Housing Policy for Eviction Prevention During COVID-19

Local, State, and National Interventions

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Introduction

The COVID-19 pandemic has increased housing instability and put millions of renters at risk of displacement since stay-at-home orders began in the US in March 2020. As non-essential businesses were closed to prevent the spread of the virus, an economic recession hit the country. Unemployment reached highs not seen since the Great Depression, with a 14.7% unemployment rate or 23 million unemployed Americans.[1] Resulting widespread household income loss left many Americans renters facing eviction. Federal, state, and local actors rushed to expand and adapt existing policies and create new ones to prevent the additional public health disaster that would result from millions of Americans becoming homeless in the midst of a contagious and deadly airborne disease. This paper examines two housing policy measures – eviction moratoriums and emergency rental assistance (ERA) – taken to prevent evictions during COVID-19, exploring these policies at the federal, state, and local level. The paper uses the state of North Carolina, specifically Orange County, as a case study, examining Orange County's Emergency Housing Assistance (EHA) fund. Finally, this paper examines how the COVID-19 pandemic has highlighted the weaknesses of US affordable housing policy, and explores potential policy proposals for the future of housing in the US.

Methodology & Definitions

Information about eviction moratoria and emergency rental assistance funding were collected from federal and state legislative documents. Data on nationwide ERA programs and program evaluation was informed primarily by national housing policy research centers. North Carolina county-level eviction filing data was collected from the Carolina Tracker, a project out of the UNC Department of City and Regional Planning. This tool collected courts data on eviction case filings from 2016-2020. Data on the Orange County Emergency Housing Assistance fund was provided by the Orange County Housing and Community Development (HCD) department and covers 2020 only, aggregated by month. Qualitative data on the EHA fund was collected through primary sources publicly available on the Orange County website, and through three interviews with Orange County HCD staff Emila Sutton and Erika Brandt, conducted in July 2020, September 2020, and March 2021, plus subsequent email exchanges.

Due to the ongoing nature of the COVID-19 pandemic, data and legislation continue to be released throughout the development of this paper. Legislation details have been updated to reflect the most recent

[1] Unemployment rate rises to record high 14.7 percent in April 2020. (May 2020). Bureau of Labor Statistics. https://www.bls.gov/opub/ted/2020/unemployment-rate-rises-to-record-high-14-point-7-percent-in-april-2020.htm?view_full

status as of April 1, 2021. Quantitative data regarding North Carolina eviction filings and the Orange County EHA are current to the end of 2020.

The following federal legislation is addressed multiple times throughout this paper, and therefore defined below:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act: A $2.2 trillion economic stimulus bill signed into law by President Donald Trump on March 27, 2020. This bill contained major relief policies including individual $1,200 stimulus checks, extra unemployment insurance payments of $600 per week, and the creation of Paycheck Protection Program (PPP) loans. Relevant to this paper, the CARES Act also allocated money for emergency rental assistance and contained the first federal eviction moratorium.

The Centers for Disease Control and Prevention (CDC) Eviction Moratorium: The CDC first issued an eviction moratorium on September 4, 2020; this move was unprecedented. The moratorium has been regularly modified and extended throughout 2020 and as recently as April, 2021.

The Consolidated Appropriations Act, 2021: A $2.3 trillion spending bill signed into law by President Donald Trump on December 27, 2020. In addition to approving a second round of stimulus checks for $600, this bill extended the CDC eviction moratorium and created the Emergency Rental Assistance (ERA) program which allocated $25 billion to state and local governments.

The American Rescue Plan: A $1.9 trillion economic stimulus bill signed into law by President Joe Biden on March 11, 2021. This bill included a third individual stimulus check for $1400 and extra unemployment insurance payments of $300 per week. It also provided $21.6 billion in ERA funds. Because this bill was passed through budget reconciliation to avoid a filibuster, it could not include policy changes; therefore, an additional eviction moratorium was not included in this bill.

Part 1: Housing Policies During COVID-19

Eviction Moratoria

Eviction moratoria have been implemented at multiple levels during COVID-19, forming a layered patchwork of policies with differing timelines, regulations, and applicability. These differences have created gaps in renter protections. This section provides a list of federal eviction moratoria and North Carolina state eviction moratoria. While some jurisdictions in the US also had eviction moratoria at the local level, Orange County was not one of them. Another eviction prevention method during COVID-19 has been writing eviction moratoria into local emergency rental assistance funds; this practice is discussed in the ERA section of this paper.

Federal moratoria The first federal eviction moratorium was in the CARES Act. Section 4024 of the CARES Act included a non-payment eviction moratorium covering all properties that participated in federal assistance programs or were funded by a federally-backed mortgage loan. This included tenants with housing choice vouchers, tenants in Section 8 project-based properties, and tenants living in LIHTC properties. It also protected any tenants renting a house whose mortgage was owned by Fannie Mae or Freddie Mac, although it's questionable whether renters would know how their landlords financed their house.[2] Under the moratorium, landlords could also not charge late fees during the time period, although there were no rules about late fees accruing and being charged later. The CARES Act eviction regulations were weaker than

[2] CARES Act Eviction Moratorium. (April 7, 2020). Congressional Research Service. https://crsreports.congress.gov/product/pdf/IN/IN11320

legislators and tenant advocates had proposed – for example, H.R. 6379, the Workforce Emergency Response Act, was introduced to the House of Representatives in mid-March 2020 and included a full eviction moratorium for all renters for all reasons except serious criminal acts; this act did not pass.[3] It's estimated that the eviction protections in the CARES Act applied to 28% to 46% of rental units. The moratorium ended on July 24, 2020 and covered tenants could not be forced to vacate until 30 days after that.[4]

The second federal eviction moratorium was issued by the Center for Disease Control (CDC) on September 4, 2020 and has been extended multiple times since. This moratorium was preceded by an executive order by President Donald Trump on August 14, 2020 instructing the CDC to consider such a moratorium. The CDC has the authority to issue such an order under section 361 of the Public Health Service Act, which authorizes the Health and Human Services Secretary (delegating to the CDC Director) to take measures to prevent the entry and spread of communicable diseases from foreign countries into the US and between states and territories.[5]

The CDC moratorium requires each adult listed on a lease to provide their landlord with a declaration proving their eligibility. Eligibility requirements for renters are: (1) They have used their best efforts to attain all available government assistance, (2) They expected to earn no more than $99,000 in 2020, or received a stimulus check, (3) They have had a substantial income loss, loss of hours, a lay-off, or out-of-pocket medical expenses that make them unable to pay rent, (4) They are using their best efforts to make partial rent payments, (5) Eviction would render them homeless. This declaration could be found online. The most recent iteration of this order modified this requirement so that any written document could be substituted for the official declaration as long as it contained the same information, and one declaration can include all tenants. The CDC moratorium does not supersede any state, local, territorial, or tribal moratorium that provides the same or greater levels of protection, nor does it prevent those jurisdictions from implementing additional requirements.

There are several absent protections that would make such additional moratoria necessary. Importantly, under the CDC order, landlords are not required to make their tenants aware of the eviction moratorium or of the tenant eligibility requirements and declaration. The order also allows landlords to begin eviction proceedings as long as the actual removal of a tenant doesn't take place.[6] An eviction filing can show up on a tenant background check as public record, barring them from future housing opportunities. For these reasons, the CDC order has been widely criticized by housing advocates while also facing legal challenges by landlord groups.

Both the CARES Act and the CDC moratoria apply only to eviction for reasons of nonpayment of rent and related fees; tenants can still be evicted for other causes. While the CARES Act moratorium prevented the accumulation of late fees or interest, the CDC moratorium allowed this practice to continue. Table 1 shows the multiple iterations of federal eviction moratoria issued between March 2020 and April 2021.

[3] Workforce Emergency Response Act of 2020, H.R. 6379, 116th Cong. (March 2020). https://www.congress.gov/bill/116th-congress/house-bill/6379
[4] Federal Eviction Moratoriums in Response to the COVID-19 Pandemic. (March 30,2021). Congressional Research Service. https://crsreports.congress.gov/product/pdf/IN/IN11516
[5] HHS/CDC Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 Frequently Asked Questions. (2020). CDC. https://www.cdc.gov/coronavirus/2019-ncov/downloads/eviction-moratoria-order-faqs.pdf
[6] Ibid.

