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**Testimony of Matthew Boucher  
Senior Staff Attorney, Housing Unit  
Legal Aid of the District of Columbia**

**Before the Committee on Housing  
Council of the District of Columbia**

**Performance Oversight Hearing Regarding the Department of Human Services**

**February 23, 2023**

Legal Aid of the District of Columbia<sup>1</sup> submits the following testimony regarding the Department of Human Services (DHS), and specifically Rapid Rehousing and the Emergency Rental Assistance Program (ERAP). We encourage the Council to take this opportunity to thoughtfully assess the needs of families facing housing insecurity and tailor programs so that the District is equipped to meet the range of needs presented.

Legal Aid has testified about fundamental problems in Rapid Rehousing for many years. My colleague, Rachel Rintelmann, submitted a detailed analysis of these problems in her testimony for the Performance Oversight Hearing Regarding the Department of Human Services more than three years ago on January 29, 2020. To ensure that the details of these longstanding problems remain part of the record, and because the problems with the program are still largely the same, her prior testimony is attached.

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<sup>1</sup> Legal Aid of the District of Columbia was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 91 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, [www.LegalAidDC.org](http://www.LegalAidDC.org).

The families in Rapid Rehousing are low-income DC tenants, the vast majority of whom are people of color. Legal Aid overwhelmingly serves the same client population, which has allowed us a unique opportunity to observe the tragic consequences of Rapid Rehousing's failures. Legal Aid strongly supports passage of the Rapid Re-Housing Reform Amendment Act of 2023 because it contains legislative solutions to longstanding problems and would finally give the program a chance to deliver stable, affordable housing for low-income DC families.

Similarly, Legal Aid has testified for many years about the critical role ERAP plays in helping tenants maintain stable housing. ERAP remains a critical resource, and the Council should work to accurately assess need for the program and make sure that funding levels are sufficient to meet the needs of eligible tenants. Given the importance of this program as a frontline defense against eviction in an increasingly unaffordable housing market, the Council should also continue to work with DHS to improve ERAP administration, address barriers to assistance and consider whether current regulations are in line with program goals.

**The Council Should Pass and Fund the Rapid Re-Housing Reform Amendment Act of 2023: This Bill Contains Legislative Solutions to the Specific Problems with Rapid Rehousing that Legal Aid and the Larger Advocacy Community Have Testified About for Many Years**

The Bill Will Ensure That Rents Charged to Families in the Program Are Affordable

Under the current regulations, families in Rapid Rehousing must pay 40%-60% of their income in rent before accounting for utilities.<sup>2</sup> However, the Department of Housing and Urban Development defines affordable housing as "that which costs no more than 30% of household income," which means that the minimum rents required by the regulations are unaffordable by definition. Legal Aid previously testified about the difficult choices this forces families to make, including the decision of whether to spend what little money they have on rent, or to use it on other basic necessities.<sup>3</sup> Because the program puts them in the position of having to make these difficult choices, even families who have not

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<sup>2</sup> 29 DCMR § 7805.11

<sup>3</sup> Testimony of Amanda Korber, March 15, 2017, <https://www.legalaiddc.org/media/727/download>

yet been exited from the program for overstaying a time limit often end up in eviction court because they cannot afford their rent, utilities, and other basic necessities.

This Bill would solve this problem by capping rents for participant families at 30% of their household income, which will ensure that rents paid by participant families are affordable. Legal Aid supports this much needed change because we believe it will substantially reduce the likelihood that families face eviction proceedings while in the program.

The Bill will Save Money by Ensuring That Families Who Do Not Want Case Management Services Will Not Be Required to Participate in Them

Families in Rapid Rehousing have long been required to comply with mandatory case management services.<sup>4</sup> Legal Aid has submitted testimony on several occasions criticizing this requirement as heavy-handed, expensive, and ineffective.<sup>5</sup> The families in Rapid Rehousing have no specifically identified need for case management services, as many simply do not have the necessary income to be able to afford their rent. Despite this, the regulations continue to require all families to participate in case management, with the most recent cost being \$863 per family, per month.<sup>6</sup> With 3,400 families in the program at the beginning of 2022,<sup>7</sup> case management for families in Rapid Rehousing was set to cost more than \$35 million last fiscal year. Despite these significant costs, Legal Aid often hears from participating families that they do not have contact with their case manager for months at a time. Even our attorneys are often unable to get in touch with our clients' case managers. Worse, DHS's own numbers show the vast majority of families in the program experience no increase in their income despite this requirement.<sup>8</sup> Legal Aid is aware of no measurable benefit for this \$35 million in spending.

