

Civil Right to Counsel, Phase II Pilot Study: Needs Assessment and Cost Elements



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& the Civil Right to Counsel Leadership
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Informing policy, improving programs

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BACKGROUND

While indigent defendants in the criminal justice system are guaranteed the right to an attorney, no such guarantee exists for individuals in civil court, despite the fact that issues as crucial as eviction may be at stake. While some legal services programs may offer assistance to some clients in civil matters, the demand far outstrips the supply of such services. In 2004, the National Coalition for a Civil Right to Counsel was formed. The Coalition, currently consisting of over 150 members from around the United States, works to expand recognition of the need for counsel in civil cases. The Coalition includes a Civil Right to Counsel Leadership and Support Initiative (CRCLSI), a group that steers the Coalition's work in the areas of policy advocacy, litigation, communications, and social science research. The CRCLSI partnered with NPC Research, an independent human services research and evaluation firm, first to **design** a comprehensive study of the effects of providing counsel in civil housing cases¹ and then subsequently to **conduct a pilot study** to gather information to facilitate a proposal for the larger study. The pilot study, the focus of this report, had two objectives: to conduct a legal services needs assessment of two communities and to analyze and map the cost implications of long-term outcomes related to providing counsel in eviction cases. Throughout this process, NPC Research and the CRCLSI received guidance from an advisory board consisting of nationally recognized experts in the field of civil representation. See Appendix A for a list of advisory board members.

Statement of the Problem

Since 1963, the Supreme Court has recognized the rights of individuals in criminal

cases to be represented in court if they cannot afford to hire an attorney on their own. In order to provide equal access to justice, many legal practitioners feel that indigent persons in civil court also should be afforded the right to counsel because these cases often have significant life consequences for defendants, such as cases involving child custody or housing eviction and foreclosure. Current estimates indicate there is one legal aid lawyer per 6,681 low-income people in the country (Legal Services Corporation, 2007). Most indigent litigants in civil cases do not seek out legal assistance because they are not aware of what legal aid services exist (Legal Services Corporation, 2007), and many who do seek aid are turned away because the demand for services is greater than the availability.

Several studies have established the relative benefits that representation can afford litigants in civil cases. Engler (2010) produced a detailed review of past studies. In a meta-analysis of over 74,000 civil cases, Sandefur (2010, forthcoming) found that individuals who received representation were generally more likely to have a favorable outcome than individuals who did not have representation. Seron, Van Ryzin, and Frankel (2001) conducted the only randomized study of civil counsel programs to-date in an evaluation of a legal assistance program for low-income tenants in New York City's Housing Court. Results from this study indicate that twice as many tenants received judgments against them when they did not have legal representation. Furthermore, having legal representation did not increase the number of court appearances and in fact, streamlined the adjudication process by reducing the number of motions filed (Seron et al.). Despite the high stakes—the New York Housing Task Force (1993) reports that almost half of the households entering homeless shelters in New

¹ For a copy of the Design Report, please contact one of the authors of the current report.

York City do so through evictions—and the impact an attorney can have, nearly 90% of tenants in Housing Court do not have representation. Similarly, according to Legal Services Corporation (2007), 99% of tenants in New Jersey and Washington, DC, come to court without representation.

While the presence or absence of an attorney in an eviction case may have a short-term impact on case outcome, case outcome, in turn, may have longer term effects on individuals, neighborhoods, and communities. Court-ordered evictions for unsuccessful litigants result in upheaval for the litigant and her/his family members, and in some cases result in homelessness. Renters who have been evicted will have a more difficult time securing another rental property. Furthermore, relocation may result in any number of changes for the family, including adjusting to new and perhaps less desirable neighborhoods, employment changes, new schools, or even new custody arrangements for children. Research findings suggest that residential instability is correlated with neighborhood crime and other problem behaviors (Sampson, Morenoff, & Gannon-Rowley, 2002) and, due to social isolation and a lack of support systems, may even negatively influence parenting styles (Pinderhughes, Nix, Foster, & Jones, 2001). Neighborhoods with high residential instability often are characterized by other challenges as well, including high poverty rates and perceptions of neighborhood disorder among residents. These perceptions, in turn, are related to negative health outcomes for residents (Weden, Capiano, & Robert, 2008). Thus, a family's eviction may put into place a series of changes that put the family at risk for a variety of longer term problems, all of which may have cost implications for taxpayers and society.

It follows, then, that those who support a civil right to counsel argue that not only is representation beneficial to the individual liti-

gant, it also results in fiscal savings to the taxpayer and the community. However, few cost-benefit studies have been conducted on civil counsel programs. Of those that have been conducted, a significant economic benefit has been demonstrated. The Perryman Group (2009) undertook a study of the economic impact of existing legal aid activities and the potential effects of expansion of legal services in Texas in 2007. Legal aid services in Texas were financially supported by the federal, state and local government as well as private bar contributions and charities. Overall, the state of Texas had a net gain of almost \$26 million annually (The Perryman Group). However, this study simply calculated the net inflow of money to the state in support of legal aid services and considered this inflow as the monetary benefits of the programs. Further, this study did not investigate the monetary benefits attributable to the positive outcomes associated with having representation in civil cases.

Researchers at the Omaha Center for Public Affairs Research conducted a study describing the benefits, costs, and economic impact of Legal Aid in Nebraska (Feelhaver & Deichert, 2008; Kelso, Deichert, & Feelhaver, 2004). The researchers found that Nebraska had a benefit of \$4 for every dollar in costs, resulting in almost \$10 million in benefits to the state in 2003. Similar to the TPG study in Texas, Legal Aid federal grants and contracts in the amount of nearly \$2.2 million were counted as direct benefits brought to the state of Nebraska, rather than counted as costs of the program. However, unlike the TPG study, Kelso et al. measured benefits due to the impact on society as a whole when individuals receive legal aid services. These benefits included improved quality of life for the clients, tax savings for the state, and economic development.

Many states report that legal aid services save the state money through helping to secure child support orders; assisting clients

with obtaining federal disability, medical, food stamp, and other federal benefits; and helping domestic violence abuse victims secure restraining orders (e.g., Massachusetts Legal Assistance Corporation, 2007; Minnesota State Bar Association, 2003; New Hampshire Legal Assistance, 2006). Elwart, Emerson, Enders, Fumia, & Murphy (2006) conducted a policy analysis of a proposed expansion of legal aid services for domestic violence victims and concluded that such a program would result in substantial cost savings through avoided medical care, mental health care, lost productivity, and lost property damage costs.

Because these studies were focused on identifying the impact of legal aid programs on state economies, they included as benefits federal and other non-state monies used to finance legal aid programs, rather than counting these monies as program costs. To date, no study has used as rigorous a cost methodology as is proposed here, which would investigate the total cost (to the taxpayer or to society) of providing such services as compared to the benefits (cost savings) that result from positive short and longer term outcomes for program participants.

In addition to legal aid programs that provide full representation to a limited number of indigent civil litigants, there are a variety of other forms of legal assistance programs in operation, such as self-help centers, call-in services, and lawyer-for-a-day services. Legal self-help programs are used in many jurisdictions to try to meet the needs of low-income litigants. Several studies have investigated the effectiveness of such programs, though no published study has conducted a cost-benefit analysis of these programs. These programs offer a wide array and combination of services, making it difficult to compare models or generalize the findings. Programs can range from a referral hotline, to a center staffed with law students who offer help with legal paperwork, to lawyer-of-

the-day programs, which allow for brief consultations between clients and attorneys. Some centers are housed in the courthouses themselves while others are separate (Houseman, 2007). A report to the California legislature by the Judicial Council of California (2005), conducted by NPC Research and Berkeley Policy Associates, evaluated five self-help programs in different California jurisdictions. The researchers found that litigants who had utilized self-help centers thought they had a better understanding of justice system procedures. As a result, they were better prepared and had more complete information, thus making better use of courtroom time. As Houseman points out, however, outcome studies conducted on self-help programs, like the few studies of civil counsel programs, “focus primarily on the immediate result of a particular case or activity. These studies do not capture information on what ultimately happened to the client (Houseman, p. 22).”

In March 2010, the U.S. Justice Department launched a new initiative called “Access to Justice” to help low-income individuals receive legal help. This effort to enhance indigent defense will include issues related to civil courts and may eventually impact landlord-tenant disputes.²

Purpose of the Proposed Larger Study

For the larger study, we will look at the costs, outcomes, and benefits associated with legal representation in civil housing eviction cases. Unlike most past studies, funds used to provide civil representation will be counted as costs (rather than as benefits to the state), while benefits will be counted as any reduction in costs (i.e., savings) attributable to the outcomes associated with attorney representation. The study will answer the following

²

<http://www.npr.org/templates/story/story.php?storyId=124094017&sc=emaf>

research question: What are the costs and benefits that result from providing an attorney to tenants in eviction cases? Specifically, we will examine whether representation leads to any difference in short-term case outcomes (such as orders of eviction) as well as in longer term outcomes (such as homelessness

and usage of publicly funded support services) for the litigants. The results of this study will provide policymakers with information about the costs of civil representation programs, as well as the expected outcomes and the related cost savings of such programs.

