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DOI ISSUES REPORT ON DISCLOSURE OF OVERNIGHT STAYS AT THE PATH INTAKE CENTER IN SUMMER 2022 AND THE MANIPULATION OF THE PUBLICLY-REPORTED PATH ELIGIBILITY RATE FROM 2017 TO EARLY TO MID-2022

Jocelyn E. Strauber, Commissioner of the New York City Department of Investigation ("DOI"), issued a Report today that examined two separate and unrelated allegations regarding the Prevention Assistance and Temporary Housing Intake Center ("PATH"). PATH is an intake facility in the Bronx for families with children seeking shelter provided by the City Department of Homeless Services ("DHS"), an agency that is part of the City Department of Social Services ("DSS"). First, DOI investigated DSS's identification of, and disclosure to City Hall and others of, a July 18, 2022 incident in which four families who arrived at PATH before 10 p.m. remained there overnight. The overnight stays violated longstanding DHS policy that families arriving at PATH by 10 p.m. be provided with a shelter placement and transported out of the intake center by 4 a.m. the following morning, a policy referred to in the Report as the "10-to-4 Rule". Second, DOI investigated an allegation that DSS manipulated the publicly-reported 30-day eligibility rate of homeless families with children applying for DHS shelter from mid-2017 through early to mid-2022. The Report describes DOI's findings regarding both allegations and the six recommendations DOI issued to DSS as a result. A copy of the Report is attached to this release and can be found at the following link: <https://www.nyc.gov/site/doi/newsroom/public-reports.page>

DOI Commissioner Jocelyn E. Strauber said, "This in-depth, 18-month investigation tackled two complex and distinct issues involving the City's PATH Center. First, DOI found weaknesses in PATH's policies and procedures applicable to tracking the entry and exit times of families seeking shelter, among other issues, which limited DSS's ability to timely identify and report violations of DSS's policies concerning the provision of shelter to those families (the "10-to-4 Rule") in the summer of 2022. Second, DOI identified an intentional and years-long effort within DSS to manipulate the number of families eligible for shelter on a daily basis, dating from 2017 through early to mid-2022, in order to control the Monthly Eligibility Rate, a publicly-reported figure. Accuracy and transparency are critical to government operations, and DOI's recommendations seek to improve DSS's procedures and to facilitate the collection and reporting of correct information concerning families in need of shelter."

Allegations Regarding DSS's Identification and Disclosure of Violations of the "10-to-4" Rule in the Summer 2022

On July 18, 2022, executive leadership at DSS and DHS were notified that four families who arrived at the DHS PATH Intake Center before 10 p.m. on July 17 remained in the PATH building until after 4 a.m. on July 18, and thus were not en route to temporary shelter by 4 a.m. in violation of the 10-to-4 Rule. The 10-to-4 Rule is a DHS policy, in place for at least two decades, based on [Section 21-313 of the New York City Administrative Code](#). Section 21-313 requires DHS to provide "temporary shelter placement for that night" (including transportation) to any family with minor children "in the process of applying" for DHS services as of 10 p.m. in

the evening. Subsequent to these events — and in light of the ongoing influx of migrant families in need of shelter in New York City — the 10-to-4 Rule was, and remains, temporarily suspended. DOI's investigation into the above-described violations and surrounding events found significant gaps in PATH's record-keeping concerning the entry and exit times of families at the PATH facility. Due to those gaps, and deficiencies in DSS's compliance and staff training relating to the 10-to-4 Rule, DSS Leadership (and City Leadership) were unaware of additional violations of the 10-to-4 Rule. The investigation also exposed a lack of full transparency by former DSS Commissioner Gary Jenkins in his initial discussions with City Hall about the July 18 incident. City Leadership disclosed the four violations that occurred on July 18 during a press conference on July 21 and thereafter, in August, City leadership identified and disclosed a fifth violation that had occurred on July 19th.

DOI's investigation included a review of PATH data and thousands of emails and text messages, multiple site visits to PATH, and interviews of more than 20 witnesses. DOI identified a total of 11 violations of the 10-to-4 Rule that occurred on and prior to July 18 — six more than City Leadership was aware of as of August 2022. Recordkeeping failures at PATH ultimately prevented DOI from determining with certainty how many families spent one or more nights at PATH in the summer of 2022, in violation of the 10-to-4 Rule. DOI's investigation revealed that PATH does not reliably document the time that families enter the facility and does not even attempt to document their exit times.

Allegation Related to DHS's Manipulation of Public-Facing Shelter Eligibility Data

DOI's investigation substantiated a separate allegation that from June 2017 through early to mid-2022, DHS Administrator Joslyn Carter and her subordinates, acting at her direction, artificially lowered PATH's publicly-reported Monthly Eligibility Rate by delaying DHS's final determination that families had been deemed eligible for shelter, when there was no legitimate reason for that delay. The rate is published on [NYC Open Data](#), and reflects the percentage of families seeking DHS shelter who are found eligible for shelter each month. The City uses the PATH Eligibility Rate for census forecasting, shelter capacity planning, and budgeting for rental assistance vouchers and shelter beds.

Administrator Carter told DOI that she acted at the direction of former DSS Commissioner Steven Banks (who led the agency from April 2015 until December 2021) and who instructed her to decrease the Monthly Eligibility Rate in light of then-Mayor Bill de Blasio's concerns about increases in the rate. Former Commissioner Banks acknowledged that he paid attention to fluctuations in the rate and at times discussed it with then-Mayor de Blasio and other senior Administration officials but denied knowledge of or involvement in any manipulation of the Monthly Eligibility Rate. DOI found that both Administrator Carter and former Commissioner Banks provided credible accounts with respect to their understanding of and involvement with the Monthly Eligibility Rate during the relevant time period, and each account is corroborated in certain respects. However, their accounts are irreconcilable as to the question of whether former Commissioner Banks knew of and directed Administrator Carter to engage in the data manipulation and DOI was not able to corroborate that claim.

In its investigation, DOI was unable to assess the full impact of DHS's manipulation of the Monthly Eligibility Rate due chiefly to limitations in the available data. However, witnesses uniformly told DOI that DHS's method of manipulating the Monthly Eligibility Rate did not have any substantive impact on the ultimate eligibility determinations (i.e., no eligible family was coded as ineligible for shelter due to the manipulation). Witnesses also told DOI that the manipulation did not cause any families to be denied shelter for which they were eligible, because they were able to remain in their existing DHS shelter on a conditional basis while their eligibility determination was pending. However, the practice could have delayed the transition of unhoused families from DHS shelter into permanent housing.

Witnesses informed DOI that DHS's manipulation of the Monthly Eligibility Rate ended around early- to mid-2022, when it became apparent that the new mayoral and DSS administrations were not focused on the Monthly Eligibility Rate. DOI found no evidence that former DSS Commissioner Gary Jenkins, current DSS Commissioner Molly Wasow Park, or anyone in the current mayoral administration had any knowledge of the manipulation.

In light of the findings described above, DOI made six Policy and Procedure Recommendations to DSS to address these issues:

- 1: DSS should design and implement a process to ensure families' arrival and departure times at PATH are consistently and accurately documented.
- 2: The process described in Recommendation #1 should be fully automated.
- 3: Once the process described in Recommendation #1 is implemented, and regardless of whether Recommendation #2 has already been implemented, DSS should conduct regular audits to ensure that the process is functioning as intended and that client movements into, within, and out of PATH are easily discernible.
- 4: DSS should create a written procedure detailing the requirements of the right to shelter for homeless families with minor children. This procedure should include provisions on the reporting of 10-to-4 Rule violations up the chain within DHS/DSS leadership, City Hall, and the public.
- 5: DSS should provide regular training to PATH staff and DHS/DSS leadership concerning the requirements of the right to shelter for homeless families with minor children, and DHS's obligations and policies with respect to the same.
- 6: In light of the manipulation of publicly-reported data confirmed by DOI, DSS should design and implement an internal audit process intended to ensure the integrity of all data that DHS makes public.

This investigation was conducted by Confidential Investigator Daniel Malvey, former DOI Legal Fellow Mirelis Gonzalez, and Inspector General Audrey Feldman, with the assistance of Deputy Inspector General Jeremy Reyes and Inspector General John Bellanie, under the guidance of Deputy Commissioner of Strategic Initiatives Christopher Ryan and Deputy Commissioner/Chief of Investigations Dominick Zarrella.

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New York City
Department of Investigation

Investigation into Two Allegations Concerning Data Maintenance and Reporting at the Department of Homeless Services PATH Intake Center

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Audrey Feldman
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January 2024



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I. Executive Summary

On the morning of Monday, July 18, 2022, executive leadership at the New York City Department of Social Services (“DSS”) and Department of Homeless Services (“DHS”)¹ were notified that more than ten families who had arrived at the DHS Prevention Assistance and Temporary Housing Intake Center (“PATH”) the previous evening remained in the building overnight (that is, they were not provided with temporary shelter placement the evening of their arrival). Four of those ten families had arrived before 10 p.m. on July 17, making their overnight stay at PATH a violation of a longstanding DHS policy in place at that time. That policy required that families arriving at PATH by 10 p.m. be provided with a shelter placement and transported out of PATH by 4 a.m. the following morning (hereinafter the “10-to-4 Rule”). The 10-to-4 Rule was based on Section 21-313 of the New York City Administrative Code (hereinafter “Section 21-313”), which requires DHS to provide “temporary shelter placement for that night” (including transportation) to any family with minor children “in the process of applying” for DHS services “as of ten o’clock in the evening.”² We note that, subsequent to the events discussed herein, and in light of the ongoing influx of migrant families in need of shelter to New York City, Mayor Eric Adams has temporarily suspended the aforementioned 4 a.m. deadline.³

This Report does not focus on the causes of the above-described incident (hereinafter referred to as the “July 18 Violations”), or of the seven additional 10-to-4 Rule violations that took place during the Summer of 2022 (confirmed through DOI’s investigation). We note, however, that the violations took place in the context

¹ DSS is an umbrella agency encompassing both DHS and the Human Resources Administration (“HRA”).

² No court has determined whether Section 21-313 mandates that DHS must place and transport “pre-10” families by any particular time to satisfy the statute’s requirement that families receive shelter “for that night.” This Report takes no position on that question, or on whether the 10-to-4 Rule violations discussed herein are also violations of the statute. The relevant DHS policy in place for at least two decades required families to have left PATH and be en route to their shelter placement by 4 a.m.

³ Specifically, on May 10, 2023 Mayor Eric Adams temporarily suspended Section 21-313 “to the extent that provision sets a deadline for the City’s temporary shelter placements,” meaning that the above-referenced 10-to-4 Rule does not apply. The suspension remains in place as of the date of this Report. We note that the suspension does not impact the City’s general obligation to provide shelter to families with minor children. While the City has asked the Hon. Deborah Kaplan, Deputy Chief Administrative Judge for the New York City Courts, New York State Supreme Court, to stay New York City’s right to shelter for *single adults* when DHS “lacks the resources and capacity to establish and maintain sufficient shelter sites, staffing, and security to provide safe and appropriate shelter,” that request itself, if granted, does not impact the City’s obligation to provide temporary shelter placement for families with minor children in need of housing. *Available at* https://www.nyc.gov/assets/home/downloads/pdf/press-releases/2023/city-application-to-justice-kaplan-callahan-v-carey-5-23-23.pdf?utm_medium=email&utm_name=&utm_source=govdelivery. *See also* Section II(A) below.

of an unprecedented influx of newly-arrived migrant families in need of shelter during that period and that, several days before the July 18 Violations, DHS's Client Assistance and Rehousing Enterprise System ("CARES") database had been taken "offline" for cybersecurity updates. Among other functions, CARES serves as DHS' electronic mechanism to locate and assign shelter beds for families at PATH. Because the database was not available shortly before and during this incident, DHS was required to assign all shelter beds manually; according to DSS, this significantly slowed down the assignment process and contributed to DHS's failure to place families in compliance with the 10-to-4 Rule.

This Report and its findings are limited to DSS and DHS's flawed response to the 10-to-4 Rule violations that took place during the Summer of 2022, attributable to the practices and procedures (or lack thereof) that limited DSS's ability to readily determine and accurately report what had occurred. Most importantly, DHS does not precisely document the times that families arrive at PATH, and makes no attempt to document their exit times. In the case of the July 18 Violations, the absence of this information led to a series of communication and reporting lapses discussed at length herein: First, even though PATH was responsible for escalating the July 18 Violations to DHS and DSS leadership, PATH officials did not do so, and agency leadership learned about the July 18 Violations only because management of a distinct DHS unit was aware of and escalated the violations. Second, DSS issued a public report on the morning of July 19 that incorrectly represented zero 10-to-4 Rule violations the previous morning. Third, DSS leadership and City Hall were unaware of at least seven other recent violations of the 10-to-4 Rule, and therefore the City incorrectly reported only four violations during a press conference held on Thursday, July 21 (when in fact, unbeknownst to DSS and City leadership, at least seven more violations had taken place in the 30 days before the press conference in addition to the four that took place on July 18).

The above-described issues were exacerbated by then-DSS Commissioner Gary Jenkins' lack of full transparency in his communications about the July 18 Violations. In particular, Jenkins decided to delay notifying the Legal Aid Society (individually and together with its affiliate Coalition for the Homeless, "Legal Aid"), the court-appointed monitor for the City's shelter system,⁴ about the violations for approximately 24 hours. While the delay was brief, Jenkins could not provide DOI with a sufficient explanation for it. For this reason, DOI found that the delay in notification represented a departure from DHS's longstanding practice to promptly

⁴ In 1981, as part of the landmark consent decree in *Callahan v. Carey*, State Supreme Court Justice Richard W. Wallach appointed Coalition for the Homeless as the monitor for shelters for homeless adults. Sup. Ct., N.Y. County Index No. 42582/79, Aug. 26, 1981. Mayor Bill de Blasio extended the Coalition's oversight to include shelter for homeless families in 2016. *Organizing and Shelter Monitoring*, COALITION FOR THE HOMELESS, available at <https://www.coalitionforthehomeless.org/our-programs/advocacy/organizing-and-shelter-monitoring/>.

notify Legal Aid about any significant issues impacting the DHS shelter system, and justifiably resulted in Legal Aid expressing concerns about the City's transparency on this issue.⁵

Additionally, although Jenkins promptly informed his direct supervisor, Deputy Mayor Anne Williams-Isom, that families had remained at PATH past the 4 a.m. deadline on the morning of July 18, he did not fully convey the legal or factual significance of that fact to Deputy Mayor Williams-Isom at that time, nor did he convey that he intended to withhold that fact from Legal Aid for 24 hours (inconsistent with DSS's precedent of reporting significant incidents to Legal Aid without unjustified delay). Jenkins and his Chief of Staff also denied that families were "sleeping at PATH" upon receiving an inquiry the following day (Tuesday, July 19) from the Deputy Mayor's staff, such that City Hall did not have a complete understanding of what had occurred at PATH until public reports began circulating later that week about the number of families who allegedly spent the night at PATH and the amount of time those families spent at the intake center.

