

**HOUSING COURT, EVICTIONS AND
HOMELESSNESS:
THE COSTS AND BENEFITS OF ESTABLISHING
A RIGHT TO COUNSEL**

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PREFACE

A tenant facing eviction in New York City's Housing Court more than likely is African-American or Latina, is unable to afford or obtain a lawyer, and lives in one of the poorest neighborhoods in the City. Each year, New York City's Housing Court presides over summary eviction proceedings that result in an average of 25,000 evictions. Each year, close to half of the households entering homeless shelters became homeless through eviction.

A diminishing number of community-based organizations assist tenants before they get to court. Most tenants have no one to help them advocate for habitable building conditions, gain access to needed government benefits, or obtain basic answers about legal notices or court proceedings. Almost 90% of all tenants appear without counsel at eviction proceedings. Yet, when tenants are represented by counsel in these proceedings, they generally are able to remain in their homes. By providing counsel to low-income tenants in eviction proceedings, \$67 million in public funds could be saved.

New York City spends hundreds of millions of dollars a year in temporary shelter programs for homeless people and hundreds of millions more on capital expenditures for permanent housing. The City is under increasing pressure to reduce the shelter system population and to try to prevent homelessness. An estimated 44% of the families entering homeless shelters in New York City have become homeless as a result of an eviction. In recognition of the connection between evictions and homelessness, the New York City Human Resources Administration recently created a new program to provide counsel for families in Housing Court. This program is funded to provide counsel to 10,000 tenants; an important first step, but far short of meeting the need for representation.

The City-Wide Task Force on Housing Court (CWTFHC) has information tables for pro se litigants at the court. The Community Training Resource Center (CTRC) runs tenant education and outreach programs. Through their work, both organizations have recognized that tenants in Housing Court have a critical need for accurate information and competent legal representation. Recognizing the need for counsel "as of right" in Housing Court, the CWTFHC, together with other groups and individuals, filed suit against the City of New York, the State of New York and other defendants -- Donaldson et.al. v. State of New York. They also undertook research on the costs and benefits of providing counsel. The research consisted of two components, a survey of tenants in Housing Court ("Housing Court survey"), and a study of Housing Court case files ("file study"). The methodology is detailed in full in Appendix A. This report is the product of that research.

The CWTFHC and the CTRC issue this report in the hope of further contributing to the public debate on this issue. This report compares the costs of homelessness, which is often the tragic consequence of Housing Court proceedings, with the costs and benefits of providing counsel to indigent tenants who face eviction. The report, based on tenant surveys and file research, demonstrates that it is cost-effective to provide counsel. It demonstrates that people of color and low-income people disproportionately bear the burden of inadequate resources for representation and, ultimately, of homelessness. And it demonstrates that protecting people before they become homeless is far more sound and humane social and fiscal policy than attempting to address the problem after people have become homeless.

EXECUTIVE SUMMARY

A Profile of Tenants in Housing Court

- ▶ The majority (57.5 percent) of tenants in Housing Court are African-Americans. Latinos represent an additional 29.1 percent of the tenants, while non-Latino Whites and Asians account for 10.8 and 1.0 percent of the tenants respectively. Of the four boroughs studied (Manhattan, Brooklyn, the Bronx and Queens), the Brooklyn Court had the highest percentage of African-American tenants. The largest proportion of Latino respondents were in the Bronx.
- ▶ People of color are represented in the pool of respondents in Housing Court in far greater numbers than their proportion in the population at large.
- ▶ The poverty level of tenants in Housing Court is dramatic. Tenants with incomes below \$10,000 comprise 47.9 percent of the Housing Court population. Only 18 percent of the tenants have incomes over \$25,000.
- ▶ In addition, as reflected by the zip codes reported by tenants surveyed, tenants in Housing Court are most likely to come from low income neighborhoods within each borough.
- ▶ Most tenants who face eviction in Housing Court are employed, and 68.7 percent of the households facing eviction have household incomes at or below \$19,000 a year.
- ▶ City-wide, 56.95 percent of the tenants surveyed were employed and 30.48 percent receive some kind of public assistance.
- ▶ Queens had the highest percentage of employed tenants (75.23 percent) and the lowest number of tenants on public assistance (10.28 percent). The Bronx had the lowest percentage of tenants reporting that they were employed (48.70 percent) and the highest number of tenants receiving public assistance (40.87 percent). In Manhattan, 59.89 percent of the tenants surveyed were employed and 27.24 received public assistance. In Brooklyn, 48.70 percent were employed and 40.87 percent were on public assistance.
- ▶ The 300,000 or so Housing Court actions per year affect the lives of nearly a million people. The 1,960 tenants interviewed represented 5,848 households. Households ranged in size from one to sixteen people. The average household size was 3.03 people.
- ▶ The average number of people per apartment was highest in Brooklyn at 3.19 people per household, followed by the Bronx at 3.07 people per household. Queens (2.89 people per household) and Manhattan (2.71 people per household) tenants reported smaller household sizes.
- ▶ Children were present in 37.8 percent of the households. These children represent 43.3 percent of the population affected by Housing Court. One or more disabled persons were present in 11.99 percent of the households. Senior citizens were present in 6.68 percent of the sample's households.

- ▶ Only 11.9 percent of the tenants in Housing Court were represented by attorneys. Landlords were represented by an attorney in 97.6 percent of the cases. Tenants were least often represented in the Bronx, where landlords were most often represented. Tenants were most likely to be represented by an attorney in Manhattan, but more than eight out of ten tenants there were without counsel. Landlords were represented least often in Brooklyn, but still were over eight times more likely to be represented than were tenants.

Cost and Benefits of Providing Counsel to Tenants in Housing Court

- ▶ Based on income guidelines set in 1990, and the Housing Court survey, between 50.3 percent and 59.5 percent of the tenants who appear in Housing Court are eligible for Legal Aid/Legal Services representation. This represents approximately 70,000 households.
- ▶ In order to ascertain the cost of provision of counsel to all currently unrepresented, income eligible tenants, the figure of 70,000 is multiplied by \$1200. The total cost of counsel would then be approximately \$84,000,000 per year.
- ▶ Extending a right to counsel to 70,000 tenants would save money.
- ▶ In fiscal year 1992, the City's Office of Management and Budget budgeted a total of \$526,975,000 for programs for homeless people. New York City's share of this expenditure was budgeted at \$222,716,000.
- ▶ Based on the City's estimates the average cost of sheltering each homeless family is approximately \$24,910 and the average cost of sheltering each homeless individual is \$8,301.
- ▶ Provision of counsel to all low-income households facing eviction could prevent 4,873 families and 3,567 individuals from seeking emergency shelter each year, and save the City the costs of sheltering these families and individuals.
- ▶ The cost savings in providing shelter to homeless families by providing counsel (before deducting the cost of counsel) would therefore be \$121,386,430. Similarly, the cost savings in providing shelter to homeless individuals would be \$29,609,667. The combined savings would be \$150,996,097. After deducting the cost of providing counsel to all income-eligible households, the net cost savings would be \$66,996,097. This figure represents the total cost savings in public dollars realized by providing counsel to all low-income tenants who face eviction.
- ▶ Establishing a right to counsel for tenants in Housing Court would save approximately \$67 million in annual shelter costs and spare thousands of families the hardship of life on the street or in shelters, and the frustration of trying to find safe, low cost apartments in a city where precious few still exist. New York City and its residents, housed and homeless, could only benefit from a plan intended to balance the scales of justice.

PART ONE

CAUSES AND COSTS OF HOMELESSNESS

Causes and Costs: The New Debate on Homelessness

Recent government policy has been all-too-often characterized by the myopic view that homelessness is an intractable problem beyond the power of government to address. Much of the debate centers on whether individual characteristics of homeless people distinguish them from people with homes. The focus on homelessness as a consequence of alcohol or substance abuse, mental illness, domestic violence or AIDS has led some policymakers to call for specialized programs in which shelter is a condition of treatment.¹ From this perspective, homelessness is caused by personal failures and individual limitations, and no amount of government spending will substantially solve the problem.

