



## Shooting Of A Tenant Could Be The 'Straw That Broke The Camel's Back' For Philly's Evictions System

### [Philadelphia](#)

April 16, 2023 [Matthew Rothstein, Bisnow Philadelphia](#)

A private security contractor showed up at Angel Davis' [Sharswood](#) apartment at 7 a.m. March 29 with a court order to evict her for nonpayment of rent. Two hours later, Davis left the premises on a stretcher after the contractor [shot her in the head](#).

The contractor failed to provide any advance notice to Davis of when she would be kicked out, said Feldman Shepherd partner Bethany Nikitenko, who Davis retained as her attorney a week ago. Now, the violent incident, the breakdown in protocol that led to it and the lack of transparency in its aftermath have prompted calls at the city and state levels for privately contracted landlord-tenant officers to be [outlawed](#).

“We don’t know the identity of the person that shot her or the company that employs him,” Nikitenko said. “We don’t understand how this is done and how these individuals are trained, if at all, or if they’re even qualified. We need a system that ensures fairness and safety, and clearly that’s not the case. So we would certainly be in favor of such a ban.”

Philadelphia is already an outlier among jurisdictions in Pennsylvania [and beyond](#) for giving the job of serving writs of possession to a private law office, a practice that dates back to 1970. The private office is responsible for hiring and training personnel to do the job that falls to sheriff’s deputies in other

jurisdictions, placing these private contractors in a legal gray area — authorized as a pseudo-law enforcement officer, but without any specific training or vetting requirements.

The shooting took place at Girard Court Apartments in a quiet area of the majority-Black Sharswood neighborhood when a security contractor hired by Philly's private landlord-tenant officer showed up to serve a writ of possession. A Philadelphia Municipal Court judge had denied Davis' final appeal of an [eviction](#) order in February after she was found liable for over \$8K in unpaid rent, the [Philadelphia Inquirer reports](#).

Few details of what happened that day have been made public, but the Philadelphia Police Department is investigating it as an officer-involved shooting despite the contractor's lack of law enforcement credentials. The lack of information is nothing new in Philadelphia, where City Council President [Darrell Clarke](#) said he wasn't aware of the private landlord-tenant officer before the shooting.

"I've been in government for a thousand years and I always thought sheriff's deputies did evictions," Clarke [told the Inquirer](#). "That's bizarre ... that's archaic."

If Philly was to fall in line with how other jurisdictions operate, that would mean trusting the job to the Philadelphia Sheriff's Office, which has [enough problems of its own](#) to prompt multiple candidates in this year's mayoral election to join activists in calling for the [entire office to be abolished](#).

Just this week, Sheriff Rochelle Bilal [came under fire](#) for attempting to divert city money meant for hiring deputies — the officers who serve writs of possession — to increase the salaries of senior staff and herself, the [Philadelphia Inquirer reports](#).

"In any one of these public-facing issues, you find one solution and you stumble upon a new problem," said Tenant Union Representative Network Riquan King, who regularly represents low-income tenants in housing court. "So it requires a lot more conversations, but as long as people are willing to have difficult conversations and are willing to change, then we can say, 'Based on the information we have, the private situation is not working, so let's move it to the sheriff's office. And if that doesn't work, then we move on from there.'"

## **More Than One Bad Day**

Within days of the shooting, state Sens. Nikil Saval and Sharif Street proposed a bill to ban Pennsylvania jurisdictions from using private companies for the service of writs of possession. At the city level, Councilmember [Jamie Gauthier](#) scheduled a May 8 public meeting of the council's Committee on Housing, Neighborhood Development, and the Homeless, which she chairs. Gauthier will wait until after the hearing to determine whether she will introduce measures to change the city's landlord-tenant officer policy, but she is in favor of the state bill, she told *Bisnow*.

If neither a private law office nor the Sheriff's Office were tasked with carrying out evictions, then a new public office or agency would have to be created, city and state lawmakers told *Bisnow*.

In the short term, that leaves a choice between two bodies that have lost the public's trust, though housing advocates have made their preference clear.

