EVERYONECOUNTS

EVERYONECOUNTSOC OVERVIEW

HUD-Mandated Activity
  ○ HUD provides ~$23 million/year to Orange County for homeless services through the Continuum of Care (CoC)
  ○ CoC is managed by Jim Wheeler, and interfaces with HUD to steward those funds (CoC also hosts this Homeless Providers Forum)
  ○ HUD mandates that all CoCs regularly count homeless neighbors nationwide
  ○ HUD sets standards and data collection requirements
  ○ Single night in last 10 days of January– sheltered and unsheltered
  ○ Unsheltered count must be completed on odd-numbered years
EVERYONECOUNTSOC OVERVIEW

Why EVERYONECOUNTSOC 2019?
- To comply with HUD mandate
- To track national progress toward ending homelessness
- To assist local system planning
- Good data and strong CoC participation aids Orange County in future applications to HUD
- HUD grants are competitive, so CoCs that participate and collaborate within the CoC earn more dollars to address homelessness in their communities

EVERYONECOUNTSOC NEW ADDITIONS

Same Collective Effort! Building on important work in past PITs conducted by 211OC and CoC, with added emphasis in three key areas:

1. GPS Technology
   - Using smart phones and tablets
   - Pin drops provide accurate geographic representation of homelessness

2. Law Enforcement Participation
   - Mapping—key officer in each city
   - Access to and security in hard-to-reach encampments (tunnels, bridges, etc.)

3. Increased Emphasis on Surveys
   - Better information on subpopulations (Veterans, TAY, DV victims, etc.)
   - More accurate city information
EVERYONECOUNTSOC CALENDAR

Tuesday, January 22nd through Friday, January 25th, 2019

- Tuesday - Sheltered Count Night (conducted by 211OC)
- Wednesday - EVERYONE COUNTS VOLUNTEER DAY
  - Morning event: 6 deployment centers, teams in every city
  - Evening event: 6 deployment centers, teams in every city
- Thursday - Morning and Evening surveying
- Friday - Morning surveying

“Were you homeless on the night of Tuesday, January 22nd?”

EVERYONECOUNTSOC GET INVOLVED

<table>
<thead>
<tr>
<th>FIELD VOLUNTEERS</th>
<th>CENTER VOLUNTEERS</th>
<th>PREPARATION NEEDS</th>
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<tbody>
<tr>
<td>During the Point-In-Time Count, there will be teams of volunteers, in the field, surveying those experiencing homelessness.</td>
<td>The deployment centers will be the host sites for the event. Volunteers will serve as champions for those entering the field from start to end.</td>
<td>In preparation for the Census, the coordination team is in need of items that will make the surveying events most effective. They need:</td>
</tr>
<tr>
<td>Surveyor Team Captains</td>
<td>Hospitality Teams</td>
<td>• Donate 1-day Bus Passes</td>
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<tr>
<td>Surveyors</td>
<td>Photo/Videographers</td>
<td>• Donate Hygiene Kits</td>
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<tr>
<td>Field Photographers</td>
<td>AV/Tech</td>
<td>• Compassionate Letters</td>
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Sign-up TODAY and encourage others to do the same at www.EveryoneCountsOC.org
EVERYONECOUNTSOC PARTNERSHIP

We would love to partner with you on spreading the word in the community to educate the public and enroll volunteers for EVERYONECOUNTSOC 2019!

STEP 1: Contact Chelsea Bowers, Director of Public Affairs at City Net
Chelsea@citynet.org

STEP 2: Chelsea will provide you with a social media kit so you can help spread the word on your own channels!

Q & A
Legal Services and Tenant’s Rights
Ugochi Anaebere-Nicholson, Directing Attorney, Housing and Homelessness Prevention Unit
PUBLIC LAW CENTER
October 4, 2018
The Public Law Center (PLC), Orange County’s pro bono law firm, is committed to providing access to justice for low income residents. Through volunteers and staff, the Public Law Center provides free civil legal services, including counseling, individual representation, community education, and strategic litigation and advocacy to challenge societal injustices.
Represent tenants in eviction lawsuits
Provide technical assistance to community organizations
Engage in policy advocacy about issues impacting low-income persons in Orange County experiencing housing instability/homelessness
Engage in strategic litigation to preserve and expand affordable housing opportunities
Protect housing rights
Empower communities
Introduction to Eviction Defense

- It is important to know what type of housing that the tenant has because the rights and protections that are available to the tenant will depend on the type of housing of the tenant.
- If the tenant is unsure, ask the tenant how much rent they have. Chances are, if the tenant is paying a small sum in the amount of rent, their housing is subsidized.
Tenants’ Rights
State Law

1. Establish Tenancy
   - If unit is primary residence.
   - Illegal to make residential hotel tenant move before 30 days if sole purpose is to avoid creating a tenancy.

