

Eviction Prevention and Mental Health

A New Paradigm for Civil Justice Reform

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I.

Executive Summary

This paper focuses on the challenges facing individuals with mental health conditions who are at risk of eviction. Eviction is a significant cause of stress and housing instability that can lead to homelessness, poor health and behavioral health, and even institutionalization, making housing courts nearly as high stakes a legal venue as criminal courts. While eviction is a universally stressful event, people with mental health conditions can face unique obstacles with housing retention for reasons related specifically to their disability. This paper provides a review of housing settings and specific risks of eviction for individuals with mental illness before focusing on housing court and the challenges these individuals and court personnel face therein. Finally, we introduce the Eviction Intervention Stage Model, which identifies junctures at which supportive, problem-solving interventions can ensure the necessary community supports and legal representation. We believe that integrating these procedural protections and problem-solving interventions across the eviction process continuum, including but not limited to housing court, will support people with mental health conditions in retaining stable housing.

II. Introduction

A range of life experiences may put someone at greater risk for housing instability. Racial discrimination, disparate economic opportunity, discriminatory land use policies, and inequitable health outcomes all play a role in increasing the risk for particular groups. Given the importance of housing to clinical stability, safety, and recovery for people with behavioral health needs, addressing housing instability and preventing eviction for this group is particularly critical, and may require specialized approaches.¹

Housing is frequently the number one challenge raised by clinicians, advocates, policy makers, and persons with lived experience, in planning care at the individual and systems levels. Access to permanent housing for individuals with behavioral health needs is impacted by both housing stock and housing policies for the general population, and funding for specialized behavioral health targeted housing. Eviction prevention has received far less attention than addressing homelessness, particularly among individuals with behavioral health needs. In this paper we focus on the challenges for individuals with behavioral health needs facing the risk of eviction, looking specifically at the junctures at which supportive, problem-solving interventions could help someone keep their home. The risks of eviction can be addressed at several junctures, only one of which is housing court: we, therefore, present a continuum of community-based approaches. While many of the adversities and solutions we explore are not unique to individuals with behavioral health needs, there are challenges confronting that population that currently often go unmet. It is that gap that is the primary focus of this paper.

Housing instability is associated with poorer health and behavioral health outcomes, including depression, suicidality, trauma, and substance use.² At the same time, people with behavioral health needs may be at greater risk of housing instability when their symptoms affect their ability to make regular payments for rent or utilities, keep a safe residential environment, and/or maintain socially

appropriate community behaviors.³ In general, behavioral health issues, including psychosis⁴ and substance use, are risk factors for eviction.⁵

Addressing the criminalization of mental illness is another reason to prioritize addressing access to housing. Housing instability puts individuals with behavioral health needs at greater risk for involvement with the criminal legal system.⁶ This may be due to behavioral instability associated with housing-related stress, and associated challenges in accessing needed services. If the instability results in street or shelter homelessness, the homelessness itself may be criminalized (e.g., loitering), or may result in individuals engaging in public behavior that would be legal in private. Seemingly stable housing may also be at risk for people with behavioral health challenges: there are jurisdictions in which a property can be listed as a “nuisance” if there are two or more law enforcement visits, and this can contribute to potential eviction—even when the calls to law enforcement were related to a behavioral health crisis.⁷

While specialized housing for people with behavioral health needs exists, it does not necessarily protect against typical eviction risks. Over the past two decades, housing initiatives for people with behavioral health needs that are most associated with episodes of dysfunction and hospitalization have moved from a paradigm of congregate living, 24-hour supervision, to one in which individuals have access to single site multi-unit settings and scatter-site settings and offered wrap-around support services.⁸ Housing First approaches and the supported housing model both promote recovery,⁹ autonomy, and community integration.¹⁰ Yet, to the extent individualized leases are part of this approach, it may put individuals with behavioral health needs at greater risk for eviction proceedings and exposure to housing court. It should be noted that most people with behavioral health needs live in non-specialized, “mainstream” housing.

While the primary focus of this document is the challenges faced by people with behavioral health needs, many of the principles apply more broadly. The landlord-tenant relationship is inherently unequal. Landlords are much more likely than tenants to have legal representation. Landlords—particularly corporate owners—may be more interested in

eviction than problem-solving (often as a vacancy can mean rents can be raised to market rates). This imbalance in forces has been partly recognized by legislation in New York City that, for example, creates a right to counsel in housing court proceedings.¹¹

Individuals with behavioral health needs, though, may have unique vulnerabilities; targeted for eviction as easy marks. They are at greater risk in housing proceedings, because without representation or support, they may not communicate as effectively due to cognitive and/or behavioral challenges. Disorganization and decision-making difficulties can translate into greater difficulty meeting the demands of settlements that would maintain their current housing.

