

San Francisco  
Right to Civil Counsel  
Pilot Program  
Documentation Report

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**John and Terry Levin Center for Public Service and Public Interest  
Stanford Law School**

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## I. Executive Summary

- The time period documented in this Report was October 2012 through September 2013. During the Project Term, 3,581 eviction cases were filed against tenants in San Francisco.
- The Report focuses on the efforts of the Justice & Diversity Center (“JDC”) of the Bar Association of San Francisco, which received the City contract to implement the Right to Civil Counsel Pilot Project. During the Project Term, JDC provided full-scope representation through pro bono attorneys in 117 cases, serving a total of 194 adults and 66 children. This represents an estimated 6435 hours (at an average of 55 hours per case) of volunteer attorney time donated and an estimated value of \$1,608,750 (local average hourly rate for an attorney is \$250).
- Overall, law firm participation in JDC programs increased from the previous year. Twenty-six large, medium, and small law firms handled 60 full-scope eviction cases. In terms of case representation by firm size, sixteen large firms represented 38 of the full-scope cases, with several taking on multiple cases. The remaining full-scope cases were accepted by solo practitioners and small law firms made up of two or three attorneys, as well as recently-licensed attorneys.
- Through its Housing Negotiation Project, JDC provided limited-scope representation through pro bono attorneys in 692 cases, serving a total of 935 adults and 230 children. Thirty-two law firms (of all sizes) represented tenants in a total of 322 limited-scope cases, with several large law firms taking on multiple cases. The remaining 370 cases were handled by private practitioners and independent attorneys. Based on an observed average of 3 hours per Housing Negotiation Project case, an estimated 2076 (692 multiplied by 3) hours were donated by attorneys in these cases. Assuming the local hourly rate for an attorney is \$250, this is a value of \$519,000.
- A comparison of the outcomes recorded by JDC of full-scope and limited-scope cases during the Project Term shows that tenants are more likely to stay in their homes when provided full-scope representation. It bears noting, however, that these numbers do not reflect the outcomes from every case handled, as JDC relies on self reporting from its pro bono volunteers after the case is closed, and, at the time of reporting, volunteers attorneys had not submitted all case closing information. Additionally, JDC specifically selects full-scope cases for referral to pro bono counsel where there is an unsettled issue of law, pressing discovery needs, or where law firm representation could otherwise provide needed resources to the tenants in the case.
- During the Project Term, 609 of the tenants whom JDC assisted through either full-scope or limited-scope representation were more likely to avoid homelessness at least in part due to attorney representation in their eviction case. The cost of sheltering those tenants each night would be \$30/night/sheltered individual or family, resulting in a cost savings of \$18,270 each night those tenants would have been sheltered. For *illustrative purposes only*, we can estimate that the *potential* cost savings to the City from providing representation to these 609 tenants was \$1,096,200, given that the average shelter stay for individuals in San Francisco is estimated to be 60 days. However, each step in this calculation involves significant assumptions and merits further study and analysis. This calculation assumes that those tenants included in these numbers

who reached move-out agreements found alternative housing, but there is no data regarding whether these tenants did find such housing. In addition, not only do these calculations involve assumptions on outcomes based on JDC's coding, but the coding is only completed for about three-fourths of the full-scope cases, and the increase in income eligibility resulting from the Pilot Project may have also affected the results. Finally, we cannot link these cost savings to the funding specifically provided for the Pilot Project, as in the year prior, JDC worked on a similar number of full-scope cases and a greater number of limited-scope cases.

- In a recent point-in-time homelessness count by Compass Connecting Point, when sheltered *families* were asked about the cause of their homelessness and allowed to select reasons from a list, 11% cited evictions (legal and illegal combined). However, this number is likely to be much higher, as homelessness does not necessarily happen immediately after the eviction. For instance, 35.59% of respondents in the 2013 demographics report for San Francisco adult shelters stated that they were forced to live with friends or relatives before becoming homeless.
- Our observations of both limited-scope and full-scope cases show that in Housing Court, as in many specialized areas of law, “repeat players” gain advantages from their developed expertise and knowledge. This includes specialized knowledge of the substantive area of law as well as experience with the particular procedures of the venue and familiarity with opposing counsel and decision-makers. For example, some landlord attorneys take a hard line at settlement conference knowing there is a chance that the tenant will not be represented at trial.
- It is clear from our observations of the full-scope cases and discussions with full-scope pro bono attorneys that providing full-scope representation increases the likelihood that a tenant will be able to stay in their home. Law firms, particularly large law firms with extensive resources, are well positioned to make a significant contribution to cases with unsettled or problematic issues of law, cases where discovery could play a role in the outcome, and cases involving large corporations or banks that have foreclosed on a property. This is especially important given that landlord attorneys tend to be repeat players, with expert knowledge of both the law and the adjudication process.

## **II. Overview of Pilot Program and Eviction Defense in San Francisco**

### **A. History and Background of Pilot Program**

In March 2012, the Board of Supervisors of the City and County of San Francisco passed ordinance 45-12 (“the Ordinance”), declaring San Francisco to be a right to civil counsel city (though it stated it was not intended to immediately establish a right to counsel). The Ordinance authorized a one-year Right to Civil Counsel Pilot Program (“Pilot Program”) but limited the City’s financial commitment to paying for staff to support “program coordination among the City, the Superior Court, non-profit organizations, and others involved in the Pilot Program,” with the overall goal of increasing free legal services for indigent clients. To qualify for free counsel, a client was required to live within 200 percent of the federal poverty level and have a case involving a “basic human need” such as housing, safety, or child custody. The Ordinance represents “the City and County’s firm commitment to creating a local judicial system that provides representation to all residents involved in civil proceedings that could deny them basic human needs.”

The purpose of the Pilot Program was to provide civil legal services to indigent San Franciscans, increase the number of attorneys providing pro bono representation, and assess the value of legal services to the City.

The City contracted with the Volunteer Legal Services Program (“VLSP”) of the Bar Association of San Francisco (“BASF”) to implement the pilot program for the contract term of October 1, 2012 through September 30, 2013 (“Project Term”).<sup>1</sup> Since the contract was signed, VLSP changed its name to the Justice & Diversity Center (“JDC”). The Pilot Program funding has been applied to coordination around housing cases, increasing the legal services provided to San Francisco residents facing eviction.

The Ordinance also called for evaluation of the Pilot Program to (a) provide analysis of relevant data collected regarding the impact of the Pilot Program on the demand for legal services; (b) consider the effectiveness and continued need of the program as it pertains to equal access to justice; and (c) identify strategies and recommendations for maximizing the benefit of that representation in the future. However, due to the inability to obtain sufficient quantifiable data that would permit an effective evaluation, a very fluid and changing housing market, and in consultation with the affected agencies and groups, the City and County instead requested this documentation and analysis of the Pilot Program.

### **B. Eviction Process in San Francisco Prior to Pilot Program**

#### **i. San Francisco Housing Court**

All eviction, or “unlawful detainer,” also referred to as “UD,” cases, are heard by the San Francisco Real Property/Housing Court of the Superior Court of San Francisco (“Housing Court”). The Housing Court also hears all pre-trial motions involving foreclosures and commercial property taking place in San Francisco. The Housing Court was created in November 2011 from the combination of two law and

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<sup>1</sup> While the Pilot Program and its funding have been extended for another year, this report only covers the period of time constituting the initial Project Term.

motion courts, as a result of a budget-related reorganization.<sup>2</sup> Judge Ronald Evans Quidachay has presided at the Housing Court since its inception, except for brief periods.

## **ii. Legal Services for Tenants Facing Eviction**

In San Francisco, legal services for clients facing eviction, as in many cities, are provided by a number of legal organizations. JDC and the Eviction Defense Collaborative (“EDC”) serve the most tenants facing eviction. Both organizations receive funding from the City and County of San Francisco. Only JDC received Pilot Program funds.

EDC is the central clearinghouse for tenants facing eviction and, on a pro per basis,<sup>3</sup> helps most tenants submit responsive pleadings to complaints filed by landlords,<sup>4</sup> including Answers, Motions to Quash, Motions to Strike and Demurrers. EDC also helps tenants gain access to the mandatory settlement conference by assisting tenants to file a jury demand, which triggers the settlement conference. Finally, most tenants qualify for fee waivers, and EDC helps tenants file requests for these as well. EDC also provides discovery assistance to tenants, including service of process on the other party.

JDC, through its Housing Negotiation Project (“HNP”), provides pro bono attorneys to most income-eligible tenants who request one for the mandatory settlement conference with their landlord and/or landlord’s attorney. JDC also handles some cases on a full-scope basis primarily through pro bono attorneys, but also with a few staff attorneys. The full-scope and extended services provided by both organizations are further detailed below.

Other legal services organizations that provide advice and counsel or full-scope representation, include Bay Area Legal Aid, Asian Law Caucus, AIDS Legal Referral Panel, Asian Pacific Islander Legal Outreach, JDC’s Homeless Advocacy Project,<sup>5</sup> JFK Law School Housing Clinic, Lawyers’ Committee for Civil Rights of the San Francisco Bay Area, Legal Assistance to the Elderly, and the Tenderloin Housing Clinic. Many of these organizations maximize their resources by providing a significant amount of limited services in the form of advice and counsel, while selecting some cases for extended services in the form of full-scope representation.<sup>6</sup>

Two social services organizations in San Francisco, Housing Rights Committee and Just Cause::Causa Justa, also provide valuable legal information to tenants in San Francisco.

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<sup>2</sup> Judge Ronald Quidachay Interview, April 10, 2013. Notes kept on file by Levin Center.

<sup>3</sup> Pro per means that EDC attorneys and staff provide information, advice, and guidance to clients in drafting responsive materials, which allows a client to represent him or herself rather than having an attorney.

<sup>4</sup> In 2012, 95% of tenants who appeared for mandatory settlement conference were EDC clients. EDC Eviction Defense Collaborative 2012 Eviction Report, p. 4.

<sup>5</sup> The Homeless Advocacy Project is a program of JDC.

<sup>6</sup> According to their 2012 applications for IOLTA funding, in 2011, Legal Assistance to the Elderly in 340 cases, AIDS Legal Referral Panel in 237 cases, Asian Law Caucus in 221 cases, and Bay Area Legal Aid in 2121 cases. The same IOLTA applications show that Legal Assistance to the Elderly provided extended services in 5 cases, AIDS Legal Referral Panel in 112 cases, Asian Law Caucus in 32 cases, and Bay Area Legal Aid in 45 cases. Note that some organizations, including AIDS Legal Referral Panel, Asian Law Caucus, and Bay Area Legal Aid, also serve residents in counties outside of San Francisco (such as Alameda, Contra Costa, San Mateo, and Santa Clara counties) and these numbers include cases in those counties.

### iii. Eviction Process for Tenants

Typically, a tenant faced with eviction receives a Summons & Complaint for “unlawful detainer” filed in the Superior Court of California, County of San Francisco (“Superior Court”), along with a flyer that informs them about EDC’s services, including help filing an Answer.<sup>7</sup> Of the 3,695 eviction lawsuits filed in San Francisco in 2012,<sup>8</sup> EDC prepared responses to 2,060 (55%) of those lawsuits.<sup>9</sup> EDC refers cases to the legal services organizations listed above for both limited- and full-scope representation, determining the appropriate referral organization based on client demographics and case details. EDC refers a large number of low-income tenants to JDC for both limited- and full-scope representation.<sup>10</sup> JDC’s pro bono volunteers typically select full-scope cases by reviewing matters described in a weekly email. JDC’s delivery of limited-scope representation is detailed below.

