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**THE RELATION BETWEEN JUDICIAL DUE PROCESS DECISIONS
IN NEW YORK CITY LANDLORD TENANT COURT AND
JUDICIAL BACKGROUND CHARACTERISTICS**

BY

Jerome Lester Reide

DISSERTATION

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ABSTRACT

THE RELATION BETWEEN JUDICIAL DUE PROCESS DECISIONS IN NEW YORK CITY LANDLORD TENANT COURT AND JUDICIAL BACKGROUND CHARACTERISTICS

BY

Jerome Lester Reide

Does the social class, race and gender of New York City's Housing Court judges significantly explain the high rate of eviction orders which they issue against minority women tenants, most of whom are heads of households with children? This question is the core of the inquiry.

Systematic random samples of judicial decisions in Manhattan's Housing Court were drawn. The sample's time frame begins in June 1987, which corresponds closely with data collected by the A.C.L.U., the City Wide Task Force on Housing Courts and the Fund for Modern Courts. To obtain a representative cross-section of Housing Court judges, a list of Civil Court judges elected between 1980 and 1985 were identified and a random sample was drawn from the list.

There are three major dependent variables indicative of Housing Court judicial decisions which we propose to analyze and explain. They are whether a formal inquest hearing was conducted to establish that notice was adequate before a default eviction order is issued, whether both parties were

represented by an attorney, and whether there was a lack of judicial supervision when settlements were reached.

The explanatory variables are judge's gender, race, non-family campaign contributions, type of previous legal concern, national or state rank of law school and age cohort.

The major findings indicate female Housing Court judges and judges 30-50 years old, conduct more inquests, discontinue more cases due to lack of representation and supervise more settlements than male judges. As non-family campaign contributions increase judges hold fewer inquests, and discontinue fewer cases due to lack of representation than those who do not receive this type of contribution.

Further, black Housing Court judges conducted fewer inquests and were less likely to discontinue cases for lack of representation than white judges. These variations in Housing Court decisions are systematically related to judicial background at the conventional .05 level and are corroborated by probit coefficient estimates which substantiate this model's predictive capacity, raise judicial reform questions and invite additional research.

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This dissertation is dedicated to the living legal legacy of the late David K. Kadane, Rains Distinguished Professor of Law Emeritus, Hofstra University School of Law, Founding Director of the Community Legal Assistance Corporation, the Hofstra Law School Neighborhood Law Office, which provides legal services for clients with low income. Professor Kadane was my mentor in the law, my advocate and my friend.

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List of Abbreviations

MDNAES	Motion denied no appearance either side.
FJLLNAT	Final judgment landlord no appearance tenant.
MED	Mediation.
MPSPS	Motion (granted or denied) proceeding settled per stipulation.
SET	Settled.
MDNAM	Motion denied no appearance movant.
SPS	Settled per stipulation.
INQUEST	Inquest hearing held before default eviction decision.
LGLREP	Pooled data: MDAM, FJLLNAT, MDNAES.
UNSUP	Pooled data: MED, MPSPS, SPS.

GENDER	Gender of judge.
RACE	Race of judge.
CONTRIB	Non-family campaign contributions:(major, some, none).
CONCERN	Type of previous legal concern the judge practiced with.
RANK	National or state rank of judge's law school.
AGE	Age cohort: junior (30-50) vs senior (61-70).
MMJBIVAR¹	Dummy variable black male Housing Court judge.
WFJBIVAR²	Dummy variable white female Housing Court judge.
WMJBIVAR³	Dummy variable white male Housing Court judge.

INTRODUCTION

Professor Norman Dorsen describes due process as a guarantee which, "prevents government from imposing sanctions against individuals without sufficiently fair judicial or administrative procedures...Whatever the context, civil liberties require that individual interests of liberty and property not be sacrificed without a process that determines facts and liability at hearings that are fairly established and conducted." (Dorsen, 1986).

Judicial decisions in New York City's landlord tenant court (the Housing Court of the New York City Civil Court), are essentially procedural due process decisions. The outcomes hinge on whether the tenants rights are respected but it does not always occur in practice. Procedural due process protection for litigants is mandated by the U.S. Constitution.

For due process to be a reality in the N.Y.C. Housing Court three basic elements must occur. First, litigants must be notified that there is a dispute which involves them. This notification should tell them how they can respond and exactly where they can respond. Second the litigants should have a day in court when there is an opportunity to be heard on the merits and to defend against allegations. Finally, the severity of the consequences of losing a landlord tenant

dispute require judges to maintain a high standard of justice. That standard should weigh the litigant's private interest, the government interest and the risk of error especially if counsel is not present for one of the parties (usually the tenant). Such a standard requires an orderly proceeding adapted to the nature of the case and controversy. (Reide, 1987). These then are three elements of procedural due process in Housing Part judicial decisions which we propose to analyze (1) notice to the parties of the dispute, (2) an opportunity for each to be heard and defend, and (3) an orderly proceeding adapted to the nature of the case and controversy to be decided. (Hansen, 1983).

When due process is not afforded to litigants, (i.e., landlords or tenants), their justice is denied. The judicial result often is 72-hour notice of eviction, or a default judgment, which if left unchallenged by the tenant often leads to actual evictions and homelessness. (Wise, 1987). This study limits itself to determining under what conditions procedural due process occurs.

I

The Housing Part was created by the New York State Legislature in 1972. The explicitly stated legislative intent for the Housing Part reads,

[T]he court shall be devoted to actions and proceedings involving the enforcement of state and local laws for the establishment and maintenance of housing standards, including, but not limited to, the multiple dwelling law and

the housing maintenance code, building code and health code of the administrative code of the city of New York." (Judiciary Law, NYCCAA s. 110 (a), 1972).

Essentially, landlord tenant courts are supposed to resolve landlord tenant disputes and adjudicate the right to occupancy of real property. As the statute indicates, the preservation of New York City's housing stock by enforcement of laws and codes is the underlying public policy which led to the establishment of the landlord tenant court. The preservation of housing stock and code enforcement are not always issues in landlord tenant disputes, yet the court also has this jurisdictional power. Moreover, the vast majority of proceedings initiated in landlord tenant court are not begun to preserve housing stock, but rather are begun by landlords who seek to evict tenants for alleged violations of the landlord tenant contractual relationship. (Reide, 7).

Tenants usually agree that the maintenance and preservation of housing stock should be considered; a defense often raised when landlords seek rent money or eviction. Yet tenants rarely take the offensive in seeking better housing and when they do the results are often disappointing. Court officials estimate that only three percent of the cases in New York's Housing court are initiated by tenants who want repairs and maintenance. (Reide, 7). Repairs are part of negotiated stipulation agreements in approximately 40 percent of this small number of cases and in only 53 percent of the stipulated

agreements are repairs actually made and only 16 percent of the court orders provide rent abatements to tenants who have lived in housing under unlawful conditions. (Robbins, 1986). Thus in less than one percent of the cases is housing stock improved or rent abatements upheld. Rather the issue in most of the cases is the landlord's rights to collect rent or evict undesirable tenants.

The pecuniary nature of this litigation has placed the collection of rent and the eviction of tenants before the stated legislative intent of housing stock preservation.

We here examine each of the elements of procedural due process in greater detail. The determination as to whether a tenant was given adequate notice that he or she was named as a party in a civil law suit and was required to appear in court on a specific day is a critical decision in the Housing Part. (Reide, 9-13). Litigants are to receive notice by "service," which is the specific method required by law to deliver or send court papers to a party, which notifies him or her that they are being sued and have the right to come to court and defend their interests. (Reide, 61).

If a person is improperly served they may not know they are supposed to appear in court. An undercover investigation of 37 process servers led by New York Attorney General Robert Abrams discovered that 95 percent of them engaged in "sewer service,"

(i.e. they disposed of the court papers in the sewer or garbage and then filed fraudulent affidavits in court

which stated that the papers were properly served). (Abrams and Aponte, 1986).

Abrams estimates that 48,000 default judgments a year are entered in New York City as a result of "sewer service." Thus the number of times tenants appear in court is a rough measure of whether papers are served. Housing part judges make judicial decisions to enter default judgments, sometimes without a hearing to ensure that the claims by the party who is present (usually the landlord), can be established on the record when the other party (usually the tenant), is not present. (Reide, 59). These hearings are called inquests. If an inquest is not held the landlord does not have to prove his allegations with sworn testimony and other evidence. At times inquests are held and at other times default judgements are entered without any proof to substantiate the landlords' allegations.

Thus the presence or absence of an (INQUEST), notation, in court records can be used as a better measure of whether procedural due process occurs, since it indicates whether or not the judge is concerned that tenants rights are upheld.

Our second element was whether the litigant had the opportunity to be heard. Whether a litigant (usually a tenant), actually has an opportunity to state his or her case and offer defenses to the civil accusations depends on knowledge of court proceedings or more appropriately legal representation. (Reide, 13-22). Approximately 70 percent of tenants are not represented in pre-trial conferences, (e.g.

the "motion part," of landlord tenant court). (Reide, 17).

The Access to Justice Project's observers also found more than a two to one disparity in the frequency of landlords represented by counsel, (67 percent) and tenants represented, (33 percent). (Reide,17). When the tenant was not represented only four percent of the cases observed lasted more than five minutes. When the landlord was not represented none of the observed cases lasted more than five minutes. (Reide, 22). These findings corroborated the companion report by the City Wide Task Force on Housing Court which found 44 percent of pretrial conferences in front of a judge lasted for five minutes. (Fox, 51). Without knowledge of the rules of the New York Civil Court, the Housing Part rules, New York State's evidentiary rules and exceptions, plus 100 administrative directives, litigants who are unrepresented have almost no real opportunity to be heard and to defend themselves. (Reide, 17). Housing Part judges make judicial decisions to evict, award rent, and issue default judgments with frequently adverse outputs against litigants without counsel. Thus a reasonable measure of being heard is determining whether the tenant as well as the landlord had legal counsel.

This determination is possible by analysis of decisions where court records indicate "final judgement landlord no appearance tenant, (FJLLNAT)." This notation indicates that neither an attorney or a tenant appeared to represent the

tenant. Similarly, where the housing court record indicates "motion denied no appearance either side," (MDNAES) this indicates that neither party was represented. Yet another indicator of an opportunity to be heard is the court record notation "no appearance movant," (MDNAM), which indicates that no attorney or landlord appeared to represent the landlord. (LGLREP indicates pooled data for these measures).

The third element of procedural due process is the orderliness and fairness of the court procedures. (Reide, 27-34). Orderliness and fairness are questionable in the Housing Part practice of stipulation agreement settlements which are usually conducted in courtroom hallways.

This element is substantively significant in that there is usually a lack of judicial supervision in the negotiation, formation and drafting of these agreements. There is a judicial decision involved however. The judge may send the case to a mediator who oversees the agreement, the parties may agree to let a mediator resolve the case, or the parties may settle the case per stipulated agreement. In each situation a judicial decision is involved.

In the sense that the judge leaves the supervision of settlements to a mediator (who may be a court clerk), a landlord's attorney or the parties themselves speaks to the orderliness and fairness of the proceeding. The lack of recording devices, transcripts and open court discussions benefits the party who writes the agreement.

The agreements are usually written by landlord attorneys and judges often do not ask if the agreement was understood by both parties. (Reide, 29). The Access to Justice Project's study found that when housing disputes were settled by stipulated agreement, in approximately 45 percent of the observed cases, the legal consequences of non-compliance with the agreement were not explained by the judge. (Reide, 28). In 27 percent of the observed cases, neither party was asked if they understood what they had signed. Only one percent of the landlords and 38 percent of the tenants were asked if they understood the settlement agreement. (Reide,29).

Similarly, the City Wide Task Force on Housing study indicates that in 43 percent of the settlement cases observed, judges did not ask both parties if they understood the settlement terms. (Fox, 56). Thus, when a case is settled by stipulated agreement there is a likelihood that the terms have not been explained to the tenants more often than not. Court record notations that cases were "settled, (SET)," and "settled per stipulation, (SPS)," are indicators of orderliness and fairness.

Other court record notations denote that the landlord tenant dispute was settled by stipulated agreement. These include "motion granted proceeding settled as per stipulation, (MGPSPS), motion denied proceeding settled per stipulation, (MDPSPS), and motion granted as per stipulation, (MGPS).

Further, a similar yet procedurally distinguishable trial part notation "motion pending suspend trial," (MPS), is similar to the motion part notations MGPSPS, MDPSPS and MGPS listed above. Trials are a rarity in Housing Court. As settlement by stipulated agreement occurs more frequently, the similarity in these four notations is assumed to denote "motion (granted or denied) proceeding settled per stipulation, MPSPS. This approach minimizes the possibility of variation in Housing Court notation by the court clerks.

Moreover, mediation, of the case by a mediator who is employed by the court and acts in place of the judge to settle cases is another indication of whether stipulations were entered into in an orderly and fair fashion. The stipulation agreements which the Access to Justice Project observed were often negotiated and entered into off the record without full explanation of their legal implications. (Reide, 26). Further, the Citywide Task Force on Housing court study indicates that settlement agreements which mediators supervise required payment of rent in 88.1 percent of the cases. (Fox, 61). In 70.4 percent of this type of agreed settlement the rent must be paid immediately, while 72.2 percent of the agreements were unconditional and required payment of rent whether or not landlords made statutorily required repairs or not. On this basis court notations of mediated settlements (MED, M)" are also reasonable measures of orderliness and fairness. (UNSUP is pooled data for these measures).

We thus have defined procedural due process by three measures.

II

Our next question is to hypothesize under what conditions procedural due process does or does not occur. The measures are (A.) the background characteristics of Housing Court judges, their gender, race, law school, prior type of legal concern they practiced in, non-family (or personal) campaign contributions, and age cohort (B) estimated percentages of tenants' gender, race and the time spent in front of the judge, and (C) whether the action was for non-payment of rent, eviction or repairs.

