



Public Advocate for the City of New York

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# **TURNED AWAY:**

## **The Impact of the Late-Arrival Placement Policy on Families with Children**

**A REPORT BY PUBLIC ADVOCATE BETSY GOTBAUM  
AUGUST 2008**

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# Office of the New York City Public Advocate

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## EXECUTIVE SUMMARY

In September 2004, Mayor Bloomberg announced *Uniting for Solutions Beyond Shelter*, a five-year plan to reduce homelessness in New York City by two-thirds. The plan included a goal of reducing the number of families with children in the shelter system to fewer than 3,000 by 2009.<sup>1</sup> However, city policies that no longer give homeless families priority status for federal Section 8 vouchers and public housing, in combination with an economic slowdown in 2007, impaired New York City's ability to reduce the number of families in shelter.<sup>2</sup> On average there were 9,297 families living in shelters each night in 2007, the worst since the Great Depression.<sup>3</sup>

Despite this rise in the number of families seeking shelter, on October 12, 2007, the New York City Department of Homeless Services (DHS) instituted a policy of denying late-arrival shelter placements to families with children that were previously found ineligible and arrived after 5 pm at the Prevention Assistance and Temporary Housing intake center seeking overnight shelter.

Advocates report that DHS makes frequent errors in determining shelter eligibility and that, as a result of this late-arrival placement policy, families that should have been found eligible have been wrongly denied overnight shelter. In the experience of advocates and Public Advocate staff, these families are often forced to return to unsafe or unhealthy living situations.

Recent DHS statistics suggest that there are serious problems with shelter eligibility determinations. DHS has turned away 278 families since implementing the late-arrival policy. Sixty-one percent of these families were later found eligible or granted an overnight placement after presenting what DHS considered new information.<sup>4</sup> One hundred and seven families did not return to the intake center to re-apply for shelter. There is no data indicating whether these families secured safe housing or were forced to turn to unsafe housing or the street.

This report highlights the impact of DHS' late-arrival policy on families with children seeking shelter. It is based on a review of literature and government documents, as well as interviews with families who applied for and were denied shelter by DHS. It includes the following recommendations:

- End the policy of denying late-arrival shelter placements to families that re-apply after 5 pm.
- Evaluate and revise the application process to improve eligibility determinations.
- Revise shelter application and re-application procedures so school-aged homeless children do not have to miss school.
- Change shelter eligibility criteria so that housing with occupancy restrictions, such as Section 8 and public housing, is never considered a viable option for a shelter applicant who is not on the lease.

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<sup>1</sup> City of New York, "United for Solutions Beyond Shelter," See: <http://www.nyc.gov/html/endinghomelessness/html/home/home.shtml>.

<sup>2</sup> Coalition for the Homeless, "State of the Homeless Report Finds that More New Yorkers Experienced Homelessness in 2007," March 27, 2007 (press release).

<sup>3</sup> Coalition for the Homeless, "State of the Homeless 2008," See: <http://www.coalitionforthehomeless.org/advocacy/StateoftheHomeless2008.html>.

<sup>4</sup> Testimony by Robert V. Hess, Commissioner of the New York City Department of Homeless Services, New York City Council General Welfare Committee, New York, NY, March 10, 2008.

## INTRODUCTION

In September 2004, Mayor Bloomberg announced *Uniting for Solutions Beyond Shelter*, a five-year plan to reduce homelessness in New York City by two-thirds. The plan included a goal of reducing the number of families with children in the shelter system to fewer than 3,000 by 2009.<sup>5</sup>

However, an economic slowdown, rising unemployment, increases in food and fuel prices, a spike in home foreclosures, and the lack of affordable housing have all prevented the city from making progress toward the Mayor's goal.<sup>6</sup> City policies that no longer give homeless families priority status for federal Section 8 vouchers and public housing also impaired New York City's ability to reduce the number of families in shelter.<sup>7</sup> As a result, the Coalition for the Homeless called 2007 "the worst year for New York City family homelessness since the Great Depression." On average there were 9,297 families living in shelters each night in 2007, more than 11 percent in 2006 (see Table 1). Furthermore, nearly 7 percent fewer families moved into permanent housing (see Table 1).<sup>8</sup>

Despite this rise in family homelessness, on October 12, 2007, DHS instituted a policy of denying late-arrival shelter placements to families with children that were previously found ineligible and arrived after 5 pm to the Prevention Assistance and Temporary Housing (PATH) intake center seeking overnight shelter.<sup>9</sup> DHS described this policy as an effort to close a "loophole" allowing ineligible families to obtain overnight shelter and to prevent such families from jeopardizing the effectiveness of the PATH intake process.<sup>10</sup>

Advocates report that DHS makes frequent errors in determining shelter eligibility and that, as a result of the late-arrival policy, eligible families have been wrongly denied shelter. In the experience of advocates and Public Advocate staff, these families are often forced to return to unsafe or unhealthy living situations.

Recent DHS statistics suggest that there are serious problems with shelter eligibility determinations. DHS has turned away 278 families since implementing the late-arrival placement policy. Sixty-one percent of these families were later found eligible or granted an overnight placement after presenting what DHS considered new information.<sup>11</sup> One hundred and seven families did not return to the intake center to reapply for shelter. There is no data indicating

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<sup>5</sup> City of New York, "United for Solutions Beyond Shelter," See:

<http://www.nyc.gov/html/endinghomelessness/html/home/home.shtml>.