After the landlord files the Summons & Complaint and serves the tenant, the tenant has five calendar days (including weekends) to file an answer. The case is then scheduled for trial and what is called a Mandatory Settlement Conference (“settlement conference” or “MSC”), typically 8 to 13 days from the date the Answer is filed.<sup>11</sup> EDC calls each tenant scheduled for a settlement conference the day before, reminding them to go to court and stressing the importance of attendance. At the MSC, held on Wednesday and Thursday afternoons, the tenant and landlord meet with a volunteer mediator (also called Judge Pro Tems). As described above, some tenants will have an attorney from a legal services organization representing them at the settlement conference, either in a limited- or full-scope capacity. An EDC attorney also represents some tenants at settlement conferences. Those tenants who are not represented can secure a limited-scope pro bono attorney for their settlement conference through JDC’s Housing Negotiation Project at the courthouse. Representation is limited to the settlement conference and is supervised and coordinated by JDC staff attorneys. Through these processes, every income-eligible individual is offered representation. Should the case not settle, it is scheduled for trial the following Monday. The parties are frequently provided another opportunity to settle the case on Monday mornings. If a settlement is not reached, the case is scheduled for trial.<sup>12</sup>

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<sup>7</sup> EDC holds a drop-in clinic at their offices on Market Street every weekday, 9:30 am to 11:30 am and 1 pm to 3 pm for this purpose. EDC services are available to all San Francisco County tenants, though tenants who are able to pay are charged a fee based on a sliding scale. No clients are turned away for lack of funds.

<sup>8</sup> EDC 2012 Eviction Report, p. 7.

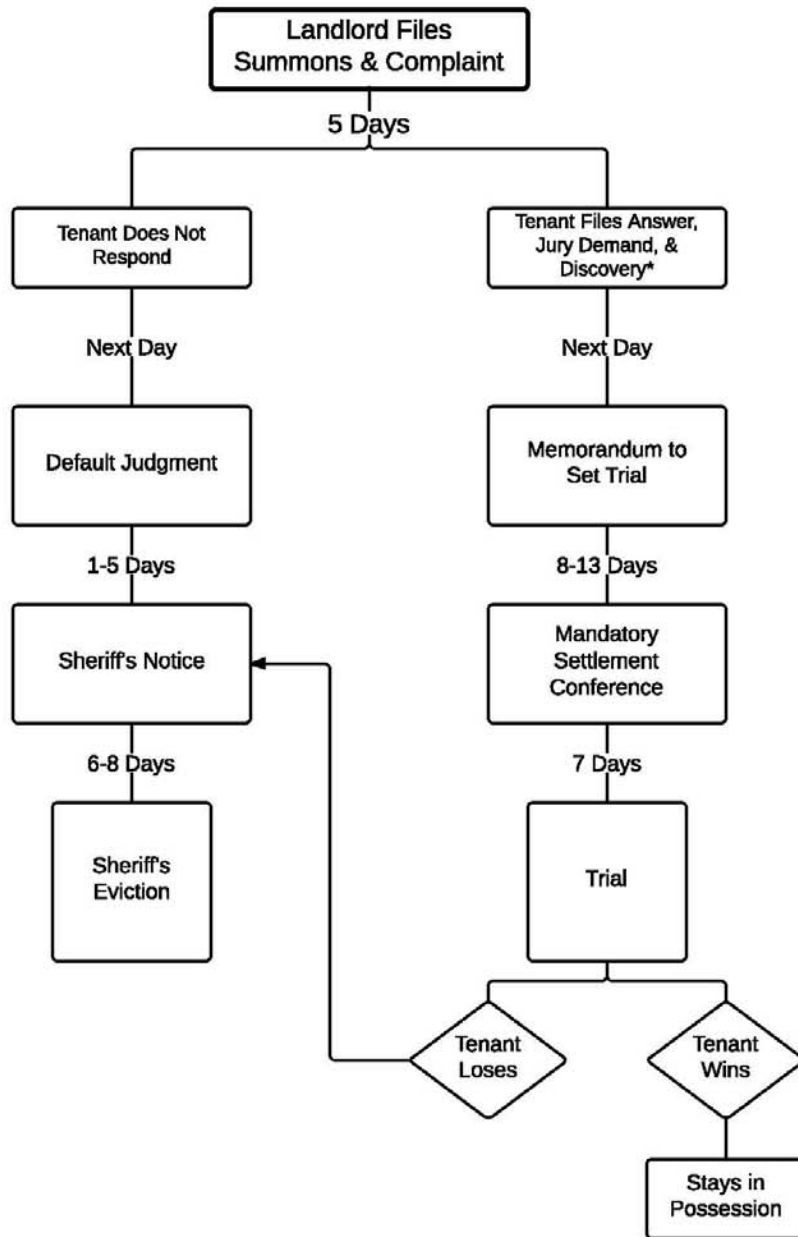
<sup>9</sup> EDC 2012 Eviction Report, p. 7. Note that these figures are based on all unlawful detainers filed in San Francisco in 2012, including those involving commercial real estate. Thus, the 55% number may be slightly low given that EDC only works with tenants in residential real estate.

<sup>10</sup> Prior to the Pilot Project, JDC represented tenants with a verifiable household income of no more than 125% of the federal poverty level. The Pilot Program raised income eligibility to 200%, but only for cases handled by a pro bono attorney volunteer. JDC attorneys only represent tenants with incomes at 125% of poverty because of regulations governing recipients of Interest on Lawyers Trust Accounts (IOLTA) funds. To be represented by JDC attorneys or volunteers, tenants must also have some basis for a defense to the landlord’s claims.

<sup>11</sup> Landlords typically file a memorandum to set the case for trial upon receipt of an Answer and the Court is required to set the case for trial within 21 days of receipt of the memorandum.

<sup>12</sup> If a case does not settle, it is sent to an available courtroom or the parties are placed on "cell phone standby" for notification of when a courtroom becomes available.

# UNLAWFUL DETAINER PROCEDURES & TIME CHART



\*Tenant can also file a Demurrer or Motion to Strike, or a Motion to Quash Source of Summons, each of which would result in a motions Hearing. If the Tenant is successful at the hearing, the case is dismissed. If the Tenant does not succeed, the Tenant can proceed to file an answer, jury demand, and discovery.



#### iv. JDC Background

JDC provides pro bono legal and related social services to low-income San Francisco residents, including those who are homeless, and to nonprofit organizations that serve these communities, primarily through the use of volunteer attorneys.

JDC staff and volunteer based projects include the Community Organization Representation Project, Eviction Defense Project, Homeless Advocacy Project, Housing Negotiation Project, Family Law Project, Bayview Hunters Point Medical-Legal Project, Federal Pro Bono Project, Consumer Debt Project, Legal Advice and Referral Clinic, and Low-Income Tax Clinic Project. Their clients include homeless individuals and families, survivors of domestic violence, seniors, individuals and families facing eviction, adults with disabilities, community-based organizations, and residents of underserved neighborhoods, including Bayview Hunters Point.

JDC provides eviction defense services through several programs. Tenants can be represented by staff attorneys as well as pro bono attorneys supervised by JDC in either a limited- or full-scope capacity.

JDC's full-scope Eviction Defense Project provides representation to clients throughout their eviction proceedings, including discovery, motions, settlement, and trial. Before taking cases, volunteers must attend JDC's free training. After attending the training, volunteers are asked to commit to representing two clients within a year of the training. Full-scope representation in this context means that the attorney represents the client through the conclusion of the case, including trial, if necessary.

The Housing Negotiation Project ("HNP") is JDC's limited-scope project for eviction defense. Through this project, volunteer attorneys represent low-income individuals and families facing eviction for the duration of their mandatory settlement conferences. Pro bono attorney volunteer shifts are Wednesday and Thursday afternoons from 12:30 – 4:30 pm when settlement conferences take place.<sup>13</sup>

JDC also runs the Homeless Advocacy Project ("HAP"), which provides legal services (and supporting social services) to individuals and families in San Francisco who are homeless or at imminent risk of homelessness, prioritizing individuals who have mental health disabilities. These services are provided through both staff and volunteer attorneys on both a limited- and full-scope basis. Among the **limited-scope** cases pro bono attorneys work on through HAP are "Motion to Vacate" cases, representing tenants who seek to vacate a default judgment against them for good cause, including disability or improper service of process.<sup>14</sup> These cases involve filing a motion with the Housing Court and appearing at a hearing to vacate the default judgment so that the case can proceed on its merits.

#### C. Legal Services Landscape Changes During Pilot Program

Since the Ordinance was passed, JDC has used the funds from the Pilot Program to hire an additional staff attorney to:

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<sup>13</sup> Every tenant has the opportunity to receive representation on the day of their mandatory settlement conference, as the Housing Court requires that JDC's Housing Negotiation Project represent everyone. During one shift, a volunteer may be assigned to one to two clients.

<sup>14</sup> The difference between HAP and HNP is that HNP strictly deals with mandatory settlement conferences, while HAP handles a myriad of other types of limited- and full-scope cases, including Motion to Vacate cases.

- Supervise pro bono attorneys providing full-scope and limited scope representation in eviction defense cases for people with incomes below 200% of the federal poverty level;
- Recruit volunteers to provide pro bono representation in eviction defense cases;
- Increase pro bono representation by volunteer attorneys through the design and implementation of projects that meet the varied needs of clients and volunteer attorneys;
- Establish systems for more efficient referrals and placement of cases with volunteer attorneys in collaboration with the EDC; and
- Design and test training materials for pro bono projects.<sup>15</sup>

Though EDC was not funded through the Pilot Program, EDC simultaneously and unrelated to the Pilot Program altered its service delivery in November 2012 to provide representation to many more tenants at their Monday trial date. The EDC now reviews all unsettled cases, interviews those tenants/defendants who can be reached, identifies needed legal and factual research, and assigns its staff attorneys to represent tenants at trial. Tenants in these cases either had a volunteer attorney at their settlement conference but were not able to settle their case, or did not appear at their settlement conference. Often tenants who do not make it to the settlement conference are in greatest need of assistance.<sup>16</sup> EDC estimates that 30% of cases set for settlement conference are not resolved successfully. EDC attorneys contact tenants who missed their settlement conference with an offer of services. They also attempt to call plaintiff's counsel and settle the case before the trial, strategically selecting which cases to work on because of the limited time between the settlement conference and the Monday trial date.<sup>17</sup> If EDC attorneys cannot settle a case, they will represent the tenant in the subsequent trial in selected cases. EDC initially staffed two attorneys to cover the Monday cases; they have since assigned more due to a recent informal Housing Court rule imposed in October of 2013 that requires each attorney to only represent one client.<sup>18</sup>

The following chart summarizes the changes that occurred with respect to service delivery for tenants facing eviction since the Ordinance was passed during the Project Term:

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<sup>15</sup> In the Pilot Program's second year, the staff attorney also provides representation to selected clients, typically a tenant with a mental health disability, substance abuse problem, or in other cases best suited for an attorney with substantial experience working with similar populations of clients.

