
Stout's Independent Evaluation of the Eviction Right to Counsel Pilot Program in Davidson County

*Interim Report for the Period August 1, 2022 through June 30, 2023
Report Date: October 16, 2023*

Executive Summary

Since the launch of the Eviction Right to Counsel Pilot Program (ERTC) in Davidson County, Legal Aid Society of Middle Tennessee and the Cumberland (Legal Aid) and Conexion Americas, in partnership with the Nashville Hispanic Bar Association (Hispanic Bar), the Nashville Conflict Resolution Center (NCRC), the People's Alliance for Transportation, Housing, and Employment (PATHE), and the American Muslim Advisory Council (AMAC), have launched a comprehensive strategy to assist and represent tenants experiencing the eviction process in Davidson County. Together, they have represented and provided legal advice to Davidson County tenants, developed and disseminated outreach materials, and trained community-based organizations on housing related situations their constituents may be experiencing.

Legal Aid began assisting ERTC clients on a small scale in July 2022, though most of Legal Aid's ERTC employees were not onboarded until October 2022. Hispanic Bar began providing representation in November 2022.

Analyzing data collected by Legal Aid and Hispanic Bar, Stout found that:

- 1,010 individuals have been assisted by ERTC (through June 30, 2023).
- Approximately 85% of ERTC clients identified as non-white.
- Approximately 78% of ERTC clients identified as female.
- Approximately 47% of ERTC clients indicated there was a child in the household.
- Approximately 28% of ERTC clients indicated they have a disability.
- Approximately 54% of ERTC clients indicated they were living in public or subsidized housing.
- Approximately 51% of ERTC clients received extended service.
- Approximately 7% of eligible tenants facing eviction in Davidson County have received assistance from the ERTC program.
- Representation by ERTC attorneys is having a financial impact on clients by:
 - Reducing (or eliminating) judgment amounts, attorney's fees, court costs, and / or late fees.
 - Expediting or securing emergency rental assistance funds.
 - Avoiding housing subsidy terminations.
- Among cases with recorded financial impact, the average impact was \$10,900 per client assisted, for a total of approximately \$3.4 million.

Legal Aid and Hispanic Bar estimate reaching approximately 200 tenants per week by staffing a housing help desk at least twice per week. The increased presence of tenant attorneys in the courthouse resulted in the identification of unlawful filings by property managers who do not have an ownership interest in the property and the unauthorized practice of law by unrepresented corporate rental property owners. These issues were brought to the attention of the court, and clerks are now reviewing filings to ensure that each plaintiff has legal standing to commence proceedings.

Legal Aid and Hispanic Bar developed nearly 20 unique outreach materials to disseminate to community-based organizations and Davidson County tenants to raise awareness about their housing rights and provide legal information in plain language. Legal Aid, Hispanic Bar, and Conexión Americas translated the materials into Spanish. AMAC translated them into Kurdish, Arabic, Somali, Amharic, Pashto, and Dari. The organizations have also established partnerships with community-based organizations and conducted trainings on housing issues.

Introduction

In June 2022, the Metropolitan Council approved a \$2.6 million ERTC pilot program to provide legal counsel and education to eligible Davidson County tenants facing eviction. The program is being funded with federal American Rescue Plan Act dollars. The contract period began in July 2022, with tenant representation provided by Legal Aid and outreach efforts from Conexión Americas. Conexión Americas also serves as the fiscal agent for several subgrantees: Hispanic Bar, NCRC, PATHE, and AMAC. The subgrants were finalized throughout 2022, including with Hispanic Bar, which began offering tenant representation on November 1, 2022.

In October 2022, Stout was engaged as the 2-year independent evaluator of ERTC.

Over the past 7 years, Stout has had extensive experience addressing questions related to fiscal impacts arising from social policy, specifically around right to counsel initiatives in eviction matters. In 2015, Stout was retained by the New York City Bar Association's Pro Bono and Legal Services Committee to conduct cost-benefit analyses for the expanded representation of low-income tenants in eviction cases. This analysis and report contributed to landmark legislation guaranteeing access to counsel for all tenants facing eviction in New York City. Stout conducted similar analyses for the Philadelphia Bar Association's Civil Gideon and Access to Justice Task Force, contributing to Philadelphia's passing of historic right to counsel legislation. In 2019, Stout worked with the Los Angeles Right to Counsel Coalition to develop an economic impact report to be used in its advocacy with city and county legislators. In 2020, Stout worked with the Public Justice Center and a coalition in Baltimore to analyze the costs and benefits of an eviction right to counsel in Baltimore and Maryland. In 2021, Stout worked with Community Legal Aid Society Inc. and a coalition in Delaware to analyze the costs and

benefits of an eviction right to counsel. Also in 2021, Stout worked with a coalition of legal aid providers in Pennsylvania to measure the costs of providing an eviction right to counsel across the state. In 2022, Stout completed analyses and reports for a coalition in New York State (outside New York City) and Detroit and has ongoing engagements in several other jurisdictions across the United States. Stout's published reports are available at [Stout's Eviction Right to Counsel Resource Center](#).

