



Article

# Rental housing and the continuum of carcerality

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## Abstract

Existing research on housing and the carceral state demonstrates a divergence in the carceral state's orientation toward property owners and the unhoused. We focus on the liminal arena of rental housing and draw on three cases—landlords' use of criminal history to screen rental applicants, citizen participation in policing neighborhoods, and crime initiatives that weaponize building code enforcement—to posit a continuum of housing carcerality. We argue that the carceral regulation of rental housing emerges from sources in civil law and policy, illustrating the enduring relevance of what Beckett and Murakawa call the shadow carceral state. Yet, in the rental context, the carceral state tends to have a more covert, decentralized character which does not consistently align with the economic interests of rental property owners and other housing market elites in comparison to its manifestation at the ends of the continuum.

## Keywords

housing, shadow carceral state, criminal records, citizen vigilantism, third-party policing

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Existing accounts of the role of the carceral state in the housing sphere have largely focused on how carceral state institutions, particularly the police, are deployed to advance the economic interests of local housing market elites, including real estate developers, corporate landlords, and wealthy and/or white homeowners. Scholarship reflective of that perspective has demonstrated how carceral power is implicated in processes of housing exclusion, exploitation, and displacement; for example, through state violence embedded in eviction processes across the globe (Brickell et al., 2017; Flierl, 2023; Roy et al., 2020), the deployment of police power to gentrify neighborhoods (Beck, 2020; Collins et al., 2022; Laniyonu, 2018; Papachristos et al., 2011; Sharp, 2014), police defense of white property (Bonds, 2019; Gibbons, 2018), and police enforcement of residential racial segregation and the two-tiered housing market (MC Bell, 2020; Simes et al., 2023). These accounts square with Logan and Molotch's (1987) seminal theory of the "urban growth machine," which posits that coalitions of rentier elites (real estate developers, investors, and financiers) wield disproportionate influence over public policy to secure prospects for economic growth through the commodification of land and real estate.

The growth machine framework is well suited to explain the economic and policy logics driving the criminalization of visibly unhoused populations, who jeopardize prospects for land-based economic development, as well as the ways that that property affords its owners both freedom from carceral state intrusion and the ability to wield carceral institutions, particularly the police, in service of their economic interests. The stark divergence in the carceral state's orientation toward property owners and the unhoused is also rooted in the American legal system's regime of propertied citizenship (Roy, 2003) that structures both positive and negative rights on the basis of property ownership. However, the explanatory power of these frameworks is more limited when it comes to contemporary crime-control initiatives in the rental housing context, which first, do not consistently align with, and may even undermine, the economic interests of rental property owners; and second, often operate through civil rather than criminal legal pathways.

Building on the work of others (Becher, 2014; Taylor, 2019), we suggest that there are additional logics that motivate and guide the state's interventions in the housing sphere, particularly in cases in which such intervention appears to undermine private property interests. We draw inspiration from the After Echo Park Lake Research Collective's (2022) term "continuum of carcerality," which describes the long reach of the carceral state in the social service sector's provision of housing options to the unhoused. Drawing on that work, we suggest there is a continuum of housing carcerality that can be described in both general and specific terms. Generally, all housing—including informal places where people sleep and reside—can be subject to policing and punishment, including surveillance, patrols, raids and evictions.

Although all types of housing may be subject to this kind of state enforcement, below we document degrees of carcerality in the hierarchy of housing statuses (i.e., property ownership, tenancy, and homelessness). In so doing, we extend theorizing of the shadow carceral state (Beckett and Murakawa, 2012) to describe how less-visible and socially diffuse crime-control projects are carried out in the rental housing setting by private actors (i.e., landlords, community members) and non-criminal state agencies

(i.e., building inspection departments, child welfare offices). As we show, tenants are deeply affected by the civil and administrative pathways to punishment that extend the processes, reach, and repression of formal carceral institutions.

Below, we review three cases that exemplify the contradictory and liminal forms of unfreedom that the shadow carceral state produces in the rental context: tenant screening practices involving criminal background information, citizen participation in policing neighborhoods, and anti-crime initiatives that weaponize building code enforcement. Each illustrates how agents of the carceral state circumvent due process protections afforded to criminal suspects and defendants by pursuing crime-control strategies outside the formal criminal legal system. The shadow crime-control projects that we review do not always appear to advance the interests of property owners or housing market elites. Nor do they seem to have emerged, politically, from those constituencies. As such, these cases highlight seemingly contradictory logics that cannot be fully explained by the growth machine framework (Becher, 2014). Scholarship attending to the “poles” of the continuum of housing carcerality (property ownership and homelessness) demonstrates that carceral state institutions, particularly the police, are deployed at the behest of private interests in housing markets. By contrast, we attend to how that dynamic works in the opposite direction in the rental context; namely, how the carceral state deploys actors and institutions outside the formal criminal justice system to advance carceral projects in the housing setting. We end by suggesting a possible terrain of reforms, recognizing the mutual stakes of housing justice and decarceration.

