



Testimony of

Coalition for the Homeless

and

The Legal Aid Society

on

Oversight: Supportive Housing

presented before

The New York City Council's Committee on General Welfare

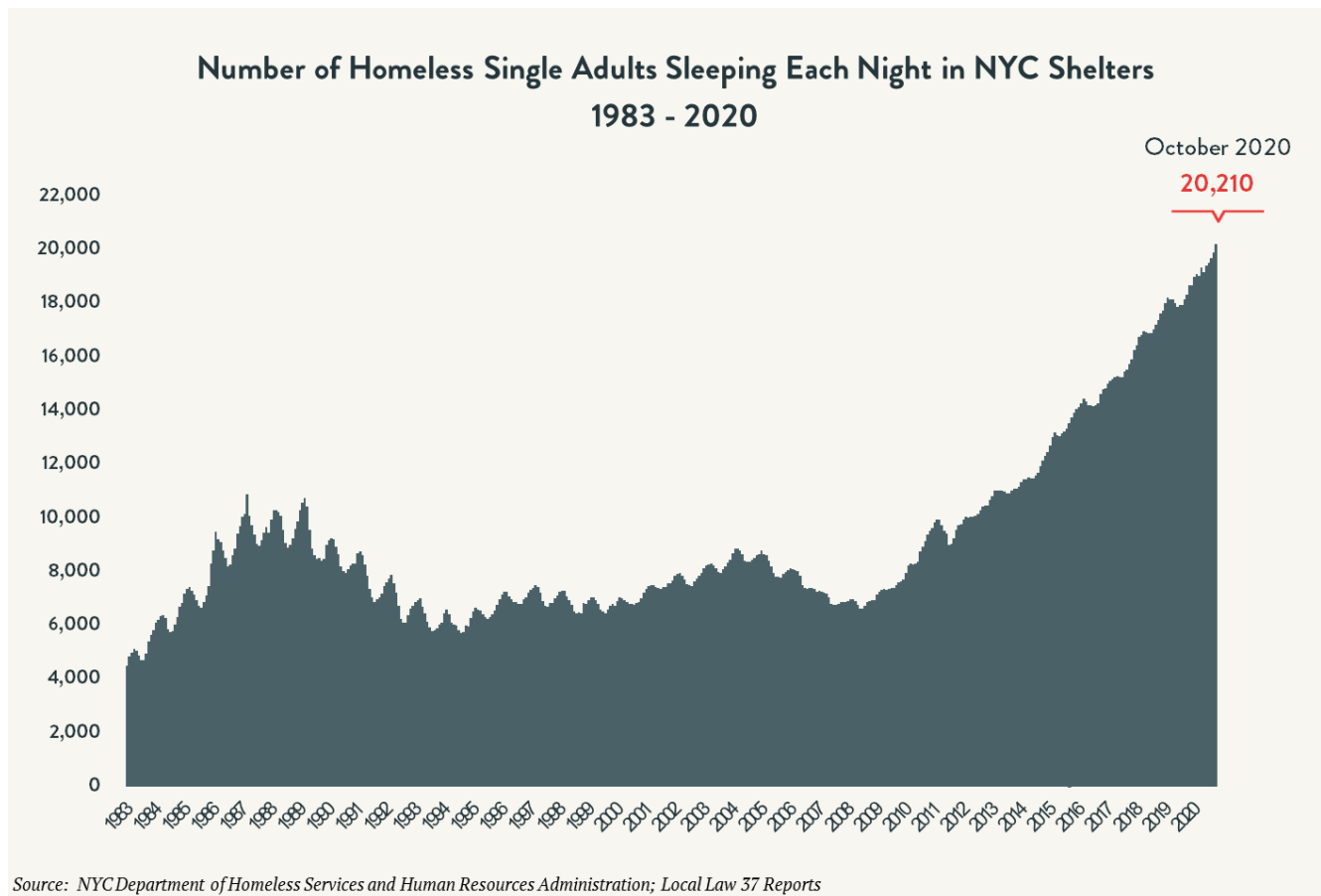
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Overview: Homelessness in New York City

In October 2020, the number of single adults sleeping in Department of Homeless Services shelters each night reached an all-time record 20,210. This marked the first time ever that the number of homeless single adults in the shelter system topped 20,000. The reasons for this drastic increase are rooted in multiple economic and policy failings, including the lack of affordable housing for single adults, and particularly the lack of supportive housing for individuals living with serious mental illnesses, substance use disorders, and/or other disabilities.



