

# Five Key Aspects for Court Co-Located Residential Eviction Diversion Programs



A resource from the  
Pandemic Rapid Response Team  
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*This resource is a companion reference to the [Eviction resources](#) hosted on the [NCSC.org](#) website, the [Promising practices](#) shared by the U.S. Department of Treasury, the American Bar Association's (ABA) [Designing for Housing Stability: Best Practices for Court-Based and Court-Adjacent Eviction Prevention and/or Diversion Programs](#), and the [Eviction Innovations](#) website maintained by Stanford Law School's Legal Design Lab.*

**What:** A court co-located eviction prevention/diversion program is facilitated by the local court and engages legal aid and other local stakeholders to help landlords and tenants explore alternative outcomes of mutual interest and benefit. It recognizes that more can be possible when everyone's voice is part of the conversation.

**How:** In design and function, it shares several successful traits with the judiciary's more familiar problem-solving and alternative dispute resolution programs. This seems like a natural progression since shelter is a basic human need and the mere threat of a disruptive life event like eviction can severely send a household's emotional and economic well-being downward.<sup>1, 2</sup> Even when the outcome is an agreed-upon move-out, eviction diversion programs can navigate the way for a soft landing planned with dignity.<sup>3</sup>

These programs also proactively remedy a regular frustration of housing court judges: unprepared litigants. Just as many self-represented residential tenants struggle to access the resources and information necessary to make an informed legal decision, many residential landlords are also unaware of resources that have the potential to help the parties find common ground and mitigate the landlord's financial harm.

**LAYER 1:** Clear mission that prioritizes holistic goals

**LAYER 2:** Community partnerships and cross-sector stakeholder collaborations

**LAYER 3:** Targeted, multi-pronged and ongoing outreach and communications

**LAYER 4:** Accessibility

**LAYER 5:** Measures, review, refine, and share

Other positives follow. Integrating the legal services, housing services, and court events creates a seamless process for clients. Non-judicial partners avoid duplicating each other's services. And court appearance rates often improve. A HUD eviction diversion case study reported that "the [eviction diversion] program has increased attendance at eviction hearings by up to 50 percent because tenants and landlords now have an additional mechanism to negotiate and find resources to help resolve the emergency."<sup>4</sup>

This white paper identifies five key program layers for when courts revisit and refine their approaches for nonpayment residential eviction cases.

### **LAYER 1: Clear mission that prioritizes holistic goals**

A clearly framed mission will guide the collaborative program's needed services, resources, and processes. It will chart *who* needs to be part of the planning and can help avoid good-faith misunderstandings among local collaborators and stakeholders. Recognizing that stakeholders can have multiple success metrics, the ABA identified seven in *Designing for Housing Stability: Best Practices for Court-Based and Court-Adjacent Eviction Prevention and/or Diversion Programs*:

- ✓ Tenant avoids homelessness.
- ✓ Tenant remains housed in their unit.
- ✓ Tenant and landlord reach a settlement agreement.
- ✓ Parties receive access to services they might not have otherwise used.
- ✓ Tenant or landlord have increased ability to navigate the court system.
- ✓ Eviction has not been re-filed or re-opened.
- ✓ Tenant and landlord have the chance to be heard by one another.<sup>5</sup>

Other wins are also possible. The Grand Rapids (Michigan) eviction prevention pilot program's "overarching goal was to head off needless dislocation and credit damage in cases where eviction could be avoided." Stakeholders also wanted to leverage existing resources and funding streams that are otherwise underutilized or not used in ideal ways.<sup>6</sup>

In 2019, a nonprofit in neighboring Kalamazoo shared with the U.S. Department of Health & Human Services how their eviction diversion program proved to be a positive upstream solution:

- The costs of finding shelter and replacing lost belongings can be substantial for service agencies when someone is *already evicted*.
- It is well worth the assistance funds to get back rent up to date to *prevent* the short-circuiting of someone's life for a year as they try to reestablish their household.<sup>7</sup>

During a three-year program study, Grand Rapids realized other domino successes: Averting housing dislocation lessened the strain on the community emergency response system, and hundreds of minor children remained in familiar surroundings and avoided potential disruption to their schooling.<sup>8</sup>

