



TACOMA HOUSING AUTHORITY

RESOLUTION 2021-05-26 (4)

Date: May 26, 2021

To: THA Board of Commissioners

From: Michael Mirra
Executive Director

Re: Proposed Changes to Tacoma Housing Authority's Criminal Screening Policies

This resolution would revise Tacoma Housing Authority's (THA) Administrative Plan to reduce and change THA's use of applicants' criminal history when considering whether to admit them to its housing programs. Since the Board first reviewed this proposal at the April Board meeting, additional clarification and guidance has been provided in the proposed changes to the Administrative Plan. Otherwise, the content and intent remain largely the same.

Background

This resolution would reduce THA's use of applicants' criminal history when considering whether to admit them to its housing programs. It would also change its process for how it considers criminal history. Presently, THA denies only about 2% of its applicants because of criminal history (about 20 or so a year). The proposed changes would reduce that further.

The recommendations in this resolution arise from THA's careful review of the following information:

- rules of the Department of Housing and Urban Development that require THA to consider criminal history and to exclude applicants with certain types of history;
- research literature and THA's experience with its own portfolio on the value of criminal history, or the limitations on that value, in predicting if someone would be a good tenant;
- research literature showing that the use of criminal history has a disproportionate exclusionary effect on persons of color;
- research literature showing that housing reduces the incidences of a person reoffending;
- practices of other housing authorities and landlords;

- survey of the views of THA tenants, THA voucher landlord partners, and community partners.

The attached report recounts the results of THA's research and the basis for the recommendations.

In 2017, THA received technical assistance from the Vera Institute of Justice (Vera) through the initiative, Opening Doors to Public Housing. The U.S Department of Justice-funded initiative sought to help housing authorities assess how to safely increase access to stable housing for people with conviction histories. Vera provided technical assistance, national research data, and subject matter expertise to THA's analysis of its criminal screening practices and policies. Through its research, which is captured in the appended report, THA found that past criminal history has only a limited value as a predictive measure of tenant suitability and risk. The research also showed the profound impact housing has on successful re-entry and the ways in which housing supports other stabilizing components including employment and family reunification. Accordingly, THA reviewed its policies governing its use of criminal history to appropriately balance its duty to keep its housing communities safe and enjoyable places to live and, within the bounds of that duty, to be accessible to all applicants, especially in a way that is equitable.

In addition to researching and consulting the evidence, this project aimed to be responsive to the racial inequities that are remnants of historical and structural racism present in the criminal justice system. People of color, particularly Black Americans, have been arrested, charged, convicted, and confined at much higher rates than any other demographic group. These inequities have immediate and generational effects, creating a pipeline into the criminal justice system and effectively locking people out of accessing stabilizing resources, such as housing and employment. As a housing provider with a social justice mission, THA seeks to make intentional choices that reduce barriers and equitably serve all households.

This resolution reflects the research and reinforces THA's mission to equitably deliver housing assistance while also ensuring the safety of its communities. It seeks approval to adopt five recommendations that modify THA's criminal screening policies which determine eligibility for THA's housing programs.

Attached is a menu of options which details the policy alternatives THA considered before forming these recommendations.

Summary of Public Comment

After stakeholder consultation, research, and analysis, THA developed its recommendations and posted them for public comment from July 1, 2020 through August 31, 2020.

During this comment period, Policy, Innovation and Evaluation (PIE) engaged with the public in the following ways:

- Posted notice of the public comment period on THA's website and through multiple postings on THA's social media accounts.
- Emailed notification to Friends of THA and THA staff.

- Fielded a multiple-choice survey for any member of the public to share their preferences.
- Distributed paper surveys for all THA residents to complete.
- Interviewed three Community Correctional Officers (CCOs) for their feedback and expertise. One interview included Pioneer Human Services' Director of Tacoma Residential Reentry Center.
- Discussed proposals with select staff members from Property Management (PM) and Client Services and Empowerment (CSE).
- Collected general comments and questions via e-mail.

A table summarizing the number of public comments received is included below.

Summary of Public Comments Received for Proposed Changes to Criminal Screening Policies	
<u>Source</u>	<u>Total Comments Received</u>
	293
General Public Survey	97
THA participants	7
THA staff	20
Community service providers	11
Landlords	8
Justice-involved providers	4
Work/live in Tacoma	42
Other	4
Resident Surveys	153
6th Ave	18
Bay Terrace	8
EB Wilson	25
Ludwig	17
North G St.	8
North K St.	15
Salishan	32
Wright & Fawcett	30
Community Partner Letters	40
Pioneer Housing Services	1
Tacoma Pierce County Health Department	1
Low Income Investment Fund (LIIF)	1
Northwest Justice Project	1
General written comments	36
Other	3

Landlord Advisory Group - August 2020	1
Interview with Community Correctional Officers	3
TNT Article	1
TPCAHC: Q&A Event, "Policy Talks: Housing & Criminal Background Screening" (August 26, 2020)	1

Generally, the public and community partners were very supportive of relaxing THA's criminal screening criteria. THA portfolio residents, while supporting the value of giving people a fair chance to get housing they need, expressed a stronger preference to maintain the current, more restrictive policy. THA's Landlord Advisory Groups provided valuable insight on how to implement screening practices that adhere to Fair Housing requirements and industry best practices. Section 9 of the accompanying report provides a comprehensive summary of the comments expressed by each stakeholder group.

Summary of Policy Recommendations

This section outlines the recommendations contained within the resolution. Attached to this resolution is a menu of options that provides other policy alternatives THA considered before forming the following recommendations.

1.1 For THA's tenant-based rental assistance programs, no longer deny for criminal history beyond the denials required by HUD guidelines.

For tenant-based voucher programs, THA should admit otherwise eligible applicants with a criminal history. HUD prohibits admission for state-registered lifetime sex offenders and anyone who has manufactured meth in federally-assisted housing. THA presently expands the prohibition to anyone convicted of a sex offense and anyone who has manufactured meth anywhere. There is limited value in screening or denying for past offenses beyond this as landlords conduct their own screening of applicants.

HUD also prohibits admission for anyone who currently or has used drugs or alcohol to the extent that it threatens the health, safety, and wellbeing of other residents. As permitted, THA will consider whether such a person is currently in a rehabilitation program, or has completed rehabilitation; or the applicant family may remove such member from their household.

1.2 For THA's portfolio of properties, relax the use of criminal screening criteria by reducing the lookback period and limiting the scope of review to felony offenses for violent, drug-related, or other felony criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by residents and persons in the immediate vicinity.

THA should reduce its lookback period, which is the time from the applicant review date looking for a designated criminal history to consider. This resolution would reduce that lookback period from the current five years to (i) two years, and (ii) one year if the date of release from total confinement occurs within one year from the date of the application review.

Within that look back period, THA considers felony offenses for violent, drug-related, or other offenses that threaten the health, safety, and wellbeing of residents and neighbors.

1.3 Except for HUD required exclusions, THA should remove categorical denials and adopt an individualized review process to make eligibility determinations.

Except for HUD required exclusions, THA should remove categorical denials based upon criminal history. For applicants with the designated criminal history within the lookback period, THA will conduct an individualized review of the application.

For this purpose, THA should establish an Application Review Panel that includes at least one person from each of the following departments: Rental Assistance, Property Management and the Client Support and Empowerment. THA's Application Review Panel should meet with applicants to learn more about them and how their recent offense influences their suitability as a potential tenant. THA should convene this meeting prior to issuing a denial. THA should require this as part of the application process and withdraw applicants who fail to attend.

Additionally, any household denied during that review or in the individualized review process will still have the right to grieve a THA decision through THA's grievance process.

PLEASE NOTE: THA will still screen for, and may still deny admission, based on other measures of tenant suitability, including credit and rental history.

1.4 Refer all new admissions and new adult household members admitted through the Application Review Panel to Client Support and Empowerment for review of service needs.

THA will refer all applicants admitted through the Applicant Review Panel to THA's case management staff for a review of service needs. The research shows that supportive services make tenant success more likely. THA should not require case management as a condition for admission.

1.5 Designate an Applicant Liaison to help applicants with the review process.

THA will provide an applicant with a staff liaison to help them through the Applicant Review Panel. THA's application process requires applicants to provide a lot of information and documentation to verify eligibility. It can be an overwhelming process. This would be especially true for someone who has been incarcerated who needs to submit additional information to support their application because of their criminal history. The liaison should provide guidance that helps the applicant understand the application process and help them advocate for themselves. This liaison would be a single point of contact making the application process easier and building trust between the applicant and THA.

Recommendation

Approve Resolution 2021-05-26 (4) to adopt revisions to THA's criminal screening policies in its Administrative Plan.



TACOMA HOUSING AUTHORITY

RESOLUTION 2021-05-26 (4)

(Proposed Changes to Tacoma Housing Authority's Criminal Screening Policies)

A **RESOLUTION** of the Board of Commissioners of the Housing Authority of the City of Tacoma

WHEREAS, The Administrative Plan relates to the administration of the Housing Choice Voucher program and is required by HUD; and

WHEREAS, The Administrative Plan establishes policies for carrying out programs in a manner consistent with HUD requirements and local goals and objectives; and

WHEREAS, Changes to the Administrative Plan must be approved by THA Board of Commissioners; now, therefore, be it

Resolved by the Board of Commissioners of the Housing Authority of the City of Tacoma, Washington as follows:

Staff is authorized to adopt the following updates to the administrative Plan to reflect the proposed policy changes:

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance.

In addition, HUD requires or permits the PHA to deny assistance based on certain types of current or past behaviors of family members.

Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)(1)]

HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction under portability. (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, sexual assault or stalking if the applicant is otherwise qualified for assistance.

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

THA Policy

The PHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 35 years for drug-related criminal activity, if the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA, or the person who was involved in the drug-related criminal activity, is no longer living in the household and that person can provide proof of another residence.

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

THA Policy

Currently engaged in is defined as any use of illegal drugs during the previous twelve months.

Note: **marijuana** is a federally controlled substance and THA prohibits admission to its housing programs for any household with a member who the THA determines is illegally using a controlled substance. THA has the option to deny assistance or terminate specific marijuana users rather than the entire household for both applicant and existing tenants when appropriate. THA has discretion to determine, on a case-by-case basis, the appropriateness of program termination of existing residents for the use of medical marijuana.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

THA Policy

In determining reasonable cause, the PHA will consider all credible evidence,

including but not limited to, any record of convictions, ~~arrests,~~ or evictions of household members related to the use of illegal drugs or the abuse of alcohol. ~~A conviction will be given more weight than an arrest.~~ The PHA will also consider evidence from treatment providers or community-based organizations providing services to household members. If a person's criminal background investigation indicates there is a current case for a criminal charge active in court, the application process will be placed on hold until the case is adjudicated and a determination can be made on the applicant's eligibility to receive assistance from THA.

Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

THA Policy

THA will deny assistance to any household that has ever been convicted of drug-related activity for the production or manufacture of methamphetamine.

THA Policy

THA will deny assistance to any household that has a household member who is subject to a registration requirement under a state sex offender registration program THA will use a national registry to check for sex-offender status.¹

The HUD VASH program will follow the requirements of the program for the program

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

HUD permits, but does not require, the PHA to deny assistance for the reasons discussed in this section.

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

THA Policy

For THA voucher and third-party PBV programs: THA will only screen for HUD mandated denials.

For THA's Portfolio: If any household member is currently engaged in, or has engaged in been convicted of any of the following criminal activities, within the past

five years, the family's application will be considered after further review in accordance with the automatic review policies indicated in section 3-III.E.y will be denied assistance. A household will require an additional review if either of the following are true:

1. Any of its members has a qualifying felony offense that occurred within two years of application review; or,
2. If a member's date of release from total confinement occurred less than one year prior to the application review even if they did not commit further qualifying offenses within that year.

For example, if the following applicants are screened for eligibility on 05/01/2021:

Applicant A was convicted of a qualifying felony offense in May 2017 (more than two years previous) and was released from total confinement in June 2020 (less than one year previous). Applicant A's application would be subject to further review because the date of release from total confinement occurred less than one year prior to the application review date.

Applicant B was convicted of a qualifying felony offense in June 2019 (less than two years previous) and was released from total confinement in April 2020 (more than one year previous). Applicant B's application would be subject to further review because the felony offense happened within two years of the application review date.

Applicant C was convicted of a qualifying felony offense in June 2003 (more than two years previous) and was released from total confinement in January 2020 (more than one year previous). If otherwise eligible for assistance, Applicant C would be granted admission to housing.

The additional review will be done in accordance with the automatic review policies indicated in section 3-III.E and a qualifying felony offense is defined as a felony-level conviction of the following criminal activities:

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the property, or health, safety, or right to peaceful

enjoyment of the premises by other residents or persons residing in the immediate vicinity; or

Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).

Immediate vicinity means within a three-block radius of the premises.

Evidence of such criminal activity includes, but is not limited to:

Any conviction for drug-related or violent ~~criminal activity~~ felonies within the past 25 years.

~~Records of arrests for drug-related or violent criminal activity within the past 5 years, although a record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity.~~ Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 25 years.

~~A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.~~

THA reserves the right to ~~deny assistance~~ conduct further reviews of households who have applicants who have committed serious crimes more than 25 year ago. Examples of serious crimes include but are not limited to: homicide, 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.

If a person's criminal background investigation indicates there is a current case for a criminal charge active in court, the application process will be placed on hold until the case is adjudicated and a determination can be made on the applicant's eligibility to receive assistance.

~~In making its decision to deny assistance, the PHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the PHA may, on a case by case basis, decide not to deny assistance.~~

Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing:

THA Policy

The PHA **will not** deny assistance to an otherwise eligible family because the family

previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.

The PHA will deny assistance to an applicant family if:

The family does not provide information that the PHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the PHA.

Any family member has been evicted from federally-assisted housing in the last five years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

A family member has engaged in or threatened violent or abusive behavior toward PHA personnel or anyone acting on behalf of the housing authority.

Abusive or violent behavior includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny assistance, the PHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

3-III.D. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

THA Policy

The PHA will perform a criminal background check through local law enforcement for every household member 18 years of age and older~~over the age of 16.~~

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, the PHA will request information from an external screening company.

If an applicant's or household member's criminal record reflects convictions that are of concern to THA, an Application Review Panel consisting of three THA staff members will conduct the reviews in accordance with the following procedures:

21. Notification to applicants: THA staff will notify applicants requiring a review in writing that their application was subject to further review based on the criminal history of the applicants. This notification will provide the conviction information and a notice explaining the procedures of the review and the timeframe to provide supporting document(s).

