Out at first

The Chicago Housing Authority is evicting hundreds of families under its one-strike policy for crimes that, in many cases, leaseholders were never convicted of. page 10

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New curfew won’t protect most homicide victims. page 7
Chicago lawyer empowering Muslims, Arabs. page 8
If a CHA resident is arrested one time, the tenant is sent to eviction court. But a Chicago Reporter analysis found that the policy separates families and ousts some who were never convicted of breaking the law.

By Angela Caputo

Jessica Moore showed up at the Daley Center, shaken and without a lawyer. She had a bad feeling about how things might play out in court.

A lawyer hired by a company that manages Chicago Housing Authority properties approached her. She followed him into courtroom 1302 and was ushered into a small conference area tucked away in the corner. A steady stream of eviction cases were called at the bench as they talked.

The CHA wanted to cut a deal: If she agreed to move out, the agency would let her and her six children stay seven days. Moore balked.

“I’ll take it to trial,” she told him.

Moore, 39, is just one of hundreds of low-income residents the CHA has taken to eviction court for violating the agency’s one-strike policy during the past six years. The rule is part of a set of national guidelines created in 1996 to make public housing developments safer by ridding them of people who commit crime.

But there was a problem. Moore was no criminal.

When the national policy was drafted, the U.S. Department of Housing and Urban Development empowered local housing authorities to tailor their own one-strike rules for best rooting out criminal activity as long as it was relevant to the peace and safety of its residents.
By the CHA’s standard, all arrests are subject to one-strike. As a result, tenants have lost their homes over nonviolent offenses, including shoplifting and marijuana possession.

The CHA had also chosen to evict leaseholders under one-strike for crimes committed by their children and anyone living in the unit, even if the crime occurred on property not owned by the CHA. Tenants are also culpable if their guests commit a crime on CHA property.

A new Chicago Reporter analysis found that from 2005 to 2010 the CHA opened 1,390 one-strike cases. The vast majority of them—86 percent in 2010—had nothing to do with the primary leaseholder.

When people were arrested, the person named on the lease was automatically summoned to eviction court, a civil matter, even though the criminal court cases were still pending in many instances.

If the CHA had considered how those cases played out in criminal court, it would have discovered that more than half of the defendants were found not guilty, their cases were thrown out or they were never prosecuted, the Reporter analysis found. Instead, one in three tenants whose criminal cases were tossed out or ended with a “not guilty” verdict, had their entire household evicted or moved out without a fight, the analysis shows.

CHA lawyer Scott Ammarell said that his agency takes an across-the-board approach to pursuing a one-strike eviction policy, regardless of the severity of the charges.

“If we get an arrest report and the charge on the arrest report is an offense that will end somebody’s eligibility to continue to receive a subsidy from the federal government, we pursue it,” he said.

It’s a policy that newly elected Mayor Rahm Emanuel appears to stand by. The mayor’s office declined an interview but issued a statement that said, “The Chicago Housing Authority has an obligation to provide the 30,000 individuals who currently reside in public housing with affordable and safe housing. The safety of CHA residents, its children and families as well as its neighbors is a top priority.”

Some critics say that the evictions are not only too harsh, but also premeditated. Earlier this year, the CHA demolished the last of its 51 high-rise public housing buildings. It was part of the agency’s Plan for Transformation. Eligible residents will get new units in mixed-income neighborhoods or subsidies to move into the private rental market. By barring many from public housing, some speculate that the CHA can avoid having to move them into replacement units, which are currently in short supply.

The Reporter’s analysis found that the number of one-strike cases across the city increased sharply in CHA developments where demolition was eminent. Cabrini-Green, Harold Ickes, Henry Horner and the ABLA housing developments accounted for more than a third of all one-strike cases in the past six years. Combined, those four developments accounted for more than half of all public housing units demolished during that time.

