



# Unequal Burden, Unequal Risk: Households Headed by Black Women Experience Highest Rates of Eviction

Data from Six Months of JPNSI's Eviction Court Monitoring Project

## Introduction

In September of 2019, Jane Place Neighborhood Sustainability Initiative (JPNSI) launched the Eviction Court Monitoring project, as a follow up to the report *New Orleans' Eviction Geography: Results of an Increasing Precarious Market*, the first comprehensive study of evictions through three years of court records in Orleans Parish court. The report, released in March of 2019 in collaboration with Professor Davida Finger of Loyola University New Orleans College of Law, details alarming patterns and concentrations of evictions in New Orleans. Specifically, in 2017, the rate of evictions in New Orleans was double the national average, with 5.2% of renter households facing a court-ordered eviction.<sup>1</sup> Moreover, the report reveals an inequitable eviction burden placed on predominantly Black neighborhoods, with neighborhoods such as Little Woods in New Orleans East, experiencing evictions at rates as high as 10.4% of all renter households.

Court records on evictions, however, are not comprehensive accounts of what occurs in the courtroom. Court records do not include any demographic information, nor do they reflect any of the conversations or proceedings that arise in the courtroom among judges, attorneys, tenants, and landlords. To answer more in-depth questions about who is getting evicted and why, JPNSI developed a tool for community volunteers trained as court monitors to use in eviction court to gather qualitative and quantitative data not reflected in court records.

As of June 1, 2020, eviction filings in Orleans Parish will resume on June 8, 2020, with proceedings underway by June 15. This is despite the ongoing COVID-19 pandemic, during which public health and safety depend on housing access and security. According to a recent report by Apartment List, 33% of renters nationwide did not pay rent on time in May, up from 25% in April. Low-income renters are struggling the most to afford their rent payments, with 41% of households making less than \$25,000 a year reporting that they were unable to pay May's rent.<sup>2</sup> The median household income for renters in New Orleans is \$24,000. Re-opening eviction court during a mounting economic crisis that impacts tenants' ability to pay rent in a city already challenged by unaffordable housing costs will deepen the eviction crisis in New Orleans. Even before the pandemic, rising housing costs made it difficult for renters to make ends meet and keep stably housed, with evictions concentrated in neighborhoods with lower average rents.<sup>3</sup> Stephen Barnes, an associate professor and director of the University of Louisiana Lafayette's Blanco

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<sup>1</sup> Court monitoring can only capture court ordered evictions. Since no reporting system quantifies the magnitude of extrajudicial, informal eviction, the eviction-ordered data set used in this report is a decidedly conservative estimate of the size of the eviction crisis in New Orleans. Harvard sociologist Matthew Desmond, author of the book *Evicted*, conducted extensive interview-based research of tenants in Milwaukee, Wisconsin from 2009 - 2011. He discovered that only 24% of evictions involved court orders, while 48% of evictions were informal--meaning tenants were twice as likely to be evicted without any sort of paper trail evident in public court records. The remaining evictions in Milwaukee during that time period were due to houses being foreclosed upon, or the building being condemned.

<sup>2</sup> Popov, I., Salviati, C., & Warnock, R. (2020, May 13). In May, Even More Americans Missed Their Housing Payments. Retrieved May 20, 2020, from <https://www.apartmentlist.com/rentonomics/may-housing-payments/>

<sup>3</sup> Finger, D., & DeDecker, B. (2019). *New Orleans Eviction Geography: Results of an Increasingly Precarious Housing Market*. Jane Place Neighborhood Sustainability Initiative.

Public Policy Center Director, estimated that roughly 24% of the workforce in the New Orleans Metro Area was unemployed as of May 2, 2020,<sup>4</sup> which is above the estimated national average of 16% unemployment. This indicates New Orleans is especially vulnerable to an economic crisis that is sure to hit those who can least afford it, with estimated job losses hitting low-wage workers in the service and retail industries the hardest.<sup>5</sup>

Data from the first six months of the project shows that renters who are evicted by court order in Orleans Parish are:

- Predominantly Black, with Black women disproportionately impacted by evictions
- Primarily evicted for owing one month's rent or less
- Most appearing without an attorney

The data shows a staggering discrepancy in outcomes between tenants who are represented by counsel in court and those who are not. This paper offers a brief analysis of the data, aiming to show who is likely to face housing insecurity, potential homelessness, and risk of contracting COVID-19 if evictions resume in early June.<sup>6</sup>

## **Why Evictions Matter**

Evictions cause lasting damages to individuals and families that stretch far beyond the eviction hearing in court. Studies show that evictions can lead to job losses, health crises, impact children's school performance, and limit future housing options.<sup>7</sup> Understanding the pervasiveness of evictions in New Orleans and its impact on renter households is crucial, given that the majority of New Orleanians are renters. Renters makeup 53% of the city's population and are often disproportionately cost-burdened. The U.S. Department of Housing and Urban Development (HUD) defines a household as housing cost-burdened if they are paying more than 30% of income towards housing and utilities. In 2017, 63% of renter households in the city were housing cost-burdened, with 37% of renter households being severely cost-burdened, dedicating more than 50% of their income towards housing costs. Severely cost-burdened households are more vulnerable to housing insecurity and eviction in the event of a crisis or unexpected expenses. In New Orleans, 4 out of every 5 cost-burdened renter households are Black.