32. Documents to support an application. The applicant bears no burden of proof. However, the applicant may provide the following evidence to support their application:

- A positive record while incarcerated (e.g., program participation, low rates of incidents, etc.);
 - Completion of a higher education degree or vocational program(s);
 - Steady employment or holding of a position of meaningful responsibility;
 - Successful completion of established drug rehabilitation program;
 - Completion of a restorative justice program;
 - Completion of an anger management program; or
 - Letters of support from community groups, parole officers, employers, or other responsible parties in a position to vouch for the applicant.
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43. Decision-making process and decisions. THA staff conducting the automatic review will review all relevant information. After THA staff reviews all the information, the staff will vote to allow or deny assistance. In determining a decision, THA staff may take into account the following factors:

- Criminal history, including time since most recent conviction, time since release from prison or jail, and number and nature of conviction(s);
- Rehabilitation, including history of drug and alcohol use, substance use treatment participation and completion, and tenure on community supervision;
- Community ties and support, including family ties, household composition, support networks (both who supports the applicant and who the applicant supports), and involvement in community groups; and
- Employment and education history, including current employment, employment stability, and current participation in education or training programs.

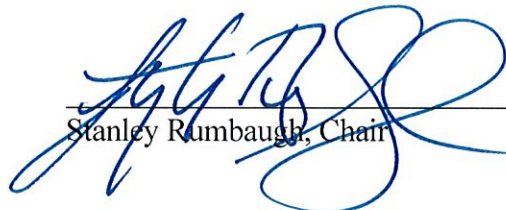
THA staff may consider other factors other than those listed above that they deem relevant. If any other factors were considered in the decision other than those listed above, THA staff will specify the factors and explain the factors in the decision making process. For any denial based on a household member's criminal record, THA may provide assistance to the remaining household members after excluding the denied family member.

THA will make its determination on the day of the review unless THA staff determines additional information is required to make their decision. THA will follow a majority rule to make a decision.

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

If the PHA proposes to deny assistance based on a criminal record or on sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.905(d)].

Approved: May 26, 2021


Stanley Rumbaugh, Chair



Menu of Options: Proposed Changes to Tacoma Housing Authority's Criminal Screening Policies

May 26, 2021

During its review of its criminal screening policies, THA considered the following policy options before forming its final recommendations as presented in the attached Resolution 2021-05-26(4) – Proposed Changes to Tacoma Housing Authority's Criminal Screening Policies.

HUD Prohibits Admission For:	
THA must comply with HUD's requirements. These are policies we cannot make more lenient. In some cases, we expanded the exclusion in ways we do not propose to change.	
Lifetime Ban	Anyone who must register as a lifetime sex offender
Lifetime Ban	Anyone who has ever manufactured methamphetamine in federally subsidized housing. <i>NOTE: THA expands this exclusion to deny admission of anyone who made meth anywhere, whether in or out of federally subsidized housing.</i>
Required Denial	<p>Anyone evicted from federally subsidized housing because of unlawful drug activity within the previous three years.</p> <p>Anyone who demonstrates a current, or pattern of drug or alcohol abuse that would threaten the health, safety and peaceful enjoyment of the premises by other residents and others in the immediate vicinity. <i>NOTE: THA interprets this to include anyone who is engaged in any such use of illegal drugs during the previous 12 months.</i></p> <p>Under HUD's rules THA can still rent to such persons if they show: (i) that they are currently participating in, (ii) have completed a supervised rehabilitation program; or (iii) successful rehabilitation. A family can also remove the family member if would cause the entire family to be denied housing.</p>

Of the rules that THA can control, we considered the following options:

1. Reduce the Scope of Criminal History Review	
A criminal conviction can be classified as a <i>felony</i> or a <i>misdemeanor</i> depending on the seriousness of the offense. A misdemeanor is a less serious offense, which can result in a jail time of up to one year and/or a fine of no greater than \$5,000. A felony is a more serious offense, which can result in significantly longer sentences and/or greater fines.	
Current	Review for criminal convictions, felony or misdemeanor , for violent, drug-related, or threatening offenses within the five-year lookback period
Proposed	Review for felony convictions for violent, drug-related, or other criminal activity that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.
Proposal in Public Comment Documents	Review for felony convictions for violent, drug-related, or threatening offenses within the one-year lookback period

<i>Alternative 1</i>	Review for all felony convictions for violent, drug-related, or threatening offenses within a five-year lookback period
<i>Alternative 2</i>	Review for all felony convictions within a five-year lookback period
<i>Alternative 3</i>	Review for all felony convictions within a one-year lookback period
<i>Alternative 4</i>	Review for all criminal convictions, including misdemeanors, within a five-year lookback period
<i>Alternative 5</i>	Review for all criminal convictions,, including misdemeanors, within a one-year lookback period

2. Reduce Criminal History Lookback Period Lookback period refers to the time THA will review for a disqualifying criminal history to determine whether to rent to a person. The review starts from the date THA is reviewing the application. It will look back to a specified length of time. (see options below).	
Current	Review for criminal convictions or evictions for drug-related, violent or threatening behavior over the past five years
<i>Proposed</i>	For voucher programs only, no longer review for criminal history beyond those required by HUD. The voucher program is designed to have the private landlord chose the tenant.
<i>Proposed</i>	<p>For THA's housing An applicant will require an additional, individualized review in either of two cases:</p> <ul style="list-style-type: none"> ● if a qualifying felony conviction occurred within two years of application review; <p>OR</p> <ul style="list-style-type: none"> ● if the date of release from jail, prison or corrections supervision occurred less than one year prior to the application review date, whether or not a conviction occurred within that time. <p>[If an applicant is awaiting disposition of a charge of having committed such a crime within that two-year period, THA will delay consideration of the application until final disposition.]</p>
<i>Proposal in Public Comment Documents</i>	For THA's housing, look back 12 months from the date of the application review to the applicant's date of conviction for a felony conviction for violent, drug-related or threatening criminal behavior. An applicant with such a conviction will receive an individualized review before THA decides whether to admit or deny the applicant.
<i>Alternative</i>	Require that the 12 month look back period be 12 months without incarceration.

3. Individualized Reviews (Except for HUD's required exclusions, eliminate all categorical or automatic denials based upon criminal history)	
Current	If THA denies an applicant, the applicant may request an informal review using THA's grievance process.
Proposed	Before THA decides about an applicant with a disqualifying criminal history, the applicant would meet with THA staff for an individualized review. The review is an opportunity to consider an applicant's individual circumstances and any mitigating circumstances. THA will base the final decision on the information presented and considered during the review. If THA denies the application, the applicant may still request an informal review of the denial through THA's grievance process. THA will withdraw the application of an applicant who fails to participate in the individualized review.

4. Automatic Case Management Referrals A THA staff member may refer a tenant to THA's Client Support and Empowerment staff. department for case management services. The services may come directly from THA staff or a service partner.	
Current	THA staff refers current tenants for services upon request or as needed to address issues relating to the family's ability to comply with program obligations.
Proposed	Automatic case management referral for applicants admitted with criminal histories through the individualized review process. Participation in services will be voluntary
Alternative	In such cases, or in some cases, require participation in services as a condition of tenancy.

5. Additions to Participating Families Waitlist applicants are those THA pulls from the waitlist. In addition, current THA tenants may request to add a family member to their household. The new arrival need not go through the wait list. New arrivals are not permitted to reside in the unit without THA's approval.	
Current	Screening requirements apply for both types of admissions, those from the waitlist and current tenants seeking to add a family member.
Proposed	Adopt the same new screening criteria to all types of new admissions, including persons seeking to join an existing tenant household as a family member.
Alternative	Adopt some more lenient screening criteria for family members who are joining current THA families.

Anyone denied due to their criminal history (except for HUD lifetime bans) are entitled to request an informal review. In other words, except for HUD lifetime bans, THA would eliminate all categorical denials. The informal review is a chance to meet with THA staff as appeal of the denial.



**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

Last Revised May 14, 2021

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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

This report reviews Tacoma Housing Authority's present use of an applicant's criminal history and recommends changes in that use. Those changes would diminish the reliance on criminal history. These recommendations account for a variety of data and information including:

- rules of the Department of Housing and Urban Development that require THA to consider criminal history and to exclude applicants with certain types of history;
- research literature and THA's experience with its own portfolio on the value of criminal history, or the limitations on that value, in predicting if someone would be a good tenant;
- research literature showing that the use of criminal history has a disproportionate exclusionary effect on persons of color;
- research literature showing that housing reduces the incidences of a person reoffending;
- practices of other housing authorities and landlords;
- survey of the views of THA tenants, THA voucher landlord partners, and community partners.

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 just.¹

In 2016, The Center for Social Innovation, a national research organization that addresses racism and homelessness, invited Pierce County to participate in a research study, Supporting Partnerships for Anti-Racist Communities (SPARC), which explored the nexus of race and homelessness in Pierce County. The study included interviews with people who have or are experiencing homelessness in Pierce County. During these interviews, participants voiced that their criminal history was a barrier to securing housing. National research affirms this finding: people of color are more likely to experience homelessness and have conviction

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

histories and people with conviction histories face discrimination in many facets of life, including housing.

A discussion of the use of criminal background screening in housing is a discussion of equity.

In 2017, THA responded to the Vera Institute of Justice (Vera) invitation to public housing authorities to participate in a new initiative, Opening Doors to Public Housing. The U.S Department of Justice-funded initiative sought to help housing authorities assess how to safely increase access to stable housing for people with conviction histories. Vera provided technical assistance, national research data, and subject matter expertise to THA's analysis of its criminal screening practices and policies.

To fulfill its vision and mission, THA seeks to make informed decisions of its policies and practices to achieve a balance between its social justice mission and protecting the safety and quality of life for its residents and surrounding communities. Like most landlords, THA's screening policies consider an applicant's criminal history as a measure of potential risk to its current residents and its portfolio. In addition, THA applies screening policies to its rental assistance programs that help clients pay rent to landlords on the private rental market.

Presently, THA denies only 2% of applicants due to past criminal history. See the following graph. **Error! Reference source not found.**

In this report, THA explores the use of criminal history as a screening criterion, summarizes the evidence on recidivism and housing, and investigates the ways in which criminal screening policies serve as barriers to housing, in particular for communities of color. THA set out to answer the following questions:

- (1) To what extent is an applicant's criminal history a useful predictor of future tenant behavior?
- (2) Is excluding an applicant due to criminal history otherwise excluding a qualified tenant unnecessarily?
- (3) Does the use of criminal history as a screening criterion result in an undue and disproportionate exclusion of persons of color?
- (4) To what extent does housing persons with criminal histories make a community, the justice-involved individual, and their families more successful?

- (5) Can changes to THA's screening policies make THA's housing more accessible to persons with a criminal history without incurring undue risk to the safety of its housing communities?

To help answer these questions, THA's Department of Policy, Innovation and Evaluation (PIE) conducted a thorough policy analysis. This analysis included consultation of the research literature; investigation into the screening practices and subsequent outcomes of other public housing authorities; and a review of THA's current practices and resulting outcomes. PIE also consulted THA stakeholders including residents, staff, the Landlord Advisory Group, and its liability insurance carrier.

THA's review resulted in the following conclusions:

- (1) Deep racial inequities in the criminal justice system result in inequitable outcomes for people and communities of color;
- (2) criminal history has limited value in predicting future tenant misconduct;
- (3) criminal history as a screening criterion does in fact unduly exclude persons who would be good tenants;
- (4) such exclusions, and the resulting denial of housing, increase the risk that a person will re-offend;
- (5) 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; and
- (6) under THA's present screening policies, only 2% of applicants are excluded from housing or housing assistance due to their criminal history.

THA should consider the following policy changes:

At-a-glance: Comparison of HUD Mandatory Denials, Current THA Policy and PIE Proposed Changes

Current HUD and THA Policy	Recommendations	THA Portfolio	THA tenant-based rental assistance
Criminal Activity			
HUD requires PHAs to screen for convictions for manufacturing meth on federally-subsidized housing or anyone subject to a registration requirement for a sex offense.	Continue to check an applicant's criminal history	X	X
	Continue to use HUD mandatory denials	X	X
THA denies admissions for anyone who has engaged in violent, drug-related, or threatening criminal behavior in the past 5 years. THA reserves the right to deny assistance to persons who have committed serious crimes more than 5 years ago.	THA will continue to review for felony convictions for drug-related, violent, or other felonious criminal activity that threatens the property, or health, safety, or right to peaceful enjoyment of the premises. Except for the HUD mandated denials, THA will eliminate mandatory or categorical denials based upon criminal history. Instead, in those cases, it will use an additional individualized review.	X	
Lookback Period			
THA currently reviews for criminal activity that occurred within the last 5 years	<p>An applicant will require an additional, individualized review in either of two cases:</p> <ul style="list-style-type: none"> • if such a felony conviction occurred within two years of application review; <p>OR</p> <ul style="list-style-type: none"> • if the date of release from jail, prison or corrections supervision occurred less than one year prior to the application review date, whether or not a conviction occurred within that time. <p>[If an applicant is awaiting disposition of a charge of having committed such a crime within that two-year period, THA will delay consideration of the application until final disposition.]</p>	X	

[continued]			
Current HUD and THA Policy	Recommendations	THA Portfolio	THA tenant-based rental assistance
Tenancy Decisions			
THA will deny applicants whose criminal history is within THA's written scope of review	No automatic denials for criminal history [except for HUD's mandated denials]	X	X
	Create an Application Review Panel to conduct individualized reviews	X	
Operational Changes			
	Refer new admissions admitted through Application Review Panel to Client Support and Empowerment for review of service needs	X	
	Designate an Applicant Liaison to help with application process	X	
	Continue addressing lease violations and further memorializing policies and procedures related to crime and nuisance	X	

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 on the private rental market. The HCV program includes both tenant-based and project-based voucher programs. Public 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 forgiving than the private rental market by providing applicants ample procedural opportunities to contest any denial of housing or housing assistance. This section provides an overview of the federal requirements pertinent to criminal history.

HUD prohibits admission to its HCV programs for the following:

- lifetime sex registrants;
- anyone who at any time has been convicted of manufacturing meth in federally-subsidized housing; and

Additionally, 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 in the development of their 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 offending 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, concluding: “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” (emphasis added). *See* HUD OGC Memo to HUD Regional Counsel, May 21, 2018, page 2.