This Bill would end this wasteful spending by making case management services voluntary for all families in the program. It would give DHS the opportunity to reallocate some of the funds previously spent on case management for other necessities that have a measurable benefit to participating families. Legal Aid supports this change and

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<sup>4</sup> 29 D.C.M.R. 7805

<sup>5</sup> Testimony of Rachel Rintelmann, January 29, 2020, Attached; Testimony of Rachel Rintelmann, March 1, 2021, <https://www.legalaiddc.org/media/372/download>.

<sup>6</sup> DHS FY21-22 Performance Oversight Responses, Q86.

<sup>7</sup> DHS FY21-22 Performance Oversight Responses, Q69.

<sup>8</sup> DHS FY21-22 Performance Oversight Responses, Q91.

believes that any savings would be better spent on rent for families in the program, or on funding additional long-term rental subsidies.

The Bill Will Ensure That All Families in the Program Are Assessed for Long-Term Subsidy Programs

In August of 2021, this Council passed the Homes and Hearts Amendment Act of 2021 which made an unprecedented \$65 million investment in new long-term housing vouchers and housing subsidies for Fiscal Year 2022.<sup>9</sup> The Amendment created more than 1,100 new long-term housing subsidies for families,<sup>10</sup> and Legal Aid hoped that this would ensure that no families would be exited for the remainder of the fiscal year. A few months later, DHS announced that it intended to resume exiting families from Rapid Rehousing,<sup>11</sup> and proceeded to exit hundreds of families from the program during the remainder of Fiscal Year 2022.

Legal Aid has previously argued that DHS's decision to exit families is a policy choice and not a budget problem,<sup>12</sup> and it seems that there is no amount of long-term subsidies that the Council could create that would prevent DHS from exiting families from Rapid Rehousing so long as it is permitted to. Part of this concern stems from the lack of any evidence or documentation that would indicate that families being exited from the program were assessed for eligibility in long-term subsidy programs before being exited.

This Bill would solve this problem by requiring DHS to assess all families in Rapid Rehousing for eligibility in the Permanent Supportive Housing (PSH) and the Targeted Affordable Housing (TAH) before exiting them and require DHS to notify the family of their eligibility within five days of making the determination. Legal Aid supports this

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<sup>9</sup> DC Council Public Oversight Hearing Notice, The Department of Human Services' Implementation of Historic Housing Investments and Pandemic Recovery Efforts, November 10, 2021.

<sup>10</sup> Washington Legal Clinic for the Homeless, Historic Housing Investments Present Opportunity to Make Real Progress in Ending Homelessness, August 13, 2021: <https://www.legalclinic.org/historic-housing-investments-present-opportunity-to-make-real-progress-in-ending-homelessness/>

<sup>11</sup> Morgan Baskin, DCist, After Pausing For the Pandemic, D.C. Is Set To Terminate 384 Families' Housing Subsidies, November 24, 2021: <https://dcist.com/story/21/11/24/pandemic-dc-terminate-rapid-rehousing-subsidies/>

<sup>12</sup> Testimony of Matthew Boucher, February 24, 2022, <https://www.legalaiddc.org/media/280/download>

change because it will ensure that all families who could be eligible for new long-term subsidies funded by the Council will receive a proper assessment and have the right to know whether they qualify for additional assistance prior to being exited. Legal Aid further supports the addition of a requirement that DHS provide each family with written notice of their eligibility for each program so that there is no dispute about whether DHS met their obligation to assess each family.

This Bill Will End the Cycle of Housing Instability Caused by Exiting Families from the Program for Overstaying Rigid Time Limits

The most significant problem with Rapid Rehousing over the years has been DHS' decision to exit families from the program after they have overstayed an arbitrary time limit, despite not having the income to maintain stable, affordable housing without a subsidy. While the idea behind Rapid Rehousing has always been to place families in housing with the hope that the temporary stability will allow them to rapidly increase their income, the program has never succeeded in helping families achieve this goal. In FY21, the average income for a participating family at the time of exit was \$906 per month,<sup>13</sup> while the average rent for a two-bedroom apartment leased by a participating family was \$1,570.<sup>14</sup> This meant that the average family was expected to pay 173% of their monthly income in rent at the time they were being exited from the program, which is obviously impossible.

These families could not afford the rent without the subsidy and should not have been exited under these circumstances. Legal Aid has watched year after year as participants struggle with the decision that this program forces most families to make, which is choosing between leaving their homes with nowhere to go or facing an eviction case in Landlord Tenant Court. Many eventually return to homelessness. We have assumed that administration feels it is better for a family to spend a year in an apartment from which they will inevitably be displaced than it is for that family to remain in shelter, but as we have previously testified, this cycle often causes real, tangible harm.<sup>15</sup>

The solution to this problem has always seemed obvious; to keep families in the program until they can afford to pay the rent on their own or provide them with a long-term subsidy. This Bill does just that. Legal Aid strongly supports passage of this Bill

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<sup>13</sup> DHS FY21-22 Performance Oversight Responses, Q72.