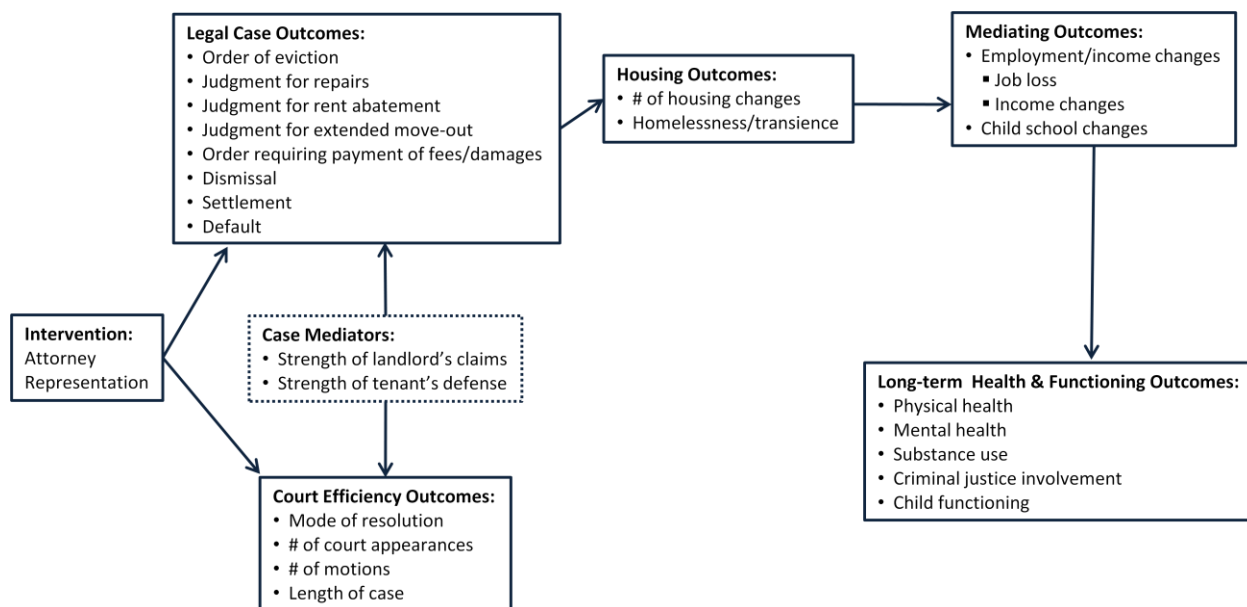
STUDY OVERVIEW

The proposed research study will investigate the costs and benefits that result from providing an attorney in eviction cases. The study will be guided by a logic model that identifies the intervention and key short and longer term outcomes related to the intervention. These are items that we propose to cost. The study logic model is provided in Figure 1.

This logic model has been revised from the design report based on our pilot study. There are five mediator variables that have been discussed by the work group and Advisory Committee that may be measured if the data are available and if they can be adequately operationalized. However, they are not the

current focus of the next phase of study and would likely be incorporated into future work. These variables would be hypothesized to mediate the relationship between the intervention (attorney representation) and the legal case outcomes and/or court efficiency outcomes. The variables include 1) the strength of the landlord's claims, 2) the strength of the tenant's defense, 3) characteristics of the judge (such as degree of knowledge, sensitivity, etc.), 4) characteristics of the court's operations/culture (e.g., how self-help friendly is the system, and what is this intervention adding to the existing services or supports that are already available), and 5) the competence of the lawyer.

Figure 1. Study Logic Model



THE PILOT STUDY

Setting the Stage for the Larger Study

This pilot study was conducted to establish a foundation for a proposal to fund a study of the costs, outcomes, and benefits associated with legal representation in civil housing eviction cases.

The current project consisted of two components, a needs assessment of two communities and an analysis project to map the costs to society of long-term outcomes in the logic model developed as part of the original design phase.

Needs Assessments of Two Communities

The purpose of the needs assessments was to build a case for the need for service and the need for future study in these communities. In this portion of the pilot study, NPC staff gathered data from court records, program databases, available reports/studies, and key stakeholder interviews to:

- Document the current state of legal services and the unmet need for legal representation in evictions cases to build a case for the need for service and the need for future study in these communities
- Gain a thorough understanding of the two sites' state laws and local contexts and the demographics and case characteristics in order to design appropriate sampling procedures and data collection tools for the larger study

In the first (design) phase of this project, NPC, NJP, and the Civil Right to Counsel Advisory Board (AB) used a selection process to identify potential study sites. Priorities in this selection were: 1) Geographical diversity, including some urban and some more rural sites; 2) Diversity in rent

stabilization laws, including some sites with and without rent control; 3) Diversity in how the courts handle eviction cases, including some sites with and without specialized housing courts; and 4) Exclusion of sites with highly atypical tenant-landlord laws or eviction procedures (such as jurisdictions where evictions cases were heard in the first instance outside of civil/housing court). The design phase resulted in 10 assessed sites.

The next step of the site selection process involved in-depth interviews with one or more contacts in each of these states to gather information about the jurisdiction's eviction process, demographics, case volume, legal services community, and interest in study participation. Interviewees included representatives from legal aid agencies and academics with research expertise in housing law. Interviews with these contacts often ended with referrals to other individuals who had specialized knowledge, resulting in a snowball sampling of jurisdictions and stakeholders. In consequent discussions, we decided to narrow the focus of the pilot study to control for some of the site differences so that the results could be more easily interpreted.

Upon completion of the interviews of stakeholders from 10 sites, the site characteristics were presented to the AC in a summary matrix to facilitate cross-site comparisons. Upon review of the site characteristics and initial and emerging priorities of the AC, NPC recommended selecting Tacoma (Pierce County), WA, and Philadelphia, PA, as the optimal settings for the pilot project based on the information collected during the interviews. These sites represent different geographic regions (east and west coast). Both sites are ethnically diverse and have a very large population of individuals who are not receiving any legal services. Both sites also reported having data stored electronically, which is

very helpful from a research standpoint. According to interviewees, both regions have tenant-landlord laws that are biased in favor of landlords. It is important to note that any attorney effects that are found in these regions are likely to be much greater in regions where the law is less landlord-friendly. Washington uses uniform tenant-landlord laws and both sites have a well-defined referral process. They both serve a large publicly funded or subsidized housing (“pub/sub”) population. Most importantly, both sites were enthusiastic about participating in the pilot study.

For each pilot site, we were looking for the following information:

- Case prevalence and characteristics:
 - The number of evictions cases filed
 - The percent of tenants with representation
 - The number of eviction orders
- Legal services environment:
 - The type and extent of legal services available in the community
 - The degree to which the service agencies can meet the need
 - What service providers see as the pressing issues/unmet needs in the community
- Outcomes and costs associated with eviction cases:
 - Qualitative information from the service providers/stakeholders on the long-term impact of eviction cases
- Local and state context:
 - State housing laws
 - Local ordinances, unique situations/populations, etc.
 - Demographics and prevalence of various case types

Please note that a list of definitions of terms and other technical legal language are provided in Appendix B.

PHILADELPHIA

The city and county of Philadelphia are one in the same, sharing the same boundaries since 1854. The city has the largest percentage of senior citizens among America’s 10 largest cities. According to the Philadelphia Bar Association, the region has a high percentage of single-family dwellings rather than apartment buildings; an anomaly when compared to other big cities (2009).

As a measure of poverty in Philadelphia, the September 2009 American Community Survey reports that the percentage of households receiving food stamps in Philadelphia increased by nearly 3 percentage points between 2007 and 2008. Furthermore, Pennsylvania was one of only seven states that experienced an increase in the number and percentage of people in poverty between 2007 and 2008. Philadelphia remains one of the five counties with the highest percentage of people with income below the poverty level in the state.³

Methodology

Landlord Tenant Eviction Cases

A de-identified sample⁴ of 31 clients was obtained from Community Legal Services, Inc. (CLS), including information about client age, gender, income, and number of children. Leading attorneys at CLS were interviewed about data kept by Philadelphia Municipal Court. Little was known about the court’s database, but CLS attorneys believed there would be no demographic information contained in the court records. They offered the

³ See the Philadelphia Bar Association’s Civil Gideon Task Force Report for 2009.

⁴ CLS agreed to share information from a sample of 20 clients for this pilot study. A staff person responsible for the CLS data system identified the first 31 landlord-tenant cases that had occurred in 2009.

name of Judge Marsha Neifield to contact about obtaining court data.

Contact was initially made with the court clerk and then was attempted with Judge Neifield by e-mail. After receiving no reply from Judge Neifield, researchers were referred to the Deputy Court Administrator (DCA). The DCA supplied researchers with aggregate data on the number of tenant/landlord cases for 2009 as well as the number of cases with dispositions. Researchers then made multiple requests for a sample of landlord-tenant cases with detail and were referred to the Supervisor of the First Filing Unit, who took the data request information, explaining that he would respond with a price for retrieving the information. Researchers were then contacted by the DCA who passed along statistics that were compiled previously for the Philadelphia Bar Association's Civil Gideon Task Force. Data were requested for a sample of 100 cases in 2009 that included tenant demographics, representation information, public v. private housing, summary of case outcome, dates and any indication of contestation. Data received included number of landlord/tenant cases with and without an attorney for 2007 and 2008. Researchers then contacted CLS to find out if there was someone on site who would be willing to gather these data by hand. Researchers were referred to one of the housing attorneys, who explained that he may be able to get the data via the municipal court Web site as he has an account with privileged access. Researchers had previously logged onto the Web site as guests but did not have access to any aggregate data. Data on individual cases were only available if a case number or name was entered. The housing attorney was able to obtain data on a sample⁵ of 100 landlord-tenant cases. These data are included in the report.

⁵ A housing attorney searched the court database for landlord-tenant cases from 2009 and selected the first 100.

Legal Services Environment

First, an Internet search was conducted to document legal services available for the indigent in Philadelphia. The resulting list of services was reviewed with CLS attorneys, who indicated that Legal Services Corporation is a funder, not a direct service provider. Additionally, Philadelphia Legal Assistance refers eviction cases to CLS. Additions to the list were made based on information provided by CLS during a conference call. Finally, this list was compared to the services reported in the Philadelphia Bar's 2009 Task Force Report on Civil Gideon. Legal services in addition to CLS included the Homeless Advocacy Project, Senior Law Center, Volunteer Indigent Program and The Legal Clinic for the Disabled.

Unmet Legal Needs

Researchers obtained an estimate of the unmet legal needs in the region from CLS during a conference call. This estimate was confirmed in the Philadelphia Bar's 2009 Task Force Report on Civil Gideon. In addition, a literature search was conducted. A 2003 dissertation written by David Eldridge, titled "The Making of a Courtroom: Landlord-Tenant Trials in Philadelphia's Municipal Court," did not contain data on unmet legal needs in Philadelphia. Rather, it looked at factors that influence the outcome in individual trials and the various participants' experience of the process. The literature review outlines other studies that have looked at trial participants' experiences in the court and factors that influence outcomes.

