



MEMORANDUM

Date: February 19, 2021

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

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to read "CH Huckelberry", is written over the printed name of the County Administrator.

Re: **Evictions Proceedings in the Consolidated Justice Court**

As you know, I have directed staff to prepare a comprehensive report for you on the eviction process and what is occurring in the Consolidated Justice Court. We have heard from some Constables and Justices of the Peace regarding numerous accounts of individuals who have been wrongfully evicted. All of these are anecdotal and we lack the facts to confirm or deny them. To that end, I have requested the following information from the Consolidated Court for calendar years 2019 and 2020:

1. Total filings for the month and how many were for non-payment of rent, material breach, or irreparable breach.
2. Total judgments and how many were for the plaintiff, defendant, or dismissed.
3. The number of motions for reconsideration and how many were granted and denied.
4. The number of cases where the defendant was represented by an attorney and whether the court ruled in favor of the plaintiff or defendant.
5. The number of cases where an attorney represented the plaintiff.
6. The number of hearings where the defendant did not appear.
7. The number of appeals and if the court was affirmed or reversed.
8. Copies of the filing and judgment for all cases filed in the calendar year 2020, excluding non-payment of rent.

The Task Force on the Prevention of Evictions and Homeless, which I commissioned in August 2020, made several recommendations related to eviction proceedings in the Consolidated Court. Two primary recommendations that I bring to your attention were legal representation for defendants and exploring the feasibility of establishing an Eviction Specialty Court.

Concerning legal representation, we are aware that many defendants are unrepresented and that those with representation fare much better in court than those that do not. Those represented are less likely to be taken advantage of by the landlord and are less likely to be

wrongfully evicted. I have heard that there are very few defendants that appeal their eviction judgment. To remain in their home during the appeal process, tenants have to continue to pay rent, known as a supersedeas bond, to the court. Hence, this clearly explains why there are so few appeals. Those who are evicted for non-payment of rent do not have the financial means to do so.

Consequently, wrongful evictions have only been challenged by defendants filing a motion to reconsider. We do not know if these motions were set for a hearing, and if so, whether the defendant received notice. We have heard, but again cannot substantiate, that many of them were simply denied "in the interest of justice."

As to the implementation of a specialty court, we are aware that there are models in other states that have proven successful in reducing evictions. Most of these models include some form of representation for the defendant or a mediation component. Further, having one judge assigned to these cases would eliminate the inconsistency among the Justices of the Peace. I have not heard if the Consolidated Court has embraced this recommendation but will be inquiring.

We anticipate that the eviction moratorium that expires March 31, 2021, will not be extended. The nationwide pandemic seems to be improving with the distribution of vaccines. It may not be necessary for the Centers for Disease Control (CDC) to continue the moratorium in the interest of public safety. There was ample evidence in the Task Force report that numerous evictions will be filed when the moratorium expires, and the cost to the County will be enormous.

I have contacted the University of Arizona as well as their Law School to inquire about hiring law students as interns to observe eviction proceedings. The interns would serve as fact-finders and collect the data that we otherwise cannot obtain from the Consolidated Court. It is only through this effort that we will obtain the factual information that we need to determine what is actually occurring with these cases and be able to make informed decisions as to how to resolve them.

Staff is contacting Southern Arizona Legal Aid to inquire about contracting with them to provide representation for tenants facing eviction. While this will be an additional expense to the County, it will likely save thousands of dollars if it helps prevent evictions. From the anecdotal accounts that we have heard, it seems that tenants need an advocate looking out for their best interests, and the current process is heavily weighted in favor of landlords. We have also heard numerous accounts of tenants moving before a writ of restitution being issued because the landlord shows them the court judgment and date the writ will issue. Tenants are not aware that the judgment in itself is not an eviction and are manipulated by the landlord into vacating the premises. A defense attorney would not allow this to occur.

Programmatically, Community Workforce and Development (CWD) has successfully provided rental and utility assistance for those in need, which in turn allowed people the ability to remain in their homes. Staff worked nights and weekends to help more than 5,500 Pima County residents resolve \$10,637,929 in back rent and utility payments in less than five

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months. During the first round of CARES funding, Pima County and the City of Tucson maintained two separate systems with dissimilar eligibility requirements. We took these lessons to heart and began planning early with the City of Tucson to use the infrastructure built by Pima County and align systems to ease access for tenants and landlords. Pima County's program will use an integrated user-friendly portal designed and managed by Community Investment Corporation, Inc., a known local non-profit and fiscal agent. This system has proven to work well and is designed specifically to align with Pima County priorities.

Unfortunately, we do not always know who needs help, and the eviction process is so swift that time is of the essence. If the court would provide rental assistance information to the tenants and provide CWD with tenant contact information, we would have a better chance of assisting more people.

I remain convinced that our process is problematic and requires attention. Staff will continue to work to gather the facts to submit their report to you before your next meeting on March 2, 2021.

c: The Honorable Kyle Bryson, Presiding Judge, Pima County Superior Court
The Honorable Kendrick Wilson, Presiding Justice of the Peace, Pima County
Consolidated Justice Court
Dave Byers, Director, Administrative Office of the Courts
Jan Leshner, Deputy County Administrator