

# MICHIGAN EVICTIONS:

## TRENDS, DATA SOURCES, AND NEIGHBORHOOD DETERMINANTS



MAY 2020

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Funding provided by University of Michigan Poverty Solutions<sup>2</sup> and Detroit Community-Academic Research Center's 2019 Community-Academic Research Partnership Grant Program

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<sup>1</sup> The University of Michigan's A. Alfred Taubman College of Architecture and Urban Planning research team and authors were Robert Goodspeed, Kyle Slugg, and Margaret Dewar. Elizabeth Benton of Legal Services of South Central Michigan (LSSCM) served as a contributing community partner. The authors note that LSSCM is funded in part by the Legal Services Corporation (LSC), which is subject to certain restrictions on permissible advocacy. Elizabeth Benton's contributions are limited to chapters 1-6, and she took no part in drafting the recommendations in chapter 7 or advising on its contents. Elizabeth Benton, as a staff member of an LSC grantee, is prohibited from making explicit policy recommendations. As such, neither Ms. Benton nor LSSCM endorses or opposes any of the recommendations contained in chapter 7. Further, Ms. Benton did not propose or advocate for any specific government policies during her work on this paper nor did she engage in any other LSC restricted activity.

<sup>2</sup> Under the Poverty Solutions program guidelines, the researchers are required to obtain broad community input into their study. The researchers would like to thank the Washtenaw County Housing Alliance, Jim Schaafsma of Michigan Poverty Law Program, and the Michigan State Planning Body for their engagement in reviewing this study's data, suggesting policy solutions to the eviction challenge, and partnering to pursue the future recommendations outlined in this report. In addition, the project team would also like to thank the judges, court administrators, and staff of the 1st, 2A, 14A, 14B, and 15th district courts, and Laura Hutzel from the State Court Administrative Office, for their assistance with this project.

## KEY FINDINGS

### STATEWIDE

- In 2018, there were **191,512 eviction cases** filed in Michigan.
- In 2018, the statewide eviction filing rate—that is, the number of filings per rental household—was 17%. This means there was about **one eviction case filed for every 6 rental housing units in the state**.
  - Eviction filing rates vary greatly by county, from just 1.4% in Keweenaw County to 25.7% in Genesee County in 2018.
- Although the exact number of court-ordered, physical evictions is not contained in statewide data, if we apply Washtenaw County's eviction rate of 20.8% to the total cases filed in Michigan in 2018 there were **about 39,834 court-ordered, physical evictions**.
- Only **4.8% of tenants were represented by an attorney** in eviction cases filed in 2014-2018, compared to 83.2% of landlords.
- A statewide multivariate analysis shows that the number of eviction cases filed within a census tract is related to the percent of **single mother households**, number of **mortgage foreclosures**, and percent of **population living in mobile homes**. In urban areas, the number of cases is positively related to additional factors, including the percent **African American**, percent of the **population under 18**, and percent of **housing units vacant** in the census tract.

### WASHTENAW COUNTY

- In 2018, there were **6,252 eviction cases** filed in Washtenaw County.
- In 2018, Washtenaw County's eviction filing rate was **11.3%**, placing it 25th among Michigan's 83 counties. This means there was about **one eviction case filed for every 9 rental housing units in the county**.
- Eviction filing rates varied widely within the county in 2018: the City of Ann Arbor's eviction filing rate was 2.2%, the City of Ypsilanti's was 20.8%, and Ypsilanti Township's was 33.6%.

- In a sample of Washtenaw County cases from 2014 and 2018, only **2.3% of tenants were represented by an attorney**, compared to 90.5% of landlords.
- Tenants with representation were more likely to receive a positive outcome—56% of cases were dismissed and 11% received a judgment in their favor, versus 45% of cases dismissed and no judgments in their favor among tenants without representation.
- In this sample, **92% of cases were filed for non-payment of rent** and tenants **owed an average of \$1,110** in back rent and other charges at the time their landlord filed the case.
- In this sample, at least **20.8% of cases resulted in evictions**. This means that in Washtenaw County in 2018 approximately 1,300 households were evicted from their homes (or 25 households/week or 3.5 households/day).

### LENAWEE COUNTY

- In 2018, there were **904 eviction cases** filed in Lenawee County.
- In 2018, Lenawee County's eviction filing rate was 10.6%, placing it 29th among Michigan's 83 counties. This means there was about **one eviction case filed for every 9 rental housing units in the county**.
- In a sample of Lenawee County cases from 2013-2018, only **4% of tenants were represented by an attorney**, compared to 71% of landlords.
- In this sample, **76% of cases were filed for non-payment of rent**.
- In this sample, at least **37% of cases resulted in evictions**. This means that in Lenawee County between 2013-2018 approximately 329 households were evicted from their homes each year (or 6 households per week).

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## INTRODUCTION

Each year, landlords file nearly 200,000 eviction cases in Michigan and around 40,000 Michigan households lose their homes as a result of court-ordered evictions.<sup>3</sup> The Michigan Advocacy Program's attorneys represent thousands of these households each year and see first-hand the devastating effects of eviction on their lives.

Nationally, a growing body of research has documented these detrimental effects on individuals, households, and neighborhoods. This evidence suggests that eviction is not merely a symptom of poverty but also a cause of it.<sup>4</sup> People who experience eviction are more likely to lose their jobs,<sup>5</sup> experience increased rates of depression,<sup>6</sup> and rate their health as fair or poor.<sup>7</sup> Households who move as a result of an eviction, instead of through choice, move to poorer, higher-crime neighborhoods,<sup>8</sup> and are more likely to experience problems with their new housing like broken appliances, exposed wires, or lack of heat.<sup>9</sup>

Moreover, the consequences of eviction are felt most acutely by already-disadvantaged groups, deepening social inequality. Compared to other groups, African-American women,<sup>10</sup> families with children,<sup>11</sup> and Hispanic households in mostly white neighborhoods

experience a disproportionately high number of evictions.<sup>12</sup> Victims of domestic violence appear to face elevated rates of eviction after controlling for household and neighborhood factors, due to nuisance citations generated by incidents of domestic violence.<sup>13</sup>

Finally, the research shows that even eviction cases that do not result in evictions are harmful to tenants. These filings can result in additional costs and fees to the tenant and leave records that make it more difficult for households to find future housing.<sup>14</sup> Recent research shows that some landlords, such as certain types of corporate landlords and owners of multifamily buildings, may be driving up the number of these filings through serial evictions—that is, the practice of filing multiple eviction cases against the same tenant in the same year.<sup>15</sup>

Our research project builds on this emerging scholarship to better understand the prevalence, patterns, and causes of evictions in Michigan. The project involved analyzing statewide case filing data and data collected from a random sample of eviction case records in Washtenaw and Lenawee counties.<sup>16</sup> The report provides a detailed overview of Michigan eviction law and policy recommendations for local courts, municipalities, funders, and state government.

<sup>3</sup> To estimate the number of statewide evictions, we multiplied the number of eviction case filings by the percentage of case filings that resulted in court-ordered evictions in Washtenaw County, where we conducted case-level research from a random sample.

<sup>4</sup> Matthew Desmond, "Eviction and the Reproduction of Urban Poverty," *American Journal of Sociology* 118, no. 1 (July 1, 2012): 88–133; Matthew Desmond and Monica Bell, "Housing, Poverty, and the Law," *Annual Review of Law and Social Science* 11, no. 1 (2015): 15–35; Matthew Desmond and Tracey Shollenberger, "Forced Displacement From Rental Housing: Prevalence and Neighborhood Consequences," *Demography* 52, no. 5 (October 2015): 1751–1772.

<sup>5</sup> Matthew Desmond and Carl Gershenson, "Who Gets Evicted? Assessing Individual, Neighborhood, and Network Factors," *Social Science Research* 62 (February 1, 2017): 362–377.

<sup>6</sup> Matthew Desmond and Rachel Kimbro, "Eviction's Fallout: Housing, Hardship, and Health," *Social Forces* 94 (February 24, 2015); Hugo Vásquez-Vera, Laia Palència, Ingrid Magna, Carlos Mena, Jaime Neira, and Carme Borrell, "The Threat of Home Eviction and Its Effects on Health through the Equity Lens: A Systematic Review," *Social Science & Medicine* (1982) 175 (2017): 199–208.

<sup>7</sup> Desmond and Kimbro, "Eviction's Fallout."

<sup>8</sup> Desmond and Shollenberger, "Forced Displacement From Rental Housing."

<sup>9</sup> Matthew Desmond, Carl Gershenson, and Barbara Kiviat, "Forced Relocation and Residential Instability among Urban Renters," *Social Service Review* 89, no. 2 (June 1, 2015): 227–262.

<sup>10</sup> Desmond, "Eviction and the Reproduction of Urban Poverty."

<sup>11</sup> Matthew Desmond et al., "Evicting Children," *Social Forces* 92, no. 1 (2013): 303–327.

<sup>12</sup> Deena Greenberg, Carl Gershenson, and Matthew Desmond, "Discrimination in Evictions: Empirical Evidence and Legal Challenges," *Harvard Civil Rights - Civil Liberties Law Review*; Cambridge 51, no. 1 (Winter 2016): 115.

<sup>13</sup> Matthew Desmond and Nicol Valdez, "Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women," *American Sociological Review* 78, no. 1 (February 1, 2013): 117–141.

<sup>14</sup> Philip ME Garboden and Eva Rosen, "Serial Filing: How Landlords Use the Threat of Eviction," *City & Community* 18, no. 2 (2019): 638–661.

<sup>15</sup> Dan Immergluck, Jeff Ernsthausen, Stephanie Earl, and Allison Powell, "Evictions, Large Owners, and Serial Filings: Findings from Atlanta," *Housing Studies* (July 14, 2019): 1–22; Elora Raymond et al., "Corporate Landlords, Institutional Investors, and Displacement: Eviction Rates in Single-Family Rentals," *Federal Reserve Bank of Atlanta, Community and Economic Development Department: Discussion Paper* 2016, no. 4 (December 2016).

<sup>16</sup> The project originally planned to also analyze electronic court records obtained from Monroe County. Monroe County provided data which contained similar variables to the statewide JDW dataset, so we were not able to conduct a more detailed analysis for this county.

In conducting this research, we used a community-based participatory research approach to engage legal aid and housing stakeholders in the research process. In the spring of 2019, we held two focus groups of Michigan legal aid attorneys where we shared preliminary eviction filing rate maps and sought feedback on the variables to be included in our statewide analysis.<sup>17</sup> In January 2020, we presented our data and analysis and solicited feedback from legal aid organizations across the state at a presentation to the Michigan State Planning Body—an association that serves as a forum for planning and coordinating Michigan's efforts to deliver civil and criminal legal services to the poor—and at an annual housing training for legal aid attorneys in October 2019.

We also engaged community stakeholders in Washtenaw County, where we conducted detailed analysis of court records, to help us interpret our results and develop the detailed recommendations included in this report. We presented our data and analysis of Washtenaw County evictions at a forum in October 2019 sponsored by the Washtenaw Housing Alliance, a coalition of over 30 non-profit and government entities committed to ending homelessness in the county. The forum attendees included government officials, low-income housing providers, social service entities who provide housing search and eviction and homelessness prevention services, and attorneys who represent tenants in eviction cases. With the help of a facilitator, we sought feedback on the data and solicited ideas for changes that should be made in the county to the legal process, legal and social services, affordable housing, and community and economic development. Separately, in November 2019, we presented our data and analysis and solicited similar feedback from the County's court administrators and judges who handle eviction cases.

We conducted this research and drafted most of this report before the COVID-19 pandemic and resulting economic downturn. Our data show that even before these twin crises, in relatively good economic times, Michigan had extremely high eviction filing rates, courts across the state already grappled weekly with large numbers of eviction cases, and very few tenants had access to an attorney or asserted their legal rights in the eviction process.

As low-income workers lose their jobs and fall behind on rent, we anticipate an increase in eviction case filings statewide, which will stress the resources of already burdened courts and legal and social services agencies and impose great hardship on tenants. The following recommendations from this report will be particularly important to consider to help reduce the number of evictions and prevent homelessness in our state in the coming months:

- Establishing and funding a guaranteed right to counsel for tenants in eviction cases statewide;
- Establishing and funding eviction diversion programs in every district court;
- Increasing funding for affordable housing operation and emergency rental assistance;
- Making state emergency relief an effective eviction prevention tool; to do so, the Michigan Department of Health and Human Services (MDHHS) should explore removing the requirement that tenants receive a summons and complaint before becoming eligible for state emergency relief to help with back rent;
- Enacting legislation to prevent landlords from charging late fees until the rent is 30 days late, or during the COVID-19 emergency, and limiting the amount of late fees;
- Enacting legislation to eliminate courts' ability to award parties in eviction cases \$75-\$150 in "taxable costs" on top of their actual costs in the case; and,
- Enact legislation that limits access to eviction records and permanently seals cases that were dismissed or decided in the tenant's favor.

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<sup>17</sup> The first focus group was composed of legal aid attorneys from only the Michigan Advocacy Program. The second included attorneys from across the state.



## 1. BACKGROUND: KEY TERMS AND MICHIGAN EVICTION LAW

This section provides an introduction to Michigan's legal eviction process, indicating key terms in bold, which are also defined in the following glossary.

### OVERVIEW OF MICHIGAN'S LEGAL EVICTION PROCESS

An **eviction case** is a civil lawsuit that allows a property owner to regain possession of a premises.<sup>18</sup> In Michigan, eviction cases include residential landlord/tenant evictions, commercial evictions, land contract forfeitures, evictions of tenants and owners of mobile homes by mobile home parks, and evictions filed after mortgage, condominium fee, and property tax foreclosures. In this report, we will refer to all property owners filing eviction cases as "landlords."

State law creates a special, expedited court process for eviction cases, called summary proceedings.<sup>19</sup> This means that landlords are able to get into court and have their cases resolved faster than in ordinary lawsuits.

Before filing an eviction case, a landlord must give a tenant a **notice to quit or demand for possession**.<sup>20</sup> The notice or demand gives a set amount of time, which is determined by state law, before the eviction suit can be filed with the court (see box). In some cases, it also tells tenants what they can do to prevent an eviction—for example, pay their rent within seven days if they are being evicted for non-payment of rent.

### NOTICE TO QUIT/DEMAND FOR POSSESSION TIME PERIODS

#### *No notice required:*

- Forceful entry/forceful stay/trespass by occupant<sup>21</sup>

#### *24-hour notice is required for the following reason:*

- Illegal drug activity where formal police report filed<sup>22</sup>

#### *7-day notice is required for the following reasons:*

- Nonpayment of rent<sup>23</sup>
- Extensive and continuing physical injury to property<sup>24</sup>
- Serious and continuing health hazard<sup>25</sup>
- Causing or threatening physical injury to another<sup>26</sup>

#### *14-day notice is required for the following reasons:*

- Nonpayment of rent for public housing<sup>27</sup>

#### *30-day notice is required for the following reasons:*

- Termination of month-to-month tenancy<sup>28</sup>
- Violation of a lease provision on a lease that allows for termination
- Just cause for terminating tenant of mobile home park<sup>29</sup>
- Just cause for terminating tenancy of government-subsidized housing<sup>30</sup>

<sup>18</sup> MCL 600.5701(b). In Michigan, "'premises' includes lands, tenements, condominium property, cooperative apartments, air rights and all manner of real property. It [also] includes structures fixed or mobile, temporary or permanent, vessels, mobile trailer homes and vehicles which are used or intended for use primarily as a dwelling or as a place for commercial or industrial operations or storage."

<sup>19</sup> MCL 600.5701, et seq; MCR 4.201 and 4.202.

<sup>20</sup> MCL 600.5714, 5716, 5718, 5726. See e.g., State Court Administrative Office, Numerical Index of Approved District Court Forms, <https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/dc100a.pdf> and <https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/dc100c.pdf>.

<sup>21</sup> MCL 600.5714(1)(f).

<sup>22</sup> MCL 554.134(4); MCL 600.5714(1)(b).

<sup>23</sup> MCL 554.134(2).

<sup>24</sup> MCL 600.5714(1)(d).

<sup>25</sup> *Id.*

<sup>26</sup> MCL 5714(1)(e).

<sup>27</sup> 42 USC 1437d(l)(4)(B); 24 CFR 966.4(l)(3)(i)(A).

<sup>28</sup> MCL 554.134(1); MCL 600.5714(1)(a).

<sup>29</sup> MCL 600.5775.

<sup>30</sup> See e.g., 42 USC 1437d(l)(4)(C); 24 CFR 966.4(l)(4)(i)(C)(public housing); 24 CFR 247.4(c)(project-based Section 8); 24 CFR 880.607(c)(2); 24 CFR 881.601 (New Construction and Substantial Rehabilitation).



After the time period in the notice expires, the landlord can file a **complaint** in the local district or municipal court where the property is located.<sup>31</sup> In the complaint, the landlord asks the court to award the landlord possession of the property.<sup>32</sup> The complaint can also include a claim for money damages related to the tenant's breach of the lease or damage to the property. Such money claims usually seek any unpaid rent from the tenant.

The landlord must pay the court a filing fee in each case. In 2019, the filing fee for a case where the landlord only sought possession of the property was \$45.<sup>33</sup> If a landlord is also filing a claim for money damages, the landlord must pay an additional \$25-\$150 per case based on the amount of money damages sought.<sup>34</sup> If a landlord wins the case, the court may require the tenant to cover this fee and the cost of service of the complaint.<sup>35</sup> The court may also require the tenant to pay an additional \$75-\$150,

depending on how the case is resolved, to the landlord in "taxable costs."<sup>36</sup>

After the landlord files the complaint with the court, the landlord sends a copy of the complaint along with a **summons** to the tenant.<sup>37</sup> In most cases, the summons tells the tenant to appear in court on a certain day and time for a **hearing**.<sup>38</sup> The hearing date could be as soon as three days after the landlord serves the summons and complaint.<sup>39</sup> Seven district courts<sup>40</sup> have adopted a local practice that requires tenants to file a written answer to the landlord's complaint before the court will schedule a hearing. In these courts, if the tenant does not file a written answer within five days of receiving the complaint, the tenant will not get a court hearing, and the court will automatically issue a default judgment for possession for the landlord. Courts with this practice are generally referred to as "5-day" district courts.

<sup>31</sup> MCL 600.5735, 5704, and 5706; MCR 4.201(B). See State Court Administrative Office, Numerical Index of Approved District Court Forms, <https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/dc104.pdf>. There are over 100 district courts in Michigan and four municipal courts. In Michigan, a few municipalities have chosen to retain a municipal court rather than create a district court. The municipal courts have limited powers and are located in Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Pointe Shores/Grosse Pointe Woods. In addition to eviction cases, district courts handle most traffic violations, all civil cases with claims up to \$25,000, small claims, and all misdemeanor criminal cases—that is, criminal cases where the accused, if found guilty, cannot be sentenced to more than one year in jail, <https://courts.michigan.gov/courts/trialcourts/pages/default.aspx>.

<sup>32</sup> MCL 600.5739; MCR 4.201(G)(1)(a).

<sup>33</sup> MCL 600.5756; "District Court Filing Fee and Assessment Table," SCAO, January 2019, <https://courts.michigan.gov/Administration/SCAO/Resources/Documents/other/dfee.pdf>.

<sup>34</sup> *Id.*

<sup>35</sup> MCL 600.5759.

<sup>36</sup> *Id.* Though the legislation states that the court has discretion in imposing these additional costs on tenants, in practice, they are included in every default and consent judgment.