In those public reports, which first emerged on Wednesday, July 20, two families interviewed by NBC News 4 ("News 4") reported sleeping at PATH for at least three consecutive nights during the week of July 18.⁶ One of the interviewed families provided News 4 with cell phone camera footage of families lying on the floor of the intake center with blankets and pillows (although the footage does not establish the length of time that families remained at the center, and the fact that a family may rest or even sleep on the floor at PATH during the intake process is not itself a violation of any policy or law).⁷ Likewise, Legal Aid publicly alleged that "many

⁵ For instance, Legal Aid told NBC News 4 in the wake of the July 18 Violations that "we fear that we can no longer rely on this Administration for straight answers on the crisis facing families and individuals seeking shelter. To date, we are still waiting for complete data from the City regarding the extent of the violations, and we are concerned that the City's failure to comply with the right to shelter and related local laws may be much more widespread than the City initially reported." Melissa Russo, *Legal Aid Demands Immediate Probe of 'Stunning' Report on NYC Shelter Cover-Up*, NBC NEWS 4 (Aug. 11, 2022), available at <https://www.nbcnewyork.com/investigations/migrant-crisis/legal-aid-demands-immediate-probe-of-stunning-report-on-nyc-shelter-cover-up/3820400/>.

⁶ See *Legal Aid Claims Mayor Adams Exaggerated NYC Migrant Crisis to Cover Shelter System Violations*, NBC NEWS 4 NEW YORK (July 20, 2022), available at <https://www.nbcnewyork.com/news/legal-aid-claims-eric-adams-exaggerated-nyc-migrant-crisis-to-cover-shelter-system-violations/3783504/>; *Mayor Adams Denies Mishandling of Migrant Families in NYC*, NBC NEWS 4 NEW YORK (July 21, 2022), available at <https://www.nbcnewyork.com/news/mayor-adams-denies-mishandling-of-migrant-families-in-nyc/3785324/>. DOI was unable to determine whether or not these claims were accurate due to the limitations in the available data discussed at length in this Report.

⁷ See *Mayor Adams Denies Mishandling of Migrant Families in NYC*, NBC NEWS 4 NEW YORK (July 21, 2022), available at <https://www.nbcnewyork.com/news/mayor-adams-denies-mishandling-of-migrant-families-in-nyc/3785324/>.

families . . . slept overnight at PATH” during the week of July 18.⁸ Legal Aid also criticized DSS’s failure to immediately notify Legal Aid about the violations, in contravention of DSS’s historical practice.⁹

At a July 21 press conference, Jenkins and Mayor Eric Adams acknowledged – consistent with the information that DHS obtained in the days prior and provided to City Hall – that four technical violations of the 10-to-4 Rule had occurred as of that date, all on the morning of July 18 (meaning that four families arrived at PATH before 10 p.m. on July 17 and remained there after 4 a.m.).¹⁰ Jenkins explained at the same press conference that “we are required by state law to house [any] family [present at PATH by 10 p.m.] in a conditional placement by 4 a.m.”¹¹ Mayor Adams acknowledged a violation of “the letter of the law” but stated that the City remained within “the spirit of the law” and that “of my knowledge we don’t have families that are living overnight” at the intake center.¹² In fact, unbeknownst to both Jenkins and City Hall, other violations of the 10-to-4 Rule had occurred both before and after the July 18 Violations. About one month later, the City belatedly disclosed a fifth violation that took place on Tuesday, July 19 (the night after the four violations discussed during the July 21 press conference).¹³ A timeline of key events with respect to the July 18 Violations is included in this Report as **Appendix A**.

In August 2022, News 4 reported allegations that former DSS Deputy Director of Press and Communications Julia Savel had been terminated in retaliation for informing City Hall about the July 18 Violations, which Savel claimed that Jenkins was trying to conceal.¹⁴ DOI began an investigation into the events surrounding the

⁸ *Legal Aid Claims Mayor Adams Exaggerated NYC Migrant Crisis to Cover Shelter System Violations*, NBC NEWS 4 NEW YORK (July 20, 2022), available at <https://www.nbcnewyork.com/news/legal-aid-claims-eric-adams-exaggerated-nyc-migrant-crisis-to-cover-shelter-system-violations/3783504/>.

⁹ See Press Release, Legal Aid Society, *Legal Aid, Coalition for the Homeless Condemn City for Violating Local Law by Denying Homeless Families with Minor Children Shelter Placements* (July 20, 2022), available at <https://legalaidnyc.org/wp-content/uploads/2022/07/Legal-Aid-Coalition-for-the-Homeless-Condemn-City-for-Violating-Local-Law-by-Denying-Homeless-Families-With-Minor-Children-Shelter-Placements.pdf>.

¹⁰ See Transcript, “Mayor Eric Adams Provides Update on Asylum Seekers,” (July 21, 2022), available at <https://www.nyc.gov/office-of-the-mayor/news/534-22/transcript-mayor-eric-adams-provides-on-asylum-seekers>.

¹¹ *Id.*

¹² *Id.*

¹³ See Chris Sommerfeldt, *NYC Social Services Commissioner Gary Jenkins Denies Shelter Crisis Coverup*, NEW YORK DAILY NEWS (Aug. 19, 2022), available at <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-nyc-dss-commissioner-gary-jenkins-denies-shelter-coverup-cbs-20220818-2zogc72pz5cujzxwnegdqy5uy-story.html>. This fifth violation is discussed in further detail in Section II(C) below.

¹⁴ See Melissa Russo, *Amid Shelter Crisis, NYC Agency Fires Official Who Pushed Back on ‘Lies’: Source*, NBC NEWS 4 (Aug. 10, 2022), available at <https://www.nbcnewyork.com/investigations/migrant-crisis/amid-shelter->

July 18 Violations shortly thereafter. DOI's investigation included a review of PATH data and thousands of emails and text messages, multiple site visits to PATH, and interviews of more than 20 witnesses.

DOI's investigation focused primarily on DSS's process for identifying and reporting 10-to-4 Rule violations. We conducted a limited inquiry into the reasons for Savel's termination. DOI found some evidence that supported Savel's claim that her termination resulted principally from her conversations with City Hall about the events discussed herein, as Savel has claimed, but also some evidence that, as Jenkins has publicly stated, Savel's termination was due to "documented instances" where she was reportedly "unprofessional with her peers, with her subordinates and with senior management."¹⁵ DOI was unable to reach a conclusion on this issue, but in any event, because Savel alleges retaliation as a result of reporting certain facts to City Hall (as opposed to DOI), she is ineligible for employment protection under the City's Whistleblower Law (NYC Admin. Code Section 12-113).

With respect to the situation at PATH in the Summer of 2022, DHS's limited recordkeeping ultimately prevented DOI from determining how many "pre-10" families spent one or more nights at PATH during that period in violation of the 10-to-4 Rule (as opposed to obtaining temporary shelter placement and transport by 4 a.m. the morning after their arrival). DOI's inability to reconstruct this figure was due mainly to the fact that PATH does not precisely document the time that families enter the facility, and makes no attempt to document their exit times. Moreover, surveillance footage from PATH at the times and locations that might have allowed DOI to reconstruct entry and exit times was missing when DOI requested it.¹⁶ DHS may not have recognized the need to systematically document client entry and exit times at PATH before the Summer of 2022 because known violations of the 10-to-4 Rule were very rare before that point. However, the events of Summer 2022 make clear that such information must be maintained.

In addition to the five violations ultimately acknowledged by the City that occurred on July 18 and 19, 2022, and in spite of the above-described shortcomings in PATH's records, DOI identified six more apparent violations of the 10-to-4 Rule that occurred earlier in the Summer of 2022. In other words, DOI identified six additional instances in which a family who arrived at PATH before 10 p.m. was not en route to

[crisis-nyc-agency-fires-official-who-pushed-back-on-lies-source/3817837/](#). Savel's allegations are addressed in Section II(C) of this Report.

¹⁵ See Bernadette Hogan, *Embattled NYC Homeless Services Chief Gary Jenkins Denies Coverup Claims by Former Aide*, NEW YORK POST (Aug. 18, 2022), available at <https://nypost.com/2022/08/18/homeless-services-chief-denies-coverup-claims-by-former-aide/>.

¹⁶ As discussed in Section II(B) below, DHS and its vendors stated that this was most likely due to a technical server issue, but could not provide any documentation confirming the server error.

a shelter (or in a shelter) by 4 a.m. the following day. Specifically, DOI identified three violations on June 29 and another three on July 3 and 4, 2022. On each of these dates, the PATH manager on duty sent a “4 a.m. Report” email to DHS and DSS leadership incorrectly stating that no clients remained in the building as of 4 a.m. – even though evidence reviewed by DOI makes clear that the manager on each of these dates was aware that families had in fact remained in the building past 4 a.m. Although these six additional violations represent a tiny fraction of the families seeking DHS shelter in this period, the fact that these violations were not reported to DSS leadership or to the public indicates a need for DHS to improve its procedures for ensuring an accurate count of 10-to-4 Rule violations at PATH. A complete list of the eleven 10-to-4 Rule violations during the Summer of 2022 that DOI has now confirmed (only five of which were previously identified and reported publicly by DSS) is included in this report as **Appendix B**.

DOI attributes DSS’s failure to identify at least six previously-unreported violations to gaps in DSS’s policies and procedures concerning Section 21-313 and the 10-to-4 Rule. Specifically, although DHS policy has provided since 2003 that “families with children who are at [PATH] prior to 10 pm and have not been assigned a conditional placement” must “be placed overnight in an overnight placement facility” pursuant to an “Overnight Process” which “ends at 4 am,”¹⁷ DHS never issued detailed policies and procedures concerning the requirements of Section 21-313 and the 10-to-4 Rule, how to comply with (and document compliance with) Section 21-313 and the 10-to-4 Rule, or how to identify and report violations of Section 21-313 and/or the 10-to-4 Rule. DSS also never offered any formal training to either PATH employees or to its own leadership on the subject. As a result, DOI found that although violations of the 10-to-4 Rule occurred at PATH on at least four separate mornings in June and July 2022, the only violations that were timely escalated to DSS leadership, including then-Commissioner Gary Jenkins, were those that occurred on Monday, July 18. And as noted above, even in the wake of the July 18 Violations, DSS’s lack of institutional knowledge and procedures surrounding the requirements of Section 21-313 and the 10-to-4 Rule hampered the City’s ability to quickly and accurately convey what had occurred to both Legal Aid and the public.

Finally, DOI also has substantiated an allegation that predates and is distinct from the facts discussed above, related to PATH’s reporting of public-facing data from approximately 2017 through early 2022. To be clear, this allegation relates to a prior DSS and City Hall Administration, and has no relevance to the events at PATH during the Summer of 2022 also discussed in this Report. However, the investigations of these distinct issues overlapped because there are common witnesses to both, and

¹⁷ DHS Procedure No. 03-501 (2003) (on file with DOI).

because both involve the collection and maintenance of information by PATH that is reported to the public. This Report therefore addresses both issues.

The separate allegation substantiated by DOI is that from approximately June 2017 until early or mid-2022, DHS Administrator¹⁸ Joslyn Carter and her subordinates artificially lowered PATH's publicly-reported "Monthly Eligibility Rate," (hereinafter the "Eligibility Rate" or the "Rate"),¹⁹ which tracks the percentage of families who seek shelter at PATH ultimately deemed eligible for DHS services. Although DOI was unable to quantify the impact that this manipulation had on homeless families, it logically would have subjected some eligible families to, at a minimum, slightly longer wait times to qualify for housing vouchers – potentially prolonging by at least some small amount of time the families' stays in shelters and delaying their moves into more stable housing. It is important to note that the additional wait time for any given family may not have been substantial, and it is not clear why maintaining an artificially lowered Eligibility Rate had any benefit to DSS or to the prior mayoral administration. The practice ceased, at the latest, in mid-2022, and there is no indication that the DSS Commissioners in the current mayoral administration had any knowledge of it.

Although Administrator Carter and numerous of her current and former subordinates admitted to participating in the manipulation of the Rate, DOI's investigation was inconclusive in certain significant respects. Most notably, Administrator Carter told DOI that she acted at the direction of former DSS Commissioner Steven Banks (who led the agency from April 2016 through December 2021).²⁰ According to Administrator Carter, Banks instructed her to "bring the [eligibility] rate down" in order to "appease" then-Mayor Bill de Blasio's concerns about increases in the Rate. Banks acknowledged that he paid attention to fluctuations in the Rate and at times discussed it with de Blasio and other senior officials, but denied knowledge of or involvement in any manipulation of the Rate. Several other witnesses confirmed that Banks paid close attention to fluctuations in the Rate during his tenure, but either stated that they did not have any knowledge of the Rate manipulation themselves or that they had no knowledge about whether Banks knew about the manipulation. While Administrator Carter and Banks both gave credible accounts with respect to their understanding of the Eligibility Rate

¹⁸ The Administrator is the highest-ranking official in DHS, and reports up to the DSS Commissioner and First Deputy Commissioner. *See* footnote 1 above.

¹⁹ *See* NYC OPEN DATA, *PATH and ADIC Monthly Eligibility Rate*, available at <https://data.cityofnewyork.us/Social-Services/PATH-and-AFIC-Monthly-Eligibility-Rate/985h-mtct>.

²⁰ Banks previously served as the Commissioner of the City's Human Resources Administration ("HRA") from 2014 until April 2016, when de Blasio consolidated HRA with DHS under a single newly-created administration – DSS – and appointed Banks the Commissioner of that entity.

during the relevant time period, and each account is corroborated in certain respects, their accounts are irreconcilable as to the question of whether Banks knew of and directed Administrator Carter to engage in the Rate manipulation, and we are aware of no evidence corroborating Administrator Carter's statement that Banks directed her to manipulate the Rate.