Working backward is one way to approach mission setting and program development. Imagine that the program is being launched or will be celebrating its second anniversary. Program leaders are drafting the press release and accompanying FAQs. What will they want to celebrate? What community and funding-based questions should be answered? Planning backward by working from the aspirational press release and FAQs format has proven efficient and effective for many organizations. Even Amazon.<sup>9</sup>

## **LAYER 2: Community partnerships and cross-sector stakeholder collaborations**

Under an eviction prevention or diversion program, a dispute traditionally handled as a nonpayment breach of contract claim is instead approached with a holistic account of the parties' human, legal, and financial needs. This requires strategic community partnerships and cross-sector stakeholder collaborations. Like a three-legged stool, the ABA encourages courts to include:

- Supportive services, social work, and/or non-legal advocacy;
- Legal services, landlords' legal representatives, and/or mediation; and
- Government agencies, lenders, and/or funding bodies.<sup>10</sup>

The Urban Institute independently agrees that “partnerships between legal and social services that provide comprehensive programming realize greater success than single, intervention-focused programs.”<sup>11</sup>

### LAYER 3: Targeted, multi-pronged, and ongoing outreach and communications strategies

Unless a court has adopted a mandatory or opt-out diversion program, there are no guarantees that parties will know about the program or volunteer to participate. Even if a program is mandatory, high default rates and communication gaps can still prevent parties from fully accessing program resources. Lacking trust can be one of the barriers, explains the Urban Institute:

If tenants do not access resources through the local government and court system because they do not trust those resources, then the operationalization of those resources might need to be reconsidered so they can be used as intended.<sup>12</sup>

The landlords' trust also must be earned. At Michigan's 61st District Court diversion program, officials recognized early on that landlords did not want to register for the online payment system because they did not understand or trust the process. Ongoing landlord outreach was needed to overcome these perceptions and was key to the program's expansion.<sup>13</sup>

Success requires judges and court leaders to engage court users, build-in multiple on-ramps for assistance, and regularly contact local stakeholders to share information and seek constructive feedback. This is done through:

✓ **Informational flyers.** Enclosing a multilingual flyer with an eviction notice and court summons is required by many courts. English, Spanish, and Polish informational flyers are required by the Cook County (Illinois) Circuit Court.<sup>14</sup> English<sup>15</sup> and Spanish<sup>16</sup> flyers are required in Texas.<sup>17</sup> The flyer typically lists information about available legal and financial assistance and how to enroll in the program.

✓ **Inform users of rights and resources in a way that is not overwhelming.** The Boston Municipal Court (and other Massachusetts housing courts) has an easy-to-understand three-page information sheet that explains how parties can learn about their case, efile documents, access court navigators at court service centers, use Zoom, contact legal aid programs, and seek emergency rental and mortgage assistance.<sup>18</sup>

✓ **More than once, inform parties of the program and give them the chance to participate.** Together with receiving the informational flyer when a lawsuit is started, Texas parties learn about the Texas Eviction Diversion Program before the in-person or virtual start of any trial and, again, are asked whether they wish to participate.<sup>19</sup> Indiana judges have a similar obligation at the start of nonpayment hearings.<sup>20</sup>

✓ **Direct outreach by stakeholders to tenants before the court date.** Twice a week, Michigan's 61st District Court sends its scheduled hearing docket to its eviction prevention partners (The Salvation Army and the state department of health and human services) so non-court staff can contact the tenants before the hearings to explain processes and begin assistance enrollment.<sup>21</sup>

Tennessee's City of Memphis and Shelby County joint program includes a data-sharing relationship with the local court. Real-time access to the court's data gives local funding program administrators real-time information about neighborhoods with increased eviction activity and enables more targeted outreach to tenants and landlords.<sup>22</sup>

✓ **Counselors and mediators are available at the courthouse (or virtually) during hearing days.** Tenants and landlords are encouraged to reach out to program partners before the court hearing date. Understanding that this does not always happen, the programs also have counselors and mediators at the court (in-person or virtually) during hearing days.

