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A Review of the California Unlawful Detainer Pilot Program: 2018 Update

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A Review of the California Unlawful Detainer Pilot Program: 2018 Update

March 2018



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Author

Benjamin Tang

Mandated by

California Civil Code 3485, 3486 and 3486.5 (as amended by Statutes 2014, Chapter 339, and Statutes 2014, Chapter 341)

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Executive Summary

Since 1998, the California Unlawful Detainer Pilot Program has allowed city attorneys, who are otherwise ineligible, to initiate eviction cases against tenants arrested for certain nuisance activities. Legislation over the past 20 years has modified the initial pilot program, such as adding illegal firearms as a separate qualifying violation to drug-related activity.

The four cities in the pilot program – Long Beach, Los Angeles, Oakland and Sacramento – have collectively used the program in roughly the same number of incidents in the past three years: 64 (2015), 50 (2016) and 67 incidents (2017). Compared to years past however, there has been a noticeable decline in program use.

Other decades-long patterns in the data show that roughly 80 percent of all incidents involved

controlled substances. Over half of incidents end with the arrested tenant voluntarily vacating the premises; while the proportion of eviction cases filed by property owners rather than by city attorneys remains high at 86 percent. Most of arrested tenants the past three years were racial minorities: 73 percent (2015), 83 percent (2016) and 56 percent (2017).

This is the eighth legislative report on the merits of the pilot program, as required by state statutes. There is insufficient data for a proper evaluation of the program with regards to crime reduction and nuisance abatement, but the accelerated unlawful detainer procedure is cost-effective when compared to lawsuits and is successful at evicting individual nuisance tenants.

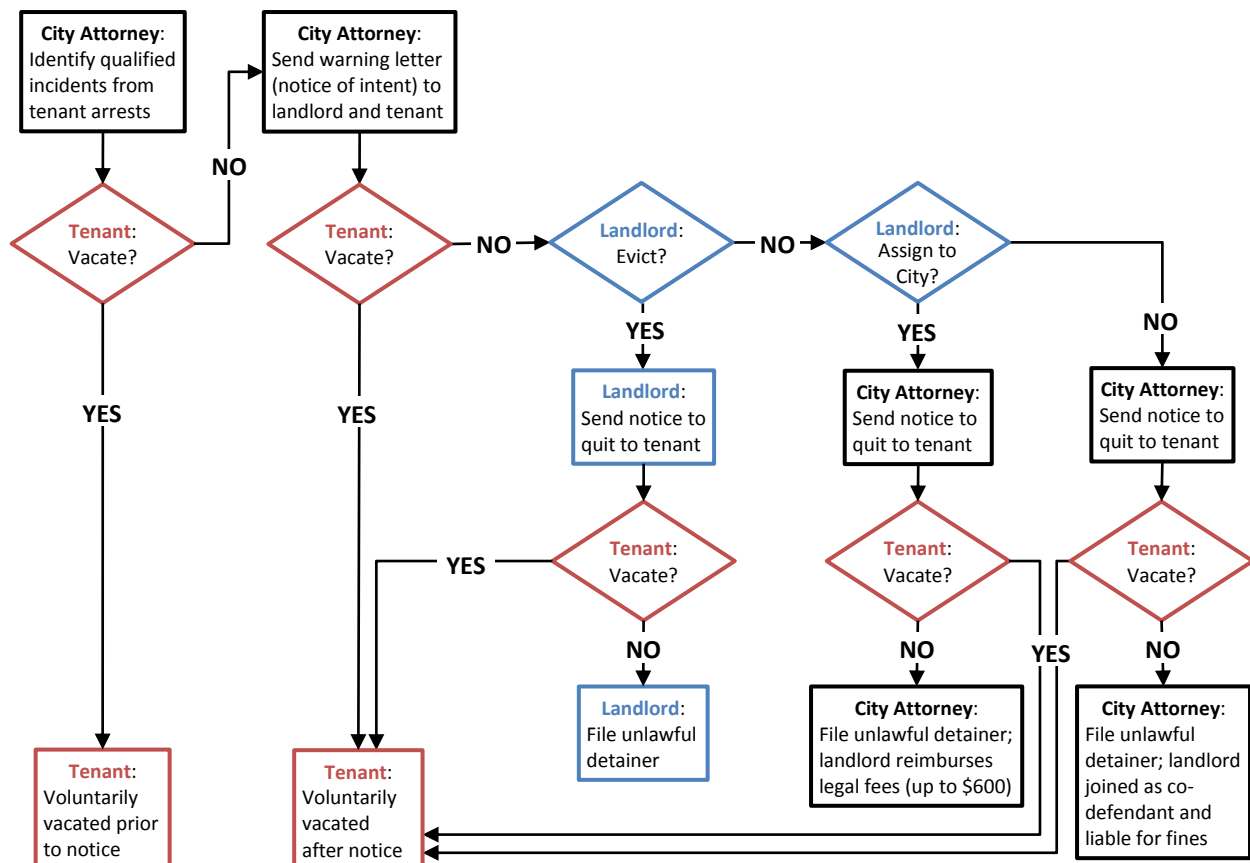
Background: Unlawful Detainer and the State Pilot Program

Unlawful detainer refers to the continued stay of a tenant inhabiting a residential property illegally, usually because the lease expired or from breach of lease (such as nonpayment of rent). An unlawful detainer action is the lawsuit filed by a landlord to evict such tenant.¹ A pilot program, introduced in 1998 by Assembly Bill 1384 (Stats. 1998, Ch. 613), authorized city and district attorneys in select jurisdictions to also initiate unlawful detainer actions against certain tenants for the abatement of nuisance behavior (initially, conduct involving drug-related activity, and later included illegal weapons).² The bill sponsors argued that some landlords are negligent regarding tenant conduct or even feared to evict nuisance tenants such that, in granting the right to initiate unlawful detainer

action to an entity other than the landlord, the program would protect “landlords and law-abiding tenants from retribution” by potentially dangerous tenants.³ The bill also enabled partial evictions, allowing the targeting of individual tenants rather than entire households.

The general eviction process under the pilot program has remained the same for the past 20 years (see Figure 1), with specific details varying by city.⁴ Police provide information to a city attorney about arrested tenants, and the city attorney pursues unlawful detainer actions on those incidents that qualify under the pilot program. The city attorney first informs the tenant and property owner with written notices of intent to evict, including information on the suspected violation and contact information to contest the eviction and for legal assistance. If the property owner chooses not to pursue an

Figure 1: General process to eviction under unlawful detainer state pilot program



eviction, then the city attorney may by sending a notice to quit to the tenant. If the property owner neither evicts the tenant nor assigns the case to the city attorney, then the city attorney may join the property owner to the tenant as co-defendant in the suit and, upon prevailing, impose penalties on the owner (penalties could be legal costs and attorney's fees, constituted as a lien on the property).⁵ At any time, even after an eviction lawsuit has been filed, the tenant can voluntarily vacate the residence and end the process.⁶

Legislation since 1998 has modified the pilot program, such as changing the evidence required to initiate action and expanding the number of cities participating (see Appendix A for legislative history). AB 1013 (Stats. 2007, Ch. 456) added unlawful possession or use of illegal weapons and ammunition as a qualifying nuisance, formalized as Civil Code Section 3485; the initial pilot program included only sale of controlled substances (later codified as Civil Code Sections 3486 and 3486.5).⁷ Although the drugs and illegal weapons programs are technically distinct, this report treats both as aspects of the same program, as previous legislative reports have done.

