

JULY 2021

Community Advancement Network

**CAN COMMUNITY COUNCIL
HOUSING REPORT**

**RECOMMENDATIONS FOR
ADDRESSING EVICTIONS**

CAN HOUSING WORK GROUP JULY 2021 REPORT OUTLINE

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Background & Supporting Data

Shelter is a basic human need. Shelter provides protection from the elements, a place to rest, security from predators, and a place to develop as a person. A home is an extension of one's self: where we store our memories and our treasures, where we share time with our loved ones, where we relax and where we can just be ourselves.

But a home is something more in our modern society. It is a store of generational wealth that has been impacted by decades of public policy and market decisions. While housing remains an exceedingly wide and varied topic, the COVID-19 pandemic has brought one issue to the fore: eviction. As the virus raged around the world households quarantined and businesses shuttered their doors from fear of infection. This economic crisis caused many businesses to remain closed and put millions of people out of work. As with most economic crises, the most vulnerable suffered greatest. Thankfully, as a public health measure, eviction moratoria were implemented at the federal, state, and local levels. These moratoria led to a dramatic reduction in the number of evictions over the last year; however, this only delayed the eviction for many households, as the deferred rent payments continued to pile up.

The City of Austin and the State of Texas have implemented rental assistance programs to provide relief for renters who owe back rent, but these programs are exceedingly oversubscribed. As we move into the summer with the pandemic seemingly receding into the past, the eviction moratoria have been or soon will be lifted. This puts many households in the Austin-Travis County area in danger of being evicted.

The Immediate & Lasting Impact of an Eviction

Eviction is not merely the loss of one's residence; it carries manifold impacts that can follow the evictee for years. First, an eviction is one of the most destabilizing events in the life of a renter. The process may take days or weeks but ends in the separation of the renter from the home. Often, this separation includes the relocation of the evictee, forcing them to leave their community, their neighbors, the lives they had lived, and to relocate to another part of town. This can mean finding a new place that is further from the jobs and services that the renter relies upon. This could also mean not having a place to go, leading to sleeping at a friend's house, sleeping in their car, or sleeping on the street.

Second, evictions are extremely disruptive to the other forces in one's life. An evicted person may relocate to another part of town, but that relocation may put them too far away from their place of employment. This dislocation can be extremely stressful, causing problems both at work and in personal relationships. This can be even more pronounced for children experiencing eviction as they may have to leave their school and their social networks.

