



**Tacoma
Housing
Authority**

**HOUSING FOR ALL: REDUCING BARRIERS TO HOUSING FOR
PEOPLE WITH CRIMINAL RECORDS**

**An Analysis of THA's Criminal Background Checks and Eligibility
with Proposed Recommendations for Revision**

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Glossary of Acronyms

In An Analysis of THA's Criminal Background Checks and Eligibility with Proposed Recommendations for Revision

ACOP	Admissions and Continued Occupancy Plan
BJS	Bureau of Justice Statistics
CHAP	College Housing Assistance Program
CSE	Client Support and Empowerment department
DOC	Department of Corrections
HANO	Housing Authority of New Orleans
HCV	Housing Choice Voucher
HOP	Housing Opportunity Program
HUD	Department of Housing and Urban Development
KCHA	King County Housing Authority
NAHRO	National Association of Housing Redevelopment Officials
NYCHA	New York City Housing Authority
OGC	Office of General Counsel
PCHA	Pierce County Housing Authority
PHA	Public Housing Authority
PIE	Policy, Innovation, Evaluation department
PM	Property Management department
PSH	Permanent Supportive Housing
RHA	Rental Housing Association of Washington
SHA	Seattle Housing Authority
THA	Tacoma Housing Authority
VASH	Veteran's Assistance Supportive Housing
WSIPP	Washington State Institute of Public Policy

1. EXECUTIVE SUMMARY

1.1 Background and Summary Recommendations

Tacoma Housing Authority (THA) envisions a future where everyone has an affordable, safe and nurturing home, where neighborhoods are attractive places to live, work, attend school, shop and play, and where everyone has the support they need to succeed as parents, students, wage earners and neighbors. THA's mission is to provide high quality, stable and sustainable housing and supportive services to people in need. It does this in ways that help them prosper and help our communities become safe, vibrant, prosperous, attractive, and just¹.

To fulfill that vision and that mission, THA attempts to make informed judgments about whether to admit or deny applicants for its housing. It seeks to balance its mission to house people who need the housing while keeping it safe and enjoyable by excluding those who pose an undue risk. Like most other landlords, THA's screening policies consider an applicant's criminal history as a sign of risk for this purpose. THA also uses screening policies for admission to its rental assistance programs that help clients pay the rent to private landlords on the private rental market.

This paper describes THA's review of these uses of criminal history. It recommends some changes to THA's screening policies. These recommendations arise from the review's answer to the following questions:

- to what extent is an applicant's criminal history a useful predictor of future tenant behavior;
- is excluding an applicant due to criminal history otherwise excluding a qualified tenant unnecessarily;
- does the use of criminal history as a screening criterion result in an undue and disproportionate exclusion of persons of color;
- the extent to which housing persons with criminal histories make a community, the justice-involved individual, and their families more successful;
- can changes to THA's screening policies make THA's housing more accessible to persons with a criminal history without incurring undue increased risk to the safety of its housing communities.

¹ THA's Statements of Visions, Mission and Values are linked [here](#).

To help answer these questions, THA consulted the following sources:

- the research literature;
- THA's current practices and the results;
- current practices of other public housing authorities, and the results;
- THA residents;
- THA staff;
- THA's Landlord Advisory Group;
- THA's liability insurance carrier.

THA's review of its use of criminal history as a screening criterion arose from related discussions in Pierce County. In late 2016, the Center for Social Innovation, a national research and training project addressing racism and homelessness, invited Pierce County to take part in a research study to identify the nexus of race to homelessness in Pierce County. They call the project, Supporting Partnerships for Anti-Racist Communities (SPARC). It included interviews with people who have or are experiencing homelessness in Pierce County. During these interviews, participants voiced that their past criminal history was a barrier to securing housing. Nationally, research tells the same story that: people with conviction histories face discrimination in many facets of life, including housing.

In September 2017, the Vera Institute of Justice invited THA to participate with other public housing authorities in a new initiative, Opening Doors to Public Housing. The U.S Department of Justice funded this initiative. The initiative sought to help housing authorities assess how to safely increase access to stable housing for people with conviction histories. The Vera Institute of Justice provided THA with technical assistance, data from national research, and valuable substantive expertise in assessing that data.

THA's Department of Policy, Innovation & Evaluation (PIE) led this review. This paper conveys PIE recommended changes to THA's screening use of criminal history. In summary, this report concludes the following:

- (1) criminal history has a useful value in predicting future tenant misconduct;
- (2) while predictive, criminal history as a screening criterion does in fact unduly exclude persons who would be good tenants;
- (3) such exclusions, and the resulting denial of housing, increase the risk that a person will re-offend;

- (4) such exclusions not only harm the justice-involved person, but the consequences of a denial of housing are also felt by family members in their household who may not have a criminal history or any other risk factors; and
- (5) under THA's present screening policies, only 2% of applicants are excluded from housing or housing assistance due to their criminal history.

Based on these conclusions, this report includes the following recommendations:

- (1) THA should retain its use of criminal history as a screening criterion but should reduce the lookback periods and types of crimes used in the review.
- (2) THA should modify how criminal history is used as a reason for automatic exclusion.
- (3) THA should increase the use of individualized assessments of applications to consider mitigating factors.
- (4) THA should strengthen its support services for tenants to help them succeed as tenants; and,
- (5) THA should strengthen its lease enforcement efforts when problems do arise.

These adjustments would offer the following advantages:

- align THA with the findings from pertinent research;
- align THA with the practices of other peer housing providers;
- not unduly imperil the safety of THA's communities;
- make Tacoma safer by reducing recidivism among persons with criminal histories;
- promote the reunification and success of families of persons with criminal histories, especially families with children;
- promote important values of racial justice in Tacoma;
- correspond with the preponderance of views expressed by THA residents, staff, and landlord partners;

- align with the requirements and expectations of THA’s liability insurance carrier; and,
- align with the requirements of federal regulations governing these questions in federally-subsidized housing.

1.2 HUD Mandatory Screening Policies and THA’s Existing Policies

The Department of Housing and Urban Development (HUD) administers federal funding to local public housing authorities to administer its Housing Choice Voucher (HCV) program to pay rental subsidies so eligible families can afford decent, safe and sanitary housing. The HCV program includes both tenant-based and project-based voucher programs. Housing Authorities (PHAs) must comply with the applicable federal regulations that govern the HCV program. Those federal regulations impose both substantive and procedural requirements. In general, they require some exclusionary criteria. In other cases, they direct PHAs to make flexible, individualized assessments of mitigating factors. These regulations are far more protective for applicants than the private rental market by giving applicants elaborate procedural opportunities to contest any denial of housing or housing assistance. Here is an overview of the federal requirements pertinent to criminal history:

- HUD prohibits admission to its HCV programs for the following specific types of criminal activity:
 - lifetime sex registrants;
 - anyone who at any time has been convicted of manufacturing meth in federally-subsidized housing;
- HUD prohibits admission for the following types of drug and alcohol related activity but permits the PHA to consider “...whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the PHA may require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.:
 - persons evicted from federally-subsidized housing because of unlawful drug activity within the previous three years;
 - anyone whom the PHA determines to be currently engaging in illegal use of a drug or demonstrating a pattern of illegal drug or

alcohol use that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. *See* 24 CFR § 982.553.

- To allow PHAs to make these judgments, HUD’s regulations expressly allow them to “consider all relevant information such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.” *See* 24 CFR § 982.552.
- HUD regulations add the following circumstances for owners of PBV units to consider to develop tenant selection criteria “.the effect on the community of denial or termination of the failure of the responsible to take such action; the demand for assisted housing by families who will adhere to lease responsibilities; the extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offend action; and the effect of the responsible entity’s action on the integrity of the program” *See* 24 CFR § 5.852.

The HUD Office of General Counsel relied on these regulations to conclude that the City of Seattle’s “Fair Chance²” ordinance appropriately exempted PHAs. *See* HUD OGC Memo to HUD Regional Counsel May 21, 2018. (“PHAs, after obtaining the mandatory written consent for release of criminal conviction records, **must** perform criminal background checks of applicants and residents, by obtaining criminal conviction records from law enforcement agencies.”)(page 2)(emphasis added).

- HUD’s guidance on the Application of Fair Housing Standards to the Use of Criminal Records by Providers of Housing give PHAs guidelines to follow so that policies are consistent with required Fair Housing and nondiscrimination laws.

HUD’s guidance on the applying Fair Housing standards says “[a] housing provider that imposes a blanket prohibition on any person with any conviction record – no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since – will be unable to meet this burden [a policy that excludes person with priors convictions must be able to prove that such policy is necessary to achieve a substantial, legitimate, nondiscriminatory interest].”

² In August 2017, the City of Seattle passed the [Fair Chance Housing Ordinance](#) to prevent landlords from unfairly denying applicants housing based on criminal history.

- Before a PHA proposes to deny admission for criminal activity as shown by a criminal record, the PHA must provide the subject of the record and the applicant with a copy of the criminal record. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process.” 24 CFR § 982.553.
- Finally, all unsuccessful applicants may contest the denial using an elaborate and required grievance process internal to the PHA with an informal review. *See* 24 CFR §982.554 *et al.*

HUD’s regulations also give PHAs authority to adopt their own criteria for determining eligibility and suitability as long as they are consistent with HUD’s directives. THA has done this. Its policies show in its Administrative Plan which governs THA’s mainline programs: (1) its managed portfolio of housing and (2) its rental assistance programs which are the Housing Choice Voucher (HCV) and Housing Opportunity Program (HOP). THA’s Admissions and Continued Occupancy Plan (ACOP) which governs the programs and policies for THA’s public housing.

With these written policies, THA uses the following screening criteria (italicized text below indicates where THA policy is more stringent than HUD minimum requirements for denying housing assistance):

- (1) Anyone evicted from federally subsidized housing for drug-related criminal activity within the past *five* years;
- (2) Anyone convicted of producing methamphetamine in federally subsidized housing. *THA will deny assistance to any household that has ever been convicted of drug-related activity for the production or manufacture of methamphetamine in any housing, federally subsidized or not;*
- (3) Anyone who is subject to a *state sex offender registration* requirement, *whether or not they must register for life;*
- (4) Anyone that THA determines to be currently engaging in illegal use of a drug or demonstrates a pattern of illegal drug or alcohol use that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. *Currently engaged in is defined as any use of illegal drugs during the previous twelve months.*
- (5) *Anyone who has engaged in violent, drug-related, or threatening criminal behavior in the past five years. This criminal activity*

could be demonstrated by a conviction or eviction for these reasons; and

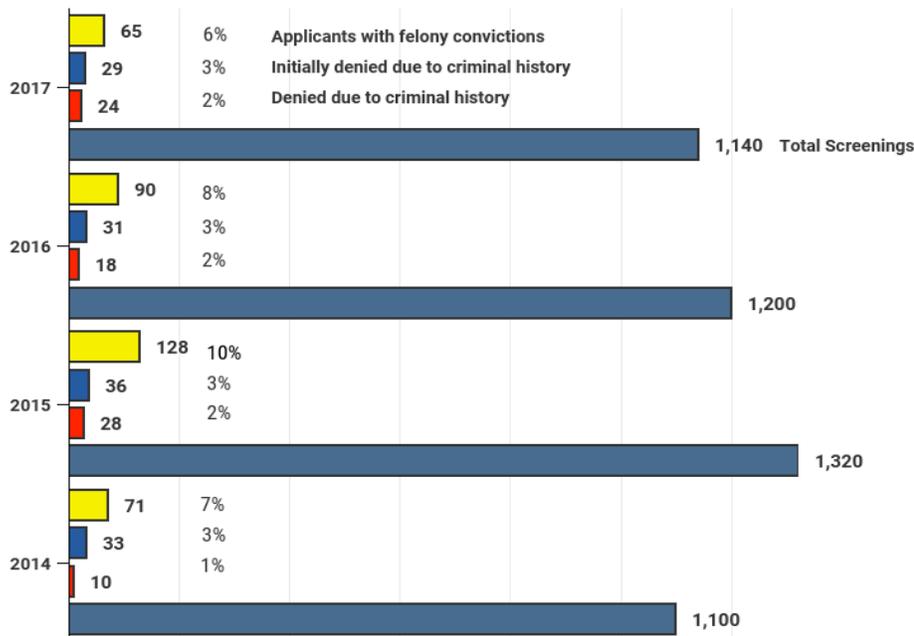
- (6) *THA reserves the right to deny assistance to households who have committed serious crimes more than 5 years ago. Examples of serious crimes include but are not limited to: homicide, a pattern of criminal activity, felony assault, arson, or any other crimes that could threaten the health, safety or right to peaceful enjoyment of other persons in the immediate vicinity.*

These policies apply to all new households applying for admission into THA portfolio programs, Housing Choice Voucher (HCV), and its Housing Opportunity Program (HOP). It also applies to existing households who wish to add a new household member. The latter group may include people that are returning to the community from incarceration and are attempting to reunify with family. If THA denies a household applicant because of a member's criminal history the household may move-in upon removing that household member.

THA's screening criteria does not apply to some of its specialty programs: THA's Veteran's Assistance Supportive Housing (VASH) Program or to THA's College Housing Assistance Program (CHAP). For these two programs, THA limits its review to the HUD mandatory denials. HUD has determined that any further screening would be an unnecessary barrier on the VASH program and THA's Board determined the same of CHAP in June 2017.

During PIE's analysis of THA's current criminal screening criteria, it was found that THA presently excludes only 2% of its applicants due to criminal history.

THA Criminal Screening Overview 2014-2017



Appendix C has further detailed THA’s acceptance and denial rates of applicants with criminal histories.

While THA’s denial rate is low, each person denied housing is another person at-risk of not receiving the support they need to successfully re-enter their community. Increasing access to housing for justice-involved individuals also has a positive effect on their families and their community. Tacoma’s City Council has declared a state of public health emergency due to the growing levels of homelessness. Addressing housing barriers is a fundamental piece in reducing homelessness in Tacoma. Modifying THA’s criminal screening policy is one strategy in a multi-prong effort to reduce homelessness.

The following section details PIE’s policy recommendations as to how THA may reduce barriers to housing for justice-involved individuals while ensuring THA residents’ right to live in safe, clean and enjoyable communities.

1.3 Policy Recommendations

PIE consulted widely to inform the recommendations in this report. PIE reviewed a broad range of social science and criminal justice reform research, analyzed internal applicant and client data and consulted with current residents, landlords, and THA staff.

PIE recommends the following: (See Table 3 for a chart summarizing these recommendations). In general, the recommendations would:

- (1) continue THA’s consideration of criminal history of applicants;
- (2) narrow the type of criminal history that would automatically preclude admission,
- (2) expand the individualized assessment for certain types of criminal history and strengthen the process for that assessment;
- (4) strengthen THA’s efforts to offer and arrange supportive services to help persons with criminal history succeed as tenants;
- (5) strengthen THA’s rules and resources for lease enforcement.

1.3.1 *Recommendation 1: THA-Managed Portfolio*

- a) THA should continue to use the HUD mandatory denials. THA has no choice but to do this.
- b) THA should continue to check an applicant’s criminal history as necessary to implement these recommendations.
- c) THA should reduce the criminal history review period of felony convictions for drug, violent, and threatening offenses from five years to the last 12 months from the date of application review.
- d) For applicants with the above convictions that fall within the proposed lookback period, THA should not admit or deny them based upon criminal history alone, but instead should require them to meet with an “Application Review Panel” before THA decides to admit or deny. If such an applicant fails to follow-through with the review process then THA should treat the application as “incomplete” under other application procedures.
- e) THA should form an Applicant Review Panel consisting of three THA staff members: one member from each of Property Management, Rental Assistance, and Client

Support & Empowerment departments. The panel may also include a volunteer THA resident who has overcome their own justice-involved challenges. The panel will meet once a month (or as needed) to review all applications flagged for review. Property Management will appoint a review panel leader to convene and manage the panel and ensure proper, confidential tracking of the panel's findings. The Application Review Panel must use Fair Housing guidelines and consider the following when deciding to admit or deny: 1) the nature and severity of an individual's conviction; 2) the amount of time that has passed since the criminal conduct occurred; 3) and other mitigating circumstances. Other mitigating circumstances may include completion of, or current participation in, a substance abuse rehabilitation program, participation in outside case management, personal references and any other mitigating circumstances that indicate the applicant does not pose a significant risk to THA residents, staff, or properties.