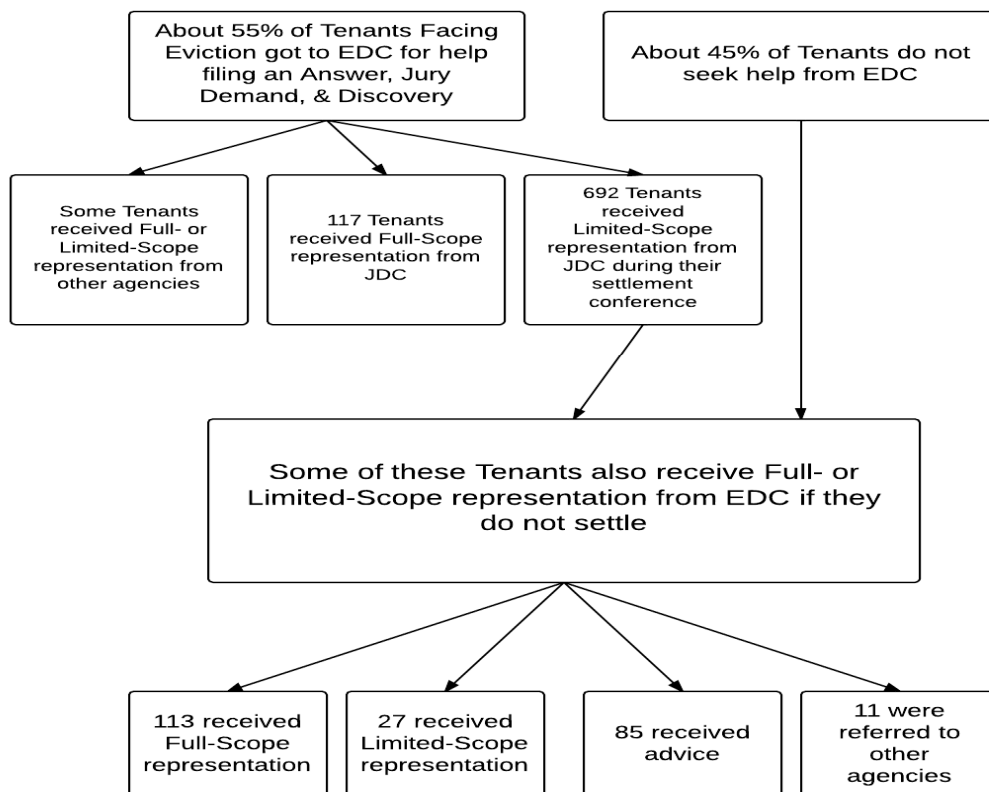
<sup>16</sup> EDC's observations from its representation of tenants who do not attend their settlement conference is that these are often individuals who are in supportive housing and have physical or mental disabilities and/or illnesses that make it difficult for them to leave their homes, making the retention of housing that much more important. For example, EDC worked with a woman who faced eviction from supportive housing and had both chronic fatigue syndrome and H1N1 and could not appear at her settlement conference. With EDC involvement, she obtained a two-week continuance and the case settled during that time period. Another woman was a Chinese speaker with a cognitive disability or dementia, who thought people were coming to her apartment and stealing her things. EDC assistance allowed her to stay in her apartment for enough time to find a new place to live and avoid homelessness.

<sup>17</sup> A few months after initiating the Monday representation project, EDC determined that they would best leverage their limited resources by working with clients who could come into their office on Fridays to work with EDC attorneys on preparing the case for trial.

<sup>18</sup> Nathanael Player Interview, March 19, 2014. Notes kept on file by Levin Center. Mr. Player noted that EDC may not have the capacity to continue doing so as currently a great number of its attorneys are necessary to staff the Monday cases due to the "one client per attorney" rule.

<b>Landscape Before Ordinance</b>	<b>Landscape After Ordinance</b>
1 VLSP (now known as JDC) Attorney supervising attorneys volunteering at the MSC as well as attorneys volunteering to represent tenants in either a limited- or full-scope capacity in eviction defense cases	2 JDC (formerly known as VLSP) Attorneys supervising attorneys volunteering at the MSC as well as attorneys volunteering to represent tenants in either a limited- or full-scope capacity in eviction cases
Tenants who had not been referred to a full-scope attorney went unrepresented at trial	EDC represents some tenants after their MSC who would otherwise have gone unrepresented and provides representation through trial.
EDC calls tenants before their MSC to remind them to go to court, stressing the importance of attendance	In addition to calling tenants before their MSC to remind them to go to court, EDC also calls tenants who missed their MSC, and sends these tenants letters, delivering them in person whenever feasible
VLSP recruits attorneys to provide pro bono representation in limited- and full-scope eviction defense cases	Increased JDC efforts to recruit law firm attorneys to provide pro bono representation in limited-scope and eviction defense cases, with a focus on big law firms
Systems for referral and placement of cases with volunteer attorneys	JDC coordination with EDC to establish efficient systems for referral and placement of cases with volunteer attorneys
Training materials for volunteer attorneys	JDC updates training materials for pro bono attorneys

### Eviction Defense Services During Project Term



### III. Documentation Methodology

The initial phase of documentation consisted of (1) informational interviews with JDC and EDC staff,<sup>19</sup> Judge Quidachay, and Dan Kelly, Director of Planning, San Francisco Human Services Agency; (2) observation of Housing Court, including mandatory settlement conferences, hearings, and trials; (3) observation of the representation provided by JDC volunteer attorneys in limited- and full-scope cases, including mandatory settlement conferences; and (4) observation of EDC attorneys representing tenants who would otherwise have gone unrepresented at their Monday trial date. We also met with various program directors at shelters, residences, and wellness centers, including St. Vincent de Paul Society of San Francisco, the Hamilton Family Residences & Emergency Shelter, and the Ozanam Wellness Center.

The second phase of documentation consisted of interviewing pro bono attorneys and the one landlord attorney willing to speak with us.<sup>20</sup> In addition, we conducted two focus groups at the Ozanam Wellness Center and spoke with residents and visitors attending Homeless Legal Services intake sessions at the St. Vincent de Paul Society's Multi-Service Center ("MSC South") on several occasions. The intake sessions are run by students at UC Hastings School of Law in coordination with JDC.<sup>21</sup> We selected the Ozanam Wellness Center as a location for the focus groups because it offers a variety of integrated wellness services and counseling to primarily homeless or marginally housed adults living in poverty, including those facing drug and alcohol addictions, mental health challenges, and survivors of domestic violence. The focus groups we held invited those who experienced eviction to share their perspectives on the process. We chose the Homeless Legal Services intake at the MSC South because it is the largest homeless shelter in Northern California, feeding, clothing and sheltering 410 homeless men and women per night. In addition, Homeless Legal Services conducts a weekly intake at MSC South on Tuesday nights to serve residents at the shelter. Throughout all of our focus groups and interviews, we used the same interview outlines to obtain as much consistency as possible.

While we looked into ways to conduct an empirical study whereby we could compare cases that received representation with those that did not, it became clear early on that such a study would not be possible because there was no way to establish a control group. Some studies of the impact of representation have established a randomized way to determine which clients receive representation,<sup>22</sup> thereby controlling for "separate and distinct set[s] of characteristics" that would make a tenant more or less likely to seek assistance, such as tenants with meritorious cases or "personal attributes, such as motivation or persistence, that would make it more [or less] likely to prevail in litigation, regardless of the independent merit of the case."<sup>23</sup> This was not possible in documenting the Pilot Program. Another

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<sup>19</sup> EDC attorneys included Tyler Macmillan, Nathanael Player, and Deepa Varma. JDC attorneys included Mairi McKeever, Cary Gold, and Ted Janowsky.

<sup>20</sup> We reached out to several landlord attorneys but only one agreed to an interview.

<sup>21</sup> Attorneys from JDC's Homeless Advocacy Program supervise these intake sessions, which are generally staffed by UC Hastings Law students and pro bono attorneys.

<sup>22</sup> D. James Greiner, Cassandra Wolos Pattanayak, & Jonathan Hennessy, *The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future*, Harv. L. R. (forthcoming) available at: <http://ssrn.com/abstract=1948286>; D. James Greiner, Cassandra Wolos Pattanayak, & Jonathan Hennessy, *How Effective Are Limited Legal Assistance Programs? A Randomized Experiment in a Massachusetts Housing Court*, available at: <http://ssrn.com/abstract=1880078>.

<sup>23</sup> Jessica K. Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 Geo. J. on Poverty L. & Pol'y Vol. 453, 496 (2011) available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1960765](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1960765) (study of unbundled legal services in housing court in San Mateo County noting the limitations of non-randomized studies in excluding certain characteristics).

evaluation avenue we explored was comparing those full-scope cases that were selected by pro bono attorneys against those that were not selected for whatever reason. However, this would not have yielded reliable data because many of the tenants not selected for full-scope representation by JDC gained representation at trial by an EDC attorney. This report is, therefore, focused on documenting JDC's expanded full-scope eviction work because the funding and implementation of the Pilot Program has concentrated on serving clients in this area of law and leveraging law firm pro bono hours to meet the needs of San Francisco tenants facing eviction.

Lastly, it bears noting that this documentation was conducted during a period of economic turmoil for low- and even middle- income residents of San Francisco in that both property values and rents were increasing to such a degree that many tenants faced with eviction had little chance of finding another home in San Francisco, and if evicted would be likely to leave the City entirely. This and other issues impacting the status of housing and homelessness in San Francisco are addressed in Appendix A of this study.

## **IV. Quantitative Analysis**

### **A. Representation**

#### **i. Full-Scope Cases**

During the Project Term, 3,581 eviction cases were filed against tenants in San Francisco. JDC provided tenants in 117 cases with full-scope representation through pro bono attorneys, serving a total of 194 adults and 66 children.<sup>24</sup> Tenants in nine Motion to Vacate cases were also represented, serving 13 adults and four children.<sup>25</sup> This represents a marginal decrease from the year prior (October 1, 2011 to September 30, 2012), when tenants in 125 cases were provided full-scope, pro bono representation primarily by solo practitioners and newly barred attorneys. However, there was a significant increase in participation by law firms during the Pilot Program.

Sixteen large firms represented clients in a total of 38 full-scope cases during the Project Term, with several large law firms taking on multiple cases. Morrison & Foerster and Farella Braun & Martel LP were recognized recently for their commitment to the Project.<sup>26</sup> Nine medium size and small firms also took on an additional 22 full-scope cases. Overall, firm participation doubled during the Project Term. A total of 25 law firms handled a total of 60 full-scope eviction cases. The year prior only 13 such firms took a total of 28 full-scope eviction cases.

Counting both the full-scope and Motion to Vacate cases, 14 new firms took full-scope cases during the Project Term in comparison with the prior year. Moreover, 18 law firms publicly committed to being Pilot Program firms, and those firms took 38 full-scope and 9 Motion to Vacate cases. A summary of law firm participation is below. The remainder of the full-scope cases were accepted by solo

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<sup>24</sup> The reported household member numbers may be lower than the actual numbers. This is because JDC relies on its pro bono attorneys to provide some of this data and not all have submitted their responses to date. EDC records show that 146 cases were referred to JDC, with 76 known by EDC to have been placed with JDC pro bono or staff attorneys.

<sup>25</sup> All of the numbers reported in this section are based on case information provided by JDC, including those referred to pro bono attorneys during the Project Term.