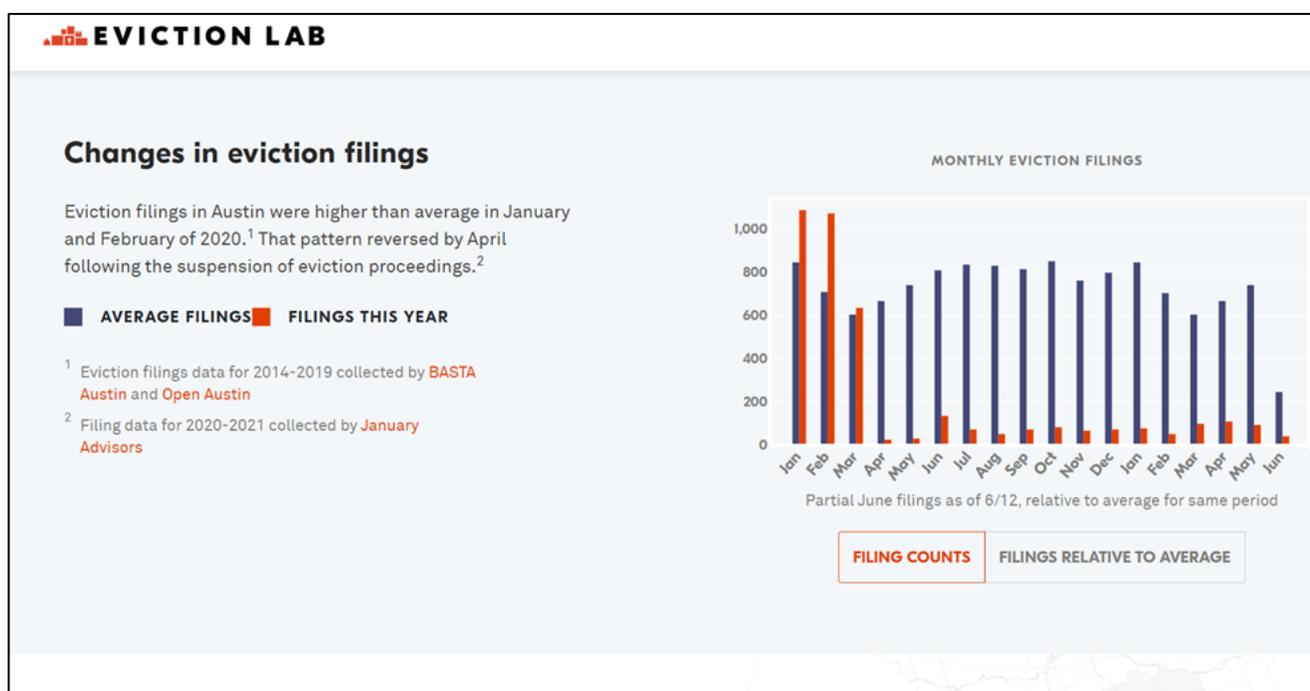
Third, an eviction remains on a credit and rental history for years. Property managers can, and do, deny applicants for a rental history that includes an eviction, regardless of when the eviction took place. Most troubling, this can lead to prolonged, chronic homelessness. As the City of Austin has identified homelessness as a priority issue and has dedicated hundreds of millions of dollars to solving this crisis, the CAN Community Council has decided to focus its efforts on the issue of evictions as a primary driver of homelessness. The Community Council believes that without addressing the approaching wave of evictions that are set to crash down upon the Austin-Travis County area, the homelessness crisis will only grow.

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Background & Supporting Data (continued)

Supporting Data

Because of the moratoria that are in place, it is difficult to fully grasp how many eviction cases we might expect to see in the coming months. The graphic below from Eviction Lab provides some context regarding the level of increase we might see in evictions filings. The first entry in the chart (on the left) is January 2020. The last entry in the chart (on the right) is June 2021. The blue line for each month represents the average number of eviction filings for the month. The orange line next to the blue line represents that actual filings for the month noted. By comparing the actual eviction filings in January and February 2020 and the average filings per month to the number of filings during the months following the pandemic, we quite quickly come to the realization that evictions cases are likely to increase many times over once eviction moratoria are lifted.



Source: <https://evictionlab.org/eviction-tracking/austin-tx/>

Summary of Deliberations

Historical Context

At the beginning of the year, the CAN Community Council selected three priority issue areas to explore and assigned members of the Council to one of the study groups: housing, mental health and food security. The housing study group began by focusing on three major areas: evictions, homelessness, and lack of affordable housing, all of which were important prior to the pandemic, have come into clear focus during the pandemic, and will endure long after the pandemic. Historically, the legacy of housing cannot be unentwined from race. The very legacy of our voting system is based on the rights of white, land-owning men. While we have made tremendous progress, there is still much work to be done to build equity in housing for all races. This legacy has played out directly in our own city of Austin, which has historically racist ties to the split in housing options down the I-35 divide and the current and continued gentrification of historically Black and Latino East Austin.

In the 2008 Housing Crisis, there was a 10-million person national displacement of homeowners and renters. There was a major shift from homeownership to renters and rent rates rose 22%. We often discuss housing in its effects on the poor but it is important to remember that there is a greater percentage of people becoming poorer and poorer. During COVID 19, delinquency rates have increased considerably.

Austin Current Housing Climate Presentation by Councilmember Gregorio Cesar. Health access, job security and housing are the top constituent issues for Council Member Cesar. He is proud of JP Courts, City and County leadership that are making sure that people aren't losing housing due to the pandemic. Austin and Minneapolis are the two cities with the lowest evictions during the pandemic. The moratorium doesn't prevent all problems. Other cities are doing 5 to 10 times more evictions than Austin. So many other protections only kick in if you go to court and know what to say in court and what papers to fill out.

