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UCLA LUSKIN INSTITUTE ON

INEQUALITY AND DEMOCRACY

ORGANIZED 2016



UD Day: Impending Evictions and Homelessness in Los Angeles

Gary Blasi

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Foreword: Housing Justice in the Time of COVID-19

This report is the first in a series of publications by the [UCLA Luskin Institute on Inequality and Democracy](#) to address the urgent question of housing justice in the time of COVID-19. Concerned with dispossession and displacement in Los Angeles, our research and analysis is informed by a global approach to cities and inequality.

If the Great Depression conjures up images of shanty towns (Hoovervilles) and endless breadlines, and if the Great Recession is associated with the hollowing-out of cities and neighborhoods through foreclosure, then what is the face of the COVID-19 pandemic? This important analysis by Gary Blasi, Professor Emeritus at UCLA Law and one of the luminaries of public interest law, reveals that a surge in evictions and homelessness will indubitably be a key dimension of the present crisis. As the countdown to UD Day, or the filing of evictions through unlawful detainer complaints, begins, it is worth keeping in mind that such housing insecurity is not inevitable. Writing in the wake of Hurricane Katrina, housing policy scholars Chester Hartman and Gregory Squires (2006) emphasized that “there is no such thing as a natural disaster,” and drew attention to the “long history of institutional structures and arrangements that have produced current realities.”¹ The COVID-19 pandemic has exposed and deepened inequality in cities such as Los Angeles, with the burden of the crisis carried disproportionately by poor and working-class communities, especially those of color. But the crisis at hand is not so much the containment of a virus as it is the inertia of political institutions to enact social protections for the vulnerable and disadvantaged. What is to come then will be yet another round in the systematic unhousing of people, a process that has been underway in Los Angeles for a while now.

But it is precisely such crisis that requires us to consider housing justice. Inspired by Black Studies scholar, Clyde Woods, we refuse to become “academic coroners,” using our tools only for “autopsies” or “social triage.”² Whether in the time of COVID-19 or in the [long arc of struggle in unequal cities](#), the focus on housing justice centers those most impacted by crisis. Tenancy, and the associated payment of rent, can be narrowly conceptualized as a contract, one that primarily upholds the property rights of landlords. Or, as tenant movements teach us, tenancy can be understood as the right to housing, which in turn is foundational to social democracy. It is thus that the LA Tenants Union has long insisted that what is at hand is not a housing crisis but rather a tenants’ rights crisis.³ As Professor Blasi meticulously demonstrates, in Los Angeles, these rights have been, and continue to be, tenuous. The fancy terms used by California and Los Angeles political executives and lawmakers – evictions moratorium, right of tenants to sue landlords – for the meager programs they have offered up in the

1 Chester and Squires, *There is No Such Thing as a Natural Disaster: Race, Class, and Hurricane Katrina*, 4.

2 Woods, “Life After Death,” 63.

3 Rosenthal, “[101 Notes on the LA Tenants Union \(You Can’t Do Politics Alone\)](#)” in *Housing Justice in Unequal Cities*.

time of COVID-19 are no substitute for enforceable rights and robust protections. As the nationwide call for rent and mortgage cancellation grows, whether in the form of support for [Representative Ilhan Omar's bill](#) or in [renewed imaginations for building an equitable and just housing system](#), it is crystal-clear that another way must be made possible. The specter of austerity is no excuse for inaction. As you read this report, the human and economic costs of a vast surge in evictions and homelessness will be self-evident. Keeping tenants in their homes would be a wise public policy choice, especially in a renter-majority city such as Los Angeles. This report makes the case for how the failure to do so will unleash a devastating and prolonged crisis. We hope that it will serve as the impetus for action and change.

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Introduction

This paper is part of a larger project by researchers at UCLA working in collaboration with other researchers and with housing justice movements and community organizations to warn policy makers and the public of the impending humanitarian, social, and political disaster that Los Angeles County now faces and what can be done to mitigate the damage to Angelenos. That disaster becomes visible when the current freeze on most residential evictions is lifted and thousands of Los Angeles County tenants—both individuals and families—face imminent eviction and homelessness because they are unable to pay rent as it then becomes due. Those impending waves of evictions and homelessness will arrive in a community with the second highest percentage of renters in the United States and that was already facing an unprecedented crisis in the availability and cost of rental housing, especially for those with the least to spend.

This study focuses on the precarious state of housing for workers in Los Angeles County who are unemployed and have no replacement income. It does not address the housing precarity of the much larger number of unemployed tenants who are unable to pay rent because of the inadequate amount of the income replacement they do receive. In addition, where data are unavailable but estimates from other sources offer a range of possibilities, I have chosen the more optimistic assumption. For these reasons, the estimates of the scale of the impending waves of eviction and homelessness are likely to be underestimates. With that understanding, the key findings of this study are as follows:

- As of May 9, 2020, approximately 599,000 workers in Los Angeles County have lost their jobs and have no unemployment insurance or other income replacement.
- About 449,000 of those unemployed and with no income live in about 365,000 units of rental housing and have long been bearing the second heaviest rent burdens of all the urban areas in the United States.
- Most of those households lack savings or other resources to use for paying rent.
- Approximately 558,000 children live in households very unlikely to be able to pay rent.
- Legal evictions for nonpayment of rent have been frozen since April 6, 2020 by the Judicial Council of California. The Judicial Council or the Governor can lift that freeze at any time.
- Nearly all of those tenants who are unable to pay rent will face eviction.
- Those facing eviction will be heavily concentrated in communities and neighborhoods with larger percentages of low-income people of color.
- Within days of that freeze being lifted, thousands of unlawful detainer (UD), or eviction, complaints will be filed against tenants.

- The existing executive orders and ordinances at state and local levels and ordinances purporting to reduce or delay evictions offer very little effective protection to tenants who have been unable to obtain and follow legal advice.
- Without a massive increase in access to both information and legal services, most tenants will face eviction within weeks because they are unable to file a legally sufficient response to the unlawful detainer complaint within 5 business days and have a default judgment entered against them not long thereafter.
- For those able to avoid a default judgement, nearly all of those who are forced to defend themselves will lose and be evicted.
- Even before the pandemic, the lack of adequate income to pay rapidly increasing rent was already the leading cause of homelessness in Los Angeles County.
- Because there are a great many uncertainties regarding the course of the pandemic, the economy, and the federal and state responses to both, it is not possible to estimate with any precision how many and how quickly those tenants who are evicted will become homeless. Unless there is a massive infusion of federal resources or much more effective state or local legislation to prevent it and assuming that only one third of those evicted with no resources become homeless, members of approximately 120,000 households in Los Angeles County, including 184,000 children, are likely to become homeless at least for some period over the next several months. If social networks and informal resources have escaped the economic devastation, and assuming only one tenth of those evicted become homeless, those numbers would fall to 36,000 additional homeless households with 56,000 children.
- There is no evidence that state or local leaders have begun to plan for what now appears to be an inevitable intensification of what was already a humanitarian crisis.
- Without intelligent planning and immediate action, Los Angeles faces the prospect of many thousands of people, including families with children, joining the thousands already on the streets or living in their vehicles. Unless Los Angeles officials take immediate action now, they will then be forced to scramble to erect something like refugee camps, on a scale never before seen in the United States. Most of the individuals and families in those camps, as well as those still left on the street, will be lower income people of color, especially Black Angelenos.

Between January 2018 and January 2019, the number of unhoused people in Los Angeles County grew by almost 6,200 people—an annual increase of 12%.⁴ During the same period the official unemployment rate in the County remained at historic lows: increasing only from 4.9% to 5.0%.⁵ In 2019, however, the homeless count showed high rates of first-time homelessness, 23% in 2018 and 40% before 2018, with 53% of people experiencing first-time homelessness citing “economic hardship” as a leading factor.⁶ Clearly, then, rising unemployment was

4 Los Angeles Homeless Services Authority (LAHSA), “[2019 Greater Los Angeles County Homeless Count – Los Angeles County](#).”

5 U.S. Bureau of Labor Statistics, “[Unemployment Rate in Los Angeles County, CA](#).”

6 Los Angeles Homeless Services Authority (LAHSA). “[2019 Greater Los Angeles Homeless Count Presentation](#),” 20.

not the main driver of the dramatic increase in homelessness last year; rather, the primary “economic hardship” causing rising homelessness was the dramatic increase in rents over the past several years, accompanied by stagnant wages. In 2018, [the Economic Roundtable](#) reported that nearly 600,000 Los Angeles County residents were not only in poverty, but were also in households spending 90% or more of their income on housing, putting them at severe risk of eviction and, in many cases, homelessness.⁷ The dual crises of extreme poverty and high housing costs in Los Angeles have long continued unabated, even in times of extremely low unemployment, leaving poor and working class Angelenos especially vulnerable to the effects of the pandemic and massive economic downturn that are now upon us.