This interim report provides certain key metrics related to ERTC clients and cases, client goals and outcomes, and eviction filings in Davidson County. The interim report also includes qualitative findings from stakeholder engagement, review of outreach materials, and activities to be undertaken in the next 6 months of the evaluation. Because the focus of this report is on legal representation and advice, most of the data and findings are related to the activities of Legal Aid and Hispanic Bar. More data and findings relevant to other project partners, who do not provide legal representation, will be included in future reports.

Stout's second interim report is expected to be released in December 2023 with a final evaluation report released in July 2024. Stout continues to work with Legal Aid and Hispanic Bar to implement and refine data collection that will enable more robust analyses of ERTC client and case characteristics, client goals and whether they are achieved, and preliminary estimates of the fiscal benefits of ERTC.

Legal Aid and Hispanic Bar's Investment in Data Collection

During the fourth quarter of 2022, Stout provided Legal Aid and Hispanic Bar with an extensive preliminary list of potential data elements to collect that would enable a robust evaluation of ERTC. Stout, Legal Aid, and Hispanic Bar met bi-weekly to refine the list of data elements and discuss which were already being collected, could be collected easily, and would be challenging to collect. The initial set of data elements was finalized in January 2023, and Stout received the first data export in February 2023. Throughout the process of implementing the new data elements, Legal Aid and Hispanic Bar were highly engaged and participatory. As the data elements were being implemented, Legal Aid was transitioning case management systems. The new case management system was launched on July 12, 2023. Stout is working with Legal Aid to ensure the evaluation data elements are being collected consistently and exported in a format that can be used for building data visualizations.

Key Metrics for ERTC Clients

Over the past 6 months, Stout began creating a library of data visualizations used to monitor key performance metrics, identify opportunities for refinement and further research, and to begin evaluating the impact of ERTC.

ERTC Client and Case Characteristics

From July 2022 through June 2023, Legal Aid and the Hispanic Bar assisted 1,010 Davidson County residents with their eviction cases. The following descriptive metrics are for all ERTC clients (regardless of whether they received brief services or extended services) who interacted with ERTC. These metrics are limited to ERTC clients and may not necessarily apply to all eviction filings in Davidson County. That is, ERTC clients are Davidson County residents who are often seeking representation because there are substantive issues and disputes of fact surrounding their eviction cases, which may be contributing to them seeking legal representation. It is also important to note that expanded data collection for the evaluation began for cases opened on and after February 1, 2023. For this reason, the number of responses is limited for certain of the metrics. As Legal Aid and Hispanic Bar continue collecting the evaluation data elements, the number of responses will increase.

- Approximately 70% of clients identified as African American or Black, 15% identified as White, 10% identified as Hispanic, 4% identified as Other, and less than 1% identified as Asian, Native American Indian, Persian, or Multi-racial (individually).
 - In Davidson County, approximately 27% of residents identify as African American or Black, 66% as White, 11% as Hispanic, 4% as Asian, 3% as Multi-racial, and less than 1% as Native American Indian.¹
- Approximately 78% of clients identified as female, and 22% identified as male.
 - In Davidson County, approximately 52% of residents identify as female, and 48% identify as male.²
- Approximately 47% of clients indicated there was a child in the household.
 - Of those households with children, approximately 42% had one child, 29% had two, 17% had three, and 12% had more than three.
 - Approximately 55% of female clients had at least one child in the home compared to 19% of male clients.
- Approximately 46% of clients had household incomes at 100% of the federal poverty level (FPL) or below.
 - Approximately 52% of clients at 100% of the federal poverty level or below had at least one child in the household.
- Approximately 28% of clients indicated they had a disability.
 - 37% of male clients had a disability compared to 25% of female clients.

¹ U.S. Census Population Estimates 2022.

² Ibid.

- Approximately 32% of clients had been in their home for less than 1 year, 31% had been in their home for 1-2 years, 23% had been in their home for 3-5 years, and 14% had been in their homes for more than 5 years.
- Among clients in arrears, clients were behind on their rent for a median of 2 months and an average of 3 months.
- Approximately 34% of clients indicated they could pay all the past due rent, and approximately 51% of clients indicated they could pay some of the past due rent.
- Approximately 53% of clients indicated they have a plan to catch up on their rent.
- Approximately 17% (n=17) of clients indicated the rental property owner tried to evict them previously.
- Approximately 73% of clients indicated they wanted to stay in their home, and approximately 27% did not want to stay in their home.
 - Of the clients who wanted to stay in their home, the reasons they wanted to stay in their home were: they had nowhere else to go (71% / n=36), they liked their current home (22% / n=11), rent was too high elsewhere (4% / n=2), and other reasons (3% / n=2).
- Approximately 56% of clients had applied for rental assistance.
 - Of those who had applied for rental assistance, approximately 82% had been approved prior to contacting ERTC.

Stout's second interim evaluation report will include further analyses and visualizations of ERTC client characteristics and circumstances, including additional analyses of defective housing conditions, mental and physical health challenges, circumstances leading to the non-payment of rent, differences in circumstances experienced by clients living in public housing compared to private housing, and a variety of analyses combining 2 or more of these elements (i.e., multi-variate analyses).

Service Level and Financial Impact

Legal Aid began assisting ERTC clients on a small scale in July 2022, though most of Legal Aid's ERTC employees were not onboarded until October 2022. Hispanic Bar began providing representation in November 2022.