✓ **Informational videos.** The Massachusetts Housing Court typically makes its "Call of the List" speech at the start of most summary process court sessions. Landlords and tenants learn about the court's processes and available resources. The captioned video (including different subtitled translations) is also [posted online](#).<sup>23</sup>

✓ **Meet people where they are.** Tenants who have had a bad past eviction experience are more likely to ignore the process the next time they receive court paperwork.<sup>24</sup> The National League of Cities encourages working with and sharing program messages "with trusted community influencers and community-based organizations such as a local radio or news station, food pantries, neighborhood associations or civic leagues, housing counseling offices or shelters," tenant associations, landlord associations, local colleges, and universities.<sup>25</sup>



Jurisdictions like Pinellas County, Florida have developed strong partnerships with organizations led by and trusted by people of color.<sup>26</sup> Outreach activities often include canvassing door-to-door and providing information at social and cultural establishments. Leaving information such as door hangers, mailers, or brochures with tenants to read later is a part of effective neighborhood canvassing.<sup>27</sup>

Grand Rapids, Michigan district judges and court and program staff have increased program awareness by attending meetings, presenting information, and answering program questions at community and rental property owner events.<sup>28</sup> During their outreach to landlords, stakeholders in neighboring Kalamazoo emphasize the benefits of avoiding costly eviction proceedings and keeping a good renter facing a temporary difficulty.<sup>29</sup> Texas officials have held statewide webinars, each attracting nearly 1,000 participants.<sup>30</sup>

✓ ***Include user-friendly, current information on the court website and improve SEO.*** Imagine that you have been served with an eviction notice, and you have no legal training or experience. You visit the public computer at the local library or pull out your smartphone to search the internet to learn more. Try this experiment. Using [Google](#), [Bing](#), [Yahoo](#), or [DuckDuckGo](#), enter your city name AND court AND eviction. What will you learn?

Recent research published by The Pew Charitable Trusts suggests that court websites rarely make the first page of the search results.<sup>31</sup> Parties may not know about the court's eviction or diversion program because the court has not added content to its website or is not improving the page's search engine optimization (SEO). Margaret Hagan from Stanford's Legal Design Lab gives a court-friendly explainer of how SEO works in NCSC's *Tiny Chat 55*.<sup>32</sup>

It's also important to have others test the court website. A website maintained to provide accurate and user-friendly information to court users is one of the Center for Court Innovation's measures of perceptions of fairness.<sup>33</sup> The University of Arizona James E. Rogers College of Law recently published a thorough usability and evaluation report of Utah's online dispute resolution platform.<sup>34</sup> The report helpfully details (so others can replicate) how to conduct user testing and learn whether users find the online information and explanations easy to (a) find, (b) understand, and (c) act on. The same technique can test the user friendliness of printed brochures, court forms, informational materials, and surveys.

✓ **Ensure consistent messaging among stakeholders and across social media accounts.** On top of recommending that websites have easily accessible content about eviction prevention programs, the National League of Cities recommends *consistent* messaging across all social media accounts.<sup>35</sup> Program stakeholders should also coordinate top-line messaging to create a clear and consistent message to the public about the program and its benefits.

#### LAYER 4: Accessibility

High-quality information and resources are important. But making that information accessible for all who need it is just as vital, reminds the Urban Institute in its April 2021 report.<sup>36</sup> Renters' inability to access clear information may be part of the reason tenants do not trust the courts to uphold their rights.<sup>37</sup> The National League of Cities agrees that there is a responsibility to "provide equitable and full access to eviction prevention resources [particularly] to marginalized populations, including Black, Indigenous and households of color, people with disabilities, people with limited English proficiency and immigrants."<sup>38</sup>

✓ **Non-English translations.** From the United States Census Bureau, courts can search and review the current data of the [types of languages spoken at home](#) in their communities.<sup>39</sup> This can guide the languages that guides, forms, online content, videos, and feedback surveys should be translated into.