While the relationship between income, housing cost burden, and evictions is clear, there are other reasons why evictions likely occur. For example, in Louisiana, a tenant may not withhold rent even when the rental home is uninhabitable, a legal strategy used by tenants in other states to force repairs. The American Housing Survey suggests that tens of thousands of rental properties in New Orleans fall below basic habitability standards. These include housing units that have water leaks, pest infestations, electrical wiring hazards, and other issues that impact the health and safety of the renters.<sup>8</sup> If a renter does stop paying rent when, for example, there is no working heat in the winter, the tenant is vulnerable to eviction.

With an eviction on record, a renter's housing options can become restricted, amplifying existing obstacles to safe and affordable housing. If the owner believes that rent was still owed at the time of the eviction,

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<sup>4</sup> Boone, T. (2020, May 8). Baton Rouge, Lafayette, New Orleans' unemployment rates high above national average: report. Retrieved May 20, 2020, from [https://www.theadvocate.com/baton\\_rouge/news/coronavirus/article\\_002ae7b2-9168-11ea-b697-afdddeba33da.html](https://www.theadvocate.com/baton_rouge/news/coronavirus/article_002ae7b2-9168-11ea-b697-afdddeba33da.html)

<sup>5</sup> Habans, R. (2020, April 16). COVID-19 Economic Analysis. Retrieved May 22, 2020, from <https://www.datacenterresearch.org/covid-19-data-and-information/covid-19-economic-analysis/>

<sup>6</sup> Special thanks to Southeast Louisiana Legal Services for assisting with research for this paper, and law intern Brandan Bonds with his research support.

<sup>7</sup> Desmond M., Kimbro, R.T. (2015). Eviction's fallout: housing, hardship, and health. *Social Forces*, 94, 295-324.

<sup>8</sup> U.S. Census Bureau, 2015 American Housing Survey.

they can send the disputed amount to a collection agency as delinquent debt. Landlords can take this action even when the eviction is a retaliatory action against the renter for reporting habitability issues with the unit. Screening companies can locate eviction records and place tenants who have had a court ordered eviction on “do not rent” lists. These lists are sold to property owners or managers so they can screen against tenants who have faced eviction. Renters with evictions on their record are thus often blocked from large percentages of rental housing and forced into less desirable housing options, often in neighborhoods with higher rates of racial and economic segregation.

## **Outcomes**

Evictions in New Orleans are held at First and Second City Courts roughly four days a week, from 10:00 am until noon. Between September 1, 2019 and March 12, 2020, eviction court was in session for approximately 89 days. Court monitors attended eviction hearings approximately two days per week, observing 671 evictions over 29 days, roughly 32.6% of eviction court proceedings.

<b>Overall Outcome</b>	<b>Count of Outcome</b>	<b>Percentage</b>
Tenant Evicted	418	62.3%
Eviction Dismissed	143	21.3%
Consent Judgment	93	13.9%
Eviction Continued	17	2.5%
Total	671	100%

### **Court Ordered Eviction with 24-hour Notice to Vacate**

The majority of tenants in eviction court are evicted, with 62.3% of all cases ending in a court ordered eviction with a 24-hour notice to vacate. If the renter does not leave the premises within 24 hours, the landlord can call the constable to have the tenant’s possessions physically removed. This 24-hour period to vacate does not include weekends, so a tenant who receives a notice to vacate on a Thursday has a little more time to move out of the rental unit than a renter who receives one on a Monday. It is uncommon for tenants to obtain more time to move, with only 17.5% of evicted tenants receiving additional time. Among those tenants, the majority, 53.7%, receive one week or less. Extra time may be asked for by the renter or suggested by the judge, but the landlord does not have to agree to it. Three hundred and forty-five households were given 24 hours to leave their home.

### **Default Judgement**

The majority of evictions were default judgments. A default judgment is where the tenant does not appear in court for the proceeding, thereby allowing the eviction to proceed without challenge. Defaults represent 54.7% of all eviction proceedings, with 367 out of 418 eviction judgments being defaults.