<sup>14</sup> DHS FY21-22 Performance Oversight Responses, Q69

<sup>15</sup> Testimony of Amanda Korber, December 14, 2017, <https://www.legalaiddc.org/media/699/download>

because it will finally put an end to the cycle of housing instability that has long plagued Rapid Rehousing.

**The Council Should Assess Regulations and Fund ERAP to Ensure That the District's Low and No-Income Families Can Maintain Stable Housing**

The Council Should Adequately Fund ERAP to Meet Need

Over the past few years, ERAP has continued to play a critical role in helping protect tenants in the District from the continuing effects of the Covid-19 pandemic. In the past fiscal year(s), ERAP has had historically unprecedented funding as well as statutory flexibility, allowing it to assist tenants with higher rental arrearages than had previously been possible. While this flexibility and increased assistance was necessary (and remains necessary) to allow tenants to recover from the pandemic without being displaced, it makes it extremely difficult to assess what actual ERAP need is. ERAP should be funded at a level that would enable providers to process applications timely, with adequate funding for every eligible tenant to receive the maximum award they are eligible for. Given the unprecedented last few years and the significant changes in how both ERAP and eviction proceedings operate in the District, the Council should provide robust funding for ERAP, and DHS should keep and share robust data about applications, awards, denials, and administration costs to provide an accurate assessment of need going forward. No tenant should be denied ERAP funding because we lacked the data to fully understand the need. This data would also allow the Council to determine where ERAP is being utilized as a band-aid to conceal more consistent and systemic housing instability, and thus accurately assess and meet the need for programs designed to provide continuing assistance to low-income tenants, including permanent housing subsidies.

Regulations Should Promote ERAP's Purpose of Keeping Tenants in Sustainable Housing

Where ERAP is able to keep a tenant in a sustainable and stable housing situation, it is a remarkably cost-effective anti-homelessness program. Recent regulatory, statutory, and administrative changes have enabled ERAP providers to meet need and to target those tenants most imminently in danger of losing their housing than ever before. Increased ability to self-certify means tenants are not evicted because of administrative hurdles and do not have to expend time and resources that would be better directed toward maintaining housing. The temporary, now-expired ability to apply more than once per year meant that tenants would not be evicted from affordable and otherwise sustainable housing arbitrarily because they applied and were approved too quickly, even where they had not received the maximum award. This rule should be restored. The presence of ERAP providers in landlord-tenant courtrooms has allowed providers to identify court-

involved applicants and process their applications with court deadlines in mind. Online applications have made the program more accessible for many tenants. Authority to provide assistance over the regulatory caps allowed many tenants to maintain housing without having to address large balances accrued during the pandemic.

However, significant issues remain with ERAP administration – anecdotally, it is still extremely difficult to complete an application over the phone, even though this is ostensibly available. Functionally, many tenants who do not have access to technology that would allow them to complete an online application are shut out of the program. Additionally, the increased accessibility of the online application for many tenants means that providers are struggling to process the volume of applications. For tenants not identified as court-involved, it can take weeks or months for their application to be claimed by a provider for processing, meaning that more tenants become court-involved than would be necessary if providers had sufficient resources to process applications promptly.

Finally, and perhaps both most critically and easiest to fix, we are seeing a significant number of tenants who are denied ERAP assistance because their application is not completed within 45 days. This is particularly troubling because it is frequently the failure of the landlord to provide necessary documents that ultimately runs out the clock, allowing landlords to engage in source of income discrimination by thwarting their tenants' efforts to get assistance. We also see many instances in which a tenant is informed that they need to resolve a balance higher than what ERAP will pay in order to get their award, with only several days to either pay that balance or put a payment plan in place before their ERAP application expires and is denied. This puts significant pressure on tenants to agree to whatever terms their landlord is willing to offer in order to access assistance, when they may well be able to negotiate a more favorable agreement to resolve the additional balance if they had sufficient time to negotiate. Tenants denied for this reason often have to reapply for assistance, creating additional burdens for both the tenant and the providers processing repeat applications, and extending the time for the tenant to move closer to eviction. The 45-day cap is arbitrary and is preventing tenants with otherwise sustainable housing from receiving assistance, and providers should have flexibility to keep applications open where it makes sense to do so.

