

**CIVIL *GIDEON* AND NYC’S UNIVERSAL ACCESS:
WHY COMPREHENSIVE PUBLIC BENEFITS
ADVOCACY IS ESSENTIAL TO PREVENTING
EVICTIONS AND CREATING STABILITY**

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INTRODUCTION

Advocates who work in direct civil legal services agencies, like Legal Services NYC, understand that we work in the law firm equivalent of an emergency room. People seek our services to maintain or obtain essential services, to stop their foreclosures, to prevent eviction from their homes, to end their deportations, or to obtain orders of protection, among other time- and safety-sensitive issues. At the same time that we are providing critical interventions for our clients' most pressing legal needs, we have to juggle our different responsibilities, such as ensuring we meet our grant deliverables, and applying (or reapplying) for critical funding we need to maintain a consistent level of services. We, of course, have front row seats to the lack of access to justice that low-income and marginalized communities face when they don't have adequate counsel, and many of us had given up on the promise or hope of a "Civil *Gideon*."¹ But then something remarkable happened.

In 2017, our City Council, in partnership with the tenant organized Right to Counsel NYC Coalition, a progressive mayor, and a revitalized local Department of Social Services that was committed to providing meaningful assistance to low-income communities, worked together to

¹ Named after the landmark U.S. Supreme Court case that found defendants had a constitutional right to counsel in criminal cases, *Civil Gideon* is a movement and idea that the right to counsel must extend to certain civil cases that protect or preserve basic needs, including eviction proceedings. See *infra* notes 127-30 and accompanying text.

pass a law guaranteeing a right to counsel to people facing eviction for households at or below 200% of the federal poverty level.² This legislation, which the city commonly refers to as “Universal Access to Counsel,” or “UAC,” is being phased in across our city as we reach the mandate of covering the entire city by the end of July 2022.³ The city is contracting the anti-eviction defense work out to different legal services agencies, including Legal Services NYC (“LSNYC”). The New York City Department of Social Services (“DSS”) has established an Office of Civil Justice (“OCJ”), which administers the UAC grant and oversees its implementation. Over two years into the UAC phase-in, we have learned a great deal about how to structure, staff, and fund a successful program, but we are also more than two years away from the final implementation of the program when, presumably, the New York City Council will finalize and baseline the UAC funding.⁴

We are trying to take a step back from our usual day jobs juggling in the emergency room to recommend a thoughtful way to staff and fund a successful UAC program. Thus far, the UAC funding has been insufficient to cover the personnel costs for the public benefits paralegals who play a central role in preventing evictions as well as in stabilizing families and individuals facing eviction. Without adequate funding, UAC will have problems with sustainability and advocate burnout. Even worse, without a sufficient ratio of housing attorneys to public benefits paralegals, UAC may fail to meet the needs of low-income communities facing eviction.

In this article, we explain the critical role that public benefits advocates already play in the immediate anti-eviction work and highlight the role that such advocates can and *should* play in promoting longer-term stability for the clients we serve—if we have sufficient funding to hire them. We will demonstrate that “winning” an eviction case may not be the equivalent of providing stability. We look at the current homelessness crisis in New York City (“NYC”) and identify some of its leading causes. By examining some of the underlying drivers of homelessness, we see

² N.Y.C. ADMIN. CODE §§ 26-1301 to -1302 (2019). As the editors of the N.Y.C. Administrative Code have noted, two sections of the Code are designated as Section 26-1301. This citation refers to the two sections titled *Definitions* and *Provision of Legal Services*.

³ *Id.* § 26-1302.

⁴ *Id.* § 26-1302(c) (“Beginning October 1, 2022 and no later than each October 1 thereafter, the coordinator shall publish a summary of any changes to such estimates for expenditures.”). Some of the funding has been baselined already to some degree, but we are still in a period of expansion and growth. The final baselined budget will not occur until 2022. We believe that one of the key elements of funding that must be increased is the UAC per-case reimbursement rate.

how UAC can interrupt the cycle of housing instability if funding is adequate to allow legal providers to hire enough paralegals to provide comprehensive public benefits assistance. In particular, we take a look at four different subpopulations that are disproportionately homeless and affected by recursive episodes of housing instability: (1) people with disabilities or serious illnesses, (2) survivors of domestic violence or intimate partner violence (“DV”), (3) noncitizens, and (4) people aged sixty and over. We identify the different ways that public benefits paralegals can intervene in ways that go beyond the critical function of just stopping the eviction and address some of the underlying stressors. By decreasing out-of-pocket expenses, maximizing benefits, and ensuring better access to benefits, our UAC model will reduce Housing Court and shelter entry recidivism.

We want to be clear that we have much to celebrate: our City Council, Mayor, and DSS have taken the extraordinary step of providing counsel to low-income New Yorkers to stop their evictions and keep them in their homes. Having legal counsel in eviction proceedings is absolutely the key to UAC. But we know we can do better—and we know that doing better involves minimal cost, costs that the UAC funding already should be covering no matter what may happen.

I. UNDERSTANDING THE HOMELESSNESS EPIDEMIC IN NYC

A. *Homelessness Crisis in NYC*

With some 60,000 people in shelter every night,⁵ NYC is in the midst of a homelessness crisis. There is no single reason for homelessness; it is a complicated social problem with many underlying and proximate causes. Nevertheless, UAC can unquestionably play a significant role in reversing or reducing homelessness, but a program that minimally funds one aspect of eviction prevention (housing attorneys representing people in eviction cases) will ultimately be insufficient to erode the epidemic of housing instability and homelessness among low-income NYC residents.

Nonprofit direct legal services work is primarily crisis-driven. The same is true of the anti-eviction housing work that this article will primarily discuss: the clients we see are already in Housing Court and facing eviction. Providing expert emergency assistance and intervention remains our primary goal, which is why we are focusing on people who are homeless or are on the brink of homelessness. However, this article will also refer to people who are experiencing “housing instability,” which we de-

⁵ *DHS Homeless Shelter Census*, NYC OPEN DATA, <https://perma.cc/4ZEX-NVNA> (last visited Dec. 30, 2019).

fine as individuals or families with a rent burden that exceeds thirty percent of their household income after expenses⁶ and/or people who are “doubled up” or otherwise overcrowded.⁷ Housing *instability* is not necessarily cured by stopping the eviction because obtaining benefits to cover the arrears may not address other underlying issues that contribute to housing instability.

1. Massive Scope of Homelessness and Housing Instability in NYC

Statistics paint a cold picture, but one that we must examine to understand the breadth and underlying causes of the epidemic of homelessness and housing instability faced by low-income people in NYC. In 2018, the U.S Department of Housing and Urban Development estimated that fourteen percent of the entire nation’s homeless population lived in NYC.⁸

The number of people living in NYC shelters⁹ has hovered around 60,000 each night since late 2014, and more than 20,000 of the people staying in our shelters every night are children.¹⁰ The Coalition for the Homeless, an advocacy group in Manhattan that compiles and analyzes data from DSS, estimates that 133,284 different individuals spent at least one night in the NYC shelter system from July 1, 2017, through June 30, 2018.¹¹ As of June 2019, the average number of days people stay in the NYC shelter system is 447, or just shy of fifteen months.¹²

⁶ Using a similar definition, New York State Assemblyman Andrew Hevesi and State Senator Liz Krueger have introduced legislation to provide more robust shelter subsidies. The two representatives claim that 80,000 families are on the brink of homelessness across New York State. LIZ KRUEGER, INTRODUCER’S MEMORANDUM IN SUPPORT, S. 242-2375, 1st Sess., at 1 (N.Y. 2019). The four subpopulations we focus on frequently spend more than fifty percent of their incomes on rent.

⁷ “Doubled-up” refers to individuals or families residing in the dwelling of another person or family, especially when the doubled-up family is not the leaseholder. The number of doubled-up people in NYC has reached epidemic levels, particularly for school-aged children. See INST. FOR CHILDREN, POVERTY & HOMELESSNESS, *THE INVISIBLE MAJORITY: DOUBLED-UP STUDENTS IN NEW YORK CITY PUBLIC SCHOOLS* (2015), <https://perma.cc/5QLW-PX65>.

⁸ See U.S. DEP’T OF HOUS. & URBAN DEV., *THE 2018 ANNUAL HOMELESSNESS ASSESSMENT REPORT (AHAR) TO CONGRESS 10, 18* (2018), <https://perma.cc/2KPG-QFSA>.

⁹ We are only referring to adults and families with children in NYC’s Department of Homeless Services (“DHS”) and Human Resources Administration (“HRA”) shelters. None of these statistics include runaway and homeless youth shelters, nor do they include people who are homeless and live on the street.

¹⁰ COAL. FOR THE HOMELESS, *NEW YORK CITY HOMELESS MUNICIPAL SHELTER POPULATION, 1983-PRESENT 12-14* (2019), <https://perma.cc/RTF9-ZXKV>.

¹¹ *Basic Facts About Homelessness: New York City*, COAL. FOR THE HOMELESS, <https://perma.cc/JB7U-V36C> (last visited Dec. 30, 2019).

¹² COAL. FOR THE HOMELESS, *supra* note 10, at 14.

NYC's Independent Budget Office examined homelessness data over a ten-year period from 2002 to 2012. During that time, over twenty percent of people who entered shelter cited domestic violence as the reason for seeking shelter, and around thirty percent of people entered shelter because they were evicted.¹³ By early 2016, Crain's New York Business examined raw data from NYC and concluded that domestic violence had surpassed eviction as the leading cause and reason cited for shelter entry.¹⁴ In October 2019, NYC Comptroller Scott Stringer released a report highlighting that domestic violence is now the most commonly cited reason for shelter entry, accounting for more than forty percent of all shelter entries in the fiscal year that ended June 30, 2018.¹⁵

Although the Bronx is the fourth most populous of the five boroughs of NYC,¹⁶ it consistently has the highest number of people entering shelter.¹⁷ Indeed, five of the top ten community districts in NYC with the highest rates of entry into shelter are located in the Bronx, and these ten community districts account for almost fifty percent of all families entering shelter.¹⁸

The Vera Institute reviewed homelessness data for families with children entering the shelter system and concluded that certain factors made shelter entry more likely. Specifically, Vera identified that seventy-seven percent of people in shelter included families who rely "heavily" on public assistance benefits in addition to work income.¹⁹ Vera also highlighted DV and eviction as among the most prevalent proximate causes of shelter entry.²⁰ According to Steven Banks, the commissioner of DSS, twenty-

¹³ N.Y.C. INDEP. BUDGET OFFICE, THE RISING NUMBER OF HOMELESS FAMILIES IN NYC, 2002-2012: A LOOK AT WHY FAMILIES WERE GRANTED SHELTER, THE HOUSING THEY HAD LIVED IN & WHERE THEY CAME FROM 8-10 (2014), <https://perma.cc/Z72M-S76H>.

¹⁴ Gerald Schifman & Rosa Goldensohn, *Domestic Violence Emerges as Economic Scourge and Primary Driver of Homelessness*, CRAIN'S N.Y. BUS. (Oct. 26, 2016, 12:00 AM), <https://perma.cc/KR7C-S3NH>.

¹⁵ OFFICE OF THE N.Y.C. COMPTROLLER, HOUSING SURVIVORS 4 (2019), <https://perma.cc/S4GG-F598>.

¹⁶ *QuickFacts*, U.S. CENSUS BUREAU, <https://perma.cc/53P5-ZALS> (last updated July 1, 2019).

¹⁷ N.Y.C. INDEP. BUDGET OFFICE, *supra* note 13, at 1.

¹⁸ NANCY SMITH ET AL., VERA INST. OF JUSTICE, UNDERSTANDING FAMILY HOMELESSNESS IN NEW YORK CITY § I, at 3 (2005), <https://perma.cc/9XK9-RAYL>.

¹⁹ *Id.* at iv.

²⁰ *Id.*; see OFFICE OF CIVIL JUSTICE, N.Y.C. HUMAN RES. ADMIN., UNIVERSAL ACCESS TO LEGAL SERVICES: A REPORT ON YEAR ONE OF IMPLEMENTATION IN NEW YORK CITY 17 (2018), <https://perma.cc/JH78-MQTP> (finding that 11,424—or fifty percent—of the households who obtained counsel via UAC were in receipt of ongoing public benefits at the time when legal services were rendered).

three percent of shelter applicants in a six-month time period in 2013 reported that their public assistance case had closed or been reduced in the prior twelve months.²¹

Homelessness and housing instability²² cause long-term injuries,²³ affecting education, health outcomes, and employment.²⁴ One out of ten students in NYC public schools lived in temporary housing in the 2016-2017 school year, which means that there were “more homeless students in New York City than the population of Albany.”²⁵ Over twelve percent of NYC public school students will experience homelessness before their

²¹ Steven Banks, Comm’r of the N.Y.C. Human Res. Admin., Testimony at the New York State Senate Hearing Task Force on Social Service Delivery in New York City 9 (Oct. 7, 2015), <https://perma.cc/M52C-YFBA>.

²² We do not discuss the financial costs of homelessness, nor do we highlight how rent subsidies and affordable housing result in cost savings to the taxpayer compared to housing families and individuals in our shelter system. The data unmistakably, unequivocally point to these conclusions. For example, in 2018, the average daily cost was \$117.43 (or \$3,522 per month) for adult-only shelters and \$187.46 (or \$5,623 per month) for family shelters. *See New York City (NYC) Department of Homeless Services (DHS) Financial & Service Indicators*, BARUCH COLL., <https://perma.cc/L4FY-USE8> (last visited Dec. 30, 2019). Instead, we focus on the life consequences for people who are housing unstable or homeless.