This is the eighth legislative report on the unlawful detainer pilot program. Participating cities are mandated to submit program data to a reporting agency, which must then evaluate the program's effectiveness. The first four reports, written by the Judicial Council, were inconclusive, with staff indicating that "data limitations are substantial making it virtually impossible to draw any real conclusions about the 'merits' of the pilot program."⁸ The next four reports, including this one, were issued by the California Research Bureau and used new data collection methods, but the limited data still prevented any robust conclusions about the program's merit.⁹ The program sunsets at the end of 2018, with the requirement that this 2018 update also indicate whether Sacramento and Oakland have regularly reported their use data to the Research Bureau.¹⁰

Pilot Program Use over Time

Program Participation

Four cities currently participate in the pilot program: Long Beach, Los Angeles, Oakland and Sacramento. Long Beach and Los Angeles have participated since the program started in 1998, while Sacramento joined the illegal weapons program in 2008 and controlled substances program in 2010. The pilot program had lapsed in 2014 before urgency bills AB 2310 (Stats. 2014, Ch. 339) and AB 2485 (Stats. 2014, Ch. 341) restarted the illegal weapons and controlled substances programs, respectively, for 2015. The 2014 statutes included Oakland into the pilot program and exempted Los Angeles from reporting drug-related incidents. However, AB 2485 does not explicitly authorize Long Beach to participate in the controlled substances program, though the city reported the unlawful detainer actions it continued to take under both the pilot program and its own municipal ordinance.

Program Use since Previous Update

Since the last reported program data in 2015, Long Beach, Los Angeles and Oakland each experienced a drop in program use in one of the three years, while Sacramento reported a continued decline, from 10 incidents in 2015 down to three in 2017 (see Table 1).¹¹ According to the Sacramento City Attorney's Office, this drop is attributable to lagging effects of staff cutbacks among the police department from the late recession and diversion of resources to control a rise in illegal cannabis activity.¹² If the program is extended, Sacramento anticipates a rebound in its use as more police officers become available and trained in the program.¹³ Among the four cities, Long Beach has used the program the most number of times every year, although Los Angeles did not, and is not required to, report drug-related incidents (and since its use of the weapons program is higher than the other cities, its potential use of the drug program could also be higher).¹⁴

Table 1: Total unlawful detainer incidents, voluntary vacates, and unlawful detainer cases, 2015-2017

	Long Beach			Los Angeles			Oakland			Sacramento			All Cities		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
Total Incidents	42	21*	47	2	12	12	10	10	5	10	7	3	64	50	67
Controlled Substances	42	16*	33	—	—	—	1	3	0	7	5	3	50	24	36
Illegal Weapons	0	2	3	2	12	12	4	4	3	3	2	0	9	20	18
Both Nuisances	0	3	11	0	0	0	5	3	2	0	0	0	5	6	13
Total Voluntary Vacates	24	13	28	1	8	6	5	6	3	10	7	2	40	34	39
(% of Total Incidents)	57%	62%	60%	50%	67%	50%	50%	60%	60%	100%	100%	67%	63%	68%	58%
Before Notice	9	4	12	1	4	1	0	2	2	0	0	0	10	10	15
After Notice	15	9*	16	0	4	5	5	4	1	10	7	2	30	15	24
Notice to Quit	12	7	16	1	9	11	3	2	0	8	2	3	24	20	30
Unlawful Detainer Cases	8	2*	8	1	4	6	3	1**	0	0	1	1	12	8	15
(% of Total Incidents)	19%	10%	17%	50%	33%	50%	30%	10%	0%	0%	14%	33%	19%	16%	22%
Owner Filed	5	2	7	0	2	5	3	1	0	0	1	1	8	6	13
City Attorney Filed	3	0	1	1	2	1	0	0	0	0	0	0	4	2	2
Adjudicated	6	1	5	1	4	3	1	1	0	0	0	0	8	6	8
Incidents Pending	4	5	6	0	0	2	3	2	1	0	0	0	7	7	9
(% of Total Incidents)	10%	24%	13%	0%	0%	17%	30%	20%	20%	0%	0%	0%	11%	14%	13%

Due to different accounting principles and unknown status of certain incidents (labeled in red), the numbers of voluntary vacates and unlawful detainer cases filed do not add up to 100 percent. Cells are blank if information was not provided.

* One eviction case against an individual tenant living at four separate properties (four separate notices were sent).

** Excludes an eviction case for nonpayment of rent underway before the nuisance-based eviction was issued.

In the past three years, drug-related incidents have outnumbered weapon incidents, with most of the drug-related activity reported by Long Beach. For tenants arrested for both drug and weapon nuisance charges, Los Angeles and Oakland issue two unlawful detainer notices for both violations, while the other cities tend to choose only one qualifying nuisance type. In Oakland, five of the 15 incidents from 2016 to 2017 involved these double violations.

The majority of incidents in the past three years (about 60 percent) ended with the tenants voluntarily vacating the premises. Almost all Sacramento incidents (save one in 2017) ended this way. Notices of intent from city attorneys are usually enough to encourage nuisance tenants to leave.¹⁵ Approximately 20 percent of all incidents progressed to filing of unlawful detainer actions, but this overall percentage is

driven by the greater use of the program in Long Beach. The ratio is closer to half for the controlled substances incidents reported by Los Angeles. The remaining incidents are pending or have unknown resolutions. Three of the 2017 Oakland incidents were actually carryovers of pending incidents from 2016 (although only two of them were reported as pending – the third of these continuations was recorded as resolved but was appealed successfully by the tenant in 2017). One Long Beach tenant had his charges dismissed when the evidence tested negative for controlled substances.

Some incidents, all in Long Beach, had unusual resolutions. Five tenants at the same residence were squatters in the garage at the back of the property and vacated the day they were arrested. One unlawful detainer case was dismissed when the property went up for sale

during the proceedings, while another incident involved an arrestee who was not a real tenant (he was living in a tent in the backyard). One wheelchair-bound tenant was allowed to stay as long as he complied with probation and continued with his drug rehabilitation program. Long Beach officials closed three incidents in which they reported only that the property owners refused to evict their relatives. Finally, two incidents went unresolved because the property owners could not be found.