### **Eviction Dismissal**

In some cases, the evictions are dismissed. Dismissals most commonly occur because the tenant cured, or corrected, the underlying reason for the eviction, such as paying overdue rent. Dismissals can also be because the landlord filed the court paperwork incorrectly; the judge does not believe the landlord proved their case; the tenant can provide evidence that the eviction is incorrect; or because the landlord did not come to court. Evictions can be re-filed in some circumstances. Court monitors observed 143 eviction dismissals, or 21.3% of cases.

### **Consent Judgment**

Ninety-three renters or 13.9% of tenants received a consent judgment. A consent judgment is an agreement brokered between the landlord and the tenant. Consent judgments may allow a tenant to remain in an apartment by entering into a payment plan for back rent or may provide an extended timeline for the tenant to move out. Consent judgments are also helpful as they may not show up on a renter's legal record, and they can preserve a tenant's Section 8 voucher or eligibility for public housing.

**Continued**

Lastly, 2.5% of cases were continued, meaning the proceeding was rescheduled for another day.

**Legal Representation**

Tenants with legal representation fare better in eviction court, with far higher rates of cases being dismissed, evictions being kept off of legal records, and in the event of an eviction, brokering more time to locate new housing and move out of the current home.<sup>9</sup>

The only free legal assistance available to low-income renters in New Orleans is at Southeast Louisiana Legal Services (SLLS). The New Orleans office of SLLS currently has limited staff and resources with which to serve the entire metropolitan area, including Orleans, Jefferson, St. Bernard, and St. Charles Parishes. In addition, SLLS is funded by the federal Legal Services Corporation and is therefore restricted from representing renters above a certain income level, undocumented tenants, public housing tenants facing eviction for certain drug-related activities, and others. For these renters, there is currently no way to access free legal representation or legal advice pertaining to evictions in our region.

<b>Overall Outcome, Tenant with Legal Representation</b>	<b>Count of Outcome</b>	<b>Percentage</b>
Tenant Evicted	6	14.6%
Eviction Dismissed	10	24.4%
Consent Judgement	19	46.3%
Eviction Continued	6	14.6%
Total Cases	41	100%

<b>Overall Outcome, Tenant without Legal Representation</b>	<b>Count of Outcome</b>	<b>Percentage</b>
Tenant Evicted	412	65.4%
Eviction Dismissed	133	21.1%
Consent Judgement	74	11.7%
Eviction Continued	11	1.7%
Total Cases	630	100%

While most renters who appear in eviction court do not have legal representation, tenants with legal counsel fared considerably better than those without. Out of the 671 evictions court monitors observed, only 41, or 6.1%, had legal representation. Of those cases, only 14.6% were evicted. The majority of tenants with legal representation, 46.3%, were able to broker a consent judgment. Twenty-four percent had their cases dismissed by the judge, and 14.6% had their hearings continued.

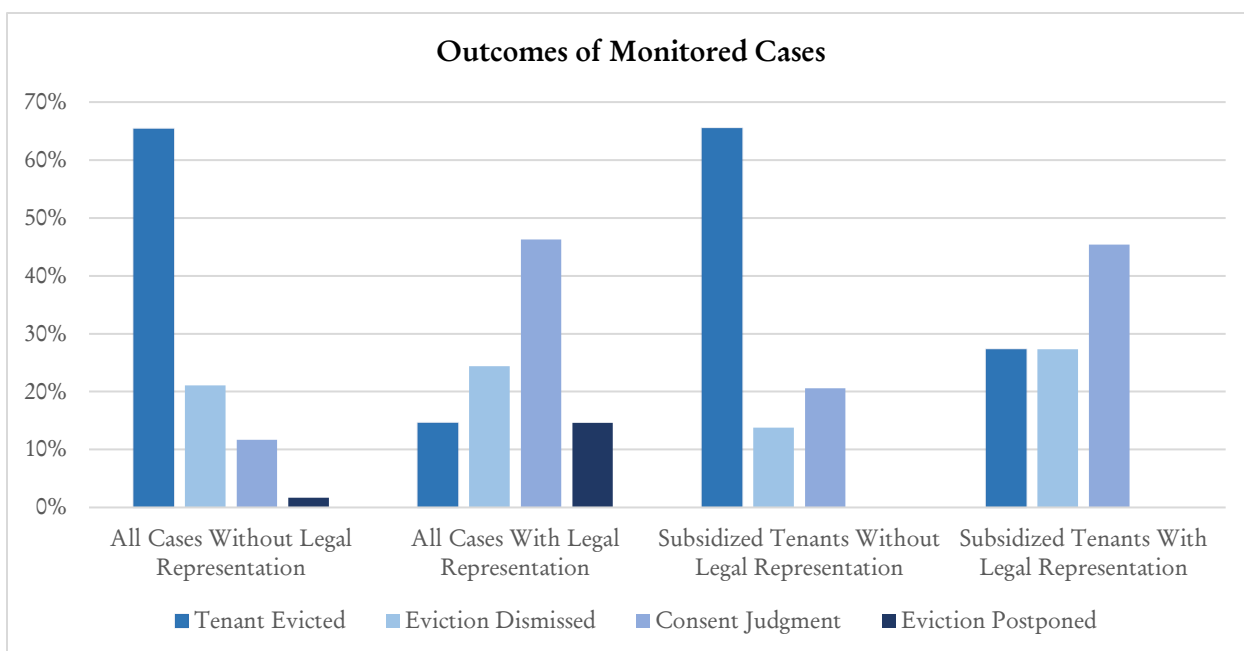
Comparatively, tenants without attorneys were far more likely to receive an eviction judgment. In our study, 65.4% of tenants with no representation received an eviction judgement. Only 11.7% of tenants with no legal representation were able to negotiate a consent judgment. This low rate of consent judgments is especially troubling for tenants living in public housing, with Section 8 vouchers, or living in subsidized housing, as an eviction means they lose access to their subsidy.

