

# **BROOKLYN DEFENDER SERVICES**

2022-2023

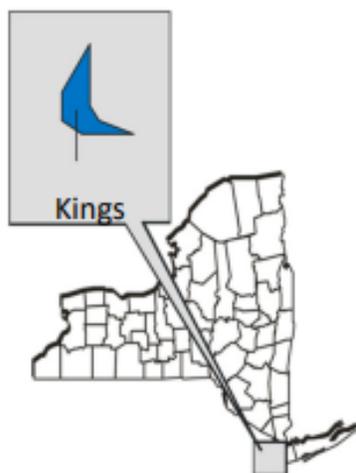
# OVERVIEW OF ACHIEVEMENTS

BDS’ Civil Defense and Civil Justice programs concluded another year of representation and advocacy on behalf of low-income Brooklyn residents. The Programs closed 4,885 civil cases, benefiting 8,780 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.

## Civil Defense

BDS’ **Family Defense Project (FDP)** is the primary provider of parent representation in abuse and neglect (Article 10) cases in Brooklyn Family Court. In FY23 FDP closed 1,662 cases helping 3,430 people; 892 article 10 cases benefitting 1,784 people, and 231 custody petitions benefitting 462 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 271 families benefitting 596 including parents and their children, 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 also provided assistance to 262 parents benefitting 575 people on SCR matters including legal representation to 82 parents and advocacy work for 180 parents at Administrative Reviews to clear their names from the SCR.

BDS’ **Immigration Defense Practice** undertakes detained removal defense cases for immigrants in deportation proceedings under the New York Immigrant Family Unity



**Population Served:** General Low Income Populations

**Total Funding:** \$23,298,503

**Total IOLA Grant:** \$144,001

**Staffing Full Time Equivalents:**

- Total Staff: 148.81
- Paralegals: 20.35
- Lawyers: 93.99
- Other: 34.47

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, 61 clients successfully returned to their families; 2 after release from ICE custody and 59 after their EOIR proceedings were terminated, administratively closed or by obtaining cancellation of removal.

### **Civil Justice**

BDS' Civil Justice Practice (CJP) provides a single point of access to civil legal services for people who are involved in the criminal, child welfare or immigration systems in Brooklyn through a seamless referral process between the defense practices and CJP. BDS aims to disrupt cycles of destabilization affecting clients in a wide range of civil legal issues including eviction prevention, employment discrimination, inadequate and/or inappropriate school-based services, immigration benefits, advice and representation on custody and visitation matters, and assistance with benefits. We also work with people who are re-entering the community after a period of incarceration to ensure their civil rights are protected as they seek housing, employment, and stability. The CJP also accepts referral and walk-in cases from community partners and through our client services and community office teams.

During the grant period, our CJP provided civil legal services in the following areas:

- **Housing:** Our attorneys and advocates closed 844 cases benefitting 1,983 people with advocacy and/or representation related to eviction prevention, remediating unsafe housing conditions, challenging denials, and discharges from family shelter, defending termination of tenancy, or overcoming subsidized housing denials, and appealing adverse decisions. Combatting Brooklyn's housing shortage and rampant gentrification, the CJP facilitates access to housing programs and subsidies and provides relocation assistance and advocacy for families facing housing instability.
- **Access to Benefits and Financial Stability:** Our clients are disproportionately unable to access, or face discontinuance of, a wide range of entitlements including Medicaid, Public Assistance, SSI/SSD and unemployment because of legal system involvement, impacting their ability to maintain or regain stability in their lives. Through application assistance, direct representation, and affirmative litigation BDS closed 243 cases helping 243 people and their families obtain or maintain benefits, protect their assets in small claims court and reclaim their personal property from over-reaching property seizures. BDS' CJP also provided advice and counsel on a consumer matter closing 19 cases helping 19 clients.