The first measure is cogent as judges are the authoritative decision makers in the Housing Court. The background characteristics to be examined here reflect research in the judicial sub-field of political science, (Howard, 1981). The New York City Housing Court issues 28,000 eviction orders a year. (Rubin, 1984). Some 60 percent of N.Y.C.'s homeless are families. (Listener's Action for the Homeless, 1985). These factors combined with the inordinate percentages of women and minority litigants in the housing courts imply questions as to the social economic status, race and gender of the judges empowered to evict. (Baum, 1986).

Research on the Civil Court of the City of New York elections indicates that Democratic party endorsement is critical as Democrats won some 97.6 percent of the elections.

(Fund for Modern Courts, 14). A Democratic primary election was held in only 24 of the 85 elections. Absence of a primary election reduced competitiveness and left voters with only the candidates chosen by Democratic party leaders. (Fund for Modern Courts, 15).

The average amount of campaign money raised in a Civil Court election grew from \$12,500 in 1980 to \$40,001 in 1985, a 330 percent increase. (Fund for Modern Courts, 18-19). More than one third of voters who turned out on election day failed to cast a ballot for any Civil Court candidate (Fund for Modern Courts, 16-17). Ninety five percent of Civil Court incumbents were reelected. (Fund for Modern Courts, 16-17).

Women and minorities are at a distinct disadvantage in the Civil Court's judicial selection process. (Fund for Modern Courts, 20-22).

The second set of estimated measures should help to indicate the variation in treatment which tenants receive. The majority of tenant litigants interviewed by the Access to Justice Project were women (79 percent). Of all tenant litigants interviewed by observers (European-Americans, African-Americans and Hispanic-Americans were represented in the population), 53 percent were African Americans. (Reide, 19).

A similar finding was made by the City Wide Task Force on Housing Court. Eighty percent of tenant litigants in the Housing Part were African-American or Hispanic, 66 percent

were women and 50 percent received some form of public assistance. (Fox, 31-33). Half of all trials and 81 percent of all cases in pre-trial hearings lasted less than 15 minutes. (Fox, 51). Due to the limited resources of the two published studies which document the indicators here, the measures will be estimates.

The third measure will allow us to assess the types of Housing Court decisions. The Housing Court records will provide a large and reliable data base on the type of case, and the judges who decided them. Background characteristic information on Housing Court judges is documented in a study published by the Fund for Modern Courts (1986).

Data on tenants' gender, race and time spent in front of the judge is not reflected in the official court records, however the samples drawn by court observers in the studies by the City Wide Task Force on Housing Court (Fox, 1986), and the Access to Justice Project of the A.C.L.U. (Reide, 1987), provide a small data base to assess these measures.

III

Having examined the elements of procedural due process and conditions under which it occurs we are now prepared to test our major hypotheses. The three due process variables and the Housing Court decisions can be tested for their relationship to judicial background characteristics and litigants' background characteristics.

A specific indicator, which speaks to whether or not the

Housing Court is carrying out the stated legislative intent of housing stock preservation is, whether tenants are evicted. We have no way of saying with certainty that the eviction judgement was actually executed, (that is the tenant did not bring an order to show cause within the required 72 hours to prevent eviction), however we can determine that when the court records indicate "INQUEST," that a formal hearing was conducted and the landlord was required to prove his holdover case against the tenant before the judge entered an eviction order.

Court records of whether tenants win when they seek to compel landlords to make necessary repairs are unavailable for practical purposes. Less than three percent of cases in Housing Court are commenced by tenants who seek repairs.

Evictions are an indicator of what the court is frequently used for, regaining dominion and control over property by landlords. The infrequency of court ordered repairs indicates the lack of execution of the dominant public policy, (preservation of housing stock) which is the legislative intent and primary function of the Housing Court.

The inquiry appears significant, in that, it will provide a model with which the judicial backgrounds of judges in local civil court jurisdictions can be operationalized with a view toward discerning their relationship to judicial decisions. Such a model will provide the analytical rubric for the systematic analysis of judicial decisions in local courts.

On the basis of the systematic data analysis which the model will provide, evaluation of local court policies and practices may be conducted with a view toward enhancing access to the judicial system.

Further, an adverse judicial decision in New York City's landlord tenant court may lead to the output of an eviction order which frequently leaves an entire New York City family foraging in garbage cans for food, and living in cardboard boxes on steamy manholes or subterranean life in the subway system.

Chapter 1. LITERATURE SUMMARY

Companion studies of judicial decisions in the New York City Housing Part have been conducted by the Access to Justice Project, of the American Civil Liberties Union, (Reide 1987), and the City Wide Task Force on Housing Court, (Fox 1986). Research on the social characteristics of judges in the New York City Civil Court elections has been published by the Fund for Modern Courts (1986). A synopsis of the judicial sub-field in political science should help to differentiate this inquiry from the extant body of knowledge on judicial decisions before a summary of these studies (which speak directly to the proposed inquiry).

The current state of the judicial sub-field within political science has focused on appellate court alignments, (Rohde and Spaeth, 1976), the U.S. Supreme Court, (Ignagni, 1990), (Dahl, 1958), judicial role conceptions, (Howard, 1981), background characteristics of federal court appointees (Goldman, 1985), group dynamics on appellate panels, (Brenner, 1980), and the relationship of appellate court judges' background characteristics and decisions, (Tate, 1981).

Research on trial courts tend to have concentrated on criminal court issues such as plea bargaining, (Heumann, 1978), case management (Freely, 1979) and differential sentencing, (Brererton and Casper, 1981, 1982).

Research on judicial decisions in civil litigation is distinguishable from U.S. Supreme Court decisions, which involve a hierarchial appellate process before a majority or a plurality of justices decides the controversy. (Rohde and Spaeth, 1976). Clarity, in the distinction between civil and criminal litigation (i.e. the latter usually involves incarceration upon conviction of a crime), must also be established. (Brererton and Casper, 1981, 1982).

Civil court research on judicial decisions has not received the attention which appellate court and criminal court decisions have. (Galanter, 1974). Areas of published civil court research include the relationship of the courts to other adjudicative bodies, (Sarat and Grossman, 1975), the values allocated on the basis of facts and norms by civil court (Wanner, 1974,1975), the utility of the courts to redress grievances, (Miller and Sarat, 1980,1981) and the selection of state court judges and special interests, (Watson, Downing and Spiegel, 1967).

Lempert's (1989) examination of "informal procedure," in Hawaiian public housing eviction board decisions is distinguishable from the New York City Housing Part procedure which is governed by Civil Court and Housing Part rules, New York evidentiary rules and exceptions, as well as more than 100 administrative directives. The severity of the consequences when an adverse judicial decision is rendered in tropical Hawaii and temperate New York City is another

distinction.

In his subsequent discussion of longitudinal court docket research over a thirty year period Lempert (1990) argued that quantitative docket data must be placed in local perspective (e.g., Hawaii), with qualitative contextual information.

What the literature underscores for this inquiry is the limited number of judicial decision makers in a given U.S. jurisdiction. For example, the U.S. Supreme Court has nine members and federal and state appellate court panels range from seven to three.

When the decisions which this inquiry assesses were made there were 20 sitting Housing Court judges for the five counties of New York City which is approximately four Housing Court judges per county. (Fox, 12). This inquiry will analyze the decisions of three Manhattan Housing Court judges.

Unlike many of the databases discussed in the literature, this inquiry's data base of judicial decisions is comparatively large. For instance analysis of U.S. Supreme Court decisions was possible on the basis of 92 cases decided over 16 years. (Ignagni, 96). This inquiry will analyze Manhattan Housing Court decisions on the basis of 1648 cases decided over four months.

The related but distinguishable literature on judicial decision research does not fall squarely on the N.Y.C. Housing Part, which the Chief Judge of the New York State Court of Appeals (the state's highest tribunal), described as

"reminiscent of a bazaar of Calcutta." (Wachtler, 1986). In light of New York City's visibly acute homeless problem, (N.Y.S. Department of Social Services, 1984), an analysis which seeks to explain the influences on the judges of law and fact in cases which may lead to eviction and homelessness seems past due. (Cohen, 1979).

The companion studies of judicial decisions in the New York City Housing Part Justice Evicted, (Reide, 1987), and Five Minute Justice, (Fox, 1986) assessed judicial decisions in the Housing Part of the New York City Civil Court.

The Access to Justice Project of the A.C.L.U., (Reide, 1987), focused on access to the landlord tenant court. It examined four aspects of due process. Is the notice to litigants reasonably executed to notify them of the issues, how they should respond to protect their rights, and where they should appear? Do litigants have an opportunity to be heard in Housing Court and to adequately present their defenses and evidence? Is the proceeding an orderly, logical progression which leads to the determination of legal issues in light of the possible severity of an adverse decision in Housing Court? Can litigants expeditiously appeal judicial decisions when appeals are mandated by specific statutes?" (Reide, x). The assumed due process practices of the Housing Part were contrasted to the actual practices. "Sewer service," the level of adequate assistance in the clerk's office, an inadequate number of translators, the absence of

plain language instruction manuals, and the lack of appointed counsel for tenants facing eviction were assessed. T h e A.C.L.U. report corroborated the research conducted by the City Wide Task Force on Housing Court, (Fox, 1986). Justice Evicted focused primarily on due process, similarly Five Minute Justice assessed the function of the Housing Part in light of the legislative intent for the court's formation and the lack of legal representation for minorities who were predominantly women. The time spent on cases, the frequency of cases initiated for non-payment of rent, and hallway settlements were also assessed.

Housing Part judges are New York City Civil Court judges. Election of these judges between 1980 and 1985 was assessed in The Illusion of Democracy, (The Fund for Modern Courts, 1986). This study documented the process of judicial selection, such as voter participation, the role of political party endorsements, opposition and competitiveness of the elections, the impact of incumbency and campaign financing. It also assessed judicial background characteristics such as the gender, race, prior type of law practice, law school rank and age of candidates for Civil Court.

CHAPTER 2. THEORETICAL APPROACH AND ASSUMPTIONS

A. Preliminary research indicates that while litigants, attorneys, court clerks, process servers, and city marshals play supportive roles in the Housing Court procedures, the judges are the key players. They are the trier of fact and arbiter of the law. They make the authoritative judicial decisions and on this basis we assume they should be the objects of research here. (Rotunda, Nowak & Young, 1986).

B. This raises questions as to how do individuals get the authority to allocate the due process guarantees in the Housing Court? What is the process of selection? Do campaign contributions, which are not from the candidates or their families, provide donors with judicial access or special consideration? Are campaign contributions a quid pro quo? Is there real competition in the civil court elections? What training is required of them and at what schools?

What are the socioeconomic background characteristics of those who seek judicial office? What is there race, age, sex? Are they incumbents? Here, we assume that an analysis of judicial backgrounds and the probable implications of their similarities and diversity should facilitate legal prediction. (Keown, 1980).

Specifically, which background characteristics of judges seem to explain eviction decisions?

C. The importance of the decisions which these judges are selected to make, implies a review of what impact, if any, their selection has on a litigant, before he or she is deprived of a major property right. Here, judicial outputs, public policy, the assumed definitions of Housing Court docket notations and the acquisition of the power to make housing court decisions, provides an opportunity to segment, quantify and assess the dynamics of judicial decision and election in a local civil court. (Jacob, 1968). The background characteristics of tenants is also a measure which should help interpret the primary findings of this inquiry. (Reide, 19).

RESEARCH HYPOTHESES

The central question may be posed in hypothetical form as, whether judicial background characteristics, which include election practices, are independent of due process for litigants in N.Y.C. landlord tenant courts? (Fund for Modern Courts, 1986).

VARIABLES AND MEASUREMENT

Four major dependent variables will be assessed which operationalize due process in N.Y.C.'s Housing Court. The indicators are (1) whether an inquest was held before a default eviction decision was made, (2) whether both parties had lawyers in housing court cases, (3) whether both parties had supervision by a judge when cases were settled by

stipulated agreement. Additional dependent variables to be assessed are (4) the specific decisions which will be pooled to develop the major dependent variables, (5) the gender of tenants in the Housing Court (6) the race of tenants in the Housing court.

Notice, as further operationalized here, will examine default judgments which result in eviction orders against tenants when a formal inquest is recorded in the court record. Notice is the primary indicator of due process. It is the premise of the other two legs of due process, which are, an opportunity to be heard and orderly proceeding. Conduct of an inquest is a probative indicator of whether reasonable notice was actually given. Moreover, without an inquest the landlord does not have to establish the factual or evidentiary basis of his action against the tenant.

Whether both parties had legal representation indicates another aspect of due process, an opportunity to be heard and defend. A related ordinal measure of the orderliness and fairness of the proceedings is whether landlords and tenants have judicial supervision when they settle cases by stipulated agreements.

One judicial output indicator is whether or not an eviction decision was made? Another is the percentage of tenants who sought to have the courts compel their landlords to make repairs as this will facilitate the assessment of one of the policy objectives of the court which the legislature

intended. The gender and race of tenants in the Housing Court are other indicators along with the time litigants spent in front of judges are dependent variables which may be imputed from the observation data available. Court docket records do not list the time spent on the case, however the observation data does provide information on the length of proceedings for each type of proceeding in the Housing Part. Analysis of this behavior will allow for classification of judicial decisions according to whether they have a demonstrably adverse impact on tenants.

The independent variables for this inquiry operationalize both the process of judicial selection and reflects the judges' background characteristics. Campaign contributions, which are not from the candidates or non family members, is an independent variable which raises several critical issues. What is the mean amount of this type of contribution? How much more is contributed when judges have competitors? Do judges who received the most of this type of contribution have the least competition? If there is no real contest why do Civil Court judges need campaign contributions? Incumbency is another factor in judicial selection which seems related to campaign contribution issues.

The public or private classification of the legal concern (e.g., law firm, court or administrative agency), is a factor in judicial background characteristics which seems related to the process of judicial selection and judicial decisions.

Similarly, the literature indicates the national (which teaches the operative common law in a majority of U.S. jurisdictions), or state (which concentrates on the common law of one state e.g. New York) rank of the judges' law school seems to have significant explanatory value. (Tate, 1981).

Gender and race impact on the process of judicial selection and speaks to who is allowed to become a judge of law and a trier of facts in the Civil Court. Conversely, gender and race seem to impact on tenants in Housing Court.