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<sup>9</sup> In one case, a lawyer in court managed to broker more time for an elderly Section 8 tenant who was not their client, offering to assist them in finding new housing. The judge mandated that the tenant get an extra week to find an apartment, and issued a consent judgement to keep the eviction off of the tenant's record.

Overall Outcome, Subsidized Tenant with Legal Representation	Count of Outcome	Percentage
Tenant Evicted	3	27.3%
Eviction Dismissed	3	27.3%
Consent Judgement	5	45.5%
Eviction Continued	0	0.0%
Total Cases	11	

Overall Outcome, Subsidized Tenant without Legal Representation	Count of Outcome	Percentage
Tenant Evicted	38	65.5%
Eviction Dismissed	8	13.8%
Consent Judgement	12	20.6%
Eviction Continued	0	0.0%
Total Cases	58	



Court monitors observed a minimum of 67 tenants living in public housing, with a Section 8 voucher, or other subsidized housing in eviction court.<sup>10</sup> Of those renters, only eleven had legal representation. Of the eleven tenants with legal representation, five brokered consent judgments, keeping evictions off of their records; three had their evictions dismissed, allowing them to stay in their current housing; and three were evicted. Of the three renters evicted, one was given over a month to find a new house, one was given one week, and the other was given 24 hours to vacate.

Comparatively, the fifty-eight tenants living in public housing, other subsidized housing, or with Section 8 vouchers who did not have legal representation had much worse outcomes, with thirty-eight, or 65.5%,

<sup>10</sup> It is likely that the reported number of 67 tenants with subsidies is low. Tenants were identified as having a Section 8 voucher, living in public housing, or living in subsidized housing primarily when it was verbally stated in court, or when the landlord was listed as the Housing Authority of New Orleans. Considering the high number of defaults, where nearly no conversation regarding the circumstances of the eviction occurred, as well as the chances that not all tenants with subsidies were verbally identified, it is likely that far more tenants with subsidy passed through eviction court without our monitors being able to capture that information.

receiving eviction judgments. Of the thirty-eight evicted renters, one received two weeks to find a new home, four were given less than one week to find new homes, and thirty-three received a 24-hour notice to vacate. The 65.5% of unrepresented subsidized tenants who received eviction judgments likely lost their subsidy on top of their housing, as eviction is grounds for termination from Section 8 and other subsidy programs.

### Cause for Eviction

Cause for Eviction	Count	Percentage
Non-payment of rent	546	81.3%
Lease violation	78	6.9%
Lease expiration	46	11.6%
Did not list	1	0.1%
Total	671	

Months of nonpayment	Count	Percentage
One	323	59.1%
Two	99	18.1%
Three	42	7.7%
Four or more	42	7.7%
Did not list	40	7.3%
Total	546	100%

The majority of evictions filed were for, or included, non-payment of rent. Of those filings, 59% were filed over one month’s late rent.

### Demographics

Tenant’s Race	Count	Percentage
Black	152	82.2%
White	27	14.6%
Latinx	5	2.7%
Total cases with tenant present and race indicated	185	

The racial demographics of tenants present in eviction court reveals that evictions predominantly impacted Black renters. Court monitors recorded racial and gender data for 185 cases, roughly 27.5% of the overall cases. While 59% of the population in Orleans Parish is Black<sup>11</sup>, 82.2% of eviction proceedings observed by court monitors when a tenant was present involved Black tenants, with 56.8% of eviction proceedings being against Black women. This disproportionate impact on Black renters, especially among Black women, highlights the deep structural inequities of the housing and job markets.

