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Unlawful Detainer Pilot Program

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REPORT TO THE CALIFORNIA
LEGISLATURE UNDER
HEALTH AND SAFETY CODE
SECTION 11571.1 AND
CIVIL CODE SECTION 3485

APRIL 15, 2009



ADMINISTRATIVE OFFICE
OF THE COURTS

OFFICE OF COURT RESEARCH

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OFFICE OF COURT RESEARCH

Judicial Council of California
Administrative Office of the Courts
Executive Office Programs Division/Office of Court Research
455 Golden Gate Avenue
San Francisco, California 94102-3688

This report has been submitted to the California Legislature under Health and Safety Code section 11571.1 and Civil Code section 3485.

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Judicial Council of California
Administrative Office of the Courts

Hon. Ronald M. George
Chief Justice of California and
Chair, Judicial Council of California

William C. Vickrey
Administrative Director of the Courts

Kenneth Kann
Director, AOC Executive Office Programs Division

Primary Author
Karen Viscia
Office of Court Research

Background

In 1998, Assembly Bill 1384 ([Havice]; Stats. 1998, ch. 613) created an initial three-year unlawful detainer pilot program in cities within five former municipal court districts in the County of Los Angeles to allow city attorneys and prosecutors to seek the eviction of any person who was in violation of the nuisance or controlled substance law. The legislation, which became effective on January 1, 1999, authorized the pilot courts to issue a partial or total eviction order to remove an individual who engages in drug-related activity. AB 1384 also required the participating cities to collect specified data on their experiences under the pilot program and to file reports annually about these cases with the Judicial Council. The legislation further required the Judicial Council to submit a brief report to the Senate and Assembly Judiciary Committees on or before January 1, 2001, summarizing the information provided by the participating cities and evaluating the merits of the program. The Judicial Council report required under this legislation provided a summary of the program data submitted by the participating cities. Using additional information provided by the Long Beach pilot program, the report also looked into additional areas of program operations, including the type of drug violations leading to the issuing of eviction notices and the timing of the filing of unlawful detainer actions. (See Appendix A for a copy of the 2001 Judicial Council report.)

In 2001, Assembly Bill 815 ([Havice]; Stats. 2001, ch. 431) reauthorized the pilot program for three more years, imposed more specific reporting requirements on the participating cities, and required the Judicial Council to issue another report and evaluation of the program. The Judicial Council's report that was issued under AB 815 compiled the program data submitted by the cities of Los Angeles and Long Beach. Based on the more specific information on program activities, the report provided an analysis of different components of each pilot program, including, among other things, the use of the pilot program provisions to accomplish partial eviction of the offending tenants. (See Appendix B for a copy of the 2004 Judicial Council report.)

In 2004, Assembly Bill 2523 ([Frommer]; Stats. 2004, ch. 304) further extended the sunset of the pilot program to January 1, 2010, made additional augmentations to the reporting requirements, and expanded the program to include cities in Alameda and San Diego Counties. The legislation also required two additional Judicial Council reports to the Senate and Assembly Judiciary Committees, one on or before April 15, 2007, and the other on or before April 15, 2009, summarizing the information provided by the participating cities and evaluating the merits of the pilot program. (See Appendix C for a copy of the 2007 Judicial Council report.)

In 2007, Assembly Bill 1013 ([Krekorian]; Stats. 2007, ch. 456) expanded the list of circumstances deemed to constitute a nuisance to include a person who commits an offense involving unlawful possession or use of illegal weapons or ammunition or who uses the premises to further that purpose. It additionally created a similar UD pilot project authorizing evictions

based on such nuisance activities in the same cities covered by the original legislation, and added the city of Sacramento to the new pilot program.

Program History

Under the general framework of the Uniform Controlled Substances Act (Health & Saf. Code, §§ 11570–11587), one of the key provisions of the pilot program is the additional authority granted to city attorneys and city prosecutors to file unlawful detainer (UD) actions against any tenants who are engaged in illegal drug activities. By establishing this program, the Legislature hoped that city attorneys would be able to deal with drug nuisance problems in the community more effectively if property owners, out of safety concerns or other considerations, are unwilling to file unlawful detainer actions to evict offending tenants.

In 2004, AB 2523 added additional protections for tenants and expanded the reach of the pilot program, including extending the pilot program for five more years until January 1, 2010; adding the cities of Oakland and San Diego to the pilot program; and requiring the cities participating in the pilot program to track and report cases in which either the unlawful detainer action was withdrawn or the tenant prevailed, as well as cases in which the eviction notice was erroneously sent to the tenant.

In 2007, AB 1013 expanded the authority of city attorneys and city prosecutors to file unlawful detainer actions against any tenant who commits an offense involving the unlawful possession or use of illegal weapons or ammunition, or who uses the premises to advance that purpose (see Civ. Code, § 3485). It further added the city of Sacramento to the new pilot program and augmented reporting requirements to include the number of cases for unlawful detainer filed for a weapons or ammunition nuisance.

Program Participation

When the pilot program first became effective in 1999, 15 cities in Los Angeles County were eligible to participate. Of these 15 cities, only Los Angeles and Long Beach decided to use the pilot program provisions in their drug nuisance abatement program. Both cities continue to participate in the pilot program, although Los Angeles did not report in 2005 and 2006 due to budget cuts. (See Appendix C for a copy of the 2007 Judicial Council report.)

In 2004, the cities of Oakland and San Diego were added to the pilot program, but neither has elected to participate.

San Diego's Drug Abatement Response Team (DART) program deals with a variety of public nuisance issues, including illegal drugs, gangs, and prostitution. The city attorney's office did not find it necessary to use the specific pilot program provisions to handle drug eviction cases since the general statutory framework under the Uniform Controlled Substances Act, along with relevant city ordinances, provided sufficient authority to handle various drug and other public nuisance problems in the community.

In early 2004, prior to the enactment of AB 2523 later that same year, the Oakland City Council passed its own Nuisance Eviction Ordinance (NEO), which is managed under the city's administration. When the Legislature was in the process of amending the pilot program statute in 2004, the city of Oakland had hoped that the statute could be amended to accommodate their program's existing administrative structure, so that they would not have to shift the program responsibility to the city attorney's office, as required by the statute. However, AB 2523 did not make this change in the statute, and Oakland subsequently decided to keep its existing program structure and not participate in the pilot program.

In 2007, the cities of Palmdale and Sacramento became eligible to participate in the pilot program. However, Palmdale's eligibility is limited to drug-related evictions under Health and Safety Code section 11571.1, and Sacramento is limited to gun-related evictions under Civil Code section 3485. Neither city provided statistics for 2007. Both reported in 2008, although Palmdale did not initiate evictions under Health and Safety Code section 11571.1.

Summary of Pilot Program Data

Pilot program statistics gathered by Long Beach, Los Angeles, and Sacramento are shown in tables 1 through 3 at the end of this report.

Number of eviction notices

As can be seen in figure 1 below, the number of notices issued under Health and Safety Code section 11571.1 in Long Beach continued its upward trend through 2007, reaching a total of 135 notices issued in 2007. In 2008, the number issued dropped by 32 percent. The drop is due to the loss of the legal assistant responsible for processing the notices under Health and Safety Code section 11571.1 that resulted in a three-month backlog. In January of 2009, processing resumed. The city attorney's office estimates the number of cases in the backlog at 43, which would bring the number of eviction notices for the reporting period to 135.

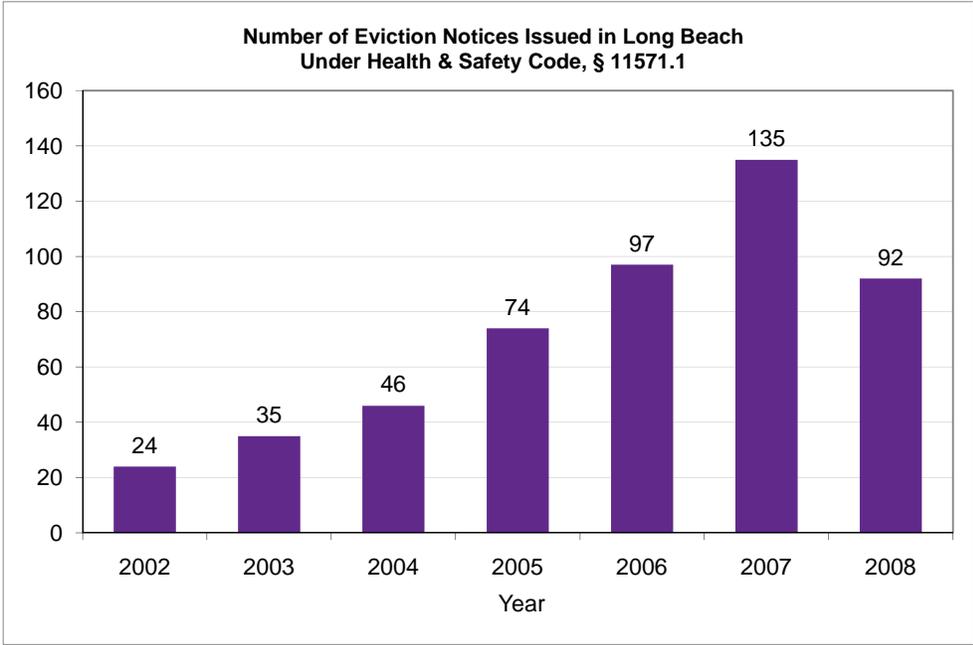


Figure 1. The number of eviction notices issued in Long Beach dropped in 2008.

Relative to the growth in Long Beach, Los Angeles has experienced a steady decline since 2003, dropping from 277 notices issued in 2003 to 97 in 2008, representing a 65 percent decline. A number of factors contributed to the decline. The city of Los Angeles was in the midst of a budget shortfall in 2005 and cut the budget for the pilot program. This resulted in a loss of staff dedicated to the pilot program. While staff has been reassigned to the program, time associated with rebuilding the program may account for some of the decline. Additionally, the primary attorney assigned to the program had to take a leave during the reporting period.