Those vulnerabilities are especially acute in some communities as a result of the also long-standing patterns of inequality in Los Angeles, including those reflected in the dramatic overconcentration of homelessness among Black Angelenos, who are eleven (11) times more likely to be homeless than White Angelenos.⁸ While the COVID-19 pandemic portends increased housing insecurity across the region, such impacts, especially in the form of evictions, will most likely be concentrated in vulnerable neighborhoods. A [2019 HCID-LA report](#) estimated eviction risk through indices of tenant vulnerability, neighborhood displacement, and housing condition and identified at-risk zip codes (see Appendix 1). The COVID-19 pandemic will certainly deepen such crisis, with disproportionate impact on renters in low-income neighborhoods. A [recent report by Paul Ong and colleagues](#) develops a renter vulnerability index which takes into account high rent burdens, job displacement due to retail and service sector closures, and exclusion from relief funds, such as the CARES Act individual rebates. The report finds that

“the most vulnerable neighborhoods have more Latinx renters and fewer white renters; conversely the least vulnerable neighborhoods have more white renters and fewer Latinx. Twice as many black Angelenos reside in high-vulnerability neighborhoods than in low-vulnerability areas. Moreover, immigrants are more relatively concentrated in higher-vulnerability neighborhoods” (see Appendix 2).⁹

Indeed, across California, and especially in Los Angeles, the perfect storm of high unemployment and high rent burdens is brewing. Analyzing initial unemployment insurance claims filed during the COVID-19 emergency, [the California Policy Lab finds](#) Los Angeles to be especially hard hit, with such claims constituting 25.5% of the labor force of the county.¹⁰ Needless to say, such claims only represent a partial picture of workers in crisis, especially in Los Angeles where many communities rely on informal labor in sectors such as street-vending. The reopening of the economy only threatens to worsen the situation, as “essential workers” as well as those in the retail and service sectors return to work under conditions of precarious employment, public-transit dependence, and hazard. [A](#)

7 Flaming et al, “[Escape Routes: Meta-Analysis of Homelessness in L.A.](#),” 3.

8 Within the Los Angeles Continuum of Care, the odds of a person of the same Census racial category being homeless are as follows: for Black people, 1 in 44 and for White people, 1 in 479. The Los Angeles Continuum of Care includes all of Los Angeles County except the cities of Long Beach, Pasadena and Glendale. The homeless racial data relied upon come from LAHSA, “[2019 Greater Los Angeles Homeless Count – Los Angeles Continuum of Care](#).” Comparison population data come from [U.S. Census QuickFacts](#) service for Los Angeles County, subtracting the relevant data for the three cities in the County that are not in the Continuum of Care.

9 Ong, et al, “[Economic Impacts of the COVID-19 Crisis in Los Angeles: Identifying Renter-Vulnerable Neighborhoods](#).”

10 Hedin, et al, “[An Analysis of Unemployment Insurance Claims in California During the COVID-19 Pandemic](#),” 6.

[recent report by Race Counts](#) tracks how COVID-19 is increasingly taking hold in predominantly Black and Latinx communities in Los Angeles. It finds that “communities with a higher percentage of residents under 200% of the Federal Poverty Line have 2.29 times as many cases as communities with a lower percentage of residents in poverty.”¹¹

Unemployment and the Coming Waves of Eviction

Nearly all eviction cases are for non-payment of rent. In most cases, the tenant simply has insufficient money. In other cases, the tenant is willing to pay rent, but the landlord believes that another tenant will pay more rent and seeks to remove the tenant to make that possible. In order to assess how many evictions are likely and when they are likely to come, we need to know something about the numbers of tenants who will be unable to pay the rent and when they may arrive at that point. Those estimates depend, in turn, on (a) the number who have lost their income; (b) what income replacement (e.g. unemployment insurance) they are able to obtain; (c) how quickly they can find employment as parts of the economy reopen; (d) and their financial reserves. Some of these factors have a very high degree of uncertainty. For those that are most uncertain, including possible changes in income replacement programs or how different sectors of the economy may recover, we assume no change from the current situation.

The First Wave: Unemployed Workers with No Replacement Income

Our colleagues at the [California Policy Lab \(CPL\)](#) have analyzed unemployment insurance (UI) claims filed between March 15 and May 9, 2020, during which period 1,198,141 Los Angeles County workers filed UI claims.¹² Many more claims were and will be filed after May 9. In any case, the number of UI applicants understates the number of people who lost their jobs, many of whom do not apply for UI benefits. These include the 13% of the labor force in Los Angeles County who are undocumented and thus ineligible for UI benefits as well as those who are self-employed in the formal economy.¹³ There are many reasons that those who are eligible for UI may not apply. They may not think they have not worked enough hours in enough quarters to qualify. For those who may have worked enough hours but earned minimum wage, the benefits to which they are entitled may not seem worth the effort compared to spending the same energy looking for another job, particularly if they were unaware of potential supplemental benefits during the COVID-19 emergency. In this emergency, they may have been unable to apply online, and if they did, they may have given up after spending hours trying to gain access through the state’s aging and overstressed computer system. Whatever the reasons, as the CPL researchers note, “Typically, not all unemployed workers apply for UI. If one assumes the unemployed apply to UI benefits roughly at the same rate as during the Great Recession, the underlying total increase in the rate of unemployment could be one-and-a half times as large as the total fraction of UI claimants of the labor force.” Applying the historical correction factor to account for non-filers, the true number of newly unemployed workers through May 9, 2020 in Los Angeles County would be about 1.8 million.

11 Cabildo, et al, “[How Race, Class, and Place Fuel a Pandemic](#).”

12 Hedin, et al, “[An Analysis of Unemployment Insurance Claims in California During the COVID-19 Pandemic](#).”

13 Based on estimated undocumented labor force of 656,000 workers from Migration Policy Institute, [Profile of Unauthorized Population, Los Angeles County, CA](#), and total estimated total workforce of 5,004,400 in the County from California Employment Development Department, [Labor Market Information](#).

Of those, 599,000 would be expected to neither apply for nor receive any replacement income from state or federal sources.

Of course, some workers who do receive Unemployment Insurance (UI) or the federally funded supplemental Federal Pandemic Unemployment Insurance (FPUC) will also face eviction, especially in single-earner households with children whose rent exceeds the combination of UI and FPUC. The number of such households will rise sharply if the FPUC program is not extended past the current end date in July. The analysis below makes the very optimistic assumption that *all* unemployed workers receiving UI/FPUC have enough income to pay their rent as it becomes due. The starting number for the analysis includes only the 599,000 workers who are unemployed but have no income replacement.

Unemployment across California in this pandemic crisis is especially high in the lower-wage sectors of the economy and among those with less education. Nearly one-third of all claims have come from just two low wage sectors, Accommodation & Food Services and Retail Trade.¹⁴ Two-thirds of UI claims have come from workers with no more education than a high school diploma or GED.¹⁵ From these and other data, it is clear that the proportion of the unemployed receiving UI benefits skews significantly toward those with lower income. There is every reason to believe that the unemployed who do not apply for UI benefits, notably the 13% of workers in Los Angeles County who are ineligible because of immigration status, skew even further toward those with lower incomes. Although there is no available data regarding the housing status of the currently unemployed, we can infer that the unemployed, particularly those receiving no benefits, are much more likely to be renters rather than homeowners. In Los Angeles County 54.2% of housing units are rentals, the second highest rate of any metropolitan area in the country.¹⁶ Given the heavy skewing of unemployment toward the lower end of the education and income spectrum, along with the very high cost of homeownership in Los Angeles, a conservative estimate is that at least 75% of those currently unemployed and receiving no assistance live in renter households. From that assumption, we can calculate that the number of unemployed workers with no replacement income in rental housing is at least 449,000.

It is possible, of course, that some of those unemployed renters with no income live in a household with another worker who is receiving UI benefits or some other income sufficient to pay the rent for the entire household. In Los Angeles County, 37.7% of households with at least one person in the labor force are households with two adults.¹⁷ The assumption that leads to the lowest estimate of the number of households unable to pay rent is that each of those households has two unemployed adults with no replacement income, or about 85,000 such households. The remaining 62.3% of renter households with one adult worker in the household comprise about 280,000 households with no income to pay rent. Combining the two sets of households leads to the estimate that there are at least 365,000 renter households with no adult who is employed or has sufficient replacement income to pay rent.¹⁸

14 Hedin, et al., [“An Analysis of Unemployment Insurance Claims in California During the COVID-19 Pandemic,”](#) 26 (Figure 11).

15 Ibid., 5 (Table 12).

16 U.S. Census Bureau, [“Quick Facts: Los Angeles County, California.”](#)

17 Analysis of American Community Survey, Public Use Microdata Sample 2014-2018, family type and employment status, courtesy of Dan Flaming, Economic Roundtable.

18 For purposes of this analysis, the potential effects of welfare programs are not included at this stage of the analysis because the amounts provided are generally insufficient to pay rent. For one person households, the General Relief benefit amount is \$221 per month. For households with children, CalWorks provides a grant for a three-person household of \$785. Moreover, a large fraction of those not applying for UI are undocumented workers who are also ineligible for welfare

Some lower income renter households with no income may still have other assets with which to pay rent, including savings or cash on hand, even though they have been paying a very high proportion their income on rent in recent years. Data specific to Los Angeles is not available, but studies conducted by the Federal Reserve on a national sample can provide some insight. At a time of historically low unemployment in 2019, the Fed reported that 38% of Americans did not have the resources to pay an unexpected expenditure of \$400.¹⁹ In the current crisis, that percentage has almost certainly risen in Los Angeles and elsewhere, as households without income struggled to secure food and other necessities.

