



BRIEFING PAPER

Losing Shelter:

New York's Harmful Policy of Ejecting Homeless Adults Living with Mental Illness and Disabilities from Shelter to the Streets

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Pursuant to a 1995 State regulation issued by the Pataki administration, the City of New York has for more than three years attempted to eject dozens of homeless adults from shelter to the streets. In addition, the City has issued pre-ejection sanction notices to hundreds more homeless adults, targeting them for loss of shelter.

The majority of the nearly 70 homeless adults whom the City has sought to eject to the streets are individuals living with serious mental illness and other severe health problems. In addition, thousands more homeless adults have been threatened with ejection from shelter to the streets.

Top State and City officials, including New York City Deputy Mayor (and former NYC Department of Homeless Services Commissioner) Linda Gibbs, promised that mentally-ill and disabled individuals would be protected from the controversial shelter ejection rules, and claimed that the policy was aimed only at making shelters safer. However, the majority of shelter termination cases have involved non-safety issues, including allegations of missing appointments and otherwise failing to comply with service plans.

Moreover, even in cases in which the City has documented serious and persistent mental illness and/or other serious health problems, the City has pursued ejection of homeless adults from shelter to the streets. In other cases, the City has failed to conduct evaluations of sanctioned homeless adults for mental and physical impairments, and has denied that it has an obligation to conduct such evaluations. In many of these cases, subsequent evaluations by mental health and medical professionals have documented serious mental and physical impairments.

All in all, the shelter ejection rules have threatened some of the most vulnerable homeless New Yorkers with loss of emergency shelter, which, under the policy, can last for 30 or more days.

One major reason for this is the failure of the Pataki-era State regulation (NYCRR 352.35) to exempt homeless people living with mental and physical impairments and to require local social services districts to evaluate homeless people for those impairments. Indeed, the regulation provides only a limited exemption for individuals whose impairments are the cause of the instance of non-compliance. It also fails to require local districts to conduct evaluations, in effect placing the burden of proof on the homeless individuals themselves to prove their impairments.

Coalition for the Homeless urges Governor Paterson and his administration to repeal the Pataki-era shelter-ejection regulation. Even before repeal, New York State officials can act to protect homeless New Yorkers living with mental and physical impairments by requiring the City of New York to conduct evaluations and assessments for impairments, and by exempting homeless individuals living with mental and physical impairments from the shelter ejection regulation.

Following are descriptions of several cases of homeless adults living with mental or physical illnesses whom the City of New York has sought to eject from shelter to the streets.

Gregory D.

Gregory D. is a United States Army veteran who suffers from post traumatic stress disorder, as well as injuries sustained from a parachuting accident, and who receives veterans disability benefits. Both before and during his shelter stay – he resided at the Borden Avenue Veterans Residence – Gregory had been treated for his mental illness by a psychiatrist at a local Veterans Administration hospital. Despite evidence of Gregory’s mental illness and disability, the City issued him a shelter termination sanction notice in January 2006 claiming that he was not complying with an independent living plan requiring him to save money and engage in outpatient treatment.

Although Gregory had expressed an interest in supportive housing to his caseworker, neither the shelter provider nor the City initiated a supportive housing application for him for nearly 18 months. Indeed, only after issuing the shelter termination sanction notice did the City begin the application process – in fact, on the day before Gregory’s State administrative appeals hearing began. Gregory and his psychiatrist also presented evidence that he had been saving money and attending outpatient treatment, but also showed how his savings and his veterans benefits alone (only a few hundred dollars per month) would not help him secure housing.

Coalition for the Homeless and the Legal Aid Society, which provided legal representation for Gregory, offered to adjourn the appeal hearing until the supportive housing application was completed in order to give Gregory an opportunity to secure appropriate housing instead of being turned out on the streets. However, City attorneys repeatedly rejected that offer. The same offer was made in writing and in person to NYC Department of Homeless Services Commissioner Robert Hess and other City officials, but they also rejected the offer.

In August 2006 Gregory won his State administrative appeal, and with the help of Coalition for the Homeless he has since moved into a supportive housing residence.

Myra F.

Myra F. is a homeless woman who suffers from serious delusional disorder and who resides at a women’s shelter in Brooklyn. Myra has spoken openly on many occasions – to fellow residents, shelter staff, and Coalition for the Homeless staff – about her belief that she has been “watched” for years by cameras and individuals observing her from the sidewalk adjacent to her shelter and from other places. Shelter staff had documented Myra’s delusions and her need for mental health services.

