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by

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**The State of Evictions in Memphis, Tennessee**

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**The State of Evictions in Memphis, Tennessee**

by

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**Report**

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## **Abstract**

### **The State of Evictions in Memphis, Tennessee**

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Evictions, defined as the forced removal of a tenant by their landlord, have increasingly become a topic of interest for housing researchers because of the documented negative impact evictions have on renters and the communities they live in. Unfortunately, research on evictions is limited because many court systems do not provide eviction data in forms accessible to investigation. This research project benefits from a unique data set that contains every eviction filed in Shelby County General Sessions Court from 2016-2019. I find that 110,834 evictions were filed during this period, and the average eviction filing rate was an alarmingly high 17.7%, which remained remarkably consistent from year to year. I also found that evictions were incredibly concentrated into a handful of zip codes. Out of the 32 zip codes in Shelby County, the five zip codes with the highest eviction filing rates make up 45.4% of all eviction filed from 2016-2019.

Possible reasons for Memphis high rate of evictions are a court process that favors landlords and an influx of private equity into the single-family rental market in the wake of the subprime mortgage crisis of 2008. I recommend a comprehensive transformation of the American housing system with a suite of proposals aimed at solving broad housing affordability issues to

remedy the eviction issue. Given current political realities that make short-term adoption of these policies unlikely, I also recommend maintaining and expanding local eviction prevention measures adopted during the Covid-19 pandemic after the pandemic has subsided.

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## **Introduction**

Evictions and their impact on low-income renters have increasingly become a topic of interest for housing researchers. Unfortunately, research on evictions is limited because many court systems do not provide eviction data in forms accessible to investigation. This research project benefits from a unique data set that contains every eviction filed in Shelby County General Sessions Court from 2016-2019. To further understanding of evictions in Memphis, this research project will examine the current state of evictions in by analyzing the dataset in order to understand the scope and spatial landscape of evictions in Memphis that contains. To place these numbers in their proper context, I will first provide a brief history of Memphis, explain the impact of evictions, and the legal process for evictions in Shelby County. I will conclude by discussing the significance of my findings and the possible reasons for them provided in the literature. Lastly, I will provide policy recommendations to prevent future evictions and their negative consequences, specifically discussing the measures taken to prevent evictions during the Covid-19 pandemic.

## Section 1: A Brief History of Memphis

In the fall of 1818, Andrew Jackson and General Isaac Shelby entered into negotiations with the leaders of the Chickasaw nation over the vast territory between the Tennessee and Mississippi River.<sup>1</sup> Included in these negotiations was modern day Memphis, known at the time as the Fourth Chickasaw Bluff. The area had ideal characteristics for urbanization with natural drainage and a bluff that extended to the river's edge providing easy access to the Mississippi River. Decades prior to the negotiations, land speculators purchased warrants through state governments entitling them to what was currently Chickasaw owned land. These speculators then divided and sold tracts to other settlers and land speculators.<sup>2</sup>

Under threat of violence, the Chickasaw nation signed the treaty, which gave the federal government control over the 6,848,000 acres and paid the Chickasaw nation \$300,000 to be paid out in annual payments of \$20,000, an absurdly low amount even at the time.<sup>3</sup> Andrew Jackson's aggressive negotiation tactics were credited with getting the Chickasaw chiefs to concede to such a low price. Of course, Jackson had a reason to be especially interested in this negotiation: 22 years prior, Jackson had purchased interest from a land speculator claiming to own the Fourth Chickasaw Bluff overlooking the Mississippi River or downtown Memphis today. Jackson made incredible rates of return on his investment. One of the several deals he made netted him an annual rate of return of 1,150%.<sup>4</sup> Shelby County was named after General Shelby, Jackson's co-negotiator of the Chickasaw swindle.

Like most American cities in the 1930's, Memphis was divided into desirable and undesirable neighborhoods by the Federal Housing Administration based upon their racial

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<sup>1</sup> Sigafoos, Robert Alan. *Cotton Row to Beale Street: A Business History of Memphis* (Memphis State Univ Press, 1979), 3-12.

<sup>2</sup> Sigafoos, *Cotton Row*, 3-12.

<sup>3</sup> Sigafoos, *Cotton Row*, 3-12.

<sup>4</sup> Sigafoos, *Cotton Row*, 3-12.

composition. Neighborhoods with black residents were “redlined” meaning banks would refuse to give mortgages in these communities. Redlining entrenched segregation and prevented black families from benefiting from homeownership, the largest source of middle-class wealth creation for white families. The practice of redlining was formally ended by The Fair Housing Act of 1968, but the practices continued for many lending institutions and black families were never compensated for their lost wealth. A 1982 study of mortgage lending in Memphis from 1977, 1978, and 1979 found that “racial composition clearly emerges as a strong determinant of lending even after other controls are introduced.”<sup>5</sup>

Recently, Memphis banks have settled three major lawsuits for discriminatory lending practices.<sup>6</sup> In 2012, Wells Fargo agreed to pay \$432.5 million in lending and other payments to end a lawsuit accusing the bank of targeting of African-American neighborhoods for predatory loans, resulting in excessive foreclosures during the subprime mortgage crisis of 2008.<sup>7</sup> First Tennessee Bank settled a 2016 case for \$1.5 million, which alleged the Bank denied loans to qualified Black and Latino mortgage applicants and failed to put branches in majority Black or Latino neighborhoods in Tennessee’s major cities.<sup>8</sup> In 2016, BancorpSouth settled for \$10.6 million after the Department of Justice and the Consumer Financial Protection Bureau accused the bank of denying mortgage applications of African-Americans more often than similarly situated white applicants, charging African-American customers more for certain mortgage loans than

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<sup>5</sup> Guy, Rebecca F., Louis G. Pol, and Randy E. Ryker. "Discrimination in mortgage lending: the home mortgage disclosure act." *Population Research and Policy Review* 1, no. 3 (1982): 283-296.

<sup>6</sup> Bradley, Cole. "Seeing Red I: Mapping 90 Years of Redlining in Memphis." *High Ground*, March 31, 2019. <https://www.highgroundnews.com/features/SeeingRedlining.aspx>.

<sup>7</sup> Rothacker, Rick. "Wells Fargo Spending \$432 Million to End Lending Suit." *Reuters*. Thomson Reuters, May 30, 2012. <https://www.reuters.com/article/us-wellsfargo-settlement/wells-fargo-spending-432-million-to-end-lending-suit-idUSBRE84S1H620120530>.

<sup>8</sup> Lane, Ben. "First Tennessee Bank Reaches \$1.9 Million Settlement over Discriminatory Lending." *HousingWire*. HousingWire, February 1, 2016. <https://www.housingwire.com/articles/36175-first-tennessee-bank-reaches-19-million-settlement-over-discriminatory-lending/>.

white borrowers with similar qualifications, and implementing an explicitly discriminatory loan denial policy.<sup>9</sup>

Memphis has also seen discrimination in its political system. In 1991, the U.S. Justice Department filed suit against the City of Memphis's city council and school board electoral system.<sup>10</sup> The suit asserted a number of measures adopted by Memphis had diluted minority voting strength in violation of the Voting Rights Act of 1965. As part of its sponsors' evidence, the case noted that only two Black candidates had won a contested election to a citywide office since 1951, and the city had an ongoing and "aggressive program of annexing predominately white areas into the city."<sup>11</sup> As a result of these charges, Memphis abolished its majority vote requirement and the city's first black mayor was elected in 1991.<sup>12</sup> Although Memphis became a majority black city in 1990, it did not elect its first majority black city council until 2019.<sup>13</sup>

In a city where African Americans make up the majority of the population, their wealth is dwarfed by the white population. In Memphis today, the median income of a white household is \$72,318 for Black households it is just \$35,760.<sup>14</sup> The poverty rate for black households is nearly triple the rate for white households, a gap that has remained disturbingly large since 1970.<sup>15</sup> 75% of white Memphians own their own home while 46% of Black Memphians are homeowners.<sup>16</sup>

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<sup>9</sup> Lane, "BancorpSouth Fined."

<sup>10</sup> Johnson, David. "U.S. Charges Memphis Discriminates in Elections." *The New York Times*. The New York Times, February 16, 1991. <https://www.nytimes.com/1991/02/16/us/us-charges-memphis-discriminates-in-elections.html>.

<sup>11</sup> Silver, Christopher, and John V. Moeser. *The Separate City: Black Communities in the Urban South, 1940-1968*. (University Press of Kentucky), 2014.

<sup>12</sup> Silver, *The Separate City*.

<sup>13</sup> Silver, *The Separate City*.; Munks, Jamie. "'Change Comes Slowly': Why Last Week's Memphis City Council Appointments Were Meaningful." *The Commercial Appeal*. Memphis Commercial Appeal, January 17, 2019.

<https://www.commercialappeal.com/story/news/2019/01/17/memphis-city-council-racial-representation/2548837002/>.

<sup>14</sup> U.S. Census Bureau, "Median Household Income (In 2018 Inflation Adjusted Dollars)," 2014-2018 American Community Survey 5-Year Estimates

<sup>15</sup> U.S. Census Bureau, "Poverty Status for Families," Census 1970; U.S. Census Bureau, "Poverty Status in the Past 12 Months (White Alone) (Black or African American Alone)," 2014-2018 American Community Survey 5-Year Estimates

<sup>16</sup> Rathke, Wade, and Diné Butler. "A Memphis Mirage: How Home Mortgage Alternatives and Increased Equity Firm Ownership Diminish Wealth in Low-Income." *Hooks Policy Papers*, October 2019, 11–21.

<https://www.memphis.edu/benhooks/programs/policypapers/index.php>.

These statistics are not accidents. They are the legacy of decades and centuries of government policy and private racial animus that go back to the country's founding. Memphis is a particularly stark example of how damaging these policies can be without a remedy.