Households also often have other kinds of resources to which they can turn for help, in the form of familial and social networks of mutual support. Some will no doubt be able to call on those resources in this time of crisis, as they often do in times of personal crisis. But this crisis is not personal; it is more widespread than any we have faced in the past 90 years. That means that familial and social networks, especially those of lower income Angelenos, are also under great economic stress and will be unable to help. Thus, there is little basis to believe that a significant number of renter households with no income will obtain enough resources to pay their full rent due from social networks for more than a month or two. Therefore, we leave the estimate at 365,000 renter households in imminent danger of eviction once the current restrictions on evictions expire.

It is very important to note here that there are, on average, 1.53 children in renter households with someone in the labor force.²⁰ That means it is not only the adults whose lives will be disrupted by dislocation, but also the lives of approximately 558,000 children in those same households. Whether or not eviction leads to homelessness, we know that eviction itself causes grave harms to families, and especially to children.²¹ Whatever the costs of reducing both eviction *and* homelessness are, however measured, they are far less than the costs of allowing families and children to lose their homes.

As explained in the next section, the only effective limitation on evictions that has held back the impending wave of evictions is the action taken by the California Judicial Council to stop all courts in the state from issuing the critical document necessary to proceed with an eviction case, the Summons on Unlawful Detainer Complaint. The day after that restriction is lifted, the very large wave of evictions now just over the horizon will come into view. The current Judicial Council Order will expire on the earliest of the two following dates: (a) 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted; or (b) the order is amended or repealed by the Judicial Council.²² This critical restriction on proceeding with eviction cases will almost certainly be lifted by amendment or repeal of the Judicial Council, if only because the Governor is unlikely to declare the state of emergency related to the pandemic ended in the foreseeable future. To do so would end all his emergency powers, which no rational executive would do until there is no further need of them. No one can say when the tsunami of evictions will arrive. We can say that it is coming.

The Second Wave: When Income Replacements End

Recall that the previous section assumed that those swept up in the first wave of evictions will be those who have no income to pay current rent due because they

¹⁹ Board of Governors of the Federal Reserve. “[Report on the Economic Well-Being of U.S. Households in 2019, Featuring Supplemental Data from April 2020](#),” 3.

²⁰ U.S. Census Bureau, “[Quick Facts: Los Angeles County, California](#).”

²¹ Desmond and Kimbro, “[Evictions Fallout: Housing, Hardship, and Health](#).”

²² Judicial Council, “Emergency Rules Related to COVID-19,” Rule 13(e), effective April 20, 2020, www.courts.ca.gov/documents/appendix-i.pdf

have neither income from a job nor from UI or FPUC. But for a great many more households with unemployed members, the replacement income currently available may well not be enough to pay rent due, in the second most heavily rent-burdened metropolitan area in the United States.²³ Importantly, an offer of less than the full rent is not a defense to eviction for nonpayment. Ironically, lower income workers typically pay less rent, so those who UI/FPUC benefits may be better able to pay that lower rent than those had a higher income before the current crisis.

As noted earlier, because the current income supplement regime expires in July 2020, this study focuses only on those with no replacement income—a situation that is highly unlikely to be changed by any proposal now under active consideration in the U.S. Congress. Under these circumstances, all we can say with some certainty is that when income replacements end or are significantly reduced, Los Angeles will face a second wave of evictions not long thereafter. It is certainly possible that second wave will be much larger than the first, given that two-thirds of unemployed workers are now entirely dependent on UI/FPUC payments. For reasons explained in the next section, the size of neither the first nor subsequent waves of evictions will be much reduced by the current state and local limitations on evictions, all of which promise more than they will deliver in practice.

The Process of Eviction and the Illusory Promise of Existing State and Local Restrictions

The Eviction Process in Ordinary Times

While many civil cases take years to resolve, unlawful detainer cases move very quickly. Official statistics for Los Angeles Superior Court (LASC) are difficult to obtain; LASC is the only non-rural county court system that does not provide the California Judicial Council with this time-to-resolution information and consistently refuses requests for eviction case data under public records laws.²⁴ But across California, as of the last reporting through 2018, nearly two thirds (62%) of eviction cases were disposed of within 30 days and 77% ended within 45 days.²⁵ The great majority of all of the cases that were closed within 30 days were cases in which a default judgment was entered against a tenant who did not file a response to an unlawful detainer complaint within 5 days.²⁶ Despite recent efforts in Los Angeles to provide more legal assistance to tenants facing eviction, only a small proportion of tenants in eviction cases are represented by lawyers, compared to 95% of landlords.²⁷ This is not surprising, given that there are in Los Angeles County approximately 1.9 million rental units, more than 40,000 eviction cases filed in the last year before the pandemic and about 50 attorneys who specialize in eviction defense.²⁸

23 Freddie Mac Multifamily, “[Rental Burden by Metro](#),” 8.

24 A pending bill in the California Legislature, [AB 2271](#), would compel LASC to make public at least some data regarding unlawful detainer cases (as amended in the Assembly through May 4, 2020).

25 Judicial Council of California, “[2019 Court Statistics Report: Statewide Caseload Trends 2008-09 Through 2017-18](#),” 95.

26 In a random assignment study, unassisted tenants in Los Angeles failed to file an answer in 73% of cases. NPC Research, “[Evaluation of the Sargent Shriver Civil Counsel Act \(AB590\) Housing Pilot Projects](#),” iii.

27 *Ibid.*, 53.

28 Estimate of eviction specialists based on interviews with three such specialists. Rental units calculated as non-owner-occupied units from data at U.S. Census Bureau, “[Quick Facts: Los Angeles County, California](#).”

When a residential tenant in California fails to pay all rent due by the agreed due date (most commonly, the first of the month), the landlord can begin the process of evicting the tenant the next day. The process begins with delivering or mailing a written notice informing the tenant to either pay the rent due within three days or vacate the room, apartment, or house. If the tenant does not pay the full rent due by the 4th day after receiving the notice, the landlord or landlord's attorney can file with the Superior Court a document called an unlawful detainer complaint, which begins the eviction proceeding. The great majority of UD complaints are filed by attorneys on behalf of their landlord clients. When the UD complaint is filed, the court clerk issues and gives to the landlord or attorney a document called a Summons – Unlawful Detainer/Eviction. The landlord or attorney then arranges for a copy of the UD complaint and the summons to be “served” on the tenant, most often by physical delivery of those documents to the tenant. The text of the Summons provides, in both English and Spanish, a notice to the tenant that the tenant has been sued and some additional information about the nature of written response the tenant must file within 5 business days in order to avoid losing the case by default.

If the tenant does not file and serve on the landlord or landlord's attorney within 5 business days a document responding to the complaint, the landlord or attorney can file with the court a “Declaration for Default Judgment by Court,” asking the court to enter an immediate judgment for possession against the tenant. The landlord can then take that judgment to the Sheriff and ask the Sheriff to enforce the judgment, if necessary, by physically removing the tenant. Before physically evicting the tenant, the Sheriff must post a notice on the premises advising the tenant that if they do not leave the within 5 days the Sheriff will remove them. The Sheriff can then return on the 6th day thereafter and remove the tenant.

If the tenant does file an answer or other response, no judgment is entered until either a trial or a settlement. The answer must respond to the factual allegations in the complaint and add any other relevant defenses (“affirmative defenses”) that the tenant may have under the law. Before filing an answer or other response, the tenant must pay a filing fee of a \$240.00. Tenants unable to pay the fee can seek a fee waiver from the court by filling out a lengthy form setting forth the reason they cannot pay the required fee.

As soon as the tenant files an answer, the landlord can ask the court to set a trial date. By statute [C.C.P. § 1170.5(a)] the trial must be set within 20 days of the request. At trial, tenants without lawyers almost always lose. In one study of a random sample of unlawful detainer cases in Los Angeles Superior Court, not one of 151 tenants who represented themselves prevailed at trial. Moreover, those unrepresented tenants who settled on the day of trial did no better than if they had gone to trial and lost.²⁹ These outcomes are not difficult to explain. Tenants with no training and little to no preparation can reasonably be expected to put on sufficient evidence to win in only one category of non-payment cases: those in which the tenant actually did pay the rent within 3 days of receiving the pay-or-quit notice and has a receipt or a convincing witness who saw cash change hands, or saw the tenant offer to pay the rent and the landlord refuse to accept it. Virtually all other defenses require the marshalling of significant evidence and an understanding of often complicated law. As we explain below, the potential evidence and law have gotten even more complicated as a result of restrictions on some types of evictions by executive orders and ordinances at the state, county and local levels.

Those orders and ordinances only highlight the critical role of legal assistance in determining the outcome of evictions. The difference that lawyers make appears in administrative data collected by the single largest provider of legal services to tenant in eviction cases, the Shriver Project coalition of eviction de-

29 Blasi, “[How Much Access? How Much Justice?](#),” 865, 869.

fense attorneys from four legal services organizations: Neighborhood Legal Services, the Legal Aid Foundation of Los Angeles, Inner City Law Center, and Public Counsel. As provided in the government contracts that fund it, the Shriver Project collects detailed data on the unlawful detainer cases it handles, which are compiled and evaluated by an independent firm. Analysis of evaluation data compiled by the outside firm for 840 unlawful detainer cases handled during the period from October 2018 to September 2019 revealed the following: The attorneys identified at least one affirmative defense in 96% of cases, including habitability violations (in 89% of cases), illegal retaliation (57%), and rent control violations (67%). In 96% of cases handled, the landlord was represented by counsel. Almost all (95%) of the cases were ultimately either dismissed or settled, most often by a reduction in rent owed and more time to move to other housing. In 28% of cases, the tenants stayed in their current housing, which had been the primary goal of 39% of tenants when they were first interviewed. In those terms, the tenants achieved their initial housing goal in about 3 of 4 cases.