Nevertheless, in February 2006 the City issued Myra with a shelter termination sanction notice, claiming that she had failed to seek permanent housing. Coalition for the Homeless and the Legal Aid Society provided legal representation for Myra and arranged for additional mental health evaluations to further document her serious and persistent mental illness.

On multiple occasions the Coalition and Legal Aid attorneys asked the City to withdraw the sanction notice, given the ample evidence of Myra’s serious mental illness, and instead to work on obtaining appropriate supportive housing for her. The Coalition also made the same request, in writing and in person, to NYC Department of Homeless Services Commissioner Robert Hess and other City officials, but they also rejected that offer. The City agreed only to adjourn the State administrative appeals hearing, which is still pending.

Timothy P.

Timothy P. is a young man in his mid-twenties who was homeless for two years. An orphan at the age of two and later adopted by a family in Illinois, where he grew up, Timothy became estranged from his adoptive family after moving to New York City. Timothy worked for a brokerage company located in the south tower of the World Trade Center, and was on the 36th floor of the tower on the morning of the September 11, 2001, attacks. He escaped with minor burns, but witnessed much of the devastation, including people falling from the towers. After the attacks he stayed in his apartment for a week and reported feeling numb. Timothy later lost his job with the company when it relocated to New Jersey.

Timothy later became homeless, entering the shelter system. He worked as a security guard, earning around \$7.00 per hour, but did not earn enough to secure his own apartment, and in the meantime began to suffer from depression. Timothy had spent time in a hospital psychiatric unit as a teenager, and a psychiatric evaluation arranged by his shelter diagnosed him with adjustment disorder and recommended treatment, although the shelter failed to arrange for treatment for Timothy during his entire shelter stay. He also began pursuing supportive housing, although shelter case managers and City agencies delayed his application for several months.

In October 2004 the City issued a 30-day ejection sanction against Timothy – the first homeless single adult threatened with such loss of shelter since the City implemented its new rules – claiming he had failed to comply with his “independent living plan.” Coalition for the Homeless agreed to represent him in his administrative and legal appeals.

A psychiatrist diagnosed Timothy with “dysthymic disorder with possible superimposed major depression,” a serious and persistent mental illness, and recommended treatment. The Coalition also identified an available supportive housing apartment in one of its own housing programs. At the same time, Timothy’s attorney challenged both the first shelter sanction issued against Timothy and the 30-day ejection sanction. In June 2005, the City agreed to withdraw its sanction of Timothy P. and he moved into his new apartment.

Sheldon H.

Sheldon H. is a man in his fifties who has been homeless for several years. He had been a methadone user for six years, and participated in a methadone maintenance program at a Manhattan clinic. He suffers from a severe heart condition and has a defibrillator in his chest. He suffers from frequent memory lapses and an assessment by a psychiatrist indicated the need for a neurological evaluation.

In September 2005 the City issued a 30-day shelter termination sanction notice to Sheldon, claiming that he was not complying with his “independent living plan” by failing to enter a substance abuse treatment program. Coalition for the Homeless and the Legal Aid Society provided legal representation for Sheldon in his administrative appeal challenging the ejection sanction, but Sheldon was hospitalized soon after receiving the sanction notice and remained hospitalized for nearly one year. He was then moved to a nursing home, where he currently resides.

Despite Sheldon’s serious medical condition and the fact that he has not returned to the shelter system for more than two years, the City has refused to withdraw the shelter termination sanction against him and his administrative appeal is still pending. The Coalition and the Legal Aid Society

repeatedly asked City attorneys to withdraw the sanction notice, but they refused. The Coalition also asked NYC Department of Homeless Services Commissioner Robert Hess to withdraw the notice, given Sheldon's serious health problems, but he also refused.

David W.

David W. and his domestic partner were homeless for five years, after David was evicted from a friend's apartment, and resided in a shelter for homeless couples in Brooklyn. David's father, who was a heroin addict who frequently injected drugs in the presence of his children, physically abused him as a child and also abused his mother. David has a long work history, mostly as a cook in various restaurants. At his shelter in Brooklyn, David routinely registered complaints about verbal abuse from shelter staff and arbitrary enforcement of rules. Shelter staff members called him a "bum" and said he would "never amount to anything." On a few occasions, he answered these verbal attacks using strong language. During much of 2004, David reported feeling very depressed and began using drugs to address his depressive feelings. Nevertheless, shelter staff never arranged for a mental health evaluation or for addiction treatment for David.