This view inappropriately targets the victims of government inaction and failed government policies.² Among the most significant failures have been the refusal to provide an adequate shelter allowance to public assistance recipients; the failure to preserve and expand affordable and habitable permanent housing; and the failure to assure that low-income tenants facing eviction are able to obtain counsel. The debate regarding the causes of homelessness must focus on the need to protect available affordable housing and prevent homelessness from the outset.

Over the years, federal, state and local governments have permitted hundreds of thousands of people in New York City to go without one of life's most basic needs: a home. The cost of that neglect has been enormous. New York City currently spends hundreds of millions annually to shelter homeless people and expects to spend hundreds of millions more in the next few years to build permanent housing for homeless people. The cost to homeless people themselves is immeasurable.

¹ The Way Home: A New Direction in Social Policy, Report of the New York City Commission on the Homeless, Andrew Cuomo, Chairperson (1992) ("Cuomo Report").

² Two prominent researchers who have studied the causes of homelessness in New York City suggest the following:

If housing were cheap and abundant, employment and benefits for those who are not employed generous, individuals who lacked social supports or those with severe mental disabilities would still have residences; those who lost housing because of fire, eviction, or domestic violence would be quickly rehoused. Such people have existed at other times, but few were homeless . . . when housing is tight and many poor people live on the margins of literal homelessness, any bad luck may precipitate loss of housing, and differences between housed and homeless people are apt to be minimized. For example, as homelessness in New York has increased, befalling more and more people, rates of mental illness have decreased.

Shinn and Weitzman, "Research on Homelessness: An Introduction," 46 *Journal of Social Issues* 4 (1990) pp. 6-7. For a study of rates of mental illness among homeless people, see also Struening, "A Study of Residents of the New York City Shelter System," New York State Psychiatric Institute (Rev. ed., 1987).

No Housing Here: Homelessness In New York City

While estimates of the size of New York City's homeless population vary and are often subject to dispute, it is universally acknowledged that the numbers are in the tens of thousands. In January 1992 there were approximately 7,756 individuals and 4,990 families in New York City's shelter system (including hotels, congregate shelters and traditional shelters). The 4,990 families were comprised of 15,631 people including 8,848 children. The total population of the City's homeless shelters was 23,387 people.³ In 1991, on average, over thirty families entered the shelter system per day. By the end of January, 1993, there were 5,494 families, including 9,573 children, in temporary shelters.⁴

But shelter statistics only begin to tell the story of homelessness in New York City. In addition to the thousands of individuals and families crowding the city's homeless shelters, thousands more are estimated to be living on the streets. The precariously housed, who are only one or two steps away from homelessness, include the hundreds of thousands of city residents who live doubled up with other families, live in deteriorated housing, are about to be evicted, can't afford their rent, have recently lost their jobs, or have become disabled.⁵

The number of families living doubled-up is conservatively estimated at 100,000. The vast majority of near-homeless families and individuals often try to stay with relatives or friends rather than enter the City's shelter system. The daily average of new arrivals to the shelter system generally increases in the summer because the stress of living in crowded, doubled-up conditions can become unbearable in the summer heat.⁶ A 1989 analysis of New York City's housing market reported, "[t]he ability of the average New Yorker to find a vacant apartment in the event he or she needs to move due to inadequate conditions, temporary economic difficulties, [or] change in family circumstances,...clearly is becoming less and less feasible."⁷ The situation today appears to have worsened for many families in New York, as overall economic conditions and the lack of affordable housing leave many thousands of people in the shadows of homelessness.

The summer of 1992 was punctuated by the news that the number of public assistance recipients, primarily "unskilled workers who have had trouble competing for jobs in the recession....," rose by 22% since 1990.⁸ One report noted that "two out of five New York City households are receiving either welfare or Social Security benefits, and in some neighborhoods, the figure is as high as 67

³ The City of New York Human Resources Administration, "HRA Facts: February 1992," p 2.

⁴ Emergency Housing Services for Homeless Families, Monthly Report, published by Human Resources Administration, Adult Services Administration, Crisis Intervention Services, Jan. 1993.

⁵ See Peter Rossi, "Down and Out in America: The Origins of Homelessness," University of Chicago Press, 1990.

⁶ The New York Times, "Welfare Rolls Hit the Million Mark in New York City: Highest Total Since 70's," Wednesday, August 12, 1992, p. 1.

⁷ Philip Weitzman, Worlds Apart: Housing, Race/Ethnicity and Income in New York City, 1978-1987, Community Service Society of New York, 1989, p. 43.

⁸ The New York Times, "Welfare Rolls Hit the Million Mark in New York City: Highest Total Since 70's," Wednesday, August 12, 1992, p. 1.

percent."⁹ Other recent reports suggest that "city homeless policies are forcing hundreds of families to sleep night after night in filthy welfare offices" as they wait in HRA's crowded Emergency Assistance Units seeking shelter.¹⁰ Given these realities, protecting New Yorkers from becoming homeless is imperative.

Housing Court Proceedings: How Evictions Contribute to Homelessness

In less than a decade, New York City Housing Court proceedings resulted in City Marshal evictions of more than 250,000 households, affecting as many as 1 million individuals. From 1983 to 1990, City Marshals evicted an average of 24,025 households per year. The number of evictions varied little during this period, from a high of 26,700 in 1983 to a low of 20,300 in 1985. Evictions in 1991 and 1992 were close to the eight-year average.¹¹ Interviews with homeless families indicate that most were doubled up prior to entering the shelter system and that many of them previously had their own apartments.¹² If some of the 24,000 evictions each year are prevented, then the growth of the homeless population will be slowed.

About 70 percent of all people in single or family shelters report having had their own home or apartment at one time.¹³ A 1991 analysis of families seeking shelter who lost their apartments found that 51 percent had been evicted:

Forty percent of the...families were evicted for nonpayment of rent: of these, half were unable to keep up with rents above the...shelter allowance, and 17 percent had problems with the delivery of...benefits which led to the eviction. Almost a quarter could not pay the rent because of some other misfortune. Families were also evicted for other reasons: at the end of a sublet, when the ownership of a building changed, or when the landlord wanted the apartment for one of her/his family members.¹⁴

This study also indicated that 48 percent of the families reported leaving apartments because of poor housing conditions. For most of these families, terrible structural conditions, a vacate order or fire were cited as the reasons for leaving.¹⁵ Proper legal intervention for families who were either evicted or forced to leave because of conditions may have prevented the loss of these homes.

⁹ New York Newsday, "In Need of Assistance," Sunday, July 19, 1992.

¹⁰ New York Newsday, August 23, 1992.

¹¹ New York City Department of Investigations, Bureau of City Marshals, Annual Statistics.

¹² Anna Lou Dehavenon, Ph.D. and Margaret Boone, Ph.D., No Room at the Inn: An Interim Report with Recommendations on Homeless Families with Children Requesting Shelter at New York City's Emergency Assistance Units in 1991, The Action Research Project on Hunger, Homelessness and Family Health ("Dehavenon"), December 1991, p. 13.

¹³ Cuomo Report, p. B-15.

¹⁴ Dehavenon, p. 13

¹⁵ Id., p. 13.

Even the figures for evictions carried out by City Marshals represent only a fraction of the people who lose their homes as a consequence of landlords filing petitions in Housing Court. Each year over 100,000 petitions are filed in Housing Court to which tenants never respond. In some of these cases no judgments are entered; in many others, default judgments are entered. While some percentage of these cases are settled between the parties, uncounted others represent tenants who eventually become homeless. Many tenants, intimidated by the legal process, lacking representation, and often facing language barriers, move out after receiving notice from the court. The number of illegal evictions might add thousands to that number.

Homelessness: Immediate Costs to New York City

Neglecting the production and protection of viable, low cost housing, and failing to prevent evictions, have had a tremendous economic impact on the City. "The growth in New York expenditures for emergency shelters was sudden and large...from 1978 to 1985, the City's annual spending increased from \$8 million to over \$100 million for operating and capital improvements for shelter services for homeless single men and women."¹⁶ Forced by court order to provide adequate shelter and to respond to the increasing visibility of homeless people, New York City began first to experience the high price of neglect in the early eighties. The City now incurs direct shelter care costs and interim service expenses for homeless families and individuals that have escalated to over \$200 million in 1992.