Homelessness and eviction

Researchers contacted the Executive Director of the Homeless Advocacy Project to request information about homelessness due to eviction. She did not have these data, nor did she have an estimate. However, she referred researchers to Professor Dennis Culhane.

Researchers contacted Professor Dennis Culhane, who did not have data on homelessness

due to eviction for the Philadelphia region specifically, but was able to recommend his 2008 Report to Congress on Homelessness for helpful data on the incidence of homelessness due to eviction nationally.

Literature Search

A literature search was conducted throughout the data gathering process, resulting in a collection of articles, a dissertation, and commissioned reports.

Results

Case prevalence and characteristics

In 2009, there were 28,438 landlord/tenant filings in the Philadelphia Municipal Court. This number accounted for 23% of all civil filings for the year. Of those landlord/tenant filings, 24,558 have dispositions on file. There were 21,355 writs of protection (eviction orders) filed in 2009. For a closer look, a sample of 100 landlord-tenant cases filed in 2009 was obtained by a CLS housing attorney for this report. Data revealed that 77% of the landlords had representation while 13% of the tenants did. Overall, 66% of the cases had a landlord with representation and a tenant who did not. Ninety-seven percent of the cases included a non-payment of rent basis, 20% included a termination of the term basis and 20% included a breach of the condition of the lease. Physical eviction occurred in 68% of the cases, according to the housing attorney's best assessment of the data. Forty-three percent ended in a judgment by default, 31% a judgment by agreement and 23% were withdrawn. Of those cases where the tenant did have an attorney, 7 out of 13, or 54% ended in eviction while 62 out of 87 or 71% of those tenants with no attorney were evicted. Monetary judgments against tenants with representation ranged from \$12 to \$15,505 with an average judgment of \$2,377 and a median judgment of \$1,298. Tenants without representation had monetary judgments to be paid ranging from \$45 to

\$23,527 with an average of \$2,698 and a median judgment of \$1,881.

Attorneys interviewed for this study explained that having representation means that the case can be negotiated, resulting in more favorable outcomes. For the tenant, more favorable outcomes may mean winning her/his case, a reduction in the amount of money s/he owes, obtaining sufficient time to secure alternate housing, having the resources (e.g., return of security deposit) to secure alternate housing, and/or having a judgment vacated or ruled satisfied. Additionally, attorneys are able to help tenants with their appeals. In Philadelphia, the tenant's rent money is deposited into an escrow account until the appeal hearing takes place. A favorable outcome of the appeal hearing may include having some or all of one's rental payments returned.

Legal services environment

Findings from the Philadelphia Civil Gideon Task Force⁶ indicate that only 3% of litigants in the Philadelphia jurisdiction are having their legal needs met. These findings were confirmed with legal aid attorneys at CLS in Philadelphia, who indicated that 97% of eviction cases are disposed of without counsel for tenants.⁷ CLS is the agency that handles most of the low-income housing cases that receive representation in the jurisdiction. They operate on a triage basis, taking only the most meritorious cases. Based on a sample of 31 cases from CLS, the typical client is

⁶ Philadelphia Bar Association Chancellor Sayde Ladov appointed the Civil Gideon Task Force ("Task Force") in early 2009, calling for the Task Force to investigate and consider all aspects of establishing an effective system of Civil Gideon in Philadelphia.

⁷ This estimate (97%) is much higher than the rate (87%) in the sample that was used for this pilot study. It may be that the rate has changed since the data used in the Civil Gideon report, or that the sample was not representative of the full population of cases. CLS staff members believed the percentage used in the Civil Gideon report was accurate based on their experience.

likely to be a 40-year-old female with a child, having a monthly income of \$994.00.⁸

In his analysis of landlord/tenant cases in Philadelphia's Municipal Court, David Eldridge remarks that there is a "legal representation gap between landlords and tenants." This gap undermines the courts mission to "preserve affordable and adequate housing" because it does not protect the rights of the landlord and the tenants equally.⁹

In a 2009 report to congress, Professor Dennis Culhane noted that 50% of Pennsylvania's homeless population is located in Philadelphia. The city also has one of the nation's largest senior populations. Aside from Community Legal Services, Inc., there are a limited number of other legal aid agencies in Philadelphia, including a Senior Law Center; the Legal Clinic for the Disabled; the AIDS Law Project; the Volunteer Indigent Program, a private firm that takes some cases pro bono; and the Homeless Advocacy Program, which assists homeless individuals and families. In addition to these agencies, there is a self-help organization called A Tenant Union Representative Network. The Civil Gideon Task Force report stated that fewer than 17 full-time legal service attorneys from these organizations are available to handle all housing cases, including the surge of foreclosure cases (2009).

Outcomes and costs associated with eviction cases

Stakeholders interviewed for this assessment indicated that residential instability often leads to workplace instability, causing te-

nants to lose their jobs. Additionally, families and individuals who have been evicted will stay with other family or friends for as long as tenable. Stakeholders felt that this situation could be costly when tenants move in with extended family/friends and then the family or friends then get evicted because they have too many tenants or the new tenant has a criminal history. Stakeholders indicated that this was most likely to happen in subsidized housing. Finally, they talked about the impact of having a judgment on one's credit and the barrier this creates for getting into new housing. Research by Professor Raymond Brescia indicates that children may experience difficulty focusing in school during an eviction and stress and depression often follow individuals who are evicted (2009).¹⁰

Local and state context

Stakeholders indicated that several ordinances had recently been passed in Philadelphia. The first is that a landlord may not conduct a "self-help" eviction upon the tenant. The landlord must have a business license and a license to rent in order to offer a rental and in order to file a claim. Stakeholders indicated that tenants no longer have to pay a (large) fee to file an appeal. These ordinances have the potential to change the legal landscape by providing additional protections for tenants.

TACOMA (PIERCE COUNTY)

Methodology

Accessing the data

For a fee, the Court Clerk in Pierce County, Washington, ran a data query for 2008 and 2009 eviction cases that were filed in the county. The resulting lists of case numbers,

⁸ This monthly income translates to an annual income of \$11,928, compared to a median household income in Philadelphia of \$36,222 (2008 census: American community survey) and a median family income of \$46,365.

⁹ Eldridge, David (2001). The Making of a Courtroom: Landlord-Tenant trials in Philadelphia's Municipal Court. *Dissertations available from ProQuest*. Paper AAI3031659 (UMI No. 3031659). Retrieved January 2009.

¹⁰ Brescia, R. H. (2009) *Sheltering Counsel: Towards a Right to a Lawyer in Eviction Proceedings*; 25 *Touro L. Rev.* 187.

divided into contested and uncontested cases, was then provided to NPC.

The Pierce County Court Clerk does not have an annual or other report that lists the number of evictions that actually took place. To determine whether an eviction occurred, it is necessary to look at each individual case and explore each order in that case to discover the outcome. Discovering the outcome of each order necessitates subscribing to the LINX system, which holds that detailed information, and involves data collectors searching the system and hand coding each case.

The LINX data system in Pierce County, Washington, is accessible on-line. With the case numbers, NPC was able to look up each individual case to see the face sheet, which told us whether or not the plaintiff and/or defendant were represented by an attorney, whether the case was an unlawful detainer (UND) or unlawful detainer-contested (UNDC), whether the case had a Writ of Restitution issued, a Show Cause Hearing, etc. To find out whether an eviction actually happened, it was necessary to look at each individual order in a case. To do so, it was necessary for NPC to become a subscriber to the LINX system, which it did.

Choosing the sample

NPC decided to look at a sample of 50 of the total 2,904 cases in 2009—25 contested and 25 uncontested. In order to select a random sample, the total number of contested cases was divided by 25, resulting in 72. Therefore, every 72nd case was selected to become the sample of 25. The same process was used to select 25 uncontested cases, resulting in every 44th case being selected for the sample.

Understanding case numbers: If, for example, a case number is 092043014, 09 represents the year; 2 means it is a civil case, 04301 is the case number, and 4 is a check digit used internally. Because case numbers were given to NPC in numerical order, the method we

used for selecting the sample resulted in the sample representing every month of the year.

Collecting the data

A data collector at NPC Research examined face sheets and supporting documents for each of the 50 cases in the study. Data gathered were entered into an Excel spreadsheet, and included:

- Case number
- Unlawful Detainer-Contested/ Uncontested
- Litigant represented by attorney
- Defendant represented by attorney
- Date Unlawful Detainer filed
- Date Writ issued
- Date resolved
- Order staying Writ
- Judgment Date
- Resolution reason:
 - Dismissal without trial
 - Closed by court order post hearing
 - Default judgment
 - Parties settled/AJ pre-trial
 - Pending
- Defendant answer date
- Order to Show Cause date
- Show Cause hearing date
- Sheriff Return of Writ date
- Reason for Return of Writ:
 - Defendant moved
 - Writ expired
 - Ousted and ejected
 - Peaceful possession
 - Attorney for the plaintiff request
 - Return per attorney unsatisfied

With enhanced access to the LINX system, NPC discovered that some information on the face sheet did not always match support-

ing documents. For example, in a few cases the face sheet indicated the plaintiff was self-represented, indicated by “pro se” on the face sheet. However, supporting documents showed that in six cases, the plaintiff did actually have representation by an attorney at some point (indicated by document “Notice of withdrawal of plaintiff attorney”). It will be useful for the larger study to follow up on conflicting information to be sure the correct data were included in the study.

Results

Case prevalence and characteristics

In 2009, 2,904 Unlawful Detainer (eviction) cases were filed in Pierce County, Washington. Of those, 1,805 were uncontested cases, and 1,099 were contested cases. In the sample of 50 Unlawful Detainer cases filed in Pierce County in 2009 (25 contested and 25 uncontested cases), 3 tenants (6%) had representation, and 47 tenants (94%) did not.