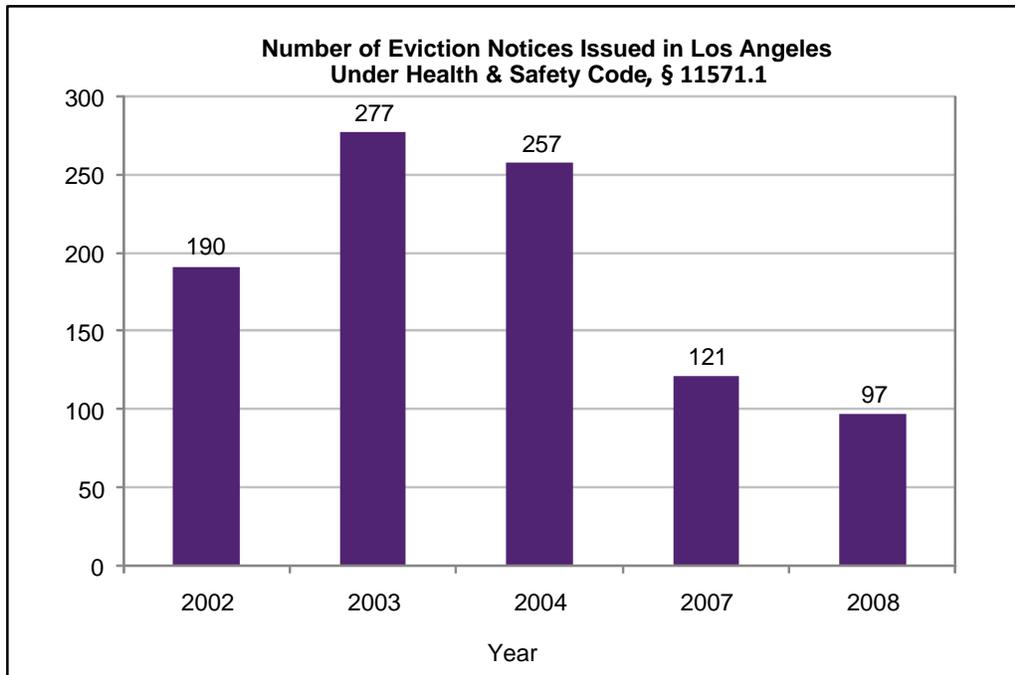


Figure 2. The number of eviction notices issued in Los Angeles has dropped since 2008.

Only two cities initiated eviction notices under Civil Code section 3485: Los Angeles and Sacramento. Los Angeles issued eight notices and Sacramento issued four.

Unlawful detainer (UD) actions filed

Compared to program activities in 2006, no significant change was reported by Long Beach with regard to the proportion of eviction notices that led to the filing of UD actions in the courts under Health and Safety Code section 11571.1. The 2007 report showed that UD actions were filed following the issuance of eviction notices in approximately 25 percent of the cases. Long Beach data for the current reporting period revealed that UD actions were filed in 24 percent of the matters in which notices were issued: 28 percent in 2007 and 21 percent in 2008.

Compared with the steady trend in Long Beach, Los Angeles shows a decline, however. In 2004, Los Angeles's proportion of eviction notices that led to the filing of UD actions under Health and Safety Code section 11571.1 was around 27 percent. Current data showed that UD actions were filed in 13 percent of the matters in which notices were issued: 14 percent in 2007 and 12 percent in 2008. Again, the program's assigned attorney was on leave for part of the reporting period, which is the likely reason for the drop in UD filings.

The number of property owners assigning their rights to the city attorney in Long Beach increased slightly. During 2007 and 2008, there were 25 cases in which the property owners

assigned their rights to file UD actions under Health and Safety Code section 11571.1 to the city attorney. In the last reporting period, 21 property owners assigned their rights.

Of those 25 cases in which the property owners assigned their rights to the city attorney in Long Beach, the city attorney's office filed 21 UD actions in the court. These 21 filings represent approximately 11 percent of the total number of eviction notices (227) issued during the same time period and account for approximately 40 percent of the total number of UD actions filed (53), either by property owners or by the city attorney's office.

Los Angeles reported a total of 28 UD actions filed by property owners in 2007 and 2008. Only one of the 28 cases was assigned to the city attorney's office, and the city attorney's office filed only one UD action in the same time period.

No UD proceedings were filed pursuant to notices issued under Civil Code section 3485 in Los Angeles. Only one of the four notices issued in Sacramento led to a UD action under Civil Code section 3485, which was a case that a property owner had assigned to the city attorney's office.

Disposition of unlawful detainer filings

Both Health and Safety Code section 11571.1(g)(1)(G) and Civil Code section 3485(g)(1) require reporting on the outcome of UD filings, including filings by both property owners and city attorneys.

Table 1 shows that of the 53 UD actions filed under Health and Safety Code section 11571.1 in Long Beach during this reporting period, 6 (11 percent) of the cases reached resolution by trial; no details were provided on the number of trials by court or jury. This is a significant drop from results reported in 2007 when 39 percent of UD actions in Long Beach were reported to have been disposed after trial.

The Los Angeles pilot program reported a slightly lower percentage of UD actions that reached trial. Of the 39 UD filings reported, 3 cases (8 percent) went to trial, and all were handled by bench trial.

No UD filings under Civil Code section 3485 were disposed after a trial (see table 3).

In addition to reporting of trial dispositions, both statutes require reporting on the number of partial evictions resulting from UD actions filed under the pilot program. Only Los Angeles had any UD filings (two filings under Health and Safety Code section 11571.1) in which partial eviction was requested, but no partial eviction was subsequently ordered by the court.

Both statutes also require participating cities to report the number of UD actions in which either the case was withdrawn or the defendant prevailed. Los Angeles reported one such case in the reporting period; Long Beach and Sacramento had none.

Case outcomes involving no unlawful detainer actions

Both Health and Safety Code section 11571.1(g)(1)(H) and Civil Code section 3485(g)(1) seek to assess the percentage of cases in which tenants voluntarily vacate the property without the need for UD actions. To ensure that eviction notices do not impact innocent tenants negatively, both statutes also require participants to report the number of erroneously sent notices.

For the two-year period covered by this report, table 1 shows a total of 145 cases in Long Beach in which tenants voluntarily vacated their units after service of notice under Health and Safety Code section 11571.1. With 227 eviction notices sent during the same period, voluntary removals represent slightly less than half (46 percent) of the total eviction notices in Long Beach. In the previous reporting period, tenants in 47 percent of the cases in which notices were served vacated the premises. With regard to notices erroneously sent to tenants, Long Beach reported only two cases during the same period, both of which occurred in 2008.

Compared to Long Beach, a slightly smaller percentage of eviction notices in Los Angeles led to voluntary removals by tenants. Of the 218 eviction notices sent in Los Angeles, there were 96 instances in which the tenant vacated the property without further action, accounting for 44 percent of the total notices. Eviction notices erroneously sent to tenants occurred in 9 cases: 4 in 2007 and 5 in 2008.

Table 3 shows a total of 2 cases in Los Angeles where tenants voluntarily vacated their units after service of notice under Civil Code section 3485. With 8 eviction notices sent during the reporting period, voluntary removals represent 25 percent of the total eviction notices. Sacramento reported 3 cases in which tenants voluntarily vacated after service of notice, which represents 75 percent of the total notices served. Neither city reported notices erroneously sent to tenants.

Conclusion

Evaluation of the merits of the pilot program is necessarily limited by the data received from the participating pilot cities. Los Angeles has not consistently reported and was without a processing attorney for part of the current reporting period. Palmdale is new to the pilot program, but did not have occasion to use Health and Safety Code section 11571.1¹ in 2008, and Long Beach experienced a backlog due to the loss of processing staff.

¹ Palmdale is not eligible to participate in the pilot program under Civil Code section 3485.

Civil Code section 3485 was enacted late in 2007, thus only one year of data was available for this report. Both Los Angeles and Sacramento reported for 2008, but Long Beach, while eligible to participate, was not aware of this fact. Many of the cities eligible to participate under Civil Code section 3485 are the same cities that have opted not to participate in the program under Health and Safety Code section 11571.1. It is unclear whether these cities are unaware of their eligibility or simply are electing not to participate.

Based on the program statistics provided, the following findings may shed some light on the merits of the pilot program:

- Relatively few eviction notices issued by the pilot program participants resulted in filings of UD actions under Health and Safety Code section 11571.1; approximately 24 percent of the eviction notices sent in Long Beach and approximately 13 percent in Los Angeles led to the filing of UD actions.
- No UD proceedings were filed pursuant to notices issued under Civil Code section 3485 in Los Angeles; 25 percent of notices in Sacramento led to the filing of UD actions.
- An even smaller number of cases involve property owners assigning to the city attorney's office the right to file UD actions to evict offending tenants under Health and Safety Code section 11571.1. In Long Beach, approximately 11 percent of the total number of eviction notices issued where rights were assigned to the city attorney's office ultimately led to the filing of UD actions; only 4 percent were assigned and resulted in a UD action in the Los Angeles pilot program.
- Approximately 10 percent of pilot program cases involving UD actions reached resolution by trial (9 trials/93 total UD filings).
- Only one case in Los Angeles was reported in which either the tenant prevailed or the case was withdrawn under Health and Safety Code section 11571.1; no tenant prevailed or case was withdrawn under the Civil Code section 3485 program.
- Long Beach did not report any cases in which partial eviction was requested. Los Angeles reported two instances under the Health and Safety Code section 11571.1 program, but partial eviction was not ordered by the court in either instance. Sacramento reported no requests for partial eviction under Civil Code section 3485.
- Long Beach reported only two cases under the Health and Safety Code section 11571.1 pilot program in which the eviction notice was erroneously sent to the tenant; Los

Angeles reported 9 instances in this reporting period. No explanations were provided by either city for these occurrences. No eviction notices were erroneously sent to tenants under the Civil Code section 3485 program.

In addition to the program summary data (shown in tables 1 through 3) that was compiled and submitted by the pilot program participants, AOC staff contacted representatives in the city attorneys' offices in Los Angeles, Long Beach, Sacramento, and Palmdale in an effort to gather information about the impact of the pilot program on tenants. All representatives interviewed said the statutes provide a useful tool for combating gang activity in neighborhoods. Sacramento provided a compelling example. Two of the four UD proceedings brought under Civil Code section 3485 in Sacramento involved crime families living in the same apartment complex. Shortly after the eviction of one of the families was commenced, a member of the other family was murdered by a rival gang. The ability to swiftly evict both families resulted in an immediate and noticeable relief to the remaining tenants in the complex.

