

Life, Liberty and the Pursuit of Happiness When Evicted: Lessons from San Francisco's Implementation of Tenant Right to Counsel

Abstract:

High rates of urban poverty and homelessness are among the most pressing issues facing cities in the United States. Deeply connected is also the phenomenon of eviction, which has also been rising along with the market price for a rental unit in these cities. Due to stagnating income and soaring housing costs, the communities most vulnerable to eviction are low-income communities of color, as well as folks with disabilities, mental health issues and domestic violence survivors. Evictions result in significant material hardship and deteriorating health, quality of life, income and lessened prospects for rehousing due to its reporting on credit scores. The ability to fight back an eviction in court is inherently an issue of access to legal aid as numerous statistics have shown that most landlords are represented by attorneys while an overwhelming majority of tenants represent themselves. Recognizing this uneven standing between tenants and landlords in the court of law and the importance of having legal representation, San Francisco voters approved a measure in June 2018 that gave all tenants with an eviction notice the right to a city-funded full-scope representation attorney. Through numerous interviews with legal service providers, housing attorneys, and tenants' rights activists that have been engaged in the efforts to enact and fully implement the Right to Counsel for eviction cases, this paper will argue that this measure, although necessary, is only a first response to a growing crisis in evictions and homelessness, and that more concerted efforts are needed to ensure full implementation.

Keywords: eviction, housing, urban poverty, legal assistance, San Francisco, housing rights, justice

Short Biography of Author:

Jona Boçari is an international Morehead-Cain scholar in her third year of studies, majoring in History. Shortly after joining Carolina, she became involved with the Community Empowerment Fund, an organization in Chapel Hill and Durham which supports folks in meeting their goals related to housing, savings, employment, benefits, access to healthcare and so forth. Through her relationships with members of the community, she has seen firsthand the consequences and systemic causes of homelessness and poverty. Given her interest in housing and economic justice, news of the right to counsel being implemented in New York City and San Francisco sparked deep curiosity. A trip to San Francisco and several interviews with attorneys and activists working on the ground to fight predatory evictions were inspirations for this independent research project.

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Introduction

Eviction is one of the direct, yet frequently overlooked, causes of homelessness and poverty. It is an issue that involves big cities like New York and San Francisco and smaller, but increasingly more urban, cities like Greensboro, and Durham in North Carolina. Greensboro, in particular, currently ranks seventh in the country for its high eviction rate, according to Princeton University's Eviction Lab, the first nationwide database of evictions.¹ Many reasons explain the rise in eviction rates, particularly in the last decade. Family income has stagnated or fallen while housing costs have soared. According to Harvard University's Joint Center for Housing Studies, nearly a third of American households were cost-burdened in 2017, meaning that families were spending over 30% of their total income in housing.² Sociologist Matthew Desmond in his groundbreaking study, *Evicted: Poverty and Profit in the American City*, has found that between 1991 and 2013, the number of renter households dedicating 70% or more of their income toward housing grew from 901,000 to 1.3 million. If the data includes households with cost burdens higher than 100 percent of family income, the estimates grow to 2.4 million in 1991, and 4.7 million in 2013.³ These numbers shed light on the magnitude of eviction, although they fail to capture the harsh reality that ensues after a household is evicted. Losing a home sends families to

- 1 Eviction Lab, "Top Evicting Large Cities in the United States," accessed March 2, 2020, <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&l=6&lang=en>.
- 2 Sean Veal and Jonathan Spader, "Nearly a Third of American Households Were Cost-Burdened Last Year," *Housing Perspectives, Joint Center for Housing Studies of Harvard University* (blog), accessed March 2, 2020, <https://www.jchs.harvard.edu/blog/more-than-a-third-of-american-households-were-cost-burdened-last-year/>.
- 3 Matthew Desmond, *Evicted: Poverty and Profit in the American City* (New York: Crown, 2016), 344.

overcrowded shelters, and often, the streets. An eviction, and the ensuing homelessness often triggers depression and other illnesses. To borrow Matthew Desmond’s words, eviction “compels families to move into degrading housing in dangerous neighborhoods, uproots communities, and harms children. Eviction reveals people’s vulnerability and desperation, as well as their ingenuity and guts.”⁴

Despite the prevalence of evictions in the United States, there has been little effort on the part of the federal and state governments to tackle this issue. Recognizing that eviction stands at the heart of a variety of other social problems, New York City became the first city to launch the Right to Counsel program (RTC) in late 2017.⁵ On June 5, 2018, San Francisco became the second city in the United States to guarantee city-funded full-scope representation in housing court to renters at-risk of eviction in a ballot measure titled “No Eviction without Representation Act” that is often referred to as Proposition F.⁶ In essence, the passage of Proposition F mandated that the City of San Francisco fund ten nonprofit organizations that provide free legal representation to tenants facing eviction, AIDS Legal Referral Panel (ALRP), Asian Law Caucus, Asian Pacific Islander Legal Outreach, Bay Area Legal Aid, Eviction Defense Collaborative (EDC), Homeless Advocacy Project, Justice & Diversity Center of the Bar Association of San Francisco, Legal Assistance for the Elderly, Open Door Legal, and Tenderloin Housing Clinic. Gloria Chun, an attorney at the Justice and Diversity Center of the Bar Association regarded the passage of Proposition F, as a step toward the “right to civil

⁴ Matthew Desmond, *Evicted: Poverty and Profit in the American City* (New York: Crown, 2016), 5.

⁵ Oksana Mironova, “NYC Right to Counsel: First Year Results and Potential for Expansion,” Community Service Society of New York, March 25, 2019, <https://www.cssny.org/news/entry/nyc-right-to-counsel>.

⁶ “San Francisco, California, Proposition F, City-Funded Legal Representation for Tenants Facing Eviction (June 2018),” Ballotpedia, accessed March 2, 2020, [https://ballotpedia.org/San_Francisco,_California,_Proposition_F,_City-Funded_Legal_Representation_for_Tenants_Facing_Eviction_\(June_2018\)](https://ballotpedia.org/San_Francisco,_California,_Proposition_F,_City-Funded_Legal_Representation_for_Tenants_Facing_Eviction_(June_2018)).

counsel movement.” Even the language utilized by activists for civil legal aid is one that characterizes Proposition F as part of a “civil Gideon,” mirroring *Gideon v. Wainwright*, the Supreme Court case whose ruling established the constitutional right to an attorney for indigent defendants in criminal court. This demonstrates, thus, the inherently progressive nature of a measure like Proposition F that solidifies housing as a human right for all households, not as a privilege reserved for the economically advantaged.

