Testimony of the New York Civil Liberties Union
to
The New York City Council Committee of the Whole
regarding
Examination of the City’s Response and Delivery of Services to Migrants

December 20, 2022

The New York Civil Liberties Union (NYCLU) respectfully submits the following testimony with regard to the New York City Council Committee of the Whole oversight hearing on the city’s response and delivery of services to migrants.

I. Introduction.

The NYCLU, an affiliate of the American Civil Liberties Union (ACLU), is a not-for-profit, non-partisan organization with eight offices throughout New York 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. We thank the City Council for holding this important hearing and for the opportunity to submit testimony.

The large-scale arrival of migrants to New York City over the past several months has shed light on how the city provides for and protects the rights of its immigrant residents. New York City has always been a magnet for people from across the world in search of new beginnings or better circumstances. The arrival of buses of migrants during the fall of this year – many chartered by out-of-state governors looking to score political points – has added another dimension to the city’s tradition of welcoming new Americans.

Over the past several months, we have watched as various city agencies grapple with how to meet the needs of large numbers of asylum seekers and other immigrants making their way to Port Authority, often with few resources or community connections. We have also witnessed the dedication and generosity of
mutual aid groups, grassroots activists, and other volunteers who have stepped up to ensure that arriving migrants are treated with dignity.

It is an understatement to say that the city’s response to recent migrant arrivals has been far from perfect. From the time that buses began arriving in Manhattan late last summer, the NYCLU’s organizing team has been in communication with mutual aid groups and other service providers who have been on the ground every day working to meet the needs of migrants, often with very limited resources and no help from the city administration. Housing and transportation for arriving migrants has been inadequate, as have on-site translation services necessary to navigate an unfamiliar landscape of public services. We have heard from people turned away from shelters for not having documentation that had been confiscated from them by U.S. Immigration and Customs Enforcement (ICE). The New Yorkers who have devoted their time to filling gaps in the city’s response have too often not received the support and acknowledgment they deserve.

Much has happened since the first buses of migrants began arriving earlier this year, and the range of issues raised by the city’s response have numerous implications for public policy. While the arrival of buses carrying migrants into the city may have slowed since the fall, large numbers of people continue to enter the U.S. at the southern border,1 many of whom will no doubt make their way to New York City. We urge the City Council to listen closely to the impacted people, volunteers, and service providers who will be testifying at today’s hearing, whose experiences should guide any immediate action the Council takes. Today’s hearing also offers an opportunity for the Council to take a broad look at the city’s various laws, policies, and programs that serve and defend the rights of immigrant New Yorkers and consider how they can be improved.

In our testimony today, we focus on a few areas where the Council can use its legislative and oversight authority to not only respond to the influx of recently arrived migrants, but also make New York City a safer and more welcoming place for all immigrants.

II. **Access to housing and public benefits.**

Recently arrived migrants deserve the same access to stable housing and basic necessities as all New Yorkers. Many of those arriving on chartered buses

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come to the city with little, if any, money or personal belongings, and may have had critical identification documents taken from them along the way. It is imperative that city agencies accommodate these newly arrived New Yorkers and make critical services available notwithstanding these barriers and challenges.

Inadequate housing for recent arrivals has been a particular concern. Since the fall, the city has started construction on multiple emergency shelter facilities in less accessible areas of the city, only to shut those facilities down in a matter of weeks. There have been multiple reports of migrants being turned away from city shelters for failure to provide documents that they did not have access to, while Mayor Adams mused about “reassessing” the city’s guaranteed right to shelter.

The city must uphold its duty to make the right to shelter available to all New Yorkers, including recently arrived immigrants, and must work with families and immigrants who might lack the usual documentation required to ensure that nobody is improperly turned away and left unhoused. Shelters should exercise flexibility and remove unnecessary bureaucratic barriers that prevent or delay enrollment. More critically, though, the city must act to facilitate more permanent and stable housing options for immigrant New Yorkers. This should include expanding eligibility for rental assistance through CityFHEPS, regardless of immigration status, and exploring other avenues to provide affordable housing to people with different types of immigration status.

Some immigrants will not be eligible for certain services or benefits because of their immigration status. A person’s eligibility will depend on the specifics of their situation, and the city must take care to conduct individual eligibility assessments for public benefits and not make incomplete assumptions about a person’s eligibility. Yet where eligibility for state and federal benefits is restricted, the Council should also step in to create benefits that are available regardless of immigration status. To that end, the Council should call on the state legislature to

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pass legislation\textsuperscript{5} that would remove any federal barriers to extending benefits to people without proof of status, giving the city full flexibility to meet the immediate needs of immigrant communities.

III. **Access to education.**

The arrival of new migrants to New York City has also brought new students to the city’s public schools. According to one analysis conducted in November, nearly 6,000 new students had enrolled in more than 300 city schools through programs designed to help newly arrived immigrant families.\textsuperscript{6} The spike in numbers of immigrant students demands close examination of long-standing issues that immigrant students have faced in our city’s public school system.