²³ Matthew Desmond & Rachel Tolbert Kimbro, *Eviction’s Fallout: Housing, Hardship, and Health*, 94 SOC. FORCES 295, 296-97, 316-19 (2015); Benard P. Dreyer, *A Shelter Is Not a Home: The Crisis of Family Homelessness in the United States*, PEDIATRICS, Nov. 2018, at 1-2.

²⁴ *See, e.g.*, John W. Ayers et al., *Novel Surveillance of Psychological Distress During the Great Recession*, 142 J. AFFECTIVE DISORDERS, Dec. 15, 2012, at 1 (mental health); Sarah Burgard et al., *Housing Instability and Health: Findings from the Michigan Recession and Recovery Study*, 75 SOC. SCI. & MED. 2215 (2012) (mental health); Thomas B. Cook & Mark S. Davis, *Assessing Legal Strains and Risk of Suicide Using Archived Court Data*, 42 SUICIDE & LIFE-THREATENING BEHAV. 495 (2012) (mental health); Margot B. Kushel et al., *Housing Instability and Food Insecurity as Barriers to Health Care Among Low-Income Americans.*, 21 J. GEN. INTERNAL MED. 71 (2006) (health); Christine Ma et al., *Associations Between Housing Instability and Food Insecurity with Health Care Access in Low-Income Children*, 8 AMBULATORY PEDIATRICS 50 (2008) (health); Kristen W. Reid et al., *Association Between the Level of Housing Instability, Economic Standing and Health Care Access: A Meta-Regression*, 19 J. HEALTH CARE FOR POOR & UNDERSERVED 1212 (2008) (health); Sharon A. Salit et al., *Hospitalization Costs Associated with Homelessness in New York City*, 338 NEW ENGLAND J. MED. 1734 (1998) (health); Megan Sandel et al., *Unstable Housing and Caregiver and Child Health in Renter Families*, PEDIATRICS, Feb. 2018, at 1 (health); DANIEL FLAMING ET AL., *ECON. ROUNDTABLE, WHERE WE SLEEP: COSTS OF HOUSING AND HOMELESSNESS IN LOS ANGELES* (2009), <https://perma.cc/G932-WEST> (health and employment); INST. FOR CHILDREN, POVERTY & HOMELESSNESS, *THE HIGH STAKES OF LOW WAGES: EMPLOYMENT AMONG NEW YORK CITY’S HOMELESS PARENTS* (2013), <https://perma.cc/3G8L-5Z78> (employment); *see also* Zachary Glendening & Marybeth Shinn, *Risk Models for Returns to Housing Instability Among Families Experiencing Homelessness*, 19 CITYSCAPE 309 (2017) (education and health); DW Gibson, *New York Spends \$1.2 Billion a Year on Homelessness*, N.Y. MAG. (Mar. 20, 2017), <https://perma.cc/T84S-TAPK> (employment).

²⁵ Eliza Shapiro, *Homelessness in New York Public Schools Is at a Record High: 114,659 Students*, N.Y. TIMES (Oct. 15, 2018), <https://perma.cc/VN7U-ZPMM>.

fifth grade school year—and more than ten percent of these students started kindergarten in District 10 in the Bronx.²⁶ Young people who have been or are homeless are at increased risk for social and behavioral problems.²⁷

2. Leading Drivers of Homelessness and Housing Instability in NYC

Various factors contribute to the high and rising rates of homelessness and housing instability in New York City. The National Law Center on Homelessness and Poverty reports that the leading causes of homelessness²⁸ in America are extremely low incomes and a lack of affordable housing.²⁹ In New York City, these factors, along with surges in population, lead to crowding.³⁰

The Office of the New York City Comptroller has identified crowding trends as a precursor to rising homelessness.³¹ Crowding is often identified within low-income families, and seventy percent of households that experience it are occupied by an immigrant head of household.³² The U.S. Census Bureau has estimated that New York City's population increased by 2.7% since April 2010, which is an estimated increase of 223,615 residents,³³ and New York City's crowding rate is more than two-and-a-half times the national average.³⁴ Crowding may reflect an upward trend in local housing market rates.³⁵ The crowding phenomenon is usually attributed to displaced residents who find temporary housing among their

²⁶ KATHRYN HILL & ZITSI MIRAKHUR, *THE RESEARCH ALL. FOR N.Y.C. SCH., HOMELESSNESS IN NEW YORK CITY ELEMENTARY SCHOOLS: STUDENT EXPERIENCES & EDUCATOR PERSPECTIVES* 5 (2019), <https://perma.cc/BG3C-57WE>.

²⁷ See Janette E. Herbers et al., *Trauma, Adversity, and Parent-Child Relationships Among Young Children Experiencing Homelessness*, 42 *J. ABNORMAL CHILD PSYCHOL.* 1167 (2014); INST. FOR CHILDREN, POVERTY & HOMELESSNESS, *HOUSED WITHOUT STABILITY: THE CONTINUING CHALLENGES FACED BY FORMERLY HOMELESS STUDENTS* (2019), <https://perma.cc/AE5Z-CMN6>.

²⁸ Homelessness here includes people that are street homeless or reside in homeless shelters.

²⁹ NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, *HOMELESSNESS IN AMERICA: OVERVIEW OF DATA AND CAUSES* 3 (2015), <https://perma.cc/ZA2J-4FG4>.

³⁰ Severe crowding is defined as housing units with more than 1.5 persons per room. OFFICE OF THE N.Y.C. COMPTROLLER, *HIDDEN HOUSEHOLDS* 2 (2015), <https://perma.cc/8GW7-ZY78>.

³¹ *Id.* at 3, 11.

³² *Id.* at 10.

³³ *Current Estimates of New York City's Population for July 2018*, N.Y.C. DEP'T OF CITY PLANNING, <https://perma.cc/3RE6-UL9R> (last visited Dec. 30, 2019).

³⁴ OFFICE OF THE N.Y.C. COMPTROLLER, *supra* note 30, at 5.

³⁵ *Id.* at 3; see LUCY BLOCK & BENJAMIN DULCHIN, ASS'N FOR NEIGHBORHOOD & HOUS. DEV., *HOW IS AFFORDABLE HOUSING THREATENED IN YOUR NEIGHBORHOOD?* 2019 (2019),

collateral contacts until they exhaust their support networks and enter the shelter system.³⁶

As overcrowding climbed, the number of homeless residents increased in lockstep.³⁷ Between 1994 and 2014, the NYC shelter populations increased by 115%.³⁸ Before 2005, New York City's leading efforts to combat homelessness relied on federally-funded subsidy programs such as Section 8 to move the homeless into stable, permanent housing, and between 1999 and 2005, one third of all available Section 8 vouchers assisted homeless families to move out of shelter.³⁹

At the same time, between 2000 and 2012, NYC median rents rose by 75%, well ahead of the national median rent increase of 44%.⁴⁰ This period included a loss of 400,000 affordable housing units that rented for less than \$1,000 monthly.⁴¹ While rents continued to rise at approximately 3.9% annually, wages increased only 1.8% per annum between 2010 and 2017.⁴²

Against this backdrop, in June 2004, Mayor Michael Bloomberg announced a plan to go into effect the following year that aimed to reduce New York City's homeless population by two-thirds over the next five years.⁴³ In 2005, Bloomberg removed homeless families from priority consideration to receive federally-funded vouchers through Section 8, eroding housing stability by eliminating the option of having a subsidy pegged to their actual incomes. Deputy Mayor Linda Gibbs, who served during the Bloomberg Administration, explained the reasoning behind the decision in a 2013 interview with the *New Yorker*. According to Gibbs, NYC "discontinued Section 8 priority because of its dwindling availability, and because we discovered that the chance of getting Section 8 was

<https://perma.cc/Q9S6-EASZ>; see generally Jamie L. Davenport, *The Effect of Supply and Demand Factors on the Affordability of Rental Housing*, 11 PARK PLACE ECONOMIST 44 (2003).

³⁶ Rachel Holliday Smith, *Overcrowding, a Precursor to Homelessness, Is Increasing Citywide: Report*, DNAINFO (June 1, 2017, 8:29 AM), <https://perma.cc/C8WL-K7RH>.

³⁷ N.Y.C. DEP'T OF HOMELESS SERVS., TURNING THE TIDE ON HOMELESSNESS IN NEW YORK CITY 7-8 (2019), <https://perma.cc/5A6A-K33L>.

³⁸ *Id.* at v.

³⁹ GISELLE ROUTHIER, COAL. FOR THE HOMELESS, RECOVERING FROM THE LOST DECADE: PERMANENT RENT SUPPLEMENTS A POTENT TOOL FOR REDUCING HOMELESSNESS 2 (2017), <https://perma.cc/78VQ-8FQF>.

⁴⁰ OFFICE OF THE N.Y.C. COMPTROLLER, THE GROWING GAP: NEW YORK CITY'S HOUSING AFFORDABILITY CHALLENGE 1, 4-5 (2014), <https://perma.cc/N7DF-WHV3>.

⁴¹ *Id.* at 1.

⁴² STREETEASY, THE WIDENING GAP: RENTS AND WAGES IN NEW YORK CITY 1 (2017), <https://perma.cc/S3ZU-R6AN>.

⁴³ Press Release, Office of the Mayor of New York City, Mayor Michael R. Bloomberg Announces Citywide Campaign To End Chronic Homelessness (June 23, 2004), <https://perma.cc/7LUD-FGZL>.

operating as a perverse incentive, drawing people to seek shelter who otherwise would not have done so.”⁴⁴

Instead of prioritizing placement of homeless families in permanent housing or using Section 8, Bloomberg instituted the Housing Stability Plus program (“HSP”), which was usually tied to the receipt of cash public assistance benefits. Unlike Section 8, it was a temporary subsidy that would cease payments after five years.⁴⁵ When HSP was first introduced, the subsidy decreased year over year while the household’s share increased year over year.⁴⁶ The program dissolved within three years, and a new subsidy called Advantage⁴⁷ replaced it.⁴⁸

In changing course, the Bloomberg administration ignored the data: shelter-entry recidivism within five years of exiting shelter with a Section 8 voucher was only 12.5%.⁴⁹ Comparatively, 63.3% of Advantage program recipients who were formerly homeless returned to shelters.⁵⁰ By 2009, the number of NYC homeless families was 9% higher than in June 2004 and was 229% higher than the plan’s intended outcome.⁵¹

Bloomberg’s nearly ten-year-long plan to reduce homelessness has become known as the “Lost Decade.”⁵² Between 2004 and 2014, NYC administrators made policy decisions amidst economic changes that hurt housing stability for low-income New Yorkers.⁵³ Consequently, the period between 2005 and 2014 saw a nearly seventy percent increase in people residing in homeless shelters.⁵⁴

A household is considered “rent burdened” if they pay more than thirty percent of their household income toward rent and “severely rent

⁴⁴ Ian Frazer, *Hidden City*, NEW YORKER (Oct. 28, 2013), <https://perma.cc/7P2W-PW9G>.

⁴⁵ See FAMILY INDEP. ADMIN., N.Y.C. HUMAN RES. ADMIN., POLICY BULLETIN 05-24-ELI, INTRODUCTION OF THE HOUSING STABILITY PLUS PROGRAM (2005); FAMILY INDEP. ADMIN., N.Y.C. HUMAN RES. ADMIN., POLICY DIRECTIVE 05-43-ELI, HOUSING STABILITY PLUS PROGRAM (2005); FAMILY INDEP. ADMIN., N.Y.C. HUMAN RES. ADMIN., POLICY DIRECTIVE 07-04-ELI, HOUSING STABILITY PLUS PROGRAM (2007).

⁴⁶ See sources cited *supra* note 45.

⁴⁷ FAMILY INDEP. ADMIN., N.Y.C. HUMAN RES. ADMIN., POLICY DIRECTIVE 07-28-ELI, NEW RENTAL ASSISTANCE PROGRAMS FOR SHELTER RESIDENTS (2007).

⁴⁸ Kenny Schaeffer, *Bloomberg’s Housing Policies a Failure*, METRO. COUNCIL ON HOUSING (Mar. 2012), <https://perma.cc/GH9L-CNHN>.

⁴⁹ ROUTHIER, *supra* note 39, at 4.

⁵⁰ *Id.*

⁵¹ PATRICK MARKEE, COAL. FOR THE HOMELESS, FIVE YEARS LATER: THE FAILURE OF MAYOR BLOOMBERG’S FIVE-YEAR HOMELESS PLAN AND THE NEED TO REFORM NEW YORK CITY’S APPROACH TO HOMELESSNESS (2009), <https://perma.cc/L4RZ-5X2P>.

⁵² See executive summary in ROUTHIER, *supra* note 39.

⁵³ N.Y.C. DEP’T OF HOMELESS SERVS., *supra* note 37, at iii-v.