While a measure can be written and passed with the best of intentions, the reality of implementing Proposition F, or the Tenant Right to Counsel has been marked by challenges that have limited its reach in curbing San Francisco’s high eviction rates. For this reason, I set out to interview legal service providers and housing advocacy nonprofit organizations that interact with evictions and Proposition F on a daily basis. More specifically, in February 2020, I conducted eleven interviews with Carolyn Gold, Deepa Varma, Fred Sherburn-Zimmer, Claire LaVaute, Tim Iglesias, Bao-Tran Dang, Teresa Friend, J. Scott Weaver, Bill Hirsh and two individuals who wished to remain anonymous out of privacy concerns.⁷ The first portion of the interview was focused on the issue of eviction, as it has troubled San Francisco and as they have interacted with it through their work with a particular focus on the difficulties associated with tackling it both on a small, as well as major scale. The second portion of the interview revolved around

⁷ With the exception of Tim Iglesias, who is a law professor at the University of San Francisco School of Law, all of the interviewees either work in legal services provider agencies, or in housing advocacy groups. Carolyn Gold is the Director of Litigation and Policy at the Eviction Defense Collaborative and previously served as a Senior Supervising Attorney for the Justice & Diversity Center of the Bar Association of San Francisco. Bill Hirsh is the Executive Director of the AIDS Legal Referral Panel. Teresa Friend is the Director and Managing Attorney for Homeless Advocacy Project and BT Dang is one of the housing attorneys on HAP’s staff. Claire LaVaute is a volunteer attorney for the Eviction Defense Collaborative and part-time attorney for La Raza Centro Legal. J. Scott Weaver is a renowned attorney and housing activist who has been representing San Francisco Bay Area tenants for the last 30 years. Deepa Varma is the Executive Director of the San Francisco Tenants Union, and Fred Sherburn-Zimmer is the Executive Director of the Housing Rights Committee of San Francisco. Both anonymous interviewees have worked in one of the aforementioned eleven legal service providers. For identification purposes, they will be named John Doe and Jane Doe.

Proposition F, its history and impact on the work of the organization. Lastly, the interviewees were asked to state their views on Proposition F, what it has achieved, its strength and areas for further development. As such, this report will be structured in two main parts. Part I will contextualize eviction in the broader socioeconomic context of San Francisco and the law, while also providing background information on eviction proceedings in court and the civil legal aid landscape in San Francisco. Part II will focus substantively on Proposition F, the history and mechanics of how city-funded full scope representation is implemented in practice, while identifying some key areas for further development and analyzing their implications. In this report, I will largely argue that the provisions of Proposition F are only a start to the full implementation of tenants' right to counsel and that the City of San Francisco, in light of the magnitude of the city's housing crisis, needs to engage in more concerted efforts to tackle its alarming eviction rates.

Brief Methodological Considerations

While twelve interviews were conducted, not all interviews were of the same length primarily because of the limited availability of the interviewees. Some of the interviews were conducted in-person and were recorded, mimicking a proper oral history interview, while some interviews were conducted over the phone and were subsequently not recorded.⁸ As such, direct quotations from the interviews will be limited, whereas other content from the interviews has been paraphrased. In addition, due to client-attorney confidentiality, many of the examples of the cases were provided without any identifying details. Given the highly personal nature of lived experience, the takeaways from these interviews have been informed by and speak directly to the

⁸ For more on oral history, see Oral History Association, "Principles for Oral History and Best Practices for Oral History," October 2009, <https://www.oralhistory.org/about/principles-and-practices-revised-2009/>.

working experiences of those interviewed. They should not be construed as applicable to meanings and contexts outside those in which they were given.

Housing Rights, Housing Fights

An eviction is a process by which a landlord ejects the tenant from the property that is being rented.⁹ This involuntary move is motivated by a variety of reasons such as failure to pay rent, breach of leasing contracts, causing a disturbance in the property, as well as other less direct influences such as raising rent for prospective tenants or the owner wanting to move into the property. According to a report prepared by San Francisco Rent Board, a department within the City of San Francisco that promulgates the provisions of the San Francisco Rent Ordinance to approximately 170,000 rental units, there have been 10,111 eviction filings from 2012-2017.¹⁰ Between these years, 2015-2016 saw the largest increase in eviction filings with 2,376 notices received by the Rent Board.¹¹ While these statistics are significant, they do not convey a city-wide picture because not all rental units fall under the Rent Ordinance. Estimates that consider all eviction filings in housing court from all rental units, from both private and subsidized housing markets are closer to about 3,000.¹² In addition, the figures are only the “tip of the iceberg” as they account only the formal evictions that went through judicial channels. Many more informal evictions, or informal attempts to pressure a tenant into vacating the unit occur frequently. In my interview with Fred Sherburn-Zimmer, Executive Director of the Housing

⁹ Eviction Lab, “Why Eviction Matters,” accessed March 2, 2020, <https://evictionlab.org/why-eviction-matters/#what-is-an-eviction>.

¹⁰ “Twenty Years of Rent Board Annual Reports on Eviction Notices,” Summary Report, San Francisco, CA: San Francisco Residential Rent Stabilization and Arbitration Board, April 28, 2017, <https://sfrb.org/sites/default/files/Document/Statistics/Twenty%20Years%20of%20Rent%20Board%20Annual%20Reports%20on%20Eviction%20Notices%201997%20-%20%202017.pdf>.

¹¹ Ibid.

¹² Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018. Jane Doe, interview by XXYYZZ, Oral History Interview, February 17, 2020.

Rights Committee of San Francisco, they explained that tenants will often come in with informal eviction notices, thinking they are about to be formally evicted. “Most tenants are tricked into moving out in San Francisco... so verbal evictions, fake notices, harassment. Or just telling a new immigrant who doesn’t speak English that they are being evicted, or you’re going to call immigration on them. The last one is technically illegal in California now, but they still do it.”¹³ While there is certainly a tremendous amount of anecdotal evidence for this phenomenon, its informality renders it difficult to capture in data.

Eviction as a phenomenon in San Francisco has taken a distinct geographical form. A report released by the Eviction Defense Collaborative in 2016 listed their caseload proportionally by supervisor district. The districts that had seen the most evictions filed that year were District 6 (Tenderloin, Treasure Island, and South of Market neighborhoods), District 10 (Bayview/Hunters Point, Potrero Hill, and Visitacion Valley), and District 9 (Mission, Bernal Heights).¹⁴ It goes without saying that these districts are among San Francisco’s poorest, with household incomes averaging between \$54,000 and \$83,839 annually.¹⁵ For additional context, the Department of Housing and Urban Development has estimated that a family of four in the San Francisco metro area making less than \$129,150 annually qualifies as “low income.”¹⁶ The

¹³ Fred Sherburn-Zimmer, interview by XXYZZ, Oral History Interview, February 18, 2020.