Some people that are still falling through the cracks may be subleasing or using cash payments. The City has been working with Parent Support Specialists and food banks to get the word out about people's rights, so people don't fall through the cracks. To address the housing crisis, there must be a solution or strategy to address back rent when the moratorium ends. People shouldn't be evicted if they have a \$15 an hour job and owe \$7,000 in back rent. There needs to be a plan for paying back rent over time, get part of their back rent forgiven by landlords, and provide legal protections to make sure they don't get evicted. The City and County have \$40 million allocation to help pay back rent now. We still have significant population growth and limited housing, so the threat is real. At this time, it is unclear on the number of people that can self-resolve their back rent and to what degree the city should intervene.

Council Member Cesar pointed out that undocumented families get left out of a lot of these federal programs, so a fund must be developed to address this needs that these residents have. The CARES funding is what we will use to pay back rent, so that is not an option to assist undocumented individuals.

At this time Councilmember Cesar indicated that there is no local organization spearheading private fundraising initiatives locally to help raise funds for back rent, but that if that was setup it would be

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Summary of Deliberations (continued)

tremendously helpful addition to the publicly available funds. The council is also considering ways to prevent filing evictions in the first place, to prevent the need for creating a system to expunge formal evictions notices.

Evictions and Tenants Rights Issues Presentation by Shoshana Krieger with BASTA!

BASTA! is very interested in evictions because it looms over tenants and creates a barrier in finding housing once they have an evictions record. The City is in the process of amending its restrictions for city funded housing that would limit landlords' abilities to screen. Tenants won't ask for repairs, and put up with fines, fees, and bullying managers, and tenants won't organize. Addressing evictions when moratoria are lifted is even more important because evictions are linked to death due to COVID.

From 2014-2019, there was a significant increase in evictions cases. From 2014-2019, most evictions cases were occurring in Justice of the Peace precincts 1, 2 & 4. Now with the pandemic, 3501 eviction cases were filed since 2020. Since March 13, 2020 (when local protections were put in place) there have only been 800~ evictions filed.

Ms. Krieger outlined the evictions process if the tenant doesn't pay rent. After the court step in the eviction process, most tenants move out, but tenants can also appeal. If the tenant doesn't leave or appeal the landlord can bring it back to court and get a writ of possession. The process usually takes 3-5 weeks. During COVID the process takes a lot longer or doesn't move forward at all. Protections are consistently changing and vary by geographic location. There are 5 categories of protections: Court Moratorium (Travis County), Notice to Vacate Prohibitions (Travis County and Austin), Opportunity to "Cure" (Austin, Dallas, San Marcos), CDC Moratorium (national), and CARES Act (national). She ended her presentation by providing resources for renters and rental assistance.

It is important to note that some landlords are still bypassing all protections. BASTA recommends that if a tenant receives a notice to vacate, they can call 311 to file a complaint. In addition, BASTA is actively working to educate judges about restrictions and laws related to evictions, they have actively sent multiple letters to local Justice of the Peace offices to state their concerns. If tenants are put in a situation where they have to go to court, BASTA recommends contacting Texas Rio Grande Legal Aid for support, although there is no formal third-party advocate group to assist tenants in going to court.

Eviction Right to Counsel Presentation by John Pollock with Public Justice and National Coalition for a Civil Right to Counsel (NCCRC)

Housing is one of the biggest areas he works in right now through the NCCRC. Since the beginning of 2020, they had 5 cities pass the tenants right to counsel in just 3 years, including New York City. NYC has over 200,000 evictions a year, one of the highest numbers in the country.

The pandemic has galvanized the "Right to Counsel" movement. At the peak of the pandemic, we were looking at 40 million families at risk of eviction. There are 8 cities (New York, San Francisco, Newark, New Jersey, Cleveland, Philadelphia, Boulder, Baltimore and Seattle) that now have the right to counsel.