## Section 2: Understanding Evictions and Their Impact

For the purposes of this report, evictions will be defined as the forced removal of tenants from their homes by their landlords. Depending on the methods employed, evictions are categorized as formal or informal.<sup>17</sup> The majority of research on evictions focuses on formal evictions, the legal process of tenant removal, but tenants often leave their homes through non-legal processes like when the landlord tells a family they have to leave, threaten to call immigration authorities, pay the tenant to leave, change the lock, or remove the front door.<sup>18</sup> These extrajudicial methods are categorized as informal evictions. Informal evictions are difficult to study because they happen outside of any legal processes, but they might be even more prevalent than formal evictions. In a 2015 study of Milwaukee, Wisconsin, researchers found that 48% of forced moves were informal evictions while 24% were formal evictions.<sup>19</sup> This suggests that our current limited understanding of evictions might be meaningfully underestimating the prevalence of evictions.<sup>20</sup>

Eviction experts estimate that an average of 3.6 million eviction cases are filed in the United States each year, which results in roughly 1.5 million eviction judgments annually.<sup>21</sup> The reason for the majority of evictions is an inability to pay the rent.<sup>22</sup> One perspective to understand why renters might fall short on rent is housing cost burden. A renter is categorized as housing cost burdened when they spend over 30% of their income on housing costs. A cost burdened household faces difficulty meeting basic needs because too much of their income is consumed by housing

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<sup>17</sup> Desmond, Matthew, and Tracey Shollenberger. "Forced Displacement from Rental Housing: Prevalence and neighborhood consequences." *Demography* 52, no. 5 (2015): 1751-1772.

<sup>18</sup> Desmond, Matthew. *Evicted: Poverty and profit in the American city*. Broadway books, 2016.

<sup>19</sup> Desmond, "Forced Displacement," 1751-1772.

<sup>20</sup> Lundberg, Ian, and Louis Donnelly. "A research note on the prevalence of housing eviction among children born in US Cities." *Demography* 56, no. 1 (2019): 391-404.

<sup>21</sup> Gromis, Ashley, and Matthew Desmond. "Eviction: Intersection of Poverty, Inequality, and Housing." United Nations. Eviction Lab, 2019. [https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/GROMIS\\_Ashley\\_Paper.pdf](https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/GROMIS_Ashley_Paper.pdf).

<sup>22</sup> Desmond, Matthew. "Eviction and the Reproduction of Urban Poverty." *American Journal of Sociology* 118, no. 1 (2012): 88-133.

costs. In the United States over 20 million renters are cost burdened.<sup>23</sup> In Shelby County, 53.3% of all renting households are cost burdened, compare to 47.5% nationally.<sup>24</sup> Renters spending more than 50% of their income toward housing are considered severely cost burdened. Over 41,000 Memphis households are severely cost burdened, and since most evictions are for nonpayment, it should not be surprising that evictions are a commonplace occurrence in the Memphis housing landscape.<sup>25</sup>

Like poverty in America, evictions are not demographically neutral. Women living in majority black and Hispanic neighborhoods face the highest rates of eviction.<sup>26</sup> In Milwaukee for example, women living in low income black neighborhoods are only 9.6% of Milwaukee's population, but experience 30% of evictions. Over one in five black women attest to having endured an eviction at some point in their adult life.<sup>27</sup> As Desmond assess it in *Evicted*, "if incarceration had come to define the lives of men from impoverished black neighborhoods, eviction was shaping the lives of women. Poor black men were locked up. Poor black women were locked out."<sup>28</sup>

Families with children are also more likely to be evicted.<sup>29</sup> Desmond and Gershenson (2016) found that more evictions occurred in neighborhoods with higher percentages of children, even when controlling for other factors like racial composition and poverty, and more children within a family is associated with a greater chance of being evicted.<sup>30</sup> Landlords exercise

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<sup>23</sup> U.S. Census Bureau, "Housing Units by Housing Costs as a Percentage of Household Income in the Past 12 Months," 2014-2018 American Community Survey 5-Year Estimates

<sup>24</sup> U.S. Census Bureau, "Housing Units by Housing Costs"

<sup>25</sup> U.S. Census Bureau, "Housing Units by Housing Costs"

<sup>26</sup> Desmond, "Forced Displacement," 1751-1772.

<sup>27</sup> Desmond, *Evicted*.

<sup>28</sup> Desmond, *Evicted*, Chapter 8.

<sup>29</sup> Desmond, Matthew, Weihua An, Richelle Winkler, and Thomas Ferriss. "Evicting children." *Social Forces* 92, no. 1 (2013): 303-327.

<sup>30</sup> Desmond, Matthew, and Carl Gershenson. "Who gets evicted? Assessing individual, neighborhood, and network factors." *Social Science Research* 62 (2017): 362-377.



discretion in who they chose to evict, and more children can cause more real or perceived nuisances for landlords.<sup>31</sup> Consequently, landlords exercise less discretion for these kinds of tenants. Although the Fair Housing Amendments Act of 1988 makes discriminating against families with children illegal, many families are unaware of these legal protections.<sup>32</sup>

After an eviction, tenants experience a host of related problems.<sup>33</sup> They often lose some or all of their possessions because they are forced to move so quickly.<sup>34</sup> Families may struggle to find new housing within their budget in such a short time frame, especially with an eviction record.<sup>35</sup> Evictions are public records and some landlords run rental history checks on potential lessees.<sup>36</sup> An emerging industry has developed around providing landlords with more data about future tenants.<sup>37</sup> These companies search criminal records, sex-offender registries, terrorism watch lists and housing court records and frequently determines whether or not a tenant can secure a new lease.<sup>38</sup> Notably, these companies have been shown to have higher error rates and screen out tenants even with perfect records.<sup>39</sup>

With limited housing choices available, families might be forced to accept substandard housing. Families are more likely to move to neighborhoods with higher poverty and crime rates after a forced move.<sup>40</sup> Evictions and forced have been tied to homelessness.<sup>41</sup> In a survey of

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<sup>31</sup> Desmond, "Evicting Children," 303-327.

<sup>32</sup> Schill, Michael H., and Samantha Friedman. "The fair housing amendments act of 1988: The first decade." *Cityscape* (1999): 57-78.

<sup>33</sup> Desmond, Matthew, and Rachel Tolbert Kimbro. "Eviction's Fallout: Housing, Hardship, And Health." *Social forces* 94, no. 1 (2015): 295-324.

<sup>34</sup> Desmond, "Eviction's Fallout," 295-324.

<sup>35</sup> Desmond, "Eviction's Fallout," 295-324.

<sup>36</sup> Fields, Desiree. "The Rise of the Corporate Landlord: The Institutionalization of the Single-family Rental Market and Potential Impacts on Renters." Right to the City Alliance. (2014).

<sup>37</sup> Ibid.

<sup>38</sup> Kirchner, Lauren, and Matthew Goldstein. "How Automated Background Checks Freeze Out Renters." *The New York Times*. *The New York Times*, May 28, 2020. <https://www.nytimes.com/2020/05/28/business/renters-background-checks.html>.

<sup>39</sup> Kirchner, "Automated Background Checks."

<sup>40</sup> Desmond, "Forced Displacement," 1751-1772.

<sup>41</sup> Hartman, Chester, and David Robinson. "Evictions: The Hidden Housing Problem." *Housing Policy Debate* 14, no. 4 (2003): 461-501.

people experiencing homelessness in Santa Cruz, CA, the United Way found that 25 percent of people became homeless because of an eviction.<sup>42</sup> Eviction can also cause sheltered homelessness where families move in with friends or relatives.<sup>43</sup>

Housing instability as a byproduct of evictions harms many other aspects of a person's life. Frequent moves harm the development and education of the children impacted as well as those in their community. Poor health, lower weight, and developmental risk are all associated with housing instability among young children.<sup>44</sup> Adolescents that have moved schools more than two times are two and a half times more likely to repeat a grade. School and residential changes between and during high school have been shown to reduce the odds of graduating from high school by more than 50%.<sup>45</sup>

Experiencing a forced move can consume renter's time and thoughts, add stress to their life, and increase distance to their school or work. All of these factors make it more likely for renters who were forced to move to lose their jobs. In Milwaukee, a study of workers forced to move were approximately 11 to 22% more likely to lose their jobs compared to workers who had residential stability.<sup>46</sup> Mothers who have been evicted compare to those who have not reported more material hardship, more depression, worse health for themselves and their children, and more parenting stress. These negative health outcomes have been shown to persist years after the eviction.<sup>47</sup>

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<sup>42</sup> Hartman, "Hidden Housing Problem," 461-501.

<sup>43</sup> Burt, Martha R. "Homeless families, singles, and others: Findings from the 1996 National Survey of Homeless Assistance Providers and Clients." *Housing Policy Debate* 12, no. 4 (2001): 737-780.

<sup>44</sup> Cutts, Diana Becker, Alan F. Meyers, Maureen M. Black, Patrick H. Casey, Mariana Chilton, John T. Cook, Joni Geppert et al. "US housing insecurity and the health of very young children." *American Journal of Public Health* 101, no. 8 (2011): 1508-1514.

<sup>45</sup> Rumberger, Russell W. "The Causes and Consequences of Student Mobility." *Journal of Negro Education* (2003): 6-21.

<sup>46</sup> Desmond, "Who gets evicted?," 362-377.

<sup>47</sup> Desmond, "Eviction's Fallout," 295-324.

## Eviction Data Issues

Even when evictions are recorded, researchers looking for data on evictions often run into outdated court filing systems that make research on this subject particularly difficult. Because of a lack of open data, the scale and landscape of evictions in Memphis is largely a black box. While the case record of every eviction filed in Shelby County is available on the Court's website, this data is not accessible to researchers or community advocates looking to understand the level of forced displacement in Memphis.

