



Testimony of
Coalition for the Homeless
and
The Legal Aid Society
on
**Oversight – DSS Manipulation of Monthly Eligibility Rate Reporting and
Intros. 0210-2024 and 0349-2024**
presented before
New York City Council Committee on General Welfare

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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 Committee on 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 issues related to shelter for both long-time New Yorkers and new arrivals.

New Arrivals and the Right to Shelter

The members of the Committee on 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 in the spring of 2022 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 this committee on June 21st and again on August 10th, 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 provides shelter to roughly half of the 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.

In the fall of 2022, 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 for single adults and adult families are large congregate sites, often in climate-controlled tents, but they also include former office buildings and repurposed hotels. HERRCs for families with children are largely in hotels, but the City is also sheltering them in two “semi-congregate” sites (a series of large tents at Floyd Bennett Field and a repurposed commercial space on Hall Street in Brooklyn). 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 empty and unfinished buildings and gyms). However, new arrivals now stay at these sites for weeks. The City has opened a small number of faith-based sites, which serve small numbers of new arrivals but are only open in the evening hours.

Because the HERRCs, respite centers, and faith-based sites 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.

Time Limits on New Arrival Shelter Stays

This past July, the Mayor announced the City would impose 60-day limits on shelter placements for adults. In September, he shortened that time limit to 30 days for adults. Then, in October, he announced that placements for families with children in HERRC sites would be subject to 60-day limits.¹ Despite these time limits, the *Callahan*, *Eldredge*, and *Boston* consent decrees remain in place, and there continues to be a right to shelter in New York City. However, last May, the City requested to modify the *Callahan* consent decree *in such a way* that would have effectively eliminated the right to shelter for single adults. The City amended its request to modify *Callahan* again in July, and then in October. The most recent request asks the Court to modify the right to shelter for single adults so that only adults eligible for public assistance would be eligible for shelter. If granted, that standard would result in mass street homelessness on a scale that New York City has never seen. It would result in shelter denials for new arrivals and longtime New Yorkers alike, including New Yorkers working low-wage jobs or those receiving disability income. The parties are now engaged in court-ordered mediation, and we remain committed to ensuring that people without homes have a safe and decent place to sleep inside.

While new arrival families with minor children must reapply for shelter at the end of 60 days at the Arrival Center at the Roosevelt Hotel, single adults and adult families are directed to the Re-ticketing Center at the former St. Brigid School in the East Village at the end of their 30-day shelter placement. The site is only open from 9am until 7pm. At this site, the individuals are first offered the option to be reticketed to a destination of their choice outside New York City. If they do not accept reticketing, they are placed on a waitlist for another bed in the shelter system. The City has been and continues to fail to provide beds to hundreds of people there on the day they reapply. The average wait time for a single adult man to gain access to another shelter bed is currently over a week. However, many new arrivals have waited much longer.² The wait times for single adult women and adult families are slightly lower, but still many days. In the meantime, the City directs anyone not assigned a bed to an “overflow site” or “waiting room.” There are currently five such sites, but none of them are close to St. Brigid. At these sites, new arrivals are only allowed inside from 8pm until 6am. No beds are provided, just chairs. There are no meals, just snacks (which are generally decried as both insufficient and barely edible), and no showers. Many new arrivals choose to sleep on the streets or in the subway instead while they wait for their number to be called at the Re-ticketing Center.³ However, they must return to the Re-ticketing Center daily to check if their number has been called for a bed, making it extremely difficult to maintain any type of employment they might have or keep important appointments.

The Coalition and Legal Aid believe the City should focus on case management, rather than arbitrary time limits, to promote the resettlement of new arrivals. Arbitrary time limits that fail to

¹ The 60-day limits do not currently apply to new arrival families with children in Department of Homeless Services shelters.

² See <https://www.propublica.org/article/bused-from-texas-to-nyc-immigrant-struggles-to-find-shelter>.

³ See https://www.curbed.com/article/nyc-migrants-shelter-stories-st-brigid-church-reticketing.html?origSession=D230918EgrmHXTs1mMiuGoLXfuLuLkEn1Or8b1jYDf5PT99W18%3D&_gl=1*_w2gps7*_ga*OTcyNzM4MTU2LjE3MDkxNDc3ODk.*_ga_DNE38RK1HX*MTcwOTE0Nzc4OS4xLjAuMTcwOTE0Nzc4OS4xLjE3MDkxNDc3ODk.*_ga_5MS41OC4wLjA.

consider each individual's unique situation de-stabilize a population that has already experienced immense trauma. The Coalition's annual *State of the Homeless*⁴ report has noted how lack of predictability can exacerbate trauma for unhoused individuals in the shelter system. This arbitrary time limit, coupled with the horrific and degrading "reticketing" process that single adults and adult families must endure in the effort avoid having to sleep on the streets in the dead of winter compounds the trauma new arrivals have already experienced on their journeys to the United States. For families with children, the process of moving every 60 days removes any stability the family might have gained and risks the children having to change schools if they are moved to a site too far from their current school. It would be both more humane and cost-effective to help connect new arrivals to permanent housing and stability so that they can focus on their asylum applications and employment.