The variation in judicial output is the critical test for judicial due process decisions here. Due process is all but meaningless in the Housing Part without an attorney to represent litigants. If one side (usually the landlord), has an attorney and the other does not unequal judicial treatment is demonstrable, (Fox, 1986), and independently verifiable. (Reide, 22).

The first set of hypotheses relate judicial due process decisions and judicial backgrounds:

H_0 : Judicial background characteristics, which include election practices, are independent of due process for litigants in N.Y.C. landlord tenant courts.

Thus:

H1a: Housing Court judges who receive campaign contributions, which are not personal or family, issue more default decisions to evict tenants without a formal inquest, than those who do not receive this type of contribution.

(Fund For Modern Courts, 18).

H1b: Housing Court judges who receive campaign contributions, which are not personal or family, provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than those who do not receive this type of contribution. (Fund For Modern Courts, 18).

H1c: Housing Court judges who receive campaign contributions, which are not personal or family, conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreements than those who do not receive this type of contribution. (Reide, 28).

H2a: Housing Court judges who practiced in a public legal concern before election, issued more default eviction decisions to evict tenants without a formal inquest than those who practiced in private concerns. (Goldman, 1985).

H2b: Housing Court judges who practiced in a public legal concern before election, provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than those who practiced in private concerns. (Goldman, 1985).

H2c: Housing Court judges who practiced in a public legal concern before election, conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement

than those who practiced in private concerns. (Reide, 28).

H3a: Housing Court judges whose law schools had a national rank issue fewer default eviction decisions against tenants without a formal inquest than those from law schools with state ranks. (Kaye, 1980).

H3b: Housing Court judges whose law schools had a national rank provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in eviction cases than those from law schools with state ranks. (Kaye, 1980).

H3c: Housing Court judges whose law schools had a national rank conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than those from law schools with state ranks. (Kaye, 1980).

H4a: Male Housing Court judges enter more default judicial decisions which evict unrepresented tenants without a formal inquest than female Housing Court judges. (Fund for Modern Courts, 20-22).

H4b: Male Housing Court judges provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than female Housing Court judges. (Fund for Modern Courts, 20-22).

H4c: Male Housing Court judges conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than female Housing Court judges. (Fund for Modern Courts, 20-22).

H5a: White Housing Court judges enter more default judicial decisions which evict unrepresented tenants without a formal inquest than minority Housing Court judges. (Fund for Modern Courts, 20-22).

H5b: White Housing Court judges provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than minority Housing Court judges. (Fund for Modern Courts, 20-22).

H5c: White Housing Court judges conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than minority Housing Court judges. (Fund for Modern Courts, 20-22).

H6a: Senior Housing Court judges (defined as age 61-70) enter more default judicial decisions which evict unrepresented tenants without a formal inquest than junior Housing Court judges (30-60). (Fund for Modern Courts, 20-22).

H6b: Senior Housing Court judges (defined as age 61-70) provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in

landlord tenant cases than junior Housing Court judges. (Fund for Modern Courts, 20-22).

H6c: Senior Housing Court judges (defined as age 61-70) Housing Court judges conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than junior Housing court judges. (Fund for Modern Courts, 20-22).

The second set of hypotheses relate judicial due process decisions and tenants backgrounds:

H7₀: Tenants' background characteristics, are independent of due process for litigants in N.Y.C. landlord tenant courts.

Thus:

H7a: Male housing court tenants receive more default judicial decisions which evict unrepresented tenants without a formal inquest than female housing court tenants. (Fox 31-33).

H7b: Male housing court tenants receive a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than female housing court tenants. (Fox, 31-33).

H7c: Male housing court tenants receive more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than female housing court tenants. (Fox

31-33).

H8a: White housing court tenants receive more default judicial decisions which evict unrepresented tenants without a formal inquest than minority housing court tenants. (Reide, 19).

H8b: White housing court tenants receive a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than minority housing court tenants. (Reide, 19).

H8c: White housing court tenants receive more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than minority housing court tenants. (Fund for Modern Courts, 20-22).

Empirical findings on these questions will allow for inferences to be drawn on the implications of judicial background characteristics on judicial decisions in the Housing Part of the N.Y.C. Civil Courts. (Fund for Modern Courts, 1986). The proposed research will increase clarity on what factors seem to influence judicial outputs (and to what degree). (Baum, 1983,1986).

Chapter 3. RESEARCH DESIGN AND METHOD OF ANALYSIS

SAMPLING PROCEDURES

Systematic random samples of judicial decisions in one Housing Part jurisdiction were drawn, (i.e. Manhattan). The time frame of the sample of judicial decisions will begin in June 1987. This time period closely corresponds with the large amount of data collected by the A.C.L.U. the City Wide Task Force on Housing Courts and the Fund for Modern Courts. To obtain a representative cross-section of Housing Part judges, a list of Civil Court judges and candidates¹ selected between 1980 and 1985 were identified and a random sample was drawn from the list. (Fund for Modern Courts, 55-78).

A random start and a sampling interval were established after the percentage of the population elements to be included in the sample (15 percent) was established. Consistency between the population elements to be included in the sample were calculated to insure a uniform sampling interval given the finite number of judges (20) assigned to the Housing Part of the New York City Civil Court.

That is every third court calendar record in the Housing Court Clerk's office between June and October 1987. If the record drawn was not a judge elected between 1980-1985 it was replaced and another drawn until approximately 1500 observations (1648 in total) were drawn. Court election data

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(1980-1985), was gleaned from the records in the New York City Board of Elections by researchers in the Fund for Modern Courts study. This data were augmented with legal documents and interviews of knowledgeable actors in and observers of New York City politics and the Civil Court.

Estimates on the gender, and race of the tenants in Housing Court was drawn from the two companion studies. First, observation data on notice, an opportunity to be heard and defend, and an orderly proceeding adapted to the nature of the case and controversy, (the three fundamental elements of due process), in the Housing Part was gathered, classified, quantified, and assessed by this researcher in his capacity as coordinator of the Access to Justice Project of the American Civil Liberties Union and published as an A.C.L.U. public policy report entitled Justice: Evicted (Reide, 1987).

Approximately 100 court monitors (tenants as well as landlords), observed 563 calendar call, motion calendar call, and stipulation agreements, in the Housing Part of the N.Y.C. Civil Court in Brooklyn, the Bronx and Manhattan from July to October 1986. (Wise, 1987). These decisions were observed as the majority of landlord tenant cases are resolved in these proceedings. (Reide, 26). The inquiry corroborated Housing Court research of the City Wide Task Force on Housing Court. (Fox, 17).

Next, observation data on the motion calendar call, stipulation agreements and trial parts of the Housing Part was

collected in all New York City Housing Part Jurisdictions by observers from the Citywide Task Force on Housing Court in November 1983 and February 1984. (Fox, 16). Three thousand cases were observed in this study. Court files were examined in ten percent of the observed cases and Housing Part judges were interviewed in the Fall of 1983.

RELIABILITY

The earlier publications on New York City Housing Court decisions, (Fox, 1986), (Reide, 1987), provided a theoretical basis for the legal importance of and type of judicial decisions analyzed here. These confluent studies are the major published analysis of the policies and practices of the New York City Housing Court.

This inter-study reliability is underscored by substantial agreement of findings on the questions of notice, legal representation, lack of supervision of stipulation agreements, types of lawsuits initiated, gender and race of tenants in the Housing Court.

The Housing Court records from which this inquiry's sample of judicial decisions were drawn are the official dockets of the Manhattan Housing Court. The Chief Clerk's office is the authoritative record keeper and depository of Housing Court records.

The judicial background data was compiled by the Fund for Modern Courts, a nonpartisan, nonprofit, statewide court reform organization. The official records of the New York

City Board of Elections was the basis for their information on Civil Court elections between 1980 and 1985. The background characteristics which were operationalized as independent variables are consistent with the characteristics discussed in the judicial decision sub-field of the political science discipline. (Hansen, 1983).

VALIDITY

Validity standards, outside of Housing Court judges who make decisions in landlord tenant cases, were used to assess the validity of the measurement devices of this inquiry.

They included the body of constitutional law on due process (Rotunda, Nowak and Young, 1986), and research in federal judicial backgrounds (Goldman, 1985). The suitability of the definitions, categories and sub-categories seems adequate on the basis of constitutional precedent and the state of the judicial decision sub-field.

DATA ANALYSIS

The quantification and segmentation of ordinal data on the elements of the due process judgments and judicial backgrounds allows association tests for judges' background characteristics and on judicial decisions.

Quantification of the judicial decisions was achieved in a binary manner. "When a particular due process decision was made it was coded as "1," and a "0" was entered to reflect missing information for the different types of due process

decisions which could have been made. This dichotomous coding method was applied to MDNAES, FJLLNAT, MED, MPSPS, MDNAM, SPS, and INQUEST. (The two pooled data dependent variables, LGLREP and UNSUP also reflect this binary coding scheme). Thus, each dependent variable could only have a value of "1," or "0".

Quantification of the judges' backgrounds did not require dichotomous coding as the dependent variables did. The first independent variable GENDER, was coded "1" for female and "2" for male. RACE, was operationalized by coding black as "1," Hispanic² as "2," and white as "3".

Campaign contributions, which were not personal or family, were segmented as "major", above the 1985 mean of \$40,001, "some," below the \$40,001 mean and "none," for no campaign contributions. Thus, the independent variable CONTRIB was coded as, major "1", some "2," and none "3." The type of legal concern in which the Housing Court judge practiced in before selection to the bench was coded as, public "1," and private "2."

The rank of the judge's law school³ was coded as national "1" and state "2". The judge's age cohorts⁴ were coded as 30 to 40, "1", 41-50, "2," 51 to 60 "3," and 61-70, "4."

The existence of the suspected ordinal association may be measured initially with statistics such as, percentile, and Chi-square. As the hypotheses are framed in a one directional manner, (i.e., "more than"), one tailed tests are appropriate. Nonparametric statistical measures of correlation seem

appropriate to explain the suspected association here.

The contingency tables display the relationships among the variables. The explanatory independent variables are displayed in columns while the (observation) dependent variables are shown in rows. The tables' cells show the number and percentage of observations for all of the tested combinations of variable relationships. The Chi-square test of independence indicates whether a systematic relationship between the variables in the row by column tables exists.

The observation data in this joint frequency format qualifies for only one row, column and cell. "For tables with more than a single degree of freedom, a minimum expected frequency of five can be regarded as adequate, although when there is only a single degree of freedom a minimum expected frequency of ten is much safer." (Hays, 1981). This conservative rule of thumb may be relaxed and smaller frequencies permitted due to circumstances. The contingency tables and Chi-square for the specific decisions by the explanatory variables are displayed in Tables 4-45. These statistics provide a basis for comparison with the contingency tables based on pooled data displayed in Tables 46-57.

Further, on the basis of these measures a nonlinear probability model (Aldrich and Nelson 1984), will be developed which will allow another test of whether the independent variables have a statistically significant effect on the dependent variables.

The proposed method of analysis will allow reasonable inferences to be drawn on the suspected relationship between judicial selection policies and the due process afforded litigants. (Kaye, 1980). Comparison of judicial backgrounds and the probable implications of their similarities and diversity should facilitate judicial decision prediction. (Keown, 1980). The findings of the proposed inquiry should allow an evaluation of our initial propositions. Findings of statistical significance at the .05 level should illuminate the underlying question whether due process is decided by dispassionate judicial decisions based on law or the socioeconomic biases of judges.

LIMITATIONS

Each of New York's five boroughs has a distinct housing market and Manhattan, while representative, was chosen due to the ready availability of the data and the earlier companion studies. Housing Court record notation varies somewhat with each court clerk. To eliminate any changes in court record notations the major dependent variables were developed with pooled data. These variables provide an unbiased estimate with a smaller sampling error than a single sample value.

The absence of a high frequency of decisions of some types is due to the nature of judicial decisions in Housing Court. For instance postponements are the most common decision and of the 1648 observations there were 807 postponements, nearly half of the observations.

This inquiry seeks to span the provinces of meaning in jurisprudential science, the (local courts) judicial decision sub-field in political science, demographic factors in judicial backgrounds and the public administration notions of judicial selection⁵. For this reason use of the glossary⁶ is essential for clarity.

PRELIMINARY TESTS

Table 1 demonstrates how the hypotheses line up. Each of the independent variables was tested against each of the major dependent variables. The minor dependent variables which are based on estimates from the earlier Housing Court studies help to explain the preliminary findings. On the basis of the preliminary tests, more stringent tests of the data are discussed in the next section. The extent to which Housing Court decisions can be explained by judicial backgrounds is analogous to a jig saw puzzle which requires patience and attention to detail.

The joint frequency tables⁷ and the Chi-square test for significance are provided in Tables 2-56. Each dependent variable is separately tested for association with each of the six explanatory variables. (Discussion of the preliminary tests results may be found after every set of six tables on a separate page).

Table 1
Judicial Due Process Decisions
And Judicial Background Variables

INDEPENDENT VARIABLES	DEPENDENT VARIABLES
Judge's Gender: Female vs. Male	Default decision to evict without formal inquest.
Judge's Race: Black vs. White	Legal representation for both parties.
Non-family Campaign Contributions: Major, some, none.	Judicial supervision of settlements.
Judge's Type of Previous Legal Concern: Public, private	Specific decisions (i.e. MDNAM, SPS).
Judges Law School's Rank: National, state	Tenant gender.
Judge's Age Cohort : Junior, Senior	Tenant race.