Table 1: Federal Eviction Moratoria

Name of Act	Issued By	Details	Date Issued	Dates Covered
CARES Act	President Donald Trump	Halts nonpayment evictions for renters in federally-funded properties	March 27, 2020	Mar 27-July 24, 2020 (+30 days)
Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19	CDC	Applies to all renters making less than $99,000. Renters must provide signed declaration of eligibility.	September 4, 2020	Sep 4-Dec 31, 2020
Consolidated Appropriations Act	President Donald Trump	Extends the CDC moratorium	December 27, 2020	Dec 31, 2020-Jan 31, 2021
Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19	CDC	Further extends the CDC moratorium	January 29, 2021	Jan 31-Mar 31, 2021
Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19	CDC	Further extends the CDC moratorium. Modifications: Renters do not need to submit a new declaration. The crime of "trespass" is not cause for eviction*. Renters who have been exposed to COVID-19 should not be evicted. Renters may use any written document in place of the Declaration.	March 28, 2021	Apr 1-June 30, 2021

*Because eviction for criminal reasons is allowed, landlords may attempt to accuse a tenant of criminal trespass for staying in their unit without paying rent. This modification attempts to prevent that practice.

State moratoria North Carolina has issued multiple eviction moratoria, starting with an order from the Chief Justice to halt eviction court proceedings. The first state executive order on eviction (EO 142) was issued three months before the CDC moratorium, meaning that while it was active it was the sole protection for renters who were either not covered by the CARES Act moratorium or who lost coverage when it expired. EO 142 lasted only three weeks, however, and was not renewed. Shortly after the CDC moratorium was issued in September 2020, a new state moratorium (EO 171) was released; this one was structured differently than the first and was focused on ratifying the CDC order, with minor additions. This order was a response to reports that the CDC order was being applied unevenly across courts; it was an attempt to create a process framework for more consistent application of the federal moratorium.[7]

Like the CDC order, EO 171 does not prevent the initiation of an eviction, but it does require landlords who want to take eviction action to first provide tenants with the CDC tenant eligibility declaration; landlords

[7] Atwood, P. (October 28, 2020). Gov. Cooper Issues Executive Order to Prevent Evictions. North Carlina Housing Coalition. https://nchousing.org/gov-cooper-issues-executive-order-to-prevent-evictions/

must prove they did this by providing a signed affidavit to the court. If a landlord receives a completed declaration from their tenant, they must submit it to the courts within five days. If the landlord still believes the tenant doesn't qualify for CDC protections despite the declaration, they may submit a written response explaining why. A court hearing will then decide whether the eviction action will proceed. These extra protections take some of the responsibility of tenant protections off of the tenants themselves.

Table 2 shows North Carolina state eviction moratoria issued between March 2020 and March 2021.

Table 2: N.C. Eviction Moratoria

Name of Act	Issued By	Details	Date Issued	Dates Covered
Order of the Chief Justice Emergency Directives 1 to 2	Chief Justice, NC Supreme Court	No new eviction court proceedings.	March 13, 2020 March 19, 2020	Mar 16-Apr 17, 2020
EO142	Governor Cooper	Halts initiating eviction proceedings for nonpayment; prevents late fees and interest; establishes 6-month period after June 20 to make "reasonable payment arrangements" for rent arrears.	May 30, 2020	May 30-June 20, 2020
EO171	Governor Cooper	Clarifies the protections of the CDC eviction moratorium. Adds that landlords must certify to the court that they've provided their tenant with the CDC Declaration form. Establishes court hearing for landlords who wish to challenge a tenant declaration.	October 28, 2020	Oct 30-Dec 31, 2020
EO184	Governor Cooper	Extends EO171	December 30, 2020	Dec 31, 2020-Jan 31, 2021
EO191	Governor Cooper	Further extends EO171	January 27, 2021	Jan 31-Mar 31, 2021
EO206	Governor Cooper	Further extends EO171	March 30, 2021	Mar 31-June 20, 2021

Eviction in North Carolina

Eviction laws vary by state. In North Carolina, an eviction is legally called a "summary ejectment". A tenant can be evicted for not paying rent, for remaining in a rental unit after the lease has ended, for breaking the conditions of a lease (bringing in a pet or unauthorized tenant, for example), or for criminal activity. Non-payment of rent is the most common. In cases of non-payment, a landlord is legally required to serve a tenant with a notice to pay rent and late fees within 10 days or else have their lease terminated and vacate.[8] If the tenant does not pay, the landlord can begin the eviction process. There are five main steps to an

[8] N.C. Gen. Stat. § 42-3 (2020).

eviction: (1) The landlord files a Complaint in Summary Ejectment, usually with a small claims court, to request the court order the tenant to leave. (2) The tenant is served with a court summons with the date and time of their hearing. (3) The eviction hearing takes place (4) The magistrate makes a judgement (5) The sheriff removes the tenant from the property and the landlord changes the locks. The tenant has ten days before this last step to make an appeal.

The Carolina Tracker received data from the North Carolina Administrative Office of the Courts for all reported civil cases, including eviction, over the last five years. The court data reflects the first stage of the eviction process outlined above: the filing of the Complaint in Summary Ejectment, called an "eviction filing" in this section. A tenant with an eviction filed against them will not necessarily be forced to leave their home, but they will have to go to court. The filing will also appear in background checks, becoming a serious obstacle to the tenant obtaining future housing as many landlords will deny tenants with an eviction record.[9] For this reason, an eviction filing is treated as a serious barrier to affordable housing and a marker of housing instability.

The court data shows a significant drop in eviction filings during COVID-19 compared to previous years. From March 2020 to the end of the year, there were 61,143 eviction filings across North Carolina. [10] In the same time period in 2019, there were 150,584 eviction filings. This is a 59% decrease. Figure 1 shows 2020 statewide eviction filings by month, compared to 2019 numbers. A substantial drop in eviction filings happened in April 2020, when the CARES Act and the NC Chief Justice's moratoria overlapped.

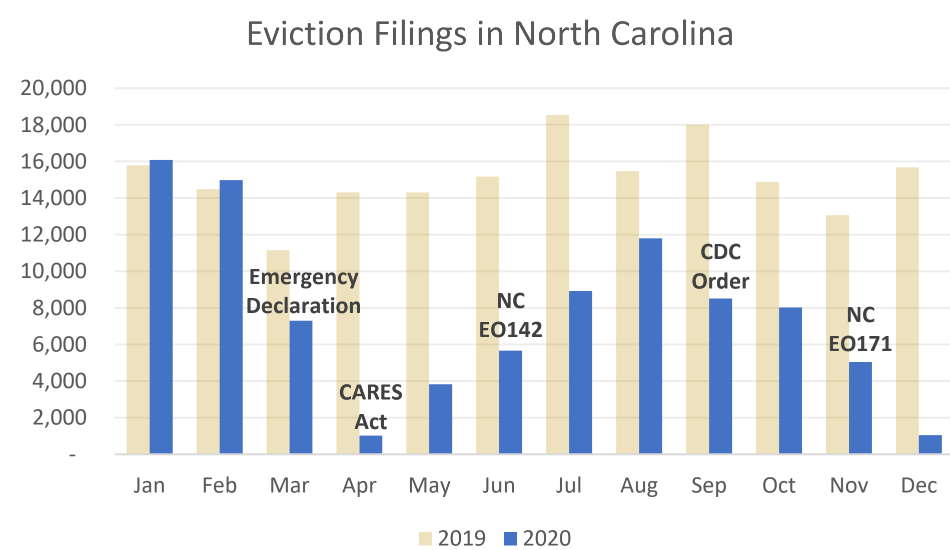

Fig. 1: Eviction Filings in North Carolina during COVID-19

Figure 1 also illustrated eviction moratoria events in relation to filings. Although the first state moratorium (EO 142) was active for the first three weeks in June, eviction filings increased that month. Looking at weekly numbers, filings did increase at the end of the month after the state moratorium expired on June 20; but this

[9] Ginger, K. (July 30, 2018). Eviction Filings Hurt Tenants, Even If They Win. Shelterforce. https://shelterforce.org/2018/07/30/eviction-filings-hurt-tenants-even-if-they-win/
[10] Department of City & Regional Planning (2020). Carolina Tracker: A Resource for Recovery. https://carolinatracker.unc.edu/, accessed on March 20, 2021, University of North Carolina at Chapel Hill, USA

trend of eviction filings increasing at the end of a month can be seen across all years of data and therefore can't be attributed to the expiration of the order. Renters were left vulnerable during a critical policy gap between June 20, when the state moratorium expired, and September 4, when the federal moratorium began. There is a visible increase in eviction filings during this time. From August 2020 to September 2020, filings decreased 28% coinciding with the CDC moratorium. In the second month of the CDC moratorium, however, eviction filings only dropped 6%. Importantly, with the addition of state EO 171's extra requirements for landlords in the beginning of November, eviction filings further dropped 37% after being stagnant for the two months of CDC-only protections. By December, filings were down to levels not seen since the beginning of the pandemic. This could be a strong indicator that an eviction moratorium that puts the onus on landlords to (1) inform their tenants of their rights and (2) disprove their tenants' eligibility (rather than tenants being required to prove their eligibility) was an effective tool in preventing evictions. The fact that eviction filings fell so much after landlords were required to prove that they were following CDC guidelines may also suggest that many were not.

