



Testimony by the New York Legal Assistance Group,

Oversight - Protecting Lives in the Cold: Oversight of NYC's Code Blue Operations

Before the New York City Council Committees on General Welfare and Public Safety

February 10, 2026

Speaker Menin, Chair Hudson, Chair Feliz, Council Members, and staff, good morning and thank you for the opportunity to speak to the New York City Council on the oversight of NYC's Code Blue operations. My name is Graham Horn, and I am a Coordinating Attorney with the Shelter and Economic Stability Project in the Public Benefits Unit 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 and Economic Stability Project at NYLAG provides free legal services and advocacy to low-income people in and trying to access public shelter in New York City, and those having trouble accessing or maintaining Public Assistance and SNAP (food stamp) benefits. 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, assist and advocate for clients who are already in shelter as they navigate the transfer process, and seek adequate facility conditions and resources for their needs. We also represent clients at Administrative Fair Hearings, conduct advocacy with the Department of Social Services (“DSS”), Benefits Access Centers and SNAP centers, and bring impact litigation to ensure that our clients are obtaining and maintaining an adequate level of shelter and benefits.

Many of our clients are experiencing unsheltered homelessness. Based on our experiences working with them, we appreciate the opportunity to offer the following comments.

I. Most People Sleeping Outside Want to Come Inside, But Cannot Live in a Congregate Setting

In any discussion about unsheltered homelessness and the adequacy of outreach efforts, the most critical point to emphasize is that people do not choose to sleep outside, rather they are forced to because available shelter cannot accommodate their needs. While sleeping outside, NYLAG’s clients are subject to dangers too numerous to recount in full. Besides the cold they are facing these past few weeks, they are regularly robbed, assaulted, and raped while sleeping. One of NYLAG’s clients witnessed another man he slept outside with have lighter fluid poured on his foot and set on fire. Our clients are woken and harassed by police officers and are often arrested for trespass or other trivial offenses that essentially criminalize homelessness. They are food insecure and

malnourished. Most are in chronic pain from sleeping on the ground. Our clients suffer from skin conditions due to exposure to the elements. Many of our clients have severe dental deficiencies. Almost all of them have other chronic underlying illnesses. Moreover, if they did not suffer from mental illness prior to becoming street homeless, the trauma of sleeping outside and being constantly on alert has caused many of our clients severe anxiety.

The vast majority of the Department of Homeless Services' (DHS') single adult shelter placements are in congregate settings, which can have as many as 100 men sharing a room (or dorm). Almost all of our clients experiencing street homelessness stay outside because they cannot live in congregate shelter due to past trauma or mental illness (or both). These individuals would, and do, come inside when offered a safe-haven or stabilization bed. Safe-haven and stabilization beds make up DHS' low-barrier shelter system. This is a system with private and semi-private rooms that has fewer rules and regulations than DHS' single-adult shelter system. There are far too few single and double room safe-haven or stabilization placements, leaving thousands of people who are willing to come inside without a viable option other than sleeping outside.

Presumably because of this lack of capacity, DHS has created a complicated eligibility structure for safe-haven or stabilization placements. Obtaining a placement in this system can take months or years (if ever obtained), during which time the person experiencing street-homelessness sleeps on the street. During this process, our clients lose hope that they will ever obtain a placement and lose the will to interact with outreach workers.

The clear solution is for the City to significantly increase low-barrier safe-haven and stabilization bed capacity. Although these assignments are more costly, once clients are inside and stabilized, DHS will likely have much greater success helping them transition to permanent housing. Expenditures that assist clients to transition to permanent housing have net long-term savings (especially if the costs of street sweeps and outreach services are considered).

