

# Fair Chance Housing

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# Road Map

**1. Current state**

**2. Goals of Fair Chance Housing**

**3. Details of Legislation**

# Current State: The Problem of Mass Incarceration

- Approximately **30%** (173,714) of Seattle residents over the age of 18 have an arrest or conviction record and **7%** (43,428) people, have a felony record.
- An average of **2,000 people a day** are detained in the King County jails.
- Each year, an average of **1,400** women and men return home to King County once released from the Washington State Department of Corrections.

# Current State: Racial Disparities in Criminal Justice

## Arrests in King County

**1** in **38** black individuals will be arrested

**1** in **56** Native Americans will be arrested

**1** in **200** white individuals will face arrest.

## Juvenile Justice

**Less than 13%** of King County youth are black but black youth comprise **50%** of the youth held in King County 's juvenile detention center.

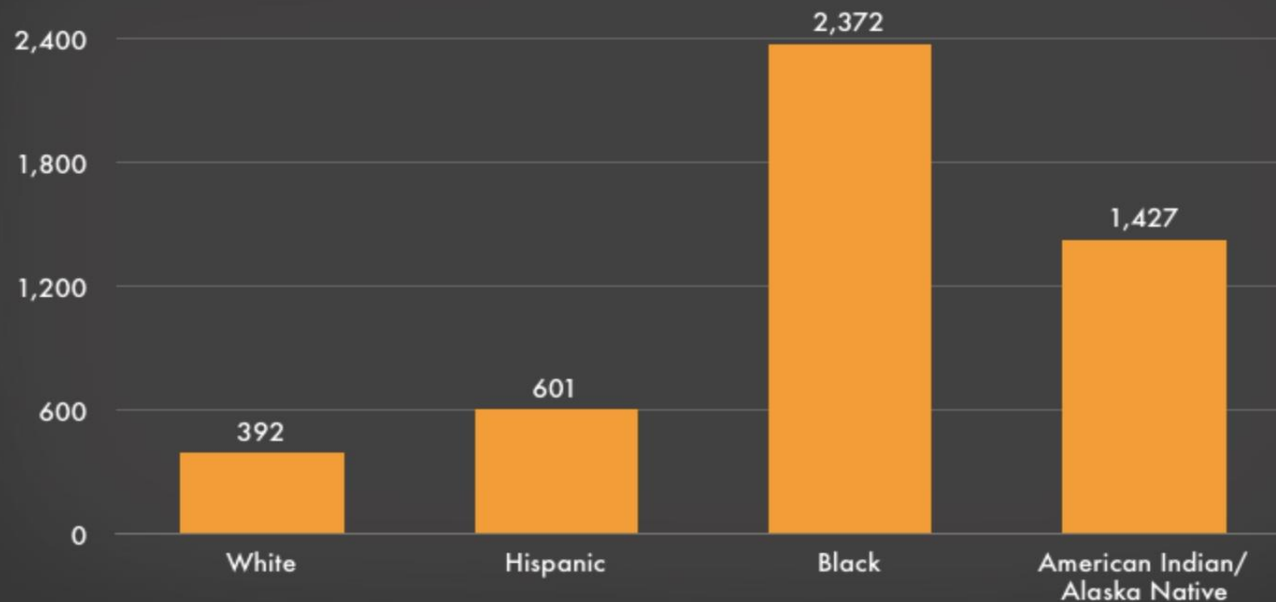
## Disparities in Sentencing

In WA, people of color receive longer sentences than similarly situated white defendants.

# Current State: Racial disparities in incarceration

## WASHINGTON INCARCERATION RATES BY RACE/ETHNICITY, 2010

(Number of people incarcerated per 100,000 people in that racial/ethnic group)



**PRISON**  
POLICY INITIATIVE

Source: Calculated from U.S. Census 2010 Summary File 1. Incarceration populations are all types of correctional facilities in a state, including federal and state prisons, local jails, halfway houses, etc. Statistics for Whites are for Non-Hispanic Whites.

# Current State: The criminal record housing barrier

**More than half** of the national homeless population has a history of incarceration.

**80%** of national survey respondents were denied housing because of their criminal record.

**Four out of five** landlords screen out prospective tenants with criminal records.

Yet studies show that **criminal history is not predictive of successful tenancy.**

## **Current State:**

### **HUD Guidance: blanket bans discriminate**

**2016 Federal Guidance:** Because of the disproportionate impact of criminal records on people of color, landlords who refuse to rent to tenants with criminal records violate the Fair Housing Act.

