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PRESERVING HABITABILITY: EXAMINING TENANT PROTECTIONS AND POLICY ALTERNATIVES



OVERVIEW

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2. Causes of Eviction Crisis
 - a. Eviction Court Proceedings
 - b. Out-of-State Hedge Fund Landlords
 - c. Enforcement of Habitability Statutes
3. Policy Recommendations
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INTRODUCTION

The University of Notre Dame Student Policy Network is a student-run organization offering undergraduates the opportunity to engage in public policy research in real-world settings.



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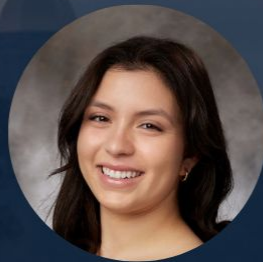
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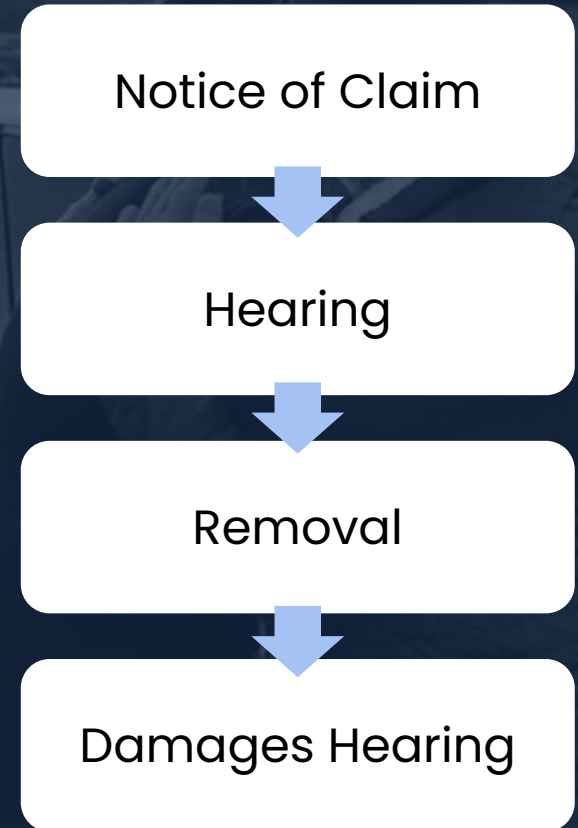
CAUSES OF EVICTION CRISIS

Eviction Court Proceedings

- Breakdown:
 - Eviction Process
 - Eviction Demographics
 - Comparison with ABA Eviction Guidelines

Eviction Process: Overview

- Filing of Claim in Small Claims Court
 - General reasons for Eviction:
 - Most cases are for nonpayment, average back rent owed of over \$3,000 over 3.2 months
 - Jurisdictional limit: \$10,000
- For nonpayment of rent, **notice to cure or quit is 10 days**
- Can be expedited by filing in Superior Court - harder to navigate for tenants



Eviction Process: Hearing & Judgement

“Tenants cannot present sufficient defenses within the constrained time frame, worsened by a **lack of clarity regarding the nature and purpose of the hearing** to begin with.”

- Defendants must attend to avoid default judgement
- Average of **only 49% of tenant make appearances.**
- 1% of tenants have representation, **landlords represented 71% of the time.**
- Median eviction trial length: **4 minutes.**
- Most often, landlords awarded immediate possession regardless of initial request – tenants have **2 weeks to vacate**

Eviction Process: Post Eviction

Damages Hearing

- Separate hearing occurring 30-45 days after the residence has been vacated
- 25% of cases resulted in damages totaling over \$723,000 – mainly from court and attorney fees

Emergency Possessory Orders

- Reasons for EPO: tenant is committing waste or has threatened to commit waste to the property
- Emergency hearing scheduled in less than **3 days**

Eviction Process: Takeaways

- Indiana's Eviction process heavily favors landlords and presents systemic challenges for tenants, including:
 - Vague eviction notices.
 - Limited legal representation.
 - Swift possession orders.
- **Reform is necessary** to protect tenants' rights and ensure just and fair outcomes.