Approximately 51% of ERTC clients assisted from July 2022 through June 2023 received extended services and 49% received counsel and advice or limited action.³ Legal Aid and

³ Counsel and advice is legal advice provided to clients (often via phone call or e-mail), such as explaining how to request repairs in writing, what may happen if a default judgment is entered against them, or how to negotiate with the rental property owner to pay-and-stay. Limited action includes situations where an attorney took action on behalf of a client to address their legal problem, but the legal problem was not so complex as to require extended service. Examples of limited action are communications by letter or phone

the Hispanic Bar indicated they are continuing to explore opportunities to increase the percentage of ERTC clients receiving extended services while also recognizing that counsel and advice or limited action are forms of effective assistance for clients in certain circumstances. Many clients receive counsel and advice or limited action services because it is the level of assistance that the client needs, as determined by the ERTC attorney through discussion with the client. Clients requiring extended service often are experiencing significant substantive legal issues, complex fact patterns, disputes of fact, and/or challenges navigating the eviction process alone. There are also clients who simply need brief services/advice and counsel about what to do next in their case. This could include assistance from an attorney in drafting a reasonable accommodation request or advice from an attorney about how to negotiate with the rental property owner.

As a result of the assistance received through ERTC, clients may be able to reduce the amount of back rent or fees owed, secure or maintain subsidized housing, access emergency rental assistance, or have their rent adjusted (for clients living in public housing or who have a subsidy/voucher). In these situations, Legal Aid and Hispanic Bar record the estimated financial impact to the tenant. Stout analyzed the financial impact data provided by Legal Aid and Hispanic Bar for cases closed between July 2022 and June 2023. During this period, Legal Aid and Hispanic Bar recorded measurable financial impacts for 286 (28%) of ERTC clients with closed cases. The financial impacts ranged from approximately \$100 to \$38,000.⁴ The median financial impact amount was approximately \$10,400, and the average financial impact was approximately \$10,900. The estimated total financial impact for all clients was approximately \$3.4 million from August 1, 2022 through June 30, 2023.

to a third party on the client's behalf, preparing a simple legal document, or assisting a client in preparing a legal document.

⁴ Hispanic Bar represented a client in a rent-to-own contract and was able to negotiate the retention of the home for the tenant. The financial impact of the client in this case was estimated to be \$92,460. For purposes of statistical analysis, this number was excluded from the range of values as an outlier.

Figure 1 shows the distribution of financial impacts on ERTC clients who had their cases closed between August 2022 and June 2023. Figure 2 shows the distribution of financial impacts for ERTC clients living in private market housing, and Figure 3 shows the distribution of financial impacts on ERTC clients living in public or subsidized housing.