**Screening** criteria must be shown to be necessary to serve a “substantial, legitimate, nondiscriminatory interest.”

**Landlords** should consider several factors, such as the nature and age of individual for any conviction, before using criminal history as a basis to deny housing.

# **Fair Chance Housing Legislation**

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# Goals of Fair Chance Housing

## Racial equity

Racial disparities in the criminal justice system and racial bias in tenant selection lead to compounded impacts for communities of color.

## Family reunification

Nearly half of all children in the U.S. have one parent with a criminal record. Black children are 7.5 times more likely and Hispanic children are 2.6 times more likely than are white children to have a parent in prison.

## Building inclusive communities

A person without stable housing is 7 times more likely to reoffend after returning from prison.

## Addressing homelessness

One in five people who leave prison become homeless soon thereafter.

# FCH: restricts use of criminal history

## Landlords may not consider:

- Arrests that did not lead to conviction
- Pending criminal charges
- Convictions that have been expunged, vacated or sealed
- Juvenile records
- Status of a juvenile applicant/tenant on the Sex Offender Registry
- Convictions older than 2 years

# FCH: allows consideration of recent convictions with justification

## Landlords may consider:

- Convictions less than 2 years old
- Status of an adult applicant/tenant on the Sex Offender Registry

## Justification:

- A landlord must have a **legitimate business reason** to deny, evict or take other adverse action based on a conviction older than 2 years or on status of an adult applicant on the Sex Offender Registry.

# FCH: Legitimate Business Reason Required

To establish a Legitimate Business Reason, a landlord must:

1. **Demonstrate a nexus** between the specific criminal conviction and resident safety and/or property; **AND**
2. **Consider an applicant's history** including:
  - nature/severity of the conviction
  - number/types of convictions within the 2 year period
  - age of the individual at the time of conviction
  - evidence of good tenant history before/after the conviction occurred
  - any supplemental information related to the person's rehabilitation, good conduct or facts/circumstances surrounding the conviction provided by the applicant

# FCH: Additional Details

- Prohibits language in **advertisements** that categorically exclude people with arrest or conviction records
- Requires **notice of this law** to be included on the rental application
- Requires landlord provide name/address of consumer reporting company so applicant may address **erroneous records**
- **Prohibits retaliation** against an applicant/tenant if a claim is filed

# FCH: What housing applies

**Fair Chance Housing applies to all rental housing in Seattle except:**

- Shared occupancy units (renting or subleasing a room)
- Buildings with 4 or fewer units where the owner lives onsite, including accessory and detached accessory dwelling units
- Some federally assisted housing where federal law requires banning people
  - convicted of methamphetamine production in public housing, or
  - subject to lifetime sex offender registration

# FCH: Seattle Office of Civil Rights Enforcement

## Investigation by SOCR

- Applicant/Tenant contacts SOCR, does intake, and signs a complaint
- SOCR Investigator contacts Landlord (Respondent)
- SOCR Investigator conducts interviews and gathers evidence

## Possible Outcomes:

- **No Reasonable Cause** – evidence does not support a violation
- **Reasonable Cause** – evidence supports a violation
- **Settlement** – a voluntary, negotiated agreement
- **Administrative Closure or Withdrawal**

## Civil Penalties:

- First Offense: up to \$11,000
- One or more offenses in 5 years: up to \$27,500
- Two or more offenses in 7 years: up to \$55,000

# First in Time

## Landlords must provide notice of:

- All screening criteria, including criminal history criteria
- How to request additional time to complete application

## Additional Information:

- If the landlord needs more information to make a decision, the landlord must give the applicant 72 hours to provide additional information

Landlords must offer tenancy to first person who meets their screening criteria.



# Application of FCH with First in Time

**Landlord chooses to screen for registered sex offenders.**

- 1. Advertisement must list all screening criteria, including screening for sex offender registration.**
- 2. Person with Sex Offender Registration is first applicant and meets all other screening criteria.**
- 3. Landlord informs applicant of status and gives applicant 72 hours to provide additional information about sex offender registration.**
- 4. Applicant provides**
  - positive letter of reference from past landlord**
  - documentation that sex offender registration required after conviction of public urination 7 years prior at age 20**
- 5. Landlord makes determination that there is no nexus between the applicant's sex offender registration and safety of property/residents and enters into lease with applicant.**