



Russell Weaver, PhD

Research Director, Cornell University ILR School Buffalo Co-Lab

NYS Permanent Commission on Access to Justice, c/o Jessica Klein, Esq.,
Sullivan & Cromwell LLP, 125 Broad Street, 32nd Floor, NY, NY 10004-2498

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Dear Hon. Judge Rowan D. Wilson:

Thank you for convening this public hearing. I am grateful for the opportunity to contribute to the discussion on unmet needs for civil legal services for low-income New Yorkers, especially those who are facing residential evictions.

My name is Russell Weaver, and I am the Director of Research at the Cornell University School of Industrial and Labor Relations Buffalo Co-Lab. My research and teaching programs focus on equitable community change and the development and evaluation of strategies for advancing goals of shared prosperity, ecological sustainability, housing security, and participatory democracy.¹ Within that framework, I regularly engage with questions related to the geographies of and barriers to accessing secure and stable housing. Since the January 2022 expiration of the New York State moratorium on evictions that emerged in response to the COVID-19 pandemic, one of the most urgent clusters of such questions concerns the patterns and volumes of residential evictions and eviction filings across New York State ("NYS"), as well as the capacity to provide legal and other supporting services to households facing eviction.

To begin grappling with these questions, my colleagues and I have drawn on the NYS Unified Court System (UCS) public Landlord-Tenant data products,² U.S. Census Bureau data, and recent peer-reviewed research³ to examine current patterns of eviction filings across NYS and their implications and potential consequences. Among the most prominent findings from our work to date are:

- The annual number of eviction filings during the eleven-month post-moratorium period for 2022 equaled or exceeded pre-pandemic (2019) annual eviction filing counts in 40 of New York's 62 counties.⁴
 - This trend is an upstate phenomenon that does not [yet] apply to New York City (NYC), where tenant protections tend to be stronger compared to the rest of NYS.⁵

¹ <https://scholar.google.com/citations?user=FDkhZ7MAAAAJ&hl=en>

² <https://ww2.nycourts.gov/housing-tab-35946>

³ Refer to the endnotes and citations in: Weaver, Russell. 2023. *No Shelter, No Safety: How Rising Evictions in New York Could Pose a Risk to Public Safety – And How Eviction Prevention Is Violence Prevention*. Cornell University ILR Buffalo Co-Lab. Available at: <https://blogs.cornell.edu/nysevictions/no-shelter-no-safety/>

⁴ Casey, Michael and Rico, R.J. 2023 (June 16). "Eviction filings are 50% higher than they were pre-pandemic in some cities as rents rise." *The Associated Press*. Available at: <https://apnews.com/article/evictions-homelessness-affordable-housing-landlords-rental-assistance-dc4a03864011334538f82d2f404d2afb>

⁵ <https://blogs.cornell.edu/nysevictions/home/>



- Filings experienced the sharpest increases in relatively rural counties. For example, in Herkimer County, where the most recent, 2017-21 Five-Year U.S. Census American Community Survey (ACS) estimates the population to be 60,596 residents, annual filings more than tripled, from 94 in 2019 to 284 in 2022. In Orleans County (estimated population of 40,588, per the 2017-21 ACS), filings nearly doubled – from 134 in 2019 to 249 in 2022.
- In Erie County, home to New York’s second largest city in Buffalo, there were nearly 1,000 more filings in 2022 compared to the pre-pandemic annual total in 2019.
- Patterns of eviction [filings] in NYS ostensibly contribute to the perpetuation of poverty and inequality by: (1) isolating evictees from social networks, (2) disrupting residential stability, and straining social relationships in communities, all of which works to (3) reduce civic engagement and keep communities from developing the types of norms and internal capacities that are critical for crime prevention and public safety.⁶
 - There is a strong, highly statistically significant, negative relationship between evictions and electoral participation across New York. More specifically, zip codes with the highest rates of eviction filings per 1,000 renter households tend to have among the lowest voter turnout rates in NYS. Alternatively, zip codes with fewer eviction filings per 1,000 renter households tend to have above-average voter turnout.⁷
 - Zip codes with high rates of eviction filings per 1,000 renter households⁸ are most often communities of color that are characterized by high poverty rates.⁹
 - Taken together, the prior two observations imply that eviction in NYS may actively be “suppressing the political voice of the poor and blunting the full power of the Black and Hispanic vote.”¹⁰

These findings point to the increasingly universalizing nature of eviction and eviction filings in NYS: whereas the largest *volumes* of evictions and filings are found in urban spaces, especially downstate communities of color,¹¹ the largest *rates* – and biggest jumps in rates – of eviction filings per renter household are now situated in upstate, especially rural, counties.¹² Put differently, New York’s eviction problem is one that cuts across the rural-to-urban gradient to harm residents from all backgrounds, living in all types of settings.

