

## Case Study:

# Eviction Prevention in the City of Reading, Berks County

April 2022 (minor update October 2023 to reflect change in process)

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In this case study, we highlight how a grassroots eviction diversion program in Reading (Berks County, PA) reduced evictions in a community with high rates of eviction filings. We also detail how the program was created and discuss important considerations for other communities exploring similar court-based eviction prevention programs.

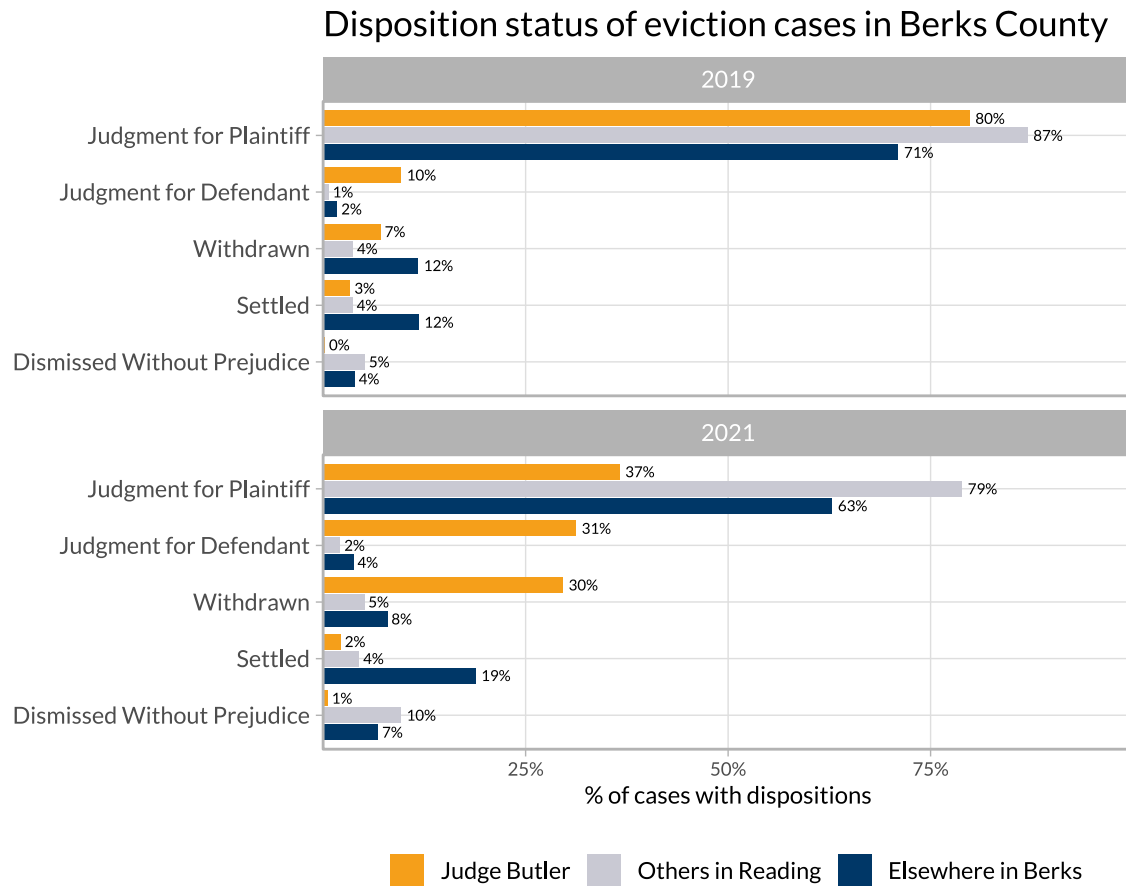
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A new court-based eviction diversion program was launched in 2020 by Don Smith, a volunteer attorney working with MidPenn Legal Services, in partnership with the Hon. Judge Tonya Butler and the City of Reading. The diversion program connects tenants sued for eviction in Judge Butler's court with information about available legal and rental assistance, as well as providing day-of-hearing legal assistance for tenants.