- **Education:** BDS' CJP closed 634 cases benefitting 1,268 people including parents and students. We combat bureaucratic confusion regarding educational rights, help our clients understand the special education process and attain appropriate IEPs, initiate due process proceedings to secure appropriate prospective and compensatory relief, and represent clients in suspension hearings to limit unjust school removals. For clients in shelters and foster care we advocate for school enrollment and transportation accommodations to achieve school stability. We extend this range of advocacy to our school-age clients in juvenile detention and adult jail facilities, to ensure they receive the appropriate services and accommodations, and facilitate reentry to the community and assists individuals in asserting their rights to services through the Office for People with Development Disabilities (OPWDD). We strive to ensure immigrant populations can access education, including appropriate language access and early childhood education and special education supports.
  - **Employment:** BDS closed 846 cases benefiting 846 individuals and their families through working to secure our clients' employment prospects and mitigate loss of employment due to arrest, absences caused by court appearances, and other related consequences. We fight to enforce low-wage workers' right to be fairly paid; advocate with employers to ensure compliance with "ban the box" provisions that protect job applicants from discrimination due to arrests or conviction; challenge discriminatory terminations before the State/City Human Rights Commission and in Article 78 proceedings; and, we combat the collateral consequences of arrest and conviction, by providing advocacy at license revocation hearings or meetings with employers, assisting with applications for Certificates of Relief from Disabilities or Good Conduct and relief under the new sealing provision (CPL 160.59), and assisting with employment discrimination claims under the Fair Chance Act.
  - **Immigration:** In the reporting period, we closed a total of 372 immigration cases (including immigration defense cases) benefiting 726 people. We continue to identify and apply for affirmative immigration benefits for our clients, enabling them to access health insurance, public assistance, work authorization and higher educational opportunities. We have expanded our immigrant workers rights expertise in an interdisciplinary project representing clients with wage violations and other workplace misconduct claims in applying for deferred action based on labor violations.
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# DIRECT LEGAL SERVICES: CASES

