

Fair Chance Housing

July 13, 2017

Leslie Brinson Price

Brenda Anibarro

Erika Pablo

Caedmon Magboo Cahill

Patricia Lally, Director



Seattle
Office for Civil Rights

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.

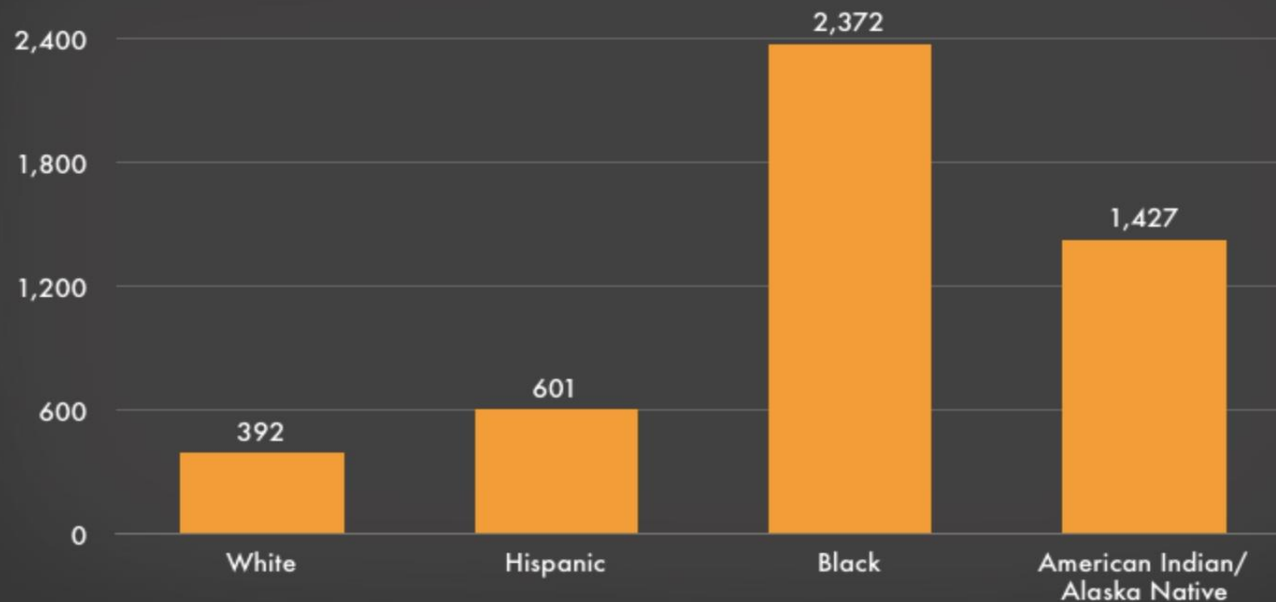
Disparities in Sentencing

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

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.**