Table 2
Motion denied no appearance either side
by gender of judge
GENDER

MDNAES	COUNT	FEMALE	MALE	ROW
	COL PCT			TOTAL
0		776 97.7	849 99.4	1625 98.6
1		18 2.3	5 0.6	23 1.4

COLUMN	794	854	1648
TOTAL	48.2	51.8	100.0

0 = Other judicial decisions
1 = Motion denied no appearance either side

Chi-square (1 d.f.) = 8.453951
Significant at .05

Table 3
Motion denied no appearance either side
by race of judge
RACE

MDNAES	COUNT	BLACK	WHITE	ROW
	COL PCT			TOTAL
	0	386 99.0	1239 98.5	1625 98.6
	1	4 1.0	19 1.5	23 1.4
COLUMN		390	1258	1648
TOTAL		23.7	76.3	100.0

0 = Other judicial decisions

1 = Motion denied no appearance either side

Chi-square (1 d.f.) = 8.453951

Significant at .05

Table 4
 Motion denied no appearance either side
 by non-family campaign contributions
 CONTRIB

MDNAES	COUNT	MAJOR	SOME	NONE	ROW TOTAL
	COL PCT				
0		463 99.8	386 99.0	776 97.7	1625 98.6
1		1 0.2	4 1.0	18.0 2.3	23 1.4

COLUMN	464	390	794	1648
TOTAL	28.2	23.7	48.2	100.0

0 = Other judicial decisions

1 = Motion denied no appearance either side

Chi-square (2 d.f.) = 9.464507
 Significant at .05

Table 5
 Motion denied no appearance either side
 by type of judge's previous legal concern
 CONCERN

MDNAES	COUNT	PUBLIC	PRIVATE	ROW
	COL PCT			TOTAL
0		1239 98.5	386 99.0	1625 98.6
1		19 1.5	4 1.0	23 1.4

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions

1 = Motion denied no appearance either side

Chi-square (1.d.f) = 0.508223

Table 6
 Motion denied no appearance either side
 by national or state rank of judge's law school
 RANK

MDNAES	COUNT COL PCT	NATIONAL	STATE	ROW TOTAL
0	1239 98.5	386 99.0	1625 98.6	
1	19 1.5	4 1.0	23 1.4	
COLUMN TOTAL	1258 76.3	390 23.7	1648 100.0	

0 = Other judicial decisions

1 = Motion denied no appearance either side

Chi-square (1 d.f)= 0.508223

Table 7
 Motion denied no appearance either side
 by judge's age cohort
 AGE

MDNAES	COUNT COL PCT	30-40	41-50	61-70	ROW TOTAL
0		776 97.7	463 99.8	386 99.0	1625 98.6
1		18 2.3	1 0.2	4 1.0	23 1.4
COLUMN TOTAL		794 8.2	464 28.2	39 23	1648 100.0

0 = Other judicial decisions

1 = Motion denied no appearance either side

Chi-square (2 d.f) = 9.464507
 Significant at .05

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Table 2 tests for a systematic relationship between the dependent variable "motion denied no appearance either side," a measure of representation and judge's gender which indicates a Chi-square value of 8.453951. Such a value would occur by chance between .001 and .0001 for a one-tailed test. On this basis we reject the null hypothesis that judicial background characteristics are independent of due process decisions for litigants in N.Y.C. Housing Courts at the conventional level of $p < .05$.

Judge's gender seems systematically related to this specific due process decision in that the female judge seems nearly four times as likely to make this decision than the males. Table 3 shows a significant Chi-square value however no appreciable differences between the percentage of this type of decision based on the judge's race.

The campaign contribution tests displayed in Table 4 indicate a monotonic array of steadily increasing decisions from 0.2 percent to 2.3 percent. This indicates that as campaign contributions decrease this type of decision increases. The Chi-square value for this table is 9.464507 with the likelihood of a chance occurrence between .005 and .0005.

Tables 5 and 6 show no statistical significance. Table 7 indicates that the proportion of these decisions made by judges in the (30-50) cohort was twice that of judges (61-70).

Table 8
 Motion denied no appearance movant
 by judge's gender
 GENDER

MDNAM

COUNT COL PCT	FEMALE	MALE	ROW TOTAL
0	753 94.8	854 100.0	1607 97.5
1	41 5.2	0 0.0	41 2.5
COLUMN TOTAL	794 48.2	854 51.8	1648 100.0

0 = Other judicial decisions
 1 = Motion denied no appearance movant

Chi-square (1 d.f.) = 45.223332
 Significant at .05

Table 9
 Motion denied no appearance movant
 by judge's race
 RACE

MDNAM	COUNT	BLACK	WHITE	ROW TOTAL
	COL PCT			
0		390 100.0	1217 96.7	1607 97.5
1		0 0.0	41 3.3	41 2.5

COLUMN	390	1258	1648
TOTAL	23.7	76.3	100.0

0 = Other judicial decisions
 1 = Motion denied no appearance movant

Chi-square (1 d.f.) =13.03494
 Significant at .05

Table 10
 Motion denied no appearance movant
 by non-family campaign contributions
 CONTRIB

MDNAM	COUNT COL PCT	MAJOR	SOME	NONE	ROW TOTAL
	0	464 100.0	390 100.0	753 94.8	1607 97.5
	1	0 0.0	0 0.0	41 5.2	41 2.5

COLUMN	464	390	794	1648
TOTAL	28.2	23.7	48.2	100.0

0 = Other judicial decisions
 1 = Motion denied no appearance movant

Chi-square (2 d.f.)= 45.223332
 Significant at .05

Table 11
 Motion denied no appearance movant
 by type of judge's previous legal concern
 CONCERN

MDNAM	COUNT COL PCT	PUBLIC	PRIVATE	ROW TOTAL
	0	1217 96.7	390 100.0	1607 97.5
	1	41 3.3	0 0.0	41 2.5
COLUMN TOTAL		1258 76.3	390 23.7	1648 100.0

0 = Other judicial decisions
 1 = Motion denied no appearance movant

Chi-square (1.d.f) =13.034944
 Significant at .05

Table 12
 Motion denied no appearance movant
 by national or state rank of judge's law school
 RANK

MDNAM	COUNT	NATIONAL	STATE	ROW
	COL PCT			TOTAL
	0	1217	390	1607
				97.5
	1	41	0	41
		3.3	0.0	2.5
COLUMN		1258	390	1648
TOTAL		76.3	23.7	100.0

0 = Other judicial decisions
 1 = Motion denied no appearance movant

Chi-square (1 d.f.)=13.034944
 Significant at .05

Table 13
 Motion denied no appearance movant
 by judge's age cohort
 AGE

MDNAM	COUNT COL PCT	30-40	41-50	61-70	ROW TOTAL
0		753 94.8	464 100.0	390 100.0	1607 97.5
1		41 5.2	0 0.0	0 0.0	41 2.5
COLUMN TOTAL		794 48.2	464 28.2	390 23.7	1648 100.0

0 = Other judicial decisions
 1 = Motion denied no appearance movant

Chi-square (2 d.f.)=45.223332
 Significant at .05

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Tables 8-13 tests another measure of representation "motion denied no appearance movant." These tables underscore the aforementioned caveat that Housing Court notation varies somewhat from clerk to clerk. Only one clerk used this notation in the sample. For this reason the significance of the Chi-square values for Tables 8-13 seem artificially high. This data are useful to the analysis in that it can be pooled with similar indicators to provide an unbiased estimate with a smaller sampling error than a single value. Pooled data are a viable alternative as what we seek are indicators of due process decisions. The data in these tables do provide measurable, quantifiable data on specific due process decisions made by a Housing Court judge in the sample.

Tables 8-13 when juxtaposed to Tables 2-7 demonstrates their utility as indicators of the due process concept. Opportunity to be heard and to defend, (which is defined as legal representation for both parties in landlord tenant cases), is the due process concept here. Further utility of these tables is demonstrated when they are compared with Tables 14-19 which display the tests for "final judgment landlord no appearance tenant". Motion denied no appearance either side usually reflects decisions for the tenant, while "final judgment landlord no appearance tenant" reflects decisions for the landlord. Comparison of the frequency distributions provides a basis for comparison.

Table 14
 Final judgment landlord no appearance tenant
 by judge's gender
 GENDER

FJLLNAT	COUNT COL PCT	FEMALE	MALE	ROW TOTAL
	0	766 96.5	854 100.0	1620 98.3
	1	28 3.5	0 0.0	28 1.7
COLUMN TOTAL		794 48.2	845 51.8	1648 100.0

0 = Other judicial decisions

1 = Final judgment landlord no appearance tenant

Chi-square (1 d.f.) = 30.636390
 Significant at .05

Table 15
Final judgment landlord no appearance tenant
by judge's race
RACE

FJLLNAT

COUNT COL PCT	BLACK	WHITE	ROW TOTAL
0	390 100.0	1230 97.8	1620 98.3
1	0 0.0	28 2.2	28 1.7

COLUMN	390	1258	1648
TOTAL	23.7	76.3	100.0

0 = Other judicial decisions

1 = Final judgment landlord no appearance tenant

Chi-square (1 d.f.) =8.830478
Significant at .05

Table 16
 Final judgment landlord no appearance tenant
 by non-family campaign contributions
 CONTRIB

FJLLNAT	COUNT COL PCT	MAJOR	SOME	NONE	ROW TOTAL
0	464 100.0	390 100.0	766 96.5	1620 98.3	
1	0 0.0	0 0.0	28 3.5	28 1.7	
COLUMN TOTAL	464 28.2	390 23.7	794 48.2	1648 100.0	

0 = Other judicial decisions

1 = Final judgment landlord no appearance tenant

Chi-square (2 d.f.)=30.63639

Significant at .05

Table 17
 Final judgment landlord no appearance Tenant
 by type of judge's previous legal concern
 CONCERN

FJLLNAT	COUNT	PUBLIC	PRIVATE	ROW
	COL PCT			TOTAL
0		1230 97.8	390 100.0	1620 98.3
1		28 2.2	0 0.0	28 1.7

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions
 1 = Final judgment landlord no appearance tenant

Chi-square (1.d.f) = 8.830478
 Significant at .05

Table 18
 Final judgment landlord no appearance tenant
 by national or state rank of judge's law school
 RANK

FJLLNAT	COUNT	NATIONAL	STATE	ROW
	COL PCT			TOTAL
0		1230 97.8	390 100.0	1620 98.3
1		28 2.2	0 0.0	28 1.7

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions
 1 = Final judgment landlord no appearance tenant

Chi-square (1 d.f) = 8.830478
 Significant at .05

Table 19
Final judgment landlord no appearance tenant
by judge's age cohort

FJLLNAT	AGE				ROW TOTAL
	COUNT COL PCT	30-40	41-50	61-70	
0	766 96.5	464 100.0	390 100.0	1620 98.3	
1	28 3.5	0 0	0 0.0	28 1.7	

COLUMN	794	464	390	1648
TOTAL	48.2	28.2	23.7	100.0

0 = Other judicial decisions

1 = Final judgment landlord no appearance tenant

Chi-square (2 d.f.)=30.636390

Significant at .05

Tables 14-19 display the tests of "final judgment landlord no appearance tenant" an indicator of opportunity to be heard and to defend, (defined as legal representation for both parties in a landlord tenant proceeding).

In a manner similar to Tables 8-13 the notation seems to have been used by only one of the Housing Court clerks. This data are useful in that it is the corollary of "motion denied no appearance movant."

Final judgment landlord no appearance tenant is usually a decision in favor of the landlord while motion denied no appearance movant is a decision usually in favor of the tenant. When Tables 14-19 are juxtaposed to Tables 8-13 they reveal that judicial decisions were entered against both landlords and tenants who failed to make their scheduled appearances if only one side showed up. This helps interpret Tables 2-7 which displays motion denied no appearance either side.

The pooled data technique allows the indicators which this data offers to be combined and generate an unbiased estimate with a comparatively small sampling error, which corrects for variation in Housing Court notation. Tables 2-19 when pooled by addition of the variables, constitutes the first major dependent variable legal representation for both parties which is displayed in Tables 20-25 which speaks to opportunity to be heard and to defend.

Table 20
 Legal Representation for both parties
 by judge's gender
 GENDER

LGLREP	COUNT COL PCT	FEMALE	MALE	ROW TOTAL
	0	707 89.0	849 99.4	1556 94.4
	1	87 11.0	5 0.6	92 5.6
COLUMN TOTAL		794 48.2	854 51.8	1648 100.0

0 = Other judicial decisions

1 = Legal Representation for both parties

Chi-square (1 d.f.) = 83.972667
 Significant at .05

Table 21
 Legal Representation for both parties
 by judge's gender
 RACE

LGLREP	COUNT	BLACK	WHITE	ROW
	COL PCT			TOTAL
0		386	1170	1556
		99.0	93.0	94.4
1		4	88	92
		1.0	7.0	5.6

COLUMN	390	1258	1648
TOTAL	23.7	76.3	100.0

0 = Other judicial decisions
 1 = Legal Representation for both parties

Chi-square (1 d.f.) =20.127692
 Significant at .05

Table 22
 Legal Representation for both parties
 by non-family campaign contributions
 CONTRIB

LGLREP	COUNT COL PCT	MAJOR	SOME	NONE	ROW TOTAL
	0	463 99.8	386 99.0	707 89.0	1556 94.4
	1	1 0.2	4 1.0	87 11.0	92 5.6

COLUMN	464	390	794	1648
TOTAL	28.2	23.7	48.2	100.0

0 = Other judicial decisions
 1 = Legal Representation for both parties

Chi-square (2 d.f.)= 84.23236510
 Significant at .05

Table 23
 Legal Representation for both parties
 by type of judge's previous legal concern
 CONCERN

LGLREP	COUNT COL PCT	PUBLIC	PRIVATE	ROW TOTAL
	0	1170 93.0	386 99.0	1556 94.4
	1	88 7.0	4 1.0	92 5.6

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions

1 = Legal Representation for both parties

Chi-square (1.d.f) = 20.127692
 Significant at .05

Table 24
 Legal Representation for both parties
 by national or state rank of judge's law school
 RANK

LGLREP	COUNT		NATIONAL	STATE	ROW TOTAL
	COL	PCT			
0			1170 93.0	386 99.0	1556 94.4
1			88 7.0	4 1.0	92 5.6

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions
 1 = Legal Representation for both parties

Chi-square (1 d.f) = 20.127692
 Significant at .05

Table 25
 Legal Representation for both parties
 by judge's age cohort
 AGE

LGLREP	COUNT	30-40	41-50	61-70	ROW
	COL PCT				TOTAL
0		707 89.0	463 99.8	386 99.0	1556 94.4
1		87 11.0	1 0.2	4 1.0	92 5.6

COLUMN	794	464	390	1648
TOTAL	48.2	28.2	23.7	100.0

0 = Other judicial decisions

1 = Legal Representation for both parties

Chi-square (2 d.f) = 84.236510
 Significant at .05

Tables 20-25 display tests of "legal representation for both parties." Table 20 shows female judges more likely to issue decisions of this type. The Chi-square value is 83.972667. This large value indicates a high level statistical relationship. Table 21 suggests white judges more likely to issue these decisions, although the Chi-square value is considerably less than judge's gender at 20.127692. Similar Chi-square values are shown in Table 23 and Table 24 which display tests for the independent variables type of judge's previous legal concern and national or state rank of judge's law school. Judges who practice in public concerns and those who attended nationally ranked law schools made more judicial decisions on this aspect of due process than those who practiced in private concerns and attended state ranked law schools.