## **Carcerality and housing**

The notion of the carceral continuum originates in Foucault’s (1995) theorization of how social control and punishment extend beyond the prison. Shedd (2011) also uses a similar concept to explain how youth experience different forms of policing, from formal law enforcement to schools. More recently, the After Echo Park Lake Research Collective (2022) applies the logic of a continuum of carcerality to shelters for unhoused people that stipulate punitive regulations that render the spaces a form of containment. This article builds on this conceptual trajectory by examining the carceral continuum in rental housing.

To illustrate the divergent orientations of the carceral state toward different housing tenure statuses, we review scholarship on different ends of a continuum of empowered and unfree housing. At one end lies property ownership, where housing is relatively free of carceral regulation. Instead, homeowners are invited to participate in official crime-control projects, while avoiding the regulations and precarities that apply to and are enforced upon tenants. Crime-free housing ordinances, for example, often obligate landlords to conduct criminal background screenings of potential renters. Although these rules *de facto* do not apply to home purchasers, crime-free ordinances in some jurisdictions apply exclusively to rental properties.<sup>1</sup> Homeowners also enjoy protections of property rights that buffer them from outcomes that would otherwise be punitive in nature. Unlike tenants who might be subject to an eviction filing by a landlord for making excessive noise, a homeowner facing the same complaint would enjoy stronger civil legal protections that act as a buffer from similar consequences, such that a

homeowner might face an injunction instead of eviction. Property owners are more likely to participate in neighborhood policing, and there is a broad association between homeownership and increased demand for policing law enforcement services (Beck and Goldstein, 2018; Lara-Millán and Guzman-Garcia, 2023; Ross, 2023).

By contrast, the unhoused, who are precluded from propertied citizenship (Roy, 2003), are uniquely vulnerable to state violence and coercion (Singh, 2014). Local governments deploy police to criminalize their routine survival activities, which jeopardize prospects for land-based economic development (Beckett and Herbert, 2008; Gowan, 2002; Herring et al., 2020; Stuart, 2016). There are also carceral underpinnings of local policy efforts ostensibly designed to aid this population. Expansions of emergency shelters and supportive housing have occurred in conjunction with, and helped legitimize, the continued use of the police to remove the unhoused from public view and into shelter, and to criminalize the non-compliant (After Echo Park Lake Research Collective, 2022; Herring, 2019, 2021). In the same vein, housing developments earmarked for chronically homeless populations can replicate conditions of carceral institutions, because of the presence of police or private security, curfews, limited privacy, and restrictions on guests (After Echo Park Lake Research Collective, 2022; Purser and Hamlin, 2022). The carceral character of such housing can be explained, in part, by the fact that program participants are legally denied the status of tenancy, and its associated rights to privacy, quiet enjoyment, and security of tenure stipulated in the residential lease (After Echo Park Lake Research Collective, 2022).

To be sure, other iterations of housing statuses and forms of carceral intervention lie between these two poles of property ownership and homelessness. Central to our concern, however, is rental housing, both for its size in the housing market and because it fills in the conceptual space between property ownership free from policing and the unhoused status that is most exposed to it. In the American regime of property citizenship, tenants are materially and legally disempowered relative to property owners (Dreier, 1982). At the same time, the nominal protections offered to tenants in the United States through residential leases and local landlord–tenant laws insulate them from forms of state coercion experienced by the unhoused. The degraded status of tenants in the United States has its roots in a variety of legal, cultural, and structural factors, ranging from the valorization of single-family homeownership and its favored status relative to multifamily housing under land-use policies across the country (Dreier, 1982), to the historical underdevelopment of the public or social housing sector (Goetz, 2013). Despite state and local level variation, laws governing housing contracts generally prioritize the economic interests of property owners over tenants' rights to housing (Sabbeth, 2022; Schindler and Zale, 2022). Relatedly, the shortage of affordable rental housing puts tenants at a marked power disadvantage relative to landlords and undermines their ability to mobilize laws designed to protect tenants (Reosti, 2020; Sabbeth, 2019). Tenants are also racialized as non-white, meaning, for example, that landlords in distressed urban rental markets assume their prospective tenants are non-white, which fuels their treatment as second-class citizens (Crowell, 2022; Dantzler, 2021; Korver-Glenn and Locklear, 2023; Rosen et al. 2021; Sabbeth, 2019). The weakness of tenants as a political constituency makes rental housing an ideal sphere within which carceral state institutions can advance crime-control projects. At the same time, their application in the rental

context tends to have a more covert, decentralized character than the explicitly coercive forms of carceral state control deployed to manage homelessness.

