and attending exit planning meetings. The letter noted that despite his demonstrated efforts, his reticketing request was denied because he had not made significant efforts to exit the shelter. The social worker and attorney working with Luis assisted him in with preparing a detailed letter and supporting documents to help get Luis back into shelter. So far, Luis has made four attempts to reenter shelter. Unfortunately, all of his requests have been denied and Luis reports that he has been told that he did not have enough points to get back into the shelter system.

## **Recommendations**

**Pass Int. 210**, which would prohibit city agencies from imposing limits on the length of time eligible individuals and families in shelter or emergency housing. As this bill would accomplish, we support getting rid of shelter stay limits. We support protecting our city's right to shelter for all New Yorkers, regardless of their time here or immigration status.

**Create a pathway to housing vouchers.** Residents in HERRC shelters are made ineligible for CityFHEPS vouchers by the city's bifurcated shelter system. Residents with PRUCOL status are



arbitrarily denied access to a voucher based solely on their arrival date in New York City. We urge the City Council to address this oversight by expanding the definition of ‘homelessness’ with regard to CityFHEPS eligibility to include residence in *any* New York City shelter, including the HERRC system. This change would shorten stays in HERRC shelters and enable recently arrived New Yorkers to establish stable lives in our city.

**Revisit “recent” arrival.** The date used to determine who identifies as a “recent arrival” has not changed. This means that there are people who are deemed recent arrivals who may have been living in New York for over 2 years. When this designation was created, it was justified under the umbrella that the city needed a tool to address an emergency situation of an unprecedented number of people coming into New York City. At this point, a lot of people who are still being labeled “recent arrivals” have now been in New York for a while.

Furthermore, the city should use this opportunity to reassess how we can best deliver services to New Yorkers experiencing homelessness. Rather than criminalizing poverty by relying on ACS and the NYPD in shelters, the city should reallocate that funding to deliver robust social services to shelter residents, including trained housing specialists available to provide individual support, direct access to housing subsidies and benefits, legal support, and language and job training programs.

## **Conclusion**

BDS is grateful to the Committee on General Welfare and the Committee on Immigration for hosting this critical hearing and shining a spotlight on this issue. We thank the Council 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 at [cgonzalez@bds.org](mailto:cgonzalez@bds.org).