Table 22 indicates a high level of significance with a Chi-square value of 84.23236510 for non-family campaign contributions. A similar test result for judge's age cohort is indicated by Table 25 with a Chi-square value of 84.236510. The frequency distributions and levels of significance are so similar between Tables 23 and 24 and also Tables 22 and 25 that additional tests seem warranted to distinguish the explanatory variables and to tell us more about the systematic relationship which the data appears to indicate. The more multinomial probability tests will provide further assessment of these relationships in the next section.

Table 26
Mediation by judge's gender
GENDER

MED	COUNT	COL PCT	FEMALE	MALE	ROW TOTAL
	0		781 98.4	824 96.5	1605 97.4
	1		13 1.6	30 3.5	43.5 2.6

COLUMN	794	854	1648
TOTAL	48.2	51.8	100.0

0 = Other judicial decisions
1 = Mediation by judge's gender

Chi-square (1 d.f.) = 5.696039
Significant at .05

Table 27
Mediation by judge's gender
RACE

MED	COUNT	BLACK	WHITE	ROW TOTAL
	COL PCT			
	0	373 95.6	1232 97.9	1605 97.4
	1	17 4.4	26 2.1	43 2.6

COLUMN	390	1258	1648
TOTAL	23.7	76.3	100.0

0 = Other judicial decisions
1 = Mediation by judge's gender

Chi-square (1 d.f.) = 6.155518
Significant at .05

Table 28
Mediation by non-family campaign contributions
CONTRIB

MED	COUNT COL PCT	MAJOR	SOME	NONE	ROW TOTAL
	0	451 97.2	373 95.6	781 98.4	1605 97.4
	1	13 2.8	17 4.4	13 1.6	43 2.6

COLUMN	464	390	794	1648
TOTAL	28.2	23.7	48.2	100.0

0 = Other judicial decisions
 1 = Mediation by judge's gender

Chi-square (2 d.f.) = 7.718185
 Significant at .05

Table 29
Mediation by type of judge's previous legal concern
CONCERN

MED	COUNT COL PCT	PUBLIC	PRIVATE	ROW TOTAL
0		1232 97.9	373 95.6	1605 97.4
1		26 2.1	17 4.4	43 2.6

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions
1 = Mediation by judge's gender

Chi-square (1.d.f) = 6.155518
Significant at .05

Table 30
Mediation by national or state rank of judge's law school
RANK

MED	COUNT COL PCT	NATIONAL	STATE	ROW TOTAL
0		1232 97.9	373 95.6	1605 97.4
1		26 2.1	17 4.4	43 2.6

COLUMN	1258	390	1648
TOTAL	76.3	23 .7	100.0

0 = Other judicial decisions
 1 = Mediation by judge's gender

Chi square (1 d.f) = 6.155518
 Significant at .05

Table 31
Mediation by judge's age cohort
AGE

MED	COUNT	30-40	41-50	61-70	ROW
	COL PCT				TOTAL
	0	781 98.4	451 97.2	373 95.6	1605 97.4
	1	13 1.6	13 2.8	17 4.4	43 2.6

COLUMN	794	464	390	1648
TOTAL	48.2	28.2	23.7	100.0

0 = Other judicial decisions
1 = Mediation by judge's gender

Chi-square (2 d.f) = 7.718185
Significant at .05

Table 26 indicates a relationship between "mediation" decisions and judge's gender. The male judges seem more likely to make decisions to mediate. The Chi-square value of 5.696039 is significant at the .05 level.

Table 27 indicates that judge's race has explanatory power for this variable with a Chi-square value of 6.155518, and black judges more likely to make mediation decisions.

Tables 29 and 30 display similar statistically significant tests results for the previous type of practice that the Housing Court judges were engaged in and the national or state rank of their law school. Both variables seem to generate similar distributions and systematic relationships.

Tables 28 and 31 show a Chi-square value of 7.718185 for non-family campaign contributions and the judge's age cohort. Judge's who receive "some" non-family campaign contributions and judges in the senior (61-70) age cohort seem more likely to make mediation decisions. Both tables reflect an association which speaks to our underlying concern here which is whether the proceedings are orderly in light of the nature of the case and controversy.

The fact that court appointed mediators are not judges (and rarely attorneys) along with the growth of mediation as a method of dispute resolution in the Housing Courts highlights the importance of this type of specific decision. Combination of these indicators with similar measures into pooled data seems warranted.

Table 32
Motion proceeding settled per stipulation
by judge's gender
GENDER

MPSPS	COUNT COL PCT	FEMALE	MALE	ROW TOTAL
	0	790 99.5	838 98.1	1628 98.8
	1	4 0.5	16 1.9	20 1.2

COLUMN	794	854	1648
TOTAL	48.2	5 .8	100.0

0 = Other judicial decisions

1 = Motion proceeding settled per stipulation

Chi-square (1 d.f.) = 6.439303
Significant at .05

Table 33
 Motion proceeding settled per stipulation
 by judge's race
 RACE

MPSPS	COUNT COL PCT	BLACK	WHITE	ROW TOTAL
0		380 97.4	1248 99.2	1628 98.8
1		10 2.6	1.0 0.8	20 1.2
COLUMN TOTAL		390 23.7	1258 76.3	1648 100.0

0 = Other judicial decisions

1 = Motion proceeding settled per stipulation

Chi-square (1 d.f.) = 7.772612
 Significant at .05

Table 34
 Motion proceeding settled per stipulation
 by non-family campaign contributions
 CONTRIB

MPSPS	COUNT	MAJOR	SOME	NONE	ROW
	COL PCT				TOTAL
0		458 98.7	380 97.4	790 99.5	1628 98.8
1		6 1.3	10 2.6	4 0.5	20 1.2

COLUMN	464	309	794	1648
TOTAL	28.2	23.7	48.2	100.0

0 = Other judicial decisions
 1 = Motion proceeding settled per stipulation

Chi-square (2 d.f.) = 9.294560
 Significant at .05

Table 35
 Motion proceeding settled per stipulation
 by type of judge's previous legal concern
 CONCERN

MPSPS	COUNT	PUBLIC	PRIVATE	ROW
	COL PCT			TOTAL
0		1248 99.2	380 97.4	1628 98.8
1		10 0.8	10 2.6	20 1.2

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions
 1 = Motion proceeding settled per stipulation

Chi-square (1.d.f) = 7.772612
 Significant at .05

Table 36
 Motion proceeding settled per stipulation
 by national or state rank of judge's law school
 RANK

MPSPS	COUNT	NATIONAL	STATE	ROW
	COL PCT			TOTAL
0		1248 99.2	380 97.4	1628 98.8
1		10 0.8	10 2.6	20 1.2

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions

1 = Motion proceeding settled per stipulation

Chi-square (1 d.f) = 7.772612
 Significant at .05

Table 37
Motion proceeding settled per stipulation
by judge's age cohort
AGE

MPSPS	COUNT COL PCT	30-40	41-50	61-70	ROW TOTAL
0		790 99.5	458 98.7	380 97.4	1628 98.8
1		4 0.5	6 1.3	10 2.6	20 1.2

COLUMN	794	464	390	1648
TOTAL	48.2	28.2	23.7	100.0

0 = Other judicial decisions

1 = Motion proceeding settled per stipulation

Chi-square (2 d.f) = 9.294560
Significant at .05

Table 32 demonstrates that judge's gender is systematically related to the judicial decision "motion proceeding settled per stipulation" at the .05 level, with a Chi-square value of 6.439303. Male judges are more likely to issue these decisions.

Tables 33, 35, and 36 show an identical significant relationship between "motion proceeding settled per stipulation" and the explanatory variables judge's race, type of judge's previous legal concern and national or state law school rank.

Tables 34 and 37 show that non-family campaign contribution and judge's age cohort are systematically related at the .01 level, with Chi-square values of 9.294560 with two degrees of freedom. Age cohort seems to have the most explanatory power. The monotonic array implies that "motion proceeding settled per stipulation" decisions increase as age increases.

Tables 34 and 37 display similar frequency distributions and an identical Chi-square value which raises the question as to whether these results are a function of judge's age cohort or non-family campaign contributions.

Pooling Tables 32-37 with the mediation and settled per stipulation data seems to be a logical intermediate test.

Table 38
Settled per stipulation by judge's gender
GENDER

SPS	COUNT COL PCT	FEMALE	MALE	ROW TOTAL
	0	791 99.6	849 99.4	1640 99.5
	1	3 0.4	5 0.6	8 0.5

COLUMN	794	854	1648
TOTAL	48.2	51.8	100.0

0 = Other judicial decisions
1 = Settled per stipulation by judge's gender

Chi-square (1 d.f.) = 0.367240

Table 39
Settled per stipulation by judge's race
RACE

SPS	COUNT	BLACK	WHITE	ROW
	COL PCT			TOTAL
	0	386 99.0	1254 99.7	1640 99.5
	1	4 1.0	4 0.3	8 0.5

COLUMN	390	1258	1648
TOTAL	23.7	76.3	100.0

0 = Other judicial decisions
1 = Settled per stipulation by judge's gender

Chi-square (1 d.f.) = 3.086296

Table 40
Settled per stipulation by non-family campaign contribution
CONTRIB

SPS	COUNT	MAJOR	SOME	NONE	ROW TOTAL
	COL PCT				
0		463 99.8	386 99.0	791 99.6	1640 99.5
1		1 0.2	4 1.0	3 0.4	8 0.5
COLUMN	464	390	794		1648
TOTAL	28.2	23.7	48.2		100.0

0 = Other judicial decisions

1 = Settled per stipulation by judge's gender

Chi-square (2 d.f.) = 3.246018

Table 41
Settled per stipulation
by type of judge's previous legal concern
CONCERN

SPS	COUNT COL PCT	PUBLIC	PRIVATE	ROW TOTAL
0	1254 99.7	386 99.0	1640 99.5	
1	4 0.3	4 1.0	8 0.5	

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions

1 = Settled per stipulation by judge's gender

Chi-square (1.d.f) = 3.086296

Table 42
Settled per stipulation
by national or state rank of judge's law school
RANK

SPS	COUNT	NATIONAL	STATE	ROW TOTAL
	COL PCT			
0		1254 99.7	386 99.0	1640 99.5
1		4 0.3	4 1.0	8 0.5

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions
1 = Settled per stipulation by judge's gender

Chi-square (1 d.f) = 3.086296

Table 43
Settled per stipulation
by judge's age cohort
AGE

SPS	COUNT COL PCT	30-40	41-50	61-70	ROW TOTAL
0		791 99.6	463 99.8	386 99.0	1640 99.5
1		3 0.4	1 0.2	4 1.0	8 0.5

COLUMN	794	464	390	1648
TOTAL	48.2	28.2	23.7	100.0

0 = Other judicial decisions

1 = Settled per stipulation by judge's gender

Chi-square (2 d.f) = 3.246018

The Tables 38-43 indicate that the relationships between "settled per stipulation," and the independent variables, are below the conventional level of .05. The tests for judge's age cohort and non-family campaign contributions in Tables 40 and 43 show Chi-square values of 3.246018 which is below the .5 confidence level of 5.99147 with two degrees of freedom.

Judge's race, type of previous legal concern and law school rank in Tables 39, 41 and 42 each indicate a Chi-square value of 3.086296. These tests results are somewhat below the .05 confidence level of 3.84146 with one degree of freedom.

While these tests do not meet the conventional confidence level and have the lowest frequency of the specific dependent variables, the companion studies of New York's Housing Court imply that the indicators of settlements will provide useful information about judicial decisions.

The utility of these indicators can be enhanced by the pooled data method. Tables 44-49 display the tests on the pooled data which combines Tables 26-43.

A major dependent variable "lack of judicial supervision for settlements," based on the pooled data provides a more reliable indicator of the orderliness and fairness of the Housing Court proceedings, defined as judicial supervision for both parties when a case is settled by a stipulated agreement, than the separate indicators of the specific due process decisions displayed in Tables 26-43.

