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Designing Interdisciplinary, Early Intervention Dispute Resolution Tools to Decrease Evictions and Increase Housing Stability

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DESIGNING INTERDISCIPLINARY, EARLY INTERVENTION DISPUTE RESOLUTION TOOLS TO DECREASE EVICTIONS AND INCREASE HOUSING STABILITY

Christine Cimini [*]

ABSTRACT

This Article provides a unique glimpse into the development of an early-intervention, pre-court, interdisciplinary dispute resolution project intended to decrease evictions and increase housing stability for recipients of subsidized housing in Seattle. With a grant from the Seattle Housing Authority (SHA), a coalition of non-profit organizations had the rare opportunity to design a dispute resolution system into existence. A dispute system design team was formed and began by examining the interconnected problems of housing instability, eviction, and houselessness. Despite thorough research on dispute system design and extensive meetings with stakeholders, the deign team encountered numerous challenges. This Article identifies the design challenges specific to this project, as well as the larger systemic issue of actual fairness underlying all dispute resolution tools. Mindful of these issues, the design team created a program titled Conflict Resolution Services (CRS). CRS is rooted in six key components: consistent outreach and ongoing education; rapid response de-escalation; integration

of social services support; proximity to the conflict; development of an interdisciplinary, multicultural team; and research and assessment to create an iterative process of continuous re-design. After providing a brief overview of the preliminary qualitative and quantitative research design component of CRS, the essay concludes by explicating and contextualizing three key insights derived from the dispute system design process. First, take the time needed to engage in a thoughtful and holistic design process. Second, despite inherent challenges, engage, collaborate and rely on the expertise of other organizations. Finally, recognize and acknowledge systemic issues facing all dispute resolution systems such as power imbalance, inequality, racism, and implicit bias and seek creative solutions to overcome challenges.

INTRODUCTION

This article documents the origins and design of an early-intervention, pre-court, interdisciplinary dispute resolution project intended to decrease evictions and increase housing stability for recipients of subsidized housing in Seattle. The project began in the Fall of 2019 with students in the University of Washington School of Law Mediation Clinic ("Mediation Clinic").[1] Faculty overseeing the Mediation Clinic intentionally shifted part of the pedagogical focus of the course toward critical social justice issues in our community.[2] The unrelenting housing instability crisis for low-income individuals in Seattle demanded urgent attention[3] and the creative use of dispute resolution tools provided a possible antidote.

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1. Since the Fall of 2019, many students have contributed to the creation and design of this project. At that time, the following students were instrumental in reaching out to potential stakeholders and conceptualizing what might be possible: Ryan Giannini, Scott Gutierrez, Chris Lee, and Tommy Statkiewicz.

2. Each year in the Mediation Clinic, students select from a variety of projects designed to explore systems issues in our community related to dispute resolution. In the past, our students have drafted legislative proposals, provided legal advice memos to community dispute resolution organizations, and researched policy issues related to dispute resolution.

3. HOUSING INSECURITY IN KING COUNTY, WA AND SEATTLE-TACOMA-BELLEVUE METROPOLITAN STATISTICAL AREA: APRIL 2020-MAY 2022, PUB. HEALTH – SEATTLE & KING CNTY. ET AL., (Aug. 11, 2022), https://kingcounty.gov/depts/health/covid19/data/~/media/depts/health/comm unicable-diseases/documents/C19/report-housing-insecurity-Aug2022.ashx) (last visited Nov. 10, 2022) (finding that one in three households in King County reported being cost-burdened—spending 30% or more of their gross income on housing costs—between 2016-2020. However, the affordability crisis does not affect all residents equally. Lower-income households, residents 18-24, and Black,

Nearly two years after clinic students started exploring dispute resolution models,[4] a coalition of three organizations ("the Coalition"), including the Mediation Clinic, submitted a proposal in response to a Request for Proposals ("RFP") from the Seattle Housing Authority ("SHA") for "Mediation Services."[5] Specifically, the RFP sought, "proposals from qualified Consultants to assist SHA in providing on-call, third-party mediation services to SHA properties, Limited Partnerships ("LP") properties, and landlords that rent to SHA Housing Choice Voucher ("HCV") participants."[6] The award enabled the creation of a one-year pilot project focused on four SHA-owned-and-operated housing complexes and SHA voucher recipients renting in the private market.[7]

The language in the contract states that the overarching purpose of the project is "to ensure SHA residents, SHA property management staff, and private landlords renting to SHA HCV participants have resources to

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Indigenous and people of color ("BIPOC") are disproportionately impacted. Roughly half of Black and American Indian/Alaska Native residents reported being housing cost-burdened, compared to 30% of white residents.)

    4.   One of the first projects that Mediation Clinic students examined was the work of Roger Moss and the Conflict Intervention Service (CIS), a grant-funded project of the City and County of San Francisco in partnership with the Bar Association of San Francisco's Bay Area Mediation Services Program. For more information about CIS, see *Conflict Intervention Service (CIS): A Compassionate, Flexible, and Rapid Response Service*, BAR ASS'N S.F., https://www.sfbar.org/adr-services/cis/ [https://perma.cc/NFB9-VZZ5] (last visited Aug. 10, 2022). The program Roger designed played a critical and formative role in the development of the Seattle Housing Authority Pilot Project. I first met Roger at a Northwest Dispute Resolution Conference, prior to COVID, and his work was inspirational. Our ongoing conversations and the design of CIS were the basis of the project described in this essay. Additionally, I believe it was Roger's outreach to many in Seattle's housing community that encouraged the Seattle Housing Authority not only to issue the RFP, but to design the RFP as it ultimately did. *See Mediation Services, 5504*, SEATTLE HOUS. AUTH., https://www.seattlehousing.org/solicitations/mediation-services [https://perma.cc/GWP7-GPFC] (last visited Aug. 5, 2022) (documenting that the RFP was issued on Thursday, June 17, 2021; proposals were due on Wednesday, July 14, 2021 – 2:00pm; and the contract was awarded on Tuesday, August 17, 2021).

    5.   SEATTLE HOUS. AUTH., *supra* note 4.

    6.   *Id.*

    7.   *See* CRS Charter and Scope Document (identifying the four complexes strategically selected by the SHA as the pilot test complexes. SHA staff selected two of the larger complexes in differing geographic regions - Tricourt (located in North Seattle) and Stewart Manor (located in Southwest Seattle), a senior housing unit (Wildwood Glen), and scattered-site property in North Seattle managed by one SHA staff member. Since HCV tenants can use their subsidy in the open private market, all HCV tenants and landlords can access services during the one-year pilot project.) (on file with author). The four complexes were identified as a way to test the project in a variety of different housing contexts. SHA staff selected one senior housing unit, one large unit in the North and in the South sections of the city (given the different population make-up of each) and scattered-site units.

address conflict and lease violations to avoid evictions and prevent homelessness."[8] Specific outcomes and deliverables identified in the contract include:

> "decrease eviction filings to keep people stably housed and as a result, reduce the associated costs of eviction; provide a conflict resolution resource for residents and participants in conflict with others in the community (or a tool for neighbor-to-neighbor conflict); increase SHA staff skills in the areas of negotiation, conflict resolution and de-escalation; and increase access to helpful services for SHA staff and private landlords in addressing resident relations, lease violations, and nonpayment of rent."[9]

As a group of law faculty and students focused on dispute resolution systems design, two critical and timely pieces of legislation helped frame our discussions. In April 2021, in response to economic fallout from the COVID-19 pandemic, the Washington state legislature enacted the Eviction Resolution Pilot Program ("ERPP"), a free program designed to avoid eviction filings by having professionally trained mediators facilitate resolution of unpaid rent issues between tenants and landlords.[10] Knowing that acute community needs were being addressed through the ERPP, Mediation Clinic students and our collaborators had the benefit of time to engage in a deliberate design process.[11]

With the additional deliberative time, we could examine some of the unique features of our local system. While landlords are required to engage in the dispute resolution process prior to filing an eviction for unpaid rent,[12] the ERPP process only begins once the landlord serves the tenant a fourteen-

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8. *See* Contract 5504, Attachment A, Scope of Work (Jan. 20, 2022) (on file with author).
9. *Id.*
10. *See Eviction Resolution Pilot Project*, RESOLUTION WASH., https://www.resolutionwa.org/erpp [https://perma.cc/5ATN-K7SQ] (last visited Aug. 6, 2022) (stating that, "[t]he ERPP brings tenants and landlords together with a professionally trained, impartial mediator to help them solve rent issues before an unlawful detainer (eviction) case is filed in court.**").**
11. *See* Karen L. Tokarz et al., *Addressing the Eviction Crisis and Housing Instability Through Mediation*, 63 WASH. U. J.L. & POL'Y 243 (2020) (providing description of creative and effective dispute resolution intervention).
12. Eviction Resolution Pilot Program ("ERPP"), § 7, WASH. REV. CODE § 59.18.630 (April 2021).

day Notice to Pay or Vacate.[13] At this point, the dispute has already escalated and the landlord is seeking to evict the tenant.[14] Once an eviction case is filed, it will appear on the tenant's screening report. Typically speaking, landlords automatically deny these applicants, even if the case was ultimately dismissed or the tenant won at trial.[15] Our team's design engages further up-stream in the life of a dispute, long before the landlord posts any type of notice to terminate the tenancy. Early intervention in the dispute allows parties to address their underlying concerns before they become larger and more entrenched. And, addressing the dispute prior to any notice being filed allows the tenant to maintain a positive rental history, increasing the chance of finding alternative housing in the future.

Also in April 2021, the Washington state Governor signed into law SB 5160, making Washington state the first state to guarantee counsel for indigent tenants in eviction cases.[16] Despite the benefits of early

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13.   WASH. REV. CODE § 59.18.660(2-5) ("A landlord must secure a certification of participation with the eviction resolution program by the appropriate dispute resolution center before an unlawful detainer action for nonpayment of rent may be heard by the court."). *See also Landlord-Tenant*, OFF. ATT'Y GEN. WASH., https://www.atg.wa.gov/landlord-tenant [https://perma.cc/2LC4-AKYK] (last visited Aug. 10, 2022) (describing the ERPP notice and process).

14.   *Id.*

15.   Kathryn A. Sabbeth*, Erasing the "Scarlet E" of Eviction Records*, THE LAB (April 12, 2021) (explaining that "Any eviction filing creates a "Scarlet E" that can haunt a tenant for years. Private companies collect and sell housing court data, culling court records for names of defendants in eviction proceedings—whether they win or not—and then compiling them to profit off the tenants' misfortune. Prospective landlords will purchase the information or pay tenant-screening companies to assess prospective tenants on the basis of these records. With many landlords, a prior eviction will be a complete bar to accepting a rental housing application. Others consider it as one of several factors or use it as a basis to charge a higher deposit."). *See also* Mathew Goldstein, *The Stigma of a Scarlet E*, THE NEW YORK TIMES, Aug. 9, 2021, https://www.nytimes.com/2021/08/09/business/eviction-stigma-scarlet-e.html [https://perma.cc/FHP9-FZD8]. *See also Tenant Screening Laws in Washington*, CARETAKER (June 25, 2020), https://caretaker.com/learn/tenant-screening/washington-rental-application-laws (explaining that negative rental history is an acceptable reason to reject a rental application). *See also Eviction Essentials, Know Your Rights*, TENANTS UNION OF WASH. STATE, https://tenantsunion.org/rights/eviction-essentials [https://perma.cc/PG7H-VCCM] (last visited Aug. 8, 2022) ("Eviction filings go on your record permanently. Once the landlord files the unlawful detainer lawsuit against you with the court, you will have the eviction on your record permanently, even if you are wrongly evicted or win in court.").

