

April 30, 2020

SENT VIA E-MAIL

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Honorable Noma D. Gurich
Chief Justice, Oklahoma Supreme Court
2100 North Lincoln Blvd., Suite 1
Oklahoma City, OK 73105

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Honorable J. Kevin Stitt
Governor, State of Oklahoma
Oklahoma State Capitol
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Dear Chief Justice Gurich and Governor Stitt,

With the impending reopening of the Oklahoma economy on May 1, 2020, and the Oklahoma Supreme Court's April 29, 2020 Third Emergency Joint Order Regarding the COVID-19 State of Disaster, SCAD 2020-36, the American Civil Liberties Union (ACLU) and the ACLU of Oklahoma urge each of you to exercise your respective authority to immediately issue a statewide moratorium on evictions and utility shut-offs in Oklahoma and commit to prevention of mass evictions after the Courts resume civil proceedings on May 15, 2020.

Across the nation, the COVID-19 pandemic has already resulted in widespread and devastating economic consequences, as the number of unemployment claims filed has reached over 30 million. In Oklahoma, for the first two weeks in April, initial first-time unemployment claims were up 800% -- over 100,000 Oklahomans. In the face of staggering unemployment numbers and climbing medical costs, millions of people living in the United States—and 1,270,040 renters living in Oklahoma—face the imminent threat of losing their homes or access to utility service. These consequences risk further spread of COVID-19 throughout Oklahoma and undermine efforts to protect public health and well-being. Moreover, the nearly guaranteed wave of evictions and utility shut-offs would inflict far-reaching and significant economic and social harm on thousands of Oklahoma's residents -- particularly on women, people of color, low-income residents, and other vulnerable communities.

It is critical that Oklahoma immediately implement the following measures:

- A. Suspending of the Initiation of Evictions
 1. Prohibiting any and all notices to quit.
 2. Prohibiting filing of evictions for nonpayment of rent.



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3. Prohibiting filing of evictions for tenants who have experienced financial hardship due to the pandemic.
4. Prohibiting filing of evictions for non-emergency reasons.

B. Modifying the Judicial Process for Eviction Hearings

1. Suspending eviction hearings to a date certain.
2. Extending or tolling deadlines.
3. Staying the collection and enforcement of judgments and eviction orders.
4. Sealing eviction records.

C. Suspending Enforcement of Eviction Orders

1. Prohibiting removal of a tenant who has had a COVID-19 hardship.
2. Prohibiting removal of a tenant for nonpayment.
3. Prohibiting removal of a tenant from homes to enforce non-emergency eviction orders.

D. Providing Short-Term Supports

1. Extending the moratorium 45 days beyond the State of Emergency.
2. Requiring utilities to suspend service shutoffs of utilities.
3. Giving Oklahomans a grace period to pay rental debt that accrued during the pandemic.
4. Prohibiting landlords from reporting missed or late rent payments to credit agencies.

E. Tenancy Preservation Measures

1. Prohibiting landlords from assessing late fees.
2. Prohibiting landlords from raising rent when renewing leases during the pandemic.
3. Prohibiting landlords from disconnecting utilities or changing account names on utility accounts.
4. Providing legal counsel to tenants who face eviction.



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Evictions and Utility Shut-Offs Will Disproportionately Harm Communities of Color—And Particularly Women of Color.

The ACLU’s Data Analytics team analyzed national eviction data from 2012 to 2016, provided by the Eviction Lab at Princeton University, and found that on average, Black renters had evictions filed against them by landlords at nearly twice the rate of white renters.¹ Women of color, and particularly Black women, bear the burden of eviction.² The harmful impact of eviction is further compounded by other racial, gender, and socioeconomic barriers—such as wealth gaps, pay disparities, and inequities in our healthcare system.

Critically, the aftermath of an eviction persists for decades, as tenants with prior eviction records face major obstacles to accessing future housing opportunities. Landlords routinely employ screening policies that deny housing to any renter previously named in an eviction case, regardless of whether the case was dismissed, occurred many years ago, or was filed on unlawful grounds.³ As a result, eviction often exacerbates and reproduces conditions of economic insecurity for low-income women and communities of color.

Additionally, the National Survey by the Eviction Lab ranked Tulsa and Oklahoma City as cities with the 11th and 20th highest eviction rates based on 2016 data.⁴

Utility shut offs also disproportionately harm communities of color. A 2017 report by the NAACP found that Black households experience utility disconnections at a higher rate than financially similar white households. For households at or below 150% of the federal poverty level, only 5.5% of white-headed households experienced shutoffs as compared to 11.3% of Black-headed households.⁵ Similarly, another study revealed that residents in predominantly minority neighborhoods faced 27% higher energy cost burdens than those in predominantly white neighborhoods.⁶ Research further

¹ Sophie Beiers et al., *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color* (Jan. 10, 2020), <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/>.