For the pilot study, NPC looked at sample cases in the LINX system to determine whether the parties had representation and whether a Writ of Restitution¹¹ was issued.

Of the 25 contested Unlawful Detainer cases, a Writ of Restitution was issued for 18 of the 25 cases (72%), as follows:

- a. 14 cases (56%) in which the plaintiff had representation, but the defendant did not
- b. 3 cases (12%) in which neither party had representation
- c. 1 case (4%) in which both parties had representation

For the uncontested Unlawful Detainer cases, a Writ of Restitution was issued for 17 of the 25 cases (68%), as follows:

- a. 14 cases (56%) in which the plaintiff had representation, but the defendant did not
- b. 3 cases (12%) in which neither party had representation
- c. 0 cases in which both parties had representation

In total, for the 50 cases in the sample, 35 (70%) had a Writ of Restitution issued. Of those 35, in 28 cases the Plaintiff was represented by an attorney, but the Defendant was not (see Table 1).

¹¹ If the finding of the court is in favor of the plaintiff, judgment may be entered for restitution of the premises. In cases where there is an unlawful detainer because of non-payment of rent and the lease has not expired, the tenant has 5 days to pay the amount of the judgment and costs and be restored to tenancy. If payment is not made within 5 days, the judgment may be enforced for full payment and restoration of the premises. In all other cases, the judgment may be enforced immediately.

Table 1. Proportion of Eviction Cases with Legal Representation

	With Representation			Without Representation
	Plaintiff & Defendant	Plaintiff only	Defendant only	(Neither Plaintiff Nor Defendant)
Uncontested—25 cases	1 (<1%)	18 (72%)	1 (<1%)	5 (2%)
Contested—25 cases	1 (<1%)	21 (84%)	0	3 (12%)
Total sample—50 cases	2 (4%)	39 (78%)	1 (2%)	8 (16%)
Writ of Restitution Issued (% of total sample of 50)	1 (2%)	28 (56%)	0	6 (12%)

Pilot outcomes

Number of days between filing unlawful detainer and resolution

Forty-eight of the 50 cases in the sample included both the date the unlawful detainer was filed and the date it was resolved. Of those 48, 13 (26%) were resolved the same day they were filed. Number of days between filing and resolution ranged from 0 to 153. The median number of days was 13.5.

What happened to cases without a Writ of Restitution?

Of the 15 cases without a Writ of Restitution, 11 were dismissed without trial, 1 was closed

by order (post-hearing), 2 had default judgments, and 1 case was still pending.

For the 35 cases *with* a Writ of Restitution, 1 was dismissed without prejudice, 21 were closed by order (post-hearing), 12 had default judgments, and the parties settled in 1 case.

Which cases had representation?

Table 2 presents the outcomes of cases in the pilot study in Pierce County based on whether the plaintiff and defendant had legal representation.

Table 2. Outcomes of Eviction Cases Based on Legal Representation

	Dismissed w/o trial	Closed by order (post-hearing)	Default judgments	Parties settled	Pending	Total
Plaintiff Represented	9	18	12	1	1	41
Plaintiff not Represented	3	4	2	0	0	9
Total Cases						50
Defendant Represented	1	1	0	1	0	3
Defendant not Represented	11	21	14	0	1	47
Total Cases						50

What was the result of the Sheriff's Return of Writ?

Of the 37 cases for which a Sheriff's Return of Writ document was included in the database, in 12 cases the writ expired, in 12 cases the defendant moved, in 9 cases tenants were "ousted and ejected," 2 cases were "peaceful possession," 1 case noted "attorney for plaintiff request, and 1 case noted "return per attorney unsatisfied."

Legal services environment

Pierce County, Northwest Justice Project Tacoma office is the primary provider of representation for clients in housing problems including evictions in Tacoma. Other providers include the Tacoma-Pierce County Bar Association's Volunteer Program (which can sometimes refer to a private attorney). Some tenants with low income do get an attorney for eviction, but stakeholder interviews indicated "that is exceedingly rare."

The primary access for low-income people is the NJP/CLEAR statewide toll-free hotline of NJP. NJP/CLEAR is a referral source for the NJP office and the Bar Association. Resources are limited, so most resources are focused on federally subsidized tenants with

a right to remain, and mobile home tenants—all of whom have a right to remain because they have a yearly lease that renews automatically. These cases are more likely to be represented because they have some long-term right to remain. They do not handle many cases where the effect of representing them would be to keep them there just until the next month.

Pro se (do-it-yourself) assistance is available from the NJP/CLEAR Web site (includes forms that may be needed), the Attorney General's Web site, and the Tenants' Union Web site.

Twice as many cases are resolved as end up in court. Any eligible low-income person with a residential landlord-tenant problem can get help from attorneys on the phone; if they need someone in person, they are referred to Tacoma-Pierce County Bar Association, Legal Services Program. They also get referrals from the general public. People have been referred from other agencies. The City of Tacoma also has a service that provides legal help/advice.

Local and state context

The perception is that there are a substantial number of cases in which the tenant has defenses procedural in nature that could set it aside—a month or two—or a chance to change their conduct, but no representation is available to make that arrangement.

Even with their highest priority cases, sometimes NJP has to close intake. When that happens, there are cases where mobile homes and subsidized tenants are evicted without representation.

The model presupposes that supply is small compared to demand, so they use their criteria: merit, impact, language/disability barriers. A significant number of moderate income people are renting, and there is no legal assistance for moderate income people unless they pay for it.

State housing laws, Chapters 59.12 and 59.13 RCW, are available at <http://apps.leg.wa.gov/rcw>

Ft. Lewis is in the area, and many people there move in and out. Pierce County demographics are the most diverse in Washington. The poverty level is fairly high, and the county has a high level of recent immigrants (Hispanic/Latino population) and a large Asian population (Korean).

Cost Elements

The second component of the pilot study was an analysis project to map the costs to society of long-term outcomes in the logic model developed in during the design phase of this work. The purpose of the cost analysis is to establish the likely costs to society for the outcomes that the civil right to counsel is expected to help avoid (e.g., create an estimate of how much it costs to house someone in a shelter) to make the case that all of the outcomes of interest have costs to society. This component of the pilot study helps develop the argument that the next step in building the research base is to link attorney representation to outcomes and cost savings through

measuring actual outcomes for actual individuals and to assign costs to those (i.e., for the larger study). In this portion of the pilot study, NPC staff utilized existing research, publications, and experts to establish proxy costs of outcomes in the logic model.¹²

For many of the administrative data items listed below (and a few of the related costs) it is necessary to wait until the larger study to acquire the data. These data elements rely on examination of a sample of participants receiving legal assistance and a sample of participants who do not receive legal assistance. These samples (ideally established through a randomized design) need to be determined before any data can be collected. For several other data elements, the administrative or cost data required need to come from a survey of the sample participants. Also, administrative data coming from some county and state agencies will require a data-sharing agreement or Memorandum of Understanding (MOU), which often takes several months to acquire. For example, acquiring the unemployment assistance payments found in databases of the Pennsylvania Department of Labor and Industry and the Washington Department of Employment Security will require separate data-sharing agreements with both agencies. These agencies will also require a list of sample participants, which cannot be generated until the full site evaluation is underway. Finally, because the larger study will aim to collect information on individuals across a variety of outcomes (some of which cover confidential, sensitive, or protected data), NPC Research will need to submit its measures and research methods to an Institutional Review Board (IRB), an independent panel of researchers

¹² Because Britain provides more access to legal services to defendants in civil cases and there has been some research done on the provision of civil legal services there, the Advisory Committee suggested NPC look for research on costs in Britain. Unfortunately, none of the research was specific to evictions cases and little was found on directly relatable outcome costs.

that ensures studies involving human subjects adequately protect their privacy and rights. IRBs are time consuming processes, so this formal review will not occur until the larger study is ready for implementation.

The cost elements below are divided into investment costs and outcome costs. Investment costs are costs of eviction filings, eviction cases, and legal aid. The outcome costs listed below are either taxpayer costs (costs that accrue to federal, state, or local taxpayers), client costs (costs that accrue to the person receiving or not receiving legal assistance), or societal costs (costs that accrue to society as a whole, which are typically viewed as externalities by most cost analyses). Some of the short-term outcomes have causal links to longer term outcomes. For example, eviction may lead to homelessness, which often leads to poor health, more hospitalizations, and substance abuse.

The costs associated with eviction are particularly borne by the taxpayer because in many settings evictions are largely visited upon the poor and disadvantaged. A New York study found that half the cases of eviction involved individuals making less than \$10,000 per year and that 86% were non-White. A Philadelphia study found that 83% of eviction cases involved non-Whites (predominantly African American) and 70% were non-White women. Eviction places many individuals with little means of support out of their home and places increased demands on taxpayer services.

LEGAL ASSISTANCE INVESTMENT COSTS

Eviction Filing Costs

Eviction filings are a potential cost and a potential benefit to taxpayers. To determine the investment cost/benefit of eviction filings, NPC will multiply the number of eviction filings by the cost of processing each eviction filing. NPC will obtain the cost (e.g., staff time) per eviction filing (using TICA

methodology¹³) from the Philadelphia Municipal Court and the Pierce County Superior Court and Municipal Court, as well as the eviction filing fees at each site. The number of eviction filings in each site will be obtained from the Philadelphia Municipal Court's landlord-tenant database and the Pierce County Superior Court and Municipal Court's administrative databases.

Eviction Case Costs

Eviction cases are a potential cost to taxpayers. To determine the investment cost of eviction cases, NPC will multiply the number of eviction cases by the cost per eviction case. NPC will obtain the cost (judge and court staff time, etc.) per eviction case (using TICA methodology) from the Philadelphia Municipal Court and the Pierce County Superior Court and Municipal Court. The number of eviction cases in each site will be obtained from the Philadelphia Municipal Court's landlord-tenant database and the Pierce County Superior Court and Municipal Court's administrative databases.