16.   *See All About Washington State's Groundbreaking Eviction Right to Counsel*, NAT'L COAL. FOR A CIV. RIGHT TO COUNS., http://civilrighttocounsel.org/major_developments/1500#:~:text= Background,indigent%20tenants%20in%20eviction%20cases. [https://perma.cc/M7V8-MK4H] (last visited Aug. 6, 2022) ("In April 2021, Washington State Governor Jay Inslee signed SB 5160, which makes the state the first to guarantee counsel for indigent tenants in eviction cases. It specifies that 'Subject to the availability of amounts appropriated for this specific purpose, the court must

engagement, the program design team was worried about inevitable power imbalance issues between landlords and tenants. Legal advice and free representation alone likely will not eliminate entirely the power imbalance. However, the design team hoped to mitigate some of these risks by having lawyers available for free consultation and advice, prior to and/or during, the provision of dispute resolution services, as well as having the assurance that tenants who don't reach resolution will have access to free lawyers.

After the contract was awarded, the Coalition hosted a series of meetings with SHA staff to gain additional specificity about SHA's programmatic goals and priorities. The Coalition then worked with a wide range of stakeholders to design a program titled Conflict Resolution Services (CRS) that is rooted in six key components:[17] consistent outreach and ongoing education; rapid response de-escalation; integration of social services support; proximity to the conflict; development of an interdisciplinary, multicultural team; and research and assessment to create an iterative process of continuous re-design.[18]

This project is at its initial stages, and admittedly generalizations are challenging in this context as each community operates within its own ecosystem.[19] But several insights gleaned from the collaborative design process might be useful to others embarking on similar projects. First, an inevitable tension exists between the desire to begin the provision of services, in the face of acute need, and the desire to take time to develop a thorough design process. Finding the balance between these two will differ depending upon the context. While there is no correct answer, this limited experience suggests the preliminary conclusion that the more time used to engage in a deliberate, inclusive design process, the more sustainable and effective the design. Second, despite added complexities, the benefits of multi-organization collaboration far outweigh the many tangible challenges.

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appoint an attorney for an indigent tenant in an unlawful detainer proceeding under this chapter and chapters 59.12 and 59.20 RCW.' The bill has a flexible definition of "indigent" and routes the funds through the Office of Civil Legal Aid").

17.   These key components were modeled after the Conflict Intervention Services (CIS). For more information about CIS, see *Conflict Intervention Service*, *supra* note 4.

18.   *See* Proposal Submitted in response to RFP for Mediation Services (July 14, 2021) (on file with author).

19.   LISA BLOMGREN AMSLER ET AL., DISPUTE SYSTEM DESIGN: PREVENTING, MANAGING, AND RESOLVING CONFLICT 7 (2020) (explaining that human conflict across cultures and contexts vary and dispute design system design provides an analytic tool to create systems that address each system's unique context).

Diverse organizations bring differing perspectives, insights, experiences, and skills that are essential to an effective overall design. Finally, underlying threads of power, racism, (un)fairness, and (lack of) neutrality are part of all dispute resolution systems. It is critical to acknowledge these issues and understand their impact on dispute system design ("DSD"). By no means is this project a solution to these entrenched problems, but identifying the issues and examining their impact on the system design is critical to creatively addressing them within given constraints.

Part I of this essay begins with a brief description of the project's evolution and the interconnected problems of housing instability, eviction, and houselessness.[20] Given this context, Part II examines the project design and the challenges faced therein. After navigating design challenges, the project struggled with the larger systemic issue of actual fairness underlying all dispute resolution tools. Mindful of these issues, the collaborative team devised CRS, which is described in detail in Part III. Following a brief overview of the preliminary qualitative and quantitative research design in Part IV, this essay concludes with the key insights identified above. Hopefully this essay encourages others to experiment with, and evaluate the effectiveness of, dispute system designs in the housing context. In the end,

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20.   I use the term "houselessness" instead of the term "homeless" in order to recognize that simply because a person does not have a physical shelter in which to reside, it does not mean they don't have a "home" in other ways. I use the terms "houseless" and "unhoused" rather than "homeless" throughout this article. These terms are used by some people who do not have permanent housing; some also prefer "houseless" because "homeless" does not accurately describe their circumstances. *See* Natalie Orenstein, *Homeless? Unhoused? Unsheltered? Word Choice Matters When Reporting on Oaklanders Who Don't Have Permanent Housing,* THE OAKLANDSIDE (Nov. 10, 2020), https://oaklandside.org/2020/11/10 /homeless-unhoused-unsheltered-word-choice-matters-when-reporting-on-oaklanders-who-donthave-permanent-housing/ [https://perma.cc/FN52-K7QC] ("We do have a home—my tent is my home."); Jocelyn Dong, *'Homeless' or 'Unhoused'? If You Call People Who Live on the Streets "Homeless," Norm Carroll Is Likely to Correct You*., PALO ALTO WEEKLY (Aug. 24, 2005), https://www.paloaltoonline.com/weekly/morgue/2005/2005_08_24.homesi

dea.shtml [https://perma .cc/9BQQ-UWQ9] ("I had a home (Lytton Plaza), but people kept walking through my living room."). Some also prefer "houseless" because of the stigma attached to the word "homeless." *See* Hailey Winetrobe et al., *"I'm Not Homeless, I'm Houseless": Identifying as Homeless and Associations with Service Utilization Among Los Angeles Homeless Young People*, 26 J. SOC. DISTRESS & HOMELESS 16, 21–22 (2017) (citations omitted) ("[S]ocial service providers must consider that their target population may not identify or relate to the label of 'homeless.' Such a label may instead deter young people's access to services because of its impeding, disenfranchising stigma."). It is important to note that many people do use and prefer the term "homeless" to describe their circumstances or their living situation; it's just "not appropriate in every case: for some, the term feels insensitive or simply inaccurate." *See* Orenstein, *infra* note 32.

additional experience and data will create new ideas and, ideally, better solutions for local communities.

I. THE PROJECT'S HISTORY AND CONTEXT

A. *History of the Project*

Students enrolled in the Mediation Clinic co-mediate a variety of different disputes including small claims court cases, EEOC charges, and community disputes. In addition to mediating cases, students work collaboratively on community projects. During the 2019–2020 academic year, one of the community projects was to explore how students could use their mediation skills in subsidized housing disputes. Students started by reaching out to potential stakeholders including community leaders, tenant organizations, landlord organizations, government officials, non-profit organizations, legal service providers, and legislators.[21] Understanding that housing issues are complex, students sought the expertise of University of Washington ("UW") faculty from a number of different disciplines. Students sought insight and engagement from faculty at the Law School, the Department of Psychiatry and Behavioral Sciences, the Evans School of Public Policy and Governance, the School of Public Health, the School of Social Work, and staff from the West Coast Poverty Center.[22]

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21. This outreach included: government actors (Seattle Housing Authority and Department of Community and Human Services, Seattle); non-governmental organizations focused on Housing (Housing Justice Project, Catholic Charities, Tenant's Law Center, Tenant's Union, Solid Ground, and Housing Connector); and non-governmental agencies focused on dispute resolution (King County Dispute Resolution Center, Inter-Local Conflict Resolution Group (ILCRG), and the Ruckelshaus Center).

22. Our exploratory interdisciplinary team included: Sarah Walker, Research Associate Professor, Department of Psychiatry and Behavioral Sciences, Director of the CoLaboratory for Community and Behavioral Health Policy and Director of Evidence-Based Practice Institute (https://psychiatry.uw.edu/profile/sarah-walker/) [https://perma.cc/PH8Y-J8D5]; Adrienne Quinn, Senior Lecturer, Evans School of Public Policy and former Director of King County Department of Community and Human Services (https://evans.uw.edu/adrienne-quinn-to-teach-leadership-at-uw-evans-school/) [https://perma.cc/5M4F-B5KS]; Amy Hagopian, Professor, Global Health, Health Systems and Population Health and Director, Community Oriented Public Health Practice (https://globalhealth.washington.edu/faculty/amy-hagopian) [https://perma.cc/RJ7R-8FKC]; Charlotte Sanders, Teaching Associate, School of Social Work, field lead for newly created Northwest Leaders in Behavioral Health Program (https://socialwork.uw.edu/faculty/teaching-associates/charlotte-sanders) [https://perma.cc/TD9H-JS3T]; Shannon Harper, Deputy Director West Coast Poverty Center (https://depts.washington.edu/wcpc/staff) [https://perma.cc/7QDB-BALR]; Christine Cimini, Professor

These outreach efforts coincided with the start of the COVID epidemic and in the spring of 2020 culminated in the UW interdisciplinary team's application for a grant from the University's Population Health Initiative.[23] The grant proposal sought seed money to design a dispute resolution program targeting the acute and increasing need to stabilize housing and prevent houselessness for low-income communities of color that are at disproportionate risk in Seattle.[24] As the COVID-19 pandemic worsened, the subsequent economic fallout left many people struggling to pay rent. With the inevitable explosion of COVID-driven residential leasing disputes that courts and traditional community mediation models would be challenged to handle, the proposal provided an alternative, albeit limited, response. It employed an interdisciplinary, multicultural rapid-response conflict intervention approach tailored to de-escalate landlord-tenant disputes, reduce eviction filings, increase housing stability, and prevent houselessness. Although the team was not awarded seed money from UW's Population Health Initiative, a generous donor's contribution led to the hiring of a part-time fellow who helped move the project from the idea- and information-gathering stage, to the creation of formal collaborative relationships.[25]

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of Law and Co-Director of the Mediation Clinic (https://www.law.uw.edu/directory/faculty/cimini-christine-n) [https://perma.cc/9G8H-3F53]; and Alan Kirtley, Associate Professor Emeritus of Law and Co-Director of the Mediation Clinic (https://www.law.uw.edu/directory/emeritus-faculty/kirtley-alan) [https://perma.cc/QJ4D-SCEN].

23. The University of Washington's Population Health Initiative launched a COVID-19 rapid response grant program to support the University research community in "quickly responding to the vast array of population health-related challenges created by the COVID-19 pandemic." *See COVID-19 Rapid Response Grants*, UNIV. OF WASH. https://www.washington.edu/populationhealth/resources/
covid-19/covid-19-rapid-response-grants/ [https://perma.cc/BP7U-QHQP] (last visited July 29, 2022).