While Long Beach was not aware of its eligibility to participate in the pilot under Civil Code section 3485 until January 2009, since learning of its eligibility it has brought three actions under the statute. Further, the city attorney's office states that because of the success and visibility of the program in Long Beach, property owners and managers are more cautious about whom they rent to, which over time should result in less crime occurring on residential premises.

Table 1. Summary Statistics Under Health and Safety Code Section 11571.1 for Pilot Programs in Los Angeles and Long Beach, 2007 and 2008

	Long Beach		Los Angeles	
	2007	2008	2007	2008
<i>Notices Sent and Unlawful Detainers Actions Filed</i>				
(A) Number of notices sent	135	92	121	97
(B) Number of cases filed by the owner, upon notice	20	12	16	12
(C) Number of assignments executed by owners to the city attorney	18	7	1	0
(D) Number of 3-day, 30-day, or 60-day notices issued by the city attorney	18	7	1	0
(E) Number of cases filed by the city attorney	15	6	1	0
(F) Number of cases in which an owner is joined as a defendant under this section	1	1	1	0
<i>Disposition of Unlawful Detainer Filings</i>				
(G) As to each case filed:				
(i) Number of judgments ordering eviction or partial eviction				
Default judgments	6	4	8	6
Stipulated judgments	4	1	1	1
Following trial	5	1	1	2
(ii) Number of cases in which the case was withdrawn or the tenant prevailed	0	0	1	0
(iii) Number of other dispositions	0	0	5	1
(iv) Number of defendants represented by counsel	2	1	2	0
(v) Whether the case was a trial by court or a trial by jury	5	1	2	2
(vi) Whether an appeal was taken, and, if so, the result of the appeal	0	0	0	0
(vii) Number of cases in which partial eviction was requested, and	0	0	1	1
Number of cases in which the court ordered partial eviction	0	0	0	0
<i>Case Outcome Without Unlawful Detainer Filings</i>				
(H) As to each case in which a notice was issued but no case was filed:				
(i) Number of instances in which a tenant voluntarily vacated the unit	86	59	73	23
(ii) Number of instances in which a tenant vacated a unit prior to the providing of the notice	0	2	24	12
(iii) Number of cases in which the notice was erroneously sent to tenant	0	2	4	5
(iv) Number of other resolutions (see table 2 for details)	11	10	2	2

Table 2. Details of Other Resolutions in Long Beach and Los Angeles Under Health and Safety Code Section 11571.1(g)(1)(H)(iv)

	Long Beach		Los Angeles	
	2007	2008	2007	2008
Awaiting response from owner	7	0	0	0
Property owner not identified or located successfully	3	0	0	0
Tenant on Prop. 36—remain in property	1	0	0	0
Awaiting housing assistance investigation prior to removal	0	0	0	0
Pending property owner–initiated 30-day & 60-day notice	0	10	0	0
City attorney case conference pending	0	0	2	2
Total	11	10	2	2

Table 3. Summary Statistics Under Civil Code Section 3485 for Pilot Programs in Los Angeles and Sacramento, 2008

	Los Angeles	Sacramento
Notices Sent and Unlawful Detainer Actions Filed		
(A) Number of notices sent	8	4
(B) Number of cases filed by the owner, upon notice	0	0
(C) Number of assignments executed by owners to the city attorney	0	1
(D) Number of 3-day, 30-day, or 60-day notices issued by the city attorney	0	1
(E) Number of cases filed by the city attorney	0	1
(F) Number of cases in which an owner is joined as a defendant under this section	0	0
Disposition of Unlawful Detainer Filings		
(G) As to each case filed by an owner, the city attorney, or the city prosecutor:		
(i) Number of judgments ordering eviction or partial eviction		
Default judgments	0	0
Stipulated judgments	0	0
Following trial	0	0
(ii) Number of cases in which the case was withdrawn or the tenant prevailed	0	0
(iii) Number of other dispositions	0	1
(iv) Number of defendants represented by counsel	0	0
(v) Whether the case was a trial by court or a trial by jury	0	n/a
(vi) Whether an appeal was taken, and, if so, the result of the appeal	0	n/a
(vii) Number of cases in which partial eviction was requested, and	0	0
Number of cases in which the court ordered partial eviction	0	0
Case Outcome Without Unlawful Detainer Filings		
(H) As to each case in which a notice was issued but no case was filed:		
(i) Number of instances in which a tenant voluntarily vacated the unit	2	3
(ii) Number of instances in which a tenant vacated a unit prior to the providing of the notice	1	0
(iii) Number of cases in which the notice was erroneously sent to tenant	0	0
(iv) Number of other resolutions	5*	0

* The 5 other resolutions reported by Los Angeles are all pending.

Appendix A

Unlawful Detainer Pilot Program Report

HEALTH AND SAFETY CODE SECTION
11571.1

APRIL 30, 2001

Background

The Administrative Office of the Courts, on behalf of the Judicial Council, prepared this report for the Legislature pursuant to the provision in Health and Safety Code section 11571.1 (g) (3) directing the council to “submit a brief report to the Senate and Assembly Judiciary Committees on or before January 1, 2001, summarizing the information collected pursuant to this section and evaluating the merits of the pilot program established by this section.” The Appendix to this report includes a copy of Health and Safety Code section 11571.1.

Health and Safety Code 11571.1 took effect on January 1, 1999. The statute allows city prosecutors and district attorneys in five former municipal court districts in Los Angeles County to file an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of section 1161 of the Code of Civil Procedure, with respect to a controlled substance purpose. Prior to filing an unlawful detainer action, city prosecutors and district attorneys in these municipal court districts must file a notice with the owner of the premises “requiring the owner to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to a controlled substance purpose.” The Legislative Counsel’s Digest indicates that “The sale of a controlled substance on the premises or the use of the premises in furtherance of that activity is deemed to be such a nuisance.”

Health and Safety Code 11571.1 was drafted by staff of the Los Angeles City Attorney’s Citywide Nuisance Abatement Program.² The five former municipal court districts to which the provision applies are the downtown and Van Nuys branches of the Los Angeles District, Long Beach, Los Cerritos and the Southeast Judicial Districts. This section remains in effect until January 1, 2002 and is automatically repealed unless a new statute deletes or extends that date.

Mandate for Data Collection and Reporting

Health and Safety Code 11571.1 (g) (1) states that “The city attorney and city prosecutor shall maintain records of all actions filed pursuant to this section, including the collection of the following information:

(A) The number of notices provided pursuant to paragraph (1) of subdivision (a). (B) The number of times that an owner, upon notice, files or fails to file an action following receipt of the notice;

(C) The number of times that an owner is joined as a defendant pursuant to this section;

² See “Office of the City Attorney Criminal Branch: Citywide Nuisance Abatement Program,” <http://www.ci.la.ca.us/atty/cnap.htm>

- (D) As to each case filed pursuant to this section, the following information:
- (i) The final disposition of the action;
 - (ii) Whether the defendant was represented by counsel;
 - (iii) Whether the case was a trial by the court or a trial by a jury;
 - (iv) Whether an appeal was taken, and, if so, the result of the appeal;
 - (v) Whether the court ordered a partial eviction.”

In addition, the statute states that “After judgment is entered in any proceeding brought under this section, the court shall submit to the Judicial Council, on a form provided by the Judicial Council, information on the case. That information shall include a brief summary of the facts of the case.”

Finally, the statute provides that “copies of the records maintained pursuant to this section shall be filed annually with the Judicial Council on or before January 30 of each year.” The Judicial Council must then submit a brief report to the Senate and Assembly Judiciary Committees, “summarizing the information collected pursuant to this section and evaluating the merits of the pilot program established by this section.”

Application of the Statute

As noted above, section 11571.1 of the Health and Safety code applies to only five former municipal judicial districts in the county of Los Angeles. These five districts, however, include fourteen cities covered by thirteen different city attorneys. Therefore, the statute authorizes thirteen city attorneys to file notices with landlords requiring them to evict tenants or file actions for unlawful detainer directly against tenants.

In the fall of 1999, staff of the Administrative Office of the Courts (AOC) contacted the offices of the attorneys and courts covered by the statute to coordinate the transfer of records from city attorneys and branch courts. Of the thirteen city attorneys covered under the statute, only the city attorneys in the Los Angeles City Attorney’s office – covering both the downtown Los Angeles and the Van Nuys Districts – and the Long Beach District planned to use the authority conferred upon them by the statute. In the Los Cerritos District, city attorneys from the five cities in the District met and decided not to use the statute. City attorneys for the cities within the Southeast District had not been given any direction to use the statute.

Data Limitations

Health and Safety Code section 11571.1 requires that the Judicial Council summarize data collected from city attorneys as well from the courts. Having identified the two city attorneys' offices that intended to use the authority granted under this statute and the three former municipal court districts where these cases would be filed, AOC staff contacted these offices to arrange for the timely reporting of data. AOC staff informed city attorneys of the reporting requirements in the statute. Staff requested that the city attorneys' offices provide copies of "records of all actions filed pursuant to this section" as indicated in Health and Safety Code 11571.1 (g) (1).

The Deputy City Attorney of Los Angeles believes that the statute requires the office to maintain such records only for cases in which a judgement is obtained. Although the Deputy City Attorney agreed to provide additional summary information requested on the one case for which an unlawful detainer action was filed in 1999, this is only summary information and does not allow for an examination of the details of the case. The Deputy City Attorney for Long Beach agreed to send actual copies of the notices sent to landlords and tenants under this statute.

The courts in downtown Los Angeles, Van Nuys, and Long Beach agreed to provide the information mandated by the statute, however, they were uncertain that they would be able to track these cases. There is no way of flagging unlawful detainer cases that are brought under this statute as opposed to other unlawful detainer cases. In the entire County of Los Angeles, over 82,000 unlawful detainer cases were filed in 1999. The Los Angeles City Attorney only filed one unlawful detainer action under this statute during that same period and ultimately dismissed the case.

The Long Beach City Attorney has provided actual copies of the notices sent to landlords and tenants as well as additional documentation that allows for a more careful examination of the implementation of this statute. In addition to the summary tally of eviction notices sent, the City Attorney of Long Beach has provided copies of 24 notices sent to landlords and tenants in 1999. Most of these cases include copies of landlord responses and additional documents related to the cases. Although the paperwork is not complete for all of these cases, it does allow us to look more closely at how the statute is being used in Long Beach.

