

**Chicago's Eviction Right to Counsel Pilot
Initial Independent Evaluation
Chicago Eviction Right to Counsel Pilot and
Cook County Early Resolution Program for Evictions
February 1, 2022, to March 31, 2024**

Prepared for: The Chicago Bar Foundation
November 8, 2024

*This evaluation and report is made possible with
funding provided by the Polk Bros. Foundation.*

increase in homicides, a 2% increase in robbery, and a 2% increase in burglary after controlling for measures of economic disadvantage and residential mobility.³⁷⁹

Benefits of Providing Representation Through Access to Counsel

Access to Counsel Can Improve the Court System

Unrepresented tenants increase the administrative burden on courts that would not exist if the tenant were represented. Unrepresented tenants are likely to be uninformed about the applicable law and court procedures, which poses significant demands on court staff and court resources.³⁸⁰ For example, when asked what types of resources they used, unrepresented tenants responded with “consultation of court staff” as one of their top three resources.³⁸¹ The researcher who administered the survey stated that incomplete or illegible court filings from unrepresented tenants make it difficult for judges to determine what relief is being sought or if the claim has a legally cognizable basis.³⁸² Additionally, the pervasive challenge of tenants failing to appear for scheduled hearings causes uncertainty for the court staff about the number of cases to schedule on any given docket, leading to unnecessary delays for other cases in the court’s caseload.³⁸³ Unmeritorious cases filed by rental property owners or rental property owner counsel, who expect the tenant to be unrepresented, also administratively burden the court system. Over a three-month period in Tulsa, Oklahoma, more than 500 companies with invalid limited liability company status filed evictions, despite lacking capacity to bring suit in Oklahoma, thus filling docket space with baseless cases and using court resources to process them.³⁸⁴

More Effective Resolution of Eviction Cases Reducing Disruptive Displacement of Tenants

The United States Supreme Court decision in *Gideon v. Wainwright* established that the Fourteenth Amendment to the Constitution creates a right for indigent criminal defendants to be represented by counsel. Although this decision explicitly applies in criminal cases, the consequences of an eviction to the tenant can be similarly severe,

³⁷⁹ Semenza, Daniel C., et al. “Eviction and Crime: A Neighborhood Analysis in Philadelphia.” *Crime & Delinquency*. 2022.

³⁸⁰ Hannaford-Agor, Paula and Mott, Nicole. “Research on Self-Represented Litigation: Preliminary Results and Methodological Considerations.” *The Justice System Journal*. 2003.

³⁸¹ *Ibid.*

³⁸² *Ibid.*

³⁸³ *Ibid.*

³⁸⁴ “Leveling the Playing Field: Legal, Economic and Policy Considerations in Establishing an Access to Counsel Program for Tulsa’s Eviction Docket.” The University of Tulsa College of Law. January 13, 2021.

debilitating, and harmful. Studies from around the country have assessed the significant impact of tenant representation in eviction cases.

- Cleveland, Ohio – Stout’s independent evaluation of Cleveland’s Eviction Right to Counsel found that for cases closed between January 1, 2021 and December 31, 2021, Cleveland Legal services attorneys were able to achieve the following outcomes for clients with these respective goals³⁸⁵:
 - Prevented eviction judgment or involuntary move – 93%
 - Secured rental assistance – 83%
 - Secured time to move (30 days or more) – 92%
 - Mitigated damages – 94%
 - Secured monetary relief – 97%
- New York City – Researchers conducted a randomized trial in New York City Housing Court where tenants were randomly selected to receive attorney advice or representation or be told that no attorney was available to assist them at that time.³⁸⁶ Both groups of tenants were followed through to the conclusion of their cases. Tenants who were represented by attorneys were more than four times more likely to retain possession of their apartments than similar tenants who were not represented.³⁸⁷ A 2011 study of an eviction defense program in the South Bronx found that attorneys prevented an eviction judgment for approximately 86% of their clients.³⁸⁸ The program also addressed other long-term client challenges and was able to prevent shelter entry for approximately 94% of clients.³⁸⁹ In August 2017, New York City Mayor Bill de Blasio signed into law landmark legislation that guarantees low-income tenants access to counsel in eviction proceedings. A 2021 report on the first year of implementation in New York City stated that 84% of tenants represented through New York City’s Right to Counsel Law remained in their homes.³⁹⁰ From 2018 to 2019 residential evictions decreased 15% in New York City, and since the City’s

³⁸⁵ Stout’s independent evaluation of Cleveland’s Eviction Right to Counsel can be found [here](#).

