

The Long Road Home: Decreasing Barriers to Public Housing for People with Criminal Records

Human Impact Partners

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Human Impact Partners (HIP) is a nonprofit organization whose mission is to transform the policies and places people need to live healthy lives by increasing the consideration of health and equity in decision-making.

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Executive Summary

Housing is a fundamental necessity to effectively integrate formerly incarcerated individuals with their families and communities. Lacking stable housing negatively affects mental and physical health, employment, income, access to healthcare services, family unity, and recidivism. Research and analysis reveal that historical policies have created racial inequities in housing and health outcomes, and that public housing admissions screening policies play an important role in creating the conditions for successful reentry of those people who were incarcerated. In a survey from the 2015 Ella Baker Center for Human Rights and Forward Together report, “Who Pays? The True Cost of Incarceration on Families,” 79% of people who had been incarcerated were either ineligible or denied public housing as a result of criminal history. More than half of those released from jail or prison have unstable or nonexistent housing.

This report assesses the health and equity impacts of public housing admissions screening policies that exclude people with a criminal history from public housing, using the Oakland Housing Authority (OHA) in Oakland, California as a case study.

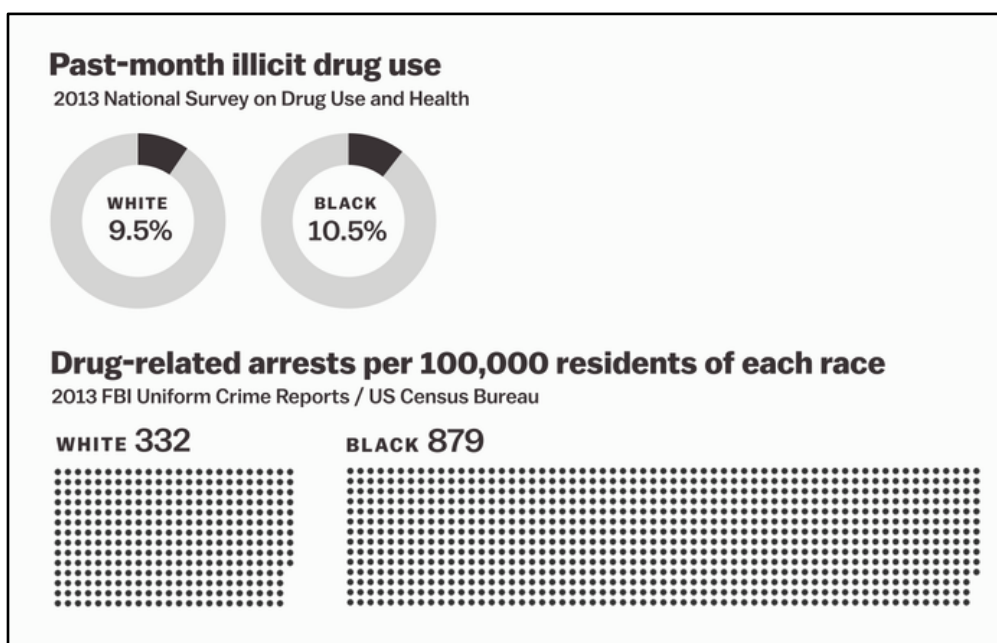
Having housing improves health directly and indirectly, decreases recidivism, improves the chance of becoming employed and having more income, and helps with family reunification. These factors, known in public health as the “social determinants of health”, create opportunities to succeed and are known to be important for health and wellbeing. For example:

- Moving often affects recidivism. The odds of recidivism increase by at least 70% for every time someone who is formerly incarcerated changes their residence.
- Six randomized control trials analyzed supported employment in public housing against other approaches to help residents find jobs, and found 58% of public housing program participants obtained employment compared to 21% in the control group.
- More than 70% of those leaving prison indicated that family is an important factor in keeping them out of prison, and up to 82% of people leaving prison or jail expect to live with or get help from their families.
- Having stable housing upon leaving jail or prison decreases a person’s chance of having their probation revoked,

The outcomes stemming from having stable and affordable housing are clear: research shows that lack of stable and affordable housing forces families to frequently move and live in unhealthy and crowded environments, increases stress and depression, and can lead to homelessness. Homelessness brings higher rates of infectious diseases; substance use and mental health disorders; exposure to violence; overexposure to cold and rain; and suicide. Studies show that between 25% - 50% of people who are homeless have a history of involvement with the criminal justice system.

Those who have been involved with the criminal justice system are disproportionately people of color, low income, and mentally ill and, due to the intersection of these factors, are at high risk for housing instability and negative health outcomes.