Table 44
Unsupervised settlements
by judge's gender
GENDER

UNSUP	COUNT COL PCT	FEMALE	MALE	ROW TOTAL
	0	774 97.5	804 94.1	1578 95.8
	1	20 2.5	50 5.9	70 4.2

COLUMN	794	854	1648
TOTAL	48.2	51.8	100.0

0 = Other judicial decisions
1 = Unsupervised settlements

Chi-square (1 d.f.) = 11.257942
Significant at .05

Table 45
 Unsupervised settlements
 by judge's race
 RACE

UNSUP	COUNT COL PCT	BLACK	WHITE	ROW TOTAL
0		360 92.3	1218 96.8	1578 95.8
1		30 7.7	40 3.2	70 4.2

COLUMN	390	1258	1648
TOTAL	23.7	76.3	100.0

0 = Other judicial decisions
 1 = Unsupervised settlements

Chi-square (1 d.f.) = 3.086296

Table 46
Unsupervised settlements
by non-family campaign contributions
CONTRIB

UNSUP	COUNT COL PCT	MAJOR	SOME	NONE	ROW TOTAL
	0	444 95.7	360 92.3	774 97.5	1578 95.8
	1	20 4.3	30 7.7	20 2.5	70 4.2

COLUMN	464	390	794	1648
TOTAL	28.2	23.7	48.2	100.0

0 = Other judicial decisions
1 = Unsupervised settlements

Chi-square (2 d.f.) = 17.216919
Significant at .05

Table 47
 Unsupervised settlements
 by type of judge's previous legal concern
 CONCERN

UNSUP	COUNT COL PCT	PUBLIC	PRIVATE	ROW TOTAL
0		1218 96.8	369 92.3	1578 95.8
1		40 3.2	30 7.7	70 4.2
COLUMN TOTAL		1258 76.3	390 23.7	1648 100.0

0 = Other judicial decisions
 1 = Unsupervised settlements

Chi-square (1.d.f) = 14.906036
 Significant at .05

Table 48
 Unsupervised settlements
 by national or state rank of judge's law school
 RANK

UNSUP	COUNT COL PCT	NATIONAL	STATE	ROW TOTAL
	0	1218 96.8	360 92.3	1578 95.8
	1	40 3.2	30 7.7	70 4.2

COLUMN	1258	390	1648
TOTAL	76.3	23.7	100.0

0 = Other judicial decisions
 1 = Unsupervised settlements

Chi-square (1 d.f) = 14.906036
 Significant at .05

Table 49
Unsupervised settlements
by judge's age cohort
AGE

UNSUP	COUNT	30-40	41-50	61-70	ROW
	COL PCT				TOTAL
	0	774 97.5	444 95.7	360 92.3	1578 95.8
1	20 2.5	20 4.3	30 7.7	70 4.2	

COLUMN	794	464	390	1648
TOTAL	48.2	28.2	23.7	100.0

0 = Other judicial decisions
1 = Unsupervised settlements

Chi-square (2 d.f) = 17.216919
Significant at .05

Table 44 indicates that male judges seem twice as likely to make decisions of this type, which reflect a "lack of judicial supervision for settlements," as an indicator of orderliness and fairness in Housing Court. The high Chi-square values in Tables 44 and 46-49 demonstrate significant systematic relationships at the conventional .05 level. The Chi-square value of 11.237942 shows a high level of statistical significance. Table 45 indicates that judge's race is not statistically significant at the conventional level. Here the Chi-square value of 3.086296 is below the 3.84146 confidence level at one degree of freedom.

Tables 46 and 49 show judges who receive "some" non-family campaign contributions and judge's in the (61-70) age cohort more likely to make decisions of this type with Chi-square values of 17.216919 which is much higher than the 5.99147 required with two degrees of freedom. The tests do not distinguish the variations in Tables 46 and 49 as functions of non-family campaign contributions or judge's age.

Similarly, Tables 47 and 48 show judges, who previously practiced in a private legal concern and attended state ranked law schools more likely to make decisions which reflect a lack of judicial supervision of settlements. However the tests are not stringent enough to discern which independent variable has the most explanatory power as their frequency distribution and Chi-square values are identical.

Table 50
Inquest held before eviction order
by judge's gender
GENDER

INQUEST	COUNT COL PCT	FEMALE	MALE	ROW TOTAL
	0	770 97.0	847 99.2	1617 98.1
	1	24 3.0	7 0.8	31 1.9

COLUMN	794	854	1648
TOTAL	48.2	51.8	100.0

0 = Other judicial decisions
1 = Inquest held before eviction order

Chi-square (1 d.f.) = 10.819122

Table 51
Inquest held before eviction order
by judge's race
RACE

INQUEST	COUNT COL PCT	BLACK	WHITE	ROW TOTAL
0		389 99.7	1228 97.6	1617 98.1
1		1 0.3	30 2.4	31 1.9

COLUMN	390	1258	1648
TOTAL	23.7	76.3	100.0

0 = Other judicial decisions
1 = Inquest held before eviction order

Chi-square (1 d.f.) = 7.306470
Significant at .05

Table 52
Inquest held before eviction order
by non-family campaign contribution
CONTRIB

INQUEST	COUNT COL PCT	MAJOR	SOME	NONE	ROW TOTAL
0	458 98.7	389 99.7	770 97.0	1617 98.17	
1	6 1.3	1 0.3	24 3.0	31 1.9	
COLUMN TOTAL	464 28.2	390 23.7	794 48.2	1648 100.0	

0 = Other judicial decisions

1 = Inquest held before eviction order

Chi-square (2 d.f.)=12.052988
 Significant at .05

Table 53
Inquest held before eviction order
by type of judge's previous legal concern
CONCERN

INQUEST	COUNT COL PCT	PUBLIC	PRIVATE	ROW TOTAL
	0	1228 97.6	389 99.7	1617 98.1
	1	30 2.4	1 0.3	31 1.9
COLUMN TOTAL		1258 76.3	390 23.7	1648 100.0

0 = Other judicial decisions

1 = Inquest held before eviction order

Chi-square (1.d.f) = 7.306470
 Significant at .05

Table 54
Inquest held before eviction order
by national or state rank of judge's law school
RANK

INQUEST	COUNT COL PCT	NATIONAL	STATE	ROW TOTAL
0		1228 97.6	389 99.7	1617 98.1
1		30 2.4	1 0.3	31 1.9
COLUMN TOTAL		1258 76.3	390 23.7	1648 100.0

0 = Other judicial decisions
1 = Inquest held before eviction order

Chi-square (1 d.f) = 7.306470
Significant at .05

Table 55
Inquest held before eviction order
by judge's age cohort
AGE

INQUEST	COUNT COL PCT	30-40	41-50	61-70	ROW TOTAL
0		770 97.0	458 98.7	389 99.7	1617 98.1
1		24 3.0	6 1.3	1 0.3	31 1.9

COLUMN	794	464	390	1648
TOTAL	48.2	28.2	23.7	100.0

0 = Other judicial decisions
1 = Inquest held before eviction order

Chi-square (2 d.f.)=12.052988
Significant at .05

Tables 50-55 reflect "inquest held before eviction order" measures which are perhaps the clearest indicators of due process decisions in this inquiry. Table 50 shows female judges more likely to hold inquests with a Chi-square value of 10.819122. Table 52 shows white judges more likely to conduct inquests with a Chi-square value of 7.306470.

Tables 52 and 55 shows judges who did not receive non-family campaign contributions and judges in the junior (30-40) age cohort more likely to conduct inquests before issuing an eviction order. Both of these tables have Chi-square values of 12.052988 at two degrees of freedom. In like fashion Tables 53 and 54 have similar frequency distributions and Chi-square values of 7.306470 and show judges who previously practice in public firms and attended nationally ranked law schools hold more inquests.

Due to the lack of ambiguity underlying due process decision for this measure the intermediate test of pooling this data with other specific decisions does not seem warranted.

ADDITIONAL TESTS AND FINDINGS

On the basis of the preliminary and intermediate tests, the new posture of the research problem is as follows.

The data set consists of 1648 observations of discrete and finite judicial decision. Each observation consists of an

observed decision made in 1987 by a Manhattan Housing Court Judge elected between 1980 and 1985. The dependent variables have been codified in a binary manner to quantify the qualitative nature of the judicial decisions.

Preliminary and intermediate tests indicate statistically significant relationships between the judicial decision dependent variables (legal representation for both parties, lack of judicial supervision for settlements, and inquests held before eviction orders), and the explanatory judicial background attributes. To what extent can the latter accurately predict the variation in the former?

Linear regression analysis is inappropriate as it requires continuous dependent variables while the dependent variables to be explained here are discrete. (Aldrich and Nelson, 9). The non-linear probability model, probit is a viable alternative as it requires discrete dependent variables and several hundred data points, (Daganzo, 82), which the data set exceeds.

Probit also assumes that the binary dependent variables are statistically independent, an absence of linear dependence in the independent variables, no linear relation between dependent and independent variables, and a random sample.

The data set is a stratified random sample which is consistent with the assumption). The other assumption are met and the probability of a judicial decision (the dependent variable) may be assessed as a cumulative normal probability

function. This is the probability that a Housing Court judge randomly elected between 1980 and 1985 made a due process decision in the Housing Court.

To adjust for the similarities in the judge's demographic attributes, dummy variables were developed, (legal representation for both parties, lack of judicial supervision for settlements, and inquests held before eviction orders), and the explanatory judicial background attributes) so the independent variable attributes could help predict the variation. The likelihood of having observed the dependent variable is "as large as possible." (Aldrich and Nelson, 50). The probit estimates will provide a further test for statistical significance between the dependent and independent variables. When the t-statistic surpasses the critical value, the estimated coefficient may be considered statistically significant.

The correlation coefficient indicates perfect correlation (+1), independence between the variables (0), and (-1) when one variable increases in the exact proportion as the other decreased. This approach should provide the rigorous tests which the preliminary analysis indicate are needed for further interpretation of the data. Three equations for each dependent variable will test the effect of the independent variables on the dependent variable with the highest possible likelihood of having observed the dependent variable. The effect that the independent variables have on each other will

also be displayed which addresses the questions which the intermediate tests with the pooled data raised. With the constant set at one the research problem may be modeled as,

$$\begin{aligned}
 LGLREP &= \alpha_1 + \beta_1 MMJBIVAR^1 + \beta_2 WFJBIVAR^2 + E \\
 LGLREP &= \alpha_2 + \beta_1 MMJBIVAR^1 + \beta_3 WMJBIVAR^3 + E \\
 LGLREP &= \alpha_3 + \beta_2 WFJBIVAR^2 + \beta_3 WMJBIVAR^3 + E \\
 UNSUP &= \alpha_4 + \beta_1 MMJBIVAR^1 + \beta_2 WFJBIVAR^2 + E \\
 UNSUP &= \alpha_5 + \beta_1 MMJBIVAR^1 + \beta_3 WMJBIVAR^3 + E \\
 UNSUP &= \alpha_6 + \beta_2 WFJBIVAR^2 + \beta_3 WMJBIVAR^3 + E \\
 INQUEST &= \alpha_7 + \beta_1 MMJBIVAR^1 + \beta_2 WFJBIVAR^2 + E \\
 INQUEST &= \alpha_8 + \beta_1 MMJBIVAR^1 + \beta_3 WMJBIVAR^3 + E \\
 INQUEST &= \alpha_9 + \beta_2 WFJBIVAR^2 + \beta_3 WMJBIVAR^3 + E
 \end{aligned}$$

The coefficients are expected to be positive and the number of observations for each estimate remains 1648. The estimated coefficient, its significance, the standard error, the convergence log likelihood, the constant and percent of correctly predicted cases were computed with the Statistical Software Tools program. The major dependent variables (legal representation for both parties, lack of judicial supervision for settlements, and inquests held before eviction orders) were tested with the dummy variables for minority male judge, white female judge and white male judge. The probit test results are displayed in Tables 56-64. Test results for each set of three dependent variable tests are discussed on the page which follows them. The extent to which the model can correctly predict Manhattan Housing Court decisions, what variation the judicial background attributes seem to account for and the significance of the estimated correlation coefficient are discussed.

TABLE 56
Legal Representation for both parties
minority male judge, white female judge

INDEPENDENT VARIABLE	ESTIMATED COEFFICIENT	STANDARD ERROR	t-STATISTIC
constant	-2.31593	0.18710	-12.37813
MMJBIVAR ¹	1.08767	0.19621	5.54331*
WFJBIVAR ²	-0.53495	0.36723	-1.45673
CONVERGENCE LOG LIKELIHOOD	-303.85933		
PERCENT PREDICTED CORRECTLY	94.41748		

MMJBIVAR¹ = Minority male judge dummy variable
WFJBIVAR² = White female judge dummy variable

*Significant at .05

TABLE 57
Legal Representation for both parties
minority male judge, white male judge

INDEPENDENT VARIABLE	ESTIMATED COEFFICIENT	STANDARD ERROR	t-STATISTIC
constant	-2.85089	0.31599	9.02206*
MMJBIVAR ¹	0.53495	0.36723	1.45673
WMJBIVAR ³	1.62262	0.32147	5.04749*
CONVERGENCE LOG LIKELIHOOD	-303.85933		
PERCENT PREDICTED CORRECTLY	94.41748		

MMJBIVAR¹ = Minority male judge dummy variable
WMJBIVAR³ = White male judge dummy variable

*Significant at .05

TABLE 58
Legal Representation for both parties
white female judge, white male judge

INDEPENDENT VARIABLE	ESTIMATED COEFFICIENT	STANDARD ERROR	t-STATISTIC
constant	-1.22826	5.91063e-002	-20.78061
WFJBIVAR ²	-1.08767	0.19621	-5.54331
WMJBIVAR ³	-1.62262	0.32147	-5.04749
CONVERGENCE LOG LIKELIHOOD	-303.85933		
PERCENT PREDICTED CORRECTLY	94.41748		

WFJBIVAR² = White female judge dummy variable
WMJBIVAR³ = White male judge dummy variable

What the three tables demonstrates is the difference of judicial backgrounds reflected in the judicial decision variation made on the measure "legal representation for both parties." This is a pooled data dependent variable which indicates opportunity to be heard and to defend. Tables 56-58 seem to substantiate the findings in Tables 20-25 of systematic relationships.

With 1648 observations a t-statistic of 1.96 is required for two-tailed statistical significance at .05. Tables 56-58 show that the model correctly predicts Housing Court decision in 94.4 percent of the cases.

In Table 56 the estimated coefficient for minority male judge of 1.08767 apparently does not have much effect despite the above level t-statistic significance. White female judge does not pass the significance test and indicates an estimate which runs in the opposite directions than minority male judge.

Table 57 indicates white male judge is positively related to minority male judge (however minority male judge does not meet the .05 significance level, but does meet the .01 significance level). Thus, white male judge seems to account for 36 percent of the variance at .05)

Table 58 shows white female judge and white male judge both yield negative correlation estimates which are insignificant at the .05 level.