⁵⁴ See executive summary in ROUTHIER, *supra* note 39.

burdened” if they pay more than fifty percent.⁵⁵ By 2016, households with income between \$10,000 and \$20,000 per year paid seventy-four percent of their income towards rent.⁵⁶ Put another way, the NYC minimum wage would need to be \$35.21 for a wage earner to avoid spending more than thirty percent of their income on rent for a two-bedroom apartment at market rate.⁵⁷ Currently, New York State minimum wage is \$11.80 an hour and NYC minimum wage is \$15 per hour.⁵⁸

3. Lack of Housing Stability Among Different Sub-Populations: A Closer Look

The fundamental drivers of homelessness and housing instability are, of course, having inadequate income and resources to pay rent coupled with a lack of affordable housing.⁵⁹ No amount of funding for UAC would address these issues. What we can do, however, is provide comprehensive public benefits assistance to the subpopulations we have identified that have greater housing instability. The populations, many of which overlap, are households who have one or more people: (a) with a serious illness or disability, (b) who are survivors of intimate partner or domestic violence, (c) who are noncitizens, and/or (d) who have people aged sixty and over. Research and studies, along with the lived experience of legal services advocates, highlight how these four groups grapple with housing instability at higher rates. Fortunately, as we discuss later in this article, public benefits advocates have considerable tools at our disposal to arrest and correct many of these underlying issues, but only if the City Council appropriates enough funding so that legal providers can hire an adequate number of public benefits advocates.

⁵⁵ OFFICE OF THE N.Y.C. COMPTROLLER, NYC FOR ALL: THE HOUSING WE NEED 7 (2018), <https://perma.cc/UG8P-V93Z>.

⁵⁶ *Id.* at 2.

⁵⁷ NAT'L LOW INCOME HOUS. COAL., OUT OF REACH 172 (2019), <https://perma.cc/H59N-AXHZ>.

⁵⁸ *New York State's Minimum Wage*, N.Y. STATE GOV'T, <https://perma.cc/2W7M-VNRE> (last visited Dec. 31, 2019).

⁵⁹ *See, e.g.*, MATTHEW DESMOND, EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY *passim* (2016); Matthew Desmond et al., *Forced Relocation and Residential Instability Among Urban Renters*, 89 SOC. SERV. REV. 227 (2015); NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, PROTECT TENANTS, PREVENT HOMELESSNESS (2018), <https://perma.cc/C8SU-83CK>; NAT'L LOW INCOME HOUS. COAL., THE GAP: A SHORTAGE OF AFFORDABLE HOMES (2017), <https://perma.cc/X3RN-Z9RK>; *see also* JEAN CALTERONE WILLIAMS, A ROOF OVER MY HEAD *passim* (2d ed. 2016); OFFICE OF THE N.Y.C. COMPTROLLER, *supra* note 55.

a. Disability/Serious Illness

A 2009 study of chronically homeless adults in NYC revealed what advocates have known for years: eighty-four percent report mental health, substance use, or serious medical issues, only a small percentage receive public assistance, and less than half have health insurance.⁶⁰ The National Coalition for the Homeless goes even further, concluding that “[p]oor health is closely associated with homelessness” and that “serious illness or disability can start a downward spiral into homelessness, beginning with a lost job, depletion of savings to pay for care, and eventual eviction.”⁶¹

From a practitioner’s perspective, easily over thirty-three percent of our eviction cases include households containing someone who is disabled or has a serious illness.⁶² Some of these households may receive benefits from the Social Security Administration, but most of our clients subsist on other public assistance benefits⁶³ and have unstable, low-paying jobs.⁶⁴ The 2018 report issued by DSS’s Office of Civil Justice provides additional evidence: of the 7,924 households in the Bronx who received assistance from UAC in fiscal year 2018, almost half had household incomes below fifty percent of the federal poverty level.⁶⁵

⁶⁰ Aaron J. Levitt et al., *Health and Social Characteristics of Homeless Adults in Manhattan Who Were Chronically or Not Chronically Unsheltered*, 60 PSYCHIATRIC SERVS. 978, 980 (2009).

⁶¹ NAT’L COAL. FOR THE HOMELESS, HEALTH CARE AND HOMELESSNESS (2006), <https://perma.cc/JVA9-WQZP>.

⁶² From January 2018 through December 2019, Bronx Legal Services provided assistance on over 5,600 housing cases and over 3,600 public benefits cases (excluding unemployment insurance benefits (“UIB”) and any ongoing financial benefit from the Social Security Administration, such as supplemental security income (“SSI”), social security disability insurance (“SSDI”), or social security retirement income (“SSRI”). Among the public benefits cases, over one-third of the cases included someone in the household who identifies as disabled or seriously ill and/or has income that comes from one or more of the following sources: SSI, SSDI, worker’s compensation, or state disability insurance.

⁶³ See OFFICE OF CIVIL JUSTICE, *supra* note 20, at 17 (showing that 11,424 households that received legal assistance through the Universal Access program also received ongoing public benefits).

⁶⁴ See OFFICE OF THE N.Y.C. COMPTROLLER *supra* note 55, at 6 (listing the top fifteen occupations of NYC’s low- and very low-income workers).

⁶⁵ OFFICE OF CIVIL JUSTICE, *supra* note 20, at 16.

b. Domestic/Intimate Partner Violence

The direct connection between DV and housing instability is fairly apparent and thoroughly documented: DV survivors leave abusive partners and seek alternate forms of shelter.⁶⁶ Leaving a violent household for shelter is an extraordinarily difficult choice to make, particularly when you have children, but what about the people who stay?

In a 2016 report, fifty-five percent of Bronx DV survivors cited an inability to pay rent as among their greatest barriers to leaving their abusive partners.⁶⁷ For survivors who flee abuse, the resulting housing instability that they face after leaving goes largely unrecorded. Unable to access resources, DV survivors return to their abusive partners because living in the actual or perceived substandard conditions of the NYC shelter system, especially with children, seems worse than the abuse they left.

Most of our clients who report DV continue to live with their abusive partners or otherwise do not vacate their apartments. These families and individuals end up in Housing Court multiple times. Abusive partners limit survivors from attending necessary public assistance appointments to keep their cases open, forbid the survivor from receiving public assistance at all, or compel the survivor to receive assistance but forbid the survivor from revealing the identity or presence of the abusive partner in the household.

c. Noncitizens

With over one-third of our residents born outside of the United States,⁶⁸ NYC has thrived over the decades because of our diverse population. Unfortunately, noncitizens in our city are also disproportionately affected by housing instability. The Pratt Center for Community Development reports that eighty-two percent of noncitizens who earn less than half of the area median income pay more than thirty percent of their income to rent, and a stunning fifty percent must spend over half of their income each month just on rent.⁶⁹

⁶⁶ See, e.g., Charlene K. Baker et al., *Domestic Violence, Housing Instability, and Homelessness: A Review of Housing Policies and Program Practices for Meeting the Needs of Survivors*, 15 *AGGRESSION & VIOLENT BEHAV.* 430 (2010).

⁶⁷ BRONX DOMESTIC VIOLENCE ROUNDTABLE & BRONX LEGAL SERVS., "MORE PEOPLE TO LISTEN": LEGAL AND SOCIAL SERVICE NEEDS OF BRONX COMMUNITIES AFFECTED BY INTIMATE PARTNER VIOLENCE 38 (2016), <https://perma.cc/GA88-5D87>.

⁶⁸ See, e.g., N.Y.C. DEP'T OF CITY PLANNING, *THE NEWEST NEW YORKERS: CHARACTERISTICS OF THE CITY'S FOREIGN-BORN POPULATION 2* (2013), <https://perma.cc/25L5-69EU>.

⁶⁹ PRATT CTR. FOR CMTY. DEV., *CONFRONTING THE HOUSING SQUEEZE: CHALLENGES FACING IMMIGRANT TENANTS, AND WHAT NEW YORK CAN DO 2-3* (2008), <https://perma.cc/4GMR-KMZP>.

In today's political climate, xenophobic rhetoric and policies hostile to noncitizens are driving people into the shadows, causing financial strains that exacerbate housing instability.⁷⁰ The policy change that has the most direct connection to harming housing stability for noncitizens are the changes to the so-called "public charge" rule that the Trump administration proposed in October 2018.⁷¹ The U.S. Department of Homeland Security ("DHS") published the final public charge rules changes in August 2019, and those new rules were scheduled to go into effect on October 15, 2019. As this article went to publication, many lawsuits are pending in federal courts challenging the legality of the new public charge rule.⁷² Regardless, the mere proposal of the rule itself has affected noncitizens.⁷³

⁷⁰ See, e.g., Anthony Advincula, *Immigrants Avoiding Medical, Other Benefits in Fear of New Public Charge Rule*, INQUIRER (Aug. 29, 2019, 12:21 AM), <https://perma.cc/B2AS-EM3V>; Helena Bottemiller Evich, *Immigrants, Fearing Trump Crackdown, Drop out of Nutrition Programs*, POLITICO (Sept. 3, 2018, 8:17 AM), <https://perma.cc/EMT3-EFCM>; Chloe Reichel, *The Potential Health Effects of the 'Public Charge' Immigration Rule*, JOURNALIST'S RESOURCE (Aug. 26, 2019), <https://perma.cc/34QQ-L6BK>; CLASP, PUBLIC CHARGE: A THREAT TO CHILDREN'S HEALTH & WELL-BEING (2018), <https://perma.cc/D4JB-36PM>; NAT'L HOUS. LAW PROJECT & NAT'L LAW CTR. ON HOMELESSNESS & POVERTY, TRUMP ADMINISTRATION'S PROPOSED "PUBLIC CHARGE" RULE (2018), <https://perma.cc/V5VY-VMTS>; *Impact of Public Charge on New York State Health Centers and Patients*, CMTY. HEALTH CARE ASS'N OF N.Y. STATE, <https://perma.cc/R7U6-XGP7> (last visited Dec. 31, 2019).

⁷¹ Inadmissibility on Public Charge Grounds, 83 Fed. Reg. 51,114 (proposed Oct. 10, 2018) (to be codified at 8 C.F.R. pts. 103, 212, 213, 214, 245, and 248).

⁷² See Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41,292 (Aug. 14, 2019) (to be codified at 8 C.F.R. pts. 103, 212, 213, 214, 245, and 248). The U.S. Supreme Court recently lifted the nationwide injunction issued by the Southern District of New York, which leaves only Illinois with a current stay in effect to delay DHS's implementation of the new public charge rules. *Cook Cty. v. McAleenan*, 2019 WL 5110267 (N.D. Ill. Oct. 14, 2019), *appeal docketed*, No. 19-3169 (7th Cir. 2019) (granting preliminary injunction preventing DHS from implementing new public charge rules in Illinois), *stay granted sub nom.* *Wolf v. Cook Cty.*, 589 U.S. ___ (2020) (lifting the Illinois injunction); *New York v. Dep't of Homeland Sec.*, 2019 WL 5100372 (S.D.N.Y. Oct. 11, 2019), *aff'd*, *New York v. U.S. Dep't of Homeland Sec.*, No. 19 Civ. 7777 (GBD), 2019 WL 6498250 (2d Cir. Dec. 2, 2019), *rev'd sub nom.* *Dep't of Homeland Sec. v. New York*, 140 S. Ct. 599 (2020) (lifting the nationwide injunction pending final resolution of case); *Make the Rd. N.Y. v. Cuccinelli*, No. 19 Civ. 7993 (GBD), 2019 WL 5589072 (S.D.N.Y. Oct. 11, 2019), *aff'd*, 2019 WL 6498283 (2d Cir. Dec. 2, 2019), *rev'd sub nom.* *Dep't of Homeland Sec. v. New York*, 140 S. Ct. 599 (2020) (same); see *Casa De Maryland, Inc. v. Trump*, No. PWG-19-2715, 2019 WL 5190689 (D. Md. Oct. 14, 2019); *City & Cty. of San Francisco v. U.S. Citizenship & Immigration Servs.*, No. 19-CV-04717-PJH, 2019 WL 5100718 (N.D. Cal. Oct. 11, 2019), *modified*, 944 F.3d 773 (9th Cir. 2019); see also *Final Rule on Public Charge Ground of Inadmissibility*, U.S. CITIZENSHIP & IMMIGRATION SERVS., <https://perma.cc/5BAB-5VZX> (last updated Oct. 16, 2019).

⁷³ See sources cited *supra* note 70.

The public charge doctrine,⁷⁴ which has existed since the late 1800s, disfavors the receipt of public assistance benefits as the primary source of support for noncitizens.⁷⁵ The Trump administration proposed significant changes to the doctrine that would sweep hundreds of thousands of people potentially into the crosshairs of our immigration system if they receive public benefits.⁷⁶ While the rule has not yet gone into effect, we are already seeing the consequences: our clients are terrified to apply for or receive public benefits to subsist, much less to stop an eviction.⁷⁷

DSS agrees, explaining that noncitizen NYC residents are being forced “to choose between public benefits support and potential future immigration consequences.”⁷⁸ Attributing the decline to the news surrounding public charge rule changes, DSS reports that in just a few months’ time and still *before* the rule changes have gone into effect, about 25,000 noncitizens have stopped receiving SNAP (food stamp) benefits.⁷⁹

We can also look to history to see what may lie ahead for low-income noncitizens. The so-called welfare reform of the 1990s dramatically

⁷⁴ See INA § 212(a)(4), 8 U.S.C. § 1182(a)(4) (2018).

⁷⁵ The application and interpretation of the public charge doctrine has largely been based on long-standing guidance published in 1999, referred to as the “1999 Field Guidance.” Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28,689 (May 26, 1999).