<sup>6</sup> Citywide budget cuts are likely to present an additional obstacle in the coming fiscal year. DHS' 2009 executive budget is \$54 million less than the agency's actual spending in 2008, according to DHS Commissioner Robert Hess' testimony before the New York City Council General Welfare Committee on May 13, 2008. The budget for family shelter operations is \$82 million less than the 2008 budget and, according to the New York City Council, is likely to be insufficient to meet demand.

<sup>7</sup> Coalition for the Homeless, "State of the Homeless Report Finds that More New Yorkers Experienced Homelessness in 2007," March 27, 2007 (press release).

<sup>8</sup> Coalition for the Homeless, "State of the Homeless 2008," See:

<http://www.coalitionforthehomeless.org/advocacy/StateoftheHomeless2008.html>.

<sup>9</sup> Testimony by Robert V. Hess, Commissioner of the New York City Department of Homeless Services, New York City Council General Welfare Committee, New York, NY, October 24, 2007.

<sup>10</sup> *Ibid.*

<sup>11</sup> Testimony by Robert V. Hess, Commissioner of the New York City Department of Homeless Services, New York City Council General Welfare Committee, New York, NY, March 10, 2008.

whether these families secured safe housing, were forced to live in unsafe or unhealthy housing, or turned to the street.

Concerned about DHS’ plan to implement the late-arrival placement policy, constituents and advocates contacted the Office of the Public Advocate in October 2007. When the policy was implemented in October 2007, representatives from the Office of the Public Advocate, along with advocates, waited outside PATH to assist families that were denied shelter. After witnessing first-hand the impact of the policy on families with children, the Office of the Public Advocate decided to undertake this report.

The purpose of this report is to determine how DHS’ late-arrival policy affects families with children seeking shelter. It is comprised of an explanation of the DHS application process, a review of available literature on the impact of homelessness on children, profiles of five families that applied for and were denied shelter by DHS,<sup>12</sup> and recommendations for improving the application process for homeless families with children in New York City.

**Table 1. Homelessness in New York, 2006-2007**

<b>Homeless Population</b>	<b>2006</b>	<b>2007</b>	<b>Percent Change</b>
Total Number of Homeless People living in Shelters in New York City	96,612	102,187	5.8
Average Number of Homeless Families Living in Shelters Each Night	8,339	9,297	11.5
The Number of Homeless Families Moved to Permanent Housing Each Year	6,642	6,181	-6.9

Source: Coalition for the Homeless, *State of the Homeless 2008*.

## **BACKGROUND**

New York City is the only large city in the United States that guarantees homeless individuals emergency shelter. DHS, the city agency responsible for providing services to homeless New Yorkers, states on its website that “[t]he mission of the Department of Homeless Services is to overcome homelessness in New York City. DHS prevents homelessness wherever possible and provides short-term emergency shelter and re-housing support whenever needed. These goals are best achieved through partnerships with those we serve, public agencies, and the business and non-profit communities.”<sup>13</sup>

### *Shelter Application Process*

Families with children must apply for shelter at the PATH office in the Bronx. To be found eligible, families must demonstrate to DHS that they are in “immediate need of temporary emergency shelter.”<sup>14</sup> According to DHS, families that apply for shelter during normal business

<sup>12</sup> The families profiled in this report either contacted the Office of the Public Advocate or were referred to the Office of the Public Advocate by nonprofit advocates.

<sup>13</sup> New York City Department of Homeless Services (DHS), “Agency Introduction,” See: <http://www.nyc.gov/html/dhs/html/about/agencyintro.shtml>.

<sup>14</sup> DHS, “Family Services,” See: <http://www.nyc.gov/html/dhs/html/homeless/famserv.shtml>.

hours spend between six and eight hours at PATH completing the application process.<sup>15</sup> Families are also screened for health issues and domestic violence.<sup>16</sup> Families then meet with a homeless diversion worker, to determine their housing options, and a family worker, who obtains a family history.<sup>17</sup> After completing the application process, families are given a ten-day conditional shelter placement while DHS' field investigators conduct a further investigation to determine whether they have an alternate housing option, even if it is a temporary one.<sup>18</sup> Families that are found eligible are given temporary housing assistance; those found ineligible are denied shelter. A family that is found ineligible can request a legal conference with a DHS attorney and then a fair hearing in state court<sup>19</sup> to challenge the agency's final determination and may obtain a reversal.

### *Re-Applicant Procedure*

Families that are found ineligible can immediately re-apply for emergency shelter.<sup>20</sup> If, however, a family has been found ineligible because it has an alternate housing option and that family chooses to re-apply for shelter within 90 days, DHS is not required to provide conditional, or emergency, shelter during its investigation.<sup>21</sup> If DHS finds no immediate need for emergency shelter, such as child abuse, domestic violence, or eviction, it will not grant a family that re-applies a ten-day conditional placement while it conducts a new eligibility investigation. Families that are denied emergency shelter are sent to the Resource Room, where they receive assistance returning to their current housing situation. The Re-Applicant Procedure was approved by the New York State Supreme Court in April 2005.<sup>22</sup> This 2005 court ruling requires DHS to verify that an alternate housing option is actually available before it can deny a family shelter.<sup>23</sup> Advocates report that DHS first implemented this policy in February 2006 but only applied it selectively.<sup>24</sup>