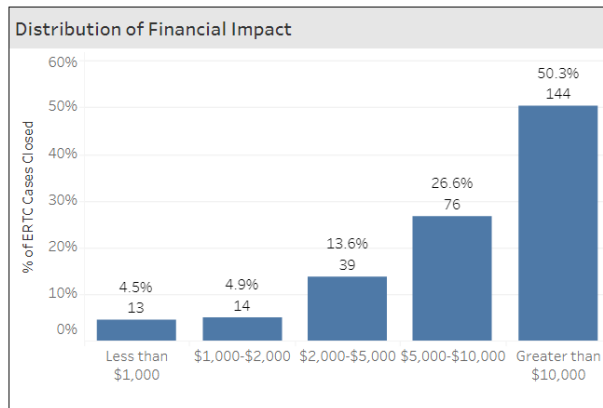


Figure 1 – All Case Types

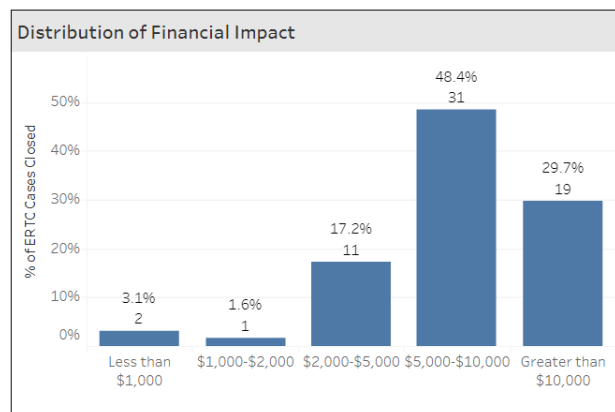


Figure 2 – ERTC Clients Living in Private Market Housing

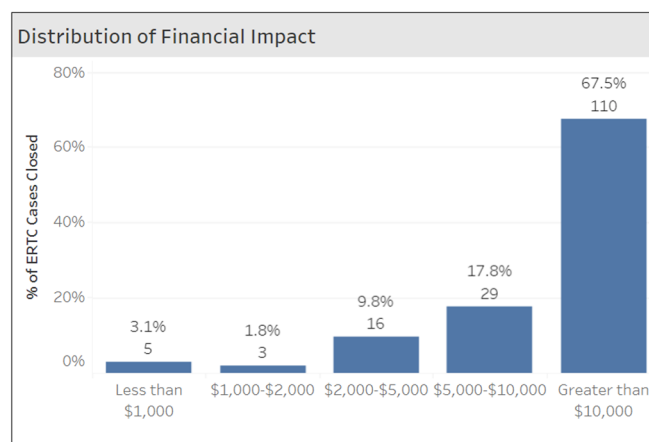


Figure 3 – ERTC Clients Living in Public or Subsidized Housing

The higher dollar amounts of financial impact are generally related to Legal Aid and Hispanic Bar: (1) assisting tenants in avoiding a subsidy termination and (2) assisting tenants with securing rent assistance funds. Legal Aid and Hispanic Bar estimate the financial impact of their services in subsidy termination cases by calculating the difference between fair market rent and subsidized rent for a one-year term. Legal Aid and Hispanic Bar record the financial impact of their services in circumstances where they are able to secure rent assistance funds for clients as the total amount of funds secured. The financial impact data skews toward the higher amounts because Legal Aid prioritizes public housing / subsidy cases when resources are limited. Furthermore, the

financial impact data skews toward higher amounts due to the wider availability of rent assistance funds and the higher amounts of back rent owed by tenants during the height of the pandemic and closer to the launch of ERTC.

Stout is continuing to work with Legal Aid and the Hispanic Bar to collect data related to clients’ goal(s) for their cases and how frequently ERTC attorneys assist clients in achieving their goals. The second interim report will include analyses related to types of client goals, the frequency with which they are achieved, the number of goals ERTC clients have, and common combinations of goals (e.g., prevent an eviction judgment and secure additional time to move).

Analysis of Eviction Filings in Davidson County

Stout has begun to build a library of data visualizations and analyses using Davidson County eviction filing data shared by the Legal Services Corporation (LSC). Stout appreciates LSC’s partnership and willingness to share the court docket data it is collecting. The analyses presented in this section were enabled by LSC’s data collection processes.

Eviction Filings in Davidson County

Between 2016 and 2019 (i.e., pre-pandemic), an average of approximately 10,500 evictions were filed annually in Davidson County. In 2022, there were approximately 12,000 eviction filings, an increase of approximately 13% compared to the average annual number of eviction filings pre-pandemic.

From January 1, 2023 to June 30, 2023, there were approximately 6,900 eviction filings in Davidson County, which was approximately 58% of all eviction filings in 2022 through the first 6 months (50%) of 2023. Figure 4 shows these trends by year, and Figure 5 shows these trends by month and year.

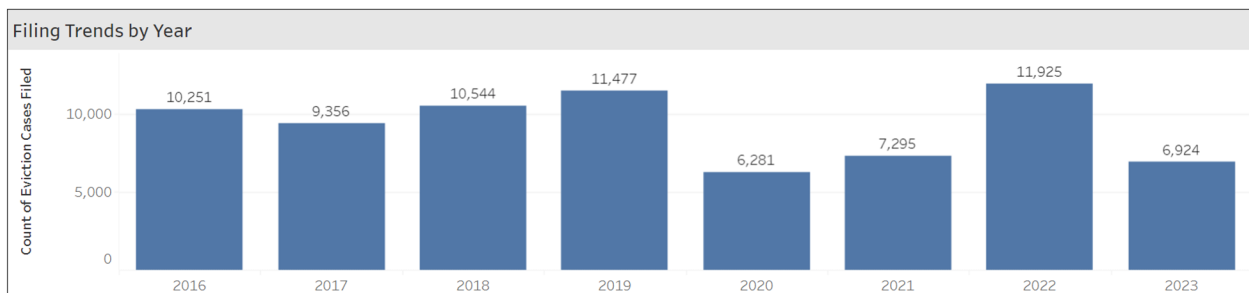


Figure 4 – Eviction Filing Trend by Year

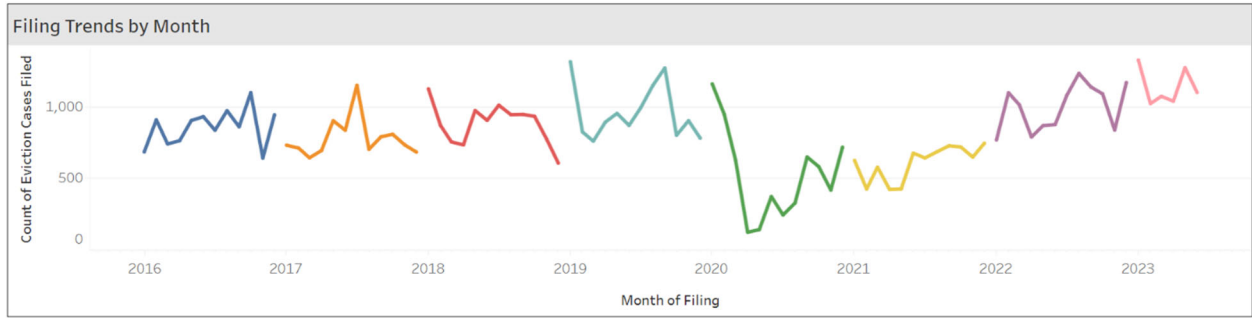


Figure 5 – Eviction Filing Trend by Month

Representation Rates in Davidson County Eviction Filings

Between 2016 and 2019, approximately 0.4% of defendants were represented in eviction filings each year in Davidson County. In 2022, approximately 1% of defendants were represented in Davidson County eviction filings. Figure 6 shows the annual defendant representation rates from 2016 to 2023 (through June 2023).