³⁸⁶ Sandefur, Rebecca L. "The Impact of Counsel: An Analysis of Empirical Evidence," Seattle Journal for Social Justice: Vol. 9: Issue 1, Article 3, p. 78. 2010.

³⁸⁷ Ibid.

³⁸⁸ "Housing Help Program Homelessness Prevention Pilot Final Report." Seedco. June 2010

³⁸⁹ Ibid.

³⁹⁰ Universal Access to Legal Services: A Report on Year One of Implementation in New York City." Office of Civil Justice, New York City Human Resources Administration. Fall 2021.

increased investment in eviction defense in 2013, residential evictions have decreased 40%.³⁹¹

- San Francisco, California – Represented tenants were able to remain in their homes in 59% of cases.³⁹² Of the 30% who did not remain in their home, approximately 70% received favorable settlement terms such as additional time to move.³⁹³
- Boulder, Colorado – Eviction was prevented in approximately 77% (*n*=88) of cases in the City of Boulder in 2021.³⁹⁴
- Kansas City, Missouri – Prior to the pandemic, 99% of eviction cases filed in Jackson County resulted in evictions, and initial data from the eviction right to counsel program indicates having a lawyer and rental assistance decreases the eviction rate to less than 20%.³⁹⁵ Approximately 72% of unrepresented tenants had eviction judgments or monetary damages entered against them compared to 56% of represented tenants.³⁹⁶ Since the launch of Kansas City’s eviction right to counsel, attorneys have assisted in 1,200 cases and 771 have been resolved.³⁹⁷ Of the resolved cases, approximately 92% of tenants avoided eviction.³⁹⁸
- Philadelphia, Pennsylvania – Stout found that 78% of unrepresented tenants experience case outcomes that have a high likelihood of disruptive displacement.³⁹⁹ When tenants are represented, they avoid disruptive displacement 95% of the time.⁴⁰⁰
- Hennepin County, Minnesota – Represented tenants win or settle their cases 96% of the time, and settlements made by represented tenants are

³⁹¹ “Amid Nationwide Increases, Mayor de Blasio Announces Record-Breaking 41 Percent Decrease in Evictions Citywide.” Office of the Mayor. February 24, 2020.

³⁹² Eviction Defense Collaborative. Tenant Right to Counsel Data – Outcomes March 2021 through December 2021.

³⁹³ Ibid.

³⁹⁴ City of Boulder 2021 Eviction Prevention and Rental Assistance Services Annual Report.

³⁹⁵ “Kansas City program helping residents stay housed New Right to Counsel program providing strong voice for tenants facing eviction.” City of KCMO News Releases. September 2022.

³⁹⁶ “Evictions in the Courts: An Analysis of 106,000 Cases from 2006-2016 in Jackson County.” Kansas City Eviction Project. January 24, 2018.

³⁹⁷ Calacal, Celisa, “Kansas City prevented hundreds of evictions by providing attorneys. Now the program is growing.” KCUR. March 2023.

³⁹⁸ Ibid.

³⁹⁹ “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants.” Stout Risius Ross. November 13, 2018.