### *Late-Arrival Placement Policy*

Prior to October 12, 2007, families that were found ineligible for shelter by DHS could re-apply after 5 pm and secure an overnight placement. According to DHS, such late-arrival placements increased by 102 percent from August 2006 to August 2007.<sup>25</sup> Some families would return every night at 5pm in order to get shelter for the night and were placed in different shelters each night. Concerned that these families jeopardized its intake process, on October 12, 2007, DHS implemented a policy of denying shelter to families with children "returning to PATH after 5:00 PM who previously received 10 days of conditional shelter, who have an open reapplication, and who have not shown an immediate need for shelter pending consideration of the reapplication."<sup>26</sup> DHS refers to this late-arrival placement policy as new, but it seems to be an extension of the Re-Applicant Procedure described with new language specifically pertaining to late-arrival

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<sup>15</sup> *Supra* note 9.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> Cases are heard by an Administrative Law Judge from the New York State Office of Temporary and Disability Assistance

<sup>20</sup> *Supra* note 9.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> Testimony by Steve Banks, The Legal Aid Society, New York City Council General Welfare Committee, New York, NY, October 24, 2007.

<sup>24</sup> Conversation with Lindsey Davis, Coalition for the Homeless, May 2008.

<sup>25</sup> *Supra* note 9.

<sup>26</sup> *Ibid.*

placements. Instead of receiving overnight placements, these families are now sent to the Resource Room for assistance returning to their current housing situation.

DHS Commissioner Robert Hess told the *New York Times*, “We cannot allow this subculture of ineligible families to cast a shadow on the entire process.”<sup>27</sup> Although Commissioner Hess’ choice of words suggests that families reapplying for shelter after 5 pm were taking unfair advantage of the application process, testimony before the New York State Supreme Court<sup>28</sup> and interviews conducted by the Office of the Public Advocate confirm that prior to implementing the late-arrival placement policy DHS employees often encouraged families to return after 5 pm for overnight placements.<sup>29</sup>

Advocates also note that DHS commits many errors in its eligibility review process. In the experience of Reverend Martha Overall of St. Ann’s Episcopal Church “some examples of what DHS considers having another place to go are a place where the mother has been subjected to domestic violence, a place that ACS has found unacceptable to the children, a place without a certificate of occupancy, where there were exposed wires and leaking sewage.”<sup>30</sup> Steven Banks, attorney-in-chief of the Legal Aid Society, told the *New York Times*, “[i]t is a system that is rife with errors, and children and their families will certainly be harmed.”<sup>31</sup> In January 2007, the Legal Aid Society sued the city, challenging the accuracy of DHS’ eligibility process because in 2006 “51.8 percent of all families who were originally found ineligible, because they purportedly had alternative housing available and reapplied, were subsequently found eligible by the Department of Homeless Services.”<sup>32</sup> In addition, the Legal Aid Society’s case includes several families who were forced to sleep in public spaces, such as public hallways, while reapplying for shelter.<sup>33</sup> This case is pending before the New York State Supreme Court.

DHS has stated in published reports that its error rate is less than 10 percent.<sup>34</sup> However, the agency’s own statistics indicate that, of the 11,792 families found eligible for shelter in 2007, 33 percent had to file two or more applications before they were found eligible; 12 percent had to file three or more times.<sup>35</sup> According to DHS, some families are found eligible after multiple shelter applications because they present new information pertaining to their eligibility. Advocates argue, however, that eligibility determinations are often arbitrary and that, in some cases, the difference between obtaining shelter and being denied is legal representation or advocacy from a nonprofit organization or a political office.<sup>36</sup>

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<sup>27</sup> Kaufman, L., “Homeless Families in New York Lose a Loophole,” *The New York Times*, October 11, 2007.

<sup>28</sup> Affidavit of Maribel Rodriguez, *McCain v. Bloomberg*, Supreme Court of the State of New York, June 20, 2007.

<sup>29</sup> DHS, “New Family Intake Center Policy Results in 46% Decline in Families Seeking Late-Night Shelter Placements or 100 fewer Children Each Night Awaiting Late Night Buses,” See: <http://www.nyc.gov/html/dhs/html/press/pr102307.shtml>.

<sup>30</sup> Testimony by Reverend Martha Overall, St. Ann’s Episcopal Church, New York City Council General Welfare Committee, New York, NY, October 24, 2007.

<sup>31</sup> *Supra* note 27.

<sup>32</sup> *Supra* note 23.

<sup>33</sup> *Ibid.*

<sup>34</sup> *Supra* note 27.

<sup>35</sup> DHS, “Critical Activities Report Family Services – Fiscal Year 2007,” See: <http://www.nyc.gov/html/dhs/html/about/car.shtml>.

<sup>36</sup> Testimony by The Legal Aid Society, St. Ann’s Episcopal Church, Office of Senator Ruben Diaz, Sr., and Picture the Homeless, New York City Council General Welfare Committee, New York, NY, October 24, 2007.

Recent DHS statistics on its late-arrival policy seem to confirm that there are serious problems with shelter eligibility determinations. DHS has turned away 278 families since implementing the late-arrival policy. Sixty-one percent of these families were later found eligible or granted an overnight placement after presenting what DHS considered new information (see Table 2).<sup>37</sup> One hundred and seven families did not return to the intake center to reapply for shelter.<sup>38</sup> There is no data indicating whether these families secured safe housing, were forced to live in unsafe or unhealthy housing, or turned to the street.