The Eviction Process and the Pandemic

As of this writing most, but not all, evictions in California have been effectively suspended by the California Judicial Council, the policy body of the state's judicial branch chaired by the Chief Justice. Effective April 8, 2020, the [Council directed local courts](#) to stop issuing a “summons on a complaint for unlawful detainer unless the court finds, in its discretion and on the record, that the action is necessary to protect public health and safety.”³⁰ This simple action made it impossible for a landlord to proceed with an unlawful detainer case for nonpayment of rent, because without a summons the landlord cannot effectively serve the tenant. Landlords can still file the UD complaint in nonpayment cases, and they can still file and fully litigate cases alleging that the eviction is necessary “to protect public health and safety.” By its terms, the emergency rules are in place until 90 days after the Governor declares the current emergency lift, or until the Judicial Council modifies the rule. The latter can happen at any time.

Interviews with legal services and other attorneys indicate some landlords and their lawyers are attempting to be creative with the legal tools still available. First, a landlord can file and obtain a summons on an unlawful detainer complaint alleging health and safety violations; one attorney described a complaint in which two tenants, a married couple, were allegedly seen within 6 feet of each other in the common area of the apartment building. Even in such overreaching cases, a tenant who does not respond by filing an answer within 5 business days, perhaps because of publicity regarding a freeze on eviction cases, will still face possible eviction on a default judgment, unless the degree of overreaching is spelled out in detail in the landlord's own UD complaint.³¹

Second, since landlords can still file and receive a court-stamped certified copy of their UD complaint, some landlords have “served” the tenant with a copy of the complaint without a summons, but with an “informational” flyer containing language similar to that in the summon, explaining what a tenant must do to avoid eviction. In at least two cases, a landlord printed a copy of the summons form from the court's website and “served” the purported summons and complaint on the tenant. While in extreme cases such tactics might rise to the level of fraud or forgery, the tactic can at least put the landlord in a strong position to convince the tenant to move, or to enter into a payment agreement the tenant believes they must sign to avoid eviction. The judicial council's emergency rules do

30 Judicial Council, “Emergency Rules Related to COVID-19,” Rule 1(b), effective April 6, 2020, www.courts.ca.gov/documents/appendix-i.pdf.

31 Judicial Council, “Emergency Rules Related to COVID-19,” Rule 13(c), effective April 6, 2020, www.courts.ca.gov/documents/appendix-i.pdf.

not restrict pre-eviction agreements, and some of the state and local rules appear to actively encourage them, as discussed below.

State and Local Government Restrictions are Ineffective

Current state and local government restrictions will have little effect on the numbers of tenants being evicted in UD cases, because some restrictions depend upon tenants knowing their details and complying with detailed requirements; few tenants—especially those at immediate risk—will be able to comply with these requirements without assistance. The vast majority of defendant tenants have had and will continue to have very little access to timely legal assistance. Provisions of executive orders and local ordinances that seem reasonable in the abstract quickly seem less so once one examines the details as they will unfold in the real world.

Most tenants will lose by default

The threshold requirement to take advantage of the protections afforded by these orders that the defendant tenant file an answer or other responsive pleading within 5 business days after being served with a complaint. As noted above, even in normal times nearly two-thirds of tenants fail to file and answer and never have a chance to present any defense to a court. These are not normal times. Tenants who are expected to file an answer within 5 days may have been without an income for months, have depleted any savings they may have had and are relying on food banks and other charity to survive, and who are trying their best to avoid themselves or their families from becoming infected with the COVID-19 virus.

And filing an answer to a UD complaint requires that a tenant in these circumstances must do all the following within 5 business days after receiving a summons and complaint:

- (1) fully understand what they must do or seek information from already overwhelmed legal services provider;
- (2) locate, download, and print a form answer or generate their own answer in a very specific typed format;
- (3) complete not only the standard parts of the form answer,³² which are themselves not easy to understand, but state in their own language the local government order, regulation, or ordinance that affords them a defense related to COVID-19 and
- (4) all the facts necessary to constitute a defense under the that order, regulation, or ordinance related to COVID-19;
- (5) make a copy of the completed answer to serve to the landlord's attorney;
- (6) find and properly complete a proof of service by mail form and attach that proof of service to the complaint;
- (7) find someone other than the tenant who is over the age of 18 to mail the copy of the complaint and proof of service form to the landlord's attorney and then sign the proof of service form under penalty of perjury;
- (8) travel to the courthouse in required protective gear with a check in the amount of \$240—or prepare to go through a complicated procedure to seek a waiver of court fees;
- (9) file the answer as directed by court personnel.

Highly resourced tenants with computers and printers and the money to pay an electronic filing service could do the above more easily and without leav-

³² A copy of the approved form Answer to Unlawful Detainer Complaint is in Appendix 3.

ing their “safer at home” location. But the tenants at highest risk of eviction are unlikely to have access to expensive electronic equipment and the funds to pay both court fees and electronic filing service fees. There is thus no reason to believe that there will be a decline in the very high historical tenant default rate in unlawful detainer cases.

Restrictions on evictions offer little protection

Since March 2020 Governor Newsom, the County Board of Supervisors, the City of Los Angeles and more than 48 other cities in Los Angeles County have issued orders or ordinances providing some temporary protection to tenants from evictions. In order to obtain the benefit of those orders and ordinances, a tenant must both file an answer and indicate in the answer that those order or ordinances apply to them. Completing and filing such an answer is a daunting task for most tenants. In addition, if the answer filed does not raise as an affirmative defense the argument that they are within the protection of one or more of these laws, they will not be able to raise that defense thereafter at trial. Moreover, if they do not do so but fail to deny that they owe rent, the landlord’s attorney can obtain a judgment long before any trial date by filing a motion for summary judgment. Thus, the barriers to effectively relying on state or local protections are not insignificant.

Unfortunately, even if they are effectively asserted in the tenant’s answer, the state and local laws restricting evictions offer very little protection in the real world of unlawful detainer litigation.

(1) Governor Newsom’s Executive Orders

The least effective restrictions on evictions are those contained in the Governor’s [Executive Order N-28-20](#) (March 16, 2020) and [Executive Order N-37-20](#) (March 27, 2020).³³ The order extends limited protections only to a narrow range of tenants who can meet all of the following requirements: (1) the eviction is for nonpayment of rent; (2) the tenant paid the landlord rent all rent that was due as of March 27, 2020; (3) the tenant cannot pay the full amount of rent due because of the COVID-19 pandemic; and (4) the tenant notified the landlord of their inability to pay no later than seven days after rent was due. The tenants must also retain evidence of inability in the form of documents “such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant’s changed financial circumstances.” Extremely few tenants can be expected to both file an answer asserting compliance with all these requirements and to produce such evidence without assistance. The Governor’s orders will have little to no impact on evictions in Los Angeles County, because of the marginally more effective actions of the County Board of Supervisors and the actions of the local governments of the City of Los Angeles and 48 other cities in the county. Unless extended, the Governor’s orders expire on May 31, 2020.

(2) City of Los Angeles

Tenants in the City of Los Angeles face lower barriers to asserting a COVID-19 defense than those who can rely only on the Governor’s actions, but those barriers are nonetheless real. On March 15, March 23, and March 30, Mayor Garcetti issued executive orders restricting evictions and providing other protections to tenants. On March 31, 2020, the Mayor approved [Ordinance 186565](#), adopted by the City Council on March 27, 2020.³⁴ The ordinance prohibits evictions

³³ [Exec. Order N-28-20](#) (March 16, 2020); [Exec. Order N-37-20](#) (March 27, 2020).

³⁴ The ordinance established a new Article 14.6 to Chapter IV of the Los Angeles Municipal Code (LAMC), commencing at Section 49.99.

of Los Angeles tenants for “non-payment of rent during the Local Emergency Period if the tenant is unable to pay rent due to circumstances related to the COVID-19 pandemic” and explicitly provides that “tenants may use the protections afforded in this section as an affirmative defense in an unlawful detainer action.”³⁵ Unlike the Governor’s orders, the City of Los Angeles ordinance does not require specific notice to the landlord or the maintenance of documentation. But in order to avoid eviction, the great majority who represent themselves will nevertheless have to convince a judge that their nonpayment of rent was directly connected to COVID-19 and not just the general collapse of the local economy. Those who lost jobs near the beginning of the pandemic may have an easier time making a more direct connection, but many will have lost jobs because of a long series of falling dominoes in the economy. Even those with lawyers may find that a challenging task.

