

Safe at Home:



A Reference Guide for Public Housing Officials on the Federal Housing Laws Regarding Admission and Eviction Standards for People with Criminal Records

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ACKNOWLEDGMENTS

The staff of the Legal Action Center wrote this guidebook. Staff Attorney Debbie Mukamal, Legal Assistant Jill Waldman, and Law Student Interns Amber Harding (Georgetown University), Stacey Strongarone (New York University), and LaNora Williams (New York University) all contributed to the research and drafting. We gratefully acknowledge the feedback and editorial comments we received from Rosemary McGinn, Director of Training and Technical Assistance at Family Justice. We thank Malish & Pagonis for graphic design and development.

We would like to thank the JEHT Foundation for its generous support of this project.

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INTRODUCTION

Public housing policies in this country are governed by a complex and sometimes confusing set of federal laws and regulations, local policy directives, ordinances, and judicial case law. Everyone entangled in this web has expressed frustration with this scheme, especially in connection with people who have criminal records. The Legal Action Center developed this guidebook to explain what the federal housing laws require, highlight those areas where public housing agencies (PHAs) have discretion to craft their own admission and eviction policies related to people with criminal records, and offer recommendations on effective ways to use that discretion to simultaneously meet important public safety goals and the housing needs of people with criminal records. What follows is a user-friendly manual to help guide PHAs through this decision-making process.

PHAs encounter many complex issues regarding the admission and eviction of people with criminal records. Chief among these are the lack of affordable housing stock that creates enormous pressure for PHAs as they seek to meet the housing needs of various populations. Others are issues of fairness, public safety, and fear of liability. This guidebook addresses some of these important concerns and highlights innovative practices that local housing authorities around the country have implemented to tackle these important challenges.

Section

1

WHO IS AFFECTED BY THESE LAWS AND POLICIES?

More than 600,000 people will be released from prison this year.¹ An even greater number will leave local jails. In adjusting to “life on the outside,” they will face multiple challenges, such as finding viable employment, reintegrating with their families, and addressing substance abuse problems that may have driven them to crime. Often their most immediate need will be securing safe and affordable housing, a necessary component to successful reintegration and a chief factor in guaranteeing public safety. Most lack financial resources and look to subsidized housing for a place to live. Yet their criminal records pose a major obstacle to gaining admission into public and Section 8 supported housing because of federal housing laws and local housing agencies’ policies.

Federal housing laws and regulations related to the admission and eviction of people with criminal records were promulgated with the laudable goal of safeguarding residents of public housing from drug dealing and other criminal activity. However, in addressing these public safety concerns, many PHAs have drafted overly broad policies that disqualify individuals who pose no such risk. Close to a third of the adult population, or 64 million Americans, have federal or state criminal records² and are therefore potentially affected by federal laws and regulations that limit their access to public housing.

Policies that restrict admission or mandate eviction because of a criminal record not only affect the person who has been arrested or convicted, but also the family members of that person.

Federal laws that govern public housing give PHAs broad discretion to craft policies that allow them to address this growing problem in ways that best serve their local communities and not endanger other residents. Since people with criminal records return disproportionately to a small number of urban areas, it makes sense that each jurisdiction adopt policies and practices that best suit their community.

Efforts by PHAs to balance these needs will not only help individuals with criminal records successfully reintegrate into the community, they will also protect our communities by reducing recidivism and relapse. Access to decent, stable, and affordable housing increases substantially the likelihood a person with a past criminal record will obtain and retain employment and remain drug- and crime-free.³ A study by the Corporation for Supportive Housing in New York State shows that the use of state prisons and city jails dropped by 74% and 40% respectively when people with past criminal records were provided with supportive housing.⁴

Section

2

WHY DO YOU CARE?

The Department of Housing and Urban Development's Mission Is to Provide Housing Assistance to All Low- and Moderate-Income Americans

The mission of the United States Department of Housing and Urban Development (HUD) and the local housing agencies that administer HUD's public and Section 8 housing programs is to provide a decent, safe, and sanitary home and suitable living environment for low- and moderate-income residents throughout the country. This mission includes providing assistance to those with criminal records, as long as public safety is not compromised. People with criminal records are among those with the greatest need for assisted housing because of the multiple barriers they face: limited income, lack of employment opportunities, family problems, and many others. While applicants with criminal records do not need to be preferenced over other applicants, like everyone else they should be considered individually on their merits.