As DHS's family shelter population is now at record highs,²¹ DSS must maintain accurate information about the circumstances at PATH, including with respect to families' entry and exit times and the percentage of families appearing at PATH who are eligible for DHS services. Any information provided to the public about these matters also must be accurate. This Report details DOI's findings and sets forth DOI's recommendations to DSS to mitigate the issues that those findings reflect. DOI will continue to monitor DSS's implementation of these recommendations and reforms. DOI has also issued a referral to DSS with respect to the manipulation of the PATH Monthly Eligibility Rate.

II. Investigative Findings

A. The Family Shelter Mandate, Section 21-313, and the 10-to-4 Rule

Section 21-313 was passed in connection with litigation that established New York City's right to shelter for homeless families with minor children (hereinafter the "Family Shelter Mandate").²² The Family Shelter Mandate originated in *McCain v. Koch*, a 1983 class action lawsuit brought by Legal Aid challenging the adequacy of the City's emergency housing for homeless families with children.²³ In 1986, an appellate court granted the preliminary injunction sought by plaintiffs, after determining they would likely prevail on their claim that the New York State

²¹ See NYC OPEN DATA, *DHS Homeless Shelter Census*, available at <https://data.cityofnewyork.us/Social-Services/DHS-Homeless-Shelter-Census/3pjq-ncn9/data>.

²² Following the events at issue in this Report, the City sought to modify the right to shelter as applied to homeless adult families and single adults, but has not to date sought to modify the right to shelter for homeless families with minor children. See Letter from Thomas C. Crane, Deputy Chief of General Litigation, New York City Law Department, to the Hon. Deborah Kaplan, Deputy Chief Administrative Judge for the New York City Courts, New York State Supreme Court (May 23, 2023) (requesting to stay New York City's right to shelter for single adults when DHS "lacks the resources and capacity to establish and maintain sufficient shelter sites, staffing, and security to provide safe and appropriate shelter"), available at https://www.nyc.gov/assets/home/downloads/pdf/press-releases/2023/city-application-to-justice-kaplan-callahan-v-carey-5-23-23.pdf?utm_medium=email&utm_name=&utm_source=govdelivery.

²³ See 127 Misc. 2d 23, 484 N.Y.S.2d 985 (N.Y. Misc. 1984).

Constitution obligated the City to provide emergency shelter for homeless families with children.²⁴

During the course of the *McCain* litigation in 1999, the City enacted Section 21-313, which entitles any family with minor children “in the process of applying” for DHS services “as of ten o’clock in the evening” to “temporary shelter placement for that night,” and requires DHS to “arrange transportation for the families to and from the temporary shelter placement.”²⁵ DOI did not identify any definitive interpretation or DHS guidance concerning how to determine that a family is “in the process of applying” for services at 10 p.m. pursuant to Section 21-313. Based on this investigation, DOI recommends that a family’s application “process” be deemed to commence immediately after the family passes through security at the PATH entrance, and that the time that the family passes through security be documented.

Although DHS policy has suggested that a family must be en route to, or have arrived at, their temporary shelter placement by 4 a.m. to comply with Section 21-313 since at least 2003,²⁶ no judicial authority, statute, or regulation has ever declared that deadline to be required by law. Historical correspondence between DHS and Legal Aid nevertheless supports an understanding between the parties that: (1) DHS must provide both shelter placements and transportation to any families who arrive at PATH by 10 p.m. by 4 a.m., and (2) DHS will inform Legal Aid if DHS fails to meet this deadline.²⁷ Specifically, an August 14, 2007 letter from Legal Aid to DHS concerning several “pre-10” families who had not been provided with timely transportation to their shelter placements by 4 a.m. referred to DHS’s “assurance that it is still the City’s policy to provide a placement to every family who arrives at Path by 4 A.M., and your assurance that [Legal Aid] will be informed ... should these violations recur regardless of whether the violations are due to a lack of placement or

²⁴ See *McCain v. Koch*, 117 A.D.2d 198, 214-15 (N.Y. App. Div. 1986). The right to shelter initially applied only to homeless single men. See *Callahan v. Carey* (Sup. Ct., N.Y. County Index # 42582/79, Aug. 26, 1981). It was later extended to single women on equal protection grounds. See *Eldredge v. Koch* (98 A.D.2d 675, 676, N.Y. App. Div., 1st Dep’t 1983). In 2008 – after decades of court battles – the City and Legal Aid settled *McCain* and related litigation by entering into a final consent decree, pursuant to which the City agreed that “[e]ligible homeless families with children, defined as families with children who lack alternate housing . . . are entitled to emergency shelter and the City shall not deny shelter to such families.” Final Judgment, *Boston v. City of New York*, No. 402295-08 (Sup. Ct. N.Y. Co. Dec. 12, 2008) (hereinafter the “*Boston* consent decree”). No court has determined whether the right to shelter is guaranteed under the New York State Constitution.

²⁵ N.Y.C. Administrative Code § 21-313.

²⁶ DHS Procedure No. 03-501 (2003) (on file with DOI).

²⁷ Numerous DSS and DHS officials interviewed by DOI confirmed this understanding.

lack of transportation.”²⁸ Consistent with the parties’ apparent historical agreement that DHS would inform Legal Aid of any violations, former DSS General Counsel Martha Calhoun informed DOI that it was DHS’s longstanding practice to promptly disclose any significant issues impacting the shelter system (such as flooding at a shelter, the need to relocate certain families, or violations of the 10-to-4 Rule at PATH) to Legal Aid as soon as DHS had confirmed the relevant facts and notified DSS leadership, and in certain cases, notified City Hall as well. Current DSS Commissioner Molly Park likewise told DOI that it was typical for DSS to notify Legal Aid of significant issues involving the shelter system within a few hours, with some variation depending on the nature of the issue and DSS’s need to update internal stakeholders before making a disclosure.

On May 10, 2023, Mayor Eric Adams issued Emergency Executive Order 402, temporarily suspending Section 21-313 “to the extent that it sets a deadline for the City’s temporary shelter placements.”²⁹ The temporary suspension is based on the challenges resulting from the significant and ongoing influx of migrants into the City’s shelter system, and remains in place as of the issuance of this Report.³⁰ DSS officials informed DOI that the suspension is intended to give DHS the flexibility it would need if, for example, a large number of migrant families were to arrive at PATH around 9 p.m., but that PATH has nevertheless continued to make every effort to comply with the historical 4 a.m. deadline since the suspension took effect. DSS also was not aware of any further instances of “pre-10” families remaining at PATH past 4 a.m. since the Summer of 2022.³¹

²⁸ Letter from Thomas C. Crane, General Litigation Bureau Chief, Legal Aid Society, to Michele Ovesey, General Counsel, DHS (Aug. 14, 2007) (on file with DOI).

²⁹ See NYC Emergency Exec. Order No. 402 (May 10, 2023), available at <https://www.nyc.gov/office-of-the-mayor/news/402-003/emergency-executive-order-402>. The order also extended the City’s state of emergency “based on the arrival of thousands of individuals and families seeking asylum” (first declared October 7, 2022). *Id.*; see also Chris Sommerfeldt, *Mayor Adams Suspends NYC Right-to-Shelter Rules Ahead of Expected Migrant Surge*, NEW YORK DAILY NEWS, May 10, 2023, available at <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-mayor-adams-signs-order-suspending-nyc-right-to-shelter-rules-20230511-w2jygovahrekjganbm6ne3ioa-story.html>; Elizabeth Kim, *How Mayor Adams Was Able to Bypass NYC’s Decades-Old Right-to-Shelter Rules*, GOTHAMIST, available at <https://gothamist.com/news/how-mayor-adams-was-able-to-bypass-nycs-decades-old-right-to-shelter-rules>.

³⁰ Specifically, Emergency Executive Order 402 provided that it would “remain in effect for five (5) days,” and as of the date of this Report has been renewed every five days since it was issued, most recently on January 5, 2024. See NYC Emergency Exec. Order No. 542, available at <https://www.nyc.gov/office-of-the-mayor/news.page?type=Executive#page-1>.

³¹ Notably in this regard, since the Summer of 2022 the City has opened centralized intake centers for migrant arrivals (including migrant families), such that PATH no longer serves as the intended point of entry for the majority of migrant families into the City’s shelter system.

B. DSS's Institutional Practices Surrounding Section 21-313 and the 10-to-4 Rule

The DHS Application Process at PATH

Applying for DHS shelter at PATH is a multi-step process that takes several hours per family. Upon entering the facility, families pass through a security checkpoint staffed by the Department of Homeless Services Police Department (“DHSPD”) and receive a paper application from a temporary worker at one of two “greeter posts” immediately past security.³² Families begin to complete the paper application as they wait in line to be seen by a DHS intake worker at a service window on the first floor.

The first-floor service window is the first opportunity for an applicant family to interface directly with DHS staff. The DHS intake worker reviews the family’s paper application and enters basic information pertaining to the family and its individual members into DHS’s client management database, CARES, which is then used to generate a Temporary Housing Assistance (“THA”) application. Based on the information provided by the family, the intake worker also determines which other PATH units³³ the family will see during the assessment process, and creates a ticket for the family in “Q-Flow,” a customer flow database that tracks the status of each family during their time at PATH. A printout of the Q-Flow ticket, containing the family’s CARES ID number and a timestamp of when the ticket was issued, is provided to the family before they are directed to the next location.

After completing intake, families make their way through the building to complete a multi-step application process which includes: (1) a meeting with a representative of the HRA Homeless Diversion Program, which attempts to identify available housing for the families outside the DHS system by connecting the family to rental assistance and/or contacting friends and family members who may be able to provide housing; and, if those efforts are unsuccessful (2) a meeting with the DHS “Programs” staff, which is the first step in DHS’s investigation to determine whether a family has alternative housing options that would make them ineligible for DHS services under the *Boston* consent decree.³⁴

³² The role of the “greeters” is generally to hand out paper applications, answer basic questions, and redirect single adults or adult families to the appropriate DHS intake facility. The “greeters” do not perform any intake work themselves, and they do not record the time of families’ arrival at PATH.

³³ Depending on the family, the assessment process at PATH may include (for instance) a domestic violence evaluation, medical evaluation, and/or meeting with a representative from the City Department of Education.

³⁴ See footnote 24 above. DHS eligibility investigations and the publicly-reported PATH 30-day eligibility rate are discussed in detail in Section II(E) of this Report.

Once the assessment process is complete, DHS's Housing Emergency Referral Operations ("HERO") unit is responsible for locating a shelter placement for the families. Families who arrive at PATH before around 5 p.m. typically receive "conditional" placement at a family shelter that same evening.³⁵ Families who arrive later in the evening are typically placed for one night at a DHS-contracted "overnight" hotel facility and then brought back to PATH to complete their application the following morning, after which they receive their conditional shelter placement.

Even after a family accepts a conditional or overnight shelter placement, it can be several hours before DHS provides the family with transport from PATH to the shelter location.³⁶ Families who receive a conditional placement typically leave PATH on a DHS fleet van. The last DHS fleet van of the evening usually departs PATH around 2 a.m. Families who are "overnighted" typically leave PATH on a DHS-contracted charter bus. The last charter bus usually departs PATH shortly before or at 4 a.m. As further discussed in Section II(D) below, PATH has also hired taxi services to transport individual families when the DHS fleet and buses were filled to capacity or otherwise unavailable.

PATH's Lack of Accurate Data on Client Entry and Exit Times

DOI found that PATH lacks procedures to accurately record family arrival and departure times, despite having two systems (CARES and Q-Flow) that should be capable of doing so. For this reason, PATH cannot reliably identify and report any families that arrived before 10 p.m. but were not en route to an overnight placement before 4 a.m. – that is, any violations of the 10-to-4 Rule.

As described above, the first timestamped entries associated with a family's arrival at PATH are the issuance of the THA form in CARES and the issuance of a ticket in Q-Flow. Neither of these entries occurs until after the family has already cleared DHSPD security, waited in line, and spoken with a DHS worker at one of the first-floor intake windows. Witnesses informed DOI that around mid-2022, when large numbers of migrant families began appearing at PATH, the approximate average wait time to speak to an intake worker was between around 20 minutes to an hour. It is therefore likely that many families whose application start times were documented by PATH as being shortly after 10 p.m. in fact passed through PATH security before the 10 p.m. cutoff.

³⁵ The "conditional" status is pending the outcome of DHS's multi-day eligibility for shelter investigation. Families found eligible usually remain at the same shelter where they are housed initially once the investigation is complete.

³⁶ Families are also permitted to take public transit or arrange for their own transportation if they so choose.

In contrast with family arrival times – which as described above are recorded, albeit with a potentially meaningful delay – DOI found that PATH does not record family exit times at all. The last timestamped entry in CARES reflects the time that a family at PATH accepts a conditional or overnight shelter placement, which may be hours before DHS provides the family with transportation to the shelter location. While PATH maintains written manifests documenting the identity of families on each charter bus and DHS fleet vehicle that departs from PATH, as well as receipts for each cab or car service that DHS provides to transport a family from PATH, these documents are not timestamped and the associated information is maintained in hard copy and not logged electronically.³⁷

Currently, PATH attempts to track its compliance with the 10-to-4 Rule primarily through manual “sweeps” to identify which families remain in the building at a given point in time.³⁸ The sweeps involve walkthroughs of the facility by PATH staff at regular intervals each day (including one at 4 a.m.), and are intended to provide a snapshot of the families in the building, their arrival time at PATH, and their placement status. PATH staff document the results of the sweeps on handwritten logs. The PATH manager on duty is expected to send a “4 a.m. report” via email each morning to a distribution list of DHS and DSS leadership (including the DSS Commissioner) stating whether or not there are families remaining on the premises as of the 4 a.m. sweep.

DOI’s ability to reconstruct potential additional violations of the 10-to-4 Rule was constrained by the limited records maintained by PATH. Specifically, the timestamped sweep forms are filled out by hand, and although they are typically scanned and circulated via email, the physical copies are not preserved, nor are scanned electronic copies maintained in any central location. They are preserved only in the emails of the senders and recipients. The data collected during the sweeps is also never entered into Q-Flow or CARES.

DOI also attempted to collect surveillance footage to determine whether families remained at PATH past 4 a.m. during the relevant time period. However, DOI learned that footage from the PATH basement (where families typically exit) had not been preserved for key dates and times. DHS and its vendors informed DOI that this issue was apparently caused by a failure of one of the backup servers used

³⁷ DHS produced to DOI copies of receipts for taxi services to provide client transport at PATH from April 2022-January 2022, none of which were timestamped. DOI was informed by DSS that the bus manifests similarly were not timestamped, and that due to their large volume they were not available electronically but only in hard copy.