⁴⁰⁰ Ibid.

significantly better than settlements made by unrepresented tenants.⁴⁰¹ Represented tenants are nearly twice as likely to remain in their homes.⁴⁰² If represented tenants agree to move, they are given twice as much time to do so, and nearly 80% of represented tenants do not have an eviction record as a result of the case compared to only 6% of unrepresented tenants.⁴⁰³

- Boston, Massachusetts – Represented tenants fared twice as well in terms of remaining in their homes and almost five times as well in terms of rent waived and monetary awards compared to unrepresented tenants.⁴⁰⁴ Represented tenants also created a lesser strain on the court system than those who were unrepresented.⁴⁰⁵ Data from the HomeStart Program in the Greater Boston Area indicates that 95% of clients assisted by the program with their eviction case had not been evicted in the following four years.⁴⁰⁶
- Seattle, Washington – Represented tenants were approximately twice as likely to remain in their homes as unrepresented tenants.⁴⁰⁷
- Chicago, Illinois – Represented tenants had their cases resolved in their favor approximately 58% of the time compared to 33% of the time for unrepresented tenants.⁴⁰⁸ Represented tenants were also more than twice as likely to have their cases dismissed, and when tenants were represented, the rate of rental property owner summary possession awards decreased from approximately 84% to approximately 39%.⁴⁰⁹
- Denver, Colorado – Approximately 79% of unrepresented tenants are displaced due to an eviction.⁴¹⁰ In sharp contrast, represented tenants

⁴⁰¹ Grundman, Luke and Kruger, Muria. “Legal Representation in Evictions – Comparative Study.” N.d.

⁴⁰² Ibid.

⁴⁰³ Ibid.

⁴⁰⁴ “The Importance of Representation in Eviction Cases and Homelessness Prevention.” Boston Bar Association Task Force of the Civil Right to Counsel. March 2012.

⁴⁰⁵ Ibid.

⁴⁰⁶ Eviction Prevention. HomeStart.org.

⁴⁰⁷ Losing Home: The Human Cost of Eviction in Seattle.” The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.

⁴⁰⁸ Dukmasova, Maya. “New data reveals impact of being lawyerless in Chicago eviction court.” Reader. September 14, 2017.

⁴⁰⁹ Grundman, Luke and Kruger, Muria. “Legal Representation in Evictions – Comparative Study.” N.d. Referencing Birnbaum, Julian. “Chicago’s Eviction Court: A Tenants’ Court of No Resort.” Urban Law Annual. 1979.

⁴¹⁰ Hasvold, Aubrey and Regenbogen, Jack. “Facing Eviction Alone: A Study of Evictions, Denver, Colorado 2014-2016.” Colorado Coalition for the Homeless and Colorado Center on Law and Policy. N.d.

experience displacement in only 10% to 20% of cases, depending on whether the housing is public or private.⁴¹¹

- Columbus, Ohio – The Legal Services Society of Columbus provided representation to tenants through its Tenant Advocacy Project (TAP).⁴¹² One percent of TAP-represented tenants received a judgment against them compared to approximately 54% of non-TAP cases.⁴¹³ Approximately 40% of TAP-represented tenants negotiated an agreed upon judgment compared to approximately 15% of non-TAP cases.⁴¹⁴ TAP-represented tenants who negotiated agreements to remain in their homes more than twice as often as non-TAP cases, and TAP-represented tenants successfully negotiated an agreement to move and avoided an eviction judgment more than seven times as often as non-TAP cases.⁴¹⁵ An organization in Franklin County (Columbus, Ohio) providing eviction mediation services reported that during 2019, approximately 84% of tenants at risk of being evicted were able to avoid disruptive displacement as a result of their services.⁴¹⁶ Furthermore, the organization followed up with clients served one year later and found that 94% of them had maintained stable housing, and 87% had no subsequent eviction filed against them.⁴¹⁷
- Tulsa, Oklahoma – A 2021 study by the University of Tulsa found that 79% of unrepresented tenants had judgments against them compared to 43% of represented tenants.⁴¹⁸ Representation also impacted whether rental property owners received money judgments and the amount of the money judgments. Unrepresented tenants were nearly twice as likely to receive a money judgment than represented tenants, and money judgments against represented tenants were on average \$800 lower than those against represented tenants.⁴¹⁹

⁴¹¹ Ibid.

⁴¹² “The Legal services Society of Columbus: Tenant Advocacy Project Evaluation.” Thoughtwell. 2018.

⁴¹³ Ibid.

⁴¹⁴ Ibid.