Tenant Demographics and Histories

In response to concerns over fair application of nuisance evictions and possible disparate impact on low-income and minority tenants, the most recent statutes reauthorizing the pilot program also mandated collection of tenant biographic information, including tenant age, race, address, and arrest and eviction records for prior nuisance offenses of the same type.¹⁶

Los Angeles did not track tenant racial identity, so only incidents in Long Beach, Oakland and Sacramento are summarized (see Table 2).¹⁷ Of

the tenants in those three cities who were sent nuisance eviction notices, the majority have been non-white. This has been true for the last three years, with percentages of 73 percent (2015), 83 percent (2016) and 56 percent (2017) of all tenants being of black, Hispanic, or other non-white racial identity. The percentage drop from 2016 to 2017 was driven by the high program use in Long Beach, as nearly half the Long Beach incidents in 2017 involved white tenants (the 23 white tenants notified that year was more than all cities in other years combined). Given the small sample sizes, the Research Bureau cannot determine whether nuisance evictions have been unfairly applied to minority tenants.

Regarding prior histories of noticed tenants, nearly half of them have had prior arrests for the same nuisance violations. This proportion could be even higher, because for Long Beach in 2017, there are 18 tenants with inaccessible arrest records due to technical difficulties. Again, the percentages are influenced by the program use in Long Beach, as almost all the

Table 2: Breakdown of noticed tenants by race and prior history, 2015-2017

	Long Beach			Oakland			Sacramento			All Cities		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
Total Tenants	42	18*	47	10	10	5	10	7	3	62	35	55
White	10	3	23	0	0	0	3	1	0	13	4	23
(% of Total Tenants)	24%	17%	49%	0%	0%	0%	30%	14%	0%	21%	11%	42%
Black	9	7	8	6	8	2	2	3	1	17	18	11
Hispanic	21	5*	11	1	0	0	2	3	2	24	8	13
Asian/Other	2	3	5	1	0	2	1	0	0	4	3	7
Non-White Subtotal	32	15	24	8	8	4	5	6	3	45	29	31
(% of Total Tenants)	76%	83%	51%	80%	80%	80%	50%	86%	100%	73%	83%	56%
Unknown	0	0	0	2	2	1	2	0	0	4	2	1
Prior Vacates/Evicts	0	1	2				1			0	2	2
Prior Arrests	39	15	23	4	1	0	3			43	19	23

Los Angeles did not track racial/ethnic information or prior history on its noticed tenants from 2015 to 2017. Cells are blank if information was not provided. Numbers labeled in red indicate that there were tenants with unknown prior vacate or arrest records – for example, for Long Beach in 2017, 23 tenants had prior arrests, but another 18 tenants had unknown records.

* One Hispanic tenant was living at four separate properties, thus 18 tenants were given notice in 21 incidents.

Table 3: Drug-related incidents*, voluntary vacates and landlord-filed cases since program inception**

City	Incidents			Voluntary Vacates			Case Filings		
	Drug	Total	Drug (%)	Vacates	Incidents	Vacates (%)	Landlord	Total	Landlord (%)
Long Beach	189	216	88%	409	761	54%	134	188	71%
Los Angeles	342	388	83%	710	1261	56%	308	324	95%
Oakland	14	25	56%	14	25	56%	4	4	100%
Sacramento	74	93	80%	47	97	48%	12	16	75%
All Cities	619	722	86%	1180	2144	55%	458	532	86%

* Only the years when cities submitted both drugs and weapons data are counted for comparison: since 2010 for Long Beach (excluding 2015) and Sacramento, 2008-2011 for Los Angeles and since 2015 for Oakland.

** Voluntary vacate data is available only since 2002. Voluntary vacates include all incidents in which tenants departed from their residences before and after receiving eviction notices (notices of intent to evict and notices to quit), as well as after court cases commenced but before the cases were resolved.

tenants with prior arrests were Long Beach tenants. Data for tenants with records of prior vacates or evictions are incomplete as not all cities consistently tracked the same mandated data. These shortcomings in data collection occurred from lack of resources, computer problems hindering retrieval of records (as in Long Beach), or concern over privacy issues (such as the omission of race data reported by Los Angeles).

Overall Use Trends Since Inception

Data for the last three years show a continued decline in use of the pilot program since its inception, with aggregate program use having peaked in the mid- to late-2000s (see Figure 2 in Appendix B). The majority of program uses result involved controlled substances, even when ignoring the first seven or eight years of data before the illegal weapons program started (see Table 3). In the three cities other than Oakland, drug nuisance violations were roughly 80 percent of all incidents (only 56 percent of Oakland incidents were drug-related). A little more than half of all city incidents (55 percent) have been resolved with tenants voluntarily vacating the premises rather than contesting evictions in court. The majority

of incidents have been resolved this way for all cities every year, except for noticeable dips in 2010 and 2011 (see Table 4 in Appendix B).

Since the start of the pilot program 20 years ago, about one in five incidents (532 out of 2,509) progressed past the voluntary vacate stage and ended with unlawful detainer actions filed (see Table 5 in Appendix C). The percentages of cases filed for each city are 24 percent (188 of 794) for Long Beach, 20 percent (324 of 1,593) for Los Angeles, 16 percent (4 of 25) for Oakland and 16 percent (16 of 97) for Sacramento. Most cases since 1999 (86 percent) have been filed by landlords. In parallel with the overall number of incidents, the number of cases filed has also trended down over the years (see Figure 4 in Appendix C).

Program Implementation and Effectiveness

The City Attorney's Office of each participating city has consistently mentioned in interviews the usefulness of the unlawful detainer state pilot program. The program has been extended multiple times and described by bill authors and city attorneys as a valued tool since inception.

While the statutes do not define merit, the frequency of use, incident outcomes, and perceived effectiveness are instructive.¹⁸

Frequency of Use, Incident Outcomes and Effectiveness

The decline in program use, city officials insist, does not suggest any loss of value. In the 2011 legislative report, city attorneys and police officers “objected to the classification of the program as ‘seldom used’” and contended that the limited use reflected judicious selection of incidents and refrainment from abuse.¹⁹ AB 530 (Stats. 2009, Ch. 244) imposed more stringent reporting requirements for program use when it switched reporting agencies from the Judicial Council to the California Research Bureau. Reported program use had already dropped in 2008, but the new mandate might have reinforced this decline. The volume of program use also seems to depend on factors other than program usefulness, namely budget and staffing resources. Los Angeles stopped using the program for the year 2005 due to a budget shortfall that closed three dedicated staff positions, while Sacramento has twice mentioned insufficient police training and resources for its low use of the program (recently, and when the city first participated in the program).²⁰

What city attorneys and police departments have identified as valuable is efficiency and cost-effectiveness compared to other nuisance abatement options.²¹ Traditional eviction lawsuits require hundreds of hours of police investigation, documentation, court appearances and city attorney preparation, and could take several months.²² The Sacramento City Attorney’s Office estimated the prosecution costs of an eviction lawsuit to be 10 to 15 times that of an unlawful detainer nuisance action resolved without case filing.²³ The fact that the majority of incidents end with voluntary vacates rather than expensive lawsuits seems to confirm the efficiency of the program.