One final limitation of the data has to do with the reporting period established under the statute. Health & Safety Code section 11571.1 establishes that data should be reported to the Judicial Council on or before January 30 making only one year of data available before this report to the legislature is due. AOC staff requested that the Los Angeles and Long Beach City Attorneys provide additional information on their use of the statute from January 1, through

August 31, 2000 in order to augment the 1999 data. The Los Angeles City Attorney provided summary statistics for this period, however, the Long Beach City Attorney has not.

Summary Statistics on the Use of Health and Safety Code Section 11571.1

Los Angeles Downtown and Van Nuys

Table 1 shows that in 1999, the Los Angeles City Attorney’s office sent 159 notices to property owners requiring that they evict tenants pursuant to Health & Safety Code section 11571.1. Of these, the City Attorney filed only one unlawful detainer action which it subsequently dismissed. Almost 19 percent of the 159 notices – 30 cases – resulted in the filing of an unlawful detainer action by the landlord.

Table 1

Notices Sent under Health and Safety Code 11571.1 in 1999:

Los Angeles Downtown and Van Nuys

Number of Notices to Evict Sent by City Attorney to Property Owners	159
Number of UD Actions Filed by Property Owners after Notice	30
Number of UD Actions Filed by City Attorney	1

Table 2 shows the final disposition of the 30 unlawful detainer actions filed by landlords against tenants. Almost half of the unlawful detainer filings – 13 cases – resulted in a lock out by the Sheriff. In one third of the cases, tenants voluntarily vacated the premises after the unlawful detainer was filed. Two of the remaining seven cases were unresolved when the data was sent to the Judicial Council, in another two a stipulated judgment was made in favor of the plaintiff, and in one a judgment was made in favor of the defendant.

Table 2

Final Disposition of Unlawful Detainer Cases Filed by Landlords in 1999:

Los Angeles Downtown and Van Nuys

Lock Out by Sheriff	13
Unit Vacated after UD Filing	10
Pending	2
Stipulated Judgment for Plaintiff	2

Judgment for Defendant	1
Defendant Jailed on Different Charge	1
Waiting for Lockout	1
Total	30

Table 3 shows the number of eviction notices sent in the first eight months of 2000 by the Los Angeles City Attorney's office. By the end of August, 2000, the City Attorney of Los Angeles had already sent 173 eviction notices, 14 more than had been sent in all of 1999. Although the City Attorney did not file any unlawful detainer actions in these cases, the number of unlawful detainer actions filed by property owners rose slightly from 1999 to approximately 22 percent of the cases, or 39 of the 173 notices sent by the City Attorney.

Table 3

Notices Sent under Health and Safety Code 11571.1 January 1 to August 31, 2000:
Los Angeles Downtown and Van Nuys

Number of Notices to Evict Sent by City Attorney to Property Owners	173
Number of UD Actions Filed by Property Owners after Notice	39
Number of UD Actions Filed by City Attorney	0

Table 4 shows the final disposition of the unlawful detainer cases filed by landlords in the first eight months of 2000 as a result of the City Attorney's eviction notices sent under Health and Safety Code 11571.1. As in 1999, the two most common occurrences following an unlawful detainer action were a lock out by the Sheriff and the voluntary vacating of the premises by the tenant.

Table 4

Final Disposition of Unlawful Detainer Cases Filed by January 1 to August 31, 2000:
Los Angeles Downtown and Van Nuys

Lock Out by Sheriff	13
Unit Vacated after UD Filing	15
Pending	7
Stipulated Judgment for Plaintiff	3
Waiting for Lockout	1
Total	39

The biggest discrepancy between the 1999 and 2000 numbers appears to be in the rate of eviction notices filed. In 1999, the City Attorney’s office of Los Angeles filed 13.2 notices per month. For the first eight months of 2000, the City Attorney’s office filed eviction notices at a rate of 21.6 per month. If the City Attorney continues to file eviction notices at this rate, we should expect approximately 259 eviction notices to be sent by the end of 2000, an increase of almost 63 percent over the previous year.

Without case-level data, however, it is impossible even to draw the conclusion that this difference represents a real increase in the number of notices sent between 1999 and 2000. There is no way of determining if the average number of notices sent per month is relatively constant across the year or if the City Attorney’s office was still putting the program into place during the early part of the year and only began issuing notices in the latter part of the year. If the City Attorney’s office spent the first four and a half months of 1999 preparing to implement the program and only began issuing eviction notices in May of 1999, then the number of eviction notices sent each month would be almost exactly the same as the number per month sent in the first eight months of 2000.

Long Beach

Table 5 shows the number of notices sent by the City Attorney of Long Beach, the number of times owners filed unlawful detainer actions following the notice, and the number of unlawful detainer actions filed by the City Attorney in 1999. During the calendar year of 1999, the Long Beach City Attorney filed 33 notices under Health & Safety Code section 11571.1, slightly more than one fifth as many as were filed by the City Attorney of Los Angeles during the same period.

Table 5
Notices Sent under Health and Safety Code 11571.1 in 1999: Long Beach

Number of Notices to Evict Sent by City Attorney to Property Owners	33
Number of UD Actions Filed by Property Owners after Notice	7*
Number of UD Actions Filed by City Attorney	0*

* Out of 24 Cases Examined

Although the City Attorney of Long Beach did not provide data for the year 2000, it did send copies of the notices and other related paperwork for 24 cases from 1999 and for an additional

eleven cases in which Health & Safety Code section 11571.1 was invoked to abate a nuisance without requiring the eviction of a tenant. In seven of the 24 cases for which this paperwork was provided, landlords filed an unlawful detainer action against their tenant. Of these 24 cases, there is no paperwork indicating that the Long Beach City Attorney filed any unlawful detainer actions under this code section.

The additional documentation provided by the City Attorney of Long Beach allows for further assessment of the use of the statute. Copies of the City Attorney's letters to landlords and tenants, the responses of landlords, notices to quit the premises, and court documents make it possible to construct a picture of how this section of the Health & Safety Code has been used in the 24 cases for which this paperwork is available.

Timing and Dates of City Attorney Notices and Eviction Notices

All of the 24 notices in the sample of notices sent by the Long Beach City Attorney were sent between September 23 and December 28 of 1999. The concentration of these 24 notices in the span of barely three months indicates a much higher rate of notices sent than would be suggested from looking at the summary data. The summary data indicates only that 33 notices were sent for the entire year, a rate of 2.75 notices per month. The concentration of more than two thirds of the 33 notices in this three month period indicates a rate of eight notices per month. Whether or not the remaining notices were spread out during the entire year or concentrated like the notices for which this data is available cannot be determined.

Sixteen of the 24 notices sent by the Long Beach City Attorney's office also contain information on the date by which the landlord responded to the notice. Four of the 16 eviction notices were actually filed by landlords prior to the date on the City Attorney's notice. In each of these four cases, tenants had been served notice to pay back rent or quit the premises. In one of the cases, the landlord indicated that he had spoken to the tenant about "drugs and 'friends' coming to her apartment."

The remaining twelve eviction notices sent by landlords to tenants were sent to tenants between two days and 34 days following the date on the City Attorney's notice. Seven of the eviction notices were sent within a week of the date on the City Attorney's notice; two were sent within two weeks, and; three were sent more than two weeks after the date of the original notice from the City Attorney.

Timing and Dates of Unlawful Detainer Actions and Tenant Departure

As indicated above, unlawful detainer actions were filed by landlords in seven of the 24 cases for which the Long Beach City Attorney provided paperwork. In three of these seven cases, unlawful detainer actions were filed with the court prior to the date on the City Attorney's notice. In one of these cases, an unlawful detainer action had been filed 43 days prior to the date on the City Attorney's notice. All but one of the remaining four unlawful detainer actions were filed within a month of the date of the notice by the City Attorney's office.

There is also information available on the date that the premises were vacated in seven of the 24 cases for which the Long Beach City Attorney sent documentation. Two of the tenants who were the subject of the City Attorney's notice had already voluntarily vacated the premises 19 and 37 days prior to the date on the notice from the City Attorney's office. Of the remaining five tenants for which we have data on the date that they quit the premises, one vacated eight days after the notice; another vacated 13 days after the notice; two vacated 35 days after the notice, and; one vacated 36 days after the notice.

Drug Activity, Housing Status, and Types of Eviction Notices

Notices sent by the Long Beach City Attorney's office indicate the type of drugs involved in the public nuisance for which tenants are being evicted (See Table 6). All 24 of the cases that have documentation attached indicate at least one drug. Cocaine is cited in half of the notices. Three of these cases indicate rock cocaine as the drug, the others do not specify whether the cocaine is rock or powder. The second most common drug cited in notices by the City Attorney's office is marijuana which is mentioned in six of the 24 cases. The remaining notices include references to methamphetamine (two cases), codeine/soma pills (two cases), PCP (one case), and pseudoephedrine (one case). One of the cases in which cocaine is cited also mentions heroin.

Table 6

Drug Activity Cited by City Attorney in Notice to Evict: Long Beach

Cocaine	12
Marijuana	6
Methamphetamine	2
Codeine/Soma pills	2
PCP	1
Pseudoephedrine	1
Total	24

Response forms provided by the City Attorney's office allowed landlords to request that the City Attorney's office file an unlawful detainer action on their behalf. These forms also provide space for landlords to inform the City Attorney when eviction notices were sent or unlawful detainer actions filed, detail any mitigating circumstances in the case, and indicate if the tenants subject to the eviction notice are participants in the Housing Authority Section 8 Program. Twenty of the 24 cases with accompanying documents included this response form.

None of the landlords who filed a response from requested that the City Attorney bring an unlawful detainer action on their behalf. Only one of the tenants was identified as a participant in the Housing Authority Section 8 Program. Fifteen of the 24 cases for which there is documentation indicate the type of eviction notice tenants were sent. An equal number of tenants – seven and seven – were served three-day and thirty-day eviction notices; one tenant was served a fifteen-day notice.

Conclusion

Health and Safety Code section 11571.1 (g) (3) directs the Judicial Council to evaluate the merits of the pilot program established under this law. To date, the law has affected a negligible percentage of the total number of unlawful detainer actions filed in the courts. In 1999, 82,644 unlawful detainer actions were filed in the entire county of Los Angeles. The 38 unlawful detainer actions filed in 1999 as a consequence of this code section – 37 by landlords in response to notices from City Attorneys and one by the Los Angeles City Attorney – represent less than one-half of one one-hundredth of one percent of the unlawful detainer cases that came before the courts. The impact of the law upon the courts, landlords, tenants, and residents of the communities in which it has been implemented cannot be assessed with the data available. Therefore, the Judicial Council is unable to provide an evaluation of the merits of the pilot program.

