

---

---

## BOOK REVIEW

### SPIRALING: EVICTIONS AND OTHER CAUSES AND CONSEQUENCES OF HOUSING INSTABILITY

EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY. By Matthew Desmond. New York, N.Y.: Crown Publishers. 2016. Pp. xi, 418. \$28.00.

*Reviewed by Vicki Been and Leila Bozorg\**

#### INTRODUCTION

Our discussions about the nation's housing affordability crisis usually begin with challenges in the market: the population of renters is increasing in metropolitan areas across the United States, the supply of rental housing is not keeping pace, and the supply that does exist is increasingly priced out of reach for the typical renter. Changes in income have lagged behind increases in rent, leaving many low-income renters severely rent burdened (paying more than 50% of household income on rent).<sup>1</sup> Just as we speak of the causes of the crisis in market terms, our policy responses too focus on market interventions. On the supply side, government agencies (federal, state, and local) provide subsidies and tax relief to encourage the private market to develop and rehabilitate affordable housing units.<sup>2</sup> On the demand side, rental subsidies allow tenants to pay only 30% of their income toward rent,

---

\* Commissioner, New York City Department of Housing Preservation and Development, on leave from New York University School of Law; Chief of Staff, Housing Preservation and Development. We would like to thank Professor Matthew Desmond, along with Dinsiri Fikru, Laurie LoPrimo, Deborah Rand, and Eva Trimble for their thoughtful suggestions about this Book Review.

<sup>1</sup> INGRID GOULD ELLEN & BRIAN KARFUNKEL, NYU FURMAN CTR./CAPITAL ONE NAT'L AFFORDABLE RENTAL HOUS. LANDSCAPE, RENTING IN AMERICA'S LARGEST METROPOLITAN AREAS 22 (2016), [http://furmancenter.org/files/NYU\\_Furman\\_Center\\_Capital\\_One\\_National\\_Affordable\\_Rental\\_Housing\\_Landscape\\_2016\\_9JUNE2016.pdf](http://furmancenter.org/files/NYU_Furman_Center_Capital_One_National_Affordable_Rental_Housing_Landscape_2016_9JUNE2016.pdf) [<https://perma.cc/37JN-4QZE>]. This report studied the eleven largest metropolitan areas in the United States (Atlanta, Boston, Chicago, Dallas, Houston, Los Angeles, Miami, New York City, Philadelphia, San Francisco, and Washington, D.C.) between 2006 and 2014, and found that in all eleven areas the renter population grew faster than the stock of rental units, *id.* at 6; that the median gross rent rose in ten of the eleven areas, in both central cities and surrounding suburbs, *id.* at 5; that seven out of the eleven areas became less affordable to the typical renter, *id.* at 16; that in 2014 one-quarter of all renters in seven metro areas nationwide were severely rent burdened, *id.* at 21; and that a vast majority of low-income renters were severely rent burdened, *id.* at 22.

<sup>2</sup> See, e.g., ALEX F. SCHWARTZ, HOUSING POLICY IN THE UNITED STATES 6–8 (2d ed. 2010).

---

---

with the government subsidizing the difference between the tenant contribution and the approved rent.<sup>3</sup>

In *Evicted*, Professor Matthew Desmond offers an alternative narrative, in which the complexities and path dependence of how housing instability occurs and is reinforced limit low-income households' access to housing, separate and apart from the dynamics of housing supply. A sociologist, Desmond takes readers into eight tenant-landlord relationships that together reveal the complicated landscape confronted by low-income individuals and families looking to find, and keep, stable housing that they can afford. In so doing, Desmond forces us to step outside the typical market-based policy framework and consider the ways in which housing policy responds — or doesn't — to the messy, chaotic, and heart-breaking experiences low-income tenants face in searching for a home, choosing a neighborhood, and trying to hold on to their housing.

Many of the realities to which *Evicted* exposes readers are findings and phenomena that researchers have examined and debated over the past decade.<sup>4</sup> The stories Desmond so artfully recounts, in and of themselves, are not necessarily surprising to anyone who follows the literature on mobility, housing policy, or the effects (neighborhood and individual) of concentrated poverty. But by explaining these phenomena through the individual narratives of both tenants and landlords, focusing on the relationships between them, and taking us into the overwhelming stress, trauma, and paralyzing struggles these low-income residents faced as they searched for housing, Desmond is able to shed new light on the causes and consequences of housing instability. His revelations are incredibly important today, as we consider how

---

<sup>3</sup> The 30% rule is a conventionally used rule of thumb in public policy for the amount of income that a family can spend on housing and still have sufficient funds for nondiscretionary spending. See MARY SCHWARTZ & ELLEN WILSON, U.S. DEP'T OF COMMERCE, WHO CAN AFFORD TO LIVE IN A HOME?: A LOOK AT DATA FROM THE 2006 AMERICAN COMMUNITY SURVEY 1–2, <https://www.census.gov/housing/census/publications/who-can-afford.pdf> [<https://perma.cc/6JVV-ZECQ>], for a discussion on how this rule of thumb evolved within housing policy.

<sup>4</sup> Much of that literature is cited in this Book Review, but especially important contributions include: MARTHA M. GALVEZ, WHAT WORKS COLLABORATIVE, WHAT DO WE KNOW ABOUT HOUSING CHOICE VOUCHER PROGRAM LOCATION OUTCOMES? A REVIEW OF RECENT LITERATURE 9–14 (2010), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412218-What-Do-We-Know-About-Housing-Choice-Voucher-Program-Location-Outcomes-.PDF> [<https://perma.cc/S7KH-V458>]; MARGERY AUSTIN TURNER ET AL., URBAN INST., HELPING POOR FAMILIES GAIN AND SUSTAIN ACCESS TO HIGH-OPPORTUNITY NEIGHBORHOODS (2011), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412455-Helping-Poor-Families-Gain-and-Sustain-Access-to-High-Opportunity-Neighborhoods.PDF> [<https://perma.cc/C74Q-U3SN>]; Stefanie DeLuca et al., *Segregating Shelter: How Housing Policies Shape the Residential Locations of Low-Income Minority Families*, 647 ANNALS AM. ACAD. POL. & SOC. SCI. 268 (2013).

---

---

best to reach and assist low-income individuals and families through different forms of housing assistance. These contributions are particularly relevant to new policies that attempt to address the mobility constraints of low-income families but do not account for the actual experience low-income households have in finding and holding on to better housing in less poor neighborhoods. Desmond helps us understand these limitations while also pinpointing opportunities for further reform.

This Book Review will proceed in three parts. Part I will describe the contributions Desmond's study makes to our understanding of the market that poor families face when they try to find an apartment, the complex relationships with landlords that affect how those families maintain or lose their apartments, and the consequences of housing instability for individuals and families. Part II will discuss how certain well-intended interventions — for example, the Department of Housing and Urban Development's (HUD) final rule on Small Area Fair Market Rents (SAFMRs)<sup>5</sup> — ignore, or provide insufficient solutions to, the problems Desmond reveals. Finally, Part III will argue that Desmond's work points the way to better housing policy and will propose granular, attainable reforms to policies and practices that should be reexamined in light of Desmond's (and others') findings about the struggles families face in finding and staying in better housing and more nurturing neighborhoods.

### I. A VICIOUS AND MULTIFARIOUS SPIRAL

Despite what his title suggests, “evictions” are not the only causes of housing instability (or the only barrier to housing stability) that Desmond helps untangle. Housing instability is not just about the lack of funds to make the rent.<sup>6</sup> For most of his subjects, housing instability is a byproduct of multiple other misfortunes. For example, Lamar is a Navy vet who developed a drug habit that lost him his job; he ended up alone and unconscious in an abandoned home one winter, eventually losing his legs to frostbite. We meet him as a disabled father, unable to work and without sufficient income to consistently meet rent and pay for basic necessities, even though he is on several forms of public assistance (none of which cover rental payments specifically).

---

<sup>5</sup> Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs, 81 Fed. Reg. 80,567 (Nov. 16, 2016) (to be codified at 24 C.F.R. pts. 888, 982, 983 & 985) [hereinafter SAFMR Rulemaking].

<sup>6</sup> See Brendan O'Flaherty, *Homelessness as Bad Luck: Implications for Research and Policy*, in HOW TO HOUSE THE HOMELESS 143, 143 (Ingrid Gould Ellen & Brendan O'Flaherty eds., 2010).

In another instance, we see that part of Arleen's instability is caused by relationships that left her with five children, but we also learn that instability was part of her life well before those relationships — her mother gave birth to her at sixteen, her father left soon after, and she experienced sexual violence as a child. The father of four of her children leaves her, and she is ultimately able to regain custody of only two of her children (the others remain in the foster care system). On the other hand, Scott has more stable beginnings but loses all of his belongings and his certification to work as a nurse as a result of a drug addiction. Once his license is revoked, he is stuck in a cycle of financial and emotional instability, which reinforces his drug use. Finally, Crystal's instability started the moment she was born (prematurely, after her mother was stabbed eleven times, and survived), and continues through a violent childhood that leaves her, at the age of nineteen, with multiple invisible psychological disorders, including "Bipolar Disorder, Posttraumatic Stress Disorder, Reactive Attachment Disorder, Borderline Intellectual Functioning, Neglect of a Child, Sexual Abuse of a Child as Victim, and Emerging Personality Disorder Dynamics with Borderline Features" (pp. 213–14).