A large number of one-strike evictions have occurred in the new mixed-income communities, which replaced traditional public housing in gentrifying neighborhoods in the Near North, Near South and Near West sides. It’s in those same mixed-income communities that residents’ ability to fight one-strike evictions has been weakened the most.

One-strike cases are the only type of public housing eviction where tenants have no chance to file a grievance or request an internal hearing. Their only shot at beating the case is in civil court.

But most CHA tenants can’t afford a lawyer. And they can face long odds at winning the case—even with a legal defense. Meanwhile, in the spring, the CHA attempted to revoke its “innocent tenant” clause, residents’ main avenue for fending off evictions in the courtroom.

The clause gives the head of household—the person who was not arrested, even if someone in their household was—a chance to plead their innocence and protect the housing unit for the rest of the family who wasn’t involved in the crime.

The CHA’s proposal to revoke the clause was quashed in late June after public uproar. But the defense is becoming a moot point in most of the newest one-strike cases because the private developers hired to create mixed-income communities aren’t required to consider culpability in pursuing an eviction. That’s because the innocent tenant defense is not written into the lease agreement that tenants in the privatized developments are required to adhere to. Meanwhile, the number of one-strike cases continues to climb in these developments.

“We know the game,” said Shannon Bennett an organizer with the Kenwood Oakland Community Organization, which has been an outspoken critic of the policy for more than a decade. “These policies are intended to push people out.”

No community has experienced more one-strike cases than Cabrini-Green.

The CHA had 74 public housing developments sprawled across the city. Yet, roughly one in five of the one-strike arrests involved Cabrini residents.

A decade ago, nearly 13,000 people lived in the Near North Side public housing community, which was anchored by 1230 N. Burling St. and seven other decaying concrete towers.

Today, the buildings are all gone; some have been replaced by mixed-income homes, apartments and condos. Many of the new residents of the area are increasingly white and college-educated, and just 444 of the units there are for public housing.

Moore moved in when she was 23.
Her paychecks never came close to covering rent in the private market. So for more than a decade, she and her children squeezed into a two-bedroom Cabrini-Green apartment at 624 W. Division St.

When a four bedroom at 1230 N. Burling St. opened in 2005, she and her children—whose ages at the time ranged from 1 to 13—jumped at the chance to spread out. She had just quit her job as a cashier at a Walgreens and enrolled in classes part-time at Robert Morris College working toward a business degree.

She crossed paths with her boyfriend Ricky Dyer not long after moving in. Dyer had a history with Cabrini. He was born in 1983 and grew up in the development. As a teenager, he earned a reputation as a drug dealer and was given the nickname “Rickdog.” By the time he was 20, he was convicted of selling drugs. He pleaded guilty to two felony counts and was sentenced to one year in prison.

Once he got out, Dyer moved back in with his mom and steered clear of major trouble, but he had a few run-ins with police. He was arrested for trespassing and public drinking, but both cases were tossed out.

Around that time, he and Moore began dating.

By 2009, their neighborhood had changed dramatically. Moore’s building was one of the last two Cabrini-Green high-rises left standing. Her building sat to the far left of a rusting gate that served as the official, but least used, entrance to the 15-story buildings known as “the whites” for their pale concrete exterior.

The other 21 mid- and high-rise buildings had been knocked down by the wrecking ball and replaced with red-brick townhomes with lush shrubs, flawless concrete and quaint names, like North Town Village. Police were brought in to pay special attention to Burling Street, which was one of the last corners of the neighborhood occupied exclusively by public housing residents.

Under an agreement with the CHA, the agency and the Chicago Police Department freely exchanged arrest information. The two agencies signed off on the pact in 2000. If someone with a public housing address was arrested, or an arrest was made on the CHA’s property, police automatically passed along the police report to the CHA.

Burling residents became suspicious when police began showing up by the dozens. Moore knew that all it took was a single arrest to open a criminal-activity eviction. No conviction was required. No internal investigation was launched. And Moore knew from experience that the cops patrolling her building rarely flinched at throwing cuffs on her neighbors.