The data suggests that eviction moratoria have helped prevent eviction, but the are other possible factors. Implications for a possible relationship to rental assistance programs is explored in the ERA section of this paper.

Eviction Moratorium Best Practices

The Eviction Lab at Princeton University, along with Columbia Law School Professor Emily Benfer, developed a policy scorecard to rate eviction prevention policies during COVID-19 on a state level. The scorecard takes five policy categories into account: (1) barring the initiation of evictions, (2) suspending or extending eviction court processes, (3) barring enforcement of an eviction order, (4) short-term supports for tenants, and (5) long-term tenancy preservation measures that protect renters after the pandemic.[11] North Carolina is one of 14 states that received a zero rating, due to its state eviction moratorium expiring and eviction filings continuing.

Across all states, the five general stages of eviction are (1) landlord issuing an eviction notice or notice to vacate, (2) landlord filing, serving, or otherwise initiating a judicial eviction lawsuit, (3) a court hearing, (4) a court ruling, and (5) physical eviction of the tenant by the sheriff. The National Housing Law Project (NHLP) has designed a model eviction moratorium act for states and local jurisdictions which focuses on stopping eviction at all five stages, for *any* reason except criminal activity.[12] Stopping just one phase does not protect tenants who have already passed that stage, and it does not protect tenants from any stage before it, either.[13] For example, halting only court hearings will not halt the eviction being filed, and a backlog of filings will still result in evictions after the moratoriums are lifted. As another example, halting eviction filings without halting eviction notices means that tenants who receive a notice may voluntarily choose to leave their housing in order to avoid eventually going to court; therefore a moratorium that doesn't halt even the first stage of eviction will be ineffective at keeping people in their homes. The CDC and North Carolina moratoria do not meet the standards of the NHLP model. Combined with widespread unawareness of the CDC moratorium due to a lack of landlord reporting requirements, many tenants may not realize that they

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[11] Alexander, A. et. al. (2020). COVID-19 Housing Policy Scorecard. Princeton University. https://evictionlab.org/covid-policy-scorecard/.
[12] Model Eviction Moratorium Act. (March 20, 2020). National Housing Law Project. https://www.nhlp.org/wp-content/uploads/2020.03.20-Model-Eviction-Moratorium-Act_FINAL.pdf
[13] Benfer, E. et. al. (March 24, 2020). What an Effective Eviction Moratorium Must Include. Shelterforce. https://shelterforce.org/2020/03/24/what-an-effective-eviction-moratorium-must-include/

have the right to remain in their homes. Because the Carolina Tracker data includes only court filings, it's unknown how many North Carolina tenants left their homes before an eviction went to the filing stage.

A Shelterforce report from March 2020 listed best practices for eviction moratoriums. Included in this was that moratoriums should stay in effect until after the pandemic is over, giving enough time for renters behind on payments to access other public benefits or create a payment plan. Payments plans are necessary to prevent mass evictions as soon as the moratoriums are lifted. The first North Carolina eviction moratorium (EO 142) did include a payment plan requirement, but this policy is not present in the current moratorium. The report also asserts that eviction moratoriums should not be limited to non-payment of rent. These limitations create ambiguity and allow landlords to work around the restrictions.[14] All federal and North Carolina moratoria have been in explicit in allowing other evictions. A consequence of this has been landlords attempting to accuse tenants of criminal trespass for remaining in a unit without paying, so that they can qualify for an eviction for criminal activity; this had to be addressed in the most recent iteration of the CDC moratorium. Tenants who have reached the end of their lease during the pandemic are also not protected from displacement; landlords are under no obligation to renew, and will be especially unwilling to do so if the tenant cannot pay, or if the landlord has decided to cut their losses and sell. This turns eviction into a waiting game, and as COVID-19 passed its first anniversary, even tenants with an annual lease agreement have been put at risk.

Takeaways

The original three-week state moratorium prohibited any new late fees and interest charges, halted landlords from *initiating* eviction proceedings, and required landlords to offer a 6-month payment plan for rent arrears. None of those protections were included in EO 171, likely due to unpopularity with property owners. The best practices for tenant protections in eviction moratoria are not well-liked by landlords, and policymakers face pressure to strike a balance between preventing evictions and protecting the income of landlords.

Overall, federal eviction moratoriums have not been robust enough. State and local jurisdictions have had to develop a patchwork of eviction moratoriums, with different requirements and varying levels of protections. Data on evictions in North Carolina suggests that these additional protections may be effective in further reduction of eviction.

Emergency Rental Assistance

Multiple federal strategies were put forth in the early months of the pandemic to give Americans a boost to their income in the face of job loss. Extra unemployment insurance benefits of $600/week were established in the CARES Act, but expired at the end of July 2020 (the American Rescue Plan re-established extra payments of $300/week from March 11 to September 6, 2021). Eligible Americans also received two stimulus payments in 2020 and one in 2021, for a total of $3,200 per eligible adult over twelve months of the pandemic. The US Census Household Pulse Survey found that of the households that received and spent their first stimulus check, 78% spent it on rent, mortgage, or utilities.[15] Another form of direct subsidy was rental assistance, distributed at the federal, state, and local levels. This section gives an overview of how those funding mechanisms were used as eviction prevention.

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[14] Ibid.

[15] Perez-Lopez, D. and Bee, C. (June 24, 2020). Majority Who Received Stimulus Payments Spending Most of It on Household Expenses. US Census Bureau. https://www.census.gov/library/stories/2020/06/how-are-americans-using-their-stimulus-payments.html

Federal

The CARES Act established multiple funding sources to distribute aid to state, tribal, territory, and local governments in 2020. Although none of these funding sources required jurisdictions to spend this money on rental assistance, these funds became critical for funding new and existing state and local eviction prevention programs.

Coronavirus Relief Fund (CRF) Administered by the Department of the Treasury, the CRF appropriated $150 billion to states, tribal governments, and certain local governments to be used for "necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019" incurred between March 1 and December 30.[16] This was later extended to December 31, 2021.

CDBG-CV A new type of Community Development Block Grant, administered by HUD, made available $5 billion to states, cities, counties, and other jurisdictions "to prevent, prepare for, and respond to coronavirus". Funding is available for at least three years. 70% of these funds must be spend on activities that benefit low- and moderate-income people (up to 80% AMI). For emergency uses, including rental assistance, CDBG-CV guidelines allow up to six consecutive months of payments to individuals or families affected by COVID-19, and require these payments are made directly to the provider (i.e., the landlord).[17] CDBG funds had not traditionally been used for rental assistance before the 2020. These funds require more reporting and administration than the CRF funds, and have a 20% cap od administrative costs.

While CRF and CDBG-CV funds have different eligibility and usage requirements, many local jurisdictions including Orange County used them both to fund emergency rental assistance. Another important though less-used fund in the CARES Act was the Emergency Solutions Grant (ESG-CV), also administered by HUD, which allocated $3.96 billion to homelessness response. This grant usually focuses on helping people facing homelessness to get stable, permanent housing, but allowed rental assistance as eviction prevention. Another HUD program, the HOME grant, received funding as well. The HOME program is normally used to build or rehabilitate affordable housing, but is flexible enough for rental assistance. With both funds we see the leveraging of existing funding mechanisms to distribute assistance in an emergency.

An August 2020 Urban Institute report identified the Emergency Solutions Grant (ESG) program and Housing Choice Vouchers as the best funding vehicles for utilizing existing federal rental assistance programs during the COVID-19 pandemic, based on program capacity and scalability, equity, flexibility, and ability to meet the needs of the lowest-income renters.[18] After the March CARES Act, policymakers made ESG the centerpiece of further emergency rental assistance proposals. Multiple acts originating in the House and Senate in May and June 2020 proposed an allocation of $100 billion in rental assistance to ESG, to be spent over three years. These acts did not pass.[19]

Instead, in January 2021 the Department of Treasury launched the $25 billion Emergency Rental Assistance Program (ERAP) for state and local governments, allocated by the Consolidated Appropriations Act. Eligible renters must have a household income at or below 80% AMI, must qualify for unemployment or have experienced a reduction in household income or other financial hardship related to COVID-19, and can

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[16] CARES Act, H.R. 748, 116th Congress. (March 2020). https://www.congress.gov/bill/116th-congress/house-bill/748/text

[17] CDBG-CV Notice FAQs (August 27, 2020). HUD. https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-CV-Notice-FAQs-OBGA-082720-TOC.pdf

[18] Galvez, M. et. al. (August 5, 2020) Assessing Options for Federal Rental Assistance during the Pandemic. Urban Institute. https://www.urban.org/research/publication/assessing-options-federal-rental-assistance-during-pandemic

[19] Ibid.

demonstrate a risk of homelessness or housing instability. Households at or below 50% AMI are prioritized. The March 2021 American Rescue Plan allocated an additional $21.6 billion in Emergency Rental Assistance.

