

NCCRC

National Coalition for a
Civil Right to Counsel



The Right to Counsel for Evictions: Justifications and Growth of the Movement

By John Pollock
Coordinator, Nat'l Coalition for a Civil Right to Counsel

11/21/19



BACKYARD

NEXT CITY ON HOUSING EQUITY

Is Tenants' Right to Counsel On Its Way to Becoming Standard Practice?



JARED BREY DECEMBER 10, 2019



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A Tale of Two Community Reinvestment Act Proposals

Right to counsel in eviction cases: reasons behind the movement

- Difference that counsel makes in outcomes
- Addressing widespread imbalance of power
- Tenant empowerment
- Increasing judicial system buy-in
- Avoiding collateral consequences: fiscal and moral implications

Downstream consequences of eviction

- What isn't a consequence?
- Extended / cyclical consequences:
 - Homelessness → arrest/jail/criminal record, emergency hospital use, loss of belongings, death
 - Child custody loss → mental health
 - School disruption / educational development → future employment, mental health, multiple moves
 - Employment loss → further eviction risks, mental/physical health
 - Health effects (physical, mental) → effects on school, child custody, employment
 - Neighborhood effects: vacancies → crime, loss of unified community
- State/county/city revenue loss from these consequences

National eviction cost projection

The total cost of eviction for **The United States** is **\$315,528,616,180**. This includes the following costs:

- **Cost of providing emergency shelter = \$134,761,200,000**
- **Cost of providing inpatient medical care = \$74,604,131,700**
- **Cost of providing emergency room care = \$47,883,673,600**
- **Cost of providing child welfare services = \$4,781,784,960**
- **Cost of juvenile delinquency = \$53,497,825,920**

We calculated this based on the following data you entered:

# Evictions	28,000,000 households			
Household size	2.63 persons per household (HH)			
Shelter costs	% needing shelter 25%	Cost of one stay \$40	# of days stayed per year 183	
Inpatient Medical Costs	Usage rate 23%	Cost of one visit \$2,517	# of visits per year 7	
Emergency Room Costs	Usage rate 32%	Cost of one visit \$2,032	# of visits per year 4	
Child Welfare Costs	Total spent \$29,886,155,998	% locality pays 100%	% caused by "inadequate housing" 16%	
Child Delinquency Costs	% HH w/children 48%	# of children 1.86	% committing 44%	Cost of one act \$19,455

Source: University of Arizona Cost of Eviction Calculator (relying on data from Amherst Capital)

Specific consequences of eviction
during COVID-19

CDC moratorium recognition of eviction ← → Covid connection

- ◆ Evicted tenants double up, and household contacts create 6x risk of infection than other types of contacts
- ◆ Housing stability protects public health because homelessness increases shelter use and shelters have harder time controlling disease with increased populations (outbreaks have happened in shelters)
- ◆ Unsheltered homelessness increases exposure due to increased difficulty of maintaining sanitary practices and overall worsened health (comorbidities)

