

Looking Beyond Conviction History: Recommendations for Public Housing Authority Admissions Policies

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April 2021

Safe, affordable housing is essential for the millions of people released from U.S. jails and prisons each year.¹ But most public housing authorities (PHAs) have admissions policies that prevent formerly incarcerated people from living there.² For nearly all types of convictions, housing authorities exercise their individual discretion to set eligibility criteria.³ Federal policymakers have encouraged PHAs to rethink limits on public housing for people with criminal conviction histories and to actively address barriers to housing that can reinforce discrimination.⁴ This fact sheet contains eight recommendations to help PHAs do just that.



Vera collaborated with the following PHAs through the Opening Doors to Public Housing Initiative: **1.** Housing Authority of the County of San Diego, in collaboration with six housing authorities operating within the county (CA); **2.** State consortium of five agencies led by the Delaware State Housing Authority; **3.** Lafayette Housing Authority (LA); **4.** Oklahoma City Housing Authority (OK); **5.** Northern Illinois Regional Affordable Community Housing (NI ReACH); **6.** Allegheny County Housing Authority (PA); **7.** Detroit Housing Commission (MI); and **8.** Burlington Housing Authority (NC).

Recommendations

- 1 Shorten the lookback period to three years or less.** PHAs that use conviction records to determine eligibility for housing should set lookback periods at a maximum of three years from the date of release from incarceration or the date of conviction, whichever is more recent. Reoffending generally occurs soon after release: of the people who were rearrested within nine years of their release, 82 percent were arrested again within the first three years.⁵ If an applicant's conviction falls within the established lookback period, the applicant should not automatically be ineligible for housing—instead, the conviction may be considered relevant to the application. (See Recommendation 3 below.)
- 2 Screen for a limited number of convictions and not for arrests.** Once a PHA has set its lookback period, it must consider what types of convictions beyond the two U.S. Department of Housing and Urban Development (HUD)-mandated exclusions will disqualify people from housing.⁶ PHAs should screen only for convictions—not arrests—and should limit the types of convictions to the narrowest set possible. In their policies, PHAs should identify types of convictions that are deemed irrelevant to success as a tenant and to public safety and stop screening for those. These convictions may be identified as such by lack of severity, the passage of time, low risk of harm to others, or any combination thereof.

3 Conduct an individualized assessment of applicants' conviction histories. Rather than automatically denying an application for housing based on conviction history, PHAs should conduct an individualized review in each case. Applicants should have the opportunity to see the record under consideration, then review and verify or dispute its accuracy. PHA policies should encourage people to submit evidence of things like steady employment, school attendance and passing grades, completion of restorative justice programs, completion of anger management therapy, participation in rehabilitation programs, mitigating circumstances surrounding their conviction, community corrections or social services references, letters of support from community groups, and participation in educational or vocational programs. The applicant should meet with a review panel for an overview of the information and evidence provided.

4 Discontinue the use of “one-strike” policies and adopt a case-by-case decision-making approach. HUD no longer supports “one strike and you’re out” policies that deny admission to anyone with a criminal record and require automatic eviction if a family member engages in criminal activity in violation of their lease. Instead, it recommends that PHAs adopt case-by-case decision-making policies that allow for discretion and the consideration of mitigating circumstances or evidence of rehabilitation.⁷

5 Allow people on probation or parole to live in public housing. PHAs should admit people under probation or parole supervision using the same case-by-case decision-making method they use to evaluate any applicant with a conviction history. People released on parole and probation have met the court’s standards for release, and probation and parole

officers monitor people under their supervision and can connect people on their caseloads to services that should help them to abide by the terms of a lease.

6 Limit the use of past evictions to determine successful tenancy in public housing. PHAs should not rely on evidence of past evictions to deny housing. Evictions are often a result of poverty and strained resources.⁸ Most poor renting families in the United States spend more than half of their income on housing, and only one in four families who qualify for housing assistance get it.⁹ According to HUD, PHAs should evaluate factors such as the family’s income and composition at the time of the eviction, the grounds for the eviction, and excessive rent burdens in the local private rental market.¹⁰

7 Specify and limit denials connected to illegal drug use. PHAs’ policies frequently deny housing to applicants who are “currently engaged in the illegal use of a drug.” PHAs should define “currently engaged” as a period of no more than the previous three months and limit use to that *related to convictions*. PHAs should allow tenancy if someone has completed drug rehabilitation.