<sup>26</sup> This took place at the Project's Year Two Kick-Off event at Morrison & Foerster's San Francisco office, on November 18, 2013.

practitioners and small law firms made up of two or three attorneys, as well as recently licensed attorneys.

<b>SIZE</b>	<b>NUMBER OF CASES</b>
<b>Large Firms</b>	<b>38</b>
<b>Medium &amp; Small Firms</b>	<b>22</b>
<b>TOTAL</b>	<b>60</b>

Based on an average of 55 hours per case, in cases for which pro bono volunteers reported hours,<sup>27</sup> it is estimated that volunteer attorneys donated 6435 hours in full-scope cases. Assuming the local average hourly rate for an attorney is \$250,<sup>28</sup> the 6435 hours of pro bono service has an estimated value of \$1,608,750.

## **ii. Limited-Scope Cases**

In the Housing Negotiation Project, JDC provided tenants in 692 cases with limited-scope representation through pro bono attorneys, serving a total of 935 adults and 230 children. This is also a slight decrease from the year prior, when tenants in 956 cases were provided with limited-scope representation through pro bono attorneys. Thirty-two law firms (of all sizes) represented tenants in a total of 322 limited-scope cases, with several large law firms taking on multiple cases. The remaining 370 cases were represented by private practitioners and independent attorneys. EDC attorneys represented an additional 102 tenants in settlement conferences (this number is not included in the 692 cases represented by pro bono attorneys through JDC).<sup>29</sup>

Based on an observed average<sup>30</sup> of 3 hours per Housing Negotiation Project case, we estimate that volunteer attorneys donated 2076 hours (692 multiplied by 3) of client representation in these cases. Assuming the local hourly rate for an attorney is \$250, the pro bono service estimated to be \$519,000.

In addition, pro bono volunteers worked on nine Motion to Vacate cases, with some firms taking a significant number.

## **B. Outcomes**

When a JDC pro bono volunteer closes a full-scope case, they are asked to report the outcome to JDC staff, who then code the case on a scale of 1 through 3, based on the success of the outcome. The coding takes into account individual case facts and JDC's reasonable expectations of a favorable result. If the case is dismissed or the tenant is able to stay in the unit, the case receives a 1 for "Excellent Result." If

<sup>27</sup> This number is based on the average of pro bono attorney hours for those full-scope cases in which pro bono attorneys reported their hours to JDC. Not all attorneys reported their hours.

<sup>28</sup> This average is based upon the rate quoted by the Lawyer Referral and Information Service of the Bar Association of San Francisco. While the hourly rate of law firm attorneys is typically higher than \$250, many tenants in full-scope cases were represented by attorneys at small firms and solo practitioners, as well as recently-barred attorneys, and for this reason we consider \$250 per hour to be a conservative estimate.

<sup>29</sup> EDC records show that they represented 160 cases at settlement conference during the Project Term.

<sup>30</sup> This figure is based both on our own observations of settlement conferences and JDC's estimate of the average time spent per pro bono attorney on each cases.

the tenant reaches a favorable move out agreement with the landlord, the case receives a 2 for “Positive Result.” If the outcome is not as good as hoped-for, but does prevent homelessness in some way, the case receives a 3 for “Mixed Result.” For example, a case where the tenant did not receive as much move-out time as desired but still received some would be coded as a 3. If the client withdraws, the case is coded as a 10.

Below is the coded breakdown of full-scope cases reported by pro bono attorneys to JDC staff. (Note: the total number of 89 reported full-scope cases only reflects about 76% the 117 total full-scope cases for the Project Term.)

<b>Outcome</b>	<b>Full Scope Cases</b>	<b>Full Scope Percentage</b>
1 = Excellent Result	56	62.92%
2 = Positive Result	31	34.83%
3 = Mixed Result	1	1.12%
10 = Client Withdrew	1	1.12%
<b>Total</b>	<b>89</b>	

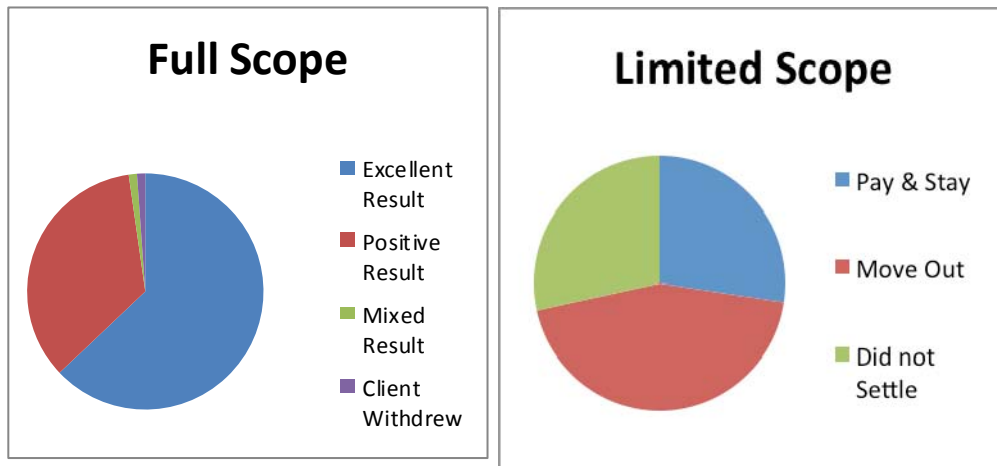
The coding system for the limited-scope cases is different. For the Housing Negotiation Project cases, if the case results in the tenant staying in the unit, the case receives a 1. If the tenant reaches a move out agreement, the case receives a 2. If there is no settlement, the tenant receives a 3 or higher.<sup>31</sup> The total number of 683 reported limited-scope cases reflects almost all of the 692 limited-scope cases for the Project Term.

<b>Outcome</b>	<b>Limited Scope Cases</b>	<b>Limited Scope Percentage</b>
1 = Pay & Stay	187	27.38%
2 = Move Out	302	44.22%
3 or 4 = no settlement	194	28.40%
<b>Total</b>	<b>683</b>	

A comparison of the reported outcomes of full-scope and limited-scope cases during the Project Term shows that the tenants are more likely to stay in their homes when provided full-scope representation. It bears noting, however, that in addition to the difference in coding scales for full-scope and limited-scope cases, there is considerable subjectivity involved in determining a “Positive Result” versus a “Mixed Result” or “Poor Result.” In addition, these numbers do not include all the full-scope or limited-scope cases because of reporting deficiencies from pro bono volunteers, particularly full-scope volunteers. Lastly, and most notably, JDC specifically picks cases to refer to pro bono counsel for full-scope representation that would most benefit from legal assistance, selecting cases where there is an unsettled issue of law, pressing discovery needs, or where law firm representation could otherwise provide needed resources to the tenants in the case, thus skewing the results for outcomes. In addition, the Pilot Program increased the income eligibility limit for JDC clients represented by pro bono attorney volunteers from 125% to 200% of poverty, and this may also have had an impact on outcomes, as it is possible that clients making somewhat more would be better able to avoid homelessness.

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<sup>31</sup> JDC has informed us that some cases have been coded 4 instead of 3 because of data entry errors.



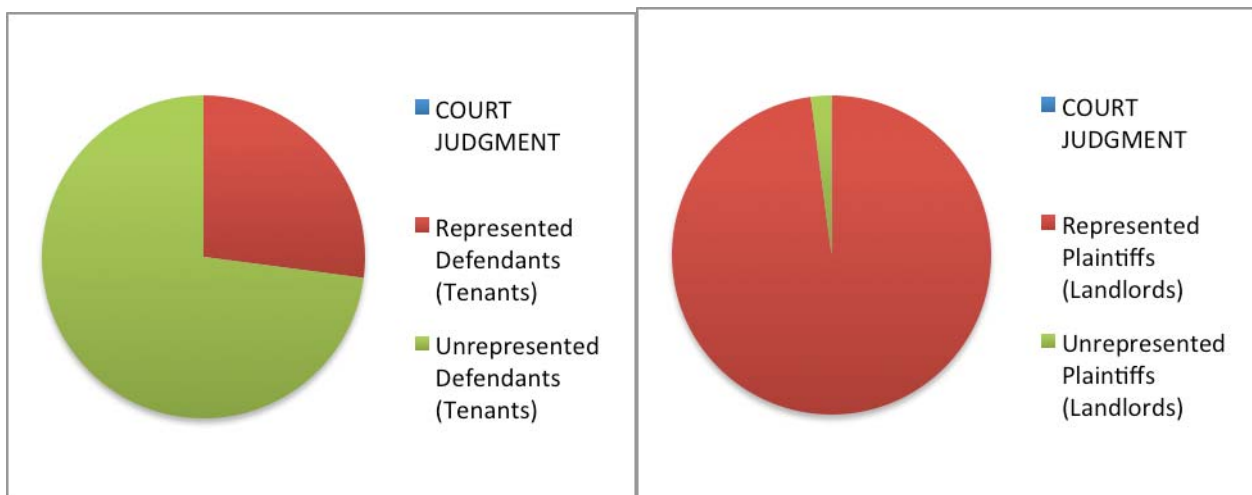
Conversely, looking at the data maintained by the Housing Court of all Judgments entered, it is possible to see the adverse effects of the lack of representation. A Judgment entered in most cases signifies the tenant was required to move out. We obtained from the Court a list of unrestricted or unsealed cases<sup>32</sup> where a Judgment was entered and indicating which parties had representation in each case, for random sampling during the time period of February 1 through April 30, 2013. A “Clerk’s Judgment – Possession Only” indicates that the tenant served with the summons either failed to appear or to present a defense and the landlord was granted possession of the unit. “Court Judgment” means that the Judge heard some testimony or other evidence before reaching a judgment. A Court Judgment also signifies that the landlord was granted possession of the unit, and may also, though not necessarily, mean that the landlord was granted a monetary judgment.

<b>Unrestricted Cases February through April 2013</b>	<b># of Cases</b>	<b>Percentage</b>
<b>CLERK'S JUDGMENT - POSSESSION ONLY</b>		
Total Judgments Entered	147	
Represented Defendants (Tenants)	13	8.84%
Unrepresented Defendants (Tenants)	134	91.16%
Represented Plaintiffs (Landlords)	124	84.35%
Unrepresented Plaintiffs (Landlords)	23	15.65%
<b>COURT JUDGMENT</b>		
Total Judgments Entered	96	
Represented Defendants (Tenants)	26	27.08%
Unrepresented Defendants (Tenants)	70	72.92%
Represented Plaintiffs (Landlords)	94	97.92%
Unrepresented Plaintiffs (Landlords)	2	2.08%

<sup>32</sup> Tenants can file to have their eviction case “restricted” or “sealed” so that their name and the case cannot be accessed by the public, in order to prevent the case from impacting their ability to locate new housing.