However, such cost savings would be on a per-case basis and the beneficiaries are unclear as eviction lawsuits would not otherwise involve city attorneys. If program use were to increase, especially if landlords assigned more lawsuits to city attorneys and fee reimbursements (maximum \$600) remain short of court case expenses, then higher caseloads might actually increase government expenses.²⁴ AB 1838 (2010), which would have added San Joaquin County to the pilot program soon after the 2008 recession, was vetoed over such cost concerns.²⁵

The pilot program is clearly effective in evicting the tenants selected by city attorneys for unlawful detainer action. Since 2010, only two cases have been withdrawn, one case appealed and one case in which the tenant prevailed.²⁶ But the high proportion of successful incident resolutions may instead reflect the power of the state rather than the effectiveness of a nuisance abatement program. The Western Center on Law & Poverty told the Research Bureau that certain tenants, particularly immigrant tenants given the current political climate, “may be fearful of asserting their rights under these pilot programs” when faced with warning letters from a government agency.²⁷ The Western Center also notes that the presumption of guilt that allows for evictions based on mere arrests rather than convictions presents due process concerns.²⁸ The value of efficiency, in terms of quick resolutions without trial, as a measure of program merit will vary by stakeholder.

State Pilot Program vs. Municipal Ordinances

The necessity and value of the state program is also affected by the presence of similar local ordinances. Both Los Angeles and Oakland, prior to joining the state pilot program, had already adopted municipal ordinances that allowed their city attorneys to initiate unlawful detainer actions for nuisance abatement.²⁹ The state pilot program differs from municipal ordinances in that it allows partial evictions,

covers commercial properties in its scope (thus, barbershops, auto body shops and massage parlors can be targeted), and grants city attorneys legal standing to initiate unlawful detainer actions without landlord consent.³⁰

As their uses are not reported, local ordinances could be less cumbersome substitutes for the state statute. If more unlawful detainer actions are pursued using the local ordinances, then there could be less need for the state program, which would explain its declining use. Los Angeles stated it uses its local ordinance “a lot,” while Oakland said it uses its local ordinance several times a year.³¹ The nuisance abatement effects from unreported uses of local ordinances are unknown and complicate evaluations of the effectiveness of the state program.

While the state pilot program permits partial evictions, formal partial evictions are rare: seven of only 11 requests since 2002 have been granted.³² On the other hand, negotiated partial evictions, as conditions for voluntary vacates or stipulated judgments, are more common, suggesting that a codified partial eviction option may be unnecessary.³³

Future Considerations: Pilot Program Expansion and Data Collection

Previous reports on the unlawful detainer pilot program mentioned that data was insufficient to properly evaluate the program. One barrier has been that each participating city tracked and recorded different information, and did not always answer the mandated questions. Long Beach has been comprehensive in reporting its program use data, while Los Angeles did not provide all tenant or court case details. As requested in Civil Code §3486.5, Sacramento and Oakland regularly reported their program use but did not provide the full set of informational items.

More importantly, the four cities implemented the program differently, which could affect program use and effectiveness. For example, the role of the police in incident selection differs. In Long Beach, every morning the police send a roll of nuisance arrests of the past 24 hours to the City Attorney’s Office, where a city attorney chooses which incidents to pursue after reading police report narratives.³⁴ In Sacramento, the police are given more discretion in referring arrested suspects to the City Attorney’s Office for unlawful detainer action based on neighborhood complaints or concerns.³⁵ Sacramento program use is therefore more sensitive to budget, staffing and coordination issues involving the Sacramento Police Department.³⁶

Managing data collection from the four cities is akin to administering four different smaller programs. The Judicial Council observed in 2007 that the “different experiences across the pilot program sites appear to be related to different local contexts in terms of the administrative structure and operational procedures of their existing nuisance abatement programs.”³⁷ Any future expansion of the state pilot program should consider standardizing procedures for incident selection and processing, in addition to data collection.

Another barrier to compiling and assessing data is that the information currently collected overemphasizes collecting and tracking individual tenant information. Tenant data relevant to program evaluation, such as continued unlawful activity, can be difficult and time-consuming for city attorneys to gather. Certain individual tenant information must be recorded to ensure that due process was followed in a state-sponsored eviction program (the rationale for the public reporting), but the data collected for program evaluation should focus more on neighborhood nuisance levels rather than individual tenant data.

To that end, suitable qualitative data could be post-eviction surveys of the remaining tenants

to check if nuisance levels had reduced. For quantitative analysis, a good example is the evaluation of San Diego's Drug Abatement Response Team (DART) program in 1999, which was a randomized controlled experiment of 121 rental properties with identified nuisance

tenants.³⁸ Such an initiative would require additional funding and coordination among law enforcement agencies. Without these committed efforts, however, a conclusive evaluation of the unlawful detainer pilot program might not be possible.

Appendix A: Legislative Chronology of Unlawful Detainer Pilot Program

Year/Bill	Nuisance Type and Code	Qualifying Offense	Authorized Jurisdictions	Reporting	Sunset Date
1998: AB 1384 (Havice)	Controlled substances Add: Health & Safety Code §11571.1	Sufficient documentation	5 Los Angeles County Courts – of 15 eligible cities, only Long Beach and Los Angeles participated	Judicial Council: Summarize submitted data and evaluate merits of pilot program, included drug type	Jan. 2002
2001: AB 815 (Havice)	Controlled substances Amend: Health & Safety Code §11571.1	Documented by peace officer	5 Los Angeles County Courts – only Long Beach and Los Angeles participated	Judicial Council: Required data from cities changed; Responsibility for submitting data shifted from courts to city attorneys	Jan. 2005
2004: AB 2523 (Frommer)	Controlled substances Amend: Health & Safety Code §11571.1	Arrest report or other action by regulatory or law enforcement agency	Long Beach Los Angeles Oakland (did not participate) San Diego (did not participate)	Judicial Council: Required data from cities changed; Report merits of pilot program in 2007 and 2009	Jan. 2010
2007: AB 1013 (Krekorian)	Illegal weapons Add: Civil Code §3485	Arrest report or other law enforcement report	Long Beach (skips 2008) Los Angeles Oakland (did not participate) Sacramento San Diego (did not participate)	Judicial Council: Report merits of pilot program in 2009 (Long Beach unaware of eligibility and does not report 2008 data)	Jan. 2010
2009: AB 530 (Krekorian)	Controlled substances and illegal weapons Replace: Civil Code §3486 for Health & Safety Code §11571.1 Amend: Civil Code §3485	Arrest report or other law enforcement report	Long Beach Los Angeles (drugs program authorized indefinitely) Oakland (did not participate) Palmdale (drugs program only, did not participate) Sacramento San Diego (did not participate)	California Research Bureau: Report merits of pilot program in 2011 and 2013 and determine if Los Angeles qualified for indefinite authorization (Los Angeles no longer needs to submit drug incident data)	Jan. 2014 (except for Los Angeles)
2010: AB 1838 (Berryhill)	Controlled substances and illegal weapons (VETOED)	Arrest report	San Joaquin County	California Research Bureau: District attorney to submit data by end of 2011	Jan. 2012 (VETOED)
2014: AB 2310 (Ridley-Thomas)	Illegal weapons Amend: Civil Code §3485	Arrest or warrant from law enforcement	Long Beach Los Angeles Oakland Sacramento	California Research Bureau: New reporting template; Report merits of pilot program in 2016 and 2018	Jan. 2019
2014: AB 2485 (Dickinson)	Controlled substances Add: Civil Code §3486.5 Amend: Civil Code §3486	Arrest report	Oakland, Sacramento	California Research Bureau: New reporting template; Report merits of pilot program in 2016 and 2018	Jan. 2019