<sup>37</sup> MCR 4.201(D). See State Court Administrative Office, Numerical Index of Approved District Court Forms, <https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/dc104.pdf>.

<sup>38</sup> MCL 600.5735(1); MCR 4.201(C).

<sup>39</sup> MCL 600.5735(2); MCR 4.201(C).

<sup>40</sup> 1st District: Monroe County; District 2A: Lenawee County; 12th District: Jackson County; 18th District: City of Westland; 81st District: Alcona, Arenac, Iosco, and Oscoda Counties; 82nd District: Ogemaw County; District 95B: Dickinson and Iron Counties.

The tenant must appear in court on the hearing date. If the tenant does not appear, the judge enters a **default judgment** for possession to the landlord.<sup>41</sup> If the tenant appears, the judge can hold the **trial** immediately or, if the tenant shows good cause, reschedule the trial to a future date.<sup>42</sup> The tenant can **answer**—that is, respond and raise defenses to—the landlord’s complaint either in writing or orally (except in the “5-day” district courts, where they must answer in writing).<sup>43</sup> Tenants can also raise **counterclaims** against their landlords.<sup>44</sup>

Tenants are entitled to a trial and can choose whether to have their trial heard by a judge or jury.<sup>45</sup> The landlord has the burden at trial of proving to the judge or jury that the tenant has done what the landlord alleges, such as not paying rent, and that the landlord is entitled to regain possession of the premises.<sup>46</sup> If a party has raised money claims, the judge or jury would also decide whether either party is entitled to money damages.

Our data show that in practice, most tenants who appear at the hearing agree to **consent judgments** with their landlords, resolving the case without a trial. If either party is unrepresented, the judge is required to review the consent judgment with the party and notify them that they have three days to ask the court to set aside the judgment.<sup>47</sup> The court may set aside the judgment if an unrepresented party files a motion within three days asking the court to set aside the judgment and shows that they misunderstood the basis for the judgment or the rights they were relinquishing by signing.<sup>48</sup>

In non-payment cases, if the landlord obtains a judgment for possession, the tenant has 10 days to pay the full amount of back rent plus any costs and fees awarded.<sup>49</sup> If the tenant pays this amount, the tenant cannot be evicted. This is called the tenant’s

“right to redeem,” or more informally, the tenant’s right to “pay and stay.”

If the tenant does not pay in a non-payment case, and in most other cases, the landlord can file an **application for an order of eviction** with the court 10 days after the court issues the judgment.<sup>50</sup> The Court then issues an **order of eviction**, which allows a court officer, bailiff, sheriff, deputy sheriff, or police officer to remove the tenant and all of the tenant’s personal property from the property and place it in the public right-of-way (usually the side of the street).<sup>51</sup> In non-payment cases, the entire eviction process—from a missed rental payment to the physical removal of the tenant—could take place in 27 days.

## GLOSSARY OF KEY TERMS

Eviction-related terminology varies due to differences in state law, as well as decisions by researchers for how to define key terms. Therefore, this section introduces a common set of definitions used in this report.

**Answer.** The document a tenant files with the court responding to a landlord’s complaint. In the answer, the tenant can deny the landlord’s allegations and raise defenses to the landlord’s claims.

**Complaint.** The document a landlord files with the court to start a lawsuit. It must state the facts the suit is based on, each legal claim or allegation, and what the landlord hopes to get from the suit. A landlord can ask for possession of the property, a money judgment, or both.

**Consent Judgment.** A judgment with terms agreed to by both parties and made an order of the court.

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<sup>41</sup> MCR 4.201(F)(4). If the tenant has been personally served with the complaint, the court will also enter a default judgment to the landlord on its claim for money damages. MCR 4.201(G)(1)(b).

<sup>42</sup> MCL 600.5735(6); MCR 4.201(J).

<sup>43</sup> MCR 4.201(F).

<sup>44</sup> MCR 4.201(G)(1).

<sup>45</sup> Id.; MCL 600.5738.

<sup>46</sup> Rathnaw v Hatch, 281 Mich 402, 404 (1937).

<sup>47</sup> MCR 4.201(I).

<sup>48</sup> Id.

<sup>49</sup> MCL 600.5741; MCL 600.5744.

<sup>50</sup> MCL 600.5744(4); MCR 4.201(L)(1). The court can issue an order of eviction immediately after entering a judgment for possession in certain, specific circumstances. See MCL 600.5744(2).

<sup>51</sup> MCL 600.5744; MCR 4.201(L).

**Counterclaims.** Claims raised by a tenant against a landlord in an eviction suit. The tenant can ask for money damages or other relief, such as an order that a landlord fix problems in the property. Counterclaims are filed with the tenant's answer and can be used to offset the rent the landlord alleges is due.

**Default Judgment.** A judgment entered by the court if a tenant does not appear at the first hearing and the landlord shows a reason for the eviction of the tenant.

**Demand for Possession.** The formal notice a landlord is required to give a tenant before starting an eviction lawsuit when evicting for nonpayment of rent; causing damage or a health hazard; unlawful drug activity; or removal from a mobile home park. The notice gives an amount of time set by state law before the eviction suit can be filed with the court.

**Dismissal.** A document ending a lawsuit. Four types of dismissals exist: (1) a voluntary dismissal, where the landlord dismisses the lawsuit before the tenant has appeared or answered; (2) a consent order of dismissal where the landlord and tenant agree to dismiss the case; (3) a conditional order of dismissal, where the landlord and tenant agree that the case will remain dismissed so long as certain conditions are met (e.g. the landlord makes repairs or the tenant pays back rent); and (4) an order of dismissal, where the judge dismisses the case, such as when the landlord does not appear or the court does not have jurisdiction over the case.

**Eviction Case.** A lawsuit filed by a landlord to regain possession of a premises.

**Eviction Filing.** The act of a landlord filing a complaint to begin an eviction case.

**Eviction Filing Rate.** The number of eviction filings per 100 renter households in an area. An eviction filing rate of 5% means that 5 of every 100 renter households had an eviction filing in the selected area that year.

**Eviction.** The physical removal of the tenant and the tenant's belongings from a landlord's property by a court officer with an order of eviction.

**Eviction Rate.** The number of evictions per 100 renter homes in an area. An eviction rate of 5% means that 5 of every 100 renter homes had an eviction in the selected area that year.

**Hearing.** A brief court session that resolves specific questions, such as when the trial should take place or whether the case should be dismissed.

**Involuntary Move.** Any move that is a consequence of landlord-generated change or threat of change in the conditions of occupancy of a premises. A tenant might involuntarily move, for example, because of an unaffordable rent increase, letter from landlord alleging violation of the lease, uninhabitable conditions, or a utility shut off. An involuntary move would also include a move at any time during an eviction case before the landlord uses the order of eviction to remove the tenant and the tenant's belongings.

**Judgment.** A court document recording the outcome of a lawsuit. If a landlord wins the eviction suit, the judgment will be for possession to the landlord. If the landlord brought a claim for money damages, the judgment would also include an amount of money the tenant owes the landlord. If a tenant wins the eviction suit, the judgment will be for possession to the tenant. If the tenant brings counterclaims against the landlord, the judgment would also include an amount of money the landlord owes the tenant.

**Jury Trial.** A trial where a group of citizens decides which side should win based on the evidence.

**Motion.** A formal request for a judge to enter a particular order or ruling in a lawsuit.

**Notice to Quit.** The formal notice a landlord is required to give a tenant before starting an eviction lawsuit when evicting by terminating tenancy. This notice must be given within a set amount of time set by state law before an eviction suit can be filed with the court.

**Order of Eviction.** A court document issued by a judge after the court has issued a judgment for possession to the landlord. This document is given to a court officer, such as a sheriff or deputy sheriff, and gives that officer authority to remove the tenant and the tenant's belongings from the landlord's property.

**Summary Proceedings.** An abbreviated civil court process that allows a landlord to regain possession of a premises and obtain related relief. Summary proceedings are created and governed by state law and court rules.

**Summons.** A court form telling the tenant about a lawsuit and that a response or an appearance in court is required



## 2. PROJECT DATA SOURCES AND METHODS

### MICHIGAN EVICTION DATA SOURCES

We aimed to identify and evaluate sources of data on Michigan evictions for use in this and future research projects. We identified five sources of data on Michigan evictions:

1. Michigan eviction filing data from the Eviction Lab at Princeton University;
2. State Court Administrative Office (SCAO) county-level caseload summary data;
3. SCAO case-level data contained within the state's Judicial Data Warehouse (JDW);
4. case-level data from local court case management systems and online registers of action; and
5. case-level data from local courts' physical case files. Each of these sources is described below.

#### EVICTION LAB DATA

The Eviction Lab dataset contains the number of eviction filings and evictions (defined as judgments for the landlord) for all geographic units (state, counties, places, tracts, and block groups) in Michigan from 2000 to 2016.<sup>52</sup> The source for Eviction Lab's data in Michigan is LexisNexis Risk Solutions, a company

that collects eviction records from local courts nationwide.<sup>53</sup> According to Eviction Lab's methodology report, the resulting database contains about 72% of the total cases filed, based on comparing LexisNexis data with the SCAO's county-level case filing summary.

Our own comparison of Eviction Lab's Michigan data to the SCAO's county-level case filing data found that the Eviction Lab database contains only 65% of the total eviction cases filed from 2003 to 2016.<sup>54</sup> Furthermore, the completeness of the Eviction Lab's data varies widely by county. In five counties, for example, the Eviction Lab includes more cases than the SCAO's summary data, while in seven counties it contains fewer than 10% of cases reported by the SCAO. Full analysis can be found in Appendix B. These discrepancies could be the result of inconsistent data collection by LexisNexis. As a result of these findings, our report analysis is based on data obtained from SCAO and local courts, rather than the Eviction Lab.

#### SCAO COUNTY-LEVEL CASELOAD SUMMARY DATA

Michigan's State Court Administrative Office (SCAO), which is the administrative agency of the Michigan Supreme Court and exercises oversight over Michigan's courts, publishes annual eviction case statistics on its website, including the number of case filings and the disposition of these cases on a state, county, and court level.<sup>55</sup>

<sup>52</sup> Matthew Desmond, Ashley Gromis, Lavar Edmonds, James Hendrickson, Katie Krywokulski, Lillian Leung, and Adam Porton, Eviction Lab National Database: Version 1.0, Princeton: Princeton University, 2018, [www.evictionlab.org](http://www.evictionlab.org).

<sup>53</sup> Matthew Desmond, Ashley Gromis, Lavar Edmonds, James Hendrickson, Katie Krywokulski, Lillian Leung, and Adam Porton, "Eviction Lab Methodology Report: Version 1.0," Princeton: Princeton University, 2018, [www.evictionlab.org/methods](http://www.evictionlab.org/methods).

<sup>54</sup> Even when removing observations marked as potentially incomplete in the Eviction Lab database, Eviction Lab data still only include about 70% of total case filings in the state.

<sup>55</sup> "Caseload Reports," SCAO, accessed December 2, 2019, <https://courts.michigan.gov/education/stats/Caseload/>.

### SCAO CASE-LEVEL DATA IN THE JUDICIAL DATA WAREHOUSE (JDW)

The SCAO also retrieves case-level electronic records directly from local courts' case management systems and compiles the data in its Judicial Data Warehouse (JDW), the state's central repository for civil and criminal case records. Through a data sharing agreement with the SCAO, we obtained case-level data from the JDW for nearly all eviction cases filed in Michigan from 2014 to 2018.<sup>56</sup>

These records include tenants' addresses, whether the case is a land contract forfeiture, and the bar number of attorneys for each party. A variable indicates whether each party is a person or business. To eliminate commercial eviction cases, only cases where records indicate the tenant is a person (and not a business) are included in our analysis. Notably, the JDW's records do not contain data on the case type (e.g. non-payment versus cause eviction), whether a judgment was for the landlord or the tenant, the amount at issue in non-payment cases, or whether the court issued an order of eviction.

### LOCAL COURT CASE-LEVEL DATA FROM CASE MANAGEMENT SYSTEMS AND ONLINE REGISTERS OF ACTIONS

We also requested case-level data from three representative counties in Michigan Advocacy Program's direct service area: Monroe, Lenawee, and Washtenaw Counties. In Monroe and Washtenaw, court administrators created electronic reports from their local case management systems for all eviction cases from 2013 to 2018. Like the JDW records, these records did not contain data on the case type, whether the judgment was for the landlord or tenant, or the amount at issue in non-payment cases.

In Lenawee County, the court administrator provided a physical copy of the case numbers of all of the eviction cases filed from 2013 to 2018. We scanned this list using optical character recognition software. We then took a random sample of these cases, looked the cases up in the court's online "Register of Action,"<sup>57</sup> and recorded key variables. The online register included more case-level details than the electronic

reports produced by the other counties and nearly as much data as the physical case files (see below). These data included the case type, how the case was resolved (e.g. consent judgment or default judgment), and in non-payment cases, the amount the tenant must pay to retain possession. Our findings from this sample are included in Part 6 starting on page 27.

The electronic records obtained from Monroe County are in an unstructured format that made them difficult to analyze. In addition, they duplicate what is available from JDW with two exceptions: they contain party names, as well as some detailed "event codes" which are entered by court staff to indicate case events, such as when a summons and complaint has been issued, a trial held, or a judgment entered. However, the judgment code does not record which party won the case. We decided the additional effort required to analyze this data was not justified in light of what we could learn, which would include administrative outcomes such as the percentage of cases which proceed to trial, but not information about substantive outcomes, such as judgments.

### LOCAL COURT CASE-LEVEL DATA FROM PHYSICAL CASE FILES

In Washtenaw County, we also obtained lists of eviction cases from the four local courts that hear these cases. From these lists, we created a random sample of cases for our analysis. We provided the local court administrators with a list of randomly selected case numbers and the local court staff pulled these case files for us in advance. We reviewed the physical files in the court buildings and recorded key variables in a spreadsheet. The widespread use of SCAO-approved, standardized court forms in eviction cases facilitated this data collection. Some cases, however, still required an attorney to review the files, particularly when both sides had legal representation or when there were unusual circumstances. Though time consuming, this process resulted in detailed case-level data, which is presented in the Washtenaw County Data section of this report.

<sup>56</sup> The database does not include cases for six of Michigan's 107 district and municipal courts and one portion of a court: Grand Rapids (D61), Berrien County (D05), Dearborn Heights (D20), Center Line/Warren (D37), Northern Macomb County (D42), Grandville/Walker (D59), and the portion of D43 covering Madison Heights (D43-3). Although not included in the list of places with missing data provided to us in metadata, the dataset we received also was missing data from Midland (D75).

<sup>57</sup> "Register of Actions," 2A District Court, <http://courts.lenawee.mi.us/ROA2A/Default.aspx>.

### 3. MICHIGAN EVICTION TRENDS AND STATISTICS

#### EVICTION FILINGS

In 2018, there were 191,512 eviction cases filed in Michigan. Though eviction filings dipped during the foreclosure crisis and recession, in 2009 and 2010, they increased slightly in 2011 before falling to the present level (see Fig. 1).

In comparison, in 2008 there were 93,897 mortgage foreclosure auction filings in Michigan.<sup>58</sup>

In each year from 2003 to 2018, land contract forfeiture cases made up only 1-2% of all eviction case filings.

#### EVICTION FILING RATES

##### Statewide

In 2018, the statewide eviction filing rate—that is, the number of filings per 100 rental household—was 17%. This means there was about one eviction case filed for every 6 rental housing units in the state.

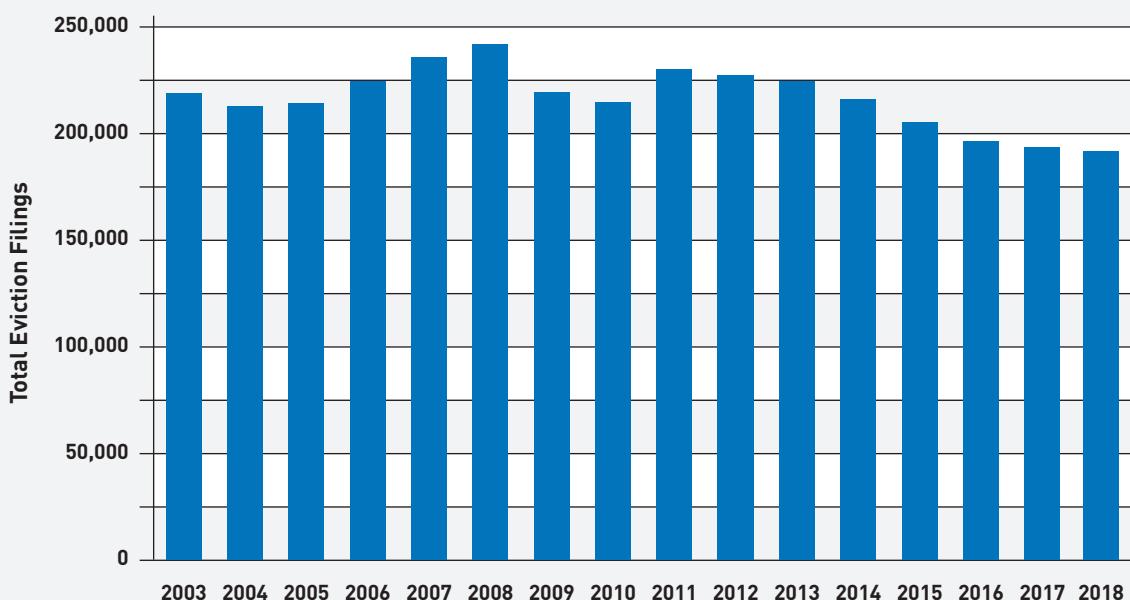
Michigan's eviction filing rates appear to be much higher than those reported elsewhere. Other studies have documented the following eviction filing rates:

- Chicago (2010-2017): 3.9%<sup>59</sup>
- Philadelphia (2010-2015): 7-7.8%<sup>60</sup>
- Hamilton County, Ohio (2014-2017): 8.7%<sup>61</sup>

**FIGURE 1**

#### TOTAL EVICTION FILINGS STATEWIDE

2003-2018; Michigan State Court Administrative Office Caseload Reporting System



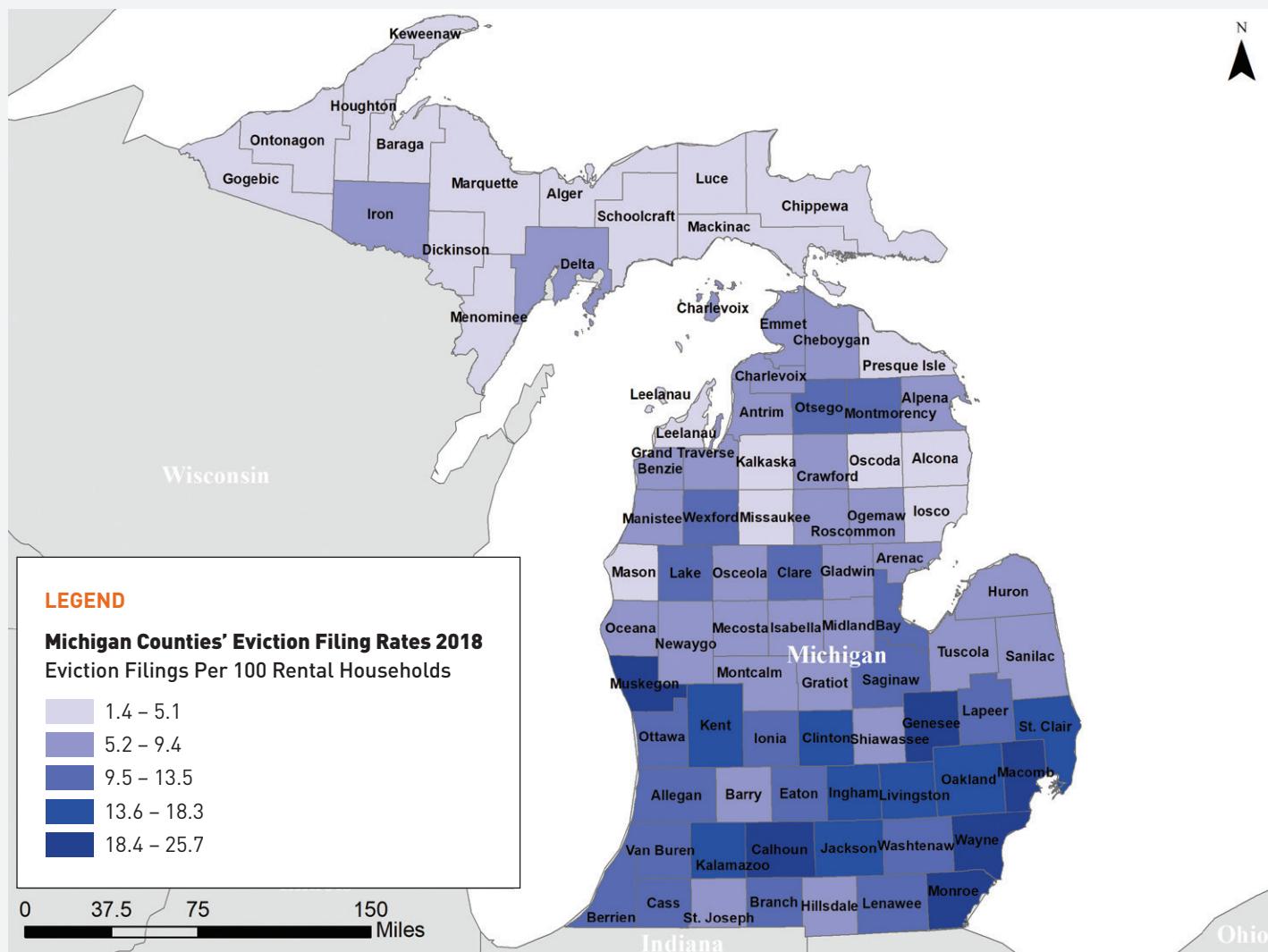
<sup>58</sup> Paul Isley and Gustavo Rotondaro, "The Michigan Historical Residential Foreclosure Data Project," *Community Research Institute, Grand Valley State University*, February 2012.