A large portion of single adults sleeping in shelters have one or more disabilities. Many of these individuals undoubtedly are able to live independently with the provision of affordable housing – a desperately needed resource. Others need support services to help them manage their mental illnesses, substance use disorders, or other challenges to daily living. In 2017, DHS conducted a survey to determine the number of shelter residents with a disability or condition requiring a reasonable accommodation, as required by the *Butler v. City of New York* settlement. The agency estimated that 67 percent of all single adults sleeping in the shelter system have some type of disability that requires a reasonable accommodation to ensure they have meaningful access to shelters and shelter-related services. DHS data also show that 16 percent of single adults receive Federal disability benefits

(Supplemental Security Income or Social Security Disability Insurance).¹ Currently, only one in five applicants deemed eligible for supportive housing actually receives it.

Supportive Housing: Eligibility, Placement, and Services

As we reported at the last oversight hearing on supportive housing in 2018, our clients continue to encounter many issues relating to the application process, eligibility criteria, and placement logistics when applying for supportive housing. The process of applying for and obtaining supportive housing is needlessly complex, bureaucratic, and rife with problems for the vulnerable individuals meant to benefit from this critical resource.

To access supportive housing, a prospective tenant must complete an HRA 2010e application, which requires a psychosocial assessment, a separate psychiatric evaluation, and the assistance of professional and trained staff who must submit the application. The eligibility determinations allow for significant clinical and administrative latitude from HRA administrative staff who have no contact with applicants and, as a result, there is much inconsistency in the review process and eligibility outcomes. Often, an application will be returned as “unable to review,” effectively denying an individual access to supportive housing until they can produce additional documentation or rework entire sections of the application. No assistance is offered with this process, and the reasons for the returned application are often opaque. Furthermore, the client is not given access to the application and therefore receives no notice of the denial or status of the application. This can extend the application process for months – while the individual continues to languish in a shelter or on the streets. In particular, we have encountered numerous problems documenting the length of time applicants have been sleeping on the streets, for the purposes of establishing supportive housing eligibility, because of the onerous and inconsistent documentation standards. Notably, there is no official, impartial appeals process for an applicant wishing to challenge an eligibility determination. Some staff are knowledgeable enough to know that they can reach out to the reviewer to dispute an eligibility determination, but because no formal process is documented on the decision or anywhere else during the application process, this type of additional *ad hoc* advocacy cannot be relied upon to address the systemic weaknesses that are denying homeless individuals access to supportive housing.

Once an application is approved, a prospective tenant faces a new set of hurdles before receiving keys to an apartment. Applicants must undergo an interview with a supportive housing provider, where experiences vary widely. There is no central oversight to ensure consistent best practices among housing providers – a negative byproduct of having multiple sources of government funding and regulations for supportive housing. This inconsistency is extremely challenging for many applicants. For example, although homeless applicants have already submitted extensive documentation with their 2010e applications, some supportive housing providers ask them to submit additional materials. We have also

¹ Coalition for the Homeless. (2020). State of the Homeless: Governor and Mayor to Blame as New York Enters Fifth Decade of Homelessness Crisis, via <https://www.coalitionforthehomeless.org/state-of-the-homeless/>

encountered examples of providers violating local laws in refusing to provide translation services and, in some cases, refusing to consider a client for a particular housing development because the provider does not want to secure language access for the client. Some applicants report having to complete complex forms during the interview or even to be considered for an interview, including paperwork that, once signed, waives their right to manage their own money and benefits. In addition to creating unnecessary and potentially exploitative requirements for accessing supportive housing, this documentation follows clients even if they do not secure the particular apartment for which it was required, and may therefore negatively impact them in the future. On occasion, and without advance notice, applicants are required to undergo an additional mental health evaluation, or to demonstrate their ability to evacuate a building in a very short amount of time. Matching applicants to units that can accommodate their disabling conditions has been problematic, and the evacuation requirements often do not take into consideration the applicant's physical disabilities. Because of inconsistencies between providers, applicants are often left confused, overwhelmed, and unprepared for the interview process. All of these barriers illustrate how far supportive housing has moved away from a true Housing First model.

Although supportive housing is a vital resource in the fight to end homelessness, we continue to encounter issues related to both the application and placement process (as documented above), as well as the level of services tenants receive once they are in a supportive housing program. We have worked with many residents of supportive housing who are at great risk of leaving their placements because of a lack of appropriate services. In some supportive housing, case management is cursory and focused only on those requirements necessary for the provider's financial billing – as opposed to the tenant's actual and expressed needs. This includes requiring that clients allow a housing provider to manage their benefits so the provider can be paid for doing so, even when it is not clinically necessary. Because supportive housing staff may not have longstanding working relationships with clients or they provide only cursory services, we have frequently seen that staff are unable or unwilling to identify when a client is at risk of harm or has decompensated. Additionally, while health and mental health treatment is not required to live in supportive housing, nor should it be, case managers do not always raise the benefits of getting connected to care which could greatly assist with some of the problems that arise in supportive housing. Relatedly, we have also found that some providers are quick to initiate court proceedings against tenants or threaten their tenancies, but do not proactively offer to help a client resolve rental arrears and the issues that led the arrears to accumulate in the first place.