¹⁴ “City of Change: Fighting for San Francisco’s Vanishing Communities,” 2016 Annual Report, San Francisco, CA: Eviction Defense Collaborative, n.d.
https://static1.squarespace.com/static/52b7d7a6e4b0b3e376ac8ea2/t/5b1277256d2a73499b3e30f3/1527936847840/EDC_2016.pdf.

¹⁵ “San Francisco Supervisor Districts Socio-Economic Profiles,” American Community Survey 2012–2016, San Francisco, CA: San Francisco Planning Department, September 2018, pp. 19-27,
https://default.sfplanning.org/publications_reports/SF_NGBD_SocioEconomic_Profiles/2012-2016_ACS_Profile_SupeDistricts_Final.pdf.

¹⁶ “FY 2019 Income Limits Summary,” U.S. Department of Housing and Urban Development, accessed March 2, 2020,
[https://www.huduser.gov/portal/datasets/il/il2019/2019summary.odn?states=\\$states&&data=2019&inputname=METRO41860MM7360*San Francisco, CA HUD Metro FMR Area&stname=\\$stname&&statefp=99&year=2019&selection_type=hmfa,](https://www.huduser.gov/portal/datasets/il/il2019/2019summary.odn?states=$states&&data=2019&inputname=METRO41860MM7360*San Francisco, CA HUD Metro FMR Area&stname=$stname&&statefp=99&year=2019&selection_type=hmfa,).

arrival of the “tech boom,” and “techies,” a group connoting software designers, engineers, and programmers in large firms like Google, Facebook, Salesforce and Apple, has significantly contributed to tenants being priced out of their units.¹⁷ Indeed, the Anti-Eviction Mapping project has found that for every year between 2011 and 2018, 69% of no-fault evictions, i.e. evictions triggered through no faulty action of the tenant, occurred within four blocks of known shuttle stops, most of which have been established by private bus lines operated by the big companies in Silicon Valley.¹⁸ Thus, the city’s transformation has come at an increasingly high cost for its local residents as “techies,” with their high salaries have given landlords a clear incentive to seek these kinds of renters at any and all costs.

Another finding from the EDC’s 2016 report sheds light on the interconnectedness between eviction, poverty and race. It showed that districts predominantly made up of African American and Latino communities, such as District 10 and District 9, disproportionately reached out to the Eviction Defense Collaborative. For example, tenants from District 10 sought assistance thirteen times more than tenants in District 2, one of the wealthiest districts of the city.¹⁹ As sociologist Matthew Desmond aptly writes, “if incarceration had come to define the lives of men from impoverished black neighborhoods, eviction was shaping the lives of women. Poor black men were locked up. Poor black women were locked out.”²⁰ This finding is consistent with the majority of existing literature on eviction, including a 2014 report from the United Nations Human Rights Council establishing that forced evictions can both be discriminatory and lead to discrimination as the victims of evictions belong to specific groups, “ the poorest,

17 Julie Charpentrat, “In San Francisco, Tech Boom Has Left People Priced out of Housing,” *Phys.org*, March 15, 2019, <https://phys.org/news/2019-03-san-francisco-tech-boom-left.html>.

18 “Tech Bus Stops and No-Fault Evictions,” San Francisco, CA: Anti-Eviction Mapping Project, 2018, <http://www.antievictionmappingproject.net/techbusevictions.html>.

19 “San Francisco Supervisor Districts Socio-Economic Profiles,” 10.

20 Matthew Desmond, *Evicted: Poverty and Profit in the American City*, 89.

communities facing discrimination, the marginalized and those who do not have the clout to change the decisions and designs of the project leading to their displacement.”²¹

Although eviction rates have decreased since 2012, the decrease conveys a false sense of hope, because the fallout of an eviction on the household is difficult to measure, and even more difficult for the family or individual to overcome. Jane* was informally evicted in the spring of 2019. She was renting a studio adjacent to the landlord’s residence. Her landlord claimed they needed the unit so that a family member could move in, and proceeded to harass her to move out. She was in her final months of her graduate program and was scheduled to graduate in two weeks. Because no rental unit in the city was both affordable and available at such short notice, she had to move back in with her family in San Mateo, about 30 minutes driving distance away. She recognized that she “was lucky because if my parents didn’t live here, I would have been screwed. I would have had to either go to court or ... I would have had to stay in my unit, which would have been terrible” as her landlord had been verbally harassing her prior to the eviction.²² Throughout her recounting the story, Jane* highlighted the degree to which this process caused her a tremendous amount of stress. Unfortunately, similar is the reality of mothers who are evicted, who report higher levels of material hardship, parenting stress and who are more likely to suffer from depression.²³ The effects of losing a home can cause tremendous amount of despair and hopelessness, which the AIDS Legal Referral Panel has explicitly recognized in their organization’s services, “taking on landlord/tenant cases, we help prevent hopelessness and

21 “Forced Evictions,” Fact Sheet, New York: United Nations Human Rights Council, 2014. <https://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf>.

22 Jane Doe, interview by XXYYZZ, Oral History Interview, February 17, 2020.

23 Matthew Desmond and Rachel Tolbert Kimbro, "Eviction's Fallout: Housing, Hardship, and Health," *Social Forces* 94, no. 1 (2015): 295-324, 316.

homelessness.”²⁴ When I asked Bill Hirsh, Executive Director of ALRP why the terms were mentioned in one sentence, they responded that the reality for many folks living with HIV is one with fewer and smaller support networks. If they lose their housing, recovery is almost impossible because in addition to housing, they will have also lost access to healthcare and other supportive services that have enabled them to survive thus far.²⁵

An eviction notice prompts a series of challenging questions to struggling families such as where to stay, what happens to the household possessions, will the children be able to continue attending the same school, how long will the eviction be on record and so forth. If rent nonpayment caused the eviction, the costs ensuing the removal of the tenant pose additional financial burden to the household who was already struggling to make ends meet. In fact, the fallout in the first year following an eviction may result in additional hardships such as relationship dissolution and moving into poorer, distressed and higher-crime neighborhoods.²⁶ In addition, a 2016 study by sociologists Matthew Desmond and Carl Gershenson showed that disruptions caused by an eviction and general housing instability contributed more significantly to poorer job performance among low-income workers in Milwaukee.²⁷ Thus, evictions aggravate and often even cause job insecurity among the working poor. Although less research efforts have been focused on studying evictions compared to other issues in housing justice, existing literature has repeatedly demonstrated the undeniable link between high eviction rates and urban poverty.²⁸

²⁴ ALRP Aids Legal Referral Panel, “Get Legal Help,” accessed March 2, 2020, <https://www.alrp.org/our-services/get-legal-help>.

²⁵ Bill Hirsh, interview by XXYYZZ, Oral History Interview, February 18, 2020.