<sup>59</sup> Lawyer's Committee for Better Housing, "Opening the Door on Chicago Evictions: Chicago's Ongoing Crisis," May 2019, <https://eviction.lcbh.org/reports/chicagos-ongoing-crisis>.

<sup>60</sup> Ira Goldstein, Al Parker, and Rhea Acuna, "Policy Brief: Evictions in Philadelphia," Reinvestment Fund, January 2017.

<sup>61</sup> Elaina Johns-Wolfe, "'You are being asked to leave the premises:' A Study of Eviction in Cincinnati and Hamilton County, Ohio," Department of Sociology, University of Cincinnati, The Cincinnati Project, Housing Opportunities Made Equal, Inc., and Legal Aid Society of Hamilton County/Southwest Ohio, June 2018.

**FIGURE 2**
**EVICTION FILING RATES BY COUNTY, 2018**

 Michigan State Court Administrative Office; U.S. Census Bureau, American Community Survey  
 5-Year Estimates, 2013–2017


Data Source: U.S. Census Bureau Geography 2010, 2013–2017 American Community Survey, Michigan State Court Administrative Office

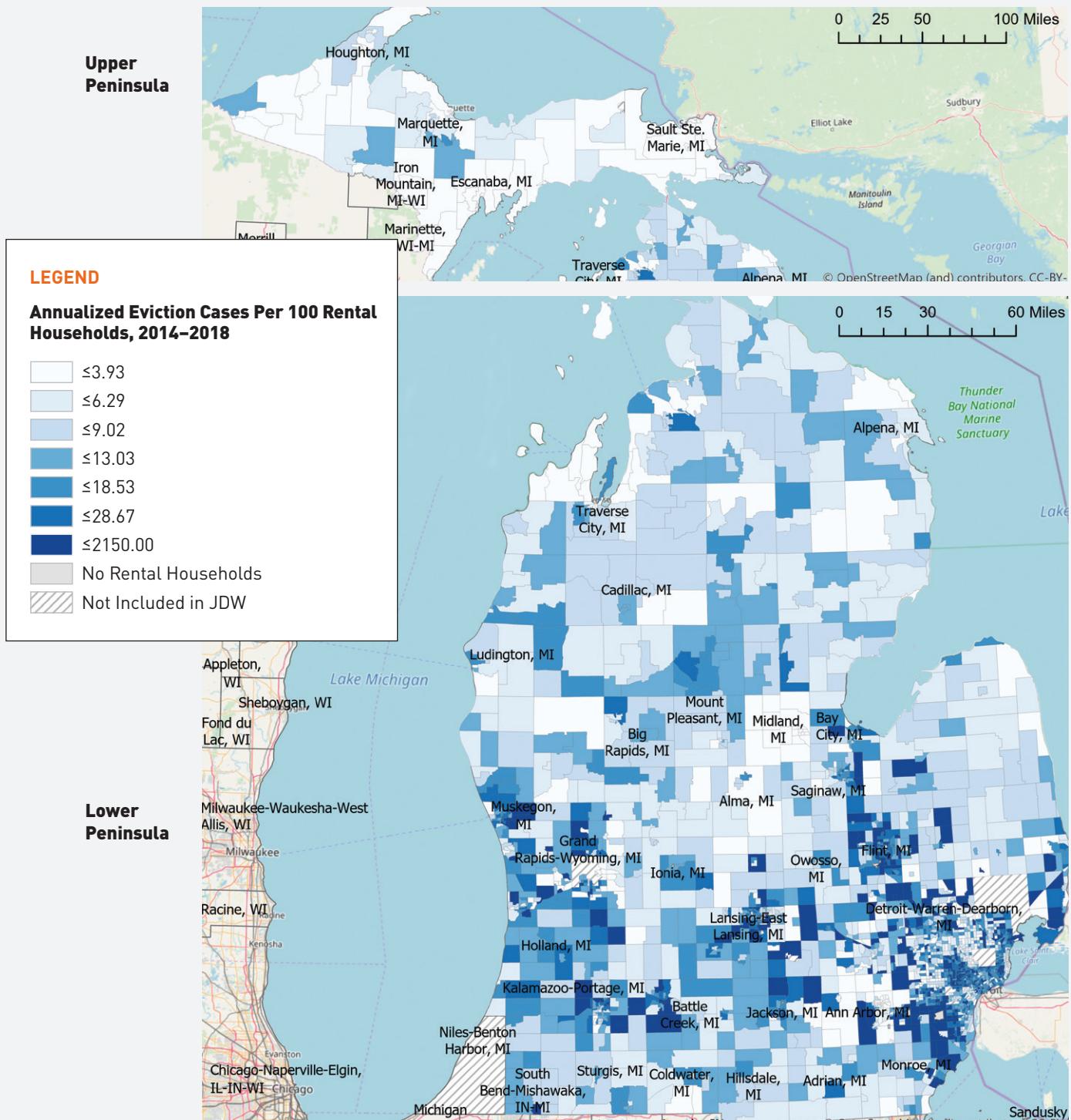
**Counties and Cities**

Eviction filing rates vary greatly by county, from just 1.4% in Keweenaw County to 25.7% in Genesee County in 2018. Cities and counties with high eviction filing rates were concentrated in southeast Michigan and Michigan's urban areas (Figure 2, Figure 3 on page 14, and Table 1 on page 15).

**FIGURE 3**
**EVICTION FILING RATES BY CENSUS TRACT, 2014-2018**

Michigan State Court Administrative Office, Judicial Data Warehouse; U.S. Census Bureau, American Community Survey 5-Year Estimates, 2013-2017

NOTE: The final category contains all tracts with rates between 28.67 and 2,150. The high value is due to an outlier tract with a very small number of rental households and large number of filings, which could be due to data or geocoding errors, or a large number of evictions for owner-occupied households such as those due to mortgage and tax foreclosures.

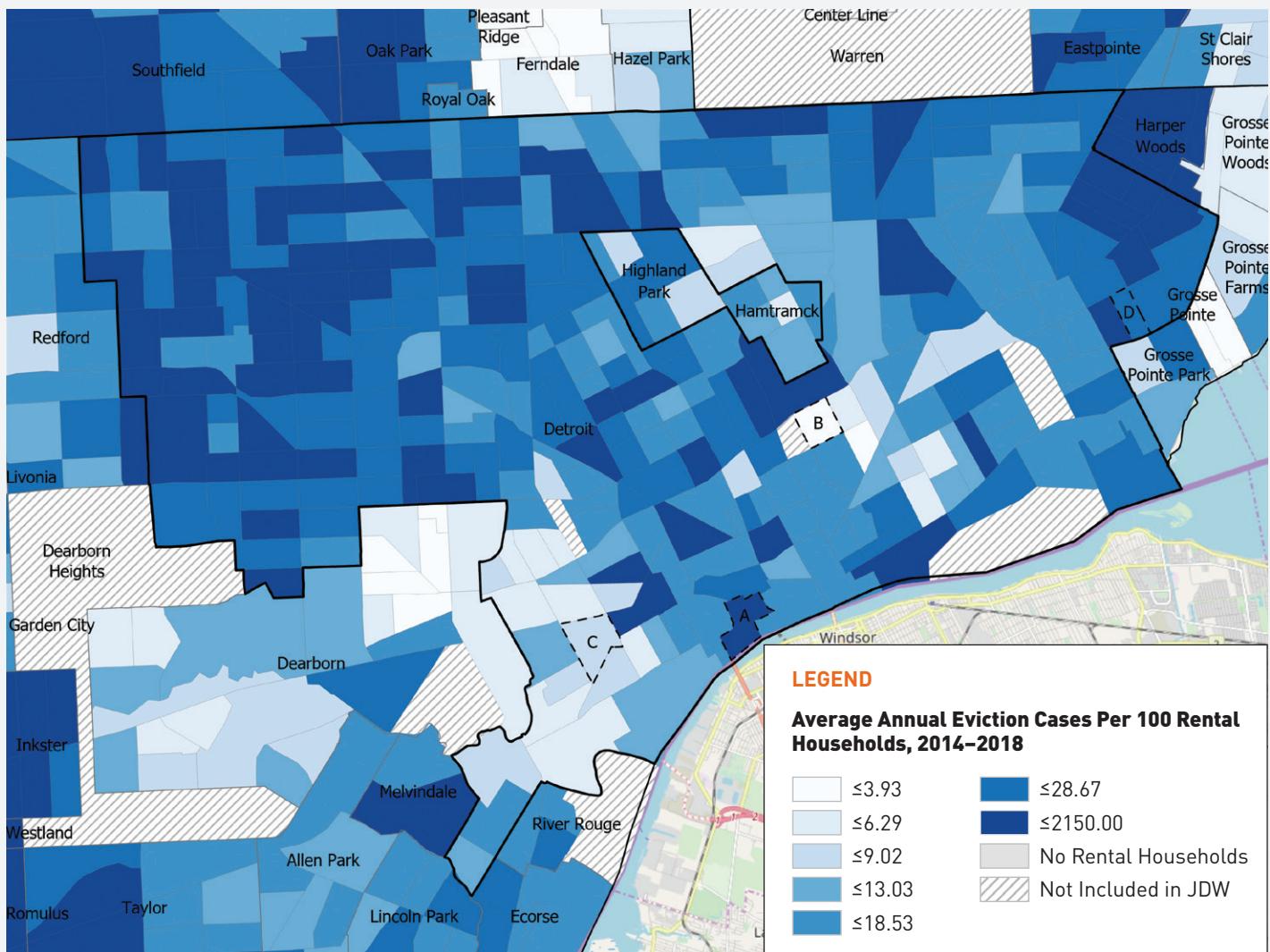


**TABLE 1**
**TOP COUNTIES AND MEDIUM-TO-LARGE CITIES BY EVICTION FILING RATE, 2014–2018**

Rank	Place Name	Average Annual Eviction Filings (2014–2018)	Total Rental Households (2013–2017)	Average annual filings per 100 rental households (2014–2018)
<b>COUNTIES</b>				
<b>1</b>	Genesee	13,435	49,804	27.0
<b>2</b>	Macomb	22,600	92,688	24.4
<b>3</b>	Wayne	59,843	254,229	23.5
<b>4</b>	Monroe	2,630	11,633	22.6
<b>5</b>	Calhoun	3,489	16,182	21.6
<b>5</b>	Muskegon	3,619	16,750	21.6
<b>7</b>	Oakland	27,934	146,930	19.0
<b>8</b>	Clinton	1,105	6,035	18.3
<b>9</b>	Jackson	2,978	2,978	18.1
<b>10</b>	Ingham	7,672	46,719	16.4
<b>MEDIUM AND LARGE CITIES (POPULATION OF 20,000 OR MORE)</b>				
<b>1</b>	Romulus	1,419	3,022	47.0
<b>2</b>	Inkster	1,947	4,892	39.8
<b>3</b>	Taylor	3,049	8,243	37.0
<b>4</b>	Southfield	5,524	16,817	32.8
<b>5</b>	Pontiac	4,248	13,628	31.2
<b>6</b>	Westland	4,314	14,306	30.2
<b>7</b>	Burton	838	3,112	26.9
<b>8</b>	Oak Park	1,312	4,899	26.8
<b>9</b>	Flint	4,395	16,950	25.9
<b>10</b>	Battle Creek	2,053	8,244	24.9
<b>11</b>	Eastpoint	1,100	4,625	23.8
<b>12</b>	Lansing	5,593	24,227	23.1
<b>13</b>	Kentwood	1,916	8,710	22.0
<b>14</b>	Detroit	29,330	134,022	21.9
<b>15</b>	Jackson	1,238	5,871	21.1
	<b>STATEWIDE</b>	<b>191,843</b>	<b>1,128,490</b>	<b>17.0</b>

**FIGURE 4**
**AVERAGE ANNUAL EVICTION FILING RATES BY TRACT IN DETROIT, 2014-2018**

Michigan State Court Administrative Office, Judicial Data Warehouse; U.S. Census Bureau, American Community Survey 5-Year Estimates, 2013-2017



### Neighborhoods

Eviiction filing rates also vary widely within cities. In Detroit, for example, eviiction rates range from 170% in Census tract A (9853) in Southwest Detroit, to 2.6% for tract B (5184) in the Poletown East neighborhood (see Figure 4). These values are partly explained by the few renter households they contain in American Community Survey data, but rates also vary in more populated tracts. Tract C (5240) in the Springwells neighborhood, for example, has an eviiction filing rate

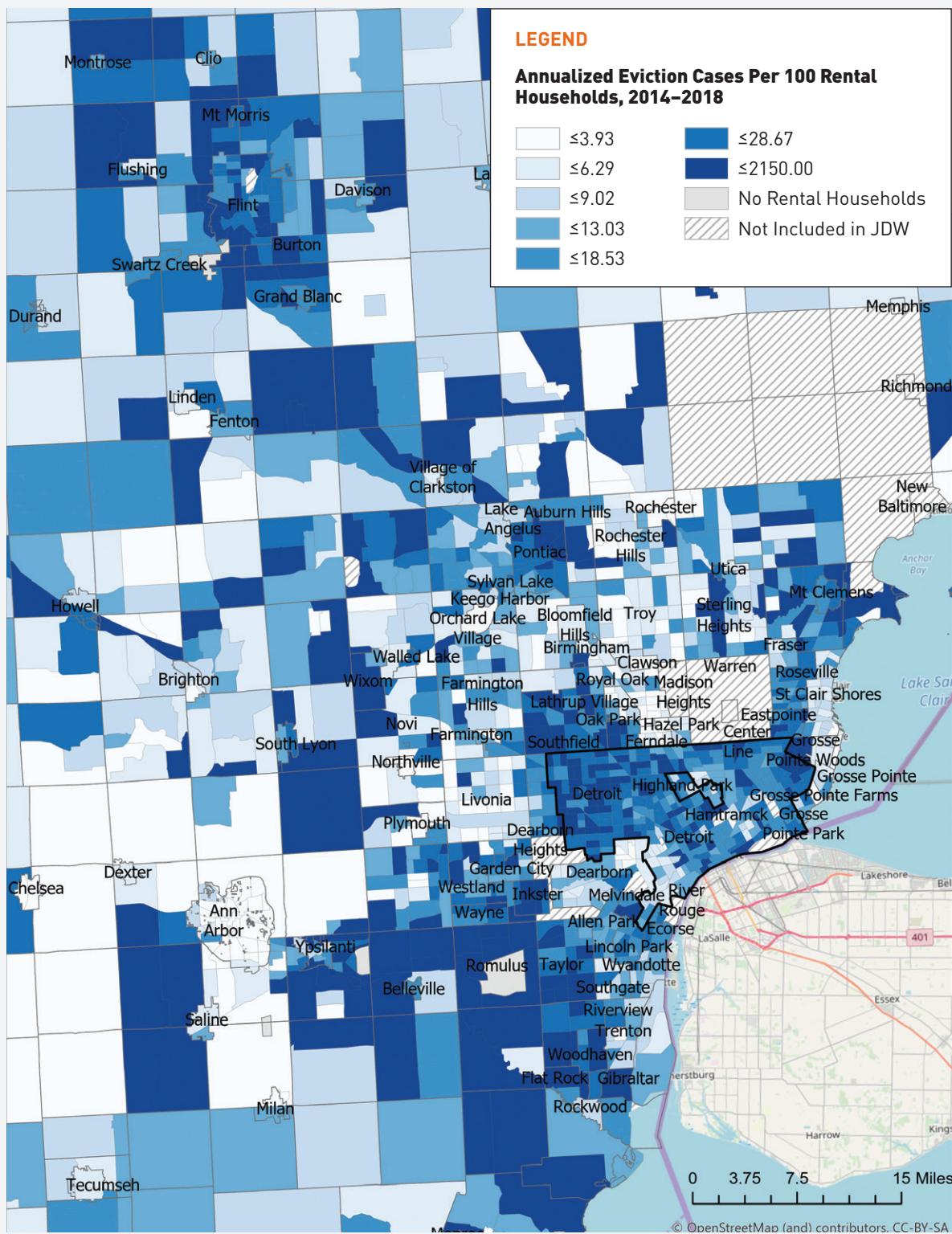
of 8.4%, well below the state average, whereas tract D (5019) in Morningside has an eviiction filing rate of 19.3%.

### Regional Patterns

Tracts with high eviiction rates can be found in urban, suburban, and rural areas across Southeast Michigan (see Figure 5 on page 17), a pattern explored further in the following section.