Through Desmond's storytelling, we see how this instability — and the complex web in which it traps his subjects — affects decisionmaking such that everyday variables carry different weight than a rational calculation might otherwise produce. When Doreen and Patrice owe back rent to their landlord, that fact weighs into their calculation of whether to call the landlord when the toilet stops working. They don't call, and the problems in the apartment persist and then worsen, affecting the family's physical and psychological health. Scott gains the willpower to bring himself to a rehab clinic, but when he can't get in due to space constraints, he walks out and goes on a multiday "bender," sending him back into his cycle of dependency and instability. Ned takes two days off from work to help extended family members move while he, his partner, and their five children are living in a hotel and in the process of searching for a home; as a result, he loses his part-time job and the little income they were all dependent on. Some of these decisions have more severe consequences than others, but often they result in worse outcomes, digging their subjects deeper into their individual quagmires. As Desmond explains it, they "live[] with so many compounded limitations that it [i]s difficult to imagine the amount of good behavior or self-control that would allow them to lift themselves out of poverty" (p. 219). What Desmond's stories also make clear is how expensive living within these quagmires becomes. Arleen loses everything she owns multiple times, and has to rebuild essentials with each move, costing her time, money, and energy.

Desmond also shows us how varied the barriers are that low-income families face as they try to find housing. Most prominent through his narratives is how challenging it is for his subjects to find an apartment given the number of “red flags” on their records. Screening criteria — particularly those that consider credit history, eviction history, and conviction history — mean a rejection in most situations. Vanetta and Crystal contact seventy-three places before finding a landlord “desperate [enough]” to ignore past convictions and evictions, but that leaves them in an apartment with a clogged sink, no stove, and no refrigerator (p. 261). They then have to spend even more time and money to remedy those problems. Arleen is turned away repeatedly due to her credit history. In addition to the barriers that are written into screening criteria, Desmond reminds us of invisible barriers as well: multiple individuals have trouble finding apartments that accept their family size, or are shunned when landlords learn of their children. Similarly, we see the complete frankness with which potential landlords speak to two of Desmond’s white subjects, Pam and Ned, about the landlords’ desire to avoid renting to blacks. We learn how Ned, despite a long record of evictions, felony convictions, and misdemeanor charges, is able to find a new apartment within a week when he visits apartments alone with two of his five children. “People like single dads,” he boasts to his girlfriend, who had previously called thirty-eight apartments and was able to schedule viewings for only two (pp. 236, 239).

The Fair Housing Act of 1968<sup>7</sup> (FHA) forbids discrimination in housing on the basis of race or gender, but the multitude of barriers Desmond’s families face makes it difficult to prove discrimination, particularly when landlords can rely on credit and background checks to deny admittance. Desmond’s compelling narrative about the complexities of the apartment search makes the mere fact that some of these practices are likely illegal feel completely irrelevant: it is difficult

---

<sup>7</sup> 42 U.S.C. §§ 3601–3619 (2012). The Fair Housing Act prohibits discrimination in the sale, rental, or financing of dwellings and in other housing-related activities on the basis of race, color, religion, sex, disability, familial status, or national origin. *Id.* It was first passed in 1968 at a time when racial discrimination was a regular practice in the housing industry, both within government policies that treated whites and minorities differently, *see, e.g.*, SCHWARTZ, *supra* note 2, at 277–78, and through private practices popularized by the real estate and finance industries, including deed restrictions that prohibited sale to certain populations, race-restrictive covenants, block-busting, and redlining, *see generally* Kevin Fox Gotham, *Urban Space, Restrictive Covenants and the Origins of Racial Residential Segregation in a US City, 1900–50*, 24 INT’L J. URB. & REGIONAL RES. 616, 617 (2000). These public and private practices spatially reorganized populations while providing greater access to wealth and opportunities to white families. *See, e.g.*, IRA KATZNELSON, WHEN AFFIRMATIVE ACTION WAS WHITE: AN UNTOLD HISTORY OF RACIAL INEQUALITY IN TWENTIETH-CENTURY AMERICA (2005); Manuel Pastor, Jr., *Geography and Opportunity*, in 1 AMERICAN BECOMING: RACIAL TRENDS AND THEIR CONSEQUENCES 435 (Neil J. Smelser, William Julius Wilson & Faith Mitchell eds., 2001).

to imagine any one of these individuals seeking legal assistance to protect themselves from potentially illegal practices during or after their housing search. (As Desmond describes in his Epilogue, there is no right to counsel in civil cases, unlike in criminal cases, and civil “[l]egal aid to the poor has been steadily diminishing since the Reagan years and was decimated during the Great Recession” (p. 303). We also know that lawyers are prohibitively expensive for most tenants,<sup>8</sup> and that as a result, in many housing courts 90% of landlords are represented while 90% of tenants are not (p. 303). The point is not that tenants don’t realize that a lawyer can in theory be helpful, but rather that the idea that they might be able to obtain the assistance of one might seem, all too accurately, like a distant fantasy.)

These barriers leave his subjects with few choices and cause them to settle for substandard housing in many cases. Desmond’s recounting of the searches his subjects go through shows us just how far his subjects are from making the kinds of informed, calculated decisions that many policies expect families to make (for example, to choose housing near good schools for their children, or near appropriate health services or transportation). The quality of a neighborhood is hardly on their minds, even when they want to prioritize their children’s well-being, because the real issue is whether they can secure a place that they can afford, and that will accept them.

While Desmond shines a bright light on these challenges and barriers, he also reports the coping strategies and the ingenuity that these crises bring out in his subjects. Through Arleen and Crystal, as well as through Scott and Teddy, Desmond illustrates a “popular strategy” that poor people employ to get by: they “[find] ways to ask for and offer help” (p. 161). But while we witness the ways in which they rely on each other for short-term help in certain moments, the relationships — the accounts of which Desmond admits he views skeptically (p. 368 n.4)<sup>9</sup> — provide more harm than good in the long term. Trisha ends up with eight people living with her in a one-bedroom apartment after she takes her boyfriend, his parents, and his sister, along with Arleen and Arleen’s two boys, into her home (pp. 288–89). Crystal and Arleen’s decision to cohabit until Arleen can find a new place leaves both more vulnerable to their landlord’s erratic behavior (pp. 160–66, 186–89). In fact, both of Desmond’s subject landlords inconsistently

---

<sup>8</sup> See DEBORAH L. RHODE, ACCESS TO JUSTICE 3–38 (2004); Gillian K. Hadfield, *The Price of Law: How the Market for Lawyers Distorts the Justice System*, 98 MICH. L. REV. 953, 954 (2000).

<sup>9</sup> Desmond states: “Oftentimes, depending on their mood, their accounts of social ties and support varied widely from one day to the next. I came to view these accounts skeptically, interpreting them as a kind of data in their own right but not as accurate evaluations of people’s social relationships” (p. 368 n.4).

enforce their leases: they turn a blind eye to many behaviors and actions, including late payment of rent (pp. 30, 36, 189), and even go so far as to enter into informal agreements with their tenants, but when it most serves their interests, they swiftly enforce provisions. This unpredictability leaves tenants even more vulnerable than they already were: Lamar, for example, relies on an informal agreement with Sherrena that he will get a discount on rent if he paints an apartment, but once he does the work, Sherrena claims to be dissatisfied and adds to Lamar's fear of being evicted (pp. 134–37).<sup>10</sup>

Desmond's subjects also expose how often government interventions, even if well intentioned, can reinforce instability. When pressed about her spending habits, Lorraine explains how Supplemental Security Income program rules that cap her savings account at \$2000 discourage her from saving at all (p. 217). She has to spend multiple days getting to the right appointment to reinstate her food stamp benefits after an eviction: she is told to reschedule because she didn't have the right paperwork, but at her follow-up appointment the benefit is reinstated without the paperwork (pp. 216–17). Lorraine was unemployed at the time, so as far as we know her time in the waiting room did not come at a significant opportunity cost, but the fact that Ned lost his job for taking two days off to help his family suggests the challenges such bureaucratic procedures present for a working individual (p. 227).

Desmond's most compelling illustration of government policies creating unintended consequences is within the chapter titled "A Nuisance" (p. 186), which relates how Crystal calls 911 to report escalating domestic violence in the apartment above her (p. 187). The police intervene and remove the violent boyfriend from the apartment but then threaten to subject the landlord, Sherrena, to nuisance fines and require her to come up with a plan to "abate the nuisance activities" (p. 188). They even threaten to throw the landlord in jail if she doesn't provide an acceptable plan and pay the fines she might incur as a result (p. 188). The police department then rejects Sherrena's plan to warn the tenants that they would have to leave "[i]f these problems continue," but accepts her resubmitted plan to abate the nuisance by evicting the family experiencing domestic violence (p. 188). The police also encourage Sherrena to take action against Crystal, who called in the "nuisance," and Arleen, Crystal's unapproved housemate (pp. 188–89). An attempt to help a neighbor by calling 911 thus made Crystal increasingly vulnerable to eviction. Further, Desmond's re-

---

<sup>10</sup> Desmond states: "When the plumbing broke, the roof leaked, or rooms needed painting, savvy inner-city landlords did not phone plumbers, roofers, or painters. They relied on two desperate and on-hand labor pools: tenants themselves and jobless men" (p. 136).

---

---

search into the Milwaukee Police Department's nuisance citations reveals that the incident was part of a systemic practice that puts poor tenants at risk of eviction when they enlist the police to help with problems that plague poor communities, but are hardly limited to those communities (p. 191).<sup>11</sup> Indeed, as Desmond notes: "In the vast majority of cases (83 percent), landlords who received a nuisance citation for domestic violence responded by either evicting the tenants or by threatening to evict them for future police calls" (p. 191).

Finally, Desmond sheds light on the fragile relationship between the enforcement of local housing maintenance codes and the inspection requirements of housing assistance programs. He shows the perverse impacts those rules and their interaction have on the stability of tenants' housing. Arleen and her kids have to move out of her "favorite place" (p. 2), after she calls the city to help manage a maintenance issue that her landlord won't address, because the inspectors find the building in such disrepair that they issue a vacate order (p. 235). The city's action was intended to protect her, and yet it leaves her back on the street searching for suitable housing for her family. Sherrena, one of Desmond's subject landlords, prefers not to rent to tenants who hold a Housing Choice Voucher from the federal government because of the program's higher inspection standards (p. 147). Given the conditions that many of Sherrena's tenants had to endure, and her inconsistent attention to the physical distress of her buildings, it's comforting to know that publicly assisted households are protected from such negligence. But Desmond's narrative also leaves the reader worried that the families "protected" against substandard conditions will end up in even worse situations — in overcrowded facilities, homeless, stuck in abusive relationships, or otherwise unstably housed. It also raises the specter that differing standards result in tiers of acceptable habitability within the same city.

