



Testimony of  
Coalition for the Homeless  
and  
The Legal Aid Society  
on  
**Oversight – The Mayor's 60-Day Shelter Stay Limit for Adult Migrants**  
presented before  
New York City Council Committees on Immigration and General Welfare

Will Watts  
Deputy Executive Director for Advocacy  
Coalition for the Homeless

Deborah Lee  
Attorney-in-Charge, Immigration Law Unit  
The Legal Aid Society

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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'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 about the Mayor's implementation of a 60-day limit on shelter stays for single adult migrants.

#### New Arrivals and the Right to Shelter

The members of the Committees of Immigration and General Welfare are well aware of the legal obligation – as prescribed by the New York State Constitution, multiple court orders and local laws – to provide decent, appropriate, and accessible shelter placements for all in need of such, regardless of immigration status. For more than 40 years, it is this fundamental right that has served as the bedrock of our city's response to mass homelessness, and it has kept New York City from witnessing the emergence of the vast tent encampments seen in so many other major American cities.

The influx of new arrivals to New York that began last summer has unquestionably created strains on the City's emergency relief systems, and the Coalition and Legal Aid have repeatedly provided practical solutions that the City and State could implement to increase vacancies in the existing shelter system by helping individuals and families move into permanent housing, thereby creating additional capacity for the new arrivals.

As we noted in our testimony before these committees on June 21<sup>st</sup>, 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 most new 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 Development ("DYCD") to stand up additional shelter capacity apart from the traditional DHS shelter system.

Last fall, the City launched the first 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 new arrivals whose service needs are often different than those of the general DHS shelter population. Most HERRCs are in repurposed hotels, but there have also been HERRCs in a tent, a cruise terminal, former office buildings, and soon on the grounds of a former psychiatric center. The City has also employed OEM to open more and more "respite centers," which were supposed to be temporary emergency sites in places not traditionally used for shelter (such as churches, empty and unfinished buildings, a seasonal mail sorting facility at JFK airport and school gyms).

Because the HERRCs and respite centers are not run by the City's Department of Social Services ("DSS"), the City does not consider them to be subject to either DHS regulations and policies or State shelter regulations. In fact, the City treats them as if 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) and the few rules set forth by Corporation Counsel.

Several months ago, the Roosevelt Hotel was opened as the “Arrival Center” where people who have travelled to New York are processed for assignment to such HERRCs, respite sites, DHS hotels or other temporary shelter, and are also able to access medical and other limited services. Since commencing operations, the lobby at the Roosevelt has been packed with individuals and families who, exhausted and traumatized from their journeys, wait hour after hour for a bed and, if they are lucky, a shower.

But even that scene is better than what we all witnessed a few weeks ago when hundreds of new arrivals were left stranded for days on the sidewalk outside the Roosevelt with limited food, no access to restrooms, and no relief from the elements because the Mayor and Governor failed to take critical steps to ensure sufficient capacity in NYC shelters. As a result of actions taken by the Coalition and Legal Aid in the *Callahan* litigation, new arrivals were moved inside from the sidewalks. But, as you are aware, every day, the Roosevelt continues to receive new individuals and families seeking refuge.

#### The 60-day Limit on Shelter Stays for Adult Migrants

On July 19th, Mayor Adams announced that the City would be imposing a 60-day limit on shelter stays for adult migrant men. As we understand it, this time limit currently applies to individuals who have been residing in the HERRCs the longest; but, eventually, it will extend to all newly arriving single adult migrants who are placed in a non-DSS operated shelter. The City states that intensive case management will be employed during this 60-day period to help identify alternative housing solutions for these individuals. While we are uncertain how effective the City has been in achieving this goal, we know that, if recipients of notices have not exited the shelter system at the end of the 60-day period, they are expected to surrender their existing placement and return to the Roosevelt for reassessment. What occurs next remains to be seen given that the first notices went out a few weeks ago, meaning no one has reached the 60-day mark. The *Callahan* consent decree protects all individuals from being denied shelter. But nothing communicated by the City thus far guarantees that notice recipients will be reassigned to a new shelter placement when they return to the Roosevelt after the 60 days end. In fact, the notice that has been shared with us is vague, stating that the individual “may return to the Arrival Center located at the Roosevelt Hotel in Manhattan and *apply* for another housing assistance option, which *could* include a faith or community-based organization or placement in a hotel in upstate New York.” (emphasis added).