**FIGURE 5**
**EVICTION FILING RATES BY CENSUS TRACT, 2018**

Michigan State Court Administrative Office, Judicial Data Warehouse; U.S. Census Bureau, American Community Survey 5-Year Estimates, 2013-2017



## REPRESENTATION

JDW data show that statewide 4.8% of tenants were represented by an attorney in eviction cases filed in 2014 to 2018, while 83.2% of landlords were represented.<sup>62</sup>

Reports from across the country document similar disparities in tenant-landlord legal representation rates. In most studies, between 1% and 8.5% of tenants had an attorney, while between 70% and 89% of landlords were represented.<sup>63</sup>

## 4. NEIGHBORHOOD DETERMINANTS FOR EVICTION CASE FILINGS

We have also used the SCAO's statewide case-level data to try to analyze how neighborhood characteristics are related to eviction case filings. This analysis can help show what types of people and neighborhoods in our state are most affected by evictions and help policymakers and stakeholders craft and target policies and programs designed to reduce evictions and prevent homelessness.

The fact that we were able to obtain statewide data on eviction filings also gave us an opportunity to analyze whether the neighborhood characteristics affecting eviction case filings varied between urban and rural areas of the state. Most previous studies have only looked at neighborhood characteristics across a single city or metro area.

## METHOD

First, we calculated the number of eviction cases filed in each census tract in the state from 2014 to 2018 (we used census tracts to represent neighborhoods). Next, we created a dataset of fifteen census-tract level variables that, based on prior research<sup>64</sup> and input from the legal aid community, we thought might explain why the number of eviction filings would be higher or lower in certain neighborhoods. These variables included demographic, economic, and housing characteristics of the neighborhoods, such as percentage of the population under 18, percentage African American, percentage below poverty, and percentage of households living in mobile homes.

We then used these two datasets to run three models: one that examined the relationship between the variables and eviction filings statewide, one that examined the relationship only in urban areas of the state, and one that examined the relationship only in rural areas. All three models included the number of housing units as a control variable. Because so many eviction cases are filed in urban areas, the statewide model is very similar to the model for urban areas. Since the analysis shows eviction filings are related to different neighborhood characteristics in urban and rural areas, we will present the results of each of these models and not the statewide model.

## RESULTS

In **urban areas**, explanatory variables with a statistically significant (at a 95% confidence level)

<sup>62</sup> This was computed by dividing the number of plaintiffs (landlords) and defendants (tenants) with a 5-digit bar number in the "Party Attorney" field in the party file table by the total number of plaintiffs and tenants. We excluded from this calculation the 1.5% of party records with a party attorney value of "99999" since we were unsure if this value meant they had an attorney with an unknown bar number, or whether it is used to indicate no attorney by some courts or court staff.

<sup>63</sup> Christine Dixon, Kristin Haas, Kelly Mulligan, Vinny Wisniewski, Andrew Seeder, and Amanda Weber, "Boston Housing Court Data Report," Project Hope, Homestart, and Dudley Street Neighborhood Initiative, Fall 2016; Adrienne Zahner, Karen Doran, John Guzzardo, Kevin Hill, Neal Kitterlin, Wengfeng Li, and Ryan Liebl, "No Time for Justice: A Study of Chicago's Eviction Court," Lawyers' Committee for Better Housing and Chicago-Kent College of Law, December 2003; Aubrey Hasvold and Jack Regenbogen, "Facing Eviction Alone: A Study of Evictions," Colorado Coalition for the Homeless and Colorado Center on Law and Policy, April 2018; Johns-Wolfe, "'You Are Being Asked to Leave the Premises: A Study of Eviction in Cincinnati and Hamilton County, Ohio.'"; Victor Geminiani, Jennifer F. Chin, and Isaiah Feldman-Schwartz, "Evicted in Hawai'i: Lives Hanging in the Balance," Lawyers for Equal Justice, December 7, 2018; Thiel, "Evictions in Minneapolis."; Tara Raghuvveer, "Eviction in Kansas City: An Analysis of 2017 Eviction Filings in Jackson County, MO," Kansas City Eviction Project, June 27, 2018; Liz Hersh and Mitch Little, "Mayor's Taskforce on Eviction Prevention and Response: Report and Recommendations," Mayor's Taskforce on Eviction Prevention and City of Philadelphia, June 2018; Timothy A. Thomas, Ott Toomet, Ian Kennedy, and Alex Ramiller, "The State of Evictions: Results from the University of Washington Evictions Project," University of Washington, February 2019.

<sup>64</sup> Ashley Williams Clark, Katie Zager, Justin Lane, and Laura Simmons, "Charlotte-Mecklenburg Evictions Part 2: Mapping Evictions," The Housing Advisory Board of Charlotte-Mecklenburg, Mecklenburg County Community Support Services, and University of North Carolina at Charlotte Urban Institute, 2018; Desmond et al., "Evicting Children;" Desmond and Gershenson, "Who Gets Evicted?;" Desmond, "Eviction and the Reproduction of Urban Poverty;" Greenberg, Gershenson, and Desmond, "Discrimination in Evictions;" Immergluck et al., "Evictions, Large Owners, and Serial Filings;" Johns-Wolfe, "'You Are Being Asked to Leave the Premises: A Study of Eviction in Cincinnati and Hamilton County, Ohio.'"; Raymond et al., "Corporate Landlords, Institutional Investors, and Displacement: Eviction Rates in Single-Family Rentals;" Eric Seymour and Joshua Akers, "Building the Eviction Economy: Speculation, Precarity, and Eviction in Detroit," Urban Affairs Review (2019).



relationship with the number of eviction case filings are:

#### **Positive Relationship**

- Percent African-American
- Percent single mother households
- Percent population under 18
- Percent of housing units vacant
- Percent of households in multifamily structures
- Number of subsidized housing units
- Number of mortgage foreclosures
- Percent of households living in mobile homes

#### **Negative Relationship**

- Percent population with associate's degree or higher
- Percent population in poverty
- Homeownership rate
- Number of tax foreclosures

#### **No Relationship**

- Job accessibility (measure of the number and proximity of jobs)
- Percent households cost-burdened
- Number of subsidized housing units
- Number of mobile home park sites
- Distance to nearest legal aid office
- In 5-day answer rule county

In **rural areas**, explanatory variables with statistically significant (at a 95% confidence level) relationship with the number of eviction case filings are:

#### **Positive Relationship**

- Percent single mother households
- Job accessibility (measure of the number and proximity of jobs)
- Number of mortgage foreclosures
- Number of tax foreclosures
- Percent of households living in mobile homes
- Number of mobile home park sites in tract

#### **Negative Relationship:**

- Percent population with associate's degree or higher
- Homeownership rate

#### **No Relationship:**

- Percent African-American
- Percent associate's degree or higher
- Percent population under 18
- Percent in poverty
- Percent rental households cost-burdened
- Vacancy rate
- Percent households in multifamily structures
- Number of subsidized housing units
- Number of tax foreclosures
- Distance to nearest legal aid office
- In 5-day answer rule county

## DISCUSSION

Our statewide analysis confirmed the findings of previous, smaller studies of individual cities and metro areas: higher eviction filing rates are associated with African-American population, single-mother households, and the presence of children.

The analysis shows that, compared to urban areas, eviction filings in rural areas are largely related to a smaller subset of variables: the prevalence of single-mother households, job accessibility, number of mortgage foreclosures, and the prevalence of mobile homes. In rural areas, the percentage of cost-burdened renter households is not significant, which may be the result of few renters in rural areas, or of conditions where renters are cost burdened but are better able to manage housing costs due to fewer rent increases or changes in ownership in rural housing markets.

The positive relationship between eviction filings and presence of mobile homes in rural areas needs more investigation. Perhaps the increasing corporate ownership of mobile home parks and the shift in the past 20 years from “mom and pop” enterprises to ownership by large, multi-state corporations” have led to an increase in evictions.<sup>65</sup> Legal aid attorneys have suggested that a feature of Michigan law, which allows the owners of mobile home parks to easily obtain title to homes vacated by evicted homeowners, may provide an additional financial incentive for park owners to pursue evictions.<sup>66</sup>

The main policy recommendations related to this analysis, described below, include reforms to the state’s eviction procedures to reduce eviction filings by landlords of multifamily buildings in urban areas, as well as steps that could be taken to reduce the number of eviction cases filed in mobile home parks in urban and rural areas.

## 5. WASHTENAW COUNTY EVICTION DATA

This section presents the findings from our analysis of case-level data from the physical case files of a random sample of Washtenaw County eviction cases from 2014 to 2018. This analysis provides detailed information about the prevalence, patterns, and driving forces of eviction in the county, which can be used by county stakeholders developing policies and programs designed to reduce evictions and prevent homelessness. Though we were not able to conduct such a sample and detailed level of analysis statewide or for other areas of the state, we hope that these data can also be used to inform further research and policymaking in other Michigan cities and statewide.

### EVICTION DATA AND STATISTICS

#### EVICTION FILINGS

In 2018, landlords filed 6,252 eviction cases in Washtenaw County. That year, 9.4% of these cases were filed in the 15th District Court, which serves the City of Ann Arbor, 44.1% of cases were filed in the 14B District Court, which serves Ypsilanti Township, and 44.5% of cases were filed in the 14A1 District Court, which serves the remainder of the county. As shown in Figure 6 on page 21, the County’s eviction filings have declined by about a third since their peak in 2008.

#### EVICTION FILING RATES

In 2018, Washtenaw County’s eviction filing rate—that is, the number of filings per rental household—was 11.3%, placing it 25th among Michigan’s 83 counties. This means there was about one eviction case filed for every 9 rental housing units in the county. Like the total number of evictions, the county’s eviction filing rate has fallen after the foreclosure crisis and recession (see Figure 7 on page 21).

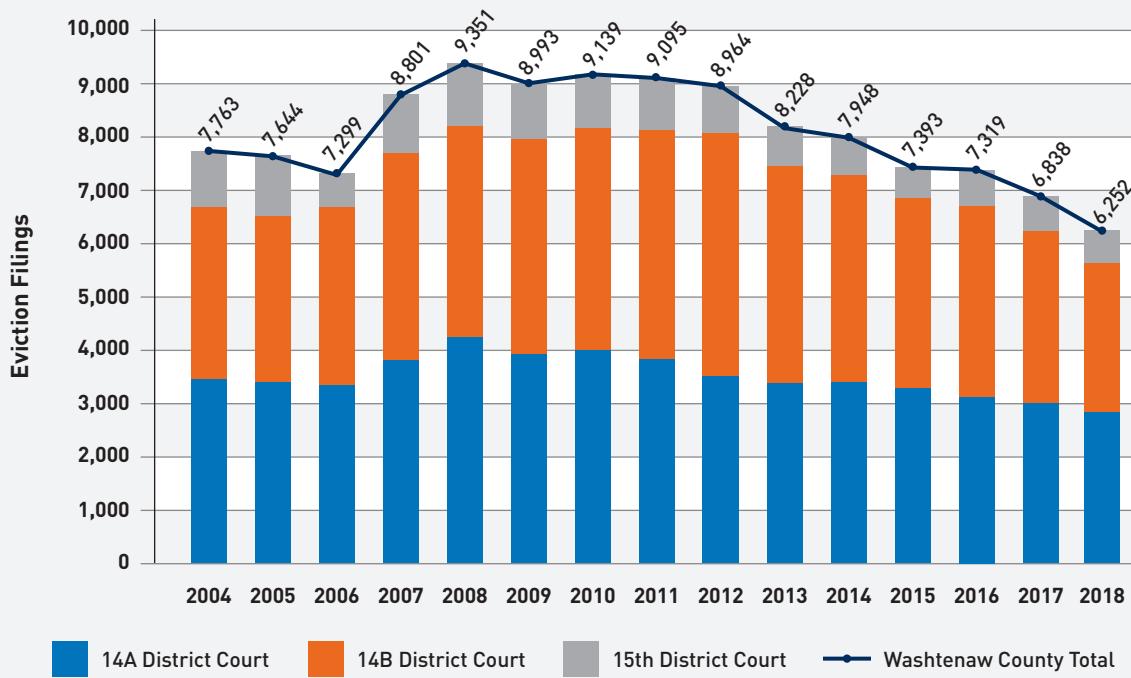
<sup>65</sup> Jim Baker, Liz Voigt, and Linda Jun, “Private Equity Giants Converge on Manufactured Homes,” Private Equity Stakeholder Project, 2019.

<sup>66</sup> Jordan Travis, “Lawsuit: Sun Communities Took Home,” Traverse City Record Eagle, December 1, 2019.

**FIGURE 6**

**WASHTENAW COUNTY EVICTION FILINGS BY DISTRICT COURT, 2004-2018**

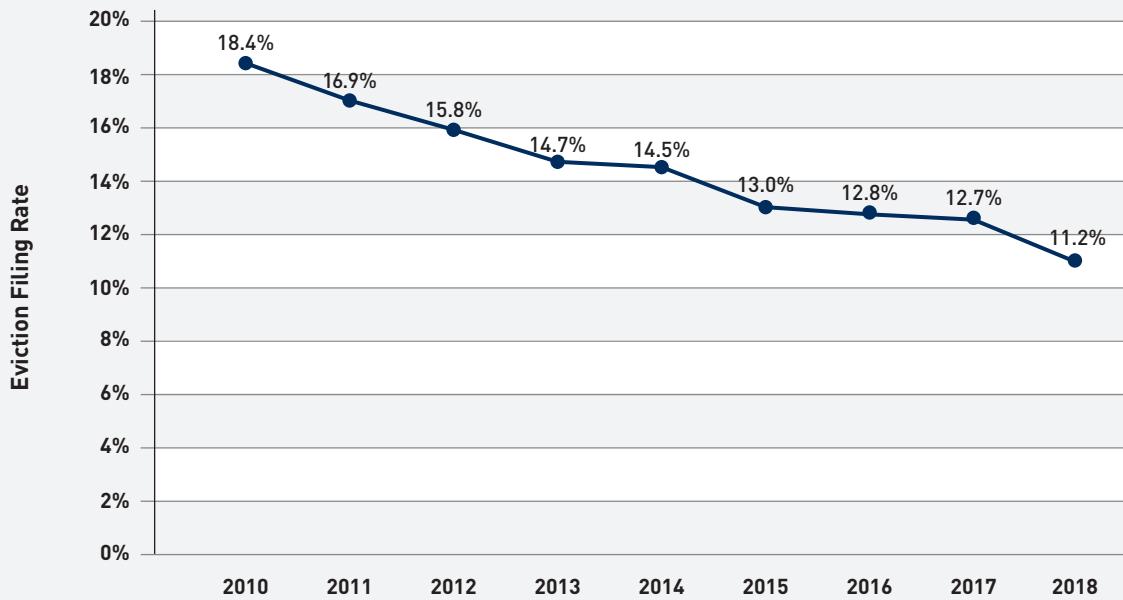
Michigan State Court Administrative Office



**FIGURE 7**

**WASHTENAW COUNTY EVICTION FILING RATE, 2010-2018**

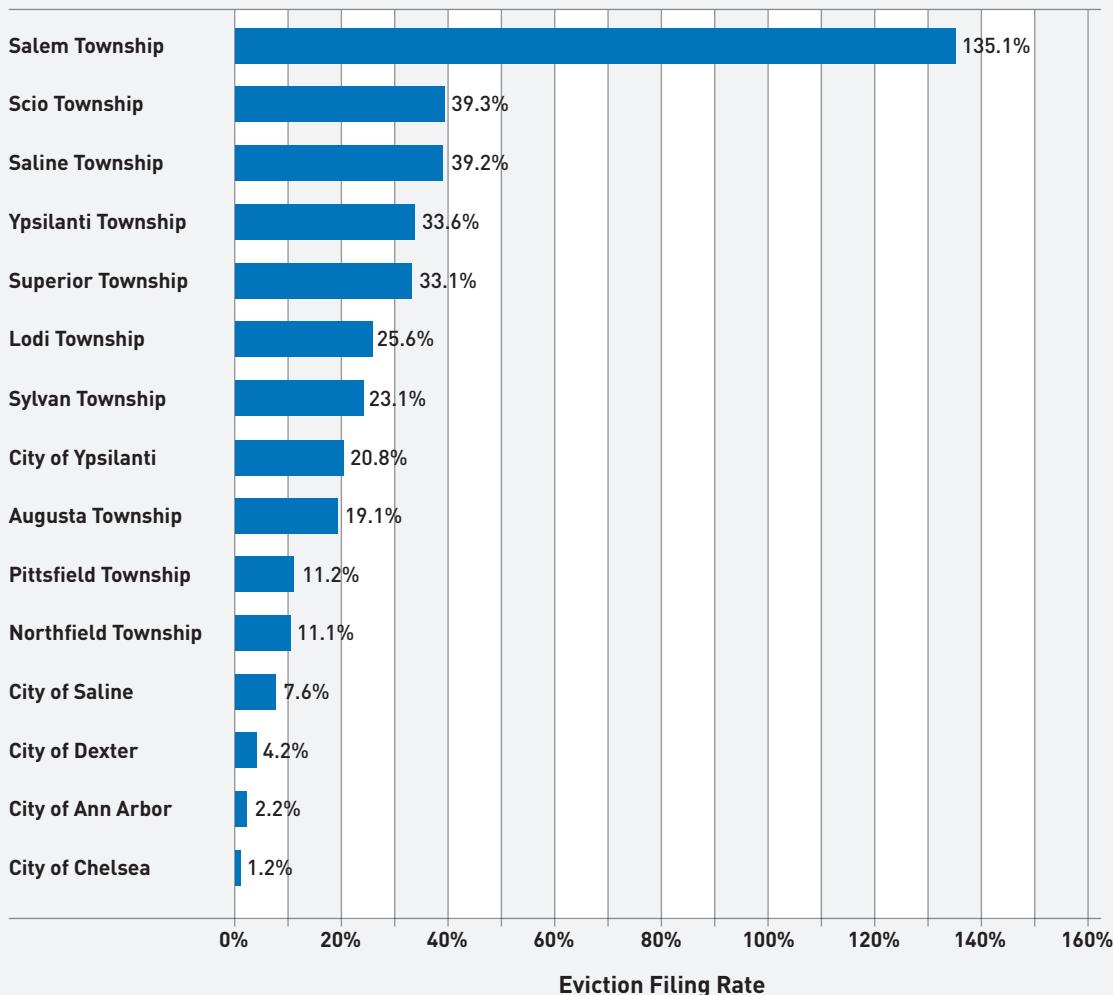
Michigan State Court Administrative Office; U.S. Census Bureau, American Community Survey  
1-Year Estimates



As shown in Figures 8 and 9 (page 23), eviction filing rates varied considerably within the county. The City of Ann Arbor's eviction filing rate was 2.2%, the City of Ypsilanti's was 20.8%, and Ypsilanti Township's was 33.6%. Salem Township had the highest eviction filing rate in the county—135%—but this high rate is likely explained by the small number of rental units

