

Testimony of

The Legal Aid Society

and

Coalition for the Homeless

on

Oversight: Safe and Accessible Shelters for Homeless Youth
Int. Nos. 1619, 1699, 1700, 1705 & 1706

prepared for submission to

The New York City Council
Committee on Youth Services
Committee on General Welfare

by

Kate de Zengotita and Theresa Moser
Staff Attorneys
The Legal Aid Society

Giselle Routhier
Policy Director
Coalition for the Homeless

September 28, 2017
New York, New York

Introduction

We would like to thank the Committees on General Welfare and Youth Services and Committee Chairs Steve Levin and Mathieu Eugene for providing us with an opportunity to be heard concerning the proposed bills, Introduction Numbers 1619, 1699, 1700, 1705 and 1706, regarding services for runaway and homeless youth (RHY). We applaud the committees' dedication to this important issue. In particular, we would like to thank Council Member Corey Johnson and his staff, whose hard work and commitment to this vulnerable population are steadfast.

Basic RHY Demographics

Runaway and homeless youth are generally defined as unaccompanied young people who have run away or been forced to leave home and now reside in temporary situations, places not otherwise intended for habitation, or emergency shelters. The federal Runaway and Homeless Youth Act defines the population as being between 12-24 years of age. As of April 2017, New York State redefined RHY to be anyone under the age of 25 years, thereby laying the groundwork for the package of legislation before the Council today.

It is notoriously difficult to accurately count the number of runaway and homeless youth in New York City, and this difficulty is a substantial barrier to the provision of adequate shelter and services. The only government-sponsored youth count is organized around the City's Point in Time (PIT) count, which takes place on a mid-winter night. Providers and advocates have long argued that the PIT and youth counts miss substantial portions of RHY. Reasons for this vary from arguments that the definition of RHY does not include significant parts of the population, such as those couch-surfing or engaging in survival sex, to arguments that youth experiencing homelessness have an ability to blend into the fabric of the City. Thus, both the PIT and related youth count serve as an inadequate snapshot of homeless youth on a particular day rather than a census of youth with unstable housing situations who are in need of City services.

However, by our most reliable estimates, roughly 3,800 youth in New York City are homeless, and the city does not have nearly enough shelter beds—crisis or transitional independent living (TIL)—to serve this population.¹ During a meeting in April 2017, the Department of Youth and Community Development (DYCD) reported they had funded 458 beds, with an additional 295 to be opened by 2019, bringing the total to 753 beds. This is certainly an improvement over four years ago, when there were just 253 beds. However, it is still woefully insufficient to serve the number of RHY in New York City.

As is the case with so many other marginalized and system-involved populations we work with, youth of color and LGBTQ/TGNC youth are vastly overrepresented in the RHY population. In 2015, 44% of respondents to NYC's Youth Count survey were Black, 24% were Latino, and 17% identified as two or more races. Similarly, LGBTQ youth become homeless at a significantly higher rate than the adolescent population as a whole and are vastly overrepresented in the RHY population. According to a 2012 report by the NYC Association of Homeless and Street Involved Youth Organizations, research shows that lesbian, gay, bisexual, and questioning

¹ Empire State Coalition of Youth and Family Services, *The New York City Association of Homeless and Street-Involved Youth Organizations' State of the City's Homeless Youth Report*, 2009.

youth make up 25-40% of the homeless youth population in NYC and other large cities,² compared with 3-6% of the general population.³ In addition, the Empire State Coalition of Youth and Family Services presented census data showing that 5% of homeless youth identified as transgender and another 18% were unsure or chose not to answer the question about gender identity.⁴ According to the City's own 2015 Youth Count, almost 60% of youth living in shelters or transitional living facilities, 50% of youth in unstable housing, and 30% of unsheltered youth identified as a sexual orientation other than straight.⁵ Many homeless youth are also immigrants, and like their older counterparts face additional challenges in accessing services and permanent housing, especially in the current political climate. Immigrant RHY cannot apply for financial aid and often cannot work legally, making it all the more difficult to stabilize.

