

**Testimony of Michael Sisitzky
On Behalf of the New York Civil Liberties Union
Before the New York City Council Committee on General Welfare
In Support of Intro. 1927**

April 23, 2020

The New York Civil Liberties Union (“NYCLU”) respectfully submits the following testimony in support of Intro. 1927, a critical component of the City Council’s COVID-19 Relief Package addressing the crisis faced by New Yorkers experiencing homelessness. The NYCLU, the New York affiliate of the American Civil Liberties Union, is a not-for-profit, non-partisan organization with eight offices throughout the state and more than 180,000 members and supporters. The NYCLU’s mission is to promote and protect the fundamental rights, principles, and values embodied in the Bill of Rights of the U.S. Constitution and the New York Constitution.



ACLU of New York

1 Whitehall Street, 3rd Fl.
New York NY 10004
nyclu.org

Donna Lieberman
Executive Director

Robin Willner
President

A core component of this work is protecting the rights and liberties of people experiencing homelessness, including through advocacy for an enforceable prohibition on New York Police Department (“NYPD”) officers’ use of housing status to profile individuals,¹ opposition to proposals across the state to criminalize activities commonly associated with homelessness like panhandling or sitting on public sidewalks,² and litigation challenging unlawful police “move along” orders and destruction of homeless New Yorkers’ property.³

Nearly 80,000 people in New York City are estimated to be homeless.⁴ Of these, approximately 60,000 people are in a shelters overseen by the Department of Homeless Services (“DHS”), with single adults accounting for around 20,000 among this figure.⁵ New York City’s shelter system has long

¹ NYCLU, *Statement in Support of the Community Safety Act*, June 12, 2013, <https://www.nyclu.org/en/legislation/statement-support-community-safety-act-guaranteeing-safety-and-respect-all-new-yorkers> (last accessed Apr. 23, 2020).

² NYCLU, *Testimony Regarding the Proposed Amendments to Section 203 of the Saratoga Springs City Code*, Nov. 1, 2016, <https://www.nyclu.org/en/publications/testimony-regarding-proposed-amendments-section-203-saratoga-springs-city-code> (last accessed Apr. 23, 2020).

³ NYCLU, *Complaint: NYPD Unlawfully Orders Homeless People to Leave Public Spaces*, May 26, 2016, <https://www.nyclu.org/en/press-releases/complaint-nypd-unlawfully-orders-homeless-people-leave-public-spaces> (last accessed Apr. 23, 2020); NYCLU, *NYCLU Files Claim on Behalf of Homeless, Call for Their Humane Treatment*, Dec. 21, 2015, <https://www.nyclu.org/en/press-releases/nyclu-files-claims-behalf-homeless-calls-their-humane-treatment> (last accessed Apr. 23, 2020).

⁴ U.S. DEPT OF HOUSING AND URBAN DEV., *THE 2019 ANNUAL HOMELESS ASSESSMENT REPORT TO CONGRESS*, Jan. 2020, at 16, available at <https://files.hudexchange.info/resources/documents/2019-AHAR-Part-1.pdf>.

⁵ Coalition for the Homeless, *Homelessness in New York City*, Mar. 2020, <https://www.coalitionforthehomeless.org/wp-content/uploads/2020/03/NYCHomelessShelterPopulationCharts1-2020.pdf>.



been plagued by unsafe and unsanitary conditions, with many people opting to refuse outreach services and shelter placement and instead live on the streets because of their own negative shelter experiences and their legitimate concerns about their health and personal safety.⁶

With this context, it is sadly unsurprising that DHS and other city agencies were unprepared to quickly or adequately respond to the challenges posed by the coronavirus pandemic. As COVID-19 began its rapid spread in New York City, state and local officials appeared to give little meaningful thought as to how to protect the health and well-being of people experiencing homelessness, despite the fact that this population is uniquely at risk of negative health outcomes from the virus.⁷ According to one recent study, people who are homeless and who contract COVID-19 are twice as likely as the general population to require hospitalization, two to four times as likely to need critical care, and two to three times more likely to die as a result of the virus.⁸ As of April 21, DHS was already aware of and tracking 617 positive coronavirus cases and knew of at least 43 homeless New Yorkers who had died.⁹