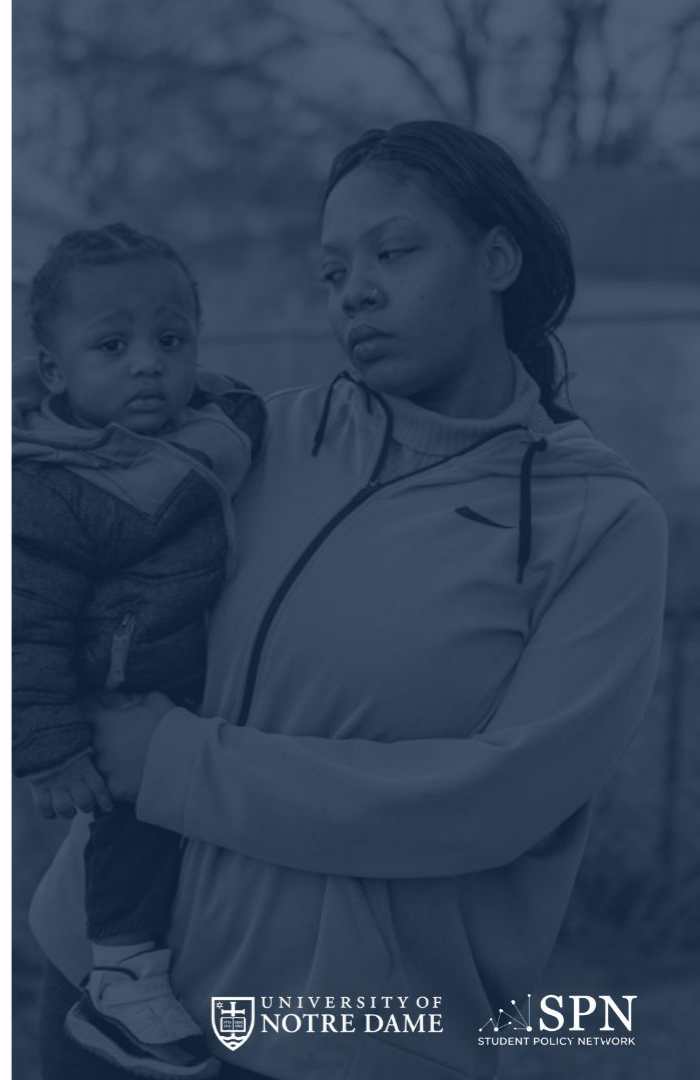
Insights from St. Joseph County

- Population: Approximately 273,000 residents; 13% are renters.
- Median household income: \$61,877 vs. per capita income: \$34,266
- Predominate demographics:
 - 70% White
 - 14% Black
 - 10% Hispanic
- Poverty rate: around 14%



Insights from St. Joseph County (Continued)

- County eviction rates vary by zip code:
 - 46628
 - Notably minority-concentrated
 - Highest filings at 131 out of 651
 - 46545
 - Slightly wealthier and fewer minorities
 - 81 filings
- Rent burden: Over a quarter of renters spend more than 30% of income on housing costs.



Systemic Biases and Demographic Factors

- Regression analysis by Fox and Wines shows significant relationships between eviction rates and demographics.
- Factors:
 - Black tenants
 - Households led by single mothers with children
- Urgent need for targeted interventions to address housing inequalities.

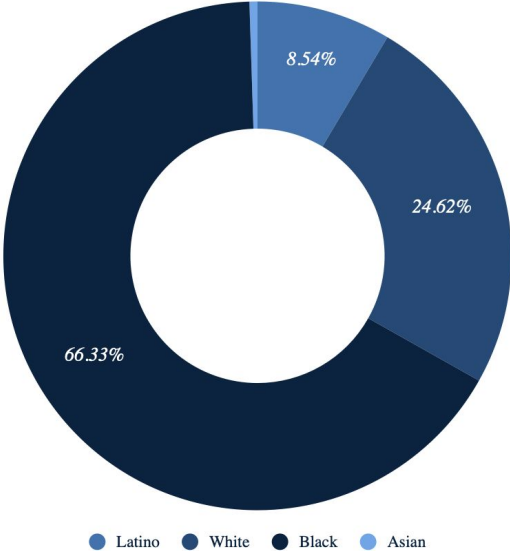
Racial Disparities and Lasting Impact

- Eviction records create a stigma similar to a "Scarlet E," hindering housing prospects.
- Indiana law permits sealing certain eviction records under specific conditions.
- Despite legal provisions, many tenants remain unaware of their rights, perpetuating housing instability.

