

# County of Santa Clara

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Molly O'Neal  
Public Defender

February 1, 2016

Mayor Sam Liccardo  
Rules and Open Government Committee  
200 E. Santa Clara St.  
San Jose, CA 95113

Dear Mayor Liccardo:

My name is Molly O'Neal, Public Defender for Santa Clara County. I am writing to memorialize the Office of the Public Defender's strong opposition to the "Crime Free Housing Initiative." This initiative, while well-intentioned, is clearly misplaced and out of line with recent criminal justice reforms designed to help formerly incarcerated individuals reenter the workforce, turn around their lives, and ultimately step out of the revolving door of incarceration.

Essentially, this housing model involves lease addendums that require a tenant to sign and agree that their lease can be terminated if they or a guest engage "in any illegal activity." Significantly, an arrest or conviction is not required to trigger the lease termination. A single alleged violation is deemed sufficient cause for termination. Evicting someone based on mere allegations, devoid of any standard of proof or official record of adjudication, for a single instance of criminal activity, no matter how minor, is contrary to basic notions of fairness and due process. It is particularly unfair given that the automatic lease termination could be triggered against an innocent tenant who may be unaware or even unable to control the conduct of guests, roommates, or family members.

The loss of one's home is a traumatic event. It often causes immediate devastating consequences for the evicted individual and his/her family. Moreover, an eviction can set off a cascade of events that lead to long-term problems. A recent study by Harvard and Rice Universities explored the impact of housing evictions on families. The researchers found:

Millions of families across the United States are evicted each year. Yet, we know next to nothing about the impact eviction has on their lives. Focusing on low-income urban mothers, a population at high risk of eviction, this study is among the first to examine rigorously the consequences of involuntary displacement from housing.... Compared to matched mothers who were not evicted, mothers who were evicted in the previous year experienced more

Assistant Public Defenders: Michele Diederichs, Jose G. Guzman, JJ Kapp

material hardship, were more likely to suffer from depression, reported worse health for themselves and their children, and reported more parenting stress.<sup>1</sup>

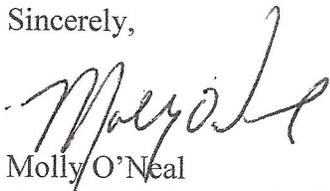
Given the personal and social gravity of an eviction, adopting a program that permits involuntary evictions based on no standard of proof and no record of adjudication is patently unfair. It can lead to evictions based on rumor, hearsay, or improper motive. Many arrests result in no charges or criminal filings, as the allegations are deemed unfounded. Many others who are arrested have their charges dismissed upon further review.

Among other concerns, this initiative will likely increase homelessness, deter the reporting of crimes due to fear of eviction, and cause victims of domestic and other violence to lose their homes. The lack of affordable housing in Santa Clara County is reaching historic highs and must be addressed. We have one of the nation's largest homeless populations, a severe lack of emergency shelters beds, and a lack of bed space for persons under age 18. Each year Santa Clara County adds more than fifty names to the list of persons who die living on the streets. Most are relatively young. This list has grown to over 1000 since 1999. In short, the housing situation in Santa Clara County is at an historic crisis level; to adopt a program whose centerpiece goal is to systematize evictions without due process is, in a word, unacceptable.

As pointed out by the Law Foundation for Silicon Valley, multiple disastrous scenarios are likely to unfold under this proposal, including the eviction of someone who is later acquitted or has their charges dismissed, and a tenant who has done nothing wrong but has a visitor or family member who is arrested. Nor will the initiative deter crime or improve public safety. On the contrary, evictions simply result in decreased public safety based on the host of problems that accompany homelessness, including a decreased likelihood of employment. Stable housing, not forced evictions, reduces recidivism and improves public safety outcomes.

Please do not move forward with this initiative. Our City and County have been on the forefront of progressive change, including in the area of community policing and evidence based interventions. These are proven strategies that should be further supported and explored. Let's not detract from these important reforms by enacting a housing initiative that punishes far too many innocent people, worsens our homeless crisis, and undermines state-mandated reentry efforts.

Sincerely,



Molly O'Neal  
Santa Clara County Public Defender

cc: City of San Jose Councilmembers District 1-10

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<sup>1</sup> Desmond, Matthew, and Rachel Tolbert Kimbro. 2015. "[Eviction's Fallout: Housing, Hardship, and Health](#)." Social Forces, published by Oxford University Press on behalf of the University of North Carolina at Chapel Hill.