Evictions leading to mortality

Bloomberg CityLab

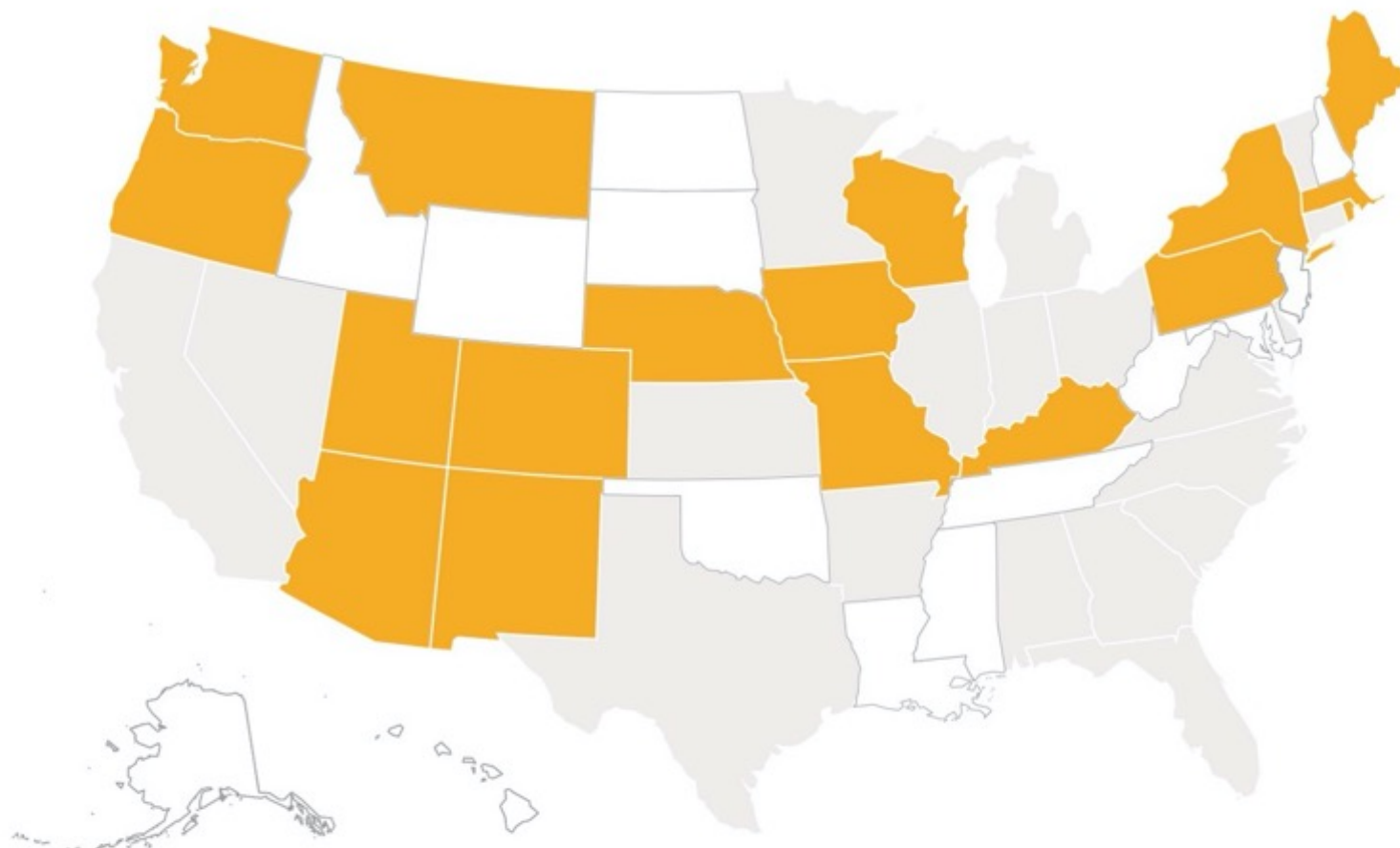
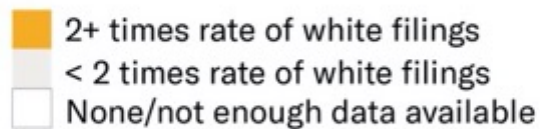
Working with scientists at Penn, Harvard University, and the University of Illinois Urbana-Champaign, Levy produced a model for estimating the impact of evictions on the spread of the pandemic. The model shows that a low eviction rate (0.25% per month) results in about 1.5% more of the population contracting Covid-19 by the end of the year, compared to a zero-eviction rate. That works out to around 15,000 excess cases and 150 additional deaths. A higher eviction rate (1%) would mean a 5-10% higher rate of Covid-19 – about 1 death for every 60 evictions. “Those deaths aren’t all occurring among the evicted households, nor are the cases,” Levy said. “It spreads.”

Legal complexities during eviction moratoria that increase need for tenant representation

- Mess of federal, state, and local moratoria that constantly change or unclear, and that are issued by gov's or courts or both
- Federal and state moratoria are complex: some stop filings, some allow filings but not hearings, some allow hearings but not executions, etc.
- Some moratoria require proof of “COVID-19 connection” (will be true of some post-moratoria laws too)
- Problems with both in-person and remote hearings

**Race and civil cases:
who historically has been
disproportionately affected
by lack of counsel?**

BLACK FEMALE RENTERS WERE FILED AGAINST FOR EVICTION AT DOUBLE THE RATE OF WHITE RENTERS OR HIGHER IN 17 OF 36 STATES



Data source: The Eviction Lab. Counties without data² were excluded from the analysis. States where all counties were excluded or where the sum of all counties' Black populations were less than 1%, are shown in white with a grey border. Five states: Delaware, Georgia, South Carolina, and Vermont filed white tenants for eviction at slightly higher rates than Black women. Ratios were rounded to the nearest tenth.