A 2019 survey of system-actors with housing court experience—including judges, court attorneys, and defense counsel—confirmed both that the majority had worked on cases involving individuals with behavioral health needs and that there were inadequate supports in place for those individuals and for the courts in addressing the circumstances that led to the proceedings.¹² The two most commonly identified situations were non-payment of rent and tenant disruption. The most common court-based challenge identified was lack of follow-up by the litigant on court-ordered plans, followed by time constraints in court, difficulty in communicating with the litigant, and a lack of supportive resources. Anecdotally, some judges reported that they found litigants whose behavioral needs were less readily apparent and less associated with psychosis to be particularly challenging. Litigants with more serious symptoms were more obviously in need of support and often eligible for interventions such as a personal guardian. Some litigants, by contrast, appeared to have decision-making capacity, but were nonetheless less able or willing to work with the court. In those cases, resolution was more difficult to achieve.

For people facing eviction, housing court is generally the final stop of a lengthy journey. Borrowing from the “Sequential Intercept Model,” an approach to intercepting individuals with behavioral health needs who have criminal-legal contact, the eviction process can be examined with an eye to identifying opportunities at each stage to intervene and interrupt the threatened loss of housing. These

stages, described in more detail below are: Prevent, Respond, Attend, Navigate and Restore.

See Figure 1: Rent Non-payment example.

In what follows, we apply a problem-solving approach that seeks to identify opportunities for prevention and intervention, even before a case reaches housing court. First, we review types of housing that focus on individuals with more serious behavioral health needs. We then describe the eviction process and housing court proceedings. Lastly, we apply an Eviction Intervention Stage Model to delineate the potential challenges and opportunities for intervention at each stage, including local and national models for doing so.

III.

Categories of Housing for Individuals with Behavioral Health Needs

Providing opportunities for individuals with behavioral health needs to live in integrated and independent community settings has been a clinical goal and a legal mandate since the 1960s when the community mental health movement sought, with limited success, to foster a system of community-based care in lieu of long-term institutionalization. In 1985, the Supreme Court found that the Constitution’s Equal Protection clause supported the building of a residence for persons with “mental retardation” in the community, although “mental retardation” was not defined in the ruling as a protected disability.¹⁴ The 1988 Fair Housing Act (FHA) explicitly barred discrimination on the basis of disability (defined to include mental health issues), and in the landmark Olmstead decision, the Supreme Court found that the 1990 American with Disabilities Act (ADA) required states to ensure that people with disabilities related to behavioral health had a pathway to living in the community when it was

determined by clinicians that they no longer needed a hospital level of care.¹⁵ The FHA and ADA also required that accommodations be made if a qualifying disability was impacting an individual's ability to meet their tenant obligations. However, when eviction proceedings start, accommodations are not always effectively advocated for or provided.¹⁶

Housing for people with behavioral health needs is supported by programs that provide financial assistance to tenants of limited means (e.g., Section 8 or Housing Choice Vouchers), as well as by specific federal programs that provide disability-focused assistance (e.g., Section 811). These may be augmented by local and/or state housing initiatives (e.g., the "NY/NY" city-state agreement to enhance the housing stock for individuals with histories of both homelessness and "serious mental illness").¹⁷ Broadly speaking, housing for people with behavioral health needs includes:

- 24-hour supervised community residences which provide congregate care for clients, staffed around the clock; these are often viewed as transitional arrangements, with the goal of moving into permanent supported housing or market-rate housing without case management support;
- supportive housing in which residents can choose to receive help in meeting their daily needs; either single-site, where clients live in a multi-unit housing development, or scattered-site, where individual units are located across a geographic area but services for participants are managed by a single entity; in either case, tenants sign a lease like any other tenant;
- subsidized, but not program-supported, market-rate housing.

Given the focus on community integration advanced by legal anti-discrimination holdings and in support of clinical recovery principles, the preference whenever possible should be for non-supervised, independent living. In New York State, scatter-site supportive housing has been the main category of behavioral-health-focused housing creation for the past 30 years. Whether single-site, scatter-site, or market-rate, tenants receive leases or subleases. Supportive housing leases or

subleases may be with the supportive program, if it owns the property, or with a non-program landlord. In either case, tenants have the same rights and responsibilities as market-rate tenants and the same exposure to the risks associated with eviction proceedings and housing court.