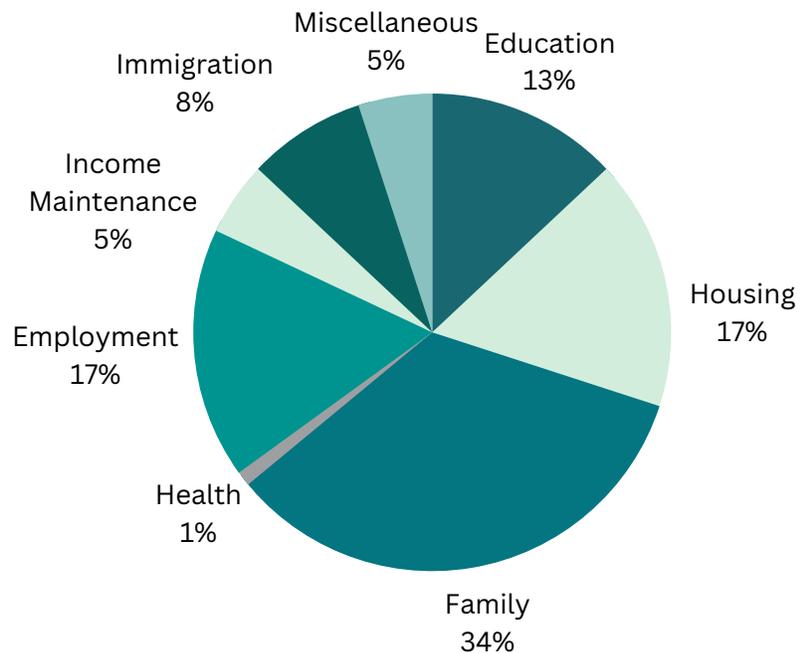
## Family/Housing

Mr. C is a client of our Family Defense Practice. His case with our office had a tragic beginning—he had moved out of his family home, a NYCHA apartment, due to conflicts with his co-parent, the children’s mother, who remained in the apartment with the children still listed on the lease. She died suddenly and unexpectedly early in the proceeding, and Mr. C’s children were suddenly back in his care and out of their lifelong home. On his own, he tried to return to the NYCHA apartment and was rebuked and told to go to Surrogate’s Court. After he informed his family defense attorney, who referred the case to our Civil Practice, we were able to intervene and explain the situation to NYCHA legal. We investigated the rules around Remaining Family Members and helped Mr. C assert his children’s rights to the apartment. With our help, he was able to move them back into their home and live there with them as their guardian, and while we continue to represent him through the RFM grievance process we are optimistic he will be able to succeed to the apartment. This outcome would have been very protracted and nearly impossible to achieve for Mr. C on his own.

## Employment/Income Maintenance

We met Ms. S after she was fired from her job as a home health aide after an arrest and worked with her to combat her termination and assist with an application for unemployment. We overcame multiple barriers to UIB eligibility including identity verification issues caused by Id. Me’s

**8,780**  
people  
benefitted from  
**4,885**  
legal cases  
closed



**Cases by  
Legal Problem  
Area**

discriminatory facial recognition software, which made it difficult for many of people of color to access the program, as well as issues caused by prior identity theft. While waiting for her UIB claim, we identified claims against a prior employer who had fired her for taking maternity leave, cutting her health insurance while she was pregnant. With a pro bono firm, we filed a pregnancy discrimination case in EDNY and continued to represent her in her UIB appeal. Ultimately, she settled her FMLA case for \$10,000 and we successfully overcame repeated UIB denials resulting in \$27,000 in back unemployment assistance. These victories would not have been possible without our interdisciplinary cooperation with our criminal defense colleagues; while the initial referral was for a termination based on her arrest that was technically not unlawful, the connection made resulted in nearly \$30,000 in back wages and benefits she would not have received without our intervention.

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## OTHER SERVICES: OVERVIEW

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At a time when in person assistance became more difficult to obtain, easily accessible KYR materials are 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.

In the grant period, BDS participated in or led 32 events relating to immigration, housing, and family legal issues and reached 1,295 community members, via Zoom and Facebook Live online workshops.

**1,295**  
people  
benefitted  
from  
*Community  
Legal  
Education  
Services*

# OTHER SERVICES: TECHNOLOGY

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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, and we have 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 clients with essential information and resources.

We participate in the Legal Services National Technology Assistance Project to ensure we are up to date on trends and changes in access to justice that can improve our practice and better assist our clients.

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# OTHER SERVICES: TRAININGS

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BDS takes professional development seriously and encourages and finances participation in conferences and external training 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 ensure 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. 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 training for our coalition of providers citywide.

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 programming and offers one on one support to all staff. And recently hired a new Director of Diversity, Equity, and Inclusion who continues to organize trainings, and establish organization-wide benchmarks to incorporate a racial and diversity lens internally and 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.

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# IMPACT CASES

BDS spearheads numerous advocacy efforts and impact cases to further the rights of our clients.

## ***Agnew v. New York City Department of Correction***

**Background:** Alongside the Legal Aid Society Milbank LLP, we filed a class action in the Bronx Civil Supreme Court challenging the New York Department of Correction’s (“DOC” or “Department”) failure to provide access to medical care to people in DOC custody in violation of well-established laws and Board of Corrections standards resulting in immeasurable suffering for the nearly 6,000 people in DOC facilities; this resulted in the court certifying a class of people who have been, or will be, denied access to medical care and issuing a mandamus order that DOC immediately comply with its legal duties to provide medical services to all persons in NYC jails.