II. People Experience Street Homelessness Are Mistrustful of NYC's Code Blue Outreach

NYC's Code Blue Operations are a part of the efforts that DHS makes to incentivize people experiencing street homelessness to come inside. However, the street outreach efforts DHS makes (through its own outreach workers and contracted non-profit agencies) face challenges in successfully addressing the needs of New Yorkers experiencing street homelessness. This is because the street outreach teams are equipped with very little to offer the people experiencing street-homelessness. Clients often report that DHS and contracted street outreach teams do not hand out winter items, food, coffee or otherwise provide any incentive to speak with them. Unfortunately, many of NYLAG's clients experiencing street homelessness report that they are hesitant to interact with street outreach teams because of past negative experiences that create anxiety and distrust, which can be intensified when outreach workers are paired with police officers. Our clients are typically aware of the location of the single adult intake centers for congregate shelters and choose not to go to congregate shelters.

The additional resources that are available during Code Blue Operations do not adequately address the needs of people living outside. For instance, there is an increase of street outreach workers, but as stated above, most NYLAG clients living outside are very hesitant to interact with street outreach workers. There are additional warming centers, which are much appreciated, but there is much confusion about where the warming centers are and/or how to access them.¹ For instance, on a recent frigid night at the Staten Island Ferry terminal, there were two warming busses parked outside,² yet homeless people, an NYPD officer and terminal employees did not know they were outside. Code Blue Operations must start with a change in the outreach model and a commitment to vastly increase the number of Safe-Haven and Stabilization placements.

III. Code Blue Operations Should Not Include Involuntary Removal

It appears that part of the City's Code Blue Operations includes involuntary removals if person will not agree to come inside on their own.⁴ This weekend a fellow advocate reported to NYLAG that once outreach is connected with a person experiencing street homelessness, if the person does not come inside after multiple engagements, the police will be called, even if the outreach worker does not believe the person meets the standard for involuntary removal, and even if the person has items and a plan to keep themselves warm.

This policy will have a negative effect on the ability of outreach workers to engage with people sleeping outside. If engagement with outreach can be misconstrued as the

threat of involuntary commitment, people will go to even further lengths to avoid interacting with outreach.

Additionally, sleeping outside does not meet the standard for involuntary removal under Mental Hygiene Law Sections 9.41 and 9.39. Mental Hygiene Law Section 9.41 authorizes an individual to be taken into custody, for the purpose of a psychiatric evaluation if that person “appears to be mentally ill and is conducting himself in a manner which is likely to result in serious harm to himself or others.”⁵ While Mental Hygiene Law Section 9.39 clarifies that “[l]ikelihood to result in serious harm” shall mean, in part, “a substantial risk of physical harm to the person due to an inability or refusal, as a result of their mental illness, to provide for their own essential needs such as food, clothing, necessary medical care, personal safety, or shelter”, the presence of mental illness is a prerequisite. Having outreach workers call 911 when a client will not enter shelter mandates the NYPD officers to determine the presence mental illness, which can span a range of conditions and is not, by itself, considered a factor to consider under the Mental Hygiene Law. It is unclear how the NYPD is to determine whether a person has a mental illness.

Living outside is an expression of deep poverty not of mental illness, and the Mental Hygiene Law makes no mention of poverty being a factor to consider when determining whether involuntary removal is appropriate. Often sleeping outside is not evidence of mental illness, but lack of resources and fear of congregate shelter.

IV. Homeless Sweeps Do Not Help People Come Inside and are Considered Inhumane

Mayor Adams' homeless encampment sweeps policies prioritized removing the visibility of people experiencing street homelessness over actually helping people transition inside. Sweeping encampments simply does not encourage entrance into shelter. For example, in the first three quarters of 2024, the City engaged in roughly 2,300 encampment sweeps.⁵ However, data shows only 3% of people whose belongings were disposed of went into shelter.⁶ And not one of those swept was placed in permanent housing.⁷ These sweeps cost the city \$3.5 million⁸ and demonstrated almost no measurable success in bringing people experiencing street homelessness inside.

Moreover, the sweeps are exceptionally cruel and inhumane. NYLAG clients experiencing street homelessness who have been caught up in sweeps have had their belongings taken or destroyed by the police as part of “sweeps”. When an encampment is scheduled to be “cleaned up”, clients have no choice but to carry away what possessions they can hold in their arms. This has led to my clients losing life-saving medications, treasured family mementos, and other precious personal property. Some clients become so distraught during the disposal of their possessions that ambulances need to be called. Given the limited success of the sweeps, the damage they cause to our clients is especially inhumane.