³⁸ In response to the increasing number of migrant family arrivals throughout the Spring and Summer of 2022, DSS leadership instructed PATH staff to complete sweeps as often as every two hours. These sweeps are a significant administrative burden.

to store footage, and that the issue has since been resolved. DHS and its vendors were unable to provide any documentation or proof of the server failure, however, and DHS's vendors told DOI that they could not definitively exclude the possibility of tampering. Moreover, DHS's failure to identify this issue until receiving DOI's collection request represents a significant lapse in security at the intake center.³⁹

DOI acknowledges that for at least ten years before the July 18 Violations at issue here, no documented violations of the 10-to-4 Rule had occurred at PATH. Consequently, DSS had not previously identified the need to implement more robust procedures and recordkeeping concerning compliance with the 10-to-4 Rule. But as the unprecedented influx of migrant families and the resulting stress on PATH revealed, the absence of such procedures and recordkeeping hampered the City's ability to promptly and accurately confirm the relevant facts surrounding the July 18 Violations and inform the public of those facts. Moreover, due to the limited records and video footage available from PATH, DOI cannot be certain that the six additional violations of the 10-to-4 Rule that DOI identified by conducting a thorough email review, coupled with witness interviews and a review of CARES and Q-Flow data (discussed in Section II(D)), were in fact the only undisclosed violations during the Summer of 2022.

DHS's Lack of Procedures Concerning the Family Shelter Mandate, Section 21-313, and the 10-to-4 Rule

DOI also found that DHS lacks adequate written policies or training regarding the Family Shelter Mandate, Section 21-313, and the 10-to-4 Rule, beyond the above-referenced 2003 procedure which provides simply that the "overnight process" for "families with children who are at [PATH] prior to 10 pm . . . ends at 4 am."⁴⁰ There is no DHS policy document, statute or regulation that clearly lays out how to comply and document compliance with Section 21-313 and/or the 10-to-4 Rule. DHS leadership and PATH staff uniformly stated during interviews with DOI that they had not received any formal training on the Family Shelter Mandate or the 10-to-4 Rule (although they were generally aware of them via word of mouth and informal supervisory guidance). DOI found that this lack of formal guidance contributed to confusion among DSS leadership and PATH staff as to the requirements of Section 21-313 and the 10-to-4 Rule and the significance of any potential violations, which in turn contributed to the various reporting and communication lapses discussed in Sections II(C) and (D) below.

³⁹ Security at PATH is particularly important given that it is a point of entry to the shelter system for domestic violence victims, who become homeless by fleeing their abusive partners.

⁴⁰ DHS Procedure No. 03-501 (2003) (on file with DOI).

C. DSS's Response to the July 18 Violations

DOI found that DSS's lack of procedures regarding Section 21-313 and the 10-to-4 Rule, coupled with PATH's incomplete record-keeping with regard to family entry and exit times at PATH, led to several shortcomings in the City's response to the July 18 Violations. Specifically: PATH did not escalate the July 18 Violations to DHS and DSS leadership, who learned about the violations from a distinct unit within DHS (albeit within approximately two hours of the violations); DSS issued a public-facing report erroneously documenting zero 10-to-4 Rule violations on July 18; and DHS did not escalate to DSS leadership the fact that an additional fifth violation occurred the following morning (Tuesday, July 19), which resulted in the City incorrectly confirming only four violations during a press conference regarding the situation at PATH on Thursday, July 21. DOI further determined that then-DSS Commissioner Gary Jenkins exacerbated these shortcomings by not immediately informing Legal Aid of the July 18 Violations and by not being fully transparent with City Hall about the significance of families remaining overnight at PATH.

PATH's Delayed Escalation of the July 18 Violations to DHS Leadership

As noted in Section II(B) above, each morning the PATH manager on duty is expected to send a "4 a.m. report" email, notifying DHS and DSS leadership (including the DHS Administrator and DSS Commissioner) whether there are families remaining at PATH. The manager is expected to send that report at, or shortly after, the 4 a.m. deadline. Although the 4 a.m. PATH manual "sweep" on Monday, July 18, 2022 identified at least fourteen families (including four "pre-10" families) remaining at PATH as of 4 a.m., the PATH manager on duty failed to send a "4 a.m. report" or otherwise notify agency leadership of this fact. Rather, it was DHS HERO Director Reesa Henderson – who heads a unit distinct from PATH which is responsible for matching DHS applicants with available shelter beds – who first notified DHS Administrator Carter and her direct reports of the violations on the morning of July 18 at 6:09 a.m.

Administrator Carter expressed frustration that PATH itself had not notified DHS leadership of the violations, which she wrote at the time should have been "an escalation call." Jenkins also told DOI that he would have expected to receive a "4 a.m. report" notifying him of any violations of the 10-to-4 Rule if and when they occurred. However, the PATH manager on duty that night told DOI that she did not send out a "4 a.m. report" email that morning in part because she thought she should get input from her superiors before discussing the issue via email, but had difficulty reaching them. DOI found that DSS's lack of formal procedures for managing violations of Section 21-313 contributed to the manager's lack of clarity as to how to make a notification, and thus to the delay in making it.

DSS's Issuance of an Incorrect "DHS Daily Report" Showing Zero 10-to-4 Rule Violations on July 18, 2022

DHS's Office of Planning and Performance Management ("OPPM") makes public on its website a "DHS Daily Report" that reflects, among other data, the DHS shelter census as well as the number of "[f]amilies w/ children at PATH Overnight (pre 10PM)" for the previous day.⁴¹ OPPM incorrectly publicly reported this number for July 18, 2022 as zero (**Exhibit 1**). DOI found that this error was caused by the fact that the field in the report that reflects the number of families (if any) who spent the night at PATH is pre-populated as zero, and is published as zero unless DHS informs OPPM that violations have occurred. At the time of the July 18 Violations, there was no process in place to ensure that DHS informed OPPM about the number of violations, if any – indeed, DSS leadership was unaware that OPPM was publicly reporting this number until the Legal Aid Society brought the July 18 error in the public reporting to DSS's attention. Although OPPM staff have since been added to the email distribution list for the daily "4 a.m. report," this field still pre-populates as zero in the absence of additional information, and there is no automated process to populate the "[f]amilies w/ children at PATH Overnight (pre 10PM)" field, so the risk of erroneous reporting remains.⁴²

Former Commissioner Jenkins' Lack of Full Transparency in the Wake of the July 18 Violations

Through witness interviews, DOI established that around 8 a.m. on July 18, 2022, then-Commissioner Jenkins spoke with DHS Administrator Carter by phone about the fact that pre-10 p.m. families had remained at PATH past the 4 a.m. deadline. In an interview with DOI, Administrator Carter (who is not an attorney) recalled telling Jenkins that the events at PATH amounted to a legal violation, and that DSS should notify Legal Aid immediately. Jenkins told DOI that he recalled a conversation with Administrator Carter concerning the events at PATH, and that he knew from Administrator Carter's tone that the situation was "serious." However, in contrast with Administrator Carter's account, Jenkins maintained that although he understood from Administrator Carter that families had remained at PATH past the 4 a.m. deadline in violation of DHS procedure, he did not understand that morning the implication that the law may have been violated. Rather, Jenkins stated that he

⁴¹ See "DHS Daily Report," available at <https://www.nyc.gov/assets/dhs/downloads/pdf/dailyreport.pdf>.

⁴² As summarized in Appendix B, DOI identified a total of at least five dates during the Summer of 2022 on which 10-to-4 Rule violations occurred at PATH (June 29, July 3, July 4, July 18, and July 19). PATH did not notify agency leadership about the violations through the "4 a.m. report" on any of these dates. DOI therefore believes that OPPM's inclusion on the "4 a.m. report" email is insufficient to ensure that violations are accurately reported in OPPM's DHS Daily Report. Rather, DSS should implement automated process to identify violations that does not rely on individual employees to self-report.

came to understand that implication only gradually during the course of discussions that took place over the following days. Shortly after his call with Administrator Carter, Jenkins texted his direct supervisor, Deputy Mayor Anne Williams-Isom, that “we had some families past the 4 am assignment at PATH this morning” and that he was “getting more details” (**Exhibit 2**).

Decision to Delay Notification to Legal Aid Society

Despite Administrator Carter’s apparent advice to the contrary, the fact that the events at PATH violated the longstanding 10-to-4 Rule, and DHS’s well-established practice of notifying Legal Aid of significant events impacting the shelter system as soon as DHS had confirmed the facts and informed leadership, Jenkins decided to delay notifying Legal Aid about the July 18 Violations by approximately 24 hours. In an interview with DOI, Jenkins stated that he wanted to more fully discuss the July 18 Violations with City Hall (and in particular, Deputy Mayor Williams-Isom) before approaching Legal Aid about the issue. When pressed, however, Jenkins could not recall any substantive discussions with City Hall about the July 18 Violations before Legal Aid was notified, despite his ample opportunity to have such discussions on July 18 and 19.⁴³ For instance, although Jenkins indicated to DOI that he viewed a previously-scheduled “Asylum Seeker Task Force” call on afternoon of July 18 (hereinafter the “Task Force Call”) as a potential opportunity to more fully brief City Hall on the July 18 Violations, contemporaneous records and accounts from numerous witnesses (including Deputy Mayor Williams-Isom) confirm that the July 18 Violations were not discussed on the call.

Ultimately, per Jenkins’ instruction, DSS waited more than 24 hours after the July 18 violations before notifying Legal Aid. Notification was made shortly after the Mayor’s Office issued a previously-planned press statement the following day (Tuesday, July 19) regarding the rapidly-increasing number of migrant arrivals in New York City. Although there was no legal requirement that Legal Aid be notified, and although Jenkins’ one-day delay was relatively brief, DOI found that the delayed notification served no legitimate purpose. The delay was therefore contrary to DHS’s well-established practice to promptly notify the Legal Aid Society of significant issues related to the shelter system (including violations of the 10-to-4 Rule), and created the impression that the agency was not being transparent about an issue of significant public interest. In a press release issued later that week, Legal Aid drew a “stark contrast” between “the current administration’s” alleged “efforts to hide” the

⁴³ See subsection below for further discussion of Jenkins’ communications with City Hall.

situation at PATH and a historical instance in which DSS “notified Legal Aid . . . immediately” following a 10-to-4 Rule violation.⁴⁴

Communications with City Hall About the July 18 Violations

As noted above, DOI’s investigation began as a result of public allegations by DSS’s former Deputy Commissioner of Press and Communications Julia Savel that Jenkins attempted to conceal the July 18 Violations from City Hall, and that Savel had been terminated in retaliation for informing City Hall staffers about the violations.⁴⁵ Although DOI found that Jenkins did not conceal the fact that families remained at PATH past the 4 a.m. deadline from City Hall, he nevertheless lacked full transparency in his communications with senior officials about the situation.

Within approximately one hour of learning about the July 18 Violations, Jenkins texted Deputy Mayor Anne Williams-Isom that “we had some families past the 4 am assignment at PATH this morning” and that he was “getting more details” (**Exhibit 2**). Notably, however, Jenkins did not elaborate to Williams-Isom that this was a violation of the 10-to-4 Rule, which was in place at that time, and may have constituted a violation of the law.⁴⁶ Nor did he tell Williams-Isom that he would be delaying informing Legal Aid of the issue, contrary to standard practice. As a result,

⁴⁴ Press Release, Legal Aid Society, Legal Aid, Coalition for the Homeless Condemn City for Violating Local Law by Denying Homeless Families with Minor Children Shelter Placements (July 20, 2022), *available at* <https://legalaidnyc.org/wp-content/uploads/2022/07/Legal-Aid-Coalition-for-the-Homeless-Condemn-City-for-Violating-Local-Law-by-Denying-Homeless-Families-With-Minor-Children-Shelter-Placements.pdf>.

⁴⁵ See Melissa Russo, *Amid Shelter Crisis, NYC Agency Fires Official Who Pushed Back on ‘Lies’*: Source, NBC NEWS 4 (Aug. 10, 2022), *available at* <https://www.nbcnewyork.com/investigations/migrant-crisis/amid-shelter-crisis-nyc-agency-fires-official-who-pushed-back-on-lies-source/3817837/>. DOI conducted a limited inquiry into the reasons for Savel’s termination, and did not reach a conclusion as to whether her termination resulted principally from her conversations with City Hall about the events discussed herein, as Savel has claimed or, as Commissioner Jenkins has publicly stated, due to “documented instances” where she was reportedly “unprofessional with her peers, with her subordinates and with senior management.” See Bernadette Hogan, *Embattled NYC Homeless Services Chief Gary Jenkins Denies Coverup Claims by Former Aide*, NEW YORK POST (Aug. 18, 2022), *available at* <https://nypost.com/2022/08/18/homeless-services-chief-denies-coverup-claims-by-former-aide/>. Savel was terminated in the immediate aftermath of the events discussed in this Report and Commissioner Jenkins acknowledged being upset that Savel had told City Hall that families were “sleeping at PATH.” But Commissioner Jenkins told DOI that Savel’s termination was already “in the works” when Savel made those statements, and his account is supported to at least some extent by documentation that DSS produced to DOI. In any event, because Savel alleges retaliation as a result of reporting certain facts to City Hall (as opposed to DOI), she is ineligible for employment protection under the City’s Whistleblower Law (NYC Admin. Code Section 12-113).

⁴⁶ As discussed above, although Commissioner Jenkins maintained that he likewise did not understand there had been a potential legal violation on the morning of July 18, his account is contradicted by DHS Administrator Joslyn Carter, who informed DOI that she told Commissioner Jenkins that there had been a legal violation during a phone call with him that morning.

Williams-Isom did not immediately appreciate the significance of the violations and instead viewed them as, in her words, a “small operational issue.”

Moreover, the weight of the evidence suggests that Jenkins did not engage in any further substantive communications with City Hall about the July 18 Violations until after the situation at PATH became the subject of public reports later that week – even though he had multiple opportunities to do so.⁴⁷ First, as noted above, Jenkins did not raise the 10-to-4 Rule violations during the July 18 Citywide “Task Force Call” regarding the migrant influx. Second, on Tuesday, July 19, Jenkins, Deputy Mayor Williams-Isom, and members of their respective staffs attended a street homelessness-related announcement by Mayor Eric Adams in the City Hall rotunda at approximately 11 a.m. During the course of that gathering, Savel informed a City Hall press staffer (“Staffer 1”) that families had been “sleeping at PATH.” This message reached the Deputy Mayor’s staff, one of whom (“Staffer 2”) texted Jenkins to ask whether it was true that “families were sleeping on the floor at PATH last night,” which City Hall had “heard from Julia [Savel].” After receiving this text, Jenkins spoke to another one of the Deputy Mayor’s staffers (“Staffer 3”) in person.

