

Marisa Zapata:

Hi, y'all. I'm Marisa Zapata, and this is the podcast where we examine homelessness by talking to researchers and experts who of course include people with lived experience of homelessness to understand what we're missing in the headlines and soundbites. In each episode, we will help clear up misconceptions about homelessness and to answer what it would take to prevent an end homelessness in Portland and beyond. Who am I? I'm an associate professor of land use planning at Portland State University and director of PSU's Homelessness Research and Action Collaborative, a research center dedicated to reducing and preventing homelessness, where we lift up the experiences and perspectives of people of color.

Stefanie Knowlton:

This is podcast editor, Stefanie Knowlton, to share a little bit about episode four. This is a two-part conversation with Colleen Carroll and Cici Powers of Don't Evict PDX, an all volunteer tenants organization that mobilized during the pandemic to observe the eviction courts and build tenant power. While some additional supports have since become available, listen for those at the end of the episode, their efforts still underscore housing injustice in the Portland metro area. Eviction is a key contributor to homelessness.

Marisa Zapata:

Tell us a little bit about Don't Evict PDX. What is your origin story?

Colleen Carroll:

So DEPD, which stands for Don't Evict Portland, started on Twitter. Through Twitter and just tweeting, I think, three of us found each other, and I don't even remember how. We were all talking about the fact that the eviction courts were opening up again, and we didn't understand what that meant because so much of the communications that were coming out of the government and through journalism kept using this word moratorium, and it didn't make sense how something could be under a moratorium and still moving forward. And so, the three of us, we started a spreadsheet and said, "Let's figure this out." We realized that the courts were open to the public to observe. And so, we started by just trying to answer the question, how is it that eviction court is open under the conditions that we are being told that we are living under for our protection?

Colleen Carroll:

Once we started, I think, the first daily observation, all of a sudden we had a hundred new questions. We got in the habit of just breaking the days of the week up and each one of us watching a day at a time, and then going back to the other two and saying, "Oh my gosh, what about this? I didn't consider this, and I didn't know this." We are not lawyers. We're not legal scholars. We had to answer a bunch of questions. So I think it started out of mistrusting our own government, which is wise much of the time, mistrusting our own media because what was happening on the ground was not what was being reported. So, that's the origin story. So after about a couple of weeks, we felt like we understood enough to start talking about it. We opened a Twitter account under the name Don't Evict PDX, and then started recruiting volunteers to say, "Hey, are you interested in observing tenant court?"

Colleen Carroll:

Cici has a lot of tenant organizing experience, and we started to be able to plug that in. I come with some communications experience, and so using that to be able to say like, "Hey, that thing that the news is reporting is super not true and here's why." And so, with those powers combined, DEPDX was born. We are now in the process of building our collective and creating our community guidelines and answering the questions for ourselves of what do we want to do in an ongoing way? I think what's really important about that is we see this... It's tenant's organization and it is not a service organization. It's not about people who know more saving people who don't, right? It's about skill building for ourselves and our neighbors as a form of liberation.

Marisa Zapata:

So, who are y'all and how did you even get into this as human beings?

Cici Powers:

One thing for me, I mean, I think both of us got here versus through all kinds of complex ways that involve to our organic backgrounds. But as Colleen was saying, I has come into this with some tenant organizing experience. I lived in LA and worked with the Los Angeles Tenants Union before that. One thing that troubled me was that, not only me, but other organizers, it would be once court came a part of the rent strike or organization, tenants and organizers or tenants and tenant members all were like, "I don't know what happens here." Now, a lawyer takes over and that troubled me. I grew up with lawyers who taught me how to question everything, so I questioned why lawyers have to do things.

Cici Powers:

I think for all of us, part of the investigation is what is up with this obstruction idea that only lawyers and judges or people with private property can use and function in the court? Why do tenants end up in their numbers or tickets and have almost no agency because of the confusion, and then that leads to the court engaging in what I would say directly engaging in obstructionist practices that keep information away from tenants? I see that as a direct action on behalf of the court to help protect property owners. Another thing that was instrumental in bringing us here was that Red House was happening around the time we formed. Another one of our founding members is involved with that. So between the three of us, we have tenant organizing. Colleen has a large background in this kind of work. It was advocating, doing policy and communications work.