In fiscal year 1992, the City budgeted a total of \$526,975,000 for programs for homeless people. New York City's share of this expenditure was budgeted at \$222,716,000.¹⁷ Most of these expenditures are in the Human Resource Administration's budget. But several other agencies [Table 1-1] expend both expense and capital budget dollars [Table 1-2] on programs related to homeless people in New York City. According to the Office of Management and Budget, other agencies that serve the City's homeless population directly include: the Health and Hospitals Corporation, the Department of Health, the Department of Employment, the Board of Education, the Department of Housing Preservation and Development, the Division of Youth Services, Division of AIDS Services, and the Mayor's Office for the Homeless. The budget for these programs is as follows:

¹⁶ Donna Wilson Kirchheimer, "Sheltering the Homeless in New York City: Expansion in an Era of Government Contraction," *Political Science Quarterly*, Volume 104, Number 4, 1989-90, p. 608.

¹⁷ Summary of Homeless Budget 1993 January Plan (Interim Analysis Sheet), New York City's Office of Management and Budget, February 3, 1992 ("OMB").

TABLE 1-1
New York City Expenditures
And The Costs Of Homelessness FY 1992

EXPENSE BUDGET	NYC SHARE	TOTAL COST
Individuals		
Homeless Individuals Construct	83,864,000	174,208,000
Community Support Teams	0	24,083,000
Employment Programs	0	833,000
Total Expenditures for Homeless Individuals	\$83,864,000	\$199,124,000
Families		
Homeless Families Construct	62,038,000	215,963,000
Daycare	1,377,000	5,509,000
Preventive Services Contracts	256,000	1,024,000
Direct Preventive Services	56,000,000	224,000
Board of Education State Grant	0	4,769,000
Total Expenditure for Homeless Families	\$63,727,000	\$227,489,000
Division of AIDS Services	22,722,000	45,443,000
Housing Preservation and	50,878,000	51,264,000
Department of Youth Services	1,379,000	3,510,000
Mayor's Office on Homelessness	146,000	146,000
TOTAL HOMELESS EXPENSE BUDGET	\$222,716,000	\$526,975,000
PERCENTAGE PAID	42.3%	100%

Source: OMB Summary of Homeless Budget 1993 January Plan (Interim Analysis Sheet), New York City's Office of Management and Budget, February 3, 1992.

Although the figures in Table 1-1 represent the most direct costs of all city programs for homeless people, from running shelters to day care to employment services, they do not represent the total costs to the City. The Corporation Counsel's office, the Department of City Planning, and other city agencies also incur significant expenses related to monitoring programs, legal work, and administrative costs.

In addition to the \$222,716,000 spent in Fiscal Year 1992 to shelter homeless families and individuals temporarily, New York City allocated another \$211,262,000 in city capital budget dollars. These capital expenses were allocated as follows:

TABLE 1-2
New York City
Capital Budget
FY 1992

<u>CAPITAL BUDGET</u>	<u>CITY SHARE</u>	<u>TOTAL COST</u>
HRA Homeless Individuals	17,039,000	17,039,000
HRA Homeless Families	38,833,000	38,833,000
HPD Homeless Capital	155,390,000	178,340,000
TOTAL HOMELESS	\$211,262,000	\$234,212,000
PERCENTAGE PAID	90%	100%

Source: OMB.

Building Affordable Housing for Homeless People: Long Term Costs

Under the City's 1992-2001 "Ten Year Capital Plan" a total of \$445.2 million is designated for construction, rehabilitation, and purchase of facilities for homeless families and individuals.¹⁸ The interest payments on the capital expenditures will cost New Yorkers several times this original amount. The City expects to produce 45,584 new housing units between the years 1992 and 2001. Almost 7500 of these units will be allocated to homeless families and 2,776 will be provided for homeless individuals in rehabilitated Single Room Occupancy units. The cost of producing these units is expected to be \$1.14 billion out of a \$4.8 billion spending authorization.¹⁹ This makes the cost per new housing unit over \$110,000.

Building affordable housing is good public policy, but even the City's ambitious-sounding plan won't come close to providing housing for every homeless person. If the yearly number of evictions and affordable housing losses continue at present levels, the City will never be able to produce the replacement housing needed. Current expenditures in direct costs for programs and services for homeless people will continue to grow if the causes of homelessness are not addressed.

Costs That Cannot Be Measured

The experience of homelessness creates additional unquantifiable costs. The cost to people unable to find replacement low-cost housing and forced to shuttle through the shelter system is not calculable. New York City has a history of paying luxury hotel fees to house homeless families in "rat-holes" or operating congregate shelters that are dangerous, unhealthy and regimented. For

¹⁸ The City of New York, Executive Budget Fiscal Year 1993, p. 153.

¹⁹ "Ten-Year Housing Plan: The Update," City Limits, October 1991, p. 20.

example, the incidence of tuberculosis infection in men's shelters had risen to 42.8% by 1990.²⁰

Homeless people themselves bear the greatest cost of homelessness. The hardship and desperation experienced by people who have faced the trauma of an eviction and the uncertainty of homelessness are immeasurable. Children move from school to school, miss school altogether for long periods of time, and are stigmatized as "shelter kids." Many families are separated; the children remain in foster care simply because the family does not have a home. The long term costs to any society that decides it cannot "afford" properly to house, feed, educate or provide health care to all its members, while incalculable, are overwhelming.

²⁰ "The Spectrum of Tuberculosis in a New York City Men's Shelter Clinic (1982 - 1988)" John M. McAdam, M.D., et al, Chest, Apr., 1990, p. 798. The article found that, "[s]ince tuberculosis is a disease of poverty and crowded living conditions, shelters for the homeless may create ideal circumstances for transmission of an airborne organism such as mycobacterium tuberculosis."

PART TWO

TENANTS IN HOUSING COURT

Tenants who are forced to defend their homes in summary eviction proceedings in Housing Court are, on the whole, low-income people of color. Over half of the tenants appearing in Housing Court are African-American and almost a third are Latino. Almost half of the households facing eviction have household incomes of under \$10,000 per year. Almost half of the people who risk eviction in Housing Court proceedings are children. Thus, the Housing Court reflects the broader social inequities of the City, and subjects those who have historically suffered the greatest discrimination to the greatest risk of catastrophe. These inequities are further compounded by one of Housing Court's most glaring characteristics -- in almost 90% of the cases, unrepresented tenants attempt to defend their homes against landlords who are represented by attorneys.

Race & Ethnicity

The Housing Court survey showed that a majority (57.5 percent) of the tenants in Housing Court are African-Americans. Latinos represent an additional 29.1 percent of the tenants, while non-Latino Whites and Asians account for only 10.8 and 1.0 percent of the tenants respectively. Of the four boroughs studied, the Brooklyn Court had the highest percentage of African-American tenants. The largest proportion of Latino respondents were in the Bronx.

The percentage of each ethnic group for each borough is given below in Table 3-1.

Table 3-1
Housing Court Respondents' Race & Ethnicity By Borough

Borough	African-American	Asian	Hispanic	White	Other
Brooklyn	73.0%	.8%	15.4%	10.2%	6.0%
Manhattan	55.0%	2.1%	23.9%	17.3%	1.7%
Queens	47.7%	2.3%	26.6%	21.0%	2.3%
Bronx	47.8%	.4%	44.1%	5.5%	2.2%
Overall	57.5%	1.0%	29.1%	10.8%	1.6

Source: Housing Court Survey

People of color are represented in the pool of respondents in Housing Court in far greater numbers than their proportion in the population at large. This can be seen by comparing the racial and ethnic breakdown of the Housing Court population with census data for New York City. The race of all household heads (which includes owner-occupied housing units) is given below.

