

The Estimated Cost of Universal Access to Eviction Counsel in Pennsylvania

Prepared for: Pennsylvania Legal Aid Network

June 15, 2021

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Section I

Stout Profile and Qualifications

1. Stout Risius Ross, LLC (Stout) is a premier global advisory firm that specializes in Investment Banking, Valuation Advisory, Transaction Advisory, Disputes, Compliance, & Investigations, and Specialty Services. In addition to these services, Stout’s professionals have expertise in strategy consulting involving a variety of socioeconomic issues, including issues of or related to access to justice and the needs of low-income individuals and communities.
2. Under the direction of Neil Steinkamp, who leads Stout’s Transformative Change Consulting practice, Stout is a recognized leader in the civil legal aid community and offers the following services:
 - Economic impact assessments and policy research for civil legal aid initiatives;
 - Strategy consulting and action plan development for issues relating to access to justice;
 - Non-profit budget development, review, and recommendations;
 - Cost-benefit and impact analyses for non-profit initiatives and activities;
 - Data-driven program evaluation and implementation; and
 - Dispute consulting and damages analyses for low-income individuals.
3. Neil Steinkamp is a Managing Director at Stout in the firm’s New York City office. He has extensive experience providing a broad range of strategic, business, and financial advice to business and community leaders and their advisors.
4. Mr. Steinkamp has nearly 20 years of experience covering many industries and matter types resulting in a comprehensive understanding of the application of strategic assessment, risk analysis, financial consulting, and other complex analyses. His work has involved complex problem solving involving large-scale industry and social issues. In certain matters, he has provided testimony during bench and jury trials, domestic and international arbitration, as well during city council hearings. He has also assisted parties in a variety of complex resolutions involving settlement negotiations, mediation, and facilitation.

Section II

Executive Summary

\$23 million – The estimated cost of providing universal access to eviction counsel in Pennsylvania at full implementation.

17,200 – The estimated number of additional tenant households who would receive legal representation each year at full implementation.

5. Stout was engaged by the Pennsylvania Legal Aid Network, in coordination with a coalition of Pennsylvania organizations, to perform an analysis of the cost associated with universal access to eviction counsel for low-income tenants in eviction proceedings in Pennsylvania.
6. **The Cost of Universal Access to Eviction Counsel.** We estimate the cost of a fully implemented universal access to counsel¹ in Pennsylvania to be approximately \$23 million annually. We utilize a 5-year time horizon to provide opportunities for legal aid providers, organizers, landlords, courts, and other stakeholders to gradually adapt to universal access to eviction counsel to maximize its benefits and impact. We estimate the cost of Year 1 of implementation to be approximately \$3 million. This includes personnel costs for the hiring of staff attorneys, supervisors, paralegals, social workers,² intake specialists, and case processing paralegals to support the representation of eligible tenants through universal access to eviction counsel. This estimate also includes costs for facilities, technology, equipment, training, outreach, a statewide coordinator, and other costs necessary to provide representation under universal access to eviction counsel. Our analysis estimates that, at full implementation, providers of eviction defense in Pennsylvania would represent over 17,200 additional tenant households annually through universal access to eviction counsel, resulting in a cost per case of approximately \$1,338 for those cases for which representation is provided.
7. **Benefits of Universal Access to Eviction Counsel.** The benefits associated with providing universal access to eviction counsel for low-income tenants facing eviction would likely be

¹ Stout understands from Pennsylvania Legal Aid Network that universal access would ensure that all eligible tenants would be able to access full legal representation for eviction cases covered by the legislation but that an enforceable right to counsel is not currently contemplated.

² This could include a variety of necessary support positions for lawyers and tenants, including social workers, housing navigators, or others who can assist residents with their housing or other needs.

significant and far greater than the costs of providing representation. However, at this time, Stout has not measured the economic benefits that could be reasonably expected from statewide universal access to eviction counsel in Pennsylvania.

