



Testimony of
Coalition for the Homeless
and
The Legal Aid Society
on
Intros. 942, 943, 1064, 1072, 1080, 1084, 1095, and 1096
presented before
New York City Council Committee on Immigration and General Welfare
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At this critical moment, the Coalition for the Homeless and The Legal Aid Society welcome this opportunity to testify before the New York City Council's Committees on Immigration and General Welfare. As the court- and City-appointed independent monitor of the DHS shelter system and counsel in the historic *Callahan*, *Eldredge*, and *Boston* cases that created the right to shelter in NYC, we are uniquely situated to provide insight into the importance of these pieces of legislation.

Increase in new arrivals from the southern border in New York City

Beginning in the spring of 2022, New York City began to experience an increase in the number of recent migrants and asylum seekers coming to the city from the southern border. After fleeing persecution in their home countries, they endured immense trauma (both in their home countries and on their journeys here) but arrived in New York City with the goal of working and creating a better life for their families.

However, it is difficult for recent migrants to get work authorization. Under Federal law, asylum seekers must file for asylum and wait 180 days after their application is submitted to be granted work authorization. Applying for asylum is a complex process that should not be undertaken without the assistance of an experienced immigration attorney with expertise in handling asylum issues; a recent study found that even a relatively straightforward asylum case takes 50 to 75 hours of preparation for full representation. Yet, even before the increase in new arrivals, there were not enough legal service providers in the City to meet the demand for lawyers to take these cases. As a result, recent migrants are struggling to find ways to support themselves as they await appointments with one of the few immigration legal services providers. While they work on their asylum applications and await work authorization, they need safe places to stay.

We continue to advocate to the State and Federal governments to provide additional resources to the City to address the needs of recent arrivals but, in the meantime, the City must provide safe shelter options. The City has chosen to create multiple different kinds of shelter to house recent arrivals, managed by a variety of City agencies. While the Department of Homeless Services ("DHS") currently serves the majority of recent arrivals, the City has also enlisted Health and Hospitals ("H&H"), the Department of Emergency Management ("OEM"), Housing Preservation and Development ("HPD") and the Division of Youth and Community Renewal ("DYCD") to stand up additional shelter capacity apart from the traditional DHS shelter system.

Starting last fall, the City created Humanitarian Emergency Response and Relief Centers ("HERRCs"), which are run by H&H and HPD. These sites were developed to provide tailored services for recent migrants whose service needs are often different than those of the general DHS shelter population. Most HERRCs are in hotels, but there have also been HERRCs in tents, cruise terminals, and former office buildings, and there is currently one site in an airport hangar at JFK airport. In the last few months, the City has employed OEM to open "respite centers," which were supposed to be temporary emergency sites in places not traditionally used for shelter (such as churches, the Police Academy, and school gyms). Because the HERRCs and respite centers are not run by the Department of Social Services ("DSS"), they are not subject to either DHS regulations and policies or State shelter regulations. In fact, they are not currently subject to any specific rules, aside from the Federal and State laws that apply to all government-operated sites (such as disability rights laws and civil rights laws).

Mass homelessness in New York City

Despite the recent influx of migrants in need of shelter in New York City, mass homelessness in the city is not a recent phenomenon. For decades, New York City has struggled to address the root causes of homelessness, namely the lack of affordable housing.¹ While the shelter census dropped during the pandemic (in large part due to pandemic-era protections, such as the eviction moratoria), it is not unsurprising that it has risen considerably as the pandemic-era protections were lifted and inflation has skyrocketed. While there is no dispute that there has been an increase in the number of recent migrants entering the city's shelter systems, it is not the only factor contributing to the current shelter census levels. In fact, prior projections of the shelter census (before the influx of recent migrants) was only slightly lower than the current census.² We continue to call on the City to increase the supply of permanent affordable housing for homeless and extremely low-income New Yorkers to reduce the shelter census, creating additional space for new arrivals in need of emergency shelter.