Desmond's attention to such questions and to the complexity of finding and keeping a stable home while poor is a valuable contribution to policymaking. He also exposes the limitations of the FHA and tenants' rights such as the implied warranty of habitability (which requires landlords to keep their property "habitable" in exchange for rent)<sup>12</sup> to secure lasting protections and enable housing stability. In so doing, Desmond makes a compelling case that understanding the nuances of this complexity is critical to designing the right policy interventions to achieve greater housing stability for the poor.

---

<sup>11</sup> The author summarizes research from Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, 78 AM. SOC. REV. 117 (2012).

<sup>12</sup> See generally David A. Super, *The Rise and Fall of the Implied Warranty of Habitability*, 99 CALIF. L. REV. 389 (2011).

Desmond's Epilogue focuses on two very big-picture solutions to housing instability: publicly funded legal services for low-income families in housing court (pp. 303–05) and a universal housing voucher program for all income-eligible households (pp. 303–13). Those proposed solutions have been advanced, argued, and largely rejected or ignored for many years, but *Evicted* brings new urgency to the debate by showing the pervasiveness of evictions in the lives of low-income tenants, and by documenting the spiral that evictions cause. Some jurisdictions are beginning to adopt the reforms Desmond suggests. New York City, for example, has dedicated \$57 million since 2014 to provide legal services to low-income tenants in danger of losing their homes to eviction or displacement by harassment (with an additional \$62 million dedicated for 2017). Legal representation of tenants in housing court increased from 1% in 2013 to 27% in 2016, and residential evictions by city marshals declined by 24% in 2015 (compared to 2013).<sup>13</sup> In addition, New York City is providing voucher-like rental assistance to help prevent homelessness and credits those programs for keeping thousands of people in their homes and moving the homeless into permanent residences.<sup>14</sup> *Evicted* can only help to spur similar major initiatives to prevent housing instability.

But Desmond's contribution is deeper. By showing the complexity of housing instability and the interconnectedness of the causes and consequences of that instability, Desmond challenges us to focus on fine-grained, detailed reforms that could help ensure greater stability. Those reforms would be necessary even if legal services for tenants and universal vouchers were funded tomorrow. But given that funding for such programs is not likely to be increased in the near future, the reforms are all the more important because they are attainable even in today's budgetary and ideological gridlock.

## II. LESSONS FOR CURRENT DEBATES

Desmond challenges us to incorporate into policy the realities about how tenants search for, and struggle to maintain, better housing and safer neighborhoods with good schools, transit, and job opportunities. His challenge is particularly important today because there are a number of policy initiatives underway that may either not work as intend-

---

<sup>13</sup> See N.Y.C. OFFICE OF CIVIL JUSTICE, N.Y.C. DEP'T OF SOC. SERVS., 2016 ANNUAL REPORT 1–2 (2016), [https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ%202016%20Annual%20Report%20FINAL\\_08\\_29\\_2016.pdf](https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ%202016%20Annual%20Report%20FINAL_08_29_2016.pdf) [https://perma.cc/F7G6-9FUB].

<sup>14</sup> Press Release, Office of the Mayor of the City of N.Y., Mayor de Blasio Announces More than 40,000 New Yorkers Exited or Avoided Shelter and Moved to Permanent Housing Through City's Rental Assistance Programs (Aug. 10, 2016), <http://www1.nyc.gov/office-of-the-mayor/news/662-16/mayor-de-blasio-more-40-000-new-yorkers-exited-avoided-shelter-moved-to> [https://perma.cc/VXJ5-8Y6C].

ed, or worse, work counter to their goals, if their underlying assumptions about tenant behavior turn out to be wrong. The most current and significant example is HUD's final rule on SAFMRs.<sup>15</sup>

Under HUD's rule, fair market rents — the standard HUD uses to determine how much rent is appropriate for the privately owned house or apartment a recipient of a federal Housing Choice Voucher (HCV)<sup>16</sup> chooses to rent<sup>17</sup> — will no longer be set on a metropolitan-wide basis.<sup>18</sup> Instead, for twenty-four metropolitan areas (and others that may

<sup>15</sup> SAFMR Rulemaking, *supra* note 5.

<sup>16</sup> For an explanation of Housing Choice Vouchers, see U.S. Dep't of Hous. & Urban Dev., *Tenant Based Vouchers*, HUD.GOV, [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/hcv/tenant](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/tenant) [<https://perma.cc/W87F-DYDB>]. Households receive vouchers by applying to a local Public Housing Agency (PHA). The household's income may not exceed 50% of the area median income (AMI), 42 U.S.C. §§ 1437a(b)(2), 1437f(o)(4) (2012 & Supp. II 2014), but 75% of the households who receive vouchers have incomes that are 30% of AMI or less, *id.* § 1437n(b)(1). Extremely low-income families are defined as very low-income families whose incomes do not exceed the higher of the federal poverty level or 30% of AMI, 42 U.S.C. § 1437a(b)(2)(C) (Supp. II 2014). In fact, about 95% of the households using HCVs make less than 30% of AMI. See Office of Policy Dev. & Research, U.S. Dep't of Hous. & Urban Dev., *Picture of Subsidized Households*, HUD USER, <https://www.huduser.gov/portal/datasets/picture/yearlydata.html> [<https://perma.cc/7EU8-E56P>]. Because Congress has limited funding for vouchers, many PHAs have voucher waiting lists that are long or closed. See M. Kathleen Moore, *Lists and Lotteries: Rationing in the Housing Choice Voucher Program*, 26 HOUSING POL'Y DEBATE 474, 474 (2016); NAT'L LOW INCOME HOUS. COAL., *A LOOK AT WAITING LISTS: WHAT CAN WE LEARN FROM THE HUD APPROVED ANNUAL PLANS?* (2004). Nationally, only about one in four eligible households actually receives any form of federal rental assistance. CONG. BUDGET OFFICE, *FEDERAL HOUSING ASSISTANCE FOR LOW-INCOME HOUSEHOLDS 12* (2015), <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/50782-LowIncomeHousing-OneColumn.pdf> [<https://perma.cc/Q6NB-WC6F>]. About 2.2 million households across the country have housing choice vouchers. See U.S. DEP'T OF HOUS. & URBAN DEV., *PUBLIC AND INDIAN HOUSING TENANT-BASED RENTAL ASSISTANCE 6-3* (2016), [http://portal.hud.gov/hudportal/documents/huddoc?id=6-Tenant-Based\\_Rent\\_Assist.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=6-Tenant-Based_Rent_Assist.pdf) [<https://perma.cc/WL2J-4AAB>].

<sup>17</sup> Fair market rents are set by HUD at the 40th or 50th percentile of the rent distribution for standard-quality rental units within the area. 24 C.F.R. § 888.113 (2016). In addition, rents paid through the voucher program must be determined to be "reasonable." 24 C.F.R. § 982.507 (2016).

<sup>18</sup> As HUD explains:

In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities. . . . [T]he FMR is the basis for determining the "payment standard amount" used to calculate the maximum monthly subsidy for a voucher household (see [24 C.F.R.] § 982.503). PHAs may establish payment standards between 90 and 110 percent of the FMR. [Voucher] program households receive a housing assistance payment equal to the lower of the gross rent or the difference between the payment standard established by the PHAs and the family's Total Tenant Payment (TTP), which is generally 30 percent of the household's adjusted monthly income. Participants in the voucher program can choose to live in units with gross rents higher than the payment standard, but would be required to pay the full cost of the difference between the gross rent and the payment standard, in addition to their TTP.

SAFMR Rulemaking, *supra* note 5, at 80,569 (footnote omitted).

opt in to the program)<sup>19</sup> they will be set for each individual ZIP code, which will allow the payments to be “*higher in low poverty/high rent areas, and lower in high poverty/low rent areas.*”<sup>20</sup> As HUD explains, that will “establish[] a more effective means for HCV tenants to move into areas of higher opportunity and lower poverty by providing the tenants with a subsidy adequate to make such areas accessible and, consequently, help reduce the number of voucher families that reside in areas of high poverty concentration.”<sup>21</sup>

The SAFMR rule grew out of a demonstration project HUD launched in 2012, which tested SAFMRs in five metro areas that had agreed to participate in the project (Cook County, Illinois; the cities of Long Beach, California; Chattanooga, Tennessee; and Laredo, Texas; and the town of Mamaroneck, New York),<sup>22</sup> and in Dallas, Texas, where participation was mandated as part of a settlement of fair housing litigation.<sup>23</sup> The evaluation of the demonstration project has not yet been completed or published,<sup>24</sup> but evidence from Dallas suggests that tenants who have chosen to move since the implementation of Small Area FMRs have “exited the lowest-quality neighborhoods

---

<sup>19</sup> The metropolitan areas were selected by a set of criteria designed to identify those areas “where voucher holders are more likely than renters in general to be highly concentrated in areas of high poverty or relatively low income, and in which there is significant variability in rents (to ensure that SAFMRs are likely to be effective in providing choice).” U.S. Dep’t of Hous. & Urban Dev., *HUD’s Proposed Rule on Small Area Fair Market Rents* (2016), <https://www.huduser.gov/portal/datasets/fmr/fmr2016p/SAFMR-OnePage-Summary.pdf> [<https://perma.cc/2PCK-D8TQ>]; see also SAFMR Rulemaking, *supra* note 5, at 80,568–69. For access to the scoring of metropolitan areas under the formula, see Office of Policy Dev. & Research, U.S. Dep’t of Hous. & Urban Dev., *Small Area Fair Market Rents*, HUD USER, <https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html> [<https://perma.cc/6UEA-TTKM>]; and Small Area Fair Market Rent in Housing Choice Voucher Program Values for Selection Criteria and Metropolitan Areas Subject to Small Area Fair Market Rents, 81 Fed. Reg. 80,678 (Nov. 16, 2016).