It's within Fair Housing's guidance³ to treat each applicant on a case-by-case basis to better ensure that a denial is warranted for a "legitimate, nondiscriminatory, business reason." Applicants will also be encouraged to bring supporting documentation and/or an advocate of their choice to support them during this review. This individualized assessment also aligns with HUD's directives. *See* Section 1.2 above.

1.3.2 Recommendation 2: Tenant-Based Rental Assistance Programs

- a) THA should continue to use the HUD mandatory denials as required.
- b) THA should no longer deny housing or assistance for any other criminal activity. Instead, THA will defer to the design of the rental assistance programs that recognizes participating landlords are responsible for screening and choosing their tenants. THA will share the research and recommendations of this report with its partner landlords to help ensure they are informed by data and best practices.

³ 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. Linked [here](#).

1.3.3 Recommendation 3: *All New Admissions and New Adult Household Members Admitted Through the Applicant Review Panel are Referred to Client Support and Empowerment for review of Service Needs*

THA should refer all new admissions admitted through the Applicant Review Panel process to the Client Support and Empowerment (CSE) department for a voluntary assessment and arrangement of supportive services that may be helpful for a successful tenancy. THA should not require new admissions to participate in supportive services to obtain or retain housing. See Section 2.4.

1.3.4 Recommendation 4: *Designate an Applicant Liaison to Help Applicants with the Applicant Review Process*

THA should designate an “Applicant Liaison” to help justice-involved applicants correspond with the Application Review Panel; or when appealing a denial through THA’s Grievance Policy. The application process can be challenging as it requires several documents and information to be submitted. This may be further complicated if the applicant is also seeking other public benefits such as food or cash assistance. Vera’s evaluation of New York City Housing Authority’s pilot family reunification program (see Section 2.1.2 to learn more about this program) learned that applicants found the application process to be “difficult and confusing.” This was the second leading barrier resulting in applicant’s not completing the application process. In addition to a long and tedious application process, applicants complained of inconsistent and unclear communication from service providers and NYCHA. These communication failures compounded the lack of follow-through seen in these applicants.

Understanding these challenges, the role of the Applicant Liaison is to alleviate confusion and frustration throughout the application process. They are there to help with timeline expectations and helping applicants understand the requirements of the application. They do not serve as a required point-of-contact but offered to support applicants who elect to do so. Applicants will be encouraged to present documentation such as a certificate for completion of a rehabilitation program, recommendations from service providers, or other evidence that shows the applicant has made progress since their conviction.

1.3.5 Recommendation 5: *Ongoing Lease Enforcement*

To ensure THA residents and communities are aware of THA’s commitment to safety and THA’s ability to respond to crime and

nuisance in a swift and appropriate manner, THA should review and strengthen its policies, procedures, and resources necessary to address crime and nuisance more effectively as it arises on THA properties⁴. Presently, THA is working towards memorializing its accelerated hearing procedure for serious lease violations that threaten others. This accelerated schedule allows THA to fast track the termination of tenancy processes in instances outlined in THA's grievance procedures⁵.

The accelerated grievance policies should be memorialized before implementation of any final approved changes to the criminal screening procedures. Although this language is currently included in THA's leases, memorializing it into the Administrative Plan will allow THA to lawfully enforce this policy. This may reassure residents that worry about THA's ability to swiftly remove residents that pose a threat to the health, safety or peaceful right to enjoyment in THA's communities. THA recognizes that in these cases the procedural requirements for its own grievance process and state unlawful detainer proceedings will always test the patience of neighbors who generally want THA to evict more quickly.

⁴ THA is reviewing its Renew Tacoma lease which is used for THA properties. The review intends to clarify policies and strength the language around lease enforcement. Residents and staff may find relief that THA will update its procedures to address crime and nuisance.

⁵ To review THA's current grievance procedures, click [here](#).

Table 1. Benefits of Proposed Recommendations

Benefits	Criminal justice reform is a bi-partisan goal at the local, state, and national level – as reforms are taking place in housing, employment, and within the criminal justice system.
	Housing is an integral part of a coordinated effort for successful re-entry. As a response, the City Council of Seattle unanimously adopted the Fair Chance Ordinance after a comprehensive analysis of the racial equity barriers to housing and employment. This included the recommendation to completely remove the lookback period ⁶ .
	By narrowing the scope of criminal history screening, THA can serve more households and keep families together.
	Stable housing improves health, employment, and educational outcomes for individuals re-integrating into their communities. This impact also reaches the individuals’ families.
	Paves the way for local housing providers and other public housing authorities to adopt similar policies reducing discrimination against those with a criminal history, reducing the disproportionate exclusion of applicants of color, and increasing access to housing.

Table 2. Risks of Proposed Recommendations

Risks	Residents will have mixed reactions to the recommendations. Some will strongly oppose them.
	Housing assistance programs for people exiting incarceration show greater success when supportive services are integrated into the housing itself, or the program THA makes supportive services available but participation is voluntary. While supportive services would help potential residents achieve successful tenancy, residents exiting incarceration may not utilize them..
	If the recommended changes admit a resident who turns out to be a problem, it takes THA longer to evict than traditional landlords. It takes THA and other PHAs longer because their governing laws require them to show good cause to justify a termination of a tenancy. Additionally, under most circumstances, residents are entitled to an administrative hearing even in advance of court. This prolongs the eviction process. This may further traumatize victims in THA properties.

⁶ Initially, the proposed legislation included a two-year lookback period for screening for criminal history. However, the FARE Coalition and many formerly incarcerated community members advocated at City Council hearings to remove the condition completely. The initial proposal would “inherently impact the most vulnerable residents—those charged with low level crimes, and those experiencing homelessness and cycling in and out of municipal court and county jails.” Linked [here](#).

Table 3: Comparison of HUD Mandatory, Current THA and Proposed Policies

Lifetime Bans	Tenant-Based Assistance	THA Portfolio
HUD Mandatory	(a) Lifetime ban: Individuals convicted of manufactured or producing methamphetamine on the premises of federally assisted housing.	
	(b) Lifetime ban: Sex offenders subject to a <i>lifetime</i> registration requirement under a State sex offender registration program.	
THA Current Policy	(a) Same as HUD	
	(b) Expands criteria to exclude anyone at any date subject to sex offender registration of <i>any duration</i> .	
PIE Proposed Changes	No Proposed Changes	
Drug-Related Activity	Tenant-Based Assistance	THA Portfolio
HUD Mandatory	(a) Anyone evicted from federally-subsidized housing for drug-related criminal activity within the past three years;	
	(b) Anyone convicted of producing methamphetamine in federally-subsidized housing;	
	(c) Anyone that the PHA determines to be currently engaging in illegal use of a drug or demonstrates a pattern of illegal drug or alcohol use that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.	
THA Current Policy	(a) Same as HUD	
	(b) Expands criteria to include denial for the production or manufacturing of meth <i>anywhere, whether in or out of federally-subsidized housing</i> .	
	(c) THA determines that this means anyone who is currently engaged in any use of illegal drugs <i>during the previous 12 months</i> .	
PIE Proposed Changes	No Proposed Changes	

Criminal Activity	Tenant-Based Assistance	THA Portfolio
HUD Mandatory	(a) <i>Permits</i> PHAs to prohibit admission of a household to the program if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before admission: (1) drug-related criminal activity; (2) violent activity; (3) other criminal activity which may threaten the health, safety or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity or staff or contractors of the PHA.	
THA Current Policy	(a) THA uses its permitted discretion to define these criteria as anyone who has engaged in violent, drug-related, or threatening criminal behavior in the <u>past five (5) years</u> . THA reserves the right to deny assistance for households who have committed serious crimes more than 5 years ago.	
PIE Proposed Changes	<i>Remove the five (5) year lookback</i> period and no longer review for criminal history beyond the HUD mandated denials.	Anyone with a felony conviction for violent, drug-related or threatening criminal behavior within the last 12 months from the date of application review <i>will be subject to an individualized review before a decision to admit or deny is made.</i>

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2. PURPOSES AND SUPPORT FOR PROPOSED RECOMMENDATIONS

All recommendations are data informed. Pertinent studies and literature are summarized and cited where relevant. The recommendations will serve the following purposes:

THA's first priority is that residents and neighbors are safe and enjoy living in, or next to THA's communities. The safety and enjoyment of THA's residents need a special emphasis because they have low-incomes and rely on the THA subsidy. This means that, if they have a troublesome or threatening neighbor, they cannot protect themselves by moving out. They rely on THA to make a reasonable judgment about whom to admit. One way THA does this is by reviewing an applicant's criminal history.

The following subsections review the role of using criminal history as a predictive measure of recidivism more generally, the use of a criminal background screening in predicting tenant suitability more specifically, and the role that housing plays in reducing recidivism.

2.1 Past Criminal History Has A Value in Predicting Recidivism, But it is Limited

Available research and literature report that past criminal conduct does not predict a person's prospects as a successful tenant with enough assurance to merit the extent of current screening practices.

Recidivism is one of the most fundamental concepts in the study and practice of criminal justice. Recidivism, while having varying definitions across studies and reports, generally refers to the return to the criminal justice system. A return to the criminal justice system can include being re-arrested, re-convicted, or re-incarcerated. Policy makers may consider recidivism studies to inform their policy decisions. One of the primary questions policymakers seek to answer is:

“How long does it take for an individual with a prior criminal record and no subsequent criminal involvement to be of no greater risk than persons of the same age in the general population?”

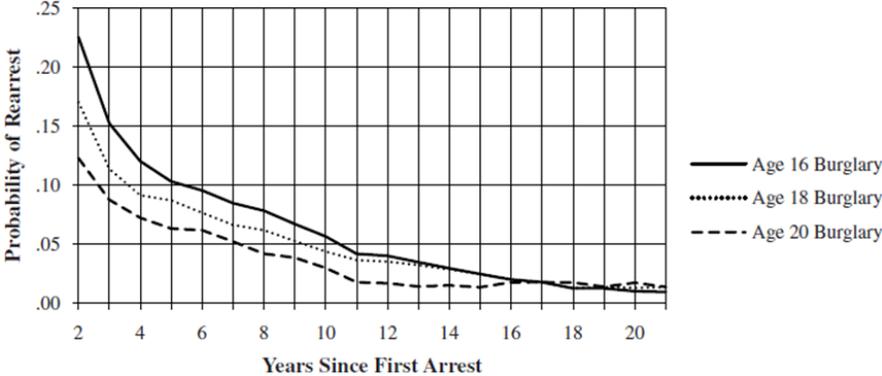
In hopes of better understanding how to measure risk regarding people who have engaged in a criminal offense, THA reviewed the findings from a widely cited report, “Redemption in the Presence of Widespread Criminal Background Checks.”⁷ The report follows a cohort of individuals

⁷ Blumstein, A., & Nakamura, K. (2009). Redemption in the Presence of Widespread Criminal Background Checks. *Criminology*, 327-359.

throughout New York State who were arrested for (1) burglary; (2) aggravated assault; and (3) robbery in 1980. They follow the cohort over a span of 20 – 25 years. To measure risk, this report labels this measurement as the “hazard rate.” The hazard rate refers to the probability, over time, that someone who has not engaged in criminal behavior since their initial offense will be arrested for a new offense. In the following graphs the hazard rate is shown as $h(t)$.

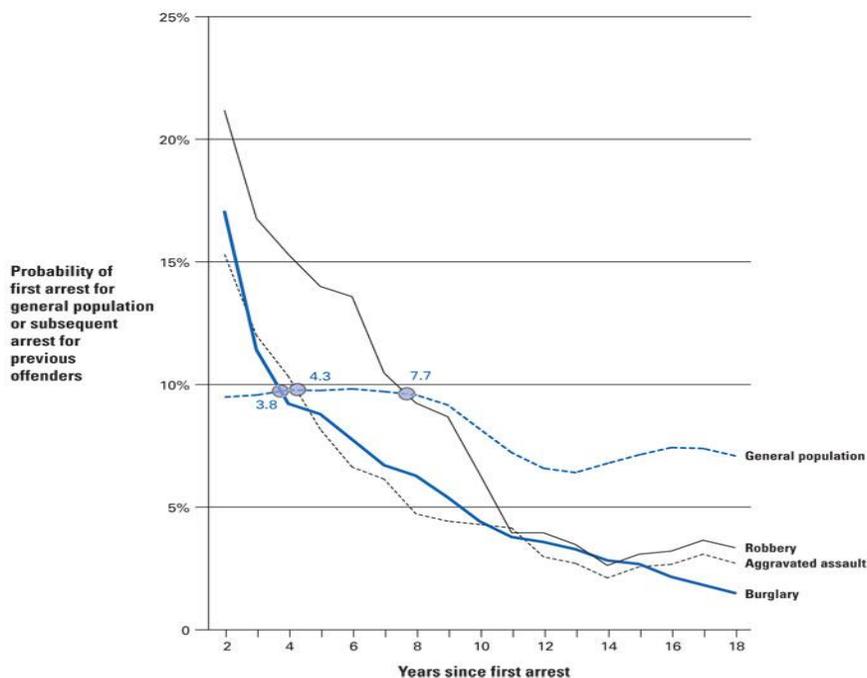
The graph below displays the differences between offense type and age at the time of the first arrest. Blumstein and Nakamura’s (2009) findings demonstrate that a younger age at the time of first arrest is correlated with a higher hazard rate than those who were older during their first offense.

Figure 1a. Hazard Rate $h(t)$: Age 16, 18, 20 Burglary



The following graph from the Department of Justice builds upon the work of Blumstein and Nakamura’s findings by looking at two factors: (1) age at the time of the 1980 (first) arrest; and (2) type of crime committed at the time of the first arrest.

The probability of new arrests for offenders declines over the years and eventually becomes as low as the general population.



The chart⁸ shows the likelihood of this cohort being re-arrested compared to the general population. For those whose first arrest was for burglary at the age of 18, they reach the same hazard rate of the same-aged general population within 3.8 years. Those arrested at 18 for aggravated assault reach the general population’s hazard rate within 4.3 years and those arrested for robbery take longer at 7.7 years. The numbers align with other generalizations found in criminal justice literature that younger age and offense type are correlated with their likelihood to re-offend. For all groups the likelihood of re-offense declines over time.

While these reports explain how past criminal behavior predicts future criminal behavior, there are some limitations when relying on recidivism statistics that are worth nothing⁹.

William Rhodes¹⁰ provides an analysis of how differing definitions can skew recidivism data. In Rhodes’ analysis, Rhodes uses the Bureau of

⁸ Blumstein, A., & Nakamura, K. (2009). 'Redemption' in an Era of Widespread Criminal Background Checks. *National Institute of Justice (NIJ) Journal* (263), 10-17. Linked [here](#).

⁹ Rhodes, W., Gaes, G., Luallen, J., Kling, R., Rich, T., & Shively, M. (2016). Following Incarceration, Most Released Offenders Never Return to Prison. *Crime & Delinquency*, 62(8), 1003–1025. Linked [here](#). Zhu, J. (201) Know More: Recidivism. Restore Justice Website. Linked [here](#). Butts, J.A., Schiraldi, V. (2018). Recidivism Reconsidered: Preserving the Community Justice Mission of Community Corrections. Harvard Kennedy School: Program in Criminal Justice Policy and Management. Linked [here](#)

¹⁰ Rhodes, W., Gaes, G., Luallen, J., Kling, R., Rich, T., & Shivley, M. (2014). Following Incarceration, Most Released Offenders Never Return to Prison. *Crime and Delinquency*, 1003 - 1025.

Justice Statistics (BJS) special report. The BJS report contains some discouraging statistics. BJS reports that 5 in 6 state prisoners will be arrested at least once during the 9-year follow-up. The report relies on re-arrests rather than returns to prison or court, or new convictions. Rhodes brings attention to BJS's methodology which causes high-risk offenders to be overrepresented in the overall statistical results. The BJS does acknowledge this variance and shares that 23% of this sample group are responsible for nearly half of the re-arrests that occurred within this 9-year follow up. Rhodes's analysis of the BJS data concludes that 2 out of 3 prisoners actually never return to prison.

However, given these variances and limitations, there are some consistencies found throughout the criminal justice literature.

1. For those who will return to prison, most will do so within the first three years¹¹;
2. Age is a reliable predictor – younger offenders show higher rates of recidivism¹²;
3. Previous criminal history increases the likelihood of re-offending¹³;
4. Property crime offenders are the most likely to re-offend and be re-incarcerated for the same offenses versus those incarcerated for violent offenses, who are more likely to be re-incarcerated for less serious offenses¹⁴;
5. Serious violent offenses such as rape, murder, and arson show the lowest recidivism rates¹⁵;
6. Repeat offenders are typically re-incarcerated for less serious crimes¹⁶.