IV. The Eviction Process

Prior to filing a housing court case, landlords are required to take several steps to notify residents of potential problems. These predicate notices are designed to give an explanation of the situation a resident is facing—whether it be months of back rent, or issues concerning their tenancy. These notices are intended to inform, but oftentimes are confusing to residents and written in a manner intended for a court filing, not a layperson. The next paperwork a tenant receives is a court filing stating that their landlord is seeking past rent and/or an eviction, and that they must appear in court. Depending on the type of case filed, a tenant must either go to the court to formally answer the allegations in order to receive a hearing date, or there is a date on the paperwork for when they are supposed to appear in court. The predicate notice stage could function as a kind of early warning system, an opportunity to remedy the underlying situation causing the housing instability and avoid intervention from the court. Instead, it is usually a formality on the way to an eviction case.

V. Housing Court Proceedings

Many jurisdictions have a distinct housing court within the civil court structure that hears all housing-related cases, including non-payment of rent, enforcement of housing codes, and evictions. New York established a Housing Part in the New York City Civil Court in 1972 to address housing-related

issues. Responding to an overwhelming caseload, in the late 1990s, the legislature created a dedicated housing court system in New York City, consisting of an expedited court system, resolution parts, and trial parts. Case conferences with court attorneys were also offered, and the system experimented with alternative dispute resolution mechanisms, such as offering mediation services to litigants.¹⁸

New York City housing courts handle three types of cases: holdovers, non-payments, and housing preservation (HP) actions. A holdover case is brought by a landlord seeking to evict a tenant for any reason other than non-payment of rent, including nuisance behavior and violation of provisions stated in the lease. A non-payment case is started by a landlord to recover unpaid rent or evict a tenant if rent is not paid. The violations include situations in which a tenant is preventing required repairs in their apartment. A HP action case is brought by a tenant against their landlord for repairs that need to be made in the apartment or common areas of a building. Although this can be a complicated process for any tenant, we focus on non-payment and holdover cases, since these are the issues that can result in eviction.

Housing court is a confusing and complicated experience for most of the hundreds of thousands of tenants experiencing an eviction proceeding, and most face it alone.¹⁹ In 2017, New York City became the first city in the nation to pass a law providing full representation to low-income New Yorkers facing an eviction. This has reduced evictions in right-to-counsel zip codes by 29 percent since implementation. Jurisdictions nationwide are joining New York to extend the right to counsel to housing court matters. San Francisco, for example, a city in which almost one in five unhoused people lost their home through eviction, has seen a 10 percent drop in eviction filings since a right to counsel law was fully implemented in 2019.²⁰

Even with the legislation, given eligibility requirements and at times a refusal to accept representation, in New York City, the majority of tenants in housing court continue to navigate an opaque process and packed facilities with little guidance. A tenant must come and find their number on the calendar outside the court part where their case will be heard. Next, they check in with a court

officer, where they wait until a representative of the landlord—either an attorney or a person representing the attorney’s firm—calls their name and begins a negotiation.

In typical, self-represented non-payment cases, the landlord’s representative will show the tenant a ledger indicating what is owed and ask them how long they need to pay the arrears. These transactions will often happen in loud and crowded hallways, and tenants are presented with the landlord’s rent ledger, which they have no way of verifying. If there is a disagreement, then they must continue to wait while the landlord’s representative either checks with the landlord or goes to negotiate with another tenant.

In holdover cases, unrelated to rent, the negotiation can have even higher stakes, because the landlord is directly seeking an eviction, and the justifications can be more contentious. Holdover cases can include those in which a tenant’s lease has expired, and also cases where a tenant is under a lease but has been determined by the landlord to be a “nuisance,” or where their actions are alleged to be in violation of the lease. These can include hoarding or alleged illegal activity situations but may also include more vague descriptions of behavior viewed as non-desirable to the landlord.

If the tenant agrees to the arrears owed, or to move out, the landlord’s representative will fill out a stipulation of settlement. A stipulation in a non-payment case will often include a money judgment, allowing the landlord to collect money that has been agreed is owed. Even though, in most cases, tenants are given time to pay the arrears or to move out, stipulations most often will include a final judgment of possession, meaning the landlord can apply for a warrant of eviction—the document that must be presented to the City Marshal who carries out any eviction. The tenant will then wait for a court attorney to review the settlement with them. As an officer of the court, the court attorney is only allowed to point out errors in the law, and cannot advise the unrepresented tenant of any rights they might be giving up or defenses that could change the course of their case. If the tenant agrees that they understand the settlement, they will then wait for this process to be repeated in front of a judge, who will sign the stipulation and give a copy to the tenant.