Legal Assistance Costs

Legal assistance is a potential cost to taxpayers. To determine the investment cost of legal assistance, NPC will multiply the number of legal assistance attorney hours by the average hourly rate of legal assistance. NPC found an average legal assistance rate of \$45.00-\$65.00 per hour in Philadelphia, and the average hourly rate in Tacoma of \$90.00 per hour. The hourly rate of legal assistance takes into account all funding sources for the legal assistance agency. The number of legal assistance attorney hours in each site will be determined by multiplying the average number of legal assistance hours per eviction case (obtained from survey data filled out by attorneys providing legal assistance) by the number of eviction cases (obtained from administrative data found in databases of the

¹³ For additional information about the TICA model (Transactional and Institutional Cost Analysis) used by NPC Research, please see Appendix C.

Philadelphia Municipal Court and the Pierce County Superior Court and Municipal Court).

Landlord Filing Fee and Attorney Costs

Eviction filing fees and attorney costs are a cost to landlords. Landlords pay the eviction filing fee and most landlords already have representation (78% of a sample of 50 cases in Tacoma). Two studies in New York (Seron, Van Ryzin, & Frankel [2001], page 421, and Scherer, page 3) found 78% and 97% of landlords already had legal representation for evictions. It is possible that changed patterns of tenant representation may change landlord behavior and therefore impact costs.

HOUSING/SHELTER COSTS

Shelter Cost

Shelter is a cost to taxpayers. To determine the outcome cost of shelter, NPC will multiply the number of days in shelter by the cost per day of shelter. NPC found an average cost of \$52.06 per day for supportive housing in Philadelphia, and an average cost of \$41.94 per day in Tacoma. The number of actual shelter days in each site will be obtained from administrative data (likely from survey data filled out by clients receiving legal assistance).

Homelessness Costs

There is a clear connection between eviction and subsequent homelessness. A summary of studies in Europe revealed that between 12 and 17% of homeless people were homeless as a result of eviction. The same studies found that age played an important role, with 71% of evicted homeless individuals being over 50. Studies in the U.S. also indicate the link between eviction and homelessness. Burt (2001) found in a national sample that 6% of homeless individuals accessing homeless services said they were homeless because their landlord made them leave, and an additional 15% said that they were unable to pay their rent. A study of people in shelters in Ohio found that 35.4% of families and 11.4%

of single adults indicated eviction contributed to their homelessness, and a report from New York City's homeless services indicated that 17% of families became homeless as a direct result of eviction.

Homelessness produces significant costs, particularly in services provided by taxpayer-funded agencies. Many of these are covered in other sections including shelter costs, food banks, emergency room visits, 911 calls and ambulance rides, as well as a higher likelihood of the need for substance abuse treatment services and criminal justice costs. A study in the Seattle area found that on average it costs the taxpayers about \$4,066 per month per homeless individual. The Seattle area study found costs offsets 53% better for a similar group that remained in housing. NPC was not able to find a similar comprehensive cost analysis for homelessness in the Philadelphia area. In the larger study, NPC will conduct its own assessment of these costs in the chosen site areas, which will largely be a combination of the shelter, medical, food stamps, other public services, criminal justice and substance abuse costs.

Relocation Costs

Relocation is a client cost. To determine the outcome cost of relocation, NPC will multiply the number of relocations by the cost per relocation. NPC used a proxy of \$1,000.00 per relocation. This proxy is based on a California law that requires \$1,000.00 in relocation costs for no-fault evictions, including first and last month's rent and damage deposit, as well as minimal moving costs. Also, in Washington, a tenant whose rental home is condemned is awarded \$1,000.00 for relocation. The number of actual relocations will be obtained from administrative data (likely from survey data filled out by clients receiving legal assistance).

Loss of Possessions

Oftentimes during a sheriff eviction, the evictee's personal belongings are placed in the nearest public space (on the curb, etc.). If the

evictee is not present, these belongings can legally be picked up by anyone. The loss of personal possessions during a sheriff eviction is a client cost. NPC attempted to find a proxy cost of personal possessions but found nothing online or in a search of state civil codes for the reimbursement of possessions. Due to the difficulty of estimating the value of personal possessions (the range is potentially infinite), the loss of personal possessions was not included in the cost analysis.

HEALTH COSTS

Hospital Utilization

Hospital utilization for evicted individuals is a significant cost to the health care system because these individuals are more likely not to have health insurance and are more likely to use emergency services when they become ill. A national study of the uninsured, using a national database, found that nearly one-fifth of all emergency room visits come from the uninsured. Costs associated with these visits include 911 calls, ambulance costs, emergency room costs and taxpayer funded public programs that address these needs. NPC has determined that an ambulance ride averages about \$600 per ride and an additional \$750 if life support services are used.

Substance Use and Treatment

Substance use is a cost to both clients and society. Treatment is a taxpayer cost. Studies estimate that one-third of homeless people have serious addiction problems. NPC intends to track the substance abuse referrals and episodes of taxpayer-funded substance abuse treatment at the site as well as estimating the consequences and cost of substance abuse at the site location for our sample of evicted subjects.

EMPLOYMENT/PRODUCTIVITY COSTS

Lost Work/Wages

Lost work/wages are a cost to clients. To determine the outcome cost of lost work/wages, NPC will calculate the total amount of wag-

es. The total dollar amount of wages in each site will be obtained from administrative data found in databases of the Pennsylvania Department of Labor and Industry and the Washington Department of Employment Security.

Unemployment Assistance

Unemployment assistance is a cost to taxpayers. To determine the outcome cost of unemployment assistance, NPC will calculate the total amount of unemployment assistance payments. The total dollar amount of unemployment assistance payments in each site will be obtained from administrative data found in databases of the Pennsylvania Department of Labor and Industry and the Washington Department of Employment Security.

Public Assistance Costs

Public assistance (TANF, etc.) is a cost to taxpayers. To determine the outcome cost of public assistance, NPC will calculate the total amount of public assistance payments. The total dollar amount of public assistance payments in each site will be obtained from administrative data found in databases of the Pennsylvania Department of Public Welfare and the Washington State Department of Social and Health Services.

CHILD COSTS

Child Welfare/Foster Care

Child welfare/foster care is a cost to taxpayers. To determine the outcome cost of child welfare/foster care, NPC will multiply the number of child welfare cases by the cost per child welfare case, or will multiply the number of foster care days by the cost per day of foster care. The number of child welfare cases (or the number of foster care days) in each site will be obtained from administrative data found in databases of the Pennsylvania Child Welfare Services, and the Washington State Department of Social and Health Services—Children’s Administration. NPC will also obtain the cost per child welfare case and

cost per day of foster care from these agencies. If costs are unavailable, NPC will use a proxy of \$24.75 per day of foster care for Philadelphia (from a foster care study NPC completed in Maryland), and a proxy of \$40.78 per day of child welfare for Tacoma (from a child welfare study NPC completed in Oregon).

School Disruptions

School disruptions are a cost to clients and society. NPC completed an extensive online search for the costs of school disruptions. School disruptions are hard to quantify and problematic in linking directly to the evictions of the clients in our sample, but evicted or homeless children definitely face barriers to education. The hardships include being unable to meet enrollment requirements (providing proof of residency and legal guardianship, and school and health records); high residential mobility resulting in lack of school stability and educational continuity; lack of transportation; lack of school supplies and clothing; and poor health, fatigue, and hunger. When these barriers are not addressed, homeless children are often unable to attend, or even enroll in, school, which prevents them from obtaining an education. The Friedman Foundation for Educational Choice and the Maryland Public Policy Institute found that on average, working-age dropouts earn nearly \$10,000 less a year than high school graduates. Dropouts can expect to earn \$150,000 less in their lifetimes than high school graduates. A Maryland high school dropout costs the state approximately \$1,555 a year in lost revenue, with total lifetime costs of \$35,180. Nationwide, the average annual income for a high school dropout in 2005 was \$17,299, compared to \$26,933 for a high school graduate, a difference of \$9,634 (U.S. Bureau of the Census, 2006). High school graduates, on the other hand, provide both economic and social benefits to society. In addition to earning higher wages, which results in benefits to local, state, and national economic conditions, high school

graduates live longer (Muennig, 2005), are less likely to be teen parents (Haveman, Wolfe, & Wilson, 2001), and are more likely to raise healthier, better-educated children. In fact, children of parents who graduate from high school are themselves far more likely to graduate from high school than are children of parents without a high school degree (Wolfe & Haveman, 2002). High school graduates are also less likely to commit crimes (Raphael, 2004), rely on government health care (Muennig, 2005), or use other public services such as food stamps or housing assistance (Garfinkel, Kelly, & Waldfogel, 2005). Additionally, high school graduates engage in civic activity, including voting and volunteering in their communities, at higher levels (Junn, 2005). The McKinney–Vento Homeless Assistance Act, Title X, Part C, of the No Child Left Behind Act of 2001 requires that states ensure that homeless children have access to a free, appropriate public education and that school districts provide child homelessness data to the federal government. The McKinney-Vento school data have various limitations. Although all school districts are required to identify homeless children who are enrolled there, continued lack of awareness of homelessness and its definition among school personnel leads to underreporting in many school districts. Twenty-three percent of local education agencies did not submit data for their State Report Cards and the most recent data available for the Report Card was from the 2005–2006 school year. For this cost analysis, NPC was not able to obtain a proxy cost of school disruption. However, we will use a proxy of \$10,000 in reduced yearly earnings for each child that drops out of school. NPC will also use an estimated yearly per pupil cost of \$10,540 for the cost of Tacoma school dropouts (from the Tacoma Public Schools Web site) and an estimated \$11,078 per pupil for Philadelphia school drop-outs (from the Pennsylvania Department of Education).