⁷⁶ The exact number of noncitizens who would be affected is a matter of speculation. However, in its initial proposed rule from October 2017, DHS does explain that “approximately 20 percent of noncitizens who were lawful permanent residents at admission to the U.S., as well as noncitizens who were not lawful permanent residents at admission, received non-cash benefits, and approximately 2 percent of these populations receive cash benefits.” Inadmissibility on Public Charge Grounds, 83 Fed. Reg. at 51,162. Additionally, DHS believes that the number of applicants subject to the public charge rules changes for adjustment of status in the 2016 fiscal year would have been 382,769 people. *Id.* at 51240 & n.708.

⁷⁷ Recognizing that the effect of public charge extends beyond just the noncitizen individuals, NYC estimates that 304,000 NYC residents “could be discouraged from participation in crucial public benefits programs simply because they are non-citizens or live with a non-citizen.” N.Y.C. DEP’T OF SOC. SERVS., EXPANDING PUBLIC CHARGE INADMISSIBILITY: THE IMPACT ON IMMIGRANTS, HOUSEHOLDS, AND THE CITY OF NEW YORK 2 (2018), <https://perma.cc/FQN7-SP5C>. Another 75,000 NYC residents, including young people granted Deferred Action for Childhood Arrival, might forego public benefits out of fear, and as many as 400,000 NYC residents could be found inadmissible or unable to adjust their status due to other changes in the public charge doctrine, even when they do not and cannot receive public benefits. *Id.*; see Emily Baumgaertner, *Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services*, N.Y. TIMES (Mar. 6, 2018), <https://perma.cc/XM38-4W3X>.

⁷⁸ N.Y.C. DEP’T OF SOC. SERVS., *supra* note 77, at 3.

⁷⁹ N.Y.C. DEP’T OF SOC. SERVS., FACT SHEET: SNAP ENROLLMENT TRENDS IN NEW YORK CITY 2 (2019), <https://perma.cc/4XBC-PZWW>; see also FISCAL POLICY INST., “ONLY WEALTHY IMMIGRANTS NEED APPLY”: HOW A TRUMP RULE’S CHILLING EFFECT WILL HARM NEW YORK (2018), <https://perma.cc/FYE9-T87U>.

changed eligibility rules for noncitizens seeking federal public benefits.⁸⁰ When those changes were announced, noncitizen participation rates in subsistence public benefits plummeted—even in households that included both citizens and noncitizens—and housing, health, and nutrition outcomes declined.⁸¹

d. People Aged Sixty and Over

Older adults are experiencing housing instability in record numbers, leading to homelessness and forced entry into institutions.⁸² Unfortunately, although seniors have experienced declines in poverty nationally, the poverty rate among older adults increased in NYC from 1990 to 2016.⁸³

Over sixty-three percent of Bronx residents over the age of sixty are foreign-born,⁸⁴ and almost sixty percent of Bronx households speak a language other than English at home.⁸⁵ Of the 1.4 million people who live in the Bronx, fifteen percent are over age sixty and more than thirty percent live alone.⁸⁶ Their financial situation is dire: 29.94% of Bronx seniors live below 125% of the federal poverty level, and a staggering 46.76% live below 200% of the federal poverty level.⁸⁷ Some 34% of seniors in the

⁸⁰ Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act (“PRWORA”) in 1996. Pub. L. No. 104-193, 110 Stat. 2105 (1996). PRWORA grafted immigration status requirements onto eligibility rules for federally funded public benefits. Eligibility for certain public benefits is limited to U.S. citizens and certain other “qualified aliens,” some of whom have to have “qualified alien” status for a minimum period of five years. *See, e.g.*, 8 U.S.C. §§ 1611-15.

⁸¹ *See* MICHAEL E. FIX & WENDY ZIMMERMANN, URBAN INST., ALL UNDER ONE ROOF: MIXED-STATUS FAMILIES IN AN ERA OF REFORM 4-7 (1999), <https://perma.cc/D7ZH-9HJV>; MICHAEL E. FIX & JEFFREY S. PASSEL, URBAN INST., TRENDS IN NONCITIZENS’ AND CITIZENS’ USE OF PUBLIC BENEFITS FOLLOWING WELFARE REFORM 1994-97, at 1-3 (1999), <https://perma.cc/9G26-EPPE>; RANDY CAPPS ET AL., URBAN INST., THE HEALTH AND WELL-BEING OF YOUNG CHILDREN OF IMMIGRANTS, at ix (2014) <https://perma.cc/LN9Q-5PPJ>.

⁸² JENNIFER GOLDBERG ET AL., JUSTICE IN AGING, HOW TO PREVENT AND END HOMELESSNESS AMONG OLDER ADULTS 1-4 (2016), <https://perma.cc/QC5Y-W9TD>; *see* Toni Kamins, *The Distressing Math of NYC’s Future Senior-Housing Need*, CITY LIMITS (Apr. 24, 2019), <https://perma.cc/MGL8-7UVC>.

⁸³ N.Y.C. DEP’T FOR THE AGING, ANNUAL PLAN SUMMARY 8 (2018), <https://perma.cc/Y6ZQ-BWYQ>.

⁸⁴ N.Y.C. DEP’T FOR THE AGING, PROFILE OF OLDER NEW YORKERS 15 (2017), <https://perma.cc/FJ2W-BL38>.

⁸⁵ U.S. CENSUS BUREAU, *supra* note 16.

⁸⁶ N.Y.C. DEP’T FOR THE AGING, *supra* note 84, at 15.

⁸⁷ *Id.* at 19.

Bronx receive SNAP benefits,⁸⁸ and 31% have self-care and mobility impairments—the highest percentage of any borough in NYC.⁸⁹ Older Americans who do not own their residence face even higher levels of housing instability, and the Bronx has the lowest rate of home ownership of any borough.⁹⁰ The average Medicare recipient paid \$5,503 out-of-pocket in 2013.⁹¹ For Medicare beneficiaries with incomes at or below the federal poverty level, four in ten spend more than twenty percent of their income on premiums and out-of-pocket medical expenses.⁹²

B. *Current Funding for Public Benefits Work*

Public benefits teams at legal services agencies rarely receive any dedicated funding.⁹³ The minimal funding that public benefits teams do

⁸⁸ *Id.* at 15. The Trump administration has announced changes in determining eligibility for SNAP benefits. See Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP), 84 Fed. Reg. 35,570 (Jul. 24, 2019) (to be codified at 7 C.F.R. pt. 273). These changes threaten subsistence nutrition benefits for hundreds of thousands of people and are likely to disproportionately affect SNAP benefits for older Americans. *Id.* at 35,576 (“[I]t has been determined that there is a potential for civil rights impact to result if the proposed action is implemented because more elderly individuals may not otherwise meet the SNAP eligibility requirements.”).

⁸⁹ N.Y.C. DEP’T FOR THE AGING, *supra* note 84, at 15, 31, 47, 63, 79; see N.Y.C. DEP’T FOR THE AGING, SERVICES SNAPSHOT (2018), <https://perma.cc/83QG-T9TZ>.

⁹⁰ Twenty-two percent of Bronx residences are owner-occupied, compared to forty-four percent in Queens, thirty percent in Brooklyn, and seventy percent in Staten Island. U.S. CENSUS BUREAU, *supra* note 16; see NYU FURMAN CENTER, STATE OF NEW YORK CITY’S HOUSING AND NEIGHBORHOODS IN 2015, at 48 (2015), <https://perma.cc/Q4U6-T8GK>.

⁹¹ Louise Norris, *How Much Does the Average Medicare Recipient Pay Out of Pocket for Medical Expenses?*, MEDICARERESOURCES.ORG (May 2, 2019), <https://perma.cc/C873-G5GY>; see Jennifer Molinsky & Whitney Airgood-Obrycki, *Older Adults Increasingly Face Housing Affordability Challenges*, JOINT CTR. FOR HOUS. STUDIES OF HARVARD UNIVERSITY (Sept. 21, 2018), <https://perma.cc/GG3S-249Y>.

⁹² CATHY SCHOEN ET AL., THE COMMONWEALTH FUND, MEDICARE BENEFICIARIES’ HIGH OUT-OF-POCKET COSTS: COST BURDENS BY INCOME AND HEALTH STATUS 4 (2017), <https://perma.cc/46ZD-CKJH>.

⁹³ For example, LSNYC is the largest provider of free civil legal services in the nation, with an annual budget of \$100 million. Less than one percent of our grants are specifically tied to assisting clients increase, retain, or obtain cash public assistance, SNAP, and other subsistence benefits run by DSS. NYC’s budget also underscores the lack of funding that is specifically for legal services organizations to advocate for state or city welfare benefits. With a budget now in excess of \$92 billion, NYC gave grants to legal services organizations last year to help on a wide variety of critical civil legal issues: immigration, employment, family/domestic violence, foreclosure, homelessness prevention, prisoners’ rights, child welfare, elder law, and other needs. See CITY COUNCIL OF THE CITY OF NEW YORK, FISCAL YEAR 2020 ADOPTED EXPENSE BUDGET ADJUSTMENT SUMMARY/SCHEDULE C (2019), <https://perma.cc/HR6R-RPR8>; OFFICE OF CIVIL JUSTICE, N.Y.C. HUMAN RES. ADMIN., ANNUAL REPORT (2018), <https://perma.cc/A2KG-4DYI>; see also ALAN W. HOUSEMAN & ELISA MINOFF, PUBLIC WELFARE FOUND., THE ANTI-POVERTY EFFECTS OF CIVIL LEGAL AID

receive is invariably from a foundation or private donor for a specific reason, such as helping seniors with health benefits, and is not from government grants, which tend to be more stable and fund projects over multiple years.

Why isn't there funding for public benefits work? It isn't due to lack of need. The overwhelming percentage of our clients rely in whole or in part on public benefits at some point in their lives, and it's also a common thread between and among the different work that civil legal services agencies provide—from foreclosure to family law to immigration.⁹⁴ We have reached the conclusion that the lack of dedicated funding for public benefits work is for two main reasons: (1) welfare benefits are demonized and so are the people who receive them⁹⁵ and (2) government funders do not want to fund legal services agencies who will use the funding to appeal and challenge their systems.⁹⁶

Bronx Legal Services has the largest single Public Benefits Unit in the state. Our work is generously supported, in part, by the New York Bar Foundation and the Venable Foundation. Without this funding, we would doubtlessly face shortfalls in our budget. However, like most legal services organizations, the majority of the funding for our public benefits works comes from flexible funding streams that are general programmatic grants that are in short supply. These funding sources include New York State's Interest on Lawyers' Account (IOLA),⁹⁷ NYS Civil Legal Services funding,⁹⁸ and Legal Services Corporation funding.⁹⁹

28-31 (2014), <https://perma.cc/2TV9-QSED> (describing the importance of public benefits advocacy in civil legal services work, despite the lack of recognition and grants).

⁹⁴ For the 2017-2018 state fiscal year, LSNYC handled over 24,000 individual cases, including 5,618 “income maintenance” cases, which include cash welfare, SNAP, WIC, and different Social Security Administration benefits like SSI. See LEGAL SERVICES NYC, OVERVIEW OF ACHIEVEMENTS, 2017-2018, at 2 (2018), <https://perma.cc/V8SK-DJ7W>. Over ninety percent of our clients receive public benefits of some kind in the household.

⁹⁵ To get some perspective, the average amount of monthly cash welfare benefits received in NYC in May 2019 was a paltry \$382.08. N.Y. STATE OFFICE OF TEMP. & DISABILITY ASSISTANCE, TEMPORARY AND DISABILITY ASSISTANCE STATISTICS 23 (2019), <https://perma.cc/YF7G-WJ8L>. Additionally, sixty-three percent of people who receive cash welfare benefits only receive assistance for twelve months or less. *Time Spent in Government Programs*, U.S. CENSUS BUREAU, <https://perma.cc/84PJ-L962> (last visited Jan. 1, 2020).

⁹⁶ We are not suggesting that DSS shares this view, but OCJ administers the UAC grants, among many other grants, for legal services providers. *Legal Assistance*, N.Y.C. HUMAN RES. ADMIN., <https://perma.cc/U5PJ-XJDF> (last visited Jan. 1, 2020).

⁹⁷ *IOLA Fund*, N.Y. STATE GOV'T, <https://perma.cc/W6VJ-FPC5> (last visited Jan. 1, 2020).

⁹⁸ *Justice for All - Strategic Action Plan*, N.Y. STATE UNIFIED COURT SYS., <https://perma.cc/SGG4-R85T> (last visited Jan. 1, 2020).

⁹⁹ *LSC Funding*, LEGAL SERVS. CORP., <https://perma.cc/T4CK-DLRM> (last visited Jan. 1, 2020).

II. UNIVERSAL ACCESS TO COUNSEL IN HOUSING COURT: HISTORY & IMPLEMENTATION

A. *Organizers Unite: Legislation Behind UAC*

In March 2014, a piece of local legislation called Intro 214 was introduced to the NYC Council that intended to guarantee legal representation to all low-income tenants in NYC facing eviction in Housing Court and New York City Housing Authority (“NYCHA”) administrative proceedings.¹⁰⁰ This landmark legislation did not happen in a vacuum.