✓ **Plain language.** When creating easy-to-understand content, it's important to remember that one out of seven adults living in the United States is functionally illiterate, and nearly one out of three can read and understand only common phrases.<sup>40</sup> The National Center for Education Statistics maintains helpful and searchable [literacy data](#) based on location.<sup>41</sup>

✓ **Readable font.** Plain and translated language can still be inaccessible, however, if the print is too small for reading. Millions of people in the United States have vision impairment because of uncorrected refractive error, and more experience vision impairment even after correction.<sup>42</sup> Font at least 12 points (or 16 pixels) is recommended by the U.S. Department of Health and Human Services.<sup>43</sup>

✓ **Infographics and formatting.** Infographics are a great complement to plain-language text because they combine pictures, colors, and content that draw in the eye. Infographics incorporate data and design to share information and present

complex information in a digestible format. All documents should be arranged to include enough negative space to allow for readability and to lessen eye strain.

✓ **Remote access.** Offering remote options for program services and resources can help expand the ability of litigants to get help without incurring additional costs and inconvenience. Leveraging remote technologies can also allow legal and social service partners to deliver high-volume services cost-effectively. That said, the digital divide persists, and it is important to offer alternatives for litigants who cannot access or effectively use remote technology, and to be mindful that litigants with disabilities may find technology solutions to be either a help or a hindrance.

## LAYER 5: Measures, review, refine, and share

The mission and goals identified while working through Layer 1 will shape how the integrated services' success and positive user experiences are defined, measured, and shared. Jurisdictions vary in what they choose to track, but the ability to measure, simplify, and change is key in dispute system design.<sup>44</sup> The data is separately helpful when applying for outside funding or sharing collaborative success stories with the public.<sup>45</sup>

In that spirit, it is a recommended best practice for courts to “form data-sharing partnerships with screened entities, governed by agreements to protect privacy and restrict redistribution of the data, to facilitate detailed local analysis of eviction locations and trends.”<sup>46</sup>

In terms of system inputs and outputs, programs may want to track measures such as website and hotline phone call activity, the number of filings, negotiated settlements, defaults, judgments, whether there was attorney representation, geographic and demographic details, what resources were provided to the tenant, and did a tenant later experience another eviction within a defined window. Program leaders must decide who collects and maintains the data, and how it's shared.<sup>47</sup>

For inspiration on measuring participant satisfaction, programs are encouraged to study the monthly results published by Canada's [Civil Resolution Tribunal](#),<sup>48</sup> Michigan Legal Help's [participant survey](#) (available in English and Spanish),<sup>49</sup> and the Salt Lake City Justice Court's [survey](#) (developed in collaboration with NCSC).<sup>50</sup> Surveys should also be available in non-English formats.<sup>51</sup>



*Quarterly* stakeholder meetings took place during Michigan’s 61st District Court three-year eviction diversion pilot to monitor the program, ask the tough questions, seek constructive feedback, and adjust the program as needed.<sup>52</sup> More frequent *monthly* video check-in calls were the routine for member cities of the National League of Cities and the Legal Design Lab’s Eviction Prevention Cohort.<sup>53</sup>

## Future benefits

Today’s challenges and tomorrow’s hopeful opportunities are best captured by the National League of Cities and Legal Design Lab in their shared highlights from the 2020 five-city pilot of the Eviction Prevention cohort:

[C]ities have begun to shift their framework from *mitigating* the impacts of evictions on families, to *preventing* evictions before they happen—taking a proactive, rather than reactive approach.<sup>54</sup>

Others agree.

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***“Over the longer term, we know that eviction diversion programs are most successful when they are comprehensive. \*\*\* Comprehensive eviction diversion programs not only prevent evictions, but they also reduce the large caseloads that are currently overwhelming court dockets.”***

Associate Attorney General Vanita Gupta, July 30, 2021<sup>55</sup>

## Endnotes

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- <sup>20</sup> Order Establishing Pre-Eviction Diversion Program. Indiana Supreme Court Case No. 21S-MS-422. October 22, 2021. <https://perma.cc/6HNF-9CY3> (“[T]he court shall a. advise the parties—at the first hearing or, in actions in progress prior to the effective date of this order, at the next hearing—of the availability of pre-eviction diversion resources, including emergency rental assistance and the benefits of seeking emergency rental assistance, the availability of legal assistance, and the availability of this Court’s free Landlord and Tenant Settlement Conference Program or any free local equivalent program, and b. ask the parties if they are interested in—or in the process of—pursuing rental assistance and/or participating in a settlement conference.”)
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