⁶ <https://blogs.cornell.edu/nysevictions/no-shelter-no-safety/>

⁷ *Ibid.*

⁸ <https://blogs.cornell.edu/nysevictions/city-and-district-court-filings-by-zip-code/>

⁹ <https://blogs.cornell.edu/nysevictions/make-a-zip-code-factsheet/>

¹⁰ Desmond, M. and Gershenson, C., 2017. “Who gets evicted? Assessing individual, neighborhood, and network factors”. *Social Science Research*, 62: 362-377.

¹¹ <https://blogs.cornell.edu/nysevictions/city-and-district-court-filings-by-zip-code/>

¹² <https://blogs.cornell.edu/nysevictions/home/>



This observation is critical to questions of whether NYS possesses the institutional capacity and labor force needed to support households facing eviction. Because this Court is likely to hear from numerous organizations that are rooted in and serve urban areas, especially NYC, I will use the remainder of my testimony to speak to what I see as red flags and growing concerns in upstate communities (however, nearly all of these concerns are likely to apply downstate as well).

Undersupply of Legal Assistance

Although NYS maintains an open database of attorney registrations,¹³ the dataset does not capture or provide information on a given attorney's specialization (e.g., housing, landlord-tenant relations, etc.) or economic sector (public, for-profit, nonprofit). For that reason, to my knowledge, there is no data source that conveys the precise number of legal professionals who may be available to assist tenants facing eviction in communities across NYS. As a proxy measure, however, the U.S. Census American Community Survey (ACS) Public Use Microdata Samples (PUMS) – which is a representative survey that is weighted to provide population-level estimates of various demographic, socioeconomic, and housing indicators – asks respondents to report their primary occupation and the sector in which they work.¹⁴ Using that information, it is possible to identify the number of New Yorkers who self-report that they are lawyers working in the nonprofit sector.¹⁵ Whereas this number is not by any means a perfect representation of the universe of lawyers who are potentially available to assist tenants facing eviction (e.g., not all nonprofit attorney positions are found in legal aid or housing agencies, and many attorneys at for-profit firms also provide legal services to tenants in eviction cases), it can act as a useful proxy measure for the number of legal aid attorneys in a given location.

According to the PUMS data, there are an estimated 9,260 lawyers in NYS who self-report as working for a nonprofit employer. That number translates to approximately 6.5% of all attorneys living in NYS who are represented in the PUMS dataset. Expressed in per capita terms, there are roughly 4.6 nonprofit lawyers per 10,000 NYS residents (or about 11.2 per 10,000 NYS tenants). However, the pattern of where such lawyers live is highly uneven: 58.7% live in the five counties of NYC and an additional 11.3% live in Nassau and Suffolk Counties, while the other 30.0% live in the remainder of upstate counties. Stated somewhat differently, downstate counties (NYC plus Nassau and Suffolk) contain 70% of the state's nonprofit lawyers, compared to just 57.9% of the state's population. One implication of these data is that **upstate counties contain disproportionately few nonprofit (i.e., legal assistance) attorneys**. This statement is not to say that the downstate supply of nonprofit/legal assistance attorneys is sufficient to meet the area's needs. Rather, it is simply an observation that prospective evictees in many upstate counties – particularly the rural counties that are experiencing doubling or tripling in their annual eviction filings (see above) – might be even less likely than their downstate counterparts to have access to nonprofit legal assistance.