Princeton's Eviction Lab is a project that aims to provide data on evictions on a local and national level to understand the scope and distribution of evictions. Although Eviction Lab has been praised as a gift to housing activists and researchers, it has also been criticized for its willingness to pay third-party sources, which profit off of the eviction crisis, when court records are not available.<sup>48</sup> The consequence of using these sources might mean that evictions are undercounted in certain communities underplaying the severity of the issue.

Grassroots tenant organizations, Anti-Eviction Mapping Project (AEMP) and Tenants Together, found that three times the amount of evictions were occurring in California compared to Eviction Lab's data.<sup>49</sup> For example, Eviction Lab claims that 1,440 eviction filings took place 1,347 in 2015, but AEMP and Tenants Together found that 3,512 eviction filing occurred that year. Eviction Lab makes a similar mistake in Shelby County. The only year that overlapped with data analyzed in this report was 2016, but Eviction Lab underestimated the number of evictions filed by 4,603. For 2016, Eviction Lab also reports that 7,113 evictions filings ended in judgements,

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<sup>48</sup> Levine, Carole. "Desmond's Eviction Lab a Powerful Gift for Activists." *Nonprofit Quarterly*. *Nonprofit Quarterly*, April 12, 2018. <https://nonprofitquarterly.org/desmonds-eviction-lab-powerful-gift-activists/>; Aiello, Daniela, Lisa Bates, Terra Graziani, Christopher Herring, Manissa Maharawal, Erin McElroy, Pamela Phan, and Gretchen Purser. "Eviction Lab Misses the Mark." *Shelterforce*. *Shelterforce*, August 28, 2018. <https://shelterforce.org/2018/08/22/eviction-lab-misses-the-mark/>.

<sup>49</sup> Aiello, "Eviction Lab Misses the Mark."

meaning that 31% of evictions filed resulted in an executed eviction. Desmond estimates that nationally about one-third of evictions filed end in an eviction judgement.<sup>50</sup> Perhaps, Eviction Lab is applying this national rate to Memphis. In a random sample of 2019 eviction filings, I found that 70% of evictions filed ended in judgements. Of course, 2016 and 2019 are different years, but throughout the four years analyzed in this report, I found that consistency was much more a theme rather than variation. The number of evictions filed, where they occurred, and which landlords filed the majority of them remained remarkably consistent.

While this is a critique of Desmond’s methods, the bulk of criticism should be directed toward local governments and their court system’s lack of transparency. The scope and prevalence of evictions is critical information for researchers, activists, and government officials. Often, the data might be available but requires arduous processes of collecting or cleaning. Research on evictions is limited because of the arduous nature of data collection. This diagram from Krista Chan demonstrates the landscape of housing data for a typical city.<sup>51</sup> To be able to solve issues around evictions, affordable housing, etc., cities must first understand the magnitude and contours of the problem. Open data means that current public information, like the number of evictions, must move from available to usable if cities are serious about wanting to solve their housing issues.



<sup>50</sup> " Leung, Lillian, Peter Hepburn, and Matthew Desmond. "Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement." *Social Forces* (2020).

<sup>51</sup> Warner, Becca. "Ownership, Evictions, and Violations: An Overview of Housing Data Use Cases." Sunlight Foundation. Sunlight Foundation, August 20, 2019. <https://sunlightfoundation.com/2019/08/20/ownership-evictions-and-violations-an-overview-of-housing-data-use-cases/>.

### **Section 3: The Eviction Process in Shelby County**

This section will outline the formal eviction process in Shelby County General Sessions Court.<sup>52</sup> The landlord-tenant relationship in Tennessee is governed by the Uniform Residential Landlord and Tenant Act (URLTA). Adopted in Tennessee in 1975, URLTA was intended to simplify and modernize laws governing the rental units and the rights and obligations of landlords and tenants.<sup>53</sup> How URLTA works in Tennessee varies slightly from County to County, but in Shelby County, the eviction process begins with landlord filing a forcible entry and detainer warrant (FED) in the clerk's office of General Sessions Court. An FED warrant costs a landlord \$144.50 in filing fees, or \$102.50 if hiring a private process server. Tenants have a five-day grace period from the first of the month to pay the rent. After the grace period, landlords can file an FED for nonpayment of rent after fourteen days.<sup>54</sup> If the lease agreement includes a waiver of right to notice, the landlord can legally file for nonpayment of rent just five days after the 1st of the month.<sup>55</sup> Other reasons for eviction include violations of the lease agreement, property destruction or nuisance, and expiration of the lease.<sup>56</sup>

After the eviction is filed, the landlord is responsible for ensuring the tenant is served with the detainer warrant. In Shelby County, most landlords hire a private process server to knock on the tenant's door. If they cannot find the tenant, the process service will execute a service by posting, taping the notice on the tenant's front door. When filling out the detainer warrant, the

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<sup>52</sup> The description of this process is partially based on an interview with Prof. Katy Ramsey Mason of the University of Memphis Law School. Prof. Ramsey Mason is the Director of the Law School's Medical-Legal Partnership (MLP) Clinic, which has been actively involved in the Eviction Settlement Program, which provides tenants facing eviction with legal representation if their income has been affected by the Covid-19 pandemic.

<sup>53</sup> Ashby Richbourg Scott, "The Tennessee Uniform Residential Landlord and Tenant Act - A Hodge-podge of Statutory Exclusions," *University of Memphis Law Review* 34, no. 4 (Summer 2004): 903-940

<sup>54</sup> Uniform Landlord and Residential Tenant Act, TN Code § 66-28-505 (2019), <https://law.justia.com/codes/tennessee/2019/title-66/chapter-28/>

<sup>55</sup> TN Code § 66-28-505 (2019)

<sup>56</sup> TN Code § 66-28-505 (2019)

landlord provides their name, the tenant's name, the address of the property, and if they are seeking payment, the amount of money they are claiming. When a tenant gets served with an eviction notice, it will include that information and a court date. In states and counties with more robust protections for renters, landlords are obligated to explain why they are seeking this amount of money and the reason for the eviction. Tennessee and Shelby County do not have that requirement.

After receiving their notice, tenants are responsible for being present in the court room on the date included in their notice, which can be as soon seven days from the time they are served. Whether or not a tenant is present for their court date results in different outcomes, but both processes favor landlords. Most landlords in are represented by an attorney who is well aware of the intricacies of the legal system. Numerous studies of cities throughout the United States have shown that landlords are overwhelmingly represented by lawyer, while tenants are not.<sup>57</sup> In many court rooms, 90% of landlords have representation while 90% of tenants do not.<sup>58</sup> Unlike criminal court, tenants are not provided with a court appointed public defender or any legal representation. As a result, knowing they must stand toe-to-toe with a lawyer, many tenants will not show up to court to fight an eviction. When tenants are not present in court, the judge issues a default judgment in favor of the landlord, meaning the landlord won their case because the tenant did not perform a court ordered action in this example being present on their assigned court date.<sup>59</sup> Default rates are common in eviction courts throughout the US, and range from 35% to over 90% depending on the city.<sup>60</sup> Recent attempts to provide legal representation have been made by a coalition of nonprofit,

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<sup>57</sup> Engler, Russell. "Connecting self-representation to civil Gideon: What existing data reveal about when counsel is most needed." *Fordham Urb. LJ* 37 (2010): 37.;

Seron, Carroll, Martin Frankel, Gregg Van Ryzin, and Jean Kovath. "The impact of legal counsel on outcomes for poor tenants in New York City's housing court: results of a randomized experiment." *Law and Society Review* (2001): 419-434.

<sup>58</sup> Desmond, Matthew. "Tipping the Scales in Housing Court." *The New York Times*. *The New York Times*, November 30, 2012. <https://www.nytimes.com/2012/11/30/opinion/tipping-the-scales-in-housing-court.html>.

<sup>59</sup> "Default Judgment." Legal Information Institute. Legal Information Institute. Accessed December 2, 2020. [https://www.law.cornell.edu/wex/default\\_judgment](https://www.law.cornell.edu/wex/default_judgment).

<sup>60</sup> Desmond, *Evicted*, Chapter 8, footnote 4.

education, and government actors in the wake of the Covid-19 pandemic and will be discussed in the final section of this report.<sup>61</sup> Determining just how high the rate of default is difficult because Shelby County courts do not provide data in a way that is easily accessible. If a default judgement is ordered and the tenant received their notice in person, the landlord wins their case and can take possession of the property with a monetary judgement, the sum of money in rent, court costs, and attorney fees incurred by the landlord. If the notice was by posting on the front door, the landlord is not permitted to take a monetary judgment.

If tenants are in attendance for their court date, the judge will call on the landlord or their attorney and the tenant to come forward. At the judge's request, the landlord will then state that they are seeking possession of the property and the amount of money including back rent, property damages, and attorney fees if relevant. The judge then turns to tenant and asks if they agree or disagree with the landlord's claims. If the tenant say that they agree with the landlord a judgement is entered against them for possession of the property and the money the landlord is seeking. The tenant now has ten days before they can be evicted. If the tenant is not out after 10 days, the landlord will file a write of possession. On the day of their eviction, the sheriff will give the tenant the write of possession form and supervise while a private eviction service moves all of the family's belongings to the street. The eviction process is an incredibly short court process. In some circumstances, a tenant can go from receiving eviction papers to being forcibly removed from their home in just three weeks.