Chart 3 of 13: Tenant Confidence Level in Ability to Pay Next Month's Rent by Ethnicity

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Report Filters Below

State	Ethnicity Categories
<input checked="" type="checkbox"/> Select all	<input checked="" type="checkbox"/> African American alone, not Hispanic
<input type="checkbox"/> Alabama	<input type="checkbox"/> Asian alone, not hispanic
<input type="checkbox"/> Alaska	<input type="checkbox"/> Hispanic or Latino (may be of any r...
<input type="checkbox"/> Arizona	<input type="checkbox"/> Two or more races + other races, n...
<input type="checkbox"/> Arkansas	<input type="checkbox"/> White alone, not Hispanic
<input type="checkbox"/> California	

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End of Phase One survey and beginning of Phase Two survey.

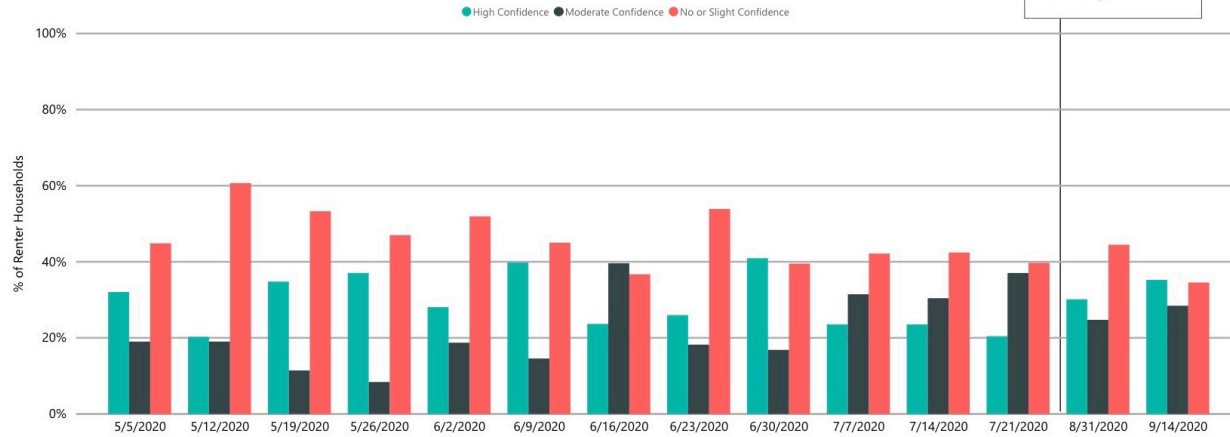


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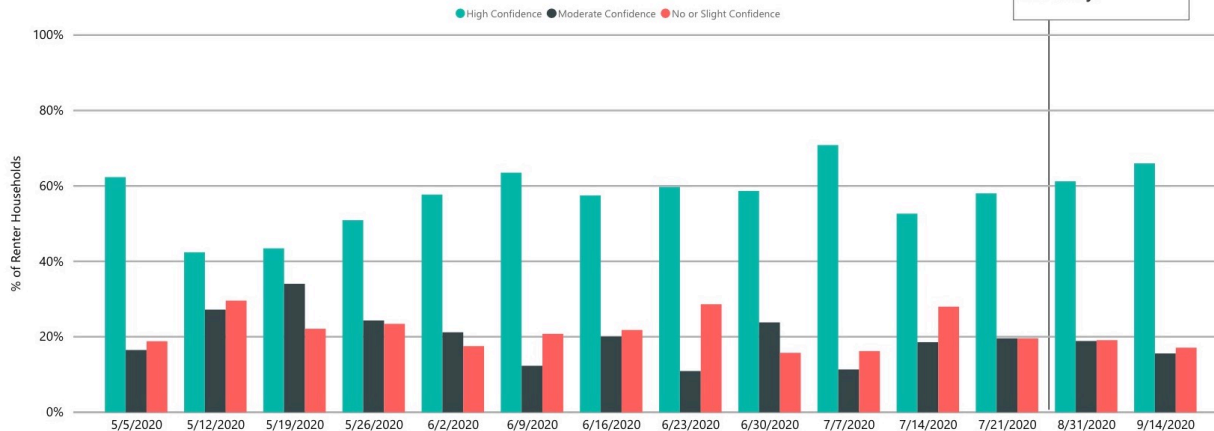
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Status of the movement