2. Rights—
   - Can only be evicted if the landlord goes through the proper procedures (Unlawful Detainer action).
   - Cannot be illegally locked out.
   - Right to decent, healthy conditions.
   - Special rules if in transitional, subsidized housing or mobilehome owner.
### Tenant vs. Guests

<table>
<thead>
<tr>
<th>Tenant</th>
<th>Guests</th>
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<tbody>
<tr>
<td>Tenant is one who pays rent to live in someone else’s property.</td>
<td>Guest: a transient who rents a room i.e. renting at a hotel.</td>
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<tr>
<td>Tenancy: a tenant’s right to occupy property.</td>
<td>No rights to property.</td>
</tr>
<tr>
<td></td>
<td>Can be kicked out without eviction process.</td>
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<tr>
<td></td>
<td>No right to relocation money.</td>
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## Tenants and subtenants

<table>
<thead>
<tr>
<th><strong>Tenants</strong></th>
<th><strong>Subtenants</strong></th>
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<tbody>
<tr>
<td>• Signed lease or rental agreement with the landlord.</td>
<td>• Someone who subleases or rents all or part of property from tenant.</td>
</tr>
<tr>
<td>• In privity of contract and estate with the landlord.</td>
<td>• Does not have a lease or rental agreement with the landlord.</td>
</tr>
<tr>
<td>• Can also participate in eviction proceedings as a master tenant.</td>
<td>• Is in privity of contract and estate with the tenant.</td>
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# Lease v. Rental Agreement

<table>
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<tr>
<th><strong>Leases</strong></th>
<th><strong>Rental Agreement</strong></th>
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<tr>
<td>- Gives tenant the right to occupy unit for a set term.</td>
<td>- Tenancy for a shorter period of time (e.g., 30 days).</td>
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<tr>
<td>- Cannot raise rent during term.</td>
<td>- Automatically renews at the end of the period unless landlord or tenant issues notice to quit.</td>
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<tr>
<td>- Must be in writing if term is one year or longer.</td>
<td>- Landlord can change terms of agreement with proper written notice.</td>
</tr>
<tr>
<td>- Does not automatically renew unless have landlord consent, e.g., payment of rent.</td>
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<tr>
<td>- Must have cause to terminate lease during term, (e.g., nonpayment of rent)</td>
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<tr>
<td>- Modifications must be done in writing (i.e., lease addendum)</td>
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A landlord cannot refuse to rent to a tenant, or engage in any other type of discrimination, on the basis of group characteristics specified by law that are not closely related to the landlord’s business needs. (E.g., race and religion).

The Fair Employment and Housing Act prohibits discrimination based on immigration status. In 2015, California amended its civil rights Act, the Unruh Civil Rights Act, Civil Code Section 51 to include immigration as a protected class. Violations of the Unruh Civil Rights Act come with statutory penalties ($4000 for each violation).
Rights of tenants against discrimination

- It is also illegal for landlords, or their agents, to ask tenants, prospective tenants, or occupants, their immigration status. Civil Code Section 1940.3.
- It is illegal to coerce, intimidate, threaten, or interfere with a person’s exercise or enjoyment of rights granted or protected by the Fair Housing Act. This includes threats to report a person to U.S. Immigration and Customs Enforcement (ICE) if they report housing discrimination to HUD. HUD does not inquire about immigration status when investigating claims of housing discrimination.
- If you have filed or are considering filing a complaint with HUD but are concerned that you or someone in your household will be reported to ICE, please consult ICE’s policy on individuals pursuing legitimate civil rights complaints. If you do come into contact with ICE after you have filed a HUD complaint, you should let ICE know that you are pursuing a Fair Housing complaint with HUD.
- For more information, see the Memorandum issued on June 17, 2011, by ICE Director John Morton “Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs.” Available at: http://www.ice.gov/doclib/secure-communities/pdf/domestic-violence.pdf. For the most up to date version of this policy, please check http://www.ice.gov.”
Governor Brown recently signed AB 291 into law, which prohibits landlords from retaliating by disclosing immigration status to immigration officials or other government agencies.

AB 291 creates a cause of action against a landlord or an attorney who seeks to use a tenant’s immigration status for the purpose of or with the intent of . . . retaliating against a tenant for the exercise of his or her rights. It provides for additional statutory remedies and attorney’s fees for violating the law.

AB 291 also provides for an affirmative defense to an eviction for a tenant who is being harassed or retaliated against on the basis of their status.
Eviction Process

- Must be given written notice (Exh. 1)
- Served with “Unlawful Detainer” complaint (Exh. 2)
  - Must answer within 5 days (Exh. 3); will be five business days starting Sept 1, 2019.
- Trial
  - If Tenant wins, then must pay rent and can stay at the property
  - If Tenant loses, Tenant is locked out by Sheriff, after a Writ of Possession obtained and a Notice to Vacate posted (5 days notice).
Landlord sues. Now what? What are my rights?