⁴¹⁵ Ibid.

⁴¹⁶ Community Mediation Services of Central Ohio. Housing Stability/Homeless Prevention Mediation Program Activity Report. 2019.

⁴¹⁷ Ibid.

⁴¹⁸ “Leveling the Playing Field: Legal, Economic and Policy Considerations in Establishing an Access to Counsel Program for Tulsa’s Eviction Docket.” The University of Tulsa College of Law. January 13, 2021.

⁴¹⁹ Ibid.

- Washington, DC – A recent analysis demonstrated the Housing Right to Counsel Project clients who were represented were 5 times less likely to receive an order allowing Marshals to schedule an eviction and 3.5 times more likely to enter settlement agreements.⁴²⁰
- Nebraska – A recent report indicated that the Nebraska Bar Association’s tenant representation pro bono project in two counties reduced the immediate eviction rate from 90% to 2%.⁴²¹
- Michigan – In response to the pandemic, Michigan launched a statewide Eviction Diversion Program (EDP) from July-December 2020. The EDP dramatically increased the number of tenants receiving legal assistance and representation.⁴²² When extensive legal services were provided to tenants, they avoided eviction 97% of the time.⁴²³
- Los Angeles, California – The Sargent Shriver Civil Counsel Act established pilot projects to provide representation to low-income litigants in certain civil case types, including evictions.⁴²⁴ For tenants who received full representation, “95% faced an opposing party with legal representation and 1% did not (this information was missing or unclear for 4% of clients).”⁴²⁵ Lawyers representing tenants achieved favorable outcomes for their clients in 89% of cases, including 22% remaining in their homes; 71% having their move-out date adjusted; 79% having back rent reduced or waived; 45% retaining their housing subsidy; 86% having their case sealed from public view; and 54% having their credit protected.⁴²⁶

Disparities in outcomes, while perhaps the most concrete difference between represented and unrepresented tenants, are not the only challenge tenants face in court. A San Francisco Housing Court study observed how rental property owners’ attorneys can gain the upper hand even when the law does not support their case.⁴²⁷ Repeat players

⁴²⁰ “Housing Right to Counsel Project.” DC Bar Pro Bono Center. N.d.

⁴²¹ Johnson, Anton. “A Lawyer in Your Corner: The Tenant Assistance Project, Nebraska’s New Tool to Fight Evictions.” The Reader. December 2021.

⁴²² Benton, Elizabeth et al. “Reducing Michigan Evictions: The Pandemic and Beyond.” University of Michigan Poverty Solutions. June 2021.

⁴²³ Ibid.

⁴²⁴ Jarvis, Kelly L. et al. “Evaluation of the Sargent Shriver Civil Counsel Act (AB590) Housing Pilot Projects.” NPC Research. July 2017.

⁴²⁵ Ibid.

⁴²⁶ Ibid.

⁴²⁷ San Francisco Right to Civil Counsel Pilot Program Documentation Report. John and Terry Levin Center for Public Service and Public Interest, Stanford Law School. May 2014.

gain advantages from their developed expertise and knowledge including specialized knowledge of substantive areas of the law, experience with court procedures, and familiarity with opposing counsel and decision-makers.⁴²⁸ However, when tenants are represented, these power dynamics are more balanced. There are also ways that representation can create positive outcomes beyond “winning” a contested case. An attorney can help limit the collateral damage of being evicted.⁴²⁹ The tenant, with attorney assistance, could attempt to settle the case with the rental property owner without proceeding to trial and negotiating extra time before moving.⁴³⁰ The appearance of an attorney for either party has been shown to increase settlement rates from 7% if neither party was represented to 26% if the defendant was represented and 38% if the plaintiff was represented.⁴³¹ Additionally, an attorney might also help the tenant reach a settlement that involves vacating the apartment without an adverse judgment that would affect the tenant’s ability to re-rent.⁴³²