CIVIC »

Best Countries

Best States

Healthiest Communities

Cities

The Civic Report

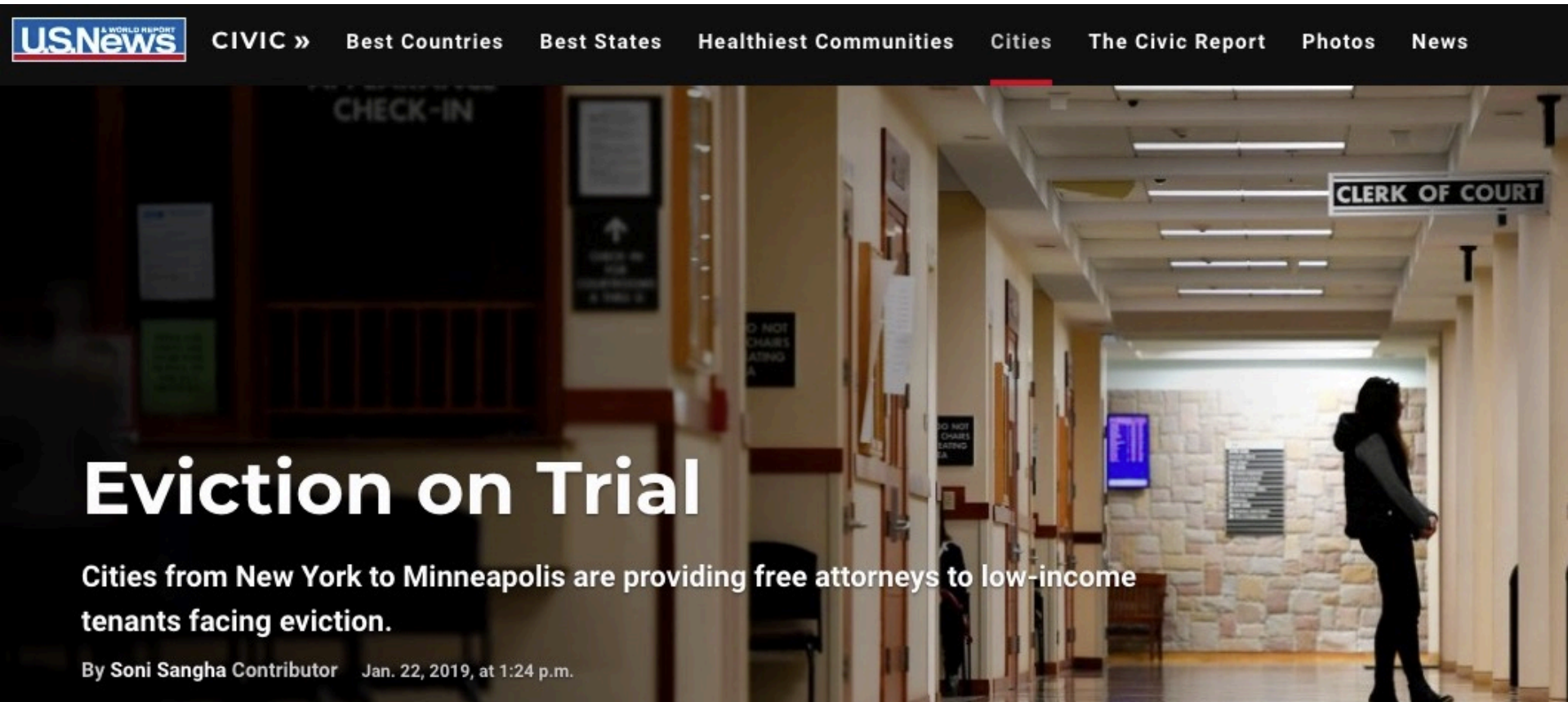
Photos

News

Eviction on Trial

Cities from New York to Minneapolis are providing free attorneys to low-income tenants facing eviction.

By Soni Sangha Contributor Jan. 22, 2019, at 1:24 p.m.