- Service of eviction notice (3, 30, 60, 90)
- Expiration of eviction notice
- Service of Unlawful Detainer
- Response to Unlawful Detainer (shortest timeframe is 5 days when personally served; additional time when service of UD Summons and Complaint is done by substituted service or post and mail- latter of which requires a court order).
- Default if tenant fails to timely respond.
- Note changes coming to UD procedure as of 9/1/2019-AB 2343.
Defenses

- Defective notice
- Breach of the Warranty of Habitability
- Waiver
- Estoppel
- Discrimination for Failure to Provide Reasonable Accommodations
- Discrimination based on Race, National origin, sex, family status, gender, age, religion, presence of children in the household, and source of income
- Section 8 voucher
- Retaliation
- Homeownership
- Post-Foreclosure *

*Not an exhaustive list
Litigation Timeline

- Trial must be heard in 20 days CCP 1170.5
- Filings
  - Demurrer/Motion to Quash
  - Answers
  - Discovery: Interrogatories, Request for Document Production, and Special Interrogatories
  - Motion for Summary Judgment
  - Counter Request for Jury Trial
- Default Judgment
  - Ex Parte Motion to Vacate Judgment
- Trial
Settlement Terms

- Date to move out
- Amount of back rent owed
  - Installment payments
- Amount for attorney’s fees and/or costs
- Judgment, suspended judgment or dismissal of case
- Repairs to be made to the property
- References for Tenants
- Enforcement of the terms of the agreement
Protecting Immigrant Tenants Act

- Effective January 1, 2018, this law bolsters existing state law by protecting tenants who are undocumented from unlawful harassment, intimidation, and retaliation from landlords, their attorneys, or both based on status.
- Creates a cause of action for tenants who are undocumented for harassing, intimidating, or retaliatory conduct
- Provides for affirmative defense (eviction), actual, and statutory damages for violation.
Tenants with disabilities

- Reasonable Accommodation
- Reasonable Modification
- Requirement to Engage in Interactive Process
- Statutory Protections
  - Americans with Disabilities Act (1990)
  - Unruh Civil Rights Act - is a piece of California legislation that specifically outlaws discrimination based on sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. Statutory damages of $4,000 for each violation.
  - Rehabilitation Act - It prohibits discrimination against people with disabilities in programs that receive federal financial assistance, and set the stage for enactment of the Americans with Disabilities Act
  - Fair Employment and Housing Act
The Fair Housing Act, 42 U.S.C. 3601 et seq., prohibits discrimination by direct providers of housing, such as landlords and real estate companies as well as other entities, such as municipalities, banks or other lending institutions and homeowners insurance companies whose discriminatory practices make housing unavailable to persons because of: race or color, religion, national origin, disability, familial status. CA law adds sexual orientation and source of income discrimination as protected acts.

- Movement to add gender identity to Act as protected classification.
- There may be protections for those with criminal histories, if can show disparate impact treatment based on a protected classification.
As of January 1, 2019, veteran or military status is a protected classification under CA fair housing law.
As of January 1, 2019, CA law will require landlords to accept third-party rent payments that are made on behalf of a tenant, so long as accepting the third-party payment does not require a landlord to enter into a new contractual relationship. In essence, where rental assistance is available without creating additional obligations for the landlord, it cannot be refused so long as an acknowledgment is provided that accepting the payment does not create a new tenancy. This bill does not apply to Housing Choice Vouchers or other similar programs.
As of January 1, 2019, LL is prohibited from evicting a tenant who seeks police or emergency assistance.

AB 2413, improves existing law by protecting a broader set of individuals who need to call for police or emergency assistance, including other crime victims and individuals in an emergency, from penalties such as eviction;

Provides an affirmative defense in eviction actions for tenants, residents, and occupants penalized for obtaining police or emergency assistance;

Allows survivors of domestic violence, sexual assault, stalking, human trafficking, and elder or dependent adult abuse to use documentation by a qualified third party such as a doctor or specialized caseworker to demonstrate abuse in the context of defending an eviction; and

Establishes that state law supersedes existing local ordinances that penalize tenants and landlords due to police calls or emergency assistance summoned to a property.
Questions?

• Please contact:

Ugochi Anaebere-Nicholson  
Directing Attorney  
Housing & Homelessness Prevention Unit  
Public Law Center  
(714) 541-1010 ext 280  
unicholson@publiclawcenter.org
Some Helpful Resources and links

- Unruh Act – Civil Code Section 51; Ralph Civil Rights Act – Civil Code Section 51.7 (provides protection from hate crimes. It prohibits violence or threats of violence based on: Age. Ancestry. Color).
- Fair Employment and Housing Act- Government Code Section 12955 et seq.
- Section 504 of the Rehabilitation Act of 1973
- Fair Housing Act 42 U.S.C.A. Section 3601-3631
- Fair Housing Amendments
- www.ADA.gov (guidance on reasonable accommodations and reasonable modifications, as well as guidance on rights of people with disabilities in employment and public accommodations).
- www.HUD.gov (guidance on use of criminal history for housing, reasonable accommodation, and anti-discrimination in housing).
- Department of Fair Employment and Housing- www.dfeh.ca.gov.