Causes of Youth Homelessness

In 2013, a comprehensive survey by the New York City Coalition on the Continuum of Care shed important light on the causes of homelessness. The top reasons for homelessness at that time were reported “fighting frequently with [] parents” (34%), being “kicked out” of the home (31%), “physical, mental or sexual abuse” (34%), “neglect or [a] parent not meeting basic needs” (26%), unwillingness to “live by parents’ rules” (20%), and parental use of drugs or alcohol (20%).⁶ Anecdotally, these statistics are reflected in the stories we hear from clients with whom we work daily and are distinct from the reasons adults become homeless. Often the choice to leave home is a survival strategy in and of itself. Remarkably, youth experiencing homelessness demonstrate incredible fortitude and resilience in the face of trauma histories, routine discrimination, and incredible systemic barriers.

Youth Experiencing Homelessness

By definition, RHY are disconnected from the very support systems that are intended to support adolescent development into adulthood, such as their families and schools. As discussed briefly above, even before a young person is considered runaway or homeless they have likely experienced trauma. This trauma is only exacerbated each day they are experiencing homelessness.

While it is difficult to explain all of the ways in which youth experience homelessness in New York City, there are common threads. Not surprisingly, homeless youth in New York face myriad dangers, obstacles, and simply frightening circumstances as they navigate the city trying to survive. Survival often involves entry into the street economy. Many homeless youth are pressured to trade sex for a place to sleep or shower and about one-third to half of these youth exchange sex for money, food, or a place to stay.⁷ Many are victims of sex trafficking.⁸ These

² Id.

³ http://news.gallup.com/poll/182051/san-francisco-metro-area-ranks-highest-lgbt-percentage.aspx?utm_source=Social%20Issues&utm_medium=newsfeed&utm_campaign=tiles.

⁴ Empire State Coalition of Youth and Family Services, *supra*.

⁵ It is our understanding that the complete 2016 Youth Count report will be released soon.

⁶ Lance Freeman and Darrick Hamilton for the New York City Coalition on the Continuum of Care, *A Count of Unaccompanied Homeless Youths* in New York City, November 19, 2013.

⁷ Meredith Dank et al. The Urban Institute, *Surviving the Streets of New York: Experiences of LGBTQ Youth, YMSM, and YSWW Engaged in Survival Sex*, February 2015; Marya Viorst Gwadz et al., *The initiation of homeless youth into the street economy*, 32 *Journal of Adolescence* 357, 358 (2009).

dangers expose them to a significantly heightened risk of sexually transmitted diseases, including HIV.⁹ For runaway or homeless youth with serious substance abuse issues, which often stem from the very chaotic and traumatic family histories that drive them to homelessness, options are limited. Programs are often abstinence based, and many of these youth need treatment, support, and time before they are able or ready to quit.¹⁰ RHY are at high risk of involvement with the juvenile or criminal justice system due to their homelessness.¹¹ The lack of stability can also impact their ability to continue with school, or find and maintain employment.¹² For these reasons, access to meaningful healthcare, including access to quality mental healthcare, and related services is particularly crucial for RHY. Despite the many challenges they face, RHY exhibit a common desire to be self-sufficient and yearn for the tools and ability to be successful in that pursuit. Because they do not share many of the characteristics of chronically homeless adults, it is critical to provide youth-specific shelter and services that increase their ability to achieve self-sufficiency.

Crisis and TIL Bed Availability

The City has put forth more resources over the last few years to increase the number of beds that are available to RHY aged 16-20, but it still has a long way to go. Notably, almost all the beds that have been added to the DYCD-funded RHY shelter system are TILs, which don't address the need for short-term crisis placements as a pivotal initial placement. As providers and youth confirm time and again, there are still not enough crisis beds for RHY, and each night homeless youth are turned away. There is not a reliable or standardized system in place to count youth who are turned away in their attempt to access emergency shelter; hence the Council's introduction of 1619, which we discuss below. Currently, if a youth obtains a crisis shelter bed, the City ejects the youth from shelter after 60 days. When a homeless youth is discharged from one crisis shelter, they may seek shelter services from another provider, but if no beds are available they may be turned away with no place to go. Many are understandably reluctant to enter the DHS adult shelter system because of their experiences with trauma and other vulnerability factors as mentioned above.

