This workshop was held at the 2018 Equal Justice Conference in San Diego, California.

Title:
New York City's Groundbreaking New Right to Counsel in Evictions: A Critical Piece in the Struggle for Housing Justice

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This session will tell the story of the Right to Counsel Coalition, which launched a successful 3-year campaign to make New York City the first city in the US to guarantee a right to an attorney for tenants facing eviction. Coalition members -- lawyers, advocates and tenants -- will draw insights from their perspectives about how this right is key to fighting for other housing rights, including a right to housing, as well as how to implement a new law in a way that reinforces a right and builds tenant power. They will also share lessons learned from the coalition and the campaign, offering insights for other localities.
The Crisis of Evictions & Right to Counsel

NYC Leads the Way
Why Right to Counsel
Overview of the RTCNYC Coalition: We Won

- Outreach and coalition building
- Mobilization, direct action and advocacy
- Widespread media attention
- Cost benefit analysis
- Development of an implementation plan
RTC TODAY

- Tenants have a right to an attorney in housing court!
- Implemented by zip codes over the next 5 years--fully implemented by 2022
- Zip codes are based on evictions, rent stabilized units and shelter entry
- Over income tenants will have the right to a free consultation
- NYCHA cases outside of housing court will be covered
The Threat of Evictions and RTC in Year One

Bronx:
18,000 cases filed.
1 case for every 4 tenants.

Brooklyn:
9,000 cases filed.
1 case for every 7 tenants.

Manhattan:
7,000 cases filed.
1 case for every 8 tenants.

Staten Island:
1,200 cases filed.
1 case for every 14 tenants.

Queens:
5,000 cases filed.
1 case for every 17 tenants.
The Work Ahead

What the City Will Do:

- Fund attorneys
- Work with the courts to improve systems and processes
- Public relations and Outreach
- Providers are also staffing and training
The Work Ahead

What The Coalition Needs to Do:

- Conduct comprehensive outreach, education and tenant organizing
- Combat landlord harassment
- Monitor the court processes
- Advocate for better systems and neighborhood based models
- Train new lawyers and develop a pipeline of new attorneys
- Evaluate our impact
- Create a Model that Cities across the Nation Can Follow
Lessons from NYC’s Right to Counsel Campaign

History of the Right to Counsel NYC Coalition

New York City’s Housing Court was created in 1974 to handle eviction cases that are brought against tenants, most of whom are low-income people of color. Housing Court has been an instrument of displacement, gentrification and homelessness that has facilitated the loss of affordable housing. The problem has been caused in part by a severe imbalance of power: almost all the landlords have had lawyers representing them, compared to almost none of the tenants. Since the inception of the court, housing advocates and lawyers have been working to make it a place of justice fairness and equity. One reform sought by advocates has been a right to counsel for tenants who face eviction, in order to level the playing field and give tenants a fighting chance to defend their homes and stay in their communities. A litigation effort in the 1970s resulted in increased legal aid funding for housing representation, but not a right to counsel in Housing Court.

In 2012, members of Community Action for Safe Apartments (CASA), a tenants’ rights organizing project in the Southwest Bronx, voted to start a campaign to reform the Bronx Housing Court out of concern about the lack of justice for tenants in Housing Court and the high rate of evictions. A key component of the campaign was the issuance of a report: while there had been many reports about Housing Court reform and access to justice, none were from the perspective of the people who go through Housing Court every day. CASA members decided to take on this task. In partnership with the Community Development Project (CDP) at the Urban Justice Center, they spent a year doing participatory action research and released their report, Tipping the Scales, in March of 2013. The report includes 23 recommendations to improve the Bronx Housing Court, including establishing a right to counsel.

In March of 2014, New York City Councilmembers Mark Levine and Vanessa Gibson introduced Intro 214, a piece of local legislation that would provide a city-funded right to counsel for low-income tenants facing eviction proceedings.

As CASA members and longtime advocates of housing court reform rallied to support this important and critical bill, they recognized the need to build a citywide movement in order for
New York City to become the first place in the nation to establish a right to counsel for tenants facing eviction. They formed the Right to Counsel NYC Coalition, which is made up of advocates, tenants, academics and legal services providers, many of whom have been working on issues of affordable housing, tenant power and reform for decades. The coalition is rooted in principles of equity, humanity, diversity and justice. Its members share the goal that people should have a right to stay in their homes and communities with dignity and respect and that all places that hold eviction proceedings, must be places where justice is applied equitably.

By 2016, the Coalition’s work had begun to pay off: Intro 214 garnered a veto-proof majority of the City Council, as well as the support of key stakeholders that included the City Bar, Chief Judge of the New York Courts, City Comptroller, and borough presidents. New York City increased its funding for housing representation in eviction cases tenfold, to $72 million. Between 2014 and 2016, tenant representation rose from 1 percent to 27 percent, while evictions fell by 24 percent. And on February 12, 2017 Mayor de Blasio announced his support for 214 and for implementing and funding a guarantee of “universal access to counsel” -- legal representation for all low-income tenants facing eviction and legal consultations for all New Yorkers facing eviction regardless of income. The bill was signed into law on August 11, 2017.

The Coalition took the following actions as part of its campaign:

- **Conducting outreach and coalition building:**
  - Took Comptroller Scott Stringer and Public Advocate Tish James on a tour of the Bronx Housing Court;
  - Developed a wide base of supporters, including tenant organizing and advocacy groups, bar associations, unions, advocates for homeless people, advocates for seniors, advocates for disabled people, almost every civil legal services agency in the city, and more;
  - Made presentations to community boards throughout NYC, which resulted in all 42 community boards in Manhattan, Brooklyn and the Bronx, as well as the borough boards in those boroughs passing resolutions in support of a right to counsel.

- **Mobilizing communities:**
  - Put together a [compelling video](#) that featured tenant leaders and cited the statistics that support a right to counsel;
  - Held a day-long forum at New York Law School that drew over 450 people and featured prominent speakers such as then-Chief Judge Jonathan Lippman, New York City Human Resources Administration Commissioner Steven Banks, and many
more. Released a report called “What the Experts are Saying,” citing the findings of this conference;
  o Developed a skit explaining tenants’ experiences in housing court;
  o Held four town halls in four different boroughs, which educated and engaged over 500 tenants and dozens of elected officials about the need for a right to counsel;
  o Maintained an active social media #TenantTuesday and #FactFriday campaign;
  o Organized an interfaith forum at the Mt. Olivet Baptist Church in Harlem with the Interfaith Coalition on Housing and Homelessness that called on the City to move forward with right to counsel as a moral imperative.

● Applying public pressure:
  o Collected close to 7,000 signatures on petitions addressed to the Mayor and Speaker in support of right to counsel, as well as close to 100 signatures to a letter from Faith Leaders throughout the city, urging the Mayor to support Right to Counsel. Organized a press conference on the steps of City Hall that drew more than 150 people, where petitions and the letter were delivered to the Mayor and the Council Speaker;
  o Rallyed and organized a press conference and hearing on the bill, packing the steps and the chambers of City Hall to capacity. Coordinated a diverse set of panelists representing New York City Housing Authority, youth advocates, racial justice and civil rights advocates, women’s rights advocates, international human rights perspectives, health perspectives, labor support and many others, to demonstrate widespread support. After 8 hours of testimony, 78 people testified in support of the legislation and none testified against it. On that day, #RTCNYC trended on Twitter.

● Garnering media appearances and coverage:
  o Reached out to NY Times, resulting in editorial board endorsing the right to counsel;
  o Coalition representatives appeared twice on “Inside City Hall” on NY 1;
  o Received national coverage from Slate, Newsweek, Mother Jones, Baltimore Sun, NY Times, Politico, Next City (Feb. 16), Next City (Feb. 21), Village Voice, Wall Street Journal, Huffington Post, CityLab, Vice, Fast Company, Above the Law, and Truthout
  o Received local coverage from the NY Daily News, the Gothamist, NY Newsday, Metro, City Limits, Village Voice, NY L, WYNC, Gotham Gazette, Harlem World, New York Amsterdam News, NY Law Journal (subscription

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- Supporting the implementation process:
  - Developed a 3-year phase-in plan for right to counsel, taking into consideration the time it will take to develop the infrastructure to expand high quality legal assistance;
  - Developed a logistical plan, with detailed proposals for how right to counsel could be most effectively implemented at every step in the process;
  - Worked with the New York City Bar Association to commission a study, produced by Stout Risius Ross, of the financial costs and savings of implementing the right to counsel. The report found the right to counsel would not only pay for itself but also save the city an additional $320 million/year;
  - Responded to legal issues raised by the city, proposed draft language for amending the legislation, and recruited pro bono assistance with legal research and legislative drafting from some of the city’s top law firms.

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Things to consider when exploring a housing right to counsel campaign

Who are your allies?

As you can see from the list of members, we built a lot of allies. A right to counsel affects almost everyone, so you need the support/consent of all stakeholders, especially because it’s expensive and folks are competitive when it comes to the budget. Having judges on board was really key.

How are you centering the work of tenant organizing?

As you can see above, this campaign was a grassroots organizing campaign with tenants at the center; we don’t think we would have won otherwise. The town hall meetings, mobilizations, petitions, etc., were all to advancing this campaign.

Once the law passed, this was especially critical. In terms of implementation, the city’s approach has been to see this as a court-based model; they are less concerned/focused on everyone who doesn’t show up for court or with the informal evictions that happen through intimidation. Community groups are better positioned to take on those challenges and are focused on all vulnerable tenants, knowing that eviction is a key tool of displacement, harassment and gentrification. If you aren’t in a location with community groups who can do the outreach and education work, this could be really challenging.

What sort of organization will be the focus of advocacy efforts?

At first the internal work of the coalition was fairly informal and was coordinated by key staff of member organizations. It had several committees, such as for research/data, community organizing, and developing a legal services model. After the law passed, we created some more formal structures within the coalition, such as a coordinator position, advisory committee, etc.

Do you have the people/agencies on board who will administer the right to counsel?

- People associated with the courts: this includes judges at all levels, court personnel, social services providers, advocacy groups within the court, etc. In NY, the courts are run by the state but Intro 214-b was a city law. So much of the administrative work, in terms of space, notice, and routing of cases covered by the bill has to be done by the state agency that oversees the court. While many of the judges and leaders of these agencies actively support right to counsel, none of these administrative details were thought through ahead of time, and it is a headache in the beginnings of implementation.
• Legal services providers:

  o While almost every legal services provider was in our coalition, they raised some concerns throughout the process. Legal services providers are accustomed to deciding who receives representation and who doesn’t, and have their own internal cultures about how to choose. Some expressed resistance to the concept that all tenants (as opposed to just those cases they deem have merit) should have an attorney and in fact advanced a deserving vs. undeserving analysis as a way to phase in RTC. We are working on doing workshops, trainings, etc., but this is a potential concern to identify early.

  o Another challenge is capacity: if going from the current model to all income-eligible tenants receiving representation, how many staff would they need? How many supervisors? What space would they need? What kind of trainings? How long will this take?

Who is the opposition?

There was no organizing opposition in New York City; even the landlord bar couldn’t come out opposing due process. We did get some resistance in terms of how much it would cost and whether it was really worth it, who would pay for it, whether it would actually stop tenants getting evicted anyway, and so on. See our Frequently Asked Questions page for some responses to these concerns.

What implementation questions have to be answered?

Our advice: start thinking about implementation as early as possible! The work of implementation and oversight is enormous, so don’t overestimate it!! Also, the answers to implementation questions are necessary in order to produce any kind of cost/benefit analysis.

After developing a set of principles and fact sheet (in multiple languages) in order to guide the implementation process, we met with advocacy, legal services groups, tenant organizing groups, and others throughout the city to explain them and ask for them to sign on, because even if they aren’t part of the coalition, they and their members will be affected by a right to counsel, so we wanted to make sure we had a really broad consensus about implementation.

Some specific implementation questions you’ll have to answer include:

What kinds of cases will be covered?
In New York City, eviction proceedings happen in many different venues: for instance, they occur in court but also in the administrative context. Since the legislation said “eviction proceedings” we thought we were on the same page with the City about covering all eviction cases, but this turned out not to be the case. We should have been much clearer in all of our messaging and materials about this. We ended up getting public housing tenants covered, but not exactly how we wanted, and other kinds of cases are still excluded.

Also, the bill only covers eviction defense cases, where tenants are the respondents. It doesn’t cover affirmative cases, such as harassment, discrimination, enforcement of the warranty of habitability (i.e., making repairs), and so on. Be really clear about this from the beginning: while we thought we were, many were seeking clarification on this towards the end of the process.

**How do you want it to be phased in over time? How will this be explained to the public?**

We all agree that this new right needs to be phased in due to the nature of the logistical challenges within the court as well as the capacity of the providers; it can’t happen overnight. We developed a phase-in plan by population type (seniors, disabled people, etc.). However, the logistics of implementing, tracking and monitoring with such an approach are pretty impossible. The city’s plan of implementing it by zip code, or neighborhood, was much more logistically feasible. However, there were many debates about this within the coalition, and while we reached consensus, it wasn’t unanimous to do it this way. Additionally, we needed to develop our criteria about how to choose which zip codes. While we did do this (prioritizing zip codes with the highest amount of evictions, rent stabilized units, and shelter entry) the city didn’t adopt all of our priority zip codes, but they might have if we had thought about this more and sooner.

Messaging is and will be a challenge. Internally we understand the need for a phase-in approach, but tenants and the general public invariably get frustrated when they learn it won’t apply to them right away. Because it’s unclear when providers will have capacity and be ready to move on to phase 2, it’s hard to explain it to anyone else.

**What sources of money already exist to support eviction prevention? Which ones do you need to protect from being rolled into a right to counsel?**

This is still being worked out here in NYC. There are multiple city contracts and sources of funding for eviction prevention and the city’s goal is to roll them all into one contract. Some of the contracts cover things outside of right to counsel, like people who are over income, special needs and services, and affirmative litigation. This is a big concern of the providers here.

**If this is being done on the city level, as opposed to the state level, are there any legal issues?**
Historically, virtually all rights to counsel in civil cases have been established at the state level (such is true in all states, not just New York), so Intro 214-b is unusual. As such, legal questions were raised early on about whether the state constitution and the City’s home rule powers gave it the power to enact local legislation governing the Housing Court, and/or whether such legislation might be preempted. Research answered these questions favorably, but it is good to be aware of them.

**What data do you need, and who will analyze it?**

There was already a lot of data that we had for New York City, which was critical for producing the cost/savings report:

- The number of evictions;
- A reasonably reliable figure for the number of tenants that would be income eligible for a right to counsel;
- Number of tenants already receiving counsel either through city spending or from the private bar (i.e., retained counsel);
- The number of families and individuals entering shelters, and the percentage who did so due to eviction (which included factoring in those who entered shelter due to an “informal eviction” such as those voluntarily leaving before an eviction is entered) or leaving an overcrowding situation caused by a past eviction;
- The average shelter stay length (when over a year, it can affect the way shelter costs are calculated)
- Shelter funding broken out at the state, city, and county level (so as to figure out where savings may accrue)
- The percentage of unsheltered homeless who became homeless due to eviction;
- The percentage reduction in ordered evictions when tenants had counsel. We were benefitted greatly from a 2016 report released from the NYC Office of Civil Justice (an entity created by the City in 2014) that showed the City’s investment of $60 million from 2014-2016 had resulted in a 24% drop in evictions.

However, we didn’t have and still don’t have access to data about the number of filings; we only have the number of evictions. This has been a barrier to predicting caseloads, etc. Additionally, there was significant variation as to the cost per case (even at times between service providers), with the range being anywhere from $1,400 to $3,200 per case.

We were fortunate to get a major financial analysis company to produce the cost savings report pro bono; otherwise, it is not clear we would have been able to afford it. Secure such services as early as you can, as such a report can be a real game-changer. It was also critically important to produce a distilled, 2-page version of the report, as we knew most people would not be able to digest the full 27-page report.

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How can you get the media and general public to pay attention to the issue?

We were fortunate that New York City was proposing to do something that no other jurisdiction in the country has done: provide a right to counsel in housing court, as opposed to just increased legal aid funding. As such, the story was very newsworthy. However, the second or third city or state to do so will also be very newsworthy, so pitching the uniqueness of the goal will help. We also benefited from our relationship with Voices for Civil Justice, an organization that exists to raise the profile of civil legal aid in the media. They worked with us to develop a press release and utilized their contacts at many of the major news outlets.

At several times during the campaign, we did coordinated tweet/twitter posts, leading to RTCNYC trending at one point on Twitter. These posts were often shared with others, helping to raise the public profile of the issue.

We developed a number of messaging strategies, including a social media plan (which was used to do coordinated posts to Facebook/Twitter), the Frequently Asked Questions document, profiles of impacted tenants from throughout the city, a list of talking points for coalition representatives, petitions to deliver to policymakers, a communications timeline and much more!

Finally, a number of videos were produced to increase the profile of the issue. For instance, the AARP did a video infographic, and the Coalition produced several advocacy videos.

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WHY A RIGHT: The Right to Counsel and the Ecology of Housing Justice

Andrew Scherer

"[T]he good we secure for ourselves is precarious and uncertain . . . until it is secured for all of us and incorporated into our common life."
– Jane Addams

Introduction

There are many reasons why establishing a right to counsel for low-income tenants who face eviction in New York City would change the lives and communities of its low-income residents for the better and be good for the city. The right to counsel would help people keep their families together and stay in their homes and communities. The right to counsel would stem the loss of affordable housing. It would keep people out of homeless shelters and save them from the trauma and long-term consequences of eviction and homelessness. The right to counsel would address growing economic inequality. And the right to counsel would save government money because the cost of legal assistance would be greatly offset by the savings in keeping families together, preserving communities and preventing homelessness. These points have been made by others, as well as by me, in law review articles and in other writings. Arguably, many of these benefits could be achieved, albeit in the short term and to a lesser degree, by increasing the availability of counsel and not guaranteeing a right. However, this essay addresses the question of why it is so important to establish a right to counsel in eviction proceedings.

The context for this essay is the very real possibility that the New York City Council and Mayor will adopt legislation that would make New York City the first jurisdiction in the United States to...
guarantee a right to counsel for low-income tenants who face eviction. Proposed legislation to that effect has been pending before the New York City Council since 2014, and, as of the time of this writing, the legislation has the support of 41 of the Council’s 51 members. While the legislation has not yet been adopted, the City has responded to the advocacy for a right to counsel by vastly increasing funding for eviction prevention legal assistance. In 2016, the City will quintuple its funding for eviction prevention legal assistance, and a great many more low-income tenants will be able to receive legal help in eviction cases in New York City than ever before.

This vast expansion of funding for eviction prevention legal assistance has led some to question why we need to make access to counsel a “right,” when the City is willing to expand funding and make it easier for low-income New Yorkers to obtain representation. The central point of this essay is that, while an expansion of funding for legal assistance to people facing eviction is enormously helpful, it is not enough to simply increase funding; there are many important and compelling reasons why access to counsel should be a right. A right protects right-holders against government error and unfairness and advances the rule of law. A right protects right-holders’ well-being, security and stability. A right reinforces right-holders’ dignity and respect. A right fosters equality. And perhaps most importantly, a right fundamentally shifts power to the right-holder. And, by increasing fairness in the operations of the Court, improving the status and treatment of tenants, fostering equality and altering the balance of power, the right to counsel would disrupt the existing ecology and bring about concrete changes in the practices of New York City’s Housing Court and the relations between landlords and tenants.

What is a right?

Any discussion of the importance of a right must begin with a working definition of the term, “right.” While the concept of a “right” is commonly understood and, in the United States especially, deeply embedded in history and the national psyche, it’s important to be explicit about the meaning of the term, “right.” The Merriam-Webster Dictionary defines a “right” as including “something to which one has a just claim.” Merriam-Webster defines a “legal right” as “a claim recognized and delimited by law for the purpose of securing it,” and “the interest in a claim . . . for the infringement of which claim the state provides a remedy in its courts of justice.”

It is that enforceability of a remedy in a “court of justice” for violation of a right, that enables a right-holder to derive power from a right, and what distinguishes it from a privilege or a benefit. Thus, while funding an expansion of the availability of counsel to those facing eviction confers an

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7 See, e.g., James H. Hutson, The Emergence of the Modern Concept of a Right in America: The Contribution of Michel Villey, 39 Am. J. JURIS. 185, 186 (1994) (“They assume that the people who stepped off the Mayflower and the Susan Constant brought with them the idea of a right and understood the concept much as we do today. In a typical scholarly assessment two constitutional experts claimed in 1987 that ‘from the beginning, it seems, the language of America has been the language of rights.’”).


important benefit, it does not confer a right or an entitlement, and the benefit can be denied or terminated at will and with impunity.

When access to counsel is dependent on funding, as it is for people who cannot afford to pay for counsel, the true “gatekeeper” for access is the provider of funding for the service. The City of New York has now become the primary funder of legal assistance to low-income tenants who face eviction in the City and in the absence of a right, can choose to continue to provide the funding and continue the service or not. The city and other government and nonprofit funders of legal assistance delegate the gatekeeping task to the nonprofit legal organizations that provide the service, so that when low-income tenants facing eviction are turned away and denied services by the nonprofit providers, they experience the providers as the gatekeepers because they hear the word “no” directly from them. But the providers are merely the instruments; they can only do as much as their available resources allow. The real control over access is held by the funder(s).

When legal assistance becomes a governmentally-recognized-and-provided “right,” a “court of justice,” and not the city or the provider becomes the gatekeeper, and the beneficiary of the right can compel government to provide the assistance or, as in this context, compel the government to fund the provision of the service. This ability to enforce thus represents a fundamental shift of power to people who previously lacked it.

The right to counsel is a “civil right” in the sense that it is a right that pertains to an aspect of our justice system that is understood to be “civil” as opposed to “criminal.” It is also a “civil right” in the sense that it is a right deeply connected to the movement for civil rights, equality and human dignity for all the reasons set forth below. As one legal dictionary definition states, “[a] civil right is an enforceable right or privilege, which if interfered with by another gives rise to an action for injury. Examples of civil rights are freedom of speech, press, and assembly; the right to vote; freedom from involuntary servitude; and the right to equality in public places.” A right not to be deprived of a meaningful opportunity to defend one’s home in the courts because of one’s poverty fosters equality and, in protecting the ability to have a home, protects the ability to exercise many other of the important civil rights, such as the right to vote and the right to equal opportunity in work and education.

Fairness has long been seen as a core element of what constitutes a “right” and there is certainly a general intuitive sense of fairness about having a right to counsel in a civil legal matter with as significant a consequence as eviction from one’s home. When polled, many Americans simply assume that there is a right to counsel in such cases as there is in criminal proceedings. Under the theory of natural rights, the rights we believe we are entitled to as members of society are the rights entitled to recognition. According to the French legal philosopher, Maurice Villey, “[t]o give someone his right (suum jus) meant in the classical world to give him ‘what he deserved,’ ‘his due.’ What was due to the individual in society? His just share (‘le part juste,’ ‘le bon partage’). Here, said Villey, was the meaning of classical natural right: a just or fair share for every individual of society’s benefits and burdens.”


12 Hutson, supra note 7, at 189–90.
This notion that rights are rooted in the human expectation of fair and equitable treatment can be seen in economic terms as well: a framing that is particularly relevant to the right to counsel in eviction matters, where the court conflict balances economic interests and the fundamental need for a roof over one’s head. In the United States, the conventional wisdom, or at least the national mythology, is that we operate with a free market economy, but the reality is quite different. A huge number of interventions by government are constantly at play, affecting economic markets and reapportioning rights and values. This is particularly true with respect to housing, where, among other areas of government intervention, zoning, taxation, banking regulation, transportation policy and rent regulation all profoundly affect real estate value and the ability to have a home. In any event, in theory, to work fairly and equitably, a free market economy depends on “rational cooperation, full information and zero transaction costs.”

Yet, none of these essential elements is even minimally present in eviction proceedings in New York City’s Housing Court. To the contrary, Housing Court is well recognized as being a difficult, hostile environment in which most landlords are represented by counsel who are familiar with the law and the court and most tenants appear without legal help, and where the “transaction cost” for those unrepresented tenants in lost wages, child-care costs, stress and anxiety are exceedingly high. Under an economic approach, legal rights are intended to correct market failures such as these by allocating entitlements. In Housing Court, a right to counsel would foster “rational cooperation, full information and zero transaction costs.”

At a time of increasing economic inequality, seismic transformation of communities through gentrification, rising homelessness and racial tensions, the movement for a right to counsel in eviction proceedings in New York City should come as no surprise. The claim for rights often “percolates up” from communities and movements of people who perceive injustice and lack of fairness in their lives. People thus have an intuitive sense of justice and rights in circumstances in which their lives are affected. This theory is certainly borne out in the right to counsel context in New York City. Scholarly analysis of what it means to have a right is echoed by the sentiments of tenant leaders:

The right to counsel means living in dignity and being treated as a human being, which they don’t do at all. And also, mental well-being. You know, the right to counsel gives you mental well-being. How do you get that? You have a home, you go to sleep and you get peace of mind and you’re able to think out what problems you had the day before and what you’re going to face tomorrow. So that’s a big plus. Also, the right to counsel will stop all the hostile tactics of eviction, of harassment, of overcharging, of the multiple, you know, multiple MCIs, nonservices, cutting down on services, you know, turning off the elevator, not picking up the garbage. It goes on and on, and the right to

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15. Coleman & Kraus, supra note 13, at 1336.

16. See generally Susanna Blankley, The Fight for Justice in Housing Court: From the Bronx to a Right to Counsel for all New York City Tenants, appearing in this volume of IMPACT.

17. For an in-depth discussion of this notion – referred to as “jurisgenesis” – and its adherents, see Michael McCann, The Unbearable Lightness of Rights: On Sociolegal Inquiry in the Global Era, 48 LAW & SOC’Y REV. 245, 248, 256 (2014) (discussing the views of Robert Cover and others about “the persistent proliferation of claims about justice and rights that percolate up from communities and movements in civil society”).
counsel would empower people to be human beings again and stop being abused the way they are. And also, the right to counsel will stop big money from doing gentrification and creating homelessness in the city and the right to counsel will save the city a lot of money by addressing all of these issues because you have shelters, you have all kinds of other mental issues that can go on with people not being able to live in a home. So the right to counsel means peace of mind and well-being and living in dignity as a human being and that’s why we need it.18

What does it mean for people to have a right?

Making something a “right” is transformative in a number of respects. It transforms government behavior by protecting against error and unfairness. It fosters the right-holder’s sense of security and well-being. It grants the right-holder greater dignity and respect. It conveys greater equality. And it transfers greater power to the right-holder.

A right provides protection against government error and unfairness

I saw where even when tenants were right they still had a very good chance of being evicted or might have been evicted for [not] paying a debt that they already paid because they did not know how to present their defenses properly. They did not know their rights, so were not able to win very winnable cases that would’ve been easily won if they had an attorney.19

Rights are generally seen as providing protection against government error and unfairness. Rights cause government to act in a manner that is more deliberative, less arbitrary, more thoughtful; and in so doing, rights foster the rule of law. Due to their common nature, rights affect others around them as well as government actors. As one scholar put it, “[b]y definition, the creation of a right alters not only the status of one individual but also the status of the government and all individuals that the right holder comes into contact with.”20

This alteration of status would certainly be true with the introduction of a right to counsel in eviction proceedings in New York City’s Housing Court. In Housing Court, there are a number of regular players who interact on a daily basis in a relatively closed environment – Judges, court officers, housing agency and other city and state government representatives, landlords, landlord’s lawyers (who represent most of the landlords who appear in court), unrepresented tenants and tenant lawyers (who represent a fraction of the tenants who appear in court). That environment is not only closed, it is relatively static, with patterns of behavior and mutual understandings that have evolved over many years. The ecology of that environment will be greatly disrupted with the introduction of a right to counsel and the resultant changed expectations and understandings and cadre of tenant lawyers who will be there to implement the right.

18 Joseph Cepeda, CASA focus group, Nov. 17, 2015.
19 Fitzroy Christian, CASA focus group, Nov. 17, 2015.
Under New York law, "self-help" eviction is illegal; a landlord must use a court in order to evict.\(^2\)
When tenants appear in court without counsel, they generally do not have the capacity to convey sufficient and relevant information in an acceptable form to enable the court to make a fair decision on the law and the facts. Thus, the right to counsel is a right that checks the power of government by assuring that government has sufficient and relevant information on which to make a decision.

In this sense, rights limit government authority and “the creation of a new individual right might so much affect the power of the Government and strengthen the status of particular individuals that their creation might be fundamentally different than the mere creation of a law.”\(^2\)

I was evicted one time. I lived up on Mosholu Parkway and I did not understand “stipulation.”