New Orleans is a city of renters. Fifty-three percent of all households in Orleans Parish are renters, with 59% of Black residents renting their homes. Many are housing cost-burdened, with Black households comprising 80% of all housing cost-burdened families. With 71% of all Black households earning less than a living wage<sup>12</sup>, many are vulnerable to housing insecurity due to any economic shock or setback. Equally troubling, Black women in Louisiana face the highest wage gap in the nation, making only 47 cents for every dollar a non-Hispanic white male earns.<sup>13</sup>

### Eviction Hot Spots

<sup>11</sup> Who Lives in New Orleans and Metro Parishes Now? (2019, October 19). Retrieved May 26, 2020, from <https://www.datacenterresearch.org/data-resources/who-lives-in-new-orleans-now/>

<sup>12</sup> Plyer, A., & Gardere, L. (2018, April 11). The New Orleans Prosperity Index: Tricentennial Edition. Retrieved from [https://www.datacenterresearch.org/reports\\_analysis/prosperity-index/](https://www.datacenterresearch.org/reports_analysis/prosperity-index/)

<sup>13</sup> Holmes, M. (2019, August 26). Inequity in pay for Black women highlighted at National forum on gender gap. Retrieved May 28, 2020, from <http://www.louisianaweekly.com/inequity-in-pay-for-black-women-highlighted-at-national-forum-on-gender-gap/>

Our 2019 report, *New Orleans Eviction Geography: Results of an Increasingly Precarious Housing Market*, notes that the largest concentration of evictions in 2017 in Orleans Parish were clustered in several zip codes in New Orleans East. Court monitoring data shows that this continues to be the case. Six of the ten largest evictors are in New Orleans East, while the other four all redeveloped public housing sites. Collectively, these ten complexes represent 34.7% of all eviction proceedings observed by court monitors.

<b>Name</b>	<b>Address</b>	<b>Neighborhood</b>	<b># of Evictions</b>
Lakewind East/Laguna Reserve	5131 Bundy Rd	New Orleans East	58
East Lake/Laguna Run	7001 Martin Drive	New Orleans East	42
Copper Creek/Laguna Creek	6881 Parc Brittany	New Orleans East	27
Chenault Creek/Carmel Brook	12345 I-10 Service Road	New Orleans East	23
Wind Run/Carmel Spring	12151 I-10 Service Road	New Orleans East	22
Bienville Basin/Iberville	401 Treme Street	Treme	18
Harmony Oaks/Magnolia	3320 Clara Street	Central City	15
Willowbrook Apartments	7001 Bundy Rd	New Orleans East	12
Marrero Commons/BW Cooper	3353 MLK Jr Blvd	Central City	8
River Gardens/St. Thomas	530 St. Andrew	Lower Garden District	8
Total			233

Tenants residing in all ten of these properties are protected from eviction by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, which was signed into law on March 27, 2020. Protected renters include those who live in nearly all properties that participate in federal subsidy programs, including the properties that participate in the Housing Choice Voucher or “Section 8” program, public housing, Low

Income Housing Tax Credit properties, and Permanent Supportive Housing. The CARES Act also protects renters who live in properties with federally backed mortgages. While this data is publicly available for larger multifamily buildings, it is still hidden in databases that are mostly unknown to anyone but affordable housing practitioners and advocates. The CARES Act forbids owners of these properties from filing an eviction for non-payment, charging late fees, or issuing a notice to vacate for any reason until July 25. It also requires all notices to vacate to provide 30 days before filing for eviction, which effectively prohibits eviction filings until August 24.

Court monitors recorded a minimum of 269 eviction proceedings against properties covered by the CARES Act, representing 40.1% of all cases. However, this is an extremely conservative estimated percentage of covered properties. Advocates have used federal databases to estimate that at least 48% of all rental units in New Orleans are covered by the CARES Act and we should expect these units serving lower-income people to be overrepresented in eviction court.<sup>14</sup> It is impossible to check privately owned homes' mortgage records to see if Fannie Mae or Freddie Mac federally backs them. This information is entirely unavailable because looking it up requires the last four digits of the property owners' social security number. Moreover, all renters living in buildings where any other tenant has a Section 8 voucher are protected. If a property has four apartments and one renter has a voucher, the other three tenants are also protected from eviction. There are no public records available of which properties in Orleans Parish currently have Section 8 vouchers in use on the property. Thus, making it impossible to estimate how many evictions were filed in apartment complexes or in smaller doubles, triplexes, or fourplexes that would be forbidden under the CARES Act. With 17,729 voucher households in the city, there is a significant protective effect amongst direct neighbors of voucher households.