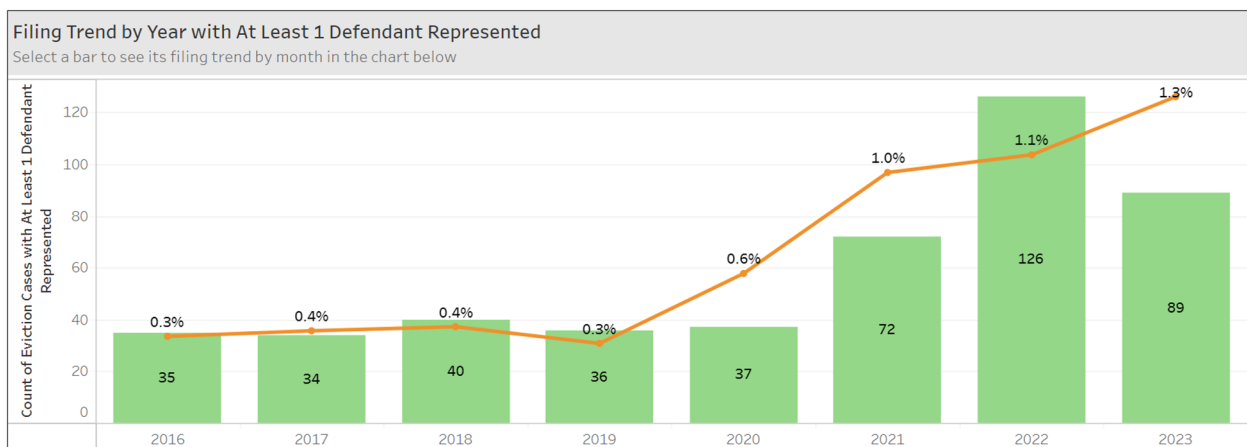


Figure 6 – Annual # and % of Cases with Defendant Representation

In 2019, the percentage of defendants who were represented monthly in Davidson County ranged from 0% to 1.4%. In 2021, the percentage of defendants who were represented each month began to increase and ranged from 0.6% to 1.5%. The increase in the monthly percentage of defendants with representation continued in 2022 where the monthly percentage of defendants with representation ranged from 0.2% to 2%. Figure 7 shows the monthly percentage of defendants who were represented in Davidson County in 2019, 2021, and 2022.

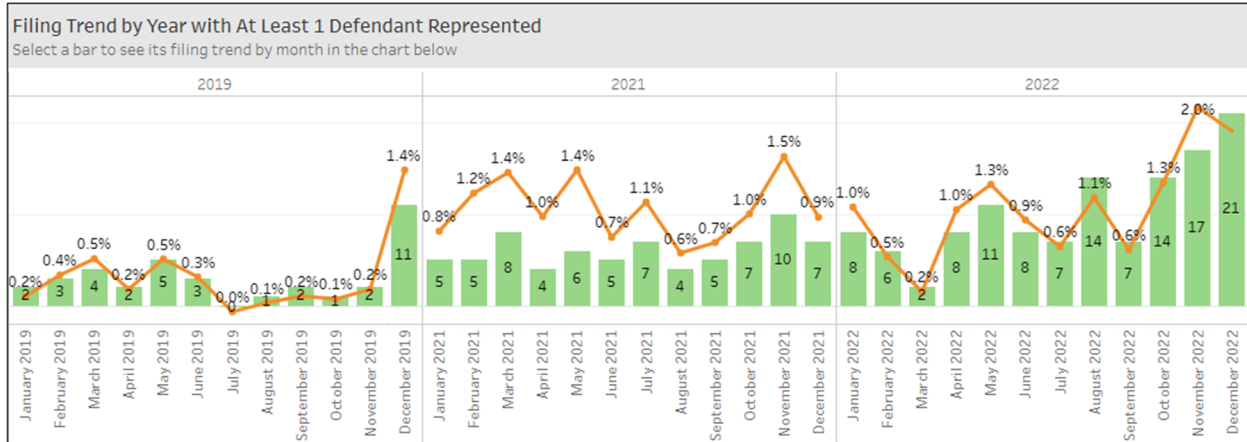


Figure 7 – Monthly # and % of Cases with Defendant Representation

Figure 8 compares the percentage of plaintiffs and defendants who were represented during the 6 months prior to ERTC (January 1, 2022 through June 30, 2022) and Figure 9 compares the percentage of plaintiffs and defendants who were represented during the first 6 months of ERTC being fully staffed (November 1, 2022 through April 30, 2023).