“The police would come into the building each day either knocking into somebody’s apartment or grabbing guys downstairs,” Moore said.

Arrests climbed as demolition of the building inched closer. Burling began to empty quickly. In the fall of 2010, only 39 of the building’s 134 units were occupied. During the last 20 months that the 1230 N. Burling St. building was occupied, 19 households were hit with a one-strike eviction. The leading cause for arrest was misdemeanor marijuana possession.

Moore had a love–hate relationship with the police. On one hand, she feared them because she knew that her eldest son,
Making their pitch

The Chicago Housing Authority’s one-strike policy is intended to make public housing safer. But in doing so, innocent tenants are getting evicted. We asked experts what reform could better accommodate both goals.

“By moving to a less formal setting, not under the stringent rules of a courtroom, it would give residents an opportunity to present all relevant information to the decision-maker—including mitigating factors.”
— Mark O’Brien, Legal Action Center

“CHA doesn’t do any further investigation beyond arrest. They should get feedback from property managers to find out what are the circumstances of the arrest—and the household.”
— Richard Wheelock, Legal Assistance Foundation

“Politicians would have to take a uniformed approach to say that there are two levels of drug activity: those that are toxic to society and those that are not as toxic to society.”
— Lawrence McDonough, Legal Aid Society of Minneapolis

A swing and a miss

1988: Under the Anti-Drug Abuse Act of 1988, public housing authorities were given permission to evict tenants for drug-related activity.

1996: The “One-Strike and You’re Out” policy was launched under the Clinton administration to keep crime out of public housing. The CHA launched its version and enacted the “innocent tenant” defense, in which tenants could avoid eviction by demonstrating that they had no prior knowledge of illegal activity.

1998: Pearlie Rucker, a 63-year-old public housing resident in Oakland, Calif., received an eviction notice after her daughter was arrested for cocaine possession three blocks from Rucker’s home.

2001: The U.S. 9th District Circuit Court of Appeals ruled in favor of Pearlie Rucker, only to be overturned the next year when the U.S. Supreme Court decided that illegal activity committed by any member of a tenant’s household, or any guest inside of the house, was cause for eviction.

Devonte, was becoming a troublemaker. At 16, he’d already been in and out of rehab after getting arrested for drugs.

While many of Moore’s neighbors did their best to avoid the police, she saw them as her last hope for reining in Devonte. He was hardheaded.

“I couldn’t tell him anything,” she said. She appealed to a couple of “trusted cops known around Cabrini as “Eddie Murphy” and “Babyface” for their help. “I told them, ‘Stop him if he’s selling drugs. I don’t want to get put out.’”

Nothing prepared Moore for the morning of Sept. 25, 2009, when a team of 19 officers busted down her front door just after 8 a.m. as her children slipped on their shoes and backpacks on their way out to school.

For two hours, the officers picked through Moore’s four-bedroom apartment, finding $48 worth of marijuana stashed on a shelf in Devonte’s bedroom. During a pat down, a dime bag of cannabis, worth $12, was recovered from Dyer’s right shorts pocket. He was charged with misdemeanor pot possession.

Within days of the raid, Moore got her notice that her lease would be terminated.

The Reporter found that a growing number of families have similarly faced eviction based on low-level, misdemeanor charges. More than 70 percent of the one-strike cases involved drug possession; less than 10 percent were attributed to the drug dealing that one-strike was created largely to address.

A disproportionate number of one-strike cases have been opened against people living in three rapidly gentrifying Chicago wards, which have demonstrated some of the city’s largest changes in household income over the past decade.

On their way out

Most one-strike arrests
- Cabrini-Green
- Altgeld-Murray Homes
- Ickes
- ABLA
- Horner

Most units demolished
- Wells
- Cabrini-Green
- Ickes
- ABLA
- Horner

More than half of one-strike cases involved people living in wards 2, 3 and 27.
Why are they arrested?

Nearly 75 percent of one-strike cases were based on drug possession arrests. Of those, more than a quarter involved cannabis.