Reforms available to the City to reduce the shelter census

The most effective way to increase shelter capacity is to move people from shelters into permanent housing. The City has many tools at their disposal to do so that they have failed to fully implement, including:

- **Expanding City FHEPS to undocumented households:** the City has available funding and legal authority to expand the City FHEPS voucher program to shelter residents without immigration status to use the voucher to move into permanent housing. To date, the City has not done so (though the City has expanded childcare subsidies to this group, demonstrating there is no legal impediment to doing so for City FHEPS).
- **Rebuilding and growing the source of income (SOI) discrimination unit to meet current demand:** it is illegal in New York City for a landlord or a broker to refuse to rent to a prospective tenant because they intend to use a housing voucher. The Source of Income Unit at the New York City Commission on Human Rights ("CCHR"), created in 2018, is the sole team within the only agency with the power to enforce the NYC Human Rights Law in a pro se friendly administrative forum. At no time, has the City adequately funded the SOI unit, and at one point recently it had no staffing at all. CCHR needs experienced attorneys and intervention specialists to process filed complaints as well as a robust pre-complaint intervention unit to respond to the immediate needs of homeless New Yorkers experiencing discrimination.
- **Increasing shelter capacity by not delaying or canceling planned shelter openings:** on numerous occasions during this Mayoral administration, the City has

¹¹ See State of the Homeless 2022, Coalition for the Homeless, available at: <https://www.coalitionforthehomeless.org/wp-content/uploads/2022/03/StateofThe-Homeless2022.pdf>.

² See <https://www.nydailynews.com/opinion/ny-oped-dont-erode-nycs-right-to-shelter-20230612-ocgekwwqj4rg3jpksvsga4ovvei-story.html>.

planned to build shelters to increase capacity in the DHS system but then abandoned the plans in response to NIMBY protesters.

- **Training staff in the DHS shelter system on how to screen for benefits eligibility:** many people staying in the DHS shelter system may have had a change in their immigration status that impacts their benefits eligibility (including eligibility for housing vouchers) since they entered shelter. However, DHS shelter staff lack the expertise to properly screen for those changes. In the past year, Legal Aid staff have conducted trainings for DHS shelter providers on benefits eligibility for noncitizens, as DHS has not provided such technical assistance, but there are many providers who have received no such training.
- **Increasing staffing to timely move people out of shelters with the existing programs:** The Legal Aid Society and Coalition for the Homeless receive daily calls from clients in shelters who have found apartments to rent but cannot move out of shelter because of the City's failure to timely process their housing voucher paperwork. Clients often wait weeks or months to move out of shelter due to needless bureaucratic obstacles and administrative delays.
- **Providing more funding for full representation for immigration providers:** the asylum application process is complex, and any submissions made in that application will be difficult, if not impossible, to amend at a later date. It is a difficult process for individuals to navigate successfully without the assistance of immigration attorney, but the demand for immigration legal services providers far outweighs the current capacity of legal services providers.
- **Using the approximately \$180 million in State Rent Supplement Program funds for long-staying shelter residents who are ineligible for other subsidies:** these funds have been specifically designated for households experiencing or facing homelessness, regardless of immigration status. These funds can be used to help families and individuals in shelters move out into permanent housing after languishing in shelters for years. We understand the State has indicated they are using the bulk of this money for State FHEPS, but we believe the accounting is incorrect and urge the City to advocate for increased funds from the State for clients who have been in shelter the longest.

Rather than focus on these measures, the Mayor has taken the extraordinary and misguided step of pursuing modifications to the *Callahan* consent decree, modifications that could result in thousands more people sleeping on the streets of New York. Furthermore, the Mayor has not yet agreed to sign a package of bills that will expand access to CityFHEPS and allow far more households to secure permanent housing.