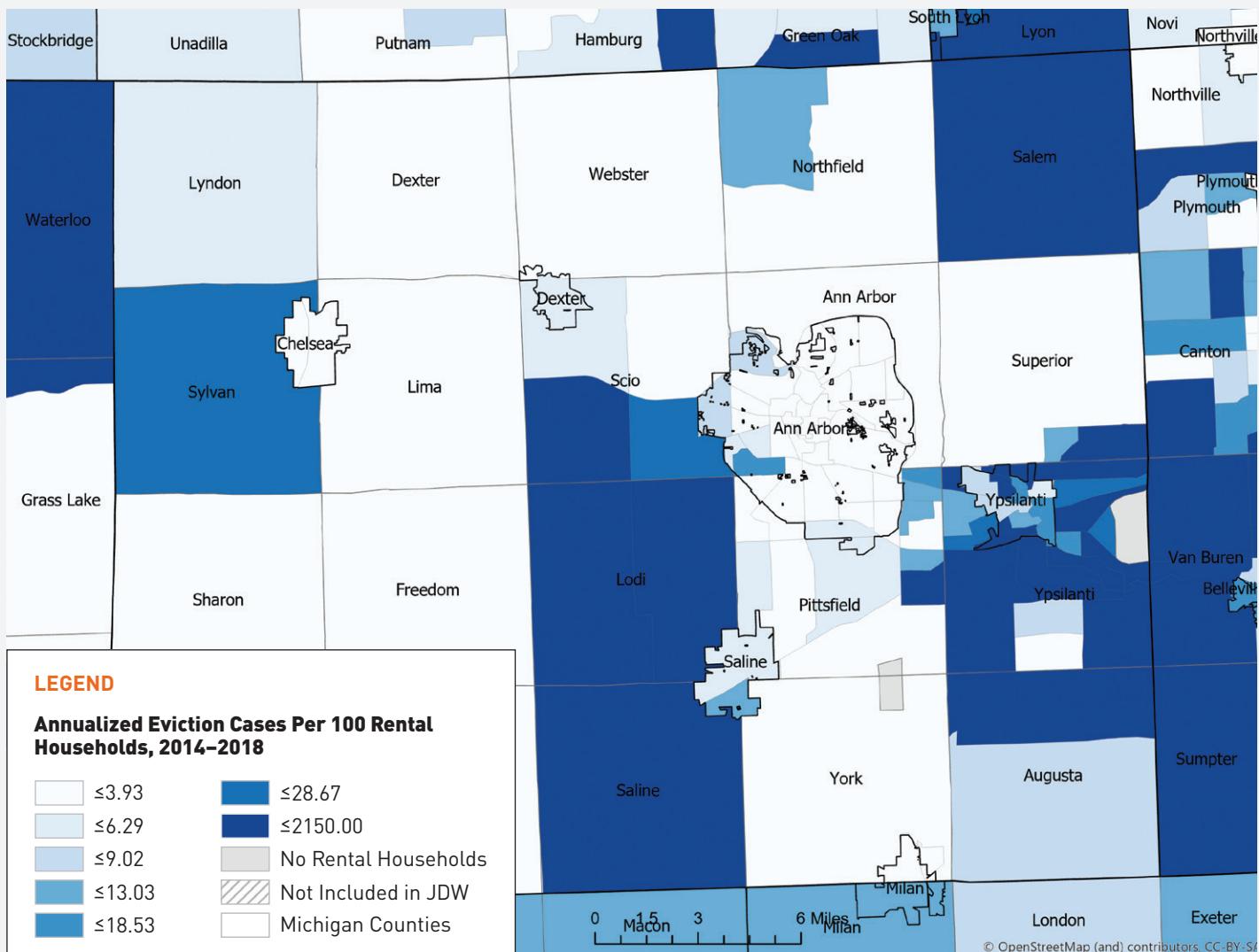
compared to the county's other government units and the presence of a large mobile home park. While most tracts with higher eviction filing rates were located in tracts in and immediately surrounding Ypsilanti, several census tracts containing mobile home parks in Scio, Augusta, and Salem Townships also had above average rates.

**FIGURE 8**
**EVICTION FILING RATES BY MINOR CIVIL DIVISION IN WASHTEENAW COUNTY, 2014-2018**

 Michigan State Court Administrative Office; U.S. Census Bureau, American Community Survey  
 5-Year Estimates, 2013-2017


**FIGURE 9**
**EVICTION FILING RATES BY CENSUS TRACT IN WASHTEENAW COUNTY, 2014-2018**

Michigan State Court Administrative Office, Judicial Data Warehouse; U.S. Census Bureau, American Community Survey 5-Year Estimates, 2013-2017



For reference, county-wide maps showing the percentage African-American population, rent burdens, mobile homes as a percentage of total housing units, and subsidized housing units as a percentage of total housing units by census tract are included in Appendix B.

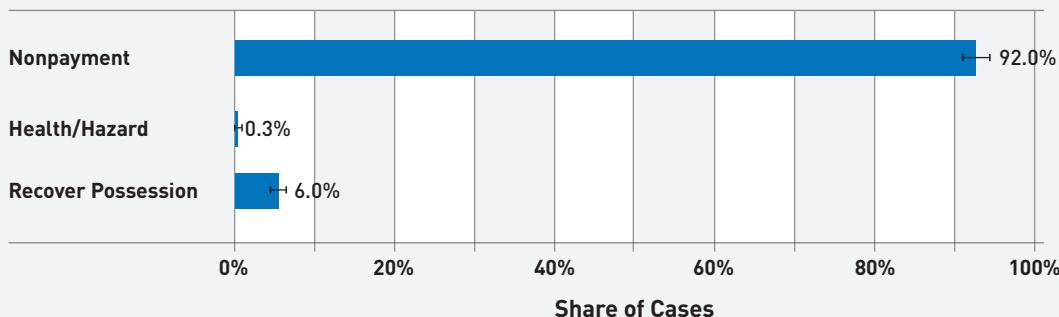
### EVICTION CASE SAMPLE ANALYSIS

In order to gain a deeper understanding of evictions in Washtenaw County, we reviewed a random sample of 399 physical case files (201 from 2014 and 198 from 2018) from the four district courts that hear eviction cases.<sup>67</sup>

<sup>67</sup> We included 2014 data in order to share it with researchers at the Eviction Lab to help them with efforts to improve data quality for Michigan. To determine how many cases should be drawn from each court serving Washtenaw County (15, 14B, and the two locations of 14A), we calculated the proportion of total filings from 2013–2018 attributable to each court, applying those weights to our intended sample size. Due to rounding, the final sample contained 402 case identifiers. One case for which court files were missing was removed from the sample, as were two other cases which concerned commercial leases, resulting in a final sample of 399 cases: 201 from 2014, and 198 from 2018.

**FIGURE 10**
**WASHTENAW COUNTY EVICTION CASES IN SAMPLE BY FILING TYPE**

District Courts 14A-1, 14A-4, 14B, and 15



NOTE: Error bars on this and subsequent charts show the 95% Margin of Error

**CASE TYPES**

The overwhelming majority of eviction cases in our sample—92%—were filed for nonpayment of rent (see Fig. 10).<sup>68</sup>

**NON-PAYMENT AMOUNTS**

Tenants in our sample owed an average of \$1,110 in back rent and other charges at the time their landlord filed the case. The smallest complaint sought \$188, while the largest sought \$15,000. Because the eviction complaint form requires the landlord to list the monthly rent amount in addition to the amount owed, we can determine that on average tenants owed an average of 1.56 months' rent at the time the landlord filed the case.

In non-payment cases where the landlord won, the average amount of rent owed increased to \$1,582 by the time the court entered judgment for possession for a landlord.<sup>69</sup> On average, the court added \$164 in costs payable by the tenant.<sup>70</sup> Although the law states that the judge has discretion in imposing these costs on the tenant, in our sample these costs were added in 99% of non-payment cases where the court entered judgment for the landlord. As a result, the final average amount owed in non-payment cases was \$1,653. This is the average amount the tenant

must pay within 10 days of the judgment to prevent an eviction.

**LEVEL OF REPRESENTATION**

In our sample, only 2.3% of tenants were represented by an attorney, compared to 90.5% of landlords (see Fig. 11 on page 25).

Although the small number of represented tenants makes it difficult to draw firm conclusions about the effect of representation on case outcomes, tenants with representation were much more likely to file an answer asserting their defenses. Two-thirds of the nine tenants with attorneys filed an answer, compared to none of the self-represented tenants. Tenants with representation were also more likely to receive a positive outcome—56% of cases were dismissed and 11% received a judgment in their favor, versus 45% of cases dismissed and no judgments in their favor among tenants without representation.

Overall, only 1.5% of tenants filed written answers in their cases. These answers present tenants' defenses and any claims they may choose to raise against the landlord in writing to the judge. Tenants can also answer orally when they appear in court.

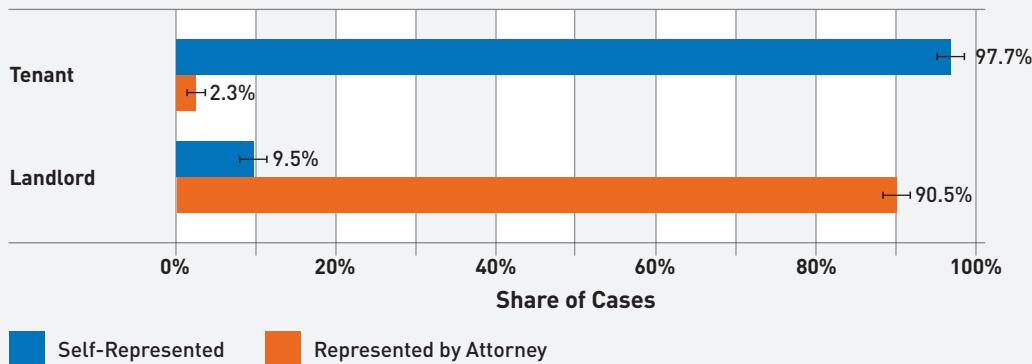
<sup>68</sup> Since we used a random sample, we computed item-level margins of error that describes the 95% confidence interval. For all items measured as a percent, due to the relatively large sample size, the 95% margin of error was less than 5%. For simplicity of presentation, we omit the margins from the text but show them in the charts.

<sup>69</sup> This increase is likely caused by another month of rent coming due and going unpaid while some cases are pending.

<sup>70</sup> If a landlord wins the case the court may require the tenant to cover this fee and the cost of service of the complaint plus an additional \$75-\$150 in "taxable costs," depending on how the case is resolved, MCL 600.5759.

**FIGURE 11**
**RATES OF TENANT (DEFENDANT) AND LANDLORD (PLAINTIFF) REPRESENTATION IN WASHTENAW COUNTY EVICTION CASES IN SAMPLE**

District Courts 14A-1, 14A-4, 14B, and 15



## CASE OUTCOMES

### DISMISSELS

A significant percentage of eviction cases in our sample (44.4%) were dismissed by the landlord or court or by agreement of the parties (see Figure 12 on page 26). Specifically, 41.9% of all cases were voluntarily dismissed by the landlord, 2.6% were dismissed by agreement of the parties, and .5% of cases were ordered dismissed by the court.

Technically, a dismissal is a win for a tenant: the case goes away and the landlord does not get a judgment or order allowing the landlord to evict. Anecdotally, in many cases the landlord, court, or parties dismiss a case because the tenant has paid what is owed or the landlord otherwise believes the case will not be winnable at trial. In these cases, a dismissal would signify that the tenants remained in the housing unit and an involuntary move was avoided.

In some cases, however, a dismissal is entered when the tenant has already moved out or has agreed to move out by a certain date. In these cases, the eviction filing will have resulted in an involuntary move, even if the case was dismissed. Unfortunately, it is not possible to determine from the court records whether the dismissal means that the tenant has moved out or remained.

### JUDGMENTS

In our sample, judgments entered in 57% of cases. In 95% of cases where a judgment entered, judgment entered for the landlord, compared to .4% of cases where judgment was for the tenant.<sup>71</sup>

In 37.1% of all cases the judgment entered by default, which means the tenant didn't appear and automatically lost the case. In 17.3% of all cases, the judgment entered by consent— meaning, the landlord and tenant agreed to the terms of the judgment, and it was then entered and approved by the court. In only 1.3% of all cases, the court issued the judgment after a hearing.

### ORDERS OF EVICTION

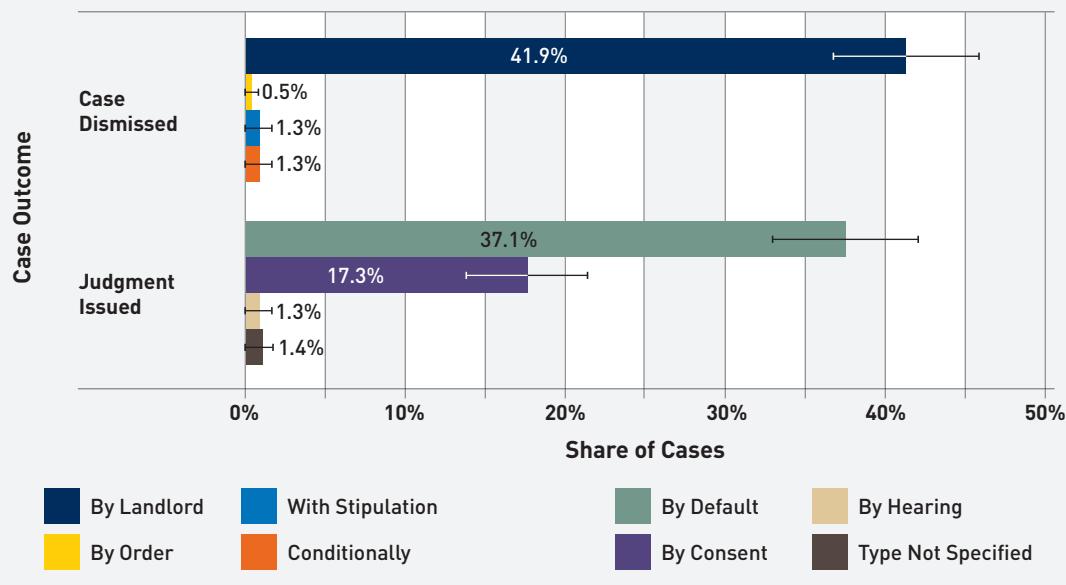
In our sample, the court issued orders of eviction in 22.6% of all cases ( see Figure 14 on page 26). In 20.8% of all cases, these orders were returned to the court showing that they had been executed. This means that the court officer, bailiff, sheriff, deputy sheriff, or police officer used the order to physically evict the tenant or confirmed that the tenant had already moved out.

Given that 6,252 eviction cases were filed in Washtenaw County in 2018, this means that approximately 1,300 households were physically evicted from their homes that year. This breaks down to around 25 households evicted each week and 3.5 households each day in the county. These numbers do not account for households that may have moved out on their own before the case was filed or at any earlier point in the court process.

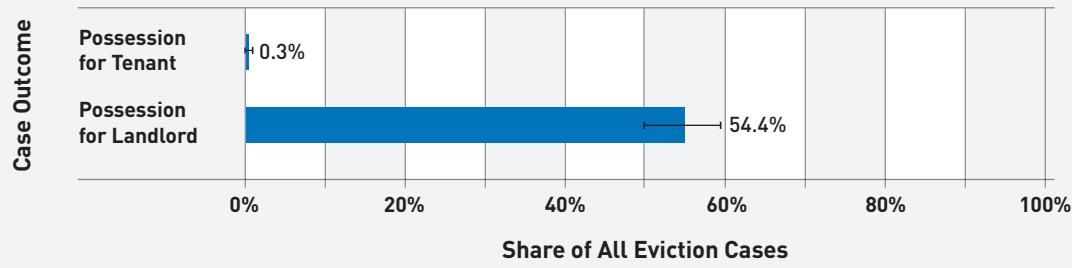
<sup>71</sup> Percentage does not total 100% since we did not have possession information for 10 cases which had a judgment.

**FIGURE 12**
**OUTCOMES IN SAMPLE OF WASEHTENAW COUNTY EVICTION CASES**

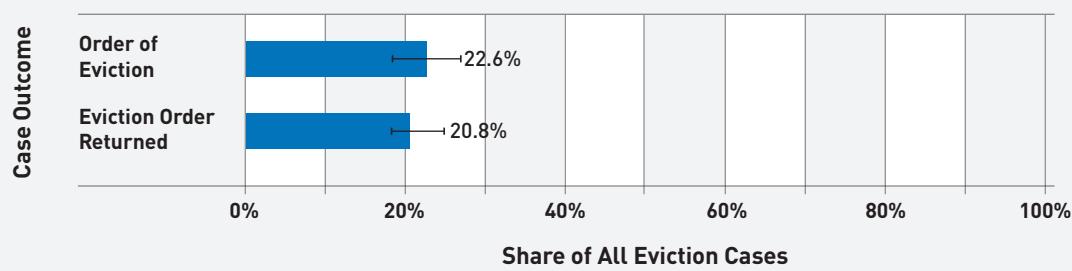
District Courts 14A-1, 14A-4, 14B, and 15


**FIGURE 13**
**FREQUENCY OF JUDGMENTS OF POSSESSION FOR TENANTS AND LANDLORDS**

District Courts 14A-1, 14A-4, 14B, and 15


**FIGURE 14**
**FREQUENCY OF ORDERS OF EVICTION AND RELATED OUTCOMES**

District Courts 14A-1, 14A-4, 14B, and 15



## 6. LENAWEE COUNTY EVICTION DATA

This section presented the findings from our analysis of case-level data from the online register of actions of a random sample of Lenawee County eviction cases from 2013 to 2018. This analysis provides some information about the prevalence and patterns of eviction in the county, which can be used by local stakeholders. The analysis also provides an interesting point of comparison with the Washtenaw County data, especially because Lenawee County is a “5-day” district court, while Washtenaw County is not..

The 2A District Court handles all of the eviction cases in Lenawee County. In February 2019, we purchased a list of case identification numbers from the court for 5,746 landlord-tenant cases filed between 2013 and 2018. We then took a random sample of 200 cases from this list and retrieved case-level data on each of these cases from the court’s online, publicly-available register of actions system. For each case we collected: case number, filing date, judge, plaintiff names, defendant names, defendant’s address, attorney information, and a limited set of case outcomes. A table summarizing the results of this analysis is shown below (see Table 2).

**TABLE 2**

**ESTIMATES OF REPRESENTATION, CASE OUTCOMES, AND EVICTIONS FOR  
LANDLORD-TENANT CASES IN LENAWEE COUNTY, MICHIGAN, 2013-2018**

District Court D2A

<b>Random Sample from 5,746 Landlord-Tenant Cases N=200</b>	<b>Percent</b>
<b>CASE TYPE</b>	
Nonpayment	$76 \pm 5.9$
Recover Possession	$24 \pm 5.9$
<b>REPRESENTATION</b>	
Landlord Had Attorney	$71 \pm 4.4$
Tenant Had Attorney	$4 \pm 1.9$
<b>CASE EVENTS</b>	
Tenant Filed Answer	$23 \pm 5.8$
<b>CASE OUTCOMES</b>	
Default Judgment for Landlord Issued	$43 \pm 6.9$
Judgment by Consent	$3 \pm 2.4$
Landlord Dismisses Case	$34 \pm 6.5$
Judgment Issued by Court	$22 \pm 5.7$
<b>EVICTIONS</b>	
Order of Eviction Entered	$39 \pm 6.7$
Order of Eviction Served/Posted	$37 \pm 6.7$

Among nonpayment cases, the average rent due to retain possession was \$2,494.

The 2A District Court that covers Lenawee County is one of the seven district courts in the state that has adopted a local practice requiring tenants to file a written answer to the landlord's complaint before the court will schedule a hearing. If the tenant does not file a written answer within five days of receiving the complaint, the tenant will not get a court hearing, and the court will automatically issue a default judgment for possession for the landlord.

This local practice likely explains the significantly higher percentage of tenants who file a written answer in their case in Lenawee County (23%), compared to Washtenaw County (1.5%). It may also explain Lenawee County's significantly higher percentage of cases resulting in a default judgment for the landlord (43%) and higher percentage of cases resulting in an order of eviction being served and returned (37%). In Washtenaw County, only 37% of cases resulted in a default judgment for the landlord and only 21% of cases resulted in an eviction order being served and returned.