²⁶ Matthew Desmond and Tracey Shollenberger, “Forced Displacement From Rental Housing: Prevalence and Neighborhood Consequences,” *Demography* 52, no. 5 (2015): 1751–72, 1768.

²⁷ Matthew Desmond, and Carl Gershenson. “Housing and Employment Insecurity among the Working Poor.” *Social Problems* 63, no. 1 (2016): 46-67, 60.

²⁸ For more, see Matthew Desmond, “Eviction and the Reproduction of Urban Poverty,” *American Journal of Sociology* 118, no. 1 (2012): 88-133.

While tenants clearly lose in an eviction, landlords often emerge victorious despite some of the short-term costs associated with the removal process. According to Tim Iglesias, a professor at the University of San Francisco School of Law, one of the hardest concepts for law students in his eviction lawyering class is the extent of profitability in being a landlord. If the property is mortgage-free, the landlord earns revenue with every rent check while incurring marginal expenses on insurance and maintenance. Any expenses as a result of an eviction notice are cloaked by considerable tax breaks that help landlords and owners offset some of these costs.²⁹ For some landlords, this is a second occupation and their primary occupation salaries cover some of the costs incurred during an eviction, which allows them to pay less in income taxes. If there is a mortgage on the property, the payments are passed down to the tenants, meaning that the landlords are able to obtain equity on the property. Because of rising living costs in most of America's large and mid-sized cities, being a landlord has therefore become a profitable avenue. When studying a trailer park with high tenant turnover rate in Milwaukee, Matthew Desmond noted that the trailer park owner made an annual income of \$447,000 and belonged to the top 1% of income-earners. Most of his tenants belonged to the bottom 10%.³⁰

Compared to other cities, San Francisco appears more favorable to tenants because of its strong implementation of rent control, meaning that if the unit is rent-controlled, the rent can only increase with inflation.³¹ However, the passage of the Costa-Hawkins Act in 1995, a state law that limits a locality's ability to institute rent control, protects the landlord's right to raise the rent when a tenant moves out.³² In practice, this has resulted in San Francisco becoming a city

²⁹ Tim Iglesias, interview by XXYYZZ, Phone Interview, February 17, 2020.

³⁰ Matthew Desmond, *Evicted: Poverty and Profit in the American City*, 175.

³¹ Fred Sherburn-Zimmer, interview by XXYYZZ, Oral History Interview, February 18, 2020.

³² Elijah Chiland, "Costa Hawkins: the California Law Renters Want Repealed, Explained," *Curbed Los Angeles*, January 8, 2020, <https://la.curbed.com/2018/1/12/16883276/rent-control-california-costa-hawkins-explained>.

with vacancy decontrol.³³ Deepa Varma, Executive Director of the San Francisco Tenants Union, pointed out that in the Bay Area, the number of vacant units is actually greater than the number of homeless individuals, which demonstrates the magnitude of this issue.³⁴ When combined with rising property values and soaring market rate prices, the landlords have a tremendous incentive to evict long term tenants with stabilized rent. Fred Sherburn-Zimmer noted that the elderly are particularly vulnerable. In addition, it is impossible for individuals whose income stems only from benefits such as Supplemental Security Income (SSI) or disability (SSDI) to afford a rental unit at market rate, when the average rate for single-room occupancy hotels (SROs) is about \$1,500.³⁵ As such, it is evident that San Francisco's eviction crisis is taking a toll on its most vulnerable communities.

The 2019 Annual Eviction Report published by the San Francisco Rent Board provides a complex matrix of the reasons behind eviction notices. While nonpayment of rent is frequently cited as a primary reason why tenants are evicted, it constituted only 5.3% of total eviction filings with the Rent Board. Instead, the most frequent were notices due to breach of the rental agreement (29.4%), committing a nuisance (19.1%), owner/relative move-in (13.3%), capital improvement work (11.4%), and Ellis Act or withdrawal of unit from the rental market (9.7%).³⁶ Although these statistics only reflect the properties protected by the SF Rent Ordinance, they convey a landscape of evictions that has been confirmed by the Homeless Advocacy Project and their work with individuals and families that are either homeless or at imminent risk of homelessness. Housing attorney Bao-Tran Dang commented that landlord attorneys are filing

³³ Tim Iglesias, interview by XXYYZZ, Phone Interview, February 17, 2020.

³⁴ Deepa Varma, interview by XXYYZZ, Oral History Interview, February 13, 2018.

³⁵ Bao-Tran Dang and Teresa Friend, interview by XXYYZZ, Oral History Interview, February 18, 2020.

³⁶ "Rent Board Annual Report on Eviction Notices," San Francisco, CA: Residential Rent Stabilization and Arbitration Board, March 12, 2019, <https://sfrb.org/sites/default/files/Document/Statistics/18-19%20Annual%20Eviction%20Report.pdf>.

less frivolous eviction cases in housing court, but the eviction notices that are filed due to nuisance are much more severe.³⁷ Nuisance laws limit a tenant's ability to use the property if the use interferes with other property owners and they were initially instituted during the industrial revolution in the mid-eighteenth century to prevent investors from establishing factories in housing neighborhoods.³⁸ In contemporary practice however, these nuisance laws have resulted in domestic violence survivors and individuals with mental health issues and other disabilities being disproportionately forced out of their homes. During the interview, John* shared with me a story of a client who had been evicted because of nuisance, as their landlord had determined that the tenant's son, who had autism, was a nuisance.³⁹ In addition, long-term housing activist and tenant attorney, J. Scott Weaver, commented on leases and rental agreements becoming more convoluted in restrictions that are difficult to follow for certain tenants.⁴⁰ For example, some properties limit the number of visitors to two at a time, and thus a tenant who has invited their friends may be involuntarily violating their rental agreement.⁴¹ Oftentimes rent-controlled units are more frequently accompanied by rules and restrictions that tenants have to abide by, otherwise they risk being evicted. However, little attention is drawn to how these rules restrict a tenant's ability to enjoy their home and give the landlord significant leverage over their tenants.

Should a landlord decide to file an eviction in court, the tenant is up for a relatively short, but arduous battle. Typically, the tenant will receive a Summons & Complaint for "unlawful detainer" and along with the notice, the court will pass along information to the Eviction Defense Collaborative. The tenant will have to file an official response to the notice within 5 days,

³⁷ Bao-Tran Dang and Teresa Friend, interview by XXYYZZ, Oral History Interview, February 18, 2020.

³⁸ Tim Iglesias, interview by XXYYZZ, Phone Interview, February 17, 2020.

³⁹ John Doe, interview by XXYYZZ, Oral History Interview, February 13, 2018.

⁴⁰ J. Scott Weaver, interview by XXYYZZ, Phone Interview, February 14, 2020.