The city's response, meanwhile, has displayed an alarming lack of urgency. While city officials relaxed prohibitions against outreach teams providing hand sanitizer and other basic survival necessities to homeless people living on the streets (a practice that DHS had previously discouraged in order to convince people to accept referral to shelter placements instead)¹⁰ and issued guidance and best practices for DHS facilities,¹¹ the city was slow

⁶ Greg B. Smith, *NYC's Biggest Shelter Plagued by Asbestos and Other Dangers*, The City, Jan. 13, 2020, <https://thecity.nyc/2020/01/nycs-biggest-shelter-plagued-by-asbestos-and-other-dangers.html>; Greg B. Smith, *How Shelter Chaos Drives many Homeless to Live on Streets and in Subways*, The City, Nov. 18, 2019 <https://thecity.nyc/2019/11/nyc-homeless-shelter-chaos-drives-many-to-streets-and-subway.html>.

⁷ Tana Ganeva, *New York City has done Almost Nothing to Protect 70,000 People in its Homeless Shelters from Coronavirus Spread*, The Intercept, Apr. 1, 2020, <https://theintercept.com/2020/04/01/coronavirus-new-york-city-homeless-shelters/>.

⁸ DENNIS CULHANE ET AL., ESTIMATED EMERGENCY AND OBSERVATIONAL/QUARANTINE CAPACITY NEEDS FOR THE US HOMELESS POPULATION RELATED TO COVID-19 EXPOSURE BY COUNTY; PROJECTED HOSPITALIZATIONS, INTENSIVE CARE UNITS AND MORTALITY, Mar. 27, 2020, at 4, available at https://endhomelessness.org/wp-content/uploads/2020/03/COVID-paper_clean-636pm.pdf.

⁹ Janaki Chadha, *City Falls Short of Deadline in Transferring Homeless New Yorkers to Hotels*, Politico New York, Apr. 21, 2020, <https://www.politico.com/states/new-york/albany/story/2020/04/21/city-falls-short-of-deadline-in-transferring-homeless-new-yorkers-to-hotels-1278539?nname=new-york-playbook&nid=0000014f-1646-d88f-a1cf-5f46b74f0000&nrid=00000163-d56a-d654-aff7-f7effd290000&nlid=630317>.

¹⁰ Kay Dervishi, *Homeless New Yorkers at Greater Risk from COVID-19*, City & State New York, Mar. 17, 2020, <https://www.cityandstateny.com/articles/policy/health-care/homeless-new-yorkers-greater-risk-covid-19.html>.

¹¹ Valeria Ricciulli, *How Can New York City Protect the Homeless from Coronavirus*, Curbed New York, Mar. 25, 2020,



to embrace calls to find and secure temporary individual housing that could serve as the most effective means of meeting basic survival needs while allowing people to engage in social distancing.

Ensuring that individuals in the shelter system have individual housing options is a long overdue step – and would bring NYC in line with actions taken by other states and localities, including California,¹² Connecticut,¹³ Miami,¹⁴ Seattle,¹⁵ and New Orleans,¹⁶ all of which have committed government resources to finding and securing hotel rooms to offer a safer alternative to overcrowded congregate shelters. Such measures are critically necessary, as congregate shelters – with dormitory-style sleeping, communal eating and restroom facilities, and inadequate supplies of personal protective equipment for staff and residents – provide no real opportunity for residents to engage in social distancing, turning these spaces into petri-dishes for a virus that easily spreads through close personal proximity.¹⁷

<https://ny.curbed.com/2020/3/13/21178079/coronavirus-nyc-homeless-services-covid-19>.

¹² Scott Rodd, *California Leasing Hotels for Homeless People During Coronavirus Crisis – And After Could Make Them Permanent Housing*, Capital Public Radio, Mar. 24, 2020, <https://www.capradio.org/articles/2020/03/24/california-leasing-hotels-for-homeless-people-during-coronavirus-crisis-and-after-could-make-them-permanent-housing/>.

¹³ Rebecca Lurye, *Connecticut Shelters Rapidly Moving People to Hotels to Prevent COVID-19 Outbreaks; Homeless Individual Tests Positive in Hartford*, Hartford Courant, Mar. 30, 2020, <https://www.courant.com/coronavirus/hc-news-coronavirus-homeless-shelter-relocations-20200330-i5mzljkeanduhnxnt74wwkqpmu-story.html>.

¹⁴ Joey Flechas & Alex Harris, *Coronavirus Could Push Miami's Homeless into Temporary Shelter or Isolation in Hotels*, Miami Herald, Mar. 25, 2020, <https://www.miamiherald.com/news/coronavirus/article241463451.html>.