DHS Should Assess Assistance Programs to Complement ERAP and the Committee Should Make Sure All Tenant-Focused Assistance Programs are Appropriately Funded and Administered

As we have testified in many prior years, ERAP fills a critical need for low-income District residents who are often severely rent-burdened and one emergency away from falling behind. DHS oversight data frequently identifies the number of families applying for ERAP awards repeatedly in consecutive years as raising concerns about the



effectiveness of the program. What this data actually shows is common sense – most families will experience periodic financial hardships. An unexpected and necessary car repair, a medical emergency, lost hours at work – these are normal parts of life. For rent-burdened residents in the District, their income simply does not allow them to cover these everyday occurrences without assistance. However, because the structure of ERAP is to assist families facing housing emergencies at the time of the emergency, and because the funding routinely runs out and is not guaranteed, there will be cases in which severely rent-burdened households will need assistance that is either more sustained or offered further upstream – or both.

For this reason, we hope that, at the same time that DHS adequately funds ERAP and improves accessibility of the program, it also explores how to expand programs that better address consistent rent burdens. For many families, this means expanding access to full and permanent housing subsidies. For other families, shallow subsidy programs like DC FLEX may be enough to provide housing stability at a lower cost, allowing for the District to fund more participants. We are optimistic about the potential of programs like this to allow low-income households to access support that is consistent and reliable, while offering them more autonomy and control over how that assistance can best support their family. We hope that DHS will provide detailed and robust data about the outcomes of the DC FLEX expansion as well as new funding for vouchers, to allow the Committee to make informed decisions about how best to use rent assistance funds to support low-income families.

## **Conclusion**

The Council should take a close look at all of DHS's anti-homelessness and housing stability programs. Specifically, we ask that the Council ensure that the ERAP program is adequately resourced and administered to ensure it provides the maximum benefit to families in need of assistance. The Council also has an opportunity to correct fundamental, structural flaws in the Rapid Rehousing Program that have harmed DC families for many years. After many years of defending the current iteration of the Program, we appreciate that the Mayor and DHS finally appear to recognize some of the above-described flaws in this program and have agreed to make some of these necessary changes voluntarily. However, we believe that the best way to create a clear structural framework for an effective Rapid Rehousing program is to pass legislation codifying these changes in law. We do note that based on DHS' stated intent to implement some of these changes voluntarily, the estimated cost of this bill should be significantly reduced. Legal Aid urges the Council to take this opportunity to approve the Rapid Re-Housing Reform Amendment Act of 2023 to ensure that as many families as possible benefit from these essential changes. Further, to minimize the number of families who take action based on their uncertain status in the program, we also ask that the Council pass and fund this legislation during this budget cycle.



## ATTACHMENT

TESTIMONY OF RACHEL RINTELMANN BEFORE  
THE COMMITTEE ON HUMAN SERVICES AND THE  
COMMITTEE ON HOUSING AND NEIGHBORHOOD  
REVITALIZATION REGARDING THE DEPARTMENT  
OF HUMAN SERVICES

JANUARY 29, 2020

**Testimony of Rachel Rintelmann  
Supervising Attorney, Housing Law Unit  
Legal Aid Society of the District of Columbia**

**Before the Committee on Human Services and the Committee on Housing and  
Neighborhood Revitalization  
Council of the District of Columbia**

**Performance Oversight Hearing Regarding Department of Human Services**

**January 29, 2020**

The Legal Aid Society of the District of Columbia<sup>1</sup> submits the following testimony regarding the Department of Human Services (“DHS”) and specifically, its administration of the Rapid Rehousing Program. Rapid Rehousing has become the primary program through which the District exits families from shelter, offering them a time-limited voucher to try to place in the District’s increasingly expensive housing market. As we have consistently testified previously, the time-limited nature of Rapid Rehousing vouchers too often leaves families in crisis when the subsidy expires, obligating them to pay rents that they simply cannot afford.

As we will discuss below, DHS’s own data – while incomplete – demonstrates that Rapid Rehousing sets families up to fail, placing them at risk of another cycle of homelessness and advancing the District’s crushing wave of displacement. Despite the mounting data showing the perils of the program for the families it is supposed to serve, DHS continues to increase its reliance on it. The agency reports that it is currently serving just under 2,300 families through Rapid Rehousing, up from about 1,800 in December 2018.<sup>2</sup> Making matters worse, the agency steadfastly refuses to scale back its reliance on the program, or to even consider making much-needed changes to it.

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<sup>1</sup> The Legal Aid Society of the District of Columbia was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 88 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, [www.LegalAidDC.org](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

<sup>2</sup> DHS FY19-FY20 Performance Oversight Responses, Q94, DHS FY18-FY19 Performance Oversight Responses, Q72.

We renew our call for the Council to address DHS’s ever-increasing overuse of Rapid Rehousing, and urge the Council to instead invest resources in well-tested and effective subsidy programs. Our testimony today discusses why the program is so deeply problematic for families struggling to exit homelessness, and also, our disappointment with DHS’s recently-completed taskforce on Rapid Rehousing, whose recommendations will, unfortunately, not address the fundamental problems of the program.