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 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 persons with prior convictions must be able to prove that such policy is necessary to achieve a substantial, legitimate, nondiscriminatory interest].”
- 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

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.

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 a required grievance process internal to the PHA with an informal reviewer. *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 and included its policies in the Administrative Plan, which governs THA’s primary programs: (1) its managed portfolio of housing and (2) its rental assistance programs, including the HCV program and Housing Opportunity Program (HOP). THA’s Admissions and Continued Occupancy Plan (ACOP) 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*). Table 3 provides a comparison of HUD’s mandatory policies to THA’s current and proposed policies.

- (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's portfolio and voucher programs. It also applies to existing households who wish to add a new household member—which may include people who are returning to the community from incarceration and attempting to reunify with family. If THA denies an applicant household 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 special programs such as the Veteran's Assistance Supportive Housing (VASH) Program or the 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 for 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.

Appendix C further details 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 and potentially face housing insecurity.

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

Lifetime Bans	THA Portfolio	Tenant-Based Assistance
HUD Mandatory	(a) Lifetime ban: Individuals convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.	
	(b) Lifetime ban: Sex offenders subject to a <u>lifetime</u> 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 <u>any duration</u> .	
PIE Proposed Changes	No Proposed Changes	
Drug-Related Activity	THA Portfolio	Tenant-Based Assistance
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 <u>anywhere, whether in or out of federally-subsidized housing</u> .	
	(c) THA determines that this means anyone who is currently engaged in any use of illegal drugs <u>during the previous 12 months</u> .	
PIE Proposed Changes	No Proposed Changes	

Criminal Activity	THA Portfolio	Tenant-Based Assistance
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	<p>Except for HUD's mandated denials, THA will eliminate automatic or categorical denials based upon criminal history. Instead, it will conduct a further individualized review of an application for the following applicants:</p> <ul style="list-style-type: none"> • an applicant who within the two years previous to THA's application review was convicted of a felony for a violent, drug-related or other felonious criminal behavior that threatens the property or health, safety and peaceful enjoyment of residents and neighbors. <p>Or,</p> <ul style="list-style-type: none"> • an applicant who was released from prison, jail, or corrections supervision, within one year from the date of application review, even without any conviction within that year. <p>[If an applicant is awaiting disposition of a charge of having committed such a crime within that two-year period, THA will delay consideration of the application until final disposition.]</p>	<p><u>Remove the five (5) year lookback</u> period and no longer review for criminal history beyond the HUD mandated denials.</p>

3. POLICY RECOMMENDATIONS

As a public housing authority, THA holds a dual role as a social safety net for marginalized individuals and families who face barriers in the private housing market; and as a landlord THA aims to provide all low-income households with housing opportunities that advance safety and stability – the precursors that allow individuals to advance personally and economically while ensuring the continued safety and enjoyment of its housing.

In forming these recommendations, PIE considered this dual role of THA as a housing provider and landlord and its social justice mission.

PIE recommends that THA continue to consider criminal history in its eligibility determination and to continue to screen for other suitability factors such as past rental history, landlord references and debts owed. All applicants will continue to be entitled to request an informal review of a decision to deny admission³ which provides them an opportunity to appeal that denial.

While past criminal history can provide some indication of future tenant behavior, it is limited. A recent study found past criminal history has a relatively small effect on housing outcomes, citing a 10% increased likelihood of negative housing outcomes for households with a recent felony conviction⁴. This is congruent to findings in the criminal justice literature that recidivism is most likely to occur in the first few years. However, as the author of this study points out and as provided in Section 4 – this is a relatively small increase in risk to the housing provider and its residents are outweighed by the social benefit of providing housing to these households. Further, providing housing and other supports to recently released individuals is proven to have a profound impact on recidivism rates.

In line with the evidence and industry best practices, PIE recommends that THA eliminate categorical denials based on criminal history where permissible and instead provide applicants whose criminal history falls within the defined scope of review an opportunity for an individualized review. THA should narrow its scope of review by reducing its lookback period and limited the types of offenses by seriousness and relevance to housing. Applicants with criminal history within this period will be referred to an Application Review Panel which will conduct an individualized assessment. If admitted, the applicant will automatically receive a

³ See 24 CFR 982 Subpart L. [Linked here](#). And THA's Grievance Process for Applicants and Participants [here](#)

⁴ Warren, C., Gerrard, M.D. (2019) Success in Housing: How Much Does Criminal Background Matter?. Wilder Research. [Linked here](#)

referral to Client Support and Empowerment for voluntary additional supports to ensure housing success.

Further explanation of each of these recommendations follows.

3.1 Recommendation 1: Adjust Criminal Screening Practices For The THA-Managed Portfolio.

- a) THA should continue to use the HUD mandatory denials, as required by regulation.
- b) THA will continue to screen for criminal history as set forth below. Except for HUD's mandatory denials, THA will eliminate categorical or mandatory denials based upon criminal history.
- c) THA should reduce and change its lookback period from the present lookback of last five years to the following: An applicant will have to submit to an individualized review if either of the following are true:
 - within the two years previous to THA's application review, the applicant was convicted of a felony conviction for drug-related, violent, or other felonious criminal activity that threatens the property or health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate ,

OR

- within the one year previous to THA's application review the applicant had been released from jail or prison or freed from corrections supervision, whether or not the applicant had committed further criminal activity within that one year.

[If an applicant is awaiting disposition of a charge of having committed such a crime within that two-year period, THA will delay consideration of the application until final disposition.]

- d) For such applicants, THA should not admit nor deny them based upon criminal history alone but instead should require them to meet with an Application Review Panel before a decision is made. 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 Application Review Panel consisting of three THA staff members, with one representative from Property Management, another from Rental Assistance, and the third from Client Support & Empowerment. The panel may also include a community member 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.
- f) The Application Review Panel must use Fair Housing guidelines and consider the following when deciding to admit or deny an application: 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 case management with an external agency, personal references and any other mitigating circumstances that indicate the applicant does not pose a significant risk to THA residents, staff, or properties.
- g) It's within Fair Housing's guidance⁵ 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 2.

3.2 Recommendation 2: Conform To HUD Guidelines For The Tenant-Based Rental Assistance Programs.

- a) THA should continue to use the HUD-mandatory denials, as required.

⁵ 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](#).

- b) THA should no longer deny housing 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.

3.3 Recommendation 3: Refer All New Admissions And New Adult Household Members Admitted Through The Application Review Panel To Client Support And Empowerment For Review Of Service Needs.

THA should refer all new admissions admitted through the Application 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 5.4.*

3.4 Recommendation 4: Designate An Applicant Liaison To Help Applicants With The 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 a considerable amount of documentation and paperwork 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 4.2.2(iii) 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 applicants 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 were compounded by the lack of follow-up from applicants.

Understanding these challenges, the role of the Applicant Liaison is to alleviate confusion and frustration throughout the application process, including help setting timeline expectations and translating the requirements of the application. They are not a required point-of-contact but

are offered to provide support to applicants who seek it. The Applicant Liaison may encourage the applicant to present documentation such as a certificate of completion for a rehabilitation program, recommendations from service providers, or other evidence that shows the applicant has made progress since their conviction.

3.5 Recommendation 5: Continue Addressing Lease Violations And Managing THA Properties Closely.

To ensure THA's ability to respond to crime and nuisance in a swift and appropriate manner, the agency should further memorialize its policies, procedures, and resources necessary to address crime and nuisance more effectively as it arises on THA properties.

THA staff can further support this recommendation and mitigate risk by:

- Checking-in with residents more frequently and connecting them to prosocial activities and resources;
- Providing clear and transparent communication about lease enforcement processes; and
- Developing a follow-up process for resident reports and complaints that protects the privacy and integrity of all parties involved but helps alleviate concerns.

THA can rely on its strengths as a public housing authority to safely reduce its criminal screening criteria and continue to protect the wellbeing of its residents and properties.

These recommendations are evidence-based and supported by findings from leading researchers and peer housing providers. The research concludes that providing supports, such as housing, to justice-involved individuals greatly reduces their recidivism risk and increase community safety.

The recommendations also do not unduly imperil the safety of THA's communities and align with the requirements and expectations of THA's stakeholders, including its liability insurance carrier. Finally, these recommendations promote THA's values of racial justice and family success.

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. These recommendations are in line with these reform efforts.
	Housing is an integral part of a coordinated effort for successful re-entry. For example, the City Council of Seattle recently adopted the Fair Chance Ordinance after a comprehensive analysis of the racial equity barriers to housing and employment concluded that screening procedures have disparate impacts on communities of color. This analysis 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. 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 cause disturbances, it takes THA longer to evict than traditional landlords. This delay is due to governing laws that require housing authorities to show good cause to justify a termination of a tenancy. Additionally, under most circumstances, residents are entitled to an administrative hearing in advance of legal proceedings. This prolongs the eviction process, potentially further traumatizing 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](#).

4. PURPOSES AND SUPPORT FOR PROPOSED RECOMMENDATIONS

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.

This section explores the usefulness of criminal history as a predictive measure of future tenant behavior, the role that housing plays in reducing recidivism, and the way in which stringent criminal history screening disproportionately affects people of color.

4.1 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?

4.1.1 *Past Criminal History Has a Limited Effect on Housing Outcomes*

In collaboration with four affordable housing developments in Minnesota, Wilder Research recently published the study, "*Success in Housing: How Much Does Criminal Background Matter?*"⁷ The study sought to review the link between criminal history and housing outcomes and observed over 10,500 households who resided at one of the four nonprofit multifamily housing developments at some time between March 2010 and June 2017. The study included households with and without criminal history and varied from single adult households to families. Household outcomes were determined by the move-out reason the provider had on file. Positive housing outcomes meant a household exited while "maintaining housing stability" whereas a negative outcome meant "losing or at risk of losing housing stability" at exit.

⁷ Warren, C., Gerrard, M.D. (2019) Success in Housing: How Much Does Criminal Background Matter?. Wilder Research. [Linked here](#)

Of the 10,500 households, 13% had at least one adult with a prior criminal conviction. These households tended to be younger and had lower incomes with 73% of households headed by a single adult under the age of 65. The table below is from the report which shows how household characteristics affect housing outcomes.

7. Household characteristics significantly affect the likelihood of a negative housing outcome

Compared to single adults (under age 65) with no children, the likelihood of a negative housing outcome is reduced by:

	In households with...
9 percentage points	2+ adults and no children
16 percentage points	1 adult and at least one child
24 percentage points	2+ adults and at least one child

The likelihood of a negative housing outcome is also reduced by:

1 percentage point	for every \$100 increase in monthly rental subsidy
1 percentage point	for every \$500 increase in monthly per-capita income

Note. All differences shown are statistically significant at $p < .01$. The likelihood of a negative housing outcome is also reduced in older-single-adult households (age 65+) by 8 percentage points, compared to single-adult households under age 65.

These observations align with general trends in criminal justice literature that prosocial relationships (such as family) and income level have a positive effect on a person's success and thus success in housing.

Using this data, researchers calculated a 17% baseline risk that all households, regardless of past criminal history, would experience a negative housing outcome. Then, they compared households of similar characteristics to examine the effect of specific offenses on housing outcomes.

The study's primary finding is that most criminal offenses have no effect on housing outcomes. Although, there was an observed 3-9% risk increase for major drug-related, fraud, assault, and property-related offenses. A recent felony conviction (two years prior to move-in) showed the largest effect on housing outcomes with a 10% risk increase.

Of all 10,500 households included in the study, only 14% (1,444) experienced a negative housing outcome. Lease violations for behavior (8%), leaving without notice (3%) and non-payment of rent (2%) were the primary reasons for negative exits. And while the data suggests certain criminal offenses have a slight effect on negative housing outcomes, these households consist of a small portion of the overall resident population. The researchers go on to explain that the impact of criminal history is likely overstated as other important factors such as past rental history, employment status, education level, or mental health/substance use could not be controlled for.

Even to the extent that the data points to an increased risk that *the household* will experience a negative housing outcome it does not provide context for how this risk affects the safety and enjoyment of current residents. A negative housing outcome could include: non-payment of rent, leaving without notice, poor housekeeping and other lease violations that have no effect on anyone outside of that household. Most households with criminal history will go on to have a positive housing experience and all will still gain the benefit from having housing even if they experience a negative exit.

The following figure helps illustrate these findings.



4.1.2 *Review of Past and Current THA Residents to Determine 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 unsuccessful tenancy. PIE examined this relationship in several ways.

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

Next, PIE investigated if participants with open cases/concerns,⁸ particularly those related to nuisance/criminal behavior, had a criminal history at admission.

PIE also reviewed records of 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.

Overall, violations or evictions due to crime or nuisance were a relatively small portion of the total violations (7% of 284 households, or 19 households). Of these violations and evictions, one-third, or 6 of the 19 households, had some sort of criminal history at admission. PIE found similar results when examining records of residents who had known problematic behaviors and were terminated from a housing program. Those with criminal history at admission made up

⁸ Cases/concerns are opened by THA staff for several reasons, including problematic behavior meriting written documentation.

approximately one-third (1/3 with criminal history; 1/3 without; and 1/3 with unknown history) of those with a reported nuisance, criminal activity, or an eviction. While criminal activity 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 fell beyond THA's five-year lookback; and those with minor misdemeanors such as driving with a suspended license.

Administrative records for residents with a criminal history show that unauthorized guests were the main causes for crime-related violations or terminations. This means that the resident may not have been the perpetrator of the crime or violation, a guest may have perpetrated the action that led to a violation or termination.

PIE is unable to compare this data to expected or normal rates of crime or nuisance and cannot conclude whether this finding lends to an increase of crime and nuisance in housing. It is also important to note that this was a review of administrative records and not a rigorous, randomized study. THA did not have available data on a comparison group for THA clients with known criminal histories and thus cannot conclude causation.

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

As the research presented above concludes, 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 in place. In the absence of this empirical

evidence, housing providers have turned to recidivism rates as a proxy. This section illustrates why recidivism is not a suitable proxy for predicting future tenant behavior.