¹¹ Alper, M., Durose, M. R., & Markman, J. (2018). 2018 Update on Prisoner Recidivism: A 9-year Follow-up Period (2005-2014). Washington, D.C.: Bureau of Justice Statistics. Linked [here](#). Evans, M. (2010). Recidivism Revisted. Olympia: Washington State Department of Corrections. Linked [here](#). Knoth, L., Wanner, P., & He, L. (2019). Washington State recidivism trends: FY 1995–FY 2014. (Document Number 19-03-1901). Olympia: Washington State Institute for Public Policy. Linked [here](#).

¹² Knoth, L., Wanner, P., & He, L. (2019). Washington State recidivism trends: FY 1995–FY 2014. (Document Number 19-03-1901). Olympia: Washington State Institute for Public Policy. Linked [here](#). Also see Section 2.1.1 footnote 1.

¹³ E.K. Drake, S. Aos, & R. Barnoski (2010). Washington's Offender Accountability Act: Final report on recidivism outcomes. Olympia: Washington State Institute for Public Policy, Document No. 10-01-1201. Linked [here](#).

¹⁴ Previously cited BJS report. Brinkman, L. O. (2010). The Sentencing Project: State Recidivism Studies. The Sentencing Project. Linked [here](#).

¹⁵ Previously cited. BJS report. See footnote 5.

¹⁶ See footnote 5.

7. In fact, individuals being released from incarceration are 10x more likely to become homeless than the general population.¹⁷
8. Pre and post-incarceration homelessness is a predictor of re-incarceration.

Described above are some of the factors that help predict whether or not a person will re-offend. Other factors include unemployment or low wages¹⁸, anti-social behaviors, dysfunctional peers, and lack of medical coverage which can exacerbate another risk factor -- current substance abuse¹⁹. The following sections describe the role of housing in helping justice-involved individuals successfully re-integrate and promote positive outcomes that benefit them, which in turn benefits the community at large. Other sections in the report shed some light on the protective factors that aid in discontinuation as well.

In short, the research shows there is no single factor in predicting recidivism.

2.2 Exiting Incarceration into Stable Housing Helps Reduce the Likelihood of Recidivism

As noted above, many exiting prisons are also at increased risk of homelessness. Homelessness itself can reduce access to healthcare coverage (including treatment for mental health and substance abuse disorders), employment and education. Numerous reports show that recidivism is most likely within the first year of release²⁰. Given the barriers people exiting incarceration face upon release, higher recidivism rates within the first year of release strongly suggest the importance of creating equal access to housing.

The examples below reveal how stable housing helps produce positive outcomes for high-needs individuals experiencing homelessness.

¹⁷ Yette, E., & Evans, M. (2011). Offenders on the Earned Release Date Housing Voucher Program. Washington State Department of Corrections. Linked [here](#). Couloute, L. (2018). Nowhere to Go: Homelessness among formerly incarcerated people. Prison Policy Initiative. Linked [here](#). Letter from Shaun Donovan, Secretary, United States Department of Housing and Urban Development, to Public Housing Authority Executive Directors (June 17, 2011), Linked [here](#).

¹⁸ Landon, M. (2015). *Of Jobs and Jail: Outcomes for Washington State Property Offenders*. Olympia: Washington State Statistical Analysis Center. Linked [here](#).

¹⁹ Shah, M. F., Black, C., & Felver, B. (2013). *Achieving Successful Community Re-Entry upon Release from Prison*. Washington State Department of Social and Health Services. Linked [here](#).

²⁰ Washington State Sentencing Guidelines Commission. Review of the Sentencing Reform Act FY 2019. Linked [here](#).

2.3 Examples From Evaluations of Permanent Supportive Housing (PSH)

“Permanent supportive housing is a successful and proven programmatic and housing intervention, while Housing First is a framework that can and should be used within permanent supportive housing, as well as in other program models, and as a community-wide framework for ending homelessness²¹.” The Housing First model theorizes that providing immediate and safe housing helps stabilize the individual who may then choose to access the services made available to them in Permanent Supportive Housing environments. The PSH model combines housing with voluntary services for people experiencing chronic homelessness and complex needs. The following subsections highlight the positive impact that housing provides for high-needs individuals who are exiting the streets into housing with supportive services. The following examples consist of studies of individuals with behavioral issues and substance abuse disorders, although not all will have criminal histories.

2.3.1 Evaluation of Seattle’s Downtown Emergency Service Center

Daniel Malone’s report, “*Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults with Behavioral Health Disorders*”²² delivers findings from Seattle’s Downtown Emergency Service Center that offers context as to how housing correlates with discontinuation of criminal activity and returns to the criminal justice system. Malone found that while 51% of their permanent support housing participants had a criminal record, 72% of all participants were successful in their housing program. 70% of those with criminal histories were successful. The difference in outcomes between those with criminal histories and those without were not statistically significant—concluding that participants with a criminal history were just as successful as those without. In his report, Malone defines success as retaining supportive housing for at least two years or transitioning to a stable housing situation.

Other factors had a higher predictive value, such as a younger age at move-in, current substance abuse issues, and a more extensive record of drug and property crimes. Once all variables were adjusted for participants with a known criminal background – younger age at move-in remained the only variable associated with housing failure. As a predictor of criminal behavior, likelihood declines as the previously incarcerated grow older. Malone

²¹ USICH. (2014). Implementing Housing First in Permanent Supportive Housing. United States Interagency Council on Homelessness. Linked [here](#).

²² Malone, D. K. (2009). Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults with Behavioral Health Disorders. *Psychiatric Services*, 60(2), 224-230. Linked [here](#).

concludes keeping individuals with criminal records out of housing may be unnecessarily restrictive.

2.3.2 *Evaluation of Returning Home: Supportive Housing for Individuals releasing from Ohio Prisons with Behavioral Health Disabilities and Risk of Housing Insecurity*

Funded primarily by the Ohio Department of Rehabilitation and Correction, the Urban Institute conducted a quasi-experimental study to explore the impact of single-site and scattered supportive housing from nine providers for 121 people released from 13 state prisons in Ohio.²³ The housing providers provided a range of different services. The study included a comparison group of 118 participants who qualified for the program but were not selected. The study's findings concluded that participants receiving supportive housing were 40% less likely to be re-arrested within 1 year and 61% less likely to be reincarcerated within 1 year compared with the rates for the comparison group.

A closer look into the treatment group compared housing participants who were re-arrested and those who were not. They found that individuals who secured housing closer to their release from prison were less likely to be re-arrested. The evaluation also concluded that scattered housing and single-site housing did not show any difference in outcome. This may indicate that the housing providers were successful in matching participants to appropriate program/supportive services.

2.3.3 *Evaluation of New York City Housing Authority's Family Reunification Program*

The New York City Housing Authority (NYCHA) piloted a family reunification program that allowed recently released individuals to move in with family residing in NYCHA properties. Those who were eligible and chose to enroll in the pilot program were required to engage with case managers. The pilot participants were required to stay crime-free for two years before they were able to join the lease.

Vera's final evaluation of NYCHA's reentry pilot found that of the 108 total participants less than a handful of participants had been convicted of a new criminal charge while on the program. At the time of evaluation (May 2017), there were 85 active participants. None of the 85 participants committed a new crime during the

²³ Fontaine J. (2014). *The Role of Supportive Housing in Successful Reentry Outcomes for Disabled Prisoners*. Cityscape: A Journal of Policy Development and Research 15(3): 53–75. Linked [here](#).

evaluation period. Many participants reported a sense of purpose and pride as they were able to reconnect with families and contribute positively to the household.²⁴ During this evaluation period, 20 participants fulfilled the two-year program requirement. In May 2017 – 6 of the 20 participants were successfully added to the lease with 10 in process. Vera also found that 14 participating households saw annual income increases by an average of 61%.

Overall, the example provides enough evidence to conclude that housing increases a person’s likelihood to successfully remain in housing and access services that help treat their behavioral issues.

2.4 PIE Review of Past and Current THA Residents to Determine the Correlation Between the Presence of Criminal History and Housing Outcomes

A review of current and past THA residents did not show any meaningful relationship between past criminal history and un/successful tenancy. PIE examined this relationship in several ways.

PIE reviewed THA households that had a criminal history at admission between 2014 – 2017. For these clients, PIE reviewed account notes, open/closed cases, and violations and verified if participants were still active participants.

PIE reviewed to see if participants with open cases/concerns²⁵, particularly those related to nuisance/criminal behavior, had a criminal history at admission.

PIE reviewed participants who were terminated or evicted for any reason. Due to reporting limitations, this primarily included participants who had been terminated since 2016. A small portion were terminated for criminal or criminal-related behavior, and not all had a criminal history at admission.

Finally, PIE reviewed for criminal history at admission for residents with known/documented behavioral issues; or were in the process of being terminated. The findings are below.

Overall, violations or evictions due to crime or nuisance were a relatively small portion of the total violations (7% of 284, or 19). Of these violations and evictions, one-third, or 6 of the 19, had some sort of criminal history

²⁴ Bae, J., diZerega, M., Kang-Brown, J., Shanahan, R., & Subramanian, R. (2017). *An Evaluation of the New York City Housing Authority's Family Reentry Pilot Program*. New York: The Vera Institute of Justice. Linked [here](#).

²⁵ Cases/concerns are opened by THA staff for several reasons, including problematic behavior meriting written documentation.

at admission. PIE reviewed THA residents who were terminated from program with known problematic behavior. PIE found similar results. Those with criminal history at admission made up approximately one-third (1/3 with criminal history; 1/3 without; and 1/3 with unknown history) of groups with reported nuisance, crime, or evictions. While crime and nuisance were a minor cause for recorded violations and evictions, participants with a criminal history were disproportionately represented among these instances and suggest some level of correlation between criminal history at admission and problematic behaviors.

One thing to note is that the definition of criminal history used in this analysis was applied much more broadly than THA's screening criteria for criminal history. The criminal screening criteria used in this analysis included those whose felony convictions were beyond THA's five-year lookback; and those with minor misdemeanors such as driving with a suspended license.

Account notes for residents with a criminal history show that the main causes for crime-related violations or terminations primarily include but are not limited to unauthorized guests or drug-related activity. PIE is unable to compare this data to expected, or normal rates of crime or nuisance and cannot conclude whether or not this lends to an increase of crime and nuisance in housing. THA did not have data available that could work as a comparison to PIE's analysis of THA clients with known criminal histories.

2.5 Housing Helps Strengthen Protective Factors That Reduce Recidivism, Makes the Community Safer, and Reduces Public Costs

Housing provides a safe place that people can call home, rest their heads and feel safe and secure. When those basic physiological needs are met then people can strive to improving their safety needs such as employment, treatment, education and so on²⁶. Housing is an essential piece to anyone's stability and especially for those who are reintegrating after a period of incarceration. Housing is foundational to keeping a job²⁷, maintaining health, establishing/maintaining pro-social relationships and pursuing educational opportunities – all protective factors that help reduce recidivism.

²⁶ Based on Maslow's Hierarchy of Needs. A description is linked [here](#).

²⁷ For example, in a 2012 report "Employment Outcomes Associated with Rapid Re-Housing assistance for Homeless DSHS Clients in Washington State" DSHS Rapid Rehousing clients were almost 50 percent more likely than the comparison group to be employed during the quarter they received assistance. Over a span of a year, they were 25 percent more likely than the comparison group to be employed.

2.5.1 *The Relationship between Stable Housing and Protective Factors That Help Reduce Recidivism*

Washington’s Department of Commerce prepared a report, “*Achieving Successful Community Re-Entry Upon Release from Prison: Housing and Medical Assistance as Keys to Reduced Recidivism and Improved Employment Outcomes.*” This report followed a cohort of individuals for a 12-month period post-incarceration. Some of their key findings were that: (1) those who were previously incarcerated and receiving housing assistance were more likely to have Medicaid coverage, which also allowed them to access treatment for substance abuse disorders and that within this group participation was relatively high (38% vs. an average of 28%); (2) and those with Medicaid coverage were less likely to be re-incarcerated. The report found that for those who were housed in a permanent destination (PSH, renting their own unit—with or without subsidy, or permanently living with friends or family) had lower rates of recidivism, felony convictions and re-arrests compared to their housing insecure cohorts (emergency shelters or transitional housing). The permanently housed group saw a recidivism rate of 3% while those with housing insecurities saw recidivism rates up to 9% during the 12-month follow-up period.

Another Washington State DOC report examined the employment outcomes of property offenders found that employment has a positive effect on recidivism, but also discovered that higher wages are a better indicator²⁸. Another report found that losing housing had a greater impact on job loss, than losing a job was to housing loss²⁹. Timing of employment post incarceration was also important, and one study found that those who found employment, particularly in the first two months, were less likely to recidivate³⁰.

2.5.2 *Providing Housing for Previously Incarcerated Individuals Reduces Public Costs*

The Washington State Institute of Public Policy (WSIPP), a non-partisan public research group, evaluated the effectiveness of housing supports for people returning to their communities from prison. They concluded that housing supports offer a \$3.75-\$1 benefit-cost ratio. This means that for every dollar invested in

²⁸ Landon, M. (2015). *Of Jobs and Jail: Outcomes for Washington State Property Offenders*. Olympia: Washington State Statistical Analysis Center. Linked [here](#).

²⁹ Desmond, M., & Gershenson, C. (2016). *Housing and Employment Insecurity among the Working Poor*. Oxford University Press for Society for the Study of Social Problems. Linked [here](#).

³⁰ Visher, C., Debus, S., Yahner, J. (2008) *Employment after Prison: A Longitudinal Study of Releases in Three States*. Linked [here](#).

housing supports the state sees a return of \$3.75 in savings from reduced future crime and reduced use of public services.³¹ More importantly, WSIPP concluded that housing supports significantly reduced recidivism for violent offenders. Another Seattle study found that the annual cost to house 95 tenants in PSH was 53% less than the annual service costs when that same group was homeless. This same group decreased their use of emergency rooms and costs declined by 73% two years after this group was housed.³²

2.5.3 *Increasing Access to Housing for Justice-Involved Individuals Promotes Family Reunification and Success, Especially for Families with Children*

Incarceration creates a ripple effect not only hurting the individual, but their families and their communities. The disparities seen in the criminal justice system means that poor children, and especially poor children of color, are more vulnerable to those negative ripple effects. Neighborhoods with disproportionate rates of incarceration are destabilized as social and family networks are disrupted and face higher rates of crime and poor health outcomes. These neighborhoods tend to have high-rates of poverty and are very likely to be predominantly Black. These settings make incarceration intergenerational and the statistics show that children with an incarcerated parent are also 6x more likely to become incarcerated themselves. They may even experience justice-system involvement earlier in life and more frequently.³³ Because of the racial disparities in incarceration rates, Black children are disproportionately affected.

Families of those serving time may experience emotional and financial hardship throughout the duration of a loved one's incarceration which continue into their release. Incarceration weakens family ties and may reduce total household income, especially when the incarcerated individual is the breadwinner. Children of incarcerated adults often experience behavioral problems – “with boys of fathers behind bars displaying more delinquency and aggression and girls exhibiting more internalizing behaviors and attention problems.³⁴” Children who have at least one parent incarcerated are much more likely to experience

³¹ Washington State Institute for Public Policy (2018). Housing assistance without services: adult criminal justice. Olympia. [Linked here.](#)

³² Washington Low-Income Housing Association. Myths and Fact of Homelessness in Washington State. [Linked here.](#)

³³ [Linked here.](#)

³⁴ Prison Fellowship. (2017). FAQs about children of prisoners. Retrieved from [here.](#)

physical, mental and academic problems than those whose parents have never been incarcerated.

Studies have shown that access to housing and employment help reduce recidivism. And for those exiting prison, many will rely on their friends and family for support³⁵. Many of those family members will live in public housing. They will not only rely on family and friends for housing, but these social networks are their strongest links to employment as well³⁶. Strong relationships with pro-social family and friends deter individuals from re-offending. These relationships may also aid in higher employment rates and reduced substance use³⁷. Studies have found that when for children who aren't able to live with their parent's post-incarceration stable housing was key in keeping regular and frequent communication³⁸. The newly added family members also report a greater sense of worth and satisfaction.