To ensure that the unique needs of newly arrived immigrant students are being met, the city and the Department of Education (DOE) must devote particular attention to language access. Every student and parent must have access to school information in a language they can understand, and all students must have access to fully bilingual education in all subjects, not just in English-as-a-second-language (ESL) courses. This is especially important for older students who have less time to earn enough credits to graduate; schools must not simply counsel these students out of school or into GED programs. We also know from experience that schools too often misclassify non-English-speaking students as having special needs, and conversely, actual special needs can be overlooked where assessments do not account for language needs. City schools must take care to avoid these mistakes.

In addition to providing students with an academic education, schools can be an important gateway for families to access other necessary services. NYC Community Schools are particularly suited to serve this function. However, many schools lack the resources to provide parents with necessary information and connect them to other city and community services. When newly arrived students are being enrolled, the DOE should consider not only a family’s geographic location, but the ability of a chosen school to meet families’ needs.

Finally, recognizing the trauma that many recently arrived students will have endured on their journeys to the U.S., students must never be met with police tactics when entering city schools. While no student should be confronted with metal detectors and NYPD security when entering a school building, the city should

\textsuperscript{5} A.1997 (Cruz) / S.481 (Persaud), \url{https://www.nysenate.gov/legislation/bills/2021/A1997}.

take particular care to assign students who have experienced these unique traumas to schools without a heavy police presence and that have adequate counseling services.

IV. **Access to legal services.**

Among the most critical needs of newly arrived migrants is access to affordable, quality legal services to navigate the immigration legal system. The large numbers of new arrivals since last summer have created new challenges for immigration legal services providers that have long zealously represented their clients despite too little funding and too few resources. With more arrivals likely in the coming weeks and months, the need for increased funding and support for legal services is critical.

We urge the Council to heed the testimony of the legal services providers that have served New York City’s immigrant communities for years, and are best positioned to make specific recommendations about funding and coordination of services. At minimum, the Council should commit to continuing and increasing funding for the New York Immigrant Family Unity Project (NYIFUP), which has provided publicly-funded removal defense for immigrant New Yorkers at no cost to clients for nearly a decade. The Council should also call on the state legislature to pass the Access to Representation Act, which would create a right to state-funded counsel for people in removal proceedings, without supplanting locally funded programs.⁷

V. **Protecting immigrant New Yorkers from aggressive immigration enforcement.**

Just as the city must use its resources to proactively assist and serve immigrant New Yorkers, it must also do its part to protect them from overly aggressive and abusive enforcement tactics by federal immigration authorities. This means not colluding with ICE to have people funneled into the deportation pipeline by sharing information or transferring people who have been arrested into ICE custody.

New York City has for years had laws in place that prohibit the NYPD, Department of Correction (DOC), and other government agencies from using their resources to aid immigration enforcement.⁸ However, these laws are compromised by exceptions that continue to allow people to be funneled into ICE custody based

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on past brushes with the criminal legal system or matches on dubious government
databases. Moreover, when these local laws are violated and people are harmed,
there is no prescribed method for the city to be held accountable or for people to
seek recourse.

The Council must expeditiously pass Intros. 158, 184, and 185 to strengthen
the city’s disentanglement laws. Intro. 158\(^9\) would create a civil cause of action for
violations of the city’s detainer laws, allowing people who’ve been harmed to obtain
remedies in court. Intros. 184\(^10\) and 185\(^11\) would close loopholes in the city’s detainer
laws as applied to the NYPD and DOC, respectively, that permit continued
 collusion with ICE and invite mistakes. The Council should also press the state
legislature to pass the New York for All Act,\(^12\) which would disentangle local
authorities from immigration enforcement statewide; and the Dignity Not Detention Act,\(^13\) which would ban detention contracts between ICE and local jails
throughout New York State.

VI. Conclusion.

The arrival of thousands of migrants and asylum seekers to New York City in
recent months has created new challenges for the city, exposed weaknesses in its
support and services infrastructure, and highlighted the generosity of the many
ordinary New Yorkers who have stepped in to provide aid. It has put to the test the
city’s claim to be a welcoming place for immigrants. We thank the City Council for
holding this hearing, and look forward to working with city officials on these issues
going forward.

\(^9\) City Council Intro. 158-2022 (Hanif),

\(^10\) City Council Intro. 184-2022 (Powers),

\(^11\) City Council Intro. 185-2022 (Powers),

\(^12\) A.2328 (Reyes) / S.3076 (Salazar), https://www.nysenate.gov/legislation/bills/2021/A2328.

\(^13\) A.7009 (Reyes) / S.7373 (Salazar), https://www.nysenate.gov/legislation/bills/2021/S7373