### **Time-Limited Subsidies Set Families Up to Fail**

Legal Aid has long expressed concern that imposing time limitations upon recipients of Rapid Rehousing is wholly counterproductive and far more likely to cycle families back into homelessness than to result in permanent and stable housing. DHS data supports what Legal Aid has seen in practice for many years: time-limited subsidy programs do not lead to permanent and stable housing.

The data on families participating in Rapid Rehousing have long painted a discouraging picture of the program, and this year’s oversight responses from DHS are no different. Overall, the numbers suggests that families are being forced in to rental arrangements that they cannot afford, and do not experience anywhere near the meaningful income growth that they would need in order to pay high (and rising) District rents.

#### Families Cannot Afford the Rents They Sign Up For, Either at the Time They Enter the Program or at the Time of Exit

The theory behind Rapid Rehousing has always been that participants will be able to sufficiently increase their incomes while in the program to be able to take over the payment of rent and remain stably housed after their exit from the program. It is a reasonable theory that might become a reality for an otherwise high-wage earning family experiencing truly short-term financial hardship, or for a family in a lower-rent jurisdiction. However, the numbers show that families referred to Rapid Rehousing in the District are far from being able to afford their housing when they begin their time in the program and, for the most part, do not experience the substantial gains in income that it would take to afford their housing at the end. For families served by Rapid Rehousing in FY2019, the average monthly income at entry was \$929.75.<sup>3</sup> At exit, in FY2019, families had an average income of \$1006.37, a mere \$76.62 higher than the average entry income.<sup>4</sup> Over the course of FY2019, 93% of families participating in Rapid Rehousing saw no increase in their income.<sup>5</sup>

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<sup>3</sup> DHS FY19-FY20 Performance Oversight Responses, Q99.

<sup>4</sup> Families that have exited in FY20 to date had an average income of \$1023.60, so somewhat higher, but not meaningfully so. *Id.*

<sup>5</sup> *Id.*

Meanwhile, the average monthly rent for a two-bedroom apartment was \$1,534, higher than the average income at both entry and exit.<sup>6</sup> The sizeable gap between average income and average rent does not meaningfully close during the time that families participate in the program. Even if a family could somehow devote 100% of their income to rent, they *still* could not afford their housing after the subsidy ends. Simply put, the program places families in housing that is unaffordable from start to finish, and average income gains do not make up the difference.

### Families Face Eviction After They Leave Rapid Rehousing

Legal Aid has witnessed all too often what happens to many families who participate in Rapid Rehousing: when they are exited from the program, they are left unable to afford their rent. Then, they face an impossible choice: they must either leave their housing — usually with nowhere to go — or wait and be sued for eviction, were we see them in the course of our eviction defense work at DC Superior Court. For the first time this past year, DHS conducted a limited data match of families who exited the program with eviction court records. Of the 882 families who consented to participate in the data match, **almost half were sued in DC Superior Court for eviction after leaving the program.**<sup>7</sup>

That number is stunning. And, it is likely artificially low, because it does not include families that vacated their homes under threat of eviction prior to being sued in order to avoid damaging their rental history. Moreover, the surveyed sample is necessarily the result of some degree of selection bias; the families sampled were only those families DHS was able to reach for consent, which means that all families were both reliably reachable by telephone and willing to speak with DHS after their exit from the Rapid Rehousing Program. Many of the families most devastated after being exited from the program will not fall into those categories.

We must not lose sight of what the eviction number means. These families are our friends and neighbors. They are DC residents. They are families with children. The consequences of eviction for low-income families are nothing short of devastating. Experts have detailed the range of damaging effects of eviction, from splitting up families, to endangering employment, to launching (and re-launching) families into cycles of homelessness.<sup>8</sup> Because a prior eviction in a person's rental history can make it harder for that person to rent again,<sup>9</sup> eviction can also

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<sup>6</sup> *Id.* at Q94. Average rents escalated from there as housing sizes increased.

<sup>7</sup> DC Department of Human Services, *Taskforce Presentation: Overview of the Family Re-Housing and Stabilization Program (FRSP)* at 21 (Program Data Analysis – Eviction). *See, also*, DHS FY19-FY20 Performance Oversight Responses, Q104.

<sup>8</sup> Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 Am. J. Soc. 88, 91 (2012). Available at:

<https://scholar.harvard.edu/mdesmond/files/desmond.evictionpoverty.ajs2012.pdf>

<sup>9</sup> *Id.*

contribute to a pattern of housing instability,<sup>10</sup> which is itself associated with increased health risks for both low-income tenants and their children.<sup>11</sup> There are numerous, compounding, and long-term consequences to being evicted. Rather than interrupting this devastating cycle, Rapid Rehousing is setting up at least half of its families to be evicted again.