<sup>20</sup> U.S. Dep’t of Hous. & Urban Dev., *HUD’s Proposed Rule on Small Area Fair Market Rents*, *supra* note 19.

<sup>21</sup> SAFMR Rulemaking, *supra* note 5, at 80,567.

<sup>22</sup> Final Fair Market Rents for the Housing Choice Voucher Program for Small Area Fair Market Rent Demonstration Program Participants; Fiscal Year 2013, 77 Fed. Reg. 69,651, 69,652 (Nov. 20, 2012).

<sup>23</sup> Proposed Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2011, 75 Fed. Reg. 46,958 (Aug. 4, 2010).

<sup>24</sup> SAFMR Rulemaking, *supra* note 5, at 80,570. Such an evaluation was solicited by HUD. See OFFICE OF POLICY DEV. & RESEARCH, U.S. DEP’T OF HOUS. & URBAN DEV., RESEARCH AND EVALUATION, DEMONSTRATIONS, AND DATA ANALYSIS AND UTILIZATION 8 (2015), <http://portal.hud.gov/hudportal/documents/huddoc?id=2014reddaunofa.pdf> [<https://perma.cc/7UCB-VH4V>]. But see Peter B. Kahn & Geoffrey B. Newton, *The Small Area FMR Demonstration*, 15 CITYSCAPE, no. 1, 2013, at 325, 327 (stating that the evaluation would be conducted by HUD itself).

in the inner city, moving further south and east to better neighborhoods.”<sup>25</sup>

HUD’s goals are laudatory, to be sure. Too many households that secure housing through HCVs continue to live in areas of concentrated poverty,<sup>26</sup> and minority households with vouchers “rarely escape disadvantaged, segregated neighborhoods, and are no more likely to enter low-poverty communities than poor renters who do not receive housing assistance.”<sup>27</sup> HUD seeks to encourage households to move out of disadvantaged neighborhoods and into neighborhoods with less poverty, which often provide better schools, jobs, transit access, and other opportunities. The advantages of doing so have been documented most recently by Professor Raj Chetty and his colleagues, who have shown that moving to a more advantaged neighborhood before the age of thirteen increases college attendance and lifetime earnings, and reduces the propensity to be a single parent.<sup>28</sup> Similarly, Professor Eric Chyn finds that children forced to relocate because their public housing was being demolished moved to neighborhoods with lower poverty and less violent crime than did a control group of public housing residents who were not displaced, and saw significant improvements in employment and earnings.<sup>29</sup>

<sup>25</sup> Robert A. Collinson & Peter Ganong, *The Incidence of Housing Voucher Generosity* 15 (June 30, 2016) (unpublished manuscript), <http://ssrn.com/abstract=2255799> [<https://perma.cc/W6TA-J25E>].

<sup>26</sup> See Kirk McClure et al., *Housing Choice Voucher Location Patterns a Decade Later*, 25 HOUSING POL’Y DEBATE 215, 224 (2015) (finding that in 2010, about 10% of all HCV households lived in neighborhoods with poverty greater than 40%, but that the percentage has grown since 2000, and about 80% of HCV households are located in tracts with more than 10% poverty). An examination of voucher holders in the fifty most populated metro areas found that voucher holders are more “economically and racially segregated than an extremely low-income comparison group.” Molly W. Metzger, *The Reconcentration of Poverty: Patterns of Housing Voucher Use, 2000 to 2008*, 24 HOUSING POL’Y DEBATE 544, 544 (2014). Locational outcomes of HCV households are worse for African Americans than non-Hispanic white voucher holders. See Victoria Basolo & Mai Thi Nguyen, *Does Mobility Matter? The Neighborhood Conditions of Housing Voucher Holders by Race and Ethnicity*, 16 HOUSING POL’Y DEBATE 297, 314 (2005). But see GALVEZ, *supra* note 4, at 5; Deven Carlson et al., *Long-Term Effects of Public Low-Income Housing Vouchers on Neighborhood Quality and Household Composition*, 21 J. HOUSING ECON. 101, 116 (2012) (observing that four years after receipt, voucher holders live in census block groups with a significantly greater percentage of sixteen- to nineteen-year-olds in school, a lower poverty rate, and a lower unemployment rate, relative to the matched comparison cases).

<sup>27</sup> DeLuca et al., *supra* note 4, at 270.

<sup>28</sup> Raj Chetty et al., *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment*, 106 AM. ECON. REV. 855, 857 (2016). Recent summaries of the literature on neighborhood effects include, for example, DeLuca et al., *supra* note 4, at 271–72; Ingrid Gould Ellen & Margery Austin Turner, *Do Neighborhoods Matter and Why?*, in CHOOSING A BETTER LIFE? EVALUATING THE MOVING TO OPPORTUNITY EXPERIMENT 313 (John Goering & Judith D. Feins eds., 2003).

<sup>29</sup> Eric Chyn, *Moved to Opportunity: The Long-Run Effect of Public Housing Demolition on Labor Market Outcomes of Children* (July 1, 2016) (unpublished manuscript), <https://appam.confex.com/appam/2016/webprogram/Paper16616.html> [<https://perma.cc/AWD5-C33Z>]. Similar-

HUD recognizes that tenant and landlord behavior will determine whether SAFMRs achieve the goal of deconcentrating poverty and allowing voucher holders to move to areas of lower poverty and higher opportunity. Indeed, the rulemaking noted that “if there are barriers to households moving to areas of higher opportunity beyond housing costs, such as transportation expenses or social factors, assisted households might be worse off if they can no longer afford their current units in their neighborhoods” after the allocated subsidy decreases for such neighborhoods under the plan.<sup>30</sup> While the final rule provides several measures to give localities some flexibility in administering the program to mitigate those effects, it does little to account for the lived experience and actual barriers that low-income households face in finding and staying in suitable rental housing.<sup>31</sup>

Desmond’s case studies suggest that those barriers, and the complexity of their interaction, may render the hope that SAFMRs will enable voucher holders to move to lower-poverty and higher-opportunity neighborhoods unrealistic for many households, especially in cities facing a shortage of affordable housing in such neighborhoods. His work is a powerful call for attention to the barriers, beyond the cost of housing, that low-income households face in finding, choosing, and staying in housing. His analysis makes it imperative for policy-makers to do more to address those barriers, rather than simply noting that they may exist.

There are many reasons that movers would find it difficult to find better neighborhoods in their moves. First, their search often will be limited to neighborhoods they already know.<sup>32</sup> Most low-income households move nearby when they move within the same metropolitan area.<sup>33</sup> Voucher holders may not broaden their search for a num-

---

ly, other research shows that the more time a child spends in a high-poverty neighborhood, the less likely the child is to finish high school. Kyle Crowder & Scott J. South, *Spatial and Temporal Dimensions of Neighborhood Effects on High School Graduation*, 40 SOC. SCI. RES. 87, 102–03 (2011).

<sup>30</sup> SAFMR Rulemaking, *supra* note 5, at 80,569.

<sup>31</sup> *Id.* at 80,568.

<sup>32</sup> While not voucher holders, many of Desmond’s characters end up in neighborhoods they know, as well: when Ned and Pam get kicked out of the trailer park, they move in with a friend in “a nearby apartment complex” (p. 228). Lorraine, too, was only interested in “looking for a new place to live in the streets surrounding her church. It was the centerpiece of her life; it might as well be the centerpiece of her housing search too” (p. 223).

<sup>33</sup> One study found that 21% of Section 8 voucher holders used their vouchers to stay in the homes they were in before receiving the voucher. MERYL FINKEL & LARRY BURON, OFFICE OF POLICY DEV. & RESEARCH, U.S. DEP’T OF HOUS. & URBAN DEV., STUDY ON SECTION 8 VOUCHER SUCCESS RATES, at iii (2001), <https://www.huduser.gov/publications/pdf/sec8success.pdf> [<https://perma.cc/NVV2-WY6P>]; see also Carlson et al., *supra* note 26, at 108 (finding 58% of voucher holders in Wisconsin study moved within a year of receiving voucher, and 77% moved within four years). Additionally, most evidence suggests that voucher holders remain near where they lived before they received a voucher. GALVEZ, *supra* note 4, at 4–5; Claudia Coulton et al.,

ber of reasons: they worry about being able to use the voucher within the time the PHA allots;<sup>34</sup> their transportation options are limited;<sup>35</sup> or they cannot take time off from work or other obligations for a wider search.<sup>36</sup>

Moreover, getting information about housing and neighborhoods is difficult. Many voucher holders do not have easy access to the internet, at least for laptop or desktop connections that make comparing data about different neighborhoods easier.<sup>37</sup> Brokers or others who could aid in the search are expensive, unavailable, motivated to place people as quickly as possible in order to maximize their revenues, or inclined to serve the interests of the landlords with whom they will

---

*Residential Mobility and Neighborhood Change: Real Neighborhoods Under the Microscope*, 14 CITYSCAPE, no. 3, 2012, at 55, 69–70.