Appendix B

Unlawful Detainer Pilot Program Report

HEALTH AND SAFETY CODE SECTION
11571.1

APRIL 22, 2004

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Background

The California Legislature enacted Health and Safety Code section 11571.1 in 1999, establishing a pilot program in which city attorneys or city prosecutors would be allowed to file an unlawful detainer (UD) action against any tenant engaged in illegal drug-related activities as defined in Code of Civil Procedure section 1161, subdivision 4.³ Health and Safety Code section 11571.1 was applicable to 5 former municipal court districts in Los Angeles County encompassing 13 municipalities. An amendment in 2001 required that, commencing January 1, 2002, cities participating in the pilot program compile information pursuant to the section and submit the information to the Judicial Council on or before January 30 of each year.⁴ The Judicial Council was directed to “submit a brief report to the Senate and Assembly Judiciary Committees on or before January 31, 2004, summarizing the information collected pursuant to this section and evaluating the merits of the pilot program established by this section.”

Program Description

Of the 15 cities that were eligible to participate in the pilot program, 2 (Los Angeles and Long Beach) were confirmed to have participated in the program since the statute was enacted in 1999, and both have submitted the required information to the council covering the program period of 2002 and 2003.⁵ Therefore, this report describes the experiences of the pilot programs in Los Angeles and Long Beach during the relevant period.

To help understand the operation of the pilot programs, Figure 1 on page 5 displays a simplified view of the program process from initial case selection to final case resolution. The process began with city attorneys reviewing police reports to identify “qualified” cases. The city attorney’s office in Los Angeles receives more than 15,000 drug arrest reports per year from the police. Out of those arrest reports, the city attorney gave priority to two types of cases for the pilot program: (1) cases with a search warrant and (2) cases involving drug sales that occurred in the tenant’s unit.⁶

³ Added by Assembly Bill 1384 Stats. 1998, ch. 613, § 2.

⁴ Assembly Bill 815 Stats. 2001, ch. 431, § 1. A copy of the statute is attached in the appendix to this report.

⁵ While some of the eligible cities contacted have been operating nuisance abatement programs, they have relied on city narcotics ordinances rather than formally utilizing the authority provided by section 11571.1.

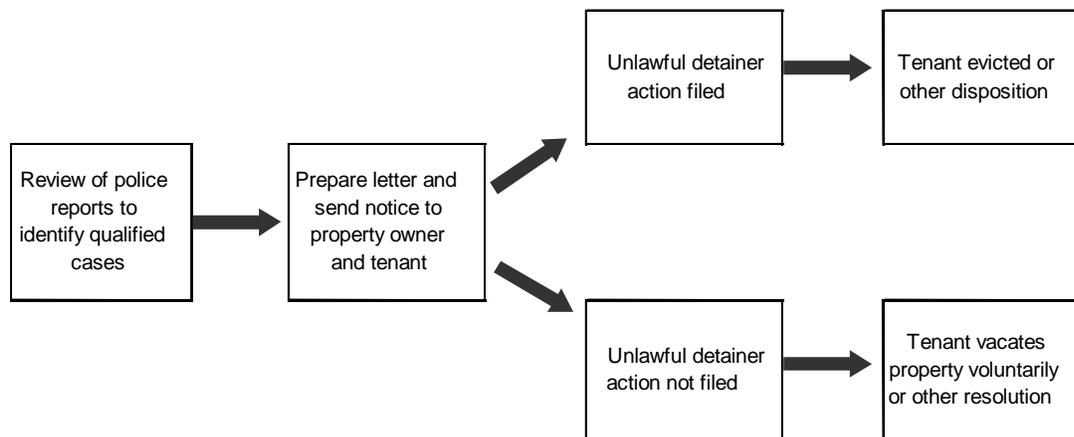
⁶ Health and Safety Code section 11571.1 (c) of the statute defines *controlled substance* as “the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, cocaine, phencyclidine, heroin, methamphetamine, or any other controlled substance.” An amendment in 2001 inserted in subdivision (c) a reference to and added “, if the offense occurs on the subject real property and is documented by the observations of a peace officer.”

In the Long Beach program, the city attorney estimates that roughly five police arrest reports per week were screened to identify qualified cases. The criteria used in the case review process included: (1) location of the arrest and (2) specific offenses charged. Because arrests that occur in single-family homes require additional staff time to verify information regarding property ownership, those cases were automatically excluded. Thus, the pilot program in Long Beach targeted primarily tenants in rental apartments.

Having selected qualified cases from the pool of arrest reports, the city attorney then sent notices to the property owners, requiring them to file an unlawful detainer action against the offending tenant within 15 calendar days; each offending tenant received a notice concerning the eviction matter, as well. If, due to safety concerns, the owner was unwilling to proceed with the eviction action, the city attorney could file the unlawful detainer action on the owner's behalf. The city attorney in Los Angeles estimates that it usually takes 2 to 3 months for a case to move through the UD process until the tenant is removed from the property.

Often times UD actions were not necessary for evicting the offending tenants, as shown in Figure 1. There were instances in which the tenants vacated the property voluntarily, before or after the notices were sent. As discussed below, these evictions actually accounted for the majority of the cases handled by the pilot programs.

Figure 1. Process of tenant eviction under Health and Safety Code section 11571.1



Summary Statistics Compiled by the Pilot Programs

This section provides a brief summary of the information compiled by the pilot programs in Los Angeles and Long Beach relating to program activities in 2002 and 2003.

Notices Issued by City Attorneys

Table 1 on page 15 shows that the number of eviction notices sent to property owners rose 45 percent in both programs from 2002 to 2003. In Los Angeles, 190 notices were sent to property owners in 2002, and 270 notices were sent in 2003. In Long Beach, the number of notices increased from 24 in 2002 to 35 in 2003.

Despite the rising caseloads in both programs over the 2-year period, it should be noted that eviction notices sent by the city attorneys represent only a fraction of the total drug-related arrests made in the participating cities. The Los Angeles city attorney indicated that resource constraints limited the number of cases that could be handled by the pilot program. According to her estimates, 4 to 8 hours are required to process a case. Especially time-consuming are cases in which the property owners are not familiar with UD proceedings, which require the pilot program to provide assistance throughout the process.

Unlawful Detainer Actions Filed

Table 1 shows that during the 2-year period, UD actions were filed (by property owners and city attorneys) in less than one-quarter (23 percent) of the total cases in both programs combined. In more than half (60 percent) of the total cases, the tenants vacated the property voluntarily—either after or before notices were sent—without the need to file UD actions.

Although UD actions were filed in a minority of the total cases, they appear to have risen in both programs during the 2-year period. In Los Angeles in 2002, 29 UD actions were filed out of a total of 190 cases, or 15 percent of the total. In 2003 UD filings rose to 72 cases (an increase of nearly 150 percent), or 26 percent of the total, an increase of 11 percentage points.

A similar trend in UD filings is evident in Long Beach. There were only 2 UD filings in 2002 out of a total of 24 cases (8 percent of the total). In 2003 UD filings increased to 17, representing 49 percent of the total 35 cases—an increase of 41 percentage points during the 2-year period.

As already noted, city attorney in the pilot programs may file a UD action on the property owner's behalf if the owner is unwilling to file the action for safety-related reasons. During the 2-year period, the two pilot programs combined filed only 8 UD actions on behalf of property

owners, with 4 cases in Los Angeles (2 filings in each year) and 4 in Long Beach (all in 2003). In none of the UD actions filed by the city attorney was the property owner joined as a defendant.

From the court's standpoint, UD filings resulting from the pilot programs represent a negligible proportion of all UD filings processed by the court. In 2003 the total UD cases filed in the Superior Court of Los Angeles County numbered approximately 50,000.⁷ Thus, UD filings from the two pilot programs represent less than 1 percent of total UD filings in the entire county.

⁷ Exact data on UD filings in the Superior Court of Los Angeles are not available. The estimated figure of 50,000 UD filings is extrapolated from 160,415 limited civil cases filed during calendar year 2003 in Los Angeles County. Available data from other counties indicates that UD filings account for approximately 30 percent of total limited civil case filings. Assuming UD filings represent 30 percent of total limited civil case filings in Los Angeles, the calculation yields an estimated 48,126 UD filings per year in the county.

Table 2. Summary Statistics of Pilot Programs in Los Angeles and Long Beach, 2002 and 2003

	<u>Los Angeles</u>		<u>Long Beach</u>	
	2002	2003	2002	2003
<i>Notices and Unlawful Detainer Filings</i>				
(A) Number of notices provided pursuant to paragraph (1) of subdivision (a)	190	277	24	35
(B) Number of cases filed by an owner, upon notice	27	70	2	13
(C) Number of assignments executed by owners to the city attorney*	2	2	0	4
(D) Number of 3-day or 30-day notices issued by the city attorney*	2	2	0	4
(E) Number of cases filed by the city attorney*	2	2	0	0
(F) Number of times that an owner is joined as a defendant pursuant to this section	0	0	0	0
<i>Dispositions of Unlawful Detainer Filings**</i>				
(G) As to each case filed by an owner, the city attorney, or the city prosecutor:*				
(i) Number of judgments				
Default judgments	6	31	0	4
Stipulated judgments	7	15	0	0
Following trial	10	14	0	0
(ii) Number of other dispositions	6	N/A	2	2
(iii) Number of defendants represented by counsel	2	1	2	2
(iv) Whether the case was a trial by the court or a trial by a jury	All court trials	All court trials	N/A	N/A
(v) Whether an appeal was taken and, if so, the result of the appeal	0	Not known	N/A	N/A
(vi) Number of cases in which partial eviction was requested, and the number of cases in which the court ordered a partial eviction	0	1	N/A	N/A
<i>Case Outcomes Without Unlawful Detainer Filings</i>				
(H) As to each case in which a notice was issued but no case was filed:*				
(i) Number of instances in which a tenant voluntarily vacated the unit*	61	104	3	6
(ii) Number of instances in which a tenant vacated a unit prior to the providing of the notice*	50	69	15	9

(iii) Number of other resolutions*	37	14	0	4
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N/A = not applicable.

