



## Selecting a Tenant Screening Agency Guideline for Property Management in Affordable Housing May 2015

*This guideline is intended to assist housing owners to contract for criminal records screening reports that are accurate, timely, understandable, and consistent with state and federal law and best practices. The guideline was developed by the Seattle Office of Housing with the assistance of affordable housing providers and tenant advocates. In addition to using high quality reports, housing providers should establish screening criteria that are related to business necessity and provide an opportunity for applicants to submit supplemental information about their record and their conduct since release.*

| Standard                                   | Importance   | Requirement  |
|--|--|--|
| <b>1. Accurate Sources of Data</b>         | Some tenant screening agencies use private database records, rather than official court records. Many of these databases are not regularly updated and might not contain all relevant documents. This practice can lead to reporting outdated or inaccurate information as well as criminal records that have been vacated or sealed and should not be reported. | (1) Screener accesses official sources of record, such as Washington State Patrol, or<br>(2) if Screener uses private databases then it must either: (a) check the information against official sources; or (b) report that it does not use official sources and must update its private sources four times per year and indicate the source of the information provided.<br><br>A screening company must have procedures in place to ensure the maximum possible accuracy of the information it provides. |
| <b>2. Applicant Identification</b>         | More errors can occur when only a name is used to search for a criminal or eviction record. Using more than one match criteria minimizes errors.   | Information should match the full name (first, last, and middle name or initial if any) and date of birth. Screening agency should also match race, gender, physical description or driver's license number where possible.<br><br>It is preferable to not use name matching only. If a company provides information based on name matching only, it must be flagged as such and must provide additional time for correcting inaccuracies.   |
| <b>3. Easy to Understand Report Format</b> | Screening reports can sometimes be difficult to read and understand. Multiple reports of a single incident are especially problematic. The report can be easier to use if all the information about a single incident is reported together as a single entry.  | Do not report the same case or event multiple times.<br><br>Define any abbreviations or court codes used in the report.  |

|  |   |  |
|--|---|--|
| <p><b>4. Sufficient Opportunity to Correct Information</b></p> | <p>Some studies indicate that material errors in screening reports can occur 30%-40% of the time. The process for correcting errors should be clear and accessible with a reasonable response time. Corrections should be sent to the source of the inaccurate information.</p>         | <p>Provide a timely, efficient and accessible process for applicants to correct inaccurate screening reports.</p> <p>If an applicant disputes the accuracy of information contained in the report, investigate and respond within five business days.</p> <p>If an inaccuracy is found, send a corrected report to the housing provider, and send corrections to the source of inaccurate information.</p> |
| <p><b>5. Pending Charges</b></p>                               | <p>Reports should generally follow State law: There is a rebuttable presumption that proceedings are no longer actively pending if more than one year has elapsed since arrest, citation, charge, or service of warrant and no disposition has been entered.” RCW 10.97.030(2).</p>     | <p>Report only if one year old or less and no disposition has been entered. If requested by the owner, pending charges for deniable offenses may be reported if three years old or less, but should be flagged if greater than one year old.</p> <p><i>(See also Section 9, Warrants)</i></p>  |
| <p><b>6. Convictions</b></p>                                   | <p>Screening report cannot report convictions older than seven years under state law. RCW 19.182.040</p>  | <p>Report only if seven years or less since disposition or release</p>   |
| <p><b>7. Vacated Convictions</b></p>                           | <p>Reports should follow State law: For all purposes, including responding to questions, a person whose conviction has been vacated under this section may state that he or she has never been convicted of that crime. RCW 9.06.060(5) (misdemeanors); RCW 9.94A.640(3) (felonies)</p> | <p>Do not report vacated or dismissed convictions.</p>   |
| <p><b>8. Juvenile Records</b></p>                              | <p>Reports should follow State law: Juvenile records must not be reported if an applicant is 21 years old or older. RCW 19.182.040</p>  | <p>Report only if the applicant is less than 21 years old.</p>   |
| <p><b>9. Warrants</b></p>                                      | <p>Warrants issued for cases in which a final disposition has been entered are frequently issued for failure to pay legal financial obligations. This differs greatly from warrants issued based on probable cause that an individual committed the offense charged.</p>                | <p>Report only warrants issued for charges that do not have a final disposition and are seven years or less from the date of issue.</p> <p>Do not report warrants attached to a case for which a final disposition has been entered.</p>   |

|  |   |  |
|--|---|--|
| <b>10. Participation in a Deferral Program</b> | Includes drug court, deferral of sentence, and stipulated judgment.   | Report only if two years or less from completion of participation in the deferral program. |
| <b>11. Registered Sex Offenders</b>            | Some affordable housing developments use federal fund sources that mandate denial of applicants who are lifetime registered sex offenders.  | Report sex offenders who are required to register for an indefinite period of time.        |
| <b>12. Evictions</b>                           | State law prohibits reporting negative information more than seven years old.   | Report only if seven years or less since entry of judgment.                                |
| <b>13. Eviction Filings</b>                    | Information that an eviction has been filed is an allegation against the tenant. Similar to arrest information, it should not be considered “pending” if it is more than a year old and there is not a negative outcome in the case, such as an eviction or a default judgment. | Report only if one year or less since filing and no outcome is listed.                     |
| <b>14. Dismissed Evictions</b>                 | In a dismissed case, there is no negative finding against the tenant. This type of eviction record is distinct from a default judgment where the tenant does not appear in court.   | Do not report any dismissed eviction case with no negative finding against the tenant.     |

*Note: Some of the content in this guideline was adapted from employment screening recommendations in the National Consumer Law Center report “Broken Records” and the National HIRE Network’s report “Best Practice Standards: The Proper Use of Criminal Records.”*