[Did you have a lawyer?]
I did not. I thought I knew what I was doing, but it’s not just the money that you have to pay, if they tell you “you have to pay it on Tuesday the 10th,” you do not pay it on Thursday the 14\(^{th}\).
[Right.]
And when they want you out, they want you out.\(^2\)

**A right protects the individual’s well-being, security and stability**

Rights also serve to protect an individual’s well-being, security and stability,\(^2\) and a right to counsel in eviction cases would make an important contribution to the well-being and sense of security and stability of low-income tenants in New York City. The devastating and destabilizing effects of both eviction and the threat of eviction cannot be overstated. In his recent book, *Evicted: Poverty and Profit in the American City*, Professor Matthew Desmond of Harvard University describes in great detail the impact eviction has on low-income households in Milwaukee – homeless shelters and the streets, dilapidated housing and dangerous neighborhoods, depression and illness, and long term developmental consequences for traumatized children.\(^2\) All the evidence shows that representation by counsel prevents evictions.\(^2\) Thus, while the right to counsel will not extinguish evictions entirely, it will reduce them significantly and create a buffer of protection for tenants between having and not having a home. For low-income people, the awareness of that protection would be a relief that fosters their sense of security, stability and well-being. Tenant leaders know this very well:

Everybody that I grew up with, that grew up in that neighborhood, that went to grammar school with me, they have all moved out because of harassment, and they told

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\(^{22}\) McKennett, *supra* note 20, at 209.

\(^{23}\) Gwynn Smalls, CASA focus group, Nov. 17, 2015.


\(^{25}\) See generally MATTHEW DESMOND, EVicted: POVERTY AND PROFIT IN THE AMERICAN CITY (2016).

\(^{26}\) See BOSTON BAR ASSOCIATION TASK FORCE ON THE CIVIL RIGHT TO COUNSEL, *supra* note 11; Carroll Seron et al., The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City’s Housing Court: Results of a Randomized Experiment, 35 LAW & SOC’Y REV. 419 (2001).
me personally “I’m moving out because of harassment.” Not because my rent is $1400 for one bedroom, or my rent is $2400 for a three bedroom, it’s not because of that. I can afford it. It’s just, can’t take harassment. . . .

People won’t be stressed out economically, psychologically, okay, if they have the right to counsel. They won’t miss a day of work, like they do. The right to counsel, you know, will give you the right to be represented correctly and cannot be taken away. A right is a right, okay? . . . It would take away the fear, the ignorance, and the feeling of despair and failure that people have when they go to housing court. Right to counsel would give me peace of mind to live with dignity and even the unfair playing field that landlords play with in Housing Court.

The sanctity of a home where you can have, you know, your sanctity when you come home, unwind and think about how attacking tomorrow’s, you know, problems that are going to confront you and then you could pursue, okay, happiness, and that’s what we’re about, we want to be happy. 27

and:

I believe that if you have a basic need, if you don’t provide food, shelter, and clothing for your children they will take your children away or your child away. So the right to counsel is built on having those principles to protect not only your children but yourself, as well. And so I believe that with the right to counsel it would be more of a battlefield with knowledge against knowledge. Not one that is crippled by not knowing. This way it would keep more people from being tossed out to the street. 28

An important component of one’s sense of well-being is the interest in agency or autonomy, particularly in situations that are difficult or stressful or that are fraught with risk. 29 When people feel they have the ability to make decisions and assert their will, as they would with a right to be represented by counsel when their homes are in jeopardy, they have a greater feeling of agency and autonomy:

I was in housing court at one point back in 2013, two years after my mother had passed away where she was living in NYCHA 30 and I was her primary care provider, and we were going to court because my name wasn’t on the lease. And after going back and forth with the other people that was living in the apartment, I had decided to just leave the apartment and I think it was more stressful with the people than with the Housing Court, but at that time, though, I did not have an attorney to represent me. I did know of succession rights and stuff like that, little things you know, that I tried to educate myself to fight my own battle. However, with NYCHA we don’t have succession rights, I found that out, because the NYCHA has their own set of rules. . . . But I decided just to leave the apartment and I’ve just been floating around and trying to get my head above the water .... It would have made a difference if I’d had an attorney. It would have helped me better educate myself and know my rights to how to keep the apartment and get rid of the other people that was in the apartment, as well... 31

27 Joseph Cepeda, CASA focus group, Nov. 17, 2015.
28 Althea Matthews, CASA focus group, Nov. 17, 2015.
29 Fallon, supra note 24, at 353–54.
30 The New York City Housing Authority.
31 Althea Matthews, CASA focus group, Nov. 17, 2015.
A right reinforces the right-holders’ dignity and respect

The notion that rights confer dignity upon and respect for the rights-holder became a focal point for human rights law in the aftermath of the horrors of World War II. Countries like Germany and, more recently, South Africa, given their history in particular, have focused on the importance of the “dignitary” aspect of rights. However, that notion is very relevant to the movement for a right to counsel in eviction matters.

In the contemporary United States, growing activism in low-income communities of color is drawing attention to incidents of police brutality that reflect that the system of justice is unequal and that the members of those communities are not treated with the dignity and respect they deserve. Much of this activism centers around the police and the criminal justice system, and the “Black Lives Matter” movement has emerged out of that activism as a call for respect and dignity. But a parallel critique can be made of the civil justice system, particularly in Housing Court, where people are effectively denied their right to be heard when they face losing their homes simply because of their poverty and, as a consequence, the brunt of evictions, displacement and homelessness falls disproportionately on low-income communities of color. A right to counsel in eviction proceedings would convey a strong message to those communities of color that their lives, homes and communities matter and will be treated with the dignity and respect they deserve.

Treating all people with dignity and respect is an important social value and an important element of human rights.

Contemporary constitutional law draws from the religious and Kantian conceptions of human dignity and embraces the inherent dignity of all individuals as a legal principle. This modern form of “dignity” necessarily conflicts with and rejects the traditional social view of dignity as a mark of distinction for particular individuals and groups. The endowment of human dignity entitles everyone in modern society to demand equal respect and consideration for his personality from the government as well as from other individuals. The claims of equal dignity are largely normative and serve to ground human rights. Therefore, regardless of whether individuals actually possess equal dignity in some traditional or social sense of being “dignified,” there may be practical reasons for asserting the equality of dignity in order to support basic human rights and avoid the most egregious violations of human rights.

The need for a new order of dignity and respect by establishing a right to counsel is well understood by tenants whose lives are directly affected:

When I went to court I wanted to talk to the judge. The lawyer from the other side, they said “Why would I have to talk to the judge?” I say “I want to talk to the judge. I want to tell my story to the judge,” and they say “No, you cannot talk to the judge.” So I asked the clerk if I can talk to the judge and he go like this, like yes you could do. So, I mentioned that I was missing time from my job and they were putting overcharge in my rent also. I had an overcharge, for long time.

For me, [the right to counsel] is knowing that when you’re about to go before the judge, that you’re not alone. There’s somebody there that can interpret for you, that’s not working.

33 Id. at 207.
34 Evelyn Rivera, CASA focus group, Nov. 17, 2015.
for the lawyer, that is not working for the court, that won’t have an attitude if you say “I can’t read.” That won’t have an attitude if you say, “These numbers don’t figure out. You’re going too fast.” . . . it means that you’re guaranteed somebody for you when you go before that judge and when you come back, and that will help you understand why you’re there in the first place. Because sometimes you just really don’t know.35

With the right to counsel it’s not all about the tenants going up against the landlord in a negative way, it’s going up against the landlord in a positive way and letting the landlord know that we are aware of what the rules and regulations are and we both can abide by those rules, not just that we’re fighting the landlord to try to get on. Some people might think that that’s what the right to counsel is. No . . . The right to counsel, let’s face it, they went to school for this. We did not go to school for this. So it has nothing to do with being ignorant. It has a lot to do with how they were educated in that field. So as tenants we have to have a right to counsel and that right to counsel, attorney, have to be really for the tenants, not siding with landlords.36

A right fosters equal treatment

Ronald Dworkin, the renowned legal scholar, has argued that there is a moral right to be treated as an equal in decision-making processes. While external preferences and political pressures inevitably influence decision-making processes, “our legal system should and does counteract their influence by identifying in advance the interests these preferences are most likely to infringe upon and then providing these interests with special protection. These interests thereby become rights.”37 Dworkin’s thesis is highly relevant to eviction proceedings in which the vast imbalance in money, power, influence and, most importantly, access to counsel or legal firepower, cries out for the special protections required to secure equality in the decision-making process.

The inordinate imbalance in resources, power, influence and access to counsel in Housing Court gives rise to the widely held perception of a need to “level the playing field.”

Well I went to court and then this guy showed up, you know, I’m representing myself and I thought he was gonna help me and he’s like, “Oh, I’m here to help you” and then lo and behold when I get into court it’s him against me.

[So you didn’t have your own lawyer then?]

No, no. At that point I did not have a lawyer, and if I had a lawyer, I would not have been evicted...38

A right fundamentally shifts power to the right-holder

Ultimately, as discussed above, the creation of rights shifts power to the rights-holder and away from government. This concept has been recognized as far back as the Romans.39 When low-income tenants facing eviction have a right to counsel at government expense, they gain power.

35 Gwynn Smalls, CASA focus group, Nov. 17, 2015.
36 Paulette Hew, CASA focus group, Nov. 17, 2015.
38 Joseph Cepeda, CASA focus group, Nov. 17, 2015.
39 Hutson, supra note 7, at 192.
In a very real sense, they gain a power that government gives up when it gives up its discretion to grant or deny legal assistance for any or no reason at all. But they not only gain power within the eviction proceeding itself. The security of knowing that they will have a meaningful opportunity to be heard and that their interests will be protected if they should be brought to court in an eviction proceeding empowers them to organize and assert their rights in their homes and communities. And that empowerment could very well produce results that avert court proceedings altogether by enabling pre-litigation resolution of disputes over housing conditions, rent levels and the like.

You know, we have a right to organize, now we need the right, the human right, of free lawyers in housing court to back up the work of low income people who are organizing.\(^{40}\) A right to counsel, I think would be a very good thing. It would be one step towards empowerment in this great, big city that is about regentrification and it would mean that people could have and feel comfortable about organizing to stay in their homes.\(^{41}\)

### A right will disrupt the ecology of housing justice

By increasing fairness in the operations of the Court, improving the status and treatment of tenants, fostering equality and altering the balance of power, the right to counsel would disrupt the existing ecology and bring about concrete changes in the practices of New York City’s Housing Court and in the relations between landlords and tenants. The current ecology is based on well-established and long-standing expectations and understandings about how things work. Attitudes, behavior and decisions of the tenants, landlords, managing agents, community organizers, landlords’ lawyers, tenants’ lawyers, Housing Court Judges, court clerks, court attorneys and others who participate in the system of housing justice are based on a current set of expectations and understandings. As the core expectations and understandings change, the behavior, attitudes and decisions will change.

We can only speculate as to the kinds of changes that would result from the advent of a right to counsel, but there is broad consensus among those most familiar with Housing Court – the attorneys who practice in the court on behalf of landlords and tenants and the judges who preside in the court – as to at least some of those changes that would affect the court. I did an informal and unscientific poll of about 200 landlord and tenant attorneys as well as Housing Court Judges at the 2015 Jack Newton Lerner Landlord-Tenant Institute at the New York County Lawyers’ Association on October 15, 2015 and there was general agreement among members of the audience that a right to counsel would bring about at least the following changes: with attorneys on both sides, the role of judges would become easier, there would be more decorum in the court and there would be less stress over the complicated role of judges when presiding over proceedings in which one side has legal representation and the other does not; settlements of cases would be more permanent and less likely to be vacated because they would be negotiated between attorneys, leading to fewer “repeat” cases brought and fewer applications for emergency stays (orders to show cause) sought; and there would be greater attempts by landlords and tenants to resolve cases before they result in litigation, and expanded efforts to address public policies that impact on landlord-tenant litigation such as, for example, the availability of government benefits to pay rent.

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\(^{40}\) Jim Fairbanks, CASA focus group, Nov. 17, 2015.

\(^{41}\) Althea Matthews, CASA focus group, Nov. 17, 2015.
Conclusion

No doubt, expansion of funding for eviction-prevention legal assistance is a good thing, and New York City’s huge and growing investment in legal services for tenants will bring positive results. But expansion of funding is a short term measure with doubtful sustainability and it will not cause a fundamental shift in power, attitudes or culture. As one tenant leader put it:

It is good that the city is now providing some funding to protect tenants in areas where landlords may be using methods to push them out and displace them. But that funding can be taken away at the will of the legislature. A right cannot be taken away. It can, but it is a whole lot more difficult to lose that right. So a right to counsel means that the same way people accused of criminal activity automatically have the right to an attorney at their arraignment and they will have one during their trial, the right to counsel in housing court has to do the same thing and this is what we have been asking for. Something that can’t be taken away. Something that can’t be changed with a change of administration that says listen we are not going to fund this program. Because it is a right that will always be financed, will always be funded, will be there always so that the right is protected at all times.\(^{42}\)

Moreover, increased funding for a benefit cannot bring about the shift in power dynamics, the change in the ecology of the court, the security and sense of well-being that would be generated by establishing the right to counsel. Increased funding does not treat people as equals, and does not convey the message of dignity and respect that is so sorely-needed in the city’s low-income communities. For government officials, as for all of us, giving up a power and flexibility is not an easy thing to do; it takes strength and courage. The bold step of establishing a right to counsel would shift power to low-income people from government and would generate a long-overdue recalibration of the balance of power between landlords and tenants in Housing Court and elsewhere. It would have a lasting and transformative effect on the ecology of housing justice.

You know what? They talking about bringing a panda from what country? To come over here...

From China.

From China, for $1 million a year? What? You know, they get money [for that] and an animal is more important than a human life, and that’s sad.\(^{43}\)

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\(^{42}\) Fitzroy Christian, CASA focus group, Nov. 17, 2015.

\(^{43}\) Althea Matthews, CASA focus group, Nov. 17, 2015.
A LOCAL LAW

To amend the administrative code of the city of New York, in relation to providing legal services for tenants who are subject to eviction proceedings

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 13 to read as follows:

CHAPTER 13

PROVISION OF LEGAL SERVICES IN EVICTION PROCEEDINGS

§ 26-1301 Definitions. For the purposes of this chapter, the following terms have the following meanings:

Brief legal assistance. The term “brief legal assistance” means individualized legal assistance provided in a single consultation by a designated organization to a covered individual in connection with a covered proceeding.

Coordinator. The term “coordinator” means the coordinator of the office of civil justice.

Covered individual. The term “covered individual” means a tenant of a rental dwelling unit located in the city, including any tenant in a building operated by the New York city housing authority, who is a respondent in a covered proceeding.
Covered proceeding. The term “covered proceeding” means any summary proceeding in housing court to evict a covered individual, including a summary proceeding to seek possession for the non-payment of rent or a holdover, or an administrative proceeding of the New York city housing authority for termination of tenancy.

Designated citywide languages. The term “designated citywide languages” has the meaning ascribed to such term in section 23-1101.

Designated organization. The term “designated organization” means a not-for-profit organization or association that has the capacity to provide legal services and is designated by the coordinator pursuant to this chapter.

Full legal representation. The term “full legal representation” means ongoing legal representation provided by a designated organization to an income-eligible individual and all legal advice, advocacy, and assistance associated with such representation. Full legal representation includes, but is not limited to, the filing of a notice of appearance on behalf of the income-eligible individual in a covered proceeding.

Housing court. The term “housing court” means the housing part of the New York city civil court.

Income-eligible individual. The term “income-eligible individual” means a covered individual whose annual gross household income is not in excess of 200 percent of the federal poverty guidelines as updated periodically in the federal register by the United States department of health and human services pursuant to subsection (2) of section 9902 of title 42 of the United States code.

Legal services. The term “legal services” means brief legal assistance or full legal representation.
§ 26-1302 Provision of legal services. a. Subject to appropriation, the coordinator shall establish a program to provide access to legal services for covered individuals in covered proceedings in housing court and shall ensure that, no later than July 31, 2022:

1. all covered individuals receive access to brief legal assistance no later than their first scheduled appearance in a covered proceeding in housing court, or as soon thereafter as is practicable; and

2. all income-eligible individuals receive access to full legal representation no later than their first scheduled appearance in a covered proceeding in housing court, or as soon thereafter as is practicable.

b. Subject to appropriation, no later than October 1, 2017, the coordinator shall establish a program to provide access to legal services in administrative proceedings of the New York City housing authority for tenants of buildings operated by the New York City housing authority who have been served with charges in such administrative proceedings for termination of tenancy and shall ensure that, no later than July 31, 2022, all such tenants receive access to such legal services.

c. The coordinator shall estimate annually the expenditures required for each year of implementation of the programs described by subdivisions a and b of this section. Beginning October 1, 2022 and no later than each October 1 thereafter, the coordinator shall publish a summary of any changes to such estimates for expenditures.

d. The coordinator shall annually review the performance of designated organizations.

e. The coordinator shall require each designated organization to identify the geographic areas for which such organization will provide legal services. For each such geographic area, the coordinator shall maintain a list of such organizations that provide such legal services.
f. Any legal services performed by a designated organization pursuant to this chapter shall not supplant, replace, or satisfy any obligations or responsibilities of such designated organization pursuant to any other program, agreement, or contract.

g. Nothing in this chapter or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the city or any agency, official, or employee thereof.

§ 26-1303 Public hearing. a. Following the establishment of the programs described by section 26-1302, the coordinator shall hold one public hearing each year to receive recommendations and feedback about such programs.

b. Such hearing shall be open to the public, and the coordinator shall provide notice of such hearing, no less than 30 days before such hearing, by:

1. posting in the housing court in the designated citywide languages;

2. posting in public offices of the department of social services/human resources administration in the designated citywide languages; and

3. outreach through local media and to each designated organization, local elected officials, the supervising judge of the housing court, and community-based organizations.

c. At such hearing, written and oral testimony may be provided.

d. The coordinator shall cause a transcript of such hearing to be produced and shall post such transcript online no later than 45 days after the meeting.

§ 26-1304 Reporting. a. No later than September 1, 2018 and annually by each September 1 thereafter, the coordinator shall submit to the mayor and the speaker of the council, and post online, a review of the program established pursuant to subdivision a of section 26-1302
information regarding its implementation, to the extent such information is available, including, but not limited to:

1. the estimated number of covered individuals;

2. the number of individuals receiving legal services, disaggregated by the following characteristics of such individuals:
   i. borough and postal code of residence;
   ii. age of head of household;
   iii. household size;
   iv. estimated length of tenancy;
   v. approximate household income;
   vi. receipt of ongoing public assistance at the time such legal services were initiated;
   vii. tenancy in rent-regulated housing; and
   viii. tenancy in housing operated by the New York city housing authority;

3. outcomes immediately following the provision of full legal representation, as applicable and available, including, but not limited to, the number of:
   i. case dispositions allowing individuals to remain in their residence;
   ii. case dispositions requiring individuals to be displaced from their residence; and
   iii. instances where the attorney was discharged or withdrew.

4. non-payment and holdover petitions filed in housing court, warrants of eviction issued in housing court, and residential evictions conducted by city marshals, disaggregated by borough.

b. No later than September 1, 2018 and annually by each September 1 thereafter, the coordinator shall submit to the mayor and the speaker of the council, and post online, a review of
the program established pursuant to subdivision b of section 26-1302 and information regarding its implementation, to the extent such information is available, including, but not limited to:

1. the number of tenants of buildings operated by the New York City housing authority that received legal services pursuant to the program described in such subdivision, disaggregated:
   i. borough and postal code of residence;
   ii. age of head of household;
   iii. household size;
   iv. estimated length of tenancy;
   v. approximate household income;
   vi. receipt of ongoing public assistance at the time such legal services were initiated; and
   vii. type of legal service provided.

2. the outcomes of the proceedings immediately following the provision of such legal services, subject to privacy and confidentiality restrictions, and without disclosing personally identifiable information, disaggregated by the type of legal service provided; and

3. the expenditures for the program described by such subdivision.

§ 26-1305 Rules. The coordinator may promulgate such rules as may be necessary to carry out the purposes of this chapter.

§ 2. This local law takes effect immediately.
Acknowledgments

This report was prepared by the Office of Civil Justice, New York City Human Resources Administration.

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We also want to express our gratitude to the dedicated staff of the legal services community who every day provide valuable legal assistance to New Yorkers in need.

About the Human Resources Administration/Department of Social Services

The New York City Human Resources Administration (HRA)/Department of Social Services (DSS) is the nation’s largest social services agency assisting over three million New Yorkers annually through the administration of more than 12 major public assistance programs, including:

- Economic support and social services for families and individuals through the administration of major benefit programs (Cash Assistance, Supplemental Nutritional Assistance Program benefits [food stamps], Medicaid, and Child Support Services);

- Homelessness prevention assistance, educational, vocational and employment services, assistance for persons with disabilities, services for immigrants, civil legal assistance, and disaster relief; and

- For the most vulnerable New Yorkers: HIV/AIDS Services, Adult Protective Services, Home Care, and programs for survivors of domestic violence.
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Introduction

In June 2015, with the signing of City Council Intro 736-A into law by Mayor Bill de Blasio, New York City’s Office of Civil Justice (OCJ) was created as a part of the New York City Human Resources Administration (HRA)/Department of Social Services (DSS). For the first time, an office was created to oversee and monitor the City-supported civil legal services available to low-income New Yorkers and other residents in need, and to study the impact and effectiveness of the services that are available to New Yorkers as well as the need for such services. OCJ shares HRA’s mission of fighting poverty, reducing income inequality, and addressing homelessness in New York City.

The creation of the Office of Civil Justice accompanies New York City’s unprecedented investment in civil legal services programs for low-income New Yorkers over the past three years. After years of limited funding for legal services in areas like assistance for low-income tenants and immigration legal services, the de Blasio Administration, as well as the City Council, have established and enhanced an array of legal services programs to meet the civil legal needs of New Yorkers involving both specific categories of assistance (e.g., housing, immigration, unemployment) and for discrete populations with specific legal needs (e.g., survivors of domestic violence, seniors).

Now, in New York City’s Fiscal Year 2018, City funding for civil legal services — free or low-cost assistance and advice by lawyers for people with non-criminal legal problems involving basic necessities such as housing, health care, government benefits, and immigration status — is at an all-time high of $142.6 million, of which $135 million is in the OCJ budget. This includes the de Blasio Administration’s commitment of $77 million for legal services for tenants, including funding for the first phase of New York City’s historic Universal Access program which for the first time — and as the first city anywhere in the United States to do so — will make legal assistance available to all tenants facing eviction in Housing Court. $48 million in Administration and Council funding supports an array of immigration legal services programs this year (from widely available legal screenings and advice to full-fledged legal representation for immigrants facing deportation) at a time when securing access to legal protections for immigrant New Yorkers has never been more urgent or important.

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1 In *Gideon v. Wainwright*, 372 U.S. 335 (1963), the United States Supreme Court unanimously ruled that states are required to provide attorneys to criminal defendants who are unable to afford counsel. Under New York State County Law Article 18-b, access to counsel for the indigent is guaranteed in certain other circumstances, including, but not limited to, cases alleging abuse or neglect of children against parents or guardians in the New York City Family Court.

2 This includes $41 million for anti-eviction legal services and $35.7 million for anti-harassment services. It does not include $2.8 million for administrative costs and staff to support legal services.
This report—OCJ’s second, and its first to include a strategic plan for the provision of a variety of civil legal services for low-income New Yorkers—is respectfully submitted with the intention of promoting further discussion and policymaking about the efficient and effective provision of legal assistance, to level the playing field for litigants in the city’s courts, and the promotion of a fair and accessible system of justice for all New Yorkers.
Main Findings

- **In Fiscal Year 2018, New York City’s overall investment in civil legal services for low-income New Yorkers will exceed $142 million, a 28% increase from the year before.** In Fiscal Year 2018, Mayoral funding for civil legal services programs will exceed $100 million for the first time. Taken together with City Council awards of over $29 million administered by the Office of Civil Justice, these investments will fund free legal services for low-income New Yorkers in areas including housing, immigration, benefits access, domestic violence, and other areas of civil legal needs.

- **New York City will be the first city in the United States to provide access to legal services to every tenant facing eviction in court.** In August 2017, New York City enacted Local Law 136, establishing the nation’s first program for universal access to eviction defense legal services in Housing Court and in New York City Housing Authority administrative termination of tenancy proceedings. After a planned five-year phase-in period, this program will at full implementation be supported by a projected $155 million in annual Administration funding and each year is expected to handle a projected 125,000 cases and serve 400,000 New Yorkers facing eviction.

- **Increases in legal services for tenants have led to substantially higher rates of legal representation in areas targeted for assistance and thousands more tenants receiving legal help.** In the ten zip codes across the city that were selected for targeted legal resources in the expanded legal services program, the legal representation rate for tenants facing eviction in Housing Court tripled, increasing from 16% in 2015 to 48% in 2017. HRA’s tenant legal services programs served more than three times the number of households in need in Fiscal Year 2017 — over 23,000 households, including over 70,000 New Yorkers — as these programs did in Fiscal Year 2014. In all, over 180,000 New Yorkers have received legal assistance through HRA’s tenant legal services programs since 2014.

- **As access to legal services for New York City tenants increased, evictions across the city have decreased.** In 2017 residential evictions by city marshals declined by approximately 5% compared to 2016 and are down approximately 27% since 2013 — a period during which New York City substantially increased funding for legal services for low-income tenants. Over the four-year period of 2014 through 2017, an estimated 70,000 New Yorkers remained in their homes as a result of the decreased evictions.
• **Increases in housing legal services continue to have an impact in the courts.** In the Housing Court, the number of eviction cases filed continues to fall, with approximately 17,000 fewer eviction proceedings filed in 2017 than in 2013, a decline of 7%. Warrants of eviction issued by Housing Court judges dropped by 29% over the same period. At the same time, court statistics reflect increased substantive litigation: the number of motions filed in 2016 was 19% higher than in 2014, while emergency orders to show cause declined 16% over the same period.

• **City-funded legal programs served immigrant New Yorkers in approximately 20,000 cases in Fiscal Year 2017, as a result of the sevenfold increase in the City’s overall commitment to immigration legal assistance programs since Fiscal Year 2013.** A continuum of Administration-funded legal services programs (including ActionNYC, the Administration’s Immigrant Opportunity Initiative, and federal Community Services Block Grant–funded services at HRA) provided legal representation, advice, comprehensive legal screenings, and assistance in approximately 15,000 cases in Fiscal Year 2017. Together with Council-funded programs (including the New York Immigrant Family Unity Project, the Immigrant Child Advocate’s Relief Effort, and others), City-funded programs collectively provided legal advice, assistance, and representation in over 20,000 cases in the City’s last fiscal year, a number likely to rise this year as the City increases its funding commitment for immigration-related legal services programs to $48 million in Fiscal Year 2018, a dramatic increase from $7 million in Fiscal Year 2013.

• **The Administration’s immigration legal services programs provided legal representation and advice to immigrant New Yorkers from over 170 countries last fiscal year, and in cases in which immigration authorities rendered decisions on status applications, clients saw their applications granted in approximately 96% of cases.** Immigrant New Yorkers received legal assistance through Administration-funded programs in cases ranging from citizenship and permanent residency applications to asylum matters and removal actions.
Civil Legal Services for Low-Income New Yorkers

In New York City civil legal services are supported by a diverse mix of funding streams including both public and private sources. Local and state governmental support for these services has grown substantially in recent years, while federal funding has declined over time. Although overlapping fiscal years for different levels of government make it challenging to calculate total funding by calendar year, it is clear that New York City funding for civil legal services has increased substantially in the past several years, including nearly triple the amount of New York City funding in Fiscal Year 2018\(^3\) compared to Fiscal Year 2013 (see Figure 1).

Figure 1: Public Funding for Civil Legal Services in New York City, FY2013–FY2018

<table>
<thead>
<tr>
<th></th>
<th>FY13</th>
<th>FY14</th>
<th>FY15</th>
<th>FY16</th>
<th>FY17</th>
<th>FY18</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$22.6</td>
<td>$23.1</td>
<td>$41.9</td>
<td>$50.6</td>
<td>$58.6</td>
<td>$58.6</td>
</tr>
<tr>
<td>New York State</td>
<td>$24.9</td>
<td>$33.9</td>
<td>$11.1</td>
<td>$11.7</td>
<td>$11.7</td>
<td>$11.7*</td>
</tr>
<tr>
<td>New York City</td>
<td>$12.9</td>
<td>$10.9</td>
<td>$75.8</td>
<td>$111.5</td>
<td>$142.6</td>
<td>$212.9</td>
</tr>
</tbody>
</table>

*projected


\(^3\) Unless otherwise noted, “fiscal year” in this Report refers to the New York City fiscal year, which runs from July 1 to June 30 (e.g., Fiscal Year 2018 runs from July 1, 2017 to June 30, 2018).
Note: Amounts reflect the fiscal year for the relevant government entity: Federal Fiscal Year starts October 1; State Fiscal Year starts April 1; and City Fiscal Year starts July 1.