Growth of the movement

- Enacted: NYC (2017), San Francisco (2018), Newark NJ (2018), Cleveland (2019), Philadelphia (2019), Boulder (2020, Baltimore (2020)
- Pending:
 - Federal: 2019-2020 bills by Reps. Clyburn/Price, DeLauro, and Pressley, and Sen. Merkeley
 - States: Delaware (expected) Indiana, Maryland, Minnesota (expected), Nebraska, New York State (expected), South Carolina, Washington State
 - Cities: Denver, Los Angeles (possible), Seattle (expected)

Comparison of enacted RTC laws

City	Eligibility requirements	Scope	Accomplished by	Funding source	Implementation Plan
NYC (2017)	200% of FPL (RTC 2.0: 400% of FPL)	Evictions in court/admin cases (RTC 2.0: subsidy terms, court appeals)	City ordinance	General revenue	5 years (starting 2017) via Office of Civil Justice. Nonprofits only.
San Francisco (2018) (ballot)	no income limit or other requirements	Evictions in court and admin cases; subsidy terminations	Ballot initiative	General revenue	Mayor's Office of Housing & Community Developments. Fully implemented by 10 nonprofit providers as of July 2019
Newark (2018)	200% of FPL	Evictions in court	City ordinance	General revenue (not yet fully funded)	Office of Tenant Legal Services w/in Dept of Economic & Housing Development
Cleveland (2019)	100% of FPL <u>and</u> have children	Evictions in court	City ordinance	General revenue + \$2 million from United Way for initiation	United Way leads implementation. Noprofits only. Starts in July 2020.
Philadelphia (2019)	200% of FPL	Evictions in court and admin cases; subsidy terminations; appeals; some affirmative cases	City ordinance	General revenue (not yet funded)	Multi-year. Nonprofits only. Office under Mayor that oversees health/human svcs.
Boulder (2020)	no income limit	Evictions and appeals, and Section 8 terminations	Ballot Initiative	\$75 excise tax for all registered rental units	Coordinator overseen by Tenants Committee. No specific timeline in ballot initiative.
Baltimore (2020)	no income limit	Evictions + termination of housing subsidies, or any proceeding "functionally equivalent"	City ordinance	General revenue	Overseen by Commissioner of DHCD; 4 year rollout.

NYC's eviction RTC success

- Overall, 86% of tenants who are represented by counsel are remaining in their homes.
- Since 2013:
 - Representation has risen from 1% to 38%;
 - Evictions have dropped 41%, including 15% drop in 2019 alone;
 - Eviction filings have dropped by 30%, including 20% drop in 2019 alone;
 - Default judgments have dropped 34%;
 - Requests by tenants to bring their cases back to the Housing Court calendar on an emergency basis in order to dispute a judgment, request additional time, or raise legal issues previously not addressed have dropped by 38%.

NYC's eviction RTC success

New York Law Journal

NOT FOR REPRINT

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Page printed from: <https://www.law.com/newyorklawjournal/2018/09/24/increasing-tenants-access-to-counsel-has-raised-court-efficiency-fairness-judges-say/>

Increasing Tenants' Access to Counsel Has Raised Court Efficiency, Fairness, Judges Say

San Francisco's eviction RTC success

- Filing rate decreased by 10% from 2018 to 2019;
- For 2/3 of tenants receiving full-scope representation, 67% are able to stay in their homes;
- Despite lack of an income limit, 85% of those receiving counsel are extremely low or low income, 9% are moderate income, and 6% are just above moderate income.

Other cities/states working on and/or thinking about RTC

- Chicago
- Cincinnati
- Connecticut
- Detroit
- Fresno
- Houston
- La Crosse WI
- Los Angeles
- Nashville
- New Jersey
- Omaha
- Pennsylvania
- Pittsburgh
- Santa Monica
- Toledo
- Tulsa
- Virginia