For decades, tenant organizers built movements around tenant power and access to justice.¹⁰¹ Community Action for Safe Apartments (“CASA”), an organizer-driven agency in the Bronx, spent years shining a light on the injustices faced by tenants in Housing Court. In 2014, when NYC Council Members Mark Levine and Vanessa Gibson pushed Intro 214 ahead, tenant organizers galvanized.¹⁰² Recognizing that this legislation needed to be grounded in a movement, a group of veteran tenant organizers created the Right to Counsel NYC Coalition (“RTC Coalition”).¹⁰³

Two years later, the RTC Coalition had laid the groundwork¹⁰⁴ to build support for a right to counsel in eviction cases, creating “a veto-proof majority of the City Council, as well as the support of key stakeholders that included the City Bar, Chief Judge of the New York Courts, City Comptroller, and Borough Presidents.”¹⁰⁵ The RTC Coalition had done extensive outreach and education, collected signatures, and used all kinds of media to build tenant power and rally around a right to counsel.¹⁰⁶ After more than three years of hearings and negotiations, on August 11,

¹⁰⁰ New York, N.Y., Ordinance 0214-2014 (Aug. 11, 2017) (codified at N.Y.C. ADMIN. CODE §§ 26-1301 to -1305).

¹⁰¹ See generally Michael McKee, *A History of Tenant Organizing*, in TENANTS & LANDLORDS: NOT A LOVE STORY, loc. 56-149 (Emily Jane Goodman & Edward Acton, eds., 2019) (ebook).

¹⁰² See, e.g., Luca Marzorati, *Council Members Push for Housing Counsel, Citing Garner*, POLITICO (Dec. 5, 2014), <https://perma.cc/SP2Q-C7T7>; RIGHT TO COUNSEL NYC COALITION, HOUSING JUSTICE: WHAT THE EXPERTS ARE SAYING (2014), <https://perma.cc/V3WY-E3SY>.

¹⁰³ RIGHT TO COUNSEL NYC, LESSONS LEARNED FROM NYC’S RIGHT TO COUNSEL CAMPAIGN (2017), <https://perma.cc/PA2F-7CRR>.

¹⁰⁴ See, e.g., David Cruz, *Comptroller Stringer, Outside Bronx Housing Court, Backs Right to Counsel Bill*, NORWOOD NEWS (Feb. 4, 2015), <https://perma.cc/G8LE-2D72>.

¹⁰⁵ RIGHT TO COUNSEL NYC, *supra* note 103, at 2.

¹⁰⁶ See, e.g., Steven Wishnia, *NYC Council Kicks Off Hearings on Free Counsel for Poor Tenants*, GOTHAMIST (Sep. 27, 2016, 1:01 PM), <https://perma.cc/7CHH-R22B>.

2017, this bill was signed into law by Mayor Bill de Blasio, adding Chapter 13 to Title 26 of the Administrative Code of the City of New York, commonly known as Universal Access to Counsel.¹⁰⁷

The new law requires that the Office of Civil Justice (“OCJ”), which was created in June 2015 as part of DSS with the objective of overseeing and monitoring city-supported civil legal services,¹⁰⁸ establish a program that provides full representation to all tenants in housing court who have a gross household income below 200% of the federal poverty guidelines. Tenants with gross household income above the 200% limit are not guaranteed full representation, but the law establishes that they do qualify for a one-time, individualized legal consultation in connection with their eviction proceedings. The law establishes a deadline of July 2022 for OCJ to fully implement the program.¹⁰⁹

The poverty levels for the forty-eight contiguous states and the District of Columbia in 2020 are as follows:¹¹⁰

Family Size	100%	200%
1	\$12,760	\$25,520
2	\$17,240	\$34,480
3	\$21,720	\$43,440
4	\$26,200	\$52,400
5	\$30,680	\$61,360
6	\$35,160	\$70,320

¹⁰⁷ Press Release, Office of the Mayor of New York City, Mayor de Blasio Signs Legislation to Provide Low-Income New Yorkers with Access to Counsel for Wrongful Evictions (Aug. 11, 2017), <https://perma.cc/NA3H-DT4G>; see Amanda Tukaj, *City Council Passes ‘Right to Counsel’ for Low-Income Tenants in Housing Court*, GOTHAM GAZETTE (July 21, 2017), <https://perma.cc/A2RW-969Z>. The organizers who led the movement and worked tirelessly for change call this legislation “right to counsel,” to stress that tenants’ having counsel in an eviction case is a fundamental need that should not face erosion or elimination when the political winds change. We know how critical it is to have counsel in eviction proceedings so that tenants have an equal voice in those cases. However, OCJ and the City Council usually refer to it as UAC and the name of the grant is also UAC, which is why we primarily use “UAC” in this article.

¹⁰⁸ OFFICE OF CIVIL JUSTICE, N.Y.C. HUMAN RES. ADMIN., 2017 ANNUAL REPORT AND STRATEGIC PLAN 1 (2017), <https://perma.cc/VKL2-AZF9>.

¹⁰⁹ N.Y.C. ADMIN. CODE § 26-1302 (2019).

¹¹⁰ The 2019 poverty guidelines are in effect as of January 15, 2020. See U.S. DEP’T OF HEALTH & HUMAN SERVS., U.S. FEDERAL POVERTY GUIDELINES USED TO DETERMINE FINANCIAL ELIGIBILITY FOR CERTAIN FEDERAL PROGRAMS (2020), <https://perma.cc/9C47-KD2W>; Annual Update of the HHS Poverty Guidelines, 85 Fed. Reg. 3060 (Jan. 17, 2020).

7	\$39,640	\$79,280
8	\$44,120	\$88,240
Each Additional Family Member	+\$4,480	+\$8,960

B. Implementation

In order to meet its obligation under the new law, OCJ has contracted with twenty non-profit civil legal services providers throughout the five boroughs of NYC.¹¹¹ Through these organizations, OCJ has been phasing in Universal Access by designating particular ZIP codes in which tenants will be guaranteed access to counsel in eviction proceedings. Currently in its second year of implementation, Universal Access applies to twenty-five ZIP codes throughout New York City:¹¹²

Bronx	Brooklyn	Manhattan	Queens	Staten Island
10457 ¹¹³	11216	10025	11373	10302
10462	11221	10026	11385	10303
10467	11225	10027	11433	10310
10468	11226	10029	11434	10314
10453	11207	10031 & 10034	11691	

These ZIP codes were selected based on shelter entry rates, volume of eviction proceedings, the existence of rent-regulated housing, and existing service areas of legal services organizations.¹¹⁴

To fund the first phase of the implementation, OCJ increased its budget by \$15 million, pushing its total investment in tenant legal services to \$77 million in fiscal year (“FY”) 2018.¹¹⁵ That number will grow to an

¹¹¹ See OFFICE OF CIVIL JUSTICE, *supra* note 20, at 8.

¹¹² See *Universal Access to Legal Services*, N.Y.C. HUMAN RES. ADMIN., <https://perma.cc/6ZTW-2NDC> (last visited Feb. 11, 2020).

¹¹³ ZIP code 10457 in the Bronx had the largest number of households and individuals served of any other ZIP code in NYC. See OFFICE OF CIVIL JUSTICE, *supra* note 20, at 28-36.

¹¹⁴ See OFFICE OF CIVIL JUSTICE, *supra* note 108, at 52.

¹¹⁵ See OFFICE OF CIVIL JUSTICE, *supra* note 108, at 1, 53.

estimated \$93 million in FY¹¹⁶ 2019 before reaching an estimated \$155 million by the end of the rollout in FY 2022.¹¹⁷

C. UAC as Implemented Is a Partial Solution

UAC has produced real change for low-income tenants facing eviction. While around one percent of tenants were represented in New York City Housing Courts in 2013,¹¹⁸ almost fifty-six percent of tenants living in the target ZIP codes received representation during their eviction proceedings from April 1, 2018, to June 30, 2018.¹¹⁹ OCJ reports that in FY 2018, eighty-four percent of households represented by one of the OCJ legal services providers were able to remain in their homes.¹²⁰ Evictions dropped by twenty-seven percent from 2013 to 2017,¹²¹ and ninety percent of Bronx tenants represented by a UAC provider stayed in their homes at the conclusion of the case.¹²²

D. What Eviction Prevention Work Looks Like

The number of Housing Court cases in New York City each year is staggering. There were 234,423 Notices of Petition filed in NYC Housing Courts in 2018 and another 101,041 filed in the first six months of 2019.¹²³

¹¹⁶ NYC's fiscal year runs from July 1 to June 30. *New York City Budget Cycle*, N.Y.C. MAYOR'S OFFICE OF MGMT. & BUDGET, <https://perma.cc/4SM5-Y33W> (last visited Jan. 1, 2020).

¹¹⁷ See OFFICE OF CIVIL JUSTICE, *supra* note 108, at 53.

¹¹⁸ See OFFICE OF CIVIL JUSTICE, *supra* note 20, at 4.

¹¹⁹ *Id.* Furthermore, from April to June 2018, thirty percent of tenants in Housing Court had counsel, and an additional four percent of tenants received legal advice or assistance via OCJ's legal programs. *Id.*

¹²⁰ *Id.* at 2.

¹²¹ See *id.* at 7-8.

¹²² See *id.* at 20.

¹²³ There are thirteen terms per year. In 2019, terms one through six cover January 2, 2019, through June 16, 2019. See generally CIVIL COURT OF THE CITY OF N.Y., CASELOAD ACTIVITY REPORT FOR TERMS 1-3 (2018), <https://perma.cc/UM5M-Z4AF>; CIVIL COURT OF THE CITY OF N.Y., CASELOAD ACTIVITY REPORT FOR TERMS 4-6 (2018), <https://perma.cc/E9EZ-WAGF>; CIVIL COURT OF THE CITY OF N.Y., CASELOAD ACTIVITY REPORT FOR TERMS 7-9 (2018), <https://perma.cc/9P3Z-B8VA>; CIVIL COURT OF THE CITY OF N.Y., CASELOAD ACTIVITY REPORT FOR TERMS 10-13 (2018), <https://perma.cc/EW67-VAJH>; CIVIL COURT OF THE CITY OF N.Y., CASELOAD ACTIVITY REPORT FOR TERMS 1-3 (2019), <https://perma.cc/46NZ-QKUB>; CIVIL COURT OF THE CITY OF N.Y., CASELOAD ACTIVITY REPORT FOR TERMS 4-6 (2019), <https://perma.cc/NA9V-F4WB> (total number of Notices of Petition Filed in NYC for 2018 established by adding together total number of Notices of Petition Filed for NYC from 2018 Caseload Activity Reports for terms 1-13; total number of Notices of Petition Filed in first six months of 2019 established by adding together total number of Notices of Petition Filed for NYC from 2019 Caseload Activity Reports for terms 1-6).

In an effort to efficiently capture eligible tenants during the rollout, all covered eviction proceedings are assigned to a specific courtroom and judge in each Housing Court.¹²⁴ Attorneys from contracted organizations and sometimes DSS staff are on site, prepared to meet with tenants on the day of their first court appearance and evaluate them for eligibility. With only minutes to meet with a new client and evaluate the merits of their case, it is standard practice to adjourn Housing Court cases to the next available court date, which can be days to weeks away.¹²⁵ Cases may be adjourned multiple times to allow the landlord and tenant to reach a settlement through their attorneys. When the parties cannot settle the matter, the case is sent to a trial before a different Housing Court judge than the one who was hearing the matter for purposes of settling the case.¹²⁶

What happens between these court dates may vary widely between organizations and even between each individual attorney. Assuming the case is based on nonpayment of rent,¹²⁷ there is a very high likelihood that this time is spent evaluating the client for an emergency rental assistance grant, which is intended to satisfy the outstanding arrears at issue in a particular eviction proceeding and thus end the eviction case. The extent to which a tenant receives assistance in this process will also vary between organizations and attorneys.

E. *UAC as a Civil Gideon?*

For years, advocates, bar associations, academics, jurists and others have fought for the right to counsel that exists for people in criminal proceedings to be extended to people in certain essential civil proceedings.¹²⁸

¹²⁴ See *Universal Access to Legal Services*, *supra* note 112; NYU FURMAN CTR., IMPLEMENTING NEW YORK CITY'S UNIVERSAL ACCESS TO COUNSEL PROGRAM: LESSONS FOR OTHER JURISDICTIONS 7-8 (2018), <https://perma.cc/5CWD-CG3U>.

¹²⁵ See NYU FURMAN CTR., *supra* note 124, at 13-16; see also Shuai Hao, *In the Bronx, the City's Busiest Housing Court Struggles to Serve Tenants and Landlords*, INK.NYC (Oct. 20, 2018), <https://perma.cc/5GC7-RSUT>.

¹²⁶ See N.Y.C. BAR ASS'N & N.Y.C. CIVIL COURT, A TENANT'S GUIDE TO THE NEW YORK CITY HOUSING COURT 11 (2006), <https://perma.cc/VP9K-WC55>; see generally *New York City Housing Court: Resolution Part*, N.Y. STATE UNIFIED COURT SYS., <https://perma.cc/SC7X-A8S3> (last visited Jan. 1, 2020).

¹²⁷ In 2017, 87.6% of the eviction cases filed in the Housing Court in New York City were based on nonpayment of rent and 12.4% were holdover proceedings. OFFICE OF CIVIL JUSTICE, *supra* note 108, at 18-19. Holdover proceedings are eviction proceedings based on something other than outstanding rent, such as violation of the terms of the lease or remaining in possession of the apartment after the end of the landlord tenant relationship.