Jenkins and Staffer 3 provided different accounts of this conversation: Jenkins told DOI he explained to Staffer 3 that although clients might sometimes sleep or rest at PATH, they were not “laid out on the floors” and the increased volume of families arriving at PATH had resulted in longer processing times.⁴⁸ But Staffer 3 later memorialized in an email to Deputy Mayor Williams-Isom that Jenkins had told her: “[N]o one slept at PATH, it was a misunderstanding because families are taking a long time to be processed when they come late at night and because of how chaotic it is.”⁴⁹ Staffer 2 recalled separately receiving a call from Jenkins’ Chief of Staff around the same time, and relaying the message she had received from the DSS Chief of Staff in a contemporaneous text message to Staffers 1 and 3: “Confirmed that no one slept at path. The buses are coming at any time of day and there are long wait times, but they’ve been able to place everyone.” (**Exhibit 3**). DOI’s investigation found that, because Jenkins did not provide sufficient context to the Deputy Mayor and her staff regarding the July 18 Violations, and at a minimum appeared to minimize, if not misrepresent, the circumstances at PATH, the Deputy Mayor and her staff (and others at City Hall whom the Deputy Mayor otherwise may have notified) lacked a full understanding of the violations and their implications until public reports about

⁴⁷ Although Commissioner Jenkins told DOI that he discussed the situation with the Deputy Mayor and her office during the course of July 18 and 19, he could not recall any specific discussions when pressed, and DOI did not identify any other evidence in the factual record suggesting that any such discussions occurred.

⁴⁸ Commissioner Jenkins told DOI that he (incorrectly) assumed at this time that Deputy Mayor Williams-Isom had already informed her staff about the July 18 Violations.

⁴⁹ Staffer 3 maintained this account upon being interviewed by DOI.

conditions at PATH began surfacing on Wednesday, July 20, 2022. Indeed, the above-referenced communications suggest that the Deputy Mayor’s senior staff understood, incorrectly, that there had been no significant operational issues at PATH in the days leading up to July 20.

Jenkins told DOI that he was “annoyed” when he learned that Savel had informed City Hall that families were “sleeping at PATH,” and that he spoke individually with Savel at the time to warn her to “be more careful with [her] language.” Jenkins explained that he believed the terminology used by Savel – that families were “sleeping” at PATH – represented an attempt to “spin” the situation or suggest that PATH was “doing . . . something wrong.” While Jenkins may be correct that the violations of the 10-to-4 Rule were not PATH’s fault, but rather were due to the unprecedented influx of migrant families in need of shelter, DOI found no indication that Jenkins made any effort to convey to City Hall the legal or practical significance of DHS’s failure to ensure that families who sought DHS services by 10 p.m. be placed in temporary shelter that evening (rather than spend the night at PATH), nor did DOI find any indication that City Hall understood the significance of those facts. Deputy Mayor Williams-Isom informed DOI that in retrospect, she was frustrated that Jenkins did not provide additional context with respect to the events at PATH before Wednesday, July 20, when the City found itself ill-prepared to respond to public allegations concerning families’ experiences at PATH and the associated legal implications (discussed further below). DOI found that Jenkins’ conduct also placed City Hall in the position of appearing to be less than transparent, when in fact key decision-makers at City Hall were acting with incomplete information.

DSS’s Untimely Identification and Reporting of a Fifth 10-to-4 Rule Violation on Tuesday, July 19

As DSS has publicly acknowledged, at least one additional violation of the 10-to-4 Rule occurred at PATH on the morning of Tuesday, July 19 (in addition to the four that occurred the previous morning).⁵⁰ Emails reviewed by DOI suggest that at least 13 families remained at PATH awaiting placement at around 5 a.m. on July 19. At 6:24 a.m., the PATH manager on duty sent a “4 a.m. report” email to agency leadership which stated that “as of 6:25 a.m., all clients were given placement” and “[n]o clients were left in the building.” Notably, the July 19 “4 a.m. report” did not indicate how many families remained at PATH as of 4 a.m., nor whether any of the affected families had arrived before 10 p.m. the previous evening. Jenkins recalled

⁵⁰ See Chris Sommerfeldt, *NYC Social Services Commissioner Gary Jenkins Denies Shelter Crisis Coverup*, NEW YORK DAILY NEWS (Aug. 19, 2022), available at <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-nyc-dss-commissioner-gary-jenkins-denies-shelter-coverup-cbs-20220818-2z0gc72pz5cujjzxwnegdgy5uy-story.html>.

that he was informed on the morning of July 19 that none of the affected families had arrived before 10 p.m., such that no additional violations had occurred.

In contrast to what Jenkins was reportedly told, at 9:21 a.m. on July 19, PATH management informed then-DHS Deputy Commissioner Doreen Howe via email that one unidentified family who had “entered the building before 10pm” had “left after 4am” because the family had to be placed in a cab after the PATH-chartered bus broke down. Howe informed DOI that although she believed she had forwarded this email to Administrator Carter upon receiving it, she later realized that she had not done so and therefore neither DHS nor DSS leadership was informed of this additional violation until August 2022, when Howe discovered the email forwarding error.⁵¹ DSS publicly disclosed the fifth violation on August 18.⁵² Although this reporting error was not the fault of any single individual, it could have been avoided if DHS had in place the procedures to document family entry and exit times that we are recommending herein.

The City’s Difficulty in Responding to Public Allegations Concerning PATH During the Week of the July 18-19 Violations

The situation at PATH became a subject of public scrutiny on the evening of Wednesday, July 20, when News 4 ran a TV segment about a Venezuelan migrant family who reported having slept five consecutive nights at PATH awaiting a shelter placement.⁵³ That same evening, Legal Aid issued a press release addressing both News 4’s reporting and the July 18 Violations,⁵⁴ which criticized DSS for allegedly “flout[ing] a clear statute and court settlement by denying these families with minor children, including asylum seekers, placement at local shelters, relegating them to spend the night, and in some cases days, sleeping in a City office.”⁵⁵

⁵¹ In an interview with DOI, Howe expressed uncertainty regarding whether this family actually remained at PATH past the 4 a.m. deadline, since (according to Howe) PATH’s paper-based records did not reflect this. Nevertheless, DHS publicly disclosed this fifth violation on August 18, 2022. DOI was unable to locate the paper-based records that might have confirmed Howe’s account.

⁵² See Chris Sommerfeldt, *NYC Social Services Commissioner Gary Jenkins Denies Shelter Crisis Coverup, Claims Ex-Spokeswoman Got Fired for ‘Unprofessional’ Behavior*, NEW YORK DAILY NEWS (Aug. 18, 2022), available at <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-nyc-dss-commissioner-gary-jenkins-denies-shelter-coverup-cbs-20220818-2z0gc72pz5cujjzxwnegdgy5uy-story.html>.

⁵³ *Legal Aid Claims Mayor Adams Exaggerated NYC Migrant Crisis to Cover Shelter System Violations*, NBC NEWS 4 NEW YORK (July 20, 2022), available at <https://www.nbcnewyork.com/news/legal-aid-claims-eric-adams-exaggerated-nyc-migrant-crisis-to-cover-shelter-system-violations/3783504/>.

⁵⁴ DSS had previously disclosed the July 18 Violations to Legal Aid on Tuesday, July 19.

⁵⁵ See Press Release, Legal Aid Society, Legal Aid, Coalition for the Homeless Condemn City for Violating Local Law by Denying Homeless Families with Minor Children Shelter Placements (July 20, 2022), available at

Witness interviews confirmed that the City's ability to respond to these allegations was hampered by the limited and confusing nature of the information available from PATH. Emails and text messages reviewed by DOI show that DSS and City officials struggled for the remainder of the week to confirm the precise number of 10-to-4 Rule violations, as well as the relevant PATH arrival, departure, and placement times for families whose alleged circumstances were brought to DSS's attention by Legal Aid and the press.

On Thursday, July 21, Jenkins and Mayor Eric Adams held a press conference in response to News 4 and Legal Aid's allegations, in which the City first publicly confirmed four 10-to-4 Rule violations on Monday, July 18 (following the initial disclosure to Legal Aid on July 19).⁵⁶ Unbeknownst to City leadership at that time, the reported number was inaccurate because: (1) as explained above, a fifth violation had occurred at PATH on Tuesday, July 19 but had not yet been escalated to DSS leadership or to City Hall; and (2) as explained below, at least six additional violations had occurred at PATH in late June and early July, 2022, but were never escalated to DSS leadership and were identified only in the course of DOI's investigation.

D. DSS's Failure to Identify and Report at Least Six Additional 10-to-4 Rule Violations in Summer 2022

As noted in Section II(B) above, although PATH typically provides families with transport to their shelter placements in a DHS fleet van or a privately-contracted charter bus, PATH may also pay for taxi services to transport individual families if the DHS fleet and buses are filled to capacity or unavailable due to schedule or maintenance issues. According to emails and witness testimony, PATH began to use taxi services for clients with increasing regularity during the Summer of 2022, when the volume of families appearing at the intake center sharply increased.

DOI confirmed that on at least two of these occasions, families who had arrived at PATH before 10 p.m. the previous evening were placed into taxis to their shelter placements after 4 a.m. (in violation of the 10-to-4 Rule). On both occasions, the PATH manager on duty sent an inaccurate "4 a.m. report" email incorrectly stating that no clients remained at the intake center as of 4 a.m.:

<https://legalaidnyc.org/wp-content/uploads/2022/07/Legal-Aid-Coalition-for-the-Homeless-Condemn-City-for-Violating-Local-Law-by-Denying-Homeless-Families-With-Minor-Children-Shelter-Placements.pdf>.

⁵⁶ See Transcript, "Mayor Eric Adams Provides Update on Asylum Seekers," July 21, 2022, *available at* <https://www.nyc.gov/office-of-the-mayor/news/534-22/transcript-mayor-eric-adams-provides-on-asylum-seekers>.

- *June 29, 2022 (three families, three violations)*

Email correspondence indicates that three families departed PATH in taxis between approximately 4:20 and 5:20 a.m. on Wednesday, June 29. DOI confirmed through CARES and Q-Flow data that all three of these families arrived before 10 p.m. the previous evening. Q-Flow data shows one of these families arriving at PATH at 10:02 p.m. on Monday, June 27, such that they spent two overnights at the intake center (representing only one confirmed 10-to-4 Rule violation, since the family is recorded as having arrived two minutes after the 10 p.m. deadline on the first night).⁵⁷ Despite the fact that three families left the intake center after 4 a.m., the PATH manager on duty circulated a “4 a.m. report” on the morning of June 29 incorrectly indicating that “no clients [were] left in the building.” Later that morning, the same PATH manager sent an email to her PATH colleagues concerning reimbursement for the clients’ taxi fares, in which she reported that petty cash had been “used for cab services to transport three families to conditional placements at approximately 5:20 AM.” In an interview with DOI, the manager confirmed that she knew on that date that clients remained at PATH past 4 a.m.; she was unable to provide DOI with a satisfactory explanation for her “4 a.m. report” which stated the contrary.

- *July 3-4, 2022 (two families, three violations)*

Email correspondence indicates that five families departed PATH in taxis at around 4:30 a.m. on Monday, July 4. DOI confirmed through CARES and Q-Flow data that two of these families arrived before 10 p.m. the previous evening. CARES data shows one of these families arriving at PATH at 7:18 p.m. on Saturday, July 2, such that the family spent two overnights at the intake center (representing two 10-to-4 Rule violations). Despite the fact that several families left the intake center after 4 a.m., another PATH manager on duty (not the same person who was on duty on June 29 in the example referenced above) circulated a “4 a.m. report” on the morning of July 4 indicating that “no clients [were] left in the building.” However, the same PATH manager also documented in an email to DHS colleagues later that morning that at least five families departed PATH after 4 a.m., two of whom had accepted conditional placements (and who therefore almost certainly would have arrived before the 10 p.m. cutoff). DOI did not interview the second manager.

⁵⁷ As noted in Section II(B) above, it is likely that many families (like this one) who were recorded as having arrived shortly after the 10 p.m. deadline in fact entered the building and cleared PATH security before the deadline.

The lack of sufficient recordkeeping as to families' arrival and departure times limited DOI's ability to determine whether there were violations of the 10-to-4 Rule beyond those identified above. For example, on Saturday, July 16 at 1:02 p.m., a PATH staffer wrote to her supervisor that she could not attend to another task because she was "[s]till trying to get the families who slept here overnight, out of the building." Her email does not make clear the time that the families arrived, or other identifying information from which DOI potentially could make that determination. To the extent that the staffer was referring to families that arrived before 10 p.m., this email suggests additional violations despite the fact that the PATH manager on duty that morning had sent out a "4 a.m. report" indicating that "[a]s of 4am, all clients were given placements," and "[n]o clients are left in the building." To the extent that the staffer's email referred to families that arrived after 10 p.m., her email would not indicate the existence of any additional violations.

DOI recognizes that during the Summer of 2022, PATH's leadership, managers, and line staff found themselves managing a quickly-developing crisis without the benefit of robust institutional procedures or support, and that a small number of 10-to-4 Rule violations may have been unavoidable given the rapid increase in arrivals at PATH. Additionally, although DOI found that at least two separate PATH managers sent inaccurate "4 a.m. report" emails on June 29 and July 4, 2022, respectively, we attribute their conduct largely to flaws in the design of PATH's procedures, which tasked relatively junior employees with reporting to the DSS Commissioner – with whom they would have had little if any contact in their day-to-day roles – that a serious violation of longstanding agency policy had occurred, with little or no training on the this aspect of their obligations. Because of these procedural shortcomings, no 10-to-4 Rule violations were reported to DSS leadership until at least the third instance in the Summer of 2022 in which such violations occurred. Furthermore, the patterns associated with the eleven confirmed violations – such as inaccurate or inconsistent "4 a.m. report" emails, a lack of available video surveillance footage, and PATH's failure to track when clients leave the building – reflect potentially systemic problems that could have masked additional violations of the 10-to-4 Rule. Ultimately, due to the poor quality of the available evidence, DOI cannot draw any conclusions about the likely scope of 10-to-4 Rule violations at PATH during this period.