Fewer Tenants Lose by Default

In many jurisdictions, when tenants do not appear in court following an eviction filing, the court will enter a default judgment against the tenant. That is, tenants automatically lose. In many jurisdictions, even where it is possible, it is difficult to reopen cases that tenants have lost by default, and the specialized knowledge of an attorney is usually required. There are numerous reasons a tenant may lose by default, such as: (1) confusion and intimidation about the legal process; (2) the tenant has already vacated the apartment; (3) the tenant acknowledges that rent is owed and does not believe going to court will change the situation; (4) the tenant does not realize there may be valid defenses to raise; (5) the tenant cannot miss work to attend court without jeopardizing employment; or (6) the tenant did not receive the notice. Additionally, if the tenant defaults because of inaction from not knowing their rights, they could lose the opportunity to reopen their cases even if they have meritorious defenses.

In its analysis of evictions in Philadelphia, Stout found that tenants who were represented were 90% less likely to lose by default than unrepresented tenants.⁴³³ Unrepresented tenants lost by default in approximately 58% of cases in Philadelphia.⁴³⁴

⁴²⁸ Ibid.

⁴²⁹ Ibid.

⁴³⁰ Ibid.

⁴³¹ Hannaford-Agor, Paula and Mott, Nicole. “Research on Self-Represented Litigation: Preliminary Results and Methodological Considerations.” *The Justice System Journal*. 2003.

⁴³² Ibid.

⁴³³ “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants.” Stout Risius Ross. November 13, 2018.

⁴³⁴ Ibid.

Similar default rates have been observed throughout the country. In Jackson County (Kansas City), Missouri approximately 70% of tenants lost by default.⁴³⁵ In Hawaii, half of all eviction cases result in a default judgment in favor of the rental property owner.⁴³⁶ In Seattle, tenants lose by default in approximately 48% of cases.⁴³⁷ In a study of evictions in Greensboro, North Carolina, more than 75% of tenants did not attend their hearing, losing by default.⁴³⁸ As observed in Philadelphia, having representation significantly reduces the likelihood that a tenant loses by default. Even if the tenant is unable to attend the hearing, counsel can attend on the tenant’s behalf, often mitigating the consequences of losing the case by default. Evidence from New York City indicates that when tenants are represented, the number of default judgments decreases.⁴³⁹ Since the introduction of the right to counsel program, default judgments have decreased approximately 34% in New York City from 35,130 in 2016 to 23,146 in 2019.⁴⁴⁰

Connection to Other Services and Improved Housing Transitions

Representation in an eviction case can be important not only for navigating the legal system, but also for connecting tenants to other housing services such as emergency rental assistance and housing search services. The application process to apply for and receive rental assistance can be complex and burdensome for both tenants and rental property owners. Applicants who often did not receive help or who needed assistance navigating the emergency rental assistance application process were renters who did not have access to the internet or technology and those whose primary language was not English.⁴⁴¹ An analysis by the Urban Institute found that among renters who were aware of rental assistance, approximately 57% did not apply because of complicated eligibility requirements or difficulty preparing and filing required documents.⁴⁴² Stout found in its evaluation of Cleveland’s eviction right to counsel that approximately 79% of right to

⁴³⁵ “Evictions in the Courts: An Analysis of 106,000 Cases from 2006-2016 in Jackson County.” Kansas City Eviction Project. January 24, 2018.

⁴³⁶ Geminiani, Victor et al. “Evicted in Hawaii: Lives Hanging in the Balance.” Lawyers for Equal Justice. N.d.

⁴³⁷ “Losing Home: The Human Cost of Eviction in Seattle.” The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.

⁴³⁸ Sills, Stephen J. et al. “Greensboro’s Eviction Crisis.” The University of North Carolina Greensboro Center for Housing and Community Studies. N.d.

⁴³⁹ New York City Council Hearing Testimony provided by Chief Administrative Judge of New York City Civil Court, Hon. Anthony Cannataro. February 24, 2020.

⁴⁴⁰ Ibid.

⁴⁴¹ Bolt, Chris. “Challenges Persist for New York Tenants, Despite End to Emergency Rental Assistance Program.” December 2021.