In 2016, Washington DOC launched the Parenting Inside Out program, an evidence-based, cognitive-behavioral program designed to help incarcerated parents reestablish contact with their children while they're behind bars and learn effective parenting skills to use release. It was modeled after a program first launched within the Oregon DOC facilities. The program had 359 participants who reported to have some role in parenting their children in the past and expected such a role in the future. After one year of participation, participants were less likely to have been re-arrested (32% to 41%) and reported substantially less substance abuse (66% reduction one year after prison). Participants also reported more family contact and were more likely to be involved in their children's lives. Participants also had lower scores in depression, parental stress than their non-participating peers. Participants were also more likely to use positive reinforcement. For parents who were sentenced under the Parenting Sentence Act³⁹ preliminary results after three years of participation show significant decreases in recidivism as compared to similar

³⁵ Keene, D., Rosenberg, A., Schlesinger, P., Guo, M., Blankenship, K., (2017) Navigating Limited and Uncertain Access to Subsidized Housing After Prison. Linked [here](#).

³⁶ Breanne Pleggenkuhle, Beth M. Huebner & Kimberly R. Kras (2015): Solid Start: supportive housing, social support, and reentry transitions, *Journal of Crime and Justice*. Linked [here](#). Also see footnote 24.

³⁷ Fontaine, J., & Biess, J. (2012). *Housing as a Platform for Formerly Incarcerated Persons*. Urban Institute. Linked [here](#).

³⁸ Elhage, A., (2018). Factors That Shape Parent-Child Reunification After a Parent is Released From Prison. Institute for Family Studies. Linked [here](#).

³⁹ Learn more about Washington's Parenting Sentencing Alternatives [here](#).

groups⁴⁰. This sentencing alternative requires parents to continue to serve their sentence in conjunction with community supervision and treatment/support services. While the outcomes demonstrate that providing parental coaching support to incarcerated individuals promote better parenting, it also highlights how positive relationships with family help reduce recidivism⁴¹.

PIE's proposals to reduce the use of criminal history as a screening criterion supports family reunification for people who have finished serving their time and are seeking to live with family members who are currently living in THA properties or receiving THA's rental assistance. The proposed decrease of the lookback period would do this. The proposal to base the lookback criteria on date of conviction vs date of release also promotes family reunification. *See* Section 3.5.

3. REDUCING HOUSING BARRIERS FOR JUSTICE-INVOLVED INDIVIDUALS

Those who have been incarcerated experience barriers when seeking housing. Yet, housing is essential in addressing any risk factors that would increase their likelihood of being reincarcerated. The following describes the barriers to housing justice-involved individuals face when seeking affordable housing. The following barriers are also likely to be in addition to other common factors among justice-involved individuals such as lower wages, poor credit and disabilities.

3.1 The Use of Background Checks in Private and Unsubsidized Housing

Landlords commonly rely on background checks to identify “good tenants.” A good tenant is someone who can fulfill the three main obligations of a tenant: (1) pay rent on time; (2) take care of the property; or (3) treat neighbors and staff well. Landlords rely on background checks to predict future behavior.

As with most landlords, THA's screening process includes more than just a criminal background check. It also includes a review of past rental history, credit history, and references. PIE's survey of THA's landlords discovered that some landlords find that past rental history, income, and credit are better indicators than criminal history for determining suitability. PIE's survey also showed that 60% of respondents would consider an applicant with a criminal history. The report, “*Landlord Attitudes Toward Renting to Released Offenders*,” supported by the

⁴⁰ Aguiar, C. (2015). Research in brief: Preliminary felony recidivism outcomes of the Community Parenting Alternative. Spokane: Washington State Institute for Criminal Justice. Linked [here](#).

⁴¹ Parenting Inside Out Outcome study. Linked [here](#).

Department of Housing and Urban Development, uncovered similar findings⁴².

While this reveals some optimism around landlords' opinions toward applicants with criminal histories, opinions can vary. A 2018 survey of over 4,000 Seattle landlords found that only 16.6% have ever rented to a person with a criminal history and that 40% disagreed that Seattle's Fair Chance at Housing ordinance could be effective⁴³. Whereas, about 27% of the landlords responded more positively saying they strongly agreed that the ordinance could be effective and the remaining two-thirds were neutral. The report concluded that negative associations with Seattle's housing ordinances often resulted from misconceptions, feelings that Seattle misplaced responsibility onto landlords for affordable housing issues, and the extra burden created by these ordinances.

Within this climate, applicant screening poses several problems. Unfavorable marks, such as poor credit, past evictions and/or criminal history reduce a person's chances of finding housing. Repeated denials become expensive because housing seekers must pay application fees each time. Additionally, those with weak rental histories are also more likely to be low-income. They compete with households with stronger histories or higher incomes in a market that already lacks a sufficient affordable housing stock. As a result, low-income housing seekers with weak histories end up in areas of low opportunity with poorer housing quality and higher crime rates. This does little to adequately support their re-entry and rehabilitation if they are recently released from prison or jail.

Tenant screening also does not reveal important details about a person. Past difficulties may be a result of domestic violence and/or disability status, or poverty. PIE seeks to propose policy change to reduce housing barriers for those needing extra support that can be found in federally-assisted housing.

The report, "*Background Checks and Social Effects: Contemporary Residential Tenant-Screening Problems in Washington State*" further details the challenges of housing seekers with criminal histories in Washington⁴⁴. It discusses the limitations of using background screenings to judge an applicant's likelihood of being a good tenant. It also describes that it is not uncommon that background screenings contain misleading or inaccurate information. Often, there are not reasonable remedies to correct mistakes commonly found in screening reports.

⁴² Clark, L. *Landlord Attitudes Toward Renting to Released Offenders*. 71(1). Linked [here](#).

⁴³ Crowder, K. (2018). *Seattle Rental Housing Study: Final Report*. Seattle: University of Washington Center for Studies in Demography and Ecology. Linked [here](#).

⁴⁴ Dunn, E., & Grabchuk, M. (2010). *319 Background Checks and Social Effects: Contemporary Residential Tenant-Screening Problems in Washington State. Seattle: Seattle Journal for Social Justice. Linked [here](#).

3.2 Legal Opinions Regarding A Landlord’s Duty to Protect Its Tenants from Harm

Housing providers often believe they will be found liable for harm caused by a tenant and that the presence of a criminal history is a reliable predictor that a tenant would do so. As reported in the Seattle Housing report referenced in Section 3.1 nearly 75% of surveyed landlords felt Seattle’s Fair Chance ordinance would jeopardize their current residents’ safety. This is a common belief that leads to denials of those with criminal history based on misconceptions of a landlord’s duty to protect tenants from harm.

The NYU Journal of Legislation and Public Policy published an article, “*Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball*”⁴⁵ gives an analysis on what the law says about a landlord’s duty to protect their tenants from harm. The authors conclude that Washington State does not have clear guidance on the scope of that legal duty. And, that since criminal history is not a reliable predictor of successful tenancy that simply renting to a person with a criminal history should not make Washington landlords liable for harm against their tenants. A review of Washington’s Residential Landlord-Tenant Act does not explicitly impose a duty to protect tenants from harm caused by another tenant. *See* Chap. 59.18 RCW.

The authors cite a court case which found that denying applicants with criminal histories because landlords believe they are likely to harm others are based upon “unfounded fear, speculation and prejudice.”⁴⁶ The authors find that the courts’ view on questions of liability often align with sociological studies concluding that the presence of a criminal background alone is not a reliable predictor of a tenant’s risk to cause harm to other tenants.

3.3 Housing Barriers in Pierce County

Pierce County has, on average, 19,750 arrests and 1,150 individuals admitted to prison every year out of a population of 876,000 people. In the last year, 1,140 people exited prison to Pierce County, less than 0.13% of the County’s population.

⁴⁵ Ehman, M., & Reosti, A. (2015). Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball. *N.Y.U Journal of Legislation and Public Policy*, 1-27. Linked [here](#).

⁴⁶ “In one such case, a city tried to argue that it was justified in refusing to issue a permit to an agency that facilitated the reentry of federal offenders into society because occupants of that residence were more likely to commit crimes than a person who had never been convicted of a crime.” Note: The city was unable to support its claims.

THA worked closely with Pierce County’s Human Services Programs and was provided data that can speak to the relationship between a criminal history and success of securing housing within Pierce County.

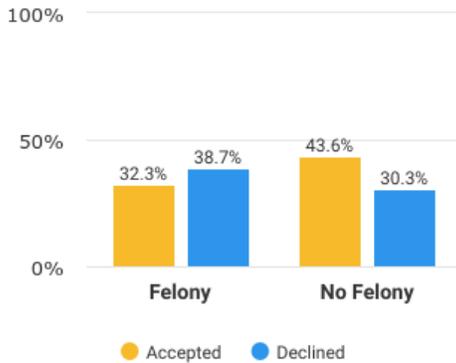
Pierce County funds multiple housing programs throughout its jurisdiction. These programs make up Pierce County’s Coordinated Entry system. This system is an entry point for households that are experiencing homelessness in Pierce County. At the first point of contact, Coordinated Entry will screen households to determine eligibility. After determining eligibility, a “Diversion” trained staff member initiates an exploratory conversation with the individual or family to brainstorm solutions and options. Diversion is a process that encourages households to come up with their own solutions to their housing crises. The diversion process identifies temporary barriers or one-time solutions that can assist a family to overcome the obstacle they face in order to stabilize. For those unable to discover housing solutions through the diversion process, they are referred to a longer term housing program – this may be Rapid Rehousing programs or family shelters.

Using Pierce County data, the following discussion and graphs illustrate the effects on households when there is a member that has a critical felony or a history of police interactions⁴⁷.

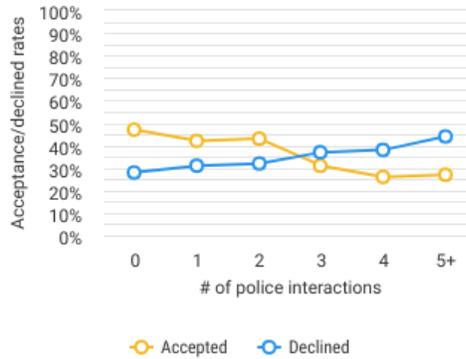
The first graph demonstrated the relationship between police interactions and acceptance into a housing program once referred by Coordinated Entry. During the initial intake, households are asked how many police interactions they’ve had in the last five years. Answers are self-reported by the respondent. Questions about police interactions are phrased to ask about the number of arrests/bookings and pick-ups. The following chart shows that the higher the number of police interactions, the lower the rates of referral acceptance. Referral acceptance rates refer to the rate at which referrals made by Coordinated Entry to housing service providers are either accepted or denied. The numbers do not total 100 percent as it only accounts for outcomes that resulted in a denial or acceptance rather than other outcomes such as cancelled, placed on a waiting list, etc.

⁴⁷ Critical felonies are felony convictions for arson, sex offenses and manufacturing meth.

Felony convictions correlate with referral acceptance rates

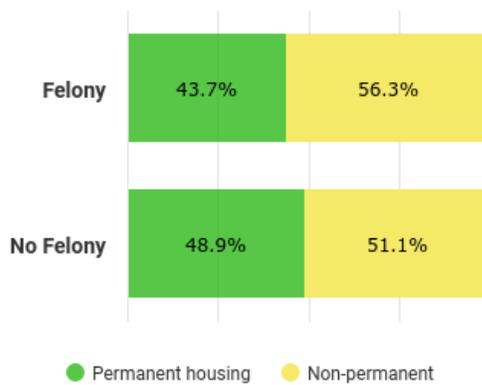


Police interactions correlate with referral acceptance rates



Based on the initial assessment, Coordinated Entry may refer the family to partner housing providers. These housing providers may be rapid rehousing service providers (which entail securing housing out in the private market) or may be a family shelter (temporary housing). The following graphs show the relationship between felony conviction and number of police interactions on the destination type (permanent versus non-permanent housing) upon exit from the Coordinated Entry system.

Felony conviction effects on exit destination type



Police interactions effect on exit destination type



In these graphs, along both dimensions, the effect of criminal history on housing can be observed. From these graphs it's apparent that a prior

felony conviction corresponds to a decreased acceptance rate into referred housing programs. The same happens for those who report a higher number of police interactions.

The line graph on the right shows a similar trend – households with a prior felony conviction or more interactions with police correspond with a decreased likelihood of finding permanent housing through the homeless housing system.

3.4 A Requirement to Participate in Supportive Services Is an Additional Barrier to Housing

This section seeks to explain why PIE’s recommendation does not include a requirement to participate in supportive services. Requiring services is not a current THA practice, nor an industry best practice.

Yet, participation in services or not participating can be a factor in the individualized assessment PIE is recommending. PIE’s proposed recommendation for an Application Review Panel is similar to THA’s current Informal Review Process. The biggest difference being that those going through the Informal Review Process have already been denied housing and are seeking to appeal that denial. Presenting evidence of rehabilitation – which may include receiving case management or participating in treatment is helpful to overturn that denial. Yet, decisions to overturn a denial will not likely be based solely on the condition that the applicant must start or continue to receive services to be admitted. This is also true when THA clients are appealing a recommendation to terminate their assistance. THA staff that conduct these reviews strongly oppose requiring participation in services.

3.4.1 This Practice Cannot Be Applied in A Consistent, Nondiscriminatory Manner.

THA staff also brought to light that requiring supportive services creates an inconsistent and inequitable practice. The circumstances that resulted in a conviction vary and each person may benefit from different interventions. It is a discriminatory process when one client may be required to attend a rehabilitation group; while another may have no appropriate or required remedy for their past conviction. This standard cannot be applied equitably and is likely to violate Fair Housing standards. This is especially true if the conviction is a result of a person’s disability or other protected class status. It is also true that not all applicants with a past conviction come with a need to access supportive services. There are also individuals who through parole or probation are connected with a DOC officer and may have largely addressed their needs.

Ultimately, this is a practice that will create a discriminatory practice that targets persons with particular convictions.

3.4.2 *This Practice Does Not Align with the Goals of Reducing Barriers to Housing.*

To require a person to participate is inconsistent with reducing barriers to housing. Supportive services may be a financial or logistical burden for clients which diminishes their ability to be successful in meeting this requirement to keep their housing. THA should not impose additional requirements that may jeopardize a person's housing, especially for those who already face high barriers and may have no other housing options.

An alternative housing model such as Housing First operates similarly. The Housing First model serves those who are experiencing chronic homelessness and likely need services to address behavioral health problems. Even within this high-needs population, Housing First does not require participants to engage in supportive services to receive or keep housing. "Additionally, Housing First is based on the theory that client choice is valuable in housing selection and supportive service participation, and that exercising that choice is likely to make a client more successful in remaining housed and improving their life."⁴⁸ Research supports the Housing First theory and finds that Housing First participants find better results when participants lead when, how and where they will access services. Findings also note that for low-to-fixed income households that private market vouchers increased housing stability and contact with case managers, while the intensity of treatment did not.⁴⁹ Further research shows that for those with substance abuse disorders housing is correlated with the participant's willingness to enter treatment programs to address substance abuse disorders.

HUD's regulations permit PHA's to make exceptions to its mandatory denial of housing for anyone currently engaging in illegal use of a drug or demonstrating a pattern of illegal drug or alcohol use, when the applicant can provide evidence that they are participating in or have completed a supervised drug or alcohol rehabilitation program. In that, HUD permits a conditional admittance to housing as an exception to a mandated denial. There

⁴⁸ National Alliance to End Homelessness. Fact Sheet: Housing First, April 2016. Linked [here](#).

⁴⁹ Gulcur, L., Stefancic, A., Shinn, M., Tsemberis, S., Fischer, S.N. (2003). Housing, Hospitalization and Cost Outcomes for Homeless Individuals with Psychiatric Disabilities Participating in Continuum of Care and Housing First Programmes. *Journal of Community & Applied Social Psychology* 13: 171-186. Linked [here](#).

is no language that permits a PHA to deny or terminate assistance if the new admit fails to continue their rehabilitation.

3.5 Shorter Lookback Periods Will Help Reduce Barriers to Housing When Housing is Most Crucial

Housing providers and public housing authorities have different methods as to when an applicant's lookback period begins. A lookback period refers to the period of time that will be reviewed for the presence of criminal history for determining eligibility for assistance. The lookback period begins from the date the application is being reviewed to a specified date determined by the PHA. For some, the lookback goes back to the most recent date of conviction (the date the person was found guilty). Other PHAs will lookback to the date of release (the date the person was released from incarceration).. PIE examined the options of a lookback period based on the date of release vs. the date of conviction. The date of the offense will precede a person's time served; whereas the date of release begins after the person has served their time. PIE's recommendation is to begin at the date of offense. The following subsections provide context for this proposal.