## **Conclusion & Recommendations**

Evictions in New Orleans were already at a crisis level before the pandemic struck, with Black women in particular, and Black residents in general bearing the brunt of the negative consequences of evictions and displacement. Neither the federal, state, nor local government has adequately addressed the widespread economic disruption caused by COVID-19, especially when it comes to housing support for individuals and families most at risk of displacement by eviction. The federal government has not passed emergency rental assistance, nor have they answered calls from housing justice organizations and communities around the country to cancel rent and mortgages. Stimulus checks have most likely been spent, and many households were ineligible to receive the funds. The City of New Orleans's rental assistance fund, which could support 600 households with \$500 in rental funds, has been exhausted. The philanthropic community has responded with direct support funds for residents. Still, philanthropy is not structured for ongoing direct aid, nor do they have the depths of resources needed to address the needs created by the deep structural inequities of our economy.

Court monitoring reveals who is most at risk of court-ordered eviction before the onset of the COVID-19 pandemic—households headed by Black women. While the economic crisis certainly means that renters who were previously not at risk of eviction are now struggling to pay rent, the underlying systemic inequalities in New Orleans ensures that a disproportionate number of Black households will face eviction

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<sup>14</sup>Broad Coalition Urges Judges to Ensure No One is Forced from Their Home Through August. (2020, April 24). Retrieved June 1, 2020, from <https://lafairhousing.org/blog/broad-coalition-urges-judges-to-ensure-no-one-is-forced-from-their-home-through-august>



if courts re-open. This is especially troubling considering the high rates of COVID-19 infection and mortality amongst Black residents in Orleans Parish. One of the neighborhoods with the highest COVID-19 infection rates is Little Woods<sup>15</sup>, the same neighborhood found to have the highest eviction rate in our 2019 report. Little Woods' vulnerability to eviction, as well as its vulnerability to COVID-19, illustrates how systemic racism in the economy, the healthcare system, and the housing market amplifies risk and increases harm within predominantly Black communities.

Without immediate and drastic interventions, New Orleans is facing an intertwined housing and health crisis that will put thousands of primarily Black lives at risk of homelessness and contracting a potentially fatal illness. Our recommendations to lessen the impact of evictions during this unprecedented public health crisis are as follows:

### **Keep Eviction Court Closed**

- **Protect all tenants equally.** It is incredibly challenging to estimate what percentage of renters in New Orleans is covered by the CARES Act. This is due to the difficulties accessing information around privately held mortgages, as well as an inability to map which properties have Section 8 vouchers in use. It is imperative to ensure that all renters are protected equally from eviction during this crisis, especially to minimize the risk of improper, illegal evictions from occurring in the courts.
- **Protect working families from eviction.** Keeping courts closed in alignment with federal standards means working families in New Orleans will have time to get back to work as our economy slowly re-opens in the coming months. It also allows the city, state, and federal government to align more resources to ensure that residents in our community can remain stably housed once courts reopen. Opening courts without addressing the reality that thousands of households cannot pay their accumulated rent debt all but guarantees a massive increase in our already high eviction rate.
- **Protect public health by protecting housing security.** The dominant public health strategy for fighting the spread of coronavirus is by staying home. It is imperative to keep courts closed to prevent housing insecurity and homelessness, and prevent further community spread.

### **Enact Right to Counsel**

To improve outcomes for renters in eviction court, New Orleans should implement a Right to Counsel ordinance funding the provision of legal representation for renters. Court monitors observed 630 cases where tenants were not represented. JPNSI estimates that if all 630 unrepresented tenants had access to counsel, only 92 would have been evicted, given the rate of eviction for tenants who did have legal representation. This means 320 households would have been spared eviction.

In a study by the Institute for Research on Poverty that examined eviction lawsuits nationwide, an estimated 90% of landlords have legal representation, while only 10% of tenants do.<sup>16</sup> This has devastating consequences for individuals, communities, and the availability of affordable rental homes more broadly. Recognizing the huge threat that evictions pose to renters, local governments of four large metropolitan

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<sup>15</sup> Adelson, J. (2020, April 21). 'Glaring' racial disparities found in coronavirus infection rates in these New Orleans neighborhoods. Retrieved June 1, 2020, from [https://www.nola.com/news/coronavirus/article\\_0ea8b004-8357-11ea-81e3-ff26d085e141.html](https://www.nola.com/news/coronavirus/article_0ea8b004-8357-11ea-81e3-ff26d085e141.html)

<sup>16</sup> Matthew Desmond, "Unaffordable America: Poverty, housing, and eviction," *Fast Focus* 22 (2015): 1–6, available at <https://www.irp.wisc.edu/publications/fastfocus/pdfs/FF22-2015.pdf>.

cities—New York City, San Francisco, Newark, and Philadelphia—have stepped up to help renters stay in their homes by providing a right to counsel in eviction cases.