Table 3-2
Race/Ethnicity of Household Head By Borough

Borough	Black	Asian	Hispanic	White	Other
Bronx	30.4%	2.1%	38.1%	28.8%	0.3%
Brooklyn	32.4%	3.4%	16.8%	47.0%	0.4%
Manhattan	15.3%	5.7%	18.0%	60.7%	0.3%
Queens	17.1%	9.2%	16.2%	57.2%	0.3%
Overall	22.7%	5.3%	19.7%	52.0%	0.3%

Source: U.S. Department of Commerce, 1990 Census Data

Thus while Latinos head only 19.7 percent of New York City's households, they comprise 29.1 percent of the Housing Court's population. African-Americans, who head 22.7 percent of households, comprise 57.5 percent of the Housing Court's population.

Income

The poverty level of tenants in Housing Court is dramatic. Tenants with incomes below \$10,000 comprise 47.9 percent of the Housing Court population. Only 18 percent of the tenants have incomes over \$25,000.

Table 3-3
Income Levels for Housing Court Respondents

Income Range	Percent	Cumulative Percent
Less than \$2,500	10.9%	10.9%
\$2,501 - \$5,000	13.6%	24.5%
\$5,001 - \$7,500	14.7%	39.2%
\$7,501 - \$10,000	8.7%	47.9%
\$10,001 - \$15,000	9.7%	57.6%
\$15,001 - \$19,000	11.1%	68.7%
\$19,001 - \$25,000	13.3%	82.0%
\$25,001 - \$32,000	8.7%	90.7%
\$32,001 - \$40,000	4.2%	94.9%
\$40,001 - \$53,000	2.9%	97.8%
\$53,000 & Above	2.2%	100.0%

Source: Housing Court Survey

While the income of the tenants surveyed also varied by borough, the income of tenants in Housing Court in all boroughs was well below the median household income in New York City of \$29,823.²¹ The median income for tenants in Housing Court was \$11,082.

Table 3-4
Median Income of Housing Court Respondents²²

Borough	Median Income
Manhattan	\$11,923
Brooklyn	\$11,667
Bronx	\$ 8,512
Queens	\$17,706
Overall	\$11,082

Source: Housing Court Survey

For more detail, see Appendix B.

In addition, as reflected by the zip codes reported by tenants surveyed, tenants in Housing Court are most likely to come from low income neighborhoods within each borough. In Manhattan, tenants in Housing Court were most likely to come from Harlem, East Harlem and Morningside Heights. In the Bronx respondents were mostly from Morris Heights, Highbridge and University Heights. In Queens, Housing Court tenants were most heavily concentrated in Corona and Jamaica. In Brooklyn respondents tended to be from Flatbush, Brownsville and Crown Heights. Zip code distribution is reported in Appendix D.

²¹ U.S. Department of Commerce, 1990 Census Data.

²² Since the data were reported by range, the "average" (or mean) figures are not the best measure of income. This is also true because of the wide range of incomes reported. Therefore, the median income has been computed under the assumption that for those reporting within a given range, their income is spread uniformly throughout the range.

Source of Income

Over half of the tenants who appear in Housing Court reported having been employed within the past year. The distribution of sources of income for the sample is as follows:

Table 3-5
Source of Income of Housing Court Respondents
(By Percentages)

<u>Source of Income</u>	<u>Percent</u>
Employment	56.95%
Public Assistance	30.48%
Social Security	4.98%
Other ²³	3.89%
Disability	3.09%
Veteran's Benefits	0.31%
Retirement Pension	0.30%
TOTAL	100.0%

Source: Housing Court Survey

Most tenants who face eviction in Housing Court are employed, and 68.7% of the households facing eviction have household incomes at or below \$19,000 a year (Table 3-3). Thus, many employed tenants are too poor to afford counsel, and the need for provision of counsel encompasses both people receiving a variety of government benefits and low-income working people.

The percentage of households receiving income from employment and from public assistance varies by borough.

²³ Tenants choosing "Other" as a source of income sometimes referred to the following sources: (1) Unemployment Benefits, (2) Savings, (3) Support From Family or Relatives, (4) Food Stamps, and (5) Proceeds From a Lawsuit.

Table 3-6
Source of Income of Housing Court Respondents
 (by Percentage)

Borough	Income from Employment	Income from Public Assistance	Other
Manhattan	59.89%	27.24%	12.87%
Brooklyn	59.04%	26.73%	14.23%
Queens	75.23%	10.28%	14.49%
Bronx	48.70%	40.87%	10.43%
Overall	56.95%	30.48%	12.57%

Source: Housing Court Survey

Size of Household

When a tenant appears in Housing Court, it is unlikely that he or she is the only person affected by the court's actions. The survey found that the 1,960 tenants interviewed represented 5,848 people. Households ranged in size from one to sixteen people. The average household size was 3.03 people. Therefore, the 300,000 or so Housing Court actions per year affect the lives of nearly a million people.

Table 3-7
Household Size of Housing Court Respondents
 City-Wide

1-Person	2-Person	3-Person	4-Person	5-Person	6-Person	7 Persons	8 or more Persons
19.43%	23.61%	21.99%	17.88%	9.88%	4.31%	1.46%	1.44%

Source: Housing Court Survey

The average number of people per apartment was highest in Brooklyn at 3.19 people per household, followed by the Bronx at 3.07 people per household. Queens (2.89 people per household) and Manhattan (2.71 people per household) tenants reported smaller household sizes. See Appendix C for a breakdown of household size by borough.

Household composition

Children were present in 37.8 percent of the households. These children represent 43.3 percent of the population affected by Housing Court. One or more disabled persons were present in 11.99 percent of the households. Senior citizens were present in 6.68 percent of the sample's households.

Representation by Attorneys

The vast majority of tenants facing eviction in Housing Court must defend their homes during the entire process without the benefit of counsel. Almost all landlords, in contrast, are represented by attorneys when prosecuting eviction proceedings. The data regarding representation are drawn from both the Housing Court survey and the study of Housing Court case files. The methodology of this study is described in Appendix A.

The file study determined that 11.9 percent of the tenants in Housing Court were represented. The tenant interviews similarly showed that 9.4 percent of the tenants were represented by attorneys. Landlords were represented by an attorney in 97.6 percent of the cases. Tenants were least often represented in the Bronx, where landlords were most often represented. Tenants were most likely to be represented by an attorney in Manhattan, but more than eight out of ten tenants were without counsel. Landlords were represented least often in Brooklyn, but still were over eight times more likely to be represented than were tenants.

Table 3-8
Representation Rates For Landlords
And Tenants By Borough

Borough	Tenant Represented Landlord	
Bronx	6.3%	99.5%
Brooklyn	11.5%	95.5%
Manhattan	17.9%	98.9%
Queens	11.4%	96.1%
OVERALL	11.9%	97.6%

Source: Housing Court File Study

The file study thus paints a picture of Housing Court which confirms what can be seen with the naked eye. In the vast majority of cases, a landlord's attorney seeks to evict a low-income tenant of color who has one or more children, and who must defend her home without a lawyer.

PART THREE

THE COSTS AND SAVINGS OF ADOPTING A RIGHT TO COUNSEL IN HOUSING COURT

Preventing Homelessness: Humane and Cost Effective

Government response to the growing number of homeless people has been indefensibly slow. The first efforts were exclusively focused on temporary shelter. The concept of preventing homelessness, rather than responding to it on an ad-hoc crisis basis, did not begin to appear in the language of governmental programs until the late 1980's. By 1989, the United States Department of Housing and Urban Development reported that several cities had begun prevention programs to halt evictions or utility cut-offs through rent, mortgage, and utility assistance programs; and to preserve and expand the availability of affordable housing.²⁴

Compelled by a court order to find adequate emergency shelter for homeless people, New York City officials eventually began to explore programs to prevent homelessness. In the late 1980's, New York City began to recognize that a large number of homeless families had lost their homes as a result of pending or previous Housing Court proceedings. In 1987, the Mayor's Advisory Task Force on the Homeless noted "the potential benefits of expanding the availability of legal services to low-income tenants in eviction proceedings."²⁵

Toward this end, HRA funded pilot projects in the Bronx, Brooklyn and Manhattan to provide legal representation for families eligible for Aid to Families with Dependent Children (AFDC). During the first eighteen months of operation, observers found "these projects...to be an effective method of preventing unnecessary evictions and reducing homelessness, [and] saving the government millions of dollars."²⁶ In a 1990 proposal, HRA acknowledged that "these efforts ...saved 3,600 families from eviction or restored them to apartments from which they had been evicted, a 90% success rate."²⁷

HRA's Homelessness Prevention Project

Based on the pilot programs' successful track record, HRA expanded funding for legal representation to 10,000 cases during fiscal year 1992. In order to qualify, families were required to

²⁴ Department of Housing and Urban Development, Homeless Assistance Policy and Practice in the Nation's Five Largest Cities. Washington: GPO, 1989.