New York City Funding
City governmental funding for civil legal services is primarily allocated through contracts currently administered by OCJ, encompassing baselined programs supported through the Mayoral budget as well as discretionary grants provided to nonprofit organizations by members of the City Council, as discussed further below. As shown in Figure 2, New York City invested more than $111 million in civil legal services in Fiscal Year 2017, an annual budget for civil legal services programs that exceeded $100 million for the first time. In Fiscal Year 2018, this commitment will grow even more to exceed $142 million, representing a 28 percent increase in total City funding for civil legal programs.

Fiscal Year 2018 marks another historic milestone for New York City: civil legal services funding in the Mayoral baseline budget exceeds $100 million for the first time, at $113.0 million. City Council discretionary funding for civil legal programs is likewise at an historical high point at $29.6 million; nearly triple the level of this funding in Fiscal Year 2013.
**New York State Funding for Civil Legal Services**

New York State funds for civil legal services are primarily allocated through two grant programs: Judiciary Civil Legal Services (JCLS) awards administered by the State Office of Court Administration (OCA), and the Interest on Lawyer Account (IOLA) Fund of the State of New York. Total annual Judiciary and IOLA funds for civil legal services granted to providers in New York City more than doubled in the past six years, from $24.9 million in Fiscal Year 2013 to $60.6 million in Fiscal Year 2017, and saw a modest $600,000 increase in Fiscal Year 2018 (see Table 1). This is a result of increased civil legal services funds in the Judiciary budget allocated by Chief Judge Janet DiFiore and former Chief Judge Jonathan Lippman.

Total Judiciary and IOLA funding for legal services in New York City in Fiscal Year 2017 was greater than previously projected; anticipated funding was $58.6 million for the City but with the issuance of actual grants and contracts by OCA and the IOLA fund to cover Fiscal
Year 2017, $60.6 million was ultimately allocated to providers serving New York City residents.

### Table 1: New York State Judiciary Funding Awarded to Civil Legal Service Providers in New York City, FY2013–FY2018

<table>
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<tbody>
<tr>
<td>JCLS</td>
<td>$14.1 million</td>
<td>$21.3 million</td>
<td>$29.3 million</td>
<td>$37.3 million</td>
<td>$47.4 million</td>
<td>$47.4 million</td>
</tr>
<tr>
<td>IOLA*</td>
<td>$10.8 million</td>
<td>$12.5 million</td>
<td>$12.5 million</td>
<td>$13.2 million</td>
<td>$13.2 million</td>
<td>$13.8 million</td>
</tr>
<tr>
<td>Total**</td>
<td>$24.9 million</td>
<td>$33.9 million</td>
<td>$41.9 million</td>
<td>$50.6 million</td>
<td>$60.6 million</td>
<td>$61.2 million</td>
</tr>
</tbody>
</table>

* IOLA awarded 15-month grants for the period January 1, 2012 through March 31, 2013; amount reported for FY2013 has been prorated to reflect 12 months. For the period FY2014 through FY2017, IOLA funds were distributed through two-year contracts. Annual amounts reported here represent 50 percent of the total contract value.
** Amounts may not add up to totals due to rounding.


### OCA’s Judiciary Civil Legal Services Grants

JCLS grants to nonprofit legal services organizations fund assistance for low-income residents with civil legal matters involving four so-called “essentials of life” categories: housing, family matters, subsistence income, and access to health care and education. These grants are the major component of the Judiciary’s $100 million commitment to address the civil legal needs of low-income New York State residents. Per-county funding levels are determined based on the distribution of the state’s low-income residents (those with income at or below 200 percent of the Federal Poverty Guidelines) across New York State’s counties. Based on this method, approximately half of JCLS funding is awarded to providers in New York City, where approximately half of New York State’s low-income population resides.

JCLS funding for New York City–based legal services providers more than doubled between Fiscal Year 2013 and Fiscal Year 2017, from $14.1 million to $47.4 million, and the Judiciary is expected to maintain funding at this level through Fiscal Year 2021 (see Table 1). JCLS grantees in New York City include a diverse group of legal providers and community-based organizations, with some supporting a broad range of legal services and others targeting specific domains or populations. A list of JCLS grantee organizations for 2017–2021 is included at Appendix 1.

In January 2017, statewide JCLS funding reached a total of $85 million. This funding, combined with financial support for the IOLA fund (see following section), amounts to a full
realization of the Judiciary’s $100 million commitment to civil legal assistance in New York State.

**Interest on Lawyer Account Fund**
The Interest on Lawyer Account (IOLA) Fund supports nonprofit organizations that provide legal assistance to low-income people throughout New York State. The IOLA Fund receives money through interest earned on a statewide escrow account. Attorneys in private practice routinely receive funds from clients to be used for future representation. If these funds are substantial, or are intended to be kept for long periods of time, they are customarily deposited in an attorney trust account. However, small or short-term funds are typically held in a statewide, centralized escrow account. Interest income generated by the statewide account is then competitively awarded to civil legal service providers throughout the state via the IOLA Fund. IOLA grantees serve clients in a range of civil legal areas, including housing, immigration, public benefit advocacy, family, education, and consumer law. These organizations provide direct representation, as well as brief advice and pro bono administration.

Because the amount of revenue generated by the IOLA account varies year to year as a result of fluctuations in interest rates and economic conditions (for example, the Fund decreased from $32 million in 2008 to $9 million in 2013), in recent years the Judiciary has provided $15 million annually to stabilize the IOLA Fund. Annual IOLA funding levels for civil legal services awarded to New York City-based providers have thus remained roughly constant in recent years, with funding equivalent to $12.5 million in Fiscal Year 2015 and $13.2 million in Fiscal Year 2016 and Fiscal Year 2017. IOLA grants were recently awarded to New York City providers; funding is expected to increase modestly to $13.8 million for Fiscal Year 2018. A list of NYC-based IOLA grantees for Fiscal Year 2018–19 is included at Appendix 2.

**Other State Initiatives**
The New York State Budget for State Fiscal Year 2018 provides $16.4 million statewide to assist New York State residents with immigration concerns, including $10 million allocated to the Liberty Defense Project, as discussed in greater detail below.

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2. It is unclear how much of this funding is allocated to providers or programs within New York City. This is not included in funding attributed to New York State in Table 1.
Federal Funding for Civil Legal Services

Federal funding for civil legal services is distributed through the Legal Services Corporation. The Legal Services Corporation (LSC) was established by Congress in 1974 as a mechanism for federal funding of civil legal services for low-income families and individuals. LSC awards several categories of grants supporting access to justice in areas such as housing, health, income maintenance, employment, education, and consumer finance. To be eligible for LSC funding, providers must offer a full range of legal aid in a specified service area; the five counties of New York City constitute one service area. Grantees must serve clients whose household income is at or below 125 percent of the Federal Poverty Guidelines.

Federal funding for civil legal services has decreased dramatically over the past two decades. In Federal Fiscal Year (FFY) 1994, LSC had a total national budget of $400 million (in 1994 dollars), which was slashed by over 30 percent in 1996. Despite increases in the years since, after accounting for inflation, FFY2017 federal funding for civil legal services was over 40 percent lower than the FFY1994 allocation. Specifically, in FFY2017, LSC’s total budget was $385 million, roughly the same as in FFY2016, pursuant to the Further Continuing Appropriations Act of 2017.

However, future funding levels for LSC are in jeopardy. While former President Barack Obama’s FFY2017 budget blueprint called for a $475 million award to LSC, which would have represented an increase in support by nearly 25 percent, President Donald Trump’s proposed budgets for both FFY2018 and FFY2019 have called for the elimination of Federal funding for LSC, with just an $18 million award in FFY2019, presumably to be used to conduct a closeout.

Consistent with the federal trends, LSC funding awarded in the New York City service area through its Basic Field Grant program has declined over the past decades. The sole recipient of such funding in New York City is the legal services provider Legal Services NYC. This includes a recent reduction from $17.6 million in 2010 to $11.7 million in 2017. As noted, however, the future status of funding is unclear. If the President’s budget is implemented as proposed, this would mean the loss of a significant portion of the current operating budget for Legal Services NYC, which could mean staffing cuts in the hundreds and could threaten the organization’s ability to provide thousands of low-income households in New York City.

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with free legal assistance. OCJ is monitoring the situation closely to gauge any potential impact on access to legal help for low-income New Yorkers.
Legal Services for New York City Tenants

As discussed in greater detail in last year’s OCJ Annual Report, the de Blasio Administration has created and expanded initiatives that provide access to free legal assistance to tenants facing eviction and other housing-related legal issues a core element of a prevention-first approach to combatting poverty, reducing income inequality, and addressing homelessness. A critical component of the City’s Turning the Tide plan to address homelessness is preventing homelessness before it occurs. This cost-effective and commonsense response to the 115 percent increase between 1994 and 2014 in the number of homeless New Yorkers promotes a fair and equitable justice system. This is particularly true in the City’s Housing Courts, a historically uneven playing field for tenants facing eviction where the majority of landlords have usually been represented by legal counsel but the majority of tenants have not.

Anti-eviction legal services, administered through OCJ’s citywide Homelessness Prevention Law Project (HPLP) and the neighborhood-focused Housing Help Program (a partnership with the Robin Hood Foundation, the Legal Aid Society, and the Mayor’s Fund for the City of New York), are a keystone of the City’s civil legal services initiatives. Under HPLP, OCJ contracts with nonprofit legal services providers to provide free legal representation and advice to low-income tenants facing eviction and other housing legal issues. A list of participating legal services providers is included at Appendix 3.

In Fiscal Year 2017, OCJ, the legal services provider organizations, and the Housing Court collaborated to develop robust and reliable processes for tenants in certain target zip codes who were facing eviction cases to be connected with available free legal counsel. This effort built on the Expanded Legal Services (ELS) program established as part of HPLP. The ELS program was intended to essentially provide universal legal representation for low-income tenants facing eviction from their homes in ten zip codes across the City, targeted because they include the most households at risk of eviction and homelessness as reflected in rates of shelter entry. A list of ELS zip codes is included at Appendix 4.

In Brooklyn, the Bronx, Manhattan, and Queens, OCJ collaborated with Supervising Judges, Resolution Part Judges, and non-judicial staff in each Housing Court, as well as legal services providers to create intake processes that connect tenants in need of legal services with lawyers to provide those services. The courts routed newly calendared cases drawn from the

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10 The Office of Civil Justice 2016 Annual Report may be found online at https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ%202016%20Annual%20Report.pdf
11 The City’s Turning the Tide on Homelessness plan may be found online at http://www1.nyc.gov/assets/hra/downloads/pdf/news/publications/Turning_the_Tide_on_Homelessness.pdf.
target zip codes to their own designated courtrooms. Brooklyn, Manhattan, and Queens have one such courtroom each, and in the Bronx the cases are routed to two designated courtrooms, due to the high volume. Legal service providers have established intake operations close by these designated courtrooms, allowing eligible tenants to access their services in an efficient and effective manner. Legal service providers receive court calendars showing tenants who have court cases in the designated parts on that day. Providers then speak with tenants to offer services and assess their eligibility for programs — all within steps of the courtroom in which the cases are heard. Providers then conduct a brief intake with the tenant and file a notice with the court indicating that the tenant is represented.

To examine the impact of this universal access model on rates of legal representation, OCJ analyzed Housing Court data about eviction cases faced by tenants in the ten targeted zip codes in July through September 2015 (before the launch of the in-court intake program) and July through September 2017 (after the launch of the program and implementation of the in-court intake models in all boroughs except Staten Island). These were the first quarters of Fiscal Years 2016 and 2018, respectively.

The results of this analysis demonstrate a marked increase in the rates of legal representation among tenants in eviction proceedings in these ten zip codes, as set forth in Figure 3 below.
As Figure 3 shows, the percentage of tenants in these geographical zones who had legal representation in their cases in the summer and early fall of 2017 approximately doubled — and in the Bronx, more than tripled — from the same period two years earlier. Substantial increases were seen in cases in the targeted zip codes in each of the four largest boroughs, where program referral and intake processes were reorganized during Fiscal Year 2017. The highest representation rate was in Brooklyn, where 66.0 percent of eviction cases in the two targeted zip codes in that borough involved tenants represented by an attorney in court (up from 32.5 percent two years prior). The largest increase came in the Bronx, where the rate grew from 11.7 percent in 2015 to 46.1 percent in 2017. The lowest rate in 2017 was in Queens, where representation of tenants in eviction cases in the two zip codes targeted in the

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12 This analysis is based on Housing Court data about proceedings in which a scheduled appearance was indicated in the time period and which included information confirming the tenant’s appearance and whether or not the tenant appeared with counsel. Data on cases that contained inconclusive information about whether the tenant had appeared in court on the petition for eviction on the scheduled date was not considered.
borough stood at 20.2 percent (but was nearly twice the rate of 12.3 percent for the same period in 2015).

OCJ has worked with the Housing Court and local legal providers to establish a similar intake process in Staten Island Housing Court that started in December 2017.

In addition to anti-eviction legal services, the Anti-Harassment and Tenant Protection (AHTP) legal services program was launched at HRA by the de Blasio Administration in early 2015. While the anti-eviction legal services programs target tenants who are already involved in Housing Court proceedings, AHTP provides resources for tenant outreach and pre-litigation services with the goal of preventing displacement. AHTP services have been focused on several select neighborhoods across the city that have been identified as posing a high risk for landlord harassment and/or tenant displacement. Legal providers assist tenants facing harassment by unscrupulous landlords through threats, disrepair, pressure tactics, or other conduct across the city. A complete list of AHTP providers and select neighborhoods is included at Appendix 5.

In Fiscal Year 2017, OCJ expanded the reach of these anti-harassment legal services by placing legal staff in all of the City’s Family Justice Centers (FJCs) to protect survivors of domestic and intimate partner violence and their families by providing housing legal assistance and representation. This effort is part of the work of the NYC Domestic Violence Task Force, which was launched in November 2016 by Mayor de Blasio and is co-chaired by First Lady Chirlane McCray and Police Commissioner James O’Neill and co-led by the Mayor’s Office to Combat Domestic Violence (OCDV) and the Mayor’s Office of Criminal Justice (MOCJ). The Task Force was launched to develop a coordinated, citywide strategy to combat domestic violence. The Task Force consists of experts from inside and outside of government working together to develop a comprehensive citywide strategy to identify the most innovative and effective evidence-based practices to combat domestic violence. The FJCs, operated by the Mayor’s Office to Combat Domestic Violence (OCDV), are the City’s comprehensive resource and support centers for survivors of domestic and intimate partner violence. A $500,000 increase in annual baseline funding for the AHTP program enables legal provider partners to provide legal intake and advice services through all five of the FJCs to assist survivors to remain in homes that are safe and stable for them and their families.

The de Blasio Administration’s investments in funding and the operational implementation of these programs have led to a dramatic increase in the number of tenant households that have received free legal advice, assistance, and representation. As set forth in Figure 4 below, the number of households across the city that received legal services through these programs increased from 6,928 in Fiscal Year 2014 to 23,645 in Fiscal Year 2017, a 239 percent
increase. Substantial increases were seen in every borough, ranging from 143 percent in Queens to 446 percent in Manhattan. In all, over 47,000 households received housing-related legal services for eviction, harassment or displacement during this three-year period (Fiscal Year 2015 through Fiscal Year 2017), and more than 12,000 more households have received services through the first half of Fiscal Year 2018; from the start of the de Blasio Administration in January of 2014 through the issuance of this report in the winter of 2018, over 180,000 New Yorkers have been assisted by these legal services programs.

**Figure 4: Households Served by City-Funded Tenant Legal Services Programs, FY2014–FY2017**

In all, over 47,000 households received housing-related legal services for eviction, harassment or displacement during this three-year period (Fiscal Year 2015 through Fiscal Year 2017), and more than 12,000 more households have received services through the first half of Fiscal Year 2018; from the start of the de Blasio Administration in January of 2014 through the issuance of this report in the winter of 2018, over 180,000 New Yorkers have been assisted by these legal services programs.

**Impact of Civil Legal Services for Tenants**

Studies of the provision of legal services to tenants in housing courts have supported the conclusion that attorney representation leads to far better outcomes for tenants facing eviction than self-representation. These studies include two Boston-area pilots conducted in 2009–2010, which found that tenants who received legal representation were five times less likely to have an eviction writ issued in their case compared to tenants who were not represented, and half as likely to have actually lost possession of their home. A comparable
New York City Housing Court study found that unrepresented tenants were more than four times as likely to have a warrant of eviction issued in their case compared to represented tenants.\(^\text{13}\)

As the City’s tenant legal services programs have grown and the implementation of the Universal Access law through assignment of legal representation for low-income tenants in eviction proceedings has begun in earnest, OCJ sought to further explore the potential benefits and limitations of legal representation in eviction cases in New York City Housing Court today.

*Analysis of Data on Eviction and Housing Court Trends*

Trends in the number of residential evictions executed by marshals and activity at the city’s Housing Courts suggest an impact of the increased prevalence of counsel for tenants in eviction cases adjudicated in these courts.

Over the last four years, as the City has substantially increased its commitment to anti-eviction and other tenant legal services and as the rate of legal representation for tenants in eviction cases has substantially increased, New York City has seen a substantial reduction in a key indicator of housing stability and displacement: residential evictions by city marshals. Residential evictions by marshals have decreased by approximately 27 percent over the last four years, declining from 28,849 in 2013 to 21,074 in 2017. There were 1,015 fewer residential evictions in 2017 compared to 2016, representing a 4.6 percent decrease in the last year alone (see Figure 5 below). In all, over the four-year period of 2014 through 2017, an estimated 70,000 New Yorkers remained in their homes as a result of decreased evictions.

In addition, data provided by OCA show trends across a variety of indicators, as reflected in Tables 2 through 8 and discussed in detail below.

### Table 2: Eviction Petitions Filed in New York City Housing Court, 2013–2017

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NYC</td>
<td>246,864</td>
<td>237,639</td>
<td>234,270</td>
<td>233,884</td>
<td>230,071</td>
<td>-6.8</td>
</tr>
<tr>
<td>Bronx</td>
<td>83,006</td>
<td>84,670</td>
<td>85,503</td>
<td>85,957</td>
<td>86,035</td>
<td>3.6</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>69,812</td>
<td>67,659</td>
<td>63,037</td>
<td>62,488</td>
<td>61,048</td>
<td>-12.6</td>
</tr>
<tr>
<td>Manhattan*</td>
<td>46,960</td>
<td>40,893</td>
<td>40,333</td>
<td>42,039</td>
<td>40,645</td>
<td>-13.4</td>
</tr>
<tr>
<td>Queens</td>
<td>37,441</td>
<td>35,924</td>
<td>35,918</td>
<td>33,930</td>
<td>32,692</td>
<td>-12.7</td>
</tr>
<tr>
<td>Staten Island</td>
<td>5,159</td>
<td>5,029</td>
<td>4,907</td>
<td>4,845</td>
<td>4,776</td>
<td>-7.4</td>
</tr>
</tbody>
</table>

*Excludes Harlem
### Table 3: Non-Payment Petitions Filed in New York City Housing Court, 2013–2017

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NYC</td>
<td>218,400</td>
<td>208,158</td>
<td>203,119</td>
<td>202,300</td>
<td>201,441</td>
<td>-7.8</td>
</tr>
<tr>
<td>Bronx</td>
<td>78,111</td>
<td>79,694</td>
<td>79,778</td>
<td>79,464</td>
<td>80,637</td>
<td>3.2</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>59,323</td>
<td>56,254</td>
<td>51,709</td>
<td>51,623</td>
<td>50,983</td>
<td>-14.1</td>
</tr>
<tr>
<td>Manhattan*</td>
<td>42,189</td>
<td>36,488</td>
<td>35,919</td>
<td>37,287</td>
<td>36,525</td>
<td>-13.4</td>
</tr>
<tr>
<td>Queens</td>
<td>30,285</td>
<td>28,322</td>
<td>27,498</td>
<td>25,836</td>
<td>24,908</td>
<td>-17.8</td>
</tr>
<tr>
<td>Staten Island</td>
<td>4,275</td>
<td>4,141</td>
<td>3,864</td>
<td>3,731</td>
<td>3,716</td>
<td>-13.1</td>
</tr>
</tbody>
</table>

*Excludes Harlem

### Table 4: Holdover Petitions Filed in New York City Housing Court, 2013–2017

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NYC</td>
<td>28,464</td>
<td>29,481</td>
<td>31,151</td>
<td>31,584</td>
<td>28,630</td>
<td>0.6</td>
</tr>
<tr>
<td>Bronx</td>
<td>4,895</td>
<td>4,976</td>
<td>5,725</td>
<td>6,493</td>
<td>5,398</td>
<td>10.3</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>10,489</td>
<td>11,405</td>
<td>11,328</td>
<td>10,865</td>
<td>10,065</td>
<td>-4.0</td>
</tr>
<tr>
<td>Manhattan*</td>
<td>4,771</td>
<td>4,405</td>
<td>4,414</td>
<td>4,752</td>
<td>4,120</td>
<td>-13.6</td>
</tr>
<tr>
<td>Queens</td>
<td>7,156</td>
<td>7,602</td>
<td>8,420</td>
<td>8,094</td>
<td>7,784</td>
<td>8.8</td>
</tr>
<tr>
<td>Staten Island</td>
<td>884</td>
<td>888</td>
<td>1,043</td>
<td>1,114</td>
<td>1,060</td>
<td>19.9</td>
</tr>
</tbody>
</table>

*Excludes Harlem

### Table 5: Warrants of Eviction Issued in New York City Housing Court, 2013–2017

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NYC</td>
<td>132,734</td>
<td>116,059</td>
<td>111,666</td>
<td>113,654</td>
<td>94,214</td>
<td>-29.0</td>
</tr>
<tr>
<td>Bronx</td>
<td>49,197</td>
<td>46,432</td>
<td>42,287</td>
<td>48,420</td>
<td>34,215</td>
<td>-30.5</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>34,884</td>
<td>31,670</td>
<td>32,770</td>
<td>29,979</td>
<td>28,580</td>
<td>-18.1</td>
</tr>
<tr>
<td>Manhattan*</td>
<td>20,893</td>
<td>15,991</td>
<td>13,875</td>
<td>15,202</td>
<td>11,846</td>
<td>-43.3</td>
</tr>
<tr>
<td>Queens</td>
<td>23,325</td>
<td>18,204</td>
<td>19,220</td>
<td>15,682</td>
<td>15,986</td>
<td>-31.5</td>
</tr>
<tr>
<td>Staten Island</td>
<td>2,823</td>
<td>2,759</td>
<td>2,311</td>
<td>2,605</td>
<td>2,270</td>
<td>-19.6</td>
</tr>
</tbody>
</table>

*Excludes Harlem
Table 6: Residential Evictions Conducted by New York City Marshals, 2013–2017

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NYC</td>
<td>28,849</td>
<td>26,857</td>
<td>21,988</td>
<td>22,089</td>
<td>21,074</td>
<td>-27.0</td>
</tr>
<tr>
<td>Bronx</td>
<td>10,194</td>
<td>9,580</td>
<td>7,401</td>
<td>7,667</td>
<td>7,438</td>
<td>-27.0</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>8,313</td>
<td>7,908</td>
<td>7,033</td>
<td>6,476</td>
<td>5,984</td>
<td>-28.0</td>
</tr>
<tr>
<td>Manhattan*</td>
<td>4,525</td>
<td>3,933</td>
<td>2,898</td>
<td>2,907</td>
<td>2,843</td>
<td>-37.2</td>
</tr>
<tr>
<td>Queens</td>
<td>4,862</td>
<td>4,542</td>
<td>3,939</td>
<td>4,290</td>
<td>4,105</td>
<td>-15.6</td>
</tr>
<tr>
<td>Staten Island</td>
<td>955</td>
<td>894</td>
<td>717</td>
<td>749</td>
<td>704</td>
<td>-26.3</td>
</tr>
</tbody>
</table>

*Includes Harlem.

Table 7: Pretrial Motions Filed in New York City Housing Court, 2014–2016

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>% change 2014–16</th>
</tr>
</thead>
<tbody>
<tr>
<td>NYC</td>
<td>21,513</td>
<td>22,252</td>
<td>25,617</td>
<td>19.1</td>
</tr>
<tr>
<td>Bronx</td>
<td>5,528</td>
<td>5,959</td>
<td>7,885</td>
<td>42.6</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>6,668</td>
<td>6,929</td>
<td>7,244</td>
<td>8.6</td>
</tr>
<tr>
<td>Manhattan*</td>
<td>6,392</td>
<td>6,418</td>
<td>7,185</td>
<td>12.4</td>
</tr>
<tr>
<td>Queens</td>
<td>2,704</td>
<td>2,540</td>
<td>2,859</td>
<td>5.7</td>
</tr>
<tr>
<td>Staten Island</td>
<td>221</td>
<td>406</td>
<td>444</td>
<td>100.9</td>
</tr>
</tbody>
</table>

*Includes Harlem.

Table 8: Emergency Orders to Show Cause Filed in New York City Housing Court, 2014–2016

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>% change 2014–16</th>
</tr>
</thead>
<tbody>
<tr>
<td>NYC</td>
<td>205,398</td>
<td>173,023</td>
<td>172,928</td>
<td>-15.8</td>
</tr>
<tr>
<td>Bronx</td>
<td>95,834</td>
<td>79,287</td>
<td>81,801</td>
<td>-14.6</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>52,089</td>
<td>44,398</td>
<td>41,273</td>
<td>-20.8</td>
</tr>
<tr>
<td>Manhattan*</td>
<td>30,906</td>
<td>25,909</td>
<td>26,176</td>
<td>-15.3</td>
</tr>
<tr>
<td>Queens</td>
<td>21,187</td>
<td>19,416</td>
<td>19,379</td>
<td>-8.5</td>
</tr>
<tr>
<td>Staten Island</td>
<td>5,382</td>
<td>4,013</td>
<td>4,299</td>
<td>-20.1</td>
</tr>
</tbody>
</table>

*Includes Harlem.

Sources: Data reported by New York City Civil Court, as reported on the “Statistical Report of Activity of L & T Clerk’s Office, ST30” published on the Housing Court Answers website at http://housingcourtanswers.org/evictions-in-new-york-city; NYC Housing Court
As evidenced in Table 2, eviction filings against tenants citywide have declined by 6.8 percent over the four-year period from 2013 through 2017. During this period non-payment proceedings (which outnumbered holdovers by more than seven to one in 2017) decreased by 7.8 percent as the number of holdover proceedings rose but then fell by 9.3 percent in 2017 compared to the prior year. (citywide, holdovers were essentially flat in 2017 compared to 2013.) In every borough but the Bronx, eviction filings decreased during this four-year period, with declines ranging 13.4 percent in Manhattan to 7.2 percent in Staten Island. In the Bronx, filings rose by 3.6 percent over this period, including increases in both non-payment cases (3.2 percent) and holdovers (10.3 percent). In all, there were approximately 18,000 fewer eviction cases in New York City Housing Courts in 2017 than four years earlier.