*Added or modified by Assembly Bill 815 (Stats. 2001, ch. 431).

**Disposition information is not reported for all UD filings in 2003. Of the 72 UD filings in Los Angeles, disposition information is available for 60 cases. In Long Beach, 6 dispositions are reported for 17 filings.

Court Dispositions of UD Filings

Of the total UD actions filed in the two pilot programs during the 2-year period, Table 1 shows that 24 cases (10 in 2002 and 14 in 2003) were disposed of after trial—all by court trial and none by jury trial. All of the 24 tried cases were filed by the pilot program in Los Angeles; the pilot program in Long Beach had no UD filings that resulted in trial. Of all UD filings during the 2-year period in Los Angeles for which information on final disposition was available, tried cases represent approximately one-quarter (27 percent) of the total (34 percent in 2002 and 23 percent in 2003).⁸

The majority (65 percent) of UD filings in the Los Angeles pilot program were disposed of by either default or stipulated judgment. As shown in Table 1, among UD filings that were disposed of in 2002, 13 cases fell into this combined category, accounting for 45 percent of the total; in 2003 46 cases were disposed of by the same methods, representing 77 percent of the total.

In addition to judgments before and after trial, the Los Angeles pilot program reported 6 cases in 2002 in which the tenant vacated the property after the owner filed the court action.

The Long Beach pilot program provided information on final dispositions for 8 cases during the 2-year period. Of the 2 UD filings in 2002, 1 case resulted in foreclosure and the other resulted in a protective order that prohibited the offending tenant from returning to the property. Of the 6 UD filings in 2003 for which disposition information was available, 4 cases were disposed of by default judgments and the UD proceedings were withdrawn in the other 2 cases.

In addition to the information just presented concerning final dispositions of UD actions filed by the pilot programs, the statute required other information regarding the UD proceedings, including the number of tenant defendants represented by counsel, whether an appeal was

⁸ Information on court disposition of UD filings reported by the two pilot programs appears incomplete for 2003. Of the total 72 UD filings in Los Angeles in 2003, the city attorney reported final dispositions for 60 cases; Long Beach provided disposition information for 6 cases out of a total of 17 UD filings in the same year. This could be due to some cases that are still pending as of the end of the reporting period.

taken, the number of cases in which partial eviction was requested, and the number of cases in which the court ordered a partial eviction. As shown in Table 1, the pilot programs reported no or a very small number of cases for these items. Altogether, for both pilot programs, there were 7 cases in which the defendant tenants were represented by a counsel. There were no appeals (or none that the city attorney was aware of), and there was only one case involving partial eviction in Los Angeles in 2003.

While only one case was reported in which the outcome of the UD filing resulted in partial eviction, the city attorneys in both pilot programs, through telephone interviews, related instances in which the offending tenants were evicted while other innocent residents of the unit were allowed to stay. The Los Angeles program reported 10 cases in 2002 in which “city attorney hearings” resulted in partial evictions, and 9 cases in 2003 in which a negotiated resolution was ultimately reached in which the lease agreement was amended to allow innocent tenants to remain in the property but prohibit the violators from remaining at the property. The Long Beach case already mentioned, in which a protective order was issued, led to a partial eviction of the offending tenant.

Case Resolutions Without UD Actions

As noted earlier, the vast majority of evictions in the pilot programs were accomplished prior to UD actions being filed by either the property owners or city attorneys. Table 1 shows that in Los Angeles in 2002, 61 tenants vacated the property voluntarily after the city attorney sent out the eviction notices and 50 tenants did so prior to receiving notices. These two types of outcomes represent 58 percent of the total cases processed in that year. In 2003 a similar proportion (62 percent) of the cases were resolved through the same method, with 104 tenants vacating the unit after notice and 69 tenants before notice.

In the Long Beach pilot program, 75 percent of total cases in 2002 were resolved when the tenants vacated the premises either after notice (3 cases) or prior to notice (15 cases). This proportion declined to 43 percent of the total in 2003, with 6 tenants vacating the property voluntarily after notices were issued and 9 tenants prior to notice.

In addition to these two types of outcomes, the pilot programs reported a significant number of cases resolved by other means, some of which were discussed above in relation to partial evictions. Los Angeles reported 37 “other resolutions” for 2002 and 14 for 2003. Of the 37 cases in 2002, the report from the city attorney specified the following three categories:

1. City attorney hearings resulting in partial eviction—10 cases;

2. Unlawful detainer filed by landlord prior to notice—7 cases; and
3. Tenant vacated after service of 3-, 30-, or 60-day notice—20 cases.

“Other resolutions” reported by Los Angeles dropped to 14 cases in 2003, with the following two categories:

1. Negotiated agreement with landlord and tenant allowing innocent tenant(s) to remain in rental unit but requiring violator to vacate rental unit and stay away from location—9 cases; and
2. Rental property sold to new purchaser during relevant period—5 cases.

During the 2-year period, Long Beach reported only 4 cases with “other resolutions” in 2003, and no specific information was provided on how the cases were resolved.

Merit of the Pilot Programs Pursuant to Health and Safety Code Section 11571.1

Although the statute does not provide specific guidelines on how the Judicial Council should evaluate the merits of the pilot programs, the brief analyses presented above, along with telephone interviews with the pilot program city attorneys, point to success in the following areas:

- A high proportion of total cases that resulted in successful eviction of the offending tenants;
- A high proportion of evictions achieved without the need to file UD actions;
- Partial evictions were pursued to protect innocent tenants; and
- Safer environment and improved quality of life for law-abiding tenants.

Eviction Rate

Based on information in Table 1 regarding court dispositions of UD filings as well as outcomes for cases in which no UD actions were filed, it is estimated that, for all the notices sent by the city attorneys in the two pilot programs, an overall eviction rate of more than 80 percent was accomplished. This does not include cases in which the eviction status cannot be clearly determined from the reported data, such as judgments after trial (since the data did not specify whether the trial judgments were in favor or against the tenants) and cases reported as other dispositions or resolutions without further information concerning eviction outcomes. With these additional cases included, the overall eviction rate in the pilot programs approaches 90 percent.⁹

⁹ This is still likely to be an underestimate due to the fact that not all UD filings had disposition information available, and thus they were not included in the calculation of the eviction rates.

The city attorneys interviewed expressed satisfaction with the efficacy of the pilot programs. One of them noted that the statute is used as “one tool in a whole package” in the city’s overall strategy for nuisance abatement. The language of the statute is a powerful tool, allowing the city to be the “bad guy” if the property owner does not want to deal with the problem.

UD Actions vs. Voluntary Removal

It is noted above that UD actions were filed in about one-quarter of the total cases in the two pilot programs, with the rest of the cases resolved through other means without any need for court actions. This may reflect the initial case review process, in which the city attorneys tried to focus on cases showing strong evidence against the offending tenants, thus reducing the likelihood that the tenants would challenge the eviction notices. This may suggest that the city attorneys are utilizing the statute prudently in their nuisance abatement efforts.

Partial Evictions

When asked about the challenges of the pilot programs, city attorneys in both pilot programs stated that, while relatively rare, cases that involved elderly or other family members who may be unaware of drug-related activities committed by their relatives require different solutions. The city attorney of Long Beach related a case in which the mother of the offending tenant contacted the city, claiming that she was not aware of her son’s drug violations. The city attorney accompanied her to her son’s hearing in a criminal matter and obtained a stay-away order prohibiting her son from returning to the property. In another case discussed above, the lease agreement was amended to evict the offending tenant but allow innocent tenants to stay. There appears to be no lack of alternative solutions for handling these special cases in the pilot programs.

Community Reaction

The ultimate evidence of the programs’ success is the creation of a safer environment and improved quality of life for law-abiding tenants through the removal of offending tenants from the community. City attorneys in both programs indicated that the community is very supportive of the program; apartment owners also appreciate the assistance they are getting from the city in improving the environment for their tenants. Beyond anecdotal evidence provided by the pilot programs, however, no data are available to assess the impacts of the programs on safety and quality of life in this regard.

Appendix C

Unlawful Detainer Pilot Program Report

**HEALTH AND SAFETY CODE
SECTION 11571.1**

APRIL 30, 2007



**ADMINISTRATIVE OFFICE
OF THE COURTS**

Unlawful Detainer Pilot Program

Background

In 1998, Assembly Bill 1384 ([Havice], Stats. 1998, Ch. 613) created an initial three-year pilot program in cities within five former municipal court districts in the County of Los Angeles to allow city attorneys and prosecutors to seek the eviction of any person who was in violation of the nuisance or controlled substance law. The legislation, which became effective on January 1, 1999, authorized the pilot courts to issue a partial or total eviction order to remove an individual who engages in drug-related activity. AB 1384 also required the participating cities to collect specified data on the experiences under the pilot program and annually to file reports about these cases with the Judicial Council. The legislation further required the Judicial Council to submit a brief report to the Senate and Assembly Judiciary Committees on or before January 1, 2001, summarizing the information provided by the participating cities and evaluating the merits of the program. The Judicial Council report required under this legislation provided a summary of the program data submitted by the participating cities. Using additional information provided by the Long Beach pilot program, the report also looked into additional areas of program operations including the type of drug violations leading to the issuing of eviction notices and the timing of the filing of unlawful detainer actions. (See Appendix A for a copy of 2001 Judicial Council report.)

In 2001, Assembly Bill 815 ([Havice] Stats. 2001, Ch. 431) reauthorized the pilot program for three more years, imposed more specific reporting requirements on the participating cities, and required the Judicial Council to issue another report and evaluation of the program. The Judicial Council's report that was issued under AB 815 compiled the program data submitted by the pilot programs in Los Angeles and Long Beach. Based on the more specific information on program activities, the report provided an analysis of different components of the pilot programs, including, among other things, the use of the pilot program provisions to accomplish partial eviction of the offending tenants. (See Appendix B for a copy of 2004 Judicial Council report.)

In 2004, Assembly Bill 2523 ([Frommer] Stats. 2004, Ch. 304) further extended the sunset of the pilot program to January 1, 2010, made additional augmentations to the reporting requirements, and expanded the program to include courts in Alameda and San Diego Counties. The legislation also required two additional Judicial Council reports to the Senate and Assembly Judiciary Committees, one on or before April 15, 2007, and the other on or before April 15, 2009, summarizing the information provided by the participating cities and evaluating the merits of the pilot program. (See Appendix C for a copy of AB 2523.) This report, which is being

submitted under AB 2523, covers pilot program activities over the three years from 2004 to 2006.