**Table 2. Families Denied Shelter, October 2007-February 2008**

<b>Re-application Status</b>	<b>Number of Families</b>	<b>Percent</b>
Total Families Denied	278	100%
Overnight Placement Granted after Presenting New Information	12	4%
Found Eligible after Presenting New Information	159	57%
Did Not Re-apply	107	38%

Source: Testimony by DHS Commissioner Robert V. Hess at the City Council General Welfare Committee, March 10, 2008.

### *Children and the Application Process*

Children must be present with their parents every time a family applies or re-applies for shelter. PATH is open 9 am to 5 pm, seven days a week. Because the application process can last all day, children often have to miss school. Follow-up appointments during the investigation period also often require children to miss school. If families are late for a scheduled follow-up appointment, their case will be closed and they will be forced to reapply. In the experience of the Coalition for the Homeless, which serves more than 3,500 New Yorkers each day, parents whose children attend school in another borough often do not have time to drop off their children prior to a morning appointment at PATH in the Bronx.<sup>39</sup> Conversely, parents with afternoon appointments cannot be certain that they will be able to pick up their children from school because DHS officials are often hours late for scheduled appointments.<sup>40</sup> As a result, children often spend the day at PATH.

### **IMPACT OF HOMELESSNESS ON CHILDREN**

Evidence suggests that homeless children are vulnerable to negative health and education outcomes.<sup>41</sup> One study found that 26 percent of all homeless children in the United States and 33 percent of homeless children under the age of five become ill while homeless.<sup>42</sup> Homeless children have higher rates of asthma, ear infections, and stomach problems than children with

<sup>37</sup> *Supra* note 11.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Supra* note 24.

<sup>40</sup> *Ibid.*

<sup>41</sup> U.S. Department of Health and Human Services, Office of Assistant Secretary for planning and Evaluation, Office of Human Services Policy, "Characteristics and Dynamics of Homeless Families with Children," Fall 2007, pp. A-1-A-36. See: <http://aspe.hhs.gov/hsp/homelessness/improving-data08/>.

<sup>42</sup> Nuñez, R. "Homeless in America: a children's story," *Journal of Children and Poverty*, vol. 6 no. 1, 2000, pp. 51-72.



homes.<sup>43</sup> They also experience a higher rate of mental health problems, including anxiety, depression, and withdrawal.<sup>44</sup>

Homeless children are four times more likely to experience delayed development.<sup>45</sup> Dr. Ralph Nuñez, President and CEO of Homes for the Homeless and the Institute for Children and Poverty, argues that “because the instability in their lives can affect the development of their cognitive and social skills, [homeless children] have perhaps the greatest need for early childhood education.”<sup>46</sup> According to the US Department of Education, less than 16 percent of eligible homeless children were enrolled in preschool in 2000.<sup>47</sup>

Homelessness can negatively affect a child’s academic achievement. A 2004 study that compared formerly homeless children to low-income children with homes found that homelessness had a detrimental impact on academic achievement among children in New York City.<sup>48</sup> The average percentage of homeless children that performed at or above grade level was only 20 percent for reading and 28 percent for mathematics compared to 31 percent and 44 percent respectively for low-income children with homes. The study also found that in New York City, approximately 50 percent of formerly homeless children repeated at least one grade, and 22 percent repeated two or more grades.<sup>49</sup> Homeless children are two times more likely to repeat a grade in school,<sup>50</sup> making them more likely to “develop a negative self-image, drop out of school, and get into trouble with the law.”<sup>51</sup>

Homeless children change schools more frequently than children with homes. According to the Institute for Children and Poverty, 57 percent of homeless children changed schools in New York City between 2000 and 2001.<sup>52</sup> Research shows that changing schools frequently is a barrier to academic achievement and that it takes four to six months for children to catch up with their school work after transferring schools.<sup>53</sup>

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<sup>43</sup> National Child Traumatic Stress Network (NCTSN), “Facts on Trauma and Homeless Children,” 2005. See: [www.NCTSNET.org](http://www.NCTSNET.org).

<sup>44</sup> *Ibid.*

<sup>45</sup> National Coalition for the Homeless, “Homeless Families with Children,” *Fact Sheet #12* (Washington DC, August 2007).

<sup>46</sup> Nuñez, R. “Family Homelessness in New York City: A Case Study.” *Political Science Quarterly*, vol. 116 no. 3, 2001, pp. 367-379.

<sup>47</sup> U.S. Department of Education (DOE), “Education for Homeless Children and Youth Program” July 2004. See: <http://www.ed.gov/programs/homeless/resources.html>.

<sup>48</sup> Rafferty, Y., et al. “Academic Achievement Among Formerly Homeless Adolescents And Their Continuously House Peers” *Journal of School Psychology*, vol. 42, 2004, pp. 179-199.

<sup>49</sup> *Ibid.*

<sup>50</sup> *Supra* note 43.

<sup>51</sup> *Supra* note 46, Footnote 8.

<sup>52</sup> Institute for Children and Poverty/Homes for the Homeless, *Dejà Vu: Family Homelessness in New York City*.” See: <http://www.icpny.org/index.asp?CID=4&PID=83>.

<sup>53</sup> U.S. DOE, “Report to the President and Congress on the Implementation of the Education for Homeless Children and Youth Program Under the McKinney-Vento Homeless Act,” 2006. See: <http://www.ed.gov/programs/homeless/resources.html>.