While the complex process and chaotic environment would be trying for anyone, individuals living with behavioral health issues may be especially at-risk for the resulting housing instability and homelessness. The stress alone can be destabilizing, and individuals may experience difficulty with various aspects of the eviction process, including: participating in, or addressing concerns stemming from, mediation with landlords; accessing, receiving, and processing information; presenting their side when in court; and following through with court proceedings and next steps following judgments. In addition, due to fears over stigmatization, individuals might choose not to identify themselves as having a behavioral health condition that would entitle them to certain accommodations. This fear of disclosure could also have implications for court proceedings, including failure to appear and inability to secure legal representation, which increase the chance of eviction.

VI. Housing Court Supports

Currently there is no protocol or training for judges and court personnel who interact with litigants who they suspect have a behavioral health disorder. While there is a handful of unique programs providing support to courts and clients, in general, there are limited resources to assist Housing Court personnel in working with people with behavioral health needs.

One support mechanism is a guardian ad litem (GAL).²⁰ The purpose of a GAL is to safeguard the rights and prevent the eviction of some of the city's most vulnerable populations, although the appointment represents a loss of personal autonomy to that individual. When there is concern that a tenant is unable to effectively advocate for themselves, a Judge may appoint a GAL. GALs can be both attorneys and non-attorneys, so the level of expertise within the legal system can vary. The role of the GAL is almost exclusively to support the client during the court proceedings themselves, as opposed

to helping resolve issues outside the courthouse. GALs must be distinguished from both legal representation and guardianship more broadly. As noted above, GALs are not necessarily attorneys, and their role is to advocate for what they believe to be in the best interest of the individual, as opposed to what the person may want, even when those might differ.

If a person is deemed to be more broadly incapacitated, proceedings for the appointment of a personal guardian may be utilized. The purpose of this type of guardian is to fulfill the personal or property management needs of an incapacitated individual. A personal guardian can assist an individual with meeting landlord or court requirements beyond the court process itself. However, the appointment of a personal guardian is usually reserved for cases in which there is the most serious diagnosis, dysfunction, and/or disability, and it comes at a significant cost to the individual's autonomy. While consideration must be given to the personal preferences of the individual, the personal guardian is not obligated to follow those preferences. Petitioning for a guardian also adds further time and complexity to the proceedings, involving additional agency involvement, additional evaluations, and potentially an additional court case.

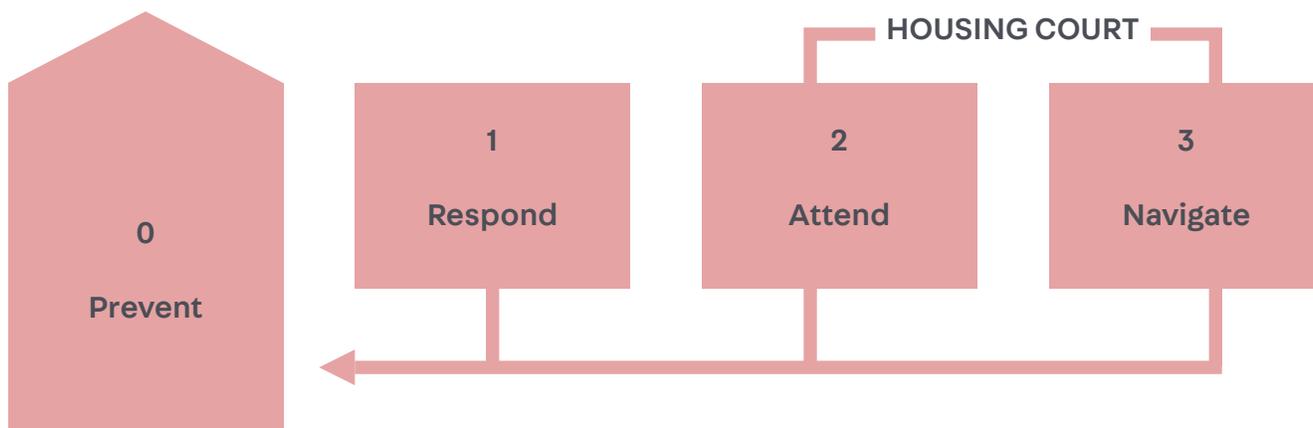
Some housing courts provide space in the courthouse for the department of social services, adult protective services, and other housing support agencies. However, clients who may have difficulty finding such programs, advocating for themselves, and following through with these agencies may not actually take advantage of their availability despite being in the same building.