<sup>34</sup> PHAs are required to provide at least sixty days for the household to find a house or apartment to rent with the voucher. 24 C.F.R. § 982.303 (2016). Units must pass HUD’s housing quality standards. See 42 U.S.C. § 1437f(0)(8)(A)–(C) (2012). PHAs in low-vacancy jurisdictions often give longer times, and have fairly flexible policies about extending those times, but even so, many households lose their vouchers. See, e.g., Letter from N.Y.C. Dep’t Hous. & Urban Dev. to U.S. Dep’t Hous. & Urban Dev. (Aug. 15, 2016), <https://www.regulations.gov/document?D=HUD-2016-0063-0078> [<https://perma.cc/S3QU-H7Q8>] (commenting on HUD’s Proposed Rule on Small Area Fair Market Rents and reporting that in New York City, “approximately one in four households looking for housing lose their voucher because their search term has expired . . . despite the fact that [the City’s PHAs] provide a minimum of 120 days to search and have generous extension policies”). But many PHAs are not prone to give extensions. DeLuca et al., *supra* note 4, at 278. That inflexibility, combined with the fact that receiving a voucher often comes as an unexpected lightning bolt out of the sky, can create a fair amount of panic among households receiving vouchers as they start to search for an apartment or house. *Id.* at 277–78.

<sup>35</sup> Desmond describes the problems Pam faced without a car (p. 51). See also Laura Carrillo et al., *Housing Decisions Among Low-Income Hispanic Households in Chicago*, 18 CITYSCAPE, no. 2, 2016, at 109, 125 (describing case studies showing the difficulty of searching without a car, and the special problems that undocumented households face because driving for undocumented individuals is a “risky proposition”); Rolf Pendall et al., *Driving to Opportunities: Voucher Users, Cars, and Movement to Sustainable Neighborhoods*, 17 CITYSCAPE, no. 2, 2015, at 57 (exploring the connection between access to autos and neighborhood quality of voucher holders); Peter Rosenblatt & Stefanie DeLuca, “*We Don’t Live Outside, We Live in Here*”: *Neighborhood and Residential Mobility Decisions Among Low-Income Families*, 11 CITY & COMMUNITY 254, 264 (2012) (reporting that many participants in HUD’s Moving to Opportunity experiment said that limited access to public transportation made moving to and staying in areas with less poverty difficult).

<sup>36</sup> In 2010, three-fourths of voucher holders who were not elderly or disabled either worked or participated in programs with work requirements. BARBARA SARD & THYRIA ALVAREZ-SÁNCHEZ, CTR. ON BUDGET & POLICY PRIORITIES, LARGE MAJORITY OF HOUSING VOUCHER RECIPIENTS WORK, ARE ELDERLY, OR HAVE DISABILITIES (2011), <http://www.cbpp.org/research/large-majority-of-housing-voucher-recipients-work-are-elderly-or-have-disabilities> [<https://perma.cc/H49Y-SBEV>]. About 49% of voucher holders are elderly or have disabilities. *Id.*

<sup>37</sup> As of 2013, only 48% of households making less than \$25,000 had internet in their homes. THOM FILE & CAMILLE RYAN, U.S. DEP’T OF COMMERCE, COMPUTER AND INTERNET USE IN THE UNITED STATES: 2013 (2014), <https://www.census.gov/history/pdf/2013computeruse.pdf> [<https://perma.cc/63DW-VQFC>].

have repeated interactions.<sup>38</sup> Voucher holders therefore tend to rely on their social networks (which are often tied to their current neighborhood or other areas nearby) for information about housing.<sup>39</sup>

While some PHAs match voucher recipients with case managers at the beginning of the leasing process, case managers have a range of responsibilities, from interviewing new and continuing participants for eligibility and counseling participants about housing and financial concerns while maintaining and verifying participant records and documents, to negotiating housing assistance contracts with private landlords.<sup>40</sup> Given these responsibilities, case managers have limited time and energy to focus on a new participant's complicated housing needs or to provide the robust level of assistance that a household experiencing multiple stress points may require in order to find appropriate housing.<sup>41</sup> Further, case managers often do not have access to relevant information that sister agencies who work with the family may have already gathered from the family because privacy concerns and administrative difficulties often prevent agencies from sharing data or information about a household.<sup>42</sup>

In practice, the assistance that case managers provide can be as slim as providing a household with a list of landlords who have a practice of leasing to voucher holders. But such lists are often of limited value: they focus only on landlords already renting to voucher holders, rather than provide help in finding homes in neighborhoods where voucher holders are not already clustered. PHAs fear that they will face liability or lose participating landlords if they provide what could be viewed as qualitative ratings. Online sources are helpful in providing extensive information about the unit, as well as neighbor-

---

<sup>38</sup> See, e.g., Susan Sered & Miriam Boeri, *The Housing Market Is Rigged Against the Poor and Homeless*, BUS. INSIDER (Jan. 26, 2016, 9:02 PM), <http://www.businessinsider.com/housing-voucher-system-unfair-to-homeless-2016-1> [<https://perma.cc/Y72L-H53K>].

<sup>39</sup> See, e.g., Carrillo et al., *supra* note 35, at 128; DeLuca et al., *supra* note 4, at 276–81; Rachel Garshick Kleit & Martha Galvez, *The Location Choices of Public Housing Residents Displaced by Redevelopment: Market Constraints, Personal Preferences, or Social Information?*, 33 J. URB. AFF. 375, 381–82 (2011).

<sup>40</sup> PHAs have wide discretionary authority to establish policies and procedures to implement their HCV program. Some provide case managers; others do not. See generally DEBORAH J. DEVINE ET AL., U.S. DEP'T OF HOUS. & URBAN DEV., *THE USES OF DISCRETIONARY AUTHORITY IN THE TENANT-BASED SECTION 8 PROGRAM* (2000), <https://www.huduser.gov/portal/Publications/pdf/sec8da.pdf> [<https://perma.cc/E8AD-QEAW>].

<sup>41</sup> DeLuca et al., *supra* note 4, at 281. Nor are PHAs provided much incentive to devote resources to helping voucher holders find better neighborhoods. *Id.*

<sup>42</sup> See, e.g., CORP. FOR SUPPORTIVE HOUS., *IMPROVING COMMUNITY-WIDE TARGETING OF SUPPORTIVE HOUSING TO END CHRONIC HOMELESSNESS: THE PROMISE OF COORDINATED ASSESSMENT 5–6* (2015), [http://www.csh.org/wp-content/uploads/2015/01/TargetingSHthroughCA\\_Jan15.pdf](http://www.csh.org/wp-content/uploads/2015/01/TargetingSHthroughCA_Jan15.pdf) [<https://perma.cc/E8PD-9VAY>] (discussing the need for information sharing across agencies to address homelessness, and the barriers to information sharing).

hood information to help users focus on neighborhood quality, but their listings often are dated and limited.<sup>43</sup>

Second, both *Evicted* and other research show that low-income tenants generally, and vouchered households specifically, often move in response to emergencies, such as evictions, utility cutoffs, or housing conditions that render the home uninhabitable or ineligible for voucher payments.<sup>44</sup> In an emergency, the problems that households face in searching for suitable and affordable housing are magnified by the urgency of having to locate another housing option to avoid turning to the shelter or the street.<sup>45</sup> We see this sense of urgency play out repeatedly in *Evicted*, but especially for Arleen, who in one of the final moves that we are witness to, agrees to vacate a relatively new apartment (which she found after a prior eviction) rather than go through the eviction process her landlord threatens her with.<sup>46</sup> Feeling hopeless about her options when told she has less than a week to leave, she moves with her two sons into Trisha's one-bedroom apartment, which begins to "buckle under the weight of eight people" (p. 289).

Third, many low-income households are tied to their current neighborhood by social networks, childcare arrangements, family ties, relationships with providers of medical care, and other connections.<sup>47</sup>

---

<sup>43</sup> When one of the authors plugged in her ZIP code to GoSection8.com to find apartments in her neighborhood, for example, only one listing came up; it was more than 7.5 miles from the ZIP code she entered, and the listing was from 2013.

<sup>44</sup> "Poor families were often compelled to accept substandard housing in the harried aftermath of eviction" (p. 69). The author also describes how after an eviction that followed a failed building inspection, the Hinkstons decided that "anyplace . . . was better than the street or a shelter" so took an apartment they "hated" (pp. 68–69). See also Carrillo et al., *supra* note 35, at 111; DeLuca et al., *supra* note 4, at 281–84.

<sup>45</sup> A family that makes a hurried choice in an emergency of course may later make a better-informed move. The evidence about whether they do so is mixed. See Michael D. Eriksen & Amanda Ross, *The Impact of Housing Vouchers on Mobility and Neighborhood Attributes*, 41 REAL EST. ECON. 255 (2013) (noting that data from the Welfare-to-Work Voucher experiment shows that while voucher holders initially moved to neighborhoods very similar in terms of poverty rates to their original communities, they tended to move to lower-poverty neighborhoods after a few quarters in the program); Judith D. Feins & Rhiannon Patterson, *Geographic Mobility in the Housing Choice Voucher Program: A Study of Families Entering the Program, 1995–2002*, 8 CITYSCAPE, no. 2, 2005, at 21 (concluding that after the initial lease is up, some households do better on subsequent moves).

<sup>46</sup> The landlord arguably would not have succeeded in an eviction proceeding given the specific circumstances. Jori, Arleen's son, kicked a teacher in the shin and ran home after she "snapped" at him. The teacher called the police, who followed him home. When the landlord heard about the incident, he called Arleen and offered a deal: "If she left by Sunday, he'd return her rent and security deposit; if she didn't, he would keep her money and evict her" (p. 287).

<sup>47</sup> Moving can disrupt low-income households' support networks, childcare arrangements, healthcare relationships, children's schooling, and other activities, even if their current housing and neighborhoods are objectively less than ideal. See, e.g., Lynne C. Manzo et al., "Moving Three Times Is Like Having Your House on Fire Once": *The Experience of Place and Impending Displacement Among Public Housing Residents*, 45 URB. STUD. 1855 (2008). Moves are particularly disruptive for children. For reviews of the literature, see generally Sara Anderson et al., *Res-*

While they might be able to make other (and perhaps better) arrangements in a new neighborhood, the prospect is daunting for many households, especially those stretched by financial and emotional challenges. They may also be trapped in their current neighborhoods by de facto segregation. Take the experience of Crystal and Vanetta, who — at the beginning of their housing search together — want to escape Milwaukee’s predominantly poor and African American North Side, but after they are turned away from over fifty apartments elsewhere (mostly on the basis of previous arrests and eviction histories), their search returns to the North Side (pp. 242–54).