## 7. RECOMMENDATIONS

Given Michigan's high eviction filing rate and the harm these filings and the ensuing homelessness impose on tenants, we recommend that tenants, advocates, service providers, the courts, and state government take immediate steps to tackle this problem. We have developed the detailed policy recommendations below to jump start and guide this work. These recommendations are based on findings from our analysis and other social science research on evictions, best practices from other states, and feedback received during our stakeholder engagement process.

To ensure these recommendations become a reality, key stakeholders should take the lead on implementation. First, we recommend that the Michigan Supreme Court's Justice for All Taskforce use this report's findings in their current assessment of the gaps in civil legal services in Michigan and incorporate these recommendations in their plan to fill those gaps.

Second, we recommend that the Michigan State Planning Body—an association that serves as a forum for planning and coordinating Michigan's efforts to deliver civil and criminal legal services to the poor—convene and support a working group to further develop and advocate for the implementation of these recommendations. This group should include tenants, tenant organizers, legal aid attorneys, housing and social services providers, academics, and fair housing advocates and should work closely with district court judges and court administrators, local government officials, the State Court Administrative Office (SCAO), the Whitmer Administration, the legislature, and the Justice for All Taskforce.

### I. THE SCAO SHOULD IMPROVE THE QUALITY AND AVAILABILITY OF EVICTION DATA

Improving the quality and availability of Michigan eviction data would help policymakers, local governments, and legal and social services agencies track and respond to evictions. Michigan's State Court Administrative Office (SCAO), which is the administrative agency of the Michigan Supreme Court and exercises oversight over Michigan's courts, already publishes annual statistics on eviction cases, including the number of case filings and the disposition of these cases on a state, county, and court level.<sup>72</sup> In the past, it has also produced trend reports, showing the change in the number of eviction filings by court and county over time.

The SCAO should continue to publish annual statistics on eviction cases, resume producing annual trend reports, and consider ways to make the data more accessible. SCAO should create maps or online databases that would allow users to easily compare eviction filing rates and case dispositions across jurisdictions and over time.

The SCAO should also work with local courts, local governments, and social and legal service agencies to determine what additional information would be helpful concerning eviction cases (or civil cases more broadly) and how such information could be collected. For example, the National Center for State Courts recommends that courts gather data in civil cases on whether either party is self-represented.<sup>73</sup> In

<sup>72</sup> "Caseload Reports," SCAO, accessed December 2, 2019, <https://courts.michigan.gov/education/stats/Caseload/>.

<sup>73</sup> National Center for State Courts, "State Court Guide to Statistical Reporting," Version 2.2, February 4, 2019, 34-36.

eviction cases, consistently gathering this information across the state would help service providers make decisions about how to deploy limited resources and help policymakers measure the outcomes of policy interventions, such as guaranteeing a right to counsel.

The SCAO should direct local courts to record more specific non-trial dispositions in eviction cases.<sup>74</sup> Local courts currently record nine different manners of disposition: jury verdict, bench verdict, uncontested/default/settlement, transferred, dismissed by party, dismissed by court, inactive status, other disposition, and case type change.<sup>75</sup> Each year, over half of eviction cases are classified under “uncontested/default/settlement.”<sup>76</sup> SCAO should replace the “uncontested/default/settlement” category with two more specific dispositions: (1) default judgment (when the tenant does not appear at the hearing) and (2) consent judgment/settlement. This change would allow stakeholders to track how many tenants are failing to appear at their first hearing and measure tenant outreach interventions.

Finally, the SCAO should collect more detailed data on the case type and substantive outcomes in the eviction cases, including whether the court issues an order of eviction. The SCAO, another agency, or stakeholders should also conduct periodic, statewide case-level sampling, like the sampling we conducted in Washtenaw County, to gather more specific, statewide data on outcomes in eviction cases and measure changes over time.

## SUMMARY OF RECOMMENDATIONS

The Michigan State Court Administrative Office (SCAO) should:

- Continue publishing annual statistics on eviction cases;
- Identify and implement ways to make the current statistics more accessible to stakeholders and the public;
- Require local courts to track and report rates of self-represented litigants by case type statewide; and
- Work with local courts and other stakeholders to explore ways to collect more data on eviction cases, such as information about the case outcomes and dispositions.

## II. THE STATE, LOCAL COURTS, AND FUNDERS SHOULD EXPAND LEGAL REPRESENTATION IN EVICTION CASES AND PROGRAMS DESIGNED TO PREVENT AVOIDABLE EVICTIONS

Our data raise serious concerns about the fairness of Michigan’s eviction process and the substantive outcomes in eviction cases. Eviction is a fast moving and complex process, with tight deadlines and layers of procedural and substantive laws.<sup>77</sup> Statewide, only 4.8% of tenants facing eviction are represented by attorneys, compared to 83.2% of landlords with representation.<sup>78</sup> The Washtenaw County sample shows that 37.1% percent of tenants lose by default because they do not appear in court, that only 1.3% percent of cases are actually heard and decided by a judge, and that many cases are resolved with “negotiated” settlements, in most cases entered into by self-represented tenants and their landlords’ attorneys.<sup>79</sup> We recommend three major reforms to address these systemic inequalities.

<sup>74</sup> National Center for State Courts, “State Court Guide to Statistical Reporting,” Version 2.2, February 4, 2019, 38.

<sup>75</sup> “Caseload Reports,” SCAO, accessed December 2, 2019, <https://courts.michigan.gov/education/stats/Caseload/>.

<sup>76</sup> *Id.*

<sup>77</sup> In a recent unanimous decision, the Massachusetts Supreme Judicial Court reviewed the considerable challenges self-represented litigants face navigating the eviction process, noting “the complexity of summary process eviction is exacerbated by the web of applicable statutes and rules,” and that “[d]eciding when to apply which of these rules—and how to resolve inconsistencies among them—is therefore a formidable challenge for an unrepresented litigant seeking to comply with fast-moving deadlines, especially when that litigant is also facing the stress of a potential eviction.” *Adjarte v Central Division of the Housing Court Department*, 481 Mass. 830, 836-837 [2019].

<sup>78</sup> In the Washtenaw County sample, 2% of tenants had representation, compared with 90% of landlords. In the Lenawee County sample, 4% of tenants had representation, compared to 71% of landlords. A 2019 study of Detroit evictions found that 4.4% of tenants had representation, compared to 83% of landlords; N. Steinkamp, “Detroit Eviction Data and the Costs and Benefits of Providing Counsel to Low-Income Tenants,” Report by Stout Risius Ross at Detroit Right to Counsel Summit, 2019.

<sup>79</sup> In Lenawee County, 55% of tenants lost by default and in Washtenaw County 37.1% of tenants lost by default. In the Washtenaw County sample, 17% of cases were resolved with negotiated “consent judgments” and only 1.3% of cases were resolved by a hearing in front of the judge.



First, within two years, Michigan should join the growing national movement to guarantee a right to counsel in eviction cases to all tenants unable to afford an attorney.<sup>80</sup> In a complex, adversarial process where most landlords have attorneys, full representation of tenants is the only way to level the playing field and ensure fair outcomes. Numerous studies have documented the benefits to both tenants and local governments when tenants have lawyers in eviction cases—from tenants being more likely to keep their homes and less likely to owe their landlords money, to more time for tenants to safely relocate, to decreased shelter expenses for state and local governments.<sup>81</sup> The State of Michigan should establish and fund a statewide right to counsel. In the absence of state action, individual cities should create and fund such a right locally. The City of Detroit is considering such legislation, and we recommend that the City Council and the Mayor adopt and implement this legislation.<sup>82</sup>

Second, the state should establish and fund eviction diversion programs in every district court across the state within two years. These programs reduce evictions by connecting tenants with legal aid attorneys and social service agencies early in the process, when the case is first filed or at the first hearing. The programs are partnerships between local courts, legal aid organizations, and local Department of Health and Human Services offices and Housing Assessment and Resource Agencies, which provide emergency rental assistance funding and relocation assistance, at a minimum.<sup>83</sup> Such programs reduce default and eviction rates<sup>84</sup> and are already in place in several courts in the state, including the 54-A District Court in Ingham County, the 12th District Court in Jackson County, and the 10th District Court in Calhoun County.

Finally, the SCAO should direct district courts to take steps to help all litigants better understand the

<sup>80</sup> To date, San Francisco, Santa Monica, Cleveland, Philadelphia, New York City, and Newark have established a right to counsel in eviction cases. Massachusetts and Connecticut are considering legislation to create a state-wide right to counsel.

<sup>81</sup> Office of Civil Justice, "Universal Access to Legal Services: A Report on Year One Implementation in New York City," New York City Human Resources Administration, Fall 2018; James Greiner, Jonathan Hennessy, and Cassandra Wolos Pattanayak, "The Limits of Unbundled Legal Assistance in a District Court in the United States," Harvard Law Review [2013] (tenants with offer of full representation less likely to be evicted or owe their landlord money); Luke Grundman and Muria Kruger, "Legal Representation in Evictions—Comparative Study," Mid-Minnesota Legal Aid and Volunteer Lawyers Network, 2018, 2 (represented tenants less likely to enter homeless shelters, have more time to move, and are less likely to leave court with eviction record); "The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A," Report by Stout Risius Ross, Inc., March 16, 2016 (New York City would realize annual benefits of \$320 million by providing a right to counsel in eviction cases); "Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants," Report by Stout Risius Ross, LLC, November 13, 2018 (Philadelphia could avoid \$45.2 million in annual costs by providing a right to counsel).

<sup>82</sup> For more information on Detroit's efforts to establish a right to counsel in eviction cases, visit: "Right to Counsel Movement," United Community Housing Coalition, <https://www.uchcdetroit.org/right-to-counsel>.

<sup>83</sup> Generally, local courts provide a space for the attorneys and social service agencies to meet with tenants and help make tenants aware of the programs by sending out a flyer with the summons and complaint and making announcements in court on eviction days. Attorneys challenge improper or illegal evictions and excessive or improper charges and fees, raise claims, such as those based on conditions of disrepair in the apartment, to offset the rent arrears, or negotiate repayment plans or move out agreements. Michigan Department of Health and Human Services (DHHS) and local Housing Assessment and Resource Agencies (HARAs) conduct tenant intakes for emergency rental assistance at court on the spot or assist with housing relocation.

<sup>84</sup> Nick Gamber, Jordan Galvin, and Andrew Sanders, "An Analysis of the Eviction Diversion Program at the 54-A District Court," 4 (documenting a reduction in the eviction rate from 35.09% to 22.50% and a reduction in the default rate from 44.88% to 33.40% after implementation of an eviction diversion program); Urban Institute, "A Head Start for Eviction Prevention," February 5, 2020, (reporting a 18 percent reduction in eviction judgments after implementation of an eviction diversion program).

eviction process and their basic rights. The SCAO should make sure courts are following existing court rules that advance these goals, including MCR 4.201(F)(2), which requires judges to inform any party who appears without an attorney about their right to retain an attorney and about legal aid assistance when available. The SCAO can also draw on best practices from other states, which include having judges make brief opening remarks explaining the court's procedures and litigants' rights before cases are called<sup>85</sup> and displaying and providing handouts, posters, and videos with this information.<sup>86</sup> The SCAO should work with Michigan Legal Help, a non-profit that specializes in developing quality materials for self-represented litigants in civil cases, to create these materials.

#### **SUMMARY OF RECOMMENDATIONS:**

The State of Michigan should:

- Establish and fund a guaranteed right to counsel for tenants in eviction cases statewide within two years; and
- Establish and fund eviction diversion programs (EDP) in every district court within two years. To be successful, these programs must include:
  - Caseworkers from the Michigan Department of Health and Human Services (DHHS) and local Housing Assessment and Resource Agencies (HARAs) available at the courthouse when eviction cases are heard; these caseworkers must be authorized to accept and make immediate decisions on tenant's State Emergency Relief (SER) and other emergency rental assistance funding applications;
  - Easy-to-understand flyers sent by the district court with the summons and complaint explaining the eviction diversion program and telling the tenant what information and documents to bring to court to apply for emergency funding;
  - Absent a right to counsel, increased funding for local legal aid organizations to provide full representation in more eviction cases and to staff these diversion programs; and

- Support from the local district court, including telling tenants about the program when cases are first called, providing space near the courtroom for legal aid attorneys and caseworkers from DHHS and local agencies to meet with tenants, and allowing these caseworkers to bring laptops and access internet connections in the building so that they can process applications on the spot.

Until the state establishes a statewide right to counsel and eviction diversion programs, local governments, courts, and funders should:

- Guarantee and fund a right to counsel locally;
- Establish and fund local eviction diversion programs; and
- Provide funding to legal aid organizations to increase outreach to tenants facing eviction as well as to increase representation in eviction cases.

To help increase tenants' knowledge of their legal rights and resources, SCAO should require local courts to:

- Make short opening remarks at the time eviction cases are scheduled to be heard explaining the court's procedures and litigants' basic rights, including that either party has a right to present their case to the court. A sample script, based on the opening remarks delivered by judges in Cook County, Illinois, is attached in Appendix C;
- Include a flyer containing contact information for local social and legal service organizations with all summons and complaints served in eviction cases; and
- Display MLH-created and SCAO-approved posters, powerpoint presentations, and videos explaining the court's procedures and litigants' rights.

<sup>85</sup> Cook County Circuit Court, Eviction Court Bench Book for the Circuit Court of Cook County, Illinois, Model Opening Remarks. In court with a significant number of litigants who speak a language other than English, courts should translate the remarks into that language.

<sup>86</sup> Susan Blankley, "The Fight for Justice in Housing Court: From the Bronx to a Right to Counsel for all New York City Tenants," 2016.

### III. THE STATE, SCAO, AND LOCAL COURTS SHOULD MAKE CHANGES TO THE STATE'S EVICTION PROCEDURES TO REDUCE EVICTION FILINGS AND PROTECT TENANTS' RIGHTS

Our data show Michigan's eviction filing rate far exceeds rates elsewhere in the country.<sup>87</sup> Emerging research suggests that landlords file cases more quickly and frequently in states where filing a case and obtaining an eviction order is relatively inexpensive, quick, and easy.<sup>88</sup> This research suggests that in many cases, landlords are not filing evictions to regain possession of the property. Instead, they are using the threat of eviction as a rent collection mechanism and possibly to generate additional revenue from late rent fees and court costs.

While more research is needed, the high percentage of cases filed and then voluntarily dismissed by landlords in Washtenaw and Lenawee Counties suggests that these dynamics may be contributing to Michigan's high eviction filing rate.<sup>89</sup> There are also several aspects of Michigan law that significantly lower the barrier to filing for and obtaining an eviction and may even provide an incentive for landlords to pursue eviction.

First, Michigan has a low filing fee for eviction cases,<sup>90</sup> and Michigan law allows landlords to recoup this fee and its cost of service from tenants. The law also allows landlords to charge tenants an additional \$75-150 in "taxable costs," which are commonly understood to cover the landlords' attorneys' fees, in cases where they prevail.<sup>91</sup> In our Washtenaw County sample, we found that the court awarded these costs in 99% of cases and the costs averaged \$164. These additional fees and costs make it more difficult for tenants to catch up and avoid eviction, fly in the face of the default rule that litigants should bear their

own attorneys' fees in civil cases, and may even give landlords a financial incentive to file cases.

Second, in the state's 5-day district courts,<sup>92</sup> a hearing is only scheduled if a tenant files a written answer within five days of receiving a summons and complaint.<sup>93</sup> As a result, in the many cases where tenants do not file an answer, the landlord is able to obtain a judgment for eviction without even having to appear in court. Third, tenants in eviction cases are not entitled to receive basic information before trial about their landlords' allegations, such as ledgers showing charges and alleged non-payment or alleged complaints, putting tenants, especially self-represented tenants, at an extreme disadvantage at trial or in negotiations.

Finally, in cases where mobile homeowners fall behind on their lot rent, mobile home parks can file a simple non-payment eviction case to evict the owner and the home from the park. If the homeowner loses and is unable to quickly move the home, parks can quickly obtain title to the home through the Secretary of State's "abandoned vehicle" process, without having to compensate the homeowner for the value of the home. This process provides no due process protections to the homeowner and, in some cases, could result in a financial windfall for the park. The Secretary of State should end this practice and only transfer title when the park can provide an assignment of title from the homeowner.

The State of Michigan should also adopt additional protections for owners facing non-payment for mobile home rent. This could include significantly lengthening the redemption (or "pay and stay") period for mobile home owners. The current period is only 10 days, compared to 90 days for most land contract forfeitures and six months for most mortgage foreclosures. In eviction cases brought for other than

<sup>87</sup> Michigan had an eviction filing rate of 17% from 2013-2018. This rate far exceeded filing rates found in Chicago (3.9%), Minneapolis (5.2%), Philadelphia (7-7.8%), and Hamilton County, Ohio (8.7%). See Lawyers Committee for Better Housing, "Opening the Door on Chicago Evictions;" Thiel, "Evictions in Minneapolis;" Goldstein et al., "Policy Brief: Evictions in Philadelphia;" Johns-Wolfe, "'You are being asked to leave the premises: A Study of Evictions in Cincinnati and Hamilton County, Ohio.'"

<sup>88</sup> Immergluck et al., "Evictions, Large Owners, and Serial Filings;" L. Leung, P. Hepburn, and M. Desmond, "Serial Evictions: Property Managers, Tenants, and Civil Court Sanctions" (unpublished manuscript, 2019); Garboden and Rosen, "Serial Filing."

<sup>89</sup> In our Washtenaw County sample, the landlord dismissed 42% of cases and in Lenawee County landlords dismissed 34% of cases.

<sup>90</sup> As of January 2019, the filing fee for an eviction case was \$45. SCAO, District Court Fee and Assessments Table, <https://courts.michigan.gov/Administration/SCAO/Resources/Documents/other/dfee.pdf>.

<sup>91</sup> MCL 600.5759.

<sup>92</sup> 1st District: Monroe County; District 2A: Lenawee County; 12th District: Jackson County; 18th District: City of Westland; 81st District: Alcona, Arenac, Iosco, and Oscoda Counties; 82nd District: Ogemaw County; District 95B: Dickinson and Iron Counties.

<sup>93</sup> This local practice is described in more detail in Section 1 above.

non-payment of rent, Michigan mobile home tenants and owners have 90 days to sell or move their homes after the eviction judgment. This protection should be expanded to include non-payment cases.

We recommend that the state, SCAO, and local courts adopt the below recommendations, which would end these practices and make other reforms to the eviction process aimed at both deterring quick and frequent filings and providing tenants with critical protections in the eviction process.

#### **SUMMARY OF RECOMMENDATIONS:**

The State of Michigan should:

- Enact legislation extending from 7 to 14 days the notice period before a landlord can file a non-payment of rent complaint;
- Enact legislation requiring “just cause” for evictions;<sup>94</sup>
- Enact legislation eliminating courts’ ability to award parties in eviction cases \$75-\$150 in “taxable costs” on top of their actual costs in the case;
- Enact legislation denying eviction court relief to landlords whose property is not maintained in compliance with local building code requirements and with certificate of compliance (or the equivalent) and rental registration requirements;
- Enact legislation providing additional protections to mobile home owners facing eviction for non-payment of mobile home park lot rent, such as establishing a significantly longer redemption period or extending the 90-day period for owners to sell or move their home after “just cause” evictions to non-payment of rent evictions; and
- Enact legislation prohibiting the Secretary of State from transferring title to a mobile home without an assignment of title.