Eviction Demographics in Marion and Hamilton Counties

Percentage of Evictions by Race

Based on Court Watching Data from Marion County and Hamilton County, Indiana



Total number of documented trials by GIMA program:

311 eviction trials, 199 had race known

Combined total of evictions by race:

Black: 66.33%

White: 24.62%

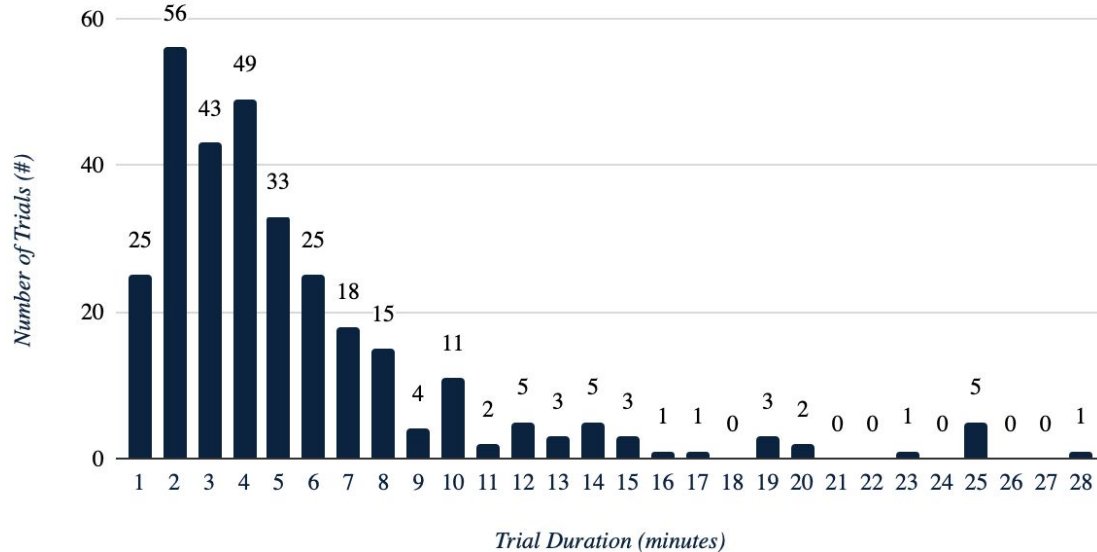
Latino: 8.54%

Asian: 0.51%

Trial Statistics

Trial Duration (minutes) vs. Number of Trials (#)

Based on Court Watching Data from Marion County and Hamilton County, Indiana



Average Length of Trial:

5.50 minutes average
based evaluated over
311 trials

Median Length of Trial:

4 minutes

Minimum and

Maximum Values:

1 minute and 28 minutes

Comparison with ABA Eviction Guidelines

1. "Tenants should receive reasonable notice and an opportunity to cure before facing eviction for a lease violation."

Indiana Law Fails

2. "An eviction court should have emergency procedures for tenants who are locked out or otherwise extrajudicially evicted from their homes."

Indiana Law Fails

Comparison with ABA Eviction Guidelines

6. “No tenant should face eviction without access to full, quality representation by an attorney.”

Indiana Law Fails

8. “A tenant should have the right to appeal an eviction judgment and without unreasonable bond requirements.”