Massachusetts data on effectiveness of eviction rep

Comparison of Limited-Assistance Studies

	MA District Court	MA Housing Court	CA County Court
Retaining Possession of Unit	66% of full rep group, compared to 33% of limited assistance group	33% of the full rep group, compared to 36% of the limited assistance group	55% of full rep group, compared to 18% of limited assistance group and 14% of no aid group
Amount of Rent Tenants Saved	Full rep group saved average of 9.4 months of rent, compared to 1.9 months for limited assistance group	Full rep group saved average of 1.8 months of rent, compared to 1.6 months for limited assistance group	In full rep group, LL paid T 55% of time, compared to 0% for limited assistance group and 2% for no aid group
Amount Tenants Ordered to Paid to LLs	Full rep group paid \$0 to LLs on average, compared to \$617 for limited assistance group	Full rep group paid \$903 to LLs on average, compared to \$486 for limited assistance group	Full rep group paid LLs 0% of time, compared to 71% for limited assistance group (where 51% paid more than max liability) and 61% of time for no aid group (where 55% paid more than max liability)
Where Possession Lost, Days to Move	Studied, but study authors could not come to a conclusion*	Full rep group given 113 days on average, compared to 82 days for limited assistance group	Full rep group given 97 days on average, compared to 54 days for limited assistance group and 47 days for no aid group

D.C. “Expanding Access to Justice Act” (2017)

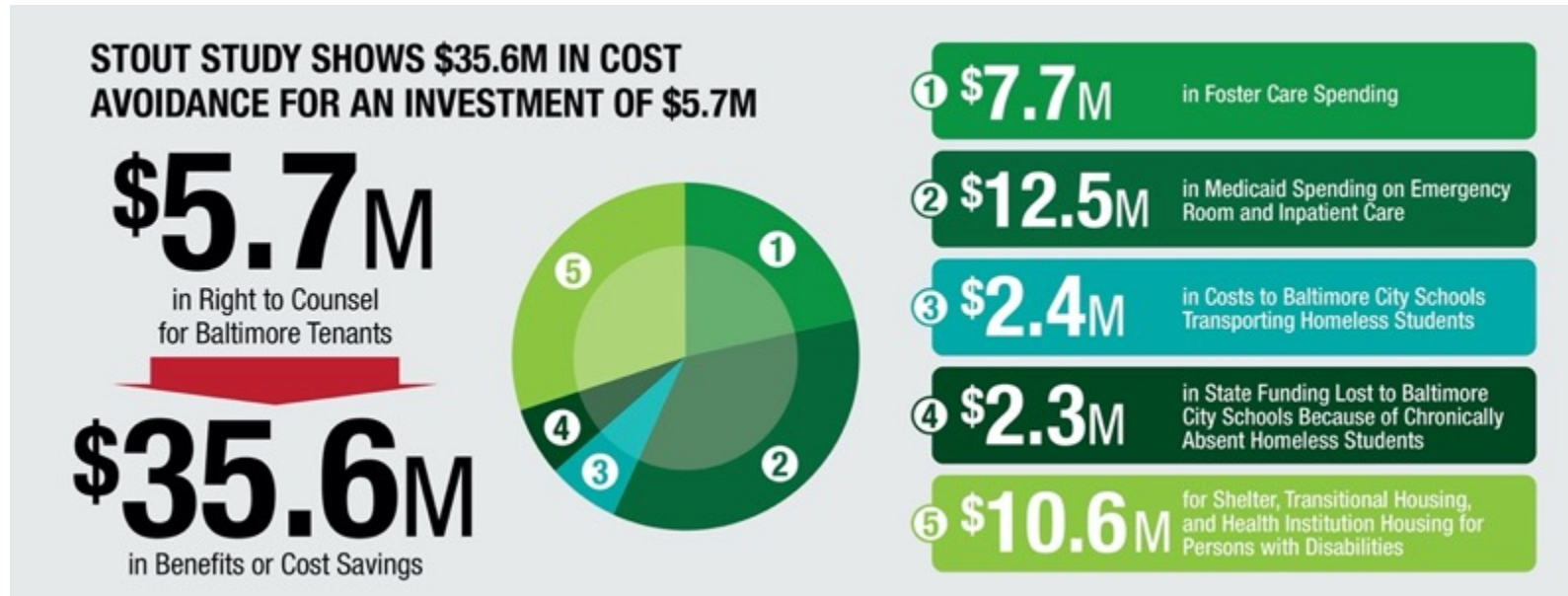
Tenants w/o counsel:

- 2x likely to be found in breach of lease;
- 3x more likely to be subjected to writ of possession;
- 7x more likely to wind up with consent judgment (less favorable than a settlement agreement)

Hennepin County, MN

- \$100,000/year in public county funds (Hennepin County), \$275,000/year in private foundation (Pohlad Family Foundation)
- Pilot found represented tenants were:
 - Twice as likely to stay in their homes;
 - Received twice as long to move if necessary;
 - Were 4x less likely to use homeless shelter.

