



Testimony of
Coalition for the Homeless
And
The Legal Aid Society

On

Oversight: Opioid Overdoses Among NYC's Homeless Population

Presented before

New York City Council
Committee on General Welfare
Committee on Mental Health, Disabilities and Addiction

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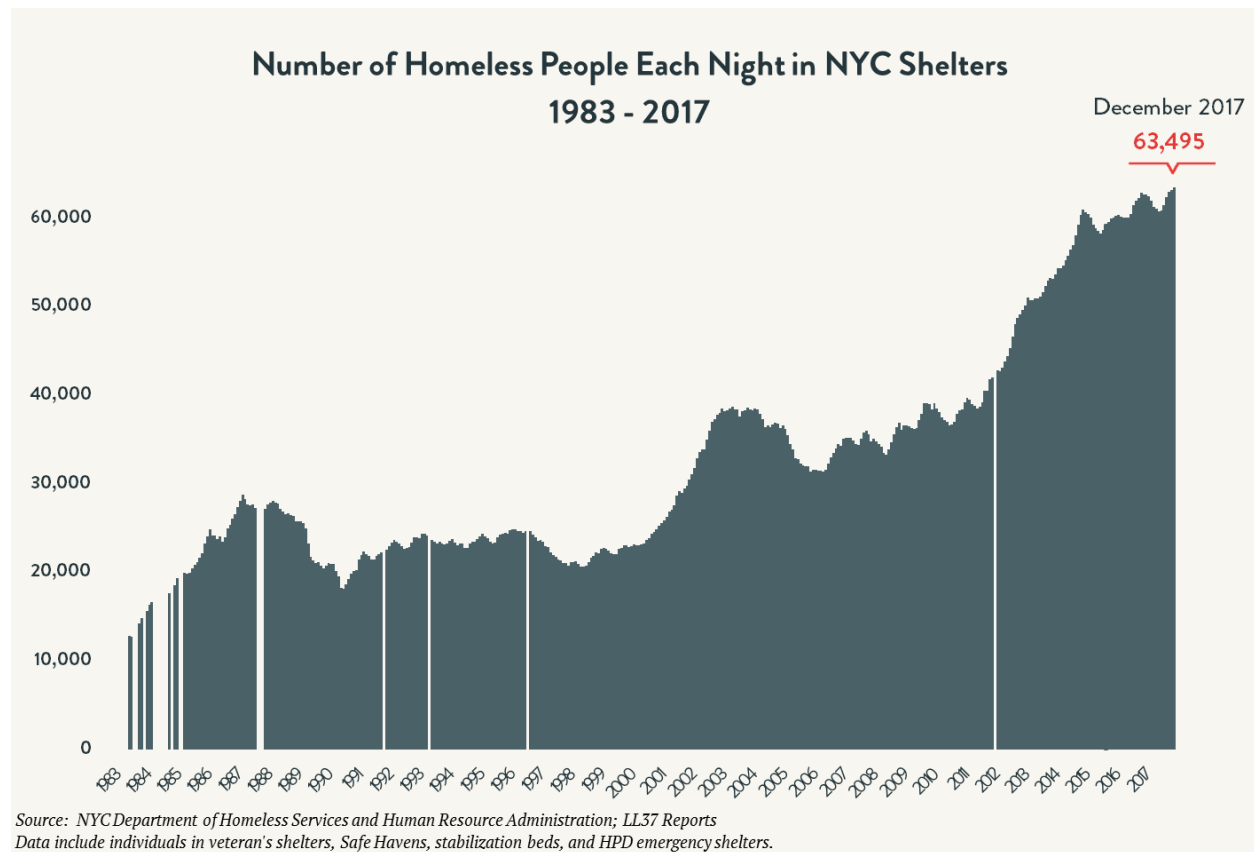
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The Coalition for the Homeless and The Legal Aid Society welcome this opportunity to testify before the New York City Council Committees on General Welfare and Mental Health, Disabilities and Addiction regarding opioid overdoses among NYC’s homeless population.

Record Homelessness in NYC

New York City is in the midst of the worst homelessness crisis since the Great Depression. Each night, more than 63,000 New Yorkers sleep in City shelters. Over the course of fiscal year 2017, a record 129,803 unique individuals spent some time in a shelter, including more than 45,000 children. Thousands of additional men and women bed down on the streets or in the subways.



