




Organizing around the Right to Counsel for Evictions:
Information from the Field,
Justifications, and Questions to Ask

February 9, 2021

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Goals for today

- Build excitement and share organizing lessons about right to counsel: it's achievable and necessary!
- General overview of campaign planning strategy when launching RTC campaign
- Lay groundwork for jurisdiction-specific webinars

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Logistics

- Session is recorded
- Slides made available after session
- Use Q&A feature to ask questions

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Where we were ...

FASTCOMPANY

MENU | NEWSLETTER | SUBSCRIBE

CO-DESIGN | TECHNOLOGY | LEADERSHIP | ENTERTAINMENT | IDEAS

08.24.17 | WORLD CHANGING IDEAS

Cities Are Guaranteeing Tenants Access To A Lawyer To Help Them Fight Eviction

In eviction cases, 90% of landlords have a lawyer, and 90% of tenants do not. To fight gentrification and displacement, cities are trying to correct that imbalance.



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Where we were ...

NEXT CITY

NEXT CITY ON HOUSING EQUITY

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

A Tale of Two Community Reinvestment Act Proposals

JARED BREY | DECEMBER 10, 2019

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Where we are

LAW360

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Dive Deep into Law360 Pulse's Inaugural Partner Compensation Survey

How does your compensation stack up? Check it out now!

Virus Lights Fire Under Eviction Right To Counsel Movement

By Natalie Rodriguez | August 16, 2020, 8:02 PM EDT

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Where we are

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The movement is growing!

- **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:** Connecticut, Delaware (expected) Indiana, Maryland, Minnesota, Nebraska, New York State (expected), South Carolina, Washington State
 - **Cities:** Denver, Los Angeles (possible), Seattle (expected)

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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 and have children | Evictions in court | City ordinance | General revenue + \$2 million from United Way for initiation | United Way leads implementation. Nonprofits 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 soc. |
| Boulder (2020) | no income limit | Evictions and appeals, and Section 8 terminations | Ballot initiative | 575 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. |

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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

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Right to Counsel: Building a member-led movement and coalition building!

- Tenant-led campaign launch and development
- Shift power dynamics from landlord to tenants
- Organizing towards a world with no evictions and establishing housing as a human right
- RTC is also about racial, gender, and economic justice. Who do evictions impact most?
- Creating a clear coalition structure and decision-making processes

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Campaign Development

- CASA surveyed members, did court observations, and put out a report over the course of a year!
- Developed the skills of tenant leaders, political education, learned their rights, and developed a power analysis.



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Campaign Development Pt. II

- Long-term goals and targets
- Basebuilding
- Leadership Development
- Direct Actions
- Legislative/Advocacy
- Legal Support and Research
- Communications
- Coalition/Alliance Building

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Coalition Building

- Formed a coalition made up of tenants, organizer, legal service providers, and other housing/tenant advocates
- Clear structure and decision-making processes. Creating spaces for tenant leaders to lead! And others to have clear roles and ownership
- In organizing process matters!

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The impact of evictions on race

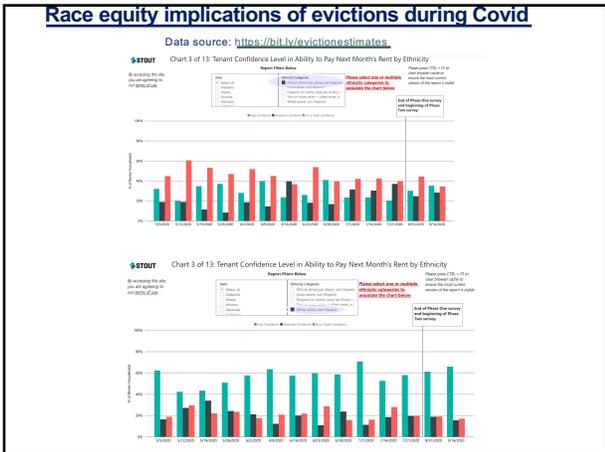
BLACK FEMALE RENTERS WERE FILED AGAINST FOR EVICTION AT DOUBLE THE RATE OF WHITE RENTERS OR HIGHER IN 17 OF 36 STATES

- 2+ times rate of white filings
- < 2 times rate of white filings
- None/not enough data available



Data source: The Eviction Lab. Counties without data^a 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.

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- ### Consequences and Impacts of Evictions
- What isn't a consequence? All evictions are violent and never justified.
 - 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

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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 | Cost of one stay | # of days stayed per year |
| | 25% | \$40 | 183 |
| Inpatient Medical Costs | Usage rate | Cost of one visit | # of visits per year |
| | 23% | \$2,517 | 7 |
| Emergency Room Costs | Usage rate | Cost of one visit | # of visits per year |
| | 32% | \$2,032 | 4 |
| Child Welfare Costs | Total spent | % locality pays | % caused by "inadequate housing" |
| | \$29,886,155,998 | 100% | 16% |
| Child Delinquency Costs | % HH w/children | # of children | % committing |
| | 48% | 1.86 | 44% |
| | | | Cost of one act |
| | | | \$19,455 |

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

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**Covid-specific consequence:
increased sickness**

- ♦ 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)

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**Covid-specific eviction consequence:
increased 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.”

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**RTC justification:
effectiveness, cost savings, complexity**

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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%.

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NYC's eviction RTC success

New York Law Journal

NOT FOR REPRINT

Click to print or Select 'Print' in your browser menu to print this document.