The City of Los Angeles ordinance also prohibits evictions beyond those for nonpayment, including “no-fault” evictions, those under the Ellis Act (allowing evictions when the landlords intends to remove the property from the rental market), and evictions based on unauthorized occupants, pets or a nuisance related to COVID-19. Finally, while the ordinance does not relieve a tenant of any obligation to pay rent, it allows a tenant to “repay any past due rent” within the 12 months following the date the Mayor declare an end to the local emergency. Unless extended, limitations on evictions for nonpayment in the City of Los Angeles will end on the date the Mayor declares an end to the local emergency. Failure to pay any rent coming due after that date can serve as the basis of an immediate 3-day notice to pay rent or quit, and the filing of an unlawful detainer complaint 4 days later. Assuming the tenant can pay the rent on the date due and does so for the next 12 months, the tenant will face eviction on that if they have not paid all back rent that had accrued before the emergency began. Accordingly, the City of Los Angeles may expect to see another smaller second wave of evictions one year after the first and largest wave.

The most recent City effort to respond to the expected surge of evictions are the provisions of [Ordinance 186606](#), enacted on May 6, 2020. Rather than preventing evictions, this effort provides that a tenant can sue a landlord who violates the provisions of the prior ordinance, after first giving the landlord 15 days’ notice. The threat of litigation is effective only to the degree that a landlord believes that the tenant will be able to persuade a lawyer to take such a case on a contingency basis. The number of such lawyers in Los Angeles County who might be likely to do so is extremely limited. Perhaps a very unsophisticated landlord might be deterred by lawyer’s letter threatening litigation, but that, too, requires a lawyer.

(3) County of Los Angeles

On March 19, 2020, the Chair of the County Board of Supervisors, Kathryn Barger, issued an [executive order](#) placing a moratorium on evictions for nonpayment of rent on two conditions: (1) the tenant “demonstrates an inability to pay rent and/or related charges due to financial impacts related to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions” and (2) the tenant “has provided notice to the Landlord within seven (7) days after the date that rent was due, unless extenuating circumstances exist, that the Tenant is unable to pay.”³⁶ On April 14, 2020, the full

³⁵ Los Angeles Municipal Code (LAMC) Section 49.99.2. A recent amendment to the Municipal Code also allows tenants to sue their landlords if the landlord violates the ordinance. The effectiveness of such a provision is extremely limited unless there are significant numbers of attorneys to take such small cases on contingency.

³⁶ County of Los Angeles Board of Supervisors, [“Executive Order of the Chair of the County of Los Angeles Board of Supervisors Following Proclamation of Existence of a Local Health Emergency Regarding Novel Coronavirus \(COVID-19\)”](#), Section 1(a).

Board of Supervisors passed a resolution amending the March 19 order, which the Board had ratified on March 31, 2020. In the amendment, the full Board added some additional specific circumstances constituting “financial impacts” related to COVID-19. Those circumstances do include loss of employment, but only those that result from business closure or other economic or employer impacts of COVID-19.” As with the action by the City of Los Angeles, the County executive order appears to require that the tenant prove the causal connection between the job loss and COVID-19, which will in many cases be the result of a cascading chain of events of which the tenant can provide little proof. The order does require the landlord to accept the tenant’s self-certification that the tenant is unable to pay rent, but that provision occurs in Section 4, pertaining to repayment of back rent and in any case does not refer to self-certification of the reasons the tenant cannot pay rent. The full Board left in place the requirement that in order to be protected by the order, the tenant must give the landlord notice within seven days of the rent falling due. As with the City’s ordinance, the County’s order thus has technical procedural loopholes through which most tenants can be expected to fall.

(4) Other cities in Los Angeles County

The County’s executive order, as amended on April 14, 2020, applies not only to the unincorporated areas of the County, but also to incorporated cities that have not themselves adopted similar ordinances or orders. As of May 6, 2020, at least 48 of the 88 incorporated cities in the County of Los Angeles have enacted similar laws. The County order exempts those cities but does apply to all incorporated cities not taken such action.³⁷ The nature and scope of the ordinances in all 48 cities is beyond the scope of this study.

The Eviction Outbreak on “UD Day”: The Day the Judicial Council Allows Issuance of an Unlawful Detainer Summons

As noted in the previous section, many unlawful detainer proceedings alleging threats to public health and safety have already been filed and litigated in the Los Angeles Superior Court, under the exemption from the freeze on the issuances of summons in such cases. Moreover, nothing in the Judicial Council order prohibits the filing of an unlawful detainer complaint on any other basis during the declared emergency. Neither does the City of Los Angeles ordinance nor the Los Angeles County Executive Order forbid the filing of UD complaints, even in nonpayment cases related to COVID-10. Rather these laws prohibit only the ultimate potential result—eviction—in those few cases tenants will have been able to successfully defend for reasons explained above.³⁸ The Governor’s Executive Order of March 27, 2020, (which expires unless extended on May 31, 2020) does even less, merely extending the tenant’s time to respond to the summons and complaint from 5 days to 60 days, and then only for tenants who have given the landlord a timely written notice meeting specific criteria and retained “verifiable documentation” as to the COVID-19 cause of the nonpayment.³⁹ To summarize, there is not and has never been a prohibition on a landlord’s filing an unlawful detainer complaint and preparing to litigate that case immediately once the Clerk of

³⁷ Ibid., Section 1.

³⁸ LAMC Section 49.999.2 provides only that “No Owner shall evict a residential tenant for non-payment of rent during the Local Emergency Period if the tenant is unable to pay rent due to circumstances related to the COVID-19 pandemic.”

³⁹ [Exec. Order N-37-20](#) (March 27, 2020), Section 1.

the Los Angeles Superior Court issues a Summons on that complaint. The number of such cases already filed and merely awaiting a summons is unknown, but local officials should be asking the Los Angeles Superior Court to make that number public so that they can prepare for the consequences.

There is every reason to expect a dramatic “outbreak” of eviction cases only a few days after “UD Day,” the day the Judicial Council first permits the issuance of a summons in unlawful detainer cases. Such permission can come either 90 days after the Governor declares that the state of emergency has ended or on the day set by amendment by the Judicial Council of Emergency Rule 1(b). There is little possibility that Governor will declare the current emergency ended before the Judicial Council amends the Emergency Rule. If the Governor were to declare and end to the emergency, he would immediately lose all his emergency powers to deal with every other aspect of the pandemic in California. The Judicial Council, however, has much narrower concerns and will be under enormous pressure to allow the courts to begin processing the huge backlog of the either inevitable or already filed eviction cases, now held back only by the emergency freeze on the issuance of the summons.

If “UD Day” were to come now, the number of renter households at high risk of eviction is 365,000. That expected number will rise dramatically, if there is any reduction in the income replacement programs that currently help many tenants to meet their monthly rent obligations. It is even more certain that the odds of eviction will continue to rise as those unemployed workers not receiving UI or FPUC completely exhaust any resources they have or can obtain from their social networks.

There are other methodologies of estimation of potential evictions from unemployment and economic data that may produce lower estimates. Some of them involve using statistical regression techniques on data from past periods. One limitation of those techniques is that they must assume that the present resembles the past, at least as regards the main causal connections and processes reflected in the data used in the regression. That is not a good assumption for the current period, which resembles nothing we have seen since the quite different world of the Great Depression. The period that comes closest was the Great Recession. In the worst full year of the Great Recession (2009) there were in California about 3.8 million claims for unemployment. This year, over 4.6 million initial claims were filed statewide in just the eight weeks between March 15th and May 9th.⁴⁰ Though we are truly in uncharted waters, we can see what is coming without much more effective interventions to help renters stay in their homes. Even if the number of evictions filed over the next few months turns out to be only a fraction of those projected above, the staggering number of Angelenos without housing is about to get much worse.

From Eviction to Homelessness

In the previous sections, we set out the connections between unemployment and eviction. In this section we address the connection between evictions and homelessness. Just as not everyone who loses income is evicted, not everyone evicted becomes homeless. Just as loss of income can lead to eviction through a process with many contingencies, as discussed in the prior section, so too are there different paths leading from eviction to homelessness. Almost no one who is evicted goes directly from their lost housing to a sidewalk encampment. There are typically several steps along the way, which vary for each person or family. Some can find shelter or temporary housing provided through private organizations or local government, which operate primarily through contracts with nonprofit organi-

⁴⁰ Hedin, et al, [“An Analysis of Unemployment Insurance Claims in California During the COVID-19 Pandemic,”](#) 2.

zations. But of all urban areas in the United States, Los Angeles has, by far, the greatest number of unhoused people for whom there is no such shelter or temporary housing. Of the 58,936 homeless people identified in Los Angeles County in the 2019, 44,214 lacked shelter of any kind, up 12% from the 39,396 unsheltered people counted in 2018.⁴¹

Those without shelter make do the best they can. People with some money but not enough to pay a security deposit or first month's rent can stay in a cheap motel or hotel room for as long as they can pay the daily or weekly rate. For others the best available first option may be some kind of shared housing situation, from "couch-surfing" to sharing the overcrowded apartment of a relative or friend. Those situations tend to be tenuous, unstable and temporary. Although not counted as homelessness for some assistance program purposes, these situations constitute homelessness by any conventional understanding of "home," which requires some expectation of, if not permanence, at least more than constant precarity. For those without such opportunities but who have vehicles, the vehicle becomes a poor substitute for housing. The 2019 Los Angeles Homeless Count found 4,001 people living in cars, 3,697 in vans, and 8,827 in campers or recreational vehicles.⁴² Those with none of the foregoing options have few choices. In 2019, there were 11,087 unhoused people trying to survive in tents or makeshift shelters.⁴³ The rest slept out in the open wherever they could.