In the 147 cases resulting in a Clerk’s Judgment, only 8.84% of tenants had representation, whereas 84.35% of landlords were represented. Similarly, in the 96 cases resulting in a Court Judgment, 72.92% of tenants were unrepresented, while only 2.08% of landlords were unrepresented. A large caveat, however, is that these numbers only represent unrestricted cases, where the tenant did not request the case be restricted or sealed from public viewing. It may not be a representative sample because a tenant represented by an attorney is more likely to file for the case to be restricted or sealed. Our understanding is that in 2013, out of the 334 cases with judgments entered, 77, or approximately 23%, are restricted or sealed.<sup>33</sup>



### C. Cost Savings

A detailed analysis and set of calculations to ascertain potential cost savings or recoupment to the City is beyond the scope of this documentation effort, given the difficulties of conducting a controlled experiment. However, a set of calculations *for illustrative purposes only* suggests the Pilot Program’s *potential* for cost savings (assuming that all eligible tenants would be provided with representation):

1. JDC provided full-scope representation to 117 tenants during the Project Term. **56** of those tenants were recorded to have obtained an “Excellent” result, which, based on JDC’s coding system, means most probably they were able to stay in their homes. Another **31** of those tenants were recorded to have obtained a “Positive” result, which means they received a favorable move-out agreement, which more likely than not means they were able to find another suitable place, even if outside of the City.
2. There are 28 full-scope cases for which JDC does not have outcome data. Assuming the ratio of outcomes was similar to that of the 89 full-scope cases for which JDC does have outcome data, we can estimate that 62.92%, or about **17** of those tenants received an “Excellent” result and were able to stay in their homes, and 34.83%, or about **10**, received a “Positive” result and were able to avoid homelessness due to a favorable move-out agreement. Adding all these numbers together, we can estimate that **114** tenants receiving full-scope representation were able to avoid homelessness.

<sup>33</sup> Email from Arlene Monroy, Superior Court of the County of San Francisco, to Mairi McKeever, January 30, 2014.

3. JDC also provided limited-scope representation to 692 tenants during the Project Term. **187** of those tenants were recorded as “Pay and Stays,” which means they were able to stay in their homes.
4. Another **302** of those tenants were recorded to have achieved a settlement involving a move-out agreement, which more likely than not means they were able to find another suitable place, even if outside of the City.
5. There are **9** limited-scope cases for which JDC does not have outcome data. Assuming the ratio of outcomes was similar to that of the **683** limited-scope cases for which JDC does have outcome data, we can estimate that 27.38%, or about **2** of those tenants were able to stay in their homes, and 44.22%, or about **4** reached a move-out agreement but were able to avoid homelessness. Adding all these numbers together, we can estimate that **495** tenants receiving limited-scope representation were able to avoid homelessness.
6. Thus we can estimate that **609** full-scope and limited scope tenants were able to avoid homelessness.
7. The cost of sheltering those tenants each night would be \$30/night/sheltered individual or family, resulting in a cost savings of \$18,270 each night those tenants would have been sheltered.
8. Given that the average shelter stay for individuals in San Francisco is estimated to be 60 days, we estimate that the *potential* cost savings for from not sheltering these tenants was \$1,096,200.

In deriving these calculations, we have relied heavily on the work of the Boston Bar Association Task Force on the Civil Right to Counsel, whose report was published in March 2012, and we could not be more eloquent than they regarding both the shortcomings of our approach and the significance of our results: “While each step in this calculation merits further study and analysis, the connection between representation, homelessness prevention and cost savings should no longer be ignored.”<sup>34</sup> Indeed, it is a significant assumption that those tenants who reached move-out agreements would be able to avoid homelessness, and without data regarding whether tenants do indeed find alternative homes this cannot be confirmed. In addition, these figures on cost savings are subject to the same reservations expressed above in the section on outcomes regarding the subjectivity of coding for full-scope cases and the lack of outcome data for a significant portion of the full-scope cases. Finally, we cannot link these cost savings to the funding provided through the Ordinance, as in the year prior, JDC worked on a similar number of full-scope cases, and actually a greater number of limited-scope cases.

Another way of approaching this is to look at the percentage of sheltered individuals or families who report that the cause of their homelessness was an eviction. In a recent point in time homelessness count by Compass Connecting Point, when sheltered families were asked about the cause of their homelessness and allowed to select reasons from a list, 11% cited evictions (legal and illegal combined). However, there are numerous reasons to conclude that this is a very low estimated percentage. Housing and Homeless Division Family and Prevention Services Program Manager Cindy Ward has stated that she suspects the number of homeless families whose eviction precipitated their homelessness is much higher than that – potentially over half. “And yet the number of families coming **directly** from evictions is pretty low. . . . In our experience, most families leave housing and crash with friends and relatives until they no longer can, and only then do they access CCP/shelter as a last resort.”<sup>35</sup> This is supported by the same survey, which shows that 45% of respondents stated that the cause of their homelessness was being asked to move out. It is also supported by the 2013 demographics report for San Francisco

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<sup>34</sup> Boston Bar Association Task Force on the Civil Right to Counsel, report published March 2012, p. 8.

<sup>35</sup> Cindy Ward email to Dan Kelly, January 17, 2014 (emphasis hers).

adult shelters, where 35.59% of respondents stated that they were living with friends or relatives before becoming homeless while 32.46% stated they had been living in a home owned or rented by them or their partner.<sup>36</sup>

The Compass Connecting Point survey results show that other problems with potential legal solutions, including domestic violence, divorce/separation, family conflict, loss of work, and loss of benefits figure prominently in the survey results, pointing towards the possibility that supporting legal interventions in areas such as family law, victim protection, and public benefits could also address housing issues and produce cost savings for the city.

<b>Cause of Homelessness? (Include all that apply)<sup>37</sup></b>	
46%	<i>Asked to move out</i>
28%	Domestic violence
15%	Loss of work
16%	Relocation
10%	<i>Legal Eviction</i>
15%	Dangerous living situation
8%	Family conflict
8%	Divorce/separation
19%	Mental illness
10%	Substance abuse
3%	Illness/medical expenses
1%	<i>Illegal eviction</i>
2%	Loss of benefits
2%	Fire/other disaster
2%	Incarceration
1%	Public housing closed
2%	Rent increase
0%	Leaving foster care
1%	Not receiving medical care

<b>Where Living Before Becoming Homeless<sup>38</sup></b>		
<b>Response</b>	<b>#</b>	<b>%</b>
Blank (no response)	71	7.41%
A home owned or rented by you or your partner	311	32.46%
Hospital/Treatment facility	25	2.61%
With friends/relatives	341	35.59%
Subsidized housing	57	5.95%
Juvenile Justice Facility	3	0.31%
Prison	18	1.88%
Jail	16	1.67%
Motel/hotel <sup>39</sup>	63	6.58%
Other	53	5.53%

In the words of Jennifer Friedenbach, Executive Director of the Coalition on Homelessness, “when people are living in places where they are not the owners or renters, with family, friends, sleeping on couches, in extra rooms, etc., unless their name is on the lease, they do not have stability. You are homeless as soon as you do not have a place of your own.”<sup>40</sup>

#### **D. Displacement & the Changing Face of the City**

<sup>36</sup> 2013 Demographics Report San Francisco Single Adult Shelters.

<sup>37</sup> Most recent Point in Time Survey by Compass Connecting Point, January 30, 2013.

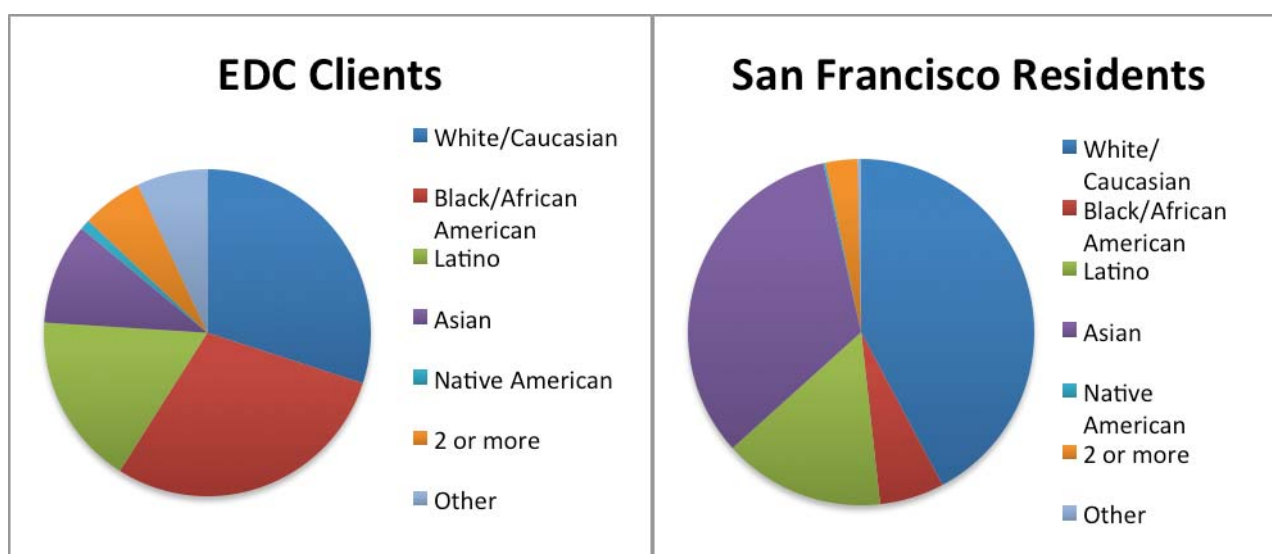
<sup>38</sup> 2013 Demographics Report San Francisco Single Adult Shelters.

<sup>39</sup> Note that this figure includes City-funded Single Room Occupancies (SROs).

<sup>40</sup> Jennifer Friedenbach Interview, December 10, 2013. Notes kept on file by Levin Center, pg. 1.

According to the responses of four community-based organizations reported in the Budget and Legislative Analyst’s Report regarding Tenant Displacement in San Francisco, people living below federal poverty guidelines, minorities, the elderly, and people with disabilities are disproportionately being evicted.<sup>41</sup> The Report found that 12.7% of these organizations’ clients were ages 62 years or older, 41.7% had a disability, 28.3% were Black/African American, and 16.3% were Latino.<sup>42</sup> 49.3% had incomes below federal poverty guidelines.<sup>43</sup>

EDC’s findings in its 2012 Eviction Report are similar.<sup>44</sup> While African Americans make up 6% of the City’s population, EDC’s Report findings noted that African Americans represented 29% of all those evicted in that year.<sup>45</sup> While those identifying as two races or more make up 3% of the City’s population, they represented 6% of EDC’s clients in 2012.<sup>46</sup> And while those identifying as “Other” make up 0.3% of the City’s population, they represented 7% of EDC’s clients in 2012.



Similarly, while people with disabilities make up only 10% of the City’s population,<sup>47</sup> 43% of EDC clients were households containing at least one person with a disability.<sup>48</sup>

Notably, 37.76% of those living in adult shelters are African American, 9.40% identify as “Other” or did not list their race.<sup>49</sup>

<sup>41</sup> Policy Analysis Report regarding Tenant Displacement in San Francisco from City and County of San Francisco Budget and Legislative Analyst to Supervisor Campos dated October 30, 2013, p. 26. The Budget and Legislative Analyst’s Report featured a survey of seven community-based organizations, including AIDS Housing Alliance; Causa Justa :: Just Cause; Chinatown Community Development Center, Eviction Defense Collaborative, Housing Rights Committee of San Francisco, the San Francisco Tenants Union, and the Tenderloin Housing Clinic. Of the four that responded, they reported serving a total of 2,916 clients affected by evictions in 2012.

<sup>42</sup> Id. p. 26.

<sup>43</sup> Id. p. 27.

<sup>44</sup> Judge Quidachay also noted that given the median rent in San Francisco, some tenants who are evicted may not have anywhere else to go. Quidachay Interview, p. 4.