²⁵ City of New York Mayor's Advisory Task Force on the Homeless, "Toward a Comprehensive Policy on Homelessness," February 1987, p. 56.

²⁶ Association of the Bar of the City of NY, Committee on Legal Assistance, Preventing Homelessness through Representation of Tenants Faced With Eviction, The Record of the Association of the Bar of the City of New York, p. 234 (1989).

²⁷ New York City Human Resources Administration, "A Proposal For A Legal Services Program to Prevent Homelessness," October 4, 1990, Executive Summary.

be income-eligible for Emergency Assistance to Families (EAF) and to "be in a housing emergency."²⁸

Under this program, HRA reimburses eligible legal assistance providers at a rate of \$1,200 per case, although even at the time the program was developed, such representation was estimated to cost substantially more.²⁹ The \$1200 fee was based on a hypothetical staffing level consisting of 1 supervising attorney, 4 staff attorneys, 2 paralegals and 3 support staff. The model also assumes that each team can handle as many as 320 EAF-eligible cases per year or 80 per attorney.

The overall cost of expanding the program to represent 10,000 families consists of \$12 million for per-case fees, an additional \$1.48 million for related eviction prevention programs and HRA's administrative costs, and some additional costs absorbed by existing legal services providers. Most of the program's expenses are covered by the federal (50%) and state (25%) governments. New York City assumes only 25% of the cost.

Estimating the Costs of A Right to Counsel Program

The city's HRA program provides a model for determining the costs of implementing a right to counsel in Housing Court. Several factors, such as income eligibility, number of cases and the need for legal counsel, are considered in developing these cost estimates. In order to forecast the cost of providing counsel to indigent tenants, the 1990 income limits for assistance from Legal Aid/Legal Services are used as the income eligibility threshold, since that was the year in which the Housing Court data were collected.³⁰

²⁸ Id., p. 5.

²⁹ Id., pp. 6-8.

³⁰ The 1992 income eligibility figures are as follows:

Table 4-1
Income Limits For Legal Services Representation, 1992

<u>Household Size</u>	<u>Income Limit</u>
1	\$8,513
2	\$11,488
3	\$14,463
4	\$17,438
5	\$20,413
6	\$23,388
7	\$26,363
8	\$29,338
9	\$32,313

Source: "Rules and Regulations," Federal Register, Vol. 57, No. 48, Mar. 11, 1992.

Table 4-2
Income Limits For Legal Services Representation, 1990

Household Size	Income Limit
1	\$7,850.
2	\$10,525.
3	\$13,200.
4	\$15,875.
5	\$18,550.
6	\$21,225.
7	\$23,900.
8	\$26,574.
9	\$29,250.

Source: "Rules and Regulations," Federal Register, Vol. 55, No. 64, Apr. 3, 1990.

The need for counsel may be predicted by the number of tenants who appear in court and have their cases placed on the calendar. The income figures from the Housing Court survey, weighted by number of cases on the calendar of each borough's Housing Court in 1990, may be used to determine the number of eligible tenants.³¹ Based on income guidelines set in 1990, and the Housing Court survey, between 50.3% and 59.5% of the tenants who appear in Housing Court are eligible for Legal Services representation.³²

There were 137,964 cases on the calendar in Housing Court citywide in 1990. The file research found that in 11.9 percent of the cases surveyed, tenants were represented by counsel. Subtracting this 11.9 percent from the total number of cases, it can be assumed that 121,546 households were not represented. Assuming between 50.3% and 59.5% of all tenants in Housing Court are eligible for legal services representation, it can be further assumed that between 61,138 and 72,320 of the 121,546 unrepresented tenants were eligible for Legal Services representation.

In order to ascertain the cost of provision of counsel to all currently unrepresented, income eligible tenants, the figure of 70,000 (a high estimate of the number of unrepresented, income eligible tenants) is multiplied by \$1200.³³ The total cost of counsel would then be approximately

³¹ Income figures were weighted by borough to avoid inaccuracies, because the calendar caseloads in each borough vary in different proportions than the distribution of research interviews.

³² The Housing Court Survey asked for tenant income in ranges of \$5,000. Therefore, within certain ranges, some households are eligible and some are not. Overall eligibility thus ranges from 50.3% to 59.5%.

³³ This figure represents a 1990 per-case reimbursement rate for legal assistance under the HRA project. Particularly in light of declining revenues from the Interest on Lawyers Accounts Program (another major source of funding of civil legal services), this figure may need to be reevaluated.

\$84,000,000 per year.

New York City would not have to bear alone the entire cost of providing counsel at public expense. Most, but not all, of the 70,000 additional households in need of legal assistance will be eligible for some type of shared funding. Under the regulations governing the EAF program, single person households, for example, are not eligible, nor are households that have already received EAF funds within the past year. But under another federally-funded emergency assistance program --- Emergency Assistance to Adults (EAA) --- the City could pay for emergency legal assistance to a large pool of single-person households receiving Supplemental Security Income (SSI) benefits. And the remaining households could be covered by the Emergency Home Relief program, the cost of which is divided evenly between the City and the State. Thus, the percentage of the 70,000 households that could be provided legal assistance through cost-sharing programs is potentially close to 100%.

To illustrate the potential cost reimbursement from other-than-City sources, the chart below estimates cost savings with 100%, 75% and an extremely conservative 50% of the households receiving services pursuant to a cost-sharing public benefits program.

Table 4-3
Cost Reimbursement Comparison

Percentage of households eligible for cost-sharing programs	Number of households eligible for cost-sharing programs (out of 70,000 total households)	Amount of reimbursement to City at 75% of cost for eligible households	Total cost to City of provision of counsel after reimbursement
0.%	\$0	\$0	\$84,000,000.
50.%	\$35,000	\$31,500,000	\$52,500,000.
75.%	\$52,500	\$47,250,000	\$36,750,000.
90.%	\$63,000	\$56,700,000	\$27,300,000.

Cost Savings To The Public

Extending a right to counsel to 70,000 tenants would save money. By far, the largest homelessness-related cost to the City is that of providing shelter. The city estimates that 44 percent of the 11,280 families entering the shelter system annually are homeless due to eviction as the immediately precipitating factor.³⁴ Forty-four percent of 11,280 households is 4,963. Thus, approximately 4,963 households enter the shelter system each year as the immediate result of eviction. In addition, the City estimates that 38% of the households entering family shelters were

³⁴ New York City Department of City Planning, "Comprehensive Housing Affordability Strategy: Federal Fiscal Year 1992," Jan. 1992, ("CHAS"), pp. 27, 33. This is more conservative figure than the 51% figure cited in the DeHavenon report which is discussed in Part 1. Using the 51% figure, savings would be even greater.

forced to leave doubled-up situations.³⁵ If it is estimated conservatively that only 10% of these households became doubled-up as the result of an eviction³⁶, an additional 451 households enter shelters as a result of eviction at some time in the past. As is noted above, the legal intervention pilot projects have had a success rate of 90 percent in keeping families in their homes. If counsel is provided to all eligible tenants, we can assume that 90% of the total of 5,414 whose eviction was the cause of homelessness, or 4,873 households, would retain their homes and not require emergency shelter.

The starting point for an estimate of the number of single individuals who would not be forced into emergency shelter if a right to counsel were provided, is the percentage of individuals who reported that they had previously lived as a primary resident in an apartment or room before entering the emergency shelter system. Based on the City's CHAS, this percentage is 22.7%.³⁷ The number of single individuals who receive temporary emergency shelter from HRA in the course of 1992, was 29,820.³⁸ Thus, the number of households in the course of a year who had been primary residents prior to entering the shelter system is 6,773. Of these individuals, if only half had lost their housing as a result of eviction, 3,387 individuals would have lost their housing as a result of eviction. In addition, of the 5,755 single individuals who had been doubled up, a conservative conjecture as to the number of those individuals who became doubled up as a result of eviction is 10%, or 576 households.³⁹ Thus, an extremely conservative estimate of 3,963 single individuals enter shelters as a result of eviction. Providing legal counsel to these individuals should prevent eviction in 90% of the cases (3,567 individuals).