¹⁵ Marissa J. Lang et al., *Cities Struggle to Protect Vulnerable Homeless Populations as Coronavirus Spreads*, Washington Post, Mar. 20, 2020, https://www.washingtonpost.com/local/cities-struggle-to-protect-vulnerable-homeless-populations-as-coronavirus-spreads/2020/03/20/1144249c-67be-11ea-b5f1-a5a804158597_story.html.

¹⁶ Danny Monteverde, *New Orleans Homeless Move into Hotel to Slow Coronavirus Spread*, 4WWL, Mar. 26, 2020, <https://www.wvltv.com/article/news/health/coronavirus/new-orleans-homeless-move-into-to-hotel-to-slow-coronavirus-spread/289-ed4af8e2-5b4d-40e1-b468-32a706b3aca0>.

¹⁷ Nikita Stewart, *'It's a Time Bomb': 23 Die as Virus Hits Packed Homeless Shelters*, N.Y. Times, Apr. 13, 2020, <https://www.nytimes.com/2020/04/13/nyregion/new-york-coronavirus-homeless.html>; Greg B. Smith & Claudia Irizarry Aponte, *Too Close for Comfort Inside NYC's Biggest Homeless Shelter*, The City, Mar. 31, 2020, <https://thecity.nyc/2020/03/little-social-distancing-in-nycs-biggest-homeless-shelter.html>; Denis Slattery & Michael Gartland, *NYC Homeless Services Workers Hit with Coronavirus are 'Dropping like Flies' without Protective Gear*, N.Y. Daily News, Apr. 1, 2020, <https://www.nydailynews.com/coronavirus/ny-coronavirus-homeless-services-protective-gear-20200402-useuckptjncq5g2oeqwbcvw724-story.html>.



On April 11, the mayor promised to place 6,000 homeless, single adults in hotel rooms by April 20. Employing creative math, this figure already included 3,500 individuals who had been placed in hotel rooms since before the pandemic, meaning that, in reality, the administration was only committing to assist 2,500 people currently in need, a goal which, it should be noted, the administration has yet to invest sufficient resources into meeting.¹⁸ The city can and must commit to doing more, especially given the reported availability of approximately 130,000 vacant hotel rooms in New York City.¹⁹ Intro. 1927 is a critical step to ensure that the city moves forward to meet the promises made for the well-being of homeless individuals.

The City Council must take urgent action to protect the health and safety of New Yorkers who most at risk from the coronavirus, including through swift passage of Intro. 1927. This legislation would require that the city's response actually match the urgency of the public health crisis. By mandating that every single adult experiencing homelessness be provided with the option of a private room, this measure will ensure that nearly 20,000 people currently in overcrowded and unsafe shelters, along with thousands more currently living on the streets, will have access to the single resource most needed to protect their health in the short term. And the bill's requirements for DHS to implement measures designed to reduce the risk of infection spread in its facilities as a matter of law as opposed to mere agency guidance is a critical step to protecting the health and safety of homeless New Yorkers and shelter staff.

The effectiveness of this mandate will of course depend on the agency's implementation, which is why the bill's reporting requirements are of critical importance. These provisions are essential for holding DHS accountable for meeting its obligations, and we urge the Council to be aggressive in conducting oversight to ensure that homeless New Yorkers' needs are being met.

We also urge the Council to ensure that DHS continues to provide support beyond mere placement in private rooms, and that the agency follows recommendations from the Centers for Disease Control and Prevention ("CDC") to "continue activities that protect people experiencing homeless,

¹⁸ Janaki Chadha, *City Falls Short of Deadline in Transferring Homeless New Yorkers to Hotels*, Politico New York, Apr. 21, 2020, <https://www.politico.com/states/new-york/albany/story/2020/04/21/city-falls-short-of-deadline-in-transferring-homeless-new-yorkers-to-hotels-1278539?nname=new-york-playbook&nid=0000014f-1646-d88f-a1cf-5f46b74f0000&nrid=00000163-d56a-d654-aff7-f7effd290000&nlid=630317>.

