



IMPACT OF JUDGES' PROFESSIONAL
BACKGROUNDS ON EVICTION OUTCOMES

PEOPLE'S
PARITY
PROJECT

ABOUT PPP:

People's Parity Project is a movement of attorneys and law students organizing for a democratized legal system which values people over profits, builds the power of working people, and opposes subordination of any form. Together, we are dismantling a profession that upholds corporate power and building a legal system that is a force for justice and equity. Our work focuses on building power for working people in the civil legal system through organizing, policy innovation, political education, and solidarity.

For more information about this report or the People's Parity Project, please visit www.peoplesparity.org or contact hello@peoplesparity.org.

ABOUT THE AUTHORS



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Grace (she/her) is a second-year J.D. student at UConn School of Law in Hartford, CT. Her involvement in the healthcare and education sectors ignited her passion for the legal field and reinforced her desire for a career that directly engages with her community. Grace holds executive board positions in various campus organizations, including the American Constitution Society and the Diversity Alliance. This year, she is honored to lead UConn Law's Chapter of the People's Parity Project as President. Last semester, Grace volunteered with Integrated Refugee and Immigrant Services as a member of the inaugural cohort of the Pro Se+ Project. Additionally, she volunteers for Statewide Legal Services, ensuring community members can access streamlined and equitable legal information. Grace is dedicated to using her legal education and experiences to uplift her community.



STEVE KENNEDY

Steve Kennedy is PPP's Organizing and Network Director, joining the staff after founding his campus's chapter of PPP. Prior to joining PPP, Steve worked as a fellow with Greater Hartford Legal Aid and Connecticut Veterans Legal Center and a law clerk at The Flood Law Firm. Steve was also the Connecticut Team Leader for Iraq and Afghanistan Veterans of America, where he led significant organizing and advocacy efforts. Before deciding to pursue a legal career, Steve was a structural biologist and served in the U.S. Army airborne infantry. He received his J.D. from the University of Connecticut School of Law, M.S. from New York University, and B.S. from the University of Massachusetts Boston.

SUMMARY

Judicial proceedings related to housing are important sites to monitor the operation of Connecticut's justice system. Not only are the stakes incredibly high for renters facing the loss of their homes, judges also have unique discretion and influence over eviction proceedings.¹ Judges may ask questions of both landlord and tenant during trial. Judges also have discretion to stay evictions under certain circumstances.² Despite the degree of latitude that judges have in eviction cases, little attention has been paid to how Connecticut judges use that discretion. This report seeks to address this deficit of information by highlighting the impact of judges' professional backgrounds on the outcomes for renters in eviction proceedings. This study identified statistically significant differences between outcomes for renters appearing before judges from different professional backgrounds, finding significantly better tenant outcomes on average when they appear before former general practice, legal aid, Attorney General's Office, and plaintiffs' litigation attorneys.

SUMMARY PROCESS IN CONNECTICUT COURTS

Connecticut's housing proceedings are a vital component of the state's judicial system and play a crucial role in delivering fair and equitable outcomes, especially for renters facing the imminent threat of losing their homes. The stakes within these housing courts are undeniably high, as they directly impact the fundamental right to shelter.

Unlike some other states, Connecticut does not have a housing court system separate from other judicial matters. There are specialized housing sessions in Bridgeport, Hartford, New Britain, New Haven, and Stamford/Norwalk, which only hear housing cases, which handle housing cases exclusively, but many eviction cases are heard in general jurisdiction courts.

Judges in housing courts possess discretionary powers that enable them to influence the course of these cases, with their decisions carrying significant weight, potentially swaying the scales of justice in favor of landlords or tenants. Within the framework of housing courts, judges are empowered to engage in a dynamic dialogue with landlords and tenants, posing probing questions during trials, uncovering crucial facts, examining claims, and making well-informed decisions.

A defining facet of the authority vested in housing court judges is influencing whether stays of eviction orders are final or non-final, with non-final stays remaining open for potential renegotiation. This influence allows judges to exercise their judgment, adapting their rulings to the specific circumstances of each case, and even in negotiated settlements between renters and landlords, mediators' knowledge of judges' preferences influence their suggested terms as well. A final stay signifies the immediate and irrevocable loss of a tenant's home, while a non-final stay offers a reprieve, allowing for the renegotiation of eviction terms, or remaining in the home on a payment plan. This pivotal decision can be a lifeline for tenants facing eviction, granting them the critical time needed to secure alternative housing or address the issues leading to their impending displacement.

