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Modern Mass Homelessness in New York City: A Brief History and Current Threats to the Right to Shelter

Since 1979, more than half a million homeless men, women, and children in New York City have been provided with vital emergency shelter because of the legacy of the *Callaban* litigation, which was settled as a landmark consent decree that established a "right to shelter" for homeless New Yorkers. However, in the twentieth-anniversary year of *Callaban*, and at a time when mass homelessness was again on the rise, then-Mayor Rudolph Giuliani proposed a plan to eject homeless families and individuals from shelters. Fortunately, State courts blocked the plan but, two years later, Mayor Michael Bloomberg has declared his intention to appeal those court rulings and pursue a plan to eject homeless families and individuals from shelters to the streets. For the first time in more than two decades, New York City faces the prospect of homeless families sleeping outdoors and rising numbers of homeless single adults sleeping on city streets.

History of the *Callahan* Consent Decree

Twenty years ago New York City witnessed a phenomenon unseen since the Great Depression: Enormous numbers of New Yorkers sleeping in the streets and other public places. Modern mass homelessness worsened dramatically in subsequent years, particularly during the early-1980s recession, but even in the late 1970s early signs of a growing affordable housing shortage could be seen in the rapidly growing number of homeless men and women sleeping on streets, in parks, and in transportation terminals.

At that time, there was no legal "right to shelter" for homeless New Yorkers. The City's response to the crisis was woefully inadequate. There existed a rudimentary system of emergency shelters which were almost always filled to capacity, particularly in the winter, and hundreds of homeless men seeking shelter were forced to turn to the streets. Most notorious of these was the cavernous Municipal Shelter on East Third Street at the Bowery, where conditions were deplorable and tuberculosis and other contagious diseases were commonplace. The City's welfare agency also provided vouchers to some homeless men (called "ticketmen") to allow them to rent cubicles in Bowery lodginghouses. However, the vouchers and the rooms were often difficult to obtain, particularly as many lodginghouses and single-room-occupancy hotels were demolished or converted to higher-cost housing.



In short, with no right to shelter, thousands of homeless New Yorkers each year were forced to fend for themselves on the streets. In 1979 a lawyer named Robert Hayes, who co-founded Coalition for the Homeless, brought a class action lawsuit against the City and State arguing that a constitutional right to shelter existed in New York State. [In particular, he pointed to Article XVII of the State Constitution, which declares that "the aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions...."]

Hayes brought the lawsuit on behalf of all homeless men in New York City. The lead plaintiff in the lawsuit, Robert Callahan, was a homeless man whom Hayes had discovered sleeping on the street during his commute to his law firm. In 1981, the lawsuit, *Callahan v. Carey*, was settled as a consent decree. (A consent decree, or consent order, is a binding contract entered into by the plaintiffs and defendants in a lawsuit.) The decree established a right to shelter for all homeless men in New York City, and detailed the minimum standards which the City and State must maintain in shelters, including basic health and safety standards.

In 1983 the right to shelter was extended to homeless women, and later to homeless families with children by the *McCain* lawsuit. A 1986 decision in *McCain* by the State Appellate Division found that the State Constitution, Federal and State Equal Protection Clauses, and State Social Services Law require the provision of emergency shelter to homeless families with children. Subsequent court rulings prohibited the City from forcing families to sleep overnight in intake offices, and eliminated the use of welfare hotels as shelters. Although three mayoral administrations have defied some court orders and have refused to comply with some rulings – leading to contempt rulings against City officials on several occasions – standards in family shelters have improved substantially since the early 1980s due to the *McCain* litigation.

Since 1979, hundreds of thousands of homeless New Yorkers have been provided shelter because of the legacy of the *Callahan* consent decree. Indeed, each night in 1999 around 23,000 men, women, and children slept in the municipal shelter system, including nearly 9,000 children. However, one tragic footnote to the history of the litigation is the fate of Robert Callahan himself. The winter before the consent decree — with his name was signed, Callahan died while sleeping outdoors, one of the last victims of an era with no formal right to shelter.