Further, even if voucher households are able to, and choose to, cast a wider net to higher-opportunity neighborhoods, identifying neighborhoods that provide the opportunities they most care about is not easy. For families with children, the quality of the schools is likely to be paramount. Research on neighborhood effects shows how critical neighborhood and school quality is to a child’s future — in terms of future earnings, probability of attending college, and probability of having a two-parent household.<sup>48</sup> Yet schools near households with vouchers “have *lower* performing students than the schools near other poor households without a housing subsidy.”<sup>49</sup>

Recent research by Professors Ingrid Ellen, Keren Horn, and Amy Ellen Schwartz trying to unpack the reasons for this phenomenon sheds light on some of the difficulties households face. Their research, which focuses on the moves of households whose oldest child is reaching school age, shows that “[t]he only voucher holders who move to

---

*idental Mobility Among Children: A Framework for Child and Family Policy*, 16 CITYSCAPE, no. 1, 2014, at 5; Rebekah Levine Coley et al., *Relations Between Housing Characteristics and the Well-Being of Low-Income Children and Adolescents*, 49 DEVELOPMENTAL PSYCHOL. 1775 (2013); Janette E. Herbers et al., *Early Reading Skills and Academic Achievement Trajectories of Students Facing Poverty, Homelessness, and High Residential Mobility*, 41 EDUC. RESEARCHER 366 (2012); Edward Scanlon & Kevin Devine, *Residential Mobility and Youth Well-Being: Research, Policy, and Practice Issues*, J. SOC. & SOC. WELFARE, Mar. 2001, at 119; and Adam Voight et al., *The Longitudinal Effects of Residential Mobility on the Academic Achievement of Urban Elementary and Middle School Students*, 41 EDUC. RESEARCHER 385 (2012).

<sup>48</sup> See generally Chetty et al., *supra* note 28. For helpful reviews of the literature about the relationship between housing, neighborhoods, and schools, see Julia Burdick-Will et al., *Converging Evidence for Neighborhood Effects on Children’s Test Scores: An Experimental, Quasi-Experimental, and Observational Comparison*, in *WHITHER OPPORTUNITY? RISING INEQUALITY, SCHOOLS, AND CHILDREN’S LIFE CHANCES* 255 (Greg J. Duncan & Richard J. Murnane eds., 2011); MARY K. CUNNINGHAM & GRAHAM MACDONALD, *HOUSING AS A PLATFORM FOR IMPROVING EDUCATION OUTCOMES AMONG LOW-INCOME CHILDREN* (2012), <http://www.urban.org/publications/412554.html> [<https://perma.cc/RWD2-AYF9>]; and MEGAN GALLAGHER ET AL., *MOVING TO EDUCATIONAL OPPORTUNITY: A HOUSING DEMONSTRATION TO IMPROVE SCHOOL OUTCOMES* (2013), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412972-Moving-to-Educational-Opportunity-A-Housing-Demonstration-to-Improve-School-Outcomes.PDF> [<https://perma.cc/T5W-STSP>].

<sup>49</sup> Keren Mertens Horn et al., *Do Housing Choice Voucher Holders Live Near Good Schools?*, 23 J. HOUSING ECON. 28, 28 (2013).

better schools are those who have better schools nearby.”<sup>50</sup> Further, whether voucher households move to homes near better schools does not depend upon how much better that school is, which is not what a rational actor model would predict.<sup>51</sup> Those findings may signal that the families lack information about how to assess school quality, especially when better schools are farther from their current neighborhood.<sup>52</sup>

Households often have multiple needs, and finding a home in a neighborhood that meets all (or even most) of those needs will also be difficult.<sup>53</sup> Voucher holders often report that safety is their paramount concern.<sup>54</sup> But neighborhoods with good schools are not always those with low crime rates. Similarly, households with children often must balance the quality of the schools against the parents’ access to employment and educational opportunities, or to medical care or other needs. But many neighborhoods with good schools offer poor public transportation options.<sup>55</sup> Families also will have to weigh school quali-

<sup>50</sup> Ingrid Gould Ellen et al., *Why Don't Housing Choice Voucher Recipients Live Near Better Schools? Insights from Big Data*, 35 J. POL'Y ANALYSIS & MGMT. 884, 902 (2016); see also Patrick Denice & Betheny Gross, *Choice, Preferences, and Constraints: Evidence from Public School Applications in Denver*, 89 SOC. EDUC. 300 (2016) (exploring the importance of proximity in parents' choice of schools).

<sup>51</sup> Ellen et al., *supra* note 50, at 897, 899 tbl.5.

<sup>52</sup> *Id.* at 897; see also Barbara F. Condliffe et al., *Stuck in School: How Social Context Shapes School Choice for Inner-City Students*, 117 TEACHERS C. REC. 1, 21–22 (2015); Anna Rhodes & Stefanie DeLuca, *Residential Mobility and School Choice Among Poor Families*, in CHOOSING HOMES, CHOOSING SCHOOLS 137, 138 (Annette Lareau & Kimberly Goyette eds., 2014); Brett Theodos et al., *Getting to Better Performing Schools: The Role of Residential Mobility in School Attainment in Low-Income Neighborhoods*, 16 CITYSCAPE 61, 79 (2014).

<sup>53</sup> Voucher holders often find that the amount of the voucher will not allow them to get both the housing characteristics and the neighborhood characteristics they want, so they have to make tradeoffs. See, e.g., Michael C. Lens, *Safe, But Could Be Safer: Why Do HCVP Households Live in Higher Crime Neighborhoods?*, 15 CITYSCAPE 131, 134, 144–45 (2013) (noting that voucher rents don't allow voucher holders to locate in lower-crime neighborhoods); Michelle Wood et al., *Housing Affordability and Family Well-Being: Results from the Housing Voucher Evaluation*, 19 HOUSING POL'Y DEBATE 367, 384–87, 394–95 (2008) (discussing the tradeoff between housing characteristics and neighborhood quality, noting especially that households may choose to use vouchers to reduce overcrowding and form independent households, or to escape from abuse, at the expense of neighborhood quality); see also TURNER ET AL., *supra* note 4, at 2–3 (showing the overlap, and lack thereof, in census tracts that meet various definitions of neighborhood quality, and concluding that “[n]eighborhoods that offer access to one dimension of opportunity do not necessarily offer access to others, and families may have to sacrifice some dimensions of opportunity to access others,” *id.* at 2).

<sup>54</sup> See, e.g., Rosenblatt & DeLuca, *supra* note 35, at 266–67.

<sup>55</sup> See Dolores Acevedo-Garcia et al., *Neighborhood Opportunity and Location Affordability for Low-Income Renter Families*, 26 HOUSING POL'Y DEBATE 607, 624 (2016) (“[W]hen considering housing and transportation costs combined, low-income families do face a tradeoff between location affordability and opportunity and are often limited to lower opportunity neighborhoods.”); Erin Graves, *Rooms for Improvement: A Qualitative Metasynthesis of the Housing Choice Voucher Program*, 26 HOUSING POL'Y DEBATE 346, 352 (2016) (discussing tradeoffs involved in neighborhood quality versus transportation access); see also VICKI BEEN ET AL., UR-

ty or other opportunities against housing characteristics, especially when the housing available in neighborhoods with good schools will leave the family overcrowded, with the stress that crowding can cause. For example, Doreen Hinkston's two-bedroom apartment was overcrowded with family members, including four children and three grandchildren; nobody in the household slept well, which impacted school attendance and attention (pp. 64–65). By the end of Desmond's book we learn that they move to a bigger house in Brownsville, Tennessee, once another child is born in the household, and the effects on their lives are profound (pp. 294–95).

Of course, timing matters as well. While school quality, for example, may be paramount to households with children, there is no guarantee that a family will receive a voucher, or find an apartment in which to use that voucher, in time to move before their first child reaches school age. If the household receives its voucher or makes a move after its first child enters school, the family will then have to balance the advantages a neighborhood with better schools will provide against the disadvantages of moving a child from his or her current school.<sup>56</sup>

Further, even if a household with a voucher is able to search for housing in higher-opportunity neighborhoods, and is able to identify which neighborhoods provide the better opportunities the household values most, the household will face many challenges in renting a home in that neighborhood. First, many landlords will not accept vouchers because they believe that a vouchered household is not likely to be as good a tenant, they don't want the hassle of the bureaucratic procedures vouchers involve (as witnessed with Sherrena in *Evicted*), they fear payment delays or other inefficiencies in the program, or for other reasons.<sup>57</sup> Only twelve states and the District of Columbia, as

---

BAN INST., BUILDING ENVIRONMENTALLY SUSTAINABLE COMMUNITIES (2010), <http://www.urban.org/research/publication/building-environmentally-sustainable-communities.PDF> [<https://perma.cc/SU9U-2CAE>] (showing that neighborhoods with good transit access do not tend to have much overlap with neighborhoods that score well on other measures of opportunity). For evidence of the importance of car ownership or access to transit has for the probability of employment, see, for example, Evelyn Blumenberg & Gregory Pierce, *A Driving Factor in Mobility? Transportation's Role in Connecting Subsidized Housing and Employment Outcomes in the Moving to Opportunity (MTO) Program*, 80 J. AM. PLAN. ASS'N 52 (2014).

<sup>56</sup> Ellen et al., *supra* note 50, at 902.