State

North Carolina created the Housing Opportunities and Preventing Evictions (HOPE) program in October 2020 to provide rent and utility assistance. This program, now closed, is administered by the N.C. Office of Resilience and Recovery (ORR) and is funded by federal CRF and CDBG-CV funds and follows those eligibility requirements.[20] North Carolina directed $167 million to the fund, which opened on October 15, 2020. The HOPE program included a Landlord-Tenant agreement as a condition for receiving funds. This agreement contained eviction prevention policies stricter than those in the moratoria: landlords must agree not to evict tenants for non-payment for 60 to 90 days after the last HOPE payment they receive and must work with the tenant to develop a payment plan.[21] The HOPE program closed to new applications on November 11, 2020; as of April 2021, the program is preparing to distribute the recent federal relief funds.

Local

A study by the NYU Furman Center, the National Low Income Housing Coalition (NLIHC), and the Housing Initiative at Penn found that by mid-October 2020, there were 438 emergency rental assistance programs across the US: 68 at the state level and 370 at the local level, all either created or expanded to address COVID-19 housing instability. Local jurisdictions were quick on setting up these assistance programs: of those surveyed, 72% of programs were new, and the vast majority were launched by the end of July 2020. Local programs varied in how they used the federal funding described above. About 40% of programs used the HUD funds either alone or in combination with other sources. Another 40% used CRF funds without HUD funds, likely due to the looser program restrictions. 20% of local programs did not use any federal funding sources; these jurisdictions likely used existing local funds and/or charitable contributions.[22]

The following section will examine one of these local funds more closely: the Orange County Emergency Housing Assistance fund.

Part 2: The Orange County Emergency Housing Assistance Fund

Overview

The Orange County Emergency Housing Assistance (EHA) fund is administered by the county Housing and Community Development (HCD) department to provide financial assistance for the prevention of eviction and homelessness. In 2020 the EHA dispersed over $2,400,000 in financial assistance to about 1,500 households. The EHA fund covers rent (including rent arrears or back rent), mortgage and utility payments, security deposits, and application fees.[23] Other emergency housing-related expenses, like moving costs, can be approved on a case-by-case basis at the discretion of HCD staff. To qualify for assistance, a household must earn no more than 60% of AMI, must have an urgent need for housing assistance that is related to COVID-19,

[20] Emergency Rent and Utility Assistance Program Design and Implementation (February 22, 2021). Orange County Housing and Community Development. http://orangecountync.gov/DocumentCenter/View/14945/Emergency-Rent-and-Utility-Assistance-Program-Design-and-Implementation

[21] Landlord and Tenant HOPE Program Agreement. (2020). HOPE. https://www.ncrealtors.org/wp-content/uploads/NC-Landlord-and-Tenant-HOPE-Program-Agreement.pdf

[22] Housing Initiative at Penn; NLIHC; NYU Furman Center. (January 2021). COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs. NLIHC. https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf

[23] Emergency Housing Assistance (2021). Orange County North Carolina. http://orangecountync.gov/2359/Emergency-Housing-Assistance

and must not have adequate savings or other resources to cover that need. After an applicant is approved, assistance is paid directly to their landlords. Approved tenants receive a promissory note which they can provide to their landlords. In some situations, approved referral agencies may pay the housing expense themselves as long as the applicant is eligible under EHA guidelines, then the agency may apply to the EHA for reimbursement. In mid-October 2020, OCHCD began also administering N.C. HOPE program funds to Orange County recipients. OCHCD disbursed $1.6 million in HOPE funds to 355 households from October through December 2020.[24]

History of the Fund

Orange County HCD created the EHA fund in the beginning of 2020, before the effects of COVID-19 hit North Carolina. Previous to the EHA, Orange County had the Risk Mitigation and Housing Displacement fund which was created in FY2017-18 by the Board of County Commissioners. It was allotted $75,000 yearly. This fund was made up of three parts: a risk mitigation fund for landlords, a displacement mitigation fund for disaster events, and a housing stabilization fund for tenant assistance. The latter, which would become the EHA, was allotted $26,250. [25] This fund was not heavily used; it assisted 26 households in 2019 and only provided one-time assistance. In addition to this Orange County fund, the towns of Hillsborough, Carrboro, and Chapel Hill had their own parallel funds. The four funds had separate eligibility requirements and assistance caps, making for a confusing system[26]. At the beginning of 2020, these four funds were streamlined into the EHA under the recommendation of OCHCD, and County funding significantly increased. Around the same time, OCHCD started administering Coordinated Entry, the HUD program for assessment and resource triage for anyone experience homelessness or other housing crises. OCHCD used this opportunity to establish the "Housing Helpline", a referral service for anyone in Orange County facing imminent eviction and/or homelessness. The Housing Helpline became a direct referral pipeline to the EHA. This streamline was very timely, as just months later it would be put to the test of administering emergency funds in a pandemic.

The Orange County HCD department works with nearly 20 community partners who refer residents to the EHA fund, including schools, faith groups, refugee organizations, affordable housing organizations, community development corporations, domestic violence centers, and Black and Latino community empowerment organizations. They also partner with North Carolina Legal Aid so that residents referred to the EHA fund can also be referred to receive free help with an eviction case. These partnerships are critical to accessibility and efficiency of the program.

Funding

County appropriations from the general fund, as well as local Town funds, initially made up the bulk of funding for the EHA. After those were exhausted, the EHA fund relied on CARES Act funds.[27] The Orange County Community Giving Fund also contributes to the EHA fund and has distributed about $11,000.

Eviction in Orange County

Eviction filings in Orange County were relatively low, compared to previous years and to other jurisdictions. Figure 2 shows how monthly filings in 2020 compared to the last five years. Filings dropped dramatically at the start of the pandemic, from 158 in March to just 8 in April.

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[24] EHA and HOPE Reporting (2021). Orange County Housing and Community Development.
[25] Emergency Rent and Utility Assistance Program Design and Implementation.
[26] Sutton, E. and Brandt, E. (September 9, 2020). Personal Interview [virtual].
[27] Sutton, E. and Brandt, E. (July 14, 2020). Personal Interview [virtual].

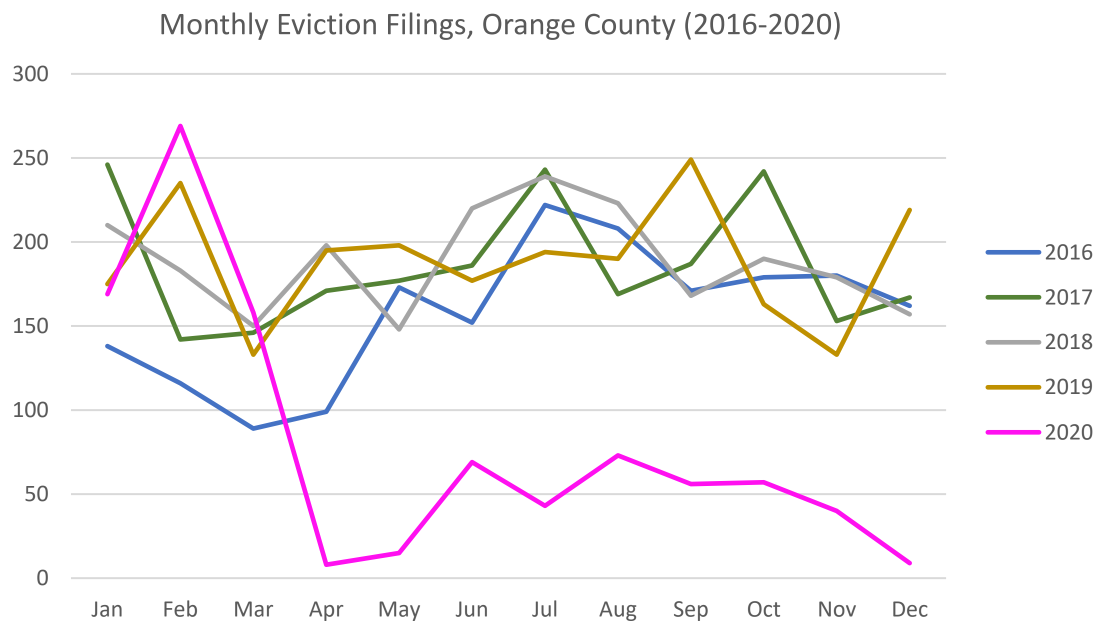

Figure 2: Decrease in Orange County 2020 filings compared to previous years

North Carolina saw a 59% decrease in evictions during COVID-19 compared to the previous year. In Orange County, that decrease was 71%. The surrounding jurisdictions of Durham, Alamance, and Chatham counties saw a 53%, 63%, and 54% decrease, respectively. It's possible that Orange County had more significant decreases in eviction filings due to the EHA fund.