E. Manipulation of the Publicly-Reported Monthly Eligibility Rate from June 2017 Until Mid-2022

This section addresses the separate and distinct allegation regarding the manipulation of PATH's publicly-reported data on the percentage of families eligible for DHS shelter. As described in further detail throughout this section, DOI determined that the PATH Eligibility Rate between June 2017 and mid-2022 was subject to manipulation and therefore not accurately reported to the public. DHS

Administrator Joslyn Carter, and numerous witnesses whom she supervised, confirmed that during this period, Administrator Carter directed PATH leadership to artificially lower the Eligibility Rate by instructing managers to limit the number of eligible cases they finalized each day in CARES.

DOI's investigation was inconclusive with respect to whether Administrator Carter was acting at the direction of former DSS Commissioner Steven Banks when she directed others to manipulate the Eligibility Rate. While Administrator Carter told DOI that she acted at his direction, Banks denied this allegation and DOI's investigation did not identify evidence sufficient to substantiate his involvement in or knowledge of the manipulation of the Rate.

Notably, and as described in further detail below, witnesses uniformly told DOI that DHS's method of manipulating the Eligibility Rate did not have any substantive impact on ultimate eligibility determinations (i.e., no eligible family was coded as ineligible due to the manipulation). Witnesses also told DOI that the manipulation did not cause any families to be denied shelter for which they were eligible, because they remained in their "conditional" DHS shelter placement (that is, they were able to reside in a DHS shelter on a conditional basis) while their eligibility determination was pending, and thereafter. As discussed below, DOI has been unable to assess the full impact of DHS's manipulation of the Eligibility Rate. However, the practice could have delayed the transition of unhoused families from DHS shelter into permanent housing.

DHS Eligibility Determinations

As noted in Section II(B) above, PATH's assessment process for each family begins with an investigation to determine the family's eligibility for DHS services. This investigation, which takes at least several business days, typically includes obtaining a detailed housing history from the family and conducting field visits with other family members, as well as current and former landlords, to verify that no alternative housing option is available.⁵⁸ DHS provides housing, referred to as "conditional" shelter placement, for families seeking shelter at PATH while this eligibility investigation is pending. The family remains in City-provided housing, and their shelter status remains "conditional," until the investigation is complete.

Upon completing an eligibility investigation, DHS Program staff make a preliminary eligibility determination and code the family's case in CARES as either "XA" (ineligible due to non-cooperation), "XX" (ineligible due to DHS identifying

⁵⁸ As discussed below, the eligibility criteria and guidelines for eligibility investigations applied by DHS are set by the New York State Office of Temporary and Disability Assistance.

another available housing option), or “YY” (preliminarily eligible). Cases coded “XA” are not subject to supervisory review, whereas cases coded “XX” are subject to review by a first-line supervisor. Cases found preliminarily eligible and coded “YY” are subject to two levels of supervisory review, by a first-line supervisor and then by a manager. During the pendency of the eligibility investigation, a client’s case may be placed on “hold” if, for instance, additional review and input is required from another program area such as DSS legal or the domestic violence unit. Once a family is deemed preliminarily eligible and that determination is confirmed via two levels of supervisory review, the family is determined to be eligible for shelter and their DHS shelter placement is no longer conditional. During the period relevant to this investigation, after a family was determined to be eligible, and had resided in a DHS shelter for at least 90 days,⁵⁹ the family could qualify for a City Family Homelessness and Eviction Prevention Supplement (“CityFHEPS”) rental assistance voucher, which can be used to subsidize rent for more permanent accommodations outside of the shelter system.

The Publicly-Reported 30-Day PATH Eligibility Rate

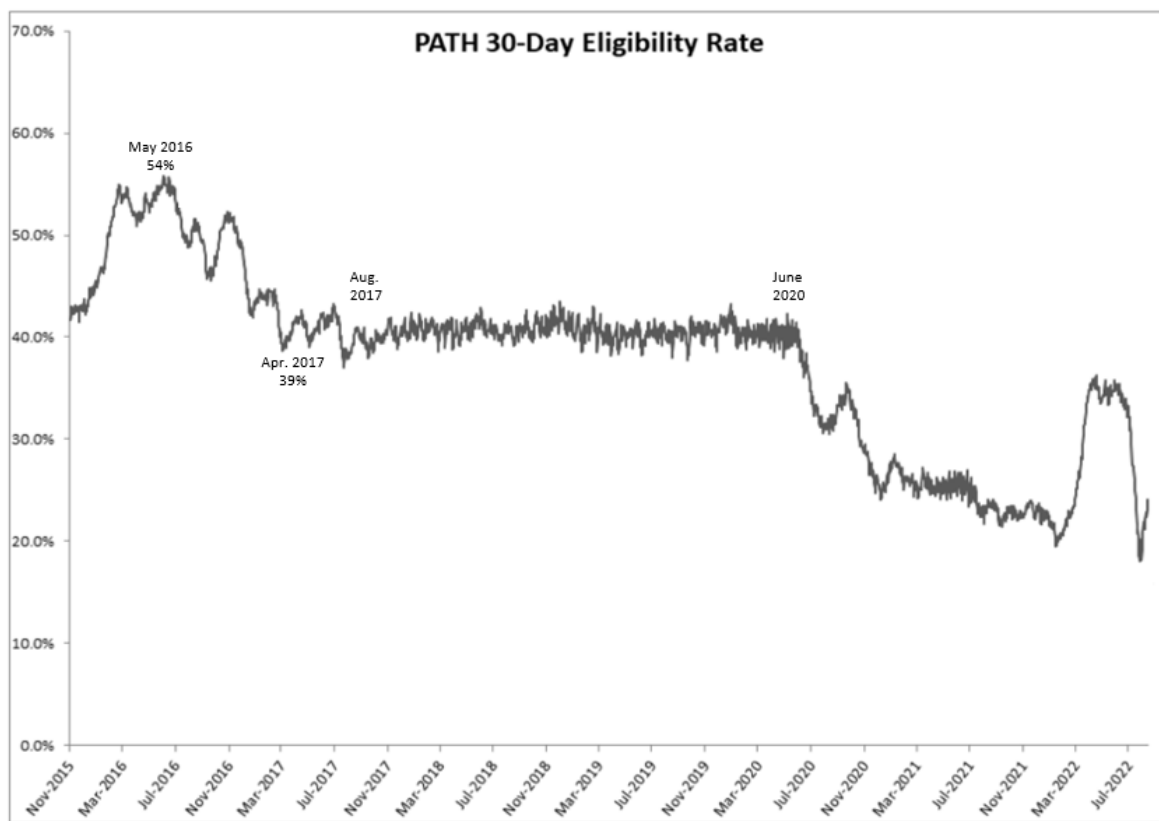
DHS publishes PATH’s 30-day Eligibility Rate on NYC Open Data on the last day of each month. The Rate represents the percentage of families seeking DHS shelter who are found eligible for shelter each month following the eligibility investigation described above.⁶⁰ The City uses the Eligibility Rate for census forecasting, shelter capacity planning, and budgeting for rental assistance vouchers and shelter beds. DSS Commissioner Molly Park further explained that the City closely monitors the Eligibility Rate because fluctuations may signal underlying trends, such as changes in unemployment or eviction rates, that could lead to increased (or decreased) demand for shelter services, potentially impacting the City’s overall homelessness policy. The Eligibility Rate has also received press scrutiny.⁶¹

⁵⁹ 68 R.C.N.Y. § 10-04(b)(1). The City ended the so-called “90-day rule” on June 16, 2023. Press Release, City of New York, *Mayor Adams Ends 90-Day Rule for All Populations, Expands Eligibility to City-Funded Rental Assistance for All New Yorkers in Shelter* (June 16, 2023), available at <https://www.nyc.gov/office-of-the-mayor/news/427-23/mayor-adams-ends-90-day-rule-all-populations-expands-eligibility-city-funded-rental#/0>.

⁶⁰ See “PATH and AFIC Monthly Eligibility Rate,” <https://data.cityofnewyork.us/Social-Services/PATH-and-AFIC-Monthly-Eligibility-Rate/985h-mtct>.

⁶¹ See, e.g., Suhail Bhat and Josefa Velasquez, *Three in Four Family Shelter Application Rejected in 2021, Setting Record*, THE CITY (Jan. 30, 2022), <https://www.thecity.nyc/2022/1/30/22909663/family-shelter-applications-rejected>.

Figure 1



The overall increase and then decline in the Eligibility Rate from late 2015 to mid-2017 shown in Figure 1 above was caused by a series of State-level regulatory changes concerning how to treat families appearing for intake at PATH who had most recently been staying with a friend or relative – and specifically, whether DHS could consider the friend or relative’s residence an “available” housing option, such that the family would be ineligible for DHS shelter under the *Boston* consent decree.⁶² In late 2015, the New York State Office of Temporary Disability Assistance (“OTDA”) published an Administrative Directive (the “2015 ADM”) granting broad deference to friends or relatives who declined to allow the applicant family to return to their residence (making the housing option unavailable).⁶³ The 2015 ADM caused more

⁶² See footnote 24 above.

⁶³ 15 ADM 06, Section II(D)(2): “...an applicant for THA who leaves a friend or relative’s residence may be determined to have an available housing resource, if after an investigation the SSD determines the applicant has permission of the friend or relative to return to the residence. However, a housing resource should not be considered available if after an investigation it is found that the primary tenant, who is not a legally responsible relative of the applicant, declines to allow the applicant to return to the residence.”

families to be deemed eligible for DHS shelter, and thus caused the Eligibility Rate to spike from 42% in October 2016 to 54% in May 2016. OTDA withdrew the 2015 ADM in late 2016 at the City's request,⁶⁴ and issued a new ADM (the "2016 ADM") which required a friend or relative who had previously provided housing to the applicant family to provide a "reasonable justification to decline to allow the applicant to return" in order for DHS to consider the housing unavailable.⁶⁵ By April 2017, the Eligibility Rate had retreated to 39%.

As also shown in Figure 1, beginning in mid-2017 the Eligibility Rate roughly flatlined for nearly three years, remaining between 39 and 42 percent from August 2017 until June 2020. DOI found that this period of marked stability in the Eligibility Rate was attributable to DHS's efforts to manipulate the Rate, which DHS accomplished by putting certain positive eligibility determinations on "hold" in order to ensure that the ratio of positive to total final eligibility determinations remained roughly constant each day.

Origin of the Directive to "Manage the Eligibility Rate"

Witnesses uniformly told DOI that the Eligibility Rate was closely tracked at the highest levels of City government during the above-described time period, and that Banks was focused on the Rate. While Administrator Carter claimed that Banks directed her to manipulate the Rate following the implementation of the 2016 ADM, Banks denied that he directed Administrator Carter to do so, and further denied any knowledge that the Rate was manipulated. No other witness with whom DOI spoke corroborated Administrator Carter's account of Banks' knowledge and direction of the manipulation. While DOI identified numerous emails in which Banks makes inquiries about an increase in the rate, no documents reviewed in the course of the investigation definitively confirmed his direction or knowledge of the manipulation.

Administrator Carter, on the one hand, told DOI that Banks instructed her to bring the Rate down, and "knew that we were not putting in [eligibility] determinations the same day so that it kept the rate down" (in other words, he knew that PATH was manipulating the Rate using the methods detailed below). Administrator Carter recalled that there was "a real focus [on] and . . . scrutiny" of the Eligibility Rate during the Administration of former Mayor Bill de Blasio, and

⁶⁴ Suhail Bhat and Josefa Velasquez, *Three in Four Family Shelter Applications Rejected in 2021, Setting Record*, THE CITY (Jan. 30, 2022), <https://www.thecity.nyc/2022/1/30/22909663/family-shelter-applications-rejected>.

⁶⁵ 16 ADM 11, Section D(2): "...an applicant for THA who leaves a friend or relative's residence may be determined to have an available housing resource, if after an investigation the SSD determines the applicant has permission of the friend or relative to return to the residence. However, a housing resource should not be considered available if after an investigation it is found that the primary tenant, who is not a legally responsible relative of the applicant provides a reasonable justification to decline to allow the applicant to return to the residence."

stated that Banks told her “that the Mayor was really angry that the rate had increased tremendously” following the 2015 ADM. Although Administrator Carter stated that she did not “really understand” the reason for the former administration’s apparent focus on the PATH Eligibility Rate, she generally understood that a higher rate resulted in a negative “impact on [shelter] capacity” and “increased costs” to the City. Administrator Carter stated that for this reason, following the 2016 ADM, Banks “wanted to make sure [the Eligibility Rate] stayed level and did not go back up,” and told her that de Blasio was “obsessed with getting the rate down.” According to Administrator Carter, Banks justified DHS’s method of manipulating the Rate by positing that the manipulation had no detrimental impact on homeless families, who would remain in their conditional shelter placement while their positive eligibility determination was on hold.⁶⁶ Administrator Carter further told DOI that she never would have engaged in the manipulation of the Rate if she had not been ordered to do so by her superior.

In contrast with Administrator Carter’s testimony, Banks denied any knowledge that DHS was manipulating the PATH Eligibility Rate, and maintained that he was not aware of any effort to delay final eligibility determinations in order to prevent the eligibility rate from increasing. According to Banks, the PATH Eligibility Rate was important mainly as a predictive “proxy for the shelter census” (that is, the number of families residing in City-provided shelter), a number which was overall “a much bigger focus” for the former administration.⁶⁷ Banks further described the Eligibility Rate as only one of “a litany of . . . things” that “might come up” in meetings between himself and de Blasio concerning homelessness, such as shelter move-outs, the right to counsel, and street homelessness outreach. Banks acknowledged that de Blasio paid close attention to the changes in the Eligibility Rate that resulted from the 2015 and 2016 ADMs, that DSS engaged in efforts to “monitor” the Eligibility Rate during and after that period, and that it “would have been an issue with the Mayor” if the Eligibility rate were to increase significantly above 40 percent (where it appeared to have stabilized following the 2016 ADM change).⁶⁸ For this reason, Banks stated that the Eligibility Rate exceeding 40 percent for “more than a day or two . . . would have been a concern of mine,” and “was sort of a trigger for me” to ask Administrator Carter whether some underlying trend might have been causing the variation.

⁶⁶ As discussed below, the conduct in question may in fact have had a negative impact on some homeless families.

⁶⁷ DOI found no evidence that the DHS shelter census, which is also publicly reported, was ever manipulated.