Rapid Rehousing Families Struggle With Unsafe and Unhealthy Housing, As Well As Inflated Rents

The agony of the brief and often traumatic cycle of a Rapid Rehousing tenancy is often compounded by unsafe housing and predatory landlords. In our experience, many of the few landlords willing to incur the risk of renting to a family with a short-term subsidy tend to be slumlords, relying on the family's desperation to find housing as they exit shelter, and counting on their willingness to endure deplorable conditions as an alternative to homelessness. We have met Rapid Rehousing participants who are living with bedbugs, roaches, rats and sewage leaks, in units somehow approved by the subsidy provider prior to move-in.

There is a thriving sub-market for Rapid Rehousing rentals, with landlords accepting District dollars to rent uninhabitable units to unsuspecting tenants. And, this is largely a successful model for such landlords because by the time the family complains or pursues legal remedies, the subsidy has ended, and the landlord can evict the family for nonpayment of rent without consequence or need to make repairs. Remarkably, because subsidy payment standards are high, landlords can often rent units to Rapid Rehousing tenants at rates higher than they would be able to get on the private rental market. Once the subsidy ends, families are left struggling to afford inflated rents on substandard units they'd rather not have occupied in the first place.

DHS has made clear, over and over again, that it does not view long-term, sustainable (or even safe) housing as a goal of the Rapid Rehousing Program. And indeed, face with a recent opportunity to address Rapid Rehousing's serious shortcomings, it instead, chose to double down on its existing approach.

**The Rapid Rehousing Task Force Led to Little or No Meaningful Change**

Legal Aid is grateful to have been invited to participate in the task force convened by DHS in late 2019 for the purposes of evaluating and improving the Rapid Rehousing Program. We were heartened at the initial Task Force meeting to hear what we believed to be a genuine willingness on the part of DHS to hear critical feedback on the program, and to meaningfully engage with the task of creating a new and improved program tailored to better address the needs of the families it serves.

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<sup>10</sup> See, e.g., *id.* at 118-119.

<sup>11</sup> Megan Sandel, et. al., *Unstable Housing and Caregiver and Child Health in Renter Families*, 141 *Pediatrics* 1, 2, 4-6 (2018). Available at: <http://pediatrics.aappublications.org/content/pediatrics/early/2018/01/18/peds.2017-2199.full.pdf>.

But, our optimism quickly proved to have been misplaced. The Task Force operated under strict constraints imposed by DHS, and the agency chose to focus on its goal of efficiency — prioritizing fast exits from shelter and the continued growth of the Rapid Rehousing Program over successful exits into long-term safe and affordable housing.<sup>12</sup> When members of the legal services community pressed for further discussion of how to ensure housing sustainability for families at the end of the Program, they were informed that such discussions were outside of the scope of the Task Force. Further, the agency controlled not only the topics for discussion, but also the manner in which the Task Force participants interacted. Productive conversations were cut short, conversations were steered away from valid concerns, and when Legal Aid did not vote to advance initiatives it viewed as contrary to the interests of families referred to the program, rather than grapple with those criticisms, the moderator simply changed the method of voting to allow the conversation to advance without addressing those concerns.

Ultimately, the Task Force’s final report recommends essentially the existing Rapid Rehousing Program, cementing the exact same policies that make it so problematic for families. We are disappointed that DHS had an opportunity to hear and engage with the critical feedback that we have been raising for years, and instead, used that opportunity to impose false parameters, tightly control discussion, override opposition, and ultimately, leave the District’s Rapid Rehousing fundamentally unchanged.

### **The Task Force’s Proposed Two-Track Model Does not Solve the Fundamental Problems with the Rapid Rehousing Program**

The two-track model proposed in the draft Task Force Recommendations essentially formalizes the existing practice of Rapid Rehousing providers to funnel some families into Targeted Affordable Housing (“TAH”) and Permanent Supportive Housing (“PSH”), in a process now referred to as the “Bridge Model.” All other families will proceed toward program exits without a long-term subsidy, with that track now referred to as the “TANF Model.”<sup>13</sup> This system, far from improving Rapid Rehousing, adopts some of the worst aspects of the current program, and makes other aspects still worse.

#### Rapid Rehousing is not a “One-Size Fits All” Solution

The Task Force proposal cements DHS’s reliance on Rapid Rehousing as the primary mechanism for exiting families from shelter, including those families for whom TAH or PSH would plainly be more appropriate from the outset. Many families, including those whose income is entirely Supplemental Security Income, will not see an increase in income in the short term, and so should not be placed in a time-limited subsidy program in the first place. This

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<sup>12</sup> DC Department of Human Services, *Taskforce Presentation: Overview of the Family Re-Housing and Stabilization Program (FRSP)* at 9 (Task Force Members Expectation).

