

Testimony by the New York Legal Assistance Group,
Oversight - Long-standing NYC Shelter Intake
Issues and the Recent Increase in Asylum Seekers,
Before the New York City Council Committee on General Welfare

August 9, 2022

Deputy Speaker Ayala, Council Members, and staff, good morning and thank you for the opportunity to speak to the Committee on General Welfare on long-standing shelter intake issues and the recent increase in asylum seekers. My name is Deborah Berkman, and I am the Coordinating Attorney of the Shelter Advocacy Initiative at the New York Legal Assistance Group (NYLAG).

NYLAG uses the power of the law to help New Yorkers experiencing poverty or in crisis combat economic, racial, and social injustices. We address emerging and urgent needs with comprehensive, free civil legal services, financial empowerment, impact litigation, policy advocacy, and community partnerships. We aim to disrupt systemic racism by serving clients, whose legal and financial crises are often rooted in racial inequality.

The Shelter Advocacy Initiative at NYLAG provides legal services and advocacy to low-income people in and trying to access the shelter system. We work to ensure that every New Yorker has a safe place to sleep by offering legal advice and representation throughout each step of the shelter application process. We also assist and advocate for clients who are already in shelter as they navigate the

transfer process, seek adequate facility conditions and resources for their needs, and we offer representation at fair hearings.

NYLAG also houses the Immigrant Protection Unit (IPU), a unit I work collaboratively with. Dedicated to social justice, the IPU provides New York City's low-income immigrant communities with comprehensive and multifaceted consultations, direct legal representation, legal clinics and an array of educational workshops and presentations. The IPU provides a wide range of immigration legal services including citizenship, adjustment of status, VAWA, U-visas, asylum, removal defense and many other areas. Through its services, the IPU seeks to broaden and improve access to quality legal representation and, through an integrated approach to immigration, to address the social welfare needs of New York's low-income immigrant communities. The cornerstone of the IPU's outreach, education, and advocacy efforts is to empower and help New York's immigrant communities to overcome their unique hardships.

I have worked with numerous single adults and families trying to access the Department of Homeless Services ("DHS") shelter system. In recent weeks, there has been a major influx of single adults and families fleeing violence in Venezuela and Colombia seeking shelter in New York City. On their journeys, they have experienced horrors too numerous to count, and when they arrive in New York City, they are most often re-traumatized by DHS' intake and eligibility process. Based on my experiences working with them, I appreciate the opportunity to offer the following comments.

a. Families Fleeing Horror in their Native Countries are Subject to Mistreatment By DHS

In recent weeks, numerous families who have recently sought asylum in the United States from Venezuela and Colombia have contacted me for shelter advocacy. All of them have traveled great distances, much of it on foot, to escape the unspeakable horrors they face in their home countries. All of them have waited extreme lengths of time at the DHS intake center for families with minor children, called the PATH family intake center, before they were assigned a shelter, some of them sleeping there for days. All of them report very few employees at PATH who speak Spanish or are willing to use an interpreter or language line (instead, they speak to them in English, which they do not understand). All of them report appalling conditions at the shelter they have been assigned, including a lack of water and diapers, and staff who subject them to harassment, mockery and racial slurs.

One NYLAG client, Ms. M., was forced to flee Colombia with her husband and two small children because an aggrieved business associate of her brother's had threatened to set her street vendor business on fire and murder her and her children. The family had a harrowing journey through Mexico during which they were robbed of all their money and Ms. M had to run with her children strapped to her body so they would not be separated. When the family reached the United States border, Ms. M. and her husband were separated and sent on separate planes to New York City. When reunited at the New York airport, an airport staff member found Ms. M. crying with her malnourished children, one of whom had a fever, and sent her to the PATH intake. Ms. M. and her family slept in the PATH intake office for two nights on chairs

before they were finally assigned to a shelter. Once in shelter, staff refused to provide her with formula for her baby or soap for the family to bathe. One time, when Ms. M. asked the staff for diapers for her baby, she was told that she should go to work and buy them herself. Ms. M. reports that such comments are a routine part of her life at the shelter.

Similarly, when NYLAG client Ms. Y and her husband and son arrived in New York after an agonizing journey, they spent three days and two nights sleeping in chairs at the crowded PATH intake center. They report that no one at PATH spoke or understood Spanish and they were given very little information about the intake process. Ten days after they were finally sent to a shelter, they were then told they had been found ineligible and had to go back to the PATH intake center to reapply. They were not informed they could do so over the phone, so they spent another 16 hours at the PATH intake center before being reassigned to the same shelter. At that shelter, Ms. Y reports that she was often not provided with drinking water, particularly at night. She also reports that most of the staff does not speak Spanish and does not try to get a translator when speaking to her, and that staff insensitively ask her for her green card every day (which she does not have, and she has told them she does not have).

