

## Eviction Defense for Poor Tenants: Costly Compassion or Justice Served?

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Eviction defense, one of the principal areas of housing advocacy in legal services offices throughout the country,<sup>1</sup> strives to help poor tenants vindicate their rights and avoid the trauma and disruption,<sup>2</sup> and possible descent into homelessness,<sup>3</sup> which eviction can cause. Legal services attorneys are often able to defeat their clients' evictions or, if that is not possible, to delay their clients' evictions long enough to allow their clients to save money for, and move safely into, new housing. Some argue, however, that by vigorously defending poor tenants, legal services attorneys may significantly burden private landlords by delaying evictions and enabling the tenants to live rent-free during the pendency of their evictions.

Increasing landlords' costs may harm all poor tenants. Depending on their profit margins and the elasticity of the supply curve in various sections of the

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This Note was inspired by the author's experiences as a law student intern for the Jerome N. Frank Legal Services Organization and the New Haven Legal Assistance Association. Under the supervision of attorneys at both organizations, he provided legal services to numerous poor tenants in New Haven.

1. See, e.g., Alan Houseman, *Poverty Law Developments and Options for the 1990s*, 24 CLEARINGHOUSE REV. 2, 12 (1990).

2. Andrew Scherer, *Gideon's Shelter: The Need to Recognize a Right to Counsel for Indigent Defendants in Eviction Proceedings*, 23 HARV. C.R.-C.L. L. REV. 557, 566 n.32 (1988). In the words of former Supreme Court Justice William O. Douglas, "[m]odern man's place of retreat for quiet and solace is the home. Whether rented or owned, it is his sanctuary. Being uprooted . . . is a traumatic experience." *Lindsey v. Normet*, 405 U.S. 56, 82 (1972) (Douglas, J., dissenting in part).

3. Following an eviction, many poor individuals and families are unable to find affordable housing. Scherer, *supra* note 2, at 559. They may be able to find temporary shelter with relatives or friends, but such precarious arrangements are usually short-lived and the evicted are likely to enter the ranks of the homeless. Indeed, several studies have identified eviction as a leading cause of homelessness. For example, a New York City study concluded that evictions are a cause of forty to fifty percent of family homelessness in the city. COMMITTEE ON LEGAL ASSISTANCE OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, REPORT ON THE PREVENTION OF HOMELESSNESS BY PROVIDING LEGAL REPRESENTATION TO TENANTS FACED WITH EVICTION 10 (1988). Another found that fifty-seven percent of the homeless population in Westchester County, New York, had been evicted, both from their primary residence and by family or friends. *Id.*