<sup>13</sup> Though Task Force members voted on aspects of the final proposal, no vote has been held on the complete draft proposal, and it is not clear whether such a vote will occur.

matters not only because of the administrative hurdles associated with transitioning from one subsidy program to another, but also because tenants with long-term subsidies have a wider range of available housing options, and are less likely to be forced into the housing submarkets often associated with Rapid Rehousing. There is no practical reason to require all families to begin in Rapid Rehousing before transitioning into a permanent subsidy program.

Moreover, by funneling all families through Rapid Rehousing, DHS continues to ignore the needs of the large portion of Rapid Rehousing participant families who fully comply with all program rules, succeed in securing full-time employment, and still cannot afford their rent. Legal Aid has met with numerous tenants who meet that description. As an initial matter, the comprehensive services offered to these families by Rapid Rehousing are heavy-handed, and perhaps more importantly, expensive. Assuming no major change in program structure, of the almost \$27,000 budgeted per participant family in FY2020,<sup>14</sup> over \$8000, or just under 30%, will be spent not on rent, but on case management services.<sup>15</sup> For many families, that money would be better spent on rent. Families with employed heads of household may not need these services; job placement, for example, is not terribly useful for a tenant who is already employed full-time.

Put frankly, some families just need the rent assistance and not all of the other intensive (and expensive) services that Rapid Rehousing provides. But, under the new model, if such families opt out of receiving unnecessary services, they are penalized: participants receiving no services are capped at 12 months of program participation. Far from improving efficiency and cost-savings, this model creates a system of perverse incentives, encouraging participants to seek services they do not need — at a substantial cost to the District — when that money would be better spent on long-term subsidies for those families.

And, looking beyond the high economic cost of the Rapid Rehousing program itself, we remain concerned about the human cost as even those families who succeed in securing fulltime employment nevertheless continue to face housing insecurity. Rather than really grapple with this issue, DHS continues to force those families over the program cliff, declaring them successes and abandoning them with rents they cannot afford. The *Washington Post* recently ran a powerful story featuring Karmaletha Johnson, a former Rapid Rehousing participant who was exited from the program after she got a job cleaning at the Smithsonian's National Portrait Gallery for \$14.71 an hour.<sup>16</sup> Shortly after her exit from the program, Ms. Johnson was forced to relocate her family to Maryland, uprooting her children from school and exponentially

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<sup>14</sup> DHS FY19-FY20 Performance Oversight Responses, Q94.

<sup>15</sup> DC Department of Human Services, *Taskforce Presentation: Overview of the Family Re-Housing and Stabilization Program (FRSP)* at 17 (Annual FRSP Investments).

<sup>16</sup>Jessica Contrera, *An 11-year-old uprooted from a gentrifying city: 'Sometimes, moms can't afford things.'* WASHINGTON POST (January 14, 2020) available at [https://www.washingtonpost.com/local/an-11-year-old-uprooted-from-a-gentrifying-city-sometimes-moms-cant-afford-things/2020/01/13/d5219068-32f6-11ea-91fd-82d4e04a3fac\\_story.html](https://www.washingtonpost.com/local/an-11-year-old-uprooted-from-a-gentrifying-city-sometimes-moms-cant-afford-things/2020/01/13/d5219068-32f6-11ea-91fd-82d4e04a3fac_story.html).



lengthening her daily commute, because she simply could not afford market rent without assistance. Stories like Ms. Johnson’s are far too common. Displacement from the District should not be considered “success” for a program designed to assist District residents.

We are also concerned because one major change from the existing system is that TAH – which previously had no published eligibility criteria and was used as a catch-all for a range of family types facing the Rapid Rehousing “cliff” – will now be limited to families with a disabled household member. This means the removal of a safety net previously available to families who, despite compliance with program rules, still cannot afford rent when their subsidies expire. And, because DHS will not commit to funding TAH vouchers at a level consistent with anticipated need, even families found to be eligible for TAH and PSH may ultimately be exited from Rapid Rehousing without long-term subsidies if none are available.<sup>17</sup>

Rent Levels Are Too High to be Affordable, and the Proposed “TANF Model” Only Brings the Cliff Closer

The proposed model provides that Rapid Rehousing participants will pay 30% of their income toward rent until the last six months of their participation in the program, when as part of a “step-down” phase, the tenant portion of the rent for “TANF Model” families will be pro-rated to increase from the subsidized level to full rent payment.<sup>18</sup> There is also no allowance for utility costs if those are not included with the monthly rent, in contrast to federal and local subsidies such as those administered by the DC Housing Authority, which include allowances to offset the cost of utilities in the amount of between \$241 and \$324 for a two-bedroom unit.<sup>19</sup> **To be clear: this means that at every stage of participation in the Rapid Rehousing Program, the rents paid by program participants will be unaffordable under the federal definition, and that as families in the “TANF model” are stepped down, the problem only gets worse.**<sup>20</sup> The step-down period, which is apparently intended to help families prepare for paying unaffordable rent by forcing them to pay increasingly unaffordable rent, serves no practical purpose other than to bring the cliff at the end of the Rapid Rehousing program closer.

