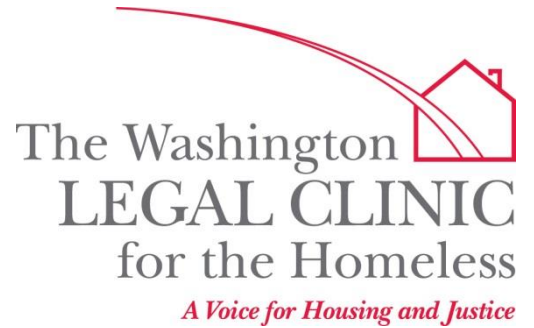


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D.C. Council Committee on Housing- DHS Oversight Hearing- February 23, 2023

**Testimony of Joshua Drumming, Law Graduate; Wes Heppler, Counsel; Brittany K. Ruffin,
Director of Policy and Advocacy**

Since 1987, the Legal Clinic has envisioned and worked towards a just and inclusive community for all D.C. residents—where housing is a human right, and every individual and family has equal access to the resources they need to thrive.

In D.C., there is a strip of land emblazoned with the words, “Black Lives Matter.” These words should not be just a way to gather political capital or even a means of tapping into the zeitgeist of the movement for which the plaza is named. These words should represent a promise of a District that implements policies that bring life to the ideals D.C. rests upon, serving as a beacon of hope amidst a sea of racial danger.

This testimony will cover several topics of concern:

I. Rapid Re-Housing

Instead of redressing the paucity of affordable housing options, there has been a prioritization of programs like Rapid Re-Housing. These programs have served as vehicles that cycle unhoused persons in and out of the shelter system. The Rapid Re-Housing program aims to ensure that unhoused individuals can access safe, secure housing and attain financial stability. Unfortunately, according to DHS’s own data, the program is failing to meet these goals in D.C.

Along with sixty-six organizations/experts and over 400 individuals, we pleaded with the Council last year to intervene, to provide more permanent housing subsidies, and to pass legislative reform of the program. That campaign culminated in the funding of significant subsidies, the introduction of the Rapid Re-Housing Reform Amendment Act, and the announcement that DHS would not terminate any more families for time limits in 2022.

DHS has claimed to be adopting some of the provisions of the proposed legislation. Due to policy reversals, the veracity of such a claim is unclear. What we know is that DHS is not, in any substantive way, reforming RRH on its own.

Historically, DHS has capped the time a family is able to avail themselves of this subsidy to twelve months, with the possibility of extensions after that time. DHS is now set to eliminate extensions and 3100 families face termination. As of yesterday, we learned that DHS will begin exiting participants in August, a reversal of the previous pledge of a new 18-month subsidy term. The pending legislation would correct this and require movement to a voluntary service model (a national best practice), cap tenant rent contribution so that it does not exceed thirty percent of income, and create transparency around permanent housing voucher eligibility and referrals.

In response to the looming exits, DHS has clarified that those in the program will be assessed for Permanent Supportive Housing and Targeted Affordable Housing voucher eligibility. Though potentially ideal, the merit of such a plan is defeated by the “capacity issues” that DHS has cited as a current preclusive factor towards getting unhoused individuals into homes. An alternate “remedy” proposed by DHS is DC Flex. DC Flex provides people with \$8,400 per annum for five years, without being able to exceed the yearly subsidy amount. This amount cannot be adjusted based on family size or rent amount. Transitioning Rapid Rehousing families without sufficient income to DC Flex will inevitably lead to families being unable to pay rent after a few months and, ultimately, evictions. It is an unacceptable amount to maintain housing.

When DHS is unwilling to act in the best interests of DC residents, D.C. must step up to prevent tremendous harm and displacement. D.C. is in dire need of legislation capable of bridging the gap between the current RRH shortcomings and a future where DHS truly protects and cares for participants. Ninety-seven percent of families in Rapid Rehousing are unable to afford rent. Ninety-seven percent of families in the program are also Black. Racial justice in the district is impossible without RRH reform. This Council must pass and fund the Rapid Rehousing Reform Act.

II. ERAP/ ERAP Reporting

D.C. continues to have an affordable housing crisis that threatens thousands of its residents. In particular, there is a dearth of deeply affordable housing in D.C.—the category that is most needed. Despite this fact, deeply affordable housing for those at 0-30% AMI continues to be the most underproduced in DC. Pandemic eviction moratoria have ended, but families still require assistance paying their rent. The average D.C. rent for an apartment is \$2,356 (\$2,225 for a one-bedroom). No one can currently afford a 2-bdrm apt on a minimum wage salary.