"It is important to start having conversations about what a different structure would look like, but that conversation can't even start until this [private] office is gone," said George Donnelly, Saval's chief of staff. "And we think all the questions about the sheriff's office are legitimate, we don't have a perfect option right now, but we know the landlord-tenant office is the worst of all options."

HAPCO Philadelphia, the largest association of residential and multifamily landlords in the city, opposes changing the current system, calling it an overreaction considering the rarity of violent incidents in a statement released in early April. The shooting was the third recorded incident of violence in the history of the private landlord-tenant officer, which stretches back to the early 1960s, and the first since the 1990s, as far as anyone *Bisnow* interviewed for this article is aware.

"If you had seen a higher number of incidents with violence involved, we would have looked at changing this system decades ago," HAPCO Philadelphia spokesperson Doug Shimell said.

But for as rare as violent incidents may be, the current system contains no mechanism to address potential violations of tenants' rights. The fact that the Philadelphia Police Department is handling the incident as an officer-involved

shooting demonstrates that contractors hired by the private landlord-tenant officer enjoy privileged status in the eyes of law enforcement without the same standards of conduct.

“You have these folks who are armed, performing a government function, and who aren’t trained the way law enforcement officers are,” Street told *Bisnow*. “It feels like vigilantism, though it’s not, because they have court authorization. But it has that feel because it’s potentially untrained folks carrying out these tasks.”

## **Nowhere To Turn**

Angel Davis is experiencing the consequences of how opaque the private landlord-tenant officer is right now, as she continues to recover from her injuries, Nikitenko said. The near-total lack of information over two weeks after such a violent and jarring incident led her to file a writ of summons on behalf of Davis against the city of Philadelphia for pre-trial discovery.

“No one has even acknowledged our filing,” Nikitenko said. “We have a lot of questions — our understanding is that there was an investigation into Ms. Davis, that the police took charges to the district attorney’s office, and they declined to charge her. So we want to understand how this could be a reasonable exercise of deadly force because we can’t imagine how this would be justified. Why did this individual not leave that day? Why did they not call the police if this was a problem? How was shooting a person a reasonable response?”

Violent incidents are more likely with the private landlord-tenant officer because it doesn’t tend to give tenants advance notice of when a lockout will occur, said King, the tenant rights attorney. The sheriff’s office is more consistent at posting written notices and will always inform tenants when a lockout is scheduled when contacted by phone.

“Being evicted is always a traumatic experience, but when you don’t even know when, you’re just in this kind of limbo period of, ‘Are they coming today? Tomorrow? Next week? How much time do I have to move my things?’” King said. “Then when they randomly show up at your door, it exponentially intensifies the trauma of that experience. And that, in my experience, is one of

the biggest issues of the privatization. Because there's no requirement for them to let the tenants know when the lockout is coming."

Davis has been discharged from the hospital, but not before being chained to her bed for the first four days of her inpatient stay, Nikitenko said. Davis and her husband were still locked out of their unit at Girard Court Apartments after the incident, Nikitenko said, describing Davis' current living situation as "day to day."

Nikitenko is preparing a lawsuit, but doesn't even have enough information to decide which parties to name as defendants, she said.

## **Rotten To The Core?**

The March 29 shooting did more than put the private landlord-tenant officer in the spotlight: It renewed scrutiny into the issue with the law office that currently holds the position, owned and run by Marisa Shuter.

Shuter's husband, David, is a municipal judge who presides over some of the very same eviction cases that result in writs of possession, and the associated fees. Her father, Alan Silberstein, is a former president judge of the same municipal court. Shuter's office did not respond to phone calls seeking comment.

"As far as the alleged conflict of interest involving the employment of the law firm, that's something that HAPCO had no involvement in and didn't know about until recent reporting," Shimell said. "There's always the concern of oversight regardless of if you have a public or private system, and I don't know if a public oversight entity would solve that problem."

Since she was appointed as landlord-tenant officer in 2017 (after Silberstein had retired), Shuter's office has raked in millions of dollars in fees paid by landlords to evict tenants, \$80 at a time, [WHYY reported in 2020](#).