¹ www.ctlawhelp.org, Are You Facing an Eviction?, <https://ctlawhelp.org/en/evictions-process-laws-connecticut> (accessed Sep. 6, 2023).

² See C.G.S. § 47a-39.

In addition to a unique role for the judges overseeing them, housing cases are characterized by their urgency, often demanding swift resolution due to the immediate nature of housing disputes. Consequently, housing court proceedings are typically expedited, providing limited room for extensive legal argumentation compared to civil courts. This expedited nature underscores the significance of understanding how judges navigate this unique landscape, ensuring the judicious exercise of their discretionary powers to uphold justice and equity in housing-related crises.

Despite the substantial latitude and decision-making power granted to judges on housing matters, this discretion has been insufficiently scrutinized. The question of how Connecticut's judges wield their authority in housing proceedings remains relatively unexplored, with limited insight into the factors and considerations guiding their decisions.

WHY PROFESSIONAL DIVERSITY MATTERS

Empirical studies have shown that judges' professional backgrounds influence their decision making on the bench. A recent study of federal criminal sentencing from 2010 to 2019 showed that judges without any criminal defense experience handed down significantly harsher sentences than those with public defense experience.³ Another study analyzing employment cases found that judges with prior experience as criminal prosecutors or representing corporations were significantly more likely to find in favor of corporate defendants in employment cases than judges with experience representing individuals.⁴ At the appellate level, another study found that former prosecutors and corporate attorneys side more often with corporate and state interests than former plaintiffs' attorneys in state supreme court decisions⁵. Extrapolating these results across case types would suggest that an overreliance on certain types of attorneys as judicial candidates would lead to poor outcomes for the actual people appearing in our courts.

Despite this concern, Connecticut's governors and state legislators have stacked the judiciary with judges from a small range of professional backgrounds. A study of the professional diversity of Connecticut's courts found a significant overrepresentation of prosecutors and corporate attorneys, along with a significant underrepresentation of judges with backgrounds in public defense, legal aid, civil rights, labor, and plaintiffs' litigation.⁶

³ Allison P. Harris, Maya Sen Working Paper. How Judges' Professional Experience Impacts Case Outcomes: An Examination of Public Defenders and Criminal Sentencing, <https://scholar.harvard.edu/msen/public-defenders> (accessed March 12, 2022).

⁴ Joanna Shepherd, Jobs, Judges, and Justice: The Relationship Between Professional Diversity and Judicial Decisions, http://demandjustice.org/wp-content/uploads/2021/02/Jobs-Judges-and-Justices_Demand-Justice_Joanna-Shepherd-Report_2021.pdf (2021).

⁵ Stephen Kennedy, Imbalance Justice: Impact of Professional Background on Connecticut Supreme Court Decisions, People's Parity Project, September 2023.

⁶ Stephen Kennedy, Imbalanced Justice: Professional Diversity of the Connecticut Judicial Bench, People's Parity Project, <https://peoplesparity.org/ctjudiciary/> (April 2022).

METHODS

Connecticut housing court dockets data from January 2018 to December 2023 were scraped from the Connecticut Judicial Branch website using Octoparse software. To control for attorney proficiency, all cases represented by four firms handling large volumes of evictions were selected and results were compared to ensure consistency across judges. These firms were Hirsch, Levy & Fountain, Reckmeyer & Reckmeyer, Law Office of Yona Gregory, and Silver & Silver. Outcomes of cases where defendants made appearances were scored from zero to three where dismissals and judgments for the defendant were rated zero, judgment for the plaintiff with a non-final stay by stipulation was rated one, judgment for the plaintiff with a final stay by stipulation was rated two, and judgments of possession and judgment for the plaintiff were rated three. Cases with default judgments or no final disposition were discarded. Commercial eviction cases were not included.

Cases were categorized by presiding judge, and judges' professional backgrounds were determined by reviewing biographies, nomination press releases, public hearing testimony, LinkedIn profiles, and other publicly available information. Judges who could not be categorized were included in the overall average only. Judges were grouped by professional backgrounds, and average scores for each background category were calculated. Statistical significance was determined using Bonferroni-adjusted Student's t-tests between each possible pairing of background categories.

To better model the influence of different factors on renter outcomes, an ordinal logistic regression was performed using the case result score as the dependent variable. Independent variables incorporating judges' professional background were experience in prosecution, public defense, corporate settings, legal aid, the Attorney General's office, other government roles, and plaintiffs' litigation. Other independent variables were whether the case took place in a housing session court, judge's time on the bench, the number of days a case was active, judge's gender, and judge's race. Regression was run in Microsoft Excel using XLSTAT software. All data are available upon request.