Stout has estimated the economic benefits that could be reasonably expected in several other jurisdictions across the United States. Stout has consistently found that the economic benefits that could be reasonably expected from an eviction right to counsel are far greater than the costs of providing representation. In the jurisdictions Stout has analyzed, most were estimated to potentially realize cost savings of between \$3 and \$6 per dollar invested in a right to counsel. State and local government can recognize significant cost savings associated with the housing stability and avoided disruptive displacement enabled by successful legal representation. For example, Stout estimated that in Baltimore the city may realize cost savings of \$3.06 and the state of Maryland could recognize cost savings of \$6.24 (Baltimore City plus Maryland), from the same investment in legal representation for low-income tenants facing eviction.

In particular, significant cost savings are typically related to emergency shelter costs, transitional housing and re-housing costs, emergency healthcare and other costs associated with homelessness, foster care costs, and impacts to the education system. The cost savings realized will vary by jurisdiction due to the significant differences in funding sources (e.g., state vs. local), the social safety net responses available to people experiencing housing instability, and the cost of providing representation, which can vary even within a state. For this reason, cost savings quantifications must be customized for each jurisdiction.

8. Additional benefits of having representation during eviction proceedings have been well documented by numerous studies throughout the country. While the benefits are vast, they include, at a minimum:
 - More favorable outcomes for tenants, including decreased displacement;
 - Decreased impact on physical and mental health of people in eviction proceedings and a reduction in excess mortality;
 - Decreased negative impact on children, including their health, education, and potential future earnings;
 - Increased family and community stability;
 - Increased trust in the justice system and civic engagement;
 - Decreased education costs, juvenile justice costs, and child welfare costs associated with children experiencing homelessness;

- The positive effects of stabilized employment and income and the economic and tax benefits to the state associated with consumer spending;
- Decreased negative impact of eviction on tenants’ credit score, ability to re-rent, and the potential loss of a subsidized housing voucher;
- Decreased cost of providing public benefits when jobs are lost due to eviction or the eviction process;
- Decreased additional costs associated with homelessness, such as additional law enforcement and incarceration costs;
- Improved preservation of financial and personal assets; and
- A reduction, over time, of the number of eviction cases filed resulting in improved use of Pennsylvania court resources.

9. **Benefits of Universal Access to Eviction Counsel to Landlords.** When the landlord is represented and the tenant is not – as is the case in 90 percent of eviction proceedings nationwide, there is an imbalance of power and tenants often lack the understanding of the eviction process and related legal consequences. While initially expressing concerns or anxiety regarding eviction right to counsel, housing court judges and landlords in jurisdictions that have implemented eviction right to counsel or universal access to counsel legislation have later expressed their preference to be interacting with tenant lawyers rather than unrepresented (pro se) tenants. They have noted that when tenants are represented, out of court resolutions are more likely, less time is spent by judges explaining rights and court processes to tenants, the resolutions are fairer, more robust law is created through motion practice and judicial opinions, agreements are more likely to be upheld, tenants are more likely to be connected to supportive services and benefits, and landlords are more likely to receive amounts due and owing without costly collection efforts.
10. Jurisdictions throughout the country have taken steps to provide the right to counsel or access to legal information to tenants facing eviction.

State	Enacted Legislation	Pursuing Legislation
New York	Yes - New York City	Yes - Statewide
California	Yes - San Francisco	Yes - Statewide
Pennsylvania	Yes - Philadelphia	Yes - Statewide
Maryland	Yes – Baltimore and Statewide	N/A
Colorado	Yes – Boulder	Yes - Denver
Ohio	Yes – Cleveland	No
New Jersey	Yes – Newark	No
Kentucky	Yes – Louisville	No

Washington	Yes – Statewide	N/A
Massachusetts	No	Yes - Statewide
Connecticut	No	Yes - Statewide
South Carolina	No	Yes - Statewide
Nebraska	No	Yes - Statewide
Indiana	No	Yes - Statewide
Minnesota	No	Yes - Statewide

11. The impact of the COVID-19 pandemic also highlights the importance of universal access to eviction counsel, perhaps particularly in Pennsylvania based on how some eviction filings are likely used as a rent collection mechanism by landlords (as described further herein). As a result of the pandemic, low-income tenants have and will become more economically and financially disadvantaged, more likely to miss one or more rent payments, and more likely to experience increasing pressure from landlords, who may also be experiencing economic and financial pressures of their own. In these circumstances, it is critically important for low-income tenants to remain in their homes or be connected to services that can assist with finding alternative safe, stable housing – both of which can be achieved by representation through a right to counsel. In the face of impending financial challenges for municipalities affected by the economic consequences of the pandemic, an investment in universal access to eviction counsel is fiscally prudent and will result in significant cost savings relative to the extraordinary costs that would be incurred to support low-income Pennsylvania residents left to endure the trauma of the eviction process without the assistance of a lawyer. Further, attorneys will be able to provide tenants with assistance in navigating complex rental assistance applications and systems. That is, universal access to eviction counsel will likely improve the likelihood of success for Pennsylvania rental assistance programs.