Baltimore eviction RTC cost/benefit report: more critical than ever in light of lost city/state revenue



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EDITORIAL OPINION

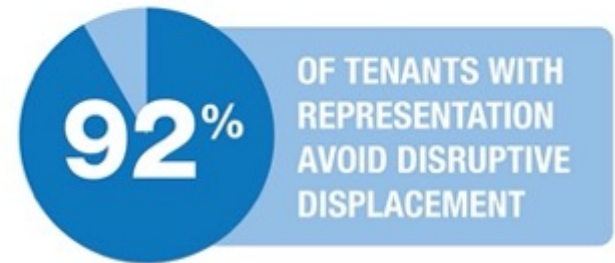
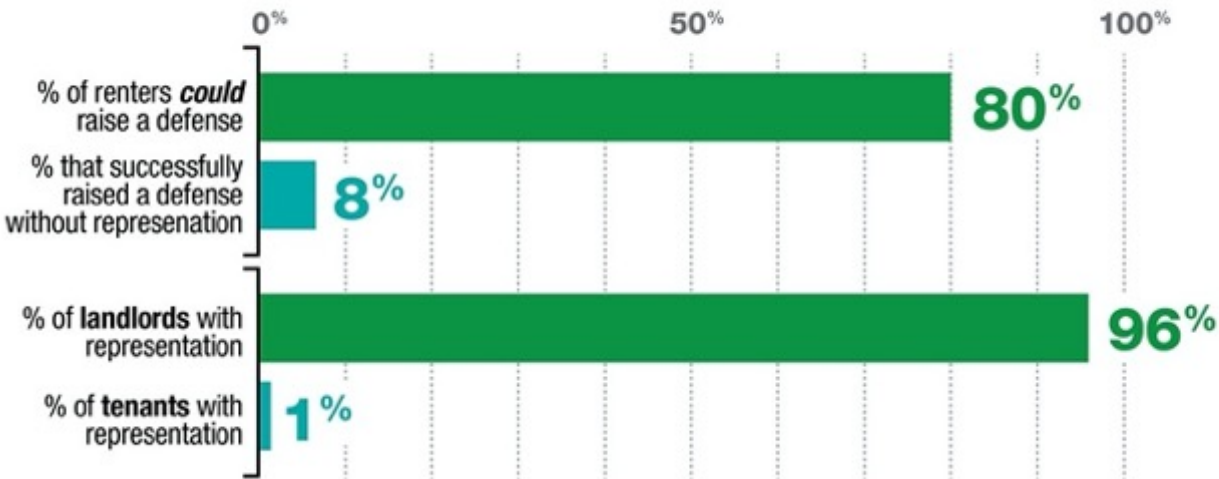
Providing lawyers to Baltimore tenants facing eviction could pay for itself | COMMENTARY

S By BALTIMORE SUN EDITORIAL BOARD
BALTIMORE SUN | MAY 19, 2020 | 4:21 PM



Baltimore eviction RTC cost/benefit report

REPRESENTATION MATTERS



*Legal counsel holds landlords accountable to comply with new laws around COVID to **protect renters.***

Potential Cost Savings

- NYC: \$320 million net savings in avoided shelter costs and retention of affordable units
- Philadelphia: \$3.5 million investment would yield \$45 million in savings from avoided shelter and health costs
- Los Angeles: expenditures of \$47.3 million by County and \$34.6 million by City would save approximately \$226.9 million and \$120.3 million, respectively, due to avoided costs related to shelter use, school changes, health care, and foster custody.
- Baltimore: \$5.7 million investment would save \$17.5 million in avoided emergency shelter, school costs, Medicaid spending, foster care

Massachusetts: cost savings study

- 45,000 evictions in 2012. Fewer than 6% of tenants represented
- Costs of homelessness: shelters, public health care system, foster care, policing, lowered earning potential for homeless youth
- For every \$1 spent, \$2.69 saved on “costs associated with the provision of other state services, such as emergency shelter, health care, foster care, and law enforcement.”

Source: Boston Bar Association Statewide Task Force to Expand Civil Legal Aid in Massachusetts, *Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts* (October 2014)

Questions?

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