**Current work:** In May 2022, the court granted Petitioners’ contempt motion finding that DOC’s failures to provide, or delays in providing medical care constituted disobedience of the court’s order and gave DOC 30 days to come into compliance to purge the contempt finding. Again, in July, and August, the court sided with petitioners that DOC was still not in compliance with its obligations and ordered them to pay class members \$100.00 for each missed escort from December 11, 2021 through January 2022. DOC is currently appealing. In the year since the court ordered DOC to comply with its ministerial duties to provide people in its custody with adequate access to medical care, 21 people in DOC custody have died and there is mounting evidence that DOC’s noncompliance with the court’s order is contributing to historically high numbers of deaths in DOC facilities. Through this litigation, we will continue to keep DOC accountable in its failure to provide medical services for people in its custody.

## ***Demand Letter Issued to the Board of Correction Regarding DOC’s Proposed Mail and Package Policies***

**Background:** In November 2022, DOC requested two variances from the Board of Correction (“BOC” or “Board”) to implement new, permanent policies to limit mail and packages to DOC facilities. Under the proposal, incarcerated people would receive non-legal mail electronically via their tablet which would be electronically scanned by

**12,000**  
beneficiaries  
were affected by  
**3** Impact Cases

Securus Technologies—the vendor who issues the tablets—with every correspondence retained and subject to search and investigation by Securus and DOC. DOC’s proposed package policy would require all incoming packages to be purchased from, and mailed by, a private company such as Walmart, Amazon, etc., requiring people and organizations to incur additional costs.

**BDS Action:** BDS, along with co-counsel at LatinoJustice PRLDEF, New York County Defenders, The Bronx Defenders, and Neighborhood Defender Service of Harlem sent a demand letter to the Board emphasizing that allowing DOC to implement these policies would further dehumanize people in custody by isolating them from crucial family ties and subjecting them and their families to enhanced surveillance and arguing that Board approval, and DOC implementation of these policies without proper rulemaking, would be unlawful. At the March 14, 2023 Board meeting, no member of the Board offered to formally bring the request to a vote, a necessary procedural step in granting DOC permission to implement the proposed mail and package policies; for now, ensuring access to family, friends, and their outside lives, for thousands of incarcerated individuals.

### ***ID.me Freedom of Information Law Request***

**Background:** In February 2021, the New York State Department of Labor (“DOL”) announced a partnership with ID.me (a private company that provides identity verification services, using facial recognition software and other technologies, to government and private businesses) to launch an identity verification tool, purportedly to detect fraud and more quickly process claims for unemployment benefits (“UIB”). BDS opposed the adoption of ID.me’s technology as it created barriers to benefits for immigrants, low-income people, transgender people, and people of color which threatened our clients’ financial stability and can create barriers to legal relief in criminal court, family court, and immigration proceedings. Further, BDS investigates government and private entity use of new science, surveillance, and data analysis techniques, and advocates against the weaponizing of technology against the communities it serves—many of whom are heavily policed and highly surveilled. ID.me’s contract with DOL carries immense importance to the public: UIB for millions—benefits that help low-income New Yorkers maintain stable and healthy lives—are being processed using this new technology.

**BDS Action:** BDS continued to litigate DOL’s failure to respond to a 2021 FOIL request initially through administrative appeals and via an Article 78 Petition filed in Albany County Civil Supreme Court in conjunction with Jenner & Block LLP. Through this litigation, DOL finally produced the documents, which BDS will use to further its advocacy on behalf of people seeking UIB. The requested information will help us advocate for uninterrupted benefits access for our clients and provides essential

transparency; exposing the use of private companies for sensitive, important functions, to allow the public to determine whether the government's outsourcing of this work to a private company is being done responsibly.

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## PRO BONO VOLUNTEERS

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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 past year, BDS partnered with several law firms to host clinics for our family defense clients seeking to amend and seal State Central Registry (SCR) matters. We held comprehensive training to educate pro bono attorneys on the collateral consequences inflicted on parents and children by the SCR and allow them to represent our clients in drafting letters seeking to amend and seal these harmful reports under new legislation. We also launched a "Motions to Vacate Project" with one law firm where we trained attorneys on how to file motions in family court to vacate findings so that further consequences could be avoided. In the immigration sphere we partnered with Simpson Thatcher to work on asylum, withholding of removal and CAT protection cases; volunteer attorneys researched and drafted over 20 country conditions reports providing vital support to these clients' asylum cases.