⁴¹ Bao-Tran Dang and Teresa Friend, interview by XXYYZZ, Oral History Interview, February 18, 2020.

otherwise a default judgment is entered. According to Cary Gold, Director of Litigation and Policy at the Eviction Defense Collaborative, about 400 to 600 cases per year are defaults.⁴² After a response is filed, the case is scheduled for a Mandatory Settlement Conference (MSC) between 8-13 days from the tenant's answer. The MSC is a chance for landlords and tenants to resolve the issue. If an agreement is not reached in the MSC, then the case is scheduled for a jury trial the following Monday.⁴³ The timeline of an eviction case thus is particularly labor-intensive for housing attorneys because between the filing of a Summons & Complaint and the jury trial, there are about 21 days to prepare. In addition, clients are sometimes difficult to work with because of the intense stress and trauma they may be going through, which further complicates the work of a housing attorney.⁴⁴ For example, Jane* pointed out that "if you're evicted, your first thought isn't going to be 'I need an attorney,' it's 'I need shelter.'"⁴⁵ It certainly means that tenants are almost always not their best advocates and self-representation predominantly results in the court ruling in favor of the landlord.

It goes without saying that even with representation in jury trial, a judgment in favor of the tenant is not guaranteed. Although tenants could, and still can, use the possibility of a jury trial as a bargaining chip with the landlord, the increasing lack of representation among jury pools might significantly disadvantage the tenant, when people of color are disproportionately evicted. The migration of the "techie" and other professionals earning high wages and paying market rate rent has made it more likely for jury pools to be unsympathetic toward tenants in

⁴² Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018.

⁴³ "San Francisco Right to Civil Counsel Pilot Program Documentation Report," John and Terry Levin Center for Public Service and Public Interest at Stanford Law School, May 2014, <https://law.stanford.edu/wp-content/uploads/sites/default/files/child-page/341183/doc/slspublic/SF%20RTCC%20Documentation%20Report.pdf>.

⁴⁴ Bao-Tran Dang and Teresa Friend, interview by XXYYZZ, Oral History Interview, February 18, 2020.

⁴⁵ Jane Doe, interview by XXYYZZ, Oral History Interview, February 17, 2020.

rent-controlled units. Cary Gold noted that there is almost a sense of libertarianism within their progressive views that may decrease their ability to empathize with a tenant struggling to make rent that is much lower than theirs.⁴⁶ Deepa Varma also noted that judges tend to be landlords, and thus are more likely to rule for an eviction.⁴⁷ Because the burden of proof in most civil cases is preponderance of evidence, landlord attorneys simply have to argue that it is more likely than not that the tenant engaged in activities warranting an eviction. From a legal perspective, this is an easier evidentiary standard for landlord attorneys to meet, but harder for the defense.⁴⁸

Legal services for tenants facing an eviction in the city of San Francisco are provided by a number of organizations, some of which have been mentioned earlier. The Eviction Defense Collaborative is largely the main agency serving low-income tenants in court. In addition to the EDC, other organizations that provide legal assistance include Bay Area Legal Aid, Asian Law Caucus, AIDS Legal Referral Panel, Asian Pacific Islander Legal Outreach, Legal Assistance to the Elderly, the Tenderloin Housing Clinic and so on. However, most of these organizations have restrictions on client eligibility as often implied in their name, and the decision to take on a client is always dictated by their capacity. Referrals between agencies in this network are frequent, but tenants may have to go through multiple intake meetings and screenings, which can be frustrating and time-consuming. In my interview with Cary Gold, she pointed out that prior to the Tenant Right to Counsel about half of the clients that EDC referred to the Homeless Advocacy Project never even made it to their intake on Tuesday afternoon.⁴⁹ This lack of a centralized intake system and organizations operating at near capacity has resulted in many

⁴⁶ Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018.

⁴⁷ Deepa Varma, interview by XXYYZZ, Oral History Interview, February 13, 2018.

⁴⁸ Bao-Tran Dang and Teresa Friend, interview by XXYYZZ, Oral History Interview, February 18, 2020.

⁴⁹ Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018.

tenants not being able to access the legal help they need to remain in their home. In large part, this became the major argument for the passage of the Tenant Right to Counsel.

To the Ballot and Beyond

In 2011, David Chiu, then President of the Board of Supervisors, introduced an ordinance co-sponsored by Supervisors Jane Kim and Scott Wiener with the aim of declaring San Francisco a “right to counsel” city.⁵⁰ The ordinance created a year-long pilot program through a \$100,000 grant that would provide free legal services to a limited number of civil cases that dealt with “basic human needs” such as child custody, shelter, sustenance, safety and health. A major motivator for this ordinance was the disproportionate number of self-represented low-income clients in civil cases. More specifically, the press release cited the following statistics:

Over 4.3 million civil court users in California are self-represented, and the statistics are especially severe in family law court where 80 percent of litigants do not have counsel at the time of disposition. Statewide 90 percent of eviction defendants are self-represented, and in domestic violence and restraining order cases 90 percent are self-represented. San Francisco data reinforces the urgent need for counsel in high-stakes civil cases. In 2009, 95 percent of child support cases were filed by those who were self-represented. Legal services organizations in San Francisco are unable to meet the increased demand in eviction cases against the City’s most vulnerable, low-income families living in public housing units. The number of eviction lawsuits filed this year by the San Francisco Housing Authority has increased by 400 percent from those filed in 2010. Legal services organizations provide more than \$30 million in pro bono civil representation per year, but the need is far greater.⁵¹

These figures reveal the inherent injustice in a legal system built on principles of rights and liberties, but that at the same time is not accessible by the more marginalized communities.

⁵⁰ City and County of San Francisco, “Board President David Chiu Joins with Leaders in San Francisco Legal Community to Call for Right to Civil Counsel,” News release, November 1, 2011, accessed March 1, 2020, <https://sfbos.org/sites/default/files/FileCenter/Documents/40691-11-01-11-%20Press%20Release%20-%20%20David%20Chiu%20and%20Legal%20Community%20Propose%20Right%20to%20Counsel%20Pilot%20Program.pdf>.

⁵¹ Ibid.