² Matthew Desmond, *Poor Black Women Evicted at Alarming Rates, Setting Off a Chain of Hardship* (Mar. 2014), https://www.macfound.org/media/files/HHM_-_Poor_Black_Women_Are_Evicted_at_Alarming_Rates.pdf.

³ Sandra Park, *Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women* (Mar. 30, 2017), <https://www.aclu.org/blog/womens-rights/violence-against-women/unfair-eviction-screening-policies-are-disproportionately>.

⁴ Steve Lackmeyer, *Flood of evictions expected to hit Oklahoma*, *The Oklahoman* (April 19, 2020) <https://oklahoman.com/article/5660461/flood-of-evictions-expected-to-hit-oklahoma>.

⁵ NAACP, *Lights Out in the Cold: Reforming Utility Shut-Off Policies as if Human Rights Matter* (Mar. 2017), https://www.naacp.org/wp-content/uploads/2017/12/Lights-Out-in-the-Cold_NAACP.pdf.

⁶ Kyle Miller, *The Hidden Cost in Housing Affordability* (Feb. 20, 2020), <https://www.planning.org/blog/9195636/hidden-cost-in-housing-affordability/>.

shows that Black communities disproportionately experience higher water costs, water service terminations, and water liens, resulting in negative health and economic outcomes.⁷

Oklahoma Must Issue a Comprehensive Moratorium on Evictions and Utility Shut-Offs That Will Also Prevent Mass Evictions After the Moratorium ends.

In light of the widespread and devastating impact of eviction during the pandemic, we urge Oklahoma to immediately issue a comprehensive moratorium on evictions and utility shut offs throughout the entire state. In doing so, Oklahoma must implement a moratorium that prohibits every stage of the eviction process and without exceptions for types of tenants or lease violations. It must also plan ahead for when the moratorium ends to prevent mass evictions and other enduring housing consequences for tenants hurt by the pandemic.

Oklahoma's Moratorium Must Halt Every Stage of the Eviction Process.

An effective eviction moratorium must prohibit landlords and housing providers from proceeding with any stage of the Oklahoma eviction process, including, but not limited to: (1) formal or informal issuance of eviction notices; (2) service of legal process in eviction actions; (3) filing of new eviction cases; (4) eviction hearings; and (5) enforcing orders of eviction, including orders that were issued prior to the date that the moratorium went into effect.⁸ Moreover, the moratorium should extend or toll all court deadlines for pending eviction proceedings for at least 30 days after the moratorium is lifted. Absent a clear and comprehensive moratorium, tenants still face a heightened risk of losing their homes or sustaining an eviction filing record that may unjustly act as a barrier to housing in the future.

Oklahoma's Moratorium Must Continue to Prevent Evictions During and Shortly After the Pandemic, with Extensions.

The federal government, through the CARES Act, has implemented a 120 day moratorium on evictions from certain buildings that are secured by federally backed mortgages. The 120 day moratorium began on March 27, 2020. Given the ongoing and unpredictable nature of the COVID-19 pandemic, the Oklahoma moratorium on evictions should be generally coextensive with the federal moratorium and conclude on July 31, 2020.



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⁷ The Thurgood Marshall Institute at the NAACP Legal Defense and Educational Fund, Inc., *Water/Color: A Study of Race & the Water Affordability Crisis in America's Cities* (May 2019), https://www.naacpldf.org/wp-content/uploads/Water_Report_Executive-Summary_5_21_19_FINAL-V2.pdf.

⁸ National Housing Law Project, *Protecting Renter and Homeowner Rights During Our National Health Crisis*, <https://www.nhlp.org/campaign/protecting-renter-and-homeowner-rights-during-our-national-health-crisis-2/>.

Moreover, an effective eviction moratorium should allow for extensions as necessary to allow tenants reasonable time to apply for and receive financial resources and assistance following the conclusion of the pandemic. The moratorium should also guarantee that landlords and housing providers give at least 30 days' notice to evict a tenant upon expiration of the moratorium period.⁹

Oklahoma's Moratorium Should Apply to All Types of Tenants and Lease Violations.