⁶⁸ A review of email communications between Banks and de Blasio did not reveal any communications regarding manipulation of the Eligibility Rate, nor did they indicate that the Mayor pressured Banks to decrease the Eligibility Rate.

Overall, Banks characterized the monitoring of the Eligibility Rate during this period as an effort to ensure that DHS was closely following the terms of the new ADM, rather than as a focus on the published Eligibility Rate itself, and maintained that “a discussion that we should keep [the Rate steady]” in “a formulaic way . . . was not a discussion we had.” When confronted with evidence that PATH manipulated the Eligibility Rate, Banks expressed surprise, and opined that the conduct confirmed by DOI “feels like bureaucracy just sort of taking the messages that the Mayor expressed to Joslyn and me – [and] that I expressed to Joslyn” in a direction that “makes no sense.”⁶⁹ Banks further explained that he had attributed the lack of meaningful fluctuation in the Eligibility Rate from mid-2017 until early 2020 not to manipulation of the Rate, but rather to regulatory changes implemented during his tenure that effectively decreased the City’s eviction rate, which he explained would have made it “natural” for the Rate to decrease and fluctuate less.

Additional witness testimony confirmed that Banks was focused on the Eligibility Rate and that he often asked questions about it (which Banks himself did not deny), but did not resolve the fundamental question as to whether Banks knew that Administrator Carter and her subordinates were manipulating the Rate by delaying certain positive eligibility determinations. In particular, DOI spoke to six witnesses (five from DHS, and one former official from the City’s Office of Management and Budget (“OMB”)), who confirmed that Mayor de Blasio’s administration, and Banks in particular, were very focused on the Eligibility Rate. One of the DHS witnesses recalled participating in biweekly in-person meetings with Banks and Administrator Carter beginning in 2016 to discuss diversion efforts for homeless families. According to this witness, Banks “was always looking very closely at the [Eligibility Rate] trend” and would inquire about any variations during these meetings. Similarly, DSS Commissioner Molly Park, who served as DHS’s First Deputy Commissioner from 2019 to 2023, recalled participating in weekly supervisory meetings with Administrator Carter and Banks in which the Rate was sometimes discussed in the context of understanding “trends we were seeing and how to plan for that.” The remaining three witnesses reported directly to Administrator Carter while at PATH and testified that Administrator Carter told them that the Rate was important to Banks and the mayoral administration. Despite corroborating the Eligibility Rate’s importance to Banks and the de Blasio administration, when asked if Banks was aware of the manipulation, or directed it, the witnesses all stated that they had no knowledge that he directed, or was aware of, the manipulation. We

⁶⁹ Banks also questioned the underlying logic behind the manipulation, which he noted would not ultimately have had any impact on the overall DHS shelter census (and correspondingly, the DHS shelter budget). As explained below, because the method employed by DHS to hold the Rate constant simply postponed eligibility determinations – rather than requiring eligible families to be deemed ineligible, for example – Banks appears to be correct that the manipulation would not ultimately have impacted the number of families eligible for shelter. For that reason, DOI has been unable to determine whether or how this manipulation ultimately benefitted DHS or the former Administration.

note that some of the witnesses may not themselves have been aware that any manipulation had occurred.

The former OMB official, who worked at that office from 2011 until 2020 (and whose portfolio included DHS for the duration of that time), confirmed that OMB tracked the Eligibility Rate on a daily basis during the de Blasio Administration, and stated that although she was unaware of any manipulation, she knew based on her interactions with City Hall and OMB officials that keeping the Rate from increasing too much was “definitely” a top focus for Banks and the mayoral administration. The former official believed that, had the Eligibility Rate increased significantly during her time at OMB, OMB likely would have worked with DHS to double-check DHS’s eligibility determinations to ensure that they were accurate and to determine what if any underlying trends might be driving that change.

The documentary evidence reviewed by DOI likewise establishes that Banks was focused on and made inquiries about increases in the PATH Eligibility Rate, but is insufficient to draw any conclusions about Banks’ alleged knowledge of the Rate’s manipulation. For example, on December 17, 2019, after receiving an email that the reported PATH 30-day Eligibility Rate had reached 42.0 percent, Banks repeatedly followed up with Administrator Carter to inquire whether there were “any issues here.” After (in her words) “[c]hecking on the why” with her subordinates, Administrator Carter responded that PATH was “clearing holds in advance of [an upcoming regulatory change]” and that “I have asked that they stop.” Banks replied: “Thanks.” (**Exhibit 4**). This email could be understood as Administrator Carter conveying to Banks that she would direct her subordinates to ensure that positive eligibility determinations remain on “hold” in order to maintain or lower the Eligibility Rate.

With respect to the above-described email, Banks explained that on January 1, 2020, a new State regulation took effect requiring DHS to finalize a family’s eligibility determination within 15 days of their initial application.⁷⁰ Banks recalled being concerned this rule would encourage PATH staff to incorrectly clear holds and make eligible families ineligible in an effort to avoid breaching the 15-day deadline, and wanting to ensure that PATH staff understood that the rule allowed for exceptions to that 15-day deadline. Per Banks, Administrator Carter’s directive here to stop “clearing holds” related to the PATH staff clearing holds improperly due to perceived time pressure.

In addition to the above-described communication, DOI identified numerous emails in which Banks reached out to Administrator Carter following a slight increase in the Eligibility Rate to inquire why the Eligibility Rate had increased. DOI

⁷⁰ See 18 CRR-NY 900.9(c).

did not find any comparable communications relating to a decrease in the Eligibility Rate, but it is difficult to draw any conclusions from that fact. As Banks and other witnesses explained, an increase in the Eligibility Rate would have raised potential concerns for DSS and the Administration, and would have resulted in inquiries about the nature and reason for the increase. A decrease in the Eligibility Rate would not have raised such concerns.

Overall, Administrator Carter and Banks' accounts as to his knowledge and involvement in the manipulation of the Eligibility Rate are irreconcilable, and DOI found insufficient evidence to substantiate Administrator Carter's account that Banks directed or knew of the manipulation.

PATH's Implementation of the Directive to "Manage the Eligibility Rate"

Administrator Carter and numerous other witnesses confirmed that in or around June 2017, Carter and her subordinates at PATH devised a process to (in her words) "phase in eligibility" – that is, "[i]f there were 15 families that were eligible, we did not make all 15 families eligible at the same time." Instead, some were made eligible that day, and the rest would be placed on hold and made eligible the next day or later in order to keep the Eligibility Rate roughly constant on a day-to-day basis.

To ensure that the Eligibility Rate would be as close as possible to a range dictated by Administrator Carter, in June 2017 PATH leadership and managers developed what they referred to as "the formula": an Excel file containing an equation that would yield the number of preliminarily eligible cases PATH should finalize each day in order to hold the Eligibility Rate more or less constant.⁷¹ In the example Administrator Carter provided, if 15 families were eligible but the application of the formula indicated that only ten should be coded as eligible on a particular day in order to keep the Eligibility Rate at approximately 40 percent, the first ten eligible families who were processed at PATH would have their eligibility determinations finalized but the last five would be placed on hold. DOI identified the Excel "formula" file on a PATH shared drive, and also identified an instruction sheet providing step-by-step directions for using the file (including "play with the numbers" as the final step) (**Exhibit 5**).

After running the "formula" file each day, PATH leadership would speak with whichever manager was on-duty to finalize eligible "YY" cases and instruct the manager how many "YY" cases they should finalize. PATH managers interviewed by DOI confirmed that they had received instructions from PATH leadership about how

⁷¹ DOI was unable to reconstruct precisely how the "formula" file worked due to the fact that many of the inputs were pulled from internal DHS daily reporting that has not been preserved by the agency in the normal course of its business.

many “YY” cases to code as eligible each day, and generally understood that this instruction was related to efforts to manage or maintain the Eligibility Rate at a particular level. Although managers were required to put any surplus eligible cases on “hold,” managers were not provided any instructions as to how to document those holds in DHS’s CARES database. For this reason and others, and as detailed below, DOI was not able to precisely quantify how many families were placed on hold solely for purposes of managing the eligibility rate and how many were placed on hold for legitimate pending items relating to their applications. DOI also was unable to determine how long families were placed on hold solely for purposes of managing the eligibility rate.

Administrator Carter spearheaded DHS’s efforts to manipulate the Eligibility Rate, but she did not act alone. Rather, DOI found that numerous current and former DHS personnel, at varying levels of seniority, were, to varying extents, aware of and/or active participants in DHS’s efforts to manipulate the Eligibility Rate, acting at the direction of their respective supervisors. DOI is referring its findings concerning these employees to DSS for whatever action the agency deems appropriate.

Potential Impact on Homeless Families

DOI found that DHS’s efforts to control the Eligibility Rate caused families who had been found preliminarily eligible (“YY”) by a first-level DHS investigator to remain on hold pending managerial review for longer than necessary. As discussed above, the “formula” effectively held the Eligibility Rate constant by placing cases that had been identified as preliminarily eligible on hold and delaying their finalization in CARES. Administrator Carter acknowledged that this method would have created a backlog of preliminarily eligible cases over time, and would potentially have resulted in longer shelter stays for eligible families, but neither she nor any other witness could quantify the size of the backlog or estimate the average or maximum number of days that families remained on this arbitrary hold.

Although any impacted families would have been provided conditional shelter placement pending a final determination on their case in CARES — meaning no family deemed preliminarily eligible was unhoused as a result of being kept in hold status — DHS’s efforts to manipulate the Eligibility Rate nevertheless had a potential negative impact on these families. Specifically, families generally exit DHS shelter using a CityFHEPS housing voucher⁷² or other forms of rental assistance enabling them to find and keep more stable housing. Under the “90-day rule” in effect during the relevant time period, families in DHS shelter could not qualify for a

⁷² CityFHEPS is the largest city-funded rental assistance program in the nation.

CityFHEPS voucher until they had resided in a DHS shelter for at least 90 days.⁷³ DSS confirmed that this 90-day period began to run on the date on which a final positive eligibility determination was made, not the date when the family first received a conditional shelter placement. DOI thus found that DSS's manipulation of the Eligibility Rate likely caused affected families to wait longer than necessary to qualify for housing vouchers – and therefore, to potentially spend longer than necessary in homeless shelters before they could obtain permanent housing.

Additionally, according to Banks, the Eligibility Rate was used to plan for shelter capacity in New York City during the relevant period. Without an accurate Eligibility Rate between the years of 2017 and 2022, it is possible that this effort caused the City to miscalculate its true shelter capacity needs; that is, to the extent that the manipulation masked the true percentage of families in need of shelter, that fact may have impacted the City's shelter capacity planning. However, DOI is unaware of any resulting harm, such as insufficient City shelter capacity, due to the rate manipulation.

Witnesses uniformly informed DOI that DHS's manipulation of the Eligibility Rate ended around early- or mid-2022, when it became apparent that the new mayoral and DSS administrations were not focused on the Eligibility Rate. DOI found no evidence that former DSS Commissioner Gary Jenkins, current DSS Commissioner Molly Park, or anyone in the current mayoral administration had any knowledge of the manipulation.

DOI's Limitations in Quantifying the Impact

DOI was unable to quantify the number of families affected or the amount of time they spent on hold due to limitations in the historical CARES data maintained by DHS. The CARES database contains 24 possible hold categories, all of which are facially legitimate. As noted above, PATH managers did not create a separate category within the database to designate those holds that were solely due to application of the formula – that is, those holds intended solely to maintain the Eligibility Rate at approximately 40%. For this reason, DOI was unable to segregate families whose cases were put on hold to maintain the Eligibility Rate from families whose cases were put on hold for legitimate reasons (such as the need for additional legal review or mediation with family members with whom they might otherwise stay).

⁷³ 68 R.C.N.Y. § 10-04(b)(1). The City ended the 90-day rule on June 16, 2023. Press Release, City of New York, *Mayor Adams Ends 90-Day Rule for All Populations, Expands Eligibility to City-Funded Rental Assistance for All New Yorkers in Shelter* (June 16, 2023), available at <https://www.nyc.gov/office-of-the-mayor/news/427-23/mayor-adams-ends-90-day-rule-all-populations-expands-eligibility-city-funded-rental#/0>.

Further, DOI could not replicate or re-run the “formula” in order to estimate its impact on families. As observed in Exhibit 5, the formula relied on several documents and programs, including: (1) an excel file named “PATH Case Outcomes,” (2) a program called iReport, which was replaced by new software in May 2022 and is no longer functional, (3) the 30-Day Eligibility Rate email, and (4) an excel file named “Group Stats-Case Distribution.” Witnesses reported to DOI that these files were no longer in use or preserved on their computers, preventing DOI from being able to reconstruct or re-run the formula.

III. Recommendations

DOI’s investigation found procedural weaknesses compromising DSS’s ability to timely identify and report violations of the 10-to-4 Rule at PATH. In light of the above findings, DOI made certain Policy and Procedure recommendations to DSS to address these issues:

- 1) DSS should design and implement a process to ensure families’ arrival and departure times at PATH are consistently and accurately documented. This process should:
 - a) Log families’ arrival times as soon as they pass through security at the first-floor entrance;
 - b) Log families’ departure times as their DHS-arranged transport departs PATH to their overnight or conditional shelter placement or, when families choose to arrange their own transport, log the time that the families exit the intake center;
 - c) Track families who choose to intermittently leave PATH to attend to other needs (such as buying food) during the course of the application process;
 - d) Define the time period for when a family will be deemed to have terminated the application process due to their intermittent absence from PATH, and notify families at PATH of the same; and
 - e) Be memorialized in writing.
- 2) The process described in Recommendation #1 should be fully automated (although implementation of a manual process consistent with Recommendation #1 should not be delayed even if this Recommendation #2 is rejected or not implemented due to cost or other reasons). In particular, the automated process should:

- a) Rely on scanners to track families through PATH (i.e., not rely on handwritten input of entry/exit data), and be able to sync data from the scanners with CARES;
 - b) Automatically inform PATH leadership, HERO management, and DHS/DSS leadership, at 4 a.m. each morning, of the number of families who arrived at PATH at or before 10 p.m. and who remain at PATH, and if the number is greater than zero, the current shelter assignment status of each family; and
 - c) Automatically input the number of 10-to-4 Rule violations (that is, the number reported per recommendation 2(b) above) into DHS's public-facing "Daily Report."
- 3) Once the process described in Recommendation #1 is put in place, and regardless of whether Recommendation #2 has already been implemented, DSS should conduct regular audits to ensure that the process is functioning as intended and that the times of client movements into, within, and out of PATH are easily discernible.
- 4) DSS should create a written procedure detailing the requirements of the Family Shelter Mandate, 10-to-4 Rule, and Section 21-313 as applied to the PATH intake process. This procedure should include provisions on reporting violations up the chain within DHS/DSS, to City Hall, and to the public.
- 5) DSS should provide regular training to PATH staff and DHS/DSS leadership concerning the requirements of the Family Shelter Mandate, Section 21-313, the 10-to-4 Rule, and DHS's obligations with respect to the same.
- 6) In light of the manipulation of publicly-reported data confirmed by DOI, DSS should design and implement an internal audit process intended to ensure the integrity of data that DHS makes public.

