



MEMORANDUM

Date: August 7, 2020

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **Additional Information and Research Regarding Development of a Coherent Eviction Policy for Pima County**

I have tasked Criminal Justice Reform Unit Program Manager Lisa Royal with coordinating our policy response to the eviction crisis that will occur upon expiration of federal and State executive orders related to evictions. The attached July 30, 2020 is a summary of where we are currently on this subject.

The primary recommendation is to formulate a community-based task force on evictions, with which I concur.

The purpose of the task force will be to develop recommendations that can be implemented by the County to reduce evictions and promote the economic stability of individuals or household units subject to eviction. The work of the task will be used to formulate appropriate policies that can be implemented by the County and the Board of Supervisors or through the Courts. The work may also define legislative proposals that can assist in eviction reduction.

The words eviction prevention and eviction reduction have been used interchangeably. There will undoubtedly be evictions that are completely justified for a variety of reasons. However, there are also others that could be avoided; therefore, I would prefer to advance the public policy of eviction reduction.

Based on the present state of the COVID-19 pandemic and State level executive orders that have postponed evictions until October 31, 2020, I believe it is important the task force have an initial series of recommendations to make by October 15, 2020.

It should be noted that rental assistance programs that are ongoing will continue, particularly as it relates to clearing the present backlog of rental assistance applications.

The following individuals and/or organizations will be asked to join a task force staffed by Ms. Lisa Royal with assistance from others. If you have any additions for consideration please forward them to me.

The Honorable Chairman and Members, Pima County Board of Supervisors
Re: **Additional Information and Research Regarding Development of a Coherent Eviction Policy for Pima County**
August 7, 2020
Page 2

- Kent Batty, Interim Deputy Justice Court Administrator
- Kristen Randall, Administrative Constable
- Arnold Palacios or Daniel Tylutki (Pima County Community and Workforce Development)
- Pima County Community Action Agency (Manira Cervantes)
- Dan Sullivan (Workforce Development)
- Marcos Ysmael (Pima County Housing) Foreclosure Prevention
- Michele Mirto or Stacy Butler (Step up to Justice)
- Keith Bentele, UA, Southwest Institute for Research on Women
- Peggy Hutchinson, Primavera Foundation
- Katy Scoblink, Old Pueblo Community Services
- Bonnie Bazata, Ending Poverty Now
- Peg Harmon, Catholic Community Services
- Liz Morales, Director of Housing and Community Development
- Multi-family Housing Association
- Steve Huffman, Board of Realtors
- Melanie Morrison, Retired, MEB Management Services
- Omar Mireles, President, HSL Properties

Attachment

- c: Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer, Health and Community Services
Arnold Palacios, Director, Community Workforce Development
Wendy Petersen, Assistant County Administrator for Justice and Law Enforcement
Lisa Royal, Program Manager, Criminal Justice Reform Unit



MEMORANDUM

County Administration
Justice and Law

Date: July 30, 2020

To: C.H. Huckelberry
County Administrator

From: Lisa Royal, Program Manager
Criminal Justice Reform Unit

Via: Wendy Petersen,
Assistant County Administrator
for Justice & Law Enforcement

Re: **July 23, 2020, Coherent Eviction Policy for Pima County**

While I continue to gather information and work on a policy position related to evictions, I see an urgency in addressing what is very likely to become an eviction and homeless crisis for Pima County within the next few months.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law by President Trump on March 27, 2020, provided \$2 trillion in financial assistance to families and businesses impacted by the COVID-19 coronavirus pandemic. The CARES Act also provided renters relief from certain evictions and also expanded unemployment benefits to an additional \$600 per week. The CARES Act expires Friday, July 31, 2020.

Governor Ducey's Executive Order 2020-49 postponing the enforcement of evictions through July 22, 2020, was recently extended to October 31, 2020. Once the moratorium expires, the number of eviction filings is expected to surge and could explode to historical levels.

On July 12, 2020, the Arizona Daily Star reported that a recent analysis by the consulting firm Stout Risius Ross estimated that 74,000 renters in Pima County might face eviction within the next four months, resulting in \$419 million in expenses to the County. (*Tucson's Housing Network Braces for 'Pending Tsunami' as Arizona Eviction Moratorium Nears Its End*)

The University of Arizona, Southwest Institute for Research on Women (SIROW) released a report this month indicating that if the state unemployment rate hits 15% (currently at 8.9%), we can expect the homeless rate to increase by 16%. An unemployment rate of 20% would increase the homeless rate by 29%, and, if the unemployment rate reaches 29%, homelessness will likely increase by 42%.

Mr. C.H. Huckelberry

Re: July 23, 2020, Coherent Eviction Policy for Pima County

July 30, 2020

Page 2

Now is the time to rethink how we address issues between landlords and tenants and develop an approach that keeps these cases out of the court system and prevents homelessness. Other states are doing the same and exploring new initiatives such as mediation and diversion. I propose the County lead the effort to establish a coordinated response to addressing this looming crisis by convening a task force comprising a cross-section of all the stakeholders currently involved in some aspect of the eviction process.

There are those situations, such as crimes committed on properties, where eviction is the appropriate course of action, and the issuance of the writ must be swift for the protection and safety of the community; however, the vast majority of individuals are evicted for failure to pay rent.

I am diligently working on the public policy position related to evictions in Pima County. To that end, I have researched eviction timelines in all 50 states and have begun making contacts with stakeholders and governmental entities having a hand in the eviction process. The eviction process is quick, confusing, complicated, disrupting, and costly to litigants as well as to the community.