## PROFILES

*Don Allen,<sup>54</sup> and his sons, Don, Jr., 11 years old, and Don K. H., 20 years old<sup>55</sup>*

After suffering disabling injuries in a car accident, Don Allen was forced to leave his mother's home with his two sons. His mother suffers from several medical conditions, including cancer, Parkinson's disease, and diabetes, and her doctor told her that caring for Mr. Allen and his children was detrimental to her health.

DHS denied Mr. Allen shelter on multiple occasions because he was unable to specify *how* living with his mother was detrimental to her health and because his mother's desire that he not reside with her was not enough to support his claim that he needed immediate shelter. DHS' legal department wrote the following:

"In support of their claim, the applicants provided a hand written letter from the PT's [primary tenant's] doctor, [name removed for privacy], MD, dated 9/25/07 stating, among others [sic], 'that the PT should not be asked to care for her relatives, including her son and grandchildren'. The letter further stated that asking the PT to care for her relatives will "only unduly burden her." However, the doctor's letter does not indicate that there is a nexus between the applicants' residency at the location and the PT's health. The letter also failed to indicate how the applicants stay at the location poses an immediate and substantial risk to the PT's health or that of the applicants."<sup>56</sup>

Mr. Allen and his family relied on overnight shelter placements for two weeks while he reapplied for shelter, often waiting until 12:30 am to be placed only to have to leave the shelter by 6 am. Don, Jr., a 5<sup>th</sup> grade student, frequently missed school. "Every day I re-applied [for shelter at PATH] my son missed school," said Mr. Allen. "I brought my son in because [DHS] said without him I can't do anything."<sup>57</sup> After DHS implemented its late-arrival policy on October 12, 2007, Mr. Allen and his two children were no longer able to obtain an overnight placement. They slept on mats on the basement floor of St. Ann's Episcopal Church. "My youngest son is 11. He has had a very, very, very bad year," said Mr. Allen.<sup>58</sup> "It's been a little traumatic for him."

**"Every day I re-applied [for shelter at PATH] my son missed school. I brought my son in because [DHS] said without him I can't do anything."**

With help from the Legal Aid Society and after testifying at a hearing on DHS' late-arrival placement policy held by the General Welfare Committee of the City Council, Mr. Allen was finally offered an apartment. In February, DHS found him and his sons permanent housing.

<sup>54</sup> Because he provided public testimony at the New York City Council General Welfare Committee Hearing on October 24, 2007, it was not necessary to protect Mr. Allen's identity.

<sup>55</sup> Family was referred to the Office of the Public Advocate by St. Ann's Episcopal Church.

<sup>56</sup> DHS, Prevention Assistance and Temporary Housing, Quality Assurance Unit. "Legal Review." September 27, 2007.

<sup>57</sup> Interview by Daliz Pérez-Cabezas with Don Allen, Bronx, NY, December 10, 2007.

<sup>58</sup> Testimony by Don Allen, New York City Council General Welfare Committee, New York, NY, October 24, 2007.

“They don’t help you at first,” he said of his experience with DHS.<sup>59</sup> “They try to poke at anything you say.”

*Alison G., and her son, Anthony C., 5 years old*<sup>60</sup>

In June 2007, Alison G. and her son were evicted from her apartment because public assistance mistakenly closed her case and, without it, she was unable to pay her rent. For three months, Ms. G. and her son stayed with her friend, Jeanne S.,<sup>61</sup> and her three children in a three-bedroom apartment. However, Ms. S. asked Ms. G. to leave because she lived in a co-op apartment that did not allow her to have long-term guests and she had six family members coming to visit.<sup>62</sup> DHS denied Ms. G. shelter on multiple occasions because her friend did not provide documentation proving that she was in jeopardy of being evicted if Ms. G. continued to live with her.

**“I had a place to go temporarily and I was punished. If you have a place to go for a little while then DHS won’t help you.”**

Ms. G. reapplied for shelter. “I had to re-apply or they wouldn’t give me a placement or overnight,” said Ms. G. “I waited for the weekend [to reapply] so my son wouldn’t miss school.”<sup>63</sup> Ms. G. and her son had to rely on overnight placements. “On overnight placement there was no carfare to take my son to school, no metrocard, or public assistance,” she said.<sup>64</sup>

After DHS implemented its late-arrival policy on October 12, 2007, Ms. G. was told by DHS staff that she would no longer be given overnight placements. Ms. G. and her son slept on a mat at St. Ann’s Episcopal Church for a week. Her Legal Aid attorney advised her to reapply for shelter. DHS gave her overnight placements for three days because Ms. G. presented what DHS considered new information, including a notarized letter from Jeanne S. stating that she and her son were not allowed to stay with her any longer and a note from her son’s doctor stating that he had developmental disabilities and required a stable living situation. Yet she was once again denied permanent shelter. Ignoring the letter from Jeanne S., DHS suggested, “[t]he applicant and her child can share the king sized bed with the PT [primary tenant] or the existing twin beds could be replaced with bunk beds.”<sup>65</sup> Ms. G. and her son returned to St. Ann’s.

Ms. G. was found eligible for shelter in November 2007 after her Legal Aid attorney discovered that Jeanne S.’s 21-year-old son was schizophrenic. Ms. G.’s situation had not changed, and without the involvement of the Legal Aid Society, it would not have occurred to her to seek out information on the mental health status of the family she was staying with. It was due to this legal representation that DHS reversed its decision.

<sup>59</sup> *Supra* note 57.

<sup>60</sup> Family was referred to the Office of the Public Advocate by St. Ann’s Episcopal Church.

<sup>61</sup> Her name has been changed for privacy reasons by the Office of the Public Advocate.