⁴⁴² Choi, Jung Hyun. “With Just a Month Left of the Eviction Moratorium, Many Mom-and-Pop Landlords and Tenants Are Still Unaware of Federal Rental Assistance.” Urban Institute. June 2021.

counsel clients were aware that emergency rental assistance was available.⁴⁴³ Of the 21% of right to counsel clients in Cleveland who were not aware of rental assistance, approximately 98% had the goal of securing rental assistance (in addition to other goals), and Cleveland Legal Aid achieved this goal for 81% of them.⁴⁴⁴ Being connected to and having assistance throughout the rental assistance application process can benefit both tenants and rental property owners, as tenants are able to remain in their homes and rental property owners are able to receive rental assistance dollars.

Additionally, civil legal services attorneys and pro bono attorneys are often aware of additional resources within a community, such as those providing services related to the emotional, mental, psychological, and economic needs of tenants.⁴⁴⁵ Attorneys can help tenants navigate these systems, which can be challenging for someone who is inexperienced with them. Representation can also achieve an outcome that maximizes the tenant's chances of either staying in his or her home or finding another suitable place to live without disrupting, or working toward minimized disruption of, their well-being or family stability.⁴⁴⁶ According to a Chicago-Kent College of Law study, represented tenants experienced a clear advantage as their cases progressed through the court system even if the rental property owner prevailed.⁴⁴⁷ Even where the ultimate disposition was the same – eviction – legal representation allowed tenants more time to secure alternative housing and avoid losing their personal belongings.⁴⁴⁸ Additionally, if tenants do require additional time to find alternative, suitable living arrangements, lawyers can often negotiate that additional time for the tenant to do so. In its analysis of evictions in Philadelphia, Stout found that, on average, represented tenants had approximately 50 days to vacate their apartments when they agreed to do so compared to 35 days for unrepresented tenants.⁴⁴⁹ A study of evictions filed in San Mateo County, California found that represented tenants were granted approximately twice as long to find alternative housing than unrepresented tenants.⁴⁵⁰ Approximately 71% of a sample of tenants represented through California's Sargent Shriver Civil Counsel Act who were

⁴⁴³ "Cleveland Eviction Right to Counsel Annual Independent Evaluation January 1 to December 31, 2021." Stout. January 2022.

⁴⁴⁴ Ibid.

⁴⁴⁵ San Francisco Right to Civil Counsel Pilot Program Documentation Report. John and Terry Levin Center for Public Service and Public Interest, Stanford Law School. May 2014.

⁴⁴⁶ Ibid.

⁴⁴⁷ "No Time for Justice: A Study of Chicago's Eviction Court." Chicago-Kent College of Law Class of 2004 Honors Scholar. December 2003.

⁴⁴⁸ Ibid.

⁴⁴⁹ "Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants." Stout Risius Ross. November 13, 2018.

⁴⁵⁰ Steinberg, Jessica K. "In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services." Georgetown Journal on Poverty Law and Policy. 2011.

surveyed one year after their cases closed reported living in a new rental unit compared to approximately 43% of tenants who were not represented through the Sargent Shriver Civil Counsel Act.⁴⁵¹ This suggests represented tenants had higher rates of reasonable settlement agreements that supported housing stability.⁴⁵²

Courts and Rental Property Owners Can Realize Efficiency Gains

Eviction right to counsel programs and legislation can increase the efficiency with which courts operates, depending on how the program or legislation is implemented. The courts also play an important role in how eviction right to counsel is implemented and can effectuate efficiency gains through its practices and procedures surrounding eviction right to counsel. Results from the San Francisco Right to Civil Counsel Pilot Program indicated that when tenants are represented cases move through the legal processes more efficiently than when tenants are unrepresented. The average number of days from filing the complaint to a judgment entered by the clerk decreased from 37 to 31.⁴⁵³ The average number of days from filing the complaint to a negotiated settlement decreased from 72 to 62.⁴⁵⁴ The average number of days from the filing of the complaint to the entry of a court judgment decreased from 128 to 105, and the average number of days from filing the complaint to dismissal of the action decreased from 90 to 58.⁴⁵⁵ Cases closing times are independent of the time a tenant has to move.