VII. The Eviction Inter- vention Stage Model

As outlined above, we conceive broadly of the eviction process as a predictable series of stages at which a client facing the potential loss of housing can be helped so as to avoid that potentially devastating outcome.²¹

Figure 1

The Eviction Intervention Stage Model and Representative Interventions



- **Stage 0: Prevent**, in which housing stability is maintained through housing affordability and access to support services as needed.
- **Stage 1: Respond**, in which the person receives the first notice of the housing problem, e.g., rent non-payment or nuisance complaint.
- **Stage 2: Attend**, in which the person has to navigate the Housing Court process.
- **Stage 3: Navigate**, in which the person has to navigate the tasks necessary to address the complaint in between Housing Court hearings.

At each stage of the process, there are interventions that can potentially address the problem that is placing a client’s housing at risk. Interventions at the Prevent and Respond stages can preempt court involvement with the attendant added complications of the legal proceedings. The following are some representative examples of Prevent, Respond, Attend, and Navigate interventions (See Figure 1). Programs usually provide interventions and support at several stages.

STAGE 0: PREVENT

■ Supportive Housing

Integrating housing and health care, along with other support services, can improve housing retention for individuals with behavioral health needs. One study found that a permanent supportive housing intervention contributed to approximately six years of housing stability for participants with mild to high behavioral health support needs, when compared to traditional support.²²

However, there are challenges with supportive housing that include building and maintaining capacity for service provision and sustaining housing affordability. In addition, while supportive housing is targeted to persons with disabilities, including mental health challenges, it is not immune to the biases which beset housing generally, most notably, discrimination based on disability and race.²³ In addition, staff must be careful not to provide so much support and structure that the housing takes on the characteristics of institutional care with attendant loss of choice and agency for clients.

■ Monetary Support to Address Housing Instability

Housing subsidies (e.g., Section 8 or Housing Choice Vouchers) paired with case management have been shown to increase the number of days tenants are stably housed. One study showed a statistically significant difference in years of stable housing between those who receive

supportive monetary intervention compared to those who received the usual services.²⁴ Capital investment also plays a role in ensuring housing options and programs are set up for long-term success. Advocacy groups suggest a \$70 billion investment is needed to begin the process of repairing, preserving, and expanding the availability of public housing throughout the country for the most vulnerable.²⁵

STAGE 1: RESPOND

■ Legal and Social Support Services

Legal and social services, including mental health and harm reduction services, may not be tied to specific supportive housing properties. The support can be neighborhood-based, tenant assistance with completing legal forms, navigating the social services system, and drafting formal letters.²⁶ This support may also include helping residents in public housing navigate their recertifications and income updates, helping self-represented litigants in housing matters with court information and resources, and helping tenants secure repairs in their apartments. For example, in New York City, Legal Hand is a program overseen by the Center for Court Innovation in partnership with local legal services providers, the New York Legal Assistance Group, and Legal Services NYC. The program recruits community members and trains them to provide information, referrals, and resources in civil legal issues to visitors, with the goals of preventing early civil legal issues from developing into court cases and providing legal empowerment to the communities where the storefronts are located.

Each of the storefront locations, which are located in neighborhoods which have traditionally been underserved by the justice system, is staffed by a legal services attorney, a volunteer coordinator, and trained community volunteers, and welcomes visitors to come in with any issue, even if the visitor does not identify it as a legal issue. By providing easy access to informed community volunteers and legal services providers, Legal Hand hopes to bridge the trust, shame, identification, and capacity issues which have been shown to prevent

community members from adequately accessing free civil legal help.²⁷ This gives tenants the chance to address their housing issues without the stress of being in an adversarial setting.

Similarly, the Center for Court Innovation established two Housing Resource Centers in New York City, located in the Harlem Community Justice Center in Manhattan and the Red Hook Community Justice Center in Brooklyn. These centers serve as focal points for tenants and communities seeking to improve housing retention. The Harlem Community Justice Center's Housing Help Center assists tenants facing issues in public as well as privately-owned housing. Center staff work in partnership with the New York City Housing Authority (NYCHA) to address leasing issues, repairs, and other conflicts with the potential to interfere with housing stability. Specific services provided to the community include: counseling, mediation, employment assistance, re-housing support for victims of intimate partner violence, as well as legal and financial information and support.

Although these programs do not offer specific services to people experiencing mental illness, they do provide an opportunity for more personal attention which can help in identifying and targeting needed services. Adding a targeted mental health component to these services would be beneficial to a great number of people. Such a component could include staff with knowledge of the community services available for individuals with behavioral health needs and trained in mental health interventions. Peer counselors with lived experience could provide additional support.