Top five charges

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<tr>
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Were they a threat or a nuisance?

In large part, people were arrested for minor offenses. And the analysis shows that as the buildings came down, more and more people were arrested for low-level misdemeanors.

Small crime, big price

The Chicago Housing Authority is basing a growing number of eviction cases on low-level crimes. Of the total 1,444 arrests under one-strike, 1,307 were prosecuted in the criminal courts. No court cases were ever opened against 7 percent of those arrested.

Methodology

The Chicago Reporter obtained Chicago Housing Authority records for all 1,420 one-strike cases initiated against tenants from Jan. 1, 2005, through Jan. 31, 2011. The data included the name and address of the individual who was arrested, the address where the arrest occurred, police report number and a description of the criminal offense. The data also included the disposition of the case in eviction court for each tenant charged with violating the CHA’s criminal activity eviction policy. Primary leaseholders’ names were withheld unless they faced direct criminal charges. The Reporter matched the CHA records with criminal court records, maintained by the Cook County Circuit Court Clerk’s office, to determine the race, birthdate and ZIP code of each one-strike offender. Those records also detailed if each case was based on misdemeanor or felony charges and whether the case ended with a criminal conviction. The Reporter also pulled more than 100 civil court files, which were used to check the dispositions in the cases reported by the CHA.

By the numbers

65% The majority of residents in CHA properties are female.

74% However, almost three-quarters of those arrested under the one-strike policy are male.

23% Nearly a quarter of those challenging an eviction case are doing so because of allegations against a 17- to 19-year-old living in the house.

40% After being served with an eviction notice, the most likely outcome was that tenants were evicted or moved out without a fight. In 34 percent of cases, the arrestee was barred from the property.

47% Of those evicted, nearly half were found not guilty, their cases were tossed out or no criminal case was ever filed. Another 14 percent moved out without trying to fight the CHA in court.

95 In roughly 7 percent of one-strike cases, people faced eviction though no criminal court case was opened.

Moore fought for her apartment for six months. When her trial date finally came, police testified about Dyer’s pot possession. She lost, and a judge gave her and her children seven days to move.

“I’m like, ‘Where I’m gonna go with six kids?’” she asked.

In a gesture of mercy, Moore said, the CHA extended her move-out date to 60 days.

Cook County Sherriff’s police hauled the last bit of broken furniture out of her apartment on June 30, 2010. Nine months later, the Burling high-rise was demolished.

What happened to Moore, Burnett said, runs counter to what the CHA is given millions in federal anti-poverty dollars each year to do: stabilize families.

“CHA should be thinking about how to keep people in...
those apartments. They should be advocating toward helping people to keep their places, not finding ways to put them out,” said Burnett, who was convicted of armed robbery, a felony, at 17 when he was joy riding with friends in Kankakee. “Everybody deserves a second chance.”

In June, HUD Secretary Shaun Donovan issued a letter reminding housing authorities that there are only two types of people who are prohibited from living in public housing: methamphetamine producers and registered sex offenders. “[E]vidence of rehabilitation or evidence of [a] family’s participation in or willingness to participate in social services such as counseling programs should be considered,” Donovan wrote.

CHA officials, however, point to a U.S. Supreme Court decision from 2002 that upheld a California housing authority’s right to evict an Oakland woman although she wasn’t responsible for the crime that got her evicted under one-strike.

Still, even within the CHA, the importance of arrest histories is inconsistent. Arrests alone, for example, don’t preclude applicants from joining the agency’s housing waiting list, which currently has roughly 40,000 names.

Ultimately, HUD cedes to housing authorities the power to draft policies that protect the safety and well-being of their residents. But under the Obama administration, the agency isn’t quick to endorse them.

“Housing authorities tend to point the finger at HUD, saying [one-strike] is a federal policy,” HUD spokeswoman Donna White said. “We leave it to them to use discretion.”