The connection between eviction and homelessness is not controversial in academia, although there have been few systematic empirical studies. One of the most recent and certainly the most extensive study was conducted by scholars at NYU and at the Federal Reserve Bank of Philadelphia. After examining New York City housing court records for the period 2007-2016, together with an extensive administrative dataset containing information about people in contact with New York's shelter system (the most extensive in the country), they concluded that "[e]victions cause large and persistent increases in risk of homelessness, elevate long-term residential instability, and increase emergency room use."⁴⁴

Although that connection would seem reasonably obvious, understanding of the causes of homelessness is often distorted by stereotypes. Many people believe that homelessness is the direct result of a mental health or addiction problem or both. It is true that the prevalence of mental health and addiction has indeed long been higher among homeless than among housed people, primarily because they are less able to compete for scarce housing with higher functioning people. But the great majority of people with serious mental health problems are housed, not homeless. There are about 300,000 adults in Los Angeles County with serious mental illness⁴⁵, compared to the 13,670 homeless people with serious mental illness identified in the most recently published homeless count.⁴⁶ What most distinguishes homeless people with mental health or addic-

41 Los Angeles Homeless Services Authority (LAHSA), "[2019 Greater Los Angeles County Homeless Count – Los Angeles County](#)"; Los Angeles Homeless Services Authority (LAHSA), "[2018 Greater Los Angeles County Homeless Count – Los Angeles County](#)."

42 Los Angeles Homeless Services Authority (LAHSA), "[2019 Greater Los Angeles Homeless Count – Vehicles, Tents, and Makeshift Shelters by Geographic Area](#)."

43 Ibid.

44 Collison and Reed, "[The Effects of Evictions on Low-Income Households](#)," 1. A similar connection has been found to exist between foreclosures and homelessness. Faber, "On the Street During the Great Recession: Exploring the Relationship Between Foreclosures and Homelessness."

45 Data from U.S. Substance Abuse and Mental Health Services averages of 2012-2014 data, available at <https://www.samhsa.gov/data/report/2012-2014-nsduh-substate-region-estimates-excel-tables-and-csv-files>.

46 Los Angeles Homeless Services Authority (LAHSA), "[2019 Greater Los Angeles County Homeless Count – Los Angeles County](#)."

tion problems from housed people with similar problems is that those who are homeless are also very poor. Across all groups, the primary cause of homelessness is neither mental illness nor addiction, but the combination of those problems with extreme poverty. These data are entirely consistent with the explanations noted earlier given by unhoused people for their own circumstances with 53% of people experiencing first-time homelessness citing “economic hardship” as a leading factor.⁴⁷ Some additional evidence comes from the data collected by the Shriver Eviction Defense Project discussed above. When tenants facing eviction were asked about their alternatives if they were to lose their housing, 81% said they were either “likely” or “very likely” to become homeless, with 41% saying that homelessness was “very likely.” Given the wide range of uncertainties, principally in the types and amount of assistance that may be forthcoming from Washington, D.C., for purposes of planning and policy, a reasonable estimate is that at least one third of those households at very high risk of being evicted (365,000) will become homeless, with no source of income. That is, we can expect to see the unhoused population of Los Angeles County grow with the addition of at least 120,000 evicted tenant households, including 184,000 children. A more optimistic assumption that only one tenth of households will experience homelessness leads to an estimate of 36,000 newly homeless households, including about 56,000 children. As of this writing, there is little evidence that any level of government is planning or preparing for either scenario.

Conclusions and Policy Options

There is no question that Los Angeles faces impending waves of evictions and that such evictions will result in many more people becoming homeless. But there are questions about (1) whether the number of UD cases filed can be reduced; (2) whether the percentage of tenant defendants in UD cases avoiding eviction can be increased; (3) whether the number of those evicted who become homeless can be reduced; and (4) how best to temporarily and safely shelter or house those who do lose their housing, given the already critical shortage of both shelter and housing that existed before the pandemic.

Reducing the number of UD cases filed

Certainly, the most direct strategy of reducing nonpayment evictions is to eliminate the need to make rent payments. Rep. Ilhan Omar (D-Minn.) has [introduced legislation](#) to cancel rent and mortgage payments nationwide amid the coronavirus pandemic. Tenant and community-based organizations are making similar proposals in the context of rent strikes.⁴⁸ Whatever the outcome in the legislative arena, these proposals are subject to legal attacks as unconstitutional “takings” of private property. Arguably, state or local governments could use the emergency police power to commandeer private property to enact the cancellation of rent payments during an emergency, provided landlords are compensated for the fair value of the use of the rental property once the emergency has ended.

The next most direct way to reduce nonpayment evictions is to reduce non-payments, by continuation and expansion of the UI/FPUC and rent subsidy programs that currently enable millions of eligible tenants to pay their rent. That will require extension by the federal government of the most vital provisions of the CARES Act beyond July 2020. At the state level, the response that appears to be both sufficient in scale and clearly constitutional is the proposal by Senate

⁴⁷ Los Angeles Homeless Services Authority (LAHSA). “[2019 Greater Los Angeles Homeless Count Presentation](#),” 20.

⁴⁸ Haag and Dougherty. “[#CancelRent Is New Rallying Cry for Tenants. Landlords Are Alarmed](#)”; See also Alliance of Californians for Community Empowerment (ACCE), <https://www.rent-strikemovement.org/>.

Democrats for California to pay landlords the equivalent of the rent due, in the form of transferable tax credits, the value of which would be paid off without interest by tenants over 10 years beginning in 2024.⁴⁹ The repayment obligations of tenants could be reduced or forgiven in the future. The proposal would require the cooperation of individual landlords.

Over a longer term, the only way to decrease non-payment evictions is to (a) impose much stricter rent controls or (b) to address the very important but often ignored income component of the “affordable housing” problem. The first option requires repeal of the Costa-Hawkins law, prohibiting new rent control measures. An effort to do so recently failed at the ballot box but will be on the ballot again in November 2020.⁵⁰ The second option means thinking about affordable housing not only as a housing problem but also as an income problem. The most direct and efficient way to address the income problem, absent a huge expansion of the social safety net, would be a substantial increase in the minimum wage, together with a public employment program along the lines of the Depression-era WPA, by employing people who cannot find private sector jobs to work on projects contributing to the public good. While the New Deal programs that followed in the wake of the Great Depression were structured by various social exclusions, including along race and gender lines, this time around such programs will have to be robust and expansive. For those unable to work, California must finally redress the damage done since the 1990’s to the very last level of the social safety net, General Relief, when Los Angeles County successfully lobbied the legislature not only to void a court-approved settlement agreement to increase General Relief to \$341 per month, but also to freeze in perpetuity the County’s payment at \$221 per month, where it had been in 1984 and where it remains today.⁵¹

Give tenants a chance to defend themselves while staying in their homes

For many tenant defendants in unlawful detainer (UD) cases there will be no legal defense. But in many, tenants may have a defense that will prevent their eviction, sometimes on payment of a reduced rent they can afford. For example, some tenants in nonpayment cases will have defenses based on violations by the landlord of habitability standards, requiring a reduction in the rent to an amount the tenant can afford. There are many other potential defenses to eviction, but without significant outreach and education effort, few tenants are aware of them. Even if they know their basic rights, in the real world of technical paperwork and courthouse procedures, virtually all tenants without access to legal help lose because either (a) they were unable to respond within 5 business days to a summons and complaint for unlawful detainer, (b) they could not without help respond to such things as motions for summary judgement or complicated discovery, or (c) they could not marshal evidence and present it in coherent fashion at trial. Recall that in a study of random sample of 151 UD cases in the Los Angeles Superior Court, not one tenant prevailed without a lawyer to represent them.⁵²

For all these reasons, state and local governments must establish a meaningful right to counsel in eviction cases. That requires a serious expansion of legal services for tenants. The expansion must include a much more extensive effort to inform tenants of their rights and how to obtain assistance, as well as a very large

49 Myers, John. “[California considers unprecedented \\$25-billion economy recovery fund, rental relief.](#)”

50 Ballotpedia, “[California Local Rent Control Initiative \(2020\).](#)”

51 The history of this effort is recounted in detail in the dissent of Justice Earl Johnson in *Mendly v. County of Los Angeles*, 23 Cal.App.4th 1193, 1239 (1994), https://scholar.google.com/scholar_case?case=5194532292547408591&hl=en&as_sdt=6&as_vis=1&oi=scholar

52 Blasi, “[How Much Access? How Much Justice?](#)”

increase in the number of attorneys available to assist them, either at no cost or for an affordable fee. The foundation of such a program already exists in the Los Angeles County's implementation of California's Sargent Shriver Civil Counsel Act, originally enacted in 2009 and expanded in 2019.⁵³ The Shriver Project in Los Angeles is composed of attorneys from four leading legal services organizations, who provide eviction defense services to tenants in a few selected geographical areas.⁵⁴ An expanded Shriver Project would include services across the County, link public communications efforts with legal assistance, and provide a sufficient number of attorneys and other staff to respond to the need.