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<sup>17</sup> This is actually the result of a last-minute change to the “Bridge Model” made by DHS. After a “feasibility study” conducted by DHS just before the Taskforce’s final meeting, it was determined that families in the Bridge Model would only be referred to TAH and PSH “if available.” So, depending on the availability of TAH vouchers, a family placed in the “Bridge Model” may not in fact be bridged into a permanent subsidy program.

<sup>18</sup> FRSP Task Force Draft Report Recommendations

<sup>19</sup> DCHA Utility Calculator, available at <http://www.dchousing.org/utility/default.aspx>

<sup>20</sup> According to the U.S. Department of Housing and Urban Development, “[f]amilies who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care.” [https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/affordablehousing/](https://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/)

Moreover, the “TANF Model” imposes for the first time a hard 30-month cap on participation in the program. According to DHS data, in FY19, families remained in the program for as long as 79 months.<sup>21</sup> Imposing this cap will have the effect of removing discretion for providers to extend assistance for families in need, and will in fact force families off the Rapid Rehousing cliff even sooner.

### The “TANF Model” is Inconsistent With the District’s TANF Reforms

The Task Force report’s recommended “TANF Model” exits families from Rapid Rehousing after a maximum of 30 months (including the 6-month step-down period, during which the family pays a dramatically increasing portion of the rent). While the name of the model would suggest otherwise, this approach is wholly inconsistent with the current model for TANF in the District.

In April, 2018, DHS fully implemented the repeal of a 60-month lifetime limit on TANF participation. This decision was, at least in part, informed by a 2016 working group that looked specifically at the barriers that limit or prevent families’ participation in employment and/or educational and training programs. Data gathered by DHS about families who were, at the time, scheduled to be cut off from TANF due to the 60-month “TANF Cliff,” highlighted that families face a range of barriers to activities might grow their incomes, including physical or mental health challenges, limited access to childcare, and a lack of sufficient prior education or employment experience.<sup>22</sup> While these obstacles are not necessarily insurmountable, overcoming them takes time, as well as program flexibility to account for the fact that even as they make progress, families do suffer emergencies, setbacks, and cycles in and out of employment. This is a primary reason why the TANF working group – and ultimately, the Council and the Bowser Administration – **rejected the use of any time limit in TANF**, instead embracing a “2-generation” approach that protects children and families from the damaging effects of cut-offs and excessive sanctions.

We know that two-thirds of Rapid Rehousing participants also participate in TANF,<sup>23</sup> working to overcome the very barriers that were identified in support of removing the time limit from that program. It is both philosophically and practically inconsistent to tell these families that, although they will have as much time as they need in the TANF program to work through barriers to raising their incomes, they will ultimately be cut off from their housing subsidy after a maximum of 30 months (the last 6 of which will be spent paying drastically escalating rents as they are stepped down). Losing their housing means these that families, who have already lived

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<sup>21</sup> DHS FY19-FY20 Performance Oversight Responses, Q94.

<sup>22</sup> Barbara Poppe and Associates, *Recommendations for Development of a TANF Hardship Extension Policy for Washington, DC* at 17-28, available at: <https://dhs.dc.gov/sites/default/files/dc/sites/dhs/publication/attachments/TANF%20Hardship%20Report.pdf>

<sup>23</sup> DHS FY19-FY20 Performance Oversight Responses, Q95.

through periods of homelessness, will have to start all over again – struggling to find a home and to maintain whatever progress they made before the disruption. If the District is really committed to providing a pathway to stable housing and meaningful economic mobility for families struggling with homelessness, this is not the way to do it.

### **Conclusion**

We do not believe that Rapid Rehousing is the right solution for the homelessness crisis in the District of Columbia, which – despite its treatment as a separate issue by the Department of Human Services – is inextricably intertwined with the housing affordability crisis. Indeed, the Rapid Rehousing Program does not even purport to try to ensure that participants are left with sustainable housing at the conclusion of their subsidy. Rather than continuing to invest in an expensive, services-heavy, time-limited program that funnels nearly half of its participants into eviction proceedings, Legal Aid believes that Council should invest in long-term subsidies with a proven track record of success. If DHS continues to insist upon using Rapid Rehousing as its primary method for exiting families from shelter, then it should be required to screen families early and often for long-term subsidy options which would actually help them to attain housing stability, and the District should prioritize funding such subsidies. To do otherwise is to perpetuate cycles of homelessness and poverty, which is contrary to the very purpose of the assistance DHS should be providing.