Figure 3 compares monthly eviction filings between North Carolina and Orange County. Orange County's trends from April through December mirror those of the state as a whole, but the effect is subdued. There is still a visible curve that peaks at August, but while statewide August peaks reached nearly 75% of the annual high, Orange County's August peak reached only 25% of its February high. This suggests that while Orange County was susceptible to the same forces of housing instability, it was mitigated.

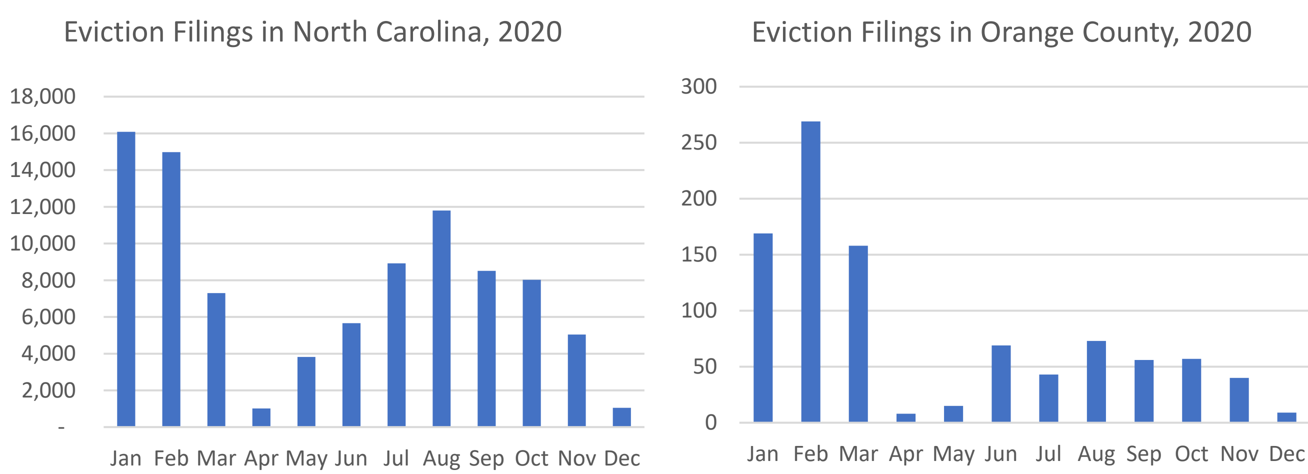

Figure 3: Statewide eviction filings vs. Orange County

Orange County vs. National Trends

The Orange County EHA fund is unique in several ways. It is in the minority of national COVID-19 emergency rental assistance funds in that it existed before the pandemic. It also targeted lower-income residents; out of 114 ERA programs surveyed, nearly half set an upper income limit at 80% AMI. Orange County's cutoff was 60% AMI; only 25% of programs had a cutoff of 60% AMI or lower.[28] While the amount of assistance varied widely across programs, the median out of 81 ERA programs was $1,200 per month per household. Orange County did not administer payments on a monthly basis, but their average payment per household ranged from $1,200 to $1,800 each month.

EHA Fund Best Practices

The NYU-Penn-NLIC national survey measured program outcomes by comparing the number of applicants, number of households assisted, and funding spent. Under these metrics, the best-performing rental assistance programs were found to share these common practices: Experienced administrators, partnerships with local nonprofits, less landlord restrictions, income caps, flexibility/adaptability of the program to respond to shifting needs, and less application requirements (this refers not to the presence of tenant eligibility requirements, but rather the application process and documentation required). The Orange County EHA shares many of the these identified best practices.

The National Housing Law Project (NHLP) created a list of best practices for emergency rental assistance programs in June 2020. [29] The Orange County EHA meets some of these: namely coordinating with local legal aid and tenants' rights organizations, employment services, and others; and not having more eligibility restrictions than federal guidelines require. Other NHLP best practices that were not present in Orange County include: tailoring the amount and duration of assistance should be to individual need rather than a one-size-fits-all formula; implementing tenant-landlord repayment plans; and designing a transition plan for tenants once they stop receiving rental assistance. These practices are difficult to implement because they require more staffing and direct case management. Many local jurisdictions may find them unrealistic.

Orange County HCD also created a list of eight best practices learned from a year of administering rental assistance.[30]

1. Partner with your local homeless Continuum of Care
2. Partner with local governments, nonprofits, and Public Housing Authority
3. Think about racial equity and language access
4. Use a low-barrier and trauma-informed approach
5. Staff up and set up technology infrastructure
6. Proactively engage landlords
7. Prepare for program analysis
8. Partner with your local Legal Aid

Flexibility was also a critical practice for the success of the EHA fund. For example, as need increased in the early months of the pandemic, the EHA fund was changed from one-time assistance to up the three times.[31] Soon after that, this limit was canceled and replaced with an assistance cap; anyone could now apply any number of times until they hit that amount. This assistance cap has also changed multiple times, from $2,000

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[28] Housing Initiative at Penn; NLIHC; NYU Furman Center

[29] Emergency Rental Assistance Principles and Recommendations. (June 9, 2020). National Housing Law Project. https://www.nhlp.org/wp-content/uploads/Emergency-Rental-Assistance-Recommendations.pdf

[30] Emergency Rent and Utility Assistance Program Design and Implementation

[31] Sutton, E. and Brandt, E. (July 14, 2020). Personal Interview [virtual].

in March 2020 to $4,000 over summer and up to $6,500 in the fall. Being responsive in this way has been helpful to the program, although it can also make it difficult to track outcomes consistently as the fund changes.[32] The EHA fund is also flexible in extenuating circumstances, and exceptions to the rules can apply based on staff discretion. The EHA fund also has flexibility built into it in that it works with residents who are ineligible for receiving further rental assistance (because they are already under a federal program like Section 8) to determine alternative non-duplicative housing costs that can be covered. The EHA staff are also flexible around proof of income. It would be unhelpful to expect an annual tax return, for example, to show proof of sudden income loss due to COVID-19-related unemployment. For that reason, staff use a combination of different documents to determine a household's current income. These examples of program flexibility are greatly needed in novel emergency response programs like these.

Equity

Equity is an important component in rental assistance program evaluation. Programs can show improvement of a situation in terms of overall averages, while simultaneously deepening social inequities. Equity analysis can involve race, ethnicity, age, gender, income level, marital status, neighborhood, disability, sexual orientation, educational attainment, and citizenship status. According to the NHLP best practices, rental assistance must target extremely low-income families and communities of color. Over 75% of EHA funds in 2020 went to residents earning less than 30% AMI (extremely low-income)[33], due to effectiveness of the Housing Helpline funneling referrals. To improve accessibility, program documents were available in English, Spanish, Burmese, and Swahili. Orange County HCD conducted commissioned a racial equity impact assessment in Fall 2020. OCHCD also tracked race and ethnicity of recipients: residents receiving funds were 28% Black, 24% Latinx, 2.6% Asian, 0.5% Native American, and 11% white. However, race/ethnicity data is missing for 32% of recipients.

To better track equity outcomes, local programs like the EHA fund should collect more complete racial data. Orange County is also beginning to conduct a neighborhood analysis based on a new tool from the Urban Institute, which shows what census tracts should be prioritized for rental assistance based on a comprehensive list of vulnerability indicators.[34] This tool should be used by state and local rental assistance administrators for the distribution of future funds to assess if there are at-risk areas in their jurisdiction that have not been reached. Finally, OCHCD was not able to consistently track non-approved applications, and also does not track how many people started the application process and stopped for other reasons besides eligibility.[35] Being able to track this may be a helpful addition to equity monitoring and barriers to access.