<sup>57</sup> See, e.g., Laura Bacon, Note, *Godinez v. Sullivan-Lackey: Creating a Meaningful Choice for Housing Choice Voucher Holders*, 55 DEPAUL L. REV. 1273 (2006); Tamica H. Daniel, Note, *Bringing Real Choice to the Housing Choice Voucher Program: Addressing Voucher Discrimination Under the Federal Fair Housing Act*, 98 GEO. L.J. 769 (2010); Kim Johnson-Spratt, Note, *Housing Discrimination and Source of Income: A Tenant's Losing Battle*, 32 IND. L. REV. 457 (1999); Rebecca Tracy Rotem, Note, *Using Disparate Impact Analysis in Fair Housing Act Claims: Landlord Withdrawal from the Section 8 Voucher Program*, 78 FORDHAM L. REV. 1971 (2010). But see Krista Sterken, *A Different Type of Housing Crisis: Allocating Costs Fairly and*

well as fifty-one localities, have enacted legislation preventing discrimination against renters with vouchers or recipients of income from social welfare programs, and such laws are difficult and costly to enforce.<sup>58</sup> Of course, although prohibited, discrimination against people of color, large families, people with disabilities, and other disadvantaged groups also limits households' access to homes in higher-opportunity neighborhoods.<sup>59</sup> Second, even if a landlord is willing to accept the household and the voucher, low-income households often have eviction records, poor credit histories, or involvement with the criminal justice system that will give the landlord acceptable reasons for rejecting the tenant.<sup>60</sup> Desmond highlights the role that eviction history and other housing court involvement records play in preventing households from successfully renting an apartment. Almost all of the households Desmond follows faced difficulties in renting apartments because of eviction histories. Hundreds of businesses across the United States sell data about tenants who have been involved in housing court actions (either as defendants in cases involving rent due or holdovers, or as plaintiffs or counterclaimants alleging that the landlord has failed to provide a habitable unit or has harassed the tenant or otherwise failed to respect the tenant's rights). Landlords then use that information to screen prospective tenants, often rejecting those

---

*Encouraging Landlord Participation in Section 8*, 43 COLUM. J.L. & SOC. PROBS. 215 (2009) (arguing that mandating participation in the voucher program is likely to be inefficient because forcing jurisdictions to work to attract landlords to the voucher programs will make the programs more burdensome).

<sup>58</sup> See POVERTY & RACE RESEARCH ACTION COUNCIL, EXPANDING CHOICE: PRACTICAL STRATEGIES FOR BUILDING A SUCCESSFUL HOUSING MOBILITY PROGRAM, APPENDIX B: STATE, LOCAL, AND FEDERAL LAWS BARRING SOURCE-OF-INCOME DISCRIMINATION (2016), <http://www.prrac.org/pdf/AppendixB.pdf> [<https://perma.cc/4UQ5-U8GV>].

<sup>59</sup> For the most recent surveys of the literature on the role of discrimination in limiting housing choice, see Sun Jung Oh & John Yinger, *What Have We Learned from Paired Testing in Housing Markets?*, 17 CITYSCAPE 15 (2015). For evidence that voucher holders face racial discrimination in their searches, see, for example, Basolo & Nguyen, *supra* note 26; Graves, *supra* note 55, at 352–53; Rolf Pendall, *Why Voucher and Certificate Users Live in Distressed Neighborhoods*, 11 HOUSING POL'Y DEBATE 881, 884–85 (2000) (when voucher households are mostly black and more satisfactory neighborhoods are mostly white, voucher households are much more likely to live in distressed neighborhoods); SUSAN J. POPKIN & MARY K. CUNNINGHAM, URBAN INST., SEARCHING FOR RENTAL HOUSING WITH SECTION 8 IN THE CHICAGO REGION 43–44 (2000), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/410314-Searching-for-Rental-Housing-with-Section-in-Chicago-Region.PDF> [<https://perma.cc/B62E-N5F5>].

<sup>60</sup> Marah A. Curtis et al., *Alcohol, Drug, and Criminal History Restrictions in Public Housing*, 15 CITYSCAPE 37 (2013) (criminal justice involvement); Graves, *supra* note 55, at 354 (credit record). HUD recently issued a guidance document regarding use of criminal justice involvement that may help to reduce the barriers that arrests and other criminal justice history pose to voucher holders. U.S. DEP'T OF HOUS. & URBAN DEV., GUIDANCE FOR PUBLIC HOUSING AGENCIES (PHAS) AND OWNERS OF FEDERALLY-ASSISTED HOUSING ON EXCLUDING THE USE OF ARREST RECORDS IN HOUSING DECISIONS (2015), <https://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf> [<https://perma.cc/GG4H-5ZWU>].

who have been to housing court. Tenants have little recourse, even though the records are often filled with errors and fail to distinguish between tenants who lost the case and those who won.<sup>61</sup>

Third, even if the household has none of those disqualifiers, landlords often demand security deposits, first and last months' rent, and other financial guarantees that voucher households are unlikely to be able to provide.<sup>62</sup> Fourth, many of the apartments households find with vouchers turn out to fail the required housing quality inspections.<sup>63</sup>

Finally, even if a household manages to search for, find, and obtain suitable housing in higher-opportunity neighborhoods, many households will be unable to remain in the housing over time. In the Baltimore Moving to Opportunity program, for example, "the improvements in neighborhood poverty level that experimental mover families saw at the time of their first move were not maintained over time for the majority of the group."<sup>64</sup> In higher-opportunity neighborhoods, actual market rents may increase faster than HUD's FMRs, so that the landlord will either evict the voucher holders in order to rent to a household willing and able to pay more, or the voucher holder's share of the rent will increase, making the tenant especially vulnerable to default on the rent. Many voucher holders' incomes fluctuate widely, and those fluctuations seem to put tenants at higher risk of missing rent payments and suffering evictions.<sup>65</sup> Voucher holders experience difficulties with the quality of the housing and report that landlords fail to make needed repairs, eventually forcing them to leave their apartments.<sup>66</sup> Others lose their homes as owners sell their buildings or reclaim the apartment (often because the neighborhood is changing and owners can secure higher rent).<sup>67</sup> In addition, as voucher holders' families grow, or as their children get older and need more privacy,

---

<sup>61</sup> Kim Barker & Jessica Silver-Greenberg, *On Tenant Blacklist, Errors and Renters with Little Recourse*, N.Y. TIMES (Aug. 16, 2016), [http://www.nytimes.com/2016/08/17/nyregion/new-york-housing-tenant-blacklist.html? \[https://perma.cc/W26M-FFZW\]](http://www.nytimes.com/2016/08/17/nyregion/new-york-housing-tenant-blacklist.html? [https://perma.cc/W26M-FFZW]) ("Prospective landlords in New York City, as well as across the country, use the list to weed out risky tenants. But housing lawyers say the list is filled with errors and includes tenants who won their cases or legally withheld rent because of horrible living conditions. Once tenants end up on the list, renting an apartment can be impossible.").

<sup>62</sup> Graves, *supra* note 55, at 354; TURNER ET AL., *supra* note 4, at 8.

<sup>63</sup> DeLuca et al., *supra* note 4, at 281–84.

<sup>64</sup> Rosenblatt & DeLuca, *supra* note 35, at 274.

<sup>65</sup> Daniel Brisson & Jennifer Covert, *Housing Instability Risk Among Subsidized Housing Recipients: Characteristics Associated with Late or Nonpayment of Rent*, 39 SOC. WORK RES. 119, 126 (2015).

<sup>66</sup> Rosenblatt & DeLuca, *supra* note 35, at 267, 274.

<sup>67</sup> *Id.* at 267.

they sometimes decide to leave the neighborhood in order to find the additional space that they need.<sup>68</sup>

In sum, as Desmond's case studies so vividly confirm, the barriers that low-income households face in finding, choosing, and staying in suitable rental housing, much less suitable rental housing in higher-opportunity neighborhoods, are many, and are interconnected in complex ways. Policies that seek to encourage mobility, such as HUD's SAFMR rule, must account for, and do much more to help to resolve, those constraints, in order to achieve their goals.<sup>69</sup>

### III. MAPPING BETTER INTERVENTIONS

Reforms to reduce the barriers that Desmond so powerfully documents as limiting the ability of low-income households to secure better and more stable housing are urgent. Close analysis of the case studies Desmond presents, along with the broader literature from which he draws, suggests the following changes (and no doubt many more) should be a priority for HUD and PHAs across the country, as well as for other federal, state, and local legislatures.

#### *A. Making Rental Assistance Easier to Use and Reducing Barriers to Renting*

Rental assistance can be unusable by the families lucky enough to receive a voucher. And as discussed above, even those who are able to find housing with vouchers still face daunting challenges in using the voucher for housing in neighborhoods outside of high-poverty areas. Several reforms can help make vouchers easier to use and more effective in helping families move out of areas of concentrated poverty. First, localities should adopt (and stringently enforce) laws that prohibit source-of-income discrimination. Those laws can help ensure that households cannot be kept out of neighborhoods solely on account of their use of government assistance. Federal mobility initiatives like the SAFMR policy should be paired with incentives for jurisdictions to adopt such prohibitions.

Second, PHAs should be rewarded for helping voucher holders use their vouchers to obtain better housing in higher-opportunity neighborhoods. Currently, PHAs' allocation of voucher funding depends upon their use of vouchers in the prior year, which encourages PHAs

---

<sup>68</sup> *Id.* at 270–71.