RESULTS

This study analyzed 3,605 cases presided over by 62 different judges. As shown in Figure 1, judges with backgrounds in legal aid and plaintiffs' litigation had the lowest scores, corresponding with better average renter outcomes, while judges with corporate and prosecutorial backgrounds had the highest scores. The overall average score for all categories fell in the middle at 2.19. Statistical analysis revealed that the averages were statistically significant for the following pairs: general practice and Attorney General's office, general practice and

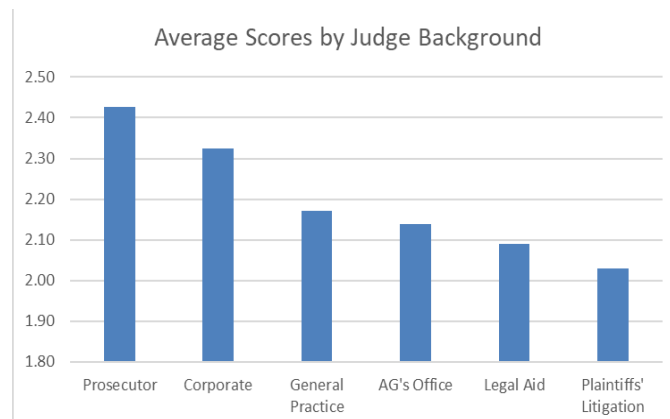


Figure 1: Average outcome scores for professional background categories with statistically significant differences. Higher scores correspond to more favorable rulings for landlords while lower scores correspond to more favorable rulings for renters.

corporate, general practice and prosecution, legal aid and corporate, legal aid and prosecution, Attorney General's office and prosecution, plaintiffs' litigation and prosecution, plaintiffs' litigation and corporate, and plaintiffs' litigation and general practice.

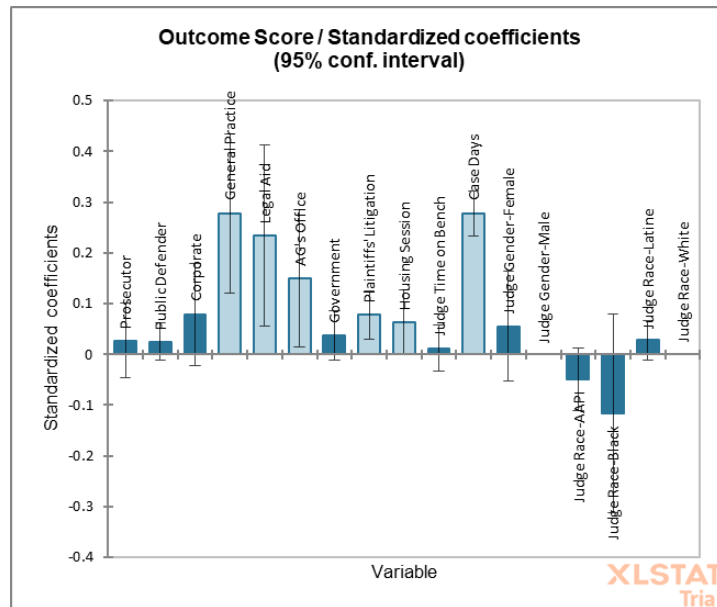


Figure 2: Ordinal logistic regression standardized coefficients plot. Light blue bars mark statistically significant contributors to renter outcomes. Higher values indicate greater contributions to low scores, meaning better outcomes for renters.

As shown in Figure 2, the ordinal logistic regression model found that factors leading to lower scores (i.e. better outcomes for renters) were cases taking place in housing sessions, remaining on their dockets for longer periods of time, and appearing before judges with experience in general practice, legal aid, the Attorney General's office, and plaintiffs' litigation. Conversely, these same factors were also found to decrease the likelihood of high scores, which are equivalent to the most negative outcomes for renters.

As noted, in addition to judges' backgrounds, the model also found significant contributions to better outcomes for renters when they appear in housing session courts and in cases that lasted for longer periods of time. The correlation between case days and lower scores may be attributed to cases where renters are more likely to prevail featuring greater numbers of motions or other actions that add to the time to resolution rather than an actual causative effect. However, the other factors are not as easily explained, and there may be a positive effect for renters when judges have more experience with housing cases.

Most importantly, the results reveal that renters are significantly more likely to receive harsher judgments from judges with backgrounds including prosecution and corporate law, while renters receive slightly more favorable outcomes under former legal aid, general practice, Attorney General's office, and plaintiffs' litigation attorneys. These discrepancies can have enormous implications for the renters, who gain greater possibilities of renegotiating the terms of a stipulated agreement, more time to find adequate replacement housing, and a greater likelihood of having their eviction cases dismissed by appearing before these judges.