TABLE 59
Unsupervised settlements, minority male judge,
white female judge

INDEPENDENT VARIABLE	ESTIMATED COEFFICIENT	STANDARD ERROR	t-STATISTIC
constant	-1.71574	0.10298	-16.66074
MMJBIVAR ¹	0.28962	0.13910	2.08217*
WFJBIVAR ²	-0.24097	0.13980	-1.72367
CONVERGENCE LOG LIKELIHOOD	-281.58253		
PERCENT PREDICTED CORRECTLY	95.75243		

MMJBIVAR¹ = Minority male judge dummy variable
 WFJBIVAR² = White female judge dummy variable

*Significant at .05

TABLE 60
Unsupervised settlements, minority male judge,
white male judge

INDEPENDENT VARIABLE	ESTIMATED COEFFICIENT	STANDARD ERROR	t-STATISTIC
constant	-1.95672	9.45495e-002	- 20.69516
MMJBIVAR ¹	0.28962	0.13910	3.99019*
WMJBIVAR ³	-0.24097	0.13980	1.72367
CONVERGENCE LOG LIKELIHOOD	-281.5823		
PERCENT PREDICTED CORRECTLY	95.75243		

MMJBIVAR¹ = Minority male judge dummy variable

WMJBIVAR³ = White male judge dummy variable

*Significant at .05

TABLE 61
Unsupervised settlements, white female judge,
white male judge

INDEPENDENT VARIABLE	ESTIMATED COEFFICIENT	STANDARD ERROR	t-STATISTIC
constant	-1.42612	9.35027e002	-15.25219
WFJBIVAR ²	-0.53060	0.13298	-3.99019
WMJBIVAR ³	-0.28962	0.13910	-2.08217
CONVERGENCE LOG LIKELIHOOD	-281.58253		
PERCENT PREDICTED CORRECTLY	95.75243		

WFJBIVAR² = White female judge dummy variable
WMJBIVAR³ = White male judge dummy variable

The variation in the judicial decisions indicated here reflects "lack of judicial supervision of settlement agreements." The variation seems to be systematically related to the judicial background attributes codified in the dummy variables.

Tables 59-60 indicate that the model correctly predicts 95.75 percent of the cases accurately. Minority male judge indicates an effect of .28962 which is statistically significant and an almost inverse effect of white female judge at $-.0.24097$ (with a negative t-statistic below the statistical significance threshold).

Table 60 shows minority male judge and white female judge to be negatively related with statistical significance at the .05 level for minority male judge at 0.1 for white female judge.

The coefficients in Table 61 do not indicate statistical significance yet both independent variables indicate negative estimated coefficients with the white female judge estimate nearly twice that of white male judge.

While it is possible to draw inferences on the basis of the direction of the coefficients, since statistical significance was not clearly achieved this does not seem warranted or appropriate. What the three tables do show is confirmation of the systematic relationships between judicial decisions and the characteristics Tables 44-49 displayed.

TABLE 62
Inquest held before eviction order,
minority male judge, white female judge

INDEPENDENT VARIABLE	ESTIMATED COEFFICIENT	STANDARD ERROR	t-STATISTIC
constant	-2.22830	0.15740	-14.15667
MMJBIVAR ¹	-0.57045	0.35882	- 1.58979
WFJBIVAR ²	0.35086	0.18069	1.94174**
CONVERGENCE LOG LIKELIHOOD	-146.62493		
PERCENT PREDICTED CORRECTLY	98.11893		

MMJBIVAR¹ = Minority male judge dummy variable
WFJBIVAR² = White female judge dummy variable

**Significant at .1

TABLE 63
Inquest held before eviction order,
minority male judge, white male judge

INDEPENDENT VARIABLE	ESTIMATED COEFFICIENT	STANDARD ERROR	t-STATISTIC
constant	-1.87744	8.870409e-002	-21.15641
MMJBIVAR ¹	-0.92131	0.33444	-2.75476
WMJBIVAR ³	-0.35086	0.18069	-1.94174
CONVERGENCE LOG LIKELIHOOD	-146.62493		
PERCENT PREDICTED CORRECTLY	98.11893		

MMJBIVAR¹ = Minority male judge dummy variable
WMJBIVAR³ = White male judge dummy variable

TABLE 64
Inquest held before eviction order,
white female judge, white male judge

INDEPENDENT VARIABLE	ESTIMATED COEFFICIENT	STANDARD ERROR	t-STATISTIC
constant	-2.79875	0.32246	-8.67949
WFJBIVAR ²	0.92131	0.33444	2.75476*
WMJBIVAR ³	0.57045	0.35882	1.58979
CONVERGENCE LOG LIKELIHOOD	-146.62493		
PERCENT PREDICTED CORRECTLY	98.11893		

WFJBIVAR² = White female judge dummy variable
WMJBIVAR³ = White male judge dummy variable

*Significant at .05

In Tables 62-64, which measure "inquest held before eviction order," 98.11893 percent of the cases were predicted correctly. Table 62 indicates that minority male judge and white female judge inquest decisions run in different directions. Neither independent variable is significant at .05, however white female judge shows a coefficient of .35086 at the 0.1 level. In Table 63 the significance level is not met by either independent variable. Minority male judge displays a coefficient of -0.92131 and white male judge a coefficient of 0.35086.

Table 64 has a coefficient estimate of .92131 at the .05 level, (which may account for as much as 85 percent of the variation in the decisions). White male judge has a coefficient of .57045 without statistical significance of .05 or .01.

Chapter 4. CONCLUSIONS

MAJOR FINDINGS

The analytical focus of this inquiry is the investigation of the role of judicial background characteristics in explaining judicial decision outputs and due process. The premise of this inquiry is distinguishable from the attitudinal approach to judicial decisions. (Rohde and Spaeth, 1976). The distinction is based on federal versus local jurisdiction, court of last appeal versus street level (Housing Court) and demographic versus attitudinal data.

The demographic attributes found in judicial backgrounds seem more probative and measurable than attitudinal indicators. Demographic attributes may be said to filter judicial due process decisions. The doctrine of due process is one of the most complex sets of legal concepts in the body of U.S. constitutional law. Due process is central to the judicial system, especially when property rights as important as adequate shelter for human beings is at stake.

The absence of shelter equals homelessness in the vernacular and the significance of this social dysfunction in the urban U.S. in general and New York City in particular requires a careful examination of the empirical findings here.

Judicial background characteristics, which include election practices, are systematically related to due process

for litigants in N.Y.C. landlord tenant courts.

Housing Court judges who receive campaign contributions, which are not personal or family, issue more default decisions to evict tenants without a formal inquest, than those who do not receive this type of contribution.

Housing Court judges who receive campaign contributions, which are not personal or family, provide tenants less of an opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than those who do not receive this type of contribution.

Housing Court judges who receive "some" campaign contributions, which are not personal or family, conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreements than those who receive "none" of this type of contribution and those who receive "major" campaign contributions.

Housing Court judges who practiced in a public legal concern before election, issued less default eviction decisions to evict tenants without a formal inquest than those who practiced in private concerns.

Housing Court judges who practiced in a public legal concern before election, provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than those who practiced

in private concerns.

Housing Court judges who practiced in a public legal concern before election, conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than those who practiced in private concerns.

Housing Court judges whose law schools had a national rank issue fewer default eviction decisions against tenants without a formal inquest than those from law schools with state ranks.

Housing Court judges whose law schools had a national rank provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in eviction cases than those from law schools with state ranks.

Housing Court judges whose law schools had a national rank conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than those from law schools with state ranks.

Male Housing Court judges enter more default judicial decisions which evict unrepresented tenants without a formal inquest than female Housing Court judges.

Female Housing Court judges provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than male Housing Court judges.

Female Housing Court judges conduct more orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than male Housing Court judges.

Black Housing Court judges enter more default judicial decisions which evict unrepresented tenants without a formal inquest than white Housing Court judges.

White Housing Court judges provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than black Housing Court judges.

Race is not statistically significant to explain orderly and fair Housing Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement.

Senior Housing Court judges (defined as age 61-70) enter more default judicial decisions which evict unrepresented tenants without a formal inquest than junior Housing Court judges (30-50).

Junior Housing Court judges (defined as age 30-50) provide tenants a greater opportunity to be heard and to defend, defined as legal representation for both parties in landlord tenant cases than senior (61-70) Housing Court judges.

Junior Housing Court judges (defined as age 30-50) Housing Court judges conduct more orderly and fair Housing

Court proceedings, defined as judicial supervision for both parties when they settle cases by stipulated agreement than senior (61-70) Housing court judges.

IMPLICATIONS FOR JUDICIAL REFORM

Gender, campaign contributions, and age cohort seem to have significant explanatory power in Housing Court judicial decisions. Statistical significance at the conventional level for most of the findings was established which underscores the potential public policy utility of these findings. While it would be an error to assume statistical significance is the equivalent to substantive significance, the high Chi-square values and the percentage of correct probit predictions seem to call for further evaluation and public policy analysis of the judicial selection process.

To the extent that the inquiry has demonstrated methods of explaining and predicting judicial decisions in local courts it has made a contribution to the judicial decision sub-field and to public policy analysis.

The absence of reliable data on the race and sex of tenants prevents tests of the same type as those performed here on judicial backgrounds. (This information is not recorded by the court and neither of the companion studies recorded it).

These findings on judicial decisions and judicial background may allow an inference that the secondary null hypotheses that tenants' background characteristics are

independent of due process for litigants in N.Y.C. Housing Courts is false. To the extent that the gender and race of judges accounts for some variation in judicial decisions, and the majority of tenants in Housing Court are minority females, a disparate impact seems highly probable as the companion studies (Reide, 87) and (Fox, 86) have documented.

Further, as non-family campaign contributions increase, decisions which indicate due process protection decrease. Of the 38 Civil Court (Housing Court judges are Civil Court judges) elections held between 1980 and 1985, there were ten Democratic Party primaries and one Republican Party primary. Each primary election winner faced general election competition from opposing party candidates. Nine of the Democratic Party candidates reported non-family campaign contributions, one had two campaign committees "and both filed a 'candidate' non-expenditure form, which indicates that less than \$1,000 was received or spent on the campaign." (Fund for Modern Courts, 13).

Money received from outside the candidates' families was usually \$500 to \$1000 contributions from lawyers and lawyers organizations. (Fund for Modern Courts, 55-78). Printing, (i.e., stickers, handbills, posters), consultants, photographers, direct mail services, ads, rallies, and monies "transferred out" to Democratic Party clubhouses for petitioning were the major expenses. Campaign expenditures seem to support the Manhattan Democratic Party

units and those businesses which provide campaign services.

The Code of Judicial Conduct, (American Bar Association, 1978), forbids judicial candidates from soliciting or accepting campaign funds themselves. They must establish campaign committees to perform these functions. The Code also requires that the names of campaign contributors should not be revealed to the candidate. "Some candidates for Civil Court judge attend fundraisers for their campaign, bringing them face to face with contributors or potential contributors." (Fund for Modern Courts, 12).

Judges in the 30-50 (junior) age cohort seem ten times more likely to discontinue cases without legal representation, (Table 25), than judges in the (senior) 61-70 age cohort. They are nearly two times less likely to permit settlement agreements which they do not supervise and ten times as likely to conduct inquests than senior judges.

Cumulatively the major findings imply that judicial decision in Housing Court may be an institutionalized process with the political status quo, an "old boy network," and case experience contributing to a tendency not to conduct inquests, discontinue cases without legal representation or insist on judicial supervision of settlements.

Judicial selection policies and practices which moderate non-family campaign contributions and which recruit more women and candidates 30-51 might impact positively on due process judicial decisions in Housing Court.

FURTHER RESEARCH AGENDAS

While the systematic relationships between several of the explanatory variables has been demonstrated, neither the contingency tables or the probit estimates were stringent enough to distinguish the functions of some of the explanatory variables from each other.

For example, the contingency Tables 22 and 25 show similar Chi-square values of 84.23236510 for non-family campaign contributions and 84.236510 for judge's age cohort. Further research would distinguish the judicial decision outputs for "legal representation for both parties in landlord tenant cases," as functions of non-family campaign contributions or judge's age cohort.

Tables 23 and 24 (type of judge's previous legal concern and national or state rank of judge's law school), also could be distinguished by further research.

The systematic relationship of "lack of judicial supervision for settlements," in Tables 46 and 49 with the explanatory variables non-family campaign contributions and judge's age cohort have the same Chi-square value which seems to require further research to differentiate. The same may be said of Tables 47 and 48, type of judge's previous legal concern and national or state rank of judge's law school.

More stringent analytical tests also seem required to discern whether "inquest held before eviction order," decisions are a function of non family campaign contributions and judge's age cohort as in Tables 52 and 55. In like fashion Tables 53 and 54 do not allow us to determine whether type of judge's previous legal concern and national or state rank of judge's law school has the most explanatory power.

The preliminary, intermediate and probit tests all demonstrate variation of judicial decisions as systematically related to judicial background. The findings of the tests conducted here seem to substantiate the predictive capacity of this model and invite additional research.

ENDNOTES

1. Candidates for Civil Court judge who are unsuccessful in primary elections are at times appointed to fill Civil Court vacancies on an interim basis by the Mayor. This provides them with the advantage of incumbency in later elections and reinforces party loyalty.

2. There were no Hispanic Housing Court judges in the sample.

3. National or state rank of law schools is based on 1970 ranking because, the judicial background data is from 1980-1985 and a Housing Court judge has "to be a lawyer admitted to the Bar of the State of New York for a minimum of ten years. (Fund for Modern Courts, 11).

4. There were no Housing Court judges in the sample between the ages of 51 to 60.

5. Housing Court judges are elected (or appointed by the Mayor on an interim basis) as Civil Court judges. To run for Civil Court a candidate must, be a lawyer admitted to practice in New York State for ten years, be less than age 70.

The candidate must be a resident of New York City (but not necessarily of the district or county the election is in), and submit valid designating petitions, (5,000 signatures for countywide elections and 1,500 or five percent of the enrolled party members in the Municipal District for districtwide elections). (Fund for Modern Courts, 11).

6. The Glossary which appears after the Conclusions is based on the definitions in A Tenant's Guide to Manhattan Housing Court, (Association of the Bar of the City of New York, 1990) and Justice Evicted, (Reide, 58-62).