<sup>45</sup> EDC 2012 Eviction Report, p. 4 (quoting US Census data).

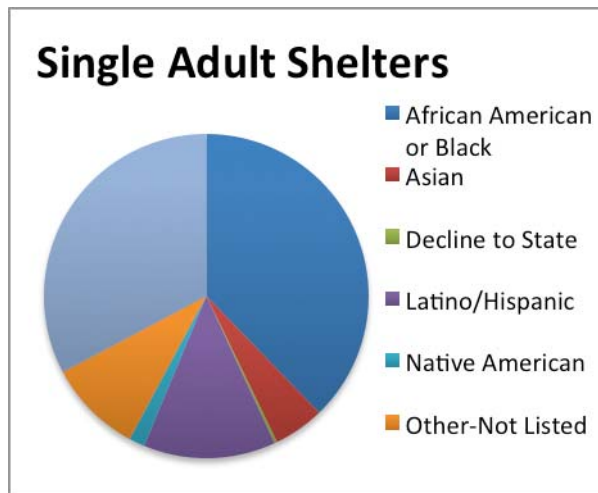
<sup>46</sup> Id.

<sup>47</sup> 2013 American Communities Survey, San Francisco data, *available at*:

[http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_1YR\\_DP02&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_DP02&prodType=table).

<sup>48</sup> EDC 2012 Eviction Report, p. 4.

<b>2013 Demographics Single Adult Shelters<sup>50</sup></b>	
African American or Black	37.76%
Asian	5.06%
Decline to State	0.27%
Latino/Hispanic	13.17%
Native American	1.56%
Other-Not Listed	9.40%
White	32.77%



### **E. Court Efficiency**

A review of the Housing Court records shows some gains in efficiency when comparing the randomly sampled period of February 1 to April 30, 2013 within the Project Term, to the previous February 1 to April 30, 2012. The average number of days from the filing of a complaint to the entry of a clerk judgment decreased from 37 to 31. The average number of days from a filing of complaint and entry of a stipulated judgment (a negotiated settlement) decreased from 72 to 62. The average number of days from the filing of the complaint to the entry of a court judgment decreased from 128 to 105 and the average of days from the filing date to dismissal of the entire action decreased from 90 to 58.

It is important to note, however, that it is not clear whether such efficiency gains necessarily help tenants. On one hand, if a tenant has a good defense, it may be in the tenant's interest to have the case settled sooner, especially if the tenant can receive relief in the form of repairs. On the other hand, depending on the judgment, a decrease in the average number of days from the filing of a complaint to the date of a court judgment could be a negative development for tenants losing their homes through the

<sup>49</sup> 2013 Demographics Report Single Adult Shelters.

<sup>50</sup> 2013 Demographics Report Single Adult Shelters.

eviction process because it would mean a faster eviction, less time to connect with an attorney and prepare a defense to their case, and less time to find another suitable place to live.

## **V. Qualitative Analysis**

Not surprisingly, our observations revealed that the value of preserving affordable housing, preventing displacement, and preserving diversity cannot be quantified. It is difficult to quantify the value to an individual tenant of meaningful representation at a time when she is poised to lose her home and the main source of stability in her life. This is particularly the case for tenants with disabilities, substance abuse problems, and other conditions that may be aggravated by the loss of such stability. The presence of legal support can be important not only for navigating the legal system, but also for providing emotional and psychological well-being from added resources and avenues for help. We include this qualitative analysis to highlight dynamics and developments that are otherwise difficult to capture in numbers, or were not possible to quantify given the empirical limitations presented by the subject of this report.

### **A. General Observations**

#### **i. Challenges for Pro Se Tenants**

Understanding what happens in court can be difficult for lay people, and especially difficult for anyone with a disability or without English proficiency. In the words of another attorney, “there is a lot of complexity to these cases.”<sup>51</sup> A judge may respond better to requests made by attorneys because attorneys have a better understanding of what the Court is trying to learn before making a decision. Pro se tenants, even those who have accessed the advice and counsel resources available, often encounter problems because they are not familiar with the procedures of the Court, so according to one judge, “they mostly try to tell their story.”<sup>52</sup>

#### **ii. The Role of Repeat Players**

Our observations of both limited- and full-scope cases show that in Housing Court, like in many specialized areas of law, repeat players develop advantages that benefit their clients or cases. Not only have they developed specialized knowledge of the substantive area of law, but they have also developed experience with respect to the particular procedures of the venue and familiarity with decision-makers.<sup>53</sup> For example, all landlord attorneys who are repeat players know that there is a good chance that a tenant will not be represented at trial, and some consequently take a hard line when it comes to settlement negotiations.<sup>54</sup> Developing the pro bono bar as advocates for tenants creates more repeat players on the side of tenants and can result in a change in behavior by the landlord bar. JDC’s approach of allowing attorneys to ramp-up their involvement through limited-scope cases before taking on a full-scope case is sensible, and appellate work could be considered a natural progression.

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<sup>51</sup> Davis Doherty, large law firm pro bono Attorney, Interview, September 2, 2013. Notes kept on file with the Levin Center, p. 1.

<sup>52</sup> Judge Quidachay Interview, p. 3.

<sup>53</sup> Judge Quidachay estimated that half of the landlord attorneys in Housing Court are repeat players. He also noted that a few EDC, HAP, and Tenderloin Housing Clinic attorneys also qualify as repeat players on the side of tenants. Judge Quidachay Interview, p. 1.

<sup>54</sup> Judge Quidachay Interview, p. 2

## **B. Impact of “Big Law” on Full-Scope Cases**

It is clear from our observations of the full-scope cases and discussions with pro bono attorneys that providing this level of representation increases the likelihood that the eviction process will not result in people being put out of their homes without a fair hearing. The great majority of tenants do not have the resources to effectively represent themselves, and would not be able to effectively handle essential elements of the litigation process, including discovery, depositions, or presenting evidence at trial, particularly given the fast pace of unlawful detainer cases where it is possible for trial to be scheduled within 21 days of the filing of an unlawful detainer.<sup>55</sup> “Without representation, tenants don’t have any leverage at the settlement conference, and without the threat of going to trial with an attorney, they will agree to a settlement that is not in their best interest. Very often this leads to displacement or homelessness.”<sup>56</sup>

Notably, we found that law firms, particularly large law firms with extensive resources, are well-positioned to make a significant contribution to cases with unsettled or problematic issues of law, cases where discovery could play a role in the outcome, and cases involving large corporations or banks that have foreclosed on a property. This is especially important given that landlord attorneys tend to be repeat players, with expert knowledge of both the law and the adjudication process. The assistance of law firms can be pivotal in making it possible for not only low income tenants, but also middle class tenants to stay in their homes. All of the pro bono attorneys we interviewed felt that without a lawyer, their clients would not have prevailed and would have been evicted or forced to move out under far less favorable terms. While appellate work is currently not a part of the Project, it seems a natural extension as law firm attorneys develop familiarity and experience with both the legal and social issues specific to eviction defense, and could establish important precedents to assist tenants in the future.

### **i. Unsettled Issues of Law**

Lawyers from large law firms have the capacity to tackle cases involving unsettled issues of law, including those involving foreclosures or fraud, and particularly those cases in which it is important to have access to sufficient resources to respond in kind when the landlord is either a bank or large landlord with extensive resources. Law firms have paralegals, court reporters, night secretaries, night couriers, and associates who can commit two weeks of full-time work towards a case.<sup>57</sup>

We spoke with several attorneys who told us they had devoted several weeks of their time exclusively to the full-scope eviction case they handled. One large law firm attorney mentioned that the best kind of case for law firms to be involved in would be “anything where having resources at a big firm would really help make the difference,” and those cases “where you can really take advantage of the litigation expertise of lawyers who are really good at this.”<sup>58</sup> One attorney we spoke with had worked on an

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<sup>55</sup> Assuming the unlawful detainer was filed on the same day as a memorandum to set the case for trial.

<sup>56</sup> Jennifer Freidenbach Interview, p. 1.

<sup>57</sup> Mandy Hu, medium law firm pro bono Attorney, Interview, August 14, 2013. Notes kept on file by the Levin Center, p. 2.

<sup>58</sup> Anonymous large law firm Attorney Interview #1, October 31, 2013. Notes kept on file by the Levin Center, p. 3.

atypical eviction where her client was being evicted by his sister, who claimed a right to the property.<sup>59</sup> The tenant had been living in a house that had been owned by his parents and thought the home had been transferred to his name.<sup>60</sup> Further, when large law firms commit to taking on a number of cases, they develop institutional knowledge and expertise that can be instrumental in cases involving difficult issues of law.

## **ii. Discovery and Other Litigation Costs**

Law firms are also well-poised to handle cases where it is likely that the ability to conduct meaningful discovery could affect the outcome. This is the case when discovery is actually necessary to gather important facts as well as when the discovery process is used to overwhelm or even intimidate the tenant. One pro bono attorney told us that the discovery process was critical because her client would not have understood how to respond or how to request discovery, particularly as the landlord in the case she handled rescheduled her deposition seven times.<sup>61</sup>

## **iii. No More David & Goliath**

Providing tenants with full-scope representation is especially important in cases where the landlord is a large corporation or a bank that has foreclosed on a property. As said by one pro bono attorney we interviewed, “just the fact that the tenant has an attorney creates a financial incentive for the landlord to settle on more reasonable terms since litigation against someone familiar with discovery tools and motion practice is likely to be more difficult and expensive.”<sup>62</sup>

Another attorney we spoke with told us that “the clients got a law firm that could go toe to toe with a bank.”<sup>63</sup> In the case in question, the tenants lived in a home that had been foreclosed upon, and had not paid rent because of numerous habitability issues about which they had previously lodged a formal complaint and remained unaddressed. In addition, due to several different people approaching the tenants about the foreclosure and inconsistent messages regarding the new owner of the home, the tenants were uncertain of where to send their rent. The bank filed for eviction, and the tenants were represented by a limited-scope attorney at the mandatory settlement conference, but did not reach a settlement. Pro bono attorneys took on the case in a full-scope capacity, filed a motion to delay trial, and filed to reopen discovery. The tenants now had the benefit of an attorney who was able to call the bank’s counsel to start a dialogue and make clear that they would be willing to open discovery and make the case very active.<sup>64</sup> Eventually, the bank agreed to settle the case in a way that was favorable to the tenants, who were given sufficient time to move out and compensation to assist them with finding a new home. It is very likely that the bank’s incentives to settle changed once it was clear that there was a law firm on the other side of the case.

Providing full-scope representation to tenants is particularly important in the current economic environment, where landlords have an incentive to replace long-term tenants with new tenants to

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<sup>59</sup> Mandy Hu Interview, p. 1.

<sup>60</sup> Id.

<sup>61</sup> Anonymous large law firm Attorney Interview #3, July 16, 2013. Notes kept on file by the Levin Center, p. 2.

<sup>62</sup> Sam Lunier, large law firm pro bono Attorney, Interview, July 9, 2013. Notes kept on file by the Levin Center, p. 2.

<sup>63</sup> Benita Brahmhatt, medium law firm pro bono Attorney, Interview, July 19, 2013. Notes kept on file by the Levin Center, p. 2.