Recidivism is one of the most fundamental concepts in the study and practice of criminal justice. There is no universal definition for recidivism but it generally refers to the return to the criminal justice system. A return to the criminal justice system can include being re-arrested regardless of having committed a crime; or re-convicted or re-incarcerated which does not always consider or identify the nature, severity or relevancy of the new offense. Sometimes recidivism data can group minor technical violations that occur while someone is under supervision with new felony convictions. These limitations are important to understand since policymakers may consider recidivism studies to inform their decisions. One primary question 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.”⁹ The report attempts to provide guidance on how to regulate the use of criminal records in employment decisions and provide a time limit on their relevancy. The report follows a cohort of individuals 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 to 25 years and measure risk as a “hazard rate.” The hazard rate refers to the

⁹ Blumstein, A., & Nakamura, K. (2009). Redemption in the Presence of Widespread Criminal Background Checks. *Criminology*, 327-359.

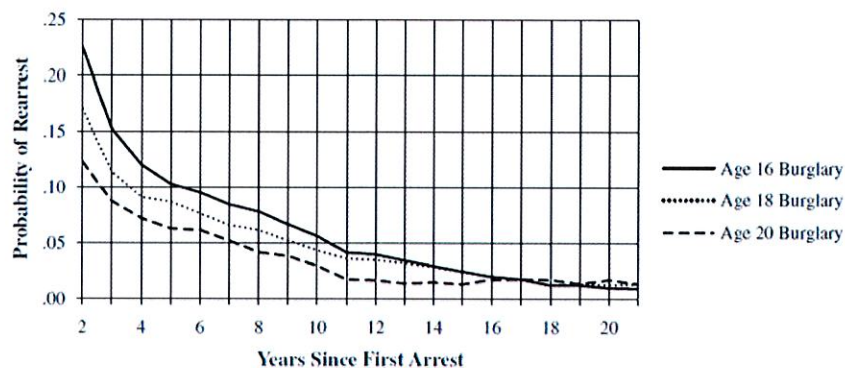
probability, over time, that someone who has not engaged in criminal behavior since their initial offense will be arrested for a new offense. In the following graphs, the hazard rate is shown as $h(t)$.

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.

CRIMINAL BACKGROUND CHECKS

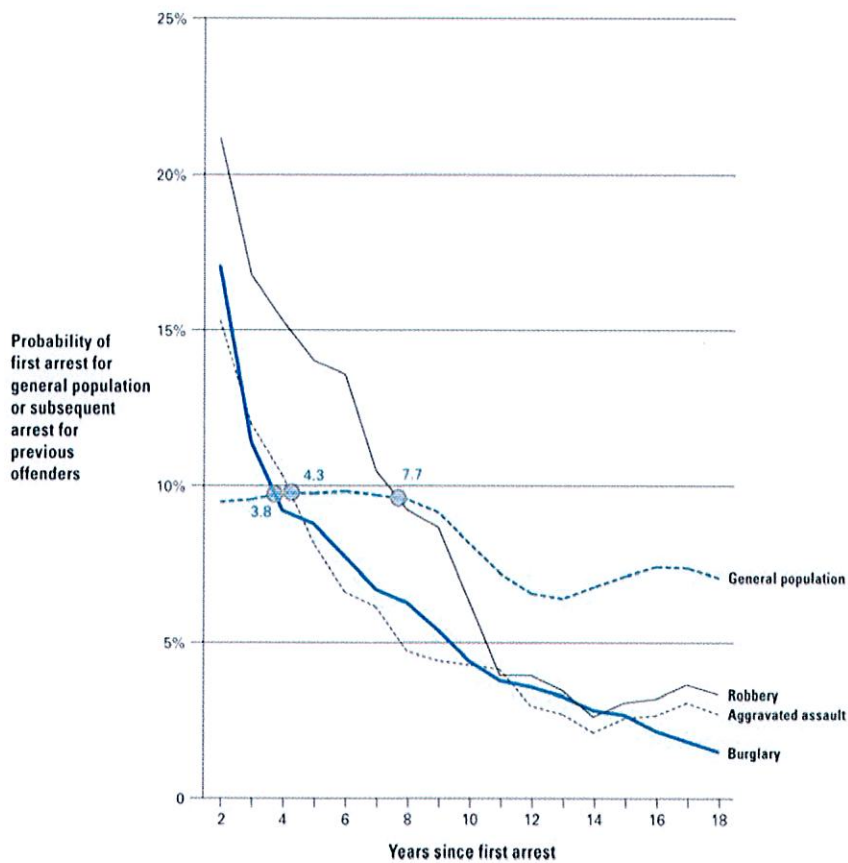
337

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 chart shows the likelihood of this cohort being re-arrested compared to the general population.¹⁰ For those whose first arrest was for burglary at the age of 18, they reached the same hazard rate of the same-aged general population within 3.8 years. Those arrested at 18 for aggravated assault reached the general population's hazard rate within 4.3 years and those arrested for robbery took 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.

¹⁰ 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](#).

While these reports explain how past criminal behavior predicts future criminal behavior, there are some limitations when relying on recidivism statistics that are worth noting.¹¹ The study above serves as an example as it illustrates how age, gender, nature of offense and other factors can influence recidivism rates. A report by William Rhodes demonstrates how differing definitions can skew recidivism data by offering an analysis of the Bureau of Justice Statistics (BJS) special report.¹² The BJS report contains some discouraging statistics, including the finding that 5 in 6 state prisoners will be re-arrested at least once during the 9-year follow-up period. 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 never actually return to prison.

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

- For those who will return to prison, most will do so within the first three years.¹³

¹¹ 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](#)

¹² Rhodes, W., Gaes, G., Luallen, J., Kling, R., Rich, T., & Shively, M. (2014). Following Incarceration, Most Released Offenders Never Return to Prison. *Crime and Delinquency*, 1003 - 1025.

¹³ 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](#).

- Age is a reliable predictor – younger offenders show higher rates of recidivism.¹⁴
- Previous criminal history increases the likelihood of re-offending.¹⁵
- 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 offenses.¹⁶
- Serious violent offenses such as rape, murder, and arson show the lowest recidivism rates.¹⁷
- Repeat offenders are typically re-incarcerated for less serious crimes.¹⁸
- Individuals released from incarceration are 10x more likely to become homeless than the general population.¹⁹
- Pre- and post-incarceration homelessness is a predictor of re-incarceration.

These are some factors that help predict the likelihood of re-offense. Other factors include unemployment or low wages²⁰, anti-social behaviors, dysfunctional peers, and lack

¹⁴ 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](#).

¹⁵ 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](#).

¹⁶ Previously cited BJS report. Brinkman, L. O. (2010). The Sentencing Project: State Recidivism Studies. The Sentencing Project. Linked [here](#).

¹⁷ Previously cited. BJS report. See footnote 15.

¹⁸ Previously cited. BJS report. See footnote 15.

¹⁹ 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](#).

of medical coverage which can exacerbate another risk factor -- current substance abuse.²¹

The research shows there is no single factor in predicting recidivism and that housing insecurity has a profound relationship with criminal justice system involvement, as detailed further in the next section.

Further, recidivism is not a proxy for predicting future tenant behavior. As noted above, recidivism data can mislead public perception on public safety and the behavior of individuals involved in the criminal justice system. Focusing on recidivism data confuses “a complex, bureaucratic indicator of system decision making with a simple measure of individual behavior and rehabilitation.”²² There are many variables that influence recidivism such as the varying perceptions, beliefs, and biases of the many actors within the criminal justice system and the social, economic, and physical differences among individuals. This is seen in marginalized communities who are subject to prejudice and discrimination of law enforcement and the courts and have long been subject to de jure and de facto racism in public law and policy. In sections 4.3 and 5, this report describes how these variables clash and create unjust experiences for marginalized communities who are vulnerable to these dynamics within the criminal justice system. In “Recidivism Reconsidered: Preserving the Community Justice Mission of Community Corrections²³”, the authors go into detail about how these complexities intertwine and limit the utility of using recidivism data to make policy decisions that seek to promote community safety. Relying on recidivism data shifts the focus to the problem which tends to shift the focus towards punitive measures rather than solution-based strategies that support and encourage positive outcomes.

22 Brinkman, L. O. (2010). The Sentencing Project: State Recidivism Studies. The Sentencing Project. Linked [here](#)

23 Brinkman, L. O. (2010). The Sentencing Project: State Recidivism Studies. The Sentencing Project. Linked [here](#)

4.2 To What Extent Does Housing Persons With Criminal Histories Make A Community Safer? And The Justice-Involved Individual, And Their Families More Successful?

4.2.1 *Exiting Incarceration into Stable Housing Helps Reduce the Likelihood of Recidivism*

As noted above, many exiting prison are also at increased risk of homelessness. Homelessness itself can reduce access to healthcare coverage (including treatment for mental health and substance use disorders), employment and education. Numerous reports show that recidivism is most likely to occur within the first year of release.²⁴ Given the barriers people exiting incarceration face, higher recidivism rates within the first year of release strongly show the importance of creating equal access to housing supports.

During an interview with PIE, local Community Correctional Officers (CCOs) and the Pioneer Human Services Director shared how critical housing is post-release and that many under their supervision exit supervised housing into homelessness.

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

4.2.2 *Housing and Supportive Services Reduce the Likelihood of Recidivism: 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 homelessness”.²⁵ The Housing First model theorizes that providing immediate and safe housing helps stabilize the

²⁴ Washington State Sentencing Guidelines Commission. Review of the Sentencing Reform Act FY 2019. Linked [here](#).

²⁵ USICH. (2014). Implementing Housing First in Permanent Supportive Housing. United States Interagency Council on Homelessness. Linked [here](#).

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 whereas public housing authorities provide housing to low-income households with varying degrees of needs and challenges. The following subsections highlight the positive impact that housing provides for high-needs individuals (those with behavioral health and substance use issues) who are exiting homelessness into housing with supportive services.

(i) 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*"²⁶ delivers findings from Seattle's Downtown Emergency Service Center (DESC) and 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 DESC's permanent support housing participants had a criminal record, 72% of all participants were successful in their housing program. Of those with criminal histories, 70% 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

²⁶ 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](#).

only variable associated with housing failure. The likelihood of criminal behavior declines as the previously incarcerated individual grows older. Malone concludes that keeping individuals with criminal records out of housing may be unnecessarily restrictive.

(ii) 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 Corrections, the Urban Institute conducted a quasi-experimental study to explore the impact of single-site and scattered supportive housing from nine providers, who provide a range of services, for 121 people releasing from 13 state prisons in Ohio.²⁷ 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 rearrested within 1 year and 61% less likely to be reincarcerated within 1 year than the comparison group. Additional analysis of the treatment group compared housing participants who were rearrested to 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 the type of housing did not have an impact on outcomes. This finding may indicate that the housing providers were successful in matching participants to appropriate program/supportive services or that housing alone, no matter the modality, is the influencing factor.

(iii) 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

²⁷ 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](#).

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.

The evaluation of NYCHA's reentry pilot, conducted by the Vera Institute, found that of the 108 total participants less than a handful had been convicted of a new criminal charge while in the program. At the time of the evaluation (May 2017), there were 85 active participants, none of whom had committed a new crime during the evaluation period. Many participants reported a sense of purpose and pride as they were able to reconnect with family and contribute positively to the household.²⁸ During the evaluation period, 20 participants fulfilled the two-year program requirement. In May 2017, six of the 20 participants were successfully added to the lease with 10 additional participants in process. Vera also found that 14 participating households saw annual income increases by an average of 61%.

Overall, this evaluation shows that housing increases a person's likelihood to successfully remain in housing and access services that help treat their behavioral issues while increasing overall household stability.

4.2.3 *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 improve their safety needs such as employment, treatment, education and so on.²⁹ Housing is an essential piece to anyone's stability and especially for those who are reintegrating after a period of incarceration. Housing is

²⁸ 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](#).

²⁹ Based on Maslow's Hierarchy of Needs. A description is linked [here](#).

foundational to keeping a job,³⁰ maintaining health, establishing/maintaining pro-social relationships and pursuing educational opportunities – all protective factors that help reduce recidivism.

(i) The Relationship between Stable Housing and Protective Factors That Help Reduce Recidivism

The Washington State Department of Commerce report, *“Achieving Successful Community Re-Entry Upon Release from Prisons: Housing and Medical Assistance as Keys to Reduced Recidivism and Improved Employment Outcomes”*, follows a cohort of individuals for a 12-month period post-incarceration. Some of the key findings from this report 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 use 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 of up to 9% during the 12-month follow-up period.

Another Washington State DOC report that examined the employment outcomes of property crime offenders found that employment has a positive effect on recidivism, but also discovered that higher wages are a better indicator of

³⁰ 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.

recidivism.³¹ Another report found that losing housing had a greater impact on job loss than the inverse.³² 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 recidivate.³³

(ii) 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 housing supports the state sees a return of \$3.75 in savings from reduced future crime and reduced use of public services.³⁴ 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 also decreased their use of emergency rooms with a 73% reduction in costs to the medical system two years after this group was housed.³⁵

4.2.4 *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 children who are in poverty, and especially children of color

³¹ Landon, M. (2015). *Of Jobs and Jail: Outcomes for Washington State Property Offenders*. Olympia: Washington State Statistical Analysis Center. Linked [here](#).

³² 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](#).

³³ Visser, C., Debus, S., Yahner, J. (2008) Employment after Prison: A Longitudinal Study of Releases in Three States. Linked [here](#).

³⁴ Washington State Institute for Public Policy (2018). Housing assistance without services: adult criminal justice. Olympia. Linked [here](#).

³⁵ Washington Low-Income Housing Association. Myths and Fact of Homelessness in Washington State. Linked [here](#).

experiencing poverty, 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 due to racial injustice, are very likely to be predominantly Black. These factors lead to a setting that makes 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.³⁶ Because of the racial disparities in incarceration rates, Black children are disproportionately affected by the criminal justice system.

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.”³⁷ Children who have at least one parent incarcerated are much more likely to experience physical, mental and academic problems than those whose parents have never been incarcerated.

As summarized earlier in this section, access to housing and employment reduce recidivism. And for those exiting prison, many rely on their friends and family for support,³⁸ many of whom live in public housing. They not only rely on family and friends for housing, but these social networks are their

³⁶ Eric Martin, "Hidden Consequences: The Impact of Incarceration on Dependent Children," March 1, 2017, [nij.ojp.gov](#): Linked [here](#).

³⁷ Prison Fellowship. (2017). FAQs about children of prisoners. Retrieved from [here](#).