For this report, OCJ was able to review and analyze aggregate data provided by the Housing Court reflecting changes over time in indicators of court activity and litigation. As reflected in Tables 7 and 8 above, between 2014 and 2016, at the same time that the City increased its investments in tenant legal services and access to counsel for low-income tenants was made more widely available, the Housing Courts saw an overall increase in the number of pretrial motions filed (an increase of 19.1 percent) along with a decrease in the number of emergency orders to show cause (a decrease of 15.8 percent). These trends taken together suggest that the last two years have seen more litigation occurring in the earlier, pre-judgment stages of eviction proceedings and fewer requests being made by tenants to restore cases to the court calendar to dispute a negative judgment or to request additional time to meet conditions contained in a stipulated agreement with a landlord.
Civil Legal Services for Homeowners Facing Foreclosure

Foreclosure is the legal process used by lenders to recoup overdue balances on property loans, by forcing the sale of the property used as loan collateral. New York State is a “judicial foreclosure” state, meaning that foreclosures are adjudicated in the State Supreme Court system. While both residential and commercial properties can be subject to foreclosure, the vast majority of foreclosures in New York State are for residential properties. In New York City, a foreclosure case is formally initiated when a lender (or mortgage owner, if the debt has been purchased) files a *lis pendens* in one of the city’s five borough-based Supreme Courts. The *lis pendens* notifies all parties, including the public, that ownership of a property is being disputed. In addition, lenders must serve a homeowner with a summons and complaint that informs the defendant of the foreclosure suit and instructs them to answer in Supreme Court. Since 2013, plaintiffs must also submit a “certificate of merit,” certifying that an attorney has reviewed the facts of the case as well as the relevant loan documents (e.g., mortgage agreements or loan modifications). Lenders are required to file proof that the summons and complaint was properly served, and file a request for judicial intervention (RJI) notifying the court that a party needs a judge’s involvement in the case. After these steps, the court typically schedules a conference with the parties to see whether the case can be settled through agreement and the formal foreclosure of the mortgage debt can be avoided. These conferences, at which lenders must produce documentation of mortgage terms (including past payment history, current arrears, and proof of ownership), were made mandatory for all residential foreclosure cases involving owner-occupied houses and condominiums with four or fewer units in 2010. If no agreement is made in conference the case goes through discovery and motion practice, and, if needed, trial. If the case is decided in the plaintiff’s favor, a judge appoints a third party to calculate total money owed (principal, interest, and late fees), and the property — which is now “foreclosed” upon — is put up for public auction and bidding starts at the amount still outstanding on the previous owner’s loan.14

The percentage of consumers who have mortgages in New York City has modestly but steadily declined over the last several years. According to data from the New York Federal Reserve, 13.5 percent of New York city consumers had a mortgage in 2016,15 down 2.2


15 The NY Fed Consumer Credit Panel (CCP), a longitudinal survey of consumer Federal Reserve reports on household debt by analyzing Equifax credit reports. The survey presents estimates of consumer finance indicators for individuals with a Social Security number and a credit report. Household debt types included in national estimates include mortgages, home equity lines, credit card debt, car loans, and student loans. For further discussion of methods, see Federal Reserve Bank of New York, Research and Statistics Group. (n.d.).
percentage points since 2004 (see Figure 6). This downward trend is relatively consistent across the boroughs, and borrowing rates are similar to American Community Survey (ACS) homeownership rate estimates in borough order, with Staten Island significantly higher than the other boroughs, followed by Queens, Manhattan, Brooklyn, and the Bronx.

Figure 6: Percent of Consumers with a Mortgage in New York City, Q2 2004–Q2 2016

While mortgage holding rates have held relatively constant over the past twelve years, the rate of consumer delinquency on these mortgages, however, has been volatile. Following a spike in delinquencies the wake of the 2008 housing market crisis and despite the introduction of increasingly regulated lending processes intended to protect would-be borrowers from predatory loans, delinquency rates still remain elevated above pre-recession levels. In 2016, 2.7 percent of New York City consumers were 90 days delinquent on a mortgage payment (including both owner-occupied and investment mortgages) (see Figure 7), down from a peak of 8.5 percent in 2012 but still more than twice as high as the recent


historical low point of 1.2 percent in 2006. While the Bronx has the fewest mortgage holders per capita, it has the highest proportion of consumers with delinquent mortgages, 4.7 percent in 2016.

**Figure 7: Percent of Consumers with a 90-Day Delinquent Mortgage in New York City, Q2 2004–Q2 2016**

![Figure 7: Percent of Consumers with a 90-Day Delinquent Mortgage in New York City, Q2 2004–Q2 2016](image)


**Trends in Foreclosure Filings in New York City Courts**

As of the end of 2016, there were over 28,000 pending foreclosure cases in New York City courts. As shown in Table 9 below, roughly three-quarters of these cases were deemed “conference-eligible” — that is, related to owner-occupied one to four-unit houses and condominiums for which a settlement conference is required pursuant to State law implemented in the wake of the 2008 housing crash.
Table 9: Foreclosure Cases Pending in New York City Supreme Courts at End of 2016

<table>
<thead>
<tr>
<th>Conference-Eligible*</th>
<th>Non-Conference-Eligible</th>
<th>Total Pending</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brooklyn</td>
<td>8,131</td>
<td>3,517</td>
<td>11,648</td>
</tr>
<tr>
<td>Bronx</td>
<td>3,060</td>
<td>1,647</td>
<td>4,707</td>
</tr>
<tr>
<td>Manhattan</td>
<td>341</td>
<td>353</td>
<td>694</td>
</tr>
<tr>
<td>Queens</td>
<td>8,532</td>
<td>1,393</td>
<td>9,925</td>
</tr>
<tr>
<td>Staten Island</td>
<td>829</td>
<td>236</td>
<td>1,065</td>
</tr>
<tr>
<td><strong>New York City</strong></td>
<td><strong>20,893</strong></td>
<td><strong>7,146</strong></td>
<td><strong>28,039</strong></td>
</tr>
</tbody>
</table>

Source: New York State Office of Court Administration

*Foreclosure cases eligible for settlement conferences involve 1–4 unit, owner occupied buildings and condominiums.

According to data reported by the Furman Center in 2017, according to data reported by the Furman Center in 2017, foreclosure filings in New York City for one- to four-unit properties increased dramatically in the years leading up to the housing crash. Indeed, a Furman Center analysis of lis pendens filings between 2005 and 2009 found that such foreclosure filings increased three-fold to over 20,000, with the largest annual increase between 2008 and 2009. Filings dropped steeply in the two following years, only to rebound in 2012 and 2013. Filings in New York City subsequently decreased again, yet as of 2016 remain at close to 12,000 according to the 2017 Furman Center data.

Legal Services for New York City Homeowners Facing Foreclosure

National data on homeowner access to legal representation in foreclosure cases are limited. There is some evidence that in states with judicial foreclosure, a majority of homeowners in foreclosure cases lack legal representation. In New York State, however, rates of representation in foreclosure cases have increased in recent years. Specifically, reports from the New York State Judiciary show that the number of homeowners with lawyers in

---

17 Note that the annual foreclosure filings trend data reported here appear to include both owner-occupied and investment properties, though the latter are not eligible for foreclosure settlement conferences.
18 Also note that data on foreclosure filings provided to OCJ by the New York State Unified Court System show lower numbers, with a total of 7,819 residential foreclosure filings in New York City in 2016, of which 5,954 were conference-eligible (New York State Unified Court System. (2017). Report of Foreclosure Settlement Conference (FSC) Activity: 2016). The discrepancy may reflect analyses of different steps in the foreclosure process, which involves multiple filings.
foreclosure settlement conferences increased from 33 percent to 62 percent from the years 2011 through 2016.\textsuperscript{20}

In New York City, data show that a majority of homeowners in foreclosure proceedings have the assistance of legal counsel; 53.4 percent of homeowners appearing for foreclosure settlement conferences in 2016 had legal representation, reflecting a modest increase from 50.8 percent three years prior (in 2013). At the borough level, Queens had the highest rate, while Staten Island had the lowest rate (see Figure 8).

**Figure 8: Foreclosure Settlement Conferences Appearances in New York City: Representation Rates, 2014–2016**

![Graph showing representation rates from 2013 to 2016 for each borough in New York City.](https://www.nycourts.gov/publications/pdfs/ForeclosureAnnualReport2016.pdf)

Source: New York State Office of Court Administration

Much of the support for foreclosure legal services comes from work by state attorneys general, New York State included. In 2012, 49 state attorneys general and the Obama Administration agreed on a settlement with five large mortgage servicers. Through this settlement, New York State borrowers who lost their homes or whose mortgages were worth more than their home’s value received settlements that totaled over $1 billion across the State. In addition, $130 million was awarded to New York State to fund legal services and housing counseling for homeowners facing foreclosure.\(^{21}\) The State Attorney General’s Office used these funds to create the Homeowner Protection Program (HOPP), which provides housing counseling and legal assistance to New York State homeowners at risk of foreclosure.

In New York City, HOPP is administered by the Center for NYC Neighborhoods (CNYCN), a nonprofit organization. CNYCN distributes HOPP, philanthropic, and other public funds to community-based organizations to provide housing counseling for homeowners in jeopardy of foreclosure and legal assistance to homeowners already in foreclosure proceedings. HOPP is the main source of legal assistance for homeowners in the city. CNYCN received $8.1 million in funding via HOPP for the period of July 2016 to June 2017, which represents the fifth year of funding since the program was established. In total CNYCN has received over $40 million in funding, including approximately $500,000 for services related to recovery from Superstorm Sandy. For the past City fiscal year, 7,025 homeowners were served, and over 22,000 New York City homeowners have received legal assistance since the establishment of the program. The Attorney General’s Office recently announced the renewal of statewide HOPP funding for State Fiscal Year 2019.\(^{22}\) In addition, CNYCN receives approximately $4.5 million through discretionary and baseline programs administered by the Department of Housing Preservation and Development (HPD) to support legal and other services for homeowners at risk of or facing residential foreclosure.


Legal Services for Immigrant New Yorkers

In our first Annual Report, OCJ presented an in-depth examination of legal services related to housing and eviction in New York City, summarizing the various legal processes that impact tenants and landlords, investigating the legal services available to tenants and the needs that remain, and presenting data reflecting the characteristics of the individuals served and cases handled by City-funded legal providers. In this year’s report, OCJ worked with our partners at the Mayor’s Office of Immigrant Affairs (MOIA) to develop a similar analysis of the issues related to immigration legal services in New York City.

New York City will dedicate approximately $48 million in funding to a continuum of free legal services programs for immigrant New Yorkers facing issues ranging from a need for clear and reliable information about their rights to full-fledged legal representation to defend against deportation from the United States, which in many cases means leaving behind both their livelihoods and their families.

The needs for legal assistance for immigrants have perhaps never been more urgent or more varied. Through a series of executive and administrative actions as well as announcements of new policy priorities, the administration of President Trump has targeted non-citizens in the United States in a variety of ways, including:

- the elimination of programs providing temporary status to thousands of immigrants, among them the Deferred Action for Childhood Arrivals (DACA) program and Temporary Protective Status (TPS) programs designation for several countries;
- expanding deportation enforcement priorities to include a longer list of immigrants to be prioritized for removal regardless of public safety considerations;
- an executive order paving the way for a dramatic increase in federal immigration enforcement agents and officers; and
- bans on travel to the United States for residents of targeted countries; and repeated announcements of a wall to be built on the southern border of the country.

Immigrant and foreign-born New Yorkers comprise an increasing component of the city’s population. Today approximately 38 percent of New York City residents are foreign-born. New York City’s foreign-born population has grown modestly in recent years, from 2.9 million in 2000 to an average of 3.1 million in 2012 to 2016. The foreign-born share of New York City’s population has similarly increased from 35.9 percent to 37.8 percent over the

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same period.\textsuperscript{25} New York’s immigrant population includes families and individuals from a wide range of countries and with a variety of residency statuses. Roughly half of foreign-born New Yorkers are naturalized citizens. The other half is comprised of foreign-born non-citizens with permanent authorization to stay in the country (legal permanent residents, or LPRs); immigrants with temporary residency authorization (a group that includes New Yorkers who currently possess temporary status under the DACA program launched in 2012 by President Obama and rescinded in 2017 by President Trump); and immigrant residents without status, or undocumented immigrants. Many city families are “mixed status,” composed of members with different immigration statuses. According to a 2009 study by the Pew Center, 37 percent of undocumented adults in the United States are parents of U.S.-born citizen children.\textsuperscript{26} In other cases, an undocumented immigrant may have a partner who is a citizen or permanent resident.

Within the city, Queens has the largest population of foreign-born persons, with 35 percent of foreign-born New Yorkers living in the borough (see Table 10 below). Another 31 percent reside in Brooklyn, while roughly 16 percent live in the Bronx and 15 percent in Manhattan. Approximately half of all foreign-born people in the city are naturalized citizens, a proportion that is relatively consistent across the boroughs.

<table>
<thead>
<tr>
<th>Borough</th>
<th>Total</th>
<th>Native-born</th>
<th>Foreign-born</th>
<th>Foreign-born, Naturalized</th>
<th>Foreign-born, Not a U.S. Citizen</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York City</td>
<td>8,285,181</td>
<td>5,151,373</td>
<td>3,133,808</td>
<td>1,705,061</td>
<td>1,428,747</td>
</tr>
<tr>
<td>Bronx</td>
<td>1,394,595</td>
<td>893,456</td>
<td>501,139</td>
<td>238,747</td>
<td>262,392</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>2,566,817</td>
<td>1,593,308</td>
<td>973,509</td>
<td>560,739</td>
<td>412,770</td>
</tr>
<tr>
<td>Manhattan</td>
<td>1,574,688</td>
<td>1,112,852</td>
<td>461,836</td>
<td>224,504</td>
<td>237,332</td>
</tr>
<tr>
<td>Queens</td>
<td>2,282,566</td>
<td>1,186,749</td>
<td>1,095,817</td>
<td>613,625</td>
<td>482,192</td>
</tr>
<tr>
<td>Staten Island</td>
<td>466,515</td>
<td>365,008</td>
<td>101,507</td>
<td>67,446</td>
<td>34,061</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, American Community Survey, 2012–2016 Five Year Estimates

Lawful Permanent Residents

Lawful Permanent Residents (LPRs), also known as “green card” holders, have authorization to permanently reside and work in the U.S. and ultimately apply for citizenship once qualifications are met. LPRs are also eligible for most public benefits in New York State; however, those with less than five years in status are ineligible for public benefits.

\textsuperscript{25} United States Census Bureau, American Community Survey, 2012-2016 Five Year Estimates, 2000 Census.
such as SNAP (also known as food stamps), and only those with 40 qualifying quarters of employment can obtain federal Social Security Insurance benefits.

Permanent residency is not completely secure; immigrants with this status who are convicted of certain crimes or who leave the country for extended periods of time are potentially subject to removal.

New York City is a hub for newly admitted permanent residents. Data from the Department of Homeland Security show that between 2014 and 2016 a rough average of 16.4 percent of all individuals granted LPR status in the United States each year resided in the New York metropolitan area (which includes areas of New York State, New Jersey, and Pennsylvania).  

Federal immigration law provides some pathways through which immigrants can become permanent residents. Some of these pathways are detailed below and include: family preference/reunification; refugees and asylees; employment sponsorship; and the diversity visa program.

In New York City, the majority of persons attaining LPR status have done so through family preference. Both United States citizens and LPRs are able to sponsor non-citizen family members (e.g., spouses and unmarried children under 21). Citizens can also sponsor additional relatives, such as married adult children and siblings. To initiate a family preference visa, the sponsoring family member files a petition with U.S. Citizenship and Immigration Services (USCIS), the federal agency charged with adjudicating petitions for immigration benefits. Family sponsorship is the largest single channel through which foreign-born persons gain permanent residency in New York City, accounting for nearly half of admissions between 2002 and 2011.

Refugees and Asylees
Another pathway to LPR status is application for residency as a refugee or asylee based on humanitarian concerns. Between 2002 and 2011, nearly 13 percent of New York City’s new LPRs attained residency through this channel. To be awarded residency, both refugees and asylees need to demonstrate that they can no longer live in their home country due to past

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persecution or a reasonable fear of persecution on account of race, religion, nationality, or membership in a political or social group. The distinction between the two groups is that refugees obtain their refugee status before entering the United States, while asylees seek to apply for asylum at port of entry or once they are already in the country. Asylees may apply either affirmatively or defensively in response to the initiation of removal proceedings. Asylum applications are processed by USCIS, and may involve a hearing before a USCIS officer as well as a potential hearing in immigration court.

Employer Sponsorship
Another predominant channel for permanent residency is employer sponsorship. Between 2002 and 2011, approximately 9.3 percent of New York City LPRs attained status through this program, in which visas are allotted to a range of immigrants whom employers can sponsor for permanent residency. Immigrant New Yorkers are employed in a wide range of industries; approximately 25 percent of immigrant New Yorkers work in the education, health, and human services fields.

Diversity Visa Program
The fourth major channel through which immigrants can attain permanent residency is the diversity visa program (also known as the “green card lottery”). The diversity visa program provides 50,000 annual visas through a lottery open to people from countries deemed under-represented in the U.S. immigrant population. This program is not open to undocumented immigrants in the United States and is largely reserved for people living abroad or in the United States on a temporary visa. Between 2002 and 2011, 7 percent of city immigrants granted LPR status did so through the diversity program. This program first came under specific attack by the Trump Administration in late 2017 and the most recent Presidential budget proposal threatens to end it entirely and replace it with a “merit-based” regime.

Immigrants Lacking Status
There are an estimated 560,000 New York City residents without legal authorization to live in the United States, or undocumented immigrants, including persons who have overstayed a temporary non-immigrant visa or who entered the United States without authorization.

Currently, immigrants lacking status have limited legal options to seek status. Some of these options include:

34 New York City Department of City Planning. (2013). The Newest New Yorkers.
• Immigrants who come to the United States in search of protection from threats from their native country may be eligible for asylum status. As noted above, to qualify for asylum, a person must demonstrate past persecution or a reasonable fear of future persecution on account of one or more of the following factors: race, religion, national origin, political opinion, or membership in a social group. Individuals who are eligible for asylum are protected from several grounds of inadmissibility that could place other immigrants in removal proceedings. Immigrants who are granted asylum may then apply for LPR status after one year.

• The “U visa” program is designed for foreign-born people who have suffered emotional or physical harm resulting from certain qualifying crimes that occurred in the United States and are helpful to law enforcement authorities or government officials in the investigation or prosecution of the criminal activity. Nationally, demand for U visas grossly exceeds the statutory annual cap of 10,000, leading to a substantial backlog.36 The U visa is issued under a federal program, but applicants need documentation from state or local officials (also known as a certification) to verify “helpfulness” in investigating or prosecuting a crime. Approval of a U visa results in work authorization for a period of four years, with eligibility to apply for permanent resident status after three years. Given the backlog in U visa processing, the pathway to LPR status for someone approved for a U visa today is nearly a decade long.

• Survivors of human trafficking who reside in the United States can apply for a “T visa.” Similar to U visas, T visas grant legal residence and work authorization with the subsequent ability to apply for permanent residence. To be eligible for a T visa, applicants need to be present in the United States as a result of trafficking, able to demonstrate that they would suffer extreme hardship should they be removed from the United States, and be willing to cooperate with law enforcement in the investigation of trafficking operations.

• Under the federal Violence Against Women’s Act (VAWA), survivors of domestic violence who are undocumented spouses, children, or parents of a U.S. citizen or spouses or children of an LPR can independently file a petition for lawful permanent residence.

• Some undocumented youth living in New York are able to attain permanent residency by applying to the USCIS for **Special Immigrant Juvenile Status (SIJS)**. Applicants must be unmarried, under 21 years old, and reunification with one or both parents must not be viable because of abuse, abandonment, neglect, or similar grounds under state law; in addition, it must not be in the youth’s best interest to return to their home country. SIJS petitions can be a defense to removal. SIJS cases involve multiple legal processes and often include litigation in both immigration and family court.

**Removal Proceedings**

Non-citizens living in the United States, but especially those without immigration status, are at risk of removal to their native country. Removal is the formal deportation of a foreign-born person from the United States for violation of immigration laws. Unlike most civil proceedings, removal cases can involve detention — that is, incarceration pending the outcome of the case or other relief ordered by the presiding court — though the vast majority of removal cases involve immigrants at liberty. The removal process is under the jurisdiction of the federal government and is ordered by federal administrative judges in immigration courts under the Executive Office of Immigration Review (EOIR).

In New York City, there are two immigration courts that hear removal cases: the New York City Immigration Court located at 26 Federal Plaza in lower Manhattan, which handles cases for non-detained immigrants; and the Varick Street Immigration Court, also in Manhattan, which handles cases involving immigrants in detention. In FFY2016, there were over 20,000 removal cases heard in these two courts, with the great majority at New York City Immigration Court where non-detained cases are heard. The number of removal cases in these courts has fluctuated widely over the past ten years, with a low of 12,630 in FFY 2008 and a high of 21,170 in FFY 2016.37

The jurisdiction of these courts extends beyond the five boroughs of New York City, as can be seen in information from the New York Immigrant Family Unity Project (NYIFUP), a program which provides legal representation to detained immigrants facing removal proceedings at the Varick Street court. NYIFUP is discussed in greater detail below.

**Civil Legal Services Programs for Immigrant New Yorkers**

As described above, foreign-born New Yorkers can face a range of civil legal issues associated with their immigration status. These issues can impact their ability to work and live in their homes and communities in and around New York City. While immigration law is primarily

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federal, the City has played an important and increasing role in partnering with local nonprofits to develop programs and support services for immigrant New Yorkers to navigate this complex legal landscape.

The need for affordable, high-quality legal services is underscored by the activity of unscrupulous notarios, or individuals who falsely claim to be attorneys and engage in unauthorized practice of immigration law, take advantage of many low-income immigrants by charging excessive application fees without performing actual legal work and submitting applications for types of relief the applicant is not even eligible to receive. Notarios can have a detrimental impact on immigrants who unknowingly end up missing important deadlines, mistakenly put work authorization or legal residency in jeopardy, or in the worst cases, put themselves at risk for removal. These unauthorized immigration law practitioners have plagued New York City for years, but in April 2017 Mayor de Blasio signed into local law City Council Intro 746 containing a set of stepped-up requirements for immigration assistance providers and penalties for the unauthorized practice of immigration law in New York City. These local law provisions prohibit knowingly misleading someone about their eligibility for immigration relief as well as falsely advertising expediting of immigration-related government benefits.

In the face of increasing needs and a widening scope of issues for which immigrant New Yorkers have sought assistance, New York City has implemented an extraordinary expansion in local funding for immigration-related legal services in recent years. City funding for these services — that is, Administration-funded programs and discretionary grants awarded annually by the City Council — has risen sevenfold, from $6.8 million in Fiscal Year 2013 to $47.5 million in Fiscal Year 2018. The rise has largely been driven by increases in Mayoral funding, which rose from $2.1 million in Fiscal Year 2013 when it represented 31.3 percent of total City funding to $30.9 million in Fiscal Year 2018, when it represented 65.0 percent of total City funding. At the same time, the Council increased its commitment to immigration legal services funding nearly fourfold, from $4.6 million in Fiscal Year 2013 to $16.6 million in Fiscal Year 2018 (see Table 1 below).

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Table 11: City Funding for Key Immigration Legal Services Programs, FY2013–FY2018

<table>
<thead>
<tr>
<th>Funding (in millions)</th>
<th>FY13</th>
<th>FY14</th>
<th>FY15</th>
<th>FY16</th>
<th>FY17</th>
<th>FY18</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayoral Programs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ActionNYC</td>
<td>$2.1</td>
<td>$2.1</td>
<td>$6.2</td>
<td>$10.0</td>
<td>$16.5</td>
<td>$30.9</td>
</tr>
<tr>
<td>Immigrant Opportunity Initiative/Deportation Defense</td>
<td>$-</td>
<td>$-</td>
<td>$0.9</td>
<td>$7.9</td>
<td>$8.4</td>
<td>$8.7</td>
</tr>
<tr>
<td>CSBG-Funded Legal Services</td>
<td>$2.1</td>
<td>$2.1</td>
<td>$2.1</td>
<td>$2.1</td>
<td>$2.1</td>
<td>$2.1</td>
</tr>
<tr>
<td>Legal Services for Immigrant Survivors of DV</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$0.5</td>
</tr>
<tr>
<td>City Council Discretionary Awards</td>
<td>$4.6</td>
<td>$5.1</td>
<td>$6.9</td>
<td>$10.9</td>
<td>$11.3</td>
<td>$16.6</td>
</tr>
<tr>
<td>New York Immigrant Family Unity Project</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
</tr>
<tr>
<td>ICARE/Unaccompanied Minors and Families Initiative</td>
<td>$4.0</td>
<td>$4.3</td>
<td>$-</td>
<td>$3.2</td>
<td>$2.6</td>
<td>$2.6</td>
</tr>
<tr>
<td>Immigrant Opportunity Initiative</td>
<td>$0.6</td>
<td>$0.8</td>
<td>$1.0</td>
<td>$1.0</td>
<td>$2.0</td>
<td>$2.0</td>
</tr>
<tr>
<td>CUNY Citizenship Now!</td>
<td>$6.7</td>
<td>$7.2</td>
<td>$13.1</td>
<td>$20.9</td>
<td>$27.8</td>
<td>$47.5</td>
</tr>
</tbody>
</table>

Source: NYC Office of Civil Justice, NYC Mayor’s Office of Immigrant Affairs

Below is a summary of the programs referenced in Table 11 that provide civil legal assistance to immigrant New Yorkers. Just as immigrants in New York City experience a wide range of legal needs, programs identified here vary widely in their scale and level of intervention.

**ActionNYC**

Launched in 2016, ActionNYC is a citywide community-based immigration legal services program operated jointly by MOIA, HRA, and the City University of New York and implemented in collaboration with over 20 community-based organizations and legal services providers across the five boroughs. Through ActionNYC, immigrant New Yorkers receive free, safe, and high-quality immigration legal services in their community and in their language. Through its citywide hotline, centralized appointment making system, and accessible service locations at community-based organizations, schools, and hospitals, ActionNYC serves as the entry point for New Yorkers seeking immigration legal services. New Yorkers can call 311, say “ActionNYC” and make an appointment at an ActionNYC permanent navigation site. The services include comprehensive immigration legal screenings regarding their immigration legal options; trusted legal advice; full legal representation in straightforward immigration matters such as citizenship, LPR renewals, and TPS, among others; full legal representation with some complex cases such as SIJS and U visas, among others; and directed referrals to relevant social services (including IDNYC, the City’s municipal identification card), educational services, and healthcare enrollment. ActionNYC providers direct referrals to other City-funded programs to handle more complex immigration
legal matters as well as cases involving removal defense. In Fiscal Year 2017, ActionNYC provided services at seven permanent navigation sites based at community-based organizations, held clinics in over 33 Department of Education schools, established permanent sites at three NYC Health+Hospitals (H+H) facilities, and provided services to long-term and acute care H+H patients.

Additionally, ActionNYC organizers conduct tailored outreach in traditionally underserved immigrant communities to provide information about ActionNYC and other City services, conduct Know Your Rights forums, and schedule appointments.

Another hallmark of ActionNYC is its work to foster capacity for the provision of high-quality immigration legal services. To this end, ActionNYC has adopted a community navigation model of providing immigration legal services. ANYC community navigators are hired from the community, are culturally competent, undergo rigorous foundational and ongoing training in immigration law, and are supported to become Department of Justice accredited representatives. Through a legal technical assistance partner, all ActionNYC providers are supported to obtain and maintain Department of Justice recognition and are kept informed of changes in immigration law and practice. Navigation and outreach technical assistance partners support the work of ActionNYC’s navigators and organizers. Moreover, through the ActionNYC Capacity Building Fellowship, ActionNYC is working with small to medium-sized community-based organizations serving hard-to-reach immigrant communities to strengthen their outreach efforts and to deepen their immigration legal services practice. Finally, in Fiscal Year 2018, ActionNYC issued a request for proposals to provide direct immigration legal services at small to medium-sized community-based organizations that serve hard-to-reach immigrant communities with services expected to launch later in the year. A list of ActionNYC providers is included at Appendix 6.

**Immigrant Opportunity Initiative and Deportation Defense**

Since Fiscal Year 2017, the Administration has funded the Immigrant Opportunity Initiative (IOI) program, through which networks of nonprofit legal providers and community-based organizations conduct outreach in immigrant communities across the city and provide legal assistance to low-income immigrant New Yorkers in matters ranging from citizenship and lawful permanent residency application, to more complex immigration matters, including asylum applications and removal defense work. The program was initially funded at $3.2 million annually but in the spring of 2016, in recognition of the need for additional quality legal representation for immigrant New Yorkers in more complicated legal cases, IOI providers received supplemental Mayoral funding of $2.7 million to provide representation in 1,000 complex immigration cases, including asylum applications, SIJS proceedings, and U and T visa applications. The Council similarly added $2.6 million to
support immigration legal services as part of the IOI program in Fiscal Year 2017 and again in Fiscal Year 2018.

Importantly, the IOI program is flexible and can respond to emergent needs. OCJ’s contracts with the IOI service provider consortia allow for rapid deployment of staff and resources to address legal needs of the immigrant community across the continuum of service, from brief legal counseling sessions to full legal representation in removal and asylum matters.

Mayoral funding for immigration legal services programs was dramatically increased for Fiscal Year 2018 to include $16.4 million in additional baseline funding to respond to the pressing need for representation in removal proceedings, assistance with seeking alternate forms of immigration relief for Dreamers and other immigrant New Yorkers, as well as the increasing challenges posed by a shifting landscape for federal immigration law and policy. The flexibility of the IOI program enables the City to provide additional funding to a variety of legal services providers including community- and borough-based nonprofit law offices and groups specializing in providing legal services to vulnerable populations, as well as citywide legal provider organizations. A list of IOI providers is included at Appendix 7.

CSBG-Funded Legal Services
In addition to IOI, OCJ oversees immigration legal services programs funded through federal Community Service Block Grants, administered in partnership with the Department of Youth and Community Development (DYCD). With CSBG funding, legal services organizations provide a range of services such as legal assistance to help immigrant adults and youth attain citizenship and lawful immigration status, as well as services targeted at groups such as immigrant survivors of domestic violence and human trafficking, low-wage immigrant workers at risk of exploitation and violations of their employment rights, and immigrant youth in foster care.