Cici Powers:

And then, also, one of our other members is on another kind of occupation, and that is another part of which we are involved, which is like the world of evictions that don't happen through court or eviction actions or defenses that don't involve court. We helped open up people to what was going on there and provided some context that a lot of people on the ground might've been missing that we had been thinking about. It's worth noting that other small eviction blockades, we participated in. We always noticed that the landlords, even if they're working illegally, they still invoke the court with amateur notices. Even though they're not going to go to court at all, they still use that. I think to us, there's a lesson to be learned in that. The court is a tool for landlords provided by the state for the purpose of displacement. It's not at all, in my opinion, at all neutral between tenants and landlords. It works for landlords, and we have an uphill battle in that court and low resources.

Marisa Zapata:

This is super important because I think when most people think about a court system, they were thinking about crimes and all of it. I was a law and order junkie. We're thinking about people are going to be represented fairly. And even if there's disparities in that system, everyone at least has a lawyer, right? The prosecution has a lawyer and the "criminal" has a lawyer. Are you saying that's not actually the case here that tenants aren't necessarily afforded legal representation?

Colleen Carroll:

You go to trial mostly unrepresented because the state does not provide you a lawyer for civil proceedings. We have classified Landlord Tenant Law in our civil proceedings, as opposed to the criminal act of removing somebody from their home. I don't know. Possible. Possible re-interpretation of the law there, but we've classified it under civil proceedings. In the United States, there is no guarantee for representation in civil hearings. And so, that's your divorce court. That's your child custody. There's loads and loads of things that really are very, very important and we have to advocate for ourselves in those cases.

Marisa Zapata:

I feel like law and order has fundamentally led me down the wrong path of understanding about what the F's happening in the court systems.

Colleen Carroll:

It's so, so true. Yeah. A number of tenants will show up and say that and say, "Okay. Where's my lawyer? And the judge is like, "There's none. Here's a phone number."

Marisa Zapata:

What happens when that... Do they keep going, or they're like, "Tough luck. No lawyer. Let's just keep moving"?

Colleen Carroll:

Absolutely.

Cici Powers:

Or if they're like, "I called OLC six days ago and, judge, I still haven't heard back from them," judge is like, "Oh, well, here we go."

Marisa Zapata:

There's no way to stop it from happening then?

Cici Powers:

Yeah. We have noticed these problems with access to lawyers. They're not moving fast enough sometimes. That's a real problem too. Or tenants show up thinking that this court is just and they can argue their way out of this, even if they have substantial facts and they just get creamed.

Colleen Carroll:

Yeah. Not only is it that there's no way around it, it was designed to be harder to get a lawyer for this type of proceeding. So landlord-tenant court by ORS 90, which is the Oregon housing law civil proceedings, many of those other types, like your divorces, your child custody, those taking years, and they're designed to take years because they are intimate and nuanced, right? You need that time to negotiate, and maybe also that time to hire a lawyer, fire your lawyer. So, those take years. Civil proceedings are set up to take years. Landlords, when the courts grabbed the power to evict people from tenants, that was not always been something that the law did, it used to be that landlords could just do it. They could just walk up and kick you out at gunpoint most of the time.

Colleen Carroll:

And so, when in the United States and in other places that are descendants of English common law change and said, "Well, let's make this a legal proceeding." Landlords had a fit. They claim that they lose money, the time that it takes to do the legal fighting. And so, the courts said, "Okay. We will make this, what's called a summary proceedings, which skips over all of the steps, like how you do a deposition, how you can ask for evidence, how you exchange evidence." All of that stuff, they just skip right over it. In Oregon, you're required to go to court to trial 15 days after your first appearance. That's unheard of in any other type of court proceeding. And so, they are designed to be incredibly hard to defend against. It takes longer than that to get a lawyer. It takes longer than 15 days to get a lawyer through the Oregon Law Center. They are owned. They know it. They say it takes longer than 15 days, so it's-

Cici Powers:

And usually, it's not 15 days either.