If the tenant disagrees, the judge sets a date for trial in 1-2 weeks. If the tenant is savvy, they can ask for continuance to find a lawyer or to make other arrangements. When their case does

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<sup>61</sup> Garriss, Kirstin. "Eviction Settlement Program Pairs Attorneys with Tenants Dealing with COVID-19 Financial Challenges." WHBQ. FOX 13, September 2, 2020. <https://www.fox13memphis.com/news/local/eviction-settlement-program-pairs-attorneys-with-tenants-dealing-with-covid-19-financial-challenges/5VADEPTN2VDCLC2WMMMM2M6CXEI/>.

go to trial, the tenant will be fighting an uphill battle. URLTA has a statutory warranty of habitability meaning that the landlord must maintain the property so that it complies with building codes and essential services like heat and water are available.<sup>62</sup> Despite this in Shelby County and Tennessee, the landlord's failure to maintain habitability is not a defense for the tenant to withhold rent. Whatever the conditions of the property, the tenant not paying the rent is a breach of the lease.<sup>63</sup> For example, a tenant would not be able to defend their nonpayment of rent by asserting that their heat was out during the winter. Judges will often reply that the tenant should file suit against the landlord for the rent they believe is owed to them for the landlord failing to maintain the premises, but withholding rent is not a proper recourse for the landlord's alleged failures. In limited and extreme circumstances, such as family with young children without water, tenants have successfully defended their evictions for nonpayment cases thrown out by judges, but this is far more the exception than the rule. In other states like New York, the landlord not maintaining habitability is a defense for nonpayment of rent.<sup>64</sup>

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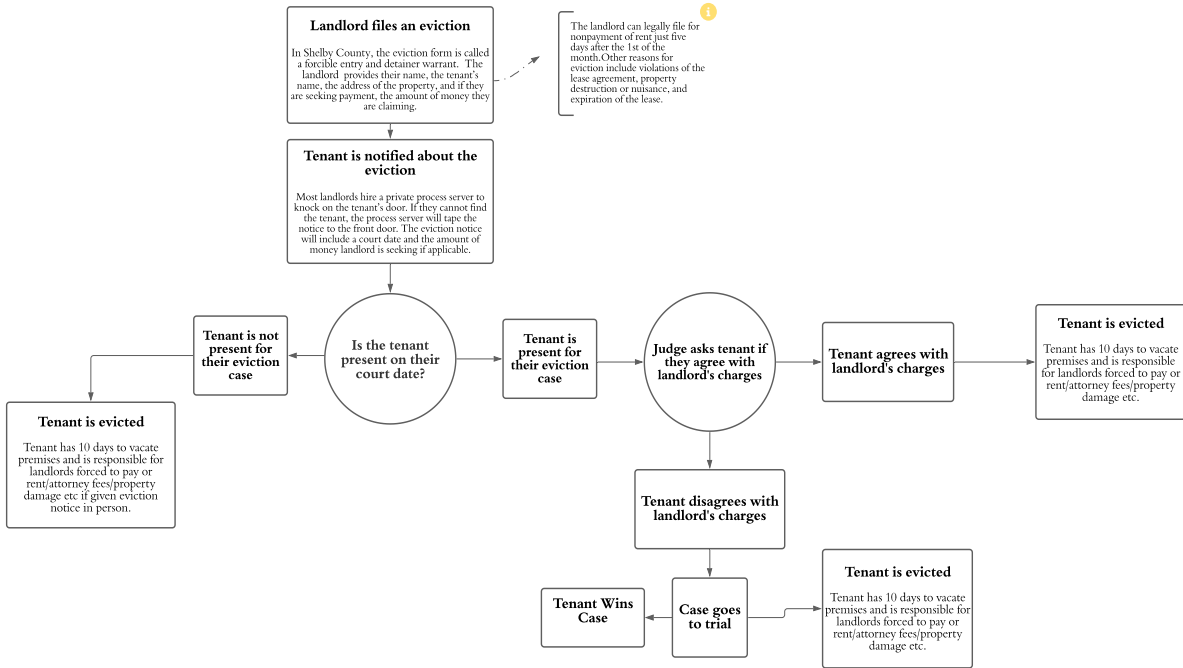
<sup>62</sup> Ashby Richbourg Scott, "The Tennessee Uniform Residential Landlord and Tenant Act - A Hodge-podge of Statutory Exclusions," *University of Memphis Law Review* 34, no. 4 (Summer 2004): 903-940

<sup>63</sup> TN Code § 66-28-505 (2019); Tennessee State Government. "If You Rent a Place, Know Your Legal Rights and Duties." Tennessee State Government, n.d. [https://www.tn.gov/content/dam/tn/health/documents/healthy-places/healthy-homes/HHW\\_LAS\\_TN\\_URLTA\\_Renters\\_Rights.pdf](https://www.tn.gov/content/dam/tn/health/documents/healthy-places/healthy-homes/HHW_LAS_TN_URLTA_Renters_Rights.pdf).

<sup>64</sup> Kaminsky, David. "Landlord Tenant Rights - Landlord Duties: NYC Bar." *New York City Bar - Legal Referral Service*, August 18, 2020. <https://www.nycbar.org/get-legal-help/article/landlord-tenant/landlords-duties-obligations/>.



**Figure 1. The Eviction Process in Shelby County**



## **Section 4: Data Analysis of Eviction Filings in Shelby County**

### The Data

The analysis section of this report benefits from a unique dataset made available by Austin Harrison, Ph.D. Candidate at Georgia State University & Neighborhood Consultant, and Brian Mykulyn, Master of City and Regional Planning student at Georgia Tech. While eviction records are public information available on the website of the Shelby County General Sessions Court Clerk, the collection of eviction records in a unified and searchable dataset was made possible by Harrison and Mykulyn's web scraping of the Court Clerk's website. This dataset contains every eviction filed from the beginning of 2016 through the end of 2019 in Shelby County and includes a unique case identification number, the address of the eviction, the date the eviction was filed, and the apartment complex, property manager, or landlord that filed the eviction. I analyzed all of this information to understand the state of evictions in Shelby County.

The dataset examined in this report is comprised of eviction filings, which are only the first step in the eviction process. An eviction filing is not equal to an eviction. Landlords might file an eviction to begin negotiations with a tenant on a payment plan. Once in court, a tenant could prove that the charges filed against them are incorrect, or a number of other circumstances could play out that result in the tenant being able to remain in their home. An eviction filing can lead to an eviction, but even when it does not, there can be negative consequences for tenants. Eviction filings are public records. Rental companies often screen tenants by checking eviction records and could refuse to rent to a tenant who has had one or many evictions filed against them even if those

evictions were never executed.<sup>6566</sup> Leung (2020) found that for each eviction filing roughly \$180 in fines are assessed for the typical renter household raising their monthly housing cost by 20%.<sup>67</sup>

### Eviction Filings Averages and Totals

To estimate how often evictions filed in Shelby County were executed, I took a random sample of 100 cases of the 27,156 evictions filed in 2019 and searched the court docket for the outcome of each case. I found that 70 cases out of 100 resulted in an eviction. Thirty nine of the 70 evictions were solely for possession of the property. The 31 other evictions included a money judgement for unpaid rent, damage to the property, or attorney fees. The 30 cases that did not result in an eviction were mostly given up voluntarily by the landlord filing the eviction.

Between 2016 and 2019, 110,834 evictions were filed in Shelby County. The number of eviction filings has remained largely consistent from year to year. Eviction filings increased and decreased within a range of four percentage points over the four-year span. Using the random sample for 2019, we can estimate that approximately 19,009 evictions are executed over the course of 2019.

**Table 1. Eviction Filings Per Year**

2016	2017	2018	2019	Total
27,384	27,826	28,468	27,156	110,834

The eviction filing rate is used to determine the proportion of eviction filings relative to the population, and is determined by the ratio of the number of evictions filed in an area to the number

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<sup>65</sup> Garboden, Philip ME, and Eva Rosen. "Serial Filing: How Landlords Use the Threat of Eviction." *City & Community* 18, no. 2 (2019): 638-661.

<sup>66</sup> Immergluck, Dan, Jeff Ernsthausen, Stephanie Earl, and Allison Powell. "Evictions, large owners, and serial filings: findings from Atlanta." *Housing Studies* 35, no. 5 (2020): 903-924.

<sup>67</sup> Leung, "Serial Eviction Filing."

of renter-occupied homes in that area.<sup>68</sup> Like eviction filings overall, the eviction filing rate in Shelby County has remained consistent. Over the four years covered in this study, the average eviction filing rate was 17.7%, only deviating by .5 percentage points depending on the year. This is an alarmingly high eviction filing rate. To put that number into context in 2016, Nashville, Tennessee had an eviction filing rate of 7.5%, and Milwaukee County, Wisconsin, the subject of *Evicted*, had an eviction filing rate of 6.5% according to the Eviction Lab.<sup>69</sup>

Like the eviction filing rate, the eviction rate measures the number of evictions relative to the number of occupied rental housing units. Estimating the eviction rate based on the random sample from 2019, the eviction rate in Shelby County is 12.2%. In other words, more than 12 in 100 renter households are evicted in one year. Eviction Lab data is only current up to 2016, but with an eviction rate of 12.2%, Memphis would rank as the second highest eviction rate among large cities behind only North Charleston, South Carolina.<sup>70</sup> These high rates of evictions and evictions filing occur in relatively stable economic times. As Memphis endures the economic recession caused by the Covid-19 pandemic, the number of evictions will likely only increase if major interventions are not implemented.

**Table 2. Eviction Filing Rate Per Year**

2016	2017	2018	2019	Average
17.5%	17.8%	18.2%	17.4%	17.7%

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<sup>68</sup> Eviction Lab. "Methods." Eviction Lab. Accessed December 3, 2020. <https://evictionlab.org/methods/>.

<sup>69</sup> Eviction Lab. "Eviction Rankings." Eviction Lab. Accessed December 3, 2020. <https://evictionlab.org/rankings/>.

<sup>70</sup> Eviction Lab. "Eviction Rankings."