Intro. 942

We support Intro. 942, which would require any emergency congregate shelter (not operated by the New York City Department of Social Services) to comply with the State regulations governing shelter provision, specifically parts 491 and 900 of title 18 of the New York codes,

rules and regulations. These State regulations have been developed and revised over many years to ensure that there are basic, common-sense protections in place to keep people safe while in shelter and to promote their ability to focus on securing permanent housing. As stated above, HERRCs and respite centers currently have no rules or minimum standards in place to address their operations. There is currently no requirement that these sites have bathrooms, showers, meals, adequate bedding, lockable storage, laundry, or sufficient staffing. In addition, individuals and families placed at these sites have no due process protections if staff decide to remove them for any reason. These very basic amenities and protections are required in shelters operated by DHS as a result of the relevant State regulations and consent decrees. Our staff sees first-hand the harm endured by clients who lack such protections. Respite sites have opened without offering clients access to showers for days. In addition, many respite centers offer no lockable storage for protecting personal belongings and no option for clients to do laundry. Bedding at both HERRCs and respite centers often consists only of a cot and one thin blanket, and many facilities are not adequately accessible for people with mobility disabilities and other functional access needs

We strongly urge the Council to adopt Intro. 942 to entitle recent migrants to the same basic protections afforded to clients in the DHS system. We also urge the Council to amend the bill to incorporate the protections offered the New York City Administrative Code § 21-312 and § 21-315. These statutes limit the capacity of single adult shelters to 200 beds. As we have seen from decades of working with clients in the DHS shelter system, sites with over 200 beds are often unsafe and extremely chaotic for both clients and staff to manage. For these reasons, HERRCs and respite sites should be similarly limited in their capacity.

Intro. 943

We support Intro 943, which would require the City to provide written and verbal notification to clients in emergency congregate shelters (including HERRCs and respite centers) that they have the right to be placed in DSS shelter and to receive transportation to get to the DSS shelter intake sites.³ *Callahan, Eldredge, and Boston* apply to all single individuals and families with minor children in New York City who are homeless, and so all such clients have a right to receive a shelter bed that complies with the requirements of those consent decrees.⁴ While many recent migrants may prefer to stay in HERRCs due to the fact these facilities have services tailored to their unique needs, they still have a right to enter a shelter that complies with the relevant right to shelter consent decrees.

It is important that recent migrants staying outside the DHS system be informed of their rights in relation to shelter, especially because many of the HERRCs and respite centers do not have the ability to accommodate disabilities or the safety needs of LGBTQ+ clients. Our staff have been explicitly told by City staff that the respite centers cannot accommodate clients with disabilities, such as clients who use wheelchairs, cannot climb stairs, or cannot sleep on a cot. In addition, we have received many calls from recent migrants who identify as transgender and do not feel safe

³ We suggest changing “DSS” to “DHS” in the bill language, as DSS shelter includes HRA domestic violence shelters and HASA temporary housing, which is not applicable to all clients in the HERRCs and respite centers.

⁴ We suggest modifying the language of the bill to include all emergency shelters, even if they are not congregate, as individuals and families in private rooms in HERRCs are still entitled to the benefits of the *Callahan, Eldredge, and Boston* consent decrees.

in the communal sleeping and bathing accommodations at some of the respite centers. Many of these clients fled their home countries because of persecution due to their LGBTQ+ status and are entitled to live as who they are in New York City. While DHS has a comprehensive policy for addressing the needs of LGBTQ+ clients (as well as designated shelter units for this population), no such formal policy exists for the HERRCs or respite centers, so it is especially important that all clients in those sites are made aware of their right to seek shelter in the DHS system.

Intro. 1064

We support Intro. 1095, which would require the City to produce an annual report on the operations of Homebase, including a variety of metrics to determine the level of success for its programs. Many of our clients attempt to utilize Homebase services but struggle to get appointments or the assistance they need, so we support further transparency regarding its operations.

Intro. 1072

We support making the PATH experience work better for homeless families with minor children and are happy to work with the Council to make that happen through Intro. 1072. Intro. 1072 would 1) increase the length of the initial conditional shelter placement; 2) reduce the onerous housing history documentation requirements for homeless families with minor children applying for shelter at PATH (from two years of history to one); 3) require DHS to develop and post on its website a pamphlet explaining how to prove one's housing history; and 4) develop a digital case record system, that would be accessible to applicants for shelter.

