

The Role of Law Enforcement Officers in Preventing Illegal Evictions



Law enforcement officers have an important role to play in preventing illegal evictions. In January 2006, Governor Richard Codey signed a law clarifying that only an officer of the court can execute an eviction order (also known as an “execution of warrant for possession”) and making it a crime for landlords and others to evict tenants using any other means, including illegal lockouts. Now codified as N.J.S.A. 2C:33-11.1 (“Section 33-11.1”), the law provides an especially powerful tool for preventing illegal evictions during the current pandemic.

In March 2020, Governor Philip Murphy issued Executive Order 106, which imposed an “eviction moratorium” until the end of the COVID-19 public health emergency. As a practical matter, as long as EO 106 remains in effect, officers are prohibited from enforcing eviction orders, and so almost every eviction occurring during this time violates Section 33-11.1.

In March 2021, Attorney General Gurbir S. Grewal issued AG Directive 2021-2, which established a four-step process that officers must

follow to comply with Section 33-11.1 when responding to a report of an illegal eviction:

1. Determine facts regarding eviction or threatened eviction.
2. Issue warning to responsible persons.
3. Ensure any illegally evicted occupants are immediately restored to the premises.
4. If warnings go unheeded, issue complaint-summons.

When responding to an illegal eviction, law enforcement officers should be mindful of AG Directive 2018-6, also known as the “Immigrant Trust Directive,” which is designed to strengthen trust between officers and immigrant communities. Among other things, the Immigrant Trust Directive prohibits officers from inquiring about the immigration status of any individual or providing federal civil immigration authorities with an individual’s personally identifying information except under limited circumstances.

*Residents who have been illegally evicted do not need to obtain a court order or other form of legal process in order to seek the assistance of law enforcement officers under Section 33-11.1. If officers believe that a person requires legal advice about their housing status but cannot afford private counsel, officers should encourage individuals to contact **Legal Services of New Jersey at 888-LSNJ-LAW.***

“Understanding Section 33-11.1” p.2



Understanding Section 33-11.1

Officers should familiarize themselves with N.J.S.A. 2C:33-11.1, which states:

- **It is a disorderly persons offense** when a person, after being warned by a law enforcement officer or other public official of the illegality of that action:
 - (1) Takes possession of residential real property or effectuates a “forcible entry or detainer” of residential real property without lawful execution of a warrant for possession or without the consent of the occupant solely in possession of the residential real property; or
 - (2) Refuses to restore immediately to exclusive possession and occupancy any such occupant so displaced.
- **The term “forcible entry and detainer” means** to enter upon or into any real property and detain and hold that property by:
 - (1) Any kind of violence, including threatening to kill or injure the occupant;
 - (2) Words, circumstances, or actions which have a clear intention to incite fear or apprehension or danger;
 - (3) Putting outside the premises the personal effects or furniture of the occupant;
 - (4) Entering peaceably and then, by force or threats, turning the party out of possession;
 - (5) Padlocking or otherwise changing locks to the property;
- (6) Shutting off, or causing to be shut off, vital services such as, but not limited to, heat, electricity or water, in an effort to regain possession; or by
- (7) Any means other than compliance with lawful eviction procedures, as established through possession of a lawfully prepared and valid “execution of warrant.”
- **Legal occupants who have been displaced in violation of Section 33-11.1** shall be entitled without delay to reenter and reoccupy the premises, and shall not be considered trespassers or chargeable with any offense, provided that a law enforcement officer is present at the time of the reentry.
- **It shall be the duty of officers** present at the time of reentry to prevent the landlord or any other persons from obstructing or hindering the reentry and reoccupancy of the dwelling by the displaced occupant.
- **Officers should charge violators of Section 33-11.1** with a fourth-degree crime (rather than a disorderly persons offense) if the person has been convicted of the offense in the past five years.

“The Role of Law Enforcement Officers in Preventing Illegal Evictions” p. 1