## Seasonal Trends

To understand the seasonal patterns of evictions, I tabulated the number of eviction filings per month from 2016 to 2019. The results, shown in the charts below, show how eviction filings consistently fluctuate as the seasons change. On average, there are 2,309 evictions filed per month, but there is a great deal of variation from that average from month to month. March, April, and December experience at least 13% fewer eviction filings per month on average. Eviction filings are lowest in March, which averages 21% fewer evictions than the typical month. Evictions peak in the late summer months of July and August. August averages the highest number of eviction filings per year at 17% higher than the average month.

These results are consistent with patterns seen in Charlotte, North Carolina, and Milwaukee.<sup>71</sup> The study of Charlotte evictions provided some explanations for the seasonal variations based on interviews with local agencies serving clients facing evictions.<sup>72</sup> Many families experience increased food expenses, electricity, and childcare costs related to children being out of school for the summer. Increased air conditioning costs in the late summer months might also play a role. One study of Southern California found some evidence for higher energy burden being associated with higher eviction rates.<sup>73</sup> Decreases in February, March, and April could be related to tax return season. Anecdotal evidence in Desmond's study of Milwaukee supports this theory.<sup>74</sup> However, results from one study indicate that the Earned Income Tax Credit

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<sup>71</sup>Clark, Ashley Williams. "Charlotte-Mecklenburg Evictions: Part 1: An Introduction to Evictions in Charlotte-Mecklenburg." The Housing Advisory Board of Charlotte-Mecklenburg. University of North Carolina at Charlotte Urban Institute, 2017. <https://mecklenburghousingdata.org/wp-content/uploads/2017/09/Charlotte-Mecklenburg-Evictions-Report-Part-1.pdf>.; Desmond, "Eviction and the Reproduction of Urban Poverty," 88-133.

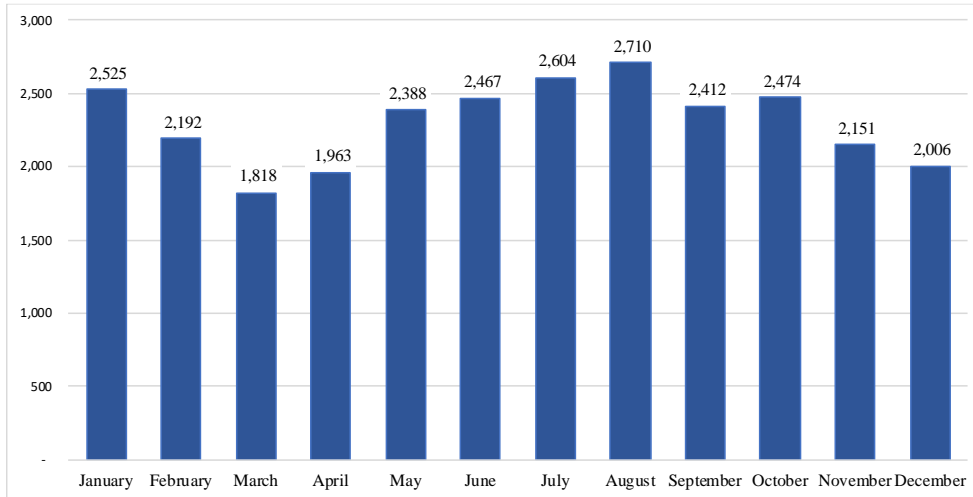
<sup>72</sup> Clark, "Charlotte-Mecklenburg"

<sup>73</sup> Li, Paichen. "Correlational analysis of energy burden and eviction rate." PhD diss., Duke University, 2019.

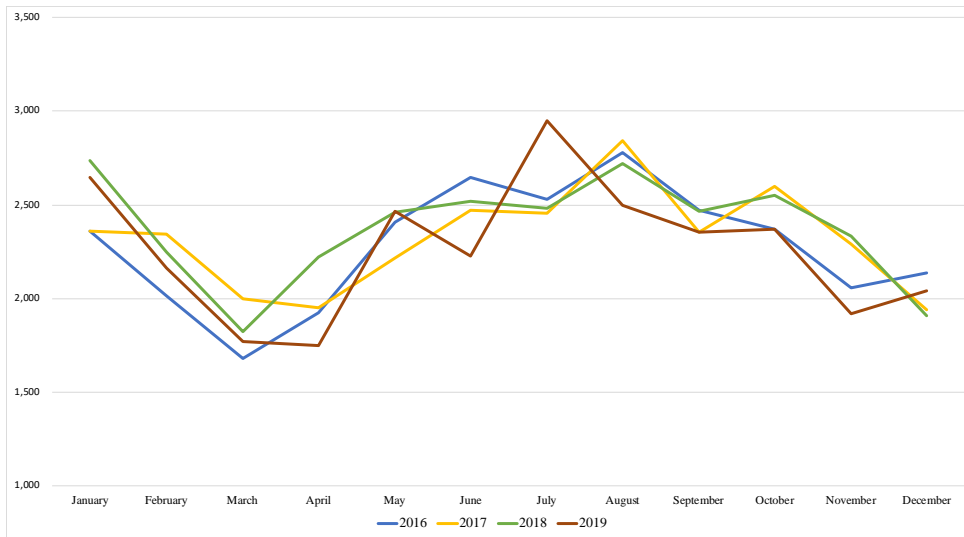
<sup>74</sup> Desmond, "Eviction and the Reproduction of Urban Poverty," 88-133.

(EITC) decreases certain forms of housing instability, but that same study did not find evidence that the EITC decreases eviction or homelessness.<sup>75</sup>

**Chart 1. Average Eviction Filings by Month (2016-2019)**



**Chart 2. Eviction Filings by Month (2016-2019)**

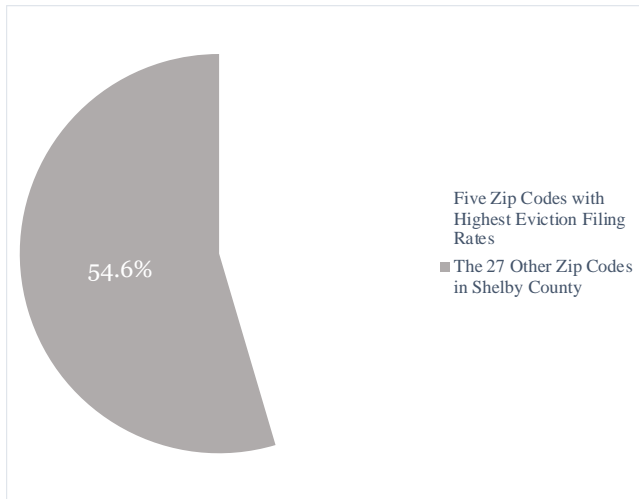


<sup>75</sup> Pilkauskas, Natasha, and Katherine Michelmoro. Does the Earned Income Tax Credit Reduce Housing Instability?. No. wp18-01-ff. 2017.

## Zip Code Analysis

To understand the spatial landscape of evictions, I classified eviction filings by the zip codes where they were filed. For this section of the report, I have excluded eviction filings with zip code information that was left blank, had too few or too many digits, or was not located in the 32 zip codes that comprise Shelby County. For the four years of this report, 3,904 eviction filings, or 3.5% of all evictions filed in that time period, were unclassifiable for one of these reasons. The results of this analysis show that eviction filings in Shelby County are geographically concentrated. Of the 106,930 eviction filings that occurred between 2016 and 2019, 67% took place in just ten zip codes, 45% in five, and 26% in just two zip codes, 38115 and 38116. The results remained largely consistent from year to year.

**Chart 3. Eviction Filings by Zip Code (2016-2019)**



The eviction filing rate was also remarkably higher in a handful of zip codes, mostly located in South Memphis. With an eviction filing rate of 35.3%, 38116 nearly doubles Shelby's County's already high 17.7% eviction filing rate. For renter households in 38116 and 38115, more than 3 in 10 will face an eviction charge every year. For 38141 and 38118, it's 1 in 4. Interstate 40 and Interstate 240 form a loop around Midtown and East Memphis. Notably, nine out of the ten zip

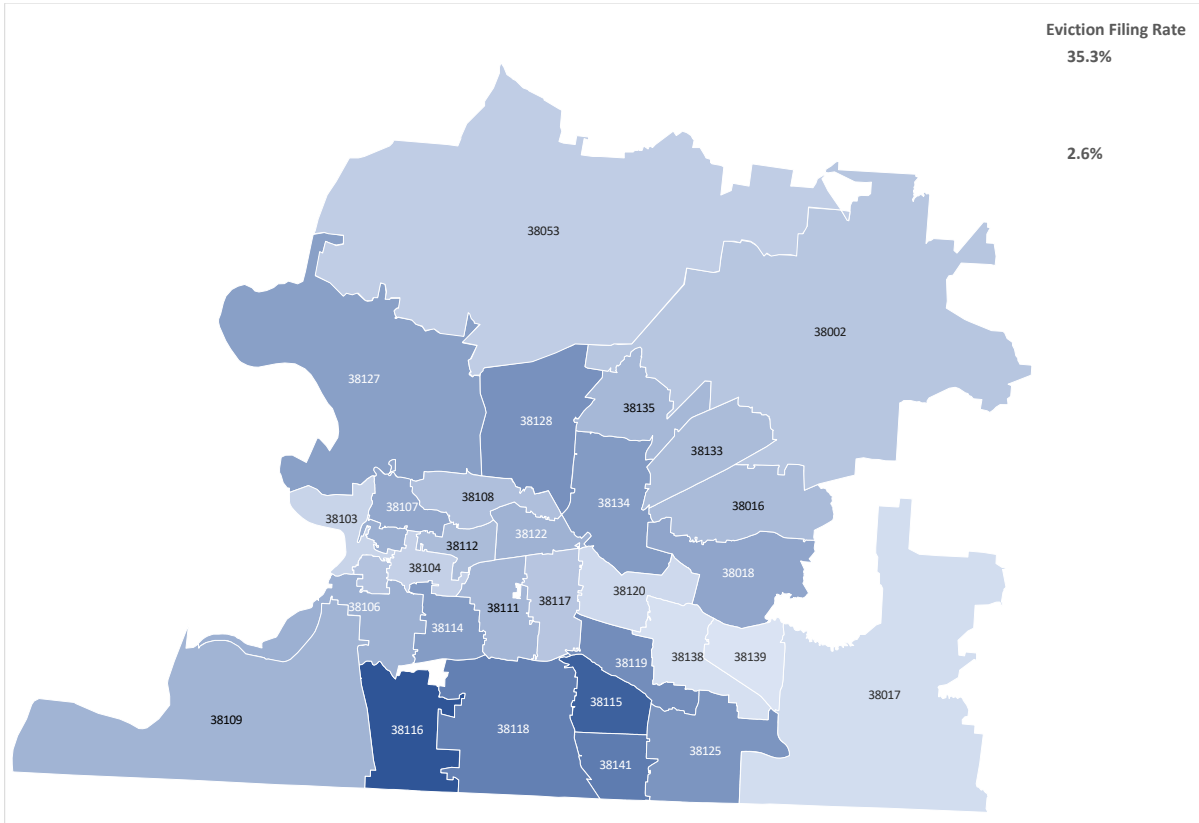
codes with the highest eviction filing rates were located outside of the I-40 and I-240 loop, which could serve as a proxy for the central city core.