These efforts have greatly increased the rate of tenants appearing at eviction hearings, and coupled with outreach and negotiation with landlords, the program has had a major impact on case outcomes in Judge Butler's court. Before the program started, the vast majority of eviction cases in courts across Berks County were ruled in favor of the landlord, the plaintiff.

In 2021, a dramatic difference emerged in cases filed in Judge Butler's court, participating in the eviction diversion program, compared to other courts in Berks County. **In the participating court, the proportion of cases withdrawn by the landlord increased from 7% in 2019 to 30% in 2021, and the proportion of cases where the tenant won the case increased from 10% in 2019 to 31% in 2021.** In comparison, dispositions for eviction cases in courts not in the program changed little between 2019 and 2021, both for other courts in Reading and courts elsewhere in Berks County.

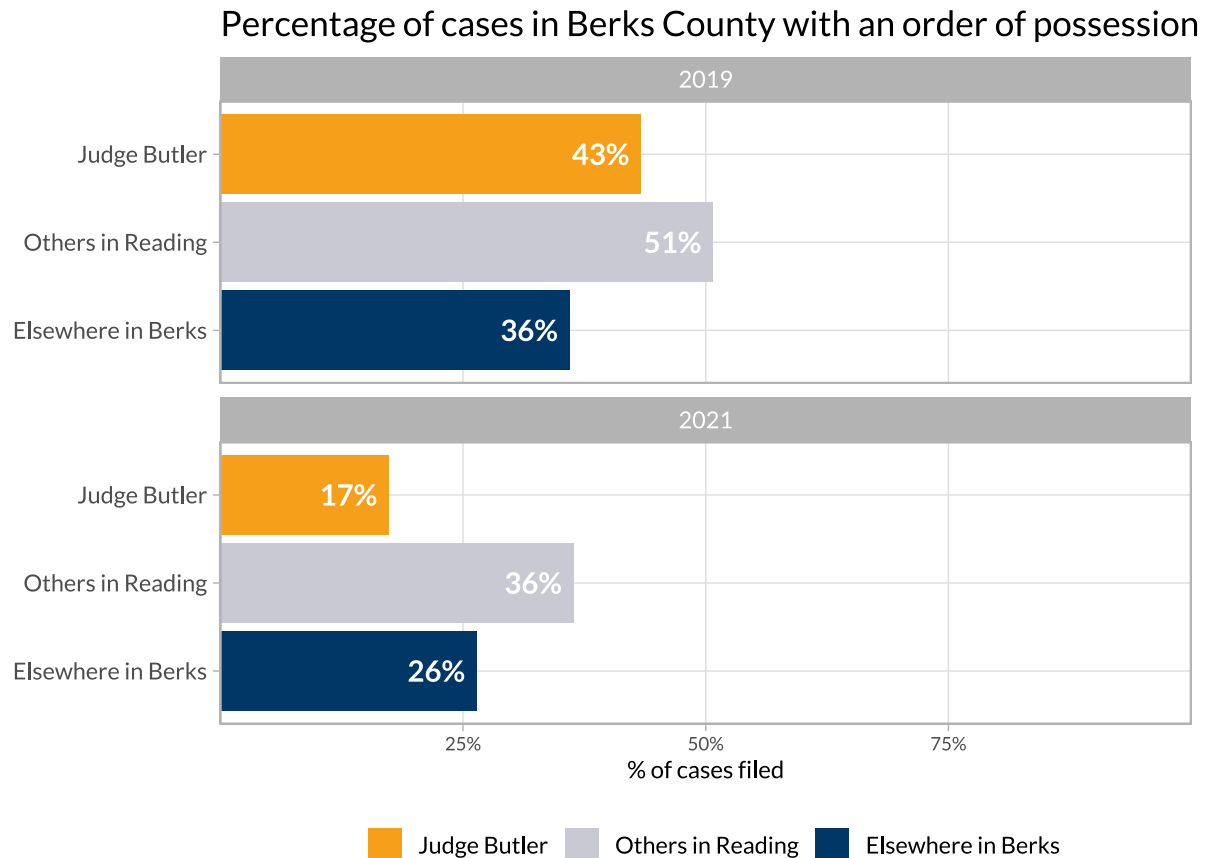
Figure 1: Disposition Status of Eviction Cases in Berks County (2019 and 2021)