### **Case I: Criminal conviction history**

Criminal background screening has become ubiquitous in the U.S. private rental market (Dunn and Grabchuk, 2010), facilitated by a multi-billion-dollar commercial tenant screening industry that capitalizes on the expansion and monetization of digital personal background data (Corda and Lageson, 2020). Despite variability in the formality and sophistication of these practices (Fields, 2022a; Reosti, 2020; Rosen et al., 2021; Shiffer–Sebba, 2020), landlords routinely scrutinize prospective renters' criminal records when selecting tenants. Many exclude applicants with criminal histories to avoid “risky” tenants in markets that draw large applicant pools (Reosti, 2020), or in some cases, aggressively court housing-seekers with stigmatizing criminal records in an effort to fill undesirable rental units in slack markets in a form of predatory inclusion (Besbris et al., 2022; Rosen, 2014).

It can be difficult to identify the role of carceral institutions or policies—shadow or otherwise—in fueling the largely voluntary adoption of criminal background screening across a decentralized rental housing industry. But the rapid diffusion of such practices stems, at least in part, from police training programs and crime-free housing ordinances in the 1990s (Thacher, 2008). These ordinances are local laws that “encourage or require private landlords to evict or exclude tenants who have had varying levels of contact with the criminal legal system” (Archer, 2019: 173). A predominant company that markets crime-free housing training programs to police departments, the International Crime Free Association, claims that its programs have been implemented in at least 2000 U.S. cities (Smith, 2020).

In addition to prompting evictions, local crime-free housing ordinances shape how landlords screen and select tenants. Some versions of these laws only require that landlords complete crime-prevention training with police departments that encourage screening out prospective tenants with criminal records, whereas others condition rental licensure or registration on landlords' adoption of criminal background screening practices (Werth, 2013). Crime-free housing advocates and the nascent tenant screening industry also took advantage of shifting jurisprudence in the 1980s that increased civil liability for criminal activity on rental premises (Glesner, 1992) to pressure landlords to screen applicants for criminal history (Thacher, 2008). Thus, landlords did not drive the campaign to increase scrutiny of rental applicants' criminal histories (Thacher, 2008). Although landlords have historically enjoyed broad legal freedoms in selecting tenants as long as their procedures were not facially discriminatory (Strahilevitz, 2005), crime-free housing laws that force landlords to reject most or all applicants with criminal records impinge on those freedoms and may increase their liability under modern fair housing standards that proscribe overly broad criminal background screening criteria (Archer, 2019; Werth, 2013).

The rise of criminal background screening in the private rental sector reflects late 20th century crime-control paradigms of risk assessments to preemptively “identify and neutralize dangerous individuals” (Zedner and Ashworth, 2019; see also Degenshein, 2024;

Feeley and Simon, 1994; Steiker, 1998). Thacher characterizes this process in rental housing as a form of private crime-control that isolates and incapacitates “risky” individuals not through incarceration, but through “institutional exclusion” that can become a “piecemeal version of incapacitation” (Thacher, 2008: 25). This “piecemeal incapacitation” can impose significant penalties on housing-seekers with criminal records, including housing instability (Bryan, 2022; Geller and Curtis, 2011) and homelessness, which are risk factors for criminal justice system entanglement (Gottlieb and Moose, 2018; Gowan, 2002; Metraux et al., 2007; Remster, 2019; Stuart, 2016), and economic precarity stemming from repeated assessment of tenant screening fees (Reosti, 2021). Yet despite the penalties associated with criminal background screening in the rental context, this form of institutional exclusion invites much less political and legal scrutiny than incarceration.