Colleen Carroll:

Yes.

Cici Powers:

It's usually a shorter.

Colleen Carroll:

Yeah. So you show up to your first appearance. You don't have a lawyer. And then you say, "Can I get my lawyer?" And the judge says, "No, call this number." What he doesn't tell you is OPS, "Yeah. It's going to take you to more than two weeks to get a lawyer, so I'll see you back here in seven days unrepresented."

Marisa Zapata:

I'm sorry. This is... I am getting so mad. I mean, I know these things consciously, right? But just hearing this, and this is, I think, what's so powerful about the work that you're doing is that you're there and watching it, and you're being able to talk about it in a way that just gets lost when you read the documents. I mean, how were y'all not just going in there and screaming at everyone every day?

Colleen Carroll:

We do. That's what we do.

Cici Powers:

Oh, we're arguing that.

Marisa Zapata:

Good. I love it. I love that you're out there. So what happens on an average day that you're there in court? So the question was really like, what are you seeing on the ground right now?

Cici Powers:

We're just seeing a lot of people get evicted and that hasn't changed at all, really. I think since we've started, we've seen different obvious strategies that the landlord and property owning class is taking to get around the moratoriums, which the moratoriums in my opinion are designed to be got around by landlords. There's so much left open. I think there-

Marisa Zapata:

Could you talk a little bit of more about that?

Cici Powers:

The moratorium doesn't mean... It's misleading to say eviction moratorium. Only one type of eviction really is covered. I mean, that's one out of 20 maybe type ways that you can get evicted. The main one would be non-payment and then also no cause evictions, but only within a certain area really. I think we are still seeing a lot of these 24-hour outrageous act evictions, which are... We had a tenant contact us up here in Port Smith about one of those. I had read the notice at one point like, "Wow, that person really... They're having a lot of parties or something." And it turned out that it was all false, all of it.

Cici Powers:

It was just about this person not being able to pay rent and their landlord not approving of their income methods or the ways they got paid or the work they did. These 24-hour outrageous acts and almost all of them, I see a reflection of white cis patriarchy, almost always. It's more about disprovement of people who are othered than it is actually about lease violations usually. But the narrative is just that tenants, which means so many people, are a bad group and they keep... That's the narrative of landlords that we keep seeing in court too, and the judge reinforces it. Tenants are a bad group, when, excuse me, tenants are too big of a group for you to characterize.

Cici Powers:

I'm sorry, I'm getting away from what are we seeing on the ground right now, but that kind of is what we're seeing on the ground. And then a lot of landlords have refused this whole time to apply to LCF, the Landlord Compensation Fund that was set up by Oregon. There's a lot of confusion on the ground on both parts. Tenants think there's a moratorium that protects them, and then the violence comes when they find out that's not true. Landlords are already empowered and entitled by the state, and they are also confused by the laws because they've never been put in a position really where the onus is on them to actually do work. But the state, since it sides with this narrative of landlords that tenants are bad actors, which again, that's so many people, that's like the population, the state-

Marisa Zapata:

Also, can we just time out and say that people who are home owners are also bad actors, but don't get... Right? It's this whole narrative around... We talk about it in the homelessness is everyone's like, "Well,

people who are homeless, they're all experiencing drug addiction." Well, first of all, that's not true. But also, people who are housed also abuse or also dealing with substance use disorders, right?

Cici Powers:

Yeah, and also-

Marisa Zapata:

It only becomes the question because you don't have the right to privacy for it.