<sup>62</sup> Federal subsidized housing, such as Section 8 or public housing, has occupancy requirements. Residents must seek approval if there is a change in their family composition. If they receive approval, their rent may increase. If residents allow someone to stay with them who then becomes a long-term guest and do not report this change in family composition, they can be evicted. Co-ops and Mitchell-Lama apartments also have occupancy restrictions that if violated can lead to eviction.

<sup>63</sup> Interview by Daliz Pérez-Cabezas with Alison G., Bronx, NY, December 10, 2007.

<sup>64</sup> *Ibid.*

<sup>65</sup> DHS, Prevention Assistance and Temporary Housing, Quality Assurance Unit. “Legal Conference.” October 18, 2007.

Ms. G. and her son currently live in a shelter in the Bronx. Ms. G is cleaning parks for the Parks Department through the Work Experience Program, a position that, after six months, may lead to full-time employment. “I hope to find a job that will pay me enough to find housing for me and my son,” said Ms. G.<sup>66</sup> She recently submitted her application for public housing and is considering participating in DHS’ rental assistance program for homeless families, Work Advantage. “I had a place to go temporarily and I was punished,” said Ms. G of the shelter application process. “If you have a place to go for a little while then DHS won’t help you.”

*Ingrid C., and her daughter, Precise L., 15 years old, and her granddaughter, Nyanna L., 3 months old*<sup>67</sup>

Ingrid C. worked for the United States Postal Service in Brooklyn for 15 years but stopped working when she was injured on the job. She lost her home to foreclosure and moved to South Carolina with her youngest daughter Precise, then 14 years old, because she had an older daughter in the military there. In 2006, Ms. C. returned to New York City to help her other adult daughter whose mental health issues led the city’s Administration for Children Services (ACS) to place her children in foster care. Ms. C. applied for shelter at PATH with Precise and her two grandsons. She received a 20-day placement in the shelter system, but was denied permanent shelter because DHS believed she had a viable housing option with her daughter in South Carolina, even though the daughter explained to DHS that she could not have Ms. C. in her home because it was a violation of her Section 8 occupancy requirements.<sup>68</sup>

Ms. C. returned to South Carolina with Precise. She rented an apartment and was able to live on her workers’ compensation benefit and food stamps. In June 2007, when Ms. C.’s workers’ compensation benefit was terminated, she returned to New York City and applied for shelter at PATH with her now-pregnant 15-year-old daughter, Precise. Ms. C. was given a ten-day placement at a shelter in Queens but denied permanent shelter. DHS determined that Ms. C. did not have a viable housing option in New York City but rejected her application nonetheless because field investigators could not get in touch with her daughter in South Carolina to confirm that Ms. C. had lived with her for a few months in 2006 and that living with her was no longer a viable option. DHS requires a complete, accurate, and verifiable two year housing history as part of their investigation, so they can determine if a family is eligible for shelter.

**“DHS should never deny anyone that comes in with a child. Those seeking shelter cannot always stay with their families, and families do not always get along.”**

“DHS should never deny anyone that comes in with a child,” said Ms C.<sup>69</sup> “Those seeking shelter cannot always stay with their families, and families do not always get along.” Ms. C. requested a fair hearing to dispute DHS’s determination. She explained to the judge that, because DHS had contacted her daughter in South Carolina in 2006 when she first applied for and was denied shelter, the agency already had the information it needed. The judge adjourned the case so DHS could review Ms. C.’s 2006 shelter application and contact her daughter in South Carolina.<sup>70</sup>

<sup>66</sup> *Supra* note 63.

<sup>67</sup> Family contacted the Office of the Public Advocate’s Ombudsman Unit.

<sup>68</sup> *Supra* note 62.

<sup>69</sup> Interview by Daliz Pérez-Cabezas with Ingrid C., New York, NY, January 15, 2008.

<sup>70</sup> Email from DHS Personnel, “Final Fair Hearing Adjournment; C., Ingrid” to DHS Personnel. August 21, 2007.

DHS had not obtained from Ms. C's daughter the information necessary for its required two-year housing history. In essence, DHS had denied Ms. C. shelter because its own paperwork was incomplete. Ms. C. never heard from her DHS caseworker again, so she continued to stay in the Queens shelter with Precise, and her now 3-month-old granddaughter, Nyanna. "She is depressed," said Ms. C. of her 15 year-old-daughter.<sup>71</sup> "My daughter is going through postpartum depression and is having difficulty adjusting to living in shelter." The New York City Department of Education sent a teacher to the shelter so Precise could be home schooled.

Ms. C. recently moved into Section 8 housing with Precise and Nyanna and is living on Medicaid and Social Security Disability. She is waiting to receive cash assistance and food stamps. She is actively trying to get custody of her grandsons who remain in foster care.

*Crystal V., and her sons, Gabriel V., 2 ½ years old, and Richard A., 1 ½ years old*<sup>72</sup>

When Ms. Crystal V.'s partner, the father of her son Richard A., passed away, she had no choice but to stay at her parents' home, despite the fact that her father had committed an act of domestic violence against her five years earlier. Ms. V.'s father became increasingly verbally abusive and, after eight months, he asked her to leave. Ms. V. lived in her car for a week, leaving her children with her parents. Her parents then asked her to take her children with her, too. Ms. V. used her tax refund to stay in a hotel with her family for three days and then stayed with friends.