While in crisis shelter, homeless youth are eligible to apply for TILs. TILs are DYCD-funded residential facilities intended to assist homeless youth transition to independent living. Although DYCD will place some youth directly into a TIL upon entry into shelter, usually the TIL application process requires applicants to submit a mental health evaluation, and requires youth to demonstrate that they are either enrolled in school or employed. These longer-term housing options are intended to help youth who have stabilized in crisis shelter settle into a smaller, more home-like environment where, with support, they can develop the ability to be self-sufficient before aging-out or timing out back into the community.

⁸ Ric Curtis et al., *The Commercial Sexual Exploitation of Children in New York City* (September 2008), available at http://www.courtinnovation.org/sites/default/files/CSEC_NYC_Executive_Summary.pdf.

⁹ Empire State Coalition of Youth and Family Services, *The New York City Association of Homeless and Street-Involved Youth Organizations' State of the City's Homeless Youth Report*, 2009.

¹⁰ *Id.*

¹¹ See generally *Id.*; Dank, et al., *supra*; Youth Justice Board, Center for Court Innovation, *Homeless Not Hopeless: A Report on Homeless Youth and the Justice System in New York City*, June, 2017.

¹² Empire State Coalition of Youth and Family Services, *supra*.

It is also important to note that while we often describe the need for RHY beds, the reality is that the services surrounding the youth in the beds are what truly make these programs valuable. Many service providers in New York City go above and beyond what is required of them by state law, and task themselves not only with providing a place for young people to sleep, but also providing crucial resources, referrals, and support to these young people in need.

The Positive Impact of Specialized Services for Runaway and Homeless Youth

Within the past few weeks, a groundbreaking white paper was released by the Center for Drug Use and HIV Research at NYU Rory Meyers College of Nursing in collaboration with the Coalition for Homeless Youth. The purpose of the underlying study was to build upon a foundation of other research and over a three year period to examine a diverse group of RHY service providers to assess the effectiveness of these programs.¹³ One of the most significant findings of the study is that high quality RHY programs not only meet basic requirements, but “address higher order relational, psychological, and motivational needs... fostering a sense of resilience among RHY” and providing long-term benefits to a youth’s functioning.¹⁴ In short, well-funded, high quality RHY programs make a positive impact on a youth’s ability to stabilize and successfully transition from crisis to independence. While more research is needed to evaluate the long-term benefits of RHY services, understanding that these programs make a proven difference to the youth they serve gives further support to why we are here pushing for the passage of this package of legislation.

Support for the Package of Proposed Legislation

Each and every one of the bills under consideration today would, if passed, have a meaningful and positive impact on the lives of New York City’s runaway and homeless youth. For this reason, we strongly urge the Council to pass them all. It is worth noting that some of these laws would not be possible without the recent amendments to the State’s Runaway and Homeless Youth Act (RHYA), which provide that municipalities may elect to expand their RHY systems to serve youth up to age 24, and which make clear that there is no time limit on homeless youths’ length of stay in crisis shelter, and that runaway youth may stay in crisis shelter for up to 120 days. While we understand the current Mayoral Administration may support these expansions, we believe it is still imperative for the Council to pass the entire package to ensure that RHY will have access to these life-saving services in the long term.

Int. No. 1619: In relation to runaway and homeless youth who have been turned away from any shelter under the jurisdiction of the department of youth and community development

Int. No. 1619 would make it possible to assess how many youth who request DYCD-funded shelter are being turned away. The current system, which requires a referring agency or person to fill out a form to indicate whether a youth was able to access shelter, is rarely, if ever, used. This means that there is no formal system for youth who are turned away from shelter to be tracked. We do support reducing the amount of information required to be included by this bill in order for it to be as effective as possible while not placing undue burden on the providers or the youth,

¹³ Gwadz, M., Freeman, R., Cleland, C.M., Ritchie, A.S., Leonard, N.R., Hughes, C., Powlovich, J., & Schoenberg, J. (2017). *Moving from crisis to independence: The characteristic, quality, and impact of specialized settings for runaway and homeless youth*. New York: Center for Drug Use and HIV Research, NYU Rory Meyers College of Nursing.

¹⁴ Id. at 16.

and we have passed along these edits to the Council. However, in order for the City to truly ascertain how well they are serving RHY, there needs to be a method for understanding who cannot access services at the front door. We believe Int. No. 1619 will allow for meaningful data collection, and allow the City to have a better grasp on who they are currently unable to serve.