Program History

Under the general framework of the Drug Abatement Act (Health & Safety Code, §§ 11570-11587), one of the key provisions of the pilot program is the additional authority granted to city attorneys and city prosecutors to file unlawful detainer (UD) actions against any tenants who are engaged in illegal drug activities. By establishing this program, the Legislature hoped that city attorneys would be able to deal with drug nuisance problems in the community more effectively if property owners, out of safety concerns or other considerations, are unwilling to file unlawful detainer actions to evict offending tenants.

In 2004, AB 2523 added additional protections for tenants and expanded the reach of the pilot program in several ways, including:

- Extending the pilot programs for five more years until January 1, 2010;
- Expanding the pilot programs to the cities of Oakland and San Diego;
- Requiring that eviction notices sent to property owners and tenants be based on an arrest report or on another action or report by a regulatory or law enforcement agency;
- Providing property owners an additional 15 calendar days to file an unlawful detainer action after receiving the notice from the city attorney;
- Requiring that notices sent to the tenants contain specific information, generally for the purpose of protecting the rights of innocent tenants; and
- Requiring the pilot programs to track and report cases in which either the unlawful detainer action was withdrawn or the tenant prevailed, as well as cases in which the eviction notice was erroneously sent to the tenant.

Local Contexts and Program Participation

While the Legislature continued its efforts to amend the pilot program statutes to meet the needs, and ensure the rights, of different parties, pilot cities have had different experiences in the adoption and implementation of the pilot program provisions. To a large extent 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.

When the pilot program first became effective in 1999, 15 cities in select former municipal court districts in Los Angeles County were eligible to participate in the program. Of these 15 cities, only Los Angeles and Long Beach decided to use the pilot program provisions in their drug nuisance abatement program. Both cities stayed in the program through 2004, when a Judicial Council report summarizing their program activities was submitted to the Legislature. Some cities apparently chose not to participate in the pilot program due to their lack of

awareness about the statute; others were not interested in the program for unspecified reasons. In general, the cities that did not participate at the initial stage of the pilot programs were relatively small municipalities, suggesting that their limited administrative capacities might be the cause of their nonparticipation.

Los Angeles

Since the addition of Oakland and San Diego in 2004, and the narrowing of previous program participants to the cities of Long Beach and Los Angeles, different patterns of program activities emerged. In 2005, the Los Angeles City Attorney's office, the original sponsor of the pilot program provisions, stopped using the statute in its drug nuisance abatement efforts. The city attorney's office indicated that the decision to opt out of the pilot program was due to the burden of the mandated reporting requirements and the limited benefits from the few cases to which the program statutes were applicable. For 2006, the city attorney's office reported only two drug eviction cases filed under the pilot program provisions.

The city attorney's office contacted the Administrative Office of the Courts (AOC) staff in April 2007 to provide additional information regarding the limited scope of the pilot program activities in the past two years. They noted that the City of Los Angeles was in the midst of a budget shortfall in 2005, and city officials were looking for programs to cut. Unaware that the pilot programs had been extended to 2010, the city cut the budget for the pilot program, which resulted in the removal of three positions dedicated to the pilot program, including a deputy city attorney, a paralegal, and a secretary.

Despite the impact of the local budget situation, the Los Angeles City Attorney's office remains very supportive of the pilot program and hopes to have their program staff fully restored. The city attorney's office believes that the partial eviction provision of the pilot program is especially helpful in dealing with cases involving elders who might be unaware of the illegal drug activities in which family members are engaged.

San Diego

The director of the local drug abatement program – Drug Abatement Response Team (DART) – indicated to the AOC that no action had been taken using the pilot program statute over the last three years.

The DART program, which was first established in 1989, operated initially as part of the code enforcement unit in the San Diego City Attorney's Office. In 2005, the DART program was expanded as a separate unit dealing with a variety of public nuisance issues, including illegal drugs, gangs, and prostitution. According to the DART program director, the city attorney's

office did not find it necessary to use the specific pilot program provisions to handle drug eviction cases. The general statutory framework under the Drug Abatement Act, along with relevant city ordinances, reportedly provided the city attorney's office with sufficient authority to handle various drug and other public nuisance problems in the community. The program director noted, however, that the pilot program provisions had been cited in court proceedings for a few cases to bolster the case for removing the offending tenant from the property. Under the current regulatory and statutory framework, the San Diego City Attorney's office appears to have no plan in the near future to formally use the pilot program statute.

Oakland

Prior to the enactment of AB 2523 in 2004, the Oakland City Council had already passed its own Nuisance Eviction Ordinance (NEO) early in the same year. While the pilot program statute and the NEO have many similar features and share the same policy goal of eliminating illegal drug activities from high-crime neighborhoods, there are two important differences between the two civil remedial approaches that are worth noting. First, the NEO program relies primarily on monetary penalty assessments against uncooperative property owners to enforce the abatement requirements, while the filing of unlawful detainer actions against offending tenants, either by property owners or city attorneys, is the key policy instrument provided by the state statute. The NEO program targets property owners to eliminate public nuisances, while the pilot program provides an option to deal with the offending tenant more directly.

The second key difference has to do with the means by which a partial eviction can be accomplished. Under the pilot program provisions, an unlawful detainer action filed with the court may request a partial eviction, which allows the court to order only the offending tenant to be removed from the property. Without the specific authority to request a partial eviction in unlawful detainer actions, the Oakland NEO program may only achieve a similar outcome through a settlement agreement signed by all parties involved, including the property owner, the tenant, and the program manager.

Ultimately, however, it was not the difference in programmatic features but the difference in administrative structures between the two programs that led to Oakland's decision to opt out of the pilot program. When the Legislature was in the process of amending the pilot program statute in 2004, the Oakland NEO program was managed under city administration. The City of Oakland expressed an interest in participating in the pilot program, and it hoped that the statute could be amended to accommodate their program's existing administrative structure, instead of having to shift the program responsibility to the city attorney's office, as required by the statute. However, AB 2523 did not make this change in the statute and Oakland

subsequently decided to keep its existing program structure and not to participate in the pilot program.

Given the different pilot program experiences, as described above, Long Beach is the only pilot program among the four eligible cities with substantive program information over each of the past three years that was submitted to the Judicial Council. Los Angeles reported complete program activities for 2004, with no pilot program cases reported for 2005, and only two cases for 2006.

Summary of Pilot Program Data

Statistics gathered by the pilot programs in Long Beach and Los Angeles are shown in Tables 1 and 2 at the end of this report.

Number of Eviction Notices

The first thing worth noting in Table 1 is the steady increase in the number of eviction notices issued to property owners and tenants by the Long Beach pilot program over the past three years. The pilot program report submitted in 2004 showed that the number of notices issued in Long Beach increased from 24 in 2002 to 35 in 2003. The number of notices issued in Long Beach continued its upward trend over the past three years, as shown in Figure 1, reaching 97 notices in 2006. According to staff of the Long Beach pilot program, this increase of approximately 400 percent over the past five years resulted from improved collaboration among various agencies involved in the pilot program; law enforcement personnel sent more cases to the city attorney's office as they learned more about the benefits of the pilot program.

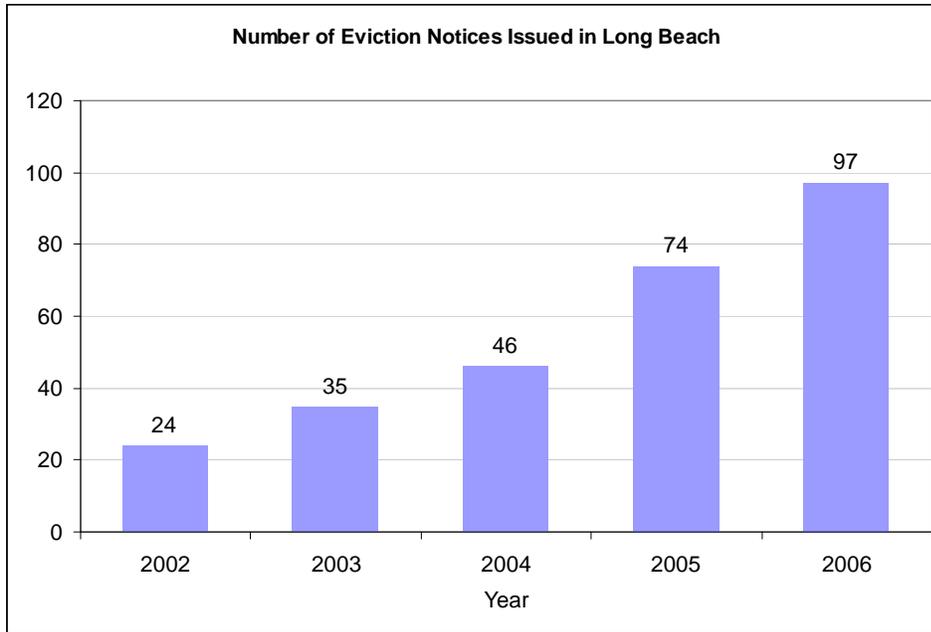


Figure 1. The number of eviction notices issued in Long Beach has grown steadily.

Relative to the growth in Long Beach, Los Angeles experienced a slight decline in 2004, dropping from 277 notices issued in 2003 to 257 in 2004.

Unlawful Detainer Actions Filed

Compared to program activities reported in 2004, no significant change was reported by the pilot programs with regard to the proportion of eviction notices that led to the filing of UD actions in the courts. The 2004 report showed that UD actions were filed following the issuance of eviction notices in approximately 25 percent of the cases. Long Beach data revealed that, over the past three years, UD actions were filed in 20 percent of the matters in which notices were issued: 15 percent in 2004, 23 percent in 2005, and 21 percent in 2006. The relevant figure for Los Angeles in 2004 is slightly higher, at 27 percent.