24. COVID-19 Rapid Response Grant Application submitted Apr. 16, 2020 (application on file with author). The grant application relied upon a 2018 study conducted by the Seattle Women's Commission and the Housing Justice Project of the King County Bar Association. Of single-tenant household cases where a tenant owed $100.00 or less, 81% were women, and a disproportionate number of evictions impacted people of color. Exactly 51.7% of tenants in eviction filings were people of color, with 31.2% of Black tenants experiencing eviction at a rate 4.5 times what would have been expected based on their demographics in Seattle.) *See* Tara Cookson et al., *Losing Home: The Human Cost of Eviction in Seattle*, KING CNTY. BAR ASS'N & SEATTLE WOMEN'S COMM'N (Sept. 2018), https://www.kcba.org/Portals/0/pbs/pdf/HJP_LosingHome_%202018.pdf [https://perma.cc/3EKM-ZZNS]

25. Our first Homeless Intervention Fellow, Katie Koch, was hired in the Fall of 2021 and helped shepherd the project toward a formal collaboration between the law school and two local non-profits. The hiring of the Homeless Intervention Fellow was made possible by a generous contribution from The Purple Crayon Foundation, a philanthropic nonprofit founded by artist and philanthropist

Determining that an upfront investment of time in selecting partners would result in meaningful long-term benefits, the choice of collaborative partners was intentional. The collaborative team includes three organizations with unique skills sets and expertise. The project's lead non-profit organization is the King County Dispute Resolution Center ("KCDRC"). The KCDRC was created after the Washington State Legislature adopted the Court Improvement Act that established non-profit dispute resolution centers.[26] The KCDRC has experience in handling a wide range of substantive disputes including: neighborhood; business–consumer; family matters; interpersonal; workplace; elder care; organizational and group; and cross-cultural.[27] In light of both the COVID-19 pandemic and the county's ever-worsening housing crisis, KCDRC rapidly expanded its work to address housing justice, eviction prevention, rental assistance, and equitable access to dispute resolution services, especially in BIPOC communities. KCDRC's experience with several programs was particularly relevant. KCDRC played an instrumental role in formulating and launching the Eviction Resolution Pilot Program (ERPP) created by the Washington Supreme Court and state legislature.[28] Also relevant, with support from King County's Veterans, Seniors, and Human Services Levy, the KCDRC launched a pilot landlord-tenant dispute resolution program serving vulnerable adults, including those fifty-five and older, as well as veterans

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Alyson McGregor. Alyson's enthusiasm and commitment to social justice was palpable from our first meeting. Without this generous seed gift, CRS would not exist.

26.   *See* WASH. REV. CODE § 7.75 (establishing non-profit dispute resolution centers ("DRCs") in 1984 to provide avenues for the successful and informal resolution of disputes).

27.   *See* DISP. RESOL. OF KING CNTY. https://kcdrc.org/ (KCDRC offers mediation KCDRC for the following types of disputes: neighbor-to-neighbor disputes, parenting plans, custody, visitation, business matters, property damage, landlord/tenant disputes, workplace disputes, school conflicts among students, and mortgage disputes. Conflict coaching is offered to anyone involved in a disagreement with family, neighbors, friends, co-workers, or employees. Facilitation is offered for disputes involving landlords/tenants, workplace, community, board of directors, management teams, and large groups. KCDRC also offers a number of restorative practices including community building circles, restorative dialogues, and restorative practice trainings.).

28.   *In re* Statewide Response by Wash. State Cts. to the COVID-19 Pub. Health Emergency, Ord. Authorizing Eviction Resol. Program in Superior Cts., No. 25700-B-693 (Wash. Sept. 9, 2020), https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/EvictionsResolutionP rogramAuthorizingOrder090920.pdf [https://perma.cc/KB4S-JNVE] (recognizing the authority of superior courts in Washington state to "implement an eviction resolution program for litigants to participate in prior to the filing of an unlawful detainer action in court, and to take all necessary steps to support such a program, including but not limited to, entering local orders and contracting with service providers.").

and military service members (and/or their families).[29] Finally, the KCDRC collaborated with affordable housing provider, Bellwether Housing, to implement de-escalation training and community building programs for its residents and staff.[30]

The second non-profit collaborating organization is Housing Connector (HC). Founded in 2018, HC provides support to Seattle-area private property owners and managers by reducing uncertainty and risk, making it easier to rent to local residents in need of housing. Led by a former manager in SHA's department of strategic planning and development,[31] the organization is founded on a deep awareness of—and a fresh approach to— the most common points of breakdown between Housing Choice Voucher (HCV)[32] tenants and private landlords. HC matches high-risk tenants with vacant rental units already on the Seattle market by providing free access to an exclusive listing platform, free resident referrals, and financial benefits to private property owners and managers.[33] In addition, HC ensures that

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29.   This program is funded by King County's Veterans, Seniors, and Human Services Levy. The county's broad definition of vulnerability significantly overlaps with the populations SHA serves and those in most need of mediation services: individuals with substance use disorder or behavioral health concerns (formally diagnosed or not), individuals with disabilities, people in low-income housing, and individuals with a history of homelessness or poverty. The levy funds conflict coaching and mediation for behavioral and relational disputes that arise among tenants, landlords, property staff, and/or neighbors. *See Veterans, Seniors & Human Services Levy*, KING CNTY.GOV, https://kingcounty.gov/depts/community-human-services/initiatives/levy.aspx [https://perma.cc/TUU9-KUYV] (last visited Aug. 1, 2022).

30.   KCDRC proposed an all-in approach. De-escalation trainings are required by everyone in the organization, from janitors to corporate asset managers. Trainings are conducted in small groups of a dozen so that staff can learn and practice de-escalation in an intimate and unintimidating setting. KCDRC customized these trainings to Bellwether's specific setting and needs after consultation with property managers and community building staff. KCDRC hosted community circles both for Bellwether staff and for its residents, to build trust and communication skills enabling them to be more resilient in future conflicts. Despite these events being held on Zoom due to COVID restrictions, the community circles were so popular among resident attendees that they are being restarted as outdoor events. *See* Proposal Submitted in response to RFP for Mediation Services (July 14, 2021) (on file with author).

31.   *See* HOUSING CONNECTOR, https://www.housingconnector.com/our-team (noting that the organization's Executive Director, Shkelqim Kelmendi, previously worked with the Seattle Housing Authority).

32.   HOUSING CHOICE VOUCHER PROGRAM, ADMINISTRATIVE PLAN, SEATTLE HOUS. AUTH. (Dec. 15, 2021) https://www.seattlehousing.org/sites/default/files/HCV%20Administrative%2012.202

1_0.pdf [https://perma.cc/9LL8-XWY9] ("The Housing Choice Voucher (HCV) Program, formerly known as Section 8, was enacted as part of the Housing and Community Development Act of 1974 (the "Act"), which re-codified the U.S. Housing Act of 1937.").

33.   *See* HOUSING CONNECTOR, https://www.housingconnector.com/ (detailing the Housing Connector ("HC") promise that includes: removing the burden of finding residents or housing for

residents have ongoing support to be good neighbors and—moreover—provides property-owner partners with an around-the-clock point of contact if an issue arises. HC takes a nimble, data-intensive, and customer-support-driven approach to its mission: to keep Seattle's most at-risk tenants housed while mitigating the possible financial or logistical risks of such tenancies to private property owners and managers.[34] Given that HC has a successful model, which serves the interests of both private businesses and public housing tenants, it is an ideal collaborative partner to work with HCV tenants.

The Mediation Clinic is the third and final collaborative partner and brings theoretical and practical knowledge of dispute resolution systems to the project. This breadth of knowledge and experience positioned the Clinic to effectively lead and facilitate the dispute systems design process. Faculty in the Mediation Clinic provided their experience in teaching, training, and practicing in the field of dispute resolution and mediation in particular. Since the program's inception, Mediation Clinic students have been engaged with this work too. They engaged stakeholders, conducted research, worked on the design phase, and will be involved in mediating

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clients through an up to date listing platform, increasing efficiency for housing providers and client support staff with a streamlined search process that allows filtering to expedite the housing process and finally, support for success by covering unforeseen financial costs, helping negotiate leases, and acting as the point of contact for property owners if issues arise). *See also* HOUSING CONNECTOR, https://www.housingconnector.com/property-owner-and-managers (detailing that Housing Connector ensures rent is paid, unit damage is mitigated, and the resident is supported. Specifically Housing Connector provides property partners with access to benefits that include damage mitigation funds and guaranteed rent. Property partners know their residents have the case management support to be successful neighbors. Finally, property partners have a single point of contact to high standard customer service if issues do arise.). With a competitive rental market, private landlords are hesitant to rent to HCV recipients based upon assumptions that there will be challenges with rental payments and security deposits. *See* Mary Cunningham et al., *A Poliot Study of Landlord Acceptance of Housing Choice Vouchers*, U.S. DEP'T OF HOUS. & URB. DEV. OFF. OF POL'Y DEV. & RSCH. (Sept. 2018), http://www.huduser.gov/portal/portal/sites/default/files/pdf/Landlord-Acceptance_of_Housing-Choice-Vouchers.pdf, at 13, 50-55. HC creatively addressed this problem by developing an insurance pool to guarantee the first three months' rent and return of the security deposit as well as supportive services for private landlords that rent to HCV participants.

34.   For a description of HC's work, see *Our Work*, HOUSINGCONNECTOR.COM, https://www.housingconnector.com/our-work [https://perma.cc/T4KB-MT46] (last visited Aug. 1, 2022) (explaining that HC believes "landlords and property owners are a critical part of tackling homelessness, as they have access to inventory that can get people housed quickly and provide stability for individuals and families. Housing Connector makes it easy for Property Owners to be a valued partner in tackling our region's homelessness crisis by providing financial support and risk mitigation to insure against losses. In turn property owners will open doors that were previously out of reach for individuals experiencing homelessness.").

disputes referred from CRS. The Mediation Clinic recruited a UW social scientist, and Ph.D. student in public policy, with expertise in housing to provide independent, rigorous evaluation and assessment of the program through qualitative and quantitative research.[35] The addition of research scientists to the team boosted credibility and gave SHA's leadership team confidence that the program's effectiveness would be objectively measured.

B. The Context: Housing Instability, Eviction, and Houselessness

Housing instability is a complex topic and one that is not clearly defined.[36] A myriad of circumstances give rise to housing instability, and

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35.   The lead researcher on the project is Assistant Professor of Real Estate in the University of Washington's College of Built Environments, Gregg Colburn. Professor Colburn's research focuses on housing policy, housing markets, housing affordability, and houselessness. His recent co-authored study on the use of hotels as homeless shelters in King County makes him an ideal candidate to lead this research. *See* Gregg Colburn et al., *Hotels as Noncongregate Emergency Shelters: An Analysis of Investments in Hotels as Emergency Shelter in King County, Washington During the COVID-19 Pandemic*, HOUS. POL'Y DEBATE (June 8, 2022) DOI: 10.1080/10511482.2022.2075027. The research team also includes Gowun (Gonnie) Park a University of Washington Ph.D. candidate from the Evans School of Public Policy. Gonnie started the Evans School Ph.D. program in Public Policy and Management in 2017. Prior to joining the program, she worked as a Data Analyst and Research project Manager in nonprofit organizations in South Korea and the U.S. Gonnie earned a Master of Public Policy from the Harris School of Public Policy at the University of Chicago and she holds a Master of Business Administration from Boston College. *See* UNIV. OF WASH. EVANS SCH. OF PUB. POL'Y & GOVERNANCE, https://evans.uw.edu/profile/gonnie-park/#1592520488132-108bb301-62421815-06a6792e-9d474f70-abe66a1b-59a6878f-0670 [https://perma.cc/5CFD-6UC6] (last visited Nov. 11, 2022).