Another NYLAG client, Ms. V., left Colombia with her baby because her family was being hunted down by a drug cartel in her hometown. Ms. V's husband is a police officer and he stopped one of the cartel's drug shipments. Ms. V's family moved to a number of locations in Colombia and the cartel continued to find them. Ms. V.

determined that she could not risk her son's life by staying in Colombia and she was forced to leave without her husband. She made her way to the United States Border by plane and then on foot and took a raft with her baby across the Rio Grande/Bravo River. Once they arrived at the PATH intake center, Ms. V. and her baby slept there in a chair for one night before they were assigned a temporary shelter placement. The shelter frequently fails to provide diapers or sufficient water, which is particularly problematic as Ms. V.'s baby is malnourished from his journey and without sufficient water, she cannot nurse him. Ms. V. was found ineligible for shelter for failing to report to an appointment that she did not know had been scheduled for her. This misunderstanding caused her and her baby to have to return to PATH and wait again to be reassigned shelter, and then to have to move rooms when she was reassigned to the same shelter.

Another NYLAG client, Ms. B., and her husband and two children fled Venezuela because of extremely dangerous conditions. It took them approximately two months to get to the United States through Panama, Costa Rica, Nicaragua, Honduras, Guatemala, and Mexico. Much of that journey was traversed on foot and by boat or raft through the jungle. While in Colombia they were targeted with gunfire repeatedly by the Colombian Coast Guard but managed to pacify them with money. When Ms. B.'s family finally reached the United States, a church bought them plane tickets to New York City, and, upon arriving, they applied for shelter at the PATH intake center. The family was forced to sleep on chairs at PATH for four nights until they were given a shelter assignment. Ms. B. reports that at her current shelter, she is

often not given diapers and only intermittently provided drinking water, and is mocked and harassed by staff.

NYLAG client Ms. P., her husband and their five children had a similarly torturous journey from Venezuela and eventually were given a temporary placement in a DHS shelter. However, a few days after being placed there, they were awoken at 1:00 AM and told they had to leave by staff who had been hostile to them since their arrival. They were not given written or oral notice of why they had to leave, nor any information on how they could reapply. This family wandered the streets in over 90-degree heat with their five children from 1:00 AM until 1:00 PM the next day, when I found them and sent them back to PATH to reapply for shelter. Upon returning to PATH, they found out that they were incorrectly ejected from shelter and that the staff had taken it upon themselves to eject the family. Ms. P.'s family continues to face harassment from the staff at the shelter and is frequently subjected to xenophobic comments.

The client stories I have shared have much in common: a traumatic danger-filled journey to escape life threatening conditions in their home country, being forced to stay at a PATH intake center for extended periods of time waiting for shelter placement, xenophobic treatment once the family enters shelter, and insufficient water and supplies within the shelter. DHS must immediately ensure that all families are promptly processed through PATH and families should not have to sleep there overnight or over multiple nights. Moreover, all shelters must have adequate Spanish-speaking staff or available translation services, and they must

provide sufficient food, water and crucial supplies such as diapers. Finally, staff must be trained on cultural competency and aggression toward shelter residents must be immediately rectified.

b. Urgent Immigration Assistance and Counsel Needed

NYLAG is grateful to have been at the table in several conversations with city agencies and other providers these past several weeks regarding this emergent situation. We are also grateful to the city and DHS for dedicating resources to a City Sanctuary Intake Facility to address the emergency needs of families.

In addition to the substantial social service needs, recently arrived asylum seeking families are also in need of urgent immigration assistance and counsel. Many of these families are being placed on a quickly moving dedicated immigration court docket, with hearings scheduled just weeks after their arrival to the U.S., giving them insufficient time to seek assistance and prepare their asylum claims. We have seen families who arrived to the U.S. in late July already scheduled for final hearings in early November. It is unclear why they are not being processed through the new, more generous asylum practices, and if they are being afforded their full due process rights. Further, it is concerning that many of the notices of hearings are being sent to non-governmental organizations and shelter addresses prone to change, with little hope of actually reaching the families to notify them of their court dates.