<sup>64</sup> Brahmhatt Interview, p. 2.



maximize their proceeds from the property. In the words of one pro bono attorney regarding the case he handled, “it’s fair to say [profit] loomed large over the degree of conviction [the landlord] felt over what was at most a technicality... there is a real dollar value in the tenant leaving, and this creates a market that incentivizes landlords to bring cases to get those tenants to leave.”<sup>65</sup> Another attorney remarked that “rent control is the big motivator in terms of landlords not being able to charge as much [sic] encourages a certain amount of litigiousness to try to remove tenants who are paying less.”<sup>66</sup>

#### **iv. Middle-Income Tenants**

Another theme that emerged from our observations and interviews was that both low income and middle income tenants, whose household income resembles the median income for the City, or \$73,820,<sup>67</sup> need and would benefit from full-scope representation. We learned of a case involving a middle-income tenant who was studying for his cosmetology license and building up his business as a hair stylist. To help make ends meet, he was subletting his apartment with his landlord’s permission. The landlord, however, tried to evict him by claiming that he had been collecting more than the rent to cover expenses such as utilities. This technically is allowed by the rent ordinance and the Rent Board has held that this is not a basis for eviction. Once a lawyer from a large law firm took the case on, the other side “settled out of the blue.”<sup>68</sup> The lawyer who handled the case told us that she felt that had she not represented the tenant, he most probably would have given up, eventually agreed to move out, and been driven from the City and away from his place of work.<sup>69</sup> The lawyer also told us that even if the tenant was on the right side of the law, it was hard for him to represent himself on technical grounds.<sup>70</sup>

#### **v. Creating Advocates**

Almost all the pro bono attorneys we spoke with were eloquent advocates of tenants facing eviction and the importance of providing representation to balance the playing field. One pro bono attorney we interviewed told us that “when you are dealing with something like someone’s home you shouldn’t have to face such a radical imbalance.”<sup>71</sup> Another pro bono attorney we spoke to mentioned that she gained an appreciation of how difficult the rental market was because her clients were paying a lot of rent for a home with numerous problems, including serious leaks and a terrible cockroach infestation that rose to the level of making the home close to uninhabitable.<sup>72</sup> Another mentioned that “there is disparity of resources between landlords and tenants, and it’s important that tenants have representation... a little amount of work on your part can go a long way.”<sup>73</sup>

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<sup>65</sup> Anonymous large law firm Attorney #2 Interview, July 15, 2013. Notes kept on file by the Levin Center, p. 2.

<sup>66</sup> Anonymous large law firm Attorney #3 Interview, p. 2.

<sup>67</sup> Median Household Income for San Francisco County residents, 2008-2012, from Census Bureau San Francisco County Facts, *available at*: <http://quickfacts.census.gov/qfd/states/06/06075.html>.

<sup>68</sup> Anonymous large law firm Attorney #1 Interview, p. 1.

<sup>69</sup> Anonymous large law firm Attorney #1 Interview, p. 1.

<sup>70</sup> Anonymous large law firm Attorney #1 Interview, p. 2.

<sup>71</sup> Anonymous large law firm Attorney #2 Interview, p. 2.

<sup>72</sup> Anonymous medium law firm Attorney #1 Interview, July 19, 2013. Notes kept on file by the Levin Center, p. 4.

<sup>73</sup> Jana Contreras, medium law firm pro bono Attorney, Interview, October 10, 2013. Notes kept on file by the Levin Center, p. 2.

### C. Balancing the Scales at Settlement Conference

While this report has focused primarily on full-scope representation, it is also important to note the role that representation plays in limited-scope cases, particularly representation during the mandatory settlement conference. Given that most landlords have attorneys, tenants can benefit greatly by meaningful attorney representation at settlement conference.

As noted above in reference to full-scope cases, middle-income tenants can also be at a disadvantage without a lawyer at settlement conference. We spoke to one pro bono attorney who represented at settlement conference a tenant facing eviction who had some income, but needed more than the week the landlord was offering to find a new place to live. This lawyer told us that “without representation, she would have folded to pressure and been out within a week, and would have had to move in with friends and be out on the street in a way.”<sup>74</sup> The attorney noted that the case highlighted for him the importance of a right to civil counsel not just for those who are desperately poor, “but even someone with a decent income can be surprised by this type of case and be put in a vulnerable position.”<sup>75</sup>

We also observed that the tremendous pressure to settle cases, while albeit well-intentioned, can prove challenging for not only tenants but also pro bono attorneys, particularly those with less experience in landlord-tenant law, and especially when they are facing an experienced landlord attorney who is a repeat player in Housing Court. We understand that it is not unusual for a volunteer mediator to ask the tenant how much it would take for that tenant to move, despite the existence of meritorious defenses.<sup>76</sup> This type of pressure can be particularly challenging to overcome in cases where the tenant in question has a disability, substance abuse problem, or other social factors that may make it difficult for the tenant and the pro bono attorney to establish a meaningful rapport and trust.<sup>77</sup> These observations highlight the importance of coordination between JDC and EDC in their placement of settlement conference cases with pro bono attorneys with more experience as well as with JDC and EDC staff attorneys, and with respect to notifying EDC attorneys about a case that may not be heading towards settlement so that its attorneys can adequately prepare for Monday case representation. These observations also highlight the importance of providing training to pro bono attorneys about a client-centered model of representation<sup>78</sup> as well as the importance of supportive supervision of pro bono attorneys.<sup>79</sup> We also observed that some law firm attorneys have developed expertise in both landlord-tenant law and working with vulnerable populations as a result of a long-term commitment to representing tenants in settlement conferences.<sup>80</sup> Long-term commitment on the part of pro bono attorneys, coupled with client-centered and substantive training as well as increased resources for supervision, could result in a larger number of pro bono attorneys becoming repeat players in their own right, with all the benefits that status can bring.

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<sup>74</sup> Matthew Flairty, large law firm pro bono Attorney, Interview, October 30, 2013. Notes kept on file by the Levin Center, p. 1.

<sup>75</sup> Matthew Flairty Interview, p. 1.

<sup>76</sup> Housing Court Observation January 24, 2013. Observation notes kept on file by the Levin Center, p. 1.

<sup>77</sup> Bellow, Gary. "Steady Work: A Practitioner's Reflections on Political Lawyering." *Harv. CR-CLL Rev.* 31 (1996): 297, 304 (writing about the social distance that often must be bridged between lawyer and client).

<sup>78</sup> Kruse, Katherine R. "Engaged Client-Centered Representation of the Moral Foundations of the Lawyer-Client Relationship." *Hofstra L. Rev.* 39 (2010): 577.

<sup>79</sup> We observed settlement conference calendars with 20 to 30 cases on the docket and one JDC attorney supervising 10 to 20 volunteers. Our understanding is that in the second year of the Project, the additional JDC staff attorney is more involved in both HNP supervision and is also representing clients.

<sup>80</sup> Housing Court Observation January 24, 2013. Observation notes kept on file by the Levin Center, p. 1.

#### D. Stories from Shelters and Wellness Centers

In our focus groups and meetings with residents and visitors attending the Homeless Legal Services intake, we heard from several people who were homeless as a result of eviction. Several themes emerged from these conversations highlighting the importance of full-scope representation.

One resident of St. Vincent de Paul's Multi-Service Center Shelter told us that she had been evicted for failure to pay rent in November of 2012.<sup>81</sup> She said she had only been about 5 or 6 weeks behind on rent and the apartment was infested with bed bugs.<sup>82</sup> She had an attorney for her mandatory settlement conference, and managed to reach a settlement, though she said the settlement conference felt like "let's make a deal."<sup>83</sup> Because she needed more time to find a new apartment, and because of the hardship of dealing with the bed bugs, she stayed past the date of the settlement, and was served with a new unlawful detainer notice. She said she went to court on her own to contest the unlawful detainer, and that having had a lawyer at the mandatory settlement conference emboldened her, and "that first time gave [her] the courage to go stand up for [her]self."<sup>84</sup> She stated: "That experience educated me, helped prepare me, including emotionally and psychologically for what court was like."<sup>85</sup> She added that the stress was tremendous, and that she missed numerous health appointments because of the court hearings; resulting in a lot of interruptions to her life and well-being.<sup>86</sup> Eventually, she was exhausted and agreed to move out. She spent some time living with friends in Vallejo and elsewhere. She lost her cat, and had to find a place for her belongings. She had been staying at the multi-service center for six weeks, and was on a waiting list for housing. Her impression was that many tenants simply leave when they get an eviction notice because they do not know they have any other option.<sup>87</sup>

Another resident of the St. Vincent de Paul's Multi-Service Center told us that he had been evicted from a Single Room Occupancy (SRO) in the Tenderloin in October of 2012 because he was accused of presenting a nuisance.<sup>88</sup> This gentleman has physical disabilities that require him to use a wheelchair and told us that he is need of surgery on his hips as well as to correct a slipped disk in his back from contracting work that preceded his eviction.<sup>89</sup> He said that he reached a settlement agreement with the assistance of a pro bono attorney at the settlement conference that allowed him to stay at the SRO provided he agree to be on better behavior in terms of controlling his temper.<sup>90</sup> However, he thought the stipulations were unreasonable, and that they set him up for failure.<sup>91</sup> He also thought that the management of the SRO was selective in their enforcement of the stipulations, and that other residents who exhibited similar behavior and even engaged in drug transactions were not made to leave while he was targeted for eviction after an argument with one of the desk clerks.<sup>92</sup> The SRO evicted him for

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<sup>81</sup> Focus Group Discussion at Ozanam Wellness Center, May 8, 2013. Focus group notes kept on file by Levin Center, p. 1.

<sup>82</sup> *Id.*, p. 1.

<sup>83</sup> *Id.*, p. 1.

<sup>84</sup> *Id.*, p. 1.

<sup>85</sup> *Id.*, p. 1.

<sup>86</sup> *Id.*, p. 1.

<sup>87</sup> *Id.*, p. 1.

<sup>88</sup> Observation at Homeless Legal Services intake at St. Vincent de Paul Multi-Service Center visit, June 11, 2013.

Observation notes kept on file by Levin Center, p. 2.

<sup>89</sup> *Id.*, p. 3.

<sup>90</sup> *Id.*, p. 2.

<sup>91</sup> *Id.*, p. 2.

<sup>92</sup> *Id.*, p. 2-3.

failure to abide by the settlement and at the time we spoke he said he had been living at multi-service center ever since. He was at the Homeless Legal Services intake at the Center to learn about how he could restrict access to the eviction on his court record to increase his chances of finding a place to live.<sup>93</sup> When asked about the impact the eviction had on his life, he said he had been “traumatized without a doubt,” that he had had to miss many alcoholics anonymous meetings as well as meetings with his case manager as a result of the court dates he had to attend.<sup>94</sup> He said that had he not been evicted, he would have been better able to work towards his goals, and seek medical treatment to better his health.<sup>95</sup>

Both of these stories highlight the importance of meaningful representation in not only representing the best interests of tenants, but also providing them with the peace of mind that someone is on their side. In addition, these stories highlight the importance of meaningful representation in achieving an outcome that maximizes the tenant’s chances of either staying in his or her home or at least finding another suitable place to live that does not disrupt their wellbeing.