STAGE 2 AND 3: ATTEND AND NAVIGATE

■ Eviction Diversion Program

A collaborative approach to resolving housing court cases is the Eviction Diversion Program (EDP), which happens after eviction filings have begun and requires the cooperation of both the tenant and the landlord. EDPs provide tenants with holistic services such as negotiation support and legal representation in court, as well as financial support and social service information.²⁸ A study of the pilot program

in Lansing, Michigan showed that the rate of eviction decreased by 13 percent between 2016 to 2017, and the amount owed by tenants with legal representation decreased by 41 percent more than for unrepresented tenants.²⁹

With funding and support from the Department of Mental Health and local housing authorities, the Tenancy Preservation Program (TPP) in Massachusetts is a specific type of EDP that works with housing courts across the state to prevent eviction among individuals with a behavior-related issue, including mental illness, substance use, or cognitive impairment.³⁰ Specially appointed neutral mediators work with landlords and tenants to develop a plan to maintain tenancy or coordinate the transition to alternative housing.³¹ An evaluation of the TPP model in Western Massachusetts identified five elements as key to the program's success: housing subsidies; supportive services coupled with permanent housing; in-court mediation during eviction proceedings; actual cash assistance for rent or mortgage payments; and, in instances when there was no permanent housing, a quick transition from temporary housing to a permanent housing location.³² It was estimated that TPP reduced the chances of becoming homeless by about a third. That said, while TPP was able to secure current housing and find new alternative housing for high-risk participants, it was not successful in addressing homelessness for persons with both behavioral health needs and substance abuse simultaneously.

■ Problem-solving housing court model

The EDP problem-solving model has been extended into the courtroom itself. To provide litigants with an improved housing court experience, and consistent with the concerns raised by court personnel, enhancements can be made to court staff training, protocols, materials, and space. Judges and court staff can be trained in procedural justice and supplied with resources, such as bench cards, to ensure that they are aware of the services and referrals available through local service providers. This type of model was developed in New York City with the establishment of housing courts at the Red

Hook Community Justice Center and the Harlem Community Justice Center.

In addition to the Respond activities described above, the Red Hook and Harlem Housing Resource Centers also provide courtroom-based support. Staffed by a team of courtroom resource coordinators, case managers, and outreach and community engagement specialists, these centers provide a range of services to both tenants and landlords, and partner with the court to provide intensive mediation and arbitration work for landlord/tenant cases, holdover proceedings, and/or repair cases.

As noted, this kind of personalized attention helps both those with and without behavioral health needs, but a more specific behavioral health component would maximize the effectiveness of such programs for individuals with mental health needs. The housing Court context for this work also suggests opportunity for resources and training to be provided for the court personnel, including judges, court attorneys, resource coordinators and court officers.

Local social service providers can also be available at a housing court to address other needs, such as mental health and employment, that may impact housing stability. In this model, the court acts as a resource hub where litigants and community members can meet with a variety of providers in one place. By combining the work of community-based organizations with the resources available to the court, residents facing housing instability are provided a continuum of support.

VIII. Conclusion

The stresses associated with housing instability and eviction proceedings can exacerbate behavioral health issues, while, in a kind of double bind, behavioral health issues increase the risk of housing instability and exposure to potential eviction. Multifaceted approaches are needed to improve housing retention among individuals with behavioral health needs and among the broader population. Critical to the success of any effort are factors such

as effective coordination between philanthropic, nonprofit, local, state, and federal actors at the policy and funding level; and cross-sector and disciplinary collaborations at the direct service level. Together these efforts can support immediate access to public or private housing, dismantle barriers to such access, and follow up with intensive support.³³ An integrated system of housing, health, and social services with active communication and collaboration among housing support staff, health care practitioners, and community members has been shown to positively impact housing retention among the formerly homeless and to address the physical and behavioral health needs of the whole person. Existing models provide a useful foundation for future planning, but also highlight the need to ensure that the behavioral health needs of those at risk are attended to and accommodated.

