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A Framework for Effective and Strategic Eviction Prevention

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A FRAMEWORK FOR EFFECTIVE AND STRATEGIC
EVICTION PREVENTION

*Maya Brennan**

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I. INTRODUCTION

Eviction prevention can reduce health, education, employment, and economic risks that affect residents of every county in the United States and disproportionately harm Black and Latinx mothers and children. Evictions, however, have long sat on the sidelines of housing policy. Decades of federal, state, and local housing policy have expressed goals related to public health, housing quality, affordability, de-segregation, wealth-building, regional economic growth, and individual or family supports.¹ As adopted and funded, however, the policy landscape has generated neither a housing supply that meets demand across income levels nor sufficient subsidies to resolve worst case housing needs. As of 2015, just 16 percent of the nation’s 27.9 million low-income renter households received federal housing assistance, despite qualifying

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1. ALEX F. SCHWARTZ, HOUSING POLICY IN THE UNITED STATES 6 (2015).

for it.² Fewer than 6 million unassisted low-income renter households obtained affordable and decent-quality housing in the private market.³ Housing policy advocacy from leading national organizations, such as the National Low Income Housing Coalition and National Housing Conference, have historically emphasized policies that preserve or add affordability, but omitted approaches that would address the immediate displacement risk of a mismatch between housing needs and housing availability for low-income renters.⁴ When the housing system does not include the supply or subsidy that enables affordability, households will miss payments and increase their risk of eviction.

Evictions and displacement are finally prominent policy topics around the nation. A combination of community organizing, public awareness efforts, research, and the 2016 book *Evicted* have made evictions impossible to ignore. Yet the meaning of the word eviction remains only loosely defined, and this can result in unclear policy menus. Policies that offer tools to reduce eviction by correcting housing market failures would not resolve a household's risk of an imminent eviction, and vice versa. Both types of policy agendas have a role in displacement prevention, though they address different aspects of the same broad problem.

This paper aims to develop an eviction prevention framework that can encompass both housing market failures and household crises. I begin by exploring the varied meanings of the word “eviction” and clarify the distinctions between eviction types. I then demonstrate the urgency of effective eviction prevention—first through information on evictions' prevalence in the US and then through a review of the cost of eviction to individuals and communities. Finally, I explore the root causes of eviction and present an eviction prevention framework that can support strategic policy development and enable more systematic analysis of different policy options.

II. DEFINING EVICTION

Current policy agendas related to eviction span multiple topics, partly due to various interpretations of “eviction.” The lack of a common definition and the varying forms of eviction and

2. G. Thomas Kingsley, *Trends in Housing Problems and Federal Housing Assistance*, URB. INST. 2, 13 (Oct. 2017), <https://www.urban.org/sites/default/files/publication/94146/trends-in-housing-problems-and-federal-housing-assistance.pdf>.

3. *Id.* at 5.

4. See generally 2016 Public Policy Agenda, NAT'L LOW INCOME HOUSING COAL. (Nov. 15, 2015), https://nlihc.org/sites/default/files/2016AG_Chapter_1-2.pdf; see also NHC's Policy Agenda, NAT'L HOUSING CONFERENCE (Mar. 30, 2016), <https://web.archive.org/web/20160414223336/http://www.nhc.org/>.

displacement risk can also impede efforts to demonstrate the harms of eviction to people and communities. This section will (1) summarize the ways in which different types of stakeholders use the word “eviction” and (2) propose a framework for understanding evictions that enables more comprehensive policy development.

The judicial community typically uses the word “eviction” to refer to the specific moment when a property owner removes the resident from a rented home—either legally with a court order or illegally without one. The foundational article on evictions in the housing literature says, “[t]he narrowest definition of eviction would cover only those that take place as the culmination of a legal proceeding with a marshal or sheriff coming to the tenant’s door.”⁵ In practice, the narrow legal definition has an illegal counterpart: those that take place at the tenant’s door without a marshal or sheriff. Taken together, I will refer to these as the removal definition. When using the removal definition, policies can prevent eviction by intervening in a moment of crisis to save a tenancy. Such tools include specialized housing courts, a right to counsel in eviction hearings, access to emergency financial assistance, the right of redemption (i.e. an extended timeline to pay past due rent), stronger protections against illegal lockouts, and the right to withhold rent due to housing conditions.

In most other contexts, an eviction refers to any forced residential move, even one in which the tenant has some control over the terms of their departure. Hartman and Robinson offer the following broadened eviction definition: “any involuntary move that is a consequence of a landlord-generated change or threat of change in the conditions of occupancy of a housing unit.”⁶ I will refer to this as the displacement definition. The displacement definition includes removal and additional actions, such as a tenant moving due to the landlord’s request (whether such request was legally enforceable or not), intimidation that leads to moving, or other landlord-initiated changes that result in renters seeing moving as their only choice. In addition to the policy tools detailed earlier, the tools for preventing eviction under the displacement definition include just-cause eviction laws that limit the reasons an owner can give for asking a resident to leave, stronger protections against retaliation and intimidation, automatic continuation of leases after a sale or foreclosure, tenants right to purchase a building, and many other tools that enable longer-term stability for renter households.