## **VI. Conclusion**

The purpose of the Pilot Program was to provide civil legal services to indigent San Franciscans, increase the number of attorneys providing pro bono representation, and assess the value of legal services to the City. Our examination found that there was a significant increase in participation by law firms in full-scope cases, with several large law firms taking on multiple cases. The outcomes in full-scope cases recorded by JDC as well as our observations of full-scope cases and discussions with full-scope pro bono attorneys confirmed that providing full-scope representation increases the likelihood that the tenant will be able to stay in their home. Our observations also found that law firms, particularly large law firms, are well-positioned to significantly contribute to cases with unsettled or problematic issues of law, cases where discovery could play a role in the outcome, and cases involving large corporations or banks that have foreclosed on a property. Given that landlord attorneys tend to be repeat players, with expert knowledge of both the law and the local procedure, developing the pro bono bar as advocates for tenants and repeat players in their own right is an especially important use of existing resources. Appellate work, though currently not part of the Pilot Program, seems a natural extension as law firm attorneys develop familiarity and experience with both the legal and social issues specific to eviction defense, especially as a few important precedents could benefit numerous future tenants.

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<sup>93</sup> Id., p. 3.

<sup>94</sup> Id., p. 2.

<sup>95</sup> Id., p. 3.

## APPENDIX A: OTHER ISSUES IMPACTING THE STATUS OF HOUSING AND HOMELESSNESS IN SAN FRANCISCO DURING THE PROJECT TERM

To say that the current economic climate has had a perceptible impact on low- and middle-income San Franciscans, and their access to or ability to maintain affordable shelter, is an understatement. The media has been rife with reports of the city's "affordability crisis," most notably in housing, as the cost of owning or renting a home topped the list of major issues facing residents.<sup>96</sup> In the latest citywide poll commissioned by the San Francisco Chamber of Commerce and conducted in November 2013,<sup>97</sup> when asked what they would say are the most important problems facing themselves and their family today, 65% of respondents said the cost of living, and 26% said housing.<sup>98</sup> When asked how concerned they were about a list of specific items involved in cost of living, including rent, home ownership, education, healthcare, and groceries, 25% said they were concerned and 59% said they were extremely concerned about rent. The current economic climate makes it even more important for tenants facing eviction to have the benefit of legal counsel to guide them through the process or the representation necessary to vigorously defend against unlawful actions as the loss of a rent-controlled or subsidized unit means the tenant must leave the City. Effective legal representation mitigates the housing crisis by ensuring that tenants have a greater chance of staying in their homes, especially as no-fault evictions reported to the Rent Board have increased each year between 2010 and 2013, from 1,242 in Rent Board Year 2010 to 1,716 in Rent Board Year 2013, an increase of 38.2%.<sup>99</sup> These numbers do not include eviction for non-payment of rent or breach of lease, as landlords are only required to notify the Rent Board when the basis of the eviction is due to no fault of the tenant, including owner move-ins, destruction of a unit and Ellis Act evictions, in which an entire building is taken out of the rental market.

### i. Rising Median Home Prices

With median home prices at \$705,000, San Francisco is the second most expensive metro area in the United States, after San Jose, which has a median home price of \$805,000, according to data from the National Association of Realtors.<sup>100</sup> Zillow places the median home *value* in San Francisco higher, at \$875,200, as of March 2014, and reports that San Francisco home values have gone up 13.6% over the past year.<sup>101</sup> Other reports note the disparity between median income and median home prices, as well as what this means for the lower and middle-class. While the median household income in San Francisco is higher than in a city like Akron, Ohio, the middle-class in San Francisco are only likely to find 14% of

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<sup>96</sup> "Poll: Cost of owning home San Franciscans' top concern," February 18, 2014, SFGate:

<http://www.sfgate.com/bayarea/article/Poll-Cost-of-owning-home-San-Franciscans-top-5243547.php>

<sup>97</sup> The poll included a web survey of San Francisco Voters, 631 completed interviews in English and Chinese, conducted November 4 – 7 2013. The Chamber reported that the demographics closely match the demographics of the registered voters in the City.

<sup>98</sup> San Francisco Chamber of Commerce Survey, November 2013, *available at*: <http://thomasmade.com/wp-content/uploads/2013/11/Nov2013Report.pdf>.

<sup>99</sup> Policy Analysis Report regarding Tenant Displacement in San Francisco from City and County of San Francisco Budget and Legislative Analyst to Supervisor Campos dated October 30, 2013, p. 2. Rent Board's annual eviction reports cover twelve-month periods between March 1<sup>st</sup> and the last day of February in the following year.

<sup>100</sup> "What is the Most Expensive Market in the United States" by Francys Vallecillo, November 6, 2013, *available at*: <http://www.worldpropertychannel.com/north-america-residential-news/us-home-prices-san-jose-most-expensive-market-san-francisco-honolulu-national-association-of-realtors-median-us-home-prices-lawrence-yun-us-housing-markets-7612.php>.

<sup>101</sup> Zillow home values, as of February 2014, *available at*: <http://www.zillow.com/san-francisco-ca/home-values/>.

the homes on the market to be within their budget.<sup>102</sup> In Akron, Ohio, on the other hand, a household with a middle-class income could afford 86% of homes on the market.<sup>103</sup> These figures are based on data from Trulia<sup>104</sup> as well as US Census data.<sup>105</sup>

## ii. Rising Median Rent Price

San Francisco has the highest median rent among the nation's largest cities according to data from 2010 to 2012 released today by the U.S. Census Bureau.<sup>106</sup> Zillow places the median rent price at \$3,495. A report by the City's Budget and Legislative Analyst to Supervisor Campos notes that the 2013 median rental rate as of June 2013 of \$3,414 represented an increase of 8% over the 2012 median rental rate of \$3,156.<sup>107</sup> Rental prices in December 2013 rose 10.6%, as compared to the national average of 3.0%.<sup>108</sup>

The rates of "rent-burdened" households, or those paying 30% or more of their household income for rent, also reflects the impact of San Francisco's rents. 42.9% of all San Francisco households were rent-burdened in calendar year 2011, ranging from 39% in the Pacific Heights – Marina-North Beach neighborhoods to 57% in the Bayview-Excelsior-Visitacion Valley neighborhoods.<sup>109</sup> What this means for low and even middle-income tenants facing eviction is that their chances of finding another place to live in San Francisco are diminished, and it is most likely that they will have to move out of the city.

## iii. The Demographics of Displacement

Numerous newspaper reports have featured accounts of residents bemoaning the loss of San Francisco's historic diversity. One report calls the City's Inner Mission District "ground zero for San Francisco's eviction crisis", noting that the now trendy neighborhood was once "home to a mix of working-class Latinos, artists and activists."<sup>110</sup> The story features a profile of Tom Rapp, an airport building maintenance worker who has rented a modest second-story flat for the past 15 years, and who said that many of his neighbors have been evicted over the past couple of years.<sup>111</sup>

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<sup>102</sup> "Where Even the Middle Class Can't Afford to Live Any More" by Emily Badger, October 10, 2013, <http://www.theatlanticcities.com/housing/2013/10/where-even-middle-class-cant-afford-live-any-more/7194/>.

<sup>103</sup> Id.

<sup>104</sup> Id.

<sup>105</sup> "While S.F. prices rise, housing becoming less affordable all over the nation, February 28, 2014, by Anna Marie Erwert, SFgate.com, *available at*: <http://blog.sfgate.com/ontheblock/2014/02/28/while-s-f-prices-rise-housing-becoming-less-affordable-all-over-the-nation/#21089101=0>.

<sup>106</sup> "New Numbers show San Francisco has nation's highest rents," November 14, 2013, by Jonah Owen Lamb, SF Examiner, *available at*: <http://www.sfexaminer.com/sanfrancisco/new-numbers-show-san-francisco-has-nations-highest-rents/Content?oid=2626465>.

<sup>107</sup> Policy Analysis Report regarding Tenant Displacement in San Francisco from City and County of San Francisco Budget and Legislative Analyst to Supervisor Campos, October 30, 2013, p. 4.

<sup>108</sup> "SF Rents up more than 3 times National Average" January 20, 2014, by Anne Marie Erwert, SFgate.com, *available at*: <http://blog.sfgate.com/ontheblock/2014/01/30/s-f-rents-up-more-than-3-times-higher-than-national-average/#20080101=0&20081103=8&20082105=3>.

<sup>109</sup> Policy Analysis Report regarding Tenant Displacement in San Francisco from City and County of San Francisco Budget and Legislative Analyst to Supervisor Campos dated October 30, 2013, p. 4.

<sup>110</sup> "As Rent Soars, Longtime San Francisco Tenants Fight To Stay", by Richard Gonzales, December 3, 2013, NPR, *available at*: <http://www.npr.org/2013/12/03/247531636/as-rent-soars-longtime-san-francisco-tenants-fight-to-stay>.

<sup>111</sup> Id.

#### iv. Remedial Measures

In addition to aiming to build new homes and financing eviction defense, the City is taking some other measures to combat the housing and affordability crisis. The Board of Supervisors unanimously approved legislation that would provide low-income and elderly Ellis Act evictees who qualify priority on the City's subsidized housing units.<sup>112</sup> To qualify for housing, the tenants would have had to have lived in their rental for at least 10 years, five if they have a disability.<sup>113</sup> The Board has also passed legislation that would give property owners the right to upgrade or alter units that would otherwise be legal but do not conform to zoning laws governing density, and legislation that discourages owners from taking rental units off the market by making it more difficult to merge multiple units into a single-family home, commercial property, or to demolish a rental.<sup>114</sup> Other legislation that has been proposed includes legalizing in-law units,<sup>115</sup> allowing tenants to bring their harassment complaints to an administrative law judge with the San Francisco Rent Board for mediation or further proceedings,<sup>116</sup> requiring certain landlords evicting tenants from rent-controlled buildings to subsidize the new, higher rents those people could be forced to pay, raising density limits for any project that is made up of at least 20% affordable housing units, completely eliminating density limits for any projects that are 100% affordable housing, and requiring review hearings when a loss of housing is proposed.<sup>117</sup>

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<sup>112</sup> "SF City Hall takes steps to address city's affordability issues", by Joshua Sabatini, November 27, 2013, SF Examiner, *available at*: <http://www.sfexaminer.com/sanfrancisco/sf-city-hall-takes-steps-to-address-citys-affordability-issues/Content?oid=2636042>.

<sup>113</sup> "SF Supervisors pass tough measures for tenants", by Marisa Lagos, December 10, 2013, SFGate.com, *available at*: <http://www.sfgate.com/bayarea/article/S-F-supervisors-pass-tough-measures-for-tenants-5053758.php>.

<sup>114</sup> Id.

<sup>115</sup> "SF City Hall takes steps to address city's affordability issues", by Joshua Sabatini, November 27, 2013, SF Examiner, *available at*: [www.sfexaminer.com/sanfrancisco/sf-city-hall-takes-steps-to-address-citys-affordability-issues/Content?oid=2636042](http://www.sfexaminer.com/sanfrancisco/sf-city-hall-takes-steps-to-address-citys-affordability-issues/Content?oid=2636042).

<sup>116</sup> "SF Considers boost to tenant protections", by Jessica Kwong, October 30, 2013, SF Examiner, *available at*: <http://www.sfexaminer.com/sanfrancisco/sf-considers-boost-to-tenant-protections/Content?oid=2615508>.

<sup>117</sup> "8 Solutions to San Francisco's Housing Problems," by Katy Steinmetz, February 7, 2014, Time, *available at*: <http://nation.time.com/2014/02/07/8-solutions-to-san-franciscos-housing-problems/>.