"That household makes money based on the decisions that municipal court judges make in eviction cases," Donnelly said. "If that's not a conflict of interest, what is?"

Even if the private landlord-tenant officer had no relationship to municipal court judges, it would still be a for-profit entity drawing revenue from serving writs of possession, potentially giving it incentive to carry out as many evictions as possible, as quickly as possible.

“When you think about what it means to get appointed to this office, it’s like winning a lottery ticket,” Donnelly said. “You are the only authorized private representative that can perform evictions in Philadelphia, which comes with millions of dollars in fees.”

HAPCO’s statement defending the current arrangement referred to the Philadelphia Sheriff’s Office’s own “history of controversy,” casting doubt on the notion that deprivatizing the landlord-tenant office would lead to a fairer system.

“It’s almost like, are you jumping out of a frying pan into the fire, when the frying pan is not even hot,” Shimell said.

The connection between Shuter and the municipal court was [initially reported in 2020](#) and led to some public denunciations at the time from housing advocates and then-Councilmember-at-Large [Helen Gym](#), one of the current mayoral candidates who has called for the sheriff’s office to be abolished in the past couple of weeks.

Nikitenko and Donnelly expressed frustration that nothing came of those calls in time to prevent Davis’ injury.

“It’s hard to overstate how long we, as advocates, have worked to change this office, and how long they have been absolutely stubborn and inert in responding to requests for change,” Donnelly said. “Yes, [the shooting] was the impetus in the sense that it was the straw that broke the camel’s back.”

## **A Rare Chance For Accountability**

The shooting incident and the conflict of interest between Shuter and the municipal court may be separate symptoms of the privatization issue, but both problems are compounded by the opaque nature of the arrangement, Donnelly said. To Gauthier, they go hand in hand.

“We’re talking about a conflict of interest, and an incident where someone was shot in the head,” Gauthier said. “There are no good options, but I’m sure we can agree that the sheriff at least is more accountable to the public and, to an extent, to city council. And if the public doesn’t like the sheriff, they can vote her out, but there would still be the institution of the sheriff’s office.”

The private landlord-tenant officer was created after a federal court outlawed the previous arrangement — an elected constable position dating back to the 1700s, which had been accused of abusing its power and using evictions as political weapons, [WHYY reported in 2020](#).

The sheriff’s office itself has a long [history of corruption](#) and conflict of interest accusations, including in the handling of foreclosure sales.

For lawmakers like Gauthier and Street, the sheriff being an elected position meets a bare minimum standard of accountability. For individual tenants who experience injustice when being evicted, a sheriff’s office could be more responsive to inquiries from other public offices, King said.

“With the sheriff’s office, if there’s a concern of impropriety, there are places you can go to,” King said. “There are elected officials, and there are at least processes to make certain information public. It should be easy enough to access data about an eviction, whereas private companies, what they choose to share, what they choose to hide would be their prerogative.”

As demonstrated by the lack of action in 2020 — when the family ties between the private landlord-tenant officer and the municipal court were revealed — an initial wave of outrage is not enough to spur permanent change on its own.

With [Philadelphia City Council](#) scheduled to break for the summer not long after the May 8 city hearing, local legislation may not move forward this year. Other members of council aside from Gauthier could very well oppose giving more responsibility to the sheriff’s office, Shimell said.

In the state Senate, Saval and Street anticipate officially introducing the bill before the end of this month, a spokesperson for Saval’s office said. They are looking to build up a roster of co-sponsors to give the bill more momentum; at present, five more co-sponsors have verbally signed on, including Minority

Leader Jay Costa of Pittsburgh. Their co-sponsorship won't be official until the bill's introduction.

Unless and until a piece of legislation takes the job of executing evictions away from the private landlord-tenant officer, any tenant facing eviction is at risk of falling through a visible crack in the justice system.

“Evictions are unpleasant, they're harmful to families, and that the entity that carries them out should have accountability to the people,” Gauthier said.

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