Another goal of HUD is to spur economic growth in distressed neighborhoods. Individuals with a safe and stable place to live are more likely to maintain gainful employment, provide for themselves and their families, and contribute to their community. If an individual is working and has a stable living situation, other problems can be addressed more effectively. It is easier to participate in alcohol and drug treatment, maintain positive relationships with custodial and non-custodial children, and make amends for past mistakes. Addressing these needs also increases public safety by fostering a sense of accountability to the community.

Public Housing Agencies Can Enhance Public Safety by Addressing the Housing Needs of People with Criminal Records

Access to safe and affordable housing can have a positive effect on individuals and, collectively, on the community. The converse is true when people cannot secure a decent living environment. For example, a study found that two-thirds of former prisoners who did not have appropriate housing re-committed crimes within the first 12 months of release, whereas only one quarter of those who obtained housing re-offended in the same time frame.⁵ Without the basic necessities of life, individuals are more prone to engage in illegal drug use, enter into the underground economy to survive, and commit other criminal acts that will send them back to the criminal justice system. Many people returning home from prison come from disadvantaged communities where large public housing units are one of the primary sources of affordable housing. When the number of people without stable housing increases, the overall safety of the community decreases.

Family members with a loved one who is homeless upon reentry face a dilemma: if they provide the loved one with a temporary place to live, they risk losing their public housing. In separating families and undermining the building of strong familial ties, we ironically, and often inadvertently, undervalue one of the primary resources we have to promoting successful prisoner reentry and enhancing public safety. For example, for people in recovery from alcohol and drug addiction, family

support is often a key factor in ensuring success. In turn, successful recovery often leads to a decrease in criminal activity. Hence, weighing the factor of family unity and its impact on the ability of an individual to successfully reenter can help promote safety within the public housing community.

Making Appropriate Individualized Determinations about Every Applicant's Eligibility Protects Public Housing Residents and Guarantees Fairness

PHAs can give applicants and tenants with past criminal records the same chance as other applicants to reside in public housing without giving them preferences. Creating administrative bars may be necessary in some situations, but not all applicants with criminal records warrant being treated the same. An applicant's criminal history is one of many factors a PHA can review when determining eligibility. If an individual's criminal record indicates a real threat to the safety of those residing in public housing, then it may be appropriate to deny him or her housing. Similarly, if an applicant's criminal record does not indicate a threat to the safety of the public housing community either because of the nature of the offense or evidence that the applicant is now rehabilitated (for example, they have successfully completed treatment or have no recent convictions), then it should not operate as a blanket bar to obtaining public housing.

A common and valid concern housing administrators raise when asked about policies related to applicants and tenants with criminal records is the potential risk of liability. Few, if any, cases have involved a housing authority being held liable for the commission of crime by a tenant. Rather, the courts have dealt more commonly with liability of the leaseholder when a guest has committed a crime on the public housing premises.⁶ Appropriate screening measures as detailed in this guidebook will help PHAs make informed, responsible decisions.

Public Housing Agencies Can Set a Positive Example for the Private Housing Market

Balanced and fair policies established by PHAs for considering people with criminal records will provide valuable guidance to the private housing market on this complex issue. When local PHAs demonstrate that individuals with past criminal records can be evaluated individually and that those found eligible can be housed with no more risk or difficulty than other applicants, private landlords may be more willing to rent to those individuals as well, ultimately expanding the availability of housing to this population and of low-income housing in general.

Section

3

WHAT ARE THE FEDERAL HOUSING LAWS?

Background

Federal housing laws began to target people with criminal records - especially those that were drug-related - as early as 1988. The Anti-Drug Abuse Act of 1988 required public housing authorities to include in their leases a clause prohibiting tenants, any member of a household, guest, or other person under tenant's control from engaging in "criminal activity, including drug-related criminal activity, on or near public housing premises."⁷ When such criminal activity occurred while the tenant was living in public housing, the tenant could be evicted.⁸

Changes Enacted in 1996 and 1998

The federal laws that have been enacted since the Anti-Drug Abuse Act – the Housing Opportunity Program Extension Act of 1996 and the Quality Housing and Work Responsibility Act of 1998 – focus on providing a safer environment for those living in public housing. These laws and their corresponding regulations give PHAs broad discretion to craft their own policies. However, this discretion has sometimes operated to create harsh results that no doubt harm the community as well as individuals, their families, and other residents of public housing.