<sup>69</sup> *See, e.g.,* TURNER ET AL., *supra* note 4, at 12 (“Although MTO enabled families to escape from the most severely distressed neighborhoods, very few enjoyed sustained access to high-opportunity neighborhoods, despite the provision of targeted vouchers and one-on-one mobility counseling. Helping very low income families find, afford, and retain housing in high-opportunity neighborhoods requires more help than anticipated.”).

to limit search times to ensure that vouchers are leased up quickly. Basing the allocation also on the number and geographic dispersion of landlords renting to voucher holders, as well as on the success voucher holders have in using the vouchers to move to higher-opportunity neighborhoods, would encourage PHAs to invest in building relationships with a wider range of landlords and to invest in mobility and other programs to help voucher holders use their rental assistance most effectively. At minimum, PHAs should provide longer search times for households making good faith efforts to find housing, especially in areas with low vacancy rates.<sup>70</sup> Rather than have the announcement that the family has received a voucher come out of the blue, PHAs should give advance notice that a household is near the top of the waiting list for a voucher, so that the household will have sufficient lead time to prepare for the search and to begin to identify the neighborhoods in which they would most like to live.<sup>71</sup>

Restrictions that impede the use of vouchers should also be modified or mitigated. Prohibitions on using voucher funds for security deposits, for example, should be removed,<sup>72</sup> and jurisdictions should be allowed to use federal funds to help voucher holders with security deposits or other upfront expenses.<sup>73</sup> Rules that require quality inspections of each unit that will be used by voucher holders should be modified where the entire building has been renovated or is newly constructed.<sup>74</sup>

The repeated findings of disparities in the access that racial and ethnic minorities, people with disabilities, and households with children face in using their vouchers make clear that enforcement of the Fair Housing Act must also be strengthened. HUD has issued guidelines about the use of criminal justice involvement in landlords' screening of applicants recently,<sup>75</sup> but it should issue similar guidelines about their use of credit records and housing court histories. Finally, housing court records that become tenant "blacklists" should be subject to the same accuracy checks and opportunities to correct that now apply to credit ratings.

---

<sup>70</sup> DeLuca et al., *supra* note 4, at 289.

<sup>71</sup> *See id.* at 288–89.

<sup>72</sup> Graves, *supra* note 55, at 354.

<sup>73</sup> *See* TURNER ET AL., *supra* note 4, at 10–11 (suggesting that voucher holders be given help with "up-front fees and deposits").

<sup>74</sup> For more information about Housing Quality Standards, see 24 C.F.R. § 982.401–.406 (2016); and HOUSING CHOICE VOUCHER PROGRAM GUIDEBOOK, CHAPTER 10 (2001), [https://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_11754.pdf](https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11754.pdf) [<https://perma.cc/CC4C-CM83>].

<sup>75</sup> *See supra* note 60 and accompanying text. But note that 42 U.S.C. § 1437d(l)(6) (2012) allows tenants to be evicted for drug-related or violent crimes.

### *B. Helping Households Choose Better Neighborhoods*

Mobility counseling must be made more robust, to help voucher holders sort through their various needs and values, identify neighborhoods that might meet those needs, and find landlords with available units who are ready and willing to accept the voucher. Because we know very little about what helps families make these decisions, experiments to find the most useful way to present information to help households choose neighborhoods that have better schools (for example) should be tested.<sup>76</sup>

Mobility counseling also needs to be expanded to include financial empowerment services: helping families put aside the money needed for the move (moving costs, security deposits, expenses of outfitting a different unit, etc.), working with them to repair credit records, and putting the documents they will need to secure and use the voucher in order.<sup>77</sup> This type of preparation is incredibly time intensive, and putting this information together may be a substantial barrier for some households. PHAs should be incentivized to share data about families across agencies, to reduce the difficulty voucher holders and case managers have in compiling the voucher holders' application files and keeping them current.

Because research shows the critical importance of moving children early in their lives to higher-opportunity neighborhoods and into better schools, special consideration should be given to the needs of families with children. PHA wait lists could give priority to households with children approaching school age, so that households can choose schools when they first seek to use their voucher and avoid disruptive moves once the child has started school. Or, because households with children need to move during the summer months to avoid disruption in school, those households could be prioritized to receive vouchers in time to move during the summer. HUD should fund, and PHAs should offer, counseling to help families navigate the school system and select the best school for their children (and then to help the family find housing near the school they prefer).

Even absent mobility counseling, PHAs should be encouraged to provide more robust listing services, specialized brokerage services, and other assistance to voucher holders looking for suitable apart-

---

<sup>76</sup> HUD has begun to make progress on this front, partnering with nonprofit GreatSchools' initiative to provide voucher holders with information about schools. See Press Release, U.S. Dep't of Hous. & Urban Dev., HUD, GreatSchools Team Up to Give Public Housing, Voucher Families Tools to Make Informed School Choices (Dec. 6, 2011), [https://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2011/HUDNo.11-285](https://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2011/HUDNo.11-285) [<https://perma.cc/Q396-7D37>].

<sup>77</sup> See NYC DEP'T OF HOUS. PRES. & DEV. & NYC DEP'T OF CONSUMER AFFAIRS, IMPROVING ACCESS TO AFFORDABLE HOUSING OPPORTUNITIES (2016).

ments or houses. While quality rankings of landlords are fraught with problems for local governments, providing data about housing code violations, eviction practices, and complaints about landlords, for example, can spur technological aids for voucher holders similar to what some entrepreneurs are providing to tenants in general. As noted above, incentives to PHAs can be accomplished by basing annual allocations on a PHA's success in helping voucher holders reach higher-opportunity neighborhoods. HUD could also do more to test alternative approaches and recommend best practices to PHAs.

*C. Preventing Evictions and Other Involuntary  
Moves and Mitigating Their Effects*

The fact that so many moves are precipitated by poor housing quality suggests that better access to legal services, which allows tenants to take action against landlords who are not maintaining their buildings (as Desmond calls for), should be paired with increased code enforcement, and with protections for voucher holders and other tenants who file complaints. The high rate of default judgments against tenants, and the low rate at which the implied warranty of habitability is enforced, also suggest that, even if represented, tenants face considerable challenges in housing court. By shining light on some of those processes, Desmond makes clear that much more needs to be done to understand the difficulties tenants face in housing courts and to craft reforms of housing court procedures to make them more efficient and fair. Adjournments sought by landlords, for example, should be scrutinized carefully given the difficulty many tenants have in returning to court.

Similarly, localities should evaluate how local nuisance ordinances affect their most vulnerable populations and mitigate the extent to which the enforcement of nuisance ordinances results in unnecessary or unfair evictions. HUD's Office of the General Counsel recently released guidance on how the Fair Housing Act applies to the enforcement of local nuisance and crime-free housing ordinances, in order to ensure that the growing number of such ordinances does not lead to discrimination in violation of the Act.<sup>78</sup> The guidance focuses on the

---

<sup>78</sup> U.S. DEP'T OF HOUS. & URBAN DEV., OFFICE OF GENERAL COUNSEL GUIDANCE ON APPLICATION OF FAIR HOUSING ACT STANDARDS TO THE ENFORCEMENT OF LOCAL NUISANCE AND CRIME-FREE HOUSING ORDINANCES AGAINST VICTIMS OF DOMESTIC VIOLENCE, OTHER CRIME VICTIMS, AND OTHERS WHO REQUIRE POLICE OR EMERGENCY SERVICES (2016). HUD also recently issued a final rule to expand housing protections for survivors of domestic and dating violence, Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, 81 Fed. Reg. 80,724 (Nov. 16, 2016) (to be codified at scattered parts of 24 C.F.R.), and New York City recently announced a program that will provide free legal assistance to victims, to help protect their rights and housing, *City Hall, NYPD Announce Slate of Policies to Reduce Barriers to Safety Faced by Victims of Domes-*

effects such ordinances have on victims of domestic violence, but it also provides a helpful framework for localities to consider how such ordinances may increase the housing instability for low-income households more generally.

Localities should dedicate resources for emergency rental assistance programs. Such programs can provide households with short-term rental assistance that will allow them to either avoid eviction altogether or provide sufficient time for families to make a better, more informed move than they are able to make in an emergency.<sup>79</sup> HUD should consider allowing voucher funds to be used for assistance that would keep a voucher holder in place when unexpected job loss, medical expenses, or other emergencies make it impossible for the voucher holder to pay their share of the rent for some time.

Finally, while rent regulation has many critics, localities should consider whether rent stabilization, caps on annual increases, or just-cause eviction requirements could be designed to reduce evictions without introducing significant distortions in property markets. The savings to households, governments, and society secured by reducing evictions could offset the cost of such rules significantly.

#### CONCLUSION

Desmond's work no doubt will generate many more ideas for reforms. That it makes us think of old problems in new ways is the highest compliment one can pay a book like *Evicted*. It challenges us to see the experiences of low-income tenants through a much more nuanced, but also wider, lens than prior research. That lens then helps us to envision new tools to begin to tackle the multiple layers of inequality; segregation; discrimination; hard-hearted, inattentive, or even well-meaning bureaucracy; and institutional design that make the personal struggles Desmond's households face all the more difficult to overcome. Desmond painfully reminds us that "home is the center of life" (p. 293), and shows how life can spiral out of control when a roof over one's head is uncertain. He challenges us to augment old notions of supply and demand with a hard look at the difficulties we naively assume people can overcome in order to take advantage of market solutions like housing vouchers. Desmond makes clear that unless we

---

*tic Violence*, N.Y.C. (Oct. 26, 2016), <http://www1.nyc.gov/office-of-the-mayor/news/847-16/city-hall-nypd-slate-policies-reduce-barriers-safety-faced-victims-of> [<https://perma.cc/N89Y-AP7U>].

<sup>79</sup> Carrillo et al., *supra* note 35, at 130; see also MARY CUNNINGHAM ET AL., URBAN INST., A PROPOSED DEMONSTRATION OF A FLAT RENTAL SUBSIDY FOR VERY LOW INCOME HOUSEHOLDS (2014), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413031-A-Proposed-Demonstration-of-a-Flat-Rental-Subsidy-for-Very-Low-Income-Households.PDF> [<https://perma.cc/EJ9X-QY4D>] (proposing rental assistance programs in alternative to emergency assistance and housing choice vouchers).

acknowledge, and try to resolve, those barriers, we are placing false hope in the magic of the market and romanticizing the power of choice to resolve both the affordable housing crisis our low-income households increasingly face and the segregation and inequality that plague our neighborhoods.