The City awarded the contract for the pilot program to the Justice & Diversity Center, who was able to hire an additional staff attorney through the grant. This additional staff attorney supervised other pro bono attorneys providing limited and full-scope representation to clients earning less than 200% of the federal poverty level, as well as increased pro bono representation by volunteer attorneys and developed training materials.⁵² The John & Terry Levin Center for Public Service and Public Interest at Stanford Law School conducted an analysis of the outcomes of the pilot and found significant evidence for its success. Among the tenants who received full-scope representation, 62.92% had the case dismissed or were able to remain in their home and 34.83% reached a settlement.⁵³ Thus, “an estimated 114 tenants receiving full-scope representation were able to avoid homelessness.”⁵⁴ A partial explanation for why full-scope representation resulted in such successful outcomes is that the possibility of going to trial can dramatically improve client outcomes.⁵⁵ The report reiterated this observation when analyzing the effect of repeat players in the courtroom. In particular, it noted that “landlord attorneys who are repeat players know that there is a good chance that the tenant will not be represented at trial, and some consequently take a hard line when it comes to the settlement negotiations.” Therefore, landlords’ knowledge that there will be an attorney advocating for the tenant all the way up to jury trial incentivizes them to try to reach an agreement earlier. In addition, even clients who received limited scope representation faced better outcomes, albeit at a lesser rate. Thus, the total number of tenants, both full-scope and limited scope, who were able to avoid homelessness as a result of the pilot program reached about 609.⁵⁶ If the cost of sheltering someone for the night is

⁵² “San Francisco Right to Civil Counsel Pilot Program Documentation Report,” 9.

⁵³ *Ibid*, 14.

⁵⁴ *Ibid*, 16.

⁵⁵ Bill Hirsh, interview by XXYYZZ, Oral History Interview, February 18, 2020.

⁵⁶ “San Francisco Right to Civil Counsel Pilot Program Documentation Report,” 17.

about \$30, this means that an estimated \$18,270 were saved each night as a result of the pilot program.⁵⁷ According to David Chiu, the initial grant of \$100,000 has leveraged over \$2.12 million in pro bono legal services, as it reduced the number of individuals seeking homeless shelters and other support services.⁵⁸ Thus, there is strong evidence that increasing access to legal aid is one of the most successful and cost-effective interventions to reducing homelessness.

Given the success of the pilot program, Chiu, other supervisors and housing activists pushed for increased city funding in eviction defense in light of an exacerbating housing crisis. “In 2013, 550 tenants lost their case simply because they didn’t respond to a lawsuit or show up to court to defend themselves. Of the tenants who did file a response and requested a jury trial, over 1100 arrived at court without attorney representation. Many more tenants are likely pressured out because they are unaware of their rights.”⁵⁹ As such, fighting evictions rose to the top of the agenda for San Francisco voters, particularly in renter-heavy districts like District 5. Undoubtedly, the success of the pilot program had given voters and legislators a model that could potentially be employed to tackle the city’s high eviction rates. In late 2017, a group of housing advocates and the Democratic Socialists of America of San Francisco began collecting signatures in order to put a city-funded, full-scope tenant right to counsel program on the ballot.⁶⁰ Jane* recollected how smoothly this ballot signature collection campaign went. “It was

⁵⁷ “San Francisco Right to Civil Counsel Pilot Program Documentation Report,” 17.

⁵⁸ City and County of San Francisco, “Board President David Chiu and Advocates Release Stanford Report on Right to Civil Counsel, Highlight Need for Eviction Defense Funding,” News release, May 20, 2014, accessed March 1, 2020, <https://sfbos.org/sites/default/files/FileCenter/Documents/49158-Press%20Release%20-%20President%20Chiu%20and%20Stanford%20Law%20School%20Release%20Eviction%20Defense%20Report.pdf>

⁵⁹ City and County of San Francisco, “Board President David Chiu and Advocates Release Stanford Report on Right to Civil Counsel, Highlight Need for Eviction Defense Funding,” 2.

⁶⁰ SPUR, “City-Funded Legal Representation for All Residential Tenants in Eviction Lawsuits Ordinance,” accessed March 2, 2020, <https://www.spur.org/voter-guide/san-francisco-2018-06/prop-f-legal-representation-tenants>.

easy going up to people like ‘this is just to put it on the ballot, you’ll get to vote on it. But if you’re evicted, we want to give you free lawyers who will help support you in court because too many people are getting evicted’ ... I have collected signatures for other measures and none of them have been as popular as Prop F was, because it resonates with most people living in the city. Eviction is the scariest thing.”⁶¹ Undoubtedly, this reflects the fact that more San Francisco residents are renters, and that the housing justice movement has grown tremendously since 1978, when there were about eight activists fighting for rent control.⁶² Cary Gold also commented that it was difficult for those opposing the measure to render campaign whose premise is that individuals should not have access to an attorney popular among voters. “The landlords are doing a public relations campaign too, but they’re not bad, they’re not evil... and running a campaign that says ‘well, we think it’s good for tenants to have to go to court without a lawyer while all the landlords have one is not going to have a great appeal.”⁶³ The main political figure behind the activism was Dean Preston, now Supervisor for District 5 and founder of Tenants Together, a California-based tenant rights group. All these combined efforts came to fruition on 5 June 2018, when San Francisco voters approved Proposition F with a majority of 55.74%.⁶⁴

While the measure was widely supported among renters, several voices spoke against it, particularly the San Francisco Chronicle and the San Francisco Apartment Association. One of the main criticisms against Proposition F is the measure’s lack of any income criteria, meaning

⁶¹ Jane Doe, interview by XXYYZZ, Oral History Interview, February 17, 2020.

⁶² J. Scott Weaver, interview by XXYYZZ, Phone Interview, February 14, 2020.

⁶³ Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018.

⁶⁴ “San Francisco, California, Proposition F, City-Funded Legal Representation for Tenants Facing Eviction (June 2018),” Ballotpedia, accessed March 2, 2020, [https://ballotpedia.org/San_Francisco,_California,_Proposition_F,_City-Funded_Legal_Representation_for_Tenants_Facing_Eviction_\(June_2018\)](https://ballotpedia.org/San_Francisco,_California,_Proposition_F,_City-Funded_Legal_Representation_for_Tenants_Facing_Eviction_(June_2018)).

that the measure could apply for renters of all income levels.⁶⁵ However, what legal service providers have seen in practice is that most clients who ask for legal assistance at the EDC or the other ten legal service providers selected by the City qualify as low-income.⁶⁶ Based on the experiences of the Homeless Advocacy Project working with clients in the Tenderloin area, most indigent clients in unlawful detainer proceedings also face mental health issues.⁶⁷ It is often the case that tenants who can afford to hire private counsel will choose to do so rather than seek free legal assistance.⁶⁸ According to Deepa Varma, the absence of income limits in the measure helped solidify its success on the ballot, as the measure appealed to the 60-64% of renters in San Francisco and its proponents did not frame it as a poverty program.⁶⁹

Proposition F established a city-funded tenant right to counsel, but the total amount of funding was not specified.⁷⁰ San Francisco Mayor London Breed and the Board of Supervisors allotted a total amount of \$5.6 million to the program from the City's budget to last through fiscal year 2020.⁷¹ Of all the legal service providers, the Eviction Defense Collaborative became the lead agency in implementing Proposition F through a central intake system called the Justice Portal, with about 47 housing attorneys listed across the eleven legal service providers.⁷² If a tenant shows up to the EDC office with an eviction notice in their hand, they fill out an online form with demographic information and meet with an intake staff member to check the information. The referral database then determines an appropriate referral based on their

⁶⁵ J.K. Dineen, "SF's Measure F Wins, Will Give Tax-Funded Legal Help to Tenants Facing Eviction," *San Francisco Chronicle*, June 5, 2018. <https://www.sfchronicle.com/politics/article/SF-Measure-F-to-give-tax-funded-legal-help-to-12970924.php>.