In light of the ongoing public health crisis and its economic consequences, all residents—regardless of their circumstances or background—must have access to safe and stable housing throughout the course of the COVID-19 pandemic. Given the extraordinary circumstances that Oklahoma residents are facing, an effective eviction moratorium should not be limited to evictions for non-payment of rent. Rather, the moratorium must prohibit all evictions, regardless of the type of tenant or lease violation. Any exception to an eviction moratorium should be narrowly tailored to circumstances in which an individual's tenancy poses a serious and imminent health of safety threat that cannot be reduced or eliminated except by eviction.

The Moratorium Should Prohibit the Collection of Late Fees and Protect Tenants Who Assert Rights Provided by the Moratorium.

The moratorium should prohibit landlords from imposing fees or fines associated with the late payment of rent due during the period of the moratorium, which can often be considerable. Additionally, Oklahoma should prohibit landlords from retaliating against tenants who seek protections under the moratorium.

Oklahoma Must Issue a Moratorium Against Utility Shut-Offs Without Exception.

In addition to issuing a comprehensive eviction moratorium, Oklahoma should protect its residents' access to critical utility services by prohibiting utility shut offs or disconnections for the duration of the pandemic. While Oklahoma City and Tulsa have suspended utility disconnections, Oklahoma must issue a statewide moratorium through September 1, 2020, to ensure protections for its four million residents. Moreover, Oklahoma should commit to restoring previously disconnected utility services for residents without water or other services.

Oklahoma Must Also Prevent Mass Evictions After the Moratorium Ends.



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⁹ See, e.g., Coronavirus Aid, Relief, and Economic Security Act (CARES Act), § 4024.



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The issuance of a moratorium will play an important role in mitigating the public health and economic impact of the pandemic. In addition to containing further spread of COVID-19 by ensuring residents can comply with stay-at-home orders, a moratorium will prevent the harmful aftermath of eviction, such as medical and mental health issues, financial hardship, and homelessness.¹⁰ However, permitting mass evictions to take place the moment the moratorium lifts will similarly cause huge upheavals in local communities, harm public health, and threaten families. For that reason, Oklahoma should commit to adopting policies that would prevent mass evictions once the moratorium ends. Key policies should include requiring landlords to negotiate payment plans prior to the filing of eviction cases, creating renters' relief funds to cover back rent, providing renters with a grace period of at least 45 days to pay rent, establishing right to free legal counsel to tenants facing eviction, and exploring other creative strategies for addressing this unprecedented threat to community stability. Such policies should provide meaningful mechanisms to ensure compliance by landlords and housing providers. For example, Oklahoma officials should issue guidance for housing courts to require landlords and housing providers to show that they have engaged in good faith negotiation of payment plans prior to filing for eviction.

We realize that many landlords and property owners have also been hit hard by the pandemic. We are also encouraging state and federal leaders to consider them in direct relief efforts to help alleviate the necessity of eviction by landlords, many of whom are also struggling to make ends meet at the moment.

Oklahoma Should Also Protect Tenants from Blacklisting Because They Face Eviction After the Moratorium Ends.

The mere filing of an eviction—even where an eviction judgment is not entered—deprives tenants of housing opportunities, because landlords often will not rent to anyone who has been subject to an eviction case. This type of blacklisting is devastating, locking out families from better housing, schools, and employment for decades. Oklahoma must ensure that any evictions filed during this period do not impede tenants' opportunities for the rest of their lives by preventing consideration of evictions filed during this crisis period. Moreover, Oklahoma should prohibit landlords and housing providers from reporting missing or late rental payments to credit agencies or debt collection agencies to avoid future economic hardship following the pandemic.

¹⁰ Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, Oxford: Social Problems Advance Access 1–12 (Jan. 11, 2016), <http://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>; see also Allison Bovell-Ammo & Megan Sandel, *The Hidden Health Crisis of Eviction*, Boston Univ. School of Public Health (Oct. 5, 2018), <https://www.bu.edu/sph/2018/10/05/the-hidden-health-crisis-of-eviction/>.

With the first of the month rapidly approaching, it is critical that Oklahoma act quickly to protect its residents against eviction and utility shut offs. Oklahoma's actions will provide the certainty and stability that residents need to ensure that no one is at immediate risk of losing their homes while we work to find longer-term solutions to handling unpaid rent, providing economic and financial support, and ensuring access to stable housing in the aftermath of the COVID-19 pandemic.

We encourage Oklahoma to act quickly in addressing the critical issues facing the residents of Oklahoma. If you have any questions or concerns, please contact ACLU of Oklahoma Interim Legal Director Michael Redman at (918) 740-4084. Thank you in advance for your time.



Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Kiesel".

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cc: Michael Junk