Section III

Estimated Cost of Universal Access to Eviction Counsel in Pennsylvania

12. Using data from the Unified Judicial System of Pennsylvania, the experience and expertise of eviction defense providers and tenant advocates and organizers in Pennsylvania, publicly available research, studies, and data, Stout estimated the cost of providing universal access to eviction counsel in Pennsylvania. Stout used data specific to Pennsylvania when it was available. When it was not available, Stout used data from other reasonably comparable jurisdictions, reasonably reliable studies, or other information.
13. To estimate the cost of providing universal access to eviction counsel to tenants in Pennsylvania, a variety of factors must be considered – the annual number of filings, the eviction filing rate, tenant eligibility for free legal representation, the rate of tenant eviction due to default (i.e., not appearing at the scheduled court date), the rate at which eligible tenants accept the offer of free legal representation, the number of hours required to effectively represent a tenant, and the cost of an attorney (e.g., salary, benefits, office supplies, technology, and other overhead) and supporting staff. Stout collaborated with providers of eviction defense in Pennsylvania and other stakeholders to develop a deeper understanding of the possible costs of universal access to eviction counsel and to incorporate their expertise and experience in the calculations.
14. **Eviction Filings.** Based on data from the Unified Judicial System of Pennsylvania, Stout estimates that there were approximately 84,470 eviction case filings in Pennsylvania in 2019 (excluding Administrative Hearings). For purposes of this analysis, Stout used the 2019 eviction filing estimate as a reasonable baseline from which to measure the costs of universal access to eviction counsel in Pennsylvania. The significant impact and disruption to court operations caused by the COVID-19 pandemic, including court closures, the local, state and federal eviction moratoriums and unprecedented rental assistance funding, has created a significant amount to uncertainty regarding the number of eviction filings that could be expected during the remainder of 2021. As Stout’s universal access to eviction counsel analysis considers a 5-year implementation, Stout expects that in 5-years the effects of the disruption from and response to the COVID-19 pandemic will have been resolved. For this reason, Stout believes that using the 2019 eviction filings as a baseline for its estimation is reasonable and appropriate.
15. If universal access to eviction counsel were fully implemented in Pennsylvania, the annual number of filings would reasonably be expected to decrease, as has been observed in New York City and San Francisco – two jurisdictions that have implemented a right to counsel for tenants facing eviction.³ Stout estimated that Pennsylvania could experience an annual decrease in filings of approximately 5 percent per year. Accounting for this annual expected decrease in filings, Stout estimated that at full implementation, which would be

³ “Press Release: Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law.” February 24, 2020. & “New York City Residential Eviction Filings Decline.” NYU Furman Center. November 18, 2019.

phased in over five years, a reasonable expectation would be that approximately 68,801 eviction cases would be filed in Pennsylvania (a cumulative decline of approximately 18.5 percent from Year 1 to Year 5).