- **New York City** became the first U.S. city to establish a right to counsel for low-income renters in eviction cases in 2017. The law, which will be fully implemented by 2022, guarantees full legal representation for renters with incomes at or below 200% of the federal poverty guidelines as well as one-time legal consultations for all renters regardless of income. According to the New York City Department of Social Services, in its first year of implementation, in the first fifteen ZIP codes covered by the new law, 56% of tenants who went to court for eviction proceedings had legal representation, and another 2% received brief assistance or free legal advice.<sup>17</sup> By comparison, the citywide representation rate in eviction cases was 30%—up from just 1% in 2013. Evictions decreased 11% in the ZIP codes covered by the new law, while they decreased only 2% in the rest of the city.<sup>18</sup>
- **San Francisco** became the second U.S. city to implement a right to counsel in eviction cases in June 2018. The measure, known as the No Eviction Without Representation Act, guarantees legal counsel to tenants in eviction lawsuits regardless of their income. The Mayor allotted \$5.8 million to cover the costs of providing legal counsel in these cases to last through the end of the fiscal year 2020. Advocates for the law argued that a right to counsel was needed to reduce San Francisco’s homelessness rate—17% of which is attributed to eviction.<sup>19</sup> In February 2020, the city revealed that the law resulted in a 10% decrease in the filing rate from 2018 to 2019.<sup>20</sup> Two-thirds of renters in eviction court now receive representation, with 67% of represented tenants able to stay in their homes. Eighty percent of Black renters who received representation being able to remain in their homes.<sup>21</sup>
- **Newark** enacted an ordinance sponsored by Mayor Ras Baraka that guarantees counsel to tenants under 200% of the federal poverty level who are facing eviction in December of 2018. The city hired a coordinator for its new Office of Tenant Legal Services, which began accepting applications for tenants seeking legal representation in eviction cases in early June 2018. The city has committed \$400,000 thus far to the new initiative and is seeking additional funding. The city refers eligible applicants to either a pro bono attorney or a legal services provider that contracts with the city.<sup>22</sup>
- **Philadelphia** passed a bill in City Council titled “Legal Representation in Landlord Tenant Court,” providing a right to free legal representation for low-income residents facing eviction proceedings in November of 2019. Historically in Philadelphia, approximately 80% of landlords were

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<sup>17</sup> New York City Department of Social Services, “Universal Access to Legal Services: A Report on Year One of Implementation in New York City” (New York: 2018), available at <https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCL-UA-2018-Report.pdf>.

<sup>18</sup> Oksana Mironova, “NYC Right to Counsel: First year results and potential for expansion,” Community Service Society, March 25, 2019, available at <https://www.cssny.org/news/entry/nyc-right-to-counsel>.

<sup>19</sup> Ida Mojaded, “Tenant Right to Counsel Moves Forward” *SF Weekly*, November 28, 2018, available at <https://www.sfweekly.com/news/tenant-right-to-counsel-moves-forward/>

<sup>20</sup> Mayor’s Office of Housing and Community Development, “Supervisor Dean Preston Hold Hearing on Implementation for Right to Counsel Law” (San Francisco: 2020), available at [http://civilrighttocounsel.org/uploaded\\_files/262/PRESS\\_RELEASE\\_-\\_Supervisor\\_Dean\\_Preston\\_Holds\\_Hearing\\_Monday\\_on\\_Implementation\\_for\\_Right\\_to\\_Counsel\\_Law.pdf](http://civilrighttocounsel.org/uploaded_files/262/PRESS_RELEASE_-_Supervisor_Dean_Preston_Holds_Hearing_Monday_on_Implementation_for_Right_to_Counsel_Law.pdf).

<sup>21</sup> Mayor’s Office of Housing and Community Development, “Supervisor Dean Preston Hold Hearing on Implementation for Right to Counsel Law” (San Francisco: 2020), available at [http://civilrighttocounsel.org/uploaded\\_files/262/PRESS\\_RELEASE\\_-\\_Supervisor\\_Dean\\_Preston\\_Holds\\_Hearing\\_Monday\\_on\\_Implementation\\_for\\_Right\\_to\\_Counsel\\_Law.pdf](http://civilrighttocounsel.org/uploaded_files/262/PRESS_RELEASE_-_Supervisor_Dean_Preston_Holds_Hearing_Monday_on_Implementation_for_Right_to_Counsel_Law.pdf).