Appendix B: Program Incidents and Voluntary Vacates since Inception

Table 4: Total unlawful detainer incidents, by nuisance type, since 1999

Long Beach	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Incidents	33			24	35	46	74	97	135	92		73	75			–	42	21	47
Drug	33			24	35	46	74	97	135	92		64	62			–	42	16	33
Weapon	–			–	–	–	–	–	–	–		9	13			–	–	2	3
Both												0	0			–	–	3	11
Vacates				18	15	24	18	61	86	61		31	30				24	13	28
(% Vacated)				75%	43%	52%	24%	63%	64%	66%		42%	40%				57%	62%	60%
Before				15	9	1	0	1	86	59		0	9				9	4	12
After				3	6	23	18	60	0	2		31	21				15	9*	16

Los Angeles	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Incidents	159	173		190	277	257		2	121	105		158	125			–	2	12	12
Drug	159	173		190	277	257		2	121	97		139	106			–	–	–	–
Weapon	–	–		–	–	–		–	–	8		19	19			–	2	12	12
Both										0		0	0			–	–	–	–
Vacates				111	173	177		1	97	38		44	54				1	8	6
(% Vacated)				58%	62%	69%		50%	80%	36%		28%	43%				50%	67%	50%
Before				50	69	77		0	73	25		4	24				1	4	1
After				61	104	100		1	24	13		40	30				0	4	5

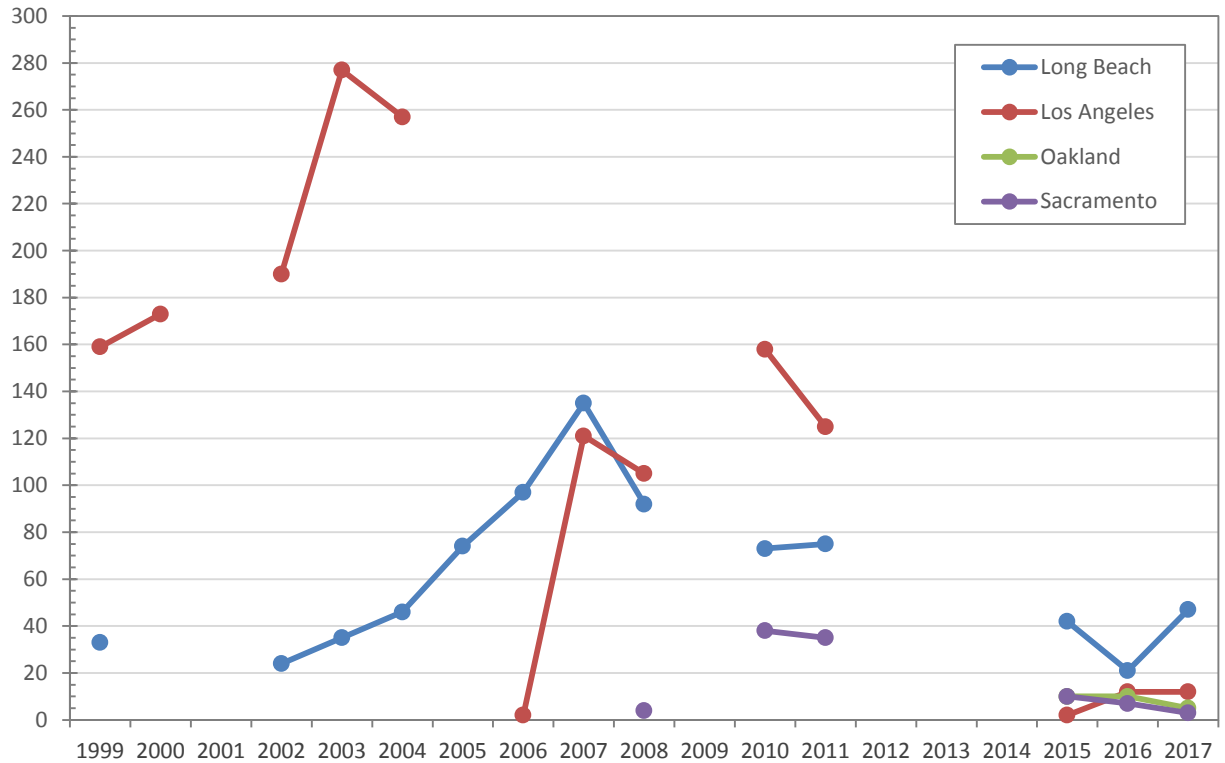
Oakland	2015	2016	2017
Incidents	10	10	5
Drug	1	3	0
Weapon	4	4	3
Both	5	3	2
Vacates	5	6	3
(% Vacated)	50%	60%	60%
Before	0	2	2
After	5	4	1

Sacramento	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Incidents	4		38	35			–	10	7	3
Drug	–		33	26			–	7	5	3
Weapon	4		5	9			–	3	2	0
Both	–		0	0			–	0	0	0
Vacates	3		6	19				10	7	2
(% Vacated)	75%		16%	54%				100%	100%	67%
Before	3		0	9				0	0	0
After	0		6	10				10	7	2

Long Beach did not submit data in 2000-01, 2009 and 2012-13. Long Beach did not participate in the first year of the illegal weapons program (2008) because officials were unaware of their eligibility and in 2015 because of issues with its municipal ordinance.³⁹ Los Angeles did not submit data in 2001, 2005-06, 2009 and 2012-13 and was no longer required to submit controlled substances data after the 2013 California Research Bureau report. Sacramento did not join the controlled substances section until 2010, and Oakland did not join the pilot program until 2015. The pilot program lapsed in 2014.