**"I had an asthma attack because I did not have a place to stay. I said then I will stay in my car and they [DHS] said ACS is going to take your kids away, I got upset."**

She applied for shelter in January 2008. Her father told DHS his daughter could not return to his home and ACS officials wrote a letter requesting that Ms. V. receive shelter because her parents would not allow her to return. Yet DHS denied her application, determining that she was able to return to her parents' home. DHS officials said "...the applicant can modify her behavior and any discord between her and her parent can be resolved through negotiations and compromise, and not through claims of homelessness."<sup>73</sup>

She stayed in a hotel for several days and returned to PATH the following weekend to reapply because she believed her job as an accounts manager for a small company in Brooklyn would not permit her to take time off. She told DHS officials she could not return to her father's home because of past domestic violence. DHS again told her there was nothing it could do for her and that she would have to return in the morning. Ms. V. waited to speak with a supervisor, who again asked if she had someplace to stay. "I had an asthma attack because I did not have a place to stay," said Ms. V. after her meeting with the supervisor.<sup>74</sup> "I said then I will stay in my car,

<sup>71</sup> *Supra* note 69.

<sup>72</sup> Family contacted the Office of the Public Advocate's Ombudsman Unit.

<sup>73</sup> DHS, Prevention Assistance and Temporary Housing, Quality Assurance Unit. "Final Quality Assurance Review." February 5, 2007.

<sup>74</sup> Interview by Daliz Pérez-Cabezas with Crystal V., Brooklyn, NY, March 11, 2008.

and they [DHS] said ACS is going to take your kids away, I got upset.”<sup>75</sup> After her asthma attack, the DHS supervisor provided Ms. V. with a temporary shelter placement.

Two weeks later, however, she was again found ineligible because she could not take time off work in order to attend her appointment with the No Violence Again (NOVA) domestic violence unit operated by the city’s Human Resources Administration at PATH. It was pay day and, as the accounts manager, she had to cut and hand out the checks. According to Ms. V., DHS told her that if she could not attend the appointment specified in her first appointment letter, she would receive a second letter with another date. The second appointment letter never arrived; Ms. V. received only a letter informing her she had been found ineligible for shelter.

Ms. V. did not have a place to sleep. She sent her children to their respective grandparents and stayed out all night. The next day, she and her two children went to stay with her cousin in a one-bedroom apartment with three other tenants. The conditions were overcrowded. “My kids cannot sleep until midnight because everyone is up,” said Ms. V.<sup>76</sup> “I can’t say anything because I’m not contributing [to the rent].”

Ms. V. was so discouraged, she stopped applying for shelter. Although her employer was willing to accommodate her, she did not want to risk losing her job by repeatedly missing work. In addition, having to bring her children to PATH each time she applied for shelter was a major challenge. “Bringing your kids [to PATH] is difficult, especially when they’re sick,” said Crystal V.<sup>77</sup> Because of the crowded conditions at her cousin’s apartment, Ms. V. sent her oldest son to stay with his aunt. Ms. V.’s application for subsidized housing was recently approved, but she cannot move into the apartment until she can pay the first month’s rent and security deposit. “They [DHS] tell you to go to a conference [at PATH]. This time they gave one day notice, so you go and wait all day, even though they say it’s for 9 am,” said Ms. V. of the shelter application process.<sup>78</sup>

*Diane W. and her daughter, Jasmine R., 8 years old*<sup>79</sup>

Diane W. applied for shelter with her daughter in 2006 because she was trying to escape the father of her child who was stalking her. DHS provided her with an Amtrak ticket to Los Angeles where she stayed in a domestic violence shelter, but when her abuser tracked her down, she moved to Miami. A friend of Ms. W. offered her a place to stay but then reneged once Ms. W. was in Miami, so she moved into a shelter. Then a friend she worked with at a bakery offered her a place to stay. Ms. W. and her 8-year-old daughter Jasmine were sleeping on the sofa of her co-worker’s home. In September 2007, they had to leave because Jasmine was sexually molested by her co-worker’s husband.

**“What do you need, a lie detector test? They [DHS] are denying people that are needy and deserving of this opportunity.”**

<sup>75</sup> Although there are specific protections for homeless families (see New York Social Service Law Section 131 (3) and *Cosentino v. Perales* and *Cosentino v. Dowling*), advocates confirm parents face threats that their children will be taken away by ACS if they are found sleeping in public places.

<sup>76</sup> *Supra* note 74.

<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*

<sup>79</sup> Family was referred to the Office of the Public Advocate by the Coalition for the Homeless.

Ms. W. returned to New York. She applied for shelter and was given a ten-day conditional placement in Staten Island. Ms. W. told DHS that her daughter had been sexually molested by her co-worker's husband, but DHS nonetheless found her ineligible for permanent shelter because she failed to demonstrate that she could not return to her co-worker's home. According to Ms. W., DHS workers said, "Where's your proof? Do you have a police report?" DHS then requested she get in touch with her co-worker to prove that she resided there. Although this was extremely disturbing to Ms. W., she tried to call her co-worker who refused to speak to her on the phone. She gave DHS her income tax returns, mail, and her identification card as proof she was living with her co-worker for five months, but according to Ms. W., DHS did not accept these documents.

Ms. W. reapplied for shelter two additional times and was given ten-day conditional placements in Queens and Brooklyn. Each time DHS moved Ms. W. and her daughter, Jasmine had to change schools. "I couldn't keep her in the same school," said Ms. W.<sup>80</sup> "We were in a different borough so I had to change everything." DHS continued to find her ineligible each time she applied. DHS never referred her to the NOVA domestic violence unit.