Provision of counsel to all low-income households facing eviction should thus prevent 4,873 families and 3,567 individuals from seeking emergency shelter each year, and save the City the costs of sheltering these families and individuals. Based on the City's estimates discussed in Part 1, the average cost of sheltering each homeless family is approximately \$24,910 and the average cost of sheltering each homeless individual is \$8,301.⁴⁰ The cost savings in providing shelter to homeless

³⁵ *Id.*, pp. 27, 33.

³⁶ Ten percent of the doubled-up population is a very conservative estimate. According to the CHAS at p. 27, 56% of families requesting shelter had been primary tenants at one point. Thus, in addition to the 44% of all shelter-seekers who had been immediately evicted, 12% of the total shelter-seekers had had their own homes yet had not been evicted immediately prior to entering the shelter system. Ten percent of the 38% previously doubled-up households is only 3.8% of the total number of households seeking shelter and less than a quarter of the households that were previously primary tenants and sought shelter.

³⁷ The City's CHAS found that 1805 out of a total shelter population of 7,943 who were in a shelter on a single night, had lived as a primary resident in an apartment or room prior to entering the emergency shelter system. CHAS, Fiscal Year 1992, New York City, Jan. 1992, p. 30. In other words, 22.7% of the single shelter residents had had homes prior to entering a shelter.

³⁸ This 29,820 figure, representing 24,474 men and 5,346 women was provided on March 17, 1993 by the Bureau of Management Information Systems of the Adult Services Administration of the New York City Human Resources Administration.

³⁹ The number of doubled-up individuals was arrived at by taking the percentage (19.3) of single individuals who, according to the City's CHAS (*id.* at p. 30), were doubled-up immediately prior to entering the shelter system and applying that percentage to the total annual figure of 29,820.

⁴⁰ These figures were arrived at by dividing the total annual cost associated with providing shelter to homeless families and individuals, as set forth in Table 1-1, by the CHAS estimate of the number of homeless families and HRA data on the number of individuals sheltered annually.

families by providing counsel (before deducting the cost of counsel) would therefore be \$121,386,430. Similarly, the cost savings in providing shelter to homeless individuals would be \$29,609,667. The combined savings would be \$150,996,097. After deducting the cost of providing counsel to all income-eligible households, the net cost savings would be \$66,996,097. This figure represents the total cost savings in public dollars realized by providing counsel to all low-income tenants who face eviction. Because of variable reimbursement rates for shelter and counsel, New York City's share of this cost savings could range widely depending on the degree to which the City's costs are reimbursed by the state or federal government.

CONCLUSION

Providing counsel for all tenants who face eviction will no doubt cause a sea change in the operation of the Housing Court. The effects of rectifying the imbalance in representation rates between landlords and tenants cannot be quantified, but are likely to be profound. For example, it is possible that some tenants who do not currently appear in court would appear if they were represented by an attorney and that others would appear earlier in the process. Legal proceedings are intimidating. At present, tenants respond to only about half of the petitions filed in court by landlords. Some of the 150,000 petitions that result in defaults or discontinuances probably reflect tenants who are afraid or are unaware of their legal rights; they meet the landlords' rent demands (which might be inaccurate) or simply abandon their homes. Any number of these tenants may become homeless. Assuring these tenants a right to counsel will help prevent this housing loss and may increase the number of cases actually heard before the court.

Moreover, unrepresented tenants are not likely to raise legal or substantive issues in their defense, giving owners' attorneys a great advantage in court. If indigent tenants are properly represented by attorneys, then apartment or building violations, rent registration and other issues related to the case will be raised.

Tenants who are represented may challenge hazardous living conditions which might otherwise have resulted in abandonment of the apartment, again forcing a family to become homeless.⁴¹ Tenants with counsel would raise issues of repairs and violations, which are typically ignored in non-payment proceedings in court. Shifting the focus of responsibility for housing conditions to the private sector could help save the city millions of dollars in additional shelter costs for families who move as a result of dangerous building conditions.

The very issue of whether or not the tenant owes rent and in what amount will have to be proven by an owner if a tenant is represented. As a practical matter, unrepresented tenants are not often successful in challenging an owner's demand for rent, which is central to the proceeding. The Association of the Bar of the City of New York has recommended that petitions be "more specific and more accurate," because the "Housing Court is burdened by numerous false and frivolous petitions."⁴² Landlords forced to substantiate the demand for rent will be less likely to bring frivolous lawsuits. With an attorney on both sides, more cases will also be settled out of court.

Establishing a right to counsel for tenants in Housing Court would save approximately \$67

⁴¹ In New York State, the Warranty of Habitability Law (§ 235-b of the Real Property Actions and Proceedings Law) requires landlords to maintain their buildings free of conditions dangerous to life, health and safety. A tenant whose apartment or building is in poor condition may withhold rent in order to force the landlord to correct the violations of this warranty. According to the Housing Court file study, tenants who were represented by attorneys were more likely to raise the issue of building conditions than unrepresented tenants. Tenants who had attorneys raised this issue in 48.6% of the cases; tenants without attorneys raised this issue in 22.4% of the cases.

⁴² The Association of the Bar of the City of New York, the Committee on Legal Assistance, Pro Bono - The Participation of the Private Bar in the Legal Representation of the Poor: Three Case Studies, June 1988, p. 101.

million in annual shelter costs and spare thousands of families the hardship of life on the street or in shelters, and the frustration of trying to find safe, low cost apartments in a city where precious few still exist. New York City and its residents, housed and homeless, could only benefit from a plan intended to balance the scales of justice.

APPENDIX A

SURVEY AND CASE FILE RESEARCH METHODS

Introduction

This report includes the results of two research projects, a survey of tenants in Housing Court and a case file study. The methods used for these two studies are detailed below.

1. THE HOUSING COURT SURVEY:

In June, 1990, twelve summer interns and law clerks of the law firm Skadden, Arps, Slate, Meagher & Flom conducted a survey of tenants in New York City Housing Court in four of the city's five boroughs.

a. Structure

The survey was designed to obtain information about whether the tenant was represented by counsel, the tenant's race, the size and composition of the household, the household income and the sources of income for the household.

The survey was designed primarily as a closed end survey with open-ended responses allowed in only a few questions. This allowed for numerous surveys to be conducted by multiple interviewers and for the results to be comparable and easily coded. A copy of the survey instrument is found at the end of this appendix.

b. Survey Method

The survey was available to all respondents in both English and Spanish. Two of the twelve interviewers spoke Spanish. The interviewers were trained by Sue Fox of Arlen Sue Fox, Inc., Eric Weinstock, and attorneys familiar with the Housing Court.

The interviewers were instructed to survey tenants waiting on the lines where tenants file answers to proceedings brought against them. They were instructed to interview as many people as possible in a systematic fashion. If the lines were short, they interviewed all of the people on the line. If the lines were long, they interviewed every other or every third person on line.

c. Distribution of Sample

The interviews took place in New York City's four borough Housing Courts in Manhattan, Brooklyn, Queens and the Bronx. For time and coordination reasons, Staten Island was not included for this survey. Staten Island has a very small percentage of New York City's population and an even smaller percentage of its rental housing stock. The 1,960 surveys were distributed as follows:

Table A-1
Sample By Borough
Number and Percent

Borough	Number of Surveys	Percent of Sample
Manhattan	536	27.4%
Brooklyn	520	26.5%
Queens	214	10.9%
Bronx	690	35.2%
OVERALL	1,960	100.0%

In determining whether the final sample size in each borough is appropriate a comparison must be made to the caseload of the Housing Court. The Housing Court's caseload is given below for the period from January 2, 1990 to December 28, 1990. During this period, there were 327,105 Notices of Petition filed in New York City's Housing Court (excluding Staten Island) of which 134,964 resulted in actual cases added to the court calendar. It is interesting to note that in Queens and Manhattan the number of cases added to the calendar is a lower percentage than the number of petitions filed. In the boroughs with a higher concentration of low income residents, Brooklyn and the Bronx, the filing of a petition was more likely to result in the addition of a case being added to the calendar.