Beyond the problem of unfeasible expectations, ERAP Applicants are reporting a 4-month delay in processing and sometimes must resubmit pending applications due to no response. We ask that the Council passes legislation to include reporting on ERAP administration and distribution, including timelines, staffing, and administering agency delays. DHS should also allow applicants to request three months of future rent (as was provided by STAY DC).

III. Voucher Utilization

Recently, there has been significant investment in voucher resources. Unfortunately, however, staffing issues at DHS and poor agency coordination between DHS and DCHA have precluded District residents from successfully and/or efficiently receiving housing. Currently, case managers must match those with vouchers to housing units. This practice is paternalistic, inefficient, and cruel.

DHS has stated that all FY22 vouchers have been matched and that, beginning in April, FY23 vouchers will begin being matched. However, matching has been paused since last year due to agency capacity issues. DHS has stated that they are working to increase capacity so that individuals can begin accessing housing. If there are attempts at capacity improvement, they are not occurring quickly enough. Agency bureaucracy prolongs homelessness. Waiting until DHS can properly staff itself and, consequently, holding up the entire process only makes people and families wait longer for safe, secure housing.

Furthermore, we ask this Council to disapprove the Targeted Affordable Housing regulations set forth by DHS. For years, DHS has run this program unlawfully without regulations. It is only due to the last two Budget Support Acts that they have been mandated to publish regulations and have specific priorities for eligibility. These regulations do not comport with the priorities set forth by the Targeted Affordable Housing Prioritization Act of 2022 within the Budget Support Act. These regulations fail to prioritize families that have been in the program the longest and are not eligible for permanent supportive housing. This raises questions about how vouchers are currently distributed.

IV. PEP-V and Shelters

The PEP-V program was established in 2020 to protect the most vulnerable amongst the unhoused community. D.C. used hotels to house individuals experiencing homelessness whose medical conditions made them more susceptible to serious illness or death if they contracted Covid.

DHS has plans to terminate these PEP-V sites. As a result, over 500 people will lose their current housing. DHS claims that most people in PEP-V are matched to a long-term housing program and are in the housing process. The agency has also stated that PEP-V should not be fully demobilized before May 11th (the official end of federal funding for PEP-V), its priority is to find all residents housing before PEP-V ends, and that PEP-V's closure will not estrange PEP-V residents from the supports they rely on. DHS needs to be held to these promises. Between the premature clearing at McPherson and the sudden announcement of the expedited exit of Rapid Rehousing families, the unhoused community and those relying on DHS subsidies have little reason to trust DC agencies. Unhoused persons must not only contend with displacement, but also with the natural trauma and repercussions of premature displacement without better options.

Despite what some may say, D.C. is still in the middle of a pandemic. The NY Times has reported that on average, in D.C., there are currently sixty-four cases of Covid per day. In acknowledgment of the risk, shelters are still operating below capacity to ensure the safety of occupants. Several encampments, including the largest at McPherson Square, have also been cleared. Encampment clearings will continue to severely decrease the number of vacant shelter beds. Operating shelters below capacity indicates that DHS understands the severity of the pandemic. The decision to close PEP-V contradicts that understanding. DHS has admitted that its current housing apparatus is not prepared to deliver the level and degree of care offered by PEP-V. This is more reason to extend PEP-V or replace it with something that serves the same function. Both the 801 East and Pat Handy shelters (specifically, the medical respite programs), as well as home health aides, have been mentioned as remedies for those specialized needs, but the overall PEP-V need exceeds those limited and higher barrier resources.

Congregate shelters, despite their precautions, are still areas that increase the likelihood of contracting Covid. Beyond that, many congregate shelters are in poor condition and in need of substantial repair. Many people also have safety concerns with staying in shelters and often do not feel protected or respected by staff. Other examples of barriers to shelter are forced partner separation and an inability to bring belongings into the shelter. To remedy this, D.C. needs to buy and convert buildings to create more

non-congregate shelter spaces and establish storage options. Staying in a shelter should not be synonymous with loss of dignity.

It is commonplace for families to go to Virginia Williams in hopes of securing a place to stay for the night and be turned away. Scared for their family's safety and security, they turn to places such as the Legal Clinic. To be granted access to emergency shelter, families must endure a burdensome process in which they are asked a series of invasive questions and to provide complex documents, while being forced to have different family members and friends prove their homelessness. DHS has stated that there are currently 102-unit vacancies in short term family shelters. These vacancies should be more easily utilized. It is for the above reasons that we ask that the Council amend the HSRA to require low-barrier eligibility shelter access and implement additional staff training so that families are not routinely and unlawfully denied.