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

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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.

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Cleveland's RTC success

- 93% of those represented avoided eviction or involuntary move
- 83% who were seeking additional time to move were able to get it
- 89% of those seeking to mitigate damages were able to do so

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Other outcomes data

- MA: Tenants w/full rep 2x likelier to stay in home than those w/limited scope assistance, and paid \$0 to LLs vs. \$600+
- D.C.: Tenants w/o counsel 2x likely to be found in breach of lease and 3x more likely to be subjected to writ of possession
- Hennepin County MN: Tenants w/counsel 2x as likely to stay in their homes, get 2x as long to move if necessary, 4x less likely to use homeless shelter
- Stout reports: 90+% of tenants avoid disruptive displacement

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Cost savings data: Baltimore



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Other reports on 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.

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Covid-specific legal issues

- 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.
- CDC moratorium declaration requirement is complex and made under penalty of perjury
- 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
- Rental assistance: getting and applying it

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What does "right to counsel" look like?

- If defined as "full rep", what does "full rep" mean? How does provider discretion fit into the model?
- How does a "right" differ from increased representation or a pilot?
- How do pilots fit in?
- How do substantive law changes fit in?
- How do limited RTCs (subsidized housing, families with children, etc.) fit in?
- How does funding source fit in? Can private or stimulus money be part of RTC?

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How can a RTC be achieved?

- State statute
- City ordinance
- State/city ballot initiative
- Court rule (unlikely)
- Litigation

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Identifying and working with the stakeholders

- Which voices are at the table? Is there / does there need to be a focus on organizers and tenants (those who will be affected by RTC)?
- Considering the variety of players that should be involved (courts, tenants, tenant unions, organizers, LAS, private bar, etc.), how do you mobilize stakeholders, find out who is already having this convo in your jurisdiction, etc.?
- What happens if tenants / organizers don't see this as a priority?
- Who has a say in the bill drafting? Is it a consensus model?
- Are there any opponents other than the LLs?
- What do the courts feel about it?
- How does the media (national or local) look at it?

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What does the legislation look like?

- **Overall:** how much is spelled out in bill vs. left to whoever is overseeing/coordinating the program?
- **Scope:**
 - What proceedings are included (evictions, affirmative litigation, admin proceedings, appeals, etc.), and how do you decide?
 - Income limits?
 - Other eligibility requirements?
- **Phase-in process:** how long for full implementation? And how do you decide who goes first? How do you prioritize neighborhoods, and a race equity lens applied to that?
- **Explicit RTC?:** does bill actually use the words "right to counsel?"
- **Timing of appointment?**
- **Outreach / organizing / mobilizing:** how is this handled? Is there funding for organizing, or social workers, included in the bill?
- What is the governing structure?
- **Service providers:** limited to nonprofits? Role of pro bono? And how does one ensure effective assistance of counsel from providers?
- **Reporting requirements:** what metrics are most important?
- **Heading off legal issues:** home rule, separation of powers, etc.

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Data questions

- What data is absolutely necessary?
- Is cost/benefit analysis necessary? To what degree can prior studies be relied on? What do decisionmakers say?
- Difficulty of obtaining data from courts and social service providers. To what degree does record sealing affect this?
- If conducting a study, who are the partners and what does that relationship look like?

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Seeing the latest developments: civilrighttocounsel.org

Recent Activity
 Right to Counsel Status
 NCCRCV Work
 NCCRC Presence

Orange coloring indicates states with recent or relatively recent activity. Clicking on any state will pop up a list of the recent activity (if there is any) along with a link to all activity over time in the state.

Limit to NCCRC involved developments

Development Type: (any type)
 Subject Area: Housing - Evictions

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Seeing the latest legislation: civilrighttocounsel.org

| State | Bill # | Description | Latest Status |
|-------|---|--|--|
| AR | HB 1388 | Would authorize court to appoint counsel in proceeding to enforce post-adoption contact agreement. | Referred to Committee on Aging, Children, and Youth, Legislative & Military Affairs on 2/3/21. |
| AZ | HB 1391 | Clarifies child's right to counsel in dependency and termination of parental rights cases. | Assigned to Rules and Judiciary Committees on 1/26/21. |
| CT | SB 531 | Provides a right to counsel for tenants facing eviction. | Referred to Joint Judiciary Committee on 1/27/21. |
| FL | HB 405 / SB 821 | Requires court to appoint public defender when minor assents to admission to inpatient mental health treatment. | HB 405 filed on 1/25/21. SB 828 referred to Children, Families, and Elder Affairs, Judiciary, and Appropriation Committees on 2/4/21. |
| FL | SB 80 | Requires court to appoint counsel for caregiver of child in certain circumstances when change of custody sought post-disposition in child welfare cases. | Referred to Children, Families, and Elder Affairs; Judiciary, and Rules Committees on 1/14/21. |
| HI | HB 345 / SB 199 | Changes law for assisted community placements for drug/alcohol treatment such that a guardian ad litem is appointed instead of the public defender. | HB 345 referred to HHJ, JHA, and FIN Committees on 1/27/21. SB 199 referred to HMS/HTH and JDC committees on 1/27/21. |
| HI | HB 453 / SB 821 | Requires court to appoint counsel for minor seeking emancipation. | HB 453 referred to HHJ, JHA, and FIN Committees on 1/27/21. SB 821 referred to HMS and JDC Committees on 1/29/21. |

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Questions?

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