¹⁹ Miriam Hall & Kelsey Neubauer, *NYC Hotels Shift from Room Service to Public Service as Coronavirus Lingers*, Bisnow, Apr. 20, 2020, <https://www.bisnow.com/new-york/news/hotel/hotels-used-for-coronavirus-relief-104006>.



including supporting continuity of homeless services, healthcare, behavioral health services, food pantries, and linkages to permanent housing.”²⁰

While we note that Intro. 1927’s mandate to provide a private room applies only to single adults, we urge the Council to work with DHS and the Department of Youth and Community Development to also ensure that private rooms are also made available to residents of youth and family shelters, as needed. While many of these facilities may already offer private rooms, they may not offer the degree of isolation that would be required for someone within a family unit who has contracted or been exposed to COVID-19, and who therefore should be given a private, individual room in which to self-isolate to prevent further spread of the virus in these facilities. And with an estimated 114,000 New York City public school students experiencing homelessness or housing instability, the agencies must also ensure that young people have access to reliable internet connections and other technological supports necessary to allow them to fully participate in remote learning.²¹

Finally, the Council must also call on the Mayor to immediately end targeting of homeless people in public spaces by the NYPD and other agencies. This includes ending the use of so called “sweeps” or “clean-ups” carried out by DHS, the NYPD, and the Department of Sanitation, which threaten unsheltered homeless New Yorkers with the destruction of their belongings if they do not leave the public spaces where they have been sleeping. In normal circumstances, these tactics are cruel and often serve as a coercive means of encouraging people living on the streets to accept placement in often unsafe and unsanitary shelters. In the present moment, these tactics can be deadly and risk worsening the spread of the coronavirus as more people are moved around. These tactics are also directly contrary to CDC guidance, which advised that sweeps should not be used.²² Despite the risks and in direct contrast to the CDC’s recommendations, the city has continued to employ these tactics while COVID-19 was rapidly spreading, despite the lack of any promise of safe housing upon being relocated.²³

²⁰ Centers for Disease Control and Prevention, *Interim Guidance for Homeless Service Providers*, <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html> (last accessed Apr. 23, 2020).

²¹ Nikita Stewart, *She’s 10, Homeless and Eager to Learn. But She Has No Internet*, N.Y. Times, Mar. 26, 2020, <https://www.nytimes.com/2020/03/26/nyregion/new-york-homeless-students-coronavirus.html>

²² Centers for Disease Control and Prevention, *Interim Guidance for Homeless Service Providers*, <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html> (last accessed Apr. 23, 2020).

²³ Matt Troutman, *NYC Forces Homeless Off Streets Despite Coronavirus Shelter Fears*, Patch, Mar. 30, 2020, <https://patch.com/new-york/prospectheights/nyc-forces-homeless-streets-despite-coronavirus-shelter-fears>; Greg B. Smith, *No Virus Tracking for Homeless People on Streets and Subways*, The City, Mar. 29, 2020, <https://thecity.nyc/2020/03/no-virus-tracking-for-homeless-people-on-streets-and-subways.html>.



Compounding these problems is the NYPD's refusal to commit to even a temporary pause of its broken windows enforcement practices.²⁴ These tactics, in which officers aggressively enforce laws against minor infractions, have always inflicted unnecessary harm, particularly on communities of color and homeless New Yorkers. For those seeking shelter in the subway systems, it has also meant the coercive threatening of homeless New Yorkers with a criminal summons unless they agree to be transported to a shelter.²⁵

We cannot arrest our way out of this crisis. In fact, the virus spreads through exactly the kind of close person-to-person contact that arrests require, so any interaction with an officer could actually cost people their lives. And for unsheltered New Yorkers, in particular, who are already at risk for worse health outcomes and who are more likely to encounter an officer by virtue of being out in public, the risks are even more acute. If there was ever a time to abandon broken windows, it's now.

The NYCLU thanks the Committee for the opportunity to provide testimony and for its consideration of this critically important piece of legislation.

²⁴ Thomas Tracy, *NYPD Commissioner Says 'No Intention' of Reducing Arrests amid Coronavirus Crisis*, N.Y. Daily News, Mar. 21, 2020, <https://www.nydailynews.com/coronavirus/ny-nypd-wont-reduce-arrests-coronavirus-crisis-20200321-ae6ltasujjelbdpkgefkbfpuuu-story.html>.

²⁵ Mirela Iverac, *Six Months In, Critics Say de Blasio's Strategy to Help Homeless in Subways isn't Working*, Gothamist, Jan. 22, 2020, <https://gothamist.com/news/six-months-critics-say-de-blasios-strategy-help-homeless-subways-isnt-working>.