Notably, the Trump Administration has proposed to eliminate this source of funding, an issue that OCJ and its partners are monitoring as the federal budget process continues. A list of CSBG-funded legal providers is included at Appendix 8.

Legal Services for Immigrant Survivors of Domestic Violence
Following the issuance of the NYC Domestic Violence Task Force’s goals and recommendations in 2017, the City invested $500,000 in Fiscal Year 2018 to support direct domestic violence-specific legal services for immigrant survivors, administered by HRA’s Office of Emergency Intervention Services (EIS) in partnership with OCJ, MOIA, and

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OCDV. Through this initiative, legal organizations with expertise in domestic violence and experience providing immigration legal services are partnering with local community-based groups serving immigrant populations to enhance access to these services in communities and build capacity within community-based groups, providing them with tools to identify and respond appropriately to these issues. A list of participating providers is included at Appendix 9.

**New York Immigrant Family Unity Project**

The New York Immigrant Family Unity Project (NYIFUP) is the first publicly-funded legal representation program specifically for detained immigrants in the United States. NYIFUP was launched as a pilot program in Fiscal Year 2013 and has steadily grown since; the Fiscal Year 2017 budget for the program (via Council discretionary funding) was $6.2 million, up from an initial investment of $500,000 in Fiscal Year 2013. In Fiscal Year 2018, NYIFUP is funded by Council grants totaling $10.0 million.

Through the NYIFUP program, immigration attorneys at three legal service providers provide legal representation to low-income immigrants who are in detention and face removal cases at the Varick Street Immigration Court. NYIFUP uses a “public defender” model in which low-income immigrants are identified and screened at their first appearance in court. NYIFUP attorneys represent clients throughout the removal proceedings, which can include litigation seeking a release from custody on bond as well as investigation into a client’s health and psychosocial history for presentation to the court. A list of participating providers in the NYIFUP program is included at Appendix 10.

**Immigrant Child Advocates’ Relief Effort/Unaccompanied Minors and Families Initiative**

The Immigrant Child Advocates’ Relief Effort (ICARE)/Unaccompanied Minors and Families Initiative (UMFI) was established in 2014 through a public-private partnership of the City Council, the New York Community Trust, and the Robin Hood Foundation to provide legal and social services to unaccompanied immigrant children entering and living in New York City. National trends suggest that unaccompanied minors have represented a growing component of the city’s undocumented resident population. In 2014, the number of unaccompanied minors entering the United States and apprehended by U.S. Customs and Border Protection (CBP) soared nearly tenfold from previous years. Most of these minors have come from Central America and have fled dangerous situations in their home countries, such as gang violence or domestic abuse.

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The processing of unaccompanied minors by federal immigration authorities has presented unique challenges as well as opportunities for intervention and provision of services. Upon apprehension by CPB, custody of unaccompanied minors is transferred to the U.S. Department of Health and Human Services’ Office of Refugee Resettlement (ORR), while DHS begins removal proceedings. At the same time, ORR conducts an assessment to determine whether the minor can be released to a sponsor (typically a relative or family friend) somewhere in the United States.

In FFY 2016, New York State received nearly 5,000 minors through this process, the second highest state allotment. Thirty percent of these children were released in New York City and over 90 percent were released in the greater New York metropolitan area (New York City and surrounding counties). In response to the influx, the Justice Department had prioritized the processing of youth through the establishment of priority dockets, informally known as “surge dockets,” serving both unaccompanied youth as well as families with children; the surge docket system, however, was discontinued by the federal government in early 2017.

The ICARE/UMFI project was developed to provide legal advice and representation to this vulnerable population, including immigration legal screening, as well as counsel with experience in seeking relief from removal through more complex processes available to immigrant youth such as SIJS applications (described above). A list of participating providers in the ICARE/UMFI program is included at Appendix 11.

CUNY Citizenship Now!
The CUNY Citizenship Now! project celebrated its twentieth anniversary in 2017. The program provides free immigration assistance at centers located throughout New York City. Through the project, attorneys and paralegals offer one-on-one consultations to assess participants’ eligibility for legal status and assist them in applying when qualified. The program operates at CUNY sites across the city as well as at City Council district offices. In Fiscal Year 2018, CUNY Citizenship Now! received an allocation of $2 million through a Council discretionary grant.

Studying the Represented: An Analysis of Legal Services Program Data
To provide an overview of the reach and impact of the immigration legal services programs funded and managed by the Administration, OCJ partnered with MOIA to analyze, for the first time, case-level data provided to the City by legal services organizations providing assistance through these programs. This report offers a look at the volume and characteristics

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of individuals being served and of the cases being handled, with the goal of supporting policy discussions on immigration legal services needs in New York City.

Data for cases handled in Fiscal Year 2017 have been collected from three Administration-funded programs that provide immigration legal assistance to immigrant New Yorkers, described above: ActionNYC, the Administration’s IOI program, and the CSBG-funded legal services programs. Our analysis showed:

- Through the Administration’s immigration legal assistance programs, legal organizations provided assistance in 14,698 cases and filed 5,820 applications in pursuit of status with USCIS in Fiscal Year 2017.

- Applications were decided by USCIS in 1,388 cases, of which 1,331 — 95.9 percent — were granted.

- In 79.1 percent of all cases handled, lawyers provided full legal representation to immigrants in need of services, and in 20.9 percent, immigrants received comprehensive immigration legal screenings, legal advice, or other brief assistance.

- Among immigrants served, the largest age group was between 22 and 34 years old (27.0 percent). Youth aged 21 and younger comprised 16.3 percent of clients served, while seniors aged 65 or older comprised 8.2 percent.

- Legal service providers assisted immigrants from over 170 countries; the largest single groups of program clients were from Mexico (18.5 percent) and the Dominican Republic (11.1 percent).

- Looking at IOI and CSBG only, a substantial majority of legal services clients resided in Queens (37.6 percent) and in Brooklyn (29.1 percent), proportions which are consistent with the distribution of immigrant New Yorkers across the boroughs.

- Across the three programs, about 40 percent of cases in which lawyers provided full representation to clients involved citizenship matters (21.9 percent) or establishing permanent residency (20.8 percent). Representation for immigrant workers in wage, labor and other employment-related issues accounted for 17.5 percent of full representation cases. Lawyers represented immigrants in over 1,000 cases seeking asylum or refugee status or relief from removal, and an additional 1,100 cases

42 This information is not available for ActionNYC.
involved representation for immigrant survivors of domestic violence or trafficking and immigrant youth.

The tables below present this analysis in greater detail.

**Table 12: Legal Services Cases Handled through Mayoral Immigration Programs, FY2017**

<table>
<thead>
<tr>
<th>Program</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>ActionNYC</td>
<td>8,443</td>
<td>57.4%</td>
</tr>
<tr>
<td>Mayoral IOI</td>
<td>4,093</td>
<td>27.8%</td>
</tr>
<tr>
<td>CSBG-Funded</td>
<td>2,162</td>
<td>14.7%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>14,698</td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

**Table 13: Applications to USCIS for Immigration Status Filed through Mayoral Immigration Programs, FY2017**

<table>
<thead>
<tr>
<th>Filing Status</th>
<th>#</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applications Filed With USCIS</td>
<td>5,820</td>
</tr>
<tr>
<td>Applications Decided by USCIS</td>
<td>1,388</td>
</tr>
<tr>
<td>Applications Granted by USCIS</td>
<td>1,331</td>
</tr>
<tr>
<td>Applications Denied/Other by USCIS</td>
<td>57</td>
</tr>
</tbody>
</table>

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Cases handled include individuals who receive brief advice, comprehensive legal screenings, and those who are taken on representation.
Table 14: Borough of Residence of Legal Services Clients (Mayoral IOI and CSBG-Funded), FY2017

<table>
<thead>
<tr>
<th>Borough of Residence</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bronx</td>
<td>1,131</td>
<td>18.1%</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>1,817</td>
<td>29.1%</td>
</tr>
<tr>
<td>Manhattan</td>
<td>714</td>
<td>11.4%</td>
</tr>
<tr>
<td>Queens</td>
<td>2,345</td>
<td>37.6%</td>
</tr>
<tr>
<td>Staten Island</td>
<td>231</td>
<td>3.7%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>6,238</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

* excludes cases in which borough of residence is unknown.

Table 15: Age Group of Legal Services Clients in Mayoral Immigration Programs, FY2017

<table>
<thead>
<tr>
<th>Age of Client</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 and Under</td>
<td>2,228</td>
<td>16.3%</td>
</tr>
<tr>
<td>22 to 34</td>
<td>3,693</td>
<td>27.0%</td>
</tr>
<tr>
<td>35 to 44</td>
<td>2,844</td>
<td>20.8%</td>
</tr>
<tr>
<td>45 to 54</td>
<td>2,258</td>
<td>16.5%</td>
</tr>
<tr>
<td>55 to 64</td>
<td>1,525</td>
<td>11.2%</td>
</tr>
<tr>
<td>65 and Over</td>
<td>1,118</td>
<td>8.2%</td>
</tr>
<tr>
<td>Unknown</td>
<td>1,032</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>14,698</strong></td>
<td><strong>N/A</strong></td>
</tr>
</tbody>
</table>

* excludes cases where age is unknown.
Table 16: Country of Origin of Legal Services Clients in Mayoral Immigration Programs, FY2017

<table>
<thead>
<tr>
<th>Country of Origin</th>
<th>#</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Mexico</td>
<td>2,720</td>
<td>18.5%</td>
</tr>
<tr>
<td>2 Dominican Republic</td>
<td>1,628</td>
<td>11.1%</td>
</tr>
<tr>
<td>3 Ecuador</td>
<td>1,198</td>
<td>8.2%</td>
</tr>
<tr>
<td>4 Haiti</td>
<td>680</td>
<td>4.6%</td>
</tr>
<tr>
<td>5 Jamaica</td>
<td>622</td>
<td>4.2%</td>
</tr>
<tr>
<td>6 Colombia</td>
<td>587</td>
<td>4.0%</td>
</tr>
<tr>
<td>7 Nepal</td>
<td>477</td>
<td>3.2%</td>
</tr>
<tr>
<td>8 Honduras</td>
<td>468</td>
<td>3.2%</td>
</tr>
<tr>
<td>9 El Salvador</td>
<td>358</td>
<td>2.4%</td>
</tr>
<tr>
<td>10 Guatemala</td>
<td>326</td>
<td>2.2%</td>
</tr>
<tr>
<td>11 China</td>
<td>278</td>
<td>1.9%</td>
</tr>
<tr>
<td>12 Trinidad and Tobago</td>
<td>275</td>
<td>1.9%</td>
</tr>
<tr>
<td>13 Guyana</td>
<td>236</td>
<td>1.6%</td>
</tr>
<tr>
<td>14 Peru</td>
<td>219</td>
<td>1.5%</td>
</tr>
<tr>
<td>15 Egypt</td>
<td>191</td>
<td>1.3%</td>
</tr>
<tr>
<td>16 Philippines</td>
<td>131</td>
<td>0.9%</td>
</tr>
<tr>
<td>17 Guinea</td>
<td>124</td>
<td>0.8%</td>
</tr>
<tr>
<td>18 Nigeria</td>
<td>113</td>
<td>0.8%</td>
</tr>
<tr>
<td>19 Cuba</td>
<td>109</td>
<td>0.7%</td>
</tr>
<tr>
<td>20 Bangladesh</td>
<td>107</td>
<td>0.7%</td>
</tr>
<tr>
<td>Other</td>
<td>3,851</td>
<td>26.0%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100.0%</td>
</tr>
</tbody>
</table>
### Table 17: Levels and Types of Legal Services Provided in Mayoral Immigration Programs, FY2017

#### All Programs

<table>
<thead>
<tr>
<th>Type of Legal Assistance</th>
<th>#</th>
<th>% of All Cases</th>
<th>% of Legal Representation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Immigration Legal Screenings/Legal Advice/Brief Assistance</td>
<td>3,075</td>
<td>20.9%</td>
<td></td>
</tr>
<tr>
<td>Permanent Residency</td>
<td>2,420</td>
<td>14.6%</td>
<td>20.8%</td>
</tr>
<tr>
<td>Citizenship</td>
<td>2,544</td>
<td>16.9%</td>
<td>21.9%</td>
</tr>
<tr>
<td>Legal Services for Immigrant Workers&lt;sup&gt;44&lt;/sup&gt;</td>
<td>2,035</td>
<td>13.4%</td>
<td>17.5%</td>
</tr>
<tr>
<td>DACA</td>
<td>1,214</td>
<td></td>
<td>10.4%</td>
</tr>
<tr>
<td>Asylum and Refugee Issues</td>
<td>836</td>
<td>5.5%</td>
<td>7.2%</td>
</tr>
<tr>
<td>Legal Services for DV and Trafficking Survivors</td>
<td>650</td>
<td>4.3%</td>
<td>5.6%</td>
</tr>
<tr>
<td>Legal Services for Immigrant Youth</td>
<td>487</td>
<td>3.2%</td>
<td>4.2%</td>
</tr>
<tr>
<td>Removal Defense</td>
<td>216</td>
<td></td>
<td>1.9%</td>
</tr>
<tr>
<td>Other</td>
<td>1,221</td>
<td></td>
<td>10.5%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>14,698</td>
<td>100.0%</td>
<td>N/A</td>
</tr>
</tbody>
</table>

#### ActionNYC

<table>
<thead>
<tr>
<th>Type of Legal Assistance</th>
<th>#</th>
<th>% of All Cases</th>
<th>% of Legal Representation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Immigration Legal Screenings&lt;sup&gt;45&lt;/sup&gt;</td>
<td>1,873</td>
<td>22.1%</td>
<td>N/A</td>
</tr>
<tr>
<td>Permanent Residency</td>
<td>1,900</td>
<td>22.3%</td>
<td>28.9%</td>
</tr>
<tr>
<td>Citizenship</td>
<td>1,937</td>
<td>22.6%</td>
<td>29.5%</td>
</tr>
<tr>
<td>Legal Services for Immigrant Workers&lt;sup&gt;46&lt;/sup&gt;</td>
<td>579</td>
<td>6.8%</td>
<td>8.8%</td>
</tr>
<tr>
<td>Asylum and Refugee Issues</td>
<td>216</td>
<td>2.5%</td>
<td>3.3%</td>
</tr>
<tr>
<td>DACA</td>
<td>800</td>
<td></td>
<td>12.2%</td>
</tr>
<tr>
<td>Legal Services for DV and Trafficking Survivors</td>
<td>178</td>
<td>2.1%</td>
<td>2.7%</td>
</tr>
<tr>
<td>Legal Services for Immigrant Youth</td>
<td>68</td>
<td></td>
<td>1.0%</td>
</tr>
<tr>
<td>Removal Defense</td>
<td>0</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>Other&lt;sup&gt;47&lt;/sup&gt;</td>
<td>892</td>
<td>10.5%</td>
<td>13.6%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>8,443</td>
<td>100.0%</td>
<td>N/A</td>
</tr>
</tbody>
</table>

<sup>44</sup> Legal Service for Immigrant Workers encompasses wage theft and other immigrant worker protections as well as applications for employment authorization documents.

<sup>45</sup> This category includes comprehensive immigration legal screenings that resulted in no legal relief being identified. Screenings that identify immigration legal relief are typically accepted or referred for full legal representation.

<sup>46</sup> In the case of ActionNYC, Legal Services for Immigrant Workers only includes applications for employment authorization documents.

<sup>47</sup> Under ActionNYC, this category is mostly composed of Freedom of Information Act (FOIA) requests, requests for background checks, and applications for consular processing.
### Mayoral IOI

<table>
<thead>
<tr>
<th>Type of Legal Assistance</th>
<th>#</th>
<th>% of All Cases</th>
<th>% of Legal Representation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Advice/Brief Assistance</td>
<td>1,154</td>
<td>28.2%</td>
<td>N/A</td>
</tr>
<tr>
<td>Permanent Residency</td>
<td>370</td>
<td>9.7%</td>
<td>12.6%</td>
</tr>
<tr>
<td>Citizenship</td>
<td>165</td>
<td>4.1%</td>
<td>5.6%</td>
</tr>
<tr>
<td>Legal Services for Immigrant Workers</td>
<td>997</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asylum and Refugee Issues</td>
<td>525</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DACA</td>
<td>269</td>
<td>6.7%</td>
<td>9.2%</td>
</tr>
<tr>
<td>Legal Services for DV and Trafficking Survivors</td>
<td>115</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal Services for Immigrant Youth</td>
<td>192</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal Defense</td>
<td>208</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>98</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>4,093</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

### CSBG-Funded

<table>
<thead>
<tr>
<th>Type of Legal Assistance</th>
<th>#</th>
<th>% of All Cases</th>
<th>% of Legal Representation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Advice/Brief Assistance</td>
<td>48</td>
<td>2.2%</td>
<td>N/A</td>
</tr>
<tr>
<td>Permanent Residency</td>
<td>150</td>
<td>6.8%</td>
<td>7.1%</td>
</tr>
<tr>
<td>Citizenship</td>
<td>442</td>
<td>18.6%</td>
<td>20.9%</td>
</tr>
<tr>
<td>Legal Services for Immigrant Workers</td>
<td>459</td>
<td>20.7%</td>
<td>21.7%</td>
</tr>
<tr>
<td>Asylum and Refugee Issues</td>
<td>95</td>
<td></td>
<td>4.5%</td>
</tr>
<tr>
<td>DACA</td>
<td>145</td>
<td></td>
<td>6.9%</td>
</tr>
<tr>
<td>Legal Services for DV and Trafficking Survivors</td>
<td>357</td>
<td></td>
<td>16.9%</td>
</tr>
<tr>
<td>Legal Services for Immigrant Youth</td>
<td>227</td>
<td></td>
<td>10.7%</td>
</tr>
<tr>
<td>Removal Defense</td>
<td>8</td>
<td></td>
<td>0.4%</td>
</tr>
<tr>
<td>Other</td>
<td>231</td>
<td></td>
<td>10.9%</td>
</tr>
<tr>
<td>Total</td>
<td>2,162</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>
New York State Support for Immigration Legal Services Programs
As discussed above, the Judiciary’s CLS grants are the largest New York State-funded source of funding for civil legal services in New York City. However, the use of these funds in immigration matters is limited. In recent years, New York State has created programs specifically aimed at assisting foreign-born New York State residents. In 2013, New York State created a new administrative division, the Office for New Americans (ONA), tasked with assisting foreign-born New York State residents to fully “participate in New York State civic and economic life.” The Fiscal Year 2018 New York State Budget provides $16.4 million to assist New York State residents with immigration concerns, the majority of which ($10.0 million) is allocated to the Liberty Defense Project (LDP), created in 2017 as a partnership between New York State, philanthropic partners (Carnegie Corporation and the Ford Foundation), and a network of advocacy organizations and legal service providers.

In New York City, ONA administers funding to support 14 community-level Opportunity Centers — housed in existing community-based organizations — that assist foreign-born people with immigration-related legal matters as well as six immigration attorneys statewide to provide legal support and assistance to Opportunity Centers that lack in-house legal services. Although New York City–specific statistics were not available, ONA estimated in 2015 that since launching in 2013, more than 78,600 individuals received assistance through Opportunity Centers throughout New York State.

Federal Programs for Immigration Legal Services
Although federal funding for civil legal assistance has declined in recent decades, the Department of Justice (DOJ) has implemented some legal assistance initiatives targeted to the foreign-born. Through the Recognition and Accreditation (R&A) Program, EOIR permits non-lawyers to provide legal assistance in immigration court. This program does not provide funding to legal service providers or immigrant advocacy groups but instead provides vetting and credentialing for non-lawyers to advise and represent the foreign-born when applying for citizenship and defending against removal. The R&A program was enacted both to increase competent support available to immigrants with legal matters and to reduce the likelihood that immigrants fall victim to fraud or exploitation.

Representatives must be based out of a recognized nonprofit organization. To participate, organizations apply with the Office of Legal Access Programs (OLAP) to demonstrate knowledge of and experience in dealing with immigration matters.\textsuperscript{53} Nationwide, there are nearly 1,000 recognized organizations, 77 of which are based in New York City.\textsuperscript{54}

Non-lawyers from participating organizations can receive either partial or full accreditation. Partially accredited representatives are permitted to assist foreign-born residents in completing immigration applications and represent clients at U.S. Citizenship and Immigration Services (USCIS) interviews. In addition to these tasks, fully accredited representatives are authorized to represent clients in removal hearings in immigration courts, as well as in removal appeals before the Board of Immigration Appeals (BIA). In applying for accreditation, non-lawyers must demonstrate expertise as well as support from immigration attorneys or other fully accredited representatives.\textsuperscript{55}

The BIA Pro Bono project is a collaboration between EOIR and a group of non-governmental organizations that aims to extend pro bono representation to people with removal appeal cases before BIA. Through this project, pro bono volunteers screen and identify potentially meritorious removal cases that have been heard by immigration judges. Volunteers then forward on these cases to pro bono attorneys, who review and, if they decide to move forward, file for appeal before BIA. EOIR’s July 2017 list of pro bono legal service providers includes a dozen NYC-based organizations.\textsuperscript{56}

A 2004 internal evaluation of the project compared court outcomes for program participants to detained people filing appeals pro se and found that 22 percent of filers represented through the project attained a favorable outcome at their hearing, compared to 7 percent of pro se filers.\textsuperscript{57}

Other City-Funded Civil Legal Services Programs

Legal Services Connecting New Yorkers with Disabilities to Federal Benefits
The SSI Maximization project, operated by HRA’s Customized Assistance Services (CAS) unit identifies and connects HRA clients with disabilities to assistance in obtaining federal disability benefits. The project targets vulnerable HRA clients who have been determined to have disabilities and assists them in receiving and maximizing their Social Security Disability Income (SSDI) and Supplemental Security Income (SSI). The program provides home-based assistance in completing the disability application process and includes assistance for program clients for whom SSDI and SSI have been denied or who obtained insufficient awards in having these determinations reviewed by the Social Security appeals court or in Federal courts. The program is intended to improve the quality for the extremely vulnerable living on fixed incomes and who have limited mobility. The SSI Maximization project is funded by HRA at approximately $2.5 million in Fiscal Year 2018. A list of legal services providers participating in the SSI Maximization project is included at Appendix 12.

Legal Assistance for Senior New Yorkers
The Department for the Aging (DFTA) administers $1.3 million in annual funding for legal services for seniors. DFTA contracts with nonprofit legal services organizations to provide legal advice and representation to senior New Yorkers in areas including income and benefits, healthcare advocacy, long-term care issues, housing, guardianship, and issues of elder abuse, neglect, exploitation, and discrimination. In early 2018, DFTA issued a Request for Proposals for qualified organizations to provide legal assistance to senior New Yorkers, with providers expected to be selected for Fiscal Year 2019.

Legal Services for Small Businesses Facing Commercial Leasing Issues
While much of the City’s civil legal services programming is targeted to assist individuals or families, a recently launched initiative seeks to help small businesses in New York City. The Commercial Lease Assistance Program, administered by the City’s Department of Small Business Services (SBS), launched in Fiscal Year 2018 and will allow small business owners to obtain free legal assistance in negotiating or renewing leases, resolving landlord issues, and helping to settle contract disputes. The Commercial Lease Assistance Program, funded at $1.2 million in Fiscal Year 2018, will provide small businesses that meet income and other requirements with access to a free attorney for advice and representation for pre-litigation services intended to help small business resolve problems before they end up in court. The program will also assist in drafting and sending legal correspondence to landlords, addressing issues related to tenant harassment, and helping to resolve challenges when a building changes ownership. A list of legal services providers participating in the Commercial Lease Assistance Program is included at Appendix 13.
Strategic Plan for Civil Legal Services in New York City

Introduction
Under the City Charter, the Office of Civil Justice (OCJ) is tasked with creating a five-year plan for providing civil legal services to low-income New Yorkers in need of assistance. The City has plans in place for providing legal services to assist low-income tenants facing eviction, displacement and harassment, as well as for legal services for immigrant New Yorkers related to their immigration status or with respect to their employment rights — key areas of legal services in which the City has become a national leader over the past several years through its investments and programs.

Future commitments in other areas of civil legal services are challenging in the current climate, given potential reductions in the City’s budget due to Federal fiscal and tax policies and the New York State budget proposal announced by the Governor.\textsuperscript{58} Moreover, comprehensive plans that would seek to meet needs or close gaps in representation in other areas of civil legal services will be more realistic, and ultimately more achievable, after we evaluate the implementation, the impact, and the lessons learned from the City’s Universal Access rollout. As the City’s (and the nation’s) first comprehensive program for providing municipally-funded legal representation for all low-income litigants in a civil court (eviction cases in the city’s Housing Courts and New York Housing Authority (NYCHA) administrative proceedings), the creation of the Universal Access initiative involves an unprecedented increase in civil legal staffing and organizational infrastructure, and requires development of methods for program referrals and intake, community outreach, and performance monitoring that will serve as models for expansion of access to legal services into other areas of the civil justice system.

However, as detailed herein, there are concrete steps that OCJ and the City can take to make meaningful progress in making civil legal services more available in key areas of need for low-income New Yorkers — specifically, legal cases involving debt delinquency that face thousands of consumers in New York City every year, and low-income New Yorkers facing employment and wage-related legal issues.

Through the launch and enhancement of its legal services initiatives, OCJ has identified key steps and milestones in the study, development, and implementation of programs to address the civil legal needs of low-income New Yorkers. Our work in support of legal services programs for tenants reflects this approach. The approach can be schematized in three

phases: framing the area and assessing the need; exploring modes of service delivery; and synthesizing lessons learned.

The first phase of our approach involves research into understanding the components of the area of civil legal services. This includes understanding what legal proceedings are involved in the area and understanding what Courts are involved in adjudicating these proceedings. Next, we analyze what currently existing services serve low-income New Yorkers seeking assistance in this area of law. This analysis includes seeking to understand the capacity of legal service providers in a particular area and garnering an understanding of what resources may be available to low-income New Yorkers from governmental agencies. To understand what impact counsel may have on low-income litigants, OCJ conducts an exhaustive literature review and case study analysis. The literature review may be cross-jurisdictional, allowing us to draw on the experiences of different localities. In order to understand the local context, OCJ conducts stakeholder research to understand what opportunities and obstacles may exist specifically relating to New Yorkers. The next step is to quantify the need for legal services in the area. We seek a numerical understanding of how many New Yorkers have a need for legal services in this area. This process involves compiling information about the number of cases filed, reviewing New York-specific studies, analyzing data, and meeting with stakeholders, including OCA. Of particular relevance are details about the number of low-income New Yorkers in need of services and how the underlying legal need in this area impacts housing instability or exacerbates poverty and income inequality. Further, we seek to understand if there are groups of New Yorkers who, due to their demographic characteristics, may be unfairly disadvantaged by a lack of legal assistance.

The second phase of planning involves synthesizing what was learned in the first phase and creating solutions to address the challenges of providing legal services and assistance to New Yorkers. During this phase of planning, OCJ develops pilot projects. Often the pilot projects are small, but are designed to be scaled up. Pilots are effective ways of testing the efficacy of legal representation, developing comparative data, and, at the same time, providing services to New Yorkers. We closely monitor the progress of the pilot projects and make adjustments as needed to respond to new needs and challenges that arise. Pilots are also useful ways to understand synergies that may exist between different areas of law, allowing us to respond to civil legal needs that may overlap and compound. During this phase OCJ also delves into understanding service delivery methods; that is, ways of connecting New Yorkers in need with any services which currently exist or are being piloted. The lessons learned in connecting those in need of representation with that representation are applicable across scale and often across issue area.
In the third phase of planning, OCJ consolidates all of the findings from phase one and two. This wealth of information is academic, practical, qualitative, and quantitative. With these data OCJ is equipped to understand best practices, develop cost estimates, and if warranted develop a plan and budgets for providing legal representation and assistance in the relevant area of civil legal services. OCJ is also in a position to understand the capacity of legal services providers and where lacking, develop a pipeline to increase that capacity. The planning process is iterative; once we have completed this process we begin a phased-in implementation of any plan which may have been developed.
Legal Services for Tenants

Universal Access to Legal Services
On August 11, 2017, Mayor de Blasio signed into law City Council Intro 214-b. With the enactment of this law (of which prime sponsors in the Council were Councilmembers Mark Levine of Manhattan and Vanessa Gibson of the Bronx), the City of New York became the first city in the United States to ensure that all tenants facing eviction in housing court will have access to legal assistance. The Universal Access law specifically provides that New York City will provide access to every low-income tenant facing an eviction case in Housing Court to free legal representation — that is, a defense attorney in the tenant’s eviction case — by the end of the five-year phase-in period.