V. Point in Time Count

D.C. uses the Point in Time count as a measure of how many people in DC are experiencing homelessness. Based on numbers received from DCPS, the last number from the Point in Time count of homeless children undercounted them by ninety percent. The Point in Time count is misleading because it ignores people who are couch surfing, living in their car, or simply unreachable on one of the coldest nights of the year. It appears as though DHS fails to count any unhoused individuals that are not on the street or in the DHS/shelter system because doing so makes D.C. seem more successful at curbing homelessness than it is.

VI. Encampments

Over the last year, several encampments have been cleared, resulting in a drastic decline in the number of places available for unhoused individuals. Due to many of the aforementioned issues in shelters, some unhoused individuals decide that they would be better off elsewhere--oftentimes in an encampment. Their collective ability to live in an encampment has been continually diminished, with the last year resulting in the closings of encampments at 14th and U, Columbus Circle, Gompers and Burke Park, Scott Circle, and Logan Circle. Many of these clearings, undoubtedly, led to the ballooning of the largest encampment in the District, McPherson Square.

Recently, on February 15th, a joint operation between DMHHS and the National Park Service led to the clearing of McPherson Square, an encampment that over seventy families called home. This clearing was done two months earlier than initially planned and in the middle of hypothermia season. Despite the dangers that naturally accompany such a decision, measures implemented to find housing for displaced individuals were wholly inadequate.

It is abundantly clear that encampment clearings run counter to CDC and USICH Guidance, which strongly recommend against such clearings unless everyone has alternate housing. In many of these clearings, belongings are not handled in a way that is compliant with NPS regulations, as personal property is indiscriminately discarded instead of being stored. At times, discarded property consists of important documents or irreplaceable sentimental belongings.

In response to the McPherson clearing during hearing testimony, DHS boasted about having offered people bridge housing, but also admitted that only twenty people were ever offered bridge housing. Of those twenty people, only ten entered bridge housing. DHS and DMHHS must work together more

efficiently to provide housing resources. While there is a plethora of legitimate reasons as to why one would not choose bridge housing, DHS claims that the primary reason is that unhoused individuals do not want to follow other people's rules. Among other things, these paternalistic rules include not bringing pets (who are often seen as members of the family), partner separation, the limitation of how many personal belongings can be brought in, curfews, and strict substance use restrictions.

We ask the D.C. Council to immediately suspend all full encampment clearings now and after the pandemic. In lieu of these clearings, there should be additional housing resources provided and trash-only clearings. We also ask that there be trash cans, portable bathrooms, and hand washing stations provided at encampments even after the end of the pandemic.

VII. Office of Migrant Services

As mentioned earlier, the Legal Clinic supports the OMS. The Legal Clinic remains adamantly opposed to the segregated homeless services system that has been implemented by DHS pursuant to the Migrant Services and Supports Temporary Amendment Act of 2022—a system that is separate, but most definitely not equal. The migrant services system DHS is still attempting to set up through an Office of Migrant Services prohibits migrants who have chosen to stay in the District from accessing any of the traditional paths to housing—such as rapid rehousing, transitional housing, housing vouchers or public housing. Simply put, for migrants, there is no path forward to housing in the District. Further, migrants have no legal right to access even the limited services that are provided by OMS—and there are no minimal quality standards applicable to OMS services. In fact, when migrants have reported issues with the quality and safety of the food or services they receive, they have been met with comments that range from being dismissive to outright antagonistic. Inexplicably, DHS has fought all efforts to apply any minimal due process rights or quality of service standards to OMS services—a shocking position for a community that claims to be a “sanctuary city.”

To address these concerns, the Legal Clinic joins with the DC Immigrant Justice Platform in supporting amendments to Migrant Services and Supports Temporary Amendment Act which:

1. Either eliminate, entirely, the Title II changes to the HSRA's definition of a “Resident of the District” or narrowly revise that definition to more accurately reflect the original intent of excluding from the HSRA Continuum of Care only those migrants recently bussed to the District from Arizona and Texas.
2. Establish a legal right to OMS services and shelter for all those migrants who are excluded from the DHS Continuum of Care by the Title II revisions to the definition of a DC “resident.”
3. Establish reasonable due process rights and procedures to protect migrants who are denied OMS services or shelter.
4. Establish reasonable quality of service standards for the services and facilities provided to migrants by OMS.

VIII. Conclusion

We hope to see increased Council oversight of DHS that holds DHS accountable to D.C.'s no and low-income community and ensures that DC residents are adequately supported.