While the proportion of cases involving UD actions has remained steady in the pilot programs, the number of UD actions assigned by property owners to the city attorney’s office, one of the key provisions of the pilot program statute, appears to have increased in Long Beach. In 2002 and 2003, the city attorney in Long Beach did not file any UD actions on behalf of property owners, although four cases were assigned by property owners to the city attorney in 2003. During the three-year period from 2004 to 2006, there were 21 cases in which the property owners assigned their right to file UD actions to the city attorney. Of those 21 assignments, the city attorney’s office filed 16 UD actions in the court. These 16 UD filings represent approximately 7 percent of the total number of eviction notices (217) issued during the same

period; they account for approximately 36 percent of the total number of UD actions filed (44), either by the property owners or by the city attorney's office.

Los Angeles reported 70 UD actions filed by property owners in 2004, but no case was assigned to the city attorney's office.

Disposition of Unlawful Detainer Filings

Health and Safety Code section 11571.1(g)(1)(G) requires reporting on the outcome of UD filings, including filings by both property owners and city attorneys. Table 1 shows that of the 44 UD actions filed in Long Beach during the three-year reporting period, 17 (39 percent) of the cases reached resolution by trial; no details were provided as to the number of trials by court or jury. This is in contrast with the results reported for 2002 and 2003 when no UD actions in Long Beach were reported to have reached trial. Based on the information provided by the pilot program, it is difficult to determine if the higher number of trial dispositions in Long Beach reflects actual changes in how UD actions for pilot program cases were disposed of in the past five years, or it resulted from improved data collection procedures that allowed the city attorney's office to track more accurately final case outcomes.

The Los Angeles pilot program reported a slightly lower percentage of UD filings that reached trial. Of the 70 UD filings reported for 2004 (all filed by the owner), 23 cases (32 percent) went to trial and all were handled by bench trial.

In addition to trial dispositions, the statute also requires reporting on the number of partial evictions resulting from UD actions filed under the pilot program. Long Beach reported no case involving partial eviction during the current reporting period. In 2004, Los Angeles had three UD filings in which partial eviction was requested, and partial eviction was subsequently ordered by the court in only one of those three cases.

The statute also requires the participating cities to report the number of UD actions in which either the case was withdrawn or the defendant prevailed. Neither Long Beach nor Los Angeles reported any cases under this item.

Case Outcomes Involving No UD Actions

Health and Safety Code section 11571.1(g)(1)(H) seeks to assess the percentage of cases in which tenants voluntarily vacate the property without the need for UD actions. There appear to be two related considerations in this regard. On the one hand, a large percentage of eviction notices resolved by tenants' voluntary removal may suggest efficacy of the pilot program provisions without incurring the costs involved in UD proceedings. On the other hand, in the

interest of balancing the efficacy of nuisance abatement actions against the protection of tenant rights, there is a need to ensure that eviction notices do not impact innocent tenants negatively. The new reporting requirement on the number of erroneously sent notices was intended to assess the potential negative impact of the pilot program on innocent tenants.

During the three-year period covered by this report, Table 1 shows a total of 101 cases in Long Beach in which tenants voluntarily vacated their units. With 217 eviction notices sent during the same period, voluntary removals represent slightly less than half (47 percent) of the total eviction notices in Long Beach. With regard to notices erroneously sent to the tenants, Long Beach reported only three cases during the same period, all of which occurred in 2006. The errors for these three cases were reportedly caused by incorrect addresses that the offending tenant provided to law enforcement at the time of arrest.

Compared to Long Beach, a smaller percentage of eviction notices in Los Angeles led to voluntary removals of tenants. Of the 257 eviction notices sent in Los Angeles in 2004, there were 100 instances in which the tenant vacated the property without further action, accounting for 39 percent of the total notices.

Los Angeles provided no information for 2004 regarding the number of cases in which an eviction notice was erroneously sent to the tenant.

Conclusion

Evaluation of the merits of the pilot program is necessarily limited by the data received from the participating pilot cities. As noted above, at least one of the cities eligible to participate in the pilot reported that they opted not to participate in part because of the reporting requirements. The following conclusions are drawn on the basis of the limited data received.

In addition to program summary data compiled and submitted by the pilot programs in Tables 1 and 2, AOC staff contacted representatives in the city attorney's offices in San Diego, Los Angeles, Long Beach, and Oakland. AOC staff also contacted tenant assistance and legal aid organizations, including the Los Angeles Housing Law Project and Legal Aid Foundation of Long Beach, in an effort to gather information regarding the impact of the pilot program on tenants. Based on the program statistics and anecdotal information that was provided, the following findings may shed some light on the merits of the pilot program:

- Relatively few eviction notices issued by the pilot programs resulted in filings of UD actions; approximately 20 percent of the eviction notices sent in Long Beach and approximately 27 percent in Los Angeles led to the filing of UD actions.
- An even smaller number of cases involve property owners assigning to the city attorney's office the right to file UD actions to evict the offending tenants. In Long Beach, approximately seven percent of the total number of eviction notices issued that were assigned to the city attorney's office ultimately led to the filing of UD actions. There were no assignment cases reported by the Los Angeles pilot program.
- Approximately 30 to 40 percent of the pilot program cases involving UD actions reached resolution by trial.¹⁰
- No case under the pilot program was reported in which either the tenant prevailed or the case was withdrawn.
- Long Beach did not report any cases over the past three years in which partial eviction was requested. Los Angeles reported only three instances in 2004 in which partial eviction was requested, and only one partial eviction was ordered by the court.
- Long Beach reported only three cases in which the eviction notice was erroneously sent to the tenant. In all three cases, the error was reportedly due to the tenant providing an incorrect address to law enforcement at the time of arrest. Los Angeles reported no such instances for 2004.
- The legal aid organizations contacted by AOC staff generally reported limited experience dealing with drug eviction cases. When asked about their knowledge of any instances in which the tenants might be innocent in drug eviction cases, one of the programs indicated being aware of a couple of cases in which the tenant was living with a son who was engaged in illegal drug activities.

Other than the case activities and outcomes summarized above, the following observations regarding program operations and procedures may be made based on the anecdotal information provided:

- 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;
- Coordination among different municipal agencies appears to be a key component for the implementation of the pilot program; and
- The pilot program procedures, partly reflected in the partial eviction provisions and the requirement to send eviction notices on the basis of an actual arrest report, appear to

¹⁰ For UD actions filed in the trial courts as a whole, regardless of the cause of the matter, the estimated trial rate falls in the range of 21 to 26 percent. It is difficult to draw comparisons between these two sets of trial figures, however. First, there is no data to assess the extent to which trial rates may vary across UD filings involving different issues, specifically drug eviction versus other types of disputes. Second, the overall trial figures are estimated based on available trial court data from approximately 30 counties, without the Superior Court in Los Angeles County, and thus may not reflect the situation in the pilot program sites in the cities of Los Angeles and Long Beach.

move further toward a balance in providing additional authority to city attorneys in handling drug nuisance cases while seeking to provide adequate due process protection to the tenants.¹¹

¹¹ See, e.g., *Cook v. City of Buena Park* (2005) 126 Cal.App.4th 1, in which the pilot program provisions were cited positively in the court of appeal's discussion of procedural due process protections in comparison to city ordinance procedures in Buena Park. While the main issue was related to the procedural due process protection for property owners, the implication for tenant rights was also noted when a more stringent program procedure was in place.

Table 3. Summary Statistics of Pilot Programs in Los Angeles and Long Beach, from 2004 to 2006

	Long Beach			Los Angeles*	
	2004	2005	2006	2004	2006
Notices Sent and Unlawful Detainer Actions Filed					
(A) Number of notices sent	46	74	97	257	2
(B) Number of cases filed by an owner, upon notice.	3	11	14	70	0
(C) Number of assignments executed by owners to the city attorney.	4	6	11	0	0
(D) Number of 3-day, 30-day, or 60-day notices issued by the city attorney.	4	6	10	0	0
(E) Number of cases filed by the city attorney.	4	6	6	0	0
(F) Number of times that an owner is joined as a defendant pursuant to this section.	0	0	0	0	0
Disposition of Unlawful Detainer Filings					
(G) As to each case filed by an owner, the city attorney, or the city prosecutor, the following information:					
(i) Number of judgments ordering eviction or partial eviction.					
Default Judgments	4	0	0	12	0
Stipulated Judgments	2	2	5	17	0
Following Trial	0	0	0	17	0
(ii) <i>Number of cases in which the case was withdrawn or in which the tenant prevailed.</i>					
	0	0	0	-	0
(iii) Number of other dispositions.					
	0	0	0	1	0
(iv) Number of defendants represented by counsel.					
	0	0	0	2	0
(v) Whether the case was a trial by the court or a trial by a jury.**					
	0	2	15	23	0
(vi) Whether an appeal was taken, and, if so, the result of the appeal.					
	0	0	0	0	0
(vii) Number of cases in which partial eviction was requested, and the number of cases in which the court ordered a partial eviction.					
	0	0	0	3	0
	0	0	0	1	0
Case Outcome Without Unlawful Detainer Filings					
(H) As to each case in which a notice was issued, but no case was filed, the following information:					
(i) Number of instances in which a tenant voluntarily vacated the unit.					
	23	18	60	100	1
(ii) Number of instances in which a tenant vacated a unit prior to the providing of the notice.					
	1	0	1	77	0
(iii) <i>Number of cases in which the notice was erroneously sent to tenant.</i>					
	0	0	3	-	0
(iv) Number of other resolutions. (See Table 2 for details.)					
	15	35	8	8	0

Note: Items in italics are new data elements amended in 2004.

* The city attorney's office in Los Angeles stopped using the pilot program statute in 2005.

** Long Beach did not specify whether by jury or court trial. All cases in Los Angeles were by court trial.

Table 2. Details of Other Resolutions in Long Beach, Health and Safety Code, section 11571.1(g)(1)(H)(iv)

Other Resolutions	Number of Cases
2004	
Awaiting response from owner	5
Property owner not identified or located successfully	5
Tenant on Prop 36 - remain in property	1
Awaiting housing assistance investigation prior to removal	2
Pending property owner initiated 30- & 60-day notice	2
Total	10
2005	
Awaiting response from owner	4
Property owner not identified or located successfully	7
Awaiting criminal disposition	1
Ordered to stay away pursuant to a civil property protective order	1
Vacated following owner 3-day notice	9
Vacated following owner 10-day notice	2
Vacated following owner 30-day notice	5
Vacated following owner 60-day notice	3
Vacated following owner 90-day notice subject to housing assistance investigations	7
Total	35
2006	
Awaiting response from owner	4
Continue to work with owners and tenants subject to housing assistance investigations	4
Total	8