Exhibit 1



DAILY REPORT

7/19/2022

(Data from Monday, July 18, 2022)

SINGLE ADULTS	
Drop-in Center Clients Served	424
Drop-in Center Overnight Census	150
Faith Bed Census	23
Outreach Contacts	262
Outreach Placements	18
Safe Haven Utilization	1507
Veterans In Short-term Housing	187
Criminal Justice Short-term Housing	85

FAMILY INTAKE	
Families Requesting Temporary Housing at PATH	130
Adult Families Requesting Temporary Housing at AFIC	23
Families Placed in Overnight Accommodations	0
Families w/children at PATH Overnight (pre 10PM)	0

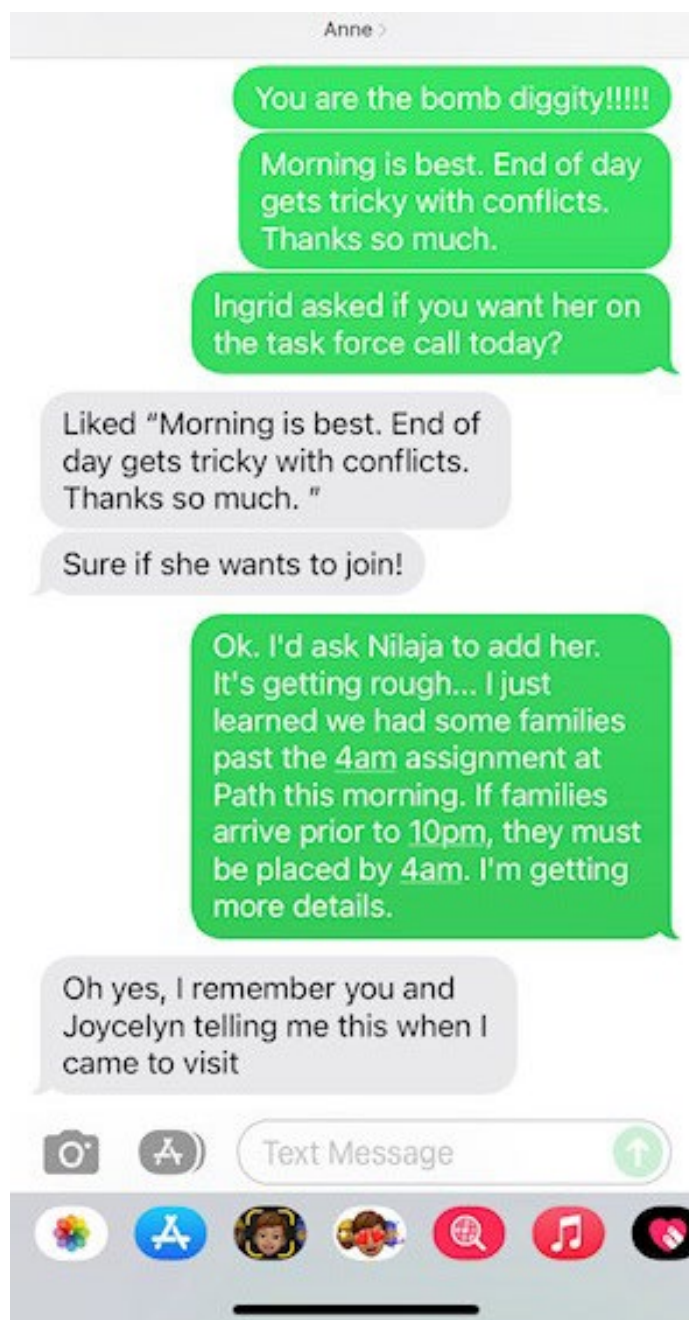
TOTAL SHELTER CENSUS	
Adults	32,363
Children	16,090
Total Individuals	48,453

SINGLE ADULTS	
Men	12,313
Women	4,095
Total Single Adults	16,408

FAMILIES WITH CHILDREN	
Families	9,404
Adults	12,916
Children	16,090
Individuals	29,006

ADULT FAMILIES CENSUS	
Families	1,445
Individuals (Adults)	3,039

Exhibit 2*



* DOI confirmed that the messages in green were sent by Commissioner Jenkins, and the messages in grey were sent by Deputy Mayor Williams-Isom. Although DOI was unable to obtain a timestamped copy of these text messages, DOI confirmed that the message from Commissioner Jenkins concerning PATH was sent at 8:54 a.m. on July 18, 2022.

Exhibit 3

Time	Party	Description
7/19/2022 12:31:58 PM(UTC-4)	From: [Staffer 2] To: [Staffer 3] To: [Staffer 1]	Confirmed that no one slept at path. The buses are coming at any time of day and there are long wait times, but they've been able to place everyone
7/19/2022 12:36:32 PM(UTC-4)	From: [Staffer 3] To: [Staffer 2] To: [Staffer 1]	Liked "Confirmed that no one slept at path. The buses are coming at any time of day and there are long wait times, but they've been able to place everyone "
7/19/2022 12:48:12 PM(UTC-4)	From: [Staffer 1] To: [Staffer 2] To: [Staffer 3]	That's great. Really appreciate you checking

Exhibit 4

Re: PATH 30-day eligibility rate – 12/16/2019

From: "Banks, Steven" <banksst@dss.nyc.gov>
To: "Carter, Joslyn" <jcarter@dhs.nyc.gov>
Date: Wed, 18 Dec 2019 06:46:30 -0500

Thanks. Let's discuss the 1/1 issue

Sent from my iPhone

On Dec 18, 2019, at 6:43 AM, Carter, Joslyn <JCARTER@dhs.nyc.gov> wrote:

They were clearing holds in anticipation of the January 1 rules. I have asked that they stop.

Joslyn Carter, LCSW | DHS Administrator
Department of Homeless Services
33 Beaver Street
New York, NY 10004
T: 212-361-7963
F: 917-637-7482

From: Banks, Steven <banksst@dss.nyc.gov>
Sent: Wednesday, December 18, 2019 12:16:42 AM
To: Carter, Joslyn <JCARTER@dhs.nyc.gov>
Subject: RE: PATH 30-day eligibility rate – 12/16/2019

Any update here? Thanks.

From: Carter, Joslyn
Sent: Tuesday, December 17, 2019 11:44 AM
To: Banks, Steven <banksst@dss.nyc.gov>
Subject: Re: PATH 30-day eligibility rate – 12/16/2019

Checking on the why

Joslyn Carter, LCSW | DHS Administrator
Department of Homeless Services
33 Beaver Street
New York, NY 10004
T: 212-361-7963
F: 917-637-7482

From: Banks, Steven <banksst@dss.nyc.gov>
Sent: Tuesday, December 17, 2019 11:38:44 AM
To: Carter, Joslyn <JCARTER@dhs.nyc.gov>
Subject: Fwd: PATH 30-day eligibility rate – 12/16/2019

Any issues here? Tx

Sent from my iPhone

Begin forwarded message:

From: "Shanley, Ryan" <shanleyr@dss.nyc.gov>
Date: December 17, 2019 at 9:26:47 AM EST
To: "Seidel, Todd" <seidelt@dss.nyc.gov>, "Roberts, Dawn" <robertsda@dss.nyc.gov>, "Snyder, Karl" <snyderk@dss.nyc.gov>, "Banks, Steven" <banksst@dss.nyc.gov>, "Murphy, Molly" <murphymolly@dss.nyc.gov>, "Carter, Joslyn" <JCARTER@dhs.nyc.gov>, "Thrun, Kevin" <KThrun@dhs.nyc.gov>, "Howe, Doreen" <DHowe@dhs.nyc.gov>, "White, Cassandra" <CWHITE@dhs.nyc.gov>, "Calhoun, Martha" <calhounm@dss.nyc.gov>, "Holm, Annette"

Exhibit 4 (cont.)

<holma@hra.nyc.gov>, "Reckson, Molly" <RecksonM@omb.nyc.gov>, Francesco Brindisi
<BrindisiF@omb.nyc.gov>, "Barclay, Donaldson" <DBARCLAY@dhs.nyc.gov>, "Chimowitz, Michael (OMB)"
<ChimowitzM@omb.nyc.gov>, "Chavez, Vida" <VCDOWNES@dhs.nyc.gov>, "Gradie, Hunter"
<HGradie@dhs.nyc.gov>, "French, Scott" <frenchs@dss.nyc.gov>, "Cowan, Robert" <rcowan@dhs.nyc.gov>,
"Cifu, Constantina" <CCIFU@dhs.nyc.gov>, "Gomez, Greg" <gomezg@hra.nyc.gov>, "Duval, Hector"
<duvalh@hra.nyc.gov>, "Gelin, Rosy" <RGELIN@dhs.nyc.gov>, "Twum-Baah, Ebenecia"
<ETWUMBAAH@dhs.nyc.gov>, "Garabedian, Lisa" <garabedianl@dss.nyc.gov>, "Mitchell, Kristen"
<mitchellkr@dss.nyc.gov>, "Levine, Ellen" <levinee@dss.nyc.gov>, "Stevenson, Melissa"
<stevensonme@dss.nyc.gov>, "Zernich, Haley" <zernichh@dss.nyc.gov>, "Small, Shaul"
<smallsh@dss.nyc.gov>, Molly Park <PARKM@dhs.nyc.gov>, "Rodriguez, Iris" <IRODRIGU@dhs.nyc.gov>,
"Gonzalez, Adrian" <AGonzalez@dhs.nyc.gov>
Subject: PATH 30-day eligibility rate – 12/16/2019

The PATH 30-day eligibility rate for 12/16/2019 was 42.0%.

Exhibit 5

1. Navigate to the QA folder in the R:Drive and open the YY Outcomes Folder
2. Open the "PATH Case Outcomes" excel sheet
3. Click on the "Data" tab; please do not enter data on the Projections tab (main page)
4. Open internet explorer and navigate to the ireport
5. Ireport -> Start -> Management Reporting -> Intake Management Tool -> Expand and select FinalReviewProductivityRpExcel -> Double click on PATH as your intake center -> select next
6. With your excel PATH Case Outcomes sheet open, enter the date that displays in cell F17 as your parameter start and end dates -> select next and lastly, select request
7. Once the report is sent to your email, open the excel sheet and select enable editing across the top of the page
8. Place a filter across the top and deselect Add-Ons as an Application Type
9. Obtain the number of Finalized Case Outcomes (highlight down under heading) , please this number in cell I17 on the Case Outcomes sheet (total outcomes box next to the date)
10. Next, deselect all outcomes with the exception of the Eligible outcomes. Obtain the number of Finalized Case Outcomes that were coded Eligible. Place this number in cell H17 (Total YY next to the date) .
11. Open the attachment from the 30 Day Eligibility Rate email
12. With the attachment open, open the tab named "Backup Data"
13. With this tab open, scroll to the last entry. Enter these numbers on your Case Outcome Sheet in cells H16 and H17 (next to prior day rolling total)
14. Lastly, navigate back to the QA folder in the R-Drive and open subfolder, "Group Stats-Case Distribution" , Open this current weeks sheet. Obtain the number of outcomes due and allow room for holds, enter your total outcomes on the Case Outcomes Sheet in cell M6.
15. Play with numbers

Appendix A

Timeline of key events and communications, July 18, 2022 - July 21, 2022

July 18, 2022	July 19, 2022	July 20, 2022	July 21, 2022
Four Families Arrive at PATH Before 10PM but Remain Past 4AM <ul style="list-style-type: none"> AC notifies CJ of the incident around 8:00 a.m. CJ texts DMWI that that “we had some families past the 4 am assignment at PATH this morning” By 11:30 a.m., the four families have been placed DHS and City Hall participate in Task Force Call regarding asylum seekers but do not discuss the PATH violations 	Mayor Holds Unrelated Press Availability, and DSS Notifies Legal Aid <ul style="list-style-type: none"> DHS Deputy Commissioner Howe is alerted of an additional “pre-10” family who remained at PATH as of 4 a.m. She attempts to escalate it to AC by email, but realizes weeks later the message never sent. Mayor Adams holds a press availability for an unrelated DSS matter During the press availability, DSS Deputy Commissioner Julia Savel tells Staffer 1 that families were sleeping at PATH. DMWI’s team speaks with CJ about this in person. According to Staffer 3, Jenkins denied that families were sleeping at PATH, stating instead that the problem was increased volume creating longer wait times DSS calls Legal Aid and informs them of the violations 	Public Reports of Violations at PATH <ul style="list-style-type: none"> NBC NEWS reports on a family who spent five nights at PATH Legal Aid releases a statement condemning DSS for “flout[ing] a clear statute and court settlement” 	City Hall and DSS Acknowledge Violations and Legal Aid Responds <ul style="list-style-type: none"> Mayor Adams and CJ hold press conference addressing the PATH violations, and confirming four violations that took place on July 18 Legal Aid issues press release in response to the press conference, referring to the Mayor’s comments as “misleading and problematic”

AC: Administrator Carter
 CJ: Commissioner Jenkins
 DMWI: Deputy Mayor Williams-Isom

Appendix B

Confirmed 10-to-4 Rule Violations, Summer 2022

Date of Violations	Number of Violations	Date Escalated to DHS/DSS Leadership*	Date Reported Publicly by DSS	Discussed in Report
June 29, 2022	3	N/A	N/A	Section II(D)
July 3-4, 2022	3 [†]	N/A	N/A	Section II(D)
July 18, 2022	4	July 18, 2022	July 21, 2022	Section II(C)
July 19, 2022	1	August 2022 (day unknown)	August 18, 2022	Section II(C)
TOTAL	11			

* As used here, “DHS/DSS Leadership” refers to anyone at or above the DHS Administrator.

[†] The three violations represent only two affected families, one of whom remained at PATH for two consecutive nights (July 2-3 and July 3-4).