The Secretary of State should:

- Stop issuing certificates of title for mobile homes based only on the applicant’s allegations that the home has been abandoned. Instead, the Secretary should issue certificates only in cases where the applicant can produce an assignment of title from the former owner.

The SCAO should:

- Direct the “5-day” district courts to immediately end the practice of requiring tenants to file a written answer within 5 days of service of process in order to receive their day in court;
- Direct district courts to hold all first hearings in eviction cases on the same date and time, to allow social and legal services to more easily connect with tenants;
- Amend the discovery court rules to provide for discovery as of right in summary proceedings cases—meaning, all tenants should have a right to obtain the same information their landlord has about the eviction case;
- Amend the court rules to require judges to automatically set aside consent judgments when unrepresented litigants state that they misunderstood the basis for, or the rights which were being relinquished in, the judgment or order;
- Amend the court rules to eliminate language that suggests all trials in eviction cases must be held within 56 days;
- Amend the court rules to eliminate the requirement that the court must determine if there is a triable issue and enter judgment if it determines there is no such triable issue;
- Amend the court rules to clarify that courts have the authority and discretion to stay issuance of an order of eviction when justice requires, among other equitable relief courts can provide; and
- Prohibit eviction matters from being handled through Online Dispute Resolution.

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<sup>94</sup> “Just cause” (or “good cause”) eviction laws limit the basis on which a landlord can file an eviction case to cases where they can show good cause, such as non-payment of rent, property damage, certain criminal activity, or material lease violations.

#### IV. THE STATE AND LOCAL COURTS SHOULD TAKE STEPS TO REDUCE HARMFUL EFFECTS OF EVICTION FILINGS

Michigan's high eviction filing rates mean that an equally large percentage of Michigan renters have a record of having an eviction filed against them, even if they won or their landlord dismissed the case.<sup>95</sup> Such eviction records make it significantly harder for tenants to find a new home and make it more likely that they will accept an unsafe or uninhabitable apartment. The federal Fair Credit Report Act allows tenants to access their tenant screening report and dispute any inaccurate information, but these protections are insufficient.<sup>96</sup> Tenants usually only learn about the reports after they have been denied housing. Even if they successfully dispute inaccurate information, the dispute only corrects that tenant screening agency's records. To clear their records, tenants would have to contact each of the major seven tenant screening agencies individually.<sup>97</sup>

For that reason, we recommend that Michigan join a growing number of states that either automatically, or upon the tenant's request, seal eviction records. In California, eviction records are unavailable to the general public unless the landlord wins a judgment within 60 days of filing or wins at trial.<sup>98</sup> New York Housing Court decisions are not available online and are stripped of identifying data before they are sold to tenant-screening services, allowing eviction records to languish in "practical obscurity."<sup>99</sup> Wisconsin law requires dismissed eviction cases be removed from the web after two years.<sup>100</sup> In Washington, judges can issue an "order of limited dissemination" when an eviction complaint has no basis in fact or law or other good cause.<sup>101</sup>

We also recommend that local courts take steps to limit the dissemination of eviction case records. While

tenant screening agencies currently have a right to access publicly available court files, local courts should not facilitate this access by running reports for or selling reports to these companies. Instead, if these companies want the information, they should have to send someone to the court to review the physical court files, like any other member of the public.

#### SUMMARY OF RECOMMENDATIONS:

The State of Michigan should:

- Enact legislation that limits access to eviction records and permanently seals cases that were dismissed or decided in the tenant's favor.

Local courts should:

- Not produce reports or sell eviction case data to tenant screening bureaus.

#### V. THE FEDERAL, STATE, AND LOCAL GOVERNMENTS SHOULD EXPAND SAFE AND AFFORDABLE HOUSING AND STRENGTHEN LOW-INCOME MICHIGANDERS' INCOME AND SAVINGS.

Our data suggest that the lack of affordable housing is an important driver of evictions in Michigan. In the Washtenaw County sample, 92% of eviction cases were filed based on non-payment of rent.

Other studies confirm that even before the recent economic crisis, Michigan's low-income tenants could not afford to pay their rents. In Michigan in 2017, 46.7% of renters were housing cost-burdened, meaning that their housing costs exceeded 30% of their income; 25.4% were severely cost burdened, spending more than 50% of their income on housing costs.<sup>102</sup> Among extremely low-income households (with incomes less

<sup>95</sup> Tenant screening agencies cull eviction data and compile it, along with credit reports, criminal history, rent payment history, and rental performance, into reports they then sell to landlords. These reports are often over-inclusive of eviction filings and usually lack important context. Rarely do reports disclose the outcome of the proceeding or whether a judgment was satisfied. For example, even if a landlord files for eviction in error, that filing shows up as a black mark on a tenant's eviction record. Landlords can use these reports to blacklist tenants with any record of eviction and summarily deny their leasing applications.

<sup>96</sup> 15 U.S.C. § 1681.

<sup>97</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_consumer-reporting-companies-list.pdf](https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-companies-list.pdf).

<sup>98</sup> Esme Carmello and Nora Mahlberg, "Combating Tenant Blacklisting Based on Housing Court Records," Clearinghouse Community, August 2017, 2 (citing Cal. Civ. Proc. Code § 11612 (2017)).

<sup>99</sup> *Id.*

<sup>100</sup> Wis. Sup. Ct. R. 72.01(9)).

<sup>101</sup> Wash. Rev. Code § 59.18.367 (2016); Illinois and Minnesota have similar laws, 735 Ill. Comp. Stat. 5 / 9-121(b) (2018); Minn. Stat. §§ 484.014, 504B.345.

<sup>102</sup> Joint Center for Housing Studies, "Renter Cost Burdens, States," accessed at [https://www.jchs.harvard.edu/ARH\\_2017\\_cost\\_burdens\\_by\\_state\\_total](https://www.jchs.harvard.edu/ARH_2017_cost_burdens_by_state_total).

than 30% of area median income), 69% of renters had severe housing cost burdens in 2018.<sup>103</sup> Unfortunately, current government-subsidized affordable housing programs do not meet the need for assistance. Federal programs targeting low-income renters only have the funding to serve 1 in 4 eligible households.<sup>104</sup> Michigan has only 40 housing units with affordable rents per 100 extremely low-income households.<sup>105</sup>

As a result, to address the major cause of eviction, the inability of low-income households to pay their rent, federal, state, and local policymakers need to do much more to assure that many more housing units are affordable for people whose incomes are less than 40% of area median income.<sup>106</sup> More funding is also needed for emergency rental assistance, which provides one-time payments to help low-income tenants avoid eviction and homelessness. State policymakers can also help limit tenants' rent burdens by placing a cap on the amount of late fees landlords can charge and the amount of court costs and fees charged to tenants in eviction cases.<sup>107</sup>

The inability to pay rent is also due to low income, not just to high rent. Federal and state policymakers need to enact and implement measures to support incomes. At the state level this can mean increasing the minimum wage, reducing the restrictions on food aid (SNAP), and reducing restrictions on Medicaid subsidies for health insurance. The latter two measures reduce costs for food and health care and therefore take a burden off income and leave more money to pay rent. The federal government should assure that the Earned Income Tax Credit functions well, raise Social Security payments to the lowest income individuals, and increase funding for SNAP and transfers to the states for Medicaid payments, for instance. Federal and state policies have moved instead to reduce eligibility for SNAP and Medicaid over the last few years, and other income support policies have been threatened rather than reinforced.

## SUMMARY OF RECOMMENDATIONS:

The State of Michigan should:

- Provide funding for low-income affordable housing, related supportive services, and emergency rental assistance;
- Enact measures to support incomes;
- Make state emergency relief an effective eviction prevention tool; to do so, MDHHS should explore removing the requirement that tenants receive a summons and complaint before becoming eligible for state emergency relief to help with back rent;
- Repeal legislation limiting local governments' ability to limit rent increases;
- Enact legislation preventing landlords from charging late fees until the rent is 30 days late and limiting the amount of late fees; and
- Enact legislation eliminating courts' ability to award parties in eviction cases \$75-\$150 in "taxable costs" on top of their actual costs in the case.

Local governments should:

- Increase funding and incentives for low-income affordable housing, related supportive services, and emergency rental assistance.

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<sup>103</sup> Andrew Aurand, Dan Emmanuel, Daniel Threet, Ikra Rafi, and Diane Yentel, *The Gap: A Shortage of Affordable Homes* (Washington, DC: National Low-Income Housing Coalition, March 2020), p. 25.

<sup>104</sup> *Id.*, 2.

<sup>105</sup> *Id.*, 25.

<sup>106</sup> 40% of the FY 2019 median income for the Ann Arbor Metropolitan Statistical Area (defined as Washtenaw County) was \$40,600 for a four-person household. See Michigan State Housing Development Authority, "Compliance and Income Limits and Maximum Rents," accessed at [https://www.michigan.gov/mshda/0,4641,7-141-5555\\_8002\\_26576\\_26582-76409--,00.html](https://www.michigan.gov/mshda/0,4641,7-141-5555_8002_26576_26582-76409--,00.html).

<sup>107</sup> In Michigan, advocates report that landlords regularly charge late fees of more than \$50 per month and have charged late fees as high as \$200 per month.

## APPENDIX A: EVICTION LAB QUALITY ANALYSIS

In order to assess the quality of Eviction Lab data in the State of Michigan, statewide and county-level filing counts were compared with county-level case filing summary data from the Michigan State Court Administrative Office caseload reporting system. Specifically, the number of landlord-tenant case filings reported by each data source are compared for 2003 to 2016, the years for which we have comparable data for each.

To arrive at a landlord-tenant (LT) case total using the SCAO data, the number of land contract forfeiture (LC) filings (derived from a separate summary provided by the SCAO) was subtracted from county-level filing totals. The total number of LT filings for all counties was then summarized for years contained in the Eviction Lab dataset, omitting data where the Eviction Lab dataset contains a null value (such as Washtenaw County in 2016). The results of this analysis are reported in Table 5.1 and Figure 5.1 below.

**TABLE A.1**

### EVICTION LAB AND SCAO COVERAGE, MICHIGAN, 2003-2016

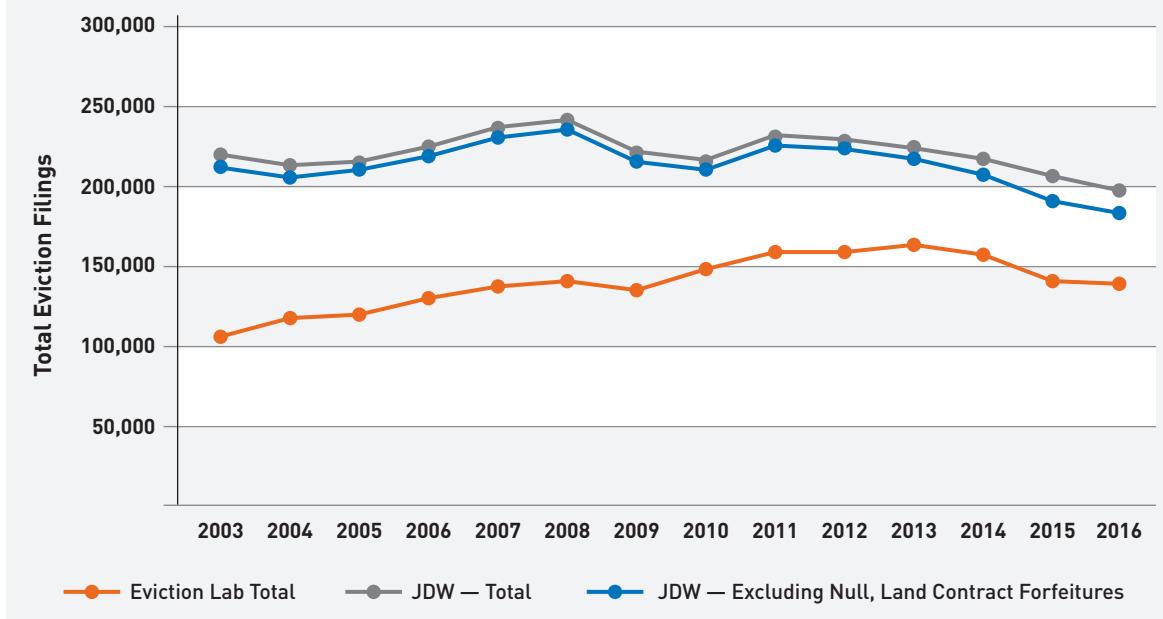
Michigan State Court Administrative Office, Judicial Data Warehouse; Eviction Lab

	All SCAO Cases (LT and LC)	SCAO Cases Omitting LC cases and Eviction Lab Null Datapoints	Eviction Lab Filings	Eviction Lab Coverage for non-null data	Eviction Lab Coverage of all SCAO cases (LT and LC)
<b>Total Filings, 2003-2016</b>	3,030,763	2,982,153	1,939,781	65%	63%

**FIGURE A.1**

### EVICTION LAB AND COMPARABLE SCAO DATA FOR THE YEARS 2003 TO 2016

Land Contract Forfeitures are excluded since they are not included in Eviction Lab data.  
 Michigan State Court Administrative Office, Judicial Data Warehouse; Eviction Lab



## COMPARISON EXCLUDING LOW RATES

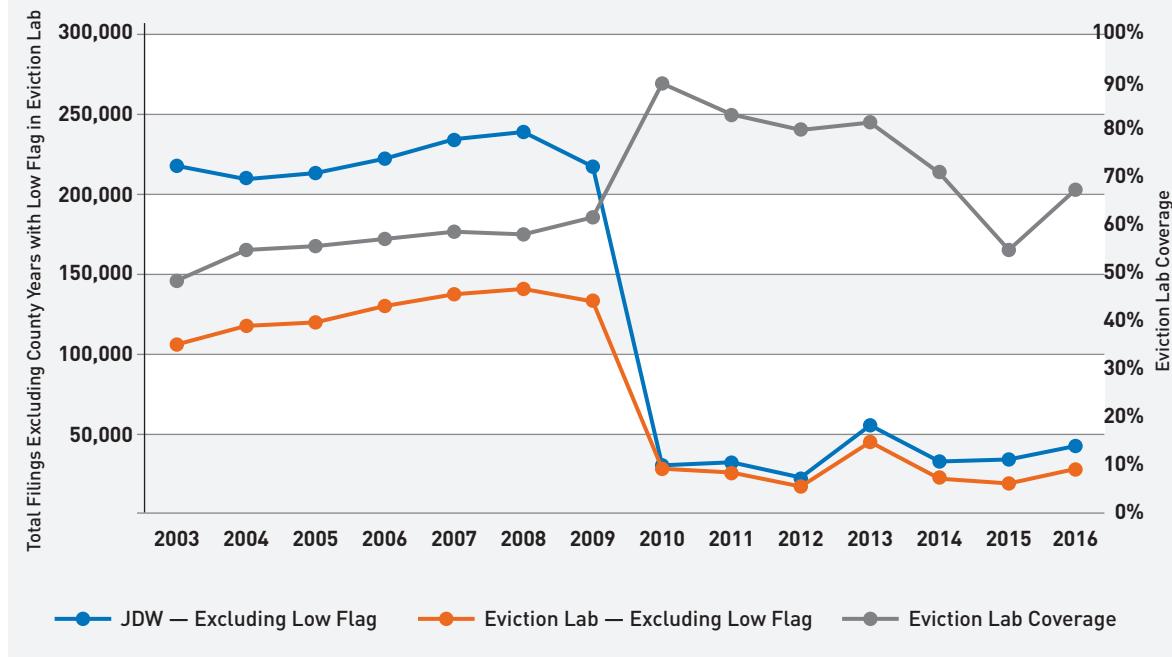
As described in the Eviction Lab Methodology Report,<sup>108</sup> Eviction Lab researchers created an indicator variable for counties where they believed their data contained an undercount in the total number of cases. The percentage of Michigan counties marked with a “low-flag” ranges from 6-15% between 2003 and 2009 to 48-70% between 2010 and 2016. In order to gauge the quality of the resulting data, Eviction Lab and SCAO

of eviction filings recorded by Eviction Lab for the years 2014 to 2016 as a percentage of filings recorded by JDW over the same period. In five counties, Eviction Lab’s recorded total exceeds that of the JDW; in 11 more, coverage is 90% or higher. However, coverage declines precipitously after that point, reaching 64% in the median county (Emmet County). Eviction Lab lacks data for 10 counties for at least one year in the 2014 to 2016 window; in five counties, data are missing for all three years.

**FIGURE A.2**

### TOTAL FILINGS, 2003-2016 EXCLUDING COUNTY YEARS WITH LOW FLAG IN EVICTION LAB

Michigan State Court Administrative Office, Judicial Data Warehouse; Eviction Lab



data were summarized for only the counties in each year that were not marked with a low flag. The results show that many of the observations in the years 2010 to 2016 are marked with this low flag. However, since 2010, in counties not marked with the low flag, the Eviction Lab data contains 55%-90% of the counts from the SCAO data.

## EVICTION LAB COVERAGE BY COUNTY

Eviction Lab’s coverage varies widely by county in Michigan. Table A.2. on page 38 displays the number

## COMPARING FILINGS AND EVICTIONS

The Eviction Lab also reports a number of evictions, which they define as cases “that contained a record of either a money or forcible detainer judgment for the plaintiff.”<sup>109</sup> Although the JDW does not contain judgment information, we have created estimates of the percentage of filings which result in judgments for the landlord from a sample of case data in Washtenaw and Lenawee Counties. In Washtenaw County, among our sample of 399 cases,  $54.4 \pm 4.9\%$  resulted in a judgment for the landlord. In Lenawee, the online system we used did not contain who the judgment was

<sup>108</sup> Desmond et al., “Eviction Lab Methodology Report v. 1.1.0.”

<sup>109</sup> Desmond et al., “Eviction Lab Methodology Report v. 1.1.0,” 28.

for, but we know it was at least equal to this amount, since  $55 \pm 4.9\%$  received a default judgment which is by definition for the landlord. In comparison, the percentage of filings resulting in eviction in the Eviction Lab data vary from 25% to 54% (see Table A.3).

**TABLE A.2.**
**EVICTION LAB COVERAGE BY COUNTY, 2014-2016**

<b>Rank</b>	<b>County</b>	<b>Eviсtion Lab Coverage</b>
<b>1</b>	Schoolcraft	819.7%
<b>2</b>	Barry	128.4%
<b>3</b>	St. Joseph	124.6%
<b>4</b>	Eaton	117.3%
<b>5</b>	Newaygo	102.8%
<b>6</b>	Allegan	99.7%
<b>7</b>	Clinton	99.3%
<b>8</b>	Bay	98.5%
<b>9</b>	Jackson	98.2%
<b>10</b>	Muskegon	97.4%
...	...	...
<b>74</b>	Lake	12.4%
<b>75</b>	Benzie	10.7%
<b>76</b>	Houghton	7.5%
<b>77</b>	St. Clair	0.8%
<b>78</b>	Gogebic	0.6%
<b>79</b>	Berrien	0.0%
<b>80</b>	Delta	0.0%
<b>81</b>	Keweenaw	0.0%
<b>82</b>	Oceana	0.0%
<b>83</b>	Sanilac	0.0%

**QUALITY ANALYSIS DISCUSSION AND CONCLUSIONS**

Overall, the comparison shows that the number of eviction filings shown on the Eviction Lab website for Michigan counties—whether or not it is marked with a low flag—is lower than the total count of landlord-tenant cases obtained from the SCAO. One factor in explaining this difference is that the SCAO data include commercial evictions, which Eviction Lab has removed. However, these cases amounted to only 1.55% of the full nationwide dataset, so it seems unlikely it would explain more than a small portion of this difference. In our Washtenaw County data, commercial evictions were 0.5% of the full sample. Since we do not have access to the full methodology used by LexisNexis, we cannot tell whether the difference is due to data collection challenges or to criteria for which cases to include.