Reforms available to the City to reduce the shelter census

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, despite our repeated requests, including:

- **Provide more robust case management to help connect new arrivals to the resources they need to resettle outside of shelter:** until very recently, the City has failed to offer robust case management to most recent arrivals in City shelters. However, City staff have reported to us that case management is the best tool to help new arrivals become self-sufficient and leave shelter.
- **Expand CityFHEPS to clients with a wider range of immigration statuses:** the City has the authority to expand the CityFHEPS 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.

⁴ Available at <https://www.coalitionforthehomeless.org/wp-content/uploads/2023/06/StateoftheHomeless2023.pdf>

- **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 have 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 July 31, 2023 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 disproportionately impacted by the current 30-day limit; and
- incorporating immigration legal information and education as part of the intensive case management for those receiving 30/60-day notices.

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, including expanding the number of counties where new arrival families can use the MRAP program.
- Increasing the length of rent commitment in MRAP to up to 24 months, to increase landlord participation and give households sufficient time to stabilize.
- Provide more effective marketing strategies to enroll new arrival families in MRAP.
- 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.
- 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.
- 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.

Intro. 0210-2024

As stated above, the City should focus on individualized case management, rather than arbitrary time limits to promote the resettlement of new arrivals into safe and stable housing outside of shelter. Arbitrary time limits de-stabilize a population that has already experienced immense trauma. For single adults, the arbitrary time limit, coupled with the dehumanizing reticketing process, makes it even more difficult for them to take the steps needed for self-sufficiency (such as maintaining or looking for employment, getting necessary certifications like OSHA training, working on their asylum applications, or connecting with service providers). The 60-day time limits for families with children risk school-aged children losing one of the main stabilizing forces in their lives: school. Frequent relocations often cause disruptions in a child's schooling that negatively impact academic development.⁵ Even though the City is successfully placing most families with children in grades K-6 in the borough of their youngest child's school when they reapply, there is no guarantee they will be able to continue to do so going forward, and the new placement may still be a long commute to school compared to the original placement. For those new arrivals who have filed for asylum, the process of moving every 30 or 60 days greatly increases the chance important mail regarding their immigration cases will be lost, which could have disastrous consequences.

Intro. 0349-2024

We support Intro. 0349-2024, clarifies the data reporting required by Local Law 34. As we stated in this Committee's December 7th hearing regarding Intro. 1153-2023, sweeps negatively impact those who are unhoused and only serve to disperse and traumatize them without providing the critical resources they need to transition into a more stable housing situation. Encampment sweeps and involuntary detention should cease and be replaced with policies that accord people the dignity to which they are entitled and the housing that they need. For these reasons, we support the bill as the data provided will allow us to demonstrate the ineffectiveness of sweeps. In addition, it will highlight that the financial and human cost of removals far outweigh the costs of investing in other solutions such as those outlined above.

DSS Manipulation of Monthly Eligibility Reporting Data

The Department of Investigations report regarding failures to disclose violations of the law and manipulation of monthly reporting data reveals a disturbing cover-up by the City to hide the number of Right to Shelter violations it amassed in the summer of 2022. We are extremely troubled by the City's actions, and by the finding that the City manipulated shelter eligibility data for families with children. We are grateful to the City Council for taking our recommendation to hold this oversight hearing in response to the report. We urge the Council to work towards

⁵ According to figures released by the National Center on Homelessness and Poverty it takes students 4-6 months to recover academically from each school change. National Law Center on Homelessness and Poverty. Educating Homeless Children and Youth: A Guide to Their Rights, 2007 at <http://www.nlchp.org/content/pubs/PowerPoint%20Presentation%20Extended1.ppt>.

Moreover, unscheduled school changes in the middle of a school year were identified as particularly detrimental to achievement. See Rumberger, R. W., Larson, K. A., Ream, R. K., & Palardy, G. J. Policy Analysis for California Education: The educational consequences of mobility for California students and schools. 61 Berkeley, CA (1999).

legislative solutions to guarantee that PATH is processing families in a timely fashion and placing them in appropriate shelter, that records are accurately kept to ensure the integrity of the data reported to the public, and that the City is complying with their legal and moral mandate to provide shelter to homeless families with children who seek it.

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 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.