The Opioid Epidemic

At the same time, New York City and localities across the country are also grappling with a rapidly worsening opioid epidemic. The NYC Department of Health and Mental Hygiene estimates that someone dies of a drug overdose every seven hours in New York City, and more New Yorkers die as a result of drug overdoses than the number dying as a result of homicides, suicides, and motor vehicle crashes combined.¹ According to provisional data, there were 1,068 overdose deaths in New York City between January and September 2017 – an 81 percent increase from the 590 overdoses during the same period in 2014.²

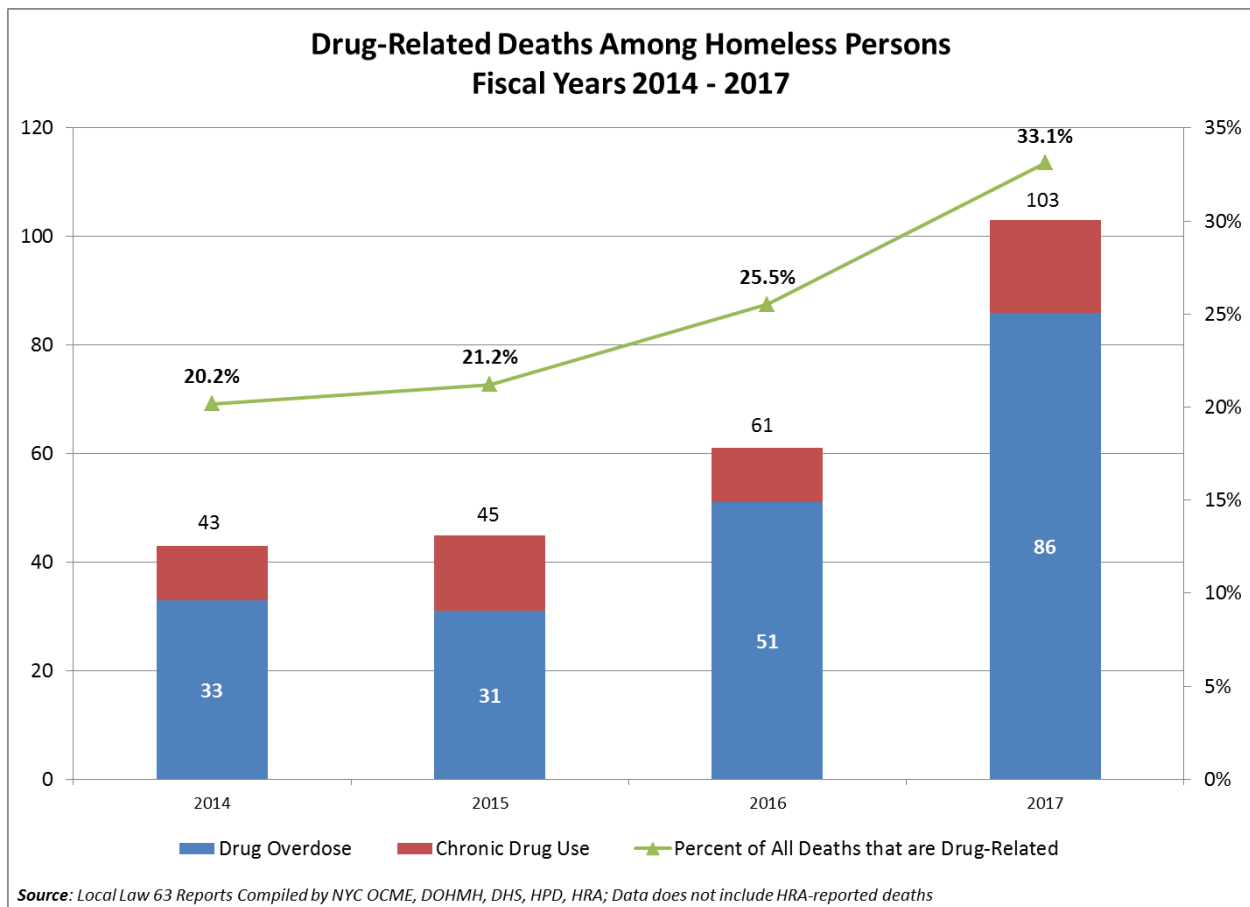
¹ <https://www1.nyc.gov/assets/doh/downloads/pdf/basas/provisional-overdose-report-third-quarter.pdf>

² Ibid.