⁶⁶ Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018.

⁶⁷ Bao-Tran Dang and Teresa Friend, interview by XXYYZZ, Oral History Interview, February 18, 2020.

⁶⁸ J. Scott Weaver, interview by XXYYZZ, Phone Interview, February 14, 2020.

⁶⁹ Deepa Varma, interview by XXYYZZ, Oral History Interview, February 13, 2018.

⁷⁰ Ida Mojaded, "Tenant Right to Counsel Moves Forward," *SF Weekly*, November 28, 2018, <https://www.sfweekly.com/news/tenant-right-to-counsel-moves-forward/>.

⁷¹ Ibid.

⁷² John Doe, interview by XXYYZZ, Oral History Interview, February 13, 2018.

information and based on whether there is capacity in the other agencies to take on an additional client.⁷³ A major difference between the legal aid landscape in San Francisco before and after Proposition F is that there is no more screening for meritorious defenses. Because of capacity issues, legal service providers would also screen for the possibility that a defense could be built on the facts of the case, and they considered this feasibility as well when deciding to accept a client. With the current system, if a tenant meets the eligibility criteria and the agency has capacity to accept them, regardless of the presence or absence of any meritorious defenses, the agency has to accept.⁷⁴ If no referral can be made, then the EDC conducts a more thorough intake which includes the facts of the case and equips the tenant with a response containing all their affirmative defenses.⁷⁵ Therefore, the implementation of Proposition F has not necessarily resulted in a significant increase in the eviction caseload of legal service providers, but it has resulted in a centralized intake system for tenants seeking legal assistance that has resolved some of the communication gaps between agencies.

On 24 February 2020, Supervisor Dean Preston held a hearing on the implementation of the Tenant Right to Counsel, urging the City to increase funding for the program. According to data from the Mayor’s Office of Housing and Community Development, eviction rates have declined, and more than 700 San Francisco households at risk of eviction in the past six months were able to retain their housing.⁷⁶ Specifically, there has been a 10% decrease in eviction filings from 2018 to 2019, which reflects housing attorney Bao-Tran Dang’s observation during our

⁷³ Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Office of Supervisor Dean Preston, “Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law,” News release, February 24, 2020, accessed March 2, 2020, http://civilrighttocounsel.org/uploaded_files/262/PRESS_RELEASE_-_Supervisor_Dean_Preston_Holds_Hearing_Monday_on_Implementation_for_Right_to_Counsel_Law.pdf.

interview. Furthermore, an estimated 67% of clients receiving full-scope representation under Proposition F were able to stay in their homes. This figure is not too far off the success rate of the pilot project in 2011, strongly suggesting that access to legal counsel is one of the key determinants in the outcome of an eviction proceeding.⁷⁷ The rate was even higher for African Americans who sought legal assistance as four out of five, or 80% of tenants were able to stay in their homes.⁷⁸ The hearing also revealed that the program is predominantly being utilized by lower income tenants (85%) compared to moderate (9%) and above moderate income earners (6%).⁷⁹ These numbers reflect the powerful advantage that the right to counsel provides to marginalized communities facing more powerful landlords, and attorneys who know how to tip the balance of the scales. As Supervisor Preston stated in the hearing, “providing tenants with a guaranteed attorney stops unfair displacement and gives San Francisco residents a fighting chance when facing eviction.”⁸⁰

When asked about what they would change or improve about the implementation of Proposition F, all of my interviewees stated funding levels, first and foremost. With the current level of funding, only two thirds of tenants facing an eviction notice end up receiving full-scope representation, and they only have one chance for a referral.⁸¹ Combined with the impossibility of denying services to a referred client if when there is agency capacity, this has resulted in some attorneys “spending more time on cases that are hopeless and ... not being able to spend the time on cases that might have stronger defenses that didn't get an attorney simply because there wasn't

⁷⁷ Office of Supervisor Dean Preston, “Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law,” News release, February 24, 2020, accessed March 2, 2020, http://civilrighttocounsel.org/uploaded_files/262/PRESS_RELEASE_-_Supervisor_Dean_Preston_Holds_Hearing_Monday_on_Implementation_for_Right_to_Counsel_Law.pdf.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018.

one in the system on the day they came in.”⁸² Housing attorney Bao-Tran Dang echoed similar views, because with Proposition F, attorneys have to be ready to litigate a case with any given client, effectively eroding the agency’s discretion supporting a client through to jury trial or not.⁸³ In particular instances, such as when clients have unreasonable demands, or if a case is unwinnable and there are no substantial arguments to be made, this discretion allowed agencies with limited resources to make important, albeit difficult decisions regarding how to best allocate their time and labor.

If Proposition F were running at full capacity, a significant portion of these challenges would be mitigated, because the supply of legal assistance would meet the demand. According to J. Scott Weaver and other proponents, the program could use about 20 to 30 more attorneys.⁸⁴ The most recent press release stated that the program would need between 17 and 22 additional attorneys.⁸⁵ However, one of the difficulties associated with finding new attorneys to hire even if there is funding, is that fewer attorneys seek to work in civil legal aid compared to other areas of law. In fact, the Eviction Defense Collaborative has two open attorney positions that have yet to be filled. According to Fred Sherburn-Zimmer, this reflects the shortage of attorneys in legal aid organizations.⁸⁶ Bill Hirsh referred to this as a crisis in the ability of legal service providers to recruit and retain staff, largely driven by the low salaries in this field.

While that worked for people who were committed to a cause, and were able to suck it up and not make a lot of money, increasingly with the cost of living in the Bay Area, it is no longer possible for folks to make it on those low salaries... It is a crisis, you could have

⁸² Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018.

⁸³ Bao-Tran Dang and Teresa Friend, interview by XXYYZZ, Oral History Interview, February 18, 2020.

⁸⁴ J. Scott Weaver, interview by XXYYZZ, Phone Interview, February 14, 2020.

⁸⁵ Office of Supervisor Dean Preston, “Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law,” News release, February 24, 2020, accessed March 2, 2020, http://civilrighttocounsel.org/uploaded_files/262/PRESS_RELEASE_-_Supervisor_Dean_Preston_Holds_Hearing_Monday_on_Implementation_for_Right_to_Counsel_Law.pdf.