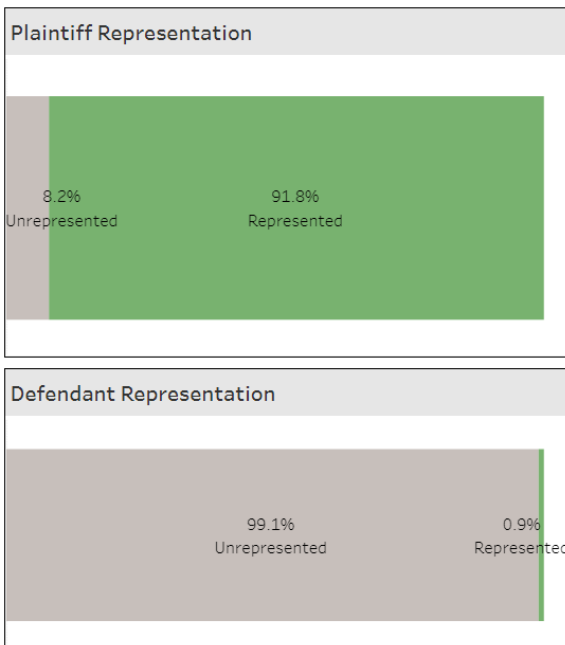


Figure 8 – Pre-ERTC Party Representation

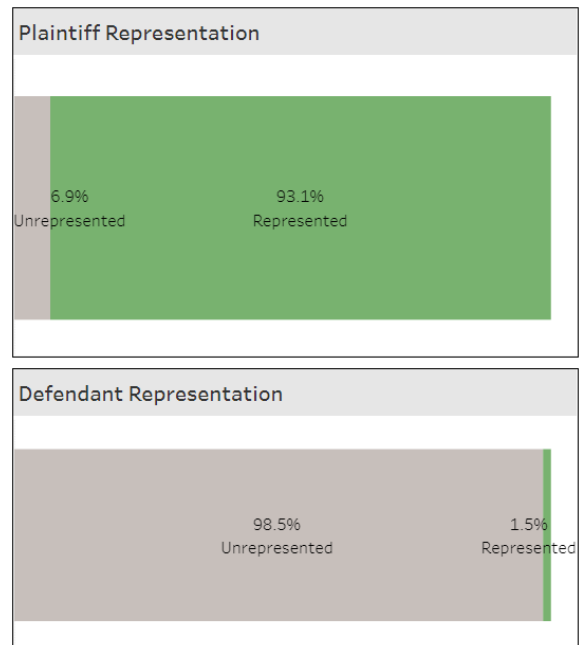


Figure 9 – ERTC Party Representation

It is important to note that while the percentage of defendants represented increased by approximately 66% (i.e., the change between 0.9% and 1.5%) since the launch of ERTC, only 1.5% of defendants were represented. However, the defendant representation rate does not include defendants who received brief services or advice and counsel from an attorney, or those who initially contacted Legal Aid or Hispanic Bar but did not complete

the intake process. Additionally, the General Sessions court system automatically records whether a plaintiff is represented at the moment of case filing, but only intermittently records whether a defendant is represented. As a result, some tenants who are represented by ERTC attorneys do not appear as represented in official court data. Since ERTC launched, Legal Aid and Hispanic Bar have assisted 1,010 clients – either providing extended service, counsel and advice, or limited action. Stout estimates that Legal Aid and Hispanic Bar have assisted approximately 7% of tenants who are eligible for ERTC.

Figures 10 and 11 show the number of eviction filings and the defendant representation rate by zip code for 2019 and 2022. In 2019 and 2022, eviction filings were concentrated in the east/southeast Davidson County zip codes. These zip codes have high concentrations of poverty, single-parent households, and cost-burdened renter households.⁵ Additionally, many of these zip codes have majority Black populations. The distribution of eviction filings by zip code remains relatively consistent between 2019 and 2022 while the defendant representation rate increased in several zip codes.