NYLAG clients benefit from our office's ability to provide holistic representation. For recently arrived asylum-seeking families, we address their immediate legal needs, such as access to shelter. We also screen them for public

benefits eligibility, including health care, and provide advocacy and representation at administrative fair hearings to access and maintain these benefits. With adequate resources, NYLAG's IPU could screen for immigration relief and potentially provide representation. We have several other practices that can help address the host of civil legal needs that this vulnerable population faces. Unfortunately, we lack the capacity to serve all clients that come through our intake.

NYLAG requests that the City Council and the Mayor's Office of Immigrant Affairs dedicate new funding and programmatic support to legal service providers and community organizations who have already stepped in to address this urgent need. New York City welcomed displaced Ukrainians who arrived in New York in the immediate aftermath of Russia's invasion, and who continue to seek refuge in the U.S., and provided both emergency and longer-term support to triage legal issues, offer cash assistance and social services, and articulated a welcoming message. To do any less for asylum-seeking families from other areas of the globe would be shameful. Our city has a robust legal and social service network adept at responding to emergent issues and providing culturally and linguistically competent services to vulnerable populations. We ask that the City Council respond with parity to this crisis as they have to others.

c. The Intake Eligibility Process for Family Shelter Itself is Traumatic for all Clients

It is very likely that when families find themselves homeless, they have already experienced very real trauma, including trauma stemming from the sudden

or gradual loss of one's home.¹ Moreover, many people experiencing homelessness, particularly women, become homeless after experiencing physical and sexual abuse and its consequent psychological trauma.² Most of my clients report that the application process for family shelter only exacerbates this trauma.

In New York City, the application process for family shelter is extremely onerous. Families must provide a complete history of all the places they have lived for the last one to two years, as well as third-party contacts to verify that the family actually lived in those locations (this may be an impossible feat for asylum-seeking families, many of whom have been traveling for months). If the verification contacts provided do not answer the phone, or DHS cannot speak with them within 10 days, then the client is found ineligible for shelter for “not cooperating” with the investigation and the family must reapply for shelter. Prior to COVID-19, when families applied for shelter, every family member had to be present for the 10-20 hours the initial application took.

Reapplying for shelter entailed restarting the process from the beginning by having the family return to the intake site and spend another 10-20 hours completing a new application for shelter, typically identical to the prior application, and then waiting on-site for a new temporary shelter placement³. Prior to COVID-19, this happened frequently to my clients, and, for some families, they would have to return

¹ *Homelessness as Psychological Trauma*, Lisa Goodman, Leonard Saxe (1991)

² *Id.*

³ While children technically did not have to be present for subsequent applications, because the applications took so long children most often had to come along, as their parents would not be able to leave the intake process to pick them up at school.

to the PATH intake center every 10 days for months before DHS could verify their housing history. In fact, most applications for family shelter are denied. In August of 2021, almost 10% of families with children who were found eligible for shelter had previously submitted six or more applications. And in that same month, only 23.5% of applications for family shelter were deemed eligible. Each of the families that submitted these applications was subjected to substantial administrative churn, the impact of which I will discuss later.

While state regulations mandate some of the eligibility investigations, if DHS performed them in a different way (for instance, complying with its duty to assist the applicant in obtaining necessary documentation), the process would be much more efficient, and it would allow eligible homeless families to obtain shelter and stability more expeditiously. The current approach of investigating every aspect of our clients' applications for shelter, and the repeated denials necessitating reapplication is extremely traumatic for these struggling families and a waste of government resources. If a family was not, in fact, homeless, they would not seek to enter the shelter system. Single adults do not have to go through onerous eligibility determinations to ensure that they are actually homeless, and families should not either.

d. If Eligibility Verification Is Deemed Necessary, Families Must Be Permitted to Reapply from Within Shelter

During COVID, intake rules have been relaxed so that after the initial application for shelter, families can reapply over the telephone from their temporary placement, so they do not constantly have to be physically displaced. In the past,

reapplication required leaving the temporary placement. DHS says this is only a temporary easement during COVID. This policy must be codified to reduce the disruptive impact on families seeking shelter.