Cici Powers:

Yeah. They're often abusers too. I think the system of property owning invokes abuse. And so, the state put the onus through HB 4401 on landlords to essentially do the right thing, get tenants to understand that there's a program to help them, but actually the program is mainly to help landlords. The whole thing is like, "Great. You large chunk of population, we don't trust you so we're going to put landlords in charge of doing what's right." So in effect, it's like trusting debt collectors to go out and give debt waivers to people in debt. So that whole situation invoking like, "Yeah. Oh, there's the debt caller again. Here's his letter. I'm going to ignore it." The letter actually contains a way for the tenant to be protected by non-payment of rent. But because it's from the landlord, they automatically ignore it because that's life. I guess our politicians don't understand what renting is like, and I think that boils down to what we watch happen in court a lot. Yeah.

Marisa Zapata:

So the idea if people who are othered potentially coming under more... I mean, we know that people who are from marginalized backgrounds are going to experience more policing, more observing, perceptions of criminality and actually be taken to court more often. And so, I'm wondering, so both, are you seeing that in the evictions proceedings? But also I think this idea of having to prove that you are not doing the things that the landlord claims, how do you even go about that? For me, what really comes up is the idea that if I'm thinking about a person of color, they're already going to walk into a court with suspicion of their credibility. And so, what does it take for them to potentially be able to even overcome that?

Colleen Carroll:

So when tenants come in and if they ask for a lawyer and they get denied, then they get this two-minute spiel from the judge and explains, you can either basically sign away your right to a trial and avoid the risk. It's going to cost you a bunch of money if you go to court. If you go to trial, it's going to cost you a bunch of money, especially if you lose, because in Oregon, the winner is allowed to offload the legal fees and court fees onto the loser in civil proceedings. And so, in landlord-tenant court, if you opt in to getting a trial, you risk having to pay the court fees for the whole thing, and those are upwards of \$20,000, right? So a tenant who was unrepresented and going up against a lawyer who can bill at 150, \$200 an hour, and depending on how much work they do, collecting evidence or how long the trial is, we've seen bills of \$20,000 that then get handed through a court order to the tenant. And because it's a court order, they can immediately go to wage garnishment and all of that, right?

Colleen Carroll:

This whole thing of like, "It's very expensive for me to evict my tenants," is super not true because in Oregon, every case that the landlord wins, which is the most of them because of the way the system is set up, they don't pay those legal fees. They send them to the tenant who they evicted, all of the filing fees and their lawyer fees, so it is not costing them anything. There is something called the prevailing party fee, which means... And that, they pocket. They actually make money and the judge can award it as little as 50 or as much as 500, and they can argue to have it more and that's money in their pocket for the trouble that it took for them to call their lawyer and say, "Hey, take this person to court." They get money in their pocket for that.

Marisa Zapata:

I mean, I don't even know what to say to that. It's like [inaudible 00:18:29] my academic happy space, so let me think of an interesting question. How many of these people end up having to declare bankruptcy? Because it's just like the blood boiling absurdity of this, it's mind boggling.

Colleen Carroll:

If you have a strong case, right? So, this goes to the things, it's like if you have a strong case and you feel like in your heart or in your gut or whatever, I would like to take us to trial, you are being dissuaded from that because the judge is telling you, "Look, you're unlikely to win, and it's going to cost you maybe \$10,000." He doesn't tell you that, but we know from having looked at the documents, it's 10, 15, \$20,000, but he will tell you that it's going to be very expensive. And then he'll tell you that you're not playing to win because you're not represented and your landlord will be. And so, he says, "Why don't you go outside and talk for five minutes? Five minutes, I'll give you to talk to your landlord and come up with some sort of agreement."

Colleen Carroll:

And then once you sign that, you waive your right to a trial in the future. You will only be afforded what's called a motion hearing. Procedurally, it's quite different. And so, you waive your right to a trial. And so, if you're one of the tenants, that's like, "You know what, no, I've got a really strong case and I would like to take this," or whatever, right? Like, "I want to take this to trial," then your trial date is set. Like we said before, it's going to be less than 15 days, so they're normally about a week out. You have a week to gather your evidence. If you need to schedule a testimony with the repairman who came and said something or your neighbor or whatever, you have to arrange that. You have to do it in less than seven days.