16. **Eligibility.** As with other civil legal services in Pennsylvania, it is Stout’s understanding that eligibility for free legal representation under universal access to eviction counsel would be determined by a tenant’s income. Stout estimated the cost of universal access to eviction counsel for tenants facing eviction with household incomes at or below 200 percent of the Federal Poverty Level (FPL) adjusted for family size. At this income eligibility level, Stout estimated that approximately 69 percent of tenants facing an eviction filing in Pennsylvania would be income eligible.⁴
17. A study by the New York City City-wide Task Force on Housing Court found that 50 to 60 percent of tenants who are in housing court have household incomes that would qualify them for free civil legal services.⁵ However, an estimated 69 percent of tenants who are in housing court are unlikely able to afford representation and would benefit from free legal representation.⁶ A 2007 study by researchers at the Graduate Center of the City University of New York found that 44 percent of tenants in housing court had annual household incomes of less than \$15,000, and 24 percent had annual household incomes between \$15,000 and \$24,000, indicating that approximately 68 percent of tenants would likely be eligible for free legal representation.⁷ The Milwaukee Area Renters Study (MARS) was a survey administered via in-person interviews to approximately 1,100 renter households about their experiences as renters related to eviction, housing instability, and poverty. MARS respondents had an average household income of approximately \$30,000, which was equivalent to approximately 175 percent of the FPL at the time of the study.⁸ The United Way, through its ALICE (Asset Limited, Income Constrained, Employed) metrics, seeks to develop an alternative measure of poverty rather than using the FPL. One measure is the ALICE household survival budget which is the bare minimum costs a household needs to afford housing, child care, food, transportation, health care, and technology.⁹ A family of four would need to have a household income of approximately \$67,000 for a survival budget – approximately one-third more than 200 percent of the FPL.¹⁰

⁴ Stout’s estimate is based on studies of household incomes of people facing eviction.

⁵ “Housing Court, Evictions and Homelessness: The Costs and Benefits of Establishing a Right to Counsel.” Community Training and Resource Center and City-wide Task Force on Housing Court, Inc. 1993.

⁶ Ibid.

⁷ Krenichyn, Kira and Shaefer-McDaniel, Nicole. “Results From Three Surveys in New York City Housing Courts.” Center for Human Environments, Graduate Center of the City University of New York. 2007.

⁸ Desmond, Matthew. “Who gets evicted? Assessing individual, neighborhood, and network factors.” Social Science Research. 2016.

⁹ “ALICE Research Methodology.” United for ALICE. 2020.

¹⁰ Ibid.

18. Using the previously mentioned studies as a basis for Stout’s estimate of 69 percent of tenants facing an eviction filing in Pennsylvania being income eligible for free representation, Stout estimated that, of the 68,801 tenant households with eviction filings at full implementation, approximately 47,267 would be income eligible for free legal representation under universal access to eviction counsel.
19. **Tenant Appearances.** In recent years, approximately 79 percent of tenants with eviction filings against them in Pennsylvania do not appear for their court hearing and lose their cases for not appearing. Stout understands that “Hearing for Plaintiff” as reported in the 2019 Caseload Statistics of the Unified Judicial System of Pennsylvania¹¹ can be reasonably interpreted to mean there was a hearing where the court took evidence and entered judgment for the plaintiff. As indicated in the 2019 Caseload Statistics, for Landlord-Tenant cases, 80.4 percent of all cases were processed by “Hearing” (98.4 percent of this was Hearing for the Plaintiff, indicating that 79.1 percent of the overall number was Hearing for Plaintiff). Stout applied the 79.1 percent rate as reflecting the percentage of cases where tenants would not appear.
20. With effective community outreach, default rates can be reduced significantly. Stout included in its universal access to eviction counsel cost estimate a line item expense for community outreach, and Stout incorporated an expected annual 5 percentage point decline in the rate of no appearance by the tenant. As discussed above, New York City has experienced a 34 percent decline in its default rate since increased funding for eviction defense. At full implementation, Stout estimates the no appearance rate in Pennsylvania could decline to 59 percent, and approximately 19,332 eviction cases in Pennsylvania would be income eligible for free legal representation and the tenant would be responsive to the availability of free legal representation.
21. **Accepting Representation.** Of the approximately 19,332 eviction cases where tenants are motivated to appear and are income eligible for free legal representation, we estimate that approximately 89 percent of tenants would accept the offer of free representation at full implementation of universal access to eviction counsel, increasing from 85 percent in Year 1 of implementation.¹²
22. Tenants may have reasons for declining the offer of representation. They may not think there is a benefit to having representation, they may not trust the legal profession, or they may simply feel they can represent themselves. Therefore, Stout’s cost calculation for universal access to eviction counsel includes only cases where the tenant is income

¹¹ Page 225 - <http://www.pacourts.us/assets/files/setting-768/file-10486.pdf?cb=40b215>

¹² The expected representation acceptance rate was developed based on the experience and expertise of Pennsylvania eviction defense providers and housing advocates as well as discussions Stout has had with housing advocates in other jurisdictions.

eligible, motivated to appear and accepts the offer of representation – approximately 17,200 cases annually at full implementation.