Table A-2
Housing Court Activity
1990

Borough	Percent of Petitions Filed	Percent of cases added to calendar
Manhattan	28.3%	27.9%
Brooklyn	27.7%	31.4%
Queens	17.1%	10.9%
Bronx	26.9%	29.8%
OVERALL	100.0%	100.0%

Source: New York City Housing Court, Clerk's Office, 1990 Activity Report

Comparing the sample with the percent of petitions filed, Queens is understated and the Bronx is overstated in the sample. In comparison to the number of cases added to the calendar, the Bronx is overstated and Brooklyn is understated. Since all of the tenants on line at Housing Court probably had their case added to the calendar, the total figures below have been adjusted accordingly.

d. Number of Responses

The twelve interviewers contacted a total of 2,422 people. Out of this group 339 refused to be interviewed, an 86 percent response rate. The interviewers were instructed to note all persons on line who refused to speak to them. In addition to stressing the need to record all non-respondents during the training sessions, interviewers worked in pairs and were observed for parts of the study. Independent initial tests of the survey instrument by Sue Fox and Eric Weinstock established that a low non-participation rate for the study could be expected. The initial tests and discussions with the interviewers established that the vast majority of people waiting in line were not only willing, but eager to participate in the study. Therefore, the high response rate recorded by the interviewers is thoroughly credible.

The non-response rate varied by borough. However, the different percents do not impact significantly on the results. The highest percentage of non-respondents was in the Queens Housing Court (19.80 percent) which has the smallest volume of the four Housing Courts. The percentage of non-respondents in the Bronx was 13.34 percent, in Brooklyn it was 15.92 percent, and in Manhattan it was 10.16 percent.

e. Data Entry & Verification

At the end of each day, the interviewers filled out a control sheet and placed the survey forms in a separate envelope. The survey forms were initially coded and data entered by interns at Skadden Arps. All computer entries were then verified by Weinstock in order to ensure accuracy and consistency. The original interview sheets are on file at Skadden Arps.

f. Data Analysis

The incomplete survey forms returned constituted a very small percentage of the total surveys conducted. In order to avoid having different respondent counts for each question, it was decided to eliminate incomplete surveys from consideration. This was decided after determining that the elimination would have little if any effect on the percentages reported. Many of the incomplete surveys were the equivalent of non-responses since only one or two minor questions were answered. This adjustment resulted in a reduction in the survey count by 92 surveys. An additional 31 surveys were eliminated for cause (the respondent was a building owner or commercial tenant, or the survey was incorrectly recorded as complete). The final sample which is the basis for the analysis is 1,960 surveys, over 80 percent of the people contacted by the interviewers.

2. THE CASE FILE STUDY

a. Sample

A sample was selected from all cases filed in Brooklyn, Manhattan, Queens and Bronx Housing Courts in 1988. This year was chosen since cases filed in that year were likely to have been resolved by the time that the file research was being conducted. Records for earlier years, in addition to being less relevant to current caseloads, were inaccessible since they had already been sent by the court to its archives. For the four boroughs, a total of 328,820 cases were filed in

Housing Court in 1988. Of these, every 120th case in each borough was selected for the sample, with the first case file index number selected in each borough assigned from a table of random numbers. Only residential nonpayment and holdover cases were selected; commercial nonpayments and holdovers and residential HP actions and 7A cases were excluded. A total of 2,772 files, 0.84 percent of the Housing Court cases, were included in the sample.

b. Training And Interviewer Assignment

Seven law students and legal assistants at Skadden, Arps were trained to use a form for recording file data. After several days of file research, they met again with the trainers in order to clarify any remaining issues and to answer any questions raised based on actual experiences.

The research was carried out in July and August 1990. Researchers were assigned to courts in such a way that each one would work in at least two different courts and each court would have three to four different researchers examining the files. (The Queens Housing Court required only two researchers because of its lower caseload.)

c. Reliability Test And Data Entry

The first researchers to complete their borough assignments were asked to conduct a follow-up review to test the reliability of the data obtained. A subset of the original sample, ten percent of the completed files, was randomly selected for a second review by researchers who had not seen the original data. Forms in the sample were compared to the original forms for each case. After minor disagreements between the samples had been resolved, the level of agreement between researchers was 94.6 percent.

For some of the forms in this test, researchers disagreed about whether there were other papers in the file. Their notes indicated that the "other papers" in question were notices related to the initiation of the lawsuit. These notices were not covered in the training and should have been included in the "no other papers" category.

Two legal assistants who had not been involved in the data gathering were asked to review all field data. In addition to editing the forms to ensure that they were as complete and accurate as possible, they reviewed the comments by researchers. They removed the few commercial cases that field researchers had mistakenly collected and verified the computer data to be sure the database accurately reflected the forms.

d. Data Sought

A copy of the file study instrument is attached to this appendix. Housing Court files should reflect when a warrant has been executed and the tenant is evicted. However, a preliminary test of the data collection form indicated that this information is never in the file. The New York City Department of Investigations (DOI) is the agency with jurisdiction over city marshals. Because of the manner in which this data was kept by DOI in 1990, there was no way to cross-reference evictions with Housing Court files.

In addition to lacking information on whether a warrant was executed, simply determining

whether a warrant had been issued was the single most problematic aspect of the file research, as the researchers found the files in extreme disarray. Depending on the borough or the clerk responsible, the issuance of the warrant may or may not be indicated by a note or code or date stamp on the face or back of a warrant requisition, on other papers inside the file, or on the file cover. In other cases, reviewing the stipulation is the only method for determining whether a warrant was issued.

Researchers were trained to look for all such indicators. In 43.8 percent of all cases where there were papers in the file (other than the documents that initiated the case) the case file researchers indicated that they couldn't determine whether a warrant was issued or they left the space blank. Although it is possible that the missing data mean that no warrant was issued, no firm statement can be made either way.

e. Sample

A total of 2,626 case files were analyzed and entered into the database. The percentage of cases in each borough is listed below in Table A-3.

Table A-3
Sample Distribution By Borough

Borough	Percent of Cases in Sample	Percent of 1988 Cases	Cases in sample
Bronx	27.9%	27.8%	733
Brooklyn	31.2%	30.1%	819
Manhattan	25.3%	26.1%	665
Queens	15.6%	16.0%	409
OVERALL	100.0%	100.0%	2,626

Source: New York City Civil Court Clerk's Office, "Civil Court of the City of New York Case Load Activity Report, January 4, 1988-December 30, 1988"

The sample selection very closely mirrors the actual caseload for the Housing Courts in the selected boroughs. Therefore the data have not been weighted in any way.

APPENDIX B

INCOME DISTRIBUTION OF TENANTS IN HOUSING COURT BY BOROUGH

Table B-1
Income Distribution of Tenants -
Manhattan Court

Income Range	Percent	Cumulative Percent
Less than \$2,500	10.45%	10.45%
\$2,501 - \$5,000	13.62%	24.07%
\$5,001 - \$7,500	13.43%	37.50%
\$7,501 - \$10,000	8.77%	47.27%
\$10,001 - \$15,000	9.70%	55.97%
\$15,001 - \$19,000	10.82%	66.79%
\$19,001 - \$25,000	12.68%	79.47%
\$25,001 - \$32,000	6.72%	86.19%
\$32,001 - \$40,000	6.16%	92.35%
\$40,001 - \$53,000	3.92%	96.27%
\$53,001 & Above	3.73%	100.00%

Table B-2
Income Distribution of Tenants -
Brooklyn Court

Income Range	Percent	Cumulative Percent
Less than \$2,500	11.73%	11.43%
\$2,501 - \$5,000	10.58%	22.31%
\$5,001 - \$7,500	15.19%	37.50%
\$7,501 - \$10,000	8.27%	45.77%
\$10,001 - \$15,000	12.69%	58.46%
\$15,001 - \$19,000	12.12%	70.58%
\$19,001 - \$25,000	11.54%	82.12%
\$25,001 - \$32,000	10.19%	92.31%
\$32,001 - \$40,000	3.46%	95.77%
\$40,001 - \$53,000	2.69%	98.46%
\$53,001 & Above	1.54%	100.00%