CIVIL LEGAL SYSTEM COSTS

Reduced Eviction Caseload

Eviction cases are a cost to taxpayers and to clients. A reduced number of evictions cases for people getting legal aid after the eviction filing can be seen both as a reduction in investment cost and as an outcome “opportunity resource” savings. The concept of opportunity cost suggests that system resources are available to be used in other contexts if they are not spent on a particular transaction. The term opportunity resource describes these resources that are now available for different use. For example, if legal aid reduces the number of eviction cases heard in court, the local court may see no change in its budget, but an opportunity resource will be available to the court in the form of another case that can now be heard, that, perhaps, possesses more serious public safety implications than does the eviction case. To determine the outcome cost of a reduced evictions caseload, NPC will multiply the number of eviction cases by the cost per eviction case. NPC will use the TICA methodology to determine the cost of an evictions case (using cost information from the Philadelphia Municipal Court and the Pierce County Superior Court and Municipal Court). The number of eviction cases will be obtained from administrative data found in databases of the Philadelphia Municipal Court and the Pierce County Superior Court and Municipal Court.

More Efficient Court

A more efficient court would be a benefit to taxpayers. To determine the outcome benefit of a more efficient court, NPC will multiply the percentage difference in the length of a typical eviction case by the cost per eviction case. Again, a more efficient court can also be seen as an outcome opportunity resource savings in that the court will then be able to focus on more serious cases. NPC will use the TICA methodology to determine the cost of an evictions case (using cost information from the Philadelphia Municipal Court and

the Pierce County Superior Court and Municipal Court). The number and length of eviction cases will be obtained from administrative data found in databases of the Philadelphia Municipal Court and the Pierce County Superior Court and Municipal Court.

Judgments

Judgments are a cost to clients and landlords. To determine the outcome cost of judgments, NPC will calculate the total dollar amount of judgments to clients and to landlords. The total dollar amount of judgments in each site will be obtained from administrative data found in databases of the Philadelphia Municipal Court and the Pierce County Superior Court and Municipal Court.

Eviction Orders

Sheriff eviction orders are a cost to taxpayers. To determine the outcome cost of eviction orders, NPC will multiply the number of eviction orders by the cost per eviction order. NPC will obtain the cost per eviction order (using TICA methodology) from the Philadelphia Sheriff’s Office and the Pierce County Sheriff’s Department. The number of eviction orders in each site will be obtained from administrative data found in databases of the Philadelphia Sheriff’s Office and the Pierce County Sheriff’s Department, or from administrative data found in databases of the Philadelphia Municipal Court and the Pierce County Superior Court and Municipal Court.

CRIMINAL JUSTICE SYSTEM COSTS

Arrests

Arrests are a cost to taxpayers. To determine the outcome cost of arrests, NPC will multiply the number of arrests by the cost per arrest. Based on cost evaluations throughout the U.S., NPC found an average cost of \$199.90 per arrest. The number of arrests in each site will be obtained from administrative data found in state criminal justice databases, law enforcement databases, or court databases.

Jail

Jail is a cost to taxpayers. To determine the outcome cost of jail, NPC will multiply the number of jail days by the cost per day of jail. NPC found a cost of \$95.72 per day for jail in Philadelphia, and a cost of \$104.87 per day in Tacoma. The number of jail days in each site will be obtained from administrative data found in sheriff databases or court databases.

Court Cases

Court cases are a cost to taxpayers. To determine the outcome cost of court cases, NPC will multiply the number of court cases by the cost per court case. Based on cost evaluations throughout the U.S., NPC found an average cost of \$2,285.38 per court case. The number of court cases in each site will be obtained from administrative data found in court databases.

Probation

Probation is a cost to taxpayers. To determine the outcome cost of probation, NPC will multiply the number of probation days by the cost per day of probation. NPC found a cost of \$1.23 per day for probation in Philadelphia, and a cost of \$1.82 per day in Tacoma. The number of probation days in each site will be obtained from administrative data found in probation databases or court databases.

Prison

Prison is a cost to taxpayers. To determine the outcome cost of prison, NPC will multiply the number of prison days by the cost per day of prison. NPC found a cost of \$91.06 per day for prison in Philadelphia, and a cost of \$89.22 per day in Tacoma. The number of prison days in each site will be obtained from administrative data found in state corrections databases or court databases.

Crime Victimization

Crime victimization is a cost to society. To determine the outcome cost of crime victimi-

zation, NPC will multiply the number of times a person in our study is a victim of a crime (or perpetrates a crime) by the cost per victimization. NPC will use a proxy victimization cost based on a conservative percentage of the victimization costs found in the National Institute of Justice's 1996 report titled "The Extent and Costs of Crime Victimization: A New Look." The number of crime victimizations in each site will be obtained from administrative data (likely from survey data filled out by clients receiving legal assistance) or from administrative data found in databases of the Philadelphia Municipal Court and the Pierce County Superior Court and Municipal Court.

Implications of Pilot Study Findings on the Larger Study

This pilot study provided very useful information that will inform the design and methods of the larger study. Lessons learned from the current work include:

1. Summary data do not exist in all civil courts. Additionally, full court records are not publicly available in all courts. Plan enough time in the timeline and in staff hours to obtain needed access to court records and select a sample to identify the actual variables that are recorded and the manner in which they are recorded, in each study site.
2. We will need to conduct a prospective study in the study site courts so that the study covers the time period during which it is more likely that lawyers can have a positive impact on landlord-tenant/eviction cases. For instance, Philadelphia recently enacted new legislation providing additional rights and supports to tenants. In addition, the U. S. Department of Justice's Access to Justice Program seeks to enhance the quality of indigent defense counsel, and to promote self-help measures and civil legal representation in civil cases. These and other initiatives in the U. S. indicate that the re-

searchers need to be aware of changes that are occurring that could affect the impact that lawyers can have on this type of case.

3. The pilot study helped the researchers and Advisory Board determine that the larger study will look at short-term case outcomes and some long-term outcomes, particularly those for which we have been able to establish a theoretical link to costs. However, the larger study may in actuality need to be multiple studies, to gather data on all outcomes of interest to various stakeholders.
4. A thorough process evaluation needs to be conducted in each study site. Because of the initiatives described in #2 above, the researchers will need to stay on top of recent and upcoming developments in the civil law arena that may impact the context, prevalence, and outcomes of eviction cases in the study sites. In addition, because the contexts are so different location to location, the researchers will need to know the legal context in each site to be able to make accurate interpretations of the outcome study results.
5. We should retain the personal interview/survey component of the larger study to ensure that information about whether displacement actually occurred is collected and used as part of the analyses.
6. We should focus on the cost component of the larger study as that will be the greatest contribution to the field and literature. Though the larger study should measure outcomes and other factors/facets of the cases as feasible, the cost study should be the primary focus.
7. The pilot study looked at existing cases and the larger study will look at these cases as well as some that have not to date been served (in most jurisdictions there are decision rules and criteria for identifying the cases that have the great-

est merit or greatest chance of the lawyer's support having a positive impact). So the larger study sample might look different than the small samples we took in the pilot study. Some of the costs that were proposed for the pilot study may not be useful for the larger study, because they were difficult to measure or find proxies for, or difficult to connect to the logic model, once they were operationalized. This realization was a beneficial outcome of conducting the pilot study before proposing a larger study. It helped move the project forward to work through the process of estimating costs and discussing the true theoretical and practical connections of the variables in the logic model with the Advisory Board.

8. If feasible in the larger study, build in time to observe court proceedings or listen to recordings of the proceedings to code the steps in the process where lawyers are or can be assisting clients within the court setting (such as whether the judge requires the landlord to make the case, whether the tenant has the opportunity to make a statement or provide a defense, etc.). In addition, build in time to shadow attorneys to observe and code the activities that they participate in that assists clients outside of the courtroom (e.g., interviewing clients and doing other factual investigation, negotiating with landlords).

Next steps in this work will include the development of a concept paper reflecting the revised larger study design concept, lessons learned, and data obtained in the pilot study. The study team will then work to identify prospective funders with an interest in this area, to secure resources to conduct the larger study envisioned and described in the original design report and refined in this study.

REFERENCES

- Culhane, D. (2008). *The 2008 Annual Homelessness Assessment Report to Congress*. U.S. Department of Housing and Urban Development.
- Eldridge, D. (2001). *The Making of a Courtroom: Landlord-Tenant trials in Philadelphia's Municipal Court. A Dissertation in Social Welfare*. University of Pennsylvania. UMI Number: 3031659.
- Elwart, L., Emerson, N., Enders, C., Fumia, D., & Murphy, K. (2006). *Increasing access to restraining orders for low-income victims of domestic violence: a cost-benefit analysis of the proposed domestic abuse grant program, report prepared for the State Bar Association of Wisconsin*.
- Engler, R. (2010, February). *Connecting self-representation to Civil Gideon: What existing data reveal about when counsel is most needed*. (2008 ABA Section of Litigation Access to Justice Symposium), Fordham Urban Law Journal.
- Feelhaver, R., & Deichert, J. A. (2008, March). *The Economic Impact of Legal Aid of Nebraska 2007*. Report prepared by Legal Aid of Nebraska and the University of Nebraska at Omaha Center for Public Affairs Research.
- Garfinkel, I., Kelly, B., & Waldfogel, J. (2005, October). Public assistance programs: How much could be saved with improved education? Paper prepared for the symposium on the Social Costs of Inadequate Education, Teachers College Columbia University.
- Haveman, R., Wolfe, B., & Wilson, K. (2001). "Childhood events and circumstances influencing high school completion." *Demography*, 28(1).
- Houseman, A. W. (2007). *Civil legal aid in the United States: An update for 2007*. Report prepared by the Center for Law and Social Policy.
- Judicial Council of California (2005). *Model self-help pilot program*. A report to the legislature submitted in March 2005.
- Junn, J. (2005). *The political costs of unequal education*. Paper prepared for the symposium on the Social Costs of Inadequate Education, Teachers College Columbia University, October 2005.
- Kelso, T. K., Deichert, J. A., & Feelhaver, R. (2004). *The Economic Impact of Legal Aid of Nebraska*. Report prepared by the University of Nebraska at Omaha Center for Public Affairs Research.
- Legal Services Corporation (2007). *Documenting the justice gap in America: The current unmet civil needs of low-income Americans*.
- Massachusetts Legal Assistance Corporation (2007). *Cost savings to the Commonwealth resulting from legal assistance provided to low-income clients*, Memo from Lonnie Powers, Executive Director.
- Minnesota State Bar Association (2003). "With liberty and justice for all" *Legal Aid: essential to the justice system*. Fact sheet produced by MSBA.