³⁸ Keene, D., Rosenberg, A., Schlesinger, P., Guo, M., Blankenship, K., (2017) Navigating Limited and Uncertain Access to Subsidized Housing After Prison. Linked [here](#).

strongest links to employment as well.³⁹ 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 use.⁴⁰ Studies have found that when children are not able to live with their parents post-incarceration, stable housing was key in keeping regular and frequent communication.⁴¹ The newly added family members also reported 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 and learn effective parenting skills to use upon release. It was modeled after a program leveraged within the Oregon DOC facilities. The program had 359 participants who reported having 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 rearrested (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 and parental stress than their non-participating peers and were also more likely to use positive reinforcement. For parents who were sentenced under the Parenting Sentence Act⁴² preliminary results after three years of participation show significant decreases in recidivism as compared to similar groups.⁴³ This sentencing alternative requires parents to continue to serve their sentence in conjunction with community supervision and

³⁹ 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.

⁴⁰ Fontaine, J., & Biess, J. (2012). *Housing as a Platform for Formerly Incarcerated Persons*. Urban Institute. Linked [here](#).

⁴¹ Elhage, A., (2018). Factors That Shape Parent-Child Reunification After a Parent is Released From Prison. Institute for Family Studies. Linked [here](#).

⁴² Learn more about Washington's Parenting Sentencing Alternatives [here](#).

⁴³ Aguiar, C. (2015). Research in brief: Preliminary felony recidivism outcomes of the Community Parenting Alternative. Spokane: Washington State Institute for Criminal Justice. Linked [here](#).

treatment/support services. While the outcomes demonstrate that providing parental coaching support to incarcerated individuals promotes better parenting, it also highlights how positive relationships with family help reduce recidivism.⁴⁴

DOC-CCOs also emphasized the importance of family reunification and its effects on recidivism. People often exit into shared housing situations specifically intended for those recently released. The quality of the housing is often sub-standard and does not separate them from peers who may reinforce criminal behavior.

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 helps accomplish this.

4.3 Does The Use Of Criminal History As A Screening Criterion Result In An Undue And Disproportionate Exclusion Of Persons Of Color?

It is well documented that Black men are more likely to be incarcerated than White men.⁴⁵ Black men are also more likely to be stopped by the police, detained pretrial, charged with more serious crimes and sentenced more harshly.⁴⁶ Washington's current incarceration practices similarly reflect a significant impact on communities of color. 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).⁴⁷ This means that housing policies that restrict access based on criminal history will disproportionately exclude persons of color. Similar disparities are found in the homeless data which is noted to be a pathway to

⁴⁴ Parenting Inside Out Outcome study. Linked [here](#).

⁴⁵ Bureau of Justice Statistics, National Prisoner Statistics, 2008-2018. Linked [here](#).

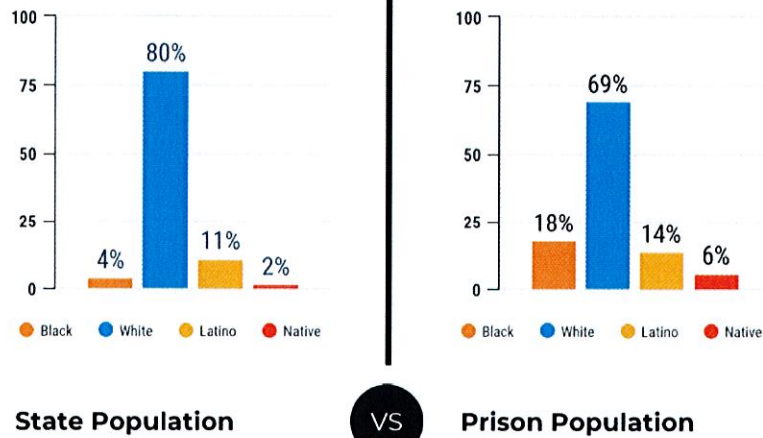
⁴⁶ Vera Institute of Justice. Incarceration Trends in Washington Fact Sheet. December 2019.

⁴⁷ Prison Policy Initiative. 2018. Racial and ethnic disparities in prisons and jails in Washington. Linked [here](#).

incarceration.⁴⁸ Overall, the disproportionate rate of incarceration among Black men results in disproportionate negative effects on them, their families and their communities.

Racial Disparities

in Washington State Prisons/Jails



⁴⁸ 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)

5. 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 justice-involved individuals face when seeking affordable housing, which are likely to be in addition to other common factors among justice-involved individuals such as lower wages, poor credit and disabilities. This section provides the evidence used to answer the final question PIE sought to address in this report: *Can changes to THA's screening policies make THA's housing more accessible to persons with a criminal history without incurring undue risk to the safety of its housing communities?*

5.1 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 three main obligations: (1) pay rent on time; (2) take care of the property; and (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 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 Department of Housing and Urban Development, uncovered similar findings.⁴⁹

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 Housing ordinance could be effective.⁵⁰ Whereas, about 27% of the landlords responded more positively saying they strongly agreed that the

⁴⁹ Clark, L. *Landlord Attitudes Toward Renting to Released Offenders*. 71(1). Linked [here](#).

⁵⁰ Crowder, K. (2018). *Seattle Rental Housing Study: Final Report*. Seattle: University of Washington Center for Studies in Demography and Ecology. Linked [here](#).

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, criminal history screening poses several problems. Unfavorable marks reduce a person's chances of finding housing. Repeated denials become expensive as housing seekers must pay fees with each application. Additionally, those with criminal histories are also more likely to be low-income. They compete with households with stronger histories and higher incomes in a market that already lacks a sufficient supply of affordable housing. As a result, low-income housing seekers with criminal 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.

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 Washington.⁵¹ 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. PIE is proposing policy changes to address these challenges and ultimately reduce housing barriers for those exiting the criminal justice system.

5.2 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 presence of a criminal history is a reliable predictor that a tenant would cause harm. As reported in the Seattle housing report referenced in Section 5.1, 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.

⁵¹ 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](#).

First, landlords are not liable for harm against their tenants. The NYU Journal of Legislation and Public Policy published article, “*Tenant Screening in an Era of Mass Incarceration: A Criminal Record is No Crystal Ball*”⁵² 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. In addition, a review of Washington’s Residential Landlord-Tenant Act concluded that the legislation 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.”⁵³ 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.

This robust legal support provides more reason for THA to reconsider its use of extensive and potentially restrictive criminal screening procedures.

5.3 Housing Barriers in Pierce County

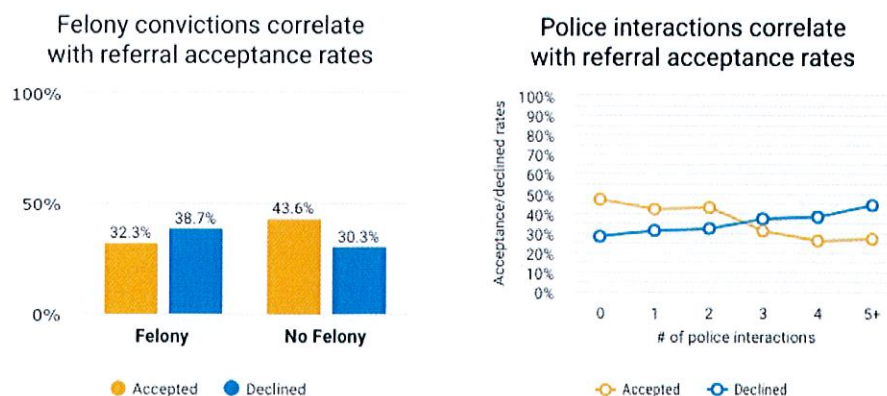
THA worked closely with Pierce County Human Services in this review as the agency also funds multiple housing programs throughout its jurisdiction and track corresponding household demographics and outcome data. These programs make up the Coordinated Entry system, which is an entry point for households 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 staff member initiates an exploratory conversation with the individual or family to brainstorm solutions and options. These conversations result in a diversion process that encourages households to come up with solutions to their barriers or for those facing greater obstacles, placement in a housing program.

⁵² 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](#).

⁵³ “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.

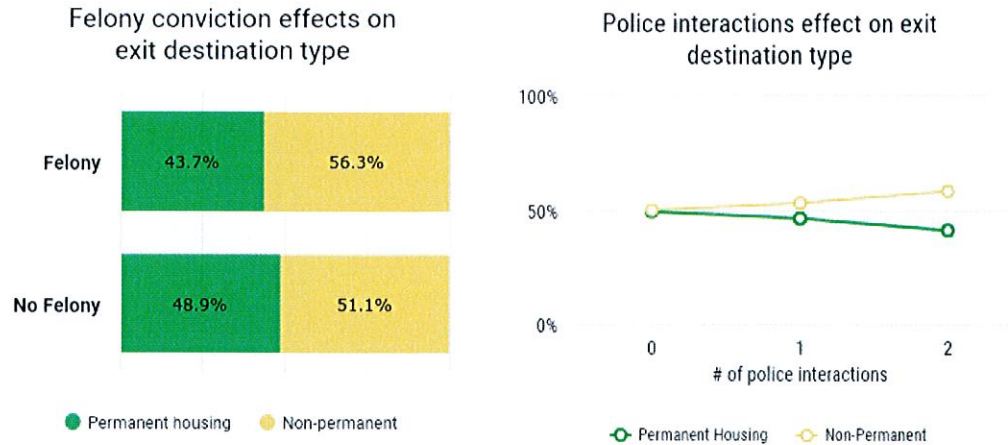
Pierce County has, on average, 19,750 arrests and 1,150 individuals admitted to prison every year out of a population of 876,000 people. In the last year, 1,140 people exited prison to Pierce County, less than 0.13% of the County's population. Using Pierce County data, the following discussion and graphs illustrate the effects on households when there is a member that has a critical felony or a history of police interactions⁵⁴.

The first graph demonstrates the relationship between police interactions and acceptance into a housing program. During the initial intake, households are asked to self-report how many police interactions they've had in the last five years. The following figure 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 figures do not total 100 percent as they only account for outcomes that resulted in a denial or acceptance rather than other outcomes such as cancelled, placed on a waiting list, etc.



As a result of 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 in the private market) or a family shelter (temporary housing). The following graphs show the relationship between felony conviction and the number of police interactions on the destination type (permanent versus non-permanent housing) upon exit from the Coordinated Entry system.

⁵⁴ Critical felonies are felony convictions for arson, sex offenses and manufacturing meth.



In these graphs, along both dimensions, the effect of criminal history on housing can be observed. A prior felony conviction corresponds to a decreased acceptance rate into housing programs. The same happens for those who reported 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. In summary, past criminal justice system involvement has an impact on one’s ability to secure housing and the type of housing they are able to access.

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

Requiring service participation is not a current THA practice, nor an industry best practice. Yet, service participation is a useful factor to consider in the recommended individualized assessment process. Presenting evidence of rehabilitation – such as 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 for the following two reasons:

5.4.1 *This Practice Cannot Be Applied in A Consistent, Nondiscriminatory Manner*

THA staff argue 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, accessible 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 the parole or probation process, 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.

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

To require a person to participate in services is inconsistent with reducing barriers to housing. Supportive services may be a financial or logistical burden for clients, diminishing their ability to meet this requirement and 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.”⁵⁵ Research supports the Housing First theory and finds that participants find better results when they lead when, how and where they will access services. Findings also note that for low-to-fixed income households, private market vouchers increased housing stability and contact with case managers while the intensity of treatment did not.⁵⁶ Further research shows that for those with substance use disorders, housing is correlated with the participant’s willingness to enter treatment programs to address their substance use.

HUD’s regulations permit PHAs 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 is not language that permits a PHA to deny or terminate assistance if the newly admitted household fails to continue their rehabilitation.

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

Housing providers and public housing authorities define their own lookback periods which 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 period goes back to the most recent 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 or supervision). This is an important distinction for individuals who have finished serving longer sentences.

⁵⁵ National Alliance to End Homelessness. Fact Sheet: Housing First, April 2016. Linked [here](#).

⁵⁶ 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](#).

If incarcerated, a felony conviction will require a minimum of a year to be served. This means that at the time of release most applicants may be eligible for housing despite their conviction history. Given the nature of THA's waiting list, it is unlikely that recently-released people would receive an offer of housing within their first year of being released. It may be unlikely that they are on THA's waiting list at all. This is because those recently released from prison would have been confined for 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 require an extraordinary circumstance where a person receives an offer of housing within that timeline.

However, there might be remaining concerns that shorter lookback periods do not provide sufficient time to determine an applicant's level of risk post-incarceration. Charts from Section 4.1.3 show that it would take several years without re-arrest for those arrested as young adults to reach the same level of risk to be arrested as the general population. At face value, this can paint a picture that justice-involved individuals are risky tenants. However, that section also describes the limited value recidivism data provides in helping housing providers determine risk. Recidivism is tied to several contextual factors including the role of racist and punitive policies that define America's criminal legal system. Therefore, relying on data that is in part a result of a long history of intentional and unintentional racism only reinforces and exacerbates this injustice.

Further, people who have served their time should be truly free and fully welcomed back into society. 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 years out are a critical time for the rebuilding process. Housing is an immediate need for many and without it most efforts to successfully re-integrate may fail.

Throughout this report PIE demonstrates that housing stability and living wages play a critical role in reducing the likelihood of recidivism. These findings and contextual factors support the conclusion that there is inadequate support and evidence for the need for a longer lookback period. PIE concludes that a shorter lookback period is supported by the evidence, industry best practices and more closely aligned with THA's social justice mission. The proposals that follow from these conclusions address the

urgent need for housing, promote quicker family reunification while maintaining a window to review for suitability for THA's communities.

6. ALIGN THA WITH BEST PRACTICES AND PEER HOUSING ORGANIZATIONS

This section describes how these recommendations align with other public housing authorities, state legislation and best practices gathered from both.

6.1 Learning from Peer Housing Organizations

PIE consulted with several housing authorities on their criminal screening procedures and also reviewed:

- 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.
- Unison Housing's (formerly Adams County Housing Authority) white paper on their outcomes of their criminal screening reforms.⁵⁷ Unison Housing was an agency featured on a national conference call hosted by National Association of Housing and Redevelopment Officials (NAHRO) to talk through Fair Housing and criminal screening policies.⁵⁸
- 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. This section summarizes those findings.

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-

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

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](#).

assisted housing may appeal and request an informal review. In PIE's consultation with the housing authority, they reported that criminal history is not a predictor of successful tenancy. In 2016, the agency reduced its 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 to evaluate if the changes led to an increase in crime-related problems. They did not. There is some discussion to remove the screening of criminal history altogether given these 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 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 the tenant-based and project-based voucher 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 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. None of the three regional partners reported any 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 two distinct policies but that both 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 or crime and administrative burden to implement the policies.