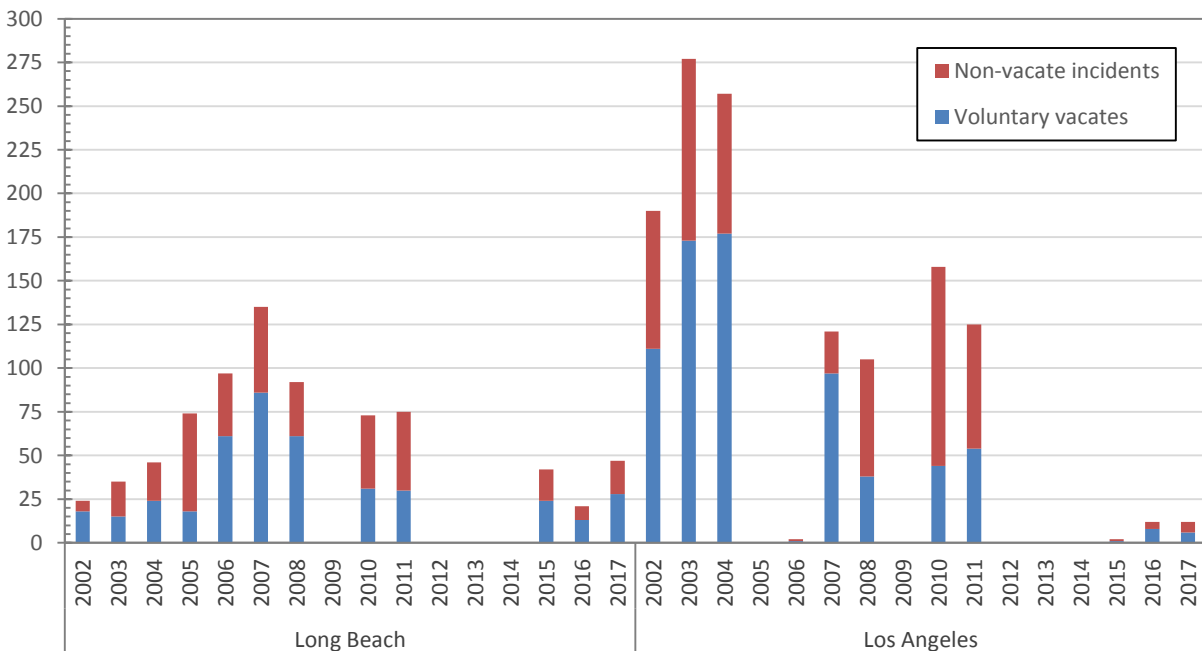
Frivolous Action Filings in California Courts

Figure 2: Unlawful detainer incidents, by city and year since 1999



The illegal weapons program did not start until 2008. Sacramento started participating in the controlled substances section in 2010. Oakland joined the pilot program and Los Angeles stopped reporting controlled substances data in 2015.

Figure 3: Incidents resolved by voluntary vacates, in Long Beach and Los Angeles since 2002



Appendix C: Program Unlawful Detainer Filings since Inception

Table 5: Total unlawful detainer cases filed, by filing entity, since 1999

Long Beach	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Cases Filed	7			2	13	7	17	20	35	18		28	23			–	8	2	8
(% Incidents)	21%			8%	37%	15%	23%	21%	26%	20%		38%	31%				19%	10%	17%
by City	0			0	0	4	6	6	15	6		10	3			–	3	0	1
by Landlord	7			2	13	3	11	14	20	12		18	20			–	5	2	7
(% Filings)	100%			100%	100%	43%	65%	70%	57%	67%		64%	87%				63%	100%	88%
Assigned				0	4	4	6	11	18	7		10	3			–	3	0	0
Cases Joined				0	0	0	0	0	1	1		0	0			–	0	0	1

Los Angeles	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Cases Filed	31	39		29	72	70		0	17	12		19	24			–	1	4	6
(% Incidents)	19%	23%		15%	26%	27%		0%	14%	11%		12%	19%				50%	33%	50%
by City	1	0		2	2	0		0	1	0		3	3			–	1	2	1
by Landlord	30	39		27	70	70		0	16	12		16	21			–	0	2	5
(% Filings)	97%	100%		93%	97%	100%		–	94%	100%		84%	88%				0%	50%	83%
Assigned				2	2	0		0	1	0		3	n/a			–	1	0	0
Cases Joined				0	0	0		0	1	0		n/a	2			–	0	0	0

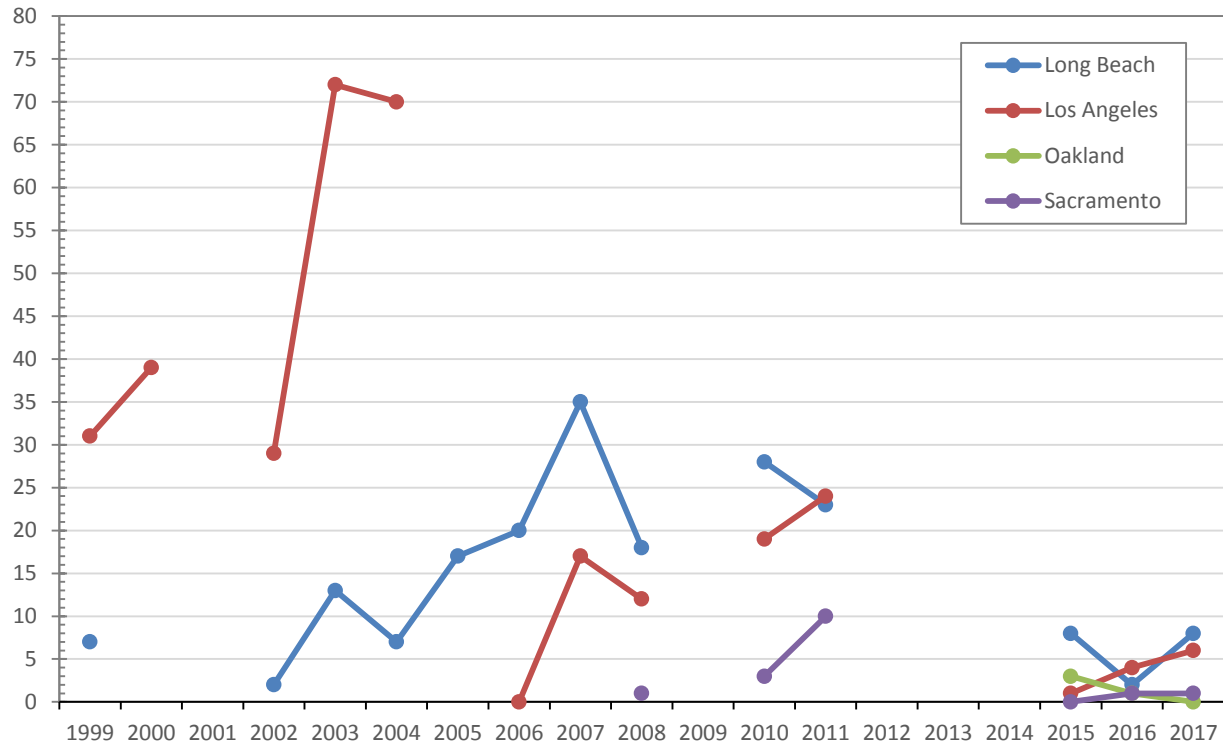
Oakland	2015	2016	2017
Cases Filed	3	1	0
(% Incidents)	30%	10%	0%
by City	0	0	0
by Landlord	3	1	0
(% Filings)	100%	100%	–
Assigned	0	0	0
Cases Joined	0	0	0

Sacramento	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Cases Filed	1		3	10			–	0	1	1
(% Incidents)	25%		8%	29%				0%	14%	33%
by City	1		1	2			–	0	0	0
by Landlord	0		2	8			–	0	1	1
(% Filings)	0%		67%	80%				–	100%	100%
Assigned	1		4	2			–	0	0	1
Cases Joined	0		0	1			–	0	0	0

The first two rows show the number of unlawful detainer cases filed that year, and the percentage of that year's incidents those cases represent. The percentage of that year's unlawful detainer cases that were filed by landlords are also shown.