Housing court and its attendant challenges, stresses, and risks is but one opportunity for intervention. The Eviction Intervention Stage Model identifies a spectrum of points of engagement and provides a framework for identifying opportunities for the communication and collaboration needed to address the risks of housing instability for individuals with behavioral health needs, as well as other vulnerable populations. In accordance with this framework, we propose the following:

- Advocate for funding that can support the kinds of eviction prevention interventions described above, with particular attention to including behavioral health expertise and resources
- Provide technical assistance to assist jurisdictions in identifying local challenges and opportunities at each stage of the eviction process
- Target research in the following areas:
 - Identify additional housing-related challenges and eviction risk factors
 - Develop a comprehensive review of eviction prevention programs
 - Describe the tenant perspective on the eviction stages (challenges, needs, supports)
 - Create new models for prevention that can address the spectrum of clinical conditions and social adversities

IX. End Notes

1. Recovery and Recovery Support. (2020, April 23). Recovery and Recovery Support. Substance Abuse and Mental Health Services Administration (SAMHSA). <https://www.samhsa.gov/find-help/recovery>
2. Compton, M. T., & Shim, R. S. (2015). The Social Determinants of Mental Health. *The Journal of Lifelong Learning in Psychiatry*, 13(4), 419–425. <https://doi.org/10.1176/appi.focus.20150017>
3. Zivanovic, R., Omura, J., Wood, E., Nguyen, P., Kerr, T., & DeBeck, K. (2016). Eviction and Loss of Income Assistance Among Street-Involved Youth in Canada. *Journal of Public Health Policy*, 37(2), 244–259. <https://doi.org/10.1057/jphp.2016.12>
4. Montgomery, A. E., Cusack, M., Szymkowiak, D., Fargo, J., & O’Toole, T. (2017). Factors Contributing to Eviction from Permanent Supportive Housing: Lessons from HUD-VASH. *Evaluation and Program Planning*, 61, 55–63. <https://doi.org/10.1016/j.evalprogplan.2016.11.014>
5. Tsai, J., & Huang, M. (2019). Systematic Review of Psychosocial Factors Associated With Evictions. *Health & Social Care in the Community*, 27(3), e1–e9. <https://doi.org/10.1111/hsc.12619>
6. Picard-Fritsche, S., Rempel, M., Kerodal, A., & Adler, J. (2018). The Criminal Court Assessment Tool. Center for Court Innovation. 1–43. https://www.courtinnovation.org/sites/default/files/media/documents/2018-02/ccat_validation.pdf
7. Mead, J., Hatch, M. E., Tighe, J. R., Pappas, M., Andrasik, K., & Bonham, E. (2018). Treating Neighbors as Nuisances: Troubling Applications of Criminal Activity Nuisance Ordinances. *Cleveland State Law Review*, 66, 15. <http://www.clevstlrev.org/wp-content/uploads/2018/03/66-Clev-St-L-Rev-Et-Cetera-3-2018-Treating-Neighbors-As-Nuisances-by-Joseph-Mead-et-al.pdf>
8. New York State Office of Mental Health. (2019, February). Supportive Housing Guidelines: Scattered and Single-site Supportive Housing Guidelines. https://omh.ny.gov/omhweb/adults/supportedhousing/supportive_housing_guidelines.pdf
9. Aubry, T., Nelson, G., & Tsemberis, S. (2015). Housing First for People with Severe Mental Illness Who are Homeless: A Review of the Research and Findings from the at Home—Chez soi Demonstration Project. *The Canadian Journal of Psychiatry*, 60(11), 467–474. <https://doi.org/10.1177/070674371506001102>
10. Tsemberis, S., Gulcur, L., & Nakae, M. (2004). Housing First, Consumer Choice, and Harm Reduction for Homeless Individuals With a Dual Diagnosis. *American Journal of Public Health*, 94(4), 651–656. <https://doi.org/10.2105/AJPH.94.4.651>
11. Providing Legal Services for Tenants Who Are Subject to Eviction