One year after implementation of Unison Housing's relaxed criminal screening policies they found that they denied fewer people for criminal history without adverse impacts from the policy changes.⁵⁹ HANO also released quarterly reports and since implementation in 2016, has only denied one person for criminal history so far.⁶⁰

6.2 Monitoring and Evaluation

At the community's request, HANO also captures and reports denial data to the public every six months. This includes monitoring how many applicants went through the review process, how many were denied, and the reason for denial.

Adopting a similar evaluation tool could aid THA post implementation and allow the agency to revisit the policy if the data shows it is necessary to do so. THA should also consider tracking other demographic information such as age, race, and gender to review for adverse effects on 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. THA currently works closely with the local police and fire departments and collects the number of service calls for crime-related activities. This collection of data may also be helpful to evaluate the effects of a relaxed criminal screening criteria.

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.

6.3 Following State Legislation

PIE's recommendations also follow the lead of recent legislation and implementation of local ordinances. In 2018, the Washington State Legislature passed the Washington Fair Chance Act.⁶¹ 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 Chance 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 mandating 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 is 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.

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

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

PIE's recommendations should be administratively less burdensome for staff, resulting in savings in staff time and resources. However, implementing this policy change does require an upfront investment of staff time.

PIE reviewed applicant screening reports dating back to 2014. THA screens over 1,000 applicants (new clients and add-ons⁶²) 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 2% 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 that occurred between 2014 and 2017 that carried 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.

⁶² 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	16.5 hours
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	1.5 hours	3	4.5 hours
	3	4			

Table 4 shows an average 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 requirements.

Initial implementation will require additional staff time 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.

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, 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 case load. Given the varying barriers each individual may face, it is difficult to estimate time spent per client.

The Property Management department has initiated their own project to conform and memorialize its lease enforcement procedures in written policy. This work is

already underway and 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 have shared positive findings resulting in decreased administrative time processing denials, an increase of households admitted into housing and no significant increase in unit damage, crime or evictions.⁶³ Other housing authorities that have implemented similar policies similarly 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.

⁶³ 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

8. STAKEHOLDER CONSULTATION

Throughout June and July of 2018, PIE consulted with its residents, staff, landlords who participate in its rental assistance programs, social service providers, and its liability insurance carrier. This included hosting resident meetings at each property that the agency owns and manages. PIE staff also met with Property Management and Rental Assistance department staff. Finally, PIE discussed the matter in the quarterly THA Landlord Advisory Group meetings.

In addition, THA surveyed residents, staff and landlords via paper and online questionnaires. 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. 89 landlords responded to the online survey.

In general, THA staff and residents shared similar concerns about the proposal's potential for increasing crime and nuisance at THA properties. Both groups also recognize the importance of housing assistance in a person's stability. Landlords shared some of their practices for conducting 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 about relaxing the criminal screening for sex offenses, including the possibility of reviewing the terms of THA's coverage if adopted.

8.1 Resident Consultation

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

- Residents understand that housing is an important component in rehabilitation.
- The present level of crime and nuisance concerns residents.
- The perceived inability of THA to respond to crime and nuisance in a timely manner concerns residents.

Throughout all THA housing sites, residents expressed mixed sentiments. They recognize that housing is important to rehabilitation and 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 in crime and nuisance. They also wondered if THA was the appropriate place for housing 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 properties. Some residents feel that crime and nuisance are already a 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 evictions are arduous and 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.

8.2 Staff Consultation

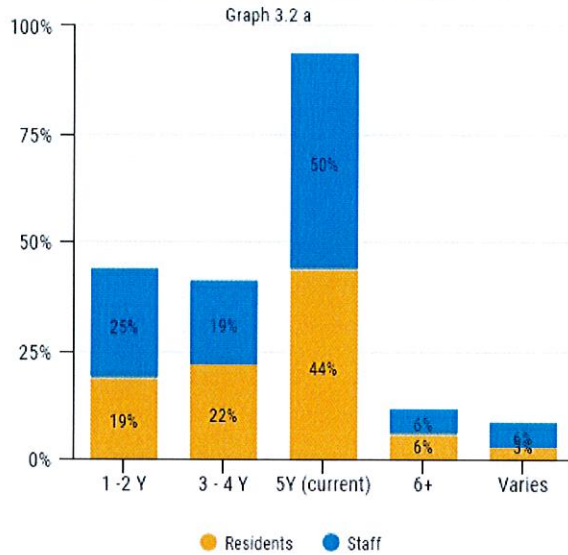
Property Management expressed the same concerns as THA residents and generally expressed more concern about resident behavior than Rental Assistance. As property managers, they work directly with residents while Rental Assistance has a more administrative relationship with clients. Property Management recognize that some individuals need extra support to address problematic behavior. They wonder if THA has the capacity to provide that support.

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

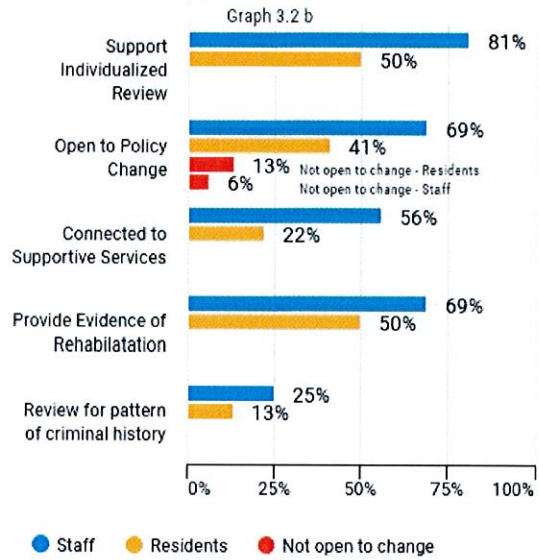
Staff expressed varied views on a lookback period. *See* Graph 3.2a. Many favor keeping a lookback period of five years. Other staff recognize that while they strongly support the need for effective screening policies, they also recognize that such policies do not necessarily require longer lookback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

The following graphs show general support from 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.

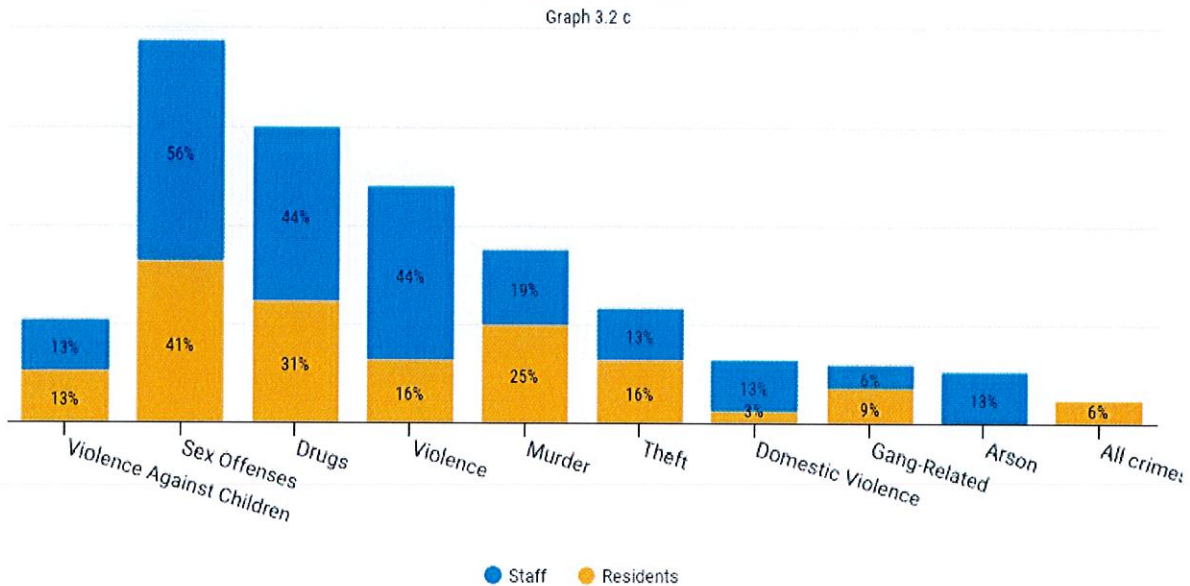
What is a reasonable lookback period?



General Support to Reduce Barriers



Crimes of Concern

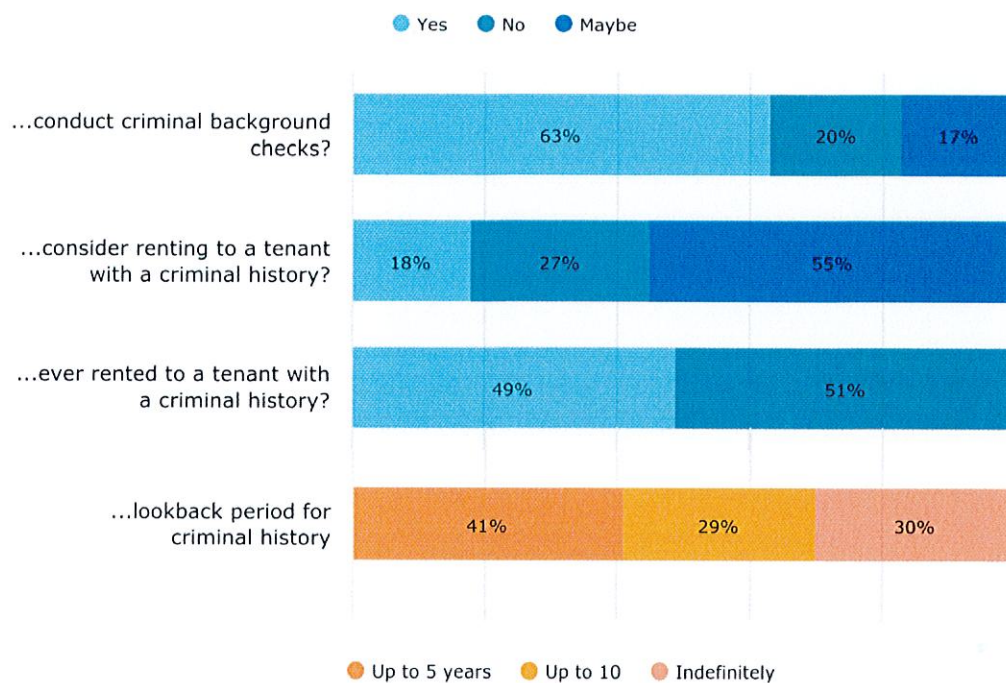


8.3 Landlord Consultation

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 responses⁶⁴ and (2) a convening with the small group of THA landlords who makeup THA's Landlord Advisory Group.

THA asked 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



⁶⁴ 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 and 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 to over 5,300 member landlords. Its primary member benefit, a professional screening service, screens credit and eviction history, past residences and criminal conviction and arrest records within the last seven years. Washington's Residential Landlord-Tenant Act⁶⁵ 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 them to approve an 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, and 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 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 also 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.

⁶⁵ RCW59.18.030(5)

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.

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 stated 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.

8.4 Community Consultation

In August, PIE received feedback on the proposed changes from the Homeless Provider Group, a consortium of Pierce County service providers. The 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."⁶⁶

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

⁶⁶ Letter from Allen W. Ratcliffe, Ph.D., Volunteer Community Advocate, to Michael Mirra, THA Executive Director, 2019-08-28

8.5 Liability Insurance Carrier Consultation

HUD's requirements 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 with some limited to ten or fifteen years. The type of offense determines the registration length. 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 that 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. If THA adopted such a policy, they would review the terms of THA's coverage. This review may result in 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 and level 2 registered sex offenders.

9. 30-DAY PUBLIC COMMENT PERIOD

THA is required to post notice of any significant proposed changes and provide the public with a 30-day comment period. During this period, the proposed changes are made available for the public to review and share their feedback. In addition to the proposed changes presented in this report, PIE provided other alternatives for the public to consider. *See Appendix D: Proposed Changes to Criminal Screening Policies – Menu of Options.*⁶⁷

During this comment period, PIE engaged with the public in the following ways:

- Posted notice of the public comment period on THA’s website and through multiple postings on THA’s social media accounts.
- E-mailed notification to Friends of THA and THA staff.
- Fielded a multiple-choice survey for any member of the public to share their preferences.
- Distributed paper surveys for all THA residents to complete.
- Interviewed three Community Correctional Officers (CCO) for their feedback and expertise. One interview included Pioneer Human Services’ Director of Tacoma Residential Reentry Center.
- Discussed proposals with select staff members from PM and CSE.
- Collected general comments and questions via e-mail.

A table summarizing the public comments received follows below.

⁶⁷ Tacoma Housing Authority: Proposed Changes to Criminal Screening Policies – Menu of Options. Linked [here](#).

Summary of Public Comments Received for Proposed Changes to Criminal Screening Policies	
Source	Total Comments Received
	293
General Public Survey	97
THA participants	7
THA staff	20
Community service providers	11
Landlords	8
Justice-involved providers	4
Work/live in Tacoma	42
Other	4
Resident Surveys	153
6th Ave	18
Bay Terrace	8
EB Wilson	25
Ludwig	17
North G St.	8
North K St.	15
Salishan	32
Wright & Fawcett	30
Community Partner Letters of Support and Suggestions	40
Pioneer Housing Services	1
Tacoma Pierce County Health Department	1
Low Income Investment Fund (LIIF)	1
Northwest Justice Project	1
General written comments	36
Other	3
Landlord Advisory Group - August 2020	1
Interview with Community Correctional Officers	3
TNT Article	1
TPCAHC: Q&A Event, "Policy Talks: Housing & Criminal Background Screening" (August 26, 2020)	1

Overall, the public were incredibly supportive of THA's mission to significantly reduce housing barriers for persons with criminal histories. The following sub-sections detail feedback by group.

9.1 General Survey Results

PIE created a multiple-choice survey to collect the public's preferences for each proposed change and their alternatives. As shown above, there were 97 total responses collected during the public comment period. A summary of public responses are as follows:

- **Lookback Period:** Most (34%) preferred a 1-year lookback period.
- **Start of Lookback Period:** Just over half (51%) preferred a lookback period based on the date of release vs. the date of conviction.
- **Scope of Review:** Most (42%) preferred the scope to be limited to just felonies for drug-related, violent or threatening offenses.
- **Automatic Case Management Referrals:** Nearly all (91%) supported automatic case management referrals in which participation is *voluntary*.
- **Lenient vs. Same Criteria for Add-ons:** Most of the public voiced strong support for family reunification with 60% preferring a more lenient screening policy for add-ons.