The Impact of Department of Housing and Urban Development v. Rucker

On March 26, 2002, the U.S. Supreme Court ruled in favor of the Department of Housing and Urban Development in a class action case brought by Oakland Housing Authority tenants, including Pearlie Rucker. The ruling clarified that, under the Anti-Drug Abuse Act, "public housing authorities have the discretion to terminate the lease of a tenant when a member of the household or a guest engaged in drug-related activity, regardless of whether tenant knew, or should have known, of the drug-related activity."⁹ The *Rucker* decision upheld the discretion given to PHAs by the federal laws and regulations to craft admission and eviction policies themselves. In particular, the Supreme Court explicitly instructed PHAs to use their discretion when making termination decisions, including seeking alternatives to termination. This discretion is also recommended for other admission/termination decisions regarding criminal activity.

Jimmy Lacey, the Director of Housing Management at the Birmingham Housing Authority in Alabama, sees eviction as “the absolute last alternative.” If the Housing Authority receives word of an arrest on public housing grounds, or of one of its residents, it will usually work in partnership with a social service agency to help correct the problem. If the illegal activity becomes a pattern, eviction is always an option, but Mr. Lacey states, “we see an eviction as a failure on our part.”

Guidance from the U.S. Department of Housing and Urban Development

In June 2002, HUD Assistant Secretary Michael Liu urged PHAs to consider a wide range of factors in deciding whether to evict a household as a result of a lease violation involving drugs. “Those factors include, among many other things, the seriousness of the violation, the effect that eviction of the entire household would have on household members not involved in the criminal activity, and the willingness of the head of household to remove the wrongdoing household member from the lease as a condition for continued occupancy.”¹⁰ Weighing these factors appropriately leads to policies that help individuals with criminal records reintegrate back into society without compromising public safety.

Section

4

WHAT DOES FEDERAL HOUSING LAW REQUIRE?

The federal laws and regulations related to public housing govern both admission and eviction standards for PHAs. Regarding people with criminal records, PHAs are explicitly required to adopt some rules, and explicitly allowed to adopt others. The laws and regulations create mandatory policies and give explicit instructions to PHAs about the requirements for admission and the circumstances leading to eviction. For the most part, however, federal laws and regulations give the PHAs broad discretion to craft admission and eviction policies related to applicants and tenants with past criminal records that best serve their individual communities.

Key Mandatory Provisions

Federal law requires criminal background checks to be done on adult household members applying to live in public housing. However, because studies show that many criminal records contain errors,¹¹ PHAs must give applicants an opportunity to dispute the accuracy of their criminal records.

The federal laws *require* public housing agencies and providers of Section 8 and other federally assisted housing to deny housing to two categories of applicants with past criminal records:

- Any household with a member who has been convicted of *methamphetamine production* on the premises of federally funded housing.¹²

- Any household with a member who is subject to a *lifetime* registration requirement under a state *sex offender* registration program.¹³

Key Discretionary Provisions

The public housing laws permit, *but do not require*, PHAs to deny admission to the following applicants:

- Any household who has been evicted from public, federally assisted, or Section 8 housing because of *drug-related criminal activity* of a household member may be deemed ineligible for public or federally assisted housing for three years. The housing provider has the *discretion* to shorten or waive the three-year period if the person who engaged in the drug-related criminal activity has successfully completes a rehabilitation program approved by the local housing provider or the circumstances leading to the eviction no longer exist (e.g., the person has died or is imprisoned). The three-year time period begins to run from the date of the eviction.¹⁴
- Any household with a member who is *abusing alcohol or using another drug illegally* if the household member's illegal use or pattern of alcohol abuse or illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. The housing provider may permit the household to be admitted or remain in such housing if the person who abused alcohol or illegally used drugs demonstrates that he or she is not

currently abusing alcohol or illegally using drugs and has been rehabilitated in any one of three ways: (1) participation in a supervised alcohol or drug rehabilitation program; (2) completion of a supervised alcohol or drug rehabilitation program; or (3) another form of successful rehabilitation.¹⁵