Table B-3
Income Distribution of Tenants -
Bronx Court

Income Range	Percent	Cumulative Percent
Less than \$2,500	11.74%	11.74%
\$2,501 - \$5,000	17.54%	29.28%
\$5,001 - \$7,500	16.67%	45.95%
\$7,501 - \$10,000	10.00%	55.95%
\$10,001 - \$15,000	6.67%	62.62%
\$15,001 - \$19,000	8.99%	71.61%
\$19,001 - \$25,000	13.91%	85.52%
\$25,001 - \$32,000	7.39%	92.91%
\$32,001 - \$40,000	3.62%	96.53%
\$40,001 - \$53,000	1.88%	98.41%
\$53,001 & Above	1.59%	100.00%

Table B-4
Income Distribution of Tenants -
Queens Court

Income Range	Percent	Cumulative Percent
Less than \$2,500	5.61%	5.61%
\$2,501 - \$5,000	8.88%	14.49%
\$5,001 - \$7,500	7.94%	22.43%
\$7,501 - \$10,000	5.61%	28.04%
\$10,001 - \$15,000	11.21%	39.25%
\$15,001 - \$19,000	15.89%	55.14%
\$19,001 - \$25,000	17.29%	72.43%
\$25,001 - \$32,000	12.15%	84.58%
\$32,001 - \$40,000	5.61%	90.19%
\$40,001 - \$53,000	6.07%	96.26%
\$53,001 & Above	3.74%	100.00%

APPENDIX C

DISTRIBUTION OF HOUSEHOLD SIZE BY BOROUGH

Table C-1
Household Size - Manhattan
Percentages

1-Person	2-Person	3-Person	4-Person	5-Person	6-Person	7 Persons	8 or more Persons
28.92%	24.07%	19.59%	13.81%	7.28%	4.48%	.75%	1.10%

Table C-2
Household Size - Brooklyn
Percentages

1-Person	2-Person	3-Person	4-Person	5-Person	6-Person	7 Persons	8 or more Persons
18.65%	19.04%	21.73%	22.31%	9.62%	5.19%	1.54%	1.92%

Table C-3
Household Size - Queens
Percentages

1-Person	2-Person	3-Person	4-Person	5-Person	6-Person	7 Persons	8 or more Persons
21.49%	24.77%	22.43%	15.89%	9.35%	3.74%	1.40%	.93%

Table C-4
Household Size - Bronx
Percentages

1-Person	2-Person	3-Person	4-Person	5-Person	6-Person	7 Persons	8 or more Persons
15.22%	27.10%	23.19%	16.38%	11.45%	3.62%	1.74%	1.30%

APPENDIX D

LOCATION OF TENANTS BY ZIP CODE

Table D-1
Manhattan Housing Court
Tenant Location By Zip Code

Zip Code	Number of Tenants	Name of Neighborhood or Post Office
10001	5	Chelsea, Clinton
10002	7	Lower East Side
10003	14	Gramercy Park
10009	14	East Village
10010	6	Murray Hill
10011	11	Chelsea
10012	5	Greenwich Village, Soho
10013	2	Soho, Chinatown, Little Italy
10014	5	Greenwich Village
10016	7	Kips Bay, Murray Hill
10017	1	Midtown East
10018	3	Midtown West
10019	15	Clinton
10020	1	Rockefeller Center
10021	14	Upper East Side
10022	3	Midtown, Sutton Place
10023	8	Upper West Side - Ansonia
10024	18	Upper West Side - Strykers Bay
10025	34	Upper West Side - Columbia U.
10026	37	Central Park North
10027	43	Morningside Heights
10028	3	Upper East Side - Yorkville
10029	45	East Harlem
10030	22	City College
10031	68	Harlem
10032	25	Harlem
10033	12	Washington Heights
10034	19	Inwood
10035	20	East Harlem - Ward's Island
10036	4	Midtown - Times Square
10037	10	East Harlem
10038	2	Financial District
10039	18	Harlem
10040	24	Washington Heights
10044	4	Roosevelt Island
Total	529	

Table D-2
Brooklyn Housing Court
Tenant Location By Zip Code

Zip Code	Number of Tenants	Name of Neighborhood or Post Office
11201	5	Brooklyn Heights
11203	14	Flatbush
11204	8	New Utrecht
11205	17	Fort Greene
11206	11	Williamsburg
11207	25	East New York
11208	11	East New York
11209	4	Bay Ridge
11210	10	Flatbush
11211	10	Williamsburg
11212	37	Brownsville
11213	36	Crown Heights
11214	11	Bath Beach
11215	7	Park Slope
11216	36	Crown Heights/BedStuyvesant
11217	8	Carroll Gardens
11218	8	Kensington
11219	9	Borough Park
11220	9	Sunset Park
11221	28	BedStuyvesant/Bushwick
11222	2	Greenpoint
11223	3	Bensonhurst
11224	17	Coney Island/Sea Gate
11225	29	Crown Heights
11226	73	Flatbush
11228	2	Bay Ridge/Fort Hamilton
11229	2	Gravesend/Gerritsen
11230	8	Parkville
11231	8	South Brooklyn/Red Hook
11232	2	Sunset Park
11233	20	Bedford/Stuyvesant
11234	2	Flatlands
11235	4	Sheepshead Bay/Brighton Beach
11236	9	Canarsie
11237	7	Bushwick
11238	22	Prospect Heights
TOTAL	514	

Table D-3
Bronx Housing Court
Tenant Location By Zip Code

Zip Code	Number of Tenants	Name of Neighborhood or Post Office
10451	26	Yankee Stadium/Lower Concourse
10452	73	Highbridge
10453	86	Morris Heights
10454	15	Mott Haven/Port Morris
10455	12	Mott Haven
10456	65	Melrose/Morrisania
10457	47	Tremont
10458	55	Fordham/Bedford Park
10459	13	East Tremont
10460	41	West Farms/East Tremont
10461	2	Morris Park
10462	16	Parkchester
10463	18	Kingsbridge/Kingsbridge Heights
10464	1	City Island
10465	4	Throgs Neck
10466	16	Wakefield/Williamsbridge
10467	49	Norwood/Botanical Gardens
10468	64	University Heights
10469	8	Williamsbridge/Eastchester
10470	1	Woodlawn
10471	2	Riverdale/Mosholu
10472	25	Soundview
10473	31	Clasons Point/Unionport
10474	8	Hunts Point
10475	1	Eastchester/Coop City
Total	679	

Table D-4
Queens Housing Court
Tenant Location By Zip Code

Zip Code	Number of Tenants	Name of Neighborhood or Post Office
11354	3	Flushing
11355	12	Flushing/Corona
11356	1	College Point
11360	1	Bayside/Whitestone
11361	1	Bayside
11364	2	Auburndale
11365	1	Auburndale
11367	6	Hillcrest/Fresh Meadows
11368	15	Corona
11372	6	Jackson Heights
11373	10	Elmhurst/Rego Park
11374	4	Rego Park
11375	6	Forest Hills
11377	10	Woodside
11379	2	Middle Village
11411	2	Cambria Heights
11412	6	St. Albans
11413	2	Springfield Gardens/Laurelton
11414	2	Howard Beach
11415	3	New Gardens
11418	4	Richmond Hill
11419	2	Richmond Hill
11420	1	South Ozone Park
11421	2	Woodhaven
11422	3	Rosedale
11423	6	Hollis
11427	6	Queens Village
11428	1	Queens Village
11429	1	Cambria Heights/Queens Village
11432	17	Jamaica
11433	3	Jamaica/St. Albans
11434	12	Locust Manor
11435	11	Jamaica
11436	6	South Jamaica
11691	11	Edgemere/Far Rockaway
11692	6	Arverne
11694	2	Seaside/Rockaway Park/Neponsit
11695	1	Foxbury
Total	202	