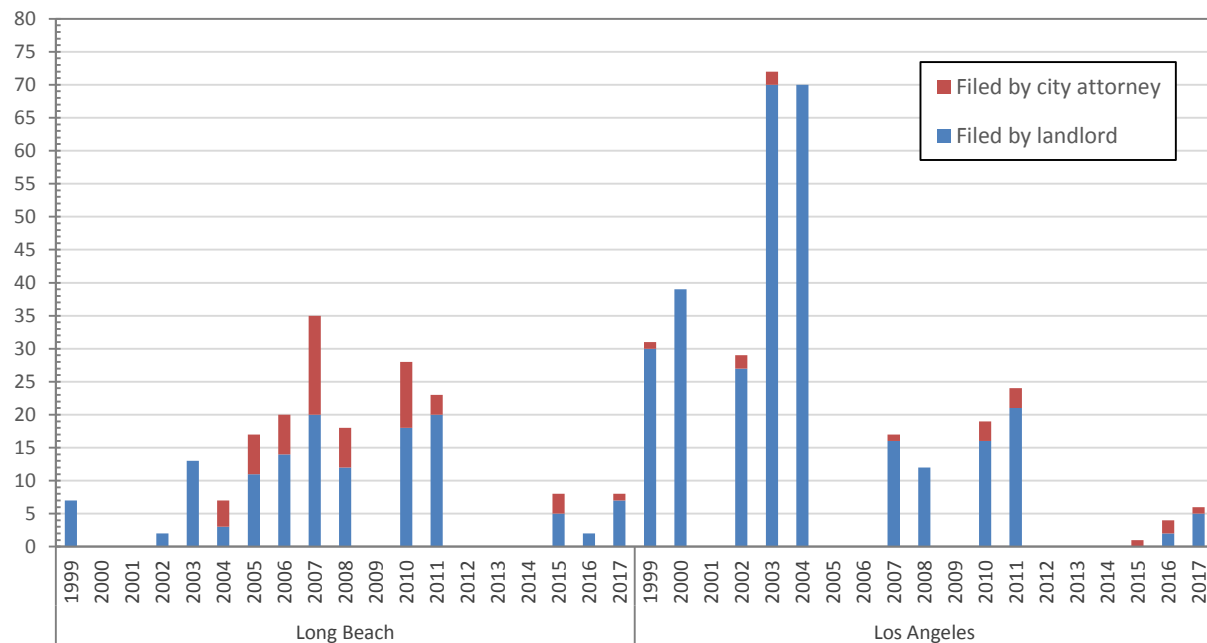
Long Beach did not submit data in 2000-01, 2009 and 2012-13. Los Angeles did not submit any data in 2001, 2005-06, 2009 and 2012-13, and did not submit the number of cases that the city attorney joined the landlords as co-defendants in 2010 or the cases landlords assigned to the City Attorney's Office in 2011. The pilot program lapsed in 2014.

Figure 4: Unlawful detainer actions filed, by city and year since 1999



The illegal weapons program did not start until 2008. Sacramento started participating in the controlled substances section in 2010. Oakland joined the pilot program and Los Angeles stopped reporting controlled substances data in 2015.

Figure 5: Unlawful detainer actions filed by landlords, in Long Beach and Los Angeles since 1999



Endnotes

- ¹ Unlawful detainer “actions” and “cases” refer specifically to the lawsuits that are filed, and not to the general incidents that precipitate the lawsuits.
- ² AB 1384 (Stats. 1998, Ch. 613). <http://clerk.assembly.ca.gov/content/statutes-and-amendments-codes-1998>
- ³ Assembly Committee on Appropriations. (1998, Jan. 26). Analysis of AB 1384 (Havice), p.3. http://www.leginfo.ca.gov/pub/97-98/bill/asm/ab_1351-1400/ab_1384_cfa_19980126_105347_asm_comm.html. On third-party policing as it pertains to the unlawful detainer pilot program, see the first California Research Bureau report: Blanton, R. (2011). “Unlawful Detainer Pilot Program: Report to the California Legislature.” California Research Bureau. https://www.library.ca.gov/Content/pdf/crb/reports/Unlawful_Detainer_Pilot_Program_Report.pdf
- ⁴ See also the general eviction process in the Code of Civil Procedure §1159-1179(a). http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1159&lawCode=CCP
- ⁵ See Civil Code §3485(a)(3) at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3485.&lawCode=CIV; Civil Code §3486(a)(3) at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3486.&lawCode=CIV; and Civil Code §3486.5(a)(3) at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3486.5.&lawCode=CIV. The initial notices also warn of potential penalties imposed under municipal codes, which vary by city but could include additional fees.
- ⁶ For the purposes of this report, voluntary vacates include all incidents in which tenants departed from their residences before and after receiving eviction notices (notices of intent to evict and notices to quit), as well as after court cases commenced but before the cases were resolved.
- ⁷ AB 1013 (Stats. 2007, Ch. 456). http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200720080AB1013; Civil Code §3485 at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3485.&lawCode=CIV, Civil Code §3486 at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3486.&lawCode=CIV, and Civil Code §3486.5 at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3486.5.&lawCode=CIV
- ⁸ Assembly Committee on Judiciary. (2004, Mar. 30). Analysis of AB 2523 (Frommer), p.7. http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=200320040AB2523; all four Judicial Council of California (2001, 2004, 2007, 2009) reports on the pilot program available at http://www.courts.ca.gov/documents/unlawful_detainer_pilot.pdf
- ⁹ For previous California Research Bureau reports on the pilot program, see Blanton (2011); Lindsey, T. (2013). “City-Attorney-Sponsored Unlawful Detainer in California, Part I: Mandated Information – 2013 Report to the California Legislature.” California Research Bureau. <https://www.library.ca.gov/Content/pdf/crb/reports/13-001.pdf>; and Neville, A., et al. (2016). “A Review of the California Unlawful Detainer Pilot Program.” California Research Bureau. https://www.library.ca.gov/Content/pdf/crb/reports/CRB_Unlawful_Detainer_Report_online.pdf
- ¹⁰ See Civil Code §3486.5(b)(2)(B) at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3486.5.&lawCode=CIV
- ¹¹ The last legislative report on the pilot program, Neville, et al. (2016), reported program use from 2015.
- ¹² Sacramento City Attorney’s Office. (2018, Mar. 9). In-person interview. See also Lillis, R. (2017, Nov. 21). “Hundreds of illegal pot houses close after Sacramento cracks down.” *Sacramento Bee*. <http://www.sacbee.com/news/local/news-columns-blogs/city-beat/article185654273.html>
- ¹³ Sacramento believed use of the controlled substances program would similarly increase after its initial participation in 2010, but that was actually the peak year. See Blanton (2011), p.38.
- ¹⁴ In previous reports, the number of incidents was normalized as a rate per 100,000 city residents to compare the rate of program use among the four cities, and Long Beach was still the most intensive user of the program. Lindsey (2013), p.12 and Neville, et al. (2016), p.8. However, a population-based adjustment provides a dubious comparison for program usage, as it switches the focus away from the city attorneys who decide that program use to a statistic (population) with an unknown correlation to eviction or nuisance rate. See Endnote 36.
- ¹⁵ Los Angeles City Attorney’s Office. (2018, Mar. 5). Phone interview.