The displacement and removal definitions are two overarching views of what the word eviction means, but other methods of

5. Chester Hartman & David Robinson, *Evictions: The Hidden Housing Problem*, 14 HOUSING POL’Y DEBATE 461, 466 (2003) <https://www.innovations.harvard.edu/sites/default/files/10950.pdf>.

6. *Id.*

categorizing eviction exist. Prior publications have adopted the binary of formal and informal evictions, in which formal evictions operate through courts and informal evictions do not.⁷ This binary may obscure substantial differences for people and policies. For example, an owner may evict by disregarding local, state, or federal laws in ways that exacerbate the trauma of a forced move, or an owner may terminate the tenancy in legally enforceable ways but without going to court. The difference is stark enough to classify these cases separately.

For clarity of policy development and debate, I recommend the adoption of the displacement definition of eviction, with three classes of eviction. Under this framework, the definitions and classification are as follows:

Eviction: A forced residential move.⁸ The three classes of eviction are formal, informal, and illegal.

Formal eviction: A forced residential move resulting from a court order (often known as a writ) or condemnation.⁹

Informal eviction: A forced residential move that does not involve a legal process, often following a property owner's request, negotiation, or coercion.¹⁰

Illegal eviction: A forced residential move that violates federal, state, or local laws and can result in civil or criminal penalties to the property owner if discovered. Two common types of illegal eviction are a lock-out, also known as a "self-help" eviction, and a "constructive" eviction in which the owner makes a property deliberately uninhabitable, such as by shutting off the heat in winter.

Each of these definitions frame eviction as an event rather than a process, but the reality is more complicated. A forced move

7. See Matthew Desmond & Carl Gershenson, *Who Gets Evicted? Assessing Individual, Neighborhood, and Network Factors*, 62 SOCIAL SCIENCE RESEARCH 362 (2017).

8. I intend this as a succinct re-stating of Hartman and Robinson's broader definition.

9. Unlike Desmond and Gershenson's meaning of formal eviction, I would categorize condemnation of a property as a type of formal eviction since the residents do not have the right to remain in the dwelling and face official removal. Whether condemnation merits a separate category remains an open question.

10. I break Desmond and Gershenson's informal eviction category into two separate classes: informal and illegal.

follows other actions on the landlord's part.¹¹ Both the move and the preceding actions cause harm. For example, a summons to court for an eviction hearing can initiate a cycle of well-being risks that lasts for years. Eviction prevention policy can be more effective by understanding that eviction is both an event and a process. Interrupting the eviction process as early as possible can minimize harm and enable households to regain stability.

III. THE STATE OF EVICTIONS

Since informal evictions do not leave a record and illegal evictions rarely do, household surveys are the most reliable method for estimating the number of evictions in the US.¹² In 2017, the American Housing Survey fielded a new eviction module with detailed questions that will assist in developing estimates that include formal, informal, and illegal evictions in the US.¹³ As of writing, the data were not yet publicly released. The most comparable study, the Milwaukee Area Renters Survey, found that only around one in four evictions had a formal court process.¹⁴

Formal evictions seem like they should be easily tracked and counted since each formal eviction leaves a paper trail. However, even these data are incomplete and difficult to interpret. The best national data on evictions come from the court records of formal eviction processes.

The data are available in aggregate through court websites and the Eviction Lab database.¹⁵ Courts may report the number of eviction judgments and filings, but neither the number of writs

11. See Brittany Lewis, *The Illusion of Choice: Evictions and Profit in North Minneapolis*, CTR. FOR URB. AND REGIONAL AFF., U. MINN. (2019), <http://evictions.cura.umn.edu/sites/evictions.dl.umn.edu/files/general/illusion-of-choice-full-report-web.pdf>.

12. See Hartman & Robinson, *supra* note 5, at 492.

13. U.S. Dep't of Housing and Urb. Dev., *Measuring Housing Insecurity in the American Housing Survey*, PD&R EDGE, <https://www.huduser.gov/portal/pdredge/pdr-edge-frm-asst-sec-111918.html> (last visited Feb. 22, 2020).

14. Matthew Desmond & Tracey Shollenberger, *Forced Displacement from Rental Housing: Prevalence and Neighborhood Consequences*, 52 DEMOGRAPHY 1751, 1761 (2015), <https://scholar.harvard.edu/files/mdesmond/files/desmondshollenberger.demography.2015.pdf> (the authors' categorization of eviction types used "formal" to refer to court evictions (24 percent) and listed condemnation (5 percent) as a separate type).