The COVID-19 pandemic has only exacerbated the problem. The economic crisis and loss of jobs in Pima County have resulted in an overwhelming number of individuals unable to pay their monthly rent. In the calendar year 2018, there were 12,692 evictions filed in the Pima County Consolidated Justice Court. In 2019, the number decreased slightly to 12,429. Only 3,681 cases were filed from January – June 2020, a significant decline, resulting from the Federal CARES Act and Governor's moratorium.

There are numerous unanswered questions related to the complexity of the evictions process, the impact of the Governor's executive orders, as well as administrative orders issued by the Arizona Supreme Court. We lack clarity on the funds and resources available for rental and eviction assistance. And, it has become clear that many agencies work in silos rather than in a concerted effort to maximize available funding and support.

I have reviewed the eviction correspondence collected from 2018-2020 in the 3-ring binder that you provided to me, and have gleaned the following:

Generally

- The statutory timeframe for processing an eviction in Arizona is short. In a typical failure to pay rent case, the tenant is provided a 'cure' notice by the landlord and has five days to resolve the problem. On day six, the landlord can file a complaint with the justice court, and a hearing is scheduled 3-6 days after service. Consequently, there is minimal time for a tenant to obtain rental assistance or attempt to work out a resolution with the landlord.
- In a policy brief prepared by the UA Law School, Innovation for Justice Program, it was estimated that the average eviction would eventually cost \$19,455 based on shelter, medical costs, child welfare, and child delinquency cost.

Mr. C.H. Huckelberry

Re: July 23, 2020, Coherent Eviction Policy for Pima County

July 30, 2020

Page 3

- An eviction remains on an individual's credit report for seven years. Regardless of whether the removal by the court was "legal" or "wrongful," this individual will not be able to obtain rental housing and perhaps even employment for quite some time.
- The population in our homeless shelters is already reaching capacity.
- We can speculate that crime, such as trespassing, shoplifting, and domestic violence, will increase as a result of tenants becoming homeless, but data is currently not collected.
- Services such as rental assistance and legal advice are available, but many tenants are unaware of these resources.

Justice Court

- Most landlords have legal representation, but the majority of tenants do not, leaving them at a significant disadvantage. Many tenants fail to appear for their hearing, resulting in a default judgment in favor of the landlord. The tenant often does not receive timely notice of the default and is caught by surprise when the Constable appears at their door with a writ of restitution. With no time to plan, the tenant is literally on the street in less than 30 minutes.
- Access to justice is limited as a result of COVID-19. Parties may attend the eviction hearing telephonically, via ZOOM, or if in-person is necessary, by way of Polycom connected to a courtroom with a judge. Various memos contained in the binder of correspondence cites the inability of tenants to communicate effectively with the judge under these circumstances.
- The court calendars 25 evictions per hour, the equivalent of 2.4 minutes per case. Notably, some judges have not required documentation or testimony, proof of rent, court costs, and fees. In some cases, they failed to properly vet the facts to determine if the Governor's moratorium or the Federal CARES Act applies, which would have resulted in a dismissal of the eviction altogether. Minute entries are vague, often indicating the eviction was entered "in the interest of justice" rather than specify the reasons for the ruling.
- Judgments awarded by the Justices of the Peace are inconsistent. In some cases, awards of late fees and costs to the landlord are more than the total owed in back rent.
- Leadership in the justice court indicates that numerous errors have been made by judicial officers and pro tems, resulting in wrongful evictions. After filing a motion for reconsideration, many judgments were reversed, but at significant expense and inconvenience to the tenant.

Mr. C.H. Huckelberry

Re: **July 23, 2020, Coherent Eviction Policy for Pima County**

July 30, 2020

Page 4

- Attorneys have made public records requests for court judgments and are currently working to identify errors. I was recently advised that a group of attorneys intend to sue the County over the mishandling of the eviction cases. Because I am now working in County Administration, this source was reluctant to share any specifics.

Constables

- Three of the five Constables have made a concerted effort to advise tenants of a looming eviction, providing them an opportunity to secure resources before the issuance of the writ of restitution. Before executing the writ, they are asking tenants if they meet any of the COVID-19 eligibility requirements in the Governor's Executive Order that would allow the Constable to delay the eviction for 90 days. Questionable rulings have also been brought to the attention of the court. The remaining constables are less proactive and simply execute the court's order.

Funding

- Applications for unemployment insurance and rental assistance have increased dramatically. Department of Community and Workforce Development Director, Arnold Palacios notes in his June 22, 2020 memorandum that over 7,000 individuals have applied for rental assistance in Pima County, more than triple the number of applications in a 'normal' year. He intends to hire 25 more staff just to process applications.
- Funds have been allocated to eviction assistance programs, but it is unclear how those funds have been spent and their remaining balance, if any.

Convening a task force now will help facilitate a thorough identification of all of the issues related to evictions and move us one step closer to identifying resolutions. Some of these resolutions may involve legislative proposals that will need to be submitted by early fall. We need a proactive vs. reactive approach to this issue.

I have provided an attachment with suggestions of persons/roles that may be appropriate to serve on the task force. Wendy Petersen and I met with Arnold Palacios and Daniel Tylutki this morning, and they offered to provide suggestions for task force participation. If this is an approach that you would like to take, I will keep you apprised of their recommendations.

I look forward to your feedback and consideration of this approach as we work to develop a public policy position on evictions for the County.

Attachment

LR/dr

c: Kate Vesely, Director of Justice Reform Initiatives