- Muennig, P. (2005, October). *Health returns to education interventions*. Paper prepared for the symposium on the Social Costs of Inadequate Education, Teachers College Columbia University.
- New Hampshire Legal Assistance (2006). Civil legal services and the “working poor” pilot project. Report produced pursuant to 2005 Session Laws Chapter 177:157.
- New York Housing Task Force (1993). Housing court, evictions and homelessness: The costs and benefits of establishing a right to counsel. Report published by the Community Training and Resource Center and City-wide Task Force on Housing Court Inc.
- Philadelphia Bar Association Chancellor’s Task Force on Civil Gideon Preliminary Report: Findings and Recommendations. November 9, 2009.
- Pinderhughes, E. E., Nix, R., Foster, E. M., & Jones, D. (2001). Parenting in context: Impact of neighborhood poverty, residential stability, public services, social networks, and danger on parental behaviors, *Journal of Marriage and the Family*, 63(4), 941–953.
- Raphael, S. (2004). *The socioeconomic status of black males: The increasing importance of incarceration*. Goldman School of Public Policy, University of California, Berkeley.
- Sampson, R. J., Morenoff, J. D., & Gannon-Rowley, T. (2002). Assessing “neighborhood effects”: Social processes and new directions in research, *Annual Review of Sociology*, 28, 443–478.
- Sandefur, R. (2010, forthcoming). *The impact of counsel*. Seattle Journal of Social Justice.
- Scherer, A. (2006, January). *Why people who face losing their homes in legal proceedings must have a right to counsel*. Paper prepared for the symposium on The New York City Housing Court in the 21st Century: Can It Better Address the Problems before It?
- Seron, C., Van Ryzin, G., & Frankel, M. (2001). The impact of legal counsel on outcomes for poor tenants in New York City’s Housing Court: Results of a randomized experiment, *Law & Society Review*, 35(2), 419–433.
- The Perryman Group (2009). The impact of legal aid services on economic activity in Texas: An analysis of current efforts and expansion potential. Report prepared for the Texas Access to Justice Commission.
- U.S. Bureau of the Census. (2006). *Income in 2005 by educational attainment of the population 18 years and over*. Table 8. Washington, DC: U.S. Government Printing Office. Retrieved from <http://www.census.gov/population/www/socdemo/education/cps2006.html>
- United States General Accountability Office (2005). Adult Drug Courts: Evidence Indicates Recidivism Reductions and Mixed Results for Other Outcomes. Washington, DC: GAO.
- Weden, M. M., Carpiano, R. M., & Robert, S. A. (2008). Subjective and objective neighborhood characteristics and adult health, *Social Science & Medicine*, 66, 1256–1270.
- Wolfe, B. L., & Haveman, R. H. (2002, June). *Social and non-market benefits from education in an advanced economy*. Paper prepared for Conference Series 47, Education in the 21st Century: Meeting the Challenges of a Changing World, Federal Reserve Bank of Boston.

**APPENDIX A: CIVIL RIGHT TO COUNSEL SOCIAL SCIENCE
ADVISORY BOARD**

Civil Right to Counsel Social Science Advisory Board

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APPENDIX B: DEFINITIONS

Definitions

*Eviction*¹⁴

The action by a landlord to remove a tenant from a rental unit is known as an eviction or an "unlawful detainer." Some local housing codes define "just cause" for an eviction and outline procedures that must be followed.

In an eviction based on nonpayment of rent, a tenant may assert any claim for money owed the tenant by the landlord. The tenant's claim (sometimes known as an equitable defense or setoff) must be related to the tenancy, such as the tenant's payment of a gas bill that was the landlord's responsibility under the rental agreement. In eviction actions strict rules and procedures must be observed. Generally, a legal eviction process involves:

- Proper notice. Before evicting a tenant, the landlord must serve the required eviction notices using proper procedures.
- Filing of a lawsuit. If the tenant fails to move out, a lawsuit must be filed to evict the tenant.
- Entitlement to a court hearing. If the tenant disputes the reasons for the eviction, the tenant is entitled to a court hearing.
- Sheriff's involvement. If the tenant loses the court hearing, the sheriff would then be ordered to physically evict a tenant and remove the property in the unit. Only the sheriff, not the landlord, can physically remove a tenant who does not comply with an eviction notice and only after an unlawful detainer lawsuit has been filed.
- Liability for attorneys' fees. In an eviction dispute, the successful party is entitled to recoup costs and attorney fees.

Washington State law reads:

RCW 59.18.390

FORCIBLE ENTRY OR DETAINER OR UNLAWFUL DETAINER ACTIONS — WRIT OF RESTITUTION — SERVICE — DEFENDANT'S BOND.

(1) The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the defendant, his or her agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter, and the defendant, or person in possession of the premises **within three days after the service of the writ of restitution** may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of the court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of the premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. The plaintiff, his or her agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon the bond before the bond shall be approved by the clerk. After the issuance of a writ of restitution, acceptance of a payment by the landlord or plaintiff that only partially satis-

¹⁴ From <http://www.wsba.org/media/publications/pamphlets/landlord-tenant.htm>, gathered March 11, 2010

fies the judgment will not invalidate the writ unless pursuant to a written agreement executed by both parties. The eviction will not be postponed or stopped unless a copy of that written agreement is provided to the sheriff. It is the responsibility of the tenant or defendant to ensure a copy of the agreement is provided to the sheriff. Upon receipt of the agreement the sheriff will cease action unless ordered to do otherwise by the court. The writ of restitution and the notice that accompanies the writ of restitution required under RCW [59.18.312](#) shall conspicuously state in bold face type, all capitals, not less than 12 points information about partial payments as set forth in subsection (2) of this section. If the writ of restitution has been based upon a finding by the court that the tenant, subtenant, sublessee, or a person residing at the rental premises has engaged in drug-related activity or has allowed any other person to engage in drug-related activity at those premises with his or her knowledge or approval, neither the tenant, the defendant, nor a person in possession of the premises shall be entitled to post a bond in order to retain possession of the premises. The writ may be served by the sheriff, in the event he or she shall be unable to find the defendant, an agent or attorney, or a person in possession of the premises, by affixing a copy of the writ in a conspicuous place upon the premises: PROVIDED, That the sheriff shall not require any bond for the service or execution of the writ. The sheriff shall be immune from all civil liability for serving and enforcing writs of restitution unless the sheriff is grossly negligent in carrying out his or her duty.

(2) The notice accompanying a writ of restitution required under RCW [59.18.312](#) shall be substantially similar to the following:

Important notice - partial payments

Your landlord's acceptance of a partial payment from you after service of this writ of restitution will not automatically postpone or stop your eviction. If you have a written agreement with your landlord that the eviction will be postponed or stopped, it is your responsibility to provide a copy of the agreement to the sheriff. The sheriff will not cease action unless you provide a copy of the agreement. At the direction of the court the sheriff may take further action.

RCW 59.18.410¹⁵

**FORCIBLE ENTRY OR DETAINER OR UNLAWFUL DETAINER ACTIONS — WRIT OF RESTITUTION
— JUDGMENT — EXECUTION.**

If upon the trial the verdict of the jury or, if the case be tried without a jury, the finding of the court be in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises; and if the proceeding be for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement or tenancy. The jury, or the court, if the proceedings be tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and, if the alleged unlawful detainer be after default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the defendant guilty of the forcible entry, forcible detainer or unlawful detainer for the amount of damages thus assessed and for the rent, if any, found due, and the court may award statutory costs and reasonable attorney's fees. When the proceeding is for an unlawful detainer after default in the payment of rent, and the lease or agreement under which the rent is payable has not by its terms expired, **execution upon the judgment**

¹⁵ From <http://apps.leg.wa.gov/RCW/default.aspx?cite=59.18.410>, gathered March 4, 2010

shall not be issued until the expiration of five days after the entry of the judgment, within which time the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court for the landlord the amount of the judgment and costs, and thereupon the judgment shall be satisfied and the tenant restored to his tenancy; but if payment, as herein provided, be not made within five days the judgment may be enforced for its full amount and for the possession of the premises. In all other cases the judgment may be enforced immediately. If writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required.

Judgment with Writ of Restitution¹⁶

When a Judgment and Order for Writ of Restitution (JOWR) is served on a defendant or posted at the premises, the Pierce County Sheriff's Department must wait 3 business days (not including the day of posting) before physically evicting the tenant. On the morning of the 4th day, the landlord or landlord's attorney determines whether the tenant has moved and notifies the Sheriff's civil office. If the tenant has moved, and at the request of the landlord/attorney, the writ is returned to the court. If the tenant has not moved, the landlord/attorney will contact the assigned deputy, who schedules a time and date for a physical eviction. If the Sheriff's civil office is not notified of the tenant's status after the 3-day waiting period, the Sheriff's Department takes no further action on the Writ of Restitution.

The law requires the eviction to be completed within 10 calendar days of issuance of the writ (unless the landlord/attorney obtains an extension or the writ is for an eviction not covered by the landlord/tenant act).

Unlawful Detainer-Contested¹⁷

A landlord cannot evict a tenant sooner than the allowable number of dates after the notice is served: 3-day notice to pay rent or quit or 10-day notice to comply with terms of the lease other than payment of rent. A tenant who is being threatened with eviction and does not think there is a basis for that eviction, may contest it by filing a response to the landlord's unlawful detainer action within the deadline of the complaint. The tenant should provide complete documentation to show why he/she is contesting the unlawful detainer. If the case is not settled between the tenant and the landlord, then the court will make a final judgment following a show cause hearing.