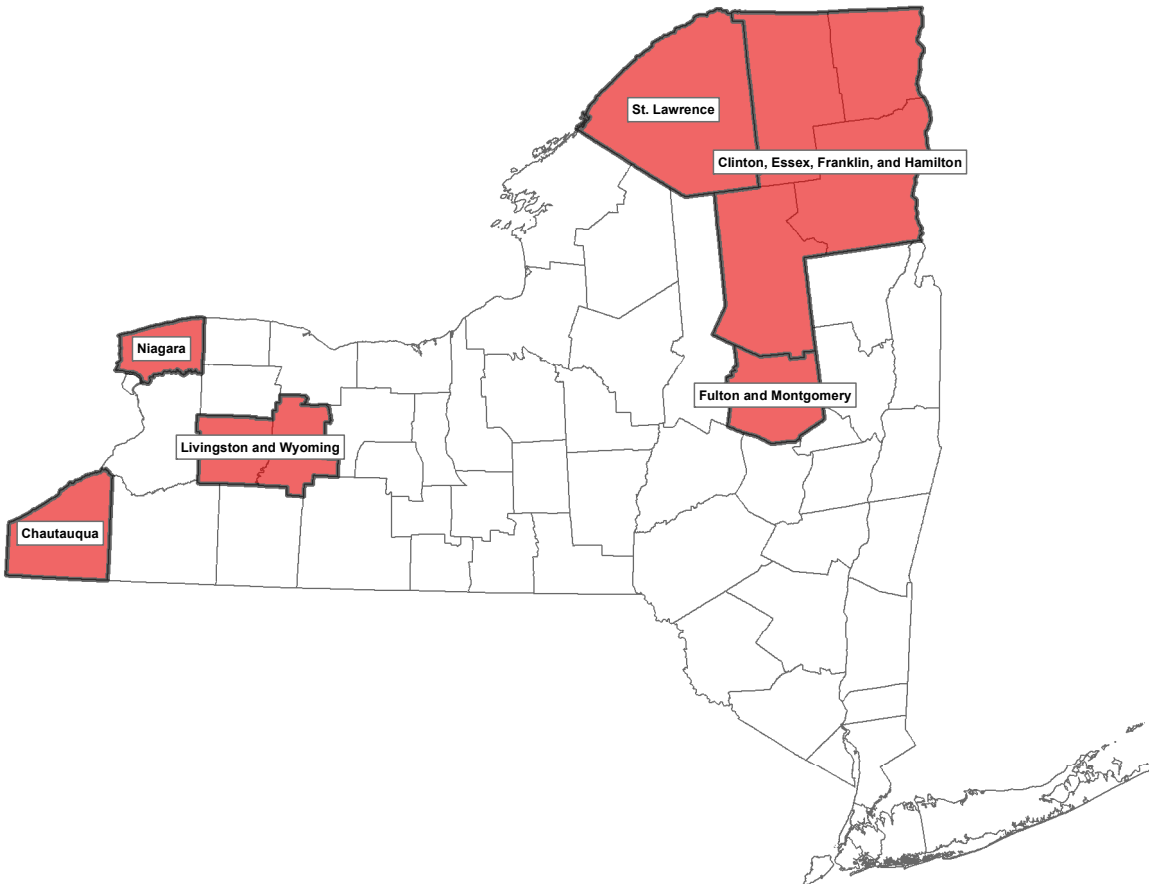
¹³ <https://data.ny.gov/Transparency/NYS-Attorney-Registrations/eqw2-r5nb>

¹⁴ The current version of this dataset is the five-year vintage for 2017-21. See: <https://www.census.gov/programs-surveys/acs/microdata/access.html>. All analyses of PUMS data included herein were obtained from IPUMS USA. See: <https://usa.ipums.org/usa/index.shtml>

¹⁵ The occupation code 2100 covers "Lawyers, and judges, magistrates, and other judicial workers", but is used herein as a proxy for attorneys. See: <https://usa.ipums.org/usa/volii/occ2018.shtml>. The variable *CLASSWKR* in the PUMS dataset captures a worker's sector (public, private-for profit, private-nonprofit, etc.). See: https://usa.ipums.org/usa-action/variables/CLASSWKR#codes_section



Due to the geographic resolution of PUMS data, it is not possible to provide a county-by-county breakdown of the distribution of nonprofit or other public interest lawyers; however, this distribution can be explored at a slightly coarser spatial resolution that leverages geographic relationships between counties and the Public Use Microdata Areas (PUMAs) for which PUMS data are published.¹⁶ For instance, in the following map, **the 11 counties highlighted in red fall in PUMAs for which, according to the 2017-21 PUMS data, no members of the local workforce identify as lawyers who are employed at nonprofit organizations.**¹⁷



Map of Public Use Microdata Areas (PUMAs) Where Zero Workforce Members Identify as Lawyers Working in Nonprofit Organizations (Highlighted in Red)

¹⁶ In higher-population areas like NYC, Erie County, and Monroe County, PUMAs are fully contained within their parent counties. In more rural locations, PUMAs cross county boundaries; however, these boundary crossings generally do not *split* counties. In other words, if a PUMA crosses into more than one county, it typically combines those counties into a single PUMA (example: Fulton and Montgomery Counties are combined into a single PUMA).