Under the Universal Access law, OCJ is tasked with establishing a legal services program that will provide free full legal representation in court to tenants facing eviction proceedings in Housing Court whose household incomes are at or below 200 percent of the federal poverty level, which is approximately $50,000 annually for a household of four. The law further provides that OCJ will establish a program to provide free brief legal assistance for those households whose income exceeds 200 percent of the Federal Poverty Guidelines, and will implement a universal access to legal services program for tenants facing eviction in administrative proceedings in NYCHA.

Phasing In Investments and Implementation
The law directs that these requirements be fully implemented by Fiscal Year 2022. With the establishment and enhancement of the Expanded Legal Services program in ten zip codes across the city as described above, and five additional zip codes (one per borough) being added to the program in Fiscal Year 2018, the Universal Access program is now underway, with additional zip codes to be added incrementally going forward. A list of targeted zip codes added in Fiscal Year 2018 is included at Appendix 15. Zip codes targeted for services will be selected during the phase-in period based on a variety of factors, including shelter entries from the zip code; prevalence of rent-regulated housing; the volume of eviction proceedings; whether the area is already being served through other legal services programs; and other factors of need.

59 The full text of the Universal Access Law, Local Law 136 of 2017, is included at Appendix 14.
60 The 2018 Federal Poverty Guidelines are available at https://www.federalregister.gov/documents/2018/01/18/2018-00814/annual-update-of-the-hhs-poverty-guidelines. For a household of one, 200 percent of the guidelines is $24,280 (annually); for two, $32,920; for three, $41,560; for four, $50,200; for five, $58,840, for six, $67,480.
New investments to support Universal Access will be implemented and phased in over the next four fiscal years, and have begun with an additional $15 million in Fiscal Year 2018 that brings OCJ’s current investment in tenant legal services to over $77 million. In Fiscal Year 2019, this investment will grow to $93 million, as additional zip codes are added to the program. These investments will reach $155 million by Fiscal Year 2022 to support the phased-in implementation model for Universal Access (see Figure 9 below). At full implementation, the City’s tenant legal services programs are expected to provide access to legal services for a projected 125,000 households annually, or 400,000 New Yorkers, and will level the playing field for tenants facing eviction and displacement.

**Figure 9: Projected Annual Funding Levels (in millions) for Legal Services for Tenants (FY2018–FY2022)**

![Figure 9: Projected Annual Funding Levels (in millions) for Legal Services for Tenants (FY2018–FY2022)](image)

*Source: NYC Office of Civil Justice*

**Expanding Universal Access to NYCHA Administrative Proceedings**

At the same time, OCJ is working with legal provider partners to develop a program model to comprehensively and effectively provide access to legal services for NYCHA tenants facing termination of tenancy proceedings. Following the recent proposal by Chief Judge DiFiore’s Special Commission on the Future of the New York City Housing Court that Staten Island serve as a bellwether for Universal Access implementation,61 this process is beginning in the spring of 2018 with a pilot program focusing on NYCHA tenants in Staten Island facing termination of tenancy proceedings that is expected to provide such tenants with access to legal services and serve as a model for expansion across the city.

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Conducting Outreach and Education
An important component of implementation over the next several years will be community education and outreach. To that end, in the coming year the City’s Tenant Support Unit (TSU) is building a dedicated 15-person team of tenant specialists to conduct outreach in neighborhoods targeted for Universal Access services to reach low-income tenants facing eviction in Housing Court, notify them of their access to free legal representation and connect them to services. TSU and OCJ will also launch a multilingual paid advertising campaign in these neighborhoods to ensure that tenants are aware of their access to legal assistance.

Studying Anti-Harassment and Tenant Protection Legal Services
In addition, in the coming fiscal year, OCJ will be working with legal services provider partners, the courts, and other City agencies to study the Anti-Harassment and Tenant Protection legal services program. OCJ will develop a plan to harmonize the Universal Access program with the legal services work for low-income tenants facing displacement pressures that is a part of the Anti-Harassment and Tenant Protection (AHTP) program.

Building and Supporting Service Capacity
Finally, OCJ will partner with local law schools, legal services providers, the Judiciary and other stakeholders to develop a plan for a robust “pipeline” of skilled and dedicated housing lawyers and supervisors. This will be critical to ensure that organizations providing legal assistance to tenants can hire and train both new and experienced attorneys and other legal professionals to ensure that the City’s legal services programs for tenants can maintain a steady pace of growth and increased availability of services during and after the five-year phase-in period.
Legal Services for Immigrant New Yorkers

Introduction
As noted earlier, the de Blasio Administration increased its annual investment in immigration legal services by adding more than $16 million in Fiscal Year 2018, to a total of $30 million annually for programs providing legal advice, representation and assistance for immigrant New Yorkers. The City’s robust increase in support for immigration legal services programs is supported by the evidence that, in many instances, access to legal assistance can and does have a meaningful positive impact on case outcomes. The 2011 Immigration Study Report found that 74 percent of non-detained persons facing removal who had lawyers obtained favorable outcomes in their cases, as compared to only 13 percent of those without counsel. The same pattern held among detained litigants, although outcomes were far less favorable overall; 18 percent of represented detained litigants received a favorable outcome, as compared to only 3 percent for the unrepresented. A recent evaluation by the Vera Institute of Justice found that legal representation provided to detained immigrants in removal proceedings in the Varick Street court through NYIFUP led to successful case outcomes in 24 percent of cases which reached disposition compared to a 4 percent success rate for unrepresented immigrants in removal cases heard at Varick Street in the two years before NYIFUP was in place.

In a 2014 study, researchers from the Transactional Records Access Clearinghouse (TRAC) at Syracuse University documented case outcomes, by representation status, for removal proceedings in priority, or ”surge,” dockets involving women with children. This study found that, although most families in these dockets lacked representation, those with lawyers had far better case outcomes. Of the over 14,000 completed cases studied, families were represented in 14 percent of cases (though this rate was over 57 percent for the New York Immigration Court). Nearly all (97.7 percent) unrepresented families were ordered deported, compared to 67.1 percent of the families with lawyers, although it should be noted that cases with more merit may be more likely to have representation. Another TRAC study looked at representation and outcome rates among unaccompanied children in removal cases. The study shows that in the three federal fiscal years preceding the establishment of priority

dockets (October 2011 through September 2014), 40 percent of unaccompanied youth with completed removal cases were represented. Nearly three-quarters of the youth with lawyers were permitted to stay in the country, compared to only 20 percent of youth without lawyers.65

Research has likewise shown a substantial positive impact of legal counsel in immigration matters outside of the removal context. A 2007 study published in the Stanford Law Review found that representation by counsel was the single biggest factor influencing the outcome of an asylum case.66 Moreover, legal assistance has been observed to be especially valuable to immigrants where legal systems intersect, such as when immigration-related issues are litigated in the family court; lack of familiarity with immigration law among stakeholders has been shown to further hinder the ability of non-citizens to document their status as a victim of a crime or their assistance in a prosecution.67

Increasing Access to Legal Defense in Removal Cases
The needs for high-quality, free legal representation for immigrant New Yorkers facing removal have seldom been more acute. New enforcement strategies by the Trump administration have targeted a much broader swath of non-citizen immigrants, regardless of their background and criminal history, and arrests by Immigration and Customs Enforcement (ICE) of individuals with no criminal convictions have dramatically increased just over the past year. As detailed in Figure 10, nationally, the number of arrests of immigrants rose by approximately 33,000 in FFY2017 (much of which covers the period after President Trump’s inauguration) compared to FFY2016 – an increase of approximately 30 percent. Arrests of individuals without criminal histories, however, increased by 146 percent, and the proportion of such “non-criminal arrests” compared to all arrests essentially doubled (from 13.9 percent of arrests in FFY2016 to 26.3 percent in FFY2017). Nationally, two out of every three additional ICE arrests in FFY2017 were of individuals who had no criminal convictions. Therefore, legal services providers as well as the Administration must adjust to meet newly emerging needs resulting from the Trump Administration’s new approach.

In the New York City “area of responsibility” (a region that includes the City as well as surrounding counties), the increases in ICE enforcement actions in the months following President Trump’s inauguration have been even more stark. As detailed in Figure 11 below, in the New York City area, ICE arrested more than twice as many individuals in the last month of FFY2017 than in the first month of the fiscal year; there were 295 arrests in September 2017, approximately eight months after the Trump inauguration, compared to 141 arrests in October 2016, approximately four months before inauguration. Moreover, although arrests of individuals with criminal convictions rose during this period by 60.5 percent, arrests of those without criminal convictions rose by 487.5 percent – more than quintupling the number of ICE arrests of immigrants in and around the City without a criminal history.
While the number of ICE arrests has grown substantially under the current Administration, the number of deportation cases initiated has remained mostly flat nationally and in the New York City immigration courts. In FFY2017 (approximately two-thirds of which came after President Trump’s inauguration), the nationwide number of deportation cases initiated modestly declined by 2.9 percent compared to the year before. As detailed in Figure 12 below, the number of non-detained cases initiated in New York City (that is, at the New York City Immigration Court at 26 Federal Plaza) in FFY2017 declined by a smaller percentage - 1.8 percent – compared to FFY2016. The number of removal cases involving detained individuals initiated at the Varick Street court increased by 27.3 percent in FFY2017. Despite these trends, however, non-detained removal cases outnumbered detained cases by almost fourteen to one in FFY2017.


TRAC, Details on Deportation Proceedings in Immigration Court (analysis of ICE data disclosed in response to FOIA request), Retrieved from www.trac.syr.edu/phftools/immigration/nta/.
These data suggest that the need for a robust program to provide removal defense legal services to immigrant New Yorkers should be a priority for New York City. Accordingly, OCJ, in partnership with MOIA, will continue implementation of the Administration’s investment in legal services for immigrants, including substantial increases in access to representation for immigrant New Yorkers facing removal.

**Conducting Outreach and Building Access**
In addition, OCJ will be working with MOIA to build on the successes of 311 and the ActionNYC hotline to strengthen the infrastructure to address, triage and appropriately connect immigrant New Yorkers in need of services to the City’s legal programs for immigrants. Since launching in February 2016, the ActionNYC hotline has received nearly 30,000 calls from individuals seeking immigration legal help. On average, the hotline receives approximately 1,200 calls per month and has received upwards of 1,700 calls during peak

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**Source:** Transactional Records Access Clearinghouse (TRAC), Details on Deportation Proceedings in Immigration Court, Retrieved in March 2018 from www.trac.syr.edu/phptools/immigration/nta/ and analyzed by MOIA and OCJ.
months. OCJ and MOIA will work to identify strategies to ensure that immigrant New Yorkers seeking legal assistance have efficient access to services.

*Evaluating the City’s Immigration Legal Service Programs*

OCJ will work with MOIA to evaluate the immigration legal services programs that are currently funded and administered by the City. This initiative will aim to assess efficacy, efficiency, reach and outcome of the City’s programs and will propose concrete steps towards coordination and enhancing access to services for immigrant New Yorkers in need. Based on this assessment, OCJ and MOIA will propose and implement strategies to enhance immigration legal services programming, foster coordination across programs and identify and address gaps in service delivery.
Civil Legal Services for Low-Income New Yorkers Facing Consumer Debt

Introduction

Building on our approach towards immigration legal services that meet emerging needs of low-income New Yorkers, consumer law is the next area of focus for OCJ. Consumer debt — that is, debts incurred in the purchase of goods or services that can include obligations such as credit card bills, student loans, auto loans, medical debt, and unpaid rent and utility expenses — becomes a legal issue for the debtor when the debt becomes delinquent; in cases of debt delinquency, the original creditor, or more likely a debt buyer that has purchased the debt in order to collect, can sue the debtor in court to try to recoup the unpaid amount.

In New York City, most such debts are litigated in the Civil Court, which covers disputes involving less than $25,000. According to data provided by OCA there were nearly 50,000 filings of consumer debt cases in the City’s Civil Courts in 2016. Defaults in these cases — that is, failure by debtor defendants to respond to the cases filed against them — are common, and lead to unfavorable judgments without the defendant responding to the claim or perhaps even knowing about it; by one estimate, more than four out of every ten defendants facing a consumer credit case in New York City in 2015 had a default judgment entered against them.

Delinquent consumer debt cases can have significant and far-reaching impacts on indebted individuals and their households; when a judgment against the debtor is entered, it reduces that person’s credit score, and can thus affect access to housing, employment, and additional ability to borrow.

Individuals and families face these challenges nationwide; according to a recent New York Federal Reserve report, Americans now hold more household debt than ever before, with total household debt in the first quarter of Fiscal Year 2017 exceeding $12.7 trillion. In

69 Disputes between individuals related to debts of less than $5,000 are typically handled in the Small Claims Part of the Civil Court. Lawsuits seeking repayment of debts over $25,000 are brought in New York State Supreme Court.

70 UCMS-LC: Office Activity Reports. Provided to DSS OER by OCA


72 The New York Fed Consumer Credit Panel (CCP) is a longitudinal survey of consumer Federal Reserve reports on household debt by analyzing Equifax credit reports. The survey presents estimates of consumer finance indicators for individuals with a Social Security number and a credit report. Household debt types included in national estimates include mortgages and home equity lines as well as credit card debt, car loans, and student loans. Household Debt and Credit Developments in 2017Q1. Retrieved from https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/HHDC_2017Q1.pdf. For
New York City, consumer debt is similarly widespread. According to the New York Fed report, in 2015, more than six out of every ten New York City consumers held credit card debt, and an increasing proportion of New Yorkers held car and student loans; between 2003 and 2015, the percentage of New Yorkers who have auto loans increased from 9.6 percent to 15.0 percent, and the percentage of borrowers with student loan debt more than doubled, from 8.0 percent to 16.6 percent.\(^73\)

**Strategic Plan: Year 1**

**Assessing the Need for Services among Low-Income New Yorkers**

Research strongly suggests that consumer debt delinquency, and the legal jeopardy that accompanies it, may hit lower-income New Yorkers the hardest. A 2010 study that examined a sample of cases filed by debt buyers in New York City between January 2006 and July 2008 found that 91 percent of the people sued for delinquent consumer debt lived in low- or moderate-income census tracts.\(^74\)

There are a number of programs in New York City that provide legal advice, non-lawyer guidance, or time-limited legal assistance for defendants facing consumer debt cases. The Civil Legal Advice and Resource Office (CLARO) program operates at the Civil Court and provides legal advice to low-income New Yorkers who are facing consumer debt cases in court. CLARO program attorneys, who are volunteers, meet with individuals at court and provide advice on how they can best represent themselves. The CLARO program operates in all five boroughs and partners with law schools, bar associations, and legal services providers in order to assist unrepresented litigants access consumer debt legal services.

Whereas the CLARO program provides legal advice to unrepresented litigants, OCA’s Volunteer Lawyer for the Day — Consumer Debt Program (VLFD) provides the essential equivalent of full legal representation on a limited, per-day basis. In 2016, the VLFD provided such limited-scope representation to approximately 3,400 consumers in the city’s Civil Courts through the volunteer efforts of over 100 attorneys and law students. Such limited-scope assistance has yielded dismissals, both with and without prejudice, and

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settlements in approximately 55 percent of cases on the same day of representation. In cases that do not resolve on the same day that the debtor receives assistance, lawyers will provide individualized legal advice on the debtor’s options in the case and may request discovery on their behalf. The VLFD Consumer Debt Program operates under the supervision of the court system’s Access to Justice Program and with the participation of legal services providers, local bar associations, and law schools. A full list of participating organizations is included at Appendix 16.

In addition, the Court Navigator Program (also funded and supervised by the court system’s Access to Justice Program) assists unrepresented litigants in consumer debt cases in Civil Court. The Court Navigator Program, currently operating in Bronx County Civil Court (which in 2016 had more consumer debt filings than any other borough, accounting for more than 30 percent of the City’s total), trains and supervises non-lawyers, such as college students, law students, and others, to assist unrepresented litigants who appear in consumer debt cases. Navigators accompany unrepresented litigants when they meet with judges, court attorneys, or the creditor’s attorney. They also assist unrepresented litigants in organizing papers they have brought to the courthouse, provide information about available resources, explain court processes and the roles of different court personnel, and help find people or places in the courthouse. In 2016, the Court Navigator Program provided assistance to approximately 600 litigants in Bronx County Civil Court.

Moreover, several legal services providers in New York City offer free legal assistance to low-income New Yorkers facing consumer debt issues. Information provided to OCJ by six of the largest legal providers (by attorney staff size and the number of cases handled) found that last year nearly 6,300 New Yorkers were assisted with consumer debt-related legal services by these providers, including over 2,000 consumers facing credit card debt issues, 1,500 filing federal bankruptcy petitions, and nearly 100 consumers facing broken lease/rental arrears cases.

Despite these initiatives, however, the representation gap for New York City residents facing debt cases in court remains large; records indicate that in the overwhelming majority of cases, debtors who answer summonses do so without legal representation. Data from the New York City Civil Court recently cited in testimony to the state court system’s Permanent

76 UCMS-LC: Office Activity Reports. Provided to DSS OER by the NYS Office of Court Administration.
78 A full list of participating legal services organizations is included at Appendix 17.
Commission on Access to Justice indicates that in 2015, 14.4 percent of defendants in consumer credit cases were represented by counsel.\(^79\)

**Studying the Impact of Legal Services for Consumer Debt Issues**

There is evidence that legal representation in consumer debt cases can make a meaningful difference in outcomes for the litigant. Although research in the area of impact of legal services in consumer debt litigation is limited, at least one study found that defendants in consumer debt cases fare far better with legal representation than without.

In a 2014 study, researchers from the University of Maryland School of Law conducted a stratified random sample of 4,400 consumer debt cases filed in Maryland between 2009 and 2010. The study found that most defendants summoned to court failed to appear, and the few that did, did so without a lawyer; of the defendants served with a suit, 85 percent did not respond to defend themselves in court. Among the remaining 15 percent who did respond, only 2 percent did so with the assistance of counsel.\(^80\) The researchers then analyzed differences in court outcomes by response status. Consumers who did not appear had the worst outcomes; in these cases, debt buyers won a judgment in their favor 73 percent of the time, and recovered 82 percent of the total money sought. Those consumers who responded pro se fared better. Creditors obtained judgments in 47 percent of cases and recouped 62 percent of the amount originally sought. Consumers aided by lawyers had the most positive outcomes. Represented consumers had judgments against them in just 15 percent of cases and in these cases plaintiff creditors recovered 21 percent of the value of their claims.

**Strategic Plan: Years 2–3**

Years 2 and 3 of the strategic plan will focus on the continued assessment of the capacity for expansion of the field of consumer debt legal services, including the identification of areas of overlapping practice with other legal services programs and, in partnership with the legal services community, the development of estimates for expanding service capacity. We will also convene meetings with internal and external partners to assess emerging needs for low-income New Yorkers who face consumer debt legal issues.

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Developing Pilot Programs to Address the Legal Needs of Low-Income New Yorkers

OCJ proposes to increase access to legal representation in consumer debt cases through programs that target such assistance to particularly vulnerable low-income New Yorkers. To understand how to best target these resources, OCJ will conduct stakeholder meetings to solidify its understanding of existing services and assess obstacles and opportunities for experimental programs. Based on the outcomes of these meetings, OCJ will then design pilots in partnership with key stakeholders in order to test programming that can be scaled to meet the citywide needs of low-income New Yorkers. OCJ currently plans to help homeless individuals and families address consumer debt cases that stand in the way of exit from shelter, and provide low-income tenants with legal help to defend against “broken lease” cases that threaten their credit and in turn their ability to obtain or retain affordable housing.

Although all low-income New Yorkers can be affected by various types of consumer debt issues, New Yorkers in the City’s homeless shelter system may be at an even greater disadvantage. Legal issues related to debt delinquency may not only cause people to become homeless in the first place, but may prevent shelter residents from leaving shelter and obtaining permanent housing. Furthermore, shelter residents with debt problems may be hampered by logistical obstacles which prevent them from seeking legal redress.

In an effort to connect shelter residents with consumer debt legal services and overcome barriers to obtaining new housing, and to evaluate the costs and benefits of such a program and service model at larger scale, OCJ, HRA’s Office of Evaluation and Research (OER), the Department of Homeless Services (DHS), and the New York Legal Assistance Group (NYLAG) have partnered to launch the Consumer Legal Engagement and Assistance for New Yorkers in Shelter (CLEANS) Project. The CLEANS pilot targets legal advice and representation provided on a volunteer basis to the City by NYLAG to a targeted group of DHS shelter residents who have been identified as having consumer debt issues that have inhibited their ability to secure an apartment lease and thus leave DHS shelter.

In addition to homeless individuals and families address consumer debt, OCJ also proposes to look at a particularly challenging form of consumer debt litigation against low-income New Yorkers: so-called broken lease cases. These are primarily lawsuits brought by landlords against former tenants for alleged rental arrears, attorney’s fees, and other charges. Distinct from summary eviction proceedings in Housing Court, these cases can be filed by landlords against former tenants in Civil Court or Supreme Court after a tenant’s eviction or displacement with the goal of seeking compensation for allegedly unpaid rent for the balance of a lease term. These cases may be filed even when the tenants have settled the eviction proceedings in Housing Court or when they left the apartment and found alternative housing
due to issues of disrepair. There is evidence that these cases are on the rise in New York City, despite recent declines in eviction filings in Housing Court (described in greater detail earlier in this report).

Over the next two years, OCJ will work with legal services provider partners and other stakeholders with expertise in both tenant legal issues and consumer debt cases to implement programming to make legal representation for tenants facing such broken lease cases more available. This effort will build from OCJ’s expansive legal services programs that serve tenants in need, and will seek to help low-income tenants facing broken lease cases that threaten their credit and their present or future housing stability. This pilot will provide the first rigorous analysis of these types of cases, which will pave the way to a more quantitative as well as qualitative understanding this area of law.

Through these initiatives, OCJ proposes to set the city on a course for more available legal assistance for low-income New Yorkers facing consumer debt.

**Strategic Plan: Years 4−5**

**Evaluating Pilot Projects and Developing Implementation Strategies**

Upon completion of the pilot projects, OCJ will assess the projects, including the volume of individuals served, types of legal services provided, possible benefits obtained and challenges faced by the provider. OCJ plans to evaluate the lessons learned and develop strategies to expand a revised service model to meet the needs of low-income New Yorkers. OCJ and OER will produce an evaluative report on the CLEANS pilot project, including an assessment of the pilot’s impact, as well as cost-benefit analysis that will weigh the potential expenses of such a program at scale against the benefits that derive from potential exit from shelter for homeless New Yorkers who would receive these legal services. OCJ also plans to conduct an analogous assessment for the broken lease pilot.

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Legal Services for Low-Wage Workers

Introduction
Continuing our approach to planning, OCJ will draw on the experience we have in providing legal assistance services to assist immigrant workers with issues related to their employment and explore ways to help to preserve and enhance stability in the lives of all low-wage workers in New York City.

Increasingly, those who are living in poverty are working people; between 1990 and 2005, the number of working poor families in both New York City and State rose by nearly 75 percent. In 2016, 54 percent of New York City families with income below the Federal Poverty Level included a working adult. With stagnant wages and a reduced affordable housing stock, the burden of income inequality has disproportionately fallen on the shoulders of low-wage workers and their families. Emblematic of this, more than 25,000 HRA clients who receive Cash Assistance are employed; however, their incomes are so low that they still qualify for Cash Assistance.

In low-wage industries, where workers are paid “off the books,” wage and hour violations are all too common. Such “wage theft” violations include not paying workers on time, paying them below the minimum wage, failing to pay overtime when required, not allowing meal or other breaks, and not allowing required sick leave.

Strategic Plan: Year 1
Assessing the Need for Legal Services for Low-Income New Yorkers
In New York City, it has been estimated that over 300,000 New Yorkers experience one or more wage-based violations every week. In 2009, the National Employment Law Project (NELP) issued a comprehensive study of wage and hour violations, with a survey of over a thousand workers in low-wage industries in New York City. NELP found:

- Approximately 70 percent of low-wage workers in New York City are foreign born.
- Over one-fifth of the workers surveyed had been paid less than the legally required minimum wage in the previous workweek.
- Nine out of ten workers surveyed worked enough consecutive hours to be legally entitled to at least one meal break during the previous week, but 70 percent of this

82 United States Census Bureau American Community Survey FactFinder Table B17016, includes full- and part-time work (an estimated 153,521 working families out of 285,993 families below 100% FPL).
group received no break at all, had their break shortened, were interrupted by their employer, or worked during the break.

Other findings suggest that when workers advocate or seek redress for themselves, their efforts can be ineffective or even lead to retaliation.

In response, a variety of legal services providers have offered free legal assistance to low-wage workers. Legal services organizations in New York State who receive IOLA Fund support handled more than 12,000 employment legal matters in 2016, a 22 percent increase from 2015.84 In Fiscal Year 2017, New York City’s seven largest legal services providers in the area of employment law (by staff size) provided employment-related legal services to approximately 4,200 workers, which represented a 34 percent increase over Fiscal Year 2016, based on information made available to OCJ by providers in 2017.85 Wage theft and employment discriminations cases each accounted for approximately a quarter of the total cases handled.

**Strategic Plan: Years 2–3**

**Developing a Pilot to Address the Legal Needs of Low-Income New Yorkers**

OCJ supports legal assistance programs for immigrant workers through the IOI and CSBG-funded legal services discussed above. Given that, as noted previously, seven out of every ten low-wage workers in the city are foreign-born — a proportion that is even higher in some industries, such as the domestic industry, where an estimated 99 percent are foreign-born86 — protecting and vindicating workers’ rights forms a significant component of the City’s legal services programs for immigrants. Moreover, immigrant workers can face heightened threats to their wage stability and employment; one study found that immigrant low-wage workers in New York City were twice as likely to experience minimum wage violations.87

Together, Administration-funded legal programs provided legal assistance in over 2,000 employment-related cases in Fiscal Year 2017, ranging from legal education programs designed to provide information and advocacy regarding employee rights and worker exploitation, to securing work authorization for low-income immigrants, to lawsuits to

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82 A full list of participating legal services organizations is included at Appendix 18.


84 Bernhardt, Polson, and DeFilippis. (2010). *Working without Laws*. 68
recover unpaid wages and overtime pay, unemployment insurance, and family and medical leave, as well as legal assistance in cases of unlawful discrimination and employer retaliation.

Building on the employment legal services offered as part of our immigration legal services programs, OCJ will explore the possibility of a pilot program which provides employment legal services for foreign-born New Yorkers, regardless of their immigration status. The experience of administering employment legal services to non-citizen New Yorkers, has given us data which will allow us to explore the delivery of employment legal services to New Yorkers in need.