As noted above, former prosecutors and corporate attorneys are the most overrepresented groups on the Connecticut bench. Based on this study's findings, continued reliance on prosecutors and corporate attorneys to fill judicial vacancies will lead to worse outcomes for renters, greater churn in the rental market, and increased housing insecurity. With the strong correlation between professional background and average outcomes for renters in eviction proceedings, the further nomination of former prosecutors and corporate attorneys is a policy decision to favor landlords over tenants, while the nomination of judges from public interest, general practice, and plaintiffs' litigation backgrounds could provide some level of support to renters facing eviction.

RECOMMENDATIONS

To ensure that the Connecticut bench is representative of the broad spectrum of legal experiences and thus able to better serve the people in need of justice in the courtroom, the state must make a deliberate effort to identify and nominate qualified judges from public interest backgrounds and to improve the pipeline of attorneys entering these fields. We suggest the following state-specific changes to ensure a robust pipeline of potential judges with public interest backgrounds and to elevate more attorneys with a diversity of professional experiences to the bench: 1) increase the transparency of the judicial selection process, 2) commit to increasing the professional diversity of the state bench, 3) counter public interest drift in law school, 4) lower student debt burden, and 5) increase state judicial clerkship and judicial internship pay.

Increase the Transparency of the Judicial Selection Process

The Judicial Selection Commission process and the Governor's internal processes for choosing judicial nominees is largely opaque, with few points for public scrutiny into the way that candidates are evaluated and chosen.⁷ Applicants understandably need to protect their identities as they put themselves forward for new positions, but Connecticut does have mechanisms for allowing anonymized data on applicants to be compiled and reported. Under C.G.S. § 51-44a(m), the Judicial Selection Commission is currently required to collect voluntary demographic information from judicial applicants and compile it into annual reports breaking down the genders, races, religions, years in practice, and other information about its applicant pool.

⁷ Steve Kennedy, CT Judicial Nominations Need More Sunlight, Connecticut Mirror, <https://ctmirror.org/2023/04/27/ct-judicial-nominations-transparent/> (Apr. 27, 2023).

⁸ John Bliss, From Idealists to Hired Guns?: An Empirical Analysis of "Public Interest Drift in Law School, UC Davis L. Rev. Vol. 51, 1973-2032 (2018).

⁹ John Bliss, Divided Selves: Professional Role Distancing Among Law Students and New Lawyers in a Period of Market Crisis, 42 Law & Social Inquiry 3, 855-897 (2016).

Anecdotal reports from applicants and former Commission members allege that public interest attorneys often face more difficult questions about their impartiality than other such as prosecutors and corporate attorneys do, leading to fewer making it through the selection process. Others say that fewer pro-people attorneys apply in the first place, leaving the Commission and the Governor with fewer of them to choose from. To identify the true nature of the problem, additional questions asking applicants to mark broad areas of experience, such as those used in this report, should be added to the judicial application. The reporting of aggregated professional experience of both applicants and the approved candidate pool should be required by amending § 51-44a(m).

Commit to Increased Nominations of Attorneys with Pro-People Experience

Public interest attorneys are severely underrepresented on the state bench. It is important that the Judicial Selection Commission, the Governor's office, and the General Assembly all commit to addressing these disparities. The Commission and Governor should prioritize identifying candidates with underrepresented professional backgrounds, and when considering candidates before them, the Judiciary Committee should consider their professional backgrounds and what the overall slate of nominees represents professionally.

Countering Public Interest Drift

Empirical data have shown that a significant proportion of students enter law school with hopes of entering pro-people legal professions, but by their second years have shifted their goals toward entering large law firms.^{8,9} Increased effort should be made by law schools in the state to ensure there are adequate opportunities and funding for students interested in public interest work. Additionally, law schools should highlight public interest pathways to the judiciary in partnership with judges from public interest backgrounds so that the current pro-corporate and prosecutorial bias of the state bench does not discourage students who aspire to become judges from entering public interest careers in the first place.

⁸ John Bliss, From Idealists to Hired Guns?: An Empirical Analysis of "Public Interest Drift in Law School, UC Davis L. Rev. Vol. 51, 1973-2032 (2018).

⁹ John Bliss, Divided Selves: Professional Role Distancing Among Law Students and New Lawyers in a Period of Market Crisis, 42 Law & Social Inquiry 3, 855-897 (2016).