Indeed, policy entrepreneurs have promoted crime-free landlord training programs and ordinances precisely on the grounds that they enable police and city governments to fight crime in ways that circumvent constitutional legal protections afforded to criminal suspects and defendants (Michaels, 2019). This dynamic is clearest in respect to the power that crime-free housing and nuisance laws give police to punish tenants with eviction, which exploits the procedural unfairness of housing courts (Fleming-Klink et al., 2023; Sabbeth, 2022) and illustrates the tendency of shadow carceral state programs to shift crime-control efforts to legal venues with weaker due process protections (Beckett and Murakawa, 2012).

The capacity of these local ordinances to evade legal scrutiny is predicated on the legal vulnerabilities of rental housing-seekers in the United States, which, in turn stem from the under-regulation of the companies that sell personal background records (Dunn and Grabchuk, 2010; Kirchner and Goldstein, 2020; Pasley et al., 2021), and until recently, the lack of legal oversight governing the tenant screening practices of private landlords (McCormack, 1986; Reosti, 2020). The adverse impacts of criminal background screening are exacerbated by the acutely unaffordable and almost entirely privatized rental housing system in the United States. Those conditions make the housing security of renters with criminal records contingent on the discretionary and opaque decisions of landlords under no positive legal obligation to house them (Reosti, 2020). Homeowners, by contrast, are insulated from such precarious circumstances because a criminal record has no direct bearing on the ability to secure a home mortgage in most circumstances.<sup>2</sup>

## **Case II: Participatory policing**

Participatory policing refers to the process by which residents (often homeowners) are enfolded into the work of surveilling and policing their neighborhoods, including through calls to law enforcement (Kurwa, 2020a). The phenomenon illustrates how some housing is not only relatively free from policing but serves as a platform from which to police others, who are disproportionately likely to be renters.<sup>3</sup> Participatory policing falls under the umbrella of the shadow carceral state because it extends the work of formal law enforcement and often involves neighbors calling and dispatching police. Subjects of surveillance are marked as suspicious, experience police harassment and stops, and may be arrested, fined, or harmed by them. As we explain below, these

quasi-private practices subvert 4th Amendment protections against illegal searches and seizures while advancing the reach of the state.

Resident surveillance and policing of neighborhoods were the primary modes of enforcing racial segregation in southern cities prior to the advent of race nuisance litigation, municipal segregation ordinances, restrictive covenants and other techniques of segregation. Yet even as these top-down mechanisms grew in prominence, residents remained central to their implementation and enforcement. For example, the enforcement of restrictive covenants was often driven by neighbors (Gibbons, 2018), and the immediate decades following the passage of the Fair Housing Act saw a rise in neighbor-initiated hate crimes against incoming Black renters and homeowners (J Bell, 2013). But as America shifted toward disinvested central cities and affluent suburbs, participation in neighborhood policing re-emerged, principally through Neighborhood Watch (Fields, 2022b; Rootenberg, 2023).

Garofalo and McLeod (1989) define Neighborhood Watch programs as “block-level or neighborhood-level groups of residents under the sponsorship of a jurisdiction-wide agency, usually a police or sheriff’s department,” adding that participants are seen as the “eyes and ears” of police, and their role is to “observe and report” suspicious activity or persons to police. The National Sheriff’s Association’s USA-on-Watch-National Neighborhood Watch Program was developed with federal assistance in 1972, serving as a hub for connecting law enforcement agencies, private organizations, and individual citizens to create local Neighborhood Watch groups. By the mid-1980s, explosive growth in Neighborhood Watch groups was occurring in predominantly white and wealthy suburban neighborhoods (Garofalo and McLeod, 1989). Indeed by 2002, it boasted 22,000 groups around the country. Today, as white and wealthier residents return to the city and displace existing residents, surveillance increasingly targets tenants in urban rental housing (Doering, 2017, 2020).

The emergence of Neighborhood Watch captures how “governing through crime” operates in contexts of the private governance of highly racially and economically segregated neighborhoods (Fraser et al., 2016; Simon, 2007), folding individuals into what has also been called “lateral surveillance,” or “coveillance” (Lowe et al., 2023; Reeves, 2012). This dynamic allows governments to support and benefit from new surveillance and policing practices while avoiding the legal challenges that would occur if they were directly involved. Johnson (2015) argues that any Neighborhood Watch organization funded by government grants or resources or given government endorsement or publicity should follow relevant federal law, not unlike hospitals and schools that agree to abide by federal regulations when they accept federal funding. Yet, Neighborhood Watch programs retain autonomy and engage in invasive audio and video surveillance that would require a warrant if conducted by a government entity (Finegan, 2013).

