

End the U.S. Evictions Crisis

Long before the current pandemic, the U.S. was gripped by an eviction crisis. Estimates suggest more than one million households are evicted through the court system each year, while millions more evictions occur without court involvement – unaware of their rights, tenants often move out after receiving a notice to vacate, while others are illegally locked out or removed without judicial proceedings. Coronavirus has wrought economic devastation that has only escalated the crisis, and as protections expire or are challenged in court, estimates suggest as many as 30 to 40 million Americans are on the brink of eviction. Eviction moratoriums, rental assistance, and other policies are helping many households, but countless evictions are proceeding. In addition to the prospect of eviction and its consequences, renter households will owe tens of billions of dollars in back rent. With the stakes this high, we must develop a comprehensive federal response to evictions.

The overwhelming human impacts of eviction include job disruption or loss, negative health outcomes, childhood deficits, and housing insecurity or homelessness. Eviction records follow families and individuals, making it more difficult for these households to reenter the rental market and forcing them into low-opportunity neighborhoods with poor-quality housing. The consequences are disruptive and harmful to communities and other institutions absorb the effects. Evictions impact schools, employers, hospitals and public services systems including homelessness programs.

All of these impacts are felt most acutely in communities of color. Specifically, Black mothers face eviction at higher rates than any other demographic. And the scarlet letter-like effect of evictions drives households of color into areas that amplify racial segregation and reinforce the lasting effects of historic redlining. Additionally, people with disabilities, people with criminal records, families with children, and other disadvantaged populations suffer significantly from evictions.

Despite the seriousness of this crisis, U.S. eviction law is outdated and eviction proceedings currently set tenants up to fail. Unnecessary, improper, or illegal evictions are commonplace because there are few substantive protections for tenants. A robust eviction response will **minimize the number of evictions occurring**, especially in federally subsidized housing programs, and will **mitigate the effects of evictions** by reducing tenants' barriers to accessing new housing.

To achieve a comprehensive response, the Biden-Harris administration should incorporate the following proposals into its transition plans:

Minimize Evictions.

- **Create a national eviction database.** Currently, there is no federal system in place to measure the extent of the eviction crisis nationwide and standardize the data collected. The

Eviction Lab, a Princeton University database, has clearly shown that the U.S. has an eviction crisis, but it has also demonstrated that the federal government needs to establish a national data collection effort to understand fully the scope of the problem. Comprehensive data collection will help us combat the devastating effects of eviction on families, create more responsive policies, and understand more fully how the eviction crisis disproportionately impacts BIPOC, people with disabilities, and formerly incarcerated individuals.

- **Fund eviction diversion programs.** The Biden-Harris administration should encourage Congress to establish a national emergency fund dedicated to providing short-term financial assistance including rental payments and other housing stability-related services to tenants at risk of eviction. Tenants who face an acute crisis would be able to apply for funds that would be paid directly to landlords or providers for utility payments, past due rental payments, late fees, and court fees. A small portion of the fund would also be used to pay for case management for households facing instability, rehousing, and referrals to other forms of social service support.
 - NOTE: The establishment of a new national diversion fund is necessary beyond our current public health and economic crisis. In addition to eviction diversion, NHLP also recommends \$100 billion for rental assistance in Emergency Solutions Grant (ESG) funds to mitigate the devastating financial effects of the pandemic on housing stability.

Further, community courts and other diversion programs offer alternative processes, including mediation and payment plan alternatives, which are designed to divert tenants from eviction or from severe housing instability if an eviction is unavoidable, with social service representatives present. Congress should be encouraged to fund states and localities to invest in such programming.

- **Ensure right to counsel for tenants in eviction cases.** While 90 percent of owners or landlords have representation in eviction court, only 10 percent of tenants do. Providing tenants with counsel reduces the number of evictions completed, mitigates the harm of eviction on households, and reduces the burden on community systems.
 - Congress needs to significantly increase funding for the Legal Services Corporation in order to make this a reality.
- **Establish federal good cause protections.** Landlords should not be able to evict tenants without ample notice and good cause. Litigation and case law have established some parameters for a good cause definition, but a clear and broad definition has never been established in statute, and the protections are not guaranteed to all tenants. It is also essential to end “one-strike” eviction policies that violate due process and fair housing standards.

Mitigate the effects of evictions.

- **Reduce the long-term consequences of evictions for tenants’ re-entering the rental market.** A past eviction record should not hinder an individual or family from securing new housing. The overwhelming majority of evictions that occur are based on non-payment of rent or other financial issues – often related to a lost job, a family separation, or other misfortune. Our current system allows these evictions to follow tenants and bar them from housing opportunities even when their finances have improved.
 - More Americans than ever have already been evicted or will face eviction in the coming months. It is imperative that households displaced as a result of the pandemic not be

trapped in sub-standard housing or cycles of homelessness. The Biden-Harris administration should prohibit denial of housing based on pandemic-related evictions.

- **Improve oversight of tenant screening practices.** Currently, tenant screening is an unregulated industry and more and more landlords are farming out their decisions about who is eligible to lease a unit. Tenant screening and consumer reporting agencies should be subject to federal regulation and should be required to do the following:
 - Provide consumers with tenant screening reports when they are requested as part of a rental application process or upon denial of housing, so tenants can contest and correct inaccurate or incomplete information. Tenants should also have access to the landlord's admission policy and any additional background reports the landlord uses.
 - Exclude eviction records of cases that were dismissed by the court or that were decided in favor of the tenant as grounds for denial.

Additionally, landlords should be required to conduct individualized reviews of applications denied for evictions records similar to the requirement for applicants rejected due to criminal history.

Our rental market and evictions systems are stacked in favor of owners and landlords. These recommendations, approached through incentives for better state and local policies, adoption of new federal laws protecting tenants, and regulatory reform will curb our evictions crisis and begin to improve outcomes and stability for renter households.

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