36.   Margot B. Kushel et al., *Housing Instability and Food Insecurity as Barriers to Health Care Among Low-Income Americans*, 21 J. GEN. INTERNAL MED. 71 (2006), DOI: 10.1111/j.1525-1497.2005.00278.x, https://escholarship.org/content/qt6df4b8g6/qt6df4b8g6.pdf [https://perma.cc/W2 XR-KRBJ]; Tyler J. Frederick et al., *How Stable Is Stable? Defining and Measuring Housing Stability*, 42 J. CMTY. PSYCHOL. 964 (2014), https://www.academia.edu/23156951/How_Stable_is_Stable_Defi ning_and_Measuring_Housing_Stability [https://perma.cc/D55C-K3LH]. *See* Vicki Been & Leila Bozorg, *Spiraling: Evictions and Other Causes and Consequences of Housing Instability*, 130 HARV. L. REV. 1408, 1410-11 (2016-2017) (providing examples of "housing instability" and describing the people at the center of Matthew Desmond's book EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY (2016), and explaining that

> "[h]ousing instability is not just about the lack of funds to make the rent . . . 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

the interplay among them is multifarious and nuanced. One of the most extreme consequences of housing instability is eviction and subsequent houselessness.[37] Families who are evicted regularly lose their possessions, lose their jobs, and experience higher rates of depression.[38] For children, the instability caused by eviction can result in worse outcomes in education, health, and future earnings.[39]

Eviction acts as a cause, not just a condition, of poverty.[40] Out of the forty-four million renter households in the United States, eleven million have extremely low incomes.[41] Black, American Indian and Alaska Native, and Latinx households are more likely than white households to be

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payments specifically). 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.'").

37.   Matthew Desmond, EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY 298 (2016) ("Losing your home and possessions and often your job; being stamped with an eviction record and denied government housing assistance; relocating to degrading housing in poor and dangerous neighborhoods; and suffering from increased material hardship, homelessness, depression, and illness-this is eviction's fallout. Eviction does not simply drop poor families into a dark valley, a trying yet relatively brief detour on life's journey. It fundamentally redirects their way, casting them onto a different, and much more difficult, path. Eviction is a cause, not just a condition, of poverty.").

38.   *Id.* at 298.

39.   *Id.* at 299.

40.   *Id. See also* TARA COOKSON ET AL., LOSING HOME: THE HUMAN COST OF EVICTION IN SEATTLE, A REPORT BY THE SEATTLE WOMEN'S COMMISSION AND THE HOUSING JUSTICE PROJECT OF THE KING COUNTY BAR ASSOCIATION 5 (2018) (citing, Martha R. Burt, *Homeless Families, Singles, and Others: Findings from the 1996 National Survey of Homeless Assistance Providers and Clients*, 12 HOUSING POL'Y DEBATE 737 (2010) DOI: 10.1080/10511482.2001.9521428

41.   NAT'L LOW INCOME HOUS. COAL., THE GAP: A SHORTAGE OF AFFORDABLE HOMES, NATIONAL LOW INCOME HOUSING COALITION 2 (April 2022), https://nlihc.org/gap [https://perma.cc/Z35U-RG6W] (defining "extremely low incomes" as incomes at or below the poverty level, or 30% of the area median income (AMI), whichever is higher).

extremely low-income renters.[42] There is a severe shortage of affordable housing for low-income renters,[43] which results in cost burdens and housing instability.[44] A household is "cost-burdened" when it spends more than 30% of its income on rent and utilities and is "severely cost-burdened" when it spends more than 50% of its income on rent and utilities."[45] Seventy-one percent (71%) of low-income renter households are severely cost-burdened, spending more than half their income on housing.[46] This cost burden can be detrimental for low-income families who may not have enough leftover income to cover other basic needs, such as food, healthcare, transportation, and childcare.[47] Once a person is trapped in the eviction cycle, there are additional barriers to accessing affordable, safe housing. Most prominent, individuals with credit, eviction, and conviction histories, will face largely insurmountable hurdles.[48] This burden disproportionately impacts low-income women—especially women of color.[49]

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42.   *Id.* at 2 ("While 6% of white households are extremely low-income renters, 20% of Black households, 18% of American Indian and Alaska Native households, and 15% of Latino households are extremely low-income renters. This disparity is the result of higher homeownership rates and higher incomes among white households.").

43.   *Id.* at 3 ("[T]he U.S. has a shortage of 7 million rental homes affordable and available to extremely low-income renters. Only 36 affordable and available rental homes exist for every 100 extremely low-income renter household.").

44.   *Id.* ("Cost burdens are a direct result of the shortage of affordable and available rental homes and of low wages.").

45.   *Id.* at 2.

46.   *Id.* at 2 ("Seventy-one percent (7.8 million) of the nation's 11 million extremely low-income renter households are severely housing cost-burdened, spending more than half of their incomes on rent and utilities. They account for 72% of all severely housing cost-burdened renters in the U.S.").

47.   *See Why Eviction Matters*, EVICTION LAB, https://evictionlab.org/why-eviction-matters/#affordable-housing-crisis [https://perma.cc/ZJ3N-BCQA] (last visited July 22, 2022) (explaining that today, one in four of those poor renting families spend over 70% of their income just on rent and utilities. Incomes for Americans of modest means have flatlined while housing costs have soared. Only one in four families who qualifies for affordable housing programs gets any kind of help. Under those conditions, it has become harder for low-income families to keep up with rent and utility costs, and a growing number are living one misstep or emergency away from eviction).

48.   Vicki Been & Leila Borzorg, *Spiraling: Evictions and Other Causes and Consequences of Housing Instability*, Book Review: MATTHEW DESMOND, EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY (2018) 130 HARVARD L. REV. 1408, 1412–13 (2016-2017) (explaining that invisible barriers also exist, including family size and racial bias. Without many choices, low-income tenants will settle for substandard housing in many cases, which will impact the quality of the neighborhood, a lack of access to nearby health services and good schools as well as the money needed to spend to make a home habitable).

49.   Peter Hepburn et al.,, *Racial and Gender Disparities Among Evicted Americans*, THE EVICTION LAB (Dec. 16, 2020) https://evictionlab.org/demographics-of-eviction/ (finding "that Black

Once evicted, people often face houselessness. Houselessness is a long-standing and unabating crisis in the United States.[50] In January 2020, 580,466 people were experiencing houselessness in America.[51] The houseless population surged by 30% after 2015, nearly erasing previous gains in the sheltered population.[52] Fifty-seven percent (57%) of people experiencing houselessness are living in five states (California, New York, Florida, Texas, and Washington).[53]

As of January 2020, just prior to the start of the COVID-19 pandemic, Washington state had an estimated 22,923 people experiencing houselessness on any given day.[54] As the COVID-19 pandemic surged, the broader and longstanding issues of income and housing insecurity became critically interwoven into the health of our community.[55] In response,

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and Latinx renters in general, and women in particular, are disproportionately threatened with eviction and disproportionately evicted from their homes.").

50.   The precise number of people experiencing houselessness is difficult to determine. The U.S. Department of Housing and Urban Development (HUD) reported at least 550,000 people were experiencing houselessness in 2018. MEGHAN HENRY ET AL., U.S. DEP'T OF HOUS. & URB. DEV., THE 2018 ANNUAL HOMELESS ASSESSMENT REPORT (AHAR) TO CONGRESS 10 (2018), https://www.hudexchange.info/resources/documents/2018-AHAR-Part-1.pdf [https://perma.cc/MV83-KD8F] [hereinafter AHAR 2018]. However, this figure is generated through volunteer efforts on a single night and is limited to observation within select areas, making it a dramatic undercount. *See* Sara K. Rankin, *The Influence of Exile*, 76 MD. L. REV. 4, 42 n.231 (2016). As many as 5.6 million people may have experienced houselessness in 2018. *See also* LAVENA STATEN, SEATTLE U. SCH. OF L. HOMELESS RTS. ADVOC. PROJECT, PENNY WISE BUT POUND FOOLISH: HOW PERMANENT SUPPORTIVE HOUSING CAN PREVENT A WORLD OF HURT 2 (Sara K. Rankin ed., 2019), https://ssm.com/abstract-3419187/]https://perma.cc/W7X4-QHTT].

51.   *State of Homelessness: 2021 Edition*, NAT'L ALL. TO END HOMELESSNESS, https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-2021/ [https://perma.cc/WD9Q-7KNV] (last visited July 22, 2022) ("Comprehensive national-level data on homelessness was last collected in January 2020, which was before COVID-19 was declared a national emergency. Thus, [the data] does not reflect shifts in homelessness that may have occurred because of steps taken to address COVID or elevated unemployment rates tied to the pandemic or the recession.").

52.   *Id.* ("The trend of escalating numbers of people living unsheltered impacts nearly every major subgroup—including people of every race, ethnicity, gender, and most age groups. Only children (people under eighteen) have realized an overall decrease in unsheltered homelessness during the current surge.").

53.   *Id.*

54.   *Washington Homelessness Statistics*, U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, Homelessness Statistics by State, (as reported by Continuums of Care, Department of Housing and Urban Development (HUD) (Jan. 2020)), *available at* https://www.usich.gov/homelessness-statistics/wa/ [https://perma.cc/DSS5-9JLY] (last visited July 22, 2022) (as reported by Continuums of Care, Department of Housing and Urban Development (HUD)).

55.   *A Timeline of COVID-19 Developments in 2020*, AM. J. MANAGED CARE (Jan. 1, 2021), https://www.ajmc.com/view/a-timeline-of-covid19-developments-in-2020 [https://perma.cc/7BXC-

federal, state, and local governments enacted eviction moratoria as a way to combat the spread of the virus while ensuring individuals', whose jobs were impacted by the pandemic, could remain housed.[56] Nationwide, these measures slowed eviction filings between March and December of 2021. Subsequent to the August 2021 Supreme Court ruling that the federal Centers for Disease Control ("CDC") eviction moratorium was invalid, however, these measures either expired, were lifted, or terminated.[57]

In Washington, the statewide eviction moratorium ended on September 30, 2021, and the "bridge" proclamation, through which the Governor continued temporary protections for tenants with unpaid rent, ceased after October 31, 2021.[58] For residential and commercial tenants in Seattle, the moratorium initially was extended through January 15, 2022, by then-Mayor Durkin's Executive Order 2021-07.[59] On January 12, 2022, current-Mayor Harrell issued two additional Executive Orders extending the eviction moratorium, first for another thirty days until February 14, 2022,[60] and again, through February 28, 2022, with an explicit provision that the moratorium would not be renewed thereafter.[61] While evictions for

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JQYU] (documenting that from Jan. 2020 to Feb. 2020, COVID entered the U.S.; on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic; and on March 13, 2020, then President Trump declared COVID-19 a national emergency).

56.   Deanna Pantín Parrish, *Just Diversion: Designing Eviction Mediation to Address Incentives and Inequities*, 68 WASH. U. J. L. & POL'Y 63, 64 (2022).

