

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

February 9, 2021

1

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

2

Logistics

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

3

Where we were ...

[MENU](#) | [NEWSLETTER](#) | [SUBSCRIBE](#)

FASTCOMPANY

[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.




4

Where we were ...

[NEXT CITY](#)

[Twitter](#) | [Facebook](#) | [LinkedIn](#) | [RSS](#)


BACKYARD
 NEXT CITY ON HOUSING EQUITY

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

JARED BREY | DECEMBER 10, 2019

[Facebook](#) | [Twitter](#) | [LinkedIn](#)

MOST POPULAR
 A Tale of Two Community Reinvestment Act Proposals

5

Where we are

LAW360
 A LexisNexis Company

News, cases, companies, firms

[PROPERTY](#) | [SECURITIES](#) | [BANKRUPTCY](#) | [COMPETITION](#) | [EMPLOYMENT](#) | [WHITE COLLAR](#) | [LEGAL INDUSTRY](#) | [ACCESS TO JUSTICE](#) | [IN-DEPTH](#) | [LAW360 UK](#) || [SEE ALL 41 SECTIONS](#)

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

6

Where we are

WorldBusinessMarketsBreakingviewsVideoMo

BIG STORY 10
OCTOBER 20, 2020 / 5:13 AM / UPDATED 4 MONTHS AGO

With evictions looming, U.S. cities seek legal help for renters

By Carey L. Biron

8 MIN READ

f

t

7

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 (expected),
 - Cities:** Denver, Los Angeles (possible), Seattle (expected)

8

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 terminations, 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 nonprofits 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	\$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.

9

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

10

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

11

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.



12

Campaign Development Pt. II

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

13

Coalition Building

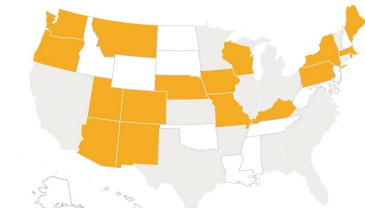
- Formed a coalition made up of tenants, organizer, legal service providers, and other housing/tenant advocates
- Clear structure and decision-making processes. Creating spaces for tenant leaders to lead! And others to have clear roles and ownership
- In organizing process matters!

14

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 data⁸ 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 gray 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.

15

**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)

19

**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.”

20

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

21

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%.

22

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

23

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.

24

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

25

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

26

Cost savings data: Baltimore



27

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.

28

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

29

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?

30

How can a RTC be achieved?

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

31

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?

32

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.

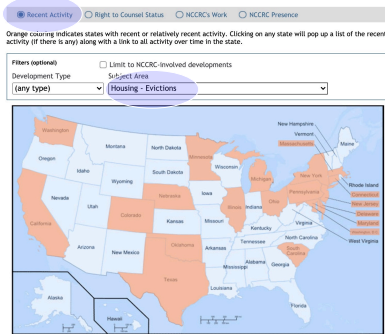
33

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?

34

Seeing the latest developments: civilrighttocounsel.org



35

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 828	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 placement for drug/alcohol treatment such that a guardian ad litem is appointed instead of the public defender.	HB 345 referred to HHH, 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 HHH, JHA, and FIN Committees on 1/27/21. SB 821 referred to HMS and JDC Committees on 1/29/21.

36

Seeing the status of existing RTC laws:
civilrighttocounsel.org

Recent Activity | **Right to Counsel Status** | NCRC's Work | NCRC Presence

Select a subject area from the menu below to see which states provide for appointment of counsel for that subject area. The key explains meanings of the different colors of the states and a tally of the total number of states that fit each type of result. Clicking on any state will pop up a list of the developments on which we base our determination.

Select a subject area for which to compare all states, Total States

Housing - Evictions 0

OR

Select a specific jurisdiction to be taken to a separate page with all information for that jurisdiction.

(choose jurisdiction) 0

Key

- Categorical Right To Counsel 0
- Discretionary Appointment Of Counsel 0
- Right Or Appointment Is Qualified 0
- No Such Proceeding 0

37

Eviction RTC bibliography:
civilrighttocounsel.org

- Specific Areas (878 entries)
 - 11 Men, VII or Common Law Approach (3 entries)
 - Anti-Injunction (3 entries)
 - Appellate Issues (4 entries)
 - Bankruptcy (1 entry)
 - Courts Utilizing Inherent or Supervisory Power (19 entries)
 - Class Actions (5 entries)
 - Consumer or Other Debt Collection (3 entries)
 - Criminal Law Relevant to Civil Right to Counsel (8 entries)
 - Debtor's Prison, (Including Child Support, Contempt) (39 entries)
 - Domestic Violence (30 entries)
 - Education (17 entries)
 - Family Law (187 entries)
 - Federal Law (14 entries)
 - Forfeiture (24 entries)
 - Health (50 entries)
 - Housing (183 entries)
 - All Housing (Evictions and Foreclosures) (17 entries)
 - Evictions (148 entries)
 - Housing Eviction - Cases (8 entries)
 - Housing Eviction - Law Review Articles and Treatises (19 entries)
 - Housing Eviction - Legislation (5 entries)
 - Housing Eviction - Media (41 entries)
 - Housing Eviction - Pilot Projects (11 entries)
 - Housing Eviction - Studies and Reports (64 entries)
 - Foreclosure or Demolition (16 entries)
 - Immigration (198 entries)
 - International Law (41 entries)
 - Juvenile Delinquency (5 entries)
 - Military (1 entry)
 - Race and Gender (9 entries)
 - Sex Offender Commitment or Registration (2 entries)
 - State Action Issue (20 entries)
 - State Constitutional Analysis (3 entries)
 - Sustenance (7 entries)

38

Upcoming RTC webinars

- Session 2:** Baltimore, Feb 16 @ 3 PM ET,
<http://bit.ly/RTCwebinarspt2>
- Session 3:** San Francisco, March 2 @ 3 PM ET,
<http://bit.ly/RTCwebinarspt3>
- Session 4:** New York City, March 16 @ 3 PM ET,
<http://bit.ly/RTCwebinarspt4>
- Session 5:** Cleveland, April 6 @ 3 PM ET,
<http://bit.ly/RTCwebinarspt5>

Coming summer 2021: RTC convening!

39

Questions?

John Pollock
National Coalition for a Civil Right to Counsel
jpollock@publicjustice.org
(410) 400-6954

Pablo Estupiñan
Community Action for Safe Apartments (CASA)
p.estupinan@newsettlement.org