Currently, when an applicant family applies for shelter at PATH (the DHS intake site for homeless families with minor children and pregnant people), the family is given a 10 day conditional placement while DHS investigates the family's eligibility. The eligibility investigation involves an arduous and complex process that requires a family to identify all of the places they have slept in the past two years and provide evidence of why they cannot return to any of those addresses. If a family cannot prove even a few nights or weeks of housing history, DHS will find the family ineligible for shelter, and the family will have to reapply. For years, Legal Aid and Coalition for the Homeless have advocated for a reduction in the two-year housing history, as families are unlikely to be able to return to places they lived more than a year ago. In addition, the DHS shelter system for adult families without minor children requires applicants to prove only one year of housing history. While we believe that the housing history requirement should be further reduced or eliminated, we are in favor of any reduction, including the reduction proposed in Intro. 1072. Similarly, our offices receive countless calls regarding clients struggling to comply with the housing history requirement, so we support creation of a pamphlet to further explain the process for clients.

Unlike HRA, DHS does not have a digital case management system for clients to easily view the status of their shelter applications or their shelter case files. Such a system would be extremely helpful for clients trying to navigate the complex shelter application process, as well as advocates attempting to understand the status of a particular client's case.

Intro. 1080

We support Intro. 1080, which would require HRA to post on its website and on Access HRA information regarding emergency feeding programs, food benefits programs, and senior centers in a searchable format. It is always to the benefit of our clients to have access to additional resources, especially as many recent migrants may not yet be eligible for food stamps benefits and struggle to gain access to food.

Intro. 1084

We support Intro. 1084, which requires the Department of Health and Mental Hygiene to develop a training on trauma-informed care and determine which providers serving refugees, asylees, and migrants should receive the training. Given the immense amounts of trauma experienced by these populations, especially recent migrants fleeing dangerous conditions in their home countries, we fully support trauma-informed care training for as many providers as possible.

Intro. 1095

We support Intro. 1095, which would require the office of community mental health to station a mental health coordinator at each location serving refugees, asylees and recent migrants. As stated previously, these populations have experienced significant trauma in their home countries and on their journeys to the United States, and they would greatly benefit from increased access to mental health care.

Intro. 1096

We support the goals of Intro. 1096, which would require the City to have an “eligibility specialist” at each shelter site, who is knowledgeable in benefits eligibility for clients. It is always to the benefit of our clients to have staff available who are knowledgeable in the benefits clients can access to help them move out of shelter and into permanent housing.

About The Legal Aid Society and Coalition for the Homeless

The Legal Aid Society: The Legal Aid Society (“LAS”), 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 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, LAS provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

LAS'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 LAS'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, LAS'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. LAS, in collaboration with Patterson Belknap Webb & Tyler, LLC, filed *C.W. v. City of New York*, a federal class action lawsuit on behalf of runaway and homeless youth in New York City. Legal Aid, along with institutional plaintiffs Coalition for the Homeless and Center for Independence of the Disabled-NY ("CIDNY"), settled *Butler v. City of New York* on behalf of all disabled New Yorkers experiencing homelessness. Also, during the pandemic, The Legal Aid Society along with Coalition for the Homeless continued to support homeless New Yorkers through litigation, including *E.G. v. City of New York*, Federal class action litigation initiated to ensure WiFi access for students in DHS and HRA shelters, as well as *Fisher v. City of New York*, a lawsuit filed in New York State Supreme Court to ensure homeless single adults gain access to private hotel rooms instead of congregate shelters during the pandemic.

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 address the crisis of modern homelessness, which is now in its fifth 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 illnesses 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 800 to 1,000 nutritious hot meals each night to homeless and hungry New Yorkers on the streets of Manhattan and the Bronx, had to increase our meal production and distribution by as much as 40 percent and has distributed 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 (1-888-358-2384) 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 single 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. During the pandemic, the Coalition has worked with The Legal Aid Society to support homeless New Yorkers, including through the *E.G. v. City of New York* Federal class action litigation initiated to ensure WiFi access for students in DHS and HRA shelters, as well as *Fisher v. City of New York*, a lawsuit filed in New York State Supreme Court to ensure homeless single adults gain access to private hotel rooms instead of congregate shelters during the pandemic.