As Linda Couch, senior vice president for policy with the National Low Income Housing Coalition sees it, “Both HUD and local agencies play both sides when it serves their purposes.”

The Chicago-based Legal Assistance Foundation negotiated an innocent tenant defense back in the mid-1990s to help soften Chicago’s one-strike policy. Because private firms own the new mixed-income communities, they aren’t bound to the defense. But the number of new one-strike cases is becoming more prevalent in those areas. For example, in the Westhaven Park community, which replaced the Henry Horner Homes on the Near West Side, 41 percent of all one-strike cases in the past six years occurred in 2010 alone.

As far as lawyer Elizabeth Rosenthal is concerned, the innocent tenant defense is the only avenue public housing residents have to defend themselves. “Otherwise, CHA operates with no discretion in these cases,” she said.

It’s particularly important because in 84 percent of the eviction arrests, the primary leaseholder wasn’t responsible for the criminal activity, the Reporter’s analysis found.

The CHA’s expectation is that tenants who successfully evoke the defense will end up barring the person they describe as the “bad actor.” Typically, the rest of the family is allowed to stay under the condition that the person barred will never return to CHA property. One slip, and the deal is broken with no chance for appeal, even if the person barred is the tenant’s own child.

Moore found an apartment in West Englewood. Her family squeezed into the two bedroom for six months until the building went into foreclosure.

People suggested she move into a transitional housing shelter until she could get back on her feet. But she feared Devonte, who’s now 18, would have been pushed into an adult shelter and that her 17-year-old daughter would be next.

“I’m not leaving my kids,” she said. “My kids are my life.”

Moore maxed out her student loans—taking out $8,000 last fall—to cover the rent in her current two-bedroom in Avalon Park on the South Side. Three children sleep in a sunroom filled with garbage bags full of clothes that were soiled by a leak in the first apartment. There’s mold in the kitchen and a hole in the bathroom ceiling where water gushes in from time to time. There’s no washing machine, so she sometimes washes the family’s clothes by hand.

Moore’s rent is now $750 a month—a far cry from the $72 a month she paid at Cabrini-Green. “Plus I have to pay the gas bill,” she said. “Plus the light bill.”

After six years, Moore and Dyer are still together. Finding permanent work has been tough, though. He’s handy and has been able to pick up odd janitorial jobs.

Moore has also turned to the state for welfare through the Temporary Assistance for Needy Families fund, which she hadn’t done in nearly two decades. It brings in another $555 a month.

“I felt I didn’t want it or need it before. I was working,” she said. “But now it’s really hard to find a job. And I really don’t want to quit school. I’m at the door of my associate’s degree.”

Meanwhile, her children catch a train and a bus to get to the same North Side schools they went to while living on Burling Street. “I didn’t want to switch schools because I didn’t know if I was going to be moving,” Moore said.

Two are at Suder Montessori, which she describes as a good magnet school. Her two youngest boys attend Jenner, the neighborhood school closest to Cabrini-Green. And her eldest daughter is going to be a senior at Lincoln Park High School this fall. In one more year, she’ll be off to college.

Both Moore and her daughter are trying to stay positive and think of college as their best chance to open new doors. When her daughter starts stressing about tuition and considers downgrading her plans to community college, Moore pushes her.

“I’m like, ‘No, you’re going to go out of Chicago,’” Moore said. “I want her to get a good education so she can go wherever she wants to go.”

Dylan Cinti, Alexis Pope, Caitlin Huston and Louis McGill helped research.
Gloria Franklin never imagined her son’s arrest would put her in danger of losing her home and cost him the right to live under her roof.

But that was the consequence when her 17-year-old son Tyran Pratt was arrested allegedly with $10 worth of marijuana outside Franklin’s home in the Cabrini-Green community.

Following Pratt’s arrest, Franklin received a letter from the Chicago Housing Authority informing her that she was going to be evicted. “For what?” Franklin remembers thinking. “I didn’t go to jail. Nothing was in my house.”

