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TESTIMONY OF:

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Presented before

**The New York City Council
Committee on General Welfare**

**Oversight Hearing on DSS Manipulation of Monthly Eligibility Rate Reporting
and Int 0210-2024**

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My name is Alexandra Dougherty, and I am a Senior Staff Attorney and Policy Counsel of the Civil Justice 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 Committee on General Welfare and Chair Ayala for inviting us to testify today about protecting the right to shelter for all New Yorkers.

BDS represents approximately 22,000 people each year who are accused of a crime, facing the removal of their children to the foster system, or deportation. Our staff consists of specialized attorneys, social workers, investigators, paralegals, and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, 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' 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 stable housing.

Background

The ongoing influx of new immigrants arriving in New York City has illuminated recent right-to-shelter violations as well as the shelter system's lack of preparedness to assist people in need of emergency housing. 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 and banking systems. These barriers make it difficult for recently arrived asylum seekers to secure permanent housing, prompting many to turn to the shelter system. However, barriers to accessing and maintaining shelter eligibility as well as increasing instances of punitive action by shelter staff have made the right to shelter fully inaccessible to many New Yorkers in need of emergency housing.

New Yorkers, immigrant, and non-immigrant alike, routinely face barriers to entering the shelter system. New York City has created a bifurcated process for entering shelter. For New Yorkers accessing the traditional shelter system, the screening and evaluation process at PATH, the single point of entry to the family shelter system, operated by the New York City Department of Homeless Services (DHS), often presents an insurmountable hurdle to families who are already facing the trauma and disruption of homelessness. We began noticing an uptick in clients experiencing problems with the shelter intake process in 2022, including instances of families forced to stay overnight at PATH before getting an emergency placement. We testified about this pattern before this committee in August 2022. Since then, our clients continue to report difficulty accessing shelter.

Asylum seekers and newly arriving New Yorkers are assigned to a wholly separate system distinct from the existing shelter system and intake process. Currently, intake is managed at the Roosevelt Hotel in Manhattan. While the process has been opaque, many people are reporting waiting in line for multiple days while awaiting placement.

Once in shelter, many residents find that the congregate housing environment breeds stress and confusion, leading to conflict with other residents and staff. Residents frequently report that they do not feel safe in congregate facilities, especially recently arrived immigrants who are new to the United States and may have language and culture barriers. Many of our clients report that belongings, including vital paperwork and documentation crucial to asylum and immigration filings, are stolen or lost in shelters. This risk is amplified by frequent transfers, both for residents of DHS shelters and for recently arrived immigrants subject to the 30- and 60-day shelter eligibility limit.

In this already fraught landscape, the Adams administration announced its intention to modify New York City’s detainer law to allow local law enforcement to transfer anyone suspected of committing serious crimes to U.S. Immigration and Customs (ICE). This change would further perpetuate family separation and divide communities.

Heightened Surveillance of Shelter Residents

Shelter residents are subject to heightened surveillance and are at an increased risk of contact with the criminal and family legal systems. Our clients have reported an increasing number of conflicts in shelters, fueled by high levels of stress and uncertainty. Shelter staff are not adequately trained to deescalate potential conflicts, and therefore often resort to calling law enforcement or the Administration for Children’s Services (ACS), perpetuating the trauma and disruption that shelter residents are already experiencing.

Families living in shelter face dire repercussions for a single verbal argument or misbehaving child. Recently we have seen shelter staff call ACS to report a resident based on unfounded allegations and minor shelter rule infractions. Living with the constant threat of an ACS call and potential family separation breeds an environment of stress and hostility in shelters. One client, Mr. O, was notified of a mandatory shelter fire drill to be conducted at any point within 24 hours. The shelter director informed residents that failure to participate in the drill would be considered child neglect and would result in an ACS report. After advocacy by BDS and other organizations, DHS directed the shelter to remove the threatening notice, but not before it sowed fear and confusion amongst residents.

Another BDS client, Ms. S, was living in a DHS family shelter with her children. The shelter director made an ACS report based on an allegation that Ms. S knocked on the door of another resident’s room with a knife, despite there being no police report, interview with the other resident, or any other evidence that the incident even occurred. The director waited several days after this alleged incident to make this “emergent” report. The report also included allegations that Ms. S was not compliant with medication, despite having never been prescribed any medications. Ms. S’ children were removed from her care because of this report and now her BDS team are fighting for her children to return to her care.

Families are routinely separated or excluded from living together when shelter staff escalate or report minor disputes. Ms. B is a BDS client who was separated from her family after a verbal dispute with her husband prompted shelter staff to make an ACS report. Her ACS case was ultimately dismissed, but she was not allowed to reunify with her family and was placed in a single women’s shelter far from her two young children, one of whom was still nursing. DHS’s domestic violence screening and reporting policies preclude Ms. B from reuniting with her family indefinitely, which prevents the family from securing stable permanent housing together.