Lowering Student Debt Burden

The average law school graduate owed over \$160,000 in debt.¹⁰ Within this average, there are significant demographic disparities, with Black law school graduates on average carrying 97% higher debt loads than white law students and women taking longer to pay off their debt due to lower average salaries.¹³ The incredible debt burden that law school graduates carry leaves public interest work out of reach for too many. Legal aid attorneys and public defenders often earn less than their area's median income, while nationwide, first-year associates at private law firms could expect starting salaries of around \$135,000 in 2017.^{11,12} For many graduates with high amounts of student loan debt, the high salaries of private law firms may be hard to resist, regardless of how much they may have wished to go into public interest law.

Connecticut could help address this issue by lowering tuition at the University of Connecticut School of Law and providing additional scholarship opportunities for students willing to commit to public interest work. The vast majority of UConn Law graduates remain in Connecticut, so lowering tuition would have an outsized impact on the debt burden of law school graduates in the state.¹³ For graduates of all law schools, Connecticut should consider funding a bonus program or other loan repayment option for law school graduates who pursue public interest careers within the state.

Increasing State Judicial Clerkship Pay

Judicial clerkships are often seen as the keys to elite positions within the legal profession, whether private, public, or academic.^{14,15} However, clerkship salaries in Connecticut are on par with public interest positions in Connecticut and thus are significantly lower than those in the private sector. Temporary assistant clerks in Connecticut earn little more than minimum wage.¹⁷ These positions are often seen as prerequisites for entering prestigious legal positions, both private and public, and as the first step on the path to becoming a judge. Increasing the pay for these positions would allow a broader range of students to enter the field and gain this qualification for the bench.

¹⁰ Melanie Hanson, Average Law School Debt, Educationdata.org, <https://educationdata.org/average-law-school-debt> (December 5, 2021)

¹¹ Sonia Weiser, Lawyers by Day, Uber Drivers and Bartenders by Night, New York Times, <https://www.nytimes.com/2019/06/03/nyregion/legal-aid-lawyers-salary-ny.html> (June 3, 2019).

¹² Debra Cassens Weiss, What is the Starting Pay for Public Defenders? Low Salaries Discourage Applicants, American Bar Association Journal, <https://www.abajournal.com/news/article/what-is-the-starting-pay-for-public-defenders-low-salaries-discourage-applicants> (October 21, 2021).

¹³ University of Connecticut, Employment Summary for 2020 Graduates, <https://law.uconn.edu/wp-content/uploads/sites/3082/2021/07/210428-ABA-Employment-and-Salary-Data-Class-of-2020-FINAL.pdf> (April 28, 2021).

¹⁴ William H. Simon, Judicial Clerkships and Elite Professional Culture, 36 J. Legal Educ. 129 (1986).

¹⁵ Howard M. Wasserman, Academic Feeder Judges: Are Clerkships the Key to Academia?, 105 Judicature 1, <https://judicature.duke.edu/articles/academic-feeder-judges-are-clerkships-the-key-to-academia/> (Spring 2021).

¹⁶ State of Connecticut Judicial Branch, Law Clerk Application Information, <https://www.jud.ct.gov/external/supapp/lawclerkapps.html> (viewed March 9, 2022).

¹⁷ State of Connecticut Judicial Branch, Temporary Assistant Clerk I, <https://www.jud.ct.gov/external/news/jobs/TAC.htm> (viewed March 9, 2022).

CONCLUSION

Despite the impact that judges' professional backgrounds have on their decisions on the bench, little attention has been paid to the professional diversity of Connecticut's courts. This report adds to the existing literature showing that judges' professional backgrounds influence their opinions. As shown above, renters appearing before former legal aid, plaintiffs' litigation, general practice and Attorney General's office attorneys fare better in eviction cases than they do before other judges such as former prosecutors and corporate attorneys. Given the overrepresentation of former prosecutors and corporate attorneys in Connecticut's courts, renters can expect to face eviction more often and get fewer opportunities to remain in their homes. By committing to appoint more judges with pro-people backgrounds and providing increased opportunities for public interest-minded law students to pursue clerkships and other opportunities that could someday support their own nominations, this disparity could be addressed to the benefit of our residents. For a truly representative bench that will protect the interests of all who appear before them, the state must commit to ensuring professional diversity and greater representation of pro-people judges.

The background features a series of parallel diagonal stripes in various shades of gray and black, creating a sense of depth and movement. Interspersed among these stripes are thin, vibrant gold lines that add a touch of elegance and contrast. The overall aesthetic is modern and professional.

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