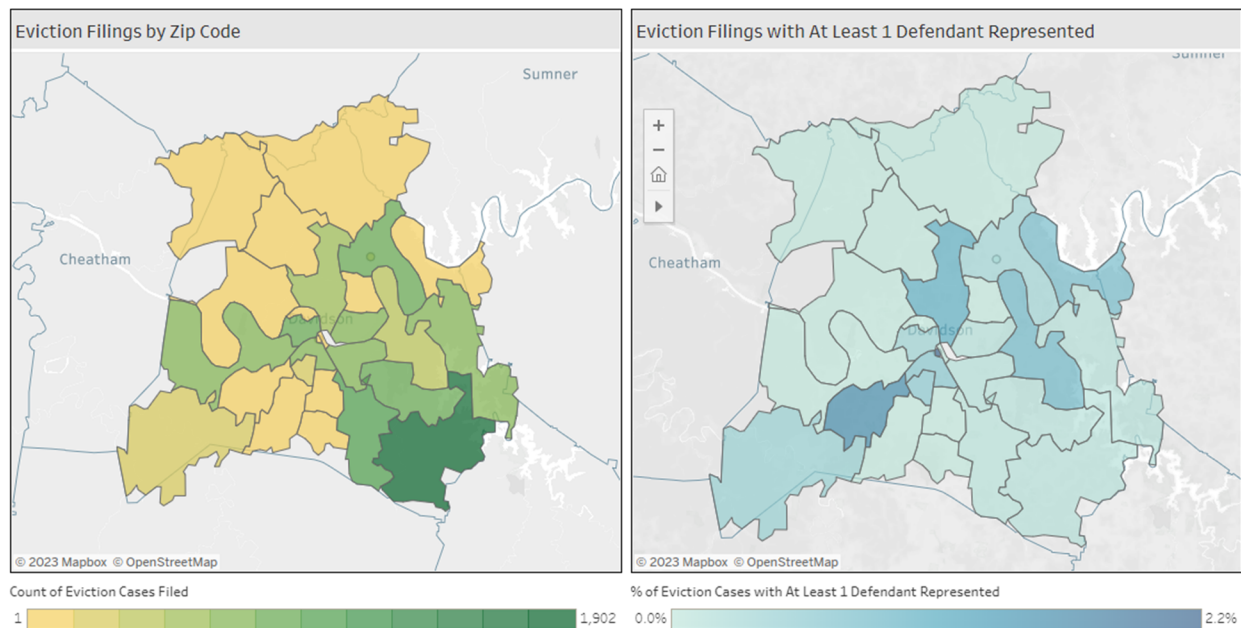


Figure 10 – 2019 Eviction Filings and Defendants Represented by Zip Code

⁵ Identified using U.S. Census table S1701.

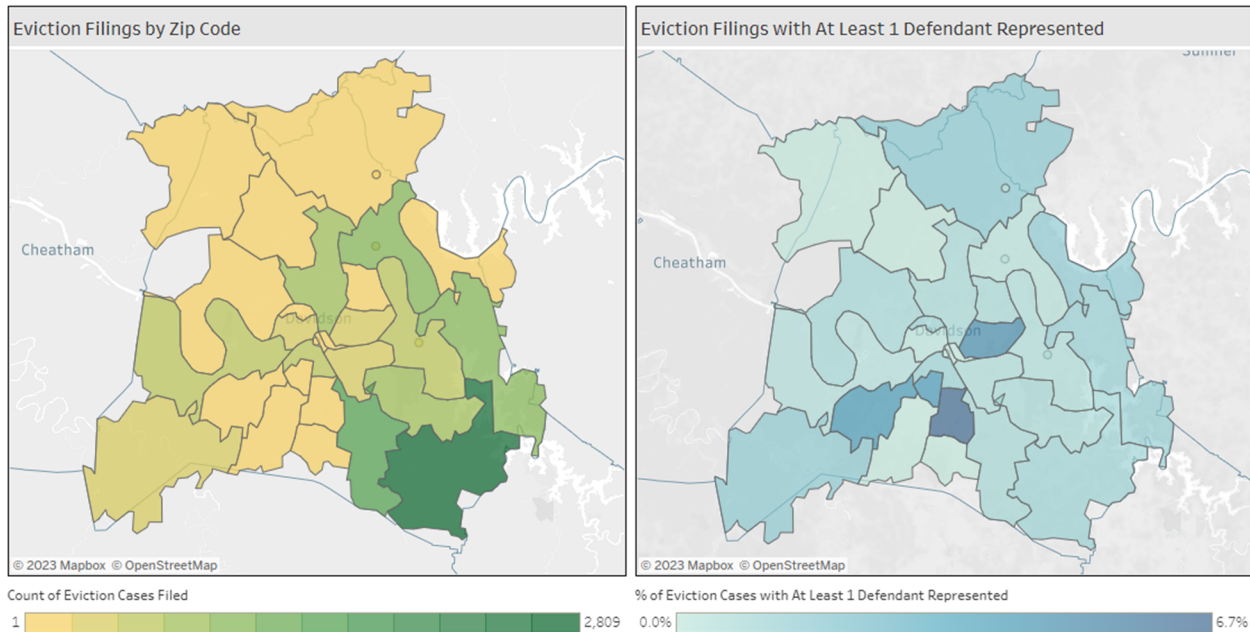


Figure 11 - 2022 Eviction Filings and Defendants Represented by Zip Code

Stakeholder Engagement

Throughout the first quarter of 2023, Stout began engaging with a variety of Davidson County stakeholders with experience and expertise interacting with the Davidson County rental housing and eviction ecosystem or serving clients or residents who may have interacted with the eviction ecosystem. The purpose of these meetings was to learn from local stakeholders who have different perspectives and experiences with the eviction process or who have observed the impact of evictions on Davidson County residents and rental property owners. In the first quarter of 2023, Stout met with stakeholders from:

- Centerstone
- Dismas House
- Oasis Center
- Open Table
- Rooftop Nashville
- Room in the Inn
- Safe Haven Family Shelter & Nashville Continuum of Care
- Tennessee Alliance for Legal Services
- Tennessee Higher Education Initiative
- United Way of Greater Nashville
- Urban Housing Solutions
- Workers' Dignity

The stakeholders shared their unique perspectives with Stout. Many discussed the importance of early interventions and assistance for tenants both during and before the eviction process. Several stakeholders (or their organization or agency) provided services to people experiencing homelessness – a portion of which, they indicated, had also experienced an eviction. These stakeholders discussed the social safety net responses that can be required after a household is evicted, which included but were not limited to emergency shelter, rapid re-housing, physical and mental health care, food security resources, substance abuse resources, and out-of-home foster care placements for children experiencing homelessness.

The experiences, perspectives, and expertise of these stakeholders inform Stout's evaluations by giving important context and nuance to quantitative analyses. As themes and patterns emerge throughout the evaluation, Stout reflects on the qualitative feedback it receives and incorporates it into the evaluation process, including in the development of recommendations for program refinement and improvement. These stakeholders also often suggest to Stout research and data to review or other experts from which it should seek feedback. Stout appreciated learning from the experiences and expertise of these stakeholders and will work diligently to incorporate their feedback, to the extent possible, throughout the evaluation. Stout is committed to continuing to seek this feedback because of the significant value it brings to the iterative evaluation process.