**Strategic Plan: Years 4–5**  
**Evaluating Pilot Projects and Developing Implementation Strategies**  
In the third phase of our planning, OCJ will examine all the information that we have gathered in the previous phases. This includes analyzing the lessons we learned through the administration of the employment law components of our immigration contracts. With this robust data, we will be in a position to compare various service delivery models which cover all low-wage workers in New York City. A comprehensive understanding of the capacity of legal services providers in the City will inform our decisions.
Conclusion

This Annual Report and Strategic Plan is respectfully submitted to provide insights into the work of the Office of Civil Justice in establishing, enhancing, and evaluating civil legal assistance in New York City, and to chart a course for further development in important areas of legal need faced by low-income New Yorkers from across the City. The City of New York is a national leader in supporting and championing this work, reflecting our firm commitment to fairness and justice.
Appendix 1: Judiciary Civil Legal Services (JCLS) grantee organizations for 2017-2018

Advocates for Children of New York
Asian American Legal Defense and Education Fund
Association of the Bar of the City of New York Fund Inc.
Brooklyn Bar Association Volunteer Lawyers Project
Brooklyn Defender Services
Brooklyn Legal Services Corporation A CAMBA
Catholic Charities Community Services, Diocese of New York
Catholic Migration Services
Center for Family Representation
Central American Legal Assistance
Child and Family Services
Community Service Society of New York
Family Center Inc.
Her Justice
Housing Conservation Coordinators
Jewish Association of Services for the Aged
Latino Justice PRLDEF
Legal Action Center
Legal Information for Families Today

Legal Services NYC
Lenox Hill Neighborhood House
Make the Road New York
Mobilization for Justice
Neighborhood Defender Service of Harlem
New York Center for Law and Justice
New York Lawyers for the Public Interest
New York Legal Assistance Group
Northern Manhattan Improvement Corporation
Pace University
Part of the Solution
Partnership for Children’s Rights
Prisoner’s Legal Services
Pro Bono Net
Queens Volunteer Lawyers Project
Safe Horizon
Safe Passage Project
Sanctuary for Families
The Door: A Center For Alternatives
The Bronx Defenders
The Legal Aid Society
Touro College
Urban Justice Center
Vera Institute of Justice
Volunteers of Legal Services
Appendix 2: NYC-based IOLA Grantees for FY2018-19

Brooklyn Defender Services
CAMBA
Legal Services NYC
Mobilization for Justice
New York Legal Assistance Group (includes Self Help)
Northern Manhattan Improvement Corporation
The Legal Aid Society
Urban Justice Center
Appendix 3: HPLP/ELS/Universal Access Legal Services Providers

Brooklyn Legal Services Corporation A
BOOM!Health (Bronx AIDS Services, Inc.)
CAMBA
Housing Conservation Coordinators
Legal Services NYC
Lenox Hill Neighborhood House
Mobilization for Justice
Neighborhood Association for Intercultural Affairs, Inc.
New York Legal Assistance Group
Northern Manhattan Improvement Corporation
RiseBoro Community Partnership (formerly Ridgewood Bushwick Senior Citizens Council)
The Bronx Defenders
The Legal Aid Society
Urban Justice Center
Appendix 4: Expanded Legal Services ZIP Codes

Bronx: 10457, 10467
Brooklyn: 11216, 11221
Manhattan: 10026, 10027
Queens: 11433, 11434
Staten Island: 10302, 10303
Appendix 5: List of Legal Services Providers and Target Neighborhoods under Anti-Harassment Tenant Protection Program

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<th>Geographic Area</th>
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<td>Bronx Defenders</td>
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Appendix 6: ActionNYC Partners (as of March 2018)

African Communities Together
Arab American Association of New York
Association for Neighborhood and Housing Development
Atlas: DIY
BronxWorks
CAMBA
Caribbean Women’s Health Association
Catholic Charities New York
Catholic Legal Immigration Network, Inc.
Center for Family Life
Center for Popular Democracy
Center for the Integration and Advancement of New Americans
Chinese-American Planning Council, Inc.
City University of New York
Council of People’s Organization
Damayan Migrant Workers Association, Inc.
Gay Men’s Health Crisis
Immigrant Justice Corps
Jacob A. Riis Neighborhood Settlement
LSA Family Health Service
Lutheran Social Services of New York
Make the Road New York
Masa
Mekong
Mercy Center
MinKwon Center for Community Action
Mixteca Organization Inc.
New York Immigration Coalition
New York Legal Assistance Group
Northern Manhattan Improvement Corporation
NYC Department of Education
NYC Health+Hospitals
Sauti Yetu Center for African Women
Street Vendor Project
Appendix 7: Immigrant Opportunity Initiative Providers

Adhikaar
African Communities Together
African Services Committee, Inc.
Asian Americans for Equality
Association of the Bar of the City of New York Fund, Inc.
Atlas DIY
Boro Park Jewish Community Council
Boys & Girls Club Of Metro Queens, Inc.
Bronx Works, Inc.
Brooklyn Chinese-American Association, Inc.
Brooklyn Defender Services
CAMBA, Inc.
Caribbean Women's Health Association, Inc.
Catholic Charities Communities Services of New York
Catholic Migration Services
Central American Legal Assistance
Chinese Staff and Workers' Association
Comprehensive Development Council of Jewish Organizations of Flatbush, Inc.
Damayan Migrant Workers Association
Desis Rising Up & Moving
Emerald Isle Immigration Center
Garden of Hope
Gay Men's Health Crisis, Inc.
Good Shepherd Services
HANAC Inc.
Housing Conservation Coordinators
Immigrant Justice Corps, Inc.
Immigration Equality
Legal Services NYC
Make the Road New York
MinKwon Center for Community Action
Mobilization for Justice, Inc.
National Mobilization Against Sweatshops
New Immigrant Community Empowerment
New York Legal Assistance Group
Northern Manhattan Coalition for Immigrant Rights
Northern Manhattan Improvement Corporation
Polish and Slavic Center, Inc.
Queens Community House
Safe Homes Project
Safe Horizon, Inc.
Sakhi for South Asian Women
Sanctuary For Families, Inc.
SBH Community Service Network, Inc.
(Sephardic Bikur Cholim)
Southside Community Mission, Inc.
The Ansof Center for Refugees
The Legal Aid Society
United Jewish Organizations of Williamsburg, Inc.
Urban Justice Center
West Bronx Housing and Neighborhood Resource Center, Inc.
Workers' Justice Project
Youth Ministries for Peace and Justice
Appendix 8: CSBG-funded Legal Services Providers

Bronx Legal Services (LSNY-Bronx Corporation)
Brooklyn Defender Services
CAMBA, Inc.
Catholic Migration Services
Make the Road New York
New York Legal Assistance Group
Northern Manhattan Improvement Corporation
Queens Legal Services Corporation
Sanctuary for Families
Sauti Yetu Center for African Women
The Door: A Center for Alternatives
Urban Justice Center
Youth Ministries for Peace and Justice
Appendix 9: Providers of Legal Services for Immigrant Survivors of Domestic Violence

Barrier Free Living
Caribbean Women’s Health Association
El Centro NYC
Nuevo Amanecer- Dominican Women’s Development Center
Puerto Rican Family Institute- Bronx Head Start
Sanctuary for Families
Urban Justice Center
VIP Community Services
Appendix 10: New York Immigrant Family Unity Project Legal Services Providers

Brooklyn Defender Services
The Bronx Defenders
The Legal Aid Society
Appendix 11: The Immigrant Child Advocates’ Relief Effort (ICARE)/Unaccompanied Minors and Families Initiative (UMFI) Legal Services Providers

Catholic Charities Community Services, Archdiocese of New York
Central American Legal Assistance
The Door: A Center for Alternatives
The Legal Aid Society
Safe Passage Project
Appendix 12: Legal Services Providers Participating in the SSI Maximization Project

Legal Services NYC
The Legal Aid Society
Appendix 13: Legal Services Providers Participating in the Commercial Lease Assistance Program

Brooklyn Legal Services Corporation A (lead)
Urban Justice Center
Volunteers of Legal Services
Appendix 14: Local Law 136 of 2017

CHAPTER 13

PROVISION OF LEGAL SERVICES IN EVICTION PROCEEDINGS

§ 26-1301 Definitions.

§ 26-1302 Provision of legal services.

§ 26-1303 Public hearing.

§ 26-1304 Reporting.

§ 26-1305 Rules.

§ 26-1301 Definitions. For the purposes of this chapter, the following terms have the following meanings:

**Brief legal assistance.** The term “brief legal assistance” means individualized legal assistance provided in a single consultation by a designated organization to a covered individual in connection with a covered proceeding.

**Coordinator.** The term “coordinator” means the coordinator of the office of civil justice.

**Covered individual.** The term “covered individual” means a tenant of a rental dwelling unit located in the city, including any tenant in a building operated by the New York city housing authority, who is a respondent in a covered proceeding.

**Covered proceeding.** The term “covered proceeding” means any summary proceeding in housing court to evict a covered individual, including a summary proceeding to seek possession for the non-payment of rent or a holdover, or an administrative proceeding of the New York city housing authority for termination of tenancy.

**Designated citywide languages.** The term “designated citywide languages” has the meaning ascribed to such term in section 23-1101.

**Designated organization.** The term “designated organization” means a not-for-profit organization or association that has the capacity to provide legal services and is designated by the coordinator pursuant to this chapter.

**Full legal representation.** The term “full legal representation” means ongoing legal representation provided by a designated organization to an income-eligible individual and all
legal advice, advocacy, and assistance associated with such representation. Full legal representation includes, but is not limited to, the filing of a notice of appearance on behalf of the income-eligible individual in a covered proceeding.

**Housing court.** The term “housing court” means the housing part of the New York city civil court.

**Income-eligible individual.** The term “income-eligible individual” means a covered individual whose annual gross household income is not in excess of 200 percent of the federal poverty guidelines as updated periodically in the federal register by the United States department of health and human services pursuant to subsection (2) of section 9902 of title 42 of the United States code.

**Legal services.** The term “legal services” means brief legal assistance or full legal representation.

§ 26-1302 Provision of legal services. a. Subject to appropriation, the coordinator shall establish a program to provide access to legal services for covered individuals in covered proceedings in housing court and shall ensure that, no later than July 31, 2022:

1. all covered individuals receive access to brief legal assistance no later than their first scheduled appearance in a covered proceeding in housing court, or as soon thereafter as is practicable; and

2. all income-eligible individuals receive access to full legal representation no later than their first scheduled appearance in a covered proceeding in housing court, or as soon thereafter as is practicable.

b. Subject to appropriation, no later than October 1, 2017, the coordinator shall establish a program to provide access to legal services in administrative proceedings of the New York city housing authority for tenants of buildings operated by the New York City housing authority who have been served with charges in such administrative proceedings for termination of tenancy and shall ensure that, no later than July 31, 2022, all such tenants receive access to such legal services.

c. The coordinator shall estimate annually the expenditures required for each year of implementation of the programs described by subdivisions a and b of this section. Beginning October 1, 2022 and no later than each October 1 thereafter, the coordinator shall publish a summary of any changes to such estimates for expenditures.

d. The coordinator shall annually review the performance of designated organizations.
e. The coordinator shall require each designated organization to identify the geographic areas for which such organization will provide legal services. For each such geographic area, the coordinator shall maintain a list of such organizations that provide such legal services.

f. Any legal services performed by a designated organization pursuant to this chapter shall not supplant, replace, or satisfy any obligations or responsibilities of such designated organization pursuant to any other program, agreement, or contract.

g. Nothing in this chapter or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the city or any agency, official, or employee thereof.

§ 26-1303 Public hearing. a. Following the establishment of the programs described by section 26-1302, the coordinator shall hold one public hearing each year to receive recommendations and feedback about such programs.

b. Such hearing shall be open to the public, and the coordinator shall provide notice of such hearing, no less than 30 days before such hearing, by:

1.posting in the housing court in the designated citywide languages;

2. posting in public offices of the department of social services/human resources administration in the designated citywide languages; and

3. outreach through local media and to each designated organization, local elected officials, the supervising judge of the housing court, and community-based organizations.

c. At such hearing, written and oral testimony may be provided.

d. The coordinator shall cause a transcript of such hearing to be produced and shall post such transcript online no later than 45 days after the meeting.

§ 26-1304 Reporting. a. No later than September 1, 2018 and annually by each September 1 thereafter, the coordinator shall submit to the mayor and the speaker of the council, and post online, a review of the program established pursuant to subdivision a of section 26-1302 and information regarding its implementation, to the extent such information is available, including, but not limited to:

1. the estimated number of covered individuals;
2. the number of individuals receiving legal services, disaggregated by the following characteristics of such individuals:
   
i. borough and postal code of residence;

   ii. age of head of household;

   iii. household size;

   iv. estimated length of tenancy;

   v. approximate household income;

   vi. receipt of ongoing public assistance at the time such legal services were initiated;

   vii. tenancy in rent-regulated housing; and

   viii. tenancy in housing operated by the New York City housing authority;

3. outcomes immediately following the provision of full legal representation, as applicable and available, including, but not limited to, the number of:
   
i. case dispositions allowing individuals to remain in their residence;

   ii. case dispositions requiring individuals to be displaced from their residence; and

   iii. instances where the attorney was discharged or withdrew.

4. non-payment and holdover petitions filed in housing court, warrants of eviction issued in housing court, and residential evictions conducted by city marshals, disaggregated by borough.

b. No later than September 1, 2018 and annually by each September 1 thereafter, the coordinator shall submit to the mayor and the speaker of the council, and post online, a review of the program established pursuant to subdivision b of section 26-1302 and information regarding its implementation, to the extent such information is available, including, but not limited to:

1. the number of tenants of buildings operated by the New York City housing authority that received legal services pursuant to the program described in such subdivision, disaggregated:
   
i. borough and postal code of residence;

   ii. age of head of household;
iii. household size;

iv. estimated length of tenancy;

v. approximate household income;

vi. receipt of ongoing public assistance at the time such legal services were initiated; and

vii. type of legal service provided.

2. the outcomes of the proceedings immediately following the provision of such legal services, subject to privacy and confidentiality restrictions, and without disclosing personally identifiable information, disaggregated by the type of legal service provided; and

3. the expenditures for the program described by such subdivision.

§ 26-1305 Rules. The coordinator may promulgate such rules as may be necessary to carry out the purposes of this chapter.

§ 2. This local law takes effect immediately.
Appendix 15: Universal Access Zip Codes Added in FY2018

Brooklyn: 11225
Bronx: 10468
Manhattan: 10025
Queens: 11373
Staten Island: 10314
Appendix 16: VLFD Consumer Debt Participating Organizations

Brooklyn Bar Association Volunteer Lawyers Program
New York County Lawyers' Association
New York Legal Assistance Group
Appendix 17: Consumer Law Legal Services Providers Participating in OCJ Interviews

Brooklyn Legal Services Corporation A
Legal Services NYC
Mobilization for Justice
New York Legal Assistance Group
The Legal Aid Society
Urban Justice Center
Appendix 18: Employment Law Legal Services Providers Participating in OCJ Interviews

Brooklyn Defender Services
City Bar Justice Center
Legal Services NYC
Mobilization for Justice
New York Legal Assistance Group
The Legal Aid Society
Urban Justice Center
REPORT OF
STOUT RISIUS ROSS, INC.

March 6, 2016

Presented for:

Pro Bono and Legal Services Committee
of the
New York City Bar Association

The Financial Cost and Benefits of Establishing a
Right to Counsel in Eviction Proceedings Under Intro 214-A
The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A

Report of Stout Risius Ross

March 6, 2016

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I. Scope of Work

1. Stout Risius Ross, Inc. (“SRR”) has been asked by the Pro Bono and Legal Services Committee of the New York City Bar Association to undertake on a pro bono basis, a cost / benefit analyses regarding the cost of City Council Intro 214-A (“Intro 214-A”), and to review cost/benefit reports on City Council Intro 214 conducted by the Independent Budget Office (“IBO”) and the Finance Department (“Finance”) of the City of New York (“City”). It is SRR’s understanding that from a cost benefit analysis the major difference between the original (“Intro 214”) and amended version (“Intro 214-A”) is the increase in poverty threshold of eligible cases from 125%-200%. However, in this report SRR refers to both versions of the report as "Intro 214-A". In reviewing these reports, key inputs of each report’s analysis have been identified, compared, and evaluated.  

2. Additionally, SRR has identified certain benefits / cost savings the City would likely realize through funding right to counsel in eviction matters that are not quantified in either the IBO or Finance reports. SRR is also in receipt of cost surveys of current providers of indigent defense in eviction matters which have been incorporated into our analysis.

3. Based on our review of the information presented above and consideration of other relevant information, SRR has prepared this independent opinion regarding the cost and benefit to the City of Intro 214-A. It should be noted that SRR employed a conservative method of analysis and quantified only items where data was available to support these conclusions.

1 Although Intro 214-A would provide for a right to counsel in foreclosure as well as in eviction cases, this report focuses exclusively on the costs and benefits of eviction, as did both the IBO and Finance Reports.
II. Executive Summary

4. SRR has reviewed and analyzed cost benefit analyses of Intro 214-A as prepared by the IBO and Finance, including source information used in their preparation where available. The IBO report concluded that the net annual cost to the City for Intro 214-A would be between $100 million and $203 million while Finance concluded this cost would be $66 million.

5. SRR reviewed information that was published subsequent to the issuance of these reports as well as additional benefits of Intro 214-A not fully explored by IBO and Finance. In consideration of these items, SRR has determined that Intro 214-A should provide net cost savings to the City.

6. It is SRR’s opinion that the IBO and Finance reports have underestimated or not considered benefits to the City from Intro 214-A. As such, SRR performed an independent analysis of the costs and benefits to the City under Intro 214-A and has concluded that implementation of Intro 214-A would provide a net cost savings to the city of $320 million. A summary of SRR’s analysis is presented below.

Cost of Providing Counsel

7. In determining the cost of providing counsel under Intro 214-A, SRR employed a similar methodology to that utilized by both IBO and Finance. This methodology considers the number of cases heard in housing court and the determination of eligible cases under Intro 214-A. In making the determination of eligible cases, both the IBO and Finance Reports utilized the then current threshold in Intro 214-A of 125% of the poverty line. It is SRR’s understanding that this threshold has now been increased to 200% which was incorporated into SRR’s analysis.

8. Incorporating the revised income threshold of 200% of the poverty line, SRR has estimated that approximately 82% of cases heard in housing court would qualify under Intro 214-A; this is estimated at 128,692 cases. Using survey responses from providers of anti-eviction legal counseling it was determined that the average cost per case is approximately $2,000. In addition, the cost of a case coordinator was added at approximately $144,000 and the reduction for the City’s currently projected $60 million in spending on anti-eviction legal services was subtracted as an offset to the costs under Intro 214-A because NYC currently plans to spend that amount whether or not Intro 214-A is adopted.

9. From the consideration of these inputs, SRR has estimated the annual cost of Intro 214-A to be approximately $199 million.

Benefit of Reduced Homeless Shelter Costs

10. SRR calculated the benefit of reduced shelter costs by employing a methodology similar to that employed in the IBO report. SRR estimated this benefit by identifying that 14,472 families entered shelter during 2014.\(^2\) It is estimated that

---

47% of the families in homeless shelter are homeless due to eviction.\(^3\) Further, it has been estimated that the number of warrants for eviction decrease by 77% when legal counsel defends the eviction suit.\(^4\) Therefore, SRR has estimated that 5,237 families annually could avoid shelter entry from anti-eviction legal services.

11. The total cost of sheltering a family was estimated to be $43,222 in 2014,\(^5\) which results in annual cost savings of approximately $226 million. In addition, SRR has accepted the IBO reports’ estimation that an additional $25 million of shelter costs for individuals could be avoided under Intro 214-A. Thus, the total annual estimated shelter savings are estimated at $251 million.

12. The IBO and Finance reports both reduce the benefit of shelter savings for the portion of shelter funding from the federal and state governments, as they assume these savings would result in a lower future allocation of federal/state funds. However, from review of supplemental guidance issued by the IBO which notes the existing permissions to redirect federal and state funds it is likely that the City could realize the entire benefit of shelter savings.

**Benefit of Affordable Housing Cost Savings**

13. It is estimated that 3,414 units of rent-regulated, affordable housing will be preserved from providing legal counsel in eviction defense. Under Mayor Bill de Blasio’s housing plan, preserving these units results in savings of over $1.3 billion annually in replacement costs, of which $259 million will be saved directly by the City through the term of the Housing Plan.\(^6\)

**Benefit of Unsheltered Homeless Cost Savings**

14. The total unsheltered population for the City is estimated at 3,000,\(^7\) although some estimates are as high as 12,000.\(^8\) It is estimated that 12% of these unsheltered homeless are homeless due to eviction and cost the City $31,000 each annually in medical and law enforcement costs.\(^9,10\) As anti-eviction legal services has been estimated to reduce warrants of eviction by 77%,\(^11\) SRR has estimated the savings

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\(^4\) The IBO Report cited a program conducted by the Legal Aid Society and the Bar of the City of New York that tracked the success rate of tenants that were represented by legal counsel in eviction proceedings and those who were not. This program resulted in a warrant of eviction in 10% of the cases where legal counsel was present and 44% of the time when legal counsel was not, representing a decline of 77%.


\(^6\) Calculated from costs included in “Housing New York: A Five Borough, Ten-Year Plan.”


\(^8\) Prakash, Nidhi. “It’s Cold Out There: Homeless People in New York City Won’t Be Allowed to Sleep on the Subway This Winter” Fusion.net. 21 Oct 2015.

\(^9\) New Jersey’s 2015 Point-In-Time Count of the Homeless.


\(^11\) The IBO Report cited a program conducted by the Legal Aid Society and the Bar of the City of New York that tracked the success rate of tenants that were represented by legal counsel in eviction proceedings and those who were not. This program resulted in a warrant of eviction in
from Intro 214-A to the City from unsheltered homeless cost savings at approximately $9 million annually.

**SRR Conclusion**

15. SRR has concluded that even with the income eligibility threshold raised to 200% of the poverty level (as opposed to the 125% level utilized by the IBO and City Council), the City would realize a benefit from Intro 214-A of $320 million, annually.\(^{12}\) Moreover, even if the City were to realize a loss of revenue equivalent to 70% of the shelter savings ($176 million), as calculated in the Finance report, from the loss of federal and state funds, SRR estimates that the City would still realize an annual benefit of approximately $144 million annually from Intro 214-A. A summary of the key components of SRR’s analysis as well as those conducted in the IBO and Finance reports is presented below.

<table>
<thead>
<tr>
<th>Description</th>
<th>IBO</th>
<th>Finance</th>
<th>SRR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of Providing Counsel</td>
<td>($153 - $256 Million)</td>
<td>($117 Million)</td>
<td>($199 Million)</td>
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<tr>
<td>Gross Homeless Shelter Cost Savings</td>
<td>$143 Million</td>
<td>$171 Million</td>
<td>$251 Million</td>
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<tr>
<td>Reduction for Non-City Shelter Funding</td>
<td>($90 Million)</td>
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<td>Annual Cost of Affordable Housing</td>
<td>n/a</td>
<td>n/a</td>
<td>$259 Million</td>
</tr>
<tr>
<td>Savings From Unsheltered Homeless</td>
<td>n/a</td>
<td>n/a</td>
<td>$9 Million</td>
</tr>
<tr>
<td>Total (Cost) / Benefit of City Council Intro 214-A</td>
<td>($100 - $203 Million)</td>
<td>($66 Million)</td>
<td>$320 Million</td>
</tr>
</tbody>
</table>

16. In addition to the aforementioned benefits to the City from Intro 214-A, SRR also considered additional benefits to the City, but lacked information to further quantify. These include, but would not be limited to:

a. The cost associated with homeless children as a result of eviction manifested through education costs, juvenile justice costs, and welfare costs;

b. The cost of providing welfare when jobs are lost due to eviction;

c. Enforcement of rent law and regulations; and

d. A likely reduction over time in the numbers of eviction cases needing counsel because landlords would bring fewer cases knowing that tenants will have legal counsel and because cases will be resolved with greater finality and less repeat filings when both sides have counsel.

10% of the cases where legal counsel was present and 44% of the time when legal counsel was not, representing a decline of 77%.

\(^{12}\) SRR has not conducted an analysis to match the benefits received from Intro 214-A to the costs of providing counsel. It is believed that some of the cost savings estimated in this report would be in periods subsequent to the initial outlay of costs for providing council as not all eviction shelter entries are immediate.
17. Based on the considerations as presented above, and throughout this report, SRR has concluded that the City would realize a benefit from Intro 214-A of $320 million, annually, which is visually presented below.\textsuperscript{13}

\begin{figure}
\centering
\includegraphics[width=\textwidth]{cost_benefit_graph.png}
\caption{Cost / Benefit of Intro 214-A (in millions)}
\end{figure}

\textsuperscript{13} Ibid.
III. Key Inputs and Conclusions of IBO Report

18. The IBO report conducted its analysis by calculating the cost to provide counsel for indigent defense in eviction matters and the benefit to the City of providing such defense through homeless shelter savings. Each of the inputs used in this analysis will be explained below, as well as the conclusions reached by the IBO.

Cost to Provide Counsel

19. The IBO started its analysis by identifying the pool of households facing eviction. This was determined by identifying the number of housing court cases heard in 2013: 156,941. The IBO then determined that 55% of the total cases heard in housing court would meet the income thresholds in Intro 214-A by utilizing a study named “Housing Court, Evictions and Homelessness: the Costs and Benefits of Establishing a Right to Counsel.” This study included a survey of the income levels of households in eviction defenses and reported the percentage of cases heard by income level.

20. From the application of the 55% housing court cases meeting the, then current, income qualifications, the IBO report concluded that 86,318 housing court cases would be eligible to receive counsel. Next, the IBO determined that the cost of counsel per case would be between $2,000 and $3,200 per case resulting in costs of providing counsel between $173 million and $276 million. The IBO report also added an additional $125,000 for the salary of a case coordinator and an offset of $20 million for current anti-eviction legal services contracts. The IBO report concluded that the total cost of providing counsel under Intro 214-A was between $153 million and $256 million.

Benefit of Reduced Homeless Shelter Costs

21. The IBO report noted differentiating factors between sheltering homeless families and homeless individuals such as the intake process, costs of shelter, and source of funds. As such, the cost of sheltering families and individuals is discussed separately.

Cost of Sheltering Families

22. The IBO report noted that the intake process for families entering homeless shelters includes information on why housing is needed. This intake process, as of 2012, resulted in 36% of families reporting their need for shelter was the result of an eviction. Additionally, the IBO Report also noted that 11% of families entering homeless shelter was the result of over-crowded living situations. Therefore, the IBO Report added an additional 1% to the 36% of shelter needs as a result of eviction theorizing that many families likely move in with a friend or relative after being evicted before going into a homeless shelter.

23. The IBO Report then applied this 37% of family shelter entries as a result of eviction to 10,500 shelter entries in 2012 to estimate that 3,885 families entered a housing shelter in 2012 as a result of an eviction. However, in order to determine the costs of sheltering evicted families, the IBO report examined the observed
decrease in evictions from defenses that were aided by counsel and those that were not.

Eviction Reductions from Legal Counsel Defense

24. The IBO report concluded that there is a 77% reduction in evictions when legal counsel assists in the defense compared to those without legal counsel. This reduction of evictions was obtained from a randomized experiment operated by the Legal Aid Society and the Association of the Bar of New York City. In this experiment, it was found that when legal counsel assisted in the defense of evictions, warrants of evictions were issued in 10% of the cases compared to 44% without legal counsel.

25. Thus, the IBO report applied the 77% observed reduction in issued warrants of eviction to the 3,885 family shelter entries as a result of eviction to conclude that 2,991 of the 3,885 families would have likely avoided eviction if the defense included legal counsel. The IBO report further stated that the cost of sheltering these families was approximately $118 million.

26. However, the IBO report noted that the City’s shelter system is funded by Federal and State funds in addition to funds provided by the City. The federal government provides 60% of the funding for the family shelter while the City and state governments provide 30% and 10%, respectively. Therefore, the IBO report concludes that the City’s benefit of reduced shelter costs from anti-eviction legal counsel would be limited to its share of funding, 30%, which is calculated at $35 million.

Cost of Sheltering Individuals

27. The IBO report noted that the shelter intake process for single adults is different than the intake process for families where the reason for shelter entry, e.g. eviction, is not captured. However, 10% of single adults reported renting a home in the same year prior to shelter entry. The IBO Report utilized half of this figure, 5%, as a representation for single adult evictions. Additionally, 35% of single adults lived with friends or family prior to eviction and the IBO utilized 10% of this amount, 3.5%, as an additional representation for single adult eviction. The IBO report then combines the 5% of entrances who had previously rented a home with the 3.5% of single adult shelter entrances who had previously lived with friends or family to conclude that 9% of single adult shelter entrances are the result of an eviction.

28. The 9% of single adult shelter entrances is then applied to 16,448 single adult shelter entrances to conclude that 1,480 of these entrances were the result of eviction. The same methodology for the estimated decrease in these entrances as family entrances was applied which reduced the 1,480 entrances by 77% to 1,140.

29. The IBO report then estimates that the cost of sheltering these 1,140 single adults is $25 million with funding provided by federal, state, and City governments at 4%, 23%, and 73% respectively.
Eviction Reductions from Legal Counsel Defense

30. The IBO Report concludes that the City’s savings from single adult shelter entry through providing legal counsel in eviction defense is $18 million.

Total Eviction Reductions from Legal Counsel Defense

31. The IBO report estimated that total shelter savings from Intro 214-A was $143 million, although only $53 million would be realized by the City, due to the source of shelter funding.

Conclusion of IBO Report

32. The IBO report concluded that the cost of Intro 214-A to the City would be between $100 million and $203 million. This is derived from estimated cost of legal counsel of between $153 million and $256 million with shelter savings of $53 million after reduction for non-City shelter funding.

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<tr>
<th>Description</th>
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<td>($90 Million)</td>
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<td>Annual Cost of Affordable Housing</td>
<td>n/a</td>
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<td>Savings From Unsheltered Homeless</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Total (Cost) / Benefit of City Council Intro 214</strong></td>
<td><strong>($100 - $203 Million)</strong></td>
</tr>
</tbody>
</table>
IV. Key Inputs and Conclusions of Finance Report

33. The Finance report structured its analysis similarly to the IBO report where the cost to provide counsel for eviction legal defense was presented along with the benefit to the City for providing such defense through homeless shelter savings. Each of the inputs used in this analysis will be explained below, as well as the conclusions reached by Finance.