Landlord Relations

In Orange County, rental assistance is paid directly to landlords. This practice is standard: out of 189 ERA programs surveyed nationwide, 98% required tenants to apply for assistance, even while 90% paid this assistance directly to the landlord. To pay a landlord directly, landlords must first agree to participate. This requires the program conditions to be attractive. Restrictions on landlords, while protecting tenants, can also diminish this attractiveness. Out of 152 programs nationwide, 98% placed at least one restriction on landlords, the most common being not to evict tenants; 56% had more than one requirement. Other restrictions included forgiveness of rent arrears, a commitment not to increase rent, and participation in a local rent registry. Orange County stands out in that they had no landlord restrictions. In the NYU-Penn-NHLIC

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[32] Sutton, E. and Brandt, E. (September 9, 2020). Personal Interview [virtual].
[33] Emergency Rent and Utility Assistance Program Design and Implementation.
[34] Where to Prioritize Emergency Rental Assistance to Keep Renters in Their Homes. (April 5, 2021). Urban Institute. https://www.urban.org/features/where-prioritize-emergency-rental-assistance-keep-renters-their-homes
[35] Sutton, E. and Brandt, E. (July 14, 2020). Personal Interview [virtual].

study, a greater number of landlord restrictions was associated with a lower ratio of households served to households expected to be served. Some programs responded to landlord resistance by modifying landlord requirements, or, less commonly, by funneling money directly to tenants. The N.C. HOPE program, which placed tight restrictions on landlords, has struggled to get landlords to participate.[36] The Orange County HCD met that resistance when administering HOPE funds locally, so much so that the EHA fund became a critical backstop.[37] Originally, the HOPE program required that landlords who received funds had to agree not to evict tenants for the remainder of their lease. Due to outcry from landlord groups, this requirement was changed to no eviction for 60 days after receiving funds. This is an example of how a balance must be struck between tenant and landlord protections, and how ideas around eviction prevention may work in theory, but not practice. The protections of a program are irrelevant if the landlord refuses to work with it.

Takeaways and The Future of the EHA Fund

By the end of 2020, 56% of surveyed rental assistance programs had served fewer households than expected. From the beginning of the crisis, demand met or exceeded supply for most programs, and applications increased over time. The most common challenges reported by administrators of local emergency rental assistance, however, were incompleteness of recipient applications, staff capacity, funding timelines, landlord cooperation, and technology barriers. Lower-reported than each of these challenges was funding levels.[38] This suggests that even though the total national amount of distributed ERA funds has fallen short of most estimates of COVID-19 needs, administrative barriers are the primary hurdle.

In the beginning of the pandemic response, state programs were performing better than local ones (by measure of actual vs. expected households assisted). By the end of 2020, however, local programs were outperforming state ones. Even newly-formed local programs had caught up to pre-existing ones by the end of the year. The Orange County EHA fund has been so successful as a local fund that the OCHCD department has been asked to speak to Indianapolis, Orange County, CA, Boise, New Jersey, Florida, Asheville, Union County, NC and several other jurisdictions in North Carolina. Now that hundreds more local ERA programs have been formed nationwide, and have learned from their 2020 experiences, they are poised to be effective administrators of housing assistance both for the remained of the COVID-19 pandemic and beyond. Local jurisdictions would be wise to leverage these programs and create plans to adapt them as a permanent feature of housing departments. Combining these programs with the local homeless Continuum of Care, as in the case of Orange County, could be a promising opportunity. If the practice of using CDBG and ESG funds for rental assistance continues post-pandemic, these local programs would have the capacity and experience to administer them. Local jurisdiction could also explore the possibility of consolidating multiple similar funds, as was done in the case of the Orange County EHA with the result of increased efficiency.

The N.C. HOPE program is one example of a state-level assistance program that has struggled to manage demand. HOPE received 42,000 applications in its early weeks of operation in October 2020, and closed in less than a month. The ORR had to hire 170 new people to process this demand, since they had not anticipated it. Although 37,000 households were approved to receive $140 million in funds, the money was slow to be delivered. Four months after tenants and landlords were provided with promissory notes for future payment, which also locked the landlords into a period of non-eviction, only about $60 million had

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[36] Ochsner, N. (February 8, 2021). "More than $100 million sitting unspent in program meant to help pay rent, utility bills". WBTV. https://www.wbtv.com/2021/02/08/more-than-million-sitting-unspent-program-meant-help-pay-rent-utility-bills/

[37] Sutton, E. and Brandt, E. (March 19, 2020). Personal Interview [virtual].

[38] Housing Initiative at Penn; NLIHC; NYU Furman Center

actually been paid out.[39,40] While promissory notes may prevent evictions in the short-term, the inability to deliver on funds can create mistrust and prevent landlords from participating in future programs. Landlords will also be more likely to evict tenants who reach the end of their lease agreements or the end of the 60-day HOPE eviction protection if they haven't received the promised payouts from the state.

The establishment of the federal ERA fund in 2021, from which North Carolina will receive an estimated $546 million, created an opportunity for local rental assistance programs like the Orange County EHA to continue to deliver assistance to local residents. The State of North Carolina, however, has decided to prioritize using this money to create an improved state-level rental assistance program, and they will no longer be using local programs like Orange County to administer these funds. The NC General Assembly passed HB 196 in early March 2021, allegedly without consulting the NCORR and despite protest from advocacy groups like the NC Housing Coalition.[41] This bill establishes a central statewide hotline that N.C. residents will call to apply for housing assistance and case management. It also places a 5% cap on administrative expenses, despite the mass hiring that was necessary for the HOME program.

The state ORR will award funds directly to residents instead of using local jurisdictions as program administrators. The amount of funds awarded will be capped at different amounts for each of the 100 N.C. counties based on proportion of residents at or below 80% AMI. Allotting funds by income instead of by other indicators of housing instability (like rent burden and eviction numbers) means counties with low risk of eviction may be underutilizing allotted funds while other high-risk counties experience unmet demand. For Orange County residents, $7,600,000 has been put aside.[42] For Durham County it's $9,000,000, even though Durham County had six times the eviction filings of Orange County in 2020.

This main concern of housing advocacy groups in North Carolina is that this bill will slow down the disbursement of rental assistance by funneling 100 separate county funds through one office.[43] The COO of the NCORR has predicted it will be "chaos". This change also goes against recent ERA guidance released by the US Department of Treasury, which states that "Grantees are encouraged to achieve administrative efficiency and fiduciary responsibility by collaborating with other grantees in joint administrative solutions to deploying ERA resources", including non-profits and local governments.[44] Furthermore, any landlord that was unwilling to work with HOPE, or had bad experiences with it, will likely not be convinced to utilize this new program, either. N.C. Governor Roy Cooper signed this bill into law on March 11, 2021 with a comment asking legislators to revisit some areas, "including changes necessary to deliver rental assistance".[45] As this time it's unclear what those changes may be, and more monitoring will be important to determine if the rental assistance process will change. Importantly, all the lessons learned from local fund best practices during 2020, including those of the Orange County EHA, are negated when fund administration is taken away from the local level.

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[39] Wilson, D. (February 25, 2021). "'A HOPE nightmare:' Thousands of North Carolinians approved for rental assistance still await money months later". ABC 11. https://abc11.com/nc-hope-program-rent-utilities/10370401/

[40] Application Period Closing for NC HOPE Rent and Utility Assistance Program. (November 10, 2020). NC DPS. https://www.ncdps.gov/news/press-releases/2020/11/10/application-period-closing-nc-hope-rent-and-utility-assistance

[41] Sessoms, B. (March 5, 2021). "General Assembly bill would slow federal rental assistance, state official says" The News & Observer. https://www.newsobserver.com/news/politics-government/article249697408.html

[42] N.C. Sess. Law 2021-3. (March 11, 2021). https://www.ncleg.gov/Sessions/2021/Bills/House/PDF/H196v8.pdf

[43] Legislative Alert: HB 196 Passes. (March 4, 2021). North Carolina Housing Coalition. https://nchousing.org/legislative-alert-hb-196-passes/

[44] Emergency Rental Assistance Frequently Asked Questions. (February 22, 2021). U.S. Department of the Treasury. https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-2-22-21.pdf

[45] Governor Cooper Signs COVID-19 Relief Bill into Law. (March 11, 2021). Office of Governor Roy Cooper. https://governor.nc.gov/news/governor-cooper-signs-covid-19-relief-bill-law-0

Part 3: Policy Implications and Recommendations

What Works

In the short term, eviction moratoria and emergency rental assistance seem to have been effective at preventing mass eviction during COVID-19 in 2020. By looking at North Carolina eviction filing data, there is a visible correlation between these protections and lowered eviction filing rates. In 2021, policymakers should focus on expanding and strengthening these programs. Specifically, eviction moratoria should include a requirement that landlords inform tenants of their rights under the moratorium. Emergency rental assistance has shown to be most effective when administered at a local level, without too stringent of requirements. Local jurisdictions have shown that they are effective at administering housing funds and that they can work extremely quickly to develop new programs and respond to needs for adjustment. These programs should continue to be funded, and monitoring of states that choose to defund these programs is necessary to assess if the expected negative outcomes occur.