The United States has a history of racial discrimination and unjust treatment towards people of color, dating back to slavery, Black Codes, and Jim Crow laws. With the War on Drugs in the 1970's, 80's and 90's, this history is currently manifested in criminal justice policies that have led to vastly disproportionate outcomes by race. The 2013 National Survey on Drug Use and Health shows that 9.5% of whites and 10.5% of Blacks used illicit drugs in the last month, but drug-related arrest rates are 332 per 100,000 residents for Whites and 879 per 100,000 for Blacks.



Source: United States Sentencing Commission, 2012.

Compared to their White counterparts, Blacks are more likely to be incarcerated for the same crime and receive longer sentences.

A series of federal laws enacted in the 1990's led to decreased access to public housing for people with a criminal history. In 2002, for example, the Supreme Court unanimously upheld PHAs' authority to evict an entire household based on the criminal activity of one member or guest without specific proof that the tenant had any knowledge of the activity.

Statistics and historical policies like these have resulted in the Department of Housing and Urban Development (HUD) releasing guidance on April 4, 2016 explicitly stating

their goal of increasing access to safe, secure, and affordable housing for formerly incarcerated people. The 2016 guidance states that, due to the extreme overrepresentation of people of color in the criminal justice system, the consideration of criminal histories in screening procedures used by housing providers, including Public Housing Authorities, may lead to violations of the Fair Housing Act.

This report examines the Oakland Housing Authority as a case study. We consider OHA's screening policies and practices and specifically how they consider the presentation of "mitigating circumstances" for people with a criminal history during the application process. In Alameda County in 2014, there were almost 4,800 people returning from state prison, 3,200 people were in county jail on any give day, and 1 out of 4 people have a criminal record. We estimate that at least 20,000 people are currently at risk of residential instability because of their criminal history. Because they are vastly overrepresented in the criminal justice system, this places an inequitable burden on Blacks.

Some of the data from OHA is heartening, and some is not. OHA denials due to a criminal history in the first round of screening have decreased significantly since 2010 from up to 12% (in 2010) to as low as 0.8% (in 2012). The reason for this decline is not clear and OHA did not have plausible explanation. Of those who are "screened out" by OHA due to a criminal history, 75% request an informal hearing, and 64% of those have the decision reversed, allowing them to continue on in the application process. This is a powerful statement for the presentation of mitigating circumstances; at OHA, when people are allowed to tell their story and present supporting documentation, it often results in a reversal. Disturbingly, data on race and ethnicity is not being recorded or reported, making it impossible in OHA's case to analyze inequities in screening practices.

Nationwide, analyses of criminal history screening policies show that practices vary widely among public housing authorities (PHA) in different locations, and the discretion that PHAs and individual staff have result in different outcomes for similarly situated applicants even within the same PHA. HUD's mission is to "create strong, sustainable, inclusive communities and quality affordable homes for all," but these analyses show that is not happening with consistency for people with a criminal history.

If PHAs allowed mitigating circumstances to be presented in the initial application, we predict it would result in fewer applications denied because of a criminal history and a better-streamlined process. Considering the stark disproportionality of people of color with a criminal history, we suspect the presentation of mitigating evidence would decrease racial disparities. We also predict that presenting mitigating circumstances upfront would likely result in more people with a criminal history being housed, getting jobs, and reuniting with family, as well as decreased recidivism. Ultimately a change in this policy would lead to better physical and mental health outcomes.

Our top three recommendations are:

- PHAs, including OHA, should allow mitigating circumstances to be presented as part of the initial application for public housing. In implementing this, PHAs should:
 - Provide explicit language on the types of examples of mitigating circumstances accepted and the importance of providing supporting evidence.
 - Educate potential applicants about applicable mitigating circumstances and how to incorporate them into the application process.
- OHA should assess its implementation of policies that allow individuals with criminal history to join their family in public housing. Federal policies impose lifetime bans on admission to public housing programs for only two categories of crimes. PHAs must enforce a ban on 1) individuals who “have manufactured or produced methamphetamine on the premises of federally assisted housing and 2) sex offenders subject to a lifetime registration requirement under a State sex offender registration program.” If an OHA assessment finds that other categories of people with criminal histories are being excluded, OHA should eliminate practices of evicting existing residents from public housing for allowing a family member returning from prison or jail or denying admission if there is no valid reason for doing so.
- HUD should require that PHAs collect, track, and publicly report the race and ethnicity of applicants and those screened out due to their criminal history to examine the potential impact of PHA screening policies on people of color with a criminal history.

For the full report, see <http://www.humanimpact.org/wp-content/uploads/OHA-HIA-Final-Report.pdf>

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