¹²⁸ See Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel is Most Needed*, 37 *FORDHAM URB. L.J.* 37, 38-44 (2010); see also Tonya L. Brito et al., *What We Know and Need to Know About Civil Gideon*, 67 *S.C. L. REV.* 223 (2016); Earl Johnson Jr., *50 Years of Gideon, 47 Years Working Toward a "Civil Gideon"*, 47 *CLEARINGHOUSE REV. J. POVERTY L. & POL'Y* 47 (2013); Robert J. Derocher,

The movement has largely become known as “Civil *Gideon*.”¹²⁹ The fundamental difficulties that lower income people face in accessing justice without counsel may only be remediated by providing adequate, free representation. We have highlighted the inequity when the proceedings involve litigants that usually have their own counsel (such as landlords) or a government actor that has institutional processes in place to represent the government’s interests. We have even done the gum-shoe detective work to prove that an investment in adequate counsel for low-income people ends up saving the government money.¹³⁰

In 2017, on the shoulders of countless advocates who have demanded Civil *Gideon* over decades and at the peak of NYC’s homelessness crisis, organizers seized the moment and achieved what had seemed like an unattainable pipe dream: the NYC Council passed legislation creating a right to counsel for all low-income people facing eviction in NYC.¹³¹

Bronx Legal Services is part of Legal Services NYC (“LSNYC”), one of only two legal providers in NYC that has UAC contracts in every NYC borough. With our reach into all five boroughs, we have a unique perspective on lessons learned thus far about how to implement a successful UAC program for low-income people facing eviction.

To date, UAC funding has not been adequate to cover the actual costs of providing representation to low-income people facing eviction. With the limited funding given, providers have (rightfully) prioritized hiring housing attorneys, leaving no funds available to cover the personnel costs

Access to Justice: Is Civil Gideon a Piece of the Puzzle?, B. LEADER MAG., July-Aug. 2008, <https://perma.cc/87CD-CQY3>; Douglas Grant, *Liberals Abandoned Civil Legal Aid. Now They Need to Bring it Back.*, SLATE (Oct. 12, 2018, 4:33 PM), <https://perma.cc/KXM2-F5ZS>; Lucas Guttentag & Ahilan Arulanantham, *Extending the Promise of Gideon: Immigration, Deportation, and the Right to Counsel*, HUM. RTS. MAG., Oct. 1, 2013, <https://perma.cc/R5MD-2JA5>; Nina Schuyler, *The Civil Gideon Movement: Justice for All?*, S.F. ATT’Y, Summer 2008, at 14; Editorial, *Better Access to Legal Representation is Crucial – Even in Civil Cases*, L.A. TIMES (Apr. 20, 2019, 3:05 AM), <https://perma.cc/4KZN-4FHK>.

¹²⁹ While *Gideon* only applied to criminal cases, see *Gideon v. Wainwright*, 372 U.S. 335 (1963) (holding that defendants in criminal state court proceedings have a right to counsel grounded in our federal constitution), the Supreme Court expanded *Gideon* in very limited circumstances to other quasi-criminal proceedings, see, e.g., *In re Gault*, 387 U.S. 1 (1967) (holding that juveniles in delinquency cases have a right to counsel because they have a “liberty interest” at stake). See also sources cited *supra* notes 100-109 and accompanying text.

¹³⁰ See, e.g., Darryl Bloodworth, *Civil Legal Aid Breaks the Cycle of Poverty, Benefits Taxpayers*, ORLANDO SENTINEL (Sep. 18, 2015), <https://perma.cc/JZ3F-XXM7>; see also PERMANENT COMM’N ON ACCESS TO JUSTICE, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 7-8 (2018), <https://perma.cc/7TSN-KWPF>.

¹³¹ The legislation defines “income-eligible” as households with gross incomes that are equal to or less than 200% of the federal poverty level. N.Y.C. ADMIN. CODE § 26-1301 (2019); see also *supra* note 1 and accompanying text.

of the paralegal advocates,¹³² whose work both directly prevents the evictions and helps create longer-term stability. LSNYC and other providers have largely shouldered those additional costs, but in order for UAC to be a sustainable model, the funding needs to include adequate monies to staff UAC with benefits paralegals. This is analogous to the funding provided to comply with *Gideon*'s right-to-counsel promise in criminal cases: the government can't provide just enough funding to cover the personnel costs of the defense attorneys; it must also cover other costs, such as paralegals, investigators, process servers, training/trainers, office managers, paper clips, staplers, copy machines, rent, etc.¹³³ The same should be true of any successful "civil *Gideon*" UAC model.

We should already have learned these lessons. We have seen public defenders across the country work under impossible conditions, with extraordinary caseloads and inadequate staffing.¹³⁴ When New York recognized that the promise of *Gideon* could not be meaningfully kept when public defenders are overworked and under-supported, the state took the extraordinary step of creating case caps for public defenders in NYC. Steven Banks, who is now the Commissioner of NYC DSS but at the time was the Attorney-in-Chief of The Legal Aid Society, praised the case caps because defendants would now "be represented by a lawyer with an ap-

¹³² See Transcript of Public Hearing Before Office of Civil Justice on OCJ's Universal Access to Legal Counsel Program 35 (Nov. 15, 2018), <https://perma.cc/Y2JN-PC7W> (statement of Jeanette Cepeda, union member with Legal Services Staff Association and housing staff attorney at Brooklyn Legal Services); see generally Joint Testimony of Unionized Legal Services Workers on the NYC Office of Civil Justice's Programs to Provide Universal Access to Legal Services for Tenants Facing Eviction (Nov. 15, 2018), <https://perma.cc/FYE8-AVHA>.

¹³³ See, e.g., *Model Contract for Public Defense Services (Black Letter)*, National Legal Aid & Defender Association, <https://perma.cc/QMN8-6TDF> (last visited Jan. 1, 2020) (discussing the need for adequate support staff at Section VII.F); see also Stephen B. Bright & Sia M. Sanneh, *Fifty Years of Defiance and Resistance after Gideon v. Wainwright*, 122 YALE L.J. 2150, 2160-71 (2013); AM. BAR ASS'N STANDING COMM. ON LEGAL AID & INDIGENT DEFENDANTS, *GIDEON'S BROKEN PROMISE: AMERICA'S CONTINUING QUEST FOR EQUAL JUSTICE* 10-11 (2004), <https://perma.cc/7FJS-C22C>; U.S. DEP'T. OF JUSTICE, *CONTRACTING FOR INDIGENT DEFENSE SERVICES* 16-18 (2000), <https://perma.cc/G3RK-EJEL>.

¹³⁴ See John H. Blume & Sheri Lynn Johnson, *Gideon Exceptionalism?*, 122 YALE L.J. 2126, 2141-44 (2013); Erwin Chemerinsky, *Lessons from Gideon*, 122 YALE L.J. 2676, 2680-85 (2013); Margaret A. Costello, *Fulfilling the Unfulfilled Promise of Gideon: Litigation as a Viable Strategic Tool*, 99 IOWA L. REV. 1951, 1956-57 (2014); AM. BAR ASS'N STANDING COMM. ON LEGAL AID & INDIGENT DEFENDANTS, *supra* note 133, at 10-11; see generally Eyal Press, *Keeping Gideon's Promise*, NATION (Mar. 16, 2006), <https://perma.cc/RTQ3-TWVB>; Nikita Mary Singareddy, *Failing Gideon: An Indigent Defense System in Crisis*, GENERATION PROGRESS (Aug. 11, 2015), <https://perma.cc/FT4G-8EVD>.

appropriate caseload who can provide the highest quality of representation.”¹³⁵ Public defenders have lauded the implementation of case caps while also pointing out that funding must be increased to help with other costs of public defense, such as investigators.¹³⁶

Civil legal service providers have seen public defenders stretched too thin, with burgeoning caseloads and inadequate support. We should understand that these same issues will plague any version of *Civil Gideon*, including UAC, that myopically discounts the minimum staffing providers require. We need OCJ, which is part of DSS and under now-Commissioner Banks, to recognize that funding for the ground-breaking UAC legislation needs to be sufficient to, in Commissioner Banks’ words, “provide the highest quality of representation” that our clients deserve. That necessarily includes funding for public benefits advocates.¹³⁷

F. Public Benefits Resolve Most Nonpayment Cases in Housing Court

Around eighty-five percent of residential NYC Housing Court eviction cases are nonpayment of rent cases.¹³⁸ The Bronx, with the fourth-highest population¹³⁹ among the five NYC boroughs, consistently has the most eviction cases filed as well as the highest number of evictions.¹⁴⁰ Of the residential eviction cases borough in the Bronx, over ninety percent are nonpayment cases.¹⁴¹

The attorneys from LSNYC and other providers who represent tenants facing eviction are the lynchpin of UAC’s success. These attorneys represent tenants in Housing Court, raise defenses, ensure repairs, vacate judgments, challenge illegal rents, fight illegal evictions, and more. Without UAC funding for adequate numbers of housing attorneys, there can be no justice and no mention of *Civil Gideon*.

However, in most cases, a public benefits paralegal obtains the monies that end the nonpayment case. Among other things, public benefits paralegals obtain rent arrears grants¹⁴² (“one-shot deals”) and obtain or

¹³⁵ John Eligon, *State Law to Cap Public Defenders’ Caseloads, but Only in the City*, N.Y. TIMES (Apr. 5, 2009), <https://perma.cc/Y44X-6BPM>.

¹³⁶ See, e.g., MELISSA LABRIOLA ET AL., CTR. FOR COURT INNOVATION, INDIGENT REFORMS IN BROOKLYN, NEW YORK: AN ANALYSIS OF MANDATORY CASE CAPS AND ATTORNEY WORKLOAD, at v, ix (2015), <https://perma.cc/D7CV-3BDW>.

¹³⁷ See Latonia Haney Keith, *Poverty, the Great Unequalizer: Improving the Delivery System for Civil Legal Aid*, 66 CATH. U. L. REV. 55, 88 (2017) (discussing different roles paralegals and other advocates could and should play in improving access to justice).

¹³⁸ See OFFICE OF CIVIL JUSTICE, *supra* note 20, at 6.

¹³⁹ See *QuickFacts*, *supra* note 16.

¹⁴⁰ See OFFICE OF CIVIL JUSTICE, *supra* note 93, at 21.

¹⁴¹ See OFFICE OF CIVIL JUSTICE, *supra* note 93, at 21-22.

¹⁴² See, e.g., N.Y. SOC. SERV. LAW §§ 106, 303, 350-j (McKinney 2019), N.Y. COMP. CODES R. & REGS. tit. 18 §§ 352.3, 352.7, 370.3, 372, 397, 423.2 (2019).

apply for rent subsidies such as the Family Homelessness and Eviction Prevention Supplement from HRA.¹⁴³ Despite never stepping foot in Housing Court, public benefits paralegals play a direct, measurable role in resolving the eviction cases by obtaining public assistance grants to pay the arrears from DSS.

But what if we did more than end the housing case? What if we had enough funding to provide comprehensive benefits assistance and representation to families and individuals struggling with underlying housing stability issues? We can and we must, and it will cost only as much as the additional funding we already need and already should be receiving to hire public benefits paralegals or advocates to do the bread-and-butter anti-eviction work.

G. *Our Proposed Model*

Our model looks at anti-eviction work within the context of larger trends facing low-income Bronx residents: punitive and complex safety net systems, stagnant wages, lack of affordable housing, and displacement through gentrification. We know that integrated models of service delivery like medical-legal partnerships¹⁴⁴ provide opportunities for legal service providers to think holistically about the multitude of civil legal issues that low income clients face.

Eviction is one of these civil legal issues, but it is often a symptom of other issues just below the surface, such as unemployment or inability to access benefits due to immigration status, medical costs, or domestic violence. Quality, comprehensive public benefits advocacy can stabilize people over a longer period of time when the advocate has the opportunity and training to assess and intervene on the full spectrum of public benefits issues: food insecurity, issues with public health insurance coverage, obtaining personal care services at home for disabled household members, waivers of public assistance rules for survivors of DV, eliminating Medicare premiums, ensuring all members of the household are receiving maximum benefits, and more. Housing attorneys do not have the time or training to address these different public benefits issues, and the UAC grants have not been sufficient to date to cover the personnel costs of public benefits paralegals—whether “comprehensive” or otherwise. Our proposed model is simple: UAC must include sufficient funding to hire an adequate number of public benefits paralegals so that we can provide the

¹⁴³ See generally N.Y.C. HUMAN RES. ADMIN., POLICY DIRECTIVE NO. 17-26-ELI, INTRODUCTION TO THE FAMILY HOMELESSNESS AND EVICTION PREVENTION SUPPLEMENT (FHEPS) (2017), <https://perma.cc/76FL-KU9R>.

¹⁴⁴ *The Need*, NAT'L CTR. FOR MED.-LEGAL P'SHIP, <https://perma.cc/A4MG-LPL6> (last visited Jan. 2, 2020).

comprehensive, holistic public benefits advocacy that both meets the immediate need of obtaining arrears to stop the eviction and addresses a wide array of economic and health issues that cause housing instability.

This comprehensive public benefits anti-eviction model grows out of our Public Benefits Unit, where we have typically partnered with our Housing Unit to resolve the immediate housing crisis faced by low-income Bronx residents. While anti-eviction cases allow our clients to remain housed, they do not address the systemic benefits and health-related challenges that continue to leave some of the most vulnerable households at risk of future homelessness. Specifically, we provide enhanced intervention and assessment to the four subpopulations outlined earlier in this article who are disproportionately homeless and have higher levels of housing instability, households which include (1) someone with a disability or serious illness; (2) survivors of DV; (3) noncitizens; and/or (4) someone aged sixty or over. Having identified these vulnerable populations, our model allows us to interrupt the cycle of housing insecurity by providing targeted interventions designed to maximize their public benefits, minimize their out-of-pocket expenses, including health care, and ensure access to benefits by, for example, obtaining reasonable accommodations for clients with disabilities. And the great news, from a fiscal standpoint, is that our model is cost-efficient and does not require a significant increase in the number of paralegal advocates that UAC should already be funding.