Heightened Policing in Shelters Serving Recently Arrived Immigrants

In addition to the challenge of finding housing in a city where affordable housing is increasingly rare, newly arrived immigrants in New York City face distinct hurdles including language barriers, lack of access to healthcare and social services, limited job opportunities, and cultural adjustments. Many asylum seekers are also facing emotional and psychological repercussions of their experiences fleeing their home countries. The punitive rhetoric used by this administration around shelters housing recently arrived immigrants reframes residents' legitimate challenges as public safety concerns best addressed by law enforcement. By criminalizing the poverty and stress of recently arrived immigrants, the city is inflicting irreversible harm on an already vulnerable population.

Involvement in the criminal or family legal system can have particularly devastating consequences for immigrant New Yorkers. An arrest alone, even where the District Attorney declines to prosecute or where a judge dismisses and seals the case, can lead an asylum seeker to immigration detention. Current Immigration and Customs Enforcement (ICE) enforcement policies prioritize detention of immigrants with criminal legal system contact and relies upon state and local criminal legal systems to identify immigrants who could be deported. Even before the mayor announced his intention to change the city's detainer law, BDS was seeing an uptick in ICE arrests in our community. The mayor's proposed changes to our current detainer laws would allow ICE to detain and deport someone without a criminal trial or conviction and would subject thousands of New Yorkers to ICE's mass deportation system.

Amidst this increasingly anti-immigrant environment, shelters housing recently arrived immigrants are becoming a pipeline to the criminal and family legal systems. Already coping with multiple sources of stress, residents face further confusion and displacement from the city's 30 and 60-day eligibility limits. BDS's criminal defense practice is seeing increasing numbers of cases arising from arrests in shelters housing recently arrived immigrants. Rather than seeking to problem solve or diffuse potential conflicts, shelter staff default to calling 911 when tensions rise.

The shelter stay limit creates additional challenges for residents filing *pro se* immigration applications and using the shelter as their residential and mailing address. Our clients report that they lose access to their mail when they are forced to leave the shelter. BDS advocates have attempted to assist our clients retrieve their mail, but it has become apparent that individual shelters serving recently arrived immigrants either have no policy or fail to follow policies regarding former residents' mail. Some shelters keep the mail for some time after a resident leaves the shelter while others have been immediately discarding mail. We have clients who have been unable to retrieve correspondence regarding pending asylum claims, putting them at risk of missing deadlines or otherwise jeopardizing their claims.



Because BDS clients are often navigating legal issues in multiple systems, we see how the city’s punitive approach to newly arrived immigrants has cascading long-term repercussions. As one example, our client and her three children immigrated to New York and were placed in a DHS shelter. This past summer she began experiencing problems with the family’s shelter case worker, who repeatedly threatened to call ACS and 911 when her teenage son missed school. In November the family was transferred without notice to a new shelter serving recently arrived immigrants. Our client’s twenty-year-old daughter was asked to transfer to a separate single adult shelter due to capacity; she opted instead to move out of state. In the new shelter placement, our client continues to encounter challenges with staff. Staff have repeatedly refused to accept the family’s immigration documentation for eligibility and proof of identity purposes. DHS has also failed to assess the family for housing and benefits eligibility and staff were not aware of the FHEPS/CityFHEPS programs that the family was eligible for. After advocacy from our office, DHS eventually confirmed that the family is eligible for CityFHEPS and is issuing a voucher. These ongoing problems combined with the looming threat of eviction when their 60-day limit passes have taken a toll on our client, her children, and her asylum claim, which has been significantly delayed.

Recommendations

BDS support Int 0210-2024 as an important step towards ensuring stable housing for all New Yorkers. The existing limits on stays in shelters serving newly arrived immigrants impose unnecessary bureaucratic hurdles, trauma, and disruption on a particularly vulnerable community.

We urge the council to be cognizant of increasing reliance on law enforcement and child welfare enforcement in shelters. Given the administration’s rhetoric and the behavior of shelter staff even with the ability to discharge residents after 30 or 60 days, we anticipate that reliance on law enforcement and ACS will only increase if Int 0210-2024 passes. Ongoing monitoring and oversight to support new arrivals to our city is necessary to limit the overreliance on law enforcement and ACS and the irreversible harm that comes from involvement in the criminal and family legal systems.

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 access to housing subsidies and benefits, legal support, language and job training programs, and mental health services. As part of this shift all shelters, including shelters serving recently arrived immigrants, should be equipped with these vital services. Doing so will allow more shelter residents to move into permanent affordable housing.



Conclusion

BDS is grateful to New York City Council's General Welfare Committee 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 Alexandra Dougherty, Senior Attorney and Policy Counsel, at adougherty@bds.org.