

Testimony of  
Coalition for the Homeless  
and  
The Legal Aid Society  
on

**Reporting on Deaths of Homeless New Yorkers**

Presented before

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

Patrick Markee, Senior Policy Analyst  
Coalition for the Homeless

Judith Goldiner, Attorney-in-Charge, Law Reform Unit – Civil Practice  
The Legal Aid Society

January 24, 2012

Coalition for the Homeless and The Legal Aid Society welcome this opportunity to testify before the New York City Council in support of Intro. 753-2012, proposed legislation to make permanent the requirement that the New York City Department of Health and Mental Hygiene track and report the deaths of homeless New Yorkers.

### About the Coalition and The Legal Aid Society

Coalition for the Homeless: Coalition for the Homeless, founded in 1981, is a not-for-profit advocacy and direct services organization that assists more than 3,500 homeless New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to the crisis of modern homelessness, which now continues past its third decade. The Coalition also protects the rights of homeless people through litigation around the right to emergency shelter, the right to vote, and life-saving housing and services for homeless people living with mental illness and HIV/AIDS.

The Coalition operates 12 direct-services programs that offer vital services to homeless, at-risk, and low-income New Yorkers, and demonstrate effective, long-term solutions. These programs include supportive housing for families and individuals living with AIDS, job-training for homeless and formerly-homeless women, rental assistance which provides rent subsidies and support services to help working homeless individuals rent private-market apartments, and permanent housing for formerly-homeless families and individuals. Our summer sleep-away camp and after-school program help hundreds of homeless children each year. The Coalition's mobile soup kitchen distributes 900 nutritious meals each night to street homeless and hungry New Yorkers. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention assistance, client advocacy, referrals for shelter and emergency food programs, and assistance with public benefits.

The Coalition also represents homeless men and women as plaintiffs in Callahan v. Carey and Eldredge v. Koch. In 1981 the City and State entered into a consent decree in Callahan in which it was agreed that, "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter." The Eldredge case extended this legal requirement to homeless single women. The Callahan consent decree and the Eldredge case also guarantee basic standards for shelters for homeless men and women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless adults.

The Legal Aid Society: The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of 900 of the brightest legal minds. These 900 Legal Aid Society lawyers work with 600 social workers, investigators, paralegals and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 25 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

The Society's legal program operates three major practices — Civil, Criminal and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by the Society's Pro Bono program. With its annual caseload of more than 300,000 legal matters, the Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States. And it brings a depth and breadth of perspective that is unmatched in the legal profession.

The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits some 2 million low income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact.

The Legal Aid Society is counsel to the Coalition for the Homeless and for homeless women and men in the Callahan and Eldredge cases. The Legal Aid Society is also counsel in the McCain/Boston litigation in which a final judgment requires the provision of lawful shelter to homeless families with children.

### The Vital Public Interest in Tracking and Reporting the Deaths of Homeless New Yorkers

We strongly support Intro. 753-2012 – proposed legislation to make permanent the requirement that the New York City Department of Health and Mental Hygiene (DOHMH) track and report the deaths of homeless New Yorkers – just as we strongly supported Local Law 63 of 2005, which created the reporting requirement. Indeed, it is as commendable that the New York City Council passed this legislation nearly seven years ago, largely due to the extraordinary efforts of Speaker (then-Health Committee chair) Christine Quinn, as it is remarkable that it took the City of New York more than 25 years after the emergence of modern homelessness to begin systematically collecting and making available to the public information about the deaths of homeless New Yorkers.

Some historical background on the problem of deaths among unsheltered homeless people in New York City is in order. When modern homelessness first emerged in the late 1970s, thousands of homeless New Yorkers were forced to fend for themselves on the streets, and many died or suffered terrible injuries. Indeed, public health officials in those days often remarked privately that literally hundreds of homeless men and women were perishing each year on the streets of the city, often from hypothermia and other cold-related causes,

although no public record was ever made available.

In response to this crisis, in 1979 founders of the Coalition for the Homeless brought a class action lawsuit in New York State Supreme Court against the City and State called Callahan v. Carey, arguing that a constitutional right to shelter existed in New York. In particular, the lawsuit was based on Article XVII of the New York State Constitution – an amendment which was enacted in the midst of the Great Depression – which declares that "the aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions...."

The lawsuit was brought on behalf of all homeless men in New York City. The lead plaintiff in the lawsuit, Robert Callahan, was a homeless man suffering from chronic alcoholism who lived on the streets in the Bowery section of Manhattan.

In December 1979, the New York State Supreme Court ordered the City and State to provide shelter for homeless men in a landmark decision that cited Article XVII of the New York State Constitution. And in August 1981, after nearly two years of intensive negotiations between the plaintiffs and the government defendants, Callahan v. Carey was settled as a consent decree. By entering into the decree, the City and State agreed to provide shelter and board to all men who met the need standard for public assistance or who were in need of shelter "by reason of physical, mental, or social dysfunction." (A companion lawsuit, Eldredge v. Koch, extended the right to shelter to single women, who are now protected by the consent decree.)

Thus the decree established a right to shelter for all men and women in need of shelter from the elements in New York City, and it has been responsible for saving the lives of countless homeless New Yorkers who might otherwise have died on the streets of the city.

Nevertheless, one tragic footnote to the history of the litigation is the fate of Robert Callahan himself. The autumn before the consent decree bearing his name was signed, Mr. Callahan died on Manhattan's Lower East Side while sleeping rough on the streets. Thus, Robert Callahan himself was one of the last homeless victims of an era with no legal right to shelter.

Even today, however, thirty years after the Callahan consent decree was signed, far too many homeless people continue to die on the streets and other public spaces of New York City. Indeed, in FY 2010, according to the annual DOHMH report created pursuant to Local Law 63 of 2005 (please see copy attached to this testimony), some 114 unsheltered homeless people died in New York City, more than a third of them in public spaces. And many more die in shelters or in other places – at least 124 sheltered homeless people in FY 2010, according to the DOHMH report. Homeless people continue to be a group at high risk of accidental or early death, and understanding the reasons for this is vitally important to public health officials and homeless service providers.

Local Law 63 of 2005 created the first systematic reporting about the deaths of homeless people, both sheltered and unsheltered, and has led to far deeper understanding of the

causes of death among homeless New Yorkers, the locations of such deaths, and the incidence of death among unsheltered homeless people, particularly in the winter months. It is, as noted above, remarkable that it took more than a quarter century before the City of New York began collecting and publishing this data. But now that such vital information is available, there can be no reason to rescind or let lapse the requirement that the City track and report this vital data.

In closing, we strongly support Intro. 753-2012. And we thank Speaker Quinn for her hard work and strong support of this legislation over many years, and we thank Health Committee Chair Maria del Carmen Arroyo, General Welfare Committee Chair Annabel Palma, and the other committee members for their help and support.

Thank you for the opportunity to share this testimony. And, as always, we look forward to working with the Committees and the City Council in the coming months and years on efforts to reduce New York City's homeless population and help homeless New Yorkers.

Submitted by,

Patrick Markee  
Senior Policy Analyst  
Coalition for the Homeless  
129 Fulton Street  
New York, NY 10038  
Tel: 212-776-2004  
pmarkee@cfthomeless.org

Judith Goldiner  
Attorney-in-Charge, Law Reform Unit – Civil Practice  
The Legal Aid Society  
199 Water Street  
New York, New York 10038  
Tel: 212-577-3332  
jgoldiner@legal-aid.org