15. See Eviction Lab, PRINCETON UNIV. (2018), <https://data-downloads.evictionlab.org> ("This research uses data from The Eviction Lab at Princeton University, a project directed by Matthew Desmond and designed by Ashley Gromis, Lavar Edmonds, James Hendrickson, Katie Krywokuski, Lillian Leung, and Adam Porton. The Eviction Lab is funded by the JPB, Gates, and Ford Foundations as well as the Chan Zuckerberg Initiative. More information is found at evictionlab.org.").

received nor completed evictions are typically documented. Where such data are available, the records demonstrate that many judgments do not end with a writ, and writs may also not end with eviction.^{16 17}

Existing court data provides a conservative estimate of the opportunity for assistance but says little about the potential scale of displacement due to vastly different renters' rights across states.¹⁸ Variation in laws and court processes can also lead to inconsistency in what eviction filing and judgment statistics mean. An eviction filing may be equivalent to a collection notice in a state that gives renters post-filing opportunities to pay past due rent and prevent eviction but may suggest a more imminent risk under different rental laws.

States in which a landlord-tenant division of the court hears both eviction and housing condition cases may report all of the division's filings in aggregate—leading to erroneous interpretations by those

16. See STEPHANIE BRYANT ET AL., EVICTIONS IN MONTGOMERY COUNTY 36 (Office of Legislative Oversight, 2015) https://www.montgomerycountymd.gov/OLO/Resources/Files/2018%20Reports/2018_10EviictionsMontgomeryCounty.pdf.

17. Residents may choose to leave after the judgment in order to avoid additional trauma of a physical eviction, but policies also affect the relationship between judgments, writs, and evictions. The District of Columbia, Maryland, and, as of 2019, Virginia, grant residents a limited right to remain in their home after the property owner has a judgement to evict and even after getting the writ. Residents can legally stop an eviction in these states by paying the rental judgment in full before the right expires—known in D.C. and Maryland as the right of redemption and in Virginia as an extended right of redemption. (States may also have a different version of right of redemption that codifies that the landlord may only get an eviction judgment if the tenant still has rent arrears at court but have the right end at the judgment.) In D.C., the right to redemption ends when the eviction is complete. See D.C. CODE § 42-3210.01(b), <https://code.dccouncil.us/dc/council/code/titles/42/chapters/32/>. In Maryland, the right ends when the eviction begins, i.e. when the first belonging leaves the property. See MD right of redemption: MD. CODE ANN., Real Prop. § 8-401 (e)(1), <https://law.justia.com/codes/maryland/2005/grp/8-401.html>. In Virginia, the right ends two days prior to the scheduled eviction date. See VA right of redemption: VA. CODE § 55.1-1250(d), <https://law.lis.virginia.gov/vacodefull/title55.1/chapter12/article5/>.

Social service providers commonly triage requests for emergency rental assistance to ensure that the limited funds go to the highest need cases. Currently, Maryland social service providers ask for verification of an eviction order or a “failure to pay rent” notice. See *Public Assistance*, MD. DEPT. OF HUM. SERV., <http://dhs.maryland.gov/weathering-tough-times/emergency-assistance/> (last visited Mar. 5, 2020). When I worked on a tenant-landlord hotline in the state from 2001 to 2003, hotline callers reported that social service agencies in Baltimore City verified a pending eviction through the eviction judgment and did not authorize assistance based on a court filing notice.

18. Megan E. Hatch, *Statutory Protection for Renters: Classification of State Landlord–Tenant Policy Approaches*, 27 HOUSING POL'Y DEBATE 98, 113 (2017).

accustomed to states with different court divisions. The eviction options in Arkansas present an astonishing example of potential misinterpretation: the state offers property owners both civil and criminal eviction filing options.¹⁹ The filing count for “unlawful detainer” in Arkansas would miss all filings for “failure to vacate.”

Despite challenges with the currently available US eviction data, evidence of the eviction filing, and judgment rate suggest that the eviction crisis is comparable in size to the foreclosure crisis. In 2016, US property owners filed for eviction nearly 2.4 million times—sometimes with repeated filings on the same household over the course of the year—and received nearly 900,000 judgments for eviction.²⁰ Between 2000 and 2016, the national eviction filing rate has ranged between 6 percent and 7.5 percent, and the eviction judgment rate has ranged from 2.3 to 3.1 percent annually.²¹ In comparison, the national serious delinquency rate at the peak of the foreclosure crisis in 2010 was 7.5 percent,²² and the peak foreclosure rate was nearly 4 percent.²³

At nearly 900,000 eviction judgments and additional untold forced moves, one can reasonably hypothesize that the number of renter households who face eviction each year exceeds the 1.05 million foreclosures at the peak of the mortgage crisis.²⁴ Affected households, communities, and housing markets need crisis-level policy attention.

The anticipated arrival of more comprehensive eviction data will assist with tracking the state of the eviction crisis. The complex interactions between eviction risk, policy contexts, and housing markets can create counter-intuitive findings when tracking only formal evictions or when tracking evictions in just one part of a region. For example, eviction filings appear to have either no

19. See *Landlord and Tenant Law Fact Sheet*, ARK. LEGAL SERVICES ONLINE, <http://www.arlegalservices.org/node/858/landlord-and-tenant-law> (last updated Feb., 2017). Thanks to Kelly Browe-Olson for alerting symposium attendees to the state’s criminal evictions.

