



City of Seattle

Edward B. Murray, Mayor

Seattle Office for Civil Rights

Patricia Lally, Director

Date: May 17, 2017
To: Civil Rights, Utilities, Economic Development, and Arts Committee
From: Patricia Lally, 233-7822
Subject: Fair Chance Housing Stakeholder Process

Briefing Objective:

Discussion on Fair Chance Housing Stakeholder process convened to address housing barriers faced by people with arrest and conviction records.

Background:

An estimated one in every three adults in the United States has an arrest or a conviction record,¹ and nearly half of all children in the U.S. have one parent with a criminal record.² It is estimated that approximately 30% (173,714) of Seattle residents over the age of 18 have an arrest or conviction record and 7%, or 43,428 people, have a felony record.³

Due to a rise in the use of criminal background checks during the tenant screening process, people with arrest and conviction records face major barriers to access housing. In some cases, landlords categorically exclude people with any prior arrest or conviction. One study found that 43% of Seattle landlords are inclined to reject an applicant with a criminal history.⁴ All Home has reported that one in five people who leave prison become homeless soon thereafter.⁵

“Don't be a felon in the city and try to get an apartment. No amount of money can get you past a felony.”
– Resident, City of Seattle 2016 Homeless Needs Assessment

Without a business justification, screening based on a criminal conviction can be a tool for racial discrimination. In 2016, HUD issued guidance on the use of arrest and conviction records, stating that screening policies and practices can have a discriminatory impact due to deep-rooted inequities in the criminal justice system. The HUD guidance requires a housing provider to show a legitimate nondiscriminatory interest when excluding an individual from housing to ensure compliance with fair housing law.

History

For nearly a decade, community groups have called on the City to address barriers faced by renters with criminal records. In 2010, OCR convened two public forums bringing together over 300 people, two-thirds of whom

¹ U.S. Department of Justice Office of the Attorney General, “The Attorney General’s Report on Criminal History Background Checks.” (June 2006) at 51

² Center for American Progress, “Removing Barriers to Opportunity for Parents With Criminal Records and Their Children” (December 2015)

³ Prevalence estimates sent by University of Washington Sociologist Katherine Beckett

⁴ Helfgott, J.B. (1997). Exoffender needs versus community opportunity in Seattle, Washington. Federal Probation, 61, 12-24.

⁵ All Home citing National Alliance to End Homelessness, http://www.endhomelessness.org/pages/re_entry



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testified in support of legislation to address barriers in housing and employment. Council responded by unanimously passing Fair Chance Employment legislation and asking the Office of Housing and OCR to work with nonprofit housing providers on best practices for housing screening.

Efforts by City departments have been successful at getting many nonprofit providers to understand the importance of individually assessing applicants to avoid racially disparate impacts caused by blanket policies of exclusion. The Office of Housing held educational sessions for housing providers on the impacts of criminal record screening on racial equity and developed a guide on selecting a tenant screening agency.

All Home has also taken steps to address this issue. Along with the implementation of coordinated entry for persons experiencing homelessness in King County, All Home worked with funders, providers, and system partners to lower and standardize eligibility criteria in all publicly funded homeless programs to reduce the barriers to housing for past experiences such as criminal records. Prior to this shift, homeless housing programs across King County held more than 100 distinct criteria related to evictions and criminal records causing a disparate impact on communities of color. In lowering barriers to programs, there are now only five types of criminal convictions included in screening for homeless housing programs, and they are asked about only when necessary.

While these efforts have made an impact, many affordable housing providers and landlords of market rate units continue policies and practices that broadly exclude people with criminal records.

HALA Recommendation

In 2015, the Housing and Affordability and Livability Agenda (HALA) committee recommended that the City address the barriers faced by renters with criminal records via legislation, education, and technical assistance. In response, the Mayor's Action Plan to Address Seattle's Affordability Crisis called for stakeholders to provide input on legislation that would address two goals: public safety and racial equity. OCR convened stakeholders for six meetings between January 2016 and January 2017. Stakeholders represented a diverse array of interests including persons with prior convictions, legal advocacy organizations, landlord associations, nonprofit housing providers, and social service agencies specializing in working with people in re-entry (Fair Chance Housing Stakeholder list attached).