Landlord/Tenant Law: the Show Cause Hearing¹⁸

A large part of landlord/tenant practice involves the unlawful detainer or eviction process, as set forth by RCW 59.12, 59.18, and 59.20. As background, this process commences when the landlord serves one or more statutory notices to the tenant (i.e., 20-day notice to terminate tenancy, 3-day notice to pay rent or vacate, 10-day notice to comply with lease agreement or vacate). If the landlord believes that the tenant has not complied with the notice, the landlord may serve a summons and complaint for unlawful detainer based on noncompliance of the notice in order to regain possession of the dwelling unit.

Many landlords' attorneys serve the complaint on the tenant without first filing it in order to save the costs of the Superior Court filing fee for their client. This practice is also advantageous for the tenant, as an unfiled unlawful detainer action will not become a part of the tenant's credit re-

¹⁶ From "Writ of Restitution," Pierce County Sheriff's Department, February 19, 2009, gathered from <http://www.co.pierce.wa.us/xml/abtus/ourorg/sheriff/civil/Writ%20of%20Restit%20Intake.pdf>

¹⁷ From <http://washingtonlandlordtenant.info/free-eviction-forms/10-day-notice-to-comply-or-vacate> gathered March 4, 2010

¹⁸ From <http://www.wsba.org/media/publications/denovo/archives/sepoct-97-landlord.htm>, gathered March 11, 2010

port. Furthermore, at this point of the eviction process, the landlord and tenant may reach a settlement of their dispute without incurring additional fees and costs. This settlement is usually in the form of a stipulation in which both parties enumerate the terms of the agreement and provide for a pre-arranged remedy if the terms of the stipulation are not duly complied with.

The tenant must answer the original unlawful detainer complaint within the time deadline stated in the complaint in order to prevent a default judgment. The tenant may submit a full written answer or the tenant may satisfy the answer requirement with a notice of appearance. Many times these types of cases will settle without going to court, so it may be more practical and economical to prepare a full answer when potential court time becomes definite. Remember, a timely notice of appearance must still be submitted or the landlord can take a judgment by default.

A complete answer should contain any relevant affirmative defenses, set-offs, and counterclaims that will be before the court. The counterclaims allowed in an unlawful detainer procedure are limited. See RCW 59.18.380 and RCW 59.18.400. This answer should have these documents attached: (1) exhibits; (2) affidavits or declarations of the attorney or the tenant; (3) declarations of service; (4) declaration for attorney fees; (5) any proposed order; and (6) all other relevant documents. A complete answer and attachments helps create a thorough record from which an appeal or motion for revision can be made.

As landlord/tenant attorneys are well aware, many landlords and tenants will be unable to resolve their dispute, inevitably winding up in court for a final judgment on the matter. RCW 59.18.370 provides the statutory basis for the show cause hearing. Here the tenant is required to show cause why the writ of restitution, giving possession of the dwelling unit back to the landlord, should not be granted. The possible outcomes of the show cause hearing are as follows: (1) the entire unlawful detainer action is dismissed; (2) a writ of restitution is not issued at the hearing and a trial date is set to fully decide the matter; (3) a writ of restitution is issued at the hearing and a trial date is set to decide related matters, such as back rent, attorney fees, and court costs; and (4) a writ of restitution is entered and a trial is not granted. Obviously, the landlord hopes the writ of restitution is granted immediately while the tenant hopes to have the case dismissed or to retain possession of the dwelling unit until the trial date.

At the show cause hearing the judge or commissioner will examine the parties in order to ascertain the merits of the complaint and answer. The burden of proof at this hearing is set forth in RCW 59.18.380, but this burden is open to interpretation. The landlord's attorney would argue the landlord should prevail "if it shall appear that the plaintiff has the right to be restored to the property." The tenant's attorney, on the other hand, would argue that the tenant only needs to raise "genuine issue of material fact pertaining to a legal or equitable defense or set-off raised in the defendant's answer" in order to prevent a writ of restitution from being granted and for the case to proceed to trial.

In the event the case is set for trial, unlawful detainer proceedings have priority over all civil trials. It is not always possible, but the trial should be scheduled within 30 days. If a writ of restitution is issued prior to a final judgment at trial, then the landlord may be asked to post a bond to the defendant in an amount commensurate with the costs of the suit and all damages which the defendant may sustain if the writ of restitution was wrongfully issued. See RCW 59.18.380. Furthermore, if the writ of restitution is granted, then the defendant may post a counterbond within three days of the service of the writ and stay the eviction. See RCW 59.18.390. Tenants who have a lease which has not expired can also satisfy the judgment by paying the entire amount to the landlord or into the court registry and continue possession. RCW 59.18.410.

**APPENDIX C: COST EVALUATION METHODOLOGY:
TRANSACTIONAL AND INSTITUTIONAL COST ANALYSIS**

COST EVALUATION METHODOLOGY

COST EVALUATION DESIGN

Transactional and Institutional Cost Analysis

The cost approach utilized by NPC is called Transactional and Institutional Cost Analysis (TICA). The TICA approach views an individual's interaction with publicly funded agencies as a set of *transactions* in which the individual utilizes resources contributed by multiple agencies and jurisdictions. Transactions are those points within a system where resources are consumed and/or change hands. In the case of eviction hearings, for example, when a tenant appears in court, resources such as judge and court clerk time, legal aid time, and court facilities are used. When an evicted tenant has nowhere else to turn and is forced to stay in a shelter, resources such as a shelter bed and food are used. Court appearances and days spent in a shelter are transactions. In addition, the TICA approach recognizes that these transactions often take place within multiple organizations and institutions that work together to create the transaction or program of interest. These organizations and institutions contribute to the cost of each transaction that occurs for an individual. TICA is an appropriate approach to conducting cost assessment in an environment which involves complex interactions among multiple taxpayer-funded organizations.

Cost to the Taxpayer

In order to maximize the study's benefit to policymakers, a "cost-to-taxpayer" approach is included in the evaluation. This focus helps define which cost data are of special interest to policymakers (costs and avoided costs involving public funds) and which cost data affect the individual or society as a whole. The core of the cost-to-taxpayer approach in calculating benefits (avoided costs) for providing legal aid to tenants facing eviction is the fact that eviction often leads to displacement or homelessness, which will cost various tax-dollar funded systems public funds that could be avoided or diminished if the displacement or homelessness were avoided in the first place. Put another way, the question this study seeks to answer is whether providing legal aid for eviction cases better leverages public resources to help avoid future costs to public systems. In this approach, costs that result from evictions and displacement are used in calculating the benefits of providing legal aid to tenants.

Opportunity Resources

NPC's cost approach looks at publicly funded costs as "opportunity resources." The concept of *opportunity cost* from economics relates to the cost of doing an activity instead of doing something else. The term *opportunity resource* as it is applied in TICA describes resources that are now available for a given use because they have not been consumed for an alternative activity. For example, if legal aid to tenants reduces the number of Sheriff evictions, the local Sheriff may see no change in his or her budget, but an opportunity resource will be available to the Sheriff in the form of time that can be spent on patrols or other needed, and possibly more urgent, Sheriff services.

COST EVALUATION METHODS

The costs to the civil court system and other publicly funded agencies (cost-to-taxpayer) incurred by individuals with legal aid are compared with the costs incurred by those who were similar to but did not receive legal aid. In addition, the specific transaction costs are calculated separately in order to determine the per-individual costs.

TICA Methodology

The TICA methodology as applied in this analysis is based upon six distinct steps. Table C1 lists each of these steps and the tasks involved.

Steps 1 through 3 are performed through analysis of court and other agency documents, including review of the court and legal aid process and through interviews with key stakeholders. Step 4 is performed in the outcome evaluation. Step 5 is performed through interviews with court and other agency staff and with agency finance officers. Step 6 involves calculating the cost of each transaction and multiplying this cost by the number of transactions. All the transactional costs for each individual are added to determine the overall cost per individual. This information is generally reported as an average cost per individual. In addition, the TICA approach makes it possible to calculate the cost per individual for each agency.

The cost evaluation utilizes NPC's previously conducted studies and interviews with agency staff and legal aid experts to identify the specific transactions to include in the current study. Cost data were collected through interviews with agency staff and jurisdiction and agency contacts with knowledge of jurisdiction and agency budgets and other financial documents, as well as from budgets either found online or provided by jurisdiction and agency staff.

The investment costs for this study include eviction filings, eviction cases, and legal aid. The outcome costs to taxpayers (civil court system and other publicly funded agencies) and individuals and society as a whole consist of those due to shelter, homelessness, relocation, hospitalization, substance use and treatment, lost wages, unemployment assistance, public assistance, child welfare/foster care, school disruptions, reduced evictions caseload, more efficient court, judgments, eviction orders, criminal arrests, criminal court cases, probation, jail, prison, and crime victimization.

Table C1. The Six Steps of TICA

	Description	Tasks
Step 1:	Determine flow/process (i.e., how clients move through the system)	<ul style="list-style-type: none"> • Interviews with key informants (agency staff).
Step 2:	Identify the transactions that occur within this flow (i.e., where clients interact with the system)	<ul style="list-style-type: none"> • Analysis of process information gained in Step 1.
Step 3:	Identify the agencies involved in each transaction (e.g., court, treatment, sheriff)	<ul style="list-style-type: none"> • Analysis of process information gained in Step 1.
Step 4:	Determine the resources used by each agency for each transaction (e.g., amount of judge time per transaction, amount of attorney time per transaction, number of transactions)	<ul style="list-style-type: none"> • Interviews with program key informants using cost guide. • Administrative data collection of number of transactions (e.g., number of eviction cases, number of shelter days, number of arrests).
Step 5:	Determine the cost of the resources used by each agency for each transaction	<ul style="list-style-type: none"> • Interviews with budget and finance officers. • Document review of agency budgets and other financial paperwork.
Step 6:	Calculate cost results (e.g., cost per transaction, total cost per individual)	<ul style="list-style-type: none"> • Support and overhead costs (as a percentage of direct costs) are added to the direct costs of each transaction to determine the cost per transaction. • The transaction cost is multiplied by the average number of transactions for each individual to determine the total average cost per transaction type. • These total average costs per transaction type are added to determine the investment and outcome costs.