- Individuals who have engaged in (1) *any drug-related criminal activity*; (2) *any violent criminal activity*; or (3) *any other criminal activity* that would adversely affect the health, safety, or right to peaceful enjoyment of the premises if the criminal activity occurred a “reasonable” time before the person seeks admission. The statute does not say how recent a conviction must be to qualify as a “reasonable” basis for denying housing.¹⁶

Section

5

DISCRETION AND BEST PRACTICES

The federal laws afford PHAs the authority to craft reasonable admission and eviction policies where a household member has a criminal record, while creating limited mandates. In determining these policies and practices, PHAs can consider a number of factors, including, perhaps most importantly, public safety and the benefits of providing housing to people with criminal records who demonstrate their suitability.

The following are some principles to guide PHAs when adopting and implementing their policies and procedures:

Recommendation 1:

PHAs should not implement blanket bars against all applicants with criminal records. Instead, PHAs should make individualized determinations about an applicant's eligibility for public housing, taking into consideration the relevance of the person's criminal history and evidence of rehabilitation.

- Besides the two limited categories of crimes specified by the federal law – production of methamphetamine on public housing premises and crimes subjecting an individual to a lifetime registration requirement under a state sex offender program – PHAs should avoid imposing automatic bars based on criminal history. Rather, PHAs should evaluate individually each applicant, taking into consideration the person's history and circumstances.
- Having a criminal record does not necessarily mean the applicant will pose a threat to the health and safety of current residents of public housing. In evaluating the relevance of an applicant's criminal record, PHAs should consider factors such as the length of time since the crime was committed, whether the crime was committed when the applicant was addicted and whether the applicant engaged in treatment or otherwise achieved sobriety, and any other evidence of rehabilitation and mitigating factors that the applicant can put forth, including whether the applicant's family currently resides in public housing.
- One useful tool in making these individualized evaluations is to identify crimes or crime categories that affect applicant eligibility. These guidelines should also include recommendations based on how long ago the conviction happened. Though each applicant should be considered individually, these recommendations can provide a helpful framework for public housing employees. This can be especially helpful for larger housing authorities for whom individual consideration of *each* applicant is challenging because of resource constraints. In addition, applicants will be able to more realistically plan for release from prison.

The Housing Authority of Portland in Oregon uses a “Criminal History Guidelines Matrix” to evaluate applicants’ criminal histories. The Housing Authority of Portland does not indiscriminately deny applicants who have criminal histories, but instead assigns different standards and procedures for different kinds of convictions. Criminal convictions are listed and given a number value from one to four.

Category 1:

Applicant will be admitted despite having criminal history. Examples of crimes in this category include Public Drinking and Reckless Driving.

Category 2:

Applicant will be asked to explain criminal record. Intake specialist will deny application only if approved by supervisor. These convictions include Criminal Possession of a Forged Instrument in the 1st and 2nd Degree, Criminal Trespass in the 2nd Degree, and Harassment.

Category 3:

Applicant will be asked for explanation and to offer extensive evidence of rehabilitation, including, but not limited to, recommendations from social workers, parole or probation officers, treatment centers and others. Approval of application by intake specialist requires approval of supervisor. Category 3 convictions include Menacing, Possession of a Controlled Substance, and Prostitution.

Category 4:

The Housing Authority will deny admission. Category 4 convictions include Manslaughter, Kidnapping, and Robbery.

In addition to the category of the crime, the time passed since the conviction occurred and the number of subsequent convictions affect eligibility. Any second and subsequent crime moves an applicant to the next higher category. Similarly, a crime that occurred more than five years ago shifts the person to the next lower category. While the Housing Authority of Portland has discretion to deny admission independently of the matrix guidelines and all denials of admission can be appealed, this clear categorization of convictions minimizes uncertainty and subjectivity for both applicants and intake staff. (“Housing Authority of Portland Guidelines for Evaluating Criminal Histories of Applicants to Public Housing,” Revised 02/01.)

Recommendation II:

In making individualized determinations, PHAs *can* decide the “reasonable” length of time to bar applicants with criminal records.