57.   *See* Ala. Ass'n of Realtors v. Dep't of Health & Hum. Servs., 141 S. Ct. 2485 (2021) (holding that it strains credulity to read the statute on which the federal Centers for Disease Control (CDC) depends, 42 U.S.C. § 264(a), as providing the CDC the authority to impose a nearly nationwide ban on tenant evictions from residential rental properties to slow the spread of COVID-19). *See also* Deanna Pantín Parrish, *Just Diversion: Designing Eviction Mediation to Address Incentives and Inequities*, 68 WASH. U. J. L. & POL'Y 63, 64-65 (2022) (noting that the majority of federal, state, and local government eviction moratoria expired, lifted or terminated because of the Supreme Court's decision in *Ala. Ass'n of Realtors v. Dep't of Health & Human Services*).

58.   Steve Soliz, *Threat of Eviction Returns to Washington Renters with End to Statewide Moratorium,* KING5.COM (Nov. 1, 2021), https://www.king5.com/article/news/local/olympia/threat-of-eviction-returns-to-washington-renters-with-end-to-statewide-moratorium/281-e3cba1ab-f01f-46e2-8079-c9347c1a4931 [https://perma.cc/8KJQ-S7BC].

59.   CITY OF SEATTLE, OFF. OF THE MAYOR, Exec. Order 2021-07: COVID-19 Civil Emergency – Extensions of City Closures and Relief Measures (Sept. 21, 2021) (marking the sixth extension of the eviction moratorium as part of the COVID-19 civil emergency since March 14, 2020, when Seattle declared one of the first eviction moratoriums in the country).

60.   Jamie Housen, *Mayor Bruce Harrell to Issue New Executive Order and Extend Eviction Moratorium for 30 Days*, SEATTLE: OFFICE OF THE MAYOR (Jan. 12, 2022), https://harrell.seattle.gov/2022/01/12/mayor-bruce-harrell-to-issue-new-executive-order-and-extend-eviction-moratorium-for-30-days/ [https://perma.cc/793X-3EA6].

61.   Jamie Housen, *Eviction Moratorium Will Expire at the End of February*, SEATTLE: OFFICE

nonpayment of rent are now permitted in Seattle, renters have some additional protections including: six additional months during which tenants cannot be evicted if they can show that they fell behind on rent during the pandemic because of "financial hardship;"[62] bars on eviction for nonpayment of rent during the school year for Seattle renters with school-aged children;[63] a requirement that landlords allow tenants to pay the rent they owe over the course of six months;[64] and the right to legal counsel in eviction proceedings.[65] As these changes take effect, accumulated back rent is anticipated to eventually lead to an escalation in eviction proceedings. It is against this backdrop that the Mediation Clinic embarked on the process of designing a dispute resolution system for SHA tenants.

II. PROJECT DESIGN STEPS AND STRUGGLES

"Dispute system design ("DSD") is the applied art and science of designing the means to prevent, manage, and resolve streams of disputes or conflict."[66] Focused on the specific context and type of dispute, DSD seeks to identify the optimal ways to prevent, manage, or resolve disputes.[67] Scholars from a variety of disciplines have identified differing sets of underlying principles to guide the DSD process.[68] Despite the variety of

OF THE MAYOR (Feb. 11, 2022), https://harrell.seattle.gov/2022/02/11/eviction-moratorium-will-expire-at-the-end-of-february/ [https://perma.cc/NY9W-HLVX].

62.   Josh Cohen, *Seattle's Eviction Moratorium Ended, But Some Protections Remain*, CROSSCUT (Mar. 2, 2022), https://crosscut.com/politics/2022/03/seattles-eviction-moratorium-ended-some-protections-remain [https://perma.cc/E2NM-4RWA] (noting that this additional protection ends on Aug. 28, 2022).

63.   *Id.*

64.   *Id.*

65.   *Bill Information: S.B. 5160*, WASH. STATE LEGIS., https://app.leg.wa.gov/billsummary?Bill Number=5160&Year=2021&Initiative=false [https://perma.cc/X8JA-WNF7] (signed by Governor Jay Inslee in April 2021). This made Washington the first state to guarantee counsel for indigent tenants in eviction cases. *See* WASH. STATE OFFICE OF CIV. LEGAL AID, RIGHT TO COUNSEL FOR INDIGENT TENANTS: IMPLEMENT PLAN, WASHINGTON STATE OFFICE OF CIVIL LEGAL AID 4 (July 2021), https://ocla.wa.gov/wp-content/uploads/2021/10/Implementation-Plan-Right-to-Counsel-for-Indigent-Tenants-Rev-10-8-21-Final.pdf [https://perma.cc/5HLN-PAF2].

66.   AMSLER ET AL., *supra* note 19, at 7.

67.   *Id.* at 9.

68.   *Id.* at 12–13.

underlying principles, scholars agree that fairness[69] and disputants' satisfaction with process and outcome are essential to a system's success.[70]

As a relatively new field,[71] recent scholarship identifies the following DSD guiding principles: create a DSD that is fair and just; consider efficiency for the institution and participants; engage stakeholders—including users—in design and implementation; consider and seek prevention; provide multiple and appropriate interest-based and rights-based process options; ensure user flexibility in choice and sequence of process options; match the design to the available resources, including training and support; train and educate system providers, users, and other stakeholders; and make the DSD accountable through transparency and evaluation, with appropriate concern for privacy, to improve it continuously.[72]

After searching for guideposts to engage in the more concrete work of program design, the project employed a recently created "framework and conceptual map" for DSD.[73] The framework is "intended to structure analysis of DSD—in short, to elicit the information that a designer, analyst,

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69. *See* Lisa Blomgren Bingham, *Designing Justice: Legal Institutions and Other Systems for Managing Conflict*, 24 OHIO STATE J. ON DISP. RESOL. 1 (2008) (discussing various meanings of "fair" and "just" in dispute resolution context).

70. AMSLER ET AL., *supra* note 19, at 13.

71. *See id.*, at 12 ("While system designs vary widely, research is just beginning on why designs take certain forms in specific substantive and institutional contexts and which designs are most effective.").

72. *Id.* at 13–14. For additional views on principles of design, see Khalil Shariff, *Designing Institutions to Manage Conflict: Principles for the Problem Solving Organization*, 8 HARV. NEGOT. L. REV. 133 (2003). *See also* Cathy Costantino, *Second Generation Organizational Conflict Management Systems Design: A Practitioner's Perspective on Emerging Issues*, 14 HARV. NEGOT. L. REV. 81 (2009); John Conbere, *Theory Building for Conflict Management System Design*, 19 CONFLICT RESOL. Q. 215, 228 (2001) (reviewing this literature for units of analysis for the emerging field of DSD). Two symposia on DSD in 2008 stimulated significant scholarship: Ohio State University's St. Moritz School of Law hosted "The Second Generation of Dispute System Design: Reoccurring Problems and Potential Solutions" on Jan. 24, 2008, from which volume 2008 of the OHIO STATE J. ON DISP. RESOL. published several articles; Harvard Law School hosted "Dispute System Design Across Contexts and Continents" on March 7, 2008, from which volume 14 (2009) of the HARV. NEGOT. L. REV. published articles.

73. AMSLER ET AL., *supra* note 19, at 22, 24–25 ("The field requires a more structured approach to DSD. To develop effective DSDs that are tailored to their dispute streams, stakeholders, culture, and contexts, designers need a 'framework and conceptual map.'"). *See also* Deanna Pantín Parrish, *Designing for Housing Stability: Best Practices for Court-Based and Court-Adjacent Eviction Prevention and/or Diversion Programs* 5–6 (2021) (relying upon the same framework to define Dispute Systems Design).

or user needs."[74] The framework includes key questions relating to each element of design.[75] The remainder of this section focuses on the challenges we faced during the design phase related to goal identification, stakeholder engagement, context and culture of SHA, and available resources.

A. Goal Identification

In DSD parlance, "decision makers" determine goals and have the authority to commission, approve, and implement the design.[76] "Designers" are the people that create or refine the dispute system and are responsible for maintaining and encouraging others to adhere to the guiding design principles.[77] In this context, SHA is the decision maker, and the Mediation Clinic is the designer. In order to effectively design or redesign a system, it is crucial to determine and articulate the system's goals and values at the outset of the design process.[78]

The designers encountered challenges in the early stage of goal identification. As the project collaborators embarked on the goal identification process, the decision maker, SHA, was in a period of transition that tremendously impacted the organization and the design of this project. COVID-19 created an informal shift in the eviction practices and procedures of SHA. In addition to halting evictions for unpaid rent, the agency decided not to pursue any formal "for cause" evictions unless they presented an extreme risk to the health, safety, and welfare of the housing community.[79] This shift, in turn, placed more stress and burden upon the SHA case managers and team members who were trying to navigate increasingly challenging problems with no additional resources.

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74.   AMSLER ET AL., *supra* note 19, at 24 & 345 n.14 ("The original version of this framework was developed in 2002 by Maude Pervere and Stephanie Smith in connection with their first class on system design at Stanford Law School. The framework has been further developed and refined by Stephanie Smith and Janet Martinez. It was first published and discussed in Stephanie Smith and Janet Martinez, *An Analytic Framework for Dispute Systems Design*, 14 HARV. NEGOTIATION L. REV. 123 (2009). Since that publication, 'culture and context' has been added as an explicit element of the framework.").

75.   AMSLER ET AL., *supra* note 19, at 24–25 (identifying the key questions relating to each element of design goals as: goals; stakeholders; context and culture; processes and structure; resources; and success, accountability, and learning).

76.   *Id.* at 25.

77.   *Id.*

78.   *Id.*

79.   Notes from Meeting with SHA leadership (May 30, 2022) (on file with author).

Additionally, SHA's decision-making staff person that worked with the project team was transitioning out of their job to a new position. The project relied upon this person to make decisions and in their absence, as well as during the period of transition, there was a vacuum at the decision-making level. At times, even before the staff departure, it was challenging to know *who* within SHA, had actual decision-making authority.

There are many broad goals that decision makers might seek to accomplish in creating a dispute resolution system.[80] These are critical questions that ultimately will shape the course of the system design. While SHA clearly has the power to define the system's goals, and priorities among the goals, SHA is incentivized to root these decisions in concepts of fairness and justice.[81] If the agency fails to do so, the likelihood of success diminishes as stakeholders will distrust the system and fail to meaningfully engage.

SHA articulated the following broad goals: prevention of conflict; reduction of staff time navigating complex disputes in order to enhance employee morale and reduce turnover; violence and property damage prevention; creation of fair processes; and establishing overall satisfaction within housing communities. These goals were expressed in SHA's RFP through the following outcomes and deliverables:

> "[d]ecrease eviction filings to keep people stably housed and as a result, reduce the associated costs of eviction; [p]rovide a conflict resolution resource for residents and participants in conflict with others in the community (or tool for the neighbor to neighbor conflict); [i]ncrease SHA staff skills in the areas of negotiation, conflict resolution and de-escalation; and [i]ncrease access to helpful services for SHA staff and private landlords in addressing resident relations, lease violations and nonpayment of rent."[82]

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80.   AMSLER ET AL., *supra* note 19, at 25 (identifying the following possible goals: conflict prevention; conflict management; efficiency; resources; savings; relationships; safety; system operation; public recognition; substantive outcomes; reputation (of individual or organizations); compliance; satisfaction; and/or organizational improvement).