These systemic issues could be mitigated through additional funding and oversight, as well as empowering supportive housing residents with information about their rights and how to seek assistance. We continue to call for the City and State to fully fund their historic commitments to increasing the supportive housing stock, and to ensure that this important solution to homelessness can better serve our neighbors in need.

Intro. 2176: Supportive Housing Bill of Rights

Many people living in supportive housing apartments are not aware of their tenancy rights or the rules applicable to their program. It can be difficult to ascertain which regulatory schemes in the patchwork of supportive housing programs govern a particular building. Supportive housing residents often do not know where to turn when their tenancies are threatened or when they need help with various program requirements. As the City and the State work to increase the supply of supportive housing, it is important to ensure that residents are fully informed of their rights and know where to obtain assistance when they need it.

Therefore, we fully support Intro. 2176, which will create a bill of rights for supportive housing residents. This bill will provide a much-needed uniform information resource for individuals moving into and currently living in supportive housing, including information about tenants' rights, the regulatory and financing schemes for the unit, and relevant points of contact for any problems an individual living in supportive housing may encounter.

We have a few technical comments on the language in the bill. First, the bill's use of the word "tenant" poses several challenges. The bill proposes a new definition of "tenant" that does not match the definition in the Real Property Law.² Further, not all current residents of supportive housing have their tenancy rights recognized but all would benefit from understanding what rights they do have, especially as supportive housing residents may end up being sued in housing court for rent arrears, thereby placing them at risk of homelessness again. Because the bill uses the word tenant, some individuals may be left out of receiving critical information about their rights. Using the term resident in lieu of tenant would ensure that the bill of rights would reach the largest possible number of people, including those occupants³ who live with tenants, while not confusing anyone with a contrary definition. To be clear, we fully support the goal of making sure all supportive housing residents have tenancy rights, but this bill does not actually create any new rights. It is structured only to provide notice of people's existing rights, a critical and much-needed resource, which we want every person living in supportive housing to receive. Second, Section 11 should be clarified. As written, it is repetitive of Section 3 and implies universal access to legal services – a goal not yet realized because of the phased-in approach to the right to counsel. Furthermore, we recommend that the notice of rights also be presented to prospective residents at the interview phase, so that they are equipped with important information about the unit for which they are interviewing.

Intro. 2177: Outreach to Unsheltered Individuals

We support this bill, which would prohibit police involvement in outreach to unsheltered homeless individuals. We have long decried the criminalization of homelessness, and the presence of police

² RPL § 235-f(1)(a) defines "Tenant" as "a person occupying or entitled to occupy a residential rental premises who is either a party to the lease or rental agreement for such premises or is a statutory tenant pursuant to the emergency housing rent control law or the city rent and rehabilitation law or article seven-c of the multiple dwelling law."

³ RPL § 235-f(1)(b) defines "Occupant" as "a person, other than a tenant or a member of a tenant's immediate family, occupying a premises with the consent of the tenant or tenants."

officers in outreach erodes the trust that is essential to helping people move indoors. This bill is a long overdue shift away from addressing homelessness as a policing matter.

We thank the Council for the opportunity to testify today, and for your steadfast commitment to addressing homelessness.

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. This dedication to justice for all New Yorkers continues during the COVID-19 pandemic.

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 2,000 attorneys, social workers, 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 homeless New Yorkers. 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. The 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 runaway and homeless youth in New York City. The Society, 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.

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 and at-risk 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, the right to reasonable accommodations for those with disabilities, 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, scalable solutions and include: Permanent housing for formerly homeless families and individuals living with HIV/AIDS; job-training for homeless and low-income 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, which usually distributes about 900 nutritious hot meals each night to homeless and hungry New Yorkers on the streets of Manhattan and the Bronx, is now regularly serving more than 1,100 meals per night and distributing PPE and emergency supplies during the COVID-19 pandemic. Finally, our Crisis Services 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. In response to the pandemic, we are operating a special Crisis Hotline (212-776-2177) for homeless individuals who need immediate help finding shelter or meeting other critical needs.

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. In 2017, the Coalition, fellow institutional plaintiff Center for Independence of the Disabled – New York, and homeless New Yorkers with disabilities were represented by The Legal Aid Society and pro-bono counsel White & Case in the settlement of *Butler v. City of New York*, which is designed to ensure that the right to shelter includes accessible accommodations for those with disabilities, consistent with Federal, State, and local laws.