Source: AOPC

Furthermore, orders of possession, which authorize the physical eviction of the tenant, also dropped in Judge Butler’s court in comparison with other courts in Berks County, both in Reading or elsewhere. **In 2019, 43% of cases in Judge Butler’s courtroom resulted in an order of possession, but in 2021, when the eviction diversion program was in operation, only 17% of cases resulted in an order of possession. This 60% drop compares to more modest decreases in other Berks County courts, where orders of possession dropped by less than a third.** These results mean that far fewer tenants in Judge Butler’s court were subjected to a legal eviction than might otherwise have been the case without the eviction diversion program.

Figure 2: Order of Possessions Issued for Eviction Cases in Berks County (2019 and 2021)



Source: AOPC

For 2021 cases, data do not include orders of possession issued in 2022

### Summary of the Eviction Diversion Program

Eviction is a major issue confronting Berks County and the City of Reading in particular. In 2021, households in Reading ZIP codes experienced such high eviction filings that around one in ten renter households in Reading received an eviction filing. In 2019, without the protections of the CDC Eviction Moratorium, the crisis was even more acute, with roughly one in five renter households receiving an eviction filing in some ZIP codes.<sup>1</sup> This level of displacement from eviction had rippling effects through the community, contributing to issues like classroom turnover where some classrooms see few students stay through the whole school year.

Launched in response to this crisis, the eviction diversion program has been operating in the district covered by Magisterial District Judge Tonya Butler since September of 2020.

<sup>1</sup> To explore eviction filing rates further by ZIP code, please visit the Housing Alliance's interactive eviction data report at: <https://housingalliancepa.org/eviction-data-report/>

Tenants who are sued for eviction in Judge Butler's district receive a 'Notice of Hearing' packet, which in addition to the court summons includes a flyer that in clear language informs the tenant that they are at risk of eviction and that help is available.

The packet, printed in both English and Spanish, lets the tenant know that there will be a lawyer available to help them on the day of the hearing, and to arrive 30 minutes early to get legal advice. The flyer informs tenants which documents to bring to the hearing, and lets them know who they can call for more information ahead of the hearing. During the period when new applications were still being accepted for the Emergency Rental Assistance Program, the packet also included the application form for rental assistance.

Before the hearing, a pro-bono attorney reaches out to the landlord to get a sense of what issues may be underlying the eviction filing and to negotiate for a pre-hearing agreement if possible.

The program approaches eviction diversion from multiple angles: it starts with providing clear and actionable information to tenants, and pairs this communication with legal assistance both at the hearing and with outreach and negotiation with landlords before and during the hearing. **Because of this approach, few tenants miss their court hearings, whereas before the program most cases were decided without the tenant being present in the courtroom. Ultimately, as the data reviewed above confirm, the diversion program works to prevent eviction filings from turning into actual lockouts.**

## How it Started

Attorney Don Smith spearheaded the creation of the eviction diversion program and oversees its operation. His involvement in eviction prevention was catalyzed by Matthew Desmond's book *Evicted*, which he read before his retirement as the Berks County bar executive in 2018. Over the next few years, he learned more about Landlord-Tenant law, visited the [EPIC](#) eviction diversion program in Montgomery County, and began planning for a new program in Reading. He also started offering limited representation to tenants in Judge Tonya Butler's court in Reading in order to understand all the aspects of the eviction process.

Through 2020, the current eviction diversion program took shape. Kimberly Talbot, the Executive Director of the City of Reading's Human Relations Commission, came onboard to provide intake for the program. The Hon. Judge Tonya Butler of Magisterial District 23-3-09, which covers northeastern Reading, readily agreed for her court to participate in the program, which was also approved by the President Judge of the Berks County courts. In September of 2020, when the original PA statewide moratorium expired, the program began full operation.

## Funding the Eviction Diversion Program

During the course of planning for the eviction diversion program, the Wyomissing Foundation pledged to provide \$40,000 in rental assistance. However, by the time the program started, the City of Reading had access to federal funds that allowed millions of dollars to be used for rental assistance. These funds from the city, as well as the Berks County Emergency Rental Assistance Program (ERAP), were sources of rental assistance funding. Rental assistance funds from the City of Reading have been especially important during periods in which Berks County ERAP was not accepting new applications.