Expand capacity of existing "rapid rehousing" programs

For those who are evicted, it is critical to end their homelessness as soon as possible. The more time people spend both unhoused and unsheltered, the more difficult and expensive it is to help them get back into housing. Rapid rehousing programs aim to get unhoused people into housing temporarily but immediately, to improve their chances of exiting to permanent housing. The Rapid Rehousing programs funded with Measure H funds by the County of Los Angeles have not been without problems, but in general those served have "...moved into housing at higher rates and more quickly, and has been more likely to exit into permanent housing without a subsidy following move-in."⁵⁵ What is most critical for these programs is that they lead relatively quickly to permanent housing. Otherwise, they merely provide a temporary respite from homelessness.

Plan for alternatives to refugee camps

Given the scale of the impending crisis and the realities of funding and politics, even if all of the above responses are fully funded and successfully implemented, it is certain that we will see a very large increase in the number of unhoused people and families. In most respects they will resemble those who were unhoused before the pandemic: they will be much more likely to be lower income people of color, most of whom were last housed in Los Angeles neighborhoods too long neglected. The major difference will be that the newly homeless economic refugees from the current crisis will include many families with children. Many will receive aid from welfare programs like CalWorks, but a great many will not. It is unthinkable that Los Angeles will leave them on the streets, as it has long left 75% of those unhoused before the pandemic. But the unthinkable has a way of becoming reality unless there is planning and commitment on the necessary scale. How then, can we expand the supply of temporary housing, hopefully in a way that will leave in place resources that can be used for more permanent housing in the future?

Hotels and motels

One obvious resource is the huge number of rooms in hotels and motels in Los Angeles County that now sit empty. Project Roomkey, the effort of the County of Los Angeles and the Los Angeles Homeless Services Authority (LAHSA), as well as another project with the same name operated by the State, have taken advantage of that resource. Los Angeles' Project Roomkey entails contracting with hotels or motels to make some or all of their rooms available for a three month period for use occupancy by homeless individuals at high risk if they are infected

⁵³ [Assembly Bill 330](#), approved by Governor September 4, 2019.

⁵⁴ Neighborhood Legal Services, Legal Aid Foundation of Los Angeles, Inner City Law Center, and Public Counsel.

⁵⁵ Wagner et al., "[Evaluation of Los Angeles County's Strategies to Expand and Enhance Rapid Re-Housing Services for Multiple Populations](#)," 6.

with COVID-19 or are required to be isolated or quarantined and have no place to do so. The initial program goals went beyond those two categories and set a goal of contracting for 15,000 rooms. As of May 22, 2020, Project Roomkey had contracted for 3,514 rooms, of which 2,390 were occupied.⁵⁶ One of the difficulties in moving people into the contracted rooms has been a shortage of staff to provide social and healthcare services to the residents.⁵⁷ If hotel or motel rooms were used for those displaced by evictions, there is no reason to believe that such a high level of staffing would be required. There is also an effort, now mostly behind the scenes, for local government to acquire or lease cheaper hotels or motels for longer term use, principally so that the current Project Roomkey occupants are not merely checked out and sent back to the streets when their occupancy is no longer necessary for health reasons.

While hotel and motel rooms can provide interim housing, they are not well suited for use by families. Other important considerations include at least the following: First, many are located far from the communities with which the residents are familiar and where they have social connections. Second, hotel and motel properties at the lower end of the cost spectrum are often already in use by people without the funds for a security deposit and first month's rent. Government should not be in the business of making some people homeless so that others can replace them. Third, lower income hotels are frequently staffed by very poorly paid housekeepers and other staff who are themselves at risk of homelessness. To the extent they continue to be operated for short term use, any acquisition plan should account for operations that pay the workforce wages that at least equal those paid in hotels with unionized staff. Compared to other immediately available options, however, acquiring hotels and motels that can be converted to interim or even entry-level housing for some has the advantage of securing a longer-term housing asset.

Other options

Somewhere near the last resort are large government-operated camps populated by people living in tents, essentially refugee camps for people who have been displaced not by war or natural disaster, but by an economic and political disaster of historic proportions. For such refugee camps, the United Nations can offer operational guidance.⁵⁸ Somewhat more humane options that have been utilized elsewhere have included villages of small structures, authorized and supported encampments and authorized and supported places for safe parking.

Or else...

Unless we take immediate action now to either prevent or prepare for the coming waves of eviction, the toll on those evicted will go beyond the damaging effects, especially for nearly a half million children, of forced displacement itself. That toll is largely invisible, if no less painful. The much more visible and more painful toll will be seen in the massive increase in the numbers of Angelenos who lack both housing and shelter and are forced to fend for themselves. In January 2020, at the same time as the coronavirus was spreading in Wuhan, China, volunteers in Los Angeles were counting the number of our neighbors who had lost their housing. The number of homeless Angelenos they counted, and how many of those were without shelter will be made public very soon. As of this writing, we know that one year prior, in January 2019, an identical effort found 58,936

⁵⁶ Daily updates on Project Roomkey are made available as part of the Los Angeles County Emergency Operations Center COVID-19 Update, available at <https://covid19.lacounty.gov/>.

⁵⁷ Smith and Oreskes. "[California leased 15,000 hotel rooms to help homeless people. Half now sit empty.](#)"

⁵⁸ See, e.g., UN Refugee Agency, "[Camp planning standards \(planned settlements\).](#)"

unhoused people, of whom 44,214 were unsheltered. No one needed a statistic to know that homelessness in Los Angeles last year was already a humanitarian crisis. It is now past time to prepare for the fact that the housing and homelessness crisis is about to deepen to a level never before seen in any urban area in the industrialized world. A grossly disproportionate number of the newly homeless in Los Angeles will be low income people of color. And if the only options the unhoused are given are refugee camps or the streets, no one should be expected to peacefully tolerate such a result, nor to forgive those who did little to stop it. ■

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Appendix 1

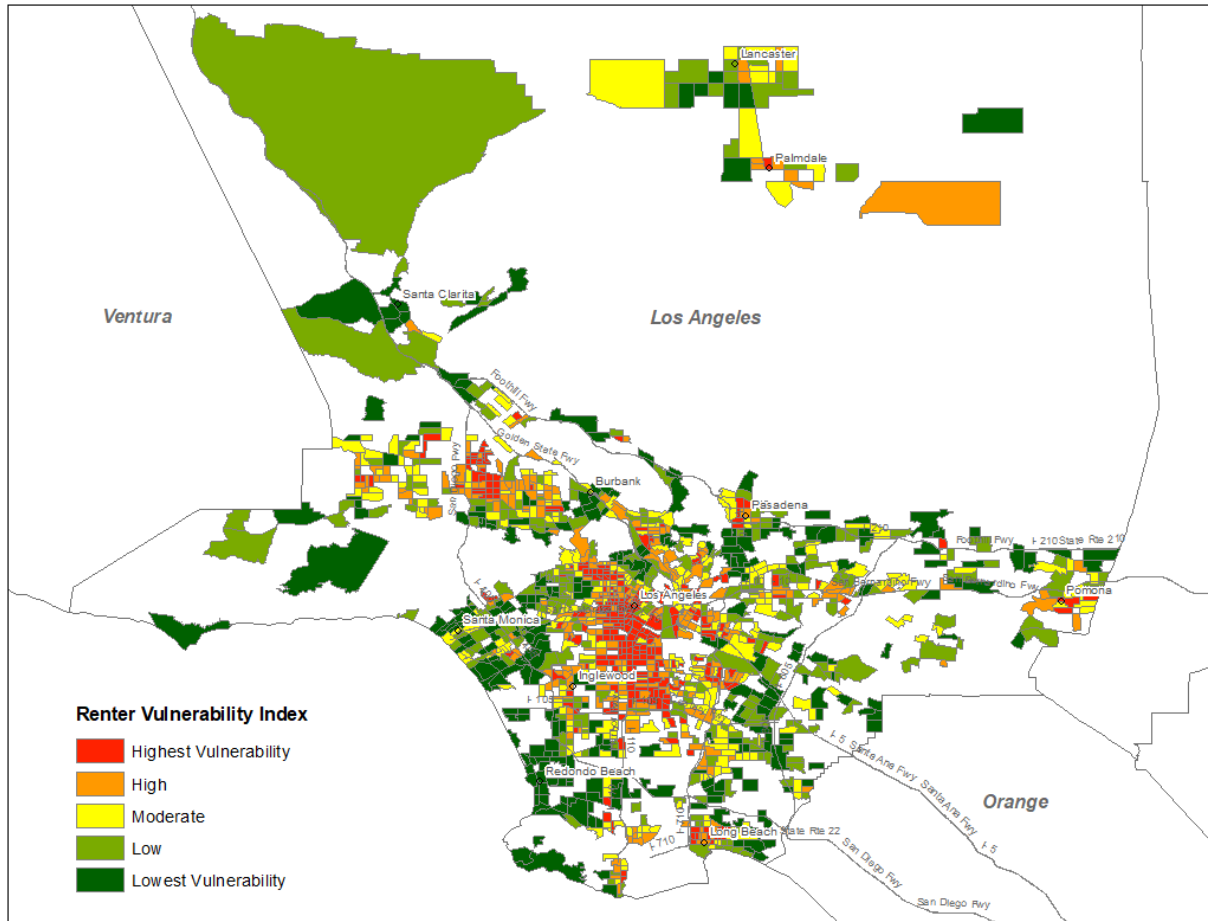
Eviction Defense Program Indices (HCIDLA, 2019)