20. EVICTION LAB, <https://evictionlab.org/help-faq/#us-stats> (last visited May 2, 2020).

21. *Id.*

22. Molly Boesel, *All but Six States Post Annual Drop in Delinquency Rate in July*, CORELOGIC INSIGHTS BLOG (Oct. 8, 2019), <https://www.corelogic.com/blog/2019/10/all-but-six-states-post-annual-drop-in-delinquency-rate-in-july.aspx>.

23. Archana Pradhan, *The Foreclosure Rate Is Now Back to Pre-Crisis Levels*, CORELOGIC INSIGHTS BLOG (July 25, 2018), <https://www.corelogic.com/blog/2018/07/the-foreclosure-rate-is-now-back-to-pre-crisis-levels.aspx>.

24. Corbett D. Daly, *Home Foreclosures in 2010 Top 1 Million for First Time*, REUTERS (Jan. 12, 2011), <https://www.reuters.com/article/us-usa-housing-foreclosures/home-foreclosures-in-2010-top-1-million-for-first-time-idUSTRE70C0YD20110113>.

correlation or a negative correlation with the costliness of a rental market.

In Washington, D.C., the number of eviction filings began a downward trend when the number of homes renting for \$1,000 or more per month began to climb.²⁵ Meanwhile, in the broader Washington D.C. region, a survey found that 29 percent of respondents knew someone who was displaced, often because they could not afford their housing costs.²⁶ Ohio's low cost of living regularly places it on lists of the most affordable states, yet the rate of eviction filings there has closely tracked the rate for the US overall in recent years.²⁷ If housing costs predicted eviction risks, these trends might look differently.

IV. THE COSTS OF EVICTION FOR INDIVIDUALS AND COMMUNITIES

Personal stories of eviction illuminate the trauma of losing one's home, while research underscores social and financial costs of eviction for individuals and communities. This section will summarize the evidence that (1) evictions contribute to homelessness, mental health problems, job loss, and downward economic mobility for the people directly affected, and (2) neighbors and communities also pay a price when evictions occur.

Evictions spark sudden unplanned moves, which push families into troubling living conditions. All else equal, people who move due to eviction end up in neighborhoods with higher poverty and crime rates than people who move on their own, but rarely pay lower rents.²⁸ Forced moves exacerbate neighborhood disparities between federally protected classes. For example, evicted black renters move to neighborhoods with a 20.2% average poverty rate, while evicted white renters move to neighborhoods with a 13.4% average poverty rate.²⁹ In addition, households with single mothers who are evicted

25. Maya Brennan, *DC's Eviction Filings Are Down. Are High Rents to Blame?*, URB. INSTITUTE GREATER DC BLOG (May 31, 2018), <https://greaterdc.urban.org/blog/dcs-eviction-filings-are-down-are-high-rents-blame>.

26. Peter A. Tatian et al., *Voices of the Community: DC, Maryland, and Virginia*, URB. INST.—GREATER DC 18 (Dec. 7, 2017), https://static1.squarespace.com/static/58f791ec37c58188d411874a/t/5a26bb5371c10b352cd48a24/1512487775697/GWCF_VoicesDMV_Report_FINAL.pdf.

27. EVICTION LAB, <https://evictionlab.org/map/#/2016?geography=states&bounds=-155.654,-12.897,-44.648,35.317&type=efr&locations=39,-83.047,40.206> (last visited May 3, 2020).

28. Desmond & Shollenberger, *supra* note 14, at 1752.

29. *Id.* at 1763.

disproportionately move into neighborhoods with high crime rates.³⁰

For renters with court records of an eviction filing or judgment, finding a decent place to live remains challenging for years.³¹ Reputable landlords screen prospective future tenants—often seeking to screen out anyone with an increased risk of behavioral or financial trouble. Tenant screening companies report not just credit scores, but also appearances in public court records. Depending on state law and court practices, housing court records may remain indefinitely discoverable for both filings and judgments—no matter what the outcome of the case was. Both private landlords and public housing authorities³² commonly screen out applicants with negative rental histories,³³ leaving financially struggling renters less able to obtain a housing subsidy and more likely to resort to a disreputable landlord. After an eviction, renters become more likely to live in substandard housing and have increased residential instability.³⁴

In addition to pushing families into unsafe living environments, eviction leads to lost personal property (or high costs for retrieving belongings), material hardship, and homelessness.³⁵ For more than one-third of families entering homeless shelters, the New York City Department of Homelessness Services listed the reason for shelter eligibility as eviction.³⁶

Studies in both Milwaukee and North Dakota found that renters had an elevated risk of job loss after eviction.³⁷ The Milwaukee

30. *Id.* at 1765.

31. See Paula A. Franzese, *A Place to Call Home: Tenant Blacklisting and the Denial of Opportunity*, 45 *FORDHAM URB. L. J.* 661, 666 (2018).

32. U.S. DEP'T OF HOUSING AND URB. DEV., HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, 4-20 (2013), <https://www.hud.gov/sites/documents/43503HSGH.PDF>; 24 C.F.R. § 960.203 (2020).