In addition to preventing recidivism and reducing the risk of homelessness, our model also increases access to legal representation for low-income and vulnerable people, some of whom would not otherwise seek legal assistance.¹⁴⁵ The number of people in our four subgroups seeking our assistance through UAC has skyrocketed, leading us to conclude that these four subpopulations may not seek legal assistance unless or until they are faced with eviction.¹⁴⁶

¹⁴⁵ See, e.g., Sara Sternberg Greene, *Race, Class, and Access to Civil Justice*, 101 IOWA L. REV. 1263 (2016) (discussing how, despite facing more legal issues than higher-income people, low-income people are generally less likely to obtain legal assistance for their problems).

¹⁴⁶ See, e.g., Camille Carey & Robert A. Solomon, *Impossible Choices: Balancing Safety and Security in Domestic Violence Representation*, 21 CLINICAL L. REV. 201 (2014) (examining barriers DV survivors face in seeking help); Joseph A. Rosenberg, *Poverty, Guardianship, and the Vulnerable Elderly: Human Narrative and Statistical Patterns in a Snapshot of Adult Guardianship Cases in New York City*, 16 GEO. J. ON POVERTY L. & POL'Y 315 (2009) (studying the lack of access to legal and social services that seniors can face, from the lens of seniors who end up in guardianship proceedings); DENNY CHAN & VANESSA BARRINGTON, JUSTICE IN AGING, HOW CAN LEGAL SERVICES BETTER MEET THE NEEDS OF LOW-INCOME LGBT SENIORS? (2016), <https://perma.cc/YZ7N-B7VP> (discussing unmet legal needs and reluctance to obtain legal help among LGBT seniors); DAYNA BOWEN MATTHEW, CTR. FOR HEALTH POLICY AT BROOKINGS, THE LAW AS HEALER: HOW PAYING FOR MEDICAL-LEGAL

H. Looking at Current Measures of Success

The current UAC model primarily measures success by evaluating the number of evictions prevented.¹⁴⁷ Some preliminary findings show that tenants are less likely to be evicted if they have access to an attorney and there are significant declines in evictions in UAC ZIP codes when compared to non-UAC ZIP codes.¹⁴⁸ We agree that the number of people who are able to stay in their homes at the conclusion of their Housing Court cases is the most critical metric, but only examining success through this lens ignores other impacts and achievements that potentially lessen housing instability. If one family faces three separate non-payment housing court proceedings within a year, under the current UAC model, we have been successful three different times if we prevent the eviction even though it's the same family. We should be counting each service as success, but we need to *reframe* success in eviction prevention to include additional legal interventions. We can quantify or track public benefits-related assistance that increase access to housing stability for our most vulnerable populations to keep them out of Housing Court, reduce the likelihood that DV survivors will return to unsafe situations, and improve health outcomes, among other things.¹⁴⁹ Examples of our model's intervention are probably the best demonstration of how we can redefine success.¹⁵⁰

PARTNERSHIPS SAVES LIVES AND MONEY (2017) (underscoring that people with physical and mental disabilities seek civil legal services help even less often than low-income people generally); N.Y.C. DEP'T OF HEALTH & MENTAL HYGIENE, THE HEALTH OF IMMIGRANTS IN NEW YORK CITY (2006), <https://perma.cc/D9WZ-KLEB> (highlighting the worse health outcomes among noncitizens due to reticence to obtain help or have Medicaid); *see generally* Greene, *supra* note 145, at 1267, 1295 (examining barriers to civil legal services based on race and past experiences, including “past interactions . . . [with] public benefits hearings that were not actually criminal in nature, but felt criminal and punitive”); AM. BAR ASS'N COMM'N ON THE FUTURE OF LEGAL SERVS., REPORT ON THE FUTURE OF LEGAL SERVICES IN THE UNITED STATES 14 (2016) (highlighting the vast unmet need of people who need civil legal services, identifying that “[i]ndividuals of all income levels often do not recognize when they have a legal need.”); LEGAL SERVS. CORP., THE JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS (2017) (overviewing different gaps in justice facing low-income people across the nation).

¹⁴⁷ N.Y.C. ADMIN. CODE § 26-1304(a)(3)(i)-(iii) (2019).

¹⁴⁸ OKSANA MIRONOVA, CMTY. SERV. SOC'Y, NYC RIGHT TO COUNSEL: FIRST YEAR RESULTS AND POTENTIAL FOR EXPANSION (2019), <https://perma.cc/L94Q-GWXA>.

¹⁴⁹ Requiring UAC providers to submit even more data for each case we handle under this grant would pose serious hardships. UAC funding must increase so that we can afford to hire the concomitant increase in staffing we would need to track, enter, and report on various data points.

¹⁵⁰ We have slightly altered some facts and details to preserve our clients' identities.

1. Case Study: Ms. R

During the early rollout of UAC, Bronx Legal Services represented Ms. R, a disabled tenant in her late forties facing eviction due to non-payment of rent. The client had stage four breast cancer, was undergoing chemotherapy, and had severe mobility impairments. During the course of our representation, Ms. R faced several other legal issues that required expert intervention and collaboration between her housing attorney and public benefits paralegal, in addition to preventing her eviction.

The utility company shut off the client's electricity without warning, which left her unable to use medical equipment to alleviate her breathing difficulties and impaired access to life-saving medications that required refrigeration. The housing attorney and public benefits paralegal used a multi-prong approach to intervene with the utility company and the landlord to restore services as quickly as possible.

The public benefits advocate also requested a reasonable accommodation with DSS because the client was homebound and could not travel to an office to apply or renew vital public benefits such as SNAP and Medicaid. When she faced a delay in getting an expedited SNAP approval, we advocated with DSS and she received \$192 of SNAP benefits shortly thereafter. We also requested an administrative hearing and pursued informal advocacy to challenge the illegal termination of her participation in a program that pays her Medicare Part B premium of \$134 per month. The client's only source of income was Social Security Disability Insurance benefits of \$822 a month, so to have an additional \$134 deducted from her check every month was a financial hardship and exacerbated her overall situation. Lastly, we helped her apply for and obtain a rental subsidy that paid her rental arrears and seventy percent of her monthly rental share on an ongoing basis. This subsidy allowed her to remain in her apartment and resolved her non-payment Housing Court case.

Under the UAC model, Ms. R's case is a success because she was not evicted. Under our comprehensive public benefits anti-eviction model, our intervention in a variety of legal areas allowed Ms. R to increase household income through SNAP, reduce health care expenses through the Medicare Part B premium payment programs, and reestablish access to life-saving medication and equipment by restoring utility service, in addition to obtaining a rental subsidy that allows her to afford her rent and remain housed.¹⁵¹ UAC as an entry point was critical for this

¹⁵¹ Ms. R has not been to Housing Court since this case was resolved, and she reports that recent medical care she has received has greatly improved her health.

client. Despite the numerous civil legal needs she was facing, she did not seek legal services until she was served with eviction papers.

2. Case Study: Ms. S

As part of UAC, Bronx Legal Services represented Ms. S in a non-payment proceeding. A public benefits paralegal evaluated her case and identified that Ms. S's household was within the income limit to qualify for cash public assistance benefits. Our benefits advocate also identified that, having already met other eligibility requirements, once a public assistance case was active, Ms. S would also be eligible for a rent subsidy,¹⁵² which would pay her arrears and a portion of her rent going forward. Ms. S was advised to apply for public assistance at her local job center.

Ms. S is a noncitizen and a survivor of domestic violence. She lives with her three U.S. citizen children, each of whom was entitled to receive cash public assistance benefits, although Ms. S herself was not eligible. Ms. S does not have a Social Security number, but she has the right to apply for cash public assistance on behalf of her children since she is their legally responsible relative. Despite her right to apply for public assistance for her children, Ms. S was fearful of applying for benefits because of her immigration status and was worried she would be deported if she applied for benefits.

Ms. S had applied for benefits in the past, but she stopped the process when DSS told her that she must cooperate with DSS to sue the father of her children for child support. She had been abused by him for years and did not want to invite him back into her life. As a result, she had walked away from the public benefits application process months ago, which contributed to her housing instability as the rent arrears mounted. Fortunately, the public benefits paralegal who was working with Ms. S was able to advise her that she would not be subject to the public charge doctrine and that she was eligible for a DV waiver,¹⁵³ which would prevent DSS from suing her abuser for child support due to the potential for harm to her.

Ms. S then applied for a cash public assistance case, which she needed to qualify for the rent subsidy. DSS turned Ms. S away from the welfare center, telling Ms. S that she could not apply for benefits because she did not have a Social Security number.

Our Public Benefits Unit has worked on several cases similar to Ms. S's, which has allowed our advocates to identify systemic issues. The paralegal advocate immediately recognized the erroneous information given to Ms. S and intervened by referring our client to our in-house social

¹⁵² The rent subsidy is the Family Homelessness Eviction Prevention Supplement, or "FHEPS." See N.Y.C. HUMAN RES. ADMIN., *supra* note 143.

¹⁵³ See sources cited *infra* note 167.

worker. Our social worker accompanied Ms. S to the welfare center. During this second visit made by our client to DSS, the agency processed Ms. S's public assistance application; however, a center worker incorrectly denied our client the right to apply for a DV waiver, saying that "DV waivers don't exist." The DV waiver was critical to exempting Ms. S from the child support enforcement requirement that would subject Ms. S to contact with her abuser.

After various communications to HRA's legal team and a successful Fair Hearing win, Ms. S's public assistance case became active, allowing her to obtain the rental subsidy to stop the eviction. Ms. S was also granted a DV waiver that allowed her to safely apply for public assistance without involving her abuser in the process to do so.

By the time the housing attorney appeared in Housing Court to discontinue the eviction case against our client, Ms. S's monthly income had increased by 850% and the majority of her rent going forward would be covered by the subsidy. Additionally, her SNAP benefits increased and her children started to receive WIC benefits.¹⁵⁴ Ms. S's case demonstrates that non-attorney advocates, specifically those well-versed in public benefits rules and eligibility, contribute to significant improvements that can stabilize clients in their home well after a housing attorney discontinues a court case.

III. RECOMMENDATIONS

We need to invest in housing stability, not just eviction prevention, especially for populations that are the most vulnerable to repeat episodes of housing instability and homelessness. Ms. R and Ms. S are just two of the many clients we encounter with complex public benefit needs who require both anti-eviction defense work and extensive legal advocacy across different issues. Through UAC, legal service providers like Bronx Legal Services are helping more people every year, and we need to marshal our limited resources to provide comprehensive assistance to our clients—especially given the complex nature of our public benefits systems and the legal systems generally. Unrepresented clients in civil matters suffer much worse outcomes than those with legal representation.¹⁵⁵ “[Eighty-six percent] of the civil legal problems reported by low income Americans in the past year received inadequate or no legal help”; “[seventy-one percent] of low-income households experienced at least one

¹⁵⁴ See 42 U.S.C. § 1786 (2018) (seeking to assist Women, Infants, & Children (“WIC”) via a federally-funded nutrition assistance program for children, pregnant women, and new mothers, which covers certain foods that may be lacking in the diets of the affected populations).

¹⁵⁵ Engler, *supra* note 128, at 48-66.

civil legal problem, including problems with domestic violence, veterans' benefits, disability access, housing conditions, and health care."¹⁵⁶ We have taken the first step by enacting UAC legislation, but without adequate funding and a shift in service delivery, we will not be able to disrupt housing instability and prevent homelessness.

Funding for UAC must keep pace with the actual costs that organizations bear to implement and expand this program. The failure to provide adequate funding threatens the sustainability of UAC in both the short and long term, and places an enormous amount of financial strain on legal services organizations that must prioritize hiring housing attorneys over any other personnel with our limited funding in order to meet the grant requirements and ZIP code expansions. LSNYC has almost entirely covered the cost of non-attorney staff such as paralegals, who play a critical role in obtaining arrears grants and subsidies, provide valuable interventions with government agencies, and engage in effective legal advocacy that extends beyond the housing crisis.¹⁵⁷ Public benefits can help stabilize families and individuals, especially our four most vulnerable populations: older adults, individuals with disabilities or a chronic health condition, noncitizens, and survivors of domestic or intimate partner violence.

A. *A Critical Moment to Support Low-Income Noncitizens*

Rhetoric against immigrants from our federal government has created a climate of fear. Low-income noncitizens are even further marginalized, afraid to access public benefits.¹⁵⁸ Legal service providers must seize this moment and improve noncitizen access to comprehensive legal services. Incorporating non-attorneys and paralegals into the UAC initiative is critical to assist households with noncitizens in accessing public benefits.

If limits to public benefits are enforced on noncitizens, the income deficits that already exist will reach unprecedented levels and inevitably increase homelessness rates for noncitizens. Both citizens and noncitizens will be displaced as a result from terminating benefits as many noncitizen households are mixed with members that are citizens.¹⁵⁹

¹⁵⁶ LEGAL SERVS. CORP., *supra* note 146, at 6.