But under the CHA’s official occupancy policy, tenants such as Franklin can be evicted from public housing if anyone on their lease is charged with a criminal infraction.

A 20-year resident of public housing, Franklin has lived in a row house on North Cleveland Street for six years—a relic of the Cabrini-Green public housing development that was mostly demolished by 2011.

Franklin’s row house stands out from the rest on her block. Where her front lawn is adorned with flowers and a small garden, the other properties are covered with boards.

Nevertheless, Franklin said it was a good place to raise Pratt, who was in high school when he was arrested in October 2009. She had also been sharing the house on Cleveland with her disabled sister; daughter, 29; and grandson.

Franklin describes Pratt as a good child who tried his best in school. In addition to his regular classes at Roberto Clemente Community Academy, he met with an after-school mentor.

But, like most teenagers, Pratt was susceptible to peer pressure. As she explained, “He had to be with people who lived in his area in order for him to go to school … safely.”

Franklin said that although she knew Pratt smoked marijuana, she never allowed him to smoke around her or anywhere in her house.

“I wasn’t OK with that,” Franklin said, but “when I’m not there, how can I control it?”

On Oct. 3, 2009, Pratt was arrested...
on the street outside Franklin’s house allegedly with a plastic bag containing one gram—or roughly $10 worth—of marijuana, according to a police report.

Pratt’s arrest came at a high point for marijuana arrests that triggered one-strike cases in the Cabrini development, a Chicago Reporter investigation found. In 2009, 33 people were arrested for marijuana possession, by far the highest of any housing development and more than twice as many as the previous year. Of the 33 arrested, six of them, like Pratt, were 17-year-olds, the single-largest age group of arrestees.

Pratt was booked and released on his own recognizance, according to the police report. Franklin was at work during the incident.

Although Franklin said she was upset with her son, she couldn’t believe what happened next. “The plaintiff … has filed a complaint in this court to have you evicted,” read the letter sent to Franklin on Dec. 10, 2009.

“I’m like, ‘What the heck is this?’” Franklin said.

In subsequent negotiations with the CHA, Franklin said she was told that in order to keep her home, she’d have to take her son off the lease, bar him from the property and accept a yearlong probation.

From December 2009 through July 2010, Franklin consulted with lawyers. “I did not understand how … my son had to be taken off the lease and me put on probation for a year, and there was no case,” Franklin said.

Ultimately, Pratt’s misdemeanor charge was thrown out in court. A Reporter investigation found that more than half of the arrests that triggered one-strike cases were thrown out in criminal court.

Even though Pratt’s case fizzled, the CHA continued Franklin’s case in eviction court. There, a judge ruled that Franklin could keep her home, but she’d have to kick out her son, who was still a minor at the time. She was told to take him off the lease and that he would be permanently barred from any CHA property, even though she didn’t have anywhere for him to stay.

On July 8, 2010, Pratt was permanently barred from the property and removed from the lease.

Franklin got choked up recalling the moment she told her son. It was one of the most difficult points in her life, she said. “I gave him a hug, shared a few tears, and I just told him, ‘You have to go; I’m sorry,’” Franklin added.

Since Pratt left last summer, Franklin said she hasn’t seen him much. He dropped out of school and has been living on the streets. Sometimes he’ll call when he’s hungry, and she’ll bring him food. And other times she sees him sleeping in a playground near her house, a sight she describes as “one of the most hurtful things.”

For the most part, Franklin has no idea of her son’s whereabouts.

“He’s everywhere,” she said. “My son is homeless on the street right now.”

She said she feels her son’s absence constantly. “I want my kids to be able to come and visit me,” she said. “That’s all I’m asking.”

Contributing: Angela Caputo
In tenants’ defense

Laws in Minnesota and Missouri offer greater tenant protection

By Alexis Pope

One strike and you’re out. The adage is clear in its meaning: Commit one fault, and forget about a second chance.

The one-strike policy, championed during former President Bill Clinton’s State of the Union address Jan. 23, 1996, was intended to crack down on crime and drug activity in public housing.