**Table 3. Highest Eviction Filing Rates by Zip Code & Neighborhood (2016-2019)**

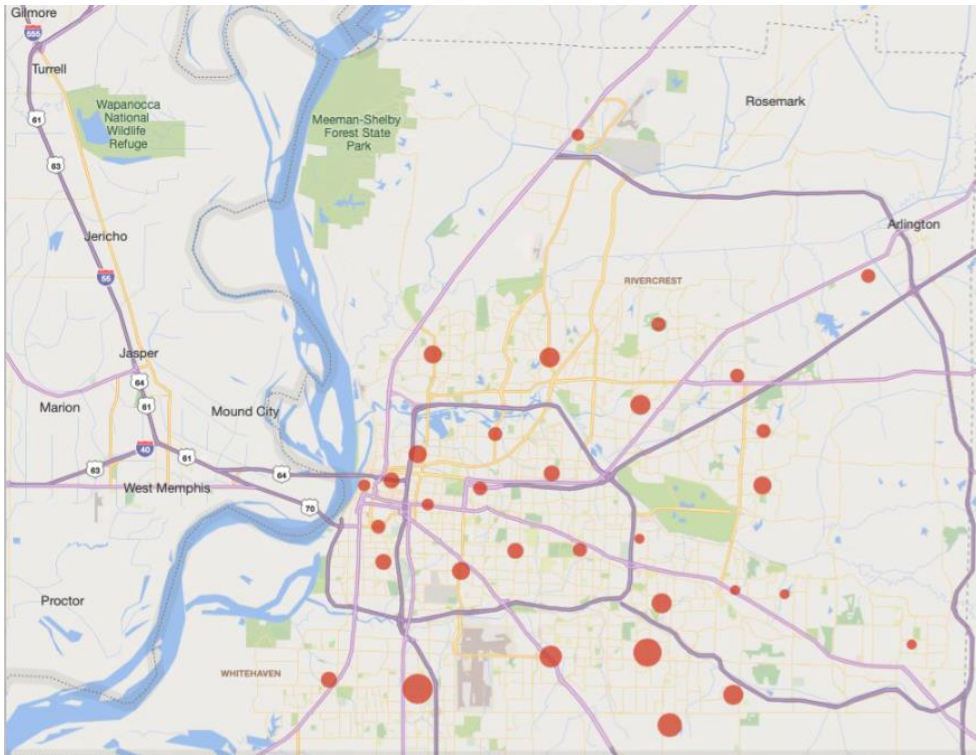
	<b>Zip Codes</b>	<b>Average Eviction Filing Rate</b>	<b>Neighborhood</b>	<b>I-40 and I-240 Loop</b>
1	38116	35.3%	Whitehaven	Out of Loop
2	38115	32.5%	Hickory Hill	Out of Loop
3	38141	26.2%	Bennington	Out of Loop
4	38118	25.2%	Parkway Village	Out of Loop
5	38119	22.2%	East/Southeast Memphis	Out of Loop
6	38128	21.3%	Raleigh	Out of Loop
7	38125	20.5%	Southeast Memphis	Out of Loop
8	38134	19.2%	Bartlett	Out of Loop
9	38114	18.9%	Orange Mound	Within Loop
10	38127	17.9%	Frayser	Out of Loop



**Map 1. Average Eviction Filings by Zip Code (2016-2019)**



**Map 2. Average Eviction Filings by Zip Code (2016-2019)**



## Evictors in Shelby County

Continuing my exploration of the eviction dataset, I identified the most prolific evictors on an annual basis. Table 4 displays the management companies and apartment complexes with the most eviction filings between 2016 to 2019. These ten companies alone make up 18.8% of the total evictions filed, more than 20,000 evictions during the scope of this study.

**Table 4. Top Ten Eviction Plaintiffs (2016-2019)**

Eviction Plaintiff	Eviction Filings
Makowsky Ringel Greenberg, LLC	3,654
Crestcore Realty LLC	3,004
Eden At Watersedge Apartments	2,168
Arium Shelby Farms	2,076
Main Street Renewal LLC	1,932
New Horizon Apartments	1,803
Sunshine Corporation	1,684
Lubin Property Management	1,569
The Woods at Ridgeway	1,514
Waterview Apartments (fka Madison Cypress Lakes)	1,471

Next, I connected each eviction plaintiff with the zip code where the eviction was filed using each case's individual identification number for 2019. By doing this, I could determine the number of evictions by the landlord filing the eviction in every zip code. The results are quite remarkable. Eviction filings within the zip codes with the highest number of evictions are concentrated among a relatively small group of actors. I found 34 instances where a single company filed over 100 evictions in a single zip code. Nine of the ten zip codes with the highest rate of eviction filings had at least one evictor with over 100 eviction filings.

**Table 5. Highest Evictors by Zip Code (2019)**

Zip Code	Eviction Plaintiff	Eviction Filings
38119	Waterview Apartments (fka Madison Cypress Lakes)	632
38116	New Horizon Apartments	474
38115	Eden At Watersedge Apartments	356
38107	University Gardens Manor	293
38116	Winbranch Apartments	276
38116	Bent Tree Apartments	238
38116	South Tri Management LLC	204

## Section 5: Discussion

This research project aimed to fill in a knowledge gap on the eviction issue in Memphis. Although evictions are public records, the Shelby County court system does not produce any data on how many evictions occur annually, where they take place, or who files for them. Taking advantage of work by other housing scholars, this report was able to document these metrics and begin to understand the scope and spatial landscape of eviction in the Memphis metro area. The results of this analysis into evictions in Memphis shows that evictions are alarmingly common and spatially concentrated. Just under 1 in 5 renting Memphians will have an eviction filed against them annually. This has major implications for the financial security and stability of low-income Memphians. As discussed earlier, evictions can cause depression, job loss, lead to homelessness, and destabilize communities.<sup>76</sup> As Desmond aptly puts it, eviction is both a cause and consequence of poverty.<sup>77</sup>

With our new understanding of the contours of evictions in Memphis, the logical next question is why? Why are there so many evictions in Memphis and why do they happen where they do? While causation is beyond the scope of this research project, we can look to research done in other cities to try to understand why evictions are so present in Memphis's housing market.

As detailed earlier in the report, the process of adjudicating evictions in Shelby County is quick, cheap, and favors landlords. Depending on their lease agreement, tenants can receive an eviction notice for nonpayment of rent as early as five or twenty-one days after the 1st of the month and be expected in court as soon as seven days from the date they are served. Landlords are not obligated to explain the reason for the eviction or justify the amount of money they are seeking.

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<sup>76</sup> Collinson, Robert, and Davin Reed. "The Effects of Evictions on Low-Income Households," December 2018. [http://www.law.nyu.edu/sites/default/files/upload\\_documents/evictions\\_collinson\\_reed.pdf](http://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf); Desmond, "Eviction's Fallout," 295-324.

<sup>77</sup> Desmond, *Evicted*.

An eviction filing costs between \$102.50 to \$144.50 in fees. In large American cities, the median filing fee is \$106.<sup>78</sup> While a causal relationship between filings fees and eviction filings has not been established, a study of eviction filings across 28 states found that serial eviction filing rates are lowest where legal and regulatory barriers increase the cost of eviction.<sup>79</sup>

The majority of tenants are not represented by attorneys, while many landlords do have legal representation.<sup>80</sup> A tenant can go from receiving eviction papers to being forcibly removed from their home in just three weeks. Given this legal framework, landlords have a number of financial incentives to file for evictions, and recent research has pointed to landlords using threat of an eviction to collect rent and discipline tenants.<sup>81</sup> When faced with an eviction for nonpayment of rent, tenants can either leave their homes or pay the late fines, attorney fees, and court costs associated with the filing. Losing one's home is much more expensive than the fees associate with an eviction filing so tenants are incentivized to pay these costs and keep their home.<sup>82</sup> Desmond (2020) examined 8 million court records from 28 states and found that "each eviction filing translated into \$180 in fines and fees for renter households in the average tract, effectively raising monthly housing costs by 20%."<sup>83</sup> Additionally, tenants with an eviction or multiple evictions filed against them could be screened out from future rentals, even when the eviction did not lead to an eviction judgment, because many property owners view any record involving evictions as disqualifying.<sup>84</sup>

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<sup>78</sup> McCabe, Brian and Eva Rosen. "Eviction in Washington, DC: Racial and Geographic Disparities in Housing Instability." McCourt School, Georgetown University. (2020)

<sup>79</sup> Leung, "Serial Eviction Filing."