Cost to Provide Counsel

34. The Finance report calculated the cost of providing counsel for eviction legal defense similarly to that of the IBO report where the number of cases heard in housing court was multiplied by an estimated cost per case. However, the Finance report varied in the way some of these inputs were calculated.

a. **Number of Cases Heard:** the Finance report took a three year average of the cases heard in housing court from 2011 through 2013 (156,310), whereas the IBO report utilized the number of cases heard in 2013 (156,940).

b. **Income Threshold:** the Finance report estimated that 50% of the cases heard would qualify for legal services under Intro 214-A. This was calculated using the same study as the IBO report, “Housing Court, Evictions and Homelessness: the Costs and Benefits of Establishing a Right to Counsel”. However, the Finance report utilized the low end of the income range (50%) whereas the IBO Report utilized the midpoint of the range (55%).

c. **Cost per Case:** The Finance report utilized $1,500 as cost per case opposed to between $2,000 and $3,200 utilized in the IBO Report. The Finance report’s cost per case was determined through information provided by the New York City Human Resources Administration and various New York City Legal service providers. It was noted however, that these costs were based upon payment by the City and not necessarily the entire cost of each provider.

d. **Case Coordinator:** the Finance report estimated the cost of a case coordinator would be $143,893 annually, which is commensurate with the $125,000 estimated in the IBO Report plus approximately 15% for benefits.

e. **Current Anti-Eviction Spending:** not considered in Finance report.

35. Based on these inputs, the Finance Report concluded that eviction legal defense would cost the City $117 million, annually.
Benefit of Reduced Homeless Shelter Costs

36. The Finance report did not differentiate between family and individual shelter costs as presented in the IBO report. Alternatively, the Finance report only presented an analysis for the costs of sheltering families. In addition, the methodology utilized by the Finance report is materially different than that presented in the IBO Report.

37. The Finance report did not analyze homeless shelter entries and the reason for those entries as presented in the IBO Report. Instead, the reductions in family homeless shelter entries is calculated by utilizing a study titled “Housing Help Program” conducted between the Department of Homeless Services, United Way, and Legal Aid Society. In this study, it is concluded that 5% of families avoid homeless shelter with the assistance of legal counsel in an eviction defense. This rate is then applied to the 78,155 housing court cases for which legal assistance is contemplated. This results in the conclusion that 3,836 families would avoid homeless shelter if legal counsel assisted in the eviction defense.

38. The Mayor’s Management Report is then cited to present the average length of stay per family at 440 days and a $101.50 cost per day for fiscal year 2014. This results in a cost of $44,672 per family for a total of $171 million for the 3,836 families estimated to avoid homeless shelter.

39. Therefore, the Finance report concluded that the City would save $54 million by providing legal counsel in eviction matters. This is calculated by realization of $171 million in homeless shelter cost savings less the cost of providing legal services of $117 million.

40. However, the Finance report notes that approximately 70% of shelter costs are reimbursed by federal and state funds. Thus, it is estimated that the City would realize a loss in revenue of $120 million due to reduced reimbursements.

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14 Although not expressly stated, the Finance report inherently includes individual shelter entrants in its conclusion through including the total number of cases heard in housing court in its calculations which included both families and individuals.
Conclusion of Finance Report

41. The Finance report concluded the net impact of Intro 214-A to be a cost to the City of $66 million. This is derived from estimated cost of legal counsel of $117 million with shelter savings of $171 million to realize a cost savings of $54 million, which is then offset by a loss of revenue of approximately $120 million.

<table>
<thead>
<tr>
<th>Description</th>
<th>Finance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of Providing Counsel</td>
<td>($117 Mill$ion)</td>
</tr>
<tr>
<td>Gross Homeless Shelter Cost Savings</td>
<td>$171 Million</td>
</tr>
<tr>
<td>Reduction for Non-City Shelter Funding</td>
<td>($120 Million)+071</td>
</tr>
<tr>
<td>Annual Cost of Affordable Housing</td>
<td>n/a</td>
</tr>
<tr>
<td>Savings From Unsheltered Homeless</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Total (Cost) / Benefit of City Council Intro 214</strong></td>
<td><strong>($66 Million)</strong></td>
</tr>
</tbody>
</table>
V. Comparison of IBO and Finance Reports

42. Presented below is comparison of the key inputs of the IBO and Finance reports for providing counsel under Intro 214-A.

<table>
<thead>
<tr>
<th>Description</th>
<th>IBO</th>
<th>Finance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pool of Households Facing Eviction</td>
<td>156,941</td>
<td>156,310</td>
</tr>
<tr>
<td>Share of Cases Meeting Poverty Threshold</td>
<td>55%</td>
<td>50%</td>
</tr>
<tr>
<td>Cost per Case</td>
<td>$2,000 - $3,200</td>
<td>$1,500</td>
</tr>
<tr>
<td>Cost of Case Coordinator</td>
<td>$125,000</td>
<td>$143,893</td>
</tr>
<tr>
<td>Current Spend</td>
<td>$20 Million</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Total Cost of Providing Counsel</strong></td>
<td><strong>$153 - $256 Million</strong></td>
<td><strong>$117 Million</strong></td>
</tr>
</tbody>
</table>

43. Presented below is comparison of the key inputs of the IBO and Finance reports for the homeless shelter cost savings from providing counsel under Intro 214-A.

<table>
<thead>
<tr>
<th>Description</th>
<th>IBO</th>
<th>Finance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Families Entering Shelter as a Result of Eviction</td>
<td>2,991</td>
<td>3,836</td>
</tr>
<tr>
<td>Cost of Providing Shelter per Family</td>
<td>$39,452</td>
<td>$44,672</td>
</tr>
<tr>
<td>Singles Entering Shelter as a Result of Eviction</td>
<td>1,140</td>
<td>n/a</td>
</tr>
<tr>
<td>Cost of Providing Shelter per Single</td>
<td>$21,930</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Subtotal Gross Homeless Shelter Cost Savings</strong></td>
<td><strong>$143,000,000</strong></td>
<td><strong>$171,361,792</strong></td>
</tr>
<tr>
<td>Less: Non-City Funding Family</td>
<td>($82,600,000)</td>
<td>($119,953,254)</td>
</tr>
<tr>
<td>Less: Non-City Funding Individual</td>
<td>($6,750,000)</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Total Net Homeless Shelter Cost Savings</strong></td>
<td><strong>$53,650,000</strong></td>
<td><strong>$51,408,538</strong></td>
</tr>
</tbody>
</table>

44. Presented below is comparison of the conclusions of the IBO and Finance reports for providing counsel under Intro 214-A.

<table>
<thead>
<tr>
<th>Description</th>
<th>IBO</th>
<th>Finance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of Providing Counsel</td>
<td>$153 - $256 Million</td>
<td>$117</td>
</tr>
<tr>
<td>Net Homeless Shelter Cost Savings</td>
<td>$54</td>
<td>$51</td>
</tr>
<tr>
<td><strong>Total (Cost) / Benefit of City Council Intro 214-A ($ in millions)</strong></td>
<td><strong>($100 - $203)</strong></td>
<td><strong>($66)</strong></td>
</tr>
</tbody>
</table>

VI. SRR Analysis

45. SRR considered the information and methodologies utilized in the IBO and Finance reports as well as additional information to conduct its own independent analysis of the costs and benefits of Intro 214-A. Presented below is a discussion of this analysis.

Cost of Providing Counsel

46. As presented in the previous section, the IBO and Finance reports utilized similar methodologies in computing the cost to provide counsel for indigent legal defense in eviction matters. Both reports estimated the number of cases which would qualify for defense, estimated the cost per case, and considered the cost of a case coordinator. SRR believes this methodology is reasonable and an appropriate measure of costs of Intro 214-A.

47. However, the IBO Report concluded the cost of indigent eviction legal defense would cost the City between $153 and $256 million whereas the Finance estimated this cost closer to $117 million. The difference between these calculations is the result of utilizing different inputs within the same calculation. Each of these inputs, including SRR’s analysis, will be discussed below.

Eligible Cases

48. In determining the number of eviction cases that would be eligible for legal counsel, SRR began with the number of cases heard in housing court as presented in the IBO report. Although, the number of cases utilized in each report was not materially different (IBO 156,941 v. Finance 156,310), SRR accepted the IBO input. This selection was made as the IBO report utilized the more current period available and material annual fluctuations are not expected.

49. Next, in determining the number of cases eligible for counsel, SRR noted the difference between IBO and Finance reports was 5% (55% v. 50%, respectively). However, these percentages were selected based on the then-current version of Intro 214-A, which set the income threshold for qualifying cases at 125% of the poverty line. SRR has since learned that this threshold is now at 200% of the poverty line and thus conducted an analysis to determine the number of cases that would be eligible.

50. In conducting this analysis, SRR first identified the poverty line at $24,830 for a family of four. SRR then utilized the same study cited by both the IBO and Finance reports, to determine the income levels of tenants in housing court. However, this study was conducted in 1990 and SRR inflation adjusted the income levels reported in this study by 3% per year for 25 years to bring this data current.

15 The IBO Report also used the current indigent legal defense spending by the City as an offset to these costs.
17 Study utilized in each report was “Housing Court, Evictions and Homelessness: the Costs and Benefits of Establishing a Right to Counsel”.
to 2014. This study, inflation adjusted, suggested that 82% of the tenants in housing court have incomes below $50,000 (200% of $24,830 poverty threshold is $48,460).

51. Thus, SRR estimated that 82% of the 156,941 cases heard in housing court would be eligible to receive legal counsel. If all of those who are eligible to receive legal counsel elected to do so, SRR estimates that 128,692 cases would need to be funded.

Cost per Case

52. The IBO and Finance reports differed in the estimation of the cost per case with the IBO utilizing between $2,000 and $3,200 and Finance selecting $1,500. Therefore, SRR conducted an independent analysis utilizing survey results of seven different providers of eviction legal defense. Survey respondents were asked to complete responses in relation to salary & benefits, support costs, operating expenses, paid time off, and billable hours per case.

53. SRR used this information to determine the average cost per case of all seven providers was approximately $1,400 per case which increased to approximately $1,900 per case when paid time off was considered. The costs per case were consistent between six of the seven providers with only one provider reporting a materially different cost per case of $700 and $961 with the consideration of paid time off. Therefore, SRR removed the data from this provider and calculated the average cost per case at approximately $1,500, and increasing to approximately $2,000 per case when including paid time off.

54. SRR selected $2,000 as a cost per case for purposes of computing the total cost of providing legal counsel under Intro 214-A.

Case Coordinator

55. The costs of a case coordinator were estimated at $125,000 and $144,000 by the IBO and Finance reports, respectively. The difference between these figures is the result of the Finance report including benefits in its estimation. As such, SRR has accepted the salary and benefits figure provided by the Finance report as an estimation of the cost of a case coordinator.

Current Legal Spending

56. The IBO Report stated that the City currently spends approximately $20 million on anti-eviction legal services that would be replaced by Intro 214-A. This was not considered in the Finance report. SRR has not conducted a full review of all the anti-eviction legal services offered by the City but understands that all or nearly all of the anti-eviction legal services are offered for low-income tenants.

57. However, SRR’s research into the funding for eviction attorneys in housing court has revealed that the City’s anticipated funding in this area is $60 million. As

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such, SRR accepts the premise that the current spending on anti-eviction legal services is likely to continue and is thus duplicative of what would be required to implement Intro 214-A and should be included as an offset in the amount of $60 million.

**Cost of Providing Counsel - Conclusion**

58. Based on the inputs as described above, SRR has concluded that the costs of providing counsel under Intro 214-A are approximately $199 million.

**Benefit of Reduced Homeless Shelter Costs**

59. The IBO and Finance reports utilize different methodologies in computing the cost savings of reduced homelessness from anti-eviction legal spending. In review of these two methodologies, SRR mirrored its analysis to that contained in the IBO report. The methodology contained in the IBO report was more easily tested and verifiable of its representation of homeless eviction populations. In addition, this methodology more clearly articulated the decrease in evictions from the assistance of legal counsel in the defense.

60. While the same basic methodology utilized by the IBO was utilized, SRR found updates to certain inputs to more accurately reflect current homeless populations as a result of eviction. The updates made to the IBO reports calculation of evicted homeless populations are discussed below.

**Number of Families Entering Shelter**

61. In determining family shelter entrances, The IBO report utilized the number of entrances as of 2012: 10,500. However, by January 2015, the Coalition for the Homeless (“CFTH”) reported that, on average, 14,524 families were sheltered by the City.19

62. This difference may be related to several factors, including, but not limited to:

   a. growth in homelessness over time; and

   b. the use of “entrances” compared to “average families sheltered”.

63. SRR believes that utilizing the number of “average families sheltered” compared to shelter entrances better matches the cost of providing counsel to the benefit received over an annual period. This is the result of two factors:

   a. the average shelter stay exceeds one year; and

   b. not all shelter entrances will be in the same year as the counsel.

64. Therefore, it is SRR’s opinion that the number of average families sheltered as of January 2015, 14,524, is a reasonable starting point in determining the number of families sheltered as a result of eviction.

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Calculation of Family Entries as a Result of Eviction

65. As previously stated, the IBO Report determined that 37% of family shelter entries were the result of an eviction. However, SRR believes that the IBO’s inclusion of only 1% for families who have experienced an informal eviction is understated.  

66. Information cited in the HHP study revealed that at the time of the study (2007), 23% of families entering shelter listed eviction as the direct cause of their shelter entry. However, when surveyed specifically about evictions, 38% of families responded that they had experienced a formal eviction and an additional 9% of families reported an informal eviction within the last five years.  

67. The difference in survey results is likely explained by the fact that in order to be determined eligible for shelter entry due to eviction, tenants must show documentation of the eviction; it is likely that not all tenants maintain this information while seeking alternative living arrangements. In addition, this survey is representative over a five year period, thus capturing evicted tenants that did not go directly to shelter.  

68. As such, it is SRR’s opinion that 47% of sheltered families, 6,802, entered shelters as a result of eviction.

Cost of Sheltering Evicted Families

69. The IBO report estimated the cost of sheltering the 2,991 families that would avoid eviction with counsel was $118 million. However, the IBO report does not state how this figure was derived and if it is for an annual period or longer length of time. Data provided by the Community Coalition for the Homeless released information stating the average annual cost for sheltering a homeless family in 2014 was $37,047.  

70. Based on SRR’s calculation that 6,802 families enter shelter due to eviction along with the $43,222/family cost, it is estimated that the City spends approximately $294 million annually sheltering homeless families as a result of eviction. It has also been shown that providing legal counsel in eviction proceedings results in a

21 Informal evictions are situations where a tenant leaves housing voluntarily before or after an order of eviction, without forcibly being evicted by a Marshall. If SRR were to utilize the 37% annual figure as noted in the IBO Report, projected costs savings would be reduced by approximately $48 million.  
77% decrease in the number of warrants of evictions.24 Thus, it is estimated that approximately $226 million of the cost to shelter evicted families can be saved by providing legal counsel in eviction defense.

Cost of Sheltering Individuals

71. In addition to the costs of sheltering evicted families, the IBO report also concludes that the City could avoid $25 million of costs related to sheltering individual adult men and women if legal counsel assisted in an eviction defense. The data relied on to conclude this figure was not available to SRR; however, SRR agrees with the overall methodology utilized in this calculation. In addition, as noted above, SRR found the calculations for cost of sheltering families conservative. Therefore, SRR accepts the $25 million in cost savings concluded by the IBO report from sheltering individual men and women.

Family and Individual Cost Savings

72. The total combined cost savings from family and individual shelter entry from legal counsel eviction defense is therefore estimated at $251 million.

Source of Homeless Shelter Funds

73. Both the IBO and Finance reports note that the City receives federal and state funds to support its homeless shelters. The IBO report notes that the primary source of funding for family shelters is from federal funds through the Temporary Assistance to Needy Families (“TANF”) block grant at 60%. It is also noted that the state contributes 10% towards the funding of family sheltering and the City receives 23% and 4% from state and federal governments of the costs for individual men and women shelters. As such, both the IBO and Finance reports reduce the cost savings from preventing shelter entries due to evictions by the portion of funding not directly covered by the City.

74. The IBO released additional guidance on the sources of funds for sheltering the homeless almost a year after the release of the IBO Report. In this Fiscal Brief, the IBO notes “Family Shelter costs are calculated through a per diem rate established for each shelter facility, multiplied by the number of days care was provided… then applied to public assistance program…”25 Thus, if the number of families in shelter were to decline, the TANF funds for shelter costs would decline as well.

75. However, the state of New York has already given the City the ability to redirect family shelter savings to other purposes. “If the City is able to realize family

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24 The IBO Report cited a program conducted by the Legal Aid Society and the Bar of the City of New York that tracked the success rate of tenants that were represented by legal counsel in eviction proceedings and those who were not. This program resulted in a warrant of eviction in 10% of the cases where legal counsel was present and 44% of the time when legal counsel was not, representing a decline of 77%.

shelter savings, New York State has already granted the City permission to redirect the savings, including federal TANF funds and state Safety Net funds, towards a rental assistance program that serves repeat and long-term shelter users (LINC II). The state has also allowed the city to use federal TANF funds to help pay for a rental assistance program targeting homeless domestic violence survivors (LINC III). Although there are federal restrictions on the use of TANF funds, it is possible that the state could permit the city to expand its use of these funds to pay for other programs targeting welfare eligible families with minor children. Alternatively, the state could choose to use TANF savings to raise the overall cash assistance grant, which would benefit low-income households more generally.\textsuperscript{26}

76. Thus, while the City’s receipt of federal and state funds is under the overall discretion of the State of New York, however, the state has already granted permission to redirect family cost savings for other purposes. It is also possible that the State could permit the City to use these funds to pay for other programs within TANF’s permissible uses which would alleviate City funding in other programs. As such, it is SRR’s opinion that the City could realize the full cost savings of shelter avoidance from its investment in Intro 214-A.\textsuperscript{27}

\textbf{Other Benefits Not Quantified in IBO and Finance Reports}

77. Both the IBO and Finance reports measure the benefits to the City of Intro 214-A through homeless shelter cost savings. However, SRR has analyzed additional costs of evictions. These costs relate to the loss of affordable housing and costs of unsheltered homelessness. A discussion of these costs and SRR’s analysis is presented below.

\textbf{Cost of Affordable Housing}

78. It has been argued that “New York Law currently provides landlords with numerous incentives to evict tenants and raise rents.”\textsuperscript{28} One of these incentives is to evict tenants in rent regulated units and replace the tenant with one that pays market prices. Thus, when this situation occurs, the City loses a unit of affordable housing which is costly to replace.

79. Under Mayor Bill de Blasio’s Housing Plan (“Housing Plan”) the City intends to build or preserve 200,000 units of affordable housing.\textsuperscript{29} The allocation of preservation to new construction is represented at 60:40, respectively.\textsuperscript{30} Thus, under this plan, the City expects to build 80,000 new units of affordable housing. The projected cost for this new construction is estimated at $30.6 billion, which

\textsuperscript{26} Ibid.
\textsuperscript{27} The source of state and federal funds utilized in individual men and women sheltering are unknown. However, given the permissions given by the state to redirect family shelter savings and the fact that individual shelters are almost completely funded by the City already, SRR opines that materially all of these shelter savings would also likely be realized by the City.
\textsuperscript{28} Klein, Jeffrey. “Senator Klein Calls on New York City & State to Investigate Unscrupulous Bronx Landlords” The New York State Senate. 22 June 2015.
\textsuperscript{29} The City of New York Mayor Bill de Blasio. “Housing New York: A Five Borough, Ten-Year Plan.”
\textsuperscript{30} Ibid.
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equates to $383,000 per unit. The City’s portion of funding this program is 20%, which results in City funds of approximately $76,000 per unit.

80. From 2002 through 2012, it was found that 43% (32,166 entries) of shelter entries were from rent-regulated private housing. Of these shelter entries, 32% were the result of eviction. This equates to 10,293 units of affordable housing lost over that period. As detailed previously, if legal counsel had assisted in the defense of these evictions, it is estimated that 77% of these evictions, 7,925 units, could have been avoided. The cost to replace these units under the Housing Plan is estimated to be $3 billion in total, where $608 million will be funded directly by the City.

81. In 2013 and 2014, there were 29,910 and 32,226 shelter entries, respectively. If the same percentages and methodology of rent-regulated units lost as a result of eviction are applied to these shelter entries it is estimated that 8,550 units of affordable housing were lost to eviction. Applying the 77% expected decrease in eviction from legal counsel defense, it is estimated that 6,583 of these lost units could have been avoided. The cost to replace these units under the Housing Plan are estimated $2.5 billion in total, where over $500 million will be funded directly by the City.

82. Therefore, it is estimated that 18,842 units of affordable housing were lost from 2002 through 2014, nearly a quarter of what the Housing Plan intends to build. If legal counsel had been available for eviction defense over this period, it is estimated that the loss of 14,508 of these units, could have been avoided. The cost to replace these units under the Housing Plan is estimated at $5.5 billion in total, where over $1.1 billion will be funded directly by the City.

83. Going forward, it is estimated that 3,414 units of affordable housing will be preserved from providing legal counsel in eviction defense. This is calculated by utilizing the number of evictions from 2014 and applying the percentages for rent-regulated units lost due to eviction and the decrease in eviction from legal counsel defense.

84. Preserving these units results in savings of over $1.3 billion annually in costs to replace these units under the Housing Plan, of which $259 million will be saved directly by the City annually through the term of the Housing Plan.

31 Ibid.
33 Ibid. As stated in earlier sections of this report this figure is likely understated.
34 This figure includes the assumption that the evicted tenant was replaced with a tenant paying market rates.
35 Department of Homeless Services, Preliminary Mayor’s Management Report, Page 105.
Costs of Unsheltered Homelessness

85. There are many studies that reflect additional costs of homelessness beyond direct sheltering costs. Most notably, it has been observed that homeless populations incur costs to society for medical care and law enforcement.

86. In a study published in the New England Journal of Medicine (“NEJM”), it was found that homeless patients stayed 4.1 days longer per admission in the City’s public general hospitals than other low-income patients. It was also found that “many of these patients were spending long periods in hospitals awaiting placement in public housing or community-treatment programs.” The average costs per day for all these patients was $2,414 per day at the time of the study. In addition, homeless patients had higher readmission rates than other public hospital patients.

87. Another study completed in Florida found that each homeless person costs society $31,000 annually. These costs were comprised of the salaries of law enforcement officers to arrest and transport homeless individuals for crimes such as trespassing, public-intoxication, and sleeping in parks. As the City plans on “cracking down” on homeless people trying to take shelter in the subway shelter this winter it is likely the City will incur law enforcement costs related to homelessness.

88. However, while not directly stated, the medical costs and law enforcement costs noted in these studies appear to be more closely related to unsheltered homelessness than sheltered homeless. The study noted in the NEJM correlated the longer stays to waiting for placement in public housing. The law enforcement noted in the central Florida study of trespassing and sleeping in parks are also associated with an unsheltered population. Thus, determining the number of unsheltered homeless individuals as a result of eviction is necessary before any of the costs associated in these studies can be applied as potential savings to the City.

89. The total unsheltered population for the City is estimated at 3,000, although some estimates are as high as 12,000. In a survey of unsheltered homeless populations in New Jersey, it was found that 12% of those surveyed listed eviction as the reason for their homelessness. An additional 12% of respondents stated they were asked to leave a shared residence and an additional 27% cited loss or reduction in job

37 Ibid.
38 Ibid.
40 Prakash, Nidhi. “It’s Cold Out There: Homeless People in New York City Won’t Be Allowed to Sleep on the Subway This Winter” Fusion.net. 21 Oct 2015.
42 Prakash, Nidhi. “It’s Cold Out There: Homeless People in New York City Won’t Be Allowed to Sleep on the Subway This Winter” Fusion.net. 21 Oct 2015.
43 New Jersey’s 2015 Point-In-Time Count of the Homeless.
income / benefits. Therefore, it is likely that a higher percentage of the unsheltered homeless experienced eviction than what was recorded directly in the survey.

90. Nonetheless, SRR applied the 12% as directly cited in the survey as the cause of homelessness to the 3,000 unsheltered homeless population. This results in 360 unsheltered homeless as a result of eviction. With legal counsel reducing evictions by 77%, it is estimated that 277 individuals experiencing unsheltered homelessness could be avoided. At a cost of $31,000 per unsheltered homeless individual, a cost savings of nearly $9 million is estimated.
VII. Consideration of Other Unquantifiable Benefits of Eviction Prevention

91. Included above are benefits of eviction prevention that are quantifiable with available data and information. However, there are many benefits to society of a population that enjoys stable housing that are not easily quantifiable and therefore are not included in SRR’s calculations. Below, are other consideration of benefits to the City from providing legal counsel in eviction matters.

92. As previously stated, SRR has estimated that 6,802 families have entered homeless shelters as a result of an eviction. Many more have likely moved into overcrowded living situations. Both sheltered and over-crowding living situations are certainly not ideal and can possibly interfere with the development of children. A wealth of research has documented the difficulties homeless children face, from school disruption to emotional trauma and health problem. The impact of homelessness to these children can manifest through education costs, criminal justice costs, and welfare costs, among others. These costs are estimated at over $40,000 per child who spent at least one night homeless; however, some of these costs might not be directly funded by the City.

93. The loss of a home can also be impactful to the wage earning adults of a household who may lose their employment following the loss of their home. Eviction can set off a cascade of problems “including depression and subsequent job loss, material hardship, and future residential instability”, which can increase the likelihood of the receipt of welfare assistance programs.

94. When tenants are represented by an attorney in housing court, rent laws and regulations are more likely to be enforced. For example, when unscrupulous landlords fail to make necessary repairs, tenants can withhold rent accordingly with less fear of being evicted as a result.

47 Ibid.
95. Finally, when low-income tenants have a right to counsel it is likely that, over time, the number of eviction proceedings will diminish because some number of eviction proceedings will not be brought because landlords will be aware that tenants have the right to representation and because, with representation, cases are more likely to be resolved with finality thus averting multiple proceedings. This should result in fewer cases needing representation and diminishing cost to the city.

96. While all of these items represent real costs paid by taxpayers, SRR lacks reliable data in which to estimate these items.
VIII. Conclusion

97. SRR has reviewed and analyzed cost benefit analyses of Intro 214-A as prepared by the IBO and Finance. The IBO report concluded that the net annual cost to the City for Intro 214-A would be between $100 million and $203 million while Finance concluded this cost would be $66 million.

98. From its review and analysis of these reports, it is SRR’s opinion that the IBO and Finance reports have underestimated the reductions in shelter costs from providing legal counsel in eviction defenses by approximately $108 million and $80 million, respectively. The IBO and Finance reports both further reduce the benefit of shelter savings for the portion of shelter funding from the federal and state governments. However, from review of supplemental guidance issued by the IBO which notes the existing permissions to redirect federal and state funds it is reasonable to expect that the City could realize the entire benefit of shelter savings.

99. In addition, neither the IBO or Finance reports consider the cost to replace affordable housing lost to eviction or the costs of unsheltered homeless. SRR has estimated these benefits to the City at $259 million annually and $9 million annually, respectively. However, even if these costs are not considered, SRR estimates that the City would still realize a cost savings of approximately $52 million.

100. Therefore, SRR has concluded that the City would realize a benefit from Intro 214-A of $320 million, annually.\(^49\)

101. The IBO report offsets the cost of providing counsel under Intro 214-A by $20 million because the city already budgeted that amount for provision of eviction-prevention legal services to low-income tenants at the time the report was issued. The city now intends to spend $60 million annually for eviction prevention services. Therefore, SRR is offsetting $60 million from the cost of providing counsel pursuant to Intro 214-A. However, even if that amount were not

\(^{49}\) SRR has not conducted an analysis to match the benefits received from Intro 214-A to the costs of providing counsel. It is believed that some of the cost savings estimated in this report would be in periods subsequent to the initial outlay of costs for providing council as not all eviction shelter entries are immediate.
considered an offset, the annual benefit to the city from implementing Intro 214-A would still be $260 million.

102. In addition to the aforementioned benefits to the City from Intro 214-A, SRR has also considered additional financial benefits to the City that are not easily quantifiable that are incurred from evictions. These include:

   a. The cost of homeless children as a result of eviction manifested through education costs, juvenile justice costs, and welfare costs;
   b. The cost of providing welfare when jobs are lost due to eviction;
   c. Enforcement of rent law and regulations; and
   d. A reduction, over time, of the number of eviction cases brought as a result of implementing the right to counsel.

103. Based on the considerations as presented above, and throughout this report, SRR has concluded that the City would realize a benefit from Intro 214-A of $320 million, annually, which is visually presented below.\(^ {50} \)

![Cost / Benefit of Intro 214-A (in millions)](image-url)

\(^ {50} \) Ibid.
IX. Assumptions and Limiting Conditions

104. SRR’s conclusions are based on the information received to date. SRR reserves the right to change those conclusions should additional information be provided.

105. SRR’s review, research and analysis was conducted on an independent basis - no one that worked on this engagement has any known material interest in the outcome of the analysis. Further, SRR has performed this analysis on a pro bono basis and therefore without compensation.

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Neil Steinkamp
Managing Director
Stout Risius Ross, Inc.