The rising availability of the potent opioid fentanyl has made the crisis even deadlier. NYC DOHMH estimates that fentanyl is implicated in half of all overdose deaths.³ People struggling with addiction often do not realize that they have injected fentanyl until it is too late, and opioid antagonists such as naloxone are at times not strong enough to reverse an overdose involving fentanyl.

The Opioid Crisis’ Impact on Homeless New Yorkers

The opioid crisis has not left any population untouched, including homeless New Yorkers. Drug-related deaths ranked as the leading cause of death among homeless men for the past three fiscal years, and among homeless women for the past five fiscal years.⁴ The number of drug overdose deaths increased from 51 in fiscal year 2016 to 86 in fiscal year 2017 – a nearly 70 percent increase. An additional 17 deaths in fiscal year 2017 were categorized as a result of chronic drug use. One in three reported deaths of homeless people were drug-related in fiscal year 2017, up from one in five in 2014.⁵ In fiscal year 2017, 64 of the drug-related deaths were among sheltered homeless people, and 39 were among unsheltered homeless people.⁶



³ Ibid.

⁴ Twelfth Annual Report on Homeless Deaths (July 1, 2016 – June 30, 2017), Local Law 63 (2005).

⁵ Ibid.

⁶ Ibid.

The Department of Homeless Services reported 81 overdose incidents (including non-fatal incidents) in the first four months of fiscal year 2018, compared with 12 within the same period in fiscal year 2017.⁷ These heartbreaking statistics underscore the urgent need for much more effective access to treatment and harm reduction modalities.

How to Combat the Crisis

We commend the City Council for the successful passage of Intro. 1443 last session, which requires the Department of Social Services and the Department of Homeless Services to offer training to staff and shelter clients in administering lifesaving opioid antagonists. Among the preconsidered introductions before the Council today, we particularly support Intro. 1430, which requires the Department of Social Services and the Department of Homeless Services to refer individuals receiving opioid antagonists for additional services. This bill has the potential to help disrupt the cycle of addiction and overdoses that plagues too many of our clients.

However, the unavailability of treatment and harm reduction services remains a barrier to successful engagement among homeless individuals. It is vital that a sufficient number of providers in licensed settings be trained to prescribe buprenorphine. The City should also encourage more medical professionals serving in community-based settings to receive the necessary training. The City and State should partner to increase community-based care options, with appropriate licensing structures, so clients have ample access to medication-assisted treatment. Clients who need or are prescribed buprenorphine or other opioid treatment medication should receive shelter placements consistent with this need, and not be assigned to shelters with abstinence requirements that disallow medication-based treatment.

Meanwhile, we continue to see the NYPD using counter-productive tactics. Criminal possession of a controlled substance in the 7th degree (for very small amounts) is still one of the 5 most frequently charged crimes, meaning that police are still much more often arresting people for drug possession than diverting them to treatment centers. For example, Legal Aid staff have observed a trend in Brooklyn where officers arrest people coming and going from a methadone clinic to get easy collars.

This approach will not be successful. The sheer magnitude of the opioid crisis demands that the City take bold but productive steps. We recommend that the City reinforce effective harm reduction strategies, such as opioid antagonist training and distribution, syringe exchanges, and fentanyl testing. We also encourage the City and State to license and open supervised injection facilities to reduce the risk of death among people using opioids. Initiatives to reduce opioid use in the shelter system should use peer support networks to help establish and foster the personal connections needed to enhance client safety.

We applaud the City Council for its attention to this important issue and commitment to helping New Yorkers in need. We thank you for the opportunity to testify and look forward to partnering on effective solutions to address the crisis and save lives.

⁷ http://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2018/2018_pmmr.pdf

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 – 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. Recently Legal Aid, along with institutional plaintiffs Coalition for the Homeless and Center for Independence of the Disabled – NY, settled *Butler v. City of New York* on behalf of all disabled New Yorkers experiencing homelessness. 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 21-24 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.