The Coalition and Legal Aid believe it is a mistake to limit stays in this way for any person in need of emergency shelter for a number of reasons:

- **First, this policy creates an atmosphere of confusion and uncertainty for new arrivals and other unhoused New Yorkers, which could lead to displacement and spur an expansion of encampments.** New arrivals, especially those with whom the City is unable to effectively communicate due to a language barrier, may not understand what this policy means and therefore may not return to the Roosevelt at the end of the 60-day period. Instead, they may resort to living unsheltered in public spaces because they believe they have no other option (as recently occurred with former residents of the Hall Street respite site near the Brooklyn-Queens Expressway). Such displacement not only impacts people’s health and safety but may also disconnect them from necessary resources, such as legal

assistance, to secure their immigration status or necessary medical care. Similarly, we have encountered individuals residing in DHS operated shelters (or who may need a shelter placement in the near future) who are uncertain whether this policy applies to them and, if so, whether they should utilize NYC shelters when they may have to return to the streets in 60 days. If such individuals likewise abandon the shelter system, New York may soon resemble places like Los Angeles with numerous encampments throughout the City and more individuals disconnected from the services and assistance they need.

- **Second, this policy introduces further instability for a population that has already experienced considerable trauma.** The Coalition’s annual *State of the Homeless*<sup>1</sup> report has often noted how lack of predictability can exacerbate trauma for unhoused individuals in the shelter system. This arbitrary purported time limit, coupled with no guarantee of ongoing placement, will create even less predictability, further compounding the trauma new arrivals have already experienced. The government’s goal should be to help connect new arrivals to permanent housing and stability so that they can focus on their asylum applications and employment, which benefits new arrivals and all New Yorkers.
- **Third, this policy makes no sense as a practical matter.** The Arrival Center is already struggling to process the hundreds of new arrivals each day, so adding notice recipients to the queue for reprocessing will create further processing delays and inefficiencies. Even if the hope is that not all notice recipients will seek reassignment because of successful efforts to connect them to friends, family or other locations, there are already over 800 notice recipients, and many more will follow. It is predictable that a significant number of recent arrivals will not find an alternative to their current shelter placement, and they will be needlessly uprooted while creating a heavier workload for the Arrival Center.
- **Fourth, this policy creates additional barriers for any new arrival who requires an accessible placement.** We have not been provided with data to show how many new arrivals have accessibility needs, but the City has confirmed that such individuals are not exempt from this policy. Depending on the nature of the disability, having to return to the Arrival Center alone could be challenging. Further, given the limited number of accessible placements within the emergency shelter system, requiring someone to exit a placement without the guarantee of a new placement that meets their accessibility needs is unconscionable and would run afoul of the City’s legal obligations to accommodate clients with disabilities.
- **Finally, such limitations, particularly without guarantees of ongoing placement, raise legal concerns.** No individual residing in shelters operated by DHS is limited to a 60-day placement. To impose such a limit for individuals simply because they are residing in a non-DHS facility and based on their country of origin and familial status raises legal concerns. At a minimum, it would invite scrutiny of any efforts by the City to steer single adult migrants to non-DHS facilities, if such a move is being done solely to prevent them from having the protections that apply to other DHS residents .

#### Reforms available to the City to reduce the shelter census

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<sup>1</sup> Available at <https://www.coalitionforthehomeless.org/wp-content/uploads/2023/06/StateoftheHomeless2023.pdf>

Rather than limit shelter stays for any population, the Mayor should be taking steps to increase shelter capacity. The most effective way to do so is to move people from shelters into permanent housing. The City has many tools at its disposal to do so that it has failed to fully implement, including:

- **Provide more robust case management to determine if recent arrivals have other resources:** the City has failed to offer any case management to most recent arrivals in City shelters. City officials have reported to us that, in recent conversations with recent arrivals who have been called in for meetings to discuss their service needs, a large percentage of people report that they would have other places to live if they can get assistance with services, such as NYC ID or re-ticketing to other jurisdictions. Others may be eligible to apply for work authorization now and need assistance.
- **Expand City FHEPS to clients with a wider range of immigration statuses:** the City has the authority to expand the City FHEPS voucher program to enable clients with a wider range of immigration statuses who have languished in shelter for years to use the voucher to move into permanent housing.
- **Rebuild and grow the source of income 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 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, but it lacks adequate staffing. 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 unhoused New Yorkers experiencing discrimination.
- **Train shelter staff on how to screen for benefits eligibility:** many clients in the City's shelter systems may have had a change in their immigration status that impacts their benefits eligibility (including eligibility for housing vouchers) since they entered shelter. However, even at sites where case management services are available, shelter staff lack the expertise to properly screen for those changes.
- **Increase staffing to timely move people out of shelter with the existing City housing voucher programs:** Legal Aid and the Coalition receive daily calls from clients in shelter who have found apartments to rent but they cannot move out of shelter because of the City's failure to timely process their housing voucher paperwork, largely due to staffing shortages. Clients often wait weeks or months to move out of shelter due to administrative delays.
- **Immediately use the 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. While the City reports they are working on a plan to use these funds, they have yet to implement it.