Nearly half of all respondents believed that punitive responses (in general) are appropriate for violent offenses yet for drug-related and property crimes most favor a more restorative approach. This provides a sense of the public's opinions about which types of offenses should or should not be considered in review. Many responded that housing, employment and community support were the top 3 factors to support successful re-entry.

Survey results also showed that past evictions, past criminal history and income were the top 3 criteria landlords considered when screening applicants. However, the landlord survey results communicated that income, past evictions and credit and references were the top 3 factors considered by landlords when screening applicants.

Overall, the public supported the proposed changes as presented and these responses do not strongly suggest revising the recommendations. Most (76%) strongly believed that once a person has finished serving their

sentence, they should have a fair shot at getting a job, housing and other opportunities that will help them succeed.

9.2 Resident Survey Responses

PIE received 153 responses with 74% representing residents from THA's senior/disabled buildings and 26% from THA's family sites. PIE sought to gauge the resident's perception of safety on THA properties to determine if it would impact their preferences. Generally, THA residents feel safe on THA properties during the day (79%) and at night (57%). However, a resident's perception of safety did not seem to be correlated with their preferences related to THA's criminal screening policy.

Lookback Period: Only 18% of resident respondents supported a one-year lookback period with the majority (55%) supporting a five-year lookback period.

Scope of Review: Like the public, residents support limiting the scope of review to felony convictions. However, residents prefer to review for **all** types of felony convictions (34%) vs. the public's support of limiting the scope to drug-related, violent or threatening felony offenses.

Lenient vs. Same Criteria for Add-ons: Most (71%) residents preferred a screening policy that was the same for waitlist applicants and for add-ons.

Overall, THA residents prefer to keep THA's policies as they are.

9.3 Landlord Advisory Group

PIE participated in THA's July Landlord Advisory Group meeting during which the group shared their experiences and best practices for screening applicants for criminal history. Listed below are some key takeaways:

- It is important for screening criteria to be clear, predictable and consistent.
- It is unnecessary to conduct a criminal background check if the applicant is otherwise unqualified.
- It is important to use the right screening company. There are many third-party screening companies that rely on instant databases which are unreliable and often provide inaccurate, incomplete and/or outdated

information. TCC's Re-Entry Navigator shared that in his personal experience, and his work with others, that this is a common problem.

- Landlord references is an important indicator and high credit scores "almost always means they're going to be a good tenant."
- Fair Housing guidelines require that there is a "legitimate business reason" to deny an applicant based on criminal history. And legitimate business reasons may be different based on the property (e.g. multi-family property vs. single homes). As a screening company, they only share housing-related offenses when passing off the screening results to the housing provider. Limiting review in that way also helps reduce discrimination.

One housing provider spoke on how the implementation of Seattle's Fair Chance Ordinance increased the cost of business for their tax-credit building located in the heart of downtown Seattle. They reviewed data two years prior to the legislation to two years post and found significant increases in the number of evictions, 911 calls, eviction expenses, vacancy losses, security expenses and recurring capital expenses. Another housing provider made a similar correlation between increased likelihood of property damage and past criminal history.

9.4 Letters of Support

PIE received letters of support and feedback from four other organizations providing housing or services to low-income individuals and families.

The Low-Income Investment Fund (LIIF) is a CDFI (Community Development Financial Institution) that invests capital to support healthy families and communities. They provided the following feedback:

- Supports reducing lookback period: "Supportive of flexible policies that reduce the lookback period and even eliminate the lookback period for certain crimes."
- Supports broader scope of review: Supports proposal to review for felony violent, drug related or threatening offenses within a 12 month lookback period, but also asks THA to consider the report (see Section 4.1.1) that finds fraud, assault, property offense and major drug-related offenses showed an increased risk of negative housing outcomes. THA

should consider other offenses and continue to take recovery and length of sobriety into account.

- Supports individualized reviews and encourages THA to cultivate guidance and best practices.
- Supports automatic referrals but cautions against making service engagement a requirement.
- Supports a more lenient alternative for add-ons.

“As you move towards implementing these and other new policies, we strongly encourage you to share with the field the complexities, best practices and lessons you have learned in pursuit of greater housing justice. In addition, LIFF encourages THA to couple its efforts with outreach to other affordable housing providers in the Tacoma market, both for-profit and non-profit, to encourage broader and simultaneous adoption of similar practices that move the region’s affordable housing system towards justice.”

The Northwest Justice Project (NJP) provided the following recommendations:

- Lookback should be based on date of conviction: Supportive of reduced lookback, individualized reviews and prefers that the length is based on date of conviction rather than release as it “would undermine much of the benefit that stable housing can provide to former prisoners and their families during the first 12 months after reentry.”
- In terms of individualized review, NJP would like to see that those who do not complete the application would be given the opportunity for an informal review rather than having the application withdrawn.
- NJP also commented on THA’s work on “strengthening lease enforcement” and shared these concerns with THA when consulted during the drafting period of THA’s recently revised Grievance Process. “Obviously, NJP would be uncomfortable if the results of this process are inconstant with our prior comments to and discussions with THA.”

For more than four decades, Pioneer Human Services (PHS) has served people who are involved with the criminal justice system and who are in recovery from substance abuse and mental health conditions. They offered the following recommendations:

- Do not consider drug-related offenses: “We do not support a lookback for drug-related behavior. If moving to no lookback period is not possible, we support the most limited lookback period and advocate for removal of the drug-related behavior clause. In our experience, we have had many successful tenants who have had past drug-related behavior and have not found it to be a reliable indicator of future behavior. There is still a lot of societal prejudice associated with mental health conditions and substance use disorders, and we agree with the Washington Recovery Alliance that recovery is not only possible but expected.”
- Supports most limited scope of review and lookback: “We advocate for the most limited lookback period in general and for eliminating the lookback period for misdemeanor and drug-related behavior. A lookback period often impacts 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.”
- Supports more lenient policies for add-ons: “We believe that family reunification and keeping families together are significant goals. We advocate for an individualized case-by-case approach, and in some instances allowing for a more lenient criteria when families are involved.”

The Tacoma-Pierce County Health Department also offered support and the following recommendations:

- Supports lookback based on date of conviction: Supports proposed changes but advocates for date of conviction vs. release. “We are concerned requiring 12 months without incarceration would perpetuate the systemic and racist policies that result in inequitable incarceration rates.”
- Supports broader scope of review: Advocates for a broader scope for all offenses. “We agree with the one-year lookback period. However, racial bias in sentencing disproportionately affects people of color, particularly Black males. Therefore, the classification of a crime may not be the best predictor of risk to the community. A broader review of criminal history may find violence, drug-related, or threatening offenses that are less or equal to the severity of a felony but charged as a

misdemeanor. Including all criminal history would support a more equitable review of applications.”

- Supports applying same criteria to waitlist and add-ons.

9.5 General Written Comments

PIE received 38 written comments through e-mail submission.

Respondents were incredibly supportive of THA’s efforts to relax its criminal screening criteria with many supporting to reduce them to the most lenient standards as possible.

Some expressed that drug-related crimes should not be treated as seriously as other offenses. Some comments suggested that THA should not screen for drug-related crimes at all.

One commenter advocated for a restorative and holistic approach:

“When I look at someone’s background and credit score the emphasis should be put on the last year or two. Someone may have a low credit score, but they have been making the right financial decisions over the last year or two. It is the same with criminal history. If the report shows improvement we need to ignore the fact that the person has a criminal blemish. Most people that have a rough history want to change their trajectory. Helping them find a job, be successful at the job, find a home, pay their bills, then you have a happy, engaged person. We need to help people be successful.”

Another e-mail highlights how increasing access to housing can help change the course of a person’s life and how housing provides them that opportunity:

“I believe that formerly incarcerated individuals need housing too. Housing is needed for a person to have stability, makes finding employment easier and makes our communities safer. If someone has a charge for manufacturing narcotics it should not follow them forever. They served their time in prison. Barring certain groups from housing only hurts our communities and provides an additional barrier to someone who may be trying their best to give back to society. I’m also fine with people that

have violent offenses. People change, but it is really hard to be successful if you cannot obtain affordable housing.

Receiving low income housing changed my life. I was able to get my ged, Eventually went to college and in August I will have a bachelors degree and hopefully soon be able to break the cycle of poverty in my family. I want others to have the same opportunity even if they have been justice involved.

I do not feel that sex offenders should live in properties with children or vulnerable adults though.”

While some posed questions about ensuring accountability or had concerns about families with domestic violence issues, most communicated the belief that everyone deserves equal access to housing.

10. 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 economic, social and personal stability. 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 personal stories demonstrate how 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 serve as a second sentence, locking individuals out of the support and opportunities needed to live full, healthy lives. *"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.

At the same time, it is THA's priority to reasonably protect its current residents from anyone who poses an undue threat to 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. For this reason, 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

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](#).

moving away from the notion that criminal history is a reliable predictor of a person's future behavior.

After thorough review and consultation, PIE recommends accepting all of the proposed changes to THA policies and practices as outlined in Section 3 of this report. Overall, the risks that seem to be associated with past criminal history and unsuccessful tenancy are minimal compared to the benefits that housing can provide.

11. NEXT STEPS

After review and approval from THA leadership, the recommendations will be presented for approval to THA's Board of Commissioners. Upon Board approval, PIE will begin implementation of the new criminal screening policies. Implementation will include:

- Updating and training THA staff
- Updating the Administrative Plan
- Revising all related forms and letters
- Coordinating with THA's screening company
- Coordinating with the operational departments to bring the Application Review Panel online
- Create the evaluative framework to track policy application and outcomes

PIE also seeks to organize an event open to all THA residents to hear from a community leader about the relationship among community safety, the criminal justice system and fellow community members impacted by the criminal justice system. There is value in creating space where people can express concerns, ask questions and hear from those with experience and knowledge. The goal is to share knowledge and experience to break down barriers between "us" and "them" and create an understanding that communities that support and welcome each other are stronger and safer.

PIE seeks to collect data and outcomes that result from this policy change and share its findings with other housing providers.

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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" refers 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	Lookback is 10 years for multiple offenses. 3 years of conviction date or 1 year of release from date of screening. Very serious offenses have indefinite lookback periods. If there are 2+ convictions for certain crimes, date of review is 10 years from screening date.	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	ACOP: Discretionary Changed language in ACOP to allow for individual review of criminal history. Admin: 12 months	Y	

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.

Housing Authority	Approval Date	Lookback Period	Individualized Review?	Felony/Misdemeanor
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Housing Catalyst (formerly known as Fort Collins (CO))	2012	<p>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</p>	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
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
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

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.

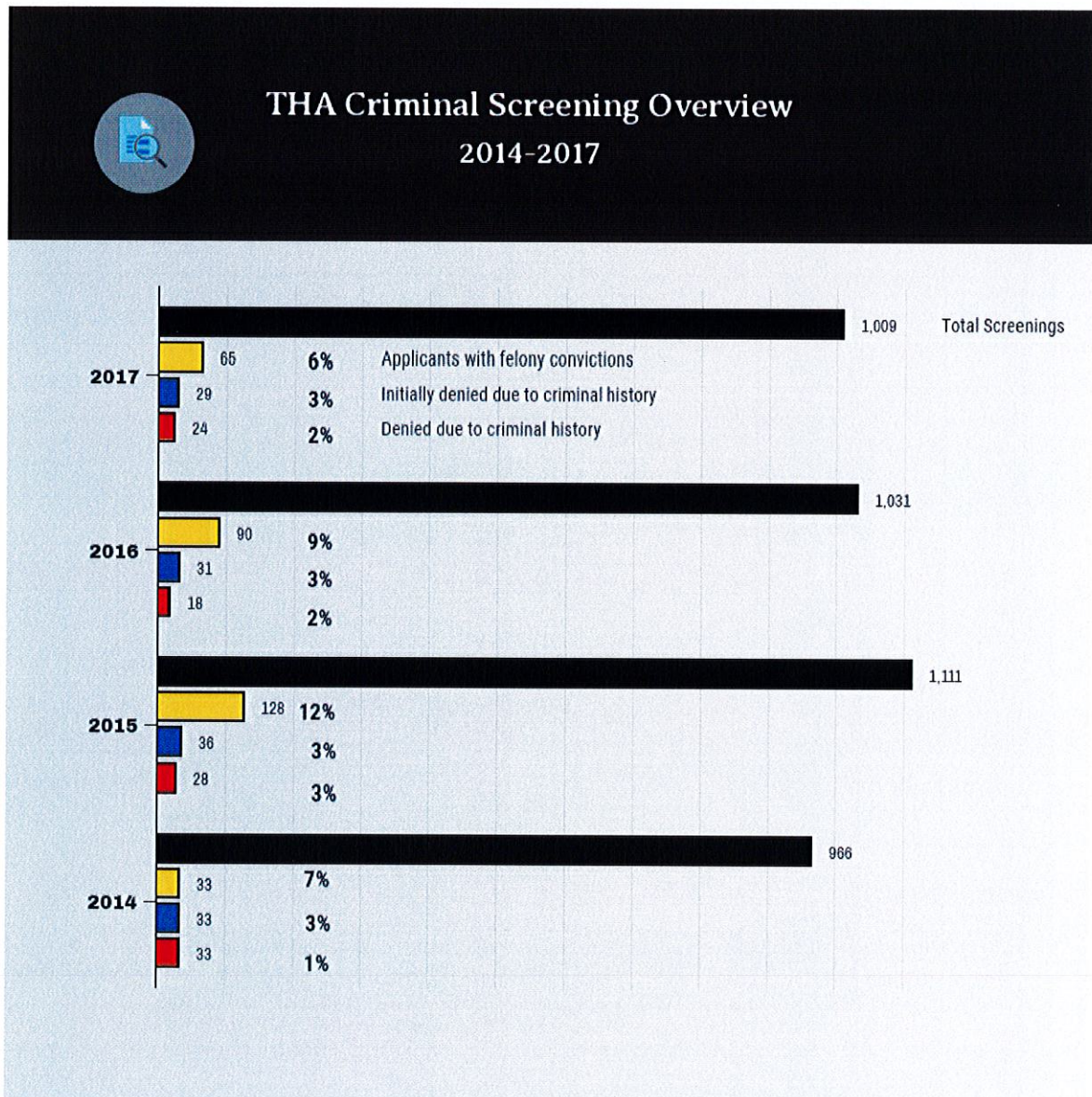
* Indicates that the housing authority is receiving, has received or will receive technical assistance under the same grant as THA.