Prior to COVID, those families who had to reapply for shelter every 10 days were the lucky ones, as they were awarded new 10-day placements and did not need to sleep outside. In contrast, if a family was found ineligible because DHS determined that a past address had enough room to house them, and the primary tenant at the address did not provide what DHS deemed a “reasonable justification” for failing to take them in, DHS would find the family ineligible for shelter because they had an alleged “available housing option.” DHS makes such a finding even when it is informed by the primary tenant that the applicant family is not permitted to stay there. In this circumstance, DHS would not provide another emergency conditional placement to the applicant for 30 days. As a result, prior to the pandemic, homeless families (even those with small children) were left to sleep on the street, in hospital emergency rooms, or on the subway. This policy caused families to be without shelter, a condition that was always dangerous, even prior to COVID. During COVID, these families have been allowed to reapply from within shelter and are not prohibited from getting a new emergency placement. This humane policy change must also be codified to prevent children from once again having to sleep on the street.

e. The Cycle of Application, Denial, and Reapplication Causes Homeless Families Considerable Harm

Even when a family is permitted to re-apply from within shelter, they still experience significant harm from repeatedly being found ineligible. Because the circumstances underlying the shelter applications have not changed, families must still reapply for shelter (from within shelter), often to be found ineligible again, approximately every 10 days. Families become entrenched in a continuous cycle of application, denial, and reapplication. This cycle of application, denial, and reapplication causes considerable harm even absent children being forced into street homelessness.

First, homeless families know that the current policy of allowing them to reapply from within shelter is not permanent and that it can be reversed at any time. These families live in fear of the date that they will be thrown out to live on the street.

Second, the application process (which takes place every 10 days) is time consuming and often emotionally fraught, exacerbating an already traumatic experience for homeless families. For each application and reapplication, a family is required to provide a “two-year housing history” listing each address where the family has lived during the prior two years and contact information for the third-party owner or primary tenant at each address. In cases where a family has been street homeless, the family is required to account for their whereabouts for each day during the prior two years, primarily by providing statements from witnesses who observed the family “living” at those locations, such as an automobile, subway car or public park. DHS attempts to contact, or re-contact, each owner, primary tenant, or

witness in connection with each application or reapplication. Repeated calls by the DHS can negatively impact a homeless family's relationships with family and friends. In cases where a family has left an address due to conflict at the premises, outreach from DHS can worsen the situation. In other cases, those who have housed a homeless family in the past or provided witness statements may feel irritated or harassed by repeated calls and visits from DHS and simply decide not to cooperate in the future.

Third, families who are deemed ineligible for shelter are not eligible for the programs that assist homeless families transition to permanent housing (particularly the City FHEPS rental assistance supplement). Without this assistance, families are unlikely ever to gain the means to leave the shelter system and thus the ineligibility finding effectively traps them in the shelter system. This is particularly problematic because life in a shelter takes an enormous toll on the wellbeing of a homeless family. Most often families will not be placed near family support or in a familiar neighborhood. Children are often required to commute for hours or transfer to new schools, and family members must travel long distances on public transportation to continue treatment with trusted doctors and therapists. Periodic shelter transfers render it impossible for a family to achieve stability by establishing roots and becoming part of a community and are particularly destabilizing for children.

The goal of all families in the shelter system is to transition to the stability of permanent housing which is almost impossible without a finding of eligibility. DHS must assist clients to obtain documentation needed to prove eligibility, and DHS must

not find families ineligible because a third-party has not provided a “reasonable justification” for refusing to house the family.

f. DHS Single Adult Intake Process Is Also Traumatic and Prevents People Experiencing Homelessness from Accessing Shelter

The intake procedure to enter DHS Single Adult shelter can take up to two days, with most of that time spent waiting in crowded waiting rooms. Clients are told if they leave, they will need to start the process over again. Often clients report not being fed and thus unable to take essential medications. Clients report that staff at intake centers are verbally aggressive and demeaning towards shelter applicants. Clients with disabilities are often not accommodated, particularly those with mental health disabilities. Many of my clients report that DHS police officers at intake centers are physically aggressive (and a few clients report having been beaten by DHS police officers). Some clients experiencing street homelessness are willing to enter congregate shelter if they could participate in the intake process over the telephone, but DHS will not allow this.

Several aspects of the intake process need to be changed: 1- all intake staff must be trained in trauma-informed practices and de-escalation, 2- clients should be given timed appointments between which they can leave the intake center, 3- clients who self-identify as having disabilities should be awarded immediate presumptive provisional accommodations (without medical documentation) so they can get through the intake process, 4- telephone intake must be offered, and 5- clients should be offered food and drink on demand during the intake process, not only at specific times.

We thank the Committee on General Welfare for the work it has done to facilitate services for vulnerable New Yorkers, and for taking this opportunity to continue to improve the conditions for our clients. We hope we can continue to be a resource for you going forward.

Respectfully submitted,

New York Legal Assistance Group