Colleen Carroll:

And then there's these other legal proceedings, two of which are filing what's called an answer. So it's a legal form, which is obscured by the fact that it has the same name as a word that we use regularly in everyday language, right? And so, the judge will say, "You have to file an answer," and he doesn't tell you what that means. It's a form. It costs you money and it needs to be filled out. It's a legal form and it needs to be filled out. Only what you put on that form is what you are able to assert in your defense at trial. And so, you normally have until the end of day that day to come up with your entire legal defense. If you don't get that form in on time, you are not allowed to defend yourself. You cannot assert any what are called positive defenses. You can only cross-examine the plaintiffs, people who are giving testimony. You are not allowed to talk about your own defense.

Colleen Carroll:

So number one, we see a ton of people fall off there because people don't understand that what they have to do is walk around the corner and go to the clerk and file a piece of paper that costs you money. So, what if you don't have that 88 bucks on me that day? Nobody told you, you needed 88 bucks to show up to court that day, right? So you don't have the money on you, or you don't know what you want to say. Maybe you want to go talk to that lawyer. That card that the judge just gave you, maybe you want to take some time and call that lawyer and get turned down possibly, but you miss the window of opportunity, which is so short to file your answer. And then when you show up, you're not going to be allowed to literally give your own defense. So that's one place tenants fall off in terms of their ability to use the system, right?

Colleen Carroll:

And then the second one is evidence. The ways in which evidence is submitted is so up to the discretion of the judge. There is not strong law around it. It is one of these things that lawyers know because they do it every day and it's also changing. Through the pandemic, how people can submit evidence to the court has changed, and the judges don't know it day to day. That's another thing you see, like when different judges come through, they're like, "Oh, I don't know. Clerk, helped me. What do I do? I don't know," and then ended up giving wrong information.

Cici Powers:

We correct them often, and they put us out for doing that.

Marisa Zapata:

It's not a good sign when you're relying on the gallery to correct what's supposed to be going on and when people should know what they're doing.

Colleen Carroll:

Absolutely. The number of times the judge is like, "These observers, they don't know." And I just wanted to be like, "Put me in front of it. Put me in front of the bait stage. I know so much that you think you don't know." Right? So then that evidence needs to be submitted by a transfer link, that you have to go to the clerk, blah, blah, blah, and it has to be done two days before your trial. And if it's not, just lots of tenants will show up to the trial with evidence in hand and it can't be used because it didn't get submitted properly, right? Again, this is one of the things that we'll see the lawyers for the landlords, they're ready at every turn to shut this down procedurally.

Colleen Carroll:

So the second you start to say something, they'll shout like, "Oh, that's hearsay," which is a legal terminology, but a tenant doesn't understand. So the ways in which they are denied the ability to defend themselves, they are denied the ability to submit evidence because the judge did such a crap job of explaining how it's done. It's not on the website. You have to email clerks and get a security. All of this is dependent on having wifi and a device that is reliable, right? You're up and running, all of those questions, the libraries have been closed, all of these things, right? And so-

Cici Powers:

Yeah. Do you read English?

Colleen Carroll:

Oh, yeah. And so, the number procedural ways that a tenant representing themselves is just a disadvantage almost is an understatement, right? And so, you go through the trial proceedings, and if you lose, which is likely not because your case isn't true, the claims that you make, but you literally couldn't even say them so the judge couldn't even consider them. And then you get evicted, which is going to be on your record for five years at a minimum. And then you have to go back to court to try and get that close.

Colleen Carroll:

Here's another thing. Oh my gosh, the way landlords are invested in controlling tenants lives well beyond when they have moved out is baffling to me. Landlords will show up to a court proceeding five years after they have evicted a tenant to argue for the fact that they shouldn't have that closed off their record because they are that insistent on being able to protect their ability and their fellow landlord's abilities to deny housing to somebody who was ever been evicted. So, you have to go back to the court and try and get it sealed and a landlord will be there five years later. You haven't talked to this person in five years and they're like, "No, I don't think you should have it closed because I want you to suffer longer."