We continue to partner with law firms on individual cases at the trial and appellate level as well as impact litigation matters. Some efforts include conditions at Rikers, affirmative litigation regarding Crawford hearings, and due process issues in the courts. This year BDS' pro bono unit partnered with 35 law firms, engaging more than 150 attorneys assisting with more than 85 cases for our clients. This was an increase from last year and shows our continued commitment to partnering with the private bar to ensure that our clients receive the best representation possible.

We also continue to prioritize the inclusion of students and fellows in our work. Both as a means of maximizing capacity to serve our clients and ensuring the next generation of advocates have every opportunity to develop the essential skills and passion necessary to carry on this work. 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. 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 worked on 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 immigrant workers.

Our pro bono, internship, and fellowship programs have enabled us to leverage our existing capacity to provide critical support for our clients in and out of the courtroom to ensure the best possible results.



**219 Attorneys volunteered 140 hours**

**40 Law Students volunteered 1,400 hours**

**40 Other Volunteers volunteered 1,000 hours**

Each  icon is equal to 29.9 volunteers.  
 Attorneys are represented through the Green Figure.  
 Law Students and Other Volunteers are represented through the Grey Figure.

# SIGNIFICANT COLLABORATIONS

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Brooklyn Defender Services has dozens of existing partnerships with community-based organizations, local elected officials, and other community representatives and 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.

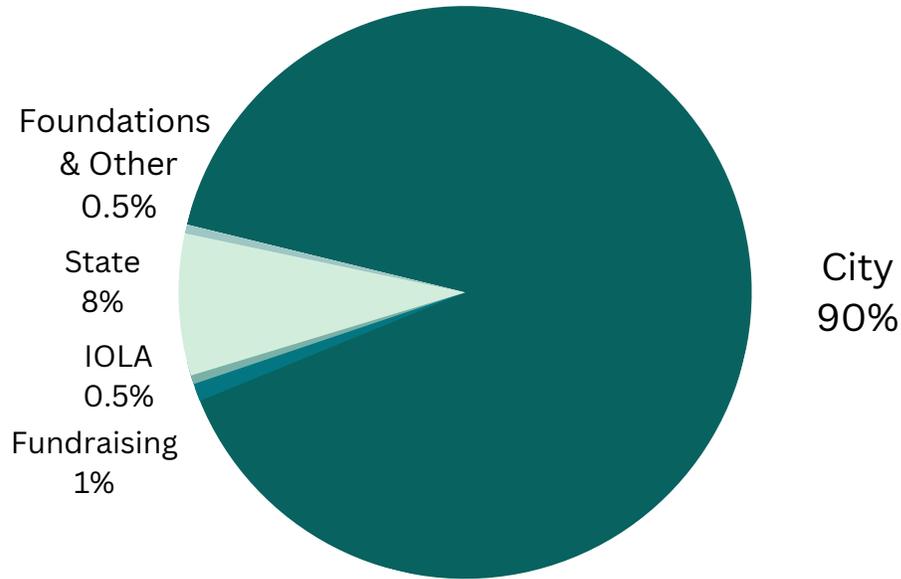
BDS Civil Justice Practice is involved in numerous statewide, citywide and national membership organizations and advocacy groups including: the New York Legal Services Coalition, a statewide association which seeks to join resources to avoid duplication of services and share knowledge and expertise throughout 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.

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# SOURCES OF FUNDING

Brooklyn Defender Services received  
**\$23,298,503**  
 in total funding this past year



IOLA Grant	\$144,001
City and County Funding	\$20,975,138
Foundation	\$127,310
Fundraising	\$235,070
State Funding	\$1,755,359
Other	\$61,625
<b>Total</b>	<b>\$23,298,503</b>