⁸⁶ Fred Sherburn-Zimmer, interview by XXYYZZ, Oral History Interview, February 18, 2020.

all the best intentions in the world, the best progressive politics, but if you don't have the bodies to actually provide those legal services, folks are not going to get served.⁸⁷

As such, a clear shortage of tenant attorneys who are willing to work with low-income clients as opposed to working in private practice also stands in the way of Proposition F reaching full implementation. The extent to which these difficulties in hiring and retaining staff are caused by the limited funds of Proposition F is difficult to determine given that the program is still relatively new and subject to political debate. However, as Supervisor Preston and all of my interviewees have reiterated, an adequate level of funding is largely the main concern for all proponents for an accessible Tenant Right to Counsel for all.

A different aspect of working with low-income clients that could significantly benefit from increased funding is the practice of increasing the number of social workers within legal services providers. The premise of incorporating social work in eviction defense is so that the circumstances that led to the eviction notice in the first place can be properly addressed. Teresa Friend, director of the Homeless Advocacy Project, explained the necessity of this joint effort:

If somebody is being evicted, because they are hoarding, because they are behaving badly, because they're not getting along with their neighbors... It doesn't really do any good to represent them in the eviction case, if you don't address the underlying issue, if they can't get their place cleaned up, if they can get some kind of support and assistance to interact differently with their neighbors or to stop doing whatever it is that is causing the trouble... We try to address the underlying issues so that people aren't just at risk of being evicted right away again.⁸⁸

Housing attorney Bao-Tran Dang also commented on the value of this approach by sharing information about a case where her client was near the end of life and was about to be evicted due to hoarding. However, as her health deteriorated due to old age, she found herself unable to

⁸⁷ Bill Hirsh, interview by XXYYZZ, Oral History Interview, February 18, 2020.

⁸⁸ Bao-Tran Dang and Teresa Friend, interview by XXYYZZ, Oral History Interview, February 18, 2020.

take things out. The client had also been living in this house for decades, as she had raised her children and grandchildren there. With the help of a social worker, they were able to organize a deep clean of the unit as well as get in touch with Adult Protective Services. Thus, this case was not simply about saving her housing, but the fight was “so that she could be there and not be homeless in her last few years.”⁸⁹ Cases like these exhibit the emotional complexity involved with fighting for clients to keep homes to which they may have grown attached. This is one of the things that have surprised Claire LaVaute, volunteer attorney with the Eviction Defense Collaborative, most in her work. Specifically, “the clients have all wanted to be able to pay the arrears they owe and/or otherwise meet their obligations.... I find that astounding, given the usurious rents and the often disrespectful way they have been treated.”⁹⁰ In a justice system that can feel dehumanizing, perspectives like these act as reminders that a tenant facing an eviction is a human being first, that they are more than their eviction notice, and that they are worthy of respect regardless. Thus, a holistic implementation of Proposition F is ethically imperative and much more effective in curbing subsequent evictions. One way of instituting this would be through the incorporation of social work practice within eviction defense.

Several of the interviewees have commented on the comparison between implementing the tenant right to counsel for eviction defense and the public defender model. In practice this would mean that rather than having a lead agency conduct referrals to other legal service providers, there would be one central agency and location. Specifically, Cary Gold commented that while the current system is as efficient as can be, there are still individuals who fall through the cracks from one referral to another.⁹¹ However, the public defender model does not

⁸⁹ Bao-Tran Dang and Teresa Friend, interview by XXYYZZ, Oral History Interview, February 18, 2020.

⁹⁰ Claire LaVaute, interview by XXYYZZ, Phone Interview, February 14, 2020.

⁹¹ Carolyn Gold, interview by XXYYZZ, Oral History Interview, February 13, 2018.

necessarily account for the challenges of the current system if funding is not increased to an adequate level to sustain the full implementation of the right to counsel, the program risks being underfunded and overworked, similar to many of the public defender offices in the country.

Conclusion

To conclude, this report has shown the implementation of the Tenant Right to Counsel is a necessary response to San Francisco's substantial eviction rates and the imbalance of power between tenant and landlord in court and other matters. Given the continued growth of the rental market in San Francisco, powerful profit-making incentives signal landlords to evict their tenants as vacancy decontrol enables landlords to raise rents for their future tenants. This practice is particularly harmful to low-income neighborhoods like the Tenderloin and Bayview/Hunters Point who have seen evictions become one of the most powerful tools for gentrification.

The passage of a measure like Proposition F in 2018 is an important first step in recognizing that access to legal aid should be a universal human right. Without access to an attorney, it cannot be reasonably expected that the client be able to exercise their rights in court and beyond. When 90% of landlords on a national average are represented by attorneys in housing court, compared to only 10% of tenants, this expectation is unrealistic.⁹² As evidenced by the data compiled by the Mayor's Office for Housing and Community Development, the implementation of Proposition F has so far been successful in both reducing eviction rates and securing better outcomes for their clients, the majority of whom qualify as either low income or

⁹² SPUR, "City-Funded Legal Representation for All Residential Tenants in Eviction Lawsuits Ordinance," accessed March 2, 2020, <https://www.spur.org/voter-guide/san-francisco-2018-06/prop-f-legal-representation-tenants>.

extremely low income.⁹³ Furthermore, according to the most recent press release, San Francisco has inspired other cities like Newark, Cleveland, Santa Monica and Philadelphia to implement similar measures as they face higher eviction and homelessness rates.⁹⁴

Despite these early successes, the funding allocated to implement Tenant Right to Counsel needs to increase if it is to be accessible to every tenant facing an eviction in the city of San Francisco. Currently, only about two thirds of tenants in eviction proceedings are able to benefit from city-funded full-scope representation. Higher levels of funding could solve the challenges that nonprofit legal service providers face in recruiting and retaining attorney staff. This funding would also be most helpful in incorporating social work practice in eviction defense as clients almost always have underlying issues that need to be addressed as well. For the one third of tenants who are currently not being served, this increased funding is paramount to give them an equal footing in fighting for their home, or to prevent a more severe eviction fallout from occurring. Given the rising prevalence of homelessness and urban poverty, as well as eviction's direct ties to both, the political will should recognize the importance of adequate funding and support for necessary measures like the Tenant Right to Counsel. Only then might stable housing and a home be recognized as essential to life, liberty and the pursuit of happiness.

⁹³ Office of Supervisor Dean Preston, "Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law," News release, February 24, 2020, accessed March 2, 2020, http://civilrighttocounsel.org/uploaded_files/262/PRESS_RELEASE_-_Supervisor_Dean_Preston_Holds_Hearing_Monday_on_Implementation_for_Right_to_Counsel_Law.pdf.

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