

# Reform the Consolidated Court Automation Programs



## Summary

Eviction is common in Milwaukee and harms individual and community health. The harmful effects of eviction stem not only from the event itself, but from the lasting effect of eviction records. In Wisconsin, eviction records are publicly available through the Consolidated Court Automation Programs (CCAP). Dismissed evictions, even in cases where a judge found in a tenant's favor, remain on people's CCAP records for 2 years, while completed evictions remain for 20 years. Because CCAP is used by landlords as a tenant screening tool, this can contribute to further housing insecurity for many years for someone who has experienced eviction. Furthermore, it limits housing options even for someone who had an eviction filed against them that a judge found to be unwarranted.

## Recommendation

- **State of Wisconsin:** Reform CCAP so that dismissed evictions are not publicly available, and reduce the time that completed evictions are publicly available. Incorporate these changes into broader reforms to make it easier to seal and/or expunge criminal records.

## Eviction is excessive in Milwaukee, and contributes to inequities

Eviction is the legal process of expelling a tenant from a housing unit, and Milwaukee's eviction crisis has been well documented.<sup>1</sup> In the City of Milwaukee in 2018, over 12,000 evictions were filed and about 5,500 households were evicted.<sup>2</sup> In 2018, there were over 4 legal evictions for every 100 renter households.<sup>1,2</sup> Milwaukee's eviction rate is nearly twice as high as the rate across the United States.<sup>3</sup>

There are stark inequities in eviction by geography and race. In the 10 neighborhoods with the highest eviction rates, the rates range from 11% to 20%. Milwaukee's high levels of segregation, created through decades of government-sanctioned policies like redlining and racially restrictive covenants, mean that African Americans are more likely to live in high-poverty neighborhoods with high eviction rates.<sup>4,5</sup> While the population of the City of Milwaukee is 38% African American, with a 25% poverty rate, the combined population of the 10 neighborhoods with the highest eviction rates is 73% African American and has a 40% poverty rate.<sup>6-8</sup> Previous research has found that African American women in particular are harmed by eviction.<sup>9</sup>

## The eviction process

Legal eviction proceedings in Wisconsin follow this basic process<sup>10</sup>:

- A landlord must give their tenant an eviction notice in writing before filing an eviction in court. Depending on the reason for eviction, this can range from 5 to 30 days, and then the tenant may be given an opportunity to address the problem (e.g., to pay a late rent payment).
- After this notice period, the landlord must file paperwork in court to pursue a legal eviction filing and court hearing. The tenant must be given at least 5 days' notice of a court hearing.
- Eviction cases are handled in small claims court. A judge can rule in favor of the landlord or tenant, or the parties can agree to a "stipulated dismissal" in which the case is dismissed if the tenant agrees to certain conditions such as a rent payment plan.
- If the judge rules in favor of the landlord, the landlord must file additional paperwork with the court and the County Sheriff's Office, and the Sheriff's Office then must ensure that the tenant leaves the unit within 10 days.

i The eviction rate can include duplicate households if they experience eviction more than once per year.

## Eviction records are publicly available on CCAP for 20 years

In Wisconsin, once a landlord has filed an eviction in court, a record of that notice goes into the Consolidated Court Automation Programs (CCAP) database coordinated by the Wisconsin Court System. These eviction records, along with criminal records, are publicly searchable by anyone, including potential landlords. If an eviction has been filed and then dismissed with no judgment that the tenant owes money to the landlord, it stays on that person's CCAP record for 2 years. If a landlord prevails in the eviction case and the eviction is completed, it stays publicly available on CCAP for 20 years.<sup>11</sup> 2017 Wisconsin Act 317 authorized changes to CCAP so that completed evictions must remain public for "at least 10 years."<sup>12</sup> As of yet the Court System has not taken action to reduce the amount of time that completed evictions are public.

As noted above, many more evictions were filed in 2018 than were completed (about 12,000 filed compared to about 5,500 completed evictions). While available records don't show how many of these were duplicate cases in which multiple evictions were filed against one tenant, these data indicate that thousands of evictions were filed against tenants and then ultimately dismissed. Those tenants with records of dismissed evictions are still burdened by these records for 2 years.