When tenants are represented, rental property owners are less likely to bring unmeritorious claims, thus leading to a more efficient court process, a better use of court resources, and the expectation that the number of eviction cases will decrease over time. Since New York City's increased investment in legal services for tenants in 2013, the New York City Office of Civil Justice has reported a 41% decrease in residential evictions.⁴⁵⁶ From 2018 to 2019 alone, residential evictions in New York City decreased 15%.⁴⁵⁷ Over the four-year period of 2014 to 2017, an estimated 70,000 New York City tenants have retained possession of their homes.⁴⁵⁸ Early indicators from New York City's implementation of Right to Counsel suggest that when eviction proceedings are filed and

⁴⁵¹ "Findings and Recommendations from the Sargent Shriver Civil Counsel Pilot Projects." The Shriver Civil Counsel Act Implementation Committee. July 2017.

⁴⁵² Ibid.

⁴⁵³ Sandefur, Rebecca L. "The Impact of Counsel: An Analysis of Empirical Evidence," Seattle Journal for Social Justice: Vol. 9: Issue 1, Article 3, p. 78. 2010.

⁴⁵⁴ Ibid.

⁴⁵⁵ Ibid.

⁴⁵⁶ Universal Access to Legal Services: A Report on Year One of Implementation in New York City." Office of Civil Justice, New York City Human Resources Administration. Fall 2021.

⁴⁵⁷ Ibid.

⁴⁵⁸ "NYC Office of Civil Justice Annual Report and Strategic Plan." New York City Office of Civil Justice. 2017.

both sides are represented, resource intensive motion practice related to non-dispositive issues is reduced. Additionally, fewer orders to show cause to stay evictions and for post-eviction relief are being filed, indicating that better outcomes are being achieved under Right to Counsel. Judge Jean Schneider, the citywide supervising judge of the New York City Housing Court, has stated that there have not been any major problems with backlog or efficiency issues in the first year.⁴⁵⁹ In fact, she testified in 2018 at a hearing on New York State civil legal services that as a result of Right to Counsel implementation “our court is improving by leaps and bounds.”⁴⁶⁰ At the same hearing, Judge Anthony Cannataro, the administrative judge of the civil courts in New York City, explained that judges have spent less time explaining housing rights and court processes to represented tenants who, without Right to Counsel, will likely have previously been unrepresented.⁴⁶¹ Lastly, as to efficiency, there is an increased likelihood that cases can be resolved out of court and before the first hearing when counsel is involved. While there were initial concerns that increased representation would slow court procedures, early observations from the implementation and expansion of Right to Counsel in New York City have indicated that significant benefits are being observed by the judiciary through improved motion practice, judicial experience, pre-trial resolution, and rulings providing increased clarity for rental property owner and tenant advocates. After right to counsel projects in select Massachusetts courts, a judge expressed that the project changed the culture of the court.⁴⁶² The judge specifically mentioned that the right to counsel project “raised the bar” as to what the parties should expect and “[kept] everyone honest,” in the sense that it was clear that sound legal work would be required.⁴⁶³ When asked whether the project should be replicated elsewhere, the judge responded that there was no question that he would recommend the project to other courts.⁴⁶⁴

When the rental property owner is represented and not the tenant, there is an imbalance of power and tenants often lack the understanding of the eviction process and related legal consequences. While initially expressing concerns or anxiety regarding eviction right to counsel, housing court judges and rental property owners in jurisdictions that have implemented eviction right to counsel legislation have later expressed their preference to be interacting with tenant lawyers rather than unrepresented (pro se) tenants. They have noted that when tenants are represented, out of court resolutions are

⁴⁵⁹ Clark, Dan M. “Increasing Tenants’ Access to Counsel Has Raised Court Efficiency, Fairness, Judges Say.” *New York Law Journal*. September 24, 2018.

⁴⁶⁰ *Ibid.*

⁴⁶¹ *Ibid.*

⁴⁶² “The Importance of Representation in Eviction Cases and Homelessness Prevention.” Boston Bar Association Task Force of the Civil Right to Counsel. March 2012.