23. **Cost of Universal Access to Eviction Counsel.** Stout estimates that providing representation to these 17,200 tenant households would cost approximately \$23 million annually.
24. **Hours Required Per Case.** To estimate the number of staff lawyers (and other staff) required to represent 17,200 tenant households annually, Stout estimated the number of hours required to provide effective representation and the number of hours available from staff attorneys annually to provide representation. Based on discussions with eviction defense and prevention providers in Pennsylvania, and Stout’s work analyzing eviction defense data from around the country, Stout estimated that a trained, supervised legal aid staff attorney could be expected to provide 1,300 hours annually toward client representation in eviction cases if universal access to eviction counsel were implemented. This number of hours is derived from a reasonable work week for legal aid staff attorneys, with reductions applied for holidays, sick days, vacation days, internal meetings, and administrative tasks. It is important to note that while staff attorneys may be able to work more hours each year, doing so will increase the risk and costs associated with staff turnover and training. Stout expects that 1,300 hours of client service hours annually provides a reasonable staff utilization while not creating undue stresses and burdens on staff attorneys already absorbing the trauma of the eviction process and unsafe housing conditions through their client representation.
25. Based on discussions with eviction defense and prevention providers in Pennsylvania, and Stout’s work analyzing eviction defense data from around the country, Stout estimated that, on average, a legal aid staff attorney could provide effective eviction representation in 11 hours per case. The wide variety of case and client circumstances can create significant variation in this estimate for any individual case. In addition, the number of hours per case may vary significantly from other jurisdictions depending on various factors such as, but not limited to, local laws and court processes.
26. Based on these inputs, in Year 1 of the implementation of universal access to eviction counsel, Stout estimates that each trained, supervised staff attorney could be reasonably expected to provide representation in 120 cases. Stout estimates that each year it would be reasonable to expect that staff attorneys in Pennsylvania would be able to provide representation in 2 additional cases per year. By Year 5 of implementation, Stout estimates that each legal aid staff attorney could provide effective representation for 128 cases per year. Stout then applied this number of cases per year to the number of cases for which representation is expected to estimate the number of staff attorneys that would be

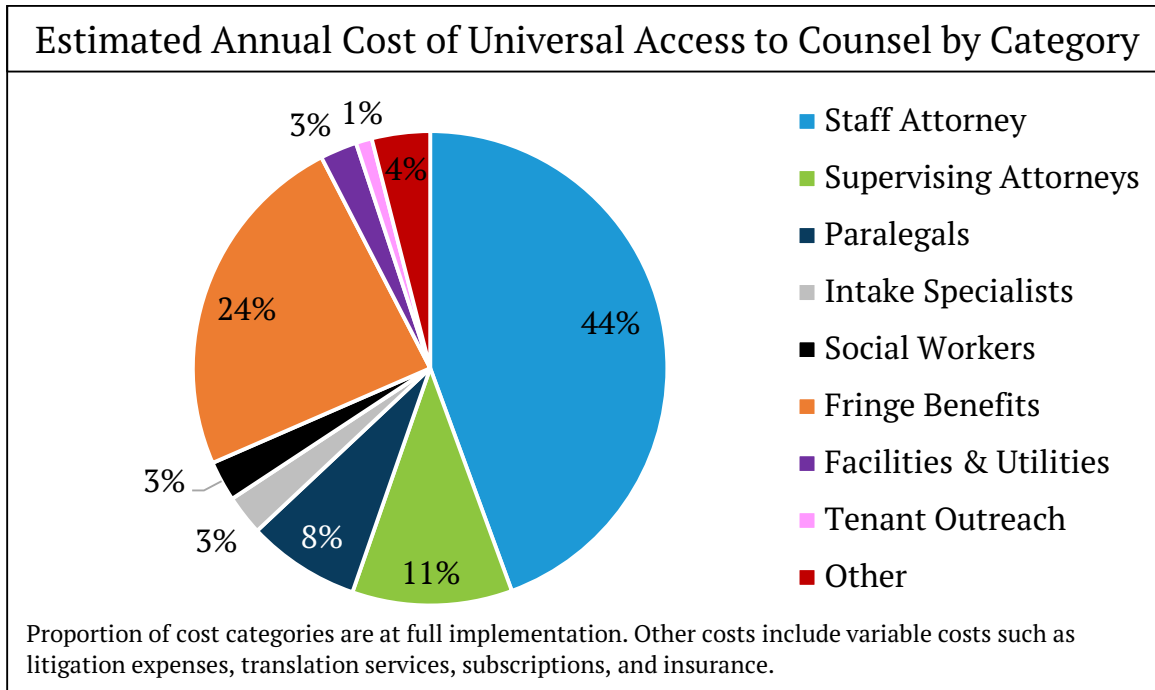
required. As detailed below, Stout then applied staffing ratios and annual staff salary and benefits estimates to determine the personnel costs associated with representation.