## Eviction records cause further housing instability and harm health

Eviction itself is traumatic and associated with a wide variety of harms to health. But the impacts of eviction last far longer than the event itself. Landlords can use CCAP as a screening tool, so renters with an eviction record, even if the case was dismissed or occurred many years ago, often have trouble finding good quality housing or responsive landlords. This is part of the reason that involuntary moves like eviction are associated with moving to lower-quality housing, and to neighborhoods with higher rates of poverty and violence.<sup>13</sup>

Mothers who were evicted in the previous year experienced more material hardship and parenting stress, higher rates of depression, and worse self-reported health for themselves and for their children.<sup>14</sup> Higher rates of material hardship and depression persisted for at least 2 years after eviction. Tenants in Milwaukee have expressed frustration that they can continue to be punished for an eviction that happened many years ago, and that an eviction record meant that they could only rent housing from landlords who took advantage of their insecurity:

*We hear that . . . a lot of landlords will let you rent with evictions but those are the ones you have to watch out for because those are the ones that say 'You've got evictions, so you need to live here.'*

—Tenant Focus Group Participant

Housing instability makes it difficult for kids in particular to succeed. The stress that parents experience can decrease their ability to support their children, and frequent moves are associated with behavioral problems for school age children.<sup>15</sup> Frequent moves also interfere with kids' education. Housing instability means it's more likely that kids will miss school or change schools frequently, which can affect long-term educational attainment, a strong driver of adult health outcomes.<sup>16,17</sup>

## CCAP records of criminal cases can also contribute to housing instability

It's not only eviction records on CCAP that contribute to ongoing housing instability. Criminal case records are also publicly available and can be used by landlords as a screening tool, making it difficult for people with a history of criminal justice system involvement to access stable housing. Yet stable housing is a key predictor of success for formerly incarcerated people, and is associated with better health outcomes, greater likelihood of employment, and decreased likelihood of criminal activity.<sup>18</sup>

Acquitted or dismissed felony cases are publicly available for 2 years. If someone is convicted of a misdemeanor it remains publicly available for 20 years, while felony convictions remain publicly available for 50 to 75 years.<sup>11</sup> Changes to CCAP need to take into consideration the effects of these records on people's access to housing and employment, and expand ways for records to be sealed or removed.

### Recommendations

Given the ways that eviction records lead to further housing instability and harms to health, we recommend that Wisconsin limit public availability of these records. Along with changes to eviction records, Wisconsin should make broader changes to CCAP that limit the availability of criminal and other civil records.

➤ **State of Wisconsin:** Reform the Consolidated Court Automation Programs (CCAP) so that:

- Evictions dismissed in court do not appear in public records
- The time a completed eviction remains in public records is significantly reduced
- It is easier for people to seal and/or expunge criminal and civil records
- The time that criminal and civil records remain public is reduced

### Examples

In **California**, eviction records are sealed at the point of filing, and the information is only available online to the people involved in the case and their lawyers, with some exceptions. The records are made publicly available if the landlord prevails within 60 days. If the landlord prevails more than 60 days after the initial filing date, the record can be made public by court order.<sup>19</sup>

**Cleveland, Ohio**, allows people with eviction records to request that the records be sealed. If the eviction was dismissed, the record is automatically sealed upon request. In cases where the landlord prevailed, the record can be sealed if a tenant has not been evicted within the last 5 years and can show that "extenuating circumstances" applied.<sup>20</sup>

In **Washington, DC**, the Council has introduced a bill that would seal eviction filings after 30 days if the landlord does not prevail, or after 3 years in cases when the landlord does prevail. The bill includes provisions for a tenant to request that the record of a completed eviction be sealed earlier than 3 years.<sup>21</sup>

## Complementary policies and programs

- **Tenant-landlord mediation:** Mediation supports tenants and landlords in finding mutually beneficial resolutions to disputes outside of court.
- **Right to counsel in eviction cases:** Tenants with legal representation are more likely to avoid eviction, and cities with right to counsel policies show decreases in eviction filings and evictions.
- **Rental resource center and expanded training:** A rental resource center would provide streamlined access to information and services for tenants and landlords and provide training opportunities on their rights and responsibilities.
- **Housing supports for formerly incarcerated people:** In addition to CCAP reform that makes it easier for people to seal or expunge records of criminal justice system involvement, policies should be put into place to increase access to housing for formerly incarcerated people.

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