Program Evaluation

Program evaluation is especially necessary for local programs to avoid being defunded. Ongoing evaluation is a useful tool to either prove that a program works and thereby advocate for its continuation and increased funding; or to show that a program is not reaching its target goals, to either adjust said program or focus resources elsewhere. Many program evaluation techniques have come out of COVID-19 housing policy, all with varying metrics. The NYU-Penn-NLIHC national survey used a formula of number of residents expected to be served to number of people actually served. Some programs simply look at total money spent. Orange County has added an analysis of local eviction data to further prove program effectiveness. Large housing advocacy groups like Eviction Lab, the Urban Institute, and NHLP have designed grading metrics and scorecards based on the inclusion of certain policy protections in to produce an ideal model eviction moratorium or rental assistance program. Recipient demographic data including race, gender, and income level is also critical, as is a spatial neighborhood analysis.

Few studies have come out that evaluate the effectiveness of a COVID-19 housing program by talking to the recipients themselves. A reporting mechanism that can collect feedback from recipients, while potentially expensive and resource-consuming, can provide invaluable information. The perspectives of recipients can give detailed insight into whether the programs are best meeting the clients' needs. Involving clients in program evaluation can produce qualitative data that is complementary to the quantitative success indicators in official program goals. A program evaluation may yield positive results when measuring outcomes against stated policy goals, but results may become more nuanced when a program's processes and outcomes are measured against the needs and experiences of the recipients. For example, evaluating a program by how quickly it can distribute large amounts of money is not a measure of whether this money is being prioritized to those most in need, nor does it show that the money is effective in preventing eviction. Collecting detailed information about how a policy differently affects people based on individual circumstances can expose patterns or gaps in service that would be missed in quantitative generalizations. This practice of treating recipients of a program as active consumers of a product can also be empowering. [46]

Collecting recipient feedback is not the same as ongoing case management. For example, it could look like contacting recipients of an EHA fund to find out if they have or have not been evicted since receiving rental assistance. This follow-up information could be invaluable to identifying weaknesses or oversights in an

[46] Teater, B. (2011). A Qualitative Evaluation of the Section 8 Housing Choice Voucher Program The Recipients' Perspectives. Qualitative Social Work. 10. 503-519. 10.1177/1473325010371242.

eviction prevention policy. This evaluation method has challenges: interviews can only target a small number of people, and they require transcription and coding by trained staff; surveys can reach more people but may have a low response rate, and produce a large volume of data to be processed. These challenges may be mitigated by utilizing volunteers and non-profit partners and utilizing technology like text banking or phone apps in developing a feedback mechanism. The point of policy evaluation is to determine whether a policy should be prolonged and to identify its weaknesses so they can be corrected.[47] Local jurisdictions, being closer to the community, are poised to implement imaginative evaluation mechanisms, which is another reason that eviction prevention programs at these levels should be funded.

Preparing for the Moratoria to Expire

This is the first time in US history that national eviction moratoria have been instituted. The CDC moratorium was unprecedented both by inserting federal oversight into landlord-tenant law (the is usually under the jurisdiction of state and local governments) and by using a public health authority to do so.[48] The eviction moratoria during COVID-19 were initially framed as primarily a public health policy to prevent the spread of the virus; the CDC stated that "In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease."[49] It's become clear, though, that these moratoria are about more than public health. Previous economic downturns like the Great Recession saw a 10.6% unemployment rate high[50] with millions evicted without a moratorium to protect them. Low-income households are more susceptible to income loss during economic downturns.[51] As we look to the future and prepare for more economic depressions, whether or not they're caused by a pandemic, the eviction moratorium may become a useful policy tool. Federal and state policymakers should consider how the lessons learned from COVID-19 could be translated to mass eviction prevention policies in the future.

One critical investigation to improving eviction moratoria as a policy tool is figuring out how to prepare for their expiration. When the moratoria expire, millions of renters will be at risk of eviction and subsequent homelessness. It's been estimated that between 12.6-17.3 million households (or 29-40 million people) were at risk of eviction as of August 2020, and this number has grown.[52] As time goes on and landlords lose more of their income, even a short gap between moratoria could result in a national eviction disaster. Payment plans are not a panacea: renters who are still unemployed or still receiving the same amount of government financial support will not be able to afford higher monthly expenses from a payment plan. Furthermore, new stimulus packages continue to require proof of a COVID-19-related impact as a condition of rental assistance. We will likely see the effects of COVID-19 rippling for years, but as time goes on, the direct economic impacts of the pandemic may become harder to document. The first households to be excluded because of this may

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[47] A Framework for Analyzing Public Policies: Practical Guide. (September 2012). NCCHPP. http://www.ncchpp.ca/docs/guide_framework_analyzing_policies_en.pdf

[48] Federal Eviction Moratoriums in Response to the COVID-19 Pandemic.

[49] DHHS; CDC. (September 4, 2020). Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID–19. 85 Fed. Reg. 55292. https://www.govinfo.gov/content/pkg/FR-2020-09-04/pdf/2020-19654.pdf

[50] Kochhar, R. (June 11, 2020). Unemployment rose higher in three months of COVID-19 than it did in two years of the Great Recession. Pew Research Center. https://www.pewresearch.org/fact-tank/2020/06/11/unemployment-rose-higher-in-three-months-of-covid-19-than-it-did-in-two-years-of-the-great-recession/

[51] Reid, C. (September 2020). Recession and Recovery: The Critical Role of Housing Assistance in Promoting Economic Security for Low-Income Households. UC Berkeley Terner Center for Housing Innovation. https://ternercenter.berkeley.edu/research-and-policy/recession-recovery/

[52]Benfer, E. et. al. (August 7, 2020). The COVID-19 Eviction Crisis: an Estimated 30-40 Million People in America Are at Risk. The Aspen Institute. https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/

be those households whose housing needs also existed before the pandemic; these are also the households that need the most help.

One proposed solution to transition out of eviction moratoria is increased landlord engagement. There have been little to no direct mortgage relief policies for landlords during the pandemic. Yet virtually all COVID-19 rental assistance funds pay directly to landlords. Emergency rental assistance has functioned not just as an eviction prevention technique, but as landlord economic protection. This is in line with federal bailouts paid to banks and other investors who experience losses during economic downturn. If rental assistance is a federal bailout program to protect landlords' private property investments, it could be more efficient to reframe the program as that and to pay landlords directly. It takes more time, staffing, and effort for nonprofits and local agencies to run a public awareness campaign to inform tenants of the existence of a rental assistance program, and to process applications and questions, than it would for landlords to apply for themselves. As investors and business owners (many own an LLC), landlords are already experienced in processes like these and have greater access to information through state and regional landlord associations. By reorganizing rental assistance in this way, the responsibility would not fall to at-risk tenants – many of whom are experiencing immense stress and daily life pressures – to apply for payment on behalf of their landlords. This removes the expectation of saving the private rental market off of the individual tenants. Landlords may be less likely to evict tenants if they feel they have more control over the process of receiving rental assistance payments.

Several housing policy stakeholders have proposed a federal program to support lending to landlords. Using Section 13(3) of the Federal Reserve Act – which was used in the CARES Act to support the Paycheck Protection Program (PPP) loans, and also was used during the Great Recession – rental housing owners would have their monthly debt service reduced or would receive a forgivable loan, with the Department of Treasury as guarantor. The National Council of State Housing Finance Agencies has proposed a zero-interest loan for debt payments, with the caveat that building owners muse agree not to evict any tenant with COVID-19 related job loss, must reduce rent maybes, and must forgive late payments.[53]

There are several barriers to this policy proposal: as discussed earlier, restrictions on landlords make them less willing to participate in programs like these. Furthermore, this program would not help landlords who don't have a mortgage (landlords whose buildings are already paid off). Smaller rental buildings are only 50% as likely to have outstanding mortgage debt, and are likely to be owned by small landlords. Therefore these landlords wouldn't qualify, even as they are the ones most likely to need financial assistance as their primary income. Since nearly half of rental units are owned by individual investors rather than investment groups, any landlord relief policy would need to ensure small landlords are included.[54] Otherwise, this policy runs the risk of a mismatch between who it benefits and who requires help (this was seen with PPP loans in 2020). Still, the proposed debt relief policy is a new policy that shifts the framework of rental assistance, and new ideas in housing policy are sorely needed. Nearly half of rental units are owned by individual investors, rather than investment groups.

[53] Galvez, M. et. al
[54] Ibid.

