This fall, the National Housing Law Project surveyed 119 legal aid and civil rights attorneys in 41 states, DC, and Puerto Rico to see how tenants were faring after the federal eviction moratorium ended. These attorneys are part of the Housing Justice Network, hosted by NHLP. This is a follow up to our July 2020 survey.

On August 26, 2021, the Supreme Court struck down the eviction order imposed by the Centers for Disease Control and Prevention (CDC). Throughout the pandemic, a patchwork of laws has protected some tenants in some areas; other areas provide no tenant protections.

The numbers in this survey are the tip of the iceberg because they only take into account families who were represented by legal aid attorneys during COVID. Nationally, only 3% of tenants have legal representation, while 81% of landlords do.

This survey captures an important moment in time and offers a look at what is happening on the ground. We also offer ideas to improve our current housing and court systems to prioritize housing stability for tenants.
A housing authority in my area is evicting HUD tenants strictly for nonpayment, even when rental assistance is pending. They refuse to fill out their portion of the applications. — Kentucky

66% of respondents reported rising eviction cases since the CDC moratorium ended.

40% report an increase in landlords lying in court to evict tenants.

35% report an increase in illegal evictions or lockouts.

13% report an increase in landlords deferring unit maintenance.

LANDLORD TACTICS

To evade local tenant protections, landlords are:

- Falsely alleging lease violations or changing lease terms without notifying tenants
- Falsely denying receipt of ERA funds to keep cases moving through court
- Intimidating and harassing tenants into leaving, or withholding maintenance to render units uninhabitable

67% of respondents reported evictions of subsidized housing tenants for nonpayment of rent.

RECOMMENDATIONS

The federal government should:

- Impose an eviction moratorium for all federally-subsidized tenants
- Require these landlords to participate in rental assistance and repayment programs
- Mandate retroactive interim recertification, and provide other reasonable accommodations and program exemptions
To improve rental assistance programs, jurisdictions should:

- Require landlords receiving assistance to renew leases or sign non-eviction pledges
- Require landlords to agree that ERA satisfies all past debts of the tenant
- Eliminate any barriers to accessing funds based on immigration status
- Require courts to stay cases until ERA applications are processed
- Enforce source-of-income protections to stop discrimination against using ERA to pay rent
OBSTACLES IN COURT

78% of respondents reported inconsistent or no court enforcement of federal eviction notice requirements*

COURT CONCERNS

Respondents shared these other concerns:

- Due process concerns including language access, confusion over virtual and/or in-person hearing processes, and risking health to appear in court
- Rental assistance programs have evolving or unknown timelines, so uneven application of the law is a major problem

Our courts are unsympathetic when a tenant has done everything they can and a landlord still refuses rental assistance. While our local agencies have a process for sending money directly to tenants, it is often far too slow to stop an eviction. — Ohio

Because of the high volume of filings, backlog judges who are not familiar with landlord-tenant law, ERA, and moratoria are more likely to be assigned eviction cases, resulting in inconsistent outcomes. — New York

IMPROVING COURT PROGRAMS

37% of respondents reported courts in their areas using diversion or mediation programs

only 26% of these programs base their success on keeping tenants from being evicted

only 13% of these programs require landlord participation before cases can be filed

RECOMMENDATIONS

To improve these programs, courts should:

- Measure program success by avoiding evictions rather than reducing court dockets
- Require landlords to participate in programs before cases can be filed
- Provide representation to tenants in diversion and mediation programs

* This number includes 20% with no enforcement at all. The Coronavirus Aid, Relief, and Economic Security (CARES) Act requires landlords to provide a 30-day eviction notice for any covered property. This 30-day notice overrides all state and local landlord-tenant law for those properties.