Tenant Vulnerability Index			Neighborhood Displacement Index		
90011	Historic South Central/Central Alameda/South Park	96	90026	Silver Lake/Echo Park/Westlake	60
90044	Vermont Vista/Vermont Knowles/Vermont Slauson	96	90018	Jefferson Park/Adams-Normandie/Exposition Park	54
90006	Pico Union/Harvard Heights	75	90016	West Adams/Mid-City/Baldwin Hills	51
90003	Florence/Broadway-Manchester	73	90028	Hollywood	51
90037	Vermont Square/Exposition Park/Vermont-Slauson/South	73	90029	East Hollywood/Silver Lake	51
91331	Pacoima/Arlita	70	90004	East Hollywood/Larchmont/Windsor Square	49
90026	Silver Lake/Echo Park/Westlake	68	90006	Pico Union/Harvard Heights	47
90019	Mid-Wilshire/Mid-City/Arlington Heights	67	90033	Boyle Heights	47
90033	Boyle Heights	66	90291	Venice	47
90057	El Sereno/Montecito Heights	66	90008	Baldwin Hills/Crenshaw/Leimert Park	46
91402	Panorama City	66	90019	Mid-Wilshire/Mid-City/Arlington Heights	46
90018	Jefferson Park/Adams-Normandie/Exposition Park	65	90043	Hyde Park	43
90813	Long Beach	64	90065	Glassell Park/Cypress Park/Mt Washington	43
90001	Florence	61	90038	Hollywood	42
90004	East Hollywood/Larchmont/Windsor Square	61	90011	Historic South Central/Central Alameda/South Park	41
90731	San Pedro	61	90042	Highland Park/Montecito Heights	41
91405	Van Nuys	61	90007	University Park/Adams-Normandie/Exposition Park	40
91335	Reseda/Tarzana	59	90037	Vermont Square/Exposition Park/Vermont-Slauson/South	40
90002	Watts/Green Meadows	58	91601	North Hollywood/Valley Village/Toluca Lake	40
90023	Boyle Heights	58	90012	Chinatown/Arts District	39

Housing Condition Score		
90011	Historic South Central/Central Alameda/South Park	32
90003	Florence/Broadway-Manchester	30
90044	Vermont Vista/Vermont Knowles/Vermont Slauson	30
90002	Watts/Green Meadows	21
90033	Boyle Heights	21
90037	Vermont Square/Exposition Park/Vermont-Slauson/South	21
90731	San Pedro	21
90026	Silver Lake/Echo Park/Westlake	20
90059	Watts/Green Meadows	20
90012	Chinatown/Arts District	18
90018	Jefferson Park/Adams-Normandie/Exposition Park	18
90019	Mid-Wilshire/Mid-City/Arlington Heights	18
90034	Palms/Mid-City/Beverlywood	17
90043	Hyde Park	17
90066	Mar Vista/Del Rey/Playa Vista	17
91331	Pacoima/Arlita	17
90004	East Hollywood/Larchmont/Windsor Square	16
90006	Pico Union/Harvard Heights	16
91402	Panorama City	16
91405	Van Nuys	16

Appendix 2

Los Angeles County Neighborhoods by Renter Vulnerability Index (Paul Ong et al., 2020)



Note: Only census tracts with at least 500 renter households are displayed.

UD-105

CASE NUMBER:

3. AFFIRMATIVE DEFENSES (cont'd.)

- j. ☐ Plaintiff seeks to evict defendant based on defendant or another person calling the police or emergency assistance (e.g., ambulance) by or on behalf of a victim of abuse, a victim of crime, or an individual in an emergency when defendant or the other person believed that assistance was necessary.
- k. ☐ Other affirmative defenses are stated in item 3l.
- l. Facts supporting affirmative defenses checked above (*identify facts for each item by its letter below or on form MC-025*):
- ☐ Description of facts is on MC-025, titled as Attachment 3l.

4. OTHER STATEMENTS

- a. ☐ Defendant vacated the premises on (*date*):
- b. ☐ The fair rental value of the premises alleged in the complaint is excessive (*explain below or on form MC-025*):
- ☐ Explanation is on MC-025, titled as Attachment 4b.
- c. ☐ Other (*specify below or on form MC-025 in attachment*):
- ☐ Other statements are on MC-025, titled as Attachment 4c.

5. DEFENDANT REQUESTS

- a. that plaintiff take nothing requested in the complaint.
- b. costs incurred in this proceeding.
- c. ☐ reasonable attorney fees.
- d. ☐ that plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.
- e. ☐ Other (*specify below or on form MC-025*):
- ☐ All other requests are stated on MC-025, titled as Attachment 5e.

6. Number of pages attached: _____

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400-6415)

7. (*Must be completed in all cases.*) An unlawful detainer assistant ☐ did not ☐ did for compensation give advice or assistance with this form. (*If defendant has received **any** help or advice for pay from an unlawful detainer assistant, state:*)

- a. assistant's name: b. telephone number:
- c. street address, city, and zip code:
- d. county of registration: e. registration number: f. expiration date:

(*Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless his or her attorney signs.*)

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT OR ATTORNEY)

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT OR ATTORNEY)

VERIFICATION

(*Use a different verification form if the verification is by an attorney or for a corporation or partnership.*)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT)

Acknowledgements

This paper could only be written because of the hard work and generosity of spirit of the community of researchers and expert practitioners in Los Angeles who have risen to the challenges presented by the COVID-19 pandemic. Ananya Roy provided not only the support of the UCLA Luskin Institute on Inequality and Democracy, but also a foreword and many hours of guidance and constructive editing suggestions. No one could wish for a better colleague. The important work on unemployment data by UCLA colleagues at the California Policy Lab, Thomas Hedin, Geoffrey Schnorr and Till von Wachter, provided a critical starting point for the analysis in this paper. The excellent work by Paul Ong, Chhandara Pech, Elena Ong, Silvia R. González, and Jonathan Ong provided critical information about the demographic and geographic inequality of renter vulnerability and precarity across Los Angeles neighborhoods. Dan Flaming, President of Economic Roundtable, provided invaluable assistance and advice in data analysis and access to data extracted from U.S. Census sources.

Cassandra Goodman, attorney at Neighborhood Legal Services and a leader of the Shriver Eviction Defense Project in Los Angeles, not only provided important insights from her own extensive experience in the field, but also worked with the outside evaluator of the Shriver Project to obtain important data about a very large sample (840) of unlawful detainer cases and tenants whose housing was at risk. Kyle Nelson, who has done important work on eviction cases in Los Angeles, generously allowed access to otherwise inaccessible unlawful detainer case data that he had meticulously collected in his own research. Other experienced legal practitioners provided a deeper understanding of the past, current and expected processing of unlawful detainer cases. These included the indefatigable Elena I. Popp, who has likely represented more low income Los Angeles tenants than any other human being, Barbara Schultz and Jeff Uno of the Legal Aid Foundation of Los Angeles, and Rob Reed and Jake Crammer of Inner City Law Center.

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Notwithstanding any of the above, I alone am responsible for any remaining errors.

Gary Blasi

The UCLA Luskin Institute on Inequality and Democracy at UCLA Luskin acknowledges the Tongva peoples as the traditional land caretakers of Tovaangar (Los Angeles basin, So. Channel Islands) and are grateful to have the opportunity to work for the taraaxatom (indigenous peoples) in this place. As a land grant institution, we pay our respects to Honuukvetam (Ancestors), 'Ahihirom (Elders), and 'eyoohiinkem (our relatives/relations) past, present and emerging.



Gary Blasi is Professor of Law Emeritus at the UCLA School of Law. He joined the faculty of the law school in 1991, after working as an advocate and attorney for people in poverty for 20 years. Early in his career, Blasi specialized in the representation of low-income tenants in both eviction defense and affirmative cases against slumlords, from municipal court to the California Supreme Court. At the Legal Aid Foundation of Los Angeles (LAFLA), he handled hundreds of unlawful detainer cases and co-founded LAFLA's Eviction Defense Center. When mass homelessness came to Los Angeles in 1983, his primary work began to focus on working with and representing unhoused people. For eight years, he directed the Homelessness Litigation Project at the Legal Aid Foundation of Los Angeles, where he coordinated litigation on behalf of indigent and homeless people in Los Angeles County. In addition to his legal work, Blasi held leadership positions in nonprofit organizations working on issues of homelessness and extreme poverty, including terms as Board President of The National Coalition for the Homeless, of Homeless Health Care Los Angeles, and of the Los Angeles Coalition to End Hunger and Homelessness. After becoming a law professor, Blasi's research included examining the public response to homelessness across a range of issues, including the cognitive and social psychology of how people understand the causes of homelessness and why people come to support particular solutions to the problem, with a special focus on the role of race in shaping both.

Professor Blasi took emeritus status in 2012 but continues to do research and maintain an active pro bono legal practice, working with community groups and in collaboration with the leading public interest and pro bono law firms in California. His professional recognition has included the 2013 Loren Miller Legal Services Award from the State Bar of California, given to one lawyer in California each year for work extending legal services to the poor. He was named a California Lawyer of the Year in 2015 in for his work on behalf of indigent welfare recipients and a California Lawyer of the Year in 2016 for his work on behalf of homeless military veterans.

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