Indiana Law Could Do Better

Out-of-State Hedge Fund Landlords

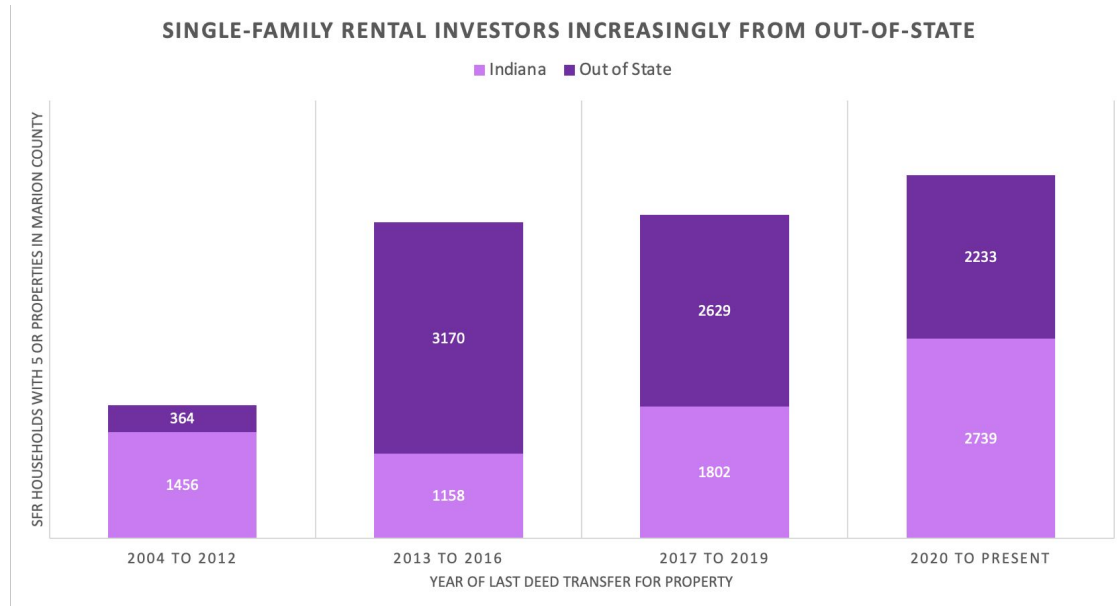
Breakdown

- Investment in Rental Properties
- Habitability Issues
- Legislation and Special Interest Groups

Investment in Rental Properties

Indiana is on track for:

- Over **30%** of all residential property purchases to be by out-of-state investors
- **\$15 to \$20 million** in rent payments leaving Indiana each month



Investment in Rental Properties

Major Players

- Aion Partners
 - Based in New York
 - Eviction rates ranging from 14.4% to 35.7%
- Covenant Capital Group
 - Based in Nashville
 - Eviction rates ranging from 6.5% to over 29%

Average Eviction rate in Indiana: **9%**



Habitability Issues

- Biggest injustices inflicted by out of state hedge fund companies & their investors = failure to ensure habitability
- What are the housing options?
 - Substandard housing that is extremely **aged**
 - $\frac{1}{3}$ constructed before 1970
- Lack of attention to property upkeep by corporate, outside investors
 - Regulations are weak and rarely enforced
 - Property owners never made the necessary repairs

Legislation and Special Interest Groups

- The **Indiana Apartment Association**
 - A powerful interest group that represents the largest landlords across state
 - Including out-of-state companies with high eviction rates
 - Directly opposed habitability bill: SB277
 - Indiana Multi-Family Housing PAC
 - \$1 Million Donation to landlord friendly agendas
 - Donations to candidates who eventually served on Senate Judiciary Committee
 - Blocked escrow bill: SB 202

Enforcement of Habitability Issues

- Landlord Responsibility
 - Provide sanitary systems, electrical systems, compliance with all housing and health codes, and plumbing systems (Indiana Code 32-31-8-5)
- Tenant Responsibility
 - Comply with health and housing codes and not damage the unit

Barriers to Enforcement

- 1. Cost of legal proceedings:** If a landlord fails to take action, a tenant must sue them to improve habitability.
- 2. Lack of legal withholding of rent:** Indiana requires tenants to pay rent, even when landlords fail to uphold rental agreements
- 3. Legal failure to enforce implied warranty of habitability**

Responses to Code Violations

- The Marion County Public Health Department
 - Enforces housing codes in Indianapolis and Marion County
 - Does not have jurisdiction under the Unsafe Building Law
 - Only have authority over a citizen's health not over vacant buildings
 - Will be forced to drop cases (in 2021, 126 cases were dropped)