Marisa Zapata:

How could you possibly find this inefficient use of your time as a business owner?

Colleen Carroll:

Yeah. Yeah.

Marisa Zapata:

So, quickly, Cici, you had said that the documentation is only in English. I just want to clarify that that was what you were saying.

Cici Powers:

I think there's some Spanish for a lot of stuff, but some of the forums, things that are more detailed, I can only find a Spanish. Sometimes I can only find an English.

Marisa Zapata:

Okay. It sounds like it's a pretty serious Title VI violations.

Cici Powers:

I'm not aware. I'm sure maybe they can provide things. But yeah, people don't know that they can get an interpreter. They ended up in court and they don't get an interpreter and they have to speak in a second language. There's no attention to language justice. Yeah. The judge is very concerned with making sure things are fair. When he says that he means he's fair between one tiny privileged minority and then everyone, that's what his scales are. It's like he's bouncing this tiny nugget and then everyone. Another thing that is worth mentioning is that from what we've understood is that there was a point where Legal Aid Portland was like, "Judge, can we please be posted in this court or outside?" And they disallowed

them. That was a long time ago. Yeah. I mean, [crosstalk 00:26:16] deliberate choices to make this obstructionist at every angle.

Marisa Zapata:

So if people want to get involved with your work, where can they find out more?

Cici Powers:

Absolutely. They can find out more. We have a handy dandy little website. You can find it at donteictpdx.org. I should know it. Hold on. Let me make sure that I know, donteictpdx.org. The front page, if you're a tenant, there's a good little place where you can submit information to get in touch with us, and then you can hit our work and then get involved. We have a little place we can get involved there, or you can catch us at one of the events we might be at, out in the IRL. If you're interested, we always want people to come and observe court with us. We have a very robust way of onboarding people for that. I wanted to say this during the who are we, but right now, it's probably a good time to mention we're all member-based. We're not an NGO. We have no money. We just have tenants who have also no money, but a lot of time or labor to give.

Marisa Zapata:

Wait. Wait. So, are y'all volunteers? This is one thing I wanted to clarify at the beginning.

Cici Powers:

We're all volunteers. Yeah. So we really value skills sharing. To that end, if anyone wants to get involved in anything they've heard of about that we do, not just core observation, we seek ways to facilitate that through skill sharing, working with other members who've done it before. We are currently writing out and organizing our points of values, our identity through an organizing our organization process that is open to anyone almost. We also have general meetings last Saturday of every month. We are a movement that we want people to join. There'd not be talks about new leadership or anything like that because I guess we're more of a group where everyone's a leader and we lead ourselves. So, we're also developing working groups within our organization for communications, for education, for outreach, for data, for actions. I feel like there's a lot of hesitancy for people to join housing groups because they feel like they need to know housing laws and such. We will teach you. A lot of our members don't know all that stuff, but they do a lot of important work and we learn together.

Stefanie Knowlton:

Thank you Don't Evict PDX for all your work in Portland, Oregon. Since recording this episode, Oregon Law Center created the Eviction Defense Project, which now offers legal support to all low-income tenants facing a court eviction. Support includes a legal review of your case, legal advice, and in many cases some level of representation. It should only take one to two days to hear back from OLC. You can reach them at (888)-585-9638 or evictiondefense@oregonlawcenter.org.

Oregon still does not have a [Right to Counsel](#) in evictions law, which Don't Evict PDX continues to prioritize. But the immediate funds for lawyers will help reduce evictions in the short term. We are also seeing an uptick in interest from nonprofit law firms, who are starting their own tenant

defense programs. If you are a tenant who has received a notice from your landlord or a summons from the court, you may be able to get help from [The Commons Law Center](#). Call or text 503-850-0811. Please share this information with anyone who needs it, and thank you for listening.