APRIL 2021 UPDATE

THE EVICTION CRISIS AND ITS IMPACT ON BLACK COMMUNITIES:
SPOTLIGHT ON HOUSTON, TEXAS

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In Spring 2020, the Thurgood Marshall Institute (TMI) published a comprehensive report and short brief on the housing challenges faced by homeowners and renters during the COVID-19 pandemic. We have since published several updates to the report, detailing the extensions and expirations of various programs. These publications provided details on legislative measures related to foreclosures, evictions, and utility shutoffs enacted to protect and assist individuals impacted by the health crisis.
Overview of the Eviction Crisis and CDC Moratorium

The COVID-19 pandemic is an unprecedented public health crisis that will have long-lasting health and economic impacts on the United States and the rest of the world. The pandemic has greatly impacted the American economy, triggering unprecedented mass layoffs and furloughs across industries and companies. This, in turn, has caused millions of people across the nation to struggle to pay their rent, placing them at risk of losing their homes and worsening an eviction crisis that existed long before the pandemic. In January 2021, close to 20% of all renters nationwide—around 10 million people—were behind on their rent, and the Urban Institute has estimated that the typical delinquent renter owes close to $6,000. Widespread loss of housing will continue to worsen the pandemic as families struggle with the loss of means to social distance, isolate, and ensure basic cleanliness through daily access to facilities to bathe, shower, and wash their hands. Indeed, research has confirmed that evictions that took place between March and September 2020 led to more than 400,000 additional COVID-19 infections and 10,000 additional deaths.

Black renters have been disproportionately affected by eviction during the pandemic. The Eviction Lab estimates that more than a million renters have faced eviction in the last year. While only 21% of renters are Black, they comprise 35% of all defendants on eviction cases. Concerningly, close to 60% of Black renters who are currently behind on their rent have stated they will leave their current homes within the next two months due to eviction. Other recent research has also confirmed the disproportionate impact of the pandemic eviction crisis on renters of color.
On September 21, 2020, the Centers for Disease Control and Prevention (CDC) issued an agency order to temporarily halt residential evictions. This national eviction moratorium applies to nearly all U.S. tenants. The order will be in effect at least through June 30, 2021. In implementing the order, the CDC recognized the grave health impact unhoused persons pose during a global pandemic. Indeed, the order states, "evictions threaten to increase the spread of COVID-19 as they force people to move, often into close quarters in new shared housing settings with friends or family, or congregate settings such as homeless shelters." The order places the responsibility on the tenant to submit a declaration to their landlord to protect them from eviction. In the declaration, renters must claim that they are unable to pay rent due to income loss or medical expenses; make less than $99,000 individually or $198,000 as a family in 2020 or received a stimulus check; attempted to access any sort of government rental assistance funds; and, if evicted, would become homeless or would have to move into a crowded or substandard living situation. The declaration constitutes sworn testimony, meaning that persons can be subject to criminal prosecution for any false or misleading statements.

The CDC moratorium does not cancel or stop rent from being owed. It allows late fees to accumulate and permits landlords to evict tenants for non-financial reasons. Renters must, in good faith, continue to pay their rent if they can and can still be evicted for conduct that would otherwise violate their lease agreement or negatively impact the health and safety of the apartment building, home, or community.

The U.S. Government Accountability Office (GAO) recently found that the rate of eviction filings in 2020 was significantly lower than in 2019—around 74% lower when comparing the rate of filings in July 2019 and July 2020—but that filings actually increased around the time that the CDC moratorium was issued. The GAO concluded that the increase of filings was likely due to the lack of tenant awareness of the moratorium and how to activate its protections. Additionally, the CDC moratorium has been applied inconsistently by courts, with many judges refusing to apply it and some declaring it unconstitutional, and the federal government is not doing enough to enforce it. Landlords have also flouted the moratorium’s requirements, proceeding with evictions despite its protections.
Given the inconsistencies in the application of the CDC moratorium, and the known toll of the eviction crisis on Black renters, TMI took a closer look at evictions in Houston, Texas, to determine whether Black families have been disproportionately impacted.