3.5.1 Application Review Based on Date of Release

While PIE's recommendation is to begin the lookback period based on the date of conviction. PIE recognizes that a lookback period based on the date of release comes with some benefits as follows:

1. The purpose of a lookback period is to judge a person's success in living without re-offense or without causing problems as a tenant. The only meaningful time to judge that is after the person is released.
2. This is the most common practice of other housing authorities, even those with lenient lookback periods. They have not seen an increase in crime or nuisance applying this practice.
3. While it increases the threshold of those who will be subject for review it would not automatically result in more denials. Yet, it also means that everyone exiting incarceration will be subject to an individualized review.

A lookback period based on the date of release comes with screening advantages, but disadvantages for the individual and their family.

A lookback period based on the date of release also comes with some disadvantages. Many families may not fully understand THA policies and procedures especially ones that are discretionary. Generally, families are already hesitant to allow family members with a criminal history to reside in their homes due to common criminal screening policies that have denied applicants admission⁵⁰. In Vera's review of NYCHA's Family Reunification program, there was widespread distrust and assumptions that the program was a tactic to identify unauthorized residents and evict families for lease violations⁵¹. Although THA may loosen its criminal screening criteria, an individualized review may still be too ambiguous and families may still hesitate to notify THA that they'd like to add a family member with a criminal history.

This forces families to choose between their housing and supporting a family member. HANO hosted a public comment session back when it was considering changes to their criminal screening policies. During this session one resident said, "I have a son coming home (from prison). He's going to need somewhere to stay. And guess what? I'm going to take a risk with my son because I don't want him to go back to jail. So, I'm going to take a risk if I have to hide him in the closet or put him under the bed or put him on the roof. I'm going to do it."⁵² This resident's comment shows the painful position families are placed in when they're forced to choose between their housing and their family member with a criminal history.

Sometimes this means that previously incarcerated individual are left to fend for themselves or that families assume the risk of housing an unauthorized resident.

3.5.2 *Application Review Based on Date of Conviction of the Most Recent Felony*

If incarcerated, a felony conviction will require a minimum of a year to be served. Thus, the date of conviction for those exiting incarceration will fall before the proposed lookback period of one year. This means that at the time of release most applicants will be eligible for housing despite their criminal history. This does not provide a sufficient period of time to pass to demonstrate non-offending behavior. However, it does allow the individual to immediately join their families post incarceration. As described in

⁵⁰ Landon, M. (2015). *Of Jobs and Jail: Outcomes for Washington State Property Offenders*. Olympia: Washington State Statistical Analysis Center. Linked [here](#).

⁵¹ (Bae, diZerega, Kang-Brown, Shanahan, & Subramanian, 2016)

⁵² [Audio from Housing Authority of New Orleans Board Meeting, March 29, 2016](#)

Section 2.1.4, families are a primary source of support and a key reason why people stay out of prison.

PIE proposes this standard for the following reasons:

1. People who have served their time should be truly free and fully welcomed back into society.
2. People who are exiting need a soft landing. People are expected to rebuild their lives after exiting, but are cut off from tools and resources that enable them to do so. Incarceration can be long and traumatizing, the first year out is a critical time as basic needs must be met.
3. Given the nature of THA's waiting list, it is unlikely recently released people who are seeking housing independently would receive an offer of housing within the year of being released. It may be unlikely that they are on THA's waiting list at all. This is because those being released from prison would have served more than one year of time, and likely several years. This time spent incarcerated would hinder their ability to apply and/or maintain an active status on THA's waiting list. It would also require an opportune circumstance where a person receives an offer of housing within that timeline.
4. In the event an applicant is immediately joining an existing household, research shows that immediate interventions post-release reduces the likelihood that one would become homeless or recidivate.
5. There is still a review for suitability. THA uses other criteria that are better indicators of successful tenancy such as past rental history, debts owed, and credit checks.
6. Older individuals benefit greatly from this practice. The likelihood of recidivism drops drastically as people age. This practice allows them to find a soft landing upon release without interruption.
7. It is easier for families to understand and feel comfortable with THA's criminal screening criteria. This makes the process of adding a family member exiting incarceration easier less intimidating and lessens the likelihood of and risk involved when families house unauthorized guests.

3.5.3 *Other Considerations: Date of Release v. Conviction*

The reader will notice that a lookback period based on the date of release reduces the length of time available for criminal history review. Most notably, the charts in section 2.1 shows results from a study that demonstrates it would take several years for someone who was arrested before they pose the same risk of arrest as the general population. This chart was included because it was the only available data of its type. There are a number of factors to take into consideration when looking at recidivism data including the tough on crime policies from earlier decades which led to the U.S. being the most incarceration nation in the world and the racial disparities between White and Black men.

PIE did not weigh this data as heavily because recent literature is more relevant to the question of using criminal background screenings in housing. As discussed in the following section racial disparities are well-documented within the justice system demonstrating that Black men are more likely to be arrested, receive longer sentences and be re-arrested. There is also pertinent data in Section 2 of the report showing people who are housed after release are less likely to be re-arrested. These findings weighed in comparison with each other show that there is inadequate data to show whether a longer lookback period is necessary. Instead, the data shows a shorter lookback period is more closely aligned with THA's social justice mission since it attempts to de-value data skewed by racial injustices in the criminal justice system and support people exiting that system.

4. REDUCE UNDUE AND DISPROPORTIONATE EXCLUSION OF PERSONS OF COLOR

It is well documented that Black men are more likely to be incarcerated than White men⁵³. Black men are also more likely to be stopped by the police, detained pretrial, charged with more serious crimes and sentenced more harshly.⁵⁴ Washington's current incarceration practices also reflect a significant impact on minority communities. Collectively, Blacks (4%), Latinos (11%) and Natives (2%) make up less than 17% of Washington State's population. However, they disproportionately make up 38% of Washington's jail and prison population (Blacks are 18%, Latinos 14%, and Natives 6% of the total population incarcerated in a state correctional facility)⁵⁵. This means that housing policies that restrict access based on criminal history will disproportionately exclude these persons of color. Similar disparities are found in the homeless data which is noted

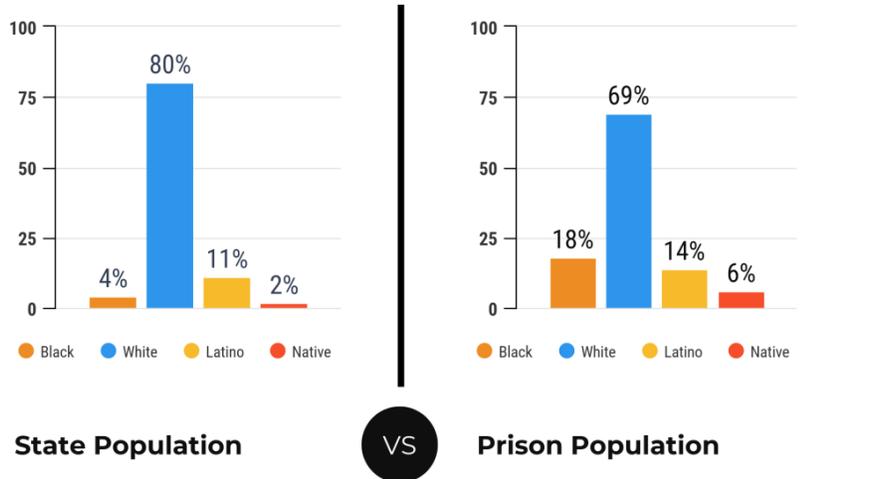
⁵³ Bureau of Justice Statistics, National Prisoner Statistics, 2008-2018. Linked [here](#).

⁵⁴Vera Institute of Justice. Incarceration Trends in Washington Fact Sheet. December 2019.

⁵⁵ Prison Policy Initiative. 2018. Racial and ethnic disparities in prisons and jails in Washington. Linked [here](#).

to be a pathway to incarceration⁵⁶. Overall, the disproportionate rate of incarceration among Black men results in disproportionate negative effects on their families and their communities.

Racial Disparities in Washington State Prisons/Jails



5. ALIGN THA WITH BEST PRACTICES AND PEER HOUSING ORGANIZATIONS

PIE has consulted with several housing authorities about their criminal screening procedures. PIE has also reviewed:

1. The criminal screening policies of regional partners and housing authorities who have worked with or recently started working with Vera under the same technical assistance grant.
2. Unison Housing's (formerly Adams County Housing Authority) white paper on their outcomes of their criminal screening reforms⁵⁷. Unison Housing was an agency featured on a national conference call hosted by

⁵⁶ Prison Policy report find that there are higher rates of unsheltered homeless for Black men (124 per 10,00) vs (82 for Hispanic men and 81 for White men)

⁵⁷ Unison Housing Partners. (2017, September). Criminal Screening Standards Case Study. Linked [here](#).

National Association of Housing and Redevelopment Officials (NAHRO) to talk through Fair Housing and criminal screening policies⁵⁸.

3. The written policies of THA's closest regional partners: Pierce County Housing Authority (PCHA), Seattle Housing Authority (SHA) and King County Housing Authority (KCHA).

Appendix B: Summary of Regional Housing Authority Policies & Vera Cohorts includes a chart summarizing the criminal screening policies of local PHAs and PHAs who are working with or have worked with Vera under the same technical assistance grant.

According to PCHA's Admin Plan and ACOP, it has a one-year lookback period for all felony convictions, or if recently incarcerated, one year from the release date. Pierce County's screening practices do not include an automatic individualized review and those who fall below the noted threshold are denied admission. However, all applicants for federally-assisted housing may appeal and request an informal review. PIE's conversations with the Pierce County Housing Authority found that they do not find criminal history to be a predictor of successful tenancy. In 2016, Pierce County reduced their screening criteria from a five-year lookback to a one-year lookback and saw no increases in eviction, nuisance, or criminal behavior in any of their properties. Their policy has been implemented for three years, providing enough time for informal evaluation that shows the changes did not lead to an increase in crime-related problems. There is some discussion to remove the screening of criminal history altogether given the initial results.

Both SHA and KCHA noted that their past criminal screening policies disqualified many of the homeless applicants on their waiting list. In response, KCHA's now screens only for HUD mandated denials for applicants who are entering programs in which supportive services are tied to the subsidy. However, for both traditional voucher programs and project-based programs, applicants with any sexual offense are subject to denial. KCHA's screening criteria for all other applicants do not have a defined lookback period. Instead, KCHA considers the seriousness of the offense and how much time has passed since the offense. All applicants are notified upon the discovery of unfavorable information and are given the opportunity to discuss their situation. After that meeting, KCHA follows up with a decision to approve or deny. If denied, applicants may request an informal hearing to appeal.

In 2008, SHA approved major changes to its criminal screening policies, revising the lookback period which had ranged up to 10 years for some offenses. The

⁵⁸ LiFari, P. F., Guerin, Z., Gurjal, T., & Hsu, J. (2017, September 19). Case Study: Reducing Barriers to Housing through HUD's Criminal Records Guidance. Washington, DC: National Association of Housing and Redevelopment Officials. Recorded briefing available for purchase [here](#).

changes reduced the lookback period to one year for all offenses except sexual offenses. Under the new rules, anyone subject to a registration requirement as a sexual offender will be denied. SHA's ACOP includes language that recognizes that criminal screenings are a useful tool for establishing suitability, but also serves as a barrier to affordable housing and family reunification. Their policies for public housing also state that applicants with a criminal history will be offered an opportunity for an individualized review before a final decision is made. All three regional partners have not had reported issues due to their criminal screening policies, although it should be noted that formal evaluations have not been conducted.

The Housing Authority of New Orleans (HANO) and Housing Catalyst in Fort Collins, Colorado report favorable findings after revising their criminal screening policies. Both agencies implemented policies that look different from each other but that determine eligibility by reviewing the type of offense(s), the number of occurrences, and includes levels of review and approval for denials. For registered sex offenders, HANO's screening matrix shows that forcible sex offenses are subject to review indefinitely. Non-forcible offenses are subject to further review within three years of conviction or one year of release. For these same offenses, Housing Catalyst requires extensive evidence of rehabilitation and supervisor approval for admission. Both agencies have not reported any significant rise in evictions, crime or administrative burden.

At the community's request, HANO also captures denial data and releases this data to the public every six months. This includes capturing how many applicants went through the review process, how many were denied, and the reason for denial. Adopting a similar evaluation tool can aid THA post implementation and revisit the policy if the data shows it is necessary. THA should also consider tracking other demographic information such as age, race, and gender to review for adverse effects for those populations. Additional data can be tracked for evaluation purposes to affirm THA's decision to revise its criminal screen policies; or appropriately revise. THA can use data such as length of housing retention, recorded history of concerns and violations, and if evicted the case of eviction.

This will help THA analyze the effects of criminal history at admission and success rates as THA tenants. THA can also capture the current baseline of staff reported concerns and violations relating to criminal activity and nuisance; and develop a tool to track resident complaints. This data can be reviewed to watch for increases in staff and resident reported events of criminal activity and nuisance. THA should track the level of crime at the property-level given that crimes may be committed by residents without criminal histories or guests of residents. THA currently works closely with the local police and fire departments and collects the number of service calls for crime-related activities. However, other factors, such as design of the properties, security and management are not as easily tracked and analyzed as factors of resident success.

HANO’s biggest challenge is convincing private landlords to adopt similar policies but offering education to landlords could be helpful in addressing that. Unison Housing in Colorado did release their first-year results after revising their criminal screening policies and found that they denied fewer people for criminal history without adverse impacts from the policy changes⁵⁹. HANO also released quarterly reports and since implementation in 2016 has only denied one person for criminal history so far⁶⁰.

PIE’s recommendations also follow the lead of recent legislation and implementation of local ordinances. In 2018, Washington State Legislature passed the Washington Fair Chance Act⁶¹ and the City of Seattle’s implemented its Fair Chance Ordinance.⁶² The Washington Fair Chance Act sought to address the disparate and discriminatory impacts of incarceration as it pertains to employment. This Act has implemented “ban-the-box” type policies which ban employers from asking about criminal history during the application phase. After an applicant has been found otherwise qualified, an employer may run a criminal background screening. However, the employer must have policies and procedures in place to appropriately deny an otherwise qualified applicant due to their criminal history. An employer must demonstrate a legitimate business reason for denial based on past criminal history.

These recommendations also consider the City of Seattle’s Fair Housing Ordinance which found screening for criminal history to be an unnecessary barrier in determining if an applicant would be a suitable tenant. The ordinance bans landlords from conducting criminal background screenings, although with an exception for public housing authorities who are governed by federal regulations that mandate such screenings. The ordinance also permits all housing providers to check for registry requirements for applicants convicted of a sex offense – however, simply appearing in a registry search is not enough to deny tenancy. In all cases, a landlord must prove a “legitimate business reason” for denying tenancy based on registry requirements.

Although there are differences in how public housing authorities and other community partners implement criminal screening policies, there is one consistent standard in their policies and practices: use of an individualized review has been adopted and has been prioritized prior to a decision to approve or deny. This allows employers and housing providers to assess each individual and determine whether they would be a suitable candidate.

⁵⁹ Unison’s white paper linked [here](#).

⁶⁰ Out of a total of 43 panel review requests between August 17, 2016 through August 31, 2018.

⁶¹ Passed by Washington State Legislature in 2018 – Washington Fair Chance Act, RCW Chapter 49.94. [Linked here](#).

⁶² Seattle, Washington, Municipal Code art. 3.14.931. [Linked here](#).

6. REDUCE THE USE OF STAFF TIME SPENT ON INFORMAL REVIEWS

PIE's recommendations should save THA staff time, and therefore money. But they will require time and money for initial implementation.

PIE reviewed applicant screening reports dating back to 2014. THA screens over 1,000 applicants (new clients and add-ons⁶³) each year. Since 2014, 10% of applicants had felony records. THA initially denied 3% of them due to criminal history. Individualized informal reviews reversed some of those initial denials. In sum, THA denies two percent of applicants each year because of criminal history. This equates to about 20 applicants per year.

Under the proposed recommendations to review for felony convictions within the last year, THA can expect to spend only a few hours a year conducting individualized reviews. To estimate how many applications would require an individualized review under the proposed policy, PIE counted the number of screenings from each year through 2014 – 2017 that had a conviction within a year of the application review date. This was an average of 3-4 screenings per year. Based on staff feedback the average informal review takes about an hour and a half – THA's proposed individualized review process would be the same in process and structure.