- **Prioritize immigration legal services for those clients with the most pressing deadlines:** under federal law, asylum-seekers in the United States have one year from their date of entry into the country to submit an application for asylum. Currently, the City is not using date of entry to prioritize who receives immigration legal services (including when clients are referred for services from the pro se clinics the City recently set up), which will result in many recent arrivals losing their opportunity to apply for asylum.
- **Provide more funding for full representation for immigration providers:** the asylum application process is complex, and any submissions made in that application will be difficult to amend at a later date. It is a challenging process for individuals to navigate successfully without the assistance of an immigration attorney, but the demand for immigration legal services providers far outweighs the current capacity of legal services providers. This is particularly critical for those on expedited “dedicated dockets” in Immigration Court proceedings. For asylum applicants, most will not receive their work permit in enough time to benefit from them before their final hearing in Immigration Court. Full legal representation is the best chance of being granted asylum and becoming self-sufficient.
- **Target short and long-term opportunities for the City to help recent arrivals obtain work permits, such as:**
  - screening for humanitarian parole status, which provides an immediate pathway to work authorization concurrent to the length of the parole;
  - collaborating with workers’ rights advocates to screen for labor abuse and trafficking for those who are already working. This would provide another pathway for work authorization;
  - continuing to advocate with the federal government for the re-designation of TPS for Venezuela, so that those who entered after the current cutoff date of March 8, 2021 could also be eligible for accompanying work authorization;
  - advocating for TPS equity for black migrants as well. This could be especially beneficial for the single adults in shelter who are being targeted with this 60-day limit; and
  - incorporating immigration legal information and education as part of the intensive case management for those receiving 60-day notices.

Rather than focus on these measures which could have mitigated the high shelter census that predated the current influx of new arrivals, the Mayor has taken the misguided step of attempting to limit shelter stays to 60 days and putting a vulnerable population at even greater risk.

#### Measures the State should take to assist new arrivals

We continue to advocate for Governor Hochul **to address the influx of new arrivals, by immediately:**

- Expanding resettlement of new arrivals by reaching out to mayors/county executives throughout the State to not only encourage them to receive new arrivals, but to help coordinate such relocation.
- Invoking New York Executive Law 29-a or other applicable law to invalidate executive orders in Counties that have refused to accept new arrivals; alternatively, the State should intervene in pending cases to overturn executive orders.
- Identifying other State-owned facilities throughout New York State that may be able to serve as housing for new arrivals.
- Permitting resettlement of families with school age children (5 years old or older) outside of NYC.
- Enforcing the right to shelter access statewide so that new arrivals can seek shelter throughout the State.
- Continuing efforts to secure work authorizations.
- Establishing and funding a financial assistance program for immigrants with disabilities to the extent not otherwise in place. (In California, certain seniors and immigrants with disabilities are eligible for CA's form of SSI, known as Cash Assistance Program for Immigrants (CAPI)).
- Funding a rent subsidy plan for undocumented individuals who remain long-term.

**The State must also take immediate steps to reduce the underlying City shelter census by addressing the drivers of homelessness for New Yorkers by:**

- Increasing the State-set public assistance rent allowance and/or providing a rent supplement to meet the FMR for all populations so that the rent allowances are aligned with the housing market in NYC.
- Reversing the State clawback on the Rent Supplement Program.
- Releasing the \$400 million for rent subsidies authorized in previous budgets.
- Ending the prison-to-shelter pipeline by ensuring effective reentry planning for individuals being released from State prisons.

The Mayor and Governor must work together to meet their moral and legal obligations to provide emergency shelter for all who are in need and to ensure that no one is relegated to sleeping on the streets, exposed to the elements.

#### 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 Wi-Fi 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 Wi-Fi 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.