Goal 1: Public Safety

Housing is a key ingredient for successful re-entry into the community. The Vera Institute of Justice has shown that housing also leads to reduced recidivism, and that without housing a person was seven times more likely to reenter the criminal justice system.⁶ Stable housing, in conjunction with stable employment, ensures people can provide for themselves and their families.

⁶ "The First Month Out: Post-Incarceration Experiences in New York City", Vera Institute of Justice, 1999.
http://cowlitzfish.net/Whats_New/files/562240fc8e0a4293598e23072a0a3fad-1030.html



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Criminal record screening impacts family reunification. About 80% of the young men we spoke with at Clallam Bay State Penitentiary plan to return to Seattle once their sentences are complete. One young man expressed that he knew he would be homeless because he didn't want to impact his mother's ability to stay housed through Seattle Housing Authority or impact his girlfriend's lease with her landlord.

While there are some transitional housing options available for those with prior records, providers impose barriers when trying to place people into permanent housing. Pioneer Human Services provides clients with up to 24 months of housing and yet Hilary Young, VP of Policy at Pioneer Human Services, states, "Many people do not have anywhere to turn once that time expires, despite having established positive rental history, and are forced into sub-standard or dangerous housing situations or back onto the streets."

Some stakeholders have expressed the need to use criminal records as a public safety tool. Yet many landlords currently do not conduct criminal records checks and the safety of residents has not been impacted. Sociological research finds that the propensity to re-commit a crime is not automatic. Rather, after 4 to 7 years where no re-offense has occurred, a person with a prior conviction is no more likely to commit a crime than someone who has never had a conviction.⁷

Studies have also shown that a conviction record alone is not a predictor for tenant success. A 2009 study conducted at Downtown Emergency Service Center showed that a criminal record was not statistically predictive of a failure to maintain housing and that rather, age was the only factor that could be used as a predictor of tenant success.⁸

Goal 2. Racial equity

Racial equity is central to the issue of fair chance housing. People of color face compounding effects of criminal records due to racial bias in tenant selection as well as racial disparities in the criminal justice system. In 2014, 64% of OCR's fair housing tests found incidents of different treatment based on race. In some cases, African Americans were told they would have to undergo a criminal record check when similarly situated white counterparts were not.

Racial disparities in the criminal justice system have deeply and negatively harmed communities of color. Due to an interplay of racial bias, sentencing policies and systemic inequities, people of color make up 37% of the U.S. population, but 67% of the prison population. The Sentencing Project citing Bureau of Justice Statistics data, has stated, "Overall, African Americans are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, they are more likely to face stiff sentences. Black men are six times as likely to be incarcerated as white men and Hispanic men are more than twice as likely to be incarcerated as non-Hispanic white men."⁹

⁷ Kurlychek, et al. "Scarlet Letters & Recidivism: Does An Old Criminal Record Predict Future Criminal Behavior?" (2006) and "'Redemption' in an Era of Widespread Criminal Background Checks," *NIJ Journal*, Issue 263 (June 2009), at page 10 - preliminary study with group of first-time 1980 arrestees in New York- the findings depend on the nature of the prior offense and the age of the individual.

⁸ Malone, Daniel, Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults with Behavioral Health Disorders, *Psychiatric Services*, Feb 2009, Vol. 60, No.2

⁹ <http://www.sentencingproject.org/criminal-justice-facts/>



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These racial disparities are present in Washington as well. In Washington State, African Americans are 3.4% of the overall population, but account for nearly 18.4% of the state's prison population; Latinos are 11.2% of Washington's population, but account for 13.2% of the state's prison population; and Native Americans are 1.3% of the state population, but account for 4.7% of the state's prison population.¹⁰

Fair Chance Housing Committee stakeholders relayed the importance of meaningfully addressing the experiences of communities of color. OCR also reached out to residents living at Jubilee Women's Center (formerly Sojourner Place Transitional Housing), the Village of Hope, and members of the Black Prisoners Caucus at Clallam Bay State Penitentiary for their input. All groups emphasized the importance of centering racial equity as a part of this work.

Supporting materials:

Fair Chance Housing Stakeholder list

¹⁰ <http://www.ofm.wa.gov/pop/census2010/default.asp#demo>