81.   *Id.* at 28–29.

82.   SEATTLE HOUS. AUTH., REQUEST FOR PROPOSAL (RFP) SOLICITATION NO. 5504 6 (June 17, 2021), https://www.seattlehousing.org/sites/default/files/5504_Mediation%20Services_RFP.pdf [https://perma.cc/F3X7-29DM].

In weighing the goals of the outcomes and deliverables, a group of stakeholders held numerous meetings to identify which *situations* would be appropriate for dispute resolution services, which would not, which would be decided on an ad hoc basis, and which merited further discussion.[83] While conversations regarding the scope of services, as they relate to the underlying goals, are ongoing, we learned that effective goal identification takes time and the people closest to the problem need to be in the room contributing their perspectives.

B. Stakeholder Engagement

Determining the relevant stakeholders and relative power is critical to an effective DSD. The main stakeholders identified in this project include tenants (tenants residing in SHA owned and operated units and HCV recipients), landlords, SHA staff, and dispute system designers.[84] Starting with the tenants, understanding the demographics of this target population is critical to providing effective services. SHA serves more than 35,000 residents and participants. The racial makeup of the residential community is "54% Black, 12% Asian and 21% White."[85] Approximately 30% of residents live with a disability, and because of the inclusion of relatively substantial senior housing[86], the average age of residents is fifty-seven years old.[87] With only limited data collected from SHA, the information about

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83. A preliminary chart was created as a result of these conversations and various types of disputes were put into one of the four categories: situations to engage; situations not to engage; situations meriting flexibility; and questions that require further discussion. For example, the following types of conflict were identified as situations where dispute resolution services should engage: smoking, unsafe or unsanitary conditions, hazardous activity, abusive or threatening behavior, noise level or quiet hours, failure to show proof of residence when asked, boarding and lodging guests, property maintenance, property damage, utility usage, lease interpretation misunderstandings, unauthorized property alteration, unauthorized pets, unauthorized business activity, moving, interpretation of the rules, entering a person's apartment without giving notice, mistreatment or hassling, infringing on rights/personal space, discrimination, HCV unpaid rent issues (prior to 14-day notice), and HCV recertification issues. (on file with author).

84. Other stakeholders include the interdisciplinary team, legal service providers, the research team, the broader dispute resolution community. An exploration of issues related to these stakeholders is beyond the scope of this piece.

85. SEATTLE HOUS. AUTH., REQUEST FOR PROPOSAL (RFP) SOLICITATION NO. 5504, *infra* note 88, at 5.

86. This proposition is supported directly by Author's work with the Seattle Housing Authority.

87. *Id.*

non-English preferred languages is incomplete, though the RFP indicated that 23% of residents prefer languages of African origins and 8% prefer Asian languages.[88] Tenants wield the least amount of power among the three biggest stakeholder groups. There are more potential tenants lined up and ready to fill slots if a current tenant moves out. Tenants are less resourced than SHA and landlords. Those tenants residing together, in larger numbers, in SHA's Owned and Operated communities have more power than tenants dispersed throughout the city with HCVs. To overcome some of these limitations, the project includes outreach to and education for the tenant community. If tenants decide to organize, the project will provide education, training, and resources to support the organizing work.

Landlords have more resources and are more organized than the tenants. A statewide group for independent rental owners and managers provides landlords statewide advocacy, education, and even legal support.[89] Critically, landlords have some leverage over SHA as SHA needs private landlords willing to rent to HCV recipients. As such, SHA is incentivized to keep private landlords content and at the table.

SHA administrators wield significant power as they articulate program goals and approve the ultimate design. Down a level in the bureaucratic hierarchy, SHA case managers are critical to the program's success, and they were brought in early to the design conversations. In this way, they were present and had a great deal of influence over SHA administrative decision makers. Still, they were burdened by heavy caseloads and were more interested in immediate action than long-term planning, often trying to be two places at one time and distracted.

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88.   *Id. See also* Descriptive Statistics from Seattle Housing Authority Data Sharing Agreement (Nov. 11, 2022) (identifying forty-eight different languages spoken by SHA tenants) (on file with author).

89.   WASH. LANDLORD ASS'N, https://walandlord.org/ [https://perma.cc/MH92-JAFU] (last visited Aug. 8, 2022) (explaining that the group is "committed to protecting the Landlords' property rights and their ability to manage[] their rentals."). *See also* RENTAL HOUS. ASS'N OF WASH., https://www.rhawa.org/about-rhawa [https://perma.cc/3D84-RUCN] (last visited Aug. 8, 2022) (explaining that, "[t]he Rental Housing Association of Washington represents nearly 5,000 independent rental owners, managers, investors, and vendor members across the State of Washington. We support the rental housing industry through advocacy, a high standard of ethics, education, research, products, and services. RHAWA strongly advocates that rental housing is a valuable asset to communities and provides grassroots mobilization for the purpose of advocating at the state and local level. RHAWA provides its members top-of-the-line education, forms, and resources to help protect their rental business.").

Before moving to context and culture, it is critical to acknowledge designers as stakeholders. Designers, including students and faculty in the Mediation Clinic, stepped outside of the traditional lawyer/client relationship to examine the problem from a non-adversarial perspective. The Mediation Clinic served as an outsider bringing broader knowledge of possible models, new ideas, and remained unburdened by SHA office history or politics. This position was balanced against a lack of insider knowledge of SHA and it took time to learn how to navigate the bureaucracy effectively. Coming from an independent academic setting provided credibility, as we were viewed as neutral participants.

C. Context and Culture of SHA

In 2018, an article published in *The Stranger*, a local Seattle newspaper, described the SHA as quick to evict tenants.[90] In the five years proceeding publication of this article, it was reported that SHA initiated evictions against tenants 473 times, averaging two eviction cases filed a week.[91] Of these eviction filings, about 56% resulted in a sheriff issuing an order evicting the tenants.[92] Housing advocates portrayed SHA's culture as particularly aggressive.[93] Especially troubling was the description of SHA tenants being evicted for owing small sums of monthly rent, such as $49 or $95.[94]

Designers learned from SHA staff that this article caused SHA to take a "concerted look at themselves."[95] Utilizing dispute resolution tools, such

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90.   Heidi Groover, *Evicted Over $49: What Happens When Seattle's Poorest Tenants Can't Make Rent*, THE STRANGER (April 25, 2018 4:00 AM), https://www.thestranger.com/features/2018/04/
    25/26086363/evicted-over-49-what-happens-when-seattles-poorest-tenants-cant-make-rent
[https://perma.cc/EMC6-EC2K] (last visited Aug. 8, 2022).

91.   *Id.*

92.   *Id.* (stating that "SHA is quick to take tenants to court and particularly unforgiving once there.").

93.   *Id.* (quoting King County's Housing Justice Project managing attorney, Edmund Witter, "[the idea that] the tenant needs to learn something from, God forbid, being poor—that's in the culture here, . . . That's a problem in the SHA culture.").

94.   *Id.* (describing the additional costs that accumulate throughout the eviction process. "By the time SHA evicted one tenant last summer for owing one month's $49 rent, she owed another $400 in late fees, eviction and process server fees, and more. Another tenant faced eviction after failing to pay $95 in rent. She ended up owing more than 15 times that. By the time she was evicted, the tenant owed $350 for attorney fees, $133 for a sheriff's fee, and nearly $1,000 in sundry charges including utility charges, late fees, and eviction and process server fees.").

95.   Notes from conversation with SHA staff (May 30, 2022) (on file with author).

as mediation, was one of the key ideas that emerged from this reflection.[96] SHA property managers felt they did not have the tools needed to effectively navigate conflict.[97] There was a desire on the part of SHA to intentionally shift the culture by trying to engage tenants in meaningful ways around conflict.[98] SHA staff also described a tenant community with needs that are now more diverse and complex than they were in the past.[99]

The enormity of the tenant community and the complexity of the needs posed challenges for the design team. To ease the burden, SHA agreed to limit the pilot program to four SHA owned and operated properties and HCV recipients. To put this in perspective, SHA owns and operates more than 8,000 apartments and single-family homes at nearly 400 sites throughout the city.[100] Designing for the entire SHA community was a daunting task and the scale downward was helpful.

Even within the limited number of properties, however, the tenant community has vast and diverse needs. The designers attempted to plan around not only the depth of the challenges that SHA faces in resolving conflicts and preventing evictions, but also the sheer scope of services mediators and conflict intervention specialists would have to provide. With a diverse set of housing units, tenant needs, and existing norms, the absence of uniformity presented both opportunity and challenge for the intervention team.

D. Resource Availability

Resource questions are critical to design. The SHA grant of $225,000 was not nearly enough to cover dispute resolution services for the entire SHA community in 8,000 apartments and single-family homes at nearly 400

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96.   *Id.*
97.   *Id.*
98.   *Id.*
99.   *Id.*
100.   *See SHA Housing*, SEATTLE HOUS. AUTH., https://www.seattlehousing.org/housing/sha-housing [https://perma.cc/NW6K-WC8W] (last visited Aug. 11, 2022) (explaining that "[t]hese units are part of the Low-Income Public Housing Program, the Seattle Senior Housing Program, and what the agency refers to as 'additional housing.'" Additional housing includes a limited number of units that differ in eligibility, rent, and application process from SHA's Low-Income Public Housing and Senior Housing Programs. They vary from property to property and fall under two categories, special portfolio and tax credit units.).

sites, as well as for the HCV recipients.[101] As described above, the pilot program will provide services to four SHA-owned and -operated housing complexes as well as HCV recipients. SHA selected the four units as representative of a variety of housing arrangements—one senior housing complex, two high-rise complexes (one representing the northern and one representing the southern part of the city), and one scattered-site unit.[102] Given the limited grant award and the extensive need, the Coalition decided to use private donor support for the research and assessment component of the project.[103] This was a strategic decision focused on the next grant cycle. The Coalition wants to collect data to support the effectiveness of the intervention so that the project funding will be renewed and expanded in the next grant cycle. UW Law's willingness to provide research and assessment funding evidenced a serious commitment to the project.

III. CONFLICT RESOLUTION SERVICES

Lessons derived from the design elements identified above helped the Coalition create CRS's process and structure and design the system used to measure success and create accountability. Broadly, the project depended upon engagement with stakeholders to propose a system to prevent, manage, and resolve streams of conflict or disputes. Fair processes provided the design frame against which we balanced issues of efficiency for SHA and participants.[104] The project matched the design to available resources, focusing on user flexibility in choice and sequence of process options. Training and education to system providers, users, and stakeholders were critical components of the proposal. An independent, rigorous qualitative and quantitative assessment was included to force an iterative/generative

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101.   *See supra* note 100 and corresponding text. *See* SEATTLE HOUS. AUTH., REQUEST FOR PROPOSAL (RFP) SOLICITATION NO. 5504, *supra* note 88, at 5 ("Up to $225,000 will be available to the successful application.").

102.   See Seattle Housing Authority, *Scattered Sites*, https://www.seattlehousing.org/properties/s cattered-sites (describing scattered sites as properties that are owned and managed by the Seattle Housing Authority, located throughout the city, comprised of "multi-family buildings and apartment buildings that are generally smaller than typical Low Income Public Housing properties.") (last visited Nov. 15, 2022).