33. Tristia Bauman & Michael Santos, NAT'L L. CTR. ON HOMELESSNESS & POVERTY, PROTECT TENANTS, PREVENT HOMELESSNESS 31 (2018), <https://nlchp.org/wp-content/uploads/2018/10/ProtectTenants2018.pdf>.

34. Matthew Desmond, Carl Gershenson & Barbara Kiviat, *Forced Relocation and Residential Instability Among Urban Renters*, 82 *U. CHI. SOC. SERV. R.* 227, 256 (2015).

35. See MATTHEW DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* (2016); see also Matthew Desmond & Rachel Tolbert Kimbro, *Eviction's Fallout: Housing, Hardship, and Health*, 94 *SOCIAL FORCES* 295, 300 (2015), <https://doi.org/10.1093/sf/sov044>.

36. NYC Independent Budget Office, *The Rising Number of Homeless Families in NYC, 2002-2012: A Look at Why Families Were Granted Shelter, the Housing They Had Lived in and Where They Came From*, FISCAL BRIEF, 8 (2014), <https://ibo.nyc.ny.us/iboreports/2014dhs.pdf>.

37. Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity Among the Working Poor*, 63 *SOCIAL PROBLEMS* 46, 59 (2016); Bauman & Santos, *supra* note 33, at 17–18 (“In North Dakota, evicted renters are 15 percent more likely to lose their employment . . . [i]n Milwaukee, displaced renters were 20 percent more likely to lose their jobs.”).

study found that eviction led to risks of job loss even among renters with a stable work history.³⁸ The authors posit that evictions may cause job loss due to missed work hours and difficulty paying attention when an eviction loomed.³⁹ For children, the strain of eviction affects attentiveness at school.⁴⁰ Strained bandwidth may also occur among those who receive an eviction notice but ultimately retain their housing. This demonstrates the need for further research to assess the connection between an eviction filing or the threat of eviction and the effects of this filing or threatened eviction at work and school.

Evictions also contribute to mental and physical health risks. For the next two years, individuals in households with an eviction filing have a higher number of emergency department visits and an increased likelihood of a mental health hospitalization.⁴¹ Both eviction filings and evictions can increase stress for adults and children in the home.⁴² Eviction is associated with increases in stress, depression, and suicide.⁴³ For example, mothers who experienced eviction are twice as likely to report that a child is in poor health and had significantly higher rates of depression than their peers.⁴⁴ The increase in depression risk remains with people long after the eviction.⁴⁵

As with foreclosures, the damage of the eviction crisis ripples beyond those who either risk losing their home or are evicted. Municipal budgets bear an increased cost for homeless services while also losing revenue if families' financial hardship results in unpaid utility bills.⁴⁶ Public spending on eviction prevention can yield net cost savings in addition to avoiding the individual harms noted above. Projected savings for the New York City government prior to implementing a right to counsel for eviction cases totaled

38. Desmond & Gershenson, *supra* note 37, at 59.

39. *Id.* at 49–50.

40. Bauman & Santos, *supra* note 33, at 18.

41. Robert Collinson & Davin Reed, *The Effects of Evictions on Low-Income Households* 25–26 (Working Paper, Feb. 2019), https://drive.google.com/file/d/1uo1i0JxyVB_vim9XJpFfL6XaNgsKSuor/view (last visited Feb. 22, 2020).

42. Desmond & Kimbro, *supra* note 35, at 300.

43. *Id.* at 295. See also Katherine A. Fowler et al., *Increase in Suicides Associated with Home Eviction and Foreclosure During the U.S. Housing Crisis: Findings from 16 National Violent Death Reporting System States, 2005–2010*, 105 *Am. J. Pub. Health* 311 (2015).

44. Desmond & Kimbro, *supra* note 35, at 311.

45. *Id.* at 301.

46. Diana Elliott & Cassandra Martinchek, *Chicago: The Cost of Eviction and Unpaid Bills of Financially Insecure Families for City Budgets (2019)*, URB. INST. (Nov. 6, 2019), <https://www.urban.org/research/publication/chicago-cost-eviction-and-unpaid-bills-financially-insecure-families-city-budgets-2019> (“In 10 major U.S. cities, financially insecure families are prevalent, and residents’ financial insecurity affects city budgets.”).