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Summary of Deliberations (continued)

Three of those passed during the pandemic. Houston along with 16 other cities are starting to look at right to counsel for their jurisdictions. Eight states are slated to pass right to counsel legislation for 2021: Connecticut, Indiana, Maryland, Massachusetts, Minnesota, Nebraska, South Carolina, and Washington. Two more states are expected to be added before the year is over: Delaware and New York.

Most of the right to counsel laws were done through city initiative, with Denver and Boulder using a ballot initiative. Right to Counsel is usually funded through general revenue. There are differences in eligibility and implementation across programs.

NYC's eviction right to counsel success data showed that 86% of tenants who are represented by counsel remain in their homes. Since 2013 representation has risen from 1% to 38% and evictions have dropped 41% including a 15% drop in 2019 alone. Eviction filings have dropped by 30% including 20% in 2019 alone. Default judgments have dropped 34%. Courts in NYC have stated that right to counsel has helped the courts. San Francisco had a filing rate decrease of 10% over a year. 67% of tenants that had representation were able to remain in their homes. In Cleveland 93% were able to avoid eviction. 83% of the tenants that were seeking additional time to move received it and 89% of those seeking to mitigate damages were able to do so.

Right to counsel is important to cities because it helps to reduce dealing with the effects of evictions (shelter, mental and physical health, employment, child custody, school etc.) Cities and states pay for transportation, unemployment, foster care system, etc., services that are significantly more expensive than providing a lawyer to prevent the need of these systems in the first place. In addition, evictions cost \$315 billion in lost revenue versus spending a \$5.7 million investment in right to counsel.

There's an imbalance of power between landlords and tenants. Tenants don't understand how the CDC moratorium protects them and landlords are arguing against the moratorium in court. Money that cities have received for rental assistance isn't getting to the people that need it. Black female renters are evicted at twice the rate of white renters. In Texas, black tenants that have little to no ability to pay their rent get much less assistance than white people that feel they have little to no ability to pay their rent. In addition, courts are holding their proceedings on Zoom and there has been issues with tenants' internet access, not being able to enter evidence through Zoom, Zoom calls dropping, not understanding how to use Zoom that are a barrier to a fair hearing.

Recommendations

Recommendation to Mitigate Evictions and Provide Short/Long-Term Support and Protections for Renters

In our review of this issue, we held several meetings with elected officials and experts to better understand the problem of evictions, the impact of evictions and other moments of crisis, and potential tools to address the already high number of evictions that Austin-Travis County has seen over recent years. In February we met with Councilmember Greg Casar and Shoshana Krieger, Project Director of BASTA! to discuss the moratoria and better understand the problem. In March we met with Commissioner Ann Howard and Nefertitti Jackmon, Community Displacement Prevention Officer for the City of Austin to discuss the impact of evictions on vulnerable populations. In April we spoke with John Pollock, Coordinator of the National Coalition for a Civil Right to Counsel, where he described steps taken by other cities and states to address an eviction crisis. The experience of other cities shows that by taking the steps outlined in the recommendations below will have considerable impact on the number of evictions filed and the number of evictions that are resolved in mediation. Additionally, by reducing the number of households in crisis and reducing the number of cases filed in eviction court, jurisdictions can experience a positive fiscal impact.

