

Testimony by the New York Legal Assistance Group on
The Mayor's 60-Day Shelter Stay Limit for Adult Migrants
Before the New York City Council Committees on General Welfare and Immigration
August 10, 2023

Deputy Speaker Ayala, Chair Hanif, Council Members, and staff, good afternoon and thank you for the opportunity to speak to the Committees on General Welfare and Immigration on the Mayor's 60-Day shelter stay limit for adult migrants. 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.

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 experiencing homelessness who have come to the United States and sought refuge. Based on my experiences, I appreciate the opportunity to offer the following comments.

I- The Mayor's Policies Relating to Recent Immigrants in Shelter are Blatantly Discriminatory

New York City is a self-proclaimed "Sanctuary City", but ever since immigrants began to arrive in greater number in the spring of 2022, they have been afforded fewer rights and services by New York City than non-recent immigrants and arrivals from other states and countries. Despite the fact that shelter in New York City is legally mandated to be provided to every person, regardless of immigration status, the City has been consistently failing to provide, or providing sub-standard, shelter to recent arrivals since that time. For instance, last summer, NYLAG clients reported waiting extreme lengths of time at the Department of Homeless Services ("DHS") intake centers before they were assigned a shelter, some of them sleeping there for days. Clients also reported very few DHS employees who spoke Spanish, appalling conditions at the shelters, including a lack of water and diapers, and staff who subject them to harassment, mockery and racial slurs.

Then, in September of 2022, Mayor Adams created a new shelter system charged with providing shelter to only the newly-arriving asylum-seekers from over the southern border.¹ These new shelters, called the Humanitarian Emergency Response and Relief Centers ("HERRCs"), did not comply with the minimum shelter guidelines mandated in New York City, did not offer all the protections and services of DHS shelter, and did not provide its residents with assistance transitioning to permanent

¹ <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>

housing. The first of these shelters was a 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 an outdoor tent.² Since that time, the City has opened other emergency relief shelters in a cruise terminal,³ in school gymnasiums⁴ and in other places that cannot provide for the basic needs of residents. These shelters fail to meet the minimum standards for shelter in New York City by not providing residents with adequate food, not providing showers or areas to bathe, not assisting residents with enrolling their children in school, not providing access to medical care and generally not providing case management. NYLAG clients report experiencing each of these inadequacies while at non-DHS emergency relief shelters. Also, and very troublingly, residents of these non-DHS shelters are not eligible for the housing subsidies that allow people experiencing homelessness to transition to permanent housing, which they may be eligible for if they resided in DHS shelter and which is often 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 non-DHS emergency relief shelter on November 2. The P. family’s birth certificates were

² <https://citylimits.org/2022/11/10/mayor-adams-set-to-shut-down-randalls-island-tent-complex-for-asylum-seekers/>

³ <https://www.nyc.gov/office-of-the-mayor/news/176-23/mayor-adams-placement-two-new-humanitarian-emergency-response-relief-centers>

⁴ <https://nypost.com/2023/05/16/eric-adams-is-putting-nycs-kids-second-by-sticking-migrants-in-school-gyms/>

taken by United States Custom and Border Patrol and not returned. Because of this, shelter 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 shelter 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 non-DHS emergency relief shelter 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 shelter was aware of this situation for over a month and did nothing to address these critical issues. In contrast, DHS has caseworker staff in its shelters tasked with supporting residents with these types of issues and many more. 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 non-DHS shelter as opposed to a DHS Shelter upon arrival in New York City.

Initially New York City took 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. However, recently the City has enacted a policy that all recent-immigrants

and asylum seekers must present for intake at the Arrivals Center at the Roosevelt Hotel in Manhattan and are not permitted to present for intake at DHS intake sites. So, unless specifically referred to DHS sites by the staff at the Arrivals Center, recent immigrants are not permitted to access the DHS shelter system that provides greater supports and access to rental vouchers. Everyone who is not a recent immigrant is eligible for DHS shelter and all of the supports and services that come with it.

Not only are recent immigrants not permitted to present at DHS intake, the Arrivals Center is not able to physically accommodate the number of individuals trying to apply for shelter. Thus, recent-immigrant shelter applicants have had to sleep outside on the sidewalk while waiting in line⁵ (one day sleeping shoulder to shoulder spanning three full blocks) and sleeping in buses outside the arrival center.⁶ Now, the City is taking the position that recent-immigrants can only stay in shelter for 60 days, while all of the other people who need shelter may stay for unlimited time.⁷

It appears that the City has taken the position that the right to shelter does not extend to newly arrived immigrants. Recently arrived immigrants are not a legally distinct group and are not set apart from other migrants or other shelter residents due to the immigration status, manner of entry to the U.S., or posture of their immigration cases. The *Callahan*⁸ and *Boston*⁹ settlements do not exclude recently