Despite the shrinking popularity of in-person Neighborhood Watches, the dynamics and constitutional questions they raise remain alive in digital platforms. Traditional functions of Neighborhood Watch—in-person meetings, foot patrols, phone trees, and engagement with police—have increasingly been replaced by online technologies that replicate and extend them, both in traditional social media (Facebook groups), and increasingly via platforms designed for neighborhood governance such as Nextdoor,

Citizen, and Amazon Ring. The rapid expansion of these platforms across the United States can be attributed to their relative low cost, accessibility via existing cell phone technology, and their branding as a tool of self-empowerment, taking security into one's own hands (Kennedy and Coelho, 2022). Their proliferation has broadened surveillance in neighborhoods by expanding it to private actors, accomplishing a level of community surveillance that the police alone cannot.

Nextdoor functions as a broad hub for neighborhood social activity but includes ways for participants to engage law enforcement and vice versa; Citizen is more straightforwardly focused on policing, whereas Amazon Ring produces camera technologies that facilitate the production and dissemination of surveillance footage. Despite their differences, all three platforms extend the original Neighborhood Watch's core features of facilitating citizen participation in policing. To some degree, the policies and practices described below may be unique to, or exacerbated within the United States, which is distinguished from Europe by, for example, weak data protection rules that might prohibit some of the practices detailed below.

In the United States, Nextdoor facilitates calls to police, provides data to law enforcement agencies upon request, and allows law enforcement to make pages and interact with app users. Whether consciously, willingly, or not, users act as the eyes and ears of law enforcement and are enfolded into the "see something say something" dynamic encouraged by police in earlier iterations of Neighborhood Watch. When the platform is used to police neighborhoods, the effects can range from excluding or expelling people to repression (Bloch, 2022; Kurwa, 2019).

Citizen encourages users to participate in surveillance and engage with events as they occur. Users are provided real-time police scanner data to discuss communally. They are encouraged to film and broadcast video through the app, and at times have organized lynch-mob style searches for suspected criminals (Morrison, 2021). Amazon Ring includes an application known as Neighbors, which is used to share footage. U.S. cities have partnered with Ring to provide cameras to residents in exchange for agreements to share footage with police (Matsakis, 2019), potentially violating 4th Amendment protection rights against unreasonable search and seizures (Egger, 2020; Morris, 2021). This provides even more advantages to homeowners who are more likely to install Ring, a key component of the growing "smart home market" (Kelly, 2022), over renters because it requires property modifications to install (Calacci et al., 2022). At the same time, this kind of lateral surveillance is permeating even among a select group of renters, as suggested by a recent study of online rental listings in the United States that found that Ring is frequently marketed as a security amenity in apartment buildings located in racially and socio-economically mixed neighborhoods (Somashexhar et al., 2024).

Users do not navigate these platforms in a neutral manner. Rather, the design of platforms' user interfaces can exacerbate the rate at which users perceive crime and escalate issues to law enforcement. Studying Citizen, Chordia et al. (2023: 1) find that the application's deceptive design practices, "[heighten] users' anxiety about safety while encouraging the use of profit-generating features which offer security". These practices include sending users notifications about crimes in other cities and states, classifying non-criminal activity as crime, requiring users to enable alerts to see their notifications, and



floating an upgrade to premium button over safety notifications. Similarly, in a case study of a recently gentrified neighborhood, Lara-Millán and Guzman-Garcia (2023) explore how Nextdoor facilitates the escalation of crime discourse. The authors find that the application's algorithms shape the content users see, boosting engagement by increasing the visibility of content that might generate outrage, in this case turning isolated incidents and speculation about crime into viral panics. Homeowners' policing panics on these applications unfold through the harassment of lower-income members of neighborhoods, who are more likely to be renters, findings echoed by Kurwa (2020a) in the context of policing housing choice voucher tenants. Overall, algorithmic features of social media platforms are now appearing in applications oriented to surveillance, perhaps driven by the platforms' interest in maximizing user counts.

### **Case III: Third-party policing**

Third-party policing is a key tactic of the shadow carceral state. Municipal governments assign policing discretion, responsibilities, and power to business owners, housing inspectors, landlords, security guards, and social workers, for example, in their effort to comprehensively manage "disorder" (Garland, 2001). Targeted raids on properties associated with alleged drug and gang crime offer an emblematic case of third-party policing. The overlapping systems of welfare, foster care, and prison are another way in which any type of rental housing can be linked to the carceral state through surveillance activities of third parties (see Fong, 2020; Hartman, 2019; Roberts, 2012; 2022). Renters—largely because of their status vis-à-vis landlords—are rendered vulnerable to this kind of third-party policing in their homes.