- Proceedings, Int. 0214B-2014. New York City Council. § 27-4001-4005. (2017). Retrieved from <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1687978&GUID=29A4594B-9E8A-4C5E-A797-96BDC4F64F80>
12. Albert Einstein School of Medicine. (2020). Housing Court and Mental Illness Survey 2020. [Unpublished Survey] https://drive.google.com/file/d/1G9M_a40JrApYzT4DmiQLBAQvL2_kh6bw/view?usp=sharing
 13. *Cleburne v. Cleburne Living Center, Inc.*, 473 US 432 1985. <https://tile.loc.gov/storage-services/service/ll/usrep/usrep473/usrep473432/usrep473432.pdf>
 14. Olmstead, Commissioner, Georgia Department of Human Resources, et al. v. L. C., 527 U.S. 581 (1999). <https://tile.loc.gov/storage-services/service/ll/usrep/usrep527/usrep527581/usrep527581.pdf>
 15. Carter, M. P. (2010). How Evictions from Subsidized Housing Routinely Violate the Rights of Persons with Mental Illness. *Northwestern Journal of Law and Social Policy (JLSP)*, 5(1), 1–32. <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1049&context=njlsp>
 16. New York University Furman Center. (2021). Directory of NYC Housing Programs - New York/New York Agreements. Furman Center. <https://furmancenter.org/coredata/directory/entry/new-york-new-york>
 17. New York City Housing Court. (2019, September 5). Guardian Ad Litem Program. New York State Unified Court System. <https://www.nycourts.gov/courts/nyc/housing/GAL.shtml>
 18. Brescia, R.H. (2013). Sheltering Counsel: Towards a Right to a Lawyer in Eviction Proceedings. *Touro Law Review*, 25 (1), 1-87. <https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=1358&context=lawreview>
 19. Brey, J. (2020, February 28). Housing in Brief: Evictions Down Under Right to Counsel Laws in New York and San Francisco – Next City. <https://nextcity.org/daily/entry/housing-in-brief-evictions-down-under-right-to-counsel-laws-in-ny-and-sf>
 20. See Endnote 19. Note: The GAL process is discussed here because it is the much more common tool for actors in Housing Court, as distinguished from a Mental Hygiene Law Article 81 appointed guardian, where guardians are given far more expansive powers over their ward, after a separate court hearing.
 21. Structured Employment Economic Development Corporation (Seedco). (2010). Housing Help Program: Homelessness Prevention Pilot Final Report. New York Courts. https://www.nycourts.gov/LegacyPDFS/ip/nya2j/pdfs/HHP_Seedco_rpt.pdf
 22. Aubry, T., Bloch, G., Brcic, V., Saad, A., Magwood, O., Abdalla, T., Alkhateeb, Q., Xie, E., Mathew, C., Hannigan, T., Costello, C., Thavorn, K., Stergiopoulos, V., Tugwell, P., & Pottie, K. (2020). Effectiveness of Permanent Supportive Housing and Income Assistance Interventions for Homeless Individuals in High-Income Countries: A systematic review. *The Lancet Public Health*, 5(6), e342–e360. [https://doi.org/10.1016/S2468-2667\(20\)30055-4](https://doi.org/10.1016/S2468-2667(20)30055-4)
 23. Farkas, M., & Coe, S. (2019). From Residential Care to Supportive Housing for People with Psychiatric Disabilities: Past, Present, and Future. *Frontiers in Psychiatry*, 10, 862. <https://doi.org/10.3389/fpsy.2019.00862>
 24. See Endnote 23.
 25. National Low Income Housing Coalition. (2021, March 24). National Low Income Housing Coalition Launches New HoUsed Campaign. <https://nlihc.org/news/national-low-income-housing-coalition-launches-new-housed-campaign>
 26. Center for Court Innovation. (n.d.). Legal Hand. (2021, April 26). Retrieved from <https://www.courtinnovation.org/programs/legal-hand>
 27. Sandefur, R. L. (2014). Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study. American Bar Foundation, 17. <https://doi.org/10.2139/ssrn.2478040>
 28. Gamber, N., Galvin, J., & Sanders, A. (2017). An Analysis of the Eviction Diversion Program at the 54-A District. Government of Lansing, Michigan. <https://www.lansingmi.gov/DocumentCenter/View/5528/2017-Eviction-Diversion-Pilot-Program-Final-Report>
 29. Daley, C.W.(2020, November). Achieving Housing Stability with Eviction Diversion Programs: A Guide to Best Practices during COVID and Beyond. Regional Housing Legal Services. <https://rhls.org/wp-content/uploads/Achieving-Housing-Stability-with-Eviction-Diversion-Programs-during-COVID-and-Beyond.pdf>
 30. Tenancy Preservation Program. (2018, April). Tenancy Preservation Program. Massachusetts Government. <https://www.mass.gov/info-details/tenancy-preservation-program>
 31. Burt, M. R., Pearson, C. L., Montgomery, A. E., Walter R. McDonald & Associates, Inc., The Urban Institute. (2005). Strategies for Preventing Homelessness. U.S. Department of Housing and Urban Development Office of Policy Development and Research. https://www.huduser.gov/publications/pdf/strategies_for_preventing_homelessness.pdf
 32. See page 18 in Endnote 31 for an in-depth review of the five effective homelessness prevention strategies enacted at every step of the prevention process.
 33. Brackertz, N., Davison J., Wilkinson, A. (2018, November). Housing, Homelessness and Mental Health: Towards Systems Change. Australian Housing and Urban Research Institute (AHURI). https://www.ahuri.edu.au/_data/assets/pdf_file/0023/29381/Housing-homelessness-and-mental-health-towards-systems-change.pdf

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