**TABLE A.3.**
**EVICTIONS AS A PERCENTAGE OF EVICTION FILINGS, MICHIGAN**

Evictions Lab

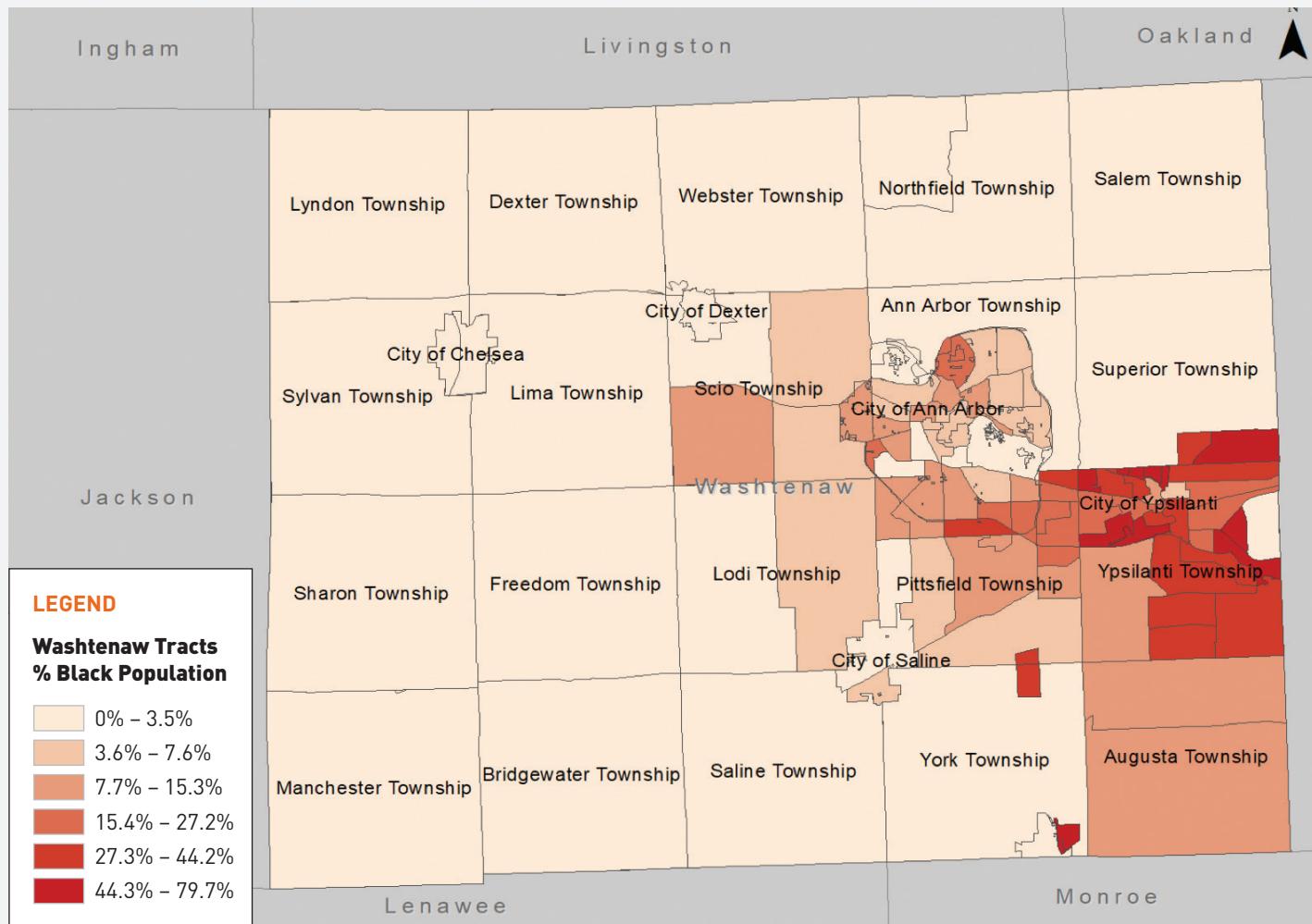
<b>Year</b>	<b>Eviсtion Lab Evictions as a % of Filings</b>
<b>2003</b>	50%
<b>2004</b>	52%
<b>2005</b>	49%
<b>2006</b>	51%
<b>2007</b>	53%
<b>2008</b>	54%
<b>2009</b>	52%
<b>2010</b>	47%
<b>2011</b>	47%
<b>2012</b>	46%
<b>2013</b>	41%
<b>2014</b>	37%
<b>2015</b>	30%
<b>2016</b>	25%

## APPENDIX B: WASHTENAW COUNTY MAPS

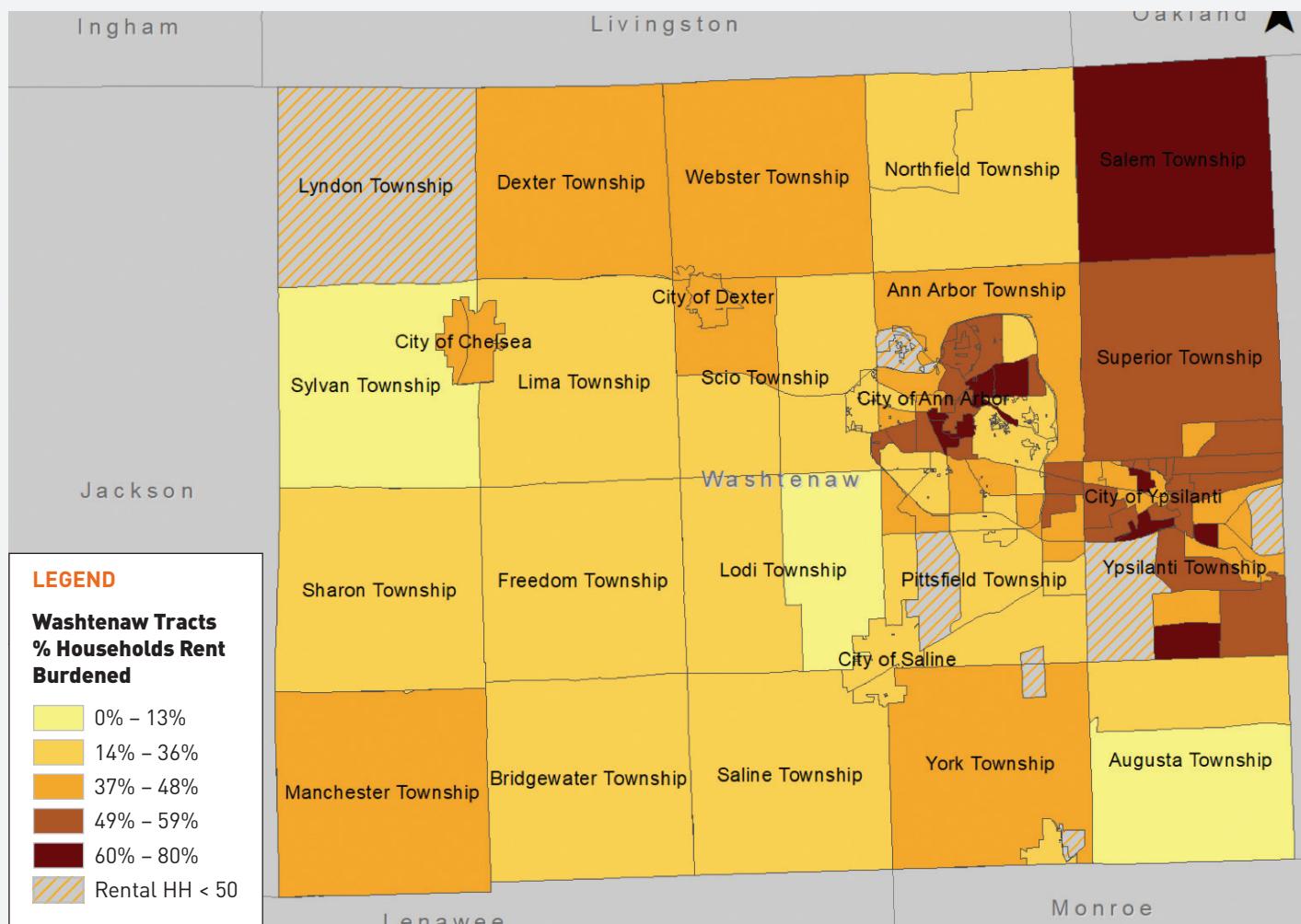
**FIGURE B.1.**

### BLACK POPULATION AS PERCENT OF TOTAL PER CENSUS TRACT, WASHTENAW COUNTY

U.S. Census Bureau, American Community Survey 5-Year Estimates, 2013-2017



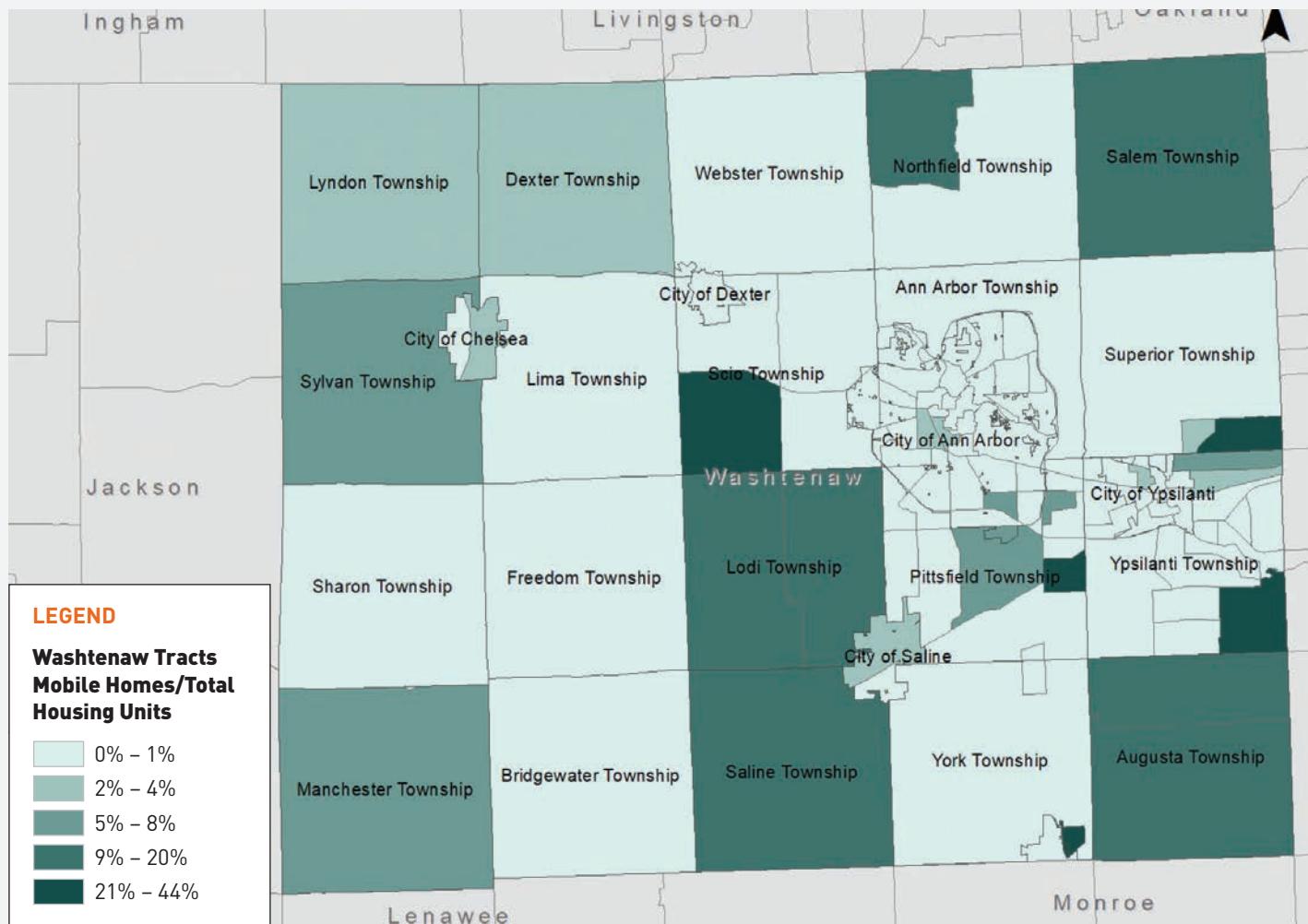
Data Source: U.S. Census Bureau Geography 2010, 2013–2017 American Community Survey

**FIGURE B.2.**
**PERCENTAGE OF HOUSEHOLDS PAYING >30% OF INCOME IN RENT PER CENSUS TRACT, WASHTENAW COUNTY**  
 U.S. Census Bureau, American Community Survey 5-Year Estimates, 2013-2017


**FIGURE B.3.**

**MOBILE HOMES AS A PERCENTAGE OF TOTAL HOUSING UNITS PER CENSUS TRACT, WASHTEAW COUNTY**

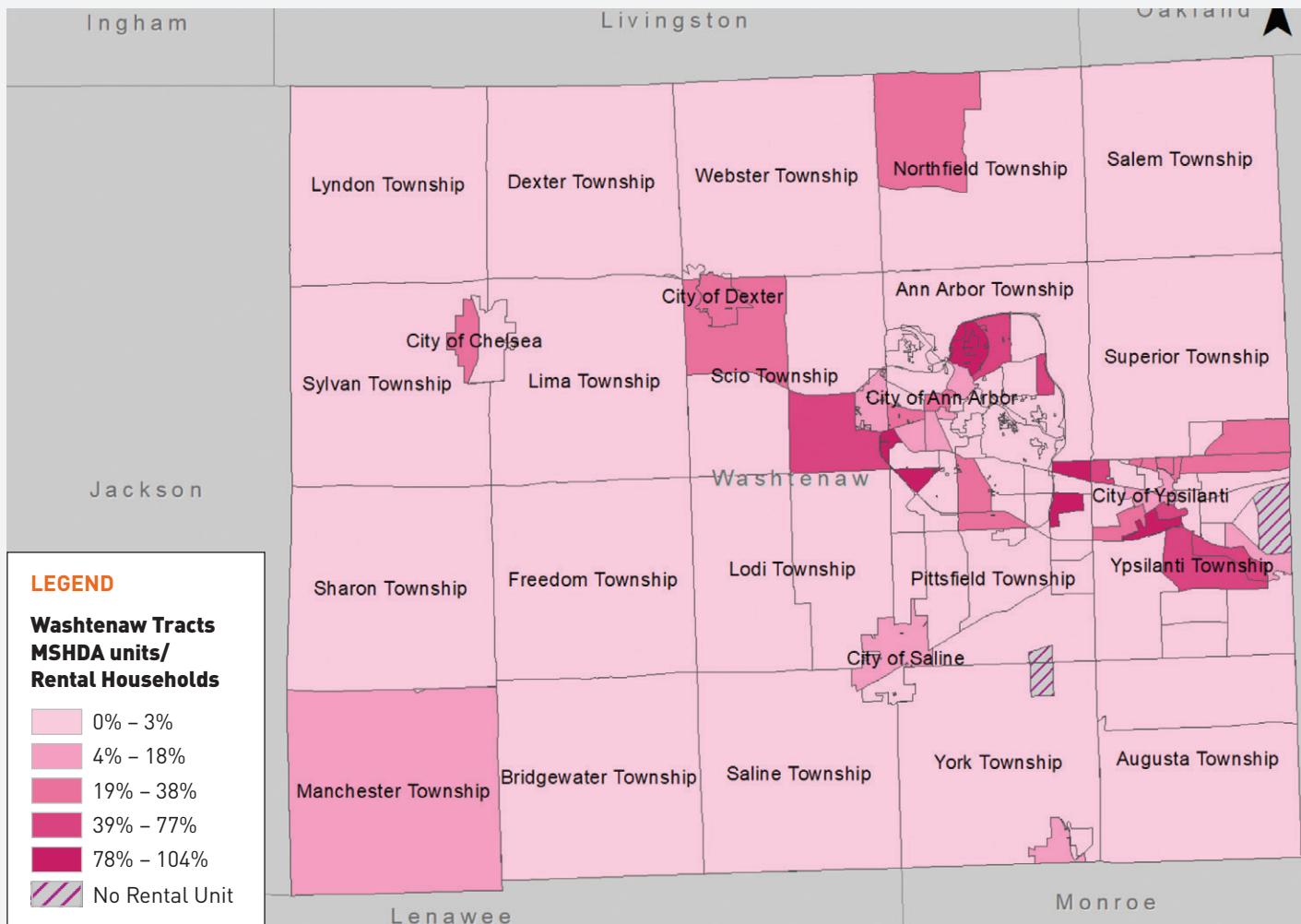
U.S. Census Bureau, American Community Survey 5-Year Estimates, 2013-2017



Data Source: U.S. Census Bureau Geography 2010, 2013–2017 American Community Survey

**FIGURE B.4.**
**SUBSIDIZED HOUSING UNITS AS A PERCENTAGE OF RENTAL HOUSING UNITS PER CENSUS TRACT,  
 WASHTENAW COUNTY**

Michigan State Housing Development Authority; U.S. Census Bureau, American Community Survey 5-Year Estimates, 2013-2017



Data Source: U.S. Census Bureau Geography 2010, 2013–2017 American Community Survey

## APPENDIX C: SAMPLE JUDGE OPENING REMARKS

### MODEL OPENING REMARKS

Good morning [afternoon], I am Judge \_\_\_\_\_. When your case is called, please come forward and identify yourself.

If you do not have an attorney and this is the first time you are appearing in my courtroom, you may ask for a short adjournment for the purpose of getting a lawyer. I will then adjourn your case for seven days. If you cannot afford an attorney, I will give you a list of agencies that may be able to represent you for free or at a reduced rate.

You have the right to have your case heard by a jury. If you want a jury trial, you must file a jury demand in room \_\_\_\_\_. There is a fee for a jury demand, but this fee may be waived if you complete a "fee waiver request."

If you have reached an agreement that resolves all the issues in your case, and if you do not have an attorney, I will enter the agreement only after I have confirmed that you understand its terms. Even if you have reached an agreement, therefore, do not leave the courtroom. Wait for your case to be called and then come forward so I can review the agreement with you.

Remember that you do not have to settle your case with a consent judgment. You have the right to a trial.

If you proceed to trial today, then at the end of the trial I will enter a judgment in favor of either the landlord or the tenant.

If I rule in favor of the landlord, I will enter an order that gives the landlord possession of the premises. This means that, in most cases, after 10 days the landlord can have the Sheriff or local police evict you. If you are being evicted for non-payment of rent, you can prevent the eviction and remain in your home by paying the full amount due and costs within 10 days of my judgment.

If I rule in favor of the tenant, the tenant gets to stay in the apartment unless and until the landlord files a new eviction action and starts the whole eviction process over again.