Nuisance ordinances are another avenue that leads to third-party policing. Milwaukee's nuisance property ordinance enlists landlords as third-party police when their tenants make, or are the subject of, multiple 911 calls (Desmond and Valdez, 2013). Landlords also rely on other third-party police such as housing inspectors for evidence of criminal behavior or lease violations, in surveillance practices that disproportionately impact low-income tenants of color (Hughes, 2021; Kurwa, 2020b).

Although this work conceptualizes clear links between nuisance programs and urban growth machines, research on inspections of properties deemed to be nuisances muddles this connection. Studies of inspection programs in Chicago, for example, demonstrate somewhat contradictory connections between economic interests and crime prevention. In these cases, building inspectors team up with the police to find as many building code violations as possible, ranging from serious structural issues to minor violations like cracked toilet seats. Following inspections, property owners appear in housing court, where the judge demands evictions of "problematic" tenants or a property transfer (see Bartram, 2022; Doering, 2020; Golio et al., 2024). These are civil court hearings prompted by alleged criminal behaviors, yet defendants lack due process because they are in court for building violations; most lack counsel and do not get a chance to argue against evictions or property transfers (Golio et al., 2024). The result is not just homelessness or increased hardship and precarity, but also a loss of legal rights in the courtroom. Yet outcomes can also punish landlords and property owners through fines and eventual property transfers that threaten building profitability (Golio et al., 2024; Greif, 2022).

In fact, in the case of building code enforcement, courts and municipalities can only directly legally sanction property owners. In this sense, landlords do not always embrace the policing of their tenants' behavior because nuisance property ordinances effectively coerce them into third-party policing through the threat of sanctions, fines, fees, or revocations of rental licenses.

Eviction courts also empower landlords to police tenant behavior (Summers, 2023). In many states, a landlord's eviction filing results in court-imposed conditions on a renter's tenancy, such as apartment cleanliness standards. Swift evictions follow if tenants violate these conditions. Although these impositions initially forestall landlords' requests for evictions, their terms expand landlord power, while disempowering tenants by rendering it difficult to complain about the condition of their units. There is no analogous harm faced by homeowners.

Third-party policing causes the kind of "social and political opprobrium" that Beckett and Murakawa (2012) describe as a key aspect of the shadow carceral state, and which makes rental housing a site of relative vulnerability and unfreedom. Third-party policing can lead to eviction and homelessness, the latter of which has largely been criminalized in U.S. cities (Fischer, 1992; Gowan, 2002; Gottlieb and Moose, 2018). Although third-party policing does not always force renters from their homes, those who remain must often deal with surveillance, regulations, and precarity—all of which erode their ability to exercise their rights.

Third-party policing also renders landlords and property owners vulnerable to state penalty, because they are legally responsible for tenants' behavior. To be sure, they are not rendered vulnerable as universally as their low-income tenants. And, although all buildings are technically vulnerable to building code enforcement and other kinds of municipal ordinances, rental housing makes up the bulk of inspected properties, meaning landlords are more likely than homeowners to face punishment from city inspectors and housing court judges (Bartram, 2022). Third-party policing thus renders private rental housing not private at all.

Punishing landlords and property owners is antithetical to the growth machine agenda to increase the exchange value of land and real estate, because these people are, traditionally, members of the constituencies politically and materially invested in that agenda (Logan and Molotch, 1987). However, some landlords manage small, financially distressed portfolios and as such, occupy marginal positions within growth machine coalitions. Taylor (2019) also traces how low-income Black households faced exploitative, limiting, and disadvantageous terms of property ownership. The shadow carceral state projects we describe in this article may thus deepen the economic marginality of undercapitalized or otherwise disadvantaged property owners relative to their better positioned peers. That they appear engaged in or bound by disadvantageous rules and practices suggests that their ascension into property ownership is based on deeply unequal terms.