On the next page, the following tables depict a comparison of staff time needed between the current informal review policy vs. the proposed individualized review policy.

⁶³ New clients are households applying for admission into THA housing programs. Add-ons in this case are when the Head of Household submits a request to have a member added to their household.

Table 4. Comparison of Staff Time Spent on Denials: Current v Proposed Policy

Current Policy	Average # of applications w/criminal history within 5 years of review date per year		Average staff time conducting informal reviews per review	Average total informal reviews performed per year	Total staff time per year
		32		1.5 hours	11

Proposed Policy	Estimated applications w/convictions within a year of application review date per year		Estimated staff time conducting reviews per review	Estimated total reviews required per year	Estimated total staff time per year
	Properties	HCV			
		3	4	1.5 hours	3

In 2019, there were 9 requests for informal reviews. Table 4 shows an estimate of 11 informal reviews performed per year. Under the proposed policy, the estimated number of applications that would require an individualized review is 3, far less than the number of informal reviews THA has conducted in the past. Additionally, the estimates include tenant-based voucher applications which will no longer be subject to criminal screenings beyond the HUD mandated.

Overall, PIE’s proposals should save staff time. However, initial implementation will require additional hours of staff training to convene and train the Application Review Panel. Since the individualized review requires careful discretion of THA staff, PIE anticipates that a half-day training may be beneficial. During the community consultation period, PIE will seek guidance and best practices from the Fair Housing Center, Northwest Justice Project, and other housing authorities.

PIE’s recommendations include a required referral to THA’s Client Support and Empowerment (CSE) department for anyone who was admitted through the individualized review process. PIE consulted with CSE’s caseworker who noted that follow-up per referral requires 1.5 hours. PIE estimates this would require the same amount of staff time as the proposed individualized review process. However, there are some who may accept case management. PIE consulted with some of CSE’s case workers in THA properties. They noted their current work keeps them busy but felt confident they could manage the extra work. Given the varying needs for each person it’s difficult to estimate the extra required time.

The Property Management department has initiated their own project to strengthen its lease enforcement procedures. This is work they are already doing and have worked in according to their timeline and capacity. PIE is not requesting any additional time beyond their current work.

In September 2017, NAHRO hosted a webinar, “Case Study: Reducing Barriers to Housing through HUD’s Criminal Records Guidance.” The webinar featured Peter LiFari, now Executive Director of Unison Housing Partners who shared Unison’s journey through reducing its barriers for those with criminal histories. He shared that staff had some initial fears. After a year of implementation, they’ve shared positive findings resulting in decreased administrative time processing denials, an increase of households admitted into housing and no significant increase of tenant damage, crime or evictions⁶⁴. Other housing authorities that have implemented similar policies report decreased staff time spent on denials and have not reported an increase of crime or evictions on their properties.

See Appendix C: FY 2014 – 2017 THA Denials Summary.

7. THA CONSULTATIONS

Through June and July of 2018, PIE consulted with its THA residents, THA staff, landlords who participate in THA’s rental assistance programs, social service providers, and its liability insurance carrier. THA advertised and hosted meetings at each property that THA owns and manages. PIE staff met with the staff of the Property Management department and the Rental Assistance. THA discussed the matter in the quarterly meetings of the THA Landlord Advisory Group.

THA also surveyed residents, staff and landlords. During the staff and community meetings, THA distributed surveys. It also surveyed landlords with an online survey. The survey included mostly open-ended questions, with one multiple-choice regarding preferred lookback periods. PIE received 32 completed surveys (out of 67 total meeting participants) from residents and 15 completed surveys from Property Management staff. Graphs in this section show the survey results. 89 landlords responded to the on-line survey.

In general, THA staff and residents shared similar concerns about the proposal’s potential for increasing crime and nuisance on the properties. Both groups also recognize that housing assistance is important to the individual and household in maintaining stability. Landlords shared some of their practices with THA in how they conduct criminal background screenings. Social service providers generally favored changes that made THA’s housing more accessible to persons with criminal histories. THA’s liability insurance carrier expressed strong concerns

⁶⁴ Both the Housing Authority of New Orleans (HANO) and Unison Housing (formerly Adams County Housing Authority) tracked their outcomes since updating their policies – both agencies show a decrease in staff time and report no increases in evictions or terminations

about relaxing the criminal screening for sex offenses. It stated that if THA made such a change, it would have to review the terms of THA's coverage.

7.1 Resident Consultation

Below is a summary of the primary views from THA residents:

1. Residents understand that housing is an important component in rehabilitation.
2. The present level of crime and nuisance concern residents.
3. THA's inability to respond to crime and nuisance in a timely manner concerns residents.

Throughout all the THA housing sites, residents expressed mixed sentiments. They recognize that housing is important to rehabilitation. They are grateful to receive housing assistance despite their own past. Many did not feel comfortable imposing restrictions on who can and cannot receive housing assistance. Some residents do not see criminal history as a measure of whether an individual would be a good neighbor and believe people deserve second chances. While compassionate to the need for housing, residents also expressed that they do not wish to see any increase of crime and nuisance. They also wondered if THA was the appropriate place for housing for those exiting incarceration. Residents want to know that persons exiting incarceration had a proven time of stability and rehabilitation.

"Clean up current problems first" was a common reaction across several THA property sites. Some residents feel that crime and nuisance are already a significant problem on THA properties, including loud noises, excessive guest traffic, smoking in units, panhandling, etc. Residents do not want to see changes that would add to existing issues. Many residents (and staff) note that it is not always the actual resident that is the direct source of the problem, but often their guests. *"Guests with histories bring old friends."*

Residents complained that the *"eviction process is horrible"*. They think the rules, policies and procedures governing eviction means it takes too long to evict and is enabling. Residents noted that the level of service from contracted security companies vary among the security officers. Some residents noted that crime and nuisance begin once THA staff leave for the day. They suggest THA have 24/7 on-site management.

How residents perceive crime and nuisance vary across different populations. THA has seven buildings designated for people identified as elderly or disabled; and five properties designated for family housing.

Understandably, residents are concerned about acts of violence (physical and sexual), drug use/distribution and theft. Family sites expressed concern for issues concerning youth related crimes such as vandalism, loitering, etc. Senior sites expressed concern regarding nuisances (which may lead to criminal acts) such as smoking in units, frequency of unknown guests and their access to the building, drug use and distribution, and behaviors that may stem from untreated mental health issues.

Although residents expressed these concerns about present levels of crime and nuisance, many also expressed support for THA increasing access to housing assistance for those with criminal histories. *“I don’t know their background, and I don’t want to know, I just want to be safe”* was a common sentiment expressed by many. Ultimately, THA residents rely on THA to maintain the peace, safety and security on THA properties.

7.2 Staff Consultation

Property Management expressed the same concerns as THA residents. Property Management staff are more concerned about resident behavior than Rental Assistance. As property managers they work directly with residents while Rental Assistance has a more administrative relationship with clients.

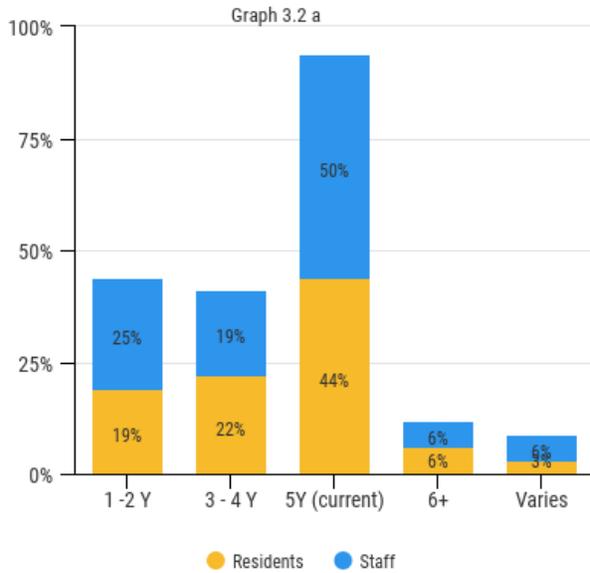
Property Management knows that individuals need extra support to address problematic behavior. They wonder if THA has the capacity to provide that support.

In many cases, disruption comes from the guests of residents. Some residents are vulnerable to feel obligated to their friends or family who do not have housing. Their guests may disrupt the pleasant environment THA seeks to establish in its properties.

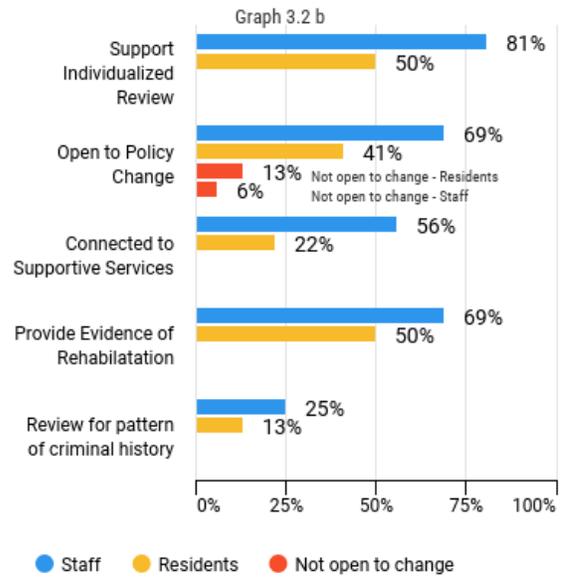
Staff and residents expressed varied views on a lookback period. *See* Graph 3.2a. Many favor keeping a lookback period of five years. Other staff recognize that while they strongly support the need for effective screening policies, they also recognize that such policies do not necessarily require a longer lookback periods for criminal history.

The following graphs show general support of staff and residents for reducing barriers for applicants with criminal histories. As part of their support, residents expect that applicants with criminal histories will be connected to supportive services, demonstrate rehabilitation (employment, school, certification of completion of treatment programs, etc.), and do not have a pattern of criminal behavior. Graph 3.2c shows the criminal offenses that are of most concern to residents and staff.

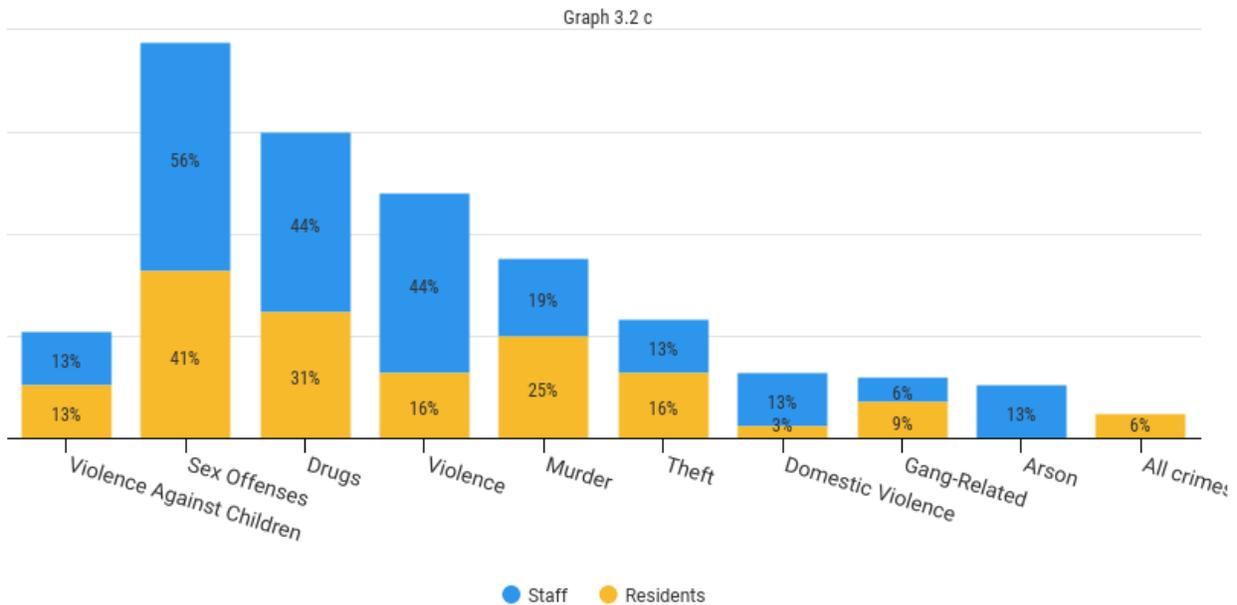
What is a reasonable lookback period?



General Support to Reduce Barriers



Crimes of Concern

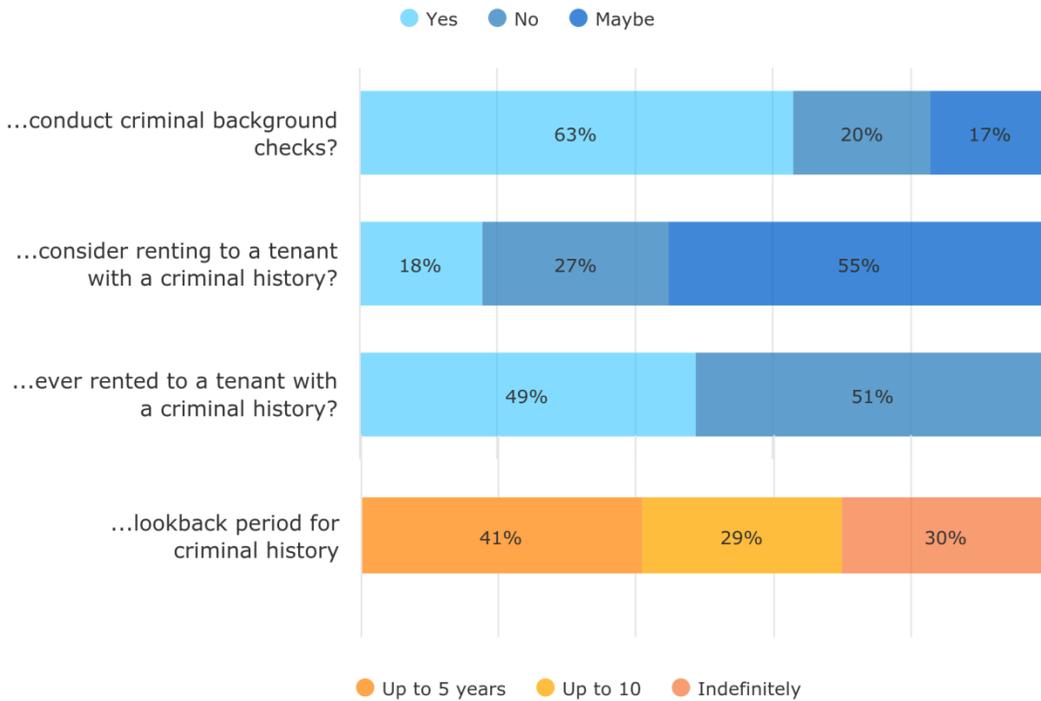


7.3 Landlord Consultation

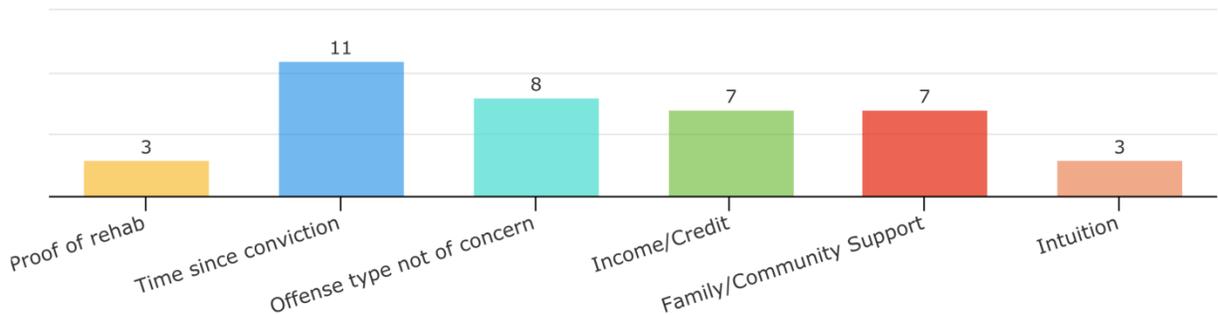
PIE consulted with landlords who participate in THA’s rental assistance programs. PIE did this in two ways: (1) A short online survey which received a total of 87 responses⁶⁵. (2) a convening of a regularly scheduled meeting with a small group of THA landlords who makeup THA’s Landlord Advisory Group.