- Although the federal guidelines use three years as the period of time PHAs must deny an applicant housing who has been evicted because of drug-related activity, PHAs are free to decide whether three years is reasonable in any particular situation. Using evidence of rehabilitation, age at time of conviction, and nature of the crime as factors that may decrease the waiting period can help those individuals with criminal records who are qualified to secure housing without compromising the important goal of public safety.

Though the Vancouver Housing Authority in Washington generally has a three-year bar for applicants with criminal records, Alice Porter, the Director of Housing Management, emphasized that her staff look at each case individually. When an applicant is denied for any reason, he or she has the right to review the Housing Authority's decision with the director of the HUD program. At this meeting, the applicant can present a wide range of evidence of rehabilitation, including drug and alcohol treatment or anger management program participation and completion, and letters of recommendation from his/her children's teachers.

Recommendation III:

In making individualized determinations, PHAs can determine what qualifies as evidence of rehabilitation to lift bars.

- PHAs want and need to be assured that an applicant for housing with a criminal record has been rehabilitated, is not a present threat, and has desisted from criminal activity. The most common factors PHAs tend to consider as evidence of rehabilitation include gainful employment and enrollment in or completion of alcohol and drug treatment. While these are important indicia, they are not the only criteria relevant to applicants with criminal records who may be appropriate residents for public housing.

For example, an applicant living in a homeless shelter may not have addiction problems, and thus is not in need of drug treatment, and is not yet employed. He or she would not be able to proffer evidence of rehabilitation if it was limited to participation or completion of drug treatment and gainful employment. Given this, a more useful policy would be to consider a wider range of evidence of rehabilitation, including participation in mental health counseling, anger management, enrollment in job training or education programs, demonstrated financial support of other family members, etc.

- The experience of those working to address employment needs for former prisoners offers useful guidance for evaluating an applicant's criminal record when determining eligibility for public housing. The Equal Employment Opportunity Commission (EEOC) is the agency responsible for enforcing Title VII of the Civil Rights Act, the federal law prohibiting employment discrimination on the basis of race, gender, national origin, and other factors. A number of years ago, the EEOC issued guidances for public and private employers for considering arrest and conviction information in making employment decisions. These guidelines can help PHAs in establishing eligibility criteria for housing assistance, as the concern for maintaining public safety, protecting the decisionmaker (the employer or PHA) from unnecessary litigation, and ensuring fairness is paramount in both instances. The EEOC requires employers to consider three criteria when deciding if a past conviction can be a legitimate basis for denial of employment:
 - i. The nature and gravity of the offense
 - ii. Time passed since conviction and/or completion of sentence
 - iii. Nature of job held or sought

In the public housing context, public safety can be weighed by using these guidelines.

It should be noted, however, that some PHAs avoid including current tenants in the selection process because of the fear that the tenants will make subjective decisions or treat certain groups of applicants unfairly.

An applicant denied housing by the St. Paul Public Housing Agency in Minnesota is entitled to appeal the adverse decision. The applicant can present evidence of mitigating circumstances or rehabilitation to a panel of five members consisting of three current public housing residents and two staff members. The staff representatives include one housing manager and one social worker. This process is designed to ensure the decision is reflective of the community's wishes both to be rigorous about maintaining public safety but also in ensuring equal access to housing. Including current residents on the panel can also provide a unique perspective on mitigating circumstances surrounding a conviction and on the significance of evidence of rehabilitation. Moreover, a current tenant may have a relative – a nephew, sister, or child – who has been involved in the criminal justice system. It may be easier for them to keep an open mind when evaluating an applicant with a criminal record.

Recommendation IV:

PHAs should limit consideration to conviction information when making admissions decisions. Because an arrest is only considered to be an accusation, it should not be used adversely against an applicant if the individual was not convicted. Using information about arrests that did not lead to conviction denies the presumption of innocence – the core value of our legal system – to millions of Americans.

- Many PHAs use arrest information to make admission decisions even though federal laws and regulations do not require or recommend that they do so. In many situations, individuals are arrested and the case is dropped because of mistaken identity, lack of evidence, or other reasons that establish the person's innocence. Using arrest information unfairly disqualifies many applicants who have not committed any criminal offense, but nonetheless have a record on file with the criminal justice system. Even if an applicant can clear up the reason for the arrest, they are already disadvantaged in the process and will likely not appeal any negative decision because of the lack of available legal representation. A number of states have addressed the use of arrest information in the context of employment. They have enacted laws to prohibit employers from asking job applicants about arrests on employment applications given the concern that this information could be used unfairly against them.