## Discussion

Building on work theorizing state interventions in private property relations (Becher, 2014; Valverde, 2011), the continuum of housing carcerality is a conceptual heuristic that explains the conditions under which the state regulates housing in the name of crime-

control. The interventions we describe in the rental housing setting are not fully explained by growth machine logics because they can undermine the interests of property owners. We encourage future scholarship that interrogates alternative political–economic explanations for the seemingly contradictory logics guiding crime-control projects in the rental housing context. For instance, scholarship on racial capitalism, predatory inclusion, and “segrenomics” (Rooks, 2017, Taylor, 2019, Dantzer, 2021, Korver-Glenn, 2021) calls attention to the market actors whose business models capitalize on entrenched structural inequalities and are thus more oriented to exploiting markets than achieving economic growth *per se*. Future research might investigate the historical development of shadow carceral state practices in the rental housing context, both within single cases and through comparative approaches. Tracing the genealogy of crime-control projects in the housing sphere could deepen our understanding of their political logics, for instance, by exploring whether and how shadow carceral state policy entrepreneurs (e.g., crime-free housing advocates) and the purveyors of carceral technologies (e.g., tenant screening companies, digital surveillance platforms) exploit housing inequality and its related social problems (real or perceived) to sell their services and products.

The continuum of housing carcerality helps make sense of the distinct forms of shadow carceral control operating in rental housing. The shadow character of the interventions we describe is linked to the simultaneous exposure to and protection from policing that tenants experience because of their middle position in the spectrum of empowered and unfree housing. Although a regime of propertied citizenship (Roy, 2003) renders tenants relatively disempowered *vis-à-vis* their landlords, landlord–tenant laws afford renters statutory protections, however limited, to privacy and security of tenure, which mean that they cannot be policed in as direct a manner as, for example, the unhoused are. Contemporary crime-control initiatives in the rental sector bear many of the hallmarks of Beckett and Murakawa’s (2012) shadow carceral state: they are implemented by third parties and impose social and economic sanctions on marginalized renters through mechanisms of the private rental market (i.e., tenant screening) or civil legal channels (i.e., building and housing courts) where tenants lack due process protections. Crime-free housing ordinances, citizen participation in policing, and third-party policing accomplish what cannot be done directly by property owners or the state, while confounding the relationship between carceral projects and market-logics that appears more legible at the ends of the continuum.

The continuum of housing carcerality also underscores the interdependent, relational nature of the structural advantages and vulnerabilities that shape carceral dynamics along the continuum of housing statuses. The haunting possibility of becoming unhoused disciplines low-income renters into compliance with carceral state encroachment in housing (Purser and Hamlin, 2022), including routine criminal background screening (Reosti, 2021), particularly in a historical moment characterized by unprecedented rental unaffordability and nearly a decade of steady growth in the rate of unsheltered homelessness (Department of Housing and Urban Development, 2022; Kodé, 2023). Meanwhile, many of the structural and legal advantages of homeownership are relationally linked to and predicated on the degraded status of renters (Dreier, 1982), such as gross disparities in federal tax subsidies for homeowners versus low-income renters (Michelmores, 2011),

or the extent to which homeowners are financially incentivized to spatially segregate themselves from renters (Scally and Tighe, 2015).

The acute rental unaffordability crisis has precipitated a resurgence in tenant organizing, driven in part by the growing numbers of middle-income renters priced out of homeownership. Renters across the United States have won several significant legal protections at the local level (Dougherty, 2022). Examples include rent control or stabilization laws, requirements for extended notification periods prior to lease non-renewal, prohibitions on source-of-income discrimination, and the right to counsel in eviction proceedings. The geographic unevenness of legal protections for tenants and their strength as a political constituency also illustrate the variation within, and blurred boundaries between, categories on the continuum of housing carcerality. For instance, middle-income renters in expensive cities with relatively strong regulatory protections for tenants may be better insulated from the effects of shadow carceral state projects than some low-income homeowners.

Recent victories notwithstanding, the resurgent tenants' movement has yet to meaningfully disrupt the stark disparities of landlord-tenant relations or thwart the pace of housing financialization or the depth of the contemporary unaffordability crisis (JCHS, 2023). The scarcity of affordable rental housing and the related material disempowerment of tenants undercuts the ability to mobilize tenant protection laws, including habitability standards (Bartram, 2022), due process protections (Sabbeth, 2019), and fair housing laws (Reosti, 2020). Such disempowerment has implications for political efforts to dismantle the shadow carceral state, which, we argue, requires decoupling housing stability from ability to pay and also granting tenants the sort of "ontological security" (Giddens, 1991) that is a precondition for effective political action and citizenship.

## Conclusion

In recent years, localities across the United States have reduced the imbrication of the carceral state and the home through a variety of means, including limiting the use of criminal background screening in the rental market (Bittle, 2019), repealing or banning crime-free housing ordinances (Kanu, 2022), legally challenging nuisance ordinance enforcement practices (Shriver Center, 2020), and penalizing racially biased non-emergency police calls (Reynolds, 2021). Although these efforts do not address all the policies and practices we outlined in this article, and must grow substantially to have national impact, their possible impact will also be limited in the absence of broader efforts to transform the legal, material, and political status of tenants.