THA asked these landlords about their current criminal screening practices. The following graphs summarize the responses.

Online Landlord Survey



Reasons for approval for those who have rented to tenants with criminal history



⁶⁵ Mailing list included 782 landlords. 352 opened the e-mail and 121 clicked the email to the survey.

The results show that most landlords run a background check for applicants; although there is much more variation in how far back a landlord will consider a conviction. 41% of landlords use a lookback period of five years.

The results show that landlords will consider renting to applicants with criminal histories; 49% responded that they already do so; only 27% responded that they would not rent to applicants with a criminal history. Landlord practices may also reflect the policies of the screening services available to them. A prominent one is the screening service offered by the Rental Housing Association of Washington (RHA) a statewide nonprofit that provides education and assistance for over 5,300 members (landlords). Its professional screening service is its primary member benefit. This service screens credit history, eviction history, past residences and criminal conviction and arrest records within the last seven years. Washington's Residential Landlord-Tenant Act⁶⁶ allows landlords to screen for a variety of details, including sex offender registration requirements and criminal history. The Act requires that they provide the findings to the applicant and have the opportunity to respond.

THA's survey asked landlords "what led you to approve the application for tenancy" of someone with criminal history. The responses were open-ended. Many landlords stated that enough time passed between the conviction and the date of application. They also listed other factors such as good credit/income, strong rental history, family/community support. Many respondents also considered the nature of offense and decided it was not a business concern to deny the application.

The survey asked landlords to list the crimes in a criminal history that concerned them the most. One property manager reported that it had no limit on the lookback period for violent crimes, property damage crimes and fraud. A 5-year lookback period was common for other offenses such as DUIs and drug offenses. Nearly all respondents cited crimes of violence, drug possession/distribution; property damage and theft to be major concerns.

The survey asked landlords a final open-ended question inviting advice or questions. It elicited a wide variety of comments. Many were positive expressions of interest to help others and offering balanced advice to THA. This advice includes revising THA's criminal screening policies to align with Fair Housing guidance; and consider other mitigating factors before denying an application because of criminal history.

⁶⁶ RCW59.18.030(5)

Some landlords reported that they weigh other factors, such as credit, employment/rental history and family support as more influential than criminal history. Many landlords stated that renting to households with criminal history carries higher risk because of potential changes in income or lack of real rehabilitation. Quite a few respondents stated that THA should help cover costs associated with those risks. Some landlords advised THA to implement policies that were more restrictive than what THA currently uses. One landlord explained that he interviews applicants. Another landlord expressed that it is important to have a more individualized approach to the review of applications with a criminal history and offered to help provide guidance to other landlords that work with THA to ensure fair and nondiscriminatory criminal screening practices.

7.4 Community Consultation

In August, PIE received the following feedback regarding the proposed changes from the Homeless Provider Group of service providers in Pierce County:

This group favored clearer and more precise language around what would be considered behaviors that “may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.”

An experienced psychologist in the group requested THA to “...clarify that drug use is prohibited within THA properties, owned or subsidized, but drug use in other locations does not fall under this rule unless: listed or specified behaviors [THA to include those specific behaviors in its written policies] do threaten As a retired psychologist, I can attest to the difficulty and unreliability of efforts to predict future behaviors. Also, I note that, if none of those listed behaviors have actually occurred within the previous twelve months, the most likely prediction is that risk of recurrence is low.⁶⁷”

Some expressed opposition to the HUD mandated exclusion of applicants who were convicted or evicted for the production of meth in any housing, anywhere.

7.5 Liability Insurance Carrier Consultation

Families, seniors, and adults with disabilities live within THA properties. They are considered to be vulnerable populations. THA’s first priority to provide a safe and peaceful community for its residents.

⁶⁷ Letter from Allen W. Ratcliffe, Ph.D., Volunteer Community Advocate, to Michael Mirra, THA Executive Director, 2019-08-28

HUD's requirements already place lifetime bans for admission to federally-subsidized housing for anyone subject to a lifetime registration for a sex offense. Not everyone convicted of a sex offense is subject to a lifetime registration. Some are limited to ten or fifteen years. The type of offense determines the length of duty to register. Research on sex offenders tells us that not all pose a risk to the community. For this reason, PIE considered the possibility of admitting those who are subject to a time-limited registration requirement and classified by local law enforcement to be a low or moderate risk. Those who are determined to be a low to moderate risk are given level 1 and level 2 classifications.

However, admitting sex offenders is a highly charged proposal. It elicits strong opposition. THA must also consider whether it would risk incurring liability for harm. With this in mind, PIE consulted its insurance carriers to hear more about the potential risks to THA.

Appendix A: Insurance and Risk Considerations of Housing Sexual Offenders on THA Properties details the costs and risks if THA chose to adopt a policy that would admit registered offenders.

Ultimately, THA's insurance carriers strongly oppose a proposal to soften the exclusion of persons who register as sex offenders. They inform THA that if THA adopted such a policy, they would review the terms of THA's coverage. That would pose a significant annual expense to THA. It would also require substantial additional policy and procedural changes.

Based on these findings, PIE did not move forward on this proposal to consider admission for level 1/level 2 registered sex offenders.

8. SUMMARY OF PURPOSES AND SUPPORT FOR PROPOSED RECOMMENDATIONS

The United States is the world's leader in incarceration. Persons coming out of prison face enormous barriers to self-sufficiency. This disproportionately affects people of color, particularly black men and their families. PIE supports policies that reduce those barriers and allows access to housing, employment, education, and family bonds that are essential to reducing recidivism. People exiting incarceration have served their time and should be allowed to rebuild their lives. The national research and stories of men and women throughout the nation tell the story that a conviction record keeps individuals out of housing and becomes a significant barrier to addressing stability, self-sufficiency and safety. The policies that keep these households out of housing have an impact on their success. *"A prison sentence is not the only debt one has to repay. For a lot of people, it's a*

*debt that can't be repaid, a permanent status that we live with forever.*⁶⁸ The research literature on criminal justice widely discusses this permanent branding as a modern day “scarlet letter” that ex-offenders must wear. Society asks them to show their rehabilitation while also giving them little opportunity to do so.

Yet, it is THA’s priority to reasonably protect its current residents from anyone who poses an undue threat the health, safety or peaceful enjoyment of their home. The criminal justice literature does indicate that people with past criminal history are at-risk to re-offend. While housing does reduce the risk of recidivism, it does not eliminate it. In this, there is some risk that they may do so within THA’s communities.

However, PIE’s literature review and discussions with other housing authorities indicate that criminal history is not a strong predictor of whether someone will be a good tenant. In this, PIE proposes to lower, but not eliminate, these barriers to housing. THA can still rely on its other suitability criteria to help make decisions to admit or deny.

Criminal reform is a bi-partisan effort recognizing that communities are safer when everyone has access to housing.

Fair Housing regulations, and even the opinions of the court, indicate that broad generalizations are unwarranted and are often rooted in fear and prejudice. Local and national laws and regulations are changing and are moving away from the notion that criminal history is a reliable predictor of a person’s future behavior.

PIE recommends accepting all of the proposed changes to THA policies and practices as outlined in Section 1.3 of this report.

9. NEXT STEPS

In May 2020, THA’s Cabinet and Executive Director will review these proposals. They will decide which of the recommendations to convey to the THA Board of Commissioners.

PIE would present these options to THA’s board in the June 2020 meeting, seeking its approval to present the recommendations to the public for a 30-day public comment period.

In July 2020, THA will post the recommendations the Board supports, with this report, on THA’s web-site inviting comment. THA will also convene a public meeting(s) and invite THA residents, other stakeholders and the general public to

⁶⁸ Deputy Director of ACLU’s Campaign for Smart Justice speaks on the lifetime debt of incarceration despite being more than 18 years removed from prison. See Cobb, B. (2018). *18 Years Removed from Prison, and I’m Still a ‘Returning Citizen’*. ACLU Campaign for Smart Justice. Retrieved from [here](#).

offer their comments. THA will also meet with community service providers and legal services to solicit their views and advice.

In August and early September, THA staff will adjust the proposals as appropriate to account for the comments THA receives.

At the September 2020 Board meeting, Staff will present a final recommendation to the THA Board of Commissioners for its review and approval.

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Appendix A: Insurance and Risk Considerations of Housing Sexual Offenders on THA Properties

To: Ava Pittman, Policy and Planning Analyst; and
Policy Report about Sexual Offender Tenancy
From: Risk Management
Date: May 1, 2019
Subject: Insurance and Risk Considerations of Housing Sexual Offenders on
THA Properties

INSURANCE AND EXPOSURES

Philadelphia Insurance insures THA with \$1 million of sexual abuse and molestation coverage. We asked our broker and insurance underwriters about insuring THA if we were to house Level 2 and Level 3 sex offenders on THA properties. Philadelphia Insurance sent this answer.

“We do not like these exposures and it makes us uncomfortable as these individuals would be housed with other tenants in their complexes who are either seniors and families with children. It sounds like the insured has not committed to this but if they decide to move forward we would like to know details and would probably have loss control go out to make sure their controls are tight. Currently abuse coverage is excluded in the umbrella and we would not entertain providing any abuse coverage into the excess if they decided to move forward with a program like this.”

Our broker, Alliant Insurance Services, a national level broker, gave us this advice about approaching Philadelphia and the exposure of housing sex offenders.

“I’m sharing input from Philadelphia about the possibility of THA housing sex offenders. Their response is important to evaluate. Philadelphia is a very specialized market for affordable housing risks and we are pleased to have them as a proactive partner for THA. We want them to remain aware of any new risks THA is considering as a way to incorporate their considerations into your risk management decisions.”

Please let us know if THA is still evaluating housing sex offenders. We'll need to keep Philly aware of your decision."

We would have to comply with Philadelphia's "tight controls" to maintain our basic \$1million sexual abuse policy if we were to house sex offenders. Philadelphia will monitor our compliance. Examples of controls:

- Plans and educational programs to address issues before they happen.
- Training that teaches staff to prevent, recognize and react responsibly to child sexual abuse
- Presentations and workshops on mistreatment required for all staff
- A vulnerable persons neglect policy
- Procedures to protect residents from known risks
- Procedures to quickly react to complaints and risks
- Procedures for a person found to be a current health or safety risk to others that person

Follows are examples that demonstrate how two other organizations perceive exposure to sexual abuse claims.

1. HARRP, our past underwriter, provided no sexual abuse or molestation coverage except for a very restricted policy for vicarious liability.
2. THA received a community builder grant from the City of Tacoma in 2018. The required \$2million of sex molestation coverage to have the community builder grant. THA had \$1million of coverage. The city would not relax their requirement of \$2million although they've relaxed other kinds of insurance requirements. THA, therefore, had to acquire an extra \$1million in coverage. We could get a policy for 6 community builder employees. The cost is \$900 per year.

Follows are six reasons why sexual abuse and molestation exposures are distinguished from others.

1. **Increased Statute of Limitations:** We are seeing legislation across the country to increase the statute of limitations around sexually related crimes both from a civil and criminal standpoint. In Washington, HB1234 eliminates the statute of limitation for certain felony sexual abuse and molestation offenses. This is laudable from the standpoint of criminal proceedings and protecting victims, but it makes it harder for organizations to defend themselves against civil suits for accusations of negligence that result in improper sexual conduct. Nonprofits can find themselves accused of negligence if they were in anyway involved in the care of the person, even if they were completely unaware of the abuse. The more time between the alleged bad act and the time that a claim is made, the more there is staff turnover, the more records are lost or destroyed (records retention guidelines are increasingly less than the applicable statute of limitations), the more memories fade and even the possibly that the nonprofit has ceased operations. What the nonprofit is left with is an accusation from a plaintiff and not much in the way of witness corroboration or documentation.

2. **Inflation of Jury Awards:** Increasingly, juries are not finding the offender as the most responsible party. They are increasingly sophisticated and know the person who commits the improper sexual conduct probably has no money. It has become common for the bad actor to be allocated 10–15% of the responsibility for the sexual molestation or improper sexual conduct, with the remaining majority of responsibility awarded against an organization who had oversight of the victim or property involved in the improper sexual conduct.

The fear of losing a lawsuit and having to pay an exorbitant award leads many insurance companies and nonprofits to opt for settlement as opposed to fighting a civil lawsuit. Often the consideration of actual negligence of the organization has less relevance than it should otherwise have in the decision to settle. This

phenomenon leads to predatory lawyers filing law suits that would not otherwise be filed in the hopes of getting a quick settlement.

3. Cost to defend: Abuse or molestation claims often require the hiring of experts and specialized legal representation which is very costly. Claims related to abuse or molestation acts can incur high costs, including settlements, judgments and other obligations. Once you add in defense costs, the policy's limit can quickly erode. This is especially true if the claim requires special defense experts. THA now has a \$1Million sexual abuse policy
4. Me Too Movement: This movement led to the introduction of 261 bills in 32 states to encourage reporting of sex-related offenses and make it harder to silence victims by adding restrictions on confidentiality and testimony provisions in settlement agreements. These new laws include measures to eliminate or greatly limit nondisclosure agreements that prohibit transparency, require mandatory reporting in cases of sexual harassment or sexual assault of children and also measures that change the "severe and pervasive" legal standard of sexual harassment so that a single incident of harassment could be sufficient to satisfy the standard.
5. Definitions of Sexual Abuse and Molestation: Definitions are broad. Great American Insurance Group gives these definitions. This is relevant because the ambiguous expands the range of our exposure to claims and management errors. Definitions include:
 - Physical abuse, such as sexual or other bodily harm;
 - Non-physical abuse, such as verbal, emotional or mental abuse;
 - Any actual, threatened or alleged act; and
 - Errors, omission or misconduct.

Examples of abuse claims encountered by Great American Insurance Group, an A+ A.M. Best rated company:

- Group home placement of a child with older youths resulted in rape
- Counselor inappropriately touched a developmentally challenged adult client
- One tenant assaulted another tenant in one of our insured facilities
- Improper contact occurred between two male toddlers
- Teenage client ran away with a 20-year-old counselor

6. Injury: Sexual abuse and molestation injuries are considered permanent. Permanent injuries have higher settlements and are more expensive to settle.

OTHER CONSIDERATIONS

What is THA's Duty to Protect Tenants from Risks? A landlord has a duty to protect residents from known risks, or risks that the landlord should have been able to recognize. If a person is found to be a current health or safety risk to others that person will not be protected by [fair housing discrimination laws](#). A landlord also assumes some responsibility and potential liability, for the conduct of its tenants. If he knows of unlawful, obnoxious or other behavior that amounts to an ongoing nuisance, the landlord is required to take steps to protect other tenants, and indeed other people, who are affected by his tenant's unreasonable conduct. This includes evicting the offender, if necessary.

Administrative Infrastructure for Known Conditions: Administrative infrastructure is not in place to support behavior change or expeditious removal of a tenant who is impacting other tenant's safety or well-being.

Does CSE and PM staff feel they have the tools to support an assault victim or support an offender who's threatening others or struggling with recovery?

What actions will THA take if neighbors feel threatened or scared? Feelings don't allow for lease enforcement.

THA doesn't evict quickly. What happens if THA can't evict a sex offender, or any tenant, whose impact on the community is de-stabilizing? Or harmful?

Experience at 6th Ave and other properties show us the challenges of lease enforcement for disruptive behaviors. Behavior that has no tangible evidence – the he said, she said kinds of behaviors – is even more challenging to address.

Prioritizing Community Safety: THA's social justice mission is important. At the same time, tenants live with the risks and exposures inherent in the decisions made by management and operations. Our more vulnerable tenants are impacted by our policies and their neighbors. How likely is it that our tenants will be exposed to harm or impacted if THA opens its properties to Level 2 and Level 3 sex offenders?

Here are two examples. In 2019, a 3rd party agency expressed concern to THA staff that certain senior and disabled tenants at 6th avenue are being exploited by young disabled tenants for money, drugs, and favors (reported in 2019). Very young children are regularly unsupervised as documented by security reports and staff. Questions came up for THA staff after the grooming incident of the 5 young girls at a THA property. The groomer nearly completed an offense and was masterful.

Women, and children, experience higher rates of sexual assault than men. Women have strong feelings about sexual offenses and offenders. It would be good to see how the THA women, tenants and staff feel about the possibility of a sexual offender as tenant.

