

Metropolis

The Evictions that Landlords Got Away with During the Pandemic

They didn't need housing court to force out tenants. We're only now grasping how big the problem really is.

Slate, by Sabiha Zinulbhai and Nora Daly, January 28, 2022

As businesses shuttered and millions of U.S. residents lost their jobs in the first few months of the COVID-19 pandemic, many feared that an unprecedented surge of evictions was around the corner. But after the Supreme Court struck down the Centers for Disease Control's nationwide eviction moratorium last August—ending one of the main protections to keep people housed during the pandemic—court eviction filings didn't immediately surge above pre-pandemic levels. Had the predicted eviction tsunami simply evaporated?

Those who fight evictions daily—housing advocates, tenant organizers, and legal aid providers—know there's more to the story. Many suspect that an eviction tsunami *is* surging around us, but has been rendered invisible because much of the displacement is occurring outside the legal system, through so-called informal evictions. (We discuss this phenomenon in a brief released by New America last week.)

Informal eviction can take many forms, including tactics like landlord intimidation, refusal to make repairs, or spreading misinformation, particularly related to a tenant's rights. But because they don't follow a well-defined process, and by definition occur in the shadows, informal evictions are challenging to measure. And without an accurate measure of informal eviction, we're two years into a pandemic—one that has underscored the inextricable link between housing and health—with at best a murky understanding of how housing displacement is impacting families in the U.S.

Take the way that informal eviction is often carried out, and it becomes clear why tracking this type of displacement is challenging. A tenant moves after receiving a request to move or threat from their landlord, even though an official claim was never filed in court. A request or threat from a landlord not carry the authority of the law, but they can be just as effective in forcing a family to move.

The decision to move is typically due to fear of engaging with the court system (a record of an eviction filing can have devastating impacts on future housing access), unequal access to information on the legal process, and the reality that, in many states, the law favors landlords' property rights over a tenant's right to remain stably housed.

It is clear these tactics typically rely on an imbalance of power and unequal access to information between landlords and tenants, as well as the illusion that a family has a real choice in whether or not they move. But the reality is, when faced with landlord harassment, coercion, or neglect, choice is often constrained, especially for many low-income and Black and Hispanic tenants who face systemic barriers to housing access rooted in our nation's racist housing policies or undocumented immigrants who have a justifiable fear of engaging with the legal system.

Defining informal eviction is further complicated by the fact that some tactics used by landlords blur the lines between informal and illegal, depending on existing tenant protections. Landlord lockouts, utility shut-offs, and other methods of purposefully making a home

uninhabitable are technically illegal in most states. But a National Housing Law Project survey conducted a few months into the pandemic found that over 90 percent of legal aid and civil rights attorneys across the U.S. saw illegal evictions in their area—from landlords locking out tenants to others falsely claiming the moratorium didn't apply. Enforcement mechanisms and penalties for landlords who violate tenant protections differ from state to state in the same way that housing laws do, and just because a practice is illegal does not mean it's not in use.

Despite these challenges, there has been a good deal of progress in the last decade in measuring informal eviction. This stems in large part from the Milwaukee Area Renters Study, or MARS, a first-of-its-kind survey providing an in-depth investigation into eviction in a major U.S. city. Not only is MARS responsible for the commonly cited statistic that informal evictions are twice as common as formal, court-ordered ones, but its nuanced questionnaire probing into the reasons why people move is laying the groundwork for national and local data collection efforts.

Notably, the American Housing Survey, fielded by the U.S. Census Bureau, adapted a set of questions from MARS in 2017, finding that informal evictions may be five times as common as formal, court-ordered evictions nationwide. Several researchers caution against using these findings without further scrutiny, but even the inclusion of a set of questions that estimate informal eviction in the U.S. is an important first step forward.

While national estimates are critical to understand the magnitude of informal eviction, eviction is best understood within a local context as laws, demographics, and dynamics vary significantly across the country. At the city level, a longitudinal study on the wellbeing of New York City residents, called the Poverty Tracker, also adapted a set of MARS questions in 2017. Results show that formal eviction was twice as common as informal eviction in New York City, reinforcing the importance of local context, as this somewhat surprising finding may be attributable to New York City's robust tenant protections.

Findings from the Poverty Tracker and region-specific estimates from the 2017 AHS also allow us to compare two measures of informal eviction covering the same geographic region, a gift given the previous absence of data. Interestingly, the 2017 AHS found that informal evictions in New York City outpace formal evictions more than two to one, whereas the Poverty Tracker found the opposite to be true,

This comparison speaks to the impact that measurement and survey design can have on estimates of eviction, including the importance of who is and is not included in survey responses. For example, the AHS excludes individuals who are unhoused or living in a shelter, and focuses on the head of household, meaning it's unlikely to include individuals who double up in homes, sleep on couches, or have informal rental arrangements. These populations are hard to reach, but are critical for understanding how displacement and housing insecurity pervades everyday life in the U.S.

In addition to estimating the prevalence of informal eviction, local data-collection efforts can also shine light on other aspects of this practice. Through a COVID-era survey of low-income tenants in Washington State, researchers assessed whether a range of harmful landlord behaviors increased or decreased during the pandemic. Indeed, the study found that the use of both informal and illegal eviction tactics—through telling a tenant to leave, shutting off utilities, removing possessions, and changing locks—had increased during the pandemic, offering a glimpse into the possible ways that landlords force tenants to move despite tenant protections.

This progress on measurement is promising, as is the recent proposal from the Biden administration to field a national survey on informal evictions. But as studies show, informal eviction is happening daily, and often with little to no recourse for tenants.

Efforts to even the playing field for tenants often focus on interventions targeting the legal system through policies like guaranteed right to counsel. These are critical, but equally important is protection from the many factors that place tenants at the whim of landlords in the first place, leaving them susceptible to the informal tactics that so often precipitate a move.

Just-cause eviction is one important protection, as is rent stabilization, standardizing documents to include clear, comprehensible information on tenants' rights, and requiring that landlords provide notice in a tenant's native language. Beyond tenant protections, an adequate supply of affordable housing, something every state fails to provide, would go a long way in addressing the root of informal eviction—the current power imbalance exists in large part because tenants and landlords alike understand that housing precarity means that better options may not exist.

The COVID-19 pandemic has laid bare the disparities that result when not everyone has a safe, stable, affordable place to live. No one policy or program will address the multitude of factors that lead to housing displacement in the U.S., but if we can't grapple with the scale and nature of informal eviction, we risk forever tinkering at the fringes of this problem instead of tackling it fully.