Evictions in Houston, Texas, Impact Black Renters

As of July 2019, Houston’s population totaled 2.3 million. Close to 23% of the city’s population is Black, 45% is Latinx, and about 24% is White. Of the 663 Census tracts in Houston, 109 are majority Black and 428 are combined majority Black plus Latinx (meaning that those tracts have a combined majority of Black and Latinx residents). Houston also has 39 tracts that are predominantly (80% or more) Black, 259 tracts that are predominantly Black and Latinx, and 26 tracts that are predominantly White. About 57% of Houston’s population rents their homes. The average rent in Houston ($1,139) is slightly above the U.S. average ($1,097).

For most of the pandemic, renters in Houston have been at risk of losing their homes through eviction proceedings. Evictions were halted across Texas in mid-March 2020, although courts still accepted cases for filing. During that period, 1,500 eviction cases were filed in Harris County, where Houston is located. Eviction hearings resumed in Texas in mid-May 2020. In August 2020, a staggering 47% of residents from the greater Houston area were unsure whether they could make their next rent or mortgage payment, including 37% of Black renters in the city. In 2020 alone, more than 32,000 eviction cases were filed in Harris County (excluding sealed cases). Houston was (and remains) the largest U.S. city that never enacted a local eviction moratorium during the COVID-19 pandemic. However, Houston did briefly enact an ordinance, in effect only from February 17, 2021, to March 31, 2021, that imposed a temporary grace period for tenants to cure rent deficiencies and prohibited landlords from evicting persons if the tenant qualified for and submitted a CDC declaration. The ordinance was not renewed past March 31.

**AS OF JULY 2019**

2.3 M

people live in Houston, TX

**ABOUT**

57%

of Houston’s population rents their homes

**AVERAGE RENT IN HOUSTON**

$1,139
663 CENSUS TRACTS IN HOUSTON

- majority Black
- majority White
- majority Black + Latinx combined
On September 17, 2020, in response to the issuance of the CDC moratorium, the Texas Supreme Court issued an emergency order requiring landlords to attach the CDC declaration and information about the moratorium to notices to quit to tenants. The order also specified that a tenant in an eviction action may file a copy of the CDC declaration with the court, which must then abate the eviction proceeding unless the judge signs a written order stating the reasons that the action should proceed. While the Texas order placed some responsibility on landlords and judges to ensure that tenants are aware of the protections of the CDC moratorium, only a small percentage of renters were able to utilize its protections. According to an analysis from data consulting firm January Advisors, of the 10,997 eviction hearings that took place in Harris County between September 4, 2020 and January 25, 2021, only 1,754 (or 16%) had a CDC declaration. However, the majority of cases with a CDC declaration were abated, indicating that the CDC moratorium and Texas Supreme Court order have aided some tenants in remaining in their homes during the COVID-19 pandemic. While the Texas Supreme Court order was extended several times, it expired on March 31. This makes it more likely that tenants in Texas will not be able to take advantage of the protections of the CDC moratorium. As the housing assistance organization Texas Housers has noted, courts are now unlikely to enforce the terms of the moratorium, placing thousands of Texans at risk of losing their homes.
Using publicly available data provided by January Advisors, TMI analyzed 24,265 eviction filings in Houston between January 2020 and January 2021 to determine whether Black renters have been impacted by landlords’ aggressive eviction practices. Map 1 below shows the location of eviction filings and the percentage of the Black population. As reflected in the Map, 21.7% of citywide eviction filings occurred in Census tracts with a majority Black population and 7.3% occurred in tracts with a predominantly Black population. By comparison, only 13% of eviction filings occurred in majority White tracts and 0.9% occurred in tracts with a population that was predominantly White.

Map 1: Eviction Filings in Houston from January 2020 to January 2021 & Percentage of Black Population

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1 TMI analyzed only unsealed cases that occurred within the corporate limits of Houston.
TMI also analyzed eviction filings in majority Black plus Latinx Census tracts and found a similar result. Approximately 59% of city-wide eviction filings occurred in these tracts during the relevant time period, while only 13% occurred in majority White tracts.