¹⁵⁷ Joint Testimony of Unionized Legal Services Workers on the NYC Office of Civil Justice's Programs to Provide Universal Access to Legal Services for Tenants Facing Eviction, *supra* note 132.

¹⁵⁸ See sources cited *supra* note 70.

¹⁵⁹ Rebekah Entralgo, *HUD Admits New Rule on Undocumented Immigrants Could Displace Thousands of Kids Who Are Citizens*, THINKPROGRESS (May 10, 2019, 11:06 AM), <https://perma.cc/5KT2-PACL>.

B. *Expanding the Definition of Success*

Public benefits advocates can assist clients with legal issues in legal settings despite not being attorneys.¹⁶⁰ They are trained as problem solvers, often provide representation in administrative hearings to our most vulnerable clients, and can do so in a more cost-effective manner.¹⁶¹ In our model, public benefits paralegal advocates play a vital role in promoting housing stability for individuals who face eviction because the model relies on a comprehensive screening of clients to meet unidentified and unmet legal needs and screen them for eligibility for other public benefits. Our model focuses on building paralegal advocates' capacity to assess and identify the barriers and legal problems that clients face which jeopardize their housing stability. In partnership with housing attorneys and other public benefits experts, public benefits advocates are able to engage both in informal advocacy and representation through administrative hearings in order to achieve greater outcomes for their clients that extend beyond the anti-eviction benefits work that has traditionally defined intervention.

We recognize that typical government funding for legal services programs requires the collection and reporting of different data that is usually designed to prove that the services provided are not just for the public good but also offer tax savings, reduce recidivism, and/or help to reduce strain on our court systems. Our model is particularly well-suited to measure success by tracking and quantifying outcomes for all households across a variety of benefits programs and by measuring our impact differently.¹⁶² As explained in more detail below, we can quantify the increase in household income and the decrease in household expenses; we can look at the number of administrative appeals filed and won; we can document the number of DV-related waivers of public assistance rules we have obtained; we can track the public benefits we have helped obtain for noncitizens; and we can count the number of times we have provided advice about the public charge rules to noncitizen clients, among other things. By looking at more than just "this eviction averted," we can see the broader impact UAC can and should have on low-income communities.

¹⁶⁰ Peter Chapman, *The Legal Empowerment Movement and Its Implications*, 87 *FORDHAM L. REV. ONLINE* 183, 183-85 (2018).

¹⁶¹ *LEGAL SERVS. STAFF ASS'N FOR LOCAL 2320 & LEGAL SERVS. NYC, COLLECTIVE BARGAINING AGREEMENT* 115, 126, 130 (2018), <https://perma.cc/8TZA-DKLG>. While both are grossly underpaid, paralegal salaries are considerably lower than attorneys' salaries at legal services agencies. For example, at LSNYC, a paralegal with 35 years of experience earns the same salary as an attorney with three years of experience.

¹⁶² Again, having additional reporting requirements necessitates more funding to hire the staff required for data entry, collection, and analysis.

1. Examine Existing Data Through Different Lenses

Rather than just measuring whether clients “win” their eviction case, we can identify and measure the amount of benefits that we helped clients receive to prevent the eviction in the first place, such as the amount of a rent arrears grant or rent subsidy we obtained. Furthermore, we can quantify the number of evictions that our benefits assistance has prevented, and we can identify the number of Housing Court cases that we have avoided (i.e. before the landlord files for eviction) through early interventions.

2. Fair Hearings to Appeal Reductions or Cessation of Benefits

Paralegals may represent appellants at welfare Fair Hearings, which are formal administrative hearings to challenge denials and reductions. Fair Hearings are critical for benefits recipients because they are essentially the only accessible forum to challenge welfare decisions, as very few cases are appealed to the court system.¹⁶³ *Pro se* appellants face many challenges before an administrative law judge (“ALJ”) that make it difficult to obtain a full and fair hearing.¹⁶⁴ ALJs do not receive much training or guidance on how to elicit narratives from *pro se* appellants, making it more challenging for benefits recipients to have their case fully heard.¹⁶⁵ However, appellants who are represented at Fair Hearings have more favorable outcomes than those that attend *pro se*.¹⁶⁶ Favorable Fair Hearing trends may offer more of a predictor of housing stability, and can be more specifically reviewed for the increase or continuation of individual benefits.

Current UAC funding is not sufficient to cover the personnel costs of public benefits advocates generally, much less advocates who handle welfare Fair Hearings as part of their work. Having advocates who represent people at welfare Fair Hearings requires additional funding for a variety of different reasons, including the additional time and supervision needed to train and hire benefits advocates who can conduct Fair Hearings. Furthermore, all Fair Hearings in NYC take place in Brooklyn.¹⁶⁷ Thus, whenever someone in our Bronx Legal Services Public Benefits

¹⁶³ Lisa Brodoff, *Lifting Burdens: Proof, Social Justice, and Public Assistance Administrative Hearings*, 30 J. NAT’L ASS’N ADMIN. L. JUDICIARY 601, 618 (2010).

¹⁶⁴ Paris R. Baldacci, *A Full and Fair Hearing: The Role of the ALJ in Assisting the Pro Se Litigant*, 27 J. NAT’L ASS’N ADMIN. L. JUDICIARY 447, 449-57 (2007).

¹⁶⁵ *Id.* at 454, 478.

¹⁶⁶ Emily S. Taylor Poppe & Jeffrey J. Rachlinski, *Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes*, 43 PEPP. L. REV. 881, 885, 942 (2016).

¹⁶⁷ *Request a Fair Hearing*, N.Y. STATE OFFICE OF TEMP. & DISABILITY ASSISTANCE, <https://perma.cc/4TFM-JPP4> (last visited Jan. 2, 2020).

Unit represents someone at one of these hearings, it takes several hours of time away from the office.

3. Measuring Our Impact for Survivors of Domestic Violence Who Face Eviction

New York State's Office of Temporary and Disability Assistance ("OTDA") recognizes that as many as fifty percent of cisgender women who receive public assistance benefits may be survivors of DV.¹⁶⁸ In 2016, 9,987 people¹⁶⁹ were granted DV waivers under the "Family Violence Option."¹⁷⁰ But in December 2015, there were almost 300,000 people in receipt of public assistance.¹⁷¹ Survivors of domestic violence need advocates and information so that they can access public assistance benefits and waivers.¹⁷²

These waivers grant DV survivors a reprieve from welfare rules, such as suing abusive partners for child support or requiring DV survivors to work, which can increase the likelihood of danger to the survivor or survivor's children.¹⁷³ We can quantify how many DV waivers our UAC clients receive.

4. Measuring Our Impact on Enhancing Stability for People Living with Disabilities/Serious Illness

For households with a member who is disabled or has a serious illness, we can calculate reductions in out-of-pocket costs for health-related

¹⁶⁸ N.Y. STATE OFFICE OF TEMP. & DISABILITY ASSISTANCE, ADMINISTRATIVE DIRECTIVE 03 ADM 2, DESK REFERENCE FOR DV SCREENING UNDER THE FAMILY VIOLENCE OPTION 2 (2003) ("[U]p to 80% of women receiving [temporary cash assistance] may be survivors of or attempting to escape violent relationships."); see Stephanie Holcomb et al., *Implementation of the Family Violence Option 20 Years Later: A Review of State Welfare Rules for Domestic Violence Survivors*, 16 J. POL'Y PRAC. 415 (2017); Taryn Lindhorst et al., *Screening for Domestic Violence in Public Welfare Offices: An Analysis of Case Manager and Client Interactions*, 14 VIOLENCE AGAINST WOMEN 5 (2008); DON FRIEDMAN, EMPIRE JUSTICE CTR., POVERTY AND VIOLENCE: DOES NEW YORK'S FAMILY VIOLENCE OPTION MAKE A DIFFERENCE? 1 (2019), <https://perma.cc/74MN-RHP8>.

¹⁶⁹ N.Y. STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE, NEW YORK STATE DOMESTIC VIOLENCE DASHBOARD 2016, at 4 (2017), <https://perma.cc/6VWZ-UXHG>.

¹⁷⁰ N.Y. SOC. SERV. LAW §§ 349-a, 459-a (McKinney 2019); N.Y. COMP. CODES R. & REGS. tit. 18, §§ 347.5, 351.2, 357, 369.2 (2019). N.Y.C. HUMAN RES. ADMIN., POLICY DIRECTIVE #19-08-ELI, DOMESTIC VIOLENCE PROGRAM (2019).

¹⁷¹ N.Y. STATE OFFICE OF TEMP. & DISABILITY ASSISTANCE, TEMPORARY AND DISABILITY ASSISTANCE STATISTICS 5 (2015), <https://perma.cc/TL69-LCKR>.

¹⁷² See FRIEDMAN, *supra* note 168, at 23-26.

¹⁷³ See generally Jack Newton et al., *Public Assistance and Housing: Navigating Difficult Benefits Systems*, in LAWYER'S MANUAL ON DOMESTIC VIOLENCE: REPRESENTING THE VICTIM 343-68 (Mary Rothwell Davis et al. eds., 6th ed. 2015).

expenses, including copays, insurance premiums and more, which can reduce housing instability by increasing available income in the household.¹⁷⁴ A study by the Center for Outcomes Research and Education indicates that affordable housing reduces health care expenses.¹⁷⁵ If public benefits advocates assist tenants in keeping more money in their pockets through access to Medicare Savings Program, Medicaid, Medicare or other health-related benefits, then tenants can use more of their income for their rent. Additionally, we can review the numbers of annual requests for reasonable accommodations that households with a disabled member make for assistance accessing public benefits through DSS, community-based organizations, and other possible social services providers.

We can also measure the increased income in households where we help enroll eligible members of the household as consumer directed personal assistance program (“CDPAP”)¹⁷⁶ aides. Finally, we can calculate the savings to households that we enroll in the City’s Disability Rent Increase Exemption (DRIE) program,¹⁷⁷ which freezes households’ rent-regulated rents so that the household no longer has to pay the annual rent increases. Instead, rent increases are covered as tax credits to the landlords but do not come out of clients’ pockets.

5. Looking at Successful Interventions to Improve Housing Stability for Noncitizens

For noncitizens, we can measure the number of noncitizen clients we helped obtain Medicaid, SNAP, cash public assistance, and WIC benefits, and we can determine the amount of increased household benefits we obtained by getting HRA to include eligible noncitizens in the household.

¹⁷⁴ See, e.g., Heidi L. Allen et al., *Can Medicaid Expansion Prevent Housing Evictions?*, 38 HEALTH AFF. 1451 (2019); Matthew Desmond & Carl Gershenson, *Who Gets Evicted? Assessing Individual, Neighborhood, and Network Factors*, 62 SOC. SCI. RES. 362, 364 (2016); NAT’L COAL. FOR THE HOMELESS, HEALTH CARE AND HOMELESSNESS (2009), <https://perma.cc/FBV6-35UX> (“Homelessness and health care are intimately interwoven.”). The converse is also true, that housing instability and food insecurity are associated with increased acute care. Kushel et al., *supra* note 24; Ruthanne Marcus et al., *Longitudinal Determinants of Housing Stability Among People Living with HIV/AIDS Experiencing Homelessness*, 108 AM. J. PUB. HEALTH 552 (2018).

¹⁷⁵ *Study Finds Affordable Housing Reduces Health Care Costs*, NAT’L LOW INCOME HOUS. COAL. (Mar. 7, 2016), <https://perma.cc/VS9J-RK3S>.

¹⁷⁶ N.Y. COMP. CODES R. & REGS. tit. 18 § 505.28 (2019). CDPAP offers individuals the option of choosing who can provide them with personal care services, allowing people to hire certain trusted family members or friends as aides. The aides receive an hourly wage.

¹⁷⁷ Rules of the City of New York tit. 19 § 52-01 (2019) (relating to the senior citizen and disability rent increase exemption programs).

6. Examining Data to Measure Improved Housing Stability for Older Adults

For older adults aged sixty and over, we can measure and quantify all of the outcomes described above—all of which can happen to people of any age. In addition, we can calculate the savings to households we helped enroll in the City's Senior Citizen Rent Increase Exemption program, which operates the same way as DRIE mentioned earlier.

CONCLUSION: KEEPING *GIDEON*'S PROMISE

Legal service providers in NYC are at an extraordinary time: experiencing unprecedented growth that allows us to expand our services to tens of thousands more people each year. We applaud our City Council, Mayor, DSS, and the tireless work of organizers like the Right to Counsel NYC Coalition for pioneering first-in-nation legislation creating a right to counsel in eviction cases.

Paralegals who handle cases are the unsung heroes of the civil legal services world. These fearless advocates represent clients at administrative hearings on city, state, and local levels. They obtain arrears to stop evictions, and they assess every client for a variety of different legal and social needs. As we have outlined in this article, public benefits advocates can play a critical role in reducing household expenses, maximizing household income, and improving access to benefits. Paralegals are also cost-effective compared to attorneys, although we do not contend that anyone who works in civil legal services has a salary that comes anywhere near approximating the value of our work.

The UAC-funded housing attorneys representing tenants in Housing Court have already dramatically lowered evictions, saving thousands of people from entering our shelter system. To create a longer-term, successful anti-eviction model, we need to be sure that funding is sufficient to meet the needs of the communities we are serving. Under any iteration of UAC, we must have the funding necessary to cover, at minimum, both housing attorneys and public benefits paralegals. We have come so far, and we cannot afford to be penny-wise and pound-foolish.