⁴⁶³ *Ibid.*

⁴⁶⁴ *Ibid.*

more likely, less time is spent by judges explaining rights and court processes to tenants, the resolutions are more fair, more robust law is created through motion practice and judicial opinions, agreements are more likely to be upheld, tenants are more likely to be connected to supportive services and benefits, and rental property owners are more likely to receive amounts due and owing without costly collection efforts.

In January 2022, the Real Estate Board of New York (REBNY), which represents commercial and residential property owners, managers, investors, brokers, salespeople, and other stakeholders active in New York City real estate, testified in support of statewide eviction right to counsel legislation.⁴⁶⁵ REBNY stated, “...to stabilize New Yorkers and keep them housed, the Senate should consider enacting a statewide right to counsel program, with sufficient funding to hire legal services attorneys. The most recent evaluation of New York City’s right to counsel program showed that 84% of represented tenants were able to stay in their homes as a result of this program enacted in 2013. For this reason, REBNY was proud to support an expansion of New York City’s right to counsel program in 2020. If executed correctly at the state level with adequate funding, right to counsel could prove equally as successful at the state level.”⁴⁶⁶

In 2021 and 2023, some of the largest rental property owners and rental property managers in Massachusetts submitted joint letters to the governor in support of dedicating funding for a statewide access to counsel program.⁴⁶⁷ The letters indicate:

- “We urge you to seize this opportunity to invest in long-term housing stability reform through a statewide right to counsel.”
- “As property owners, [we] urge you to include \$7 million in your FY24 budget for an Access to Counsel Program... we have joined together as some of the largest property managers and property owners in Massachusetts to call for access to counsel for tenants and owner occupants. Legal help and access to the right resources at the right time can prevent families from homelessness, prevent illegal or unnecessary evictions, prevent displacement, and create a pathway to housing stability that will strengthen all of our communities for the future.”

⁴⁶⁵ “The Real Estate Board of New York to The New York State Senate Standing Committees on Housing and Judiciary on S3082, Good Cause Evictions.” REBNY Testimony. January 2022.

⁴⁶⁶ Ibid.

⁴⁶⁷ “In Support of Passage and Funding of an Act promoting housing stability and homelessness prevention in Massachusetts.” October 2021. And “Access to Counsel Program for Evictions Dedicated Line Item FY23 Budget Request of \$7 million.” February 2023.

Trusting the Justice System and Exercising of Rights

Evaluations of providing counsel are often focused on the outcome for the litigant. However, tenants are also more apt to accept adverse court decisions if they perceive that the law and court procedures were followed.⁴⁶⁸ Whether court personnel treated the litigant fairly, whether the litigant was able to state his or her side of the story, and whether the decisions were based on facts are additional factors that increase whether tenants trust that the justice system can provide justice for them.⁴⁶⁹ The importance of providing legal representation is not limited to advocating in the best interest of the litigant, but also encompasses providing them with the assurance that someone is on their side and providing greater confidence in the justice system.⁴⁷⁰ A right to counsel also ensures a tenant is exercising their rights to the fullest extent. For example, rental property owners and consumer financial reporting agencies have an obligation, according to the Consumer Financial Protection Bureau, to accurately report rental and eviction information.⁴⁷¹ Lawyers can notify tenants of this obligation and assist them with disputing and correcting inaccurate eviction information found on their credit reports.

⁴⁶⁸ Hannaford-Agor, Paula and Mott, Nicole. “Research on Self-Represented Litigation: Preliminary Results and Methodological Considerations.” *The Justice System Journal*. 2003.

⁴⁶⁹ *Ibid.*

⁴⁷⁰ San Francisco Right to Civil Counsel Pilot Program Documentation Report. John and Terry Levin Center for Public Service and Public Interest, Stanford Law School. May 2014.

⁴⁷¹ “As Federal Eviction Protections Come to an End, CFPB Warns Landlords and Consumer Reporting Agencies to Report Rental Information Accurately.” Consumer Financial Protection Bureau. July 2021