- How will a single mother handle the idea that a sex offender lives in the unit next to her and her children? A neighbor for an unlimited time? Without any particular protections? Without a voice in the matter and without the resources to choose another home?
- How will female staff feel about working alone in a building? De-escalating a client who's angry about tenancy is different than dealing

with a person intent on rape. That's a different psychological perspective.

- Will THA have the capacity to match the sexual offender to a community with the least likelihood of harm?

The following is taken directly from a fact sheet issued by The Center for Sexual Offender Management.

How Common Are Sex Crimes? Sex crimes are unfortunately fairly common in the United States. It is estimated that one in every five girls and one in every seven boys are sexually abused by the time they reach adulthood. One in six adult women and one in 33 adult men experience an attempted or completed sexual assault.

How likely is it that an offender will reoffend? About 12 to 24% of sex offenders will reoffend

Are Some Offenders More Likely to Reoffend than Others? Some offenders are more likely to reoffend than others. Professionals use science-based assessments to estimate the likelihood that someone may reoffend....

Who Are the Victims? Anyone can be a victim of sexual assault, but women and girls are especially at risk. Females are more than six times as likely as males to be victims of sexual assault. Children are particularly vulnerable. Approximately 67% of all victims of reported sexual assaults are under the age of 18, and more than half of these victims are under the age of 12. Approximately one in four girls and one in seven boys are sexually assaulted before the age of 18.

Who Are Offenders Likely to Target? About 69% of sexual offenses are committed by someone the victim knows — either a family member, friend, intimate partner, or acquaintance. About 27% of offenders are strangers.

Ratios: There aren't many locations that accept sex offenders. Will THA communities have a disproportionate number of SO's in our communities? Does that condition increase the likelihood that a tenant or staff will be victimized by a reoffender?

OPTIONS

Are there other ways that THA can lower the housing barrier for sex offenders that present less risk to vulnerable tenants and our liability? For example:

- Partner with Pioneer House to expand their housing program for sex offenders
- Allow vouchers
- Establish a new housing program with a partner

Sources: WA St. Legislature, Non-Profits Insurance Alliance, Great American Insurance Group, Alliant Insurance Services, Philadelphia Insurance, Ken LaMance, Attorney at Law, LegalMatch Law Library; Insurance Journal West, WSCAP, HUD, NMHC, and NAA

Appendix B: Summary of Regional Housing Authority Policies & Vera Co-horts

The Administrative Plan refers to policies that govern a housing authority’s voucher programs—both tenant-based and project-based. The Admissions and Continued Occupancy Policies (ACOP) refers to policies that govern a housing authority’s public housing programs. “Regional Housing Authority” refer to other public housing authorities within the state of Washington. “Vera Co-horts” are public housing authorities that applied for and received technical assistance from the Vera Institute of Justice during the same period as THA. The table follows on the next page.

Housing Authority	Approval Date	Lookback Period	Individualized Review?	Felony/Misdemeanor
Bremerton Housing	2018	ACOP: 5 years; Admin: 3 years	Unknown	Unclear
Pierce County Housing	2016	Admin/ACOP: Within the last year	N	Felony only
Vancouver Housing		5 years	Unknown	Felony only
Seattle Housing Authority	2019	ACOP: 2 years (Limited to eviction from federally assisted housing for drug-related activity drug or violent criminal activity; abuse of alcohol or drugs) Admin: HUD mandated only.	Y	Felony only

New Orleans (HANO)	2016	<p>Lookback is 10 years for multiple offenses. 3 years of conviction date or 1 year of release from date of screening.</p> <p>Very serious offenses have indefinite lookback periods.</p> <p>If there are 2+ convictions for certain crimes, date of review is 10 years from screening date.</p>	Y	Both for certain crime categories
Housing Catalyst (formerly known as Fort Collins (CO))	2012	Determined by category based on type of criminal offense. Crimes in higher categories that occurred more than five years will shift applicant to next lower category. ⁶⁹	Y	Unclear
King County Housing	2012	<p>ACOP: Discretionary</p> <p>Changed language in ACOP to allow for individual review of criminal history.</p> <p>Admin: 12 months</p>	Y	

Housing Authority	Approval Date	Lookback Period	Individualized Review?	Felony/Misdemeanor
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⁶⁹ (1)Approval: Traffic/DUI offenses. (2) Requires supervisor approval to **deny**. Theft, Mischief, Trespassing and related crimes. (3)Drug-related & Violent crimes require supervisor approval to **approve** applications. Considers mitigating circumstances.

Bremerton Housing	2018	ACOP: 5 years; Admin: 3 years	Unknown	Unclear
Pierce County Housing	2016	Admin/ACOP: Within the last year	N	Felony only
Vancouver Housing		5 years	Unknown	Felony only
Seattle Housing Authority	2019	ACOP: 2 years (Limited to eviction from federally assisted housing for drug-related activity drug or violent criminal activity; abuse of alcohol or drugs) Admin: HUD mandated only.	Y	Felony only

New Orleans (HANO)	2016	<p>Lookback is 10 years for multiple offenses. 3 years of conviction date or 1 year of release from date of screening.</p> <p>Very serious offenses have indefinite lookback periods.</p> <p>If there are 2+ convictions for certain crimes, date of review is 10 years from screening date.</p>	Y	Both for certain crime categories
Housing Catalyst (formerly known as Fort Collins) (CO)	2012	Determined by category based on type of criminal offense. Crimes in higher categories that occurred more than five years will shift applicant to next lower category. ⁷⁰	Y	Unclear

⁷⁰ (1)Approval: Traffic/DUI offenses. (2) Requires supervisor approval to **deny**. Theft, Mischief, Trespassing and related crimes. (3)Drug-related & Violent crimes require supervisor approval to **approve** applications. Considers mitigating circumstances.

King County Housing	2012	ACOP: Discretionary Changed language in ACOP to allow for individual review of criminal history. Admin: 12 months	Y	
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Housing Authority	Approval Date	Lookback Period	Individualized Review?	Felony/Misdemeanor
Providence Housing	2017	5 years (for violent or drug-related criminal activity) ⁷¹	Y	Felony only
Kearney Housing (NE)*		3 years for drug-related or violent offenses.	Unknown	Felony only

⁷¹ Part of new Vera cohort (9/2018). In 2017, board approved changes to Admin/ACOP. Board docs indicate that one board member suggests a shorter lookback, as well as groups within the local community.

* Indicates that the housing authority is receiving, has received or will receive technical assistance under the same grant as THA.

Asheville Housing*	2017	5 years for homicide; 4 years for serious offenses; At least 2 offenses within 3 years for misdemeanor possession of marijuana; patterns of theft, prostitution; misdemeanor harassment	Unknown	Unclear Violent/Drug-related offenses
Philadelphia Housing*	2018	ACOP: Drug-Related/Violent crimes 3 year review. Others, varies by crime ranging from 10 years to 3 years	Unknown	Both
Fresno Housing Authority	2019	3 years for drug-related and other crimes. Violent crimes up to 7 years. ⁷²	Unknown	Felony only
Oklahoma City Housing*	2019	ACOP: 5 years Admin: 3 years;	Unknown	Unclear

⁷² In addition to reducing lookback period from 5 to 3 years, language was added to Admin Plan to consider pilot program for housing access and reentry pilot program that may allow formerly incarcerated individuals to reunite with their families in public housing while receiving supportive services.

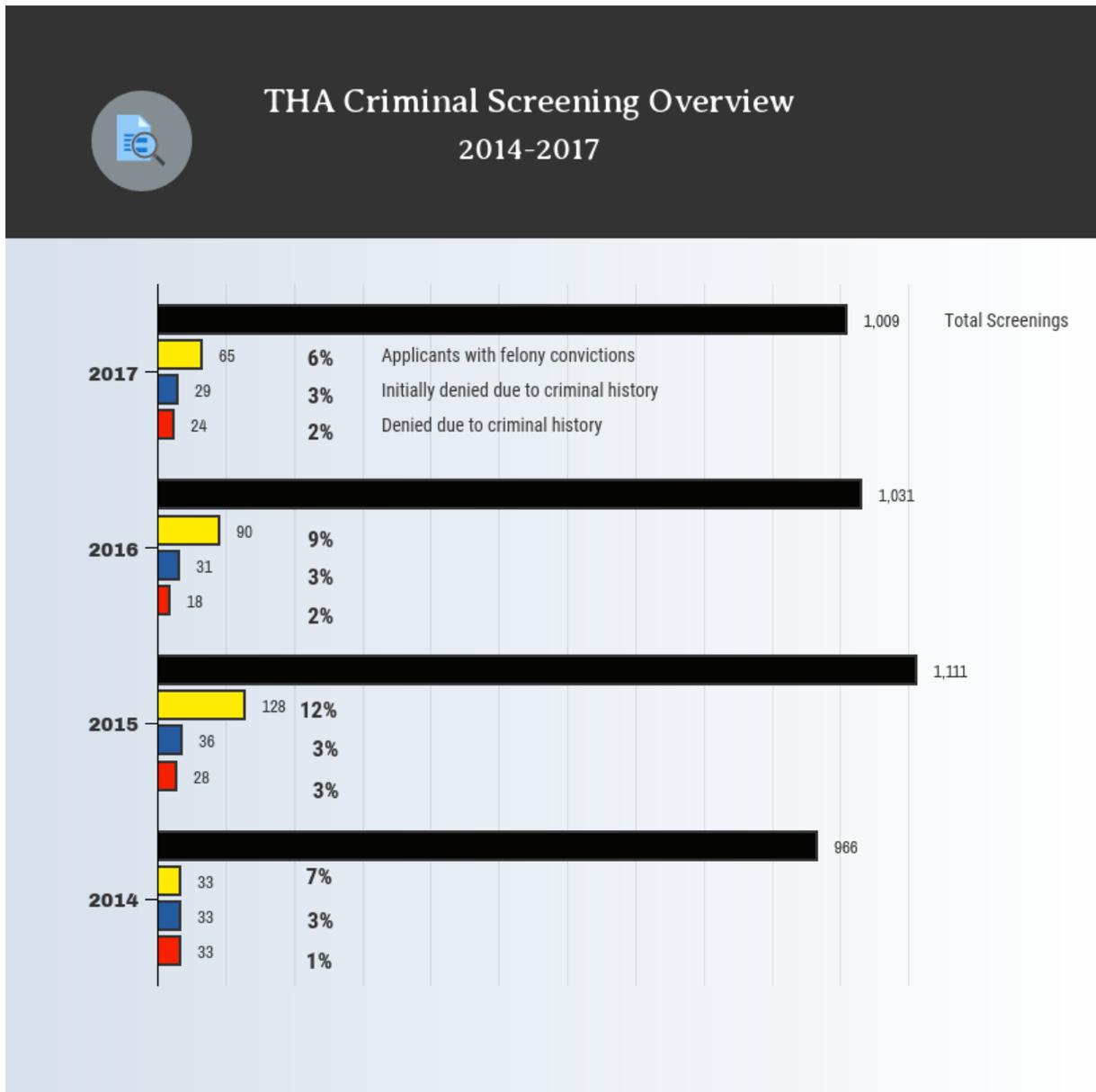
Lafayette Housing*	2012	7 Years for 1 felony; 1 year for 1 misdemeanor; date of conviction	Unknown	Both
San Diego Housing*	2019	ACOP: 5 years Admin: 3 years;	Unknown	Unclear

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Appendix C: THA Denials Summary 2014 – 2017

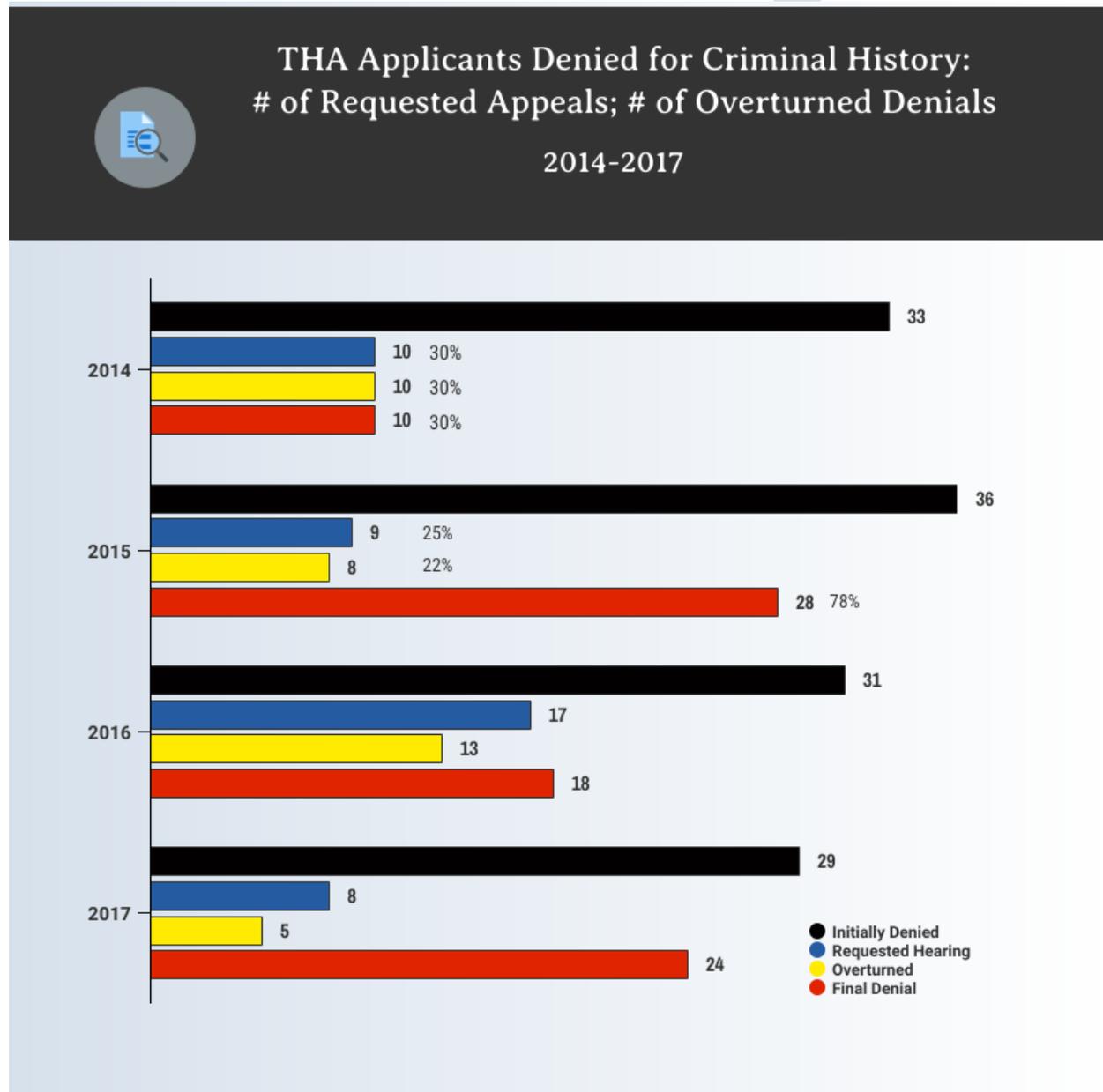
Graph: THA Criminal Screening Overview for 2014 – 2017

This graph shows the number of applicant screenings completed for each year from 2014 – 2017; how many screenings disclosed a felony conviction; how many of those applicants were initially denied due to criminal history under THA’s current policies; and how many were ultimately denied admission due to criminal history.



Graph: Applicants Initially Denied Due to Criminal History

This graph breaks down the category from above, “*applicants initially denied due to criminal history*” to show how many within that category requested an informal hearing (an applicant’s right to appeal an initial denial); the number of denials that were overturned (of those who went through the informal hearing process); and the number of applicants ultimately denied housing due to their criminal history. This final stat includes those who went through a hearing and their denial was upheld or those who were initially denied and never sought an appeal. All stats are a % of the corresponding totals from ‘applicants initially denied due to criminal history’ from the graph above.



Graph: Felony Offenses of THA Applicants by Year (based on their most current felony conviction)

Although THA’s policies do not explicitly call out felony convictions as the basis for denials, in the past years, staff has been reviewing for applications that show a felony conviction within the five year lookback period. PIE reviewed all available screenings (based on available information) to identify the most common offense types among THA applicants. This helps determine if THA should take an offense-type based approach to its screening policies.