When the U.S. Department of Housing and Urban Development issued a set of guidelines that year, local housing agencies were given the power to adopt their own version of the policy. In some cities, a criminal arrest meant the tenant was issued a notice that their lease would be terminated, like in Chicago.

But in other cities, like Kansas City, Mo., measures were put in place to vet the cases prior to the tenant facing eviction. That way, only the “bad actors,” people committing crimes, were being evicted, and not whole families.

The Housing Authority of Kansas City operates that way. Tenants agree in their lease to notify the property manager if someone whose name is on the lease, or a person under the tenant’s control, is involved in criminal behavior. The act of having reported the activity can be used in the tenant’s defense if the case goes to civil court. Tenants can also make a case that they had no prior knowledge of the criminal activity.

“The policy protects a lot of innocent people who would have normally been evicted because of the actions of someone in the household when they didn’t have any responsibility or knowledge of it,” said Julie Levin, managing attorney of the central office of the Legal Aid of Western Missouri.

When any household member or a guest has been charged and convicted of a crime, the head-of-household is questioned on whether he or she knew or should have known about the activity, Levin said.

The Legal Aid of Western Missouri was able to negotiate this tenant protection in the leases in 1993 when the housing authority lost some of its oversight authority because of mismanagement. After that, crime decreased significantly, which Levin attributes to tenants having more ownership in the development under new management.

“Crime in Kansas City proper is higher than crime in Kansas City public housing,” she said.

Levin said that her group uses police reports and statements from the public safety department of the housing authority, which investigates criminal activity, and talks to witnesses to find out about the crimes that occurred. The research helps weed out bad tenants and bolster cases of innocent tenants, she added.

“It’s a very subjective thing, and we just gather whatever evidence we can that proves [the tenant] had no knowledge of [the crime.] They could have engaged in this criminal activity at school, and grandma wouldn’t have seen or heard about it,” she said.

The State of Minnesota has a policy similar to Kansas City’s, said Lawrence McDonough, managing attorney of the Housing Unit at the Legal Aid Society of Minneapolis. He said that such a provision is better because it focuses on whether a tenant “is really a bad actor or not,” he added.

“The compassionate intentions of the congressmen who wrote the provision were not written into the actual language of the law, McDonough said. Congressional reports cite the congressmen saying that they believe the provision should be practiced in a compassionate way that does not evict innocent tenants, McDonough said.

Thus, there could be multiple housing authorities within the country exercising more ownership in the development and using multiple versions of the one-strike policy.

McDonough would like to see innocent tenants across the country receiving the same amount of consideration. This would require federal action for equal protection across the board.

“My preference would be at some point to have a Congress that sees this issue the way I do,” McDonough said. “And amends that lease provision so that, across the country, tenants who aren’t culpable will not be evicted.”

Even if a tenant has committed a crime, the federal law gives all housing authorities the discretion not to evict.

While the statute exists, the Minneapolis Public Housing Authority tends to give eviction notices for illegal drugs on the property despite the circumstance, McDonough said.

The Minnesota Legislature is looking out for the interest of the innocent tenants.

“The public housing authority in Minneapolis isn’t looking at this any differently, but they are subject to the laws created by legislators above them, including the Legislature of Minnesota,” he said.

Even if a tenant has committed a crime, the federal law gives all housing authorities the discretion not to evict a tenant even when the tenant has violated the lease.

“The lease provisions do not require eviction; they allow eviction. The only type of possession of an illegal drug in which it is absolutely mandatory is meth,” he said.

Thus, there could be multiple housing authorities within the country exercising the discretion not to evict someone. It is difficult to quantify the number of housing authorities that are exercising it, McDonough said.

The Minnesota Legislature is looking out for the interest of the innocent tenants, McDonough said. Congressional reports cite the congressmen saying that they believe the provision should be practiced in a compassionate way that does not evict innocent tenants, McDonough said.

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