After DHS implemented its late-arrival policy on October 12, 2007, Ms. W. was asked to leave the Brooklyn shelter. She and her daughter slept in hospital waiting rooms, in subway cars, and on park benches for three days. Ms. W. did not sleep for 72 hours because she wanted to make sure no harm came to her daughter. Jasmine had to miss school while they were homeless. Jasmine's school was sympathetic to the family's situation. "Her school in Brooklyn wanted to fight with me," said Ms. W.

With the help from the school, Ms. W. sought assistance from State Senator John L. Samson's office and a homeless advocacy organization that helped her obtain legal representation. "On October 29<sup>th</sup> I was found eligible. I think it was due to the pressure," said Ms. W. "They [DHS] were not going to make me eligible." Although Ms. W.'s situation had not changed, due to the intervention of advocates, DHS reversed its decision

Ms. W. and her daughter are living at a shelter in Manhattan. Jasmine is attending a new school in Manhattan near the shelter. "She is not doing good in school," said Ms. W.<sup>81</sup> "She is very traumatized and is academically at a kindergarten level." Jasmine will have to repeat the second grade. She is receiving therapy and additional academic supports at her school. Ms. W., who has a serious heart condition, cannot work and will start receiving Social Security Disability in July. She is trying to obtain an order of protection from her stalker, who thus far has not found her. "What do you need a lie detector test?" said Ms. W. of her experience with DHS. "They [DHS] are denying people that are needy and deserving of this opportunity."

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<sup>80</sup> Interview by Daliz Pérez-Cabezas with Diane W., New York, NY, May 16, 2008.

<sup>81</sup> *Ibid.*

## CONCLUSION

The five families profiled by the Office of the Public Advocate in this report all appear to have had a legitimate need for shelter. In the four cases in which DHS later found families eligible or found them permanent housing, the circumstances that warranted the initial application remained unchanged. It appears that DHS' initial decisions to deny these families shelter were faulty. In one case, DHS was unable or unwilling to obtain information pertaining to a family's housing history and based its decision on incomplete information. In two others, families asserted that DHS ignored domestic violence and sexual abuse incidents that limited the family's housing options. In three cases, DHS' reversal was due, at least in part, to the intervention of advocates or legal representatives. Unfortunately, each family was exposed to traumatic and potentially dangerous situations in the time between DHS' initial decision and its eventual reversal.

While reducing homelessness is a worthy goal, the city's policies for achieving this goal must not put the health and well-being of families at risk. DHS' late-arrival placement does exactly that.

## RECOMMENDATIONS

**The New York City Department of Homeless Services should:**

***End the policy to deny late-arrival shelter placements to families who re-apply after 5 pm.***

DHS has not demonstrated that the majority of families requesting late-arrival placements have another available housing option. Nor has it substantiated its claim that these families jeopardize its ability to manage the PATH intake process in an orderly fashion. It is both inefficient and inhumane to deny shelter to families with children who will later be found eligible. DHS should not continue a policy that has been shown to put parents and children in harm's way.

***Evaluate and revise the application process to improve eligibility determinations.***

DHS should review its own eligibility process to determine why DHS officials regularly make faulty determinations that prevent families from obtaining shelter. DHS could start by updating its 45-page eligibility guidelines, which have not been substantially revised since their creation in 1999, and reviewing the 14-page eligibility determination questionnaire. In addition, the agency should assess whether employees are correctly using the guidelines to make eligibility determinations and if they might benefit from additional training.

***Revise shelter application and reapplication procedures so school-aged homeless children do not have to miss school.***

The current reapplication process requires all family members be present, and, as result, homeless school-aged children frequently miss school. DHS should review and revise its application process to minimize disruptions for school-aged homeless children. First, DHS should no longer require children to be present when families reapply for shelter within 90 days of their first application. Second, the agency should expand its hours of operation so that families with school-aged children are able to schedule follow-up appointments that allow them to drop off their children between 8:30 and 9:00 am and then pick them up when school ends. Third, DHS should give parents the flexibility to leave PATH to pick up their children without closing



their case if they are not in the waiting room when their name is called. DHS should consider providing parents with transportation so parents do not have to miss appointments and children do not have to miss school.

***Change shelter eligibility criteria so that housing with occupancy restrictions, such as Section 8 and public housing, is never considered a viable housing option for a shelter applicant who is not on the lease.***

DHS should never recommend that a family return to housing if that family's presence puts the tenant in violation of his or her lease. DHS officials told two families interviewed by the Office of the Public Advocate that they could return to a friend or relative's Section 8 and co-op apartment, even though their presence would put their friends or relatives in violation of their lease. Currently, unless the leaseholder has already received an eviction notice, DHS considers such housing a viable option, essentially encouraging overcrowded conditions and placing leaseholders in situations that actually put them at risk of homelessness themselves. For example, Alison G. was denied shelter by DHS although Ms. G's friend told DHS that her co-op board did not allow her to have long-term guests. Without documentation proving that Ms. G.'s friend was in jeopardy of being evicted, DHS considered the friend's apartment a viable housing option. As a result, Ms. G. and her five-year-old son were forced to sleep on a mat in St. Ann's Episcopal Church (see p. 11). DHS should change eligibility criteria to recognize that public housing, Mitchell-Lama, Section 8, and co-op apartments are not valid housing options for families seeking shelter who are not the leaseholders.