Map 2: Eviction Filings in Houston from January 2020 to January 2021 & Percentage of Black + Latinx Population

TMI also analyzed how eviction filings have been handled throughout Houston to determine whether there is a disproportionate effect based on race. Other than currently active cases (meaning that the case has not been heard for final hearing), publicly available eviction records have three categories depending on how they were resolved: disposed (meaning the case is resolved, either in favor of the plaintiff or defendant), dismissed (meaning the eviction did not move forward), or appealed (the legal process to contest a dismissal or disposal). Dismissals may also occur for a variety of reasons, including that
notice to the defendant was improper or that the plaintiff failed to appear in court. Appeals of eviction cases are heard by the county courts at law and can give an evicted tenant a chance at a new trial to have the eviction reversed. However, tenants must pay for an appeal bond, which is typically two times the amount of their rent. This can present barriers for low-income tenants facing eviction.

The three maps below demonstrate that eviction cases are more likely to be disposed in Black neighborhoods throughout Houston, and either dismissed or appealed in areas with a lower Black population. Map 3 shows disposed eviction cases between January 2020 and January 2021. Of the 10,160 disposed cases city-wide, 26.3% occurred in majority Black Census tracts, while only 10.5% occurred in majority White Census tracts. Further analysis is needed of individual eviction records to determine whether disposals are more likely to favor the landlords or tenants in Black areas of Houston compared to the Whiter areas.

Map 3: Disposed Eviction Cases in Houston from January 2020 to January 2021 & Percentage of Black Population
During the relevant time period, 6,347 eviction cases in Houston were dismissed. As shown in Map 4 below, 14% of dismissals occurred in majority Black Census tracts and over 16% occurred in majority White tracts. Again, further analysis is needed to determine the reason for the dismissals, but it is possible that landlords are more willing to voluntarily dismiss cases for properties located in White areas of Houston.

Map 4: Dismissed Eviction Cases in Houston from January 2020 to January 2021 & Percentage of Black Population

<table>
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<tr>
<th>Percentage of Black Population</th>
<th>Number of Evictions Dismissed</th>
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<tbody>
<tr>
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<td>80.0% to 100.0%</td>
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21.7% of eviction filings occurred in majority Black Census tracts

13% of eviction filings occurred in majority White Census tracts
Of the 722 total appealed eviction cases in Houston, only 18.6% occurred in majority Black Census tracts, while 14% occurred in majority White tracts.

Map 5: Appealed Eviction Cases in Houston from January 2020 to January 2021 & Percentage of Black Population

HOUSTON WAS (AND REMAINS) THE LARGEST U.S. CITY THAT NEVER ENACTED A LOCAL EVICTION MORATORIUM DURING THE COVID-19 PANDEMIC.
While further analysis is needed on eviction filings in Houston and how cases are being handled, it is clear that more work must be done to protect Black renters and other tenants of color from eviction during the COVID-19 pandemic. Possible policy solutions include a revised CDC moratorium to prevent evictions from taking place, a renewed Texas Supreme Court order placing additional obligations on landlords to adhere to the CDC moratorium, a public education campaign to ensure renters facing eviction are aware of its protections, and increased emergency rental assistance to aid tenants facing financial difficulties during the COVID-19 pandemic.

Visit the Eviction Lab, January Advisors, Texas Housers, or the National Low Income Housing Coalition for more information on the CDC moratorium, Houston evictions, and other housing policies related to evictions during the pandemic, and the National Housing Law Project for additional resources on housing protections during the COVID-19 pandemic. Additionally, the Consumer Financial Protection Bureau has released a video to guide renters through the process of submitting a CDC declaration. If you need legal assistance, visit lawhelp.org for further details on services that may be available to you.
The Thurgood Marshall Institute is a multidisciplinary center within the NAACP Legal Defense Fund. Launched in 2015, the Institute complements LDF’s traditional litigation strengths and brings critical capabilities to the fight for racial justice, including research and targeted advocacy campaigns. The Institute also houses LDF’s Archives—a collection of materials chronicling the legal history of the Civil Rights Movement.