<sup>80</sup> Engler, Russell. "Connecting self-representation to civil Gideon: What existing data reveal about when counsel is most needed." *Fordham Urb. LJ* 37 (2010): 37.;

<sup>81</sup> Garboden, "Serial Filing," 638-661.; Immergluck, "Evictions and Serial Filings," 903-924.

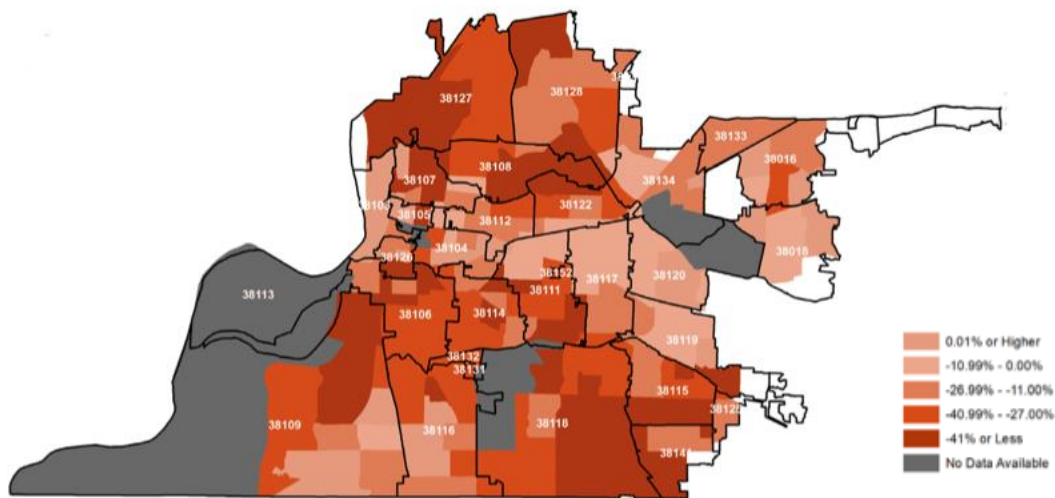
<sup>82</sup> Desmond 2012; Desmond, "Forced Displacement," 1751-1772.

<sup>83</sup> Leung, "Serial Eviction Filing."

<sup>84</sup> Desmond, *Evicted*.

Another explanation for the high level of evictions in Memphis are changes to ownership of rental housing after the 2008 foreclosure crisis. As was noted previously, predatory mortgage lending in Memphis was rampant.<sup>85</sup> As homeowners defaulted on their mortgages, the homeownership rate in the Shelby County Metropolitan Statistical Area (MSA) declined by 7% from 2010 to 2017, and the share of renters rose to 41%. Black Memphians were hit hardest by the crisis.<sup>86</sup> The number of black renters over this same time period increased by 26%. Single-family units rose from 24% of the rental market in 2000 to 44% in 2018.<sup>87</sup> Map 3 shows the spatial landscape of changes in ownership occupancy over this period.

**Map 3. Change in Ownership Occupancy Rates 2000 - 2018<sup>88</sup>**



<sup>85</sup> Rothacker, "Wells Fargo."

<sup>86</sup> Powell, Michael. "Blacks in Memphis Lose Decades of Economic Gains." The New York Times. The New York Times, May 31, 2010. <https://www.nytimes.com/2010/05/31/business/economy/31memphis.html>.

<sup>87</sup> Rathke, "A Memphis Mirage," 11–21;

"America's Rental Housing 2020." America's Rental Housing 2020 | Joint Center for Housing Studies. Harvard University. Accessed December 3, 2020. <https://www.jchs.harvard.edu/americas-rental-housing-2020>.

<sup>88</sup> Harrison, Austin. "The State of Memphis Housing 2020: Rising To Respond To Crisis." City of Memphis. Division of Housing and Community Development, September 2020. <https://www.memphistn.gov/wp-content/uploads/2020/09/Housing-Report-V8.1.pdf>.

Corporate landlords took advantage of cheap and widely available single-family homes and bought into markets like Memphis. As a result, Memphis now has the 12<sup>th</sup> largest share of single-family rental units among all US metro areas.<sup>89</sup> No major city has seen a bigger percentage drop in homeownership rates in single-family housing than Memphis since 2008.<sup>90</sup>

With new private equity ownership came a transformation in landlord-tenant dynamics. Corporate landlords are incentivized to treat properties and tenants as financial assets, which are ultimately accountable only to global investors.<sup>91</sup> Private equity companies seek to automate as many services as possible removing all social and personal considerations when dealing with tenants.<sup>92</sup> Instead, software tools track housing stock, expenditures, income, and automate eviction filings to ensure maximum efficiency.<sup>93</sup> These “efficiencies” often come with a disregard for maintaining habitability or the housing security of their tenants.<sup>94</sup> Raymond (2018) in Atlanta and Seymour (2020) in Las Vegas have shown that “large, nationally active institutional investors are generally associated with higher eviction rates than are small landlords” removing property and neighborhood characteristics. Notably, Seymour found higher eviction filings rates and execution rates for institutional investors while Raymond suggested that eviction filings might be a part of a rental collection strategy.<sup>95</sup> National trends show rental property ownership consolidating into the

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<sup>89</sup> “America's Rental Housing 2020.” America's Rental Housing 2020 | Joint Center for Housing Studies. Harvard University. Accessed December 3, 2020. <https://www.jchs.harvard.edu/americas-rental-housing-2020>.

<sup>90</sup> Frankel, Todd, and Dan Keating. “Eviction Filings and Code Complaints: What Happened When a Private Equity Firm Became One City's Biggest Homeowner.” The Washington Post. WP Company, December 26, 2018. [https://www.washingtonpost.com/business/economy/eviction-filings-and-code-complaints-what-happened-when-a-private-equity-firm-became-one-citys-biggest-homeowner/2018/12/25/995678d4-02f3-11e9-b6a9-0aa5c2fcc9e4\\_story.html](https://www.washingtonpost.com/business/economy/eviction-filings-and-code-complaints-what-happened-when-a-private-equity-firm-became-one-citys-biggest-homeowner/2018/12/25/995678d4-02f3-11e9-b6a9-0aa5c2fcc9e4_story.html).

<sup>91</sup> Fields, “Corporate Landlord.”

<sup>92</sup> Fields, Desiree. “Automated landlord: Digital technologies and post-crisis financial accumulation.” Environment and Planning A: Economy and Space (2019): 0308518X19846514.

<sup>93</sup> Abood, Maya. “Wall Street Landlords turn American Dream into a Nightmare.” ACCE Institute: Los Angeles, CA, USA (2018): 5.

<sup>94</sup> Semuels, Alana. “When Wall Street Is Your Landlord.” The Atlantic. Atlantic Media Company, April 8, 2019. <https://www.theatlantic.com/technology/archive/2019/02/single-family-landlords-wall-street/582394/>.

<sup>95</sup> Seymour, Eric, and Joshua Akers. ““Our Customer Is America”: Housing Insecurity and Eviction in Las Vegas, Nevada’s Postcrisis Rental Markets.” Housing Policy Debate (2020): 1-24.

top 50 residential rental firms, which encourage the formalization and monetization of the landlord-tenant relationship.<sup>96</sup>

One particularly illustrative example of this phenomenon is Cerberus, a Wall Street private equity company which has recently become the largest owner of single-family homes in Memphis.<sup>97</sup> Cerberus's property management company, FirstKey Homes, was one of most prolific evictors in Shelby County throughout the four years examined in this report. In 2018 and 2019 alone, FirstKey Homes filed for over 1,000 evictions, more than half of the 1,800 homes they offer to rent in the area.<sup>98</sup> Cerberus owned rental properties are also among the worst property code violators in Memphis with 190 citations in just 2018.<sup>99</sup>

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<sup>96</sup> Desmond – serial evictions

<sup>97</sup> Cerberus is named after the multi-headed dog from Greek mythology assigned to guard the gates of the Hades to prevent the dead from leaving; Frankel, "Eviction Filings and Code Complaints."; Rathke, "A Memphis Mirage," 11–21

<sup>98</sup> Frankel, "Eviction Filings and Code Complaints."

<sup>99</sup> Frankel, "Eviction Filings and Code Complaints."



## Section 6: Policy Recommendations

The vast majority of evictions are for unpaid rent because rent is simply unaffordable for many people. A person working 40 hours per week earning minimum wage cannot affordably rent a two-bedroom apartment in any county in the United States.<sup>100</sup> Four in 10 people with low-incomes experience homelessness or pay over half their income in rent, and the majority do not receive rental assistance from the federal government due to limited funding.<sup>101</sup> Since the New Deal, federal housing policy has largely relied on the market to provide housing for people with low incomes, and the results speak for themselves. These problems have only worsened since the Covid-19 pandemic. A recent survey by the U.S. Census Bureau reports that 17.8 million adults are behind on rent or mortgage payments, and over 5.8 million adults say they are somewhat to very likely to face eviction or foreclosure in the next two months.<sup>102</sup>

Evictions are merely a symptom of the vast crisis of housing affordability. If we are going to solve the problem of evictions, we must first ensure that everyone has a place to call home regardless of their ability to pay. People's Action, a national grassroots organizing network, has proposed a Homes Guarantee policy platform, which provides solutions at the scale of the problem. The Homes Guarantee platform includes a plan to reinvest in public housing, build 12 million social housing units, eradicate homelessness, protect renters, pay reparations for centuries of racist housing policies, and end real estate speculation.<sup>103</sup> While this level of investment into housing

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<sup>100</sup> National Low Income Housing Coalition. "Out of Reach: The High Cost of Housing." NIHLC, 2019. [https://reports.nlihc.org/sites/default/files/oor/OOR\\_2019.pdf](https://reports.nlihc.org/sites/default/files/oor/OOR_2019.pdf).