There is a growing global movement for a "right to housing," which emphasizes decommodification through policies restraining housing speculation and financialization in the private rental sector (including rent control and just-cause eviction) and expanding the non-market housing sector, including social housing and community land trusts. The immediate goal of this movement is to stem the acute and unprecedented housing unaffordability crisis. The longer-term goal is a fundamental transformation of housing from an investment vehicle to a public good. Policies that advance a "right to housing" would bolster the reforms described above in several ways, namely by directly combating the legal and market-based sources of precarity that make tenants vulnerable to shadow

carceral state projects. For example, expanding the supply of permanently affordable, non-market housing would make the housing security of renters with stigmatizing backgrounds less contingent on meeting the idiosyncratic and difficult to regulate screening standards of private landlords.

Similarly, reforms designed to expunge policing functions from digital surveillance platforms would not address the market forces that encourage lateral surveillance and vigilantism. The financial value associated with producing perceptions of safety may drive interest and investment in such platforms. Conversely, limiting housing financialization and speculation may also decrease the financial incentives for producing its perceived safety. In terms of third-party policing, guaranteeing affordable housing would go a long way to prevent the concerns that motivate state intervention (with possible carceral outcomes) in the first place. Removing rent burdens from households is one tool to decrease poverty that invites scrutiny from police and child welfare officials and decreases the limitations people face when trying to leave abusive home lives (Roberts, 2012). A meaningful right to decent and affordable housing could also at least partially remove the fear of eviction, which is currently a powerful disciplinary tool. Advancing a right-to-housing agenda could help break the continuum of housing carcerality by severing the connection between property ownership and the protections of citizenship (Roy, 2003), including one's ability to live free of carceral state encroachment in the place they call home.

Yet, a right to housing may not be a cure-all solution to the shadow carceral state's impact on rental housing. Decreasing renter insecurity would not, in and of itself, thwart third-party policing, for example. The prevalence of policing in subsidized housing in the United States also demonstrates that policy efforts to decommodify housing do not necessarily protect tenants from carceral surveillance and discipline (Karteron, 2018; Rodriguez, 2024). To the contrary, public housing residents in the United States have been subject to greater levels of policing than low-income tenants in the private sector, stemming from perennial demands to surveil and punish welfare recipients in a political context of fiscal austerity and racialized assaults on the welfare state (Quadagno, 1994). In recognition of these dynamics, right-to-housing advocates emphasize the importance of democratizing housing management in public and private housing through mechanisms including cooperative ownership and tenant unions (Chew, 2022; Madden and Marcuse, 2016). As such, the right-to-housing movement is not synonymous with a narrow policy agenda to reduce housing scarcity, but is instead a political struggle to extend the protections of citizenship to tenants and the unhoused and combat the criminal legal and market sources of precarity that, we argue, make tenants vulnerable to shadow carceral state projects in the housing sphere.


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## Notes

1. See for example, the City of Lancaster, CA, whose Crime Free Rental Housing Program is explicitly applicable to rental property, and has no provisions applicable to homeowners: [https://library.municode.com/ca/lancaster/codes/code\\_of\\_ordinances?nodeId=16042](https://library.municode.com/ca/lancaster/codes/code_of_ordinances?nodeId=16042).
2. The protective power of property in the United States is aptly illustrated by former Supreme Court Justice Anthony Kennedy: “Property gives you the ability to resist the demands of the state, which is always going to try to control your life,” (quoted in Roy, 2003: 464).
3. As an illustrative example, in Peoria, Illinois, the city council passed a chronic nuisance ordinance that encouraged residents to surveil and file complaints against neighborhoods who violated the city’s nuisance laws. Although the law was framed as applicable to all residents and residential properties, in reality it created two tiers of penalties for city residents. If a homeowner was subject to a nuisance determination, the primary penalty they faced was being subject to a small fine, whereas a renter’s primary penalty was eviction. Compounding this, a property owner renting to a tenant could escape their own penalties by evicting their renter. Finally, as litigation against the city revealed, the rules were then selectively enforced to exclusively pursue renters. [https://www.relmanlaw.com/media/cases/723\\_Complaint.pdf](https://www.relmanlaw.com/media/cases/723_Complaint.pdf)

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