

Testimony by the New York Legal Assistance Group in Support of

Int. 942-2023, Int. 943-2023, Int. 1095-2023, Int. 1072-2023,

Int. 1096-2023, Int. 1080-2023, and Int. 1084-2023,

Before the New York City Council Committee on

General Welfare and Committee on Immigration

June 21, 2023

Deputy Speaker Ayala, Chair Hanif, Council Members, and staff, good morning and thank you for the opportunity to speak to the Committees on General Welfare and Immigration on legislation impacting immigrants experiencing homelessness and financial insecurity. My name is Deborah Berkman, and I am the Supervising Attorney of the Shelter Advocacy Initiative and the Public Assistance and SNAP Practice at the New York Legal Assistance Group (“NYLAG”).

NYLAG uses the power of the law to help New Yorkers experiencing poverty or in crisis to 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 residing in and trying to access homeless shelter placements in New York City. 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 offer representation at administrative Fair Hearings. The Public Assistance and SNAP Practice represents clients having trouble accessing or maintaining Public Assistance and SNAP benefits. We represent these clients at administrative Fair Hearings, conduct advocacy with the Department of Social Services (“DSS”), Benefits Access and SNAP centers, and bring impact litigation to ensure that our clients are obtaining and maintaining an adequate level of benefits.

I have worked with numerous families experiencing homelessness who are seeking shelter in the Department of Homeless Service (“DHS”) shelters, and with numerous single adults and families who have recently crossed the southern border to seek asylum in the United States. Based on my experiences working with these populations, I appreciate the opportunity to offer the following comments.

I- All Proposed Reforms to the Eligibility Process for Family Shelter are Essential

In New York City, the application process for family shelter is unnecessarily onerous and burdensome. When a homeless family with children finds themselves in need of shelter, they must present for intake at DHS’ Prevention Assistance and Temporary Housing (“PATH”) intake center in the Bronx. While there, the family must provide a complete history of all the places they have lived for the last two years, as well as third-party contacts to “verify” that the family actually lived at those locations. Even in cases where a family has experienced street homelessness, the

family is required to account for their whereabouts for each day during the prior years, primarily by providing statements from witnesses who observed the family “living” at those locations, such as an automobile, subway car, or public park. The family is then given a pre-investigative emergency 10-day placement while DHS attempts to “verify” the provided housing history. DHS attempts to contact, or re-contact, each owner, primary tenant, or witness in connection with each application. If the verification contacts provided do not answer the phone, or DHS cannot speak with them within 10 days, then the family is found ineligible for shelter for “not cooperating” with providing a “complete, accurate and verifiable housing history” and the family must pack up their belongings, leave their shelter placement, and reapply for shelter. Reapplying entails starting the process from the beginning by having the family return to the DHS 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 placement. This practice was briefly paused during Covid¹ **but DHS has stated that it will restart shortly**. For now, all reapplications should be occurring over the telephone.

Because reapplying for shelter can take up to 20 hours, and because families must resubmit the same documents and information that they submitted with their initial application, applicants are forced to miss work. They are also forced to keep their children “home” from school, since there is no way for a family to know whether they

¹ 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.

will be done with reapplication process in time to pick their children up. Once they have reapplied, the family is provided a new 10-day temporary placement while they wait for their reapplication to be reviewed. This new temporary placement is not guaranteed to be in the same location as their prior temporary placement. Since many families repeat this scenario successively every 10 days, it is nearly impossible for any family to plan commutes to school, work, and day care. The process endangers their jobs and their children's educations. Some NYLAG clients in this circumstance have been subject to Administration for Children's Services ("ACS") investigations based on educational neglect because their children were not able to attend school on a consistent basis, both because they had to spend one out of every 10 days in the PATH office and because they were then be assigned to a different location with no way to get to their current school.

Moreover, the application process is often emotionally fraught, exacerbating an already traumatic experience for homeless families. Repeated calls by DHS to attempt to verify housing history can negatively impact the applicant'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.

Additionally, families who are deemed ineligible for shelter are not eligible for programs that assist homeless families transition to permanent housing (particularly

the CityFHEPS rental assistance supplement). Without this assistance, families are unlikely ever to gain the means to leave the shelter system. The ineligibility finding effectively traps them in the shelter system. This is particularly problematic because life in 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.

This problem is extremely vast. Most applications for family shelter are denied. In April of 2023, for example, almost 3% of families with children who were found eligible for shelter had previously submitted **6 or more applications**.² And in that same month, only 39% of applications for family shelter were deemed eligible.³ The eligibility process is a tremendous waste of resources designed so that the City minimizes the provision of shelter to otherwise eligible homeless families. While state regulations mandate some of these 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 obtain shelter and stability more expeditiously. The current approach of investigating every aspect of our clients'

² https://www.nyc.gov/assets/operations/downloads/pdf/temporary_housing_report.pdf

³ Id.

applications for shelter and the repeated denials necessitating reapplication is extremely traumatic for these struggling families and a waste of government resources.