1. **Emergency Rental Assistance:** With the lifting of the moratoria, evictions will only continue to increase. Using historical data, we can predict that the eviction rate will increase dramatically in the short term, returning to pre-pandemic levels, and then accelerating to new heights. The City has said that the Emergency Rental Assistance program, known as RENT, will continue after the moratorium is lifted and will use local funds. We call on the City, the County, and non-profit organizations to continue this work with the resources necessary to impact the growing rate of eviction in Austin/Travis County.
2. **Legal Representation at Eviction Court:** The City has contracted to provide counseling services for individuals experiencing eviction and advocates at eviction court proceedings. While we recognize that an advocate without legal training might improve outcomes for the tenant facing eviction (although no empirical data is available to support this assertion), a more effective resource would be legal representation. The Housing and Planning Department currently has a \$200,000 contract to provide this service. We call on Austin and Travis County to expand the existing contract for lay advocates to provide the more effective service of legal representation and to fund the program to the necessary levels.
3. **Right to Counsel:** While providing resources for the payment of rent owed and resources for representation at eviction court will provide some relief for individuals facing eviction, we call on City Council and the County Commission to adopt a Right to Counsel for all individuals facing eviction. This will ensure that no person is forced to negotiate the eviction proceeding without representation and guidance. A Right to Counsel has shown to reduce the number of evictions filed, the number of persons evicted, and the cost to the system.
4. **Eviction History Shield:** When a renter experiences an eviction, this effectively results in the person being unable to rent an apartment ever again. Evictions show up on credit histories and rental histories; property managers can often deny an applicant based solely on the fact that the

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Recommendations (continued)

individual experienced an eviction in the past. As part of the Rental Housing Development Assistance program, the City has added the following requirement for properties funded through this program:

Applicants shall not be denied on the basis of eviction history if:

1. Eviction proceedings resulted in a dismissal or judgement for the applicant,
2. Eviction was settled with no judgement more than 1 year before application, or
3. Judgement against tenant was more than 3 years before application, except if the applicant was evicted from a community owned by same management company.

We recommend the City and County add this protection, and protections similar to those adopted by the City of Minneapolis, MN to protect tenants from being denied housing due solely to a history of eviction. We believe this will help many households avoid being displaced from the Austin/Travis County community and avoid adding to the growing homelessness crisis

5. **One Stop Shop:** When a crisis hits, the needs are many. A household struggling to pay rent may be forced into greater food insecurity. A household with unforeseen medical bills may have also suffered a job loss due to the medical event. While crises are multifaceted and complex, available resources are often targeted for a single issue, such as emergency rental assistance or food pantries. Even more complicated are the portals one must find to access these resources and the overlapping requirements of eligibility for each. We recommend the City and County design a more accessible portal for households to access the panoply of services and assistance available. This will entail uniformity of documentation as well as cross referencing ability to avoid duplication of benefits. This portal should be simple to use and should be accessible across the digital divide. We understand this is a challenge, but for citizens to equitably access the resources that are available, all levels of government must reconsider how to engage the community.

Credits

About the CAN Community Council

The CAN Community Council is one of two Councils that guide the work of the Community Advancement Network. The CAN Community Council is a self-appointed body that is made up of up to 30 people who reflect the diversity of interests, concerns, organizations, issues and populations of the Central Texas community. The role of the Community Council is to provide a link between the community at large and the policy makers and elected officials who serve on the CAN Board of Directors.

If you are interested in joining the CAN Community Council, fill out a form at this site:

<http://canatx.org/community-council/>

About This Report

In 2021, the CAN Community Council (Council) has been focused on finding possible solutions to community needs that have presented unique and difficult to resolve challenges emerging from the pandemic. The Council selected three pandemic-related topics on which to focus with the first being the housing crisis that will emerge if we do not create tools/resources and put protections in place to support renters when the eviction moratoria are lifted. The aim is to identify policies and programs that elected officials, policy makers and other decision-makers can pursue to mitigate the upheaval that could be caused for hundreds of Central Texas families if tools, resources and protections are not implemented in short order. The other pandemic-related challenges on which the CAN Community Council is focused are food security and mental health and wellness.

2021 Community Council Members

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ATTACHMENT 1

CAN COMMUNITY COUNCIL HOUSING REPORT - JULY 2021

**EVICTIONS
RIGHT TO
COUNSEL**

**RELATING TO
RECOMMENDATION
#3**

Short Description

Link to Document

ATTACHMENT 2

CAN COMMUNITY COUNCIL HOUSING REPORT - JULY 2021

**ANTI-
DISPLACEMENT
COMMUNITY
RESOURCE
CENTERS**

**RELATING TO
RECOMMENDATION
#5**

Short Description

Link to Document