\$320 million annually, with \$251 million saved in shelter costs alone.⁴⁷

When many renters in a region have negative rental histories, the market grows for the housing underground—properties unlikely to pass code inspection rented to people unlikely to risk complaining.⁴⁸ When residents know they have few housing options and will likely fall behind on rent, pursuing a legal right to habitability or enforcing statutory limits on rental fees or deposits can result in eviction, so renters may decide to accept exploitation in order to have housing.⁴⁹ A subset of landlords with disreputable business practices can then grow, leading to further harm for low-income households and neighborhoods.⁵⁰

High rates of family residential instability and homelessness also affect neighbors and local schools. In Cleveland, research also found lower kindergarten readiness scores for children living in or within 1,500 feet of a home going through market distress, such as tax delinquency or foreclosure.⁵¹ Evictions contribute to frequent and unplanned moves among students, which can negatively affect math scores even past the year of eviction,⁵² increase disruptive behaviors, and affect school operations and performance.⁵³

The rippling harms of eviction spread beyond affected households, municipal budgets, housing markets, and neighborhoods; evictions also affect employers and regional economies. When evictions reach crisis levels, the evidence about individual job loss can lead to noticeable reductions in employee

47. Bauman & Santos, *supra* note 33, at 7.

48. *See generally* ROBERT NEUWIRTH, *NEW YORK'S HOUSING UNDERGROUND: A REFUGE AND RESOURCE* (Mar. 2008), https://prattcenter.net/sites/default/files/housing_underground_0.pdf.

49. Allyson E. Gold, *No Home for Justice: How Eviction Perpetuates Health Inequity Among Low-Income and Minority Tenants*, 24 *GEORGETOWN J. ON POVERTY L. & POL.*, 59, 60–61 (2016); *see also* Desmond, Gershenson & Kiviat, *supra* note 34.

50. Matthew Desmond & Nathan Wilmers, *Do the Poor Pay More for Housing? Exploitation, Profit, and Risk in Rental Markets*, 124 *AM. J. OF SOC.* 1090 (2019); *see generally* LEWIS, *supra* note 11, at 125–29.

51. Claudia J. Coulton et al., *Temporal Effects of Distressed Housing on Early Childhood Risk Factors and Kindergarten Readiness*, 68 *CHILD. & YOUTH SERVS. REV.* 59, 68 (2016).

52. Emilyn Ruble Whitesell et al., *Unexpected Arrivals: The Spillover Effects of Mid-Year Entry on Stable Student Achievement in New York City*, 38(4) *EDUC. EVALUATION & POL'Y ANALYSIS* 692 (2016).

53. Kathryn Howell, *Eviction and Educational Instability in Richmond, Virginia* 4, *RVA EVICTION LAB*, <https://cura.vcu.edu/media/cura/pdfs/cura-documents/EvictionandEducationalInstabilityinRichmond.pdf> (last visited Feb. 28, 2020).

retention rates. Ultimately, reductions in labor force participation affect regional competitiveness.⁵⁴

Unless the property owner needs a home vacated to raise rents or redevelop, landlords are among those harmed when residents are unable to keep their home. Whether a property owner forces a resident to move at the end of the lease or before, it takes time and money to prepare a home for a new occupant. Renters may pay court costs, late fees, and past due rent to prevent their eviction, but, after an eviction, landlords rarely receive any of these payments. Instead, they generally absorb a combination of uncollected rent, court costs, and other losses—while also paying for cleaning out the home and advertising it for lease. An analysis in Boston found that the Boston Housing Authority lost around \$10,000 per eviction in direct costs and lost revenue.⁵⁵ Reducing the risk of eviction benefits property owners, residents, and communities.

Variation in state and county laws affect the cost of evictions in both large and small ways. Perhaps the most extreme example is Arkansas, in which a landlord may seek a misdemeanor conviction against the tenant for unpaid rent and the court may impose up to \$25 in fines per day.⁵⁶ More common examples of varying costs relate to filing fees or long-term tenant screening. Higher court fees increase the cost either for renters seeking to avoid eviction after a filing or for owners who file and evict. A longer timeline for eviction can increase the amount of past due rent before a case is resolved. In addition, costly milestones in pursuing an eviction—fees for filing, service, an attorney fees, the writ, and/or an eviction crew—each increase the cost of eviction to the property owner. Many of these costs are the responsibility of the renter, in addition to rent plus late fees, in states with a post-filing or post-judgment right of redemption. Landlords may also pursue a monetary judgment against the tenant for such costs. While offering a longer window to resolve a crisis, rights of redemption that extend past the judgment or past the writ can also increase the cost for landlords and tenants and harm tenants in future rental applications. Meanwhile, the likelihood that a household experiences long-term residential

54. See Andrew A. Pack, *How the Shrinking of the Labor Force Might Impact Your Community*, BRIDGES (2014), <https://www.stlouisfed.org/publications/bridges/fall-2014/how-the-shrinking-of-the-labor-force-might-impact-your-community> (“If the labor force participation rate continues to decline, attracting workers will become an even greater issue for economic competitiveness.”).

55. Linda Wood-Boyle, *Facing Eviction: Homelessness Prevention for Low-Income Tenant Households*, FED. RESERVE BANK OF BOS. (Dec. 1, 2014), <https://www.bostonfed.org/publications/communities-and-banking/2015/winter/facing-eviction-homelessness-prevention-for-low-income-tenant-households.aspx>.

56. ARK. CODE ANN. § 18-16-101(b)(1) (2017).

instability may be less in states that either seal or expunge cases to limit the likelihood of unwarranted or extended negative tenant screening results.