103.   The University of Washington School of Law has access to donor funds, through a gift from Judge Shellan, that are specifically designed to further to development of Alternative Dispute Resolution Systems.

104.   This proposition is supported directly by Author's work in the Conflict Resolution Services process.

process of redesign on an ongoing basis. Mindful that the results of that assessment would take time, the proposal included methods for timely, nimble feedback and adaptation to increase program effectiveness. Also understanding that buy-in from stakeholders is essential, the proposal included a vetting process for stakeholder input prior to any redesign.

Before the design team focused on the particular dispute system design, the team realized that it had to first grapple with the larger systemic issue of actual fairness in any process, acknowledging the underlying threads of power, racism, (un)fairness, and (lack of) neutrality inherent in dispute resolution systems.[105] While an in-depth examination of these topics—even in the more limited context of the dispute resolution tools offered through CRS—is beyond the scope of this essay, leaving recognition of these important issues to a footnote seems insufficient.

Scholars argue that the familiar alternative dispute resolution ("ADR")[106] concept of neutrality is even more critical in non-adjudicative proceedings, in part, because they take place in private, outside the decision-making authority of the law.[107] Without the formalities of traditional adjudication, some scholars maintain that informal methods of dispute resolution place minority disputants at even greater disadvantage than the formal legal system.[108] Legitimacy of ADR processes rests, to an extent, on consensual decision-making, neutrality, and impartiality.[109] But as one scholar notes, "the neutrality requirement. . . is neither practicable nor attainable in real life."[110] Studies show that mediator bias, explicit and

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105.   There is an extensive body of literature raising critiques of law's supposed neutrality and objectivity rooted in feminist legal theory, *see* NANCY LEVIT ET AL., FEMINIST LEGAL THEORY: A PRIMER (2d ed. 2016), critical race theory, *see* CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw et al., eds., 1995); RICHARD DELGADO & JEAN STEFANCIC, CRITICAL RACE THEORY: AN INTRODUCTION (2d ed. 2012), and LatCrit, *see* FRANCISCO VALDES & STEVEN W. BENDER, LATCRIT: FROM CRITICAL LEGAL THEORY TO ACADEMIC ACTIVISM (2021).

106.   I intentionally use the term "Alternative Dispute Resolution (ADR)" here because the scholarship I refer to uses that term. However, ADR is now commonly used to refer to Appropriate, as opposed to Alternative Dispute Resolution. *See* AMSLER ET AL., *supra* note 19, at 9.

107.   Hilary Astor, *Mediator Neutrality: Making Sense of Theory and Practice*, 16 SOC. & LEGAL STUD. 222 (2007).

108.   Richard Delgado et al., *Fairness and Formality: Minimizing the Risk of Prejudice in Alternative Dispute Resolution*, 1985 WIS. L. REV. 1359 (1985).

109.   Astor, *supra* note 107.

110.   Carol Izumi, *Implicit Bias and Prejudice in Mediation*, 70 SMU L. REV. 681, 684 (2017). *See also Id.* at 225 (citing Catherine MacKinnon, *Feminism, Marxism, Method and The State: Towards Feminist Jurisprudence*, 8 SIGNS 635 (1983), https://doi.org/10.1086/494000 ("A claim to impartiality

implicit, impacts the process, content, and outcomes of mediations.[111] Vital recent work explores the impact of structural racism on mediation.[112] Scholars continue the critical work of acknowledging and creating meaningful ways to address these concerns.[113] Reckoning with structural and systemic bias and racism is essential to the project's DSD efforts. Identification of these systemic issues is only the beginning, and the project plans to continue efforts to find substantive ways to address these issues within the DSD. The design of this project centered around six core elements: consistent outreach and ongoing education; rapid response de-escalation; integration of social services support; proximity to the conflict; development of an interdisciplinary, multicultural team; and research and assessment to create an iterative process of continuous re-design.[114] With these six elements guiding the effort, the design team created a model that is mapped in Appendix 1[115] and discussed in more detail below.

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is a claim to power and authority.").

111. Carol Izumi, *Implicit Bias and Prejudice in Mediation*, 70 SMU L. REV. 681 (2017); Carol Izumi, *Implicit Bias and the Illusion of Mediator Neutrality*, 34 WASH. U. J. L. & POL'Y, 71 (2010); Astor, *infra* note 107, at 225 (citing David Greatbatch & Robert Dingwall, *Selective Facilitation Some Observations on a Strategy Used by Divorce Mediators*, 23 LAW & SOC'Y REV. 613 (1989) (concluding that mediators exert pressure in mediation towards outcomes they favor by selectively creating opportunities for the parties to pursue these outcomes).

112. Isabelle R. Gunning, *Justice for All in Mediation: What the Pandemic, Racial Justice Movement, and the Recognition of Structural Racism Call Us to Do as Mediators*, 68 WASH. U. J., L. & POL'Y 35 (2022).

113. *Id.* (calling on the dispute resolution community to confront and wrestle with at least three things: acknowledge that the dispute resolution field is subject to systemic racism; acknowledge that the presence of that racism and its negative impacts are embedded in the very structures of the mediation processes which we use; and commit to transform our processes and approaches such that systemic racism and negative racial impacts may be reduced). *See also* Dispute Resolution Magazine Editorial Board, Editorial, *Reckoning with Race and Racism*, 27 DISP. RESOL. MAG. 2 (2021) (The DRM Editorial Board wrote a self-reflective editorial which rejected using its editorial space or the issue of the magazine for self-congratulatory statements, but rather used the space to turn a critical eye on the field of dispute resolution. While noting that "[o]ur field [of dispute resolution] which is built on negotiation, mediation, dispute systems design, and restorative practices, has much to offer in this moment one in which racial justice, equality and reconciliation are at the forefront of the national consciousness," the Editorial Board rightfully asked whether the DR field had stepped up to provide relevant dispute resolution services at critical moments related to racial violence and subordination in the past. *Id.* at 2.

114. *See supra* notes 24-25 and corresponding text.

115. *See infra* Appendix 1 (providing color coding to identify various elements of the project. There are five colors used in the model to designate the various components of the project: gold represents the diagnostic component of the work; blue represents the provision of services; green represents research and evaluation; purple represents the interdisciplinary professionals that are integrated where helpful; and red represents the pervasive components of the project (education,

The project begins with outreach and education to tenants, landlords, and SHA staff. SHA staff and intervention team members will be trained to navigate housing conflicts through a non-adversarial, collaborative process that focuses on relationship building, whether between residents, between residents and housing providers, or between SHA residents and staff. Training programs will be individually designed after consultation with SHA resident property managers and the staff of various resident facilities to fit differing roles and needs.[116] Outreach by members of the dispute resolution team ("DRT")[117] working with the SHA owned and operated units includes knocking on doors to educate residents in each of the four complexes involved in the pilot project. Information about the program is shared through flyers, websites, and staff-targeted outreach. Throughout the life of the project, education will include trainings on effective communication, conflict de-escalation, and negotiation.

To further rapid response de-escalation, diagnosis and assessment happen within twenty-four to forty-eight hours of initial contact with CRS staff, identified as dispute resolution specialists ("DRSs"). DRS staff are trained in assessment, de-escalation techniques, conflict coaching, and communications. They have a deep understanding of the social services network available for timely engagement of wrap-around services where needed. DRS staff will first determine if the dispute falls within the jurisdiction of CRS. If the conflict is outside of CRS's mandate, the individual will be referred to more appropriate services.

If the conflict does fall within CRS's mandate,[118] the project design enables participants to identify and address underlying problems to provide sustainable resolutions instead of simply addressing the most pressing problem. The DRS will determine if the parties would benefit from any of the interdisciplinary social services support that are provided by collaborating agencies to maximize compassionate, practical solutions to

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outreach, evaluation, and iterative improvement) that are woven throughout.).

    116.   Trainings could include, but are not limited to, conflict theory, communication and conflict resolution skills, the importance of cultural awareness, and how to work effectively with an interpreter.

    117.   The dispute resolution team includes staff from the three organizations that submitted the proposal to SHA, the King County Dispute Resolution Center, Housing Connector, and the Mediation Clinic at the University of Washington School of Law.

    118.   *See* Target Beneficiaries and Conflicts Document (identifying situations when CRS should engage, situations when CRS should not engage, and situations where flexibility should be applied) (on file with author).

housing conflicts. Because mental illness and substance abuse are major drivers of conflict in supportive and affordable housing, the project will utilize behavioral health specialists including therapists, drug counselors, and social workers experienced in mental health advocacy to provide wrap-around and follow-up services. This support could be put in place prior to addressing the underlying dispute or in concert with the dispute resolution services provided and will continue post-resolution through aftercare check-ins, including putting agreements back on track if needed.[119]

The DRS then assesses the best way to address the conflict. Possible services include conflict and communication coaching, conciliation, mediation, group facilitation, restorative circles, and transformative mediations.[120] If the conflict can be addressed with a quick intervention, conflict coaching and conciliation will be considered. Conflict coaching, as defined in this program, involves any intervention where the DRS coaches the individual to address the problem themselves. Among other tools, they may include sharing information, suggesting ways to approach the other party in the conflict, or role-playing an approach. Conciliation, as defined in this program, is any quick engagement by the DRS that involves shuttling back and forth between the parties. The DRS might speak to both parties individually to learn more information and shuttle proposed solutions or approaches to the problem between the parties. If the dispute can be resolved at this early stage, the clients and the DRS will be interviewed by the research team about the experience for assessment purposes.

If the DRS determines that quick resolution of the conflict is not the most effective route, the next step will depend upon the nature of the conflict. If the conflict is between landlord/tenant, tenant/SHA staff, or tenant/tenant, the parties will be scheduled for a formal mediation. If the dispute involves multiple parties or large groups, the dispute resolution team will offer a restorative circle, transformative mediation, and/or group

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119.   *See infra* note 135 and accompanying text.
120.   SHA the list of some of the common conflicts shared with the design team. This list is by no means inclusive of all potential areas of conflict, but it does illustrate some of the issues that arise frequently. These include smoking, unsafe or unsanitary conditions, hazardous activity, abusive or threatening manner, noise level or quiet hours, failure to show proof of residence when asked, boarding and lodging guests, property maintenance, property damage, utility usage, lease interpretation misunderstandings, unauthorized property alteration, unauthorized pets, unauthorized business activity, moving, interpretation of the rules, entering a person's apartment without giving notice, mistreatment or hassling, infringing on rights/personal space, discrimination, HCV rent non-payment issues (prior to 14-day notice), and HCV recertification issues.

meeting facilitation to help parties understand their underlying interests and shared goals.

Based on the premise that the closer dispute resolution specialists are to the conflict, the more effective they will be, the provision of services will be on-site or online. As long as COVID-19 pandemic restrictions continue, staff will utilize online dispute resolution tools to address problems in a timely manner. When the pandemic is no longer a barrier, the project design will include in-person meetings and multi-participant joint sessions held in the community where disputants live or work. The conflict intervention team will travel to the conflict and engage with disputants in their homes and offices.