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- ¹⁶ These same concerns were raised by initial opposition to the originating bill, AB 1384 (1998). See Blanton, R. (2011), p.48. The concerns were not addressed directly, and legislative staff at the time were not overly concerned the program would be abused along racial lines. However, legislative staff analyzing AB 2310 (2014) and AB 2485 (2014) did note that a previous California Research Bureau report stating that tenant biographic information was not required by mandate, but would be necessary for further program evaluation. Lindsey (2013), p.25; and Senate Judiciary Committee. (2014, Jun. 23). Analysis of AB 2310 (Ridley-Thomas), p.9. http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201320140AB2310
- For list of mandated questions, see Civil Code §3485(g)(1) at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3485.&lawCode=CIV for weapons offenses and §3486.5(b)(1) at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3486.5.&lawCode=CIV for drug offenses.
- ¹⁷ Los Angeles is not required to report any data for the controlled substances program (exempted by Civil Code §3486.5 at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3486.&lawCode=CIV), but is still required to report demographic and tenant history information for the illegal weapons program.
- There were 64 total unlawful detainer incidents in 2015 (62 if discounting Los Angeles). The 2016 California Research Bureau report, however, gives 74 total noticed tenants. The discrepancy is possibly because the 2016 report lists all noticed tenants, including uninvolved household members. See Neville, et al. (2016), pp.5-7.
- ¹⁸ See Blanton (2011), p.29 for her framing of these questions to convey legislative intent.
- ¹⁹ *Ibid.*, pp.31, 42-43.
- ²⁰ Judicial Council (2009), p.C-5; Blanton (2011), p.38; and Sacramento City Attorney's Office (2018, Mar. 9). Phone interview.
- ²¹ Blanton (2011), p.34.
- ²² Judicial Council (2009), p.B-5; Blanton (2011), pp.43-44; and Oakland City Attorney's Office. (2018, Mar. 8). Phone interview.
- ²³ Blanton (2011), pp.43-44.
- ²⁴ The willingness of some property owners to assign evictions to the city attorney for a convenient (and inexpensive) reimbursement fee was mentioned by Long Beach City Attorney's Office. (2016, Apr. 21). Phone interview.
- ²⁵ Gov. Schwarzenegger. (2010, Sep. 30). Governor's Veto Message of AB 1838 (Berryhill). http://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=200920100AB1838
- ²⁶ Blanton (2011), p.40; Lindsey (2013), p.20. The appealed case was in Oakland in 2017, and the case was not pursued.
- ²⁷ Western Center on Law & Poverty. (2018, Mar. 20). Email communication.
- ²⁸ *Ibid.*
- ²⁹ Los Angeles Municipal Code §47.50. [http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates&fn=default.htm\\$3.0\\$vid=amlegal:losangeles_ca_mc](http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates&fn=default.htm3.0vid=amlegal:losangeles_ca_mc). Oakland Municipal Code §8.23. https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT8HESA_CH8.23EVNUILAC_8.23.100EVNUILACOR. Long Beach also has a local nuisance eviction ordinance, but it was instituted after the pilot program started and based on state statutes. See Long Beach Municipal Code §9.16 (drug activity) at https://library.municode.com/ca/long_beach/codes/municipal_code?nodeId=TIT9PUPEMOWE_CH9.16NARENUAB and §9.17 (unlawful weapons) at https://library.municode.com/ca/long_beach/codes/municipal_code?nodeId=TIT9PUPEMOWE_CH9.17UNWEAMREPRAB.
- ³⁰ The municipal ordinances have some expansive aspects as well: the Los Angeles ordinance grants a reach of 1,000 feet from properties (so nuisance activity on sidewalks qualify for unlawful detainer actions), and the Oakland ordinance adds gambling and prostitution as qualifying nuisances. Los Angeles City Attorney's Office. (2018, Mar. 5). Phone interview; and Oakland City Attorney's Office. (2018, Mar. 8). Phone interview.
- ³¹ Los Angeles City Attorney's Office. (2018, Mar. 5). Phone interview; and Oakland City Attorney's Office. (2018, Mar. 8). Phone interview. The Los Angeles City Attorney's Office issued about 1,300 notices under its municipal eviction ordinance in 2003, which is a hundred times more numerous than state program use in 2016 and 2017. Gammon, R. (2004, Mar. 22). "ACLU calls eviction law 'illegal'." *Oakland Tribune*.
- ³² Blanton (2011), pp.70, 72; Lindsey (2013), p.11; Judicial Council (2009), pp.15, B-8, C-13.

³³ Judicial Council (2009), B-10; and Oakland City Attorney’s Office. (2018, Mar. 8). Phone interview. A stipulated judgment, also known as an agreed or consent judgment, is an agreement between the parties in a court case that settles the case.

³⁴ Long Beach City Attorney’s Office. (2018, Feb. 21). Phone interview.

³⁵ Sacramento City Attorney’s Office (2018, Mar. 9). Phone interview. The unlawful detainer pilot program is embedded into Sacramento’s community based, problem-oriented policing system. See brief overview of third-party policing and place-based policing in Blanton (2011), pp.12-21. Sacramento does not have a local nuisance eviction ordinance similar to Oakland or Los Angeles.

³⁶ The Judicial Council in 2004 recognized that “operation of the pilot program appears to depend in part on the city attorney’s office having adequate resources to appropriately identify and process the cases.” Judicial Council (2009), C-11. Considering the impact of budgeting on program use in past years of the pilot program, city attorney staffing issues could have as great an effect on the rates of unlawful detainer incidents as city population size. See Endnote 14.

³⁷ Judicial Council (2009), p.C-4.

³⁸ For brief summary, see Blanton (2011), pp.53-55. Eck, J.S., Irons-Guynn, C. and Weiland, D. (1999). “Reducing Crime and Drug Dealing by Improving Place Management: A Randomized Experiment, *National Institute of Justice*. U.S. Department of Justice. <http://www.ncjrs.gov/pdffiles/fs000235.pdf>. The California Research Bureau attempted a matched case-control regression study in its 2016 unlawful detainer report, but the quasi-experimental study lacked proper controls (such as nuisance origins) due to limited data and did not find statistically significant results. See Neville, et al. (2016), pp.8-10, 12-14.

³⁹ Neville, et al. (2016), p.7.