Int. No. 1699: In relation to time frames for runaway and homeless youth shelter services

Int. No. 1699 would serve to align local law with the recently amended New York State RHYA by extending the lengths of time for which runaway youth can remain in crisis shelters and homeless youth can remain in TIL shelters.¹⁵ As described above, the current shelter time limits create an untenable cycle in which RHY are often unable to work quickly enough to make suitable living arrangements and are regularly discharged from shelters back to the streets. These proposed extended time limits are an important step toward allowing the shelter system to genuinely support our young people as they work to emerge from the system no longer homeless, rather than to perpetuate that cycle. The State has recognized this reality, and the City should do the same.

Int. No. 1700: In relation to shelter for runaway and homeless youth

Int. No. 1700, which requires DYCD to report annually on the demographics and characteristics of the RHY population, is a simple yet critical change. Reporting requirements such as these not only foster transparency and accountability, they are the means by which NYC will understand who these young people are and what they need. Without an accurate and regularly updated picture of this population, the City cannot serve them well. This bill will begin to provide a sense of who is using the system and will broaden reporting requirements as has been done previously for other shelter systems in NYC. Also, this bill will ensure that youth who are trying to access shelter services will be able to do so.

Int. No. 1705: In relation to runaway and homeless youth entering department of homeless services shelters

Int. No. 1705 streamlines the intake and assessment process for RHY who are transitioning from DYCD shelter to the Department of Homeless Services (DHS) system, and makes this process less burdensome for RHY. Ideally, changes to the time and age limits in RHY shelter will allow youth to stabilize by gaining skills and confidence to reenter their communities directly from the youth shelter system. However, in recognition of the fact that even with these changes some youth will need to enter the DHS shelter system, this bill will allow RHY shelter services providers to share information with DHS. This allows youth to leave an RHY bed and enter a DHS bed directly without having to go through the lengthy and duplicative DHS intake and assessment, thereby saving time for the youth and minimizing the waste of resources between the shelter systems.

Int. No. 1706: In relation to runaway and homeless youth services for homeless young adults

Int. No. 1706 again aligns our city with the recent amendments to the New York State RHYA, requires DYCD to serve “homeless young adults” ages 21-24, and to do so as they do the rest of the runaway and homeless youth population. Not only have youth and advocates pushed for this

¹⁵ It is worth noting that increasing the crisis shelter deadline extension for runaway youth will also help homeless youth because although the statute does not set a time limit for homeless youth, DYCD and its providers use the same deadline for all youth using a crisis bed, whether runaway or homeless.

change for years, but an expert consensus has recently emerged regarding adolescent brain development, establishing that the prefrontal cortex of the brain—which largely governs impulse-control, judgment, and planning—generally does not mature until well after the teenage years. In fact, the research demonstrates that the brain undergoes a “rewiring” process that is not complete until approximately 25 years of age. The Supreme Court itself has recognized this reality.¹⁶ In keeping with what we know about brain development, the amended RHYA provides that municipalities seeking State funding may include “homeless young adults”—defined as homeless persons age 21 to 24—within their plans for runaway and homeless youth. New York City should opt to serve 21-24 year olds as homeless young adults, separate and apart from the DHS system. These young people, much like their younger homeless counterparts, are not like older homeless people: they are homeless for different reasons, they cope with and experience homelessness differently, and they need different services and supports in order to emerge from homelessness as healthy, self-sufficient people. While 21-24 year olds are not children or even teens, in many important respects they are also not yet adults, and the system should treat them accordingly.

Lack of Permanent Housing for RHY

While it is not the direct focus of this hearing, we would be remiss not to mention how crucial it is for RHY to have access to meaningful permanent housing options. Other than some limited supportive housing units, youth leaving the RHY shelter system do not have access to any of the long-term housing resources afforded to individuals leaving other NYC shelters. RHY in youth shelter do not have access to a NYCHA priority or housing vouchers such as LINC. While the administration has explained that they are working on including RHY in the housing plan and voucher eligibility in the future, that has not yet materialized. Until this population has access to permanent, affordable housing, they will truly be unable to fully realize their potential as self-sufficient members of our City.