<sup>22</sup> Rebecca Panico, “Newark Council Concerned Over Price Tag of ‘Free’ Lawyers for Low-Income Residents Facing Eviction,” TAP into Newark, June 7, 2019, available at

represented by counsel, while tenant representation was estimated between 5 and 11%.<sup>23</sup> The city provides counsel not just for evictions or other tenancy terminations, but also for any proceeding that is the functional equivalent of eviction, or any first-time appeal of such a proceeding. The first-year budget allocates \$2.1 million to the program.<sup>24</sup> Like other localities that have implemented the program to qualify for representation under the law, a Philadelphia tenant must have an annual gross income under 200% of the federal poverty guidelines.

## Cancel Rent & Mortgages

Keeping eviction court closed is necessary to protect public health and housing security, but it is not a sufficient long-term strategy considering the economic crisis facing renters. Households are accumulating rent debts that they will struggle to pay off, and landlords, especially small landlords, cannot afford to absorb all losses. Without addressing renters and landlords' economic needs by canceling rent and mortgage payments, mass evictions will be inevitable when courts reopen. The following recommendations come from Our Homes, Our Health, a collaborative initiative of the National Housing Justice Grassroots Table, including the Center for Popular Democracy, Partnership for Working Families, People's Action, and the Right to the City Alliance.<sup>25</sup>

- **Cancel All Rent, Late Fees, and Debt Related to Failure to Pay Rent.** Renters should not be obliged to pay back rent after rent cancellation is lifted.
- **Cover All Renters.** Apply cancellation universally and without discrimination, to all renters in private and publicly supported housing, regardless of ability to prove financial hardship, and regardless of immigration or criminal legal status, or race, gender, income, or disability. Also cover residents in manufactured homes, single-family homes, and residential hotels.
- **Provide Ample Duration.** Rent cancellation should be in effect both during the declared state of emergency, and even after COVID-19 is under control, for at least 90 days.
- **Include a Rent Freeze and Rent Control.** After rent cancellation is lifted, local and state governments should maintain a temporary rent freeze, followed by rent controls, to promote housing affordability.
- **Suspend Mortgage Payments.** Mortgage payments should be reduced to zero and interest accrual suspended, prioritizing owner-occupied homes, nonprofit affordable housing providers, Project-Based Section 8, HUD housing, LIHTC, and small landlords who are "natural persons," not corporations. Make additional relief available to nonprofit and deed-restricted affordable housing providers, who often face tight margins. Require all landlords accessing mortgage forbearance or forgiveness to cancel rent, and provide automatic lease renewal.

## Reform Landlord/Tenant Laws Statewide

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<sup>23</sup> Steve Volk and Julie Christie, "House Rules," *Philadelphia Weekly*, December 29, 2019, available at [https://philadelphiaweekly.com/house-rules/?\\_thumbnail\\_id=14124](https://philadelphiaweekly.com/house-rules/?_thumbnail_id=14124).

<sup>24</sup> Robert D. Lane Jr, Laura Bottaro Galier, and Kevin Greenberg, "Philadelphia Enacts 'Right to Counsel in Evictions' Law," *The National Law Review*, November 19, 2019, available at <https://www.natlawreview.com/article/philadelphia-enacts-right-to-counsel-evictions-law>.

<sup>25</sup> JPNSI is a member of the Right to the City Alliance and has participated in coalition conversations around the Our Homes, Our Health policy framework and demands.

Much of the work to address the eviction crisis needs to be done at the state level because state landlord-tenant laws govern the eviction process that burdens renters.

- **10-day grace period for renters with unexpected expenses.** If a tenant is late on rent, the landlord must allow renters 10 days to pay in full before they file for an eviction. If the renter is late beyond the terms stipulated within the lease for a second time within six months, the landlord can file for eviction immediately. Similar laws exist in Mississippi and Alabama.
- **Replace 10-day no cause evictions with a standard 30-day notice.** Currently, in Louisiana, landlords can file for a 10-day eviction for no cause against tenants on month to month leases. Thirty days is the national standards for no cause evictions. Given the deep housing crisis affecting New Orleans, tenants facing a 10-day eviction might struggle to find adequate and affordable replacement housing on such short notice.
- **Ensure that a 5-day notice really means 5 days, not immediate eviction.** Many leases include clauses that waive the five-day notice for an eviction. Most tenants either are not aware of the repercussions of that language or do not feel comfortable asking their landlords to remove that language before signing a lease. Louisiana is one of only three states that explicitly allow this waiver. This language should be prohibited.
- **Judicial flexibility for tenants with serious hardships.** Judges should be allowed to delay evictions for up to seven days to prevent undue hardship on the tenant because of severe disability, serious illness, dangerous weather conditions, or other exceptional circumstances. Judges should be allowed to have some discretion on cases in their court.