<sup>101</sup> Low-income is defined as a household with income not exceeding 80 percent of local median income. For a family of three in the United States, 80 percent of the local median is equivalent to \$54,350.; "Federal Rental Assistance Fact Sheets." Center on Budget and Policy Priorities, December 10, 2019. <https://www.cbpp.org/research/housing/federal-rental-assistance-fact-sheets>.

<sup>102</sup> Tanzi, Alexandre. "Millions of Americans Expect to Lose Their Homes as Covid Rages." Bloomberg, November 23, 2020. <https://www.bloomberg.com/news/articles/2020-11-23/millions-of-americans-expect-to-lose-their-homes-as-covid-rages>.

<sup>103</sup> People's Action. "A National Homes Guarantee: Briefing Book." Homes Guarantee, September 5, 2019. [https://homesguarantee.com/wp-content/uploads/Homes-Guarantee\\_-\\_Briefing-Book.pdf](https://homesguarantee.com/wp-content/uploads/Homes-Guarantee_-_Briefing-Book.pdf).

seems unrealistic given current circumstances, I believe it is at the level necessary to address the problems I have explained throughout this report, and I would be remiss if I did not include what I believe is the proper solution to solve this ongoing crisis. In 2019, the budget for the Department of Housing and Urban Development (HUD) was \$52.7 billion, which is equal to 1.2% of the \$4.4 trillion federal budget.<sup>104</sup> Budgets are a reflection of priorities. Until our priorities change, problems with evictions, housing affordability, and homelessness will only get worse.

Given that our current political landscape has not shown interest in a solution as ambitious as the Homes Guarantee, there a number of solutions that could be implemented at the local level that could stem the tide of evictions. In the aftermath of the Covid-19 pandemic, The City of Memphis and Shelby County Governments formed a partnership with the University of Memphis School of Law, Neighborhood Preservation Inc., and Memphis Area Legal Services. The Eviction Settlement Program uses 2 million dollars of CARES Act funds and volunteer attorneys to negotiate rent settlements between landlords seeking an eviction and their tenants.<sup>105</sup> Tenants only qualify for the program if they are facing eviction as a result of the Covid-19 pandemic, but there is hope that the Program could remain in place after the pandemic is over.<sup>106</sup>

Going forward, Memphis should keep the Eviction Settlement Program in place, but extend it to all renters facing an eviction. Cities like New York, Cleveland, Newark, and San Francisco all provide renters facing an eviction a right to counsel in court proceedings.<sup>107</sup> Tenants with legal

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<sup>104</sup> U.S. Department of Housing and Urban Development. "Budget in Brief: Fiscal Year 2020." HUD, 2019.

<https://www.hud.gov/sites/dfiles/CFO/documents/HUD2020BudgetinBrief03072019Final.pdf>;

The Federal Budget in 2019: An Infographic. Congressional Budget Office, April 15, 2020.

<https://www.cbo.gov/publication/56324>.

<sup>105</sup> Garriss, "Eviction Settlement Program.;" Memphis Area Legal Services. "Eviction Settlement Program." MALS. Accessed December 3, 2020. <https://malsi.org/eviction-settlement-program/>.

<sup>106</sup> Ibid.

<sup>107</sup> McCabe, "Eviction in Washington, DC"

representation experience much better results in court.<sup>108</sup> In one study in Minneapolis, tenants were twice as likely to stay in their homes.<sup>109</sup> If tenants agreed to leave, they received twice as much time to move and were much less likely to have an eviction on their record. After their experience with eviction court, tenants were four times less likely to use homeless shelters.<sup>110</sup> Keeping the Eviction Settlement Program in place after the pandemic could make a major dent in the level of eviction filings and the eventual impact of an eviction notice. Additionally, Desmond (2020) notes that in states with greater barriers to eviction they occurred less often.<sup>111</sup> Currently, filing an FED warrant costs only \$150. General Sessions Court could add to these court costs by adding an additional fee to be used to fund the Eviction Settlement Program, which currently has no ongoing funding stream, and act as a financial deterrent for landlords filing an eviction.

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<sup>108</sup> The Justice in Government Project. "Key Studies and Data About How Legal Aid Improves Housing Outcomes." American University, July 3, 2020. <https://www.american.edu/spa/jpo/toolkit/upload/housing-7-30-19.pdf>.

<sup>109</sup> Grundman, Luke, and Muria Kruger. "Legal Representation in Evictions - Comparative Study." MinnPost, 2018. <https://www.minnpost.com/wp-content/uploads/2018/11/2018-Eviction-Representation-Results-Study-with-logos.pdf>.

<sup>110</sup> Ibid.

<sup>111</sup> Leung, "Serial Eviction Filing."

## Conclusion

The goal of this report was to begin to understand the contours of the eviction issue in Memphis. As documented in Section 2: Understanding Evictions and Their Impact, evictions come with a host of negative consequences, including homelessness, depression, and negative developmental outcomes for young children.<sup>112</sup> In Shelby County, just under 1 in 5 renting households will have an eviction filed against them annually. Over the four years covered in this report, 110,834 evictions were filed. Further research is needed to have a definitive answer on the ratio of evictions filed to evictions executed, but out of a random sampling of 2019 eviction filings, I found that Memphis had an eviction rate of 12.2%. If these calculations are accurate, more than 12 in 100 renter households are evicted annually, and Memphis would have the second highest eviction rate among large cities behind only North Charleston, South Carolina.<sup>113</sup> Sadly, this issue is even worse in certain Memphis communities. On average, 35% of renter households in 38116 and 33% of renter households in 38115 had an eviction filed against them annually. These numbers are profoundly troubling. In 38116, apartment complexes like, New Horizon and Winbranch Apartments, file for hundreds of evictions per year.

The research on evictions tells us that this exceedingly high degree of residential instability is crippling for individuals and communities. Unfortunately, this is part of a long and troubling history around exploitation and racial discrimination that begins with the founding of Shelby County and has continued to the present day. During the Covid-19 pandemic, the City of Memphis and Shelby County Governments, University of Memphis School of Law, Neighborhood Preservation Inc., and Memphis Area Legal Services formed a coalition to prevent evictions by

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<sup>112</sup> Hartman, "Hidden Housing Problem," 461-501.; Burt, "Homeless families," 737-780.; Cutts, "US housing insecurity and young children," 1508-1514.

<sup>113</sup> Eviction Lab. "Eviction Rankings."

offering rent assistance and legal aid to those affected by the pandemic. In the post-pandemic world, programs like this need to continue and be expanded to everyone facing an eviction. As I have documented in this report, evictions were a major issue in relatively stable economic times. During the pandemic, unemployment rates have skyrocketed, and millions of households are behind on their rent or mortgage payment.<sup>114</sup> Local leaders must adopt anti eviction and foreclosure policies and programs to enable families to stay in their homes and prevent outcomes similar to the 2008 crisis.

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<sup>114</sup> Tanzi, “Millions of Americans Expect to Lose Their Homes as Covid Rages.”; Falk, Gene, Paul Romero, Emma Nyhof, Isaac Nicchitta, and Jameson Carter. “Unemployment Rates During the COVID-19 Pandemic: In Brief.” Congressional Research Services, November 6, 2020. <https://fas.org/sgp/crs/misc/R46554.pdf>.

## Appendix

### Eviction Filing Rate by Zip Code 2016-2019

	2016		2017		2018		2019	
	Zip Code	Eviction Filing Rate	Zip Code	Eviction Filing Rate	Zip Code	Eviction Filing Rate	Zip Code	Eviction Filing Rate
1	38116	37%	38115	37%	38116	35%	38116	37%
2	38115	33%	38116	32%	38115	33%	38141	27%
3	38141	26%	38118	25%	38141	28%	38115	26%
4	38118	24%	38141	24%	38118	26%	38118	26%
5	38128	22%	38119	23%	38119	23%	38125	22%
6	38119	20%	38128	20%	38114	22%	38119	22%
7	38134	20%	38134	20%	38128	22%	38128	21%
8	38125	19%	38125	19%	38125	22%	38114	20%
9	38127	18%	38114	18%	38134	21%	38127	18%
10	38105	15%	38018	17%	38018	19%	38107	17%
11	38107	15%	38127	17%	38127	18%	38134	17%
12	38018	15%	38107	16%	38107	17%	38018	16%
13	38114	15%	38122	14%	38105	16%	38106	14%
14	38106	14%	38105	14%	38122	16%	38111	14%
15	38135	14%	38106	13%	38106	15%	38109	14%
16	38122	12%	38109	13%	38109	15%	38122	13%
17	38109	12%	38133	12%	38111	13%	38016	13%
18	38111	12%	38112	12%	38016	13%	38105	13%
19	38112	12%	38111	12%	38133	13%	38126	12%
20	38133	11%	38135	12%	38135	13%	38135	11%
21	38108	11%	38016	11%	38112	11%	38112	11%
22	38126	10%	38108	10%	38108	11%	38108	10%
23	38016	10%	38002	10%	38126	9%	38002	10%
24	38117	9%	38117	9%	38117	9%	38133	9%
25	38002	9%	38126	8%	38002	8%	38117	9%

<b>26</b>	38104	7%	38053	7%	38053	8%	38053	8%
<b>27</b>	38053	7%	38104	6%	38104	7%	38104	6%
<b>28</b>	38103	6%	38103	5%	38103	7%	38103	6%
<b>29</b>	38120	5%	38120	5%	38120	5%	38120	5%
<b>30</b>	38017	4%	38017	4%	38017	4%	38138	4%
<b>31</b>	38139	3%	38138	3%	38138	4%	38017	3%
<b>32</b>	38138	3%	38139	2%	38139	2%	38139	3%

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