



# **Navigating an Overburdened Courtroom:**

**How Inconsistent Rules, Shadow Procedures, and Social Capital  
Disadvantage Tenants in Eviction Court**

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# Research Question

How do formal and informal legal processes shape the experience of landlords and tenants in the courtroom?

## *Hidden procedure:*

- Formal and informal rules, norms and practices that guide the process in court
- Disadvantages tenants while creating advantages for landlords

# Data and Methods

## **A year of ethnographic observation in Landlord-Tenant Court in DC**

- > 400 hours of participant observation in the courtroom
- ~ 200 informal interviews and conversations with actors throughout the system, including tenants experiencing an eviction

## **Analyses of administrative records from the Superior Court LTB system**

- > 160,000 cases filed between 2014 - 2018
- Sample of additional court documents from 2018 add further data, including rent owed, duration of arrearage period, and legal representation

# Finding: Tenants are Systematically Disadvantaged

## Two key contextual factors

- Overburdened Courtroom
- Lack of legal representation for tenants (>98%)

## Unfair procedures

- Inadequate accommodations, and confusing procedures
- Procedural Inconsistencies

## Offloading cases through shadow procedures

- Informal negotiations between tenants and the attorneys representing landlords often lead to settlement agreements that are unfavorable to tenants.

## High opportunity costs of appearing in court

- “Now I’d have to miss *another* day of work to come deal with this.”

# Finding: Landlords Benefit from Social Capital

Landlord attorneys form connections with other court actors through their regular appearance in court.

Landlord attorneys appear in court day after day for different landlords

- Lawyers from just 3 legal firms represented landlords in 62 percent of cases.
- Those from 15 firms represented landlords in 95 percent of cases.
- 10 landlords responsible for 40% filings in 2018.

Judicial “nudges”

# Conclusion

**Hidden procedure:** Legal burdens and power imbalances between landlords and tenants are exacerbated lack of legal assistance for tenants and accumulated social capital of landlords.

We need policy that both limits eviction filings *before* they happen to keep tenants out of Court, and ease the burden of the eviction process *within the courtroom*.

# Policy

## **Avoiding eviction altogether by increasing affordability**

- Increased investments to Housing Production Trust Fund, Local Rent Supplement Program; and more

## **Prevent evictions that are filed:**

- Tailor and expand existing Emergency Rental Assistance Program to be more proactive
- Make mediation program and Attorney Resource center available to parties before coming to Court

## **Make court processes function more fairly**

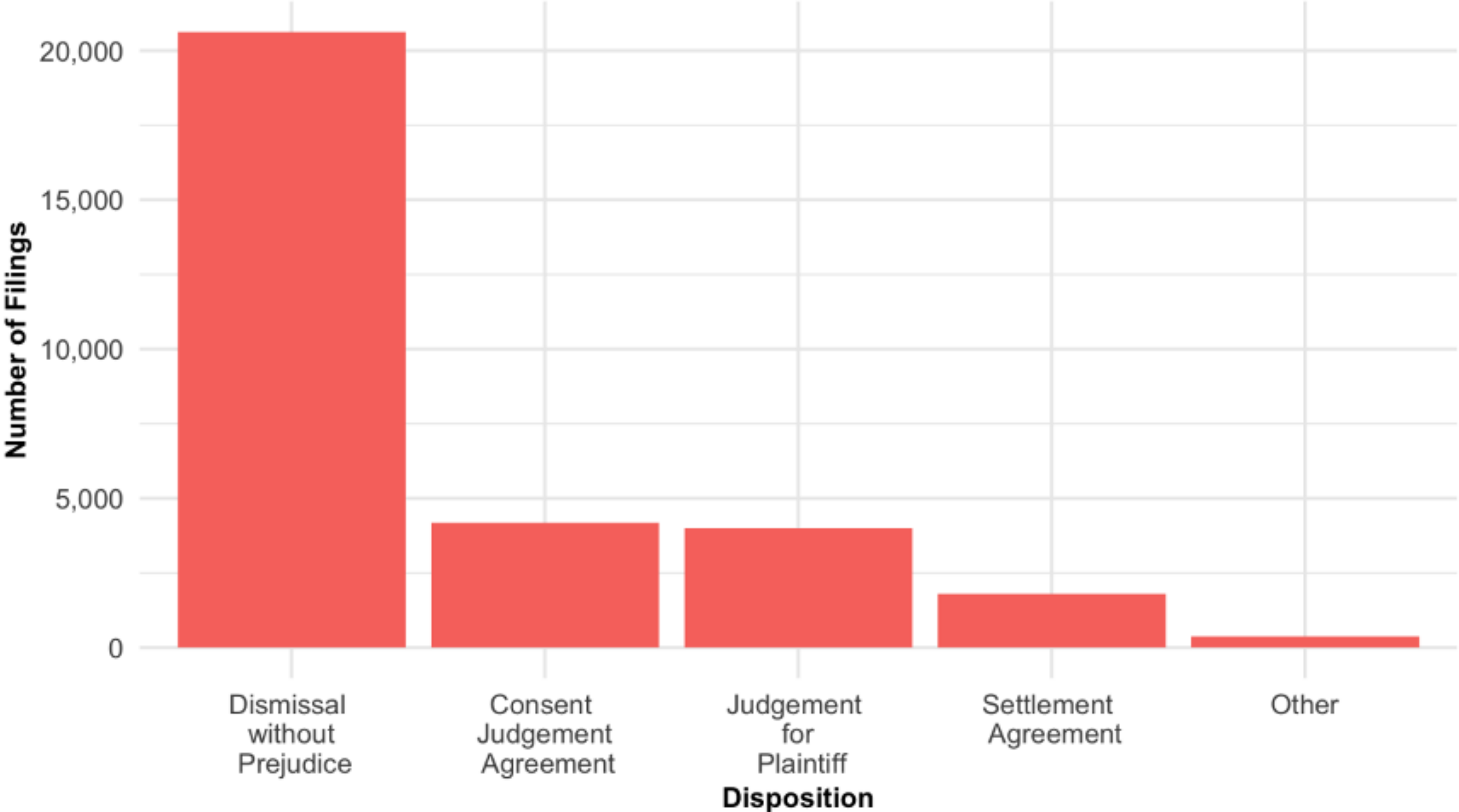
- Institute universal access to counsel in eviction proceedings; improvements to Court processes (language and disability accessibility, signage); institute regional or neighborhood-based Court system; improve communication and outreach

**Thank you.**



# Residential Eviction Filings in Washington, DC

## Dispositions of Eviction Filings (2018)



Source: D.C. Court System. Note: Confession, Confession with Stay, Dismissal with prejudice, Unclassifiable, Undisposed, Judgment for Defendant are recoded as Other. Consent Judgment Agreement with Stay recoded as Consent Judgement Agreement.