POLICY RECOMMENDATIONS

Slowing Down Eviction Courts

- Procedural Reforms
 - Mandate minimum duration from notice issuance to hearing
 - First hearing: information-only
 - Reduce strain on courts
 - Ensure that cases have legitimate defenses
 - Ensure tenants understand their rights or prepare to vacate

“Tenants are served summons with an **unjustifiably short notice period**, leaving them **insufficient time to adequately prepare defenses or even appear in court**”

Slowing Down Eviction Courts

- Judicial Reform
 - Judicial Education initiatives - as eviction laws change
 - Court Watching Task Force - survey and hold courts accountable
- Shift court culture away from notion that **tenants face insurmountable odds and are destined for eviction.**
- Post-Eviction Reforms
 - Require bonds posted by landlords for immediate possession
 - Delay final possession - give tenants more opportunity to seek legal representation or to leave the residence

Good Cause Eviction Legislation

- Prevents landlords from evicting tenants without “good cause”
 - ABA: “a serious or repeated violation of material terms of the lease”
 - Can include: non-payment of rent, violation of lease terms, creation of a nuisance, and an owner’s intent to occupy a unit
- Without good cause legislation:
 - Renters and their families **lack the basic security of tenure**
 - Can enable a discriminatory, retaliatory, or otherwise illegitimate motive for terminating a lease easily **concealed behind a “no cause” eviction**

Good Cause Eviction Legislation

- Indiana law **does not** provide renters “**good cause**” protection on month-to-month or expiring term leases.
 - These renters can be evicted without cause within **30 days**.
- We believe tenants would benefit if lease termination was limited to circumstances where **good cause** exists
- Good Cause Legislation usually has **three core components**:
 - 1) The definition of the legal grounds for eviction
 - 2) The placing of limits on rent increases
 - 3) Enhancement of written notice requirements

Empower Tenant Unions

- Imbalance of power in tenant-landlord relationships
 - Housing supply and demand in Indiana causes housing wage (\$15.60) to exceed minimum wage (\$7.25)
- Kansas City Tenant Union (KC Tenants)
 - 10,000+ members, won \$1,000,000+ of city funding
 - In similar landscape to Indianapolis, **KC Tenants successfully advocated for legal representation for tenants** in eviction courts

Empower Tenant Unions

1. Adopt a **Wagner Act** for tenant unions
 - a. Successful for labor in 1935
 - b. Goals: create standard of negotiation between landlords and tenants and clearly establish the right to organize
2. Create a **Housing Disputes Resolution Board**
 - a. Goals: assists in negotiations between landlords and tenants
 - b. Provides a “residential monitor” to ensure compliance with laws and regulations

Public Housing Funding

- **Underfunding** of Low-Income Public **Housing**
 - Budget cuts have led to deterioration of infrastructure
 - 17% of total budget to Low-Income Public Housing
 - Substandard living conditions
 - Vacant housing properties
 - 37% vacancy in South Bend, IN
 - Over 700 names on HASB waiting list

Public Housing Funding

- Short Term Recommendations
 - The state must establish partnerships between PHAs, local governments, IHCD, HUD
 - Collaborative creation of IHCD committee
 - Responsibilities:
 - Reevaluate budget allocations
 - Create repair/renovation standards
 - Establish & oversee the **Index for Property Repair Priority**
 - To measure urgency of repair in PHA properties

Public Housing Funding

- Long Term Recommendations
 - Standardize Implementation of Rental Assistance Demonstration (RAD) across national Public Housing Associations (PHAs)
 - Not every PHA community has been accepted into this program
 - Only 5 Indiana Acceptances
 - Unequal access to federal resource
 - State political leaders must begin this national conversation

Conclusion

Causes of Eviction Crisis

- Eviction Court Proceedings
- Out-of-State Hedge Fund Landlords
- Enforcement of Habitability Statutes

Policy Recommendations

1. Slow down court proceedings
2. Adopt “good cause” eviction legislation
3. Empower tenant unions
4. Improve low income housing funding



Thank you

questions?

Link to Full Report