7. Each frequency table contains a key to the row values below it. Table 2, for instance, indicates that in the row numbered "0", this denotes that 0 = Other judicial decisions. The row numbered "1" indicates 1 = Motion denied no appearance either side. The Chi-square values (and degrees of freedom) are also noted for each table. When the Chi-square value is significant at the conventional .05 level, the statement "Significant at .05" appears beneath the Chi-square value.

MANHATTAN HOUSING COURT GLOSSARY

ACCESS (AND PROVIDING ACCESS):

An agreement for the landlord to make repairs in the tenant's apartment at a set time.

ADJOURNMENT:

A judicial decision to postpone a case.

ANSWER:

An oral or written reply which contains the defenses to the landlord's charges. It should include reasons the tenant believes that he or she should win instead of the landlord.

APPEARANCE:

Participating formally in a case, either by a written notice or by actually showing up in court, in person (or through appearance by an attorney).

APPLICATION:

A request to the court for relief (i.e a postponement). When the court calendar (see Calendar Call) is read, people who respond "Application" indicate that they request a postponement.

ARGUMENT:

Debate on a motion by both parties in front of a Housing Court judge.

ATTORNEY'S FEES (LEGAL FEES):

Financial charges added on to a judgement to pay for one

party's attorney.

BOND:

A surety, which promises to pay a sum of money, that the landlord and the tenant will appear again if the case is adjourned or for cancellation of an eviction order.

BY THE COURT:

A formal request that a case is heard by a Housing Court judge instead of by a court appointed mediator (See Mediator).

CALENDAR CALL:

The in court reading of the list of cases on the calendar for that day. Cases may be sent to smaller courtrooms if all the parties are present, postponements granted, cases dismissed and other judgements entered at this time.

CALENDAR PART:

The courtroom where the daily calendar call is read.

CLERK'S OFFICE:

The Housing Court clerks' headquarters. Where paperwork is processed and case files are kept. All legal papers in a case must be filed in the clerk's office under a case index number.

CONFERENCE:

An attempt to settle the case by the judge before trial.

CONSENT:

Agreement by both sides on an issue (i.e., an postponement date).

DEFAULT JUDGEMENT:

If one party fails to come to court, the other side wins by default. Once the default judgement is entered, a judgement is issued against the absent party.

DEPOSIT:

Rent the Housing Court holds in escrow until a landlord tenant dispute is resolved.

DISCONTINUE:

Termination of a case by the party who starts it, (e.g. the landlord's motion to dismiss the case is granted).

DISPOSITION:

Final resolution of a landlord tenant case.

DISPOSSESS:

A Housing Court order for the tenant to appear in a landlord tenant dispute. It is often confused with an eviction order.

DSS:

New York City Department of Social Services. The N.Y.C. agency responsible for providing transfer payments, human services and commodities to recipients of social welfare programs.

EVICTION:

Actual physical removal of a tenant and his or her possessions from an apartment. To have legal effect evictions must be ordered by the Housing Court and the tenant is supposed to be given notice, an opportunity to be heard and defend, and an orderly proceeding adapted to the nature of the case and controversy.

HOLDOVER:

A Housing Court proceeding to evict the tenant. Holdovers are not based on non-payment of rent. Non-payment of rent cases are frequently converted into holdover proceedings by landlords.

HPD:

New York City Department of Housing Preservation and Development. The N.Y.C. agency responsible for inspecting buildings, taking landlords to court, managing city-owned buildings, taking tenants in city owned buildings to court and making emergency repairs.

INQUEST:

A formal hearing to establish the claims of the party present in court (usually the landlord), before an eviction order is entered against the absent party (usually the tenant).

INSPECTION:

An inspection of the tenant's apartment by (HPD) to determine whether it is up to code and whether court ordered repairs have been made.

INTERPRETER:

A court appointed translator to assist Housing Court litigants who do not speak fluent English.

JUDGMENT:

The final court order which ends a Housing Court case. The judgment states which side wins and other specifics (e.g., evictions, pay past due rent, make repairs).

LEASE:

The formal contractual agreement between a landlord and a tenant which establishes rent payments.

LITIGANT:

Either side in a lawsuit, (i.e. a landlord or a tenant).

MEDIATION:

A proceeding which is not supervised by a judge to negotiate a settlement of a landlord tenant dispute. The proceedings are conducted by court appointed mediators who are assigned to mediators at the Calendar Call.

MOTION:

A formal legal plea to a Housing Court judge which requests specific action. The party who makes the motion is called the "movant" or "moving party." Motions in Housing Court are usually argued in the Motion Part.

MOVANT:

The party who makes the motion is called the "movant" or "moving party."

NAIL, MAIL AND FILE:

The statute allows a copy of the notice and petition to be attached to the door on the residence of the party, or by mailing the petition to the respondent (i.e. the tenant), by first class or certified mail. The notice or order to show cause and petition along with a sworn and signed proof of service must be filed with the Housing Court within three days of mailing the papers or attaching them to the door.

NONCOMPLIANCE:

When a legal obligation is not fulfilled such as a provision of a stipulated agreement or Housing Court order.

ORDER TO SHOW CAUSE:

A legal proceeding, (usually commenced by a tenant), to prevent or postpone an eviction. The other party (i.e. the landlord) is required to appear in court and give a reason the court should not prevent or postpone the eviction.

PART:

A specific courtroom in the Housing Court, (i.e. Motion Part).

PETITION:

A formal legal paper which begins a lawsuit (i.e. a non-payment action or an eviction). The party who starts the lawsuit is the petitioner or plaintiff, (usually the landlord).

RECORDING DEVICE:

Tape recorders for making records and minutes of Housing Court proceedings.

RENT ABATEMENT:

A rent reduction ordered by the court when the landlord does not make repairs or provide services.

RENT CONTROL:

Rent regulation in New York City which fixes rent increases for long term tenants and the terms and conditions under which a landlord may evict a tenant in a rent controlled unit.

RENT STABILIZATION:

A rent regulation program in New York City similar to rent control which fixes rent increases for long term tenants and the terms and conditions under which a landlord may evict a tenant in a rent controlled unit.

REPRESENTATION:

Legal advocacy for a tenant or a landlord by an attorney. Only an attorney can legally "represent" or "appear," for a party before a judge.

RESERVE DECISION:

A formal notice by a Housing Court judge that his or her decision on a case (or some aspect of it), will be made at a later date.

RESPONDENT:

The party who is being sued in Housing Court. The tenant is the respondent in non payment and holdover cases.

SERVICE:

The specific method which the law requires to formally deliver or mail court papers to a party (usually the tenant), which indicates he or she must come to court and has the right to defend against the charges. If the party is properly notified then service is proper. If the manner of service is improper, then improper service may be raised as a defense.

SETTLEMENT:

When both sides in a landlord tenant dispute reach an agreement (almost always without judicial supervision). Mediators also help parties reach agreements. A settlement in Housing Court is supposed to be written, read and signed by both parties (then the Housing Court judge).

STIPULATION:

A formal written settlement agreement (see settlement) which is signed by both parties in a Housing Court case and the judge.

TRAVERSE:

A legal proceeding where the respondent (usually the tenant) argues that he or she was improperly served court papers. When improper service is raised as a defense a traverse hearing is held.

TRIAL:

The formal legal proceeding where both parties present evidence to a Housing Court judge who will decide a case which they cannot settle. A written or taped record of the proceedings should be made.

TRIAL PART:

A courtroom in the Housing Court for holding trials.

UNITS:

Dwelling units, usually residential. They may be apartments in a building or a single family building.

WAIVE:

Formally foregoing a legal right in a Housing Court proceeding, (e.g. traverse waived).

WITHDRAW:

Withdrawal and discontinuance of a motion which requested that a judge take a specific action.

LIST OF REFERENCES

Abrams, Robert and Aponte, Angelo, Jr. 1986. A Joint Investigative Report into the Practice of Sewer Service in New York City. Albany. New York State Attorney General.

Aldrich, John, and Forrest, Nelson. 1984. Linear Probability, Logit and Probit Models. Beverly Hills. Sage.

American Bar Association. 1978. Code of Professional Responsibility and Code of Judicial Conduct: As Amended August 1978. Chicago. American Bar Association.

Association of the Bar of the City of New York. 1990. A Tenant's Guide to Manhattan Housing. New York. Association of the Bar of the City of New York.

Bates, Francine. 1988. "New York Housing Courts." Legal Action. 8:1.

Baum, Lawrence. 1986. American Courts Process and Policy. Boston. Houghton Mifflin.

Baum, Lawrence. 1983. "Judicial Politics: Still a Distinctive Field. in Political Science: The State of the Discipline (Ed). Finifter, Ada. Washington D.C. American Political Science Review: 189-215.

Brenner, Saul. 1980. "Fluidity on the U.S. Supreme Court: A Reexamination." American Journal of Political Science. 24:526-535.

Brereton, David and Casper Johnathan D. 1981-82. "Does it Pay to Plead Guilty? Differential Sentencing and the Functioning of Criminal Courts." Law & Society Review 16 45-70.

Cohen, L. 1979. "The New York City Housing Court-An Evaluation." Urban Law Journal 17.

Daganazo, Carlos. 1979. Multinomial Probit. New York. Academic Press.

Dahl, Robert A. 1958. "Decision Making in A Democracy: The Supreme Court as a National Policy Maker." Journal of Public Law 6 279-295.

Dean, William J. August 15, 1988. "Added Legal Services for Poor." New York Law Journal :3.

Dorsen, Norman. 1986. Civil Liberties, Encyclopedia of the American Constitution. New York. McMillan:263

Fox, Arlen, S. 1986. Five Minute Justice. N.Y. City Wide Task Force on Housing Court.

Freely, Malcolm, M. 1977. The Process is the Punishment: Handling Cases in a Lower Criminal Court. Boston. Little Brown.

Fund For Modern Courts. 1986. The Illusion of Democracy: New York City Civil Court Elections 1980-1985. N.Y. Fund for Modern Courts.

Galanter, Marc. 1974. "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change." Law & Society Review 9:95-160.

Goldman, Sheldon. 1985. "Reaganizing the Judiciary. The First Term Appointments." Judicature 68:318-325.

Hansen, Susan B. 1983. "Public Policy Analysis: Some Recent Developments and Current Problems." In Political Science: The State of the Discipline. Washington D.C. American Political Science Review: 217-245.

Heumann, Milton. 1978. Plea Bargaining: The Experiences of Prosecutors, Judges and Defense Attorneys. Chicago.

University of Chicago Press.

Howard, J., Woodford, Jr. 1981. Courts of Appeals in the Federal Judicial System: A study of the Second, Fifth and District of Columbia Circuits. Princeton. Princeton University Press, 1981.

Ignagni, Joseph, A. 1990. Explaining and Predicting Supreme Court Decision Making: The Establishment Clause Cases, 1970-1986. Doctoral Dissertation. East Lansing, MI. Political Science Department, Michigan State University.

Jacob, Herbert. 1968. Lipsky, Michael. "Outputs, Structure and Power: An Assessment of Changes in the Study of State and Local Politics." In Political Science: Advance of the Discipline. (Ed.) Irish, Marian D. Englewood Cliffs, N.J. Prentice Hall: 220-248.

Johnson, Charles A. Bradley, C. Canon. 1984. Judicial Policies. Washington, D.C. Congressional Quarterly.

Kaye, David. 1980. "Quantitative Methods in Law." Yale Law Journal 89:601-611.

Keown, R. 1980. "Mathematical Models for Legal Prediction." Law Journal 2: 829-862.

Lempert, Richard. 1989. "The Dynamics of Informal Procedure: The Case of a Public Housing Eviction Board." Law & Society Review 23:389-398.

Lempert, Richard. 1990. "Docket Data and 'Local Knowledge': Studying the Court and Society Link Over Time." Law & Society Review 24: 321-332.

Listeners Action for the Homeless. 1985. The Homeless Need You. N.Y. Listeners Action for the Homeless.

Miller, Richard, E. and Sarat, Austin. 1980-81. "Grievances, Claims and Disputes: Assessing the Adversary Culture." Law & Society Review 15: 525-565.

New York Department of Social Services. 1984. Homelessness In New York State: A Report to the Governor and the State Legislature. Vol.II:10.

Pritchett, C. Herman. 1968. "Public Law and Judicial Behavior." In Political Science: Advance of the Discipline. (Ed.) Irish, Marian D. Englewood Cliffs, N.J. Prentice-Hall:190-219.

Reide, Jerome L. 1987. Justice:Evicted. N.Y. American Civil Liberties Union.

Robbins, Tom. 1986. "The Dispossessed: Junk Justice in New York's Housing Court," City Limits. 18.

Rohde, David and Spaeth, Harold J. 1976. Supreme Court Decision Making. San Francisco: W.H. Freeman.

Rotunda, Ronald D., Nowak, John E., and Young. 1986. Treatise on Constitutional Law: Substance and Principles. St. Paul. West:250.

Rubin, Israel. 1984. Annual Report of Civil Court of the City of New York. N.Y. Advisory Council of the Housing Part.

Sarat, Austin and Grossman, Joel. B. 1975. "Courts and Conflict Resolution: Problems in the Mobilization of Adjudication." American Political Science Review 75:355-367. 69: 1200-1217.

Tate, C. Neal. 1981. "Personal Attribute Models of the Voting Behavior of U.S. Supreme Court Justices: Liberalism in Civil Liberties and Economics Decisions." American Political Science Review 75:355-367.

Wanner, Craig. 1974. "The Public Ordering of Private Relations part one: Initiating Civil Cases in Urban Trial Courts." Law & Society Review 8:421-440.

Wanner, Craig. 1975. "The Public Ordering of Private Relations part two: Winning Civil Cases." Law & Society Review 9:293-306.

Watson, Richard A., Downing, Rondal G., and Spiegel, Frederick, C. 1967. "Bar Politics, Judicial Selection and the Representation of Social Interests." American Political Science Review. 61:54-71.

Wise, Daniel. Nov. 14, 1987. "A.C.L.U. Report on Housing
Court Finds Lack of Due Process." New York Law Review :1 212

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