V. ALIGNING SOLUTIONS TO EVICTION PROBLEMS

No single policy or program will resolve the array of risks that lead to eviction, yet combinations of policies can effectively reduce evictions and minimize their harm. With national eviction estimates exceeding the scope of the foreclosure crisis and imposing short-term and long-term harm, policy analysts and lawmakers need effective strategies that resolve households' immediate crises, address root causes, and alleviate the consequences for affected households and communities. This section will discuss eviction intervention points and incorporate strategies to the eviction prevention framework.

Most court eviction filings relate to late or unpaid rent, but other conflicts also lead to eviction. Table one demonstrates a variety of common reasons for formal, informal, and illegal evictions. The immediate precursors to eviction suggest a limited number of root causes, such as material hardship, behavioral health issues, insufficient housing supply, and building-level hazards. Meanwhile, evidence of higher eviction risks for Black women,⁵⁷ households with children,⁵⁸ and Latinx households living in majority-white neighborhoods⁵⁹ indicate that direct and or structural racial discrimination are also root causes of evictions.

57. Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118(1) AM. J. OF SOC. 88, 104 (2012).

58. See Desmond & Gershenson, *supra* note 7, at 369.

59. Deena Greenberg et al., *Discrimination in Evictions: Empirical Evidence and Legal Challenges*, 51 HARV. CIV. RTS.-CIV. LIBR. L. REV. 115, 134–35, 140 (2016).

A. Table 1: Common Eviction Precursors

Eviction Type	Sub-Category	Common Precursors
Formal	Court-ordered eviction	Late rent, lease violation, expired lease, squatting, ⁶⁰ nuisance complaint ⁶¹
	Condemnation	Code violation notice, fire, disaster
Informal	Negotiated move	Late rent, lease violation, expired lease, squatting
	Legally enforceable request to move	Late rent, lease violation, expired lease, squatting
	Coerced move	Rising market demand, rent stabilization with vacancy decontrol, other tenant-landlord conflicts
Illegal	Lock-out	Various tenant-landlord conflicts, rising market demand
	Constructive eviction	Various tenant-landlord conflicts, rising market demand

Policies that address root causes—for example, expanding renters' rights, dismantling racism, generating well-paying jobs and a reliable safety net, and expanding and improving the housing supply—are necessary but not sufficient to address the current eviction crisis. Designing and implementing effective long-term reforms takes patience and persistence, and the eviction process rarely gives much time. Anti-discrimination protections under the Fair Housing Act should, in theory, enable enforcement actions to reduce racially discriminatory evictions, but the viability of such fair housing suits is unclear.⁶² Pursuing a policy agenda that expands

60. In Maryland, for example, each of these precursors has its own court filing process. In order, the filings for these causes are: Failure to Pay Rent, Breach of Lease, Tenant Holding Over, and Wrongful Detainer. *See Landlord/Tenant - Evictions*, PEOPLE'S LAW LIBRARY OF MARYLAND, <https://www.peoples-law.org/cat/housing/landlordtenant-evictions> (last visited Feb. 22, 2020).

61. *See generally* Joseph Mead, Megan Hatch, J. Rosie Tighe, Marissa Pappas, Kristi Andrasik, & Elizabeth Bonham, *Who is a Nuisance? Criminal Activity Nuisance Ordinances in Ohio*, URB. PUBL'N (Nov. 8, 2017), https://engagedscholarship.csuohio.edu/urban_facpub/1509.

62. Eva Wingren, *Does Screening for Eviction Records Violate the Fair Housing Act?*, SHELTERFORCE (Apr. 30, 2016), <https://shelterforce.org/2016/04/30/post/> (discussing the challenges of enforcing the Fair Housing Act through the judicial system).

renters' rights and or increases housing affordability through the housing supply, subsidies, and wage growth may take even more persistence before the nation sees a reduction in evictions. Such an agenda would mark an unprecedented shift in the nation's policy priorities but one that would benefit communities, renter households, and responsible property owners.

For more immediate and long-term success, policymakers need awareness that goes beyond root causes. Awareness of eviction's root causes can inform a more robust eviction prevention framework that enables strategic policy development.⁶³ For each type of eviction, an effective policy framework calls for crisis intervention, long-term prevention strategies, and recovery assistance to affected households. Table two shows an illustrative selection of eviction crisis interventions, prevention strategies, and recovery strategies. The crisis interventions and recovery strategies vary more among eviction types than the prevention strategies, in part because a smaller set of the root causes of eviction branch out into many different manifestations.

63. A policy analysis from the RVA Eviction Lab adopts a three-pronged categorization of policies to address eviction of decreasing evictions, lessening the severity of evictions, and curbing eviction through housing policy. These categories roughly correspond to the crisis intervention, recovery, and prevention approach adopted here with some exceptions. See Woody Rogers & Leah Demarest, *Comparative Law and Policy Analysis for Addressing Evictions in Richmond, Virginia*, RVA EVICTION LAB (2019), https://cura.vcu.edu/media/cura/pdfs/cura-documents/ResearchBrief_EvictionLawsandPolicies_Oct2019.pdf.