8 Include absence as a result of incarceration as a permitted temporary absence and allow people to stay housed while completing diversion or alternative-to-incarceration programs. PHAs typically allow someone to be absent from a unit for brief periods if they notify the PHA and provide information if requested.¹¹ These policies should allow continued housing for people who are in jail pretrial or those whose sentences permit them to stay in the community. These exceptions let people keep their housing as they go through a trial, complete diversion programs, or finish probation.

Opening Doors: Safely Increasing Access to Public Housing

In 2017, the Vera Institute of Justice (Vera) launched its initiative, Opening Doors: Safely Increasing Access to Public Housing for People with Conviction Histories, to work with PHAs, law enforcement agencies, county and state corrections departments, reentry service providers, homelessness service providers, continuum of care organizations, resident advocates, and other community stakeholders to remove barriers to housing. The Opening Doors initiative’s local partnerships, which the U.S. Department of Justice, Bureau of Justice Assistance has funded since 2019, have informed the recommendations in this publication.

This project is supported by Grant No. 2017-IG-BX-K003 awarded by the Bureau of Justice Assistance. Assistance is subject to the availability of grant funds. The Bureau of Justice Assistance is a component of the Department of Justice’s Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Endnotes

- 1 Wendy Sawyer and Peter Wagner, *Mass Incarceration: The Whole Pie 2020* (Northampton, MA: Prison Policy Initiative, 2020), <https://perma.cc/RV5E-A7Q8>.
- 2 These admissions policies affect local public housing developments and federal Housing Choice Vouchers, commonly referred to as Section 8.
- 3 Following U.S. Department of Housing and Urban Development (HUD) guidelines, all PHAs place permanent residency exclusions on people with lifetime sex offender registry requirements or who have been convicted of producing methamphetamine in federally assisted housing. The permanent ban on public housing for people with lifetime sex offender registry requirements was established through the Quality Housing and Work Responsibility Act (1998). Louise Hunt, Mary Schulhof, and Stephen Holmquist, *Summary of Title V, Public Housing and Tenant-Based Assistance, of the Quality Housing and Work Responsibility Act of 1998* (Washington, DC: Office of Policy, Program, and Legislative Initiatives and Office of Public and Indian Housing, 1998), <https://perma.cc/36K9-ROB7>. The Independent Agencies Appropriations Act (1999) established the permanent ban on public housing for people convicted of producing methamphetamines in public housing. Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000, . H.R. 2684, 106th Cong. (2000), <https://perma.cc/4BXD-Y2DK>. See also, Lahny R. Silva, “Criminal Histories in Public Housing,” *Wisconsin Law Review* 5, no. 24 (2015), 375-397.
- 4 Letter from HUD Secretary Shaun Donovan to PHA Executive Directors, June 17 2011, <https://perma.cc/L5QM-MSMX>; Joseph R. Biden Jr., to Secretary of Housing and Urban Development, memorandum, “Presidential Memorandum on Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies,” (January 25, 2021), *Federal Register*, <https://perma.cc/M4VN-NXJ3>.
- 5 Mariel Alper, Matthew R. Durose, and Joshua Markman, *2018 Update on Prisoner Recidivism: A 9-Year Follow-up Period (2005-2014)* (Washington, DC: Bureau of Justice Statistics, 2018), <https://perma.cc/S8WU-76SW>.
- 6 Hunt et al., *Summary of Title V, 1998; H.R. 2684, 2000; and Silva, “Criminal Histories,” 2015*. See also, Lourdes Castro Ramirez and Edward Golding, *Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions* (Washington, DC: U.S. Department of Housing and Urban Development, 2015), <https://perma.cc/X3UR-LF39>.
- 7 Helen R. Kanovsky, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions* (Washington, DC: U.S. Department of Housing and Urban Development Office of General Counsel, April 4, 2016), <https://perma.cc/R8XK-JF7N>.
- 8 Matthew Desmond, *Evicted: Poverty and Profit in the America City* (New York: Penguin Random House, 2016).
- 9 Terry Gross, “First-Ever Evictions Database Shows: ‘We’re In the Middle Of A Housing Crisis,’” NPR, April 12, 2018, <https://perma.cc/2Q8X-PYGG>.
- 10 Kanovsky, *Office of General Counsel Guidance*, 2016.
- 11 Absence from Unit, 24 CFR § 982.312, <https://perma.cc/TY8G-P2DD>.

For more information

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