⁵ <https://nypost.com/2023/07/31/migrants-sleep-outside-nycs-roosevelt-hotel-as-shelter-hits-capacity/>

⁶ <https://gothamist.com/news/migrants-in-nyc-sleep-in-buses-on-street-as-intake-center-runs-out-of-space>

⁷ <https://citylimits.org/2023/07/19/mayor-adams-puts-60-day-limit-on-shelter-stays-for-adult-migrants/>

⁸ <https://www.coalitionforthehomeless.org/wp-content/uploads/2014/06/CallahanConsentDecree.pdf>

⁹ <https://www.coalitionforthehomeless.org/wp-content/uploads/2014/08/BostonvNewYorkFinal.pdf>

arrived immigrants, and the right to shelter extends to all in New York City. There is no basis for this disparate treatment.

Any curtailment on the right to shelter for recent immigrants is nothing less than blatant discrimination. All people experiencing homelessness in our city are equally deserving of shelter, and as a sanctuary city, it is our duty to protect immigrants who seek refuge in our city and not turn them out on the street.

II- To Create Space in the Shelter System, the City Should Adopt Common-sense Reforms to Help Residents Transition to Permanent Housing

The City claims that it needs to limit (only immigrant) shelter stays to 60-days to create room in an overburdened shelter system. But the problem of low shelter vacancy rates existed long before the latest wave of immigrants arrived in New York City.¹⁰ For instance, for the week ending on November 5, 2021, the vacancy rate for families with children was only 1.3%, well below the standard vacancy rate of 5% DHS aims to maintain for the shelter system.”^{11 12}

And people have always languished in shelter for far too long. Even before the current wave of immigrants, transitioning from shelter to permanent housing was incredibly difficult and even then, the average length of stay for single adults and families in the shelter system was extensive. For instance, in City Fiscal Year 2022, the average length of stay in the DHS shelter system was 509 days for single adults,

¹⁰<https://nylag.org/dhsfoil/#:~:text=The%20data%20NYLAG%20obtained%20through,New%20Yorkers%20who%20need%20them.>

¹¹ https://nylag.org/wp-content/uploads/2023/03/DHS-Shelter-Projections-November-4-2021-January-10-2023_NYLAG-FOIL.pdf

¹² <https://www.thecity.nyc/2022/7/26/23279842/homeless-shelters-are-overflowing-and-most-likely-in-poor-areas-despite-fair-share-promises>

534 days for families with children, and 855 days for adult families.¹³ The numbers were unconscionable even before the mayor had immigrants to blame for overcrowding concerns. Shelter should only be a temporary occurrence to aid in the transition to affordable permanent housing, not a place where people languish for years. There are several common-sense approaches that would prevent people from having to access shelter and help people transition from into permanent housing and thus create space in shelter system.

A. Expand Access to Rental Vouchers

For the vast majority of my clients, the ability to transition to permanent housing is dependent on their eligibility for a rental subsidy. Not only should this council quickly implement the groundbreaking rental subsidy legislation (Introduction 878-A, 893-A, and 894-A) passed on July 13, such eligibility should be expanded to those not covered by current programs, including but not limited to expanding eligibility to undocumented immigrants.

B. Provide Adequately Staffed Housing Specialists and Public Benefits Specialists at Every Shelter

As I have frequently seen first-hand, it is almost impossible for people to transition out of shelter and into permanent housing without a housing specialist to aid them in their housing search, and access to a rental subsidy (which in itself is a crucial public benefit). Housing specialists are a vitally important resource for locating apartments and processing applications, and shelter staff and caseworkers

¹³ <https://www.coalitionforthehomeless.org/basic-facts-about-homelessness-new-york-city/#:~:text=In%20City%20Fiscal%20Year%202022,855%20days%20for%20adult%20families.>

are not able to keep up with the demand. Shelter staff and caseworkers often do not understand shelter residents' eligibility for rental subsidies, particularly when those residents are immigrants. This causes people to languish in shelter for far too long. Thus, housing specialists and public benefits eligibility specialists should be available at every City shelter.

C. Provide Adequate Staff at DSS to Process Rental Subsidy Applications and Oversee Timely Payments

The best way to create vacancy in the shelter system for people of all national origins is to assist rental subsidy holders to find and maintain apartments. But because of lack of adequate staffing at DSS, the process of getting an apartment approved for a rental subsidy is slow and overly burdensome for landlords and is often riddled with administrative errors. And even after an apartment is approved and the client moves in, clients report problems with DSS in that DSS often does not pay their rent on time, and sometimes will discontinue paying rent without notice to the client or the landlord. DSS is simply understaffed. We urge this Council to create legislation aimed at adequately staffing DSS.

We thank the Committees on General Welfare and Immigration for the work you have 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