To support the work leading to a resolution, all individuals that connect with CRS will have a regular post-services check-in scheduled.[121] The goal of post-service check-ins is to ensure the durability of agreements. The DRS can help the parties address any ongoing issues and adjust any agreements, respectively. If additional conflict coaching, conciliation, a second mediation, or group conflict service is needed, the DRS will wrap the client back into the provision of services.

Another critical element of the design addresses the make-up of the team members that provide services. A team of skilled interdisciplinary and multicultural negotiators who can navigate the nuances of each unique problem is critical to effective service provision. As such, the project will utilize professionals who are trauma-sensitive, culturally humble and informed, and trained in implicit bias, institutional racism, trauma, and historical wounding of communities. With the structure identified, the design team wanted to create a mechanism for ongoing program evaluation. The team's limited experience to date illustrated the need for ongoing feedback and re-design. Further, the team wanted a way to measure the success, if any, of the proposed interventions. The next section describes the work to date on this aspect of the project.

IV. QUALITATIVE AND QUANTITATIVE ASSESSMENT

Responding to an appeal, issued in one of this journal's recent volumes, to assess "thoroughly and systematically" early intervention dispute

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121.   We are currently debating at what intervals the post-services follow-up should take place. Currently under consideration is a monthly check-in for a six-month period.

resolution programs, the project includes independent and rigorous qualitative and quantitative assessments.[122] Data and empirical analysis about housing dispute resolution tools are scant,[123] especially relating to long-term impacts.[124] To structure the research and evaluation aspect of the project, the design team recruited a social science faculty member with expertise in housing and houselessness from the University of Washington College of Built Environments to lead the research team and a Ph.D. candidate from the University of Washington Evans School of Public Policy.[125]

The evaluation conducted by the UW research team will include a formative and summative evaluation employing quantitative and qualitative methods. The ongoing, formative assessment tools will enable the research team to share findings with the design and service delivery teams in order to modify the design through an iterative process. These changes will be incorporated in real time as the program is in effect. The summative assessment will evaluate how the program operated and the outcomes it produced. Prior to embarking on the detailed research design process, the research team met several times with the University of Washington's Human Subjects Division ("HSD") that manages the Institutional Review Boards ("IRB"), whose responsibility is to review and oversee UW human

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122.   Parrish, *Just Diversion*, *supra* note 56, at 92 ("[T]o help eviction mediation programs meet their intended purpose of settling cases and increasing housing stability, it is crucial that they are thoroughly and systematically assessed.").

123.   *Id.* at 92 *(*arguing that arguing that the absence of data and empirical analysis about early intervention programs "disadvantages the field as a whole[.]").

124.   *Id.* (urging that the long-term impact of the process on the overall precarity of the parties be measured through assessment of housing security and financial stability).

125.   The team is fortunate to work with Gregg Colburn, Assistant Professor of Real Estate at the University of Washington College of Built Environments. Assistant Professor Colburn brought a wealth of knowledge and experience alongside two recent publications that proved essential to the development of the project. *See* GREGG COLBURN & CLAYTON PAGE ALDREN, HOMELESSNESS IS A HOUSING PROBLEM: HOW STRUCTURAL FACTORS EXPLAIN U.S. PATTERNS (2022) (exploring the factors that drive homelessness, and the cultural and economic shift that can ultimately benefit the housed and unhoused); Gregg Colburn, et al., *supra* note 35 (evaluating a King County initiative that moved people out of homeless shelters and into hotel rooms to help slow the transmission of coronavirus). The research team also includes Ph.D. candidate Gonnie Park from the University of Washington Evans School of Public Policy, *supra* note 35 (detailing Gonnie's relevant background).

subjects research.[126] The research and evaluation team received IRB approval at the end of August 2022.[127]

    To help guide the research and establish a shared understanding of the program and its expected outcomes, the research team designed logic models for each of the service providers. The logic models include a statement of the problem as articulated by SHA. "Unresolved conflict and lease violations contribute to community discord, resident dissatisfaction, staff burnout, and housing instability for residents" that participate in the HCV program and that reside in SHA owned and operated facilities.[128] The logic models also specify expected programmatic outcomes. Said another way, if the program worked as intended, what outcomes would accrue? If CRS works as intended, HCV landlords, SHA owned and operated program management staff, and residents "will benefit from an equitable, early intervention that can help to: increase their skills and empowerment to resolve conflict; reduce conflict levels; improve residents' satisfaction with housing, sense of community cohesion, and confidence in building management/landlords; and decrease housing instability driven by conflict and certain lease violations."[129] The HCV logic models include the additional proposed program result of "increas[ing] private landlords' satisfaction with SHA."[130] The logic model also identifies inputs (resources devoted to the problem); specific activities (applied to the problem), and outputs (what will be produced) in the near-, intermediate-, and long-term.[131] For example, because CRS has funding, knowledge, educational programming, mediators, conflict coaches, technological supports, administrative services, and partnerships with interdisciplinary service organizations, it will be able to provide conflict coaching, conciliation,

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    126.   For more information about the University of Washington's Human Subjects Division within the Office of Research *see About Us*, UNIV. WASH. OFF. RSCH.
https://www.washington.edu/research/hsd/about-us/ [https://perma.cc/365T-MAV3] (last visited Aug. 12, 2022) ("The HSD and IRBs "perform the federally-required review of human subjects research that is conducted by UW faculty, staff and students.").

    127.   *Evaluation of Conflict Resolution Services for Tenants, Managers, and Landlords in Seattle Housing Authority Subsidized Housing*, University of Washington Institutional Review Board Application (approved on August 31, 2022) (on file with author).

    128.   *See* Draft Logic Models – Conflict Resolution Services (CRS) for the HCV Program and SHA Owned and Operated Units (on file with author).

    129.   *Id.*

    130.   *Id.*

    131.   *Id.*

mediation, large meeting facilitation, restorative circles, outreach, communication, supportive wrap-around services, and evaluation.

At the program level, the research team will evaluate "how much/many" outputs are performed. For example, how many conflicts did CRS address (by source and demographic); how many resolutions/agreements were reached; how many supportive service referrals were made; and how many trainings were conducted? Program-level evaluation will also assess whether the resources devoted to the service are contributing to near-term, intermediate, and long-term outcomes such as skill acquisition; engagement by tenants/landlords; equitable access to intervention; successful intervention; client satisfaction; reduced individual conflict and group conflict; increased confidence in ability to resolve conflict; increased housing satisfaction among tenants; increased confidence in building management and landlords; increased housing stability (*e.g.*, increased lease renewal rates and fewer moves and evictions); reduced staff time needed to address conflict; and fewer calls to police.[132]

Using the logic models as a starting point, the research team next met with SHA, KCDRC, and HC to identify the specific data to be collected by each organization.[133] The data to be used in the research and evaluation will come from two primary sources. First, data from the partner organizations will be collected, stored, and shared with UW. The research team worked with IT departments at each organization to create easy-to-use fields to enter and store data in each organization's customer relationship management software systems. SHA, HC, and KCDRC each executed data sharing agreements with UW to allow for the protected exchange of information.[134] Second, the research team will generate qualitative data from interviews that will be conducted with program participants and staff members. The UW

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132. *Id.*

133. Data sought from SHA includes: administrative data for essential background information on the program participants, [non-participants], and housing communities. The data will be used to identify program participants and [non-participants] and to link their information to the substantial information collected through other methods such as surveys and interviews. In addition to background, demographic data, we requested that SHA track a certain list of output and outcome data that is described in the table below. Data sought from KCDRC and HC includes: data survey forms and pre- and post-services satisfaction surveys. The administrative data offered by KCDRC and HC, such as Salesforce case number, Salesforce ID number, and Tenant codes, will be used for matching the data from KCRDC/HC to the data from the other parties—SHA and UW. The specific data are included on data-sharing agreements with each organization (on file with author).

134. Data Sharing Agreements with SHA, HC, and KCDRC (on file with author).

research team will conduct pre- and post-service interviews. The pre-service interviews will explore the parties' and service providers' expectations and goals for the processes. Pre-service interviews will be conducted prior to mediation or use of group conflict resolution tools. Post-service interviews will be conducted with the parties and the service provider to gather detailed information about the process and the experience of parties and staff. For disputes that can be addressed quickly, the research team will only engage in post-services interviews. All parties will be asked to complete a post-service satisfaction questionnaire. Finally, all individuals that connect with CRS will have a regular post-service check-in scheduled.[135] The research team will gather assessment data on the post-services check-ins directly from the providers conducting the follow-up service.

There are two important lessons for a legal scholar who has not engaged previously in significant qualitative or quantitative research. First, create relationships with your University's Institutional Review Board and start engaging with that team as soon as possible.[136] There are many pieces to the research component, and choices that you make early can impact overall feasibility and timeliness of this work. Second, before collecting any official data for the research, it is critical to have data sharing agreements in place. These agreements cover the transfer, storage, protection, and use of confidential data for research purposes.[137] Ensuring the availability of an IT department can support the encryption and other protections needed for confidentiality is critical.

Because the project is at the initial stage, the team is not in a position to report any qualitative or quantitative data at this point. The hope is that the forthcoming data will provide insights that can be shared with others who create systems uniquely designed to meet the needs of their local communities.[138]

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135.   We are currently debating at what intervals the post-services follow-up should take place. Currently under consideration is a monthly check-in for a six-month period.

136.   The research plan and protocol are subject to the University of Washington's Institutional Review Board (IRB) process to "protect the safety, rights, and welfare of research participants and to ensure institutional compliance with federal and state regulations and University policies." UNIV. WASH. OFF. RSCH., *supra* note 126.

137.   Draft data sharing agreements on file with author and available upon request.

138.   I use the word "hope" very intentionally as so much about this project is in the developmental stage. I admit to being hesitant to share this essay at all in light of the infancy of the work but decided that sharing ideas and experiences will help our project as well as others.

CONCLUSION

Housing inequality remains a pressing and intractable social problem in the US. Its impact on BIPOC communities is particularly acute in Seattle where the cost of housing is exorbitant, and the housing stock is limited. There is a crucial need for creative problem-solving to address this crisis. This essay describes one early-intervention dispute resolution tool designed to address housing instability for SHA residents. While the design described above was tailored to the specific goals, stakeholders, context, culture, and resources of our local community, we offer three insights for others working on DSD in the housing context. First, while pressure will exist to launch projects quickly, try to take the time needed to engage in thoughtful and holistic design. Second, engage with and rely upon the expertise of other organizations. The benefits of differing perspectives will outweigh the challenges of collaboration. Finally, acknowledge the systemic issues of power, inequality, racism, and implicit bias within any dispute resolution system, and remain open to working on creative ways to overcome these issues. Our hope is that the more we share what works and what fails, the more success we will have designing systems that address the important needs of the communities we serve.

APPENDIX A

CONFLICT RESOLUTION SERVICES — SERVICES
FLOWCHART

For a larger version of this Services Flowchart *in color*, visit https://perma.cc/L2NM-WSXY.

The model in Appendix 1 is a work in progress. The model is color-coded to help the viewer understand the interplay among the various participants. Gold represents diagnosis tasks. Blue represents the provision of various services. Purples represents the interdisciplinary professional services designed to address underlying causes of conflict. Green represents the research and evaluation component of the project. Red represents the ongoing threads that weave throughout the entirety of the work.

Conflict Resolution Services – Service Flowchart