The bills being heard at today's hearing would greatly ameliorate this trauma. Int. 1072-2023 will reduce the housing history a family has to "verify" from two years to one year, halving the burden of documentation for families already in crisis. It would require DHS staff to upload all documents relevant to an applicant's housing history to a digital case record and communicate with an applicant about any missing documents through electronic methods, which would relieve applicant families the job of resubmitting the same application materials repeatedly and would give applicants a concrete understanding of what materials are missing from their applications. Int. 1072-2023's mandate that DHS to create an informational pamphlet listing examples of documents that could demonstrate proof of housing history and ensure that such pamphlet is disseminated would further ease the burden of the confusing application process by providing clarity for applicants. And Int. 1072-2023's requirement that families with children have at least thirty days in temporary shelter pending a determination of their eligibility would create stability for families so they do not have to spend one day out of every 10 reapplying, allowing them to avoid absences at school and jobs. All these common-sense reforms will lighten the burden and reduce the negative impact of the application process on already-traumatized families.

However, these changes to the eligibility process do not go far enough. Further legislation should be proposed mandating that in cases where clients are unable to provide documentary evidence or third-party witnesses to verify their housing history, applicants should be permitted to self-attest to their residence at that location. Many public benefits administered by this City allow self-attestation of aspects of eligibility (most notably certain SNAP requirements) and DHS should allow the same.

II- The HERRC Shelter System is Not Adequate, Asylum-Seeking Migrants Should Be Provided with the Same Level of Shelter and Services as all other People Experiencing Homelessness in New York City

In September of 2022, Mayor Adams created a new shelter system that did not comply with the minimum shelter guidelines mandated in New York City and did not provide its residents with assistance transitioning to permanent housing. These new shelters were called the Humanitarian Emergency Response and Relief Centers (“HERRCs”) and were charged **with providing shelter to only the newly-arriving asylum-seekers from over the southern border.**⁴ The HERRCs were tasked with “immediately offering shelter, food, medical care, case work services, and a range of settlement options including through connections to family and friends inside and outside of New York City, in addition to, if needed, the possibility of direct referrals to alternative emergency supports or city shelter.”⁵ As explained below, HERRCs do not

⁴ <https://www.nyc.gov/office-of-the-mayor/news/695-22/mayor-adams-humanitarian-emergency-response-relief-centers-further-support-asylum#:~:text=Humanitarian%20relief%20centers%20will%20become,City%2C%20in%20addition%20to%2C%20if>

⁵ Id.

offer all the protections and services of DHS shelter, and the city is failing these new New Yorkers by diverting them there.

The first HERRC was a literal tent complex on Randall's Island. People already living in the United States experiencing homelessness were provided with shelter inside actual buildings, but people arriving from Central and South America experiencing homelessness were provided with a outdoor tent.⁶ After intense criticism from immigrants' rights advocates and many members of this Council, the city closed the tent complex within a month.⁷ The residents were then moved into non-tent structures.⁸ However, since that time, HERRCs have been created in a cruise terminal⁹ and in school gymnasiums¹⁰, places that cannot support the needs of those living there. Thus, Int. 942-2023, which mandates that all congregate shelter provided by New York City meet the minimum standards set out for DHS shelter, is of critical importance.

HERRCs fail to meet the minimum standards for shelter in New York City by not providing residents with adequate food, not assisting residents with enrolling their children in school, and not providing access to medical care.. NYLAG clients report experiencing each of these inadequacies while at HERRCS. While some of these issues have abated, clients still report not having case workers and not being served hot

⁶ <https://citylimits.org/2022/11/10/mayor-adams-set-to-shut-down-randalls-island-tent-complex-for-asylum-seekers/>

⁷ Id.

⁸ Id.

⁹ <https://www.nyc.gov/office-of-the-mayor/news/176-23/mayor-adams-placement-two-new-humanitarian-emergency-response-relief-centers>

¹⁰ <https://nypost.com/2023/05/16/eric-adams-is-putting-nycs-kids-second-by-sticking-migrants-in-school-gyms/>

food. Also, and very troublingly, residents of the HERRCs are not eligible for the housing subsidies that allow families experiencing homelessness to transition to permanent housing, which they may be eligible for if they resided in DHS shelter and which can be the primary way for many shelter residents to obtain stable housing.