¹⁷ Note that the absence of nonprofit lawyers living in these PUMAs does not mean that there are zero public interest attorneys practicing in these areas. The nonprofit Neighborhood Legal Services, for example, has a satellite office in n Niagara Falls, NY (Niagara County). Once again, the PUMS data is not a perfect representation of an area’s public interest law workforce – it is a proxy that can be used to identify spaces where there is likely a serious undersupply of public interest lawyers.



Rising Numbers of Eviction Filings and Eviction Warrants

Collectively, in the 11 counties highlighted in the map on the previous page, for which there appears to be a deficient supply of public interest attorneys, NYS Unified Court System (UCS) data show that both eviction filings and warrants are exceeding pre-pandemic levels. Annual filing totals were up by almost 20% between 2019 and 2022 (from 4,099 pre-pandemic to 4,799 after the statewide eviction moratorium expired); and annual warrants rose by over 25%, from 1,735 in 2019 to 2,172. As of 1 September 2023, there have been 1,465 warrants issued in these 11 counties so far in 2023. Combined with the filings data, these figures speak to a concerning trend: in addition to rising frequencies of both filings and warrants, **warrants as a percentage of total filings has been climbing**. Prior to the pandemic, the number of annual warrants (in 2019) represented 43.3% of annual filings. Following the expiration of the statewide moratorium in 2022, that fraction rose to 45.3% -- and, so far in 2023, it is at 49.4%. Although correlation cannot be interpreted as causation, the seeming absence of nonprofit (e.g., legal assistance) attorneys in these spaces is coinciding with: (1) more eviction filings, (2) more eviction warrants, and (3) a greater share of eviction filings leading to eviction warrants. One implication of these intersecting trends is that more tenants in these areas are facing housing insecurity after their experiences in the civil legal system.

Warrants as a % of Annual Filings

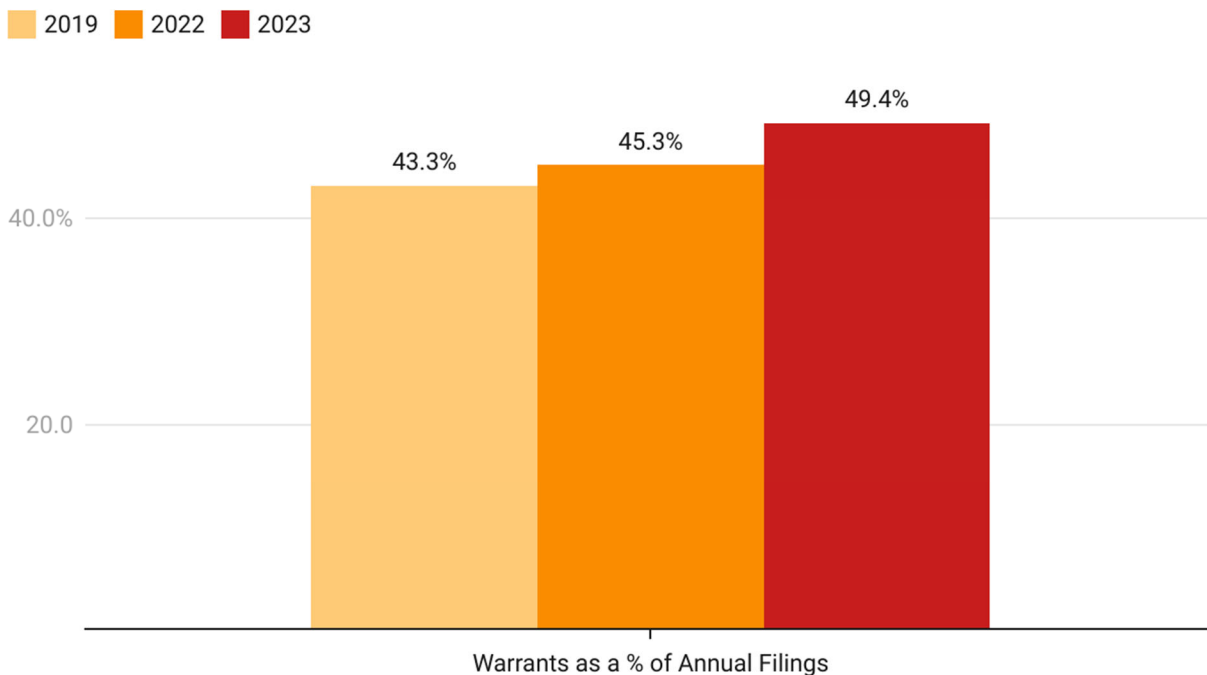


Chart: Russell Weaver, PhD • Source: New York State Unified Court System Eviction Dashboard • Created with Datawrapper