Conclusion

Thank you again to the committee for looking so closely at a number of issues facing our runaway and homeless youth. We strongly encourage you to pass all of the bills before you, and are happy to answer any questions you might have.

About The Legal Aid Society and Coalition for the Homeless

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 –

¹⁶ See *Graham v. Florida*, 560 U.S. 48, 68 (2010); *Miller v. Alabama*, 132 S. Ct. 2455, 2464 n.5 (2012) (“The evidence presented to us in these cases indicates that the science and social science supporting Roper’s and Graham’s conclusions have become even stronger. See, e.g., Brief for American Psychological Association et al. as Amici Curiae 3 (“[A]n ever growing body of research in developmental psychology and neuroscience continues to confirm and strengthen the Court’s conclusions”); *id.*, at 4 (“It is increasingly clear that adolescent brains are not yet fully mature in regions and systems related to higher order executive functions such as impulse control, planning ahead, and risk avoidance”); Brief for J. Lawrence Aber et al. as Amici Curiae 12–28 (discussing post *Graham* studies).

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 more than 1,100 lawyers, working with some 800 social workers, investigators, paralegals and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 26 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 more than 1.7 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 uniquely positioned to speak on issues of law and policy as they relate to New York City's runaway and homeless youth. Each of our three practice areas routinely interacts with the RHY population. 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. Legal Aid's Juvenile Rights Practice provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented approximately 34,000 children. Last year, the Society's Civil Practice provided free direct legal assistance in more than 48,500 cases and legal matters through neighborhood offices in all five boroughs, and 23 specialized units, of which the Homeless Rights Project is one. Our Criminal Practice handles over 220,000 trial and post-conviction cases a year, some of which arise out of arrests predicated on our clients' homeless status. Our perspective comes from daily contact with children and their families, and also from our frequent interactions with the courts, social service providers, and State and City agencies.

In addition to representing many thousands of children, youth, and adults each year in trial and appellate courts, we also pursue impact litigation and other law reform initiatives on behalf of our clients. On December 30, 2013, the Legal Aid Society, in collaboration with Patterson Belknap Webb & Tyler, LLC, filed *C.W. v. The City of New York*, a federal class action lawsuit on behalf of RHY in New York City. The lawsuit seeks to establish that young people in New

York have a right to youth-specific shelter, and to remedy (1) the City's consistent failure to provide an adequate number of shelter beds for RHY, (2) its routine discharge of youth from crisis shelters before permanent housing has been secured, and (3) its longstanding failure to provide reasonable accommodations or mental health services to RHY with disabilities. Our goal in litigation is to ensure that the City creates and maintains enough youth-specific beds to meet the needs of *all* youth seeking shelter. No youth should languish on the street while relegated to a shelter waiting list or be discharged from shelter due to arbitrary time limits. In addition, we seek to ensure that youth discharged from shelter are provided with due process prior to any ejection from shelter. All five of the bills at issue today would bring us closer to these goals, by giving youth more time in crisis shelter to secure other housing, by fostering transparency and accountability in service provision, by streamlining the intake and assessment process between DYCD and DHS, and by providing young adults aged 21-14 with age-appropriate services.

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 is now in its fourth decade. The Coalition also protects the rights of homeless people through litigation involving 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 11 direct-services programs that offer vital services to homeless, at-risk, and low-income New Yorkers. These programs also demonstrate effective, long-term solutions and include: Supportive housing for families and individuals living with AIDS; job-training for homeless and formerly-homeless women; 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 over 900 nutritious hot meals each night to homeless and hungry New Yorkers on the streets of Manhattan and the Bronx. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention, individual advocacy, referrals for shelter and emergency food programs, and assistance with public benefits as well as basic necessities such as diapers, formula, work uniforms, and money for medications and groceries.

The Coalition was founded in concert with landmark right to shelter litigation filed on behalf of homeless men and women (*Callahan v. Carey* and *Eldredge v. Koch*) and remains a plaintiff in these now consolidated cases. In 1981 the City and State entered into a consent decree in *Callahan* through which they agreed: "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, and the City has also authorized the Coalition to monitor other facilities serving homeless families.