In September 2004 the City issued David a shelter ejection notice, claiming that he had behaved in a disruptive manner. Coalition for the Homeless arranged for legal representation during David's administrative appeal. A psychiatric evaluation, conducted by a private psychiatrist at David's request, diagnosed him with major depression and substance abuse disorder. The Coalition also arranged for David to begin outpatient addiction treatment and mental health treatment at a Manhattan clinic. After several months of administrative appeals, in June 2005 the City agreed to withdraw its ejection sanction notice, and David and his partner were transferred to a better shelter in the Bronx. In October 2005 they moved into an apartment with the help of a rent subsidy.

Scott M.

Scott M., a 60-year old Vietnam veteran, was sanctioned by the City for "gross misconduct" because Scott allegedly smoked in his shelter dorm room. After the sanction notice was issued, Coalition for the Homeless arranged for Scott to undergo a mental health evaluation. The evaluation report found that Scott had "at least one prior hospitalization for a suicide attempt" and indicated that he exhibits "a delusion of control and monitoring by an external force."

Despite Scott's diagnosis – "severe and persistent mental illness manifest by paranoid persecutory delusion" – the City has not withdrawn his sanction notice and is pursuing his ejection to the streets.

Christopher P.

Christopher P. was sanctioned for allegedly violating his shelter "Independent Living Plan" on two occasions. Although the City claimed that Christopher did not suffer from any mental impairment that would prevent him from complying with his service plan, one needed to look no further than Christopher's City case file for proof that he is impaired. The City case records describe Christopher as possibly "dysfunctional, learning disabled or unable to read."

At a State administrative hearing the City withdrew Christopher's sanction notice, which was defective because, among other things, it advised Christopher that he could challenge the sanction notice only by requesting a hearing before the notice's effective date.

Vera B.

Vera B., a 49-year old woman suffering from congestive heart failure and having a history of depression, was sanctioned by the City in January 2006 for allegedly failing to pursue permanent housing. At a State administrative hearing held between February and June 2006, a State hearing officer concluded that there was “no credible evidence to support the Agency’s claim ...” Having resolved the sanction matter, and with the assistance of Coalition for the Homeless, Vera later moved from her shelter into permanent housing.

Raquel T.

Raquel T. and her domestic partner had been homeless for more than two years, and resided in a welfare hotel used by the City to shelter homeless couples. Raquel has been diagnosed with schizo-affective disorder, classified as a serious and persistent mental illness, and has received treatment for her condition.

Raquel had two children in foster care placement, and the foster care agency agreed to reunite the family once adequate housing was secured. The agency had also arranged regular family visits for Raquel and her children, and although Raquel had requested a transfer to a family shelter in order to be with her children, the City had failed to transfer her.

In late September 2005 the City issued her a shelter termination sanction notice that was dated “August 29,” claiming that she had missed appointments with a caseworker and that “children are always in the facility after being informed that it is not safe for the children.” Coalition for the Homeless arranged for legal representation at an administrative appeals hearing, and in October 2005 the City agreed to withdraw the defective 30-day sanction notice.

Ezekiel K.

Ezekiel K. was homeless for three years, during which time he worked on commission as a real estate broker, never earning enough to secure a private apartment. The City had never linked Ezekiel up with a subsidized housing program, and had never arranged for a mental health assessment for him. In March 2005, the City issued a 30-day sanction notice claiming simply a “violation of Independent Living Plan two [2] or more times,” but failing to identify what that “violation” involved.

A psychiatric assessment arranged by Coalition for the Homeless indicated a need for further evaluation and the likelihood of a mental health disorder. The Coalition and the Legal Aid Society provided legal representation at Ezekiel’s State administrative appeals hearing. In May 2005, the NYS Office of Temporary and Disability Assistance issued its decision regarding Ezekiel administrative appeal and, noting the absence of any information about the alleged “violation” and that the “defect in the Agency’s notice renders the notice void,” reversed the City’s decision to eject Ezekiel from shelter for 30 days or more.

For more information, please visit www.coalitionforthehomeless.org.