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.

Appendix C: THA Denials Summary 2014 – 2017

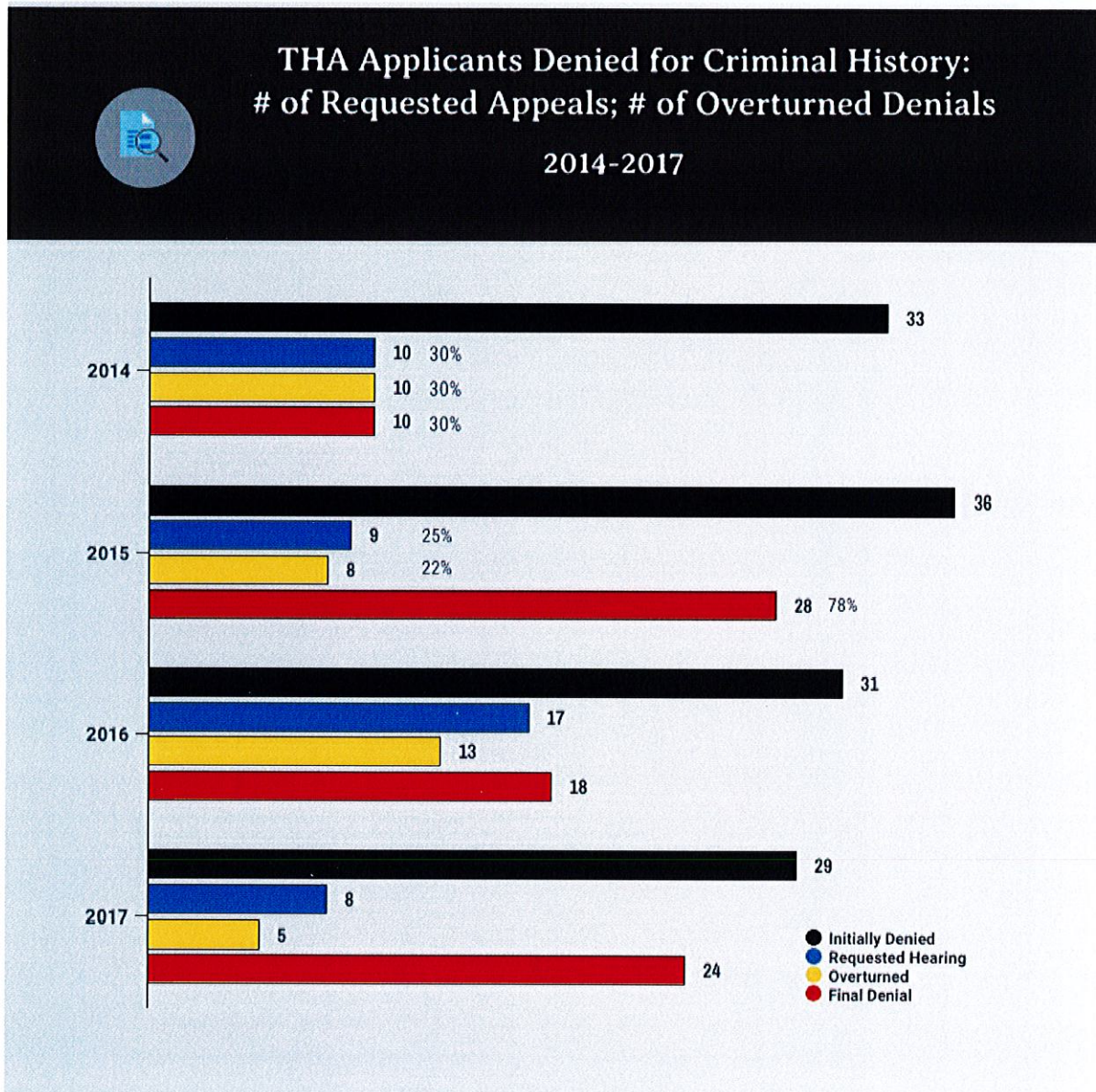
Graph: THA Criminal Screening Overview for 2014 – 2017

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.



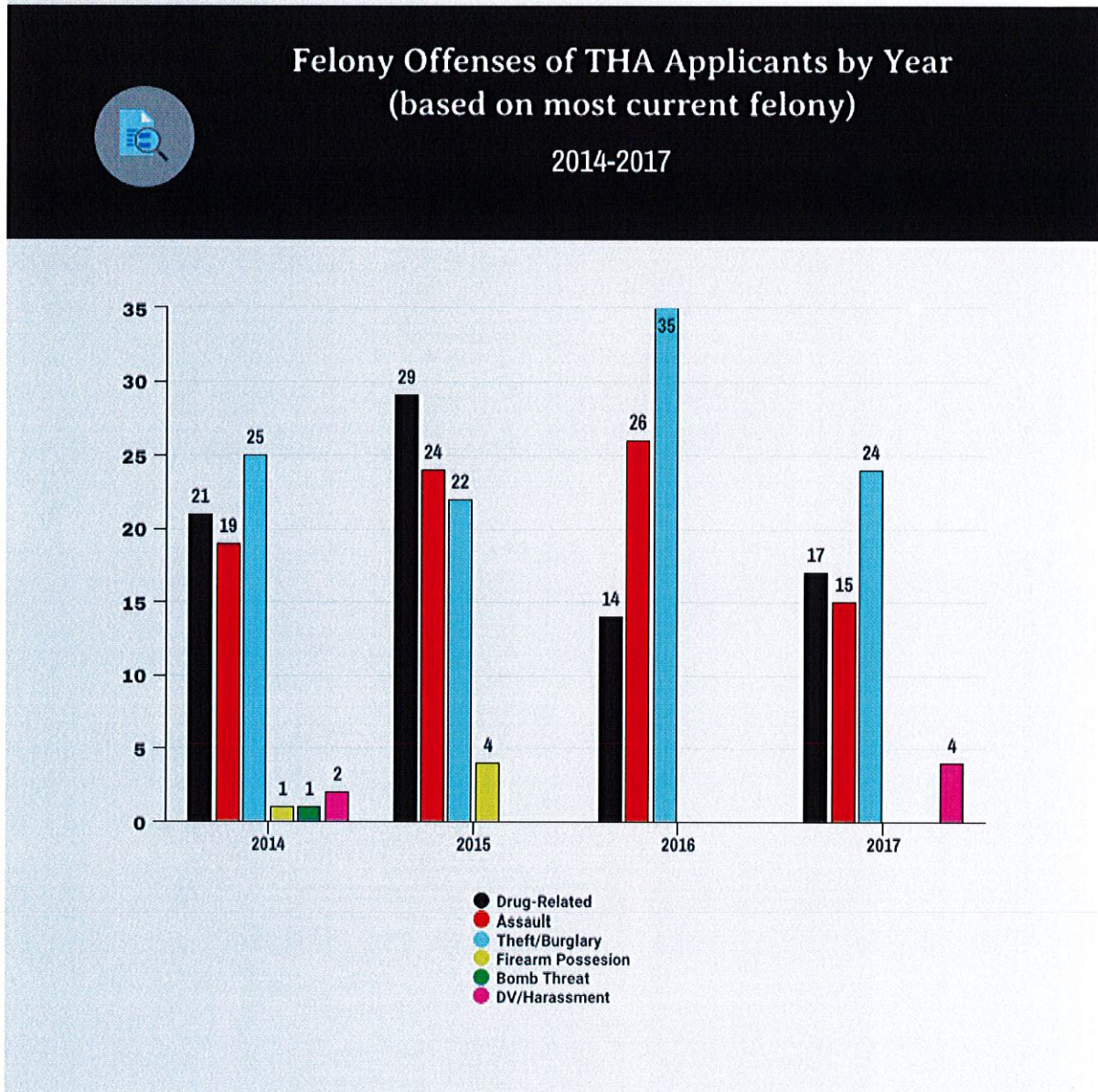
Graph: Applicants Initially Denied Due to Criminal History

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 percentage 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.





**Tacoma
Housing
Authority**

Tacoma Housing Authority Is Considering Changes To Its Criminal Background Screening Policies: We Want Your Advice

June 12, 2020

Tacoma Housing Authority (THA) is considering changes to our current criminal screening policies. We would like your views and advice.

We screen for criminal history as part of our effort to determine if someone would be a good tenant. We do this for people seeking to live in THA properties. We also do it for persons seeking our rental assistance to pay the rent on someone else's housing.

We are considering some changes in our screening rules, for several reasons:

- As a way to predict if someone will be a problem, criminal history has limited value. Data and research suggest we may be screening out good people unnecessarily. Our report on this research is on THA's web site at: <http://www.tacomahousing.net/housingforallreport>. That research suggests changes may avoid these unnecessary exclusions, while still serving our most important purpose of keeping our housing safe.
- Criminal screening excludes persons of color, particularly black applicants, at a higher rate than others. If these exclusions are unnecessary, they are particularly unjust.
- These exclusions deprive families of the chance to reunite with a father, mother, child, or other relative.
- Data shows that depriving a person of housing will make re-offense more likely. Housing makes re-offense less likely, and makes the community safer.

Below we show:

- our current rules, including those that we cannot change because of HUD rules;
- our proposed changes;
- some other possible changes

We would be grateful to receive your comments or advice. We need them by **08/31/2020**.

Please send them to:

Ava Pittman
 Planning and Policy Analyst
 Tacoma Housing Authority
 902 S. L Street
 Tacoma, WA 98405
apittman@tacomahousing.org

HUD Prohibits Admission For:	
THA must comply with HUD's requirements. These are policies we cannot make more lenient. In some cases, we expanded the exclusion in ways we do not propose to change.	
Lifetime Ban	Anyone who must register as a lifetime sex offender
Lifetime Ban	Anyone who has ever manufactured methamphetamine in federally subsidized housing. <i>NOTE: THA expands this exclusion to deny admission of anyone who made meth anywhere, whether in or out of federally subsidized housing.</i>
Required Denial	<p>Anyone evicted from federally subsidized housing because of unlawful drug activity within the previous three years.</p> <p>Anyone who demonstrates a current, or pattern of drug or alcohol abuse that would threaten the health, safety and peaceful enjoyment of the premises by other residents and others in the immediate vicinity. <i>NOTE: THA interprets this to include anyone who is engaged in any such use of illegal drugs during the previous 12 months.</i></p> <p>Under HUD's rules THA can still rent to such persons if they show: (i) that they are currently participating in, (ii) have completed a supervised rehabilitation program; or (iii) successful rehabilitation. A family can also remove the family member if would cause the entire family to be denied housing.</p>

Of the rules that THA can control, we are considering the following changes:

1. Reduce Criminal History Lookback Period	
Lookback period refers to the time THA will review for a disqualifying criminal history to determine whether to rent to a person. The review starts from the date THA is reviewing the application. It will look back to a specified length of time. (see options below).	
Current	Review for criminal convictions or evictions for drug-related, violent or threatening behavior over the past five years
<i>Proposed</i>	For voucher programs only, no longer review for criminal history beyond those required by HUD. The voucher program is designed to have the private landlord chose the tenant.
<i>Proposed</i>	For THA's housing, look back 12 months from the date of the application review to the applicant's date of conviction for a felony conviction for violent, drug-related or threatening criminal behavior. An applicant with such a conviction will receive an individualized review before THA decides whether to admit or deny the applicant.

<i>Alternative</i>	Require that the 12 month look back period be 12 months without incarceration.
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2. Reduce the Scope of Criminal History Review A criminal conviction can be classified as a <i>felony</i> or a <i>misdemeanor</i> depending on the seriousness of the offense. A misdemeanor is a less serious offense, which can result in a jail time of up to one year and/or a fine of no greater than \$5,000. A felony is a more serious offense, which can result in significantly longer sentences and/or greater fines.	
Current	Review for criminal convictions, felony or misdemeanor , for violent, drug-related, or threatening offenses within the five-year lookback period
<i>Proposed</i>	Review for felony convictions for violent, drug-related, or threatening offenses within the one-year lookback period
<i>Alternative 1</i>	Review for all felony convictions for violent, drug-related, or threatening offenses within a five-year lookback period
<i>Alternative 2</i>	Review for all felony convictions within a five-year lookback period
<i>Alternative 3</i>	Review for all felony convictions within a one-year lookback period
<i>Alternative 4</i>	Review for all criminal convictions within a five-year lookback period
<i>Alternative 5</i>	Review for all criminal convictions within the one-year lookback period

3. Individualized Reviews	
Current	If THA denies an applicant, the applicant may request an informal review using THA's grievance process.
<i>Proposed</i>	Before THA decides about an applicant with a disqualifying criminal history, the applicant would meet with THA staff for an individualized review. The review is an opportunity to consider an applicant's individual circumstances and any mitigating circumstances. THA will base the final decision on the information presented and considered during the review. If THA denies the application, the applicant may still request an informal review of the denial through THA's grievance process. THA will withdraw the applicant of an applicant who fails to participate in the individualized review.

4. Automatic Case Management Referrals A THA staff member may refer a tenant to THA's Client Support and Empowerment staff. department for case management services. The services may come directly from THA staff or a service partner.	
Current	THA staff refers current tenants for services upon request or as needed to address issues relating to the family's ability to comply with program obligations.

<i>Proposed</i>	Automatic case management referral for applicants admitted with criminal histories through the individualized review process. Participation in services will be voluntary
<i>Alternative</i>	In such cases, or in some cases, require participation in services as a condition of tenancy.

5. Additions to Participating Families Waitlist applicants are those THA pulls from the waitlist. Current THA families may request to add a family member to their household. New arrivals are not permitted to reside in the unit without THA's approval. The new arrival not need to go through the wait. But the new arrival and the newly composed family must meet the same eligibility requirements as waitlist list applicants.	
Current	Screening requirements apply for both types of admissions, those from the waitlist and current tenants seeking to add a family member.
<i>Proposed</i>	Adopt the same new screening criteria to both types of new admissions.
<i>Alternative</i>	Adopt some more lenient screening criteria for family members who are joining current THA families.

Anyone denied due to their criminal history (except for HUD lifetime bans) are entitled to request an informal review. The informal review is a chance to meet with THA staff s as appeal of the denial.

We would be grateful to receive your comments or advice. We need them by **08/31/2020**.

Please send them to:

Ava Pittman
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Tacoma Housing Authority
902 S. L Street
Tacoma, WA 98405
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