### **What They Discovered**

The eviction process operates without many of the procedural standards in other civil cases. Unlike in the Common Pleas courts, defendants are seldom given thorough notice of the options that are available to them. The tight timelines in eviction cases make it difficult to have meaningful mediation between the parties, exacerbating the lack of communication that leads to the breakdown in landlord-tenant relations that often precedes an eviction filing. Program administrators have found that one particular asset of the eviction diversion program is the opportunity it gives for both sides to talk to each other.

### **Working with Tenants**

Each tenant who is filed against for eviction in Judge Butler's court receives an informational attachment to the Notice of Hearing sent from the court<sup>2</sup>. Printed on green paper, this additional form informs the tenant that they are under the threat of eviction. The information is provided in both English and Spanish, which is important for a community where many residents' primary language is Spanish.

The form also informs the tenant that rental assistance and legal assistance are available, and tells the tenant what they should do to prepare: call a pro-bono attorney through the provided phone number, bring leases and other relevant documents to the hearing, and arrive at court 30 minutes beforehand to receive legal assistance. This form provides critical information to the tenant by alerting them that they could be locked out of their current home through eviction. Often, the legal language used in official notices is confusing to understand, especially since the word 'eviction' is not actually used in the Notice of Hearing.

Another important function of the packet is to provide concrete actions that the tenant can take in response to the eviction filing. This information, which is routinely given to defendants in civil suits in Common Pleas courts but not in eviction cases, has led to tenants being much more likely to be present at the hearing, and raises the standard of

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<sup>2</sup> As of March 2023, the City of Reading Human Relations Commission receives a list from Judge Butler and mails a flyer in lieu of the information being attached to the Notice of Hearing.

fairness and access to justice in the eviction process to the same level as civil suits in the Court of Common Pleas.

### **Working with Landlords**

For eviction cases filed in Judge Butler's court, a pro-bono attorney contacts the landlord prior to the hearing to understand what the underlying factors behind the filing may be. The attorney will also explore whether an agreement can be reached to resolve the case without an eviction.

### **Day of the Hearing**

On days where eviction cases are scheduled in Judge Butler's court, a pro-bono attorney is present to provide legal assistance to tenants who arrive 30 minutes prior to their scheduled hearing as requested. Intake and connections to rental assistance are made through the City of Reading by a city staff member who is also present.

### **Keeping the Program Going**

Currently, the bulk of the work in the eviction diversion program is done by Don Smith, an attorney, and Kim Talbot, who leads the City of Reading Human Relations Commission. All legal assistance is provided by volunteer lawyers. Recently, MidPenn Legal Services received a grant from the United Way to hire a lawyer and a navigator for two years to work in the program, but staffing those positions has proved challenging. The program is exploring ways to bring more attorneys on board to sustain the program for the longer term.

### **Acknowledgments**

We are grateful to Don Smith, Esq., for sharing with us his work and the details of the program.

### **Eviction Data Analysis**

In Berks County (and most of Pennsylvania), eviction complaints are filed in magisterial district courts with magisterial district judges hearing the eviction case. The Housing Alliance analyzed eviction filings in Berks County courts using data obtained from the Administrative Office of the Pennsylvania Courts through an [electronic data request](#). Individual eviction cases can be searched on the Unified Judicial System of Pennsylvania

[Web Portal](#). We compared the eviction filings in the participating courtroom to the other magisterial district courts in Berks County. We examined filings from 2019, before the program began, to filings in 2021, the data available to us at the time of this case study's release. For more on eviction data in Berks County and elsewhere in Pennsylvania, please see our full [eviction data report](#).



The Housing Alliance is a statewide coalition working to provide leadership and a common voice for policies, practices, and resources to ensure that all Pennsylvanians, especially those with low incomes, have access to safe, decent, and affordable homes.

We promote common-sense solutions to balance PA's housing market and increase the supply of safe, decent homes for low income people.

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