

October 27, 2020

Good afternoon, Members of the Committee. Thank you for the opportunity to testify virtually today.

My name is Eva Rosen, and I am submitting this testimony of behalf of myself and Brian McCabe. We are faculty at Georgetown in the McCourt School of Public Policy and the Sociology Department. We recently completed a comprehensive report on evictions in the District drawing on five years of court records about the eviction process.<sup>i</sup> Our comments will focus on the challenges of DC residents facing eviction filings, and how a comprehensive, forward-looking commitment to record sealing from the Council can address many of the most important challenges associated with evictions.

### **Record sealing is critical to ensuring the future housing stability of tenants**

Currently, all eviction records in Washington, DC are publicly searchable on the Superior Court website. Searchable public information includes the full names and address of tenants for every eviction filing in the city – even those that are quickly dismissed when back rent is paid, which, we find make up nearly 70 percent of cases filed with the court system. Since these eviction records are publicly available, landlords can and do access them—often with the help of third-party data aggregating companies—to legally discriminate against tenants who are looking for housing after receiving an eviction filing or being evicted.<sup>ii</sup>

Public eviction records thus create a sort of “blacklist” that leaves a lasting mark on tenants who have experiences of the eviction process. Since many low-income tenants experience income volatility that leads to missed rental payments, it is not uncommon for a tenant to have an eviction filing that does not result in an eviction. In fact, we found that one out of every nine renter households in the city received at least one eviction filing in 2018. In Ward 8, it was one out of every four renter households. Critically, our research shows that the overwhelming majority of tenants with an eviction filing (94.5% of filings) do *not* ultimately get evicted. They have no legal judgment against them. Publicly available records of filings are therefore likely to mischaracterize the experiences of low-income tenants.

Notably, substantial research shows that an eviction record – whether a filing or an executed eviction – makes it harder for tenants to find housing in the future. Publicly available eviction records follow tenants and have been shown to have a negative impact on their future housing opportunities.<sup>iii</sup> In my research with 160 landlords in DC and three other cities, I show that landlords make little distinction between an eviction *filing* and executed eviction when screening tenants. Having either type of eviction record is a top reason cited by landlords for turning a prospective tenant away.

Record sealing is therefore an essential tool to prevent the stigma of a past eviction from marring a tenant’s chances of finding stable housing in the future.

### **Records must be sealed *immediately upon filing***

In order for record sealing to be effective, it needs to occur at the moment of the filing—not later in the eviction process. The reason for this is simple. There are a number of third-party data aggregating companies that regularly scrape court records, compile them, and sell the data, usually in the form of

screening “score,” but sometimes including direct information about eviction history. Companies sell these scoring products to property owners who, in turn, use them to make decisions about whether or not to rent to a prospective tenant. As currently written, the legislation allows the record to stay public through to the eviction proceeding and for 30-days after resolution, which provides ample time for this data to be scraped and used against tenants. Indeed, *any* period of public availability will allow data scraping to occur and make it possible for landlords to use records even if they are subsequently sealed. Efforts to try to get data aggregation companies to update their records upon completion of a court case (to remove cases that do not end in executed evictions) are virtually impossible to enforce. For this reason, it is imperative that records be sealed as soon as they are filed.

### **Records sealing legislation must explicitly enable researchers to access the data**

Finally, it is essential that we preserve access to all eviction records by researchers in order to properly understand and analyze eviction trends in the District. In places that have passed record sealing bills without delineating a clear pathway for researchers to access data, tracking eviction has become more difficult. This has negative effects on tenants and deprives policymakers of the opportunity to engage in data-driven policy. Currently, the Superior Court system has an excellent system of Data Use Agreements with researchers that provide access to court records. We urge the Council to consider adding an explicit provision allowing researchers who sign a Data Use Agreement to access the full database of eviction records.

Thank you again for the opportunity to testify today. We are appreciative of your continued leadership on this key issue. We would be happy to answer any questions, including those related to our recent report on evictions in the District.

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<sup>i</sup> Brian McCabe and Eva Rosen, “Eviction in Washington, DC: Racial and Geographic Disparities in Housing Instability” (Washington, D.C.: Georgetown University, 2020), <http://bit.ly/evictionDC2020>.

<sup>ii</sup> Katelyn Polk, “Screened Out of Housing: The Impact of Misleading Tenant Screening Reports and the Potential for Criminal Expungement as a Model for Effectively Sealing Evictions” 15 (2020).

<sup>iii</sup> Matthew Desmond and Tracey Shollenberger, “Forced Displacement from Rental Housing: Prevalence and Neighborhood Consequences,” *Demography* 52, no. 5 (October 2015): 1751–72.