Housing Instability is Not New

COVID-19 has brought renewed attention to it, but housing instability existed before COVID-19 and has been growing steadily for years. Data from 2019 show half of all renters cost-burdened, over two million eviction filings per year[55], and over 560,000 people experiencing homelessness on a given night.[56] A December 2019 study by the Center on Budget and Policy Priorities found that while 5.3 million households received federal rental assistance of some type, 15.8 million households are in need but unassisted (or, 75% of households in need of assistance do not receive any). The number of assisted families has remained largely unchanged since the early 2000s despite growing need.[57] According to the Census Bureau's 2019 American Housing Survey, the are 44,660,000 renter households in the US, making up 36% of occupied housing stock. The median income for renter households was $40,000; about half of renters spend more than 30% of their income on rent, and about a quarter spend more than 50%.[58] The pressure building now is not just the missed rental payments and postponed eviction hearings that have been piling up since March 2020; it is the culmination of decades of neglect of affordable housing production and preservation, shown by rising number of renter households, rising rent prices, rising homelessness, rising rent burdens, and a decline in naturally-occurring affordable housing.

COVID-19 policies have shown that rental assistance is effective. Housing Choice Vouchers are the largest federal direct rental assistance program in the US, and should receive more federal funding. Research shows that rental assistance reduces crowding, housing instability, and homelessness; reduces poverty; improves outcomes for children; and improves mental well-being and other health outcomes, reducing health costs. Currently, federal laws require a Public Housing Agency to provide 75% of housing choice vouchers to applicants at or below 30% AMI. An expansion of this subsidy program could allow a wider range of low-income households to receive assistance. Between 7.8 and 8.2 million low-income households qualify for the Housing Choice Voucher; funding all of them would cost $100 billion/year.[59]

However, vouchers have their weaknesses. The program excludes undocumented people, it cannot be applied to rent arrears, and millions are already on waitlists to receive this assistance. Landlords are also increasingly unwilling to work with the voucher program. Though the number of landlords in the US rose between 2009 and 2015, the number of unique landlord records associated with the voucher program declined by 10%.[60]

The Low-Income Housing Tax Credit (LIHTC) program constitutes for the largest share of subsidized housing stock in the US and is "the most important resource for creating affordable housing in the United States today", according to HUD[61]. And yet, although LIHTC properties are largely tailored to residents at 50-60% AMI, a lack of other affordable housing tools has increasingly pushed very low-income and extremely low-income renters into LIHTC properties; the result is that VLI and ELI tenants in LIHTC properties are often cost-

[55] National Estimates: Eviction in America (May 11, 2018). The Eviction Lab, Princeton University. https://evictionlab.org/national-estimates/

[56] HUD Releases 2019 Annual Homeless Assessment Report. (January 7, 2020). HUD. https://www.hud.gov/press/press_releases_media_advisories/HUD_No_20_003

[57] Fischer, W., Rice, D., and Mazzara, A. ((December 5, 2019). Research Shows Rental Assistance Reduces Hardship and Provides Platform to Expand Opportunity for Low-Income Families. https://www.cbpp.org/research/housing/research-shows-rental-assistance-reduces-hardship-and-provides-platform-to-expand

[58] American Housing Survey. (2019). U.S. Census Bureau. https://www.census.gov/programs-surveys/ahs.html

[59] Galvez, M. et. al

[60] Richardson, T. (n.d.). Landlords. HUD User PD&R. https://www.huduser.gov/portal/pdredge/pdr-edge-frm-asst-sec-061118.html

[61] Low-Income Housing Tax Credit (LIHTC). (n.d.) HUD User PD&R https://www.huduser.gov/portal/datasets/lihtc.html

burdened.[62] Furthermore, 2020 was the first year that LIHTC properties across the country reached the end of their 30-year affordability restrictions. This means that the stability of even the country's largest affordable housing program is fragile.

The primary housing programs in the US are reactive policies, waiting until people are in crisis to then extend just enough funding to get by on, without providing a long-term solution to housing instability or poverty. A commonly proposed proactive affordable housing policy is making housing assistance an entitlement benefit. This means that anyone who qualifies for housing assistance would receive it, similar to Social Security benefits, Medicare/Medicaid, and veterans benefits. However, even proactive housing subsidies are not enough to prevent housing instability. In 2020, the combination of state and federal unemployment insurance (with the extra $600 COVID-19 supplement) filled 80% of the income gap needed to return the rent-to-income ratio of recently unemployed renters to their pre-pandemic levels[63]. But, this insurance only went to people who were employed before the pandemic, meaning it went to higher-income renter households and left out those who had struggled with unemployment for a longer time. In general, half of unemployment assistance goes to renter households earning above the AMI.[64]

A UC Berkeley Terner Center study of 9,800 LIHTC-subsidized renter households in the California Bay Area studied the effects of the Great Recession on renter income. For renters earning less than $40,000 a year, income growth was flat even years after the recovery; their higher-earning counterparts, however, saw large increases in their yearly earnings over the same time period. This shows that even living in subsidized housing is not enough to lift very low-income renters into a better financial position, meaning that they remain vulnerable to eviction even with rental assistance. And even within assistance programs, those with the most need are not adequately served. Our housing assistance programs alone are not substantial for providing opportunities for the long-term housing solutions that would come with an increased household income, such as home ownership. Progressive social policies like substantial minimum wage increases, worker protections, universal healthcare, childcare, and higher education, funded by a progressive tax system, are also pieces of the puzzle; especially as income inequality continues to increase.

Finally, COVID-19 has illustrated how vulnerable and unstable our private rental housing system is. Because rental housing is dependent on private landlords, COVID-19 policies had to split their focus between preventing homelessness among low-income people and protecting the investment income of landlords. This is a massive strain on resources. The federal money funneled to private landlords could be better spent funding new public/social housing, housing collectives, or other forms of affordable housing that are more permanent and provide stable long-term housing. A more solid publicly- or collectively-owned housing supply would be more durable through an economic disaster. For this reason, the federal government should take a more proactive direct role as a housing provider.

Conclusion

Local and state jurisdictions have been impressive at getting new programs off the ground in the face of an unprecedented housing crisis. Local rental assistance programs should continue to be funded even after COVID-19. The applicability of eviction moratoria as a more permanent eviction prevention tool should be examined. At the same time, these two strategies can only go so far; mass reform of an unstable housing system is needed, and this time provides an opportunity. The COVID-19 pandemic has brought renewed

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[62] Emmanuel, D. (November 19, 2020). LIHTC Preservation and the Need for Rental Assistance. Shelterforce. https://shelterforce.org/2020/11/18/lihtc-preservation-and-the-need-for-rental-assistance/

[63] Galvez, M. et. al

[64] Ibid.

attention to the issue of housing instability in the US. Housing is often overlooked, but topics like eviction and the private rental market have been spotlighted to a larger public. The pandemic has seen unprecedented amounts of federal rental assistance and has inspired new policy solutions. This moment allows researchers, advocacy groups, housing planners, and policymakers to take advantage of increased funding and policy attention to roll out new housing solutions. The pressures and instability faced by low-income renters have now been felt by renters of a range of income groups, bringing more visibility to the deep issues of both the affordable housing system and the private rental market in the US. It's imperative that policy solutions inspired by this last year do not leave the lowest-income renters behind.

Further Research

Although research on eviction has been increasing, there is still no national data collection of eviction numbers; states and local jurisdictions don't monitor this data, either. It's been up to research and policy institutes like the Eviction Lab at Princeton and the Anti-Eviction Mapping Project to collect this data, which is usually from eviction court filings. No national database of landlords exists, either. Housing data in general is not centralized, and research and data gaps that existed before the pandemic have made it difficult to study trends in COVID-19. There is a need for national databases administered by HUD. HUD must strengthen its research, data tracking, and evaluation efforts. For example, the Eviction Crisis Act of 2019, introduced in the Senate, proposed that HUD must establish and maintain a national eviction database.[65]

COVID-19 has brought about large amounts of research around housing, much of which is ongoing. An opportunity for research is in analyzing how emergency solutions could become permanent, such as the housing of people experience homelessness in hotels to prevent overcrowding in shelters. If research shows that policies like this were effective during the pandemic, there can be advocacy to make them permanent.

Research around COVID-19 can also impact the study of post-disaster management, including housing. During a natural disaster, displacement may be dealt with by providing temporary alternative housing in stadiums, churches, and other mass shelters. When people are displaced during a pandemic, however, shelter is more difficult. 2020 saw 22 separate billion-dollar weather and climate disasters in the United States: namely Hurricane Laura in Louisiana in August; the Midwest Derecho in August; and the Western wildfires from August to December.[66] The Texas power crisis in February 2021 was another mass-displacement event. These disasters presented immense challenges for how to handle displaced populations while keeping them socially distanced. Research into lessons learned from natural disasters during COVID-19 could inform hazard planning in this way.

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