One family NYLAG represents, the P. Family, has a 4-year-old daughter and a 1-year-old son. After a difficult journey to the United States from Nicaragua, followed by time spent in ICE detention, they arrived in New York and were placed at a HERRC on November 2. The P. family's birth certificates were taken by United States Custom and Border Patrol and not returned. Because of this, HERRC staff incorrectly informed the family that their children could not be enrolled in school. The P. family was not provided with medical examinations and the P. children were not vaccinated. The P. family repeatedly requested HERRC staff help to enroll the 4-year-old in school and was incorrectly told it was not possible without a birth certificate.

The P. family had been living at the HERRC for over a month before they were connected to me. They explained to me that they were particularly concerned with enrolling their daughter in Pre-K so that she would have the opportunity for proper schooling and not fall too far behind. Luckily, I was able to advocate for this family so that they could enroll their daughter in school and obtain medical exams and immunizations. However, the HEERC was aware of this situation for over a month and did nothing to address these issues. In contrast, DHS has caseworker staff on hand in its shelters to support the residents. This failure would be very unlikely to occur at a DHS shelter due to the availability of case management. Moreover, the P.

family plans to stay in New York and would greatly benefit from a housing voucher to transition to permanent housing but is not eligible for one because they were funneled into a HERRC as opposed to a DHS Shelter upon arrival in New York City.

New York City takes the position that any person can present at intake for DHS shelter at any time if they want access to the benefits and services that DHS provides. None of my clients were told by staff at their HERRC that there was another shelter system available that would help them transition to permanent housing. Clients cannot access services that they do not know exist. Thus, Int. 943-2023, mandating that residents of HERRCs be informed of their right to be moved to DHS shelter, and providing them with transportation if necessary, is vital.

HERRCs should offer all the supports, services and protections that DHS shelters do, or, at very minimum, HERRC residents should explicitly be made aware that they are entitled to enter DHS shelter if they would like to access these additional services.

III- Public Benefits Eligibility Specialists are Key to Transitioning to Permanent Housing

NYLAG wholeheartedly supports the provision of public benefits eligibility specialists at every DHS shelter. As I have frequently seen first-hand, it is almost impossible for people to transition out of shelter and into permanent housing without public benefits and/or a rental subsidy (which in itself is a public benefit). Shelter staff, caseworkers, and even sometimes housing specialists, simply do not understand shelter residents' eligibility, particularly when those residents are immigrants. This lack of understanding causes people to languish in shelter for far too long. For instance, in City Fiscal Year 2022, the average length of stay in the DHS

shelter system was 509 days for single adults, 534 days for families with children, and 855 days for adult families.¹¹

I have seen time and time again situations where people are eligible for certain benefits and vouchers but cannot access them without finding a lawyer or paralegal to advocate on their behalf. The provision of public benefits eligibility specialists on-hand would be a great boon to access benefits and to reduce the length of stay for people in shelter.

IV- Searchable Information on Emergency Feeding Programs, Food Benefits Programs, and Senior Centers is Critical to Fighting Food Insecurity

Food insecurity affects a wide range of individuals in New York City. For example, food insecurity in New York City has risen 36% since the start of the COVID-19 pandemic, and currently 1 in 4 children in New York City are experiencing food insecurity.¹² Moreover, clients in DHS and HERRC shelters consistently report that the meals that they are served in shelter are too small to abate their hunger, consist only of cold food, and they are only allowed one portion. And even people who are SNAP eligible report not being able to buy enough food to last through the month. Adding searchable food resources in ACCESS HRA can only help this vulnerable population.

V- Mental Health Counseling and Trauma-Informed Care is Essential in Serving Southern Border Crossers

¹¹ <https://www.coalitionforthehomeless.org/basic-facts-about-homelessness-new-york-city/#:~:text=In%20City%20Fiscal%20Year%202022,855%20days%20for%20adult%20families.>

¹² <https://www.cityharvest.org/food-insecurity/>

I have worked with numerous single adults and families who have recently crossed the southern border to seek asylum in the United States. On their journeys, they have experienced horrors too numerous to count. All of them traveled great distances, much of it on foot, to escape the danger they faced in their home countries. Once arriving, they are often re-traumatized by their treatment at the shelters to which they have been assigned.

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 from their children 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. On one occasion, 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.

Ms. M., and those who have had similar experiences are desperately in need of mental health counseling and shelter staff that have been trained in a trauma informed approach. Thus, NYLAG enthusiastically supports Int. 1095-2023 requiring a mental health coordinator at any location where refugees, asylees, and migrants receive services and Int. 1084-2023 creating trainings on trauma-informed care for persons serving refugees, asylees, and migrants.

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