Stout's stakeholder engagement during the next 6 months will focus on the rental property owner community and their counsel. Stout has conducted extensive engagement of this stakeholder group throughout the country and appreciates their perspective on the local eviction ecosystem.

[Court Help Desk and Community Outreach](#)

At least twice per week, Legal Aid and Hispanic Bar staff provide free legal information to tenants appearing at court. ERTC program attorneys and staff discuss with tenants their rights as tenants, how to negotiate settlement agreements with the rental property owner, and how to access free mediation services through NCRC, rent assistance programs, and other social services. ERTC staff also provide information to rental property owners to ensure that they have the necessary information to abide by legal eviction requirements. Legal Aid and Hispanic Bar estimate reaching a weekly average of 200 Davidson County tenants appearing in court.

The increased presence of tenant attorneys in the courthouse has resulted in the identification of unlawful filings by property managers who do not have an ownership interest in the property and the unauthorized practice of law by unrepresented corporate rental property owners. Since notifying the court of these issues, judges have instructed clerks to review filings where the plaintiff is unrepresented to ensure that the plaintiff has standing to commence proceedings. Legal Aid and Hispanic Bar indicated that the 3

plaintiffs that ERTC attorneys originally identified as not having standing to commence proceedings had filed more than 400 evictions over the past several years.

As ERTC launched, Legal Aid and Hispanic Bar developed a public information campaign and outreach materials aimed at providing legal information to Davidson County tenants and community partners. Legal Aid and Hispanic Bar understood that there was a significant need for legal services for tenants experiencing the eviction process, but the organizations did not have adequate staffing to meet the full need. To provide Davidson County tenants and community partners legal information while ERTC was being implemented, Legal Aid, Conexión Americas, and Hispanic Bar, in partnership with AMAC and PATHE:

- Established partnerships with community-based organizations while they were securing additional staff to provide extended services, limited representation, and advice and counsel / brief services.
 - Once partnerships were established, Legal Aid and Hispanic Bar convened “train the trainer” events with community partners, which were led by Housing Navigators and provided community partners with the tools they needed to communicate with residents about housing instability or eviction issues and connect them with available resources.
- Developed and translated nearly 20 accessible, plain language “Know Your Rights” informational flyers.
 - The flyers were designed so that community partners and organizations could easily share them with their constituents or clients. The flyers use simple iconography, answer common questions tenants may have about certain situations, leverage eye-catching color schemes (including bolded and underlined text), plain language text written on a 5th grade reading level, and prominently display contact information for Legal Aid, Hispanic Bar, and AMAC.
 - Conexión Americas, Hispanic Bar, and Legal Aid have translated the materials into Spanish. AMAC translated them into Kurdish, Arabic, Somali, Amharic, Pashto, and Dari.
 - All ERTC partners have begun large-scale efforts to distribute the materials throughout the community. For example, Conexión Americas has concentrated on distributing Spanish-language materials to the Spanish-speaking community. AMAC has concentrated on distributing materials in many different languages throughout the Muslim community.
 - The materials are also posted on [Legal Aid’s website](#), where staff track the number of “clicks” generated per month.

- Conducted a variety of community outreach / awareness events and stakeholder engagement.
 - ERTC partners have all worked diligently to spread information throughout their networks.
 - For example, Legal Aid and Hispanic Bar have conducted more than 120 outreach events since ERTC launched (through June 30, 2023). The events included but were not limited to convening community education programs, attending established community events, meeting with Davidson County Court Clerk, being interviewed on WPLN and News Channel 5, and engaging with Vanderbilt University students interested in housing.

Plans for the Next 6 Months of Evaluation

The next 6 months of the ERTC evaluation offer the opportunity to not only continue understanding the impact of ERTC for clients and the community but to also deepen and refine the understanding of the eviction landscape in Davidson County. Stout will continue its local stakeholder engagement, focusing on learning from and about the perspective of rental property owners and their counsel interacting with tenants in Davidson County. Stout will work with PATHE, AMAC, NCRC, and Conexión Americas to gather data related to their ongoing outreach and education efforts. Stout will also continue working with Legal Aid and Hispanic Bar to refine data collection and expand analyses of:

- Client and case characteristics, including but not limited to the intersections of gender, race/ethnicity, and disability status.
- Commonly identified client goals and how frequently Legal Aid and Hispanic Bar assist clients in achieving them, as well as when and why goals may not be achieved.
- Reasons for non-payment of rent.
- Whether clients want to stay in their unit and reasons why they want to stay (or leave).
- Amounts and distributions of financial impacts for clients.
- Where clients would go if they had to move and the extent to which ERTC is reducing the need for publicly funded social safety net services.
- Frequency and types of issues with rental property owner or management company ledgers.
- Attorney time required and activities undertaken to provide extended services to clients.

- The prevalence of case characteristics that likely make them complex compared to cases where the only issue is the uncontested non-payment of rent.
- Preliminary areas of potential fiscal impacts to inform the quantification of economic benefits to Davidson County and Nashville as a result of ERTC.