Recommendation V:

PHAs can partner with Departments of Parole and Probation, community groups and community-based service providers to create reasonable standards and collaborative programming that reinforce public safety and facilitate reintegration.

- The success of any program is enhanced by the involvement of the community. PHAs can craft policies that protect public safety while simultaneously not disadvantaging eligible individuals who have paid their debt to society. PHAs can team with local organizations to develop the best ways to make individuals with criminal records accountable to the community. PHAs can collaborate with their local Parole and Probation Departments to decide who is eligible for housing and work together to ensure that individuals

The New York City Housing Authority (NYCHA) limits its evaluation of criminal records to conviction information. Peter Cantillo, Assistant Deputy General Manager of Operations for Support Services at NYCHA, says that “The New York City Housing Authority does not deny eligibility for public housing based on an arrest record. We believe that our admission standards provide opportunities for quality housing to thousands of deserving New Yorkers.”

under supervision do not threaten the safety of people living in public housing. Moreover, given the regular contact parole and probation officers have with their clients, PHAs can rely on this resource as an additional guarantee of and support for compliant behavior.

Recommendation VI:

To maximize limited resources and leverage critical familial support, a person with a criminal record should be permitted to return to his or her family where appropriate.

- Families can provide some of the greatest and most significant source of stability for anyone, including a person with a criminal record. Particularly for those PHAs with limited available housing, permitting applicants with criminal records to return to live with their families will enable the PHA to both meet housing needs without having to prioritize one group over another while also giving families the opportunity to provide critical support to a relative.

Recommendation VII:

PHAs should develop procedures to ensure people with criminal records and their families are treated fairly.

- Since criminal records are often inaccurate, PHAs should provide applicants meaningful opportunity to dispute the accuracy of the information used as the basis for decision. The Legal Action Center analyzed the accuracy of New York State rap sheets a number of years ago and found that 87% of them included at least one error.

The Oakland Housing Authority in California does all its screening and appeals through its own Housing Authority Police Department. The police conduct a background check on all applicants and make determinations of eligibility. When an applicant is rejected, the Housing Authority’s Eligibility Department sends the applicant a letter simply stating that they have been rejected and informing the individual of the right to appeal the decision, but not stating why. Appeals are made directly to the Police Department. Conviction information is kept confidential from the applicant’s housing file. Lee Ann Farner, the Trainings and Grants Manager, explained that this way, the public housing managers and community members are not aware of the applicants’ past, and if they do become residents, they are able to make a clean start.

- PHAs should not categorically reject applicants with criminal records under the assumption that they can and will assert their claims on appeal. Many families do not have access to affordable legal representation and will withdraw from the process. Also, many do not realize they have been denied until it is too late to appeal the decision. The appeal process is usually slow and categorically denying people only hurts applicants, delays the securing of a safe housing situation, and probably contributes to recidivism.
- The confidentiality of applicants' criminal records should be protected by limiting access to those individuals who require the information to make eligibility decisions or to ensure continued public safety.

Recommendation VIII:

Communities and PHAs can develop and implement creative programs that effectively promote expanding housing opportunities for people with criminal records without compromising public safety.

Cities around the country have implemented a number of innovations to address the housing needs of people with criminal records. These include:

- The Portland Housing Center in Oregon recently introduced the Ready to Rent Program. Ready to Rent is a four-to-six-week training program for individuals who are facing challenges getting approved by the PHA, including applicants who receive Section 8 subsidies. The course covers topics such as determining housing priorities, understanding and repairing credit, tenants rights and responsibilities, understanding the rental application and screening process, communicating effectively with a landlord, and developing and following a workable household budget. Ready to Rent also offers guidance on how to effectively overcome problems during the screening process, including a criminal history. Certified program instructors coach participants on finding references and writing letters of explanation. After completing the program, participants receive a certificate that they can present to landlords as an incentive to rent to them. The Ready to Rent Program is currently being taught in several county and state correctional facilities.
- The Oakland Housing Authority in California instituted the MOMS (Maximizing Opportunities for Mothers to Succeed) program in July of 2002. This program innovatively addresses the needs of Oakland residents, 3000 of whom are current parolees. The Oakland Housing Authority works in partnership with the Alameda County Sheriff to identify women who have been released from Santa Rita County Jail and assist them in reuniting with their children. Screening procedures and criteria separate from those ordinarily employed by the Housing Authority are used to identify MOMS participants. The women who participate in the MOMS program are housed in a special unit and provided with intensive social services for one year. Women are paired with the same case managers with whom they worked while incarcerated, and they receive individual and group counseling, self-sufficiency activities, basic parenting classes, and vocational and educational assistance. If the families are successful in the program, they move to permanent public housing. Lee Ann Farner, the Trainings and Grants Manager at the Oakland Housing Authority, describes the program as "a success," and reports that "so far we've noticed a remarkable difference...we have had no issues with drugs, alcohol, loud noise, unruly children, any of that stuff."¹⁷
- The New York State Office of Mental Health is developing an initiative to offer 800 units of new supportive housing to a target population that includes individuals released from prison or jail or individuals under the supervision of the Brooklyn Mental Health Court who have a serious and persistent mental illness.

Section



CONCLUSION

Without a place to live, it is difficult for a person to hold down a job, be a responsible parent, and otherwise be a productive member of society. People with criminal records are no different than others in their need for safe and affordable housing, though the stigma of an arrest or conviction can make it difficult, if not impossible, for them to secure a home. While the burden of housing people with criminal records should not fall solely upon PHAs, public and Section 8 housing should be among the various options available to help people create a safer society.

Endnotes

- 1 *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry*, by Jeremy Travis, Amy Solomon, and Michelle Waul, The Urban Institute, June 2001, page 9.
- 2 Bureau of Justice Statistics, *Survey of State Criminal History Information Systems, 2001: A Criminal Justice Information Policy Report* (August 2003); U.S. Census Bureau, Census 2000 Summary File 1, Matrices P13 and PCT12 (accessed at <http://factfinder.census.gov>).
- 3 Welfare and Housing - Denial of Benefits to Drug Offenders, by Gwen Rubenstein and Debbie Mukamal in *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, Marc Mauer and Meda Chesney-Lind, Eds.
- 4 *The New York/New York Agreement Cost Study: The Impact of Supportive Housing on Services Use for Homeless Mentally Ill Individuals*, by Dennis P. Culhane et al, The Corporation for Supportive Housing, May 2001, page 4.
- 5 Center for Housing Policy, *The Housing Needs of Ex-Prisoners* 1996, available at <http://www.jrf.org.uk/knowledge/findings/housing/H178.asp>.
- 6 *Memphis Housing Authority v. Thompson*, 38 S.W.3d 504 (2001).
- 7 P.L. No. 100-690 at § 5101(5) (November 18, 1988).
- 8 *Id.*
- 9 *Department of Housing and Urban Development v. Rucker*, 122 S.Ct. 1230, 1236 (2002).
- 10 Letter from Michael M. Liu, Assistant Secretary to the U.S. Department of Housing and Urban Development, to Public Housing Directors, June 6, 2002.
- 11 A study of criminal history records in New York found that 87 percent of the records contained at least one mistake or omission and 41 percent contained two or more errors. The errors included missing disposition information, unsealed cases, unrecorded vacated warrants, split arrest events, and inaccurately recorded disposition information. Legal Action Center, "Study of Rap Sheet Accuracy and Recommendations to Improve Criminal Justice Recordkeeping" page 3 (1995).
- 12 42 U.S.C. § 13663(a).
- 13 24 C.F.R. § 960.204(a)(3).
- 14 42 U.S.C. § 13661(a).
- 15 42 U.S.C. § 13661(b).
- 16 42 U.S.C. § 13661(c).
- 17 Equal Employment Opportunity Commission, Notice No. N-915, Policy Statement on the Issue of Conviction Records under Title VII of the Civil Rights Act of 1964 (February 4, 1987); Equal Employment Opportunity Commission, Notice No. N-915-061, Policy Guidance on the Consideration of Arrest Records in Employment Decisions under Title VII of the Civil Rights Act of 1964 (September 7, 1990).



153 Waverly Place, 8th floor
New York, NY 10014
(212) 243 1313
www.lac.org