Even though the foregoing focus was on 11 specific counties for which there is evidence of an undersupply of legal assistance, recall that nearly all of upstate – 40 counties in all – experienced increases in annual eviction filings that saw their pre-pandemic (2019) levels eclipsed by post-



moratorium (2022) levels. Further, recall that, despite being home to roughly 42% of the NYS population, upstate counties (all counties outside of NYC and Long Island) contain just 30% of New York's lawyers who self-identify as working for nonprofit organizations (a proxy for legal assistance attorneys).

Incomplete and Missing Data

Whereas the New York State (NYS) Unified Court System (UCS) publishes both an interactive eviction dashboard and annual landlord-tenant data extracts,¹⁸ these datasets and accompanying tools do not presently allow researchers to generate a comprehensive picture of the populations and spaces that are most impacted by evictions. The data extracts, in which each record represents an individual eviction filing case and with which researchers can identify the zip code of the property in question, only cover city and district courts. Town and village court records are not included – presumably because these smaller courts do not input their data into the same system as their city and district court counterparts. Further, the data extracts do not offer any information on the number of persons facing eviction, nor, it follows, do the datasets tell researchers and policymakers *who* is facing eviction (e.g., number of children under 18, number of adults age 65 or older, breakdown of persons by race-ethnicity and/or disability status, etc.). These information gaps add to and compound existing capacity shortages (see above) and related difficulties in designing and implementing both short-term and long-term/structural policy solutions.

Closing Remarks

Despite speaking to a mere sliver of the unmet needs for civil legal services for low-income New Yorkers, especially those who have been evicted or are at risk of eviction, it is my hope that this testimony called the Court's attention to the following three main points:

- The dam that held evictions at bay through the early portion of the COVID-19 pandemic has been dismantled, leading to floods of eviction filings and warrants throughout New York State. The largest surges in these phenomena have been observed in upstate, especially rural, areas that have had relatively little past experience with mass evictions. Many, if not most, such counties appear to lack the legal assistance infrastructure and workforce needed to support the waves of new tenants suddenly facing housing insecurity.
- That lack of capacity might be actively contributing to greater housing insecurity across NYS. In 11 counties for which U.S. Census data point to a virtual absence of robust nonprofit legal assistance infrastructure, eviction filings and warrants are both exceeding pre-pandemic levels, and a rising percentage of filings are resulting in evictions. Without substantive intervention, it is difficult to imagine how these trends can be slowed, let alone reversed.
- Data that would allow researchers and policymakers to craft more locally-tuned, context sensitive, and culturally competent policy solutions to eviction and related housing crises are not currently available. Some such data, like the number of people facing eviction and their demographic characteristics, do not appear to be part of existing data collection protocols – suggesting that these data do not exist anywhere in state government. Other such data, like

¹⁸ <https://ww2.nycourts.gov/housing-tab-35946>



town and village court filings and warrants, are not inputted into the same channels used by city and district courts – meaning that these data get omitted from statewide data extracts and tools built on those extracts.

Clearly, these challenges do not come with simple solutions. The shortage of public interest attorneys, for instance, is a longstanding problem that goes well beyond New York State. National organizations like Teach For America¹⁹ in the field of education or AmeriCorps VISTA²⁰ in the fields of community economic development and poverty alleviation offer useful models on which to base a new, NYS-specific program for developing and deploying legal assistance attorneys across the state (especially in ostensible legal assistance deserts like the counties highlighted in the map above). However, these are longstanding models that were developed and refined over decades, and which receive significant public funding. For these and many other reasons, such institutions cannot be established overnight to solve New York’s immediate challenges. Thus, short-term changes – including steering more resources to existing organizations that provide direct service support to potential and actual evictees – are urgently needed as the State works toward longer-term, *systems-level* change and institution-building. Changing and updating data collection protocols to capture – and to provide public access to – *complete, statewide* information on who is facing eviction or has been evicted, where such persons live, whether they have (had) access to legal representation, and the nature of that representation (e.g., privately hired counsel, nonprofit/legal aid counsel, etc.) will be critical to these efforts going forward.

Thank you for your time and for convening this hearing. I look forward to following the results.

/s/ Russell Weaver

¹⁹ <https://www.teachforamerica.org/what-we-do/our-approach>

²⁰ <https://americorps.gov/serve/americorps/americorps-vista>