*B. Table 2A: Expanded Eviction Prevention Framework:
Formal Evictions*

Formal Eviction Sub-Category	Common Precursors	Crisis Intervention⁶⁴	Prevention Strategies⁶⁵	Recovery Strategies
Court-ordered eviction	Late rent, lease violation, expired lease, squatting, ⁶⁶ nuisance complaint ⁶⁷	Emergency financial assistance, pre-filing notices, mediation, civil right to counsel	Rental subsidy, housing supply adequacy, fair housing enforcement, renter lease renewal rights, behavioral health services, eliminate domestic violence calls from nuisance laws	Housing search assistance, tenant screening regulations, ⁶⁸ record sealing policies, ⁶⁹ expungement ⁷⁰ , lease guarantors
Condemnation	Code violation notice, fire, disaster	Appeals, receivership for repairs	Routine non-complaint inspections, repair funds, resiliency design, right to habitability	Relocation assistance and support

64. The crisis interventions, prevention strategies, and recovery strategies in the expanded eviction prevention framework are illustrative and non-exhaustive.

65. Tristia Bauman & Michael Santos, *Protect Tenants, Prevent Homelessness*, NAT'L L. CTR. ON HOMELESSNESS AND POVERTY 8 (2018), <https://nlchp.org/wp-content/uploads/2018/10/ProtectTenants2018.pdf>; *see generally* Rogers & Demarest, *supra* note 63.

66. *See Landlord/Tenant - Evictions, supra* note 60.

67. *See generally* Mead et al., *supra* note 61.

68. Bauman & Santos, *supra* note 65, at 18–19.

69. MATTHEW DESMOND et al., *EVICTON LAB METHODOLOGY REPORT: Version 1.0 5* (Princeton University ed. 2018) <https://evictionlab.org/docs/Eviction%20Lab%20Methodology%20Report.pdf>.

70. *Id.* at 31–33.

*C. Table 2B: Expanded Eviction Prevention Framework:
Informal Evictions*

Informal Eviction Sub-Category	Common Precursors	Crisis Intervention	Prevention Strategies	Recovery Strategies
Negotiated move	Late rent, lease violation, expired lease, squatting	Mediation, emergency financial assistance	Rental subsidy, housing supply adequacy, fair housing enforcement, renter lease renewal rights, behavioral health services	Housing search assistance, lease guarantors
Legally enforceable request to move	Late rent, lease violation, expired lease, squatting	Mediation, pro bono counsel, emergency financial assistance	Rental subsidy, housing supply adequacy, fair housing enforcement, renter lease renewal rights, behavioral health services	Housing search assistance, lease guarantors
Coerced move	Rising market demand, rent stabilization with vacancy decontrol, other tenant-landlord conflicts	Pro bono counsel, mediation, landlord-tenant counselors	Rental subsidy, housing supply adequacy, fair housing enforcement, renter lease renewal rights, remove turnover incentives	Housing search assistance, lease guarantors

*D. Table 2C: Expanded Eviction Prevention Framework:
Illegal Evictions*

Illegal Eviction Sub-Category	Common Precursors	Crisis Intervention	Prevention Strategies	Recovery Strategies
Lock-out	Various tenant-landlord conflicts, rising market demand	Pro bono counsel, police authorization to assist, mediation	Housing supply adequacy, fair housing enforcement, landlord-tenant education	Financial damages and penalties to tenant
Constructive eviction	Various tenant-landlord conflicts, rising market demand	Pro bono counsel, rapid code enforcement, court authorization to assist, mediation	Housing supply adequacy, right to habitability, fair housing enforcement, landlord-tenant education	Financial damages and penalties to tenant

This framework points to several underlying policy needs. For crisis intervention, emergency financial assistance, access to counsel, and mediation play wide-ranging roles related to most types of eviction. For long-term prevention, communities can reduce the root causes of many types of eviction through policies that yield a healthy housing market with fair housing enforcement and adequate rental subsidies. Governments may also prevent additive harm by ensuring that police and ambulance calls related to domestic violence cannot activate a mandatory nuisance eviction.⁷¹ To assist households in recovering from evictions and the eviction process, policies and programs that break the link between an eviction record and harmful future housing options play a vital role but for just one eviction sub-category. No matter the cause of displacement, housing search assistance and lease guarantor programs can help households minimize the harm of a sudden move.

VI. CONCLUSION

The US is experiencing an eviction crisis that affects every county, surpasses the magnitude of the foreclosure crisis, and imposes disproportionate harm to Black and Latinx households. A greater understanding of evictions, the different meanings of the term, and the lasting and widespread harm can complement the rising awareness of an eviction crisis and enable effective and strategic policy development. Intervention as early as possible in the

71. See generally Mead et al., *supra* note 61, at 11–13.

eviction process—whether early in a household’s crisis or through system reforms related to root causes—offers the greatest value to households and communities, since even an eviction filing imposes short-term and long-term harm. Early intervention, however, is just one part of the eviction prevention menu. Policymakers should look at a combination of policies that intervene at all stages of crisis, address root causes, and support households and communities in recovering post-eviction.

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