27. **Staffing Costs.** Of the estimated \$23 million annual cost to fully implement universal access to eviction counsel in Pennsylvania, approximately \$21.3 million would be for direct personnel costs to hire (across the state) approximately 134 staff attorneys, 27 supervising attorneys, 34 paralegals, 13 social workers¹³, and 13 intake specialists. The annual salary and benefits of this staff is based discussions with eviction defense and prevention providers in Pennsylvania and includes an annual cost of living adjustment of 4 percent. The staffing ratios used in these calculations are also based on feedback from eviction defense and prevention providers in Pennsylvania, as well as Stout’s experience analyzing eviction defense and prevention data across the U.S. These ratios may vary from the current experience of eviction defense and prevention providers in Pennsylvania. Universal access to eviction counsel provides the opportunity for eviction defense and prevention providers to more consistently have dedicated staff working exclusively on eviction representation. This can provide efficiencies overtime, opportunities to identify specialties for certain complex circumstances, the development of tools to address common challenges or inefficiencies and other opportunities to maximize impact through effective and efficient staffing.
28. The ratios used in Stout’s calculations are:
 - 5 staff attorneys for every 1 supervising attorney
 - 4 staff attorneys for every 1 paralegal
 - 10 staff attorneys for every 1 social worker
 - 10 staff attorneys for every 1 intake specialist
29. The remaining estimated costs would be for non-personnel costs necessary for service delivery including, but not limited to, facilities costs, utilities, technology and equipment, training, community organizing and communications, and program evaluation. Stout has also included the estimated cost of a statewide coordinator (including benefits) to facilitate implementation and coordination among the various providers throughout the state.
30. Pennsylvania eviction defense and prevention providers reviewed and confirmed Stout’s estimates for each of these costs based on their experience and expertise delivering eviction defense and prevention services in Pennsylvania. For non-personnel costs, Stout and Pennsylvania eviction defense providers used the costs of their current operations as benchmarks. Stout categorized costs as fixed or variable, with variable costs fluctuating based on either the number of staff attorneys or number of cases in each year of

¹³ This could include a variety of necessary support positions for lawyers and tenants, including social workers, housing navigators, or others who can assist residents with their housing or other needs.

implementation. Costs were then applied based on the expected number of staff attorneys or number of cases estimated each year based on the calculations described above.

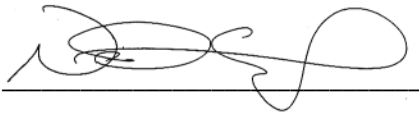
31. Based on these calculations, Stout estimates total annual non-personnel costs at full implementation of approximately \$1.7 million.



32. At a total cost of approximately \$23 million, providing universal access to eviction counsel to approximately 17,200 eligible tenants in Pennsylvania equates to approximately \$1,338 per case for which representation is provided. We utilize a 5-year time horizon to provide opportunities for legal aid providers, organizers, landlords, courts and other stakeholders to gradually adapt to universal access to eviction counsel to maximize its benefits and impact. We estimate the cost of Year 1 of implementation to be approximately \$3 million

Assumptions and Limiting Conditions

33. Stout's conclusions are based on information received to date. Stout reserves the right to change those conclusions should additional information be provided.
34. Stout's review, research, and analysis was conducted on an independent basis. No one who worked on this engagement has any known material interest in the outcome of the analysis.



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