Finally, sweeps operate to sow distrust in outreach by people experiencing street homelessness. Because outreach is most often present during the sweeps, some NYLAG

clients associate interacting with outreach with having their belongings taken. Naturally, they are hesitant to interact with outreach again.

V. The Recent Reversal of Title 31, Chapter 6 of the Rules of the City of New York

The City nearly formalized Title 31, Chapter 6 of the Rules of the City of New York (“the rule”), which limited eligibility for safe haven and stabilization placements to people experiencing street homelessness who have official DHS documentation of at least six months of street homelessness (as measured through engagement with outreach) or six months of intermittent shelter use of DHS shelters. This misguided rule would have prevented people experiencing street homelessness from accessing the low-barrier placements that they so desperately need. We want to applaud the Administration for swiftly scrapping this rule that threw up yet another barrier for people experiencing street homelessness access to low-barrier shelter beds. In the face of limited low-barrier shelter capacity, we urge the Mamdani administration to continue to focus on adding more low-barrier shelter beds that allow people experiencing street homelessness to come inside, as well as helping people currently in these placements to transition to permanent shelter. We urge the Mayor and Council to create legislation to mandate more low-barrier beds and place a limit on arbitrary policies that prevent people sleeping outside from accessing help.

VI. Other Barriers To Accessing DHS Shelter

There are so many other barriers that our clients experiencing street homelessness cite as obstacles to entering and remaining in single adult shelter. The intake procedure to enter DHS shelter can be particularly onerous, taking up to two days, with most of that time

spent waiting in place in crowded waiting rooms. Clients are told if they leave, they will need to start the process over again. Often, clients report inadequate food and an inability to take essential medications, which makes them less likely to enter and remain in shelter. Additionally, clients report negative experiences with staff at intake centers . 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.

Curfew policies and other strict shelter timelines are also prohibitive.

Numerous NYLAG clients lose their beds due to missing curfew and having no choice other than to sleep outside or to be bussed to an unknown location. Food policies prevent people from being able to stay inside; many of our clients report that residents are prohibited from bringing outside food into the shelter. As a result, almost all single adult shelter residents report being perpetually hungry because meals in shelter are served during a narrow timeframe, in limited supply, and the portions and quality of the food are inadequate. Additionally, many residents with health issues and disabilities need to eat between meals or when taking medications.

Clients are also prevented from staying in single adult shelter because of the intense policing of shelters and the aggression of shelter staff and security towards residents. We have many clients who are forced into street homelessness because of negative interactions with shelter staff, including clients who have experienced verbal and physical abuse.

Even purportedly “accessible” shelters are in fact inaccessible for clients with disabilities. Clients who use wheelchairs or other assistive devices often report broken elevators and facilities that are impossible to navigate in a wheelchair, even when the shelters are labeled “accessible.” Clients with mental health disabilities report that they are rarely, if ever, accommodated. And congregate single adult shelter is often impossible for homeless transgender or gender non-binary clients who experience extreme harassment from staff and other residents.

Clients experience not being able to obtain shelter transfers by DHS if they are unable to stay in their assigned shelter, although exceptions are made for “safety transfers”, but are hard to obtain without a lawyer’s intervention. We had many clients who experience street homelessness, even though they were willing to stay in DHS congregate shelter, because DHS would not transfer them from their assigned shelter where they had had a traumatic experience.

Finally, clients experiencing street homelessness often have animal companions that are not permitted in shelter. Although emotional support animals are sometimes permitted in shelter, clients must apply through the Reasonable Accommodation process for clients with disabilities, a process that most clients are unaware of and must have medical providers to utilize. Many people experiencing street homelessness will not go into shelter because they will not leave their companion behind.

All of these factors contribute to street homelessness, and must be addressed if this City truly wants to alleviate street homelessness.

We thank the Committees on General Welfare and Public Safety 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